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PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, May 19, 2005*

The House met at 9 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal Father, You have taught us that even good leaders must themselves be led; that wise legislators must themselves have a wiser guide; that wielders of power must themselves serve under a higher power. Be to all in this Chamber that leader, wise guide, and higher power.

Grant to the Speaker of the House of Representatives and to all who serve or have served here as Members, as to all in positions of public trust, that lofty vision, deeper wisdom and that stewardship of power that will lead this Nation to peace and prosperity and bring true righteousness and lasting justice upon this Earth.

Such gifts come from You alone, Heavenly Father, so we turn to You, both now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. DELAY) come forward and lead the House in the Pledge of Allegiance.

Mr. DELAY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, May 12, 2005, the House will stand in recess subject to the call of the Chair to receive the former Members of Congress.

Accordingly (at 9 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The Speaker of the House presided.

The SPEAKER. First of all, I want to say good morning. On behalf of the House of Representatives, I am very pleased to welcome you all back. Some of you served before the time I was here; some of you were colleagues that I had the great honor to serve with.

Meetings like this present a unique opportunity. We get to tell you everything that we are doing here, and you get to tell us everything we are doing wrong. You become more seasoned as former Members, and we certainly appreciate that. Seriously though, I am always glad to see this group and hear about all the great things that each of you continues to do for our Nation.

My good friend from the Midwest, Dan Coats, somebody who I attended college with deep in the Midwest, is one of those people. He started his career representing Indiana in the House of Representatives. Dan then moved on to the Senate, where he served for 10 years until 1999, and then served as ambassador to Germany from 2001 until February of this year. Dan is certainly a worthy choice to receive the Distinguished Service Award, and I would like to extend to him my sincere congratulations.

This organization serves a valuable purpose. From your work on college campuses teaching young people about the value of public service, to your work abroad in places like Germany and Japan, you spread the good news about the importance of our democratic government and our institutions.

I had the opportunity last week to meet with a delegation of former Members who spent a great deal of the time around their holiday and before in the Ukraine trying to make a difference, trying to help a fledgling nation really bring about the birth of democracy. They were successful.

Just yesterday here in the House we announced Members to serve on the House Democracy Assistance Commission. These are Members who are going to go out and work with emerging democracies. They are going to provide expert advice to parliaments and to parliamentarians in selected countries, and one day they can bring those experiences and that expertise to your organization as well. It is our vision that your experience, your expertise begin to meld and blend with what these Members of Congress are trying to do. So you see, our goals really do mirror one another.

I want to thank you once again for your continuing work on behalf of the American people.

Before requesting that the gentleman from Kansas, Mr. Slattery, vice president of the Former Members Association take the chair, the Chair recognizes the distinguished majority leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Thank you, Mr. Speaker. I appreciate the words that you just spoke in honoring our former Members that are here today, and some that are here in spirit.

Friends and honored guests, I want to welcome you back home. It is an honor to have back again the Association of Former Members of Congress, a very esteemed organization. I have to tell you, Ms. PELOSI has been encouraging me to join your organization for some time now.

Former Members Day is always a treat for me, because when you put 2 decades of your life into an institution, it is always reinvigorating to see so many friendly faces from days and battles gone by. As I look at both sides of the aisle, Beryl Anthony is here, who showed me kindness. As a freshman I walked in, and he as a Democrat actually wanted to meet me and wanted to work with me.

Jim Slattery and Dan Coats had a great deal to do in changing my heart; Leader Michel, who tried to teach me patience; Bill Alexander really taught me a lot about the legislative process; and Ron Mazzoli sent a grandchild to my district, which I greatly appreciate. He is not voting yet, but we are working on him.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

We did not always agree on everything back then, and I suppose we still do not; but the fact is we are all part of the same heritage of service to this body and to this Nation. No matter how long you have served or when, if you have sat in this Chamber, you helped write at least a bit of America's history. Much more importantly, by staying active in the Association of Former Members, you are still serving your country and still helping to make history.

In your post-congressional careers, many of you have gone on to bigger and better things. There is life after Congress, and we understand that. Many of you have stayed in Washington and served here, and others have returned home to do the same. But regardless of where you are and how you are spending your time, everyone left behind here in Congress still feels your presence and still builds on the legacies that you have left here.

So, I, for one Member, thank you all for staying involved, for the work you do around the world, and for your continued service to this House and to this Nation.

Thank you all, and God bless you.

The SPEAKER. I now recognize the gentleman from Kansas.

Mr. SLATTERY (presiding). Mr. Speaker, thank you very much, and, Mr. Leader, thank you also for your kind words. It is great to see both of you. We deeply appreciate the leadership and the support that you have given our association as we move forward with the work that we are attempting to do around the world and here in the United States with the Congress to Campus Program. So thank you very much for also helping coordinate this event here today. It is good to see you.

At this time, I would like to recognize the Clerk of the House for the purpose of calling the role.

The Clerk called the roll of the former Members of the Congress, and the following former Members answered to their names:

FORMER MEMBERS OF CONGRESS PARTICIPATING IN 35TH ANNUAL SPRING MEETING THURSDAY, MAY 19, 2005

Bill Alexander (Arkansas)
Beryl Anthony (Arkansas)
Jim Bates (Ohio)
J. Glenn Beall (Maryland)
Jim Broyhill (North Carolina)
John Buchanan (Alabama)
Jack Buechner (Missouri)
Beverly Byron (Maryland)
Rod Chandler (Washington)
Dan Coats (Indiana)
John Conlan (Arizona)
Larry DeNardis (Connecticut)
Joe Dioguardi (New York)
Tom Ewing (Illinois)
Lou Frey (Florida)
Martin Frost (Texas)
Don Fuqua (Florida)
Bob Hanrahan (Illinois)
Margaret Heckler (Massachusetts)
George Hochbrueckner (New York)
Marjorie Holt (Maryland)
Bill Hughes (New Jersey)
David King (Utah)
Herb Klein (New Jersey)
Ernest Konnyu (California)
Ken Kramer (Colorado)
Peter Kyros (Maine)
John LaFalce (New York)
Jim Lloyd (California)
Ken Lucas (Kentucky)
Andrew Maguire (New Jersey)
Romano Mazzoli (Kentucky)
Matt McHugh (New York)
Bob Michel (Illinois)
Clarence Miller (Ohio)
Stan Parris (Virginia)
Howard Pollock (Alaska)
Will Ratchford (Connecticut)
Jay Rhodes (Arizona)
George Sangmeister (Illinois)
Ron Sarasin (Connecticut)
Jim Slattery (Kansas)
Steve Symms (Idaho)
Lindsay Thomas (Georgia)
Wes Watkins (Oklahoma)

The SPEAKER pro tempore. The Chair is pleased to announce that 37 former Members of Congress have responded to their names.

At this time the Chair would like to recognize the distinguished gentleman from Missouri, Jack Buechner, who is president of our association.

GENERAL LEAVE

Mr. BUECHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of this meeting.

The SPEAKER pro tempore. Is there objection to the request of the gentleman?

There was no objection.

Mr. BUECHNER. I thank the Chair, and I want to join with the majority leader and the Speaker in welcoming all of my colleagues of the Former Members Association and for our visiting guests who are here from North America and also from Europe, former parliamentarians and administrative staff all. Thank you. I want to thank all of you for being here with me this morning. We are especially grateful to Speaker HASTERT for taking time from his busy schedule to greet us and for his warm welcome. It is always an honor and privilege to return to this magnificent institution which we revere and in which we shared so many memorable experiences.

Service in Congress and public service in general is both a joy and a heavy responsibility. Service in Congress creates an attitude amongst your families and your friends that some days the burden of the Nation is greater than what besets most human beings in their lives. We want to thank you all again for the service that you have rendered and that you continue to render as you serve as members of the Association of Former Members of Congress.

This is our 35th annual report to Congress. Our association is nonpartisan. It has been chartered by Congress, but receives absolutely no funding from the Congress. We have a wide variety of domestic and international programs which several members and I will discuss briefly.

Our membership numbers approximately 570. Our purpose is to continue in some small measure the service to country which began during our terms in the Senate and the House of Representatives.

Our finances are sound. We support all of our activities via three income sources: membership dues, program grants, and our annual fund-raising dinner. In addition, we have had the good fortune of a bequest by the widow of a former Member of Congress, Frieda G. James, who was married to Benjamin Franklin James, a five-term Republican from Pennsylvania, who has generously endowed much of what we do.

During the presidency of my esteemed colleague, Larry LaRocco of Idaho, the association established an endowment fund. The goal of this fund is to ensure the financial viability of the Former Members Association for many years to come. We envision a time when investment earnings of this endowment fund can be used to supplement the association's budget during lean years, a safety net to guarantee that tough economic times will not shut down the work of the association.

Several of our Members have already made contributions to this fund, and association staff is in the process of creating some new marketing materials to solicit further donations. Again, many thanks to my predecessor Larry LaRocco for his leadership in this area.

Mr. Speaker, our association has had an incredibly active and successful year. We have expanded many of the programs that are traditionally associated with our organization, and we have created several new ventures. I am therefore very pleased to now report on this program work of the U.S. Association of Former Members of Congress.

The Congress to Campus Program is our most significant domestic undertaking. This is a bipartisan effort to share with college students throughout first this country and now the world our unique insight on the work of the Congress and the political process more generally.

Our colleague from Colorado, David Skaggs, has been managing this program for the association for the last 3 years. This is a project of his Center For Democracy and Citizenship, which is centered at the Council For Excellence in Government. He has partnered this organization with the Stennis Center For Public Service. David is not able to be with us this morning. I submit for the RECORD his report on the accomplishments of the program over the 2004–2005 academic year.

CONGRESS TO CAMPUS PROGRAM—REPORT TO THE ANNUAL MEETING OF THE U.S. ASSOCIATION OF FORMER MEMBERS OF CONGRESS, MAY 19, 2005

INTRODUCTION

The Congress to Campus Program addresses a significant shortfall in civic learning and engagement among the country's young people of college age. It combines traditional educational content about American government and politics (especially Congress) with a strong message about public service, all delivered by men and women who have walked the walk. The Program sends bipartisan pairs of former Members of Congress—one Democrat and one Republican—to visit college, university and community college campuses around the country. During each visit, the Members conduct classes, hold community forums, meet informally with students and faculty, visit high schools and civic organizations, and do interviews and talk show appearances with local press and media.

In the summer of 2002, the Board of Directors of the U. S. Association of Former Members of Congress (Association) engaged the Center for Democracy & Citizenship (CDC) at the Council for Excellence in Government to help manage the Congress to Campus Program (Program) in partnership with the Stennis Center for Public Service (Stennis). CDC and Stennis, with the blessing of the Association, have worked together since to increase the number of campuses hosting Program visits each year, to expand the pool of former Members of Congress available for campus visits, to develop new sources of funding, to raise the profile of the Program and its message in the public and academic community, and to devise methods of measuring the impact of the program at host institutions.

INCREASED QUANTITY AND QUALITY OF PROGRAM VISITS

This is the third year of the program's expansion. In the 2004–2005 academic year, the Program sponsored thirty-two visits involving forty-three colleges and universities around the country and the world—about a 25% increase in visits over the 2003–2004 academic year. [See Attachment 1—Roster of '04–'05 Academic Year Visits & Participants.] These visits took former Members to universities, service academies, colleges and community colleges in twenty-two different States and five countries. While the total fell short of the goal of forty for the year, it should be noted that seven additional scheduled visits were cancelled or rescheduled due to factors beyond the control of the program staff.

In addition to an increasing the number of visits, we continue to fine-tune the content and substance of Program visits based on feedback from Members and host professors. The Program asks visiting Members and host professors to complete an evaluation of each visit. This year those evaluations have prompted us to encourage host schools to include nearby colleges and universities in Congress to Campus visits and to broaden the scope of classes and activities scheduled for the former Members. We will continue to make changes in response to the suggestions of participating former Members and host faculty.

The Program asks host schools to insure contact with at least 250 students over the course of a visit, and that number is often exceeded. For the past academic year, approximately 13,000 students heard Members' unique story about representative democracy and their special call to public service.

A draft schedule of events is prepared in advance of each campus visit and reviewed by staff to assure variety as well as substance. There is a conference call before each trip with Members and the responsible campus contact person to review the revised schedule and iron out any remaining problems. Members also receive CRS briefing materials on current issues and background information on government service opportunities prior to each visit.

RECRUITING MEMBER VOLUNTEERS FOR CAMPUS VISITS

The success of the Program obviously depends on Members' participation. With travel back and forth, Members end up devoting about three days to each campus visit. This is a priceless contribution of an extremely valuable resource.

Members of the Association were surveyed again last summer to solicit information regarding their availability for and interest in a Program campus visit. Using responses to these surveys and direct contact with a number of former Members, CDC developed a pool of just over one hundred available former Members, and some fifty-four participated in visits this year. A "bench" of one hundred was deep enough to fill the openings during the current academic year, but more will be needed to meet the demands of future academic years. Association Members are encouraged to complete and return the survey they will receive this summer and then to be ready to accept assignments to one of the fine institutions of higher education the program will serve next year.

FUNDING SOURCES

In addition to the generous contribution of money and staff time made each year by the Stennis Center for Public Service, the Association, with the assistance of the American Association of Retired Persons, has substantially increased its support of the Program. Other organizations have also provided funding to help with the expansion of the Congress to Campus Program for this academic year including the Boeing Company, the German Marshall Fund (visit specific) and the Ford Foundation (visit specific). While Stennis' commitment to the Program is ongoing, funding from the other organizations is being provided on a year by year basis. The effort to find new sources of funding for Congress to Campus is a continuing challenge.

Host schools are expected to cover the cost of Members' on-site accommodations and local travel and to make a contribution to cover a portion of the cost of administering the Program. A suggested amount of contribution is determined according to a sliding-scale based on an institution's expenditures per pupil [see Attachment 2—Application Form]; a waiver is available to schools that are not able to pay the scale amount. Several schools received a full or partial waiver in 2004–2005. Still, school contributions produced several thousand dollars in support of the program.

Additional funding sources will be necessary if the expansion of the Program—clearly justified by the interest expressed by schools seeking to host a first or a repeat visit and by the assessment of its positive effects (see below)—is to be maintained.

INTERNATIONAL INITIATIVE

Congress to Campus made its first international visit in October 2003 to the United Kingdom. An earlier Association study tour had laid the groundwork for the visit and had established a relationship with Philip John Davies, Director, Eccles Centre for American Studies at The British Library and Dennis Spencer Wolf, Cultural Attache at the U.S. Embassy. The success of the 2003 visit led to a second visit in the fall of 2004 and a planned third visit in November 2005.

This academic year Congress to Campus broadened its international reach by sponsoring visits to Canada (University of Toronto), Germany (University of Bonn, University of Cologne and European University Viadrina), and China (Fudan University and Sun Yat-Sen University). The visit to Germany was made possible through the support of the German Marshall Fund. The Ford Foundation is providing support for the visit to China.

PROGRAM OUTREACH AND PUBLICITY

The increased number of institutions hosting and applying to host a Congress to Campus visit is the result of a multi-faceted outreach effort. Association leadership and numerous former Members, as well as staff at CDC and Stennis, have made many personal contacts on behalf of the Program. In addition, CDC Executive Director and former Member David Skaggs has made several public presentations in behalf of Congress to Campus and informational material has been e-mailed directly to all members of the APSA Legislative Studies Section, as well as to many other college and university organizational contacts.

Campus press and media at host institutions are offered access to visiting Members. Each host institution is also encouraged to make commercial print and broadcast media interviews a part of each Congress to Campus visit's schedule.

MEASURING THE PROGRAM'S IMPACT

Over the years, anecdotal information has tended to validate the basic premise of the Congress the Campus Program—that these visits by former Members of Congress positively affect students' views of public service and government officials. In an effort to confirm this anecdotal information, during the 2002–2003 and 2003–2004 academic years, the Program asked host schools to have students complete one-page surveys. The surveys elicited students' views on public service careers and feelings about different categories of public officials; they were completed by a group of students who attended sessions with the former Members and by a control group of similar students who did not have contact with the former Members.

While all schools hosting a visit did not return the surveys, the data that was generated for the 2002–2003 and 2003–2004 academic years shows that the underlying goals of the Congress to Campus program are sound. Those students who have contact with former Members during their Congress to Campus visits have a measurably more favorable view of public servants and of public service as a career option than similar students who do not have the opportunity to interact with the visiting former Members.

In previous years, we have reported preliminary findings of these student surveys. The data collected over the full two-year study has now been analyzed by the Center for Information and Research on Civic Learning and Engagement (CIRCLE) at the University of Maryland. Their final report [see Attachment 3] confirms our preliminary finding and found that the Congress to Campus Program had a statistically significant positive impact on student's attitudes towards public service and public servants.

As noted above, the Program requests the principal contact at each host school to submit an evaluation. We receive valuable feedback on various aspects of each visit and try to incorporate lessons learned and helpful suggestions in the on-going effort to improve the Program. The best indication of satisfaction with the Program is the fact that every school visited this year has said it would like to host a Congress to Campus Program visit again.

CONCLUSION

The Program has made significant progress toward achieving its new goals. The number of campus visits has increased significantly each of the past three academic years to a level this academic year that represents a 350% increase over 2001–2002 levels. However, Program funding remains a matter requiring attention. There is continuing success in efforts to raise the public profile of the Program, but more needs to be done. Finally, objective data, as represented in our two-year study, supports the basic premise of the Congress to Campus Program: That campus visits by Members are effective in raising interest in public service careers and in improving attitudes about public officials among the students who participate in Program events.

ATTACHMENT 1

Congress to Campus Program

The United States Association of Former Members of Congress

2004 –2005 VISITS AND PARTICIPANTS

Fall Semester

University of South Dakota – September 12-14, 2004
(Vermillion, South Dakota)
Bill Roy (D-KS) & Bill Barrett(R-NE)

University of Baltimore – September 12-14, 2004
(Baltimore, Maryland)
Ed Derwinski (R-IL) & Lloyd Meeds (D-WA)

Roger Williams University – September 19-21, 2004
(Bristol, Rhode Island)
Mike Forbes (D-NY) & George Wortley (R-NY)

Columbia College/Winthrop University – September 20-23, 2004
(Columbia & Rock Hill, South Carolina)
Liz Patterson (D-SC) & Jan Meyers (R-KS)

SUNY Brockport – September 26-28, 2004
(Brockport, New York)
Andy Jacobs (D-IN) & Orval Hansen (R-ID)

United Kingdom – October 10-16, 2004
De Montfort University, University College Northampton, Nottingham University
Jack Buechner (R-MO) & Dennis Hertel (D-MI)

Central Michigan University – October 12-14, 2004
(Mount Pleasant, Michigan)
Beverly Byron (D-MD) & Barry Goldwater, Jr. (R-CA)

ATTACHMENT 1

University of Massachusetts – October 17-19, 2004
(Amherst, Massachusetts)
Dan Miller (R-FL) & Bob Clement (D-TN)

Allegheny College – October 18-20, 2004 *
(Meadville, Pennsylvania)
Bill Clinger (R-PA) & Jim Lloyd (D-CA)

Jamestown College – October 19-21
(Jamestown, North Dakota)
Harold Volkmer (D-MO) & Jay Dickey (R-AR)

University of Idaho/Washington State University – November 8-11, 2004
(Moscow, Idaho & Pullman, Washington)
Jim Lloyd (D-CA) & Orval Hansen (R-ID)

Manchester College – November 14-16, 2004
Manchester, Indiana
Jerry Patterson (D-CA) & Peter Torkildsen (R-MA)

Spring Semester

Indiana University at Kokomo – January 23-25, 2005
Steve Kuykendall (R-CA) & Sam Coppersmith (D-AZ)

Eastern Michigan University – February 2-4, 2005
(Ypsilanti, Michigan)
Dan Miller (R-FL) & Mike Forbes (D-NY)

Murray State University – February 6-8, 2005
(Murray, Kentucky)
Manuel Lujan (R-NM) & Ron Mazzoli (D-KY)

University of Nebraska - Omaha – February 20-22, 2005
Jan Meyers (R-KS) & Owen Pickett (D-VA)

Syracuse University – February 20-22, 2005
Rod Chandler (R-WA) & Toby Moffet (D-CT)

U.S. Naval Academy – February 27 - March 1, 2005
(Annapolis, Maryland)
Larry Pressler (R-SD) & David Skaggs (D-CO)

ATTACHMENT 1

Georgia College & State University– February 27 - March 1, 2005
(Milledgeville, Georgia)
Martha Keys (D-KS) & Bill Barrett (R-NE)

University of North Florida – February 27- March 1, 2005
(Jacksonville, Florida)
Buddy Darden (D-GA) & Bill Goodling (R-PA)

University of Toronto - March 1-4, 2005
Bob Carr (D- MI) & Dan Miller (R-FL)

Virginia Military Institute – March 6-8, 2005
(Lexington, Virginia)
Stan Parris (R-VA) & Ken Hechler (D-WV)

Abilene Christian University – March 13-15, 2005
(Abilene, Texas)
Robert Daniel (R-VA) & Harold Volkmer (D-MO)

Oakland University – March 13-15, 2005
(Rochester, Michigan)
Bill Roy (D-KS) & Arlen Erdahl (R-MN)

Vanderbilt University – March 17-18
Nashville, Tennessee
Butler Derrick (D-SC) & Jim Broyhill (R-NC)

High Point University/UNC Greensboro – March 20-23, 2005
(North Carolina)
Bill Zeliff (R-NH) & Earl Hutto (D-FL)

Western Kentucky – April 3-5, 2005
(Bowling Green, KY)
Mike Ward (D-KY) & Lou Frey (R-FL)

Colby College – April 3-5, 2005
(Waterville, Maine)
David Minge (D-MN) & Ron Sarasin (R-CT)

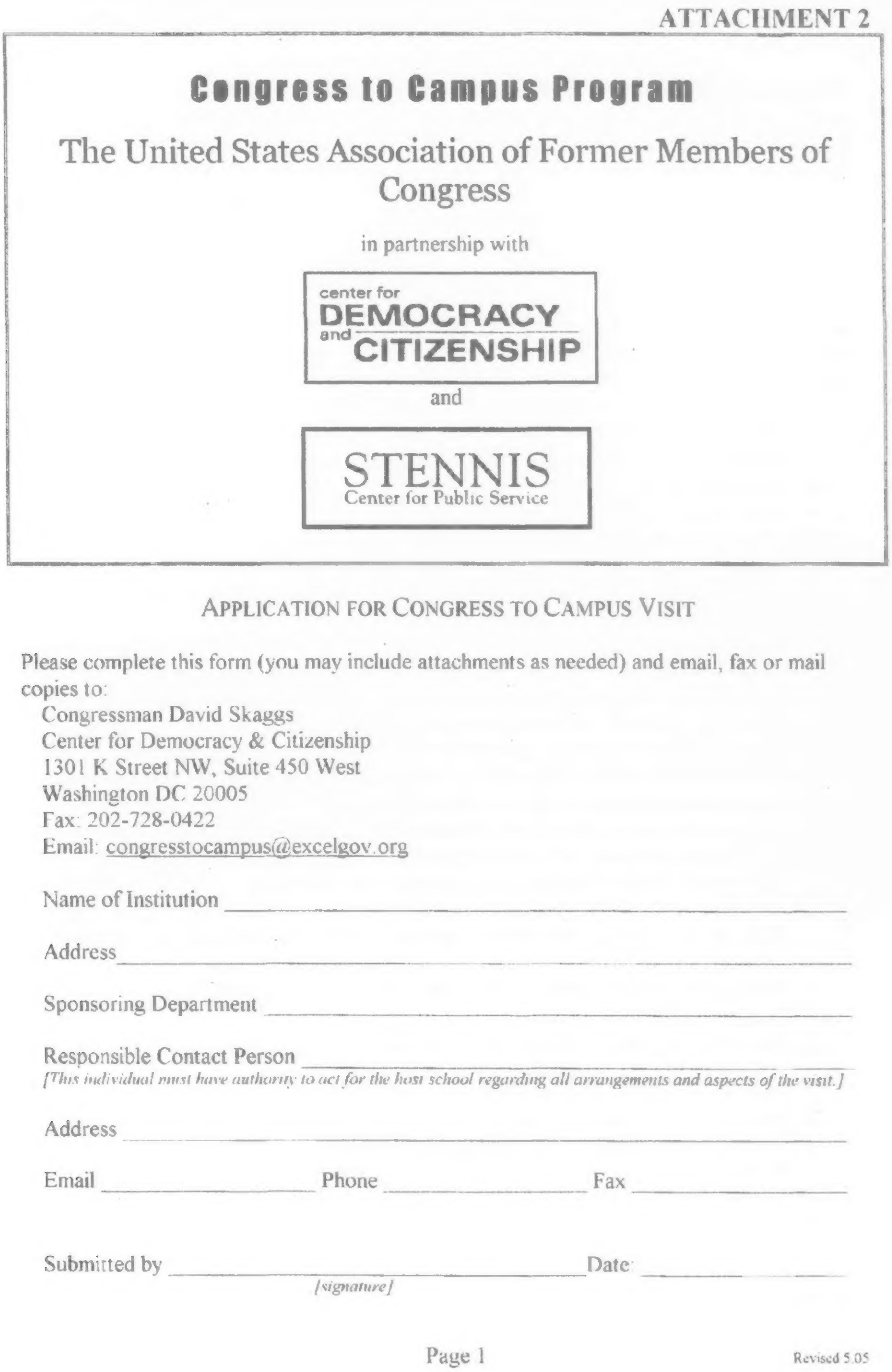
Mercer University – April 10-12, 2005
(Macon, Georgia)
Jim Bilbray (D-NV) & Orval Hansen (R-ID)

Coast Community Colleges District (3 schools) – April 10-12, 2005
(Orange County, CA)
Glen Browder (D-AL) & Denny Smith (R-OR)

ATTACHMENT 1

Germany (Univ of Bonn & Univ of Frankfurt-Oder) April 23 – May 1, 2005
University of Bonn, University of Cologne (Frankfurt-Oder), European University Viadrina (Berlin)
Matt McHugh (D-NY) & John Anderson (R-IL)

China Fudan University/Sun Yat-Sen University– May 24-June 1, 2005
Fudan University (Shanghai), Sun Yat-Sen University (Guangzhou)
Larry Pressler (R-SD) & Harris Wofford (D-PA)



ATTACHMENT 2

Congress to Campus Program

The United States Association of Former Members of Congress

in partnership with

center for DEMOCRACY and CITIZENSHIP

and

STENNIS
Center for Public Service

APPLICATION FOR CONGRESS TO CAMPUS VISIT

Please complete this form (you may include attachments as needed) and email, fax or mail copies to:

Congressman David Skaggs
Center for Democracy & Citizenship
1301 K Street NW, Suite 450 West
Washington DC 20005
Fax: 202-728-0422
Email: congresstocampus@excelgov.org

Name of Institution ______________________________

Address ______________________________

Sponsoring Department ______________________________

Responsible Contact Person ______________________________
[This individual must have authority to act for the host school regarding all arrangements and aspects of the visit.]

Address ______________________________

Email ____________ Phone ____________ Fax ____________

Submitted by ______________________________ Date: ____________
[signature]

Page 1 Revised 5.05

ATTACHMENT 2

Background on Institution [founding; governance, accreditations; degrees offered; student body size and characteristics; faculty size and characteristics; geographic area served; religious affiliation; endowment; if this information is readily available on your website, just provide the address for the website.] (Attach additional sheet, if needed.)

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Please check those activities from the following list you expect tentatively to be able to include in the Members' schedules if your application for a visit is approved. Experience suggests that allocating most of the visit to a variety of classes works best.

☐ Introductory classes in political science or U. S. government [Please try to avoid multiple appearances in different sections of the same course.]
☐ Advanced classes in political science or U. S. government, including courses in the Congress, political theory or foreign affairs
☐ Classes in political philosophy or history*
☐ Classes in other disciplines [e.g., health, science, engineering, environment] for students who may be interested in public service careers or who simply need a better grounding in American government*
☐ ROTC classes
☐ One-on-one or "office hours" style meetings with individual students interested in public service or political careers [To work well, this option needs to be well publicized, preferably with advance sign-up.]
☐ Campus political clubs, e.g., Campus Democrats and Young Republicans
☐ Campus extracurricular activities or clubs with some public policy dimension, e.g., an environmental or international relations club
☐ Campus speaker series or open campus forum [Please be prepared to do some work to publicize such a session, or give class credit, or risk low attendance.]
☐ Meeting with student government organization or leadership
☐ Meetings with school president, chancellor, dean or other senior administrator [This option is offered if it meets a real need for your school; there is no need for a meeting just for protocol reasons; if included, should be *brief*.]
☐ Meeting with career counseling staff regarding public service
☐ Faculty departmental colloquium
☐ Interview with campus newspaper(s) and radio station
☐ Interview with local newspaper(s) and editorial board(s)
☐ Interview or talk show appearance with local radio station(s)
☐ Interview or talk show appearance with local TV station(s)
☐ Meeting with community service organization(s), e.g., Rotary, Lions, League of Women Voters
☐ Community talk or forum, e.g., "town hall" type meeting at a public library
☐ Class visits or assembly at local high school

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* At least one class should be in a discipline other than political science or government studies.

ATTACHMENT 2

☐ "In-service" teacher training on Congress, federal government for middle and high school social studies teachers arranged through local school district(s)
☐ Major federal government installation or major private sector employer near campus able to host a session with a significant number of employees
☐ Meeting with local government officials, e.g., appearance at City Council or County Board session or meet with state legislators
☐ Other (specify) ______________________

While it is not possible to include all the activities suggested above, the schedule for each visit should include a good variety of activities and not be limited only to classes. Please include at least one class from outside the political science (or government studies) department. Visits typically cover 2 full days following Members' arrival, with no more than two nights on site. If Members arrive the evening before the schedule begins, they will expect to depart in time to get home the evening of the second day of scheduled events; if they arrive on a morning, they will expect to leave after noon on the third day. Activities may be scheduled from 8 or 9 AM until (as late as) 9 PM, including (some) meal times; for each 4 or 5 hours of scheduled time, an hour of "down" time should be set aside (this may be lunch hour), with facilities for Members to check emails and use a phone. Please attach a proposed schedule for your school visit, comprised of two full days, incorporating the elements tentatively checked above. Please indicate the number of students expected at each proposed activity. (The Program hopes for both quality and quantity, with substantive contact with at least 250 students during a visit as a goal.)

If your application is approved, you will need to submit a complete schedule for the visit at least one month prior to the visit; this is a critical deadline. For class presentations, the instructor for the course should provide brief written guidance to the Members in advance of the visit about what they should discuss during the class period and how it fits into the course (a copy of the course syllabus is helpful. Program staff may request revisions to the schedule if necessary to meet Program standards. Formal campus tours and other area touring are secondary to the Program's educational objectives and generally should be avoided.

Preferred dates for a visit that fit your academic calendar ______________________

Transportation: nearest airport; distance from campus; means of transportation to

campus. ______________________

____

Other considerations that make your school a good site for the Program. ______

____

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ATTACHMENT 2

The host school is expected to cover the on-site expenses for Member accommodations, meals and local transportation. Please understand that the average Congress to Campus visit also entails about $5000 in administrative, overhead and transportation expenses. In order to make the Program as widely available as possible, we would also like to recover a portion of those costs, based on the host school's ability to pay. Please indicate the financial category applicable to your institution from the following schedule. _____

Host School Suggested Contribution

Category	Current expenditures per "full-time" student[*]	Suggested contribution
A	$30,000 or more	$3500
B	$20,000 to $29,999	$2500
C	$10,000 to $19,999	$1500
D	$9999 or less	$750

We do not want this cost-sharing goal to prevent any school that wishes to host a visit from doing so. With that in mind, do you need a waiver of all or part of the applicable contribution, and, if so, do you also need assistance with on-site costs? ____ (If 'yes,' please attach an explanation and statement of need signed by an appropriate financial officer of the school.)

Where or how did you learn about the Congress to Campus Program? ______________

____

Note: The host school contact person will be responsible for identifying faculty members who will assist in administering a brief survey instrument to be completed after the Congress to Campus visit by a sample of students in classes visited by Members and by an otherwise comparable sample of students in classes *not* visited. The purpose of this survey is to determine any difference (change) in attitude about politics, government and public service in one group compared to the other, and so to indicate the impact of the visit on student attitudes. In addition, the host school contact person will be expected to complete an evaluation of the visit and to report on print and electronic media coverage of the visit, the expenses paid by the school in connection with the program visit, and the student attendance at each event on the schedule.

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[*] The expenditures figures used to calculate the contribution level should be for the most recent academic year and should be readily available from your school's business or finance office. They are standard data used by the Department of Education's Integrated Postsecondary Education Data System (IPEDS). For public institutions that follow the GASB 34/35 reporting model, use your school's total expenses – the sum of Operating Expenses and Non-Operating Expenses. Public institutions using the College and University Audit Guide should use the total of current funds expenditures and mandatory transfers. Independent institutions following the Not-for-Profit Audit Guide should use the expenses category. The enrollment figures should come from the IPEDS data for the current academic year, converted to a full-time equivalent enrollment based on one full-time student per three part-time students

ATTACHMENT 3

Memorandum

Date: August 1, 2004
To: David Skaggs, Executive Director,
Center for Democracy and Citizenship, CEG
From: Mark Hugo Lopez, Ph.D.,
Research Director, CIRCLE
Subject: The Congress to Campus Presentation Experiment

I have taken a close look at the data from the Congress to Campus program for 2003 and 2004, and generally students in the treatment group were more likely to have positive views of public service careers and public institutions than students in the comparison group with most differences of interest statistically significant, though there are some concerns about the validity of the experiment and causality.

I have divided the memo into several sections, the first of which examines the quality of the experiment, the next two assess the outcomes of interest. Finally, the memo concludes with comments, recommendations, and caveats.

Assessing the Quality of the Experiment

As a first step to evaluating the impact of the Congress to Campus program experiment, I examined both the treatment and comparison sample on a range of background characteristics. If this were a randomized experiment, the treatment and comparison groups would look similar statistically on a range of observed background characteristics, and this is what I am looking for as I assess the quality of the experiment.

All demographics for merged data from 2003 and 2004 are contained in Table 1, and a cursory look at the data suggests that the treatment and comparison samples are very similar in their distributions of gender, race/ethnicity, and age. For each of these variables, there are no statistical differences in their distribution across the treatment and comparison groups, suggesting that assignment to the treatment or the comparison group was not a function of either of these observed characteristics, which is good.

However, there are some difficulties with the distribution across the treatment and comparison groups of the background characteristics class and whether or not the student had discussed a career in public service with a counselor. In each of these cases, the treatment and comparison groups are not similar in their characteristics, with the treatment group more likely to have fourth year students than the comparison group, and less likely to have first year students than the comparison group. Furthermore, the treatment group was more likely to have students who had talked with a guidance counselor about a career in public service.

Taken together, these statistics suggest that the assignment to the treatment and comparison group samples is good, but not excellent. More than likely the greatest difficulty with the assignment is the dissimilarity between the treatment and comparison group samples on the measures of class standing and school. However, the even distribution across gender and race/ethnicity between the treatment and control groups lends plenty of support to the overall validity of the experiment, though one should be cautious about causality.

Furthermore, some caution should be taken when making statements about the possible treatment effects of the Congress to Campus program on college students generally since the comparison and treatment groups do not look like the general college student population, at least as of 2000. The treatment and comparison samples are more likely to be male, white and younger than the general college student population.

Measuring Differences in Self-Reported Career Option Viewpoints

One of two outcomes examined with these data is the viewpoint of college students towards potential career choices. Table 2 and Graph 1 display the average response across all occupational groupings for the treatment and comparison groups. Generally speaking, treatment and comparison group students express "neutral/ok" opinions of every career option except Agriculture/Farming and Manufacturing/Industrial, which is expected given that this is a group of college students.

In only two cases are there statistical differences between the responses of treatment and comparison group students. In the area of "State or Local Government Service" and "Federal Government Service" treatment group students express a higher level of positive opinion about these careers for themselves than do comparison group students. For both career options, treatment group students express an average opinion that is 0.2 points higher than the opinions of comparison group students. While it is difficult to claim that there is a casual relationship between participation in the Congress to Campus program and opinions of careers in public service, it is suggestive that there is a modest improvement in expressed opinions of public service as a career option.

I have explored these differences further with a multivariate analysis, and in both cases, the estimated differences in opinion (for careers in federal or state and local service) between comparison and treatment groups are statistically significant once gender, race/ethnicity, school, counseling experience, age and class are controlled for. I would be happy to share these results with you if you would like to see them at a later date. Given that observed differences hold up in a multivariate environment for federal and state and local career viewpoints, these estimated program effects may indeed be robust, and a reflection of true program effects.

Measuring Differences in Views of Public Officials

Table 3 and Graph 2 show average responses to the question about student views of public officials in various public institutions. In all cases, treatment group students express greater positive views of public institutions than comparison group students except in the area of firefighters and police, with all differences statistically significant. On average, the improvement in views after participation in the Congress to Campus program is on the order of 0.15 points.

In this case, I have also estimated multivariate models, and have found that all statistical differences are robust once controls for gender, race/ethnicity, class, age, school and counselor guidance have been controlled for.

Conclusions

Students who participated in the Congress to Campus speaker program generally express more positive views of public service career choices and of public institutions than students who were not exposed to the program treatment. Furthermore, the experiment appears relatively good since on many background characteristics there are no differences between the comparison and treatment groups of students. While I believe one should be cautious when interpreting these results (many more controls are needed to assess the validity of the experiment), they are suggestive that there are modest gains in views of public service associated with participation in the Congress to Campus Program.

Recommendations

Analysis of this data entailed several data cleaning efforts, and a superior data collection would alleviate the need for large scale cleaning efforts. If a future evaluation is planned, several changes to the survey instrument should be considered. These include:

1. Reverse the scoring scale to read 1 "very unfavorable" to 5 "very favorable."
2. Ask for more background information such as parental income, parental education, how often the student reads the newspaper or watches the news, grade point average, and whether or not the student has ever worked for the public sector in an internship. We have very little information on background characteristics, and in order to more properly assess the validity of the experiment, more background characteristics would be useful.
3. It might be worthwhile, in any future evaluation, to perform a "Solomon Four" style assessment. This would entail the administration of the survey instrument before and after participation in the program for the treatment and comparison groups. This way, one could perform an analysis that looks at gains in views rather than a cross-sectional comparison between the treatment and comparison groups.

Cautions and Caveats

In the process of performing this analysis, I reversed the coding on all the variables so that a "5" would represent "very favorable" and "1" would represent "very unfavorable." Note that by doing this, my averages are 1 point higher than those reported in the graphs you had initially shared with me (the method used to calculate the means in those graphs presented an average that was a full point too low). This suggests that the students in both the treatment and comparison samples actually have a more favorable view of public sector career options and institutions than was shown before.

I also urge caution in the interpretation of these results since

1. Estimated program effects are rather small, and do not necessarily translate into large swings in student opinion of careers in the public sector or their views of public sector institutions as a result of program participation.
2. The measurement of views was taken immediately after the treatment. We would need to know what happens one month later, six months later, or one year later.
3. The sample of colleges is limited to Midwestern and east coast schools.
4. This was not a randomized experiment, and we can only discuss "associations", not causation.
5. The treatment may not have been similar across schools.

Table 1 – Demographic Characteristics
(2003 & 2004 Merged Data)

	Treatment Group	Comparison Group	All U.S. Undergraduates, 2000
Background Characteristics			
Female	0.465	0.476	0.551
White	0.805	0.809	0.688
African American	0.068	0.075	0.113
Latino	0.038	0.035	0.095
Asian	0.050	0.042	0.064
Mixed Race	0.036	0.035	
Native American	0.004	0.005	0.001
Class Year			
First	0.418	0.443	***
Second	0.282	0.276	***
Third	0.174	0.181	***
Fourth	0.114	0.082	***
Grad	0.002	0.009	***
Age			
18	0.237	0.233	0.231
19	0.331	0.300	
20	0.180	0.217	0.370
21-24	0.212	0.210	
25 or older	0.037	0.036	0.390
Talked with a Guidance Counselor about a Career in Public Service	0.814	0.710	***
Sample Size	1,929	1,274	15,312,000

Table 2 – Career Choices
(2003 & 2004 Merged Data)

	Treatment Group	Comparison Group
Feelings of Career Options for Self in:		
Private Enterprise - Corporate	3.391 (1.163) [1,912]	3.309 (1.185) [1,262]
Private Enterprise - Small Business	3.594 (1.069) [1,913]	3.619 (1.067) [1,259]
Professional (law, medicine, journalism, accounting, etc.)	3.861*** (1.200) [1,917]	3.717 (1.182) [1,263]
State or Local Government Service	3.190*** (1.158) [1,902]	3.072 (1.155) [1,253]
Federal Government Service	3.282*** (1.245) [1,914]	3.106 (1.230) [1,261]
Military Service	2.502 (1.498) [1,909]	2.529 (1.512) [1,259]
Public Safety: Fire, police	2.712 (1.287) [1,900]	2.750 (1.287) [1,259]
Teaching	3.391 (1.291) [1,910]	3.474 (1.280) [1,257]
Non-Profit, community service	3.023 (1.250) [1,906]	3.097 (1.268) [1,259]
Agriculture/Farming	2.110*** (1.213) [1,905]	2.270 (1.248) [1,259]
Manufacturing/Industrial	2.120*** (1.139) [1,903]	2.274 (1.192) [1,255]

Note: Students were asked to rate career options for themselves on a scale of 1 to 5, where 1 is very unfavorable, 2 is unfavorable, 3 is ok, 4 is favorable, and 5 is very favorable. All reported figures above are means, with standard errors in parentheses and sample sizes in brackets. *** indicates statistical significance between the treatment and comparison groups at the 5 percent level of statistical significance.

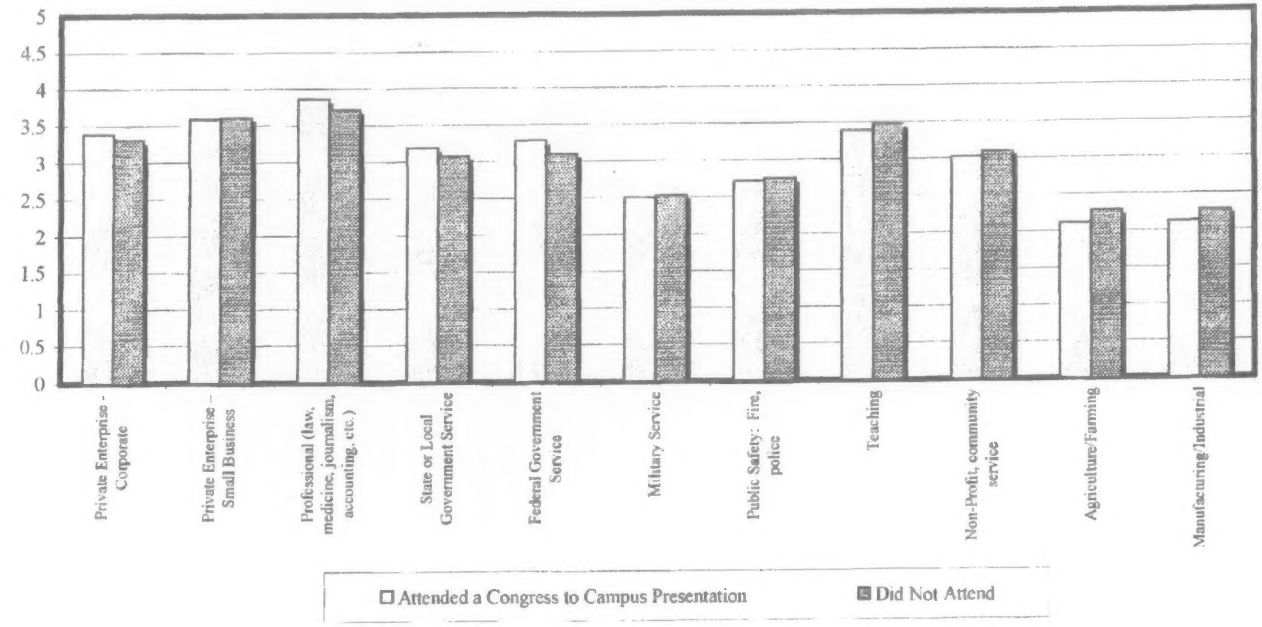
Table 3 – Student Views
(2003 & 2004 Merged Data)

	Treatment Group	Comparison Group
Views of:		
Federal Government	3.663*** (0.949) [1,920]	3.481 (0.990) [1,266]
State and Local Government	3.598*** (0.877) [1,920]	3.435 (0.891) [1,269]
U.S. Congress	3.553*** (0.908) [1,920]	3.354 (0.942) [1,264]
Politicians	3.016*** (0.938) [1,918]	2.760 (0.961) [1,266]
Candidates for Elected Office	3.170*** (0.849) [1,915]	3.014 (0.860) [1,261]
City or Town Council	3.368*** (0.889) [1,917]	3.258 (0.871) [1,265]
State Legislature	3.353*** (0.837) [1,914]	3.203 (0.832) [1,259]
Government and Civil Service Employees	3.496*** (0.911) [1,917]	3.376 (0.886) [1,264]
Firefighters and Police	4.059 (1.020) [1,921]	4.006 (0.994) [1,267]

Note: Students were asked to provide views of public sector groups/institutions on a scale of 1 to 5, where 1 is very unfavorable, 2 is unfavorable, 3 is ok, 4 is favorable, and 5 is very favorable. All reported figures above are means, with standard errors in parentheses and sample sizes in brackets. *** indicates statistical significance between the treatment and comparison groups at the 5 percent level of statistical significance.

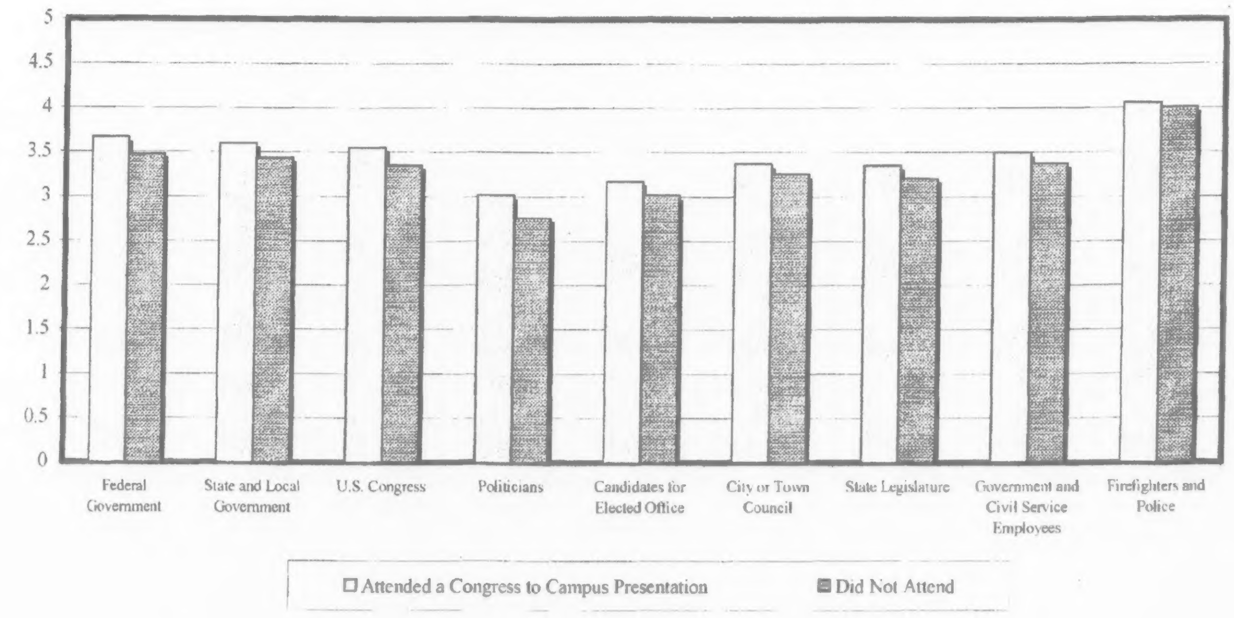
Graph 1: CAREER OPTIONS (2003 & 2004)

Please rate how you feel personally about each of the following career categories as an option for yourself, from 1 (very unfavorable), 2 (unfavorable), 3 (OK/neutral), 4 (favorable), to 5 (very favorable).



Graph 2: FEELINGS ABOUT GOVERNMENT OFFICIALS (2003 & 2004)

Please indicate your feelings, from 1 (very unfavorable), 2 (unfavorable), 3 (OK neutral), 4 (favorable), to 5 (very favorable), about each of the following



I would now like to yield to Bev Byron of Maryland and Ron Sarasin of Connecticut for their reports on the Congress to Campus Program.

The SPEAKER pro tempore. The gentlewoman from Maryland is recognized.

Ms. BYRON. Mr. Speaker, I have not forgotten what side I belong on.

Let me, first of all, say I am delighted to share with some of our members who have not participated in the Congress to College Program some of the things they have done. I made a commitment to myself several years ago that I would give back at least one visit a year to a college campus, and I started saying I am giving it back. Actually, I have gained so much from each and every one of those visits.

The program has grown 350 percent since 2002. There is no question that it is making an impact on college campuses. We are now finding campuses that are saying can we get former Members to come. It is a commitment of basically 2 days.

Last fall, Barry Goldwater, on my note here it says from California, although Barry is living in Arizona right now, and I went to central Michigan. Well, I have a husband from Michigan, and I was not familiar with where central Michigan is. It is a wonderful, wonderful school, a very large school, a very exciting school. We spent 2 days interacting with the students, the faculty, the local community, a senior citizen center, and the media.

One of the things that I like to stress with the college students, not only is Congress the ultimate for many people in the political arena, but government service is a wonderful thing for them to be involved in. And as I looked around the room, they kind of were glazing over a little. I said, you know, government service is not just Congress; it is not putting your name on a ballot. It is participating in your PTA, on your school board, in the zoning commission hearings. It is your local legislative bodies. So it is serving in a government capacity to your community across the board.

So as we finished our 2 days of activities, I think both Barry and I left with a great sense of some contribution, and hopefully out of the group that we spoke to we will find one or two of those members that will be in this body one day.

My colleague Ron Sarasin is going to talk a little bit about his experiences. But for those of you that have not had an opportunity, it is a wonderful opportunity.

I yield to the gentleman.

Mr. SARASIN. I thank the gentlewoman from Maryland for yielding, and I would like to explore with you some of my own experiences with the program. I have been fairly active with it. It is not only an opportunity to continue to give back in a way, but it is a very rewarding personal opportunity. You get more out of it than you give.

In April, I had the opportunity to spend 2 days at Colby College in Waterville, Maine, with our colleague Judge David Minge from Minnesota.

These visits always provide an opportunity for students and faculty to see that Republican and Democrat former Members of Congress are in fact real people, that we can enjoy each other's company, that we probably agree on more issues than we disagree, and if we disagree, we will do it without being disagreeable. I think that in itself is a lesson to students and faculty, and I think they come away with a great deal from it.

As Ms. Byron pointed out, part of our mission is to encourage people to get involved in public service, to encourage them to look at the political aspect and the supportive aspects of the Congress and government in general.

The experience for us is a rewarding one. It is good for our own egos to have someone ask us our opinion and seem to value it when we give it to them. As we know, one of the things you learn very quickly after you leave the Congress is that your views just do not seem to carry as much weight as they used to, and the thing you really learn is that your jokes just do not generate as much laughter as they did when you were a sitting Member of Congress.

Our very gracious host at Colby was a professor named Sandy Maisel, who himself had run for Congress some years ago, unsuccessfully; and then he wrote a book about his experience, and the title of the book is "From Obscurity to Oblivion." Is that not a wonderful title for a book, for a politician especially?

All in all, it was a very great experience for everyone involved. I would encourage every Member here and every former Member out across the country to get involved in this program, because it is fun, it is a couple of days on a college campus, and it is a great experience personally. I know that all of you who have participated have enjoyed it and come away with a feeling that you got more out of it than you gave.

Mr. McHUGH. Mr. Speaker, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from New York.

Mr. McHUGH. Thank you for that explanation. It really is a marvelous program that many of us have experienced. I wanted to mention briefly that the German Marshall Fund this year for the first time sponsored a bipartisan team to go to Germany and spend a week visiting campuses in Germany. John Anderson and I went just a few weeks ago and had a great experience meeting with the students and faculty, and indeed others as well.

I think it is a particularly important time to promote these kinds of exchanges, because, as you know, there are some differences these days between our friends in Europe and the United States; and I think the exchange of views was very useful, both for us and hopefully for the students as well. I hope that the Marshall Fund will sponsor additional teams, and I would certainly encourage my colleagues to take advantage of that if they do.

Thank you very much.

Mr. SARASIN. I thank the gentleman for his comments.

Mr. BUECHNER. I thank the gentlewoman and the gentleman for describing those wonderful efforts on the Congress to Campus Program.

To sort of amplify what the gentleman from New York just brought forward, we also have for 2 years now sent a team to England to speak to different universities and to the Eccles American Study Center at the British Library. I was there the week before the U.S. election, and I got a lot of questions. I was sort of a stand-in for George Bush, and it was one of the most interesting things that I have ever done.

One outgrowth of the Congress to College Program was an interest in producing a book that would take an inside look at Congress from different views. Under the leadership of our colleague Lou Frey of Florida, the association published a compilation of essays written by former Members of Congress describing their experiences before, during, and after serving on Capitol Hill.

The result was "Inside the House: Former Members Reveal How Congress Really Works." Probably not as catchy a title as the one the gentleman from Maine had, but it has been a great success. It is being used by several political science departments in universities and colleges across the country. Lou is now soliciting submissions for another book, and I am sure he will talk about that when he has the floor to report on our annual fund-raising dinner.

Another domestic program the association undertakes is a cooperative project with the Library of Congress. Through a generous grant from the American Association of Retired Persons, the association is working to involve former Members of Congress in the Library's Veterans History Project.

This program honors our Nation's war veterans and those who served in support of them. It creates a lasting legacy of recorded interviews and other documents chronicling veterans' and other citizens' wartime experiences and how those experiences affected their lives and America itself. We have been able to connect numerous former Members who served in World War II with this wonderful program, and soon our attention will focus on the veterans of the Korean War.

Mr. Speaker, beyond the programs we administer dealing with domestic issues, the association is very active in overseeing international programs. These involve both former Members of Congress and current Members of Congress. The association has played an important role in fostering dialogue between the leaders of other nations and the United States.

We have arranged almost 500 special events at the U.S. Capitol for international delegations from over 80 countries and the European Parliament. We have hosted meetings for individual members of parliaments and parliament staff, and organized more than 50 foreign policy seminars in over a dozen countries involving more than 1,500 former and current parliamentarians, and conducted over 20 study visits abroad for former Members of Congress.

The association serves as the secretariat for the Congressional Study Group on Germany. This is the largest and most active exchange program between the U.S. Congress and the parliament of another country. It is the flagship international program of the association, and it is a bipartisan organization with approximately one-third of the sitting Members of Congress participating.

The Congressional Study Group on Germany serves as a model for the other study groups under the umbrella of the Former Members Association. Again, none of these programs operate with Federal money or support.

For over 20 years, the Congressional Study Group on Germany has been a forum for lawmakers from Germany and the United States to communicate on issues of mutual concern. The study group was founded in 1983 as an informal group and was established as a formal organization in 1987.

The primary goal of the study group is to establish a forum for communication between Members of Congress and their counterparts in the German Bundestag. Ongoing study group activities include conducting a Distinguished Visitors Program at the U.S. Capitol for guests from Germany, sponsoring annual seminars involving Members of Congress and the Bundestag, and organizing a Senior Congressional Staff Study Tour to Germany each year.

The Congressional Study Group on Germany is funded primarily by the German Marshall Fund. That is the premier non-governmental organization with a transatlantic mission. Additional funding to assist with administrative expenses has been received from 12 corporations whose representatives now serve on a Business Advisory Council to the study group. The business group is chaired by former Member of Congress Tom Coleman, who as a Member from Missouri served as the chairman of the study group in 1989.

The study group has established itself as the most productive means of communication between the U.S. Congress and the German Bundestag. The Federal Republic of Germany is one of the most important allies that we have in the United States, and the study group has been instrumental in helping to cement transatlantic ties over the years.

The most visible activity of the group is the Distinguished Visitors Program, which enables Members of Congress to meet personally with high-ranking German elected officials, such as Minister Joschka Fischer, Germany's Federal Minister of Foreign Affairs and Vice Chancellor of the Federal Republic of Germany, or President of the German Bundestag, Wolfgang Thierse.

The highlights of each programming year is the Congressional Study Group on Germany's annual seminar. Every year the study group brings Members of Congress together with German legislators for several days of focused discussion on a predetermined agenda. The parliamentarians usually are joined by several former Members, officials of the two federal governments, think-tank and foundation representatives and members of the German-American business community.

This year's seminar was held in Berlin, Brussels, and Frankfort from March 18 to March 24. A delegation of six sitting Members of Congress had the opportunity to meet during this week with about a dozen members of the Bundestag. In addition, we had a meeting with Chancellor Gerhard Schroeder and his foreign policy advisor, as well as Germany's President, Horst Koehler.

In Brussels, in addition to several other meetings, we had the chance to discuss trade relations with EU Commissioner for External Trade, Mr. Peter Mandelson.

The last leg of the annual seminar took place in Frankfort, headquarters of the European Central Bank. The President of the bank, Mr. Jean-Claude Trichet, met with the group to talk about the European Union's monetary policies.

We ended our visited to Germany by visiting the Landstuhl Military Hospital, where the Members of Congress spent time visiting with wounded U.S. servicemen and -women returning from Iraq.

During our meetings, we focused the discussion on solidifying the U.S.-German relationship in the spirit of President Bush's visit to Europe this past February. We also exchanged views on the role of NATO, cooperation in the war on terrorism, and transatlantic trade and investment questions.

A reoccurring topic was the EU's proposal to lift its arms embargo with China. Our delegation unanimously manifested its disagreement with this measure, and certainly sent a message to the German legislators to rethink this proposal.

A report about the activities of the Congressional Study Group on Germany would be incomplete without thanking its financial supporters. First and foremost, one needs to thank Craig Kennedy and the German Marshall Fund of the United States, since without him and his foundation the study group could not function at its present level of activity.

We also cannot forget Tom Coleman, a member of our organization who chairs the Business Advisory Council. His tremendous dedication in raising much-needed funds to support the administrative side of the study group has been essential. He has put together a group of companies that deserve our gratitude for giving their aid and support to cover the overhead of the program. They are Allianz, BASF, DaimlerChrysler, Deutsche Telekom, DHL, EDS, Lockheed Martin, RGIT, RWE, SAP, Siemens, and Volkswagen.

The Congressional Study Group on Germany is an example of how the Former Members Association provides an educational service to current Members and aids in the foreign relations efforts of this country. I think we can be very proud of the work we do to make this group possible, and I look forward to being an active participant in the activities of the Congressional Study Group on Germany for many years to come.

Modeled after the Congressional Study Group on Germany, the association established a Congressional Study Group on Turkey at the beginning of this year. Turkey, one of our strategic allies, is situated at the crossroads of many important challenges of the 21st century. Peace in the greater Middle East, expansion of the European Union, and the transformation of NATO are all definitely issues that this study group will entertain.

Mr. BUECHNER (presiding). I now yield to our Speaker pro tem, Mr. Slattery of Kansas, to comment on this exciting new endeavor of the Association.

Mr. SLATTERY. I guess it is permissible for me to speak from this side, right?

Mr. Speaker, it is a pleasure for me to report on this new project that the association is undertaking. At the beginning of this year, the association established the Congressional Study Group on Turkey. The study group is modeled after our flagship international program, the Congressional Study Group on Germany.

The study group on Turkey brings former and current Members of Congress together with their legislative peers, government officials and business representatives in Turkey and serves as a platform for all participants to learn about U.S.-Turkey relationships firsthand.

Thanks to funding from the Economic Policy Research Institute, a new think-tank established by the Turkish business association TOBB, the study group has started a Distinguished Visitors Program in Washington. This program involves events for Members of Congress such as roundtable discussions or breakfast-luncheon panels featuring visiting dignitaries from Turkey. The events take place every 6 to 8 weeks on Capitol Hill and focus on critical issues relating to the bilateral relationship between Turkey and the United States.

Additional support from the German Marshall Fund of the United States has allowed the study group to initiate the first U.S.-Turkey seminar, which we hope will become a yearly event.

The seminar is a week-long conference for U.S. Members of Congress to discuss areas of mutual concern with their legislative counterparts in Turkey. The 2005 U.S.-Turkey seminar will take place in Ankara, Istanbul and Cyprus at the end of this month. This year, participants will examine topics such as democratization in the Middle East, the war on terror, and Turkey's membership negotiations with the European Union.

The U.S. Association of Former Members of Congress is very pleased to add this study group to its portfolio of international programs. It is certain to attract great interest in Washington and in Ankara.

Let me just add to this that I want to encourage all of you that are here today and those that may be watching this on C-SPAN to be aware that this association is really undertaking greater responsibilities in this international work. I am very excited about the opportunity that members of this association have to contribute to democracy-building efforts around the world. I think it is going to present a very, very rewarding opportunity for former Members to continue their service to this country in a very worthwhile international endeavor.

I want to bring that to your attention, and I hope that all of you will take a greater interest in the work of the association as we expand this international work.

Mr. SLATTERY (presiding). Mr. Buechner.

Mr. BUECHNER. Thank you, Mr. Speaker. Staff has notes here: "Do not trip during exchange of places."

Thank you for your report, Jim. We are all very excited about this new undertaking.

Mr. Speaker, the association also serves as the Secretariat for the Congressional Study Group on Japan and the Congressional Study Group on Mexico.

Founded in 1993 in cooperation with the East-West Center in Hawaii, the Congressional Study Group on Japan is a bipartisan group of 71 sitting Members of the House and Senate, with an additional 36 Members having asked to be kept informed of study group activities. The Congressional Study Group on Japan arranges opportunities for Members of Congress to meet with their counterparts in the Japanese Diet, in addition to organizing discussions for Members to hear from American and Japanese experts. The Congressional Study Group on Japan is funded via a generous grant from the Japan-U.S. Friendship Commission.

Last, but not least, the association administers the Congressional Study Group on Mexico. U.S-Mexican relations are a priority, and not solely defined by the issue of immigration. The Congressional Study Group on Mexico is a unique organization in that it serves as a bipartisan forum for U.S. legislators from both the House and Senate to engage on issue-specific dialogue with Mexican elected officials and government representatives.

The goal of the group is for the two countries' political decisionmakers to receive a comprehensive picture of the issues revolving around U.S.-Mexico relations. The study group also replicates this forum for senior congressional staff. Topics such as border security, trade and narcotics trafficking are just a sample of the subjects pertinent to the bilateral relationship with Mexico.

In addition to these exciting programs involving sitting Members of Congress, the association is extremely pleased to have created this year a new international program exclusively for the former Members of Congress, the Former Members Committee on France.

The goal of this project is to involve former Members of Congress in the transatlantic dialogue, a little bit frayed around the edges in the last few years, between Washington and Paris. We believe that our membership can contribute greatly to bringing about a better understanding of the issues governing U.S.-French relations to both the U.S. Congress and the French National Assembly. We have had several panel discussions and meetings involving visiting French dignitaries, such as current French senators serving on their International Relations Committee.

In addition, our Members have had the opportunity to hold small group discussions on issues such as lifting the weapons ban on China: and we have had those discussions not just with staff and embassy personnel, but also with current members of the French Parliament.

We are working closely with France's ambassador to the United States, Jean-David Levitte, and are currently looking forward to many more opportunities to contribute to this important relationship.

Mr. Speaker, as you can see, there have been many thrilling new developments in 2004 and 2005 for our association, such as the Congressional Study Group on Turkey or the Former Members Committee on France. But few undertakings have energized and excited our membership as our foray into election monitoring.

During 2004, the U.S. Association of Former Members sent almost 60 of our Members on campaign monitoring and election observation missions abroad. The association has a long history of participating in legislative-strengthening programs, for example in Hungary, Macedonia or Slovakia; but we have never utilized the unique experience and knowledge of our members in an election-monitoring project until now.

I will first yield to one of our officers, Jay Rhodes of Arizona, to reported on our activities in Ukraine, and then to association member Andy Maguire to our election-monitoring mission to Cameroon.

The SPEAKER pro tempore. The gentleman from Arizona, Mr. Rhodes.

Mr. RHODES. Thank you for giving me the opportunity to report to you on one of the, I think, most important undertakings this association has ever participated in. We were involved in a non-violent and peaceful revolution that changed a nation, hopefully for the better, hopefully permanently.

Through a partnership with the U.S.-Ukraine Foundation and a grant from the United States Agency for International Development, your association sent six separate bipartisan teams of six to 10 persons each to Ukraine, pardon me. Four of the teams monitored pre-election activities and two observed the actual elections, the first fraud-ridden November runoff, and the final historic runoff on December 26. In fact, we sent a team of approximately 30 former Members to that December 26 election, each of them obviously giving up their Christmas holidays.

Our members were each and all certified as international election observers by the Ukraine Government. We all scrupulously avoided any intimation that we were anything but neutral, supporting no candidate, no party, no election bloc. Each team was in the country for a week, and each team went far into the field, away from the major urban areas. Each had extensive meetings with representatives of political parties, government officials, election officials, candidates, the press, and the public.

We also met, of course, with U.S. officials from our embassy and from USAID. Our teams were joined by former Members of the European Union Parliament. We all experienced inconsistencies between what we were told by government and election officials and what we heard from candidates and from citizens.

After our time in the field, the teams returned to Kiev for debriefing and then departed for the States. Each team independently prepared a report on its experiences, and those reports were widely distributed among political, diplomatic, and media interests here, in Europe and in Ukraine.

Each team independently and drawing from its own experiences concluded that the election as currently being conducted was not, not, going to be free and fair; that the government-supported candidate was being given a wide advantage at the expense of the other candidates; that other candidates had little or no access to the media; that government resources were being used to support one candidacy; that government-organized efforts were used to disrupt campaign efforts and events for other candidates; and that the election was going to be stolen. Virtually every "ordinary citizen" with whom we met, individually or in groups, fully expected that their election was going to be stolen.

Our team that returned for the November 21 election found numerous irregularities in the voting process and the counting procedures. Many of us witnessed events of multiple voting by persons brought in to a particular area from other parts of the country by bus and by train. These events and problems were also witnessed by our European partners and other NGOs.

That evening, the evening of the election, or, more accurately, the morning after, at about 2:00 or 2:30 in the morning, after observing not just the voting but the vote counting process, we returned to Kiev to the hotel we were staying in, which happened to be just about half a block away from Independence Square in downtown Kiev. We arrived to the sound of voices, lots of voices.

We walked that half block down to Independence Square and witnessed the start of the Orange Revolution. There were easily at 2 o'clock in the morning after the elections 100,000 people in Independence Square. This was the start. No announcements had been made about any votes at that point. Those people were there because they knew that their election had been stolen from them. This was the start of what was called the Orange Revolution, which resulted ultimately in the November 21 election being declared invalid and in the December 26 runoff election, which resulted in the ultimate inauguration of Victor Yushchenko as President of Ukraine.

There is no doubt that our effort had an impact and that we played a role in a historic event. None of us will say that we did this all by ourselves. There were a lot of people involved. But we were there, and I have no doubt that we made a difference.

We have unique perspectives, and we can play an important role in democracy building and strengthening and election monitoring; and this project has set a precedent for our association for future missions. In fact, your association is in the process of creating a new Institute For Election Monitoring in partnership with colleagues who are former members of Parliament from Canada and former members of the Parliament of the European Union. You will hear more about this effort later on.

In addition, we have discussed with Speaker HASTERT and will discuss next week with Leader PELOSI the effort that the Speaker announced to you just a moment ago, where we may be joining in an effort for democracy strengthening which had been launched by the House of Representatives yesterday. These efforts are very exciting, and they bode well for the future of your association.

I would like to say to you as a personal matter that witnessing the things that we saw in Ukraine and witnessing the will of people who are determined to express themselves and to have their expression felt and to make an impact on their government and on their country was for me one of the most moving experiences I have had in my life, and I am very grateful for having had that opportunity.

I am now pleased to yield to our colleague from New Jersey, Mr. Maguire, who will report on our election-monitoring delegation to Cameroon.

Mr. MAGUIRE. Thank you very much, Jay. I was honored also to be a member of one of the missions to Ukraine, which Jay has just described so eloquently.

Mr. President, I would refer now to another election-monitoring project that the association participated in during 2004, the monitoring of the October presidential election in Cameroon.

From October 8 through 12, the association sent a delegation of six former Members, three Republicans and three Democrats, to Cameroon to serve as official election observers for the presidential election on October 11. The delegation received certification as official election observers from the Ministry of Territorial Administration and Decentralization in Cameroon in order to enable the delegation to travel and observe freely.

According to the constitution and laws of Cameroon, the people of Cameroon are entitled to express their views on candidates and parties at the ballot box freely and without interference from any source. The mission focused exclusively on the fairness of the election process and did not advocate for any particular candidate or party.

In Cameroon, the delegation split into three groups of two and traveled within the two major cities: Yaounde, the capital; and Douala, the financial center; and also in the English-speaking southwest province. In the days prior to the election, each group traveled extensively in their respective areas, meeting with political party members, government officials and opposition representatives, attending pro-government and opposition-party events, visiting regional and district offices in charge of organizing materials for election day, and scouting out polling stations.

On election day, the delegates visited a number of polling stations throughout the day in their respective areas. The delegates were present for the opening and closing of the polls and the counting of ballots after the polls closed at locations selected by the delegates.

We evaluated a number of factors, including but not limited to the presence or absence of confusion or intimidation at the polls, the posting and availability of voter registration lists and cards, and the mechanics and transparency of the voting process.

After observing the polls on election day, the full delegation reconvened in Yaounde for a series of meetings and a brief press conference before returning to the United States. The delegation issued a report following its return that was widely distributed in diplomatic and political communities in the United States and Cameroon.

The delegation reported that it did not witness enough irregularities to disapprove of the balloting process itself, which, for the most part, proceeded in an orderly and transparent manner at the sites visited for those voters whose names did appear on the registration lists. But the delegation also concluded that structural, administrative, and equity issues must be examined and addressed to assure a free, open, and fair electoral process in Cameroon.

Violations witnessed by the delegation included confusion at polling stations, individuals denied the opportunity to vote because they were unable to find their name on the lists of registered voters, temporary police checkpoints set up between provinces that could contribute to voter intimidation, and media coverage heavily slanted to favor the incumbent.

Like most other credible observer groups that were in Cameroon, the delegation concluded that there was significant room for improvement in the administrative performance and technical competence required for full and fair operations of the voter registration process, the timely publishing nationally and in each locality of voter registration lists prior to election day, the delivery of voter registration cards, the training of polling commissions, representatives of the National Election Observatory, the training of political party representatives and other observers of the balloting process and also in the management and adjudication of any claims or charges of irregularities in connection with voter registration, campaigning, balloting and the electoral process overall.

As with our missions to Ukraine, it became apparent quickly how important a role former Members can play in this democracy-building field. I am thrilled that our association has commenced these types of activities, and I hope to be able to participate in future election-monitoring delegations.

Let me add that there are some spinoffs that are important that go beyond the monitoring of the election on election day. Let me mention three.

Our colleague, Robin Beard of Tennessee, who participated, I think, in four of the Ukraine missions, recently returned as a consultant on legislative strengthening, setting up a truly democratic process in the Parliament of Ukraine, and met with President Yushchenko and his top aides in that connection.

Another example, the Woodrow Wilson Center for International Affairs, headed by our colleague Lee Hamilton, recently put together a half-day program focused on what you do after the election: how do you continue to be involved in the process of reform after the election has taken place when there are serious problems that need to be addressed, as is the case in many countries today. That session was led by former Canadian Prime Minister Joe Clark, and I think it really does set us forward in a very useful way now on what Joe Clark referred to as the practice of follow-on to elections.

Our colleague Robin Beard and I have also had the great pleasure of joining together at the National Defense University on two occasions to talk with senior people from the military community, the security community, and the foreign policy community of 20 Near East and South Asian nations, again talking about the election process, about politics in this country, about the way the world is changing in a democratic direction.

So, Mr. President, I am delighted to present this report on behalf of the association, and I thank you very much for your acknowledging me.

□ 1000

Mr. BUECHNER. Thank you, Jay and Andy.

Mr. Speaker, there are several other activities of the U.S. Association of Former Members of Congress which deserve to be highlighted today. One certainly is our Annual Statesmanship Award Dinner, chaired so exceptionally by Lou Frey of Florida. I would like to yield to Mr. Frey to report on the dinner we just held in March.

Mr. FREY. Thank you, Mr. President. Senator Coats, Ambassador Coats leaned over to me about all this good we are doing and how we are involved with democratization, and wondered if we would be available on the other side of the Capitol.

Sometimes a good idea is not a good idea. But about 8 years ago we had no source of fundraising outside of our dues. And I was president, and proposed that we have an Annual Statesmanship Award Dinner. And everybody thought it was a good idea. The only bad side is we did not have a chairman. And so 8 years later, I have had the privilege of chairing this dinner, and it has really becomes an institution in Washington now. We have had over 400 people at each and every dinner.

We not only have the dinner itself, but we have a wonderful congressional and presidential auction, which our colleague, Jimmy Hayes, works all year on doing, and it has been an event that has been really memorable in a lot of ways.

Just for your memory, the past recipients are Dan Glickman, Lee Hamilton, Lynn Martin, Norm Mineta, Vice President CHENEY, Secretary Rumsfeld. And one of, I think, the highlights was the World War II generation represented by our own Bob Michel, by Bob Dole, by Sam Gibbons, by John Glenn and by George McGovern.

For any who missed that dinner, you just missed an incredibly touching and wonderful evening. And the stories they told were great. Sam Gibbons, jumping out of his airplane with a six pack of beer. And just wonderful. And I believe our records show that we had over 161 men and women who served in some capacity in World War II as Members of Congress.

Our last honoree was John Breaux of Louisiana. And of course John is noted for working with people on both sides of the aisle. And again, it was a good evening.

We did have a highlight on our trip to France in that we had run into a French Count whose family goes back to William the Conqueror. And he had a beautiful chalet over there, and we auctioned it off, and he got carried away. He was going to give a weekend, but he ended up giving a week. He had had probably a few glasses of milk or something along the line. And we ended up with a very nice amount for it for a week. And it was one of the live auction items.

One of the other things we have tried to do, we mentioned the "Congress to Campus" program, is the fact that every time we are out there people have said, look, this is interesting, it really is, but this is not textbook. I mean, what is it really like? You people are talking about that. Why do you not write it down? So we decided we would do that. And we had 38 former Members of the House and Senate write chapters for the book called "Inside the House". It is used on a number of campuses. It is used in the War College out in Monterey. And it is a good book. It is an interesting book. And we are going to update it a little bit. And we are going to write another book which some of you, I hope, have, I know some of you have responded. Some of you have responded, and it is called "The Rules of the Road".

Barber Conable, you know, had one of the rules, just a wonderful guy who is not with us anymore. But his rule was, "Never act on an economic policy that you can put on a bumper sticker." You know, mine were pretty simple. "Do not fight with the press". "If you have to explain, you are in trouble." And "never retreat; attack in a different direction."

What we are trying to do is to get from each and every one of you what your rules are, a little explanation of it. The University Press is willing to publish it again, and it will be a lot easier if you write me back than if I have to call you. So I would appreciate you doing it. Everybody will be in the book. I hope to get about 250 or at least 300 of these to the book. And I am enjoying getting the answers back.

Mr. MAZZOLI. Will the gentleman yield briefly?

Mr. FREY. Yes. The gentleman from Kentucky, my good friend.

Mr. MAZZOLI. I want to commend the gentleman for his great leadership in the organization and chairmanship of the dinner, and I would like to remind the gentleman that he was almost like a drill sergeant, ferreting out information from those of us who contributed to "Inside the House". And I did not want to have to suffer the same kind of challenge this time, so I have here my contribution to "Rules of the Road". I just did not want Lou Frey on my case for the next 6 months, so here it is, Lou.

Mr. FREY. Thank you. I appreciate that. Thank you, Mr. President. I appreciate the opportunity to make the report.

Mr. BUECHNER. Thank you, Lou. And again, your invaluable leadership has made the Annual Statesmanship Award Dinner the tremendous success it has been each year.

Mr. Speaker, allow me to just briefly highlight the other activities of our Association during 2004. In December of last year the Association hosted its Life After Congress Seminar. The purpose of that conference was to ease the transition away from Capitol Hill for those sitting Members who would not return for the next Congress. We assembled a panel of Congressional support staff to outline the services available to retiring Members, as well as a panel of former Members who have pursued careers in a variety of different fields.

In addition, Dana Martin, the Chair of the Association's Auxiliary, spoke about some of the opportunities available to spouses of former Members, a very informative and worthwhile session.

The Association also organizes Study Tours for its members and their spouses who, at their own expense, have participated in education and cultural visits to places such as Australia, Canada, China, Vietnam, the former Soviet Union, Mexico and Western and Eastern Europe. In 2004, the 60th anniversary of D-Day was the occasion to bring a group of 20 former Members and spouses to France. They spent 3 days in Paris, met with the Ambassador, French legislators, French Foreign Ministry. Our colleague, Connie Morella, who serves currently as the U.S. Ambassador to the Organization for Economic Cooperation and Development, hosted a meeting.

Following that, they went to Normandy and spent several days touring D-Day sites. It was a momentous occasion to participate in a wreath-laying ceremony, and former Members were involved in the lowering of the flag of the United States as Taps was played; unbelievable experiences that will stay with them for a lifetime.

Those are just some of the other activities we have. We have an annual golf tournament at Andrews Air Force Base, and the Association's Auxiliary has other functions.

Mr. Speaker, the Association benefits tremendously from the efforts and leadership of many people. I would like to, as the president, thank the other officers of the Association, you, Jim Slattery, Jay Rhodes, Dennis Hertel and Larry LaRocco, the members of our Board of Directors and our counselors for providing excellent guidance and support through the year.

I would like to also recognize the work our staff has done. Rebecca Zylberman and Michael Taylor are two tremendous assets that we have. Sudha David-Wilp is a young woman who has taken over international programming, and I think you can just hear in what we have talked about for the study groups, she has done a magnificent job. But especially I need to point out that Peter Weichlein, who was the head of our international programs until Linda Reed retired, and he is now Executive Director, he has done just a magnificent job on the interrelationship, both with the sitting Members of Congress, with all the study group participants and keeping our membership aware of what was going on in the world.

Mr. Speaker, we are also pleased today to have with us several representatives of former parliamentarian associations abroad. From the Canadian Association of Former Parliamentarians, we are joined by, and would you please stand when I say your name, Doug Rowland, Derrek Konrad, and Walter Van der Walle. From the Association of Former Members of the European Parliament, we are thrilled to have with us Lord Henry Plumb, James Moorhouse, Richard Balfe and Fearghas O'Beara. And from the Association of the Former Members of the Parliament of New Zealand, we are delighted to welcome Maurice McTigue. And from the Ontario Association of Former Parliamentarians, we are joined by the Reverend Canon Derwyn Shea and Mr. John Parker.

Mr. Speaker, this is the largest number of foreign dignitaries we have ever had join us. I cannot call a Canadian a foreign dignitary. I am sorry. But friends to the north, okay?

And we are truly honored that you all have made the journey to Washington so that we can continue working with each other and learning from each other.

Mr. Speaker, this is my sad part of my presentation, is to inform the House of those persons who served in Congress and have passed away since our report last year. They are, Brock Adams of Washington, Alphonzo Bell of California, Tom Bevil of Alabama, Don Brotzman of Colorado, Shirley Chisholm of New York, Tom Foglietta of Pennsylvania, Hiram Fong of Hawaii, William Ford of Michigan, Tillie Fowler of Florida, Ronald "Bo" Ginn of Georgia, Lamar Gudger of North Carolina, Edwin Arthur Hall of New York, Howell Heflin of Alabama, Frank Jefferson Horton of New York, Tom Kindness of Ohio, William Lehman of Florida, James Armstrong MacKay of Georgia, Robert Matsui of California, Catherine Dean May of Washington, Robert Price of Texas, Peter Rodino of New Jersey, Pierre Salinger of California and James Patrick Sutton of Tennessee.

I ask all of you, including the visitors in the gallery, would you please rise for a moment of silence as we pay our respects to the memory of these fallen elected representatives. Thank you.

Mr. Speaker, as you know, each year the Association presents a distinguished service award to an outstanding public servant and former Member of Congress. The award rotates between parties, as do our officers. Last year we presented the award to an extraordinary Democrat, Sam Nunn. This year we are pleased to be honoring a remarkable Republican, former Representative, Senator and Ambassador Dan Coats of Indiana.

Dan commenced his long service to the Nation when he joined the Army in 1966, serving until 1968. After some years in private law practice and as a district representative for then Congressman Dan Quayle, Dan Coats was elected to the House of Representatives in 1981. He served in the House until being sworn in as Senator in January 1989, where he represented Indiana until 1999.

While in Congress, Dan Coats was a member of several high profile committees, including the Armed Services Committee, the Senate Select Committee on Intelligence and the House Energy and Commerce Committee. He was also a member of the Senate leadership, serving as Midwest Regional Whip.

He continued his long and distinguished service to the country when he represented the United States as its Ambassador to Germany, from August 2001 until February 2005. As we all well know, the recent strain on U.S.-German relations required a diplomat of the highest skill set, and we applaud our former colleague for the exceptional way in which he conducted the business of the United States of America.

On behalf of the Association of Former Members of Congress, I am delighted to present our Distinguished Service Award to the Honorable Dan Coats. I am going to read what it says on the plaque: Presented by the U.S. Association of Former Members of Congress to Ambassador Daniel Ray Coats for over 20 years of commendable public service to his beloved State of Indiana and to the Nation.

Dan Coats served from 1981 to 1989 in the U.S. House, and from 1989 to 1999 as a United States Senator. As a legislator he comfortably worked with his colleagues from both sides of the aisle, especially if he could benefit America's families and children. He continued his exemplary service to country by acting as U.S. Ambassador to Germany from 2001 until 2005, representing the United States with skill and distinction during the often challenging post-September 11 period. His former colleagues applaud and recognize his distinguished career in public service, Washington, DC, May 19, 2005.

And Dan, I am also pleased to present you with a scrapbook of letters from colleagues offering their congratulations for this well-deserved symbol of our respect, appreciation and affection. We would be pleased to receive some comments from you.

Mr. COATS. President Jack and Vice President Jim, Leader Bob, and my chairman, Jim Broyhill and friends who I had the very distinct privilege of serving with in this place, it occurs to me that there are more people listening to me speak now than I ever had when I spoke in the House of Representatives or in the Senate.

It also occurs to me that, as someone who did serve in that other body, I could go on for an interminable amount of time. But I am now back in the House of Representatives, and so I am conscious of the gavel coming down behind me within a 5-minute period. So I will be very, very brief.

It is a great honor to be honored by your peers. I suspect that this had something to do with my Ambassadorship to Germany, although I cannot quite figure out why I was given this award since, under my watch, we took relations all the way back to the Spring of 1945. It was a challenging time, as Jack said. And I think that one thing I learned for sure was, given the very significant political tensions that existed between our President and the Chancellor of Germany, between our countries, the very rightful sense of disappointment, to say the least, over the lack of support from a friend that we had lent incredible amount of support, including the lives of many, many Americans to liberate that country from the scourge of Naziism. It was a difficult time for Americans to understand how that could happen.

One of the things that sustained us was, and I believe the most important thing that sustained us were the relationships that had been forged since those postwar times by the more than 13 million American troops that had served in Germany and their relationships with German townspeople and people in political office and just every day, ordinary, on the street Germans, the business ties that exist between our two countries, and just, as perhaps more importantly than any of those were the relationships that had been forged through the connections between Members and particularly former Members, the study group and others, between German parliamentarians and Germans in office and in high places. Those relationships maintained our special relationship with Germany that has existed since 1945, and saw us through all those difficult times.

The study group we were privileged to host over there, to have Members come over. We were privileged to have others come and speak to parliamentarians, to share breakfast, lunch and dinner, share thoughts, business groups exchanging, all of those sustained us through that, and I can report, on leaving there in February of 2005, relations had dramatically improved with our new Secretary of State's visit, which was an astounding success, followed by the President's visit 2 weeks later. And so we are back on the track where we should be. Still some work to do, but certainly on the uptick rather than where we were in 2002, 2003. So, for whatever I was able to contribute to that, I am appreciative of the opportunity of having, being able to serve there.

I am most appreciative of the time that I have had in this august Chamber. I walked in and saw Billy Pitts and Bob Michel, and friends who served with me during that time, and it was a real throwback and took me back to some great memories. I felt like running up to Billy and saying, how long is this going to last? When are we going to catch the plane back home?

So thank you very much for honoring me. I join a distinguished list of people that were named in receiving this honor and I am greatly honored, and will display this plaque in a very prominent place in my office and remember fondly my days here in this House of Representatives and my association with so many of you. Thank you.

Mr. BUECHNER. Again, Dan, thank you for your service and your leadership during some challenging times.

Mr. Speaker, the Members of the association were honored and proud to serve in the United States Congress. We are continuing our service to the Nation in other ways now, but hopefully, ones that are equally effective. Again, thank you for letting us return today to this Chamber that means so much to us.

This concludes our 35th annual report by the U.S. Association of former Members of Congress.

The SPEAKER pro tempore (Mr. Slattery.) The gentleman from Maryland would like to be recognized (Mr. HOYER).

Mr. HOYER. I asked my dear, dear friend of a long time, Speaker Michel, glad to have you here. You former Members, I want you to know that at one point in time I went up to RAY LAHOOD in 1995. I would particularly like my Republican friends to hear this. I went up to RAY LAHOOD, who was presiding in 1995. I went up to him and I said, look, we have got 197 Democrats, and if you could just get 20 Republicans, we will elect Bob Michel speaker. But LAHOOD could not deliver, Bob. I do not know what happened.

But I always like the opportunity to come and visit with those of you who have served so well in this Congress and provided for us such an outstanding institution in which to serve. It is a little more acrimonious than when most of you served here. Perhaps that will, at some point in time, get better. But in any event, on behalf of all of us who still serve here and who have benefited by what you have done through the years, thank you very much. And I hope that you have had a great visit back.

We see you often. I see Bob on a very regular basis, but I hope that all of you are doing well. Thank you for your assistance through the years. Thank you very much.

The SPEAKER pro tempore. Thank you, Mr. President. The Chair again wishes to thank the former Members of Congress for their presence here today. And for those of you who have not had an opportunity to record your presence with the Clerk, I would invite you to do so at this time. Good luck to all of you.

The Chair would advise that the House will reconvene at approximately 10:35.

Accordingly (at 10 o'clock and 20 minutes a.m.), the House continued in recess.

□ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 10 o'clock and 35 minutes a.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. KINGSTON. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the CONGRESSIONAL RECORD and that all Members and former Members who spoke during the recess have the privilege of revising and extending their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive up to 10 one-minute speeches on each side.

END FILIBUSTER AGAINST PRISCILLA OWEN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, throughout her career, Judge Priscilla Owen has received support from across the ideological spectrum. In 2000 she was overwhelmingly reelected to a second term on the Texas Supreme Court, receiving 84 percent of the vote. Every major newspaper in Texas endorsed her for election.

Her popularity stems from her excellence on the bench and in private practice where she distinguished herself as a litigator after earning the highest score in the State on the Texas bar exam in 1977.

On May 9, 2001, Priscilla Owen was nominated to the Fifth Circuit Court. The nomination is supported by three former Democrat judges on the Texas Supreme Court, a bipartisan group of 15 past presidents of the State Bar of Texas. However, on five separate occasions in the U.S. Senate, Democrats succeeded in blocking the vote on the floor, even though she has the votes to be confirmed, because of partisanship and politics.

Today political maneuverings stand and Judge Owen's courtroom stands empty. Senate Democrats are holding qualified judges hostage to their extremist views and disrupting the constitutional process. That is wrong, unprecedented, and it should stop.

STOP THE WEAPONIZATION OF SPACE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the administration, through senior Air Force officials, wants the U.S. to achieve military supremacy in outer space. Dominating all earth from outer space will have an out-of-world price tag, perhaps more than $1 trillion.

A question: Why reach for the stars with guns in our hands? Are there weapons of mass destruction on Mars?

Yesterday 28 Members of Congress signed on to H.R. 2420, a bill to stop the weaponization of space, urging the President to sign an international treaty to ban such weapons. If we work together towards creating peace on earth, we would not bring war to the high heavens.

While some fantasize about being "masters of the universe," there are 45 million Americans without health insurance. Corporations are reneging on pension obligations. Social Security is under attack. We are headed towards a $400 billion annual budget deficit, a $600 billion trade deficit, an $8 trillion national debt. The cost of the war in Iraq is over $200 billion. While we build new bases in Iraq, we close them in the United States.

Earth to Washington, D.C. Earth to Washington, D.C. D.C., call home.

ENSURING A STABLE VACCINE SUPPLY

(Mr. MURPHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY. Mr. Speaker, two quick health care issues. Each year vaccinations save $52 billion in health care costs and 33,000 lives. However, the government's policy of selecting the lowest bidder, combined with a fear of lawsuits, has driven manufacturers out of the United States. This contributed to last year's flu vaccine shortage, where 30 million doses were lost due when a foreign manufacturer's supply was contaminated. The U.S. Congress needs to follow through with incentives to secure more U.S.-based vaccine manufacturers.

Secondly, today's news in the paper about Type II diabetes was disturbing. One point two million more cases appear per year, costing $132 billion. Type II diabetes is caused by poor diet and lack of exercise, and as Members of Congress we need to urge all Americans to make sure they take better care of themselves for this disease that causes stroke, heart attack, kidney failure, and blindness. The risks are huge. The costs are huge. The benefits are great if we take better care of ourselves.

SAVERS CREDIT

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, for millions of Americans their retirement has become less, not more, secure. Part of the problem is that we are not saving enough. Half of all Americans do not participate in employer-sponsored retirement plans, and for 28 million households they have no retirement plans outside of Social Security.

A savings crisis in America, combined with privatizing Social Security, is a recipe for disaster. As the collapse of the United Airlines pension demonstrates, Social Security is a key to retirement security for many Americans. We must preserve Social Security while we encourage Americans to save more for their retirement.

Here are four ideas: Automatic enrollment in 401(k)'s for all Americans; direct deposit of their tax refunds into their savings plans; government match for the first $2,000 they save, matching it by 50 percent; and universal 401(k)'s to simplify and consolidate the 16 different tax savings plans on the tax rolls.

Mr. Speaker, a saving crisis faces America, but we can do something about it. We should act now to encourage more Americans to save for their retirement while strengthening Social Security, not privatizing it.

NASCAR

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, the State of North Carolina is a proud home to a great American racing tradition: NASCAR. This weekend Lowes Motor Speedway in Concord will host the NASCAR Nextel Cup All Star Race, and folks from all across the country and around the world will come to watch the world's best drivers race for the finish.

My hometown of Concord is proud of its partnership with the racing industry and is home to many NASCAR drivers and teams. The Charlotte area has also joined together to attract the NASCAR Hall of Fame. We are excited about the possibility of this prestigious attraction calling North Carolina home.

Today I would like to take a moment to commend NASCAR, a tremendous industry and job provider in North Carolina, for its efforts to give back to the community. With its growing popularity, the sport provides entertainment for families, support for charities, and a huge economic boost for our region. I am also especially grateful for NASCAR's support of Dell TechKnow, a technology program for our schools. It is making an impact for kids in education. Even more important is NASCAR's support of our incredible military.

Tomorrow, May 20, I will join fans across the country celebrating NASCAR Day, which means support for numerous charities, our men and uniform, and jobs for Americans. NASCAR Day is an opportunity to bring fans, businesses, and community organizations across the Nation together for common cause while giving to NASCAR-related charities and making a difference in the lives of children. It supports charities such as Victory Junction Camp, Speediatrics, and Speedway Children's Charity, all meeting needs and providing support for children with chronic and life-threatening illnesses.

Mr. Speaker, I commend NASCAR, and if we ever add an extra line to the "Star Spangled Banner," it will be "Gentlemen, start your engines."

THE JUDICIARY AND THE RULE OF LAW

(Mr. MILLER of North Carolina asked and was given permission to address the House for 1 minute.)

Mr. MILLER of North Carolina. Mr. Speaker, the presidential election in 2000 was effectively decided by the Supreme Court. In his dissent, Justice Stephens said: "It is the confidence in the men and women who administer the judicial system that is the true backbone of the rule of law . . . Although we may never know with complete certainty the identity of the winner of this year's presidential election, the identity of the loser is perfectly clear: It is the Nation's confidence in the judge as an impartial guardian of the rule of law."

Mr. Speaker, Americans, Democrats and Republicans alike did accept the Supreme Court's decision and the legitimacy of President Bush's election. But, Mr. Speaker, what confidence will Americans have in judges nominated without consultation, without the advice and consent that the Constitution provides for, and confirmed by a bare majority despite strong objections to the impartiality of those judges, confirmed only by shamelessly ignoring the rules that have governed the Senate for more than two centuries? Mr. Speaker, why should Americans accept the decisions of those judges as legitimate? And, Mr. Speaker, just what will be left of the rule of law?

COMMENDING SENATE FOR COURAGEOUS ACTION

(Mr. CARTER asked and was given permission to address the House for 1 minute.)

Mr. CARTER. Mr. Speaker, the Constitution of the United States designed by our Founding Fathers set up a system of establishing a judiciary. And in that establishment, they intended for the President of the United States to nominate people on the bench and they intended for the Senate to give advice and consent to that nomination and, by an up-or-down vote, vote on whether or not those people can serve for life in the United States judiciary.

☐ 1045

We are seeing today a constitutional challenge that is being met by the Senate as they go forward and meet their constitutional duty for an up-or-down vote for the judiciary and the nominees that have been proposed for our Federal judiciary.

Mr. Speaker, we expect fair and impartial judges to be appointed to the court; and just because they do not meet our political litmus test, we should not allow anyone to intervene with our constitutional duty which we take an oath to preserve, protect, and defend the Constitution of the United States as we have served in these offices.

I commend the Senate for the courageous act that they will go forward and do in the following weeks.

REPUBLICAN ABUSES OF POWER

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, our Founding Fathers envisioned Congress would deliberate, collaborate, and then judiciously compromise on the key issues of the day. Here in the House, the Republican majority refuses to collaborate, deliberate, or compromise. The House leadership consistently abuses its power by preventing the minority from offering its ideas on the floor.

Fortunately, in the Senate, the Republican majority cannot force its will on the minority so easily. One of the tools of the Senate for more than 200 years is the filibuster, a rule that protects the rights of the minority and prevents the majority from having absolute power. It is a critical tool in the checks and balances that exist between the branches of government.

Today, Senate Republicans are preparing to do something that has never been done before: abolish the rights of the minority to filibuster judicial appointments.

This extreme power grab would seriously undermine our Nation's checks and balances. Like their colleagues in the House, Senate Republicans want absolute power, even though Americans know that our country works best when no political power is in absolute control.

As a Nevadan, I want to personally thank Nevada Senator HARRY REID for leading the fight in the Senate to protect and preserve the constitutional form of government that we enjoy in this country.

BAKASSI PENINSULA

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Mr. Speaker, today I would like to draw my colleagues' attention to a situation in Africa.

President Abasanjo of Nigeria promised, as a result of a lawsuit several years ago, to withdraw Nigerian troops from the Bakassi Peninsula in the Republic of Cameroon. Today he has not done this, and it is time we see some action from Nigeria.

As the president of the African Union, President Obasanjo has an obligation to set an example for the rest of the African nations by adhering to the International Court of Justice's decision and obey the rule of law.

I call on President Abasanjo to withdraw all Nigerian troops from the Bakassi Peninsula and return the Bakassi Peninsula to its rightful owner, the fine Republic of Cameroon.

DEMOCRATIC WOMEN UNITED AGAINST GOP ABUSE OF POWER

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, today I rise to denounce the Republican abuse of power. Right now, the Senate Republicans are trying to jam through judicial nominations that will hurt the American people, as well as women.

Specifically, I am extremely concerned about the nomination of Janice Rogers Brown from California. Her views are out of the mainstream and out of touch with American values, and this is why: she was the only member of the California Supreme Court to find that a jury should not hear expert testimony in a domestic violence case about Battered Women Syndrome. Janice Rogers Brown was the only member of the court to oppose an effort to stop the sale of cigarettes to children. She even said that a manager could use racial slurs against his Latino employees.

Her record is clear. She does not protect the rights of workers, women, or minorities. She is so far out of the mainstream that she, in my opinion, is viewed as extreme. We cannot allow the Senate Republicans to abuse their power to jam through such extreme judicial appointments.

Our current and effective system of checks and balances protects our judicial branch. The American public must be shielded from individuals like her.

JUDICIAL NOMINEES

(Mr. BONNER asked and was given permission to address the House for 1 minute.)

Mr. BONNER. Mr. Speaker, I rise today to voice my strong concern over the unconscionable and harmful stalling tactics we are seeing in the confirmation process over in the other body with regard to several qualified judicial nominees.

Two in particular, Justice Janice Rogers Brown, the nominee that the gentlewoman was speaking about just a minute ago, and Judge Bill Pryor, are outstanding jurists; and I am proud that they are both natives of my home State of Alabama.

Justice Brown is a native of Luverne and the daughter of a sharecropper. She has enjoyed an extremely successful career beginning on the Third District Court of Appeals in California and continuing for the past 9 years on that State's State Supreme Court. Judge Pryor, a native of Mobile, was one of our State's finest attorneys general and served with distinction during his temporary appointment on the 11th circuit of the Court of Appeals.

Both of these individuals are experts in their field, and both of them represent the finest in legal minds anywhere in this country, and they deserve a vote.

MOURNING THE LOSS OF LANCE CORPORAL JONATHAN GRANT

(Mr. UDALL of New Mexico asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to honor the life of Lance Corporal Jonathan Walter Grant.

Jonathan lived his life by always putting others first. Last Wednesday, he made the ultimate sacrifice while serving in Iraq.

Lance Corporal Grant was among the six Marines killed during combat in Operation Matador when their troop transporter rolled over a road-side bomb in the Al Anbar Province.

Just 23 years old, Jonathan lived life always showing courage and maturity beyond his years. He was born in the Pojoaque Valley of New Mexico and raised by his grandmother, Margie Warner, whom he loved dearly. He received his General Equivalency Diploma in the year 2000 and joined the Marines in the year 2002, working the entire time to support his family and build his future.

Our heartfelt prayers and sympathies are with Jonathan's family and friends during their time of great loss. We will always remember his bravery and the sacrifice he made while serving our great Nation.

CHINA SAFEGUARD IMPLEMENTATION

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to congratulate and commend President Bush and the Committee on Implementation of Textile Agreements for recently implementing safeguards against Chinese imports of cotton shirts, cotton trousers, and cotton and man-made fiber underwear. Since the lifting of quotas by the WTO in January, shorts, trousers, and underwear, which represent more textile jobs than any other sector in America, have been under attack due to the flood of Chinese imports currently coming into our country. This fast action will save thousands of textile jobs in this country and in my district.

However, Mr. Speaker, I was disheartened to hear the comments on the safeguard sanctions made by the spokesman for the Chinese Ministry of Commerce. He said in a statement that China believes its exports of cotton knit shirts, trousers, and man-made underwear have not disrupted the U.S. market. I think a 1,573 percent increase and a 1,277 percent increase in the first 3 months of this year constitute a market disruption. Let me repeat, those numbers are for the first 3 months of the year. Think what would happen if we did not implement the China safeguards.

The Ministry of Commerce went on to say, The U.S. decision runs counter to the World Trade Organization's agreements on trade of textile and apparel products and deviates from the WTO spirit of free trade.

I took specific note of this statement because China's idea of fair trade is government subsidies of its textile and apparel exports to the United States, currency manipulation, export tax rebates, forgiveness of loans by its government banks, and direct payments to its State-owned textile and apparel industry. Fortunately, the rest of the world does not think like the Chinese.

I applaud Secretary GUTIERREZ and his panel for helping to level the playing field for our domestic textile and manufacturing.

REPUBLICAN ABUSES OF POWER

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, 36 years ago, Republican Senator Howard Baker took to the Senate floor during a Republican-led filibuster of Abe Fortas, President Johnson's nominee to be Chief Justice of the Supreme Court. Senator Baker justified the Republican filibuster by stating, "On any issue the majority, at any given moment, is not always right."

Some people might be surprised that Senate Republicans led a filibuster against a judicial nominee. After all, Senator FRIST continues to claim all judicial appointees are entitled to an up-or-down vote, no matter what. It is a disingenuous statement when he himself and other proponents of this extreme measure have used the filibuster to delay and defeat judicial nominations of the past. It is a hypocritical statement when the Republican majority in the Senate derailed and defeated 65 of President Clinton's judicial nominations without ever permitting them a vote or even a hearing, not a vote in committee, not a vote on the floor.

And now that the Republicans are in the majority and have a President, they want to prevent Democrats from taking the very same actions they have used. They are now trying to change the rules of the Senate in the middle of the game to try to take away the rights of the minority.

Senator Baker was correct in 1968 when he said the majority was not always right, and it is time Senate Republicans realize that their extreme power grab is not in the best interests of either this Congress or this Nation.

CONGRATULATIONS TO DEBBIE PETERSON

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, today I would like to congratulate Debbie Peterson from my district, a social worker at Pope High School. Last week, Habitat For Humanity named her the Southwest Regional Volunteer of the Year for Georgia, Florida, and Alabama. She is one of those special educators whose energy is contagious.

For her, Habitat For Humanity is more than building a house on the weekends. Sponsoring the Student Club is her way of giving back to the school, to the community, and to those who want a hand up and not a hand out, as Habitat's slogan states.

Throughout her 31 years in public service, Debbie Peterson has always remembered that it is about the students and their accomplishments. What have they done? Increased club membership from 25 students to 525, over one-quarter of the entire student body. Raised over $160,000 for Habitat projects to build seven homes; become one of the five largest chapters of Habitat at U.S. colleges and high schools.

At the end of this school year, she will retire from Pope High School. The lessons she has taught the thousands of students who helped provide a hand up to countless others will last a lifetime.

Congratulations Debbie Peterson.

MAKING PROGRESS IN SOCIAL SECURITY REFORM

(Mr. KLINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINE. Mr. Speaker, I rise today to highlight the progress, yes, the progress we are making towards meaningful reform of an ailing Social Security system.

Because of the efforts of my colleagues and President Bush to communicate the truth of the impending Social Security shortfall, Americans are talking, and their elected representatives are listening.

I know I am only one of many Members who have been hosting listening sessions to hear the questions and concerns of my constituents on these important issues. On every one of these meetings, ideas are put forth. Many Members have translated these ideas into legislative proposals. Though the details differ, the message remains the same: we must do something to ensure Social Security will remain strong for our children and our grandchildren.

Unfortunately, not all Members are equally committed to solving the problem. Some opponents of reform have admitted that they would rather stand in the way of honest debate than be part of the solution. Mr. Speaker, this is a disservice to the constituents they represent and the millions of Americans who would benefit from reform.

I would encourage my colleagues on both sides of the aisle to be part of the solution, not part of the problem.

SUPPORT THE SAVE OUR WATERS FROM SEWAGE ACT

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, I rise today to express my strong concerns about an EPA proposal that would allow local treatment plants to discharge inadequately treated sewage into our waterways. It is disappointing that the EPA would even consider a policy change that would worsen our Nation's water quality and threaten public health.

I am a cosponsor of the Save Our Waters From Sewage Act to prevent the EPA from finalizing this misguided initiative. The mere thought of routinely allowing human sewage that is only partly treated to be dumped into our local waterways is very disturbing.

The EPA's wastewater guidelines have generated understandable concerns among my constituents in Westchester, Dutchess, and Orange counties. They seriously undermine the protections in place for our water resources in the Hudson Valley. We have a responsibility to fully treat all wastewater.

We already face enough health and environmental risks in our local communities that are beyond our control. It is senseless to initiate a new policy that knowingly puts the public at greater health risk. When it comes to the safety of our water and our local citizens, it is far more important to do what is right than to do what is most convenient.

I want to thank my colleagues, the gentleman from Michigan (Mr. STUPAK) and the gentleman from Florida (Mr. SHAW), for leading the fight to protect public health and prevent the EPA from enacting this policy. I urge support for the Save Our Waters From Sewage Act.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 415

Mr. McGOVERN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 415.

The SPEAKER pro tempore (Mr. BOOZMAN). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONDEMNING THE PRESENCE OF RACIALLY RESTRICTIVE COVENANTS IN HOUSING DOCUMENTS

(Mr. CLEAVER asked and was given permission to address the House for 1 minute.)

Mr. CLEAVER. Mr. Speaker, I rise today to urge my colleagues to cosponsor H.R. 259. I recently introduced this resolution to condemn the presence of racially restrictive covenants in housing documents.

Mr. Speaker, during the early 20th century, racially restrictive covenants were used in housing documents such as plats, deeds, and homeowner association bylaws to prevent racial, ethnic, and religious minorities from renting or buying property. While they are now illegal and technically unenforceable, most were never removed from housing documents. In my district alone, one survey identified more than 1,200 documents that still contain discriminatory language.

□ 1100

In many jurisdictions, the process of removing racially restrictive covenants is administratively burdensome, time consuming and costly. This resolution urges States to adopt legislation similar to California and commends the Missouri State Senate for passing a bill that streamlines the process for removing these relics of the Jim Crow era.

Mr. Speaker, I urge my colleagues to cosponsor H.R. 259 and join me in condemning racially restrictive covenants.

PROVIDING FOR CONSIDERATION OF H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. BISHOP of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 287 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 287

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with the colon on page 46, line 3, through "account" on line 14: section 109; page 67, line 17 through the semicolon on page 67, line 22; beginning with "That" on page 68, line 23, through "and" on page 69, line 3; beginning with "That" on page 69, line 19, through the comma on line 22; page 73, line 14 through line 22: section 413; beginning with "notwithstanding" on page 121, line 11, through the comma on line 12; beginning with "notwithstanding" on page 121, line 22, through "laws" on line 23; beginning with "Notwithstanding" on page 124, line 6, through line 7; and page 124, line 15 through 25. Where points of order are waived against part of a paragraph or section, points of order against a provision in another part of such paragraph or section may be made only against such provision and not against the entire paragraph or section. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. When the committee rises and reports the bill back to the House with a recommendation that the bill do pass, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Utah (Mr. BISHOP) is recognized for 1 hour.

Mr. BISHOP of Utah. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

This resolution provides for an open rule on H.R. 2361, the Interior Appropriations Act for fiscal year 2006, and provides for 1 hour of general debate equally divided and controlled by the chairman and ranking member of the Committee on Appropriations.

For the purpose of amendments, this rule provides for priority recognition to Members who preprinted their amendments in the CONGRESSIONAL RECORD, and the rule also allows for certain points of order to be raised in the course of consideration of this bill.

Mr. Speaker, this bill deals with filibusters in the U.S. Senate. Actually, Mr. Speaker, it does not, but until you say that magic word the media does not send its attention to the fact that the House is actually continuing on with the input of good government in our processes, so this bill actually, for which I am pleased to stand before the House and support the rule on the underlying legislation, is the Interior Appropriations Act.

I appreciate the hard work and the hard choices that the subcommittee chairman, the gentleman from North Carolina (Mr. TAYLOR), the gentleman from California (Chairman LEWIS), the gentleman from Washington (Mr. DICKS), and many others have put into making and putting this essential funding bill together, which does live within the budget discipline, and in fact reflects the priorities of this Congress.

At the same time, it reflects important committee priorities within the budget itself. We realize that this Congress, this Nation, does not have the money to do everything. But what we decide to do we should do well.

By prioritizing the needs, this provides, for example, an increase in six of the eight EPA programs for the environment. It provides for a $118 million increase for Indian health services, a $25 million increase over last year's funding level for restoration of the Everglades.

These are simply examples. A few others. Provides for National Heritage Area grants and historic preservation, something that to an old history teacher I appreciate. This bill provides important resources to help manage our Nation's public forest resources and our national parks.

It includes, for example, a $70 million increase for the national parks base funding, but at the same time $440 million to help reduce the backlog of national park maintenance. That is how these bills and these monies should be prioritized, to help preserve and enhance these unique national treasures.

It also provides for a record amount of funding to the national fire plan, and gives the Department flexibility in these accounts to help prevent and fight the annual onslaught of raging fires on public lands in the West, which have plagued many areas, especially California in recent years.

I am also pleased in particular that the gentleman from North Carolina (Chairman TAYLOR) has been diligent in funding the vital Payment in Lieu of Tax Program, or PILT, which so many western and rural counties depend upon for these vital public services.

Since this is an open rule, any Member will be allowed to offer germane amendments. This is a good rule. I think it supports a good bill. I strongly urge their adoption.

With that, Mr. Speaker, I urge adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I might consume. I thank the gentleman from Utah (Mr. BISHOP) for the time.

Mr. Speaker, I rise today in opposition to this rule, not because of what it allows but rather because of what it does not allow. As my colleague from the majority noted, this rule permits Members to offer amendments to the Interior and Environment Appropriations bill under the House's 5-minute rule if they do not need waivers of the House rules.

As someone who will be offering an amendment to that bill later today, I appreciate that the majority structured the rule in such a manner. However, I am greatly concerned that the rule blocks the ranking Democrat of the Appropriations Committee, my friend the gentleman from Wisconsin (Mr. OBEY), from offering a critical amendment which would have added $500 million to the bill to fully restore EPA's State and Tribal Grant Program, and Clean Water State Revolving Fund to their fiscal 2004 levels.

These two programs allow communities around the country to repair and modernize their water systems, and the underlying legislation greatly underfunds each account.

For the fiscally conservative in the House, the amendment of the gentleman from Wisconsin (Mr. OBEY) was revenue neutral, paying for itself by capping the tax cut for millionaires at just over $138,000. The amendment of the gentleman from Wisconsin (Mr. OBEY) could have benefited literally millions of Americans by making their drinking water cleaner. But the Rules Committee, on a straight party line vote, prohibited the House from considering the gentleman's amendment.

Mr. Speaker, we live in trying times with enormous fiscal constraints, many of which have been brought upon ourselves. As the chairman and ranking Democrat of the Interior and Environmental Appropriations Subcommittee will probably note today, they did the best that they could with what they were given.

Indeed they did, Mr. Speaker. I commend the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS) for their hard and perhaps most importantly bipartisan work on this legislation. I do believe that they did the best with what the majority gave them.

The underlying legislation includes funding which is essential to Everglades restoration, in my district and throughout South Florida. The bill maintains funding for the National Endowment of the Arts at its current level, and it increases funding for the National Endowment for the Humanities by a little less than $500,000.

The bill also increases funding for operations at our national parks, as well as a $67 million much-needed increase in funding for the Bureau of Indian Affairs.

Despite these increases the underlying legislation makes major cuts in funding to some of our most important environmental and health programs. $240 million has been cut from the Clean Water State Revolving Fund. $110 million from the State and Tribal Assistance Grant Account.

Conservation funding is about $750 million below, or less than half of what was promised when Congress passed the Conservation and Restoration Act in 2000. Overall, EPA's budget has been cut by $300 million.

This is only the second of 13 appropriations measures which this body will consider over the next few months. It is also the second appropriations bill in which we can see the drastic and dramatic effects of the Bush tax cuts. Republicans are going to try and associate domestic funding cuts with the cost of the war in Iraq. It seems like a plausible reason, and certainly one that the public could believe. But the truth is that domestic spending cuts are not occurring to pay for the war, they are happening to pay for the President's tax cuts.

The Republican budget that Congress approved 2 weeks ago only set aside $50 billion for Iraq and Afghanistan combined. The remaining costs, probably another $50 billion or more, if this year is any indication, will be funded by Congress through so-called emergency supplemental appropriations. These emergency costs will be added to the national debt, because we irresponsibly did not budget for it though we knew they were obvious. What has ensued is not the fault of the Appropriations Committee, Mr. Speaker, it is the fault of those who supported the budget resolution.

Later today, some Members will seek to improve the funding shortfalls, which the chairman and ranking Democrat sought to avoid.

For example, the gentleman from Arizona (Mr. GRIJALVA) will offer an amendment that restores the President's 33 percent cut for environmental justice programs to the fiscal year 2005 level.

The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) will also offer an amendment that will increase funding for the cleanup of brownfields sites by $2 million.

Additionally, I will offer an amendment that will require EPA to identify and take the necessary steps to protect minority and low income communities from bearing a disproportionate burden of poor environmental policy which adversely affects their health and well being.

All communities currently do not share in the burden of health and environmental risks, and my amendment expresses Congress' support for EPA doing what is necessary to protect these communities.

Mr. Speaker, individuals in our country on their own are not going to force power companies to reduce mercury emissions from smokestacks. Individuals on their own are not going to conduct major environmental restoration, and they certainly do not have the capacity to clean up our drinking water. But collectively, collectively, Mr. Speaker, we can all make this happen.

When utilizing the Clean Air Act, EPA can force power plants to come into compliance with new standard reviews. When enforcing the Clean Drinking Water Act, EPA can require cities and counties to provide their residents with safe drinking water.

□ 1115

With innovation that can only occur in a consortium of stakeholders, the Department of the Interior can make major environmental restoration projects a reality.

Enforcement is not free and neither is environmental restoration. Everyone in America shares in the responsibility of contributing his or her own fair share. Is there any Member in this body who is unwilling to pay just a little more to ensure that everyone in America has clean air to breathe? If given the chance, who would not be willing to pool his or her resources with others in his or her neighborhood to collectively ensure that everyone, everyone, has safe drinking water, or that no child will be forced to grow up playing in backyards polluted by dangerous levels of mercury and other toxins.

I do not blame or fault the appropriators for the funding cuts in the underlying legislation; but I do fault the majority in this body for creating a situation in which failure to adequately fund America's needs has become imminent. The American people will feel the same way when they wake up tomorrow and realize that their children and grandchildren will be paying for our fiscal mismanagement for generations to come.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again with this particular rule being open, it allows any Member who wishes to, to bring an amendment to the floor. It is the wonderful prerogative of the Members to do that. It is also very nice to note that the Committee on Appropriations which is tasked with trying to prioritize needs and fund those that are truly significant in that prioritization, and in this particular situation, the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS) in a very collegial way have done just that, and have presented a good and balanced bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. McGOVERN) with whom I serve on the Committee on Rules.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in opposition to the rule and in strong opposition to what I consider a very bad bill. This Department of the Interior appropriations bill as written is a direct assault against our Nation's environment, and it should be defeated.

I am particularly outraged that the bill completely zeros out the stateside grant program of the Land and Water Conservation Fund, a program that has been an enormous help to our local communities and the families who live in them.

The stateside Land and Water Conservation Fund has helped to preserve open space, slow urban sprawl, and give our children safe places to play. It is a true partnership with Federal grants requiring a full match from States and local communities. It is a program that has worked, and it has worked well. But this Republican bill completely eliminates the program. It zeros it out, walks away from our local communities.

The Land and Water Conservation Fund, LWCF, is based upon a simple concept: it takes revenues from offshore oil and gas drilling and invests them in our Nation's public land, letting States take the lead. For 40 years this program has a proven track record and benefited from strong bipartisan support.

When Congress decided to open the outercontinental shelf to oil drilling, we pledged to use some of its revenues for the public good. With the goal of meeting the Nation's growing need for recreation sites, Congress established the LWCF trust fund and agreed to reinvest an annual portion of OCS revenue into Federal land acquisition and State-assistance development programs.

Now even though LWCF takes in $900 million annually from oil and gas receipts, in recent years just a fraction of this funding has been used for its rightful purpose. And today, the Republican leadership has taken their pillaging a step further by completely eliminating the stateside program and using the money for something else.

This bill breaks our promise to the American people by not spending this funding the way we are supposed to. In all, the stateside program has helped communities by funding 40,000 projects nationally, success stories that can be found in every State and in 98 percent of U.S. counties.

I urge my colleagues to ask their Governors and their mayors and county commissioners if they want the stateside program to be eliminated. If the answer is no, vote against this bill.

This cut is particularly harmful to our Nation's underserved areas. In fact, in many low-income urban communities, the stateside grant program is responsible for virtually all parks.

This is about priorities, Mr. Speaker. This bill demonstrates that for the Republican leadership, tax breaks for the wealthy few are more precious than open space. For this leadership, millionaires are more important than kids who need a safe place to play. And for this leadership, lobbyists win and families lose.

We will hear the rhetoric from the other side claiming they did the best they could with what they had. They will complain that the allocation given to the subcommittee just was not big enough. They should save their crocodile tears because those same Members voted for the budget that created those allocations. They created this mess, and now the families of this country are paying the price. I urge my colleagues to vote against this rule and reject this bad bill.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the comments from the gentleman from Massachusetts (Mr. McGOVERN), and I commend the gentleman for the one statement he asked us all to do which is to go to our State and local leaders and find out what their priorities happen to be.

I would like to do something unique so far in today's debate and talk about something that is actually in the bill, and something about which we will be debating later, and preface it with the comment of why, when we try to prioritize, should we spend new taxpayer money for new recreation areas and programs when some of the existing programs, long-time recognized, long time in the bill, are not totally and fully funded.

If I could, Mr. Speaker, I come from a western State that has a great deal of Federal land. In fact, 67 percent of my State is owned by the Federal Government. If we add military lands on top of that, it is almost 80 percent owned by the Federal Government. And, unfortunately, my State is not the worst situation. There are States that have more of their land owned by the Federal Government.

Oftentimes I have Members come to the floor and say these lands belong to all of us, but the cost of maintaining those lands is not borne by all of us; it is borne by the citizens who happen to reside within those particular States.

Now I am an old teacher, and as I look at the situation of education, I find a unique phenomenon that the area of this country in which education funding is growing the slowest, the area of this country where the classrooms are the largest, the area of this country where the student population is increasing the fastest, and the area of this country where State and local commitment in tax base is being paid by their citizens all happen to be found in the 13 States of the West. And the common denominator for all is the amount of public lands that happen to be in these particular States.

Those Members east of the Rocky Mountains sometimes do not comprehend the concept because there is very little of your land owned by the Federal Government, and you can maximize the amount of input, but you cannot do it in the West.

One of my counties has an area known as the Black Box, something that no one in Utah would ever try to raft down. One of our good constituent friends from another State decided to come and raft in the area of the Black Box; and, unfortunately, he lost his life doing it.

The problem is my County of Emery had to expend its resources and have their rescue team risk their lives to retrieve the body. All of the money that was budgeted for that year's critical rescue missions was expended on that one individual entering from the east using all of these public lands. All of the cost of that was borne by the citizens of that particular county, which means once again these lands belong to all of us, but the expense attached to these lands do not belong to all of us.

There is a program that we have long had called "payment in lieu of taxes," which recognizes the burden placed upon the West and the burden that should be funded. From the mid-1970s until the early 1990s, virtually no new money was placed in this program. It was flat funding for almost that whole period of time. This Congress put $1.4 million of new money into the burgeoning problem of trying to pay for the Federal lands in the West. Under the direction of the gentleman from North Carolina (Chairman TAYLOR) and others on the subcommittee, that has increased significantly, almost doubling. They have recognized the need, but they have never fully funded the cost imposed on western States through payment in lieu of tax funding.

This last year, this program, traditionally run through the Bureau of Land Management, was taken over by the Department of the Interior with the idea of prioritizing it. They did not. Instead of prioritizing this program, they recommended a cut in this program and increased funding to the administrative overhead of the Department of the Interior.

I commend the gentleman from North Carolina (Chairman TAYLOR) for recognizing the unfairness of this and by increasing the payment in lieu of taxes to last year's level plus $3 million, but it is still not close to full funding.

I am confident and hopeful that we will discuss that particular issue because it is a well-established program.

It is not new, and we should be funding those well-established programs fully before we launch into new endeavors.

I commend the gentleman from North Carolina (Chairman TAYLOR) for zeroing out the land acquisition budget except for necessary administration costs because it comes up with the same policy: we do not start buying new land until we fully fund those lands that we already own.

We have an opportunity of expanding this in conference. This is one of the issues in this free-flowing open rule that we will be discussing later on. This is an issue where I commend the chairman for doing what he has done in this bill and urge him to continue on, because the citizens of the West, the kids in the West, the education system of the West have been harmed too long by policies that all of us in Congress for over 30 years have been implementing. It is an unfairness that must be dealt with.

I commend the gentleman from North Carolina (Chairman TAYLOR) and the committee for moving the first step forward. But I hope that we can look at other amendments as this debate goes forward that would look at funding the programs we already have that have been there for many years that desperately need to be fully funded before we launch into others, and that is specifically what an appropriations process should do. It should prioritize our needs. Once again, we can go back to the concept that we cannot fund everything, but what we fund, we should fund well.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am a bit confuzzled by the continuing argument of my colleague and friend on the Committee on Rules that his State is impacted by virtue of education formulas. I do not disagree with what the gentleman says, but I find it interesting that the State of Utah, while the gentleman from Utah (Mr. BISHOP) is arguing that they are not getting enough money for education, the State of Utah legislature passed measures saying they do not want any Federal money for education. They need to make up their mind so we know what all they are doing out there.

Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin (Mr. OBEY), ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I will be voting against the previous question on the rule, and after the bill is considered, unless it is substantially changed, I will be intending to vote against the bill itself for a variety of reasons.

My main reason is this bill represents gross negligence of our responsibility to clean up the Nation's air and water pollution. This bill provides huge cuts, 40 percent cuts over a 2-year period in the clean water revolving fund. If there is any Member of this Chamber who has a district that does not have a community that needs more loans to fix their sewer and water problems, would you please raise your hand. I would like to see one Member who thinks that they have enough money.

I note no Member of the House present has raised his hand.

□ 1130

Mr. Speaker, I would say there is a great deal of hypocrisy surrounding the budget process. Every time that those of us on this side of the aisle point to the shortcomings in the budget that the Republican majority has just passed, we hear, "Well, we can't do anything about these shortages in the appropriation bills because, after all, we have limited resources."

The gentleman who just spoke, the gentleman from Utah, said the appropriations process, quote, "should prioritize our needs." I fully agree. That is what I wanted to be able to try to do by offering an amendment which this rule would preclude me from offering. Because what I wanted to do is to change the judgment, change the priority judgment that the majority party made when they decided it was more important to give a $140,000 tax cut to someone who makes a million bucks this year, they decided that was more important, that was a higher priority, than cleaning up our air or cleaning up our water. I do not think that represents the priority choice that the American people would make but it is the priority choice that the majority party has made.

The only way that we can change that priority judgment is by offering the amendment that I wanted to offer, which would have scaled back the size of those tax cuts for anybody making a million dollars a year or more. It would have scaled back those average tax cuts from $140.000 to $138.000. Imagine those poor souls having to get by with a tax cut of only $138.000. I remind you, those are people who make more than a million dollars.

I do not begrudge, I do not denigrate in any way people who have managed to strike it rich and who are managing to make a million dollars a year. I hope everybody in this country at some point in their lives can do that. But I do believe that people who are the most blessed in our society ought to pay their fair share and the budget resolution which was imposed on this committee by this House does not allow us to reach that kind of fair distribution of tax burden.

So if we object to that what I regard to be not just ill-advised but immoral allocation of resources, the only device that we have to try to change that is to try to make our point on each of these appropriation bills trying to get the majority party to understand that just as they reconsidered their unilateral actions on Ethics Committee changes a couple of weeks ago, we would also like them to reconsider their poor judgment on the budget resolution.

Because the Rules Committee would not allow that amendment, I am going to vote against the previous question, and I am going to vote against the bill because the bill is grossly negligent in dealing with the air and water pollution problems facing this country. I am also not at all thrilled by the fact that for the first time in all the years I have been in Congress there will not be a single dollar provided for land acquisition programs. The gentleman may not want it in his State, but there are key tracts of land that we want the government to acquire in my State, there are key tracts of land we want the government to acquire, for instance, at George Washington's birthplace before real estate developers destroy that beauty for all time.

I am an old real estate broker, so I have nothing against real estate developers but I do not think they ought to be able to get their gloms on the most pristine land in this country and turn it into a shopping mall when we have our population increase by one-third since I came to this body and when we have an increased need for resources that the average family can enjoy.

But most of all the biggest problem with this bill is that it walks away from our obligation to help State and local governments clean up some of the dirtiest rivers and dirtiest lakes in the country. It walks away from our responsibility to prevent communities like Milwaukee from dumping their surplus sewage into Lake Michigan every time there is a storm. That is an outrageous neglect of our stewardship responsibilities. I think this bill makes it even easier to ignore those responsibilities, and I think that is a disgraceful act.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of my time.

I will be asking Members to oppose the previous question. If the previous question is defeated, I will amend the rule so we can consider the amendment of the gentleman from Wisconsin (Mr. OBEY) that was rejected in the Rules Committee last night on a straight party-line vote.

Mr. Speaker, the Obey amendment would add $500 million to the bill to restore funding for the EPA Clean Water State Revolving Fund Program to its fiscal year 2004 levels. This program allows communities around the country to repair and modernize their water systems. I find it incomprehensible that we do not understand the dynamics of that or that most if not all of us in this body do not have communities that would benefit from modernizing our water systems. The Obey amendment offsets these expenditures by capping at just over $138,000 the tax cut for people making over $1 million this year. The Obey amendment pays for itself and adds nothing to the Federal debt while maintaining funding levels in every other program in the bill.

This amendment will correct one of the most serious shortfalls in this bill. It is absolutely critical that this funding be restored. We can fix this today if we allow the Obey amendment to be considered on the floor. But the only way that will happen is if we defeat the previous question.

I want to assure my colleagues that a "no" vote will not prevent us from considering the Interior Appropriations bill, but a "no" vote will allow Members to vote on the Obey amendment. However, a "yes" vote will block consideration of the Obey amendment.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote.

The SPEAKER pro tempore (Mr. BOOZMAN). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. I urge my colleagues in the House to vote "no" on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself the balance of my time.

I appreciate the opportunity coming here and discussing this particular open rule that allows for us to discuss the prioritization which is the key element of what we do in every appropriations issue. The gentleman from Wisconsin is free to come here on the floor and talk about whether he believes the prioritization of this committee is accurate or not, whether he believes the Democrat approach would be a tax increase or not. But the same discussion also takes place in another area and it takes place in the committee process before it ever comes to this bill. I am here to still contend that the committee, both Republican and Democrat, did a good job in coming up with a prioritization process.

When the gentleman from Wisconsin talks about the desire for having new land, I do not dispute that nor do I oppose it necessarily. What we are saying is it is part of the prioritization. I would support acquisition of new land once we finally fully fund and take care of the lands we have. This committee has looked into that. This committee put significant new money not just into national parks but to maintain the backlog that we have of maintenance in our national parks. That is prioritization.

This committee recognized by putting PILT up to at least the level it was last year that there is a prioritization that takes place there at the same time. I was saying with PILT, and I will say it again, that what we have to do is fully fund it because it has been looked at for too long, especially when the minority party was in charge here and there were basically no increases in PILT funding, it has been looked at for too long as welfare for the West. It is not. It is rent that is due on that land and if you prioritize the budget, you prioritize those programs first before you expand anything else. I have to commend this committee for actually doing that.

I think there are some areas in which I think they could go ahead and move forward in those particular areas but once again prioritizing those commitments we have already made and fully funding those first. That is what this committee has tried to do. Whether you like or dislike their end product, they should be congratulated for coming that close.

In closing, Mr. Speaker, I have to reiterate the fairness of this open rule and urge its adoption because of that along with the underlying appropriation legislation. No bill is perfect. I am sure we can all come up with issues here and there in the appropriations bill or, for that matter, in any other bill we have where we would like to have it come out differently had we had our way, but in judging this bill as a whole and the process that has been through it to get to the point, I believe it is worthy for Members to support this particular piece of legislation.

And then I do want to talk to my good friend from Florida about what we really did with education in Utah. He is summarizing the New York Times, not reality. But other than that, we will forget that point right now. I will talk later to him about that.

Again, I urge Members to support this rule.

The text of the amendment previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION ON H. RES. 287—RULE FOR H.R 2361 FY06 INTERIOR APPROPRIATIONS

At the end of the resolution, add the following new sections:

SEC. 2. Notwithstanding any other provision of this resolution, the amendment printed in section 3 shall be in order without intervention of any point of order and before any other amendment if ofered by Representative OBEY of Wisconsin or a designee. The amendment is not subject to amendment except for pro forma amendments or to a demand for a division of the question in the committee of the whole or in the House.

SEC. 3. The amendment referred to in section 2 is as follows:

AMENDMENT TO H.R. 2361, AS REPORTED OFFERED BY MR. OBEY OF WISCONSIN

At the end of the bill (before the short title), insert the following:

SEC.   . (a) The amount otherwise provided in this Act for "Environmental Protection Agency—State and Tribal Assistance Grants" (and the amount specified under such heading for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act) is hereby increased by $500,000,000.

(b) In the case of taxpayers with adjusted gross income in excess of $1,000,000 for calendar year 2006, the amount of tax reduction resulting from enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107-16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108-27) shall be reduced by 1.562 percent.

Mr. BISHOP of Utah. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on the ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BISHOP of Utah. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 215, nays 194, not voting 24, as follows:

[Roll No. 190]

YEAS—215

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burton (IN)
Buyer
Calvert
Camp
Cannon
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)

McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—24

Boustany
Burgess
Cantor
Fattah
Gingrey
Harman
Jackson-Lee (TX)
Keller
Larson (CT)
Lewis (GA)
Lucas
Matsui
Millender-McDonald
Ney
Ryan (WI)
Shays
Simpson
Strickland
Sullivan
Tancredo
Tiahrt
Udall (CO)
Weldon (FL)
Weldon (PA)

☐ 1209

Mr. SESSIONS, Mrs. MUSGRAVE, and Mr. BRADLEY of New Hampshire changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. NEY. Mr. Speaker, on May 19, 2005, I was unable to be present for rollcall vote No. 190, on ordering the Previous Question to provide for consideration of H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 39, 2006 and for other purposes. Had I been present I would have voted "yea" on rollcall vote No. 190.

Mr. BOUSTANY. Mr. Speaker, on rollcall No. 190 I was inadvertently detained. Had I been present, I would have voted "yea."

Mr. RYAN of Wisconsin. Mr. Speaker, on rollcall No. 190 I was traveling with the President in Wisconsin. Had I been present, I would have voted "yea."

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 1851, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

(Mr. COLE of Oklahoma asked and was given permission to address the House for 1 minute.)

Mr. COLE of Oklahoma. Mr. Speaker, the Committee on Rules may meet the week of May 23rd to grant a rule which could limit the amendment process for floor consideration of H.R. 1815, the National Defense Authorization Act for Fiscal Year 2006. The Committee on Armed Services ordered the bill reported late last night and is expected to file its report in the House tomorrow, May 20.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy with a brief explanation of the amendment to the Committee on Rules in room H-312 of the Capitol by 10 a.m. on Tuesday, May 24.

Members should draft their amendments to the text of the bill as reported by the Committee on Armed Services which should be available tomorrow for their review on the Web site of both the Committee on Armed Services and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2361.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 287 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2361.

The Chair designates the gentleman from Ohio (Mr. LATOURETTE) as chairman of the Committee of the Whole, and requests the gentlewoman from West Virginia (Mrs. CAPITO assume the chair temporarily).

☐ 1213

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, with Mrs. CAPITO (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, today we present for consideration by the House the Interior, Environment and Related Agencies fiscal year 2006 Appropriations bill as approved by the House Committee on Appropriations.

The bill provides a total of $26.2 billion in funding for programs for the Department of the Interior, Environmental Protection Agency, Forest

Service, Indian Health Service, the Smithsonian Institution, and several other environmental and cultural agencies and commissions.

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The bill is $823 million below the fiscal year 2005 level, and $435 million above the administration budget request.

This is a balanced, bipartisan bill. It provides significant increases for our national parks, Indian schools, hospitals and clinics, wildfire programs; forest health is a high priority, and the Healthy Forest Initiative is fully funded.

The Payments in Lieu of Taxes program has a healthy increase of $30 million above the budget request, and more than $3 million above the 2005 level. Despite our very tight allocation, the Committee believes it is important to provide this increased funding for PILT.

There is an increase of $64 million for operations of our National Park System, including a $30 million increase specifically designed for individual units of the National Park Service. This targeted park base increase will benefit all of our parks.

The bill also restores critical funding for science programs, historic preservation programs, National Forest Systems programs, and Save America's Treasures grants. Finally, we have restored critical environmental education, research and rural water programs in the Environmental Protection Agency, and provided some limited increases for initiatives proposed in the budget request, including Superfund, homeland security, school bus retrofits, the Clean Diesel Program, Methane to Markets Initiative, and the Brownfields Program.

The budget request for EPA, while substantially below last year's level and proposed increases in that budget request, were funded by elimination of many critical mission essential programs.

We heard from nearly every Member of the House asking that we provide funding for EPA programs that were eliminated or reduced in the budget. The program restoration and increases for the various programs and agencies in this bill are offset by the decreases in land acquisition, construction, and State grant programs, and by lowering the amount provided for the increases proposed in the budget request.

This is a balanced bill. It is within the 302(b) allocation for budget authority and outlays. It provides the needed funding to keep the agencies in the bill operating at a reasonable level.

It does not provide a lot of funding for new initiatives. The choices made by the Committee were tough and fair and responsible. I urge all of my colleagues to support the bill.

At this point, I would like to ask that a table detailing the accounts in the bill be inserted in the RECORD.

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management					
Management of lands and resources	836,826	850,177	845,783	+8,957	-4,394
Wildland fire management:					
Preparedness	258,939	286,701	272,852	+13,913	-13,849
Fire suppression operations	218,445	234,167	234,167	+15,722	---
Additional appropriations (Title IV)	98,611	---	---	-98,611	---
Other operations	255,300	235,696	254,545	-755	+18,849
Subtotal	831,295	756,564	761,564	-69,731	+5,000
Central hazardous materials fund	9,855	---	---	-9,855	---
Rescission of balances	-13,500	---	---	+13,500	---
Construction	11,340	6,476	11,476	+136	+5,000
Land acquisition	11,192	13,350	3,817	-7,375	-9,533
Oregon and California grant lands	107,497	110,070	110,070	+2,573	---
Range improvements (indefinite)	10,000	10,000	10,000	---	---
Service charges, deposits, & forfeitures (indefinite)	20,055	32,940	32,940	+12,885	---
Offsetting fee collections	-20,055	-32,940	-32,940	-12,885	---
Miscellaneous trust funds (indefinite)	12,405	12,405	12,405	---	---
Total, Bureau of Land Management	1,816,910	1,759,042	1,755,115	-61,795	-3,927
United States Fish and Wildlife Service					
Resource management	962,940	985,563	1,005,225	+42,285	+19,662
Construction	52,658	19,676	41,206	-11,452	+21,530
Emergency appropriations (P.L. 108-324)	40,552	---	---	-40,552	---
Land acquisition	37,005	40,992	14,937	-22,068	-26,055
Landowner incentive program	21,694	40,000	23,700	+2,006	-16,300
Private stewardship grants	6,903	10,000	7,386	+483	-2,614
Cooperative endangered species conservation fund	80,462	80,000	84,400	+3,938	+4,400
National wildlife refuge fund	14,214	14,414	14,414	+200	---
North American wetlands conservation fund	37,472	49,949	40,000	+2,528	-9,949
Neotropical migratory birds conservation fund	3,944	---	4,000	+56	+4,000
Multinational species conservation fund	5,719	8,300	5,900	+181	-2,400
State wildlife grants	69,028	74,000	65,000	-4,028	-9,000
Total, United States Fish and Wildlife Service	1,332,591	1,322,894	1,306,168	-26,423	-16,726
National Park Service					
Operation of the national park system	1,683,564	1,734,053	1,754,199	+70,635	+20,146
United States Park Police	80,076	80,411	82,411	+2,335	+2,000
National recreation and preservation	60,973	36,777	48,997	-11,976	+12,220
Historic preservation fund	71,739	66,205	72,705	+966	+6,500
Construction	302,180	307,362	291,230	-10,950	-16,132
Emergency appropriations (P.L. 108-324)	50,802	---	---	-50,802	---
Land and water conservation fund (rescission of contract authority)	-30,000	-30,000	-30,000	---	---
Land acquisition and state assistance	146,349	54,467	9,421	-136,928	-45,046
Total, National Park Service (net)	2,365,683	2,249,275	2,228,963	-136,720	-20,312
United States Geological Survey					
Surveys, investigations, and research	935,464	933,515	974,586	+39,122	+41,071
Emergency appropriations (P.L. 108-324)	1,000	---	---	-1,000	---
Minerals Management Service					
Royalty and offshore minerals management	270,550	263,146	275,406	+4,856	-7,740
Use of receipts	-103,730	-122,730	-122,730	-19,000	---
Oil spill research	7,006	7,006	7,006	---	---
Total, Minerals Management Service	173,826	167,422	159,682	-14,144	-7,740

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	108,269	110,435	110,435	+2,166	---
Receipts from performance bond forfeitures (indefinite)	99	100	100	+1	---
Subtotal	108,368	110,535	110,535	+2,167	---
Abandoned mine reclamation fund (definite, trust fund)	188,205	188,014	188,014	-191	---
Legislative proposal	---	58,000	---	---	-58,000
Subtotal	188,205	246,014	188,014	-191	-58,000
Total, Office of Surface Mining Reclamation and Enforcement	296,573	356,549	298,549	+1,976	-58,000
Bureau of Indian Affairs					
Operation of Indian programs	1,926,091	1,924,230	1,992,737	+66,646	+68,507
Construction	319,129	232,137	284,137	-34,992	+52,000
Indian land and water claim settlements and miscellaneous payments to Indians	44,150	24,754	34,754	-9,396	+10,000
Indian guaranteed loan program account	6,332	6,348	6,348	+16	---
Total, Bureau of Indian Affairs	2,295,702	2,187,469	2,317,976	+22,274	+130,507
Departmental Offices					
Insular Affairs:					
Assistance to Territories	47,861	46,543	48,843	+982	+2,300
Northern Marianas	27,720	27,720	27,720	---	---
Subtotal	75,581	74,263	76,563	+982	+2,300
Compact of Free Association	3,450	2,862	3,362	-88	+500
Mandatory payments	2,000	2,000	2,000	---	---
Subtotal	5,450	4,862	5,362	-88	+500
Total, Insular Affairs	81,031	79,125	81,925	+894	+2,800
Departmental management	95,821	120,155	118,755	+22,934	-1,400
Subtotal, Departmental management	95,821	120,155	118,755	+22,934	-1,400
Payments in lieu of taxes	226,805	200,000	230,000	+3,195	+30,000
Central hazardous materials fund	---	9,855	9,855	+9,855	---
Office of the Solicitor	51,656	55,752	55,340	+3,684	-412
Office of Inspector General	37,275	40,999	39,566	+2,291	-1,433
Office of Special Trustee for American Indians					
Federal trust programs	193,540	269,397	191,593	-1,947	-77,804
Indian land consolidation	34,514	34,514	34,514	---	---
Total, Office of Special Trustee for American Indians	228,054	303,911	226,107	-1,947	-77,804
Natural resource damage assessment fund	5,737	6,106	6,106	+369	---
Total, Departmental Offices	726,379	815,903	767,654	+41,275	-48,249
Total, title I, Department of the Interior:					
New budget (obligational) authority (net)	9,944,128	9,792,069	9,808,693	-135,435	+16,624
Appropriations	(9,881,774)	(9,822,069)	(9,838,693)	(-43,081)	(+16,624)
Emergency appropriations	(92,354)	---	---	(-92,354)	---
Rescission	(-30,000)	(-30,000)	(-30,000)	---	---

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE II - ENVIRONMENTAL PROTECTION AGENCY					
Science and technology	744,061	760,640	765,340	+21,279	+4,700
(By transfer from Hazardous substance superfund)	(35,808)	(30,605)	(30,606)	(-5,202)	(+1)
Environmental programs and management	2,294,902	2,353,764	2,389,491	+94,589	+35,727
Pesticide fees (legislative proposal)	---	(50,000)	---	---	(-50,000)
Office of Inspector General	37,696	36,955	37,955	+259	+1,000
(By transfer from Hazardous substance superfund)	(12,896)	(13,536)	(13,536)	(+640)	---
Buildings and facilities	38,688	40,218	40,218	+1,530	---
Emergency appropriations (P.L.108-324)	3,000	---	---	-3,000	---
Hazardous substance superfund	1,247,477	1,279,333	1,258,333	+10,856	-21,000
Transfer to Office of Inspector General	(-12,896)	(-13,536)	(-13,536)	(-640)	---
Transfer to Science and Technology	(-35,808)	(-30,605)	(-30,606)	(+5,202)	(-1)
Leaking underground storage tank program	69,440	73,027	73,027	+3,587	---
Oil spill response	15,872	15,863	15,863	-9	---
Pesticide registration fund	19,245	12,000	15,000	-4,245	+3,000
Pesticide registration fees	-19,245	-12,000	-15,000	+4,245	-3,000
State and tribal assistance grants	2,438,758	1,779,500	2,074,500	-364,258	+295,000
Categorical grants	1,136,591	1,181,300	1,153,300	+16,709	-28,000
Rescissions (various EPA accounts)	---	---	-100,000	-100,000	-100,000
Subtotal, State and tribal assistance grants	3,575,349	2,960,800	3,127,800	-447,549	+167,000
Total, title II, Environmental Protection Agency:					
New budget (obligational) authority	8,026,485	7,520,600	7,708,027	-318,458	+187,427
Appropriations	(8,023,485)	(7,520,600)	(7,808,027)	(-215,458)	(+287,427)
Emergency appropriations	(3,000)	---	---	(-3,000)	---
Rescissions	---	---	(-100,000)	(-100,000)	(-100,000)
(Transfer out)	(-48,704)	(-44,141)	(-44,142)	(+4,562)	(-1)
(By transfer)	(48,704)	(44,141)	(44,142)	(-4,562)	(+1)
TITLE III - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest and rangeland research	276,384	285,400	285,000	+8,616	-400
State and private forestry	292,506	253,387	254,875	-37,631	+1,488
Emergency appropriations (P.L. 108-324)	49,100	---	---	-49,100	---
National forest system	1,380,806	1,651,357	1,423,920	+43,114	-227,437
Emergency appropriations (P.L. 108-324)	12,153	---	---	-12,153	---
Wildland fire management:					
Preparedness	676,470	676,014	691,014	+14,544	+15,000
Fire suppression operations	648,859	700,492	700,492	+51,633	---
Additional appropriations (Title IV)	394,443	---	---	-394,443	---
Other operations	377,687	67,761	399,000	+21,313	+331,239
Emergency appropriations (P.L. 108-324)	1,028	---	---	-1,028	---
Funded in Defense Bill (P.L. 108-287) (sec. 8098)	(30,000)	---	---	(-30,000)	---
Subtotal	2,098,487	1,444,267	1,790,506	-307,981	+346,239
Capital improvement and maintenance	514,701	380,792	468,260	-46,441	+87,468
Emergency appropriations (P.L. 108-324)	50,815	---	---	-50,815	---
Funded in Defense Bill (P.L. 108-287) (sec. 8098)	(10,000)	---	---	(-10,000)	---
Land acquisition	61,007	40,000	15,000	-46,007	-25,000
Acquisition of lands for national forests, special acts	1,054	1,069	1,069	+15	---
Acquisition of lands to complete land exchanges (indefinite)	231	234	234	+3	---
Range betterment fund (indefinite)	3,021	2,963	2,963	-58	---
Gifts, donations and bequests for forest and rangeland research	64	64	64	---	---

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)

(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Management of national forest lands for subsistence uses	5,879	5,467	5,467	-412	---
Total, Forest Service	4,746,208	4,065,000	4,247,358	-498,850	+182,358
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Indian Health Service					
Indian health services:					
Non-contract services	2,098,424	2,207,277	2,207,277	+108,853	---
Contract care	480,318	507,021	507,021	+26,703	---
Catastrophic health emergency fund	17,750	18,000	18,000	+250	---
Total, Indian health services	2,596,492	2,732,298	2,732,298	+135,806	---
Indian health facilities	388,574	315,668	370,774	-17,800	+55,106
Total, Indian Health Service	2,985,066	3,047,966	3,103,072	+118,006	+55,106
National Institute of Health					
National Institute of Environmental Health Sciences	79,842	80,289	80,289	+447	---
Agency for Toxic Substances and Disease Registry					
Toxic substances and environmental public health	76,041	76,024	76,024	-17	---
Total, Department of Health and Human Services	3,140,949	3,204,279	3,259,385	+118,436	+55,106
OTHER RELATED AGENCIES					
Executive Office of the President					
Council on Environmental Quality and Office of Environmental Quality	3,258	2,717	2,717	-541	---
Chemical Safety and Hazard Investigation Board					
Salaries and expenses	9,027	9,200	9,200	+173	---
Emergency fund	397	---	---	-397	---
Total, Chemical Safety and Hazard	9,424	9,200	9,200	-224	---
Office of Navajo and Hopi Indian Relocation					
Salaries and expenses	4,930	8,601	8,601	+3,671	---
Institute of American Indian and Alaska Native Culture and Arts Development					
Payment to the Institute	5,916	6,300	6,300	+384	---
Smithsonian Institution					
Salaries and expenses	489,035	524,135	524,381	+35,346	+246
Facilities capital	126,123	90,900	90,900	-35,223	---
Total, Smithsonian Institution	615,158	615,035	615,281	+123	+246
National Gallery of Art					
Salaries and expenses	91,708	97,100	97,100	+5,392	---
Repair, restoration and renovation of buildings	10,946	16,200	16,200	+5,254	---
Total, National Gallery of Art	102,654	113,300	113,300	+10,646	---

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
John F. Kennedy Center for the Performing Arts					
Operations and maintenance	16,914	17,800	17,800	+886	---
Construction	16,107	15,200	10,000	-6,107	-5,200
Total, John F. Kennedy Center for the Performing Arts	33,021	33,000	27,800	-5,221	-5,200
Woodrow Wilson International Center for Scholars					
Salaries and expenses	8,863	9,201	9,085	+222	-116
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration 1/	121,264	121,264	121,264	---	---
National Endowment for the Humanities					
Grants and administration	122,156	122,605	122,605	+449	---
Matching grants	15,898	15,449	15,449	-449	---
Total, National Endowment for the Humanities	138,054	138,054	138,054	---	---
Total, National Foundation on the Arts and the Humanities	259,318	259,318	259,318	---	---
Commission of Fine Arts					
Salaries and expenses	1,768	1,893	1,893	+125	---
National Capital Arts and Cultural Affairs					
Grants	6,902	7,000	7,000	+98	---
Advisory Council on Historic Preservation					
Salaries and expenses	4,536	4,988	4,860	+324	-128
National Capital Planning Commission					
Salaries and expenses	7,888	8,344	8,177	+289	-167
United States Holocaust Memorial Museum					
Holocaust Memorial Museum	40,858	43,233	41,880	+1,022	-1,353
Presidio Trust					
Presidio trust fund	19,722	20,000	20,000	+278	---
White House Commission on the National Moment of Remembrance					
Operations	248	250	250	+2	---
Total, title III, related agencies:					
New budget (obligational) authority (net)	9,011,621	8,411,659	8,642,405	-369,216	+230,746
Appropriations	(8,898,525)	(8,411,659)	(8,642,405)	(-256,120)	(+230,746)
Emergency appropriations	(113,096)	---	---	(-113,096)	---
Grand total:					
New budget (obligational) authority (net)	26,982,234	25,724,328	26,159,125	-823,109	+434,797
Appropriations	(26,803,784)	(25,754,328)	(26,289,125)	(-514,659)	(+534,797)
Emergency appropriations	(208,450)	---	---	(-208,450)	---
Rescissions	(-30,000)	(-30,000)	(-130,000)	(-100,000)	(-100,000)
(Transfer out)	(-48,704)	(-44,141)	(-44,142)	(+4,562)	(-1)
(By transfer)	(48,704)	(44,141)	(44,142)	(-4,562)	(+1)

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	1,816,910	1,759,042	1,755,115	-61,795	-3,927
United States Fish and Wildlife Service	1,332,591	1,322,894	1,306,168	-26,423	-16,726
National Park Service	2,365,683	2,249,275	2,228,963	-136,720	-20,312
United States Geological Survey	936,464	933,515	974,586	+38,122	+41,071
Minerals Management Service	173,826	167,422	159,682	-14,144	-7,740
Office of Surface Mining Reclamation and Enforcement	296,573	356,549	298,549	+1,976	-58,000
Bureau of Indian Affairs	2,295,702	2,187,469	2,317,976	+22,274	+130,507
Departmental Offices	726,379	815,903	767,654	+41,275	-48,249
Total, Title I - Department of the Interior	9,944,128	9,792,069	9,808,693	-135,435	+16,624
TITLE II - ENVIRONMENTAL PROTECTION AGENCY					
Environmental Protection Agency	8,026,485	7,520,600	7,708,027	-318,458	+187,427
TITLE III - RELATED AGENCIES					
Forest Service	4,746,208	4,065,000	4,247,358	-498,850	+182,358
Indian Health Service	2,985,066	3,047,966	3,103,072	+118,006	+55,106
National Institute of Environmental Health Sciences	79,842	80,289	80,289	+447	---
Agency for Toxic Substances and Disease Registry	76,041	76,024	76,024	-17	---
Council on Environmental Quality and Office of Environmental Quality	3,258	2,717	2,717	-541	---
Chemical Safety and Hazard Investigation Board	9,424	9,200	9,200	-224	---
Office of Navajo and Hopi Indian Relocation	4,930	8,601	8,601	+3,671	---
Institute of American Indian and Alaska Native Culture and Arts Development	5,916	6,300	6,300	+384	---
Smithsonian Institution	615,158	615,035	615,281	+123	+246
National Gallery of Art	102,654	113,300	113,300	+10,646	---
John F. Kennedy Center for the Performing Arts	33,021	33,000	27,800	-5,221	-5,200
Woodrow Wilson International Center for Scholars	8,863	9,201	9,085	+222	-116
National Endowment for the Arts	121,264	121,264	121,264	---	---
National Endowment for the Humanities	138,054	138,054	138,054	---	---
Commission of Fine Arts	1,768	1,893	1,893	+125	---
National Capital Arts and Cultural Affairs	6,902	7,000	7,000	+98	---
Advisory Council on Historic Preservation	4,536	4,988	4,860	+324	-128
National Capital Planning Commission	7,888	8,344	8,177	+289	-167
United States Holocaust Memorial Museum	40,858	43,233	41,880	+1,022	-1,353
Presidio Trust	19,722	20,000	20,000	+278	---
White House Commission on the National Moment of Remembrance	248	250	250	+2	---
Total, Title III - Related Agencies	9,011,621	8,411,659	8,642,405	-369,216	+230,746
Grand total	26,982,234	25,724,328	26,159,125	-823,109	+434,797

DEPARTMENT OF THE INTERIOR ENVIRONMENT AND RELATED AGENCIES APPROPRIATIONS BILL FY 2006 (H.R. 2361)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
CONGRESSIONAL BUDGET RECAP					
Scorekeeping adjustments:					
Forest Service limitation from Farm Bill programs.	-20,000	---	---	+20,000	---
NPS land aquisition transfer	---	---	---	---	---
Emergencies in this bill	-208,450	---	---	+208,450	---
Total, adjustments	-228,450	---	---	+228,450	---
Total (including adjustments)	26,753,784	25,724,328	26,159,125	-594,659	+434,797
Amounts in this bill	(26,982,234)	(25,724,328)	(26,159,125)	(-823,109)	(+434,797)
Scorekeeping adjustments	(-228,450)	---	---	(+228,450)	---
Prior year outlays (including supplementals)	---	---	---	---	---
Total mandatory and discretionary	26,753,784	25,724,328	26,159,125	-594,659	+434,797
Mandatory	(52,125)	(52,125)	(52,125)	---	---
Mandatory (prior year)	---	---	---	---	---
Mandatory (total)	(52,125)	(52,125)	(52,125)	---	---
Discretionary	(26,701,659)	(25,672,203)	(26,107,000)	(-594,659)	(+434,797)
Discretionary (prior year)	---	---	---	---	---
Discretionary Domestic (total)	(26,701,659)	(25,672,203)	(26,107,000)	(-594,659)	(+434,797)
RECAP BY FUNCTION					
Mandatory	52,125	52,125	52,125	---	---
Prior year outlays	---	---	---	---	---
Total, Mandatory	52,125	52,125	52,125	---	---
General purpose discretionary	26,701,659	25,672,203	26,107,000	-594,659	+434,797
Prior year outlays	---	---	---	---	---
Total, General purpose discretionary	26,701,659	25,672,203	26,107,000	-594,659	+434,797
Grand total, Mandatory and Discretionary	26,753,784	25,724,328	26,159,125	-594,659	+434,797
DISCRETIONARY 302B ALLOCATION					
GENERAL PURPOSE	26,701,659	25,672,203	26,107,000	-594,659	+434,797
302B ALLOCATION	---	---	26,107,000	+26,107,000	+26,107,000
OVER/UNDER ALLOCATION	26,701,659	25,672,203	---	-26,701,659	-25,672,203

Madam Chairman, I would like to thank the staff of both the minority and majority staff, and Mr. DICKS, and all of those who have worked with the Committee in producing this. We have had outstanding participation, and I thank all of them for their participation.

Madam Chairman, I reserve the balance of my time.

Mr. DICKS. Madam Chairman, I yield myself 6 minutes.

First of all, I want to thank the gentleman from North Carolina (Chairman TAYLOR) for his commendable work for putting together this Interior, Environment and Related Agencies appropriations bill for next year.

This bill is basically good, considering the budget allocation that our subcommittee received. As always, the chairman and his staff have included me in the process of putting together the bill, and for that I am very appreciative. Such cooperation is a hallmark of the Interior Subcommittee, and it is the chairman who sets the tone.

While the bill we are considering today represents hard work all around, I must note that it falls short of properly funding many programs. The reason for this failure is the inadequate budget allocation we have. The shortfall compared to the 2005 Interior bill adds up to more than $800 million.

As you know, this is the first year that the Interior Subcommittee has funded the EPA, and what a challenge it is proving to be with the President's budget proposing a cut of more than $500 million from last year. These are very deep holes to fill.

Let me switch to a positive note by praising the decision by the administration and the chairman to fully fund uncontrollable costs such as pay COLAs and rent.

Now, this may sound like just a matter of fact, but it makes all of the difference in the world in our national parks on whether they can operate properly. Over the last few years the administration has been proposing unrealistically low funding levels to pay for these uncontrollable costs. This year the budget did include the funding to meet these costs, and I applaud the chairman for including them in the bill, and I hope that the administration will continue to propose full coverage of uncontrollable costs in future budget submittals.

I also want to express my gratitude to the gentleman from North Carolina (Chairman TAYLOR) for the continued effort to increase funding for the operation of our national parks. I think we have a great team to make sure that the national parks, certainly the most beloved of our Federal public lands, receive enough money to provide our constituents the visit they expect and deserve.

The $30 million the gentleman from North Carolina (Chairman TAYLOR) has added to the $22 million increase contained in the budget will mean a second consecutive year of very healthy increases in the Park Service operations budget, and I want to pledge to continue to help my chairman to make sure that the Park Service Partnership Program stays on track towards better management.

The biggest concern that I have in this bill is the reduction in spending for clean water activities. First, I must commend the chairman for his decision 2 weeks ago to agree to add an extra $100 million to the Clean Water State Revolving Fund from unobligated EPA funds from previous years. But even with this additional funding, the Clean Water Revolving Fund will be $240 million lower than this year.

If you compare the proposed funding in 2006 to the level in 2004, there is a decrease of nearly $500 million in just 2 years. I know that many of you are hearing from your State and local officials about the effect this cut will have on plans to construct and improve water treatment facilities.

The Federal Government should not be retreating in this fashion from such an important responsibility. For that reason I am going to support an amendment to increase funding for the Clean Water State Revolving Fund.

I must also register my disagreement with the decision to continue to retreat from the commitment made in 2000 to increase funding for the Conservation Trust Fund. If the Lands Legacy conservation agreement was being followed, this bill would have $1.8 billion for the various conservation activities under our jurisdiction. Instead the bill contains only $750 million. I wish this bill did not contain the President's proposal to eliminate funding for the Land and Water Conservation Fund Stateside grants program.

I also disagree with the decision to provide no money for land acquisition within the Land and Water Conservation Fund, but I do sympathize that those decisions were tough due to the situation our allocation has caused. Core programs, such as agency operations, must come before grant programs such as these.

Even though the awful fiscal situation we are faced with is the direct cause of these decisions, I do hope that we can better meet the obligations of the Lands Legacy agreement when we ultimately finish the 2006 Interior and Environment bill.

It is gratifying to note that we seem to have come to a consensus on funding on the NEA and the NEH, in that this bill provides level funding compared to this year. I again will be joining with what I predict will be a majority of my colleagues in support of an amendment to increase both of these endowments.

Last year the Interior Subcommittee made a wise decision to be better prepared for the cost of firefighting. We provided $500 million for both fiscal year 2004 and 2005 in emergency funding to prevent the painful borrowing from other Interior and Forest Service programs that has occurred in past years when more fires than were expected depleted the annual firefighting budget.

Although neither the President's budget nor this bill contains such contingency funding for 2006, there is an increase of $120 million over the non-emergency spending level in fiscal year 2005. I hope this is sufficient to meet the challenge of what could be a busy fire season with estimates of higher than average threats in several areas of the country, including Washington State and the Northwest.

I also agree with the decision to restore some of the cuts in the budget to the Indian school and construction account. Even with this added money, this bill contains a cut of $75 million to those important programs, and it is important that we are freezing the funding level for the Indian trust accounting program. I believe we should not spend money at the expense of other Indian programs on a historical accounting exercise that cannot produce the desired results.

Again, I want to thank the gentleman from North Carolina (Chairman TAYLOR) and his great staff, led by Debbie Weatherly for their hard work on the 2006 Interior and Environment appropriations bill.

I also want to commend Mike Stephens on Mr. OBEY's staff and Pete Modaff of my staff for their part in helping to put together this bill. I hoped we could do better, but this is a difficult situation that we are in, and I appreciate the cooperation, the bipartisan spirit in which this bill was created.

Madam Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHERWOOD).

Mr. SHERWOOD. Madam Chairman, the bill before us today is one that required many tough choices. It required fiscal discipline. It also required the committee to meet the environmental, land management, cultural, science, resource and recreation needs of the Nation in a responsible manner; tough choices were required and I believe the right and most reasonable choices were made.

The bill helps meet our fiscal responsibilities by cutting $800 million in discretionary spending from the fiscal year 2005 level, but it also allows us enough money that our Nation's priorities can be carried out by the diverse departments and agencies funded in the bill.

There are many competing interests in this bill that had to be balanced and addressed in a tight allocation. We may hear some Members lament that greater funding was not provided for a particular program, but I believe that Members would be hard pressed to name another program that should be cut so the one they favor can be increased. One thing is certain, the gentleman from North Carolina (Chairman TAYLOR) made a special effort to include both parties in the drafting of the bill and conducted a fair and impartial hearing process.

The bill places priorities in the areas where they need to be. Increases were provided for wildland firefighting, the operations of the National Parks and National Forest Systems, Superfund hazardous waste cleanup program, environmental science and technology, and Indian health and education.

The bill contains necessary initiatives in forest health, in backlog maintenance in the national parks, Everglades restoration, and the national fire plan. This is a bill that makes tough but right choices and puts priorities where they should be.

This bill is as good as it can be given the budget restrictions. It deserves our support and I urge its passage.

Mr. DICKS. Madam Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the distinguished ranking Democratic member of the full Appropriations Committee, who has played a very constructive role, along with the gentleman from California (Chairman LEWIS), in trying to help us move this bill forward today.

Mr. OBEY. Madam Chairman, I thank the gentleman for yielding me this time.

Let me simply say that I think the chairman has produced a fair process. He has treated the minority fairly and I very much appreciate that, but I believe the bill fails this country in many fundamental ways, and that failure is a direct result of the Republican budget resolution which requires this committee to cut $11.7 billion below the amount needed to maintain current services for domestic discretionary programs.

As the gentleman from Texas (Mr. DELAY), the majority leader, said 2 weeks ago, "This is the budget that the American people voted for when they returned a Republican House, a Republican Senate and a Republican White House last November." I think that is true. This is exactly what it means.

The Republicans in this House voted by a vote of 218 to 212 to adopt that budget resolution. Not one single Democrat voted for that budget resolution, because we recognized the damage that would be done by it. Now, we are told by Members of the majority side we have limited resources. We absolutely agree with that.

That is why this House should never have voted to eliminate all taxes on estates of over $7 million. It should never have voted to give persons who make more than a million dollars $140,000 tax cuts next year and do it all with borrowed money because the result of that vote has been a $400 million cut in EPA programs to improve the quality of our air and our water.

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The result has been a 40 percent cut in the clean water revolving fund. We have $388 billion worth of needs at the community level to fix sewer and water systems; and yet this program is cut by 40 percent in this bill.

The damage done by this bill cannot be fully understood unless we take a look at it in a broader context. This is a great and growing country. When I came to this Congress, there were 203 million people in this country. Today, there are 282 million. That is a 34 percent increase. We are going to have another 26 million increase between now and 2010.

When I came, there were 108 million cars in America. Today, there are 231 million cars. That means more pollution. It means more congestion. It means more pressure on our national parks. It means more pressure on the part of real estate developers. It means more pressure on our sewer and water programs.

In the face of that new pressure, what are we getting out of this bill? We are getting a 34 percent reduction in the funding for the main bill that will help us to clean up our sewer and water problem. I think that is an incredibly myopic decision.

In the teeth of all of that pressure, we are crippling EPA.

We talk about how happy we are to see a slight increase in the national parks budget; but in fact, there are still 720 positions in the National Park Service that continue to remain unfunded. We have 200 of the 544 wildlife refuges that have no staff whatsoever.

In the teeth of all that expanded pressure, what do we get? Despite this bill, we still have a $5 billion backlog in maintenance for the Park Service, a $13 billion backlog for our national forests.

I would like to see, for instance, this bill enable us to buy precious land at Pope's Creek on the property where George Washington was born before a real estate developer can grab it and turn it into condos; but we are not going to be able to do that because this bill, for the first time in the 36 years I have been a Member of this House, zero-funds land acquisition programs at both the State and the Federal level. We ought not to do that.

For two generations, we have had a bipartisan consensus behind certain minimal actions in the environmental area, especially in the area of clean water. This bill unravels that consensus because it means we can talk a good game in terms of cleaning up our water and our air, but we are not going to put our dollars where our mouth is.

So I think, as the gentleman from Texas (Mr. DELAY) says, "This is the budget that the American people voted for when they returned a Republican House, a Republican Senate, and a Republican White House last November." If you are satisfied with the results of this bill today, vote for it. I intend to vote against it. I think it is a disaster for the environmental consensus that we have built up with such hard work for so long.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Madam Chairman, I thank the chairman for yielding time. I very much appreciate his service on the bill that he has produced, and I support this bill, and I appreciate his efforts and the efforts of the gentleman from Washington (Mr. DICKS), the ranking member, and the staff on the committee.

However, there is a part of this bill that the country needs to be aware about. All across America we are confronted with skyrocketing energy prices, whether at the gasoline pump or our utilities at home or the manufacturing sector or the feedstock to produce fertilizer (which, therefore, affects agriculture).

What is the connection between that and this bill? This bill has language in it that perpetuates more than 30 years of misguided policy. It has provisions that continue a ban on drilling in most of the outercontinental shelf, offshore drilling that could be occurring in the United States of America. And 60 percent of America's oil reserves are in that outercontinental shelf. Forty percent of our natural gas reserves are in that outercontinental shelf. Yet, for more than 30 years this Congress, each year, has perpetuated a ban on drilling in most of those areas.

What is the consequence of that? It is the high prices. The consequence is the high prices we are experiencing. The result is that each year America is spending $179 billion to buy foreign oil and bring it to the United States of America. Rounded off, it is $180 billion, that we could be using to produce energy safely, in an environmentally friendly and clean fashion here in the United States. But because of language that this Congress has put into this bill for over 30 years, we are not doing that.

Right now, almost 60 percent of the oil and gas that we consume in the United States is imported. We need to fix that. We will have several amendments to address this that are offered on this bill.

We will probably hear from people saying, oh, my goodness, we cannot do that; we have got to protect the environment. But we can do it by protecting the environment.

The offshore drilling that does occur right now in the United States produces a fourth of the oil and gas that we have in the U.S. What is their environmental record? The amount of oil that is spilled is $\frac{1}{1,000}$ of 1 percent. That is all—because we have made so many advances in environmentally friendly methods to handle this drilling. That means we are using methods that are 99.999 percent safe and friendly to the environment.

We need to revisit those provisions that limit offshore drilling, and I hope we will do that today.

Mr. DICKS. Madam Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER), a good supporter of this bill.

Mr. BLUMENAUER. Madam Chairman, I appreciate the gentleman's courtesy in permitting me to speak on behalf of this bill.

The congressional consideration of the Interior appropriations bill should be one of the highlights of this congressional session, as it touches on things that are near and dear to people's hearts: clean water, vast open spaces, environmental protection, even opportunities to invest in the arts.

Sadly, what should be a positive expression of our values, our hopes, and our opportunities is instead in this bill a pattern of broken promises to our communities and to ourselves. Unfortunately, the bill represents lost opportunities and is a symbol of the inability of this Congress and this administration to match our priorities with those of our constituents and, most importantly, with the future of this country.

I agree that the dramatic underfunding in terms of the budget allocation put the chairman and the ranking member and the staff in a hole to begin with, and my heart goes out to them; but there is no reason that we, as a Congress, cannot use the billions of dollars that are set aside in a trust fund for the Land and Water Conservation Fund that have not been tapped as these resources are set aside expressly for this purpose of land conservation.

In the year 2000, as the gentleman from Washington (Mr. DICKS), my friend, mentioned, he was integral to fashioning an important compromise that gave flexibility to the Committee on Appropriations. We in Congress made a commitment to the public and an agreement amongst ourselves to fund this responsibility. It was something that then-Governor Bush sounded as one of his pledges when he was running for the White House. The promises of candidate Bush, President Bush and of Congress to our constituents and to ourselves is broken again by this budget.

Now, there are specific proposals to try and make an inadequate bill better. I will support and speak out strongly in support of working to stop the diluting of our commitment to clean water with an amendment to stop the administration's efforts to weaken water quality protections, putting more sewage into our rivers and streams and drinking water.

As a former commissioner of public works, I was responsible for the administration of sewage and water resource programs. I am not insensitive to the needs of many communities to occasionally blend water not completely treated. I recognize the need to do that in extreme weather events, an important tool for communities; but it is not something that we should be doing routinely. We should instead be reducing our use of this tool wherever possible rather than increasing it.

The EPA rule weakening the current policy would actually penalize communities like mine and yours around the country that have worked to upgrade and improve their systems.

In periods of extreme wet weather, blending will still often be necessary. It is legal under the current law, and it is not going to be changed with the amendment that will be offered. The anti-sewage dumping amendment would not change these existing blending standards, but they will prevent the EPA from lowering them to authorize routine sewage dumping.

Now is not the time to move backwards. Water bodies around the country are impaired. We need to make sure that we are not making it harder to ultimately meet these water quality standards.

I urge joining me in supporting the amendment and working with the members of this committee to try to craft this bill in a way that meets the needs of America's communities.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Before I recognize the next speaker, I want to point out that it is not, as I am hearing, that we are obliterating the clean water State revolving fund or the arts funds. We are funding the arts and humanities $259 million, the same as the 2005 year. We are funding the State revolving fund $850 million, the same as we did in 2005.

Unfortunately, with the costs and the deficit we have now, we cannot continue to put more and more in. We are trying to do the best we can by consistently funding our needs in this area.

Madam Chairman, I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Chairman, I thank the chairman for yielding this time to have an opportunity to address an issue that is so important to this country, and that issue is the energy that drives this economy.

We all know that everything that we purchase in this country has got an energy cost component in it; and so when we address the energy issues, we know that when we can provide more supply of energy, whether it comes from someplace else on the globe, whether it comes from the northern hemisphere, whether it comes from the United States, whether it is renewable energy or whether it is a consumable energy, that is at least in theory not renewed, all of those things add to the overall size of the energy pie.

It is our responsibility here in this Congress to be able to expand the size of that pie so we have more energy available to the consumers; and we know that due to the law of supply and demand, the more supply there is, of course the less relative demand there will be. The relative costs of energy will either be slowed in their increase or actually diminished in some cases, and we can see reductions in the price of energy.

It is critical to me, in the part of the State I come from. We are very vulnerable to energy. We use gas and diesel fuel for the production of agriculture, for example, and we also produce ethanol and biodiesel. So we are a renewable energy export center, as well as a consumer of energy.

I have watched this policy here in the United States, and we tend to take sides a little bit. That taking sides falls into a few categories: energy consumers who want all the energy they can get, as cheap as they can get it; and environmentalist interests that want to be able to preserve the pristine areas of America at whatever cost to the economy.

I would take the stand that natural gas in this country, for example, we have a huge domestic supply of natural gas in the North American Continent underneath nonnational park public lands. We have a tremendous supply of natural gas offshore in the Outer Continental Shelf, Gulf of Mexico, and a lot of that is, as we stand here, off limits to producers. That has driven up the cost of natural gas in my district and all across this country and put an additional price on virtually everything that we sell and purchase.

So, Madam Chairman, I appreciate the opportunity to address this House and the opportunity also to have some time yielded to me for this important subject matter.

Mr. DICKS. Madam Chairman, I yield 2½ minutes to the distinguished gentleman from West Virginia (Mr. RAHALL), the ranking member of the Committee on Resources.

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Mr. RAHALL. Madam Chairman, I thank the distinguished ranking member of the subcommittee for yielding me this time.

Madam Chairman, we all recognize that the Committee on Appropriations must work within the constraints of a budget that is completely inadequate to meet the Nation's needs. I acknowledge that. But the fiscal year 2006 Interior and Environment appropriation bill also reflects the kinds of choices made in recent years by this administration and the majority in Congress, which made this clash of growing needs and shrinking budgets unavoidable.

The effect is that the Department of the Interior and our other departments and agencies are being put on a crazy fad diet that is harmful to the health of the Nation. I am troubled, for example, by the continued underfunding of maintenance needs to our national parks. The committee has seen fit to provide $20 million over the President's request for operations, an increase I support, but our national parks should be safe places, where parents and children can roam and relax, where they can picnic and hike and raft. Instead, our parks are falling apart, and against a huge backlog of maintenance needs, this bill cuts funds for park construction projects, a critical component of our park maintenance efforts.

Forest Service programs that help to promote safety and job creation in rural America are also underfunded in this bill. Economic action programs, which enable rural communities and businesses to become more economically self-sufficient through the use of forest resources were zeroed out.

The situation here goes well beyond trimming fat. We can talk all we want about the need for a lean government, but this is not belt tightening, as some would suggest. This is more like being shoved into Scarlet O'Hara's corset.

The President eliminated statewide funding for the Land and Water Conservation Fund in his budget. Those monies are indispensable to States across the Nation that rely on those matching monies for their parks and recreation budgets. But while the President may have conducted a tummy tuck, this bill calls for something close to an amputation. Even the Federal share is axed.

I am especially troubled by the flat lining of the appropriation from the Abandoned Mine Reclamation Fund. There continues to exist a large inventory of high priority human health and safety threatening sites in our Nation's coalfields. The unspent balance in the fund is approaching $2 billion, yet this money from a fee assessed on the coal industry is not being adequately deployed to combat these threats to coalfield citizens and their communities.

Madam Chairman, this bill is not a case of an overweight agency being squeezed into a slimmer, trimmer budget. This is a case of a starving agency trying to survive on the crumbs of a fiscal mess. I regret that I cannot support this bill.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Madam Chairman, there are many important parts of this bill, but I want to speak briefly to the House about our love for the national parks. We have about a $600 million backlog, and it is overwhelming to try to address this in an appropriation bill where money is so tight.

We have a bill called the National Parks Centennial Act that tries to address this. Senators MCCAIN, FEINSTEIN, and ALEXANDER are leading the fight in the Senate and the gentleman from Washington (Mr. BAIRD), myself, as well as key appropriators such as the gentleman from Virginia (Mr. WOLF), the gentleman from Ohio (Mr. REGULA), the gentleman from Illinois (Mr. LAHOOD), and others here in the House. But what is before us today is actually very important, because even in a time of tight budgets the Committee on Appropriations has seen fit to raise the President's request on national parks by $70 million over last year's funding, and $20 million above the President's approval.

At a time when we are fighting on so many different fronts to figure out how to balance our budget and move towards a balanced budget, where every trade-off between immunizations and Medicaid and whether we support our troops and veterans benefits and all this, it is important to remember the legacy of America's national parks, America's gifts to the world, and I appreciate it very much in this overall important bill that they have increased the funding for the national parks.

Mr. UDALL of Colorado. Madam Chairman, I have come to the reluctant conclusion that this bill does not deserve approval, and so I will not vote for it.

This is not a criticism of Chairman TAYLOR, Congressman DICKS, and the other members of the Appropriations Committee who had the unenviable task of developing the bill. The budget authority allocated to the Interior and Environment Subcommittee fell far short of the amount needed to adequately fund the agencies and activities within their jurisdiction. That in turn was the result of the unrealistic and inadequate budget resolution that the Republican leadership pushed through the Congress earlier this year. But while the shortcomings of the bill are understandable, they are nonetheless so serious that I cannot vote for it.

Among the worst are its severe reductions in funding for the Environmental Protection Agency. It cuts EPA's Clean Water State Revolving Fund by $242 million below the 2005 funding level. This will mean that many communities in Colorado and elsewhere will be adversely affected as projects that have already been approved by State water authorities for future funding probably will be rejected, scaled back, or substantially delayed.

The wrong-headedness of this is clear when we recall that just two years ago EPA Administrator Whitman issued a formal report, entitled the "Water Gap Analysis," which estimated the twenty-year fiscal shortfall between what we are currently spending and what is required at $388 billion.

Further, the bill includes cuts beyond those required by the budget resolution. Perhaps the most notable is the reduction of $190 million of Land and Water Conservation Act funding, including funding for all new Federal land acquisitions as well as all assistance to States. This, too, is something that I cannot support.

In Colorado and across the county there is a need for wise reinvestments of the funds coming into the treasury from oil and gas development on the Outer Continental Shelf and elsewhere. The wise principle of the Land and Water Conservation Fund Act is that these short-term gains should be used to provide long-term assets for the American people. This bill turns its back on that principle.

Of course, there are some good things in this bill. I am particularly glad that because of the adoption of an amendment I sponsored along with Mrs. CUBIN, Mr. RAHALL, and Mr. CANNON it includes $242 million for the payments in lieu of taxes—or PILT—program that is so important to local governments in Colorado and across the country. This is only about 80 percent of the amount authorized for PILT, but it is a great improvement over the amount proposed by the administration—which sought a cut of $26 million below last year's level.

Nonetheless, overall, the bill falls woefully short of what is needed and I do not think it deserves to pass.

Mr. STARK. Madam Chairman, I rise today in opposition to H.R. 2361. This legislation is irresponsible. It under-funds programs to preserve open space. It endangers public health. And, it abdicates our responsibility to protect the environment for future generations.

In this time of increased growth and urban sprawl, our green spaces are more precious then ever. Instead, this bill eliminates funding for the Land and Water Conservation Fund, designed to help local communities preserve open space, protect wildlife and make recreation opportunities available in urban areas.

In addition, this bill cuts funding for the environmental enforcement activities of the EPA by $12 million. Republicans have consistently sought to weaken environmental standards and this maneuver is the latest in a series of attempts to undermine what have been successful environmental protections and the behest of big business. Big business should never be allowed a free pass to destroy the environment while endangering the health of millions of Americans who will be exposed to dirtier air and water.

I won't vote for this indefensible legislation that only serves to harm the environment and put Americans' health at risk. We have a responsibility to protect our citizens and our environment and this legislation blatantly takes us in the opposite direction. I urge my colleagues to vote "no."

Mr. FILNER. Madam Chairman, unfortunately I did not get a chance to offer an amendment with Mr. REYES to provide an additional $10 million for a critical program in the Interior-EPA Appropriations bill. The funds would have been used for "architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission."

This is the section of the EPA's State and Tribal Assistance Grants program that funds the Border Environment Infrastructure Fund

(BEIF). The amendment would have transferred the $10 million out of the U.S. Geological Survey's (USGS) $974.5 million appropriation. The USGS appropriation in this bill is currently $39 million more than the FY2005 appropriation, and $41 million more than the president's request. The border program, on the other hand, has been flat-funded at $50 million for several years.

The record should reflect that we did not intend for the USGS's National Water-Quality Assessment (NAWQA) Program to be impacted by the reduction in USGS's appropriation. NAWQA carries out very important work collecting and analyzing data and information in more than 50 major river basins and aquifers across the Nation in order to develop long-term information on streams, ground water, and aquatic ecosystems in support of sound management and policy decisions. This critical program would have been shielded from the $10 million cut in USGS appropriations.

In Imperial County, California, the New River carries raw sewage from Mexico through the town of Calexico, and air pollution from Mexicali contributes to the worst childhood asthma rates in the state. A modest increase in funding for the BEIF would begin to improve the situation. The BEIF, which was established by the North American Development Bank to administer grant resources provided by the EPA, helps finance the construction of water and wastewater projects in the U.S.-Mexico border region.

The objective of the BEIF is to make environmental infrastructure projects affordable for communities throughout the U.S.-Mexico border region by combining grant funds with loans or other forms of financing. It is designed to reduce project debt to a manageable level in cases where users would otherwise face undue financial hardship.

We have seen what BEIF can accomplish when it has adequate funding. BEIF grants have played an important role in the successful construction of water conservation projects in the Cameron Irrigation District in Texas; a wastewater project in Heber, California; a wastewater collection and treatment project in Patagonia, Arizona; and a sewer system and wastewater treatment plant in the Salem and Ogaz communities in New Mexico.

All projects supported by the BEIF must have a health and/or ecological benefit in communities on the U.S. side of the border. All projects must also be certified in a rigorous vetting process undertaken by the Border Environment Cooperation Commission.

There is strong support for increasing BEIF funding. The bipartisan Border Governors' joint declaration last year called for a "substantial increase" in funding for the program.

While many important programs in the Interior-EPA Appropriations bill have been shortchanged, the lack of funding for BEIF is particularly troubling. The border region is in desperate need of assistance. Communities in the border region struggle with some of the highest poverty rates in the Nation as well as air and water pollution—often originating in northern Mexico—that contributes to severe public health problems. The region lacks basic infrastructure, such as water and sewer service, that most of the rest of the country takes for granted.

The neglect of these largely low-income and Hispanic communities, along with the dirty air and water they are forced to endure, represent a grave environmental injustice. According to the U.S.-Mexico Border Health Commission, the border region includes three of the ten poorest counties in the United States and twenty-one counties that have been designated as economically distressed areas.

The Commission also reports that approximately 432,000 people live in 1,200 colonias in Texas and New Mexico, which are unincorporated, semi-rural communities that are characterized by substandard housing and unsafe public drinking water or wastewater systems. If the border region were made the 51st state in the Union, it would rank last in access to health care; second in death rates due to hepatitis; last in per capita income; and first in the numbers of school children living in poverty, according to the Commission

The Good Neighbor Environmental Board, an independent U.S. Presidential advisory committee that operates under the Federal Advisory Committee Act, recommends restoring BEIF to its mid-1990s funding level of $100 million dollars.

There are currently 105 certified clean water projects in the pipeline waiting for funding. Examples of the many certified projects that could be carried out in disadvantaged communities if the BEIF had an appropriate funding level include: Water/wastewater systems improvements in Brawley, California; a wastewater project in Nogales, Arizona; a solid waste project in Doña Ana County, New Mexico; and a water conservation project in Brownsville, Texas.

Supporters of this amendment include the Border Trade Alliance, the Border Counties Coalition, Clean Water Action, National Council of La Raza and others.

I will continue fighting to increase appropriations for the Border Environment Infrastructure fund and protect communities in the border region.

Mr. FARR. Madam Chairman, I rise in strong opposition to both the Peterson Amendment and the Istook Amendment. If passed, these amendments will trample on a longstanding bipartisan moratorium on offshore oil and gas development that was initiated by former President Bush, continued under President Clinton, and endorsed in President Bush's FY 2006 budget. Given this legacy of strong bipartisan support, I am simply amazed that the OCS moratorium is under such assault.

However, this is exactly what we face today with these amendments. Mr. Peterson's amendment strikes liquefied natural gas (LNG) from the moratorium while Mr. ISTOOK's amendment calls for the entire moratorium in the Eastern Gulf of Mexico, on both oil and gas, to vanish—poof—when the United States meets an arbitrary percentage of crude oil imports, 66.7 percent.

Every year since 1982, Congress has included language in the Interior and Environment Appropriations bill to prevent the Department of Interior from using funds for leasing, pre-leasing, and related activities in sensitive coastal waters. Mr. Speaker, some might wonder why so many coastal areas stand firmly behind the OCS moratorium. I answer with tourism, tourism, and more tourism. Tourism is not just a major industry for coastal states or a mere staple of their coastal economies. It is, along with recreation, the fastest growing sector of the ocean economy according to the President's own U.S. Commission on Ocean Policy's Final Report. The money spent by tourists pay the bills and put food on the table for the people living in these communities. Offshore oil and gas drilling directly threatens this economic engine and the people of these communities know it.

By removing LNG from the moratorium, Mr. PETERSON's amendment ignores the many concerns being raised about all phases of the LNG process—from exploration all the way to arrival at our ports. These concerns must be considered with more than a few minutes of discussion.

As for Mr. ISTOOK's amendment, we had an opportunity one month ago with H.R. 6 to set a strong and visionary national energy policy to reduce our dependence on imported oil, and yet we did not take advantage of that opportunity. And so today, his amendment attempts to make coastal communities pay for that lack of vision.

Madam Chairman, I cannot accept these amendments because they are short-sighted and fail to uphold decades of bipartisan agreement on protecting our coastlines from oil and gas drilling. At their core, they fail to honor our communities and our environment. In conclusion, Madam Chairman, the Peterson and Istook Amendments should be defeated and I urge a "no" vote on both of them.

Mr. NUSSLE. Madam Chairman, I rise to speak on the appropriations bill for the Department of the Interior, Environment, and Related Agencies. This measure is part of the first wave of appropriations bills to be considered under the fiscal year 2006 budget resolution, and provides for the resource management needs for our Nation, clearly a national priority. The bill, which is in compliance with H. Con. Res. 95, the concurrent resolution on the budget, provides appropriations for most of the Department of the Interior, the Environmental Protection Agency, the Forest Service, the Indian Health Service, the Smithsonian Institution, and the National Foundation for the Arts and Humanities, among others.

INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

For the first time, the House Appropriations subcommittee on Interior, Environment, and Related Agencies marked up a bill with their new jurisdiction, reflecting additional responsibility for all discretionary programs under the Environmental Protection Agency and losing some Energy Department programs previously under their jurisdiction. H.R. 2361 provides $26.1 billion in appropriations for fiscal year 2006, which is $653 million, or 2.2 percent, below the fiscal year 2005 level. The level is $432 million over the President's request. The bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an Appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

This measure, like government spending on the whole, has been drawn up under a tighter-than-normal budget constraint. However, this does not mean that needed services are cut in a meaningful way. Two examples from the bill are useful in illustrating this point, one in firefighting through the Forest Service and the Department of the Interior, and the other in water programs for the EPA.

Regarding firefighting, I would point out that the base we are using for comparison, had higher-than-normal spending due to a one-time appropriation of $500 million to be used as insurance in case regular fire fighting appropriations become exhausted. Excluding this one-time appropriation means that the measure before us is $153 million less than the 2005 level rather that $653 million less than 2005. Moreover, some of this one-time money is still available, and will remain available for obligation next fiscal year too for its intended use if regular funding becomes exhausted.

In the water program area, the committee looked for ways to secure funding for EPA's Clean Water Program, a program mentioned even during our own budget resolution proceedings. I understand that GAO found over $100 million in expired EPA grants, contracts, and inter-agency agreements, and that the bill rescinds this money in order to fund an increase in the level of Clean Water Program funding to $850 million from the President's request of $730 million. While it maybe the case that the $100 million found in these accounts, some dating back to the 1980s, would never have been actually been spent, the savings constitute legitimate efforts under the Budget Act. I also note that because this account carries hundreds of millions of dollars in unobligated balances from year to year, the impact from budget reductions relative to the current fiscal year are not likely to result in reductions in community investments next fiscal year.

H.R. 2361 does not contain any emergency-designated BA, which is exempt from budget limits. The bill reduces a National Park Service contract authority account by $30 million—an account not subject to annual appropriations—thereby offsetting discretionary spending through changes in a mandatory spending program. If this provision were stricken (because it constitutes legislating on an appropriations bill) the measure as reported would exceed its allocation under section 302(b) of the Congressional Budget Act.

As we enter the appropriations season, I wish Chairman LEWIS and our colleagues on the Appropriations Committee the best in maintaining their admirable pace of bringing bills to the floor.

In conclusion, I express my support for H.R. 2361.

Mr. GENE GREEN of Texas. Madam Chairman, today are considering the Interior Appropriations Bill, which provides Federal funding for our national parks, as well as the Environmental Protection Agency. I agree with the assessment of our ranking member, Mr. OBEY, that this subcommittee has done good work with a difficult allocation. I would have preferred more resources devoted to important environmental, land management, and land conservation programs.

As this bill moves forward, I hope to work with the subcommittee to provide EPA funding for a much-needed study on air toxics in east Harris County, which lies in the district I represent. The Houston Chronicle recently completed a five-part series titled "In Harm's Way" that investigated air toxics in these "fence-line" communities near industrial facilities.

In particular, the series noted that the Texas Commission on Environmental Quality found that folks residing in some of Houston's East End neighborhoods experience higher levels of potentially carcinogenic compounds than other areas.

For many years, residents have had concerns and questions about the quality of the air in Houston's East End, the potential relationship to local industry, and the potential health effects on families.

While it came to few conclusions about health impacts of air toxics in Houston, the Chronicle series raised an alarm and confirmed that there is a pressing need for a comprehensive Air Toxics Risk Assessment to properly identify any adverse health effects and their possible relationship to local industry.

With support from the EPA, the City of Houston plans to utilize methods from the EPA's National Urban Toxics Program, which has proven successful in other cities with air quality issues.

The City of Houston, partnering with the University of Texas School of Public Health, is already working to characterize the science and weigh the evidence on health effects. Federal funding would broaden the scope of these efforts to ensure that we can include the full range of risk assessment activities in our efforts to improve the air in Houston.

The folks in fence-line communities are often the workers who produce many of the essential energy and petrochemical products we all use everyday, and they deserve accurate information about their environment.

I look forward to working with the EPA on this effort and hope that the Appropriations Committee will see it fit to include this critical funding during conference negotiations on this legislation.

Mr. HOLT. Madam Chairman, I rise to express my disappointment with the Interior Appropriations bill that we are considering today. I am concerned with the lack of funding for many important programs, and am particularly concerned with the Appropriation Committee's decision to zero out funding for a federal program that is important to my state and the nation—the Land and Water Conservation Fund.

The Land and Water Conservation Fund has been instrumental in assisting local and state government's preserve such vital open spaces is the Land and Water Conservation Fund (LWCF). This program was established in 1965 to address rapid overdevelopment by increasing the number of high quality recreation areas and facilities and by increasing the local involvement in land preservation. To achieve this goal, the fund was separated into two components, one portion of the fund serves an account from which the federal government draws from to acquire land and the other portion is distributed to states in a matching grant program.

New Jersey has been active in seeking grants from this program and has received funds from the LWCF that were used to preserve treasures such as the Pinelands National Reserve and the Delaware National Scenic River. In addition, LCWF has provided more that $111 million in state and local grants to build softball fields, rehabilitate playgrounds and to expand state parks.

Unfortunately, in recent years funding for the state side part of this program has been insufficient. In fact, this program was zeroed out in the mid-1990s. In 1999, I joined Representative McGOVERN in restoring funding for this program. Since then funding for the program has risen to 91 million in Fiscal Year 2005, I am dismayed that the Interior Appropriations bill for Fiscal Year 2006 has once again zeroed out funding for the state grant portion of the program. I am fully aware that we are working under a tight budget and that many programs in this bill receive a significant reduction in funding, but I believe that it is unnecessary and unwise to strip this program of all funding.

Urban and highly developed regions will suffer the most from the elimination of the LWCF state grant program. The LCWF matching grant program has proven to be a successful way to overcome the high cost of living that makes land acquisition and renewal projects costly in these regions. Elimination of this program will leave local leaders without the financial capital necessary to enhance the quality of life in their communities.

Theodore Roosevelt once said, "The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased, and not impaired, in value." Although the citizens of New Jersey and this nation have demonstrated their enthusiasm for this program, this bill fails to meet their commitment to our future.

Mr. CARDIN. Madam Chairman, I have some grave concerns about several provisions of this bill. Among the most important concerns to Marylanders is the fact that this bill cuts clean water funding by $241 million from last year's appropriated level—bringing our financial commitment to clean water down to 1989 funding levels. This money—in the Clean Water State Revolving Fund—pays for sewage system upgrades across the country. We in Maryland know how incredibly important this money is to protect the health of our people.

Fifty million gallons of waste will spew from Baltimore's crumbling sewers in May. Nitrogen pollution is the most significant environmental hazard facing the Chesapeake Bay. The so-called "dead zones" in the Chesapeake Bay and its tributaries (in which there is too little oxygen to support a healthy ecosystem) are a direct result of nutrient pollution, principally nitrogen. In July of 2003, data from the EPA's Chesapeake Bay Program shows one of the largest areas of oxygen-depleted water seen since the program began monitoring 20 years ago.

The Clean Water Act requires the Environmental Protection Agency to issue permits for all sewage treatment plants that will protect water quality in the Chesapeake Bay and its tributaries, yet the EPA routinely fails to include restrictions on nitrogen pollution in these permits. The EPA has not updated the standards on nitrogen pollution in almost 20 years.

We need to commit more money—not less—to enforce the Clean Water Act.

No issue united the people of Maryland and our region as well as the effort to "Save the Bay." Rather than fulfill the obligations of the federal government to serve these people and protect the Bay, this bill reduces the federal government's commitment to enforcing the Clean Water Act.

We have an obligation to ensure that our estuaries nationwide are there for future generations, and to do that we must restore funding to enforce the Clean Water Act.

Ms. PELOSI. Madam Chairman, I rise to express my deep concerns about the FY06 Interior and Environment Appropriations Bill.

This bill epitomizes the Republican plan; hand out lavish tax breaks to the wealthy while slashing crucial domestic programs.

In this bill, there are painful cuts to a wide range of valuable programs, from EPA enforcement to the Land and Water Conservation Fund. Among them all, the cuts in clean water funding stand out as a prime example of what's wrong with the Republican budget.

Nothing is more essential to human health than clean water. If we follow down the path the Republicans are leading us, there will be water, water everywhere, but not a drop of it to drink.

More than three decades ago, Americans rose up in outrage, appalled by our filthy rivers and lakes. Congress responded to the clarion call for clean water with the Federal Water Pollution Control Act Amendments of 1972, which evolved into the modern Clean Water Act.

The Clean Water Act set the goals of zero discharge of pollutants, and achieving water that is clean enough to be "fishable" and "swimmable."

When upstream communities fail to clean up their sewage or prevent polluted runoff, downstream communities pay the price. Beaches must be closed to protect swimmers from harmful bacteria and virus. Fish cannot be eaten, and shellfish cannot be harvested. Water must be treated more thoroughly before it can become drinking water.

We have made enormous progress since the infamous day the Cuyahoga River caught fire in 1969. For three decades, the federal government has been an essential partner, working with the states to pay for clean water infrastructure.

The key federal program today is the Clean Water State Revolving Fund, which provides funding for wastewater collection and treatment, correction of combined sewer overflows, and control of storm water and non-point source pollution. These funds also create good jobs for engineers, contractors, skilled laborers, and manufacturers.

But our work is not done. About 45 percent of water bodies in the U.S. that have been assessed do not meet our water quality standards.

Our wastewater infrastructure is aging, and our population is growing. The Environmental Protection Agency's estimates funding needs range between $300 billion and $400 billion over the next 20 years.

This bill turns back the clock on clean water, slashing the Clean Water State Revolving Fund for the second year in a row. Cuts for this program total $500 million in this two-year period.

This is the wrong thing to do, and the public agrees. A recent poll showed Americans want clean water to be a national priority—67 percent say they prefer spending for clean and safe water over tax cuts.

Madam Chairman, I also wish to state my support for the Stupak amendment on sewage blending. "Sewage blending" is a euphemism referring to the practice of allowing some sewage to bypass the secondary treatment phase, the phase in which toxic chemicals, viruses, parasites, and other pathogens are removed.

The amendment would not block current practices needed to cope with heavy rains or snowmelt, but it would prevent EPA from expanding the use of sewage blending.

Furthermore, I intend to support the Andrews-Chabot amendment to stop wasteful and destructive logging in the Tongass National Forest, and the Hastings amendment to promote environmental justice. It is unconscionable that minorities and low-income communities are subjected to worse water and air pollution than other Americans.

Madam Chairman, clean water is precious and must be treated as such. For the sake of our children, and our grandchildren, let us take care of this most basic of needs: clean water.

Mr. DICKS. Madam Chairman, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The Acting CHAIRMAN (Mrs. CAPITO). All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For necessary expenses for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $845,783,000, to remain available until expended, of which $1,000,000 is for high priority projects, to be carried out by the Youth Conservation Corps; and of which $3,000,000 shall be available in fiscal year 2006 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation for cost-shared projects supporting conservation of Bureau lands; and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred.

In addition, $32,696,000 is for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $845,783,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, $761,564,000, to remain available until expended, of which not to exceed $7,849,000 shall be for the renovation or construction of fire facilities: *Provided*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further*, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: *Provided further*, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That notwithstanding requirements of the Competition in Contracting Act, the Secretary, for purposes of hazardous fuels reduction activities, may obtain maximum practicable competition among: (1) local private, nonprofit, or cooperative entities; (2) Youth Conservation Corps crews or related partnerships with State, local, or non-profit youth groups; (3) small or micro-businesses; or (4) other entities that will hire or train locally a significant percentage, defined as 50 percent or more, of the project workforce to complete such contracts: *Provided further*, That in implementing this section, the Secretary shall develop written guidance to field units to ensure accountability and consistent application of the authorities provided herein: *Provided further*, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: *Provided further*, That the Secretary of the Interior may use wildland fire appropriations to enter into non-competitive sole source leases of real property with local governments, at or below fair market value, to construct capitalized improvements for fire facilities on such leased properties, including but not limited to fire guard stations, retardant stations, and other initial attack and fire support facilities, and to make advance payments for any such lease or for construction activity associated with the lease: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed $9,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: *Provided further*, That funds provided for wildfire suppression shall be available for support of Federal emergency response actions.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $11,476,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, $3,817,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein, including existing connecting roads on or adjacent to such grant lands; $110,070,000, to remain available until expended: *Provided*, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEM HEALTH AND RECOVERY FUND

(REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, implementing and monitoring salvage timber sales and forest ecosystem health and recovery activities, such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181f-1 et seq., and Public Law 106–393) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,000,000, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94–579, as amended, and Public Law 93–153, to remain available until expended: *Provided*, That, notwithstanding any provision to the contrary of section 305(a) of Public Law 94–579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further*, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on her certificate, not to exceed $10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, as authorized by law, and for scientific and economic studies, maintenance of the herd of longhorned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, $1,005,225,000, to remain available until September 30, 2007, except as otherwise provided herein: *Provided*, That $2,000,000 is for high priority projects, which shall be carried out by the Youth Conservation Corps: *Provided further*, That not to exceed $18,130,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)), of which not to exceed $12,852,000 shall be used for any activity regarding the designation of critical habitat, pursuant to subsection (a)(3), excluding litigation support, for species listed pursuant to subsection (a)(1) prior to October 1, 2005: *Provided further*, That of the amount available for law enforcement, up to $400,000, to remain available until expended, may, at the discretion of the Secretary, be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on her certificate: *Provided further*, That of the amount provided for environmental contaminants, up to $1,000,000 may remain available until expended for contaminant sample analyses.

CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $11,206,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $14,937,000 to be derived from the Land and Water Conservation Fund and to remain available until expended: *Provided*, That land and non-water interests acquired from willing sellers incidental to water rights acquired for the transfer and use at Lower Klamath and Tule Lake National Wildlife Refuges under this heading shall be resold and the revenues therefrom shall be credited to this account and shall be available without further appropriation for the acquisition of water rights, including acquisition of interests in lands incidental to such water rights, for the two refuges: Provided further, That none of the funds appropriated for specific land acquisition projects can be used to pay for any administrative overhead, planning or other management costs.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $23,700,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: *Provided*, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, federally recognized Indian tribes, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish or supplement existing landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, candidate, or other at-risk species on private lands.

PRIVATE STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, $7,386,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: *Provided*, That the amount provided herein is for the Private Stewardship Grants Program established by the Secretary to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, candidate, or other at-risk species.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended, $84,400,000, of which $20,161,000 is to be derived from the Cooperative Endangered Species Conservation Fund and $64,239,000 is to be derived from the Land and Water Conservation Fund and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $14,414,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, $40,000,000 to remain available until expended.

NEOTROPICAL MIGRATORY BIRD CONSERVATION

For financial assistance for projects to promote the conservation of neotropical migratory birds in accordance with the Neotropical Migratory Bird Conservation Act, Public Law 106–247 (16 U.S.C. 6101–6109), $4,000,000, to remain available until expended.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105-96; 16 U.S.C. 4261–4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), the Great Ape Conservation Act of 2000 (16 U.S.C. 6301), and, the Marine Turtle Conservation Act of 2004 (Public Law 108–266; 16 U.S.C. 6601), $5,900,000, to remain available until expended.

STATE AND TRIBAL WILDLIFE GRANTS

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and federally recognized Indian tribes under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, $65,000,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: *Provided*, That of the amount provided herein, $6,000,000 is for a competitive grant program for Indian tribes not subject to the remaining provisions of this appropriation: *Provided further*, That the Secretary shall, after deducting said $6,000,000 and administrative expenses, apportion the amount provided herein in the following manner: (1) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof; and (2) to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: *Provided further*, That the Secretary shall apportion the remaining amount in the following manner: (1) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (2) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: *Provided further*, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount: *Provided further*, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such projects: *Provided further*, That the non-Federal share of such projects may not be derived from Federal grant programs: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State, territory, or other jurisdiction's wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant if its comprehensive wildlife conservation plan is disapproved and such funds that would have been distributed to such State, territory, or other jurisdiction shall be distributed equitably to States, territories, and other jurisdictions with approved plans: *Provided further*, That any amount apportioned in 2006 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2007, shall be reapportioned, together with funds appropriated in 2008, in the manner provided herein: *Provided further*, That balances from amounts previously appropriated under the heading "State Wildlife Grants" shall be transferred to and merged with this appropriation and shall remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of passenger motor vehicles; repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management, and investigation of fish and wildlife resources: *Provided*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That, notwithstanding any other provision of law, the Service may use up to $2,000,000 from funds provided for contracts for employment-related legal services: *Provided further*, That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That, notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 108–330.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, $1,754,199,000, of which $30,000,000 is provided above the budget request to be distributed to all park areas on a pro-rate basis and to remain in the park base; of which $9,892,000 is for planning and interagency coordination in support of Everglades restoration and shall remain available until expended: of which $97,600,000, to remain available until September 30, 2007, is for maintenance, repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; of which $1,937,000 is for the Youth Conservation Corps for high priority projects: *Provided*, That the only funds in this account which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established National Park Service procedures, those funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unbudgeted overtime and travel costs associated with special events for an amount not to exceed $10,000 per event subject to the review and concurrence of the Washington headquarters office.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, $82,411,000.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, and grant administration, not otherwise provided for, $48,997,000: *Provided*, That none of the funds in this Act for the River, Trails and Conservation Assistance program may be used for cash agreements, or for cooperative agreements that are inconsistent with the program's final strategic plan.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333), $72,705,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 2007, of which $30,000,000 shall be for Save America's Treasures for preservation of nationally significant sites, structures, and artifacts: *Provided*, That any individual Save America's Treasures grant shall be matched by non-Federal funds: *Provided further*, That individual projects shall only be eligible for one grant: *Provided further*, That all projects to be funded shall be approved by the Secretary of the Interior in consultation with the House and Senate Committees on Appropriations and the President's Committee on the Arts and Humanities prior to the commitment of Save America's Treasures grant funds: *Provided further*, That Save America's Treasures funds allocated for Federal projects, following approval, shall be available by transfer to appropriate accounts of individual agencies: *Provided further*, That hereinafter and notwithstanding 20 U.S.C. 951 et seq. the National Endowment for the Arts may award Save America's Treasures grants based upon the recommendations of the Save America's Treasures grant selection panel convened by the President's Committee on the Arts and the Humanities and the National Park Service.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, $308,230,000, to remain available until expended, of which $17,000,000 for modified water deliveries to Everglades National Park shall be derived by transfer from unobligated balances in the "Land Acquisition and State Assistance" account for Everglades National Park land acquisitions: *Provided*, That none of the funds available to the National Park Service may be used to plan, design, or construct any partnership project with a total value in excess of $5,000,000, without advance approval of the House and Senate Committees on Appropriations: *Provided further*, That, notwithstanding any other provision of law, the National Park Service may not accept donations or services associated with the planning, design, or construction of such new facilities without advance approval of the House and Senate Committees on Appropriations: *Provided further*, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be expended consistent with the requirements of the fifth proviso under this heading in Public Law 108–108: *Provided further*, That none of the funds provided in this or any other Act may be used for planning, design, or construction of any underground security screening or visitor contact facility at the Washington Monument until such facility has been approved in writing by the House and Senate Committees on Appropriations.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 2006 by 16 U.S.C. 460l-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l-4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, $9,421,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which $1,587,000 is for the administration of the State assistance program.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 245 passenger motor vehicles, of which 199 shall be for replacement only, including not to exceed 193 for police-type use, 10 buses, and 8 ambulances: *Provided*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further*, That in fiscal year 2006 and thereafter, appropriations available to the National Park Service may be used to maintain the following areas in Washington, District of Columbia: Jackson Place, Madison Place, and Pennsylvania Avenue between 15th and 17th Streets, Northwest.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

If the Secretary of the Interior considers the decision of any value determination proceeding conducted under a National Park Service concession contract issued prior to November 13, 1998, to misinterpret or misapply relevant contractual requirements or their underlying legal authority, the Secretary may seek, within 180 days of any such decision, the de novo review of the value determination by the United States Court of Federal Claims, and that court may make an order affirming, vacating, modifying or correcting the determination.

In addition to other uses set forth in section 407(d) of Public Law 105–391, franchise fees credited to a sub-account shall be available for expenditure by the Secretary, without further appropriation, for use at any unit within the National Park System to extinguish or reduce liability for Possessory Interest or leasehold surrender interest. Such funds may only be used for this purpose to the extent that the benefiting unit anticipated franchise fee receipts over the term of the contract at that unit exceed the amount of funds used to extinguish or reduce liability. Franchise fees at the benefiting unit shall be credited to the sub-account of the originating unit over a period not to exceed the term of a single contract at the benefiting unit, in the amount of funds so expended to extinguish or reduce liability.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $974,586,000, of which $63,770,000 shall be available only for cooperation with States or municipalities for water resources investigations; of which $8,000,000 shall remain available until expended for satellite operations; of which $23,320,000 shall be available until September 30, 2007, for the operation and maintenance of facilities and deferred maintenance; of which $1,600,000 shall be available until expended for deferred maintenance and capital improvement projects that exceed $100,000 in cost; and of which $174,765,000 shall be available until September 30, 2007, for the biological research activity and the operation of the Cooperative Research Units: *Provided*, That none of the funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase and replacement of passenger motor vehicles; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.: *Provided further*, That the United States Geological Survey may enter into contracts or cooperative agreements directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purpose of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, $152,676,000, of which $77,529,000 shall be available for royalty management activities; and an amount not to exceed $122,730,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service (MMS) over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: *Provided*, That to the extent $122,730,000 in additions to receipts are not realized from the sources of receipts stated above, the amount needed to reach $122,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: *Provided further*, That $3,000,000 for computer acquisitions shall remain available until September 30, 2007: *Provided further*, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, $15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of MMS concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: *Provided further*, That in fiscal year 2006 and thereafter, the MMS may under the royalty-in-kind program, or under its authority to transfer oil to the Strategic Petroleum Reserve, use a portion of the revenues from royalty-in-kind sales, without regard to fiscal year limitation, to pay for transportation to wholesale market centers or upstream pooling points, to process or otherwise dispose of royalty production taken in kind, and to recover MMS transportation costs, salaries, and other administrative costs directly related to the royalty-in-kind program: *Provided further*, That MMS shall analyze and document the expected return in advance of any royalty-in-kind sales to assure to the maximum extent practicable that royalty income under the program is equal to or greater than royalty income recognized under a comparable royalty-in-value program.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $7,006,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; $110,435,000: *Provided*, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2006 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, $188,014,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to $10,000,000, to be derived from the Federal Expenses Share of the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: *Provided*, That grants to minimum program States will be $1,500,000 per State in fiscal year 2006: *Provided further*, That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That funds made available under title IV of Public Law 95–87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further*, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: *Provided further*, That amounts allocated under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) as of September 30, 2005, but not appropriated as of that date, are reallocated to the allocation established in section 402(g)(3) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(3)): *Provided further*, That amounts provided under this heading may be used for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ADMINISTRATIVE PROVISIONS

With funds available for the Technical Innovation and Professional Services program in this Act, the Secretary may transfer title for computer hardware, software and other technical equipment to State and Tribal regulatory and reclamation programs.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, $1,992,737,000, to remain available until September 30, 2007 except as otherwise provided herein, of which not to exceed $86,462,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed $134,609,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2006, as authorized by such Act, of which $129,609,000 shall be available for indirect contract support costs and $5,000,000 shall be available for direct contract support costs, except that tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and of which not to exceed $478,085,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2006, and shall remain available until September 30, 2007; and of which not to exceed $61,267,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: *Provided*, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed $44,718,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2005 for the operation of Bureau-funded schools, and up to $500,000 within and only from such amounts made available for school operations shall be available for the transitional costs of initial administrative cost grants to tribes and tribal organizations that enter into grants for the operation on or after July 1, 2005, of Bureau-operated schools: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2007, may be transferred during fiscal year 2008 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 2008.

CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87–483, $284,137,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That for fiscal year 2006, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(b), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2504(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2507(e): *Provided further*, That in order to ensure timely completion of replacement school construction projects, the Secretary may assume control of a project and all funds related to the project, if, within eighteen months of the date of enactment of this Act, any tribe or tribal organization receiving funds appropriated in this Act or in any prior Act, has not completed the planning and design phase of the project and commenced construction of the replacement school: *Provided further*, That this Appropriation may be reimbursed from the Office of the Special Trustee for American Indians Appropriation for the appropriate share of construction costs for space expansion needed in agency offices to meet trust reform implementation.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $34,754,000, to remain available until expended, for implementation of Indian land and water claim settlements pursuant to Public Laws 99–264, 100–580, 101–618, 106–554, 107–331, and 108–34, and for implementation of other land and water rights settlements, of which $10,000,000 shall be available for payment to the Quinault Indian Nation pursuant to the terms of the North Boundary Settlement Agreement dated July 14, 2000, providing for the acquisition of perpetual conservation easements from the Nation.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed and insured loans, $6,348,000, of which $701,000 is for administrative expenses, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $118,884,000.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase and replacement of passenger motor vehicles.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration (except facilities operations and maintenance) shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code.

Notwithstanding any other provision of law, including section 113 of title I of appendix C of Public Law 106–113, if a tribe or tribal organization in fiscal year 2003 or 2004 received indirect and administrative costs pursuant to a distribution formula based on section 5(f) of Public Law 101–301, the Secretary shall continue to distribute indirect and administrative cost funds to such tribe or tribal organization using the section 5(f) distribution formula.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $76,563,000, of which: (1) $69,182,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $7,381,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the Government Accountability Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: *Provided further*, That of the amounts provided for technical assistance, sufficient funds shall be made available for a grant to the Pacific

Basin Development Council: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure with territorial participation and cost sharing to be determined by the Secretary based on the grantee's commitment to timely maintenance of its capital assets: *Provided further*, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses, $5,362,000, to remain available until expended, as provided for in sections 221(a)(2), 221(b), and 233 of the Compact of Free Association for the Republic of Palau; and section 221(a)(2) of the Compacts of Free Association for the Government of the Republic of the Marshall Islands, and the Government of the United States and the Federated States of Micronesia, as authorized by Public Law 99–658 and Public Law 108–188.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $118,755,000; of which $23,555,000 shall remain available until expended for a departmental financial and business management system; of which not to exceed $8,500 may be for official reception and representation expenses; and of which up to $1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines: *Provided*, That none of the funds in this or previous appropriations Acts may be used to establish any additional reserves in the Working Capital Fund account other than the two authorized reserves without prior approval of the House and Senate Committees on Appropriations.

AMENDMENTS OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Madam Chairman, I offer several amendments, and I ask unanimous consent they be considered en bloc.

The Acting CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The Clerk read as follows:

Amendments offered by Ms. SLAUGHTER:

Beginning on page 44, line 25, strike "; of which $23,555,000 shall remain available until expended for a departmental financial and business management system;" and insert "(reduced by $8,000,000);".

Page 75, line 12, insert "(reduced by $7,000,000)" after the dollar amount.

Page 106, line 9, insert "(increased by $10,000,000)" after the dollar amount.

Page 106, line 13, insert "(increased by $10,000,000)" after the dollar amount.

Page 106, line 25, insert "(increased by $5,000,000)" after the dollar amount.

□ 1300

Mr. TAYLOR of North Carolina. Madam Chairman, I ask unanimous consent that debate on this amendment, and any amendments thereto, be limited to 20 minutes, to be equally divided and controlled by the proponent and myself, the opponent.

The Acting CHAIRMAN (Mrs. CAPITO). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Acting CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER) for 10 minutes.

Ms. SLAUGHTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise to offer an amendment that will redress a grievous act that was perpetrated, without our knowledge, on a majority of this great body.

Last year, with a resounding vote of 241 Members, the House voted an increase for our Federal arts agency that we knew would pay us back many times over, both in hard dollars and in ways that are simply incalculable for the people we represent.

The actual amounts were small, an increase of $10 million for the National Endowment for the Arts and $3.5 million for the National Endowment for the Humanities.

But the loss was great. After conferees met for the omnibus funding bill, NEA, incredibly, received just several hundred thousand dollars, and NEH received less than $3 million.

Not only was the will of this great body thwarted, but also the creative activities of our artistic constituents in every congressional district in this country were stifled.

Grants were not made and those grants were not matched. Works were not created. Performances did not happen. Audiences did not gather. Minds were not enlightened, souls were not fed: and the small businesses that depend on the nonprofit arts community did not profit.

Finally, the funds that should have been returned to the Federal Treasury in the form of tax receipts, many times over the original amounts, never arrived. It was a lose-lose situation for everyone involved: the artists, the audiences, our communities, and our small businesses, as well as our local, State, and Federal treasuries.

By all rights, I should be standing here asking my colleagues not just to restore the moneys that we voted for last year, but to double them. If our Federal deficit were not so huge and our budgets so tight, believe me, I would be doing just that.

Instead, I ask you simply to put these Federal art agencies back in business where we funded them last year, with an increase of $10 million for NEA and $5 million for NEH.

The President's own budget request for NEA was telling. In it, even as he suggested level funding for the agency, he asked that American Masterpieces, a majestic program that emphasizes the best of American art, should be increased by $6.5 million.

President Bush was rightfully enthusiastic about that program. It is an increase that I personally applaud. But unless we provide an overall increase for NEA, the money is slated to come from Challenge America, a highly popular program that supported artists in more than 99 percent of our congressional districts last year.

That is not a good idea. Challenge America grants go to the towns and hamlets of this sprawling country, where big touring companies will rarely go, and major actors, actresses, writers and artists may never appear in person. For example, last year Challenge American grants went to Aliceville, Alabama and to Bainbridge Island, Washington; to Red Wing, Minnesota and Lucas, Kansas. They energized audiences in Texarkana, Texas and Locust Grove, Arkansas, and spellbound art-hungry folks in Albany, Georgia and Billings, Montana.

We can and should do both: increase American Masterpieces as the President wishes, and continue to challenge the artists and their audiences in our congressional districts by funding Challenge America.

Madam Chairman, $10 million will ensure that the program will prosper and grow, with Chairman Gioia using up to 10 percent of the money to ensure effective administration of this fine program. And $5 million will enhance NEH's We the People, which promotes the teaching and understanding of American history.

But let me remind my colleagues, even with these increases, we are far from providing the agencies with the funds they received in the mid-1990s. As you see from the first chart, NEA is currently funded at $121 million, but received $176 million in 1992. And NEH is funded at $138 million, while it received $175.5 million in 1994.

Why is it so important to rebuild the funding for these agencies? Well, every year I stand here and remind you what an economic powerhouse the nonprofit arts industry has become in American. As this second chart proves, it produces over $134 billion annually. I do not know of any other investment we make that does that. Please note it returns $10.5 billion to the Federal Treasury.

In these difficult financial times for so many of our districts, as our local leaders strive to balance their budgets by cutting services, we would be irresponsible not to invest in the arts. While other industries have suffered, the nonprofit arts world continues to build in strength while it encourages the growth of innumerable small businesses on its periphery, thereby creating more jobs.

This third chart may surprise Members. It demonstrates the financial muscle of the arts industry, which has produced far more jobs than all of America's farmers, programmers, doctors, lawyers, or accountants. This is an amazing chart.

In fact, while the national economy has grown at a rate of 3.8 percent, the arts have far out-distanced that number by expanding at a rate of 5.5 percent.

And all of that said, I also stand before you at this time, every year, to remind us all of the stunning gifts American artists make to our daily lives. Their creative force not only helps our children learn but also makes them smarter. It brightens the life of each one of us, bringing us joy and comfort, enlightenment and understanding, in ways impossible to find otherwise.

The arts and artists of America are our national treasure, which this great Nation needs, deserves, and must support as other nations do.

For these reasons, I urge Members to vote for the Slaughter/Shays/Dicks/Leach/Price amendment, and thank my colleagues who have joined me today.

Madam Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the gentlewoman is obviously speaking seriously about the arts and humanities. Certainly we support both and have done so generously in this bill. The American public supports arts now by over $9 billion. The government's support is a very minimal part of that $9 billion. In fact, this increase would be an even smaller part of that $9 billion, and so it would be hardly noticeable inside the total support of the arts.

What we are having to sacrifice, though, is to reduce funding for the administration of the Department of the Interior by $8 million and administration of the Forest Service by $7 million. This will cost some 200 staff positions in the Department of the Interior and Forest Service. They are responsible for 634 acres in the United States. This is a primary obligation we have. It is not supported by $9 billion of public support. It is primarily supported with the funding that this Committee has the duty to appropriate.

That is why we are trying to do our primary job by maintaining the levels that we did and to find a balance to show our support for the arts and do the mandated portion that we must do for the Department of the Interior and the Forest Service.

Members can count on us to continue to support the arts, to watch the oversight of our Committees, and this bill strikes a fair balance between the needs of the arts and our responsibility to land management and Indian programs. I ask Members to join me in opposition to this amendment.

Madam Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Chairman, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Madam Chairman, I rise to urge support for the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER) and myself to increase the funding for the National Endowments for the Arts and Humanities. The amendment would provide an additional $15 million for the endowments—$10 million for the National Endowment for the Arts, and $5 million for the National Endowment for the Humanities. The increase would be offset by reductions in various accounts.

My colleagues may recall that a similar amendment passed the House last year during consideration of the 2005 Department of the Interior bill by a vote of 241 to 185. The amendment provided an additional $10 million for the NEA and $3.5 million for the NEH.

Once again the gentlewoman from New York (Ms. SLAUGHTER) and I are asking for support for this amendment, and perhaps we can obtain a greater margin than last year.

I have sensed over the last few years that the battle over this amendment has cooled and we can move on knowing that a healthy majority in the House agrees that these two important programs deserve our strong financial support.

This debate presents a good opportunity to make sure our new colleagues understand the importance of this modest Federal support and how it has such a tremendous impact on every one of our congressional districts. Each of the NEA and NEH grants is modest in size, but it is vitally important to the communities they reach. The Federal money serves as a catalyst to draw in private contributions. In fact, we now know that higher levels of Federal money will leverage even greater private support.

Unfortunately, since 1996, the endowments have been underfunded. The endowments are still being funded below their level of 10 years ago. In 1996, Congress reduced the NEA by 39 percent and NEH by 36 percent. Our amendment does not restore those funding levels of a decade ago, but it does provide an opportunity for the Members of the House to show their strong support for the endowments by approving this modest amendment.

Mr. TAYLOR of North Carolina. Madam Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Madam Chairman, I rise in support of the Slaughter/Shays/Dicks/Leach/Price amendment for increased funding for the National Endowment for the Humanities and the National Endowment for the Arts.

As co-chair of the newly established Congressional Humanities Caucus, I am pleased to support this amendment which will in particular increase funding for NEH's We the People program by $5 million.

We the People is an agency-wide program focused on examining and understanding significant events and themes in our Nation's history. An additional $5 million will enable We the People to support teacher seminars and institutes with new content focusing on American history and civics, media projects focusing on key people and events in American history, and preservation projects that preserve and provide access to important historical documents and artifacts that are central to America's historical and cultural heritage.

We ought to do more, but this modest funding increase will help. It will aid NEH's efforts to conserve and nurture America's heritage, bring humanities to communities across this country, and educate the next generation of Americans. I encourage my colleagues to support this amendment.

Mr. TAYLOR of North Carolina. Madam Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Chairman, I yield for the purpose of a unanimous consent request to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Madam Chairman, I rise in support of the Slaughter/Shays/Dicks/Leach/Price amendment.

Madam Chairman, I rise today in strong support of the Slaughter-Shays-Dicks-Leach-Price Amendment to provide much needed funds for the National Endowment for the Arts and the National Endowment for the Humanities.

This is a long overdue and a modest funding increase to build programs that use the strength of the arts and our Nation's cultural life to enhance communities in every State and every county around America. The additional funds provided through this amendment would keep intact the very successful Challenge America program, which brings the arts to rural communities and inner-city neighborhoods whose limited resources don't always allow for community arts programs.

In 2004, the Challenge America program provided grants to towns and cities in 99% of congressional districts for jazz and blues festivals, showcases for regional musicians and artists, and public-private partnerships that bring the arts into local schools. Dozens of studies have demonstrated the significant positive effect of arts education on students' academic performance, self esteem, and behavior, and the Challenge America grants are an excellent mechanism to bring the arts to students who can greatly benefit from that exposure.

Similarly, the NEH serves to advance the Nation's scholarly and cultural life. The additional funding contained in this amendment would enable NEH to improve the quality of humanities education to America's school children and college students, offer lifelong learning opportunities through a range of public programs, and support new projects that encourage Americans to discover their storied and inspiring national heritage.

It is clear that increasing funding for the arts and humanities is among the best investments that we, as a society, can make. They help our children learn. They give the elderly sustenance. They power economic development in regions that are down and out. They tie our diverse society and country together.

Will the projects that would be sponsored by this increase in funding help defend our country? Probably not, but they will make our country more worth defending. I urge my colleagues to support this amendment.

Ms. SLAUGHTER. Madam Chairman, I yield for the purpose of a unanimous consent request to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Madam Chairman, I rise in strong support of the Slaughter/Shays/Dicks/Leach/Price amendment.

Madam Chairman, I rise in strong support of Slaughter/Shays/Dicks/Leach amendment to increase funding for the National Endowment for the Arts, NEA, and the National Endowment for the Humanities, NEH.

The arts are crucial for the flourishing and development of societies. As our economy continues to grow it is important that the arts remain a priority in our communities. As former President Kennedy stated, "I am certain that after the dust of centuries has passed over our cities, we, too, will be remembered not for our victories or defeats in battles or in politics, but for our contribution to the human spirit."

Though some would consider our economy hard pressed for such funding as this, I implore my colleagues to consider the profound influence of arts-centric businesses.

While some of the country's concerns only affect a minority of people, the involvement in the arts spans all walks of life. Indeed, it weaves together all communities and crosses racial, gender, and religious boundaries.

In my district, the arts create a sense of nationalism for the State and the rest of the country. For, what would Chicago be without the architecture of the Sears Tower, the flourishing talent in Second City, or the abundant museums? Indeed, the beating pulse of America lives and thrives through the arts.

Not only do the arts enrich societies, but the arts is also an industry. In my district there are 2,989 art related businesses and 44,709 people that make their daily living working in the arts. It is obvious that support of arts, also is support of the economy. Arts-Centric businesses supply 578,000 businesses in the United States and employ 2.97 million people. Even more, it is a growing institution, exceeding the total United States business growth rate by 1.7 percent. Not only do the arts help sustain the economy by supplying jobs and generating revenue, it helps to fuel future creative industries and workers.

These future creative workers come in the form of our children. The arts help in a child's brain development and their creative skills. A country without a full expression of the arts would truly create a void in a child's development. They too deserve the right to blossom and flourish their imagination from the various artistic resources.

We cannot disregard the contributions and growing trends of the arts. The arts and humanities support our culture, it supports our economy, and most importantly it supports our future. In my district there is a wealth of diversity. This diversity is preserved through the arts. The arts promote respect for diversity, and appreciation of other cultures. It seems to me, that these elements are necessary for building stable healthy communities.

Madam Chairman, if we minimize these possibilities in the arts, we will be limiting the liberty of our imagination. I request my colleagues to join me in support of this amendment.

Ms. SLAUGHTER. Madam Chairman, I yield for the purpose of a unanimous consent request to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Madam Chairman, I also would stand in support of the Slaughter/Shays/Dicks/Leach/Price amendment.

Madam Chairman, I rise today in strong support of the Slaughter Shays-Dicks-Price-Leach Amendment to increase funding for the National Endowment for the Arts and for the National Endowment for the Humanities.

In my district in New Mexico, arts and humanities are a significant part of daily life—the name "Sante Fe" conjures up images of Georgia O'Keefe's beautiful flowers and Ansel Adams' breathtaking photographs. But arts and humanities programs are also a major employer. New Mexico's third congressional district has over 1,700 arts-related businesses that employ over 5,300 people. This includes the famed Santa Fe Opera, the budding film industry, numerous respected museums, hundreds of art galleries, mariachi bands, arts schools, and more.

Many of these artists make use of grants through the NEA and NEH. Unfortunately, NEA and NEH programs remain seriously underfunded due to past budget cuts. This modest amendment seeks to increase funding for the National Endowment for the Humanities' "We the People," initiative by $5 million, and the National Endowment for the Arts' "Challenge America" program by $10 million. In congressional terms, these amounts are a blip on the budget screen. But in terms of what they mean to these programs and the constituents who benefit from them, such increases are incredibly helpful, and can mean the survival of numerous arts and humanities programs around the country.

I often hear from New Mexicans who attest to the effectiveness of the We the People initiative in strengthening youth understanding and appreciation of American history and culture. We the People helps all of us become more aware of our past, our values, and our institutions. I believe this effort is crucial for the progress of our country.

In addition to economic benefits of the arts, recent studies have shown the significant impact that arts education can have on at-risk youth. The YouthARTS Development Project recently conducted a study showing that students who are exposed to arts education show an increased ability to express emotions appropriately, communicate effectively with adults and peers, and to work cooperatively with others. They also show decreased frequency of delinquent behavior, improvement in attitudes toward school, higher self-esteem, and much lower dropout rates. These programs are working, and we must make sure we continue to fund them.

I thank my colleagues for offering this amendment and I urge a "yes" vote.

Ms. SLAUGHTER. Madam Chairman, I yield for the purpose of a unanimous consent request to the gentleman from Oregon (Mr. WU).

Mr. WU. Madam Chairman, I rise in support of the Slaughter/Shays/Dicks/Leach/Price amendment.

□ 1315

Ms. SLAUGHTER. Madam Chairman, I am pleased to yield the balance of my time to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Madam Chairman, I rise in strong support of the amendment to increase funding for the NEA and the NEH. Without this amendment, the continued flat funding the President requested this year will really amount to another cut. I wish we could return to the days of the first President Bush when the arts were funded at $175 million. The amount we are asking for today amounts to little more than a comma in the budget, a rounding error when compared to Federal spending in other areas such as defense.

Whether it is the educational value, the cultural enrichment, or the substantial economic windfall the arts and humanities create, the NEA and the NEH are two of the best investments this Nation makes. When we shortchange the NEA, we ignore the $134 billion in business that the arts generate, the 4.8 million jobs, the $89.4 billion in household income, and the $25 billion in tax revenues. A recent RAND study noted the importance of the intrinsic benefit of the arts for individuals and communities.

This modest amount asks only to restore the funding level the House supported last year, but that was stripped during conference. It is the very least we should do today. I urge my colleagues to support this amendment and to vote against any attempts to slash funding from the arts and humanities that may be offered in other amendments.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield 30 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Madam Chairman, I rise in strong support of this amendment. Certainly if we do not do a better job of educating our children in the arts, we will be a Nation of poor spirit and little understanding. It is really through the arts that we understand how destructive is greed.

Mr. MCGOVERN. Mr. Chairman, I rise in support of this amendment. I commend Congresswoman SLAUGHTER and Congressman

SHAYS for all of their hard work supporting the arts and humanities through the Congressional Arts Caucus.

Mr. Chairman, this a very modest amendment. Indeed, I would support significantly greater increases for both the National, Endowment for the Arts and the National Endowment for the Humanities. The reason is quite simple—these agencies are good for the Third District of Massachusetts and for every community across the country.

Nationwide, nonprofit arts industries generate $134 billion annually in economic activity, support 4.85 million fulltime equivalent jobs, and return $10.5 billion to the Federal Government in taxes. Measured against $1.4 billion in direct Federal cultural spending that is a return of nearly eight to one. Frankly, there aren't many industries that I can think of with those kinds of returns.

The mid-90s brought drastic funding cuts to Federal arts and humanities programs, and it is now more important than ever to keep funding stable. By adding $10 million for NEA and $5 million for NEH, arts businesses will be able to reinvest into their creative enterprises and back into the community. Between 2004 and 2005, growth in the number of arts businesses outpaced total business growth by 5.5 percent vs. 3.8 percent. During this time, when the total number of U.S. jobs shrank 1.9 percent, the drop off of arts employment was less than half that rate.

In my district, there are 1,234 arts-related businesses that employ over 7,000 people. These businesses range from non-profit museums and symphonies to for-profit films and advertising companies. The arts business community serves as a cornerstone for cultural enrichment and the tourist economy. Studies show tourists spend 7 percent more than their local counterparts on arts events. How can we deny that is good for the community's economic, social, and creative well-being.

I would urge my colleagues to join me in supporting the Slaughter Amendment for minor increases in NEA and NEH funding.

Mr. FARR. Madam Chairman, I come to the floor today in strong support of Slaughter amendment to the FY06 Interior Appropriations Act that will increase funding for the National Endowment of the Arts by $10 million and for the National Endowment for the Humanities by $5 million. Even with these increases, the funding level for the NEA will still be $40 million below the FY 1994 level, and the funding level for the NEH will be $30 million below the FY 1994 level.

This amendment is needed to continue the critical work of the NEA and the NEH in providing Americans with access to the arts, and an understanding of American culture, legacy, history, and civics. By funding the arts and humanities in every congressional district and giving priority to rural and underserved communities, the NEA and the NEH ensure that Americans across the country can discover and share these treasures while instilling a sense of historical and cultural heritage in their children. These funding increases will help ensure that future generations continue to have the opportunity to explore the creative worlds of arts and humanities.

In addition to providing important cultural experiences nationwide, the NEA and the NEH also support economic growth and tourism nationwide. The non-profit arts industry generates .$134 billion in economic activity, supporting $4.85 million full time equivalent positions. In my district there are 1,801 arts related businesses which employ 5,370 employees. Many of these businesses receive grants from the NEA and play crucial roles in increasing tourism in my district. Events like the Monterey Jazz festival and the Cabrillo Music Festival bring tourists to my district to enjoy these cultural experiences, and our local businesses directly benefit from this influx.

I urge all of my colleagues to support increases in funding for the NEA and the NEH and to oppose any proposal to cut these valuable programs.

Mr. MORAN of Virginia. Madam Chairman, let me share with you two recent experiences that confirm why we should support the Slaughter-Shays-Dicks-Leach-Price amendment to increase funding for the National Endowment for the Arts.

A few weeks ago, I had the privilege of joining NEA chairman Dana Gioa at the Folger Theater to help judge young high school students in a poetry recitation contest. As one of the judges, I had to pick a winner, but I can tell you there were no losers. It was plainly evident all were winners. Each student provided a masterful performance, had presence and demonstrated a clear and impassioned understanding of the work he or she presented from some of the English language's best poets.

It was a memorable evening. But as much as I enjoyed it, I know it left an even stronger impression on the student and the families and friends who joined them. That evening at the Folger Theater brought us all to a common point of a shared experience where barriers and pretenses were cast aside and humanity and understanding prevailed.

Last week I had a conversation with a retired school teacher who volunteers as a docent providing school tours at the National Gallery of Art. She was upset because of a decision by the gallery to suspend the volunteer-led tours for a year while a new program is developed. It didn't make sense to me and I agreed to help.

During our talk, she mentioned how art at the gallery had touched a young student she had led. He was a recent immigrant who had come from a very troubled land. His English was limited and broken but he was able to say to her that the tour had helped calm his inner turmoil and as he put it, "helped make some of the hurt go away."

Art touches people in ways words cannot describe. The dividend this Nation receives from the Endowment for the Arts far exceeds the investment we make with the limited Federal funds.

In Virginia, the Wolf Trap Performing Arts Center has received NEA grants for their nationally recognized artistic and education programs. In addition to year-round performances, Wolf Trap offers a variety of education programs both locally and nationwide. Its primary education program, the Wolf Trap Institute for Early Learning Through the Arts, places professional performing artists in preschool classrooms nationwide. In classroom residencies, these artists use drama, music and movement to teach basic skills and encourage active participation and self-esteem in the earliest stages of learning. Wolf Trap Institute Artists also conducts workshops and presentations throughout the country to demonstrate to teachers and parents how the arts can bring new life to learning and literature.

As we fight for education funding and standards, how can we look past the significant contribution that performing arts organizations like Wolf Trap are making across the country? This is a time when we must embrace this type of unique programming.

A modest increase in funding for the arts and humanities can make a difference creating new opportunities for hundreds of arts and humanities organizations and bringing the organizations out into the communities.

When the NEA budget has been cut, we have seen its dramatic effect on the national arts community and specifically on arts education programs developing at community centers and in our schools. Now is the time when we must invest in the cultural lives of our citizens and in our children's futures.

I cannot fathom how a Nation as rich and prosperous as ours could not find it in its heart to provide a $15 million increase, $10 million for the National Endowment for the Arts and $5 million for the National Endowment for the Humanities. We could eliminate all funding for the endowments tomorrow, and the arts and humanities would survive.

That's not the issue.

The grants NEA provides don't make or break most theater productions, studio exhibitions or symphonic performances. What NEA does with its grants is to ensure that these performances, exhibits and productions are introduced to a greater share of America.

Support the arts, support the NEA and the NEH, support the Slaugher-Shays-Dicks-Leach-Price amendment.

Ms. HERSETH. Madam Chairman, I am pleased that the amendment offered by my esteemed colleagues Ms. SLAUGHTER, Mr. SHAYS, Mr. DICKS, Mr. LEACH, and Mr. PRICE, passed today by a voice vote. The amendment offered on behalf of the Arts Caucus, will increase funding for the National Endowment for the Arts and the National Endowment for the Humanities by $10 million and $5 million respectively. I am a strong supporter of the National Endowments for the Arts and Humanities, and I enjoy a strong working relationship with South Dakota's arts community. As a member of the Arts Caucus, I am proud to support our amendment, which represents an important step towards providing these agencies with the funding they need to continue providing critical support for literary, design, performing arts, and cultural projects in South Dakota and across the country.

Another agency that receives funding under this bill is the U.S. Forest Service, which has the vital responsibility to fight fires on our public lands. I recognize the need for wildland fire protection and I strongly believe that Congress must provide Federal land management agencies with the resources they need to protect our public resources from fire, as well as the lives and property of those who live in and near national forests. It was for this reason that I voted in favor of the amendment offered by my colleague, Mr. BEAUPREZ of Colorado, to increase funding for wildland fire protection.

Unfortunately, I strongly disagree with the source of funding that Mr. BEAUPREZ chose to utilize, the National Endowment for the Arts, in order to fund this wildland fire prevention increase. This amendment was soundly defeated on the House floor. I believe this was a function of the offset that the amendment sought to use, and not a lack of support in the House for forest fire prevention. It also is an indication that we must look for other ways to increase funding for wildland fire prevention. I offer to work with my colleagues in the House of Representatives in the coming years to identify ways to fund increased wildland fire funding without raiding the important funds of the NEA to accomplish that goal.

Mrs. MALONEY. Madam Chairman, I rise today in strong support of the Slaughter-Shays-Dicks-Leach-Price Amendment, which would provide a much needed increase in funding for the National Endowment for the Arts and the National Endowment for the Humanities.

This additional $10 million for the NEA and $5 million for the NEH would help expose our children to American art, history and culture. In addition to the enjoyment and life-enrichment that each participant in the arts experiences, the involvement of children in the arts has been shown to improve reading and language development, mathematics skills, fundamental cognitive skills, motivation to learn, and social behavior.

The Arts and Humanities not only enhance the lives of our children—they also keep our economy strong. Each year, the nonprofit arts industry creates $134 billion dollars in economic activity, generating $24.4 billion dollars in tax revenue for our local, state and federal governments, and supporting nearly 5 million full-time jobs all across our country.

In my district alone, nearly 120,000 people are employed by the museums, theaters, art galleries and other arts organizations that I am proud to represent. In fact, with over 8,000 arts-related organizations, including the Metropolitan Museum of Art, the Museum of Modern Art, and the American Ballet theater, my district has the third highest number of arts-related business in the country. For my constituents, and for all Americans, the arts mean business.

Because such a modest increase in funding would bring the arts and jobs to so many people, I strongly support the Slaughter-Shays-Dicks-Leach amendment, and I urge my colleagues to do the same.

Mr. SCHIFF. Madam Chairman, I rise in support of the amendment to the Interior Appropriations bill submitted by Representatives SLAUGHTER, SHAYS, DICKS, LEACH, and PRICE to increase funds for the National Endowment for the Arts and the National Endowment for the Humanities.

As a member of the Congressional Arts and Humanities Caucuses, and former chair of the California Legislature's Joint Committee on the Arts, I have had the opportunity to see first hand the tremendous role that the arts play in the education and development of our children. Several academic studies have demonstrated the connection between music, dance, visual arts, and the development of the human brain. It is a fact that arts education cultivates critical thinking skills that are so important in this information-age economy. Children who learn to read music or to play an instrument show improved proficiency in mathematics and sciences.

Today, I am proud to support an increase of $10 million for the National Endowment for the Arts and a $5 million increase in funds for the National Endowment for the Humanities.

One of the initiatives under the NEA, Challenge America, expands the National Endowment for the Arts reach to connect families and communities to local arts programs and educational components. Meanwhile, funds to support the National Endowment for the Humanities will continue to assist "We the People" to strengthen the teaching, study, and understanding of American History and culture.

The arts are not only about appreciation and enjoyment, they are also a strong component of our economy. A recent study from Americans for the Arts found that the nonprofit art industry alone generated $134 billion in economic activity, including full time jobs, household income and tax revenues. More than $80 billion of this is spent by audiences who enthusiastically attend events in their local communities.

In my own district, there are more than 2,700 arts-related businesses and more than 37,000 jobs including those in visual arts, design, and the performing arts. In addition, the film, television, and radio industry generates more than 26,000 jobs in the district I represent.

I am proud to host an annual Congressional Arts Competition in my district that allows high school students to showcase their artistic talents in painting, drawing, and photography to the community. I have constantly been impressed with the artistic vision and creativity of our young people. This vision and creativity should be fostered, not discouraged.

By supporting the arts and humanities, the federal government can partner with state and local efforts to bolster the quality of life as well as economic and educational opportunities in our communities.

Mr. TAYLOR of North Carolina. Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mrs. BIGGERT). The question is on the amendments offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendments were agreed to.

Mr. OBEY. Madam Chairman, I move to strike the last word.

Madam Chairman, I do not want to rain on anybody's parade, but in a sense I do. What we have just witnessed here is our annual Kabuki dance on the question of the arts.

In the first years that the Republicans were in control, they wound up making a very large cut in the arts program. I offered an amendment in the Appropriations Committee to restore a portion of that cut and that amendment was adopted. But the majority exercised its power in the Rules Committee and when this bill went to the Rules Committee, the Rules Committee arbitrarily, unilaterally eliminated my amendment which had been adopted by the full committee. But then they proceeded to make the exact same amendment in order with one difference: that amendment was to be offered by a Republican, because the majority party wanted to have the issue both ways. They wanted to be able to tell their right-wing supporters that they had cut the devil out of the arts, yet they wanted to tell what few remaining moderates were left in their caucus that they could go home with a rollcall in their pocket bragging about the fact that a Republican had partially restored some of that funding. That maneuver was enough to give insincerity and hypocrisy a bad name.

And now what we have seen here today is, I hope, not a repetition of what we saw last year. Because last year, as was pointed out, we had an arts funding level which was $49 million below where it was at its high water mark, $100 million in real terms after adjusting for inflation below where it had been just a few years earlier.

An amendment was offered, $10 million. Liberals and progressives argued for it. Conservatives argued against it. The amendment was passed, added $10 million, everybody got to put out their press releases; and, guess what, when we wound up in conference with the Senate, 80 percent of the money was stripped out of the bill. So the bill was left with a token $2 million increase.

I just have one observation. I would hope that if the House wants to demonstrate the slightest bit of sincerity on this issue, that having adopted this amendment, it will stick to it in conference so that something other than a phony Kabuki dance has taken place on the floor this year. I know that is quite a bit to expect given the hypocrisy that often accompanies conferences and given the penchant for so many Members of either body to try to pose for political holy pictures on some of these issues; but nonetheless I would like to express the vain hope that on occasion some sincerity will be displayed on this issue and that if the House adopts an amendment, it really means it.

Mr. FLAKE. Madam Chairman, I move to strike the last word.

I had planned to offer an amendment on this subject, but I will settle for a colloquy with the chairman of the subcommittee.

Before I start, let me just note for the record, I am glad to state to my constituents, I would have voted to cut the National Endowment for the Arts funding and, believe me, want that part of the record.

Madam Chairman, the problem we have in the West is in terms of Federal land. Looking at my own State of Arizona, 48.1 percent Federal ownership. The State of Nevada, 84.5 percent. Utah, 57.4 percent. It is going up. The problem is, it is going up. You try to run a school system in a county where the Federal Government owns 80, sometimes 90 percent, of the land in that county, it is tough to have enough taxable land to do so.

The Federal Government has tried to make up for that by what is called PILT, or payment in lieu of taxes, where they compensate counties with a high incidence of Federal land, but there is less of that than there is Federal land certainly. I would argue here and have argued throughout this appropriation process that we need to cut Federal land acquisition funding. We have successfully done that. The chairman of the subcommittee has been cooperative. We have seen a cut there. The problem is as soon as we get to the Senate, it is negotiated upward once again, so that PILT funding is not nearly what was authorized, and Federal land acquisition, we always get more than what we ask for.

I would just respectfully ask the chairman if he will work within the conference to keep the number for Federal land acquisition as low as possible. I understand that the $43.1 million, I believe, in the bill now is for land sales that are already in the works. That is understandable. But if we could please insist that that not go up any higher. As we go up and acquire more Federal land, we simply make the problem worse. We exacerbate the problem of PILT funding that is too low and Federal land acquisition, which is too high.

Mr. TAYLOR of North Carolina. Madam Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Madam Chairman, I thank the distinguished gentleman from Arizona for yielding.

I certainly agree that PILT is a necessary funding item. We have added $30 million to it. I agree with the gentleman that we will make every effort to do so as we move to conference with the Senate. As the gentleman from Wisconsin mentioned a moment ago, when you go to the Senate, you cannot always control what happens. We will certainly stand by our statements to decrease the spending on land if we can manage that, and we will count on the House to support us in that area.

But I do thank the gentleman for calling this to our attention, and we certainly support what he is thinking about.

Mr. FLAKE. I thank the gentleman. There will be an amendment coming up, the Cubin amendment, which will seek to restore a better balance to Federal land acquisition as opposed to PILT funding.

Let me just point on this map again, people point to the red State/blue State issue. The red in this case indicates the percentage of Federal land ownership, or the incidence of Federal land ownership. As my colleagues can see, there is a lot of red out there. We do not need as much red. The more red you have, the more red ink that local governments have. We need to restore this imbalance.

Mr. HINCHEY. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise to engage the chairman of the Interior subcommittee in a colloquy dealing with some language in the committee report requiring the Environmental Protection Agency to fund a national Academy of Sciences study concerning the Hudson River. The language was added to the report unfortunately without the knowledge of those of us who represent the Hudson River area in New York State.

More than a decade has already been spent studying cleanup alternatives for the Hudson River. Therefore, the request for this new study raises concerns. Those of us who live in the region would like clarification as to what the impact of this new study would be. From what I understand, the report language in no way is intended to delay, stop, or otherwise disrupt either phase I or phase II of the PCB cleanup planned for the Hudson River which is slated to begin in the summer of 2006.

Is that the gentleman's understanding as well?

Mr. TAYLOR of North Carolina. Madam Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. The gentleman is correct. In no way should this study delay or disrupt either phase I or II of the planned cleanup of the Hudson River or any other ongoing Superfund project. I will work with the gentleman to consider modifications to clarify this in the conference agreement.

Mr. HINCHEY. I very much thank the gentleman for his leadership in the committee, and I thank him for his response. There is widespread support for the Hudson River cleanup project, and I know the people I represent will be relieved to hear the chairman clarify that this report will in no way delay phase I or phase II of the Hudson River PCB cleanup. I would suggest that if the study does proceed, it should be focused on new developments and should address the National Academy of Sciences' recommendations.

Mr. TAYLOR of North Carolina. I thank the gentleman from New York for his good work on the Hudson River program and for bringing the need for clarification of the intent of the study to my attention.

Mr. KENNEDY of Minnesota. Madam Chairman, I move to strike the last word.

Madam Chairman, as someone who enjoys recreational activities like fishing, boating and hunting and represents thousands of Minnesotans who do as well, I share a special responsibility to make sure that these opportunities are available for generations to come. Today, many of those activities are threatened by the spread of aquatic invasive species. We have seen a rapid growth of invasive species in recent years, from the Great Lakes, to our coastal waters, to local lakes and streams throughout the country.

In my home State of Minnesota, we have increasingly been challenged to find ways to prevent and control disruptive species like European and Asian carp. In many areas, invasive European carp have found their way into Minnesota's wetlands and lakes, while Asian carp has found its way into the Mississippi River as far north as Iowa. If not properly addressed, both of these species threaten to disrupt the ecosystem that many Minnesotans enjoy for fishing and boating.

One of the few ways in which Federal, State and local governments collectively combat the threat of aquatic invasive species is through the State Aquatic Nuisance Species Management plans. These plans identify activities to eliminate or reduce the environmental, public health and safety risks associated with aquatic invasive species. These activities are implemented by States through feasible, cost-effective management policies undertaken in an environmentally sound manner. These plans are available to both individual States and affected multi-State regions. In fact, currently 14 States have approved plans, and at least 11 other States have plans under development.

Unfortunately, the resources available to effectively implement these plans fall well short of the mark. This is the third year in a row plans to attack invasive species are funded at slightly over $1 million. I very much appreciate the work of the chairman and the committee to try to address this very important issue but would suggest that these limited funds are not enough to counteract the billions of dollars in costs associated with invasive species habitat destruction and lost recreational opportunities.

□ 1330

Simply put, we must invest more in these plans if we hope to control the spread of these aquatic pests.

I appreciate the chairman's offering to work with me.

Mr. TAYLOR of North Carolina. Madam Chairman, will the gentleman yield?

Mr. KENNEDY of Minnesota. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Madam Chairman, I thank the gentleman for yielding to me.

I agree with the gentleman that invasive species pose a threat to the marine environment, and we do provide funds in the bill reported by the Committee to address the Invasive Species Act. We have also provided other invasive species funds to stop that in areas of timber and things coming in from imports. For instance, the hemlock wooly adelgid is one of the invasive species that are threatening one of our species and may wipe it out in plant area.

But the gentleman is right, and I will work with him to see if we can increase funding in this area in the conference report. I note there are some small increases included in the bill for invasive species efforts by the Fish and Wildlife Service also. So we will try to work with him to increase his request.

Mr. KENNEDY of Minnesota. Madam Chairman, reclaiming my time, I would like to thank the chairman for his commitment and look forward to working with him to have more resources for this vitally important need in the conference report.

Ms. LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the arts amendment, however, in strong opposition to this bill's environmental shortcomings.

First, I want to applaud the gentlewoman from New York (Ms. SLAUGHTER) and the gentleman from Connecticut (Mr. SHAYS), who are the cochairs of our Arts Caucus, and their staffs for their leadership on this issue.

Providing for adequate resources to the National Endowment for the Humanities, which is the largest single funder of humanities programs in our country, and to the National Endowment for the Arts, the infrastructure for private nonprofit and federal arts initiatives, this should really be a very high priority for this body.

Mr. Chairman, my district, the Ninth Congressional District of California, ranks 24th in the country in the number of arts businesses and 46th in the country in the number of arts employees. Since we debated this amendment last year, there are 113 more arts-related businesses in my district, and that translates into more jobs for my constituents. Across the country there are more than 578,000 arts-centered businesses. This is really not a marginal group. The arts and humanities do constitute the pulse of our Nation.

Supporting this amendment is critical and should be noncontroversial. We already know that the economic downturn and our budget crisis are crippling arts initiatives all over this country. Many who are eager to restrict funding for the NEA and NEH forget that organizations which receive grants for these institutions include the museums, performing and visual arts, film, radio, television, design, publishing, and educational facilities in all of our districts.

In Oakland, one of the cities in my district, most arts education programs continue to face extinction, and the students in these communities are the ones who stand to benefit the most from arts education initiatives.

Performance and visual arts offer people of all ages, ethnic and social and economic backgrounds opportunities for new experiences and constructive retreats. For example, the Berkeley-based California Shakespeare Theater, an arts education grants recipient, will offer student matinees and Arts Integration programs this year, which support student achievement and creativity and teacher professional development for some of the most underserved communities in my district.

Clearly, a vote against this amendment, which is endorsed by our bipartisan Arts Caucus, is really a vote against the vital thread which sustains the pulse of our country. The long-term economic and social impact of a minute $10 million increase for the NEA and a $5 million increase for the NEH will be felt for generations. It is the very least we can do to promote and preserve American culture and heritage. It should not be controversial. The facts speak for themselves. If we cut arts funding, we cut jobs and opportunities for all. We all need to support the Arts Caucus bipartisan amendment.

I am appalled, however, by what this bill proposes to do to America's environment. Once more we are forced to vote on an Interior appropriations bill that is nothing less than an environmental disaster. This bill cuts funding for the EPA by $318 million. This bill cuts $241 million for the Clean Water State Revolving Fund, which is a 37 percent reduction for California. This bill eliminates $190 million for the Land and Water Conservation Fund. And this bill fails to make critical infrastructure investments in our National Parks System.

Overall, this bill represents a 3 percent cut in funding for our environmental programs and once again points to the misplaced priorities of this administration.

We need a bill that makes a strong commitment to protect the environment, our children's health, and our future. Unfortunately, this bill does not make that commitment.

AMENDMENT OFFERED BY MRS. CUBIN

Mrs. CUBIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. CUBIN:

Page 44, line 25, after the dollar amount, insert the following: "(reduced by $13,000,000)".

Page 45, line 16, after the first dollar amount, insert the following: "(increased by $12,000,000)".

Mrs. CUBIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The Acting CHAIRMAN (Mr. SHIMKUS). Is there objection to the request of the gentlewoman from Wyoming?

There was no objection.

Mrs. CUBIN. Mr. Chairman, as the Members know, the Payments in Lieu of Taxes program, or PILT as it is called, compensates units of general government for property taxes that they otherwise lose due to Federal ownership of the land within that locality. Our local counties then use these dollars to help fund essential services such as law enforcement, health care, education, firefighting, and search and rescue.

Unfortunately, despite the local benefits to this program in all 50 States, a large majority of the congressional districts' full funding of PILT, as is authorized by law, is simply not a commitment that this Congress has been willing to meet in the past years. My home State of Wyoming has been denied over $75 million in PILT funding over the past 10 years that would have been used to make our communities safer, healthier, and cleaner.

I truly appreciate the efforts of the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS), ranking member, to restore the PILT funding that the administration tried to cut. They even went a step further to show their support of PILT and added an additional $3 million over last year's level. However, this level funding still falls far short of the authorized level and it simply is not enough for these communities.

The Cubin-Rahall-Cannon-Udall amendment would add $12 million to PILT by redirecting funds from the Department of Interior's management, salaries, and expenses at the higher levels. Our amendment still does not bring PILT to full funding, but it would reflect a renewed commitment of Congress to do so by providing approximately 80 percent of the authorized level for this year's funding.

It is also important to emphasize that this amendment still allows the Department of Interior to spend $10 million more for administrative costs than they did in 2005. We are not cutting salaries. We are simply reducing the $23 million increase that they would receive under this bill and instead directing a portion of those funds back to local counties where every dollar will make a real difference on the ground where people live and where they work.

So I would like to thank the gentleman from Utah (Mr. CANNON), the gentleman from West Virginia (Mr. RAHALL), and the gentleman from Colorado (Mr. UDALL) for co-sponsoring this amendment, as well as the National Association of Counties, the gentleman from Arizona (Mr. FLAKE), and other members of the Western Caucus for the leadership that they have shown on this issue. It is very important to every single State in the country. Shortchanging local communities by underfunding PILT is simply bad policy, and I hope my colleagues will join me in supporting this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I certainly sympathize with the gentlewoman and other Members who have already spoken. I support PILT. In fact, we increased it some $30 million in our bill. And as we indicated with the gentleman from Arizona (Mr. FLAKE) a few minutes ago, we will certainly do more and we appreciate their bringing it to our attention.

But the Department of Interior is responsible for one-fifth of the land in the United States and manages programs that affect over 4 million Native Americans. This amendment would eliminate 110 staff positions and drastically impact the management of numerous important programs, including the management of PILT, the very program that this amendment is intended to help. The PILT program is managed using staff from the Department Management account.

The Interior bill is a balanced bill. In developing this bill, The Committee made a number of difficult choices. If we had additional resources, I believe PILT would be a deserving program and I certainly would try to increase it. But I urge my colleagues to defeat this amendment.

Mr. Chairman, I ask unanimous consent that further debate on this amendment, and any amendments thereto, be limited to 10 minutes, to be equally divided and controlled by the proponent and myself, the opponent.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mrs. CUBIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Chairman, I rise with my colleague from Wyoming and a number of other colleagues from the West and from the East in support of this bipartisan amendment offered by the gentlewoman from Wyoming (Mrs. CUBIN).

The amendment would increase funding for the Payments in Lieu of Taxes, or PILT program, by $12 million. The result would be to bring the bill total for PILT to about 80 percent of the authorized amount. That would not be enough, in my opinion, but it would be a definite improvement.

PILT payments go to every State except Rhode Island, as well as to the District of Columbia, Guam, Puerto Rico, and the Virgin Islands, as we see on the map here. So PILT is a nationwide program. this amendment is important for local governments across the country. But it is particularly important for Western States because we have the largest amounts of public lands, again as we can see on the map. PILT payments help local governments pay for vital services like firefighting and police protection, construction of public schools and roads, and search and rescue operations. So it should be something local governments can count on without becoming hostage to debates over the management of Federal lands.

But as things stand now, PILT is neither stable nor dependable because the amount of each year's payments is decided by annual appropriations. We were reminded about that when the President's budget proposed a $26 million cut in PILT. This would have been devastating for Colorado. So I am glad the Committee on Appropriations rejected this idea, and I applaud them for including $230 million in the bill for PILT. However, that is still less than the full authorized amount.

That is why I support this amendment and that is why I urge the House to adopt it to bring us closer to full funding.

If I can conclude, the gentlewoman of Wyoming mentioned that it is unnecessary to continue debating PILT every year as a part of the appropriations process. She has a bill that would phase in full funding for PILT over 3 years. I have also introduced a bill with the gentleman from Colorado (Mr. SALAZAR) that would provide permanent automatic funding, and I hope the Committee on Resources will take this up in the near future.

But in the meantime we should pass this very bipartisan amendment, which will help counties all over our great country.

Mrs. CUBIN. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I thank the gentlewoman from Wyoming for yielding me this time.

I would also like to begin by thanking the people who have worked so hard on this bill, especially the gentleman from North Carolina (Mr. TAYLOR), who has been very thoughtful about the Payments in Lieu of Taxes issue and has worked well with us in the past. We are committed to getting full funding for PILT because the counties in rural America and areas where they are dominated by the Federal Government need that kind of support.

I have a map beside me here which is similar to the map the gentleman from Colorado (Mr. UDALL) had just a moment ago, although we did it in red because we want to represent the statement, so we can see the meaning of a statement that was made by President Ronald Reagan in 1988. He said: "I have a map. I wish everyone could see it. It's a map of the United States. And land owned by the government is in red, and the rest of the map is white. West of the Mississippi River, your first glance at the map, you would think the whole thing is red the government owns so much property."

□ 1345

The government owns so much property. I do not know any place other than the Soviet Union where the government owns more land than ours does.

We have a problem. The Federal Government owns the bulk of the West. Half of California is owned by the Federal Government. Two-thirds of most of the other States in the West are owned by the Federal Government. That means we do not tax those lands, and that means that in the western United States, we pay less per child per education, but we tax our people more per family, because we are supporting the Federal Government in this environment. It is only fair that we pay a reasonable amount in lieu of taxes to cover that shortfall.

So I urge my colleagues to support this amendment to add a modest sum to the PILT, but a sum that is very, very important to the American people, those who live in these public land areas, and those who enjoy them from the rest of the country.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in reluctant opposition to this amendment, and I yield myself such time as I may consume.

While I agree that our counties would wisely use increased PILT payments, I think that this bill provides the proper funding for PILT, considering the very tight allocation the subcommittee was given. Like many of my colleagues who represent districts with large amounts of Federal lands not part of the tax base, I understand the difficulties our communities face. That is why I have always strongly supported PILT. But I believe that the $3 million increase that PILT receives in this bill compared to 2005 should be defended, considering the many other programs facing cuts.

In a healthier budget climate, I would gladly support funding PILT at an amount higher than the $230 million contained in this bill. Unfortunately, we are facing a much bleaker budget reality.

Again, I urge a "no" vote on the amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. CUBIN. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I thank the gentlewoman from Wyoming for yielding me this time.

Mr. Chairman, I rise in support of the pending amendment, and I commend the gentlewoman from Wyoming for her leadership on this issue, as well as the gentleman from Colorado (Mr. UDALL) and the gentleman from Utah (Mr. CANNON). It is always a pleasure for me to team up with these distinguished colleagues, and especially my friend from Wyoming (Mrs. CUBIN), on natural resource issues of importance to both of our States. It is true that we are sometimes at odds with each other, that is never a pleasant experience, but when we do see eye to eye, we can make some inroads.

Today I find myself the token easterner on the bipartisan Cubin-Rahall-Cannon-Udall amendment to restore a portion of authorized funding for the PILT program. I chose to sponsor this amendment to make a point. PILT is as important in the east as it is to the west.

West Virginia, for instance, is heavily forested and 919,000 acres are federally owned with the Monongahela National Forest. PILT payments are extremely important to the forest counties, helping them to provide essential services to the public.

This amendment is about keeping faith with our units of local government who are already being strained to the limit.

Under the PILT program, the deal is that the Federal Government will compensate these localities for the loss of local tax revenues from Federal lands.

I urge support for the amendment.

Mrs. CUBIN. How much time do I have remaining, Mr. Chairman?

The Acting CHAIRMAN (Mr. SHIMKUS). The gentlewoman from Wyoming (Mrs. CUBIN) has 30 seconds remaining.

Mrs. CUBIN. Mr. Chairman, I yield 30 seconds to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, let me just read this statement. It seems the Washington Post has some sympathy for this: "The Federal Government is the largest landowner in Washington. Since the land cannot be taxed, the Federal Government is the principal contributor to the district's chronic fiscal imbalance."

Now, if the Federal Government owns a lot of land in the District of Columbia, believe me, Arizona, Utah, Nevada, California, Colorado, we ought to really be hurting, because the incidence of Federal land is so much higher there.

The President had initially more than $200 million for Federal land acquisition. It has been cut by the chairman down to $43 million. It is still too much, and particularly when PILT is underfunded.

Mr. SALAZAR. Mr. Chairman, I rise today to speak in favor of the Cubin-Rahall-Cannon-Udall Amendment. In 1976, Congress passed the Payment in Lieu of Taxes Act in an effort to compensate counties for the loss of property tax revenue that comes with having large tracts of Federal lands within their jurisdiction. These important funds help local governments meet the needs for schools, road construction and other infrastructure projects for their residents.

In my district alone, there are over 17 million acres of land eligible for PILT payments; accounting for $11 million in Fiscal Year 2004. In the recent past, Congress has failed to fund PILT to its authorized level, leaving local governments with the burden of answering painful budget decisions. We have seen a great discrepancy between authorized funding levels and the appropriated amounts. In FY 2004, PILT was funded to only 67 percent of its authorized level; falling over $100 million dollars short of what the Bureau of Land Management found to be the authorized level.

Mr. Chairman, this amendment will get us closer to reaching the goal of 100 percent PILT appropriation. If adopted, this Congress will fund PILT to its highest level in a decade. The bipartisan PILT Amendment would add $12 million to PILT by redirecting funds from Interior Department overhead. This will help local governments by providing approximately 80 percent of the authorized level for PILT while still allowing the Interior Department to spend $10 million more for administrative costs than in fiscal year 2005. We will provide small rural counties with the resources necessary to provide basic services to their residents.

This Congress owes it to Rural America to fully fund PILT. I ask my colleagues to support the Cubin-Rahall-Cannon-Udall Amendment to the Interior Appropriations bill.

SUMMARY BY COUNTY OF PILT PAYMENTS—COLORADO'S 3RD CONGRESSIONAL DISTRICT

[Fiscal Year 2004]

County	Payment (dollars)	Total acres
Alamosa County	$103,015.00	77,592
Archuleta County	522,307.00	440,797
Conejos County	556,046.00	498,778
Costilla County	1,219.00	887
Custer County	224,555.00	174,173
Delta County	166,250.00	405,624
Dolores County	80,946.00	422,281
Garfield County	1,170,205.00	1,188,113
Gunnison County	311,753.00	1,636,328
Hinsdale County	72,758.00	676,515
Huerfano County	180,690.00	214,966
Jackson County	97,816.00	515,761
La Plata County	536,066.00	434,015
Las Animas County	409,384.00	316,559
Mesa County	1,606,962.00	1,563,639
Mineral County	80,427.00	524,299
Moffat County	317,051.00	1,671,738
Montezuma County	413,306.00	471,828
Montrose County	1,248,681.00	974,793
Otero County	240,480.00	181,265
Ouray County	206,790.00	157,387
Pitkin County	581,980.00	562,074
Pueblo County	86,047.00	63,174
Rio Blanco County	284,122.00	1,498,114
Rio Grande County	410,184.00	334,630
Routt County	462,772.00	665,854
Saguache County	362,613.00	1,292,699
San Juan County	40,653.00	214,353
San Miguel County	297,888.00	485,909
District Total	11,072,966.00	17,664,145

Mr. MATHESON. Mr. Chairman, I rise today in support of this bipartisan amendment, which would benefit counties and local governments in 49 States.

The Federal Government makes PILT payments to counties that have Federal lands to make up for the revenue local governments lose because they cannot collect property taxes on the Federal lands within their borders. Congress has chosen to underfund these PILT payments—leaving local governments in nearly every State with less funding for education, law enforcement, firefighting, search-and-rescue, and other services. In my congressional district alone, localities have lost over 48 million dollars in PILT funding because of inadequate appropriations by Congress over the last ten years.

The bipartisan amendment we are discussing today would bring the Federal Government's payments for PILT a bit closer to the authorized funding level, helping local governments in 49 States.

I encourage you to vote for this bipartisan amendment, which is a key step toward meeting Congress' commitment to our local governments.

Mr. OTTER. Mr. Chairman, I rise to strike the required word.

One of the greatest responsibilities of representing Idaho in Congress is convincing Members who represent other States—particularly those east of the Mississippi River—why some issues matter to us so much.

High among those issues is our unique relationship with our biggest landlord. Almost two-thirds of Idaho is federally owned, and therefore exempt from local property taxes that pay for everything from our children's schools to police and fire protection.

Picking up our Uncle Sam's slack means in the West we each pay higher property taxes and our counties are forced to make tough choices about essential public services. Counties in Idaho were shorted $75.5 million from 1995 through 2004 alone. That burden is heaviest where it can least be borne, in more rural counties with relatively small tax bases.

Since almost all the land in the East is private, States there have no such concerns. Many Members of Congress from the East, care little about how tax-exempt Federal land hurts folks in Idaho. They just don't get it.

I am extremely disappointed at the Administration's FY 06 PILT request of $200 million—a $26.8 million reduction from the FY 05 payment. PILT was funded at $200 million back in 2001 and is clearly a step backward in a commitment to compensate counties for financial burdens imposed on them through an overwhelming Federal presence.

There's no getting around the need for some of the basic services that property taxes provide on the local level, but there's no excuse for having to pay extra for the 'honor' of having so much nontaxable Federal land in our counties. The Federal Government has been a deadbeat landlord long enough.

I am very concerned that over the past ten years, the PILT program has been funded at an annual average of $155 million, while over the same time period, Federal land acquisition funding has averaged more than $347 million. Why are we buying more land when we can't make good on the commitments for the land we already have?

I applaud Chairman TAYLOR for trying to address this problem and recognize the constraints he has to work within. Mr. TAYLOR I commend you for recognizing the importance of this program and for increasing PILT up to $230 million while at the same time reducing land acquisitions to roughly $40 million.

However, I think we need to go further and zero out all land acquisitions until PILT is fully funded and the Federal Government can actually manage the land under its ownership. I would encourage everyone to vote for the Cubin, Rahall, Udall, Cannon amendment and give what is due to our rural communities.

Ms. HERSETH. Mr. Chairman, I strongly support the Cubin-Rahall-Udall amendment that seeks to increase funding to the Payment in Lieu of Taxes (PILT) program by $12 million. This would increase PILT payments to local government by redirecting funds from Interior Department administrative and overhead accounts. This amendment would bring the Federal Government's payments for PILT closer to the authorized funding level, helping local governments in 49 States, while still allowing the Interior Department to spend $10 million more for administrative costs than in fiscal year 2005. Had the House of Representatives held a recorded vote on this amendment, I would have voted to support it. As it is, the propriety of this amendment was so clear to my colleagues and me that no Member of the House of Representatives sought a recorded vote on this issue and it passed by voice vote.

Along with Interior Appropriations Subcommittee Chairman TAYLOR of North Carolina, I oppose the amendment by Mr. HEFLEY of Colorado that pertains to PILT funding. As I mentioned above, I strongly support increased PILT funding, but I am opposed to the offset that Mr. HEFLEY would use to pay for his amendment. He would pay for those increased PILT funds by reducing the allocation for the National Endowment for the Arts by $15 million. The Cubin-Rahall-Cannon-Udall uses a much preferable offset and that is why I voted to oppose the Hefley Amendment and why I voice my strong support for the Cubin-Rahall-Cannon-Udall Amendment.

The Acting CHAIRMAN. The gentleman from Washington (Mr. DICKS) still has 4 minutes remaining.

Mr. DICKS. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Wyoming (Mrs. CUBIN).

The amendment was agreed to.

The Acting CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), $230,000,000, of which not to exceed $400,000 shall be available for administrative expenses: *Provided*, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than $100.

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY:

Page 45, line 16, after the first dollar amount, insert the following: "(increased by $4,800,000)".

Page 106, line 9, after the dollar amount, insert the following: "(reduced by $15,000,000)".

Mr. TAYLOR of North Carolina. Mr. Chairman, I ask unanimous consent that the debate on this amendment and any amendments thereto be limited to 10 minutes to be equally divided and controlled by the proponent and myself, the opponent.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

This amendment cuts $15 million from the account of the National Endowment for the Arts and applies $4.8 million to the payments in lieu of taxes account. What I wanted to do is make that equal; but it was subject to a point of order, so this is what we came up with. It would reduce the NEA account to about the level at which it had been funded for about a decade, while bringing PILT just a little bit closer to its $340 million authorization level.

Now, I want my colleagues to know that this is not an NEA-bashing amendment. The NEA I think has considerably cleaned up its act since the days of Mappelthorpe and Serrano, and the Challenge America grants program has helped return the NEA to educational outreach, the thing that it did with some success at its founding.

No, this amendment is an acknowledgment, and we have been hearing a lot about it this afternoon, but this is an acknowledgment of the need for the PILT program.

People have often said to me, you are so lucky to live in the West with all of the open space and all the public land, and I do consider myself lucky because of that. But people who do not live in the public land States do not realize sometimes that these public lands and all that open space comes at a cost. My colleagues saw the gentleman from Utah's (Mr. CANNON) map up here with the red and so forth showing the public lands. East of the Mississippi, there are a few red spots scattered around. West of the Mississippi, it is almost solid red. The West is essentially owned by the government.

For every acre under public ownership, western counties and municipalities lose part of their tax base. In Colorado, this amounts to almost 30 percent of the State's acreage. Of course, we heard earlier, this pales to the about 85 percent of the States' acreage in Nevada that is under Federal control. We have one county in Colorado, Hinsdale County, that is close to 98 percent public land. You have Lake City, the county seat, you have a mountain, and then you have the rest of Hinsdale County; and almost all of it is owned by the government. So services, as you can imagine, are limited.

Services mean fire and police and schools and health care and all kinds of things.

There are other more direct costs too. Due to Federal underfunding of its own land, local municipalities are often asked to bear the cost of road maintenance and police coverage for those areas. All of this, while operating under the diminished tax base that I mentioned earlier.

So I have always supported full funding of PILT, and I know we cannot get there this year. I do appreciate the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) for what they have done for PILT in this bill. They have moved it forward somewhat. But since we have all this land, I think we should give us the funds we need to help take care of it.

Mr. Chairman, I urge passage of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to claim the time in opposition.

The Acting CHAIRMAN. The gentleman from North Carolina (Mr. TAYLOR) is recognized for 5 minutes in opposition to the amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to this amendment, recognizing the very serious problems that its proponent seeks to address. But it would be very unwise to cut the budget of the NEA, especially after we succeeded in adding a little money back to it, because the NEA is simply doing a fantastic job now of strengthening public arts education, of strengthening arts institutions, and of helping arts institutions to market themselves and strengthen the economies of not only our inner cities, but small, rural communities. So in Connecticut, the NEA, in conjunction with the Connecticut Commission on the Arts, has really helped us develop the itineraries that we needed to attract tourism to the small towns with arts institutions or performing groups where the agricultural economy is failing.

In our schools, the HOT schools, (the Higher Order of Thinking schools), have been supported by the NEA, and have helped children understand that not only thinking is a powerful process, but original thinking is an extraordinary process children can possess and use to grow in mind and spirit, as well as technical capability.

In 139 of Connecticut's schools, they are using the NEA's Shakespeare in American Communities, a free educational kit that really helps kids grasp the power of Shakespeare. Who better can teach children about the horrendous power of greed to do evil and the tremendous opportunity of love to do good.

So the arts are extremely important to the spiritual strength of this Nation, the strength of its economy, and the health and well-being of our children, for the arts provide the power to aspire to new heights of greatness in each of us.

So I must oppose this amendment, because it drains resources from the National Endowment for the Arts.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

I think it is interesting that the gentlewoman is from Connecticut. If my colleagues remember that map, public lands are insignificant in Connecticut by comparison with States in the west where we have up to 85 or 90 percent of the land owned by the government.

I said at the outset that this is not an NEA-bashing amendment. The NEA does many good things; but we only have so much money, and the committee knows that is the case. They are the ones that had to struggle with the allocation they got and they had to make tough, tough choices. When you have to make choices, I think you need to ask yourself the question, NEA, as good as it is in some areas, is it better than having the funds to educate your children in many of those western States? Is it better than having the funds to provide fire protection, to provide police protection, to take care of those public lands that are out there? Which is better? We have to weigh it and balance it.

The gentleman from Washington (Mr. DICKS) said a while ago that he thought they had a pretty good balance. I think that if you are making these choices, the balance needs to lean a little bit more to the PILT.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

The amendment increases payments in lieu of taxes $4.8 million and reduces the National Endowment for the Arts by $15 million. This Interior bill is a balanced bill. In developing this bill, the committee made a number of difficult choices. If we had additional resources, I believe PILT would be a deserving program, as we have said over and over again here today. But to unbalance this bill at this time, I must rise in opposition. I encourage my colleagues to do the same thing.

Mr. Chairman, I yield back the balance of my time.

Mr. HEFLEY. Mr. Chairman, I would just encourage an "aye" vote on this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

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Mr. SWEENEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to engage the chairman of the Interior Subcommittee in a colloquy dealing with some language in the committee report requiring the EPA to fund a National Academy of Science study.

Mr. Chairman, we have already heard that there is language requiring such a study to determine the effectiveness and cost of a large dredging operation of hazardous waste sites, many of which are contaminated with PCBs.

I would point out that our colleague, the gentleman from New York (Mr. HINCHEY), who engaged in a colloquy a little earlier, stated that there was strong support for this project. Well, this is a project that has been debated for 20 years. In some ways that is an overstatement of that support.

I represent the affected area, and in fact it has been an extremely difficult process for my constituents. However, we all agree that further delay of the project is in no one's best interest. As you have already clarified, the report language, Mr. Chairman, in no way is intended to delay, stop or otherwise disrupt the cleanup planned for the Hudson River slated to begin in the summer of 12006.

Further, the EPA has reviewed the language and found no provision that would require them to disrupt the Hudson River project in any way. Is that your understanding, Mr. Chairman?

Mr. TAYLOR of North Carolina. The gentleman is correct. In no way should this study delay or disrupt either phase 1 or 2 of the planned cleanup of the Hudson River, any other ongoing Superfund site. And I know of no party involved that wishes that delay.

I will work with the gentleman to consider whether modifications to the language are needed to further clarify this point.

Mr. SWEENEY. Mr. Chairman, I thank you for that kind offer and clarification. Let me just say that it has long been my position that we should not debate past decisions no the Hudson River but look to the future in the region and focus on protecting those communities most directly affected by the cleanup project.

What has been consistently overlooked is the fact that dredging will have a heavy impact on people's everyday lives. This is especially true for the residents of Fort Edward, New York, who will be hosting the dewatering site in their community.

As the representative of that area, I want to continue to strive to uphold their interests and remind others that we are talking about real people and real neighborhoods, and not just political points for some special interest groups.

For that reason, I want to thank you for a separate report language provision which was inserted at my request to address the burden the Hudson River cleanup project is placing on the people of Fort Edwards and reiterate my concern that the EPA do all it can to provide assistance to the town.

It is my hope that we can jointly work towards that end and meet that important goal as the appropriation process continues.

Mr. TAYLOR of North Carolina. I thank the gentleman from New York (Mr. SWEENEY) for his good work on the Hudson River cleanup and for bringing the need for clarification of the intent of the study to my attention. I like forward to working with the gentleman and learning more about Port Edwards' needs.

Mr FARR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage in a brief colloquy, if you will, on the subject of the proposed USGS laboratory in Santa Cruz, California.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FARR. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I would be happy to discuss this matter with the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, as the chairman is aware, I have raised concerns about the plans to build a new USGS laboratory in Santa Cruz. Actually I am thrilled to have USGS moving into my district, but the USGS will benefit greatly from the synergy of other local marine science facilities in the area, including the University of California's Long Marine Lab and the United States Government's National Marine Fisheries Service Lab.

With USGS collocated near these other facilities, I believe the United States will have the best marine science information anywhere. But in the development of the plans for the lab, we run into contradictory budget numbers and laboratory configurations that have dogged final approval for getting this project off the ground, and it has really been a problem. And I appreciate your consideration of being willing to work with me to facilitate the meeting of the principals involved in this project and resolve some of these questions once and for all.

Mr. TAYLOR of North Carolina. I understand the gentleman's concern over this issue, and appreciate his desire to see the facility built. I would be pleased to assist in a meeting with the gentleman and agency officials on this matter.

I thank the gentleman for his commitment to this issue.

Ms. BORDALLO. Mr. Chairman, I move to strike the last work for the purpose of entering into a colloquy with the gentleman from North Carolina (Chairman TAYLOR) regarding urgent construction and maintenance needs for the War in the Pacific National Historically Park in Guam.

Mr. Chairman, my district, Guam, is home to a unique national park. The War in the Pacific National Historical Park was established by an act of Congress in 1978. It is the only site in the National Park System that honors the bravery and sacrifices of all of those who participated in the Pacific theater of World War II.

Among the seven units of park and its features is a memorial wall at the Asan Bay Overlook as that preserves and honors for perpetuity the 1,642 names of Chamorro and American casualties who suffered or died during the war in Guam.

The memorial wall was authorized by an act of Congress in 1993 and today is in dire need of repair and restoration. Mr. Chairman, my home island of Guam, as many of my colleagues know, is vulnerable to tropical intense weather conditions.

In December of 2003, one of the most powerful typhoons to ever strike hit Guam with over 200-mile per hour wind gusts. Many elements of the park were casualties of this storm. In the aftermath of Supertyhpoon Pongsona, the service was forced to close the Park Visitors Center, which had been leased for several years and which has not yet been reopened or replaced. The memorial wall, in particular, has suffered since it was originally constructed and has deteriorated to unacceptable conditions.

We are now commemorating the 60th anniversary of the War in the Pacific, and the need to repair and restore this memorial wall deserves the support of the service and this Congress. Of a more long term but just as deserving a need is the construction of an appropriate contact facility for the park to provide for the visitor experience and the interpretation of the war.

Mr. Chairman, I am extremely disappointed that the service's budget request failed again this year to adequately take into account these needs. It is my hope that these projects, particularly the memorial wall, will receive greater attention and higher priority from the service as they allocate discretionary funds in fiscal year 2006 as they prepare the fiscal year 2007 and future budget requests.

I would appreciate the help of the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS) in ensuring that the service budgets appropriately for the needs of the War in the Pacific National Historic Park.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentlewoman yield?

Ms. BORDALLO. I yield to the distinguished gentleman from North Carolina.

Mr. TAYLOR of North Carolina. I thank the gentlewoman from Guam (Ms. BORDALLO) for raising the budget issues. The committee recognizes the uniqueness and development needs of the War in the Pacific National Historical Park in Guam.

We will work with the National Park Service to remedy this situation. I thank the gentlelady for her efforts and look forward to continuing to work with her on this matter in the future.

Ms. BORDALLO. Mr. Chairman, I thank the gentleman for his commitment to the National Park Service and for his comments and concerns regarding the War in the Pacific National Historical Park in Guam. I look forward to continuing to work with the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) to address this serious situation.

The Acting CHAIRMAN (Mr. SHIMKUS). The Clerk will read.

The Clerk read as follows:

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), $9,855,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account, to be available until expended without further appropriation: *Provided further*, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $55,340,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $39,566,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For the operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $191,593,000, to remain available until expended, of which not to exceed $58,000,000 from this or any other Act, shall be available for historical accounting. *Provided*, That funds for trust management improvements and litigation support may, as needed, be transferred to or merged with the Bureau of Indian Affairs, "Operation of Indian Programs" account; the Office of the Solicitor, "Salaries and Expenses" account; and the Departmental Management, "Salaries and Expenses" account: *Provided further*, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2006, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further*, That, notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That, notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of $1.00 or less: *Provided further*, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder: *Provided further*, That not to exceed $50,000 is available for the Secretary to make payments to correct administrative errors of either disbursements from or deposits to Individual Indian Money or Tribal accounts after September 30, 2002: *Provided further*, That erroneous payments that are recovered shall be credited to and remain available in this account for this purpose.

INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, $34,514,000, to remain available until expended, and which may be transferred to the Bureau of Indian Affairs and Departmental Management accounts: *Provided*, That funds provided under this heading may be expended pursuant to the authorities contained in the provisos under the heading "Office of Special Trustee for American Indians, Indian Land Consolidation" of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291).

NATURAL RESOURCES DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101–380) (33 U.S.C. 2701 et seq.), and Public Law 101–337, as amended (16 U.S.C. 19jj et seq.), $6,106,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund: *Provided further*, That the annual budget justification for Departmental Management shall describe estimated Working Capital Fund charges to bureaus and offices, including the methodology on which charges are based: *Provided further*, That departures from the Working Capital Fund estimates contained in the Departmental Management budget justification shall be presented to the Committees on Appropriations for approval: *Provided further*, That the Secretary shall provide a semi-annual report to the Committees on Appropriations on reimbursable support agreements between the Office of the Secretary and the National Business Center and the bureaus and offices of the Department, including the amounts billed pursuant to such agreements.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for "wildland fire operations" shall be exhausted within 30 days, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

Sec. 103. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

Sec. 104. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

AMENDMENTS OFFERED BY MR. PETERSON OF PENNSYLVANIA

Mr. PETERSON of Pennsylvania. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. PETERSON of Pennsylvania:

Page 53, line 12, insert "oil" after "offshore".

Page 53, line 20, strike "and natural gas".

Page 54, line 3, strike "and natural gas".

The Acting CHAIRMAN. Is there objection to the consideration of the amendments en bloc?

There was no objection.

The Acting CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. PETERSON) for 5 minutes.

Mr. TAYLOR of North Carolina. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be limited to 20 minutes, 10 minutes to the proponent and 10 minutes to an opponent, myself.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment will remove the words "natural gas" from the moratorium that has been in every Interior bill. I am told, for 20 some years, unbeknownst to many Members of this Congress, that prohibits the Department of Interior from leasing or subleasing lands on the Outer Continental Shelf, our greatest reserve for natural gas.

The number one economic challenge facing America was not addressed in our energy bill, in my view and the view of many, because we did not adequately deal with the clean fuel, the fuel that has no NO_X, no SO_X, the least CO_2, the clean-burning fuel, natural gas, that can be our bridge to the future.

It is threatening home ownership, folks. 76 percent increase in oil prices, 176 percent increase in natural gas prices. Here is what one of our leading employer group says: America has a new energy crisis. This time it is the runaway price of natural gas.

Congress must act now to ease the natural gas crisis of this Nation's fragile economic recovery, or it will return to recession. Every recession since World War II has been preceded by a run-up in energy prices and none of the run-up in prices have equaled the run-up in natural gas prices.

It is threatening small business. It is the fastest increase in the cost of education. It is the fastest increase in the cost of our hospital health care. It is the greatest threat to our farm community with exploding fertilizer costs. And because fertilizer factories use so much natural gas, 21 of them have quit making fertilizer in America, and all of them are looking offshore to produce fertilizer. Ninety thousand chemical jobs, some of the best paying jobs in the industrial sector we have left. Polymers and plastics are all looking to move offshore.

The production of natural gas on the Outer Continental Shelf is not looked at as an environmental threat by Canada, they sell us gas that they produce, the UK, Norway, Australia, New Zealand, all countries with environmental records. Eighty-five percent of our gas reserves are locked up by moratorium.

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Why? It is the clean fuel. As I said before, no docks, CO_2 one-fourth as much. It is the bridge to hydrogen. It could be bridging us in the transportation field like school buses, transportation systems, taxicabs, delivery trucks, easily changeable to natural gas if it was affordable and we had adequate supply.

Natural gas is 25 percent of our energy use today. If we had an adequate supply, it could be the friendly bridge, the environmentally friendly bridge, to lead us to hydrogen, give us time for stronger conservation measures, growing use of renewables and less dependence on oil today.

A gas well is not an environmental threat. It is a 6-inch hole that is cemented at the top and cemented at the bottom with a steel casing, and it lets gas out. Canada produces in our Great Lakes and sells the gas to us with no environmental impact.

When we look at this map, and this is my concluding comment, the natural gas and oil, when we buy $50 oil, the whole world buys $50 oil; but in natural gas we are at $7. Europe is at $5-something. Japan and China are 4-something, and then we look at a dollar, 90 cents in Russia. Where are industries going to grow? They are not going to grow here.

This is the most important amendment we will consider, in my view, in this part of Congress. Natural gas is a tragedy happening, and we can stop it by lifting the moratorium.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield my 10 minutes to the gentleman from Florida (Mr. YOUNG) and ask unanimous consent that he control the 10 minutes of time.

The Acting CHAIRMAN (Mr. SHIMKUS). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. DICKS. Mr. Chairman, I would like to have some time on this side, if we could have 5 minutes of the 10 minutes, if we could work that out.

Mr. YOUNG of Florida. Mr. Chairman, is the gentleman in opposition to this amendment?

Mr. DICKS. Yes, I am in opposition.

Mr. YOUNG of Florida. Mr. Chairman, we appreciate that. We have only a total of 10 minutes to state our opposition. So how about 4 minutes?

Mr. DICKS. Four minutes would be fine.

Mr. YOUNG of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Washington (Mr. DICKS) for the purposes of control.

The Acting CHAIRMAN. Without objection, the gentleman from Washington (Mr. DICKS) will control 4 minutes.

There was no objection.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself 3 minutes, and despite the eloquence of the gentleman from Pennsylvania (Mr. PETERSON), my friend, who makes this amendment sound really attractive, I must rise and express the objection of the Committee on Appropriations to this amendment.

This amendment is no better than the amendment offered in full committee which would have taken $50 million from very important environmental protection issues and transfer it to this fund to create an inventory of gas and oil. The fact of the matter is, we cannot afford to remove the environmental protection in this bill, and we do not need the inventory that the gentleman from Pennsylvania (Mr. PETERSON) talks about. This amendment opens all coasts to new drilling.

The oil companies, the energy companies, the gas companies themselves already have this inventory, as does the Minerals Management Service at the Department of the Interior. We already know about this.

The truth of the matter is, this would just be a raid on the environmental issues to fund something that does not need to be done.

The committee is opposed to this. The Committee on Energy and Commerce have debated this in the past, have rejected similar amendments; and I hope that we will do the same thing today, that we will reject this particular amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I thank the gentleman for the time.

Mr. Chairman, I rise in strong opposition to the Peterson amendment. This amendment guts the long-standing bipartisan moratorium that currently protects the Nation's most sensitive coastal and marine areas, areas including California, Florida, the eastern Gulf of Mexico, the Pacific Northwest, New England, and the entire Atlantic coast. It is completely unnecessary.

Proponents say that we need to drill offshore to put an end to the high energy prices. The only problem with this argument is that the moratoria are not where the resources are.

MMS released its latest OCS resources survey just last year. Eighty-one percent of the undiscovered, uneconomically recoverable natural gas in the OCS is located in the central and western Gulf of Mexico where drilling is currently allowed and under way.

This amendment means drilling in the coastal areas of the United States where there is not a whole lot of gas and oil, where tens of millions of our citizens have made it clear they do not want any more gas drilling, and it means gutting the Presidential-congressional moratoria that had been in for decades, reaffirmed by Presidents George H.W. Bush, Clinton, George Bush, every Congress since 1982. State officials have also endorsed the moratoria, including Governor Bush, Governor Schwarzenegger.

This House has voted three times in recent years to stop the oil drilling in waters off Florida, California, and the entire OCS. I urge my colleagues to defeat this amendment.

Mr. Chairman, I rise in strong opposition to the Peterson amendment. This amendment would gut the longstanding, bipartisan moratorium that currently protects some of the Nation's most sensitive coastal and marine areas. These moratoria areas include California, Florida and the Eastern Gulf of Mexico, Oregon, Washington, New England, and the entire Atlantic Coast. This amendment is an attack on the moratorium, and an attack on the rights of coastal States and local governments to raise legitimate objections to offshore development that affects their coastlines.

Mr. Chairman, this amendment is a bad idea for a number of reasons, not least because it is completely unnecessary. Proponents of the amendment say that we need to drill offshore to put an end to high energy prices. The only problem with this argument is the moratoria areas aren't where the resources are. The Minerals Management Service conducts a resources survey every five years. The latest comprehensive analysis assessment was finished in 2003. This assessment includes estimates of undiscovered oil and natural gas that is conventionally and economically recoverable.

We already know, for instance, that 81 percent of the Nation's undiscovered, economically recoverable natural gas on the OCS is located in the Central and Western Gulf of Mexico—where drilling is currently allowed and underway.

The amendment would mean drilling in coastal areas of the United States where there isn't a whole lot of oil and gas and where tens of millions of our citizens have made it clear that they don't want any more drilling.

Mr. Chairman, a little history might be in order here. In 1990, President George H.W. Bush announced an executive moratorium ending new drilling off California, Oregon, Washington, Florida and the entire East Coast. President Clinton extended it to 2012. Both actions were met with widespread acclaim by a public that knows how valuable—environmentally and economically—our coastlines are. And, of course, Congress has supported these actions for the last 20 years by restricting MMS from spending funds to support any new drilling or pre-drilling activities in these areas.

In addition, President George W. Bush endorsed both moratoria in his FY 06 budget. State officials—including Florida Governor Jeb Bush and California Governor Arnold Schwarzenegger—have endorsed the moratoria. And, the House of Representatives has voted three times in recent years to stop new drilling in the waters off Florida, California and the entire Outer Continental Shelf. This amendment is bad policy and reflects the misguided attempt to try and drill our way out of energy problems.

Mr. Chairman, the United States has 3 percent of the known resources but we account for 25 percent of demand. Despoiling all of our coastal areas in the fruitless search for "energy independence" isn't going to work. Coastal communities continue to speak—in strong bipartisan voices—to protect their State's sensitive coastal resources and productive coastal economies. They are too economically valuable to risk with more drilling. It takes only one accident or spill to devastate the local marine environment and economy.

Mr. PETERSON suggests that his amendment would be limited to exploration for natural gas only, and that this approach would somehow avoid the risks of offshore oil drilling. There are serious flaws with this theory. There is virtually no way to explore only for natural gas without exploring for oil.

Moreover, natural gas development also has substantial and long-lasting impacts, including noise, water and air pollution. And it impacts the tourism and fishing industries.

Mr. Chairman, last Congress, 56 Republicans and 172 Democrats voted to protect the OCS Moratorium. In that vote, the House demonstrated its commitment to protecting our vital coastal communities. A vote against this amendment is the same thing—a vote to protect coastal areas from new drilling. We need to reject these attempts to weaken existing protections for our coastal waters.

I urge my colleagues to oppose this amendment.

ASSESSMENT OF UNDISCOVERED TECHNICALLY RECOVERABLE OIL AND GAS RESOURCES OF THE NATION'S OUTER CONTINENTAL SHELF, 2003 UPDATE

Using a play-based assessment methodology, the Minerals Management Service estimated a mean of 76.0 billion barrels of undiscovered recoverable oil and a mean of 406.1 trillion cubic feet of undiscovered recoverable natural gas in the Federal Outer Continental Shelf of the United States.

INTRODUCTION

This assessment represents an update of selected basins of the Federal Outer Continental Shelf (OCS). Assessments of the entire OCS were made by the Minerals Management Service (MMS) in 1995 and 2000 (MMS, 1996 and MMS, 2001). The next MMS assessment of the entire OCS is scheduled for completion in mid 2005. Areas selected for this update included those where significant new discoveries were made, such as parts of the Gulf of Mexico, and areas where new geological concepts have been developed, such as the Atlantic OCS margin and the North Aleutian Basin of Alaska. Results from this selective update were combined with the year 2000 assessment results from other areas to yield the regional totals presented here.

The MMS utilizes a probabilistic play-based approach to estimate the undiscovered technically recoverable resources (UTRR) of oil and gas for individual plays. This methodology is suitable for both conceptual plays where there is little or no specific information available, and for developed plays where there are discovered oil and gas fields and considerable information is available. After estimation, individual play results are aggregated to larger areas such as basins and regions.

This assessment is limited to technically recoverable undiscovered resources of oil and gas. Unlike MMS's 1995 and 2000 assessments, it does not contain economic analyses of what portion of these technically recoverable resources are commercially viable.

RESOURCE SUMMARY

The MMS estimated that 76.0 billion barrels of oil and 406.1 trillion of cubic feet of gas are technically recoverable from the U.S. Federal OCS. These results are presented by area in table 1, which lists mean values as wells as the 95th and 5th percentile values representing high and low probability cases, respectively. Greater range between the high and low values indicated higher uncertainty in the estimates.

These values represent a 1 percent increase in oil resources and a 12.1 percent increase in gas resources when compared with MMS's 2000 assessment. The increases are due to changes in the assessments of the Atlantic and Gulf of Mexico OCS areas. Both the Alaska and Pacific OCS area resource estimates are essentially unchanged from 2000. The increases also account for the approximately 2 Bbbl oil and 8 Tcfg that were discovered and moved to the reserves category during this time period.

TABLE 1.—UNDISCOVERED TECHNICALLY RECOVERABLE RESOURCES OF THE OCS

	Undiscovered technically recoverable resources								
	UTRR oil (Bbbl)			UTRR gas (Tcf)			UTRR BOE (Bbbl)		
	F95	Mean	F5	F95	Mean	F5	F95	Mean	F5
Alaska OCS	16.6	25.1	35.9	54.6	122.1	226.2	28.0	46.9	72.1
Atlantic OCS	1.9	3.5	5.3	19.8	33.3	50.6	5.4	9.4	14.3
Gulf of Mexico OCS	31.5	36.9	44.0	208.9	232.5	267.6	68.7	78.3	91.6
Pacific OCS	4.4	10.5	21.8	7.4	18.2	38.2	5.7	13.7	28.6
Total OCS	62.1	76.0	93.0	326.2	406.1	520.0	122.0	148.3	180.4

(Bbbl, billion barrels of oil. Tcf, trillion cubic of gas. F95 indicates a 95 percent chance of at least the amount listed, F5 indicates a 5 percent chance of at least the amount listed. Only mean values are additive.)

In the Atlantic OCS area significant new knowledge and information was gained as a result of recent drilling in the Scotian basin offshore Canada. Applying this new information led to adjustments to risks applied to previous defined plays, and to the definition of new plays resulting in increased estimates for oil and gas UTRR of 52 percent and 19 percent respectively over MMS's 2000 study. Gulf of Mexico OCS oil resources have remained flat while gas resources have increased by over 20 percent relative to MMS's 2000 study. This increase is attributed primarily to plays in the deep shelf areas of the Central and Western Gulf of Mexico, and to the Eastern Gulf of Mexico. Results of new drilling and discoveries led to revisions of plays and their associated risks that significantly increased gas resources. This is especially true for conceptual plays where valuable insights into the presence of source rock, maturation, migration, trapping, and reservoir facies were gained.

REFERENCES

Minerals Management Service (MMS), 1996: An Assessment of the Undiscovered Hydrocarbon Potential of the Nation's Outer Continental Shelf, OCS Report MMS 96-0034.

—, 2001: Outer Continental Shelf Petroleum Assessment, 2000, OCS Report MMS 2001-036, 12 p.

Mr. YOUNG of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I would like to associate my comments with the gentlewoman from California (Mrs. CAPPS).

The proponents of this say that it is oil and gas. We are not talking oil. If you want to poke a hole in the ground in Oklahoma or you want to do it in land or even in ANWR, where they have the technology not to cause the spills, that is fine. I will support you, or clean coal. I will support you.

I understand the plight the farmers have with the cost of natural gas and the fertilizer problem that they have. I will work with the gentleman on that as well.

They say, well, let us do it in the Gulf of Mexico, so we are going to do to Mexicans what we want to do for us? If you poke a hole in the Earth, you are going to get oil up. I do not know if you have ever come to Long Beach, you better bring kerosene with you if you go on our beaches. Because you take your dog or you walk along those beaches, the bottom of your feet are solid oil. You go poking holes in that, the economy of California is critical to tourism.

We have the best beaches, better than Washington State. We have the best weather, and we invite you to come spend your money in California, but you are not going to come if we start poking holes in the bottom of the Pacific along the coast as the gentlewoman from California (Mrs. CAPPS) says.

I know the heart and the effort of the gentleman that is offering this amendment, and I know why he is doing it and I empathize with him, but it would destroy the California economy and environment as well as our beaches.

We have got beautiful lagoons. We have got the most beautiful lagoons in the world, and wetlands. I am not an extreme environmentalist, but those are, no kidding, true wetlands; and the National Academy of Science says whether you are drilling for oil or gas off the California coast, you are going to, not maybe, you are going to hurt the wildlife, you are going to destroy those lagoons, and then we are going to end up like Long Beach with oil all over our beaches and hurt our economy.

So I oppose the gentleman's amendment.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY) who also cares deeply about this issue.

Ms. WOOLSEY. Mr. Chairman, actually, it sounds like the author of this amendment does not quite understand the need to preserve our beautiful coastline.

The coast of Marin and Sonoma counties, my district, is one of the most biologically productive regions in the world. While it comprises only 1 percent of the ocean, it is home to 20 percent of the world's fish.

The coastal estuaries are important passages for endangered salmon, steelhead, essential haulouts for seals and sea lions, and prolific nurseries for hundreds of aquatic species.

The coastal communities in my district rely on tourism and the fishing industry that could be severely hurt if offshore oil drilling and gas drilling were permitted off our coasts.

The people who live in my district do not and will not support offshore drilling. They realize that we need an energy policy that focuses on investments in energy efficiency and renewable energy sources, not oil rigs, not an endless depletion of our natural resources.

Mr. Chairman, here we go again. For some reason, the Majority Party feels that if we just keep drilling for more gas then our emergency crisis will be over. Unfortunately, they aren't looking for a solution to our energy crisis and rising gas prices, instead, they are looking to line the pockets of big oil companies by supporting offshore oil drillings.

Let's not forget the irrevocable damage to our environment that offshore drilling causes. This devastation can be seen in the Gulf of Mexico where OCS pipelines crossing coastal wetlands are estimated to have destroyed more coastal sale marsh than can be found in the stretch of coastal land running from New Jersey through Maine.

It sounds like the author of this amendment doesn't understand the need to preserve our beautiful coastlines.

But, the people that I am so fortunate to represent in Marin and Sonoma counties do understand. They get it.

The coast of Marin and Sonoma County in my district is one of the most biologically productive regions in the world.

While it compromises only one percent of the ocean, it is home to 20 percent of the world's fish. The coastal estuaries are important passages for endangered salmon and steelhead, essential haulouts for seals and sea lions, and prolific nurseries for hundreds of aquatic species.

The coastal communities in my District rely on tourism and fishing—industries that could be severely hurt if offshore drilling was permitted off of our coast. If you were to visit this beautiful stretch of coast, you would understand why the people who live in my district don't and won't support offshore drilling. They realize that we need an energy policy that focuses on investments in energy efficiency and renewable energy source, not oilrigs and the endless depletion of our natural resources.

Mr. Chairman, I urge my colleagues to join me in opposing the Peterson amendment.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I am here to support the long overdue Peterson amendment.

I come from Florida. We will not hear a lot of folks talk about this. It is a hot political issue. All of us are equally concerned about preserving the environment.

Since my days in the legislature, I have always supported the safe and environmentally sound development and exploration of natural gas off the coast of Florida. I helped participate in the development of the section 181 prohibitions. I oppose oil drilling. We can safely extract natural gas.

For all of the 1990s, and many of my colleagues were here, our policy was to convert coal and oil-generating plants to natural gas, and we have done that in over 30 of our plants in Florida, and we have got more coming online.

My colleagues saw that we pay just about double the price. This not-in-my-backyard does not cut it. We can keep it offshore, but we can still do it soundly and safely.

I support the amendment.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. DICKS. Mr. Chairman, could the Chair give us a breakdown of the time.

The Acting CHAIRMAN. The gentleman from Washington State (Mr. DICKS) has 2 minutes remaining. The gentleman from Pennsylvania (Mr. PETERSON) has 5 minutes remaining before yielding, and the gentleman from Florida (Mr. YOUNG) has 3 minutes remaining.

The gentleman from Hawaii (Mr. ABERCROMBIE) is recognized.

Mr. ABERCROMBIE. Mr. Chairman, I want to speak in favor of this.

I have spent 15 years here trying to develop alternative sources of energy so we are not victimized by oil. We have a safe extractive method here with natural gas. We have encouraged it. We want to get to alternative energies. This is one of the alternative energies, and it has a direct effect on the working people of this country.

I will tell my colleagues, I think this is a jobs issue. This is a blue collar issue. This is a family issue in terms of bringing down prices and getting a safe supply of fuel for this country. If we do not get into this kind of alternative, we are going to be struck forever in rhetoric and not being able to produce for our people, not just fuel but produce it in a way that is truly alternative and within the bounds of people's budgets.

That is why we need to support this amendment.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time, and I stand in vigorous opposition to this amendment or any amendment similar to this.

The point has been made that you can drill for gas safely. When you start drilling, you do not know what you are going to get. You do not know whether you are going to get gas or oil, and the environmental problems here are immense.

Thanks to the gentleman from Florida (Mr. YOUNG), we have had this moratorium in place since 1983. We need to leave it in place. The environmental studies and testimony that would be required in order to negate any chance of pollution must be gone through before this House ever considers such a bill.

So I would urge all the Members to vote against lifting this moratorium. It is reckless. It is reckless to the environment of Florida. It is a bad environmental vote, and I recommend its defeat.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I thank the gentleman for the time.

It seems like there is quite a bit of discrepancy here in our information. Many of us believe that natural gas can be extracted without endangering the environment. I happen to be on that side of the issue.

We have continually increased our emphasis and our dependence on natural gas, and yet our supply has remained stagnant. We have tried to put in the pipeline from Alaska. That has been stalled.

Currently, we are paying 600 percent more for natural gas than many other nations in the world. Those living on fixed incomes are being eaten up by these costs.

In the area of agriculture, we find that pumping fuel is 20 percent higher this year. We are going to need 10 to 12 cents more per bushel of grain in order to offset the increasing cost of gas and fertilizer. This is the margin that most farmers rely on. That puts them into an unprofitable situation.

So I rise in support of this amendment. I believe it can be done in an environmentally safe and sensitive way, and it does make sense.

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Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, hard-working American families are paying a high price at the gas pump today because of our Nation's dependence upon foreign energy. Every day high gasoline prices are hurting good, decent hard-working families who are having to cut back on their purchases of food, medicine, and clothes. High natural gas prices are hurting our Nation's businesses, who are laying off families and breadwinners.

This is simply about supporting an amendment that will provide environmentally safe and sound production of natural gas off the eastern Gulf Coast, something we are already doing off the Texas and the Louisiana coast. And to my friend, the gentleman from California (Mr. CUNNINGHAM), I have walked on Texas beaches since I was 2 years old and have yet to end up with black-bottom feet because of oil on our beaches.

Mr. Chairman, this can be done in a positive way. But most importantly we need to send a message to the OPEC nations that we are tired of a handful of OPEC oil ministers putting their hands around the necks of family budgets and businesses here in America.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

We hear a lot of conversation today here on the floor about national security and not depending upon foreign sources of oil and gas. Let me just say that this particular issue is in fact a national security issue.

Most of the focus we hear, obviously, is on the potential environmental impacts and impacts on tourism and all of the environmental things we enjoy along our coasts in Florida and in California. But let me just say that the biggest impact that could happen with oil and natural gas, drilling or exploration in the eastern Gulf of Mexico is a potential to harm our ability to test and evaluate all of the Air Force weaponry that is used around the globe.

In fact, let me read a quote to you. "Wilbert Patterson, Brigadier General, United States Air Force, June of 2000. We are deeply concerned over the construction of any oil or gas structures that could impact on our critical test programs performed by the Air Armament Center at Eglin Air Force Base."

This is an issue of national security. We have to be able to test in the Gulf ranges and this drilling will harm that testing.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. DAVIS), who is deeply concerned about this issue, as well as his colleagues from California.

Mr. DAVIS of Florida. Mr. Chairman, I rise in opposition to this amendment. The argument that has been made in support of the amendment is that the price of natural gas is increased to the consumer. And we should address this as a Congress. But one of the points that has been overlooked here today is that this Congress passed an energy bill that provided initial financial incentives to drill in the central and western gulf, and that is a valid attempt by this Congress to address this issue.

But to open up the eastern Gulf of Mexico would be a terrible mistake. There is a very small proportion available, and what is available is right off the coast of Florida. It has been suggested Florida should follow the standards of Texas with respect to our beaches. The beaches in Florida are a pristine treasure not to be experimented with.

The truth of the matter is nobody here on the floor of the House knows what the risk is if you drill. This amendment may say gas, but it is about gas and oil. Because once you start drilling, you get what you get when you drill. So we should not sacrifice or risk the Florida beaches or the California beaches to get a small proportion of gas that can be more easily achieved, and which this Congress is promoting through deepwater drilling in the central and western coast.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 30 seconds to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, opening up the Offshore Continental Shelf will save $300 billion in natural gas costs over 20 years for our consumers and manufacturers. It is not just for businesses, but to heat and cool our homes we use natural gas. If we do not explore and produce off our potential, whether it be California, the eastern Gulf of Mexico, or anywhere else, we are going to continue to be held up by the world price. Our consumers will pay for it.

Mr. Chairman, I like the beaches in Texas, I like them in Florida and California, but I also know we need to use our natural resources.

Supply and demand for energy is out of whack and our Nation needs more energy. The Federal Government tried to mandate demand reduction in the last energy crisis and it contributed to a nationwide recession we do not want to repeat.

A recent Gallup poll found that half of family budgets have been seriously affected by the recent rise in energy prices.

Opening the OCS could save $300 billion in natural gas costs over 20 years, for consumers and manufacturers. High natural gas costs are sending manufacturing jobs overseas, following the cheap gas.

Environmentally conscious nations like Norway, Denmark, Canada, Japan and the UK are safely and successfully producing natural gas from their coastal waters.

No nation can produce energy more responsibly than ours. I have been on oil and gas rigs and they have such few discharges into the ocean, a medium sized fishing boat will leak more in a year.

This amendment is a major opportunity for us to respond to today's energy crisis with a national solution. I feel justified in supporting this amendment because I am from a coastal district. My constituents feel the same way as I do on this issue.

Chemical production and oil and gas exploration, processing, and refining are Texas top coastal industries. My colleagues from Florida and California think only they have beaches, but coastal tourism is Texas's second largest coastal industry.

That fact alone shows the argument that oil and gas production and coastal tourism are mutually exclusive is just plain wrong. They are acting like Chicken Little, and cannot point to one beach in Texas that has been ruined by oil or natural gas production.

There will be less need for LNG facilities and LNG tankers when we tap our own offshore resources so we can use the safest mode of transportation in the world—pipelines.

To address the needs of American families, we need a 3 pronged strategy. First, we need more production and infrastructure to meet our needs of today and tomorrow.

Second, we need more conservation to keep our economy going as resources become more competitive globally.

Third, we need more research to transition our economy to future sources of energy, for a time when petrochemicals are only used for materials, and not as an everyday fuel.

Supporting only long-term solutions and conservation is just not enough. It might be easier if it was, but we need to do more for today's energy problems. We will need continued American energy production for some time.

My point is not that we can drill our way to cheap oil or drill our way to energy independence. If we allow domestic production to die out, conservation and research will not save us, and we will have to pay a terrible economic price.

I urge my colleagues to support oil and gas production in the Outer Continental Shelf.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I apologize to my good friend, the gentleman from California (Mr. CUNNINGHAM), but I have always supported the oil and gas exploration. Our economy demands it, and I believe this can be done safely. It is a jobs issue, it is about lowering the price of energy, and I strongly urge support for the Peterson amendment.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield 30 seconds to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman for yielding me this time.

I would point out that Iowa and the Corn Belt are held hostage to the price of natural gas in two ways. It is our input cost for nitrogen fertilizer. Ninety percent of the cost is the cost of natural gas. The other side is that we use it to dry grain.

We have to have a full energy picture. I congratulate the gentleman for bringing this amendment, fully support it, and I urge adoption of it.

Mr. DICKS. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to this amendment.

First of all, we had no hearings in the committee about this. I believe that on a subject of this importance, if we are going to take back this protection that we have had on the books almost for the last 25 years, we have to have hearings. We have to bring in the parties and give people good information about what this is all about. That was not done. This amendment came up for the first time in the full committee.

So I believe just on process this amendment should be defeated, and I would tell the gentleman from Pennsylvania that we should take a look at this. The committee should have some oversight hearings. But to come here now without having those hearings, the benefit of those hearings, and to present this and reverse 25 years of Presidential and Congressional cooperation would be a serious mistake. So I oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume to ask the gentleman if we had hearings before it was put in this bill 20 years ago and every year in a row? No.

Mr. Chairman, I yield 30 seconds to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, I rise to support the amendment. I made my living in the oil and gas business. And to correct an earlier statement, you can determine what you are going to drill for. You can determine that you are going to put oil at the surface or you are going to put gas at the surface. That is to correct the record.

We are in a world economy, and we are losing our jobs. These jobs are 100,000 a year-plus jobs when we lose them out of the chemical industry and the fertilizer industry. I was in the industry when the price went from $2 to $50. We will drill this gas. We will simply do it before or after we lose our jobs. We will do it before or after people have to give up their homes to heat them.

Mr. YOUNG of Florida. Mr. Chairman, what is the status of the remaining time?

The Acting CHAIRMAN (Mr. SHIMKUS). The gentleman from Florida (Mr. YOUNG) holds the remaining time of 1 minute.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself the balance of my time.

Again, I represent the strong position of the committee in opposition to this amendment. The committee has considered this many, many times before and determined that this moratorium should stay in place. It started in 1983. There have been attempts to change it since then unsuccessfully.

We cannot solve the energy problems of America and the world in an appropriation bill. Those issues should be settled in an energy bill, and the energy bill that was before us did not include this amendment because it just does not work.

So, representing the committee, and the minority has indicated, as indicated by the gentleman from Washington (Mr. DICKS), we are opposed strongly to this amendment and hope that the Members will reject it.

Mr. KING of Iowa. Mr. Chairman, I rise today to urge my colleagues to vote in favor of the Peterson Amendment to end the 20 year moratoria on natural gas production from the outer continental shelf and Gulf of Mexico.

High natural gas prices have not only affected the 61 percent of U.S. households that use natural gas for heating and cooking, but America's small businesses, including agriculture. The agricultural industry depends on natural gas for crop drying, irrigation, heating, farm buildings, food processing and nitrogen fertilizer production.

Undoubtedly, the most demanding use of natural gas by the farm sector is in the production of nitrogen fertilizer. It accounts for 90 percent of total costs of producing fertilizer. The surge in natural gas prices over the last four years has been a key reason why nitrogen fertilizer costs have jumped by nearly 50 percent at the farm level. This problem is not going away on its own, a recent report by Iowa State University estimates that farmers can expect to pay 20 percent more for fertilizer this year than they did last year.

Nitrogen fertilizer is an essential component in today's high-yielding agriculture and accounts for more than 40 percent of the total energy input per acre of corn harvested. The importance of nitrogen to crop production can be illustrated by the fact that it is applied to 96 percent of all corn acres, 86 percent of all wheat acres and 80 percent of all cotton acres. According to data from the University of Illinois, without nitrogen fertilizers, corn yields would reduce by one-third to one-half.

This 20 year moratorium has created a supply squeeze for natural gas. On one hand, electric utilities and other industries have been influenced to move away from using our plentiful supplies of coal and towards the use of natural gas. Natural gas has been the fuel of choice for more than 90 percent of the new electric generation to come online in the last decade. At the same time, access to natural gas is limited due to environmental policies. Clearly we can't have it both ways.

Our family farmers are already efficient. Since 1980, they have increased efficiency by 35 percent while still boosting corn yields by 40 percent. But they need Congress to produce the kind of policies that enable them to access the resources they need at a reasonable price.

American agriculture is being held hostage to high natural gas prices, yet we have a plentiful supply right here in the United States. A vote in favor of the Peterson Amendment will be a vote for agriculture.

Mr. YOUNG of Florida. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. PETERSON).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendments offered by the gentleman from Pennsylvania (Mr. PETERSON) will be postponed.

AMENDMENT OFFERED BY MR. WU

Mr. WU. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WU:

Immediately after Sec. 104 insert the following:

None of the funds in this or any other Act shall be used to permit class III gaming activities under the Indian Gaming Regulatory Act on non-reservation Indian land.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

Mr. WU. Mr. Chairman, I thank the chairman and the ranking member, but I am deeply concerned about a possible Indian gambling casino in the Columbia River Gorge National Scenic Area. I have had these concerns for at least 7 years, and I am extremely disappointed in recent developments. The Governor of Oregon signed a compact with this tribe on April 6 and it was presented to the Department of the Interior on April 8.

I have been consistent in my position and I have privately informed the Confederate Tribes of the Warm Springs Reservation and Governor Kulongoski and his predecessor Governor Kitzaber throughout my congressional career that I specifically do not support a casino in the Columbia River Gorge National Scenic Area, and that generally I oppose off-reservation gaming casinos.

I have persisted in suggesting to the Warm Springs Tribe that they consider a new location on reservation land along a highly traveled route, namely Highway 26, between Portland, Oregon, and Bend, Oregon. This particular proposal came to the Federal Government on April 8, and it is necessary that I weigh in now. I am asking Secretary Norton to disapprove the Tribal-State compact, because this casino will hurt the Columbia River Gorge, other tribes and all Oregonians.

I understand the Secretary intends to approve this compact, but that only starts the process. I am here to tell the Secretary and the Tribe that Congress will not be silent while the crown jewel of Oregon's natural heritage gets trashed. I have been a supporter of preserving the Columbia River Gorge National Scenic Area and I will continue to do so.

A casino of this magnitude will bring over 3 million non-Gorge-related visitors per year, a million cars per year to the area, and exacerbate traffic, pollution, and risks to endangered species in the Columbia River Gorge National Scenic Area. I am pro-Gorge, and I am troubled that there is a possibility of disturbing this crown jewel of Oregon's natural heritage. I will actively oppose this proposal and do everything I can to protect the Gorge.

State and Federal agencies have already determined that air quality in the Columbia River Gorge is significantly degraded and that visibility is impaired 95 percent of the time within this national scenic area. Also, according to the United States Department of Agriculture Forest Service Pacific Southwest Research Station, this area suffers acid rain and fog as severe as what falls in industrial cities such as Los Angeles, Pittsburgh, and New York.

Mr. Chairman, States such as Oregon, Nevada, Louisiana, Rhode Island, and South Dakota derive State taxes from casinos, slot machines, and lotteries for more than 10 percent of their overall State revenues. Oregon must not become further dependent on gambling. In all the States I listed, budgetary problems persist and gambling does not solve their problems. We should not sacrifice our national treasures, our communities, or our souls upon the alter of Indian casino gambling.

Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. DENT).

□ 1445

Mr. DENT. Mr. Chairman, I look forward to having an opportunity to work with my colleagues from Oregon and California in the near future in order to address the expansion of casino gambling to off-reservation sites.

I thank the gentleman for allowing me to address this issue of concern to my district. In my Pennsylvania district, the Delaware tribes of Oklahoma have filed suit in order to acquire the right to establish a casino. Their claim is based on a conveyance that allegedly occurred in 1737 before our Nation's independence. The land that they claim is home to at least 25 local families, and also contains the Binney and Smith manufacturing plant, the maker of Crayola crayons. These tribes, who are based out of State, are only interested in seeing working and senior Pennsylvanians gamble away their hard-earned dollars. They are not concerned about the valuable manufacturing jobs jeopardized as a result of the displacement caused by this casino, or the fact that Binney and Smith/Crayola makes a useful product loved by children all over the world.

I am concerned about this kind of reservation shopping, and I look forward to working with my colleagues from California and Oregon and Michigan and elsewhere in order to limit these tribes' ability to build new casinos on properties not contiguous to existing reservations or on those lands where ownership is based solely on a conveyance that predates the existence of our Nation.

Mr. EHLERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the gentleman for this discussion about casinos. I want to relate a similar problem that we have in my area in Michigan, not directly in my district, but it impinges on my district.

I believe it is high time that the Congress address this particular problem. The difficulty my area is a case of a tribe which does not live in the area in which it is seeking to have land placed in trust for it in a community that welcomes it because they think that there will be economic development. But, in fact, it is going to have serious impact on areas in my district and on surrounding communities.

Obviously, it is going to be a high-traffic area, with a need for new roads, and of course the casinos do not pay any tax. There will be no tax on the land, and this results in a good deal of problems that the local communities and state will not have the funds to take care of.

I believe it is very important to put a limitation on off-reservation gambling and on cases where a tribe moves into an area which is nowhere near its home and claims that to be an area where they can have land placed in trust, and they then build casinos and other facilities.

It creates particular problems, for example, for merchants who may be running a supermarket or a gas station, and suddenly there is somebody new in town who is offering the same services, but does not have to pay taxes. This is a totally unfair proposition for the local businesses that are there. In that sense, I support the effort to put some regulation on this.

I am not rising in support of the amendment. I have been involved in discussions with the previous speakers, and they have much the same problems we do, but I have also discussed it with the gentleman from California (Mr. POMBO) who chairs the Committee on Resources, and he has assured me and the rest of us that he has a bill that will deal with this problem and that will provide free and open debate on the House floor.

Rather than deal with it in an appropriations bill, it is my preference that we not consider these amendments at this point, but defer to the gentleman from California (Chairman POMBO) and await the chairman's bill which he has said that he will attempt to get out of committee and onto the floor before the August recess.

We have to recognize this is a serious problem for many communities across the country. I have only addressed one aspect of it, but there are many other aspects that have to be addressed and understood. When the Pombo bill comes up, we will have time for a full debate and discussion of all of the other tangential issues as well, including what ability the States have to regulate the location of these facilities, and what ability the States have to negotiate compacts so that the actual costs to the State and local communities are met by these facilities that are moved into an area where the sponsoring individuals have never lived.

Mr. WALDEN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment proposed by my colleague from Oregon. I only wish I had known in advance the gentleman was going to offer this amendment because it is specifically targeted toward my district, a tribe in my district, that is seeking to gain approval of a compact and take land into trust.

Warm Springs Tribe is not a family of five that has gone out shopping somewhere in some other State for land. There are 4,400 tribal members who are suffering on the reservation. They have worked diligently with the communities involved. They have land in the Scenic Columbia River Gorge that is in trust and was in trust prior to the passage of IGRA, and it is on a hillside where they have plans where they could build, and they could do that today.

But that land would scar the beauty of the Scenic Columbia River Gorge, which is my home and has been my home all of my life. This tribe, instead, looked to another area, and my colleague from Oregon suggests that the area they looked at is the crown jewel of the gorge.

Mr. Chairman, this is port property zoned for industrial use, leveled out with dredge tailings from the construction of the second lock at Bonneville Dam, all right, as opposed to an area up on a side hill that is timbered and beautiful where they already have land. So they worked with the local community which supports them locating there. They reached a compact with the Democratic Governor in a long and protracted discussion. That compact is now before the Secretary.

My colleague has on more than one occasion mentioned an acid rain study. We have looked at that, and he should know because we know it was done over a 4-month period one with readings at a little town in Wishram, Washington, during the winter when it is foggy in the gorge. So there is much more to that story that I will not get into today, but I suggest the gentleman take another look at that study.

I grew up in the gorge. We are the wind-surfing, kite-boarding capital of the world. And in the summer, if you want to come and find where the wind blows, come to the gorge and enjoy the great recreational opportunities, and it blows from the west. The west is where the great urban center of our wonderful State is, where there are traffic problems and industrial problems; and I tell Members that because if there is a problem with pollution in the gorge, it is not coming from the east, it is coming from the west.

So I urge Members to oppose this amendment. I think the chairman of our Committee on Resources has a much more prudent approach, to look at this issue on a broader scale, to see what is the best policy for this Nation to follow when it comes to dealing with these issues of tribal casinos on or off reservation.

But to move an amendment like this with very little notice, if any, on an appropriations bill, I would dare say, is not appropriate.

POINT OF ORDER

Mr. TAYLOR of North Carolina. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and therefore violates clause 2 of rule XXI. The rule states in pertinent part: "An amendment to a general appropriations bill shall not be in order if changing existing law." The amendment imposes additional duties.

I ask for a ruling from the Chair.

The Acting CHAIRMAN (Mr. SHIMKUS). Does any Member wish to be heard on the point of order?

Mr. WU. Mr. Chairman, I would inquire of the chairman as to whether the chairman would permit the gentleman from Oregon (Mr. WALDEN) and me to engage in a discussion of the merits of the amendment.

The Acting CHAIRMAN. At this point debate is on the point of order. The gentleman from Oregon may not yield to another for discussion on the point of order. The Chair will hear each Member on his own time in debate on the point of order.

PARLIAMENTARY INQUIRY

Mr. WU. Parliamentary inquiry.

The Acting CHAIRMAN. The gentleman may state his parliamentary inquiry.

Mr. WU. What is the scope of discussion permitted in this segment of the debate?

The Acting CHAIRMAN. Argument relevant to the point of order raised against the amendment.

Mr. WU. I concede the point of order.

The Acting CHAIRMAN. The point of order is conceded and sustained. The amendment is out of order.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move that the Committee do now rise.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. SHIMKUS, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, had come to no resolution thereon.

LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that, during further consideration of H.R. 2361 in the Committee of the Whole pursuant to House Resolution 287, no further amendment to the bill may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member on the Committee on Appropriations or their designees for the purpose of debate;

Amendments printed in the RECORD and numbered 3, 6, 8, 11, 13, and 17;

Amendments printed in the RECORD and numbered 1, 4, 5, and 14, which shall be debatable for 20 minutes;

An amendment by the gentleman from Florida (Mr. HASTINGS) regarding environmental justice, which shall be debatable for 20 minutes;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding a $500 million increase in Clean Water State Revolving Fund and tax matters;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding a $100 million increase in Clean Water State Revolving Fund, which shall be debatable for 20 minutes;

An amendment by the gentleman from Ohio (Mr. GILLMOR) regarding State and Tribal Assistance Grants;

An amendment by the gentleman from Ohio (Mr. CHABOT) or the gentleman from New Jersey (Mr. ANDREWS) regarding the Tongass National Forest, which shall be debatable for 20 minutes;

An amendment by the gentleman from California (Mr. POMBO) regarding making spending on certain accounts subject to authorization;

An amendment by the gentlewoman from California (Ms. SOLIS) regarding intentional dosing;

An amendment by the gentleman from Wisconsin (Mr. OBEY) to amendment No. 5;

An amendment by the gentleman from California (Mr. COSTA) regarding concession sales;

An amendment by the gentleman from California (Mr. DOOLITTLE) or the gentleman from California (Mr. THOMPSON) regarding Lower Klamath and Tule Lake; and

An amendment by the gentleman from North Carolina (Mr. TAYLOR) regarding funding levels.

Each such amendment may be offered only by the Member named in this request or a designee, or the Member who caused it to be printed in the RECORD or a designee, shall be considered as read, shall not be subject to amendment, except as specified, and except that the chairman and ranking minority member of the Committee on Appropriations and the Subcommittee on Interior, Environment, and Related Agencies each may offer one pro forma amendment for the purpose of debate; and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and opponent. An amendment shall be considered to fit the description stated in this request if it addresses in whole or in part the object described.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. OBEY. Mr. Speaker, reserving the right to object, I am trying to stall for time while we clear up a controversy that has arisen.

□ 1500

I certainly am in support of the intention of the gentleman's request, but it is my understanding that there may be a problem with one of the amendments. I am hoping that by the time I am done filibustering here the gentleman's staff will have worked it out with the Parliamentarian and we will be able to proceed.

The SPEAKER pro tempore (Mr. TERRY). The Chair will inquire of the gentleman from North Carolina, does the request include a possible modified form of amendment No. 1?

Mr. TAYLOR of North Carolina. Yes, Mr. Speaker.

Mr. OBEY. Mr. Speaker, with that understanding, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanoa Evans, one of his secretaries.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 287 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2361.

□ 1502

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, with Mr. SHIMKUS (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, the bill had been read through page 53, line 17.

Pursuant to the order of the House of today, no further amendment to the bill may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments printed in the RECORD and numbered 3, 6, 8, 11, 13, and 17;

Amendments printed in the RECORD and numbered 1 subject to a modification to the amendment as printed in the RECORD, 4, 5, and 14, which shall be debatable for 20 minutes;

An amendment by the gentleman from Florida (Mr. HASTINGS) regarding environmental justice, which shall be debatable for 20 minutes;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding a $500 million increase in Clean Water State Revolving Fund and tax matters;

An amendment by the gentleman from Wisconsin (Mr. OBEY) regarding a $100 million increase in Clean Water State Revolving Fund, which shall be debatable for 20 minutes;

An amendment by the gentleman from Ohio (Mr. GILLMOR) regarding State and Tribal Assistance Grants;

An amendment by the gentleman from Ohio (Mr. CHABOT) or the gentleman from New Jersey (Mr. ANDREWS) regarding the Tongass National Forest, which shall be debatable for 20 minutes;

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An amendment by the gentleman from California (Mr. COSTA) regarding concession sales;

An amendment by the gentleman from California (Mr. DOOLITTLE) or the gentleman from California (Mr. THOMPSON) regarding Lower Klamath and Tule Lake; and

An amendment by the gentleman from North Carolina (Mr. TAYLOR) regarding funding levels.

Each amendment may be offered only by the Member named in the request or a designee, or the Member who caused it to be printed in the RECORD or a designee, shall be considered as read, shall not be subject to amendment, except as specified, and except that the chairman and ranking minority member of the Committee on Appropriations and the Subcommittee on Interior, Environment, and Related Agencies each may offer one pro forma amendment for the purpose of debate; and shall not be subject to a demand for division of the question.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent.

The Clerk will read.

The Clerk read as follows:

SEC. 105. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

AMENDMENT NO. 14 OFFERED BY MR. ISTOOK

Mr. ISTOOK. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. ISTOOK:

Page 53, line 24, after the period, insert the following: "This section shall not apply on and after any date on which the Energy Information Administration publishes data (as required by section 57 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790f) demonstrating that net imports of crude oil account for more than two-thirds of oil consumption in the United States.".

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The Acting CHAIRMAN. The point of order is reserved.

Pursuant to the order of the House of today, the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from North Carolina (Mr. TAYLOR) each will control 10 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, as we heard earlier, a major reason that we have skyrocketing energy prices in the United States is because this bill has been used for a vehicle for 30 years to restrict the ability to explore in the Outer Continental Shelf. When those restrictions were first adopted, America was importing 28 percent of its oil from foreign shores. Today, that has risen to 58 percent and it continues to climb dramatically each year.

This amendment, Mr. Chairman, says it is about time that we create a commonsense trigger. At such time as two-thirds of our energy consumption is coming from overseas, then we will lift the moratorium in the area that has the most promise, which in this case is the eastern Gulf of Mexico.

Mr. Chairman, I know the big issue to people is, is it environmentally safe to do so? I realize that is the concern and I would like to focus on that. America has not had any major spill from an offshore oil well since 1969. Why? It is not because we are not drilling offshore. We are getting 25 percent of our oil from offshore, actually 30 percent of oil and a fourth of the natural gas. But we are not allowing drilling in most of the areas. Ninety percent of the coastal areas in the lower 48 States are closed by these moratoria. To drill offshore, however, you have to obtain 17 major Federal permits. You have to obey 90 sets of Federal regulations which have been put in place during the years of these moratoria. All of those are designed to protect the environment. They have been 99.999 percent effective in keeping the environment safe. Less than one one-thousandth of 1 percent of the oil that is produced offshore has been spilled. Who else has a safety record like that, 99.999 percent? We also are able to produce it from fewer offshore platforms because we have horizontal drilling that allows multiple wells to be drilled from a single location. And of the oil spills, the very few that have happened, 97 percent are of less than one barrel of oil.

We are talking about drilling at least 10 miles offshore in Federal waters. In most of these cases, we are talking about drilling 100-plus miles offshore. There is enormous potential for this. The official estimate says there is 76 billion barrels of oil and 406 trillion cubic feet of natural gas in the Outer Continental Shelf. But 90 percent of these resources in the lower 48 have been placed off-limits.

This is not about the oil or gas industry. This is about our national security. This is about the fact that we are spending $180 billion a year to bring in foreign oil when we ought to be producing so much more of that here and employing hundreds of thousands more people in the United States, bringing about better availability, lower prices, more jobs, and all in a way that we have proven through the offshore production that is happening, we have proven it can be done in an environmentally safe manner, it is being done in an environmentally safe manner.

The amendment says it is time to say, this is not a perpetual ban. When we reach a point, which we will in a few years, that two-thirds—two-thirds—of the oil and gas we use is coming from foreign shores, is it not about time that we find a commonsense approach to lift the bans and have environmentally clean and responsible ways to produce this energy America needs?

Mr. Chairman, the recent steep rise of energy prices has convinced consumers that America needs more energy, and we need to be producing it ourselves. We don't want to rely on supplies halfway around the world, and we don't want to ship tens of billions of American dollars overseas each year to buy foreign oil. We're spending $180 billion dollars each year to buy foreign oil. If we could spend those billions right here in the USA, to produce more of the energy we use, we could add hundreds of thousands of high-paying American jobs.

Why aren't we doing this? Unfortunately, some well-intentioned concerns for the environment have grown into ungrounded fears. Rather than balancing environmental issues with our need to produce more energy, we've let things get out of kilter. One of our biggest failures is that we've placed so much of our oil and gas reserves off limits. We've done that by including provisions in this Interior appropriations bill—provisions we've had in it now for decades—that have banned drilling in most areas of the Outer Continental Shelf. What's worse, we have failed to review and adjust those provisions, to recognize that things are different now than when we first adopted those restrictions.

There is no longer a conflict between our ability to protect the environment and our ability to produce energy by drilling offshore. We're talking about areas at least 10 miles offshore, and usually much farther offshore, 100 miles, even 200 miles and more.

Our failure to review and adjust these offshore drilling bans is now costing this country dearly. Every time you pay your utility bill or buy gasoline, remember that these prices would not be so high if Congress had simply used common-sense, years ago, to let us drill more offshore areas in an environmentally-responsible way. Instead of promoting safe ways to drill, we've totally banned that drilling in most of our offshore areas.

My amendment doesn't lift the ban immediately, but creates a way for us to plan ahead. It establishes a tipping point for ending the ban in the most promising area—the eastern Gulf of Mexico, saying that the ban will end if imports rise to two-thirds of the oil we use. We're at 58% today, and going up at the rate of 1% to 2% each year.

ENVIRONMENTAL SAFETY

People naturally ask, "Is this environmentally safe?" The answer is "Yes."

America has not had any major spill from an offshore oil well since 1969.

Why is this? It's not because we're not drilling offshore; it's because we have succeeded in protecting the environment while we drill. Oil and gas operations in the Outer Continental Shelf are among the most tightly regulated economic activity in the world.

Despite the moratoria that has closed many areas, America still produces almost one-third of its oil (30%) and almost one-fourth (23%) of its natural gas from offshore wells. There's a lot of coastal drilling, and it is safe drilling, and it would be just as safe to drill in the areas where it's being banned.

To drill offshore, you must obtain 17 major federal permits and obey 90 sets of federal regulations, all designed to protect the environment. Most of those went into effect in 1975, and they have been 99.999% effective in keeping the environment safe. That's because less than $^1/_{1,000}$ of 1% of the oil produced offshore has been spilled. What other industry has a safety record like that—99.999%!

We also produce more from fewer offshore platforms, thanks to horizontal drilling that allows multiple wells to be drilled from a single platform. Technological advances during the past 30 years allow us to extract more resources with less impact on the environment.

And most of them are tiny—97% of the offshore spills are of less than one barrel of oil.

OCS BACKGROUND

The Outer Continental Shelf is composed of lands .generally beyond the 3-mile area of state jurisdiction and 10-mile area of state jurisdiction in Florida and encompasses about 1.76 billion acres. About 25% of the oil and gas produced in the United States comes from the OCS. But there's a lot more potential than that. About 60% of America's remaining oil and 41% of our remaining gas resources are in the OCS.

The official estimate is that there are 76 billion barrels of oil and 406 trillion cubic feet of natural gas in the OCS. But we have placed about 90% of the areas offshore the lower 48 states off-limits, banning drilling in those areas. Imagine that—as Americans pay high prices, Congress says that 90% of this huge resource is off-limits, and drilling is banned. So we pay sky-high prices because we depend on foreign oil, and we ship hundreds of thousands of jobs overseas, along with tens of billions of dollars each year.

Congress has restricted drilling in the OCS for over 30 years. During this time, the percentage of net imports of petroleum has risen from 28% to 58% today.

FOREIGN SOURCES

And what does it mean if we don't have those resources?

Domestic energy independence isn't just about the energy industry. It's about our national security. Currently, about 58% of our net petroleum imports came from foreign sources. During the past ten years, this percentage has risen by one percentage point on average each year. So ten years ago we imported about 48% and today it's about 58%. The Energy Information Administration predicts that by 2025, dependence on petroleum imports is projected to reach 68% of net imports.

ECONOMIC SECURITY

This not only affects our national security, it also affects our economic security. Last week, consumers were paying an average $2.18 for a gallon of motor gasoline. That's a 62 cent a gallon increase in just five years!

Natural gas prices have been even more devastating for consumers. Residential prices have doubled in the past four years. Commercial and industrial prices have tripled. 90,000 jobs in the chemical industry have been lost along with $50 billion of business because of natural gas prices in the U.S.

When we talk about the need for domestic energy production, or independence, it's not just about the energy industry. It's about all of us. If we want gasoline prices to stop skyrocketing we must act. If we want to stop losing manufacturing jobs, we must act.

We all know that China, India, and other countries' economies are expanding and their demand for oil and natural gas worldwide will continue to grow. As the demand for oil grows globally, the United States cannot be left behind by limiting its supply.

CONCLUSION

Why aren't we pursuing this offshore oil and gas? It's because this appropriations bill has several provisions banning offshore drilling. Not just one ban, but a whole series of them. And we've been including these bans in this bill for over 30 years.

This amendment would protect our national security. This amendment would only open up a portion of the Eastern Gulf of Mexico and only when the Energy Information Administration publishes data showing that more than two-third of net imports of crude oil come from foreign sources.

My amendment singles out only one of these many areas where drilling has been banned, namely the eastern Gulf of Mexico. That area is selected for two simple reasons: First, it has the largest oil land gas deposits. Second, it's the farthest offshore, away from the coastline and the beaches. In all cases more than 10 miles offshore, land in most cases more than 100 miles offshore. It is not in state waters. It is in federal waters.

Congress has restricted activity in the OCS for over 30 years. During this time, the percentage of net imports of petroleum has risen from 28% to 58% today. Our constituents all feel the pinch that higher energy prices bring to their budget.

Let's use common sense and create a plan to end the moratorium in an environmentally sound way, as I've proposed in this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I continue to reserve my point of order, and I reserve the balance of my time.

Mr. ISTOOK. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Chairman, hard-working American families are paying a high price at the gas pump today because of our Nation's dependence upon foreign oil. Unless we get tough and show OPEC nations that Americans are serious about becoming less dependent upon their self-serving oil cartel, our working families and our Nation's economy will continue to be the victims of high energy costs. That is why I am supporting the Istook amendment.

Environmentally safe drilling for oil and natural gas in the Outer Continental Shelf in the eastern Gulf of Mexico would be possible under this amendment. This production could be done safely and cleanly. It does not require new technology. It is not some type of new experiment. The fact is that already Outer Continental Shelf production represents 30 percent of all U.S. domestic oil production and 23 percent of our natural gas production.

What OCS energy production does do is provide 42,000 Americans with good jobs and brings this $6 billion a year to our U.S. Treasury. With more energy production that puts more Americans to work, we can send a clear message to the OPEC cartel that we are fed up with their cartel which is busting the budgets of America's working families.

It is time to say we are sick and tired of the OPEC tax which costs American families $20 billion for every 25-cent increase in the price of gasoline. Tapping major oil and gas reserves in the eastern Gulf, something we are already doing off the Texas and Louisiana coasts, will create thousands of new American jobs, bring in billions of dollars to reduce the Federal deficit and our terrible trade deficit, and save working families money every time they go to the gasoline pump. That is a good deal and a smart deal for millions of hardworking American families.

By voting "yes" on the Istook amendment, we are voting "no" on the OPEC tax, which is hurting most those who can least afford it.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. I thank my colleague from North Carolina for yielding time.

Mr. Chairman, I would like to first correct some statements that the gentleman from Oklahoma made in his arguments. He said that 40 percent of the OCS gas is unavailable to leasing. As he knows, Minerals Management Service conducts a survey every 5 years and the latest assessment of resources on the Outer Continental Shelf was done in the year 2003. It includes estimates of undiscovered technically recoverable oil and natural gas. This assessment shows that 81 percent of the Nation's undiscovered technically recovered OCS gas is located in the central and western parts of the Gulf of Mexico where drilling is allowed.

□ 1515

And he also claims that it is such a safe industry. I would like to remind him, those of us who live on the central coast of California remember with an indelible mark the 1996 oil spill of platform A that devastated our economy and our environmental resources for decades. We are still living with some of the results of this.

This is an amendment in which the House had a vote just a few years ago, a similar kind of amendment in the 107th Congress. Seventy Republicans joined 176 Democrats to block oil and gas developments in the eastern Gulf of Mexico. A vote against this amendment will accomplish the same thing, a vote to protect the eastern Gulf of Mexico from new drilling. This amendment is the first step to drilling in areas now off limits, including North Carolina, New Jersey, California, and even the Great Lakes.

So we should reject this amendment and not weaken existing protections for our coastal waters. This amendment guts the longstanding bipartisan moratoria that currently protects our Nation's most sensitive coastal marine areas.

Mr. ISTOOK. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman for yielding me this time.

I point out that the U.S.-produced nitrogen fertilizer that American farmers have historically relied upon is being outsourced to foreign producers. Of the 16½ million tons of nitrogen fertilizer production capacity that existed in this country prior to the year 2000, nearly 20 percent has been closed permanently and there are another 4 million tons, 25 percent again at risk of closing within the next 2 years.

We have outsourced our nitrogen fertilizer protection to foreign countries like Venezuela and Russia, where they are subsidizing their natural gas. Here we refuse to develop our natural gas. And now we are faced with Chinese involvement in the Western hemisphere, who are involved in capital investment, and I know that there is drilling going on offshore for Cuba. I do not know if it is affected by this bill. But I know this: The gentleman from New Mexico (Mr. PEARCE) was right. It is not the question of whether we are going to drill for this oil. We will do it sometime. It is just a question of whether we do it before or after we lose the jobs, before or after we lose the production of this natural gas to foreign countries.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to the amendment and would like to again point out that this Congress has already taken a very significant step towards addressing the need for additional drilling for oil and gas in the Gulf of Mexico. We are currently drilling in the central and western Gulf. This Congress has passed additional financial incentives for deepwater drilling. This is an important step towards addressing the problem of supply.

This amendment goes much further than that and exposes areas for drilling just a few miles off the coast of Florida without any clear indication that there will be no risk to the beaches of Florida. This is very important to our economy. Many Members of Congress are rising today to defend the economy in their State. No one is going to stand on this floor and say that the beaches of Florida are not the most important part of our economy in addition to the work skills of our Floridians.

We do not want to take this risk. There is a very small proportion of supply available off the coast of Florida. There is an enormous proportion available in the central and western Gulf. This Congress has already acted. We provide additional financial incentives to get the supply where it is to be had.

I urge opposition to the amendment.

Mr. ISTOOK. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I thank the gentleman from Oklahoma, my neighbor, for yielding me this time.

It is interesting that there is potential production of our natural resources that people oppose. This amendment only covers the eastern Gulf of Mexico. It only covers off the coast of Florida. Not California, not the northeast United States, even though there may be potential there. This is just the eastern Gulf of Mexico.

I just do not understand what is going to happen to our country if we continue to import more and more oil, and obviously we are having to import more and more natural gas. I do not know what the folks in California are going to do about energy. I know they have high prices. Get ready to have them even higher, unless we can start bringing production on line that is domestic production, and right now the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Texas's (Mr. EDWARDS) amendment is the best potential because off the western coast of Florida is some of the most productive potential for natural gas and oil fields.

I guess it is frustrating because off the nation of Cuba we have Chinese and Spanish companies that are drilling closer to Florida than U.S. companies can drill close to Florida. So we have a foreign country who can drill closer to Florida. This only covers the eastern Gulf of Mexico, and that is why I think some people will say no to anything. And I do not know what is their solution. More windmills? I love windmills and we can do that. We need energy, no matter whether that comes from oil, natural gas, windmills, or anything else.

The United States produces some of the safest energy that we can. The nations of Norway, Denmark, Canada, Japan, and the United Kingdom are successfully producing oil and gas from their coastal waters, and yet we leave a great deal of ours except off of Texas, Louisiana, Alabama, Mississippi, and Alaska.

So, again, even though those beaches may be pristine, because I like the beaches in Texas and I consider them pristine, but we do not need to keep our head in the sand of those beaches and not realize we have to have more energy resources in our country.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, those who support this amendment should really look at solving the current energy crisis. If they wanted to, they would invest in renewable energy sources and energy efficiency and conservation. For example, providing tax incentives for the construction of energy efficient buildings and manufacturing energy efficient heating and water heating equipment could save 300 trillion cubic feet of natural gas over 50 years. This is more than 12 times the Department of Interior's mean estimate of economically recoverable gas outside the central and western Gulf of Mexico.

So why are we here today discussing offshore oil drilling instead of promoting efficient and renewable energy sources? It could be that we are pandering to big oil companies.

We not only have to worry about oil spills from offshore oil rigs, we also have to worry about the damaging way that they drill for oil and natural gas. An average of 180,000 gallons per well of drilling muds that are used to lubricate drill bits and maintain downhole pressure are dumped untreated back into the surrounding waters. Water brought up from a well along with oil and gas typically contains a variety of toxic pollutants.

I will vote against this amendment. I consider it dangerous and it is absolutely no solution to our gas and energy shortage.

Mr. ISTOOK. Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, I am not an extreme environmentalist. I am a conservationist. And that is why I find it difficult, most of the time on fighting some of the people who are speaking against this amendment, that I find myself allied with them on this particular issue.

Most of the time we quote studies. The first thing we do is see who did the study, who paid for it, and what is their agenda. The National Academy of Sciences is neither pro-business nor pro-environment. They are pro-science, and they are peer reviewed. The National Academy of Science: Gas and oil exploration will, not may, will, cause irreputable damage to the environment and to the economy off the coast of California.

I understand the gentleman from Texas. I trained with the Navy in Texas. Their beaches are not pristine like Florida and California. That is why all of their folks come to California for the good weather and the nice beaches, and we want to keep it that way. We want them to come back to California.

But I want to tell the Members something. The moratorium that we have had has protected the shorelines. During the gas debate, I talked about Batigitos Lagoon and our beaches. A lot of our economy is based on tourism. I heard, well, it is just the oil tankers leaking in Long Beach or it is seepage. It is not. The National Academy of Sciences said if we drill those new leases, then it is going to cause irreputable damage.

They have slant drilling, but when they have the technology to stop the damage, I will be along with them.

Nancy, my bride, and I walk along the beaches. That is what we do for fun with the kids. I have walked at Long Beach. And it took me 2 weeks to get the oil off of my Jack Russell terrier, and the bottom of our feet. We have to use kerosene. That is what we are trying to protect. And if they want to do something, I read where an oil company from the United States had a $12 billion profit the first quarter. I am pro-business, but I am not for pro-ripoff, and that is what we ought to look at in the cost of gas.

Mr. ISTOOK. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I read the National Academy of Sciences' studies very differently. In fact, they say that two-thirds of the oil in the oceans is natural seepage and very little of it comes from the drilling that we are describing.

To those who say we never want to drill in these offshore areas, they should be honest with their constituents, and they should say "It is fine with us for you to pay the skyrocketing energy prices. It is fine with us to spend $180 billion a year to bring most of our oil across the oceans overseas and bring it to America and send American jobs and American money over there in their place."

It is environmentally safe. We have made so many advances since people made these moratoria, and yet people do not want to look at those. It is time we take an honest look at it. We should not say that these areas are off limits forever. As the oil import problem rises, we should be looking at drilling in these offshore areas.

The Acting CHAIRMAN (Mr. FOSSELLA). The time of the gentleman has expired.

POINT OF ORDER

Mr. TAYLOR of North Carolina. Mr. Chairman, I raise a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill, and we certainly would not want that. Therefore, it violates clause 2 of rule XXI.

The rule states in pertinent part: "An amendment to a general appropriation bill shall not be in order if changing existing law . . . "

The amendment poses additional duties.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order?

Hearing none, the Chair finds that this amendment includes language requiring a new determination. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the amendment is not in order.

The Clerk will read.

The Clerk read as follows:

SEC. 106. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 107. Notwithstanding any other provisions of law, the National Park Service shall not develop or implement a reduced entrance fee program to accommodate non-local travel through a unit. The Secretary may provide for and regulate local non-recreational passage through units of the National Park System, allowing each unit to develop guidelines and permits for such activity appropriate to that unit.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move to strike the last word.

For the purpose of engaging in a colloquy, I yield to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Chairman, I thank the gentleman from North Carolina (Chairman TAYLOR) for yielding to me to engage in a colloquy concerning a devastating event that recently occurred on the Crow Creek Reservation in my home State of South Dakota.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, I would be happy to discuss this matter with the gentlewoman from South Dakota.

Ms. HERSETH. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentlewoman from South Dakota.

Ms. HERSETH. Mr. Chairman, in the middle of the night on April 24, a fire broke out in a school dormitory on the Crow Creek Reservation in Stephan, South Dakota and did extensive damage to the structure. This dormitory on the campus of the Crow Creek Tribal School housed 230 of the students who attend that school, the only high school on the reservation.

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Fortunately, even miraculously, no one was seriously injured in this fire.

School officials scrambled to find housing for the seniors who were attending the school at the time, but the students in the other grades could not be accommodated. For many of them, the school year simply ended unceremoniously on April 24.

The facility that burned also contained the kitchen and dining facilities for the school. The Crow Creek middle and high schools are now left without any dormitory, kitchen, or dining space for the more than 430 students enrolled there.

The needs that have been created by this tragic event are dire and immediate. I am asking the chairman to join me in urging officials at the Bureau of Indian Affairs to reprogram existing funds so school officials can immediately begin construction of adequate temporary dormitory facilities for the students at this school.

Mr. TAYLOR of North Carolina. Mr. Chairman, I am aware of the devastating fire that occurred on the Crow Creek Reservation. I agree with the gentlewoman that it is vital that the BIA begin construction of temporary facilities immediately so that they can be ready for the beginning of the school year this fall. Reprogramming requests for Crow Creek Tribal education facilities that come before this committee will be reviewed and approved as quickly as possible.

Ms. HERSETH. Mr. Chairman, it is my understanding that Congress has granted the BIA certain emergency authorities to reprogram funds from other accounts when situations such as this arise. I would certainly consider a devastating fire that threatened the educational mission of the only high school on an Indian reservation as a situation that would trigger BIA's emergency authorities.

The Office of Management and Budget may also seek to approve any BIA reprogramming requests to address these needs, and I ask the gentleman from North Carolina (Mr. TAYLOR) to join me in urging OMB to review these questions as quickly as possible. Does the gentleman agree with me on these points?

Mr. TAYLOR of North Carolina. Mr. Chairman, I certainly agree with the gentlewoman that this fire was unexpected and devastating to the school, and that that is precisely the type of event that would trigger the emergency authority of the BIA to reprogram funds, and I join the gentlewoman in urging the OMB to review these requests as soon as possible.

Ms. HERSETH. Mr. Chairman, I thank the gentleman for his recognition of the serious nature of the situation and for his willingness to work with me to address the very real needs of the children and students on the Crow Creek Indian Reservation.

The Acting CHAIRMAN (Mr. FOSSELLA.) The Clerk will read.

The Clerk read as follows:

SEC. 108. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any unobligated balances from prior appropriations Acts made under the same headings shall be available for expenditure or transfer for Indian trust management and reform activities, except that total funding for historical accounting activities shall not exceed amounts specifically designated in this Act for such purpose.

SEC. 109. Notwithstanding any other provision of law, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: *Provided*, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 110. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2006. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

SEC. 111. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2006 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 112. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104-208, the Secretary may accept and retain land and other forms of reimbursement: *Provided*, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the. State of Minnesota; and (2) for all activities authorized by Public Law 100–696; 16 U.S.C. 460zz.

SEC. 113. The Secretary of the Interior may use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

SEC. 114. Funds provided in this Act for Federal land acquisition by the National Park Service for Shenandoah Valley Battlefields National Historic District and Ice Age National Scenic Trail may be used for a grant to a State, a local government, or any other land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Fund Act of 1965 as amended.

SEC. 115. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 116. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.

SEC. 117. None of the funds in this or any other Act can be used to compensate the Special Master and the Special Master-Monitor, and all variations thereto, appointed by the United States District Court for the District of Columbia in the Cobell v. Norton litigation at an annual rate that exceeds 200 percent of the highest Senior Executive Service rate of pay for the Washington-Baltimore locality pay area.

SEC. 118. The Secretary of the Interior may use discretionary funds to pay private attorneys fees and costs for employees and former employees of the Department of the Interior reasonably incurred in connection with Cobell v. Norton to the extent that such fees and costs are not paid by the Department of Justice or by private insurance. In no case shall the Secretary make payments under this section that would result in payment of hourly fees in excess of the highest hourly rate approved by the District Court for the District of Columbia for counsel in Cobell v. Norton.

SEC. 119. The United States Fish and Wildlife Service shall, in carrying out its responsibilities to protect threatened and endangered species of salmon, implement a system of mass marking of salmonid stocks, intended for harvest, that are released from Federally operated or Federally financed hatcheries including but not limited to fish releases of coho, chinook, and steelhead species. Marked fish must have a visible mark that can be readily identified by commercial and recreational fishers.

SEC. 120. Such sums as may be necessary from "Departmental Management, Salaries and Expenses", may be transferred to "United States Fish and Wildlife Service, Resource Management" for operational needs at the Midway Atoll National Wildlife Refuge airport.

SEC. 121. (a) IN GENERAL.—Nothing in section 134 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (115 Stat. 443) affects the decision of the United States Court of Appeals for the 10th Circuit in Sac and Fox Nation v. Norton, 240 F.3d 1250 (2001).

(b) USE OF CERTAIN INDIAN LAND.—Nothing in this section permits the conduct of gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 944), or land that is contiguous to that land, regardless of whether the land or contiguous land has been taken into trust by the Secretary of the Interior.

SEC. 122. No funds appropriated for the Department of the Interior by this Act or any other Act shall be used to study or implement any plan to drain Lake Powell or to reduce the water level of the lake below the range of water levels required for the operation of the Glen Canyon Dam.

SEC. 123. Notwithstanding the limitation in subparagraph (2)(B) of section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)), the total amount of all fees imposed by the National Indian Gaming Commission for fiscal year 2007 shall not exceed $12,000,000.

SEC. 124. Notwithstanding any implementation of the Department of the Interior's trust reorganization or reengineering plans, or the implementation of the "To Be" Model, funds appropriated for fiscal year 2006 shall be available to the tribes within the California Tribal Trust Reform Consortium and to the Salt River Pima-Maricopa Indian Community, the Confederated Salish and Kootenai Tribes of the Flathead Reservation and the Chippewa Cree Tribe of the Rocky Boys Reservation through the same methodology as funds were distributed in fiscal year 2004. This Demonstration Project shall continue to operate separate and apart from the Department of the Interior's trust reform and reorganization and the Department shall not impose its trust management infrastructure upon or alter the existing trust resource management systems of the above referenced tribes having a self-governance compact and operating in accordance with the Tribal Self-Governance Program set forth in 25 U.S.C. 458aa–458hh: *Provided*, That the California Trust Reform Consortium and any other participating tribe agree to carry out their responsibilities under the same written and implemented fiduciary standards as those being carried by the Secretary of the Interior: *Provided further*, That they demonstrate to the satisfaction of the Secretary that they have the capability to do so: *Provided further*, That the Department shall provide funds to the tribes in an amount equal to that required by 25 U.S.C. 458cc(g)(3), including funds specifically or functionally related to the provision of trust services to the tribes or their members.

SEC. 125. Notwithstanding any provision of law, including 42 U.S.C. 4321 et. seq., nonrenewable grazing permits authorized in the Jarbidge Field Office, Bureau of Land Management within the past 9 years, shall be renewed. The Animal Unit Months contained in the most recently expired nonrenewable grazing permit, authorized between March 1, 1997, and February 28, 2003, shall continue in effect under the renewed permit. Nothing in this section shall be deemed to extend the nonrenewable permits beyond the standard 1-year term.

SEC. 126. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to acquire lands, waters, or interests therein including the use of all or part of any pier, dock, or landing within the State of New York and the State of New Jersey, for the purpose of operating and maintaining facilities in the support of transportation and accommodation of visitors to Ellis, Governors, and Liberty Islands, and of other program and administrative activities, by donation or with appropriated funds, including franchise fees (and other monetary consideration), or by exchange; and the Secretary is authorized to negotiate and enter into leases, subleases, concession contracts or other agreements for the use of such facilities on such terms and conditions as the Secretary may determine reasonable.

SEC. 127. Upon the request of the permittee for the Clark Mountain Allotment lands adjacent to the Mojave National Preserve, the Secretary shall also issue a special use permit for that portion of the grazing allotment located within the Preserve. The special use permit shall be issued with the same terms and conditions as the most recently-issued permit for that allotment and the Secretary shall consider the permit to be one transferred in accordance with section 325 of Public Law 108–108.

SEC. 128. Notwithstanding any other provision of law, the National Park Service final winter use rules published in part VII of the Federal Register for November 10, 2004, 69 Fed. Reg. 65348 et seq., shall be in force and effect for the winter use season of 2005–2006 that commences on or about December 15, 2005.

SEC. 129. None of the funds in this Act may be used to compensate more than 34 full time equivalent employees in the Department's Office of Law Enforcement and Security. The total number of staff detailed from other offices and reimbursable staff may not exceed 8 at any given time.

TITLE II—ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $765,340,000 which shall remain available until September 30, 2007.

AMENDMENT NO. 4 OFFERED BY MR. TERRY

Mr. TERRY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. TERRY:

In the item relating to "ENVIRONMENTAL PROTECTION AGENCY—SCIENCE AND TECHNOLOGY", after the second dollar amount, insert the following: "(reduced by $130,000,000)".

In the item relating to "ENVIRONMENTAL PROTECTION AGENCY—HAZARDOUS SUBSTANCE SUPERFUND", after the second dollar amount, insert the following: "(increased by $130,000,000)".

The Acting CHAIRMAN. Pursuant to the order of the House today, the gentleman from Nebraska (Mr. TERRY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment increases the EPA's Superfund dollars by 10 percent over the amount in the underlying bill. This extra funding would help provide the cleanup of the Nation's worst hazardous waste sites.

I thank the gentlemen from North Carolina (Mr. TAYLOR) and Washington (Mr. DICKS) for the $11 million Superfund increase in the committee-approved bill, but I believe more should be done.

My amendment provides Superfund with an additional $130 million. This extra funding is offset from the EPA's Science and Technology Account which received $765 million in the committee-approved bill.

My district is home to one of America's largest residential environmental cleanups. In early 2003, a large section of East Omaha, Nebraska was placed on the Superfund list after hundreds of children and thousands of yards tested positive for high lead levels. A nearby lead-refining plant, which operated from the early 1870s until 1997, is likely to blame for what HHS estimates to be as many as 1,600 children in eastern Omaha with harmful levels of lead there in their bodies.

Let me be clear. I support the philosophy of polluter pays. While I am encouraged that more than 70 percent of all Superfund sites are cleaned up by those responsible for the pollution; in some cases, such as in my district, Omaha, Nebraska, and in about 20 other States other than Nebraska, those who did the actual polluting are either insolvent or no longer in business.

More dollars in the national Superfund is the only hope for 86,000 Omaha residents, including 15,000 children who live within the Superfund designated area. Without adequate funds, this cleanup could take more than a decade. These children and these families should not wait that long.

But the same is true for the other 1,243 Superfund sites across this country. Nationwide, it is estimated that 11 million people, including 3 million to 4 million children, live within a mile of a hazardous Superfund site. All these Americans need assurances that sufficient resources will be dedicated to their cleanups.

Some will oppose the amendment. I expect the chairman of the subcommittee, my friend, the gentleman from North Carolina, to perhaps oppose this amendment. Now, while I support the EPA's Science and Technology Account, it is not my mission to destroy this fund, but simply create or state what the priorities should be, and that should be to clean up these hazardous areas in the fastest time possible to protect those families.

Make no mistake: the Superfund needs more than these additional funds. It also needs structural reform. Earlier this year, I introduced what would not only boost the Superfund by $620 million over 5 years, but would also cap the Superfund's administrative costs at the 2002 fiscal level so that more Superfund dollars could be spent for actual cleanup. This is in response to a recent report by the EPA Inspector General revealing that the Superfund administrative expenses have increased $37 million over the last 5 years, while actual Superfund cleanup expenditures have decreased by $174 million.

Today, however, we must focus on the funding of this vital program. I urge my colleagues, especially my colleagues who have Superfund sites in their districts, one of the 1,243 sites, to support this amendment. It is time we dedicate the resources necessary to protect our children by cleaning up the Nation's worst and pressing environmental and health risks in a timely fashion.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

The amendment would increase funding for the Superfund program at the expense of EPA's research program funded under the Science and Technology Account.

I note that the Superfund program received an $8 million increase over the 2005 level under the committee's recommendations, while the total amount for EPA is $348 million below the 2005 level, so the Superfund site received much better treatment than most of our programs. The bill as a whole is more than $800 million below the 2005 level.

Now, we have received many requests from Members of Congress asking that we fund programs for EPA's research, and we are able to do so only to a limited extent, and many people want the science and technology area just as well. A cut of the $130 million in science and technology would decimate the program's restorations. These research programs provide critical support to all other EPA programs, including the Superfund program.

The Superfund program was treated the same as the Science and Technology Account in that limited increases were provided for proposed initiatives associated with homeland security. The committee bill balances the many competing needs of the EPA within a constrained allocation. And while I understand the gentleman's concern, given the funding we have already done and the limited funding we have totally, I cannot accept the gentleman's amendment. I urge a "no" vote on this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in opposition to the gentleman's amendment. In general, I do think we should fund the Superfund cleanup program at levels higher than what is contained in this bill. However, the budget allocation that we are dealing with today prohibits us from agreeing to the gentleman's proposal to increase Superfund by a whopping $130 million at the expense of the EPA's science and technology programs, which he uses as an offset.

This bill provides Superfund with $1.26 billion for 2006, which is an $11 million increase over this year's funding level. I understand that there are transfers contained in this bill from the Superfund program to EPA science and technology research and to the EPA Inspector General's Office, but these transfers are for Superfund-related activities.

I urge a "no" vote on this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. TERRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I certainly respect my friends from Washington and North Carolina, and I understand the delicacy of the numbers which have been assigned to these respective programs.

I stand here for the families that are affected in these, or next to these, Superfund sites, including the constituents in my district and their children, the 1,600 children estimated to have high levels of lead in their bloodstreams, creating immediate risk and health risks to them. Immediate, now.

The fund, the science and technology fund, does provide a great service to America, including the $60 million worth of earmarks to a lot of our universities, as well as paying the salaries for 2,513 bureaucrats within this agency.

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My thought is that perhaps for this one time we can just slide a little bit of their $765 million budget to the more immediate and pressing health issues facing constituents, our constituents, and American families, and that is what I am here asking.

I understand the delicacy of balancing these type of numbers in this type of bill. So I do ask that my colleagues, for the sake of these families that have immediate health risks, that we increase the number of dollars by $130 million to begin cleanup or continue at a faster pace the cleanups that have already begun in those areas.

Mr. Chairman, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, may I inquire if there are other speakers?

The Acting CHAIRMAN (Mr. FOSSELLA). The gentleman from Nebraska (Mr. TERRY) has yielded back.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. TERRY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. TERRY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Nebraska (Mr. TERRY) will be postponed.

The Clerk will read.

The Clerk read as follows:

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project; and not to exceed $9,000 for official reception and representation expenses, $2,389,491,000, which shall remain available until September 30, 2007, including administrative costs of the brownfields program under the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

AMENDMENT OFFERED NO. 17 BY MR. GRIJALVA

Mr. GRIJALVA. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. GRIJALVA:

Page 64, line 17, after the dollar amount, insert the following: "(increased by $1,903,000) (decreased by $1,903,000)".

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Arizona (Mr. GRIJALVA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona (Mr. GRIJALVA).

Mr. GRIJALVA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment that shifts funding within the EPA environmental program and management account.

Although the rules of the House prevent me from specifying in the amendment where the funding will go, it is my intention to restore funding for EPA's environmental justice program.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GRIJALVA. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, we would accept the gentleman's amendment.

Mr. GRIJALVA. Mr. Chairman, I want to thank the chairman and the ranking member.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. GRIJALVA).

The amendment was agreed to.

The Clerk will read.

The Clerk read as follows:

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $37,955,000 to remain available until September 30, 2007.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $40,218,000 to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND
(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project; $1,258,333,000, to remain available until expended, consisting of such sums as are available in the Trust Fund upon the date of enactment of this Act as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and up to $1,258,333,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That of the funds appropriated under this heading, $13,536,000 shall be transferred to the "Office of Inspector General" appropriation to remain available until September 30, 2007, and $30,606,000 shall be transferred to the "Science and technology" appropriation to remain available until September 30, 2007.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $85,000 per project, $73,027,000, to remain available until expended.

OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,863,000, to be derived from the Oil Spill Liability trust fund, to remain available until expended.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBEY:

On page 66 after line 20, insert the following new section:

CLEAN WATER STATE REVOLVING FUND
(INCLUDING REVENUE OFFSETS)

In addition to amounts otherwise made available in this Act, $500,000,000 shall be available for making capitalization grants for the Clean Water State Revolving Fund under title IV of the Federal Water Pollution Control Act, as amended: Provided, that, notwithstanding provisions of the Economic Growth and Tax Relief Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003, in the case of taxpayers with adjusted gross income in excess of $1,000,000 for calendar year 2006, the amount of tax reduction resulting from such acts shall be reduced by 1.562 percent.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. OBEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. TAYLOR of North Carolina. Mr. Chairman, I would like to reserve a point of order.

The Acting CHAIRMAN. The gentleman from North Carolina reserves a point of order.

Mr. OBEY. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, several weeks ago this House chose to make $140,000 tax cuts for persons who make more than a million dollars a year a higher priority than dealing with the $300 billion-plus backlog that our States and communities have in dealing with their sewer and water problems.

When I came to this Congress, the population of this country was 203 million people and our principal program to attack the lack of clean water was a multi-billion dollar grant program to local communities.

Today, our population is 35 percent higher, and yet we have moved principally to a loan program to our local communities represented by the Clean Water Revolving Fund.

And yet, despite that huge population increase, that huge increase in demand, the committee has chosen to cut this key program by 40 percent over a 2-year period. I am simply asking this House to reconsider its earlier priority decision. I am asking them to approve an amendment that will scale back that $140,000 tax cut to $138,000.

What do we do with that money? Do we expand the clean water program? No. All we are trying to do is to bring it back to the level that it was at 2 years ago before we went on this cutting binge. I know that this amendment is subject to a point of order, because the Rules Committee chose not to protect it.

I would hope, however, that no Member of the House would lodge that point of order. If they do not, we would be able to make this priorities change and send it on to the Senate. It seems to me that if you ask any man or woman on the street in this country whether they think it is more important to provide a $140,000 tax cut for the most fortunate 1 percent of people in this country or whether they would be willing to settle for a $138,000 tax cut so we have enough money in the budget to clean up our dirty water for our local communities, they would certainly choose the latter.

I am tired of reading headlines in newspapers like the Milwaukee Journal, for instance, reporting on the cryptosporidium outbreak in Milwaukee because of a bad sewer and water system. I am tired of seeing communities dump their overflow sewage into Lake Michigan or Lake Superior or any other lake in this country every time they have a storm.

It is about time that we make mature choices, and I think this amendment is an effort to push the Congress into making one.

Mr. Chairman, I reserve the balance of my time.

POINT OF ORDER

Mr. TAYLOR of North Carolina. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill, and therefore violates clause 2, rule XXI.

The rule states, in pertinent part, an amendment to a general appropriations bill shall not be in order in changing existing law, the amendment modifies existing powers and duties.

I ask for a ruling from the Chair.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Chairman.

Mr. Chairman, the purpose of the Budget Act was to force the Congress to make tough trade-off choices, by making trade-offs between individual programs on the spending side and by making trade-offs between revenue levels and spending levels.

The problem with the way the budget process is being approached these days is that instead of forcing Congress to look at those trade-offs clearly, the process has been fragmented so that spending decisions occur at one point in the year, revenue decisions occur at another, and the public is therefore never aware of the connection that exists between the two.

Unfortunately, because that is the way the majority has proceeded it means that this amendment is subject to a point of order if any Member chooses to make one, and so I very regretfully concede the point of order.

The Acting CHAIRMAN. The point of order is conceded and sustained.

The Clerk will read.

The Clerk read as follows:

STATE AND TRIBAL ASSISTANCE GRANTS
(INCLUDING RESCISSIONS OF FUNDS)

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $3,127,800,000, to remain available until expended, of which $750,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended (the "Act"), of which up to $50,000,000 shall be available for loans, including interest free loans as authorized by 33 U.S.C. 1383(d)(1)(A), to municipal, intermunicipal, interstate, or State agencies or nonprofit entities for projects that provide treatment for or that minimize sewage or stormwater discharges using one or more approaches which include, but are not limited to, decentralized or distributed stormwater controls, decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration; $850,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended, except that, notwithstanding section 1452(n) of the Safe Drinking Water Act, as amended, none of the funds made available under this heading in this Act, or in previous appropriations Acts, shall be reserved by the Administrator for health effects studies on drinking water contaminants; $50,000,000 shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission: $15,000,000 shall be for grants to the State of Alaska to address drinking water and waste infrastructure needs of rural and Alaska Native Villages; $200,000,000 shall be for making grants for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection ("special project grants") in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the managers accompanying this Act, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency; $95,500,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including grants, interagency agreements, and associated program support costs; $4,000,000 shall be for a grant to Puerto Rico for drinking water infrastructure improvements to the Metropolitano community water system in San Juan; $10,000,000 for cost-shared grants for school bus retrofit and replacement projects that reduce diesel emissions: *Provided*, That beginning in fiscal year 2006 and thereafter, the Administrator is authorized to make such grants, subject to terms and conditions as the Administrator shall establish, to State, tribal, and local governmental entities responsible for providing school bus services to one or more school districts; and $1,153,300,000 shall be for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104-134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities of which and subject to terms and conditions specified by the Administrator, of which $52,000,000 shall be for carrying out section 128 of CERCLA, as amended, and $20,000,000 shall be for Environmental Information Exchange Network grants, including associated program support costs, and $15,000,000 shall be for making competitive targeted watershed grants: *Provided further*, That for fiscal year 2006, State authority under section 302(a) of Public Law 104-182 shall remain in effect: *Provided further*, That notwithstanding section 603(d)(7) of the Act, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 2006 and prior years where such amounts represent costs of administering the fund to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration: *Provided further*, That for fiscal year 2006, and notwithstanding section 518(f) of the Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section 319 of that Act to make grants to Indian tribes pursuant to sections 319(h) and 518(e) of that Act: *Provided further*, That for fiscal year 2006, notwithstanding the limitation on amounts in section 518(c) of the Act, up to a total of 1½ percent of the funds appropriated for State Revolving Funds under title VI of that Act may be reserved by the Administrator for grants under section 518(c) of that Act: *Provided further*, That no funds provided by this legislation to address the water, wastewater and other critical infrastructure needs of the colonias in the United States along the United States-Mexico border shall be made available to a county or municipal government unless that government has established an enforceable local ordinance, or other zoning rule, which prevents in that jurisdiction the development or construction of any additional colonia areas, or the development within an existing colonia the construction of any new home, business, or other structure which lacks water, wastewater, or other necessary infrastructure: *Provided further*, That, notwithstanding any other provision of law, such funds that were appropriated under this heading for special project grants in fiscal year 2000 or before and for which the Agency has not received an application and issued a grant by September 30, 2006, shall be made available to the Clean Water or Drinking Water Revolving Fund, as appropriate, for the State in which the special project grant recipient is located: *Provided further*, That excess funds remaining after completion of a special project grant shall be made available to the Clean Water or Drinking Water Revolving Fund, as appropriate, for the State in which the special project grant recipient is located: *Provided further*, That in the event that a special project is determined by the Agency to be ineligible for a grant, the funds for that project shall be made available to the Clean Water or Drinking Water Revolving Fund, as appropriate, for the State in which the special project grant recipient is located: *Provided further*, That, notwithstanding any other provision of law, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection.

POINTS OF ORDER

Mr. GILLMOR. Mr. Chairman, I rise to make a point of order.

The Acting CHAIRMAN. The gentleman will state his point of order.

Mr. GILLMOR. Mr. Chairman, I make a point of order to the language beginning with quote, except that notwithstanding section 1452(n) on page 67, line 17 through water contaminants on line 22, violates clause 2 of rule XXI of the rules of the House of Representatives prohibiting legislation on appropriation bills.

The language that I have cited says that notwithstanding the provisions of the Safe Drinking Water Act none of the money in the fiscal year 2005 Department of Interior appropriations bill or even previous appropriations acts may be reserved by the EPA Administrator for health effects studies on drinking water contaminants.

This language clearly constitutes legislating on an appropriations bill, and as such, violates clause 2 of rule XXI.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order? If not the Chair will rule.

The Chair finds that the provision explicitly supersedes existing law. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the provision is stricken from the bill.

Mr. GILLMOR. Mr. Chairman, I have two more points of order.

The Acting CHAIRMAN. The gentleman will state his point of order.

Mr. GILLMOR. Mr. Chairman, I make a point of order to the language beginning with, that beginning in fiscal year 2006 on page 68 line 23, through school districts on page 69 line 3 violates clause 2 of rule XXI of the rules of the House of Representatives prohibiting legislation on appropriation bills.

The language that I have cited authorizes the Administrator of the EPA to set terms and conditions for grants concerning the retrofitting and replacement of diesel engines in school bus services that contract with communities.

This language clearly constitutes legislating on an appropriations bill, and as such violates clause 2 of rule XXI.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order?

Hearing none, the Chair will rule.

The Chair finds that this provision includes language conferring authority. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the provision is stricken from the bill.

Mr. GILLMOR. Point of order, Mr. Chairman.

The Acting CHAIRMAN. The gentleman will state his point of order.

Mr. GILLMOR. Mr. Chairman, I make a point of order that the language beginning with, quote, that for fiscal year 2006 on page 69, line 19 through "further" on line 22 violates clause 2 of rule XXI of the House of Representatives prohibiting legislation on appropriations bills.

The language that I have cited provides for State authority to remain in effect under section 302(a) of Public Law 104-182 allowing States to swap a portion of their drinking water and waste water trust funds between accounts.

This language clearly constitutes legislating on an appropriations bill and as such violates clause 2 of rule XXI.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order? Hearing none the Chair will rule.

The Chair finds that this provision includes language conferring authority. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. The provision is stricken from the bill.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBEY:

1. On page 67, line 1 with respect to the funding level for the Clean Water State Revolving Fund, strike the figure $750,000,000 and insert $850,000,000.

2. On page 68, line 5 strike the figure $200,000,000 and insert $100,000,000:

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from North Carolina (Mr. TAYLOR) each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, unlike the previous amendment, which I would have preferred, this amendment is not subject to a point of order. And let me explain what it does.

This amendment simply eliminates one-half of the cut that the committee recommendation would make in the Clean Water Revolving Fund, and pays for it by taking $100 million out of STAG grants.

Now, I know everyone in this House likes STAG grants. I like them myself. The problem is that if you take a look at last year's committee report, for instance, you will find over 10 pages listing hundreds of individual tiny grants, $75,000, $100,000, $125,000 a piece, tiny little grants to communities all over the country to supposedly help them pay for their sewer and water problems.

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The problem is that we are fooling ourselves because those STAG grants are being paid for by reductions in the basic loan program that we use to assist communities all over the country deal with the same problem.

What it means is that each Member is able to go home and dangle a little grant that we have gotten for our district—and I have done it myself. I will get whatever money I can for my district—but we go home and dangle that tiny little bit of money when, in fact, what we need is to have a major increase in the loan program that every community in this country applies for from time to time.

The fact is that the Clean Water State Revolving Fund is the crucial program for helping local communities with sewage treatment plants infrastructure. It is a keystone of the Clean Water Act; and yet this committee is recommending with the cut in the bill this year that we effectively cut this program by 40 percent over 2 years. It was already cut 19 percent last year. I think that is a terrible, terrible decision to make.

Our communities have more than $300 billion in backlog requirements to clean up their sewer and water systems. There are communities in my district that right now are having difficulty, for instance, even allowing the Park Service to attach its new headquarters to the sewage system in one of the cities in my district because that system is so out of compliance that the State Department of Natural Resources is urging that they hook up no further users.

We have seen, as I said earlier, stories of overflow, sewage overflow every time there is a huge storm. In the Milwaukee Journal, there was a picture of a huge sewage plume in Lake Michigan after heavy storms just last year.

We are being incredibly negligent if we do not add money to this fund, rather than cut it; and yet today, because of the budget resolution, we are prevented from adding money. We would at least like to reduce the size of the cut by 50 percent, by moving money over from the STAG grant program.

As I say, I have nothing against the STAG grant program, but if you fund STAG grants by cutting your basic loan program, you are literally robbing Peter to pay Peter, and I think that makes no sense whatsoever.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

The amendment would increase the Clean Water State Revolving Fund by $100 million and cut special project grants under the State and Tribal Assistance programs by $100 million.

The committee's recommendation for the Clean Water State Revolving Fund is identical to the level in the House bill for this program in fiscal year 2005.

Almost every Member of Congress wrote to the subcommittee requesting one or more STAG projects. These projects are often the only recourse for rural communities that, for whatever reason, are unable to qualify for a loan under the Clean Water or Drinking Water revolving funds.

I admire the gentleman from Wisconsin's (Mr. OBEY) willingness to sacrifice special STAG projects to increase the Clean Water Fund. The Committee has a very difficult time in making these decisions. I do not believe it is an appropriate approach, given that these projects address critical infrastructure needs that otherwise might never be addressed, and I urge a "no" vote on this amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mr. MCHUGH). The gentleman from Wisconsin (Mr. OBEY) has 6 minutes remaining.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, this is one of the tougher issues in our bill. I feel that we are inadequately funding the State revolving grants, and this program goes out to each of the States and they are able to make loans to the local communities at low interest rates in order to fund projects that are crucially important.

I know in my own district I have got cities like Shelton and Hoodsport, Belfair, Tacoma, all of which depend on this source of funding. STAG grants are important, and I support the program.

I wish we could do more in both areas. It is just unfortunate that, unlike when EPA was first created, we had 3 or $4 billion of funding for grants at a 90-10 Federal match; and yet we moved away from those programs. I do not believe we are funding this adequately. This means less money to the States and then less money goes out to the communities. I hope that as we go further in the process we can find a way to help correct this problem.

The gentleman from Wisconsin (Mr. OBEY) has his approach, which I am supporting; and I think this is one of the jobs that appropriators have to do. We have to make difficult choices, and this is a very difficult choice; but I think it is the correct one.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, how much time do I have left?

The Acting CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) has 4½ minutes remaining.

Mr. OBEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I want to thank the gentleman from Wisconsin (Mr. OBEY), my friend, for allowing me this time.

The purpose of these amendments, this one and the one previous to it, in part at least, is to demonstrate how misaligned the priorities of this Congress have become and how far we have devolved, how we have regressed from a period in the 1970s when the Clean Water Act was passed and this Congress demonstrated its concern and understanding of the environmental needs of our Nation.

In the last 3 years, this fund has been cut by almost 50 percent; and prior to those 3 years, it had been cut previously, leaving the States with little or no money to deal with the issue of clean water.

Thirty years ago, we recognized that the waters of this country should be swimable, fishable and drinkable. The waters of this country are becoming less so in each of those three categories as a result of the mismanagement of funding by this Congress, by the devolution of our philosophy in this Congress, and by the priorities set by the leadership of this Congress.

People in this country are experiencing conditions that are less safe, less secure, and less healthy as a result of the mismanagement of the people's funds. My colleagues are more concerned with cutting taxes for millionaires than providing safety and security and good drinking water for the American people. These priorities must change.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

I would repeat, the special grants program under STAG would be cut by $100 million under this amendment. As I mentioned, these projects are often the only recourse for rural communities that, for whatever reason, are unable to qualify for a loan under the Clean Water or Drinking Water state revolving funds.

It is a difficult decision in our bill in allocating money. The STAG grants are one way that we can answer the needs made by their representatives who are elected to this Congress. To oppose this, I think, is taking away the right of the membership to look in their districts for those needs which maybe go beyond the official needs, and I oppose this amendment and hope everyone else will also.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, how much time do I have remaining?

The Acting CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) has 3 minutes remaining.

Mr. OBEY. Mr. Chairman, I yield myself the remainder of the time.

Mr. Chairman, I do not in any way criticize the subcommittee chairman for decisions he has made. The problem does not lie with his decisions. The problem lies with the budget resolution which imposes those decisions on him.

I certainly understand Members asking for STAG grants if that is their only access, and I have no objection to that, but my objection is simply this: the budget resolution, which the majority party voted for, decided that it was so important to provide tax cuts of $140,000 a year to people who make over a million bucks that they are willing to cut back the basic program that helps communities deal with their sewer and water problems by 40 percent over a 2-year period.

Then what they do after they have imposed those kind of cuts on this program, then they go to the STAG program. They get a tiny little $100,000 or $150,000 program for their districts. They go to their districts, they say, "Oh, look, what a good boy am I, look what a friend I am for clean water." Meanwhile, the votes that they have cast on the budget resolution have gutted the ability of this Congress to provide meaningful help to communities who need real help on sewer and water.

I think we are sort of chasing our tail; and so, as the gentleman from Washington (Mr. DICKS) says, this is a very difficult priorities choice, and I do not fault the gentleman from North Carolina at all for the choice he has made. I think we have an obligation to try to put some more money back into the basic program first. That is what the amendment tries to do, and I would urge a "yes" vote.

Mr. LEVIN. Mr. Chairman, I rise in strong support of the Obey amendment. Three weeks ago, by a bare three-vote margin, the House of Representatives approved the Republican budget. Today, we're dealing with the consequences of that vote and the majority's misguided priorities. The budget that was agreed to contained more than $100 billion in additional cuts—the vast majority of which disproportionately benefit the very richest individuals in this country. At the same time, the budget calls for billions of dollars in spending cuts, nearly all of which were not specified.

Well, the chickens have come home to roost. The bill before the House contains a $241 million cut in Clean Water funding, a reduction of 22 percent. This cut comes on top of the Clean Water funding reductions that were approved last year.

There was a time during the 1970s and 1980s when the Federal Government provided most of the funding to upgrade water treatment plants and improve sewer infrastructure around this country. Today, there is really only one Federal program left to help communities improve sewer infrastructure to keep pollution out of our lakes, rivers and streams, and that's the Clean Water State Revolving Loan Program.

Let me tell you what this program has done in my district. In the mid-1990s, fourteen communities in my district were confronted with the difficult necessity of upgrading the Twelve Towns Drain. The problem was that whenever there was a significant storm in Southeastern Michigan, the Drain would quickly overflow and spill millions of gallons of partially treated sewage into the Clinton River. The result was deteriorating water quality in the Clinton River and beach closures at the River's terminus in Lake St. Clair.

The solution was to expand the retention basin to prevent the sewage overflows, but the cost was enormous: $130 million.

The Twelve Towns Drain improvements could not have been accomplished without the Clean Water State Revolving Fund. The communities involved with this project borrowed more than $100 million from the revolving fund. Giving these communities the ability to borrow the needed money at below-market interest rates is the least the Federal government could do, and that's what the State Revolving Fund makes possible. Thanks to the Revolving Loan Program, this massive water infrastructure effort will be completed later this year. This is an example of the kind of water quality work that will be sacrificed unless we approve this amendment.

Earlier this week, I received a letter from the Director of the Michigan Department on Environmental Quality. This is what he says: "Discharges from aging and failing sewerage systems, urban storm water, and other sources continue to pose serious threats to Michigan's lakes, rivers, and estuaries, endangering our public health, tourism, and recreation areas." He goes on to say that the proposed State Revolving Fund cuts "will likely severely impede the amount of water infrastructure projects that can be funded in the state of Michigan."

There isn't a Member of this House who supports polluted waterways or beach closures, but there is a chasm between rhetoric and reality when it comes to providing the needed resources. If this Congress wants to be on the side of rivers, lakes and streams that are drinkable, swimmable and fishable, it's time to put your money where your mouth is. Vote for the Obey amendment.

Mr. KUCINICH. Mr. Chairman, more than ever before, our wastewater treatment systems are failing. Effluent from wastewater treatment plants is contaminating our rivers with chemicals like Triclosan—a germ toxin added to countless consumer products; hormones such as the active ingredient in estrogen therapy; the insect repellant DEET; and an anti-epileptic drug (Environmental Science and Technology, 36 (6), 1202–1211, 2002 http://pubs.acs.org/cgibin/jtextd?esthag/36/6/html/es011055j.html).

As these chemicals are released from treatment plants into our rivers, lakes and oceans, they are finding their way into the natural resources on which we heavily depend. New studies show that they are starting to show up in our drinking water ("Pollutants in New Jersey's Drinking Water," Environmental Science and Technology, December 8, 2004 (http://pubs.acs.org/subscribe/journals/esthag-w/2004/dec/science/pt_nj.html); "Pharmaceutical Data Eludes Environmental Researchers," Environmental Science and Technology, March 16, 2005). A Baylor University study in Texas found a prescription drug in fish tissues ("Frogs, fish and pharmaceuticals a troubling brew" November 14, 2003 (http://www.cnn.com/2003/TECH/science/11/14coolsc.frogs.fish/).

At the same time that these new challenges are emerging, we are still trying to overcome the well-established wastewater contaminants from aging and broken sewer systems that continue to contaminate water with E. coli and other water borne diseases. By EPA's 2003 estimate, the need for sewer upgrades alone is so great and so widespread that the funding required to alleviate it is $181 billion ("Wastewater Treatment: Overview and Background," Congressional Research Service, February 7, 2005). In fact, the infrastructure is so old in many places that when it rains, wastewater treatment plants can't handle the increased volume. The result is that untreated or poorly treated sewage flows into our waters, causing our beaches to be closed in order to protect public health. Forty three percent of the communities dealing with this are on the Great

Lakes, which holds 20% of the world's fresh water supply.

So what is the solution proposed by this Administration and Republican leadership in Congress? Reduce funding for wastewater infrastructure by $350 million. Ohio alone would lose $20 million in revenue and roughly 650 jobs from FY 05 if the proposed cuts to the Clean Water State Revolving Fund come to pass.

While the need to upgrade our wastewater infrastructure to deal with emerging problems increases, the proposed cuts in this bill take us in the opposite direction. Lets improve our health and the environment, not make it worse. I urge my colleagues to support the Clean Water State Revolving Fund and the Obey amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Again, I say this is a very difficult choice to make, and the committee has tried to be as bipartisan as possible.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. OBEY) will be postponed.

AMENDMENT OFFERED BY MR. GILLMOR

Mr. GILLMOR. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILLMOR:

Page 71, line 21, strike "*Provided*" and all that follows through page 72, line 6, and insert the following:

Provided further, That notwithstanding this or previous appropriations Acts, after consultation with the House and Senate Committees on Appropriations and for the purposes of making technical corrections, the Administrator is authorized to award grants to entities under this heading for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, waste water and storm water infrastructure, and for water quality protection.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Ohio (Mr. GILLMOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. Mr. Chairman, I yield myself such time as I may consume.

I am offering this amendment today to clarify some language in the bill that is under the jurisdiction of the Committee on Energy and Commerce. It is a good amendment that I hope we can adopt today.

As part of the debate on this amendment, I would like to engage in a colloquy with the gentleman from North Carolina (Mr. TAYLOR), the chairman of the Subcommittee on the Interior, Environment and Related Agencies of the Committee on Appropriations.

First, however, let me thank the gentleman from North Carolina (Chairman Taylor) for his patience and express my appreciation both to him and to his staff for the fair way that they have worked with me and my staff to remove authorizing provisions in the appropriations bill, which are under the jurisdiction of the Committee on Energy and Commerce.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I am pleased to work with the authorizing committee chairman.

I want to assure the chairman that I will work to remove or modify objectionable provisions under his jurisdiction as we move the bill into conference.

Mr. GILLMOR. Mr. Chairman, I thank the gentleman for this, and I also note that the amendment I am offering today represents a compromise on a provision dealing with corrections to the State and Tribal grants technical correction authority to make it clear that it applies solely to earmarked grants in the conference agreement that are incorporated by reference in the appropriations bill and that the authority does not apply to future appropriations.

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I understand the chairman's need for language that allows him to conduct some technical housekeeping of some grant provisions in predecessor spending bills. I look forward to further discussions with him regarding the terms "for other purposes" to ensure that this language is clearly and narrowly understood as applying to corrections that are technical in nature and not broadly defined to include changes in policy.

Mr. TAYLOR of North Carolina. Mr. Chairman, if the gentleman will continue to yield, I have reviewed the gentleman's amendment and am willing to accept it. I have already notified the Senate of the changes we agreed upon with respect to the "special projects" correction authority, and I look forward to working with the gentleman as the bill moves forward this year and on future appropriation bills.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. GILLMOR. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to commend the gentleman. I think it is a good amendment and concur with our chairman that we should accept it.

Mr. GILLMOR. Mr. Chairman, reclaiming my time, I thank the chairman and the ranking member for their cooperation and support and I urge passage of the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. MCHUGH). The question is on the amendment offered by the gentleman from Ohio (Mr. GILLMOR).

The amendment was agreed to.

AMENDMENT NO. 13 OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Ms. EDDIE BERNICE JOHNSON of Texas:

Page 68, line 14, insert "(increased by $2,000,000)" after "$95,500,000".

Page 69, line 4, insert "(reduced by $2,000,000)" after "$1,153,300,000".

Page 69, line 14, insert "(reduced by $2,000,000)" after "$52,000,000".

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON of Texas).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment will provide an additional $2 million for brownfield assessments and cleanups, while fully funding grants for States to administer their voluntary cleanup programs.

The assessment and cleanup of brownfields are critical to the economic and environmental health of communities across the Nation. Brownfields represent lost opportunity where they exist.

In 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act. That bill authorized $200 million annually in Federal assistance to States and local communities to assess brownfield sites and to conduct cleanup where the assessment indicated that cleanup was warranted. The law also authorized $50 million annually in grants to States to assist States in implementing voluntary cleanup programs.

The committees that wrote this legislation, the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce, following years of hearings, discussions and considerations, determined an assessment on cleanup of brownfields required at least $200 million annually and that State voluntary cleanup programs should be supported at $50 million annually.

The bill before the House provides $52 million for the State programs and only $95.5 million for assessment and cleanups. My amendment simply transfers this unauthorized $2 million in grants to the State bureaucracies to the actual assessment and cleanup of brownfield sites, and I believe that it will be more useful to do that.

When the President signed the Brownfields Revitalization Act in 2002, it represented the centerpiece of the administration's environmental agenda. It was widely praised and received broad bipartisan support. According to the Government Accountability Office, there are well over 500,000 brownfields across the country.

These abandoned and underused sites represent a blight to neighborhoods, pose health and safety threats, and create a drain on economic activity. Brownfield grants generate economic returns in excess of five to one.

The City of Dallas, which I represent, one of the first cities designated as a Brownfield Showcase Community by the Environmental Protection Agency, has used assessment and remediation grant programs to redevelop 35 sites in the core of the city.

A Federal investment of less than $2 million has leveraged more than $370 million in private investment and created or helped to retain close to 3,000 permanent full-time jobs. Over 1,600 units of housing, including 134 units of affordable housing, have been developed on former brownfield sites. The program has brought new vitality to long distressed portions of the city, boosting the tax base and bringing important economic opportunities to the neighborhoods.

Unfortunately, this bill, and the administration budget request it represents, prefers to fund more State bureaucracy rather than more actual cleanup and economic redevelopment. Mr. Chairman, the inadequate funding level for cleanup that was in the President's budget is just another example of the administration touting authorization legislation and failing to follow through with the actual funding.

According to the Conference of Mayors, EPA regularly turns away about two-thirds of the applicants for brownfield assistance because of the lack of available funds. So I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to claim the time in opposition to the amendment, and I yield 1 minute to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I rise in support of the gentlewoman's amendment, and I thank the gentleman from North Carolina for yielding me this time.

This amendment will provide more funding for brownfield site assessments and cleanup and bring the appropriation for State voluntary cleanup programs in line with the level authorized by the Small Business Liability Relief and Brownfields Revitalization Act.

This Brownfields Revitalization Act was legislation which came through our Subcommittee on Water Resources and Environment, which I have the privilege to chair and on which the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) serves as the ranking minority member, and the Congress passed this legislation in 2002.

Brownfields cleanup and redevelopment are very important to our communities and the economy. There are hundreds of thousands of brownfield sites around the Nation waiting to be cleaned up. We need to continue directing funds toward cleaning up and revitalizing these sites by fully funding State voluntary cleanup programs.

The gentlewoman's amendment helps accomplish this goal, and I urge all Members to support this amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume simply to say that with such persuasive statements from the gentlewoman and the gentleman from Tennessee, I have no objection to this amendment.

Mr. OBERSTAR. Mr. Chairman, I support the amendment offered by Ms. JOHNSON of Texas, the Ranking Democrat of the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure. The amendment moves $2 million from grants for state administrative expenses to grants for communities to conduct actual cleanup of contaminated brownfields.

The Bush administration has called the federal brownfields program, enacted by the Committee on Transportation and Infrastructure in 2001, "one of the administration's top priorities and a key to restoring contaminated sites to productive use." Yet, despite this praise, the administration's budget requests for the cleanup of brownfields demonstrate its lack of commitment to the cleanups necessary to reduce the risks to human health and the environment.

In fiscal year 2006, the administration requested $210 million for Environmental Protection Agency's brownfields program; however, of this amount, approximately 45 percent, or $90 million, is earmarked for Federal and state bureaucrats to manage the program. That leaves only $120 million of a $210 million request devoted to actual cleanups—shovels in the ground—and this bill further reduces that amount by about 20%.

Since 2001, the Bush administration has consistently requested far less than the fully-authorized levels for assessment and cleanups, yet attempts to take credit for fully-funding the brownfields program.

While the budgetary constraints of the House Republican Leadership prevent us from fully-funding brownfields cleanups, the amendment offered by the gentlewoman from Texas, Ms. JOHNSON, shifts dollars away from the management of the program to actual cleanups.

The amendment reduces, by $2 million, the amount appropriated for State Response programs under section 128 of the Superfund law to $50 million, the total authorized level of funding for these programs.

The amendment adds $2 million to the site assessment and cleanup portion of the brownfields program, raising this level from $95.5 million to $97.5 million. Under current law, the brownfields sites assessment and cleanup program is authorized at $200 million annually by section 104(k) of the Superfund law, so even this increase leaves the program at less than 50 percent of its authorized funding level.

Mr. Chairman, the brownfields program is critical for the restoration and reuse of the legacies of this Nation's industrial era, many of which have plagued our cities and communities for decades.

In this time of scarce Federal resources, it is important that we devote what limited dollars are available to actually accomplishing what the brownfields program set out to do over five years ago—redeveloping the underused and abandoned brownfields across this country.

I strongly support the amendment offered by Ms. JOHNSON, and urge my colleagues to vote "aye."

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

The amendment was agreed to.

The Acting CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For an additional amount for the Clean Water State Revolving Fund, $100,000,000 shall be made available from the rescissions of multi-year and no-year funding, previously appropriated to the Environmental Protection Agency, the availability of which under the original appropriation accounts has not expired, and $100,000,000 in such funding is hereby rescinded: *Provided*, That such rescissions shall be taken solely from amounts associated with grants, contracts, and interagency agreements whose availability under the original period for obligation for such grant, contract, or interagency agreement has expired based on the April 2005 review by the Government Accountability Office.

ADMINISTRATIVE PROVISIONS

For fiscal year 2006, notwithstanding 31 U.S.C. 6303(1) and 6305(1), the Administrator of the Environmental Protection Agency, in carrying out the Agency's function to implement directly Federal environmental programs required or authorized by law in the absence of an acceptable tribal program, may award cooperative agreements to federally-recognized Indian Tribes or Intertribal consortia, if authorized by their member Tribes, to assist the Administrator in implementing Federal environmental programs for Indian Tribes required or authorized by law, except that no such cooperative agreements may be awarded from funds designated for State financial assistance agreements.

The Administrator of the Environmental Protection Agency is authorized to collect and obligate pesticide registration service fees in accordance with section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by subsection (f)(2) of the Pesticide Registration Improvement Act of 2003), as amended.

Notwithstanding CERCLA 104(k)(4)(B)(i)(IV), appropriated funds for fiscal year 2006 may be used to award grants or loans under section 104(k) of CERCLA to eligible entities that satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was prior to the date of enactment of the Small Business Liability Relief and Brownfield Revitalization Act of 2001.

For fiscal years 2006 through 2011, the Administrator may, after consultation with the Office of Personnel Management, make not to exceed five appointments in any fiscal year under the authority provided in 42 U.S.C. 209 for the Office of Research and Development.

TITLE III—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, $285,000,000, to remain available until expended: *Provided*, That of the funds provided, $62,100,000 is for the forest inventory and analysis program.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, including treatments of pests, pathogens, and invasive or noxious plants and for restoring and rehabilitating forests damaged by pests or invasive plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, $254,875,000, to remain available until expended, as authorized by law of which $25,000,000 is to be derived from the Land and Water Conservation Fund: *Provided*, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the Forest Service notifies the House Committee on Appropriations and the Senate Committee on Appropriations, in writing, of specific contractual and grant details including the non-Federal cost share: *Provided further*, That of the funds provided herein, $1,000,000 shall be provided to Custer County, Idaho for economic development in accordance with the Central Idaho Economic Development and Recreation Act, subject to authorization.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, $1,423,920,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601–6a(i)): *Provided*, That unobligated balances under this heading available at the start of fiscal year 2006 shall be displayed by budget line item in the fiscal year 2007 budget justification.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, hazardous fuels reduction on or adjacent to such lands, and for emergency rehabilitation of burned-over National Forest System lands and water, $1,790,506,000, to remain available until expended: *Provided*, That such funds including unobligated balances under this heading, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: *Provided further*, That such funds shall be available to reimburse State and other cooperating entities for services provided in response to wildfire and other emergencies or disasters to the extent such reimbursements by the Forest Service for non-fire emergencies are fully repaid by the responsible emergency management agency: *Provided further*, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2005 shall be transferred, as repayment for past advances that have not been repaid, to the fund established pursuant to section 3 of Public Law 71–319 (16 U.S.C. 576 et seq.): *Provided further*, That, notwithstanding any other provision of law, $8,000,000 of funds appropriated under this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: *Provided further*, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: *Provided further*, That funds provided shall be available for emergency rehabilitation and restoration, hazardous fuels reduction activities in the urban-wildland interface, support to Federal emergency response, and wildfire suppression activities of the Forest Service: *Provided further*, That of the funds provided, $286,000,000 is for hazardous fuels reduction activities, $9,281,000 is for rehabilitation and restoration, $21,719,000 is for research activities and to make competitive research grants pursuant to the Forest and Rangeland Renewable Resources Research Act, as amended (16 U.S.C. 1641 et seq.), $41,000,000 is for State fire assistance, $8,000,000 is for volunteer fire assistance, $15,000,000 is for forest health activities on Federal lands and $10,000,000 is for forest health activities on State and private lands: *Provided further*, That amounts in this paragraph may be transferred to the "State and Private Forestry", "National Forest System", and "Forest and Rangeland Research" accounts to fund State fire assistance, volunteer fire assistance, forest health management, forest and rangeland research, vegetation and watershed management, heritage site rehabilitation, and wildlife and fish habitat management and restoration: *Provided further*, That transfers of any amounts in excess of those authorized in this paragraph, shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in the report accompanying this Act: *Provided further*, That funds provided under this heading for hazardous fuels treatments may be transferred to and made a part of the "National Forest System" account at the sole discretion of the Chief of the Forest Service thirty days after notifying the House and the Senate Committees on Appropriations: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriations, up to $15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed $9,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: *Provided further*, That funds designated for wildfire suppression, shall be assessed for indirect costs, in a manner consistent with such assessments against other agency programs.

AMENDMENT OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAYLOR of North Carolina:

On page 75, line 12, after the dollar amount, insert, "(increased by $1,000,000)".

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from North Carolina (Mr. TAYLOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment adds $1 million for the National Forest System, and I believe we have agreement on both sides.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I rise to advise that we do agree with the amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. TAYLOR).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. BEAUPREZ

Mr. BEAUPREZ. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. BEAUPREZ:

In title III of the bill under the heading "WILDLAND FIRE MANAGEMENT (INCLUDING TRANSFER OF FUNDS)", insert after the first dollar amount on Page 76 the following "(increased by $27,500,000)"

Insert after the first dollar amount on page 77 "(increased by $27,500,000)"

In title III of the bill in the item relating to "NATONAL ENDOWMENT FOR THE ARTS—GRANTS AND ADMINISTRATION", insert after the first dollar amount on Page 106 the following "(reduced by 30,000,000)"

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Colorado (Mr. BEAUPREZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would reduce funding for the National Endowment of the Arts by $30 million and transfer the funds to the United States Forest Service for thinning projects to reduce the threat of catastrophic wildfires.

As Members of this Chamber will certainly remember, the summers of 2000 and 2002 were the two largest and most destructive fire seasons in the last 50 years. According to information presented by the United States Forest Service Chief, Dale Bosworth, in 2002, some 73 million acres of the 192 million acres managed by the United States Forest Service remain at risk to catastrophic wildfire. That is greater than the size of the entire State of Arizona.

The Wall Street Journal reported that parts of the National Forest System contain more than 400 tons of dry fuel per acre, or 10 times the manageable or appropriate level. Disease and insect infestations have also attributed to an increase in combustible fuels. In Colorado alone, surveys have recorded that approximately 1.2 million trees have been killed by mountain pine beetle outbreaks in 2004. This is nearly 100 times the mortality rate reported in 1996.

This is the kind of timber that turns small fires into kinds of infernos that have devastated Colorado and other western States in recent years, destroying homes, poisoning the air, scorching critical habitat, and choking streams and rivers with tons of soot and sediment.

Positive steps have been made recently, most notably the passage of the Healthy Forest Act, which enabled forest managers to begin the process of restoring our forests to more sustainable and natural states. This legislation has helped land managers cut through the red tape that has delayed badly needed thinning projects.

However, even with increased attention to thinning and fuels treatment efforts, more funding is needed. Since the majority of our forests are federally owned, the burden to protect our States and local communities from the devastating effects of forest fires lies with the Federal agencies designated to protect them. Congress must fully fund their needs.

While cooler temperatures and increased moisture have brought some relief to the West this past winter, we cannot forget the need to continue to support responsible forest management. Another dry season is just one hot summer away. The human consequences from past fires have taught us we must continue to be proactive with our forest management. It far outweighs the devastating economic, ecological, and social cost of forest fires.

In 2002, hundreds of homes and other structures were destroyed and thousands more were evacuated. Twenty-three firefighters lost their lives, and the American taxpayer spent in excess of $1.5 billion containing 2002's record-setting blazes. Rural economies that rely on tourism suffered significant losses.

This amendment is a modest attempt to provide additional funding that can be used on the ground immediately in a way that will help ensure cleaner air and water, protection of sensitive ecosystems, keep western communities safe from catastrophic wildfire, and improve the health of our forests and watersheds. Simply, it reduces funding for the NEA by $30 million and transfers funds to the United States Forest Service for thinning projects.

The question arises, why take funds from the NEA. I applaud the progress that has been made recently by the NEA in repairing a very damaged image in the view of many Americans. One of my sons is actually a student of the arts, and my wife and I are certainly avid arts supporters and particularly appreciate "public art."

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However, a very small percentage of artistic funds comes from the Federal Government. Still, since fiscal year 2000, NEA funding from the Federal Government has increased by 19 percent. In 2001, the NEA budget as a percentage of total revenues in the nonprofit arts sector was less than 0.4 percent.

Most of the funding happens to come from everyday patrons of the arts who enjoy them, philanthropists and corporate donations that foster the development of artistic communities.

I commend these individuals and organizations for doing so. However, it should be a greater priority of Congress to ensure the safety of our western communities, prevent forest fires, and save lives rather than spend taxpayer dollars for artistic endeavors, enjoyable as they may be.

When Congress spends so much annually to put out wildfires, does it not make more sense to spend that money on additional thinning treatments that could help prevent forest fires from starting in the first place? I was pleased when the Healthy Forest Initiative was passed by Congress and signed into law by the President. However, I worried that we still lacked the economic incentives that could make the management of our forests, the removal of dead fuel for an inferno, an opportunity. That incentive now exists.

Mr. Chairman, I urge adoption of this amendment and ask my colleagues to join me in voting "aye."

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to claim the time in opposition, and I yield myself such time as I may consume.

I share the gentleman's concern for forests. The Department of the Interior bill has focused on forest health and wildlife management. We have large increases for the most important parts of the national fire plan. The bill has substantially increased due to the administration's Healthy Forest and National Fire Plan Initiatives. The bill has a $33 million increase in funding over the last year for hazardous fuel management. This is a serious increase. We have increased hazardous fuel funding dramatically in the last 4 years. It is not clear that the proposed increase could be used efficiently.

I share the gentleman's interest in caring for public lands. A large part of my district is national forests and national parks, so I understand we need to take care of this important land.

The Department of the Interior bill also increases funding for other wildlife programs and forest health management. This is a tight allocation, and I think we have done a careful balancing act. As I opposed the amendment to increase funding in the arts earlier, trying to balance our concerns, I must also reluctantly oppose this amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise in strong opposition to the gentleman's amendment. Make no mistake, the principle purpose of this amendment is to cut the National Endowment for the Arts. I absolutely share the gentleman's concern that the forest system and BLM have sufficient funding to meet the challenge of fighting fires.

In fact, last year I worked closely with the gentleman from North Carolina (Chairman TAYLOR) to provide 2 years of emergency funding to fight wildfires which totaled $1 billion. This bill does not contain that emergency money, but non-emergency firefighting is increased by $116 million when compared to the non-emergency funding in 2005. Of course, I do worry that an extremely bad fire season could exhaust this increased funding. However, I do not think the NEA is the place to augment firefighting funding. But again, I think the purpose of this amendment is more to raise issues about the NEA.

I appreciate the gentleman saying he is a supporter of the arts. I wish we had the emergency money that we have had the last 2 years, but we do not. I think I would say to the gentleman as we look and see how the season unfolds, we may have to do something further in conference; but I think this amendment is the wrong approach. I strongly support our chairman and urge that the committee defeat the amendment.

Mr. DEFAZIO. Mr. Chairman, I have always been a strong supporter of funding for arts programs and will continue to be. The arts community in my district is vibrant, and funding for the National Endowment for the Arts is an invaluable part of education and social enrichment throughout Oregon. I was pleased to see the amendment offered by Congresswoman SLAUGHTER and Ranking Member DICKS, which would increase funding for the NEA, approved by a voice vote.

But we have an unresolved crisis on our public lands that needs to be addressed. A lot of members would probably like to believe that by passing the Healthy Forests restoration Act, Congress solved the forest health and hazardous fuel build-up problem. Nothing could be further from the truth.

I fought hard to get funding for fuel reduction projects included as part of HFRA. That bill eventually authorized $760 million annually for critical fuel reduction, but Congress hasn't even begun to approach that commitment as evidenced by the appropriations bill we're considering today.

This Interior bill contains $211 million in hazardous fuel reduction for the Bureau of Land Management and $286 million for the Forest Service. That's an increase of $9.8 million and $23.5 million respectively. I very much appreciate the Chairman and Ranking Member for including these increases in the bill, but they fall far short of what is needed to reduce hazardous fuel and the yearly threat of wildfire throughout the West.

The GAO recently stated that at these anemic spending levels we will continue to fall further and further behind. The GAO says that if we doubled the funding for fuel reduction, we would only stay even with the problem. Earlier this year when the agency testified before the Forests Subcommittee on which I serve, they said we would need to triple the funding for fuel reduction if we wish to begin to address the build-up of dangerous trees and shrubs in our national forests.

If we tripled the overall funding, more than 60 percent of that money could be spent under the expedited environmental analysis and judicial review authorized by HFRA, instead of using budget gimmicks to only claim that we are fully funding that important law. But the administration thus far has used that authority on less than 10 percent of projects. And the vast majority of those projects are simply burning rangeland, which does virtually nothing to improve forest health and reduce wildfire risk. The bottom line is that we are not even beginning to address the fuel build-up problem on forested federal land and we won't start with this bill. We gave them the authority to get more done in an expedited way, now let's give them the money necessary to do it.

The administration plans to treat only about 1 percent of the acres that they claim are in need of fuel reduction. The money in the amendment offered by Mr. BEAUPREZ would be small compared to the need, but every additional dollar helps. This amendment would allow them to do 60,000 more acres of fuel reduction next year. And not of only burning sagebrush, but actually treating 60,000 more acres of forested lands which are overstocked tinder boxes that could result in catastrophic fires and threaten our communities.

Congress needs to get serious about funding hazardous fuel reduction projects and fullfil the commitment made when it passed HFRA. This amendment would be a small but important step toward that goal and I urge its adoption.

The Acting CHAIRMAN (Mr. WALDEN of Oregon). All time has expired.

The question is on the amendment offered by the gentleman from Colorado (Mr. BEAUPREZ).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. BEAUPREZ) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment offered by the gentleman from Colorado (Mr. HEFLEY); amendments offered by the gentleman from Pennsylvania (Mr. PETERSON); amendment offered by the gentleman from Nebraska (Mr. TERRY); amendment offered by the gentleman from Wisconsin (Mr. OBEY); and amendment offered by the gentleman from Colorado (Mr. BEAUPREZ).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. HEFLEY

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 311, not voting 13, as follows:

[Roll No. 191]

AYES—109

Akin
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berkley
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Brady (TX)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Cannon
Chabot
Cox
Cubin
Culberson
Davis, Jo Ann
Deal (GA)
DeLay
Doolittle
Emerson
Everett
Feeney
Flake
Forbes
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gingrey
Gohmert
Goode
Goodlatte
Graves
Green (WI)
Gutknecht
Hall
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hoekstra
Hostettler
Hulshof
Hunter
Issa
Istook
Jenkins
Johnson, Sam
Jones (NC)
King (IA)
Kline
Kuhl (NY)
Lewis (KY)
Linder
Lungren, Daniel E.
Mack
Manzullo
Marchant
McHenry
McMorris
Mica
Miller (FL)
Miller, Gary
Musgrave
Myrick
Neugebauer
Norwood
Nunes
Otter
Paul
Pence
Peterson (MN)
Petri
Pitts
Poe
Pombo
Pomeroy
Putnam
Radanovich
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Salazar
Sensenbrenner
Sessions
Shadegg
Shuster
Skelton
Stearns
Sullivan
Tanner
Taylor (MS)
Thornberry
Tiahrt
Weldon (FL)
Weller
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—311

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrow
Bass
Bean
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bonilla
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Granger
Green, Al
Green, Gene
Grijalva
Gutierrez
Harris
Hart
Hastings (FL)
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Hyde
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos

Larsen (WA)
Latham
Lee
Levin
Lewis (CA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (PA)
Pickering
Platts
Porter
Price (GA)
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Sherwood
Shimkus
Simmons
Simpson
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stupak
Sweeney
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Westmoreland
Wexler
Whitfield
Wicker
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—13

Conaway
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Shays
Strickland
Tancredo
Weldon (PA)

☐ 1701

Mr. SCHWARZ of Michigan, Mr. RENZI, Ms. KILPATRICK of Michigan, Ms. LORETTA SANCHEZ of California, and Messrs. CARTER, SMITH of Texas and RUPPERSBERGER changed their vote from "aye" to "no."

Messrs. PETERSON of Minnesota, GINGREY, SULLIVAN, YOUNG of Alaska, Miss McMORRIS, and Mr. KUHL of New York changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. PETERSON OF PENNSYLVANIA

The Acting CHAIRMAN (Mr. BASS). The pending business is the demand for a recorded vote on the amendments offered by the gentleman from Pennsylvania (Mr. PETERSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendments.

The Clerk designated the amendments.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 157, noes 262, not voting 14, as follows:

[Roll No. 192]

AYES—157

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barton (TX)
Beauprez
Berry
Bishop (UT)
Blackburn
Boehner
Bonilla
Bonner
Boozman
Boren
Boustany
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Cannon
Carter
Chocola
Coble
Cole (OK)
Cooper
Cramer
Cubin
Cuellar
Culberson
Davis (TN)
Deal (GA)
Dent
Doolittle
Doyle
Duncan
Edwards
Emerson
English (PA)
Everett
Flake
Fortenberry
Foxx
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green, Al
Green, Gene
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
King (IA)
King (NY)
Kline
Kolbe
Kuhl (NY)
Lewis (KY)
Linder
Lungren, Daniel E.
Manzullo
Marchant
Marshall
McCaul (TX)
McCrery
McHenry
McHugh
McMorris
Melancon
Mica
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Porter
Price (GA)
Regula
Renzi
Reyes
Rogers (KY)
Rohrabacher
Ross
Ryun (KS)
Sabo
Salazar
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Sullivan
Tanner
Taylor (MS)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Upton
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—262

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bartlett (MD)
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Cox
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Drake
Dreier
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gillmor
Gordon
Green (WI)
Grijalva
Harris
Hastings (FL)
Herseth
Higgins
Hinchey
Hobson
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kingston
Kirk
Knollenberg
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Lee
Levin
Lewis (CA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Nussle
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Platts
Poe
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Rehberg
Reichert
Reynolds
Rogers (AL)
Rogers (MI)
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stupak
Sweeney
Tauscher
Taylor (NC)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—14

Conaway
Gutierrez
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Shays
Strickland
Tancredo
Weldon (PA)

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. BASS) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1709

So the amendments were rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CONAWAY. Mr. Chairman, on rollcall Nos. 191 and 192, I am not recorded because I was unavoidably detained. Had I been present, I would have voted "aye."

AMENDMENT NO. 4 OFFERED BY MR. TERRY

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentleman from Nebraska (Mr.

TERRY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were— ayes 76, noes 344, not voting 13, as follows:

[Roll No. 193]

AYES—76

Akin
Barrow
Bean
Bishop (UT)
Boehner
Boren
Bradley (NH)
Brady (PA)
Camp
Cannon
Capuano
Chocola
Costello
Cubin
Deal (GA)
DeFazio
Dingell
Doggett
Doyle
Fattah
Fitzpatrick (PA)
Flake
Fortenberry
Frank (MA)
Gerlach
Green, Gene
Gutierrez
Hall
Hayworth
Hensarling
Hinchey
Holden
Hostettler
Jenkins
Jindal
Johnson, Sam
Kanjorski
Kelly
Kennedy (MN)
King (IA)
LoBiondo
Maloney
Markey
Matsui
McKinney
Menendez
Miller (FL)
Miller, Gary
Moore (WI)
Moran (KS)
Murphy
Musgrave
Nadler
Norwood
Osborne
Pallone
Pascrell
Pearce
Pence
Pitts
Poe
Ramstad
Ruppersberger
Ryan (WI)
Salazar
Saxton
Schwartz (PA)
Shimkus
Shuster
Smith (WA)
Stupak
Taylor (MS)
Terry
Weller
Wu
Wynn

NOES—344

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Grijalva
Gutknecht
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kaptur
Keller
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Oxley
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Young (AK)
Young (FL)

NOT VOTING—13

Harman
Jackson-Lee (TX)
Kolbe
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Peterson (PA)
Shays
Strickland
Tancredo

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. FOLEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1716

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OBEY

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. OBEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 186, noes 235, not voting 12, as follows:

[Roll No. 194]

AYES—186

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Neal (MA)
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—235

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Stupak
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Shays
Strickland
Sullivan
Tancredo

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1726

Mr. EDWARDS, Mr. SCOTT of Georgia, and Mrs. JONES of Ohio changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. BEAUPREZ

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. BEAUPREZ) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 122, noes 298, not voting 13, as follows:

[Roll No. 195]

AYES—122

Akin
Bachus
Barrett (SC)
Bartlett (MD)
Beauprez
Blackburn
Boehner
Bonilla
Boren
Boustany
Brady (TX)
Burgess
Burton (IN)
Buyer
Calvert
Cannon
Cantor
Carter
Chabot
Coble
Cole (OK)
Cox
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
Diaz-Balart, M.
Doolittle
Dreier
Emerson
Feeney
Flake
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gingrey
Gohmert
Goode
Goodlatte
Graves
Green (WI)
Gutknecht
Hall
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hoekstra
Hostettler
Hunter
Issa
Istook
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Kuhl (NY)
Latham
Lewis (CA)
Lewis (KY)
Linder
Lungren, Daniel E.
Manzullo
Marchant
McCaul (TX)
McHenry
McMorris
Miller (FL)
Miller, Gary
Musgrave
Myrick
Neugebauer
Ney
Norwood
Nunes
Nussle
Otter
Paul
Pence
Petri
Pickering
Pitts
Poe
Pombo
Porter
Renzi
Rogers (AL)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Salazar
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Souder
Stearns
Sullivan
Taylor (MS)
Thornberry
Tiahrt
Udall (CO)
Weldon (FL)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—298

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrow
Barton (TX)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Chocola
Clay
Cleaver
Clyburn
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doyle
Drake
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Granger
Green, Al
Green, Gene
Grijalva
Gutierrez
Harris
Hart
Hastings (FL)
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Northup
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Platts
Pomeroy
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Spratt
Stark
Stupak
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—13

Bishop (UT)
Butterfield
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach

Lewis (GA)
Lucas
Millender-McDonald
Shays
Strickland
Tancredo

□ 1735

Mr. ROSS changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. FOLEY). The Committee will rise informally.

The Speaker pro tempore (Mr. REHBERG) assumed the chair.

A FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The Committee resumed its sitting.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move to strike the last word for the purposes of engaging in a colloquy with the gentleman from Oklahoma (Mr. COLE).

Mr. Chairman, I yield to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE of Oklahoma. Mr. Chairman, at the outset let me thank the gentleman from North Carolina (Mr. TAYLOR) for bringing forward a bill that I believe addresses many of the critical issues for the Department of the Interior.

It is impossible not to note that this budget environment creates genuinely tough challenges for the Department of the Interior. With that said, I believe the subcommittee has done an excellent job in crafting a bill that addresses those major problems.

Several years ago this committee provided funds for a new visitors center at Chickasaw National Recreation Area in my district. The bids came in high due to the rising cost of materials. Before the project could be downsized the Department of the Interior had to reprogram these funds for emergency wildfire suppression.

Mr. Chairman, I am asking that you consider restoring this project in conference should funds become available.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time. I understand the gentleman's concerns and the unfortunate turn of events which caused this project to be delayed, and I will give the request of the gentleman from Oklahoma (Mr. COLE) every possible consideration.

Mr. Chairman, I yield to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE of Oklahoma. Mr. Chairman, I want to thank the gentleman from North Carolina (Mr. TAYLOR), our distinguished chairman, for offering to work with me and the committee to resolve this through the conference process.

I believe that this is an important and critical step toward addressing what has been a very real injustice. I thank the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, I ask unanimous consent that the bill through page 128 line 12 be considered as read, printed in the RECORD, and open to amendment at any point.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the bill from page 79 line 7, through page 128 line 12 is as follows:

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, $468,260,000, to remain available until expended for construction, reconstruction, maintenance and acquisition of buildings and other facilities, and for construction, reconstruction, repair, decommissioning, and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided*, That up to $15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: *Provided further*, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $15,000,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities, and for authorized expenditures from funds deposited by non-Federal parties pursuant to Land Sale and Exchange Acts, pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $64,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage Federal lands inAlaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487), $5,467,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of passenger motor vehicles; acquisition of passenger motor vehicles from excess sources, and hire of such vehicles; purchase, lease, operation, maintenance, and acquisition of aircraft from excess sources to maintain the operable fleet for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed $100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions upon notification of the House and Senate Committees on Appropriations and if and only if all previously appropriated emergency contingent funds under the heading "Wildland Fire Management" have been released by the President and apportioned and all wildfire suppression funds under the heading "Wildland Fire Management" are obligated.

The first transfer of funds into the Wildland Fire Management account shall include unobligated funds, if available, from the Land Acquisition account and the Forest Legacy program within the State and Private Forestry account.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b, however in fiscal year 2006 the Forest Service may transfer funds to the "National Forest System" account from other agency accounts to enable the agency's law enforcement program to pay full operating costs including overhead.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the report accompanying this Act.

Not more than $72,646,000 of the funds available to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture.

Funds available to the Forest Service shall be available to conduct a program of not less than $2,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps.

Of the funds available to the Forest Service, $4,000 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, $3,000,000 may be advanced in a lump sum to the National Forest Foundation to aid conservation partnership projects in support of the Forest Service mission, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That of the Federal funds made available to the Foundation, no more than $250,000 shall be available for administrative expenses: *Provided further*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: *Provided further*, That authorized investments of Federal funds held by the Foundation may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98–244, $2,650,000 of the funds available to the Forest Service shall be advanced to the National Fish and Wildlife Foundation in a lump sum to aid cost-share conservation projects, without regard to when expenses are incurred, on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That such funds shall be matched on at least a one-for-one basis by the Foundation or its subrecipients.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: *Provided*, That such amounts shall not exceed $500,000.

An eligible individual who is employed in any project funded under title V of the Older American Act of 1965 (42 U.S.C. 3056 et seq.) and administered by the Forest Service shall be considered to be a Federal employee for purposes of chapter 171 of title 28, United States Code.

Any funds appropriated to the Forest Service may be used to meet the non-Federal share requirement in section 502(c) of the Older American Act of 1965 (42 U.S.C. 3056(c)(2)).

For each fiscal year through 2009, funds available to the Forest Service in this Act may be used for the purpose of expenses associated with primary and secondary schooling for dependents of agency personnel stationed in Puerto Rico prior to the date of enactment of this Act, who are subject to transfer and reassignment to other locations in the United States, at a cost not in excess of those authorized for the Department of Defense for the same area, when it is determined by the Chief of the Forest Service that public schools available in the locality are unable to provide adequately for the education of such dependents.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $2,732,298,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That up to $18,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That $507,021,000 for contract medical care shall remain available for obligation until September 30, 2007: *Provided further*, That of the funds provided, up to $27,000,000, to remain available until expended, shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available until expended: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed $268,683,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2006, of which not to exceed $5,000,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts or annual funding agreements: *Provided further*, That funds available for the Indian Health Care Improvement Fund may be used, as needed, to carry out activities typically funded under the Indian Health Facilities account: *Provided further*, That of the amounts provided to the Indian Health Service, $15,000,000 is provided for alcohol control, enforcement, prevention, treatment, sobriety and wellness, and education in Alaska: *Provided further*, That none of the funds may be used for tribal courts or tribal ordinance programs or any program that is not directly related to alcohol control, enforcement, prevention, treatment, or sobriety: *Provided further*, That no more than 15 percent may be used by any entity receiving funding for administrative overhead including indirect costs: *Provided further*, That the Bureau of Indian Affairs shall collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93–638 such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals With Disability Education Act, 20 U.S.C. 1400, et seq.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $370,774,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That not to exceed $500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: *Provided further*, That none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development: *Provided further*, That not to exceed $1,000,000 from this account and the "Indian Health Services" account shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between the Indian Health Service and the General Services Administration: *Provided further*, That notwithstanding any other provision of law, funds appropriated for the planning, design, and construction of the replacement health care facility in Barrow, Alaska, may be used to purchase land up to approximately 8 hectares for a site upon which to construct the new health care facility: *Provided further*, That not to exceed $500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

None of the funds made available to the Indian Health Service in this Act shall be used for any assessments or charges by the Department of Health and Human Services unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process. Personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full time equivalent level of the Indian Health Service below the level in fiscal year 2002 adjusted upward for the staffing of new and expanded facilities, funding provided for staffing at the Lawton, Oklahoma hospital in fiscal years 2003 and 2004, critical positions not filled in fiscal year 2002, and staffing necessary to carry out the intent of Congress with regard to program increases.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title V of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title V of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding. Such amounts shall remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance notification to the House and Senate Committees on Appropriations.

National Institutes of Health

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For necessary expenses for the National Institute of Environmental Health Sciences in carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, $80,289,000.

Agency for Toxic Substances and Disease Registry

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

For necessary expenses for the Agency for Toxic Substances and Disease Registry (ATSDR) in carrying out activities set forth in sections 104(i), 111(c)(4), and 111(c)(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; section 118(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended; and section 3019 of the Solid Waste Disposal Act, as amended, $76,024,000, of which up to $1,500,000, to remain available until expended, is for Individual Learning Accounts for full-time equivalent employees of the Agency for Toxic Substances and Disease Registry: *Provided*, That notwithstanding any other provision of law, in lieu of performing a health assessment under section 104(i)(6) of CERCLA, the Administrator of ATSDR may conduct other appropriate health studies, evaluations, or activities, including, without limitation, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers: *Provided further*, That in performing any such health assessment or health study, evaluation, or activity, the Administrator of ATSDR shall not be bound by the deadlines in section 104(i)(6)(A) of CERCLA: *Provided further*, That none of the funds appropriated under this heading shall be available for ATSDR to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 2006, and existing profiles may be updated as necessary.

OTHER RELATED AGENCIES

Executive Office of the President

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, and not to exceed $750 for official reception and representation expenses, $2,717,000: *Provided*, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

Chemical Safety and Hazard Investigation Board

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended, including hire of passenger vehicles, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902, and for services authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $9,200,000: *Provided*, That the Chemical Safety and Hazard Investigation Board (Board) shall have not more than three career Senior Executive Service positions: *Provided further*, That notwithstanding any other provision of law, the individual appointed to the position of Inspector General of the Environmental Protection Agency (EPA) shall, by virtue of such appointment, also hold the position of Inspector General of the Board: *Provided further*, That notwithstanding any other provision of law, the Inspector General of the Board shall utilize personnel of the Office of Inspector General of EPA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board.

Office of Navajo and Hopi Indian Relocation

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $8,601,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

Institute of American Indian and Alaska Native Culture and Arts Development

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), $6,300,000.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, $524,381,000, of which not to exceed $10,992,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of African American History and Culture, and the repatriation of skeletal remains program shall remain available until expended; and of which $9,086,000 for the reopening of the Patent Office Building and for fellowships and scholarly awards shall remain available until September 30, 2007; and including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: *Provided further*, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: *Provided further*, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

FACILITIES CAPITAL

For necessary expenses of repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), and for construction, including necessary personnel, $90,900,000, to remain available until expended, of which not to exceed $10,000 is for services as authorized by 5 U.S.C. 3109: *Provided*, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs including closure of facilities, relocation of staff or redirection of functions and programs without the advance approval of the House and Senate Committees on Appropriations.

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

None of the funds available to the Smithsonian may be reprogrammed without the advance written approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the statement of the managers accompanying this Act.

None of the funds in this or any other Act may be used to purchase any additional buildings without prior consultation with the House and Senate Committees on Appropriations.

National Gallery of Art

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $97,100,000, of which not to exceed $3,157,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $16,200,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further*, That, notwithstanding any other provision of law, a single procurement for the Master Facilities Plan renovation project at the National Gallery of Art may be issued which includes the full scope of the Work Area #3 project: *Provided further*, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

John F. Kennedy Center for the Performing Arts

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $17,800,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $10,000,000, to remain available until expended.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $9,085,000.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $121,264,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, including $14,922,000 for support of arts education and public outreach activities through the Challenge America program, for program support, and for administering the functions of the Act, to remain available until expended: *Provided*, That funds previously appropriated to the National Endowment for the Arts "Matching Grants" account and "Challenge America" account may be transferred to and merged with this account.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $122,605,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $15,449,000, to remain available until expended, of which $10,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further*, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses: *Provided further*, That the Chairperson of the National Endowment for the Arts may approve grants up to $10,000, if in the aggregate this amount does not exceed 5 percent of the sums appropriated for grant-making purposes per year: *Provided further*, That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the Chairperson.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $1,893,000: *Provided*, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (20 U.S.C. 956(a)), as amended, $7,000,000: *Provided*, That no one organization shall receive a grant in excess of $400,000 in a single year.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89-665, as amended), $4,860,000: *Provided*, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $8,177,000: *Provided*, That one-quarter of 1 percent of the funds provided under this heading may be used for official reception and representational expenses to host international visitors engaged in the planning and physical development of world capitals.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

HOLOCAUST MEMORIAL MUSEAUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106-292 (36 U.S.C. 2301-2310), $41,880,000, of which $1,874,000 for the museum's repair and rehabilitation program and $1,246,000 for the museum's exhibitions program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, $20,000,000 shall be available to the Presidio Trust, to remain available until expended.

WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF REMEMBRANCE

For necessary expenses of the White House Commission on the National Moment of Remembrance, $250,000.

TITLE IV—GENERAL PROVISIONS

SEC. 401. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 402. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete.

SEC. 403. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 404. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 405. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 406. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (Sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2004.

SEC. 407. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2006, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104-208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 408. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103-138, 103-332, 104-134, 104-208, 105-83, 105-277, 106-113, 106-291, 107-63, 108-7, 108-108, and 108-447 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2005 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 409. Of the funds provided to the National Endowment for the Arts:

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 410. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the

National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

SEC. 411. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term "underserved population" means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 412. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 413. None of the funds in this Act may be used to support Government-wide administrative functions unless such functions are justified in the budget process and funding is approved by the House and Senate Committees on Appropriations.

SEC. 414. Amounts deposited during fiscal year 2005 in the roads and trails fund provided for in the 14th paragraph under the heading "FOREST SERVICE" of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 415. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 416. Prior to October 1, 2006, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: *Provided*, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.

SEC. 417. No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are allowed under the Presidential proclamation establishing such monument.

SEC. 418. EXTENSION OF FOREST SERVICE CONVEYANCES PILOT PROGRAM.—Section 329 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16 U.S.C. 580d note; Public Law 107-63) is amended—

(1) in subsection (b), by striking "40" and inserting "60";

(2) in subsection (c) by striking "13" and inserting "25"; and

(3) in subsection (d), by striking "2008" and inserting "2009".

SEC. 419. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are engaged in fire suppression: *Provided*, That the Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country: *Provided further*, That when an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country, and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country: *Provided further*, That neither the sending country nor any legal organization associated with the firefighter shall be subject to any legal action whatsoever pertaining to or arising out of the firefighter's role in fire suppression.

SEC. 420. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 421. In awarding a Federal contract with funds made available by this Act, notwithstanding Federal government procurement and contracting laws, the Secretary of Agriculture and the Secretary of the Interior (the "Secretaries") may, in evaluating bids and proposals, give consideration to local contractors who are from, and who provide employment and training for, dislocated and displaced workers in an economically disadvantaged rural community, including those historically timber-dependent areas that have been affected by reduced timber harvesting on Federal lands and other forest-dependent rural communities isolated from significant alternative employment opportunities: *Provided*, That notwithstanding Federal Government procurement and contracting laws the Secretaries may award contracts, grants or cooperative agreements to local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or disadvantaged business or micro-business: *Provided further*, That the contract, grant, or cooperative agreement is for forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration or management: *Provided further*, That the terms "rural community" and "economically disadvantaged" shall have the same meanings as in section 2374 of Public Law 101-624: *Provided further*, That the Secretaries shall develop guidance to implement this section: *Provided further*, That nothing in this section shall be construed as relieving the Secretaries of any duty under applicable procurement laws, except as provided in this section.

SEC. 422. No funds appropriated in this Act for the acquisition of lands or interests in lands may be expended for the filing of declarations of taking or complaints in condemnation without the approval of the House and Senate Committees on Appropriations: *Provided*, That this provision shall not apply to funds appropriated to implement the Everglades National Park Protection and Expansion Act of 1989, or to funds appropriated for Federal assistance to the State of Florida to acquire lands for Everglades restoration purposes.

SEC. 423. (a) LIMITATION ON COMPETITIVE SOURCING STUDIES.—

(1) Of the funds made available by this or any other Act to the Department of the Interior for fiscal year 2006, not more than $3,450,000 may be used by the Secretary of the Interior to initiate or continue competitive sourcing studies in fiscal year 2006 for programs, projects, and activities for which funds are appropriated by this Act and such funds shall not be available until the Secretary submits a reprogramming proposal to the Committees on Appropriations of the Senate and the House of Representatives, and such proposal has been processed consistent with the reprogramming guidelines in House Report 108–330.

(2) Of the funds appropriated by this Act, not more than $2,500,000 may be used in fiscal year 2006 for competitive sourcing studies and related activities by the Forest Service.

(b) COMPETITIVE SOURCING STUDY DEFINED.—In this section, the term "competitive sourcing study" means a study on subjecting work performed by Federal Government employees or private contractors to public-private competition or on converting the Federal Government employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

(c) COMPETITIVE SOURCING EXEMPTION FOR FOREST SERVICE STUDIES CONDUCTED PRIOR TO FISCAL YEAR 2006.—Notwithstanding requirements of Office of Management and Budget Circular A–76, Attachment B, the Forest Service is hereby exempted from implementing the Letter of Obligation and post-competition accountability guidelines where a competitive sourcing study involved 65 or fewer full-time equivalents, the performance decision was made in favor of the agency provider; no net savings was achieved by conducting the study, and the study was completed prior to the date of this Act.

(d) In preparing any reports to the Committees on Appropriations on competitive sourcing activities, agencies funded in this Act shall include the incremental cost directly attributable to conducting the competitive sourcing competitions, including costs attributable to paying outside consultants and contractors and, in accordance with full cost accounting principles, all costs attributable to developing, implementing, supporting, managing, monitoring, and reporting on competitive sourcing, including personnel, consultant, travel, and training costs associated with program management.

SEC. 424. Estimated overhead charges, deductions, reserves or holdbacks from programs, projects and activities to support governmentwide, departmental, agency or bureau administrative functions or headquarters, regional or central office operations shall be presented in annual budget justifications. Changes to such estimates shall be presented to the Committees on Appropriations for approval.

SEC. 425. None of the funds in this Act or prior Acts making appropriations for the Department of the Interior and Related Agencies may be provided to the managing partners or their agents for the SAFECOM or Disaster Management projects.

SEC. 426. (a) IN GENERAL.—An entity that enters into a contract with the United States to operate the National Recreation Reservation Service (as solicited by the solicitation numbered WO–04–06vm) shall not carry out any duties under the contract using:

(1) a contact center located outside the United States; or

(2) a reservation agent who does not live in the United States.

(b) NO WAIVER.—The Secretary of Agriculture may not waive the requirements of subsection (a).

(c) TELECOMMUTING.—A reservation agent who is carrying out duties under the contract described in subsection (a) may not telecommute from a location outside the United States.

(d) LIMITATIONS.—Nothing in this Act shall be construed to apply to any employee of the entity who is not a reservation agent carrying out the duties under the contract described in subsection (a) or who provides managerial or support services.

SEC. 427. Section 331, of Public Law 106–113, is amended—

(1) in part (a) by striking "2005" and inserting "2009"; and

(2) in part (b) by striking "2005" and inserting "2009".

SEC. 428. Section 330 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291; 114 Stat. 996; 43 U.S.C. 1701 note), is amended—

(1) in the first sentence, by striking "2005" and inserting "2008";

(2) in the third sentence, by inserting ", National Park Service, Fish and Wildlife Service," after "Bureau of Land Management"; and

(3) by adding at the end the following new sentence: "To facilitate the sharing of resources under the Service First initiative, the Secretaries of the Interior and Agriculture may make transfers of funds and reimbursement of funds on an annual basis among the land management agencies referred to in this section, except that this authority may not be used to circumvent requirements and limitations imposed on the use of funds.".

SEC. 429. The Secretary of Agriculture may acquire, by exchange or otherwise, a parcel of real property, including improvements thereon, of the Inland Valley Development Agency of San Bernardino, California, or its successors and assigns, generally comprising Building No. 3 and Building No. 4 of the former Defense Finance and Accounting Services complex located at the southwest corner of Tippecanoe Avenue and Mill Street in San Bernardino, California, adjacent to the former Norton Air Force Base. As full consideration for the property to be acquired, the Secretary of Agriculture may terminate the leasehold rights of the United States received pursuant to section 8121(a)(2) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 999). The acquisition of the property shall be on such terms and conditions as the Secretary of Agriculture considers appropriate and may be carried out without appraisals, environmental or administrative surveys, consultations, analyses, or other considerations of the condition of the property.

SEC. 430. The Secretary of the Interior shall submit to the House Committee on Appropriations a report detailing the Federal expenditures pursuant to the Southern Nevada Public Lands Management Act (section 4(e)(3) of Public Law 105–263) for fiscal years 2003 and 2004.

SEC. 431. None of the funds in this Act may be used to prepare or issue a permit or lease for oil or gas drilling in the Finger Lakes National Forest, New York, during fiscal year 2006.

The Acting CHAIRMAN. Are there any points of order to pending provisions of the bill?

POINTS OF ORDER

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against section 413 of H.R. 2361, on the grounds that this provision changes existing law in violation of clause 2(b) of House rule XXI, and therefore is legislation included in a general appropriation bill.

The Acting CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair finds that this section prescribes a legislative condition on the availability of funds. The section therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the section is stricken from the bill.

Mr. TOM DAVIS of Virginia. I raise a point of order against the provision beginning with "notwithstanding" on page 121, line 11, through the comma on line 12, on the grounds that this provision changes existing law in violation of clause 2(b) of House rule XXI and therefore is legislation included in a general appropriation bill.

The Acting CHAIRMAN. Does anyone wish to be heard on this point of order?

If not, the Chair is prepared to rule.

The Chair finds that this provision explicitly supersedes existing law. The provision therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I have three other points of order. I will raise them individually.

I have a point of order against the provision beginning with "notwithstanding" on page 121, line 22, through the word "laws" on line 23, on the grounds that this provision also changes existing law in violation of clause 2(b) of House rule XXI.

The Acting CHAIRMAN. Does anyone wish to be heard? The Chair finds that this provision explicitly supersedes existing law. The provision, therefore, constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against the provision beginning with the word "notwithstanding" on page 124, line 6 through line 7, on the grounds that this provision changes existing law in violation of clause 2(b) of House rule XXI.

The Acting CHAIRMAN. Does anyone wish to be heard on this point of order?

Hearing none, the Chair finds that this provision explicitly supersedes existing law. The provision therefore constitutes legislation in violation of clause 2, rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against the provision on page 124, lines 15 through 25, on the grounds that this provision changes existing law in violation of clause 2(b) of House rule XXI, therefore it is legislation included in a general appropriation bill.

The Acting CHAIRMAN. Does any Member wish to be heard on this point of order?

Hearing none, the Chair finds that this provision includes language imparting direction to certain agencies. The provision, therefore, constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

AMENDMENT OFFERED NO. 7 BY MR. CHABOT

Mr. CHABOT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. CHABOT:

At the end of the bill (before the short title), insert the following:

SEC. ___. (a) None of the funds made available in this Act may be used for the designing or construction of forest development roads in the Tongass National Forest for the purpose of harvesting timber by private entities or individuals.

(b) Subsection (a) shall not apply with respect to a forest development road for which construction is initiated before the date of the enactment of this Act.

Mr POMBO. Mr. Chairman, I reserve a point of order against the amendment under rule XXI, clause 2.

The Acting CHAIRMAN. The point of order is reserved.

Pursuant to the order of House of today, the gentleman from Ohio (Mr. CHABOT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, established in 1907 by President Theodore Roosevelt, the Tongass is our Nation's largest forest, about the size of West Virginia. Located along Alaska's southeastern coast, it is often referred to as America's rain forest and is home to abundant wildlife, bald eagles, grizzly bears, wolves, and salmon, as well as old growth trees such as the giant Sitka spruce, western hemlock, and yellow cedar.

Mr. Chairman, each year the timber industry is subsidized by millions of tax dollars, taxpayer, hard working funding tax dollars for logging in the Tongass National Forest, approximately $850 million since 1982.

Each year more taxpayer subsidized logging roads are built to extract the timber, and each year the road maintenance backlog gets more expensive. It is about $100 million right now. There are already about 5,000 miles of roads in the Tongass.

That is enough road to drive from Washington, D.C. to Los Angeles and most of the way back. Even the Forest Service acknowledges that existing roads are, quote, sufficient to satisfy local demand for road, recreation, subsistence, and community connectivity needs, unquote.

Mr. Chairman, this is a simple, straightforward amendment. It would stop the Forest Service from constructing new logging roads at taxpayer expense. Let me repeat that, at taxpayer expense, in the Tongass.

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It does not prevent the timber industry from building their own roads. It does no prohibit the forest service from constructing roads needed for forest management, community connectivity, or for recreation. I know there are some who would have my colleagues believe differently, but this amendment has nothing to do with the roadless rule. It has everything to do with good government and fiscal responsibility.

This amendment is not an attempt to take away jobs in Alaska. In fact, between 1998 and 2004, Tongass-related jobs fell from over 1,500 to less than 300. That means that taxpayers are subsidizing each existing timber job to the tune of about $163,000 per job, about four times the median U.S. household income. Despite massive taxpayer subsidies, Alaskan timber continues to decline.

That said, this amendment does not stop timber companies from continuing to log off the roads that the American taxpayers have already built for them. In fact, the Forest Service has a 10-year supply of timber remaining off current roads.

Between 1998 and 2004, half of Tongass timber contracts went unsold. This means taxpayers spend millions of dollars for the Forest Service to build roads and plan sales to access timber they often cannot even sell; and those they do sell, they do so at below-market rates. In fact, the Forest Service is offering to let logging companies cancel contracts already sold because the companies do not want the timber.

Mr. Chairman, I support logging in our national forests when it makes sense, when it is economically viable. I believe our forests should be actively managed so that they may be as healthy as possible; but while we need to be good stewards of our forests, we must also be good stewards of the American people's money.

It is time to restore some common sense and fiscal discipline to the Tongass timber program. I urge my colleagues to stand up for the American taxpayers and support this amendment.

Mr. Chairman, I reserve the balance of my time.

POINT OF ORDER

Mr. POMBO. Mr. Chairman, I make a point of order against the amendment.

The amendment constitutes legislation on an appropriations bill. Under the amendment, the limit on funds does not apply to roads under construction on the date of enactment of this bill

Making this determination is far from simple. The Tongass National Forest is 16 million acres and access is basically limited to boat and plane. Compliance with this provision would require Forest Service personnel field visits to numerous locations where road contracts are in effect to determine if or when road construction has begun.

Therefore, determining the construction status of roads in the Tongass would take considerable effort on the part of the Forest Service. This new substantial duty makes this amendment legislative in nature.

I ask the Chair to sustain my point of order.

The Acting CHAIRMAN (Mr. FOLEY). Does any Member wish to be heard on the point of order?

The gentleman from New Jersey (Mr. ANDREWS) is recognized.

Mr. ANDREWS. Mr. Chairman, I would urge that the point of order be rejected on grounds that the language my friend cites explicates and explains a limitation. This is a limitation amendment, and the language in the amendment simply establishes the scope of the limitation.

The test is not whether the limitation is difficult to figure out. The test is whether it imposes a new obligation. This language does not, and I would urge rejection of the point of order.

Mr. CHABOT. Mr. Chairman, I would also like to be heard very briefly.

I acknowledge, I recognize, I would agree with everything that the gentleman from New Jersey just said. I also might bring to the attention the fact that this is essentially the same amendment that was offered and held in order in the last Congress.

The Acting CHAIRMAN. Does any other Member wish to speak on the point of order? The Chair will rule momentarily.

The gentleman from California (Mr. POMBO) makes a point of order that the amendment offered by the gentleman from Ohio (Mr. CHABOT) proposes to change existing law, in violation of clause 2(c) of rule XXI.

As recorded in Deschler's Precedents, volume 8, section 52, even though a limitation or exception therefrom might refrain from explicitly assigning new duties to officers of the government, if it implicitly requires them to make investigations, compile evidence, or make judgments or determinations not otherwise required of them by law, then it assumes the character of legislation and is subject to a point of order under clause 2(c) of rule XXI.

The proponent of a limitation carries the burden of establishing that any duties imposed by the provision either are merely ministerial or are already required by law.

The Chair finds that limitation proposed in the amendment offered by the gentleman from Ohio (Mr. CHABOT) does more than merely decline to fund a certain activity. Instead, it requires the officials concerned to discern or discover the dates on which various road-construction projects were commenced within the periods in which they were authorized to commence.

On these premises, the Chair concludes that the amendment offered by the gentleman from Ohio (Mr. CHABOT) proposes to change existing law.

Accordingly, the point of order is sustained, and the amendment is not in order.

Mr. ANDREWS. Mr. Chairman, I move to appeal the ruling of the Chair.

The Acting CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. ANDREWS. Mr. Chairman, I ask unanimous consent to withdraw my motion.

The Acting CHAIRMAN. Without objection, the appeal is withdrawn.

There was no objection.

AMENDMENT NO. 1 OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. RAHALL:

At the end of the bill (before the short title), insert the following new section:

SEC. ____. LIMITATION ON USE OF FUNDS FOR SALE OR SLAUGHTER OF FREE-ROAMING HORSES AND BURROS.

None of the funds made available by this Act may be used for the sale or slaughter of wild free-roaming horses and burros (as defined in Public Law 92-195).

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from West Virginia (Mr. RAHALL) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering this amendment on behalf of myself, the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from New York (Mr. SWEENEY), and the gentleman from South Carolina (Mr. SPRATT).

Mr. Chairman, America is blessed with a rich natural heritage. Part of that heritage are the herds of wild horses, direct descendants of animals that came here with early explorers and missionaries, which still roam the ranges in parts of the American West.

In 1971, Congress formally protected these wild horses and mandated that they could not be sold or processed into commercial products, in effect, slaughtered.

Since that time, when the Bureau of Land Management has determined that the wild horse population is excessive to the ability of the range to support them, captured animals have been offered to the public through adoption.

All of that changed as a result of a rider tucked away in the dead of night in the massive omnibus appropriations bill enacted last December.

With no public notice or comment, this rider trashed 33 years of national policy and lifted the prohibition on the commercial sale of America's wild horses.

Today, the gentleman from Kentucky (Mr. WHITFIELD) and I, along with our colleagues, the gentleman from New York (Mr. SWEENEY) and the gentleman from South Carolina (Mr. SPRATT), are offering this amendment to restore that prohibition, to stop the slaughter.

There is an urgency here. So far this year, 41 wild horses that we know of have been sent to one of the three foreign-owned slaughterhouses in this country. Moreover, the BLM has estimated that 8,400 horses need to be sold to comply with the recent change in the law.

To what end? To what end, I ask? So their meat can end up on menus in France, Belgium and Japan where it is considered a delicacy.

Incredible, simply incredible. We do not allow the commercial sale of horse flesh in this country for human consumption, but we are exporting horse meat for that purpose abroad.

Since introducing the legislation which is the basis for this amendment, I have received an impressive volume of heartfelt letters and e-mails from across the Nation.

The very notion that wild American horses would be slaughtered as a food source for foreign gourmets has struck a chord with the American people.

They see in this issue the pioneering spirit and the ideals of freedom, and the current policy has created disillusionment with many over how their government works and what their elected leaders stand for.

From Florida, Stacey wrote, "Knowing that the horses won't be there for my kids has made me feel sad, hurt and angry at our government."

A former West Virginian named Valerie who now resides in Nevada wrote, "I, and our friends, have enjoyed going on to the desert to see wild horses roaming free."

Jeremy from Oregon wrote, "Your support will help to restore the public's confidence by assuring us that Congress operates under the principles of for the people and by the people."

We must restore the people's faith. We must stop the slaughter of these American icons.

A week and a half ago, an annual rite of spring was held called the Running of the Kentucky Derby, a uniquely American institution.

I am wearing on my lapel a pin here, a symbol which bears the likeness of Ferdinand who won the 1986 Derby and the 1987 Breeders' Cup Classic, notable achievements. Yet his reward was to end his life in a Japanese slaughterhouse. Ferdinand was not a wild horse, true, from the American plain, but the issue is one in the same.

As children, many of us recall reading the compelling story in the book "Misty of Chincoteague." What type of message would we be sending today's youth if Misty was rounded up and sent to be slaughtered.

For Misty's sake, for America's sake, vote for the Rahall-Whitfield amendment.

Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. WHITFIELD), a cosponsor of the amendment.

Mr. WHITFIELD. Mr. Chairman, I want to thank the gentleman for yielding me time very much; and as he so aptly stated, we would not be here today except for the action of Senator CONRAD Burns in the last omnibus bill.

What this motion and amendment that we are proposing today is really about, it is not so much about a few wild mustangs and burros, only 31,000 remaining in the wild western grazing lands. But what this is really about, it is about the fact that we have 18,000 permits issued by the Bureau of Land Management to ranchers in the West on 214 million acres of land, of which these ranchers are paying less than six cents per acre, per year. Now that is a good deal, and I can understand why they would be excited about it. They are grazing over 8 or 9 million cows on this land, and we are talking about 31,000 wild mustangs and burros on this 214 million acres of land, and the ranchers do not want any wild mustangs or burros on this land. That is really what this is all about.

The question becomes, is it in the heritage of America to protect the few remaining wild mustangs and burros? This amendment simply reverses the Burns amendment and restores 37 years of public policy of protecting wild mustangs and burros.

I can tell my colleagues I have a lot of cattle ranchers in my district in Kentucky, and they are in Tennessee and Florida and Texas and Alabama and Mississippi and Louisiana and all around this country, and all of them pay a lot more than six cents per acre per year for these permits and for land.

I might also add that these 18,000 permits of ranchers on these grazing lands in the West provide only 2 percent of the cows slaughtered in America, and we all like a good steak. We want to continue slaughtering cows for steaks because they are raised for that purpose; but we also have a responsibility to protect wild mustangs and burros who are native to this country, who have been protected in this country, They simply lost that protection because of a 4,000 page omnibus bill, and none of us was aware that the Burns amendment was in it.

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So that is what this amendment is about.

Mr. RAHALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SWEENEY).

Mr. SWEENEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to get briefly to the point.

We can all have our differences as it relates to this issue, but as my colleagues have pointed out so appropriately, surreptitiously last year, snuck into the omnibus bill, is a piece of legislation that many of us have disagreement over. We all agree in this appropriation process that that is not the way Congress ought to go about doing its business and, worse yet, that legislation overturned decades, indeed generations of Congressional policy.

Now, we can argue the substance and the differences as to whether this is economically feasible and right, and whether this is humane or not, but the fact of the matter is it was surreptitiously snuck in, it ought not to have happened. I believe it violates policy for more than a generation and 30 to 40 years of Congressional intent. We ought not to let that happen. So I urge my colleagues to support this amendment.

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise to claim the time in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, this issue is about the proper management of wildlife and public lands, and the Committee on Appropriations is in charge of trying to adequately fund the United States agencies. If we want to get into the question of whether or not the six cents is being paid for grazing land or anything else, you need to go to the authorizing committees and have a debate there and get it changed and so forth.

We in the Committee on Appropriations have a situation where wild horses and burros cost the taxpayers $40 million annually. Now, this is more than BLM spends on all wildlife management activities on public lands. There are currently 24,000 wild horses and burros that are kept in short-term, or long-term, either way, holding facilities. They are not roaming free. They are being housed in these short-term facilities, and that is costing $20 million, and they are living there until they die.

BLM has the authority to sell the older or unadoptable animals. Now, if they are 10 years or older, or if they have been offered three times for sale and been turned down, then this would give BLM the authority to sell these older, unadoptable animals and conserve the $40 million that we are talking about. That is what we are asking, and we think that is a prudent measure, so we urge our colleagues to defeat this amendment.

Mr. Chairman, I yield 2½ minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding me this time. I come from the district that has by far and away more wild horses in it than any district in the United States, bar none. Of the 30,000 horses we are talking about, 20,000 of them are in the Second District of Nevada. This amendment, if it is passed, will be a rule of unintended consequences on what happens to the management of these horses.

My colleagues, in Nevada horses do not always look beautiful like the horse that we see in Black Beauty. Sometimes they are misshapen. Sometimes they are deformed. That is because we cannot manage 20,000 horses on land which does not look like Kentucky, does not look like West Virginia. These horses get starved, they are weakened, they become diseased and, of course, they are not as easily adopted as before.

If this amendment is passed, the unintended consequence will be to prevent the Bureau of Land Management from properly managing. And today this amendment is moot. The Bureau of Land Management today announced strict new rules for the sale of wild horses. These changes will ensure America's wild horses and burros go to good homes, and the new rules will expressly prohibit the sale of these animals for slaughter.

Specifically, before horses are sold buyers must sign a contract that will bind them to providing humane care for the horse or burro. Buyers cannot sell or transfer ownership of any of the purchased horses or burros to any person or organization that intend to process them for commercial products. Anyone falsifying or concealing information in that contract is subject to criminal penalties under U.S. law.

Additionally, the BLM is working to ensure that all three U.S. horse processing plants make certain any BLM horses, which are easily identified by a unique brand under its mane, are turned away and the proper authorities are notified.

In sum, the new BLM rules will make it a crime to sell wild horses for slaughter, yet will allow for the sale of these animals to buyers seeking to provide them good caring homes.

I applaud the Bush administration and the Bureau of Land Management for taking responsible action to assure America's wild horses and burros are cared for, and I would like to thank the Ford Motor Company and the Take Pride in America Program, which this amendment will stop dead in its tracks, for supporting BLM in this effort and creating the Save the Mustangs Fund.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, I rise in opposition to this amendment, and I certainly am one who is not in favor of the slaughtering of wild horses, but I am also as a fiscal conservative who is concerned about what happens along the way, because we are looking at a price of somewhere on the order of $20 million a year to take care of the horses that nobody wants to adopt right now.

There are some 37,000 wild horses and burros roaming on BLM managed lands in 10 western States. That is 9,000 more than the carrying capacity of the land. In the few seconds I have left, I want to show my colleagues this photo. This is from Nevada. This cage was put over this grass, and this is what the wild horses have done all around it, in terms of what happens in a fairly wet area. You get into the dry areas, and they completely overrun the rangeland.

What we need to do is, if there is a problem with someone violating the law, we need to put the criminal penalties back in so they can be prosecuted, but the BLM have said they will not issue any contracts that will allow for any slaughter. Taking away their ability to sell the wild horses, however, will create a huge fiscal burden to the Federal Government and the taxpayer and not allow us to properly manage these herds.

So I urge a "no" vote on this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Chairman, this debate should be about one of public lands and wildlife management and nothing more. And I will be the first to say that I do not like to see these wild horses taken off the range, but at the same time they have to be properly managed.

Over the years, we in Congress and those in State governments have created a variety of methods to help control animal populations, whether it is placing a species under the protection of the Endangered Species Act when the numbers are dwindling or allowing increasing hunting for various species when the numbers of the species are too great. Wild horses should be no different.

We must remember that wild horses have virtually no natural predators and the herd sizes can double every 5 years. If these herds are not managed, wild horse numbers will increase at alarming rates. Left unmanaged wild horses not only degrade our public lands but they also create conditions where many times these horses would be unable to survive on their own.

In order to be good stewards of our public lands, these animals must be managed, and the only way to manage these herds is to take some of these animals off the range. The primary method for controlling horse populations has of course been adoption. But, unfortunately, adoptions have not kept up with our expanding wild horse and burro herds.

Mr. Chairman, I urge Members to oppose this amendment and support our public lands.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Mr. Chairman, I thank the chairman for yielding me this time and for his leadership on this issue.

Our public lands are of multiple use and must be managed for a variety of purposes, including hunting, grazing, fishing, recreating, wildlife, and many other uses. The Horse and Wild Burros Act recognized that horses and burros would have to coexist with these other uses and have been managed thusly since 1960.

Unfortunately, horse populations have far exceeded the desirable levels for years, causing serious resource damage. Serious-minded conservation groups, such as the National Association of Conservation Districts, the International Association of Fish and Wildlife Agencies, the Nature's Conservancy, and others have recognized the damage caused by these horses.

Balanced management must be restored in the public lands where wild horses roam. In an effort to achieve this balance, Congress gave the BLM the authority to sell the excess. All this, Mr. Chairman, has been said before, and I am not going to go into it again, except I will tell you that without this authority the only feasible option is leaving unadopted excess animals in contracted long-term holding facilities that we are now doing to the cost of at least $9 million a year.

The loss of this new tool in selling would only mean that priority funding will keep going to care for and feed unadoptable animals instead of managing the number on the range and in balance with the demands of our other resources.

I would hope, Mr. Chairman, that my colleagues would see the wisdom in turning back this probably well-intended but misdirected amendment.

Mr. RAHALL. Mr. Chairman, I yield 30 seconds to the gentleman from Kentucky (Mr. WHITFIELD), the cosponsor of the amendment.

Mr. WHITFIELD. Mr. Chairman, I might add that BLM has already told us that under the Burns language they have no criminal penalties available to them. Even though they may put in a contract that a horse cannot be taken to slaughter they have no recourse if someone does it.

I would remind people once again that these are public lands. 214 million acres of land. We are talking about 30,000 wild horses we need to protect. We have companies like Ford Motor Company taking in horses now, and we have over 214 entities out in the country doing it. I think that there is plenty of money available.

Also, we would urge the BLM to euthanize horses rather than send them to slaughter. That is an option also. But this is a well-intended amendment and it would reintroduce the policy that has been the accepted policy in the U.S. for 37 years.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

In conclusion, Mr. Chairman, the gentleman from Kentucky has just touched upon a very important point, and that is that there are alternatives available to the outright slaughter; adoption and euthanization. These are alternatives rather than the slaughter of these animals.

In regard to what the gentleman from Nevada said, that BLM has recently done, what BLM has proposed in the last day or two in an effort to head off the successful passage of this amendment is illegal under the change in law that was made by the omnibus appropriation bill last year.

And I would say to the distinguished chairman of the subcommittee, in defense of the gentleman from California (Mr. POMBO) and myself on the authorizing committee, this change was made in an appropriation bill, not in an authorization bill. Therefore, it is incumbent the change or reversal be done in an appropriation measure.

So I would urge that my colleagues look at the humane side of this amendment, look at what is only fair to these American icons and vote for the Rahall-Whitfield-Sweeney-Spratt amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia (Mr. GOODLATTE), the distinguished chairman of Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, this is one of those issues where our opponents are trying to use emotion to overwhelm good policy. As is usually the case in such debates, the results are exactly the opposite of what is being advocated.

So it is with the proposal to revoke the Secretary of Interior's authority to sell excess wild horses and burros. Ironically, rather than saving wild horses, the amendment will have the perverse effect of ensuring their numbers will stay at unsustainable levels, adoption efforts will be hampered, and thousands of old unadoptable horses will stay stuck in limbo in long-term holding facilities, or as the gentleman from Kentucky suggested, euthanized. Oh, that makes a lot of sense.

But this is what you get. This is what you get with this kind of policy, horses that are starving to death on the range. The BLM has conducted an analysis of their wild horse and burro program and determined that if they had not removed many of the wild horses from the range, prolonged drought, reduced forage production, and poor health would have resulted in large losses during the winter of 2005.

□ 1815

In Cedar City, Utah, for example, over 100 horses had to be removed from the range to prevent their suffering and potential starvation.

It is ironic that the authority that was used to save nearly 2,000 horses this past year is the very authority the sponsors of this amendment are trying to repeal.

If this amendment prevails, the only method to remove these horses will be adoption, which historically has failed to keep up with the explosion of the population. Inadequacy of the adoption program has resulted in many of these horses being sentenced to spend the rest of their lives in long-term facilities unsuitable for wild horses. I urge my colleagues to oppose this amendment.

Mr. Chairman, this is one of those issues where our opponents are trying to use emotion to overwhelm good policy. As is usually the case in such debates, the results are exactly the opposite of what is being advocated.

So it is with the proposal to revoke the Secretary of the Interior's authority to sell excess wild horses and burros. Ironically, rather than saving wild horses, the amendment will have the perverse effect of ensuring that their numbers will stay at unsustainable levels, adoption efforts will be hampered, and thousands of old, unadoptable horses will stay stuck in limbo in long-term holding facilities. Horses on the range will, most likely, starve to death.

BLM has conducted an analysis of their wild horse and burro program and determined that if they had not removed many of the wild horses from the range, prolonged drought, reduced forage production and poor health would have resulted in large losses during the winter of 2005. In Cedar city, Utah, for example, over 100 horses had to be removed from the range to prevent their suffering and potential starvation. It is ironic that the authority that was used to save nearly 2000 horses this past year is the very authority the sponsors of this amendment are trying to repeal.

If this amendment prevails, the only method to remove these horses will be adoption, which historically has failed to keep up with the explosion of the population. Inadequacy of the adoption program has resulted in many of these horses being sentenced to spend the rest of their life in long term unsuitable for wild holding facilities.

Because of the overwhelming cost of these facilities at the expense of the federal government, the number of horses on the range is still well above the appropriate management levels called for in law. furthermore, one-half of the entire wild horse and burro operating budget is used to take care of "unadoptable" horses held in these facilities. This amendment would only cause those costs to skyrocket at the expense of the adoption program.

Last year, Congress enacted a law that allowed BLM to sell unadoptable horses that are over 10 years old or have been offered unsuccessfully for adoption three times, until the appropriate management level is reached. These proceeds are then used by BLM to help promote and finance their adoption program.

Currently there are 8400 horses in these long term facilities that need to be moved on through the program in order to prevent malnutrition and starvation that is associated with the overpopulation of the range land herds. By denying the funds to implement the sale program for wild horses and burros, this irresponsible amendment would eliminate a far more efficient tool in the management of the program. By not allowing BLM to keep the herd in manageable numbers, this amendment endangers the welfare of the wild horses by exacerbating the deplorable conditions these animals must try to survive in where their only escape is death by starvation.

Vote for the welfare of the wild horses. Vote "no" on the Rahall-Whitfield Amendment.

Ms. HERSETH. Mr. Chairman, today I will vote in support of the amendment to the FY06 Interior Appropriations Bill, offered by Mr. RAHALL, that will prevent the Secretary of the Interior from expending funds to conduct sales of wild horses for the next fiscal year. That said, I am not categorically opposed to the sale of wild horses that live on federal lands and will seek to work with my colleagues to find a feasible solution to the federal land management challenges that underlie this issue.

Initially, let me indicate that I believe the process by which Wild Free-Roaming Horse and Burro Act was amended, with language inserted in an omnibus appropriations act without any public hearings or comment, was extremely inappropriate and that fact alone is grounds for Congress to revisit this issue.

I strongly believe that we must provide the Bureau of Land Management (BLM) and all federal land management agencies the tools and the resources they need to conserve our precious public resources. Ultimately, this may mean granting horse-sale authority to the BLM. I do not believe, however, that these wild horses should end up in slaughterhouses. The fact that forty-one wild horses were recently slaughtered at a foreign-owned processing facility, and an additional fifty-two barely escaped the same fate, clearly demonstrates that the current sale program is flawed, despite BLM efforts to implement safeguards and pursue a measured approach in administering the sale authority.

Humane alternatives to slaughter obviously exist, and federal agencies already have the authority to carry out such humane actions as adoption, sterilization, relocation, and placement with qualified individuals and organizations. Federal land managers may simply lack the resources they need to carry out these alternatives, but the answers to such questions are currently unclear. I urge Chairman POMBO of the House Committee on Resources to hold hearings on this matter so that we can ascertain the status of the BLM's management authorities and resources. I pledge to work with him to find solutions to this issue. In the meantime, because I believe that a one-year moratorium on BLM's sale authority for wild horses is needed to allow this debate, I offer my support to the Rahall Amendment.

Mr. MORAN of Virginia. Mr. Chairman, I am pleased to support the amendment to the Department of the Interior appropriations bill being offered by Mr. RAHALL and Mr. WHITFIELD to help save a national treasure—the wild horse. The wild horse is known throughout the world as a symbol of the American west, and we should be doing everything we can to protect it.

At the turn of the 20th century there were more than one million horses roaming the vast lands of our west, however by 1971 that number dropped to approximately 60,000 due to the actions of their main predator—humans. Public outcry and the work of a group of citizens lead by Wild Horse Annie forced Congress to find a solution and pass the Wild Free Roaming Horse and Burro Protection Act to protect the wild horse. Throughout the years this law has been eroded, and currently, there are only 35,000 wild horses living on our lands today. Current law will only make this number decrease more rapidly.

I was saddened to learn about the provision in last year's omnibus appropriations bill that would allow the sale of any wild horse that has been rounded up and is more than ten years old. Because of this provision, at least forty-one wild horses have needlessly been slaughtered. If we do not pass this amendment to ensure that no tax dollars are used for any sale of wild thousands more could lose their lives.

There is no need for this senseless slaughter. There are other options that we can explore rather than killing this majestic animal. The Bureau of Land Management could reopen over one hundred herd management areas or use animal contraception methods to keep the size of the herds manageable. There is simply no reason for these horses to be slaughtered for use as meat in other countries.

The horse is more than just an animal to our country. It is a beloved literary figure, a character in a movie or television show, a symbol of adventure, a friend of the cowboy, and an important part of our history. William Shakespeare once stated that horses were, "As full of spirit as the month of May, and as gorgeous as the sun in Midsummer." I can say it no better and encourage all of my colleagues to join me and support the Rahall-Whitfield amendment and help save the wild horse.

Mr. PORTER. Mr. Chairman, I rise today in opposition to the Rahall amendment. Although I appreciate the good intentions of this amendment, I am deeply concerned about its potential for unintended consequences. In restricting the ability of the Bureau of Land Management (BLM) to sell wild horses and burros under the Wild Horse and Burro Act of 1971, we are also restricting opportunities for responsible owners or groups to purchase horses that might have otherwise been sentenced to spend their lives in holding facilities or to starve on our rangelands. I disagree with the actions of individuals who purchased horses under the Act and then sold them to a slaughter plant; however, I do not believe that we should prohibit responsible people from purchasing wild horses due to the actions of a few.

This morning, the BLM announced new regulations that will strictly prohibit individuals who purchase wild horses from sending these animals to slaughter. The BLM has also entered into a partnership with Ford Motor Company to help protect these wild horses for future generations. I applaud the BLM for their proactive stance on this issue, and I am hopeful that their initiatives will be successful so that other horses are sent to slaughter.

Mr. Chairman, I represent a district in Nevada, a state that is home to more wild horses than all other states combined. Although I agree that wild horses are a symbol of the American West, I also believe that it is the responsibility of Congress to ensure that these animals are managed, protected, and controlled in an effective manner. It is a fact that the current number of wild horses in the nation greatly exceeds the ability of the BLM or the land to handle these animals. This explosive growth causes significant resource damage, as well as damage to the animals themselves. The adoption authority granted under the Wild Horse and Burro Act of 1971 has historically failed to keep up with the growth of the wild horse population. We must work to maintain responsible and humane alternatives, such as sale authority, in order to ensure that these animals are properly cared for.

Our wild horses are already competing for scarce sources of food and water on rangelands in arid states like Nevada, causing many of them to waste into skin and bones. I believe that some of these horses should be allowed to be sold to good homes, where they can receive proper nourishment and veterinary care, as opposed to competing for little food and water in the wild or being held in long-term holding pens. This is why I am developing legislation that would offer an incentive for responsible people who would like to adopt or purchase a horse under the Wild Horse and Burro Act. This incentive will be dependent on a number of requirements, one of which will be that these animals cannot be sold to slaughter. I look forward to working with my colleagues on this issue.

The Acting CHAIRMAN (Mr. FOLEY). All time has expired.

The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. RAHALL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DOOLITTLE:

At the end of the bill (before the short title), add the following new section:

SEC. 4   . None of the funds made available in this Act for the Department of the Interior may be used to implement the first proviso under the heading "UNITED STATES FISH AND WILDLIFE SERVICE-LAND ACQUISITION".

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California (Mr. DOOLITTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the provision in the fiscal year 2006 appropriations bill that is the subject of this amendment would allow the Fish and Wildlife Service to sell public lands in the Lower Klamath and Tule Lake Wildlife Refuges, and use the profits from the land sales to buy water rights.

None of the delegation, which, I might add, is represented by four of us from the areas that represents this area, had approved this provision; and the Department of the Interior failed to communicate their desire to implement this program to the relevant Members of Congress.

As Members of Congress whose constituents would be affected by a provision such as this, we feel it is necessary to have time to review the proposal in order to ensure that the proposed program best suits the needs of the local communities in our districts. I might add that this event represents a trend of continuous poor communication by the Department of the Interior and therefore we must ask that our amendment be adopted.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman for bringing this to our attention, and we have no objection to the gentleman's amendment at this time.

The Acting CHAIRMAN. Does any Member rise in opposition to the amendment?

Hearing none, the question is on the amendment offered by the gentleman from California (Mr. Doolittle).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HASTINGS OF FLORIDA

Mr. HASTINGS of Florida. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HASTINGS of Florida:

At the end of the bill (before the short title), insert the following:

SEC.   . None of the funds made available in this Act may be used in contravention of Executive Order 12898 (*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*) or to delay the implementation of that Order.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Florida (Mr. HASTINGS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment to H.R. 2361 that is of critical importance to the health and well-being of minority and low-income communities throughout the United States.

In an effort to cut down on the time constraints, let me just briefly explain the amendment. It prohibits the EPA from using funds in this bill to work in contravention of Executive Order 12898 and delay the implementation of that order.

My amendment makes clear Congress's support for the executive order and its original intention to achieve health and environmental equity in minority and low-income communities.

Mr. Chairman, to seek out environmental justice is an effort to achieve health and environmental equity across all community lines. In adopting my amendment, Congress will call on EPA to move forward with the identification of at-risk minority and low-income communities so appropriate steps can be taken to improve their health and well-being.

Justice should never be reserved only for those who can afford to help themselves. I ask for my colleagues' support to ensure EPA takes the appropriate steps to protect minority and low-income communities from continued environmental injustices.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, the amendment requires EPA to comply with the executive order by the first President Bush dealing with environmental justice. We have no objection to the amendment.

Mr. HASTINGS of Florida. Mr. Chairman, I include for the RECORD the findings of the EPA Inspector General Report and those in support of the amendment.

EVALUATION REPORT: EPA NEEDS TO CONSISTENTLY IMPLEMENT THE INTENT OF THE EXECUTIVE ORDER ON ENVIRONMENTAL JUSTICE—REPORT NO. 2004-P-00007—MARCH 1, 2004

EXECUTIVE SUMMARY

Purpose

In 1994, President Clinton issued Executive Order 12898, "Federal Action to Address Environmental Justice in Minority Populations and Low-income Populations," to ensure such populations are not subjected to a disproportionately high level of environmental risk. The overall objective of this evaluation was to determine how the U.S. Environmental Protection Agency (EPA) is integrating environmental justice into its day-to-day operations. Specifically, we sought to answer the following questions:

.How has the Agency implemented Executive Order 12898 and integrated its concepts into EPA's regional and program offices?

How are environmental justice areas defined at the regional levels and what is the impact?

Results in brief

EPA has not fully implemented Executive Order 12898 nor consistently integrated environmental justice into its day-to-day operations. EPA has not identified minority and low-income, nor identified populations addressed in the Executive Order, and has neither defined nor developed criteria for determining disproportionately impacted. Moreover, in 2001, the Agency restated its commitment to environmental justice in a manner that does not emphasize minority and low-income populations, the intent of the Executive Order.

Although the Agency has been actively involved in implementing Executive Order 12898 for 10 years, it has not developed a clear vision or a comprehensive strategic plan, and has not established values, goals, expectations, and performance measurements. We did note that the Agency made an attempt to issue an environmental justice toolkit; endorsed environmental justice training; and required that all regional and programmatic offices submit "Action Plans" to develop some accountability for environmental justice integration.

In the absence of environmental justice definitions, criteria, or standards from the Agency, many regional and program offices have taken steps, individually, to implement environmental justice policies. This has resulted in inconsistent approaches by the regional offices. Thus, the implementation of environmental justice actions is dependent not only on minority and income status but on the EPA region in which the person resides. Our comparison of how environmental justice protocols used by three different regions would apply to the same city showed a wide disparity in protected populations.

We believe the Agency is bound by the requirements of Executive Order 12898 and does not have the authority to reinterpret the order. The Acting Deputy Administrator needs to reaffirm that the Executive Order 12898 applies specifically to minority and low-income populations that are disproportionately impacted. After 10 years, there is an urgent need for the Agency to standardize environmental justice definitions, goals, and measurements for the consistent implementation and integration of environmental justice at EPA.

Recommendations

We recommended that the Acting Deputy Administrator issue a memorandum reaffirming that Executive Order 12898 is an

Agency priority and that minority and low-income populations disproportionately impacted will be the beneficiaries of this Executive Order. Additionally, EPA should establish specific time frames for the development of definitions, goals, and measurements. Furthermore, we recommended that EPA develop and articulate a clear vision on the Agency's approach to environmental justice. We also recommended that EPA develop a comprehensive strategic plan, ensure appropriate training is provided, clearly define the mission of the Office of Environmental Justice, determine if adequate resources are being applied to environmental justice, and develop a systematic approach to gathering information related to environmental justice.

Agency comments and OIG evaluation

In the response to our draft report, the Agency disagreed with the central premise that Executive Order 12898 requires the Agency to identify and address the environmental effects of its programs on minority and low-income populations. The Agency believes the Executive Order "instructs the Agency to identify and address the disproportionately high and adverse human health or environmental, effects of it (sic) programs, policies, and activities." The Agency does not take into account the inclusion of the minority and low-income populations, and indicated it is attempting to provide environmental justice for everyone. While providing adequate environmental justice to the entire population is commendable, doing so had already been EPA's mission prior to implementation of the Executive Order; we do not believe the intent of the Executive Order was simply to reiterate that mission. We believe the Executive Order was specifically issued to provide environmental justice to minority and/or low-income populations due to concerns that those populations had been disproportionately impacted by environmental risk.

A summary of the Agency's response and our evaluation is included at the end of each chapter. The Agency's complete response and our evaluation of that response are included in Appendices D and E, respectively.

MAY 19, 2005.

Re support the Hastings Environmental Justice Amendment.

DEAR REPRESENTATIVE: On behalf of our organizations, members, and supporters nationwide, we write to express our support for Representative Alcee Hastings' (D-FL) environmental justice amendment that will be offered to the Interior-EPA Appropriations bill.

The Hastings amendment will ensure that funds spent at the U.S. EPA cannot be spent in any way that conflicts with the 1994 Executive Order "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." EO 12898 directs each federal agency to develop an environmental justice strategy "that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, or activities on minority populations and low-income populations" with the goal of achieving equity in federally-funded programs for those communities.

The Hastings amendment is needed to get EPA to take the next steps that are needed to achieve the promise of fairness and equal treatment for minority and low-income communities in federal environmental programs.

Studies conducted by both government and non-government panels, including the National Academy of Sciences and the United Church of Christ have found that minority and low-income communities experience greater and more frequent exposures to unhealthy levels of environmental pollutants than other communities.

This problem was first addressed at EPA in 1992 when President George H.W. Bush created the Office of Environmental Equity at EPA (now the Office of Environmental Justice); it was addressed a second time by President Clinton, when he issued the Executive Order in 1994. Yet the EPA has so far failed to adopt needed measures to meaningfully address and correct this unequal treatment under environmental laws. The agency's failure to move forward on the important issue of environmental justice has been documented recently by the U.S. Commission on Civil Rights, and the EPA's Office of the Inspector General.

The Hastings amendment does not place new requirements on the EPA, but rather provides direction for the agency to fulfill its longstanding obligation to ensure that minority and low-income populations are not exposed to dangerous and disproportionately high levels of air pollution, water contamination, toxic hazards, or other environmental and health threats in their communities.

We urge you to cast your vote in support of the Hastings environmental justice amendment.

Sincerely,

Roger Rivera, President, National Hispanic Environmental Council; Robert D. Bullard, Director, Environmental Justice Resource Center, Clark Atlanta University (Atlanta, GA); Ansje Miller, Director, Environmental Justice & Climate Change Initiative (Oakland, CA); Beverly Wright, Director, Deep South Center for Environmental Justice, Dillard University (New Orleans, LA); Craig Williams, Director, Chemical Weapons Working Group (Berea, KY); Martin Hayden, Legislative Director, Earthjustice; Michael Greene, Director, Center for Environmental Health (Oakland, CA); and David Christian, President, Serving Alabama's Future Environment (Jacksonville, AL).

Hilary Shelton, Director, Washington Bureau, NAACP; Martina Cartwright, Director, Environmental Law & Justice Center, Texas Southern University (Houston, TX); Peggy Shepherd, Executive Director, West Harlem Environmental Action (New York City, NY); Henry Clark, Director, West County Toxics Coalition (Richmond, CA); Tom Stephens, Director, National Lawyers Guild, Sugar Law Center (Detroit, MI); Luke Cole, Director, Center for Race, Poverty and the Environment (San Francisco, CA); Rufus Kinney, President, Families Concerned About Nerve Gas Incineration (Anniston, AL); and Reverend N.Q. Reynolds, President, Calhoun County Chapter of the Southern Christian Leadership Conference (Anniston, AL).

Robert O. Muller, President, Vietnam Veterans of America Foundation; Evelyn Yates, President, Pine Bluff for Safe Disposal (Pine Bluff, AR); John Nunn, President, Coalition for Safe Disposal (Worton, MD); Karyn Jones, President, GASP (Hermiston, OR); J. Daryl Byler, Director, Mennonite Central Committee Washington Office; Vernice Miller-Travis, Miller-Travis & Associates, (Washington, DC); Donele Wilkins, Executive Director, Detroiters Working for Environmental Justice; and Monique Harden, Co-Director, Nathalie Walker, Co-Director, Advocates for Environmental Human Rights (New Orleans, LA).

Jeanette Champion, President, Citizens for Environmental Justice (Anniston, AL); Sara Morgan, President, Citizens Against Incineration at Newport (Newport, IN); Jason Groenwald, Director, Families Against Incinerator Risk (Salt Lake City, UT); Peter Hille, President, Kentucky Environmental Foundation (Berea, KY); Douglas Meiklejohn, Executive Director, New Mexico Environmental Law Center (Santa Fe, NM); Rev. Anthony Evans, Director, National Black Church Initiative; and National Black Environmental Justice Network.

Mr. KUCINICH. Mr. Chairman, the idea behind environmental justice is simple. People of color and people of limited means bear more than their fair share of environmental problems—like exposure to pollution—and are denied more than their fair share of environmental benefits—like access to natural areas or clean water.

It is also important to point out that if you were to look at both race and poverty to see which one would best predict locations of environmental contaminants in the air or water, you would find race to be the better predictor, according to studies dating back to 1987.

Here's another way to look at it: Many studies have found that middle-income people of color live near more contamination than low-income white people. Enforcement of environmental laws is also less prevalent and weaker in communities of color. Penalties for hazardous waste violations were found to be roughly 500 percent higher when those violations happened in mostly white communities than when they happened in communities of color.

In 1992, then President Bush created an Office of Environmental Justice in the EPA precisely to begin to deal with this problem. In 1994, President Clinton expanded the directive's scope and applicability, again, in recognition of the seriousness of the problem.

But now, the Executive Order and the EPA's Office of Environmental Justice are being ignored to death by the Administration. The National Environmental Justice Advisory Council is withering away. The EPA Inspector General in 2004 found that the EPA failed to comply with the Executive Order and changed their interpretation of the order to avoid an emphasis on people of color and low-income people. The U.S. Commission on Civil Rights found in 2002 that federal agencies did not incorporate environmental justice into their core missions as directed by the Executive Order. Congress must step in to restore these efforts and take them to the next level.

The Hastings amendment would do exactly that. Every community, every person deserves equal access to clean air, clean water, natural areas, and healthy food. I urge my colleagues to support the Hastings amendment.

Mr. HASTINGS of Florida. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. HASTINGS).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. HEFLEY:

At the end of the bill (before the short title), insert the following:

SEC.   . Total appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $261,591,250.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Colorado (Mr. HEFLEY) and the gentleman from North Carolina (Mr. TAYLOR) each will control 5 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment is identical to those I have offered to appropriations bills for the past couple of years. The amendment trims outlays for H.R. 2361 by 1 percent under the Holman Rule, which means if the amendment passes, it will be up to the administration to determine where the cuts will fall.

I want to thank the gentleman from North Carolina (Mr. TAYLOR), the gentleman from Washington (Mr. DICKS), the ranking member. As always, they have done a solid job of this. I understand the dynamics of bringing a bill out of committee. They have done a good job. They are below what would have been expected, but we are still not at a balanced budget; and so I offer this amendment.

In fact, just the other day a Democratic colleague mentioned this bill and said the gentleman from North Carolina (Mr. TAYLOR) is "as tight as a snare drum," and I take that as an extreme compliment. That said, I do not think the funding levels of this bill are reflective of a country with a $340 billion deficit.

The amendment would trim a penny on the dollar across the agencies funded by this bill. Despite the stripped-down character of the bill, I think there are still some areas worthy of examination.

For example, the Kennedy Center for Performing Arts. Some years ago as a member of the House Interior Committee, I heard testimony on deaccessioning the Kennedy Center from the National Park Service. James Wolfensohn, its director and later head of the World Bank, pleaded with the subcommittee to cut the center loose. He said the center needed millions of dollars in structural repairs, yet he could not move forward on them because of the Park Service contracting requirements and inflated costs. "Let us raise our own funds and we will be able to do this much more efficiently," he said. And so we did.

We got rid of the Kennedy Center, except that we did not really. The only National Park Service cut loose in the past 20 years, supposedly, and yet in this bill it includes $17.8 million for operation and maintenance at the Kennedy Center and $10 million for construction.

Now, I know the Kennedy Center has serious structural problems, but given the legislative history of this issue, I would like to know how long we are going to continue to have this center that we have to fund. That is just one example.

I question whether the various agencies really need all of the new vehicles authorized in this bill. I estimate at least $5 million for those. I question some of the administrative accounts.

The chairman has done a fine job in reining in costs, particularly in the area of land acquisition; but at a time of a $300-plus million deficit, we need to do more. This amendment would do that. Even in a small way, I encourage support of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the gentleman's amendment. The gentleman makes good points, and if he and I were the only two Members of Congress, we could probably sit down and come up with a tighter bill. There are 435 Members in the House, and we have 100 over in the Senate. We have tried to put together a balanced bill. Because of that, we have cut many things and had a very difficult time in doing it. I would have to strongly object to the gentleman's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have fought over the last few years to reinsert funding for the Park Service to take care of their uncontrollable costs, and we had a hard time doing that. We find out that 1 percent, when it is added up, is $261 million. That is a very significant hit on these accounts in this important agency.

I would urge that Members support the chairman and we vote this amendment down.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield back the balance of my time.

Mr. HEFLEY. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. STUPAK:

At the end of the bill (before the short title), insert the following:

SEC. ___. None of the funds made available in this Act may be used to finalize, issue, implement, or enforce the proposed policy of the Environmental Protection Agency entitled "National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Wastewater Treatment During Wet Weather Conditions", dated November 3, 2003 (68 Fed. Reg. 63042).

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Michigan (Mr. STUPAK) and the gentleman from North Carolina (Mr. TAYLOR) each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, our amendment would stop the EPA from moving forward with a dangerous proposal that would allow more partially treated sewage into our waterways. This morning the EPA issued a statement saying it will not finalize its current proposal. The EPA has been mulling over this policy change for nearly 2 years.

I am pleased to see that the EPA has now recognized that this policy proposal is bad for our health, bad for our environment, and bad for business. Now Congress needs to seal the deal by passing our amendment to make sure this misguided proposal is gone for good.

Let me clarify something that has been misunderstood. Our amendment will not cost a thing. It will not change a thing. It leaves things just the way they are right now.

Currently, clean water rules say during major wet weather events, sewage treatment plants are allowed to combine the filtered but untreated human sewage with fully treated waste water before discharge, in a process known as "blending," when no other feasible alternative exists.

The EPA's 2003 proposal would weaken current environmental standards by allowing facilities to discharge largely untreated sewage virtually anytime it rains. Our amendment simply stops the EPA from weakening existing environmental standards and requires that sewage be effectively treated to remove the viruses, parasites, and bacteria that make people sick.

I know many of my colleagues are hearing that this amendment will pose astronomical costs on local communities. That is simply not true. This amendment will not cost communities a dime. Our amendment would maintain the current policy. It would not prevent utilities from blending under any of the current allowable legal circumstances. It would merely support current safeguards which do not allow blending when full treatment is feasible. Let me repeat that. Our amendment will not ban blending.

We have a clear policy choice. Should we provide effective treatment for sewage, remove pollutants that poison drinking water sources, close beaches, contaminate shellfish, make people sick, and rob the water of oxygen the fish need to breathe? Or should we allow routine discharges of inadequately treated sewage virtually every time it rains? To ask the question is to answer it. The choice is clear just as it has been under the Clean Water Act for the past 30 years.

Congress needs to send a strong, clear message on behalf of our constituents. We do not want human waste in the water we drink and swim in. As a step in the right direction, vote "yes" on the bipartisan Stupak/Shaw/Pallone/Miller amendment.

Groups Weighing in Against EPA's Sewage Proposal

American Littoral Society; American Public Health Association; American Shore and Beach Preservation Assoc.; American Rivers; Children's Environmental Health Network; Citizens Campaign for the Environment; Clean Ocean Action; Clean Water Action; Coast Alliance; East Coast Shellfish Growers Association; Earthjustice; US Conference of Catholic Bishops; Environmental Integrity Project; and Coalition on the Environment and Jewish Life.

Lake Michigan Federation; League of Conservation Voters; National Fisheries Management Institute; Natural Resources Defense Council; New York Rivers United; Pacific Shellfish Growers Association; Physicians for Social Responsibility; Riverkeeper, Inc.; Sierra Club; Surfers' Environmental Alliance; Surfrider Foundation; The Ocean Conservancy; US PIRG; and US Conference on Catholic Bishops.

Mr. Chairman, I thank the gentleman for raising this concern and want to clarify this issue for him.

The short answer is "no."

My amendment would not change the existing requirements for CSO communities, which are outlined in the 1994 CSO Policy and were incorporated in the CWA in 2000.

The CSO policy allows combined sewer systems to bypass secondary treatment when it is not feasible to provide full treatment for sewage.

Bypassing is allowed under the CSO policy as part of a long-term plan to minimize sewer overflows and maximize treatment.

EPA's proposed sewage dumping policy is inconsistent with the 1994 CSO policy because it would allow bypassing full treatment even when it is feasible.

The proposed policy would undercut those communities investing in long-term solutions that are protective of public health, the environment, and downstream economies.

The proposed policy would also allow separate sanitary sewer systems to bypass secondary treatment and discharge largely untreated sewage even if full treatment would be feasible, as it should be under normal operating conditions for most well operated and maintained separate sanitary systems.

Given the heavy load of viruses, parasites, bacteria, toxic chemicals, and other contaminants in sewage, it is critical that sewage treatment plants strive to achieve full treatment, not just discharge poorly treated sewage because it is cheaper to do so.

I also incorporated Mr. MEEHAN's statement relating blending policy to this statement.

Mr. STUPAK. Mr. Chairman, I reserve the balance of my time.

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Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

First I all I would like to read a letter from the Assistant Administrator of the Environmental Protection Agency:

"Dear Chairman Taylor:

"This is regarding the November 2003 Draft Blending Policy which addresses the management of peak wet weather flows at municipal wastewater treatment facilities. The draft policy received extensive public comment and has been the subject of considerable ongoing discussion and debate, including being the focus of a recent hearing before the House Subcommittee on Water Resources and Environment.

"Based on our review of all of the information received, we have no intention of finalizing the blending policy as proposed in November 2003. We continue to review policy and regulatory options to manage this issue."

I think this letter is self-explanatory.

Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN), the distinguished chairman of the Subcommittee on Water Resources and Environment.

Mr. DUNCAN. I thank the gentleman for yielding me this time.

Mr. Chairman, the author of this amendment, the gentleman from Michigan (Mr. STUPAK), is a good man and a good friend of mine and I think he is well intentioned, but I think my colleagues should know that this amendment is opposed by the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the National Rural Water Association, and 38 other national and State water organizations whose job it is to protect the environment and provide communities with clean water.

Let me tell you why these organizations oppose this amendment. Communities all over the country have wastewater treatment plants that are designed and permitted to allow blending during extreme wet weather events. That is only a very small percentage of the time, usually maybe 2 or 3 percent.

These plant designs allow communities to prevent sewer overflows and meet all Clean Water Act standards in a cost-effective way. If blending is prohibited, then cities like Atlanta, Detroit, Cincinnati, Tacoma, Portland, Oregon, Boston and many, many others would have to spend billions of dollars to change their wastewater treatment plant designs, all to deal with extreme wet weather events that occur only once or twice a year. Some individual cities could have to spend as much as $100 million on this or perhaps even more.

Blending has been mischaracterized as the discharge of raw sewage. This is not true. Here are the facts. During normal dry weather operation of a typical wastewater treatment plant, the wastewater receives three stages of treatment: solids removal, biological treatment, and disinfection. During extreme wet weather events, wastewater flows can exceed the capacity of the biological treatment unit. In those cases a plant then treats it twice. This blending does not mean the discharge of raw sewage into any river or waterway. These flows are recombined and blended with wastewater chemical treatments and so forth and disinfection so that it meets all Clean Water Act water quality and technology-based treatment standards.

This practice is not a bypass around treatment because it is part of the plant's permitted treatment design.

We held a hearing on this. Let me just tell you a few quotes from some of the experts.

One person from the Ohio River Valley Water Sanitation Commission said, "In the case of the Ohio River, without our blending policy more untreated overflows would occur and the water quality impacts of wet weather would be more damaging."

The head of an agency in California said, "With blending, our member communities can provide the maximum clean water treatment possible to unpredictable, exceptionally heavy rains and snowmelt, while still meeting permit limits which are set to protect public health and the environment."

A water executive from Little Rock, Arkansas, said, "Blending protects public utility infrastructure by preventing washout of sensitive biological systems and protects public health and private property."

Another official said, "A prohibition of blending will result in the need for extremely expensive facility upgrades that will not result in any meaningful improvement to water quality or protection of the public health."

If we prohibit blending, it will cause worse environmental trouble than if we allow these experts and these utilities to proceed with it. There is a lot of misunderstanding on this issue. What we should do is we should work with the gentleman from Michigan because what he wants to accomplish and what we want to accomplish is really the same thing. We need to have more work on this before we leap into this very complicated situation.

Mr. STUPAK. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. SHAW), one of the cosponsors of this amendment.

Mr. SHAW. I thank the gentleman for yielding me this time.

Mr. Chairman, I am very pleased to offer this amendment along with my colleagues because the EPA's proposed guidance would hurt water treatment practices already in place in my home State of Florida.

Governor Jeb Bush and the Florida Department of Environmental Protection support this amendment. I am not here to impose any added costs to treatment plants. There is a rumor, as has just been expressed by my friend from Tennessee, that our amendment would cost upwards of $200 billion in added costs to cities. This is just plain wrong. Our amendment does not impose any new regulations. It simply allows cities and States to maintain their current level of water treatment practices. Florida has a higher level of treatment and should not be forced to step back.

I urge my colleagues to vote "yes" on the Stupak-Shaw-Pallone-Miller amendment. A "yes" vote is a vote for safe, clean water.

Mr. STUPAK. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PALLONE), also a cosponsor of our amendment.

Mr. PALLONE. Mr. Chairman, I am also pleased to be a cosponsor of this amendment.

Let me be very clear. This amendment would not ban all blending. In fact, it would have no effect on any currently permitted uses of blending. The Clean Water Act already says you can blend but only during a serious rain event. The EPA's proposed policy change, however, would let sewer operators bypass secondary treatment anytime it rains. That is what really could add a lot more sewage to our waters.

I have been fighting this proposal every step of the way and the EPA has finally said they are not going to do it. However, we must make sure that they do not. I understand that the EPA is now saying they are no longer going to finalize this proposed policy change, but they could change their mind tomorrow.

It should be a very easy vote for Members. We are saying that this is a bad idea. The EPA is now saying it is a bad idea. We are just making sure that the EPA actually does what it says it will do, because, who knows, tomorrow they may change their mind. But I do not want anybody here to think that all blending is going to be banned. You can still do it during a serious rain event, but you should not be allowed to do it anytime you want because that is going to increase tremendously the volume of material that does not have secondary treatment. And you will not have secondary treatment if you allow this policy to go ahead. It will be able to make an exemption anytime you please, and that is the problem. Our waters will get dirty. It will affect our tourism, our shellfish in coastal States around the country. Do not allow it to happen.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Does the gentleman intend his amendment to have any impact on the policies of the EPA regions and States that allow blending today and have issued permits allowing blending?

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, I thank the gentleman for his question, but our amendment does not intend to have any impact on any of the existing policies of EPA regions and States that allow blending or on any Clean Water Act permit that allows blending. We are saying maintain the status quo.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, we would accept the gentleman's amendment under that representation.

Mr. Chairman, I reserve the balance of my time.

Mr. STUPAK. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. MILLER), also a coauthor of this amendment.

Mr. MILLER of Florida. I thank my good friend for yielding time.

Mr. Chairman, obviously we are here tonight to talk about just a commonsense issue in regards to this blending issue. I, in fact, have been involved in the construction of and the management of wastewater treatment plants. Blending is used obviously in very high water times and I think that that is an issue that we have heard raised tonight. We are not in any way trying to stop the issue of blending during the storm season, but the fact of the matter is, in 2003 there were more than 18,000 closings or advisories around the United States and that was 5,000 more than ever at any time before. These closings were due to fecal coliform increases in bacterial levels outside of the norm.

The fact of the matter is it does not take a medical degree to understand that this is a health issue for our families and our children that are out there that are actually swimming sometimes in this waste. In fact, we are looking at the blending of untreated solid free waste with treated sewage. The Clean Water Act already allows for that blending to take place.

As the gentleman from Michigan says, we are not trying to change the last resort issue. What we are trying to do is to set up an issue where we cannot have these wastewater treatment plants continue to dump more less treated or smaller treated wastewater into our waterways.

Mr. STUPAK. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise in strong support of this amendment offered by my colleagues which will prevent the EPA from finalizing a policy that may increase the risks of waterborne illness and harm our Nation's waterways. Thirty-three years after the passage of the Clean Water Act, the EPA should not be implementing policies which will allow more sewage into our waterways. Such a policy could result in water systems with more pathogens, viruses, bacteria and parasites that make people sick, contaminate our drinking water supplies, harm fish and other aquatic life.

I believe this is a misguided policy. The use of secondary biological treatment to remove bacteria and pathogens from sewage has been in place for decades in order to protect the public from waterborne illnesses, and I believe we must preserve these longstanding standards. Blending waste streams at times other than natural emergencies will result in an unnecessary discharge of harmful contaminants into our waters. We have a responsibility to fully treat all wastewater, and the EPA's proposal to bypass the crucial second treatment step and allow more bacteria into our local water sources is just plain wrong.

We should be focused more on strengthening the federal commitment to water infrastructure, which we all know has been stagnant for many years now.

I plan soon on reintroducing my bill, the Clean Water Infrastructure Financing Act, which will authorize funding levels in the Clean Water State Revolving Fund which better reflect the considerable depth of our Nation's wastewater infrastructure needs.

I urge strong support for this amendment because we must invest in effective sewage treatment to help ensure that our constituents are protected from health hazards. Effective sewage treatment will reduce the risk of waterborne illness and protect public health.

Again, I thank my colleagues Mr. STUPAK, Mr. SHAW, Mr. MILLER and Mr. PALLONE for offering this important amendment and urge strong support from my colleagues.

I would also like to thank my colleagues Mr. TAYLOR and Mr. DICKS and their staff for their hard work with the difficult task of putting this bill together.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) who supports the amendment.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman from North Carolina for agreeing to this amendment.

Mr. Chairman, water is one of the most precious resources Floridians possess. Representing several of the State's largest water reserves, protecting the quality and availability of our water has always been a top priority.

Unfortunately, the EPA is proposing this dumping rule that would damage the integrity of America's water. The proposed rule which they now have said that they are not going to implement was not a very well thought out one. The blended wastewater concept would then be discharged into our waterways. The consequences of this strategy could be very dire. Certainly in a State like Florida where we have more than our share of heavy rains during rainy season, and you can be darn sure we are going to have a lot of hurricanes again, it would be virtually playing Russian roulette every time that citizens would be drinking tap water.

I cannot in good conscience allow the rule to go forward and have that communicated to the EPA. I am very delighted that today a letter did come from them that they are not going forward with this. But keeping it in the legislation is very wise policy.

Mr. STUPAK. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. FITZPATRICK) who has been helping us on this amendment.

Mr. FITZPATRICK of Pennsylvania. Mr. Chairman, I rise tonight in strong support of the Stupak amendment to the Interior appropriations bill. This amendment will stop the EPA's ill-advised proposal to allow treatment plants to dump untreated sewage into our Nation's waterways.

Mr. Chairman, the EPA's proposed change is just plain a bad idea. In fact, just this morning as we have heard, the EPA recognized just how bad an idea it was and announced that it was reconsidering its proposal. It is a bad idea to permit our water to contain bacteria, viruses, parasites and intestinal worms capable of causing cholera, hepatitis, gastroenteritis and dysentery. The EPA steps backward when it advocates for polluters to discharge halfway-treated sewage into our Nation's waters. Notwithstanding today's EPA decision to reconsider its proposed policy change, it remains necessary to pass this amendment.

I urge my colleagues to vote in favor of the amendment and ensure that the EPA does not change its mind again and attempt to impose an imprudent sewage blending policy on America at some point in the future.

Mr. STUPAK. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. KIRK) who has been very helpful on this amendment.

Mr. KIRK. Mr. Chairman, I thank the gentleman for yielding time. I want to really applaud the gentleman from Michigan for putting together a truly bipartisan amendment that not only put together a broad coalition of Members in this House, including the chairman of the subcommittee, who has accepted the amendment, to stop this blending regulation.

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We all saw when Milwaukee dumped over 4 billion gallons of sewage into Lake Michigan just last year and an incredible rise in the number of beach closings along the Illinois shoreline: Nine in Glencoe, 12 in Wilmette, 34 in Winnetka, a rising tide of dirty water that would have been increased with this.

But what this bipartisan amendment has done is it has backed down the EPA. Thanks to his work and Members on both sides of this aisle, the EPA has largely accepted what this amendment would have already laid out and have stopped this regulation. It is going to listen to the Congress on environmental protection, and I really want to thank my subcommittee chairman for accepting this amendment.

The Acting CHAIRMAN (Mr. FOLEY). The time of the gentleman from Michigan (Mr. STUPAK) has expired. The gentleman from North Carolina (Mr. TAYLOR) has 4 minutes remaining.

Mr. TAYLOR of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, I thank the chairman for yielding to me.

Can the chairman clarify that the intent of our amendment is to ensure that all EPA regions and all the permits that are written will comply with the current Clean Water Act rules and safeguards? Is that his intent also?

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, it is my understanding, but I would like to talk with the gentleman. This is a new area, a new part of the committee, and I would like to work with him as we go on with the bill toward conference. But that is my understanding.

Mr. STUPAK. Mr. Chairman, if the gentleman will continue to yield, with the understanding, and it is certainly our understanding, that all EPA regions and all permits that are written must comply with the Clean Water Act rules and safeguards, and that is the only thing we are trying to do here. We are not trying to change anything. So with the assurances from the chairman that he will make sure that that is what we are going to do and we have some time to clarify this even further, we will not ask for a recorded vote. We accept his courtesy that he will accept our amendment and make it a part of the bill, and we look forward to working with him on this and other related matters.

I want to thank the gentleman from Tennessee (Mr. DUNCAN) also for his work in this area, along with the gentleman from Washington (Mr. DICKS) and the Members on our side.

Mr. TAYLOR of North Carolina. Mr. Chairman, reclaiming my time, I appreciate the gentleman's activity. We will work with him.

Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this point I had intended to offer an amendment to the Stupak amendment because I am certainly in support of the content. But given the agreement that has been reached between the two parties, there is no need for me to offer that amendment.

I would simply observe, however, that I hope we do not kid ourselves. It is very good that this amendment is being adopted, but it again illustrates the need for, in fact, increasing, rather than reducing, the amount of money that we put into the Clean Water Revolving Fund, and I would hope that we would remember this as the bill goes through the system because we can avoid controversies such as this. We can avoid putting EPA into a position of even considering such an outlandish regulation if we are providing much more by way of financial help to the communities so that they will not be concerned about stiffening EPA regulations to protect public health.

Mr. MEEHAN. Mr. Chairman, I move to strike the last word.

POINT OF ORDER

Mr. TAYLOR of North Carolina. Mr. Chairman, I raise a point of order. We have an agreement. I do not think we can strike the last word when we have a time agreement.

Would the chairman rule on that and inform me?

The Acting CHAIRMAN. Under the order of the House of earlier today, only the chairman and ranking minority member of the Committee on Appropriations and the Subcommittee on Interior, Environment, and Related Agencies may offer a pro forma amendment to a pending amendment.

Mr. MEEHAN. Mr. Chairman, I rise to applaud my good friend, the gentleman from Michigan, for his commitment to protecting public health and the environment.

Over the last century, the nation's wastewater infrastructure has resulted in enormous strides in improving public health.

I represent the Merrimack Valley region of Massachusetts.

The Merrimack River was once among the most polluted waterways in the nation.

Moreover, the northeast is ridden with outmoded sewer infrastructure that is designed to overflow into public waterways.

During heavy weather, these combined sewer systems steer raw, untreated sewage into rivers like the Merrimack, and bays such as Casco bay in Maine.

The challenge to control cso's has been both of technical and financial feasibility.

Some treatment plants use a blending bypass during periods of heavy weather so that cso's receive some treatment rather than none at all.

In economically-distressed communities such as Lawrence, Haverhill, and Lowell that have combined sewer systems, it is not currently possible to provide full treatment for all sewage during wet weather.

I seek assurance from the gentleman from Michigan that his amendment would not prohibit cso communities from blending if it is authorized by their permits in accordance with the Clean Water Act.

Mr. DAVIS of Illinois. Mr. Chairman, I rise in strong support for the Stupak/Shaw anti-sewage dumping amendment. Each year, 850 billion gallons of contaminated sewage poisons lakes, rivers, and oceans each year. Discharging inadequately treated sewage into our waterways harms the environment, our constituents' health, and even our economic growth. By permitting "blending" during standard weather systems, we are providing our citizens with a false sense of security that we are furnishing them with safe conditions. When the secondary treatment of sewage water is sidestepped, the citizens face exposure to viruses, parasites, bacteria, and toxic chemicals that can cause Hepatitis A and Giardia. Further, this puts small children, the elderly, and those already vulnerable by other illnesses with additional life threatening conditions. Not only is health at risk, but the economy. Many industries work from lake and ocean commodities. Subsequently, blended sewage in the water would destroy much of their viable product. In my own district, in the heart of Chicago, routine blending will inhibit my constituents' use of the lakefront beaches, harm our water industries, and make the drinking water dangerous and even deadly.

These devastating and misguided decisions will damage not only the current, and already failing situation, but also our long term solutions. By allowing routine blending, it will only increase the concentration of the contaminant in our environment. Other solutions must be considered. For example, constructing additional facilities to hold sewage until it is fully treated can transfer some of the overflow problem. Therefore, I urge my fellow colleagues to prohibit these policies from being changed. With our continued efforts, we can continue to provide a healthy and productive environment for our citizens.

Ms. WOOLSEY. Mr. Chairman, how much farther are we going to have to roll back the clock before we realize the harm that we are doing to our environment? Do we have to get to the point of rivers catching on fire again?

The EPA, the agency that is supposed to be protecting our environment, is attempting to turn back the clock by releasing a new policy that will increase waterborne diseases and deaths.

This latest EPA policy to allow sewage treatment plants to routinely divert untreated sewage into our rivers and oceans, where we get our water and where we swim is not something that appeals to me.

Instead of turning back the clock and allowing sewage to flow freely in our rivers, we must increase our investment in upgrading wastewater treatment plants. Ironically, this bill actually decreases the amount of federal funding for upgrading wastewater treatment plants.

It is time that we started moving forward and not backward on protecting our rivers and our oceans. I urge all of my colleagues to join me in supporting this important amendment.

Mr. PASCRELL. Mr. Chairman, our communities are on the front lines in their attempts to meet the requirements of the Clean Water Act.

Hundreds of billions of dollars are needed to meet real and pressing needs, and the federal government is not paying its fair share.

As a former Mayor and lifelong resident of Paterson, NJ, I can personally attest that our cities are struggling to make ends meet. The money to make any wastewater upgrades must come from somewhere, and the Congress needs to step up to plate.

The funding levels in this bill reflect almost a half billion dollars in cuts to the Clean Water State Revolving Fund over the past two years. My state of New Jersey will have lost $20 million alone.

EPA's state and tribal assistance grant program is also slashed by almost half a billion dollars.

Enacting these cuts and ignoring these needs undermines our ability to treat sewage, particularly during wet weather events.

It is important that we have uniform clean water regulations across our nation. I do believe that our communities need a thoughtful blending policy.

However, the November 2003 policy the EPA has proposed is not the right one at this time. If the Stupak Amendment comes to a vote, I will support it.

The EPA can do better, and the Congress should demand better.

But all sides need to be pragmatic. It is imperative that common ground can be found to develop a solution we can all live with.

A limiting amendment which stops work on the blending issue will not benefit our environment and it will not benefit the public health.

It will certainly not benefit communities and public water utilities trying to do the best they can with the limited resources they have available.

I would like to thank my friend from Michigan for bringing this amendment to the House floor. He is truly a champion in our quest for clean water and should be commended for his work protecting the Great Lakes.

I would also like to thank my Chairman of the Water Resources Subcommittee, Mr. DUNCAN. He is also a champion for clean water, and a leader in our quest to provide assistance to local communities for their treatment systems.

Mr. OBERSTAR. Mr. Chairman, I rise in support of the amendment.

The amendment offered by my colleague from Michigan would prohibit the Environmental Protection Agency from spending any of the funds provided by this bill to finalize any new policy related to sewage blending.

Mr. Chairman, when EPA proposed to issue a new policy document on sewage blending, I was concerned that it could cause an increase in the frequency of blending by those communities that current use the practice, and an increase in the number of communities that use the practice. That is why I thought the policy was flawed. I do not believe that there currently is enough information available to EPA and state permit writers to know that any increase in the use of blending is protective of human health and the environment. That is why I believe that issuing a policy that could increase the use of blending is wrong.

Sewage blending is the practice of taking partially treated wastewater, mixing it with fully treated wastewater, and then relying on the dilution to meet discharge limits. I do not believe that sewage blending is what was intended when the secondary treatment requirements for publicly owned treatment works were put in place by Congress in 1972.

Congress intended that all domestic sewage receive a minimum of secondary treatment, and greater levels of treatment where water quality demanded it. Since sewage blending is a process that is used only during periods of high flows, then the question presents itself as to whether blending complies with the secondary treatment requirements. Even the proponents of blending acknowledge that blending is used only in limited high flow circumstances—at all other times the sewage otherwise receives full secondary treatment

The current, acknowledged limitations on the use of blending lead to the question—if blending constitutes secondary treatment, then why is it not acceptable all the time, or if it does not constitute secondary treatment, why is it allowed at all?

Recently, the EPA Assistant Administrator for Water acknowledged, "the heart and soul of the Clean Water Act, is that dilution is not the solution to pollution, that you need to treat the sewage. Blending isn't the solution. It's a short-term fix. [EPA] want[s] to make sure that it only occurs in the very limited, narrow circumstances and that it meets all requirements in their Clean Water Act permit, and that water quality standards downstream are also maintained."

Mr. Chairman, increasing the use of blending is not an acceptable long-term solution to meeting secondary treatment requirements. I support the amendment to bring the expanded use of blending policy to a halt.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. TIAHRT

Mr. TIAHRT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. TIAHRT:

At the end of the bill (before the short title), insert the following:

SEC. _____. None of the funds made available in this Act may be used to promulgate regulations without outside auditing to determine the authenticity of the scientific methods used to develop such regulations.

Mr. TAYLOR of North Carolina. Mr. Chairman, I reserve a point of order against the amendment.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Kansas (Mr. TIAHRT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Chairman, I yield myself such time as I may consume.

Last year our trade deficit surpassed $670 billion. Our Federal budget deficit was more than $300 billion, and we saw too many high-quality, good-paying jobs go overseas. It has become more and more difficult to keep and create jobs and small businesses here in America. And when we look around at what the world is doing, unless we change the environment here in America we are going to become a third-rate economy.

Over the last generation, starting in the 1960s, Congress has created barriers to keeping and creating jobs. We must remove those barriers.

Mr. Chairman, one of those barriers created by Congress is bureaucratic red tape. Others are rising health care costs, education policy, research and development policy, energy policy, unenforceable trade policy, tax policy, and lawsuit abuse. My amendment goes to the heart of the problem centered around the unnecessary bureaucratic red tape.

My amendment is designed to require an outside audit to determine that science is used to develop regulations at the EPA that are unbiased and well substantiated. At a minimum major rules by the EPA should go through a Science Advisory Board and rules should then be audited by a neutral third party to ensure that our environmental regulations are based on scientific facts and not emotional theory.

There are reporting rules promulgated by the EPA that do nothing to protect the environment or the health and well-being of the citizens but cost American businesses hundreds of millions of dollars and thousands of jobs.

One example of an unnecessary burden to the American small businesses is the EPA's toxic release inventory lead rule. The rule requires that businesses report annually on how much lead is used. Not how much lead is emitted into the atmosphere, but how much lead the business uses. In June, 2002, a small business owner from Baltimore, Maryland testified before the Regulatory Reform and Oversight Subcommittee of the Committee on Small Business on how this particular EPA reporting rule causes harm to her business. We can see how ridiculous and wasteful this EPA rule is to our economy without making our air any cleaner. Nancy Klinefelter is president of Baltimore Glassware Decorators. Her small business specializes in printing small quantities of custom glass and ceramic ware for special occasions. Some of Nancy's work can even be found in the House gift shop and some is sold in the EPA's gift shop. When they print mugs or glasses for customers, they sometimes use lead-bearing colors on the outside surface. These colors are expensive, so they use a minimum amount of paint, just that which is needed to color the surfaces and they try to reduce waste. And the finishing process ensures that none of the lead leaches out. So their products are safe for anyone who uses them.

But because of the EPA's Toxics Release Inventory lead rule, Nancy's business is forced to compile daily records on how much color is used for the mugs because the color contains a very small amount of lead. Each year her small business has to report to the EPA how much lead has been used. It costs her about $7,000 annually and across the Nation about $70 million every year. And what do the Americans get for the millions that are spent? Cleaner air? No. Less lead being used? No. Less exposure to lead by children? No. The answer is none of these. But all the American people get from these thousands of reports are estimates on how much lead is being consumed, but our air is not any cleaner.

Mr. Chairman, with the hopes of working during the conference committee report, I intend to withdraw this amendment because I know it is subject to a point of order. I hope that we can work together with the gentleman from North Carolina (Chairman Taylor) in the conference report to try to remove some of these unnecessary regulations.

So, in conclusion, we must not move forward with our government to implement regulatory burdens like this on the American public because it drives jobs overseas, it increases the trade deficit, it reduces the Federal revenue, and it moves us toward a third-rate economy.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

AMENDMENT NO. 9 OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. POMBO:

At the end of the bill (before the short title) add the following new section:

SEC. . The funds appropriated in this Act under the following headings are available only to the extent provided for in authorizing legislation enacted before the date of the enactment of this Act or on or after such date:

(1) "Bureau of Land Management—Range Improvements".

(2) "United States Fish and Wildlife Service—Resource Management".

(3) "United States Fish and Wildlife Service—Cooperative Endangered Species Conservation Fund".

(4) "United States Fish and Wildlife Service—Neotropical Migratory Bird Conservation".

(5) "United States Fish and Wildlife Service—Multinational Species Conservation Fund".

(6) "National Park Service—Historic Preservation Fund".

(7) "United States Geological Survey—Surveys, Investigations, and Research".

(8) "Bureau of Indian Affairs—Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians".

(9) "Indian Health Service—Indian Health Services".

(10) "Indian Health Service—Indian Health Facilities".

(11) "Executive Office of the President—Council on Environmental Quality and Office of Environmental Quality".

Mr. DICKS. Mr. Chairman, I reserve a point of order against the amendment.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California (Mr. POMBO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

Appropriations without authorizations or that exceed authorized levels violate House rule XXI, clause 2. This amendment enforces this rule by not allowing moneys to be spent for 10 specified programs within the Committee on Resources' sole jurisdiction which are not authorized to be funded in fiscal year 2006 until the Committee on Resources authorizes them. The money remains in the bill but cannot be obligated by the agencies until the authorizing committee authorizes them to do so.

Because the Interior appropriations bill often combines both authorized and unauthorized programs in a single number, such as funding for survey activities of the U.S. Geological Survey, the amendment assures that these programs which are authorized by fiscal year 2006, their funding cannot continue.

For those programs which are authorized but the amount appropriated exceeds the authorized level, such as in the case for the Council on Environmental Quality, then the amendment restricts the funding to the authorized level.

The purpose of this amendment is to give us the ability to go back and authorize a number of these programs that have not been authorized for years and in some cases in excess of a dozen years. One of the major problems that we have is the Committee on Appropriations gets in the position of having to continue to appropriate money on these unauthorized programs because they are important programs. But in this case what we are talking about is $5.3 billion that is being appropriated. So this is a fiscal issue.

I believe that the taxpayer demands that we do our job in authorizing these programs and make sure that the public is getting their money's worth out of these different programs. Currently, I do not believe that is the case. And it gives us the ability to go back and authorize those programs.

I believe this is something that is extremely important. The gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) have worked with us on a number of different things that are in this bill over the past year. But when it comes to some of these major programs that we have not been able to get an authorization on. I believe the time is now for us to move forward and begin to fence off those moneys until we can get an authorization done.

Mr. Chairman, I reserve the balance of my time.

POINT OF ORDER

Mr. DICKS. Mr. Chairman, I raise a point of order against the amendment. I do it with great respect for the chairman, but I just worry about what the consequences of his amendment would be to this bill.

Therefore, Mr. Chairman, I raise a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriation bill and therefore violates clause 2 of rule XXI.

The rule states in pertinent part: "An amendment to a general appropriation bill shall not be in order if changing existing law."

The Acting CHAIRMAN (Mr. HASTINGS of Washington). Does any Member wish to be heard on the point of order?

Mr. POMBO. Mr. Chairman, I realize that the gentleman is correct when he talks about authorizing an appropriations bill and the effect that my amendment would have. But I would urge the Chair to rule the amendment in order because what I am trying to do is strip out and put fencing around appropriations for unauthorized programs. It seems kind of ironic that my amendment that goes after unauthorized programs would be ruled out of order for the very reason that I have been going after those programs.

I urge the chairman to rule the amendment in order.

The Acting CHAIRMAN. If no other Member wishes to be heard, the Chair is prepared to rule.

The Chair finds that this amendment requires new duties. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the amendment is not in order.

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AMENDMENT OFFERED BY MS. SOLIS

Ms. SOLIS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN (Mr. HASTINGS of Washington). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. SOLIS:

Add at the end of the bill (preceding the short title) the following:

SEC. 4___. None of the funds made available in this Act may be used by the Administrator of the Environmental Protection Agency—

(1) to accept, consider, or rely on third-party intentional dosing human studies for pesticides; or

(2) to conduct intentional dosing human studies for pesticides.

The Acting CHAIRMAN. Pursuant to the order of the House today, the gentlewoman from California (Ms. SOLIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, I yield myself such time as I may consume.

This amendment would ensure that the Environmental Protection Agency could not use funds in this legislation to accept, consider, or rely on studies from outside parties that intentionally expose human beings to pesticides. It would also ensure that the EPA could not spend any funds conducting its own studies which intentionally expose humans to pesticides.

According to EPA Administrator Stephen Johnson back in 2001, EPA "believes that we have a more than sufficient database, through use of animal studies, to make licensing decisions that meet the standard, to protect the health of the public, without using human studies."

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentlewoman yield?

Ms. SOLIS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, if we withdraw any objection to this amendment, is the gentlewoman envisioning a rollcall vote or just a simple voice vote?

Ms. SOLIS. Mr. Chairman, no rollcall vote.

Mr. TAYLOR of North Carolina. Mr. Chairman, I withdraw any objection to this amendment.

Ms. SOLIS. Mr. Chairman, I yield myself such time as I may consume, and I thank the gentleman from North Carolina.

Mr. Chairman, I will submit the remainder of my statement for the RECORD, and I would ask that Members of the House approve this amendment. It is long overdue. I am very grateful to accept support from the other side of the aisle.

Despite this statement, the EPA can devise and conduct studies where humans—children and adults—are exposed to pesticides.

Current practices also allow the EPA to accept studies from the pesticide industry and other outside sources so these studies can be used to help develop regulations or approve pesticides.

Right now, the United States Environmental Protection Agency—the agency in charge of protecting public health from environmental toxins—is encouraging industry to use human beings as guinea pigs.

What may be the greatest offense yet, is that the EPA is conducting and engaging in these studies with no binding safeguards to make sure these tests protect public health.

The EPA has chosen to go against the recommendation of the National Academy of Sciences and against the wishes of its own Science Advisory Board and Science Advisory panel.

Not only are there no binding safeguards for EPA conducted studies, but many of the outside studies which the EPA accepts fail to meet minimum international standards established in the Nuremberg Code and in the Helsinki Declaration of the World Medical Association.

This behavior is deplorable, unethical, and wrong.

Our amendment is critical because, in the absence of binding standards at EPA, the pesticides industry has increased its use of human testing studies and putting more humans at risk for what are frequently statistically invalid studies.

The trend of using humans—both children and adults—as guinea pigs is a trend that needs to stop.

The EPA needs to have binding safeguards in place, and we need to have information about how a better understanding of how dangerous and toxic these pesticides are for our children.

Without these safeguards the EPA should not be conducting tests which dangerously expose humans to pesticides nor should it be developing policy based on third party studies which fail to meet even basic internationally accepted standards.

My colleagues, the Solis-Bishop amendment is supported by environmental and diverse religious organizations and among more than 80,000 others who have written to me saying they oppose the CHEERS study and support a moratorium on this type of testing.

I urge you to support our amendment and prevent the unregulated and unethical testing of pesticides on humans.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. BISHOP), the cosponsor of this amendment.

Mr. BISHOP of New York. Mr. Chairman, I want to thank the gentlewoman from California for her leadership on this issue and for yielding me this time, and I want to thank the chairman for accepting our amendment.

I have a statement that I will submit for the RECORD.

Mr. Chairman, I thank the gentlewoman from California (Ms. SOLIS), for yielding and introducing this amendment, which I'm proud to cosponsor.

Mr. Chairman, how do you make a bad idea worse? If you're EPA, offer families $970 to videotape their children reacting to bug sprays, carpet cleaners, and other household pesticides.

Then, invite the American Chemistry Council as a partner in this study, knowing that in exchange for $2 million paid toward the study, it wants looser regulations for the pesticide industry, which in turn wants to use humans instead of animals so it can justify relaxed exposure limits.

EPA's study is as poorly conceived as its acronym: CHEERS—which stands for the Children's Health Environmental Exposure Research Study. It's a trifecta of unethical, immoral, and unscientific research.

It violates the post World War II "Nuremburg Code," which outlawed medical testing, including pesticide testing on people.

It advances private rather than medical interests, putting industry ahead of public health.

And despite EPA's own Science Advisory Board and Scientific Advisory Panels recommendening strict safeguards for human testing, EPA failed to adopt them.

Mr. Chairman, we all want to understand how common chemicals like those found under the kitchen sink can hurt children, the elderly and the most vulnerable to poisoning. But the way to collect that information should not involve hurting the very people we want to protect.

The government should not be asking families to turn their babies into lab rats. We should be protecting children, not exposing them to pesticides.

Although we passed this amendment by unanimous consent two years ago, EPA resurrected the study when the fiscal year expired in October.

We need to pass the Solis-Bishop amendment to ensure EPA's research is based on sound science with the highest ethical standards.

Our amendment is supported by a broad coalition of environmental advocates, including the Alliance for Human Research Protection in my home state of New York.

I strongly encourage my colleagues to support this amendment, again thank the gentlewoman from California for her excellent work.

Ms. SOLIS. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. SOLIS).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. GARRETT OF NEW JERSEY

Mr. GARRETT of New Jersey. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. GARRETT of New Jersey:

At the end of the bill (before the short title), insert the following:

SEC.   . None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 Federal employees at any single conference occurring outside the United States.

The Acting CHAIRMAN. Pursuant to the order of the House today, the gentleman from New Jersey (Mr. GARRETT) and a Member opposed each will control 5 minutes.

The CHAIR recognizes the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the one question that I get when I go back to my district is, what is it that the Federal Government and Congress spend all their money on, and some of the things that we hear about sometimes is excess of spending in various areas.

One of the things that raises the ire of a lot of people is when they hear about trips by Members of the executive branch and others going overseas for maybe notable and worthwhile causes, but in excess of the number of people that we really need to send there. We have heard examples in past Congresses, and we have raised this amendment in past Congresses when we heard about 100, 150, 200 members of the executive branch going over for various causes.

We present an answer to this problem by saying that whenever an agency decides to send someone overseas for a trip, we should limit the number of Federal employees that go. My amendment will do that very simply. It will limit the number of Federal employees that are sent to international conferences funded under this bill to 50.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GARRETT of New Jersey. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I commend the gentleman for his concern about the excessive foreign travel. This subcommittee has conducted extensive oversight using the Inspector General and the Government Accountability Office on the use of foreign travel on large conferences. I accept the gentleman's amendment.

Mr. GARRETT of New Jersey. Mr. Chairman, I thank the chairman for accepting the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COSTA

Mr. COSTA. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COSTA:

At the end of the bill (before the short title), add the following new section:

SEC. 4___. None of the funds made available in this Act for the Department of the Interior may be used to enter into or renew any concession contract except a concession contract that includes a provision that requires that merchandise for sale at units of the National Park System be made in any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Commonwealth of the Northern Mariana Islands.

The Acting CHAIRMAN. Pursuant to the order of the House today, the gentleman from California (Mr. COSTA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Chairman, I yield myself such time as I may consume.

In 2004, approximately 263 million Americans and people throughout the world visited our Nation's 388 national parks, memorials, and national monuments. This summer, we know, as we approach the Memorial Day weekend, that additional hundreds of millions of Americans and other visitors from throughout the world will continue to visit our national parks.

Mr. Chairman, I think that when American families and those from throughout the world visit our wonderful treasures across the United States, that it would be nice if the souvenirs that they take home with them were actually made in our country. I believe that it is patriotic that our souvenirs that we bring home from our national treasures, in fact, be made by American workers.

The amendment before us would require that all souvenir products sold in America's national park system prospectively be made in America. Therefore, I ask my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Chairman, we have no objection at this time to this amendment.

Mr. COSTA. Mr. Chairman, I ask that my colleagues accept the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. COSTA).

The amendment was agreed to.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my understanding is that there are no other amendments left to the bill, and I simply want to say that I think the chairman of the subcommittee has been very fair and balanced in the way he has approached the bill. I think the bill is not fair and balanced, not because of anything the gentleman from North Carolina (Mr. TAYLOR) did, but simply because it could not be under the budget adopted by the majority party 2 weeks ago.

How any Member votes on this bill is, in my view, up to that Member. I am not going to be asking any Member to vote any way on any appropriation bill, but I will be voting "no," and I would like to briefly explain why.

I am simply not going to vote to gut the main program that we use to help local communities to deal with a $300 billion-plus backlog of decrepit sewer and water systems. I am not going to vote to leave 200 of our 544 wildlife refuges without a single staff person. I am not going to vote to cripple EPA enforcement programs to the tune of $400 million.

This bill does all of those things, not because the gentleman from North Carolina (Mr. TAYLOR) wanted to, but simply because of what the majority leader said 2 weeks ago when he said. "This is the budget the American people voted for when they voted for a Republican House, a Republican Senate, and a Republican White House." I do not agree with Mr. DELAY on much, but I agree with him in that assessment.

So I would simply say, if Members are comfortable with implementing that kind of a budget that puts $140,000 tax cuts for millionaires ahead of protecting American children from dirty drinking water, then they ought to feel comfortable voting "yes." I am not, and I will vote "no."

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment offered by Mr. RAHALL of West Virginia;

Amendment offered by Mr. HEFLEY of Colorado.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. RAHALL

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 249, noes 159, not voting 25, as follows:

[Roll No. 196]

AYES—249

Ackerman
Aderholt
Allen
Andrews
Baca
Baird
Baldwin
Bartlett (MD)
Barton (TX)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Bono
Boozman
Boucher
Bradley (NH)
Brady (PA)
Brown, Corrine
Burgess
Butterfield
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chabot
Cleaver
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doyle
Dreier
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gonzalez
Goode
Gordon
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harris
Hastings (FL)
Hayworth
Herseth
Higgins
Hinchey
Hobson
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Lee
Levin
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Norwood
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Pitts
Platts
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Reynolds
Rogers (MI)
Ros-Lehtinen
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Woolsey
Wu
Wynn
Young (FL)

NOES—159

Abercrombie
Akin
Alexander
Bachus
Baker
Barrett (SC)
Beauprez
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boren
Boswell
Boustany
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Cardoza
Carter
Chandler
Chocola
Coble
Cole (OK)
Conaway
Costa
Cox
Crenshaw
Cubin
Davis (FL)
Davis (KY)
DeLay
Dingell
Doolittle
Drake
Duncan
Emerson
Feeney
Flake
Fortenberry
Foxx
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Gutknecht
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hoekstra
Hulshof
Hunter
Inglis (SC)
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
King (IA)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Lungren, Daniel E.
Mack
Manzullo
Marshall
Matheson
McCrery
McHenry
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Osborne
Otter
Oxley
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rohrabacher
Ross
Royce
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Walden (OR)
Walsh
Weldon (FL)
Westmoreland
Wicker
Wilson (SC)
Wolf

NOT VOTING—25

Barrow
Brown (OH)
Clay
Culberson
Frank (MA)
Gerlach
Harman
Hinojosa
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Lynch
Marchant
Millender-McDonald
Moran (VA)
Paul
Poe
Radanovich
Shays
Strickland
Tancredo
Young (AK)

☐ 1937

Messrs. BAKER, SCHWARZ of Michigan, CARDOZA, JENKINS and SULLIVAN changed their vote from "aye" to "no."

Mr. LoBIONDO, Mrs. MALONEY, and Messrs. CLEAVER, JOHNSON of Illinois, ORTIZ, Ms. CORRINE BROWN of Florida, Messrs. BACA, TURNER, BARTLETT of Maryland, FORBES, WAMP, BOOZMAN, HOBSON, Mrs. MILLER of Michigan, Mrs. MYRICK, Mr. BISHOP of Georgia and Mr. DICKS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. BARROW. Mr. Chairman, on rollcall No. 196, had I been present, I would have voted "aye."

Mr. MORAN of Virginia. Mr. Chairman, on rollcall No. 196, I was delayed in traffic. Had I been present, I would have voted "aye."

Stated against:

Mr. HINOJOSA. Mr. Chairman, I regret that I was unavoidably detained. Had I been present, I would have voted "no" on rollcall No. 196.

AMENDMENT NO. 11 OFFERED BY MR. HEFLEY

The Acting CHAIRMAN (Mr. HASTINGS of Washington). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 90, noes 326, not voting 17, as follows:

[Roll No. 197]

AYES—90

Akin
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bean
Beauprez
Bilirakis
Blackburn
Brady (TX)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Cannon
Chabot
Chocola
Cubin
Davis, Jo Ann
Deal (GA)
Diaz-Balart, M.
Duncan
Everett
Feeney
Flake
Foley
Foxx
Franks (AZ)
Garrett (NJ)
Gibbons
Goodlatte
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Inglis (SC)
Issa
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Lewis (KY)
Linder
Mack
Manzullo
McCotter
McHenry
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Norwood
Otter
Paul
Pence
Petri
Pitts
Poe
Price (GA)
Ramstad
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Stearns
Sullivan
Tanner
Taylor (MS)
Terry
Thornberry
Westmoreland
Wilson (SC)

NOES—326

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrow
Bass
Becerra
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chandler
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Gordon
Granger
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Jackson (IL)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Lee
Levin
Lewis (CA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Lynch
Maloney
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stupak
Sweeney
Tauscher
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—17

Clay
Cox
Harman
Istook
Jackson-Lee (TX)
Jones (OH)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Radanovich
Shays
Strickland
Tancredo
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1946

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. HASTINGS of Washington). The Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006".

Mr. TAYLOR of North Carolina. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BASS) having assumed the chair, Mr. HASTINGS of Washington, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Pursuant to House Resolution 287, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. Yes, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY of Wisconsin moves to recommit the bill, H.R. 2316, to the Committee on Appropriations to report the same promptly with an amendment to provide an additional $242,000,000 for the Clean Water State Revolving Fund and $110,000,000 for State and Tribal Assistance Grants.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes in support of his motion to recommit.

Mr. OBEY. Mr. Speaker, I will take only 1 minute. The budget resolution passed earlier this year told the Congress to find a way to meet the targets in that resolution, even if we had to gut the Clean Water program and to cut the STAG grants.

What this motion says is that the committee ought to go back to the drawing board and find a way to meet these targets without cutting either the STAG grants or the Clean Water Revolving Fund. It would simply ask the committee to provide an additional $242 million to the Clean Water Revolving Fund and $110 million for State and

Tribal Assistance Grants, returning both programs to last year's level.

Mr. Speaker, I yield back the balance of my time.

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise in opposition to the motion to recommit, and I wish we did not have to have a rollcall vote.

This motion to recommit kills the bill by adding $352 million, and I oppose this motion.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for the electronic vote on the question of final passage.

The vote was taken by electronic device, and there were—ayes 191, noes 228, not voting 14, as follows:

[Roll No. 198]

AYES—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—228

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—14

Clay
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Millender-McDonald
Radanovich
Shays
Strickland
Tancredo
Young (AK)

□ 2008

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BASS). The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 329, nays 89, not voting 15, as follows:

[Roll No. 199]

YEAS—329

Abercrombie
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey

Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Ortiz
Osborne
Otter
Oxley
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stupak
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (NM)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (FL)

NAYS—89

Ackerman
Allen
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Brown (OH)
Capps
Cardin
Chandler
Conyers
Costello
Davis (IL)
DeGette
DeLauro
Dingell
Eshoo
Etheridge
Flake
Frank (MA)
Franks (AZ)
Grijalva
Gutierrez
Hastings (FL)
Hefley
Holt
Honda
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jones (NC)
Jones (OH)
Kind
Kucinich
Lantos
Lee
Lofgren, Zoe
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
Menendez
Michaud
Miller, George
Moore (WI)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Rahall
Rohrabacher
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Solis
Stark
Stearns
Tanner
Tauscher
Taylor (MS)
Tierney
Udall (CO)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Waxman
Wexler
Woolsey

NOT VOTING—15

Clay
Harman
Jackson-Lee (TX)
Larson (CT)
LaTourette
Leach
Lewis (GA)
Lucas
Marchant
Millender-McDonald
Radanovich
Shays
Strickland
Tancredo
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 2018

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the record and regret that I could not be present today, Thursday, May 19, 2005 to vote on rollcall votes Nos. 190, 191, 192, 193, 194, 195, 196, 197, 198 and 199 due to family medical emergency.

Had I been present, I would have voted: "no" on rollcall vote No. 190 on calling the previous question on H. Res. 287—The rule providing for consideration of H.R. 2361—Department of the Interior, Environment, and Related Agencies Appropriations Act for Fiscal Year 2006; "no" on rollcall vote No. 191 on an amendment to H.R. 2361 to increase funding for Payments in Lieu of Taxes (PILT) by $4,800,000 and to reduce funding to the National Endowment for the Arts; "no" on rollcall vote No. 192 on amendments en bloc to H.R. 2361 to insert "oil" after "offshore" on page 53, line 12 strike "and natural gas" on page 53, line 20 and to strike "and natural gas" on page 54 line 3; "no" on rollcall vote No. 193 on an amendment to H.R. 2361 to reduce funding for the Environmental Protection Agency—Science and Technology by $130 million and to increase funding for the Environmental Protection Agency—Hazardous Substance Superfund by $130 million; "yea" on rollcall vote No. 194 on an amendment to H.R. 2361 to increase funding in the Clean Water State Revolving Fund by $100 million; "no" on rollcall vote No. 195 on an amendment to H.R. 2361 to increase funding for Wildland Management by $27,500,000, to increase funding for hazardous fuels reduction activities and to reduce funding for the National Endowment for the Arts—Grants and Administration by $30 million; "yea" on rollcall vote No. 196 on an amendment to H.R. 2361 to prohibit the use of funds from being made available for the selling or slaughter of wild free-roaming horses and burros; "no" on rollcall vote No. 197 on an amendment to H.R. 2361 to reduce total appropriations in the bill by $261,591,250; "yea" on rollcall vote No. 198 on the motion to recommit H.R. 2361 to the Appropriations Subcommittee on Interior, Environment, and Related Agencies; and "no" on rollcall vote No. 199 on passage of H.R. 2361—Department of the Interior, Environment and Related Agencies Appropriations Act for Fiscal Year 2006.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 810

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that the name of the gentleman from California (Mr. CALVERT) be removed from a piece of legislation I have authored, H.R. 810.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentleman from Delaware?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the distinguished majority leader for the purposes of inquiring of the schedule for the coming week.

Mr. DELAY. Mr. Speaker, I appreciate the distinguished minority whip yielding to me.

The House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Tuesday and the balance of the week, the House will consider several bills under a rule: H.R. 810, the Stem Cell Research Enhancement Act of 2005; H.R. 2419, the Energy and Water Development Appropriations Act for Fiscal Year 2006: and H.R. 1815, the National Defense Authorization Act For Fiscal Year 2006.

In addition, Mr. Speaker, we plan to consider the Military Quality of Life Appropriations Act for Fiscal Year 2006 sometime later in the week.

Mr. HOYER. I thank the leader for that information. If I could go through a couple of these bills. The defense authorization bill, Mr. Leader, do you expect at this point in time to have that on a particular day of the week? Do we know when that will be?

Mr. DELAY. While it is certainly subject to change, I would expect us to consider the stem cell bill on Tuesday, followed on Tuesday by the energy and water bill. Hopefully, we could finish that bill by Tuesday night and start the DOD authorization bill on Wednesday and Thursday, if necessary, and complete the week with the military quality of life appropriations bill.

Mr. HOYER. I thank the gentleman for that response. With respect to the defense authorization bill, can you tell us now what kind of a rule might be applicable to the consideration of that bill?

Mr. DELAY. I would anticipate the same types of amendments being allowed that has been sort of tradition around here on the DOD authorization bill. The Rules Committee did make an announcement tonight about filing amendments in a timely fashion. Most of the amendments would be considered by the Rules Committee, but obviously it is too early to tell what the Rules Committee will finally do.

Mr. HOYER. I thank the gentleman for that information and would ask that certainly the substantive Democratic amendments be made in order. This, obviously, is a very important bill, a large sum of money, critically important at a time when we are confronting terrorists in Iraq and around the world and our men and women are in harm's way. All of us want to make sure that we have our ideas on how we can best strengthen our efforts in that bill. So to the extent that the leader can prevail upon the Rules Committee to allow such amendments as Democratic Members and, for that matter, Republican Members want to offer, I think that would be in the best interests of full consideration.

Mr. Leader, the stem cell research legislation you indicate will be on Tuesday. It is my understanding that that bill will be brought to the floor and that it will not be subject to amendment; it will be considered as reported out of committee. Is that accurate?

Mr. DELAY. We are working with your side on a unanimous-consent request to bring the bill up even without a rule. Hopefully, we can agree to a lengthy debate. This issue is so important for an up-and-down vote. Hopefully, we could have a full and open debate on this very important issue. And it will be hopefully done under a unanimous-consent request that will be worked out with your side, probably on Monday.

Mr. HOYER. I thank the leader. I know that our leader and your office are working on that unanimous consent and the parameters of the consideration of, as you point out, a very, very important bill. There are obviously different points of view on the legislation.

I know we are going to be meeting Monday night and going to come in early Tuesday. Would you have a thought as to when, because of the importance of this bill, our Members want to be sure that they are here, as I am sure yours do as well, what time of day you would expect to be considering that piece of legislation?

Mr. DELAY. In working with the minority leader's office and your office, there have been requests to accommodate some Members and start this debate early in the afternoon instead of early in the morning. I would, along with the unanimous-consent request, anticipate us working out an agreeable time, and I would expect after discussions already being held that we would anticipate the debate to start on that bill somewhere early in the afternoon and running for the length of time agreed to by both sides.

Mr. HOYER. I thank the leader for that information and appreciate his working with Leader PELOSI in determining that, because this is important. I think all Members will want to make sure that that time frame in which it will be considered, they will be available to be on the floor or be watching the floor debate with the ability to come to the floor to offer their thoughts. I thank the gentleman for that information.

Mr. DELAY. If the gentleman will yield, I want to reemphasize, we are trying to work out with your side as lengthy a debate as necessary to have a full and important debate. Even though we would discourage any amendments to this very important issue, we would want to have opportunities for every Member to participate in the debate. So we would work out with your side enough time so that we can thoroughly debate this issue.

Mr. HOYER. I thank the leader for that observation. The happy circumstance is we both certainly agree on this procedure, that it needs to have a thorough airing and debate and discussion. There are strong views on either side of this issue and quite obviously the consequences of this bill are very substantial. Whether it passes or whether it fails, the consequences are substantial. So we appreciate the fact that there will be significant time to discuss and debate this issue.

Mr. Leader, I have two items left. The Head Start reauthorization has now, as you know, been marked up by the committee. I know it is not coming next week, and we will be out the week after that for the Memorial Day work period. Can you tell me when you might expect the Head Start reauthorization bill to come to the floor?

Mr. DELAY. We do have a very, very full schedule over the next few weeks. As the gentleman knows and most of the Members know, the Appropriations Committee is trying their best to get all the appropriations bills out of the House before the July 4 break, so there is very little time between now and the Fourth of July to do other bills. We are considering the Head Start bill, but we do not have any immediate plans to consider the Head Start bill reauthorization and hope that we can get to it as soon as possible.

Mr. HOYER. I thank the gentleman and would hope that we could try to move that as quickly as possible. Obviously, people will want to be planning for the next school year and next Head Start year.

Lastly, Mr. Leader, the highway bill. As we know, the highway bill is now more than 2 years overdue in terms of reauthorization, has been sitting for some period of time. The Senate has now passed that bill. Can you tell us when we might appoint conferees for the highway conference?

Mr. DELAY. As the gentleman knows, this House passed the highway bill some weeks ago and the Senate just finished the highway bill in their Chamber. We will probably have to consider some type of short-term extension next week, hopefully an agreed-to extension bill. And if the Senate requests a conference next week, I believe that the Speaker will be prepared to appoint House conferees next week.

Mr. HOYER. I thank the leader for that observation and hopefully we can, in fact, move on that. We not only passed it last week but we passed it a number of times before that. Mr. Leader, I would simply observe on our side and, frankly, on your side that the Senate number is a number that I think our committee certainly and this House could well approve.

□ 2030

I know the President does not like that number, but very frankly, as the gentleman knows, our own committee almost unanimously on voice vote passed out an authorization figure at, I think, 375, so $80 billion more than the Senate-passed bill.

I would certainly hope that the Congress could exercise its will. The Senate was at 218. We were at 284. Now it is a little bit in between that. I would hope that we could move this conference as quickly as possible. It has been held up a long time and has a significant consequence for jobs, as the leader knows, significant consequence for contractors, States, municipalities, localities, and we have been a long time waiting for this passage that is now some 2 years late.

But I appreciate the leader's observation that we will appoint conferees next week, and hopefully perhaps the leader can help accelerate that conference so we can agree. And then the President, of course, will have to do what he thinks is best and make a determination, and then we might have a shocking event and he may veto a bill and send it back to us, and I am relatively confident we would work our will at that point in time.

I do not know whether the leader wants to make an observation.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I would just say that the President has been criticized for not vetoing any bills over the last 4½ years, but it has become a tradition around here to include the President as we do legislation through the House and the Senate and therefore working out any of our differences so that he would not have to veto a bill, and I do not see that the highway bill is any different than anything else we have been doing for the last 4½ years. So he is obviously a major player in this process.

The House, as the gentleman says, has expressed itself at a number. We think the President will sign the bill. The Senate has chosen to do otherwise. Hopefully, we can work this out in the conference committee so that the President will not have to mar his record by vetoing a bill.

Mr. HOYER. Mr. Speaker, reclaiming my time, I recall that Democrats, when they were in charge, had a slightly different perspective, believing we were a co-equal branch of the government. We would adopt our policies based upon what we believed to be in the best interests of this country, and that the President, as a co-equal branch of the government, would make his determination, and if we disagreed we would override his veto. As a matter of fact, I voted to override a number of vetoes that the previous Democratic President disagreed with us on.

The gentleman is right. We do not seem to do that. We have a 4½-year unblemished record, as the leader points out, of not doing anything that this President did not want us to do.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's yielding to me.

I would just point out to the gentleman that in the good old days that he refers to, yes, this House had a great reputation for wanting to spend more money, and those days have changed in that the President is adamant about spending and spending the right amount of money to do the job and the House has concurred in that many times and have voted in the House. And it has been a pleasure to work with the President to hold down spending and make sure that every dollar is spent properly.

Mr. HOYER. Mr. Speaker, reclaiming my time, does the gentleman by any chance remember the ag bill?

Mr. DELAY. Which ag bill?

Mr. HOYER. The ag bill that was passed some years ago. The President was not too excited about that spending level, as I recall. He signed the bill, nevertheless.

Mr. DELAY. He signed the bill.

Mr. HOYER. Mr. Speaker, I have been here for some period of time, as the leader knows, and the only bill that Ronald Reagan vetoed that was overridden by the Congress was a bill in which he said we did not spend enough money in 1983. He vetoed it because we did not spend enough money.

ADJOURNMENT TO MONDAY, MAY 23, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debate.

The SPEAKER pro tempore (Mr. MARCHANT). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONTINUATION OF NATIONAL EMERGENCY PROTECTING DEVELOPMENT FUND FOR IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–28)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication. This notice states that the national emergency declared in Executive Order 13303 of May 22, 2003, as expended in scope by Executive Order 13315 of August 28, 2003, modified in Executive Order 13350 of July 29, 2004, and further modified in Executive Order 13364 of November 29, 2004, is to continue in effect beyond May 22, 2005. The most recent notice continuing this emergency was published in the Federal Register on May 21, 2004 (60 FR 29409).

The threats of attachment or other judicial process against (i) the Development Fund for Iraq, (ii) Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, or (iii) any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held by, on behalf of, or otherwise for the Central Bank of Iraq create obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq. Accordingly, these obstacles continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency protecting the Development Fund for Iraq, certain other property in which Iraq has an interest, and the Central Bank of Iraq, and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 19, 2005.*

2005 COMPREHENSIVE REPORT ON U.S. TRADE AND INVESTMENT POLICY TOWARD SUB-SAHARAN AFRICA AND IMPLEMENTATION OF AFRICAN GROWTH AND OPPORTUNITY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–29)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Consistent with title I of the Trade and Development Act of 2000, I am providing a report prepared by my Administration, the "2005 Comprehensive Report on U.S. Trade and Investment Policy Towards Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act."

GEORGE W. BUSH.

THE WHITE HOUSE, *May 19, 2005.*

CAFTA

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, today most recognize we are part of a global economy, probably no more so than in my home State of Oregon. Unfortunately, the Central American Free Trade Agreement, CAFTA, is not the step forward that new trade agreements should represent.

For me it is clear that CAFTA does not include adequate environmental and labor standards. It is time to put the dispute resolution process for labor on the same solid footing as we do for commercial issues. Most acknowledge that CAFTA countries lack the financial resources and technical expertise to enforce good labor and environmental practices, but we are not providing funding that could help overcome these obstacles.

Additionally, CAFTA would seriously harm these countries that rely heavily on their agricultural sectors. Our egregious farm bill has locked us into subsidies that do not promote free trade and have already caused much harm to other countries' farmers. We need to pay attention to the hard lessons NAFTA imposed on struggling Mexican farmers.

Couple these issues with our reluctance to help American workers hammered by trade and technological change, and CAFTA is not an agreement that I can support in its current form.

SAVE FILIBUSTER

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, Republicans continue to abuse this body with their blatant disregard for the rules. They are clearly manufacturing a crisis about the judicial nomination process, saying it is in trouble. They would have us believe that none of Bush's nominees were being confirmed.

But that just is not true. Let us remember that 95 percent of the Bush nominees have been approved, in contrast to 35 percent of the Clinton nominations. So instead of following history, they figure altering the Senate rules in their favor is the ultimate solution so that they can force ten nominees through the system.

Republican leaders in Washington are absolutely out of control. They are so afraid of our democracy failing their interests that they must continue to bully in order to get their way. The American people do not want a Congress controlled by bullies. Bullies who are willing to sacrifice a 200-year-old democratic process that has withstood such debates as the 24-hour filibusters of the Civil Rights Act in 1960s.

This abuse of power must end.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CAFTA AND OUR TRADE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, it has been nearly a year since the President signed the secretly negotiated CAFTA agreement and has begun the process to bring it forward to the House for an up-or-down vote. No amendments allowed. It is a perfect agreement, of course.

It is only perfect in that it mirrors all of our most recent failed trade agreements, such as its predecessor, NAFTA.

Some would say this is about helping the American economy, putting Americans to work, to help our exporters. That is what they said about NAFTA. And it turned out that the people of Mexico, the aggregate buying power of everybody in Mexico who spent every peso on American goods was slightly less than the State of New Jersey. It was never about the purchasing power of the people of Mexico and the idea that somehow they were going to buy American goods and put Americans to work here at home. It was always about United States capital, multinational corporations, chasing cheaper labor into Mexico and now further into Latin America; chasing lack of environmental standards and enforcement into Mexico, particularly the maquiladora area, which is a total environmental nightmare, further into Latin America; in chase of the lowest standards, the lowest common denominator, the most abused labor.

And that is what CAFTA is all about. It mirrors the NAFTA agreement. Like the NAFTA agreement, it will deliver the same thing. They told us we would gain 140,000 jobs with NAFTA. Well, we lost close to half a million jobs because of NAFTA. CAFTA will be the same.

When we are doing something that is failing the Nation and the Nation's workers and driving down wages here at home and trying to pull down our standards of consumer protection, environmental protection, labor standards, then maybe it is time to think about doing something different, and perhaps the House of Representatives is on the verge of doing that. Perhaps they are beginning to listen to the large majority of the American people. We are going to run a trade deficit this year of $2 billion a day.

□ 2045

Every billion dollars represents tens of thousands of lost jobs, the export of our industrial base, and, now, the export of our knowledge base.

We cannot continue these same failed policies as the President would have us do. I have heard that they have begun the purchasing phase of the CAFTA agreement.

Now, most Americans would wonder, what is the purchasing phase? Well, they have tried the strong-arm phase for the last year. They still do not have enough votes to jam another failed trade agreement through the United States House of Representatives. So I am told by friends on the other side of the aisle that they are about to begin the purchasing phase.

The White House is open for business. What do you need? How much does it cost? What can we do for you? It is not any argument that this is somehow going to deal with our trade deficit, help raise wages here at home, help provide jobs here at home; it is all about what deal can we cut for you so these same multinational corporations can continue to move jobs offshore, and, in this case, a little closer to home. Perhaps they could avoid some of the transport costs from China or India where they have sent many of our other jobs, or Vietnam, and they can find almost as exploitable and cheap labor in Central America.

The combined buying power of these five nations is less than four days' purchasing power of the United States of America. If every person in these affected nations spent every cent they earned in the next year, it would be totally insignificant to the American economy; and, obviously, they are not going to do that. So it is very much the same as NAFTA: it is to move our plants, our equipment, some workers have even been made to package up their machines and train their replacements in the case of NAFTA, and they will be doing the same thing under CAFTA.

Mr. Speaker, it is time for a major change in policy. It is time for a policy that brings jobs home to America, that puts people at work here in America, that helps maintain wages in our country, and helps bring people overseas up to our standards instead of trying to drag the American people down to the lowest common denominator.

I hope that Members, particularly on the other side of the aisle, will not be bought by the White House in this debate and they will vote in the interests of the people who sent them here to Washington, DC.

A TRIBUTE TO TSCL VICE CHAIR DOTTIE HOLMES

The SPEAKER pro tempore (Mr. MARCHANT). Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise to pay tribute to a very, very special lady tonight. Dorothy "Dottie" Holmes served in the United States Air Force from 1949 to 1979. She is the first female Chief Master Sergeant and first woman to retire with 30 years of continuous service in the United States Air Force. She received 14 different awards and decorations during her career, the highest being the Legion of Merit Award.

Dottie Holmes was recalled to active duty twice to serve on the Air Force Chief of Staff Advisory Council For Retiree Affairs. She currently serves as a trustee on the TREA Senior Citizens League Board, a position that she has held since 2001. She previously served as a trustee on TSCL from 1995 to 1996.

Dottie Holmes is a life member of the Retired Enlisted Association. She served as the National President, the only woman to do so. She was a National first Vice President, and the National second Vice President of that organization as well. She actively served on the TREA Convention, Finance, Planning, Membership, Bylaws, and Rules Committees during the 1990s. She also served as president, Vice President, and Secretary of Chapter 1 Building Board Association.

She has been active in community affairs. Dottie Holmes served as a Pikes Peak Regional USO council member. She served as a Colorado State Field Representative For Women in Military Service, a part of their Memorial Foundation. She served as a city and county election judge, a USAFA Special Olympics volunteer. She also served at Peterson Air Force Base as a staff judge advocate volunteer. She currently serves as President of the Women in the Air Force Association.

She is considered an authority, and let me say a real authority, on the Air Force Academy. For many of the years that she served in the Air Force, she served as sort of the den mother to an awful lot of those cadets who went on to become officers in the United States Air Force.

The management skills of Dottie that she acquired from service in the Air Force and in her community service were enhanced by her college studies and management. At TREA Senior Citizens League, she has served as Vice President of the Board of Trustees for the past several years. She has demonstrated outstanding leadership in helping to oversee the Board's rise to prominence as a really accredited and acclaimed seniors' group.

In numerous meetings with Members of Congress, vice-chair Dottie Holmes demonstrated strength and determination in representing their position on important issues affecting seniors around the United States. She persuaded many legislators to send articles to her to appear in their newsletter, and she has just been an amazing and powerful force for issues that seniors care about. Dottie Holmes contributed greatly to the seniors of America with her work on that board. She has done the country and her Air Force service proud.

From the very first day that I met Dottie Holmes, it was apparent that she was an exceptional lady. It has been a personal pleasure of mine to work with her during the past several years on behalf of seniors' issues, especially on behalf of her interest in making affordable drugs more available to seniors here in the United States. She championed the cause of safer and less expensive drugs when she spoke on a panel at a town hall meeting we held last year in Denver. Her convincing voice for seniors will be sorely missed here in Washington when she retires from the Board of Trustees.

I want to say a very special and personal thank you to Dottie Holmes for the example that she has set and for her lifetime of service.

CELEBRATING THE JET PROPULSION LABORATORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, during the past half century, from America's first satellite, the grapefruit-sized Explorer I, to the International Space Station now being built 200 miles above us, human beings have begun to learn how to operate in the harsh environs of space.

America's space program operates on dual tracks. On the one hand, we have stressed human space flight, an inspiring, but dangerous undertaking. With the exception of the Apollo lunar landing missions, humans have not ventured beyond the low-earth orbit. The other track that we have followed is the robotic exploration of our solar system, using spacecraft that are more impervious to the harsh conditions of space and unaffected by the enormous distances necessary to explore our planetary neighbors.

Our unmanned space probes, from the Ranger and Surveyor craft that paved the way for Apollo, to the Voyager spacecraft that explored the outer planets and are still continuing to send back data even as they leave the solar system, have increased our understanding of the universe beyond anything even contemplated half a century ago.

On Mars, we have witnessed dust storms on Olympus Mons, the largest mountain in the solar system. We have peered through Venus's clouds and its broiling surface. We have discovered new moons and ring systems around outer planets. As I speak, a small spacecraft bearing dust from a comet is zooming back towards Earth and will parachute into Utah on January 15 of this coming year. A coffee table-sized probe named Deep Impact is scheduled to crash into another comet on July 4 of this year, a feat described to me recently by scientist Charles–Elachi as hitting a bullet with a bullet.

NASA's jet propulsion laboratory managed by the California Institute of Technology has designed, built, or controlled all of these programs. JPL has been a pioneer of our exploration of the solar system from the beginning of our space program. Earlier, I mentioned JPL's Explorer I, America's first satellite. At the time that it was launched, the United States had fallen behind the Soviet Union in the space race, and several other attempts at getting an American Sputnik into orbit had ended in fiery explosions on the launch pad.

Every American space probe that has visited another planet was managed by JPL. Through the wonders of technology, we have zoomed by Jupiter with Voyager, witnessed a Martian sunset with Viking, rolled across the surface of Mars with our rovers, and marveled at Saturn's rings with Cassini.

Whom do we have to thank for unlocking the wonders of the solar system, for providing brilliant, three-dimensional images of the Martian surface, for bringing us the multi-hued clouds of Jupiter and the cold beauty of Saturn? For this, we must thank the women and men of the Jet Propulsion Laboratory in Pasadena, California. Under the leadership of Dr. Charles Elachi, the men and women of JPL work tirelessly to develop and manage America's robotic exploration of space.

Last January, even as we still mourned the loss of the crew of *Columbia* and the consequential interruption of the Shuttle program, JPL brought America back to Mars. The Spirit rover and its twin, Opportunity, landed on Mars to begin what was planned as a 3-month mission to evaluate whether conditions would at one time have been suitable for life on that planet.

Equipped with cameras, spectrometers and a grinder, America's robotic explorers have been hard at work for more than 16 months and are still going strong. Their discovery of evidence of past water on Mars last year was the top scientific "Breakthrough of the Year," according to the journal "Science." People around the world have been captivated by the stunning photographs of the Martian surface and the planet's ruddy sky. JPL's website is been visited more than 16 billion times; and, that is right, billion.

Last July, Cassini arrived at Saturn to begin a multiyear exploration of the planet and its myriad moons. Cassini carried with it a small European-built probe that landed on Saturn's largest moon, Titan, earlier this year.

JPL's spectacular missions have not only brought us incalculable scientific data, they have also sustained America's interest in space flight, especially the Mars missions. Now, as NASA prepares to accelerate the development of the Crew Exploration Vehicle and move forward with the return of humans to the moon, the space agency and Congress must take care to continue to provide adequate resources to support the robotic exploration of space that is JPL's specialty. In the short term, JPL is in danger of being a victim of its own success as the continued operation of Spirit and Opportunity have put pressure on the budget for the overall exploration of Mars.

Last year, the President announced a long-term goal of landing on Mars. This is an ambitious and worthy goal, but the technological and physiological challenges, not to mention the cost, means that it will be decades before an American walks on the Martian surface. In the interim, we have to keep interest in space high as we continue to explore the red planet and our other neighbors with relatively inexpensive probes that are better equipped than humans to survive the extreme hardship of long-duration space travel.

Mr. Speaker, as we continue to contemplate the future of our space program, I urge NASA and my colleagues not to deprive JPL one of the crown jewels of the American science and technology program of adequate resources. For thousands of years, people have gazed into the heaven and wondered what was up there. Thanks to

NASA and the Jet Propulsion Laboratory, we are beginning to learn the answers to that age-old question.

ORDER OF BUSINESS

Mr. POE. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL SECURITY AND PUBLIC SAFETY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, I rise today to discuss national security and public safety for our country and who is responsible for that duty.

Public safety, that is the first duty of government. Local security, local public safety goes to local cities and local law enforcement. National security, national public safety is the responsibility of the Federal Government.

But there is an unfunded public safety mandate that is affixiating an already struggling industry: our airline industry. The airline industry is an important sector of the American economy. With increasing fuel costs and taxes, the industry lost $9 billion last year alone and has lost $32 billion since September 11, 2001. Presently, taxes and fees comprise 26 percent of a $200 airline ticket. The flights seem to be at near capacity, yet some airlines are losing money, and I want to mention just one reason why.

Although the Federal Government has taken over much of the security for air travel after the terrorist attacks of September 11, airlines are still paying for national security and public safety. The airline industry forks over $777 million a year out of their own pockets for an unfunded Federal security mandate such as catering, security, security for checkpoints and exit lanes, and first class, or first flight cabin sweeps.

Specifically, the people who load the peanuts on the airplanes, for example, the airlines are forced to expend $81 million, not only on their salaries, but the security checks on these caterers.

□ 2100

The people who match your ticket with your driver's license, and then mark it up with a red Crayola at checkpoints and exit lanes, airlines, not the government, dispense roughly $80 million on these people.

And the first flight cabin sweep crew that inspects the plane prior to boarding, the people who check for bombs in the bathrooms, airlines pick up a $26 million tab for them.

But perhaps the largest unfunded security mandate is the Federal Air Marshal Service, the one which costs the airlines $195 million every year. Under current law Federal air marshals are permitted to fly without a cost to the Federal Government or the air marshals.

They sometime fly in pairs, and sometime sit in first class seats to allow them to better protect the cockpit. But they can bump off the plane a paying passenger as well. The Air Transportation Association estimates that airlines are losing $195 million a year in opportunity costs by losing these seats.

Continental Airlines, a carrier based ought of Houston, Texas, part of my Congressional district, loses $7 to $9 million a year because they cannot sell the seats used by Federal marshals to the public.

I say again, national security and public safety are the responsibilities of the Federal Government. If the Federal Government wants air marshals on our airplanes, the Federal Government should pay for this service.

The Federal Government should shell out the money to pay for the travel of Federal air marshals, because this is a law enforcement expense, instead of saddling the expenditure on the airplanes.

Mr. Speaker, we want the Federal air marshals on our planes, and while many of their accomplishments remain below the radar, their presence on thousands of domestic flights since 9/11 have helped to maintain the safety of our skies, but the Government should pay their way.

Mr. Speaker, some may argue that it is the airline's responsibility to provide for some reasonable security. Well, the airplanes already cough up scores of dollars to comply with Federal regulations. For example, the Federal Airline Administration reports that full deployment of hardened cockpit doors meeting outlined specifications have been implemented on about 10,000 airliners and foreign aircraft flying to and from the United States.

Who paid for most of this, Mr. Speaker? The airlines, because the Government, our Government told them to.

Still, airlines face additional expenditures in the name of safety. Video monitors and other devices to alert pilots of cabin activity as well as guns in the cockpit are just a few of the other efforts being undertaken by the industry, all of which, Mr. Speaker, cost money.

If the Government does not offer financial assistance to implement these technologies, who will? Once again, it is the airlines. When will we be substantially decreasing the hundreds of millions of dollars they incur in unfunded Federal security mandates?

Mr. Speaker, we must bring some relief to these carriers by reducing these unfunded mandates that they are expected to pay.

I urge my colleagues to help preserve this vital industry and start imploring our Government to pay for the security of this Nation.

When you are spending taxpayer money for bridges that go nowhere, funding fish hatcheries and wasting precious dollars on foreign give-away programs, we must be responsible to the country by securing the air. That is the first duty of government.

Mr. Speaker, when the next airline files for bankruptcy, we will all bemoan the tragic news, but unless we change our policy the Federal Government will be responsible for putting an institution, the airline industry, on the road of economic ruin, and then we will ask the question what happened to the airlines in our skies.

REDUCE OUR DEPENDENCE ON FOSSIL FUELS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes?

Ms. WOOLSEY. Mr. Speaker, if we want to reduce the threat of terrorism against the United States, we must rust reduce America's dependence on foreign oil. Nothing threatens our country and our security more than our reliance on oil from repressive Middle East regimes like Saudi Arabia and Libya.

Of the 21 million barrels of oil consumed by the U.S. each day, 14 million are imported from other countries. Most are imported from the Middle East, where as we know democracy is not pervasive. This lack of democracy allow the authoritarian leaders of many Middle East countries to pocket billions of dollars each year from American oil purchases.

So while the leaders of these countries are becoming increasingly wealthy, the rest of their people fail to benefit from the oil proceeds. Sadly, this economic disparity allows the powerful elite to tighten their hold over their people.

This repressive power structure allows the conditions which give rise to terrorism, resource scarcity, extreme poverty, and lack of education to run rampant. It is quite clear that we need to decrease our dependance on foreign oil in order to keep America safe from the threat of terrorism.

But there is a right way, and there is a wrong way to accomplish this goal. Many Members of Congress have suggested, today in fact, that we can simply drill for gas and oil off the coasts of our shores, or in places like the Arctic National Wildlife Refuge in Alaska to solve our energy crisis.

Unfortunately this suggestion is just plain wrong. In fact, drilling for oil in the United States would do little to immediately reduce our dependance on foreign oil, because it would take at least a decade to get a drilling operation up and running in ANWR or off our coasts, and even then there is no telling whether there is usable oil.

That does not sound like a comprehensive energy strategy to me. No. Drilling for oil just is not the answer. We need to accept the fact that fossil fuel is a thing of the past. To solve the current energy crisis and to prepare for a secure and successful future, we need to invest in conservation and renewable and efficient sources of energy.

For example, providing tax incentives for the construction of energy efficient buildings and manufacturing energy efficient heating and water heating equipment could save 300 trillion cubic feet of natural gas over 50 years.

By failing to take advantage of renewable energy technologies, we are continuing to promote our national insecurity by providing billions of dollars each year to repressive regimes.

That is why I have reintroduced the smart security resolution, H. Con. Res. 158. SMART is a sensible multilateral American response to terrorism.

SMART will help secure America for the future by preventing the threat of terrorism, by reducing nuclear stockpiles, eliminating the possible use of nuclear weapons through diplomatic means, and establishing a new Apollo project to secure America's energy independence.

Many Members of Congress understand the importance of reducing our dependance on foreign oil to ensure our national security, and that is why 49 of my colleagues signed on as original cosponsors to the SMART security resolution.

Mr. Speaker, our Nation's energy and foreign policies are interconnected. One cannot address one without addressing the other. That is why SMART security promotes a new Apollo project that will ensure our Nation's energy security within the next 10 to 15 years.

If we fail to address this problem, we will only ensure the continuation of deep disparities of wealth in the Middle East. These misguided policies will encourage future acts of terrorism, which will encourage future warfare.

And speaking of warfare, do we know for sure that our reason for attacking Iraq was not to take control of Iraqi's oil? Until we are independent of our need for foreign oil, we will always be suspect. It is time to get serious about our reliance on foreign oil, which will lead directly to a smarter security strategy.

METHAMPHETAMINE PROBLEMS

The SPEAKER pro tempore (Mr. MARCHANT). Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, this evening I would like to discuss a major problem that is moving rapidly across the country. That is the problem of methamphetamine.

Methamphetamines first came into prominence during World War II. Many Japanese kamikaze pilots were given methamphetamine to allow them to finish their mission.

From that point on it spread to Hells Angel and other biker groups on the West Coast and has been slowly spreading its way from west to east across the country. It is the most highly addictive drug that is known at the present time, often causes complete addiction after only one usage.

It creates a euphoria that lasts between 6 and 8 hours. There is a huge dopamine release in the brain, and it is cheap. It costs much less than heroin and cocaine, provides increased energy. Many young mothers who have two or three kids and have a tremendous energy drain become drawn to this particular drug.

People who are working two jobs, sometimes truck drivers who want to stay awake for 2 or 3 days on end find that methamphetamine serves their ends. Often it always results in fairly rapid weight loss.

However, whatever goes up must come down, and we find that those who are using methamphetamine usually will experience, at times, extreme anxiety, depression, hallucinations, many times will actually sink into a psychosis.

Violent behavior is often a side effect. Many methamphetamine addicts experience crank bugs. These are the hallucination that there is a bug underneath the skin. As a result, in order to get those bugs out, they will pick at their skin. That will cause rather extreme skin lesions to result.

Also, when they use it orally, their teeth disintegrate very rapidly, extremely quick aging, and usually death ensues within a few years of methamphetamine use.

It always causes brain damage. And much of this brain damage is irreversible. An 18-year old who has been on meth for a year will have a brain scan that will look very like an 80-year old Alzheimer's patient. There is so much brain tissue that has been destroyed, that the two brain scans are somewhat indistinguishable.

It is very common to see a great deal of meth abuse in rural areas. And this is due to the fact that when you manufacture meth, there is a very strong odor of ether. And as a result, if you manufacture in the city, sometimes that odor is easily detectable.

The chief ingredient of methamphetamine is pseudophedrine, a common cold medicine. Oklahoma has done a fairly effective job of eliminating the meth labs by making pseudophedrine a class V substance. And that puts it behind the pharmacy counter.

But many other States have failed to follow suit. Other ingredients of methamphetamine are lithium batteries, drain cleaner, starter fluid, anhydrous ammonia, and iodine.

It is a tremendously toxic mix, and of course it leaves a lot of toxic waste. In order to clean up a methamphetamine lab, it will cost anywhere from $5 to $6,000. Many of the suits that are worn by those cleaning un those meth labs cost about $500, and they can only be used one time because of the toxicity.

Some areas of middle America have had as many as 1,500 to 2,000 meth labs per year in these States, so it a huge expense to clean up, and a huge problem in terms of addiction.

The average meth addict, in my State, Nebraska, will commit roughly 60 crimes a year to feed that habit. So if you have ten meth addicts in a community that is 600 crimes a year. If that a small town that is a huge impact.

Much of the child abuse, child neglect, homicides, suicides that we see in these areas are due directly to methamphetamine abuse. Many counties in these areas spend 70 to 80 percent of their law enforcement dollars and their manpower on meth issues.

Our jail cells and our prisons are filled. We simply cannot keep up and take care of the methamphetamine problem. So the question is, what can Congress do with this huge problem? Currently our Byrne and our HIDTA funds, which are high intensity drug trafficking funds have been drastically reduced. We need to restore these funds. This is a huge problem in terms of funding.

The gentleman from Missouri (Mr. BLUNT) and also the gentleman from Indiana (Mr. SOUDER) have introduced legislation that regulates the sale of pseudophedrine that is necessary in the manufacture of methamphetamine. And also they would provide extra funds for meth lab clean-ups.

The gentleman from Indiana (Mr. SOUDER's) bill tracks manufacturers of pseudophedrine worldwide. And of course the pseudophedrine goes to many of the super labs, they are only seven or eight factories for pseudophedrine worldwide. And so if we know where those drugs are going, where the pseudophedrine is going, we have a pretty good idea where the super labs are.

So these bills would be tremendously helpful. So I call attention to the meth problem, call attention to the reduction in funding, and we really need to do everything we can to stamp this problem out.

□ 2115

THE DAY HAS COME TO EXIT IRAQ

The SPEAKER pro tempore (Mr. MARCHANT). Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker. in this week's Conservative Chronicle, William F. Buckley has a column entitled "Day has come to Exit Iraq."

He refers to the U.S. casualty figures, now over 1,600 dead and 11,000 wounded. and we continue to lose about 50 dead a month, and says, "Moreover, the Iraqi deaths have increased substantially since the national election in January."

Mr. Buckley writes, "We are entitled to say to ourselves: If the bloodletting is to go on, it can do so without our involvement in it."

He adds. "The day has come where we say that our part of the job is done as well as it can be done. It is Iraq's responsibility to move on to wherever Iraq intends to go."

Of course, several months ago. Mr. Buckley said that if he known in 2002 what he knows now. he never would have supported the war in Iraq in the first place.

These words are from William F. Buckley, a man author Lee Edwards described as the "godfather" of the conservative movement.

There never was anything conservative about the war in Iraq. I said from the start that it would mean massive foreign aid. huge deficit spending. and that it was not far to place almost all the entire burden of enforcing U.N. resolutions on our taxpayers and our military. Conservatives have traditionally been the biggest critics of the U.N., and the worst part of all. of course. is all the deaths.

All to bring do not an evil man. but one whose military budget was 2/10ths of 1 percent of ours and who was no threat to us whatsoever.

Two months before the House voted to authorize the war in Iraq, our then-Majority leader, Dick Armey, said, "I don't believe that America will justifiably make an attack on another Nation. My on view would be to let him, Saddam Hussein, rant and rave all he wants and let that be a matter between he and his own country. We should not be addressing any attack or resources against him."

Mr. Armey understood there was nothing conservative about the war in Iraq.

I voted in 1998 to give $100 million to the Iraqi opposition to help them remove Hussein. We should have let the Iraqis remove Hussein instead of sending our troops to fight and die there. Iraq had not attacked us or even threatened to attack us. and they were not even able to attack us.

By the end of this year, we will have spent $300 billion in Iraq and Afghanistan. with probably 85 to 90 percent of that being in Iraq.

But are we following the latest advice by William F. Buckley in getting out? No. Unfortunately. we are doing just the opposite.

Paul Wolfowitz, the father of this war. told the House Committee on Armed Services several months ago that we would have to be in Iraq for at least 10 years.

Last week. a Congressional Quarterly headline said, "with ink just dry on War Supplemental. more spending expected before August."

The Congress has just approved $82 billion more and now we are told we will be asked for even more as early as this coming August.

Instead of getting out, as William Buckley has recommended, Congress Daily reported last week that a Congressional Research Service study "portends a more permanent presence" in Iraq and the Middle East.

The report noted approval of $2.2 billion for additional military construction in the Middle East, supporting activities in Iraq, including $75 million for an airfield in Kuwait, $66 million for an air base in the United Arab Emirates, and $43 million for a new runway in Uzbekistan.

At a time, Mr. Speaker, when we are closing down bases in the U.S., we are building like crazy all over the world, especially in Iraq and the Middle East.

I am pro-military and pro-national defense. but I do not believe we can shoulder the defense of the entire world.

Our Founding Fathers would be shocked at what we are doing, and most of what we have done in Iraq is pure foreign aid. rebuilding roads, several thousand schools. power plants, bridges, water systems, free medical care and on and on and on. I believe in having a strong Department of Defense, but I do not believe it should be a department of foreign aid.

Syndicated columnist Georgie Ann Geyer wrote, "Critics of the war against Iraq have said since the beginning of the conflict that Americans, still strangely complacent about overseas wars being waged by a minority in their name. will inevitably come to a point where they will see they have to have a government that provides services at home or one that seeks empire across the globe."

Seventeen American soldiers were killed in Iraq over the last two weekends and a few others during the week.

Some have said if we pull out a civil war would erupt there. Well. what do my colleagues think we have there now?

We should at least stop the killing of American kids. heed the advice of William F. Buckley. Junior, and begin a phased and orderly withdrawal.

We cannot afford to stay there for years either in terms of lives or money.

NORTH CAROLINA'S NATIONAL CHAMPIONS

The SPEAKER pro tempore. Under a previous order of the House. the gentleman from North Carolina (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of North Carolina. Mr. Speaker, as a proud alumnus of the University of North Carolina at Chapel Hill, I am pleased to join several North Carolina colleagues tonight in honoring our amazing Tar Heels.

It has been six weeks since the Tar Heels were crowned the 2005 NCAA Men's Basketball National Champions, but the news accounts of their victory still paper the front door to my office. My staff tells me that nearly every day a Capitol visitor spots the coverage and walks in unannounced to say that his or her children want to go to UNC. That is music to our ears.

We know it is not all because of the basketball program. of course. UNC Chapel Hill is a fine school with an excellent academic reputation. The university consistently ranks among the Nation's top public institutions, and last year. it joined Harvard and Stanford as the only schools with prestigious Rhodes. Luce. Truman and Goldwater scholarship winners.

It sure is nice to also be among the Nation's athletic elite.

The UNC team knows what it is to come back from adversity. The championship win was especially sweet for North Carolina's three seniors, who helped lead an impressive comeback from freshman year challenges to the glory of that final game. and we are well aware of the challenges next year's team will face without these seniors and some other fine players.

But Coach Roy Williams has led Carolina to victory once. and he is going to do it again. with the same spirit and heart and dedication that he inspired in this year's championship team. Coach Williams long ago established himself as one of the premier recruiters in the country. and the talented class of 2006 that he has landed. which already includes the number one point guard in the Nation. should give us all comfort that the future we are going have is a bright future for the men in Carolina blue.

So. Mr. Speaker. I suppose that tomorrow we may finally take that newspaper down off of the front door of my office and put it in a scrapbook, but I am not the least bit worried.

That championship banner hanging from the rafters in the Dean Smith Center in Chapel Hill will be there forever alongside the many other banners that recount the proud history of one of the most storied programs in college basketball, and it will not be long before we have new banners to take pride in and more good news with which to paper our front door.

UNIVERSITY OF NORTH CAROLINA BASKETBALL CHAMPIONSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

Mr. ETHERIDGE. Mr. Speaker, I join my friend the gentleman from North Carolina (Mr. PRICE) and my other colleagues tonight because I want to take this opportunity to congratulate the University of North Carolina's men's basketball team on their latest national championship. As has been already been stated, soon the North Carolina Tar Heels will be raising the school's fourth NCAA basketball championship banner in the rafters of the Dean Dome.

In North Carolina, college basketball is as much a part of our culture as barbecue and sweet tea. Children know whether they support Carolina or Duke or Wake Forest or North Carolina State before they can walk, and a good basketball season is almost a birthright in North Carolina. It has been 12 years and a few close calls since Carolina's won a championship, but after a spectacular season, the nets have again been cut and a another championship trophy is in Chapel Hill.

In the NCAA champion game in April, the Tar Heels defeated the Illinois fighting Illini 75 to 70 in an outstanding display of teamwork and outstanding talent. Led by the performance of now former players Raymond Felton and Sean May, the Tar Heels played strong basketball on both ends of the court, along with the other members. They were able to make critical baskets when the game was on the line and played tough defense that stifled their opponent when necessary.

Just 2 years ago, Coach Roy Williams came home to North Carolina to coach a Tar Heel team coming off an 8–20 season. His leadership turned a group of talented young men into great players with heart and determination. They made a commitment to work hard, to become a better team, and now they will join the ranks of other North Carolina basketball championship players, and the list is long, two of whom I will mention, Michael Jordan and James Worthy.

As the gentleman from North Carolina (Mr. PRICE) has previously stated, UNC is well-known for producing student athletes who not only succeed in the NBA but in every walk of life, and this is important, from the university with a rich history.

I wish the best of luck to the graduating seniors and expect that they will continue to have success in their future endeavor, and I am proud to join again my colleague the gentleman from North Carolina (Mr. PRICE) and my other North Carolina colleagues this evening in congratulating the University of North Carolina players, coaches and their fans on this singular accomplishment. Go Tar Heels.

UNIVERSITY OF NORTH CAROLINA: A NATIONAL POWER IN COLLEGE BASKETBALL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of North Carolina. Mr. Speaker, there are a few things in life about which I am certain.

I am certain that the word "barbecue" means chopped pork with a vinegar-based sauce.

I am certain that ordering grits north of Richmond is a terrible gamble.

And I am certain that the order of the universe, the plan of salvation, provides that the University of North Carolina will be a national power in college basketball.

Mr. Speaker, it was tough for a couple of years, but order has been restored.

With the gentleman from North Carolina (Mr. McINTYRE) I attended this year's Final Four in St. Louis. I honored the tradition begun by Roy Williams, who was then an assistant to Dean Smith, at the Final Four in New Orleans in 1982: I spat in the Mississippi River for luck.

I went to the top of the Gateway Arch, and I spat in Mississippi. I visited the Museum of Westward Expansion, and I spat in the Mississippi. I visited the old courthouse where the Dred Scott case was tried, and I spat in the Mississippi. Mr. Speaker, I went through the weekend with a cotton mouth. At times I was dizzy from dehydration, all from the constant spitting, but my efforts were amply rewarded in the semifinal against Michigan State and in the final against Illinois.

North Carolina played tough defense. They hustled they played team ball and they won it all.

I am proud of my alma mater, and I am proud of our basketball program. I am proud that our program has always taken academics seriously, and even those players who left early for NBA careers have usually returned to summer school to complete their degrees. I am proud that our program has taken NCAA rules seriously, and of course, I am proud of our victories.

I want to congratulate the coaches and the players from the 2005 National Championship team, as well as the students, the faculty and staff, the alumni and the fans. I thank our players for the joy they brought all Carolina fans by their victory.

Next year may be tough, with our seven leading scorers all either graduating or leaving for the NBA, but Jawad Williams, Jackie Manuel, Melvin Scott, Sean May, Rashad McCants, Raymond Felton, Marvin Williams, but Mr. Speaker, I am confident that we will again be back to the Final Four and soon.

We have talented young players from this year's team, this last year's team, who are returning, who welcome to our program a strong class of incoming freshman. They are very talented high school juniors who are now contemplating scholarship offers and the opportunity to be part of the Carolina basketball tradition.

All these incoming players will come to understand what the Carolina basketball tradition means. It is about winning championships, but it is also about making us proud, proud of them as athletes, as students and as human beings, and Mr. Speaker, it is about maintaining the order of the universe.

THE DREAM HAS COME TRUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. McINTYRE) is recognized for 5 minutes.

Mr. McINTYRE. Mr. Speaker, 9 weeks ago, 17 young men from the University of North Carolina stood here on the floor of this chamber. They came here to visit us in Washington and to visit our national Capitol during the ACC tournament.

Today, those same young men are now national champions. In the 3 weeks following their visit to Washington, they went from Chapel Hill to Charlotte to Syracuse to St. Louis where the road to the National Collegiate Athletic Association's Final Four ended, and with their reign as national basketball champions began.

As a double graduate of UNC, but more importantly, as a father, I was thrilled to be in St. Louis for the Final Four along with my colleague the gentleman from North Carolina (Mr. MILLER) and so many others, to witness the Tar Heels' triumph, that I also shared with two Carolina students, my sons, Joshua and Stephen.

□ 2130

Since they knew many of the Carolina players personally, we were particularly pleased to see this team soar from the agony of an 8 and 20 season 3 years earlier, to a 34 and 4 season that exemplified the very best in the Carolina tradition and the very best in collegiate basketball.

With the return of Coach Roy Williams to his alma mater 2 years ago, a rebuilding program began that ended in a storybook finish. Sean May, the son of one of the best ever in Final Four history, repeated his father's, Scott May's, exploits from the National Championship game of 1976. And Sean, on his birthday, April 4, became the most outstanding player of the 2005 Final Four.

It was a team effort, emblematic of the Carolina way, as former Head Coach Dean Smith would call it. There were a host of heroes:

Raymond Felton, the hard-charging point guard from the little town of Latta, South Carolina, which is just across the border from my small hometown of Lumberton, North Carolina, who made the critical free-throws, a steal and a rebound in the closing minutes to seal the victory over the University of Illinois in the championship game.

Rashad McCants, the All America swingman, whose blocked shot and steal and barrage of points against Wisconsin a week earlier in Eastern Regional propelled Carolina to the next level.

Jawad Williams, the senior who could do it all, offensively and defensively, and whose faith and character were a powerful witness.

Jackie Manuel, the 2004 defensive player of the year in the Atlantic Coast Conference;

Melvin Scott, the senior whose 3-point threat often opened up an opponent's defense;

David Noel, the critical cog in the Tarheels explosive machine off the bench;

Marvin Williams, the fabulous freshman phenomenon whose tip-in put Carolina ahead for good in the championship game; and all the rest of the players managers, trainers, assistant coaches, and other critical staff to whom we are grateful for their example of excellence, their patience, passion, purpose, and persistence, all characteristics that constitute the courage and the commitment of champions.

With five national championships, four of them since the NCAA officially started the tournament, as well as 16 Final Four appearances, 15 ACC tournament titles, and over 1,850 wins, the Carolina way is one that represents the very best of those attributes which so many other colleges and universities emulate.

My wife's sons and I were thrilled in March to host the National Champions at the national capital, and we now look forward to their visit to the White House. And we look forward to that long-awaited National Championship banner, when it is raised in the rafters in the Dean Smith Center in Chapel Hill this fall.

May God bless those Tarheels. Indeed, the dream has come true for those who wear Carolina blue.

UNIVERSITY OF NORTH CAROLINA MEN'S BASKETBALL CHAMPIONSHIP

The SPEAKER pro tempore (Mr. MARCHANT). Under a previous order of the House, the gentleman from North Carolina (Mr. BUTTERFIELD) is recognized for 5 minutes.

Mr. BUTTERFIELD. Mr. Speaker, tonight we have all talked about how sweet and how wonderful it was for the University of North Carolina to be crowned as the NCAA Champions. But Mr. Speaker what makes this team so special is how well they exemplified what it means to be a team.

Winning the five games on their way to claiming their fourth national championship, three different players led the team in scoring and four players led the team in rebounding. Sean May certainly earned the honor of tournament MVP. But the road to the finals required the collective effort of the entire team.

After two easy wins again, Oakland and Iowa, Carolina fans collectively held their breath when the referee's whistle blew in the final seconds against Villanova. Fear of a shooting foul turned into the joy of a traveling call against Villanova, and the Heels held on for the one-point win. A strong game against Wisconsin then sent Carolina on to the final game in St. Louis.

The game brought together the two best teams in the country. It was a fitting finale to a memorable season and an exciting NCAA tournament. Fittingly, the game was full of tension and drama until the waning seconds. Illinois showed the perseverance and will that had resulted in 37 wins, while Carolina showed the determination, the unity, and the cohesion needed to overcome a team that went undefeated for much of the season.

This Carolina team, Mr. Speaker, would have made Dean Smith proud, because they won using a primary tenet of his Carolina way: They shared the ball and they played unselfishly. By playing as a team, they led the Nation in scoring and assists, and they played at a pace very few teams could manage.

Therefore, on behalf of the citizens of the First Congressional District of North Carolina, my congratulations go to Coach Williams and to every member of the University of North Carolina basketball team. You have made us proud across our State and you have shown us the great benefit of working as a team. Congratulations and best wishes.

TRIBUTE TO ANSLEY MEADERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today to pay tribute to the life and legacy of my late friend and the former Mayor of Marietta, Georgia, Mrs. Ansley Little Meaders.

Known for her quick wit, gracious hugs and dedication to her community, Ansley committed herself to making a difference for the City of Marietta and its schools.

Born on one of Marietta's oldest families, Ansley graduated from Marietta High School in 1964 where she was a star on the girl's basketball team. After attending the University of Georgia, she married her high school sweetheart, Frank Meaders, and followed in her father's footsteps and spent more than 20 years in banking.

Upon the passing of former Marietta Mayor Joe Mack Wilson, Ansley was drafted by many to seek election for the city's top job. She won a special election in the summer of 1993, and was reelected twice more, thus serving for more than 8 years, making her the third longest serving Marietta mayor.

Ansley had a different approach to politics. She was determined not to allow any sort of partisanship to label her. When asked whether she was a Republican or a Democrat, she was quick to respond that she was a Presbyterian.

While mayor of Marietta, Ansley was known for her love of and dedication to the city's school system. I had the honor, Mr. Speaker, as serving as chairman of the Marietta School Board during that time, and I experienced firsthand the compassion and commitment she had for the schools.

In 1984, Ansley conceived the idea of Marietta's Schools Foundation, an organization to support the teachers and the students of Marietta. As the organization's president, Ansley presented the Distinguished Alumni Award at nearly every Marietta High School graduation ceremony for more than 20 years. And each year she urged graduating seniors to be loyal to their alma mater, to their community, and to the valued friendships created at Marietta High.

As the city's leader, Ansley was successful in lowering taxes and improving city services, building a new courthouse, adding two new fire stations, and constructing a new police headquarters. Even with all of her accomplishments, she remained a gracious and humble leader.

Two weeks ago, on May 4, 2005, Ansley Meaders suffered a fatal heart attack while cooking dinner in her home. This devastating news fell over the community like a dark cloud, Mr. Speaker. One of our greatest community members had slipped away from us. She leaves behind her husband of more than 40 years, Frank, two children, Mary Ansley and Robert, and four precious grandchildren, Rosser, Georgia, Trey and Hunter; and an entire community who loved her dearly.

After only 59 years, Ansley's life and physical presence in her beloved Marietta, Georgia, has ended. But, Mr. Speaker, her passing leaves Marietta with a legacy of service, dedication, and humble leadership that will remain for generations to come. God bless Mayor Ansley Meaders.

CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, CAFTA, the United States Central American

Free Trade Agreement, is yet another unfair trade deal that will hurt American workers. CAFTA is the latest unfair trade deal in a decade of failed trade policies. Over the last 12 years, the United States trade deficit has exploded from $39 billion in 1992 to over $618 billion in 2004. If CAFTA becomes effective, the result will be fewer jobs for American workers.

CAFTA is modeled on NAFTA, the North American Free Trade Agreement, which had and continues to have a devastating impact on many American workers. When NAFTA was passed in 1994, the United States had a $2 billion trade surplus with Mexico. In 2004, we had a $45 billion trade deficit in Mexico. That means our trade deficit with Mexico increased by an average of $4.7 billion per year over the last 10 years. As a result of NAFTA, the United States has been exporting American jobs to Mexico.

Mr. Speaker, the countries of Central America already receive preferential trade benefits. About 80 percent of exports from CAFTA countries enter the United States duty free. If CAFTA is passed, 100 percent of nontextile manufactured goods from Central America will enter the United States duty free.

CAFTA supporters like to claim that CAFTA will create new markets for American products, but this argument is highly flawed. The six countries of Central America, El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, and the Dominican Republic are among the world's smallest economies. These six countries have a combined economic output of only $85 billion. My home city, Metropolitan Los Angeles, with a $411 billion economy, produces nearly five times the volume of goods and services as the CAFTA countries. The CAFTA countries are simply just too small to absorb a significant quantity of American manufactured goods.

Unfortunately, the countries of Central America also are among the poorest countries. The average Nicaraguan worker earns only $2,300 per year, or about $191 per month. Forty percent of Central American workers earn less than $2 per day. Central American workers simply cannot afford to buy American cars from Ohio or American computers from California.

Mr. Speaker, I have spent much of my time in Congress working on the issue of debt relief for poor countries. Two of the CAFTA countries, Honduras and Nicaragua, are included in my legislation, H.R. 1130, The Jubilee Act, which cancels the debts that poor countries owe to multilateral institutions like the International Monetary Fund and the World Bank. In 2004, Nicaragua paid these institutions $107 million in debt service payments. That is $107 million that Nicaraguans could not spend on American products. As long as these countries remain heavily indented and deeply impoverished, their people will never be able to afford American products made by American workers.

Any way you look at it, CAFTA is a one-sided deal that offers limited benefits to foreign workers at a tremendous cost to American workers. The only service these six teeny Central American countries can provide to the United States is cheap labor. It is no surprise, then, that the largest share of U.S. exports to the CAFTA countries consist of fabric. This fabric is stitched into clothing and shipped right back to the United States where it is sold to American consumers.

CAFTA is not a free-trade agreement at all, it is an outsourcing agreement. It allows profit-hungry corporations to shift American jobs to impoverished countries, where workers can be forced to work long hours for little pay and no benefits. It is a bad deal for Central American workers and it is an even worse deal for workers here in the United States.

Mr. Speaker, American workers need good jobs that pay good wages. They do not need another NAFTA. I urge my colleagues to join me in defeating CAFTA.

□ 2145

VOTE NO ON CAFTA

The SPEAKER pro tempore (Mr. MARCHANT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from California (Ms. WATERS) for her eloquence in opposition to the Central American Free Trade Agreement. She obviously understands this much better than some of my other colleagues who have not been so eloquent and thoughtful in their comments about this agreement.

I rise tonight to address the House about the Central American Free Trade Agreement. Last year President Bush signed the Central American Free Trade Agreement, a one-sided plan, as the gentlewoman from California (Ms. WATERS) said, that will lead to more outsourcing. That is what this plan is all about, and not a plan to export American products or help American industry. It is a one-sided plan to benefit multinational corporations at the expense of the United States and Central American workers, small businesses and farmers.

Every trade agreement negotiated by this administration has been ratified by Congress within 65 days of its signing. In other words, when President Bush's United States trade representative negotiated the Moroccan trade agreement, when the President signed the Australia trade agreement, the Singapore trade agreement and the Chilean trade agreement, all four of those trade agreements, upon signature of the President, were voted on by this Congress and passed within 60 days.

The Central American Free Trade Agreement, which we will discuss for a few moments tonight, has languished in Congress for nearly 1 year without a vote because this wrong-headed trade agreement offends large numbers of Republicans and Democrats in this House, and a significantly higher percentage in the United States of America.

Look at what has happened with our trade policy in the past decade. I was elected to Congress in 1992, 13 years ago. The year I was elected, the United States had a trade deficit of $38 billion. That means our country imported $38 billion more goods than we exported. Today, or last year in 2004, our country's trade deficit was $618 billion. So it went from $38 billion to $618 billion.

So what is the President's response to that and what is the Republican leadership's response? Let us do more trade agreements. As if they are working. It does not make sense. Opponents to the Central American Free Trade Agreement understand these numbers. We know what has happened. We can look at the numbers in 1992 when it was $38 billion. The next year Congress passed the North American Free Trade Agreement, and the deficit began to grow. It exceeded $100 billion in 1995. A few years later, it exceeded $200 billion. Around this time Congress passed the China trade agreement, the China PNTR, Permanent Normal Trade Relations with China. Then our trade deficit passed $300 billion, approaching $400 billion. In 2003 it exceed $500 billion; 2004 it exceeded $600 billion. And we are on a path in 2005 to see our trade deficit continue to explode to over $700 billion.

It is the same old story. Every time there is a trade agreement, the President of the United States promises more jobs for Americans, promises more manufacturing done in our country, promises a higher standard of living for Americans, promises better wages for workers in developing countries, and promises a higher standard of living in poor countries.

Yet with every trade deficit, every single time, NAFTA, China, and every other trade agreement, with every trade agreement the promises fall by the wayside in favor of large business interests, not small manufacturing, machine shop owners, but big business interests. They fall by the wayside in favor of big businesses interests that send U.S. jobs overseas and exploit cheap labor abroad.

This chart, this is the last 6-or-so years and what has happened to manufacturing in our country. The States in red are States that have lost a particularly high percentage, more than 20 percent of their manufacturing. All of these States have lost more than 20 percent of their manufacturing jobs as these trade agreements have kicked in and taken effect. Michigan, 210.000; Illinois, 224,000; Ohio, 216.000; Pennsylvania, 199.600: New York, 220,000; North Carolina, 228.000. Smaller States. Mississippi, Alabama, South Carolina, West Virginia, Maine, and Massachusetts. have lost somewhere in the vicinity of 50.000 to 150,000 manufacturing jobs.

Mr. Speaker, these are just numbers. These numbers may say, okay, trade policy is not working, that is pretty clear, but put a human face with these numbers. Every time a community, Elyria, Ohio, in my district, when York manufacturing shut down and moved some jobs to other States, most of those jobs to Mexico, 700 families lost their major source of income. Those families were hurt. Those children in those families were hurt. The school district in Elyria was hurt. Police and fire protection in those communities are cut back.

These numbers, whether it is 100,000; 200,000 in Washington State; or 35.000 in Oklahoma; 200.000 in Texas: 72,000 in Florida, these are numbers; but there are human faces with these numbers. Every time a manufacturing plant closes and moves overseas, children are hurt, families are hurt, schools are hurt, communities are hurt. It does not make sense.

In the face of growing bipartisan opposition, the administration and Republican leadership have tried every trick in the book to pass the Central American Free Trade Agreement. First of all, the administration, when they saw the merits of the argument were simply not working with Congress, the American people and this Congress rejected out of hand for the last 12 months, that is why we have not voted on the Central American Free Trade Agreement for a whole year, it is clear they rejected out of hand those arguments that the administration and the largest corporations in our country were making about the Central American Free Trade Agreement.

So what did the administration do? They linked the Central American Free Trade Agreement to fighting the war on terror. They said that if we do not pass the Central American Free Trade Agreement, it would cause problems in fighting the war on terror. Well, that argument, nobody really bought that argument. Republicans and Democrats did not buy it, in part because 10 years of the North American Free Trade Agreement has done nothing to improve border security between the United States and Mexico. That argument simply does not sell.

So the administration tried something else. First their arguments were not working. Then they tried to play the terrorism card, that we need this trade agreement with these six countries in order to fight the war on terror. The next thing they tried was 2 weeks ago the United States Chamber of Commerce, allies of the President on passing this agreement, representing the largest companies in America, the U.S. Chamber of Commerce put together a junket for those presidents to travel to the United States.

Those six presidents, five Central American presidents and the Dominican Republic president flew around the United States hoping to sell CAFTA. Large businesses in the U.S. had not changed the American people's minds. The President's arguments were not working, so these six presidents traveled to Albuquerque, New York, Los Angeles, Miami, Cincinnati, Ohio in my State. And, finally, they returned to Washington. But again they failed.

The Costa Rican president announced that his country would not ratify CAFTA unless an independent commission could determine that the agreement would not hurt working people in Costa Rica. As these six presidents flew around the country, they did not convince the newspapers, the American public, or Congress. And one of their own said I am not so sure we should ratify this agreement either.

Now the next step is the most powerful Republican in the House, the gentleman from Texas (Mr. DELAY), the House majority leader, joined by the Committee on Ways and Means chairman, the gentleman from California (Mr. THOMAS), said there would be a vote on CAFTA by Memorial Day, which is the 1-year anniversary of the President signing the Central American Free Trade Agreement.

We are barely 1 week away from that 1-year anniversary, and still no vote in sight. I would add that this agreement, unlike every other trade agreement, has been languishing in this Congress. Every other trade agreement sent by President Bush was passed within 60 days. This trade agreement has been 11 months and 20-some days still without a vote because the people of this country, in this Congress, the people's representatives, simply do not buy that our trade policy is working.

Mr. Speaker, look at these numbers. How can you make the argument that trade policy in America is working when we have gone from a $38 billion to a $618 billion trade deficit in only 12 years when we have pursued these kinds of NAFTA-like trade policies. Understand, CAFTA rhymes with NAFTA for a reason. CAFTA is very similar to NAFTA. It is the same kind of trade agreement; we will see the same kind of results. It is simply not working.

Last month two dozen Democrats and Republicans in Congress joined more than 150 business groups and labor organizations on the steps of one of the House office buildings saying vote "no" on the Central American Free Trade Agreement. Last week more than 400 workers and Members of Congress gathered again in front of the Capitol saying vote "no" on CAFTA.

Why? It is simple. Because Republicans and Democrats, business and labor groups know what the administration refuses to admit. What the gentlewoman from California (Ms. WATERS) said. CAFTA is about one thing and one thing only: CAFTA is about access to cheap labor. We know that CAFTA is about access to cheap labor simply because Central American countries cannot afford to buy American goods. Let me explain what that means.

About 5 years ago, Mr. Speaker, I flew at my own expense to McAllen, Texas, rented a car and went across the border to Reynosa, Mexico. I wanted to see the face of globalization. I wanted to see what the North American Free Trade Agreement after 5 or 6 years in effect, what it really meant for our country, what it meant to Mexico, what it meant to our relations, and on the border.

I went to Reynosa, Mexico. I visited a couple who worked at General Electric Mexico, 3 miles from the United States. Their home was a small shack, maybe 20 feet by 15 feet. They lived in a home with no electricity, no running water, with dirt floors. When it rained hard, the dirt floors turned to mud. As I walked around their neighborhood, I saw other shacks that looked a lot like theirs. Amazingly enough, I could tell where the workers worked because their shacks were built, their homes were built out of packing material from the companies for which they worked. Cardboard boxes, crates, wooden platforms, that is how they constructed their roof and walls and their homes.

As I walked around their neighborhood, I saw a ditch behind their home that was maybe 4 feet wide. Who knows what human waste and industrial waste was running through this ditch. Children were playing nearby. The American Medical Association said the area around the U.S-Mexican border is the most toxic place in the western hemisphere.

We then went to a General Motors plant not far from these workers' homes. The General Motors plant looked just like a General Motors plant in Ohio. It looks just like the Lordstown plant in northeast Ohio. It looked just like a Chrysler plant in Twinsburg. It looked just like a Ford plant in Avon Lake or Lorain, Ohio.

As you walked through this plant, it was modern; the technology was up to date. The floors were clean; the workers were working hard. There was one difference between the plant in Mexico and the plant in Lorain, Ohio. The difference was there was no parking lot at the plant in Mexico. Why? Because Mexican workers were not making enough, 3 miles from the United States, were not making enough to buy the cars that they make, 3 miles from the United States.

You could go halfway around the world to a Motorola plant in Malaysia, the workers were not earning enough to buy the cell phones that they make. You could come halfway back around the world to Costa Rica to a Disney plant, the workers were not earning enough to buy the toys for their children that they were making. You could fly halfway around the world again to the People's Republic of China, to Communist China to a Nike plant, and the workers were not making enough to buy the shoes that they make.

□ 2200

The Central American Free Trade Agreement represents that kind of trade policy. Nicaraguans, Guatemalans, Hondurans make about one-tenth what Americans make. An American makes about $38,000 average a year. In many cases, middle-class Americans make enough to buy a car, to buy a home, to send their kids to college, to purchase washing machines and to purchase appliances and to purchase carpet and all the things that they buy. Unfortunately, Guatemalans and Hondurans and Nicaraguans, because their wages are so low, because the global economy is not working for them, they simply cannot afford to make these purchases. So this Central American Free Trade Agreement, it is about sending American jobs to Nicaragua, Guatemala, Honduras, Costa Rica and the Dominican Republic. It is about sending these jobs there where these workers simply are not going to make enough money to buy American products. It is not about those people in those countries purchasing goods made in the United States. We are losing manufacturing jobs. Our overall trade deficit continues to increase. You can bet that Guatemalan workers cannot afford to buy cars made in Ohio. Nicaraguan workers cannot afford to buy steel made in West Virginia. Honduran workers cannot afford to buy software made in Seattle or prime beef cuts from Nebraska or apparel from Georgia or textiles from North Carolina, simply because in these trade agreements we are doing nothing to lift up wages in these six countries. No enforceable labor standards, no enforceable environmental standards, no efforts by the Central American Free Trade Agreement to lift up worker standards so those workers can join the middle class and they can begin to buy American products. These trade agreements are all about shipping jobs overseas, are all about outsourcing labor, are all about American companies and Taiwanese companies and South Korean companies and other countries' companies going to Central America to exploit cheap labor and to exploit those workers. There is a falling minimum wage, the ongoing nightmare of abject poverty for these workers despite backbreaking work and deplorable working conditions.

CAFTA's nations are not only among the poorest countries, they are among the smallest economies. The entire economic output of these six CAFTA countries, five in Central America and the Dominican Republic, the entire combined economic output is $62 billion. That is equivalent to the economic output of Columbus, Ohio; equivalent to the economic output of Memphis, Tennessee; or equivalent to the economic output of Orlando, Florida.

CAFTA, as I said, it is not about exporting American production or goods, it is not about Americans making things and selling them to Central America, it is about access to cheap labor and exporting American jobs much more than it ever is exporting U.S. goods. As I said, the average worker in Nicaragua earns $3,800 a year. That is simply not enough to buy American products and it is not enough to mean any kind of exports from the United States to those countries.

Frankly, the Central American Free Trade Agreement should be called the Central American Free Labor Agreement. That is what it is all about. It is not about trade. It is about outsourcing cheap labor.

I mentioned a minute ago that these presidents from these five Central American countries and the Dominican Republic traveled to the United States on a tour to Albuquerque and Cincinnati and to Los Angeles and to Washington and Miami. With all due respect to the Central American leaders who toured our Nation 2 weeks ago, and we should welcome them, what they did not say and what millions of us know already as they campaigned for this agreement is that millions of their workers in addition to tens of millions of American workers simply do not like this trade agreement. What they did not tell reporters is that more than 8,000 Guatemalan workers protested against CAFTA in March. Two of them were killed by government security forces. They did not tell us that tens of thousands of El Salvadorans protested CAFTA 2 years ago. They did not tell us about 18,000 letters sent last year to the Honduran congress by Honduran workers that decried this dysfunctional cousin of the North American Free Trade Agreement. They did not tell us about the 10,000 people in Nicaragua who protested CAFTA in 2003. They did not tell us about the 30,000 CAFTA protesters this past fall in Costa Rica. They did not tell us that literally hundreds of thousands of workers have protested the Central American Free Trade Agreement, workers in Central America, in more than 45 demonstrations in the last 3 years.

Trade pacts like NAFTA and CAFTA enable companies to exploit cheap labor, then import those products back to the United States. I repeat, that is what these trade agreements are about. They are about shutting down American factories, moving these factories to Central America as they did to Mexico, exploiting workers, paying them barely a livable wage let alone a living wage, paying them barely a livable wage, then sending products back into the United States. As a result, America is bleeding manufacturing jobs and running unprecedented trade deficits.

Again, look at the trade deficit, from $38 billion to $618 billion in a dozen years. President Bush, Sr., back in 1992 when we had a trade deficit of $38 billion, he said, $1 billion in trade deficit translates into 12,000 lost jobs. So if you have a trade surplus of $1 billion, you increase 12,000 jobs. If you have a deficit of $1 billion, you lose 12,000 jobs. Multiply that by $618 billion and you see the kind of job loss, perhaps as much as 7 million jobs lost because of our manufacturing and trade policy in this country.

What we are seeing, Mr. Speaker, is America is bleeding with our trade deficit, and bleeding manufacturing jobs from our country. Again, all these States in red in the last 5 years have lost more than 20 percent of their manufacturing jobs. All the States in blue have lost at least 15 percent of their manufacturing jobs. Basically every large State, every single large State in this country: California, Texas, Florida, North Carolina, Georgia, Ohio, Pennsylvania, New York, Michigan, Illinois, Wisconsin, Minnesota. Every single large State has lost at least 15 percent, one out of six manufacturing jobs in this country in the last 5 years. Again, those manufacturing jobs, losing those jobs, they are not just numbers. They are about families, they are about children, they are about schools and they are about communities and police and fire and making our communities prosperous. Gregory Mankiw, the President's former Chief Economist, portrayed the exporting of jobs as inevitable and desirable. He said, "When a good or service is produced more cheaply abroad, it makes more sense to import it than to provide it domestically."

Unfortunately, that is the attitude of the administration. That is the attitude of people who have written this trade policy that have led to these kinds of manufacturing job losses and have led to these kinds of trade deficits and that is the attitude of people who are pushing the Central American Free Trade Agreement.

What really instead, Mr. Speaker, makes sense is a trade policy that lifts workers up in rich countries like ours, in poor countries like Costa Rica and Honduras and Guatemala and the Dominican Republic and Nicaragua, while respecting human rights and democratic principles. The United States with its unrivaled purchasing power, the greatest in history, and its enormous economic clout, again the greatest in history, we as a Nation are in a unique position to help empower poor workers in developing countries while promoting prosperity at home.

When the world's poorest people can buy American products rather than just make them, then we will know, Mr. Speaker, finally that our trade policies are working.

OMISSION FROM THE CONGRESSIONAL RECORD OF WEDNESDAY, MAY 18, 2005 AT PAGE 10156

Mr. COX. Mr. Chairman, I yield to the gentleman from Mississippi for purposes of closing debate.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

We have heard a number of statements about this bill. It is an initial step in the right direction. It is not comprehensive. There are some glaring overlooks in the bill. We do not address any aviation security, we do not address chemical security. There are a number of things that we could do better in this bill.

However, I have to join my chairman in recognizing the fact that this is our first attempt to do an authorization bill. It is by no means complete, but given his leadership and willingness to work in a bipartisan spirit, I am looking forward to moving this legislation and making sure that we do the right thing for this country. We have to secure this Nation.

I will be offering a substitute later in the debate which obviously will cover far more areas than what this authorization bill covers that we are debating here today.

Clearly, if we support the substitute, we can move closer to making America secure.

Mr. Chairman, I yield back the balance of my time.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by thanking the gentleman from Mississippi (Mr. THOMPSON), both for his generous remarks but, more importantly, for his hard work on this piece of legislation over a period of several months and, as he pointed out, through ultimately a very long, arduous markup in the committee where members on both sides had an unlimited opportunity to offer amendments and consider a variety of topics.

As we conclude general debate and prepare to move into debate on the specific amendments on this bill, I think we can recognize one important fact, and that is that we are all agreed on the essence of the underlying bill. We have some things, each of us, that we might like to add to this bill, and I predict that in due course, over the rest of this year, we will have an opportunity again on this House floor to take up issues, including aviation security, chemical security, port security, and so on.

But the entirety of what we do accomplish in this bill is bipartisan in nature and agreed upon by the members on both sides of the aisle, at least in the Committee on Homeland Security, and we will soon see about the House as a whole. That is because we have allocated the $32 billion, for what is now the third largest Cabinet department, in a way that demonstrably advances our number one goal of preventing terrorism in the future on American soil, directed against American citizens, protecting America's most critical infrastructure against terrorist attack, and being prepared to respond and recover should, against all our best preparations, that ever occur in the future.

In order to bring us to this point, we have had to have a great deal of bipartisan assistance, all motivated by the best interests of the country from Members on both sides.

I specifically want to mention the vice chairman of the full committee, the gentleman from Pennsylvania (Mr. WELDON); the chairmen and ranking members of our five subcommittees, and the Staff Directors on both sides, Ben Cohen on the Majority side and Calvin Humphreys on the minority side. The staffs have done extraordinary professional work, and their staffs are drawn from, in many cases, the executive branch, with experience about precisely the work and the programs that we are overseeing in this legislation. Many of them have come from the intelligence community, others come from the Coast Guard and other branches of the armed services.

We can be very proud in this House about the institutionalization of the role of homeland security oversight and authorization that has been set in motion as a result of a decision of leadership on both sides, and I want to conclude by taking this opportunity, once again, to thank the House leadership for its very wise decision to create permanent authorizing and oversight responsibility in this Congress on an institutionalized basis, and then, today, taking the next important step of institutionalizing an annual authorization process so that together the legislative branch and the executive branch will closely collaborate on what is the essence of our national security responsibility to all Americans: making sure that we are safe and secure on American territory for the American citizens.

So, Mr. Chairman, with that, I will draw this general debate to a conclusion, and I look forward to working with the body on the several amendments that have been made in order under the rule.

Mr. Chairman, I will at this time introduce into the RECORD a series of letters exchanged between the Committee on Homeland Security and other standing committees, including the Permanent Select Committee on Intelligence of the House of Representatives, concerning jurisdictional issues raised by this legislation.

COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 18, 2005.

Hon. CHRISTOPHER COX,
Chairman, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your willingness to consult and work with me as you guided H.R. 1817, "the Department of Homeland Security Authorization Act for Fiscal Year 2006" from introduction, through the Homeland Security Committee, and to the floor. As you know, the Committee on Government Reform has been interested in a number of provisions within H.R. 1817. The Committee has been concerned that the expansion of the Department's responsibilities for information sharing in Title II, Subtitle B, Homeland Security Information Sharing and Analysis Enhancement, not lessen the Department's responsibility to follow government-wide policies and procedures for the sharing of information. In addition to the information sharing provisions of Subtitle B, the Committee has specific jurisdictional interests in the following provisions of your substitute: §201—Consolidated Background Check Process; §216—Coordination of homeland security threat analysis provided to non-Federal officials; §217—9/11 Homeland Security Fellows Program; §221—IAIP Personnel Recruitment; §302—Technology Development and Transfer; §303—Review of Antiterrorism Activities; Title III, Subtitle B—Department of Homeland Security Cybersecurity Enhancement; §334—Protection of Information; and §502—GAO Report to Congress.

I would like to confirm our mutual understanding with respect to the consideration of H.R. 1817. As you know, H.R. 1817 was sequentially referred to the Committee on Government Reform. Because of your willingness to work with us to resolve issues of concern to the Committee and to include those improvements to the bill in your amendment in the nature of a substitute on the floor, the Committee on Government Reform did not consider H.R. 1817. However, the Committee has done so only with the understanding that this procedural route would not prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or similar legislation.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar Senate bill be considered in conference with the Senate. Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate of this bill. If you have questions regarding this matter, please do not hesitate to call me. Thank you for your attention to this matter.

Sincerely,

TOM DAVIS,
Chairman.

COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 18, 2005.
Hon. TOM DAVIS,
Chairman, Committee on Government Reform, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Government Reform's jurisdictional interest in H.R. 1817, "the Department of Homeland Security Authorization Act for Fiscal Year 2006", and your willingness to forego consideration of H.R. 1817 by the Committee.

I agree that the Committee on Government Reform has a valid jurisdictional interest in particular sections of H.R. 1817, and that the committee's jurisdiction with respect to those provisions will not be adversely affected by the Committee's decision to not consider H.R. 1817. In addition, I agree that for provisions of the bill that are determined to be within the jurisdiction of the Committee on Government Reform, I will support representation for your Committee during conference with the Senate on this or similar legislation, should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as we work towards the enactment of H.R. 1817.

Sincerely,
CHRISTOPHER COX,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, May 2, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR CHAIRMAN COX: On April 27, 2005, the Committee on Homeland Security ordered reported a committee print titled the, "Department of Homeland Security Authorization Act for Fiscal Year 2006." Section 309 of the bill, which provides for a report to Congress on protecting agriculture from terrorist attack, falls within the jurisdiction of the Committee on Agriculture. Recognizing your interest in bringing this legislation before the House quickly, the Committee on Agriculture agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee does not waive its jurisdiction over this provision or any other provisions of the bill that may fall within its jurisdiction. The Committee also reserves its right to seek conferees on any provisions within its jurisdiction considered in the House-Senate conference, and asks for your support in being accorded such conferees.

Please include this letter as part of the report on the Department of Homeland Security Act for Fiscal Year 2006, or as part of the Congressional Record during consideration of this bill by the House.

Sincerely,
BOB GOODLATTE,
Chairman.

COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 16, 2005.
Hon. BOB GOODLATTE,
Chairman, Committee on Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Agriculture Committee's jurisdictional interest in section 309 of the "Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness not to seek a sequential referral in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Agriculture Committee does not waive any jurisdiction it may have over section 309. In addition, I agree to support representation for your Committee during the House-Senate conference on provisions determined to be within your Committee's jurisdiction.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report or the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of the "Department of Homeland Security Authorization Act for Fiscal Year 2006."

Sincerely,
CHRISTOPHER COX,
Chairman.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 13, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, Adams Building, Washington, DC.

DEAR CHAIRMAN COX: I am writing concerning H.R. 1817, the "Department of Homeland Security Authorization Act for Fiscal Year 2006," which the Committee on Homeland Security reported on May 3, 2005. Subsequently, the Committee on Ways and Means received a joint, sequential referral on the bill for a period not ending later than May 13, 2005.

As you know, the Committee on Ways and Means has jurisdiction over trade and customs revenue functions. A range of provisions in H.R. 1817 affects the Committee's jurisdiction, including: authorization language for the Department of Homeland Security, a required review of trade documents that accompany crossborder shipments, a required plan to reduce disparities in customs processing at major airports, a requirement that certain recommendations of a commercial advisory committee representing the trade community be embodied in new regulations, a requirement of a study of the potential merger of the Department of Homeland Security bureau implementing most customs revenue functions with the bureau charged with immigration enforcement, and authorization of a program that would merge security and customs revenue inspection equipment and requirements.

I am pleased to acknowledge the agreement, outlined in the attached chart, between our Committees to address various issues, including changes you will include in the Manager's Amendment to the bill. Thus, in order to expedite this legislation for floor consideration, the Ways and Means Committee agrees to forgo action on this bill based on the agreement reached by our Committees and that no other provisions affecting the jurisdiction of the Ways and Means Committee are included in the Manager's Amendment. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. In addition, I would appreciate if you would share with my staff copies of the amendments when they are made available to the Homeland Security Committee staff.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 1817, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,
BILL THOMAS,
Chairman.

Attachment.

WAYS AND MEANS AMENDMENTS AND LEGISLATIVE HISTORY RELATED TO HOMELAND SECURITY AUTHORIZATION BILL

Issue	HSC and W&M agreed changes
Sec. 103—CBP Authorization (includes amount in Customs Reauthorization bill passed by the House in 2004, along with additions identified by W&M and HSC).	Insert CBP Authorization number—$6,926,424,722 in the Manager's Amendment. Number may be adjusted, but any change would be fully cleared between HSC and Ways and Means.
Sec. 201(b)—Annual cross-cutting analysis of proposed funding for DHS programs.	Delete 201 (b)(1)(D) and replace with "(1)(D) To facilitate trade and commerce;" Add 201 (b)(1)(E)—"To carry out other important functions of the agencies and subdivisions within the Department not specifically noted above." Under 201 (b)(2)—Delete the following language: "for functions that are both related directly and not related directly to homeland security" and add, "for functions that would address more than one of the mission areas listed in (b)(1)(A) through (E) of this subsection." Rewrite 201(b)(3)(F) to state "(F) Screening cargo to identify and segregate shipments at high risk for compromise by terrorists or terrorist weapons," rather than "screening cargo to identify and segregate high-risk shipments."
Sec. 306—Security of Maritime Cargo Containers (Sanchez Amendment) …………	Amend Sec. 306(a) to read: "(a) STANDARDS AND REGULATIONS— (1) STANDARDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish standards and procedures for securing maritime cargo containers relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies. These standards shall include the standards for seals and locks as required under paragraph (3) of subsection (b) of section 70116 of Title 46 U.S.C. (2) REGULATIONS.—No later than 90 days after completion of the requirements in subsection (a), the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers consistent with the standards developed in subsection (a)." Amend Sec. 306(b) to read: "(b) INTERNATIONAL AGREEMENTS.—The Secretary, in consultation with the Department of State, Department of Commerce, Department of the Treasury, Office of the United States Trade Representative, and other appropriate Federal agencies, shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a)." Amend Sec. 306(c) to read "(c) CONTAINER TARGETING STRATEGY.—STRATEGY.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use advance cargo information to identify anomalies in such information to determine whether such cargo poses a security risk. The strategy shall include a method of contacting shippers to verify or explain any anomalies discovered in such information." Will include acknowledgement in legislative history that "It is intended that the advance cargo information referred to in Section 306(c) should be provided to the government by the party that has the most direct knowledge of that information consistent with Public Law 107–210 Section 343(a)(3)(B)." Amend Section 306(d) to read: "(d) CONTAINER SECURITY DEMONSTRATION PROGRAM.—(1) PROGRAM.—The Secretary is authorized to establish and carry out a demonstration program that integrates radiation detection equipment with other types of non-intrusive inspection equipment at an appropriate United States seaport, as determined by the Secretary.

WAYS AND MEANS AMENDMENTS AND LEGISLATIVE HISTORY RELATED TO HOMELAND SECURITY AUTHORIZATION BILL—Continued

Issue	HSC and W&M agreed changes
	(2) REQUIREMENT.—The demonstration program shall also evaluate ways to strengthen the capability of Department of Homeland Security personnel to analyze cargo inspection data and ways to improve the transmission of inspection data between appropriate entities within the Department of Homeland Security." Amend Section 306(e) to read: "(e) COORDINATION AND CONSOLIDATION OF CONTAINER SECURITY PROGRAMS.—The Secretary shall coordinate all programs that enhance the security of maritime cargo, and, to the extent practicable, consolidate Operation Safe Commerce, the Smart Box Initiative, and similar programs that evaluate security enhancements for maritime cargo containers, to achieve enhanced coordination and efficiency. The Secretary shall report to the appropriate Congressional committees before consolidating any program mentioned in this subsection." Add new Sec. New Section 306(f): "DEFINITION.—In this section, the term 'appropriate congressional committees' means appropriate Congressional Committees as defined in the Homeland Security Act of 2002."
Sec. 401—Study by Sec. of DHS on Organization of DHS	Section 401(b)(l)—delete "to the Committee on Homeland Security of the House of DHS on Organization of Representatives and the Committee on Homeland Security and Government Affairs of the Senate" and replace with "to the appropriate Congressional Committees as defined in the Homeland Security Act of 2002."
Section 402—GAO Report on DHS Organization	Insert at the end of this section: "The report shall be submitted to the appropriate Congressional committees as defined in the Homeland Security Act of 2002."
Sec. 403—Plan for Establishing Consolidated and Colocated Regional Offices	If Sec. 403, or a similar provision is included in the bill, amend that section by adding at the end of the section: "In developing the plan, the Secretary shall ensure that the plan does not compromise the uniform and consistent implementation and application of laws, policies and procedures related to customs processing operations."
Sec. 404—Plan to Reduce Wait Times	Amend Sec. 404(2) to include "passenger" following "customs".
Ways and Means Customs Bill	In addition to the authorization for CBP, include all other Customs sections of HR 4418 as passed by the House that were not already enacted as part of other laws—Secs. 102, 104, 124, and 125.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 13, 2005.
Hon. WILLIAM THOMAS,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Ways and Means Committee's jurisdictional interest in H.R. 1817, the "The Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness to forgo action on this bill, in order to expedite this legislation for floor consideration. I agree that, by forgoing further action on the bill, the Committee on Ways and Means does not waive any jurisdiction it has over provisions within H.R. 1817 and the Manager's amendment. This is being done with the understanding that it does not in any way prejudice the Ways and Means Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. We will also share with you copies of any amendments as they are made available to us.

As you have requested, I will include a copy of your letter and this response as part of the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,
Chairman.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 2, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Adams Building, Library of Congress, Washington, DC.

DEAR MR. CHAIRMAN: On April 27, 2005, the Committee on Homeland Security ordered reported a committee print, the "Department of Homeland Security Authorization Act for Fiscal Year 2006." This bill contains provisions that fall within the jurisdiction of the Committee on Armed Services, including: section 222 (relating to information collection requirements and priorities) and section 302(b) (establishing a working group relating to military technology). Recognizing your interest in bringing this legislation before the House quickly, the Committee on Armed Services agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee does not waive its jurisdiction over these provisions or any other provisions of the bill that may fall within its jurisdiction. The Committee also reserves its right to seek conferees on any provisions within its jurisdiction considered in the House-Senate conference, and asks for your support in being accorded such conferees.

Please include this letter as part of the report, if any, on the Department of Homeland Security Act for Fiscal Year 2006 or as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 2, 2005.
Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Armed Services Committee's jurisdictional interest in Section 222 and the working group on transfer of military technologies established under Section 302(b) of the "Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness not to seek a sequential referral in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Armed Services Committee does not waive any jurisdiction it may have over the relevant provisions of Sections 222 and 302(b). In addition, I agree to support representation for your Committee during the House-Senate conference on any provisions determined to be within your Committee's jurisdiction.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of the "Department of Homeland Security Authorization Act for Fiscal Year 2006."

Sincerely,

CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 16, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In recognition of the importance of expediting the passage of H.R. 1817, the "Department of Homeland Security Authorization Act for Fiscal Year 2006," the Permanent Select Committee on Intelligence hereby waives further consideration of the bill. The Committee has jurisdictional interests in H.R. 1817, including but not limited to intelligence activities within the Department of Homeland Security authorized within the National Intelligence Program.

The Committee takes this action only with the understanding that this procedural route should not be construed to prejudice the House Permanent Select Committee on Intelligence's jurisdictional interest over this bill or any similar bill and will not be considered as precedent for consideration of matters of jurisdictional interest to the Committee in the future. In addition, the Permanent Select Committee on Intelligence reserves the possibility of seeking conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate on H.R. 1817. I appreciate the constructive work between our committees on this matter and thank you for your consideration.

Sincerely,

PETER HOEKSTRA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 16, 2005.
Hon. PETER HOEKSTRA,
Chairman, Permanent Select Committee on Intelligence, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Intelligence Committee's jurisdictional interest in H.R. 1817, the "The Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness to waive further consideration of the bill in order to expedite this legislation for floor consideration: I agree that by waiving further consideration, the Intelligence Committee does not waive any jurisdiction it may have over provisions of the bill, including those relating to intelligence activities of the Department of Homeland Security authorized within the National Intelligence Program.

As you have requested, I will include a copy of your letter and this response as part of the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,
Chairman

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today on account of a family medical emergency.

Mr. LATOURETTE (at the request of Mr. DELAY) for today and the balance of the week on account of a family emergency.

Mr. RYAN of Wisconsin (at the request of Mr. DELAY) for today until 4:30 p.m. on account of traveling with the President.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. PRICE of North Carolina, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mr. MILLER of North Carolina, for 5 minutes, today.

Mr. MCINTYRE, for 5 minutes, today.

Mr. WATT, for 5 minutes, today.

Mr. BUTTERFIELD, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, May 26.

Mr. WELDON of Florida, for 5 minutes, May 23.

Mr. DUNCAN, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, May 26.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

ADJOURNMENT

Mr. BROWN of Ohio. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Monday, May 23, 2005, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2017. A letter from the Director, Office of Management and Budget, transmitting a report entitled "Major Savings and Reforms in the President's 2006 Budget"; to the Committee on Appropriations.

2018. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Richard V. Reynolds, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2019. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Brian A. Arnold, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

2020. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

2021. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

2022. A letter from the Secretary of the Army, Department of Defense, transmitting notification of the Army's determination that reportable increases have occurred in the Program Acquisition Unit Cost (PAUC) for the Chemical Demilitarization (CHEM DEMIL) Program; to the Committee on Armed Services.

2023. A letter from the Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting a report on the proposed test and evaulation (T&E) budgets that are not certified by the Director of the Defense Test Resource Management Center (TRMC) to be adequate for FY 2006, pursuant to 10 U.S.C. 196 Public Law 107–314, section 232; to the Committee on Armed Services.

2024. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting a report describing the Department's corrosion prevention control and mitigation efforts and planned improvements, as requested by the House of Representatives Report of the Committee on Appropriations on the Department of Defense Appropriations Bill for FY 2005, Pub. L. 108-553 (H.R. 4613); to the Committee on Armed Services.

2025. A letter from the Chair, Foreign Exchange Committee, transmitting the Committee's 2004 Annual Report; to the Committee on Financial Services.

2026. A letter from the Chief Financial Officer, Department of Education, transmitting the full-color version of the Department's Fiscal Year 2004 Performance and Accountability Report; to the Committee on Education and the Workforce.

2027. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled "Performance Improvement 2005: Evaluation Activities of the U.S. Department of Health and Human Services," pursuant to Section 241(b) of the Public Health Service (PHS) Act, as amended by the Preventive Health Amendments of 1993, summarizing the findings of the evaluations of PHS programs authorized under Section 241(a); to the Committee on Energy and Commerce.

2028. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 05-18), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2029. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Pakistan for defense articles and services (Transmittal No. 05-19), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2030. A letter from the Secretary, Department of State, transmitting a copy of the Department's "Country Reports on Terrorism: 2004," pursuant to 22 U.S.C. 2656f; to the Committee on International Relations.

2031. A letter from the Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting a report on economic conditions in Egypt 2004, pursuant to 22 U.S.C. 2346 note; to the Committee on International Relations.

2032. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003; to the Committee on International Relations.

2033. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the Department's intent to obligate Nonproliferation and Disarmament Fund (NDF) assistance for additional projects, pursuant to Public Law 108–447, section 515; to the Committee on International Relations.

2034. A letter from the Chairman, Christopher Columbus Fellowship Foundation, transmitting pursuant to the Accountability of Tax Dollars Act, the Foundation's Form and Content Reports for the second quarter of FY 2005 as prepared by the U.S. General Services Administration; to the Committee on Government Reform.

2035. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's report entitled, "Federal Student Loan Repayment Program FY 2004," pursuant to 5 U.S.C. 5379(a)(1)(B) Public Law 106–398, section 1122; to the Committee on Government Reform.

2036. A letter from the Secretary, Department of the Interior, transmitting the annual report entitled, "Outer Continental Shelf Lease Sales: Evaluation of Bidding Results" for Fiscal Year 2004, pursuant to 43 U.S.C. 1337(a)(9); to the Committee on Resources.

2037. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Establishment of an Additional Manatee Protection Area in Lee County, Florida (RIN: 1018–AT65) received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2038. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 050305C] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2039. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Norteastern United States; Recordkeeping and Reporting Requirements; Regulatory Amendment to Modify Seafood Dealer Reporting Requirements [Docket No. 050216041-5105-02; I.D. 020705C] (RIN: 0648-AS87) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2040. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 042105C] received May 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2041. A letter from the Office of Protected Resources, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Taking of Marine Mammals Incidental to Commercial Fishing Operations; Tuna Purse Seine Vessels in the Eastern Tropical Pacific Ocean (ETP) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2042. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off Western Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments; Pacific Halibut Fisheries; Corrections [Docket No. 040830250-5062-03; I.D. 042205C] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2043. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer [Docket No. 041110317-4364-02; I.D. 041805C] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2044. A letter from the Acting DIrector, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Mackeral, Squid, and Butterfish Fisheries; Closure of the Quarter II Fishery for Loligo Squid [Docket No. 041221358-5065-02; I.D. 042005B] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2045. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 042105B] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2046. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fishery Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery: Specifications and Management Measures; Inseason Adjustments; Corrections [Docket No. 040830250-5062-03; I.D. 032205B] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2047. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a reevaluation of the report of the Army Corps of Engineers, dated December 30, 2003, describing a viable alternative to a system of groins for providing shoreline erosion control as a storm damage reduction measure for the Silver Strand shoreline at Imperial Beach, California, originally authorized by Section 101 of the Rivers and Harbors Act of 1958; to the Committee on Transportation and Infrastructure.

2048. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a reevalution of a study to determine the feasibility of modifying the authorized Hamilton Airfield, California project to include adjacent properties on San Pablo Bay, Marin County, California; to the Committee on Transportation and Infrastructure.

2049. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company (GE) CF6-45 and CF6-50 Series Turbofan Engines [Docket No. FAA-2005-20932; Directorate Identifier 2005-NE-11-AD; Amendment 39-14056; AD 2005-08-04] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2050. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes [Docket No. FAA-2004-19766; Directorate Identifier 2002-NM-161-AD; Amendment 39-14057; AD 2005-08-05] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2051. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-200B, -200C, -200F, and -400F Series Airplanes [Docket No. FAA-2005-20136; Directorate Identifier 2004-NM-185-AD; Amendment 39-14061; AD 2005-08-09] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2052. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-600, -700, and -800 Series Airplanes [Docket No. FAA-2004-19810; Directorate Identifier 2004-NM-119-AD; Amendment 39-14062; AD 2005-08-10] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2053. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF 340A and SAAB 340B Series Airplanes [Docket No. 2003-NM-278-AD; Amendment 39-14063; AD 2005-08-11] received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2054. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aviointeriors S.p.A. Series 312 Seats [Docket No. 2000-NE-09-AD; Amendment 39-14052; AD 2005-07-27] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2055. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-100, -100B, 100B SUD, -200B, -200C, -200F, and -300 Series Airplanes; and Model 747SP and 747SR Series Airplanes [Docket No. FAA-2005-20915; Directorate Identifier 2005-NM-042-AD; Amendment 39-14053; AD 2005-08-01] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2056. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Falcon 10 Series Airplanes [Docket No. FAA-2005-20884; Directorate Identifier 2005-NM-051-AD; Amendment 39-14048; AD 2005-07-23] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2057. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 777-200 and -300 Series Airplanes Equipped with Rolls Royce Model RB211 TRENT 800 Engines [Docket No. FAA-2005-20885; Directorate Identifier 2005-NM-050-AD; Amendment 39-14049; AD 2005-07-24] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2058. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4-600, A300 B4-600R, A300 C4-605R Variant F, and A300 F4-600R (Collectively Called A300-600) Series Airplanes [Docket No. FAA-2004-19227; Directorate Identifier 2003-NM-95-AD; Amendment 39-14050; AD 2005-07-25] (RIN: 2120-AA64) received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2059. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. FAA-2005-20244; Directorate Identifier 2004-NM-204-AD; Amendment 39-14051; AD 2005-07-26] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2060. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CENTRAIR 101 Series Gliders [Docket No. FAA-2004-19616; Directorate Identifier 2004-CE-38-AD; Amendment 39-14058; AD 2005-08-06] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2061. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace

Model BAe 146 and Model Avro 146-RJ Series Airplanes [Docket No. FAA-2004-19757; Directorate Identifier 2001-NM-273-AD; Amendment 39-14024; AD 2005-06-14] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2062. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Cessna Model 680 Airplanes [Docket No. FAA-2005-20916; Directorate Identifier 2005-NM-027-AD; Amendment 39-14055; AD 2005-08-03] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2063. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. FAA-2004-19176; Directorate Identifier 2003-NM-36-AD; Amendment 39-14054; AD 2005-08-02] (RIN: 2120-AA64) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2064. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled, "Implementation of the Medicare Prescription Drug Benefit," pursuant to Public Law 108–173, section 1860–42(d); jointly to the Committees on Energy and Commerce and Ways and Means.

2065. A letter from the Secretary, Department of Health and Human Services, transmitting a report that "makes recommendations regarding methods of providing benefits under . . . Part D . . . for outpatient prescription drugs for which benefits are provided under Part B," pursuant to Public Law 108–173, section 1860D–42(c); jointly to the Committees on Energy and Commerce and Ways and Means.

2066. A letter from the Chief Counsel, Foreign Claims Settlement Commission of the United States, Department of Justice, transmitting the Commission's 2004 Annual Report on operations under the War Claims Act of 1948, as amended, pursuant to 50 U.S.C. app. 2008 and 22 U.S.C. 1622a; jointly to the Committees on International Relations and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BUYER: Committee on Veterans' Affairs. H.R. 2046. A bill to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service, and for other purposes; with an amendment (Rept. 109–88). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHAW:

H.R. 2473. A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina (for himself, Mr. BROWN of South Carolina, Mr. MILLER of Florida, Mr. NORWOOD, Mr. FOLEY, and Ms. ROS-LEHTINEN):

H.R. 2474. A bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable personal credit to individuals who donate certain life-saving organs; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEKSTRA:

H.R. 2475. A bill to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. ABERCROMBIE:

H.R. 2476. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale of certain residential leased-fee interests to holders of the leasehold rights; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2477. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2478. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2479. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2480. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2481. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2482. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUMENAUER:

H.R. 2483. A bill to suspend temporarily the duty on certain bicycle parts; to the Committee on Ways and Means.

By Mr. BLUNT (for himself, Mr. KIRK, Mr. SIMMONS, Mr. HAYES, Mr. CANTOR, Mr. GERLACH, Mr. GRAVES, Mr. LARSEN of Washington, Mr. MILLER of Florida, Mr. BRADY of Texas, Mr. SODREL, and Mr. REICHERT):

H.R. 2484. A bill to improve benefits for members of the National Guard and Reserve to recognize their service to the United States and to encourage the recruitment and retention of National Guard and Reserve personnel, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall. within the jurisdiction of the committee concerned.

By Mr. BURTON of Indiana (for himself and Mr. PALLONE):

H.R. 2485. A bill to ensure that the goals of the Dietary Supplement Health and Education Act of 1994 are met by authorizing appropriations to fully enforce and implement such Act and the amendments made by such Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BURTON of Indiana (for himself, Mr. PALLONE, Mr. PAUL, Mr. TERRY, and Mr. GERLACH):

H.R. 2486. A bill to amend the Internal Revenue Code of 1986 to provide that amounts paid for foods for special dietary use, dietary supplements, or medical foods shall be treated as medical expenses; to the Committee on Ways and Means.

By Mr. CARDIN:

H.R. 2487. A bill to amend title XVIII of the Social Security Act, as amended by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide additional beneficiary protections; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CARNAHAN:

H.R. 2488. A bill to promote State historic tax credits; to the Committee on Ways and Means.

By Mr. COOPER (for himself, Mr. SHAYS, and Mr. VAN HOLLEN):

H.R. 2489. A bill to amend the Inspector General Act of 1978 to enhance the independence of the Inspectors General, to create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes; to the Committee on Government Reform.

By Mr. DENT (for himself, Mr. BRADY of Pennsylvania, Mr. FATTAH, Mr. ENGLISH of Pennsylvania, Ms. HART, Mr. PETERSON of Pennsylvania, Mr. GERLACH, Mr. WELDON of Pennsylvania, Mr. FITZPATRICK of Pennsylvania, Mr. SHUSTER, Mr. SHERWOOD, Mr. KANJORSKI, Mr. MURTHA, Ms. SCHWARTZ of Pennsylvania, Mr. DOYLE, Mr. PITTS, Mr. HOLDEN, Mr. MURPHY, and Mr. PLATTS):

H.R. 2490. A bill to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the "Mayor Joseph S. Daddona Memorial Post Office"; to the Committee on Government Reform.

By Mr. GILLMOR (for himself, Mr. ROGERS of Michigan, Mr. DINGELL, Mr. STUPAK, and Mr. UPTON):

H.R. 2491. A bill to amend the Solid Waste Disposal Act to authorize States to restrict receipt of foreign municipal solid waste and implement the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HAYES:

H.R. 2492. A bill to extend the temporary suspension of duty on Crotonic Acid; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 2493. A bill to suspend temporarily the duty on Glyoxylic Acid 50%; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 2494. A bill to suspend temporarily the duty on Chloroacetic acid, ethyl ester; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 2495. A bill to suspend temporarily the duty on Chloroacetic Acid, Sodium Salt; to the Committee on Ways and Means.

By Mr. HAYES:

H.R. 2496. A bill to extend the temporary suspension of duty on 3,6,9-Trioxaundecanedioic acid; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 2497. A bill to extend the temporary suspension of duty on Acetamiprid Technical; to the Committee on Ways and Means.

By Mr. HULSHOF (for himself, Mr. Pomeroy, Mr. Nussle, and Mr. Lewis of Kentucky):

H.R. 2498. A bill to amend the Internal Revenue Code of 1986 to extend the tax incentives for the use of biodiesel through 2010; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself, Mr. King of New York, Mr. Israel, Mr. Fossella, Mrs. Lowey, Mr. Towns, Mr. Ackerman, Mr. Owens, Mr. Hinchey, Mr. Serrano, and Mrs. McCarthy):

H.R. 2499. A bill to provide that members of the National Guard who served in the counties declared Federal disasters areas in response to the September 11, 2001, terrorist attacks on the United States, and who served under State duty so that they could immediately assist in the response to the terrorist attacks should have that service counted as Federal active duty for purposes of military retirement credit under chapter 1223 of title 10, United States Code; to the Committee on Armed Services.

By Mr. MARKEY:

H.R. 2500. A bill to restore the jurisdiction of the Consumer Product Safety Commission over amusement park rides which are at a fixed site, and for other purposes; to the Committee on Energy and Commerce.

By Mr. McCRERY:

H.R. 2501. A bill to suspend temporarily the duty on Cyclopropanecarboxylic acid, 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-imethyl-,(2-meth yl(1,1′-biphenyl) -3-yl)methyl ester, (z)-; to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 2502. A bill to suspend temporarily the duty on Phosphonic acid (2-chloroethyl) (Ethephon); to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 2503. A bill to suspend the duty on Iprodione; to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 2504. A bill to suspend temporarily the duty on 2-Cyclohexen-1-one, and 2-(1-(((3-chloro-2- propenyl)oxy)imino) propyl)-5-(2-(ethylthio) propyl)-3-hydroxy (Clethodim); to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 2505. A bill to suspend temporarily the duty on Benzoic acid, o- and ((3-(4,6-dimethyl-2-pyrimidinyl)-ureido)sulfonyl)-, methylester (Sulfometuron methyl); to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 2506. A bill to suspend temporarily the duty on Cyclopropanecarboxylic acid, 3-(2,2-Dichlorovinyl)-2,2-dimethyl-, 3-phenoxybenzyl ester, (+-)-,(cis,trans)-; to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 2507. A bill to suspend temporarily the duty on Benzoic acid, 2-(((((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)- carbonyl)amino)sulfonyl)-, methyl ester; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California (for himself, Mr. Davis of Illinois, Mr. Grijalva, Mr. Holt, Mr. Van Hollen, Mr. Payne, Mrs. McCarthy, Mr. Ryan of Ohio, Mr. Owens, Mr. Hinojosa, Mr. Kildee, Mr. Stark, Mr. Kennedy of Rhode Island, Mr. Conyers, Mr. Wexler, and Ms. Woolsey):

H.R. 2508. A bill to amend the Higher Education Act of 1965 to improve the ability of foster care youths to attend and succeed in higher education; to the Committee on Education and the Workforce.

By Ms. NORTON (for herself, Mr. Moran of Virginia, Mr. Tom Davis of Virginia, Mr. Grijalva, Mr. Wynn, Mr. Van Hollen, Mr. Brady of Pennsylvania, and Mr. Markey):

H.R. 2509. A bill to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 1992 to provide for the restoration, protection, and enhancement of the environmental integrity and social and economic benefits of the Anacostia Watershed in the State of Maryland and the District of Columbia; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE:

H.R. 2510. A bill to ensure that the goals of the Dietary Supplement Health and Education Act of 1994 are met by authorizing appropriations to fully enforce and implement such Act and the amendments made by such Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PAUL (for himself, Mr. Holt, Ms. Slaughter, and Ms. Herseth):

H.R. 2511. A bill to postpone the 2005 round of defense base closure and realignment until the completion of certain specified activities by the Secretary of Defense and the Secretary of Homeland Security; to the Committee on Armed Services.

By Mr. REGULA (for himself, Mr. Markey, and Mr. Gillmor):

H.R. 2512. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYUN of Kansas (for himself and Mr. Feeney):

H.R. 2513. A bill to amend the Immigration and Nationality Act to prescribe the oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States; to the Committee on the Judiciary.

By Mr. SIMPSON:

H.R. 2514. A bill to promote the economic development and recreational use of National Forest System lands and other public lands in central Idaho, to designate the Boulder-White Cloud Management Area to ensure the continued management of certain National Forest System lands and Bureau of Land Management lands for recreational and grazing use and conservation and resource protection, to add certain National Forest System lands and Bureau of Land Management lands in central Idaho to the National Wilderness Preservation System, and for other purposes; to the Committee on Resources.

By Mr. STRICKLAND:

H.R. 2515. A bill to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011; to the Committee on the Judiciary.

By Mr. SWEENEY:

H.R. 2516. A bill to establish standards for the testing of prohibited substances and methods for certain professional baseball, basketball, football, and hockey players; to the Committee on Energy and Commerce.

By Ms. VELÁZQUEZ (for herself, Mr. Serrano, Mr. Owens, Mr. Van Hollen, and Mr. Moran of Virginia):

H.R. 2517. A bill to amend chapters 83 and 84 of title 5, United States Code, to provide for the indexation of deferred annuities; to provide that a survivor annuity be provided to the widow or widower of a former employee who dies after separating from Government service with title to a deferred annuity under the Civil Service Retirement System but before establishing a valid claim therefor, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOOZMAN (for himself and Ms. Herseth):

H. Con. Res. 159. Concurrent resolution recognizing the sacrifices being made by the families of members of the Armed Forces and supporting the designation of a week as National Military Families Week; to the Committee on Armed Services.

By Mr. DAVIS of Illinois (for himself, Mr. Boswell, Mr. Owens, Ms. Corrine Brown of Florida, Ms. Kilpatrick of Michigan, Mr. Hastings of Florida, Mr. Payne, Mr. Butterfield, Mr. Van Hollen, Mr. McDermott, Mr. Watt, Mrs. Christensen, Mr. Doggett, Mr. Grijalva, Mrs. Jones of Ohio, and Mr. Honda):

H. Con. Res. 160. Concurrent resolution recognizing the historical significance of Juneteenth Independence Day, and expressing the sense of Congress that history should be regarded as a means for understanding the past and solving the challenges of the future; to the Committee on Government Reform.

By Mr. DAVIS of Illinois:

H. Con. Res. 161. Concurrent resolution authorizing the use of the Capitol Grounds for an event to commemorate the 10th Anniversary of the Million Man March; to the Committee on Transportation and Infrastructure.

By Mr. SAXTON (for himself, Mr. Menendez, and Mr. McCotter):

H. Con. Res. 162. Concurrent resolution expressing the sense of Congress that the ongoing nuclear efforts of the Islamic Republic of Iran constitute a threat to the national security of the United States and to international peace and security; to the Committee on International Relations.

By Mr. CONYERS (for himself, Ms. Jackson-Lee of Texas, Ms. Eshoo, Mr. Filner, Mr. Kucinich, Mr. Meehan, Mr. Pascrell, and Mr. Serrano):

H. Res. 288. A resolution expressing the sense of the House of Representatives condemning bigotry and religious intolerance, and recognizing that holy books of every religion should be treated with dignity and respect; to the Committee on the Judiciary.

By Mr. DAVIS of Illinois (for himself, Mr. Bilirakis, Mr. Capuano, Mr. Bonilla, and Mr. Bradley of New Hampshire):

H. Res. 289. A resolution supporting the goals and ideals of National Health Center Week in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes; to the Committee on Government Reform.

By Mrs. MALONEY (for herself, Mr. Bilirakis, Mr. Pallone, Mr. Payne, Mr. Foley, Ms. Norton, Ms. Watson, Mr. Crowley, and Mr. McGovern):

H. Res. 290. A resolution recognizing and appreciating the historical significance and the heroic human endeavor and sacrifice of the people of Crete during World War II and commending the PanCretan Association of America; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. SHUSTER.

H.R. 22: Mr. SESSIONS, Mr. WILSON of South Carolina, and Mr. THOMPSON of California.

H.R. 25: Mr. HEFLEY.

H.R. 36: Mr. LATHAM.

H.R. 63: Mrs. LOWEY.

H.R. 65: Mr. TIBERI.

H.R. 98: Mr. HINOJOSA.

H.R. 215: Mr. KILDEE.

H.R. 284: Mr. CLEAVER and Mr. PRICE of North Carolina.

H.R. 297: Mr. BAIRD and Mr. BILIRAKIS.

H.R. 302: Mr. DAVIS of Illinois and Mrs. LOWEY.

H.R. 303: Mr. BOREN, Mr. DELAHUNT, Mr. GUTIERREZ, Ms. JACKSON-LEE of Texas, Mr. MURTHA, and Mr. HINCHEY.

H.R. 311: Mr. BRADY of Pennsylvania.

H.R. 312: Mr. UDALL of Colorado, Mr. HINOJOSA, Mrs. JONES of Ohio, and Mr. KUCINICH.

H.R. 313: Mr. BONNER.

H.R. 314: Mr. BONNER.

H.R. 333: Mr. McGOVERN, Mr. HOLDEN, and Mrs. CHRISTENSEN.

H.R. 363: Mr. SANDERS, Mr. BECERRA, and Mr. CLEAVER.

H.R. 371: Mr. TANNER and Mr. DAVIS of Tennsesee.

H.R. 373: Mr. LARSEN of Washington.

H.R. 389: Mr. ALLEN.

H.R. 398: Mr. PAYNE, Mr. SHERMAN, Mr. FARR, Ms. WATSON, Mr. GRIJALVA, Mr. ANDREWS, Ms. WASSERMAN SCHULTZ, and Mr. BROWN of Ohio.

H.R. 438: Mr. COSTA.

H.R. 527: Mr. SHUSTER.

H.R. 552: Mr. INGLIS of South Carolina

H.R. 559: Mr. COSTELLO.

H.R. 583: Mr. BARROW.

H.R. 596: Mr. GALLEGLY and Mr. KING of New York.

H.R. 602: Ms. HARRIS.

H.R. 615: Mr. ADERHOLT.

H.R. 633: Mr. GEORGE MILLER of California.

H.R. 670: Ms. ZOE LOFGREN of Califonria.

H.R. 676: Ms. JACKSON-LEE of Texas, Mr. WAXMAN, and Mr. THOMPSON of Mississippi.

H.R. 688: Mr. BRADLEY of New Hampshire.

H.R. 691: Mr. CARDIN.

H.R. 712: Mr. STUPAK and Mr. BISHOP of Utah.

H.R. 747: Mr. HIGGINS, Mr. KUHL of New York, Mr. BISHOP of Georgia, and Mr. ANDREWS.

H.R. 765: Mrs. WILSON of New Mexico.

H.R. 772: Mr. FRANK of Massachusetts, Mr. CHANDLER, and Mr. BOREN.

H.R. 791: Mrs. CAPPS.

H.R. 800: Mr. REICHERT.

H.R. 801: Mrs. JONES of Ohio.

H.R. 815: Mr. BRADLEY of New Hampshire.

H.R. 819: Mr. SOUDER and Mr. MICHAUD.

H.R. 869: Mr. PETERSON of Pennsylvania.

H.R. 887: Mr. BARROW and Mr. HASTINGS of Florida.

H.R. 910: Ms. KAPTUR, Mr. WAXMAN, Mr. HINCHEY, Mr. BISHOP of Georgia, Mr. McHUGH, Mr. LARSON of Connecticut, and Mr. LANGEVIN.

H.R. 923: Mr. WOLF.

H.R. 930: Mr. NEY, Mr. LEWIS of Georgia, Mr. BURGESS, Mr. TIBERI, Mr. JENKINS, and Mr. CARDOZA.

H.R. 994: Mr. NEY, Mr. ETHERIDGE, Ms. WOOLSEY, Mr. HERGER, Mr. OLVER, Mr. BASS, Mr. SCHIFF, Mr. DOGGETT, Mr. UDALL of Colorado, Mr. RAMSTAD, Mr. RUPPERSBERGER, Mr. WELLER, Mr. ISRAEL, Mr. DEAL of Georgia, Mr. GOODLATTE, Mr. FATTAH, and Mr. EDWARDS.

H.R. 997: Mr. INGLIS of South Carolina and Mr. McHENRY.

H.R. 998: Mr. STUPAK, Mr. TANNER, Mr. NEAL of Masschusetts, and Mr. RADANOVICH.

H.R. 1071: Mr. MARIO DIAZ-BALART of Florida and Ms. HARMAN.

H.R. 1108: Mr. BRADY of Pennsylvania and Mr. KILDEE.

H.R. 1120: Ms. SLAUGHTER, Mr. SANDERS, and Mr. HOLT.

H.R. 1131: Mr. PAYNE, Mr. LANTOS, Mr. BOOZMAN, Mr. BRADLEY of New Hampshire, Mr. McCOTTER, Mr. ENGEL, Mr. McGOVERN, Mr. RYAN of Wisconsin, Mrs. JO ANN DAVIS of Virginia, Mr. GRIJALVA, Ms. BALDWIN, Mr. LoBIONDO, and Mr. WOLF.

H.R. 1133: Mr. BURTON of Indiana, Mr. HASTINGS of Florida, Mr. CROWLEY, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. McNULTY.

H.R. 1142: Mr. McCOTTER.

H.R. 1175: Mr. BARROW.

H.R. 1222: Ms. BALDWIN, Mr. TOWNS, and Mr. BARROW.

H.R. 1223: Mr. McCOTTER.

H.R. 1227: Mr. FRANK of Massachusetts, Mr. ACKERMAN, Ms. BALDWIN, Mr. SCHIFF, Mr. WAXMAN, and Mr. UDALL of Colorado.

H.R. 1245: Mr. LARSEN of Washington.

H.R. 1246: Mr. LARSON of Connecticut, Mr. GONZALEZ, Mr. KIRK, Mr. LAHOOD, and Mr. GUTIERREZ.

H.R. 1252: Mr. KIRK and Mr. HINOJOSA.

H.R. 1288: Mr. BACA, Mr. UPTON, Mr. PENCE, Ms. HARRIS, and Mr. SIMPSON.

H.R. 1290: Mr. SMITH of New Jersey.

H.R. 1312: Mr. ACKERMAN, Mr. GEORGE MILLER of California, and Ms. ROYBAL-ALLARD.

H.R. 1345: Mr. RYAN of Wisconsin, Mr. PITTS, Mr. ABERCROMBIE, and Mr. HINOJOSA.

H.R. 1352: Mr. MEEK of Florida, Ms. ROYBAL-ALLARD, Mr. BARROW, Mr. NADLER, Mr. THOMPSON of Mississippi, Ms. McKINNEY, Ms. McCOLLUM of Minnesota, Mr. MORAN of Virginia, Ms. LEE, Mr. MARKEY, Ms. BEAN, Mr. HIGGINS, Mr. DOGGETT, and Mr. PRICE of North Carolina.

H.R. 1355: Mr. AL GREEN of Texas and Mr. BOREN.

H.R. 1409: Mr. DOGGETT.

H.R. 1415: Mr. CASE and Mrs. MALONEY.

H.R. 1424: Mr. PLATTS, Mr. GORDON, and Mr. BACHUS.

H.R. 1443: Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mrs. LOWEY, Mr. MOORE of Kansas, and Mr. BRADY of Pennsylvania.

H.R. 1447: Mr. OLVER and Mr. WEXLER.

H.R. 1469: Mr. REHBERG.

H.R. 1474: Mr. UDALL of Colorado.

H.R. 1482: Mr. LIPINSKI.

H.R. 1498: Mr. BROWN of South Carolina and Mr. BARRETT of South Carolina.

H.R. 1499: Mr. FITZPATRICK of Pennsylvania, Mr. HAYES, and Mrs. CAPITO.

H.R. 1505: Mr. BOREN.

H.R. 1538: Mr. ENGEL.

H.R. 1561: Ms. BEAN.

H.R. 1582: Mr. KILDEE, Mr. LATHAM, and Mr. TIERNEY.

H.R. 1595: Mr. OWENS, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. GONZALEZ, and Mr. McDERMOTT.

H.R. 1615: Mr. CASE.

H.R. 1634: Mr. MOORE of Kansas, Mr. COX, Ms. ZOE LOFGREN of California, Mr. DOYLE, Mr. SESSIONS, and Mr. YOUNG of Alaska.

H.R. 1636: Ms. ZOE LOFGREN of California.

H.R. 1651: Mr. BAKER, Mr. SKELTON, Mr. TERRY, Mr. CLAY, Mrs. EMERSON, Mr. DEAL of Georgia, Mr. RYUN of Kansas, Mr. MORAN of Kansas, Mr. HULSHOF, Mr. GRAVES, Mr. BONNER, and Mr. BUTTERFIELD.

H.R. 1652: Mr. WAXMAN.

H.R. 1696: Mr. MEEHAN.

H.R. 1697: Ms. LEE, Ms. JACKSON-LEE of Texas, Ms. LINDA T. SÁNCHEZ of California, Ms. MILLENDER-McDONALD, Mr. BUTTERFIELD, Mr. OWENS, Mr. WAXMAN, Ms. WOOLSEY, Mr. PAYNE, and Mr. BOSWELL.

H.R. 1708: Mr. McINTYRE, Mrs. DAVIS of California, and Mr. WHITFIELD.

H.R. 1712: Mr. CASE, Mr. GRIJALVA, Mr. TOWNS, and Mr. OWENS.

H.R. 1719: Ms. DeGETTE.

H.R. 1729: Mr. CONWAY.

H.R. 1736: Mr. PITTS and Mr. FORBES.

H.R. 1749: Mr. HEFLEY, Mr. GINGREY, Mr. CALVERT, Mr. LINDER, and Mr. JENKINS.

H.R. 1772: Mr. MILLER of Florida and Mr. SESSIONS.

H.R. 1816: Mr. RYUN of Kansas and Mr. HAYWORTH.

H.R. 1835: Ms. HOOLEY and Mrs. JONES of Ohio.

H.R. 1871: Mr. WOLF, Mr. COX, and Mr. CALVERT.

H.R. 1898: Mrs. WILSON of New Mexico, Mrs. CUBIN, and Mr. LAHOOD.

H.R. 1950: Mrs. JOHNSON of Connecticut and Mr. PLATTS.

H.R. 1951: Mr. ISSA.

H.R. 1957: Mr. CANTOR.

H.R. 1973: Mr. McDERMOTT.

H.R. 2000: Mr. COSTELLO.

H.R. 2011: Mr. WAXMAN, Mr. CASE, Mr. FARR, and Mr. LANTOS.

H.R. 2014: Mr. CONAWAY and Mr. THOMPSON of Mississippi.

H.R. 2018: Mr. MICHAUD and Mr. SHIMKUS.

H.R. 2034: Mr. LEWIS of Kentucky, Mr. REHBERG, Mr. McCAUL of Texas, Mr. BOUSTANY, Mr. OTTER, Miss McMORRIS, Mr. SIMMONS, and Mr. SALAZAR.

H.R. 2046: Mr. WOLF and Ms. BERKLEY.

H.R. 2060: Mr. NADLER, Mr. EDWARDS, Mr. FATTAH, Mr. PAYNE, Ms. DeGETTE, Mr. CASE, Mr. SMITH of Washington, Ms. SLAUGHTER, Mr. McGOVERN, Mr. RUSH, Mr. WU, Mr. DeFAZIO, Mr. HASTINGS of Florida, Mr. HONDA, Mrs. DAVIS of California, Mr. TIERNEY, Mr. KUCINICH, Ms. PELOSI, Mr. PALLONE, Ms. ROYBAL-ALLARD, Mr. DAVIS of Illinois, Mr. CLYBURN, Mr. WYNN, Ms. KILPATRICK of Michigan, Mr. JEFFERSON, Mr. FARR, Ms. WOOLSEY, Ms. WATSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WEXLER, Mr. ANDREWS, Mr. BLUMENAUER, and Mr. MICA.

H.R. 2097: Mr. YOUNG of Alaska, Mr. WYNN, and Mr. OWENS.

H.R. 2098: Mrs. McCARTHY, Mr. McNULTY, Mr. DICKS, and Mr. OWENS.

H.R. 2123: Mr. TERRY, Mr. OSBORNE, Mr. TIBERI, Mr. KUHL of New York, and Ms. FOXX.

H.R. 2131: Mr. SHAW.

H.R. 2134: Mr. SHERMAN.

H.R. 2216: Mr. WOLF.

H.R. 2229: Mr. AKIN and Mr. RENZI.

H.R. 2231: Mr. BASS, Mrs. CAPPS, Mr. VAN HOLLEN, Mrs. McCARTHY, Mr. WOLF, Ms. ESHOO, Ms. HARMAN, Mr. BERMAN, Mr. WYNN, Mr. McNULTY, Mr. TERRY, Mr. KILDEE, Mr. DICKS, and Mr. OWENS.

H.R. 2238: Mr. ACKERMAN, Ms. BALDWIN, Ms. BERKLEY, Mr. BOSWELL, Mr. CONYERS, Mr. COOPER, Ms. DeLAURO, Mr. EMANUEL, Mr. GONZALEZ, Mr. GORDON, Mr. GENE GREEN of Texas, Mr. HINCHEY, Mr. ISRAEL, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mrs. JONES of Ohio, Ms. McCOLLUM of Minnesota, Mr. PASTOR, Mr. RAHALL, Ms. LINDA T.

SÁNCHEZ of California, Mr. SERRANO, Mr. SIMMONS, Ms. SLAUGHTER, Mr. STUPAK, Mr. VAN HOLLEN, Mr. WATT, Mr. WEXLER, Ms. WOOLSEY, Mr. WU, Ms. WATSON, Mr. SMITH of New Jersey, Mrs. CAPPS, Mr. ROSS, and Mr. DAVIS of Florida.

H.R. 2248: Mr. KILDEE.

H.R. 2259: Mr. ISRAEL.

H.R. 2317: Mr. RYAN of Ohio, Mr. STUPAK, Mr. KILDEE, Mr. HINCHEY, Mr. MICHAUD, Ms. HARMAN, and Mr. OTTER.

H.R. 2326: Mr. HAYES and Mr. ETHERIDGE.

H.R. 2327: Ms. PELOSI, Ms. BERKLEY, Mr. GORDON, Mr. WAXMAN, Mr. HASTINGS of Florida, Mr. CLAY, Mr. HINCHEY, Mr. HOLDEN, Mr. UDALL of Colorado, Mr. HIGGINS, Ms. ESHOO, Mrs. TAUSCHER, Mr. LYNCH, Mr. DEFAZIO, and Mr. CAPUANO.

H.R. 2330: Ms. ROS-LEHTINEN and Ms. PELOSI.

H.R. 2337: Mr. REHBERG.

H.R. 2344: Mr. STRICKLAND.

H.R. 2346: Mr. MCCRERY.

H.R. 2354: Mr. PAUL, Ms. GINNY BROWN-WAITE of Florida, and Mr. ABERCROMBIE.

H.R. 2355: Mr. TANCREDO.

H.R. 2357: Mr. SENSENBRENNER and Mr. MARCHANT.

H.R. 2391: Mr. MICHAUD and Ms. BORDALLO.

H.R. 2423: Ms. JACKSON-LEE of Texas and Ms. PRYCE of Ohio.

H.R. 2427: Mr. UDALL of New Mexico, Mr. MICHAUD, Mr. ALLEN, Mr. SCOTT of Georgia, Mr. BRADLEY of New Hampshire, Mr. CARDOZA, Mr. CROWLEY, Mr. HOLT, Mr. CLEAVER, and Mr. PAUL.

H.R. 2429: Mr. CROWLEY and Mrs. MCCARTHY.

H.R. 2458: Ms. FOXX.

H.J. Res. 10: Mr. ROGERS of Alabama.

H.J. Res. 37: Mr. CLYBURN, Mr. FORD, Mr. CLEAVER, Mr. CUELLAR, Mr. REYES, Ms. MATSUI, Ms. HOOLEY, Mrs. BIGGERT, Mr. KANJORSKI, Mr. SPRATT, and Mr. BISHOP of New York.

H.J. Res. 39: Mr. LEWIS of Kentucky and Mr. RADANOVICH.

H. Con. Res. 40: Mr. GORDON.

H. Con. Res. 89: Ms. WATSON and Mr. SHERMAN.

H. Con. Res. 137: Mr. MENENDEZ.

H. Con. Res. 149: Mr. MARSHALL, Ms. HARMAN, and Mr. MURPHY.

H. Con. Res. 156: Mr. NEY, Mr. MCHENRY, Mr. PITTS, Mr. DOOLITTLE, Mr. FEENEY, Mr. GOODE, Mr. HENSARLING, Mr. SODREL, Mr. GINGREY, Mr. KING of Iowa, Mr. BURTON of Indiana, Mr. PEARCE, Mr. BONILLA, Mr. DELAY, Mr. SMITH of Texas, Mr. GOHMERT, Mr. CONAWAY, Mr. SAM JOHNSON of Texas, Mr. SESSIONS, Mr. MARCHANT, Mr. CULBERSON, Mr. MCCAUL of Texas, and Mr. CARTER.

H. Res. 30: Mr. BROWN of Ohio, Mr. DAVIS of Illinois, Mr. CONYERS, and Mr. NEAL of Massachusetts.

H. Res. 121: Mr. FEENEY, Mr. KING of Iowa, Mr. HENSARLING, Mr. PENCE, Mr. GINGREY, Mr. RYAN of Wisconsin, and Mr. CHOCOLA.

H. Res. 158: Mr. HINCHEY.

H. Res. 166: Mr. PASTOR and Mrs. MCCARTHY.

H. Res. 196: Mr. AL GREEN of Texas and Mr. MENENDEZ.

H. Res. 243: Mr. FITZPATRICK of Pennsylvania.

H. Res. 252: Mr. CONAWAY and Mr. GOODE.

H. Res. 261: Mr. FRANK of Massachusetts, Mr. ENGLISH of Pennsylvania, and Mr. AL GREEN of Texas.

H.R. 272: Mr. LEACH, Ms. WATSON, Ms. HARMAN, Mr. FITZPATRICK of Pennsylvania, Mr. WEXLER, Mr. SHERMAN, Mr. SCHIFF, Mr. MILLER of North Carolina, Mr. MCGOVERN, and Mr. OWENS.

H.R. 273: Mr. KING of New York, Mr. HASTINGS of Florida, and Mr. WALSH.

H.R. 280: Mr. ISSA, Mr. CHABOT, Mr. CALVERT, Mr. SESSIONS, Mr. WAXMAN, Mr. AL GREEN of Texas, Mr. BURTON of Indiana, Mr. BLUNT, Mrs. KELLY, Mr. WAMP, Mr. SERRANO, Mr. RYAN of Ohio, Mr. COBLE, Mr. TIBERI, Mr. YOUNG of Alaska, Mr. FRELINGHUYSEN, Mr. REGULA, Mr. SMITH of New Jersey, Mr. PRICE of Georgia, Mr. FERGUSON, Mr. WALSH, Mr. GALLEGLY, Mr. SULLIVAN, Mr. DOOLITTLE, Mr. ROYCE, Mr. KIRK, Mr. BONNER, Mr. WALDEN of Oregon, Mr. WELLER, Mr. FOLEY, Mr. GILCHREST, Mr. GERLACH, Mr. SIMPSON, Mr. TERRY, Mr. SHAYS, Mr. SIMMONS, Mrs. MCCARTHY, Mr. MCNULTY, Mr. HASTINGS of Florida, Ms. ZOE LOFGREN of California and Mr. HONDA.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 415: Mr. MCGOVERN.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 1, May 18, 2005, by Ms. HOOLEY, on House Resolution 267, was signed by the following Members: Darlene Hooley, Steve Israel, Bennie G. Thompson, Rosa L. DeLauro, Louise McIntosh Slaughter, Artur Davis, Eddie Bernice Johnson, Dennis A. Cardoza, Corrine Brown, Dennis Moore, Tom Udall, Stephen F. Lynch, Allyson Y. Schwartz, Dale E. Kildee, Michael R. McNulty, Martin T. Meehan, Hilda L. Solis, Barbara Lee, G. K. Butterfield, Emanuel Cleaver, Ruben Hinojosa, Doris O. Matsui, Adam B. Schiff, Loretta Sanchez, Debbie Wasserman Schultz, Chris Van Hollen, Brian Higgins, Timothy H. Bishop, Mike Ross, Shelley Berkley, Russ Carnahan, Lynn C. Woolsey, Michael M. Honda, John Barrow, John F. Tierney, Major R. Owens, Gwen Moore, Julia Carson, Nydia M. Velazquez, Stephanie Herseth, Henry Cuellar, Joe Baca, Daniel Lipinski, Carolyn McCarthy, Jose E. Serrano, Sanford D. Bishop, Jr., Solomon P. Ortiz, John W. Olver, Robert A. Brady, Steny H. Hoyer, Gene Green, Sheila Jackson-Lee, James P. McGovern, Kendrick B. Meek, Peter A. DeFazio, Wm. Lacy Clay, Diana DeGette, Lloyd Doggett, Grace F. Napolitano, Benjamin L. Cardin, Carolyn B. Maloney, David R. Obey, Joseph Crowley, Alcee L. Hastings, Diane E. Watson, Ron Kind, Charles A. Gonzalez, Dan Boren, Jim Cooper, Michael H. Michaud, Betty McCollum, Danny K. Davis, Rick Larsen, Lucille Roybal-Allard, Barney Frank, Ellen O. Tauscher, Ted Strickland, Lois Capps, Donald M. Payne, Earl Blumenauer, Thomas H. Allen, Marcy Kaptur, Susan A. Davis, Ben Chandler, Tim Ryan, Sander M. Levin, James P. Moran, Robert C. Scott, Tammy Baldwin, Bernard Sanders, Adam Smith, Nancy Pelosi, Mark Udall, Michael F. Doyle, John Conyers, Jr., Ed Case, Carolyn C. Kilpatrick, Albert Russell Wynn, Henry A. Waxman, James R. Langevin, Gary L. Ackerman, Raul M. Grijalva, Tom Lantos, James E. Clyburn, Robert Wexler, Linda T. Sanchez, David Wu, Vic Snyder, James L. Oberstar, Brian Baird, Xavier Becerra, Sherrod Brown, Patrick J. Kennedy, Nick J. Rahall II, Jerrold Nadler, Anna G. Eshoo, Bart Gordon, Maurice D. Hinchey, Leonard L. Boswell, David E. Price, Fortney Pete Stark, Lane Evans, Michael E. Capuano, Bart Stupak, Bob Filner, John D. Dingell, Allen Boyd, Anthony D. Weiner, John T. Salazar, William D. Delahunt, Janice D. Schakowsky, Jim Costa, Tim Holden, George Miller, Howard L. Berman, Charles B. Rangel, Jim Davis, L. A. Dutch Ruppersberger, Rahm Emanuel, Sam Farr, Dennis J. Kucinich, Jim McDermott, Neil Abercrombie, Nita A. Lowey, Paul E. Kanjorski, Al Green, Silvestre Reyes, Eward J. Markey, Ed Pastor, Jim Marshall, Elijah E. Cummings, Robert E. (Bud) Cramer, Jr., and Chaka Fattah.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Member's name was withdrawn from the following discharge petition:

Petition 1 by Ms. HOOLEY on House Resolution 267: Mark Udall.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2361

OFFERED BY: MR. DOOLITTLE

AMENDMENT NO. 20: At the end of the bill (before the short title), add the following new section:

SEC. 4___. None of the funds made available in this Act for the Department of the Interior may be used to implement the first proviso under the heading "UNITED STATES FISH AND WILDLIFE SERVICE—LAND ACQUISITION".

SENATE—*Thursday, May 19, 2005*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and glory, open our eyes to the power You provide for all of our challenges. Give us a glimpse of Your ability to do what seems impossible, to exceed what we can request or imagine. Encourage us again with Your promise to never forsake us and to render ineffectual the weapons we face.

Strengthen the Members of this body in their efforts to do good, knowing that in due season You will bring a bountiful harvest. Sustain them during today's challenging labors. Give them more than human wisdom to solve the problems of these momentous times. Provide them with the insight to know what is right and the courage to do it.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Resumed

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for the consideration of calendar No. 71, which the clerk will report.

The legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will resume executive session to consider Priscilla Owen to be a U.S. circuit court judge for the Fifth Circuit. We will continue the debate, as we did yesterday, by rotating back and forth between the aisle every 60 minutes. I think this orderly flow of debate will be helpful in terms of scheduling Members' speaking times. It worked well yesterday, and I would expect it to be orderly today as well. I know there is a large number of Senators who have indicated their desire to speak, and we will remain on the nomination to give everyone a chance to fully voice their concerns and their discussion on this very qualified nominee.

I am hopeful that at some point we will be able to schedule a vote on the nomination, and I will update Members later today on the upcoming schedule as it relates to the nomination of Priscilla Owen.

Mr. President, I will have a brief statement—the Democratic leader and I were just discussing our plans—and then he will have a statement, and then at that juncture I believe we will proceed as we set out the time schedule yesterday, alternating back and forth.

Mr. President, we did, yesterday, have a vibrant and spirited debate on the Senate floor. We have been debating a very simple principle—one based on fairness and one grounded in the Constitution. The principle is that judicial nominees, with the support of a majority of Senators, deserve a fair up-or-down vote on the floor of the Senate.

Yesterday, 21 Senators—evenly divided, I believe 11 Republicans and 10 Democrats—debated for over 10 hours on the nomination of Priscilla Owen. We will continue that debate—10 hours yesterday—maybe 20 hours, maybe 30 hours, and we will take as long as it takes for Senators to express their views on this qualified nominee.

But at some point that debate should end and there should be a vote. It makes sense: up or down, "yes" or "no," confirm or reject; and then we move on in regular order.

Senators can vote to confirm or reject a nominee. But we should fulfill our constitutional responsibility to give advice and consent by voting up or down.

The nominee before us is Priscilla Owen, a Texas Supreme Court justice nominated to serve on the Fifth Circuit Court of Appeals. I have studied her record. I have had the opportunity to meet with her personally. I believe she would serve our Nation well as a circuit court judge.

Her academic and professional qualifications are outstanding. She graduated near the top of her class in law school, and she once achieved the highest score in the State of Texas on the bar exam. The American Bar Association unanimously rated her "well qualified," its highest possible rating.

Her opponents suggest she is a judicial activist who is out of the mainstream. Her record simply shows that is not true. She was reelected by 84 percent of Texans. Are 84 percent of Texans really out of the mainstream? She is supported by Republicans and Democrats on the Texas Supreme Court. She has been endorsed by every major newspaper in her home State.

That is a mainstream record.

In her judicial decisions, some on the floor over the last day, and actually last week as well, have criticized her as a judicial activist in cases, and the focus has always been on these cases involving a parental notification law. The law is not about whether a minor is able to have an abortion or whether a minor must receive parental consent before having an abortion. The law simply requires a parent to be notified if their child is having an abortion, except in certain circumstances.

The author of the law, and 26 other members of the Texas legislature, have defended Justice Owen's opinions, and it is spelled out clearly in a letter of May 16, 2005, that is signed by the author of the legislation itself and 26 other members of the Texas legislature.

The letter is interesting. It is a letter dated May 16, and it is a letter that was sent to Senator SPECTER, of the Judiciary Committee, and Senator LEAHY. The letter is indeed quite powerful. I would like to read just a couple sections from the letter.

Mr. President, I ask unanimous consent that following my remarks the entire letter be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. FRIST. The letter reads pretty clearly: "Dear Chairman SPECTER"—and there was a copy sent to Senator LEAHY. This is from the author of the legislation of which these accusations of judicial activism have been floating around on the floor. These are the authors, the people who wrote—who wrote—the legislation. I quote from the letter:

> I, along with my colleagues in the Texas Senate and Texas House of Representatives, am writing to express my full and unconditional support for Justice Priscilla Owen's nomination to the U.S. Court of Appeals for the Fifth Circuit. As the author of the Texas Parental Notification Act, I followed closely the Texas State Supreme Court rulings regarding that statute. As such, we are disturbed by the recent attacks on Justice

Owen's review of the Texas Parental Notification Act. Justice Owen's opponents have characterized her as an activist member of the bench, and nothing could be further from the truth.

The letter continues:

> To the contrary, her opinions interpreting the Texas Parental Notification Act serve as prime examples of her judicial restraint.

Mr. President, I will have my colleagues read the remainder of the letter. It goes on and gives examples in explaining that statement. And then, down in the following paragraph, I quote:

> Throughout the series of cases, Justice Owen's interpretation of legislative intent were based on careful reading of the new statute and the governing U.S. Supreme Court precedent.

This is the final sentence of the letter:

> In short, Justice Owen's academic and professional qualifications are beyond question. We strongly urge Senators to vote positively on her nomination.

Again, it is signed by the author, Florence Shapiro, and, again, 26 others from the house of representatives and senate in Texas.

In addition, a pro-choice Democratic law professor also has defended Justice Owen. This professor, Linda Eads, is a member of the Texas Supreme Court Advisory Committee that drafted rules to help judges deciding cases under this law, the parental notification law. She says Justice Owen's decisions "do not demonstrate judicial activism. She did what good appellate judges do every day . . . if this is activism, then any judicial interpretation of a statute's terms is judicial activism."

If you look fairly at Justice Owen's record, you will see a well-qualified, mainstream judge.

But I will say, as we step back and look at the larger debate, some Senators may draw different conclusions about Justice Owen, and they may decide she does not deserve confirmation. Indeed, they may decide that none of the President's nominees deserve confirmation. And they, as Senators, are entitled to that choice. But they should express that choice, give that advice and consent by a vote, an up-or-down vote, "yes" or "no," confirm or reject. They should not hide behind a procedure that prevents 100 Senators from their responsibility, their duty to vote "yes" or "no" on the nominee, up or down.

As everyone knows, I have advocated fair up-or-down votes for judicial nominees again and again and again and will continue to do so. In the past, some of our colleagues on the other side of the aisle have shared this view. Many of them have argued forcefully and eloquently for up-or-down votes on judicial nominees. Let me share some of their arguments with you.

One Senator on the other side of the aisle, in opposition to giving up-or-down votes today, said:

> [E]veryone who is nominated ought to have a hearing and to have a shot to be heard on the floor and have a vote on the floor.

Another Democratic Senator said:

> A nominee is entitled to a vote. Vote them up; vote them down. . . . If there are things in their background, in their abilities that don't pass muster, vote no. Our institutional integrity requires an up-or-down vote.

Another Democratic Senator noted that:

> According to the U.S. Constitution, the President nominates, and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

These are all arguments from my Democratic colleagues in years past. These quotes capture what this debate today is all about. It is about fairness. It is about principle. It is about the constitutional duty of every Senator. The Senate must do what is right. We must do what is fair. We must do the job the American people elected us to do.

So let us continue to debate. Let Senators exercise their right to speak. We may not agree. We will not agree on every judicial nominee, but we can agree on the principle that every qualified judicial nominee deserves an up-or-down vote.

I yield the floor.

EXHIBIT 1

TEXAS STATE SENATE, DISTRICT 8,
Plano, Texas, May 16, 2005.

Hon. Chairman ARLEN SPECTER,
Committee on the Judiciary, U.S. Senate, Russell Senate Office Bldg., Washington, DC.

DEAR CHAIRMAN SPECTER: I, along with my colleagues in the Texas Senate and Texas House of Representatives, am writing to express my full and unconditional support for Justice Priscilla Owen's nomination to the U.S. Court of Appeals for the Fifth Circuit. As the author of the Texas Parental Notification Act (SB 30/HB 623), I followed closely the Texas State Supreme Court rulings regarding that statute. As such, we are disturbed by the recent attacks on Justice Owen's review of the Texas Parental Notification Act. Justice Owen's opponents have characterized her as an activist member of the bench, and nothing could be further from the truth.

To the contrary, her opinions interpreting the Texas Parental Notification Act serve as prime examples of her judicial restraint. Although some might try to hold up the Texas Parental Notification Act as a litmus test on abortion, they simply cannot make the case. The Act is not about whether a minor is able to have an abortion or must receive parental consent, but whether a parent should be notified. The Act recognizes that a girl may have an abortion and does not question whether the Constitution guarantees that right.

Throughout the series of cases, Justice Owen's interpretations of legislative intent were based on careful reading of the new statute and the governing U.S. Supreme Court precedent. For example, Justice Owen's opinion that a minor should "indicate to the court that she is aware of and has considered that there are philosophic, social, moral, and religious arguments that can be brought to bear when considering abortion." This opinion is consistent with prior U.S. Supreme Court precedent stating: "The waiting period, for example, may provide the parent or parents of a pregnant young woman the opportunity to consult with her in private, and to discuss the consequences of her decision in the context of the values and moral or religious principles of their family" (Planned Parenthood v. Casey).

In short, Justice Owen's academic and professional qualifications are beyond question. We strongly urge Senators to vote positively on her nomination.

Very truly yours,

Sen. FLORENCE SHAPIRO,
President Pro Tempore.

Sen. Chris Harris; Sen. Jane Nelson; Rep. Brian McCall; Rep. Harvey Hilderbran; Rep. Suzanna Gratia Hupp; Rep. Betty Brown; Rep. Robert E. Talton; Rep. Kent Grusendorf; Rep. Gary Elkins; Rep. Edmund Kuempel; Rep. Joe Crabb; Rep. Leo Berman; Rep. Mike Krusee; Rep. Dianne White Delisi; Rep. Joe L. Driver; Rep. Frank J. Corte, Jr.; Rep. Fred Brown; Rep. Peggy Hamric; Rep. Joe Nixon; Rep. Mary Denny; Rep. Elvira Reyna; Rep. Geanie Morrison; Rep. Eugene Seaman; Rep. Anna Mowery; Rep. Richard L. Hardcastle; and Rep. Ray Allen.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. It is my understanding that we go to the debate on Judge Owen at what time?

The PRESIDENT pro tempore. We are on debate now.

Mr. REID. I ask unanimous consent that the time of the two leaders not take away from the debate that will begin at 9:45. What I am saying is, whatever time we use, the debate should start immediately after our time, the incremental time.

The PRESIDENT pro tempore. The leader time is reserved. The Senator is entitled to take it. The controlled time does not begin until 10 a.m.

Mr. REID. I realize that. I would like to reserve my time and use this time to speak on the matter now before the Senate.

The PRESIDENT pro tempore. The time between now and 10 a.m. is not controlled.

Mr. REID. Just so I understand, it was my understanding the debate on Priscilla Owen was supposed to start at quarter to 10.

The PRESIDENT pro tempore. It is to start at 10 o'clock.

Mr. REID. I misunderstood. I apologize, Mr. President.

(Mr. VITTER assumed the Chair.)

Mr. REID. Mr. President, I have addressed the Senate on several occasions to do what I believe is setting the record straight about Senate history and the rules of this body. But, frankly, I would much rather address wage and health care costs, bringing down gas prices, talk about education, spiraling deficits we have. But the majority leader has decided we will spend this week and next week, or at least part of next week, talking about judges who I believe, Mr. President, are not in the mainstream of American jurisprudence.

I am happy to engage in this debate. I would rather not. But I do want the debate to be accurate. For example, my good friend, the distinguished Republican leader, issued a statement last Friday in which he called the filibuster a "procedural gimmick." I took time yesterday to correct that assertion, setting forth in the RECORD what the word "gimmick" means. The dictionary defines it as a scheme, a new scheme. I indicated that certainly the filibuster was everything but that. It is not a gimmick. It has been part of the Nation's history for two centuries. It is one of the vital checks and balances established by our visionary Founding Fathers. It is not a gimmick.

Also, some Republicans have stated improperly the use of the filibuster. They have said time and time again that the defeat of a handful of President Bush's judicial nominees is unprecedented. In fact, hundreds of judicial nominees in American history have been rejected by the Senate, many by filibuster.

There was, of course, the most notable, the nomination of Abe Fortas, to be Chief Justice of the United States. He was successfully filibustered in 1968. Here, Mr. President, is a Washington Post which I read in the morning when I come in. It is from many years ago. The first sentence:

> A full-dress Republican-led filibuster broke out in the Senate yesterday against a motion to call up the nomination of Justice Abe Fortas for Chief Justice of the United States.

"A full-dress Republican-led filibuster." We have had filibusters. That is what has been disappointing to me with some of my colleagues in saying there has not been a filibuster. There has been. During the Clinton administration, more than 60 judicial nominees were bottled up in the Judiciary Committee and never received floor votes. Of course, as indicated by my distinguished friend, the Republican leader, during that period of time Democrats were complaining about what was going on, saying there should have been hearings in the Senate, and even came to the floor—and these were accurate quotes of the majority leader—saying: Let's have some votes, let's have some votes on these people.

Well, Mr. President, we never said we would break the rules to change the rules. To change the rules in the Senate can't be done by a simple majority. It can only be done if there is extended debate by 67 votes. So I do not at all say that the statements made by the Republican leader were wrong about our wanting votes and we were disturbed that there are no votes, but we never, ever suggested that rules should be broken.

But in addition to the pocket filibusters—call them whatever you want—the 60. I think 69 nominations never made it out of the Russell Building, out of the Judiciary Committee, but in addition to those performances, Republicans engaged in explicit filibusters on the floor against a number of Clinton judges when they did get out of committee, and they defeated a number of President Clinton's executive branch nominees by filibuster.

It is the same advice and consent clause. Why, if a filibuster of Surgeon General Henry Foster was constitutional, is a Democratic filibuster of Fifth Circuit Court nominee Priscilla Owen unconstitutional? If Foster is constitutional, why wouldn't the same apply to Priscilla Owen? The Republican argument doesn't add up.

But I would say this to my friend, the Presiding Officer. I have said let's not dwell on what went on in the Clinton administration. Let's not dwell on what went on in the 4 years of President Bush's administration. I am sure there is plenty of blame to go around. As we look back, I am not sure—and it is difficult to say this, but I say it—I am not sure either was handled properly. I have known it wasn't right to simply bury 69 nominations, and in hindsight maybe we could have done these 10 a little differently. But the American people are tired of what we are doing, tired of the constant fighting going on. What is going to take place if this continues?

We will have a vote sometime next week. It will be a close vote, of course. We only need six Republicans. The Presiding Officer was formerly chairman of the powerful Appropriations Committee. It is very difficult at best to get appropriations bills passed. Most everything around here is done by unanimous consent. Things won't work as well as they could have. We need to avoid this. We are all legislators.

But, sadly, now the President of the United States has joined the fray and become the latest to rewrite the Constitution and reinvent reality. Speaking to fellow Republicans on Tuesday night, 2 days ago, he said the Senate "has a duty to promptly consider each . . . nominee on the Senate floor, discuss and debate their qualifications and then give them the up-or-down vote they deserve." Every one of the 10 he speaks of had votes, every one of them. Right here on the Senate floor, people walked down to these tables and their name was called and they voted.

Referring to the President's words, duty to whom? The radical right who see within their reach the destruction of America's mainstream values. Certainly not duty to the tenets of our Constitution or to the American people who are waiting for progress and promise, not partisanship and petty debates.

The duties of the Senate are set forth in the U.S. Constitution. Nowhere in that document does it say the Senate has a duty to give Presidential appointees a vote. It says appointments shall be made with the advice and consent of the Senate. That is very different than saying every nominee receives a vote. I repeat, all of these about which we are concerned, including Priscilla Owen, have had a vote, right here. The fact was even acknowledged by the majority leader that a vote is not required. Senator BYRD asked the majority leader—Senator BYRD was here, the majority leader was here—last week, he asked the majority leader if the Constitution accorded each nominee an up-or-down vote on the Senate floor. The answer was no. Senator FRIST was candid. The answer was no. The language was not there, Senator FRIST said. He is correct. Senators should read the same copy of the Constitution Senator FRIST had memorized.

It is clear that the President misunderstands the meaning of the advice and consent clause. The word "advice" means advice. President Clinton consulted extensively with then Judiciary Chairman HATCH, and as a result of that we debated Ginsburg and Stephen Breyer to the Supreme Court, both fine minds, fine justices. In contrast, this President never sought or heeded advice of the Senate. Now he demands our consent.

That is not how America works. The Senate is not a rubber stamp for the executive branch. Rather, we are the one institution where the minority has the voice and ability to check the power of the majority. Today, in the face of President Bush's power grab, it is more important than ever. Republicans want one-party rule. The Senate is the last place where the President and Republicans can't have it all. Now the President wants to destroy our checks and balances to assure that he does get it all.

That check on his power is the right to extended debate. Every Senator can stand on behalf of the people who have sent them here and say their piece. In the Senate's 200-plus years of history, this has been done hundreds and hundreds of times—stand up to popular Presidents, to unpopular Presidents, arrogant with power, to block legislation harmful to American workers in the eyes of the Senator, and, yes, even to reject Presidential nominations, even judicial nominations.

Who are the nominees now before this Senate?

Priscilla Owen is a Texas Supreme Court justice nominated to the Fifth Circuit. She sides with big business and corporate interests against workers and consumers in case after case regardless of what the law is. Her colleagues on the conservative Texas court have written that she legislates from the bench. Her own colleagues have called her opinions "nothing more than inflammatory rhetoric," her interpretation of the law to be "misconceptions," and those are quotes, and even rebuked her for second-guessing the legislature on vital pieces of legislation. If she wanted to legislate, she should run for Congress. If she wants to interpret and uphold the law, she should be a judge. She cannot do both. And I might note that the Attorney General of the United States has called her activism unconscionable.

I read to the Senate yesterday what that word means. Unconscionable. It, Mr. President, means that her acts are out of the mainstream for sure. Let me flip open my dictionary here. "Unconscionable." "Shockingly unjust" and "unscrupulous." That is what the Attorney General of the United States said about Priscilla Owen. I repeat: "shockingly unjust, unscrupulous." He served with her on the supreme court. He should know.

In case after case, her record marks her as a judge willing to make law from the bench rather than follow the language of the legislature judicial precedent. She has demonstrated this tendency most clearly in a series of dissents involving a Texas law providing for a judicial bypass of parental notification requirements for minors seeking abortion. She sought to erect barriers that did not exist in law such as requiring religious counseling for minors. Good idea, perhaps, but not something that you do from the bench. It should be done by the legislature.

Janice Rogers Brown, a supreme court justice from California, nominated to the DC Circuit, is using her seat on the bench to wage an ideological war against America's social safety net. She wants to take America back to the 19th century and undo the New Deal which includes Social Security and vital protections for working Americans like the minimum wage. Every Senator in this body should tell the more than 10 million working Americans already living in poverty on the minimum wage why someone who wants to make their life harder and destroy their hopes and dreams should be elevated for a lifetime to one of most powerful courts in the country. She has been nominated to a court that overseas the actions of Federal agencies responsible for worker protections, environmental laws and civil rights and consumer protection. She has made no secret of her disdain for Government. According to Justice Brown, Government destroys families, takes property, is the cause of a "debased, debauched culture," and threatens civilization. That is her statement.

Mr. SCHUMER. Would my colleague yield for a question?

Mr. REID. I would be happy to yield for a question.

Mr. SCHUMER. I thank my colleague. I think my colleague was in the Chamber yesterday when Senator FRIST first rose to speak and talked about the 214 years of tradition of not doing filibusters of judges. I asked him about his vote on March 8, 2000, 5:51 p.m. He voted to filibuster Judge Paez. In fact, it was clearly a filibuster. The statement of the leader of that filibuster, who was Senator Smith, our former colleague from New Hampshire, is obvious. The Senator "led a filibuster yesterday on the nomination of Richard Paez." You may remember that Senator FRIST said he would return to the floor yesterday and answer how he could distinguish between saying there is a grand tradition in the Senate of no filibuster, but he participated in one. Just 5 years ago. My colleague was on the floor—I was not—earlier this morning. I had hoped to get here when Senator FRIST spoke. I would just ask my colleague, did he hear any answer to that question which Senator FRIST has promised?

Mr. REID. I say through the Chair to my friend, I was present and participated in attempting to break the filibuster of Paez. I know how the distinguished Republican leader voted. I was here this morning, and I heard no answer to the question asked by the Senator from New York.

Mr. SCHUMER. So it would be fair to say that he has still not answered the question, even though he said yesterday that he would come back and answer it.

Mr. REID. He has not done that publicly. That is correct.

Mr. SCHUMER. I thank my colleague for yielding for a question.

Mr. REID. Justice Brown received a "not qualified" rating from the California judicial commission when she was nominated for the Supreme Court of California because of her tendency to inject her political and philosophical views into her opinions and complaints that she was insensitive to established legal precedent.

Speaking recently at church on "Justice Sunday," Justice Brown proclaimed a "war" between religious people and the rest of America. Imagine that. Is this someone we want protecting the constitutional doctrine of the separation of church and state or freedom for all Americans to practice religion?

She has expanded the rights of corporations at the expense of individuals—arguing to give corporations more leeway against attempts to prevent consumer fraud—some of these things make you smile—to stop the sale of cigarettes to minors, to prevent discrimination against women and individuals. She may be the daughter of a sharecropper, but she has never looked back to ensure legal rights of millions of Americans still fighting to build better lives for their children and their children's children. They may not be sharecroppers, but they live like sharecroppers, and she has done nothing to protect them.

These are the nominees over which the Republican leadership is waging this fight, and they are prepared to destroy the Senate that has existed for 200 years to do so.

The Senate is a body of moderation. While the House is the voice of a single man, single woman, and the House of Representatives is a voice of the majority, the Senate is the forum of the States. It is the saucer that cools the coffee. It is the world's greatest deliberative body. How will we call this the world's greatest deliberative body after the majority breaks the rules to silence the minority? Breaking the rules to change the rules. This vision of our Government—the vision of our Founding Fathers—no longer suits President Bush and the Republicans in the Senate. They don't want consensus or compromise. They don't want advice and consent. They want absolute power.

To get it, the President and majority leader will do all they can to silence the minority in the Senate and remove the last check we have in Washington against this abuse of power. The White House is trying to grab power over two separate branches of government—Congress and the judiciary. They are enlisting the help of the Republican Senate leadership to do it. Republicans are demanding a power no President has ever had, and they are willing to break the rules to do it.

Make no mistake. This is about more than breaking the rules of the Senate or the future of seven radical judges. At the end of day, this is about the rights and freedoms of millions of Americans. The attempt to do away with the filibuster is nothing short of clearing the trees for the confirmation of an unacceptable nominee to the Supreme Court. If the majority gets its way, President Bush and the far, far right will have the sole power to put whoever they want on the Supreme Court—Pat Robertson, Phyllis Schlafly. They don't want someone who represents the values of all Americans, someone who can win bipartisan consensus. They want someone who can skate through with only a bare partisan majority, someone whose beliefs are on the fringes of our society. Nobody will be able to stop them from placing these people on the highest court of the land—extremist judges who won't protect our rights and who hold values far outside the mainstream of America.

Here is what is really at stake: The civil rights of millions of Americans; voting rights of millions of Americans; the right to clean water to drink and safe air to breathe for millions of Americans; the right to free speech and religious briefs for millions of Americans; the right to equality, opportunity, and justice for millions of Americans; nothing less than the individual rights and liberties of all Americans.

It is up to us to say no to the abuse of power, to stand up for the Constitution. We need people who have the ability to be profiles in courage. Let the President and the Republican Party know that the Supreme Court is not theirs to claim.

The debate all comes down to this: Will we let George Bush turn the Senate into a rubber stamp to fill the Supreme Court with people from the extreme right's wish list, or will we uphold the Constitution's use of advice and consent powers to free the President to be like other Presidents have been, to force the President to look at the mainstream? I hope it is the latter. I know that is what my fellow Democrats and I will fight for, and I hope there are at least six responsible Republicans who will stand up and have the courage to join in this momentous battle.

Will the Chair advise me as to what the order is now for debate to go forward on the nomination?

The PRESIDING OFFICER. The time on the minority side has now expired, and the time from now until approximately 10:45 is under the control of the majority leader or his designee.

Mr. REID. And then after that, we will go an hourly basis.

The PRESIDING OFFICER. That is correct.

Mr. REID. I hope I didn't inconvenience the majority with taking too much time. If I did, we will try to readjust it later.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I am pleased the debate on Priscilla Owen is beginning to give her side of the story. We are finally getting past the sweeping mischaracterizations about her that have been put forward in the news media for years by interest groups—those who say she is outside the mainstream, or she is an extremist. But now on the floor of the Senate we are getting down to specifics.

Every single time we have been able to examine a specific criticism of a particular opinion by Justice Owen, that criticism has been clearly and decisively refuted. Justice Owen is a careful and thoughtful jurist. She is an extremely talented intellect. She uses her ability to read every statute and enforce it fairly. She is the very model of a judge who interprets the law and does not legislate on the bench.

Let's get to the heart of the matter. One of the major criticisms of Justice Owen is her effort to interpret a 1999 law passed by the Texas State legislature requiring parental notification before a minor can obtain an abortion. Most of the groups opposing Justice Owen strenuously opposed passage of that law in the first place. But the Texas legislature did approve a parental notification requirement with a strong bipartisan majority, favoring it in both the Texas House and Senate. The House was controlled by Democrats at the time, and it required any minor seeking an abortion to notify at least one parent, or receive permission from a judge to bypass that step. It was later up to the supreme court to interpret that bill.

The law did not provide clear direction to the justices on several key points. We are talking about 13 cases that came to the supreme court for review. As sometimes occurs, the court was divided in how to interpret the law, particularly the portion allowing a minor to bypass parental notification by going to court. Some justices—a majority—looked to other States on how their courts interpreted their parental notification statutes, even though those States that had different laws and different legislative histories. Other justices, including Justice Owen, looked first at the intent of the Texas legislature. She then looked to rulings of the U.S. Supreme Court. She reasoned, correctly, that the legislature had attempted to fashion the law to conform with Supreme Court rulings.

Still other justices, I should add, took a different approach to analyze the bypass provision and, in some cases, they would have required greater restrictions on use of the judicial bypass than Justice Owen would have imposed. One of Justice Owen's colleagues on the supreme court at that time was Alberto Gonzales, now the U.S. Attorney General. The opposition to Justice Owen rests much of its case on a single phrase in one of then Justice Gonzales's opinions in which he referred to judicial activism.

He later, and under oath, clarified what he was talking about. He said:

> "My comment about an act of judicial activism was not focused at Judge Owen or Judge Hecht: it was actually focused at me."

This is a tragically misleading statement to be used against Justice Owen. First, judges disagree. That is why we have a nine-member court. They argue with each other. They accuse each other of misreading the statutes. That is exactly the way it goes in many opinions. In fact, every member of the Texas Supreme Court was accused by one justice or another of judicial activism during the course of their service on the court.

Attorney General Gonzales has testified under oath that he was not referring to Justice Owen's opinion when he wrote the offending phrase. He said he was referring to himself. That by itself should dispose of the matter. Elsewhere in the same opinion, Justice Gonzales wrote another sentence. Curiously, that sentence is never cited by opponents of Justice Owen.

Let me quote what Justice Gonzales wrote:

> Every member of this court agrees that the duty of a judge is to follow the law as written by the legislature.

In other words, he specifically stated that none of the nine justices on the Texas Supreme Court is a judicial activist.

Finally, let me point out that Justice Gonzales was White House counsel when President Bush nominated Justice Owen for the Fifth Circuit in 2001. In other words, General Gonzales was in charge of the process that produced Justice Owen's nomination. Does anybody seriously believe he would select a nominee for this position if he thought she were a judicial activist?

I want to look at the 13 cases from a statistical standpoint. Justice Owen is solidly in the mainstream of her court. In these 13 rulings, Justice Owen was in the majority 10 times and found herself in dissent only on 3 occasions. She disagreed with the majority decision three times. In those 13 cases, the Texas Supreme Court required notification 6 times and facilitated a judicial bypass 7 times. So Justice Owen voted to require parental notification in nine cases and to facilitate the judicial bypass in four. Remember, no case on judicial bypass reached the Texas Supreme Court at all unless it had first been denied by two courts and by up to four judges. This is important, because under our system, the trial court is charged with ascertaining the facts in a case. In other words, Justice Owen is being faulted for being more willing to defer to trial court findings of fact because she knows trial judges have the unique ability to assess a witness's demeanor and credibility.

Now, was Justice Owen's approach in the mainstream? Earlier this week, the Senate was visited by a group of six Texans. They represent diverse views, but they came to Washington to support Justice Owen and asked for fair treatment of her. They included Tom Phillips, who was Chief Justice of the Texas Supreme Court for most of the time Justice Owen had served. It included Elizabeth Whitaker, past president of the State Bar of Texas—one of 15 past State bar presidents, Republicans and Democrats, who are supporting Justice Owen's nomination.

In the group was Linda Eads, a former assistant State attorney general, who is now a professor at the Southern Methodist University School of Law. She specializes in constitutional law. Linda Eads describes herself as strongly pro-choice. She also said she disagreed with Justice Owen on parental bypass. But she emphasized that Justice Owen's judicial approach to these cases was thoughtful and rational. She said it was easily within the respectable judicial mainstream on interpreting legislation. She ended by saying she strongly supports the confirmation of Priscilla Owen.

Finally, I want to talk about the intent of the Texas Legislature. I served in that legislature for two terms, years ago. I know most of the members of the Texas House and Senate.

It is interesting to me that opponents of Justice Owen accuse her of misreading legislative intent by requiring more parental involvement than the legislators intended. I believe the opposite might well be true. In fact, the legislature is currently in the process of discussing a new law that would strengthen parental involvement and require parental consent, not parental notification. That bill has passed the Texas House and the Texas Senate. It is now in a conference committee.

Justice Owen is highly respected in Texas. Allow me to quote from a letter sent by Senator Florence Shapiro, the chief sponsor of the parental notification act approved by the legislature in 1999. She says:

> As a Senator in the Texas Legislature, the manner in which the Texas courts review and interpret our laws is extremely important to me. Justice Owen's opinions consistently demonstrate that she faithfully interprets the law as it is written, and as the Legislature intended, not based on her subjective idea of what the law should be. I am saddened to see that partisan and extremist opponents of Justice Owen's nomination have attempted to portray her as an activist judge, as nothing could be further from the truth.
>
> Her opinions interpreting the Texas Parental Notification act serve as prime examples of her judicial restraint . . . I appreciated that Justice Owen's opinions throughout the series of cases looked carefully at the new statute and at the governing U.S. Supreme Court precedent upon which the language of the statute was based, to detennine what the Legislature intended the Act to do.
>
> I, along with many of my colleagues—Democrats and Republicans alike—filed a bipartisan amicus curiae brief with the Texas Supreme Court explaining that the language of the Act was crafted in order to promote, except in very limited circumstances, parental involvement.
>
> Prior to the passage of the Act, a child could go to a doctor and have an extremely invasive procedure without even notifying one of her parents. At the same time, school nurses were not even permitted to give aspirin to a child without parental consent. Like legislators in dozens of states across America, we realized that something needed to be done to respect the role of parents—that at least one parent should be involved in a major medical decision impacting their minor daughter.
>
> Because this was not an "abortion" bill but a "parental involvement" bill supported by lawmakers on both sides of the abortion debate, we were able to pass a bipartisan law that promotes the relationship between parents and their minor daughters and is exceedingly popular with the people of Texas.
>
> Justice Owen is the kind of judge that the people of the 5th Circuit need on the bench—an experienced jurist who follows the law and uses common sense. I strongly urge the committee to reject the politics of personal destruction pushed by Justice Owen's extremist critics and vote positively on her nomination. She merits immediate confirmation.

That is a letter from State Senator Florence Shapiro.

Let's be clear about what is going on here. A number of interest groups fought against legislative enactment of the parental notification law. They lost. Now they are trying to undercut a judge who, as honestly and fairly as she could, attempted to interpret that law. They are entitled to their opinion. They should vote their convictions. Priscilla Owen deserves an up-or-down vote on her nomination to the Fifth Circuit.

I want to respond to the distinguished Democratic leader, who this morning said that Owen and 10 other nominees have all received votes in the Senate. Senator REID left out one important detail, and that is—if she had gotten a confirmation vote on the floor of the U.S. Senate, Justice Owen would be sitting on the Fifth Circuit today. Indeed, this Senate has taken four cloture votes on Priscilla Owen, and each time she has received more than a majority—the standard for confirmation in the Senate—until the Congress of 2 years ago.

She would be confirmed by the Senate. Senator REID is correct that nominees have received cloture votes, in an attempt to override filibusters. But requiring a 60-vote threshold to proceed to confirmation is not the Senate's practice. Justice Owen continues to wait patiently for the Senate to confirm her; she has been waiting for four years.

The Senate Republicans have asked the minority to allow the Senate to vote, but they have refused and continue to vote no on cloture, thereby changing the Constitution without going through the process of a constitutional amendment.

When the Constitution requires a supermajority, it is explicit. Just before the advise and consent part of the Constitution, it does have a standard of a two-thirds vote, but that was not put in the article on confirmation of judges. The clear constitutional interpretation is that if a supermajority is required, it is stated in the Constitution. And for over 200 years, this body has recognized that and has made a majority vote the standard until the last session of the Senate.

It is disingenuous for the other side to suggest that these 10 nominees have had votes because if they had, they would be sitting on the benches for which they were nominated. But instead, Priscilla Owen, after being confirmed by the Senate four times, is back again.

I think we can do better. I think we can acknowledge the Constitution and acknowledge that if we are going to amend the Constitution, the Senate should start the process of a constitutional amendment. The Constitution is clear that a majority vote is required, and that has been the standard for over 200 years in the Senate until the last session of Congress.

I hope Priscilla Owen will get an up-or-down vote, because if she does, the tradition of the Senate and our respect for the Constitution will be clear. Again, if they want to change it, perhaps they should go about it in the right way, and introduce a constitutional amendment to require a supermajority for confirmation of judges.

I think the Founding Fathers were geniuses and knew a balance of power had to be delicate among the three branches of Government. They envisioned a President appointing circuit court judges with the Senate having the authority to confirm or reject them with a simple majority vote. The balance of power in our Constitution has kept our country strong and has been the anchor for our democracy.

Priscilla Owen is a wonderful human being who has been demonized for 4 years. She has already displayed her judicial temperament by not responding to the unfair criticisms, by showing no bitterness, and by harboring no anger. But she is a human being, a good person, and she deserves an up-or-down vote. When she gets an up-or-down vote, she will be confirmed and become a brilliant member of the Fifth Circuit Court of Appeals.

I hope the Senate is on the brink of doing the right thing by these nominees, by acting as the lofty body it is, can be, and should be. I hope we will treat everyone who comes before us with respect. I do not think that has been the case for this very fine supreme court justice for the State of Texas. I hope that is going to change. I hope we will treat her as she should be treated. I hope she will get her up-or-down vote which will show that her 4 years of patience have allowed us to do the right thing and she will be able to serve our country in a way that I know she will make all of us proud.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Louisiana.

Mr. VITTER. I thank the Chair.

Mr. President, in recent weeks, the American people, including the citizens of Louisiana, have heard a lot about Senate rules, about historical precedent, about something very confusing called the filibuster, about the Senate's constitutional duty, and advice and consent. I think for the average American, for the average Louisianan, this seems pretty esoteric. This seems pretty out of touch with their everyday lives, this issue of how the Senate governs itself.

But there are issues at the heart of this which are important to those citizens, including my constituents in Louisiana. And those issues are: Is the Senate going to do its job? Are we as Senators going to do our job and do the people's business, address important issues of the day to build up our country and make it better?

Also, there is the fundamental issue of fairness. Are we going to be fair in this process to all concerned?

Those are themes, those are issues to which Americans all across the country, certainly my citizens in Louisiana relate and care about. Are we going to do the people's business? Are we going to act in a way that is fair to all? Those are issues directly at the heart of this debate—doing the people's business.

Last year, I ran for the Senate for the first time. In doing so, of course, I traveled all around Louisiana and talked to citizens of all walks of life in every corner of the State. One theme I heard over and over from all sorts of folks of both parties was: Please go up there and do what is right and do the people's business. Get beyond all of this bitter partisanship, this obstructionism, the filibuster. Do the people's business in terms of important issues of the day. That is what folks in Louisiana told me over and over again.

They care about putting good people on the bench and having our courts run properly and filling these vacancies. They also care about other important business—passing a highway bill, building infrastructure so we can create good jobs in this country and Louisiana, passing a national energy policy to get us on track in terms of energy independence. That is important for our national security, and that is important for our economic security.

Again, wherever I went, with whomever I talked—Black, White, Democrat, Republican, and everyone in between—folks said over and over: Look, we are sending you there to do our business, to face issues, to vote, to move forward as a country, not to obstruct, not to play political games, not to get mired in bitter partisanship, but to take care of us and to address our concerns. And that is important.

The other issue that is at the heart of this debate that ordinary citizens around the country and Louisiana care about is fairness. Are you going to act in a way that is fundamentally fair to everybody concerned? And, of course, that is at issue here as well.

We have judicial nominees who have been nominated not weeks ago or months ago but, in many cases, years ago; in some cases, over 4 years ago. Their lives have been disrupted. They have been attacked by interest groups around the country, as well as Members of Congress. Many charges have been leveled against them that are patently untrue and patently unfair. And after all of that turmoil, after all of those trials and tribulations, they do not even get an up-or-down vote on the floor of the Senate. There is no resolution to the trial, the jury never comes back. We do not get to vote and say this person should be on the court or this person should not be on the court. That is not fair. That is not fair in the minds of any ordinary American. It is not fair in the minds of the citizens of Louisiana.

We need to bring some fundamental fairness to this process. Sure, we need to have an important debate. Sure, we need to vet all the information. We can have differences of opinion. But then at the end of the day, we need to have resolution, we need to have an up-or-down vote. It is time to do that with all of these judicial nominees.

We have a historic opportunity in the Senate right now to address both of those concerns: to do the people's business, to do our job, to vote, and to move on to other key issues, such as the highway bill, building jobs, building energy independence—and we have the opportunity to act honorably and with fundamental fairness by treating all concerned in a fundamentally fair way in giving these nominees an up-or-down vote.

I stand on the Senate floor today to ask that we all come together to do that because that is the right thing to do, not for party leaders, not for the President, or for interest groups on the left or the right. It is the right thing to do for the American people. It is the right thing to do for the citizens of each of our respective States.

I make a plea in particular to my colleague from Louisiana, Senator LANDRIEU, to do that. She is in a unique position to reach out and achieve fundamental fairness and do the people's business in a constructive way.

Many folks, including me, quite frankly, were disappointed that a few years ago Senator LANDRIEU filibustered and supported that filibuster of Miguel Estrada, another highly qualified judicial nominee, after she had expressed strong support of that very nomination in her reelection campaign.

This is an opportunity to set that record aside and do the right thing and give all of these judicial nominees a fair up-or-down vote. That is what the folks of Louisiana want: to do the people's business, to do our job, to vote and to address other important issues and to act honorably and bring fundamental fairness, proper American values, Louisiana values to this process.

We are beginning with a very important nomination to the people of Louisiana, Priscilla Owen of Texas. It is particularly important to my citizens of Louisiana because the U.S. Fifth Circuit Court of Appeals, to which Judge Owen is nominated, serves Louisiana, covers all of Louisiana. There has been a vacancy in that position for years and years.

Judge Owen has been nominated for over 4 years. Her nomination has been thoroughly vetted, thoroughly debated and, yet we have never had that closure. We have never had that fair up-or-down vote. In fact, the vacancy which she would fill has been declared a judicial emergency in the Fifth Circuit Court of Appeals, impacting directly Louisiana because it has been open for so long.

So this is the perfect place to start for me, for Senator LANDRIEU, for those who are concerned about justice in the Fifth Circuit, taking care of that judicial emergency, and then we should move on and give all of these nominees a fair up-or-down vote.

Justice Owen has been maligned unfairly. All sorts of charges have been leveled against her, and I want to address some of those directly. She has been called fringe and out of the mainstream, way out of the mainstream of American opinion and everyday life. Yet if you take any serious look at the facts, that charge simply does not hold up.

Justice Owen has been on the Texas Supreme Court since 1994, but more significantly, when she was reelected to that position, she was reelected with 84 percent of the vote in Texas, with the endorsement of every major newspaper of the State and with bipartisan support.

Now, is every newspaper in the State fringe, out of the mainstream? Are 84 percent of Texas voters fringe and out of the mainstream? Obviously not.

In addition, in her nomination to the U.S. Fifth Circuit Court of Appeals, Justice Owen gained the highest rating possible from the American Bar Association.

She was nominated on May 9, 2001, nearly 4 years ago, and renominated January 7, 2003, and February 14, 2005. Her qualifications have been vetted and debated exhaustively.

Owen has significant bipartisan support, including three former Democrat judges on the Texas Supreme Court and a bipartisan group of 15 past presidents of the State Bar of Texas.

Owen has been a justice on the Texas Supreme Court since 1994 and was endorsed for reelection by every major Texas newspaper.

Owen previously practiced commercial litigation for 17 years. She also has a substantial record of pro bono and community activity.

Owen received her undergraduate degree from Baylor University and graduated third in her class from Baylor Law School in 1977. She was a member of the law review and has been honored as Baylor Young Lawyer of the Year and as a Baylor University Outstanding Young Alumna.

After graduating from law school, Justice Owen received the highest score in the State on the Texas bar exam in December 1977.

The American Bar Association unanimously rated Justice Owen "well qualified," its highest possible rating.

Some weeks ago, I also spoke on this floor in support of Justice Brown, whose nomination recently cleared the Judiciary Committee for the second time. The President nominated her to the U.S. Court of Appeals for the DC

Circuit Court nearly 2 years ago. One-fourth of the DC Circuit is currently vacant; and Justice Brown's nomination has strong support.

As I noted before, during Justice Brown's 9-year-tenure on the California Supreme Court, she has acquired a reputation as a fair and intelligent justice who is committed to the rule of law. Justice Brown has served on the California Supreme Court since May 1996. Her appointment to that court was historic: Justice Brown is the first African-American woman ever to have served as an associate justice on the California Supreme Court.

Even more impressive, Justice Brown was recently returned to that court with the approval of 76 percent of California voters. In her retention election, Justice Brown had the highest vote percentage of all justices on the ballot.

Another sign of Brown's credibility is that, in 2002, she wrote more majority opinions than any of her colleagues on the California Supreme Court. As stated by a bipartisan group of Justice Brown's former judicial colleagues: "she has quickly become one of the most prolific authors of majority opinions on the California Supreme Court." At least 12 judges have signed letters in support of her confirmation. Such numbers are indicators of the high esteem in which she is held by both the voting public in California and by her judicial colleagues.

I have heard arguments from some of my colleagues on the other side of the aisle that Justice Brown should not be confirmed by this Chamber. One argument is that she supposedly abhors Government. Another argument is that she is supposedly hostile to civil rights. Such arguments are entirely without merit, and I would like to respond to this attack on Justice Brown.

While her critics charge that Justice Brown abhors Government, this nominee is hardly an extremist when it comes to Government. Indeed, as a longtime public servant, Justice Brown has been part of our Government for 25 years. She thinks there are many things Government does well, many things only Government can do; and she has criticized the unintended consequences of some of the things that Government does. In her judicial decisions, Justice Brown strives to apply the law as it exists and she defers to the legislature's judgment on how to solve many social or economic issues.

This nominee's judicial opinions suggest that she fully appreciates the importance of having Government play an active role in certain areas, including efforts to protect the public's health and safety. That is why she voted to uphold State health standards for labeling milk products. That is why she agreed that faucets, which might contain lead, should be considered a source of drinking water, under the Government's Safe Drinking Water Program. And that is why she agreed that her State's regulations regarding overtime pay should be liberally interpreted to provide California workers with more protection than they would have had under Federal law.

Her opponents also have insinuated that Justice Brown is hostile to civil rights. But Justice Brown has stated in her judicial opinions that "discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society."

In writing for a unanimous court, Justice Brown struck down a certain minority aid program because it violated Proposition 209, a provision of the California constitution that bars discrimination against, or preferential treatment to, any individual group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. Every judge in California who reviewed this program found it unconstitutional.

I find the argument that she is hostile to civil rights to be simply incredible, when you consider Justice Brown's personal history as an African-American who came of age in the South in the midst of Jim Crow laws. As someone who attended segregated schools, Justice Brown, better than anyone, can appreciate the importance of fighting discrimination. She grew up in Alabama, the daughter of sharecroppers, listening to her grandmother's stories about NAACP lawyer Fred Gray, who defended Dr. Martin Luther King and Rosa Parks. Her rise to the California Supreme Court from humble beginnings in the segregated South is absolutely inspiring. That may be why she has been sensitive to claims of racial profiling in cases where the facts strongly supported such an inference.

We all know that Justice Brown has risen to a prominent position on the California Supreme Court. But not everyone is aware of Justice Brown's record of activities on behalf of minorities, children, and the underprivileged. Let me take this opportunity to highlight a few such activities:

Justice Brown served as a member of the California Commission on the Status of African-American Males. The Commission made recommendations on how to address inequities in the treatment of African-American males in employment, business development, and the criminal justice and health care systems.

She served on the Governor's Child Support Task Force, which reviewed and made recommendations on how to improve California's child enforcement system.

While serving as a member of the Community Learning Advisory Board of the Rio Americano High School, Justice Brown developed a program to provide Government service internships to high school students in Sacramento, CA.

I close by citing a statement in support of Justice Brown by an executive director of Minorities in Law Enforcement: "We recommend the confirmation of Justice Brown based on her broad range of experience, personal integrity, good standing in the community and dedication to public service . . . Justice Brown is a fair and just person with impeccable honesty, which is the standard by which justice is carried out."

In closing, I urge my colleagues to allow both Justice Brown and Justice Owen to have a vote on the Senate floor. Let Justice Brown's judicial qualifications, rather than her political philosophy, be our focus in her confirmation process.

The PRESIDING OFFICER. At this time, the majority's time has expired.

The majority whip.

Mr. McCONNELL. Mr. President, I ask unanimous consent for a couple of minutes to make requests for committees to meet in the Senate and to make just a brief statement, 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, before I object, I could not hear the Senator.

Mr. McCONNELL. I ask unanimous consent for 2 minutes to make a request for committees to meet, which my assumption is the Senator from Iowa will object to, and then just to make a very brief statement, a total of 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I have 10 unanimous consent requests for committees to meet during today's session of the Senate. They have the approval of the majority leader. I ask unanimous consent that these requests be agreed to and be printed in the RECORD.

The PRESIDING OFFICER. Is there objection? The Senator from Iowa.

Mr. HARKIN. Mr. President, on behalf of the Democratic leader, myself and, I might add, others on this side, because of the importance of the debate that is taking place on the Senate floor today, the Senate's attention ought to be turned to this and not to committee meetings, and therefore I object.

The PRESIDING OFFICER. The Senator objects.

Mr. McCONNELL. If I could reclaim the balance of my brief time, what we have is a further effort to make it impossible to do the people's business in the Senate. The normal way we do business is for action to be going on on the floor, and additional action in committees at the same time. As a result of these objections, we have thwarted progress. We have thwarted progress on an energy bill, on a JOBS bill, on a disaster relief bill. Yesterday, an Intelligence Committee meeting had to be cancelled. Here we are in the middle of the war on terror and the Intelligence Committee was not allowed to meet.

Today's objections will shut down our meetings on the Energy bill, a closed CIA briefing on terrorism and proliferation of weapons in Iran, the Foreign Relations Committee, on strengthening America's workforce over at the Labor Committee, another Intelligence Committee shutdown by this action and, of course, the Judiciary Committee will not be able to continue its markup of the asbestos bill.

We are following the regular order. The majority leader simply called up a judicial nominee to be considered by the Senate. There is nothing irregular in any way about the procedure that is being followed, and yet our friends on the other side of the aisle are shutting down the business of the Senate by making it impossible for committees to do the work of the American people on everything from intelligence matters to passing an energy bill when gas prices are at record highs. This is an incredibly irresponsible approach to the majority's efforts simply to move the people's business along by following regular order and moving toward a vote on the President's nomination for the court of appeals.

I yield the floor.

The PRESIDING OFFICER. The Senator yields back.

The time, until 11:45 a.m., is controlled by the Democratic leader or his designee.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I yield myself such time as I may consume.

I rise today to speak about the prospect that at some point next week, according to all of the press reports and according to what I have heard on the floor, the majority leader of the Senate will take a course of action that has been dubbed the "nuclear option."

The majority leader will take a course of action that will tear down the rules by which we operate in the Senate, rules which have been laid down in some cases for almost 200 years, in some cases over 100 years.

I believe we should be taking our time in the Senate because of the effects that this step by the majority leader could have on how we represent our constituents. It can have such a profound effect that it behooves us all to think very deeply and carefully about it and to come to the floor to express our opinions.

By triggering this nuclear option, the majority leader would unleash forces he would regret and that everyone who loves this great Nation and its system of checks and balances would regret.

There is no question that by breaking the rules—that is what would happen, breaking the rules—the majority party would gain short-term advantage. They would be able to confirm every one of their judicial nominees, no matter how radical or out of the mainstream. But the long-term destructive consequences triggering the nuclear option would be profound for our system of Government.

For more than two centuries, Senate rules and traditions have respected the rights of the minority. That would be destroyed. For more than two centuries, thanks to those minority rights, the Senate has been a force for compromise, moderation, and reason. That would be destroyed.

For more than two centuries, the minority's power in the Senate has been essential to America's system of checks and balances. That would be destroyed. And something else of great importance would be destroyed: Respect for rules.

Playing by the rules is the American way. It is one of our core values. From childhood, we are taught to respect the rules, to follow the rules, to play by the rules. We are taught it is dishonorable to break the rules or to change the rules in the middle of the game, especially to gain an advantage or simply to win. Ask any child, and he or she will say that breaking the rules or changing the rules in the middle of the game is not only unfair, it is wrong.

America is a great country because playing by the rules and respecting rules is a core value. It is a way of life. It is at the heart of our athletics, our business dealings, our way of government. It is no exaggeration to say that if one destroys the idea of playing by the rules, then they invite distrust, disorder, and the disintegration of the American social fabric. They invite chaos, and chaos invites tyranny.

This is exactly why the Republican leadership's plan to resort to the nuclear option is so dangerous. Since 1790, the filibuster has been used in the Senate countless times, and nearly 100 years ago the Senate passed rule XXII, codifying the right of extended debate. We know what that rule says. It says that it takes 67 votes to change the Senate rules and 60 votes to cut off debate. Those are the rules. They are deeply conservative rules, rules that have been respected and honored for nearly a century, until now.

The Republican leadership is unhappy because a small number of judges, all of them I consider far out of the mainstream, have been filibustered by the minority. They are unhappy because they have been able to confirm only 95 percent of the President's judicial nominees and not 100 percent. This compares to only an 80-percent confirmation rate during the Clinton administration. The Republicans blocked 68 Clinton judicial nominees, including, I might add, Bonnie Campbell, from my State of Iowa.

Most of those nominees were blocked in the Judiciary Committee by just one Senator. Now, does the Republican leadership celebrate the fact that by playing by the rules they won 95 percent of the time? Do they now play by the rules and gather the votes necessary to change rule XXII governing filibusters? No.

They are going to employ a trick, a procedure, whereby the rules are overturned by one decision of the Presiding Officer backed by 51 votes. That will destroy the rules of the Senate. Now they say: Well, it only applies to judges now. It can apply to anything else down the pike.

Now, a mere 10 Bush nominees have been blocked, and what is the Republican leadership's response? It is to destroy the rules. Sweep aside more than 200 years of Senate tradition. In its place, they will make up their own rules, a new rule, that will allow them or any majority to change any rule at any time for any reason with only 51 votes. In other words, once the nuclear option is detonated and a new Senate precedent is established, this body will be subject to the whim of any group of 51 Senators who want to impose their will without any provisions for extended debate. Make no mistake, this will be the end of the Senate as we know it.

How ironic that this is being done by Senators who call themselves conservative. The truth is that resort to the nuclear option, breaking the rules, making up new rules convenient to the leadership, is a radical, unprecedented action with consequences that no one can predict. Because once the rules are broken and rules are made up as one goes along, seeds of anarchy, of chaos, are sown. An atmosphere of anything goes is created, and the end justifies the means.

We have already seen this in the actions of House Majority Leader TOM DELAY. We have an honored tradition that congressional redistricting occurs every 10 years after the decennial census, but the majority leader in the House wanted to increase his majority in the House. So what did he do? He tore up the rules and made up new rules, TOM DELAY's rules. But the real Tom DeLay rule is this: Anything goes. The end justifies the means. Situational ethics. I fear we are about to adopt that Tom DeLay rule in the Senate. This is profoundly bad news for this institution.

I am also concerned about the message it sends to businesspeople, to husbands and wives, to our people. The message is if our national leaders can break the rules as a matter of convenience, if they can write their own rules, impose them on others, then maybe it is okay for everyone else to behave just like that.

This is a deeply disturbing prospect. I implore the distinguished majority leader, Senator FRIST, to consider the law of unintended consequences. He is threatening to break rule XXII in order to pass 100 percent of the President's judicial nominees. Once the rule is destroyed, and once the majority leader imposes a new rule to his liking, then who is to say where it will lead? It will be like an out-of-control virus. If 51 Senators can change any rule at any time for any reason, then anything is possible. The metaphor Senators are using is a "nuclear option," and I would say that is true. it is nuclear because it does blow up this place. But there may be another metaphor. too: that the majority leader is letting the genie out of the bottle and there will be no putting that genie back once it is out. It will wreak destruction in ways no one now can predict or foresee.

For example. once the Chair can make a determination about the rules and have that ruling upheld by 51 votes of the Senate. what is to say of the time-honored tradition we have in the Senate of a Senator being able to have the right of the floor and being able to speak for as long as he or she wants? That has been our right since the founding of the Senate. Once a Senator is recognized, that Senator can speak until they drop. I think the record is 24 or 25 hours. by former Senator Strom Thurmond.

Who is to say if, in the future. someone gets up to speak but people want to move on and do something. that after that person speaks for 5 or 10 hours the majority leader would be recognized and make a point of order that the person is speaking unconstitutionally? They have the 51 votes to uphold the motion and that is the end of it. So a Senator's right to have the floor is subject to whatever the Chair wants. We may get it; we may not. We may not be able to speak for an hour or 2 hours or whatever we want. The Chair may say to the Senator from Iowa, You can speak for 3 minutes and then you have to sit down.

They do that in the House of Representatives. They have a 5-minute rule. I know, I served there. But that is not the Senate.

I am just saying who knows what might happen. It is possible. If we go down this road that is the precedent that is set.

I do not know why the majority leader is doing this. Possibly what we are seeing here is an attempt to seize absolute power and unchecked control of all three branches of Government. The Republicans already control the executive branch. A majority of Supreme Court Justices are Republican nominees. So are the majority of judges on our Courts of Appeal, the circuit courts. Indeed, there is a Republican majority on 10 of the 12 circuits. Republicans have an iron grip on the House of Representatives. They have a 55-seat majority here in the Senate. Only one barrier now stands in the way of the Republican Party seizing absolute control of every aspect of our Government, all three branches. and that is the right of the minority in the Senate to filibuster.

By .unleashing the nuclear option, the Republican leadership would crush this last remaining check on its power. The filibuster is a more than 200-year-old tradition in the Senate; it has withstood the test of time.

I do not believe the nuclear option reflects the desires or values of the American people. Americans are extremely wary of one-party dominance and control. This is a prime reason why so many voters split their ballots In the election last November. Republicans won the White House with less than 51 percent of the popular vote. The Republicans have a 52-percent majority in the House. They have a 55-percent majority here in the Senate. But they want to seize 100-percent control of the Government, including the third branch, the judicial branch.

It is not healthy for our country. It is not healthy for our democracy. I do not believe for 1 minute this power grab reflects the wishes of the American people. When it comes to government, there are certain values and principles that the vast majority of Americans share. We prize our system of checks and balances. We respect minority rights and dissent. We want to ensure that minorities are protected. We understand the danger of majorities acting without check or restraint. running roughshod over those who would disagree.

As a well-known minister once said:

> Democracy exists not just when the majority rules, but when the minority is absolutely safe.
>
> The rules of the Senate and the rule of extended debate give the minority that absolute safety. You take that away and you take away the minority rights in the Senate. Most Americans understand that checks and balances are the key to preserving our liberty.

James Madison wrote:

> The accumulation of all powers, legislative, executive and judiciary, in the same hands may justly be pronounced the very definition of tyranny.

But that is exactly the goal of the Republican leadership today. They seek the accumulation of all power—legislative, executive, and judiciary—in the same hands, their hands. This is profoundly dangerous. By resorting to the nuclear option, the majority would break the rules in order to change the rules. Under the rules of the Senate, it takes 67 votes to change the rules, 60 votes to end debate on a judicial nominee. But by resorting to this parliamentary gimmick, this nuclear option, the majority would change this rule with only 51 votes. The result would be to destroy any check or restraining influence on the power of the majority. This is not the American way. It is certainly not the wishes of the American people.

In debate in the Constitutional Convention in Philadelphia. James Madison said the Senate would have two roles:

> first. to protect the people against their rulers, secondly. to protect the people against the transient impressions into which they themselves might be led.

By attacking the filibuster, the Republican leaders would destroy the ability of the Senate to "protect the people against their rulers." The Senate would lose its capacity to stand up to an out-of-control majority. Instead, the Senate would be turned into a rubberstamp for the majority's agenda, just as the House is a rubberstamp for the majority's agenda right now. That would be a betrayal of the Senate's traditional role as envisioned by the Founding Fathers.

The Constitution gave Senators 6-year terms so they would not bend to the political passions of the moment. I remind my colleagues of the famous exchange between Thomas Jefferson and George Washington. On his return from France, Jefferson asked Washington at the breakfast table why he favored the creation of a second Chamber, the Senate.

Washington replied with the question, "Why did you pour that coffee into your saucer?"

Jefferson said, "To cool it."

To which Washington reportedly said: "Even so we pour legislation into the senatorial saucer to cool it."

For two centuries that is exactly how the Senate has worked. Because of the tradition of free speech and minority rights, specifically because of the threat of filibuster, Senators have a strong incentive to act with moderation and restraint, to make compromises, to accommodate the legitimate concerns of the minority. That is exactly what the nuclear option would demolish.

The majority party in the Senate, whether Democratic or Republican, has always been frustrated by the minority's use of the filibuster. But I submit that frustration is the necessary byproduct of an effective system of checks and balances. It is the price we pay to safeguard minority rights.

For decades, a determined conservative minority used the filibuster to block civil rights legislation and deny an up-or-down vote to a liberal Supreme Court nominee, Abe Fortas. Progressives were extremely frustrated by this exercise of minority rights and minority power.

Now it is the Republicans' turn to be frustrated by the filibuster. They are frustrated because they can't get their way on judges 100 percent of the time. They have gotten their way on 95 percent of judicial nominees, but not 100 percent. and they believe this justifies breaking the rules, to get rid of the filibuster.

I submit the Republicans' very frustration is evidence that the system of checks and balances here in the Senate is healthy and working, working exactly as it should.

In 1995, I proposed to modify rule XXII in a way that would have given the minority an incentive to limit the use of the filibuster. It would not have taken it away. However, my proposal bore no resemblance to the nuclear option. First, I did not propose to break the Senate rules. I played strictly by the rules. I pursued my rule change through normal Senate procedures as a floor amendment. It would have taken the requisite 67 votes to pass on the floor, which is entirely appropriate when changing a time-honored Senate rule. By contrast, this nuclear option discards the rules. It would impose the Republicans' radical change with only 51 votes.

Ten years ago I proposed to modify the filibuster rule as a matter of principle. Today the Republican leadership wants to modify the filibuster as a matter of political expedience, to make it possible to stack the courts with radical judges. They are pursuing unchecked power, the absolute control of all three branches of Government. In this context, the filibuster takes on even new importance.

It is all that remains to check the majority's quest for absolute power.

By the way, I might note parenthetically that 24 current Republican Senators actually voted against my proposed change to the filibuster back in 1995. The distinguished majority leader, Mr. FRIST, was one of those Republicans opposing any change to the filibuster. Indeed, as has been noted time and time again, the majority leader voted in the year 2000, 5 years ago, to sustain a filibuster of a Clinton nominee, as did many other Republicans.

Those same Republicans, who now say President Bush's judicial nominees have a constitutional right to an up-or-down vote on the Senate floor, denied that alleged right to scores and scores of President Clinton's judicial nominees, including, as I said earlier, a distinguished Iowan, Bonnie Campbell. Ms. Campbell, a former Iowa attorney general, respected Justice Department official, was nominated for the Eighth U.S. Circuit Court, but her nomination was blocked in committee.

Let's be clear. If the issue is denying nominees an up-or-down vote by the full Senate, there is no practical difference whatsoever between blocking a nominee in committee or by filibuster on the floor. During the Clinton years, Republicans blocked judicial nominees again and again and again. They did it in committee, they did it by blue slip, or they blocked them on the floor. It didn't matter. But the nominees were denied an up-or-down vote on the floor of the Senate.

The nuclear option is a flagrant abuse of power. The minority party, the Democrats, will resist it vigorously within the rules of the Senate. We have a responsibility, an oath of office to defend our constitutional system of checks and balances. We have a responsibility to defend the Senate's unique function as the last bastion of minority rights, as the last check on an abusive, out-of-control majority.

But this should not be just the responsibility of the minority party. It should be the responsibility of all Senators who respect the rules and traditions of this body. It should be the duty of all Senators who value our democratic principles, our system of checks and balances, protection of minority rights.

The very nature of the Senate as an institution is at stake. More than that, the very nature of how we operate as a government is at stake. As I said, when you destroy the rules by not following the rules, you invite chaos. Chaos invites tyranny. This is the time to look beyond party, to look beyond short-term partisan advantage.

I have every hope there will be enough Senators, Democrats and Republicans alike, to disarm this destructive nuclear option. I have every hope that a critical mass of Senators will be true to the rules and traditions of this body and that we will act to preserve the integrity and independence of this great institution.

I yield the floor.

The PRESIDING OFFICER. The assistant Democrat leader.

Mr. DURBIN. I thank the Senator from Iowa for making clear that when he offered his change in the rules relative to the filibuster, he did it according to the rules. When Senator HARKIN suggested that we change the number of votes necessary for a filibuster, he used the rules of the Senate, he followed the rules of the Senate. He understood it would take 67 votes for him to succeed and he pressed forward.

If the Republican majority today did exactly as Senator HARKIN did, there would be no discussion of a nuclear option. We would move to that point in the calendar, we would take the vote according to the rules, and no one would be paying much attention because that is the routine of the Senate. We would be following the rules of the Senate.

The unique situation now presenting itself with the nuclear option is that the Republican majority is going to break the rules of the Senate in order to change them. Instead of following Senator HARKIN's model and example of 67 votes, they will bring Vice President CHENEY to the chair, they will ask him to rule as a Presiding Officer of the Senate that the rules are going to be changed, he will make that pronouncement, and that is the end of the story. They will be breaking the rules of the Senate to change them.

That is the unique difference between what Senator HARKIN did many years ago and what the Republican majority does today. It is historic. That is why so many people are following this debate. People who never heard of the nuclear option are following this debate. They understand something historic is about to take place: changing a tradition, changing something in the Senate, a rule that has been in place for over 200 years. With the wave of his hand, Vice President CHENEY will take away a rule that has applied for 200 years.

Some argue this should be viewed as another routine day in the Senate. I disagree. This is a historic debate and one on which I hope the American people are focusing. Changing the rules in the middle of the game is not accepted in most conduct in America. It shouldn't be accepted in the Senate. Changing the constitutional balance of the Senate and the White House is historic and should be followed closely by every single American.

My colleague, the Senator from Kentucky, came to the Senate earlier and suggested that we should go about the routine business of the Senate while this debate continues. We see it otherwise. We believe we should focus in the Senate, as the people of America should focus on this critical debate, with very few exceptions. If there are exceptions relating to committee activity on national security or things of that nature, we will consider each and every one of those, but the routine business of the Senate must be held up while we engage in this.

The core reason for this debate is the approval of judges. Since President Bush was elected, more than 95 percent of his judicial nominees have been approved, the highest approval rating of any President in the last 25 years. Again, 208 have been approved, 10 have not been approved, and the President says: That's not good enough; I want them all. No dissent, no disagreement, give me every single judge.

That is the reason we are here debating. To make it clear to those following the debate, we are prepared, on a bipartisan basis, to work with the White House and the Republicans to continue to approve judges, as we have already done 208 times with this administration. I am about to make a unanimous consent request that will be followed by another, and let me describe it first before I make it. We have had one man's name on the calendar longer than the pending nominee, Priscilla Owen: Thomas Griffith of Utah, nominated to serve as circuit judge for the District of Columbia. I voted for him as a Democrat, coming out of the Senate Judiciary Committee. He has been on the calendar since April 14.

As a show of good faith, as a show of bipartisanship, to demonstrate we can work together, we can achieve things when we speak to one another and when we respect one another, I will make a unanimous consent request to move from the current business immediately to the Executive Calendar to bring his name to the Senate with debate of, say, 1 hour, and that he be voted on today.

Then when I am finished, as the minority leader, Senator REID, did yesterday, I will ask that we discharge the Senate Judiciary Committee and immediately consider the Michigan Circuit Court nominees of Griffin, McKeague, and Neilson. I will, of course, allow that unanimous consent request to be amended in terms of debate time necessary for each nominee, but we can in a matter of a few hours move four circuit judges through this Chamber on a bipartisan basis and demonstrate that there is no need to describe our situation as a crisis. There is no need to change a 200-year tradition of the Senate. There is no need to call in Vice President CHENEY to wipe out a rule that we can work on together. I think that is what we should do.

I ask unanimous consent we move to the nomination of Thomas B. Griffith of Utah to be U.S. circuit judge for the District of Columbia and that Mr. Griffith's nomination be considered with 1 hour of debate equally divided, and then have a rollcall vote. I make that unanimous consent request.

Mr. McCONNELL. Reserving the right to object, and I will object, let me say to my good friend from Illinois, this is a scheduling issue. His party was in the majority for 18 months between 2001 and 2002. Then, Majority Leader Daschle got to decide the order of matters to be considered in the Senate. That is the prerogative of the majority leader.

I am certainly pleased to hear of the enthusiastic support of my good friend from Illinois for the nominee, Griffith. Nevertheless, the majority leader, Senator FRIST, is charged with the responsibility of determining the order in the Senate. We are on a nomination that enjoys bipartisan support, a majority of bipartisan support, and that is Texas Supreme Court Judge Priscilla Owen.

I am of the belief that some of the efforts to shut down the activities of the Senate may be coming to a close, and I will seek the floor for the purpose of offering a unanimous consent to allow the Foreign Relations Committee to at least meet, which is good news. Unfortunately, other committees are still shut down by not following the normal procedure in the Senate where committees are busily at work while action is occurring on the Senate floor. As a result of actions in the last 2 days, the Energy bill is thwarted, the JOBS bill is thwarted, disaster relief is thwarted, and a closed intelligence meeting was not held again today. The Energy bill, the HELP Committee is out of action today. Asbestos is not going forward.

All of these efforts to delay activity in the Senate, to shut down the Senate are not necessary. It is routine in the Senate for committees to be doing work while we have debate on the floor. Nothing extraordinary is happening on the floor. We are following regular order. The majority leader, as is his right, had called up a nomination, and we are debating it.

We will get around to Mr. Griffith, and I am certainly pleased to hear that the assistant minority leader is in favor of him. That is good news. That is one, when we turn to him, I look forward to confirming with not a great deal of debate.

With regard to the current consent agreement, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. DURBIN. Mr. President, let me say it is clear now this is not about moving judges forward because I have offered an opportunity for the Republican majority to move a circuit judge in Utah forward on a bipartisan basis, as most of President Bush's nominees have been moved forward. It is about the fact that President Bush has not had every single nominee he sent to Congress approved. More than 95 percent have been approved.

There is another controversy relating to the State of Michigan—and I see my colleague, Senator STABENOW, is here—a controversy that goes back to the Clinton administration when a systematic effort was made to deny any nominee, virtually any nominee sent by the Clinton White House to the Senate Judiciary Committee, the opportunity for a hearing and fair consideration.

Naturally, the Senators from Michigan were upset that very qualified men and women were not given a chance to present their credentials and to come to a hearing and have a committee vote. Over the years they have expressed that concern and asked there be some balance in the nominations to fill the vacancies.

At this point, I ask unanimous consent we set aside the pending business of the Senate, discharge the Senate Judiciary Committee from further consideration and immediately consider the nomination of Michigan Circuit Court nominees Griffin, McKeague, and Neilson.

Mr. McCONNELL. Reserving the right to object, and I will object, once again, it is good news to hear the Senator from Illinois is going to be supportive of three circuit judges from Michigan who have been denied an opportunity to have an up-or-down vote for many years. The majority leader certainly has on his list for very near future consideration all of those judges, and I am pleased to hear they will be in all likelihood approved when they are brought up at a time of the majority leader's designation.

Let me repeat, all we are looking for is an up-or-down vote. We are not looking for a guaranteed outcome. But my friend from Illinois is probably suspicious that there will be success if up-or-down votes are granted because all of the judges who have been pending have bipartisan majority support.

We will look forward to dealing with all of the judges the Senator from Illinois would like to schedule, instead of the majority leader, in the very near future, but in the meantime we are dealing with the nomination of Justice Priscilla Owen to the Fifth Circuit.

Mr. President, I object.

Mr. DURBIN. Let me close briefly and say if the argument is being made by the Republican side that there is committee activity that should go on that is more important than this constitutional debate on the floor of the Senate, I would also make the argument that there is important floor activity that just could have taken place. We could have approved four more judges for President Bush at the circuit level, moved forward on a bipartisan basis, and done it before lunch.

It was the decision on the Republican majority side that rather than bring this to a vote, bring it to closure, make progress, show we are working together on a bipartisan basis, instead they are going to continue to press for the so-called nuclear option so that Vice President CHENEY can wipe away a 200-year tradition in the Senate with the wave of a hand. Unfortunately, that is a sad commentary on where we stand today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise today to speak about both the pending nomination and also the overall process involved in the debate on free speech and checks and balances.

Let me first thank and support the efforts of our Democrat minority leader from Illinois and thank him for his eloquence on this issue and indicate that despite concerns about the process now and the lack of bipartisanship in the Sixth Circuit for the last 4½ years and the lack of ability to come together in a way to jointly support nominees given the context of this larger debate right now and the critical importance of maintaining the minority views in the Senate and our ability to fight for our States and what is important for us both, Senator LEVIN and I have agreed to allow us to move forward in a show of bipartisan cooperation, a show of good faith with our colleagues on the other side of the aisle, to move forward with three nominees for the Sixth Circuit.

It is very disappointing to once again see that motion has an objection rather than moving ahead. In fact, last week, when our leader, Senator REID, made that motion to move forward on three judges in order to be able to get us moving in the right direction in terms of bipartisanship, the majority leader objected to moving forward on the three Michigan nominees and immediately went to a press conference with House Republicans from Michigan to criticize us for not being willing to compromise and move forward on Sixth Circuit nominees.

This kind of politics is very disturbing and very unfortunate when we are trying very much to move forward and to break this gridlock and create an atmosphere where we can continue to work together on the issue of judges. Again, let me say that it is very unfortunate that the majority leader said that three out of four judges was not enough. There is an objection, a concern on both sides of the aisle, of one of the nominees, but we have been willing in good faith to move forward with three of the nominees and have for 4½ years been meeting with the administration, with colleagues on both sides of the aisle, offering bipartisan solutions such as what other States do in terms of bipartisan commissions to be able to move us forward. At every turn we have been told, "no."

Now when we come forward and say, let's move to three of those judges in the interest of the larger picture in terms of what is happening in the attempt to eliminate checks and balances in our constitutional process, we, once again, are hearing, "no."

I find that very unfortunate. But I think it points to the fact that what we are seeing is a fundamental debate, not about judges, but it is about free speech. It is about our constitutional system of checks and balances. We have to constantly refer to the fact, as has been said before on the floor, that if it was about judges, the administration should be celebrating the best record in 25 years of Presidents of either party: 208 to 10. There have been 208 judges confirmed on a bipartisan basis, to 10 whom we have objected to because they are incredibly outside of the mainstream of American thought. The best record in 25 years: 208 to 10.

What is this debate about? Well, unfortunately, it is about the fact that we have one party—we respect that. We understand one party is in control of the White House, the House, and the Senate, but they do not have 100 percent. There are people who elected others, elected Democratic Senators or Democratic House Members. They want their views to be represented as well in this democracy, where we work together to find compromise and balance and what is best, ideally, for everyone but certainly for the majority of Americans on any one decision.

But we are hearing, instead: No, we want total, absolute, complete power over what happens in the United States. That is not a democracy. In fact, we are very fortunate that our Founders understood the importance of checks and balances in putting together not only a House of Representatives, that reflects the instant will of the people, but also a Senate, with a longer term—instead of a 2-year term, a 6-year term—that is charged with carefully evaluating the impact of legislation in a longer term view. In other words, the House is the "gas pedal," and the Senate was designed as the "brake." So we can have the important debates occurring in the House, and in the Senate have them as well, but allow minority views to be represented in a different kind of way.

On the issue of judges, our Founders were very clear. It is the third branch of Government, with lifetime appointments. It is not the President's Cabinet. I supported nominees to the President's Cabinet who personally I would not have selected. But the President has a right, within every reason, to his team for his 4 years. I have supported those.

But this is a third branch of Government, with lifetime appointments, so our Founders said: We are going to give half of that responsibility to the President and half of that responsibility to the Senate. So given our half of the responsibility, again, we have agreed to 208 judges on a bipartisan basis. And using our half of the responsibility, we have objected to 10. That is the record: objected to 10. And why? Because those individuals, again, do not represent mainstream thought and would be filling lifetime appointments—not for 3 or 4 years, but for three or four decades—long beyond any of us in our participation here in the Senate or this President.

So it is important to remember that in putting together our Constitution and our Bill of Rights, our Founders, were very wise. I think we are very fortunate we had a group of people come together to create these checks and balances.

It is not about just partisanship. Democrats and Republicans, it is about big States and small States. It is about Great Lakes States and States that do not have water. The reality is, we have a system of checks and balances that has allowed us to come together and create compromise, allowed us to create more mainstream decisions, because we have something called a filibuster which says a Senator can stand up, and as long as their legs will allow or their voice will allow, they can stand up and speak their mind on behalf of the people they represent, and they have the opportunity to put forward their view.

It is the minority view—not the minority party view. It may be a single person's view, but the minority view can be heard. And because a Senator or two or three or four believe so passionately about something, the rules then require you have to get a few more people to agree, you have to get 60 votes, rather than 51, because of the strong concerns raised by individual Members.

Now, what does that mean for us in Michigan? This is not just about judges. In Michigan, we are very proud of our Great Lakes. We are proud of the fact that we not only have our Great Lakes for drinking water, but for boating and tourism and economic activity. But one of the things we are concerned about in Michigan is the fact that someday the States in the West and the South that do not have a lot of water may decide they might want our water. Well, we do not like that very much.

Right now, I feel very confident that Senator LEVIN and I, and other Great Lakes Senators, would be able to stand up and present the minority view, to be able to use the rules of the Senate to protect our water. What happens if that is gone? What happens if we no longer can express as to and fight for our State because the checks and the balances have changed?

This is not just about judges. What about Social Security? If, in fact, the rules can be changed on judges, what about privatizing Social Security? Right now, we have a significant number of people to be able to stop the movement to dismantle Social Security, the great American success story. But what if the rules change and the checks and balances change?

The whole point of checks and balances, the whole point of allowing extended debate and forcing compromise and people coming together, is to bring people with calmer minds to be able to listen to each other and to be able to forge a bipartisan compromise. For Senators, whether it is their view as a Democrat or Republican or their view from their State or their view because of some other consideration which causes them to feel so passionately that what is being put forward is wrong, it forces us to work together. That is a great thing. That is something we have benefited from as a country. We need to protect that as Americans.

Let me say also that it is very ironic, as we are talking about the filibuster—I find particularly in Michigan—that when we talk about the filibuster, and so on, as if it has never been done before, colleagues of mine who have been around for a while may remember Abe Fortas who was nominated for Chief Justice back in 1968. I will not tell you where I was in 1968, but it is a little before my time here. But it is interesting to note that one of the Senators who filibustered the Justice at that time, in 1968, was a Michigan Republican Senator, Senator Robert Griffin.

What is particularly noteworthy is that he is the father of one of the nominees to the Sixth Circuit who, in fact, we just tried to move forward right now and were stopped in so doing. But it is important to note that Senator Griffin, on the floor, in his debate, in his speech about why it is appropriate for Senators to be able to stand up and object and to filibuster on judiciary nominations, said:

> It is important to realize that it has not been unusual—

This is 1968.

> it has not been unusual for the Senate to indicate its lack of approval for a nomination by just making sure that it never came to a vote on the merits. And as I said before, 21 nominations to the court have failed to win Senate approval.

This is Senator Griffin in 1968:

> But only nine of that number have been rejected on a direct up-or-down vote.

In other words, Senator Griffin acknowledged, back in 1968, that it was not unusual for this Senate to filibuster judicial nominees. I think there is a lesson here. If the Republicans are currently concerned about filibusters, they should listen to what the father of one of the pending nominees, a Republican, said about filibusters and checks and balances.

Once again, the reality is, I do not believe this is about filibusters in the context of judges because, look: 208 to 10; 208 approved, on a bipartisan basis, to 10. This is about whether we will have free speech in the Senate and, I believe, in our country through its elected Senators. This is about whether there will be checks and balances in our Government that allow those rare occasions—with the 10—for people to say: No. You have gone too far, Mr. President. With all due respect, your nominations have gone too far. And on behalf of the people we represent, we have the responsibility to stand up and say, stop, send us another nominee. Send us someone in the mainstream. Send us someone who will, in fact, represent the interests of a majority of Americans.

That is not what is happening today. We are being told: It is all or nothing. In the Sixth Circuit it is all or nothing. Three out of four judges is not good enough. We are being told here: It is all or nothing. It is about complete and absolute power, no checks and balances. In other countries they call that a dictatorship. We have a democracy. We respect and allow other views to be heard. We do not have to agree with them, but we allow them to be heard in our country's democracy. And we create a way, through the Senate, to force people to come together and listen to each other, and to be able to compromise in the very best sense of the word so we can create decisions, whether it be nominations for judges, or whether it be other decisions that affect the families we represent, in a way that has balance and common sense.

That is what we are talking about. We are talking about the ability to fight for your State, the ability to stand up for your values and principles, to fight for what you believe is right, the ability to ask others to join you in that, the ability to say to the President of the United States: Ninety-five percent is a great record. Two hundred eight is a great record. But, Mr. President, these 10 go too far. These 10 will turn us back in terms of protecting the rights of Americans, and we are asking you to work with us on these 10.

That is not an unreasonable request. Fundamentally, what we are talking about is whether we are going to continue to value free speech in our country. Doing away with the ability for us to speak and to be able to require a majority vote of 60 votes in order to be able to move forward on controversial issues is the first step of taking away free speech. I am very hopeful when the vote comes that men and women of dignity and respect and good conscience on both sides of the aisle will say, no, this is not about party. It should not be about party. It should be about what is best for the country. It should be about protecting the greatest Constitution in the world, the greatest Bill of Rights in the world.

We have men and women of good conscience on both sides of the aisle who I know want to do what is right. I hope it is going to be a very proud day, if this comes to a vote, and we have the bipartisan support of folks standing together and saying: We can do better than this. We can work together and maintain the ability for the minority view to be heard in the Senate on behalf of the people of this country.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I thank the Chair and our side for the time to speak on this issue.

This is an issue and a moment in Senate history which, frankly, I wished there could have been found a way to have avoided. I have been among those who have said to my leader: You have a qualified yes for my support to try and negotiate. Those negotiations have apparently broken down. So then it falls to each of us to study and to take as seriously as we can the weight and moment of this decision and how we should come down on the issue of filibustering judges who have majority support.

I ran for the Senate because I value this body, appreciate its unique role in the history of our Nation, and very much want to see it succeed in doing the people's business. So I have taken as seriously as I can the decision I have made to be an unqualified supporter of what the majority leader is attempting to do here.

When I ran for the Senate, I promised the people of Oregon that when it came to advising and consenting on judges, I would not have a litmus test, that I would respect the results of elections, that I would evaluate nominees for their academic achievement, their judicial temperament, for their personal integrity, and I would then vote on that basis without regard to a cultural litmus test.

I tried to demonstrate that when President Clinton was living at 1600 Pennsylvania Avenue, although I was not on the Judiciary Committee, I followed closely the deliberations of that committee under the leadership of Senator HATCH. There were a number of Democratic nominees that I specifically advocated for and tried very hard to help in their confirmation, and in the most part succeeded, even though their views were different from mine on a range of issues. I remember, in particular, the work of the committee on two controversial judges who were, by every measure, on the left wing of the spectrum politically, Judge Berzon and Judge Paez.

I remember Senator HATCH got them out of the committee, and I remembered my promise to the people of Oregon. One of our colleagues began to filibuster against proceeding in violation of what had been a gentleman's agreement of 200 years and more; that is, you don't filibuster judges when they clear the committee process and they come to a vote. So I voted in both instances to invoke cloture and then to confirm their ascension to the appellate court. I remember hearing a lot of disgruntlement by conservatives in Oregon who felt very strongly that they should be defeated.

But I do think elections have consequences. Presidents have rights and we have a role to play in advising and consenting. But I also feel that when we use the Senate rules to essentially overturn the right of a President and the result of an election, we do more than just violence to the executive branch of Government. We do serious injury to the judicial branch of Government. And we send a chilling effect into judges' chambers that they are going to then, in the future, be held to a standard that is so politicized that the best and brightest of liberal and conservative minds need no longer apply for service in the Federal judiciary.

Reflecting upon what I did under President Clinton, I have tried to be consistent in my advice and consent during the administration of George W. Bush. I also have noted, in history and through my 10 years here, that at the end of every Presidential term it is the common practice in the Senate to slow down the nomination process awaiting the results of an election. This happened to President Carter, it happened to President Reagan, it happened to George Hubert Walker Bush, and to Bill Clinton as well. But we are faced now with a new standard. The agreement of the Senate that has been around for 214 years was changed in the last Congress. The 108th Senate began to filibuster on the floor judges that had cleared committee, judges that had demonstrable majority support. The question that faces us now is a clash of two principles: Do we accede to this new Senate rule that has the standard no longer of 51 votes but the standard of 60 votes or do we go back to that standard by changing a Senate rule making explicit what had before been an understanding among colleagues?

I believe we are in a place now that we have to go back to the standard that this Chamber has operated under for 214 years. I think to do otherwise has a long-term impact that is negative for the third branch of our Government, the judiciary.

As Senator DURBIN, the assistant minority leader, would probably like to know, this is one Republican who does listen to him and I was listening to him last night when he spoke about Priscilla Owen. I heard his comments earlier when she had come up for confirmation in the 108th Congress, and among the many things held against her was her membership in the Federalist Society. The Federalist Society is something I have never belonged to. When I was in law school, I did not know about it. But it is an organization that believes apparently the judicial branch of Government should strictly construe the laws and be reluctant to get into political questions, to leave the democratic processes working, and to strictly interpret their judgments from the black letter of the law. I do, however, remember when I was in law school that one organization was very active in recruiting, and that was the American Civil Liberties Union. That is an organization that believes it stands for the protection of the Bill of Rights and believes that those who should be on the court should expansively interpret those rights. As I understood the assistant Democratic leader, he was saying that Judge Owen's membership in the Federalist Society should disqualify her. Well, if that is now the standard—and, Mr. President, it will be the standard if the new Senate rule is 60 votes—then I promise my friends on the Democratic side that there will probably be more than 40 Senators on this side who in the future will hold ACLU membership against nominees.

I think that is a mistake. I think guilt by association, whatever you think of these organizations, should not be disqualifying of nominees from the Federal bench. If the standard that he erects for Priscilla Owen had been in place when Ruth Bader Ginsburg was nominated to the Court, she would not have been confirmed.

I have also noted with some interest, while it is never held up as a religious test, great concern for nominees who are devout members of their religious faith, fearing that their beliefs and their faith would affect their judgment on the bench. Mr. President, I believe the Constitution is explicit in making clear that we do not have religious tests for public office. I do not accuse any of my Democratic colleagues of religious bias, but I do hear a fearful undertone, an undercurrent here that I think will bar the door to judicial service to people of faith if we set or keep the standard at 60.

Mr. President, I come to this place believing that the brightest of conservative and liberal thinkers best serve American justice and the evolution of American law rather than having a standard that says if you are unwritten and unrevealed and unaffiliated, you have a chance, but if you are a Member of a political organization, if you are affiliated with the Heritage Institute or the Brookings Institute or you are a member of a religious faith, these standards will begin to erect barriers to service in public office. I think that is a very dangerous thing.

After my own law school experience, I had the privilege of serving as the law clerk to the chief justice of the New Mexico Supreme Court, Vern Payne. It was my observation in those chambers that the judges that made the most difference for good in the administration of equal protection and due process were those on the right and the left that had clear feelings and a compassion that guided their decisions. I do think we make a serious long-term mistake and do very real damage to American law when we say only those in the middle can serve. But that is what the standard of 60 will mean in the future of American law if that is now the rule of the Senate.

If you study the filibuster, you will find that this is a right that Senators have that has evolved out of a mistake in leaving out a Senate rule that originally governed this body. But unlimited debate became the standard, and yet it also became the vehicle by which much of America's business was left undone. Sometimes it was used to odious ends, such as the denial of an African-American's civil rights. Long before I ever arrived here, colleagues of former days began to change, refine, and limit the use of the filibuster. I have heard my colleagues on the other side describe this right in terms which make it secular scripture or that this is in the Constitution. It is not in the Constitution. But it is an important right, I grant.

What the public is not hearing is that there are several calendars of business that we take up. There is the Legislative Calendar. We are the legislative branch. Then there is the Executive Calendar in which we take up advice and consent on executive appointments both to the executive branch and to the judicial branch. When you get to the Executive Calendar, you really do get to the checks and balances. And the question is why was it for more than 200 years the gentleman's agreement was that you do not filibuster these nominees, you give them an up-or-down vote for so long? And the reason was simply because it did have an impact upon other branches of Government.

No one here is proposing a limitation of filibusters on the legislative calendar.

Nevertheless, in former years, our colleagues made many modifications to the filibuster rule. It began in 1917. There was no limit to filibusters until then. The standard was then set at 67 votes to invoke cloture, end debate, and go to a vote. But still, this was not a standard applied to the Executive Calendar.

Further on, many changes have been made to the filibuster rights of a Senator. There are, in fact, 26 laws on our books today abrogating the right of a Senator to filibuster. For example, you cannot filibuster a Federal budget resolution. It was known as the Congressional Budget and Impoundment Control Act of 1974. The Budget Act of 1974 restricts debate on a budget resolution and all amendments thereto and debatable motions and appeals in connection therewith to not more than 50 hours. That is a very significant restriction on the right of a Senator to filibuster.

Another restriction is that you cannot filibuster a reconciliation bill. Like the budget amendment, a reconciliation bill cannot be filibustered on the Senate floor, so it can pass by a majority vote. So you cannot filibuster anything connected with a resolution or reconciliation, such as an amendment or a conference report.

I think the public would be surprised to know that at the end of a session, when the work of the Finance Committee and much of the work of the Appropriations Committee comes to this floor, usually in a big omnibus bill or reconciliation package, it passes by a majority vote because it cannot be filibustered. In fact, I suspect half of the work we end up doing here, because of decisions made in former days, is not the subject of filibuster, even though it is part of the legislative calendar.

Another instance: You cannot filibuster a resolution authorizing the use of force—the War Powers Resolution. You cannot filibuster international trade agreements, and that is called the Bipartisan Trade Promotion Authority. You cannot filibuster legislation under the Nuclear Waste Policy Act of 1982.

Time and again, our colleagues before have recognized that to move the business of the United States, there had to be some kind of limits. When I speak of the filibuster, I speak of it respectfully; I also understand its importance to slow down debate and to give Senators all the opportunity they need for debate. But I also understand that the country's business has to move forward. So colleagues, in former decades, have narrowed the right of the filibuster.

One of the Senators in this Chamber who preceded me here from Oregon is a man much esteemed in Oregon lore. His name was Wayne Morse, known as the "tiger of the Senate." He is the third place recordholder for a filibuster, exceeded only by Strom Thurmond and Al D'Amato. As I recollect, he spoke for 22 hours and 26 minutes on the tidelands oil bill in 1953. I suspect, if you check the record, few Senators used the filibuster more than Wayne Morse. He used to come here late at night and speak well into the night almost on a daily basis when the Senate was in session.

But listen to what Wayne Morse said about the filibuster:

> It is time we got back to the original purpose of the Founding Fathers and of the U.S. Senate. That purpose is to give reflection, continuity, and dispassion to legislation. These certainly do not extend to giving a veto power to a dissident minority. The Constitution is clear about when a two-thirds vote is required to make a decision. Those who want to add to those instances might better be honest about their intentions and come forward with a constitutional amendment, rather than to seek to achieve their purpose by the means of Senate rules.

What Senator Morse was referring to is that the U.S. Constitution makes explicit those instances in which supermajorities are required. Advising and consenting on judges is not among those. It is required for amending the Constitution, it is required to override a President's veto, it is required for the ratification of treaties, and in a couple more instances. But this issue is not among those expressed in the Constitution.

To clarify, Senator Morse states that he supports the use of filibusters. He said:

> I am one liberal who admits that he filibusters.

Yet he draws a distinction between filibusters which control debate and a filibuster designed to prevent a vote from ever occurring, which subjects the Senate to rule by the minority.

He went on to say:

> It is one thing to filibuster to stop what is called a "steamroller" in the Senate, to stop a majority from taking advantage of a parliamentary minority. It is quite another thing to filibuster in the Senate under a program which is aimed to defeat the right of the majority to express itself by way of the passage of legislation, which in turn will be subject to the checks which our constitutional system provides.

There are lots of checks and balances, but right now the 109th Senate has a decision to make—whether or not we should reinstate a two-century tradition of voting up or down on the Executive Calendar for judges. Why? Because it is important to the two other branches of Government. The 108th Congress broke this tradition and 60 is now the rule, unless we come to some other agreement.

Well, again, Mr. President, I do fear the impact of this new standard if we don't do something. I believe this new standard, if applied to past distinguished jurists, would make their confirmation impossible. I believe Oliver Wendell Holmes was revolutionary in his thinking about law. Felix Frankfurter, a Roosevelt appointee, was certainly revolutionary in his thinking. Thurgood Marshall or William Rehnquist or Justice Scalia—these men, I believe, today, under this new 60-vote standard, would likely be unconfirmable.

I believe this dumbs down American law, and the Senate does a disservice to the meaning of elections and to the important authorities given to the executive and the judicial branches when we raise filibusters to this new level, which I believe says to every bright young law student: If you have a point of view that is clear, if you have a membership in the ACLU or in the Federalist Society, if you are a member of a religious faith or part of a labor union, this will be held against you; it will have a chilling effect on people's ability to make a difference in law. It will certainly be a sword that we will wield when we are in the minority. It is, therefore, with regret but conviction that I assert my support for a rule that will restore the tradition of the Senate on the Executive Calendar.

The Senate rules are not Scripture. They have been changed repeatedly throughout the history of this institution. We may now have to do that again. I had hoped that a compromise could be found. One may yet be found. But I have also come to believe that when you take a deal that says give up on the principle, the tradition, and throw half of these nominees overboard, what is admitted in that offer is that all of these people from whom we can select are qualified for the Federal bench, and what is also admitted by that offer is that this is just about politics.

This is a principle too important to get in the way of the efficient management of our business, our responsibility of advising and consenting, and having back in place the 200-year tradition of giving up-or-down votes to those who have majority support.

With that, I urge my colleagues to support the majority leader, and I urge the restoration of a majority vote on judges.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The assistant majority leader is recognized.

Mr. McCONNELL. Mr. President, I want to say this to my good friend from Oregon before he leaves the floor. I listened intently to his extremely well-crafted and reasoned arguments, and I congratulate him for his important contribution to this momentous, significant debate we are having in the Senate, trying to get ourselves back to the way we comfortably operated for 214 years. I thank my colleague for his contribution.

Because of the unprecedented obstruction of our Democratic colleagues, the Republican conference intends to restore the principle that, regardless of party, any President's judicial nominees, after full debate, deserve a simple up-or-down vote.

I know that some of our colleagues wish that restoration of this principle were not required. But it is a measured step that my friends on the other side of the aisle have unfortunately made necessary. For the first time in 214 years, they have changed the Senate's "advise and consent" responsibilities to "advise and obstruct."

Our Democratic friends did not bring us here by accident. For 4 years, they have steered the Senate toward this unfortunate path. In April of 2001, Senate Democrats held a private weekend retreat in Farmington, PA, to hatch a plan of attack against the President's judicial nominees. According to the New York Times, one participant at the meeting said, quote, "it was important for the Senate to change the ground rules, and there was no obligation to confirm someone just because they are scholarly or erudite." And, thus, we embarked on this uncharted course.

Until the last Congress—the 108th Congress—it had been standard procedure not to filibuster judicial nominees. That changed on February 11, 2003. On that day, Senator HATCH, chairman of the Judiciary Committee, sought consent to consider Miguel Estrada's nomination to the DC Circuit Court. My friend, Senator DODD, refused. Senator HATCH offered to increase the amount of time for debate by 10 hours and was refused again. He offered 20 hours. He offered 40 hours. He offered even 50 hours of debate, an unprecedented amount of time. Senator DODD said as follows:

> This is not about the amount of time.

We have heard the repeated argument on the other side that this is about the right to speak. Senator DODD said that this is not about the amount of time.

Remember that, Mr. President. The next time you hear any one of our Democratic colleagues complain that when we restore the norms and traditions of the Senate, we will be limiting their right to speak or cutting off debate, they themselves say it is not about that. Such claims actually don't withstand scrutiny. I could not agree more with my friend from Connecticut when he said this current impasse is not about the amount of time available to debate.

The Democratic leader, my friend, Senator REID from Nevada, also agrees with me. When Senator BENNETT requested an agreement to consider the nomination of Justice Priscilla Owen to the Fifth Circuit, Senator BENNETT also bent over backward to give the minority whatever number of hours for debate it needed.

Senator REID responded:

> There is not a number in the universe that would be sufficient.

"There is not a number in the universe that would be sufficient." Clearly, it must not have been about getting enough time. Our Democratic friends went on to block several more reasonable requests to consider circuit court nominations.

So it is clear the Democrats do not want more time to debate. The minority leader indicated there was not enough time in the universe for that. Rather, a minority of Senators are rejecting the opportunity to debate because they want to kill qualified judicial nominations with clear majority support.

These nomination have gone for 2, 3, even 4 years—the current justice pending on the calendar has been up for 4 years—without a vote, while vacancies on the Federal bench pile up.

Let's take, for example, Justice Priscilla Owen, who is the pending business of the Senate. She was nominated, as I just indicated, by the President 4 years ago to sit on the Fifth Circuit. Justice Owen has served with honor for 10 years on the Texas Supreme Court. She won reelection with a whopping 84 percent of the vote, far more than most of our colleagues who oppose her. She has the support of both Democrats and Republicans from Texas who know her best. She has endured 4 years of slanderous attacks from partisan groups with grace and poise.

All of that meant nothing once she landed in the crosshairs of the Senate's obstructionist minority. We devoted 17 legislative days to discuss her qualifications—17 days—and we have held four cloture votes on Justice Owen's nomination in order to allow the entire Senate to pronounce its collective judgment on her qualifications. But a minority of Senators is determined to deny the Senate the exercise of its constitutional duty. All four cloture votes have failed.

On May 1, 2003, cloture failed on the Owen nomination by a vote of 52 to 44. One week later, it failed 52 to 45. On July 29 of that year, it failed 53 to 43, and on November 14 of that year, it failed 53 to 42. For every one of those votes, Justice Owen had a clear majority and, in fact, bipartisan support. But some continued to do the unthinkable. They continued to set the precedent that only 41 Senators should have the right to dictate to the President who he or she can and cannot appoint to our Federal courts.

Justice Owen is not the only person they have obstructed. In the 108th Congress, an obstructionist minority blocked the Senate from giving its advice and consent a record 20 times. Twenty votes on judicial nominees were held, and 20 times a minority of Senators refused to let the Senate discharge its constitutional duty to render advice and consent. Twenty times, Mr. President, in the 108th Congress they stopped a judicial nominee who clearly had majority bipartisan support from receiving the courtesy of an up-or-down vote. They filibustered 10 different circuit court nominees within 16 months. This is completely without precedent, and it is also not fair. Any President's judicial nominees should receive careful consideration, but after that debate, they deserve a simple up-or-down vote.

Despite the Democrats' power grab, we offered them several compromises that allowed for extended debate but still give nominees the courtesy of an up-or-down vote. They rejected every one. For instance, in May 2003, the majority leader, along with Senator Zell Miller of Georgia, a Democrat, proposed S. Res. 138, the Frist-Miller cloture reform proposal.

The Frist-Miller proposal was narrowly tailored after a much broader Democratic proposal from 10 years ago that would have completely eliminated the filibuster in its entirety. The Democratic proposal would have eliminated the filibuster from legislation, to which it has been historically confined, as well as for judicial nominations, where it had not been used until the last Congress.

Interestingly, all Republicans, every single one, voted against the Democratic proposal because it would have eliminated the legislative filibuster. In fact, it was the first vote that Majority Leader FRIST cast in the Senate. The only Senators who voted for that proposal were our friends on the other side of the aisle, nine of whom are still serving in this body today, singing a different tune, I might add.

I have heard several of my friends on the other side of the aisle warn ominously that if the Senate votes to reestablish the norms and traditions of this body with respect to judicial nominations, this could somehow lead to the infringement or even abolishment of a filibuster as applied to legislation. What nonsense. That will not happen because certainly nobody on this side is in favor of this, and I gather now nobody on the other side is in favor of it, even though nine of them were for it 10 years ago.

When the Democrats proposed to do away with the legislative filibuster 10 years ago, nobody on this side of the aisle supported it, and I am confident nobody on this side of the aisle would support it today. What is remarkable about that is back in 1995 when our friends on the other side were proposing eliminating the filibuster, it was right after our party came to the majority. We would have been a big winner of that had it passed, but yet not a single one of us voted for it. What did we do? We exercised restraint.

So back to the Frist-Miller proposal which, as I said, was a narrowly focused version of the Democratic—I stress "Democratic"—bill to eliminate the filibuster altogether. The Frist-Miller proposal was much more moderate, much more measured. It would have applied only to nominations, not to legislation. It would have allowed Senators after 12 hours of debate to file successive cloture motions with declining requirements to achieve cloture. The final cloture threshold would be a majority of Senators present and voting.

The Frist-Miller proposal would have allowed the minority sufficient time for debate while reestablishing the Senate's 214-year history of allowing nominees with majority support to receive the courtesy of an up-or-down vote. It was a good proposal. Unfortunately, our Democratic colleagues rejected it.

In April 2004, a little over a year ago, the majority again reached out to our Democratic colleagues. We suggested another approach to break this impasse on judicial nominations. This time the chairman of the Judiciary Committee, Senator SPECTER, took the lead by offering S. Res. 327, the Specter protocol. Under the Specter protocol, judicial nominees would receive a committee hearing, a committee vote, and a floor vote within a reasonable amount of time regardless of which party controlled the Senate and the White House.

The chairman of the Judiciary Committee would agree to hold hearings for the nominees within 30 days of the submission of their names by the President. The chairman would set a date for the full committee to vote within 30 days of those hearings. And the majority leader would set an up-or-down vote on the Senate floor within 30 days after the nominee was reported out of committee. It was pretty simple.

As I indicated, these timetables would apply whether Democrats or Republicans were in charge of the Senate, whether the same party controlled the White House and the Senate, or whether the two parties split the control.

I bet to the vast majority of people listening, that sounds like an extremely fair, bipartisan solution. I agree with them. Again, unfortunately, our Democratic friends have not embraced it.

At this point, most people would throw up their hands and give up. We do not have the luxury of doing that, however, because the American people elected all of us to act on these issues that confront the country. Restoring Senate tradition and thereby restoring the proper balance of power between the executive and legislative branches is one of our responsibilities, and we need to do it.

We Republicans redoubled our efforts and patiently tried again. In the interim, though, we had an election.

President Bush and several candidates for the Senate, many of whom serve here today, met thousands of mainstream ordinary Americans who were angry at the obstructive attempts to disfigure the filibuster. Thousands of Americans told President Bush and their Republican candidates for the Senate that they do not believe the President's nominees are out of the mainstream, and they do not like a minority of the Senate preventing the Senate from discharging its constitutional duty.

Millions of them turned out to reelect President Bush, giving him more votes than any Presidential candidate in American history. And millions voted to increase the majority's number in this body from 51 to 55.

Given those results, many of us had hoped that the politics of obstruction would have been dumped in the dustbin of history. Regretfully, that did not happen.

Recently, we Republicans tried again to reach an accommodation with our Democratic colleagues. Last month, the majority leader offered a comprehensive, thoughtful, and fair-minded solution. It is called the fairness rule. My Democratic colleagues had repeatedly complained that some of President Clinton's nominees were never reported out of the Judiciary Committee, and that is a valid point. They had a point. So to address the concern, the Frist fairness rule guarantees that every nominee would be reported out of Judiciary—presumably some of them maybe not with majority support—preventing any nominee from getting blocked in committee, which is the principal complaint the Democrats have about how they had been treated when our party controlled the Senate and their party the White House.

The Frist fairness rule guarantees every nominee would be reported out of Judiciary, preventing any nominee from getting blocked in committee. The principal complaint we have heard repeated so often out here is that the Republicans were simply doing in committee under Clinton what the Democrats are doing on the floor under Bush. We will deal with that.

In addition, my Democratic colleagues complain they need to have the right to debate judicial nominees protected.

This complaint is incongruous with Senator REID's comment that there was not enough debate time "in the universe" to allow a vote on Justice Priscilla Owen. It must not have been about time because he said there was not enough time in the universe.

Nevertheless, the Frist fairness rule guarantees up to 100 hours of debate on every nominee, allowing every member to have his or her say. This is more time than has been devoted to most Supreme Court nominees.

Finally, the Frist fairness rule guarantees up-or-down votes for every circuit court or Supreme Court nomination, regardless of which party controls the Senate or the White House. So the fairness rule could not have a more appropriate name. It guarantees a full and comprehensive debate. It guarantees every Senator a constitutional right to cast a fair up-or-down vote for every judicial nominee. It guarantees every President that their judicial nominees will get through committee and get a vote on the Senate floor and, of course, it would not apply to legislation at all.

Once again, our Democratic colleagues quickly rejected this proposal.

To recap, the majority in the Senate has had weeks of debate. We have tried multiple and generous time agreements. We have offered the Frist-Miller proposal. We have suggested the Specter protocols. We have offered the Frist fairness rule. Unfortunately, our Democratic colleagues have rejected all of these efforts at accommodation.

We have reached the point in this debate where not a lot of new things are being said, but not everybody has yet said it. But I want to make a point that I believe has not been made by anyone today. For 70 percent of the 20th century, the same party controlled both the White House and the Senate. For 70 percent of the 20th century, the same people running the White House were running the Senate. Most of the time, the people in the minority in the Senate were people of my party. Yet Republicans did not filibuster, for example, the judicial nominees of Franklin Delano Roosevelt, even though he appointed eight Justices to the Supreme Court and elevated another to Chief Justice.

More recently, the Republican minority did not filibuster the judicial nominees of Presidents Carter and Clinton because we were in the minority for 2 years under President Clinton and all 4 years under President Carter, even though several of these nominees were extremely controversial and did not enjoy supermajority support.

To be fair, when Senator BYRD was the minority leader, he did not lead his Democratic caucus in the Senate to filibuster President Reagan's judicial nominees either, and Senator BYRD should be commended for that. That was an extraordinary act of statesmanship. He could have done at the time he was in the minority when President Reagan was in the White House what has been done in the previous Congress.

When Senator BYRD was minority leader, he did not lead his Democratic Caucus in the Senate to filibuster President Reagan's judicial nominees. Not until 2 years ago has a Senate minority ever decided to filibuster a President's judicial nominations on a repeated partisan and systematic basis when they clearly enjoyed majority support.

To correct this abuse, the majority in the Senate is prepared to restore the Senate's traditions and precedents to ensure that regardless of party, any President's judicial nominees, after full and fair debate, receive a simple up-or-down vote on the Senate floor. It is time to move away from advise and obstruct and get back to advise and consent.

The stakes are high. The Constitution of the United States is at stake. Article 2, section 2 clearly provides the President and the President alone nominates judges.

The Senate is merely empowered to give advice and consent, but our Democratic colleagues want to change the rules. They want to reinterpret the Constitution to require a supermajority for confirmation.

In effect, they would take away the power to nominate from the President and grant it to 41 Members of the Senate. In other words, there would be the distinct possibility and in fact great likelihood, if this continues, that 41 Members of the Senate will dictate to the President of the United States who may be a member of the Supreme Court and other courts.

We have made every effort to reach out and compromise, but our colleagues at least so far have refused. The only choice that remains is to hold a vote to reaffirm the traditions and precedents that have served this body so well for the last 214 years. Let us vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank Senator MCCONNELL for his comments and for his leadership in this area. In many respects, I would like to pick up where he left off in the discussion of how did we reach this point. How did the Senate come to where we are going to have to have hours, days, weeks of debate on highly qualified men, women, and minorities for the Federal judiciary?

Most of my colleagues in the Senate know over the years I have been a believer that we should get things done for the American people; that we should have cooperation; that we should vote on these judges up or down and move on; that we need to be working as we did earlier this week to report a highway bill, to get energy legislation, to deal with the very critical and difficult issue of immigration reform, pass appropriations bills, take up other critical issues for the future in our country, the creation of jobs, to promote the continued development in critical high-tech areas such as telecommunications. We have a lot of work to do and yet here we are, stalled out, in my opinion, unnecessarily.

I believe we should reach across the aisle and try to find accommodation. Whether one likes it, that is how the Senate was set up, that is how we work, quite often by consensus. Over the years, when I served in leadership positions, I was quite often criticized by my own colleagues of being too willing to work with the other side to try to find a way to get a result. Then Senator and Minority Leader Tom Daschle and I worked together a lot. At the same time I was being criticized by some of my colleagues, he was being criticized by his colleagues. It is called leadership. It is called dealing with the rules one has and finding a way to work together and move forward.

I have been working for 4 years to figure out what is going on and find a solution that is acceptable to both sides of the aisle.

I worked with Senator FRIST and Senator Zell Miller to get a bill out of the Rules Committee some 2 years ago that would set up a process that would get us to a final vote on these nominees. The first vote would be the required 60 and then the second vote 57 and so on down until eventually after about a month we would get a direct vote that I think would have been fair. But, no, the Democrats would not accept that.

So then this year I came back and I started to see if maybe I could work across the aisle with Senators such as Senator NELSON, Senator PRYOR, and others to see if we could address some of the legitimate concerns.

This problem did not start 2 years ago or 4 years ago. This has been coming for a long time. I think it began with the nomination of Judge Bork. I think Republicans have retaliated for what they felt was a wrong and then the Democrats retaliated, but always slipping further down this slope of unfairness to these good men and women.

So Senator NELSON and I worked together, and we did come up with a proposal that would guarantee all nominees now and in the future would get reported out of the Judiciary Committee after a specified period of time. In other words, stop the practice, if in fact there was one during the Clinton years, of killing nominations in the Judiciary Committee unless there is clearly justification for it, objection from the in-State Senators, or other reasons, but do not get into the technicalities. Just say we were going to guarantee they would get out of committee, there would be time for full debate up to a week before we could get an up-or-down vote.

Senator FRIST actually expanded that and said how about a full 100 hours of debate: every Senator would have an opportunity to talk an hour about any nominee. By the way, I can tell my colleagues, for the majority leader to make a sacrifice of 100 hours of this body's time is a huge sacrifice. It could not be done very much, maybe two or three times a year at the most. So the seven nominees now being held hostage whom we are going to talk about in the next few days, some of them clearly would not make it under that procedure, but it would have gotten to a final vote.

Again, that was rejected by the Democrats because they said, oh, no, we cannot agree to anything that would appear to or in fact give up our right to filibuster these judges. That did not work.

Then, of course, there was the last effort, one that is now still underway, one I am not involved in any longer because I kept feeling we were not going to get an agreement that did not force us to throw over and not even vote or agree to vote down one of these two women, outstanding nominees, for the Federal appellate courts. I will talk more about them individually in a moment.

So again back to the question of how we got here, the debate we find ourselves currently engaged in is a culmination of 4 years of obstructionism by a minority of Senators who refuse to allow the majority of the Senate to fulfill their constitutional responsibilities.

I know we have a lot of people who come to the Senate floor and talk about the Constitution, pontificate about the forefathers, and that the language is this. I have read the Constitution, I have read the Federalist Papers, I have looked at the history, and clearly these judges should be getting an up-or-down vote.

The Constitution clearly says when they expect a supermajority, and if they do not, then the presumption is a majority would win.

I believe in protecting minority rights. I have been in the minority more in my legislative career of 33 years than I have been in the majority. But there is another little thing: It is called elections and a majority. At some point, we quit talking and we give these people a fair up-or-down vote.

Some people will come to the floor and say, this is the tradition, we must not mess with it; this is something that has been in existence from the very beginning of the history of our country. That is not so. As a matter of fact, filibusters did not get started until World War I.

Oh, people will be surprised at that. You mean we have not had it since the great days of Clay, Webster, and Calhoun? No. As a matter of fact, after a minority of Senators blocked efforts to have an up-or-down vote on a proposal to arm merchant ships during World War I, the Senate adopted its first cloture rule. The cloture rule was later changed on five separate occasions, most recently in 1986.

So these great and hallowed traditions in this institution, if one checks back on them, do not go back very far. This is a living body. Like the Constitution, it is a living, breathing body. It changes. It evolves. We make changes in the rules. That is why when people say, woe is me, doom and gloom, the Senate cannot get through this, whatever we do, it will be cataclysmic—forget it. We have a job to do here. Let us face it like men and women and let us deal with the issue. Let us move on. Let us deal with the substance. Let us deal with the things that matter to people, such as the price of gasoline and the immigration problem, and handle it in a fair way. But this is not something that has been written into the Constitution. No, it is new.

It began, I am sorry to say, with a personal friend of mine, a great man, a great judge named Charles Pickering who had been approved unanimously by the Senate in the past to be a Federal district judge, but when he was nominated for the Fifth Circuit Court of Appeals, we could not get it out of the committee. At that time, the majority, the Democrats, killed his nomination in committee. I was floored. I could not believe it; one of the finest men, one of the finest Christians, one of the finest judges, one of the best unifiers we have ever had in the history of our country probably since LQC Lamar in the 1880s.

He got defeated in committee. I thought at the time it was a shot at me, part of the politics we get around here, and that it would change with time; it was just a gratuitous backhand at me. I can say for sure Senator Daschle, my friend, was not comfortable with what happened there. The majority came back to the Republican side and Judge Pickering came to the floor and he was filibustered. Then it was Miguel Estrada. Then it was Priscilla Owen. Then a pattern developed. That is one reason some people say, look, if there is this option that it only takes 51 votes, why was it not done last year or 2 years ago or 4 years ago? Frankly, because I thought it was an aberration. I thought it was temporary.

I could not believe this institution would besmirch, denigrate, and harass these nominees, turning the Senate not into an august, hallowed body of great deliberation but into a torture chamber, and yet here we are. I have tried to find a way to get out of this. I have tried to accept some of the blame I deserve, but that has already been done.

We have to find a solution now and we have to do it soon. Can a compromise be worked out? Why, of course. They always can, by sundown. That would probably satisfy nobody totally, but everybody a little bit. If it does not happen, we have to get this over with. We have to vote.

So what I thought was going to be an isolated incident now has become extreme. It has become systematic. It has become highly partisan. We have to deal with it. We probably should have already dealt with it.

As majority leader, I worked closely with Senator Daschle to ensure each nominee who reached the Senate floor received an up-or-down vote. Some people said, all the judges did not get out of committee. The leaders do not dictate to the committees. We do not dictate to one Senator, let alone a committee of Senators. But when it came to the floor, through thick or thin and however difficult it was, we got it done, we got them confirmed.

I will give an example. I filed cloture personally on President Clinton's nominee to the Federal district court in Utah, Brian Theodore Stewart. A cloture vote was in fact held to cut off an unnecessary and unfair filibuster on September 21, 1999. I voted for cloture to cut off the filibuster for this nominee because I believed, as I believe now, that it was important to hold an up-or-down vote on a nomination after it reached the Senate floor.

Additionally, I would like to mention two other controversial nominees to the Ninth Circuit Court of Appeals nominated by President Clinton. Marsha Berzon and Richard Paez both had very serious problems that were raised during their nominations and that concerned Senators. Their nominations were certainly highly contentious, and the process was very slow. However, they did eventually come out of the Judiciary Committee and at the appropriate time I rose to file for cloture on both of these nominees in an effort to move the process forward toward a vote, against the wishes of a number of Members of my own caucus. I stood right there and said we are not going to filibuster Federal judicial nominees: we are not going to do it. If they come out of the committee, they are going to get an up-or-down vote. Now, I may vote against them but not on my watch are Republicans going to filibuster these nominees.

On March 8, 2000, the Senate voted 86 to 13 to 1 to invoke cloture to cut off the filibuster on the nomination of Judge Berzon. Her nomination was confirmed the following day by a vote of 64 to 34 to 2.

Also on March 8, 2000, the Senate voted 85 to 14 to 1 to invoke cloture on the nomination of Richard Paez. The next day, March 9, 2000, a motion to postpone indefinitely a vote on Paez was defeated 67 to 31 to 2. By the way, in the interest of full disclosure, I voted to delay it. I do not remember why, and I am embarrassed. I should not have. An indefinite postponement is the same as a filibuster. That was wrong. We should not have done it. He was later approved that very day 59 to 39 to 2.

These two now serve in the Federal judiciary. They had lots of problems, in my mind, which I will not enumerate. There is no use rehashing that. But this is proof of the evidence when Republicans say we did not do it when we could have during the Clinton years, we did not allow filibusters. The number of President Clinton's judges who were blocked by filibusters, zero. Not under my watch or others'.

I think it is time we bring this to conclusion. I think if we could ever get a time out, if we could ever find a way to stop the filibusters, deal with the magnificent seven that are still pending, this would fade away. That is the way it happens in the Senate.

Oh, the clash is mighty and the roar is deafening. "There is no way out of this valley of death." That is when it always seems to happen, that we find a way to stop the craziness and move forward in a responsible way.

I have to talk a little bit about the nominees. I have met with some of them. I direct your attention to this picture. Why does he have a picture? I want to make a point. These are not numbers. These are not seven things. These seven nominees who have been renominated by the President are men and women and minorities who have had their reputations and their lives dragged through the mud—this one, Priscilla Owen, for up to 4 years.

Maybe you could analyze the seven and say, that one has a little problem or that one has a little problem. I don't say they are perfect. None of us are. But I am telling you, you can't get much closer to perfect than this nominee, Priscilla Owen. That is why I could never agree to any deal that did anything but allow this lady to have an up-or-down vote on her nomination. She is from Texas. Maybe that is part of the problem, I don't know. She serves on the Texas Supreme Court. It seems like a good training ground before you move to the Federal judiciary. She graduated cum laude from Baylor University and cum laude from Baylor University Law School. She was a member of the Baylor Law Review. She was honored as the Baylor Young Lawyer of the Year, Baylor University Outstanding Young Alumna. After graduating from law school, she scored the highest score in the State when she took the Texas bar exam in 1977.

She practiced law with one of the most prestigious law firms in the State of Texas, mostly commercial litigation, for 17 years. She has been on the Supreme Court of Texas for 10½ years, and the last time she ran she was endorsed by every major newspaper in the State and she received 84 percent of the vote.

She has ruled hundreds of times, not always on the business side, sometimes on the consumer side. She has had to interpret law that has been difficult, but she has done it. She has done it fairly. She has done it most often with the majority of the court.

By the way, even that hallowed American Bar Association—that I used to be a member of, but I dropped my membership for a number of reasons—gave her its highest rating.

When you look at this lady's record, her brilliance, her family—every way she has conducted herself, there is no justification for her not being confirmed or at least getting a vote.

I am not going to go through the charges that are levied against her, partially because some of them are so bizarre and so ridiculous, but also because I have seen around here that if you repeat a misstatement often enough, it becomes fact. Here is an example. Justice Owen has been accused by some of the people here because of the fact that Justice Alberto Gonzales—now the Attorney General, then a supreme court justice in Texas—accused her of being engaged in an "unconscionable act of judicial activism" in one particular parental notice case where abortion was involved and she was interpreting a State law. That happened even though Justice Gonzales said that was not the case, that his words were twisted and misconstrued. When he said that, for him, in his concurring opinion, it would be an "unconscionable act of judicial activism" for any judge to bend the statute to advance his or her own personal views, even though "the ramifications of such law and the results of the court's decision may be personally troubling," he was talking about himself.

This is not a gratuitous shot at his colleague sitting on the bench, and he has tried to clarify it. It makes no difference. It continues to be repeated as fact among those who oppose this nomination.

Look at this face. This lady has been through 4 years of hell. Why? I just don't get it.

Somebody said she has a pro-business voting record. Is that something sinister? She has ruled, for instance, that patients who are injured should be able to pursue doctors. She has ruled on occasion for consumers. But, my goodness, is it an indictment if you are pro-business? I am the son of a shipyard pipefitter, union member, but I am pro-business because I figured out, like my daddy knew, if business didn't make a profit, if they went out of business, he was out of a job.

So, there, she deserves a vote up or down. She will make a great Federal judge.

This one is even more hard to explain to me, Janice Rogers Brown. I am not going to give her American dream story, but she has lived it: Born in Alabama, family moved to Sacramento when she was still in elementary school. She grew up in California, got an education, and worked hard. She graduated from California State University at Sacramento, with a bachelor in economics and received a law degree from UCLA Law School. She has served as Legal Affairs Secretary to Pete Wilson, the Governor of the State of California, Deputy Attorney General in the office of the California Attorney General, and she served on an intermediate California appellate court. She has been on the bench long enough where she has been appointed and sought reelection and she got 76 percent of the vote in California on reelection.

That is not exactly a center or a center right constituency. They must have thought she was doing a good job: the first African-American woman in history on the Supreme Court of California. A great record.

The American dream has been lived for this lady. Two days ago, when she came by my office, I apologized to her on behalf of the American people for the way the Senate has treated her. I am ashamed of what we did. What is the criticism?

One of them, she is harsh on criminal defendants. Excuse me? The truth is, she is a conservative African-American woman. This is bad. "How can we allow that to happen? That can't be." She has had some things to say in her remarks off the bench, that some of the Federal programs have had a countereffect, not a positive effect. But she has been described by others as being brilliant and fair. Even a columnist who was being critical of her recently admitted that her opinions are consistently the most concise, engaging, well organized, and well reasoned.

She wrote the majority of the decisions in 2002 for the California Supreme Court. She is writing with the majority. Again, this face is a human being. This is not a number. This lady has been tangled up in partisan politics for 2 years. This is wrong.

That is why when people say to me, Oh, the institution will be damaged, my colleagues, I think we maybe protest too much, and we puff ourselves up a little bit too much. By the way, there are some things more important than the rules of an institution. I still think right and wrong should apply, just as it should in every other phase of our lives.

What has happened to this lady, and this one, is wrong. I cannot be a part of a process that doesn't give them the vote that they deserve, up or down—now. If they are not confirmed, so be it. I have voted on the winning side and on the losing side. I have voted for judges and against judges. Most often they have been confirmed; occasionally not, and I have been berated by Democrats sometimes when I voted against some of the nominees. But the process used to work. It is broken now. Let's fix it. Let's fix it now. Let's do our job. Let's vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Missouri.

Mr. BOND. Mr. President, I think the facts are clear. You have heard this many times. Almost everything has been said, but not everybody has said it. I want to go over some of the facts I think are very important.

For 214 years judicial nominations have come to the Senate floor and have been considered without filibuster. It is a courtesy extended by my fellow Senators to the President. By resorting to filibustering judicial nominees who have the support of a majority of Senators, which began in 2003 by colleagues on the other side of the aisle, they are throwing overboard 214 years of Senate courtesy and tradition.

The Constitution of the United States does not contain a word about filibusters. The Federalist Papers do not contain the word "filibuster." Rather, the Constitution lays out the standards for confirming judges. It does not require a 60-vote majority for confirmation. It requires a majority vote to confirm members of the Federal judiciary.

The Democrats in this Chamber have taken it upon themselves to rewrite the rules for confirming justices. They now demand 60 votes for confirmation to a circuit court or potentially a Supreme Court position.

For the first time, judicial nominations with clear majority support are denied an up-or-down 51-vote, Senate majority vote on the Senate floor through the unprecedented use of the filibuster.

There is no constitutional authority for their demands, and it is an abandonment of the tradition of this Chamber. We are perfectly within our rights and history is on our side as we prepare to take steps to ensure the confirmation of judges with majority support.

In an attempt to cloud these rather clear facts, the Democrats have put forward a parade of dubious arguments to support their filibusters, obfuscation to justify political obstructionism.

One of the facts they overlook is their obligation to check the President—and our very system of checks and balances gives them authority and demands action. But the Senate has the ability to check the President, not a minority of the Senate willing to pervert the rules of this body. The majority, therefore the Senate as a body, and representing a separate branch of Government, has spoken on these nominations. These nominees enjoy the support of the majority body's Members. The President has made his nominations and made his case for the nominations. Supporters and opponents of the nominees have made their case before the Senate on these nominations. From the votes we have taken we have seen that a majority of the Senate agrees with the President and supports his nominations. Under the system to check the President, as laid out clearly in the Constitution, the President has carried the issue and won the support of the body that has the authority to register its disapproval.

It has not disapproved. The Constitution says nothing on the subject of a filibuster, and it says nothing of the power of a minority to defeat the President's judicial nominations. It is the product of a rule of the Senate passed many years after the ratification of the Constitution. This rule does not derive from the authority of the Constitution. Furthermore, the rule is being used in a manner never used before. It is a perversion of the intent of the Constitution and, if its use in this manner is not abandoned, then we must take steps to wipe it from the books.

Let me go back to statements made about this process. Democrats are trying to change the constitutional standard for confirmation from a simple majority to a 60-vote standard. That is why we see the claim of the distinguished senior Senator from West Virginia that the nominations were rejected because they did not get 60 votes for cloture in the 108th Congress. Senators from Nevada, New York, Wisconsin, and Massachusetts have said they were rejected. A 60-vote standard is contrary to the Constitution. The Constitution spells out clearly where a supermajority is required: For veto overrides, constitutional amendments, treaty ratification, expelling a Member, convictions for impeachment. Judicial confirmation is not one of them.

It is also a double standard based on past treatment of a Democratic President's nominees. For example, Clinton nominees Richard Paez and Susan Molloway and William Fletcher were all confirmed with fewer than 60 votes, as were Carter nominees Abner Mikva and L.T. Senter.

It is said that justice delayed is justice denied. These filibusters of judicial nominations have slowed the consideration of cases in the Federal appeals court, especially in the Sixth Circuit, where Democrats have blocked four qualified nominees. As my colleague from Mississippi has pointed out, these good people who have devoted their life to law and the judiciary have been subject to interminable delays, personal vilification, without giving them the right to an up-or-down vote which this body has already demonstrated they would give them.

Look at what they have said. Back in 1975 in the CONGRESSIONAL RECORD of February 20:

> The filibuster has been the shame of the Senate and the last resort of special interest groups. Too often, it has enabled a small minority of the Senate to prevent a strong majority from working its will and serving the public interest.

So spoke the senior Senator from Massachusetts.

Then, in 1998, June 18, a statement from the CONGRESSIONAL RECORD:

> I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported.

That was the senior Senator from Vermont.

He also said:

> I do not want to get [to] having to invoke cloture on judicial nominations. I think it is a bad precedent.

CONGRESSIONAL RECORD, September 16, 19[illegible].

Another quote:

> If we want to vote against somebody, vote against them. I respect that. State your reasons. I respect that. But don't hold up a qualified judicial nominee . . . I have stated over and over again on this floor that I would . . . object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty."

Same Senator from Vermont, June 18, 1998.

Here is another one from the CONGRESSIONAL RECORD March 19, 1997:

> But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and have a shot to be heard on the floor and have a vote on the floor . . . It is totally appropriate for Republicans to reject every single nominee if they want to. That is within their right. But it is not, I will respectfully request, Madam President, appropriate not to have hearings on them, not to bring them to the floor and not to allow a vote . . .

That was the distinguished senior Senator from Delaware, March 19, 1997.

Here is another good quote:

> The Chief Justice of the United States Supreme Court said: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." Which is exactly what I would like.

The distinguished senior Senator from Massachusetts, CONGRESSIONAL RECORD, March 7, 2000.

Mr. President, the minority had the opportunity to win their argument long before it reached the Senate. They had a chance to win at the ballot box. They argued that the American people could send Members of the Senate who agreed with their legislative agenda and their view of the role of the judiciary. The American people did not agree with the minority and sent an increased majority of Members to the Senate who agree with the President on the role of the judiciary, the type of individuals who should occupy these positions, and the need to give them an up-or-down vote.

On two occasions, my colleagues on the other side of the aisle had the chance to win the argument on judicial nominations and had a chance to win this argument at the ballot box. They did not. They had a chance to convince a majority of the Members of the Senate that the nominees are unsuitable to sit on the Federal bench. They were unable to do so. So they have resorted to turning a Senate rule on its head and insisting on an application never used before to win a debate they could not win by a simple 51-vote majority.

Now our Democratic colleagues come to the floor and say the view of the majority of the Senate and the view of a President, who won the most votes ever by any President, is out of the mainstream. A minority is now demanding their view—which is the minority opinion in this body, and apparently from the opinion polls and our contacts, the minority opinion in the country—should carry the day as to what is and what is not in the mainstream. Once again, this line of thought would seem to turn logic on its head.

To cloud further the unprecedented nature of their attack on the President's nominations, my Democratic colleagues are blowing their own horn about confirming 208 of the President's nominees versus only defeating 10; a stellar record of cooperation they claim, evidenced by confirming 95 percent of the President's nominees. By confirming the President's district court nominees they are attempting to hide a blatant attack on the President's nominees for higher court, appellate courts, courts of appeal.

The circuit courts of appeals are the second most important courts in the land behind only the Supreme Court of the United States. When it comes to confirmation of the President's nominees, their record is not one of cooperation but one of unprecedented assault. Nearly one in three of President Bush's nominees for the Federal court of appeals has been targeted for defeat. This is not by accident. We know two days after the Senator from Vermont switched parties and changed the balance of the Senate in June of 2001, a number of extreme left-leaning groups met to plot the defeat of circuit court nominees. Their analysis showed a Republican President would surely nominate judges with a philosophy consistent with the President, strict construction of the Constitution, rather than the extreme leftwing judicial legislation views of their own. The left-leaning groups saw their balance on the court decreasing, and their plan was to defeat circuit court nominees. Their plan was not to argue for judges in the mainstream or to defeat district court nominees. Their objective was to defeat, by any means, circuit court nominees of President Bush.

Yesterday we saw this outline in the Washington Times. These groups, in turn, met with Senate Democrats to target certain nominees. Surprisingly, the nominees the groups decided to target seemed to be neatly in line with those ultimately targeted by Senate Democrats. So, actually, the minority has been outsourcing their decision as to who is and who is not in the mainstream to outside liberal groups such as People for the American Way, which a glance at any of their material reveals they are not exactly in the mainstream.

Here are a couple of excerpts from the Washington Times article yesterday:

> In a November 7, 2001, internal memo to Sen. Richard J. Durbin, who is now the minority whip, an aide described a meeting that the Illinois Democrats had missed between groups opposed to Mr. Bush's nominations and Sen. Edward M. Kennedy, Massachusetts Democrat and member of the Judiciary Committee.

The memo goes on to State:

> Based on input from these groups, I would place the appellate nominees in the categories below . . . listing 19 nominees as "good," "bad" or "ugly."
>
> Four of the 10 nominees who Democrats have since filibustered were deemed either "bad" or "ugly." None of those deemed "good" by the outside groups was filibustered.
>
> Among those listed as "ugly," was Texas Supreme Court Justice Priscilla Owen, whose nomination will be brought to the floor today by Majority Leader Bill Frist, Tennessee Republican.
>
> In a June 4, 2002, memo to Mr. Kennedy, staffers advised him that Justice Owen would be "our next big fight."
>
> "We agree that she is the right choice—she has had a bad record on labor, personal injury and choice issues, and a broad range of national and local Texas groups are ready to oppose her," the aides wrote.

I ask unanimous consent this be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOND. As I believe has been stated many times before, Justice Owen has won overwhelming support, more than three-quarters support of the majority of Texas and the endorsement of major leading newspapers, the Bar Association, but the left-leaning groups did not like her.

Our colleagues in the minority want congratulations for the fact that nearly all of the President's trial court judges have been confirmed. I respect greatly the men and women on the Federal district court. In the eyes of the Senate Democrats, however, clearly, all judgeships are not created equal.

We see the contrast between the way the Democrats are conducting business and the way business has been conducted by tradition. Nearly one of three of the President's nominees to the appellate court, the circuit court are being filibustered. Prior to the Democrats embarking on this path, 2,372 nominees were confirmed without a filibuster; 377 of President Clinton's nominees were confirmed without a filibuster. Judges were confirmed for 214 years without there being a filibuster. So the minority has turned over the determination as to who is and who is out of the mainstream to a number of out-of-the-mainstream groups, and they let these groups lead us down the path of destroying Senate tradition of 200 years. Not a record, in my view, that warrants a hardy pat on the back.

In a thoughtful opinion piece in today's Washington Times, majority leader Bob Dole recalls there were a few nominations made by President Clinton that were clearly objectionable to most Republicans. He said:

> I recall two judicial nominations of President Clinton's particularly troubling to me

and my fellow Republicans members when I was the Republican Leader in the Senate. Despite our objections, both received an up-or-down vote on the Senate floor. In fact, I voted to end debate on one of these nominees while voting against his confirmation. Republicans chose not to filibuster because it was considered inappropriate for nominations to the federal bench.

Senator Dole goes on to say:

> By creating a new 60-vote threshold for confirming judicial nominees, today's Senate Democrats have abandoned more than 200 years of Senate tradition.
>
> For the first time, judicial nominees with clear majority support are denied an up-or-down vote on the Senate floor through an unprecedented use of the filibuster. This is not a misrepresentation of history; it's a fact.

I ask unanimous consent that be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BOND. We have heard a lot of statements and posturing from the other side about the President trying to pack the courts and how this is a nuclear option.

Let me tell you what the nuclear option is. The Democrats say if we go back to the tradition of confirming judges by a 51-vote up-or-down majority in the Senate, they are going to blow up the Senate. They are going to bring everything to a halt. They are going to destroy this body because we insist on what Democrats, prior to 2001, agreed with us: that is, judicial nominations brought to the floor deserve to be confirmed by a 51-vote up-or-down majority.

Already, we have seen the Democrats' stall tactics. "Stall ball" is being played. For people not in this body, you may not know that any Senator has a right to object to committee hearings being conducted 2 hours after the Senate goes in session. Even though this is regular order, this is standard procedure, we have had the Democratic side object to holding hearings.

Yesterday, we were scheduled to have a very important meeting in our Intelligence Committee to go over current threats, the intelligence of the dangers that our troops in the field face and the dangers we in the homeland face. That meeting was canceled because the Democrats objected.

The Energy Committee is trying to write a very important bill dealing with energy. We have not had an energy policy in a decade and a half. Gas prices have gone through the roof. We are seeing shortages. We are paying at the pump. We are paying in our home heating bills, paying with jobs going overseas because of the unnatural, artificial restrictions on the development of sources of energy in the United States—natural gas, oil, and even renewable fuel—while demand artificially is being increased for natural gas by the requirement that rules require it be used in electric utilities. And yet by objecting to committee hearings, the Democrats are limiting the Energy Committee to 2 hours a day and a markup.

It is not the President who is distorting rules to forward his nominations. It is not the President who has abandoned tradition and courtesy in forwarding his nomination. It is not the President who is attempting to rewrite the Constitutional standard for confirming judges. The other side of the aisle thinks if they can muster 41 votes, they ought to stop anybody that their leftwing, liberal interest groups target for blocking from confirmation. The President is exercising his constitutional role to appoint members of the Federal judiciary, and he is doing so following his decisive victory last fall after winning more votes than any other president in history, promising to appoint good, well-qualified, highly qualified, highly respected judges and attorneys to the courts of appeal. Who is and who is not in the mainstream of American thought?

I believe it is clear that the President and the majority in the Senate have a right to give these well-qualified nominees an up-or-down 51-vote majority vote on the floor of the Senate.

Mr. President, I thank the Chair and yield the floor.

EXHIBIT 1

[From the Washington Times, May 19, 2005]

MEMOS REVEAL STRATEGY BEHIND JUDGE FILIBUSTERS

(By Charles Hurt)

The "nuclear" showdown that is expected to begin unfolding in the Senate today has its origins in closed-door discussions more than three years ago between key Senate Democrats and outside interest groups as they huddled to plot strategies for blocking President Bush's judicial nominees.

In a Nov. 7, 2001, internal memo to Sen. Richard J. Durbin, who is now the minority whip, an aide described a meeting that the Illinois Democrat had missed between groups opposed to Mr. Bush's nominees and Sen. Edward M. Kennedy, Massachusetts Democrat and member of the Judiciary Committee.

"Based on input from the groups, I would place the appellate nominees in the categories below," the staffer wrote, listing 19 nominees as "good," "bad" or "ugly."

Four of the 10 nominees who Democrats have since filibustered were deemed either "bad" or "ugly." None of those deemed "good" by the outside groups was filibustered.

Among those listed as "ugly" was Texas Supreme Court Justice Priscilla Owen, whose nomination will be brought to the floor today by Majority Leader Bill Frist, Tennessee Republican.

The internal Democratic memos, downloaded from Democratic computer servers in the Judiciary Committee by Republican staffers, offer a unique look into the early stages of the filibuster campaign, when Democrats were clearly doubtful that they could succeed in blocking any of the nominees.

In the 14 memos obtained in November 2003 by the Wall Street Journal and The Washington Times, Democratic staffers outlined the concerns held by outside groups about Justice Owen's "hostile" position toward abortion and her "pro-business" attitude.

In a June 4, 2002, memo to Mr. Kennedy, staffers advised him that Justice Owen would be "our next big fight."

"We agree that she is the right choice—she has a bad record on labor, personal injury and choice issues, and a broad range of national and local Texas groups are ready to oppose her," the aides wrote.

Another nominee discussed often in the memos is Miguel Estrada, a Washington lawyer who became the first filibustered nominee and who withdrew his nomination to the U.S. Court of Appeals for the D.C. Circuit after waiting two years for a final vote.

In the 2001 memo to Mr. Durbin, the staffer explained the concerns that the outside groups had about Mr. Estrada.

"They also identified Miguel Estrada (D.C. Circuit) as especially dangerous because he had a minimal paper trail, he is Latino, and the White House seems to be grooming him for a Supreme Court appointment," the aide wrote.

The memos also reveal the close relationship between Democrats and the outside groups.

In a June 21, 2002, memo to Democrats Mr. Kennedy, Mr. Durbin, Sen. Charles E. Schumer of New York and Sen. Maria Cantwell of Washington, a staffer urged delaying a hearing for Mr. Estrada to "give the groups time to complete their research and the committee time to collect additional information."

One nominee who wasn't filibustered was Judge Timothy Tymkovich, who now sits on the U.S. Court of Appeals for the 10th Circuit. But Democrats opposed moving him until all the groups had given their approval.

"[I]t appears that the groups are willing to let Tymkovich go through (the core of the coalition made that decision last night, but they are checking with the gay rights groups)," staffers wrote Mr. Kennedy in a June 12, 2002, memo.

But even as late as early 2003, Democrats appeared concerned that they would not succeed in mounting a full-scale filibuster against their first target.

In a January 2003 meeting between Democrats on the Judiciary Committee and Democratic leaders in the Senate, Democrats agreed to attempt a filibuster against Mr. Estrada.

"All in attendance agreed to attempt to filibuster the nomination of Miguel Estrada, if they have the votes to defeat cloture," the judiciary aides wrote. "They also agreed that, if they do not have the votes to defeat cloture, a contested loss would be worse than no contest."

EXHIBIT 2

A UNIQUE CASE OF OBSTRUCTION

In the current debate over judicial nominations, some commentators claim Republicans such as myself are misrepresenting history by suggesting the current filibuster tactics of the Democrats are unprecedented.

These commentators cite the 1968 nomination of Abe Fortas to be chief justice of the United States as an example of how Republicans once attempted to block a judicial nomination on the Senate floor. I welcome the opportunity to respond to this claim, because the more Americans learn about the history of judicial nominations, the more they will realize how terribly off-track our confirmation process has become.

In 1968, President Lyndon Johnson sought to elevate his longtime personal lawyer, then-Associate Supreme Court Justice Abe Fortas, to be chief justice. I would not be elected a senator for a few more months, but followed the news surrounding this nomination closely.

There were problems with the Fortas nomination from the beginning. Not only did he represent the most aggressive judicial activism of the Warren court, but it soon became apparent Justice Fortas had demonstrated lax ethical standards while serving as an associate justice.

For example, it emerged Fortas had taken more than $15,000 in outside income from sources with interests before the federal courts. This was more than 40 percent of his salary at the time, or about $80,000 in today's dollars.

More fundamentally, Fortas never took off his political hat when he became a judge. While serving as a Supreme Court justice, Fortas continued serving as an informal political adviser to the president and even involved himself in Vietnam War policy. It later emerged Fortas had discussed pending cases with the president, an obvious violation of professional ethics.

In fact, less than a year after his nomination as chief justice was withdrawn by President Johnson, Justice Fortas was forced to resign from the Supreme Court due to ethical breaches.

The claim Fortas was not confirmed due to a "filibuster" is off-base. A filibuster, commonly understood, occurs when a minority of senators prevents a majority from voting up-or-down on a matter by use or threat of permanent debate.

That simply did not happen with Fortas, where the Senate debated the nomination's merits quite vigorously. Senators exposed the ethical issues involved and the widespread belief the vacancy had been manufactured for political purposes. They sought to use debate to persuade other senators the nomination should be defeated.

After less than a week, the Senate leadership tried to shut down debate. At that time, two-thirds of the senators voting were needed to do so, yet only 45 senators supported the motion. Of the 43 senators who still wished to debate the nomination, 23 were Republicans and 19 were Democrats.

President Johnson saw the writing on the wall—that Fortas did not have 51 senators in support of his nomination—so he withdrew the nomination before debate could be completed.

The events of 37 years ago contrast markedly with those the Senate Faces today:

(1) Fortas lacked majority support when President Johnson withdrew his nomination. Today, Senate Democrats block up-or-down votes on judicial nominees who are supported by a majority of senators.

(2) Justice Fortas was politically associated with President Johnson and eventually resigned from the Supreme Court under an ethical cloud. No such charges have been made against President Bush's nominees.

(3) The Senate debated the Fortas nomination only for several days before Johnson withdrew the nomination, versus the four years some of President Bush's nominees have been pending. It's clear the Democrats today have no desire to persuade, and have even complained further debate is a "waste of time."

(4) Fortas' support and opposition were bipartisan, with Republicans and Democrats on both sides of the question. Today, the controversy is purely partisan—with only Democratic senators, led by their leader HARRY REID, opposing an up-or-down vote.

I recall two judicial nominations of President Clinton's particularly troubling to me and my fellow Republican members when I was the Republican Leader in the Senate. Despite our objections, both received an up-or-down vote on the Senate floor. In fact, I voted to end debate on one of these nominees while voting against his confirmation. Republicans chose not to filibuster because it was considered inappropriate for nominations to the federal bench.

By creating a new 60-vote threshold for confirming judicial nominees, today's Senate Democrats have abandoned more than 200 years of Senate tradition.

For the first time, judicial nominees with clear majority support are denied an up-or-down vote on the Senate floor through an unprecedented use of the filibuster. This is not a misrepresentation of history; it's a fact.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

He quoted that wonderful and very important editorial by former majority leader, Bob Dole, saying without any doubt this is an unprecedented act to filibuster. I notice that Senator HATCH, one of our most distinguished Members, the former chairman of the Judiciary Committee, has just joined us on the floor.

I will ask the Senator from Missouri if he remembers, several years ago, after Senator Dole had left the Senate, that a discussion was had in the Republican Conference about the possibility of filibustering judges, and that Chairman HATCH explained to us that it was totally against the traditions of the Senate, and we did not maintain a filibuster against Clinton judges. I wonder if he remembers that.

Mr. BOND. Mr. President, I seem to recall that. I thought it was a very statesmanlike and accurate portrayal of the traditions of this body and the requirements of the Constitution, and I once again commend our colleague from Utah, who at that time was in a position where he obviously could have mustered 41 votes to block the nominee. It was the view of those of us who agreed with the Senator from Utah that we should not do that because the people of America elected a President who has—we know and he knows—the power to nominate judges. And it is necessary to maintain a well-staffed judiciary that we give prompt and up-or-down votes to these nominees.

Mr. SESSIONS. I thank the Senator from Missouri. I will say, I did not hear all of his remarks, but I heard a good portion of them, and if anyone would like an accurate summary of the status of our situation, I suggest they read his remarks. So far as I can tell, everything he said is accurate. So far as I can tell, much of what we have heard from the other side is inaccurate, distorting of the traditions of the Senate, and not a fair summary of the situation we are in. I feel very strongly about it.

There is a huge issue at stake. And the issue is how the Federal courts will be staffed and operate. What do we want and what do we expect from Federal judges? How do we expect them to behave? President Bush says he believes judges should be faithful to the law and the Constitution, that they are not empowered to use activist tactics to reinterpret and manipulate the meaning of the words in the Constitution or a statute to further a personal agenda they might favor. But they are judges. They are referees, umpires to settle disputes by interpreting the law fairly and objectively. If we get away from that, our judiciary is in great danger.

I believe Senator BOND is correct, also, in saying this memo that was just produced, and other actions I have seen over the years I have been in the Senate, indicate to me that too often our colleagues have outsourced their valuation, outsourced their decision making process on judges to very hard-left groups who are not honest, who deliberately distort the record of fine nominees, who attempt to manipulate the press nationwide, who raise money with an effort to destroy people's reputations in a way that is not legitimate and unfair. I believe that strongly. I have seen it time and time again.

It is time to bring that to a conclusion. One of our great traditions in the Senate is to give a nominee an up-or-down vote. Senator HATCH, who is on the Senate floor, was my chairman of the Judiciary Committee for a number of years. Senator HATCH warned us when I came to the Senate. There were a lot of people who felt strongly about some activist nominees of the Clinton administration. We were very concerned with them.

I see my colleague, the Senator from Oklahoma, who was in the House. The House Members were unhappy with us. They thought we ought to filibuster some of these nominees. And we considered it. People discussed it. Senator HATCH made a very strong, clear presentation in the Republican Conference. He said no, that it was against our traditions. It would be bad public policy. It would alter the balance of power in the separation of powers by creating now a super majority needed for the confirmation of judges. He said we should not do it. And the Republicans were in the majority. We had a majority in the Senate, at one time 55 Members.

So the question was. What about some of these nominees that were objected to? I objected to two from the Ninth Circuit very strongly. The Ninth Circuit was the most activist circuit in America. It had been reversed by the U.S. Supreme Court in 27 out of 28 cases. It was out of step. The New York Times said in an article that a majority of the Supreme Court considered the Ninth Circuit a rogue circuit. Yet

President Clinton was appointing two ultra-liberal activists to the court.

But what happened to those two judges? We have heard the democrats complain about on occasion: Judges Paez and Berzon. The Republican majority leader of the Senate, TRENT LOTT, called those nominees up and asked for an up-or-down vote by cloture motion. Those of us who opposed them—I certainly was one of them—voted for cloture, voted to give them an up-or-down vote, even though we intensely opposed them. They were given an up-or-down vote, and they were confirmed. President Clinton's nominees, when the majority was in the hands of the Republicans, were moved, after full debate and an opportunity to make their case. They brought them up, and they were given that up-or-down vote. That is the principle under which the Senate has operated.

Some say, well, we might want to filibuster in the future. Well, we have not filibustered in the past, not for 200 years.

Now, how did this situation that we are facing happen? There is no mystery if you look at the history of it. Senator BOND made a number of the points. But not long after President Bush was elected, in 2000, the Democrats went to a retreat. According to a New York Times article that reported on it, three very liberal, capable law professors—Laurence Tribe, Marcia Greenberger, Cass Sunstein—met with them in retreat. And they returned from that retreat with the conclusion that they were going to change the ground rules of confirmations.

That is what we have seen time and again in a whole lot of ways. The ground rules were changed. For example, not long after that, one Republican Member switched parties and we ceased to be the majority party, and so the Judiciary Committee had a majority of Democrats on it. The first nine nominees who had been submitted—several of these nominees were in that group, including Priscilla Owen and others—were nominated in 2001. They would not bring them up in committee. Then after they moved two nominees—one was a minority and the other was a Democrat. They moved those two, but these other fine nominees never moved out of committee. They were changing the ground rules then.

Then after the Republicans regained the majority, they commenced an unprecedented attempt to filibuster in committee—something we had never seen before. We had to have a fight over that in committee, under Chairman HATCH's leadership, and we reversed that. They were going to filibuster nominees in committee. It is so contrary to what they were saying a few years ago on the floor of the Senate.

On Tuesday of this week, Senator BOXER railed against Janice Rogers Brown, but this is what she said about judicial nominees when President Clinton was in office:

> According to the United States Constitution, the President nominates, and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

Now, she has been inconsistent, I would say. But Chairman HATCH has been consistent. When he opposed Clinton nominees, he gave them an up-or-down vote, and so did TRENT LOTT. As soon as the situation flops, some of the Democratic Senators flopped. Senator SCHUMER was one of the most outspoken complainers during the Clinton administration. He said:

> I also plead with my colleagues to move judges with alacrity—vote them up or down.

I agree with that, Senator SCHUMER.

> But this delay makes a mockery of the Constitution, makes a mockery of the fact that we are here working, and makes a mockery of the lives of the very sincere people who have put themselves forward to be judges and then they hang out here in limbo.

Senator LEAHY, now leading the filibuster, was on the floor talking about that. Back when the Clinton administration was submitting judges, he said:

> I have had judicial nominations by both Democrat and Republican Presidents that I intended to oppose. But I fought like mad to make sure they at least got a chance to be on the floor for a vote. I have stated over and over again on this floor that I would refuse to put an anonymous hold on a judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. If we don't like somebody the President nominates, vote him or her up or down. But don't hold them in this anonymous unconscionable limbo. . . .

Well, I see Chairman HATCH is here. I know the time is a bit drawn. Chairman HATCH and the Republican leadership have been consistent on this issue, even when it was not to their political benefit to do so. We have opposed the idea of filibusters and have not supported it. The Democrats oppose them when it is convenient and support them when it is convenient. I think their position is untenable as a matter of principle and as a matter of public policy, and our country will not be better off for filibustering judges.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my colleague for his kind remarks, and other colleagues as well. I ask unanimous consent that I be given the original half-hour time and that the Democrats be extended an equal amount of time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, I appreciate my colleague from Alabama. He knows about as much as anybody who has ever sat on this side of the aisle. He has the sting of having been rejected by the Judiciary Committee Democrats when he was nominated for a Federal judgeship years ago. I think that is pretty ironic. They knew he was good and that he could do the job. Now he is a sitting Senator who can no longer be ignored, and he has stood up and triumphed for so many good people through the years. I think it was kind of a God-given thing that he was rejected back then, so he could sit in the Senate and tell people the important aspects of the Federal judiciary we have been discussing. I personally love and appreciate him. He has been a great member of the Judiciary Committee and I have a lot of respect for him.

I have also been told that at the beginning of the session today, one of the leaders offered to discharge a number of judges from the committee, or judgeship nominees. I find that pretty ironic because at the end of the 108th Congress, when I attempted to discharge three nominees to the floor—Tom Griffith, our former counsel, nominated for the DC circuit; J. Michael Seabright, who was from Hawaii and was sponsored very strongly by the two Hawaiian Senators; and Paul Crotty, from New York, who was sponsored strongly by the two New York Senators—the Democrats opposed that and said this was extremely unprecedented, and they prevented me from doing so because they claimed "proper order" for all nominees.

Forgive me, Mr. President, if I find the recent Democratic request to discharge people they want to discharge—three Sixth Circuit nominees—more than a little disingenuous. It is only done to try to make it look as though they are trying to cooperate when in fact they knew that could not be permitted. The leadership in the Senate will decide what judges come to the floor and we want all of them, including the three from Michigan.

Last week when the Judiciary Committee considered the asbestos bill, one of our Democratic colleagues referred to proposed amendments to that bill and said something very important: Let's debate them up or down. He said it the way the American people believe it, and that is debating and voting is what legislators do. Let's debate them and then vote them up or down.

The Senator offering that idea was my colleague from Vermont, Senator LEAHY. He was speaking then about legislation, but he and other Democrats once insisted the Senate should follow the same principle as we evaluate the President's judicial nominations.

In October 1997, for example, he said on the Senate floor:

> I hope we might reach a point where we as a Senate will accept our responsibility and

> vote people up, vote them down. Bring the names here. If we want to vote against them, vote against them.

Of course, at that time, a Democratic President was in power. That may have been the difference between then and now.

It is always refreshing to see our fellow citizens from all over this great country coming here to sit up in the galleries and observe their Senate at work. Some of them with us today might actually be asking, Why is the Senator from Utah making such a big deal about something that is so obvious—votes up or down, that is. Many of our fellow citizens may be surprised to learn that some of the Senators they elected and sent to Congress are refusing to vote on nominations. They might share the sentiment of former Democratic leader Senator Tom Daschle when he said in 1999—of course, Clinton was President:

> I find it simply baffling that a Senator would vote against even voting on a judicial nomination.

That is what they are doing. I guess it makes a difference whether your President is President or whether the opposition President is President. I happen to think there are certain virtues that ought to be maintained, no matter what.

Those Senators on the other side are blocking votes because they know they will lose those votes. If we debate these nominees, America would better understand why we need judges who will interpret, not make, the law. Americans will see how these highly qualified judicial nominees meet that standard, and America will see that these nominees, every one of them, have a bipartisan majority support.

What is wrong with giving them a vote up or down? The political forces promoting an activist political judiciary oppose many of these nominees, and their strategy is simple. The Senate cannot confirm nominees if Senators cannot vote on them. We cannot vote if we cannot end debate. These filibusters use Senate rules to prevent ending debate, prevent taking a vote, and prevent confirmation of these judges. That is not only baffling, it is unprecedented. This is not a tangent, an academic issue, or a question that will 1 day be found in the game "Trivial Pursuit Senate Edition." This issue is central to this debate, and our Democratic colleagues know it.

Some are so desperate to claim even one single solitary precedent for what they are doing that they stretch, twist, and morph the word "filibuster" beyond all recognition. They want the word "filibuster" to mean so many things that it ultimately means virtually nothing at all.

Unfortunately, these mischaracterizations of Senate history, tradition, and rules cynically exploit the fact that many of our fellow citizens have not mastered the particulars of Senate history, the peculiarities of Senate procedure,, or the idiosyncrasies of the confirmation process. Misleading, confusing, patently false claims can easily take on a life of their own, echoed and repeated throughout the media, cyberspace, and even here on the Senate floor.

We all know it can take a long time for what is true to catch up with what is false. Judicial filibuster defenders who claimed that when the Senate voted to end debate on past judicial nominations, we were actually filibustering those nominations; that when we voted down debate and confirmed them, we were actually filibustering—poppycock. They want Americans to believe that ending debate then justifies refusing to end debate now. Poppycock. Or they claim that when the Senate voted to confirm judicial nominations in the past, we were actually filibustering those nominations when we voted to confirm them. That is how far they have gone to try and justify these inappropriate actions.

They want Americans to believe that confirming nominations then, as we did, justifies refusing to confirm them now. Those bizarre claims focus on what happens here on the Senate floor at the end of the judicial confirmation process. Sometimes judicial filibuster defenders on the other side have focused instead on what happens in the Judiciary Committee, an earlier phase in the process. Some appear willing to try anything to create a precedent for their filibusters. Some even claim that any nomination which is not audibly confirmed, no matter what the reason, no matter what the step in the process, has been filibustered. Giving a word any meaning you want may help make any argument you want to make, but it does not make that argument legitimate. This gimmick may have some public relations punch. It leads to cliches such as "pocket filibuster" or "one-man filibuster," and creates villains, such as me. What kind of campaign would this be without a bogeyman? After all, I was chairman of the Judiciary Committee for 6 years under President Clinton.

Never mind that the Republican Senate confirmed 377 judges for President Clinton, just 5 short of the all-time confirmation record set by President Reagan. Bill Clinton was the second confirmation champion of judges in the history of this country, and he had 6 years when I was chairman. I wonder how that happened if I was so partisan.

Never mind that President Reagan had his own party controlling the Senate for 6 years while President Clinton had the other party, the Republicans, controlling the Senate for 6 of his years. So Reagan had his own party help him for 6 years. President Clinton only had his own party for 2 years, and yet he still came in just five votes shy of President Reagan. And if my recollection serves me correctly, he would have been three ahead of him had it not been for Democratic holds on their side. One Senator was not getting his; therefore, he would not let anybody else get theirs. It happened. Never mind facts such as that.

The assistant minority leader yesterday claimed every Clinton nomination that was not audibly confirmed was filibustered and that I personally buried them. My hand alone held back a confirmation wave of apparently mythic proportions. Look for a moment what it takes to believe every unconfirmed nominee is a filibustered nominee. It requires believing dozens of nominees President Clinton himself withdrew were filibustered. Preposterous. President Clinton, for example, withdrew one of his court nominees fewer than 6 months after her nomination because of health concerns. Her nomination did not get out of the Judiciary Committee, did not receive a floor vote, and was not confirmed. But was she filibustered? They seem to think so.

Is her situation the same as Justice Priscilla Owen who has been waiting for more than 4 years and cannot get a floor vote because of a Democratic filibuster, a leader-led partisan filibuster, the first time in history?

This line that all unconfirmed nominees are filibustered nominees requires you to believe ill-founded arguments such as that. It also requires believing that the 28 nominations sent too late to be considered or which President Clinton chose not to resubmit were filibustered.

That is how they add, they double count. It is ridiculous. Preposterous is the word.

It requires believing that nominations not given hearings because of opposition by their home State Senators were filibustered. We have had that go on for years, whoever has been in power. Home State Senators have a lot of swat. The Judiciary Committee system that gives extra weight to the views of Senators from a nominee's home State has been in place in various forms for nearly a century. Democrats, as well as Republicans, use it. I do not hear the Democrats who now want to call these situations filibusters also calling to abolish that system of home State senatorial courtesy. They cannot have it both ways.

The majority leader, Senator FRIST, recently offered a proposal that would not only address our concerns about the floor by ensuring up-or-down votes, but also address Democrats' concerns about the committee by guaranteeing reporting of nominees. The majority leader tried to do that. Democrats rejected that offer. They are not going to give up their rights in committee anymore than Republicans should give up their rights in committee.

But that is not filibustering, I can guarantee that. Either they think treatment of judicial nominees in the Judiciary Committee is a problem needing a remedy or they do not. They cannot have it both ways. Democrats know that many factors determining whether a nomination is approved by the Judiciary Committee are not simply up to the chairman's unilateral discretion. What galls me is some who have made the argument. One in particular this morning begged me to get his judges through, and I have to say there were real questions about his judges, but I put them through because they were nominated by the President. He came to me and asked that I get it done. I did it for countless Democrats in the 6 years I was chairman of the committee during the Clinton years, and they know it. They do not have any other arguments.

So what do they want to do? They want to vilify the chairman of the Judiciary Committee who has had to put up with all kinds of machinations in the Judiciary Committee from both sides, whoever the chairman is. Democrats know there are procedures in the Judiciary Committee and on the floor for forcing a committee chairman to act if Senators believe the chairman is dragging his feet and that those procedures were never used, never even attempted, while I was chairman. Why? Because they knew darn well I was trying to do the best I could.

They do not have any other arguments. They cannot justify their position. Democrats know these things. They also know that many of our fellow citizens do not. So the spin machine cooks up this tail that all unconfirmed nominees are filibustered nominees, attempting to make people believe there is some precedent, even a totally fictional precedent, for their current filibusters. Saying that ending a debate is the same as not ending a debate did not work. Saying that confirming nominations is the same as not confirming nominations did not work. Saying that President Clinton's near record confirmation total is evidence of unfair treatment by Republicans will not work either.

On Tuesday the distinguished Senator from Wisconsin, Mr. FEINGOLD, was making a few other arguments. He pointed out that the text of the Constitution does not require an up-or-down confirmation vote for a judicial nomination.

Well, many of our colleagues on the other side of the aisle attack judicial nominees when they take the Constitution's text this seriously. But I am glad that the Senator from Wisconsin is doing so.

The word "filibuster" is not found in the Constitution, either. Nor are phrases such as "unlimited debate," "minority rights," or even "checks and balances," as misused as those terms have been by the other side.

None of the phrases used by some to try to give these judicial filibusters a constitutional anchor are in the chartered text, the constitutional text. What the Constitution does say, however, is that the President has the power to nominate and appoint judges—not the Senate, the President has that power. Our role of advice and consent is a check on the President's power to appoint.

When the filibuster turns our check on the President's power into a weapon that hijacks the President's power, then, yes, it has indeed violated the design that is most certainly in the text of the Constitution, and that is what they are doing.

The Senator from Wisconsin also said the procedure the majority leader may use to prohibit judicial filibusters will mean changing the Senate rules by fiat. That is a variation on the Democratic mantra that this would break the rules to change the rules. That is a catchy little phrase but neither of its catchy little parts is true.

The Senate operates not only by its written rules but also by parliamentary precedence established when the Presiding Officer rules on questions of procedure asked by the Senators. What we call the constitutional option would seek such a ruling from the Presiding Officer. After sufficient debate, the Senate should vote on a judicial nomination. That is what the ruling would be. Senate precedents and procedures would change, but Senate rules would remain unchanged. No breaking of the rules, no changing of the rules.

Senators use the word "fiat" because it sounds bad and fits with the abuse of power theme probably born in some liberal focus group somewhere. The word attempts to give people a bad impression, but it should give them an even worse impression to know that it is patently false.

The Constitution gives authority over Senate rules and procedures to the Senate, not to the Parliamentarian or to the Presiding Officer but to the Senate. If the Presiding Officer rules on the question of procedure, it will not actually change Senate procedures until a majority of the Senators vote to do so.

Just as American self-government is radically different from monarchy, Senate self-government is radically different from fiat.

The Senator from Wisconsin said that whenever the Senate merely takes a cloture vote or a vote to end debate, a filibuster is always underway. That, too, is patently false.

Let me refer to this chart. This is what the Congressional Research Service said on April 22, 2005:

> It is erroneous to assume that cases in which cloture is sought are always the same as those in which a filibuster occurs.

Let me repeat that.

> It is erroneous to assume that cases in which cloture is sought are always the same as those in which a filibuster occurs.

Let me use two examples. Among President Clinton's most controversial nominees were Marsha Berzon and Richard Paez nominated to the U.S. Court of Appeals for the Ninth Circuit. Our colleague from New York, Senator SCHUMER, who has spoken many times on the floor on this issue, in November 2003 called these nominees "very liberal," and, "quite far to the left." Now, that is quite something coming from a Senator who has never been called even a little bit to the right.

On November 10, 1999, the majority leader at the time, Senator LOTT, promised that he would bring these controversial nominations up for a confirmation vote no later than March 15, 2000, and that was at my request. He correctly said that I agreed with using the cloture vote to ensure that a confirmation vote occurred. In other words, it was used to get to a vote.

On March 8, 2000, that is exactly what we did. It was of a procedural floor management device. The first two names on the petition for the cloture vote happened to be Senator LOTT and myself. We took that cloture vote to prevent a filibuster and to ensure an up-or-down vote. We prevented a filibuster. That vote occurred, and the Senate confirmed both nominees. They are today sitting Federal judges. Otherwise we would have kept going on and on on the Senate floor. We decided that is the way to get to a vote, and we did.

The Senator from Vermont, Mr. LEAHY, said on Tuesday that the constitutional option which would use a parliamentary ruling to prohibit judicial filibusters would "use majority power to override the rights of the minority." I have called this parliamentary approach the Byrd option because when Senator BYRD was the majority leader in the late 1970s and early 1980s, Senator BYRD used it to change Senate procedures. He did so regarding legislation and also regarding nomination-related filibusters.

In 1980, for example, then-Majority Leader BYRD wanted to prohibit filibusters with a motion to proceed to nominations, and they could do that back then, just as a confirmation vote cannot happen if debate does not end. Debate cannot start if the Senate cannot vote to proceed to that debate.

Today we hear that any limitation on debate, any restriction of the filibuster, strikes at the very heart of the essence of this institution. Maybe it was a different story back then when they were in control. When the Presiding Officer ruled against what Majority Leader BYRD was trying to do, he then appealed that ruling and the Senate voted to overturn it, effectively terminating those nomination-related filibusters. He knew how the vote was going to turn out in the end.

I remind my colleagues what my good Democratic friend from West Virginia said when he used the procedure to change the filibuster rule, on January 4, 1995, during the Clinton administration. He said:

> I have seen filibusters. I have helped to break them. There are few Senators in this body who were here [in 1977] when I broke the filibuster on the natural gas bill. . . . I asked Mr. Mondale, the vice president, to go please sit in the chair: I wanted to make some points of order and create some new precedents that would break these filibusters.

Then he said this:

> And the filibuster was broken—back, neck, legs, and arms. . . . So I know something about filibusters. I helped to set a great many of the precedents that are on the books here.

Well, the Senator was candid. I personally admire him for it. On at least three other occasions, Majority Leader BYRD used a ruling by the Presiding Officer to change Senate procedures without changing the underlying Senate rules.

The Senator from Vermont says that using this very same mechanism today would be an outrageous trashing of minority rights. Yet he voted every time to support Majority Leader BYRD's use of that mechanism, including to eliminate nomination related filibusters.

Yesterday, the Senator from Illinois, Senator DURBIN, claimed that Senate rules, in his words, from the very beginning, required an extraordinary majority to end debate.

Now that is factual claim, and it is factually false.

The Senate adopted its first rules in 1789. Rule eight allowed a simple majority to proceed to a vote. The men who founded this republic designed this Senate without the minority's ability to filibuster anything.

Over the last few days, many excuses have been offered why some refuse to debate and vote on judicial nominations that reach the Senate floor.

Let me correct that. While these may be their reasons, there are no valid excuses.

When procedural obstructive devices such as the filibuster are kept where they belong, in the legislative process, the debate can properly focus on the merits of these nominees. That is what debating and voting should ultimately be about, the President's nominees.

The debate we have seen here on the Senate floor regarding nominees such as Justices Priscilla Owen and Janice Rogers Brown is typical of what we will see in the future regarding other nominees.

Many of our fellow citizen may know little of the Senate's Byzantine procedures, they may know little about judicial rulings, they may not speak legalese, but I hope they will not be afraid to participate in this process.

Let me offer a few pointers, a few tips, for the road ahead.

Politics is often about results, about winners and losers, and involves politicians asserting their will. Law is about the process of reaching results, about what the law requires, and involves judges using judgment.

Politics and law are two very different things, and our liberty depends on preserving that difference. So if you hear critics of judicial nominees talking only in the language of politics, you know something is wrong.

In the last day or two, for example, critics of the nominees before us have reduced them to sound bites, checklists, and litmus tests.

Senators begin sentences with phrases such as she ruled that . . . or she ruled for. . . .

Mentioning only those results, without exploring how a judge reached those results, amounts to applying political criteria to a judicial nominee, and that is fundamentally wrong. Sometimes the law requires results we may not like, results that may even sound dramatic.

Mentioning the political results without the judicial process leading to those results misleads people about what judges do and how to choose the rights ones.

Or the critics will characterize what a judge said rather than tell us what she actually said.

Or if they do quote the judge, critics will often pluck out only a phrase, or use lots of ellipses.

These are signs that spin may be in the air.

Or the critics will quote other critics. Imagine if the only thing someone knew about you came from what your critics or enemies said about you. That picture would be distorted, incomplete, and just plain false.

So our fellow citizens should not be worried that they do not know the language of lawyers, that they have not read a judicial nominee's writings or rulings, or are not well-versed in the fine points of legal argument.

I hope they will listen critically to the debate here in the Senate about these nominees, their qualifications, and their records.

I hope our fellow citizens will be very skeptical of critics who make a political case against a judicial nominee, skeptical if the case against a nominee is limited to soundbites about results or characterizations by third parties.

Let me conclude my remarks by noting that in September 2000, the Senator from Michigan, Senator LEVIN, said that the Constitution each of us has sworn to protect and defend requires that we debate and vote on judicial nominations reaching the floor.

I agreed with that principle then, and I agree with it today.

For more than two centuries, we kept the filibuster out of the judicial confirmation process.

It is surely not a good sign about our political culture that we must today formalize by parliamentary ruling a standard we once observed by principle and self-restraint.

But that self-restraint has broken down, and maintaining our tradition of up or down votes for judicial nominations is worth defending. Once we take unprecedented obstruction tactics like the filibuster off the table, we can focus where we should, on the merits and qualifications of nominees.

We must have a standard that binds both political parties. That standard must be fair, it must respect the separation of powers, and it must be consistent with our own Senate tradition.

Between 1789 and 2003, we had a strong consistent tradition of voting on judicial nominations once they reach the Senate floor.

We should return to that principle and practice.

Unfortunately, in 2003, the Democratic leadership broke with this longstanding Senate tradition and took an ill-founded turn down a partisan political path and unwisely changed the confirmation process in an unprecedented fashion.

We must turn back from that path. Once a judicial nomination reaches us here, our course should be clear. Let us debate and then let us vote.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand that under the previous agreement, I have 15 minutes. Is that correct? Mr. President, I will yield myself 15 minutes. I ask consent to be able to proceed for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask the Chair if he will be good enough to let me know when there is 3 minutes left.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. KENNEDY. I thank the Chair.

Mr. President, I will take a few moments of the time of the Senate, and for those who are watching this debate, to try to put this whole issue of what I consider to be an arrogant grab for power in some perspective. I urge my colleagues, perhaps over the course of the weekend, take 2 or 3 hours and reread the debates on the Constitutional Convention, about how our Founding Fathers wanted the selection of judges for the courts of this country to be done.

There were three different occasions during the Constitutional Convention when our Founding Fathers considered who should appoint the judges who were going to serve on the courts of this country. The first two times the Founding Fathers debated this and discussed this, they made a unanimous recommendation that it would be solely the Senate of the United States that would be the sole judge for nominating and approving judges who were going to serve on the courts. Then, as the Constitutional Convention came to an end, 8 days before the end of the Constitutional Convention, they came back and they were reviewing the totality of their work and at that time they made a judgment and decision that was virtually unanimous that they would provide a shared responsibility between the executive and the Senate of the United States.

No one can read the debates of the Constitutional Convention and not understand that the Senate of the United States is effectively, in the eyes of the Founding Fathers, a coequal partner in the naming of judges.

I know it has been fashionable around here for many years, particularly for those of the majority party—and I have seen it done even on our side when we were the majority party—for a Democrat to say: Look, if the President of the United States nominates, there has to be a heavy burden on any individual to vote against it. It ought to be automatic. It ought to be effectively a rubberstamp.

That has never been my position. I have always felt and understood that we have an independent judgment and decision as charged by our Founding Fathers to exercise our own good judgment. That has been the history of the Senate.

We have listened—I have—to a lot of debates, saying what we are doing is going back to the original intent of our Founding Fathers. That does not happen to be factually true.

I reviewed yesterday those who have held the seat I hold in the Senate. Going back to John Quincy Adams, going back to Charles Sumner, going back to Daniel Webster—to President Kennedy—the series of Supreme Court nominees they considered, and those they voted for and those they voted against: there never was a single time when any Senator from Massachusetts was effectively muzzled, silenced, gagged when they were expressing their conscience, their view about the members going to the Supreme Court or the circuit courts, not in the history of this body, never.

But under the proposal of the majority leader, that will no longer be the case. That no longer will be the case. It is not only the silencing, the muzzling and gagging of any of the Members in here: it is breaking the rules in the middle of the game.

We have parliamentary rules, like any other legislative body, and we have ways of changing and altering those rules. They are all laid out. I will mention them briefly. There is a way to change the rules if we do not like them and we can follow them and conform them to our views. By the Senate rules we can alter and change them. Is that what is going to be before the Senate in the nuclear option? Absolutely not. Absolutely not.

There is a way to change them, but not the way the Republican leadership and this administration want to do it. They are effectively tearing up the rules. They are basically running roughshod over the Senate rules, the institution that has served this Nation well for 224 years. That is what is being proposed. When all is said and done, we mention all these other past histories of activities, this is effectively what is being done.

I think most Americans may take issue with what happens here in the Senate. They may agree with the activities of the Senate or may differ with them. But one thing in which the American people have some degree of confidence is their basic institutions of Government. With the proposal by the majority leader, we are rending asunder the power and the authority that was described in the Constitutional Convention and described in the Constitution for the Senate. That is why people are feeling so strongly about this, many of us feel so strongly about this—because basically we are undermining what our Founding Fathers wanted.

This is an issue that has been overhanging the Senate now for some weeks, for some months, in spite of the fact that we have approved 208 of the President's judges: 95 percent, a higher percentage than the previous President Bush. What is suddenly the difference? This President has a higher percentage of his nominees approved than the first President Bush, Bush 1. The difference is a different political climate. There is a radical right out there that is loose in the country. They feel they won the Presidency, the House of Representatives, the Senate of the United States and, by God, they are going to take over the independent judiciary.

That is what this is all about. Meantime, while the so-called nuclear option has been hanging out over the Senate, what in the world have we been doing for the last 5 months? January, February, March, April, and now the third week in May?

When I go back to Massachusetts, the people there are talking still about job security and its uncertainty. They are talking about whether they are going to continue to be able to have health insurance. They are talking about escalating prices of prescription drugs. They are talking about the increased costs of tuition, whether their children are going to be able to go to college. They are talking about what is happening in the schools and the school dropout problems and the fact so many classes in our Nation don't have well-trained teachers. They are talking about the needs for special education teachers. They are talking about supplementary services for children going to high schools that were guaranteed in the No Child Left Behind Act and too many of our school districts are not doing; that is what they are talking about.

But what have we been doing? Waiting for the nuclear option. Which means what? Tear up the rules and we pass class action bills benefitting corporate America, we pass bankruptcy bills that will help the credit card industry. We did take 2 weeks, and deservedly so, on the supplemental appropriations, and we included an amendment to add some armor for our troops over there, of which I highly approved. That is it. That is the record. Nothing we really care about. Why? Because we have been absorbed with the nuclear option, changing and altering the rules. Mr. President, 95 percent of approval of this President's nominees has been achieved.

I frankly feel a great deal of this responsibility is right down at the other end of Pennsylvania Avenue. I can remember in January of this year, in the wake of the conclusion of the election and all of us said, This President won. We congratulate him. We have to bring the country back together. I certainly voiced that.

My colleague, Senator KERRY, certainly voiced that. What happened? The ballots are barely cast and the votes are hardly counted, and this President sends up the nominees that have been debated, discussed, had hearings, and voted on in the Senate and said: You have to pass these, Senate, or we will change the rules.

I have taken the time of the Senate in going over the qualifications of these. These are not just ordinary nominees. I have gone over these in some detail. These nominees are radical. I would say, radical, outside the mainstream. If you have a nominee such as Mr. Pryor, who thinks we ought to repeal the Voting Rights Act, I think he is out of the mainstream.

What he says in his legal papers is in complete conflict with and has been rejected unanimously by the Supreme Court. He does not understand the Americans With Disabilities Act. He does not understand that Republicans and Democrats alike voted for the Americans With Disabilities Act to bring those that are challenged, mentally and physically, into the mainstream of American society. We spent weeks and months and years to pass that legislation. This is not one Senator who will vote for someone that absolutely wants to undermine and eviscerate it, destroy it, and end it. That is what Mr. Pryor's positions lead to.

So these are not people that are in the mainstream. We have expressed that. We ought to be able to express it. But that is not satisfactory to this administration. No, no. They want to change the rules. That is what this will be all about. They are effectively saying: Look we have nominated, and you are going to go ahead and approve.

We have 224 years where they have not been able to silence us, and now they will be able to silence us. But not with this Senator's support.

These are the rules, and I welcome any on the other side to dispute them, and I invite them to put that in the RECORD. First of all, they will have to put the Vice President of the United States in the Presiding Officer's chair. There will not be another Senator in that chair to make the ruling because it is not going by the rules of the Parliamentarian.

Do listeners understand that? It is akin to going to the football game and the referee and the umpire call the penalty or the touchdown and someone else from the crowd says, no, no, that does not count, and for us it recognizes the "someone else" in the crowd. That is what they are doing. They will replace a Member of the Senate. We have, as we do now, the distinguished Senator from Tennessee sitting in the chair and presiding over the Senate. But that will not be true that particular day.

Next they will have to break paragraph 1 of rule V which requires 1 day's specific written notice if a Senator intends to try to suspend or change a rule.

And then they break paragraph 2, rule V, which provides that the Senate rules remain in force from Congress to Congress unless they are changed in accordance with existing rules.

Then they have to break paragraph 2, of rule XXII, which requires a motion signed by 16 Senators, a 2-day wait, and a three-fifths vote to close debate on a nomination.

Then they have to break rule XXII requirement of a petition, a 2-day wait, and a two-thirds vote to stop debate on a rules change.

They have to break scores of the rules. It will make a sham of the rules and parliamentary procedures of this Senate. It is wrong.

We are witnessing in this debate an arrogant power grab by the Republican right. This is what happens when the rightwing of the Republican Party calls the tune for the Republican Party as a whole. We are spending days and weeks debating five rightwing judges but not 5 minutes on what counts in most people's lives: Secure jobs, healthy families, educational opportunity. Those are not the values and priorities we see today from the White House and this Republican Congress. To them, history does not matter. Mainstream values do not matter. Our commitment is to working families, and that does not matter.

What the Republican Party cares about today is putting a rightwing agenda ahead of mainstream values, corporate interests ahead of public interests, and the agenda of the privileged few ahead of the American dream for all.

We, as Senators, have a choice as well. We can break the rules and run roughshod over our constitutional system of checks and balances or we can seek accommodation and compromise for the good of our democracy and the strength of our Nation.

The one thing standing between the White House and total control of the Congress and the courts is the Senate's right to full and fair debate. Let's not give it up.

As many of us have said, if Republicans persist in the course they have set, they will destroy the "compact of comity" that enables the Senate to fulfill its constitutional responsibilities.

Outside the Capitol, the gravity of that danger may not be self-evident.

"Comity" may be an unused word today, but for 200 years it has been the lifeblood of daily life in the Senate.

In the Senate, comity is the glue that binds us to one another and to that small but brilliant group of Framers who met, over two centuries ago, and conceived of this institution.

They certainly knew what comity was: they came from totally different views of government.

They labored ceaselessly, in the heat of a Philadelphia summer, in the ultimate American Government Seminar, until they created a government that was reliable, resilient—resistant to attack from within and without.

Comity among the Framers—their overriding "agreement to agree" despite their deep differences—informed and nourished their efforts. They worked especially hard to design the Senate.

Their debates were all about great challenges:

> What size would be right to enable the Senate to serve as a check on the other House and the President too, and still place personal responsibility for their actions on individual Senators?
>
> How long should each Senate term last, to set the proper balance between the strong, independent Senate they wanted and the potential tyranny of an aristocratic upper House, insulated from popular opinion?
>
> Who would make better judicial choices, the Senate or the Executive?

Fortunately for us today, their debates were not just theoretical. They were very real and very practical. The Framers understood they were creating a new experiment in the history of government as they worked to combine their diverse views into a single concise blueprint.

Despite vigorous and fundamental disagreements at the start, they retained their respect for one another, their capacity for reason, their shared concept of what this Nation could be, and what its government should be. Consensus was not just a goal, but a necessity. Compromise not just an option, but a cornerstone of their creation.

It is not an exaggeration to say that if that "compact of comity" is not preserved, the Senate and the Government will suffer mightily. Our vital role in the machinery of checks and balances will fade, and the nation will be left diminished.

What would the Framers have done if faced with the challenge we face?

They would clearly have counseled respect and moderation.

It is not respectful or moderate to suggest, as one of our colleagues did, that judges may have it coming to them if their decisions outrage some people. It is not respectful or moderate to suggest, as the majority leader did yesterday, that Senators are equivalent to the assassins of judges because they strongly criticize the political or ideological views of judicial nominees. As part of its advice and consent function, the Senate has done that since 1795, when it rejected George Washington's nomination of John Rutledge to be Chief Justice.

The majority leader's use of the word "assassinate" was especially unfortunate, coming in the very day that Judge Lefkow of Chicago was testifying to our Judiciary Committee about the brutal murders of her family members.

The Founders also would have counseled us about communication. We work with members of the other party every day. We talk to them every day. But I can't think of one of them who has come to me over the past 2 years to say, "This judicial nomination issue is headed the wrong way—we ought to start talking about how to preserve our institution's strengths and traditions, and solve the problems that these judicial nominations are creating for us all." We all know it is very late in this contest of nuclear "chicken," but it is never too late to try.

The Framers would also have told us to minimize the distortions and respect the truth. Again, and again, we are told that there was no Republican-led filibuster of the Fortas nomination to be Chief Justice in 1968. There are still three of us in the Senate today, who were in the Senate then, and who know the truth firsthand. It demeans the Senate and discredits the debater when someone parrots the bizarrely erroneous White House talking points denying such a filibuster, without having the grace to check the facts.

The Founders would also have told us to take extremely seriously what James Madison in Federalist No. 62, called "the senatorial trust,' which require[es] a greater extent of information and stability of character."

As Madison understood, Senators are not the owners of this institution, but we are more than just its occupants. We are, its trustees, with an awesome responsibility to protect that trust—this body—the Senate. That means we must preserve what makes it work well—like extended debate and the super-majority cloture rule.

A central part of that senatorial trust is standing up to the President when he overreaches in the exercise of his power, as he has done with the few, but important, still hotly contested circuit nominees.

Finally, the Framers would say that our endangered senatorial trust needs comity more than ever in our day-to-day activities and relationships. As Madison stated, the comity the Framers had in mind was—"the result, not of theory, but 'of a spirit of amity, and that mutual deference and concession which the peculiarity of our political situation rendered indispensable.'" That is what we must aspire to. That is what we must accomplish if we are not only to solve our present dilemma but leave this place as least as fine an institution as we found it.

Who are the nominees that the Republicans so want confirmed that Senator FRIST is willing to violate the rules of the Senate?

They include Janice Rogers Brown, who has been nominated to the very important DC Circuit, which is widely regarded as the most important court of all the courts of appeals, and whose decisions affect the rights of all Americans. She has a compelling personal story, which all of us respect. But confirmation to the DC Circuit requires more than a compelling personal story. It requires a record of clear commitment to upholding the rights of all Americans. It requires a record of clear dedication to the rule of law—not remaking the law to fit a particular political view.

Janice Rogers Brown fails this basic test. Her record on the California Supreme Court makes clear that she's a judicial activist who will roll back basic rights. Her record shows a deep hostility to civil rights, to workers' rights, to consumer protection, and to a wide variety of governmental actions in many other areas—the very issues that predominate in the DC Circuit.

She has repeatedly voiced contempt for the very idea of democratic self-government. She has stated that "where government moves in, community retreats [and] civil society disintegrates." She has said that government leads to "families under siege, war in the streets." In her view, "when government advances . . . freedom is imperiled [and] civilization itself jeopardized."

She has criticized the New Deal, which gave us Social Security, the minimum wage, and fair labor laws. She has questioned whether age discrimination laws benefit the public interest. She has even said that "Today's senior citizens blithely cannibalize their grandchildren because they have a right to get as much 'free' stuff as the political system will permit them to extract."

Yet my colleagues say we're wrong to worry about putting Janice Rogers Brown on the DC Circuit, which is widely regarded as the most important court of appeals, and is just a heartbeat away from the Supreme Court.

No one with these views should be given a lifetime appointment to the Federal court of appeals, and certainly not to the Federal court most responsible for cases affecting government action. It is no wonder that an organization seeking to dismantle Social Security is running ads supporting her nomination to the second most powerful court in the country.

In the area of civil rights, Justice Brown has also written opinions that would roll back basic protections. In a case involving ethnic slurs against Latino workers, Justice Brown wrote that the first amendment prevents courts from stopping ethnic slurs in the workplace, even when those slurs create a hostile work environment in violation of job discrimination laws. She dissented from a holding that victims of discrimination may obtain damages from administrative agencies for their emotional distress. She also wrote an opinion suggesting that Supreme Court decisions upholding affirmative action are inconsistent with laws against discrimination.

On workers' rights, she rejected a binding precedent limiting an employer's ability to require workers to submit to drug tests.

In another case, she wrote a dissent urging the California Supreme Court to strike down a San Francisco law providing housing assistance to low-income, elderly, and disabled people. In case after case, she has sought to undermine the rights of the American people.

It is a travesty that the majority leader is attempting to break the rules of the Senate to confirm such nominees. It takes 67 votes to change Senate rules. Because the majority leader can't win fair and square, he is proposing to break the rules in the middle of the game.

We have heard them make every argument in an attempt to disguise their raw abuse of power. They even claim the Constitution prohibits Senators from filibustering judicial nominees. But as Senator FRIST, the majority leader, admitted on the floor recently, that's nowhere in the Constitution. Certainly the Republicans didn't believe that when they were filibustering President Clinton's nominees—including when Senator FRIST, himself joined in a filibuster of a circuit court nominee in 2000.

This misreading of the Constitution and Senate rules is the same kind of distortion we have seen from the nominees they support.

We have seen it in Priscilla Owen's opinions twisting the law in an attempt to deny the insurance claim of a heart surgery patient, or to exempt campaign contributors from environmental regulations. We have seen it in Janice Rogers Brown's twisting the Constitution to claim job discrimination laws can't protect Latino workers from ethnic slurs in the workplace. We have seen it in William Pryor's opposition to basic protections for the disabled, voting rights, and family and medical leave—views rejected by the Supreme Court. And we've seen it in William Myers' opinion that cleared the way for an open-pit mine on land sacred to Native Americans—an opinion that a Federal court later said ignored "well-established canons of statutory construction."

These nominees do not deserve lifetime appointments to the federal courts, where they have enormous power over the American people.

More importantly, the Senate does not deserve the bitter legacy we would leave if we adopt the nuclear option. It is not worth running roughshod over the traditions of this institution for short-term political gain. It is not worth turning our backs on our constitutional role as a check and balance on Presidential appointments to the courts.

Alexander Hamilton said this about the need for the Senate to be an independent check on the President's nominations.

"To what purpose [do we] require the co-operation of the Senate? . . . It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters."

That's what Alexander Hamilton said the Senate should be—a check against overreaching by the President, not a rubber stamp for the President. I urge my colleagues to remember that as United States Senators, we are the keepers of a constitutional trust that is not ours to give away. That trust belongs to the American people. The system of checks and balances protects them. If we give away that trust, we will never get it back.

What we are witnessing in this debate is an arrogant power grab by the Republican right. This is what happens when the rightwing of the Republican Party calls the tune for the Republican Party as a whole. We are spending days and weeks debating five rightwing judges, but not 5 minutes on what counts most in people's lives—not 5 minutes on secure jobs, or healthy families, or educational opportunity. Those are not the values and priorities we see today from this White House and this Republican Congress.

To them, history doesn't matter. Mainstream values don't matter. Our commitment to working families doesn't matter. What the Republican Party cares about today is putting a rightwing agenda ahead of mainstream values, corporate interests ahead of the public interest, and the agenda of the privileged few ahead of the American dream for all.

We have approved 208 of George Bush's nominees to the federal courts. Two hundred eight. But the five right wing judicial nominees at stake in the nuclear option have no business making life-or-death, make-or-break decisions that affect our lives. They are anti-worker, anti-civil rights, anti-disability, anti-senior, anti-consumer, and anti-environment.

This is President Bush's moment of truth too. Instead of fanning the right wing flames, the President can end this abuse of power. He can pick judges closer to the center, not from the outer edge.

We as Senators have a choice as well. We can break the rules and run roughshod over our constitutional system of checks and balances, or we can seek accommodation and compromise for the good of our democracy and the strength of our Nation. The one thing standing between The White House and total control of Congress and the courts is the Senate's right to full and fair debate.

I urge the President, I urge the Republican leadership in the Senate, to heed the timeless words of the prophet Micah who wrote, "What is good and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God?"

Here are some of the rules and precedents that the executive will have to ask its allies in the Senate to break or ignore, in order to turn the Senate into a rubber stamp for nominations:

First, they will have to see that the Vice President himself is presiding over the Senate, so that no real Senator needs to endure the embarrassment of publicly violating the Senate's rules and precedents and overriding the Senate Parliamentarian, the way our Presiding Officer will have to do:

Next, they will have to break paragraph 1 of rule V, which requires 1 day's specific written notice if a Senator intends to try to suspend or change any rule:

Then they will have to break paragraph 2 of rule V, which provides that the Senate rules remain in force from Congress to Congress, unless they are changed in accordance with the existing rules;

Then they will have to break paragraph 2 of rule XXII, which requires a motion signed by 16 Senators, a 2-day wait and a ⅗ vote to close debate on the nomination itself:

They will also have to break rule XXII's requirement of a petition, a wait, and a ⅔ vote to stop debate on a rules change:

Then, since they pretend to be proceeding on a constitutional basis, they will have to break the invariable rule of practice that constitutional issues must not be decided by the Presiding Officer but must be referred by the Presiding officer to the entire Senate for full debate and decision;

Throughout the process they will have to ignore, or intentionally give incorrect answers to, proper parliamentary inquiries which, if answered in good faith and in accordance with the expert advice of the Parliamentarian, would make clear that they are breaking the rules;

Eventually, when their repeated rule-breaking is called into question, they will blatantly, and in dire violation of the norms and mutuality of the Senate, try to ignore the minority leader and other Senators who are seeking recognition to make lawful motions or pose legitimate inquiries or make proper objections.

By this time, all pretense of comity, all sense of mutual respect and fairness, all of the normal courtesies that allow the Senate to proceed expeditiously on any business at all will have been destroyed by the pre-emptive Republican nuclear strike on the Senate floor.

To accomplish their goal of using a bare majority vote to escape the rule requiring 60 votes to cut off debate, those participating in this charade will, even before the vote, already have terminated the normal functioning of the Senate. They will have broken the Senate compact of comity, and will have launched a preemptive nuclear war. The battle begins when the perpetrators openly, intentionally and repeatedly, break clear rules and precedents of the Senate, refuse to follow the advice of the Parliamentarian, and commit the unpardonable sin of refusing to recognize the minority leader.

Their hollow defenses to all these points demonstrate the weakness of their case.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The minority has 1 hour 50 minutes remaining.

Mr. BYRD. I wonder how much time the minority will give to me?

I shall proceed.

Mr. President, today I wish to speak about the history of freedom of speech in the Senate, about the cloture rule which, when invoked, limits debate, a bit about the background here that might help all Senators if they care to read or listen, and the people out there who are listening, help them to understand a little more about what this is all about.

It is a matter of very great interest to the country and to the Republicans and to Democrats and to independents, to people from all walks of life. It is in that spirit that I seek to talk just a little while about this subject which is of great concern. I hope to have more to say on another day, but today I will limit myself to talking about the background, what this is all about, and the history that brings us to where we are today.

In recognition that the duty imposed on the President faithfully to execute the law requires persons sympathetic to his program, the Senate traditionally has given the President great leeway in choosing his policymaking subordinates, especially those in his Cabinet and those in sub-Cabinet positions. The Senate has more or less uniformly followed this practice, as a matter of grace and in the spirit of cooperation, to ensure that the executive branch functions as a team in implementing and enforcing the laws.

What has been the fairly general practice with respect to the appointment of executive branch policymakers, however, has not always applied to judicial nominations, and the arguments to the contrary are at odds with the separation of powers doctrine, common sense and history.

The Constitution establishes a Supreme Court and gives Congress the power, in its discretion, to constitute inferior tribunals; nowhere in the blueprint of our Government is it hinted—is it even hinted; nowhere is it even hinted—that the high Court or any other Federal court is the President's court.

Some may say, well, the President should have his own Cabinet. He should have his Cabinet. He should be able to choose his Cabinet. And there is considerable weight to be given to that point of view. But I do not think that any of us should maintain that the President is entitled to have his own court. That is the point.

So nothing in the Constitution suggests that either the Justices or the judges should be the President's men. Let me say that again. Nothing in the Constitution suggests that either the Justices or judges should be the President's men or women, as it were. In fact, the Constitution refutes this notion by granting Federal judges lifetime tenure and by making their compensation inviolable.

The men who met in Philadelphia in that hot summer of 1787 were practical statesmen. They were experienced in politics, statesmen who viewed the principle of separation of powers as a vital check against tyranny. And so I ask, can a rubber stamp be "a vital check against tyranny"? If the Framers had intended the Senate simply to endorse the President's selections, the Senate could have been left out of the process altogether. Clearly, the men who met at Philadelphia, nearly 219 years ago, had in mind a more substantive role for the Senate.

The Senate has more than once flexed its political muscles to reject a Presidential nominee, including the rejection or withdrawal of 15 Cabinet nominations and 26 Supreme Court nominations. Confirmation power is one of the major constitutional provisions that separates the Senate from the other body, the House of Representatives. It has been the subject of numerous articles, books, novels, and even motion pictures.

As early as Henry IV, who reigned from 1399 to 1413, English Parliaments effectively controlled the King's royal council and household. Several officials of Henry IV's household were dismissed at the insistence of the House of Commons. Both the household officials and the members of "the great and continual council" were named in Parliament.

So I say to the distinguished Senator from Tennessee, who presently presides over the Senate, with a degree of aplomb and grace and dignity that is so rare as a day in June, that the Senate routinely debated nominations in closed session in the beginning.

John Tyler was the first Vice President to become President on the death of the incumbent. Early in the Tyler administration, President Tyler broke with the Whig majority in the Senate, which thereafter frustrated his efforts to appoint his own supporters to office. Nothing in the Senate's history has ever, ever matched the spectacle that occurred on March 3, 1843, the last day of the Senate's session, when President Tyler came to the Capitol, just down the hall, to sign legislation and to submit last-minute nominations.

Tyler nominated Caleb Cushing to be Secretary of the Treasury, not once, not twice, but three times that night. Are you listening? Three times. And each time, the Senate rejected Cushing by an even larger margin than before, the votes being, as recorded in the Senate Executive Journal, 19 for to 27 against, then 10 for to 27 against, and on the third time, 2 for Caleb Cushing and 29 against.

Three times President Tyler named Henry A. Wise to be Minister to France—that same evening—and Wise, too, was thrice rejected.

Senator Thomas Hart Benton reported that "nominations and rejections flew backwards and forwards in a game of shuttlecock." In all—in all—the Senate turned down four of President Tyler's Cabinet nominees: in addition to Cushing, David Henshaw as Secretary of the Navy, James M. Porter as Secretary of War, and James S. Green as Secretary of the Treasury. And that ain't all. The Senate turned down four of President Tyler's nominees to the Supreme Court: John C. Spencer, Reuben H. Walworth, Edward King, and John M. Read. It is a record of rejection unmatched—unmatched—by any other President. What a spectacle.

"History," wrote the poet Byron, "with all her volumes vast, hath but one page." Byron was saying there that history does repeat itself, so it only needs one page.

We should do well, then, Mr. President, to look backward into the past where we shall find that due diligence by the Senate in fulfilling its "advice and consent" responsibility in the appointment process has been, in Hamilton's words, "an efficacious source of stability" in the Government of the Republic.

Mr. President, in his Manual of Parliamentary Practice, Thomas Jefferson quoted "Mr. Onslow, the ablest among the Speakers of the House of Commons," as follows. Here is what Mr. Onslow had to say:

> It was a maxim he had often heard when he was a young man, from old and experienced Members—

like myself—

> that nothing tended more to throw power into the hands of administration, and [into the hands of] those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules—

"the rules"—

> of proceeding; that these forms, as instituted by our ancestors—

yours and mine—

> operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.

Now, Thomas Jefferson himself wrote that whether the rules of a legislative body:

> . . . be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency and regularity be preserved in a dignified public body.

Therefore, Mr. President, all legislative bodies need rules to follow if they are to transact business in an orderly fashion, and if they are to operate fairly—I have heard that word used a good bit here—efficiently, and expeditiously.

On April 7, 1789, the day after a quorum of Senators had appeared—so you see the Senate just goes back to April 6, 1789—a special committee was created to "prepare a system of rules for conducting business." The committee consisted of Senators Oliver Ellsworth of Connecticut, Richard Henry Lee of Virginia, Caleb Strong of Massachusetts, William Maclay of Pennsylvania, and Richard Bassett of Delaware. All five of these committee members were lawyers. Each had served in his State legislature, the procedures of which were indebted to colonial and English experience. Two had served in the Continental Congress, which was also indebted to colonial and English precedents, and three had participated in the Constitutional Convention, whose members had created the Senate.

Obstructive tactics—we have heard a lot about that lately—in a legislative forum, although not always known as filibusters, are of ancient origin. Plutarch reported that when Caesar returned to Rome after his sojourn in Spain, his arrival happened at the time of the election of consuls. "He applied to the Senate for permission to stand candidate," but Cato—Cato the Younger—strongly opposed his request and "attempted to prevent his success by gaining time; with which view he spun out the debate till it was too late to conclude anything that day."

The sun went down. That ended the debate.

Filibusters were also a problem in the British Parliament. In 19th century England, even the members of the Cabinet accepted the tactics of obstruction as an appropriate weapon to defeat House of Commons initiatives that were not acceptable to the government.

Now, in this country, I say to the Presiding Officer and the distinguished Senator from Tennessee and my other colleagues, experience with protracted debate began early. In the first session of the First Congress—that is going back quite a ways. I have only lived one-fourth of all the time that has transpired since that First Congress convened. But in the first session of the First Congress, for example, there was a lengthy discussion regarding the permanent site for the location for the capital. How about that. Fisher Ames, a Member of the House from Massachusetts, complained that "the minority . . . make every exertion to . . . delay the business." That is what we are talking about. That sounds like a filibuster, doesn't it? Senator William Maclay of Pennsylvania complained that "every endeavor was used to waste time."

That sounds like a filibuster, doesn't it? Well, long speeches and other obstructionist tactics were more characteristic of the House than of the Senate in the early years. So it started over there. But the House, on February 27, 1811, "decided . . . that after previous question was decided in the affirmative, the main question should not be debated." So there you have it. They moved the previous question. That still is done in the other body. The practice of limiting debate dates back to 1604—my, that is over 400 years; that is 401 years—when Sir Henry Vane first introduced the idea in the British Parliament. Known in parliamentary procedure as the "previous question," it is described in section XXXIV of Jefferson's Manual of Parliamentary Practice, as follows. Here is the way Thomas Jefferson explained the previous question:

> When any question is before the House, any Member may move a previous question . . .—

That is the way it is done over in the House, Mr. President: Mr. Speaker, I move the previous question—

> whether that question (called the main question) shall now be put.

Mr. Speaker, they say in the House: I move the previous question.

Jefferson went on to say:

> If it pass in the affirmative, then the main question to be put immediately, and no man may speak anything further to it, either to add or alter.

That is Thomas Jefferson speaking through his writing. The journals of the Continental Congress record that the previous question was used in 1778. Get that. This is the Continental Congress. When did it first meet? It first met in 1774, the First Continental Congress. So the journals of the Continental Congress record that the previous question was used in 1778. Section 10 of the rules of the Continental Congress read:

> While a question is before the House, no motion shall be received, unless for an amendment, for the previous question, to postpone the consideration of the main question, or to commit to.

The rules adopted by the Senate in April 1789 included a motion for the previous question. According to historian George H. Haynes, when Vice President Aaron Burr delivered his farewell address to the Senate in March 1805—200 years ago—he, Aaron Burr, the Vice President of the United States, "recommended the discarding of the previous question," because in the preceding 4 years during which he had presided over the Senate, it had "been taken but once, and then upon an amendment."

So, Mr. President, I say to the Senator from Tennessee, who is presiding, and other Senators, when the rules of the Senate were codified in 1806—that was the first revision of the rules, in 1806—reference to the previous question was omitted. The previous question allowed the Senate to terminate debate: Mr. President, I move the previous question. Or in the House: Mr. Speaker, I move the previous question. If that gained a majority, no further debate. The previous question will be voted on.

In 1806, when the rules of the Senate were first codified, reference to the previous question was omitted. Since then it had only been used 10 times from the years 1789 to 1806, and it has never—it has never, it has never—been restored.

Henry Clay, in 1841, proposed the introduction of the previous question. Here we have Henry Clay proposing that they bring back the previous question. But he abandoned the idea in the face of opposition. Those Senators did not want the previous question. They did not want to terminate debate. They wanted freedom of speech.

When the Oregon bill was being considered in 1846, a unanimous consent agreement was used as a way to limit debate by setting a date for a vote.

When Senator Stephen Douglas proposed permitting the use of the previous question in 1850, the idea encountered substantial opposition and was dropped—dropped, dropped. They did not want the previous question. They did not want to terminate debate. They wanted to be able to speak on and on and on. A filibuster? Well, perhaps.

An effort to reinstitute the previous question on March 19, 1873, failed by a vote of 25 for to 30 against.

The final impetus for a cloture rule came as a result of a 1917 filibuster, one of the most famous in the Senate annals—against an administration measure permitting the arming of American merchant vessels for the duration of the World War. I believe that was 1915.

On February 26, President Wilson—I was born during one of the administrations of Woodrow Wilson—President Wilson appeared before a joint session of Congress to request legislation authorizing the arming of merchant ships. The President announced that the rules of the Senate would have to be revised—now get this—the rules of the Senate would have to be revised before he would call a special session of the entire Congress to deal with the war emergency. And so, Mr. President, the fate of the unlimited debate was sealed.

The principal responsibility for the cloture resolution rested with the new Democratic majority leader, Thomas Martin of Virginia. Under his guidance, a bipartisan committee of the Senate's leaders drew up a proposal providing that a vote—get this—by two-thirds of those present and voting could invoke cloture on a pending measure. Two-thirds of those present and voting.

By a vote of 76 to 3 on March 8, 1917, after only 6 hours of debate, the Senate adopted its first cloture rule. Mr. President, 1917, that was the year in which I was born.

In 1949 now, President Harry S. Truman sought to clear the way for a broad civil rights program, and his first step was to push for liberalization of the cloture rule. His efforts produced a bitter battle at the beginning of the 81st Congress.

The Senate adopted a compromise measure that proved to be less usable than the one it replaced. It required that two-thirds of this entire Senate vote for cloture rather than two-thirds of those present and voting. That was 1949. The new rule differed from the old in that it allowed cloture to operate on any pending business or motion, with the exception of debate on rules change. This meant that future efforts to change the cloture rule would themselves be subject to extended debate without benefit of the cloture provision.

Now we are getting down into my time. At the beginning of the 86th Congress—I came to Congress during the 83rd Congress when Harry Truman was getting close to the end of his tenure—at the beginning of the 86th Congress, Senate majority leader, Lyndon B. Johnson, offered and the Senate adopted by a 72-to-22 rollcall vote, a resolution to amend Senate rule XXII. Approved on January 12, 1959, after 4 days of debate, the resolution permitted two-thirds of the Senators present and voting—going back to the very beginning of the cloture rule—two-thirds of the Senators present and voting to close debate, even on proposals for rules change. It also added to rule XXII:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed and provided in these rules.

These rules, these rules in this book, the "Senate Manual."

On February 28, 1975, I submitted a resolution providing that debate in the Senate be closed by a vote of three-fifths of the Senators duly chosen and sworn, except in the case of a measure or motion to change the rules of the Senate, when a two-thirds vote of Senators present and voting would be required to close debate.

On March 7, 1975, the Senate adopted my substitute providing that three-fifths of all Senators chosen and sworn could invoke cloture. This provision applied to all measures except those amending the rules of the Senate which still required a two-thirds vote of Senators present and voting.

Four years later on February 22, 1979, the Senate agreed to a resolution that I submitted establishing a cap of 100 hours of consideration once cloture had been invoked on a measure.

Under my resolution, each Senator would be entitled to 1 hour of time. Senators could yield their time to the majority or minority floor managers of the bill or to the majority or minority leaders. Except by unanimous consent, none of the designated four Senators could have more than 2 additional hours yielded to him or to her. These Senators in turn could yield their time to other Senators. If all available time expired, a Senator who had not yielded time and who had not yet spoken on the matter on which cloture had been invoked could be recognized for 10 minutes for the sole purpose of debate.

The 1979 resolution made in order only those first-degree amendments submitted by 1 p.m. the day following submission of a cloture motion, with second-degree amendments in order only if submitted in writing 1 hour prior to the beginning of the cloture vote.

The substitute amendment contained the current overall limitation of 30 hours of consideration after cloture has been invoked.

So that brings us up to the present day rules with reference to debate and limitation of debate in the Senate, the current cloture rule. That puts us where we are now, and I thought it would be well just to review briefly the history of unlimited debate in the Senate and then the cloture rule limiting debate—the cloture rule as initially adopted requiring two-thirds of those present and voting; and then in 1949, two-thirds of those elected and sworn; and then again in 1975, two-thirds of those Members present and voting, that is where we are—so that we might have this basis for a better understanding of where we go from here.

I thank you. Mr. President. I thank all Senators, and I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Massachusetts.

Mr. KERRY. Mr. President. I thank the Chair. and I thank the distinguished Senator from West Virginia for his extraordinary analysis and understanding of the Constitution which he has constantly been the keeper of in the Senate.

We are in a remarkable moment of confrontation. This is a great institution. or at least it always has been, and it is looked up to by people all over the world. Caught up as we are now in this moment of partisan ideological division of a raw reach for power, the Congress itself is daily dropping in its regard by the American people. Rather than reaching across the aisle to grapple with the real crises that face our Nation, the Republican leadership keeps moving unilaterally to change the way this institution has worked. and not for the better.

Those of us who have had the privilege of being here for some period of time—I have been here for 22 years; Senator BYRD has been here almost 50; Senator KENNEDY, Senator STEVENS, and others have also served for a significant period of time—but brief as my stay has been. I find myself now I think No. 18 in seniority, which means 82 Senators have come and gone during the time I have been here. I have had a chance to know many of them going back to the time of Barry Goldwater, John Stennis, Russell Long, and others. Never in that whole period of time I have served have I ever seen this institution behaving the way it does today.

Colleagues who came to do the same good as colleagues on the other side of the aisle. locked out of conference committees, hearings that do not take place when they ought to; oversight that does not occur as it used to. This institution is being damaged daily by the partisanship, the bitter ideological divide that is preventing good people on both sides of the aisle from doing good business for the American people; from finding real solutions to the real problems of real concern to average families all across our country, who cannot pay their health care bills, who are losing jobs abroad, who worry about the twin deficits of the budget of our country and of our trade; who see extraordinary threats to community as kids do not get the education they ought to. All this time we have been spending weeks, if not months, caught up discussing a nuclear option, discussing a few judges out of the two hundred. 208 or so, who have been nominated and approved by this President.

The Senate is now watching this struggle take place, countless hours consumed by an effort to change the rules by breaking the rules. If my colleagues want to change the rules. use the rules to change the rules. Do not subvert the system. Do not play a cute parliamentary game that has been untouched over 200 years.

This is a stunning moment. The problem is that words spoken in this Chamber do not even fully convey the importance of this moment. This is, in fact, one of those times the Founding Fathers and countless other statesmen of history have warned us against.

Henry Clay said: The arts of power and its minions are the same in all countries and in all ages. It marks its victim, denounces it and excites the public odium and the public hatred to conceal its own abuses and encroachments.

James Madison said: Where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted. . . . The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed or elective. may justly be pronounced the very definition of tyranny.

What we are going to see if this happens is the judiciary of the United States entirely put into the hands of the Presidency, period. The advice and consent will be wiped out, barring displays of courage that we have not seen recently, because people will come, as they did in our committee most recently. to say, well, we just had an election and the President won and the President has the right to his appointments, that is it, end of issue. Gone, the divisions; gone, the test; gone, the judgment we were supposed to apply as a separate and coequal branch of Government.

That is what the Founding Fathers wrote. They did not give the President the ability to have whoever that President wants. That is what is written into the Constitution, that every single one of us went to the well of this body and raised our hands and swore to uphold.

We did not swear to uphold the majority leader. We did not swear to uphold the President. We did not swear to uphold our party. We swore to uphold the Constitution of the United States, and that is our duty.

Lord Acton said it maybe best: All power corrupts. Absolute power corrupts absolutely.

Thomas Jefferson said: I hope our wisdom will grow with our power and teach us that the less we use our power the greater it will be.

If my colleagues want to use the power of ending a filibuster, just have the filibuster for week after week and let people stand up and make their arguments. If the arguments have no currency, believe me, between the press, public opinion, the bloggers. and C-SPAN, this country will rise up and they will get their 60 votes if they deserve them. That is an up-or-down vote of its own kind.

If it were compelling enough, as it was with the Civil Rights Act, or compelling enough as it has been in other great confrontations in this body, we have always found our way to make it happen. We have always done it without the rules. We are a Nation that has listened to some remarkable men and women in remarkable debates about how we as a Nation are different in balancing power and protecting the people and the institutions that we set up to protect the people. We are not here as an institution to protect an ideology. We are not here as an institution to protect a party. We are here to protect collectively the Government of the United States of America that is made up of those brilliant words that were fought over so diligently and remarkably in Philadelphia and which have served us so well all of these years.

Now all of a sudden in 2005, feeling the flush of victory in an election that was close. controlling two branches of Government, elected officials, people who serve at the grace of that Constitution for a brief period of time. at the sufferance of the people who vote for us. those people are choosing to serve the moment. not to serve history, not to serve precedent, not to serve common sense, not to serve even the real interests of the American people, but to serve a narrowly defined, elected, official. leadership-determined, ideological purpose.

I believe the real interests of Americans are best served by remembering that the greatest strength and the greatest virtue of our democracy is not that it gives power to the majority, which is easy to exercise, easy to understand, easy to abuse; the great virtue of the American system of Government and of our democracy is the protection it provides to the minority. That is what is special about America. That is what makes us different from everybody else. That is what lives are being lost for, to tell people in Iraq and Afghanistan, this is what you ought to embrace—the full measure of democracy, not some limited tricky little measure where, in the flush of victory, you change the rules.

What would we say about this if it was another country that we had helped to be the country they are, embracing our democracy, but they started to play those kinds of games and there was suddenly an abuse of rules that had been set up that everybody understood were there to make the democracy work effectively?

It is precisely the protection of the minority that makes our democracy so respected and so awesome to people all over this planet.

This is a dangerous time for our democracy. What is at stake here is something far greater than the confirmation of a few judges. Let there be no doubt that line was drawn clearly here this morning because the deputy leader offered to have four judges confirmed. We could have confirmed four judges right here, today, this morning.

No, no, no. This is a division. This is a moment of confrontation being sought by the leadership on the other side of the aisle. What is at stake is something far greater than any of the individual judges. It is defined by the refusal to accept the offer to do those judges today. We could have gotten the President's percentage up from 95 to whatever, 98 percent. But, no, we do not want that. That will change the focus.

No matter how much time is spent on the life story of Priscilla Owen, we all know the choice of this particular judgeship and of just staying on this judgeship and not trying to have other judgeships represents, in fact, a choice. It is a smokescreen for what this fight is really all about. It is not about these few judges. We could have confirmed those judges. But the Republican leadership is fundamentally determined to deny the minority the right to hold the Executive accountable for such judgments as we might make about the lifetime appointment of those judges.

I heard both sides out here. Some Members of our side did call for up-or-down votes when that was the argument that best served them. But, guess what, when they didn't get it, they didn't call for a change in the rules, and they did not try to break the rules to change the rules. They used their best argument, but they respected the institution.

That is not what is happening today. So we can forget about who said what when. The real fight is about the Senate. The real fight is about the Constitution. The real fight is about who we are and what kind of country we are going to be and how we behave and what kind of example we set to young kids in school today who read the history books and dream someday of being a Senator and perhaps joining the world's greatest deliberative body.

This is about George Bush and Karl Rove and the Republican leadership and their quest for absolute control over who goes to the Supreme Court and to the judgeships across this country. This is about carrying, beyond this branch of Government, power into another branch of Government that is supposed to be separate. This is about the gratification of immediate ideological goals and the pursuit of power, regardless of the long-term consequences to the Senate, the Congress, or the Constitution of the country. To get what they want, the leadership has acquiesced to outside forces. Not even the precedents and history and quality of this institution are guiding them. It is an outside hand.

As John Danforth, with whom many of us had the privilege of serving here, a greatly respected former Republican Senator—he was George Bush's choice as a special envoy to Darfur. He was George Bush's choice to go to the United Nations. He is, above all, as all of us know, a man of enormous faith, a respected minister, and a leader in his church. Here is what he wrote a few weeks ago:

> The problem is not with people or churches that are politically active. It is with a party that has gone so far in adopting a sectarian agenda that it has become the political extension of a religious movement.

So spoke Senator John Danforth, Republican.

Yet, despite Senator Danforth's warning, most of my colleagues stay right on script in this fight for history, this fight for principle, and this fight for rights. On script, they allow our cherished principles to be abused and glossed over as the debate sort of develops or drops down into a competition of hollow sound bites. But script and sound bite are not what should dictate what happens here, not in the Senate. Conscience and principle ought to dictate what happens here. There have to be Senators prepared to stand up and do their duty as U.S. Senators, not Senators of their party.

My distinguished colleague, Senator VOINOVICH, recently showed courage in the Foreign Relations Committee when he suddenly stopped the proceedings of the committee and he said: I am not comfortable with what is happening here. My conscience tells me we ought to stop and take a better look.

Guess what happened. He was vilified on talk radio and in certain partisan circles for having gone off script.

Senator CHAFEE of Rhode Island, 4 years here, stands up and says: Wow, that is the first time in 4 years I have ever seen anybody do that.

What? The first time in 4 years a Senator saw another Senator stop and think for himself and exercise conscience and go off script? What kind of statement is that about what has happened here? It is not controversial, my friends. It is a sad statement about the Senate, and it underscores what is happening here now.

Independence and conscience and principle are really what is at stake here, the independence of the Senate, the independence of the judiciary from an administration that is just hell-bent for leather determined to get its way. Heavens knows what leverage will be exerted in these next hours as we see so much on the table, with military bases closing and other issues—who knows? Independence of the Senate, a special institution in our Government, a place where things purposefully slow down, where they find their balance—that is what the Senate was created for.

It is surprising and disturbing that members of the Republican leadership know what is at stake, but they have actually worked with the Republican administration to spreads things that aren't true. I don't know what happened to truth around here. I don't know what happened to truth in the discussion of great issues before this country.

But the truth is, in the end, none of the constitutional issues that have been put forward—and today's Republican leadership—none of them stand up. They do not stand scrutiny. They are hollow, tortured, poll-tested statements. The whole argument about the Constitution and up-or-down votes or "unprecedented"—the word "unprecedented" has been used. They sound good, but they are not true, and we know it. Yet Senators continue to fall in line, turning out the script, turning out the phases that have to be repeated. It is not a true representation of the Constitution, of history, or the rights of Senators.

Personally, I believe there would be a lot more outrage in the Nation and in the media if the value of truth had not been so diminished over the last years. We have a budget that comes trillions of dollars short of counting every dollar we plan to spend, but, oh no, there is no accountability. We have a budget that doesn't even count the interest on the debt. Find me an accountant in a business in America who doesn't put the interest on the debt that they owe in the accounting, and they would be fired. We do not do it. No accountability.

We have had a Medicare actuary who was forced at risk of losing his job to lie about what the costs would be of a prescription drug bill and lie to the Congress. No accountability. We have had falsified numbers in Iraq, on everything from the cost of the war to the number of troops that have been trained to the slam dunk on intelligence—no accountability. We have an administration that continues to want to fund fake newscasts paid for by the American people, without disclaimer, and mislead people across America.

In fact, the administration's willingness to consistently abandon the truth I think has done great damage to the American people's willingness to believe anything any of us say. They are less willing to listen. They are less willing to trust or take anything said seriously.

Now we find ourselves in a struggle between a great political tradition in the United States that seeks to find the common ground, do the common good, and we have a new ethic on any given issue, where any means justifies the ends of victory no matter what. It is a new view that says, if you don't like the facts, just change them. If you can't win by playing by the rules, just rewrite them. Witness what happened with TOM DELAY. The new view says if you can't win a debate on the strength of your arguments, then go ahead and demonize your opponents regardless of whether it is true. The new view says it is okay to ignore the overwhelming public interest as long as you can get away with it.

This time the Republican leadership has gone the farthest to get away with it, hoping to convince Americans that by breaking the Senate rules, they are actually acting to defend the Constitution, honor the words of our Founding Fathers, and avert a judicial crisis.

This debate is not fueled by an effort to protect the Constitution. It is fueled by ideology. It is not fueled by a shortage of judges on the bench because, as the ranking member of the Judiciary Committee has made clear, we have the best record of appointing them and the lowest vacancies in years.

The facts have been repeatedly cleared up, again and again, and repeatedly they are brushed aside with the old adage that if you throw enough mud and you repeat something that is not true enough, enough people may come to believe it. Over 95 percent of all judges already approved. I have been here since 1985 and I have probably voted for a thousand judges. I have not counted them all. For Ronald Reagan, for George Herbert Walker Bush, for President George Bush. What have we got? Ten who have not been confirmed?

The Bush administration and their allies in Congress hope to get away with this by selling words to the public on a "team" the public would never buy if there was a referee who put real facts in front of the American people. Unfortunately, words with great meaning—Constitution, Founding Fathers, history, precedent—all of these are being twisted and cheated of their full meaning and of their full import in the process.

In the end, the American people are being underestimated by this administration. They may work their will here; I don't know yet. We do not know. Certainly they have a lot of cards to play. But in the end, Americans value the Constitution, and over time this will be felt. In the end, Americans understand that the strength of our democracy is best judged by the enduring strength of our minority and its ability to be heard. And Americans cherish the ability of the minority to be heard.

When Americans first heard the term "nuclear option," they kind of recoiled—appropriately. They were confident that dismantling the filibuster and silencing the minority would have as catastrophic an effect on our democracy as a nuclear blast would on our security. But the majority's action was not to back off and to say, okay, we will play by the rules. The majority's reaction was to change the slogan. So in an act of transparent hypocrisy, the minority changed the slogan from "nuclear option" to "constitutional option." George Orwell would be pleased. They embarked on a series of hollow arguments based on mythical constitutional provisions confident that if you just say it, somebody will believe it.

You can change the slogan, but you cannot change the fact that diminishing the rights of the minority diminishes the spirit and the substance of our Constitution and the foundation of our Government. Argument after argument put forward by the Bush Republican leadership is just plain false. False. I have heard it argued that our Constitution mandates specific protocol of voting for judges. No. They have used their new catchphrase, up-or-down votes, hundreds of times in recent days. But those words do not appear once in our Constitution. They are not even subliminally in the Constitution in the advice and consent and separateness of power given to the Senate and the right of the Senate to make its own rules.

No one should be fooled. Those phrases do not mean constitutional. They do not mean democratic. They do not mean fair. They are phrases that are code for dissent-proof, minority-proof, and filibuster-proof. There is nothing in our Constitution or our history to suggest that the nominee of any President is so special as to be excused from the scrutiny of the minority or granted immunity from the tools of democracy that protect that minority.

I didn't win, but I can guarantee this: Had I been President, I would not have contemplated supporting or sending a request to change what I have viewed as something of value in the entire time I have been here in the Senate. Never would have occurred to me. It would have occurred to me to send people up here who could win the support of people on both sides. It would have occurred to me to bring the members of the Judiciary Committee together and sit them down and work together to come to a common understanding of what sort of standard we ought to apply and let the American people share that standard.

There is nothing in our Constitution or in history to suggest the President ought to be granted immunity from the tools of democracy. And that is what will happen.

My colleagues are well aware that the power of advice and consent is granted to the Senate and the Constitution says absolutely nothing about how the Senate will proceed to provide advice and consent. And the words advice and consent are there in their duality because advice is one thing and consent is another. You can withhold your consent or you can give your consent. You can say yes, or you can say nothing if you do not vote. And if you do not vote, you have withheld your consent.

It didn't take long before the new Congress exercised its constitutional powers in 1795. Senators who were friends and colleagues of the Founders themselves, who surely knew their intent, turned around and defeated George Washington's nomination of George Rutledge to be the Chief Justice of the Supreme Court. In 1968, Republican Senator Robert Griffin captured the spirit of that event when he said:

> That action in 1795 said to the President then in office and to future presidents, don't expect the Senate to be a rubber stamp. We have an independent and coequal responsibility in the appointing process and we intend to exercise that responsibility as those who drafted the Constitution so clearly intended.

The Constitution did not mandate a rubberstamp for George Washington and the Constitution doesn't mandate a rubberstamp for George Bush today.

In 1795, the rejection of Washington's nominee was heralded as the Constitution working, not failing. There is no doubt that an active, coequal partnership was intended. That resounding rejection of George Washington, our revolutionary leader, helped to seal the death of the monarchy in this country.

The genius of empowering the Senate and the minority was that by limiting the executive, the Senate legitimized the executive. So when I hear my colleagues come to the Senate arguing that the Constitution mandates the will of the majority always trumps the minority, I don't hear the wisdom of our Founding Fathers. I don't see or hear a respect for what happened in 1795. I don't hear the same blind activism that characterizes the judges they intend to enforce on the Federal bench. The actions of some Senators, in fact, today come closer to rewriting the Constitution than defending it.

Another argument we have heard is that the filibuster itself is unconstitutional. That has been made. That argument is deeply flawed. The Constitution in Article I, section 5 granted each house the power to "determine the rules of its proceedings." That is the Constitution of the United States.

Every Senator went down there, raised his or her hand, and swore to defend the Constitution. And the Constitution says we have the power to determine our rules and we have a rule by which we determine the rules, and the current rule says you have to have a supermajority to change the rules. But, no, in the flush of victory, in a moment of ideological excess, people are going to come in and change the rule by breaking the rule of the Senate that the Constitution itself enshrines. Shame. That is a disgrace to the oath and a disgrace to the history and a disgrace to what this institution stands for and to the quality of our democracy that we export at the lives of young Americans abroad. It is wrong, fundamentally wrong.

Over the past 200 years, our predecessors in the Senate have taken the role of "consent" very seriously. They have created time-tested rules to assure the rights of the minorities and to balance the power of government. With a hold, a so-called hold, a single Senator can delay a Presidential nominee. A single committee chairman can block a nomination by simply refusing to hold hearings.

I saw Senator Helms do that any number of times. I tried to get a hearing. We tried to get the possibility of a Governor of the United States of America, the Governor of Massachusetts, Bill Weld, nominated to be the Ambassador to go to Mexico. Senator Helms: no hearing. Wouldn't hear of it. It could not happen. Nomination killed.

What is this game that is being played back and forth about who said what, when? We all know how this place has worked all these years. These rules were not created by the Democratic Party when George Bush was elected President. The filibuster was used as early as 1790 by Senators from Virginia and South Carolina who filibustered against a bill to locate the first Congress in Philadelphia. That was a filibuster of one because in 1790, as Senator BYRD has pointed out, you needed unanimous consent to end the debate. They did change that rule, but they changed that rule by using the rules of the Senate, not by breaking them.

Think about it. Those legislators and friends and even the Founders themselves permitted a filibuster of one. Knowing that, today's activist arguments buckle under the weight of history. The unfortunate truth is that some Senators have now fashioned themselves as activist legal scholars using a false reading of the Constitution to paint their opponents as obstructionists while pursuing their political agenda at the expense of our democracy.

I think some of my colleagues forget that the Senate was designed specifically to be the moderating check on a President. And guess what. We have done unbelievably well as a nation these 200 years. We are the envy of people all across this planet. There is not one of us whose heart does not fill with pride, who is not astounded at what we can do and have done, and what we can achieve in America, and the stories of individual Senators in this Chamber who have risen from adverse circumstances, and nothing, to be able to represent people in their States. It is a stunning story. It is a story based on that respect for the law and based on the mutual respect that has always guided this great institution. I think some of my colleagues have lost track of that.

My colleagues also forget, as they demonize the filibuster, it has been a force for the good. Farmers don't forget that. There are a lot of farmers in the Midwest in our country. They don't forget when Senators from rural States used the filibuster to force Congress to respond to a crisis that left thousands of farmers on the brink of bankruptcy in 1985. The big oil companies don't forget it. That don't forget when Senators used the filibuster to defeat massive tax giveaways that they were lobbying for in 1981. And I don't forget it, when, 10 years ago, I came to the floor and filibustered to prevent a bill that would have gutted public health and safety and consumer and environmental protections. That bill never passed, and we know the country is better for it.

Some Senators come to the floor with a practical argument about our courts. They claim that because we have not rubberstamped each and every one of George Bush's nominees, the Nation faces a crisis because of a shortage of judges on the bench. It is not true. How can you keep coming to the floor of the Senate saying things that are just plain not true?

Over 95 percent of the President's nominees have been confirmed. Our courts today have the lowest vacancy rate they have had in years. Enough of that argument.

What is threatened is a delicately balanced system that for 214 years successfully prevented the Executive from usurping power that was granted in good faith by the American people. And that threat manifests itself in this nuclear option that threatens the character, the core of this institution.

The integrity of this Senate is threatened when the majority attempts to change the rules by breaking the rules. The balance of power is threatened when the power of advice and consent is gutted. It will be gone. Whatever nominees they want will be confirmed, unless you happen to find a few people who will stand up to the pressure exerted on their States' need or their reelection need or the other needs that the Founding Fathers wanted to protect Senators against.

Our democracy is threatened when we set the dangerous precedent that minority rights will be silenced at the convenience of the majority. I believe our courts and the justice this rule is meant to deliver are threatened, in the end, by some of these judges who have been nominated.

As I said, that is not what this is fundamentally, in the end, about. It is about getting everything you want when you want it.

I will wrap up in a moment, Mr. President.

Some of my colleagues have argued that Democrats filibuster these judges because we simply dislike them or disagree on ideology or policy. Well, there may be some disagreement on things they have said or the way they have approached their courts. We saw what Attorney General Gonzales has said about Priscilla Owen, that her dissent in In re Jane Doe was an "unconscionable act of judicial activism." But the point is, we have confirmed countless judges with whom we disagree on countless issues. If we have confirmed over 200 judges of the President of the United States, you know we do not agree with them on many of the issues that they brought to the bench, but they brought a fundamental fairness or they brought a record that we did not believe ought to be disputed.

I think we have shown our good faith on the approach to the confirmation of judges. We have confirmed countless judges because we believed they were impartial and responsible arbiters of the law. It is an activist judge, it is a judge with a particular—many of the arguments have been made; I am not going to go through them now—but those arguments have been eloquently made with specificity as to these few judges. It is judges who want to rewrite our laws from the bench whom we believe are unqualified for a lifetime appointment. And we stand against them, Mr. President, not as a threat to the Constitution, but in defense of the Constitution.

We have also been accused of unprecedented acts with respect to these nominations. Well, I am not going to go back into all that history. A lot of my colleagues have talked about it in the last days. But you just cannot come out here with a straight face, on either side—both sides have engaged in delaying some nominees—many of them were not even allowed out of the committee when President Clinton was in. Waited years; never got out. That does not make it all right, but it is the way it works as we fight this process of finding people who meet the consensus of the Senate.

Did you hear the minority then hide behind a mythical constitutional value? No. Did you hear the minority stand up and assert a constitutional violation or the rules of the Senate ought to be changed? No. The majority leader himself has voted to filibuster a nominee. It does not matter whether it is 1, 2, or 10 filibusters, a filibuster is a filibuster.

President Johnson's nominee to be Chief Justice of the Supreme Court, Abe Fortas, was defeated with a filibuster.

Tennessee Republican Howard Baker articulated the minority's position saying:

> The majority is not always right all of the time. And it is clear and predictable that the people of America, in their compassionate wisdom, require the protection of the rights of the minority as well as the implementation of the will of the majority.

Throughout our history, Presidents and majorities have always had to govern a nation where minority rights are protected. Until this day, Presidents of the majority have respected that tradition. They were humbled by it. They were inspired by it, by the lessons of history that colleagues seem to have forgotten today.

In 1937, President Roosevelt attempted to court pack and assert his influence. His own party said no. Thomas Jefferson once attempted to impeach a Supreme Court Justice who disagreed with his political agenda. His own party said no.

When my colleagues complain of lack of precedent, remember those precedents. They were fair, and they were just. They respected the Constitution and they defended the judiciary. Our predecessors stood up to their own party leaders because they valued the real strength of our democracy more than the short-term success of a political agenda of the moment. And the question for all of us here is: Are we going to live up to that test?

Recent predecessors of Senate Republicans have repeatedly urged respect for this—their own party Members, Members of the Republican Party, people of extraordinary respect and even reverence. Former Republican Majority Leader Howard Baker said, destroying the right to the filibuster:

> would topple one of the pillars of American democracy, the protection of minority rights from majority rule.

Former Senator Chuck Mathias said:

> The Senate is not a parliamentary speedway, nor should it be.

Former Republican Senator Bill Armstrong said:

> Having served in the majority and in the minority, I know it's worthwhile to have the minority empowered. As a conservative, I think there is a value to having a constraint on the majority.

My colleagues should defend their judges, but do it without tearing down the Constitution and our Founding Fathers, or destroying the rules and character of this great institution. Defend your judges without ceding dangerous and corruptive levels of power to the executive branch of Government. Defend your judges without erasing 214 years of wisdom and sacrifice that raised this Nation from tyranny and chaos and spread freedom across the globe. Our Founding Fathers would shudder to see how easily forces from outside of the mainstream now seem to effortlessly push people toward conduct the American people don't want for their elected leaders, abusing power, inserting the Government into our private lives, injecting religion into debates on public policy, jumping through hoops to ingratiate themselves to their party base, while step by step and day by day real problems that keep American families up at night fall by the wayside in Washington.

Congress and our democracy itself are being tested this week and next and will be tested in this vote. We each have to ask ourselves individually, as a matter of conscience, what are we prepared to do? I have attended the Senate prayer breakfast with colleagues here. I know this is a place of great faith and a place of real concern. I ask my colleagues to look into their souls and ask themselves, is this the right thing to be doing for the long-term interests of our Nation?

For those in this Chamber who have reservations about the choices their leadership has made and worry about the possible repercussions on our Constitution and democracy, stop over the weekend and look at history and find the courage to do what is right. History has always remembered and found a place for those who are courageous, and it will remember the courageous few who live up to their responsibility now and speak truth to power when the Senate is tested, so that power doesn't go unchecked.

The Senate and the country need Senators of courage who are prepared to make their mark on history by standing with past profiles in courage and defending not party, not partisanship, but defending principle, defending the Constitution, and defending democracy itself.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, when I first came to the Senate, our Nation was engaged in the Cold War with the Soviet Union. But now, 22 years later, this Senate is experiencing its own cold war. It is a cold war across the aisle that separates the two parties, and it has escalated with the threat of this nuclear option.

As the name suggests, the result of this threat is nuclear, but in many ways it is also a timebomb. It is a timebomb because, while the action will be visible now, it will do irreparable damage to the future of this country.

Its potential effects on the operations of the United States are well known. But here I want to address my comments to the American people because they are going to pay the price for the change if it takes place here. The majority leader insists on breaking the rules in order to give several people, some of whom deserve far greater review, lifetime appointments as high-ranking Federal judges. They could be on the bench for 30 or 40 years, and they will make decisions about your lives, your families, your rights, and the future of your children. They will make decisions about our lives, such as: Will clean air rules be enforced against polluters. I hope so. I would like to know my grandchildren can breathe the air and not be harmed by it. I have one grandchild who is asthmatic. My daughter, when he goes to play a game or engage in a sport, always checks to see where the nearest emergency clinic is.

So do we want to leave our kids with air that is polluted, with drinking water that is contaminated? Will we have health care? Will we still have strong constitutional rights? That is what this is about. We got lost in how long the filibuster rule has been in effect and how devastating it will be on the process. But it goes much deeper than that. These are critical questions, and these are the judges who will be answering those questions. They might even one day be asked to help elect a President.

When I was a soldier 60 years ago and we dropped the earliest version of the nuclear bomb, called the atom bomb, we celebrated. We knew we could save thousands of Americans from dying in the fight to vanquish our then enemy, Japan.

With this nuclear option, the majority leader is threatening to annihilate over 200 years of American tradition in the Senate by getting rid of the right that challenges decisions made by a slim majority over a minority of over 140 million people's representatives here in the Senate.

Extended debate, or filibuster, is an American tradition that goes back to the earliest days of the Senate. While the written rules establishing the Senate filibuster were not adopted until 1806, the practice existed even in the first Congress. Historical records indicate that in 1790, Senators from Virginia and South Carolina engaged in a filibuster, and it has continued since then.

The first well-documented filibuster was conducted in 1825 by Senator John Randolph of Virginia. For several days, Senator Randolph filibustered President John Quincy Adams' economic agenda. That was in 1825. During the 19th century, there wasn't even an option of a cloture to end the filibuster. It continued as long as people had the breath and stamina to continue. There was no way to stop determined Senators from engaging in an unlimited debate. Then, in 1917, the cloture rule was adopted, which established a procedure to end debate only upon a vote of a supermajority. Through all of these years, through every crisis, the American tradition of the filibuster has endured. It endured through the War of 1812, the Civil War, Reconstruction, two world wars, the Great Depression, the civil rights movement. Yet because of a few of President Bush's judicial nominees, we are being asked to throw out the filibuster safeguards of the huge minority. It makes no sense.

We have heard claims that it is unprecedented to mount a filibuster on a judicial nominee. It can be said, but it is wrong, and the evidence is on the Senate's own Web site.

I quote from a statement made earlier by the senior Senator from Missouri. Mr. BOND said:

Mr. President, I think the facts are clear. You have heard this many times. Almost everything has been said but not everybody has said it, so I want to go over some of the facts that I think are very, very important. For 214 years, judicial nominations have come to the Senate floor and have been considered without filibuster.

I ask unanimous consent that a table that shows there were 14 judges whose nominations were filibustered since 1968 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 3.—NOMINATIONS SUBJECTED TO CLOTURE ATTEMPTS, 1968–2002

[Executive branch nominations in roman; Judicial nominations in italic]

Congress and year	Nominee	Position	Cloture motions filed	Outcome of cloture attempt	Disposition of nomination
(1) *90th, 1968*	*Abe Fortas*	*Chief Justice*	*1*	*rejected*	*withdrawn*
(2) *92nd, 1971*	*William H. Rehnquist*	*Associate Justice*	*2*	*rejected*	*confirmed*
96th, 1980	William A. Lubbers	General Counsel, National Labor Relations Board.	3	invoked	confirmed
96th, 1980	Don Zimmerman	Member, National Labor Relations Board	3	invoked	confirmed
(3) *96th 1980*	*Stephen G. Breyer*	*Circuit Judge*	*2*	*invoked*	*confirmed*
(4) *98th 1984*	*J. Harvie Wilkinson*	*Circuit Judge*	*2*	*invoked*	*confirmed*
(5) *99th, 1986*	*Sidney A. Fitzwater*	*District Judge*	*1*	*invoked*	*confirmed*
99th, 1986	*Daniel A. Manion*	*Circuit Judge*	*1*	*withdrawn*	*confirmed*
(6) *99th, 1986*	*William H. Rehnquist*	*Chief Justice*	*1*	*invoked*	*confirmed*
100th, 1987	Melissa Wells	Ambassador	1	invoked	confirmed
100th, 1987	C. William Verity	Secretary of Commerce	1	invoked	confirmed
(7) *102nd, 1992*	*Edward Earl Carnes, Jr.*	*Circuit Judge*	*1*	*invoked*	*confirmed*
103rd, 1993	Walter Dellinger	Assistant Attorney General	2	rejected	confirmed
103rd, 1993	five nominations[1]	State Department	2	rejected	confirmed
103rd, 1993	Janet Napolitano	U.S. Attorney	1	invoked	confirmed
103rd, 1994	M. Larry Lawrence	Ambassador	1	fell[2]	confirmed
103rd, 1994	*Rosemary Barkett*	*Circuit Judge*	*1*	*withdrawn*	*confirmed*
103rd, 1994	Sam Brown	Ambassador	3	rejected	returned to president
103rd, 1994	Derek Shearer	Ambassador	2	invoked	confirmed
103rd, 1994	Ricki Tigert	Board Member and Chair, Federal Deposit Insurance Corporation[3].	2	invoked	confirmed
(8) *103rd, 1994*	*H. Lee Sarokin*	*Circuit Judge*	*1*	*invoked*	*confirmed*
103rd, 1994	Buster Glosson	Air Force Lieutenant General (retired)	1	withdrawn	confirmed
103rd, 1994	Claude Bolton, Jr.	Air Force Brigadier General	1	vitiated[3]	confirmed
103rd, 1994	Edward P. Barry, Jr.	Air Force Lieutenant General (retired)	1	vitiated[3]	confirmed
104th, 1995	Henry Foster	Surgeon General	2	rejected	no final vote
105th, 1997	Joel I. Klein	Assistant Attorney General	1	invoked	confirmed
105th, 1998	David Satcher	Surgeon General	1	invoked	confirmed
(9) *106th, 1999*	*Brian Theadore Stewart*	District Judge	*1*	*rejected*	*confirmed*
(10) *106th, 2000*	*Marsha L. Berzon*	*Circuit Judge*	*1*	*invoked*	*confirmed*
(11) *106th, 2000*	*Richard A. Paez*	*Circuit Judge*	*1*	*invoked*	*confirmed*
(12) *107th, 2002*	*Lavenski R. Smith*	*Circuit Judge*	*1*	*invoked*	*confirmed*
(13) *107th, 2002*	*Richard R. Clifton*	*Circuit Judge*	*1*	*invoked*	*confirmed*
107th, 2002	Richard H. Carmona	Surgeon General	1	invoked	confirmed
(14) *107th, 2002*	*Julia Smith Gibbons*	*Circuit Judge*	*1*	*invoked*	*confirmed*
107th, 2002	*Dennis W. Shedd*	*Circuit Judge*	*1*	*vitiated*[3]	*confirmed*

[1] These five nominations to various positions in the State Department received consideration and cloture action concurrently, and are counted as one case in the table.

[2] Cloture motion became moot and received no action.

[3] Tigert was nominated simultaneously for these two positions, and cloture action took place on each nomination in turn; the table counts these events as one case.

[4] Senate unanimously consented to treat the cloture motion as having no effect.

Sources: Compilations by CRS and by the Senate Library; Legislative Information System of the U.S. Congress; U.S. Congress, Senate, Committee on Rules and Administration, *Senate Cloture Rule*, committee print 99-95, 99th Cong., 1st sess. (Washington: GPO, 1985), pp. 44-70, 78-85; *Congressional Record* (Daily Digest); and *Congressional Quarterly Almanac* for 1986, 1987, 1992, 1995, 1999.

Mr. LAUTENBERG. Mr. President, the Senate Web site points to one incident from 1964 to the present time. October 1, 1968: "Filibuster Derails Supreme Court Appointment." Why don't our colleagues on the other side take their heads out of the sand, open their eyes, read the record, and tell the public the truth?

In 1968, Abe Fortas, Supreme Court Justice, was filibustered. The Senate failed to invoke cloture on Fortas. There were only 45 votes for cloture. Some say this is proof that a majority of the Senators did not support Fortas. But President Johnson thought otherwise, noting that 12 Senators were absent for the cloture vote. And here from 1968 is a page 1, first-page headline in the Washington Post. It says: "Filibuster Derails Supreme Court Appointment."

> A full-dress Republican-led filibuster broke out in the Senate yesterday against the motion to call up the nomination of Justice Abe Fortas for Chief Justice.

The public ought to know what is being said. Unfortunately, in the urgency to get this done, they are not being accurate in the things that are said by the Republican majority.

So in 1968—note this, people across the country—on a nomination to be the most influential judge in the country, there was a filibuster. I am not a lawyer, but it seems to me that those who say this has not happened before are guilty of factual negligence. The right to filibuster is fundamental to the Senate because the Senate was created by our Constitution to protect the rights of the minority.

Just this weekend, one of the most distinguished Members of the Senate, our colleague from Arizona, Senator MCCAIN, explained it very well. Senator MCCAIN said:

> The Senate was designed to protect the minority. That is why Wyoming has two votes, and that's why California has two votes. That's why Rhode Island—

Another small State—

> had two votes among the original 13, and New York and Massachusetts and Virginia had two votes.

The modern Senate reflects the same types of disparities in population as the original Senate. My home State, for instance, New Jersey, has a population that is greater than Alaska, Wyoming, Kansas, North Dakota, South Dakota, and Mississippi combined. But New Jersey only gets two votes in this body, and each one of those States I mentioned also gets two votes. So it is not surprising that when you do the math on the current Senate, you find that the majority is actually in the minority, and the minority is the majority.

Here is what I mean very simply put. The Republican caucus with 55 Senators and with each Senator getting half of the vote in that State represents 144 million people. The Democratic caucus with 45 Senators represents 148 million people. The first one, 144 million; the second one, 148 million—that does not look like much of a minority to me. That is what we are looking at.

Mr. President, what you find is the minority in this body, the Democratic caucus, represents more than the majority, and that is exactly what the Founding Fathers wanted to protect—minority rights in the Senate—because a minority of Senators may actually represent a majority of the people. So it is corrected by a process we have here. The Democratic caucus on this side of the aisle represents many more Americans than the Republican side. That is why we have a filibuster rule. That is why we generally operate by unanimous consent.

The right to filibuster is not just some obscure rule in the Senate. It is part of our American heritage, and it has been celebrated by our culture and our folklore. As many Americans know, the filibuster was immortalized in the film "Mr. Smith Goes to Washington." Here we see a picture of Jimmy Stewart as he played Senator Smith. He used the filibuster to protect the interests of his constituents back home. This image shows Senator Smith in the midst of his filibuster.

From some of the things we have heard from the majority leader, you might think Mr. Smith was the bad guy in that film. No, Mr. Smith, as a filibustering Senator, is not only the good guy, but he is the hero of that film. That film is a celebration of our American democracy. It is a celebration of this Senate, the world's greatest deliberative body. But if the majority leader is successful in ending the filibuster, in ending the representation that the huge minority deserves, we will move from the world's greatest deliberative body to a rubberstamp factory.

The Constitution gives us an active role in the nomination process. The Senate is not a mere formality under the Constitution. The Founding Fathers intended the Senate to be a check on the President's power. We hear our colleagues on the other side pleading for a majority vote; let the Senate act as it should.

The Senate is responsible for the quality of people we put on the courts, and if there is a challenge, so be it. Let the majority party make the case, convince us that these people are not what we think they are in terms of their activist views. Is it an inconvenience to the President to contend with the Senate? Perhaps. But direct your complaints to Thomas Jefferson, James Madison, and our Founding Fathers. You will find they had their hands full, and they knew how to deal with it.

I know our majority leader has said:

> We can keep the filibuster for legislation, just not on nominations.

But the American people know you cannot sort of end the filibuster. If this nuclear option goes into place, citizens across our country understand that their rights will be taken away in large part by those who have expressed themselves before they were nominated in matters dealing with gender, dealing with marriage, dealing with all kinds of issues on which the American people have a right to have a view.

No, this now says we are just going to do it for the judges. Beware, once that barn door opens, we are going to see all kinds of changes. You cannot sort of end the filibuster. You either have to keep the filibuster or you end it.

Would the majority leader like to rename the Jimmy Stewart film, "Mr. Smith Goes to Washington Except for Judges"?

Speaking of popular culture, the biggest film of the year is opening this week, "Star Wars: Revenge of the Sith." This is one of the characters in that film. He is portrayed here on this chart. He is the leader of the Senate in a far-off universe. In this film, this leader of the Senate breaks rules to give himself and his supporters more power, and after this move from the Senate leader, another Senator states:

> This is how liberty dies.

One film critic described this film as a story of "how a republic dismantles its own Democratic principles."

As millions of Americans go to see this film this week and in the weeks ahead, I sincerely hope it does not mirror actions being contemplated in the Senate. I say to my colleagues, do not let liberty die. I urge my colleagues, on behalf of the American people—and I ask the American people to express themselves on this—do you want to give up your rights, do you want to give up your rights to protect your children against a foul environment? Do you want to give up your rights to be able to work in a safe environment? Do you want to give up your rights to decide on questions such as war and peace? I urge do not let it happen. I urge my colleagues to oppose any attempt to break the Senate rules and destroy over 200 years of American tradition. We must save the United States and the interests of our country as a whole.

I yield the floor.

The PRESIDING OFFICER (Mr. BURR). The Senator from Delaware.

Mr. CARPER. Mr. President, I have served in the Senate for a bit over 4 years. When I came, I never imagined I would stand on this floor and defend a filibuster. I came to try to make sure we preserve jobs and bring in new ones, to make sure kids got a new education, to make sure we brought down the costs of health care and made it affordable and extended to a whole lot more people, that we ran a fiscally sound ship of state, and that we provided for the security of our Nation. I came for all of those things. I never imagined I would be standing in a food fight on how we are going to approve these judges, how many confirmations are enough and what constitutes a shortfall.

In Delaware, we are proud of being the first State. We were the first State to ratify the Constitution. We did it December 7, 1787. The Constitution that we confirmed at the Golden Fleece Tavern in Dover, DE, had been hammered out about 75 miles north up the road in Philadelphia. The last part of the Constitution that was hammered out, maybe one of the more difficult aspects of the Constitution, was not only who is going to be President, how are we going to pick the President, how long will their terms be. That was worked out. They did not get caught up in how old does one have to be to be a Senator or how old does one have to be to be a Representative, how long are the terms going to be. That was worked out. What was hardest to work out in the Constitutional Convention, almost harder than anything else, was how we are going to pick these judges.

There were some folks at the Constitutional Convention, led by Ben Franklin, who were fearful we would end up in this country with a king. We may not call him a king or we may not call her a queen, but we would end up with a king. They were dead-set determined to make sure we did not do that.

If we read through the Constitution, it is an intricate set of checks and balances that are designed to make sure that we have a President but we do not have a king. With those sets of checks and balances, the Constitution has served us extraordinarily well.

The Constitution also said, in addition to having a House and a Senate and how one gets elected to serve and how long they serve, it also said the House and Senate could each set out their rules. The Constitution does not say what the rules of the Senate are. It says we can write our own, and we have done that.

We heard earlier this afternoon about how the rules have been changed with respect to invoking cloture to end debate. Before 1917, Senators could not invoke cloture. Another Senator could talk literally as long as they could stand. From about 1917 to 1975 or so, the rule was that there had to be roughly a two-thirds supermajority to be able to end debate. Using the rules of the Senate to effect change, the rules were changed to say, no, a three-fifths majority, 60 Senators, is needed to bring debate to a close.

It is interesting how we confirm our judges in Delaware. Governors nominate with the advice and consent of the Senate. We do not nominate people to lifetime terms on the bench. We nominate them to 12-year terms. The remarkable thing in Delaware is for every—and I served 8 years as Governor—Democrat I nominated to the bench I had to nominate a Republican. We are equally balanced Democrat and Republican.

In survey after survey, the Delaware legal environment, including our judiciary, is regarded maybe as the best in the country. We do not have these food fights in Delaware. We have the best judiciary. We have Democrats and we have Republicans who serve on the bench. They are nominated by Republican and by Democratic Governors.

I ran into a friend of mine not long ago who has loosely been following this debate on judicial nominations. He asked: Why do you not confirm more of the President's judicial nominees? And I said: How many do you think we have confirmed, or what percentage do you think we have confirmed?

He said: Maybe half.

And I said: No, no my friend, 95 percent.

He said: Really? Do you not have a lot of vacancies on the Federal judiciary bench?

I said: No. We have one of the lowest vacancy rates we have had in years.

I asked him in return: While we have confirmed over the last 4 years 95 percent of President Bush's nominees to the bench, what percentage of President Clinton's nominees do you think were confirmed during his first 4 years?

Well, I do not have a chart here that says what the answer to that question is, but just to remind us all, from 2001 to the beginning of this year, 95 percent of President Bush's nominees have been confirmed.

If I had a magic marker I would make a big yellow line through this and write in 81 percent because that is the percentage of President Clinton's nominees that were confirmed in his first 4 years.

There is a great irony. I am told we never heard a peep or a squeak from our friends on the other side of the aisle during the first Clinton administration when his nominees were denied a vote on the floor. It was not because of a filibuster. They were denied a vote on the floor because somebody on the other side of the aisle in the Senate Judiciary Committee would not let a hearing be held, not on one or two judges nominated by Bill Clinton but on scores of them. They would not have a hearing. They would not let a nominee out of committee. They did not have to kill them on the floor in a filibuster. They did it in committee, quietly, out of the view of the public.

Now, why just a few years ago was it okay to deny 19 percent of President Clinton's nominees an up-or-down vote on this floor? Why was that okay? And why is it with this President—he received 95 percent of what he wants and actually in the end he will get more than that. There are a couple from Michigan that we are going to confirm. Some of the 10 have basically withdrawn their names or retired from the bench.

The figure of 95 percent actually understates what ultimately this President will realize in confirmation victories.

The other number I want to share, talking about advice and consent, is 2,703. This number is 1. What do they refer to? During the first 4 years of President Bush's presidency, he nominated over 200 judges. Republicans and Democrats voted on those judges. There were 2,703 aye votes from the Republican side of the aisle on President Bush's judicial nominees. In those 4 years, there was one nay vote from the Republican side of the aisle on a judicial nominee of this President.

We can argue forever what advice and consent really was meant to be when the Constitution was written. But if we are in a situation where 50 percent plus 1, 51 percent, would enable a nominee of this President or any other President to go on to serve for life on the Federal bench, and if you look at the last 4 years and only 1 person out of 2,704 votes was no, does that give you any kind of confidence that we are going to see any sort of checks and balances going forward? It doesn't give me much.

I do not care if you are a Democrat or Republican, it should not matter. It should not matter who is in the White House or the House and Senate. But when you get a situation where you have one party that controls the White House and one party controls the House of Representatives and one party controls the Senate, and you have, out of 2,704 votes for judicial nominees, only 1 Republican Senator who ever voted no, and it was for somebody initially nominated by Bill Clinton, that is something we ought to worry about.

Someday, someday we are going to have a Democratic President. Someday we are going to have a Democratic majority in this body. We have sayings in Delaware. I bet they have in Minnesota, too. Maybe in Vermont. Among those sayings are these: Chickens do come home to roost; the beds that we make are some days the beds that we get to sleep in; what goes around comes around.

I promise you, I promise you, my friends, if a decision is made to pull this trigger, this nuclear option, and we end up with a situation where the rights of the minority really are, in my view, ignored, maybe even trampled on, the Republicans who do this will come to rue the day.

Let me close with this. I came here to get things done. As I look around this floor, the other Senators who are here whom I respect. I know you came here to get things done as well. I mentioned at the outset the kinds of things I wanted to see us accomplish. I describe myself as a recovering Governor. We have a recovering mayor who is presiding here today. We like to work together. We would like to work across the aisle. We are even happy to work with the President, Democrat or Republican.

My fear is here is what is going to happen. If this action succeeds, if we do change the rules of the Senate to lower to 51 the votes that are needed to end a filibuster on judicial nominations, that is a slippery slope. If we can do it on judges, we can do it on other nominees to other posts, we can do it on amendments, we can do it on bills. It is a slippery slope. But there is an even greater concern to me, as a guy who wants to get things done.

I see Senator LEAHY is here. He is working with Senator SPECTER on asbestos litigation reform. We need to pass that litigation. We need to right a wrong. My fear is, if we take this step, trying to work out a very difficult compromise on that legislation will be made more difficult, not easier. We need to address the rising cost of health care and all the folks who do not have it and cannot afford it, and employers are stopping providing it. We need a comprehensive energy policy in this country. It is tough in the best of times to hammer that out.

Mr. LEAHY. Will the Senator from Delaware yield?

Mr. CARPER. I am happy to yield.

Mr. LEAHY. I absolutely agree with the Senator from Delaware. We have a lot of bipartisan legislation that is not even being looked at. The NOPEC bill is one, with Senator DEWINE, Senator KOHL, myself, and others. We looked at the fact that gasoline prices have gone up nearly 50 percent in the last 5 years alone, and yet we have no constraints on artificial prices being set by the NOPEC countries here in the United States. It takes more than holding hands with Saudi princes to bring down prices. We have to ask for real efforts. This is legislation that could pass. This is legislation that could pass. Put some teeth in it. Instead of holding hands, we could hold court actions, and we would be somewhere ahead. That is just one area.

The Senator from Delaware mentioned the asbestos bill. Senator SPECTER and I have worked on it on a totally bipartisan fashion with Senators on both sides of the aisle. We have a bill that could pass. It would take some effort on the floor. It would take a week or so, but it could pass. Victims of asbestosis would be helped. Companies would have some idea what their costs are. The economy would dramatically improve. That bill is going to die if the nuclear option goes through because we will lose the ability to move bipartisan legislation.

We have law enforcement legislation at a time when most of the law enforcement grants, such as the COPS grants and whatnot, are being cut by the administration. A lot of Members on both sides of the aisle are trying to find a way to get that money back to our police officers, the money being cut. We cannot have a debate on it.

This is going to take up—you confirmed 208 judges; blocked, actually, 5. I have been here 31 years. I don't believe anyone has had a record that good. Certainly no baseball team ever had a record that good. The President ought to declare victory on that, having done so much better than all but about three Presidents of recent memory, and let us get on with things. Bring down the price of gasoline, for one: that is affecting the American people.

Mr LEAHY. Mr. President, today we continue to debate the Republican Leader's bid for one-party rule through his insistence to trigger the "nuclear option." I spoke yesterday about this misguided effort to undercut the checks and balances that the Senate provides in our system of Government, and about the need to protect the rights of the American people, the independence and fairness of the Federal courts, and minority rights here in the Senate.

I started my statement yesterday by commending the chairman of the Senate Judiciary Committee. Today I want to add and thank a number of Senators who participated throughout the debate yesterday for their contributions: the Democratic leader; the assistant Democratic leader and senior Senator from Illinois; the senior Senator from Washington; both Senators from California; the senior Senator from New York; the senior Senator from Montana; the senior Senator from Minnesota, the senior Senator from Massachusetts and Senator DORGAN.

I noted yesterday that this is a setting in which Democratic Senators alone will not be able to rescue the Senate and our system of checks and balances from the breaking of the Senate rules that the Republican leader is planning to demand. If the rights of the minority are to be preserved, if the Senate's unique role in our system of Government is to be preserved, it will take at least six Republicans standing up for fairness and for checks and balances. I believe that a number of Republican Senators know in their hearts that this nuclear option is the wrong way to go. I know that Republican Senators with whom I have been privileged to serve know better. I hope that more than six Republican Senators will withstand the political pressures being brought to bear upon them and do the right thing, the honorable thing. I have to believe that enough Republican Senators will put the Senate first, the Constitution first, and the American people first, and withstand those political pressures when they cast their votes.

Today, as we continue this discussion, I note that the Senate remains fixated on a handful of the President's most extreme and divisive judicial nominees. The Democratic leader rightly said recently that the current tally is 208 to 5. The Senate has confirmed 208 of President Bush's judicial nominees, and we are resisting action on five.

I included in the RECORD yesterday my statement laying out my reasons for opposing the nomination of Priscilla Owen. As we continue to debate a nomination that was rejected by the Judiciary Committee in 2002 and on which the Senate engaged in extensive debate in 2004, the Senate is neglecting other matters. That is the choice made by the Republican leadership, in insisting on this confrontation and upcoming conflict.

The Democratic leader is right when he urges the Senate to "put people over partisanship" and to work to reduce gas prices, make health care more affordable, create new and better jobs and give our veterans and their families the support they need and deserve.

Among the matters being neglected in order to engage in this political exercise is consideration and passage of the NOPEC bill, S. 555. This is bipartisan legislation. Our lead sponsors are Senator DEWINE and Senator KOHL. With the increase of gasoline prices by almost 50 percent during the Bush Presidency, with Americans having to pay so much more each week to get to work, drive their kids to school and just to get around, the Republican leadership of the Senate is ignoring a substantial burden on American working families.

This week, the national average price for a gallon of regular gasoline was $2.18. In Vermont, gas is slightly less expensive, but still a hefty $2.15 per gallon. Just a year ago the price was $1.92. When President Bush took office it was $1.46 a gallon.

The artificial pricing scheme enforced by OPEC affects all of us, and it is especially tough on our hard-working Vermont farmers. Rising energy expenses can add thousands of dollars a year to the costs of operating a 100-head dairy operation, a price that could mean the difference between keeping the family business open for another generation or shutting it down.

With summer coming, many families are going to find that OPEC has put an expensive crimp in their vacation plans. Some are likely to stay home; others will pay more to drive or to fly so that they can visit their families or take their well-deserved vacations.

Americans deserve better, and if the White House will not act to abate this crisis, it is time for Congress to act. It is past the time to hold hands and exchange kisses with Saudi princes who artificially inflate the price of gasoline. The President's "jawboning" with his Saudi friends has proven unsuccessful. It is now time to act, and the Senate, under the Republican majority leader, is choosing instead to revisit a handful of extreme judicial nominations that have already been considered and rejected by this body.

The production quotas set by OPEC continue to take a debilitating toll on our economy, our families, our businesses, our industry and our farmers. Last year and again last month, the Judiciary Committee voted to report favorably to the full Senate the bipartisan NOPEC bill. Our legislation would apply America's antitrust laws to OPEC's anticompetitive cartel. Why not give the Justice Department the clear authority to use our antitrust laws against the anti-competitive, anti-consumer conduct in which they have engaged? We should take up that bill, debate it and pass it without further delay. The many days of the Senate's time allocated to the provocative "nuclear option" comes at the expense of our taking up the NOPEC bill on behalf of the American people.

Another consequence of this fixation on the effort to increase the White House's political power, and to aid this President's attempt to pack the Federal courts, is the loss in focus and sacrifice of progress we have been making on asbestos reform. For more than 3 years I have been working on asbestos reform to provide compensation to asbestos victims in a fair and more expedited fashion.

Chairman SPECTER and I have worked closely on S. 852, the FAIR Act. It is pending before the Judiciary Committee. We are in the midst of our markup sessions. That effort was scheduled for yesterday and today, but the Chairman had to cancel our consideration yesterday in light of this debate and it had to be cut short today. That is most unfortunate. We have been working hard and in good faith to achieve bipartisan legislative progress on this issue. We have done so despite criticism from many quarters. That bipartisan effort is now being retarded by this continuing debate.

There are many, many items that need prompt attention. I understand that the Armed Services Committee last week completed its work on the Department of Defense Authorization bill. Why the Republican leadership is delaying Senate consideration of the Defense Authorization bill I do not understand. At a time when we have young men and women in combat zones and when the home front is being affected by recently recommended base closings, I would have thought the Defense Authorization bill would be a priority.

Let me mention just one other set of legislative issues. Last week was Police Week. On Sunday I was privileged to attend the National Peace Officers' Memorial Service commemorating the service and sacrifice of 154 public safety officers killed in the line of duty over the last year. I worked in a bipartisan way with Senators SPECTER, BIDEN, HATCH, BROWNBACK, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, KENNEDY, KOHL, KYL, SCHUMER, SALAZAR and COLLINS to introduce and pass S. Res. 131, which recognized May 15 as Peace Officers Memorial Day and called upon the entire Nation to join in honoring our law enforcement officers. The President spoke movingly at the ceremony held here on Capitol Hill on that day of remembrance.

This week we should honor our law enforcement officers with supportive legislative action. In the past we have worked in a bipartisan way to improve the Public Safety Officers Benefit Program and to provide educational benefits for the families of State and Federal officers who have been killed in the line of duty. Sadly, the administration has not yet implemented the latest round of improvements to the Public Safety Officers Benefit Program that we enacted last year. I have urged a Judiciary Committee hearing on this delay, as well as on the general state of police officer safety. The Fraternal Order of Police, the International Association of Chiefs of Police, the National Association of Police Organizations, the National Sheriffs' Foundation and other law enforcement organizations are all interested in working with us to ensure that the Justice Department produces comprehensive regulations that effectively create a more user-friendly PSOB Program.

In addition, we should be considering the Social Security Fairness Act, S.619, the bill that Senators COLLINS, BOXER, FEINSTEIN and a number of us have cosponsored over the years to protect the Social Security and retirement of police officers. Those on the front lines protecting all of us from crime and violence should not see their Social Security benefits reduced because they have historically participated in separate retirement benefit programs. That needs fixing and this week would be an appropriate one to take that Senate action.

These are merely examples of some of the business matters the Republican majority of the Senate has laid aside.

Mr. CARPER. Mr. President, what I was saying, in closing, one of my greatest fears is that we end up with this partisan battle. Those of us who fervently want to accomplish asbestos litigation reform, a comprehensive energy bill, determining what the business model for the Postal Service ought to be in the 21st century or the passenger rail service in the 21st century—what should our next steps be in welfare reform? How are we going to provide health care coverage, reduce the costs, and extend coverage to all kinds of people? There is a ton of stuff, so many issues we need to address.

The postal bill alone—the Presiding Officer serves on the Homeland Security and Governmental Affairs Committee with me. We worked for years, Senator COLLINS, myself, and others, to determine what should the Postal Service look like in the 21st century. What should the business model be? We unanimously passed the bill last year out of committee. Over in the House of Representatives, almost the very same bill was negotiated, debated, and passed unanimously by our counterpart committee. There was not a single "no" vote. We could not get either bill to the floor for debate. And that is when we agree.

I remind my friends, if it is that hard to get legislation through the House and Senate to the President for his signature when we agree, God help us on difficult issues such as asbestos or comprehensive energy policy or health care or the like.

Finally, I have a whole lot of quotes here. I was trying to figure who to close my remarks by quoting. I looked for something for the Senator from Minnesota, the Presiding Officer, which might seem appropriate. I couldn't find anything, at least on this subject, so I turned to another source. I think it is actually pretty good. It is not a Senator, but he probably wouldn't be a bad one, a fellow who has thought a lot and written a lot and I think is generally regarded more favorably on the other side of the aisle than this one, and he makes a lot of sense sometimes. I will close my comments today with a quote from George Will. Here is what he said about the filibuster:

> The filibuster is an important defense of minority rights, enabling democratic government to measure and respect not merely numbers but also intensity in public controversies. Filibusters enable intense minorities to slow the governmental juggernaut. Conservatives, who do not think government is sufficiently inhibited, should cherish this blocking mechanism. And someone should puncture Republicans' current triumphalism by reminding them that someday they will again be in the minority.

Will goes on to conclude:

> The promiscuous use of filibusters, against policies as well as nominees, has trivialized the tactic. But filibusters do not forever deflect the path of democratic government. Try to name anything significant that an American majority has desired, strongly and protractedly, but has not received because of a filibuster.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from North Carolina.

Mr. BURR. Madam President, I rise to urge my colleagues to support an up-or-down vote on these judicial nominees. I have a great respect for my colleague from Delaware, and I do not stand up with pretty charts with big numbers. I am not a recovering State legislator or recovering city mayor, and I hope I am never a recovering parent or father.

I stand up as a parent today, as a father of two kids, with the full knowledge and understanding that the work we do up here in large measure dictates the America that is going to be there for them. That if we are to follow the strategies on that side, the chart that my colleague showed would never change because we would never vote. That bipartisanship that is needed for legislation—whether it is health care or whether it is energy policy or whether it is asbestos reform—would not be achievable because we would never come here to register a yea or nay on behalf of the people who sent us here.

We are faced with difficult votes, but we take those difficult votes. We do not shy away from the responsibility that people elected us to come here and to make a judgment call and, more importantly, to be held responsible for it. The only thing I can think of relative to not taking a vote is that there are some who believe they will not be held responsible if, in fact, they force this body not to vote, that eventually people will wear down and that if we happen to seat someone that is not the best, the most qualified, that is OK because it saved this institution a fight.

I will tell my colleagues I cannot think of anything more important if there is going to be a fight than that fight be on who we put on the bench.

Now, today's debate, though we have a nominee up, I don't think is about one particular person because clearly we have not heard arguments that this is an unqualified individual. As a matter of fact, in seeking compromise there have been proffers now to this side that suggested: We will vote on five, but not seven, and you pick the two you want to chuck overboard.

What message do we want to send to that law student out there who aspires one day to being on the bench and ultimately seeking a nomination by the President to a Federal court or to the Supreme Court? If you want to do it, understand you will go through personal character assassination; that in some cases you may have to wait 4-plus years to get there.

In 1995, Senator LAUTENBERG stood on this same floor, in this same building, as a Member of the Senate, and he said this then when talking about fairness of the system and how it is equitable for a minority to restrict the majority view:

> Why can we not have a straight up-or-down vote on this without threats of filibuster, without threats of filibuster. Whether it was Robert Bork and John Tower or Clarence Thomas, even though there was strong opposition, many Senators opposed them. The fact is, the votes were held up or down.

June 21, 1995. Senator LAUTENBERG.

Today, he denies this Senate a vote on a judicial nominee and threatens a filibuster on all the nominees.

This afternoon, Senator KERRY claimed it is dangerous for the Senate to limit filibusters on judicial nominees. Senator KENNEDY and Senator LAUTENBERG joined Senator KERRY in defending judicial filibusters. But on January 5, 1995, just shortly before Senator LAUTENBERG was on the Senate floor making the statement I read, all three of those Senators voted to change the Senate rules to eliminate all filibusters on nominations, motions, legislation—everything. If any of those three Senators had had their way in January 1995, we would have an up-or-down vote on these judicial candidates, but we also wouldn't have the ability of the filibuster as a tool in the legislative process.

Some claim this is the start down a road to doom. It is not down the road to doom. Senator KERRY, Senator LAUTENBERG, and Senator KENNEDY voted for it and were joined by Senator FEINGOLD, Senator BOXER, Senator SARBANES, Senator HARKIN, Senator LIEBERMAN, and Senator BINGAMAN. We are not plowing ground that hasn't been plowed.

If anything, we are saying, for 214 years this institution, the Senate, had a gentleman's agreement, and that agreement was that the filibuster would never be used for judicial nominees. For 214 years they showed restraint, even though the rule allowed them to do it because they understood that the process was so important to make sure the best and the brightest found their way to the bench. For 214 years a handshake was all it took.

Something changed in the last Congress. For the first time it was actually used. Now, in an effort to have an up-or-down vote, to have a process like I described in the last election to the people who elected me that I would come here and try to achieve, even if we needed to make sure that the constitutional option of eliminating the filibuster only as it exists for judicial nominees is removed, some suggest that would be disastrous for the Senate.

Some of those same people in 1995 voted to eliminate the filibuster for judicial nominees, for the legislative process, for everything, and they are the same ones who claim this would be disastrous to the Senate today.

So much has been said, so many accusations, so many claims, so many revisionists of history. The reality is in a conversation I had with a high school student just this week, as she looked at me: Can you explain these actions on the floor? I talked about the 214 years that the gentleman's agreement allowed a nominee to get an up-or-down vote with no filibuster and the fear that we were reaching a point where we might have to make a decision, and the concern that existed in this Senate and around the country that it might be disastrous. She looked at me after I explained it to her and she said: Senator, with 214 years of experience, it is not going to be disastrous. Why would you wait so long to do it?

The reality is that sometimes it takes years to understand what we have a hard time understanding up here. For 214 years the filibuster was not used, and we picked the best and brightest and got them on the bench and they guided this country and we have been headed in the right direction.

If the choice is made and we have to choose to eliminate this tool, this is not a dangerous thing for the institution. We have 214 years of experience. We will be just fine. And the challenge will be to protect that filibuster as it relates to the legislative process.

I am here as a new member, as a father, as a citizen, who deeply believes I was sent to the Senate to get work done. That work I do on behalf of North Carolina and for the citizens across this country. There is no doubt in my mind that I was sent here to do what the people of North Carolina heard me say that I would do, and that was to work hard and to accomplish solutions to real problems. There is no doubt in my mind the task includes ensuring that the Senate provides judicial nominees on up-or-down votes.

I am not going to lobby my colleagues which way to vote, but isn't it common courtesy to allow these nominees to have some finality to this process? The judge that is up today, Priscilla Owen, has been in this process for 4 years. I have asked myself, even though I am not a lawyer by profession, would I stick with it 4 years? Would I put myself and my family, my friends, my career through the types of delays that she has faced? The answer is, I do not know.

The question is, What are future nominees going to say when they get that call, when the President of the United States—whether he is a Republican or Democrat—calls in the future, and says, I need your service to this country, and they look at the precedent of 4 years, of 2 years, of 18 months, of the harassment, of the claims? Are they going to say "yes, sir" or "yes, ma'am" to the President of the United States? They might. But we might lose the opportunity at the best and the brightest.

One month ago, I joined my freshmen colleagues in urging the Senate leadership to get in a room, to break the current impasse regarding judicial nominees, and to develop a process that was respectful of both parties, where judicial nominees, at the end of the day, receive an up-or-down vote.

I said earlier, the Democrat's offer was: We will vote on five but chuck two of them over the side, and you pick which two. I cannot think of anything worse for the future of this country than for us to treat the best and the brightest with the disregard that proffer would suggest.

I remain hopeful still today that a resolution can be reached. Many of us have worked toward a fair process where all judicial nominees with majority support, regardless of party, receive an up-or-down vote. Let me say that again: regardless of party, receive an up-or-down vote.

What happened for 214 years? This debate is about principle. It is about allowing judicial nominees an up-or-down vote on the Senate floor. And I believe it is an issue of fairness. Let me be perfectly clear, though. I believe if one of my colleagues objects to a particular nominee, it is certainly appropriate and fair for my colleague to vote against that nominee on the floor of the Senate. But denying judicial nominees of both parties, who seek to serve their country, an up-or-down vote, simply is not fair. It was certainly not the intention of our Founding Fathers when they designed and created this very institution.

Together, as Members of the Senate, we are advocates for democracy and for a democratic system of government. It is vital that we have a system that continues to serve as an illustration of effective democracy around the world. The integrity of our judicial system is so very important, and it will certainly suffer as a result of inaction.

Obstructing votes on Presidential nominees threatens the future of our judicial system and the nature of the Supreme Court. You see, I am not sure that many Americans have stopped to think: Well, what happens if this is exercised for Supreme Court Justices? Because I believe in the next several years we will have one or two or possibly more Supreme Court nominees to consider.

Well, the Court still meets. If we are not able to produce a Justice out of this fine Hall, then they will meet with eight Justices. I have to believe there is an odd number of Justices for a very logical reason. It was so there would not be a tie.

On a 4-to-4 tie, what happens? Seldom have we asked the question. On a 4-to-4 tie in the Supreme Court, the lower court's decision stands. That means all of a sudden the Supreme Court, our highest court, the Court we look to to be the best and brightest to interpret law and the Constitution, is insignificant in the process. It means that whatever that court of appeals was—the Fourth Circuit or the Ninth Circuit—whatever decision they came up with that somebody believed was wrong, and they appealed it to the Supreme Court, and the Supreme Court, on the merits of the case, heard it, would become the law of the land.

My colleagues on the other side argue that the reason this is so important is because a Federal judgeship is for life. Let me say to them today, if you exercise this as it relates to the Supreme Court of the United States, and you jeopardize that there may be a 4-to-4 tie, the result is not for the lifetime of the judge you did not seek, it is for the lifetime of this country because that is now the law of the land, that an appellate court, whether it is the Fourth or the Ninth—not the Supreme Court—that will be the ultimate determining factor as to what the law is that our children, our grandchildren, their children, their grandchildren will live by for their entirety.

I urge my colleagues to consider the nomination of Priscilla Owen and all the Federal judges who enjoy the support of a majority of the Members of this Senate. I am reminded, as I stand here, that so much has been said that suggests this process has not been fair. I have looked back at some of my colleagues who have been here for years and who have experience I hope one day to have in this fine institution.

Senator BOXER, in 1997, said:

> According to the U.S. Constitution, the President nominates and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and to prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

What has changed since 1997? I read this statement four or five times. There are no exceptions. There is no "shall be" or "case of." It is very clear, "given the opportunity for a vote on the Senate floor."

And Senator DURBIN, who has been a regular in this debate, in 1998, said:

> I think that responsibility requires us to act in a timely fashion on nominees sent before us.

He went on to say:

> If after 150 days languishing on the Executive Calendar that name has not been called for a vote, it should be. Vote the person up or down. They are either qualified or they are not.

One hundred fifty days should be an automatic trigger that a judicial nominee should come up for a vote up or down—1998—no qualifications, no exceptions. Well, Priscilla Owen has been waiting 4 years. If we had accepted his challenge in 1998, Senator DURBIN's challenge, 150 days after she was first nominated, this body would have voted up or down.

I believe she ought to be voted on up or down today. I believe it is an injustice to the American people that a threat of a filibuster or the application of a filibuster will be applied to the judicial nominees.

Madam President, I know there are a lot of Members who want to speak. I am convinced there will be truths and there will be half-truths that will be spoken as we go through this process. But I am also assured that every Member of the Senate understands the obligation we have when we are sworn in. I would urge my colleagues that obligation is not to a 2-year session of Congress. It is not an obligation to show up every day. It is not an obligation to be involved in committee work, or it is not an obligation necessarily to come up with solutions to problems. But it is an obligation to vote. It is an obligation that when you come in this body it is with the intent to vote up or down. I am convinced that when Priscilla Owen is allowed to have a vote, that her nomination will be confirmed.

I am convinced it is in the interest of this Senate, of this United States, of my family, of your family, of the citizens of this country, that we proceed forward in whatever fashion we must to assure that vote takes place. I am convinced if we don't, the scenario of the inability to accede a Justice to the Supreme Court will cause irreparable harm to the policies, the laws, and to the future of this country.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Madam President, I thank the Senator from North Carolina for his excellent statement.

I have been on the floor many times to talk about the issue of judicial nominations, to stand and speak in favor of many nominees to the bench who have been debated over the past couple of years. Last night, I had the opportunity to meet with Justices Janice Rogers Brown and Priscilla Owen. I expressed to them my personal sympathy for them and their families, as I do to all of those who have had their lives, careers, and decisions unjustly dragged and contorted through the streets of debate on the floor of the Senate.

Four years ago now, when Justice Owen was nominated, I am sure that was a very proud day for her. I am sure she looked forward to the challenges of the confirmation process and the challenges of serving in the circuit court. I don't think anyone could possibly have conceived that a person with her judicial standing, having been rated the highest qualified by the American Bar Association, having served as a supreme court justice in one of the largest States, having been elected in that State with over 80 percent of the vote, having accolades from Democrats and Republicans alike who have served with her on the court, as well as public officials in Texas—I don't think she could have possibly imagined she would be involved as one of the focal points of this maelstrom we see pouring out here over the last few days and, unfortunately, over the last couple years on the floor of the Senate.

These nominees have my respect. They have my respect for their courage and for their perseverance. It has been an act of perseverance on the part of many of them. All of them could have easily walked away—not that they don't have good jobs and great careers, and if not universally respected in the legal community, they are certainly highly respected. They don't get nominated for these positions unless they are highly respected within the community.

So I think it would have been very easy for many to walk away, but they have not. They certainly have earned my respect, no matter what happens here. I think it is a very sad day when we take highly qualified people who are willing to serve, and who have served in the judicial capacity, and treat them this way. We hear so much from the other side about many of us complaining about activist judges, and being critical of judges, and how it is a security threat to judges. Well, I suggest what we have been seeing over the last couple of years in the way these judges and their records have been distorted, they have added to the sense of frustration of the American public as to our judiciary and our system of justice in this country.

We have an opportunity to correct that. We have an opportunity to step away from the mistakes of the past in the next few days and to allow up-or-down votes on the floor of the Senate again. For 214 years, 214 years—in this Chamber and the Chamber just down the hall, and once in a couple other places—in Washington and other places, such as Philadelphia—we had votes by Senators who were elected at very difficult times in our Nation's history, at contentious times, where judges had major roles to play on the issues of the day. Think back to the times of slavery, during the early 1800s, when judges played a huge role in this issue that eventually fractured this country. I am sure there were times when either side, depending on who was the President and who controlled the Senate, felt it would have been unfair to their cause, the Northern cause or the Southern cause, to have a person on the Supreme Court who would vote against their interests. I am confident many felt very much tempted to vote and join a filibuster to block a nomination to require a supermajority vote.

But if you think about it, it is remarkable they withheld from doing that and chose instead something most people would say is much more dramatic, and that is to secede from the Union. But Senators, enduring that very contentious time when there were fights on the floor of the Senate, understood that a very key part, an important part, essential part of the Senate is the process by which we govern ourselves; that the process protects our rights; the process protects the system of Government. They chose to withhold their passions—the passions of the moment for the issue of the day—for the right and controversy to do what was best for the institution of the Senate, the greatest deliberative body in the history of the world, potentially.

And now we have seen this infection that entered into the bloodstream of the Senate. Whether you want to call it a partisan infection or an ideological infection, there certainly is a sickness. I think it is a sickness that, candidly, both sides of the aisle feel. I don't know too many people who feel very good about what we are going through on either side. It is making us all weaker, sicker, and it is so doing to this institution. We need a cure. We had a pretty healthy institution when it came to this issue for 214 years. I think we can look to the prescription that we had for 214 years for a cure to what ails us in this body today.

The Senator from North Carolina accurately said we had an agreement—he used the term "gentlemen's agreement"—a handshake, that this was the way we were going to proceed. I argue those in the 1850s had the right to filibuster judges. Those in 2003 had the right to filibuster judges. I had the right, during the Clinton administration, to filibuster his appointments. There were those whom I wanted to filibuster and those whom I desperately didn't want to see on the court, and we stood down because in spite of the passions and in spite of what I thought was a mistake to put a particular person on a particular court, there was something lasting, something more important, something certainly not eternal, but certainly eternal for as long as the United States shall survive, and that is this institution. We should not go mucking around in this institution and changing the way we do things, particularly when it comes to the balance of powers and the independence of one of the branches of our Government, the judiciary.

We must tread very carefully before we go radically changing the way we do business here, which has served this country well. We have radically changed the way we do business here.

Some are suggesting we are trying to change the law, we are trying to break the rules. Remarkable hubris. Imagine, the rule that this is the way we confirm judges has been in place for 214 years, broken by the other side 2 years ago, and the audacity of some Members to stand up and say, How dare you break this rule, it is the equivalent of Adolf Hitler in 1942 saying: I'm in Paris, how dare you invade me, how dare you bomb my city. It's mine. This is no more the rule of the Senate than it was the rule of the Senate before not to filibuster. It was an understanding, an agreement, and it has been abused.

In a sense, what we see on the floor of the Senate is a reflection of what we often see in our society. What we often see in our society is a government that increasingly is passing laws. I get this from some of my constituents sometimes. They say: You guys are always passing more and more laws and more and more laws, and ultimately when you are passing laws, in many cases what you are doing is restricting people's freedom.

The more laws we have on the books, the more laws there are to obey, the more laws you have the ability to break. So why do we do this? Because we respond to problems in society that come about certainly, in many cases, because what we once thought we did not need a law in place to keep people from doing, we now have laws in place to punish people who heretofore understood it simply was not a good thing to do.

We did this recently with the corporate scandals. What did we do? We passed a huge law, Sarbanes-Oxley, in response to what? Activities by a group of people who simply forgot about the handshake, forgot about the duty we have to each other, and pushed the law well beyond what we intended. So we had to pass a new law, and we had to constrain 99 percent of the people in America who never even thought about breaking the law or doing the things that were done by Enron and Tyco and all those people. So we had to pass laws on everybody.

Was it a good thing to do? We had to pass the law because there were some who could not live by the law, could not live civilly, could not live with not just the letter of the law but the spirit of the law.

So we had to pass legislation that restricted freedom, that put burdens on people. That is why I have said many times I am not crazy about having to vote to eliminate the possibility of filibusters on judges. I am not anxious to do this anymore than I was anxious to pass some of the corporate responsibility provisions. One would like to think, particularly here, where we are supposed to be a reflection of what is best in our society, that we can understand what we are doing here is wrong and just step back from the ledge and let civility reign, let the tradition of the Senate be upheld.

I do not want to have to pass a law. I want to see a Senate that can agree to act civilly, to respect tradition in the process of running this place that has worked well for 214 years. That is what I want.

So I have encouraged many to sit down and try to negotiate. I encouraged our leaders to do so. I know our leader has tried diligently. I just spoke with him on the phone a few minutes ago, and he continues to work to avoid what no one—at least I hope no one in this Chamber—wants to see happen. I certainly do not. But we can no longer live—just like we cannot live with the opportunity of those to cheat shareholders and employees—we can no longer live with the minority trying to cheat those nominated by the President of the United States from a fair up-or-down vote in the Senate. We cannot tolerate that. That is behavior beyond the pale. That is behavior that no Senate, prior to the last one, tolerated. None.

I have repeatedly asked and I know other people have asked repeatedly, Name one judge brought to the floor of the Senate who had majority support who was not confirmed. Name one, prior to 2 years ago. Never happened. Never happened in the entire history of the Senate. Never happened. We have 10, potentially 16 who would have that privilege because of this new precedent.

I cannot understand how Members of the Senate can come here and say what we are doing is breaking the rules. Breaking the rules? I do not know how you can possibly contort the facts of this case around to where the Senate Republicans, by returning to the tradition of the Senate of 214 years, is somehow breaking the rules.

This is truly a sad day. It has been a sad week. If you look and listen to my constituents—and I am sure all of our constituents—they are not happy about this debate. They are not happy a group of 100 leaders—100 leaders—cannot negotiate and find some way of acting civilly, of reflecting to our children and our grandchildren that we know how to play nice and we know how to play by the rules.

But the passions of the moment, the passions of the moment have swept over us, and those groups out there that are fomenting this because of their own ideological agenda are the culprits, or at least the motivation, but the votes are here. The votes are here. I am hopeful there are enough on the other side of the aisle who will come to the realization this is not good for them, this is not good for their ideology, it is not good for their partisanship, this is not good for the institution, and this is not good for the country to continue down this path.

When I came to the Senate, I came from the House, like the Senator from Georgia, from the legislature, like the Presiding Officer. I had never dealt with executive nominations before. So one of the things I looked into is how do I determine what a good judge is. We did a little looking around and determined how do you evaluate a judge.

First, are they qualified? Do they have the educational skills, the experience to do the job? Second, are they ethical, not just did they break any laws, but are they ethical individuals and have a reputation for high ethics? And three, do they have an understanding of the role of a judge? Those are the three things.

You did not hear me say, do I agree with them on this issue, this issue, or that issue, because my feeling is whoever is elected President will appoint people who agree with their philosophy. That is how it works, just as when you appoint a Secretary of Veterans Affairs or a Secretary of Energy, you appoint someone who intellectually agrees with your philosophy.

When President Clinton was elected, I came here, and I supported almost every Clinton nominee. Did I agree with them? Absolutely not. Did I think most of them would be damaging to the court? Absolutely. Did I vote for them? Yes. There are a couple of exceptions. One in particular, I have to tell you, who caused me a lot of heartburn was Judge Richard Paez from California who showed a record of activism on the court that was upsetting to me and showed that he was not someone who understood the role of a judge.

So under that he certainly was qualified, and I had no questions about his ethics, but I did have a question as to whether he understood the role of a judge. From his experience it showed me he did not.

There were many who wanted to filibuster Judge Paez because of that very fact. In my mind, certainly from the standpoint of not wanting someone on the court, it would have been a justifiable filibuster, except for the fact that is not the way we do things in the Senate, because you know what. The President won the election, and he can nominate who he wants. And we in the

Senate have had a tradition saying if you can get a majority of votes in the Senate, you get confirmed.

It is about majorities. And by the way, I voted for cloture on Judge Paez and voted against him on the floor when an up-or-down vote came. He did not get 60 votes. Had we filibustered, he would not be on the Ninth Circuit today. We did not. I did not because it was not the right thing to do. It was absolutely not the right thing to do.

I suggest that we have changed the qualifications from highly ethical, highly qualified and understanding the role of a judge to someone who is "in the mainstream." That seems to be the idea now. So we are talking about ideology, in the ideological mainstream.

There were probably—well, Richard Paez, certainly from my view, I would argue, is probably not in the ideological mainstream of America but they all supported Judge Paez.

Probably Justice Harlan, who was the lone dissenter in 1896 in Plessy v. Ferguson, was not in the mainstream at the time.

Thurgood Marshall was confirmed in the Senate to the circuit court back in 1961 with 54 votes. As a lawyer for the NAACP in the 1950s, probably a lot of people in America would not have said he was in the mainstream.

There are a lot of judges who are not "in the mainstream" depending on what stream one happens to be swimming in.

Elections have consequences. In 1961, John F. Kennedy was the President. He won the election, and he got the benefit of the doubt on the Senate floor. He got an up-or-down vote. Majorities matter. I do not think my colleagues will hear the Senator from Georgia or any other Senator on this side of the aisle complain because for 18 months Priscilla Owen was held in the Senate Judiciary Committee during the chairmanship of Senator LEAHY. I certainly will not complain. It was his right not to report her nomination to the Senate floor. Why? Because they were in the majority. If a majority of that committee did not support her nomination, fine, hold it in committee. Defeat her in committee. That is fine. No problem.

If someone happens to be reported out and a majority defeats, fine, majority rules. This idea that 60, 80 whatever Clinton nominees were held in committee by Republicans during the last few years of the Clinton administration, they were held because the majority opposed them. The majority rules, up-or-down vote on majority vote. That is the 214-year tradition of the Senate.

The idea now is the minority rules. One can lose the presidency, lose four seats in the House and control who is going to be the next circuit and Supreme Court judges in the United States? Very interesting. I guess elections do not matter. I guess who people vote for, for President is of no concern to the minority in the Senate. They are the ones who should dictate who the nominees of this President should be. They are the ones who should dictate who comes to the floor and whether they get a vote or not.

That is not the precedent of 214 years. It has been an up-or-down vote. This is an outrage. This is an abuse of power.

It is interesting we are in the Senate, and we are talking about the minority abusing power. Yes, the minority can abuse power in this case, and in my opinion they certainly have.

One final comment, and I apologize to the Senator from Georgia and I appreciate his patience. I just want to make a comment on one case. Yesterday I heard the Senator from California make a statement with respect to Janice Rogers Brown, one I am particularly concerned about because it deals with the issue of Catholic Charities. I heard the Senator from California in describing Justice Janice Rogers Brown's decision in that case and she used the following words in describing her dissent: She, meaning Justice Brown, was the only member of the court who voted to strike down a State antidiscrimination law that provided a contraceptive drug benefit to women. That is her comment.

Now, she did not go into the fact what this law said. What was this law? Well, it was a law that said that if an employer provided health insurance they must provide contraceptive coverage—must. Now most folks who have dealt in this area before would say: Is there not an exemption for those religious organizations who do not believe in contraception? The answer is the California legislature did provide such an exception. Let me read the exception. It said that we will exclude from coverage for contraceptive methods that are contrary to their religious tenets. Sounds reasonable. We do that all the time. If it is contrary to religious tenets of a religious organization, they do not have to offer this particular kind of care.

As a Catholic, the tenets of the Catholic Church are that contraceptives are wrong, and therefore they do not want to, according to their religious tenets, offer that service to their employees. Well, this is the California exception for a religious employer: One, the entity whose purpose is the inculcation of religious values. Well, this is Catholic Charities. Is it Catholic Charities' role to inculcate religious values? No. One of the key roles of the Catholic Church is to care for the poor, to care for those who are less fortunate. It is a basic and core value of the church. We hear it repeatedly offered by Members on the other side.

We have discussions about the church and its theology, how core and central helping the poor is. So they do not qualify under that.

Two, that primarily employs persons who share its religious tenets. Well, Catholic Charities does not primarily employ people. They employ people who want to serve the needs of the poor, and they do not ask whether you want to go to church or not at a Catholic Church.

Three, that serves primarily persons who share those religious tenets—in other words, only Catholics. Obviously not. They serve everyone. Mother Teresa is the classic example of a Catholic out on the front lines serving the needs of the poor irrespective of who they are.

Four, and qualifies as a church under a particular section of Federal law. Obviously, Catholic Charities is not a church. Under the religious exception of the California statute, Catholic charities is an arm directly under the control of the bishop, a mission of the church, not a religious organization.

What Justice Brown said was that is an outrage, that is unconstitutional, it is against freedom of religion to suggest that a Catholic organization, Catholic Charities, under that construct, has to offer services in their health care plan. I will agree she was the sole person but that is hardly striking down the rights of women to have contraceptive services. This was an infringement upon the Religious Liberty Protection Act.

I find it very interesting a lot of folks come in here with their scorecards. Well, she voted against consumers this many times, she voted against women this many times, she voted against this, as if judges are supposed to keep a scorecard as to who they vote for and against as opposed to following what the law says.

So if a consumer comes before a judge, they are supposed to be pro-consumer? If a business person comes before a judge, they are supposed to be pro-business? Is that what my colleagues want judges to do, have a scorecard and make sure they are 50-50 on all of these things?

These litmus tests that are being spewed from the other side are a complete undermining of what the rule of law is to be about, about what justice is to be about. They are infusing politics, policy, and partisanship in this process.

We must stop this. We must have up-or-down votes. I hope we do it in a way that does not force us to vote to do that.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I commend the Senator from Pennsylvania on his remarks. For the moment that he is here, I want him to hear me say something.

I make the remarks I am about to make with a full understanding, were I in the minority party and this another day, I would need to make exactly the same speech and take exactly the same position. You see, I am new here, but I have learned something very quickly. The words you say today will be the words repeated to you tomorrow.

I learned something else. The genie came out of the bottle in the 108th Congress. Whether it was Democrats or Republicans, one day somebody would ultimately have to decide: Was the filibuster intended to be used on advice and consent?

With all due respect to everybody I have heard, it is just incorrect to say that to do away with the filibuster is going to make us a rubberstamp body.

Go ask Clarence Thomas if this place was a rubberstamp body, or Justice Bork. Think about the confirmations, most contentious in the last 20 years. Nobody invoked a filibuster. One of those justices was confirmed. One was not.

There are many responsibilities of the Senate that are designated in the Constitution. Impeachment is one. Whoever heard anybody filibustering an impeachment? Did you? The Constitution says the Senate will conduct that trial, as it says the Senate will advise and consent on treaties—by two-thirds majority. And on justices of the court—simple. It doesn't say maybe. It doesn't say if you feel like it. It is not even confusing. I have it in my pocket. I read it right before I came over here just to make sure I hadn't missed something because I heard twice today people say this document, the Constitution, doesn't say things that it does say.

I rise also, understanding how important the words are, because the second speech I made in the Senate, the first week of February this year, there was nobody in the Chamber. I've got a bigger crowd with the Senator from Pennsylvania than I had. It was early in the morning. It wasn't much of a gallery. I figured nobody was listening. The distinguished Democratic leader quoted me seven times since I made that speech.

I want to address that quote for a second.

You see, I told the story of being in Baghdad and talking to a Sunni, a Shiite, and a Kurd and asking the Kurd: Well, now that you are in the minority, aren't you scared the Shiites are going to run over you? And he said: Oh, no, we will use filibuster.

I thought that was a great remark. Here was a Kurd from the north of Iraq, in a place that had just won its liberty thanks to the blood, sweat, and tears of the United States of America, and he was reading Adams and Jefferson and studying us.

The next thing I know, the distinguished Mr. REID from Nevada says I said that to endorse a debate over whether or not the filibuster should be used on the confirmation of a judge.

I don't blame him. But just so the record is set straight, he is quoting a Kurd who read about America, who is in the process of writing their constitution which, I presume when it is finished, will provide for a filibuster over issues but not a filibuster to be used to obstruct the justice of the new democratic nation of Iraq.

I know my time is short. But I want to make some observations. I want to make my remarks in the context of Justice Brown. I know that Mrs. Owen is the current topic of discussion, about which at some point in time we hope there will be a vote, but Janice Rogers Brown is around the corner, and I felt like, after listening to all these debates, nobody is really talking about anybody's qualifications. Have you noticed that?

Even one of the deals that was offered was: tell you what, we will approve any five, you just give us two we are not going to approve.

Does that tell you they care anything about qualifications? Why, if you thought there was an unqualified judge, would you let the other side pick five and not pick two? I don't think qualifications are the issue. I understand that. That is another reason why I say this is not a superfluous argument, were we in the minority and it was still being decided, and had the roles been on the other side. And it is important that we decide it today.

Janice Rogers Brown was born in 1949 in the Deep South. I was born in 1944 in the Deep South.

When Janice Rogers Brown was born, I don't know that her parents ever envisioned that she would be a supreme court justice in the State of California. When I was born, I doubt my parents envisioned that I would be a Senator. However, in 1944, for a male white child born in the South, it was possible to be a Senator. In 1949, in the South, in Alabama or Georgia, it would not have been possible for a parent to dream that for a female black child.

In my lifetime of studying this body, the most prevalent use of the filibuster was by southerners in the debates over the civil rights laws in the 1960s. The filibuster was used to protract the ultimate passage of those laws. It finally failed. Our country did what was right and those laws were passed.

I would hope that today the filibuster would not be used to deny an up-or-down vote on Janice Rogers Brown because every parent deserves to dream for every child that they will have the chance—not the guarantee—but the chance. These justices who have been nominated by our President deserve an up-or-down vote. No one in here has challenged anybody's right to vote yes or no. But they have challenged the fact that, yes, every one of them deserves a vote, and that is what this debate is all about.

So, as one who is new to this Chamber but understands how important this debate is, I rise to repeat that I will vote to support a vote, up or down, on every nominee. Understanding that, were I in the minority party and the issues reversed, I would take exactly the same position because this document, our Constitution, does not equivocate. It designates that responsibility to the Senate. I repeat, we are not breaking an old rule, we are addressing an issue that was raised in the last Congress as to where the filibuster would apply. It must be decided, and we must be diligent in our debate, respectful of the differences of opinions but, in the end, understanding of our responsibility as Members of the Senate and those elected to represent those who brought us here.

Madam President, I see my time is about up. If the Chair will inform me, I believe I have 2 minutes.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. ISAKSON. I will close by going to a quote I heard earlier today by the distinguished Senator from Massachusetts, who talked about the history of judicial confirmation, and my understanding of history is the same as his. The distinguished Senator said the first two times our Founding Fathers worried about writing the Constitution, they were going to designate the appointment of judges to the Senate. It was only on the third meeting that, at the Constitutional Convention, they determined it be a joint responsibility: Nomination by the President, confirmation by the Senate.

The distinguished Senator is absolutely correct. He described it as a dual responsibility. It would be irresponsible for the Senate to avoid expressing itself in advice and consent on the qualification of any nominee. To do anything other than that which the Constitution designates to us would be to abrogate our responsibility. Our Founding Fathers were right over 200 years ago, and our leader, whom I commend, is right today. I hope when this debate ends, whether through negotiations or a vote, the men and women nominated to the Federal bench of the United States of America will know, not that they are guaranteed a judgeship, but they are guaranteed to know how the Members of the Senate voted on whether or not they would be confirmed.

I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SCHUMER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Madam President, I yield myself 7 minutes and then will yield to the Senator from New Mexico 15 minutes immediately after me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Madam President, as most have said, we believe we have been more than fair. We have confirmed 95 percent of the President's judges. As I have said before, if my daughter came home with a 95 on her report card, I would say, great. What some on the other side want to say is this: Only got a 95? Break the rules and get 100.

We do not believe in that and would like to exhibit in the most graphic way how we have supported 208 of the 218 judges by doing something very simple—by reading the names of the 208 judges the President has nominated and gotten approved by this Senate.

1. Callie Granade, SD AL
2. Consuelo Callahan, 9th Cir.
3. David Bunning, ED KY
4. Dora Irizarry, USDC ED NY
5. Gary Sharpe, USDC ND NY
6. Henry Hudson, ED VA
7. James Gritzner, SD IA
8. Jeffrey Howard, 1st Circuit
9. John Roberts, DC Circuit
10. Julia S. Gibbons, 6th Cir.
11. Kurt Engelhardt, ED LA
12. Leonard Davis, ED TX
13. Margaret Rodgers, ND FL
14. Michael McConnell, 10th Cir
15. Paul Cassell, UT
16. Ralph Erickson, ND
17. Richard Holwell, SD NY
18. Robert Conrad, WD NC
19. Rosemary M. Collyer, DDC
20. Stanley Chesler, NJ
21. Thomas Phillips, ED TN
22. Walter Kelley, ED VA
23. William Smith, RI
24. C. Ashley Royal, MD GA
5. Clay Land, GA
26. Danny Reeves, ED KY
27. Diane S. Sykes; 7th Circuit
28. Frederick Martone, AZ
29. Henry Floyd, SC
30. James Gardner, ED of PA
31. Jay Zainey, ED LA
32. John Houston, SD CA
33. Judith Herrera USDC D NM
34. Kim Gibson, WD PA
35. Legrome Davis, ED PA
36. Marcia Krieger, CO
37. Michael H. Watson, SD OH
38. Paul A. Crotty, SD NY
39. Ralph Beistline, AK
40. Richard E. Dorr WD MO
41. Robert Clive Jones, NV
42. Ronald White, ED OK
43. Sharon Prost, Federal Circuit
44. Thomas Hardiman, WD PA
45. Virginia H. Covington, MD FLO
46. William Riley, 8th Circuit
47. Amy J. St. Eve, ND IL
48. Christopher Boyko, ND OH
49. D. Michael Fisher, 3rd Circuit
50. David Godbey, ND TX
51. F. Dennis Saylor IV, Mass.
52. Gregory Frost, ND OH
53. J. Ronnie Greer, WD TN
54. James Robart, WD WA
55. Joe Heaton, OK
56. Jose Linares, NJ
57. Kathleen Cardone, WD TX
58. Larry Hicks, NV
59. Louise W. Flanagan, ED NC
60. Micaela Alvarez, SD TX
61. Morrison England, ED CA

Madam President, I am illustrating how many judges—208 to 10—we have approved in this Senate, an outstanding 95-percent record, nothing that any President should complain about.

We will continue the reading later.

I yield the floor to my friend and colleague from New Mexico, Senator BINGAMAN.

Mr. BINGAMAN. Madam President, I thank my friend from New York and congratulate him on his leadership on this very important issue.

I find it very unfortunate that disagreements about judicial appointments have brought us to the point where the majority is ready to take away the longstanding right of each and every Senator to unlimited debate. That is a very major change in the way business has traditionally and historically been done in the Senate.

This is a confrontation that could easily have been avoided by the President and his legal counsel if they had been willing to follow what I understand to be the normal practice that historically has prevailed and should prevail. Someone asked: What is that normal practice? It is simply the practice of consulting with the Senators most involved in the nominating process before making a final decision on which individuals to nominate.

In the case of judicial nominees for Federal court positions in my State of New Mexico, and also positions to be filled on the Tenth Circuit Court of Appeals that are designated for New Mexico attorneys, I have been contacted, and I have been asked if I had objections to perspective nominees in each case before a final decision to nominate has been made. And that is not just in the last year or 2, this is over the 22-plus years I have served in the Senate. As far as I can remember, I have been afforded that courtesy each time. We, the Senate, have confirmed; and Presidents Reagan and Bush, Sr., and Clinton and now George W. Bush have nominated many individuals for the Federal court in my State during that time.

It is also my understanding that more often than not the chair and the ranking member of the Judiciary Committee have been afforded that same courtesy prior to the nomination of individuals to court of appeals positions or to a Supreme Court position. Much of the current confrontation and rancor could have been sidestepped if that practice had been followed with respect to the nominees who are currently in dispute. Unfortunately, this President has chosen a different course.

Rather than consulting before a nomination is made, the White House has chosen to make nominations that it knows will be highly controversial, in some cases where it knows that the Senators from the nominee's State are strongly opposed to that nominee. Where nominations have been blocked during one Congress, the 108th Congress, last Congress, the President has chosen to renominate those same individuals in the succeeding Congress.

Madam President, this is not a strategy to unite rather than divide the country. This is a strategy to split and to polarize the Senate and the American people, and it is clearly having that exact effect.

Given where we are, I, like most of my colleagues, feel obliged to come to the Senate floor and speak on this so-called nuclear option. In my view, this is a misguided effort that will not only harm the Senate, it will also have a significant impact on the checks and balances that our Founding Fathers envisioned. I am disappointed that the majority leader has decided to pursue this course of action. I regret that he has repeatedly rejected the minority leader's offers to compromise on the issue.

There are two distinct issues I want to discuss briefly today. The first is the manner in which the change is being made, the idea that the majority can simply change longstanding Senate rules whenever it believes it would be expedient to do so. I find that notion deeply troubling. We are a nation of laws, and our institutions need to reflect this.

The second issue I want to discuss is the merits of the proposal and the impact of eliminating the ability to filibuster. The use of the filibuster not only ensures that minority views are respected in the Senate, it also plays an important role in checking the power of the executive branch and in ensuring that the judiciary remains independent.

Let me take a moment to briefly describe what this nuclear option entails. I recognize that discussing rules and procedures is not an exciting topic, but it is important that the American public understand precisely what is being done. This is not about whether every nominee should get an up-or-down vote. It is about whether it is acceptable for the majority party to disregard longstanding Senate rules in order to get its way in each and every case that comes before the Senate.

Senate rule V states that:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

In accordance with Senate rule XXII, any such change can only be made with the approval of two-thirds of all Senators elected. That is 67 Senators.

Requiring continuity of the rules from Congress to Congress, and requiring that changes to the rules meet a threshold vote well above a simple majority, has a very straightforward purpose. It ensures that the rules governing the Senate remain constant, that they are not changed whenever one party believes the rules are hampering their ability to get their way in the short term.

Some in the majority party have complained that it is necessary to change the rules with respect to use of the filibuster on judicial nominees because in their view the current 60-vote requirement to end debate is too high. I have no objection to debating that issue and bringing it to a vote. Indeed, throughout the Senate's history there have been a variety of proposals to modify the rules governing the filibuster.

For example, in 1975, the Senate reduced the number of votes required to end debate from 67 to 60. In 1995, I supported a proposal Senator HARKIN offered which did not pass but would have revised the procedure. So why is not the majority leader bringing this proposal, which he is now threatening to make, up for a vote under normal procedure? Simply put, he does not have the votes to pass the measure if we stick by the rules of the Senate, the 67-vote rules of the Senate.

So his proposal is simple: If you do not have the votes to pass the proposal using the rules as they exist, then make up your own rules so you can pass it. Under this procedural maneuver, if the Senate votes to not end debate on one of the disputed nominees, the majority leader intends to make a point of order requesting that the Presiding Chair, who will likely be the Vice President, rule that only 51 votes are needed to confirm appellate and Supreme Court nominees.

Now, all of us know, and it is very clear to everyone who has studied this issue, that is not what the Parliamentarian would rule. The Parliamentarian has said just the opposite. Democrats will object, but the ruling would be upheld by a simple majority vote. It is my understanding this would be the first time that we have changed the rules of the Senate without following the prescribed procedure for doing so in the rules that we have adopted. This would entail overruling the Senate Parliamentarian.

Madam President, I have to ask, what is the meaning of a rule if it is permissible to break it when one disagrees with the outcome that would result if the rule were followed? If the majority leader wants to try to modify the filibuster, he has the right to attempt that, but he should do so within the parameters of the Senate rules. It is dangerous to set a precedent of ignoring those rules that govern how we go about changing rules.

Indeed, if one rule can be changed this way with a simple majority vote, why not others as well?

The majority leader has argued that the Senate's record of processing the President's judicial nominees is so egregious that it justifies breaking the rules and disregarding over 200 years of precedent in order to get more nominees confirmed. Let's examine this record. My colleague from New York has already discussed at length the number of judges, appellate court judges, district court judges, we have approved in this Senate since this President has been in office.

We have the lowest vacancy rate in the Federal judiciary since President Reagan was in office. The Senate has confirmed 95 percent of the President's nominees. In addition, Democrats have offered to bring up several of the disputed nominees for consideration, which would bring the confirmation rate closer to 98 percent. Unfortunately, the majority leader has rejected that proposed compromise.

Some have also asserted that Democrats are charting new ground in filibustering judicial nominees. Frankly, this is just incorrect. It is contrary to the history of the Senate. Republicans did filibuster Abe Fortas in 1968 when he was nominated to be the Chief Justice of the U.S. Supreme Court. The filibuster was successful. He ultimately withdrew his nomination from consideration.

I agree we have an obligation to process the President's judicial nominees in a fair and judicious manner, and, as the record demonstrates, that is exactly what we have been trying to do.

However, I do understand the general frustration surrounding the processing of judicial nominees. During the Clinton administration, the Republican majority, during several of those years, killed over 60 nominees through a variety of delay tactics, mostly by refusing to give hearings in the Judiciary Committee. As a result, many of those nominees never got a chance to have a fair and open debate about their qualifications, much less a vote on the Senate floor.

I believe we should look for ways to improve the confirmation process so that it is conducted in a more bipartisan and constructive manner. But exercising the so-called nuclear option is not a step in the right direction. Let's be clear on what this is about. It is about setting the stage for the debate over the next Supreme Court Justice. It is about putting in place a procedure that would limit the ability of Democrats and moderate Republicans to influence the debate. There would be little need to consult or to compromise if the nominee could be pushed through the Senate with a straight majority vote.

As I have discussed, I strongly disagree with the tactics that have been chosen here to make these changes. With regard to the merits of the proposal to eliminate the filibuster for judicial nominees, I would like to take a moment to elaborate on the profound implications of moving forward with this effort. I believe such a change would be not only detrimental to the Senate as an institution but will also result in significant deterioration of the checks and balances that ensure the independence of our judiciary.

Having a procedure in place that allows 40 Senators to keep a nominee or legislation from being adopted serves many purposes. Most important, it facilitates compromise by guaranteeing the minority a voice in the legislative process. Unlike in the House of Representatives, where legislation can be easily pushed through with a simple majority vote, the Senate is an institution where deliberation and compromise are absolutely essential.

Forcing Senators to achieve common ground in order to complete the people's work is something that should be encouraged. Bipartisanship has been in short supply in recent years, and we need to be looking for ways to work together to address the challenges we face in America.

I have had the privilege of representing the people of New Mexico for over 22 years now in the Senate. I recognize the importance of working across the aisle to achieve results. Earlier this week, we held the first of several hearings on comprehensive energy legislation to try to mark up legislation in that area. I am extremely encouraged by how members of the committee from both parties have been working together. It is my hope that bipartisanship and sense of compromise can be adopted elsewhere in the Senate. This exemplifies how we should be facilitating more compromise between the majority and minority parties.

The filibuster is not only an important check on the majority power within the Senate, but it is also an essential check on the executive branch. Article II, section 2 of the U.S. Constitution provides the Senate and the President shall share the power to appoint judicial nominees. The President is granted the authority to nominate. The Senate is vested with the authority to provide its advice and consent. This is a serious constitutional duty. I do not believe the Senate should be relegated to the role of a glorified rubberstamp. That is not what the American people want, not what the Founding Fathers envisioned.

The prospect of a filibuster forces the President to submit nominees to the Senate who will be able to garner the support of more than a simple majority of that President's own party. There are plenty of well-qualified, conservative lawyers and judges who would easily be confirmed by this Senate. In fact, the Senate has confirmed over 200 of them since this President has been in office. At the beginning of this Congress, the President chose to resubmit several of the most controversial nominees who lacked widespread support, rather than to heed the concerns that had been raised about their nominations. The Senate has coequal responsibilities in the appointment process. It is important for the administration to recognize this when it decides which nominees to send to the Senate for consideration.

Without the filibuster, the President would essentially be free to appoint whomever he wants to the Federal judiciary with very little restraint. This would threaten the independence of the judiciary, which is charged with checking the actions of the executive and legislative branches, by allowing a President to stack the courts with individuals willing to advance a particular agenda or ideology.

If the same party controls the Senate and the White House, as is the case today, the ability to filibuster is a primary restraint on the majority party of using its power in the nomination and confirmation process. As the Framers recognized, it is reasonable to require that a lifetime appointee have the support of a substantial percentage of Senators who have been elected.

There is a reason why the Framers granted the Senate and not the House of Representatives the constitutional authority to provide advice and consent. The Senate's procedures ensure extended debate and respect for minority views, which in turn facilitate compromise and moderation. I personally believe that having qualified and reasonable judges in the Federal judiciary, regardless of political party, who interpret the law objectively and in accordance with mainstream legal theory is a good thing. These are lifetime appointments, which deserve rigorous debate and substantial scrutiny. This scrutiny would be significantly diminished if the majority party could appoint whoever they want to the judiciary without concern for the views of the minority. And the independence of the judiciary would be threatened if judges approach their work with a particular concern for carrying out the will of the party in power at that moment.

It is not surprising that a President would seek to expand his authority in the appointment process. But it is disappointing to think that the Senate might accede to this and abrogate its own constitutional authority in exercising its obligation to provide advice and consent.

Lastly, the proponents of the nuclear option have said they only want to eliminate the filibuster with regard to nominees, not with regard to legislation. But nothing about their reasoning is unique to nominees. If this can be done with regard to judicial nominees, it can certainly be done with regard to executive branch nominees as well. And there is no logic for arguing it cannot be done with regard to legislation.

As I have stated, I have many concerns about employing this tactic and disregarding Senate tradition. I urge my colleagues across the aisle to seriously consider the ramifications of this so-called nuclear option. It is not good for the Senate, it is not good for the delicate checks and balances that govern our Government, and it is not in the interest of the American people.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I rise to speak against this so-called nuclear option. This is a sad day for the Senate because I believe we are about to fracture 200 years of precedent and tradition. I think we are about to fracture what I had hoped would be a bipartisan approach to solving the compelling problems we face in the United States of America, and the Republicans are about to change the rules in the middle of the game.

One of the hallmarks of the United States of America is always fair play. And fair play means a belief and respect for the rules because we are a nation that believes in rules and in the rule of law. Whenever we are in competitive situations, we believe in rules. You don't change the rules in the middle of the game. You don't change the rules in a game you are losing. But here especially there is no reason to change because the Bush administration is not losing. They have had more nominees confirmed than almost any other Administration in recent history.

This is a manufactured crisis. There are those who say there is a crisis in terms of confirming judges. There is no crisis. George Bush is not losing. Right now, right this minute, we have confirmed 208 of the President's nominees for the bench. That is a 95-percent confirmation rate. I would think that getting 95% of what you want would make you declare victory. But, oh, no, that is not good enough. There is a desire to change the rules so that the President gets 100% and we cannot exercise our constitutional responsibility of advise and consent.

Now I know that many of my colleagues on both sides of the aisle don't want to change the Senate rules. They know the ebbs and flows of this institution one day you are in the majority and the next in the minority. And they know its not fair to change the rules in the middle of the game because doing so undermines century of tradition and the very essence of the Senate as the world's premier deliberative body.

So I have come to the floor today to urge my colleagues to oppose this so-called nuclear option. I do this because I firmly believe in my heart of hearts that we must always have an independent judiciary and a judiciary that has been confirmed according to the traditional roles of the Senate. I know it is one of my foremost responsibilities as a member of the United States Senate to protect the independence and integrity of our federal courts. Because our courts are charged with safeguarding the very principles on which our nation was built—justice, equality and individual liberty.

The courthouse door must always stay open. And when someone walks through that door, they must find an independent judiciary. In order to do that, we cannot turn the Senate into a rubberstamp for any administration. We must not compromise our constitutional checks and balances over 7 highly controversial judges. The American people deserve better and, and the Constitution requires it.

When Alexander Hamilton and others were at the Constitutional Convention inventing America, they wanted checks and balances. They wanted no one to have absolute power, they wanted no individual to have absolute power, and they wanted no institution within our Government to have absolute power. That is why we have the system of checks and balances. That is why the greatest check and balance is the advice and consent role given to the Senate. The President nominates and the Senate has an important co-equal role to play in the confirmation process.

So the Senate has a very real and critical role to play here. It can't rubber stamp nominees. It can't give consent without a thorough examination and it should not support nominees who don't respect basic judicial principles.

When we are talking about this, we say, What does it mean? Who has been nominated? Who has been confirmed? Whom have we opposed? I have given the statistics. Since the President has been in office the Senate has confirmed 208 of his nominees and rejected only 10. That's 95 percent approval and those we have rejected have been among the most controversial and extreme nominees. Nominees who did not represent the mainstream of American legal thought. Nominees hostile to civil rights, women's rights, reproductive rights and working families.

Let's talk about the 208. Let's talk about working on a bipartisan basis. Let's talk about Maryland.

There were three openings on the Federal bench in Maryland for the district court. Governor Ehrlich sent forth three names of outstanding people of judicial competency. Senator SARBANES and I moved them straightforward and ahead, even though one had been the chairman of the Republican Party. We did not care about that. Second, he had even run for attorney general. We did not care about that. What we cared about was that the Maryland Bar Association said he was qualified.

No. 2, he had been a U.S. attorney and had done a stunning job, and he had extensive legal background in Maryland. We did not play politics. We moved Judge Bennett, Judge Quarles, and Judge Titus.

Then came the court of appeals. Oh, my gosh, guess what came out of the Bush administration. They wanted to give us a guy who was not even a member of the Maryland bar. SARBANES and MIKULSKI said no. That is one of the ones that did not even come up. Why? We think if you are going to represent Maryland on the court of appeals, you ought to be a member of the Maryland bar and have some significant ties to Maryland. We threatened a filibuster.

This is the Maryland seat on the Fourth Circuit Court of Appeals. They wanted to give us someone from Virginia. We like Virginia, Senator WARNER, Senator ALLEN. We like judges from Virginia, but not for the Maryland seat. And Senator SARBANES and I said we would filibuster. So we stopped, prevent our state from losing its seat on the court of appeals because of the Senate rules.

Though some of them never came forth as nominees, we knew we had the rules of the Senate to prevent this injustice to Maryland. We invited the White House to look at the thousands of lawyers in Maryland who are members of the bar, who have judicial competence and judicial temperament and commitment to basic constitutional principles. Maryland would recognize them.

But we were ready to use these rules in the Senate to protect the Maryland seat and make sure whoever was on the court of appeals for the Maryland seat would at least be a member of the Maryland bar or at least be from Maryland and have significant ties there.

Those are the rules. That is how you exercise advice and consent. We gave advice, they ignored it, so they were not going to get our consent. Hey, those are the rules. We do not want those rules changed, and it would be the same if there was a Democrat in the White House.

We could look at the nominees President Bush has given us. Not only do we get people who are not members of a bar, but we get some who are outside the judicial mainstream.

Judge Priscilla Owen is an example of someone who would turn our courts in the wrong direction. She has a history of being driven by ideology and not law. Her beliefs are far outside the mainstream of judicial thinking. She has an extreme ideological agenda on civil rights, women's rights and the right to privacy that we severely question and make her unsuitable to sit on this federal court.

She is a judicial activist, that means she has a consistent pattern of putting ideology about the law and ignoring statutory language and substituting her own views. Something about which even officials in this White House have raised concern. Alberto Gonzales, now our Attorney General, who once served with her, called her dissent in a case "unconscionable . . . judicial activism" and in another case said her dissent would judicially amend the Texas statute. In other words, she was making law rather than interpreting law.

Her opinions show a bias against consumers, victims and individuals. She has consistently ruled against workers, accident victims and victims of discrimination. Her decisions impair the rights of ordinary people to have access to the courts. On the Texas Supreme Court she has restricted a woman's right to choose by ignoring statute and creating additional barriers for women seeking to exercise reproductive choice.

We could go through Owen, and we could go through others. Priscilla Owen stands among a handful of nominees who will turn back the clock on protecting important constitutional rights. We know through our examination of these nominees that they are outside the judicial mainstream, and we want to exercise our priority and our responsibility on advice and consent. And now Republicans want to focus on the jobs of 7 people who already have jobs when we have 7.7 million Americans who don't.

They want the change the subject away from issue that Americans care about to a handful of extreme judicial nominees. They say there is a crisis but there are more federal judges now than at any other point in our nation's history. This is the lowest vacancy rate on the courts in a decade. Republicans have the wrong priorities.

I had to explain what this nuclear option means to a head of state. Did you ever have to explain to someone who is a former head of a government in a European country, who himself fought for freedom and was a dissident and even in prison, what a nuclear option means? He thought we were talking about using nuclear weapons.

I had to explain this to members of my family, the senior citizens in my family. "Barb, what is this nuclear option? Are we thinking about using nuclear weapons?" We use language here very glibly, and I think exaggerated. What I said was we are headed for a meltdown. We cannot let the Senate melt down, and we will melt down if we do not stop these proceedings from going forth. We need to have an institution that functions on a bipartisan basis.

Some of the happiest and most distinguished accomplishments of my life have been accomplished because of working on a bipartisan basis. In the 1990s, I worked with the Senator from Colorado, Mr. Hank Brown, and we worked to bring Poland, Hungary, and the Czech Republic into NATO. We had to stand up to a Democrat such as Senator Moynihan and a Republican such as Senator WARNER to get the Senate to consider it, but we worked on a bipartisan basis, and we extended NATO from old Europe to a new Europe. And right now, the people we brought into NATO are fighting with us side by side in Iraq and are part of the coalition of the willing. Bipartisan relationships did that.

Because of our work in the Senate where the women get together at least once a month to have dinner for friendship and fellowship and to talk about an agenda, we have done a lot on women's health. We have increased mammogram funding research by 700 percent. We have increased funding for domestic violence. We have done all this when we worked together.

My gosh, when we work together we work our best. Let us now stop this dangerous course. We should not continue further on this terrible down this path on which we are embarking. The American people want us to be standing up for jobs. They want us to be able to face straightforward the health care crisis, and they want to make sure we stabilize the pension crisis in the United States of America. Young people want to be able to afford college. They wonder what are we doing here. Republicans are spending all this time on the nuclear option and debating 7 controversial nominees instead of focusing on our national priorities. When all is said and done, is will be that more gets said than gets done?

Let's put the nuclear arsenal option back into the missile silo. We must do so to preserve the constitutional role of the Senate to advise and consent and protect our checks and balances.

Let's get back to doing the business of the people. The American people deserve that and they deserve a Senate that works for them. A Senate that governs best when it works together, and let's start putting the people first rather than politics.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, last week on Wednesday, we evacuated the Capitol. At the instruction of the Capitol Police, more than a few Senators and staff actually ran from this building and surrounding offices in the very real fear that a plane was carrying a bomb to attack this building, the center of our democracy.

Sadly, Wednesday was not the first time, and Wednesday will likely not be the last time, that we guard against threats to our democracy by plane or by bomb.

But there are other threats to our democracy and our freedoms just as menacing, equally as dangerous.

Abraham Lincoln said:

> America will never be destroyed from the outside. If we falter and lose our freedoms, it will be because we destroyed ourselves.

Former Librarian of Congress Daniel Boorstin said:

> It is not slogans or bullets, but only institutions that can make and keep people free.

And Baron Montesquieu wrote in "The Spirit of the Laws":

> There is no liberty, if the judiciary power be not separated from the legislative and the executive.

The effort to break the rules to allow the President more easily to appoint judges that undermine the independence of the Federal judiciary is no less than a threat to our democracy, a threat to our freedoms, and a threat to our liberties.

For two centuries, Democrats and Republicans alike have used the Senate's rules to protect our democracy, to protect our freedoms, and to protect our liberties. After two centuries, it would be a mistake to change those rules.

Unlimited debate allows Senators to protect minority freedoms. Unlimited debate helps to ensure that no one party has absolute power. Unlimited debate helps to give effect to the Founders' conception of checks and balances.

History will see the actions of this month as what they are: A threat to those checks and balances. History will see the actions of this month as a terrible attempt to diminish the Senate. History will see the actions of this month as an attempt to diminish our democracy.

If those who seek to change the rules succeed, especially by breaking the rules, it will be only a matter of time before the next step comes. It will be only a matter of time before some future Senate leader decides to once again to break the rules to change the rules, and abolish the filibuster altogether.

And what will the Senate look like then?

Then all our votes will be simple majority votes. Then lost will be a centuries-old check and balance. And then what will be left will be a vastly different Senate from the one to which I came in 1978.

The majority leader has proposed that debate on important judges be limited to a fixed number of hours, to 100 hours. That might sound like a lot of time.

But the point is not the number of hours. The point is that at the end of a set amount of time, no Member of the minority party need participate. At the end of a set amount of time, only the majority party will rule. At the end of that set amount of time, there would be no more check and balance.

If one wants to see what the Senate will look like then, look at budget resolutions. Like the majority leader's proposed rule, they allow for a long period of debate. The leader's proposal calls for 100 hours of debate on judges. The Budget Act calls for 50 hours of debate on budgets.

Look at the results.

Rarely do budget resolutions achieve consensus. Since 1992, only one budget resolution has received more than 55 votes on final passage.

This year, the vote on the budget resolution was 52-to-47.

Last year, the disagreements on the budget were so partisan that the majority was not able to bring the conference report on the budget resolution to the floor in the Senate.

In 2003, the vote was as close as it could get: 51-to-50. The Vice President had to break the tie vote.

In 2002, once again, divisions were so partisan that the majority was not able to secure a majority in the Senate.

In 2001, the vote was 53-to-47

In 2000, the vote was 50-to-48.

In 1999, the vote was 54-to-44.

In 1998, the majority was once again unable to adopt a budget resolution.

And 1997 was the exception that proved the rule. That year, the budget resolution achieved a broad consensus, receiving a vote of 76-to-22.

But in 1996, the vote was 53-to-46.

In 1995, the vote was 54-to-46.

In 1994, the vote was 53-to-46.

In 1993, the vote was 55-to-45.

And in 1992, the vote was 52-to-41.

Thus, over 14 years, under Republican Presidents and a Democratic President, over the course of nearly a decade and a half, only one budget resolution has been the product of consensus. Fourteen years, and only one budget with more than 55 votes.

The time limit on debate has not led to working together. The time limit on debate has caused partisanship. And three times in the last decade, the time limit on debate has led to complete failure.

That is what would happen to the Senate if we head down this road. Votes would become more partisan, if that is possible, but it would happen. And the products of those votes would become more extreme.

If we head down this road for the confirmation of judges, then judges will be more partisan. Judges will be more likely to uphold the powers of the President who appointed them. And judges will be less likely to defend individual freedoms and liberties against the powerful executive.

Just think about that for a moment. Under this rule change, judges will be less likely to defend individual freedoms and liberties against the powerful executive. Why? Because of the partisan nature under which a partisan President will have appointed them.

The Senate's role in protecting against extremism is particularly important in the context of nominations for the lifetime jobs of Federal judges. The Founders wanted the courts to be an independent branch of Government, helping to exercise the Constitution's intricate system of checks and balances. The Senate's involvement in the confirmation of judges has helped to ensure that the judiciary can be that more independent branch. And that independence of the judiciary, in turn, has helped to ensure the protection of our democracy, our freedoms, and our liberties.

In ancient Rome, when the Senate lost its power, and the emperor became a tyrant, it was not because the emperor abolished the Senate. In ancient Rome, when the Senate lost its power, it continued to exist, at least in name. But in ancient Rome, when the Senate lost its power, in the words of the Senate's historian, Senator ROBERT BYRD, the Senate became "little more than a name."

In ancient Rome, when the Senate lost its power, the Roman Senate was complicit in the transfer. The emperor did not have to seize all the honors and powers. The Roman Senate, one after another, conferred greater powers on Caesar.

It was not the abolition of the Senate that made the emperor powerful. It was the Senate's complete deference.

Like the Roman Senate before us, we risk bringing our diminution upon ourselves. We risk bringing upon ourselves a hollow Senate, a mere shadow of its past self. And we risk bringing upon ourselves a loss of the checks and balances that ensure our American democracy.

This change, if it succeeds, will leave Senators, as T.S. Eliot described in his 1925 poem, as "The Hollow Men." In that poem, Eliot wrote of a place like what the Senate would become. He wrote:

> "Our dried voices, when
> We whisper together
> Are quiet and meaningless
> As wind in dry grass
> This is the dead land
> This is cactus land
> In this hollow valley
> This broken jaw of our lost kingdoms
> In this last of meeting places
> We grope together
> And avoid speech
> Gathered on this beach of the tumid river
> This is the way democracy ends; this is the way democracy ends; this is the way democracy ends; not with a bomb, but a gavel."

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, before the distinguished Senator from Montana departs, I want to thank him for obviously something that has been well thought out and deeply felt. He is a distinguished Senator who has served decades in the Senate and who has risen to the position as chairman of the Finance Committee. He understands the traditions and the comity of this institution in order for it to function. It clearly cannot function unless Senators can get along and trust each other, where Senators can have respect for one another, and where the minority is not run over all the time by the majority.

That is one of the great checks and balances of this constitutional system that we have. The rights of the minority are protected because of extended debate which, at the end of the day, encourages compromise and consensus building.

As the Good Book says: Come, let us reason together.

So I thank the Senator for his comments. I thank him for being a mentor to me, as I have so enjoyed his company and his leadership as well as the company of all these Senators. There is not a Senator here that I don't like. I like them all. I want to see this body continue to function as it has for 216 years, as the greatest deliberative body in the world. We are about to change that dramatically if this nuclear option is, in fact, employed.

I thank the Senator for his comments.

Mr. President, I want to add in my own little way a plea to the rest of the Senators. I have gotten into some of the discussions that are going on around this Capitol Building right now, to see if we can head off this thing. It doesn't look like we can. It looks like people are hardening into their positions. I wonder why. Is it worth changing over two centuries of history and precedent in the Senate for what, in effect, are five judges? Is it worth giving up the traditions and the protection of the minority, under the rules, for over two centuries for five judges?

I was surprised when I looked over the record and found out what my voting record has been here. I have voted, under President Bush, for 209 of his judicial nominees; I have voted against 7. That is 97 percent of the President's nominees for Federal judgeships that I have voted for. Am I not entitled, as the senior Senator from Florida, to exercise my judgment on seven people for a lifetime appointment as judge, when I don't think they have the judicial temperament in order to be judge for life? That is what the Senate is all about. That is what the Constitution said it is all about. It says that the judicial process is a two-step process. The President nominates and the Senate decides. In the old language of the constitutional forefathers it was "advise and consent."

My advice was, on seven, that I didn't think they had the judicial temperament, that they would look dispassionately at an issue, that they would look at the facts and apply the law. Those seven seemed to me to have their minds already made up.

That is not what I want in a judge. I want a judge who is going to be fair-minded, who is going to listen to all the nuances and make a fair and reasoned judgment.

I gave the President the benefit of the doubt on these 209. I can tell you, some of those were in Florida. On those I didn't give him the benefit of the doubt; those were good because in Florida we have a system whereby we have a judicial nominating commission, which is not by law but has been by custom over the years, and that judicial nominating commission receives the applications of people who want to be a Federal district judge, they interview them, and they make a recommendation to the Senators and to the White House. The arrangement that Senator GRAHAM and I had with the White House, with Alberto Gonzales, then the counsel for the White House, was that we would interview all of those recommended to us—sometimes it was three, sometimes it was six—for the vacancy, and we would tell the White House if we had an objection.

That has worked. On the judges from Florida that are within that 209 that I voted for, I can tell you they are good appointments.

But that was the give and take between the Senate and the White House in the filling of a judicial vacancy. That is not the ramming down your throat a judicial nomination just because the White House wants it.

I have agreed with the White House 97 percent of the time. You can calculate it mathematically, that is 97 percent of the time. So now they want to take away the right, under the rule, to filibuster so that no matter who comes in, they are going to be approved if they have 50 votes. It could be 50–50, because the tie would be broken with the Vice President sitting as the Presiding Officer of the Senate.

There is another reason that has just come to my attention why I do not want the filibuster to be eliminated from this particular set of judges. If it is done for this, what is next? What is next? That the majority leader would stand and take away the filibuster and my right to filibuster as a Senator? Is he going to do that on what the administration is bent on doing, and that is drilling for oil and gas off the coast of Florida—drilling for what 18 million Floridians are deathly afraid of: that the $50 billion a year tourism industry is going to be threatened because of oil lapping up onto our beaches?

Are they going to take away my right to stand out here and hold up such legislation, to drill off the coast of Florida, that would despoil our environment? Are they going to take away my right to protect our military assets, an asset that is so valuable it is called restricted airspace? It is out in the Gulf of Mexico and portions of the Atlantic Ocean off Florida, which is why we have so much training in Florida. The pilots can go out there in that restricted airspace. Are they going to take away my right to utilize the filibuster to protect the interests of Florida?

It is obvious that today they have started trying to drill off the coast of Florida. Two weeks ago, I had a meeting with the Secretary of the Interior, and I pleaded with her, as she had agreed back in 2001, that she would not include within the 5-year plan that there would be drilling further, other than what was the agreement back in 2001, to extend an additional 1.5 million acres for oil and gas leasing, and it started to intrude into the eastern Gulf of Mexico. She promised it in the 5-year plan which was from 2002 to 2007. So when I met with her 2 weeks ago I asked her to give me that——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON of Florida. I ask for an additional 5 minutes to proceed.

Mr. REID. It is my understanding the majority leader is on his way. I have no problem with the Senator speaking and the same time would be extended to the majority.

Mr. KYL. Reserving the right to object, I was going to speak at 6 o'clock. My understanding is the minority leader and the majority leader wanted to intercede with a brief colloquy or comments. In order for my scheduling purposes, I would like to know what the timing then might be. Can the distinguished minority leader give me some idea?

Mr. REID. The Republican leader is going to come to the floor and talk about what the schedule will be the next couple of days. It should not take long. I ask when he shows up that the distinguished Senator from Florida yield to the majority leader.

Mr. NELSON of Florida. Of course.

Mr. REID. We get 5 minutes, they get 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized for an additional 5 minutes.

Mr. NELSON of Florida. This filibuster issue is so important to me as I project how it can be taken away from me as I try to protect the interests of Florida.

I was about to point out that although the Secretary of the Interior 2 weeks ago, when I requested in the next 5-year plan that she extend the same protections of no additional drilling in the Gulf of Mexico off of Florida, would not give me that assurance.

I now see, as the result of a vote today in the House of Representatives, an amendment offered for oil and gas drilling off of the State of Florida. It may have been this amendment, may have been just for gas drilling. That is the proverbial camel's nose under the tent.

All drilling, happily, in that amendment failed in the House of Representatives, but the Bush administration's intent is now clear since the Secretary of Interior would not give me that assurance that she gave me back in 2001. It is their intent to start drilling off the coast of Florida in the Gulf of Mexico, which brings me back to the filibuster.

I don't want to lose this precedent of 216 years in the Senate, to lose this right of a filibuster. If we do it with regard to these judges, then what is coming next, they will take away our right to stand up here for the interests of our States?

This is a matter of tremendous gravity. It affects all of us.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAMBLISS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Arizona is recognized.

Mr. KYL. Might I inquire of the distinguished minority leader, the majority leader will be here shortly?

Mr. REID. A few minutes ago he said he was on his way.

Let me say, one of the distinguished clerks, without divulging a person's name, said that when Senator FRIST and I talk about coming to the floor, it is dog time, meaning every minute is 7 minutes, so you never know.

Mr. KYL. Mr. President, I will go ahead and in between the sandwich we will have the meat which will be the conversation between the two leaders, but I will proceed with my remarks.

Now I am told the leader is indeed on his way, so I will suspend and yield to the distinguished majority leader.

The PRESIDING OFFICER (Mr. CHAMBLISS). The majority leader is recognized.

Mr. FRIST. Mr. President, many Members have been inquiring about the schedule, but I do want to thank all Senators for their statements today, as well as yesterday. The debate time has been evenly divided. We have heard from a number of people. This is our second day of debate on the nomination of Priscilla Owen for the Fifth Circuit Court. We have not had very much in the way of pauses in the debate. We have used floor time well. And from both leaders, we thank everybody for their participation and cooperation. It has been a constructive debate.

Tomorrow, we will resume debate. We will be continuing debate tonight, but for people's planning purposes, tomorrow we will resume debate on Priscilla Owen, and it would be my intent to ask consent for some limitation of time before we vote on the Owen nomination. If we are unable to reach an agreement, I would then file a cloture motion tomorrow, on Friday.

On Monday, we would return to session and continue the debate on Priscilla Owen, much in the same vein it has been yesterday, today, and will be tomorrow. I encourage, once again, our colleagues to take advantage of the opportunity to speak. The reason we are spending the time is to make sure all ideas and thoughts and concerns are expressed.

The Democratic leader and I have discussed this, and we will have a vote on Monday at approximately 5:30. It will be a procedural vote. I anticipate it will be—we will say 5:30 now. Senators should return for debate on this vote. On Monday, Senators will have as much time as they need to debate the pending nomination. We will file cloture tomorrow, and then we would have the cloture vote on Tuesday. And the timing of that vote is something the Democratic leader and I have not talked about but will do so and make our colleagues aware.

With that understanding—and that is the plan—we will have no further votes this evening. And we would have no votes tomorrow as well but continue debate.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, very briefly, before I address the primary subject of my presentation, I would like to do two things. First, I ask unanimous consent to have printed in the RECORD, after my remarks, the Washington Times oped piece by a former majority leader of the Senate, Bob Dole, dated Thursday, May 19, 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KYL. Secondly, I would like to very briefly remind my colleagues of the fact that when we talk about the numbers of judges President Bush has nominated who have been confirmed, it is important for us to remember that there has never been any controversy with respect to district court judges. Almost all Presidents' district court judges are confirmed. Those are recommended for nomination usually by Members of the Senate, and it is rare, indeed, that we would object to each other's recommendations. Instead, for all Presidents there is a very high number of district court judges confirmed. And indeed, that was the case with President Clinton and has been the case so far with President Bush.

So when talking about the numbers of judges confirmed, and wondering what the fuss is all about, our constituents might want to focus on the fact that what the other side usually does not talk about is the fact that the judges that are not being confirmed are circuit court judges. These are the judges directly below the U.S. Supreme Court. There are not very many of them. They are very important. And these are the judges who are being filibustered by the minority.

How many? Well, in the case of President Bush, in his first term—and none have been confirmed now at the beginning of his second term, so this is the full story—35 of the President's 52 nominees have been confirmed. That is only a confirmation rate of two-thirds or 67 percent. And that puts that at the lowest percentage of any President in our modern history. This chart says "ever." And that is what we are talking about here, the 10 filibusters and 6 other threatened filibusters last year of the President's circuit court judges who have been filibustered and, as a result, have never received an up-or-down vote. That is what is troubling us.

So I want folks to understand that instead of talking about almost 200 judges confirmed, and only a very few rejected, what we are talking about is the circuit court judges. And of those, only 35 of 52 have been confirmed. That is what this is all about. And these are the judges directly below the position of the U.S. Supreme Court.

What I want to talk about today is a very simple and yet a very momentous question. Does the Senate have the power to govern itself? Does the Senate have the power to govern itself? Specifically, can a majority of the Senate establish how we are governed? I have heard a lot of careless talk over the last few months and days. Some have charged the Senate will soon break the rules to change the rules and destroy the Senate as we know it. Some Senators claim the Senate is about to abdicate all constitutional responsibility, is becoming a rubberstamp. Others raise the specter of lawlessness and banana republics. Worst of all, Senators speak figuratively of detonating nuclear bombs and shutting down the Senate's business.

This kind of hysteria does a tremendous disservice not only to the Senate but to our Nation as a whole. Not only are the claims blatantly false, but they add to the already unacceptable level of incivility in our political affairs. It is often said we should disagree without being disagreeable. That is a sentiment with which I wholeheartedly concur. A good first step would be for my colleagues to stop making outrageous claims that Republicans want to destroy this institution.

The reality is the Senate is now engaged in a historic debate and, I believe, a historic effort to protect constitutional prerogatives and the proper checks and balances between the branches of our Government.

Republicans seek to right a wrong that has undermined 214 years of tradition—wise, carefully thought out tradition. The fact that the Senate rules theoretically allowed the filibuster of judicial nominations, but were never used to that end, is an important indicator of what is right and why the precedent of allowing up-or-down votes is so well established. It is that precedent that has been attacked and which we seek to restore.

Fortunately, the Senate is not powerless to prevent a minority from running roughshod over its traditions. It has the power—indeed, I would say the obligation—to govern itself. As I will demonstrate today, that power to govern itself easily extends to the device that has come to be known as the constitutional option.

The Constitution is clear about the scope of the Senate's power to govern itself. Article I, section 5, clause 2 of the Constitution states that each House may determine the rules of its proceedings.

The Supreme Court of the United States has rarely interpreted this clause, but one case is important for our purposes, the case of the United States v. Ballin, a case decided in 1892. That case dealt with the power of the majority of the House of Representatives to make rules, and it contains two holdings that bear on our situation today.

First, the Supreme Court held that the powers delegated to the House or the Senate through article I, section 5, clause 2 are powers held by a simple majority of the quorum. The Constitution states that a majority of Members constitutes a quorum, and the Supreme Court, therefore, held that "when a majority are present the house is in a position to do business."

The Supreme Court continued:

> All that the Constitution requires is the presence of a majority.

Thus, a majority is all the Constitution requires for us to make rules, to set precedents, and to operate on a day-to-day basis. The Supreme Court made this clear.

Second, the Supreme Court held that the power to make rules is not one which, once exercised, is exhausted. It is a continuous power, always subject to being exercised by the House. By "House," the court means the House of Representatives or the Senate. The import of this statement is crucial for present purposes. The power of the majority of Senators to define Senate procedures is one that exists at all times, whether at the beginning, the middle, or the end of Congress.

The constitutional background is simple and uncomplicated. We can govern ourselves. We can do it by majority vote, and we can do it at any time. Let me repeat: The Supreme Court has held that we have the right to govern ourselves, that we can do it by majority vote, and we can do it any time.

Let's look at how the Senate employs its constitutional power to govern itself. There are four basic ways that the Senate does so: In standing rules, precedents, standing orders, and in rulemaking statutes. I will discuss each briefly in turn.

First, the Senate has adopted standing rules to govern some but not all Senate practices and procedures. I have seen much confusion in the press and even, sadly, in this body about those standing rules. Some argue that the standing rules are the be-all and end-all of Senate practice and procedure. The confusion might be understandable outside the Senate, but Senators know that these rules are but one aspect of the overall set of tools, the broader rules that the Senate uses to govern itself.

That brings us to the second way the Senate exercises its constitutional power: the creation of precedents. Precedents are created whenever the Presiding Officer rules on a point of order, when the Senate sustains and/or rejects an appeal of the Presiding Officer's ruling on a point of order, or when the Senate itself rules on a question that has been submitted to it by the Presiding Officer.

As former Parliamentarian and Senate procedural expert Floyd Riddick has said:

> The precedents of the Senate are just as significant as the rules of the Senate.

Let me repeat what Mr. Riddick said:

> The precedents of the Senate are just as significant as the rules of the Senate.

Indeed, as we will see, precedents have sometimes been created that directly contradict the Standing Rules of the Senate. I will return to that point later, but I want everyone to remember what Mr. Riddick said.

A third way that the Senate exercises its constitutional power is through standing orders which can be adopted by legislation, Senate resolutions, or run-of-the-mill unanimous consent agreements. It is worth pausing to note that the Senate regularly overrides the standing rules and precedents of the Senate through unanimous consent agreements. You saw that a few minutes ago. Our leaders get together and decide, for example, to change the time to hold a cloture vote, even though rule XXII mandates that the vote shall occur 1 hour after the Senate comes into session on the second day after the cloture petition is filed. Yet the leaders move the votes in direct contradiction of the rules.

Of course, a unanimous consent agreement is formalistically unanimous. But that temporary rule change, if you want to call it that, is done completely outside the standing rules.

How can we do this? How can the Senate ignore the Standing Rules of the Senate? The answer is simple. It goes to the essence of the situation before us today. As the Supreme Court held, the Constitution gives the Senate the power to make rules and govern itself on a continuous basis. We are not held hostage to the standing rules, nor are we required to go through the cumbersome process of amending the standing rules when it is necessary to get something done. This has always been true.

A fourth way that the Senate exercises its constitutional power is through rulemaking statutes. For example, for 30 years the Budget Act has been placing severe restrictions on the rights of Senators to debate. Indeed, the Congressional Research Service has identified 26 rulemaking statutes that somehow limit the ability of individual Senators to debate and/or amend legislation. Think about that for a moment. We hear much pontificating on this floor about the supposedly sacred and untouchable right of Senators to debate on an unlimited basis. Yet, arguably, our most important function, that of ensuring that government services are budgeted and receive funding, is subject to carefully crafted restrictions of that right of debate. We have 50 hours of debate, followed by a majority vote, period. For generations, Senators have judged some limits on debate are necessary just as a matter of common sense. This is one of them.

Parenthetically, no matter how many times a few Senators say otherwise, this controversy before us now has nothing whatsoever to do with free speech, as the minority leader himself has acknowledged. This dispute has never been about the length of debate. It is about blocking judicial nominees. We will have plenty of debate on all of the nominees, as much as anyone wants.

I would like to move to another important aspect of this discussion: The role of tradition and norms of conduct in the day-to-day functioning of the Senate. This is crucial. Although it is frequently said that the unique features of the Senate are individual Senator's rights to demand and amend, there is another even more central aspect to Senate procedure. As I see it, the overriding feature of the Senate is the mutual self-restraint and respect for the settled norms of this body. I would like to consider a few examples.

Senators limit their speech on an informal basis every day. We cut short remarks so that others can speak. We did that a few moments ago. We acquiesce in unanimous consent agreements that will have the effect of denying ourselves any chance to speak on a subject. We decline to object to procedural unanimous consent requests even though we might have good reason to want to slow down Senate business. We acquiesce in our leader's floor schedule. We work with bill managers to limit amendments so that the Senate can function, so that each individual Senator's rights do not become an impediment to the task of governing. Senators have rights, but we also have obligations to each other and to the Nation.

So we limit our rights on the basis of mutual respect and a belief in good government but, candidly, also out of fear of retaliation. If I assert my rights too forcefully, I not only disrespect my colleagues, but I threaten my own public policy goals. The result is a complicated mutual truce of sorts that allows us to do the people's business in an orderly way. In a word, we gain institutional stability.

In short, the Senate is institutionally stable, not just because of rules, precedents, or the standing order, or the rulemaking statutes I discussed. The body is stable because we respect each other's prerogatives. We understand that any breach of the truce will produce a reaction. And it is that basic understanding of physics, action, and reaction, coupled with a genuine goodwill that allows us to function even with the many individual rights that we possess. The rights only work because we so often choose not to exercise them. So it is not just rights that define the Senate but also restraint.

Which brings us back to the filibuster of judicial nominations. It is certainly the case that the Standing Rules of the Senate do countenance the filibuster of judicial nominations, but it is equally the case that the longstanding norms of the Senate do not. Until 2003, no judicial nominee with demonstrable support of a majority of Senators had ever been denied an up-or-down vote on the Senate floor through a filibuster. Even on the rare occasions where there were attempts, they failed on a bipartisan basis. And why? Because the filibuster of judicial nominations used as a minority veto was not part of our tradition and never had been. Again, out of respect for fellow Members, for the President, and for the judiciary, and out of a recognition of the long-term impact of such tactics, the Senate had always declined to march down this path.

When I entered the Senate in 1995, I had grave concerns about some of more activist nominees that President Clinton sent to us.

But I listened to Chairman ORRIN HATCH, Majority Leader TRENT LOTT, and many others. They taught that we had a longstanding Senate tradition against blocking Senate nominations by filibuster. So I joined Democrats and Republicans alike in making sure there were no filibusters.

Ironically, some point to those successful cloture votes for confirmed judges and claim those nominees were filibustered. Well, all that establishes is that both parties ensured a supermajority to end debate, precisely to adhere to historical norms. We took the steps to ensure those judicial nominees who reach the Senate floor received the fair up-or-down votes to which they were entitled. Again, the standing rules might have permitted such obstruction, but the Senate norms and traditions did not.

To the extent the rules technically permitted such obstruction, the traditions had rendered the power obsolete and inert. In common law, there is a doctrine called desuetude, which means that obsolete or unenforced laws shall not have effect in the future even if not formally repealed. In other words, a law that is de facto unenforced may be treated as ineffective de jure as well.

We faced a similar situation in the Senate. In fact, our tradition was our rule. To minimize the traditions of this body is to display a naive and legalistic misunderstanding of the institution. To say we are a body of traditions is meaningless if we do not acknowledge that our traditions have content and meaning. There can be no question that the filibusters of the last Congress broke that Senate tradition and, therefore, the set way this body had governed itself. By breaking traditions of the Senate, members of the minority should have known they would force the Senate to react. Tradition should never change without consensus, and a consensus requires, at a minimum, a majority. The question is, what are we to do when norms and traditions are changed by the minority? What do we do when there is no consensus, just a minority with a determination to exploit dormant rules to further partisan end? The Senate can do one of two things: Let our traditions be transformed and permit rule by minority or we can insist that the Senate maintain traditional norms and take action to protect them.

That brings us to the constitutional option itself. The constitutional option is nothing more than the Senate governing itself, as the Constitution provides, by acts of majorities of Senators. The Senate has been in this situation before 4 times over a 10-year period, when the Senate majority reacted to a minority using rules that had not traditionally been used to obstruct Senate business. My colleague Senator MCCONNELL will discuss each instance in depth. I address one in particular by way of illustration.

In 1977, two Senators attempted to block a natural gas deregulation bill after cloture had already been invoked. They were succeeding through a strategy of "filibuster by amendment." Post-cloture debate time had lapsed, but the obstructing Senators could still call up amendments, force quorum calls, and force rollcall votes on the amendments. Rule XXII prohibited dilatory or nongermane amendments, but Senate procedure did not rule these amendments out of order. True, a Senator could raise a point of order against one of these dilatory amendments, but any favorable ruling could be appealed. A rollcall vote could then be demanded on that appeal. And once that rollcall vote began, the obstructing Senators could accomplish their slowdown in a different way—filibuster by rollcall vote. To make matters worse, in 1977, before any point of order could even be made against an amendment, the amendment in question had to be read by the clerk. By objecting to the routine courtesy of waiving the reading of the amendment, the obstructing Senators delayed the business of the Senate even further.

That all may seem complicated, but there is one undeniable truth about what these obstructing Senators were doing. It was all completely permitted under the standing rules and the precedents of the Senate. At the same time, however, these tactics were in violation of settled Senate norms and practices. So what was the Senate to do?

The answer came when the then-Democratic majority leader made the decision these new tactics were dilatory, in violation of the traditional norms, and could no longer prevail. He asked then-Vice President Walter Mondale to sit in the chair in his capacity as President of the Senate. The Democratic majority leader made a point of order that "when the Senate is operating under cloture, the chair is required to take the initiative under Rule XXII to rule out of order all amendments that are dilatory or which on their face are out of order." Mondale sustained the point of order, even though it had no foundation in the rules or precedents of the Senate. Another Senator appealed the Mondale ruling, and the Democratic majority leader moved to table. The Senate then voted to table the appeal. In doing so, the Senate created a new precedent. But that precedent ran directly contrary to the Senate's longstanding procedures which had required Senators to raise points of order to enforce Senate rules. Under the new precedent established by the Senate, no such point of order would be necessary.

Again, this may seem complicated, but these small changes had dramatic effects. The Democratic majority leader began to call up each of the dilatory amendments so the Chair could rule them out of order. One by one, the Chair obliged. Under normal circumstances, an appeal would have been in order, but the majority leader exercised his right of preferential recognition to block any appeal. He quickly called up every remaining amendment. Vice President Mondale ruled them out of order, and all of the amendments were disposed of.

Nearly 20 years later, the Senator who orchestrated those events in 1977 explained to the Senate what he had done. He explained:

> I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create new precedents that would break these filibusters. And the filibuster was broken—back, neck, legs, and arms. So there should be no confusion about what happened on that day.

That was the constitutional option in action. The Senate faced a situation where a minority of Senators was frustrating Senate business in an untraditional way. The majority wished to proceed. The majority did not propose any formal rules change, refer the proposal to the Rules Committee, wait for its action, and then bring it to the floor under rule XXII's cloture provisions for such rule change proposals. That procedure was not followed. Instead, the majority leader recognized that the Senate had the constitutional power to bypass that route, which is exactly what the Senate did.

As I mentioned earlier, that same Democratic leader would create several other precedents while serving as majority leader, in each case because he concluded the existing standing rules and precedents of the Senate were inadequate, and that a majority of Senators had the power to alter the way the Senate governs itself. In 1979, for example, a new precedent was created to prevent legislation on appropriations bills, in direct contravention of the text of the standing rules at that time. In 1980, the Senate used the constitutional option to eliminate the ability to debate and filibuster the motion to proceed to a particular item on the Executive Calendar. That situation is remarkably similar to the one we face today. In 1987, in a complicated set of maneuvers, the Senate created new precedents to limit minority rights and declare that certain dilatory tactics during the morning hour were out of order.

I will not examine each of these historical events in detail today. Instead, I ask unanimous consent to have printed in the Record a copy of the policy paper prepared by the Republican Policy Committee, which I chair, which examined each of these events in great detail.

There being no objection, the material was ordered To be printed in the Record, as follows:

The Senate's Power To Make Procedural Rules by Majority Vote

INTRODUCTION

In recent months, there has been growing public interest in the Senate's ability to change its internal procedures by majority vote. The impetus for this discussion is a Senate minority's use of the filibuster to block votes on 10 judicial nominations during the 108th Congress. Until then, a bipartisan majority of Senators had worked together to guarantee that filibusters were not to be used to permanently block up-or-down votes on judicial nominations. For example, as recently as March 2000, Majority Leader Trent Lott and Minority Leader Tom Daschle worked together to ensure that judicial nominees Richard Paez and Marsha Berzon received up-or-down votes, even though Majority Leader Lott and most of the Republican caucus ultimately voted against those nominations. But that shared understanding of Senate norms and practices—that judicial nominations shall not be blocked by filibuster—broke down in the 108th Congress.

This breakdown in Senate norms is profound. There is now a risk that the Senate is creating a new, 60-vote confirmation standard. The Constitution plainly requires no more than a majority vote to confirm any executive nomination, but some Senators have shown that they are determined to override this constitutional standard. Thus, if the Senate does not act during the 109th Congress to restore the Constitution's simple-majority standard, it could be plausibly argued that a precedent has been set by the Senate's acquiescence in a 60-vote threshold for nominations.

One way that Senators can restore the Senate's traditional understanding of its advice and consent responsibility is to employ the "constitutional option"—an exercise of a Senate majority's power under the Constitution to define Senate practices and procedures. The constitutional option can be exercised in different ways, such as amending Senate Standing Rules or by creating precedents, but regardless of the variant, the purpose would be the same—to restore previous Senate practices in the face of unforeseen abuses. Exercising the constitutional option in response to judicial nomination filibusters would restore the Senate to its longstanding norms and practices governing judicial nominations, and guarantee that a minority does not transform the fundamental nature of the Senate's advice and consent responsibility. The approach, therefore, would be both reactive and restorative.

This constitutional option is well grounded in the U.S. Constitution and in Senate history. The Senate has always had, and repeatedly has exercised, the constitutional power to change the Senate's procedures through a majority vote. Majority Leader Robert C. Byrd used the constitutional option in 1977, 1979, 1980, and 1987 to establish precedents changing Senate procedures during the middle of a Congress. And the Senate several times has changed its Standing Rules after the constitutional option had been threatened, beginning with the adoption of the first cloture rule in 1917. Simply put, the constitutional option itself is a longstanding feature of Senate practice.

This paper proceeds in four parts: (1) a discussion of the constitutional basis of the Senate's right to set rules for its proceedings; (2) an examination of past instances when Senate majorities acted to define Senate practices—even where the written rules and binding precedents of the Senate dictated otherwise; (3) an evaluation of how this history relates to the present impasse regarding judicial nomination filibusters; and (4) a clarification of common misunderstandings of the constitutional option. The purpose of this paper is not to resolve the political question of whether the Senate should exercise the constitutional option, but merely to demonstrate the constitutional and historical legitimacy of such an approach.

THE CONSTITUTION: THE SENATE'S RIGHT TO SET PROCEDURAL RULES

The Senate's constitutional power to make rules is straightforward, but two issues do warrant brief elaboration—the number of Senators that are constitutionally necessary to establish procedures and whether there are any time limitations as to when the rulemaking power can be exercised.

The Supreme Court addressed both of these questions in United States v. Ballin, an 1892 case interpreting Congress's rulemaking powers. [144 U.S. 1 (1892).] First, the Court held that the powers delegated to each body are held by a simple majority of the quorum, unless the Constitution expressly creates a supermajority requirement. [Ballin, 144 U.S. at 6. There is no serious disagreement with the Supreme Court's conclusion in Ballin. Indeed, Senator Edward Kennedy has said that only a majority is necessary to change Senate procedures. Congressional Record, Feb. 20, 1975, S3848. Senator Charles Schumer conceded during a Judiciary subcommittee hearing on the constitutionality of the filibuster that Senate rules "could be changed by a majority vote." S. Hrg. 108–227 (May 6, 2003), at 60.] The Constitution itself sets the quorum for doing business—a majority of the Senate. [U.S. Const., art. I, 5, cl. 1.] Second, the Supreme Court held that the "power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the house." [Ballin, 144 U.S. at 5.] Thus, the Supreme Court has held that the power of a majority of Senators to define the Senate's procedures exists at all times whether at the beginning, middle, or end of a Congress.

The Senate majority exercises this constitutional rulemaking power in several ways:

First, it has adopted Standing Rules to govern some Senate practices and procedures. Those rules formally can be changed by a majority vote. Any motion to formally amend the Standing Rules is subject to debate, and Senate Rule XXII creates a special two-thirds cloture threshold to end that debate.

Second, the Senate operates according to Senate precedents, i.e., rulings by the Chair or the Senate itself regarding questions of Senate procedure. A precedent is created whenever the Chair rules on a point of order, when the Senate sustains or rejects an appeal of the Chair's ruling on a point of order, or when the Senate itself rules on a question that has been submitted to it by the Chair. [Floyd M. Riddick, Senate Parliamentarian, Oral History Interviews (November 21, 1978), Senate Historical Office, Washington, D.C., at 429.] As former parliamentarian and Senate procedural expert Floyd M. Riddick has said, "The precedents of the Senate are just as significant as the rules of the Senate." [Riddick interview at 426.]

Third, the Senate binds itself through rulemaking statutes that constrain and channel the consideration of particular matters and guarantee that the Senate can take action on certain matters by majority vote. At least 26 such rule-making statutes govern Senate procedure and limit the right to debate, dating back to the 1939 Reorganization Act and including, most prominently, the 1974 Budget Act. [Martin B. Gold, Senate Procedure and Practice (2004), at 5. For a complete list of the 26 statutes that limit Senate debate, see John Cornyn, Our Broken Judicial Confirmation Process and the Need for Filibuster Reform, 27 Harv. J. L. Pub. Pol'y 181,213-214 (2003).]

Finally, the Senate can modify the above procedures through Standing Orders, which can be entered via formal legislation, Senate resolutions, and unanimous consent agreements.

It is important to emphasize, however, that these rules are the mere background for day-today Senate procedure. As any Senate observer knows, the institution functions primarily through cooperation and tacit or express agreements about appropriate behavior. Most business is conducted by unanimous consent, and collective norms have emerged that assist in the protection of minority rights without unduly hindering the Senate's business.

Consider, for example, the Senate's contrasting norms regarding the exercise of individual Senators' procedural rights. Under the rules and precedents of the Senate, each Senator has the right to object to consent requests and, with a sufficient second, to demand roll call votes on customarily routine motions. If Senators routinely exercised those rights, however, the Senate would come to a standstill. Such wholesale obstruction is rare, but not because the Senate's standing rules, precedents, and rulemaking statutes prohibit a Senator from engaging in that kind of delay. Rather, Senators rarely employ such dilatory tactics because of the potential reaction of other Senators or the possibility of retaliation. As a result, informed self enforcement of reasonable behavior is the norm.

At the same time, some "obstructionist" tactics have long been accepted by the Senate as features of a body that respects minority rights. Most prominent is the broadly accepted right of a single Senator to speak for as long as he or she wants on pending legislation, subject only to the right of the majority to invoke cloture and shut off debate. Indeed, an overwhelming and bipartisan consensus in support of the current legislative filibuster system has existed for 30 years. [Standing Rule XXII's standard for cloture—three-fifths of Senators "duly chosen and sworn"—has been in effect since 1975.] Thus, the norms of the Senate tolerate some, but not all, kinds or degrees of obstruction.

Thus, while written rules, precedents, and orders are important, common understandings of self-restraint, discretion, and institutional propriety have primarily governed acceptable Senatorial conduct. It is the departures from these norms of conduct that have precipitated institutional crises that require the Senate to respond.

THE HISTORY: THE SENATE'S REPEATED USE OF THE CONSTITUTIONAL OPTION

The Senate is a relatively stable institution, but its norms of conduct have sometimes been violated. In some instances, a minority of Senators has rejected past practices and bipartisan understandings and exploited heretofore "off limits" opportunities to obstruct the Senate's business. At other times, a minority of Senators has abused the rules and precedents in a manner that violates Senators' reasonable expectations of proper procedural parameters. These are efforts to change Senate norms and practices, but they do not necessarily have the support of a majority.

Such situations create institutional conundrums: what should be done when a mere minority of Senators changes accepted institutional norms? One option is to acquiesce and allow "rule by the minority" so that the minority's norm becomes the Senate's new norm. But another option has been for the majority of Senators to deny the legitimacy of the minority Senators' effort to shift the norms of the entire body. And to do that, it has been necessary for the majority to act independently to restore the previous Senate norms of conduct.

This section examines those illustrative instances—examples of when the Senate refused to permit a minority of Senators to change norms of conduct or to otherwise exploit the rules in ways destructive to the Senate, and, instead, exercised the constitutional option.

When Senator Robert C. Byrd was Majority Leader, he faced several circumstances in which a minority of Senators (from both parties) began to exploit Senate rules and precedents in generally unprecedented ways. The result was obstruction of Senate business that was wholly unrelated to the institution's great respect for the right to debate and amend. Majority Leader Byrd's response was to implement procedural changes through majoritarian votes in order to restore Senate practices to the previously accepted norms of the body.

In 1977, two Senators attempted to block a natural gas deregulation bill after cloture had already been invoked. [See Martin B. Gold & Dimple Gupta, The Constitutional Option to Change Senate Rules and Procedures: a Majoritarian Means to Overcome the Filibuster, 28 Harv. J. L. Pub. Pol'y 206,262–264 (2004).] A "post-cloture filibuster" should seem counterintuitive for anyone with a casual acquaintance with Senate rules, but these obstructing Senators had found a loophole. Although further debate was foreclosed by Rule XXII once post-cloture debate was exhausted, the Senators were able to delay a final vote by offering a series of amendments and then forcing quorum calls and roll call votes for each one. Even if the amendments were "dilatory" or "not germane" (which Rule XXII expressly prohibits), Senate procedure provided no mechanism to get an automatic ruling from the Chair that the amendments were defective. A Senator could raise a point of order, but any favorable ruling could be appealed, and a roll call vote could be demanded on the appeal. Moreover, in 1975, before a point of order could even be made, an amendment first must have been read by the clerk. While the reading of amendments is commonly waived by unanimous consent, anyone could object and require a reading that could further tie up Senate business. Thus, the finality that cloture is supposed to produce could be frustrated.

These practices were proper under Senate rules and precedents, but Majority Leader Byrd concluded in this context that these tactics were an abuse of Senate Rule XXII. His response was to make a point of order that "when the Senate is operating under cloture the Chair is required to take the initiative under rule XXII to rule out of order all amendments which are dilatory or which on their face are out of order." [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 263.] The Presiding Officer, Vice President Walter Mondale, sustained the point of order, another Senator appealed, and Majority Leader Byrd immediately moved to table. The Senate then voted to sustain the motion to table the appeal. In so doing, the Senate set a new precedent that ran directly contrary to the Senate's longstanding procedures which required Senators to raise points of order to enforce Senate rules. Now, under this precedent, the Chair would be empowered to take the initiative to rule on questions of order in a post-cloture environment.

The reason for Majority Leader Byrd's tactic immediately became clear. He began to call up each of the dilatory amendments that had been filed post-cloture, and the Chair instantly ruled them out of order. There was no reading of the amendments (which would have been dilatory in itself) and there were no roll call votes. The Majority Leader then exercised his right of preferential recognition to call up numerous remaining amendments, and similarly disposed of them. No appeals could be taken because any appeal was mooted when Majority Leader Byrd secured his preferential recognition to call up additional amendments. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 263–264.]

This was the constitutional option in action. Majority Leader Byrd did not follow the regular order and attempt to amend the Senate Rules in order to block these tactics. Instead, he used a simple point of order that cut off the ability of a minority of Senators to add a new layer of obstruction to the legislative process. His method was consistent with the Senate's constitutional authority to establish procedure.

Majority Leader Byrd used the constitutional option again in 1979 in order to block legislation on appropriations bills. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 264–265.] Standing Rule XVI barred Senate legislative amendments to appropriations bills. By precedent, however, such amendments were permissible when offered as germane modifications of House legislative provisions. Thus, when the House acted first and added legislative language to an appropriations measure, Senators could respond by offering legislative amendments to the House's legislative language. While another Senator might make a point of order, the Senator offering the authorizing language could respond with a defense of germaneness. And, by the express language of Rule XVI, that question of germaneness must be submitted to the Senate and decided without debate. By enabling the full Senate to vote on the germaneness defense without getting a ruling from the Presiding Officer first, the legislative amendment's sponsor avoided having to overturn the ruling of the Chair and create any formal precedents in doing so. The result was a breakdown in the appropriations process due to legislative amendments, and it was happening pursuant to Senate rules that plainly permitted these tactics.

Majority Leader Byrd resolved to override the plain text of Rule XVI and strip the Senate of its ability to decide questions of germaneness in this context. Senator Byrd's mechanism was similar to the motion he employed in 1977: he made a point of order that "this is a misuse of precedents of the Senate, since there is no House language to which this amendment could be germane, and that, therefore, the Chair is required to rule on the point of order as to its being legislation on an appropriation bill and cannot submit the question of germaneness to the Senate." [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 265 (emphasis added).] The Chair sustained the point of order, and the Senate rejected the ensuing appeal, 44–40.

The result of Majority Leader Byrd's exercise of the constitutional option was a binding precedent that caused the Senate to operate in a manner directly contrary to the plain language of Rule XVI. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 265.] Moreover, the method was contrary to past Senate practices regarding germaneness. But the process employed, as in 1977, was nonetheless constitutional because nothing in the Senate's rules, precedents, or practices can deny the Senate the constitutional power to set its procedural rules.

The Senate's Executive Calendar has two sections—treaties and nominations. Prior to March 1980, a motion to enter Executive Session, if carried, would move the Senate automatically to the first item on the Calendar, often a treaty. Rule XXII provides (then and now) that such a motion to enter Executive Session is not debatable. However, unlike the non-debatable motion to enter Executive Session, any motion to proceed to a particular item on the Executive Calendar was then subject to debate. In practice, then, the Senate could not proceed to consider any business other than the first Executive Calendar item without a Senator offering a debatable motion, which then would be subject to a possible filibuster. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 265–267.]

Majority Leader Byrd announced his objection to this potential "double filibuster" (once on the motion to proceed to a particular Executive Calendar item, and again on the Executive Calendar item itself), and exercised another version of the constitutional option. This time he moved to proceed directly to a particular nomination on the Executive Calendar and sought to do so without debate. Senator Jesse Helms made the point of order that Majority Leader Byrd could only move by a non-debatable motion into Executive Session, not to a particular treaty or nomination. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 266.] The Presiding Officer upheld the point of order given that it was grounded in Rule XXII and longstanding understandings of Senate practices and procedures. But Majority Leader Byrd simply appealed the ruling of the Chair and prevailed, 38–54. Thus, even though there was no basis in the Senate Rules, and even though Senate practices had long preserved the right to debate any motion to proceed to a particular Executive Calendar item, the Senate exercised its constitutional power to "make rules for its proceedings" and created the procedure that the Senate continues to use today.

As an historical sidenote, Majority Leader Byrd used this new precedent to great effect in December 1980 when he bypassed several items (including several nominations) on the Executive Calendar to take up a single judicial nomination—that of Stephen Breyer, then Chief Counsel to the Senate Judiciary Committee, to be a judge on the U.S. Court of Appeals for the First Circuit. Judge Breyer was later nominated and confirmed to the U.S. Supreme Court in 1994. Without Majority Leader Byrd's exercise of the constitutional option earlier that year, it is almost certain that Justice Breyer would not be on the Supreme Court today.

A fourth exercise of the constitutional option came in 1987 when Senator Byrd was once again Majority Leader. The controversy in question involved an effort by Majority Leader Byrd to proceed to consider a particular bill, an effort that had been frustrated because a minority of Senators objected each time he moved to proceed. To thwart his opponents, Majority Leader Byrd sought to use a special feature of the Senate Rules—the Morning Hour (the first two hours of the Legislative Day).

Under Rule VIII, a motion to proceed to an item on the Legislative Calendar that is made during the Morning Hour is non-debatable. This feature of the rules gives the Majority Leader significant power to set the Senate agenda due to his right to preferential recognition (which is, itself, a creature of mere custom and precedent). Such a motion cannot be made, however, until the Senate Journal is approved and Morning Business is thereafter concluded (or the first of the two hours has passed). Meanwhile, the clock runs on the Morning Hour while that preliminary business takes place. When the Morning Hour expires, a motion to proceed once again becomes debatable and subject to filibuster. [Gold, Senate Procedure and Practice, at 68–69.] It was this feature of the Morning Hour that Senator Byrd believed would enable him to proceed to the bill in question.

Majority Leader Byrd's plan was complicated, however, when objecting Senators forced a roll call vote on the approval of the Journal, as was their right under the procedures and practices of the Senate. Rule XII provides that during a roll call vote, if a Senator declines to vote, he or she must state a reason for being excused. The Presiding Officer then must put a non-debatable question to the Senate as to whether the Senator should be excused from voting. When Majority Leader Byrd moved to approve the Journal, one Senator declined to vote and sought to be excused. Following Rule XII, the Presiding Officer put the question directly to the Senate—should the Senator be excused?—but during the roll call on whether the first Senator should be excused, another Senator announced that he wished to be excused from voting on whether the first Senator should be excused. The Chair was likewise obliged to put the question to the Senate. At that point, yet another Senator announced he wished to be excused from that vote. There were four roll call votes then underway—the original motion to approve the Journal and three votes on whether Senators could be excused. If Senators persisted in this tactic, the time it took for roll call votes would cause the Morning Hour to expire, and the Majority Leader would lose his ability to move to proceed to his bill without debate. All this maneuvering was wholly consistent with the Standing Rules of the Senate.

Majority Leader Byrd countered with a point of order, arguing that the requests to be excused were, in fact, little more than efforts to delay the actual vote on the approval of the Journal. His solution was to exercise the constitutional option: to use majority-supported Senate precedents to change Senate procedures, outside the operation of the Senate rules. In three subsequent partyline votes, three new precedents were established: first, that a point of order could be made declaring repeated requests to be excused from voting on a motion to approve the Journal (or a vote subsumed by it) to be "dilatory;" second, that repeated requests to be excused from voting on a motion to approve the Journal (or a vote subsumed by it) "when they are obviously done for the purpose of delaying the announcement of the vote on the motion to approve the Journal, are out of order;" and third, that a Senator has a "limited time" to explain his reason for not voting, i.e., he cannot filibuster by speaking indefinitely when recognized to state his reason for not voting. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 267–269.] Majority Leader Byrd had crafted these new procedures completely independently of the Senate Rules, and they were adopted by a partisan majority without following the procedures for rule changes provided in Rule XXII. Yet the tactics were wholly within the Senate's constitutional power to devise its own procedures.

This 1987 circumstance offers a very important precedent for the present difficulties. Majority Leader Byrd established that a majority could restrict the rights of individual Senators outside the cloture process if the majority concluded that the Senators were acting in a purely "dilatory" fashion. Previous to that day, dilatory tactics were only out of order after cloture had been invoked.

The Senate also has endorsed (or acted in response to) some version of the constitutional option several other times over the past 90 years—in 1917, 1959, 1975, and 1979.

The original cloture rule, adopted in 1917, itself appears to be the result of a threat to exercise the constitutional option. Until 1917, the Senate had no cloture rule at all, although one had been discussed since the days of Henry Clay and Daniel Webster. The ability of Senators to filibuster any effort to create a cloture rule put the body in a quandary: debate on a possible cloture rule could not be foreclosed without some form of cloture device.

The logjam was broken when first term Senator Thomas Walsh announced his intention to exercise a version of the constitutional option so that the Senate could create a cloture rule. His method was to propose a cloture rule and forestall a filibuster by asserting that the Senate could operate under general parliamentary law while considering the proposed rule. Doing so would permit the Senate to avail itself of a motion for the previous question to terminate debate—a standard feature of general parliamentary law. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 220–226.] In this climate, Senate leaders quickly entered into negotiations to craft a cloture rule. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 226.] Negotiators produced a rule that was adopted, 76–3, with the opposing Senators choosing not to filibuster. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 226.] But it was only after Senator Walsh made clear that he intended to press the constitutional option that those negotiations bore fruit. As Senator Clinton Anderson would remark in 1953, "Senator Walsh won without firing a shot." [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 227.]

The same pattern repeated in 1959, 1975, and 1979. In each case, the Senate faced a concerted effort by an apparent majority of Senators to exercise the constitutional option to make changes to Senate rules. In 1959, some Senators threatened to exercise the constitutional option in order to change the cloture requirements of Rule XXII. Then-Majority Leader Lyndon Johnson preempted its use by offering a modification to Rule XXII that was adopted through the regular order. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 240–247.] In 1975, the Senate three times formally endorsed the constitutional option by creating precedents aimed at facilitating rule changes by majority vote, although the ultimate rule change (also to Rule XXII) was implemented through the regular order after off-the-Floor negotiations. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 252–260.] And in 1979, Majority Leader Byrd threatened to use the constitutional option unless the Senate consented to a time frame for consideration of changes to post-cloture procedures. The Senate acquiesced, and the Majority Leader did not need to use the constitutional option as he had in the other cases discussed above. [Gold & Gupta, 28 Harv. J. L. Pub. Pol'y at 260; Congressional Record, Jan. 15, 1979.]

The Senate, therefore, has long accepted the legitimacy of the constitutional option. Through precedent, the option has been exercised and Senate procedures have been changed. At other times it has been merely threatened, and Senators negotiated textual rules changes through the regular order. But regardless of the outcome, the constitutional option has played an ongoing and important role.

THE JUDICIAL FILIBUSTER AND THE CONSTITUTIONAL OPTION

The filibusters of judicial nominations during the 108th Congress were unprecedented in Senate history. [This historical observation has been conceded by leading Senate Democrats. For example, the Democratic Senatorial Campaign Committee solicited campaign contributions in November 2003 with the claim that the filibusters were an "unprecedented" effort to "save our courts." See Senator John Cornyn, Congressional Record, Nov. 12, 2003, S14601, S14605. No Senator has disputed that until Miguel Estrada asked the President to withdraw his nomination in September 2003, no circuit court nominee had ever been withdrawn or defeated for confirmation due to the refusal of a minority to permit an up-or-down vote on the Senate floor.] While cloture votes had been necessary for a few nominees in previous years, leaders from both parties consistently worked together to ensure that nominees who reached the Senate floor received up-or-down votes. The result of this bipartisan cooperation was that, until 2003, no judicial nominee with clear majority support had ever been defeated due to a refusal by a Senate minority to permit an up-or-down floor vote, i.e., a filibuster. [For a review of all past cloture votes on judicial nominations prior to the 108th Congress, see Senate Republican Policy Committee, "Denying Mr. Estrada an Up-or-Down Vote Would Set a Dangerous Precedent" (Feb. 10, 2003). See also Cornyn, 27 Harv. J. L. Pub. Pol'y at 218–227.]

The best illustration of this traditional norm is the March 2000 treatment of President Bill Clinton's nominations of Richard Paez and Marsha Berzon to the U.S. Court of Appeals for the Ninth Circuit. When those nominations reached the Senate floor, Majority Leader Trent Lott, working with Democrat Leader Tom Daschle, filed cloture before any filibuster could materialize. Republican Judiciary Chairman Orrin Hatch likewise fought to preserve Senate norms and traditions, arguing that it would be "a travesty if we establish a routine of filibustering judges." [Congressional Record, Mar. 8, 2000, S1297.] Moreover, as a further testament to the bipartisan opposition to filibusters for judicial nominations, more than 20 Republicans who opposed the nominations and who would vote against them nonetheless supported cloture for Mr. Paez and Ms. Berzon, and cloture was easily reached. [For Berzon, compare Record Vote #36 (cloture invoked, 86–13) with #38 (confirmed, 64–34); for Paez, compare Record Vote #37 (cloture invoked, 85–14) with #40 (confirmed, 59–39). All votes on Mar. 8-9, 2000.] Had every Senator who voted against Mr. Paez's nomination likewise voted against cloture, cloture would not have been invoked. Thus, as recently as March 2000, more than 80 Senators were on record opposing the filibuster of judicial nominations. [For a more detailed list of Senators' historic opposition to filibusters for judicial nominations, see Senate Republican Policy Committee, "Denying Mr. Estrada an Up-or-Down Vote Would Set a Dangerous Precedent" (Feb. 10, 2003). For an extended examination of filibustering Senators' previous opposition to judicial filibusters, see Cornyn, 27 Harv. J. L. Pub. Pol'y at 207–211.] If the new judicial nomination filibusters are accepted as a norm, then the Senate will be rejecting this history and charting a new course.

It is not only the Senate norm regarding not filibustering judicial nominations that risks being transformed, but the effective constitutional standard for the confirmation of judicial nominations. There can be no serious dispute that the Constitution requires only a Senate majority for confirmation. Indeed, many judicial nominees have been confirmed by fewer than 60 votes in the past—including three Clinton nominees and two Carter nominees. [Examples of judicial nominations made prior to the 108th Congress that were confirmed with fewer than 60 votes include Abner Mikva (D.C. Cir., 1979); L.T. Senter (N.D. Miss., 1979); J. Harvie Wilkinson III (4th Cir., 1984); Alex Kozinski (9th Cir., 1985); Sidney Fitzwater (N.D. Tex., 1986); Daniel Manion (7th Cir., 1986); Clarence Thomas (Supreme Court, 1991); Susan Mollway (D. Haw., 1998); William Fletcher (9th Cir., 1998); Richard Paez (9th Cir., 2000); and Dennis Shedd (4th Cir., 2002).] Never has the Senate claimed that a supermajority is necessary for confirmation.

Recently, however, some filibustering Senators have suggested that a failed cloture vote is tantamount to an up-or-down vote on a judicial nomination. The new Senate Minority Leader, Harry Reid, has stated that the 10 filibustered judges have been "turned down." [William C. Mann, Senate leaders draw line on filibuster of judicial nominees, Boston Globe, Jan. 17, 2005.] Senator Charles Schumer has repeatedly stated that a failed cloture vote is evidence that the Senate has "rejected" a nomination. [Senator Charles Schumer, Congressional Record, July 22, 2004, S8585 ("I remind the American people that now 200 judges have been approved and 6 have been rejected"); see also Jeffrey McMurray, Pryor Supporters Debate Timing of Vote, Tuscaloosa News, Jan. 10, 2005 ("To nominate judges previously rejected by the Senate is wrong"); Anne Kornblut, Bush Set to Try Again on Blocked Judicial Nominees, Boston Globe, Dec. 24, 2004 (quoting official statement by Sen. Schumer).] Senator Russell Feingold described the filibustered nominees from the 108th Congress as having "been duly considered by the Senate and rejected." [Keith Perine, Fiercest Fight in Partisan War May Be Over Supreme Court, CQ Weekly, Jan. 10, 2005, at 59.] Judiciary Committee Ranking Member Patrick Leahy has referred to the filibustered nominees as having been "effectively rejected." [Congressional Record, Feb. 27, 2004, S1887.] And in April 2005, Senator Joseph Lieberman claimed that 60 votes should be the "minimum" for confirmation. [Senator Joseph Lieberman, Transcript of Press Conference, Apr. 21, 2005.] These characterizations illustrate the extent to which the Senate has lost its moorings.

Without restoration of the majority-vote standard, judicial nominations will require an extra-constitutional supermajority to be confirmed, without any constitutional amendment—or even a Senate consensus—supporting that change. Any exercise of the constitutional option would, therefore, be aimed at restoring the Senate's procedures to conform to its traditional norms and practices in dealing with judicial nominations. It would return the Senate to the Constitution's majority-vote confirmation standard. And it would prevent the Senate from abusing procedural rules to create supermajority requirements. Instead, it would be restorative, and Democrats and Republicans alike would operate in the system that served the nation until the 108th Congress.

COMMON MISUNDERSTANDINGS OF THE CONSTITUTIONAL OPTION

Senate procedures are sacrosanct and cannot be changed by the constitutional option.

This misunderstanding does not square with history. As discussed, the constitutional option has been used multiple times to change the Senate's practices through the creation of new precedents. Also, the Senate has changed its Standing Rules several times under the threat of the constitutional option.

Exercising the constitutional option will destroy the filibuster for legislation. The history of the use of the constitutional option suggests that this concern is grossly overstated. Senators will only exercise the constitutional option when they are willing to live with the rule that is created, regardless of which party controls the body. For the very few Senators (if any) who today want to eliminate the legislative filibuster by majority vote, the roadmap has existed since as early as 1917. Moreover, an exercise of the constitutional option to restore the norms for judicial confirmations would be just that—an act of restoration. To eliminate the legislative filibuster would not be restorative of Senate norms and traditions; it would destroy the Senate's longstanding respect for the legislative filibuster as a vehicle to protect Senators' rights to amend and debate. It is also worth noting that the Senate is now entering its 30th year of bipartisan consensus as to the cloture threshold (three-fifths of those duly chosen and sworn) for legislative filibusters. [In 1995, Senators Tom Harkin and Joe Lieberman proposed a major revision to the Senate filibuster rules for legislation, but the proposal failed 76–19, attracting the support of no Republicans and but a fraction of Democrats (who were in the minority). The only current Senators who sought to change the Senate's consensus position on legislative filibusters were Senators Jeff Bingaman, Barbara Boxer, Russell Feingold, Tom Harkin, Edward Kennedy, John Kerry, Frank Lautenberg, Joe Lieberman, and Paul Sarbanes. See Record Vote #1 (Jan. 5, 1995).]

All procedural changes must be made at the beginning of a Congress. Again, this claim does not square with history. In fact, there is nothing special about the beginning of a Congress vis-a-vis the Senate's right to establish its own practices and procedures, or even its formal Standing Rules. As discussed above, Majority Leader Byrd used the constitutional option to create a precedent that overrode Rule XVI's plain text—and not at the beginning of a Congress. Moreover, as the Supreme Court held in Ballin, each House of Congress's constitutional power to make procedural rules is of equal value at all times. [Ballin, 144 U.S. at 5.]

The essential character of the Senate will be destroyed if the constitutional option is exercised. When Majority Leader Byrd repeatedly exercised the constitutional option to correct abuses of Senate rules and precedents, those illustrative exercises of the option did little to upset the basic character of the Senate. Indeed, many observers argue that the Senate minority is stronger today in a body that still allows for extensive debate, full consideration, and careful deliberation of all matters with which it is presented.

Exercising the constitutional option would turn the Senate into a "rubber stamp." Again, history proves otherwise. The Senate has repeatedly exercised its constitutional power to reject judicial nominations through straightforward denials of "consent" by up-or-down votes. For example, the Senate defeated the Supreme Court nominations of Robert Bork (1987), G. Harold Carswell (1970), and Clement Haynsworth (1969) on up-or-down votes. [See Record Vote #348 (Oct. 23, 1987) (defeated 42–58); Record Vote #112 (Apr. 8, 1970) (defeated 45–51); Record Vote #135 (Nov. 21, 1969) (defeated 45–55).] Even in the 10Sth Congress, when the Senate voted on the nomination of J. Leon Holmes to a federal district court in Arkansas, five Republicans voted against President Bush's nominee. Had several Democrats not voted for Mr. Holmes, he would not have been confirmed. [Record Vote #153 (July 6,2004) (confirmed 51–46).] In other words, the Senate still has the ability to work its will in a nonpartisan fashion as long as the minority permits the body to come to up-or-down votes. Members from both parties will ensure that the Senate does its constitutional duty by carefully evaluating all nominees.

CONCLUSION

Can the Senate restore order when a minority of its members chooses to upset tradition? Does the Constitution empower the Senate to act so that it need not acquiesce whenever a minority decides that the practices, procedures, and rules should be changed? Can the Senate majority—not necessarily a partisan majority, but simply a majority of Senators—act to return the Senate to its previously agreed-upon norms and practices? The answer to all these questions is a clear yes. The Senate would be acting well within its traditions if it were to restore the longstanding procedural norms so that the majority standard for confirmation is preserved and nominees who reach the Senate floor do not fall victim to filibusters.

Mr. KYL. These precedents--in 1977, 1979, 1980, and in 1987—bear directly on the situation the Senate faces today. In those instances, Senate business was being obstructed by dilatory tactics that had not traditionally been employed but which were permitted under the rules. The Senate faced the same conundrum as it does today: Must the Senate permit rule by the minority, or can it exercise its constitutional power to restore traditional practices? In each case, the Senate did the latter. It created precedents that altered the practices and procedures and, in some cases, operation of the standing rules themselves in order to ensure that tradition was upheld.

What did not happen as a result of these earlier exercises of the constitutional option?

Well, first, the Senate did not collapse or become "like the House of Representatives," which is the fear of many Senators today.

Second, Senators' speech rights are just as strong as ever. Nor were Americans' free speech rights injured, as some Senators say will happen.

Third, minority rights were not destroyed. The Senate minority is as vibrant as ever and has been remarkably successful in obstructing the business of the Senate, whether we are talking about the Energy bill, medical liability lawsuit reform, asbestos reform, tax relief, or other issues.

Before I close, I would like to address concerns that some of my conservative friends have recently expressed. Some are fretting that Republicans are taking a dangerous step by restoring the traditional up-or-down vote standard for judicial nominees. My friends argue that Republicans may want to filibuster a future Democratic President's nominees. To that I say, I do not think so. And even if true, I am willing to give up that tool. It was never a power we thought we had in the past, and it is not one likely to be used in the future, unless that longstanding tradition is abdicated.

I know some insist we will someday want to block judges by filibuster, but I know my colleagues. I have heard them speak passionately, publicly and privately, about the injustice done to filibustered nominees. I think it highly unlikely that they will shift their views simply because the political worm has turned, again, if we sustain the tradition of the Senate. So I say to my friends what you say that we Republicans are losing is in fact no loss at all.

My friends also argue that the legislative filibuster will be next. I have even seen some media outlets insist that this exercise of the constitutional option for judicial filibusters will automatically apply to the legislative filibuster. This is completely false. Moreover, no Republican Senator wants to eliminate the legislative filibuster and few, if any, Democrats do. Some once did, but they recently recanted. In fact, the junior Senator from California said she was "wrong . . . totally wrong" ever to have thought otherwise.

Everyone here knows that political fortunes change. It is one thing to give this supposed "right" that had never been used, such as this filibuster of judicial nominees. It is quite another to be so shortsighted as to eliminate such a powerful legislative tool. In fact, the first vote I ever cast as a Senator was to preserve the legislative filibuster, and I was in the majority.

But I think it is important to acknowledge, in the interest of intellectual honesty, that if the majority wanted to eliminate the filibuster for all matters, including legislation, it would have certainly had that power. It would be wildly imprudent, contrary to tradition, generally destructive of the institution, but that is what the Constitution provides—the power of the Senate to govern itself.

In closing, I say to my colleagues what we are contemplating doing is in the best traditions of the Senate. We are restoring our consensus practices for managing the judicial confirmation process using a tool that has been repeatedly used and has always been available. I look forward to completing this debate so that we can start voting on individual judicial nominees and turn to the pressing legislative matters of the Senate.

EXHIBIT 1

[From the Washington Times, May 19, 2005]

A UNIQUE CASE OF OBSTRUCTION

(By Senator Bob Dole)

In the current debate over judicial nominations, some commentators claim Republicans such as myself are misrepresenting history by suggesting the current filibuster tactics of the Democrats are unprecedented.

These commentators cite the 1968 nomination of Abe Fortas to be chief justice of the United States as an example of how Republicans once attempted to block a judicial nomination on the Senate floor. I welcome the opportunity to respond to this claim, because the more Americans learn about the history of judicial nominations, the more they will realize how terribly off-track our confirmation process has become.

In 1968, President Lyndon Johnson sought to elevate his longtime personal lawyer, then-Associate Supreme Court Justice Abe Fortas, to be chief justice. I would not be elected a senator for a few more months, but followed the news surrounding this nomination closely.

There were problems with the Fortas nomination from the beginning. Not only did he represent the most aggressive judicial activism of the Warren court, but it soon became apparent Justice Fortas had demonstrated lax ethical standards while serving as an associate justice.

For example, it emerged Fortas had taken more than $15,000 in outside income from sources with interests before the federal courts. This was more than 40 percent of his salary at the time, or about $80,000 in today's dollars.

More fundamentally, Fortas never took off his political hat when he became a judge. While serving as a Supreme Court justice, Fortas continued serving as an informal political adviser to the president and even involved himself in Vietnam War policy. It later emerged Fortas had discussed pending cases with the president, an obvious violation of professional ethics.

In fact, less than a year after his nomination as chief justice was withdrawn by President Johnson, Justice Fortas was forced to resign from the Supreme Court due to ethical breaches.

The claim Fortas was not confirmed due to a "filibuster" is off-base. A filibuster, commonly understood, occurs when a minority of senators prevents a majority from voting up-or-down on a matter by use or threat of permanent debate.

That simply did not happen with Fortas, where the Senate debated the nomination's merits quite vigorously. Senators exposed the ethical issues involved and the widespread belief the vacancy had been manufactured for political purposes. They sought to use debate to persuade other senators the nomination should be defeated.

After less than a week, the Senate leadership tried to shut down debate. At that time, two-thirds of the senators voting were needed to do so, yet only 45 senators supported the motion. Of the 43 senators who still wished to debate the nomination, 24 were Republicans and 19 were Democrats.

President Johnson saw the writing on the wall—that Fortas did not have 51 senators in support of his nomination—so he withdrew the nomination before debate could be completed.

The events of 37 years ago contrast markedly with those the Senate faces today:

(1) Fortas lacked majority support when President Johnson withdrew his nomination. Today, Senate Democrats block up-or-down votes on judicial nominees who are supported by a majority of senators.

(2) Justice Fortas was politically associated with President Johnson and eventually resigned from the Supreme Court under an ethical cloud. No such charges have been made against President Bush's nominees.

(3) The Senate debated the Fortas nomination only for several days before Johnson withdrew the nomination, versus the four years some of President Bush's nominees have been pending. It's clear the Democrats today have no desire to persuade, and have even complained further debate is a "waste of time."

(4) Fortas' support and opposition were bipartisan, with Republicans and Democrats on both sides of the question. Today, the controversy is purely partisan—with only Democratic senators, led by their leader Harry Reid, opposing an up-or-down vote.

I recall two judicial nominations of President Clinton's particularly troubling to me and my fellow Republican members when I was the Republican Leader in the Senate. Despite our objections, both received an up-or-down vote on the Senate floor. In fact, I voted to end debate on one of these nominees while voting against his confirmation. Republicans chose not to filibuster because it was considered inappropriate for nominations to the federal bench.

By creating a new 60-vote threshold for confirming judicial nominees, today's Senate Democrats have abandoned more than 200 years of Senate tradition.

For the first time, judicial nominees with clear majority support are denied an up-or-down vote on the Senate floor through an unprecedented use of the filibuster. This is not a misrepresentation of history; it's a fact.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Texas.

Mr. CORNYN. Mr. President, at a time when it seems like too often debate on the President's nominees have shed more heat than light, it has been a delight for me to sit here, as the Chair has, and listen to the Senator from Arizona present in comprehensive detail the legal and constitutional framework for the Senate's authority to set its own rules by establishing precedents, passing standing rules, adopting standing orders by unanimous consent, and otherwise. It was an excellent presentation and, indeed, a strong case, and that is exactly why leading Senators on the other side of the aisle, including the former Democratic majority leader, the Senator from West Virginia, the Senator from Massachusetts, and the junior Senator from New York, have all stated, as recently as 2 years ago, that, of course, a majority of Senators has the power to set rules, precedents, and procedures. Indeed, that is why the power of the Senate majority to set rules, precedents, and procedures is known as the Byrd option or, as some have called it, the constitutional option.

Let me begin my remarks by making one simple point. I would prefer the bipartisan option to the Byrd option every time. America works better, indeed the Senate works better, when we work together in a bipartisan way to try to solve the problems that come before the Congress. I would much prefer to stand up here, after waking each day, and conduct business in a bipartisan manner.

I have done my best to make the most of every opportunity that I have seen to do so since I have been in the Senate. For example, I have enjoyed working with the senior Senator from Vermont on legislation to strengthen the accessibility, accountability, and openness of the Federal Government.

I have worked with the junior Senator from Wisconsin and the senior Senator from Connecticut on the important issue of continuity of Government in the wake of a future terrorist attack.

I have worked with the senior Senator from New York on ways that we together can combat modern day slavery and human trafficking.

And I have worked with the senior Senator from Massachusetts on military citizenship and immigration issues.

I would choose collaboration in this kind of bipartisan cooperation any day of the week. But bipartisanship is a two-way street. Both sides must agree on certain fundamental principles and a fair process that applies no matter who is in power, whether we have a Republican President or a Democratic President, whether we have a Republican majority or a Democratic majority.

The most fundamental principle of all is fairness. Fairness means that the same rules apply regardless of who is President.

Bipartisanship is difficult, however, when long-held understandings and the willingness to abide by basic agreements and principles has unraveled so badly. Where fairness falters, bipartisanship will fail.

So I ask my colleagues, what are we supposed to do when these basic principles, commitments, and understandings have unraveled? What are we to do when nominees are attacked, including being called names, simply for doing their jobs, when they are attacked for following judicial precedents adopted and agreed to by appointees of Presidents Clinton and Carter, when they are singled out for their decision on a particular case even though it was held by a unanimous or near unanimous court?

What are we to do when these nominees are demonized and caricatured beyond recognition to those of us who actually know them; when Senators on the other side of the aisle call them kooks, despicable, Neanderthal, and scary; when nominees are condemned as unqualified or perhaps lacking in judicial temperament, while at the same time they are deemed unanimously well qualified by the American Bar Association, an institution that the Democrats have always revered and held up as the gold standard when it came to qualifications to serve on the Federal judiciary?

What are we to do when Senate and constitutional traditions are abandoned for the first time in more than two centuries, when both sides once agreed that nominees would never be filibustered, and then one side simply denies the existence of that very agreement when it suits them, when their interpretation of Senate tradition changes based on who happens to occupy the Oval Office and who happens to be in the majority in the Senate?

What are we to do when our colleagues boast to their campaign contributors of this "unprecedented" obstruction, and then come to the Senate floor and claim that it is someone else who has changed the rules; when our colleagues justify their obstruction by pointing to Clinton nominees, such as their most prominent example, Judge Richard Paez, who was confirmed by standards they now reject for this President's nominees?

What are we to do when our colleagues on the other side of the aisle claim that Justice Owen must cross the threshold of 60 votes, whereas Judge Paez only required 51 votes to be confirmed?

What are we to do when the Democrats' former majority leader, the Senator from West Virginia, claims on 1 day that the filibuster is sacrosanct and sacred to the Founders when in January of 1995 he said:

> I have seen filibusters. I have helped to break them . . . the filibuster was broken—back, neck, legs, arms.

Finally, what are we to do when they claim on 1 day that all they seek is more time to debate a nomination and then claim on another day that there are not enough hours in the universe to debate the nomination?

The new requirement this partisan minority is now imposing, that nominees will not be confirmed without the support of at least 60 Senators, is, by their own admission, wholly unprecedented in Senate history. The reason for this is simple. The case for opposing this fine nominee, Justice Priscilla Owen, is so weak the only way they can attempt to successfully oppose her is by changing the rules, imposing a double standard in an attempt to defeat her nomination.

Different Senators during the course of this debate have come to the floor and criticized judicial decisions that Justice Owen has participated in as a member of the Texas Supreme Court. As Members of this body know, I formerly served on that same court and for 3 years had the distinct pleasure of serving alongside of this able judge and fine and decent human being. I can tell you from the sharp attacks that have been made against her and the mischaracterizations that have been made of the opinions she has written and joined, I doubt that many Senators have actually read those opinions. If they had, they would not be able, with a straight face, to make some of the claims that have been made on this floor.

Rather than reading the opinions of this able jurist and fine and decent human being, it appears the talking points they have been using are written, not based on what these cases actually say, but they are talking points prepared by political consultants who are more concerned with winning a partisan political battle at any cost.

A number of Senators, for example, have mentioned a case called Montgomery Independent School District v. Davis. That is supposed to be an example of Justice Owen being "out of the mainstream."

But I ask my colleagues, just read the opinion. The case involved the authority of a local school board to dismiss a poorly performing and abusive teacher. This teacher admitted that she had referred to her students as little blank blank blanks, a four-letter expletive that I will not mention on the floor of the Senate. But when confronted with this, the teacher justified the use of this expletive—to schoolchildren mind you—on the bizarre ground that she used exactly the same language when talking to her own children—clearly unacceptable conduct on the part of any teacher, or any adult who is given the authority to deal so closely with impressionable children.

The Senator from New York says this teacher was wrongly dismissed. Numerous other Senators have likewise characterized Justice Owen's decision in the case the same way.

I have children. Many Senators have children. Are Justice Owen's opponents really arguing that this teacher acted appropriately? That she was wrongly dismissed and that somehow this decision, or this ruling by Justice Owen—I should say in her dissenting opinion—somehow renders her out of the mainstream? Justice Owen simply said the local school board was justified in dismissing this teacher, hardly a decision out of the mainstream. I daresay the vast majority of America would agree with her.

However, in that case the majority of the Texas Supreme Court disagreed and held that the school board could not dismiss the teacher, notwithstanding the fact that she conceded the language that she used. Justice Owen's dissenting opinion simply concluded that the majority "allows a state hearing examiner to make policy decisions that the Legislature intended local school boards to make." She also noted that the majority "misinterpreted the Education Code."

Another case that Senators, particularly the Senator from Massachusetts, attacked Justice Owen for was Texas Farmers Insurance Company v. Murphy. In this case, Justice Owen ruled that neither an arsonist nor his spouse should benefit from his crime by recovering insurance proceeds.

The senior Senator from Massachusetts says this position puts Justice Owen out of the mainstream. I disagree. Do Justice Owen's opponents really believe that it is extreme and out of the mainstream to say that arsonists and their spouses should not benefit from their crime?

I also point out that Justice Owen's ruling in this case followed two unanimous decisions of the Fifth Circuit Court of Appeals, the very court to which she has been nominated. Again, hardly out of the mainstream.

How about the case of FM Properties Operating Company v. the City of Austin, relied upon also by the senior Senator from Massachusetts and other Senators? Justice Owen is criticized for dissenting in this case because she did not want to use a doctrine known as the nondelegation doctrine in order to strike down a Texas law as unconstitutional. Yet just last month, another Senator, this time the senior Senator from Delaware, criticized another judicial nominee, Bill Pryor, for wanting to use the nondelegation doctrine in another situation. So Justice Owen's critics seem to be saying if you support the use of this particular legal doctrine, the nondelegation doctrine, you are out of the mainstream. And if you oppose the nondelegation doctrine, you are somehow out of the mainstream.

I ask them, which one is it? The truth is, this legal doctrine known as nondelegation is a controversial theory that is often harshly criticized by liberals who accuse conservatives of wanting to use it to strike down laws enacted by the legislature. That is fine. Fair enough. But that is exactly what Justice Owen's dissent criticized the majority of the court for doing. She stated the court has seized upon this rarely used nondelegation doctrine to claim the constitutional authority for an unprecedented restriction of the legislature's power, and that the court today exercises raw power to override the will of the legislature and of the people of Texas.

It reminds me of the lyrics of a country and western song: "Darned If I Do, Danged If I Don't."

Justice Owen cannot win. She is being whipsawed by Senators who on one hand criticize her for doing one thing, when other Senators criticize some other nominee for doing something else. They really are arguing both sides against the middle and these nominees cannot win, according to that inconsistent, and some might even claim hypocritical test.

The Senator from Illinois has attacked Justice Owen for a ruling in the City of Garland v. Dallas Morning News. In that case Justice Owen followed precedents adopted by three appointees of President Carter to the Federal bench. So Justice Owen is now too conservative and out of the mainstream because she happens to agree with presidential appointees of President Jimmy Carter?

The majority opinion in that case said we should not blindly follow the Federal courts. Justice Owen simply said that the courts should follow Federal precedence because Texas open government laws had originally been modeled after the Federal Freedom of Information Act.

One last example. The Senator from Washington mentioned a case that was discussed in a recent op-ed in Roll Call. She claimed that in Read v. Scott Fetzer Company, Judge Owen would not allow a woman who was raped by a vacuum cleaner salesman to sue the company that had hired him without a background check.

The Senator should check her facts because it is simply not true. The Senator must not have seen my letter published in Roll Call a few days later because I pointed ought there, as I point out here, that the dissenting opinion made clear no one questions that the company that had hired the rapist is, in fact, liable. The justices simply disagreed on whether another company, one that had not hired the rapist and had no relationship with the rapist, should also have been held liable.

Of course, a number of Senators have spoken about the parental notification cases. That is the attempt by the Texas Supreme Court to interpret a new statute which stands for the proposition which I think most Americans would agree with, that when minor girls seek to get an abortion, they should notify their parents or, failing that, seek a bypass of that requirement from a judge. That is what the legislature said they should do, and that is precisely the statute that Justice Owen sought to interpret.

I ask the people across America who may be listening to the debates we are having in the Senate, whom would you trust to judge Justice Own and whether she did a good job in that case? Who was more credible to talk about the quality of Justice Owen's legal analysis in the parental notification cases? Would it be, perhaps, say, the author of the law she was interpreting who supports Justice Owen? Would it be, perhaps, her former colleagues on the court, including former Justices Alberto Gonzales and Greg Abbott, who support Justice Owen's nomination. How about now—Attorney General Alberto Gonzales, who swore under oath that the accusations we are hearing are untrue and that he never accused her of being a judicial activist.

I have seen some of the advertising that has been done by some of the interest groups attacking Justice Owen unfairly who are claiming that Alberto Gonzales accused her of being a judicial activist. As I pointed out, he swore under oath that is not true. It is clear by any reasonable reading of the opinions that he never referred to her by name or was even, in fact, referring to her by implication.

It reminds me of what Mark Twain said: A lie can travel around the world while the truth is still putting on its shoes.

How about the pro-choice Democratic law professor appointed by the Texas Supreme Court to help set up procedures under which parental notification statute. Would critics tend to think she might be a credible person when it comes to whether Justice Owen did a good job if this same Democratic pro-choice law professor supports Justice Owen too? She said in a letter that has been made part of the CONGRESSIONAL RECORD Justice Owen simply did what good appellate judges do every day. If this is activism, then any judicial interpretation of a statute's terms is judicial activism.

I ask, should we trust the critics who have misconstrued and mischaracterized and painted a picture of this fine person beyond any recognition by those who know her and have worked alongside her or do you trust the people who actually know her, the people who have worked most closely with her? In fact, it is the very same liberal special interest groups who criticize her today who never wanted the legislature to pass this parental notification law in the first place.

It is these same liberal interest groups who literally make their living trashing nominees of this President who are criticizing Justice Owen today.

As a former justice of the Texas Supreme Court myself, I find these cases moderately interesting reading. Most Senators and most Americans probably do not, and that is fine. But we can surely agree on this. If these cases are accurately characterized and understood, they definitively demonstrate that Justice Owen is a capable and well-qualified judge, and that of course is why she enjoys such impressive and wide-ranging endorsements from across the aisle.

We should keep our eye on the ball. Let's remember what judicial activism really means because the American people know a controversial judicial ruling when they see one. Whether it is the radical redefinition of our society's most basic institutions like marriage, or the expulsion of the Pledge of Allegiance from our classrooms, or from the public square, whether it is the elimination of the three strikes and you are out law and other penalties against hardened criminals, or the forced removal of military recruiters from college campuses, Justice Owen's ruling, of course, falls nowhere near this category of cases.

There is a world of difference between struggling to try to interpret the ambiguous expressions of a legislative body and refusing to obey a legislature's directives altogether.

If the Senate today were simply to follow more than 200 years of consistent Senate and Constitutional tradition dating back to our Founding Fathers, there would be no question that Justice Owen would be confirmed today. President after president after president had their judicial nominees confirmed by a majority vote, not a supermajority vote.

By their own admission, at least at one time, Justice Owen's opponents in this body are using unprecedented tactics to block her nomination and prevent a bipartisan majority from casting their vote in favor of her confirmation.

Again, the reason is simple: The case for opposing this fine nominee is simply so weak that only by using a double standard and changing the rules can they hope to defeat her. Legal scholars across the spectrum have long concluded what we in the Senate know instinctively, and that is to change the rules of confirmation, as a partisan minority has done these last 4 years, badly politicizes the confirmation, as a partisan minority has done, and badly politicizes the Judiciary and hands over control of the judicial confirmation process to special interest groups.

I ask unanimous consent a summary of supporting quotes from legal scholars be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CORNYN. Mr. President, the record is clear, notwithstanding what some opponents have said today and in the last 4 years. The Senate tradition has always been a majority vote, and the desire by some to alter that Senate tradition has been roundly condemned by legal experts across the political spectrum.

I will close by simply reinforcing what the Senator from Arizona stated so well in his earlier remarks. To employ the Byrd option is not a radical move at all. It would merely be an act of restoration. In fact, as we have heard time and time again, there is ample precedent to support the use of this point of order.

The senior Senator from West Virginia was then majority leader of this body and used this on four separate occasions—in 1977, in 1979, in 1980 and again in 1987—to establish precedence to change Senate procedure during a session of Congress. Other leading Senators from the other side of the aisle have recognized, time and again, the legitimacy of the Byrd option, including the Senator from Massachusetts, as well as the junior Senator from New York as recently as 2 years ago.

In the end, I believe this debate demonstrates, without a doubt, that it is time to fix our broken judicial confirmation process. It is time to end the blame game, to fix the problem, and to move on and do the American people's business. It is time to end the wasteful and unnecessary delay in the process of selecting judges that hurts our justice system and harms all Americans.

It is simply intolerable for a partisan minority to block a bipartisan majority from conducting the Nation's business. It is intolerable that the standards now change depending on who is in the White House and which party is the majority party in the Senate. And it is simply intolerable that this nominee—this fine and decent human being—an outstanding judge has wasted 4 long years for a simple up-or-down vote.

Yes, we need a fair process for selecting fair judges, after full investigation, full questioning, full debate, and then a vote. Throughout our Nation's more than 200-year history, constitutional rule and Senate tradition for confirming judges has always been a majority vote. And that tradition—broken 4 years ago after this nominee and others were proposed by the President—must be restored. After 4 years of delay, affording Justice Owen a simple up-or-down vote would be an excellent start.

Mr. President, I thank the Chair and yield the floor.

EXHIBIT 1

Professor Michael Gerhardt, who advises Senate Democrats about judicial confirmations, has written that a supermajority requirement for confirming judges would be "problematic, because it creates a presumption against confirmation, shifts the balance of power to the Senate, and enhances the power of the special interests."

D.C. Circuit Judge Harry Edwards, a respected Carter appointee, has written that the Constitution forbids the Senate from imposing a supermajority rule for confirmations. After all, otherwise, "[t]he Senate, acting unilaterally, could thereby increase its own power at the expense of the President" and "essentially take over the appointment process from the President." Edwards thus concluded that "the Framers never intended for Congress to have such unchecked authority to impose supermajority voting requirements that fundamentally change the nature of our democratic processes."

Georgetown law professor Mark Tushnet has written that "[t]he Democrats" filibuster is . . . a repudiation of a settled, pre-constitutional understanding." He has also written: "There's a difference between the use of the filibuster to derail a nomination and the use of other Senate rules—on scheduling, on not having a floor vote without prior committee action, etc.—to do so. All those other rules . . . can be overridden by a majority vote of the Senate . . . whereas the filibuster can't be overridden in that way. A majority of the Senate could ride herd on a rogue Judiciary Committee chair who refused to hold a hearing on some nominee; it can't do so with respect to a filibuster."

And Georgetown law professor Susan Low Bloch has condemned supermajority voting requirements for confirmation, arguing that they would allow the Senate to "upset the I carefully crafted rules concerning appointment of both executive officials and judges and to unilaterally limit the power the Constitution gives to the President in the appointment process. This, I believe, would allow the Senate to aggrandize its own role and would unconstitutionally distort the balance of powers established by the Constitution." She even wrote on March 14, 2005: "Everyone agrees: Senate confirmation requires simply a majority. No one in the Senate or elsewhere disputes that."

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I rise today to address the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals and to oppose the majority's challenge to our Nation's constitutional framework of checks and balances. I also rise to protect the rights of the minority in our political system.

This debate is historic in the context of American constitutional practice, and it deals with the core of necessary consensus building that has united and strengthened America throughout our political life.

Though I have come to the floor on a number of occasions this year to speak on vital domestic and national security concerns affecting New Jersey's and America's citizens, today, with disappointment, I rise to speak—not about issues such as the safety of our troops in Iraq; protecting our citizens at home from terrorist threats, whether it be at chemical plants or ports or airports; ending genocide in Darfur;

strengthening Social Security; providing access or cost control to health care; lowering gas prices, combating global warming; or building affordable housing—all vital issues to the American people—instead, I am here because some in this body think it is their responsibility and right to eliminate minority rights when it comes to approving lifetime appointments to the U.S. Court of Appeals and to the U.S. State supreme court.

I rise to protest this attack on our constitutional system and our Senate traditions. In short, it is an attack that I think supports the view that breaking the rules is the way to change the rules. We are here today because a number of my colleagues, many in good faith, wish to ignore the principles embedded in the U.S. Constitution and allow the will of the majority to reign supreme. Absolute power is often said to corrupt, and limiting the checks and balances of the right to debate on the Senate floor can most certainly facilitate that abuse.

There was a reason our Founders gave two votes to each State. That fundamental principle was debated as the Founders wrote our Constitution. Today, there are two Senators from California, a State with 36 million citizens. Similarly, there are two Senators from the State of Wyoming, which has slightly more than 500,000 citizens. Our Founders believed strongly in the right of minorities to have a voice on the floor of the Senate and embedded this principle in our Constitution. It is absolutely one of the most essential compromises that was a part of creating our Constitution. In fact, it has been the framework that has allowed the Constitution to work so effectively for some 217-odd years.

At a practical level, this overreach—some might call abuse—by the majority is unfortunate for those of us who have been pleased to work well with the White House in building a consensus on judicial nominations. It has happened in our State. For example, New Jersey Senators have met and agreed to a set of five judges, including, by the way, a circuit court judge who reflects the best of our legal community and who travels well within the mainstream of legal thought.

Over my 4½ years in the Senate, the White House and I have agreed on an outstanding package of jurists of whom we can all be proud. And we are currently working with the White House on another package—for district court judges and one additional circuit court judge.

Let me be clear, while many of these judges would not have been my first political or philosophical choice. I have worked, together with Senator LAUTENBERG, and before him with Senator Torricelli, with the White House to come to an agreement on smart, fair, and hard-working judges for the Federal bench in New Jersey—people clearly in the mainstream, people of whom we will all be proud to have as lifetime judicial appointments. All of these are judges committed to the rule of law and not to promoting their own political views or trying to rewrite law through judicial activism.

I have voted many times for judges with whom I disagree on important issues—issues as fundamental to me as choice or worker protections. But I have voted for them because they respect the law and precedent. What I cannot and will not agree to are nominees who are political ideologues people who let us know that they will challenge precedent in order to promote their political beliefs and what I believe is an extremist agenda. They want to change the law. The job of writing laws is the job we have right here on the Senate floor.

This debate is particularly important in a practical sense to me because there is a vacancy currently on the Third Circuit Court of Appeals due to the retirement of Michael Chertoff, now the head of our Nation's Department of Homeland Security. I fear this Third Circuit vacancy is in jeopardy of going the way of what we have seen with the nomination of these activist judges—jurists with views outside the mainstream, with extremist views, who believe that it is their right to make the law as opposed to interpret it or apply it.

If these activist individuals want to make law—and they may have remarkable resumes—they should run for Congress or the Senate rather than accept a nomination to the Federal bench.

That is why my support for the filibuster in the judicial nominating process is not about anything but the fundamental constitutional principles established by our Founders.

It is not about getting even. It is not tit for tat. I am not suggesting Democrats should block nominations because Republicans have used process and procedure to stop Democratic nominees, which, in fact, has been the case. The hard facts show that the Senate has approved 208 of President Bush's 218 judicial nominations. That is a 95-percent rate of approval—not too bad; as a matter of fact, I think most people would think if you were hitting at that level in baseball, you would be doing pretty good.

President Clinton's nominees were often held up before they even had a chance for debate in committee, a different procedural process that led to about over 60 of the Clinton nominations being blocked. But again, I don't think this issue is about tit for tat or getting even.

It is misplaced for others to argue that Democrats are being obstructionist because we refuse to serve as rubberstamps. I was not elected by the people of New Jersey to be a rubberstamp. Actually, they don't like that kind of thing in New Jersey.

Republicans may one day see a change in their majority status, and many of my Republican colleagues may not like this change at another point in time. I don't think they would seek to be a rubberstamp in the judicial nomination process at that time.

This is not about an up-or-down vote, as Republicans suggest. That argument is intended to divert the attention of the American people from the real issue—the rights of the minority in the Senate, as developed by our constitutional Founders, the U.S. system of checks and balances, and, frankly, the principle of fundamental fairness, that you don't change the rules in the middle of the game.

Here is the argument that this is not about an up-or-down vote. The majority blocked over 60 of President Clinton's nominees. They never allowed them to have an up-or-down vote on the Senate floor and, frankly, they never allowed them to have an up-or-down vote in committee. They just used different rules and different procedures, at different time, but they accomplished the same thing.

Additional evidence that this is not about giving nominees an up-or-down vote is the simple fact that historically the filibuster has been used as a Senate procedural tool, often to prevent Democratic judicial nominees from receiving an up-or-down vote in the Senate.

Since 1968, at least according to the legal scholars I have talked to, we have seen Republicans use the filibuster six times to block judicial nominees, perhaps the most visible being the nomination of Abe Fortas to be Chief Justice of the Supreme Court. The Fortas nomination was successfully filibustered and was never given an up-or-down vote.

But just to put it in a broader historical perspective, 20 percent of the nominations to the Supreme Court from our birth as a nation have never gotten an up-or-down vote in the Senate.

One has to put this into a historical perspective. This is something that should be debated on a more fundamental level of what it is that one can draw from the reading of our Constitution. I go back to the fact that there are two Senators for every State, regardless of its size. The intent was to make sure minorities were fully represented.

Looking at this from another perspective, a more political perspective, I accept that Republicans hold 55 seats in the Senate and that President Bush won reelection. However, neither of those facts goes against the constitutional history of the right to speak your mind as a minority. And neither of those facts give the majority the right to break the rules to gain more power. The rules are the rules adopted. A ruling from the Chair without consultation with the Parliamentarian would be an extraordinary action, certainly contrary to anything I have seen in the 4½ years I have been here, certainly contrary to what I hear among my colleagues.

A rule change under extraordinary procedures is why it has been labeled the nuclear option. I would argue if the majority were to adopt this procedure they would be breaking the rules to make the rules. We all know we are setting an extraordinary precedent—and frankly, this could become a slippery slope for this legislative body, particularly when it sets a precedent that may be expanded upon to include legislative filibusters, which I hear almost everyone argue is not something they would embrace. It could be a slippery slope and a dangerous precedent for a thriving democracy and an August body that has served America well by providing for checks and balances through the fullness of our political life.

Our U.S. system is based on the competition of ideas between the two main political parties. Clearly, each side seeks to prevail. What the majority is doing now goes beyond a simple desire to prevail. What is going on here is an attempt by the majority to break the rules to change the rules. That violates the principle of fundamental fairness and actually attacks in a fundamental sense the rule of law under which our Nation operates. You don't break the rules to win in America. That is not the American way.

The American way is to play fairly and consistently by the rules. That is all that I believe we on this side of the aisle are asking for. We are asking for the right to play by the established rules that have been historically in place, consistent with precedent, ones that have existed for decades, to challenge people who we believe are fundamentally unqualified or judicially outside the mainstream to be Federal judges either because of their views, which are inconsistent with precedent, or because of their activist judicial records.

Let me be specific as to the judicial nominees before the Senate: Justice Priscilla Owen and Justice Janice Rogers Brown. Both may be remarkable people in their own right, but that is not my concern. Good people may not be fit to serve as federal judges because of their interpretation of the Constitution, how they apply it or don't apply law, and the activist approach they take.

Let's start with Justice Owen. This is a judge who has consistently inserted her political views into judicial opinions. That is how I read the record. She has had a record distinguished by conservative judicial activism. Justice Owen has consistently voted to throw out jury verdicts favoring workers and consumers against businesses and she has dismissed cases brought by workers for job-related injuries, discrimination, and unfair employment practices, making decisions that are inconsistent with established precedent.

Justice Owen has participated in cases involving companies that have been involved in her own political activities, including Enron and Halliburton decisions. But the real issue, the Houston Chronicle concluded, was that "Owen's judicial record shows less interest in impartially interpreting law than in pushing an agenda." I believe this is a record that is outside the mainstream. That justifies my position and, I believe, that of my Democratic colleagues.

As for Justice Janice Rogers Brown, a California Supreme Court justice nominated to the DC Circuit, she has spent the better part of her time as a judge attacking America's social safety net. The California Bar Commission found Justice Brown unqualified in part because of her tendency to interject her political and philosophical views into her opinions. I don't have a problem with people having political and philosophical views. Most of the folks who speak here on this floor have political views. But when you go to the bench, you are asked to bring an impartiality, an independence as to how you deal with a case and how you apply the law and interpret the law. Justice Brown, through her opinions as a judge has made it clear that she has a disregard for legal precedent. Justice Brown has called Supreme Court decisions upholding the New Deal "the triumph of our socialist revolution." I believe that is outside the mainstream. Let us not forget, by the way, that one of the main components of the New Deal was the creation of Social Security, which is now having a debate in this Nation. It is hardly a socialist initiative.

Justice Brown has also—always in dissent—used constitutional provisions or defied the legislature's intent to attempt to restrict or invalidate laws that she doesn't like—as, most notably, she did with California's anti-discrimination statute. And so I believe that this is a case where there is reason to believe that Justice Brown would operate outside of the mainstream if confirmed as a federal judge.

I simply cannot support placing such an immoderate judge on the Federal appeals court for a lifetime tenure.

In closing, let me return to where I began. Yes, this is an important debate—maybe one of the two or three most important in the last few years. I think it goes at the core of our constitutional system. It is unfortunate we are not here debating the real problems that face our Nation and the citizens of my State, which include health care costs, gas prices, education, energy costs, and the safety of servicemen. Those are the issues that people talk to me about when I am out and about in my home State. But the people of my home State—and I suspect it is true of people of every State in the Nation—expect us to defend our constitutional liberties. They expect us to stand for checks and balances and for the rights of those in the minority so that we can build a consensus to unite, not divide. They expect us to speak strongly to preserve those rights on the floor of this Senate. I think that is what this debate is about. This debate is a fundamental one and, therefore, truly one of the most important we can have.

I want us to move on to the real issues of the day, and they are challenging for our Nation, for all of us. Men and women are losing their lives. But there is an absolute responsibility for all of us to make sure that our system works with the kind of care and thoughtfulness and the kind of checks and balances that have served our Nation so well.

It is our responsibility to stay tuned to the historical traditions of the Senate and to the principles our Founders put together that said minorities in this Nation have a right to be heard. The Founders established that principle clearly with the Philadelphia Compromise. We must sustain this principle in the days ahead in our debate.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, this morning, Senator GORDON SMITH came to the floor. He is a close friend. He made a statement relative to something I said on the floor yesterday about the nomination of Priscilla Owen. I am flattered he was listening, or that someone was listening.

I am afraid what he said about my remarks was not completely accurate. Senator SMITH made the following statement:

> As I understood the assistant Democratic leader, he was saying that Judge Owen's membership in the Federalist Society should disqualify her.

Well, this is about the nomination of Priscilla Owen from Texas. I made the point of how interesting it was that while very few lawyers in America belong to the Federalist Society—maybe 1 percent—it turns out that about a third of President Bush's nominees belong to this Federalist Society. I referred to it as the "secret handshake" at the White House and that, if you belong, you have a much better chance to become a judge.

I also made a point of the fact that when we ask nominees what the Federalist Society is and why do you belong, we get the craziest answers you can imagine. There was a law professor from Georgetown, Viet Dinh, a nice man who worked for the Department of Justice, and I said to him, "What is the Federalist Society? Why is it so many Bush nominees belong to it?" "Oh," he said, "it is an excuse to have lunch in Chinatown once a month. We go there and somebody talks to us and we eat and come back to school." And I would ask others, "What is it all about?"

With the exception of Senator ORRIN HATCH, who I believe was on the board, or may still be on the board of the Federalist Society, almost nobody will talk publicly about who they are and what they believe.

That was the point I was making. This curious, semisecret society is so quickly disavowed by its members whenever you ask a public question about it. Yet it appears to be one of the most important things you can add to your resume if you want to be a judge from the Bush administration.

And Priscilla Owen of Texas—surprise, surprise—is a member and officer of the Federalist Society. I do not think she should be disqualified because of that. There is nothing illegal about it. I do not know what the philosophy is other than what they state on their Web site. It is very conservative. It thinks that liberals are ruining the world. It goes on and on.

I am not saying that if you belong to that you should not be qualified to serve on the bench. That is not the point. But when I asked someone such as Priscilla Owen, a supreme court justice from Texas whose time must be very precious, why she took the time to join this organization and she cannot or will not answer it, I think it is important.

I voted to confirm the vast majority of President Bush's nominees and a lot of Federalist Society members, so I am not blackballing or disqualifying them. I know it is an ultraconservative society, whatever it is, and I know that so many people are afraid to even acknowledge they are members when it is brought to public attention.

I think their views are extreme and off base, from my point of view. I think their views are extreme and off base when we look at mainstream America. How can you say, as they do, that the legal profession is strongly dominated by a form of orthodox liberal ideology? Look at the 13 Federal courts of appeal and you find 10 of those Federal courts of appeal in America dominated by Republican-appointed judges. Liberal ideology? How can you say the legal profession is strongly dominated by a form of orthodox liberal ideology when seven out of the nine members of the U.S. Supreme Court were appointed by Republican Presidents?

So what I said about Justice Owen is that her conservative ideology is demonstrated by her membership in the Federalist Society. However, the best documentation on her ideology is her own track record as a judge. So I say to Senator SMITH, no, it does not disqualify Priscilla Owen, but it is curious to me why this supreme court justice had the time to pay the dues and join an organization which she just cannot remember what they believe in. I think there is more to it.

Senator KYL of Arizona also came to the Senate floor. He said something I would like to address. He charged that President Bush has only had 67 percent of his circuit court nominees confirmed, and that this is an alltime low, according to Senator KYL. I do not know if it is true or not. I do not have the data going back all the way in time. But I know this: If the Republican leadership had taken me up on my offer this morning and they had confirmed the four circuit court nominees I asked unanimous consent to bring up for a vote, President Bush's circuit court success rate would be 75 percent. But I was reminded by the Republican leader—in this case the Republican whip, Senator McCONNELL—that there is just no time in the schedule to bring up more of President Bush's circuit court nominees.

Curious, isn't it? This whole debate, this constitutional confrontation is all about whether President Bush is getting enough nominees. I came to the floor this morning and said: Here are four we can take right now, confirm on a bipartisan basis, and get it done before lunchtime. Senator McCONNELL of Kentucky said we are much too busy to deal with approving judges on a bipartisan basis. Instead, we are focused on one judge, already rejected by the Senate, who may precipitate a constitutional confrontation here on the floor of the Senate.

Incidentally, President Clinton's circuit court success rate when the Republicans were in control of the Senate: 71 percent. So if President Bush had these four nominees and hit 75 percent, he has already passed the success rate of President Clinton during his tenure in office.

So there is no vacancy crisis here, and they are trying to manufacture it, they are trying to suggest that President Bush is being mistreated, and yet the same Republican leadership that talks about mistreatment could not take the time—namely, an hour or two—to pick up four circuit court nominees who are standing waiting for approval. Democrats are prepared to approve. Of course, that would destroy the argument that somehow we are obstructionist.

I was involved in the debate yesterday when Senate majority leader BILL FRIST came to the floor and said:

> I rise today as leader of the majority party of the Senate, but I do not rise for party, I rise for principle. I rise for the principle that judicial nominees with the support of a majority of Senators deserve an up-or-down vote on this floor.

Moments later, Senator SCHUMER of New York asked Senator FRIST a simple, pointed question: Is it correct that on March 8, 2000, Senator FRIST, the Republican majority leader, voted to uphold the filibuster on a Democratic nominee, Richard Paez? Here is Senator FRIST's reply:

> The issue is we have leadership-led partisan filibusters that have obstructed not 1 nominee but 2, 3, 4, 5, 6, 7, 8, 9, 10 in a routine way. The issue is not cloture votes per se, it's the partisan leadership led use of cloture votes to kill, to defeat, to assassinate these nominees. That's the difference.

I spoke yesterday on the floor afterwards about Senator FRIST's poor choice of words. I said then, and I will say now, he is a man with a good heart. He cares for people. He is a doctor who has saved lives. He is a transplant surgeon, well recognized in his profession as a very accomplished doctor. In his spare time he goes to help the poorest people of the world. So I do not question that he is a man with a good heart. That was never part of it.

I was concerned with his choice of words. It was a very bad day to use the words "to assassinate nominees." Just minutes before, Joan Lefkow of Chicago had been to the Senate Judiciary Committee testifying in very emotional testimony about her own family being attacked in their home and her husband and mother losing their lives.

I do not want to belabor this point. Let me just say, let's be careful with the language we use on the floor when it relates to judges. I do wish to talk about the rest of Senator FRIST's statement, not that particular section.

He admitted in the course of what he said that "the issue is not cloture votes per se," it is not filibusters, per se. And we know from his own actions that the majority leader does not believe that every judicial nominee with majority support deserves an up-or-down vote because he, in fact, on March 8, 2000, voted to support a filibuster. In other words, the thing that he is condemning when it comes to Priscilla Owen is exactly what he did on March 8, 2000—supporting a filibuster against a nominee, Richard Paez. I do not understand that. I cannot understand how he can condemn that today, having done it himself a short time ago.

It turns out that it is a very specific type of filibuster to which Senator FRIST objects—in his words, a leadership-led use of cloture votes. I can see why the majority leader was such a good surgeon. He has taken the scalpel to the filibusters and decided which filibusters are OK and which are not. That really destroys the whole argument that this is all about an up-or-down-majority vote.

Senator FRIST voted to deny Richard Paez an up-or-down-majority vote. Now he says we need to change a 200-year tradition in the Senate so that no one can ever do the same thing he did to Richard Paez. This is an unusual principle to try to follow. It is, in fact, creating a constitutional confrontation over something that is very contradictory on its face.

I believe filibusters are constitutional. They are certainly allowed under the Senate rules. And when we get to the question of motives behind them, I really think that the Republicans, the majority has to dig very deep in order to find an argument to make against the practice we have used and others have used throughout the history of the Senate.

In addition, yesterday morning, before Senator FRIST moved to bring up the nomination of Priscilla Owen, Senator REID asked the majority leader whether it would not make more sense for the Senate to move instead to consider four other nominees about whom there is little controversy. Senator FRIST refused yesterday, as Senator MCCONNELL refused today. So for 2 straight days, the Republicans have had a chance to pick up four circuit court nominees to fill vacancies, to give the President a higher success rate in filling vacancies on these courts than President Clinton, and they have refused; they said we are much too busy. We have to spend time here destroying a precedent in the Senate. We have to reach the point when we can count on Vice President CHENEY to come to the Senate, to sit in that chair and, when asked, give the right answer so they can wipe away with one ruling by Vice President CHENEY a rule that has been in place for over 200 years.

Senator LEAHY asked if we could consider a nominee from Utah, who would have likely won confirmation easily yesterday. Senator FRIST refused. He insisted on bringing up this nomination of Priscilla Owen, one of the most controversial judicial nominees in recent memory, someone who has already been rejected by the Senate.

Why would the majority leader flatly refuse every effort to find a way out of this crisis? I don't know. It is possible he is still taking advice from people who should not be trusted for advice. I don't know if the name Manny Miranda rings a bell, but it should. From the spring of 2002 until April 2003, Mr. Miranda was working for the chairman of the Senate Judiciary Committee, ORRIN HATCH, and then for majority leader BILL FRIST.

Mr. Miranda and other Republican staff hacked into the committee's computers and systematically stole thousands of documents, including confidential memos between Democratic Senators and their staff. I know. I was the biggest target of Mr. Miranda.

I discovered it when the Wall Street Journal published an editorial and quoted extensively from a staff memo in my office. And I said as soon as I read it: Somebody stole this memo. There is no way the newspaper would have a copy of an obscure memo and build an editorial around it.

After some investigation, we learned that in fact Mr. Miranda was behind it.

Let me tell you what then-chairman of the Senate Judiciary Committee, ORRIN HATCH, said. I quote him directly:

> I am mortified that this improper, unethical and simply unacceptable breach of confidential files may have occurred on my watch.

At which point Senator HATCH asked the Senate Sergeant at Arms to conduct an investigation. Mr. Miranda was forced to resign from the Senate staff in disgrace. The findings of the Sergeant at Arms investigation were referred to the Justice Department, which then assigned a special prosecutor to the case.

Two years later, with the case still unresolved and finished, it appears Mr. Miranda is back. According to news reports, he is now helping to lead the nuclear option fight from outside the Senate. Yesterday, Mr. Miranda sent an e-mail to allies of Senator FRIST, demanding, "a straightforward rallying cry: NO DEALS. VOTE PRINCIPLE" and "NO UNPRINCIPLED COMPROMISES."

So here we have a former aide to Senator FRIST, a person who, according to the investigation, broke into Senate computers. He is now in charge of rallying the troops on the conservative side. He is the cheerleader for the nuclear option. And he is demanding that Senator FRIST and other Republicans break the Senate rules to give extremist judges lifetime appointments.

I do not quite understand this. I commend Senator HATCH for the investigation. I commend Senator FRIST for the investigation. They knew as we knew that something wrong, probably criminal, had occurred, and they went forward with an honest investigation. When this man resigned in disgrace you would think that would be the end of his role on Capitol Hill, but now he has returned as a cheerleader for the cause of the nuclear option.

It is hard to keep track of some of these players without a scorecard. But keep track of Mr. Miranda. He will undoubtedly pop up again.

There is another thing that should be addressed. Senator FRIST has given his word in writing that he will not seek to eliminate the filibuster when it comes to legislation—just judicial nominees, Senator FRIST said. But he also said he is leaving the Senate at the end of next year. He has voluntarily, on his own, decided to limit the terms that he would serve.

So the next majority leader, Republican or Democrat is not obliged to take any promise Senator FRIST might make. The truth is, if this Senate, for the first time in history, rejects the principle of extended debate, there is no guarantee that the damage of the nuclear option will not spread. In his opening remarks yesterday Senator FRIST said if Republicans would vote the nuclear option, Democrats "will retaliate."

> They will obstruct the Senate's other business. They will obstruct the people's business. They will hold back our agenda to move America forward. An energy strategy to reduce our dependence on foreign oil, held back; an end to the medical lawsuit abuse to reduce the cost of health care, held back; a simpler, fair Tax Code to create jobs and to encourage economic growth, held back.

Supporters of the nuclear option say they only want to eliminate the filibuster for judicial nominees. It doesn't take much imagination to consider the possibility of a majority leader in the future saying, with gas prices at an all-time high, America just cannot afford an extended debate on an energy bill.

If we eliminate extended debate for judges who serve for life, why would we preserve unlimited debate on the nominations of Cabinet Secretaries who leave office with the President who appoints them? Or on laws that can be reversed by the next Congress?

The truth is, this line in the sand will disappear with the next wave. This is not about principle. It is about politics.

Many special interest groups have made it clear they are going to fight anyone who tries to eliminate the filibuster over legislation. To quote the conservative columnist, George Will:

> It is a short slide down a slippery slope from the postulated illegitimacy of filibustering judicial nominees to the illegitimacy of filibustering any sort of nominee to the illegitimacy of filibusters generally. That is not a position conservatives should promote.

Quote from George Will, the grand guru of the conservative cause.

Former Republic Senators Jim McClure and Malcolm Wallop, both also conservative, agree. In a recent op-ed in the Wall Street Journal, these two former Republican Senators wrote:

> It is naive to think what is done to the judicial filibuster will not later be done to its legislative counterpart.

They add:

> It is disheartening that those entrusted with the Senate's history and future would consider damaging it in this manner.

I think that is what it gets down to. I think it is a question of this institution and its future and what it is going to look like. Today I am in the minority. You are in the majority. That could change. Every election, the people of this country have the final word on who will be the majority party in the Senate. What has endured throughout all the changes in history from one party to the next is a basic concept and that is, no matter how large your majority, you must respect the minority in the Senate. It is not democracy if you do not respect the minority—it is tyranny. We know that. The Greeks knew that when they invented the term.

Yet when it comes to the rules of the Senate to protect the minority, what we are hearing is that many are ready to cast them aside. Senator FRIST, for reasons I cannot explain, wants to have the distinction, the singular distinction, to go down in history as the only Republican majority leader to destroy a 200-year-plus tradition in the Senate, a tradition of extended debate and filibusters. I do not think that would be a proud moment for this body. I do not think it would be a proud part of any Senator's legacy. That is why many of us are appealing to the other side of the aisle.

Time and again in our Nation's history when we really faced some very difficult situations with judges who were controversial and courts that didn't agree with the President, Presidents have said: Give us more power. We will control those courts.

And when those Presidents came to Congress, as they had to, they found that even their own party would not go along with them. The Senators in those eras of Thomas Jefferson and Franklin Roosevelt took enough pride in this institution to say: We will make our own rules, Mr. President. We will stand by the Constitution. We will not give you more power.

But look what is going on now with this nuclear option. It is being orchestrated by the President. And we have too many Senate Republicans who are playing the role of lapdog to the Commander in Chief. They are sitting there like a group of cocker spaniels in a room full of pit bulls, afraid to speak up. They want to give this President whatever power he asks for, whatever nominee he asks for. What a departure from the tradition of this Senate, when it was truly independent, when we respected the President but also respected—maybe more—our constitutional responsibilities.

Our constitutional responsibility is not to agree with everything the President says; not to agree with everything that he wants; not to give him every shred of power that he seeks. Throughout history, Senators have said: We respect you, Mr. President. We respect the Constitution more.

In the midst of this debate, that has been completely thrown away by so many Republican Senators. They are so loyal, to the point of blind loyalty, that they cannot see what is happening to this institution. That they would walk away from the institutional authority of the Senate, the constitutional authority of the Senate, over what?

Take a look at these numbers—208 to 10. How much more graphic could it be? The full Senate has considered 218 judges, since President Bush was elected, and 208 have been approved. Over 95 percent.

When it comes to the 10, it is arguable who dropped out and who retired, but I will use the larger number of 10 just to demonstrate to those who are following this debate that there is hardly a crisis. This President has been more successful appointing judges than any President in 25 years. There are fewer vacancies on the Federal courts of America than at any time in recent memory. And it was not that long ago when the Republicans, during the Clinton administration, held a series of hearings, which I attended, arguing that we just have too many Federal judges. Senator GRASSLEY of Iowa, a good friend, chairman of a Subcommittee on Judiciary, used to hold regular hearings calling Republican judges from different circuits who would say: Keep those vacancies. Don't fill them. We have plenty of judges. The caseload is not that heavy.

Now the argument is being made, with even fewer vacancies, that we are in a judicial crisis. We are not. It has been 9 years since we had so few judicial emergencies in the courts. We have been through times of larger vacancies and, unfortunately, the Republican majority would not give President Clinton the judges he needed to fill them.

These are the things which clearly we find are the realities of the debate. A President extraordinarily successful in creating and filling more judgeships, a president who has been extraordinarily successful when it comes to convincing his presidential party to support him, and now a move afoot to change the traditions and rules of the Senate in a way that can create constitutional confrontation, if not constitutional crisis.

There are 55 Republican Senators. We need six—six who will stand up and say: History is our guide. We cannot let this institution change or diminish. We will stand with those on the Democratic side of the aisle, understanding that each of us has to use our own discretion when it comes to those nominees we will vote for, understanding that each of us is aware of the fact that the next election could change the balance in this Senate so quickly.

One of the nominees who will be considered next is Janice Rogers Brown. She may be the nuclear trigger—either she or Priscilla Owen. There was an article in a recent New York Times magazine about a far-right legal movement in America called the Constitution in Exile. This movement consists of judges and scholars who believe that the right to private property and economic liberty is almost absolute. Its adherents believe that nearly all Government infringement on property rights is repressive. They encourage judges to strike down laws on behalf of rights that do not appear explicitly in the Constitution.

If this philosophy sounds familiar, it should. The article lists Janice Rogers Brown as a poster child for the Constitution in Exile movement.

I served as the ranking Democrat at Justice Brown's hearing in October of 2003. I asked her a lot of questions. Her answers offered little assurance that she will be anything other than a judicial activist with a very extreme agenda. Her views on Government, courts, and the Constitution are troubling. She called the year 1937 "the triumph of our socialist revolution."

She has said:

> Where government moves in, community retreats, civil society disintegrates and our ability to control our own destiny atrophies.

She has said that politicians are "handing out new rights like lollipops in the dentist's office."

She claimed that our Federal courts "seem ever more ad hoc and expedient, perilously adrift on the roiling seas of feckless, photo-op compassion and political correctness."

She has even complained in the last 30 years, the Constitution has "been demoted to the status of a bad chain novel."

Her rhetoric makes it clear she is inspired and guided by Fountainhead, Atlas Shrugged, and the Road to Serfdom, more than the Constitution and the Bill of Rights.

At her hearing, Justice Brown said her speeches were just an attempt to "stir the pot." Justice Brown's speech did more than stir the pot. Those speeches knocked it off the stove.

I have concerns about her record on the bench, even beyond these speeches where she has opened up her heart.

In her own words, she said:

> I have been making a career out of being the lone dissenter.

In case after case, she has come out on the side of denying rights and remedies to the disadvantaged. Oftentimes she was, indeed, a lone dissenter and oftentimes she ignored even established court precedent and rulings. I have a lot of concerns about her tendency to push her philosophical views into opinions.

The California State Bar Commission in 1996 said as much when it rated Justice Brown as not qualified for the California Supreme Court. Yet the Bush White House wants to appoint her to the second highest court at the Federal level in America.

Justice Brown suggested at her hearing the views in her speech do not reflect the view and her decisions. The facts tell a different story. There is a seamless web between Justice Brown's speeches and her decisions. It is the same person. It is the same philosophy. It is the same conclusion. I have concern about nominating to the DC Circuit someone with her hostility to the forces of Government.

The DC Circuit is the No. 1 adjudicator of Federal agency disputes. I don't think someone who considers the New Deal a "socialist revolution" is the right person for the job. Think of all the socialism in the New Deal. I can think of one element that she might call socialism. Franklin Delano Roosevelt called it Social Security.

I want to discuss her evasiveness too. She is a wise lawyer. And good lawyers knows how to duck a question better than a politician. We can't properly perform the advice and consent function of the Senate if nominees will not level with us. Take the Lochner case. This is a famous case that most students study in law school, certainly those who study constitutional law. In her speeches, Justice Brown has praised it. Now, at her hearing we asked her, and she attempted to distance herself from what she said before, saying that the case has been "appropriately criticized" and "discredited." Yet she evaded a simple question about whether she agreed with it.

It is an important case. It is a case that spells out the responsibility of the Federal Government when it comes to questions of commerce and liberty of contract. It was a decision by the court many thought moved clearly in the wrong direction and did not even allow Federal jurisdiction in questions regulating health and safety.

Here is another example of her evasiveness. I asked her in writing to explain what rights she was referring to when she said that politicians are handing out new rights like lollipops in a dentist's office. Her full answer to that question was as follows:

> I was merely commenting in general terms and was not specifically criticizing a particular legislative action.

Now, in all fairness, that is a duck and a dodge. She did not answer the question. I asked her whether she agreed with the Federalist Society mission statement, the one I said earlier, about orthodox liberal ideology dominating the legal profession and so forth. She gave me the most evasive answer of any nominee, once again mystified as to what the Federalist Society really means, although she has attended their events.

She said:

> As a judge, I have not had occasion to determine whether the law schools and legal professors are by and large liberal or conservative, and thus do not find myself qualified to offer an opinion on that subject.

She did not answer half the question. My question was about law schools and legal profession and she did not address the legal profession. I can go on, but I tell you this: She was not going to answer questions. We have seen nominees like her before who come before us and defy us to ask questions and to have answers come forward.

There is a legitimate area of inquiry. I can recall when a Republican Member of the Senate Judiciary Committee asked one of President Clinton's nominees to disclose every vote she had cast for a California referendum for or against it in her lifetime. I thought that crossed the line. There is some secrecy in the ballot box and privacy involved, but that was considered a fair range of questions when it came to asking Clinton nominees if they are qualified. When we ask Justice Janice Rogers Brown the most fundamental questions about things she has said publicly, she ducks and dodges.

According to the Washington Post, which has defended many of President Bush's judicial nominees:

> Justice Brown is one of the most unapologetically ideological nominees of either party in many years.

A Los Angeles Times editorial entitled "A Bad Fit for a Key Court," stated:

> In opinions and speeches, Brown has articulated disdainful views of the Constitution and government that are so strong and so far from the mainstream as to raise questions about whether they would control her decisions.

That is from her home-State newspaper.

The New York Times echoed that sentiment and said Brown "has declared war on mainstream legal values that most Americans hold dear."

The Atlantic Journal-Constitution wrote that Brown's views "are far out of the mainstream of accepted legal principles."

The list goes on and on of over 100 organizations, including the Congressional Black Caucus, that oppose Justice Brown.

Dorothy Height recently received the Congressional Gold Medal. She said this about a vote on Justice Brown:

> I cannot stand by and be silent when a jurist with the record of performance of California Supreme Court Justice Janice Rogers Brown is nominated to a federal court, even though she is an African-American woman.

Ms. Height, an African-American women herself, goes on to say:

> In her speeches and decisions, Justice Janice Rogers Brown has articulated positions that weaken the civil rights legislation and progress that I and others have fought so long and hard to achieve.

Stephen Barnett, a University of California-Berkeley constitutional law professor who had endorsed Brown before her hearing and whose support Chairman HATCH specifically mentioned in his opening statement at Justice Brown's hearing, sent a letter to Senator HATCH after the hearing and withdrew his support for Janice Rogers Brown. This is what Professor Barnett, who was once supposed to be a strong advocate for her, wrote to Senator HATCH after her hearing:

> Having read the speeches of Justice Brown that have now been disclosed, and having watched her testimony before the Committee on October 22, I no longer support the nomination.

So you would hear from the Republican side that she is just another routine nominee who is being beaten up on by the Democratic side of the aisle. But when you read through all these comments of people who have observed her in her professional life, those who have followed her, not only fellow judges but those in the legal profession, it is very clear: This is a controversial nominee. She is a person who will bring to the bench something less than the moderation that we look for.

I come from the Democratic side of the aisle. I understand if you are going to put a person on the bench, 9 times out of 10 you should look for a person who is going to try to be moderate and mainstream. What I found is that 10 times out of 10, with very few exceptions, that is exactly what we have ended up with. That is not the case here.

The White House strategy is unfair to Justice Brown and her family, unfair to the Senate, and unfair to those who want to move beyond the environment of political confrontation which has become the hallmark of our efforts. We should not have to go through this knock-down, drag-out over filling these court vacancies. I have said to Chairman HATCH, and I will say again to those listening, there are plenty of good, conservative Republican attorneys and judges who are not so ideologically extreme who could fill these positions. You can find them in Ohio. You can find them in Virginia. You can even find them in Illinois. Why this White House continues to go after some of the most inflammatory, some of the most extreme judges to fill the benches in the highest courts in the land is beyond me.

So when we find, among 218 nominees, 10 who fall into this extreme category, when we say they have gone too far, when we say to the President: You may have 95 percent, but for this other 4 or 5 percent the answer is no—I think we are doing what the Constitution asks us to do: advise and consent.

But the President, of course, says no. I want them all. No dissent, no disagreement—I want every single judge. Strike "advise and consent" and put "consent" in there. That is what this President wants. Maybe that is what every President wanted. But the Congress and Senate in particular in the past have told those Presidents: No. We have the right to ask these questions and to demand the answers. And if we find a nominee wanting, we have the right to reject them, either by extended debate and filibuster or by the majority vote that ultimately that candidate would face if a motion for cloture prevailed.

So in this case, they have decided that rather than hold these nominees to the same standard, they will change the rules of the Senate. That is what the nuclear option is about, changing the rules in the middle of the game, diminishing the constitutional principle of checks and balances, reducing the power of the Senate against the power of the White House and the Presidency, and saying to this President: You may make lifetime appointments of judges without holding them to the same standards that every President's nominees have been held to.

Some time next week—and I pray to God it does not happen—Vice President CHENEY may take that chair, preside over the Senate, and with just a few words sweep away 200 years of tradition. It is an act of arrogance to think that any person would do that without reflecting on the history of this body and its traditions.

It is an abuse of power that this White House has to have more and more power, that 208 judges out of 218 is not enough, that they are going further. They want them all. And they have found too many compliant Republican Senators who have said: Whatever you want, Mr. President. Sign us up.

I sincerely hope the Senate rises to the occasion. I sincerely hope that six Republican Senators will show the courage to speak out for the value of our Constitution and the tradition of the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to support the nomination of Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit.

I believe it is important that the Senate take its responsibility to advise and consent with respect to nominations very seriously. The people who are appointed to the judiciary, as well as to the executive branch of Government, can have an enormous impact on how our Government operates. In many cases, an appointee can make the difference on whether a particular policy or program is effective.

I also believe the Senate should seek to work in a bipartisan manner, particularly with respect to judges. Since I came to the Senate 6 years ago, I have always been open to listen to any concerns that my colleagues across the aisle may have about a nominee.

There has been a great deal said about Priscilla Owen and her nomination to the Fifth Circuit. I have heard the concerns about Justice Owen, but, frankly, I do not see any basis for them. If Justice Owen is not acceptable as a nominee to the U.S. Court of Appeals, we are going to have a hard time filling the vacancies in the court of appeals.

Let's review Justice Owen's record. Justice Owen has a very distinguished and impressive record as a lawyer, community leader, and most recently as a justice on the Texas Supreme Court.

Justice Owen graduated cum laude from Baylor University and cum laude from Baylor Law School in 1977. She was on the Baylor Law Review and earned the highest score on the Texas bar exam in December of 1977.

Justice Owen joined the well-regarded firm of Andrews & Kurth and rose to be a partner by the remarkably young age of 30. Any lawyer in this body has to be impressed with the fact that someone such as Justice Owen could become a partner at the age of 30. She practiced commercial litigation for 17 years.

In 1994, Justice Owen was elected to the Texas Supreme Court, and, in 2000, as has already been noted, she won a second term to the Texas Supreme Court with a vote of 84 percent.

This is a very impressive record.

I am not surprised that the American Bar Association unanimously rated Justice Owen as "well qualified." That is the highest rating the American Bar Association can give to someone seeking a judgeship.

But Justice Owen's legal credentials are not the only reasons I support her nomination. In an age where I believe too many people do not take the time to become active members of their communities, Justice Owen has been a real leader in her community.

She is a member of the board of the Texas Hearing & Service Dogs, and a member of the St. Barnabas Episcopal Mission, where she teaches Sunday school. She helped organize Family Law 2000, which seeks to lessen the adversarial nature of divorce proceedings in her State.

She has been honored as Baylor Young Lawyer of the Year and as a Baylor University Outstanding Young Alumna. She also has been active in helping the poor obtain legal services, as well as other pro bono legal activities.

I think her involvement in her community is important. We need judges who not only have exceptional legal skills, which Justice Owen certainly has, but also who have a perspective about how the law impacts upon individuals and communities.

I have reviewed the letters of support she has received, and I am pleased that she has such broad support from the people who know her best and have worked with her.

I also would like to note that even her opponents in the Senate have said they believe her to be a very good person. Accordingly, I do not see any issues that could raise any questions about whether she should be confirmed. Rather, she is exactly the type of serious, hard-working, and well-respected person who should be nominated to the court of appeals.

Some have said that Justice Owen is an extremist who will be a judicial activist. Again, I see no reason for such conclusions. Reviewing her record, I see a judge who vigorously but carefully sets forth her reasoning in her decisions and is willing to stand up for what she thinks is the correct decision. She is not an activist. She is an excellent judge.

Any good nominee who has been active in thinking and writing about issues is going to have statements in their writings that, if taken out of context, can be made to appear extreme. This is what has happened to Justice Owen. Her opponents—mainly partisan interest groups—have scrutinized her writings, looking for anything that they could make into a sound bite to distort her record. But an examination of her record as a whole reveals that claims that she is extremist are baseless. Justice Owen is a good judge and would and will make a great circuit court judge.

There is no need to filibuster this nominee. Justice Owen deserves an up-or-down vote. The filibustering of Justice Owen reveals just why the constitutional option may be necessary. The filibuster is being abused. If the minority is going to abuse its power to filibuster nominees such as Justice Owen, then the nomination process will break down completely. It is already too long and demanding on nominees and their families and deters excellent candidates from choosing to serve. We have no idea of what a chill this is sending throughout the country to people who we would like to serve on the bench but who say: I don't want to go through that process. It is a shame that such an exceptionally qualified nominee such as Miguel Estrada finally asked that his nomination be withdrawn after being filibustered for 2 years. As I look at what a clearly qualified nominee such as Miguel Estrada and Justice Owen must go through to serve our country, I wonder that the judiciary is not going to be able to attract the talent it needs.

If every nominee must get 60 votes, it is clear that many posts simply will not be filled. In addition, if we require 60 votes to confirm nominees, we are only going to see nominees who have no paper trails or records of achievement, who have done little, if any, scholarly work, and who avoid public or judicial controversies. I don't want extremists on the bench, but I also don't want bland nominees who have never had to make difficult decisions.

Comparing the Senate now to the Senate prior to the 108th Congress when filibustering of judicial nominations first occurred, I have to say that I think the old system was a lot better than what we saw in the 108th Congress. Under that system, a nominee who had the support of a majority of Senators, who was reported out of the Judiciary Committee, would get an up-or-down vote after review of the nominee's record and a robust debate. That was the fair way to proceed. It has been that way many times. It has been that way, as a matter of fact, for 214 years. No judicial nominee sent to the Senate floor who had the support of a majority of Senators was denied an up-or-down vote. There were no judicial filibusters. Thus, I do not consider the constitutional option as a change in the rules but a restoration of a Senate tradition, the tradition that filibusters do not apply to judicial nominees.

My colleagues on this side of the aisle, including myself, had many opportunities to filibuster judicial nominees during the Clinton years as well as during the decades it spent in the minority. Just think about how long the Republican Party was in the minority—from 1954 to 1980. All during that time, they never used a filibuster to stop a judge who was nominated. They insisted that there be an up-or-down vote. This was the courtesy that was extended to the other party. It helped make sure that the judicial nomination process worked smoothly and fairly. I wish the present minority would extend the same courtesy now.

I also believe the ongoing abuse of the filibuster is preventing the Senate from addressing other, often more pressing business, such as passing an energy bill, addressing asbestos litigation, and other issues. I can recall in the 108th Congress hour after hour after hour after hour, staying here late at night, working on these judicial nominees when, in my opinion, we should have been doing the other work of the Senate that was important to the people of our country.

The minority has repeatedly claimed that President Bush has had 95 percent or so of his nominees confirmed. Yet we all know this statistic is a smokescreen. The real issue here is the appointment of circuit court judges, and the minority has successfully prevented the confirmation of about a third of President Bush's nominations. President Bush has the lowest confirmation rate of circuit court judges of any President going back as far as President Roosevelt. I think the statistics show that the real issue here is not that any of these judges is extreme but that there is an active campaign to use the filibuster to prevent President Bush from appointing circuit court judges.

It is the President's job to nominate judges, and it is the Senate's job to advise and consent. It is time the Senate started doing its job and voted on these nominees. If a Senator doesn't like the nominee, that Senator should vote against the nominee. If someone doesn't like Justice Owen, vote against her, don't filibuster her and deny your colleagues an up-or-down vote. I want to vote on these nominees.

There have been nominees in the past and some currently and some from my own party who I did not support. But I never filibustered them, even during the Clinton years. I can remember in our conference meetings talking about judges and some of my colleagues getting up and saying at those meetings: Let's filibuster this judge. We can't allow that judge to go forward. That judge is going to be bad for the district court to which they are being nominated. I can remember ORRIN HATCH saying: We can't do that because if we start to do this, God only knows where we are going.

Last time around, my colleagues on the other side of the aisle started a new tradition. It is not a good tradition for the Senate. It is not a good tradition for the people of the United States of America. I believe both the President and my fellow Senators, as well as this country, deserve the courtesy of an up-or-down vote on nominees.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise to speak on this matter of judges. I was presiding the last hour and a half or so listening to some of my colleagues speak. I associate myself with the remarks of the Senator from Ohio. But I was listening to my colleagues from New Jersey and Illinois, Senator CORZINE and Senator DURBIN.

I heard the Senator from New Jersey talking about the rights of minorities. The Senate does care about the rights of the minority. When one talks about the rights of the minority, one normally talks about ways to enhance civil rights, to make sure there is equal opportunity—that there is due process of law.

Sadly, the Democrats have changed the rules. They changed 214 years of practice, which was that when a President nominated a particular person for a judicial vacancy, the Judiciary Committee would examine that individual very closely, as to their scholarship, their temperament, their judicial philosophy, and ultimately if they passed muster, that person would come to the Senate floor. Senators, for 214 years, would vote to confirm or deny confirmation to that particular nominee. That changed just 3 years ago.

What is being suggested by Senator CORZINE and others on the other side is that a minority of only 41 Senators should be able to deny a well-qualified nominee the fairness and the due process of an up-or-down vote on the Senate floor.

These individuals are well qualified, but they are denied the opportunity of an up-or-down vote. These individuals, as Senator VOINOVICH said, go through a gauntlet. And when one of these nominees goes through the gauntlet, that doesn't last just months. It has been lasting for 1, 2, 3, and, in the case of Priscilla Owen, 4 years. Once you get through that gauntlet, you may be bruised and you may have some aspersions made about you and statements taken out of the record and opinions criticized and scrutinized and all the rest.

At the end of the day, when a majority of the Senators are in favor of that individual and they have come out of the Judiciary Committee, they ought to be accorded the fairness, the decency, the due process of an up-or-down vote.

Another statement that was made is that the Senate is to protect minority interests. Well, if one would actually read the Constitution and read the documents and the debates on the Senate, why the Senate was created the way it is and compare that to the way the House of Representatives is, one would find that the Senate is to protect the interests of the people in the States. The Senate is not representative of the population of the country, as is the House.

In fact, the Senate was to serve, in many respects, as a safeguard of State prerogatives. So when the Senator from New Jersey says the Senate is created to protect minority rights, it is to protect the right of the States. Let's recall that it was the people in the States who created the Federal Government. Note the name of our country: The United States of America. In fact, the rights of the States were so closely guarded that State legislators actually selected Senators for most of the history of this country rather than the people. Let's get those facts straight.

All of this sort of talk and background noise is trying to avoid the point that the Democrats' partisan obstruction of the President's nominees is unprecedented. We are trying to get back to the precedent we had for 214 years before they changed it. It is an issue of fairness. It is an issue for me as a Senator from the Commonwealth of Virginia, the State of James Madison, one of the key authors of our Constitution. It is my constitutional duty to advise and consent. What 41 Senators are trying to do is take away my responsibility to the citizens of the Commonwealth of Virginia. I see nothing wrong with voting yes or no.

Now, also in the midst of this flailing and background noise, from time to time, we have heard from the senior Senator from Illinois, casting aspersions on an organization called the Federalist Society, saying because Justice Owen of Texas was a member of the Federalist Society, and that many of President Bush's nominees for the Federal courts were in the Federalist Society, he wondered what this society was all about.

Well, after listening, I had my crack staff get on the Internet and get me the background on the Federalist Society. Let me share this with my colleagues regarding what is called the Federalist Society for Law and Public Policy Studies. Here is their background:

Founded in 1982, the Federalist Society for Law and Public Policy Studies is a group of conservatives and libertarians dedicated to reforming the current legal order. We are committed to the principles that the State exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. The Society seeks to promote awareness of these principles and to further their application through its activities.

It goes through its mission and says the purpose of the society is unique. They have legal experts of opposing views to interact with members of the legal profession, the judiciary, law students, academics, and the architects of public policy. They talk about appreciation of the role of separation of powers: federalism: limited constitutional Government: and the rule of law protecting individual freedom and traditional values. Overall, the Society's efforts are improving our present and future leaders' understanding of the principles underlying American law. They have a student division, and the student division has more than 5,000 law students at approximately 180 ABA-accredited law schools, including all of the top twenty law schools.

They have a lawyers' division comprised of over 20,000 legal professionals and others interested in current intellectual and practical development in the law.

I urge my colleague from Illinois to recognize that they have chapters in 60 cities, including Washington, DC; New York; Boston; Chicago; Los Angeles; Milwaukee; San Francisco; Denver; Atlanta: Houston; Pittsburgh; Seattle; Indianapolis, and others. They have a faculty division and more.

I ask unanimous consent that this statement of the background of the Federalist Society be printed in the RECORD before anybody else mischaracterizes the purpose and salutary goals and mission of the Federalist Society.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Federalist Society for Law and Public Policy Studies]

OUR BACKGROUND

Founded in 1982, the Federalist Society for Law and Public Policy Studies is a group of conservatives and libertarians dedicated to reforming the current legal order. We are committed to the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. The Society seeks to promote awareness of these principles and to further their application through its activities.

In its mission and purpose, the Federalist Society is unique. By providing a forum for legal experts of opposing views to interact with members of the legal profession, the judiciary, law students, academics, and the architects of public policy, the Society has redefined the terms of legal debate. Our expansion in membership, chapters, and program activity has been matched by the rapid growth of the Society's reputation and the quality and influence of our events. We have fostered a greater appreciation for the role of separation of powers: federalism; limited, constitutional government; and the rule of law in protecting individual freedom and traditional values. Overall, the Society's efforts are improving our present and future leaders' understanding of the principles underlying American law.

The Society is a membership organization that features a Student Division, a Lawyers Division, and a newly-established Faculty Division. The Student Division includes more than 5,000 law students at approximately 180 ABA-accredited law schools, including all of the top twenty law schools. The national office provides speakers and other assistance to the chapters in organizing their lectures, debates, and educational activities.

The Lawyers Division is comprised of over 20,000 legal professionals and others interested in current intellectual and practical developments in the law. It has active chapters in sixty cities, including Washington, D.C., New York, Boston, Chicago, Los Angeles, Milwaukee, San Francisco, Denver, Atlanta, Houston, Pittsburgh, Seattle, and Indianapolis. Activities include the annual National Lawyers Convention, a Speakers Bureau for organizing lectures and debates, and 15 Practice Groups.

The Federalist Society established its Faculty Division in early 1999 with a conference that was attended by many of the rising stars in the legal academy. The objective of the Faculty Division is to provide events and other tools to help encourage constructive academic discourse. This encouragement will help foster the growth and development of rigorous traditional legal scholarship.

Finally, the Federalist Society provides opportunities for effective participation in the public policy process. The Society's ongoing programs encourage our members to involve themselves more actively in local, state-wide, and national affairs and to contribute more productively to their communities.

Mr. ALLEN. Mr. President, the Senator from Illinois went on further to chastise and criticize the statements that he said were contradictory statements of Senator FRIST in a filibuster, as he characterized it, in the year 2000.

Now, if the senior Senator from Illinois, Senator DURBIN, wants to point to prior inconsistent statements, let me refresh his memory. This is what Senator DURBIN said on September 28, 1998:

> I think that responsibility requires us to act in a timely fashion on nominees sent before us. The reason I oppose cloture is I would like to see that the Senate shall also be held to the responsibility of acting in a timely fashion. If, after 150 days languishing in a committee there is no report on an individual, the name should come to the floor. If, after 150 days languishing on the Executive Calendar that name has not been called for a vote, it should be. Vote the person up or down. They are qualified or they are not.

Those are good words from the senior Senator from Illinois in 1998. Those are the principles we are advocating now. These nominees have not been held up for just 150 days. These nominees—Priscilla Owen, Janice Rogers Brown, and others have been held up for months and years, and in Justice Owen's case, four years.

Then we heard from the senior Senator from Illinois, after saying that we ought to watch our words, he called the Republicans dogs, more specifically, cocker spaniels. This was all because we vote for President Bush's nominees for judges. So we are like dogs, cocker spaniels. Let me be like an Australian shepherd and herd in the Democrats for the last few days who have been popping up like prairie dogs. We have heard this charge from others, including Senator KENNEDY, Senator MURRAY, Senator SCHUMER, Senator DORGAN, and Senator DURBIN, who just recently made this unsubstantiated accusation that, we just vote for all these nominations and nobody votes against any of President Bush's judicial nominees.

The truth is, all of these Senators—Senators KENNEDY, MURRAY, SCHUMER, DORGAN, and DURBIN when it came to a straight up-or-down vote on all of President Clinton's judicial nominees, whether they were for district court, circuit court of appeals, or Supreme Court, never cast a dissenting vote—not even once. That is a lot of affirmative votes, if you ask me, for 8 years of President Clinton's nominees.

Then I scoured around like a German shorthair, and let me point out what I found out from Senator KENNEDY on straight up-or-down votes, not only on President Clinton's nominees, but on President Carter's judicial nominees. Senator KENNEDY didn't even cast a dissenting vote on any of those nominees. To be calling Republicans "lap dogs," "rubberstamps," and so forth—I don't think so.

Unlike Senator DURBIN, we are not going to call the Democrats dogs or cocker spaniels. I think we are lucky dogs that President Bush has examined some outstanding nominees from coast to coast, outstanding men and women who are willing to serve at the circuit court level, which is a very important level of appeals in this country. He has nominated well-qualified nominees for the circuit court, such as Miguel Estrada.

When you talk about qualifications, Miguel Estrada received the highest possible rating unanimously from the American Bar Association and although we had, on five or six occasions, 55, 56 votes, he was denied the opportunity of a fair up-or-down vote. Finally, his life could not continue in such limbo and he withdrew his nomination.

Priscilla Owen, a justice of the Supreme Court of Texas, another outstanding nomination from President Bush, the person we are actually debating right now, received the highest level of endorsement from the American Bar Association, a unanimous, well-qualified. Justice Owen was elected to the Supreme Court of Texas in

1994 and was reelected with 84 percent of the vote in Texas in the year 2000. This is a person well qualified, well respected in her State.

Janice Rogers Brown, another great American life story of someone who is the daughter of a sharecropper in segregated Alabama, moved to California, ended up being the first African American on the Supreme Court of California, the largest State in our Nation. She is one who has been characterized as a brilliant and fair jurist who is committed to the rule of law. The Chief Justice of the California Supreme Court called on her to write the majority opinion more times in 2001 and 2002 than any other justice of the supreme court.

In California, judges are elected rather than appointed and in the most recent election, Justice Brown received 76 percent of the vote, which was the largest margin of any of the four justices up for retention that year in California, which is not a strong red State. In fact, it is kind of a pale-blue State. Nonetheless, she received 76 percent of the vote in California.

This individual, Janice Rogers Brown, is having to go through these sort of accusations against her. She is well respected, and she is certainly within the mainstream.

I hope these rebuttals will shed some light on the reality of what is going on here. What we are simply trying to do is accord these nominees the fairness of an up-or-down vote. People in the real world probably do not understand this process. They do not understand why a nominee who has majority support cannot be accorded the fairness of a vote. The people of America understand courtesy, and they understand due process. They understand the bump and run and activity that one will have and statements that might be made, and you can have some fun talking about dogs, and so forth.

But ultimately, once you go through all the histrionics, aspersions, characterizations, rebuttals, and setting the record straight, ultimately what we ought to do as Senators is our job and our duty. This is what the people of America in our respective States have asked us to do. I really do not think it is too much for us to get off our haunches, show some spine, show some backbone, vote yes, vote no on these nominees, and then you can explain to your constituents back in New Jersey or Illinois or South Dakota or Virginia why you voted the way you did.

What we need to do is truly take the politics out of this process. It is harmful that this has become so politicized in the last several years. It is an issue I know is very important to the American people. They recognize President Bush has a philosophy—and it is one that I share—that judges ought to apply the law, not invent the law, and that he has found and sought out men and women of diverse background to bring their experiences, but also their fundamental belief of what the proper role of a judge should be, and that is to listen to the evidence, apply the facts to the law as written by the legislative branch in our representative democracy, and make that ruling.

These nominees are well qualified. They have gone through a lot. They are individuals. These are not just pieces of paper that you just crumble up and throw aside. These are human beings, and they should not be treated this way.

If we are going to be able to attract quality men and women in the future to our Federal judgeships and Federal appointments, many giving up lives where they can make more money, certainly have less controversy, they ought not to be treated like a sheet of paper. They are human beings. Let's have our debates, have the arguments, make a judgment, and ultimately vote "yes" or vote "no."

That is what I think the American people expect out of the Senate, and it is a shame we are having to spend as much time as we are on this, but it is an important principle. It is due process, it is fairness, and it is the rule of law.

I thank my colleagues. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ALLEN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL POLICE WEEK 2005

Ms. MURKOWSKI. Shortly after noon on Wednesday May 11, I was presiding over the Senate when the entire Capitol complex was evacuated in response to the threat of an airplane in restricted airspace. The officers of the United States Capitol Police reacted quickly and evacuated the Capitol in record time, moving my colleagues, our staffs, the press corps and our visitors to safe locations.

I cannot say enough about the men and women of our United States Capitol Police. One of their slogans, "You elect them . . . we protect them," accurately describes the mission of this highly professional force which was formed in 1828. That mission, simply stated, is to protect democracy's greatest symbol, the United States Capitol, the people who work here, and its owners, the American people, who visit our offices.

When the Senate returned to its work, our leaders took the floor to express our collective appreciation to the U.S. Capitol Police. Senator REID closed his statement with these touching words, "Every day, we see them standing around doors, and they don't appear to be working real hard, but it is on days such as this that they earn their pay over and over again." Senator REID would know something about this because of all of the things on his rather impressive resume, I understand that he is proudest of his service as a member of the U.S. Capitol Police.

It is no small irony that the skills of our U.S. Capitol Police Officers would be put to the test at the very moment that surviving family members of fallen police officers from around the Nation were arriving in Washington, DC, for the annual candlelight vigil at the National Law Enforcement Officers Memorial and then for Peace Officers Memorial Day services at the west front of the Capitol.

At this time of year, it is appropriate not only to reflect on the professionalism of today's U.S. Capitol Police Officers, but also on three who have fallen in the line of duty. I am referring to Jacob John Chestnut, who was fatally shot while tending one of those checkpoints that Senator REID referred to, by an armed assailant intent upon entering the Capitol. I am also referring to John M. Gibson who was fatally shot by the same individual while protecting the life of one of our colleagues from that assailant.

And let us also not forget Christopher Eney, a U.S. Capitol Police Officer who gave his life while participating in a training exercise in 1984. I understand that he was participating in the type of intense training that would have proven very helpful on Wednesday, May 11. Their names are all inscribed on the National Law Enforcement Officers' Memorial on Judiciary Square. The headquarters of the U.S. Capitol Police is named in the honor of each of them.

This is the third consecutive year that I have spoken in honor of the men and women in law enforcement who have lost their lives in the line of duty. This year, the names of 415 law enforcement officers have been inscribed on the memorial; 153 of these brave men and women lost their lives in 2004. The remainder lost their lives in other years—some generations before the memorial was created.

In 2004 Alaska did not lose a law enforcement officer in the line of duty. This year, no Alaskans have been added to the National Law Enforcement Officers Memorial and for this we are grateful.

During National Police Week we are reminded that the 17,000 people whose names are engraved on the Law Enforcement Officers Memorial were heroes not for the way they died but for the way they lived. It was Vivian Eney, the surviving spouse of U.S. Capitol Police Officer Christopher Eney, who coined that phrase.

For 51 weeks a year the stories behind those 17,000 names are known to family members and law enforcement colleagues. But during National Police Week the memorial comes alive as surviving family members and department colleagues decorate the memorial with shoulder patches, photographs, stories and poems. Ultimately this material will be available to the public 365 days a year at a museum that the Congress authorized to be constructed on Federal land in 2000.

The museum will be developed, constructed, owned and operated by the National Law Enforcement Officers Memorial Fund—the same nonprofit organization that built and now oversees the National Law Enforcement Officers Memorial. Construction is expected to commence in 2007 and the opening is slated for 2009.

The museum will replace a one room memorial visitor center in the storefront of a downtown office building and will educate millions of visitors about the tremendous contributions our law enforcement officers have made throughout our Nation's history. It is a worthy addition to the memorial and a project worthy of support by our colleagues and the Nation.

During the annual Police Week observance thousands of survivors of fallen law enforcement officers return to Washington, D.C., for the annual conference of the support group Concerns of Police Survivors. I was proud to welcome to my office the surviving family members of Kenai Police Department Officer John Patrick Watson whose name was inscribed on the National Law Enforcement Officers Memorial in 2004.

Laurie Heck Huckeba, the widow of fallen Alaska State Trooper Bruce Heck, who gave his life on January 10, 1997, has returned to our Nation's Capital in her role as Pacific Region Trustee of Concerns of Police Survivors. She could not come to Capitol Hill to visit with me because she was busy conducting orientation sessions for the survivors of fallen law enforcement officers who are attending the Concerns of Police Survivors meetings in Alexandria, VA for the first time. It was not so long ago that Laurie was attending her first survivors' conference and now she is helping other survivors rebuild their lives. Laurie was raised in Glennallen, AK. Although Laurie has relocated from Alaska to the Bakersfield, CA area, it is clear to me that the Alaskan spirit of giving and sharing still burns strong within her. Thank you, Laurie.

Mayor Steve Thompson of the City of Fairbanks has sent a wreath to be displayed at the National Law Enforcement Officers Memorial in memory of Patrol Officer John Kevin Lamm who gave his life on January 1, 1998. Thank you, Mayor Thompson.

The names of 42 Alaskans appear on the National Law Enforcement Officers Memorial. During National Police Week, which officially begins on May 15 and concludes on May 21 we will reflect on the contributions of each of these heroes here in Washington and in ceremonies in my State of Alaska.

To their colleagues in law enforcement and to the surviving members of these 41 Alaskans and to the family, friends and colleagues of the 17,000 men and women whose names appear on the National Law Enforcement Officers Memorial, let us remember during this National Police Week that "Heroes Live Forever."

In valor there is hope.

I ask unanimous consent that the names of these 42 individuals, their agencies and the date upon which each of their watches ended be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALASKANS INSCRIBED ON THE NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

Richard J. Adair, Juneau Police Department, August 17, 1979

Doris Wayne Barber, Sitka Police Department, July 28, 1960

Gordon Brewster Bartell, Kodiak Police Department, January 15, 1983

Robert Lee Bittick, Alaska State Troopers, October 11, 1994

Leroy Garvin Bohuslov, Alaska Dept. of Fish and Game, March 5, 1964

Larry Robert Carr, Alaska State Troopers, December 11, 1974

Ignatius John Charlie, Alakanuk Police Department, May 10, 1985

Roland Edgar Chevalier, Jr., Alaska State Troopers, April 3, 1982

Dennis Finbar Cronin, Alaska State Troopers, February 18, 1974

Thomas Clifford Dillon, Bethel Police Department, November 19, 1972

Donald Thomas Dull, Juneau Police Department, October 19, 1964

Troy Lynn Duncan, Alaska State Troopers, May 19, 1984

Johnathan Paul Flora, Anchorage Police Department, September 8, 1975

Harry Biddington Hanson, Jr., Anchorage Police Department, July 17, 1986

Bruce A. Heck, Alaska State Troopers, January 10, 1997

James C. Hesterberg, Alaska Department of Corrections, November 19, 2002

Earl Ray Hoggard, Ketchikan Police Department, March 30, 1974

Anthony Crawford Jones, Dillingham Police Department, February 12, 1992

Harry C. Kavanaugh, Anchorage Police Department, January 3, 1924

Jimmy Earl Kennedy, Juneau Police Department, April 17, 1979

Harry Edward Kier, Anchorage Police Department, October 28, 1980

John Kevin Lamm, Fairbanks Police Department, January 1, 1998

Richard I. Luht, Jr. Internal Revenue Service, January 31, 1999

Alvin G. Miller, Fairbanks Police Department, November 2, 1908

Louie Gordon Mizelle, Anchorage Police Department, June 6, 1989

James A. Moen, Alaska Fish and Wildlife Protection, June 25, 2001

Kenneth G. Nauska, Craig Police Department, January 30, 1966

Thomas P. O'Hara, National Park Service, December 20, 2002

Karl William Reishus, Juneau Police Department, May 4, 1992

Frank Stuart Rodman, Alaska State Troopers, December 11, 1974

Hans-Peter L. Roelle, Alaska State Troopers, November 24, 2001

James Arland Rowland, Jr., Palmer Police Department, May 15, 1999

Dan Richard Seely, Anchorage Police Department, October 26, 1996

John David Stimson, Alaska Fish and Wildlife Protection, January 14, 1983

Benjamin Franklin Strong, Anchorage Police Department, January 4, 1968

John J. Sturgus, Anchorage Police Department, February 20, 1921

Claude Everett Swackhammer, Alaska Department of Public Safety, October 11, 1994

John Patrick Watson, Kenai Police Department, December 25, 2003

Charles H. Wiley, Seward Police Department, October 4, 1917

Gary George Wohfeil, Alaska Dept. of Fish and Game, March 5, 1964

Justin Todd Wollam, Anchorage Police Department, July 9, 2001

Ronald Eugene Zimin, South Nannek Village Public Safety Officer, October 21, 1986

Ms. CANTWELL. Mr. President, I rise today to say a few words in honor of our country's many dedicated law enforcement officers, and to thank them for their ongoing efforts to keep our families and communities safe. As my colleagues know, May 15 is National Peace Officers Memorial Day, and the week that follows marks National Police Week. Throughout this week, the United States honors the courage, devotion, and sacrifice of law enforcement officers from across the Nation, and recognizes their invaluable contributions to the well-being of our country.

First observed in 1962, National Police Week also provides us with an important opportunity to remember those we have lost in the line of duty. One hundred and fifty-three law enforcement officers lost their lives while serving in 2004, including three from my home State. Last month, their names were added to the National Law Enforcement Officers Memorial, offering a stark reminder of the sacrifice all law enforcement personnel stand prepared to make to protect the citizens they serve.

Sadly, Senior Boarder Patrol Agent Jeremy Wilson of Ferndale, Officer James G. Lewis of the Tacoma Police Department, and Sergeant Brad Crawford of the Clark County Sheriff's Department all lost their lives in the line of duty during 2004. The outpouring of community support that accompanied each loss underscores the immense appreciation and compassion felt by Americans for those ready to help in a time of need. I would like to join with my fellow Washingtonians and take a moment to pay tribute to Agent Wilson, Officer Lewis, and Sergeant Crawford for their generous spirit and tireless devotion to duty. By sharing a little bit about each of these officers with you, I hope to help honor their sacrifice.

Currently, there are over 10,000 Federal law enforcement officers deployed along our country's borders. The deserts, wilderness, and rivers that line many of our Nation's edges often present these agents with extreme and trying conditions that can sometimes lead to tragedy. On Sunday, September 19, 2004, Senior Border Patrol Agent Jeremy Wilson fell overboard during a patrol on the Rio Grande near Los Indios, TX. Soon after, the patrol boat capsized, sending the boat's captain and another officer, Agent Travis Attaway, into the turbulent, storm-fed river. A second border patrol boat was able to rescue the boat's captain, but Agents Wilson and Attaway were lost. Agent Wilson, a third generation Border Patrol Agent from Ferndale, WA, was 29 years old. His passing leaves a reminder of the dangers faced by officers who spend each day navigating extreme conditions on our Nation's frontiers.

Often, the randomness and chance surrounding a loss of life makes the event difficult to understand. Routine actions, preformed hundreds of times, can, without warning, end tragically. On Tuesday, April 27, 2004, Officer James G. Lewis, a 19-year veteran of Tacoma Police Department, lost his life when his motorcycle collided with a car that pulled in front of him as he rushed to help a fellow officer who had requested back-up. Officer Lewis was 45 years old. He was a member of Tacoma Pierce County Search & Rescue, and had served as a police officer in the Marine Corps. He is survived by his wife and son. He will be remembered for his willingness to help others and his readiness to put their needs before his own.

While our Nation's police officers spend each day working to limit violence, a call for help can sometimes lead to an outbreak of what law enforcement works so hard to prevent. On Friday, July 30, 2004, Sergeant Brad Crawford of the Clark County Sheriff's Department was killed when his patrol car was intentionally rammed by a truck fleeing the scene of a standoff. Sergeant Crawford was 49 years old. He had served as a law enforcement officer for over two decades and had been with the Clark County Sheriff's Department for 8 years. He is survived by his wife, five children, and three grandchildren.

The untimely and unnecessary loss of Agent Wilson, Officer Lewis, and Sergeant Crawford reminds us of the immense challenges that law enforcement officers face on a daily basis. They will each be remembered for their dedication and their desire to serve and help others. Our thoughts and prayers are with their families during this difficult time.

National Police week is a time to remember those we have lost and thank those who continue to serve. However, our gratitude extends far beyond this one week. Local, State, and Federal law enforcement stand ready at every hour, and their unending courage and sense of duty represents the very best of America. On behalf of the citizens of Washington State, I offer my thanks to the men and women who wake up every day, put on a uniform, and set out to make our country an even better place.

ADDITIONAL STATEMENTS

HONORING THE CAREER OF ARLO LEVISEN

● Mr. JOHNSON. Mr. President, I rise today to publicly honor the career of Mr. Arlo Levisen, superintendent of the Grant-Duel School District. After 15 years of dedicated service as Grant-Duel's top administrator, Arlo is retiring.

A native of Milbank, SD and son of a farmer and 40-year Grant County educator, Arlo graduated in 1962 from South Shore High School. He then went on to receive his Bachelor of Science degree from Aberdeen's Northern State College in 1967, graduating with a degree in elementary education and history.

Throughout the latter portion of the 1960s, Arlo taught at and was principal of various schools throughout South Dakota, including Yankton, Pine Ridge, Kyle, Lyman, and Deubrook School District. These diverse educational experiences allowed Arlo to understand and appreciate the various learning environments South Dakota has to offer.

In 1979, in addition to his position as principal of Lyman School District's elementary and junior high schools, Arlo took on the responsibility of serving as commodity supervisor of the South Dakota Department of Education's Child and Adult Nutrition Services. There he was responsible for annually purchasing 22 million pounds of USDA commodities and distributing them to 600 South Dakota institutions and reservations.

In 1984, Arlo became principal of the Pierre Indian Learning Center, a boarding school created solely for the purpose of educating Indian children with a history of behavioral disorders. As head of the learning center, Arlo oversaw 185 students ranging from first through eighth grades, as well as 40 staff members.

Following his time at the Pierre Indian Learning Center, Arlo accepted the position as superintendent of the Grant-Duel School District, where he has remained for the last decade and a half. Throughout his tenure at Grant-Duel, Arlo has enhanced the lives of countless students by broadening their educational opportunities. For instance, he was instrumental in opening Watertown High School's classes to Grant-Duel students, thus enabling his students to experience all that a larger school district has to offer. As a result of this initiative, Grand-Duel students are often better prepared and able to adjust quickly to the enormous campus life that many encounter in college.

Additionally, Arlo played a vital role in establishing the Minnesota Border Schools Coalition, an association created to discuss and implement South Dakota and Minnesota's open enrollment policy. Not only is Arlo the current president of the organization, but under his leadership and direction, Grant-Duel School was the first school to accept a Minnesota student.

Throughout the years, thousands of students have benefited from Arlo's commitment to educational excellence, as have his colleagues. In 1991, Arlo helped establish and chair The South Dakota School Group Insurance Pool, a health insurance pool created to make affordable health insurance available to Grant-Duel faculty.

In addition to the hours he puts in as superintendent of the Grant-Duel School District, Arlo is vice-chairman of the board of directors for Pierre Odyssey World, Inc., he is a member of Capital City Bass Bandits, a volunteer advisor to the U.S. Forest Service, a member of the High Plains Wildlife Federation, and county chairman of the Hughes County Democratic Party.

The lives of countless people have been enormously enhanced by Arlo's talent and leadership as superintendent of the Grant-Duel School District. The State of South Dakota is a better place because of his commitment to and passion for academic excellence; his achievement will serve as a model for other talented educators and administrators throughout our State to emulate. On the occasion of his retirement, I congratulate Arlo for his tireless commitment to quality education in South Dakota, and I wish him and his family the very best.●

CONGRATULATING THE TEAM INDIANA OUTLAWS

● Mr. LUGAR. Mr. President, I wish to inform my colleagues of the remarkable feat reached by a dedicated group of young women from my home State of Indiana, qualification for the 2005 USA Junior Olympic Girl's Volleyball Championships.

The Team Indiana Outlaws, consisting of nine young women well coached by Larry Leonhardt and Erika Dobrota, will represent the State of Indiana and their Team Indiana

Volleyball Club in the 13 and Under Division of the 26th Annual USA Junior Olympic Girl's Volleyball Championships held this year in Salt Lake City, Utah. From June 29, 2005 through July 3, 2005, the Team Indiana Outlaws will compete against a number of other national teams who have likewise qualified for this tournament.

I commend these nine young women for their hard work and discipline that culminated in their qualification for competition against equally dedicated national opponents. I am additionally pleased that their tutelage came at the hands of two fine Hoosiers, Coaches Leonhardt and Dobrota, who have been mainstays in the Indiana volleyball community for a number of years. I am confident that the Team Indiana Outlaws will not only play with distinguished efforts, but also demonstrate the good sportsmanship that is prevalent in Indiana athletics.

The names of the Team Indiana Outlaws are as follows: Coaches: Larry Leonhardt, Erika Dobrota; players: Sammi Deer, Shelby Hiltunen, Megan Neher, Alli Norris, Lauren Rafdal, Emily Reber, Lucy Reser, Kasey Ruppe, and Allison Snyder.•

HONORING GEORGE REDMAN

• Mr. CHAFEE. Mr. President, today I wish to pay tribute to George Redman of East Providence, RI. The Greenways Alliance of Rhode Island, the Ocean State Bike Path Association, and the Narragansett Bay Wheelman are honoring George tonight for his "Spirit, Dedication and Commitment to Rhode Island Greenways."

George is an active neighborhood volunteer, an avid bicyclist, an amateur genealogist, historian, and sailor. His extraordinary service during World War II aboard the USS *Mississippi* began a career of service to his community and country.

He has dedicated much of his life to the revitalization of the East Providence waterfront, beginning with a shoreline cleanup that he organized as an Assistant Master of a Boy Scout troop. His efforts continued with his work as chairman of the Fort Hill Waterfront Park Committee, the East Providence Beautification Committee, the East Providence Shoreline Committee, and the Narragansett Bay Commission Advisory Council.

I would especially like to commend George for his vital role advocating for the East Bay Bike Path. This 14-mile trail, built on an abandoned railway connecting East Providence to the coastal towns of Barrington, Warren, and Bristol, has been hailed as a national example of the benefits of recreational trails. In the early 1980s, George headed a petition effort that received more than 4,200 signatures and spurred the Rhode Island Department of Transportation to complete the path in 1992. His bike path advocacy has earned him recognition in the Christian Science Monitor, the Providence Journal, Rails to Trails Magazine, and other local media outlets covering bike path and waterfront-related issues.

Active for many years in local politics, George was elected a delegate to the 1986 Rhode Island Constitutional Convention. He has received numerous letters of appreciation and recognition from past Governors and Federal, State, and local officials. It was my privilege to take a bike ride with George last August on the newly constructed Washington Secondary Bike Path that runs from Cranston to Coventry, RI. As I said at the time, if the East Bay Bike Path had not been built, there would not have been the momentum to go forward with other trails.

George has been married for 53 years to his wife, Adeline, and they have two children, Paul and Mary, and three grandchildren.

George Redman's success in pushing for the East Bay Bike Path affirms the notion that members of grassroots organizations can partner with state and federal agencies to improve the quality of life in their communities. I am delighted to join in recognizing his achievements, and his passion for the environment and public recreation.•

ALICE YARISH: IN MEMORIAM

• Mrs. BOXER. Mr. President, I rise to honor and share with my colleagues the memory of a very special woman, Alice Yarish of Marin County, who died May 9, 2005. She was 96 years old.

Alice Yarish was an award-winning reporter and the Grande Dame of Marin journalism. I knew her during the 11 years she worked for the Pacific Sun, exposing political scandals and pushing for prison reform.

During her years as a journalist in Marin, Alice demonstrated personal courage and a strong commitment to social justice. Alice is most well known for her relentless coverage of prison reform and she continued to fight for prisoner rights and prison reform until her retirement from the Pacific Sun in 1981.

She went on to write her autobiography, "Growing Old Disgracefully: Adventures of a Maverick Reporter."

Alice was born in Goldfield, NV, where her father was a judge and her mother was one of the first women lawyers in the State. Her family moved to Redondo Beach, CA when she was still young. After graduating from high school, Redondo Beach is where Alice began her long and passionate career as a journalist.

Alice worked for the Los Angeles Express when she interviewed First Lady Eleanor Roosevelt. Out enjoying a bicycle ride wearing shorts and a sweatshirt, Alice spotted Mrs. Roosevelt entering a beachfront hotel and ran after her to request an interview. She was granted the interview, which shocked and amazed her editors.

After her stint at the Los Angeles Express, Alice left journalism to attend college and law school at the University of Southern California. Financial problems during the Depression led her to leave law school early, and she took a job as a social worker with the Emergency Relief Administration. She left this job when she married career military man, Peter Yarish, and moved with him to Hamilton Air Force Base in Novato.

Alice raised four children and returned to journalism when she was 42 years old. She wrote for the Marin Independent Journal, the Novato Advance, the Santa Rosa Press Democrat and the San Francisco Examiner. But it was at the Pacific Sun where she really made a name for herself as a unique, outspoken woman journalist.

Those who knew Alice viewed her as a sharp and witty reporter with a tremendous sense of curiosity. She took pride in uncovering injustice at every level of government. She stood out as a passionate watchdog with an incredible capacity for building friendships throughout the local community. Alice was deeply-respected by fellow journalists, editors and elected officials. She will be deeply missed.

Alice is survived by her four children, Tim Yarish of Sausalito, Thomas Yarish of Mill Valley, Anthony Yarish of Cotati, and Robin Ell of Portland, OR. She is also survived by seven grandchildren and three great grandchildren.•

TRIBUTE TO GREGORY PRINCE

• Mr. KENNEDY. Mr. President, this month Hampshire College in Amherst, MA says goodbye to Greg Prince, who has served so impressively as its President since 1989. Dr. Prince came to Hampshire after a distinguished academic career as a professor of history and administrator at Dartmouth College, and he has spent the past 16 years building a strong record for Hampshire.

Hampshire is a young college founded in 1970 as a model of interdisciplinary education without conventional grades. Its unique college setting promotes independent thought and activism on public policy, while at the same time participating in a five college consortium with traditional colleges Smith, Mount Holyoke, Amherst and the University of Massachusetts.

Greg Prince is a president who believes in wide-ranging discussion, and so Hampshire students are encouraged to be active participants in the dialogue and activities of the college. He believes strongly that the institution must have a vision, and the president must support and encourage that vision. In Hampshire's case, the vision is firmly grounded in the value of social justice.

Prior to his presidency, Hampshire had become the first college in the country to divest its stock in corporations doing business in South Africa. Greg Prince continued to set an example in everything he did. He has had an indelible impact on the campus by his strong commitment to the college's mission of self-expression and action. He has inspired all of us through his leadership on issues that affect college education—particularly on student aid and academic freedom. Through his speaking, his writing and most importantly his actions—he has demonstrated his commitment to the quality and diversity of higher education.

Greg Prince has served Hampshire College, the Commonwealth of Massachusetts, and the Nation well, and I know I join his many friends and admirers in extending our gratitude for his extraordinary service and our best wishes for the next phase of his outstanding career.•

TRIBUTE TO CENTRAL ACADEMY HIGH SCHOOL

• Mr. HARKIN. Mr. President, I come to the floor today, to congratulate students from Central Academy High School in Des Moines, IA, who competed in national finals of the "We the People: The Citizen and the Constitution" program in Washington, DC, earlier this month. The students won the Unit Three Award at the competition. This was the second year in a row that students from Michael Schaffer's government classes have won this prestigious recognition. These outstanding young Iowans competed against classes from every State in the country, and earned the highest score by demonstrating a remarkable understanding of the fundamental ideals and values of American constitutional government. Clearly, the future of democracy is in good hands, as demonstrated by the skill, knowledge and poise shown by these students.

I recognize and salute the students from Des Moines and surrounding suburbs who were involved in the competition: Emily Burney, Julia Busiek, Kate Conlow, Tim Di Iulio, Jon Hill, Lisa Jefferson, Alix Lifka-Reselman, Phillip R. Miller, Ben Miller-Todd, David Nolan, Caroline Rendon, Andrew Tatge, Erin Turner, Emily Vam.

The "We the People" program is administered by the Center for Civic Education. It is the most extensive program of its kind, reaching more than 26 million students in elementary, middle, and high schools. In Iowa, "We the People" is coordinated by Linda Martin and Ivette Bender is the district coordinator for the area that serves Des Moines. I salute them also for their hard work and dedication to this excellent program.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 4:38 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1817. An act to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1817. An act to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 1061. A bill to provide for secondary school reform, and for other purposes.

S. 1062. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1084. A bill to eliminate child poverty, and for other purposes.

S. 1085. A bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2251. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Anchorage Ground; Pacific Ocean at Santa Catalina Island, CA [CGD11–04–006]" (RIN1625–AA01) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2252. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations: Annual Fort Myers Beach Air Show, Fort Myers Beach, FL [CGD07–05–012]" (RIN1625–AA08) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2253. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations (including 2 regulations): [CGD11–05–004] [CGD05–05–047]" (RIN1625–AA08) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2254. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Chelsea River, MA [CGD01–05–022]" (RIN1625–AA09) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2255. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations (including 4 regulations): [CGD08–05–027], [CGD07–05–041], [CGD01–05–039], [CGD08–05–028]" (RIN1625–AA09) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2256. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Bering Sea, Aleutian Islands, Unalaska Island, AK [COPT Western Alaska-04–003]" (RIN1625–AA00) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2257. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Gulf Gateway Deepwater Port, Gulf of Mexico [USCG–2005–21111]" (RIN1625–AA00) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2258. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Fireworks Displays within the Fifth Coast Guard District [CGD05–05–013]" (RIN1625–AA00) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2259. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–11 and -11F Airplanes" ((RIN2120–AA64) (2005–0240)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2260. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6–80E1A2 Turbofan Engines" ((RIN2120–AA64) (2005–0241)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2261. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9 31 and DC 9 32 Airplanes" ((RIN2120–AA64) (2005–0242)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2262. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Bird Ingestion Standards; CORRECTION" ((RIN2120–AF84) (2005–0001)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2263. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Sidney, NE" ((RIN2120–AA66) (2005–0112)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2264. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (61): Amdt. No. 3078" ((RIN2120–AA65) (2005–0016)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2265. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Pennsylvania, New Jersey, Delaware" ((RIN2120–AA66) (2005–0113)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2266. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aging Aircraft Safety; CORRECTING AMENDMENT" ((RIN2120–AE42) (2005–0002)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2267. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reduced Vertical Separation Minimum in Domestic United States Airspace; TECHNICAL AMENDMENT" ((RIN2120–AH68) (2005–0001)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2268. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes; DISPOSITION OF COMMENTS" ((RIN2120–AH70) (2005–0001)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2269. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "1–G Stalling Speed as a Basis for Compliance with Part 25 of the Federal Aviation Regulations: CORRECTION" ((RIN2120–AD40) (2005–0001)) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2270. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Federal Reserve Board's ninety-first annual report; to the Committee on Banking, Housing, and Urban Affairs.

EC–2271. A communication from the Secretary of Commerce, transmitting, pursuant to law, a six-month report prepared by the Department of Commerce's Bureau of Industry and Security on the national emergency declared by Executive Order 13222; to the Committee on Banking, Housing, and Urban Affairs.

EC–2272. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR Part 356, Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds—Bidder" received on May 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2273. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "17 CFR Part 450, Government Securities Act Regulations: Custodial Holdings of Government Securities" (RIN1505–AB06) received on May 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2274. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "HHS Designation of Additional Members of the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act"; to the Committee on Health, Education, Labor, and Pensions.

EC–2275. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Use of Ozone-Depleting Substances; Removal of Essential-Use Designations" ((RIN0910–AF18) (Docket No. 2003P–0029)) received on May 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2276. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $25,000,000 or more from the Government of the Netherlands to the Government of Portugal; to the Committee on Foreign Relations.

EC–2277. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Participation of Taiwan in the World Health Organization Act, 2004; to the Committee on Foreign Relations.

EC–2278. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–2279. A communication from the Biomass and Forest Health Program Manager, Wildland Fire Coordination, Office of the Secretary, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Woody Biomass Utilization" (RIN1084–AA00) received on May 17, 2005; to the Committee on Environment and Public Works.

EC–2280. A communication from the Director, Pentagon Renovation and Construction Program Office, Department of Defense, transmitting, pursuant to law, the annual report on the Pentagon Renovation Program; to the Committee on Armed Services.

EC–2281. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report relative to defense Federally Funded Research and Development Centers (FFRDC); to the Committee on Armed Services.

EC–2282. A communication from the Assistant Under Secretary of Defense (Transportation Policy), Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a corrected report relative to the Department's implementation of postal system improvements; to the Committee on Armed Services.

EC–2283. A communication from the Chairman, Parole Commission, Department of Justice, transmitting, pursuant to law, the Commission's annual report for the year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2284. A communication from the Acting Director, Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Technical Updating Amendments to Executive Branch Financial Disclosure and Standards of Ethical Conduct Regulations" ((RIN3209–AA00) and (RIN3209–AA04)) received on May 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2285. A communication from the Acting Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Absence and Leave" (RIN3206–AK80) received on May 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2286. A communication from the Acting Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Employment of Relatives" (RIN3206–AK03) received on May 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2287. A communication from the Acting Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Final Regulations on Computation of Pay for Biweekly Pay Periods" (RIN3206–AK62) received on May 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2288. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a Certification to Congress Regarding the Incidental Capture of Sea Turtles in Commercial Shrimping Operations; to the Committee on Finance.

EC–2289. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—March 2005" (Rev. Rul. 2005–34) received on May 18, 2005; to the Committee on Finance.

EC–2290. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Time for Performing Certain Acts Postponed by Reason of Service in a Combat Zone or a Presidentially Declared Disaster" (Rev. Proc. 2005-27) received on May 18, 2005; to the Committee on Finance.

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY PROTECTING THE DEVELOPMENT FUND FOR IRAQ AND CERTAIN OTHER PROPERTY IN WHICH IRAQ HAS AN INTEREST, AND THE CENTRAL BANK OF IRAQ, AND TO MAINTAIN IN FORCE THE SANCTIONS TO RESPOND TO THIS THREAT—PM 11

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication. This notice states that the national emergency declared in Executive Order 13303 of May 22, 2003, as expanded in scope by Executive Order 13315 of August 28, 2003, modified in Executive Order 13350 of July 29, 2004, and further modified in Executive Order 13364 of November 29, 2004, is to continue in effect beyond May 22, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on May 21, 2004 (69 FR 29409).

The threats of attachment or other judicial process against (i) the Development Fund for Iraq, (ii) Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, or (iii) any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held by, on behalf of, or otherwise for the Central Bank of Iraq create obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq. Accordingly, these obstacles continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency protecting the Development Fund for Iraq, certain other property in which Iraq has an interest, and the Central Bank of Iraq, and to maintain in force the sanctions to respond to this threat.

George W. Bush.
The White House, *May 19, 2005.*

2005 COMPREHENSIVE REPORT ON U.S. TRADE AND INVESTMENT POLICY FOR SUB-SAHARAN AFRICA AND IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT—PM 12

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

Consistent with title I of the Trade and Development Act of 2000, I am providing a report prepared by my Administration, the "2005 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act."

George W. Bush.
The White House, *May 19, 2005.*

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. LINCOLN (for herself and Mr. Talent):

S. 1076. A bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1077. A bill to amend the Internal Revenue Code of 1986 to provide a renewable liquid fuels tax credit, and for other purposes; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1078. A bill to amend the Internal Revenue Code of 1986 to expand and extend the renewable resource credit and nonconventional source credit for landfill gas facilities; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1079. A bill to amend the Internal Revenue Code of 1986 to expand and extend the renewable resource credit for trash combustion facilities; to the Committee on Finance.

By Mr. JEFFORDS (for himself, Mr. Lautenberg, Mrs. Boxer, and Mr. Lieberman):

S. 1080. A bill to amend the Safe Drinking Water Act to require the use of nontoxic products in the case of hydraulic fracturing that occurs during oil or natural gas production activities; to the Committee on Environment and Public Works.

By Mr. KYL (for himself, Ms. Stabenow, Mr. Corzine, and Mr. Talent):

S. 1081. A bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. Allard, Mr. Allen, Mr. Baucus, Mr. Bond, Mr. Bunning, Mr. Burns, Mr. Burr, Mr. Chambliss, Mr. Coburn, Mr. Cornyn, Mr. Craig, Mr. Crapo, Mr. Ensign, Mr. Enzi, Mr. Hagel, Mr. Hatch , Mr. Inhofe, Mr. Isakson, Mr. Kyl, Mr. Lott, Ms. Murkowski, Mr. Nelson of Nebraska, Mr. Sessions, Mr. Sununu, Mr. Talent, Mr. Thune, Mr. Vitter, Mr. Shelby, Mr. DeMint, and Mr. Thomas):

S. 1082. A bill to restore Second Amendment rights in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HARKIN:

S. 1083. A bill to provide coverage under the Railway Labor Act to employees of certain air and surface transportation entities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 1084. A bill to eliminate child poverty, and for other purposes; read the first time.

By Mr. KENNEDY (for himself, Mr. Durbin, Ms. Mikulski, Mrs. Murray, Mr. Harkin, Mr. Dodd, Mr. Lautenberg, Mr. Corzine, Mr. Akaka, Mrs. Boxer, Mr. Feingold, Mr. Schumer, and Mr. Dayton):

S. 1085. A bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families; read the first time.

By Mr. HATCH:

S. 1086. A bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses; to the Committee on the Judiciary.

By Mr. ALEXANDER (for himself and Mr. Schumer):

S. 1087. A bill to amend section 337 of the Immigration and Nationality Act to prescribe the oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States; to the Committee on the Judiciary.

By Mr. KYL:

S. 1088. A bill to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, and for other purposes; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. Cochran, and Mr. Dodd):

S. 1089. A bill to establish the National Foreign Language Coordination Council to develop and implement a foreign language strategy, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE (for herself and Mr. Sarbanes):

S. Res. 149. A resolution honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. Smith, and Mr. Martinez):

S. Res. 150. A resolution expressing continued support for the construction of the Victims of Communism Memorial; considered and agreed to.

By Mr. FRIST (for himself, Mr. REID, Mr. MARTINEZ, Mr. LAUTENBERG, Mr. INHOFE, Mr. LIEBERMAN, and Mrs. DOLE):

S. Res. 151. A resolution recognizing the 57th Anniversary of the Independence of the State of Israel; considered and agreed to.

By Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN):

S. Con. Res. 35. A concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania; considered and agreed to.

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 327

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to expand the tip credit to certain employers and to promote tax compliance.

S. 392

At the request of Mr. LEVIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 473

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 473, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 502

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 502, a bill to revitalize rural America and rebuild main street, and for other purposes.

S. 665

At the request of Mr. DORGAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 665, a bill to reauthorize and improve the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 to establish a program to commercialize hydrogen and fuel cell technology, and for other purposes.

S. 671

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 671, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain fuel cell property.

S. 914

At the request of Mr. ALLARD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 988

At the request of Mr. SESSIONS, the names of the Senator from North Carolina (Mr. BURR) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 988, a bill to permanently repeal the estate and generation-skipping transfer taxes.

S. 1010

At the request of Mr. SANTORUM, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 1010, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1022

At the request of Mrs. LINCOLN, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1068

At the request of Mrs. DOLE, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1068, a bill to provide for higher education affordability, access, and opportunity.

S.J. RES. 12

At the request of Mr. HATCH, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S.J. Res. 12, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 18

At the request of Mrs. FEINSTEIN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 11

At the request of Mr. SESSIONS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Con. Res. 11, a concurrent resolution honoring the Tuskegee Airmen for their bravery in fighting for our freedom in World War II, and for their contribution in creating an integrated United States Air Force.

AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of amendment No. 762 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. LINCOLN (for herself and Mr. TALENT):

S. 1076. A bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel; to the Committee on Finance.

Mr. TALENT. Mr. President, today Senator LINCOLN and I introduce legislation to extend the current excise tax credit for biodiesel through 2010. This tax credit brings great benefits to our nation's economy and environment while at the same time reducing our dependence on foreign oil.

Biodiesel is a cleaner burning alternative to petroleum-based diesel, and it is made from renewable resources like soybeans and other natural fats and oils, grown here in the United States. It works in any diesel engine with few or no modifications. It can be used in its pure form (B100), or blended with petroleum diesel at a level—most commonly 20 percent (B20). Soybean farmers in Missouri and across the Nation have invested millions of dollars to build a strong and viable biodiesel industry.

In last years JOBS bill, we created an excise tax credit for biodiesel; a $1/gallon credit for biodiesel produced from virgin oils, and a $0.50/gallon credit for biodiesel produced from yellow grease or recycled cooking oil. This important tax credit is set to expire in less than 2 years. It is imperative that we extend this incentive that is expected to increase domestic energy security, reduce pollution and stimulate the economy.

I certainly would prefer to fill up my tank with a clean burning fuel grown by farmers in our Nation's heartland instead of petroleum imported from the Saudis. Our farmers pose no security risks. I'm not alone in this preference. More than 400 major fleets use biodiesel commercially nationwide. About 300 retail filling stations make biodiesel available to the public, and more than 1,000 petroleum distributors carry it nationwide.

I am pleased that we will soon have a biodiesel plant in Missouri. Missouri Soybean Association and Mid-America Biofuels LLC recently announced plans to build a biodiesel plant in Mexico, MO. The plant is expected to produce 30 million gallons of biodiesel annually. There is strong support for this endeavor and they have exhibited exceptional leadership by bringing this plant to Missouri. I look forward to working with them.

As I've said before, biodiesel is a fuel of the future that we can use today. It is nontoxic, biodegradable and essentially free of sulfur and aromatics. Biodiesel offers similar fuel economy, horsepower and torque to petroleum diesel while providing superior lubricity. It significantly reduces emissions of carbon monoxide, particulate matter, unburned hydrocarbons and sulfates. On a lifecycle basis, biodiesel reduces carbon dioxide emissions by 78 percent compared to petroleum diesel. In other words, biodiesel is good for your car and the environment.

Additionally, this new value added market for soybeans brings jobs to our economy and benefits to farmers. Based on the USDA baseline estimates for future soybean production, over a five year time period the biodiesel tax incentive could add almost $1 billion directly to the bottom line of U.S. farm income. In addition, the provisions will significantly benefit the U.S. economy and could increase U.S. gross output by almost $7 billion.

I want to thank Senator LINCOLN and Senator GRASSLEY for their leadership on this important issue. We need to prevent this tax credit from expiring. It is expected to increase biodiesel demand from an estimated 30 million gallons in fiscal year 2004 to at least 124 million gallons per year, based on a U.S. Department of Agriculture study.

By Mr. JEFFORDS (for himself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. LIEBERMAN):

S. 1080. A bill to amend the Safe Drinking Water Act to require the use of nontoxic products in the case of hydraulic fracturing that occurs during oil or natural gas production activities; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I would like to thank Senators LAUTENBERG, BOXER, and LIEBERMAN for working with me to introduce this important legislation, the Hydraulic Fracturing Safety Act of 2005.

Over half of our Nation's fresh drinking water comes from underground sources. The process of hydraulic fracturing threatens our drinking water supplies. Hydraulic fracturing occurs when fluids are injected at high rates of speed into rock beds to fracture them and allow easier harvesting of natural oils and gases. It is these injection fluids that are of high concern.

In a recent report, the EPA acknowledged that these fluids, many of them toxic and harmful to people, are pumped directly into or near underground sources of drinking water. This same report cited earlier studies that indicated that only 61 percent of these fluids are recovered after the process is complete. This leaves 39 percent of these fluids in the ground, risking contamination of our drinking water.

Let me share with you the story of Laura Amos, a resident of Colorado who suffers from ill health effects today. In May of 2001, while an oil and gas well was being hydraulically fractured near her home, the metal top of her drinking well exploded into the air. At the same time, her water became bubbly and developed a horrible odor.

For three months, she was provided alternate drinking water by Ballard, later known as Encana, the company that owned the well near her home. It took this long until her water appeared normal again. Laura and her family drank from this well over the next couple of years. It was then that Laura developed a rare adrenal-gland tumor. During this time, Laura began actively investigating the chemicals used during the hydraulic fracturing of a well near her home. She learned about a chemical called 2-BE, which was later linked to adrenal-gland tumors in rodents.

Litigation over the last several years has resulted in findings that hydraulic fracturing should be regulated as part of the underground injection control program in the Safe Drinking Water Act. Yet, EPA indicates in writing that they have no intention of publishing regulations to that effect or ensuring that state programs adequately regulate hydraulic fracturing.

I ask unanimous consent that a series of letters to EPA and their responses dated October 14, 2004 and December 7, 2004, be inserted in the RECORD.

In June of 2004, an EPA study on hydraulic fracturing identified diesel as a "constituent of potential concern." Prior to this, EPA had entered into a Memorandum of Agreement with three of the major hydraulic fracturing corporations, whom all voluntarily agreed to ban the use of diesel, and if necessary select replacements that will not cause hydraulic fracturing fluids to endanger underground sources of drinking water. However, all parties acknowledged that only technically feasible and cost-effective actions to provide alternatives will be sought.

Hydraulic fracturing needs to be regulated under the Safe Drinking Water Act and it has got to start now. It is unconscionable to allow the oil and gas industry to pump toxic fluids into the ground.

My bill, the Hydraulic Fracturing Safety Act of 2005, clarifies once and for all that hydraulic fracturing is part of the Underground Injection Control Program regulated under the Safe Drinking Water Act.

This legislation also bans the use of diesel and other toxic pollutants for oil and natural gas exploration.

Lastly, this legislation requires EPA to ensure that States adequately regulate hydraulic fracturing activities in all States to ensure that companies area adhering to our Nation's laws and conducting business in a manner safe for all Americans.

We need to do the right thing, and take action now to protect our Nation's drinking water supply. According to the oil and gas industry, 90 percent our oil and gas wells will be accessed through hydraulic fracturing. Congress and the EPA have to work together to provide a consistent and safe supply of drinking water for all Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, October 14, 2004.

Administrator MICHAEL O. LEAVITT,
Environmental Protection Agency, Ariel Rios Building, Washington, DC.

DEAR ADMINISTRATOR LEAVITT: We are writing to you regarding the Environmental Protection Agency's (EPA's) administration of the Safe Drinking Water Act (SDWA) as it pertains to hydraulic fracturing. In recent months, the Agency has taken several key actions on this issue:

On December 12, 2003, the EPA signed a Memorandum of Understanding with three of the largest service companies representing 95 percent of all hydraulic fracturing performed in the U.S. These three companies, Halliburton Energy Services, Inc., Schlumberger Technology Corporation, and BJ Services Company, voluntarily agreed not to use diesel fuel in their hydraulic fracturing fluids while injecting into underground sources of water for coalbed methane production.

In June of 2004, EPA completed its study on hydraulic fracturing impacts and released its findings in a report entitled, "Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs. The report concluded that hydraulic fracturing poses little chance of contaminating underground sources of drinking water and that no further study was needed.

On July 15, 2004, the EPA published in the Federal Register its final response to the court remand (*Legal Environmental Assistance Foundation (LEAF), Inc.*, v. *United States Environmental Protection Agency*, 276 F. 3d 1253).

The Agency determined that the Alabama underground injection control (UIC) program for hydraulic fracturing, approved by EPA under section 1425 of the SDWA, complies with Class II well requirements.

We are concerned that the Agency's execution of the SDWA, as it applies to hydraulic fracturing, may not be providing adequate public health protection, consistent with the goals of the statute.

First, we have questions regarding the information presented in the June 2004 EPA Study and the conclusion to forego national regulations on hydraulic fracturing in favor of an MOU limited to diesel fuel. In the June 2004 EPA Study, EPA identifies the characteristics of the chemicals found in hydraulic fracturing fluids, according to their Material Safety Data Sheets (MSDSs), identifies harmful effects ranging from eye, skin, and respiratory irritation to carcinogenic effects. EPA determines that the presence of these chemicals does not warrant EPA regulation for several reasons. First, EPA states that none of these chemicals, other than BTEX compounds, are already regulated under the SDWA or are on the Agency's draft Contaminant Candidate List (CCL). Second, the Agency states that it does not believe that these chemicals are present in hydraulic fracturing fluids used for coalbed methane, and third, that if they are used, they are not introduced in sufficient concentrations to cause harm. These conclusions raise several questions:

1. The data presented in the June 2004 EPA study identifies potential harmful effects from the chemicals listed by the Agency in this report. Has the Agency or does the Agency plan to incorporate the results of this study and the fact that these chemicals are present in hydraulic fracturing agents into the CCL development process, and if not, why not?

2. In the June 2004 EPA study, the Agency concludes that hydraulic fracturing fluids do not contain most of the chemicals identified. This conclusion is based on two items—"conversations with field engineers" and "witnessing three separate fracturing events" (June 2004 EPA Study, p. 4–17.)

a. How did the Agency select particular field engineers with whom to converse on this subject?

b. Please provide a transcript of the conversations with field engineers, including the companies or consulting firms with which they were affiliated.

c. How did the Agency select the three separate fracturing events to witness?

d. Were those events representative of the different site-specific characteristics referenced in the June 2004 study (June 2004 EPA Study, p. 4–19) as determining factors in the types of hydraulic fracturing fluids that will be used?

e. Which companies were observed?

f. Was prior notice given of the planned witnessing of these events?

g. What percentage of the annual number of hydraulic fracturing events that occur in the United States does "3" represent?

h. Finally, please explain why the Material Safety Data Sheets for the fluids identified as potentially being used in hydraulic fracturing list component chemicals that the EPA does not believe are present.

The Agency concludes in the June 2004 study that even if these chemicals are present, they are not present in sufficient concentrations to cause harm. The Agency bases this conclusion on assumed flowback, dilution and dispersion, adsorption and entrapment, and biodegradation. The June 2004 study repeatedly cites the 1991 Palmer study, "Comparison between gel-fracture and water-fracture stimulations in the Black Warrior basin; Proceedings 1991 Coalbed Methane Symposium," which found that only 61 percent of the fluid injected during hydraulic fracturing is recovered. Please explain what data EPA collected and what observations the Agency made in the field that would support the conclusion that the 39 percent of fluids remaining in the ground are not present in sufficient concentrations to adversely affect underground sources of drinking water.

After identifying BTEX compounds as the major constituent of concern (June 2004 EPA study, page 4–15), the Agency entered into the MOU described above as its mechanism to eliminate diesel fuel from hydraulic fracturing fluids.

3. a. How does the Agency plan to enforce the provisions in the MOU and ensure that its terms are met?

b. For example, will the Agency conduct independent monitoring of hydraulic fracturing processes in the field to ensure that diesel fuel is not used?

c. Will the Agency require states to monitor for diesel use as part of their Class II UIC Programs?

4. a. Should the Agency become aware of an unreported return to the use of diesel fuel in hydraulic fracturing by one of the parties to the MOU, what recourse is available to EPA under the terms of the MOU?

b. What action does the Agency plan to take should such a situation occur?

c. Why did EPA choose to use an MOU as opposed to a regulatory approach to achieve the goal of eliminating diesel fuel in hydraulic fracturing?

d. What revisions were made to the June 2004 EPA study between the December 2003 adoption of the MOU and the 2004 release of the study? Which of those changes dealt specifically with the use and effects of diesel fuel in hydraulic fracturing?

e. The Agency also states that it expects that even if diesel were used, a number of factors would decrease the concentration and availability of BTEX. Please elaborate on the data EPA collected and the observations the Agency made in the field that would support the conclusion that the 39 percent of fluids remaining in the ground (1991 Palmer), should they contain BTEX compounds, would not be present in sufficient concentrations to adversely affect underground sources of drinking water.

We are also concerned that the EPA response to the court remand leaves several unanswered questions. The Court decision found that hydraulic fracturing wells "fit squarely within the definition of Class II wells." (LEAF II, 276 F.3d at 1263), and remanded back to EPA to determine if the Alabama underground injection control program under section 1425 complies with Class II well requirements. On July 15, 2004, EPA published its finding in the Federal Register that the Alabama program complies with the requirements of the 1425 Class II well requirements. (69 FR No. 135, pp 42341.) According to EPA, Alabama is the only state that has a program specifically for hydraulic fracturing approved under section 1425. Based on this analysis, it seems that in order to comply with the Court's finding that hydraulic fracturing is a part of the Class II well definition, the remaining states should be using their existing Class II, EPA-approved programs, under 1422 or 1425, to regulate hydraulic fracturing.

To date, EPA has approved Underground Injection Control programs in 34 states. Approval dates range from 1981–1996.

5. Do you plan to conduct a national survey or review to determine whether state Class II programs adequately regulate hydraulic fracturing?

At the time that these programs were approved, the standards against which state Class II programs were evaluated did not include any minimum requirements for hydraulic fracturing. In its January 19, 2000 notice of EPA's approval of Alabama's 1425 program, the Agency stated, "When the regulations in 40 CFR parts 144 and 146, including the well classifications, were promulgated, it was not EPA's intent to regulate hydraulic fracturing of coal beds. Accordingly, the well classification systems found in 40 CFR 144.6 and 146.5 do not expressly include hydraulic fracturing injection activities. Also, the various permitting, construction and other requirements found in Parts 144 and 146 do not specifically address hydraulic fracturing." (65 FR No. 12, p. 2892.)

Further, EPA acknowledges that there can be significant differences between hydraulic fracturing and standard activities addressed by state Class II programs. In the January 19, 2000 Federal Register notice, the Agency states: . . . since the injection of fracture fluids through these wells is often a one-time exercise of extremely limited duration (fracture injections generally last no more than two hours) ancillary to the well's principal function of producing methane, it did not seem entirely appropriate to ascribe Class II status to such wells, for all regulatory purposes, merely due to the fact that, prior to commencing production, they had been fractured." (65 FR No. 12, p. 2892.)

Although hydraulic fracturing falls under the Class II definition, the Agency has acknowledged that hydraulic fracturing is different than most of the activities that occur under Class II and that there are no national regulations or standards on how to regulate hydraulic fracturing.

6. In light of the Court decision and the Agency's July 2004 response to the Court remand, did the Agency consider establishing national regulations or standards for hydraulic fracturing or minimum requirements for hydraulic fracturing regulations under state Class II programs?

7. a. If so, please provide a detailed description of your consideration of establishing these regulations or standards and the rationale for not pursuing them.

b. Do you plan to establish such regulations or standards in the future?

c. If not, what standards will be used as the standard of measurement for compliance for hydraulic fracturing under state Class II programs?

We appreciate your timely response to these questions in reaction to the three recent actions taken by the EPA in relation to hydraulic fracturing—the adoption of the MOU, the release of the final study, and the response to the Court remand. Clean and safe drinking water is one of our nation's greatest assets, and we believe we must do all we can to continue to protect public health. Thank you again for your response.

Sincerely,

JIM JEFFORDS.
BARBARA BOXER.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, December 7, 2004.

Hon. JIM JEFFORDS,
U.S. Senate,
Washington, DC.

DEAR SENATOR JEFFORDS: Thank you for your letter to Administrator Michael

Leavitt, dated October 14, 2004, concerning the recent actions that the Environmental Protection Agency (EPA) has taken in implementing the Underground Injection Control (UIC) program with respect to hydraulic fracturing associated with coalbed methane wells.

The Office of Ground Water and Drinking Water (OGWDW) has prepared specific responses to your technical and policy questions regarding how we conducted the hydraulic fracturing study, the reasons behind our decisions pertaining to the recommendations contained in the study, and any plans or thoughts we may have on the likelihood for future investigation, regulation, or guidance concerning such hydraulic fracturing.

Since the inception of the UIC program, EPA has implemented the program to ensure that public health is protected by preventing endangerment of underground sources of drinking water (USDWs). The Agency has placed a priority on understanding the risks posed by different types of UIC wells, and worked to ensure that appropriate regulatory actions are taken where specific types of wells may pose a significant risk to drinking water sources. In 1999, in response to concerns raised by Congress and other stakeholders about issues associated with the practice of hydraulic fracturing of coalbed methane wells in the State of Alabama, EPA initiated a study to better understand the impacts of the practice.

EPA worked to ensure that its study, which was focused on evaluating the potential threat posed to USDWs by fluids used to hydraulically fracture coalbed methane wells, was carried out in a transparent fashion. The Agency provided many opportunities to all stakeholders and the general public to review and comment on the Agency study design and the draft study. The study design was made available for public comment in July 2000, a public meeting was held in August 2000, public notice of the final study design was provided in the Federal Register in September 2000, and the draft study was noticed in the Federal Register in August 2002. The draft report was also distributed to all interested parties and posted on the internet. The Agency received more than 100 comments from individuals and other entities.

EPA's final June 2004 study, Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs, is the most comprehensive review of the subject matter to date. The Agency did not recommend additional study at this time due to the study's conclusion that the potential threat to USDWs posed by hydraulic fracturing of coalbed methane wells is low. However, the Administrator retains the authority under the Safe Drinking Water Act (SDWA) section 1431 to take appropriate action to address any imminent and substantial endangerment to public health caused by hydraulic fracturing.

During the course of the study, EPA could not identify any confirmed cases where drinking water was contaminated by hydraulic fracturing fluids associated with coalbed methane production. We did uncover a potential threat to USDWs through the use of diesel fuel as a constituent of fracturing fluids where coalbeds are co-located with a USDW. We reduced that risk by signing and implementing the December 2003 Memorandum of Agreement (MOA) with three major service companies that carry out the bulk of coalbed methane hydraulic fracturing activities throughout the country. This past summer we confirmed that the companies are carrying out the MOA and view the completion of this agreement as a success story in protecting USDWs.

In your letter, you asked about the Agency's actions with respect to hydraulic fracturing in light of LEAF v. EPA. In this case, the Eleventh Circuit held that the hydraulic fracturing of coalbed seams in Alabama to produce methane gas was "underground injection" for purposes of the SDWA and EPA's UIC program. Following that decision, Alabama developed—and EPA approved—a revised UIC program to protect USDWs during the hydraulic fracturing of coalbeds. The Eleventh Circuit ultimately affirmed EPA's approval of Alabama's revised UIC program.

In administering the UIC program, the Agency believes it is sound policy to focus its attention on addressing those wells that pose the greatest risk to USDWs. Since 1999, our focus has been on reducing risk from shallow Class V injection wells. EPA estimates that there are more than 500,000 of these wells throughout the country. The wastes injected into them include, in part, storm water runoff, agricultural effluent, and untreated sanitary wastes. The Agency and States are increasing actions to address these wells in order to make the best use of existing resources.

EPA remains committed to ensuring that drinking water is protected. I look forward to working with Congress to respond to any additional questions, or the concerns that Members of Congress or their constituents may have. If you have further comments or questions, please contact me, or your staff may contact Steven Kinberg of the Office of Congressional and Intergovernmental Relations at (202) 564-5037.

Sincerely,

BENJAMIN H. GRUMBLES,
Acting Assistant Administrator.

EPA RESPONSE TO SPECIFIC QUESTIONS REGARDING HYDRAULIC FRACTURING

1. The data presented in the June 2004 EPA study identifies potential harmful effects from the chemicals listed by the Agency in this report. Has the Agency or does the Agency plan to incorporate the results of this study and the fact that these chemicals are present in hydraulic fracturing agents into the Contaminant Candidate List (CCL) development process, and if not, why not?

Although the EPA CBM study found that certain chemical constituents could be found in some hydraulic fracturing fluids, EPA cannot state categorically that they are contained in all such fluids. Each fracturing procedure may be site specific or basin specific and fluids used may depend on the site geology, the stratigraphy, (i.e., type of coal formation), depth of the formation, and the number of coal beds for each fracture operation. The Agency's study did not develop new information related to potential health effects from these chemicals; it merely reported those potential health effects indicated on the Material Safety Data Sheet (MSDS) or other information we obtained from the service companies.

As noted in the final report, "Contaminants on the CCL are known or anticipated to occur in public water systems . . ." The extent to which the contaminants identified in fracturing fluids are part of the next CCL process will depend upon whether they meet this test.

2. In the June 2004 EPA study, the Agency concludes that hydraulic fracturing fluids do not contain most of the chemicals identified. This conclusion is based on two items—"conversations with field engineers" and "witnessing three separate fracturing events".

a. How did the agency select particular field engineers with whom to converse on this subject?

The Agency did not "select" any of the engineers; we talked with the engineers who happened to be present at the field operations. In general those were engineers from the coalbed methane companies and the service companies who conducted the actual hydraulic fracturing. When we scheduled to witness the events, we usually conversed with the production company engineer to arrange the logistics and only spoke with the field engineers from the service companies at the well site.

b. Please provide a transcript of the conversations with field engineers, including the companies or consulting firms with which they were affiliated.

EPA did not prepare a word-for-word transcript of conversations with engineers.

c. How did the Agency select the three separate fracturing events to witness?

The events selected were dependent on the location of the fracturing events, the schedules of both EPA OGWDW staff and EPA Regional staff to witness the event, and the preparation time to procure funding and authorization for travel EPA witnessed the 3 events because the planning and scheduling of these happened to work for all parties. In one event, only EPA HQ staff witnessed the procedure, in another event only EPA Regional staff witnessed it, and in one event, both EPA HQ and Regional staff attended with DOE staff.

d. Were those events representative of the different site-specific characteristics referenced in the June 2004 study (p. 4-19)" as determining factors in the types of hydraulic fracturing fluids that will be used?

Budget limitations precluded visits to each of the 11 different major coal basins in the U.S. It would have proven to be an expensive and time-consuming process to witness operations in each of these regions. Additionally, even within the same coal basin there are potentially many different types of well configurations, each of which could affect the fracturing plan. EPA believed that witnessing events in 3 very different coal basin settings—Colorado, Kansas, and south western Virginia—would give us an understanding of the practice as conducted in different regions of the country.

e. Which companies were observed?

EPA observed a Schlumberger hydraulic fracturing operation in the San Juan basin of Colorado, and Halliburton hydraulic fracturing operations in southwest Virginia and Kansas.

f. Was prior notice given of the planned witnessing of these events?

Yes, because it would have been very difficult to witness the events had they not been planned. To plan the visit, EPA needed to have prior knowledge of the drilling operation, the schedule of the drilling, and the scheduling of the services provided by the hydraulic fracturing service company. Wells, in general, take days to drill (in some cases weeks and months depending on depth of the well) and the fracturing may take place at a later date depending on the availability of the service company and other factors beyond anyone's control.

g. What percentage of the annual number of hydraulic fracturing events that occur in the United States does "3" represent?

Because of a limited project budget, EPA did not attempt to attend a representative number of hydraulic fracturing events; that would have been beyond the scope of this Phase I investigation. The primary purpose of the site visits was to provide EPA personnel familiarity with the hydraulic fracturing process as applied to coalbed methane wells. The visits served to give EPA staff a working-level, field experience on exactly how well-site operations are conducted, how the process takes place, the logistics in setting up the operation, and the monitoring and verification conducted by the service companies to assure that the fracturing job was accomplished effectively and safely. EPA understands that thousands of fracturing events take place annually, for both conventional oil and gas operations and coalbed methane production, and that three events represent an extremely small fraction of that total.

h. Finally, please explain why the Material Safety Data Sheets for the fluids identified as potentially being used in hydraulic fracturing list component chemicals that the EPA does not believe are present.

In Table 4–1 of the final study, EPA identified the range of fluids and fluid additives commonly used in hydraulic fracturing. Some of the fluids and fluid additives may contain constituents of potential concern, however, it is important to note that the information presented in the MSDS is for the pure product. Each of the products listed in Table 4–1 is significantly diluted prior to injection. The MSDS information we obtained is not site specific. We reviewed a number of data sheets and we noted that many of them are different, contain different lists of fluids and additives, and thus we concluded in the final report that we cannot say whether one specific chemical, or chemicals, is/are present at every hydraulic fracturing operation.

3. a. How does the Agency plan to enforce the provisions in the MOU and ensure that its terms are met?

There is no mechanism to "enforce" a voluntary agreement such as the MOA signed by EPA and the three major service companies. The MOA was signed in good faith by senior managers from the three service companies and the Assistant Administrator for Water, and EPA expects it will be carried out. EPA has written all signers of the MOA and asked if they have implemented the agreement and how will they ensure that diesel fuel is not being used in USDWs. All three have written back to EPA, stating that they have removed diesel from their CBM fracturing fluids when a USDW is involved and intend to implement a plan to ensure that such procedures are met. EPA intends to follow up with the service companies on progress in implementing such plans.

b. For example, will the Agency conduct independent monitoring of hydraulic fracturing processes in the field to ensure that diesel fuel is not used?

It is unlikely that EPA will conduct such field monitoring. First, in most oil and gas producing states, and coalbed methane producing states, the State Oil and Gas Agency generally has UIC primary enforcement responsibility, and the state inspectors are the primary field presence for such operations. Second, EPA has a very limited field staff and in most cases they are engaged in carrying out responsibilities related to Class I, III and V wells in states in which they directly implement the UIC program. EPA plans to work with several organizations, including the Ground Water Protection Council and the Independent Petroleum Association of America to determine if there are other smaller companies conducting CBM hydraulic fracturing with diesel fuel as a constituent and will explore the possibility of including them in the MOA.

c. Will the Agency require states to monitor for diesel use as part of their Class II programs?

Given limited funds for basic national and state UIC program requirements, EPA does not have plans to include the states as parties to the MOA or require them to monitor for diesel fuel in hydraulic fracturing fields. The State of Alabama's EPA-approved UIC program prohibits the hydraulic fracturing of coalbeds in a manner that allows the movement of contaminants into USDWs at levels exceeding the drinking water MCLs or that may adversely affect the health of persons. Current federal regulations do not expressly address or prohibit the use of diesel fuel in fracturing fluids, but the SDWA and UIC regulations allow States to be more stringent than the federal UIC program.

4. a. Should the Agency become aware of an unreported return to the use of diesel fuel in hydraulic fracturing by one of the parties to the MOD, what recourse is available to EPA under the terms of the MOD?

There are no terms in the MOA that would provide EPA a mechanism to take any enforcement action should the Agency become aware of an unreported return to the use of diesel fuel in hydraulic fracturing by one of the parties to the MOA. However, EPA would work closely with the companies to determine why such action occurred and discuss possible termination procedures. The agreement defines how either party can terminate the agreement. EPA would make every effort to work with such a company to maintain their participation in the agreement. EPA entered the agreement with an assumption that the companies would honor the commitments they have made about diesel use in hydraulic fracturing fluids.

b. What action does the Agency plan to take should such a situation occur?

If such a situation does happen, and EPA learns that diesel fuel used in hydraulic fracturing fluid may enter a USDW and may present an imminent and substantial threat to public health, EPA may issue orders or initiate litigation as necessary pursuant to SDWA section 1431 to protect public health. Otherwise, EPA would take the actions described under the previous question.

c. Why did EPA choose to use an MOU as opposed to a regulatory approach to achieve the goal of eliminating diesel fuel in hydraulic fracturing?

While the report's findings did not point to a significant threat from diesel fuel in hydraulic fracturing fluids, the Agency believed that a precautionary approach was appropriate. EPA chose to work collaboratively with the oil service companies because we thought that such an approach would work quicker, and be more effective than other approaches the Agency might employ (i.e. rulemaking, enforcement orders, etc.). We believed that once the service companies became familiar with the issue, they would willingly address EPA's concerns. After several months of meetings and negotiations between representatives of the service companies and high level management in EPA's Office of Water, a Memorandum of Agreement (MOA) was drafted and signed by all parties effective December 24, 2003.

We believe that the MOA mechanism accomplished the intended goal of removing diesel from hydraulic fracturing fluids in a matter of months, whereas proposing a rule to require removal would have taken at least a year or more.

d. What revisions were made to the June 2004 EPA study between the December 2003 adoption of the MOD and the 2004 release of the study? Which of those changes dealt specifically with the use and effects of diesel fuel in hydraulic fracturing?

During the specified time-frame, EPA focused on making editorial changes to the report and clarifying information relative to its qualitative discussion of the mitigating effects of dilution, dispersion, adsorption, and biodegradation of residual fluids. With respect to the use and effects of diesel fuel, changes in the study primarily focused on including language in the text of the report which acknowledged that we had successfully negotiated an MOA with the service companies. Specifically, EPA referenced this agreement in the text of the report in the Executive Summary at page ES–2 and on page BS–17 and further discussed the MOA in Chapter 7 in the Conclusions Section of the study.

e. The Agency also states that it expects that even if diesel were used a number of factors would decrease the concentration and availability of BTEX. Please elaborate on the data EPA collected and the observations the Agency made in the field that would support the conclusion that 39% of fluids remaining in the ground (1991 Palmer), should they contain BTEX compounds would not be present in sufficient concentrations to adversely affect underground sources of drinking water.

EPA reiterates that the 39% figure from the 1991 Palmer paper is only one instance where it has been documented what quantity of the hydraulic fracturing fluids injected into wells will remain behind. Dr. Palmer, who conducted the original research, estimated that coalbed methane production wells flow back a greater percentage of fracturing fluids injected during the process. Where formations are dewatered or produced for a substantial period of time, greater quantities of formation and fracturing fluids would presumably be removed. We used 39% remaining fluids as a "worst case" scenario while doing our qualitative assessment, since it was the only figure we had from research conducted on coalbed methane wells.

With respect to the BTEX compounds, we no longer believe that they are a concern owing to the MOA negotiated between EPA and the three major service companies.

5. Do you plan to conduct a national surveyor survey or review to determine whether state Class II programs adequately regulate hydraulic fracturing?

At this time, EPA has no plans to conduct such a survey or review regarding the adequacy of Class II programs in regulating hydraulic fracturing. In its final study design, EPA indicated that it would not begin to evaluate existing state regulations concerning hydraulic fracturing until it decided to do a Phase III investigation. The Agency, however, reserves the right to change its position on this if news information warrants such a change.

6. In light of the Court decision and the Agency's July 2004 response to the Court remand, did the Agency consider establishing national regulations or standards for hydraulic fracturing or minimum requirements for hydraulic fracturing regulations under Class II programs?

When State UIC programs were approved by the Agency—primarily during the early 1980s—there was no Eleventh Circuit Court decision indicating that hydraulic fracturing was within the definition of "underground injection." Prior to LEAF v. EPA, EPA had never interpreted the SDWA to cover production practices, such as hydraulic fracturing. After the Court decision in 1997, the Agency began discussions with the State of Alabama on revising their UIC program to include hydraulic fracturing. The net result of that process was the EPA approval of Alabama's revised section 1425 SDWA UIC program to include specific regulations addressing CBM hydraulic fracturing. This approval was signed by the Administrator in December 1999, and published in the Federal Register in January 2000.

In light of the Phase I HF study and our conclusion that hydraulic fracturing did not present a significant public health risk, we see no reason at this time to pursue a national hydraulic fracturing regulation to protect USDWs or the public health. It is also relevant that the three major service companies have entered into an agreement with EPA to voluntarily remove diesel fuel from their fracturing fluids.

7. a. If so, please provide a detailed description of your consideration of establishing these regulations or standards and the rationale for not pursuing them.

b. Do you plan to establish such regulations or standards in the future?

c. If not, what standards will be used as the standard of measurement for compliance for hydraulic fracturing under state Class II programs?

EPA has not explored in any detailed fashion minimum national or state requirements for hydraulic fracturing of CBM wells, except when it evaluated the revised UIC program in Alabama.

Considering and developing national regulations for hydraulic fracturing would involve discussions with numerous stakeholders, the states, and the public and it would require an intensive effort to arrive at regulatory language that could be applied nationwide. As EPA's study indicates, coalbeds are located in very distinct geologic settings and the manner in which they are produced for methane gas may be very different in each locale. The proximity of USDWs to the coal formations, and the regional geology and hydrology all play roles in how hydraulic fracturing operations are conducted.

If EPA receives information of drinking water contamination incidents and follow-up investigations point to a problem, EPA would then re-evaluate its decision to not continue with additional study relating to CBM hydraulic fracturing.

Should additional states submit revised UIA programs for EPA's review and approval which include hydraulic fracturing regulations, we would evaluate these programs under the effectiveness standards of the SDWA section 1425 as we did for the State of Alabama.

S. 1080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hydraulic Fracturing Safety Act of 2005".

SEC. 2. HYDRAULIC FRACTURING.

Section 1421(d)(1) of the Safe Drinking Water Act (42 U.S.C. 300h(d)(1)) is amended—

(1) by adding at the end the following: "The term 'underground injection' includes hydraulic fracturing, which means the process of creating a fracture in a reservoir rock, through the injection of fluids and propping agents, for the purpose of reservoir stimulation relating to oil and gas production activities."; and

(2) by adding at the end the following:

"(3) HYDRAULIC FRACTURING.—

"(A) IN GENERAL.—In the case of hydraulic fracturing that occurs during the exploration for, or the production of, oil or natural gas, a producer of oil or natural gas shall not use diesel fuel or any other material that the Administrator has listed as a priority pollutant under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(B) REGULATIONS.—The Administrator shall promulgate such regulations as are necessary—

"(i) to regulate hydraulic fracturing in accordance with this subsection; and

"(ii) to ensure that State programs under section 1422 or 1425 regulate hydraulic fracturing in accordance with this subsection.".

By Mr. KYL (for himself, Ms. STABENOW, Mr. CORZINE, and Mr. TALENT):

S. 1081. A bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007; to the Committee on Finance.

Mr. KYL. Mr. President, I rise today to introduce the Preserving Patient Access to Physicians Act of 2005. This bill updates Medicare physician reimbursement for 2006 and 2007 according to the recommendations of the Medicare Payment Advisory Committee (MedPAC). There would be a 2.7 percent increase to the physician payment schedule for 2006 and using the Medicare Economic Index update for the price of inputs, a 2.6 percent increase in 2007.

If the schedule is left alone, the consequences for physicians will be a negative. Instead of the 1.5 percent payment increase for 2004 and 2005 which I helped author in the Medicare Modernization Act, there would be a 4.3 percent decrease.

The sustainable growth rate (SGR) formula used to calculate physician payment depends on a number of factors: the number of Medicare fee-for-service beneficiaries, the volume and type of services provided, the price of services rendered, changes in regulations and laws. The formula also incorporates other factors such as prescription-drug prices and the gross domestic product. The SGR was intended to control expenditures by basing a given year's physician payment rate on the previous year's performance. Instead, it creates an arbitrary deficiency that continues to force Congress to intervene.

There is a debate going on, her CMS has the authority to alter the SGR formula by removing drugs. Setting that aside, though, the fact of the matter is that without Congress stepping in to provide for a physician payment update, it probably will not occur. My Senate colleagues and I have talked for many years about ensuring adequate physician payment because current and past administrations have failed to modify the formula. This formula is not doing what it was intended to do. Therefore, I believe we need to scrap it and start again. My bill is a starting point and proposes amounts for an update, but I would really like to see us go all the way back to the drawing board and answer the fundamental question of how to pay physicians appropriately for their services.

I want doctors to be able to continue to assist our nation's seniors, but it is unfair to expect them to practice and to have their reimbursement decrease. Practice expenses, the costs of medical technology, wages for administrative and clinical staff, and medical liability premiums are all increasing while physicians are on track to receive a payment decrease. They cannot afford to continue practicing medicine while receiving reimbursements that do not allow them to even break even. Many are retiring early or threatening to limit the number of Medicare patients they treat.

The service of physicians all across the country is vital to our seniors. Almost half a million doctors provide treatment to the 42 million people under the Medicare program. Physicians are often the gateway for access to other medical services and treatments. Not being able to consult a physician results in delayed referrals, delayed treatment and delayed care. In sum, the quality of health care continues to erode and our system does not operate efficiently.

Should the scheduled physician reimbursement cuts take effect, the result will be a $710 million decrease in payments to doctors in Arizona over 2006 through 2010. I have heard from virtually every physician with whom I have spoken about the constraints that inadequate payments are placing on their practice of medicine. While many work for hospitals and health systems, in the rural areas, a large number are solo practitioners or in small practices. For these physicians, poor payment hits their practice especially hard.

If Medicare rates for doctors are inadequate, many other health care payors will also lack for adequate reimbursement. Other payors such as Medicaid and private insurers often base their payments on Medicare rates. While this bill only addresses Medicare physician payment, the problem of access to services will be compounded if physicians receive reimbursement from other payors that is below the appropriate levels.

The cost of addressing the physician payment update is not cheap. Estimates on the cost of this bill are between $25 billion to $35 billion over five years. I await an official score from the Congressional Budget Office. But I point out, that doing nothing to solve this problem may cost us more: more money, more health and access problems, and more physicians leaving the profession. Although this legislation provides for a two year update, we must develop a long range mechanism to pay physicians appropriately.

I am grateful for the support of this legislation by my colleague, Senator STABENOW of Michigan, and encourage my other colleagues to support the Preserving Patient Access to Physicians Act of 2005.

I ask unanimous consent that a letter of support be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 2005.

Hon. JOHN KYL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KYL: On behalf of the American Medical Association (AMA), we offer our strong support of your legislation, entitled the Preserving Patient Access to Physicians Act of 2005. We thank you for your leadership in introducing this legislation and providing a remedy to the steep Medicare physician payment cuts that are expected, beginning January 1, 2006.

The Medicare Trustees have recently predicted that Medicare payments for physicians' services will be cut by about 26 percent from 2006 through 2011. These cuts will critically impact access to medical services for our Nation's senior and disabled patients. A recent AMA survey concerning physician responses to significant Medicare physician pay cuts beginning January 1, 2006 indicates that if these cuts begin in 2006: 38 percent of physicians plan to decrease the number of new Medicare patients they accept; more than half of physicians plan to defer the purchase of information technology; and a majority of physicians will be less likely to participate in Medicare Advantage.

The expected cuts result from the inherently flawed payment update formula, the sustainable growth rate (SGR) spending target. The SGR is linked to the gross domestic product and penalizes physicians and other practitioners for volume increases that they cannot control and that the government actively promotes through new coverage decisions and other initiatives that, while beneficial to patients, are not reflected in the SGR.

The AMA applauds your leadership in addressing these cuts and introducing legislation that protects access to needed medical care. Your bill would provide a positive physician payment update of not less than 2.7 percent in 2006 and an update in 2007 that reflects physician practice cost inflation, which, at this time, is expected to be about 2.6 percent.

Your bill is critical for ensuring continued and long-term access to health care services for Medicare beneficiaries. We look forward to continuing to work with you to achieve enactment of your legislation, as well as long-term reform of the update formula.

Sincerely,

MICHAEL D. MAVES,
Executive Vice President, CEO.

Ms. STABENOW. Mr. President, I am very pleased to introduce the "Preserving Patient Access to Physicians Act" with my friend and colleague from Arizona, Senator KYL. This legislation is critical to ensuring that our Nation's 42 million Medicare beneficiaries continue to have access to high quality physician care.

The Medicare program is one of the most successful Federal programs of all time. It has lifted countless seniors out of poverty, and it has ensured access to necessary, affordable, quality medical care for our most vulnerable citizens for the last 40 years.

However, that success is threatened because the Medicare physician payment formula is fundamentally flawed. At a time when the doctors who treat our seniors are facing increasing practice costs, they are looking at a payment cut of 4.3 percent in 2006 for the Medicare services they provide that simply doesn't make sense.

And the cuts don't stop in 2006: if Congress doesn't act, physicians will be hit with devastating cuts totaling 22 percent over the next 5 years. Those cuts represent over $44 billion dollars nationwide, and a staggering $126 billion over the next 10 years.

Currently, over 20,000 MDs and DOs in Michigan treat over 1.4 million Medicare-eligible Michiganians with very high quality care. But if the doctors in my State receive their scheduled cut of $109 million next year, and over $5 billion over the next ten years, it's not hard to imagine that they may be forced to limit the number of Medicare patients they serve.

Numbers in the billions are indeed staggering—but the critical need for this legislation is even better demonstrated by getting down to the specifics: a Detroit physician currently is reimbursed $56.88 for an office visit. But while we all know medical inflation will continue to increase, under current law, that same physician will receive only $41.86 in 2011 for that same visit. And while an orthopedic surgeon in Detroit is now reimbursed $1,813.10 for performing a knee arthroplasty—a knee repair necessary to ensure full mobility—she is scheduled to receive $478.66 less for performing that same procedure in 2011! The examples go on and on: a cardiologist inserting a stent in a Medicare patient to prevent heart problems receives $873.85 today. The same surgeon inserting a stent in 2011 will be reimbursed only $643.15.

The "Preserving Patient Access to Physicians Act of 2005" provides physicians with a minimum update in 2006 and 2007. Specifically, the legislation overrides the Sustainable Growth Rate (SGR) formula in these years: the update to the single conversion factor in 2006 would be 2.7 percent, and a formula based on input prices and a productivity adjustment is used for 2007—the likely update for 2007 will be 2.6 percent.

Kevin Kelly, Executive Director of the Michigan State Medical Society, tells me that the minimum updates provided in this legislation are essential to both physicians and patients in Michigan in terms of assuring access to Medicare services.

And Robert Stomel, D.O., President of the Michigan Osteopathic Association, said that introduction of this legislation "is an important step in efforts to protect the availability and access to physician services for millions of Medicare beneficiaries." Dr. Stomel went on to say, "This bipartisan legislation represents a continued recognition that physician payment under Medicare must keep pace with the increasing cost of providing care."

Yet I know that this is just the beginning. We cannot continue to use stop-gap measures but must replace the SGR with a payment system that actually makes sense and reflects the costs of providing physician care to Medicare beneficiaries.

Through the bipartisan partnership Senator KYL and I have begun today, we can—and must—fix the physician payment formula and continue to provide access to high-quality Medicare services for all of our seniors and people with disabilities.

I ask unanimous consent to have printed in the record letters of support from the American Medical Association and the American Osteopathic Association.

I urge my Colleagues to join us in this effort, and I thank the Chair.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 2005.

Hon. DEBBIE A. STABENOW,
U.S. Senate, Washington, DC.

DEAR SENATOR STABENOW: On behalf of the American Medical Association (AMA), we offer our strong support of your legislation, entitled the Preserving Patient Access to Physicians Act of 2005. We thank you for your leadership in introducing this legislation and providing a remedy to the steep Medicare physician payment cuts that are expected, beginning January 1, 2006.

The Medicare Trustees have recently predicted that Medicare payments for physicians' services will be cut by about 26% from 2006 through 2011. These cuts will critically impact access to medical services for our nation's senior and disabled patients. A recent AMA survey concerning physician responses to significant Medicare physician pay cuts beginning January 1, 2006 indicates that if these cuts begin in 2006: 38% of physicians plan to decrease the number of new Medicare patients they accept; more than half of physicians plan to defer the purchase of information technology; and a majority of physicians will be less likely to participate in Medicare Advantage.

The expected cuts result from the inherently flawed payment update formula, the sustainable growth rate (SGR) spending target. The SGR is linked to the gross domestic product and penalizes physicians and other practitioners for volume increases that they cannot control and that the government actively promotes through new coverage decisions and other initiatives that, while beneficial to patients, are not reflected in the SGR.

The AMA applauds your leadership in addressing these cuts and introducing legislation that protects access to needed medical care. Your bill would provide a positive physician payment update of not less than 2.7% in 2006 and an update in 2007 that reflects physician practice cost inflation, which, at this time, is expected to be about 2.6%.

Your bill is critical for ensuring continued and long-term access to health care services for Medicare beneficiaries. We look forward to continuing to work with you to achieve enactment of your legislation, as well as long-term reform of the update formula.

Sincerely,

MICHAEL D. MAVES.

AMERICAN OSTEOPATHIC ASSOCIATION,
Washington, DC, May 19, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate, Washington, DC.

DEAR SENATOR STABENOW: As President of the American Osteopathic Association (AOA), I am pleased to inform you of our strong support for the "Preserving Patient Access to Physicians Act of 2005". The AOA, which represents the nation's 54,000 osteopathic physicians practicing in 23 specialties and subspecialties, extends its sincere gratitude to you for introducing this bill.

The current sustainable growth rate (SGR) formula for physician services under the Medicare program is broken. The continued use of the flawed and unstable methodology will result in a loss of physician services for millions of Medicare beneficiaries. Physicians annually face reductions in payment while their practice costs continue to rise. Congress recognized this with the approval of the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" (MMA) (P.L. 108–173) which replaced scheduled physician payment reductions with modest increases of 1.5 percent per year for 2004 and 2005. Unfortunately, physicians now face a projected reduction of 4.3 percent for 2006, with additional reductions for the foreseeable future that could amount to over 30 percent.

Your legislation takes an important step to address the projected 2006 and 2007 reductions in physician payment under Medicare. Specifically, the bill would establish a minimum physician payment update of 2.7 percent per year for 2006 and 2007. A minimum update of 2.7 percent will help ensure a physician's continued ability to provide quality health care services to Medicare beneficiaries.

On behalf of my fellow osteopathic physicians, I pledge our support for your effort to address the flawed Medicare physician payment formula. We look forward to working with you to advance this important legislation. Please do not hesitate to call upon the AOA or our members for assistance on health care issues. Contact the AOA's Department of Government Relations at (202) 414–0140 for additional information.

Sincerely,

GEORGE THOMAS, D.O.,
President.

By Mr. KENNEDY:

S. 1084. A bill to eliminate child poverty, and for other purposes; read the first time.

Mr. KENNEDY. Mr. President, it is shameful that in the richest and most powerful Nation on earth, nearly a fifth of all children—nearly 13 million—live in poverty. That is why I am introducing the End Child Poverty Act to address this fundamental moral issue. It will set a national goal to reduce child poverty by half within a decade, and to eliminate it entirely as soon as possible after that.

The effect of child poverty is far reaching. Children in poverty are often malnourished. They have weaker immune systems and are more vulnerable to infections and illness. Poor children also suffer in school. They lack vital nutrition necessary for healthy brain development. They have trouble concentrating in class. They often attend schools that have the least resources. Their families move frequently, so their school attendance is low. Overcrowding, utility shutoffs, and poor heating interfere with homework.

The End Child Poverty Act would commit the U.S. to ending these horrors of children growing up in such dire conditions. The bill would establish a Child Poverty Elimination Board to make recommendations to the President on how best to meet this commitment to children. It would offset the cost with a one percent surtax on income over $1 million to be invested in a Child Poverty Elimination Fund.

We must begin with this moral vision, just as we did with America's seniors. The elderly were once the poorest in society. But in 1935, we made a commitment that growing old shouldn't mean growing poor. We enacted Social Security and later Medicare, and now the elderly in America are significantly better off. The End Child Poverty Act is a vital step to give comparable security to America's children.

It's time for America to make a real commitment, and give real hope, real opportunity and real fairness to children and families mired in poverty in communities in all parts of our country.

By Mr. HATCH:

S. 1086. A bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, we are here today in a battle to save our children, their families, and the victims, of repeat sex offenders.

I am so proud of the real warriors in this battle: the victims and their family members. One of those warriors is Ed Smart, from my home State of Utah, whose daughter Elizabeth was kidnapped from her own bedroom by a sexual predator. Ed is joined by Patti Wetterling, Linda Walker, and other outstanding advocates of our children, including John Walsh of America's Most Wanted, Ernie Allen of the National Center for Missing and Exploited Children, and Robbie Calloway of the Boys & Girls Club of America in support of this bipartisan legislation we are introducing today along with cosponsor Senator BIDEN. We need legislation that will close the gaps in many laws already on the books; integrate and revive the existing laws; and expand covered offenses against children.

The Sex Offender Registration and Notification Act will bring all of the States up to date and enable citizens in every State to inform themselves about predators in their communities. This law will enable States to take public information about sex offenders and make it easy for citizens to access at one, open, web-site.

This legislation will put the responsibility on the sex offenders themselves to register with the local authorities. They will be required to notify those authorities when they move or change jobs. And if they don't want to comply with the rules—then they will go to jail!

This is common sense—those who break such a sacred trust and intend to harm our children, no matter who they are, where they are from, or where they commit their crime, should have some obligations under this law to voluntarily make their whereabouts known or subject themselves to additional jail time. That's what this bill is about. It's that simple.

The victims and victims' families have dealt with the pain and anguish imposed on them by these sexual offenders and predators. But instead of lying down, they are standing up for imposing common-sense rules on those who have taken the life and liberty of the most innocent and defenseless among us. They are standing up for tough sentences against those who won't abide by these very simple rules. They are standing up to say that together we are stronger.

Prior to 1994 just five states required convicted sex offenders to register their address with local law enforcement. Today there are over 549,000 registered sex offenders in the United States. Unfortunately, most of these receive and serve limited sentences and roam unchecked and unknown in our communities. Their crimes are heinous and they have a high risk of repeating their crimes on innocent children.

Under this Act, sex offenders and predators will be required to register in person, versus mailing in a letter. They will be required to wear a tracking device while they are on probation for a first-time offense—and wear it for life if they choose to repeat their crimes.

This Act enables states to offer citizens a searchable, statewide sex offender registry that interacts with all other states to provide seamless registration and notification across the country.

The Sex Offender Notification and Registration Act will strengthen and unite cities, communities and states in the effort to stop the assault on American children. This bill has a companion bill in the House, sponsored by Congressman MARK FOLEY and Congressman BUD CRAMER. I invite you to join Senator BIDEN and me as we close the gaping holes that keep our children at risk.

By Mr. ALEXANDER (for himself and Mr. SCHUMER):

S. 1087. A bill to amend section 337 of the Immigration and Nationality Act to prescribe the oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States; to the Committee on the Judiciary.

Mr. ALEXANDER. Today I am introducing legislation to address an important statement on what it means to be a citizen of the United States: the Oath of Allegiance, to which all new citizens swear in court when they are naturalized.

In the last session of Congress, I introduced legislation to enshrine the Oath of Allegiance in law. I was joined in that effort by 34 colleagues, including the Senator from New York, Mr. SCHUMER, as the lead cosponsor. That legislation was introduced, in part, in response to reports that the Bureau of Citizenship and Immigration Services, or BCIS, an agency of the Department of Homeland Security, may have been planning to change the Oath of Allegiance that immigrants take to become a citizen of this nation. Other Senators and I felt the proposed language, as reported in the press, would have weakened the Oath.

Today, I introduce a bill that puts forward a compromise that I hope everyone can support. I am again grateful to be joined in this effort by the senior Senator from New York. This bill introduces a modified Oath of Allegiance that is just as strong as the current one, but that uses more modem language.

I was surprise to learn that Congress has never voted on the content of this Oath. We have left it to Federal regulators. That's not how we treat other symbols of our Nation or other statements on what it means to be an American.

For example, the American Flag, with its 50 stars—one for each State—and 13 stripes for the original colonies, cannot be altered by Federal regulation. The only way a star gets added is when Congress acts to admit a new state. And we've never changed the 13 stripes since the flag was first adopted in 1777.

The Pledge of Alliance, which we repeat each morning in the United States Senate, can't be altered by Federal regulation. The Pledge is a statement of some of the values of the American Creed: "one nation, under God, indivisible, with liberty and justice for all." What if a Federal agency decided we should take out justice, just saying "with liberty for all"? It can't happen: because the Pledge can only be altered by Act of Congress, as it last was in 1954 when the phrase "under God" was added.

The National Motto "In God We Trust," which appears on all our coins and dollar bills, can't be altered by Federal regulation. It is a fundamental statement of the religious character of the American people—even though we don't permit and don't want the establishment of state religion. The Treasury Department can't decide to leave the motto off the next dollar bill it prints because the motto was adopted by Congress—at first in 1864 to be printed on the 2-cent piece, an later as the official National Motto in 1956.

Our National Anthem, the Star Spangled Banner, can't be changed by Federal regulation. It, too, is a statement of our values, declaring our country "the land of the free and the home of the brave." If a government agency decided it preferred America the Beautiful, or the Battle Hymn of the Republic, or God Bless America, all of which are great songs, the agency would have to ask Congress to act. Why? Because the Star Spangled Banner was named our National Anthem by law in 1931.

Likewise, the Oath of Allegiance should not be altered lightly—by a government agency, without public comment, and without approval from Congress. Of the five symbols and statements I've described—the Flag, the Anthem, the Pledge, the Motto, and the Oath, only the Oath of Allegiance is legally binding on those who take it. New citizens must take it, and they must sign it.

On September 11, 2003, when I spoke about my legislation, I said:

> To be clear, I have no objection to others proposing modifications to the Oath of Allegiance that we use today. . . . perhaps ways can be found to make it even stronger.
>
> Still, let's make sure any changes have the support of the people as represented by Congress. The Oath of Allegiance is a statement of the commitments required of new citizens. Current citizens, through their elected representatives, ought to have a say as to what those commitments are. That's a lesson in democracy. A legally binding statement on American citizenship ought to reflect American values, including democracy.

It is in that spirit that I offer this compromise language that prescribes an updated but very strong Oath of Allegiance. This is the right way to go forward in considering any changes, and, I hope, will allow us to finally enshrine this statement of what it means to be an American in law.

By Mr. KYL:

S. 1088. A bill to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Streamlined Procedures Act. This legislation will reduce delays in federal courts' review of habeas corpus petitions filed by State prisoners.

Currently, many Federal habeas corpus cases require 10, 15, or even 20 years to complete. These delays burden the courts and deny justice to defendants with meritorious claims. They also are deeply unfair to victims of serious, violent crimes. A parent whose child has been murdered, or someone who has been the victim of a violent assault, cannot be expected to "move on" without knowing how the case against the attacker has been resolved. Endless litigation, and the uncertainty that it brings, is unnecessarily cruel to these victims and their families. As President Clinton noted of the 1996 habeas corpus reforms, "it should not take eight or nine years and three trips to the Supreme Court to finalize whether a person in fact was properly convicted or not." For the sake of all parties, we should minimize these delays.

The 1996 habeas corpus reforms were supposed to prevent delays in Federal collateral review. Unfortunately, as the Justice Department noted in testimony before the House Crime Subcommittee in March 2003, there still are "significant gaps [in the habeas corpus statutes] . . . which can result in highly protracted litigation, and some of the reforms that Congress did adopt in 1996 have been substantially undermined in judicial application."

The Streamlined Procedures Act is designed to fill some of these gaps. First, the SPA imposes reasonable but firm time limits on court of appeals' review of Federal habeas petitions. It requires a court of appeals to decide a habeas appeal within 300 days of the completion of briefing, to rule on a petition for rehearing within 90 days, and to decide a case on rehearing within 120 days before the same panel, or 180 days before an en banc court.

As generous as these time limits are, they would make a real difference in some cases. In Morales v. Woodford, 336 F.3d 1136, 9th Cir. 2003, for example, the Ninth Circuit took 3 years to decide the case after briefing was completed. And after issuing its decision, the court took another 16 months to reject a petition for rehearing. Similarly, in Williams v. Woodford, 306 F.3d 665, 9th Cir. 2002, the court waited 25 months to decide the case—and then waited another 27 months to reject a petition for rehearing, for a total delay of almost 4½ years after appellate briefing had been completed. This is too long for either defendants or victims to have to wait.

The SPA also bars courts of appeals from rehearing successive-petition applications on their own motion—current law bars petitions for rehearing or certiorari for such applications, but some courts have interpreted this restriction to not preclude rehearing by the court of appeals sua sponte. The SPA also bars Federal courts from tolling the current 1-year deadline on filing habeas claims for reasons other than those authorized by the statute, and clarifies when a State appeal is pending for purposes of tolling the deadline.

In addition, the SPA creates uniform, clear procedures for review of procedurally improper claims. Current judicial caselaw creates a series of different standards for addressing claims in a Federal petition that were not exhausted in state court, that were presented in a late amendment, or that were procedurally defaulted. The SPA sets a uniform standard, allowing procedurally improper claims to go forward only if they present meaningful evidence that the defendant did not commit the crime, with all other improper claims barred.

The SPA also expands and improves the special expedited habeas procedures' authorized in chapter 154 of the United States Code. These procedures are available to States that establish a system for providing high-quality legal representation to capital defendants. Chapter 154 sets strict time limits on Federal court action and places limits on claims. Currently, however, the court that decides whether a State is eligible for chapter 154 is the same court that would be subject to its time limits. Unsurprisingly, these courts have proven resistant to chapter 154. The SPA would place the eligibility decision in the hands of a neutral party—the U.S. Attorney General, with review of his decision in the DC Circuit, which does not hear habeas appeals. The SPA also makes chapter 154's deadlines more practical by limiting the claims that can be raised under its provisions to those presenting meaningful evidence that the defendant did not commit the crime, and by extending the time for a district court to review and rule on a chapter 154 petition from 6 months to 15 months.

The SPA also eliminates duplicative Federal review of minor sentencing errors that already have been judged by State courts to be harmless or not prejudicial. It limits Federal courts to asking only whether the type of sentencing error at issue is one that could not have been harmless.

The SPA also applies the deferential review standard enacted in the 1996 reforms to all pending cases. Remarkably, some current habeas petitions still are not governed by the 1996 reforms. The SPA corrects this oversight, ending the need to apply the pre-1996 legal regime to any cases that still are being litigated today.

And finally, the SPA limits judicial review of State clemency and pardon decisions, guaranteeing that a State won't be sued for formalizing and regularizing its pardon procedures; it limits defendants' ability to ask Federal courts for investigatory funds without allowing prosecutors to be present and rebut defense allegations; and it guarantees a crime victim's right to be notified of, to be present at, and to speak at a criminal defendant's Federal habeas hearing.

To many people, the issues addressed by the SPA—petitions for rehearing, State remedies exhaustion, procedural default, chapter 154, AEDPA deference—may seem abstract and remote. For surviving crime victims, however, these matters can be very concrete.

A case recently in the news illustrates the importance of these concerns: that of the man who murdered three member of the Ryen family and Christopher Hughes in Chino Hills, California in June 1983. The killer in that case was an escaped convict from a nearby prison. He has since admitted that he spent 2 days hiding in a vacant house next to the home of the Ryen family. After several unsuccessful telephone calls to friends asking them to give him a ride, the killer took a hatchet and buck knife from the vacant house and set out to find a vehicle. The California Supreme Court describes the rest of what occurred, 53 Cal.3d 771, 794–95:

> On Saturday, June 4, 1983, the Ryens and Chris Hughes attended a barbecue in Los Serranos, a few miles from the Ryen home in Chino. Chris had received permission to spend the night with the Ryens. Between 9 and 9:30 p.m., they left to drive to the Ryen home. Except for Josh [the Ryen's 8-year-old son], they were never seen alive again.
>
> The next morning, June 5, Chris's mother, Mary Hughes, became concerned when he did not come home. A number of telephone calls to the Ryen residence received only busy signals. [Mary's husband] William went to the Ryen home to investigate.
>
> William observed the Ryen truck at the home, but not the family station wagon. Although the Ryens normally did not lock the house when they were home, it was locked on this occasion. William walked around the house trying to look inside. When he reached the sliding glass doors leading to the master bedroom, he could see inside. William saw the bodies of his son and Doug and Peggy Ryen on the bedroom floor. Josh was lying between Peggy and Chris. Only Josh appeared alive.
>
> William frantically tried to open the sliding door; in his emotional state, he pushed against the fixed portion of the doors, not the sliding door. He rushed to the kitchen door, kicked it in, and entered. As he approached the master bedroom, he found Jessica on the floor, also apparently dead. In the bedroom, William touched the body of his son. It was cold and stiff. William asked Josh who had done it. Josh appeared stunned; he tried to talk but could only make unintelligible sounds.
>
> William tried to use a telephone in the house but it did not work. He drove to a neighbor's house seeking help. The police arrived shortly. Doug, Peggy, Chris, and Jessica were dead, the first three in the master bedroom, Jessica in the hallway leading to that bedroom. Josh was alive but in shock, suffering from an obvious neck wound. He was flown by helicopter to Loma Linda University Hospital.
>
> The victims died from numerous chopping and stabbing injuries. Doug Ryen had at least 37 separate wounds, Peggy 32, Jessica 46, and Chris 25. The chopping wounds were inflicted by a sharp, heavy object such as a hatchet or axe, the stabbing wounds by a weapon such as a knife.

The escaped prisoner who committed this crime was caught 2 months later. Again, he admitted that he stayed in the house next door, but denied any involvement in the murders. According to the California Supreme Court, however, the evidence of defendant's guilt was "overwhelming." Not only had the defendant stayed at the vacant house right next door at the time of the murders; the hatchet used in the murders was taken from the vacant house; shoe prints in the Ryen house matched those in the vacant house and were from a type of shoe issued to prisoners; bloody items, including a prison-issue button, were found in the vacant house; prison-issue tobacco was found in the Ryen station wagon, which was recovered in Long Beach; and defendant's blood type and hair matched that found in the Ryen house. Defendant was convicted of the murders and sentenced to death in 1985, and the California Supreme Court upheld the defendant's conviction and sentence in 1991.

The defendant's Federal habeas proceedings began shortly thereafter, and they continue to this day—22 years after the murders. In 2000, the defendant asked the courts for DNA testing of a blood spot in the Ryen house, a t-shirt near the crime scene, and the tobacco found in the car. Despite the overwhelming evidence of his guilt, the courts allowed more testing. All three tests found that the blood and saliva matched defendant, to a degree of certainty of one in 320 billion. Blood on the t-shirt matched both the defendant and one of the victims.

One might have thought that this would end the case. Not so. In February 2004, the en banc Ninth Circuit sua sponte authorized defendant to file a second habeas petition to pursue theories that police had planted this DNA evidence. Since the evidence had been in court custody since 1983, the Ninth Circuit's theory not only required police to plan and execute a vast conspiracy to plant the evidence—it also required them to foresee the future invention of the DNA technology that would make that evidence useful in future habeas proceedings.

The Streamlined Procedures Act would have made a difference in this case. For example, it would have eliminated the need to return to state court to exhaust new claims, reducing the delay in the Federal proceedings by nearly 3 years. It would have applied the 1996 reforms to this case, allowing deferential review of state factual findings and legal analysis. It would have placed time limits on Federal appeals court decisionmaking and grants of rehearing. And it would have prevented the court of appeals from ordering rehearing of the defendant's successive-petition application on its own motion, thereby barring the current round of O.J. Simpson-style conspiracy-theory litigation. The SPA could have brought this case to closure a long time ago.

And this case deserves to be brought to closure. One cannot underestimate the grievous impact that crimes like these have on the families of the victims. Mary Hughes, the mother of 11-year-old Christopher Hughes, who was sleeping over at the Ryen house on the night of the murders, has spoken movingly of the loss of her son:

> Christopher Hughes loved his bicycle, swimming and showing off for his mom and dad.
>
> The 11-year-old's bedroom was filled with swimming trophies and Star Wars collectibles. He was a handsome kid who was chased by a lot of fifth-grade girls on the playground during recess at Our Lady of the Assumption in Claremont.
>
> He wasn't short on friends, either.
>
> Christopher really liked Joshua Ryen, an 8-year-old boy who lived up the street from him. They would trick-or-treat together on Halloween, play together, and their parents were good friends.
>
> On the night of June 4 1983, Christopher asked his parents if he could spend the night at the Ryen house.
>
> It was a decision that would change the Hughes family forever.
>
> [Mary Hughes'] son Christopher would have been 32 today. She sometimes wonders who he would have been, what he would've looked like, and even during her most solemn moments, she wonders what life would've been like if Cooper had never gone to the Ryens' house.
>
> "It never really ever gets better," she said. "Kevin Cooper robbed him of the chance to be a child, to attend his first dance, to have a girlfriend, and to one day get married and have kids of his own. He robbed me of my child."
>
> Mary Ann Hughes does have one special memory of her son she holds close to her heart. A week before his death, she took him to see the movie "Return of the Jedi."
>
> "He was so happy. It was such a great day," she said. "It seems like such a small thing, but it's the best memory I have of both of us." (Sara Carter, "He Was at the Beginning of His Life When He Died," Inland Valley Daily Bulletin, February 9, 2004.)

In light of how much the surviving family already has suffered, one might expect that all participants in the criminal proceedings would take great concern and care for the feelings of the family. Unfortunately, that has not been the case. The Ninth Circuit has proved willing to turn the appeals into a three-ring circus, allowing continual pursuit of the most frivolous conspiracy theories. The impact of these now 22 years of trial and appeals on the victims' families has been predictable: they feel that they and the victims have become irrelevant to the entire process. Shortly after the Ninth Circuit authorized an additional round of appeals in this case, a local newspaper described what the families have experienced:

> For nearly 20 years, since convicted murderer Kevin Cooper was sentenced to death for the 1983 slayings of a Chino Hills family and their young houseguest, families of the victims have waited silently for the day the hand of justice would grant them peace.
>
> For those families, the last two decades have seemed like an eternity.
>
> "I lived through a nightmare," said Herbert Ryen, whose brother Douglas Ryen was among those killed, along with Douglas' wife Peggy, their 11-year-old daughter Jessica, and her 10-year-old friend Christopher Hughes.
>
> [O]n the morning of Feb. 9, [2004,] the day of Cooper's scheduled death by lethal injection, word came down that the 9th U.S. Circuit Court of Appeals had decided to block the execution.
>
> [T]o the Ryen and Hughes families, the stay just hours before Cooper's scheduled execution at San Quentin State Prison was nearly incomprehensible. The indefinite delay has left them in a sort of emotional limbo, questioning whether the legal system had abandoned them.
>
> "The bottom line is that this whole issue is not about Kevin Cooper . . . it is about the death penalty," said Mary Ann Hughes, the mother of Christoper Hughes. "We're so mad—mad because we feel as though the courts turned their back on my son."
>
> "They (Court of Appeals) are holding us hostage," Hughes said.
>
> For Herbert Ryen and his wife Sue, waiting for justice has taken an equally destructive toll on their lives. The torment their family experienced following the murders, and the subsequent years lost to depression, could never be replaced, he said from his home in Arizona.
>
> Mary Ann Hughes said the pain her family suffers is only amplified by the seemingly continuous bombardment of celebrities campaigning against Cooper's execution. She wonders who will cry out in anger for the victims.
>
> One former television star and anti-death penalty activist, Mike Farrell of the popular series MASH, spoke of the case on a recent news program.
>
> "He claimed that we must feel relieved since the stay of execution was granted," Hughes said. "How can (Farrell) have the audacity to say he knows what we are feeling?"
>
> Farrell could not be reached for comment.
>
> Since Christopher's death, the Hughes family has chosen to remain out of the media spotlight. And until recently, their efforts were successful, due largely to the support of their surviving children, family members and a strong network of close friends, Hughes said.
>
> The court's decision Feb. 9 has re-opened the case, forcing the families to re-live the nightmare they have fought so hard to leave behind, they say.
>
> Mary Ann Hughes is left wondering about other families who have had loved ones taken from them, about the legal battles they have had to endure in their own quests for justice.
>
> She thinks of the parents of Samantha Runion, the 5-year-old Orange County girl who was murdered in 2003, and of what her family could face in the next 20 years.
>
> For Bill Hughes, the anguish is intensified—he will forever know the pain of walking into the Ryens' home the morning after the murders, and finding his son, dead and covered in blood near the Ryens' bedroom door. He was also the first to discover Joshua Ryen, also drenched in blood, clinging to life.
>
> "It is a memory he will always have to live with," Mary Ann Hughes said.
>
> Indeed, time has been no friend to the victims' families, as California's recent appellate court ruling has further denied them closure, she added.
>
> "What this decision has done to our legal system in California is unthinkable," she said. "Somewhere along the line, the courts have got to uphold the law, and we will wait it out until they do." (Sara Carter, "Families of Murder Victims Wait for Justice in Cooper Case," Inland Valley Daily Bulletin, February 24, 2004.)

Mary Hughes' story demonstrates why the use of Federal judicial power must be measured and fair it illustrates the heavy cost imposed by judicial excess.

No statement, however, better explains the gross cruelty caused by allowing endless litigation and appeals in a case like this than that given by one of the surviving victims of the 1983 attack. Josh Ryen was 8 years old when he was stabbed in his parents' bedroom and his parents and sister were murdered. He is now 30 years old. On April 22, 2005, he gave a statement pursuant to the recently enacted Crime Victims' Rights Act in the federal habeas corpus hearing for his parents and sister's killer. I will close my remarks by asking unanimous consent that Josh Ryen's statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOSHUA RYEN, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SAN DIEGO

APRIL 22, 2005.—The first time I met Kevin Cooper I was 8 years old and he slit my throat. He hit me with a hatchet and put a hole in my skull. He stabbed me twice, which broke my ribs and collapsed one lung. I lived only because I stuck four fingers in my neck to slow the bleeding, but I was too weak to move. I laid there 11 hours looking at my mother who was right beside me.

I know now he came through the sliding glass door and attacked my dad first. He was lying on the bed and was struck in the dark without warning with the hatchet and knife. He was hit many times because there is a lot of blood on the wall on his side of the bed.

My mother screamed and Cooper came around the bed and started hitting her. Somehow my dad was able to struggle between the bed and the closet but Cooper bludgeoned my father to death with the knife and hatchet, stabbing him 26 times and axing him 11. One of the blows severed his finger and it landed in the closet. My mother tried to get away but he caught her at the bottom of the bed and he stabbed her 25 times and axed her 7.

All of us kids were drawn to the room by mom's screams. Jessica was killed in the doorway with 5 ax blows and 46 stabs. I won't say how many times my best friend Chris was stabbed and axed, not because it isn't important, but because I don't want to hurt his family in any way, and they are here.

After Cooper killed everyone, and thought he had killed me, he went over to my sister and lifted her shirt and drew things on her stomach with the knife. Then he walked down the hallway, opened the refrigerator, and had a beer. I guess killing so many people can make a man thirsty.

I don't want to be here. I came because I owe it to my family, who can't speak for themselves. But by coming I am acknowledging and validating the existence of Kevin Cooper, who should have been blotted from the face of the earth a long time ago. By coming here it shows that he still controls me. I will be free, my life will start, the day

Kevin Cooper dies. I want to be rid of him, but he won't go away.

I've been trying to get away from him since I was 8 years and I can't escape. He haunts me and follows me. For over 20 years all I've heard is Kevin Cooper this and Kevin Cooper that. Kevin Cooper says he is innocent. Kevin Cooper says he was framed. Kevin Cooper says DNA will clear him. Kevin Cooper says blood was planted. Kevin Cooper says the tennis shoes aren't his. Kevin Cooper says three guys did it. Kevin Cooper says police planted evidence. Kevin Cooper gets another stay from another court and sends everyone off on another wild goose chase.

The courts say there isn't any harm when Kevin Cooper gets another stay and another hearing. This just shows they don't care about me, because every time he gets another delay I am harmed and have to relive the murders all over again. Every time Kevin Cooper opens his mouth everyone wants to know what I think, what I have to say, how I'm feeling, and the whole nightmare floods all over me again: the barbecue, me begging to let Chris spend the night, me in my bed and him on the floor beside me, my mother's screams, Chris gone, dark house, hallway, bushy hair, everything black, mom cut to pieces saturated in blood, the nauseating smell of blood, eleven hours unable to move, light filtering in, Chris' father at the window, the horror of his face, sound of the front door splintering, my pajamas being cut off, people trying to save me, the whap whap of the helicopter blades, shouted questions, everything fading to black.

Every time Cooper claims he's innocent and sends people scurrying off on another wild goose chase, I have to relive the murders all over again. It runs like a horror movie, over and over again and never stops because he never shuts up. He puts PR people on national television who say outrageous things and then the press wants to know what I think. What I think is that I would like to be rid of Kevin Cooper. I would like for him to go away. I would like to never hear from Kevin Cooper again. I would like Kevin Cooper to pay for what he did.

I dread happy times like Christmas and Thanksgiving. If I go to a friend's house on holidays I look at all the mothers and fathers and children and grandchildren and get sad because I have no one. Kevin Cooper took them from me.

I get terrified when I go into any place dark, like a house before the lights are on. I hear screams and see flashbacks and shadows. Even with lights on I see terrible things. After I was stabbed and axed I was too weak to move and stared at my mother all night. I smelled this overpowering smell of fresh blood and knew everyone had been slaughtered.

Every day when I comb my hair I feel the hole where he buried the hatchet in my head, and when I look in the mirror I see the scar where he cut my throat from ear to ear and I put four fingers in it to stop the bleeding which, they say, saved my life. Every year I lose hearing in my left ear where he buried the knife.

Helicopters give me flashbacks of life flight and my Incredible Hulks being cut off by paramedics. Bushy hair reminds me of the killer. Silence reminds me of the quiet before the screams. Cooper is everywhere. There is no escape from him.

I feel very guilty and responsible to the Hughes family because I begged them to let Chris spend the night. If I hadn't done that he wouldn't have died. I apologize to them and especially to Mr. Hughes for having to find us and see his son cut and stabbed to death.

I thank the judge who gave my grandma custody of me because she took good care of me and loves me very much.

I'm grateful to the ocean for giving me peace because when I go there I know my mother and father and sister's ashes are sprinkled there.

Kevin Cooper has movie stars and Jesse Jackson holding rallies for him, people carrying signs, lighting candles, saying prayers. To them and you I say:

I was 8 when he slit my throat,
It was dark and I couldn't see.

Through the night and day I laid there,
trying to get up and flee.

He killed my mother, father, sister, friend,
And started stalking me.
I try to run and flee from him but cannot get away,
While he demands petitions and claims, some fresh absurdity.
Justice has no ear for me nor cares about my plight,
while crowds pray for the killer and light candles in the night.
To those who long for justice and love truth which sets men free. When you pray
your prayers tonight, please remember me.

By Mr. AKAKA (for himself, Mr. COCHRAN, and Mr. DODD):

S. 1089. A bill to establish the National Foreign Language Coordination Council to develop and implement a foreign language strategy, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, today I rise to introduce the National Language Coordination Act of 2005 which provides a framework for leading and coordination the learning of foreign languages and cultures, with my good friends Senators COCHRAN and DODD.

The National Foreign Language Coordination Act would create the position of a National Language Director and a National Foreign Language Coordination Council to develop and oversee the implementation of a foreign language strategy. The proposed Council, chaired by the National Language Director, would identify crucial priorities, increase public awareness of the need for foreign language skills, advocate maximum use of resources, coordinate cross-sector efforts, and monitor the foreign language activities of the Federal Government.

The genesis of this legislation is a report entitled, "A Call to Action for National Foreign Language Capabilities," issued by the National Language Conference held in June 2004 under the auspices of the Department of Defense. This conference was an extraordinary gathering of government, industry, academia, and language association representatives. The mission of this meeting was twofold: to discuss and deliberate initial strategic approaches to meeting the nation's language needs in the 21st century, and to identify actions that could move the United States toward a "language-competent nation." It was hosted by the Office of the Under Secretary of Defense for Personnel and Readiness and by the Center for Advanced Study of Language (CASL) at the University of Maryland at College Park.

I ask unanimous consent that the executive summary of the report, "A Call to Action for National Foreign Language Capabilities," be printed in the RECORD following my remarks.

I believe the recommendations of this report speak eloquently to the need for this legislation. As Dr. David Chu, Undersecretary of Defense for Personnel and Readiness, notes in his forward to the report, "improving the nation's foreign language capability requires immediate and long-term engagement."

The intent of this legislation is to ensure that immediate and long-term engagement.

The establishment of a National Language Director and the creation of a National Foreign Language Coordination Council will ensure that the key recommendations of the Department of Defense sponsored conference will be implemented, which include: developing policies and programs that build the nation's language and cultural understanding capability; engaging federal, state, and local agencies and the private sector in solutions; developing language and cultural competency across public and private sectors; developing language skills in a wide range of critical languages; strengthening our education system, programs, and tools in foreign languages and cultures; and integrating language training into career fields and increase the number of language professionals.

The terrorist attacks of September 11, 2001, showed how much more was needed to improve education in these critical areas. The investigations surrounding the attacks have underscored how important foreign language proficiency is to our national security. The Joint Intelligence Committee inquiry into the terrorist attacks found that prior to September 11, the Intelligence Community was not prepared to handle the challenge of translating the volumes of foreign language counter-terrorism intelligence that had been collected. Agencies within the Intelligence Community experienced backlogs in material awaiting translation and a shortage of language specialists and language-qualified field officers in the most critical terrorism-related languages used by terrorists.

America needs people who understand foreign cultures and who are fluent in locally-spoken languages. The stability and economic vitality of the United States and our national security depend on American citizens who are knowledgeable about the world. We need civil servants, including law enforcement officers, teachers, area experts, diplomats, and business people with the ability to communicate at an advanced level in the languages and understand the cultures of the people with whom they interact.

Experts tell us we should develop long-term relationships with people from every walk of life all across the world, whether or not the languages they speak are considered critical for a particular issue or emergency.

They are right.

As then-Deputy Secretary of Defense Paul Wolfowitz noted at the National Language Conference, "The greater our ability to communicate with people, the easier the burden on our troops and the greater the likelihood that we can complete our missions and bring our people home safely. Even better, the greater our linguistic skill, the greater the possibility that we can resolve international differences and achieve our objectives without having to use force."

I am proud of my own State of Hawaii, whose language patterns reflect that we are a mixing pot of varying cultures. According to the 2000 Census, more than 300,000 people or about 27 percent of those five years and older spoke a language other than English at home. This is compared to about 18 percent nationwide. Language education offerings to improve conversational proficiency with formal training in non-English languages are working to keep pace with increased demand. In addition, enrollments in foreign language courses at the University of Hawaii have been markedly increasing—a trend that I am gratified to see happening across the country. But more needs to be done both in Hawaii and the rest of the country.

I am a passionate believer in beginning these programs at the earliest age possible. Americans need to be open to the world; we need to be able to see the world through the eyes of others if we are going to understand how to resolve the complex problems we face.

The need to hear and understand one another is timeless and essential.

An ongoing commitment to developing language and cultural expertise helps prevent a crisis from occurring and provides diplomatic and language resources when needed. We cannot afford to seek out foreign language skills after an event like 9/11 occurs. The failures of communication and understanding have already done their damage. We must provide an ongoing commitment to language education and encourage knowledge of foreign languages and cultures.

The answer is simple. If we are committed to maintaining these relationships and creating a language proficient citizenry, we must have leadership. The National Foreign Language Coordination Act will provide this leadership and ensure that we are aware and involved in the world around us.

I ask unanimous consent that the text of the bill be printed in the RECORD.

I urge my colleagues to support this important legislation.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY—A CALL TO ACTION AND LEADERSHIP

Vision: Our vision is a world in which the United States is a stronger global leader through proficiency in foreign languages and understanding of the cultures of the world. These abilities are strengths of our public and private sectors and pillars of our educational system. The government, academic, and private sectors contribute to, and mutually benefit from, these national capabilities.

The terrorist attacks of September 11th, the Global War on Terrorism, and the continued threat to our Homeland have defined the critical need to take action to improve the foreign language and cultural capabilities of the Nation. We must act now to improve the gathering and analysis of information, advance international diplomacy, and support military operations. We must act to retain our global market leadership and succeed against increasingly sophisticated competitors whose workforces possess potent combinations of professional skills, knowledge of other cultures, and multiple language proficiencies. Our domestic well-being demands action to provide opportunities for all students to learn foreign languages important for the Nation, develop the capabilities of our heritage communities, and ensure services that are core to our quality of life.

Success in this crucial undertaking will depend on leadership strong enough to:

Implement policies, programs, and legislation that build the national language and cultural understanding capability;

Engage Federal, state, and local agencies and the private sector in solutions;

Develop language and cultural competency across public and private sectors;

Develop language skills in a wide range of critical languages;

Strengthen our education system, programs, and tools in foreign languages and cultures; and

Integrate language training into career fields and increase the number of language professionals, especially in the less commonly taught languages.

Leadership must be comprehensive, as no one sector—government, industry, or academia—has all of the needs for language and cultural competency, or all of the solutions. Some actions must be initiated immediately by specific agencies and Federal Departments should organize to work on proposed recommendations. Other necessary solutions must be long-term, strategic, and " involve multiple organizations in all levels. To accomplish this agenda, the Nation needs:

A National Language Authority appointed by the President to develop and implement a national foreign language strategy;

A National Foreign Language Coordination Council to coordinate implementation of the national foreign language strategy.

This is the Call to Action to move the Nation toward a 21st century vision.

S. 1089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Foreign Language Coordination Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) there is a severe shortage of qualified language professionals, including teachers, translators, and interpreters, especially in less commonly taught languages, across the United States;

(2) Federal, State, and local governments need individuals with bilingual and bicultural capabilities, including—

(A) diplomats;

(B) defense and intelligence analysts;

(C) military personnel;

(D) foreign language instructors;

(E) health professionals;

(F) medical and social services providers;

(G) court interpreters;

(H) translators; and

(I) law enforcement officers;

(3) deficiencies in the national language capabilities have—

(A) undermined cross-cultural communication and understanding at home and abroad;

(B) restrained social mobility;

(C) lessened national commercial competitiveness;

(D) limited the effectiveness of public diplomacy;

(E) restricted justice and government services to sectors of society; and

(F) threatened national security;

(4) ample resources are not available to develop language and cultural capabilities in all of the world's languages, requiring prioritization of such resources; and

(5) a National Foreign Language Coordination Council and a National Language Director can help to raise public awareness and provide top-down coordination and direction.

SEC. 3. ESTABLISHMENT OF THE NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) ESTABLISHMENT.—There is established the National Foreign Language Coordination Council (referred to as the "Council" in this Act), which shall be an independent establishment as defined under section 104 of title 5, United States Code.

(b) MEMBERSHIP.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.

(5) The Secretary of Homeland Security.

(6) The Attorney General.

(7) The Director of National Intelligence.

(8) The Secretary of Labor.

(9) The Director of the Office of Personnel Management.

(10) The Director of the Office of Management and Budget.

(11) The Secretary of Commerce.

(12) The Secretary of Health and Human Services.

(13) The Secretary of the Treasury.

(14) The Secretary of Housing and Urban Development.

(15) The Secretary of Agriculture.

(16) The heads of such other Federal agencies as the Council considers appropriate.

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The Council shall be charged with—

(A) developing a national foreign language strategy within 18 months of the date of enactment of this Act; and

(B) overseeing the implementation of such strategy.

(2) STRATEGY CONTENT.—The strategy developed under paragraph (1) shall include—

(A) identification of crucial priorities across all sectors;

(B) identification and evaluation of Federal foreign language programs and activities, including—

(i) recommendations on coordination;

(ii) program enhancements; and

(iii) allocation of resources so as to maximize use of resources;

(C) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness in the next 20 to 50 years;

(D) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—

(i) Federal, State, and local leaders;

(ii) students;

(iii) parents;

(iv) elementary, secondary, and postsecondary educational institutions; and

(v) potential employers;

(E) incentives for related educational programs, including foreign language teacher training;

(F) coordination of cross-sector efforts, including public-private partnerships;

(G) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;

(H) assistance for—

(i) the development of foreign language achievement standards; and

(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;

(I) development of—

(i) language skill-level certification standards;

(ii) an ideal course of pre-service and professional development study for those who teach foreign language;

(iii) suggested graduation criteria for foreign language studies and appropriate non-language studies, such as—

(I) international business;

(II) national security;

(III) public administration; and

(IV) health care; and

(J) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community.

(d) MEETINGS.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.

(e) STAFF.—

(1) IN GENERAL.—The Director may appoint and fix the compensation of such additional personnel as the Director considers necessary to carry out the duties of the Council.

(2) DETAILS FROM OTHER AGENCIES.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council.

(3) EXPERTS AND CONSULTANTS.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) POWERS.—

(1) DELEGATION.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this Act.

(2) INFORMATION.—The Council may secure directly from any Federal agency such information the Council considers necessary to carry out its responsibilities. Upon request of the Director, the head of such agency shall furnish such information to the Council.

(3) DONATIONS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(4) MAIL.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(g) CONFERENCES, NEWSLETTER, AND WEBSITE.—In carrying out this Act, the Council—

(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;

(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and

(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.

(h) REPORTS.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Council shall prepare and transmit to the President and Congress a report that describes the activities of the Council and the efforts of the Council to improve foreign language education and training and impediments, including any statutory and regulatory restrictions, to the use of each such program.

SEC. 4. ESTABLISHMENT OF A NATIONAL LANGUAGE DIRECTOR.

(a) IN GENERAL.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across all of the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.

(b) RESPONSIBILITIES.—The National Language Director shall—

(1) develop and oversee the implementation of a national foreign language strategy across all sectors;

(2) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and

(3) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.

(c) COMPENSATION.—The National Language Director shall be paid at a rate of pay payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 5. ENCOURAGEMENT OF STATE INVOLVEMENT.

(a) STATE CONTACT PERSONS.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.

(b) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 149—HONORING THE LIFE AND CONTRIBUTIONS OF HIS EMINENCE, ARCHBISHOP IAKOVOS, FORMER ARCHBISHOP OF THE GREEK ORTHODOX ARCHDIOCESE OF NORTH AND SOUTH AMERICA

Ms. SNOWE (for herself and Mr. SARBANES) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 149

Whereas His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America and spiritual leader of Greek Orthodox Christians in the Western Hemisphere from 1959 to 1996, passed away at the age of 93 on April 10, 2005, in Stamford, Connecticut;

Whereas, when Archbishop Iakovos retired at the age of 85 on July 29, 1996, the Archbishop had given 37 years of outstanding service that were distinguished by his leadership in furthering religious unity, revitalizing Christian worship, and championing human and civil rights;

Whereas Archbishop Iakovos was born Demetrios A. Coucouzis on the tiny island of Imbros in the Aegean Sea to Maria and Athanasios Coucouzis on July 29, 1911;

Whereas Archbishop Iakovos enrolled in the Ecumenical Patriarchal Theological School at Halki at the age of 15;

Whereas, after graduating with high honors from Halki, Archbishop Iakovos was ordained deacon in 1934, taking the ecclesiastical name Iakovos;

Whereas 5 years after his ordination, Archbishop Iakovos received an invitation to serve as archdeacon to the late Archbishop Athenagoras, the primate of North and South America, who later became Ecumenical Patriarch of Constantinople;

Whereas in 1940, Archbishop Iakovos was ordained to the priesthood in Lowell, Massachusetts, beginning his service at St. George Church in Hartford, Connecticut, while teaching and serving as assistant dean of the Holy Cross Greek Orthodox Theological School, then in Pomfret, Connecticut, and now in Brookline, Massachusetts;

Whereas in 1941, Archbishop Iakovos was named preacher at Holy Trinity Cathedral in New York City, and in the summer of 1942 served as temporary dean of St. Nicholas Church in St. Louis, Missouri;

Whereas Archbishop Iakovos was appointed dean of the Annunciation Greek Orthodox Cathedral in Boston, Massachusetts, in 1942, and remained there until 1954;

Whereas in 1945, Archbishop Iakovos earned a Master of Sacred Theology Degree from Harvard University;

Whereas Archbishop Iakovos became a United States citizen in 1950;

Whereas in 1954, Archbishop Iakovos was ordained Bishop of Melita by his spiritual father and mentor, Ecumenical Patriarch Athenagoras, for whom he served four years as personal representative of the Patriarchate to the World Council of Churches in Geneva;

Whereas on February 14, 1959, the Holy Synod of the Ecumenical Patriarchate elected Archbishop Iakovos to succeed Archbishop Michael as primate of the Greek Orthodox Church in the Americas;

Whereas Archbishop Iakovos was enthroned April 1, 1959, at Holy Trinity Cathedral in New York City, assuming responsibility for a jurisdiction that has grown to be over 500 parishes in the United States alone;

Whereas the enthronement of Archbishop Iakovos in 1959 ushered in a new era for the Greek Orthodox Church in America, in which the Church became part of the mainstream of American religious life;

Whereas in 1959, shortly after being named archbishop, Archbishop Iakovos held a historic meeting with Pope John XXIII, becoming the first Greek Orthodox Archbishop to meet with a Roman Catholic Pope in 350 years;

Whereas Archbishop Iakovos was a dynamic participant in the contemporary ecumenical movement for Christian unity, serving for nine years as President of the World Council of Churches and piloting Inter-Orthodox, Inter-Christian, and Inter-Religious dialogues;

Whereas Archbishop Iakovos vigorously supported the passage of the Civil Rights Act of 1964, and had the courage to walk hand in hand with Dr. Martin Luther King, Jr. in Selma, Alabama, a historic moment for America that was captured on the cover of LIFE Magazine on March 26, 1965;

Whereas Archbishop Iakovos spoke out forcefully against violations of human rights and religious freedom and, in 1974, undertook a massive campaign to assist Greek Cypriot refugees following the invasion of Cyprus by Turkish armed forces;

Whereas Archbishop Iakovos was a recipient of the Presidential Medal of Freedom, the Nation's highest civilian honor, which was bestowed on him by President Carter on June 9, 1980;

Whereas in 1986, Archbishop Iakovos was awarded the Ellis Island Medal of Honor and was cited by the Academy of Athens, the National Conference of Christians and Jews, and the Appeal of Conscience;

Whereas Archbishop Iakovos, during his stewardship of the Greek Orthodox Church in America, became an imposing religious figure and a champion of social causes, encouraging the faithful to become involved in all aspects of American life;

Whereas Archbishop Iakovos was a friend to nine Presidents, and to religious and political leaders worldwide, receiving honorary degrees from some 40 colleges and universities;

Whereas Archbishop Iakovos presented a prayer at Presidential inaugural ceremonies in 1961, 1965, 1969, and 1972;

Whereas the Archbishop has said of his pastoral work with immigrants in New England and New York, "I lived and struggled with them to maintain the faith and culture.";

Whereas in a 1995 interview, the Archbishop said he had accomplished a major goal "to have the Orthodox Church be accepted by the family of religions in the United States"; and

Whereas Archbishop Iakovos was interred at the Holy Trinity Cathedral in New York, New York, on April 15, 2005: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Archbishop Iakovos and commends the life the Archbishop led;

(2) thanks Archbishop Iakovos for his service to the members of his church and to the people of this Nation;

(3) honors Archbishop Iakovos' commitment to the principles of equality, humanity, and peace; and

(4) recognizes that Archbishop Iakovos was a committed and caring pastor to a whole generation of Greek Americans—

(A) whose hard work, determination, and pride in their religious and cultural heritage Archbishop Iakovos embodied; and

(B) who will dearly miss the Archbishop.

SENATE RESOLUTION 150—EXPRESSING CONTINUED SUPPORT FOR THE CONSTRUCTION OF THE VICTIMS OF COMMUNISM MEMORIAL

Mr. DURBIN (for himself, Mr. SMITH, and Mr. MARTINEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 150

Whereas section 905 of the FRIENDSHIP Act (40 U.S.C. 1003 note) authorizes the construction of a memorial to honor the victims of communism;

Whereas the construction of a Victims of Communism Memorial near the United States Capitol in the District of Columbia is scheduled to begin in the fall of 2005;

Whereas construction of the Memorial is supported by many Americans whose country of origin is, or was, a "Captive Nation", from Baltic-Americans to Vietnamese-Americans;

Whereas communism has claimed the lives of more than 100,000,000 people in less than 100 years; and

Whereas it is important for the people of the United States to honor and remember the victims of communism by supporting the construction of this memorial: Now, therefore, be it

Resolved, That the Senate expresses its continued support for the construction of the Victims of Communism Memorial.

SENATE RESOLUTION 151—RECOGNIZING THE 57TH ANNIVERSARY OF THE INDEPENDENCE OF THE STATE OF ISRAEL

Mr. FRIST (for himself, Mr. REID, Mr. MARTINEZ, Mr. LAUTENBERG, Mr. INHOFE, Mr. LIEBERMAN, and Mrs. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 151

Whereas in May 1948, the State of Israel was established as a sovereign and independent nation;

Whereas the United States was one of the first nations to recognize Israel, only 11 minutes after its creation;

Whereas Israel has provided the opportunity for Jews from all over the world to reestablish their ancient homeland;

Whereas Israel is home to many religious sites which are sacred to Judaism, Christianity, and Islam;

Whereas Israel provided a refuge to Jews who survived the horrors of the Holocaust and the evils committed by the Nazis which were unprecedented in human history;

Whereas the people of Israel have established a unique, pluralistic democracy which includes the freedoms cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed;

Whereas Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising in its Parliament, the Knesset, a democratic government that is fully representative of its citizens;

Whereas Israel has bravely defended itself from attacks repeatedly since independence;

Whereas the Government of Israel has successfully worked with the neighboring Governments of Egypt and Jordan to establish peaceful, bilateral relations;

Whereas, despite the deaths of over one thousand innocent Israelis at the hands of murderous, suicide bombers and other terrorists during the past 4 years, the people of Israel continue to seek peace with their Palestinian neighbors;

Whereas the United States and Israel enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect;

Whereas the people of the United States share affinity with the people of Israel and view Israel as a strong and trusted ally; and

Whereas Israel has made significant global contributions in the fields of science, medicine, and technology: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the independence of the State of Israel as a significant event in providing refuge and a national homeland for the Jewish people;

(2) strongly supports efforts to bring peace to the Middle East, including the disengagement plan of the Israeli government, the Roadmap, and the recent Quartet decision to appoint World Bank President James Wolfensohn as Coordinator for Gaza Disengagement,

(3) commends the bipartisan commitment of all United States administrations and United States Congresses since 1948 to stand by Israel and work for its security and well-being; and

(4) extends warm congratulations and best wishes to the people of Israel as they celebrate the 57th anniversary of Israel's independence.

SENATE CONCURRENT RESOLUTION 35—EXPRESSING THE SENSE OF CONGRESS THAT THE GOVERNMENT OF THE RUSSIAN FEDERATION SHOULD ISSUE A CLEAR AND UNAMBIGUOUS STATEMENT OF ADMISSION AND CONDEMNATION OF THE ILLEGAL OCCUPATION AND ANNEXATION BY THE SOVIET UNION FROM 1940 TO 1991 OF THE BALTIC COUNTRIES OF ESTONIA, LATVIA, AND LITHUANIA

Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. CON. RES. 35

Whereas the incorporation in 1940 of the Baltic countries of Estonia, Latvia, and Lithuania into the Soviet Union was an act of aggression carried out against the will of sovereign people;

Whereas the United States was steadfast in its policy of not recognizing the illegal Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Russian Federation is the successor state to the Soviet Union;

Whereas the Molotov-Ribbentrop Pact of 1939, including its secret protocols, between Nazi Germany and the Soviet Union provided the Soviet Union with the opportunity to occupy and annex Estonia, Latvia, and Lithuania;

Whereas the occupation brought countless suffering to the Baltic peoples through terror, killings, and deportations to Siberian concentration camps;

Whereas the peoples of Estonia, Latvia, and Lithuania bravely resisted Soviet aggression and occupation;

Whereas the Government of Germany renounced its participation in the Molotov-Ribbentrop Pact of 1939 and publicly apologized for the destruction and terror that Nazi Germany unleashed on the world;

Whereas, in 1989, the Congress of Peoples' Deputies of the Soviet Union denounced the Molotov-Ribbentrop Pact of 1939 and its secret protocols;

Whereas President Putin recently confirmed that the statement of the Congress of Peoples' Deputies remains the view of the Russian Federation;

Whereas the illegal occupation and annexation of the Baltic countries by the Soviet Union remains unacknowledged by the Russian Federation;

Whereas a declaration of acknowledgment of the illegal occupation and annexation by the Russian Federation would lead to improved relations between the people of Estonia, Latvia, and Lithuania and the people of Russia, would form the basis for improved relations between the governments of the countries, and strengthen stability in the region;

Whereas the Russian Federation is to be commended for beginning to acknowledge grievous and regrettable incidents in their history, such as admitting complicity in the massacre of Polish soldiers in the Katyn Forest in 1940;

Whereas the truth is a powerful weapon for healing, forgiving, and reconciliation, but its absence breeds distrust, fear, and hostility; and

Whereas countries that cannot clearly admit their historical mistakes and make peace with their pasts cannot successfully build their futures: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, the consequence of which will be a significant increase in good will among the affected peoples and enhanced regional stability.

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations will hold a hearing entitled "The Container Security Initiative and the Customs-Trade Partnership Against Terrorism: Securing the Global Supply Chain or Trojan Horse?" In light of the September 11, 2001, terrorist attacks, concern has increased that terrorists could smuggle weapons of mass destruction in the approximately 9 million ocean going containers that arrive in the United States every year. As part of its overall response to the threat of terrorism, the Department of Homeland Security's Bureau of Customs and Border Protection (Customs) implemented the Container Security Initiative, CSI, to screen high-risk containers at sea ports overseas, thus employing screening tools before potentially dangerous cargoes reach our shores. Customs also implemented the Customs Trade Partnership Against Terrorism, C–TPAT, to improve the security of the global supply chain in partnership with the private sector.

Both CSI and C–TPAT face a number of compelling challenges that impact their ability to safeguard our Nation from terrorism. The Subcommittee's May 26 hearing will examine how Customs utilizes CSI and C–TPAT in connection with its other enforcement programs and review the requirements for and challenges involved in transitioning CSI and C–TPAT from promising risk management concepts to effective and sustained enforcement operations. These important Customs initiatives require sustained Congressional oversight. As such, this will be the first of several hearings the Subcommittee intends to hold on the response of the Federal Government to terrorist threats.

The Subcommittee hearing is scheduled for Thursday, May 26, 2005, at 9:30 a.m. in Room 562 of the Dirksen Senate Office Building. For further information, please contact Raymond V. Shepherd, III, Staff Director and Chief Counsel to the Permanent Subcommittee on Investigations, at 202–224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 19, 2005 at 9 a.m. to hold a briefing on Iran.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 19, 2005 at 10 a.m. to hold a hearing on Iran.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. I ask unanimous consent for Franklin Thompson Reece be granted floor privileges during debate on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Mr. President, I ask unanimous consent that Anne Milgram be granted floor privileges for the duration of the presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL AND DISCHARGE—NOMINATION OF EDMUND S. HAWLEY

Mr. ALLEN. Mr. President, as in executive session, I ask unanimous consent that the nomination of Edmund S. Hawley, of California, to be Assistant Secretary of Homeland Security be referred to the Committee on Commerce, Science and Transportation, and that, further, upon the reporting out or discharge of the nomination, the nomination be referred to the Committee on Homeland Security and Governmental Affairs for a period not to exceed 30 days, after which time the nomination, if still in committee, will be discharged and placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING THE SENSE OF CONGRESS RELATIVE TO THE GOVERNMENT OF THE RUSSIAN FEDERATION

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 35, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 35) expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation of the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ALLEN. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 35) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 35

Whereas the incorporation in 1940 of the Baltic countries of Estonia, Latvia, and Lithuania into the Soviet Union was an act of aggression carried out against the will of sovereign people;

Whereas the United States was steadfast in its policy of not recognizing the illegal Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Russian Federation is the successor state to the Soviet Union;

Whereas the Molotov-Ribbentrop Pact of 1939, including its secret protocols, between Nazi Germany and the Soviet Union provided the Soviet Union with the opportunity to occupy and annex Estonia, Latvia, and Lithuania;

Whereas the occupation brought countless suffering to the Baltic peoples through terror, killings, and deportations to Siberian concentration camps;

Whereas the peoples of Estonia, Latvia, and Lithuania bravely resisted Soviet aggression and occupation:

Whereas the Government of Germany renounced its participation in the Molotov-Ribbentrop Pact of 1939 and publicly apologized for the destruction and terror that Nazi Germany unleashed on the world;

Whereas, in 1989, the Congress of Peoples' Deputies of the Soviet Union denounced the Molotov-Ribbentrop Pact of 1939 and its secret protocols;

Whereas President Putin recently confirmed that the statement of the Congress of Peoples' Deputies remains the view of the Russian Federation;

Whereas the illegal occupation and annexation of the Baltic countries by the Soviet Union remains unacknowledged by the Russian Federation;

Whereas a declaration of acknowledgment of the illegal occupation and annexation by the Russian Federation would lead to improved relations between the people of Estonia, Latvia, and Lithuania and the people of Russia, would form the basis for improved relations between the governments of the countries, and strengthen stability in the region;

Whereas the Russian Federation is to be commended for beginning to acknowledge grievous and regrettable incidents in their history, such as admitting complicity in the massacre of Polish soldiers in the Katyn Forest in 1940;

Whereas the truth is a powerful weapon for healing, forgiving, and reconciliation, but its absence breeds distrust, fear, and hostility; and

Whereas countries that cannot clearly admit their historical mistakes and make peace with their pasts cannot successfully build their futures: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, the consequence of which will be a significant increase in good will among the affected peoples and enhanced regional stability.

EXPRESSING CONTINUED SUPPORT FOR THE CONSTRUCTION OF THE VICTIMS OF COMMUNISM MEMORIAL

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 150, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 150) expressing continued support for the construction of the Victims of Communism Memorial.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, today I submitted a resolution with my colleague, Senator SMITH of Oregon, that I think is especially pertinent this week as we commemorate the 60th anniversary of the defeat of Nazi Germany. The end of World War II in Europe brought the end of Hitler's regime and all of its horrors, but it did not, unfortunately, usher in an era that was free of tyranny as so many had hoped. Instead, the Soviet Union solidified its illegal occupation of its three Baltic neighbors, Estonia, Latvia, and Lithuania, and communism's global expansion condemned millions to totalitarian rule or death.

The resolution we submitted expresses support for the construction of the Victims of Communism Memorial here in Washington, DC. Authorized by Congress in 1993, memorial will honor the more than 100 million victims of communist atrocities around the globe. The overwhelming carnage and suffering that occurred at the hand of international communism must never be forgotten. The Victims of Communism Memorial will pay tribute, in our Nation's capital, to those who lost their lives to communist tyranny. Construction of the Memorial is scheduled to begin in the fall of 2005, and when it is completed it will serve as an enduring reminder of communist atrocities and of the value of our Nation's commitment to freedom.

I will also join my colleague from Oregon in submitting a resolution that calls on the Russian Government to acknowledge the Soviet Union's illegal annexation of the three Baltic nations of Estonia, Latvia, and Lithuania during the Second World War and to condemn this aggression by the USSR. In 1939, Joseph Stalin allied himself with Adolf Hitler with the signing of the Molotov-Ribbentrop Pact, an agreement that led to the Soviet Union's occupation of the Baltic countries in 1940. For five decades, Estonia, Latvia, and Lithuania were forced to live under the authoritarian rule of the Soviet empire.

When I speak about the Baltic countries, I speak with a particularly personal interest. Lithuania has a special meaning to me because it is my mother's birthplace, and I have visited there a number of times. When I visited Lithuania for the first time in 1979, it was under Soviet domination. Freedom was at a premium, and the poor people of that country struggled day after day wondering if they would ever have another chance at self-governance. I have journeyed to the region on several occasions since then, and I have witnessed the miracle of independence and democracy coming to Lithuania, Latvia, and Estonia. The amazing transformation for these nations was something that many of us with strong ties to this part of the world had prayed for but never believed would happen in our lifetime.

The legacy of Soviet occupation remains strong even today. Unfortunately, Russia's leaders refuse to acknowledge the wrongs committed by the Soviet Union against the Baltic nations. Russian President Vladimir Putin rejected a suggestion from U.S. officials that he renounce the Molotov-Ribbentrop Pact, and he has publicly clung to the fiction that Estonia, Latvia, and Lithuania asked to become part of the Soviet Union. In order for relations between the Baltic nations and Russia to move forward, the Russian Government and its people must honestly and publicly confront the USSR's brutal legacy of repression. This resolution will call on Russian leaders to take that important step.

Mr. ALLEN. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc: that the motion to reconsider be laid upon the table: and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 150) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 150

Whereas section 905 of the FRIENDSHIP Act (40 U.S.C. 1003 note) authorizes the construction of a memorial to honor the victims of communism;

Whereas the construction of a Victims of Communism Memorial near the United States Capitol in the District of Columbia is scheduled to begin in the fall of 2005;

Whereas construction of the Memorial is supported by many Americans whose country of origin is, or was, a "Captive Nation", from Baltic-Americans to Vietnamese-Americans;

Whereas communism has claimed the lives of more than 100,000,000 people in less than 100 years; and

Whereas it is important for the people of the United States to honor and remember the victims of communism by supporting the construction of this memorial: Now, therefore, be it

Resolved, That the Senate expresses its continued support for the construction of the Victims of Communism Memorial.

RECOGNIZING THE 57TH ANNIVERSARY OF THE INDEPENDENCE OF THE STATE OF ISRAEL

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 151, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 151) recognizing the 57th Anniversary of the Independence of the State of Israel.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLEN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 151) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 151

Whereas in May 1948, the State of Israel was established as a sovereign and independent nation;

Whereas the United States was one of the first nations to recognize Israel, only 11 minutes after its creation;

Whereas Israel has provided the opportunity for Jews from all over the world to reestablish their ancient homeland;

Whereas Israel is home to many religious sites which are sacred to Judaism, Christianity, and Islam;

Whereas Israel provided a refuge to Jews who survived the horrors of the Holocaust and the evils committed by the Nazis which were unprecedented in human history;

Whereas the people of Israel have established a unique, pluralistic democracy which includes the freedoms cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed;

Whereas Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising in its Parliament, the Knesset, a democratic government that is fully representative of its citizens;

Whereas Israel has bravely defended itself from attacks repeatedly since independence;

Whereas the Government of Israel has successfully worked with the neighboring Governments of Egypt and Jordan to establish peaceful, bilateral relations;

Whereas, despite the deaths of over one thousand innocent Israelis at the hands of murderous, suicide bombers and other terrorists during the past 4 years, the people of Israel continue to seek peace with their Palestinian neighbors;

Whereas the United States and Israel enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect;

Whereas the people of the United States share affinity with the people of Israel and view Israel as a strong and trusted ally; and

Whereas Israel has made significant global contributions in the fields of science, medicine, and technology: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the independence of the State of Israel as a significant event in providing refuge and a national homeland for the Jewish people;

(2) strongly supports efforts to bring peace to the Middle East, including the disengagement plan of the Israeli government, the Roadmap, and the recent Quartet decision to appoint World Bank President James Wolfensohn as Coordinator for Gaza Disengagement;

(3) commends the bipartisan commitment of all United States administrations and United States Congresses since 1948 to stand by Israel and work for its security and well-being; and

(4) extends warm congratulations and best wishes to the people of Israel as they celebrate the 57th anniversary of Israel's independence.

MEASURES READ THE FIRST TIME—S. 1084 AND S. 1085

Mr. ALLEN. Mr. President, I understand there are two bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. Without objection, the clerk will report the bills by title.

The assistant legislative clerk read as follows:

A bill (S. 1084) to eliminate child poverty, and for other purposes.

A bill (S. 1085) to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

Mr. ALLEN. I now ask for a second reading, and in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, all en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will have their second reading on the next legislative day.

MEASURES PLACED ON THE CALENDAR—S. 1061 AND S. 1062

Mr. ALLEN. Mr. President, I understand there are two other bills at the desk that are due for a second reading. I ask unanimous consent that they be read for a second time, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1061) to provide for secondary school reform and for other purposes.

A bill (S. 1062) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

Mr. ALLEN. Mr. President, in order to place the bills on the calendar under the provisions of rule XIV, I object to further proceeding en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will be placed on the calendar.

ORDERS FOR FRIDAY, MAY 20, 2005

Mr. ALLEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, May 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then return to executive session and resume consideration of the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals; provided further that the time from 9:40 a.m. to 10 a.m. be under the control of the majority leader or his designee and the time from 10 a.m. to 10:30 a.m. be under the control of the Democratic leader or his designee, provided that at 10:30 a.m. the majority leader or his designee be recognized and floor time then rotate every 30 minutes between the two leaders or their designees until 1 p.m, at which time the Democratic leader or his designee be recognized until 1:45 p.m., to be followed by a Republican Senator until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALLEN. Mr. President, tomorrow the Senate will resume the consideration of the nomination of Priscilla Owen to be a United States circuit court judge for the Fifth Circuit. We have had another day of substantive debate on the Owen nomination. As announced earlier today, there will be no rollcall votes tomorrow. We will have a busy day of debate, surely, and Senators are encouraged to come to the Senate during the session. As a reminder, the majority leader has announced we will have a vote next Monday at 5:30 p.m. That vote is likely to be a vote on a motion to instruct and to request Members' attendance. More will be said regarding Monday's schedule at the close of business tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ALLEN. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:52 p.m., adjourned until Friday, May 20, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 19, 2005:

DEPARTMENT OF HOMELAND SECURITY

EDMUND S. HAWLEY, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY, VICE DAVID M. STONE, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. TERRY L. GABRESKI, 2941

EXTENSIONS OF REMARKS

A TRIBUTE TO SERGEANT JOHN "MAC" SMITH

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. McINTYRE. Mr. Speaker, I rise today to pay tribute to Sgt. John "Mac" Smith of Wilmington, North Carolina, for serving his country valiantly with the 11th Armored Cavalry Regiment in Operation Iraqi Freedom. On May 11, 2005, Sgt. Smith lost his life when a roadside bomb hit his convoy. He was courageously serving his second tour of duty in Iraq, and our heartfelt thanks and prayers go out to his family and friends in this time of grief.

At an early age, John's family knew that he was destined for the U.S. Army. As a toddler, he wore camouflage clothing and once spent a summer at Ft. Bragg. As a student at New Hanover High School in Wilmington, John was in the Army JROTC program, and during his senior year he served as drill team commander. John enlisted in the Army in 2000.

As a member of the Army, he dedicated his career to defending the values this nation holds dear. By risking his life to ensure the safety of others, John made the ultimate sacrifice. His valiant actions and steadfast service remind us of the gratitude we feel toward him and all the other servicemen and women who have lost their lives serving as guardians of this great country. John was indeed a man of courage and integrity.

Mr. Speaker, may the memory of Sgt. John "Mac" Smith live on in our hearts, and may God's strength and peace be with his family.

ARTICLE BY RABBI ISRAEL ZOBERMAN

HON. THELMA D. DRAKE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mrs. DRAKE. Mr. Speaker, I am pleased to share the following article written by a constituent, Rabbi Israel Zoberman.

I vividly recall my pride back in 1980 at the Rockefeller Chapel of the University of Chicago as I received the first doctoral degree awarded to a Rabbi by McCormick Theological Seminary which is affiliated with the Presbyterian Church, USA. The dean whispered in my ear, "You are the first," without public fanfare. A disconcerting reminder of that ambiguous attitude is the recent controversial vote by the 216th General Assembly of the PC (USA) meeting in Richmond, Virginia for studying "selective divestment" from companies doing business in Israel with at least one million dollars in revenue, and deemed to hurt the Palestinians.

It is quite astonishing that there was a rather limited sense of the adverse impact of the anti-Israel move on the American Jewish community. Did not the Presbyterian leadership know that the best way to unite the Jews is to challenge the Jewish state in a serious way? Organized American Jewry is surely committed to safeguarding Israel's well-being at the critical front here at home. For a mainline Protestant denomination, though with dwindling members but with yet considerable influence, to go beyond past critical resolutions and risk alienating its Jewish partners in common quests of interfaith dialogue for a better America and humanity, is a cause for an evaluative pause.

What has gone so wrong? How can we set the record straight and rejoin in essential and increased cooperation, establishing better lines of communication? In a climate of rising world anti-Semitism, won't divestment worsen matters, threatening to place Israel in the pariah state category as was the case with South Africa, which the Presbyterians rightly pursued? Would other religious bodies and secular institutions be tempted to follow suit? Wouldn't added economic pressure and isolation damage Israel's ongoing courageous peace work, hurting a close ally of the U.S.?

To attack Israel following four bloody years of unremitting and victimizing terrorist suicide bombings that no other nation would have tolerated without a major response that surely Israel could deliver, is a sad commentary on the exhibited callousness of mostly friends tuning out a certain reality. A reality including the plight of the Christian minority in the Arab Muslim world in general and particularly now among the Palestinians where ironically the Presbyterians have long roots of involvement, it, obviously affecting their stance on Middle East issues. It is also the outcome of too many Presbyterians lacking pertinent information.

The cited Israeli security barrier as problematic ignores the dramatic reduction in terrorist infiltrations as well as Israel's Supreme Court intervention in correcting the barrier's path to alleviate hardships, with its final destiny dependent upon future developments. It was after all the late Chairman Arafat who responded in 2000 at Camp David to the offered vision of peace with improved upon past violence, reverting to his old terrorist persona with which he chose to die. It is Prime Minister Sharon who succeeded in radically transforming himself to the point of supporting a Palestinian state, presently risking his life with his disengagement plan from Gaza and parts of the West Bank.

How can an enduring and inspiring Israel, a beleaguered outpost of Western values, be compared to a corrupt and terrorism-friendly Palestinian Authority yet to prove with its newly elected president Mahamud Abbas, through Israeli cooperation, that our trust in its democratic and peaceful potential is not dangerously misplaced? How tragic indeed that Palestinian suffering is largely due to its leaders' ineptitude and the duplicity of the Arab nations through the years, abusing their brethren's plight for their own regressive agenda, while refusing to grant them their own state prior to 1967 when Israel was saddled with the territories following an attack on Jewish sovereignty.

Lastly but not least, the continued Presbyterian misguided goal to missionize among Jews remains a blight on a denomination that deserves better. Commemorating the 60th anniversary of the liberation of the Holocaust's death camps with a first, special session of the United Nations General Assembly on January 24th, 2005, we recall that modern Israel arose from the martyrs' ashes. History has taught us that when we deny a people's spiritual authenticity we ultimately invite its physical annihilation.

SALUTING ANTHONY DEION BRANCH

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. PICKERING. Mr. Speaker, Mississippi's community and junior college system produces some of the top football players in the Nation. They are always targets of recruitment from universities around the country seeking to bolster their football programs. From time to time, we produce a truly great player who can compete at the highest level with the leadership and poise necessary to be the top player in the top game. Anthony Deion Branch from Jones County Junior College—in my home county—was named Super Bowl XXXIX Most Valuable Player. Today I'd like to salute that achievement and speak a little about his road to that success.

Deion's career began in Albany, Georgia where he excelled in track, football and enjoyed soccer in high school. After graduating he made the long drive to Ellisville, Mississippi where he competed and earned a spot on the Jones County Junior College football team. There he grabbed 37 passes for 639 yards and five touchdowns as a freshman on the Bobcat squad. The following year he took 69 receptions for 1,012 yards and nine touchdowns, earning second-team All-American honors and leading JCJC to a 12–0 mark and a victory at the Golden Isles Bowl to bring home the junior college national championship.

The University of Louisville recruited Deion who hauled in 143 passes for 2,204 yards and 18 touchdowns in his two years there. He became only the second player in school history to record multiple 1,000 yard seasons and is listed fourth and sixth respectively in the school records for career touchdown catches and receptions with the Cardinals—and that in just two years.

The New England Patriots used their Number 65 pick in the 2002 Draft to bring in Deion to what many are now describing as a dynasty—three Super Bowl Victories in four years, two with Deion on the team.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Deion's first Super Bowl ring came without the MVP award; his colleague and football legend Tom Brady won it that year. But while many of us fans thought he should be considered, we didn't have to wait long to be satisfied. The following year, despite an injury in his second game which kept him on the sidelines for the next seven matches, Deion finished the season with 35 receptions for 454 yards and four touchdowns.

Deion had trained and focused and coming into the end of the season from an injury, he was still ready for the premier football event in the world. Finishing the night with an NFL record-tying 11 receptions for 133 yards in the Super Bowl, he became just the fourth receiver in NFL history to receive the MVP award and is already being listed with greats like Jerry Rice and Dan Ross.

Mr. Speaker, Deion's team-first attitude and strong work ethic has paid off and we in Mississippi are proud of him and salute his continuing achievements. I know we will continue to see him excel in the future and all of us from Jones County, Mississippi will remember him for his years with us and salute his determination, skill and triumphs.

IN CELEBRATION OF THE 80TH BIRTHDAY OF MALCOLM X

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. RANGEL. Mr. Speaker, I rise today to commemorate what would have been the 80th birthday of Malcolm X, formally El Hajj Malik El-Shabazz. This is an opportune moment for this country and the world to reflect on the life and times of this extraordinary individual. In his short life, Malcolm X overcame many difficulties and challenges to become a leading figure in the movement for black liberation.

Malcolm X was born Malcolm Little on May 19, 1925 in Omaha, Nebraska. He was one of eight children born to Earl and Louise Little. Earl Little was an outspoken Baptist minister and supporter of Marcus Garvey's Universal Negro Improvement Association. He taught his family of the importance of working together for their collective advancement and of the need to restore pride and commitment in their community and race. His fierce advocacy for racial justice prompted a number of death threats against him, required his family to relocate twice before Malcolm's fourth birthday, and eventually to lose their home to arson.

In 1931, the body of Earl Little was found lying across the town's train tracks. The police ruled the death an accident, but Malcolm learned the true cost of passionate activism. His mother suffered an emotional breakdown and was institutionalized, following the death. His siblings were split up amongst various foster homes and orphanages. Malcolm was separated from the family he had known and loved.

Malcolm nonetheless was an outstanding student. He was at the top of his class in junior high school and had aspirations of becoming a lawyer. With the early lessons of his father about the importance of education and self-pride, Malcolm was prepared to shine in the academic and legal worlds. However, he lost interest in these aspirations when a favorite teacher crushed his dreams and told him that law was not a realistic goal for a Black man in the 1940s.

Disillusioned, Malcolm dropped out of school after the 8th grade and moved to Harlem, where he unfortunately turned to a life of crime. By 1942, Malcolm was coordinating various crime rings in New York City. In 1946, he was arrested, convicted on burglary charges, and sentenced to 10 years in prison. Finding himself headed in the wrong direction and exposed for the first time to the teachings of the Nation of Islam, Malcolm re-dedicated himself to academic pursuits and understanding economic and social disempowerment.

Undoubtedly guided by his father's activism, his own life experiences, and his time in NYC, Malcolm X became a loyal adherent and follower of Minister Elijah Muhammad and the Nation of Islam. He argued that the discrimination and racism present in American society kept African-Americans from achieving true political, economic, and social power and that the system would continue to perpetuate discrimination and racism unless African-Americans stood up for themselves and against the system.

In keeping with the teachings of the Nation of Islam, Malcolm adopted the "X" as a surname to demonstrate that his African identity and cultural roots had been unknown to him. Following his parole in 1952, he became an outspoken defender and spokesman for the Nation of Islam. He was placed in charged of new mosques in Harlem, Detroit, and Michigan. He became an effective voice of Nation of Islam through newspaper, radio and television communications and was credited with helping to increase membership from 500 in 1952 to 30,000 in 1963.

While he spoke in bitterness and hatred towards whites, he spoke about his experiences and interactions with people. From the death of his father to his favorite teacher to numerous others he had encountered, Malcolm talked about what he knew and that, like for many African-Americans at the time, was not a beloved experience. He spoke for those whose dreams were crushed by the educational system, whose families suffered at the hands of economic injustice, whose leaders fought for social equality, and whose futures did not look bright.

Malcolm however would become disheartened by the Nation of Islam, after learning of indiscretions committed by Minister Muhammad and attempts by the organization to conceal them. Unwilling to participate in what he believed was deception, he was marginalized within the organization. In 1964, he separated from the Nation of Islam and formed his own organizations, the Organization of Afro-American Unity and the Muslim Mosque, Inc.

In 1964, Malcolm X traveled outside the United States to Africa, Mecca, and Saudi Arabia. The trip would become a transcendent period in his life. For the first time in his life, he came in contact with different cultures and races that treated him with respect for who he was. He broke bread with Muslims of various races and saw that brotherhood was not limited by race. He saw humanity and compassion in its true form and was moved by the recognition that it really was universal.

When he returned, Malcolm adopted the name El-Hajj Malik El Shabazz. He returned to the United States with a new sense of purpose and a different set of experiences. He spoke about how he had met "blonde-haired, blue-eyed men I could call my brothers." He was prepared to work with men of all races to achieve true racial justice. He was prepared to lead a movement for the liberation of the disadvantaged in America.

Unfortunately, Malcolm X was assassinated at the Audubon Ballroom in Harlem on February 14, 1965—more than 40 years ago this year. At Malcolm's funeral, the actor Ossie Davis eulogized him and asked the crowd of onlookers, "Did you ever talk to Brother Malcolm? Did you ever really listen to him? For if you did you would know him. And if you knew him you would know why we must honor him." Unfortunately, we will never know what Malcolm X could have done with another 40 years.

Mr. Speaker, I submit into the RECORD a statement by Trans-Africa Forum President Bill Fletcher, Jr. demonstrating how Malcolm was an inspiration in the global struggle for freedom and human rights, with many world leaders embracing him and his philosophy.

MALCOLM X: REMEMBERING HIM AS MORE THAN A POSTAGE STAMP

A STATEMENT BY TRANS-AFRICA FORUM PRESIDENT BILL FLETCHER, JR. ON THE OCCASION OF THE 40TH ANNIVERSARY OF THE ASSASSINATION OF MALCOLM X

February 21, 2005—February 21, 2005 marks the 40th anniversary of the assassination of African American freedom fighter Malcolm X, aka El Hajj Malik El-Shabazz. Realizing that had he lived, Malcolm would have been turning 80 this year stands in contrast to the memories many of us have—or have gained since his death through photos, recordings of speeches and documentaries—of an audacious young Black man who unquestionably spoke truth to power. Malcolm, gunned down at the age of 39, represented a defiance and commitment that most of us can only aspire to achieve. He spoke our anger against oppression, and our pain suffered from this same oppression, while constantly demonstrating a love and respect for us as a people.

Similar to the experience in the years that have passed since the death of Martin Luther King, there have been constant attempts to rewrite the life and thought of Malcolm X. Despite all of this, generation after generation have rediscovered the real Malcolm, even if only in pieces that have to be assembled in the giant game of history.

In an era where much confusion reigns within Black America due to the emergence of figures such as General Colin Powell and Dr. Condoleezza Rice, it is useful to reflect upon two central themes in the life and work of Malcolm X: One, that our struggle in the United States as African Americans was and is fundamentally a struggle for human rights rather than civil rights. Two, that our struggle is bound up with struggles taking place around the world against imperialism and other forms of injustice.

The issue of civil rights vs. human rights is critically important and for more than semantic reasons. Malcolm was challenging much of the leadership of the then Civil Rights Movement to understand that the issue before Black America was not simply or only one of constitutional rights within the U.S. framework. Malcolm suggested, following upon leaders such as Du Bois, Robeson and Patterson, that the issues at stake for African Americans were more than discrimination, as important as that was and is. Instead, Malcolm observed that the oppression faced by Black America has been central to the reality of the USA since before it was the USA, i.e., since the beginning of colonial North America. Our situation, in other words, was not an aberration from an otherwise humane record. Rather, the oppression that we have faced has shaped the basic existence and substance of the United States, and, along with the genocide faced by Native Americans, helps one to understand the inability of this country to establish a truly democratic republic.

For Malcolm, then, Black America was demanding not only an end to discrimination, but recognition of our human rights as a people, up to and including the right to national self-determination. Malcolm concluded that as a people who had been subjected to hundreds of years of naked and vicious oppression, only an international body, such as the United Nations, had the location and moral authority to address the true resolution of our condition.

For this, Malcolm became one of the most dangerous people in the USA, at least for those who oppress us.

Malcolm did not stop there. Linked to his understanding of human rights, Malcolm also situated our struggle for human rights alongside the struggles that were underway in Asia, Africa, the Caribbean and Latin America for national independence and liberation. Again, following in the footsteps of freedom fighters going back to the early 19th century, Malcolm insisted that to only view our struggle through the prism of North American eyes would be to condemn our struggle to failure. As such, Malcolm paid attention to educating Black America to the relevance of struggles underway overseas, such as the movement in the Democratic Republic of the Congo for complete freedom from both the Belgians and the USA. He was also an early and incisive critic of the expanding U.S. aggression in Indochina.

To build ties, Malcolm spent time developing bonds of friendship and comradeship with some of the most important international leaders of the struggles for national liberation of the 1960s. These were not symbolic, but represented an attempt to build allies who could be called upon to support our struggle for freedom.

For this, Malcolm became one of the most dangerous people in the USA . . . at least for those who oppress us. For us, the oppressed, he was our champion. Far from being a savior, Malcolm saw himself as a spokesperson for a movement; yet never more important than the movement. He understood that it is people in motion rather than individual leaders who shift the tracks of history.

And so, it is time to again remember Malcolm and to cherish him through continuing in his footsteps, footsteps that were molded by an insistence on struggle, audacity, and, yes, love for his people.

CONGRATULATIONS AND BEST WISHES TO COLONEL ALAN R. LYNN

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. EDWARDS. Mr. Speaker, I rise to recognize a great Army officer and soldier, Colonel Alan R. Lynn, and to thank him for his contributions to the Army and the country. On Thursday, June 2, 2005 Colonel Lynn will relinquish command of the Army's 3rd Signal Brigade which is stationed at Fort Hood, Texas for reassignment to the Army Staff in Washington, DC.

Colonel Lynn began his military career in 1979 following his graduation from the University of Pennsylvania at California, Pennsylvania. Commissioned as an Air Defense Artillery officer from ROTC he completed several successful assignments in the Air Defense Artillery before he transferred to the U.S. Army Signal Corps. During Operations Desert Shield and Desert Storm he served as the 1st Brigade Signal Officer with the fabled 101st Airborne Division. In 1997, he commanded the 13th Signal Battalion, 1st Cavalry Division both at Fort Hood, Texas and in Bosnia with Task Force Eagle. Colonel Lynn took command of the 3rd Signal Brigade, Fort Hood, Texas on June 13, 2002. He deployed the Brigade to 66 separate locations throughout Iraq in January, 2004 in support of Operation Iraqi Freedom creating the largest tactical communications network in Army history. For over a decade Alan has been tested in conflict and hardened in battle to become one of the Army's finest and most experienced Signal Corps commanders.

Alan is a consummate professional whose performance personifies those traits of courage, competency and commitment that our nation has come to expect from its Army officers. It is with sadness that we will wish him Godspeed and good luck as he leaves Fort Hood for his new assignment.

Alan's career has reflected his deep commitment to our nation, and has been characterized by dedicated, selfless service, love for soldiers and their families and a commitment to excellence. I ask Members to join me in offering our heartfelt appreciation for a job well done and best wishes for continued success to a great soldier and friend—Colonel Alan R. Lynn.

H.R. 1268, EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mrs. MALONEY. Mr. Speaker, because of this administration's lack of accountability for the money sent for the war in Iraq, I could not support this, the third emergency spending bill for Iraq, when the House first voted on it in March. It now comes back to us from the conference in worse shape than it was before, and I again cannot support it.

The administration sold this war to the American people and Members of Congress under false pretenses, and the American people cannot continue to indefinitely fund this administration's gross incompetence, particularly without any real oversight tied to it. Meanwhile, important priorities here at home like homeland security and education go wanting for money. We have a new record level of debt, a record budget deficit and a record trade deficit.

Mr. Speaker, my father and brother have both fought in wars for our country, and I support and honor our troops. I want nothing but the best protection and best equipment for them. Still, despite the hundreds of billions in taxpayer money that has been spent on Iraq, a recent New York Times report detailed how our soldiers in Iraq still are ill-equipped for the resistance they face. Why hasn't the money first and foremost gone to supply our troops with the equipment they need as quickly as possible?

There have been independent audits showing billions of dollars in Iraq that have been misspent or that have simply gone missing. And there still is little to no oversight—there still is no open and honest accounting—to keep this administration in check, as they have repeatedly missed deadlines to detail the past, current and future spending.

This bill now includes the REAL ID Act, which is an entirely separate issue from funding and should have no part of this bill. I am very concerned about the implementation of such sweeping provisions in this manner. There is no money to implement these new laws, we've had no hearings to understand how they would work, and the states, which would have to administer these laws, haven't even been consulted. Administratively these provisions seem difficult to implement, at best. Congress should never go about loading something like this onto a bill without full debate, but that's exactly what has happened in this case.

Certainly, there are parts of this supplemental spending bill that I strongly support. The $650 million for tsunami relief and reconstruction is very important. It is disappointing, however, that the conference report does not include the amendment I introduced that was attached to the House version, which would have devoted $3 million for UNFPA's vital work in the tsunami region. This money would have greatly benefitted pregnant tsunami-stricken women by fostering better maternal health and reducing infant mortality.

The improvement in death benefits for the military in this bill are crucial, and they are a long time in coming. I also support the provisions to aid the peace in the Sudan, as well as development assistance the president proposed for the West Bank and Gaza.

Nevertheless, this administration must enforce a better accounting of the taxpayer money it spends. Before I can vote for another enormous expenditure of the American taxpayers' money for this war, I must be convinced that this administration will keep tabs on the money and make sure our troops get the equipment they need. Doing so will be good for the war effort, and will be good for our troops.

LANCE CORPORAL JONATHAN GRANT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. UDALL. of New Mexico. Mr. Speaker, I rise today to honor the life of Lance Corporal Jonathan Walter Grant.

Jonathan lived his life by always putting others first, and last Wednesday he made the ultimate sacrifice while serving in Iraq.

Lance Corporal Grant was among the six Marines killed during combat "Operation Matador" when their troop transporter rolled over a roadside bomb in the Al Anbar Province.

Just 23-years-old, Jonathan lived life always showing courage and maturity beyond his years. He was born in the Pojoaque Valley of New Mexico and raised by his grandmother Margie Warner, who he loved dearly. He received his general equivalency diploma in the year 2000 and joined the Marines in 2002, working the entire time to support his family and build a future.

Upon his planned return from Iraq this October, Jonathan was planning to marry his high school sweetheart and fiancée, Eva Maestas. Eva—who is now a kindergarten teacher—and Jonathan had been together for 7 years. Jonathan leaves behind Eva, their 5-year-old daughter Cynthia, and their 17-month-old son Evan.

As Cynthia and Evan get older, they can always be proud of their father, Lance Corporal Jonathan Walter Grant, a Marine—who always rose to the challenge and served our country proud.

Our heartfelt prayers and sympathies are with Jonathan's family and friends during their time of great loss. We will always remember his bravery and the sacrifice he made while serving our nation.

CONGRATULATING THE WILKES-BARRE FINE ARTS FIESTA ON THE OCCASION OF ITS 50TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today ask you and my esteemed colleagues in the House of Representatives to pay tribute to the Fine Arts Fiesta in Wilkes-Barre, Pennsylvania, which is celebrating 50 years of artistic and cultural presentation to the citizens of northeastern Pennsylvania.

Founded in 1956 under the leadership of Annette Evans, Ruth Schooley and Alfred Groh, the Fine Arts Fiesta is the oldest full-scale arts festival in the Commonwealth of Pennsylvania.

Making the event even more special is the fact that it has never charged the public for admission, preferring to make the event open to anyone, regardless of ability to pay. Instead, the Fine Arts Fiesta, always held on Wilkes-Barre's historic Public Square, has managed to fund itself through state grants and voluntary contributions from individuals, corporations and foundations.

Throughout its history, the Fine Arts Fiesta has always highlighted children's entertainment.

At noon on May 24, 1956, then Mayor Luther M. Kniffen sounded the Old Ship Zion bell and the Fine Arts Fiesta was born. It was also a highlight of Wilkes-Barre's Sesquicentennial that was being observed in 1956.

Dr. Eugene S. Farley, then president of Wilkes College, offered remarks and stressed the interrelation between the Wyoming Valley's cultural assets and the economic and industrial well being of the community. He concluded that the Fiesta plays a significant role in the overall growth of the community.

By 1962, the Fine Arts Fiesta had grown to include 36 organizations. More than 1,000 volunteers were working to present artistic displays from virtually every art and craft.

In 1963, Mrs. C. Wells Belin, of Scranton, a leader in the local art world, delivered the Fiesta's opening address. She spoke of the "four great assets of Fiesta." She went on to describe those assets as "public relations value . . . positive example for other cities . . . importance to industries already here and those planning to come here and, finally, as a way of helping people broaden their horizons and appreciation of culture and the arts.

Also in 1963, The Fine Arts Fiesta gained national recognition after George Ralston, chairman of the Wilkes-Barre Recreation Board, nominated the Fiesta for an award from the National Recreation Committee. That award was presented to Fiesta founder Annette Evans in the presence of the late U.S. Congressman Daniel J. Flood.

Mr. Speaker, please join me in congratulating The Fine Arts Fiesta on a half century of cultural service to the citizens of northeastern Pennsylvania and beyond, some of whom travel great distances to attend and enjoy the Fiesta. Clearly, the Fiesta has enriched the lives of hundreds of thousands of people and our community is a far better place because of it.

DEDICATION OF THE CONGRESSMAN IKE SKELTON BRIDGE

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. CLEAVER. Mr. Speaker, it has come to my attention that Highway 13 Missouri River Bridge has been named for my good friend, and fellow Missourian, The Honorable IKE SKELTON. The dedication ceremony took place on May 14, 2005, in Lexington, Missouri, Mr. SKELTON's hometown. I know that all the Members of the House will join me in congratulating Mr. SKELTON on this honor. Mr. SKELTON's remarks at the event are set forth as follows:

> Thank you so much, Joe Aull, for your generous introduction. Members of the Missouri General Assembly, Ray and Lafayette County neighbors, and my fellow Missourians.
>
> Today, we dedicate an engineering feat—the magnificent new bridge across the wide Missouri. What an opportunity to kindle pride in our community and pride in our state. This is truly a moment to remember.
>
> Anyone who lives around here or who travels along this portion of Highway 13 can testify that for years people have asked, "when are we going to get a new bridge?" More recently the question has changed to, "when is that new bridge going to open?" So believe me, I think it is impossible to exaggerate what a very happy day this is for those who have waited so long for this day to arrive.
>
> According to the Roman orator Cicero, the greatest of all virtues is gratitude. And, I want to express my gratitude to my neighbors, the members of the Highway 13 Missouri River Bridge Dedication Steering Committee, the members of the Missouri Department of Transportation, and the members of Missouri's General Assembly for the naming of this bridge. Most of all, I am grateful to my wife, Susie, for her tireless support that allows me to carry out my public service. I must add that I am pleased that so many of my high school graduating class are with us today.
>
> I acknowledge this honor with a deep sense of humility. Representing Missourians is such a privilege, as I have had a love affair with the State of Missouri all my life. Suffice it to say that I will endeavor, in the days and years ahead, to merit this high honor.
>
> This day opens a notable chapter in the history of Ray and Lafayette Counties, and in the history of our State. The taxpayers generously paid for the bridge and the surrounding roads, with the politicians and government officials setting aside the money—almost $53 million in Federal and State funds for the bridge itself. But the achievement lies in the skill of the designers, engineers, and laborers whose work translated our dream of a new bridge into reality, providing us with a safe way to travel and taking us into the future, across the wide Missouri.
>
> But because this is such a momentous day, it is appropriate to look back and reflect on the previous chapters of our history that led us to this place today. This is a bridge over truly historic waters—the wide Missouri.
>
> The river is central to the history of those who have lived in this region. The Indians who lived along its banks inspired the river's name. The word "Missouri" is believed to have derived from the Indian word for "canoe", and the Missouri Tribe were known as the "people of the wooden canoe."
>
> French trappers encountered the Missouri Indians in the late 1600s in present day Saline County. Another native group, the Little Osage, lived in this area during the 1700s. Scholars say that both tribes used the river for transportation and trade with the Europeans.
>
> In addition to the heritage of the Indians who made their home along the river, the legacy of the French trappers endures. The names the French gave to the tributaries that flow into the Missouri River still adorn our maps: Tabeau Creek, the Lamine River, Chouteau Creek, and the Moreau River.
>
> After the fledgling United States of America purchased the Louisiana territory, Lewis and Clark's Corps of Discovery traveled these waters, following the river across the continent. In fact, our new bridge is quite near the spot in present-day Ray County where Lewis and Clark's party of explorers made camp in June 1804.
>
> Fifteen years later in 1819, a U.S. Army Corps of Engineers expedition to explore the

Missouri River and its tributaries demonstrated the potential usefulness of the river for the movement of goods, settlers, and troops. It also led to the Corps' assignment to tame the river for navigation, removing the treacherous snags that endangered boats and steamboats.

The Missouri artist George Caleb Bingham immortalized the jolly flatboatmen who plied the waters of this river as the frontier opened in the early to mid-1800s. The flatboatmen were known for their songs, their chanties, including the beautiful and haunting American folk song, Shenandoah. The now-familiar boatmen's song, which told of a trader who loved the daughter of Indian Chief Shenandoah, made its way down the Missouri and Mississippi Rivers to the American clipper ships, and thus around the world.'

In the years to come, steamboats made the river their home. From about 1819 to 1881, steamboats paddled the river, taking settlers west and carrying trade goods and merchandise. Lexington became a major steamboat port, where manufactured goods from St. Louis and other points east were unloaded, and raw materials were loaded to travel down river.

Local shores witnessed one of the darkest days of the steamboat era when the steamboat Saluda called on the Port of Lexington in 1852. Encountering problems with the river's current and heavy running ice, the Saluda's boilers exploded and more than 200 passengers and crew perished.

During the War Between the States, steamboats carried troops and acted as armed transports, patrolling the river for Confederates attempting to cross the wide Missouri.

In the days before a bridge crossed the wide Missouri here, ferries enjoyed brisk business. The first ferry was established in 1819 by Lexington's founder, Gilead Rupe. Both the steamboat and the ferry operations lost customers as railroads began to lay their tracks throughout the west, but the ferry business held on, providing river crossing services until the opening of the bridge in 1925.

Attempts to bridge the river between Lafayette and Ray Counties were made in 1889 and 1894, before what we now call the "old bridge" was built across the wide Missouri. Construction began in 1922, and the bridge opened on November 25, 1925. Even today, we can relate to the excitement and the anticipation of those citizens who were anxious to use the bridge for the first time.

As we dedicate the new bridge, we open a new chapter of our history on the Missouri River. For almost 80 years, the old bridge has served us faithfully. But after decades of service, it didn't take an engineer to spot serious problems. With portions of the old bridge floor falling through, and the crumbling of the sides, and the rusting of the superstructure, many have feared that our continued use of the old bridge was an invitation to tragedy. The new bridge comes none too soon.

The safety factor is the most immediate benefit of the new bridge for those who cross the wide Missouri at this point. Countless drivers have suffered from white knuckles on the steering wheel every time they crossed the old span.

Safety comes first, but we cannot underestimate how important modem and well-maintained roadways are for local economic development. A bridge that meets modem standards will enable companies and manufacturers to deliver and receive the goods they need to conduct business. It will allow farmers to safely transport agricultural goods. It will allow residents and visitors alike to travel freely and frequently.

This bridge symbolizes progress and that essential quality of American optimism: faith in the future; belief in ongoing prosperity; and our continuing effort to improve our country that has allowed America to prosper.

For thousands of years, the river has been witness to history. The new bridge will bear witness as those who cross the wide Missouri follow this road and add new chapters to the history of America.

Today, we celebrate. This achievement is a milestone for our state of Missouri. When you cross the bridge over the Missouri River, look down, and in your mind's eye, imagine the boatmen of the early 1800s as they pole their flatboats down the river toward the Port of St. Louis. And, if you listen intently, you will hear them singing that chanty of the day—

Shenandoah, I long to hear you,
Away, you rolling river,
Oh, Shenandoah, I long to hear you,
Away, I'm bound away,
'Cross the wide Missouri.

RECOGNITION OF 25TH ANNIVERSARY OF MT. ST. HELEN'S ERUPTION

HON. BRIAN BAIRD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BAIRD. Mr. Speaker, I rise today in recognition of the 25th anniversary of the eruption of Mt. St. Helens.

At 8:32 a.m. on May 18, 1980, Mount St. Helens erupted. The eruption lasted 9 hours, killed 57 people, and devastated 234 square miles of land. The landscape and community of southeast Washington were forever altered.

The eruption was triggered by an earthquake measuring 5.1 on the Richter scale that shook the northern face of the mountain, causing a massive avalanche of rock debris. This landslide opened a crater that engulfed the mountain's summit and produced a massive lateral blast eruption. Mudflows carrying millions of cubic yards of debris washed down the river valleys and into the Columbia River. Tons of ash were strewn across eastern Washington and into the Earth's stratosphere.

After 18 years of relative quiescence, Mount St. Helens' volcano recaptured the world's attention in September of 2004 when it showed signs of reawakening. On September 23 a swarm of small, shallow earthquakes began in and beneath the 1980–1986 lava dome. Activity has continued on and off since then, with the lava dome growing and letting off periodic steam eruptions.

To protect the safety of communities located near Mount Saint Helens, I worked with Congressman NORM DICKS and Senator PATTY MURRAY to secure an additional $1.5 million for the United States Geological Survey in the Emergency Supplemental to conduct the necessary monitoring of Mt. St. Helens. This funding will increase the safety of citizens living near the area and help protect commercial aircraft.

Today, to commemorate Mt. St. Helens' 25 years of recovery and renewal, people are gathering at Weyerhaeuser's Forest Learning Center at Mount St. Helens to reflect on the 1980 devastation and celebrate 25 years of nature's recovery, including the return of forests, plants, and wildlife. Additionally, Weyerhaeuser is pledging $1 million in wood products, funding, and volunteer labor to help build Habitat for Humanity homes at the 2005 Jimmy Carter Work Project and in other communities across the United States and Canada.

TRIBUTE TO THE LATE ALEXANDER ASHE, JR.

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. MEEK of Florida. Mr. Speaker, I want to bring to the attention of my colleagues the passing of Captain Alexander Ashe, Jr., an accomplished law enforcement professional and tireless community servant and activist, who died last Friday, May 13, 2005. Captain Ashe joined the Miami-Dade Police Department (MDPD) in December 1973. He leaves behind a legacy of achievement and inspiration, for he was an example of what genuine caring and unrelenting commitment can accomplish. His passing is a great loss for our community.

To let you know the kind of man Captain Ashe was, I want to share with my colleagues this passage from his last job evaluation, in 2002, which included the following: "He has demonstrated concern for his subordinates, making himself available for guidance and direction. He encouraged his personnel to seek personal growth through departmental training and the promotional process." MDPD Major Chester Butler described Captain Ashe as ". . . someone who thought along the same line as I did . . . it was the best working relationships I've been fortunate to have in my career. I could always depend on him to be there for me."

As a resident of our community, he provided great wisdom and inspiration on issues affecting the Miami-Dade Police Department and was willing and ready to give of himself and put his problems on the back burner to help others. His colleagues remember him as someone who always had the knack for providing excellent insight and courageous guidance on countless situations aimed at enhancing the professionalism of the MPDP. He was helpful to many junior officers, assisting them in their professional growth and development to help them qualify for higher rank and responsibility, and he did this without asking anything in return. A respected member of the Phi Beta Sigma Fraternity, he was a golf enthusiast who was also fascinated with computers.

Captain Alexander Ashe, Jr. is survived by his wife, MDPD Officer Patricia Ashe, son James Ashe IV; daughters MDPD Officer Deidre Ashe, Jasmine and Rene; his mother, Jefferine Richards, his extended police family and numerous other relatives and friends. As a public servant, Captain Ashe truly exemplified a unique leadership whose courageous vision and genuine caring for his fellow officers and the people whom he pledged to serve and protect evokes the character of his humanity. This is the legacy he left behind and it is how we will always remember him.

IN RECOGNITION OF THE 2005 U.S. PHYSICS OLYMPIAD TEAM

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. EHLERS. Mr. Speaker, I rise today to honor the achievements of the members of the 2005 United States Physics Olympiad Team. These 24 individuals have shown tremendous aptitude in physics and leadership amongst their peers.

It is very challenging to earn a spot on this prestigious team. After being nominated by their high school teachers and taking a preliminary exam, 200 students qualified to take the second and final screening exam for the U.S. Physics Team. The 24 survivors of that group represent the top physics students in the U.S., and they are now at a 9-day training camp of intense study, examination and problem solving. Five of these students will advance and compete for our country in July at the International Physics Olympiad in Salamanca, Spain.

Members of the 2005 team include: Thomas D. Belulovich, David Chen, Timothy F. Credo, Nickolas A. Fortino, YingYu Gao, Sherry Gong, Timothy H. Hsieh, Anthony E. Kim, John Y. Kim, Jenny L. Kwan, Chor Hang Lam, Samuel S. Lederer, Menyoung Lee, David Lo, Anton S. Malyshev, Sarah E. Marzen, Eric J. Mecklenburg, Aaron H. Potechin, John D. Schulman, William T. Throwe, Madeleine R. Udell, Ameya A. Velingker, Daniel P. Whalen and Fan Zhang.

Mr. Speaker, as a nuclear physicist and formal physics professor, I have worked to promote math and science education and to emphasize the pivotal role these fields play in our nation's economic competitiveness and national security. Educating our K–12 students in math and science is very important. It is encouraging to see so many young, outstanding physics students enthusiastic about science. I hope their enthusiasm will be contagious to other students who will be drawn to challenging and rewarding careers in math and science. I am very thankful for these future leaders and ask that you please join me in congratulating them on their wonderful achievements.

RECOGNIZING JULIUS HARPER DAVIS

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. PICKERING. Mr. Speaker, recently, Millsaps College in Jackson, Mississippi dedicated Harper Davis Field to a man who coached there for 25 years, and who has built a lifetime legacy of service to sport and his fellow man across the state. Coach Harper Davis, affectionately called "Hippo" by friends and teammates, called the rededication of Millsaps' Alumni Field to him the "greatest honor of my life." And while leading the Millsaps Majors he built a record of 138–79–4 including an undefeated season in 1980, his life has much more to honor.

At age 17, Harper Davis left his Delta home in Clarksdale, Mississippi and enlisted in the US Marines Air Corps as a pilot to serve his Nation in World War II. After the War was over, he was met at Texas Grand Prairie Air Station by Mississippi State University assistant coach Phil Dickens who had the Bulldogs' playbook in hand. Two days later they arrived in Starkville for two practices before his first game where Davis scored two touchdowns as MSU defeated Auburn 20–0. Two days of study and two days of practice were followed by two touchdowns. In addition, during those two days, Harper Davis met Camille, his future wife. He would go on to be named to the All-SEC team while at State where he also ran on the school's track team. He was co-captain of the football team, voted Best Athlete, President of the "M" Club and named "Mr. Mississippi State University." Additionally he was a member of the Kappa Sigma Fraternity, Omicron Delta Kappa, Blue Key and the Colonels Club.

He graduated from Mississippi State with a bachelor of science degree in business finance and mathematics in 1948, in 1962 earned a master's degree in education administration.

After leaving Mississippi State University, Harper Davis was a first-round draft choice of both the Chicago Bears of the National Football League and the Los Angeles Dons of the All-American League. Harper Davis played one year with the Dons before the league folded and then went on to play with the Bears as well as the Green Bay Packers. Many considered him the fastest man in the NFL.

Over the years, Harper Davis has coached the backfield at his alma mater as well as head coach at West Point High School, and Columbus High School before arriving at Millsaps College. He has been inducted into the Mississippi State Sports Hall of Fame and the Mississippi Sports Hall of Fame and was named Mississippi Sportsman of the Year in 1976. He has been honored nationally for his contributions to the sport of football and his work with the Cystic Fibrosis Foundation.

Harper Davis is a member of Christ United Methodist Church and with his now departed wife, the former Camille Hogan of Starkville, has three sons, Michael, Andrew and Patrick with four grandchildren, Morgan, Drew, Paul and Brad.

Mr. Speaker, Harper Davis has now been coaching football for over 50 years and he continues today at Jackson Academy, where four of my sons attend. His gentle firmness and wise lessons continue to build young men in Mississippi. I am glad to recognize him today and honor a lifetime of service.

EXCERPTS FROM CONGRESSIONAL BRIEFING BY IRAN HUMAN RIGHTS AND DEMOCRACY CAUCUS

HON. TOM G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. TANCREDO. Mr. Speaker, last month, leaders and representatives of 65 Iraqi political parties and groups unveiled a petition signed by 2.8 million Iraqis, sharply criticizing neighboring Iran's interference in Iraq and warning of the specter of "Islamic fundamentalism's stealthy domination" of their country. Iraqi signatories included ethnic Arabs, Kurds, and Turkmen, from different religious backgrounds, including Sunni Muslims, Shiite Muslims, Christians, and people of other faiths.

The petition offered strong support to the main Iranian opposition group, the People's Mojahedin Organization of Iran (PMOI). The Iraqi statement said that the PMOI was fighting a "legitimate struggle against an unjust dictatorship", adding Iran's meddling was the biggest cause of instability in present-day Iraq. They also said the PMOI should be recognized in Iraq as "a legitimate political movement" and the rights of its members, under Iraqi and international law, fully respected. A Congressional Briefing was convened by Iran Human Rights and Democracy Caucus on May 10, 2005 to discuss these developments. I ask that the following excerpts of the witnesses' speeches, as follows, be entered into the RECORD. Furthermore, I ask that it be noted that the remarks of those witnesses connected to the US military are not to be attributed to the U.S. Department of Defense, but taken as personal observations offered by each witness.

Dr. Abdullah Rasheed Al-Jabouri, Former Governor of the Iraqi Province of Diyala: "I must emphasize that among the 2.8 million Iraqis who signed the petition of support, there are many Kurds, Turkomans, Shiites and Christians. Last June, 50,000 Iraqis attended a major gathering at Ashraf, which I addressed, and in May, 500,000 Iraqis signed a petition calling for the continued presence of the group in Iraq as a legitimate political force. The fact is that by virtue of espousing an anti-fundamentalist Islam, the Mojahedin has emerged as a major bulwark against the rise of Islamic fundamentalism in Iraq, and especially the Iranian meddling. They have developed strong ties with the local people and the many tribes in the province. The sheer presence of the Mojahedin (MEK) was providing security to the region because the people in the province have complete trust in them. It is my hope that as we and the U.S. grapple with the problem of insurgency in Iraq, the United States would realize that the Mojahedin are friend of the Iraqi people and a source stability and calm in Iraq and move to remove them from the terrorist list, which would in turn lead to the removal of the restrictions placed on them."

Lt. Colonel Thomas Cantwell: "When I moved up into northern Diyala province [in Iraq], the relationship with the Mojahedin with the local community helped me in that regard, I think because most of the local sheiks, understanding as part of the Sunni triangle, weren't exactly trusting of coalition forces but they seemed to have some level of trust with the Mojahedin, and so what I sought to get them to come in to get to speak to them and to understand what their issues were, was their security issues, their infrastructure repair issues, they lack of support issues, and to try and help them understand what our operations were doing and to ensure that they understood why we were under taking our operations. It certainly helped to have that friendly relationship that they had with the Mojahedin because it helped me to break the ice with the local sheiks which I think was important. My mission had several different aspects to it. On the one hand, we had a Geneva Convention responsibility to safeguard the Mojahedin, and this was a real possibility since there was evidence at the camp that the camp had been previously attacked by the Iranian government."

Captain Vivian Gembara: "As a soldier and a lawyer I believe it's time to change their (MEK) classification as a terrorist organization. Two years ago we could say clearly or argue that it was in all of our best interest to maintain this label, even despite Special Forces recommendations out of natural weariness. Now two years have passed and I think it's crucial that we acknowledge that the situation has changed, and we need to reassess. The potential benefits of working together definitely overshadow previous concerns or hesitations that we had. Next of course is identifying your allies, and over two years have passed now since I met with the MEK but my question is still the same and hasn't changed at all. It's basically why we can't take maximum use of the assets and potentials of this ally here?"

Dr. Kenneth Katzman: "The broader regional effects of the pro-Iranian tilt of the new Iraqi government are hard to discern. It is likely that the new Iraqi government might support Iran against international criticism of Iran's growing nuclear program. Iraq might move closer to Iranian positions on the Arab-Israeli peace process. It is also likely that the Shiite-dominated new government of Iraq will support other Shiite movements in the region, such as in Bahrain, Kuwait, and Saudi Arabia. Some commentators say Iraq's new leaders are likely to remain wary of Iran exercising substantial influence in Iraq. They note that most Iraqi Shiites generally stayed loyal to the Sunni-dominated Iraqi regime during the Iran-Iraq war. Most Iraqi Shiites appear not to want a cleric-run Islamic regime."

IN MEMORY OF MAJOR EDDIE WHITEHEAD

HON. J. D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. HAYWORTH. Mr. Speaker, on May 27, 2005 a courageous and distinguished Marine will be laid to rest in Arlington National Cemetery. Major Eddie Whitehead, a respected Vietnam veteran who proudly served his country in the United States Marine Corps for 28 years, will be laid to rest today among other great American heroes at Arlington National Cemetery. On February 25, 2005 Major Whitehead lost his battle with cancer, and all who knew and loved him will miss him, including his wife Bonnie, son Eddie Jr., daughters MitziLynn Keegan and Christian Thijm, sister Mitzi Datres, and grandchildren Derek and Casey Jene. Let us pause to remember him and thank an American hero.

IN MEMORY OF OFFICER JAMES DANIEL JONES

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BACA. Mr. Speaker, it is with great respect that I pay tribute today to the life of James Daniel Jones. James was a man of great integrity and character, who honorably served both his country and his community.

James passed away on May 10, 2005 at the age of 75. He was born in Minden, Louisiana, but in 1957 made his home in Barstow, California, where he resided until his passing. James married Louvern Redwell in 1953, and they had seven children, including my good friend Brian Jones.

James honorably served our country throughout his life. He was drafted into the United States Army in 1951 and served for 2 years and was honorably discharged. He went on to spend 32 years as a civil employee of the U.S. Marine Corps.

In addition to serving his country, James also served the people of his community. He volunteered at the Mojave Valley Senior Citizen Center and provided transportation for the sick and the elderly. He also was active in the lives of the youth in the community, as an East Barstow Little League coach. He also had a deep relationship with Christ, and was an active member of the Union Missionary Baptist Church.

James was preceded in death by his parents, Eli and Freelove Jones; his brother, Andrew Jones; and his three sisters, Donnie Jones, Lorean Stewart and Ella Mae Andrews.

He is survived by his beloved and dear wife of 52 years, Louvern Jones; his sister, Mary Helen Smith; his brother, Eddie Jones; and his seven children, Loretta Johnson, Shirley Sherrod, Donny Jones, Donie Elliott, Jennifer Jones-Scott, Vivian Brooks and Brian Jones. He is also survived by twelve grandchildren, two great-grandchildren, and many nieces, nephews, and other relatives and friends.

Mr. Speaker, today I am proud to pay tribute to James Jones, a man who improved the lives of those he knew. James will be missed by many in his community, but he will certainly not be forgotten. He leaves behind him a legacy of caring and compassion, of unselfish dedication to his community and his country.

TRIBUTE TO JENNY PHILLIPS

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mrs. CAPITO. Mr. Speaker, I rise today to ask my colleagues to pay tribute to a woman who has made an incredible difference in the lives of my fellow West Virginians. Jenny Phillips has served honorably as the West Virginia USDA Rural Development Director, and is retiring with a record of accomplishment that deserves our thanks and praise. Our State has many assets, as well as many needs. Jenny has a unique ability to bring people together for a common cause, to bring the resources of the Federal Government to partner with communities to solve problems and build for the future. Whether it was basic necessities such as water and sewer lines and affordable housing, or visionary projects such as high-speed internet access to bring health care, education and high-tech jobs to rural areas, Jenny delivered for West Virginia. We are taught to always leave a place better than we found it. Jenny Phillips has been the embodiment of those values in her life and career. All West Virginians and Americans thank her for her exemplary service and send our sincere best wishes for her retirement.

TRIBUTE TO MIHAN LEE

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise today to pay tribute to Mihan Lee, an 11th-grader who lives in my Congressional district and attends Georgetown Day School. Recently, she competed against nearly 5,400 middle and high school students nationwide in an essay contest titled "Lincoln and a New Birth of Freedom." Her essay, "A New Country, a New Century, a New Freedom" earned her grand prize honors. The contest was held to commemorate the opening of the Abraham Lincoln Presidential Library and Museum in Springfield, Illinois. Mihan, a 17-year-old, second-generation Korean-American, read her award-winning prose during the dedication ceremony.

Although Mihan's essay was not specifically about President Lincoln, she captured his message of freedom and courage in a story about her great-grandfather, who lived in Korea under Japanese colonization.

Mr. Speaker, I applaud Mihan Lee and wish her continued success in the years ahead. I submit her essay for the RECORD.

A NEW COUNTRY, A NEW CENTURY, A NEW FREEDOM

My understanding of freedom is inextricably tied up with my understanding of language. My great-grandfather, in 1940s Korea, was arrested for putting together the first Korean dictionary, when the language had been banned by the Japanese government. My great-grandfather believed that words, the medium by which we formulate and share ideas, can bind and break the very ideas they express if the language is that of an oppressor. He fought for the freedom of his people to express ideas in their own words; in so doing, he defended their very right to have ideas.

As I prepare for all the freedoms and responsibilities of adulthood, I remember these definitions of freedom I have inherited, and strive to make ones of my own—not only as the first generation of my family born in a new country, but also as an American youth at the birth of a new century. Sitting in the hall between classes, my friends and I discuss the faults of our school's administration, the right to same-sex marriage, the justification for the Iraq War. We feel it is our right to know and evaluate our surroundings, to speak and have our ideas responded to.

I believe that freedom in the 21st century means the liberty of individuals, regardless of age, race, gender, or class, to express themselves in their own words, and to use those words to shape history. We celebrate it, and yet we never stop fighting for it. I am Korean-American. I am young, and I am free. I speak--not always articulate, not often right, but always in my own words. I speak, and I listen.

LETTER TO PRESIDENT BUSH REGARDING LUIS POSADA CARRILES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. KUCINICH. Mr. Speaker, today 20 Representatives sent to President Bush the following letter regarding the asylum application of terrorist Luis Posada Carriles and the extradition request from Venezuela:

DEAR MR. PRESIDENT: We are writing to urge you to oppose the application for asylum by Luis Posada Carriles, and to support the request for extradition to Venezuela, where he is a fugitive from justice.

Posada, a CIA-trained Cuban exile, is one of only two prime suspects in the bombing of a Cuban civilian airliner, which killed all 73 people onboard on October 6, 1976, according to FBI investigators and declassified documents. The plane had originated in Caracas and was bound for Cuba, with a stop in Barbados. The bomb went off as the plane was leaving Barbados.

In addition to the Cuban airline bombing, Posada is implicated in an act of terrorism that took place on American soil, here in Washington, DC. On September 21, 1976 former Chilean government minister Orlando Letelier and his American associate, Ronni Moffit, were killed by a car bomb near Sheridon Circle. The bombing was one of the worst acts of foreign terrorism on American soil to that date.

Carter Cornick, a retired counterterrorism specialist for the FBI who worked on the Letelier case, said in an interview that both the airline bombing and the Letelier bombing were planned at a June 1976 meeting in Santo Domingo attended by Posada in addition to others. Mr. Cornick said that Posada was involved "up to his eyeballs" in planning the attacks. At the time of the bombings, Venezuelan police found maps and other evidence in Posada's Venezuelan home that tied him to the terrorist acts. Furthermore, a recently declassified 1976 F.B.I. document confirms Posada's presence at two meetings in the Anauco Hilton Hotel in Caracas where the airline bombing was planned.

Posada, a dual citizen of Venezuela and Cuba, and a former Venezuelan intelligence agent, was jailed in Venezuela for the airline bombing, but then escaped from prison in 1985 while awaiting trial.

After escaping prison, Posada continued to terrorize civilians, and even boast publicly about his crimes. In a 1998 interview with the New York Times, he claimed responsibility for organizing a series of bombings aimed at Cuban hotels, department stores and other civilian targets during the summer of 1997. The bombings killed an Italian tourist and injured 11 other human beings.

Perhaps realizing he had not helped himself or his cause, Posada later retracted his statements.

In November 2000, Posada was arrested in Panama for preparing a bomb to explode in the University of Panama's Conference Hall, where Fidel Castro was going to deliver a speech. Hundreds of people were expected to attend this event, and had Cuban intelligence not uncovered the plot beforehand, there would have been massive civilian casualties. Posada was convicted in a Panamanian court only to be pardoned by Panamanian President Mireya Moscoso just days before she left office in August 2004.

Moscoso's successor, Martin Torrijos, criticized the pardon, aptly noting, "For me, there are not two classes of terrorism, one that is condemned and another that is pardoned."

Similarly, in 1989, when the Justice Department was considering the asylum request of Posada's fellow Miami militant, and suspected co-conspirator in the Cubana bombing, Orlando Bosch, then-Associate U.S. Attorney General Joe D. Whitley said, "The United States cannot tolerate the inherent inhumanity of terrorism as a way of settling disputes. Appeasement of those who would use force will only breed more terrorists. We must look on terrorism as a universal evil, even if it is directed toward those with whom we have no political sympathy."

Aside from the United States' foreign policy regarding Cuba, our stated, official national security policy against terrorism is unequivocally clear.

On September 19, 2001, Mr. President, you eloquently reaffirmed our national policy against terrorism: "Anybody who harbors a terrorist, encourages terrorism, will be held accountable. I would strongly urge any nation in the world to reject terrorism, expel terrorists."

On August 26th, 2003 you said, "If you harbor a terrorist, if you support a terrorist, if you feed a terrorist, you are just as guilty as the terrorists." The National Security Strategy of the United States, released in 2002 stated, "No cause justifies terror. The United States will make no concessions to terrorist demands and strike no deals with them. We make no distinction between terrorists and those who knowingly harbor or provide aid to them."

Not only must the United States reject the asylum application of Luis Posada Carriles, a known international terrorist, but Posada should also be returned to Venezuela for a proper adjudication of the case against him. Posada was a dual citizen of Venezuela and Cuba, he plotted terrorist crimes from Venezuela, including the bombing of the civilian airline flight that had originated in Venezuela, and he escaped from a Venezuelan prison. As a sovereign nation, Venezuela has the right to pursue justice in this case.

Posada's lawyer Eduardo Soto has objected to his client's return to Venezuela, arguing that he could be tortured there. To satisfy such concerns, the United States should abide by its standard policy on these matters, which according to William Haynes II, general counsel of the Defense Department, "is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country." If this policy is applied in the transferring of prisoners to Syria, Morocco, Egypt and Jordan, all countries whose abusive practices have been documented and condemned by the State Department's annual human rights report, then the United States must surely apply this policy to Venezuela, a nation with a Constitution that specifically prohibits torture and provides for the prosecution of officials who instigate or tolerate torture.

Many innocent victims who happened to be Cuban died at the hands of Posada, in a crime similar to that which killed innocent American victims on September 11, 2001. It is not only inconceivable to imagine the possibility of granting this terrorist asylum, but also of denying justice to all of the victims of his crimes. Such actions would go against everything that your Administration has claimed to stand for in the "War on Terrorism." It is our hope that for the sake of all the families of terror casualties in the United States and around the world that Luis Posada Carriles is not granted asylum in the United States, and that he is rightfully extradited to Venezuela where he will finally face justice.

Sincerely,

Dennis J. Kucinich, Raúl M. Grijalva, José E. Serrano, Barbara Lee, Cynthia McKinney, Maurice Hinchey, John W. Olver, Bobby L. Rush, James P. McGovern, Edolphus Towns, Donald M. Payne, Sam Farr, Lane Evans, Bennie G. Thompson, Carolyn B. Maloney, Ed Pastor, Tammy Baldwin, Sheila Jackson Lee, Lynn Woolsey, Maxine Waters.

IN RECOGNITION OF GEN. PETER PACE, CHAIRMAN OF THE JOINT CHIEFS OF STAFF

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. ROTHMAN. Mr. Speaker, I rise today with great pride in honoring an extraordinary individual, Marine Corps General Peter Pace, who was recently nominated to serve as the Chairman of the Joint Chiefs of Staff of the United States Armed Forces. General Pace was raised in Teaneck, New Jersey, one of the largest municipalities in the Congressional District that I am privileged to represent. General Pace has risen to become the first Marine to lead the Joint Chiefs of Staff, an honor that he has earned through decades of hard work and determination. His story is a source of inspiration to every resident of the Garden State.

The son of an Italian immigrant, Peter Pace was born in Brooklyn, New York, and moved to Teaneck with his family the following year. After settling down in a home on Hillside Avenue, Peter quickly became involved in local youth athletics. While attending Teaneck High School, Peter worked hard and achieved academic excellence, which resulted in his acceptance to the United States Naval Academy in 1963.

Upon graduation from Annapolis and successful completion of The Basic School in Quantico, VA, Peter Pace was assigned to the 2nd Battalion, 5th Marines, 1st Marine Division in the Republic of Vietnam and served as a Rifle Platoon Leader. After returning from his combat duty in Vietnam, Peter served in a number of different staff and command positions, including Head of the Infantry Writer Unit at the Marine Corps Institute, Security Detachment Commander at Camp David, White House Social Aide, and Leader of the Special Ceremonial Platoon.

In April of 1971, Peter was promoted to the rank of Captain, and was later assigned to a Security Detachment in Thailand. In the late 1970's, then-Captain Peter Pace held the position of Operations Officer and Division Staff Secretary at Camp Pendleton in Southern California, where he later served as Commanding Officer of the 2n Battalion, First Marines Division following his promotion to the rank of Major in June of 1980. After heading up a Marine Corps Recruitment Station in Buffalo, NY and attending the National War College, Major Pace was promoted to the rank of Colonel in October of 1988, and advanced to the rank of Brigadier General in April of 1992. He was then appointed as President of the Marine Corps University before assuming various other commands. In recent years, as Vice-chairman of the Joint Chiefs of Staff, General Pace has been instrumental in shaping the Pentagon's efforts in the war on terrorism.

Mr. Speaker, I ask my distinguished colleagues to join me in giving our heartiest congratulations to General Peter Pace, the new Chairman of the Joint Chiefs of Staff of the United States Armed Forces, and a proud example of the Teaneck Public School System. His remarkable achievements and tireless service to his country, the United States Marine Corps, and his fellow servicemen and women clearly are a tremendous source of pride for all Americans and especially all his friends and family from New Jersey.

PERSONAL EXPLANATION

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BARRETT of South Carolina. Mr. Speaker, due to obligations in South Carolina, I unfortunately missed recorded votes on the House floor on Monday, May 16, 2005.

I ask that the RECORD reflect that had I been able to vote that day, I would have voted "yes" on rollcall vote No. 171 (Motion to Suspend the Rules and Pass H.R. 627—Linda White-Epps Post Office), "yes" on rollcall vote No. 172 (Motion to Suspend the Rules and Pass H. Res. 266—Peace Officers Memorial Day), and "yes" on rollcall vote No. 173 (Motion to Suspend the Rules and Pass H.R. 2107—National Law Enforcement Officers Memorial Maintenance Fund).

IN HONOR OF ALICE YARISH

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Alice Yarish of Marin County, California, who died at the age of 96 on May 9, 2005. Alice was a fixture of the Marin community for many years, known as much for her outspoken and occasionally flamboyant personal style as for her crusading journalism.

Born in Nevada and raised in Redondo Beach, CA, Alice's first foray into journalism was a stint as the high school correspondent for the city's South Bay Breeze. She graduated from the University of Southern California during the depression and, unable to find a job, enrolled in law school, continuing a family tradition. She could not afford to complete the program and supported herself as a social worker for the next five years.

In 1942 Alice married Peter Yarish who was in the Air Force. A few years later the couple moved to Hamilton Air Force Base in Marin where Alice lived the life of a military wife for several years while raising four children. In 1952, when her children were school-age, she was able to return to journalism at the age of 43. First a reporter for the San Rafael Independent Journal, she later worked for the Santa Rosa Press Democrat and the Novato Advance before establishing the Marin News Bureau for the San Francisco Examiner. In 1970 she became the assistant editor of the Pacific Sun where she gained a reputation for dry wit, investigative coverage of local government, social commentary on the hippie scene, and a strong passion for social justice.

Prison reform became one of Alice's special crusades after she met well-known inmate George Jackson who was later killed in an attempted outbreak. "Jackson opened my eyes and filled me with information which I had not known before," she wrote. "I was shocked by what I learned . . . prisons tend to be breeding grounds of crime, generators of bitterness, destructive of men's souls. They are a failure."

A 1972 series on abuses in the Marin County Drug Abuse Bureau led to its abolition and replacement with an agency which operates under review by elected officials and city managers. This series led to an Award for "Best Story in a Bay Area Paper" from the San Francisco Press Club. Alice's enjoyment of her work and zest for life were contagious, whether leading her home-town parade in her newly purchased red convertible at the age of 77 or serving actively with community agencies such as the Adult Criminal Justice Commission, the Marin Association for Mental Health, and others.

Alice is survived by her four sons, Peter, Tom, Anthony, and Robin Ell, and by seven grandchildren and three great-grandchildren.

Mr. Speaker, as a self-described "outspoken broad," Alice championed those who couldn't speak out for themselves and inspired others to do likewise. We will miss her fearless voice, her compassion, and most of all her undaunted spirit.

IN HONOR OF DR. KAREN HERZOG

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. HULSHOF. Mr. Speaker, on May 20th, East Central College in Union, Missouri will watch with pride as young men and women receive their diploma and enter the working world. Commencement is a joyous time filled with celebrations and happiness, but also sadness and trepidation as students begin their adult lives and careers in new cities, often leaving friends behind.

East Central College's upcoming graduation will be no different. There will, however, be one major difference from previous graduations—it will mark the last time that Dr. Karen Herzog presides over her students in her official capacity as the college's President.

As such, I rise today to honor Dr. Karen Herzog for her distinguished academic career and commitment to higher education. Dr. Herzog grew up in Carthage, Missouri and studied at Ozark Christian College in nearby Joplin where she earned a B.A. in literature. She subsequently earned a master's degree in American literature from Kansas State University and later a Ph.D. in higher education policy from the University of Kansas.

Dr. Herzog started her academic career at the Metropolitan Community College District system located in the greater Kansas City area where she taught English. After fifteen years, Dr. Herzog moved into an administrative role at the college. She rose through the ranks and eventually assumed the position of Associate Vice Chancellor of Education. In 1999, East Central College offered Dr. Herzog the Presidency, which she accepted.

For the past six years, Dr. Herzog has made an indelible mark on the students of East Central College and residents of Franklin County. She has chaired the Franklin County Economic Development Council and been a member of the Franklin County Family and Children Mental Health Board, the Washington 353 Redevelopment Corporation and the Union Rotary Club. While at East Central, Dr. Herzog established a centralized Learning Center for students, earned full ten-year accreditation from the North Central Association of Colleges and Schools and attained record enrollment levels. Dr. Herzog has clearly had a positive impact on the community, on East Central College, and most importantly, on the students that have received a quality education as a result of her efforts.

It has been a pleasure working with Dr. Herzog and I wish her continued success in her future endeavors. Her dedication to Missouri's students is exemplary and deserving of commendation. For these reasons, it is my pleasure to rise and share her accomplishments with my colleagues.

TRIBUTE TO ELEANOR McGOVERN

HON. JAMES P. McGOVERN

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 18, 2005

Mr. McGOVERN. Mr. Speaker, when George McGovern ran for president in 1972, his wife Eleanor inspired the slogan, "Put another Eleanor in the White House." Eleanor McGovern, like Eleanor Roosevelt, has a deep love for this country and has dedicated much of her life to causes and campaigns that would make this country—and the world—a better place.

I've known Eleanor for many years and have admired her intellect and compassion. She was an early advocate for early childhood education and, like her husband, has been a voice of peace and tolerance.

Mr. Speaker, I would like to insert into the RECORD a recent article about Eleanor McGovern which appeared in the Sioux Falls Argus Leader on May 15th. I ask all my fellow colleagues to join me in paying tribute to this remarkable woman.

[From the Sioux Falls Argos Leader, May 15, 2005]

A DEVOTED LIFE

(By Jill Callison)

MITCHELL.—Eleanor McGovern entered marriage hoping only that her husband, George, would return from war unscathed.

If he did come back, she expected to be the wife of a history teacher.

Instead, she found herself spending more than 50 years as a politician's wife. But she also carved out a place for herself, becoming more than "the wife of."

Indeed, George McGovern's career—which includes 12 years as a U.S. senator, Democratic presidential candidate and ambassador to United Nations agencies—may not have soared as high as it did without his wife's support, some say.

"He may not have had the political career he has had without her," says Judy Harrington of Hill City, who served as George McGovern's state representative from 1973 to 1980.

"I think her support, her insights, ideas and gentle corrections have helped him all along his path of public service."

The senator himself describes his wife of 61 years as his most helpful critic and most trusted adviser.

On June 23, ground will be broken for a new library and center for public service at Dakota Wesleyan University in Mitchell. The building will carry two names: George and Eleanor McGovern.

"Eleanor's done a lot of great things, and we're proud of her at Dakota Wesleyan," says Greg Christie, vice president for institutional advancement.

But a public life can come at a cost.

Eleanor McGovern, now 83 and growing frail, prefers to shun the spotlight that once shone on her family, sometimes with a scorching heat.

"George still travels a lot, but I don't go with him very often," she says, sitting in the living room of their Mitchell ranch-style house. "Going from city to city and lecture to lecture isn't my idea of fun. I like to go to one place and stay for a while."

Last week, the McGoverns took off on a three-day trip to reach their summer home in southwestern Montana, in the shadow of the Bitterroot Mountains.

The trip takes three days, Eleanor McGovern says, to make it easier on the pets, an 8-year-old Newfoundland named Ursa and a 1-year-old tortoiseshell cat found on the highway. Its name, she admits with a trace of embarrassment, is Kittycat.

Ursa, they say, is George's dog. But the nurturing Newfie proved her loyalty about three years ago. Eleanor McGovern had fallen, breaking her leg in two places. She dragged herself to her bedroom but was unable to reach the phone. Ursa curled herself around the prone woman for 24 hours, until help arrived.

Yet, although she's often alone and sometimes lonely, Eleanor continues to support her husband's public service, no matter how often he must leave.

"She started off carrying that load when he was gone in the war after they were married," says Paul Jensen of Rapid City, a longtime friend.

"But today I am more aware of the juxtapositions of love and deprivation in my childhood, of freedom and responsibility in my youth, and of tenderness and chaos in my maturing years. Without those myriad strands it would have been more difficult, I know, to accept the different drives and natures of five children, to support a gentle, questing man as he moved from teaching to the ministry to politics, and to keep something in reserve for myself." From "Uphill: A Personal Story" by Eleanor McGovern with Mary Finch Hoyt.

Eleanor McGovern began that uphill climb Nov. 25, 1921, when she arrived 30 minutes after the birth of her twin, Ila.

Her parents, Earl and Marian Stegeberg, farmed near Woonsocket. It was a hard life, made even more difficult by the early death of her mother when the twins were 11 and their sister, Phyllis, was 4.

Her father withdrew into a sadness that truly never broke until the birth of his first grandchild, the McGoverns' oldest daughter, Ann, in 1945.

Eleanor and Ila became the family housekeepers.

"I have a memory of trying to bake a cake," Eleanor McGovern says. "I had a recipe, but I came to an ingredient I didn't know—baking powder. So I left it out. That was a very flat cake."

In high school, the twins stayed in Woonsocket, doing housekeeping in exchange for room and board. They took turns going home weekends.

Living in town allowed them to take part in activities such as debate. That was how they first encountered a Mitchell teenager who already had made a name for himself. George McGovern and his partner debated the Stegeberg twins—and lost.

"Having high admiration for George, we adore the woman who beat him," says Harrington, McGovern's former state representative.

But the two didn't really meet until they were freshman at DWU. In "Uphill," Eleanor McGovern talks about how he asked her on a first date.

Now she admits she had advance warning. Eleanor worked in the dean's office, Ila down the hall. Ila stuck her head in the door to tell her sister a request for a date was coming.

"And don't you dare refuse him," Ila hissed at her twin.

"It never occurred to me he would ask me for a date," Eleanor McGovern says. "He was a big man on campus."

"I'd say within a year of that our first date I was pretty sure Eleanor was the one," George McGovern says.

"It was a dreamy spring. I had never known anything like it before. My only concern was that George might not care so much as I. Then on a beautiful clear afternoon he urged me to skip class with him and as we strolled slowly down the street south of campus, he reached down and took my hand. I had my answer. A clasping of hands meant everything then."

Their campus life was short. Eleanor McGovern quit her business courses at DWU. Her sister left for Rochester, Minn., and nurse's training, and Eleanor gave financial support.

The world had changed, too. After Pearl Harbor was bombed on Dec. 7, 1941, George McGovern volunteered for service in the Army Air Corps. He was called up in 1943.

The couple considered delaying marriage until after he returned from combat but decided not to wait. On Halloween Day 1943, they were married in the Methodist church in Woonsocket.

"My father liked George very much, but he didn't think we should get married, and he said he would not take part in the wedding," Eleanor McGovern says. "But he came that day and gave me away."

The newlyweds took a train to Muskogee, Okla., the next day, Eleanor sometimes sitting on their suitcase in the aisle.

She lived alone in a rented bedroom while her husband returned to the base. They saw each other twice a week.

She followed him to Kansas, Texas, Nebraska and Idaho, before returning home to await the birth of their first baby.

"I had really wanted to get pregnant," she says. "George was going overseas, and I wanted to have a baby."

He would not see Ann until she was 5 months old.

After the war, he completed his degree at DWU. The son of a Wesleyan Methodist pastor thought he, too, would follow that path.

As a student pastor's wife, Eleanor McGovern had her first taste of being in the public eye.

"A lot is expected of a minister's wife," she says. "And with two children very small (daughter Susan had arrived a year after Ann), I wasn't ready."

In any case, it didn't last long. George McGovern left seminary, earning a doctorate in history. He taught at DWU before leaving to help reinvigorate the South Dakota Democratic Party.

Three more children, Teresa, Steven and Mary, arrived.

And in 1955, Eleanor McGovern officially became a politician's wife when her husband ran for the U.S. House of Representatives. "I was happy when George went into politics," she says. "People in my family cared about what was happening in the country."

The first campaign was the toughest, she says. Then, they fell into a similar rhythm.

She began the last campaign, in 1980, with typical humor. As a temporary home in Mitchell, staffers rented the McGoverns an aging apartment, with linoleum floors, ancient cupboards and poor lighting.

"When George and Eleanor arrived for the first time to see it—looking ever so much like an apartment they had when they first married—Eleanor looked around, smiled and said, 'Well, George, it looks like we're starting over,' " Harrington says. "They didn't seem to mind at all."

While he served in Congress, she pursued her own interests, primarily children and families and the choices confronting women as the stay-at-home '50s transformed into the turbulent '60s.

Eleanor McGovern spoke out for adequate day care. "She was ahead of her time in accepting that as appropriate," says Berniece Mayer of Sioux Falls, a former McGovern staffer.

Until the demands of her husband's political career—particularly his bid for the presidency in 1972—required her to travel, Eleanor McGovern served as, often, a single parent.

"I'm sure Eleanor's had periods where she wishes she'd never been married to a politician, somebody running for Congress, running for the Senate, running for the presidency, running, running, running," George McGovern acknowledges.

"There was one period when I was representing South Dakota in the House of Representatives when I came out here 25 weekends in a row, and that plays havoc with your wife and your kids," he says.

"I was determined to help with George's career, not only by taking responsibility for the family, but by contributing ideas. In fact, I never considered it 'George's' career—it was 'ours.'"

Sometimes Eleanor McGovern did think "Stop!," she says, but "I never said it. It meant so much to him. He loved being a politician, and he accomplished a lot."

But if she could change anything, she would not have moved the children so often. "If I had to do it over again, I'd stay with them in South Dakota," she says.

The McGoverns have 10 grandchildren and one great-grandchild. A second great-grandchild is on the way.

Their children are scattered from Montana to England. There are only four now, since their middle child, Terry, died in 1994, after years struggling with alcoholism.

The sadness from her daughter's death will never leave Eleanor McGovern.

"There are pictures of her in the bedroom," she says. "When I go by, I always find myself softly reaching out and touching her picture."

Her husband later wrote a book about their daughter, "Terry." It was therapy for him, she says, but Eleanor McGovern has chosen to speak only rarely about her daughter's addictions.

It's OK that they have differences of opinions, he says.

"We don't worry about the fact that sometimes there could be a little tension and differences of opinion and irritation," he says.

"We just take that as a part of life. You can't expect complete harmony in a marriage. You have to give the other person a little freedom, too, to move to the things that they're interested in."

"Even today I have fleeting pangs of anxiety when I leave where I am to go to someplace else. I can describe it only as a vague sense of loss of place."

So he travels the country, and she generally stays home.

"She's had lots of opportunities in her lifetime to be in the public eye, and she goes out of her way to stay out," Christy says. "Some time ago she decided to let George do that."

The death of her sister, Ila, in 1996 also was a blow. "It left quite a void in my life," Eleanor says.

Books can't fill that gap, but they often fill her days. Her husband calls her the best-read woman he knows. Eight or 10 magazines come to the house every week; she reads them all.

She loves birds, particularly meadowlarks. Mayer remembers taking Eleanor McGovern out in the prairie to hear their sweet sound. When time wouldn't permit, a local radio announcer would tape the bird calls for her.

It would take her home, even in a Washington, D.C., suburb.

"Many times I ached for Woonsocket and Mitchell, for cottonwoods and elms, for schools, shops, markets, doctors' offices, more often than not sprinkled with dear friends or relatives, all within walking distance."

HONORING TOM GREEN FOR HIS SERVICE TO TENNESSEE

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. COOPER. Mr. Speaker, I rise today to pay tribute to Mr. Tom Green. The humorist Will Rogers once said that the secret of his success was that he never met a man he didn't like. The same can be said of Tom Green. He makes friends with everyone, everyday, everywhere. He is the ultimate people person, always asking—and, much more important, caring—about you, your family, your friends, and remembering the details perfectly for decades. I wish I had a fraction of his talent.

Tom is well known back home for his wonderful family, for his continuing and tireless efforts benefiting the Natchez Trace Parkway, as well as for his dedication and service to Nashvillians during his long business career and, more recently, as a key member of my district staff.

The Natchez Trace is the pioneer roadway that connected Nashville with the lower Mississippi River at Natchez. In modern times the Trace fell into disuse and was nearly lost to history. In 1934, Congress ordered a survey of the old wagon road, and, in 1937, provided initial funding for construction of what would eventually become the 444-mile-long Natchez Trace Parkway running through rural Mississippi, Alabama and Tennessee. Today, the Parkway is one of the most visited national parks and serves as a unique thoroughfare, allowing us to ride in comfort along an ancient trail through some of the most beautiful scenery in our country.

Tom has helped the Natchez Trace Parkway for decades, from the days of legendary Congressmen Jamie Whitten of Mississippi and Tom Bevill of Alabama. He worked hard to secure federal funding to complete and beautify the Parkway. Everyone associated with the Parkway knows that Tom is a great organizer, motivator, and promoter of the Trace. Just stop and eat a ham biscuit at the famous Loveless Café at the head of the Trace and you'll hear Tom's name mentioned frequently and with deep respect. Without Tom's efforts, the Natchez Trace Parkway would not be the link between the past and future of our region that it is today. Everyone in the Southeast United States is indebted to Tom for his vision. He helped save the Trace before it was too late.

His tireless work on the Natchez Trace Parkway is just one of his important contributions. Tom is a true servant of his community. Born to remarkable parents in Lewisburg, Tennessee, he served in WWII and came home to graduate from the University of Tennessee, manage the local co-op and open a small business. He was so popular he was elected Mayor of Lewisburg. Later moving to Nashville, he helped many Middle Tennessee businesses expand, thanks to his keen credit decisions while heading up industrial development projects for Third National Bank. Those years were the golden age of Third National under the leadership of the legendary Sam Fleming, but it was men like Tom Green that brought the loans to the bank. Money is a commodity; customer relationships are more precious than gold.

Tom went on to help all Nashvillians when he spent more than a decade as the associate general manager of the Nashville Electric Service, the local electric utility. Just one of the many people Tom helped was an African-American barber in a poor part of town. The barber would call Tom to tell him about an upstanding citizen who just couldn't pay their electric bill that month, but would pay when they found work. He asked Tom to keep their lights on and Tom did just that. As a former banker, Tom knew how to make character loans, whom to trust and whom not to. Despite being a monopoly, NES kept the goodwill of its hardworking customers and Tom made even more lifelong friends at a time when most white Nashvillians did not care much about goodwill in the black community. The barber is still in business in the same location and I have visited his barbershop with Tom. The barber's name is Vernon Winfrey, and he is the father of Oprah Winfrey. Tom bent over backwards to help him before he had any realistic hope of fame or fortune. That's the kind of guy Tom is.

Married for 53 years to Pat Green, the Greens are the parents of four outstanding grown men and grandparents of eleven children. Tom is an active member of the Nashville Downtown Rotary Club and Christ the King Catholic Church and finds time to volunteer at the Nashville's "Room in the Inn" program for the homeless and at St. Thomas Hospital. Pat is a renowned local teacher who is directly descended from Abraham Lincoln's first-grade school teacher. Needless to say, the Green family is well educated.

Tom's generous spirit and joyful approach to life immediately come to mind when anyone thinks of him. No matter how busy his day may be, Tom always has a smile, an encouraging word and a couple of minutes just to talk . . . sometimes more than a couple of minutes. He'll pick up the conversation just where you left it . . . the day before, a week or a month ago. He always knows the news and has lots of tips about everyone's background, interconnections, and exactly how to approach everyone. His mind is better than a computer database. There's never been anyone like him.

Of course, I am the lucky one. Tom Green has been a key part of my office staff for the past several years. No one could ask for a more positive, uplifting presence in the office, or a better person to represent you out in the community. Not only does he know everyone, he also has great ideas. For example, last year Tom Green persuaded Vernon Winfrey to make available Oprah Winfrey Scholarships to Nashville Tech Community College. Now all future generations will benefit from an old interracial friendship, formed on the basis of taking a business risk to keep the lights on for decent, hardworking people who were temporarily down on their luck.

I am truly fortunate and want to take this moment to thank Tom for bringing his integrity, his energy and his ever-present sense of humor to my Congressional team. He can outwork a dozen people half his age. I want to take this moment to publicly offer my thanks, and the thanks of everyone in the 5th Congressional District of Tennessee, for Tom Green's extraordinary service to our community, our state and our country.

SUPPORTING REACH OUT AND READ PROGRAM

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mrs. CAPITO. Mr. Speaker, today I rise in support of the Reach Out and Read program. The Reach Out and Read Program is a program that promotes early literacy by making reading a standard part of pediatric primary care by encouraging doctors and nurses to advise parents about the importance of reading to children. Reach Out and Read programs are located in over 2,000 hospitals and health centers around the country. Annually, more than two million children participate in Reach Out and Read. My district is proud to have 14 Reach Out and Read programs that provide over 15,000 books to nearly 11,000 West Virginia children annually. I have participated three times in Reach Out and Read Programs in Kanawha and Roane Counties in my district.

By building on the unique relationship between parents and medical providers, Reach Out and Read helps families and communities encourage early literacy skills so children enter school prepared for success in reading.

President Bush included Reach Out and Read in his fiscal year 2006 budget request, continuing a multi-year effort to support this vital reading program. Reach Out and Read has a strong track record of raising non-federal dollars and is capable of more than double the impact of its 2006 appropriation. In January Reach Out and Read undertook a major 2-year initiative to increase the number of children reached by 50 percent through mid-2007. This bold step will greatly increase the number of West Virginia children who grow up in a household where early reading is encouraged.

Reach Out and Read assists families and communities in encouraging early literacy skills so children enter school prepared for success in reading. The continued support of this program is critical to the success of the Reach Out and Read program.

TRIBUTE TO CHUCK AND SHELBY OBERSHAW

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BACA. Mr. Speaker, I rise to pay tribute to two outstanding leaders in my community who are to receive the Golden Baton Award from the San Bernardino Symphony Guild in recognition of their proactive role in fostering the culture of music in the Inland Empire. Today, I join family and friends in honoring Chuck and Shelby Obershaw for their remarkable achievements and express enormous pride in this recognition that has been afforded to them.

Chuck Obershaw was raised in the Inland Empire where he devoted himself to his family, friends and community. He selflessly served as a para-glider trooper in the 187th regiment of the 11th Airborne Division before returning to San Bernardino in the 1940s.

Chuck's accomplishments are as remarkable as they are diverse. He has served as President of the San Bernardino Area Chamber of Commerce, the San Bernardino Motor Car Dealers, the Air Force Association, and the Norton Air Force Base Chapter. In these capacities, he has been an integral contributor to the management and administration of community affairs and worked tirelessly for a better way of life for all of San Bernardino's residents.

Shelby Obershaw also proved the importance of serving your community. After moving to San Bernardino in 1959, she dedicated all her energy to shaping the minds of the future leaders of tomorrow as a dedicated teacher in various area high schools.

Her list of accolades is no less illustrious. They include election to the San Bernardino City Unified School District Board of Education, serving as President for 2 years, Director of the San Bernardino Chamber of Commerce, and member of the San Bernardino Chapter of the National Assistance League. She has also received the California PTA Honorary Service Award and the Citizen Achievement Award from the League of Women Voters.

Throughout their lives, Chuck and Shelby Obershaw have exhibited kindness, love, humility, and a deep resolve to ameliorate all aspects of community life, so it is only appropriate that they receive the Golden Baton Award.

Mr. Speaker, I am proud to recognize Chuck and Shelby Obershaw and express my sincere admiration that they have received this wonderful and well-deserved honor.

RECOGNITION OF FRIEDREICH'S ATAXIA AWARENESS DAY

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. BOEHNER. Mr. Speaker, I rise today in support of Friedreich's Ataxia Awareness Day, which is recognized each year on the third Saturday in May.

Friedreich's ataxia is a life-shortening neurological disorder usually diagnosed in childhood, causing weakness and loss of coordination in the arms and legs; impairment of vision, hearing and speech; scoliosis, diabetes; and a life-threatening heart condition. Most patients need a wheelchair full-time by their twenties. Life expectancy is reduced to early adulthood. There is currently no effective treatment or cure for Friedreich's ataxia. Sadly, I have a young constituent who suffers from this rare disease, Evan Luebbe. Evan and his family are working to bring awareness to this disease in my district. I am proud of the strength and courage he exemplifies as he battles this disease.

Although there is no effective treatment or cure available, Friedreich's ataxia patients and families have more and more reason for real hope. An extraordinary explosion of research insights has followed the identification of the Friedreich's ataxia gene in 1996. Since that discovery, research scientists have learned a great deal about the disorder. We now know what defects in the gene cause the disease, what protein the gene is supposed to produce, what that protein is supposed to accomplish, and why a shortage of the protein results in the cell death that leads to the disease symptoms. Investigators are increasingly optimistic that they are drawing closer to understanding more fully the causes of Friedreich's ataxia and to developing effective treatments. In fact, they have recently declared that, "in Friedreich's ataxia, we have entered the treatment era."

At the National Institutes of Health and around the world, clinical trials for Friedreich's ataxia are being conducted on drugs that hold real promise. The growing cooperation among organizations supporting the research, and the multidisciplinary efforts of thousands of scientists and health care professionals, provide powerful evidence of the determination to conquer Friedreich's ataxia.

On the third Saturday of May, events will be held across our country, including one in West Chester, Ohio, to increase public awareness of Friedreich's ataxia and to raise funds to support the research that promises treatments for this disease. I applaud the Friedreich's Ataxia Research Alliance (FARA) for its contributions to these efforts and ask my colleagues to join me in recognizing May 21, 2005, as Friedreich's Ataxia Awareness Day to show our concern for all those families affected by this disorder and to express our support and encouragement for their efforts to achieve treatments and a cure.

STATEMENT INTRODUCING REPEAL OF SELECTIVE SERVICE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. PAUL. Mr. Speaker, I am today introducing legislation to repeal the Selective Service Act and related parts of the United States

Code. The Department of Defense, in response to calls to reinstate the draft, has confirmed that conscription serves no military need.

Secretary of Defense Donald Rumsfeld is on record citing the "notable disadvantages" of a military draft, adding, ". . . there is not a draft. . . . There will not be a draft."

This is only the most recent confirmation that the draft, and thus the Selective Service system, serves no military purpose.

Obviously, if there is no military need for the draft, then there is no need for Selective Service registration. Furthermore, Mr. Speaker, Selective Service registration is an outdated and outmoded system, which has been made obsolete by technological advances.

In fact, in 1993, the Department of Defense issued a report stating that registration could be stopped "with no effect on military mobilization and no measurable effect on the time it would take to mobilize, and no measurable effect on military recruitment." Yet the American taxpayer has been forced to spend over $500 million dollars on an outdated system "with no measurable effect on military mobilization!"

Shutting down Selective Service will give taxpayers a break without adversely affecting military efforts. Shutting down Selective Service will also end a program that violates the very principals of individual liberty our nation was founded upon. The moral case against the draft was eloquently expressed by former President Ronald Regan in the publication Human Events in 1979: ". . . it [conscription] rests on the assumption that your kids belong to the state. If we buy that assumption then it is for the state—not for parents, the community, the religious institutions or teachers—to decide who shall have what values and who shall do what work, when, where and how in our society. That assumption isn't a new one. The Nazis thought it was a great idea."

I hope all my colleagues join me in working to shut down this un-American relic of a bygone era and help realize the financial savings and the gains to individual liberties that can be achieved by ending Selective Service registration.

TRIBUTE TO THE LATE EINEZ YAP

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to the late Einez Yap.

Einez Yap, who passed away unexpectedly on May 18, 2005, was a quintessential community activist who went about helping others in a quiet and dignified manner. Her passing is tragic, not just to her family, but to all those who knew her.

She was the visionary behind the establishment of LEASA Industries in 1977, when it began as a small family-owned business. Since its humble beginnings in Liberty City, the company has grown to become one of the largest growers of bean and alfalfa sprouts and one of the largest manufacturers of tofu and suppliers of fresh fruits and vegetables in the state of Florida.

A dutiful partner and wife to George Yap, President/CEO of LEASA Industries, Einez was a doting mother and proud grandmother. Her business acumen was instrumental in enabling LEASA Industries to become a recipient of the prestigious National Minority Manufacturer of the Year Award for 1997–1998 and the acknowledgement of LEASA Industries as one of Florida's fastest growing private companies by the University of Florida's Center for Entrepreneurship and Innovation.

The tremendous success that Einez enjoyed in business, however, was secondary to her impact as a community leader. A member of several community organizations, Mrs. Yap was the resilient president of the Chinese Cultural Foundation and founder of the Organization of Chinese Americans, as well as the untiring entrepreneur spearheading the annual celebration of the Chinese New Year Festival in Miami-Dade County for the past decade. Additionally, she served on the Board of the Asian-American Federation of Florida, as well as Advisory Council of the National Alliance to Nurture the Aged and the Young (NANAY), Inc. She has been the patroness and benefactress of many more community organizations that are at the forefront of seeking equality of opportunity for minority groups; and she has been a featured leader for the Miami-Dade Community Relations Board as it deals with the challenge of inclusion of the disenfranchised and the underrepresented in our community.

Her contributions to our community were recently acknowledged in March of 2005, when she was honored as a Pioneer at Miami-Dade County's "In The Company of Women" Awards—a distinction previously bestowed on the likes of former Congresswoman Carrie Meek and U.S. Attorney General Janet Reno, among others.

Her Catholic faith was the source of inspiration and motivation for her reaching out to the downtrodden—as evidenced by her commitment early on at LEASA Industries to employ hard-to-place and at-risk residents.

"They're God's people, too—and are in need of a second or third-chance in life . . . if we can't help them, then who will . . ." is often the stance that defined her commitment to the community she so loved.

Einez Yap was truly a woman of active compassion and a leader in our community, and her passing is a heavy blow to our community. I know I speak for all my colleagues in extending our deepest sympathy and condolences to her husband, George Yap, and son Andrew.

HEAD START REAUTHORIZATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. KUCINICH. Mr. Speaker, the goal of Head Start has always been to help young children in low-income families, specifically those below the poverty line, prepare for school. Head Start has focused its resources on the children most in need, and has been successful in narrowing the gap between disadvantaged children and their peers. Today, we can correct a problem in Head Start and ensure that it serves all the children it was intended to.

The poverty thresholds were developed in the early 1960s and at that time statistics showed that families typically spent one-third of their income on food. The thresholds were designed to take the costs of the Department of Agriculture's economy food plan for families and multiply the costs by a factor of three. Currently, the calculations of the poverty line for Head Start are adjusted by the Consumer Price Index annually to account for the growth in prices. Unfortunately, the current calculation leaves important factors out of the calculation of the poverty line.

Adjusting only for changes in price growth ignores the reality that times have changed. It is not 1965. Today, families are much more likely to spend significant portions of their income on housing. It is more likely that both parents will be working full time jobs. Both childcare costs and the likelihood that a family will need it have also increased.

Additionally, the failure to adjust the poverty line as wages have grown now means that families in poverty today are worse off relative to the typical family than families in poverty were 40 years ago. For instance, the threshold for a family of four, when the poverty thresholds were first introduced—$18,810 in 2003 dollars—was 42 percent of the median income of a family that size. By 2003, the value of the poverty threshold for a family of four had fallen to 35.7 percent. Adjusting only for changes in price growth for the past 40 years has slowly eroded the group of intended recipients. Now we are left with families in need of assistance whose children are not even eligible for Head Start.

This amendment seeks to bridge the gap that has been created and ensure that it will not be created again in the future. Currently, the 2005 poverty line for a family of 3 is $16,090. By tying the poverty line to wage growth, rather than price growth, the poverty line for a family of 3 would become $19,610. The increase in the poverty line produced by this change by no means raises eligibility to include every child who could benefit from Head Start. But this adjustment will significantly help the families who should have been eligible all along. It is a step in the right direction; the direction of ensuring that the working poor are given the help they need to survive.

This committee is not only charged with ensuring that Head Start programs are performing well but with ensuring that they are serving all the children they were intended to. This amendment will help to ensure that children do not continue to be left behind. I urge my colleagues on the Committee on Education and Workforce to join me in supporting my amendment.

TO HONOR MS. EMMA TORRES

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. GRIJALVA. Mr. Speaker, I would like to take a moment to recognize an amazing woman from my district, Emma Torres from Yuma, Arizona. She is a role model and inspiration for all; her work and dedication was recently recognized, internationally, when she was honored by Mexico's Ministry of Foreign Affairs with the Ohtli Award. This award acknowledges her contributions to the development of Hispanic communities and for her support in social causes. The Ohtli award is given to distinguished Hispanic leaders who devote their lives promoting and fostering the prosperity of communities in the United States. The word Ohtli means "righteous path" in Nahuatl.

Emma has been a strong border community leader and health advocate for migrant and seasonal farm workers in Western Arizona for more than 20 years. After losing her husband to leukemia in 1982, she turned a personal and painful life experience into a mission to enhance the quality of life of farm workers. She co-founded and is the current Executive Director of Campesinos Sin Fronteras, a grassroots, community-based organization that uses education and advocacy to improve the standard of living for farm workers. Prior to her current position, she was the Field Office Director for Puentes de Amistad/Bridges in Friendship under the leadership of the Arizona Border Health Foundation. In 2004, President George W. Bush appointed Emma to the US/Mexico Border Health Binational Commission.

She has pioneered the Lay Health Worker/Promotora Model in Arizona since 1987, and as a certified Inter-Cultural Affairs (ICA) facilitator has led efforts to bring adequate healthcare coverage to our most vulnerable populations.

Most recently Emma accomplished one of her personal dreams—she received her degree in social work from Northern Arizona University. This is the latest of recognitions for Emma's commitment, persistence, and belief in improving one's personal life and that of one's community.

Emma's life is an example to others; pursue one's dreams, believe in making change, be strong, and progress will prevail.

TRIBUTE TO MS. JACQUELINE H. SMITH, NORTH MIAMI BEACH COUNCILWOMAN

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. MEEK of Florida. Mr. Speaker, I rise to pay tribute to Ms. Jacqueline H. Smith, North Miami Beach City Councilwoman. On May 20, 2005, the Commission on the Status of Women of the City of North Miami Beach and Women in Politics will gather at a farewell luncheon to "honor one of their own."

Throughout Ms. Smith's 10-year term on the North Miami Beach City Council, she is best known for her work on programs for children and senior citizens. Ms. Smith is a liaison to children's "Read Aloud Program." This tremendously rewarding program stimulates children's interest in reading and also promotes a decrease in television time by allowing children of all ages to listen to volunteers read books aloud. In addition, Ms. Smith is affiliated with the North Dade Children Center, where she is involved in youth and senior health fairs.

Ms. Smith has touched many peoples' hearts in North Miami Beach through her accomplishments as a member of numerous organizations. I want to applaud her tremendous commitment to community service, dedicating her time to organizations such as the National Organization of Women, the Carl Byoir Neighborhood Association, the Governing Board of Parkway Regional Hospital and the Board of Directors of United Democratic Club, just to name a few.

Besides serving as an elected official and community activist, Ms. Smith takes pride in being a teacher at Gertrude K. Edelman Sabal Palm Elementary School.

Ms. Smith has truly demonstrated that public service and education are achievements never beyond the reach of those willing to dedicate all their energy to accomplish the goals for the greater good of the public. I extend her my heartfelt gratitude for a superb job and wish her the best of luck in her retirement.

PRESERVING THE FOUNDATION OF LIBERTY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. KUCINICH. Mr. Speaker, I commend my friend and colleague, Representative C. L. "BUTCH" OTTER, as well as Elizabeth Barker Brandt, Professor of Law at the University of Idaho, for their excellent article recently published in the Journal of Law, Ethics and Public Policy, Notre Dame Law School. I am proud to be an original cosponsor of Congressman OTTER'S Security and Freedom Ensured Act of 2005 (SAFE Act) that rolls back the most alarming provisions of the Patriot Act. The article, Preserving the Foundation of Liberty, is an important critique of the federal government's expanding prosecutorial powers in the wake of the terrorist events in September 2001.

PRESERVING THE FOUNDATION OF LIBERTY

C. L. "BUTCH" OTTER & ELIZABETH BARKER BRANDT

The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam, in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power.

—Alexander Hamilton

Foundations are supposed to be steadfast. The very idea of a foundation is to provide a pinion between the fixed and the transient, the permanent and the temporary. The foundation is the unalterable base upon which to build. So it is with our Constitution and Bill of Rights. They are the rock upon which we have built our modern republic, while protecting the individual from the government itself. For more than two centuries, they have provided the firm foundation of liberty and opportunity from which America and its people have taken wing, enjoying success and weathering failure, celebrating triumph and mourning tragedy.

After the terrorist attacks of September 11, 2001, forgetting our past and fearing our future, Congress began turning that foundation on its head, acting as if physical security requires the sacrifice of individual rights to government imperatives. While paying lip service to our heritage of limited government and individual liberty, we began acting as if individual rights are conditional, derived not from God nor inherent in the human condition, but subject to the collective expression of our fears. Worst of all, we convinced ourselves we were doing nothing of the kind, or that the manifest benefit of a safer society was worth risking the loss of individual liberties.

Congress passed the USA PATRIOT Act just weeks after the September 11 attacks, while the dead from the World Trade Center towers in Manhattan, the Pentagon in Washington, and from Flight 93 in Pennsylvania were still being buried. An anthrax threat, assumed by many at the time to be another terrorist attack, had forced members of Congress out of their offices. Few, if any, lawmakers were truly aware of the new and expanded law enforcement authority within the PATRIOT Act. They only knew that they had to do something to quiet the public's fears, and their own.

This was not an executive order from a president reacting to a concrete and immediate threat. This was not the temporary imposition of martial law in response to a natural disaster or military assault. This was the world's greatest deliberative body hastily enacting an incredibly detailed, complex, and comprehensive piece of legislation without all the facts. That haste and lack of deliberation left advocates backfilling many of the arguments in support of certain provisions of the law that now appear to be glaringly at odds with constitutional principles.

I. CONSTITUTIONAL FOUNDATIONS

The Framers of our Constitution drew on an extensive body of law and tradition to recognize certain rights were inalienable—they transcended the power of government: The colonists who fostered the tree of liberty recognized that individual rights were its taproot. The notion that "a man's home is his castle," a place free from the intrusion of government, was a time-honored theme—part of both the Code of Hammurabi and the pronouncements of the Roman Emperor Justinian. This notion was one of the inalienable rights with which Englishmen were thought endowed and which the English barons sought to protect, through the Magna Carta, from the ad hoc interference of King John.

The concept of inalienable rights infused the colonists' understanding of liberty. It can be seen in diverse writings, from Patrick Henry's rousing appeal for self-determination in the Parsons' Cause case of 1763 to the claim of the Declaration of Independence that "all Men are created equal, that they are endowed by their Creator with certain unalienable Rights. . . ." More than a desire for independence or equality, the idea that made America a reality and continues to make America great is that individual rights are God-given and unalienable and that government should be neither more nor less than man's collective expression of those rights. That is the contract, the foundation upon which America was imagined. It is designed to protect individuals—their persons, homes, property, speech, worship, associations, and privacy—from the tyranny of government by the majority.

Yet, the Fourth Amendment reflected more than a generalized notion of inalienable rights. It was a specific response to the British government's pre-constitutional violation of colonists' individual rights through the use of "Writs of Assistance." The writs were general, universal, perpetual, and transferable search warrants used to enforce smuggling laws so the cash-strapped British crown could wring revenue from the colonies to satisfy the crushing debt of a worldwide empire. They authorized "all and singular justices, sheriffs, constables, and all other officers and subjects" to enter homes and businesses at will—ostensibly in search of smuggled items—and to seize virtually any property without accounting or recompense. Writs of Assistance blatantly disregarded personal privacy and offended basic civil liberties, as they were understood by colonial times. Not only were the writs broad and intrusive but many of the colonists believed they had been outlawed in Britain—that only the colonists were subject to such intrusions.

The infringement on personal privacy and property rights represented by the Writs of Assistance was so outrageous that, in 1761, it prompted Boston attorney James Otis, a loyal officer of King George III, to resign his position as an advocate general in the vice admiralty court. Subsequently, he was commissioned by Boston merchants to make their case against renewal of the writs. Otis's stirring five-hour argument indicted the expansion of government authority in violation of the individual rights of British subjects. "It appears to me (may it please your honours) the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of law, that ever was found in an English lawbook." Otis's argument in the Writs of Assistance case hinged on several major points, one of which was the invocation of the ancient notion regarding the sanctity of the home. Otis argued that householders would reduced to servants under the writs because their homes would subject to search at any time: "Now one of the most essential branches of English liberty is the freedom of one's house. Man's house is his castle; and while he is quiet, he is as well guarded as a prince in his castle. This writ, if it should I declared legal, would totally annihilate this privilege."

John Adams, then a young lawyer, was in the courtroom hear Otis's argument. Fifty-six years later, in a letter to a colleague, the founding father and America's second president recalled the impassioned defense of liberty as a transcendent moment on the path to revolution: "Then and there, the child Independence was born."

Also born that day, and reared to maturity by Adams and many others, was a critical element of America's constitutional foundation—the commitment to protect "the freedom of one house," which became the Fourth Amendment. The idea that those rights transcend the needs of any particular time and place is embedded in our jurisprudence. Justice Robert Jackson wrote:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

With those words, the U.S. Supreme Court struck down the widely popular practice, adopted in a burst of patriotism during World War II, of requiring public school students to salute the American flag. Writing for the majority, Justice Jackson crystallized the argument for protecting most vigorously, the least popular of our individual rights in the overheated political climate of the moment. While public displeasure served as a natural defense of liberty against the Writs of Assistance once Otis sounded the alarm, the Constitution and Bill of Rights institutionalized protection of minority rights from majority will and created a foundation for individual liberty. The test of such a foundation is how firmly it is reinforced against time and tides.

II. "SNEAK-AND-PEEK" WARRANTS PRIOR TO THE USA PATRIOT ACT

Just as the British crown felt compelled, in the interest of empire, to sacrifice the rights of citizens remote from the seat of government, section 213 of the PATRIOT Act, in the name of fighting terrorism, deprives Americans of the right to be "as well guarded as a prince in his castle." Section 213 of the PATRIOT Act greatly expands what already was constitutionally questionable authority for delayed notification of the execution of search warrants.

Prior to the PATRIOT Act, the Federal Rules of Criminal Procedure established the framework for the execution and return of warrants. Rule 41(f) requires that the officer executing the warrant enter the date and time of its execution on its face. It further requires that an officer present at the search prepare and verify an inventory of any property seized. Moreover, Rule 41(f) provides that the officer executing the warrant "give a copy of the warrant and a receipt for the property taken to the person from whom or from whose premises, the property was taken" or "leave a copy of the warrant and receipt at the place where the officer took the property." Congress recognized an extremely limited exception to the notification requirements under certain circumstances where notification would endanger the life or physical safety of an individual, would result in flight from prosecution, destruction of evidence, or intimidation of witnesses, or would otherwise jeopardize an investigation.

The case law regarding surreptitious searches was unsettled at the time the USA PATRIOT Act was adopted. The U.S. Supreme Court never directly addressed the constitutionality of broad surreptitious search provision. In Berger v. New York, the Court struck down New York's wiretapping statute because it lacked a number of procedural safeguards to limit the intrusiveness of wiretapping. Among the statute's deficiencies was that it had no requirement for notice. And, in contrast to other wiretapping statutes, the New York provision did not make up for the deficiency by requiring a showing of exigent circumstances to justify the lack of notice. However, in Dalia v. United States, the Court refused to hold all surreptitious searches per se unconstitutional. Rather, the Court reasoned that under some circumstances, surreptitious searches could be authorized where such searches were reasonable, such as where they were supported by a warrant.

On this landscape, the federal circuit courts addressed the constitutionality of delayed notification of searches. In United States v. Freitas, the Ninth Circuit held that a warrant that failed to provide for notice within a "reasonable, but short time" after the surreptitious entry was constitutionally defective. The Freitas court held that a delay in notification should not exceed seven days, except when supported by a "strong showing of necessity."

Even courts upholding delayed notification of search warrants have imposed significant limitations on such searches. In United States v. Villegas, the Second Circuit reasoned:

> Though we believe that certain safeguards are required where the entry is to be covert and only intangible evidence is to be seized, we conclude that appropriate conditions were imposed in this case. Certain types of searches or surveillances depend for their success on the absence of premature disclosure. The use of a wiretap or a "bug," or a pen register, or a video camera would likely produce little evidence of wrongdoing if the wrongdoers knew in advance that their conversations or actions would be monitored. When non-disclosure of the authorized search is essential to its success, neither Rule 41 nor the Fourth Amendment prohibits covert entry.

The Second Circuit determined that a number of safeguards applied to surreptitious searches. First, the court noted that if tangible evidence was seized during the search, officers must leave an inventory of the property taken at the location or must provide the inventory to the owner of the searched premises. Additionally, the court concluded that, with regard to electronic surveillance, the requirements of federal wiretapping laws provided significant safeguards. The court further reasoned that the safeguards of the federal wiretapping statute also apply by analogy to video surveillance. Even with regard to surreptitious entries in which no tangible property is seized, the Second Circuit held that law enforcement officers must establish that there is a reasonable necessity for the delay of notice and must provide notice within a reasonable, but short, period of time after the search. Although the Villegas court did not adopt the seven-day limitation of Freitas, the court did conclude that, as an initial matter, delays of longer than seven days should not be authorized.

While there is a paucity of case law on the general questions of whether and when notice of the execution of a search required, significant authority also establishes the closely related notion that law enforcement officials must knock and announce themselves before executing a search warrant. Even before American independence, British law required law enforcement officials to knock and announce themselves before executing a search warrant. The United States Supreme Court has recognized that whether law enforcement officers knock and announce themselves is a factor to be considered in determining whether a search is reasonable. The Court's reasoning was based substantially on the notion that government officials must provide notice before entering a person's home. The Court acknowledged that this notion formed part of the Framers' understanding of what constituted a reasonable search. While the Court has recognized an exigency exception to the "knock and announce" rule, it has not overruled it.

Thus, at the time the PATRIOT Act was adopted, no federal court had authorized unlimited use of "sneak-and-peek" warrants. Moreover, even those courts authorizing limited surreptitious entry had placed significant limitations on such searches.

III. "SNEAK-AND-PEEK" WARRANTS UNDER THE USA PATRIOT ACT

No federal court has ever confronted the virtually unlimited authority to dispense with notice contained in the PATRIOT Act. Section 213 eliminates the time limits for notification under prior federal law, makes judicial review of the necessity of delayed notification perfunctory and so loosens the standard for delayed notification as to render it meaningless. It strikes at the foundation of liberty embodied in the Fourth and Fifth Amendments and at the essential protections of probable cause, due process, and separation of powers.

Section 213 amends 18 U.S.C. §3103a to add the following language:

"With respect to the issuance of any warrant or court order under this section, or any other rule of law, to search for and seize any property or material that constitutes evidence of a criminal offense in violation of the laws of the United States, any notice required, or that may be required, to be given may be delayed if (1) the court finds reasonable cause to believe that providing immediate notification of the execution of a warrant may have an adverse result (as defined in section 2705);

"(2) the warrant prohibits seizure of any tangible property, any wire or electronic communication (as defined in section 2510), or, except as expressly provided in chapter 121, any stored wire or electronic information, except where the court finds reasonable necessity of the seizure; and (3) the warrant provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown."

Section 213 changes prior federal law regarding notification of searches in several important ways. First, it permits delayed notification of a search in any case in which the government demonstrates that one of several adverse factors "may" occur, regardless of whether the investigation involves terrorism or the gathering of foreign intelligence. The adverse factors justifying delayed notice are that notification would endanger the life or physical safety of an individual, would result in flight from prosecution, destruction of evidence, intimidation of witnesses, or would otherwise jeopardize an investigation or unduly delay a trial.

This standard is so open-ended that these invasive warrants could be obtained as a matter of course; the government need only state that notification of a search "may" "seriously jeopardize" an investigation. Although the standard for delay was part of pre-PATRIOT law, the earlier statute was limited to covert seizures of electronic communications held in third-party storage.

The nature of criminal investigation is that unpredictable things may happen. It is always conceivable that the target of a search may act in an unpredictable fashion when he or she is notified of the warrant and thereby jeopardize an investigation. As a result, section 213 places virtually no limit on "sneak-and-peek" searches.

The second distinction between the PATRIOT Act and prior law is that officers may seize tangible property using a covert warrant under the PATRIOT Act without leaving an inventory of the property taken. Thus, the PATRIOT Act actually authorizes "sneak-and-steal" warrants. The law requires only that the warrant "provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown."

Again, prior statutory provisions for delayed notification applied only to electronic communications in third-party storage. The cases dealing with delayed notification authorized surreptitious entry but required officers to leave an inventory if property was taken. Although the approach of courts like the Second Circuit in Villegas, in our view, did not properly limit the use of "sneak-and-peek" warrants, it is significantly more limited than the PATRIOT Act approach.

Third, section 213 permits delayed notification even where the government seizes electronic information, so long as the court issuing the warrant finds "reasonable necessity" for the seizure. Thus, if officers get a warrant under federal wiretapping statutes, they still must comply with a complex set of safeguards. For all other warrants involving electronic communications—those involving video or Internet surveillance, for example—delayed notification under the PATRIOT Act applies.

Fourth, section 213 places no express limit on the length of the delay. Instead, it authorizes delay for a "reasonable period" of time and permits extensions of the delay for "good cause shown." Section 213 opens the door for secret searches extending over months or even years without the knowledge of the target of the search. Such delays render notice meaningless. Although the judge in any particular case may impose a specific deadline by which notice must be given, the statute does not require such a deadline. Where the warrant itself does not impose specific time limits, judicial review of the necessity of continuing delay in notification is impaired. No concrete timeframe triggers a governmental duty to justify continued delay. Because the target of the search is, by definition, unaware of the search, he or she cannot be expected to seek review of the need for continued delay. Courts would have the opportunity to review the necessity of delay only after the fact, while also under the pressure to prosecute and admit evidence obtained through the notice-less search.

Finally, section 213 extends the availability of "sneak-and-peek" warrants far beyond the PATRIOT Act's stated purpose of fighting terrorism. The provision contains no limitation on the types of cases in which a covert warrant could be used.

CONCLUSION

The threatening nature of section 213 is not obvious, and thus, it is more dangerous to the cause of preserving liberty. If the public is blinded by fear of terrorism or ignorance of what is at risk, section 213 has the potential to become the insidious mechanism of steady but discernible erosion in the foundation of our freedoms. Section 213 takes the exception and makes it the rule—in fact, makes it the law of the land. It gives broad statutory authority to secret searches in virtually any criminal case. Even if the Supreme Court upholds the constitutionality of such practices, Congress can—and should—limit them by statute. In such cases, justice delayed truly is justice denied.

Terrorism is a scourge that must be addressed. Government has a fundamental duty to protect its people from enemies, foreign or domestic. Fear of terrorism, or anything else, deprives us of free choice as surely as does tyranny; indeed, terrorism is an instrument of tyranny. We must not, however, allow fear to erode the constitutional foundation of our freedom. We can no more gain real security by being less free than we can gain wealth or wisdom or anything else of value. No such trade-off is possible. That is the definition of "unalienable"—rights with which we were endowed by our Creator, and which therefore cannot be repudiated or transferred to another. Our Constitution recognizes that higher law, and we ignore it at our peril.

We now are engaged in a national crisis, an unconventional war in which our surreptitious enemies use the camouflage of a free society's commitment to privacy and diversity to achieve their goals. Our government is justified in adapting its law enforcement methods to the new threat, but we must take care to ensure those methods are consistent with the timeless principles of our founding. To do less is to sanction a dangerous expansion of governmental authority and a corresponding reduction of personal privacy.

Our body of laws serves as both a connecting mortar and a protective barrier between the foundation of our Constitution and the structure of our government. Laws are necessary for applying constitutional principles to the endless variety of everyday life. They join the abstract and the concrete. They enable us to safely explore our freedom and realize the potential of liberty.

However, when laws reach beyond limits imposed by the Constitution, when they grant too much power to government and too little deference to the source of that power, they cease to connect or protect. If unchecked, these laws can destroy the foundation of individual rights. Proponents contend that we have nothing to fear from section 213 or any other provision of the PATRIOT Act. This may be true, as long as the public is as vigilant as the American colonists were after Otis inflamed their passions regarding the Writs of Assistance. But can we trust that the law will be used as judiciously, with as much care to protecting civil liberties, once the public's attention has turned to other matters?

The concern is not new or unique to the PATRIOT Act. Few of our Founding Fathers had greater faith in his fellow man than Thomas Jefferson. Yet that faith had its limits. In the Kentucky Resolutions, Jefferson wrote:

> [I]t would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism-free government is founded in jealousy, and not in confidence; it is jealousy and not confidence which prescribes limited constitutions, to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which, and no further, our confidence may go . . . .

Due process. Probable cause. Those are the constitutional limits within which we "bind down those whom we are obliged to trust with power" and preserve our individual rights. A law that sets those limits aside, or obfuscates them in vague statutory language and legalistic definitions, has the potential for eroding the foundation of freedom as surely as terrorists have the potential for breaching the ramparts of our security. An informed people and a vigilant and responsive Congress are the keys to guaranteeing that our rights to security and freedom are ensured. They are essential to protecting the foundation of liberty and preserving each individual's God-given role as the architect of his or her own destiny. As John Stuart Mill warned:

> A people may prefer a free government, but if, from indolence, or carelessness, or cowardice, or want of public spirit, they are unequal to the exertions necessary for preserving it; if they will not fight for it when it is directly attacked; if they can be deluded by the artifices used to cheat them out of it; if by momentary discouragement, or temporary panic, or a fit of enthusiasm for an individual, they can be induced to lay their liberties at the feet even of a great man, or trust him with powers which enable him to subvert their institutions; in all these cases they are more or less unfit for liberty.

TO HONOR MR. JIM BRODIE

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. GRIJALVA. Mr. Speaker, It is with great honor that I recognize Jim Brodie. Jim was a respected member of the community, providing tireless hours to the youth, community and Habitat for Humanity.

Jim was a lifelong union ironworker, working in industrial and commercial construction. Upon retirement, he continued his service to our community by assisting Habitat for Humanity of Tucson in the construction and later supervision of projects throughout the Old Pueblo.

The energy and expertise he provided for Habitat for Humanity, its volunteers and its clients was unprecedented. He was a gifted leader, working on multiple projects and at various stages of the products. Among his many talents was the ability to work with young and old alike. This is especially noted with his success in working on the High School Build Program, proving to be a mentor, role model, and friend to the students he supervised.

For the last 8 years of his life, Jim's work with the Habitat High School Build programs inspired the youth, their parents, and their teachers. Although initially hesitant to work the students, his ability to motivate and provide guidance came to him second nature. He was a natural teacher, impacting multiple lives and instilling pride in the lives that he impacted.

Jim's role in supervising the Habitat High School Build programs, which included five schools and the State Prison programs, was unique. Furthermore, it was a true gift to our community and youth. He worked closely with the high school teachers to develop important mentoring relationships with students. His dedication went well beyond the building projects and will influence students for years to come.

His legacy includes the 40 families that now live in Habitat homes built by students participating in the High School Build program. Jim was admired by all who met or heard of him. His life and work is an inspiration to us all.

THE FAIR MINIMUM WAGE ACT OF 2005

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, today, together with 100 of my colleagues, we are introducing legislation to raise the Federal minimum wage from $5.15 to $7.25 over 2 years. Senator EDWARD KENNEDY is introducing identical legislation in the Senate. Two reports that are also being released today, one by the Center for Economic and Policy Research and one by the Children's Defense Fund, make obvious the importance of raising the minimum wage for workers, children, and families.

American workers are long overdue for a raise. Real wages are actually declining for the first time in more than a decade, while prices for healthcare, gasoline, and other necessities are rising, making it even more urgent that we raise the minimum wage now. The minimum wage has been stuck at $5.15 per hour since 1997—$5.15 per hour. These days, a gallon of milk can cost half that much in some parts of the country. Imagine working for the better part of an hour and only being able to afford a gallon of milk—how do you ever make ends meet? The answer is: You don't.

One of the reports issued today, from the Center for Economic and Policy Research, shows that most minimum wage workers make significant contributions to their total family income. Half of them are between the ages of 25 and 54. The report also shows the importance of increasing the minimum wage to prevent families from falling further into poverty. Too often minimum wage jobs are not transitional. As the report makes clear, many workers find themselves trapped in minimum wage jobs; more than one-third of 25- to 54-year-old workers in minimum wage jobs are still earning the minimum wage after three years. The report is entitled "Not Up, Not Out: Few Prime-Age Workers Move Out of Minimum Wage Jobs" and is available at *http://www.cepr.net/publications/labor_markets_2005_05.pdf.*

The other report, from the Children's Defense Fund, shows that importance of increasing the minimum wage for more than 10 million children. The report, entitled "Increasing the Minimum Wage: An Issue of Children's Well-Being," states: "The annual income of an individual working full-time, with two children, at the $5.15 an hour minimum wage leaves them $4,500 below the poverty level. An increase in the minimum wage to $7.25 would benefit many of the 9.7 million children who live in households where at least one worker earns between the current minimum wage and $7.25 per hour. Furthermore, 1.2 million of these children live in households where two or more workers earned less than the proposed minimum wage." At $5.15 per hour, a worker who works 40 hours a week for 52 weeks a year earns $10,712. In 2003, the poverty level for a family of two (a parent and a child) was $12,682. The Children's Defense Fund report is available at *http://www.childrensdefense.org/familyincome/obs/minimumwagereport2005.pdf.*

Every American deserves a decent wage for the work they do, and most Americans agree that we should raise the minimum wage. Congress disrespects workers and violates the will of the people when it refuses to increase the minimum wage. We ought to respect workers by guaranteeing them a fair wage. Work should be the path out of poverty, but millions of Americans work fulltime and still live in poverty.

The Miller-Kennedy legislation also extends the minimum wage to the Commonwealth of the Northern Mariana Islands, a U.S. territory in the Pacific Ocean. For years, the Congress has allowed basic labor standards to be denied to workers in the Marianas. We cannot continue to allow workers to be trapped in virtual involuntary servitude under sweatshop working conditions, indebted by usurious recruitment fees, paid inadequate wages and too often cheated out of what little they are owed. I have introduced legislation, H.R. 2298, to protect workers from recruitment abuses and to hold recruiters and employers responsible for the working conditions they have promised. This bill goes a step further to ensure a decent minimum wage.

Among the 7.5 million workers earning between $5.15 and $8 an hour—the people this bill is intended to help—84 percent of them are adults over the age of 20. Nearly half of them are married or have children. Over half of them are women; 59 percent are white; 13 percent are black; and 23 percent are Hispanic. Sixty percent of them work full-time.

The inflation-adjusted value of the minimum wage has declined 20 percent since 1997. The legislation we are introducing today, the Fair Minimum Wage Act of 2005, increases the minimum wage from $5.15 to $5.85 within 60 days; then to $6.55 1 year after the first increase; and finally to $7.25 1 year after that.

I urge my colleagues to support this vital legislation.

U.N. PEACEKEEPING REFORM: SEEKING GREATER ACCOUNTABILITY, INTEGRITY AND EFFECTIVENESS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. SMITH of New Jersey. Mr. Speaker, earlier today I chaired the third in a series of hearings of my Subcommittee on Africa, Global Human Rights, and International Operations, on the topic of reform at the United Nations, and the second hearing we are holding on peacekeeping reform.

On March 1st, just 12 weeks ago, my committee met to examine credible evidence of gross sexual misconduct and exploitation of refugees and vulnerable people by U.N. peacekeepers and civilian personnel assigned to the U.N. peacekeeping mission in the Democratic Republic of Congo. Human rights groups and the U.N.'s own internal investigations had uncovered over 150 allegations against Mission personnel, typically involving peacekeepers' sexual contact with Congolese women and girls, some as young as 11–14, in exchange for food or small sums of money. Further, the U.N. had struggled to deal with similar sexual exploitation and abuse allegations in recent years in Sierra Leone, Liberia, and Guinea, as well as on the European continent in Kosovo and Bosnia. Yet despite many well-meaning gestures, there had not been one successful prosecution of U.N. civilian or military personnel, either in the Congo or elsewhere.

At that hearing, the United Nations made available Assistant Secretary General for Peacekeeping Operations, Dr. Jane Holl Lute to brief the Subcommittee on steps the U.N. Secretariat and Department of Peacekeeping Operations were taking to address the problem. As Members of this Subcommittee may recall, Dr. Lute declared, ". . . The Blue Helmet has become black and blue through self-inflicted wounds of some of our number and we will not sit still until the luster of that Blue Helmet is restored. . . . It is unacceptable. It is simply unacceptable. The United Nations peacekeepers owe a duty of care to the people we serve. We owe this duty of care to the member states who place their trust in us when they send us to a mission. We owe this duty of care to the aspirations and hopes for the future that everyone has when they invest a peacekeeping mission in places like the Congo. It will be stamped out."

Since that time, I am pleased to report that I am seeing signs of real change in the way the United Nations goes about peacekeeping, certainly in the area of preventing human rights abuses. Investigations into allegations of sexual exploitation and abuse involving 96 peacekeeping personnel have been completed, with 66 military personnel repatriated on disciplinary grounds. On the civilian side, 3 U.N. staff have been dismissed; 6 others are undergoing disciplinary process; and 3 have been cleared. Missions have put into place a broad range of measures to prevent misconduct, from establishing focal points and telephone hotlines to requiring troops to wear uniforms at all times.

Moreover, the Fourth Committee of the U.N. General Assembly on April 18th unanimously endorsed the reform proposals of the Special Committee on Peacekeeping Operations, which include: Training on standards of conduct; development of established units for peacekeeping rather than those assembled on an ad hoc basis; commitments by all troop contributing countries to pursue investigations and prosecutions of peacekeeping personnel for credible instances of sexual allegation and abuse; creation of a database to track allegations and ensure that prior offenders are not rehired; organization, management and command responsibility to create and maintain an environment that prevents against sexual exploitation and abuse; establishment of a professional and independent investigative capacity assistance to victims; and development of a model MOU for troop contributing countries to encompass these recommendations.

The General Assembly must now act on these recommendations, providing the necessary financial and political support to fully and promptly implement them. It was my desire that the hearing stimulate the same sense of commitment and urgency at the U.N. to undertake broader reforms in peacekeeping.

Peacekeeping has changed significantly since the creation of the United Nations and the first peacekeeping missions, which were largely limited to "traditional" nonmilitary functions, such as monitoring of cessation of hostilities agreements, deployment of observer missions, and the maintenance and patrol of borders. With the end of the Cold War, the number of peacekeeping missions ballooned, as the Security Council deployed 20 new missions between 1988 and 1994. Tasks of peacekeepers have also evolved and now include more complex assignments such as nation-building, protection of vulnerable populations, and establishment and maintenance of security in post-conflict environments.

Our collective memories are still painfully sharp in recalling the peacekeeping fiascos of Bosnia, Rwanda and Somalia. Thankfully we have some notable successes to balance the picture out, in which stability was restored and substantial contributions made towards economic and political development, in U.N. missions in Kosovo, Sierre Leone and East Timor. What these examples illustrate is the importance of getting the mandate "right," matching the mission to the mandate, ensuring adequate staffing and funding, and providing for a transition to a sustained peace.

U.S. officials have endorsed Secretary General Annan's proposal for a Peacebuilding Commission and Support Office to undertake post-conflict transition and coordinate donor assistance and activities. But has a global audit of existing peacekeeping missions ever been conducted to review mandates and right-size missions? Has there been an examination of whether peacekeeping tasks could be outsourced to professional private security companies to perform tasks more cost-effectively or deploy into difficult situations where Member States have demonstrated a reluctance or inability to go? What are we doing to widen the donor support base for peacekeeping missions? And finally, what should the United States do if necessary reforms are not being implemented, either by the U.N. or by troop contributing nations?

In this regard, I have introduced legislation, The Trafficking Victims Protection Reauthorization Act of 2005, H.R. 972, which contains several provisions specifically targeted at preventing trafficking in persons, sexual exploitation, and abuse by military personnel and in peacekeeping operations. H.R. 972 would require the State Department to certify to Congress, before it contributes U.S. logistical or personnel support to a peacekeeping mission, that the international organization has taken appropriate measures to prevent the organization's employees, contractors, and peacekeeping forces from engaging in trafficking in persons or committing acts of illegal sexual exploitation. The provision builds on two prior laws I have authored to combat trafficking in persons and reduce sexual exploitation, the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003.

Other measures in this bill to combat sexual exploitation and trafficking in persons by military and peacekeepers are: Amending the U.S. Uniform Code of Military Justice to prohibit the use or facilitation of persons trafficked for sex or labor; Establishing a Director of Anti-Trafficking Policies in the Office of the Secretary of Defense; Reporting of steps taken by the U.N., OSCE, NATO and other international organizations to eliminate involvement of its personnel in trafficking; Requiring certification that safeguards are in place to prevent military and civilian personnel from trafficking or committing acts of sexual exploitation before a U.S. contribution to a peacekeeping mission is made.

In conclusion, the progress since our last hearing is encouraging, but we are only at the beginning of the necessary reform process. What comes out at the other end I hope will be a United Nations equipped for the unique challenges of this new century, with peacekeeping leading the way for reforms in other vital areas.

SENATE—*Friday, May 20, 2005*

The Senate met at 9:31 a.m. and was called to order by the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia.

The PRESIDING OFFICER. The guest Chaplain, Dr. Alan N. Keiran, Office of the Chaplain of the Senate, will lead the Senate in prayer.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

God of second and third chances, help us to be as patient with each other as You are with us. Even as You forgive us when we don't deserve it, give us the grace to show mercy to others. As You see what we can become instead of who we are, infuse us with optimism so we may become all You want us to be.

God, the times require wisdom and courage. Give our Senators the wisdom not to mortgage the future for today's ephemeral successes, but strengthen them to stand for what is right and good and lasting. As You gave Your life for us, each day make us willing to die ourselves for the good of the many. We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHNNY ISAKSON led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The bill clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, May 20, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ISAKSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, today, the Senate will resume consideration of the nomination of Priscilla Owen to be a circuit judge for the Fifth Circuit. This will be the third consecutive day of debate on this well-qualified nominee. We have had a good debate on the Owen nomination, with a number of Members, on both sides of the aisle, speaking on the issue. As the majority leader announced yesterday, we will be seeking a unanimous consent agreement to set a time certain for a confirmation vote on the Owen nomination. If an objection is raised to a time agreement, a cloture motion will be filed later today.

Also, as announced by the leader, there will be no rollcall votes today. The next rollcall vote will be on Monday, and that vote will likely be in relation to a motion to instruct in order to request the presence of absent Senators. Additional votes are possible on Monday, and the leader will update that schedule on Monday.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—RESUMED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for the consideration of calendar No. 71, which the clerk will report.

The bill clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Mr. ALLARD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

The Senator from Georgia.

Mr. ISAKSON. Mr. President, I rise this morning to continue the debate with regard to the confirmation or advice and consent on the approval or denial of judges nominated by the President of the United States. I have listened to most of the debate and have participated in some of it. I have found something to be very interesting. We have not talked much about whether these seven, upon which a filibuster has been threatened, are qualified. We, instead, have argued as to whether something that was never used for 214 years is or is not a tradition.

So I thought this morning I would talk about one of these seven. We obviously are debating Priscilla Owen, from the Presiding Officer's home State of Texas. But I want to direct my remarks to Janice Rogers Brown, of California, who also has been threatened to be filibustered and not allowed to get a vote, up or down.

I thought, in preparing my remarks, I would research those who do not think she should get a vote and what they are saying about her record so I could at least come to the floor and debate what we really should be debating, and that is the qualifications of that judge. I went to a number of Web sites, and I found something very common that you usually find in this type of an issue. I found a couple of quotes, repeated over and over again, as exemplary of why Janice Rogers Brown is not in the mainstream.

So what I thought I would do today in my time is take those quotes and the sense from those two speeches she gave and ask the question, Is she out of the mainstream? For, you see, the two quotes that are used so much on the Web sites to disparage Justice Brown are two quotes from two speeches, both of which I have read, which I find to be quite remarkable. Both were made in the year 2000, and both are fundamentally about the beliefs of Janice Rogers Brown.

So I would like to analyze those two quotes for a second and ask us to ask the question, Is Janice Rogers Brown in the mainstream or is she not?

The first quote is from August 12, 2000, in a speech she made, entitled "Fifty Ways To Lose Your Freedom." I apologize to the Chair. I am going to read precisely so I do not miss a word. This is a quote used to say she is not in the mainstream—one of them. She said:

> Some things are apparent. Where government moves in, community retreats, civil society disintegrates and our ability to control our own destiny atrophies. The result is: families under siege; war in the streets; unapologetic expropriation of property; the precipitous decline of the rule of law; the rapid rise of corruption; the loss of civility and the triumph of deceit. The result is a debased, debauched culture which finds moral

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

> depravity entertaining and virtue contemptible.

That is a strong statement, but it sits there on its own without any thought or context to the speech that was made because the speech by Mrs. Brown was her belief in the innate goodness of people. What she refers to in her speech as to natural law is that we are born knowing right from wrong and good from evil. Her point is that when Government becomes so big, so intrusive, and so pervasive, it can do all of the things that she listed. And as to those things she listed, some people say that is not a mainstream statement. So I ask myself, let's look at those things she said could happen as we lose our freedom.

She said families are "under siege." I think that is a fair statement in contemporary 21st century. Divorce continues to be up. Child abuse grows. Obviously, that has been a problem.

She talks about "war in the streets." We do not have war in the streets, but we have gangs in the streets. We have crime in our streets.

"Expropriation of property." I look at the assault on private property rights, something we debate in this Senate; on "the rule of law," where today it seems, in many cases, the whole goal is to avoid the rule rather than follow it.

"The triumph of deceit." Even in corporate America, look at WorldCom, a statement of deceit to represent a value that did not exist.

A "debased culture." Well, I am a product of the 1950s and 1940s and 1960s, when I grew up, similar to Mrs. Brown. I do not know if this is a good example or not, but in the 1950s, when I was growing up, "Father Knows Best" was the No. 1 show. Today, it is "Desperate Housewives." I think that tells us something about the direction we may have gone in terms of the value of entertainment.

And then let's talk about "virtue" for a second and finding it "contemptible." We are in a time where Justices have ruled that "under God" does not belong in the Pledge of Allegiance and "obscenity" is in the eye of the beholder. Somewhere along the way, Janice Brown makes a very good point. When Government grows so large that it permeates every facet of society, and there are not restraints upon it, then the natural law of what we know as good and evil or right and wrong really loses its momentum.

Janice Brown made another comment in that speech which I found remarkable because it fundamentally talks about what she believes in terms of democracy and freedom. I want to quote that. She wrote:

> Freedom and democracy are not synonymous. Indeed, one of the grave errors of American foreign policy is the assumption that merely installing the forms of a regime like ours—without its foundation—will automatically lead to freedom, stability, and prosperity.

Is that out of the mainstream? I don't think so. Janice Rogers Brown was saying: You just can't say you are something unless you have fundamental foundations and values to underpin that. That is what has made this democracy of ours so great. That is why our freedom has endured, because we are built on fundamental foundations of right and wrong.

I, for one, as I consider whether I would give advice and consent on a justice to one of the highest courts in our Nation, like somebody who has that fundamental belief in natural law, that fundamental belief in right and wrong, and that fundamental belief that by human nature we are good people, and that freedom of good people, governed by natural law, is the greatest freedom of all.

There is a second quote that has been used over and over on Web sites. I want to share that quote, if I may. It is from another speech she made, although it is in the speech I mentioned on "Fifty Ways to Lose Your Freedom." It is also given and quoted from a speech made in the year 2000 in April to the Federalist Society called "A Whiter Shade of Pale."

> My grandparents' generation thought being on the government dole was disgraceful, a blight on honor. Today's senior citizens blithely cannibalize their grandchildren because they have a right to so much "free" stuff as a political system will permit them to extract . . . Big government is . . . [t]he choice of multinational corporations and single moms, for regulated industries and rugged [midwesterners], and militant senior citizens.

That quote is cited to say that she is not in the mainstream, without explanation and out of context. I wanted to analyze it for a second. I am a little older than Janice Rogers Brown, but we are of the same generation. We are contemporaries. I was born in the early 1940s, she in the late 1940s. My grandparents found the Government dole contemptible as well, just as hers. My grandparents were sharecroppers, just as hers. In fact, my grandfather, for whom I am named, was a pretty successful tobacco warehouse man in Coffee County, GA, who lost it all in the Depression and sharecropped. During the summers in the 1950s, my mom would send me down there to work on the farm with him. I heard him say many times he never wanted to have to be on the Government dole.

That was not out of the mainstream then, and it is not out of the mainstream now. All of us want to find the prosperity of individual initiative and live and work in a country whose system of justice honors the greatest success that any of us can achieve.

But she made another good point when she talked about big government is, in many cases, the choice of multinational corporations and single moms. Taken out of context, somebody might say: Is that in the mainstream? Well, she is pointing out what you and I see every day, and that is both single moms and multinational corporations have their own lobbies here to lobby us. In terms of corporations, that may be for tax treatment or regulation. In terms of single moms, it may be for benefits. But the bigger government grows, the more pervasive it gets, the more those lobbies may grow.

And she says for regulated industries and rugged midwesterners. Yesterday I had a meeting with an energy company that is regulated, and rugged midwesterners—including Senators in this body—are out for ethanol benefits all the time. And she was pointing out that how big government can get and how pervasive it may be can make all of us possibly too dependent on that big government.

As far as the statement about senior citizens cannibalizing their children's future, I understand why somebody might say that is a strong statement. But the debate of the day, outside of this issue of the filibuster, is about Social Security, and the debate to follow that will be about Medicare, and the fact that the two combined, of which I, a senior citizen, will very shortly benefit from, will, if not reformed, cannibalize my grandchildren's future.

Janice Rogers Brown is not only not out of the mainstream, somebody might have even called her a prophet in the year 2000 when she made both of these speeches. The analogy she drew and the conclusions she made are now the contemporary issues of the day.

I did a radio interview this morning in my State of Georgia to one of the most listened to stations in the city of Atlanta. I was asked by the host: Mr. ISAKSON, you were in the minority in the Georgia Legislature for years and were the leader for 8. Do you understand Mr. REID and the minority's point on the filibuster?

My answer was: Yes, I understand it. When I was in the minority in that role in the legislature, I tried to take every advantage of every rule. But there is a point in time at which you do what is right. You do what the master rule tells you to do.

For us, the master rule is the Constitution. And in article II of that Constitution, it delegates to the President the authority to appoint Justices to the Supreme Court and several courts created thereunder, and it gives the Senate the responsibility to advise and consent, advice and consent that is not delineated in any way in that sentence or in that document to require anything other than a simple majority.

In fact, there are seven places in the Constitution where it says we have to have a supermajority: Impeachment is one, ratifying the Constitution. Sometimes it is two-thirds; sometimes it is three-fourths in terms of the States ratifying the Constitution. The Constitution is specific. It is specific on judges that the Senate advises and consents, without designation of a supermajority.

For the public who listens to the debate about filibusters and tradition, that really is the issue. The rule of the Senate invoking cloture that requires 60 votes to bring up a simple majority vote is the application of a rule to supersede the constitutional dictate that this Senate vote up or down on Janice Rogers Brown and Priscilla Owen. That is ultimately the issue. To me, it is that simple.

Another reason I chose to talk about Janice Rogers Brown is because she is a daughter of the South. Because of the admiration I have for her—she and I grew up in the same South. We grew up in the most significant change that part of the country ever went through, when civil rights changed, beginning with Brown v. Board of Education in 1954, and I, as a student in school, went through that transition where the schools were integrated. And in college, while I studied political science, the debate in this body and the most famous filibuster of all was about the civil rights laws that were passed in the 1960s.

Janice Rogers Brown was born at a time and in a year where her ascension to the bench on the Supreme Court of California or the Federal courts would not have seemed possible because of the rules of the day in the South. But she and I grew through a time where this Congress—in fact, this Senate—saw fit to memorialize the civil rights laws and equalize the treatment of every American.

That is why I believe Janice Rogers Brown deserves a vote up or down. I care and I respect how any Member of this body will vote. But voting not to vote, to deny someone the opportunity to which they have been nominated by the President, elected by a majority of the electors in the last election, is not right. It is not, as Janice Rogers Brown referred to it, the natural law. We all know basically the difference in right and wrong. Denying that vote is wrong.

My remarks this morning are to say simply to those who would say that Janice Rogers Brown is not in the mainstream: I ask you to do what I have done. Read her speeches that are quoted. Read them all. When you read the speech "Fifty Ways to Lose Your Freedom," don't read the 1 paragraph out of context; read all 18 pages and read it a second time. Understand that this is a woman who wants everybody to understand that she believes in right and wrong. She believes in the appropriate role of Government. She believes in empowerment of the individual. Every thought of all these quotes ends up being based in that very fact, the natural law of the belief of human beings in right and wrong and the empowerment of the individual. I hope Janice Brown is in the mainstream because I believe that is what the mainstream believes. And those who think it is not have to believe the opposite, which is less power of the individual and shades of gray when it comes to right and wrong. We need on the bench those who see things clearly and speak their mind.

In my meeting with Janice Rogers Brown, I told her I was going to speak about her because I had been so impressed with her record and because I had gone back and read those speeches. She told me this at the end of our meeting: I respect anyone voting either way on me. In fact, in a way, I am glad my speeches are now being read. They should know what I think, and they should know what I believe. I should know how they feel.

I hope sometime after next Tuesday, after we finally come, hopefully, to a vote on Priscilla Owen, we will come to a vote on Janice Rogers Brown, and we will find confirmed to another court another justice who believes in the power of the individual and the difference in right and wrong.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, it is with no small measure of reluctance that I rise on the floor of the Senate to speak on the matter of extended debate, the filibuster rule. I certainly wish—and I believe many of my colleagues on both sides of the proverbial aisle wish—we were engaging in some other matter. Certainly, there are other matters that are far more pressing in the eyes of the American public than the discussion we have been having over these last several days and will have over this weekend and early into next week.

As is the tradition of this institution, the majority has the right to set the agenda, and they are doing so, obviously, with their insistence upon this particular debate and preoccupation with changing the Senate rules with a simple majority. Eliminating the extended debate rule of this institution when it comes to judicial nominations is a matter of grave importance. I can think of no other issue that I have been engaged in over the years that has as many profound implications for how this institution will function in the years to come if the majority prevails in its desire to change these rules.

Like many others, I wish we were debating the issues here and trying to do something more about gasoline prices, education, and health care. In a sense, we are engaging in a filibuster, I suppose, in terms of our ability and willingness to engage in debate on the matters that are most pressing to the American public.

We are a unique institution. There have been 1,884 of us who have served here in 217 or 218 years. It is a rather small group when you think of it—a Nation of more than two centuries in age and yet not even 2,000 people have been so fortunate as to have been chosen by their respective States to sit and represent their interests in this unique institution we call the Senate.

So I begin this discussion by admitting to my colleagues that this is no passing matter of interest to any of us here. It is one of the most important debates we are ever apt to have. In fact, it may be the most important. Even for those who just arrived here 1 or 2 years ago, or 4 or 5 years ago, the outcome of this debate will have profound and long-term implications for the ability of this institution to continue to play the important role it has in the history of our Nation.

We have all been honored by our constituents with the privilege of serving here, and we have all come to learn that the Senate is not simply a place where we come to work every day; it is a supreme monument, in my view, to human civilization. It is one of mankind's most noble achievements, the establishment of the Senate. It is unique in all the world in many ways as a place founded on timeless and time-tested principles: respect for human freedom, respect for minority rights, and checks on the tendency of any leader or party to accumulate and abuse power.

The majority leader of the Senate, like the rest of us, is one of its temporary stewards. He is, like the rest of us, a transient member of this enduring institution. He proposes to change the Senate rules to eliminate the right of extended debate with respect to judicial nominations. He is considering doing so by a procedure that, in my view, is outside of the rules of the Senate. I take the floor to discuss and debate this proposal. In doing so, I engage with our colleagues in a practice that is as old as the Senate itself.

I know other colleagues have come to the floor in recent days and hours to debate this proposal. Some have spoken in support and others in opposition. Our debate is in keeping with the deliberative rules and practices that have been a hallmark of this institution since it was conceived during that steamy Philadelphia summer 218 years ago.

This is not just a matter of professional interest for me either; it is intensely personal as well. I vividly recall as a young boy sitting in the Senate gallery watching my father, a Member of this institution, and his colleagues debate the great issues of their time. They were passionate debates, and the use of the filibuster was very much in play. Civil rights, war, poverty, and other issues were demanding the attention of this institution.

I remember, as well, as a teenager sitting on the floor of the Senate, where these young men and women sit today, as a Senate page during some of the civil rights debates of the early 1960s. We watched Senators such as Lyndon Johnson, Everett Dirksen, Paul Douglas, and Jacob Javits. We watched them debate sometimes with great passion and vehemence. We watched them negotiate, as well. They were well schooled in the art of advocacy and equally well schooled in the art of compromise. They understood the obligation of party, but they were no less committed to fulfilling their obligations to this great Senate and the country in which they lived.

I particularly recall watching the Senator for whom our first office building, the Russell Building, is named. The Presiding Officer, of course, knows of this individual as well as any member here. Senator Russell led a very determined minority, insisting on the right to be heard on the issue of civil rights. Theirs was not a popular position. My father and others vehemently opposed the position of Senator Richard Russell—despite their great friendship, I might add. My father and others were frustrated at the possible ability of Senator Russell and a minority of Senators to defeat civil rights legislation. Senators who supported civil rights—my father included—did indeed protest the use of extended debate by their adversaries. They even attempted to lower the threshold of Senators required to end such debate. One could hardly blame them, I suppose. Tens of millions of Americans were being systematically and often brutally denied their basic rights.

Using Senate rules and practices to block civil rights legislation was understandably seen by many Senators—most, in fact—as an affront to American values. Nevertheless, efforts to eliminate the rights of the minority to engage in extended debate with respect to civil rights legislation ultimately failed. The noble cause of racial equality ultimately prevailed in the Senate, and so did the practice that for so long thwarted its triumph.

Therein resides the central paradox and the towering majesty, I might add, of this great institution, the Senate. What makes this place so revered and unique is what can simultaneously gall us about it the most—the practice of extended debate. From 1789 until 1917, 128 years, this practice of extended debate, if you will, was absolute in its scope. All Senators had to consent—all of them—to close debate on any matter at all. For a subsequent period of 58 years, two-thirds of the Senate was required to end debate—though only on a "pending measure," meaning a legislative matter.

It would not be until 1949 that something less than unanimous consent would be required to close debate on nominations—1949, a little more than 50 years ago. Currently, three-fifths of the Senators, of course, chosen and sworn are required to close debate on any matter. A motion to proceed to the consideration of a change in Senate rules requires an even higher threshold—two-thirds of Senators—to close debate.

As far as I know, the proposal of the present majority leader to require a simple majority to close debate is without precedent. There is not a single rule allowing a bare majority to force a vote on a judicial nomination. Certainly, his proposal would, if successful, fundamentally alter the nature of the Senate and the balance of power as created by the Framers of the Constitution.

Part of the difficulty here is the fact that over 50 percent of this body has primarily served under one set of circumstances. Thirty-six members of the 55 in the majority have primarily served in the majority. Close to half of the Democrats in this body have primarily served in the minority. I have served in this institution for a quarter century, since 1981. I have served in this body under every imaginable configuration in its relationship to the House of Representatives and the Presidency. I have served in both Houses. I have served when this institution was held by the Democrats and the House by Republicans, and the reverse, when the House was held by Democrats and this institution by Republicans. I have served under both Democratic and Republican administrations.

You need to serve here under different circumstances, I say with all due respect to my colleagues who have been here a limited amount of time, to appreciate how this institution functions. You need to sit there and be a minority member to understand the importance of minority rights. You need to be there as a majority member to understand the importance of setting the agenda. But it is almost impossible, I say with all due respect, to understand the delicacies and the rhythms of this institution if you have just been here a limited amount of time, serving under one set of circumstances. That, in a sense, is one of the problems.

It is also a problem that too many of our Members have come from the other body, the House of Representatives. I am included. The other body has become highly divisive. It is highly partisan, with reasons and faults on both sides. But Members who have come from that institution to this institution too often bring some of that luggage, in effect, some of that passion that existed in the House, and have allowed it to contaminate this institution. We need to stop it.

Too often, over the last number of days, I have heard Members cite speeches given by other Members here. In my earlier days here, that would have never happened. You might debate with one other Member and remind them of something they said earlier, but a sort of free-flowing attack on other Members of the Senate does this institution ill service, in my view. We ought to have more respect for this place, for the role it has played historically, and the role it will play, and get back to the business of doing what the Senate does best.

One of the reasons the extended debate rule is so important is because it forces us to sit down and negotiate with one another, not because we want to but because we have to. I have helped pass many pieces of legislation in my 24 years here, both as a majority and minority Member of this institution. I have never helped pass a single bill worth talking about that didn't have a Republican as a lead cosponsor. I don't know of a single piece of legislation here that didn't have a Republican and a Democrat in the lead. We need to sit down and work with each other. The rules of this institution have required that. That is why we exist. Why have a bicameral legislative body, two Chambers? What were the Framers thinking about 218 years ago? They understood the possibility of a tyranny of the majority. And yet, they fully endorsed the idea that in a democratic process, there ought to be a legislative body where the majority would rule.

So the House of Representatives was created to guarantee the rights of the majority would prevail. But they also understood there were dangers inherent in that, and that there ought to be as part of that legislative process another institution that would serve as a cooling environment for the passions of the day. So the Framers—at the suggestion of two Senators from Connecticut, I might add, the State I am privileged to represent, Roger Sherman and Will Oliver Ellsworth; hence the compromise is called the Connecticut Compromise—sat down and said: There is a danger if we don't adopt a separate institution as part of the legislative branch where the rights of the minority will also prevail, where you must listen to the other side in a democracy, pay attention to the other side.

In fact, minority interests, we have learned, historically have been on the right side of the issue on many occasions in our history. Had there not been a place called the Senate, we might never have enjoyed the privilege of seeing our country recognize the value of those positions over time.

This institution and its rules have given this country remarkable leadership over these 218 years, and central to that rule has been the extended debate clause, which forces Senators to sit down and work with one another. That is why we have a 6-year term. That is why only one-third of us are up every 2 years. That is why we have a term longer than the President or the House Members. That is what the Framers had in mind. They were worried about too much control residing in one branch or the other. So they created this remarkable institution.

I say this again with all due respect. I listened to our colleague from Hawaii, Senator INOUYE, who gave his maiden speech on the floor of the Senate supporting the filibuster rule during the civil rights debates. The first thing he said in that debate was: I am most reluctant to get up because I understand the tradition of this institution of taking a little time before you get up as a new Member and talk about what needs to be done.

I am not suggesting people ought to go back to the 19th century, or early 20th century, and sit back and wait and bide their time. But it is important to learn how this place functions. There are rules here, clearly. But there is something beyond rules; there are traditions that are not written down in any book anyplace but which make the place function. When you read Robert Caro's book "Master of the Senate," about Lyndon Johnson and the golden age of the Senate, the days of Calhoun and Clay and Webster, the days in the early 1950s, when giants served here and engaged in the great debates of their times, it was not necessarily the rules of the Senate that created those great moments in history; it was the quality of the individuals here who respected the rules and worked within them, because they understood the value of this institution.

That is what worries me so much about this debate. We are not paying attention to each other here. We have come to believe, I suppose, that the sum of the special interests in this country equals the national interests. They never have and they never will, in a sense. We need to focus on the history of this place, the role we can play, and the importance this institution can play in the years ahead. As I said at the outset, we are only stewards here.

I have been here a quarter of a century. It is a fraction in time. And what do we do with our time? When our tenure is over and our legacy is written, the history of our service, the question will be asked—what did we do with our time? We do not get a chance every day to make a huge difference. There are only going to come a handful of opportunities that will be of great value when you look back on your service and think of the best moments you had.

Some of the best moments, I promise, for those recently arriving in the Senate, will be the moments when you stood up and defied, in a sense, the passions of the day, the trend of the day, and said: I am going to do something different. I am going to step out of the predictable role and try and do something people may not expect.

Over my service here, those Members who have done that are the ones who have enjoyed their service and look back on their service with the greatest sense of pride.

This institution deserves some leaders today who are willing to stand up and protect it and defend it. I know passions are running high. I know the temperature is getting hotter and hotter by the day. But this issue we are debating will probably fade in memory. It will be hard to recall a few years from now what it was we were debating when the filibuster rule was involved. I do not minimize this issue of judicial nominations. I respect my colleagues who feel passionately about this issue. But I promise them, within a matter of months or years, you will be hard pressed to recall the names of the people involved or exactly where they were going to serve, on what bench.

Yet the rules we change will profoundly affect how we are going to engage effectively in the other matters that come before us. If the majority decide they simply do not like the rules in any one Congress and change it with a simple majority, then the rules will mean almost nothing if they can change them with 51 votes.

The reason our Founders set such a high standard over the years is because they wanted some perpetuity to those rules. And if, after all of this, we are able to say with regard to extended debate that you are going to eliminate that as well, then obviously there is a fear this same procedure, this elimination of extended debate, will also be used to limit debate on other matters beyond judicial nominations. Once you set the precedent, it is not that long a leap to go from judicial nominations to substantive matters.

Throughout our history, the right of extended debate has never been seriously questioned, in my view, as other than a vital foundation of our Republic. It has been the catalyst for achieving the most remarkable feature of our civilization: the degree to which we have been able to provide our citizens with great freedom and great stability.

The Senate was created, in the words of James Madison, "first to protect the people against their rulers; secondly to protect the people against the transient impressions into which they might be led. . . ."

He went on to say:

> The use of the Senate is to consist in its proceeding with more coolness, with more system, with more wisdom, than the popular branch.

The word "Senate" comes from the Latin word "senatus," wise men, wise people. We always associate wisdom with tenure, with service, with experience, and the people who have had life experiences and bring them to this institution. That is the word "Senate," that is what it means.

In order to carry out this mission, of course, the Framers endowed this institution with a few extremely important qualities and powers. First, as I mentioned, the Framers gave Senators terms of office, as I mentioned, three times longer than House Members and one-third longer than the President's.

Second, as I mentioned as well, the Framers ensured that only one-third of the Senate stands for election every 2 years, thereby making it a continuing body.

Next, the Framers created a body dramatically different from the House. Each State would be represented by two Senators no matter how small or large, ensuring that the interests of smaller States would not be trampled upon by the more popular jurisdictions.

And, finally, the Founders insulated the Senate from sanction for debate by explicitly granting it the power to "determine the rules of its own proceedings."

These constitutionally mandated attributes have proven extraordinarily successful in ensuring the Senate is a bulwark against popular passions that move in time from the left to the right, back and forth. None of us can predict within a matter of days, hours, weeks, months, how the country's popular opinion moves and changes. And yet having a place where those passions are not going to dictate the outcome every day is essential to the stability of this great Republic, in my view.

With these great rights come responsibilities, of course. The Senate was given special powers to try impeachments, ratify treaties, and, most critically for our purposes today, to confirm nominees. Perhaps nowhere other than in the advice and consent responsibility of the Senate, laid out in article II, section 2 of the Constitution, do we see the Framers' keen preoccupation not only to respect the principle of majority rule but, as important, to limit the possibility of an overreaching Executive and the tyranny of the majority.

The President nominates, but the President's power is balanced and checked by the power of the Senate to provide advice and consent. Remember, Mr. President, what were the personal experiences of the Framers? They came off an experience where one individual, a king, had made exclusive decisions that affected the lives of millions of people, and they were suspicious of an awful lot of power being accumulated in too small a place or too few hands.

With respect to the judiciary, the third and separate equal branch of Government, the powers of the President and the Senate are deliberately and carefully counterimposed. Robert Caro, the author whom I cited earlier, has observed that very point. Caro says in his book:

> . . . [I]n creating the new nation, its Founding Fathers, the Framers of its Constitution, gave its legislature . . . not only its own powers, specified and sweeping . . . but also powers designed to make the Congress independent of the President and to restrain and act as a check on his authority, [including] power to approve appointments, even the appointments made within his own Administration. . . . And the most potent of these restraining powers the Framers gave to the Senate. . . . The power to approve Presidential appointments was given to the Senate alone; a President could nominate and appoint ambassadors, Supreme Court Justices, and other officers of the United States, but only "with the Advice and Consent of the Senate."

The proposal contemplated by the majority leader would, with all due respect to the leader, in my view, undermine the Senate's role in our constitutional democracy. I know that has been said by many others. It would surrender enormous power to the Executive and upset, in our view, the system of checks and balances created by the Framers.

It would have us move to a majority cloture rule on that portion of our business that girds the independence of the judicial bench.

There is an irony to this proposal that cannot go unstated, and should not go unexamined. It proposes to limit the Senate's exercise of its power in the matter of nominations rather than legislation. Yet one can argue convincingly that it is precisely in the area of nominations—particularly judicial nominations—that the Framers intended that power to be most utilized.

We must remember that during the Constitutional Convention, only after lengthy debate was the power to appoint judges committed to the President as well as to the Senate.

In the closing days of that Convention, the draft provision in the Constitution still read as follows:

> The Senate of the United States shall have the power to . . . appoint . . . Judges of the Supreme Court.

On four separate occasions, proposals were made to include the President in the process for selecting judges. And on four occasions in those closing days, those proposals were rejected. Why? John Rutledge of South Carolina said it best: "The people will think we are leaning too much toward monarchy" if the President is given free rein to appoint judges.

The final compromise was characterized by Gouverneur Morris of Pennsylvania as giving the Senate the power "to appoint Judges nominated to them by the President." In Federalist Paper No. 76, Hamilton explained the Senate's review would prevent the President from appointing judges to be "the obsequious instruments of his pleasure." As Federalist No. 78 confirms, the Founders were determined to protect the independence and the integrity of the courts, and they believed the chief threat to the independence and integrity of our courts was a President who had nearly unchecked authority to appoint judges.

Against this backdrop, it is, indeed, ironic and troubling to this Senator that the majority leader now suggests that we restrict deliberation, debate, and the rights of the minority with respect to the nominations process, and thereby enhance the ability of the majority to turn this Senate into a rubberstamp for Presidential nominees, Democratic or Republican.

The majority leader and his supporters refer to this effort as the constitutional option. Yet in the name of the Constitution, they are advocating a change that defies the history of the very document they claim to honor. They eagerly lecture this body about preserving fidelity to the original intent of the Framers. Yet they now act with reckless disregard, in my view, for that intent.

At its most fundamental, this Senate is a testament to the rights of the minority. Small States, such as mine—I suggest even the Presiding Officer's State falls into this category—we have an equal say to California, Texas, Illinois, and New York, and the Senate's tradition and its rules protect debate and guarantee that we cannot be trampled upon, overrun by larger jurisdictions. That is part of our unique character.

This tradition of extended debate to preserve minority rights as smaller States offends no constitutional edict at all. In fact, it endorses it. In the words of former Chief Justice Burger, "there is nothing in the language of the Constitution, or history, or cases that requires that a majority always prevail on every issue."

Nor is there any place in the Constitution entitling anyone—judicial nominees included—to a so-called up-or-down vote on the floor of this institution.

It has been noted by the Democrats in this debate that there were some 69 nominations sent by President Clinton to the Judiciary Committee, appellate and district court judges, for which none of them were given a hearing. Some said that is a form of filibuster. I agree, it is.

There is nothing, I argue to my Democratic friends, that said President Clinton had an absolute right for those nominees to have a hearing in the Judiciary Committee. He had an obligation to send us nominees. We had no obligation to guarantee them a hearing in the Senate of the United States, any more than President Bush's nominees necessarily have an absolutely right to a simple up-or-down vote in this Chamber. Neither side is right in that regard.

The Senate, under Republican control during President Clinton's tenure, was exercising its rights. I did not like the outcome. I did not like the result. But the Senate Judiciary Committee had a right not to give them a hearing.

Democrats today argue—I think with equal cause—that these nominees have no right to an up-or-down vote any more than President Clinton's nominees had a right to a hearing. That is exactly what the Framers were saying. That is exactly what the people wanted when they wrote the provisions of our Constitution creating the Senate.

In addition, nowhere does the Constitution or record of the Constitutional Convention say or even suggest that the advice and consent function of the Senate should be less with respect to judicial nominees than other nominees.

The reason there is no such distinction is simple: it is illogical on its face. How can anyone argue that we should have the right to extended debate with respect to some obscure agency nominee who can serve for a couple of years, but that we should not have that right with regard to lifetime appointments to the Federal bench? Such an outcome not only defies the history of the Convention, it defies logic. And this is called the "constitutional option"? To call it by this name, in my view, dishonors the genius of those men who conceived the Constitution.

The majority leader's proposal will, without question, diminish the Senate's power in relation to the Executive, and in so doing will diminish the power of each and every Senator, regardless of party, to stand up for his or her State.

Let me say to those who have been here only serving in the majority, only serving under a Republican President—my wish as a Democrat is that this would happen more quickly—I do not know when it will happen, but it will happen, I promise you. If you are here long enough, you will serve in the minority. You will serve with a Democratic President. And for those of you who want to absolutely guarantee that Presidents can guarantee a right on their nominees coming up here, you will rue the day when it comes. You will rue the day, and you will look back on this debate and wonder why there were not more people standing up reminding each other of the importance of this institution and what the Framers had in mind in trying to protect us against absolute guarantees for nominees to lifetime appointments which no other appointees in our entire Federal system enjoy.

If my colleagues do not know this from their own experiences, I suggest they consider the experience of one of our colleagues, a Republican, who a few weeks ago ran into the problem. He announced at the beginning of the week his intention to place a hold on nominees to a certain commission. By the end of the week, the President had recess-appointed each and every one of those nominees. The considered views of our Republican colleague were of no consequence. They were disregarded out of hand.

Do any of us think this or any other President will be more or even just as likely to consider our views on judicial nominations if we surrender power to this President or any future President? I for one do not. Colleagues, if that happens, if we cede power to the Executive, you may never get it back.

Of all the issues that we will face in this and future Congresses, from war and economic growth, to health and education, none is more important than this debate because how we resolve this issue will in many respects determine how, indeed, we resolve all the others.

The ACTING PRESIDENT pro tempore. The Senator's time has expired

Mr. DODD. I ask for 1 additional minute, if I may.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. I thank the Chair.

As I said a few minutes ago, those of us fortunate to serve in this body are but its temporary custodians. We are stewards of an institution governed by rules that have withstood the test of more than two centuries in time. Now is not the moment to scrap such rules simply to achieve objectives that are, in essence, transient and partisan in nature, even though they are deeply felt by their proponents.

I know of no other branch of government, in this or any other nation for that matter, that would willingly surrender power to another branch. This is a moment for Senators, as Senators, to stand up for the Senate.

The disagreements we have today will likely be forgotten. They will fade like so many grainy snapshots into the dim recesses of our collective national memory. But to change the rules of the Senate, to do so by evading rather than abiding by the rules of this Chamber, would do lasting damage not only to this institution but to the Republic it has served so long and so well.

Future generations will not remember why those rules have been changed, but they will live each and every day with the consequences of this decision. I urge my colleagues to reject this proposal and let us get back to the business of functioning as the Senate should.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Texas.

Mr. CORNYN. I thank the Chair.

Mr. President, people who are following the debate on the Senate floor about this nominee, Priscilla Owen, might be forgiven if they think the sky is falling or perhaps the end is coming for the Senate as a unique institution in American Government, or somehow that the nuclear option is going to simply blow the place up and all of us with it.

I think you can read an awful lot into the rhetoric that is being used and the tone that is being used during this debate to see what it is all about. I worry, as well, that when we talk about statistics, when we talk about what percentage of President Bush's nominees were confirmed, which ones were not, how President Clinton's nominees were treated, what percentages were confirmed, what percentages were not, that we fall into the deplorable habit of treating people like mere statistics. But I would only add that one violation of the Constitution is one too many. And when it comes to giving an up-or-down vote to a President's judicial nominee, which has happened for 214 years up until 4 years ago this last May 9, we are simply talking about treating people as they deserve to be treated—with respect. We are talking about treating Presidents who have won national elections with the respect they deserve, not as a rubberstamp but to provide the advice and consent that the Constitution contemplates when it comes to judicial nominees.

You would think the end is near for this institution listening to some of the rhetoric, when all we are talking about is trying to restore this 214 years of unbroken tradition of providing an up-or-down vote for any nominee who enjoys bipartisan majority support in this Chamber as this nominee, Priscilla Owen, does.

If you want to talk about statistics—and our friends on the other side of the aisle have—they have time and time again essentially argued this is payback for how they perceive Republicans treated nominees of President Clinton. And one of the names they mention is Richard Paez, who was nominated by President Clinton, who was ultimately confirmed by less than 60 votes of the Senate. All we are asking is that Priscilla Owen be treated with the same courtesy and according to the same standard that Richard Paez was treated when he was given an up-or-down vote and was confirmed by less than 60 votes.

A number of my colleagues on this side of the aisle have done an excellent job of presenting, in a comprehensive fashion, the legal and constitutional framework that exists for the Senate's authority to determine its own rules, and that is really all we are talking about—the Senate determining its own rules. I believe the case that has been made for the Senate continuing to do that is a strong one. In fact, that is why Senators on the other side of the aisle, including the former Democrat majority leader, the senior Senator from West Virginia, the senior Senator from Massachusetts, and the senior Senator from New York, have all stated in the past as recently as 2 years ago that, of course, a majority of Senators has the power to set rules, precedents, and procedures. Indeed, that is why the power of the Senate majority to set rules, precedents, and procedures has sometimes been referred to as the Byrd option, or otherwise, the constitutional option.

But let me begin my remarks by making a simple point I made last night, and let me reiterate it. I much prefer the bipartisan option to the Byrd option. America works better, the Senate works better, and our constituents are better served when we act in a bipartisan and cooperative manner. I would much prefer to wake up each day not anticipating the battles in this Chamber but, rather, to anticipating the opportunity to do what I came here to do, and that is to serve the interests of my constituents and the Nation by trying to get things done, trying to solve problems. That is why I believe we were sent here. I have done my best to take advantage of every opportunity I have seen in order to work in a bipartisan manner. I would simply choose collaboration over contention any day of the week.

But we know that bipartisanship is a two-way street, that you cannot claim to be bipartisan when a partisan minority seeks to obstruct, and has successfully obstructed for the last 4 years, a bipartisan majority from getting a simple up-or-down vote for nominees such as Priscilla Owen. In order to have true bipartisanship, both sides must agree to treat each other fairly and apply the same rules and standards regardless of who happens to be President, whether it is a Republican or Democrat, and regardless of who is in the majority, whether it is a Republican or Democrat majority. But bipartisanship, we know, is difficult when long held understandings and the willingness to abide by basic agreements and principles have unraveled so badly as it has these last 4 years.

What are we to do when these basic principles and commitments and understandings have simply unraveled so badly? What are we to do when Senate and constitutional traditions are abandoned for the first time in more than 2 centuries; when both sides once agreed that nominees would never be blocked by the filibuster, and then one side says, well, that agreement never existed; when our colleagues on the other side of the aisle boast in fundraising letters to their donors of their "unprecedented" obstruction and then come to the Senate floor and claim that precedent is on their side and that somehow this side, the bipartisan majority, is somehow blowing up the Senate by exercising a "nuclear option"? What are we to do when the former Democrat majority leader claims on one day that the filibuster is somehow sacrosanct and sacred to the Founders and then demonstrates by his own words that he has successfully killed filibusters in the past on the Senate floor?

In 1995 he stated:

> I have seen filibusters. I have helped to break them. The filibuster was broken, back, neck, legs and arms.

Finally, what are we to do, Mr. President, when they claim on one day that all they seek is more time to debate a nomination, and then claim on another day there are not enough hours in the universe to debate the nomination? Indeed, as we stand here 4 years after this fine nominee was proposed, we know there has been more than adequate time for debate. There has been a lot of debate. But this is not about debate. This is not about the Senate's traditions. This is about raw political power of a partisan minority to obstruct a bipartisan majority from exercising the power conferred upon that bipartisan majority by the Constitution.

It is clear that a partisan minority is now seeking to impose a new requirement during these last 4 years, that nominees will not be confirmed without the support of at least 60 Senators. This, by their own admission—at least at one point by their own admission—is wholly unprecedented in Senate history. But thinking about it, Mr. President, the reason they have now sought to adopt this double standard and this increased threshold before a nominee can even get a vote, the reason for it is simple, and that is because the case for opposing this fine nominee, Priscilla Owen and her fellow nominees, is so weak that the only way they can hope to defeat their nominations is by applying a double standard and changing the rules. That is the only way they can hope to win—this partisan minority. We have heard a lot of talk about some of the decisions this judge has made when she served on the Texas Supreme Court, as she still does. I think the distinguished Senator from Georgia, who is currently occupying the Chair, spoke eloquently about another nominee, Janice Rogers Brown, who is also accused of "being out of the mainstream" and shown how thin and baseless that allegation is—and by the way, Janice Rogers Brown is accused of being out of the mainstream for exercising her first amendment right as an American citizen in a speech, two speeches, not in the course of her judicial decisionmaking. Does that mean that citizens should somehow be constrained in what they can talk about lest they be deemed disqualified to serve as a Federal judge later on because some Senator or some group of Senators think that they are "outside of the mainstream"? I hope not.

A number of Senators have mentioned the case called Montgomery Independent School District v. Davis. This is one of the cases they cite as an example for Justice Owen "being out of the mainstream." But, of course, I doubt they have read the opinion. This is about a schoolteacher a local school board dismissed because of her poor performance and because of her abusive language toward her students. This teacher admitted that she had referred to her students as little blank blank blanks—a four-letter expletive that I will not repeat on the floor of this body. When confronted with this statement, she justified the use of this expletive to schoolchildren, mind you, on the bizarre ground that she uses that same language when talking to her own children—clearly unacceptable conduct.

The senior Senator from New York has said that this teacher was wrongly dismissed. Other Senators criticized Justice Owen about this case as well. I have children. Many Senators have children. Certainly the people across America who have children understand. Are Justice Owen's opponents really arguing that this teacher's opponents acted inappropriately, that she was wrongly dismissed for using that language and mistreating her students in such a way?

If you read the opinion, as I doubt the critics have, preferring, rather, to speak off of talking points written by political consultants who engage in character assassination for their profession, Justice Owen simply said that the local school board was justified in dismissing the teacher—hardly a decision which is out of the mainstream.

As it turned out, the majority of the court disagreed and held that the school board could not dismiss the teacher, on legal grounds. But Justice Owen's dissenting opinion simply concluded that the majority:

> . . . allows a State hearing examiner to make policy decisions that the Legislature intended that local school boards make.

She also argued that the majority "misinterpreted the Education Code."

This partisan minority in the Senate has accused Justice Priscilla Owen of judicial activism. But the people of America understand what judicial activism is and, conversely, what it is not. The American people understand a controversial judicial activist decision when they see one, whether it is the radical redefinition of some of our society's most basic institutions, such as marriage; whether it is expelling the Pledge of Allegiance from classrooms of schoolchildren because the phrase "one nation under God" is invoked; or whether it is the elimination of the "three strikes and you are out" law and other penalties against hardcore convicted criminals; or the forced removal of military recruiters from college campuses. Justice Owen's rulings fall nowhere close to these sort of activist decisions, this category of cases that to me defines the phrase "judicial activism."

There is a world of difference between struggling to try to do the job judges are duty-bound to perform—that is, to interpret ambiguous expressions of a statute—there is a world of difference between that and refusing to obey a legislature's objectives altogether and instead substituting that judge's own opinion or own social or political agenda for what the legislature, the elected representatives of the people, had said the law should be.

If the Senate were to follow more than 200 years of consistent tradition, dating back to our Founding Fathers, there would be no question but that this judge, and this fine and decent human being, would be given the up-or-down vote and confirmed for the Fifth Circuit Court of Appeals. President after President after President have gotten their judicial nominees confirmed by a majority vote, not a supermajority vote of 60 votes or more. By their own admission, a partisan minority in this body is using unprecedented tactics to block her nomination. Here again, the reason is simple. As any careful examination of the decisions made by this good judge reveal, the case for the opposition is so weak that the only way they can defeat her nomination is by applying a double standard and changing the rules.

It is not just me who says that a supermajority requirement is unconstitutional and violates the Senate traditions for over 200 years. Legal scholars across the political spectrum have long concluded what we know in this body instinctively—that to change the rules of confirmation, as this partisan minority has done starting 4 years ago, badly politicizes the judiciary and hands over control of the judiciary to special interest groups—something we all ought to want to avoid.

The record is clear: Senate tradition has always been majority vote, and the desire by some to alter those Senate rules has been roundly condemned by legal experts across the political spectrum.

In fact, Lloyd Cutler, who recently passed away, who was really the dean of lawyers, who advised Presidents, both Republican and Democrat, during the course of his professional lifetime, wrote "The Way to Kill Senate Rule XXII," which was published in the Washington Post in 2003. He said:

> A strong argument can be made that the requirements of . . . a two-thirds vote to amend the rules are . . . unconstitutional.

Liberal USC law professor Erwin Chemerinsky wrote in 1997, "Rule XXII"—that is the rule that requires 60 votes in order to get a vote that is being invoked now for the first time in more than 200 years against nominees. We are not talking about legislation, as I know the Chair understands and which has been clear but sometimes gets muddled. Professor Chemerinsky writes:

> Rule XXII is unconstitutional in its requirement that change be approved by two-thirds vote to change the Rule. The effect of declaring this unconstitutional is that the current Senate could change rule XXII by majority vote. In other words, a majority of this Senate could eliminate the filibuster if a majority wished to do so.

I believe a majority does wish to do so when it comes to breaking the logjam over nominees, not with regard to legislation. There is a general consensus, bipartisan consensus in the Senate, that, for our own reasons, it is important to preserve the filibuster for legislation. But, of course, that only affects how we conduct our business, not how we interact with a coordinate department of Government or branch of Government known as the executive branch in exercising advice and consent when it comes to the nominees by a President elected by the American people.

To employ the Byrd option is not a radical move. It would merely be an act of restoration. I say it again. There is nothing radical about the Byrd option, yet our colleagues on the other side of the aisle have called it, not the Byrd option or the constitutional option, but the nuclear option, to suggest that somehow there is something radical about it.

But all we need to do is to look at the senior Senator from West Virginia, who was then majority leader, who used the constitutional option—and this is the reason it is sometimes called the Byrd option—on four occasions—in 1977, in 1979, in 1980, and again in 1987—to establish precedents that changed Senate procedure during a session of Congress. Other leading Senators from the other side of the aisle have, at some times in the past—perhaps not today but in the past—recognized the legitimacy of that procedure, of the Byrd option, including the senior Senator from Massachusetts and the senior Senator from New York, as recently as 2 years ago.

The establishment of Senate rules and procedures by majority vote is commonplace. As a matter of fact, on most days, as the occupant of the chair knows, we operate by unanimous consent; that is, everybody agreeing—or at least no one objecting. The constitutional power of a majority of the Senators to strengthen, improve, and reform Senate rules and procedures is expressly stated in the Constitution. It was unanimously endorsed by the U.S. Supreme Court, and it has been supported and exercised by the Senate on numerous occasions.

For those who may be students of the Constitution, all you have to do is look at article I, section 5, which clearly states that, "[e]ach House may determine the Rules of its Proceedings."

The Supreme Court has unanimously held in United States v. Ballin that, unless the Constitution expressly provides for a supermajority vote, the constitutional rule is majority vote. Again, as the Senator from Georgia pointed out earlier this morning, when it comes to amending the Constitution, when it comes to ratifying treaties, it is clear that an explicit supermajority requirement is there. But failing that, where the Constitution is silent about a supermajority requirement, the U.S. Supreme Court said majority rule is the standard.

I point out again, perhaps the most eloquent and learned Member of this body, when it comes to Senate rules and procedures, is the distinguished senior Senator from West Virginia. I know as a new Senator I have watched and listened and tried to learn from him about those Senate rules. He is truly a master of that subject. Yet Senate Democrats have spent considerable time dismissing how the Founders would somehow be offended if a majority of Senators acted to prevent a partisan minority of the Senate from using filibusters against nominees. One of their own, one of the Senate's great historians, this same distinguished senior Senator from West Virginia, stipulated on the Senate floor that our Founders did not tolerate filibusters.

He said:

> The rules adopted by the U.S. Senate in April, 1789, included a motion for the previous question. The previous question allowed the Senate to terminate debate. "Mr. President, I move the previous question" or in the House "Mr. Speaker, I move the previous question," and if that gains a majority, no further debate, the previous question will be voted on.

As the senior Senator from West Virginia has previously written in his four-volume history of the U.S. Senate:

> It is apparent that the Senate in the first Congress disapproved of unlimited debate. In fact, for the first several Congresses, from 1789 to 1806, a majority of Senators always had the power to bring debate to a close through majority vote through the motion for the previous question under Senate Rule IX.

I realize we are getting down into the weeds quite a bit when it comes to parsing Senate rules and the history of the Senate for the American people who might be listening to this debate, but in the end, I believe what we are talking about is the ability in this body to write its own rules and establish its own procedures, which is clearly provided for in the Constitution, and to use procedures that have been used on the other side of the aisle when they were deemed appropriate and when a majority of Senators supported that change.

We are also talking about restoring fundamental fairness to the judicial selection and nomination process. Is there anybody in America today who believes that the way we are handling the confirmation of judges is a good and positive thing? Or do the vast majority of Americans believe, as I do, that it has become unnecessarily contentious and fractious and divisive, and that we need a fresh start when it comes to this process?

I believe a good place to start would be to restore this 200-year tradition, which provides for a majority vote, something that was accepted without any real debate until 4 short years ago when the standard was somehow increased to 60 votes for confirmation rather than the 51 votes which had applied for the entire history of the Senate—4 short years ago.

Finally, it is worthy of note that in addition to the constitutional support I have mentioned, and that of legal scholars and established Senate precedent and tradition, many of the editorial writers in the mainstream media also acknowledge that the Byrd option is not a radical option, that the Senate making its own rules and procedures is not radical, it is what we do.

The New York Times even, by its own admission, in 1995, endorsed a proposal by Senators HARKIN and LIEBERMAN that

> . . . would have gone even further than the nuclear option in eliminating the [power of the] filibuster . . .

entirely, including for legislative matters.

We do not propose that. We just propose giving these nominees an up-or-down vote when it comes to the Executive Calendar.

The Austin American-Statesman, in Texas, has recently editorialized that:

> a simple majority could change the rule on cloture from a supermajority to 51 votes . . . [and] it has always been a viable political tool.

All we are suggesting.

The Philadelphia Inquirer said:

> There is nothing especially sacred about the filibuster.

The Los Angeles Times states:

> We urge Republican leaders to press ahead.

They wrote that in an editorial entitled "Nuke the Filibuster."

Let me conclude by reiterating what I said at the beginning of my remarks. I would prefer the bipartisan option to the Byrd option any day. America works better, the Senate works better when we do things together in a bipartisan and collaborative way. It is time for us to fix the broken judicial confirmation process. It is time for us to end the blame game, fix the problem, and to move on. It is time to end the wasteful and unnecessary delay in the process of selecting judges that hurts our justice system and harms all Americans.

It is simply intolerable that a partisan minority will not allow a bipartisan majority to conduct the Nation's business. It is intolerable that the standards now change depending on who is in the White House and which party is the majority party in the Senate. It is intolerable this nominee, this fine and decent human being and this outstanding judge, has waited 4 years for a simple up-or-down vote.

We need a fair process for selecting fair judges after full investigation, full questioning, full debate, and then a vote.

Throughout our Nation's more than 200-year history, the constitutional role and the Senate tradition for confirming judges has been majority vote. That tradition must be restored.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Senate holds a revered place in the history of the world and in the imagination of people throughout the world. We proudly serve in the world's greatest deliberative body. We say that so often that those words can lose their impact, but we must never lose sight of our profound responsibility to this institution as keepers of its legacy.

The enduring strength and beauty of the U.S. Senate is that we not only operate by rules, but that those rules provide protections for the minority. More than 200 years of Senate rulings have affirmed that this body stands against the "tyranny of the majority" that our Founding Fathers cautioned us about.

Today, for temporary political advantage, some would destroy part of what makes the Senate unique. The so-called "nuclear option", if implemented, will deface this Senate monument by allowing a majority, for the first time in our history, to operate by fiat instead of by rule.

The issue we are grappling with is a transcendent one, above and beyond the qualifications of a particular judge. We will answer the question: will the rule governing our deliberations be changed by fiat, by an arbitrary ruling which runs head on against Senate Rule XXII. That rule guarantees Senators' right to speak until 60 Senators vote to end debate and is also at the core of our being a deliberative body.

The leadership of the majority party in the Senate has threatened to use an extraordinary and radical parliamentary procedure, the so-called "nuclear option", to end filibusters in the Senate. Interpreting a rule which is ambiguous or silent on a matter is one thing. The "nuclear option" requires a presiding officer to rule in a way which goes directly against the unambiguous language of Rule XXII.

Whether or not to change the rules is a matter for debate and deliberation, but there should be no question of how to change the rules. That should occur through the procedures laid out in the Senate rules themselves.

Robert Caro, the distinguished historian and author of the landmark work, Master of the Senate, recently wrote a letter to the Chairman and ranking member of the Senate Rules Committee in which he pointed out that:

> The Founders, in their wisdom . . . gave the Senate the power to establish for itself the rules governing exercise of its powers. Unlike the unwieldy House, which had to adopt rules that inhibited debate, the Senate became the true deliberative body that the Framers had envisioned by maintaining the ability of its members to debate as long as necessary to reach a just result.

Caro continued:

> For more than a century, the Senate required unanimous consent to close off debate. The adoption of Rule XXII in 1917 allowed a two-thirds cloture vote on "measures", but nominations were not brought under the rule until 1949. In short, two centuries of history rebut any suggestion that either the language or the intent of the Constitution prohibits or counsels against the use of extended debate to resist presidential authority. To the contrary, the nation's Founders depended on the Senate's members to stand up to a popular and powerful president.

The right of extended debate in the Senate is an integral part of our system of checks and balances and an important historic protection of the rights of the minority in our country. But it is not only the filibuster rule and the valuable protections it provides which the "nuclear option" is threatening. It is the Senate's rulemaking process and it's the very character of the Senate.

Whether to change Rule XXII has been debated throughout our history and that debate will continue. But, how to change our rules is a totally different matter. The ground rules for doing so, the process for changing the rules, should be defended by us all because that process is laid out in the Senate rules.

Under the so-called "nuclear option," the Presiding Officer of the Senate would arbitrarily end debate. The ruling would be challenged and a simple majority would then be urged to uphold the ruling of the chair. In ruling by fiat, instead of by applying Senate Rule XXII for ending debate, the Presiding Officer would have to ignore the advice of the non-partisan Senate parliamentarian and the Senate's 200 years of precedent.

If Senators want to propose a change in the rules of the Senate, the right way to do so is to follow the procedures in the Senate's rules for changing the Senate's rules, not ripping up the rule book for a momentary advantage.

In previous attempts to change the filibuster rule by breaking the rules, the Senate has refused to do so. The Senate has consistently maintained that changes to Rule XXII governing the right to extended debate must be made in accordance with the Senate rules and cannot be done by decree, by a ruling of the Presiding Officer which needs only to be sustained by a simple majority.

In 1949, Vice President Alben Barkley, contrary to Senate precedent and against the advice of the Senate Parliamentarian, ruled that despite the fact that Rule XXII as it then existed provided only that the "pending matter" was subject to cloture, that it also applied to a motion to proceed to the consideration of the bill.

The Senate rejected Vice President Barkley's ruling by a 46-41 vote. Significantly, 23 Democratic Senators, nearly half of the Democrats voting, opposed the ruling by the Vice President of their own party. Later, the Senate, using the process provided by the Senate rules, by a vote of 63-23, adopted a change in Rule XXII to include a motion to proceed.

Vote after vote, decade after decade, the Senate has maintained that changes to the cloture rule must be done in accordance with the existing Senate rules and cannot be done by fiat of the Presiding Officer which needs but a simple majority to be sustained. The history is dry and difficult, but is essential for our understanding of the tenacious way this body has rejected attempts to change the filibuster rule by circumventing the rules. I am setting that history forth in an addendum to these remarks.

The majority leader says that he won't use the "nuclear option" except on filibusters of judicial nominations. But, why wouldn't a future majority leader, in pursuit presumably of some lofty purpose, not use a similar arbitrary procedure, the fiat of the Presiding Officer, sustained by a simple majority, to further limit and perhaps eliminate the filibuster or alter other Senate rules for that matter. As a Detroit Free Press editorial asked, " . . . [W]here does such situational rule changing stop?"

Any future majority could use the "nuclear option" to change any of the Senate's rules, if the "nuclear option" we are debating is pursued and succeeds. The Senate, almost inevitably, would slide toward becoming a second House of Representatives. That body is tightly controlled by its majority through its Rules Committee which severely limits debate and dictates what amendments can and cannot be offered. The character of the Senate would be destroyed as a uniquely deliberative body as would its role as the defender of rights of the minority and its essential role in the system of checks and balances. Expediency can destroy the uniqueness of this body.

The majority leader has said, "At the end of the day, one will be left standing: either the Constitution . . . or the filibuster." Hopefully, both will be left standing. The only way for that to happen is if the "nuclear option" is rejected and we say "no" to changing the rules of this body by fiat. Again, the majority leader maintains that he has no intention of eliminating filibusters except on judicial nominations. But, if one accepts the position that the filibuster is unconstitutional for a judicial nomination, why is it not equally unconstitutional for all nominations? And, if the advise and consent clause is read to mandate an up-or-down vote, a future majority leader could by decree decide that the enumerated legislative powers in Article I also mandate majority up-or-down votes and, for instance, rule out of order supermajority, 60-vote budget points of order.

But, with all due respect to the leader, no rule of the Senate should be dependent for its enforcement on the whims and promises of a majority leader, any majority leader. To leave the fundamental rules of the Senate vulnerable to a change of mind by this majority leader or the whim of a future majority leader undermines the principles of normal procedure and fairness on which we all rely. A rule must bind the Majority Leader and the majority itself. That principle is the bedrock on which the rule of law rests. Playing by the rules is something we all learned as kids in the schools and on the playgrounds of America. Rule XXII is a rule we must live by unless and until it is amended by the procedures in our rules. The "nuclear option" would change Rule XXII by decree of the Presiding Officer. An exception to Rule XXII's requirement for sixty votes to end debate on a matter would be created by arbitrary ruling—by decree.

Arthur Vandenberg, one of my predecessors from Michigan is one of the giants of Senate history. His portrait was recently added to the Senate Reception Room outside of this chamber where he joined six other greats of the Senate. Senator Vandenberg, a Republican leader in the Senate, addressed the Senate in 1949 prior to the Senate's rejection of Vice President Barkley's effort to change the cloture rule. His comments speak directly to the situation we find ourselves in and I want to share some of his remarks today.

Senator Vandenberg said,

> . . . I continue to believe that the rules of the Senate are as important to equity and order in the Senate as is the Constitution to the life of the Republic, and that those rules should never be changed except by the Senate itself, in the direct fashion prescribed by the rules themselves. One of the immutable truths in Washington's Farewell Address, which cannot be altered even by changing events in a changing world, is the following sentence: 'The Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all'. I respectfully submit," Senator Vandenberg said, "as a basic explanation of my attitude, that I accept this admonition without reservation, and I think it is equally applicable to the situation which Senators here confront, though obviously the comparison cannot be literal. . . . [T]he Father of his Country said to us, by analogy, 'The rules of the Senate which at any time exist, until changed by an explicit and authentic act of the whole Senate, are sacredly obligatory upon all.'

Senator Vandenberg continued:

> I have heard it erroneously argued in the cloakrooms that since the Senate rules themselves authorize a change in the rules through due legislative process by a majority vote, it is within the spirit of the rules when we reach the same net result by a majority vote of the Senate upholding a parliamentary ruling of the Vice President which, in effect, changes the rules. This would appear to be some sort of doctrine of amendment by proxy. It is argued that the Senate itself makes the change in both instances by majority vote; and it is asked, What is the difference? Of course, this is really an argument that the end justifies the means.

Senator Vandenberg continued:

> I think there is a great and fundamental difference, Mr. President. When a substantive change is made in the rules by sustaining a ruling of the Presiding Officer of the Senate—and that is what I contend is being undertaken here—it does not mean that the rules are permanently changed. It simply means that regardless of precedent or traditional practice, the rules, hereafter, mean whatever the Presiding Officer of the Senate, plus a simple majority of Senators voting at the time, want the rules to mean. We fit the rules to the occasion, instead of fitting the occasion to the rules. Therefore, in the final analysis, under such circumstances, there are no rules except the transient, unregulated wishes of a majority of whatever quorum is temporarily in control of the Senate. That, Mr. President, is not my idea of the greatest deliberative body in the world. . . . No matter how important [the pending issue's] immediate incidence may seem to many today, the integrity of the Senate's rules is our paramount concern, today, tomorrow, and so long as this great institution lives.

Senator Vandenberg continued:

> . . . [I] want to be sure that none of my colleagues shall feel under the slightest compunction to vote on a friendship or loyalty basis so far as I am concerned. This is a solemn decision—reaching far beyond the immediate consequence—and it involves just one consideration.

He concluded, with that "one consideration":

> What do the present Senate rules mean: and for the sake of law and order, shall they be protected in that meaning until changed by the Senate itself in the fashion required by the rules?

In summarizing, he got to what is the root of the nuclear option. He did it almost 60 years ago on a similar occasion, but how prescient are his comments relative to the situation in which we find ourselves today. Senator Vandenberg:

> . . . [T]he rules of the Senate as they exist at any given time and as they are clinched by precedents should not be changed substantively by the interpretive action of the Senate's Presiding Officer, even with the transient sanction of an equally transient Senate majority. The rules can be safely changed only by the direct and conscious action of the Senate itself, acting in the fashion prescribed by the rules. Otherwise, no rule in the Senate is worth the paper it is written on, and this so-called "greatest deliberative body in the world" is at the mercy of every change in parliamentary authority.

How I wish every Senator would read Senator Vandenberg's speech before we vote on the nuclear option.

In a recent address on this subject, former Senator and Vice President Al Gore recalled the words of Sir Thomas More, the famous British jurist and author:

> When More's zealous son-in-law proposed that he would cut down any law in England that served as an obstacle to his hot pursuit of the devil, More replied: "And when the last law was cut down and the devil turned round on you, where would you hide . . . the laws all being flat? This country is planted thick with laws, from coast to coast . . . and if you cut them down, and you're just the man to do it, do you really think you could stand upright in the winds that would blow then?"

Vice President Gore observed:

> The Senate leaders remind me of More's son-in-law. They are now proposing to cut down a rule that has stood for more than two centuries as a protection for unlimited debate. It has been used for devilish purposes on occasion in American history, but far more frequently, it has been used to protect the right of a minority to make its case.

Our former colleagues Senators Malcolm Wallop of Wyoming and Jim McClure of Idaho, both conservative Republicans, recently wrote in the Wall Street Journal:

> . . . [I]t is naive to think that what is done to the judicial filibuster will not later be done to its legislative counterpart . . . [E]ven if a Senator were that naive, he or she should take a broader look at Senate procedure. The very reasons being given for allowing a 51-vote majority to shut off debate on judges apply equally well—in fact, they apply more aptly—to the rest of the executive calendar, of which judicial nominations are only one part. That includes all executive branch nominations, even military promotions. Treaties, too, go on the executive calendar, and the arguments in favor of a 51-vote cloture on judicial nominations apply to those diplomatic agreements as well. It is little comfort that treaty ratification requires a two-thirds vote. Without the possibility of a filibuster, a future majority leader could bring up objectionable international commitments with only an hour or two for debate, hardly enough time for opponents to inform the public and rally the citizenry against ratification.

Former Majority Leader George Mitchell, writing in the New York Times, has recalled the words of Senator Margaret Chase Smith, another of the great Senators sent to us from the State of Maine, in her famous "Declaration of Conscience" on June 1, 1950, speaking out against the excesses of Senator Joe McCarthy, a Member of her own party:

> I don't believe the American people will uphold any political party that puts political exploitation above national interest. Surely we Republicans aren't that desperate for victory . . . While it might be a fleeting victory for the Republican Party, it would be a more lasting defeat for the American people. Surely it would ultimately be suicide for the Republican Party and the two-party system that has protected our American liberties from the dictatorship of a one-party system.

As Senator Mitchell writes:

> The circumstances are obviously different; there is no McCarthyism in the current dispute. But the principles of exercising independent judgment and preserving our system of checks and balances are at the heart of

> the Senate rules debate. Senator Smith embodied independence and understood the Senate's singular place in our system of checks and balances. Our founders created that system to prevent abuse of power and to protect our rights and freedoms. The president's veto power is a check on Congress. The Senate's power to confirm or reject judicial nominees balances the president's authority to nominate them. The proposal by some Republican senators to change rules that have governed the Senate for two centuries now puts that system in danger.

Mr. President, the nuclear option—this extra-legal changing of the Senate rules—will cause a permanent tear in the Senate fabric because it violates a deeply held American value: playing by the rules. Our rules themselves provide the process for changing the rules. Using it in an arbitrary way—the Presiding Officer ruling by fiat—will produce a deeply embittered and divided Senate because it tears at the heart of the way we operate as a Senate. The Presiding Officer is supposed to be an impartial umpire, not a dictator. He is supposed to apply the rules, not rewrite them.

This Senate is an enduring monument of political history. Its uniqueness is perhaps most embodied in rule XXII, which is at the heart of our being a deliberative body and the source of protection of the minority. I plead with our colleagues: Do not deface this Senate monument by eliminating by fiat that right of the minority. Do not trample on rights so essential to the institution's deliberative nature. Do not deface this Senate monument by amending the rules by fiat. Instead, seek to change our rules, if you deem it wise, according to the procedures set out in our rules. But do not take this fateful, unprecedented, and misguided step that is being proposed.

Few are privileged to serve in this special place. Let those who follow us here look back at what we will do in the fateful days which lie ahead and say that the institution they aspired to was preserved and protected by its present custodians.

The Constitution, in article I, section 5, states that "Each House may determine the rules of its proceedings . . ." The rules of the U.S. Senate have protected minority rights and the system of checks and balances through the right of senators to extended debate. Senate rule XXII provides that 60 votes are required to end debate in the Senate and to bring a matter to a vote. It makes no distinction as to whether that matter is legislative, the ratification of a treaty or the confirmation of a nomination. Throughout the Senate's history, our rules, including rule XXII, have served not only to protect the minority, but also to encourage the majority and the minority to work out their differences. That is because to do anything of great significance in the Senate, it is necessary to put together 60 votes forces the majority to deal with at least a part of the minority. As much as any other factor, this has been a bulwark against the most corrosive forms of partisanship.

With respect to nominations, the need to gain the support of at least 60 Senators has historically encouraged presidents of both parties to seek the advice of Senators from both parties, and to select judicial nominees who are in the mainstream and who can attract the support of Members of both parties. That is particularly important because Federal judges have a profound impact on the functioning of our Nation, not only because they have lifetime appointments, but—because they are the final arbiters of the constitutionality of our laws.

During the administration of President Bush, the Senate has, as in the past, been carrying out its constitutional responsibility. Since the start of the current administration, the Senate has confirmed more than 200 of President Bush's judicial nominees. Only 10 of the President's nominees have not been confirmed. That is an approval rate of more than 95 percent. This is a better confirmation rate than was achieved during the Clinton, the senior Bush, and the Reagan administrations. This also stands in stark contrast to what happened during the Clinton administration when more than 60 of President Clinton's judicial nominees were blocked by the Republican majority in the Judiciary Committee from even getting a hearing, much less a confirmation vote.

Some of our Republican colleagues like to assert that filibusters aimed at nominations are unprecedented. They are clearly wrong. Their assertions usually contain carefully crafted hedge words. For example, they refer to "nominations reaching the Senate floor" being entitled to an up or down vote. Some of our Republican colleagues refer to "the Senate tradition of giving nominees an up-or-down vote". Well, what about those more than 60 Clinton judicial nominations, who were bottled up for years in the Republican controlled Judiciary Committee without being given even a hearing? Blocking nominees in the committee by refusing to give them a hearing is, in effect, filibustering the nomination. When former Foreign Relations Committee Chairman Jesse Helms was opposed to the former President George H.W. Bush's nominee to be U.S. Ambassador to Mexico, William Weld, a former Republican Governor, was an up-or-down vote permitted? No, Senator Helms refused to hold a vote in the Foreign Relations Committee and in that way eventually defeated the nomination. There are many such examples.

And what about the so-called holds that Senators use to delay and as a result deny nominees an up-or-down vote? Just recently, one of our Members placed a hold—an implied threat to filibuster a nomination—blocking an up-or-down vote on President Bush's nominee to head the Base Closing Commission. The President had to get around that hold by giving his nominee a recess appointment, which doesn't require Senate action.

One of the statements that is used to support the nuclear option is that there has never been a successful filibuster of a judicial nominee. That statement flies in the face of the history of the filibuster of the nomination of Abe Fortas to be Chief Justice of the Supreme Court in June of 1968. Republican opponents of the filibuster at that time argued that the Senate has the obligation to be more than a mere rubberstamp for the President. Further, they argued that because Federal judges are lifetime positions, it is even more important to protect the guarantee of the minority's right to speak at length in the Senate on judicial nominations than on legislative matters.

Another Michigan Republican, Senator Robert Griffin, who was the Republican whip, was a leader of the Fortas filibuster. He said at the time:

> Whatever one's view may be concerning the practical effect of Senate rules with respect to the enactment of legislation, there are strong reasons for commending them in the case of a nomination to the Supreme Court.

Senator Griffin argued that:

> If ever there is a time when all Senators should be extremely reluctant to shut off debate, it is when the Senate debates a Supreme Court nomination. If Congress makes a mistake in the enactment of legislation, it can always return to the subject matter and correct the error at a later date. But when a lifetime appointment to the Supreme Court is confirmed by the Senate, the nominee is not answerable thereafter to the Senate or to the people, and an error cannot be easily remedied . . .

After 5 days of extended debate on the Fortas nomination, there was a vote on a cloture motion to end the debate. While a majority did support Fortas, by a vote of 45 to 43, there was not the supermajority needed to end debate. An up-or-down vote was prevented by the successful filibuster, and the nomination was subsequently withdrawn.

So the statement that there has never been "a successful" filibuster of a judicial nominee is wrong. But, it is also too clever by half for another reason. There have been many times that Senators have tried to defeat presidential judicial nominees by filibuster, but failed. The fact that they weren't successful in stopping the confirmation isn't relevant. They succeeded in requiring 60 votes to end debate. Supreme Court Justice Stephen Breyer was filibustered when he was nominated for a vacancy on the circuit court by President Carter in 1980. Cloture was invoked by a 68 to 20 vote.

Twenty-four Republican Senators voted against cloture, in other words, to continue a filibuster, including some of our present colleagues.

In 2000, the opponents of the nominations of both Marsha Berzon and Richard Paez, nominated to the circuit court by President Clinton, required cloture votes requiring 60 votes to end debate. Cloture was invoked on the Berzon nomination, 86 to 13, and on the Paez nomination, 85 to 14. A number of current Members of the Senate majority voted against cloture and voted to deny them an up-or-down vote.

Even the current majority leader, who proposes the nuclear option to eliminate filibusters on judicial nominations now that a GOP President is in the White House, voted against cloture; he voted to require 60 votes for the Clinton nominee Richard Paez. Many Senators who tried to defeat nominees by forcing supermajority votes with Clinton judicial nominees, now want to take away by fiat the right of other Senators, under our rules, to exercise that same advise and consent power.

Mr. President, we must be ever mindful of our responsibility to protect the unique role of this institution. I urge my colleagues to reject the reckless course of the nuclear option. I hope that every one of my colleagues will take the time to read the speech of Senator Vandenberg on the floor of this Senate, facing a very similar situation to the one we face, where there was intended to be, and in that case was, a ruling—a ruling—a fiat of the Presiding Officer which would have changed the rules of the Senate.

It is even more clear here than it was then that it is a change in the rules which is involved. Back then, one could have argued that it was only an interpretation of the then-existing rule XXII which was at issue. The majority of the Senate rejected that because, to the majority, it was quite clearly a change in the rules.

Senator Vandenberg and others carried the day with their eloquence about the meaning of this body and its need to live by the rules and to change the rules according to the procedures set forth in the rules. That wisdom is surely as relevant today as it was back then.

I hope all of us will consider the consequences of changing the rules by fiat, by a ruling of the Chair, not guided by the Parliamentarian, who is an objective umpire, not following the precedent of this body, which has faced similar efforts before to change the rules by decree of a Presiding Officer, and which has rejected that course over and over again. If we will take our own history and the meaning of this body into consideration, and to take it to heart, I believe we will do as previous Senates have done, which is to reject an arbitrary approach to adoption or modification of the rules that guide us.

Mr. President, I ask unanimous consent that an addendum to my statement be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDENDUM

In 1953, Senator Clinton Anderson raised a point of order that, under the Constitution, the Senate should be free to adopt its rules at the beginning of a Congress and, until that happened, the Senate would be governed by general parliamentary rules which would allow a simple majority to end debate and adopt new rules. The Senate rejected this effort by a vote of 71-21 at the urging of Majority Leader Robert Taft and Minority Leader Lyndon Johnson. Taft argued that the Senate is a continuing body and that the rules carried over from one Congress to the next. The Senate's rules could be amended at anytime during the Congress but had to be done in accordance with existing Senate Rules which require a supermajority vote to end debate on the rule change.

In 1957, led by then-Majority Leader Lyndon Johnson and Minority Leader Robert Taft, the Senate, by a 55–38 vote, again rejected a similar attempt by Senator Clinton Anderson.

In 1963, Senator Anderson made an attempt to circumvent Rule XXII by a simple majority. He moved to proceed to a resolution, at the beginning of the Congress, to lower the number required for cloture and sought a ruling from Vice President Lyndon Johnson that, under the Constitution, only a simple majority would be needed to end debate at the beginning of a Congress. The Vice President submitted the constitutional question to the Senate, "Does the majority of the Senate have a right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?" The Senate tabled the constitutional point of order by a vote of 53–42, again affirming the Senate position that changes to the rules must be considered under the procedures set out by the existing Senate rules.

In 1967, Senator George McGovern moved to proceed to a resolution to amend the cloture rule. Senator McGovern used a compound, self-executing motion which, if adopted, would have automatically cut off debate and required the chair to put the question on the motion to proceed to a majority vote. The motion was out of order on its face and was akin to an unanimous consent agreement in the Senate which would prescribe consideration of a measure, but instead of requiring the consent of all Senators, only a simple majority vote was required. Senator Everett Dirksen made a point of order against the motion and Vice President Hubert Humphrey submitted the constitutional question to the Senate which sustained the Dirksen point of order, thus rejecting the McGovern motion by a vote of 59–37.

In 1969, Senator Frank Church moved to proceed to a similar proposal to reduce the number required to invoke cloture and filed cloture on the motion to proceed. Senator Church then inquired of the Chair, "If a majority of the Senators present and voting, but less than two-thirds, vote in favor of this motion for cloture, will the motion have been agreed to?" Vice President Hubert Humphrey responded in the affirmative. The vote for cloture was 51–47, far short of the two-thirds then required under the rules. The Chair announced that the Senate would now proceed under cloture based on a simple majority vote. The decision was immediately appealed and the Senate overturned the decision of the Chair by voting against a motion to sustain the ruling of the chair, 45-53. Among the 53 Senators rejecting the Vice President's ruling were 23 Democrats, members of his own party.

Floyd Riddick, the Parliamentarian Emeritus, who served as the Senate's Parliamentarian from 1964 through 1974, describes the events of that day: "Vice President Humphrey . . . announced the vote and arbitrarily announced that the motion to invoke cloture was agreed to, just as he had advised he would do in response to a parliamentary inquiry. Senator [Spessard] Holland took an appeal from the ruling of the Chair and the decision of the Chair was reversed. I might say I had advised the vice president that he would never get away with such an announcement . . . I think he felt politically obligated to do that at this stage of the game. The Chair was just not sustained."

Mr. Riddick, a most authoritative source on the Senate Rules and author of "Riddick's Procedure", the volume all Senators consult frequently on the Senate's precedents and practices, added: "I certainly would not ever question the motives of a vice president. . . . When he raised the question with me if there would be a chance of ruling that a majority vote was sufficient, I said: "Absolutely no, Mr. President, Rule 22 says it takes two-thirds, and until the rule is amended to allow it I don't see how you could rule that way."

In 1975, Senators Walter Mondale and James Pearson introduced a resolution to allow cloture with a three-fifths vote of those present and voting. Senator Mondale made several motions over the next several days to proceed to the consideration of the resolution. Similar to 1967, a compound and self-executing motion that would automatically cut off debate on the motion to proceed and require the Chair to put the question if adopted by a simple majority was used. Majority Leader Mike Mansfield raised a point of order against the motion and Vice President Nelson Rockefeller submitted the point of order to the Senate for debate as a constitutional question. While on three separate votes the point of order against the motion to proceed to the resolution was tabled, the Senate never ultimately adopted the motion or ended debate by simple majority vote. The Senate reversed this precedent almost immediately and voted to reconsider the last vote on the motion to table the point of order by a vote of 53-38. When the question recurred on the motion to table the point of order, the Senate voted 40-51 and the motion to table failed—constituting an affirmation by the Senate of the point of order that the Mondale motion violated the Senate's rules.

Later, to eliminate any doubt, the Senate sustained the Mansfield point of order by a vote of 53–43 and went on to consider and ultimately invoke cloture by a vote of 73–21. The Senate then amended Rule XXII under the existing Senate rules.

Some claim that precedents for the "nuclear option" were established during Senator Byrd's tenure as Majority Leader. Our distinguished colleague from West Virginia is this body's foremost expert on the Senate's rules. He has, himself, addressed the inaccuracy of that assertions: "Simply put, no action of mine ever denied a minority of the Senate a right to full debate on the final disposition of a measure or matter pending before the Senate. Not in 1977, not in 1979, not in 1980, or in 1987—the dates cited by critics as grounds for the nuclear option.

The Congressional Research Service confirms that only six amendments have been adopted since the cloture rule was enacted in 1917, and 'each of these changes was made within the framework of the existing or entrenched rules of the Senate, including Rule XXII.'"

Mr. LEVIN. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, today the Senate Chamber has the feel of a Hollywood stage set. The Senate clock, centered above the Vice President's chair, is in a countdown second by second to the appointed hour and minute when a nuclear explosion may render the Senate inoperative, or at least do substantial damage to this institution. We cannot expect Jimmy Stewart to stride across the center floor to save the day, as he did in "Mr. Smith Goes to Washington." It is up to us, the Members of this body, to save the day. It is up to us to save the Senate. It is up to us to do the job America sent us here to do.

If 100 Members of the Senate, with the same values and common backgrounds, experienced in elected politics, cannot cross the aisle to compromise, what hope is there for the deep-seated disagreements and hatreds in Iraq, Darfur, Laos, the Congo, Ivory Coast, and all around the world?

Today I am renewing my suggestion that the leaders, Senator FRIST and Senator REID, liberate their caucuses to vote without party straitjackets. From extensive discussions I have had with Members on both sides of the aisle, I remain convinced that most Democrats would reject the obstructive tactics of the unprecedented pattern of filibusters, and most Republicans would reject the constitutional or nuclear option to change the Senate rules.

This controversy did not arise because Democrats concluded that Miguel Estrada and nine other of President Bush's circuit court nominees were so unqualified that they should be filibustered. Rather, these systematic filibusters were initiated as payback for Republican treatment of President Clinton's nominees. These filibusters are a culmination of a power struggle between Republicans and Democrats as to which party could control the judicial selection process through partisan maneuvering.

To reach a compromise, the first step is for both parties to concede publicly that both parties are at fault. As debate has raged on the Senate floor for days and really weeks, there has been very little willingness on the part of Senators to acknowledge that the actions of their own party are at fault. I believe that is indispensable if we are to reach a compromise, to start off with the proposition that the division of fault is 50/50.

The pattern of delay arose during the last 2 years of President Reagan's tenure, after the Democrats had gained control of the Senate and the Judiciary Committee in the 1986 election. President Reagan's circuit court nominees were delayed and denied, with some seven denied hearings, and two additional nominees were denied floor votes. The pattern of delay and denial continued through 4 years of President George H.W. Bush's administration. President Bush's lower court nominees waited an average of 100 days to be confirmed, which was about twice as long as had historically been the case.

The Democrats also denied hearings for more nominees. For President Reagan, the number was 30; for Bush senior, the number jumped to 258. When we Republicans won the 1994 election and gained the Senate majority, we exacerbated the pattern of delays and blocking nominees. Over the course of President Clinton's Presidency, the average number of days for the Senate to confirm judicial nominees increased even further to 192 days for district courts and 262 days for circuit courts. Through blue slips and holds, 60 of President Clinton's nominees were blocked, and blocked in key circuits. So it was no surprise when the Democrats were searching for a way to return the favor and to keep vacancies in the same circuit courts because of what they concluded was inappropriate treatment.

When the Democrats initiated the unprecedented move of a pattern of filibusters—and it is true, there had been filibusters in the past, but never a pattern, never a systematic effort, as has been evidenced recently—President Bush responded similarly in an unprecedented move by interim appointments. It had never happened in the history of the Republic that the Senate, even by filibuster, would be greeted by an interim appointment by the President. That impasse was broken when President Bush agreed to refrain from further recess appointments.

Against this background of bitter and angry recriminations, with each party serially trumping the other party to get even or, really, to dominate, it is obvious that the issue does not involve the qualifications of the nominees. In the exchange of offers and counteroffers between Senator FRIST and Senator REID, Democrats have made an offer to avoid a vote on the constitutional or nuclear option by confirming one or perhaps two of the filibustered judges, Priscilla Owen, Janice Rogers Brown, William Pryor, and William Myers, with the choice to be selected by Republicans. An offer to confirm any one of these four nominees is an explicit concession that each is qualified for the court and that they are being held hostage as pawns in a convoluted chess game which has spiraled out of control. If the Democrats believe that each is unqualified, a deal for confirmation of any one of them is repugnant to the basic democratic principle of individual, fair, and equitable treatment. And more importantly, it violates Senators' oaths on the constitutional confirmation process. If these nominees, any one of them or two of them, are unqualified, what is the justification for Senators to confirm them under a deal? Such dealmaking confirms public cynicism about what goes on behind Washington's closed doors.

Instead, my suggestion is that the Senate consider each of the four without the constraints of voting. Let the leaders release their caucuses from the straitjacket of voting and even encourage Members to vote their consciences on issues of great national importance. It should not be a matter of heresy for someone in this Chamber to suggest that Senators exercise their own individual judgment and follow their consciences as opposed to voting. But the regrettable fact of life is the dominant force and the dominant power in this Chamber is voting. When you come to a matter of a change of the Senate rules materially affecting the rights of the minority, there should be no question that the party line ought not to be the determinant.

In a press conference on March 10, 2005, Senator REID referred to the nuclear option and said:

> If it does come to a vote, I ask Senator Frist to allow his Republican colleagues to follow their conscience. Senator Specter recently said that senators should be bound by Senate loyalty rather than party loyalty on a question of this magnitude.

Senator REID concluded that he agreed. Well, that is some progress. But Senator REID did not make any reference to my urging him to have the Democrats reject the party-line straitjacket voting on filibustering.

The fact is that the harm to the Republic by confirming all of the pending circuit court nominees is, at worst, infinitesimal compared to the harm to the Senate that would occur whichever way the vote would turn out on the constitutional or nuclear option. None of these circuit judges could make new law, because all are bound, and each one has agreed on the record, to follow U.S. Supreme Court decisions.

While it is frequently argued that circuit court opinions are in many cases final because the Supreme Court grants certiorari in so few cases, circuit courts, as we all know, sit in panels of three. Since at least one other circuit judge on the panel must concur, no one of the nominees can unilaterally render an egregious decision. If a situation does arise where a panel of three circuit judges makes an egregious decision, it is subject to correction by the court en banc of the circuit. And then there is also the opportunity for review by the Supreme

Court if it is really outlandish or egregious.

What is the overhang of this Chamber is the imminence of a Supreme Court nominee. I have heard one of the distinguished senior Senators from the other side of the aisle say: Confirm them all. Eliminate the filibuster on all of them, because the real issue is what is going to happen with the confirmation of a Supreme Court nominee. And if the filibuster were to continue on a Supreme Court nominee, given the many 5-4 Court decisions, we know we would then have 4-4 decisions so that the circuit opinion would stand: there would be no determination on very many tremendously important questions; and the Supreme Court of the United States would be rendered dysfunctional.

As we are debating this issue, there has been a move among a number of Senators to find six Democrats who would forsake the filibuster, except in what has been categorized as "extraordinary circumstances," if six Republicans would vow to vote against the constitutional or nuclear option.

I have attended some of those meetings. The attendance has shifted with many Senators, more than 12, participating. I do not know how many. It is not exactly the old style floating crap game, but it is a moving dialog. There are moving discussions. There are moving targets, and there are moving Senators.

On Tuesday afternoon, when a group of us met downstairs in the first floor off the Senate Chamber, one of the Democrats said: Suppose we take the floor and add Judge Saad of Michigan, and suppose you take two and give us three, or suppose we take three and give you two. It seemed to me that the latter suggestion of taking three to confirm, rejecting two, would be a sound proposition. I cannot subscribe to the idea that a group of 12, however they may ultimately be constituted, ought to make the decision on who is to be confirmed and who ought not to be confirmed. It is my view that ultimately that is a decision for this body.

To achieve that end in a principled way, I have urged the majority leader, Senator FRIST, to do a whip count among Republicans. If anybody is watching on C-SPAN 2, by way of brief explanation, a whip count is when there is a tabulation by talking to each of the Republican Senators, and the same process may occur on the Democratic side to discern how those Senators are going to vote.

It is a common practice. If the whip count were to be conducted, we might know in advance what the result would be, and if the result would be that two or more of the filibustered judges would be rejected, then the Democrats would have won their point.

So much of what we are engaged in today is a matter of saving face. This whole controversy has been escalated so far that neither side is prepared to back down. Neither side is willing to back down. In the wings, we have all of these press conferences on the Senate steps. We have various groups meeting. We have the commercials on the air—perhaps started with Gregory Peck in 1987 on the Judge Bork nomination, continuing until the past weekend, and continuing to this day. It is hard to turn on the television set without finding a commercial. Last week, my State of Pennsylvania was inundated with commercials demanding that Senator ARLEN SPECTER vote to "save the Republic." Nobody is quite sure what it means to "save the Republic," the way the debate is going on.

These commercials are, in my opinion, counterproductive, certainly not effective, and realistically viewed, insulting. If we take the play from the groups, the play from the press conferences, the play from all of the opinion makers out there—the newspaper writers and editorialists, and the so-called groups—one group is shouting to the Democrats: Filibuster forever, filibuster forever. The other side is shouting to the Republicans: Pull the trigger, pull the trigger. So what if it is a nuclear detonation, as long as our side wins.

What I think needs to be done is the issue ought to be returned to the Senate. It ought to be returned to the 100 Members of this body. And if the leaders do not liberate their Members to pass their individual consciences on these issues in the context of a whip check to get an idea of what will happen, then a small group of Senators will take control of the Senate; a small group of Senators will have struck a deal; a small group of Senators will pledge, with sufficient numbers, not to carry on the filibuster; and a sufficient group of Senators on the other side will have a sufficient number of votes not to implement the constitutional or nuclear option.

What we need to do is return this decision-making power to this body. One idea I advanced many years ago with S. Res. 146, joined by Senator BYRD, was a resolution to establish an advisory role for the Senate in the selection of Supreme Court justices. The thrust of this resolution was that it would be useful to create a pool of recognized candidates of superior quality for consideration by the President. The pool would be considered by consulting with the chief judges of the various State supreme courts, bar associations, professors, circuit courts of appeal, and chief judges from across the country. This sort of body would be available to the President.

It is my judgment not to reintroduce that Senate resolution at this time because, in the current context—the current incendiary context—of the prospect of the nomination or nominations which may be upon us any day now, it is my conclusion that this would not be an appropriate time to promote the idea, but that it ought to wait until the time when heads are cooler and the country is not so badly divided on this issue, and when the Senate is not so badly divided on this issue.

It is my personal view that the option of a filibuster for extraordinary, egregious circumstances ought to be retained, but not in the context of the way it has been used in the immediate past, as a pattern of delay that is directed at getting even or getting back.

When it comes to this issue of extraordinary circumstances, it seems to me each Senator individually would have to make a determination as to what he or she thought constitutes extraordinary circumstances. I have engaged in legal research on the subject. There is no way, in my opinion, to delineate it, to write it down so there will not be some area of disagreement. But just as Senators must make an individual determination of what constitutes extraordinary circumstances to resort to the filibuster—hopefully, in very rare cases—so must those who make a pledge not to invoke the constitutional or nuclear option have the understanding that an individual's determination as to whether the extraordinary circumstance exception applies is being exercised in good faith.

Good faith is something we ought to talk about a little more in this Chamber. It is the brother to following our individual consciences. If we do that, we have the sensibility and the background and the intelligence and the experience to make the appropriate decisions. I have spoken twice before on this subject, as the CONGRESSIONAL RECORD shows—once on April 21, and again on May 9—in a real effort to try to promote some ideas that will lead to a resolution and a compromise. As we approach—it is 4 days away—a Tuesday cloture vote on Priscilla Owen, the countdown is narrow. The Presiding Officer sits in the Vice President's chair by designation, and the clock above him ticks. It has the feel of a Hollywood stage. We are set for a countdown, where second by second, the hours and minutes go by as we come to the critical votes, the first of which will be the cloture vote on Texas Supreme Court Justice Priscilla Owen. And what may follow, when the count reaches zero, when the roll is called—if it is to be called—is a vote on the constitutional or nuclear option. It is still my hope we will avoid that vote.

Either way the vote comes out, it will be harmful to the Senate. If the option is rejected, it will embolden the Democrats, as well as whichever may be the minority party at any time in the future. It will embolden the minority party to recklessly use the filibuster, as I think it has been used in the 108th Congress. It may embolden the minority party further to filibuster nominees like John Bolton, whose nomination for U.N. ambassador is very much in doubt. If the option is passed, it will embolden the appointers into having greater latitude on the nominees who may be submitted.

When you deal with the doctrine of separation of powers, there is a well-established principle that to have a little play in the joints is a good thing, where it is uncertain as to how a vote will turn out. And I think at this reading, it remains uncertain how a vote on the constitutional or nuclear option will turn out. There is a greater chance for compromise.

In an earlier floor statement, I analogized our controversy here to the controversy between the United States and the Union of Soviet Socialist Republics in the Cold War. I have seen some of my colleagues pick up on that analogy. If there is any certainty in our troubled world—if the United States and the Soviet Union could avoid a nuclear confrontation on mutually assured destruction—so should the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I would like to take a few minutes today to caution the majority from pursuing what is referred to as the "nuclear option" in an effort to change Senate rules and forbid unlimited debate on judicial nominations.

Some of my colleagues say they are seeking this change because they want judicial nominees to get a vote. This view is a shift for those who denied more than 60 of President Clinton's judicial nominees a vote either in committee or in the full Senate.

Unlike those nominees, President Bush's nominees have received votes by the full Senate. Those votes determined that these nominations should not move forward.

Some in the majority did not like the outcome of those votes, and that is why we are here today in what has been described as "a historic moment" in Senate history. But I fear that we are making history for all the wrong reasons.

I do not find it the least bit alarming that we are challenging a handful of judicial nominees while at the same time we have approved more than 200 of the President's choices.

These judges will be appointed for life, and it is our job—no, our responsibility—to ensure that these judges are worthy of the role. Despite what some would have the public believe, the system is working just as it is supposed to work.

Perhaps if this administration had consulted the Senate on these nominees, rather than show such determination to test our will, we would not be in the unfortunate position we are in.

But instead of heeding the warning signs, this administration plowed recklessly ahead.

A success rate of over 95 percent apparently wasn't good enough, so the administration resubmitted the names of its most controversial picks.

I believe that a 95 percent success rate is a record this Senate should be proud of. Unfortunately, some in the majority don't share my view.

The right in the Senate to unlimited debate is an important part of our system of checks and balances. It ensures that a bipartisan consensus is reached by more than a bare minimum majority of Senators when we are faced with critical issues.

There are those in the majority who believe, contrary to the U.S. Constitution, Senate rules, and Senate precedent, that all judicial nominees must have an up-or-down vote on the floor of the Senate.

Nothing in the Constitution, nothing in the Senate rules, and nothing in the way the Senate has functioned in the past supports that belief.

In fact, my colleagues in the majority have themselves required 60 votes in order to pass judicial nominees.

Back in 2000, during consideration of the nominations of Richard Paez and Marsha Berzon to the Ninth Circuit Court of Appeals, 60 votes were required in order to reach a final vote on these two Clinton nominees.

During the debate on these nominations, then-Senator Bob Smith of New Hampshire made a very important point concerning the need for unlimited debate on judicial nominations.

He said:

> I think it is fair that judges who are appointed forever, who will be making decisions long after we are out of here, probably when our children are coming into voting age, or our grandchildren, whatever the case may be . . . we have a responsibility to look very carefully at them.

As I prepare to become a grandfather for the first time any day now, I am struck by these remarks.

Some of the judicial nominees we approve today may be interpreting laws and deciding constitutional questions when my grandson graduates from high school, when he votes for the first time, and perhaps even when he starts his own family.

It seems logical, given this scenario, that we require some lifetime appointments to receive more than the support of a bare majority of Senators.

I am also concerned that if the nuclear option is invoked and unlimited debate on judicial nominations is forbidden, this precedent will eventually be extended to other nominations and legislation.

I fear the ultimate goal of some of those pursuing this nuclear option will be to extend the filibuster prohibition beyond judicial nominees. We will then have two bodies that are purely run by a majority and not protective of the rights of the minority.

It is nice to hear the majority leader say that he has no intention of extending this precedent.

However, it rings a little hollow to me when we all know that come January 2007, there will be a new majority leader in the Senate. This individual, Republican or Democrat, will not be bound by the promises made by the current majority leader.

This week, the editorial pages of a local Vermont newspaper noted the irony of the timing of this debate. That editorial, printed in the Times Argus of Barre, VT, said:

> The majority in the United States Senate wants to remove one of the important and traditional political tools—the filibuster—that protects the rights of the minority party, even as Secretary of State Condoleezza Rice goes to Baghdad to urge the majority there to put aside its long-standing grudges and guarantee minority rights.

So why is it that we are urging the fledging democracy in Iraq and in other nations around the world to respect minority rights, while some in the Senate want to trample those same rights and threaten the balance of power that we hold so dear right here in our own democracy?

I am afraid I do not have the answer, but it concerns me beyond words.

In my more than 30 years in Washington, I have always tried to decide each issue on its merits, rather than to provide a rubberstamp to comply with the wishes of leadership.

I fear that we are here today because some in the majority would prefer that the Senate just act as a rubber stamp for the President's desires.

I refuse to spend the last 19 months of my term in the Senate being a rubberstamp.

I will oppose changing the Senate rules for this purpose, and I hope my colleagues will join me in protecting the rights of the minority by protecting the right of unlimited debate in the Senate.

In concluding, I suggest that my colleagues listen to the words of Charles Mathias, a former Republican Senator from Maryland, who recently wrote:

> Make no mistake about it: If the Senate ever creates the precedent that, at any time, its rules are what 51 senators say they are—without debate—then the value of a senator's voice, vote and views, and the clout of his state, will be diminished.

I do not know of a single Senator who would desire this outcome, but I fear it could happen if this body agrees to change the Senate rules that have served this chamber so well for so long.

This is truly a historic moment in Senate history.

I hope my colleagues will join me to maintain our system of checks and balances, keep the Senate the Senate, and protect each individual Senator's right to unlimited debate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I commend the distinguished Senator from Vermont whose independence and wisdom has been demonstrated in this body in the time I have been here. Some of what I am about to say will echo what he more eloquently said.

I spoke earlier this week about why the elimination of the filibuster on judicial nominations would be ill advised as a matter of policy and why violating the existing Senate rule which governs how we can properly change the Senate's rules of procedures should be unthinkable and would be unconscionable. It would set a terribly damaging precedent for this great institution, damage that would be permanent and irreparable, a precedent that the existing rules and procedures of the Senate can at any time and for any reason or for no reason be disregarded or changed or a new rule added by a majority vote of the Senators present at that time. Just make a motion to the Presiding Officer, who could ignore the advice of the Senate's professional Parliamentarian, make his or her own ruling, and a majority vote would either uphold or overturn that decision.

That essentially means the majority of this body at any time can do whatever they want to do, however they want to do it, as long as they ratify it by their own majority vote. None of the rules of procedure would have any permanent standing or reliability, no matter how long they have been in existence.

If the majority of Senators decides it does not like those rules of procedure, or if they cannot get the results they want by following them and they can just disregard them or change them any time and then vote themselves right by doing so, we have lost the integrity of this institution. What kind of society would we have if that precedent, reestablished here, became standard operating procedure by our fellow citizens all over this land?

Another point I would like to raise, after listening for the last couple days to the stated reasons by the proponents of this so-called nuclear option, is that many of them say the U.S. Constitution's advice and consent clause requires an up-or-down vote by the full Senate. I raise this point respectfully and seriously because each of us, the day we take office as a Senator, takes a sworn oath right here in the Senate Chamber, right in front of our family, our friends, and the American people, administered by the Vice President of the United States, with our hand on the Bible. And that oath says in part:

> I will support and defend the Constitution of the United States. . . .

It goes on to say:

> . . . I will bear true faith and allegiance to the same.

And it ends with our saying:

> . . . so help me God.

I know for myself that was the most serious and important oath I have ever taken, and I believe that every other Member of this Senate is as fully committed to upholding that oath as I am and is acting now and wants to continue to act in all good faith to uphold it at all times.

We sometimes have honest differences in our views of what particular words in the Constitution mean and what they instruct us to do. Those honest differences have arisen since this body commenced its work on March 4, 1789, sometimes between Members of the two parties, sometimes between Members of the same party, sometimes between Members of different parts of the country, or those representing large States and small States, and for many other legitimate reasons.

In most of our actions and decisions in the Senate, our interpretations of the words of the Constitution and our application of those words individually and as a collective body will be reviewed and can be tempered or even rejected by other public officials and institutions.

All the legislation we pass must be agreed to by the House, must be agreed to by the President or vetoed by him, and overridden with a two-thirds vote here and in the House. Then, if properly challenged by someone with legal standing, it can be further reviewed as to constitutionality by Federal courts and, as the ultimate arbiter of constitutionality, the U.S. Supreme Court.

So with all the legislation we act upon and most other matters that come before us, our constitutional understandings, interpretations, and applications are subjected to a rigorous process of checks and balances.

Those checks and balances, however, do not exist for Senate approval or disapproval of Presidential nominees because the Constitution clearly and explicitly authorizes the Senate and the House, each of those bodies, to determine the rules of their proceedings. Previous Federal courts have ruled those words mean exactly what they clearly say.

The Constitution then defines this proceeding we are engaged in now as "the advice and consent of the Senate." That wording, its meaning, and its intent are unfortunately much less clear. The section of the Constitution says in its entirety the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

That means almost everyone in the Federal Government is subject to the advice and consent of the Senate unless Congress, by law, chooses to waive that requirement for specified "inferior"—that is the Constitution's word, not mine—officers. That is why as members of the Armed Services Committee we regularly report to the full Senate rosters of "appointments," most of which are promotions, of 2,000, 3,000, over 4,000 officers in the U.S. Armed Forces. They must then be approved, and they usually are approved en bloc by the full Senate.

Proponents of the nuclear option are saying this clause of the Constitution, particularly the words "advice and consent," requires that every Presidential judicial nominee gets an up-or-down vote by the full Senate. If that is the view of the majority of the Senate, how can it not also apply equally to every other nomination described in that section of the Constitution?

The Constitution, the section I just read, makes no distinction in defining our role and responsibility to advice and consent between Presidential nominees for executive branch or judicial offices. It makes no distinction between term limited or lifetime appointments, and it gives us no authority to make those distinctions either, except that by law we cannot require the Senate to approve certain lower level positions.

As I understand the majority leader's intention for next week, just from published reports I have read, he will ask the Presiding Officer of the Senate to rule that the Constitution's words "advice and consent" require an up-or-down vote by the full Senate—on all Presidential nominations covered by those words in the Constitution? No. I think that is not the case. Only for judicial nominations. Would that ruling, that constitutional requirement of an up-or-down vote by the full Senate, apply then to all judicial nominations that come to the Senate? No, not as I understand it; not to those that are blocked by the Judiciary Committee, not to those that are blocked by the custom—it is not even a written rule or procedure in the Senate—that two Senators, sometimes only one Senator, in the majority, can prevent any vote by anyone, a committee or the full Senate, on a Presidential nominee.

Where, I ask my colleagues in favor of the nuclear option, who contend the Constitution requires this up-or-down vote by the full Senate, where does the Constitution permit the Senate leadership or a Senate committee or one Senator to make those distinctions between one judicial nominee or another or between judicial nominees and other Presidential nominees in that same section of the Constitution?

I believe the ambiguity in the meaning of the term "advice and consent" certainly provides us with reasonable latitude in defining what that term requires the Senate to do. It does not, however, permit us to apply one definition to one group of nominees and apply a different definition, and therefore different Senate rules and procedures, to the other nominees to which those same words equally apply.

Every Senator here is entitled to his or her own views about filibusters. Whether they are good or bad instruments of public policy, they are properly debatable. They are entitled to their own views. We are each entitled, within far greater constraints, to our own best conscientious interpretation of the Constitution, especially words or clauses where well-informed and well-intentioned people can reasonably differ. We are not entitled, however—in fact we are forbidden—to rewrite, reinterpret, selectively apply, or ignore those words just because we do not like them or agree with them. We have sworn an oath to uphold, to support, and defend them, every one of them. If we disagree with them, if we believe they are not right for our constituents and our country, we have the right to change them. But, according to the rules and the procedures in the Constitution, we do not have the right to change them otherwise; just as we have the right to change Senate rules and procedures, but only by following the rules in the Senate to do so.

Following the rules, obeying the laws, upholding the Constitution—those are the foundation of our country. At a time when we are demonstrating to other parts of the world, other countries and citizens, how to set up democracies and make them successful and make them survive and thrive, we will make a tragic, terrible error if we violate those founding, fundamental principles ourselves. The country and the world will be watching next week to see what we do.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I do not come to the floor often to speak, but today I do come out of a sense of duty and a real spirit of purpose, to express my strong opposition to changing the rules of debate here in the Senate. As a pragmatic Democrat who has raised more than a few eyebrows in my own party over the years for putting progress on critical issues ahead of loyalty to any political party or ideology, I am alarmed frankly that we have reached a point in the Senate when confrontation is the choice over consensus, considering the history of the debate on this issue, and the consequences of what is being contemplated.

To understand the consequences of the debate in which we find ourselves engaged today, I think it is so helpful to briefly review the basic facts regarding the confirmation of judicial nominees in the Senate in recent years. Since President Bush took office in January of 2001, the Senate has confirmed 208 of the lifetime judicial nominees he has appointed, and the Senate has withheld consent from 10 of those nominees. In other words, the Senate has confirmed more than 95 percent of the judicial nominees put forward by President Bush since he took office more than 4 years ago. As a result, there are only 45 judicial vacancies today, which represents the lowest judicial vacancy rate since President Reagan was in office.

When you compare that to more than 60 judicial nominees who were blocked in the Judiciary Committee under the Republican control during President Clinton's term in office, I quite frankly think it is a pretty good record of which the President should be proud and with which the Republican leadership should be pleased.

Put another way, when my 8-year-old twin boys come home from school with a 95 percent on their report card or on their test, I don't stomp my feet and send them to their room. I do not get angry with them and tell them to go back to school tomorrow and break those rules next time so you can get 100 percent on that test.

No, that is not what we do. That is not the example we set. That is not what we ask of a body or individuals who are guided by rules. That would be outrageous.

I would say to my children: Good job, keep up the good work. Work a little bit harder.

Am I suggesting Democrats of the Senate deserve a medal for fulfilling their constitutional role in considering and confirming judicial nominees through advice and consent? Of course I am not. But I also do not think the record before us even comes close to justifying an attempt to undermine one of the fundamental principles of this institution—freedom of speech and of debate; making sure everyone's opinion does count—which protects the rights of every citizen in my State and in this entire Nation.

In my view, the proposal put forward by the Senate majority leader to limit the ability of Senators to debate judicial nominees represents what will become a first step, if successful, in weakening the role of the Senate and the role the Senate plays in our system of Government in providing the kind of checks and balances against an overreach by the executive branch or the political parties or any other branch of Government which happens to be in the majority at any given time. And it can be either one of us.

I believe the protections and safeguards that are part of the fabric of our system of Government have served our Nation well and they are critical, regardless of which political party controls the White House and the Congress.

Most importantly, I sincerely believe what is being proposed by the majority could seriously threaten my ability as a Senator from the great State of Arkansas to effectively represent the needs of my constituents. As I have listened to many of my colleagues debate this issue over the past several weeks, I have reflected on the role of the Senate as an institution and how and why it came into being. Coming from a small State such as Arkansas, which has only 6 voting delegates in Congress out of the entire 535, I do not take lightly the fact that the compromise which gave birth to the Senate was based on the principle that all States, regardless of their size, and all Senators privileged to serve in this body, are on equal footing. The Senate was deliberately designed to protect the interests of small States such as mine and to provide a restraint on the ability of a temporary majority on any issue before this body to prevail unchecked.

Recently, in order to get the attention of this administration, I had to use tools. I had to use some of those tools I have as a Senator, to simply get an answer, a letter answered on international child abduction, on the way Southern producers in agriculture were being treated in this budget. It was not an issue of me getting all of what I wanted. It was simply an issue of me getting an answer—me, a small State, someone representing a small State, being able to get an answer on principle and on idea and purpose, from the administration. That is what we are talking about, everyone being represented.

The debate we are having and the issues at stake are much more important to me than my political party. With all due respect, they are also more important than any individual nominee or judgeship. If we start down this road, I fear where it will lead us. This week we are debating the role of the Senate as an institution in the consideration and confirmation of judicial nominees. Next week or next year, will we be debating a change of the rule or the Senate precedent during a consideration of the President's plan to privatize Social Security or his proposal to shortchange Southern farmers in a farm bill? Where will we have that ability to speak out and make sure we are clearly heard?

I hope not, which is why I am standing up here today to defend the powers vested in me as a Senator from Arkansas, to represent my constituency.

But if getting 100 percent—if that is why we are here, if that is what this debate is about and that is what the majority leader is looking for—if getting 100 percent of what you want all the time is the purpose here, when will we ever be content? When will the majority ever be content? And how can we say these things will not happen?

The majority leader stated that he believes filibusters against any judicial nominee are unwise and unreasonable. While I disagree with him, I still respect his opinion and his right to debate that issue in the Senate, or anywhere else, for that matter, at great length. What troubles me, though, is his willingness to discard an institutional power regarding consideration of judicial nominees, even when, according to reports, the Senate Parliamentarian believes the so-called nuclear option does not conform to the rules of the Senate. Let us all take time and think about what nuclear fallout is like. Look at the photographs of nuclear fallout. Look at what happens when nuclear reaction occurs. There is great devastation.

What happens if the rules of debate in the Senate in the future will be viewed by the majority party that happens to be in charge at any given time as unwise or outdated and dispensable? I do not want to find out. This body is too precious. It does too much. It is too important to the balance that makes this Nation great.

It is my sincere hope and prayer that the Senate as an institution can survive the current impasse intact, and I think we can. I am aware Members on both sides of the aisle are considering a short-term compromise which would, in a limited fashion, preserve the current rules of debate regarding judicial nominees for the remainder of this Congress.

I am hopeful a constructive solution which preserves the integrity of our system of checks and balances can be achieved. But I regret that the current political environment has put the Senate in this position and has left us with so few options that we come today in sadness that we have even come this far.

After having served now in the Senate for over 6 years and prior to that in the House of Representatives for 4, I have enormous respect for the role each Chamber plays in our system of Government. Based on that experience, I am convinced that for the sake of the Senate as an institution and the vital role it plays now and will play into the future, long after everyone in this body is gone, I believe the way out of this standoff is for Members of both parties to work together to defend the Senate, to defend our rules, to defend this great deliberative body as an institution while also working to prevent showdowns with the White House over judicial nominees from occurring in the first place.

I met with Miss Owen. She is a nice woman. This is not to say that she is not a nice person. We are here to say, when the opportunity comes, we need a clear and substantial amount of this body to say this is the person for this job. Her peers from her own party have labeled her a judicial activist. We are not here to say she is not a nice lady. We are here to say she is not the right person for the job. That should be the opportunity we have in the Senate.

To come to those conclusions will require communicating and cooperating in good faith. It will also require trust, and most of all respect—respect across the aisle and across Pennsylvania Avenue.

I am not probably one of the most typical of politicians or Members. I don't come from a big legal background or even a big political background. I am a farmer's daughter from east Arkansas. Right now, one of my biggest responsibilities along with serving in this great Senate is to be a good parent and to show my children what it means to be truthful and respectful.

Last night, I was fortunate enough to sit on the sidelines and watch a Little League game, a precious Little League game of players, who were not the best but weren't the worst, playing their heart out. But they still lost. And to see a coach who has made so much difference in their life and in their performance, to sit them down as he always does after the game, making sure he points out all the positive things that each one of them has done, points out some of the things they could do better, but at the end he says to them: Let me tell you, in this game we respect the rules, we respect the umpire, and we respect the other team. And because we do, we are all the better for it.

Those of us in this body need to dig down deep in each of our souls and look for the respect, the respect for the other team, the respect for the rules, for the game, the institution, and for the umpire.

We have an opportunity now to set an example for our children. There is a saying on my wall in the kitchen at my home. It says: When I'm dead and gone it's not going to matter what kind of car I drove. It's not going to matter how big my house was. All of those things are probably not going to matter, but the fact that I may have in some way made an impact on the life of a child, my life will have mattered.

This body, this institution has an opportunity to set an example, not just to each of us together as Senators to show one another the trust and the respect this body engages us to do, but also the opportunity to show this Nation and the world, and more importantly our children, that rules do matter and that you cannot just change the rules in the middle of the game because it does not suit you, and if you don't get 100 percent of what you want, that rules and the decision of the umpire matters. Most importantly, respecting the other side and the other team in this game is ultimately what makes it worth playing.

I call on my colleagues today to step back and reflect on how the balance of power in our government will change and how the Senate will be weakened, perhaps for all time, if the proposal of the majority leader is adopted. I do think it is the wrong path and something Members in both parties will come to regret in the years to come. Again, my hope and my prayer is that we do not forget all of those that are watching, that we do not forget the rules of the game and how important they are, and most importantly I hope we do not forget what a critical role respect plays in all of the games of life that we play.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, the issue before us is pretty simple. It is this, shall we continue the two-century tradition of voting up or down each President's judicial nominations? That is it. That is all we are talking about.

Making your way through all the histrionics—and there have been a lot of them on both sides—that is absolutely all we are talking about. Shall we continue the two-century tradition of voting up or down, eventually, on this President's or any President's judicial nominees?

The Democrats have decided they will use the Senate rules to prevent an up-and-down vote on some of President Bush's judicial nominees by using this as a consistent tactic for the last 2 years to block a vote on nominees a majority of us want to confirm. They are using the Senate rules in a way they have never before been used. They know that. Everyone knows that. There is no disputing that. They had a meeting. They decided to do it. And they are doing it.

Now, they may have past grievances such as the practice used by both parties to allow a single Senator to block a nominee in a committee. I know all about that grievance. In 1991, the first President Bush nominated me to be the U.S. Education Secretary. I was enthusiastic about it. I had been the Governor of my State. I was President of the University of Tennessee. I came up and sold my house, moved my family up, put my kids into school, and then one Senator from Ohio put a hold on my nomination. So I sat there in the committee for about 3 months, not even knowing who it was, or knowing what the problem was.

After a while, that Senator, who happened to be a Democrat—they were in the majority then—said in a public hearing with me: Governor Alexander, we have heard some disturbing things about you, but I don't want to bring them up now, here, with the lights all around, and all the people and your family here.

I said: Please, Senator, bring them all up. I would rather have them out here.

That went on for 3 months. I didn't know what to do, so I went to see Senator Warren Rudman who most people would say is one of the most respected Members of this body over the last 30 years. I said: Senator Rudman, what can I do? A Democrat Senator has, by himself, blocked my possibility to be the Education Secretary. I moved my family up here, I sold my house, my kids are in school, what do I do? He said: Keep your mouth shut.

I said: What do you mean, keep my mouth shut? This is unjust.

He said: Let me tell you a story. In 1976, President Ford nominated me to be on the Federal Communications Commission, and the Democrat Senator from New Hampshire put a hold on my nomination.

I said: What happened?

He said: Well, I just swung there. Nobody knew what was going on. Pretty soon back in New Hampshire they were saying: What is wrong with Warren? Has he done something wrong? Did he beat his wife? Did he steal something? Why won't the Senate consider him and confirm him? After 4 or 5 months I was so embarrassed I just asked the President to withdraw my nomination.

I said: Is that the end of it?

He said: No, then I ran against the so and so who put a block on me, and I was elected to the Senate in his place.

So that is how Warren Rudman got over being blocked.

JEFF SESSIONS, our distinguished colleague from Alabama, ran into a nearly similar situation. He was rejected by the committee. He was the U.S. attorney from Mobile, Alabama and the committee would not send his nomination to the floor. They held him up in the committee.

Senator SESSIONS got over that. He even got himself elected to the Senate. So Senator Rudman got over it, I got over it, Senator SESSIONS got over it. I didn't like it, and I still don't like it. But I got over it.

There are various ways to get over whatever grievous injustices were done to the Democrats before the distinguished Senator from Texas, who is presiding, and I were elected to the Senate in 2002.

Senator FRIST, the majority leader, has repeatedly offered to fix the problem I just described. He has said let all the nominees from a Democrat President or Republican President, let them eventually all come out of committee. He has said if there is not enough debate—and I respect the idea of extended debate in the Senate—let there be 100 hours of debate on every single nominee. Then Senator FRIST has said, let there eventually be a vote, an up-or-down vote, as there has always been.

Now, it is not believable for my friends on the other side to suggest, as they are, that they are doing nothing new. They know they are. I will give one example.

Everyone remembers the Senate debate about Clarence Thomas. Among other things, it made Dave Barry's career when he wrote columns about the Senate hearings. Everyone remembers those hearings. Everyone remembers how passionate they were and how much information came out. There was a new saga every day. No television drama approached it. There was never more passion in recent times in a Supreme Court nomination than when the first President Bush nominated Justice Clarence Thomas.

He was nominated in July of 1991 by President Bush. This Senate completed those hearings that were on television, that we all remember, and there was a vote in October of 1991, up or down. In that case, it was up, he was confirmed 52 to 48.

I have yet to find one single person who even remembers anyone suggesting 14 years ago that the Senate should not vote on Clarence Thomas. Everyone knew that after all the histrionics, all the debates, that the greatest deliberative body in the world would eventually vote.

So we are standing on the Senate floor conjuring up our own versions of history, inventing nuclear analogies, shouting at each other while gas prices go up and illegal immigrants run across our border. The Democrats are using the rules to block the President's nomination in a way they have never used before in 200 years. So we Republicans are now threatening to change the rules to prevent the Democrats from manipulating the rules in a way that has never occurred before.

That is what this is all about.

I have a simple solution for the unnecessary pickle in which we find ourselves in this body. I offered it 2 years ago. I have offered it several times this year. This is it. I have pledged and I still pledge to give up my right to filibuster any President's nominee for the appellate courts, including the Supreme Court of the United States. If five more Republicans and six Democrats did that, there could be no filibuster and there would be no need for a rules change.

For the past 2 weeks, perhaps two dozen different Senators have flirted with variations of this formula. But they have not been successful because they have insisted on including exceptions. I hope these Senators who are still having this discussion succeed. I expect 80 percent of the Senate hopes they succeed. This oncoming train wreck is bad for the Senate, it is bad for the country, it is bad for the Democrats, and it is bad for the Republicans.

We look pretty silly lecturing Iraq on how to set up a government when we cannot agree on having an up-or-down vote on President Bush's judicial nominees. My suggestion is forget the exceptions. Twelve of us should just give up our right to filibuster, period. Let's do it. Let's get on with it. That ends the train wreck.

We have a war in Iraq. We have natural gas prices at $7—these are record levels. We have highways to build. We have deficits to get under control. We have a health care system that needs transformation. We have judicial vacancies to fill.

I have said I will never filibuster a President's judicial nominees. I said it 2 years ago when JOHN KERRY might have been President. For me, that meant then—and it means today, and tomorrow—that if a President Kerry or a President Clinton nominates some liberal I do not like, I may talk for a long time about it, I may vote against the person, but I will insist that we eventually vote up or down, as the Senate has for two centuries.

If 11 colleagues would join me in this simple solution, then we could get down to business, then we might look once again like the world's greatest deliberative body.

I say to the Presiding Officer, when you and I came to the Senate a little over 2 years ago, we talked about what our maiden addresses would be. We still call our first major speech our "maiden address." I say to the Presiding Officer, remember, we were sitting next to each other in the front row, anxiously looking forward to hearing ourselves give our maiden addresses. I wanted to make mine about putting the teaching of American history and civics back in its rightful place in our schools so our children could grow up knowing what it means to be an American.

But as I sat here listening to the debate on Miguel Estrada, I was so surprised and so disappointed in what I heard that I found myself getting up one night and making a speech on Miguel Estrada, which I had no intention of doing.

During the debate, I was listening to this story of the American dream: This young man from Honduras coming here, speaking no English, going to Columbia, Harvard Law School, being in the Solicitor General's Office. He is the kind of person who when the Presiding Officer and I were in law school, and we would hear about people like that, we would say there are just a handful of people that talented, that able. We were envious, at least I was. He is exactly the kind of person who should have been nominated. Yet we could not even get a vote.

I thought about my time as Governor, for 8 years, of Tennessee. I appointed about 50 judges, and I remember what I looked for when I made those appointments. I looked for good character. I looked for good intelligence. I looked for good temperament. I looked for a good understanding of the law and for the duties of judges. And I especially looked to see if this nominee had an aspect of courtesy toward those who might come before him or her on the bench. I appointed some Democrats. I appointed the first women appeals judges and the first African-American judges in Tennessee. I thought it was unethical and unnecessary for me to ask questions of those judges about how they might decide cases that might come before them.

I still feel the same way about the Federal judges we nominate. I am distressed that we have turned this process into an election instead of a confirmation. It has become an election about the political issues instead of a confirmation about the character and intelligence and temperament of fair-minded men and women who might be placed on the bench.

I remember when I came to this body for the first time, not as a Senator, but as a staff member to Howard Baker, later the majority leader. It was 1967. The ones worrying about protecting the minority's rights at that time were the Republicans. There were only 36 Republicans. I came back in 1977 to help Senator Baker set up his office when he was elected Republican leader, and there were only 38 Republicans. So most of us in this body understand that we may be in the minority one day. But that does not mean there should be an abuse of minority rights.

The best way I can think of to stay in the minority for any party, whether the Democratic Party or Republican Party, is to say what the Senator from New York said in December, in the Washington Post. He said that if the Republicans decide to change the rules to make sure the Senate continues the 200-year tradition of voting on the nominees the President sends to us, that it "would make the Senate look like a banana republic . . . and cause us to shut it down in every way."

Mr. President, shut down the Senate in every way? During a war? During illegal immigration? During a time of deficit spending, with a highway bill pending, with gas prices at record levels, with natural gas at $7? Shut the Senate down in every way?

I can promise you I know what the American people would think of that. Any group they can fix the responsibility on for shutting this body down and not doing its business will be in the minority or stay in the minority. Even now, they are beginning to shut us down. We are not allowed to hold hearings in the afternoon because of objections by the other side. The American people need to know that. It is the wrong thing to do.

I had the privilege of hearing, yesterday, when I was presiding, a very helpful speech by our leading historian in the Senate, Senator BYRD. He talked about how extended debate has always been a part of the Senate's tradition. I know that is true. I value that. I respect that. And I do not want the Senate to become like the House. I know that George Washington said, or is alleged to have said, that the Senate serves like the saucer for a cup of tea or a cup of coffee. The House heats it up, and you pour it in a saucer to cool it in the Senate. But I do not ever remember George Washington saying it ought to stay in the saucer long enough to evaporate. I think he said just to cool it.

The Constitution and our Founding Fathers have made it very clear that they always intended for Presidents' judicial nominees to be given an up-or-down vote. I have studied very carefully, and I will submit, in my full remarks to the RECORD, my understanding of those founding documents. The language of article II, section 2, in the clause immediately before the nominations clause, for example, specifically calls for two-thirds of the Senate to concur, but in the nominations clause there is no such provision. I do not believe that is an inadvertent omission.

During the drafting of the Constitution, Roger Sherman of Connecticut argued at great length for the insertion of a comma instead of a semicolon at one point to make a section on congressional powers crystal clear.

Shortly after the Constitutional Convention, Justice Joseph Story, appointed to the Supreme Court by President James Madison, wrote his Commentaries on the Constitution, and he stated explicitly:

> The president is to nominate, and thereby has the sole power to select for office; but his nomination cannot confer office, unless approved by a majority of the Senate.

This was Justice Joseph Story.

In some ways, what Members of the other side are doing would gradually erode the President's power to, in the words of our Founders, send to us "the object of his preference" for us then to consider. I trust the President, elected by a vote of the entire nation, to find the right men and women to send up here to be considered for judge or justice and sent back to him then to be appointed. Our advice and consent is in the middle of that process.

I suppose the Founders could have allowed the Congress to appoint the justices or the judges, but they did not. Gradually, however, the Senate has inserted itself more and more prominently in that process. I am not sure that the instances I know about suggest that if we were doing it all over again, we would trust the Senate to do a better job than our Presidents, Democratic or Republican, in picking the men and women to serve on our courts.

Here is an example from my own experience. Back in the 1960s, I was a law clerk to the Honorable John Minor Wisdom of the Fifth Circuit Court of Appeals in New Orleans. Actually, I wasn't a law clerk; I was a messenger. He had already hired a Harvard law clerk, and he told me he could only pay me as a messenger, but if I would come, he would treat me as a law clerk. So I did. The reason I did it was because even at that time, 1965, Judge Wisdom was considered by my law professors at New York University Law School to be the leading civil rights judge in America and one of the finest appellate judges in America.

This is what I found when I got there. We were in the midst of school desegregation across the South. It was a time of great turmoil. Judge Wisdom, for example, ordered Mississippi to admit James Meredith to the University of Mississippi. And what was going on during that time was that the district judges across the South were basically upholding segregation and the Fifth Circuit appellate judges were overruling them and desegregating the South.

At that time, the Senate was not as intrusive in the appointment of judges as it is today because the President, President Eisenhower, only had to confer by custom with Senators of his own party in the appointment of circuit judges. Well, he didn't have any Republicans to confer with in the 1960s. All of the Senators were Democrats. They approved district judges who, in case after case after case, upheld segregation. But President Eisenhower nominated for the appellate bench Republican judges, John Minor Wisdom, Elbert Tuttle for whom Senator BOND of Missouri was law clerk, and John R. Brown of Texas. Those three judges, who would have been blocked, if the present policies of the Senate were in place, by Senators from their home States, were able to preside over the peaceful desegregation of the South.

I have seen no evidence in history that the Senate's increased involvement in the coappointment of appellate judges or justices improves the selection of those judges.

These are qualified men and women the President has sent here who deserve an up-or-down vote. I have mentioned Miguel Estrada. I have spoken about Charles Pickering, former judge, now retired, a graceful man who hasn't had a word of recrimination to say about what was done to him. He was battered for his record on civil rights when, in fact, he should have been given a medal for his record on civil rights: For testifying against the founder of the White Knights of the Ku Klux Klan, who had been called America's most violent living racist in the middle of the 1960s; for putting his children in public schools at a time when many families in Mississippi were putting their children in segregated schools. He was a leader in civil rights, as well as a good judge.

And Bill Pryor's credentials on civil rights have been questioned. He was a law clerk, not a messenger, a law clerk to Judge John Minor Wisdom, who had enormous pride in Bill Pryor, who was elected attorney general of the State of Alabama and repeatedly has shown that he separated his conservative personal views from interpreting the law. He was going right down the line in following the Supreme Court in school prayer cases, abortion cases, and reapportionment cases.

And Priscilla Owen, about whom we have been talking, graduated cum laude from Baylor Law School, justice of the Supreme Court of Texas, reelected to the Texas Supreme Court with 84 percent of the vote, has bipartisan support from other Texas Supreme Court justices. And Janice Rogers Brown, 9 years on the California Supreme Court, appointed in 1996, the first African-American woman to sit on the court, approved by 76 percent of the voters.

Let me end my remarks where I began. Make your way through all the discussion, all of the analogies to nuclear war, and the issue before us is pretty simple—shall we continue the two-century tradition of voting up or down on the President's judicial nominees? I believe we should. I have suggested a way we can remove ourselves from this pickle in which we find ourselves.

I have said, as I did 2 years ago, regardless of who is President, I will never vote to filibuster that President's judicial nominees. If five other Republicans and six other Democrats would say the same thing, we could then get on about our business of confirming or rejecting the President's nominees, of tackling the big deficits, passing the highway bill, trying to lower gas prices, spreading freedom around the world, supporting our troops in Iraq and Afghanistan and around the world, and in reestablishing ourselves, in the eyes of America and the rest of the world, as truly the world's greatest deliberative body.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, are we now switching to this side of the aisle for an hour?

The PRESIDING OFFICER. There are still 4 minutes remaining on the majority side.

Mr. LEAHY. I would not take that from my friend from Tennessee. He has that available to him.

Mr. ALEXANDER. Mr. President, I am glad to yield that 4 minutes to my friend from Vermont.

Mr. LEAHY. Mr. President, so we will be back to the hour to hour—why don't we go back into the hour-to-hour system.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, today, we are continuing to debate the Republican leader's bid for what I believe is one-party rule through his insistence to trigger the nuclear option. It is kind of a "king of the hill" situation. While playing king of the hill, you say "might makes right," but it doesn't; it makes wrong in this case. Through the misguided efforts to undercut the checks and balances that the Senate provides in our system of government, it is the need to protect the rights of the American people, the independence and fairness of the Federal courts and, of course, minority rights in the Senate.

Our time would be much better used if we were doing something about the dramatic rise in the price of gasoline over the past 5 years, or the enormous and unprecedented increase in the national debt during the past 5 years; or what has happened when we have seen the huge budget surplus that former President Clinton left his successor, which has now turned into the largest budget deficit in the lifetime of anybody in this Chamber. These are things that could help the American people.

Yesterday I urged that we get on with the business of the American people. I spoke about a number of specific items of legislation, including the bipartisan NOPEC bill, S. 555, that sit idle. That bill would provide the Justice Department with clearer tools to challenge the cartel price-setting activity of OPEC and help to lower gas prices for working Americans. I mentioned defense and law enforcement measures, as well. The Democratic leader, Senator CORZINE and others made similar points about important legislative priorities. Senator CARPER and I talked about the effect this extended debate is having on the bipartisan asbestos compensation bill. On Wednesday the Chairman cancelled a markup of the bill and on Thursday our markup was limited to two hours and many Senators were unavailable due to this floor debate.

But instead of bringing us together to make progress, our friends on the other side of the aisle insisted the Senate debate at length a nomination that has been debated over the last 3 years, after being voted down by the Judiciary Committee 3 years ago. In fact, a couple of years ago, the Republican majority staged a 40-hour talk-a-thon on judicial nominees. It was at the conclusion of that political exercise, that 40-hour talk-a-thon, that we discovered the Republican staff had been stealing files from the Judiciary computer service for at least 3 years.

That extended debate, staged by the majority, amounted to significant lost opportunities for progress on matters at that time including, ironically, asbestos reform, which is something before us today. At that time, we had approved a lot of judges. Through Senate Democratic cooperation we had approved 168 and turned down 4. In fact, during the 17 months when I chaired the Judiciary Committee, we approved 100 of President Bush's nominees. That is actually a speed record. By the end of last year, at the end of President Bush's first term, we had already confirmed 204 judges. We reduced judicial vacancies to the lowest level since President Reagan. We are now at 208 confirmations. So we have confirmed 208 and, depending upon whose count you go by, we have blocked 5 to 10. We have confirmed well over 95 percent, as a practical matter.

I thank the Senators who joined in the debate yesterday for their contributions: Senator BYRD, Senator KENNEDY, Senator KERRY, Senator BAUCUS, Senator BINGAMAN, Senator LAUTENBERG, Senator MIKULSKI, Senator HARKIN, Senator CARPER, and Senator NELSON of Florida. They know, and everybody in this place knows that if you had a secret ballot on the nuclear option, it would fail miserably. The press knows it and Senators know it. We have all talked with Members on the Republican side who say: I don't want to vote for this thing. I know it is wrong. I started asking, What if there was a secret ballot? Well, of course, that would go down. That is because Senators know it is wrong—wrong in terms of protecting the rights of the American people, wrong in terms of undercutting our Federal system of checks and balances, and it is wrong in protecting the minority rights in the Senate, saying we will have a one-party rule system.

Well, one-party rule may work in some countries. It has never, ever worked in the United States of America. We can be thankful for that. We are the strongest democracy in the world because we have never let this country come to one-party rule. Democratic Senators will not be able to rescue the Senate and our system of checks and balances from the breaking of the Senate rules that the Republican leader is planning to demand. Democratic Senators cannot protect the rights by ourselves; we cannot protect the checks and balances by ourselves. If the rights of the minority have to be preserved, if the checks and balances are to be preserved, if the Senate's unique role in our system of Government is to be preserved, it is going to take at least six republicans standing up for fairness and for checks and balances.

I know a number of Republican Senators realize this nuclear option is the wrong way to go. I have to believe enough Republican Senators will put the Senate first, put the Constitution first and, most importantly, put the American people first and withstand momentary political pressures when they cast their votes.

I have spoken to Senator ISAKSON about his comment earlier this year about the effort to bring democracy to

Iraq. I know he spoke about it yesterday. The Senator observed that a Kurdish leader in the middle of Iraq said he had a "secret weapon" to instill democracy. When they asked what the "secret weapon" was, he said it was one word—filibuster.

The Senator went on to observe:

> If there were ever a reason for optimism about what this supplemental provides the people of Iraq and their stability and security, it is one of their minority leaders proudly stating one of the pillars and principles of our Government as the way they would ensure that the majority never overran the minority.

He was right. We have that same pillar here. We have had a lot of discussion on the floor of the Senate. A couple weeks ago, we voted for billions of dollars to improve law enforcement in Iraq; at the same time, we voted for a budget to cut law enforcement in the United States. We voted billions of dollars to improve infrastructure in Iraq; we voted for a budget that cuts it in America. We voted for item after item for Iraq, at the same time voting to cut similar items in America.

This is not a debate on the Iraq war, but if we are going to praise the Iraqis—and I hope and pray that they will have a democracy someday in that country—and say the reason they can have democracy is that they will have the filibuster and they can protect minority rights, maybe it is time we say let's do as much for the United States as we do for Iraq.

The Iraqi National Assembly was elected in January. In April, it acted, pursuant to its governing law, to select a presidency council by the required two-thirds vote in the assembly, a supermajority.

More recently, Cabinet members for a number of political parties, and religious and ethnic groups were announced, many in the minority parties. Use of the nuclear option in the Senate is akin to Iraqis in the majority political party in the assembly saying they have decided to disregard the governing laws and pick only members of their own party for the government and do so by a simple majority. They might feel justified in acting contrary to law because the Kurds and Sunnis were driving a hard bargain.

One thing we have learned through history is that if you govern through consensus, it is not as easy as ruling unilaterally. That is why dictators can rule unilaterally. But we have never been a dictatorship, thank God, in this country, and I believe we never will be. That is why our system of government is the world's example because we have always protected the views of all Americans, majority and minority, and we have done it in a way through a check and balance so both sides can be heard. That way it requires consensus. More difficult, yes, but then the democracy lasts, and that is the reward.

If Iraqi Shiite, Sunni, and Kurds can cooperate in their new government to make democratic decisions, why can't Republicans and Democrats in the Senate? After all, there are only 100 of us, and we are not shooting at each other—not literally, anyway. If the Iraqi law and assembly can protect minority rights and participation, so can our rules and the Senate. That has been the defining characteristic of the Senate and one of the principal ways in which it was designed from the beginning of this country to be distinct from the other body.

Recently, the Senate passed, as I said, an emergency supplemental appropriations bill to fund the war efforts in Iraq and Afghanistan. The justification for spending billions of dollars of American taxpayers' money in Iraq is we are trying to establish democracies. How ironic that at the same time we are undertaking these efforts—not just of money but of the lives of our wonderful men and women, a great cost to so many American families—the Republican majority in the Senate is seeking to undermine the protection of minority rights and checks and balances. Our men and women are dying, and while our Treasury is spending the money to bring checks and balances in Iraq, we are getting rid of it here.

Let me mention some of the recent statements of the President as he discussed democracy in other countries. When he came back, I praised him. Earlier this month, he met with President Putin of Russia. At his press conference from Latvia, President Bush noted:

> The promise of democracy is fulfilled by minority rights, and equal justice under the rule of law, and an inclusive society in which every person belongs.

President Bush was right when he said the promise of democracy requires the protection of minority rights. It requires that in Latvia; all the more important, it requires it in the world's oldest existing democracy.

On that same recent, foreign trip the President correctly observed: "A true democracy is one that says minorities are important and that the will of the majority can't trample the minority." That which is necessary to constitute a true democracy in Eastern Europe is needed, as well, here in the cradle of democracy.

Again, earlier this year in another press conference with his good friend, President Putin, the President correctly observed—and I praised him for this:

> Democracies always reflect a country's customs and culture, and I know that. But democracies have certain things in common: They have a rule of law and protection of minorities, a free press and a viable political opposition.

The President was right when he spoke in Eastern Europe, but that which is necessary to constitute a true democracy in Eastern Europe is needed as well here in the cradle of democracy.

I agree with all of these observations. I commend the President, as I have already. I hope all Senators will read them and agree we have to uphold the rule of law and the rules of the Senate that are designed to protect the minorities as a viable political opposition. This country is never under one-party rule. This country always has checks and balances of both parties.

Others besides the President have spoken. Let me tell you what Secretary Rice said recently while overseas. She said this in Georgia:

> It is not easy to build a democracy . . . It means having a strong legislative branch. It means having a strong independent judiciary . . . along with freedom of speech, freedom of worship and protection of minority rights, that's how you build a democracy.

I told Secretary Rice that I agree with her, those are the components of a democracy. But we have the same components in the United States. We need to maintain the Senate as a strong legislative branch to serve as a check on the Executive, no matter what party, Democratic or Republican, controls the Executive. We need a strong independent judiciary—not a Republican judiciary, not a Democratic judiciary, an independent judiciary—to serve as a check on the political branches. We need to protect free speech and freedom of religion, and to maintain our democracy in the United States, we have to protect minority rights.

On her way to Moscow recently, the Secretary of State stated:

> [T]he centralization of State power in the presidency at the expense of countervailing institutions like the Duma or an independent judiciary is clearly very wrong.

She was speaking about how developments undercut democracy in Russia. But so, too, here in our great and wonderful country of America, democracy is undercut by the concentration of power in the Executive, removing checks and balances and undermining the independence of our judiciary. It is ironic that President Bush and Secretary of State Rice speak so eloquently—and I agree with what they have said—about the fundamental requirements of a democratic society when they meet with world leaders outside the United States, but, unfortunately, the Bush administration and the Senate Republicans are intent on employing this nuclear option to consolidate power in this Presidency in this country.

Senators ought to have enough faith in their own ability. Senators ought to have enough understanding of their independence—and the fact that each one of the 100 of us is elected independently—to be willing to stand up. We do not work for the President. We do not work for the Vice President. We represent our country and our States, and we should be independent.

They know, as all Americans know, democracy relies in the sharing of power, on checks and balances, and on an independent court system, one that protects minority rights, and on safeguarding human rights and human dignity. This nuclear option is in direct contradiction to maintain those values, those components of our democracy.

Just as Abu Ghraib and other abuses make it more difficult for our country to condemn torture and abuse when we speak to the rest of the world, this nuclear option uses a partisan effort to consolidate power in a single political power and institution and will make all the lectures we give to leaders of other countries ring hollow.

I remember when the Soviet Union broke up and it became a democratic country. A group of Russian parliamentarians came to the United States and visited the House of Representatives and the Senate. Several came to see me, and they wanted to talk about our independent judiciary. Finally one of them said: I have this question. It has really been bothering me. I have heard that in the United States people sometimes go into Federal court and sue the Government.

I said, Yes, it happens all the time.

He said, But we have also heard that sometimes the Government loses.

I said, That is right.

They said, Well, don't you fire the judge if he lets the Government lose?

I said, No, it is an independent Federal judiciary. They are independent of the executive branch. They are independent of the Senate. They are independent of the House of Representatives. They make those decisions.

This was such an eye opener to them. The rest of that afternoon, that is what we talked about.

They said, It really works, then?

I said, Yes, and if you have it work that way in Russia, you will be a much safer country.

They still haven't gotten that far. Let's hope someday they do.

Chief Justice Rehnquist is right to refer to our independent judiciary as the crown jewel of our democracy. It is a dazzling, brilliant, shining crown jewel. Judicial fairness and independence are also essential if we want to maintain our freedom. We have to stop the dangerous and irresponsible rhetoric slamming the Federal judiciary. We do not have to agree with every one of their opinions. I cannot believe that any one of 100 Senators who has followed every single Federal opinion would agree with every single one of them. I might agree with one, the distinguished Presiding Officer may disagree with the same one, or vice versa. We do not have to agree with every opinion. But let us respect their independence. Let no one say things that might bring about further threats against our judges as they endeavor to do their jobs serving justice. Let us not stand up on the floor of our Congress and speak of impeaching judges if we disagree with them. Justice Sandra Day O'Connor was right to condemn such virulent talk.

Judge Joan Lefkow of Illinois testified before the Senate Judiciary committee this week. This is a woman whose husband and mother were murdered by somebody who disagreed with her decisions. She sacrificed too much for us not to heed her words when she asked us to lower the rhetoric, lower the attacks on Federal judges. We 100, and the 435 in the other body, of all people ought to know better. We ought to be protecting them physically and institutionally. We should not take the easy rhetorical potshots that put judges in real danger when they attack the very independence of our Federal judiciary.

When the U.S. Supreme Court decided the Federal election in 2000, as a lawyer, as a Senator, I thought the 5-to-4 majority engaged in an incredibly overreaching act of judicial activism to effectively decide a Presidential election. But I went on the floor of the Senate and I went before the press and I called for Americans to respect the opinion of the Court because it was the final word. I thought the word was wrong, but I believed as Americans we must respect it.

I attended the argument, during the arguments of Bush v. Gore, with my Republican counterpart in the Senate Judiciary Committee in order to show the country that we had to get along and work together. You didn't hear Democrats saying let's impeach Justice Scalia when we wholeheartedly disagreed with his action.

Part of upholding the Constitution is upholding the independence of the third branch of Government. One political party or the other is going to control the Presidency. One party or the other will control the House of Representatives. One party or the other will control the Senate. But no political party—neither Democratic nor Republican—should control the judiciary. It has to be independent of all political parties. That was the genius of the Founders of this country. It is the genius that has protected our liberties and our rights for well over 200 years. It is the genius of this country that will continue to protect us unless we allow something to destroy it just for short-term political gain.

It would be a terrible diminution of our rights to remove the independence of the Federal judiciary. It is a diminution of our rights no matter what party we belong to, no matter what part of the country we are from. It would be a diminution of our rights that none of the armies that have marched against our country has ever been able to do. If you take away the independence of our Federal judiciary, then our whole constitutional fabric unravels.

That is what we Democrats are trying to protect. That is what we are defending. The nuclear option is a threat to the protection of the minority, the independence of our judiciary, the protection of Americans rights and our democracy. It removes checks and balances.

How can the most powerful Nation, the wealthiest Nation history has ever known, be able to maintain itself without the protection of checks and balances? How can we? And how can we represent to the rest of the world we are the example they should follow? How can we tell other countries, as they become democratic, this is what they should follow?

I know I will be speaking further. I see the distinguished Senator from North Dakota. I know he is seeking to speak. I will yield the floor.

Mr. DORGAN. Mr. President, I think we are waiting for Senator LIEBERMAN who is to appear on the floor momentarily. I was going to seek to say a few words following Senator LIEBERMAN, but I understand he is on his way to the floor right now and I would prefer not to proceed without him, so I think we will put ourselves in a quorum for a moment.

I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I rise to speak on the so-called nuclear option which cloud hangs over the head of this Senate on this Friday afternoon.

The media, and sometimes Senators, speak of this debate, this possibility that the 60-vote majority requirement for confirmation of judicial nominations will be scrapped, as an internal struggle within the Senate. It is that, of course. But it is not only that. In my opinion, certainly when one judges its effect, it is not primarily that. This is about the judiciary, the judicial branch of our Government.

If you go back to the beginning of our Government, every student who takes a civics course knows there are three branches of the Government: executive, legislative, and judicial. The judicial branch, as I was taught—I presume people are still taught it this way—is the most independent because it is protected at the Federal level from politics, from the passions of the moment. It is there to arbitrate disputes, to uphold our most fundamental liberties, to take the principles in the Constitution in the laws we adopt and relate them to the lives of the American people in every generation.

It is, I want to repeat, charged with a significant responsibility and that is to be the one of the three branches of Government that is above political passions, that is there to protect—I would call them the eternal principles on which the Declaration, the Constitution, the Bill of Rights were fashioned. That is what is on the line. It is a direct question. It is a simple question, but it challenges a lot of our values.

The question really is, Will we require nominees to lifetime appointments on the Federal bench, the district court, circuit courts and, of course, the Supreme Court, will we require nominees for lifetime appointments to the Federal bench to receive the votes of at least 60 Members of the Senate? Will we require judges who will have a lot to say about the nature of law, values, freedom, and rights in our country—not just for the term of this President but for as long as they live—to receive the votes of at least 60 Members of the Senate?

In a time in the history of the Senate which is, unfortunately, increasingly partisan and polarized and too often unproductive, I speak really about the partisanship and polarization. Will we require, in having that standard of 60 votes thereby, that any nominee to the lifetime appointment to the Federal bench receive the support of the Members of more than one of our political parties?

Remember, I talked about the judiciary having that unique role in our constitutional system and our governmental system to be independent of political passions and polling and what is popular at the moment, to protect our freedom to arbitrate disputes, to uphold our best values. Don't we want to require that 60 votes be obtained for this lifetime appointment, which in the current practical, real political context—with 55 Members of one party, 45 in the other, it could soon switch. Some hope sooner than others hope, but it could switch. Do we want just those 55 Members of one political party today, and it could be another political party tomorrow, to determine confirmation of appointees for lifetime service on the Federal bench?

We are in much better shape as a country if we can look forward with much more of a sense of confidence and with a sense of pride that we have fulfilled the values and the purpose that the Founders of this country put in the judiciary if we require 60 votes. That is what is on the line. The nuclear option would blow that up and say it would require 51.

Others have spoken and can speak about the impact this might have on our working relationships in the Senate, on our ability to deal with other problems. But for me, the fundamental question is, Will we continue to require those 60 votes.

I speak for myself, but I believe I speak for most other Members of the Senate, it is never the first choice to filibuster anything. Not for me. And certainly not on a judicial nomination. I have voted in my 16½ years—I have not counted them up—I assume, on hundreds of judicial nominations. As we know from the most famous chart in America today, the President has had confirmed 208 of 218 of his nominees. I have been here since the first President Bush was in office, so I have voted on several hundred judicial nominees, and I believe I have filibustered maybe 10.

I, as one Senator, want to preserve my right if I believe this President or the next President nominates someone I just do not believe by their record, by their experience, by their testimony before hearings, is qualified or fit to serve on the Federal bench for the rest of their lifetime. I want the right to demand that nominee prove that he or she can obtain the support of at least 60 Senators.

That is what is on the line. It is on the line for the judiciary, but it suggests what is on the line for the Senate overall. Over the years, and I must say my attitude has changed on this as I have watched the Senate become more partisan and polarized, it seems to me, and now I am speaking more broadly than the judicial nominations which will be the focus of the nuclear option if the button is pushed, that in a Senate that is increasingly partisan and polarized—and therefore, unproductive—that the institutional requirement for 60 votes is one of the last best hopes of bipartisanship in moderation because to not only confirm a judicial nominee but to pass legislation, if you have the right to demand 60 votes, and the President proposes legislation, individual Members of the Senate do so, you have to go beyond the Members of your own party. I suppose if one party gets 60 votes, that argument is all over but not totally because even within that 60 they may have to work to get it.

In the current context, that is what we are talking about. It could flip again to another party, my party being in the majority. It requires on every measure that to pass something you have to get more than the Members of your own party. You have to get more than people of one philosophical or ideological point of view. You have to get to 60. It is often not very hard to do that. That is why I say, the 60-vote supermajority requirement is today, in a partisan Senate, one of the last best hopes, pressures, for bipartisanship in the most literal sense. You cannot get to 60 votes with Members of one party, and for moderation, which is where America has always done best, and where I am convinced the majority of the American people still rest.

There were polls that came out this week. The polls are snapshots, and we should never be governed by them, but the one from the Wall Street Journal and NBC should be taken as a warning. People talk about the popularity of the President, up or down, whether people support a Social Security program or don't. But the polling data on Congress, in terms of the popularity of Congress, with trust or whatever the word was, is at an all-time low since this particular poll began to be taken in 1994. I think the public is fed up with the partisanship. I think they want us to get something done.

The tragedy of it is that all 100 of us ran for the Senate, not to come and have fights with one another, sound and fury that produce nothing. We came here to get something done. But we are in this cycle where the campaigns never seem to stop.

The Presiding Officer knows from the founding of our country, thank God, there was very spirited politics and campaigns. In some of the early campaigns, centuries before television, people said pretty tough stuff about one another, but I think through most of our history, when the campaigns ended, those elected focused on governance, on leading the country, on doing something for the people who sent us.

It seems to me too often that the campaigns never stop. As a result, we do not get as much accomplished as we should get accomplished, and the needs remain great to keep our country safe, improve the quality of our education, health care, to protect the environment, to continue to work together with business to stimulate the economy.

These are the consequences of the perpetual campaigning and increased partisanship. It is not the place to talk of the causes of it, but I want to describe it as I have experienced it and to say that if we end the 60-vote requirement, I fear it will get worse, that it will get more partisan, less productive, and we will do less for the people's business.

This is why I have been participating over the last week, and a little bit more in the extraordinary, in some sense unprecedented, discussions, negotiations between a group of Senators of both political parties who share many of the views that I have just expressed and want to avoid the nuclear option and to bring us back from the precipice.

I hope these negotiations end successfully. It would not only be in the Senate's interest, it would not only be in the interest of our independent judiciary, it would be in the interest of the American people who want us to get some things done to improve their lives and make them safer.

If those negotiations do not conclude successfully, I hope Members of the Senate individually will, in good conscience, reach a judgment that pushing the button on the nuclear option is a response, in its way, to a passion of the moment, a concern that filibusters have been used against judicial nominees.

Colleagues of mine on this side have said, over and over again, made the point—it is, in my opinion, the fact—208 out of 218 of President Bush's nominees have been confirmed, a much higher percentage than President Clinton had. But there are people, obviously, in this Chamber angry about the small number who have not been approved. It is a anger of the moment.

I appeal to all my colleagues not to yield to the anger of the moment and do serious damage not just to this institution but to the values upon which our Constitution and our country rest. That is what is on the line. It is a big moment for the Senate. I hope and pray and, ultimately, believe we will rise to the challenge and do what is right.

I thank the Chair and yield the floor.

The PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is that I believe, by previous order, there are 5 minutes remaining on this side.

The PRESIDENT pro tempore. There is 3½ minutes remaining.

Mr. DORGAN. I spoke to the previous Presiding Officer and indicated I had wished to speak for 15 minutes. I ask unanimous consent to do that, provided that the other side has equal opportunity to extend their time as well.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered. The time is extended.

Mr. DORGAN. Mr. President, I have said on a previous occasion how proud I am to be here in the Senate. For these years I have served, it has been an enormous privilege. I come from a small town in ranching country and wheat country in southwestern North Dakota. I never thought I would meet a Senator or a President, but yet, because of the great quilt-work of this democracy, I have been elected to the Senate now on three occasions and am enormously proud to serve.

I do not come here to be a partisan. I am proud of my political party, however. I think we have two grand political parties in this country. Both, from time to time, have made great accomplishments and have made great mistakes. I fear we are on the precipice of one of those great mistakes. That is why I came to speak again on this subject.

There is plenty of blame, I suppose, to go around to both parties on a range of issues. I think sometimes about the poem written by Ogden Nash, about a man who drinks too much and a woman who scolds him about it. Ogden Nash wrote this:

> He drinks because she scolds, he thinks;
> She thinks she scolds because he drinks;
> And neither will admit what's true,
> That he's a drunk and she's a shrew.

So Ogden Nash described circumstances of blame, circumstances of how two different people see the same situation differently.

We come now to a big decision on the floor of the Senate. David Broder, who I think is one of the excellent writers here in Washington, DC, with the Washington Post, has written a piece about what we are doing. He says:

> But dwarfing all these individual dramas [in the debate] is the question of what the vote means [the nuclear option vote means] for the Senate as an institution. Two of the main props of the Senate's identity are at stake. The tradition of unlimited debate, going back to the Senate's earliest years. . . . [and] the continuity of the Senate rules. . . .

What does this mean about "unlimited debate" and "the continuity of the Senate rules"? I have the rule book for the Senate. These are the Senate rules. The Senate rules provide that to change the rules of the Senate requires 67 Senators, 67 votes.

The majority now wishes to change the rules, but they do not have 67 votes. They are displeased about that. So they want to ignore the Parliamentarian—that would be their strategy—ignore the Parliamentarian, who would rule that what they are attempting to do is not within the rules, and then they would change the rules with 51 votes.

They call this the nuclear option, self-described as a nuclear option by a member of their caucus. I suppose they use that term because they know that for a majority party to violate the rules in order to change the rules would have an enormously destructive impact on this body.

Some years ago, I went to the 200th birthday of the writing of the Constitution. It was held in the assembly room of Constitution Hall in Philadelphia. Again, I have told my colleagues in the Senate. I graduated from a small high school class of nine students. I found myself 1 of 55 people designated to go into that room where, 200 years earlier, 55 people had written the Constitution, this little book that, on page 17, says, "We the People of the United States." They wrote that 229 years ago.

On its 200th birthday, 55 of us went into that room. The chair where George Washington sat as he presided is still there. Ben Franklin sat over here, Mason over there, Madison over here. They wrote: "We the People," and they described a system of self-government that represents the power of one. All of the power in this country is vested in the power of one person casting one vote at a time on a prescribed date in this country—every even-numbered year. The late Claude Pepper used to call it the "miracle of democracy." Where every even-numbered year, the American people get to grab the steering wheel and decide which way to nudge this great country of ours, which direction it wants this country to move.

This Constitution set up something very important because they understood that for self-government to work, there needed to be checks and balances. They had a belly-full of King George. They just had a belly-full. They did not want that kind of oppressive government. They wanted self-government with checks and balances. So they established a government with separation of powers, a government in which the concentration of power would be prohibited by a series of checks and balances.

It has not been a perfect government, but it is the best I know of on the face of this small planet Earth. That separation of powers and those checks and balances are essential, they are critical, to the working of our Government.

Now, the question of how judges are appointed, was part of the debate of the Constitution. In fact, some wanted the Congress to appoint judges. But the compromise was that we would have a two-part process. The President would propose, or nominate, people for a lifetime appointment on the Federal bench. Incidentally, these are the only people who are given lifetime appointments, the judges who sit on the Federal bench, so that they would be impervious to the passions of the moment, impervious to changes in passions, and have fealty toward this document, the Constitution.

So they decided the President shall nominate and the Congress shall advise and consent. The President can say: Here is who I want. The Congress can say: Yes or no.

We have had a lot of problems with judicial nominations over the years. In the 1990s, I recall at least 60 names were sent up here, and they did not get a vote. Many on the other side now stand up on the floor of the Senate and say: We want the right to vote. Let's vote on all these nominees; forgetting that 60 of them—60 of them sent here by President Clinton—did not get a vote. In fact, many of them did not have the courtesy of one day of hearing. But 60 of them did not get a vote. I did not hear one person stand up on the other side and say: We demand to bring these to a vote. No. They were busy blocking—blocking—those judges.

Now, there is a kind of a born-again quality about this issue, and they say: We want everyone to have a vote. Well, they have all had a vote. It is just that 10 of them only got a cloture vote and did not get the 60 votes required. And because they did not get 60 votes, out of 218 judicial nominees, 208 were approved and 10 were not. So we have people around here whose nose is completely bent out of shape because 10 out of 218 did not get approved. And, incidentally, the 208 out of the 218 who have been approved for this President represents a much higher percentage than the previous President or the

President before that. And, we also have the lowest vacancy rate on the Federal bench since many years ago.

But having said all that, we now have a proposal by the majority party to exercise the so-called nuclear option.

Why do we have that proposal? I guess they have decided they are going to do it because they can. They can decide to ignore, as David Broder, the dean of the Washington press corps describes, the two main props of Senate identity—unlimited debate and the continuity of the Senate rules.

There are reasons to have, perhaps, some sort of a self-described nuclear approach on the Senate floor. Perhaps we should have a nuclear approach to deal with the loss of jobs. Maybe that would be helpful. Maybe we ought to have this energy, this passion, this demand to explode something here to be in support of American jobs, to stop the hemorrhaging of jobs overseas. Read the paper this morning. Two more companies shut their plants, fired their workers. They are going to Mexico. It happens every single day. Mexico, China, Indonesia, Sri Lanka, you name it; we don't have the energy on the floor to deal with that. The majority party only wants to talk about the few judges that were not approved by the Senate. Why? Because I believe they have forgotten about the important elements of this Constitution dealing with checks and balances, and the separation of power.

As I said, there are many things we ought to be discussing on the floor of the Senate with great passion. How about health care? The cost of health care, the cost of prescription drugs, the dramatic increase in these costs that are devastating families, devastating to businesses, and devastating to the Federal budget. Anything going on, on the floor of the Senate about that? Not at all.

We have two things happening here. One, Air Force One is traveling around the country because they say there is a crisis in Social Security. There is not. Social Security will remain fully solvent until George W. Bush is 106 years old. That is hardly a crisis. No. 2, we have on the floor of the Senate this extreme tension because the majority party has decided it wants to violate the rules of the Senate to change the rules. Why? Because it can.

There are so many other things we ought to be working on, so many other things we ought to be doing to put this country back on track, such as dealing with the trade deficit, and the hemorrhaging of American jobs. I mentioned General Electric announced a plant closing; 470 people are going to lose their jobs. That was yesterday in the newspapers. They made refrigerators. They were proud to do it. Those refrigerators will now be made in Mexico, and those 470 people will be out of work. I would love to come to the floor to talk about that. I have offered amendments. I can't get to first base. That is not part of what happens around here.

The majority party is upset because they didn't get every judge, so they want to do what is called a nuclear option. As I said, I am enormously proud to serve here. Most of the things that we face should require us to work together. We all have the same ends. We want the best for the United States of America. We want our country to do well, to expand, to provide opportunity. We want to help with the things that families talk about at night when they sit around the supper table: Do I have a good job; does my job pay well; do I have job security; are we sending our kids to schools we are proud of; do our grandparents have access to decent health care; do we live in a safe neighborhood? All of these issues are central to what all of us ought to be thinking about and working on as hard as we can.

It is not about a Republican answer or a Democratic answer. It is about our responsibility, as 100 Senators, men and women of good will, with presumably the skills to get here and the need to come together to work on these issues.

This nuclear option is so destructive. It was said once that preceding every great mistake, there is a split second when those who are about to make that mistake have the opportunity to turn back and find a more productive course. We are at that split second. This will, indeed, be a great mistake if those who attempt this do not turn back. Abraham Lincoln once said: Die when I may, let it be said of me by those who know me best that I always plucked a thistle where I thought a flower would grow and planted a flower.

The party of Abraham Lincoln is, at this point, not planting flowers, rather, they are plucking thistles and planting thistles in the middle of this Chamber. I hope those who think this is a clever move, those who think this is a new strategy that they can win, will understand they ultimately will lose by failing to respect the traditions of the Senate, the rules of the Senate, and the concept of unlimited debate that makes this institution different than any other in the country.

We all come from different corners of America, different size cities, different backgrounds, different education. But I believe we are all people of good will. We all came here with the same hope in our heart, hope for a better America. My hope would be that in the coming 2 or 3 or 4 days, those who have led us to this moment and this position preceding a great mistake, will rethink that position and see if we can't get back to the main agenda facing this country and its citizens.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Texas is recognized for 15 minutes.

Mr. CORNYN. Mr. President, I appreciate the eloquent comments of our colleague from North Dakota. I, too, wish we could get on with the Nation's business dealing with the high price of gasoline, which is hurting our economy and hurting consumers and people who need to commute to and from work to do their job.

I wish we could get on addressing the issues of the uninsured and lack of access to good quality health care by too many Americans. I wish we could talk about securing our borders and how we deal with our inability to control our borders and the threat that that presents to our national security. If we could simply get the up-or-down vote that was recognized as the Senate tradition for 214 years before the last Congress, we would be addressing those other issues.

But here we are, having debated for 19 days on the floor of the Senate about this nominee, Justice Priscilla Owen. Interestingly, that is 2 more days than the nominations of all nine sitting members of the U.S. Supreme Court took.

So while our colleagues on the other side of the aisle talk about preservation of the tradition of unlimited debate, this is not about debate. We have heard the distinguished Democratic leader say there is not enough time in the universe to debate these nominees. It is not about debate. Some have complained that on this side we are impeding the free speech rights of Senators.

Anybody who has been listening to the debate knows that there has been no impeding of free speech on the floor of the Senate. Some have said this is about minority rights. This is not about minority rights. We respect minority rights in the Senate. We always have, and we always will. But the fact is the American people sent a majority to the Senate that stands ready to confirm these nominees. It is not just people on our side of the aisle. If we were permitted to cast a vote, a bipartisan majority would confirm these nominees today. This amounts to a veto, in effect. A partisan minority has attempted to cast a veto of bipartisan majority rights.

I heard the distinguished Senator from Connecticut, whom I respect enormously, but I disagree with his comments today that somehow he now understands the wisdom of requiring 60 votes before we can confirm a nominee to a Federal court, when the fact is, from time immemorial, since the beginning of this institution, only 51 votes were required to confirm a nominee. And now all of a sudden, President Bush is elected and reelected, and we are going to raise the level to 60 votes. That is changing the rules in the middle of the game. That is not fair. What we need is a resolution of this issue based on principle.

That principle has to be one of fundamental fairness. That is, the same rules apply whether it is a Republican President or a Democratic President, whether there is a Republican majority or a Democratic majority. That, to me, is the principle on which this matter can be resolved—not based on some bogus suggestion or some deal cut by a handful of Senators that would throw some nominees overboard, confirm others, and not leave the issue of a potential U.S. Supreme Court vacancy resolved.

We need this matter resolved after 4 years. After 4 years, patience ceases to be a virtue. We need to get on to the issues the Senator from North Dakota and others talked about. And we will. But now is the time to resolve this issue once and for all.

I point out the speciousness of this 60-vote requirement and how it does represent a departure from past practice. We can see going back to 1979, through 2000, where judges nominated by President Carter, judges nominated by President Reagan, judges nominated by the first President Bush, and judges nominated by President Clinton were confirmed and are sitting on the Federal bench today with less than 60 votes. So any suggestion that we on this side are somehow trying to change the rules just does not withstand scrutiny. It is not true. All we are asking for is a restoration of that majority tradition.

Let me say that for the last 3 days—actually, for the last 4 years—we have debated three key questions on the floor of the Senate. Really, I do think it boils down to these three key issues:

First of all, do nominees such as Priscilla Owen, whose picture is to my right—somebody who I know personally and worked with for 3 years on the Texas Supreme Court, who I know to be a fine, decent human being and outstanding judge—deserve confirmation to the Federal bench or, at a minimum, do they deserve an up-or-down vote? No one is suggesting that any Senator violate their conscience. Indeed, if any Senator believes they cannot in good conscience vote for this or any other nominee, of course, we would expect them to cast a "no" vote on the confirmation. But we would expect at least for them to allow there to be a vote.

The second question is: Is this new idea of a supermajority requirement for the confirmation of judges both unprecedented and wrong?

Third, is the use of the Byrd option—the constitutional point of order we have heard much discussed, which has been exercised in the past—appropriate in order to restore Senate tradition to the confirmation of judges and to ensure that the rules remain the same, regardless of which party controls the White House and which party has a majority in the Senate?

I firmly believe the case has been made, and that the answer to each of these questions is "yes."

Let me reiterate. First, do nominees such as Justice Priscilla Owen deserve confirmation to the Federal bench or, at minimum, an up-or-down vote?

Of course, they do. This is a distinguished jurist and public servant, who enjoys bipartisan support in the State of Texas of statewide elected officials who are Democrats, 15 members of the State bar association, the premier association for the legal community in our State, which supports this judge because she is a good judge. There are those who oppose Justice Owen's nomination and, of course, that is their right. Some Senators have even criticized her rulings. Others, including myself, have defended those rulings. The debate has been extensive and Justice Owen's record, I believe, has prevailed.

Indeed, I submit it is precisely because Justice Owen's record is so strong that a partisan minority of Senators now insist that she may not be confirmed without the support of at least 60 Senators, a demand that is, by their own admission—at least at one time—unprecedented in Senate history. Why? Because the case for opposing her is so weak that the only way it can be defeated is by changing the rules to defeat her nomination. They know it. Before her nomination became caught up in the partisan special interest politics that seem to dominate the opposition to her nomination, the top Democrat on the Judiciary Committee predicted Owen would be swiftly confirmed.

On the day of the announcement of the first group of nominees—that is, by my recollection, on May 9, 2001—more than 4 years ago, the ranking member of the Judiciary Committee said he was encouraged and that I know them well enough that I would assume they will all go right through.

Just a few short weeks ago, the minority leader announced that Senate Democrats would give Justice Owen an up-or-down vote, albeit only if Republicans agreed to deny the same courtesy to other nominees. Now, that, as much as anything—and the distinguished senior Senator from Pennsylvania made this point—really, by the sort of bargain that has been offered, the political deal that has been offered to allow an up-or-down vote on some nominees and throw others overboard, it is clear their complaint is not with Justice Owen. If, in fact, the minority leader announced he would give her an up-or-down vote if we simply toss some of the others overboard, to me that demonstrates the lack of merit of their complaints and accusations when it comes to this judge and her record.

In the end, these concessions are understandable because the case against Justice Owen is simply not convincing. The American people know a controversial ruling from the bench when they see one, whether it is the radical redefinition of our society's most basic institution, marriage, or the expulsion of the Pledge of Allegiance and other expressions of faith from our public square, or the elimination of the "three strikes and you're out" law and other penalties against multiple-time convicted criminals, or the forced removal of military recruiters from college campuses. Justice Owen's decisions as a judge fall nowhere near this class or category of cases. There is a world of difference between struggling—as any good judge will do—to try to determine what legislative intent is by parsing the words of a statute, trying to figure out what did the legislature mean—there is a huge difference between that and refusing to obey a legislature's directives altogether and substituting one's own views for that of the elected representatives of the people.

The second question to reiterate is: Is this new idea of a supermajority requirement for confirmation of judges unprecedented and wrong? The answer is yes and yes. Indeed, our colleagues across the aisle have said so in the past time and time again. Unprecedented? Well, of course, it is. President after President after President have gotten their judicial nominees confirmed by a majority vote, as we just showed a moment ago, not by a supermajority vote of 60.

Indeed, by their own admission, Justice Owen's opponents in this body are using unprecedented tactics to block her nomination. A leading Democratic Senator has boosted of their unprecedented tactics in his fundraising e-mail to Democratic donors.

Is it wrong? Well, of course it is. Senators on both sides of the aisle have firmly stated in the past that judicial nominees should never be defeated by a filibuster, and legal scholars across the political spectrum have long concluded what we in this body know instinctively: that to change the rules of confirmation, as a partisan minority has done, badly politicizes the judiciary and hands over control of this confirmation process to a handful of special interest groups.

Finally, the third and last question: Is the use of the Byrd option appropriate in order to restore Senate tradition to the confirmation of judges to ensure the rules remain the same regardless of which party controls the White House or which party controls a majority in the Senate?

Again, of course it is. It is, as we have demonstrated in the past, perhaps most appropriately called the Byrd option. Others have called it the constitutional option, or merely just a point of order. But it is called the Byrd option precisely because the former Democratic majority leader has exercised this authority on behalf of numerous Senators on numerous occasions in our history.

It is precisely why the former majority leader boasted just 10 years ago on the floor of the Senate of how "I have seen filibusters, I have helped to break them, and the filibuster was broken—back, neck, legs, and arms. It went away in 12 hours. So I know something about filibusters. I helped set a great many of the precedents that are on the books today."

The senior Senator from Massachusetts and the senior Senator from New York have similarly recognized the authority of the majority of Senators to establish precedents by way of a point of order or the Byrd option or the constitutional option.

Over the last 3 days a number of Senators on both sides of the aisle have taken to the floor of this body to offer their answers to these three central questions. There have been disagreements, but I hope they have been respectful disagreements.

It has been suggested by some that we are facing a constitutional crisis. I beg to differ. America is strong. Our constitutional system works. And it is perfectly normal and traditional for Senators to debate, to disagree, and vote. Indeed, it has been on the floor of the Senate over our Nation's history that we have debated the great constitutional and public policy issues of our day, and this is one of them. But it is not a crisis.

It is perfectly normal and traditional for a majority of Senators to vote on the rules and parliamentary precedents of this body. Senators have been doing that from the beginning of this great institution. There is nothing radical about Senators debating the need to confirm well-qualified judicial nominees. There is nothing radical about a majority of Senators voting to confirm judicial nominees, and there is nothing radical about a majority of Senators voting to establish Senate precedents and rules.

In short, what we have on the floor of the Senate right now is a controversy, a disagreement, not a crisis. This controversy can be resolved, and undoubtedly will be resolved, as it has always been resolved, by an up-or-down vote of the Senate. This controversy can be resolved, as it has always been resolved, by simply determining which side of the question enjoys the support of a greater number of Senators. And once the controversy is resolved, we can and we should get back to work on the rest of the people's business.

This is a controversy, a disagreement, not a crisis. And I hope that in the coming days, we will complete our debate and resolve this controversy in a respectful way, consistent with the greatest traditions of the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, we have completed our third day of consideration of the nomination of Priscilla Owen and, therefore, I ask unanimous consent that there be an additional 10 hours of debate equally divided on the nomination, and that following that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

Mr. REID. I object.

The PRESIDENT pro tempore. Objection is heard.

Mr. CORNYN. Mr. President, I ask unanimous consent that there be an additional 15 hours of debate equally divided on the nomination, and that following that time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object, Mr. President. The mere fact that I can object shows this is a debatable motion. I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Mr. President, I will refrain from making other offers of unanimous consent for additional debate time at this time.

CLOTURE MOTION

With that objection, on behalf of the majority leader, I send a cloture motion to the desk.

The PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 71, the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Arlen Specter, Trent Lott, Lamar Alexander, Jon Kyl, Jim Talent, Wayne Allard, Richard G. Lugar, John Ensign, C.S. Bond, Norm Coleman, Saxby Chambliss, James M. Inhofe, Mel Martinez, Jim DeMint, George Allen, Kay Bailey Hutchison, John Cornyn.

Mr. CORNYN. Mr. President, on behalf of the majority leader, this cloture vote will occur on Tuesday, and the leader will announce the precise timing of that vote next week.

MORNING BUSINESS

Mr. CORNYN. I now ask unanimous consent there be a period of morning business with Senators permitted to speak up to 10 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL POLICE WEEK

Mr. LEVIN. Mr. President, as we commemorate National Police Week, I would like to recognize the courageous men and women who serve our families and communities as law enforcement officers. I would also like to honor the memory of those who gave their lives in the line of duty. These officers, and their families, have paid the ultimate sacrifice for the safety of others.

The first National Police Week was celebrated in 1962 when President John F. Kennedy signed an Executive Order designating May 15th as Peace Officers Memorial Day and the week in which that date falls as "Police Week." The weeklong tribute to our Nation's local, State and Federal police officers honors those who died in the line of duty and those who continue to serve and protect us every day at great personal risk.

According to the National Law Enforcement Memorial Fund, 1,649 law enforcement officers have been killed in the line of duty in the last 10 years. In 2004 alone, 153 officers lost their lives, including 7 from Michigan. As in past years, the names of these officers have been permanently engraved on the National Law Enforcement Officers Memorial along side more than 17,000 others.

We can further honor the sacrifices of these brave men and women by passing important legislation to support our law enforcement officers. That is why I have joined Senator BIDEN as a cosponsor of his COPS Reauthorization Act. The COPS program was created in 1994 and is designed to assist State and local law enforcement agencies in hiring additional police officers to reduce crime through the use of community policing. Nationwide, the COPS program has awarded more than $11 billion in grants, resulting in the hiring of 118,000 additional police officers. Unfortunately, authorization for the COPS program was permitted to expire at the end of fiscal year 2000. Although the program has survived through continued annual appropriations, its funding has been significantly cut. The COPS Reauthorization Act would continue the COPS program for another 6 years at a funding level of $1.15 billion per year, nearly double the amount appropriated for fiscal year 2005. Among other things, this funding would allow State and local governments to hire an additional 50,000 police officers and improve their ability to analyze crime data and DNA evidence. At a time when we are asking more of our police departments than ever before, I believe we should be devoting more resources to the COPS program, not less.

Supporting our law enforcement officers also requires that we take up and pass common sense legislation to help keep them safe while they carry out their duties. Shootings have been the leading cause of death for law enforcement officers over the last ten years and more can be done to keep powerful weapons out of the hands of violent criminals. We should listen to law enforcement groups like the International Association of Chiefs of Police, the International Brotherhood of Police Officers, and the National Fraternal Order of Police which have called for reauthorization of the 1994 assault weapons ban. In addition we should be working to pass legislation to close loopholes that allow potential criminals to buy dangerous weapons like the Five-Seven armor-piercing handgun. Our law enforcement community deserves no less.

In honor of their memories, the names of law enforcement officers from Michigan who died in the line of duty during 2004 are:

Officer Matthew E. Bowens of Detroit, died February 16, 2004;

Officer Gary Cooper Davis of Bloomfield Township, died May 13, 2004;

Officer Jennifer T. Fettig of Detroit, died February 16, 2004;

Deputy Sheriff Perry Austin Fillmore of Clinton County, died March 27, 2004;

Deputy Sheriff John Kevin Gunsell of Otsego County, died September 12, 2004;

Officer Mark Anthony Sawyers of Sterling Heights, died June 5, 2004; and

Detective John Raymond Weir of Sault Ste. Marie, died November 7, 2004.

ADDITIONAL STATEMENTS

TRIBUTE TO ALABAMA'S WINNERS OF THE WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION COMPETITION

• Mr. SESSIONS. Mr. President, I would like to take this opportunity to recognize a group of students in my home State of Alabama. On April 30, 2005, students from Vestavia Hills High School in Birmingham, AL, traveled to Washington, D.C. to take part in the national finals of We the People: The Citizen and the Constitution national competition. This competition is an extensive educational program developed specifically to educate young people about the United States Constitution and Bill of Rights.

More than 1,200 students from across the country participated in a 3-day academic competition. They participated in a simulated congressional hearing in which they "testified" before a panel. Students got to demonstrate their knowledge and understanding of constitutional principles. Additionally, they had the opportunity to evaluate, take, and defend positions on relevant historical and present day issues.

Prior to their trip to Washington, these outstanding students from Vestavia Hills High School proved their knowledge of the United States Constitution, by winning their statewide competition, thus earning them the chance to come to our Nation's capital to compete at the national level. I am proud these students represented the State of Alabama on a national level in this year's We the People competition.

I would like to pay special tribute to the teacher of the class, Amy Maddox. The students of Vestavia Hills High School participating in the We the People: The Citizens and the Constitution competition are the following: Matthew Barley, Katie Barzler, Maria Begamaz, Michelle Blackburn, Brandon Demyan, Lorey Feagin, Anne Hackney, Ashley Holmes, Abby Jones, Staci Karpova, Thomas Lide, Kristin McDonald, Freman Meri-Glenn, Tucker Reeves, Luke Romano, Erin Snow, and Christopher Willoughby. I would like to applaud their efforts.

Mr. President, the achievements of these students are continued proof that the civic education initiative we approved in this chamber is paying dividends. We the People, which is part of the civic education initiative of the No Child Left Behind legislation, is giving students the lifelong skills they need to be effective, engaged, and informed citizens. I commend the Center for Civic Education and the National Conference of State Legislatures for their leadership in sponsoring this excellent service learning-type program. I also would like to commend Janice Cowin, the state coordinator from the Alabama Center for Law & Civic Education for her work in administering the program in my State.•

MESSAGE FROM THE HOUSE

At 2:22 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2361. An act making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2361. An act making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 1084. A bill to eliminate child poverty, and for other purposes.

S. 1085. A bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2291. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense , transmitting, pursuant to law, a report relative to proposed test and evaluation (T&E) budgets that are not certified by the Director of the Defense Test Resource Management Center (TRMC) to be adequate; to the Committee on Armed Services.

EC–2292. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a report on the impact of the improvements to compensation and benefits made by the National Defense Authorization Act for Fiscal Year 2000 on the recruiting and retention programs of the Armed Forces; to the Committee on Armed Services.

EC–2293. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–2294. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2295. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2296. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of Defense (Acquisition, Technology and Logistics), received on May 18, 2005; to the Committee on Armed Services.

EC–2297. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Under Secretary of Defense (Logistics and Materiel Readiness), received on May 18, 2005; to the Committee on Armed Services.

EC–2298. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of the Army, received on May 18, 2005; to the Committee on Armed Services.

EC–2299. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of the Air Force, received on May 18, 2005; to the Committee on Armed Services.

EC–2300. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Secretary of

Defense, received on May 18, 2005; to the Committee on Armed Services.

EC-2301. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Air Force (Financial Management), received on May 18, 2005; to the Committee on Armed Services.

EC–2302. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Air Force (Financial Management), received on May 18, 2005; to the Committee on Armed Services.

EC-2303. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of Defense (Acquisition, Technology and Logistics), received on May 18, 2005; to the Committee on Armed Services.

EC–2304. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Navy (Installations and Environment), received on May 18, 2005; to the Committee on Armed Services.

EC–2305. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of the Army (Civil Works), received on May 18, 2005; to the Committee on Armed Services.

EC–2306. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Secretary of the Air Force, received on May 18, 2005; to the Committee on Armed Services.

EC-2307. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Secretary of the Air Force, received on May 18, 2005; to the Committee on Armed Services.

EC-2308. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Secretary of the Air Force, received on May 18, 2005; to the Committee on Armed Services.

EC-2309. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $59,000,000 to Iraq; to the Committee on Foreign Relations.

EC-2310. A communication from the Chairman, Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, a report relative to the Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002; to the Committee on Homeland Security and Governmental Affairs.

EC-2311. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Treble Damages for Failure to Engage in Loss Mitigation" ((RIN2501-AC66) (FR-4553-F-03)) received on May 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-2312. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Maintenance Plans; Michigan: Southeast Michigan Ozone Maintenance Plan Update to the State Implementation Plan" (FRL No. 7915–8) received on May 18, 2005; to the Committee on Environment and Public Works.

EC-2313. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "XL Rulemaking Extension of Expiration Date for New York State Public Utilities: Hazardous Waste Management Systems" (FRL No. 7916–2) received on May 18, 2005; to the Committee on Environment and Public Works.

EC–2314. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Underground Storage Tank Program: Approved State Program for Minnesota" (FRL No. 7909–5) received on May 18, 2005; to the Committee on Environment and Public Works.

EC-2315. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Waste Management System; Testing and Monitoring Activities; Methods Innovation Rule and SW-846 Final Update IIIB" (FRL No. 7916–1) received on May 18, 2005; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN (for herself and Ms. SNOWE):

S. 1090. A bill to provide certain requirements for the siting, construction, expansion, and operation of liquefied natural gas import terminals, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 1091. A bill to establish a Federal incentive program as part of a national gasification strategy to stimulate commercial deployment of integrated gasification combined cycle and industrial gasification technology; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 1092. A bill to establish a program under which the Secretary of the Interior offers for lease certain land for oil shale development, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 1093. A bill to reauthorize and revise the Renewable Energy Production Incentive program, and for other purposes; to the Committee on Finance.

By Mr. ENZI:

S. 1094. A bill to amend the Mineral Leasing Act to establish procedures for the reinstatement of leases terminated due to unforeseeable circumstances; to the Committee on Energy and Natural Resources.

By Mr. CORNYN (for himself and Mr. LEAHY):

S. 1095. A bill to amend chapter 113 of title 18, United States Code, to clarify the prohibition on the trafficking in goods or services, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 420

At the request of Mr. KYL, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

S. 875

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to increase participation in section 401(k) plans through automatic contribution trusts, and for other purposes.

S. 962

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1075

At the request of Mr. THUNE, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1075, a bill to postpone the 2005 round of defense base closure and realignment.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN (for himself and Mr. LEAHY):

S. 1095. A bill to amend chapter 113 of title 18, United States Code, to clarify the prohibition on the trafficking in goods or services, and for other purposes; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, today I am pleased to join Senator LEAHY to offer important legislation in our continued bipartisan effort to combat the trafficking of illegitimate goods throughout the world.

Recently, we have worked together on a matter near and dear to my heart—good government legislation related to the Freedom of Information Act, and it is indeed a pleasure to work with the Ranking Member of the Judiciary Committee again.

The rampant distribution of illegitimate goods—be it counterfeited products, illegal copies of copyrighted works or any other form of piracy—undermines property rights, threatens American jobs, decreases consumer safety and, often times, supports organized crime and terrorist activity.

Amazingly, it is estimated that between 5 percent and 7 percent worldwide trade is conducted with counterfeit goods and services. According to FBI estimates, counterfeiting costs U.S. businesses as much as $200-$250 billion annually—and that costs Americans their jobs—more than 750,000 jobs according to U.S. Customs.

In recent years, this plague on global trade has grown significantly. According to the World Customs Organization and Interpol, the global trade in illegitimate goods has increased from $5.5 billion in 1992 to more than $600 billion per year today. That is—$600 billion per year illegally extracted from the global economy.

But perhaps most troubling, the counterfeit trade threatens our safety and our security. Counterfeit goods undermine our confidence in the reliability of our goods and service. For example, the Federal Aviation Administration estimates that 2 percent the 26 million airline parts installed each year are counterfeit. And the Federal Drug Administration estimates that as much as 10 percent pharmaceuticals are counterfeit. Worse yet—evidence indicates that the counterfeit trade supports terrorist activities. Indeed, Al Qaeda training manuals recommended the sale of fake goods to raise revenue.

And the reach of counterfeiting runs deep in my own home State of Texas. Data is difficult to collect, but a 1997 piece detailing Microsoft's efforts to combat counterfeiting and piracy—while dated—pointed out that this type of activity costs Texas over 10,000 jobs and almost $1 billion. Today, we know those numbers are much higher.

We must act to stop this illegal activity.

The legislation we offer today, the Protecting American Goods and Services Act, is not complicated, it is not long—but its global impact will be significant. The legislation is designed to provide law enforcement with additional tools to curb the flow of these illegitimate goods.

First, the bill would make it specifically illegal to import or export unauthorized copies of copyrighted works or counterfeit goods. Second, it would make it illegal to possess counterfeit goods with the intention of selling them. Finally, the bill would more clearly specify that it is illegal to give away counterfeit goods in exchange for some future benefit—in effect, the "bartering" of counterfeit goods in such a way that avoids criminality.

Each of these items was highlighted by the Department of Justice in its October, 2004 report on its Task Force on Intellectual Property. In it, the Department describes the significant limitation law enforcement often times faces in pursuing counterfeiters and offers, among others, the principles embraced in the Protecting American Goods and Services Act, as possible solutions to these obstacles.

This legislation, and other reforms, will help turn the tide of the growing counterfeit trade. The legislation is critically important to law enforcement—but it is even more critical for businesses, large and small, throughout America—including in my home State of Texas—as well as for ensuring the safety of consumers around the globe. Those who traffic in counterfeit goods put Americans in danger, support terrorism and undermine the health of our Nation's economy. It is time to put an end to this scourge on society.

I look forward to working with my colleagues to move this legislation forward, and in so doing, protect property rights, protect consumer safety, preserve American jobs and bolster the American economy.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Protecting American Goods and Services Act of 2005".

SEC. 2. PROHIBITION ON TRAFFICKING OF CERTAIN GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a)(1) Any person who intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services—

"(A) if an individual, shall be fined not more than $2,000,000, imprisoned not more than 10 years, or both; and

"(B) if a person other than an individual, shall be fined not more than $5,000,000.

"(2) Any person who possesses goods with a counterfeit mark with an intent to traffic such goods—

"(A) if an individual, shall be fined not more that $2,000,000, or imprisoned not more than 10 years, or both; and

"(B) if a person other than an individual, shall be fined not more than $5,000,000.

"(3) In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person—

"(A) if an individual, shall be fined not more than $5,000,000, imprisoned not more than 20 years, or both; and

"(B) if other than an individual, shall be fined not more than $15,000,000."; and

(2) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) the term 'traffic' means—

"(A) transport, transfer, or otherwise dispose of, to another as consideration for anything of value or without consideration; or

"(B) make or obtain control of with intent to so transport, transfer, or dispose of; and".

(b) PROHIBITION OF TRANSPORT OF COUNTERFEIT GOODS OR UNAUTHORIZED COPIES AND PHONORECORDS OF COPYRIGHTED WORKS.—

(1) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by inserting after section 2320 the following:

"§ 2320A. Transport of counterfeit goods and unauthorized copyrighted works into or out of the United States

"(a) DEFINITIONS.—In this section—

"(1) the terms 'copies' and 'phonorecords' have the respective meanings given under section 101 of title 17;

"(2) the term 'counterfeit mark' has the meaning given under section 2320(e)(1); and

"(3) the term 'United States' means each of the several States of the United States, the District of Columbia, and the territories and possessions of the United States.

"(b) OFFENSE.—Any person who intentionally transports goods bearing a counterfeit mark or copies or phonorecords of a copyrighted work not authorized by the copyright holder into or out of the United States for the purposes of commercial advantage or private financial gain shall be fined not more than $100,000, imprisoned not more than 10 years, or both.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2320 the following:

"2320A. Transport of counterfeit goods and unauthorized copyrighted works into or out of the United States.".

Mr. LEAHY. Today, I am partnering with Senator CORNYN in another of our bipartisan efforts to improve the lives of Americans through effective and efficient government. The bill we are introducing, the "Protecting American Goods and Services Act of 2005," will strengthen our ability to combat the escalating problem of counterfeiting worldwide. In order to effectively fight intellectual property theft, we need stiff penalties for counterfeiters and those who are caught with counterfeit goods with the intent to traffic their false wares. Ours is a short bill—indeed, it is only four pages long—but it will have global implications in the fight against piracy.

Counterfeiting is a growing problem that costs our economy hundreds of billions of dollars every year and has been linked to organized crime, including terrorist organizations. According to the International Anti-Counterfeiting Coalition, counterfeit parts have been discovered in helicopters sold to NATO, in jet engines, bridge joints, brake pads, and fasteners in equipment designed to prevent nuclear reactor meltdowns. The World Health Organization estimates that the market for counterfeit drugs is about $32 billion each year.

Several years ago, Senator HATCH joined me in sponsoring the "Anticounterfeiting Consumer Protection Act of 1996," which addressed counterfeiting by amending several sections of our criminal and tariff codes. That law made important changes, particularly by expanding RICO, the federal anti-racketeering law, to cover crimes involving counterfeiting and copyright and trademark infringement. Then, as now, trafficking in counterfeit goods hurts purchasers, state and federal governments, and economies at every level.

Perhaps most disturbingly, the U.S. Customs Service reports that terrorists have used transnational counterfeiting operations to fund their activities: The sale of counterfeit and pirated music, movies, software, T-shirts, clothing, and fake drugs "accounts for much of the money the international terrorist network depends on to feed its operations."

Last year, as in years past, I worked with Senator ALLEN on an amendment to the Foreign Operations bill that provides the State Department with vital resources to combat piracy of U.S. goods abroad. The bill we ultimately passed included $3 million for this important purpose. Yet more work both at home and abroad remains. When you consider that the economic impact of tangible piracy in counterfeit goods is estimated to be roughly $350 billion a year and to constitute between 5 percent and 7 percent of worldwide trade, a few million dollars is a worthwhile investment.

We have certainly seen how this form of theft touches the lives of hard-working Vermonters. Burton Snowboards is a small company, whose innovation has made it an industry leader in snowboarding equipment and apparel. Unfortunately, knock-off products carrying Burton's name have been found across the globe. Vanessa Price, a representative of Burton, testified about counterfeiting at the Judiciary Committee's March 23, 2004, hearing on this topic. In addition to learning about the economic costs of counterfeiting, I asked her after the hearing about the risks posed to consumers by these goods. Her answer was chilling: "In the weeks since my Senate testimony, I discovered a shipment of counterfeit Burton boots for sale through a discount sports outfit . . . After examining the poor quality of the counterfeit boots, we determined that anyone using the boots for snowboarding risks injury due to a lack of reinforcement and support in the product's construction."

Customers and businesses lose out to counterfeiters in other ways, too. SB Electronics in Barre, Vt. has seen its capacitors reverse engineered and its customers lost to inferior copycat models. Vermont Tubbs, a furniture manufacturer in Rutland, has seen its designs copied, produced offshore with inferior craftsmanship and materials, and then reimported, so that the company is competing against cheaper versions of its own products. And Hubbardton Forge in Castleton, Vt. has seen its beautiful and original lamps counterfeited and then sold within the United States at prices—and quality—far below their own. This is wrong. It is unfair to consumers who deserve the high quality goods they think they are paying for, and it is unfair to innovators who play by the rules and deserve to profit from their labor.

The bill that I am introducing today with Senator CORNYN will help to combat this growing scourge.

The bill will criminalize the possession of counterfeit goods with the intent to sell or traffic in those goods, and it expands the definition of "traffic" to include any distribution of counterfeits with the expectation of gaining something of value—criminals should not be able to skirt the law simply because they barter illegal goods and services in exchange for their illicit wares. Finally, the bill will criminalize the importation and exportation of counterfeit goods, as well as of bootleg copies of copyrighted works into and out of the United States.

By tying off these loopholes and improving U.S. laws on counterfeiting, we will be sending a powerful message to the criminals who belong in jail, and to our innovators.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

On Tuesday, May 17, 2005, the Senate passed H.R. 3, as follows:

H.R. 3

Resolved, That the bill from the House of Representatives (H.R. 3) entitled "An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General definitions.
Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Equity bonus programs.
Sec. 1105. Revenue aligned budget authority.
Sec. 1106. Use of excess funds and funds for inactive projects.

Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.
Sec. 1202. Future of surface transportation system.
Sec. 1203. Freight transportation gateways; freight intermodal connections.
Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.
Sec. 1205. Designation of Interstate Highways.
Sec. 1206. State-by-State comparison of highway construction costs.

Subtitle C—Finance

Sec. 1301. Federal share.
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
Sec. 1304. State infrastructure banks.
Sec. 1305. Public-private partnerships pilot program.

Subtitle D—Safety

Sec. 1401. Highway safety improvement program.
Sec. 1402. Operation lifesaver.
Sec. 1403. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.
Sec. 1404. Bus axle weight exemption.
Sec. 1405. Safe routes to schools program.
Sec. 1406. Purchases of equipment.
Sec. 1407. Workzone safety.
Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
Sec. 1409. Open container requirements.
Sec. 1410. Safe intersections.
Sec. 1411. Presidential commission on alcohol-impaired driving.
Sec. 1412. Sense of the Senate in support of increased public awareness of blood alcohol concentration levels and the dangers of drinking and driving.
Sec. 1413. Grant program for commercial driver training.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.
Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
Sec. 1503. Integration of natural resource concerns into transportation project planning.
Sec. 1504. Public involvement in transportation planning and projects.
Sec. 1505. Project mitigation.

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

Sec. 1511. Transportation project development process.
Sec. 1512. Assumption of responsibility for categorical exclusions.
Sec. 1513. Surface transportation project delivery pilot program.
Sec. 1514. Parks, recreation areas, wildlife and waterfowl refuges, and historic sites.
Sec. 1515. Regulations.

CHAPTER 3—MISCELLANEOUS

Sec. 1521. Critical real property acquisition.
Sec. 1522. Planning capacity building initiative.
Sec. 1523. Intermodal passenger facilities.

Sec. 1524. 14th Amendment highway and 3rd infantry division highway.
Subtitle F—Environment
Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
Sec. 1602. National scenic byways program.
Sec. 1603. Recreational trails program.
Sec. 1604. Exemption of Interstate System.
Sec. 1605. Standards.
Sec. 1606. Use of high occupancy vehicle lanes.
Sec. 1607. Bicycle transportation and pedestrian walkways.
Sec. 1608. Idling reduction facilities in Interstate rights-of-way.
Sec. 1609. Toll programs.
Sec. 1610. Federal reference method.
Sec. 1611. Addition of particulate matter areas to CMAQ.
Sec. 1612. Addition to CMAQ-eligible projects.
Sec. 1613. Improved interagency consultation.
Sec. 1614. Evaluation and assessment of CMAQ projects.
Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.
Sec. 1616. Transition to new air quality standards.
Sec. 1617. Reduced barriers to air quality improvements.
Sec. 1618. Air quality monitoring data influenced by exceptional events.
Sec. 1619. Conforming amendments.
Sec. 1620. Highway stormwater discharge mitigation program.
Sec. 1621. Federal procurement of recycled coolant.
Sec. 1622. Clean school bus program.
Sec. 1623. Conserve by bicycling program.
Subtitle G—Operations
Sec. 1701. Transportation systems management and operations.
Sec. 1702. Real-time system management information program.
Sec. 1703. Contracting for engineering and design services.
Sec. 1704. Designation of transportation management areas.
Subtitle H—Federal-Aid Stewardship
Sec. 1801. Future Interstate System routes.
Sec. 1802. Stewardship and oversight.
Sec. 1803. Revision of regulations.
Sec. 1804. Program efficiencies—finance.
Sec. 1805. Set-asides for interstate discretionary projects.
Sec. 1806. Federal lands highways program.
Sec. 1807. Highway bridge program.
Sec. 1808. Appalachian development highway system.
Sec. 1809. Multistate corridor program.
Sec. 1810. Border planning, operations, technology, and capacity program.
Sec. 1811. Puerto Rico highway program.
Sec. 1812. National historic covered bridge preservation.
Sec. 1813. Transportation and community and system preservation program.
Sec. 1814. Parking pilot programs.
Sec. 1815. Interstate oasis program.
Sec. 1816. Tribal-State road maintenance agreements.
Sec. 1817. National forest system roads.
Sec. 1818. Territorial highway program.
Sec. 1819. High-speed magnetic levitation system deployment program.
Sec. 1820. Donations and credits.
Sec. 1821. Disadvantaged business enterprises.
Sec. 1822. [Reserved].
Sec. 1823. Priority for pedestrian and bicycle facility enhancement projects.
Sec. 1824. The Delta Regional Authority.
Sec. 1825. Multistate international corridor development program.
Sec. 1826. Authorization of contract authority for States with Indian Reservations.
Sec. 1827. Value pricing pilot program.
Sec. 1828. Credit to State of Louisiana for State matching funds.
Sec. 1829. Approval and funding for certain construction projects.
Sec. 1830. Notice regarding participation of small business concerns.
Sec. 1831. Alaska Way viaduct study.
Sec. 1832. Bridge construction, North Dakota.
Sec. 1833. Community enhancement study.
Sec. 1834. Comprehensive coastal evacuation plan.
Sec. 1835. Priority projects.
Sec. 1836. Transportation needs, Grayling, Michigan.
Sec. 1837. US-95 Project, Las Vegas, Nevada.
Subtitle I—Technical Corrections
Sec. 1901. Repeal or update of obsolete text.
Sec. 1902. Clarification of date.
Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
Sec. 1904. Inclusion of Buy America requirements in title 23.
Sec. 1905. Technical amendments to nondiscrimination section.
TITLE II—TRANSPORTATION RESEARCH
Subtitle A—Funding
Sec. 2001. Authorization of appropriations.
Sec. 2002. Obligation ceiling.
Sec. 2003. Notice.
Subtitle B—Research and Technology
Sec. 2101. Research and technology program.
Sec. 2102. Study of data collection and statistical analysis efforts.
Sec. 2103. Centers for surface transportation excellence.
Sec. 2104. Motorcycle crash causation study grants.
Sec. 2105. Transportation technology innovation and demonstration program.
Subtitle C—Intelligent Transportation System Research
Sec. 2201. Intelligent transportation system research and technical assistance program.
TITLE III—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS
Sec. 3101. Sense of the Senate on overall Federal budget.
Sec. 3102. Discretionary spending categories.
Sec. 3103. Level of obligation limitations.
TITLE IV—SOLID WASTE DISPOSAL
Sec. 4001. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
Sec. 4002. Use of granular mine tailings.
TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION
Sec. 5000. Short title; amendment of 1986 Code.
Subtitle A—Trust Fund Reauthorization
Sec. 5101. Extension of highway-related taxes and trust funds.
Sec. 5102. Modification of adjustments of apportionments.
Subtitle B—Excise Tax Reform and Simplification
PART I—HIGHWAY EXCISE TAXES
Sec. 5201. Modification of gas guzzler tax.
Sec. 5202. Exclusion for tractors weighing 19,500 pounds or less from Federal excise tax on heavy trucks and trailers.
Sec. 5203. Exemption for equipment for transporting bulk beds of farm crops from excise tax on retail sale of heavy trucks and trailers.
Sec. 5204. Volumetric excise tax credit for alternative fuels.
PART II—AQUATIC EXCISE TAXES
Sec. 5211. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 5212. Repeal of harbor maintenance tax on exports.
Sec. 5213. Cap on excise tax on certain fishing equipment.
PART III—AERIAL EXCISE TAXES
Sec. 5221. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations.
Sec. 5222. Modification of rural airport definition.
Sec. 5223. Exemption from taxes on transportation provided by seaplanes.
Sec. 5224. Certain sightseeing flights exempt from taxes on air transportation.
PART IV—TAXES RELATING TO ALCOHOL
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SEC. 2. GENERAL DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Transportation.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 3. DEFINITIONS FOR TITLE 23.

Section 101 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) DEFINITIONS.—In this title:

"(1) APPORTIONMENT.—The term 'apportionment' includes an unexpended apportionment made under a law enacted before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.

"(2) CARPOOL PROJECT.—

"(A) IN GENERAL.—The term 'carpool project' means any project to encourage the use of carpools and vanpools.

"(B) INCLUSIONS.—The term 'carpool project' includes a project—

"(i) to provide carpooling opportunities to the elderly and individuals with disabilities;

"(ii) to develop and implement a system for locating potential riders and informing the riders of carpool opportunities;

"(iii) to acquire vehicles for carpool use;

"(iv) to designate highway lanes as preferential carpool highway lanes;

"(v) to provide carpool-related traffic control devices; and

"(vi) to designate facilities for use for preferential parking for carpools.

"(3) CONSTRUCTION.—

"(A) IN GENERAL.—The term 'construction' means the supervision, inspection, and actual building of, and incurring of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.

"(B) INCLUSIONS.—The term 'construction' includes—

"(i) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration);

"(ii) resurfacing, restoration, and rehabilitation;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(v) elimination of hazards of railway grade crossings;

"(vi) elimination of roadside obstacles;

"(vii) improvements that directly facilitate and control traffic flow, such as—

"(I) grade separation of intersections;

"(II) widening of lanes;

"(III) channelization of traffic;

"(IV) traffic control systems; and

"(V) passenger loading and unloading areas;

"(viii) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as—

"(I) scales (fixed and portable);

"(II) scale pits;

"(III) scale installation; and

"(IV) scale houses;

"(ix) improvements directly relating to securing transportation infrastructures for detection, preparedness, response, and recovery;

"(x) operating costs relating to traffic monitoring, management, and control;

"(xi) operational improvements; and

"(xii) transportation system management and operations.

"(4) COUNTY.—The term 'county' includes—

"(A) a corresponding unit of government under any other name in a State that does not have county organizations; and

"(B) in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

"(5) FEDERAL-AID HIGHWAY.—

"(A) IN GENERAL.—The term 'Federal-aid highway' means a highway eligible for assistance under this chapter.

"(B) EXCLUSIONS.—The term 'Federal-aid highway' does not include a highway classified as a local road or rural minor collector.

"(6) FEDERAL-AID SYSTEM.—The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103.

"(7) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means—

"(A) a forest highway;

"(B) a recreation road;

"(C) a public Forest Service road;

"(D) a park road;

"(E) a parkway;

"(F) a refuge road;

"(G) an Indian reservation road; and

"(H) a public lands highway.

"(8) FOREST HIGHWAY.—The term 'forest highway' means a forest road that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) is open to public travel.

"(9) FOREST ROAD OR TRAIL.—

"(A) IN GENERAL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System land that is necessary for the protection, administration, use, and development of the resources of that land.

"(B) INCLUSIONS.—The term 'forest road or trail' includes—

"(i) a classified forest road;

"(ii) an unclassified forest road;

"(iii) a temporary forest road; and

"(iv) a public forest service road.

"(10) FREIGHT TRANSPORTATION GATEWAY.—

"(A) IN GENERAL.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade or military mobilization.

"(B) INCLUSIONS.—The term 'freight transportation gateway' includes freight intermodal and Strategic Highway Network connections that provide access to and from a port or hub described in subparagraph (A).

"(11) HIGHWAY.—The term 'highway' includes—

"(A) a road, street, and parkway;

"(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

"(C) a portion of any interstate or international bridge or tunnel (including the approaches to the interstate or international bridge or tunnel, and such transportation facilities as may be required by the United States Customs Service and the Bureau of Citizenship and Immigration Services in connection with the operation of an international bridge or tunnel), the cost of which is assumed by a State transportation department.

"(12) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project that meets the requirements of section 148.

"(13) INDIAN RESERVATION ROAD.—

"(A) IN GENERAL.—The term 'Indian reservation road' means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

"(B) AREAS.—The areas referred to in subparagraph (A) are—

"(i) an Indian reservation;

"(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and

"(iii) an Indian or Alaska Native village, group, or community.

"(14) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

"(15) MAINTENANCE.—

"(A) IN GENERAL.—The term 'maintenance' means the preservation of a highway.

"(B) INCLUSIONS.—The term 'maintenance' includes the preservation of—

"(i) the surface, shoulders, roadsides, and structures of a highway; and

"(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

"(16) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(17) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term 'National Forest System road or trail' means a forest road or trail that is under the jurisdiction of the Forest Service.

"(18) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

"(19) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes—

"(A) labor costs;

"(B) administrative costs;

"(C) costs of utilities and rent;

"(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

"(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

"(i) an integrated traffic control system;

"(ii) an incident management program; and

"(iii) a traffic control center.

"(20) OPERATIONAL IMPROVEMENT.—

"(A) IN GENERAL.—The term 'operational improvement' means—

"(i) a capital improvement for installation or implementation of—

"(I) a transportation system management and operations program;

"(II) traffic and transportation security surveillance and control equipment;

"(III) a computerized signal system;

"(IV) a motorist information system;

"(V) an integrated traffic control system;

"(VI) an incident management program;

"(VII) equipment and programs for transportation response to manmade and natural disasters; or

"(VIII) a transportation demand management facility, strategy, or program; and

"(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

"(B) EXCLUSIONS.—The term 'operational improvement' does not include—

"(i) a resurfacing, restorative, or rehabilitative improvement;

"(ii) construction of an additional lane, interchange, or grade separation; or

"(iii) construction of a new facility on a new location.

"(21) PARK ROAD.—The term 'park road' means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

"(22) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

"(23) PROJECT.—The term 'project' means—

"(A)(i) an undertaking to construct a particular portion of a highway; or

"(ii) if the context so implies, a particular portion of a highway so constructed; and

"(B) any other undertaking eligible for assistance under this title.

"(24) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and recipient of funds under this title.

"(25) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"(26) PUBLIC FOREST SERVICE ROAD.—The term 'public Forest Service road' means a classified forest road—

"(A) that is open to public travel;

"(B) for which title and maintenance responsibility is vested in the Federal Government; and

"(C) that has been designated a public road by the Forest Service.

"(27) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

"(28) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means—

"(A) a forest road that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel; and

"(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel.

"(29) PUBLIC ROAD.—The term 'public road' means any road or street that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) open to public travel.

"(30) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

"(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

"(B) for which title is vested in the Federal Government.

"(31) REFUGE ROAD.—The term 'refuge road' means a public road—

"(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

"(B) for which title and maintenance responsibility is vested in the United States Government.

"(32) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

"(33) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(34) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(35) STATE FUNDS.—The term 'State funds' includes funds that are—

"(A) raised under the authority of the State (or any political or other subdivision of a State); and

"(B) made available for expenditure under the direct control of the State transportation department.

"(36) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

"(37) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

"(38) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

"(A) Provision of facilities for pedestrians and bicycles.

"(B) Provision of safety and educational activities for pedestrians and bicyclists.

"(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

"(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

"(E) Landscaping and other scenic beautification.

"(F) Historic preservation.

"(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

"(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

"(I) Inventory, control, and removal of outdoor advertising.

"(J) Archaeological planning and research.

"(K) Environmental mitigation—

"(i) to address water pollution due to highway runoff; or

"(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

"(L) Establishment of transportation museums.

"(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

"(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

"(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

"(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

"(40) URBAN AREA.—The term 'urban area' means—

"(A) an urbanized area (or, in the case of an urbanized area encompassing more than 1 State, the portion of the urbanized area in each State); and

"(B) an urban place designated by the Bureau of the Census that—

"(i) has a population of 5,000 or more;

"(ii) is not located within any urbanized area; and

"(iii) is located within boundaries that—

"(I) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(II) encompass, at a minimum, the entire urban place designated by the Bureau of the Census (except in the case of cities in the State of Maine and in the State of New Hampshire).

"(41) URBANIZED AREA.—The term 'urbanized area' means an area that—

"(A) has a population of 50,000 or more;

"(B) is designated by the Bureau of the Census; and

"(C) is located within boundaries that—

"(i) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(ii) encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.".

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $6,017,113,333 for fiscal year 2005;

(B) $6,258,525,160 for fiscal year 2006;

(C) $6,276,479,750 for fiscal year 2007;

(D) $6,589,235,166 for fiscal year 2008; and

(E) $6,685,150,152 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $7,316,858,660 for fiscal year 2005;

(B) $7,606,591,948 for fiscal year 2006;

(C) $7,628,384,160 for fiscal year 2007;

(D) $8,007,988,062 for fiscal year 2008; and

(E) $8,124,348,085 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—

(A) $5,171,723,801 for fiscal year 2005;

(B) $5,365,009,649 for fiscal year 2006;

(C) $5,349,259,875 for fiscal year 2007;

(D) $5,647,754,080 for fiscal year 2008; and

(E) $5,729,786,635 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—

(A) $7,588,497,988 for fiscal year 2005;

(B) $7,878,361,598 for fiscal year 2006;

(C) $7,900,976,158 for fiscal year 2007;

(D) $8,294,904,735 for fiscal year 2008; and

(E) $8,415,808,100 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $2,051,899,502 for fiscal year 2005;

(B) $2,124,435,995 for fiscal year 2006;

(C) $2,130,535,073 for fiscal year 2007;

(D) $2,236,776,417 for fiscal year 2008; and

(E) $2,269,463,235 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—

(A) $1,253,007,425 for fiscal year 2005;

(C) $1,291,977,089 for fiscal year 2006;

(D) $1,305,007,731 for fiscal year 2007;

(E) $1,369,468,771 for fiscal year 2008; and

(F) $1,389,408,993 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $552,048,803 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $56,140,557 for each of fiscal years 2005 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—

(i) $305,054,403 for fiscal year 2005;

(ii) $328,520,126 for fiscal year 2006;

(iii) $351,985,849 for fiscal year 2007;

(iv) $375,451,572 for fiscal year 2008; and

(v) $398,917,296 for fiscal year 2009.

(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $46,931,447 for each of fiscal years 2005 through 2009.

(C) PARK ROADS AND PARKWAYS.—

(i) IN GENERAL.—For park roads and parkways under section 204 of that title—

(I) $320,000,000 for fiscal year 2005; and

(II) $330,000,000 for each of fiscal years 2006 through 2009.

(ii) MINIMUM ALLOCATION TO CERTAIN STATES.—A State more than 50 percent of the acreage of which is within the National Park System shall receive not less than 3 percent of any funds appropriated under this subparagraph, to be used for park transportation projects.

(iii) MODIFICATION OF AUTHORIZATION.—Any amount authorized to be appropriated under section 2001(a)(1)(A) to carry out surface transportation research shall be reduced by—

(I) for fiscal year 2005, $29,025,031; and

(II) for each of fiscal years 2006 through 2009, $29,638,742.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $29,158,868 for each of fiscal years 2005 through 2009.

(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $281,588,679 for each of fiscal years 2005 through 2009.

(F) SAFETY.—For safety under section 204 of that title, $37,545,157 for each of fiscal years 2005 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—

(A) $124,987,840 for fiscal year 2005;

(B) $145,819,146 for fiscal year 2006;

(C) $166,650,453 for fiscal year 2007;

(D) $187,481,760 for fiscal year 2008; and

(E) $208,313,066 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—

(A) $124,987,840 for fiscal year 2005;

(B) $145,819,146 for fiscal year 2006;

(C) $166,650,453 for fiscal year 2007;

(D) $187,481,760 for fiscal year 2008; and

(E) $208,313,066 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—

(A) $32,852,013 for fiscal year 2005;

(B) $33,790,642 for fiscal year 2006;

(C) $34,729,270 for fiscal year 2007; and

(D) $36,606,528 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title $0 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $56,916,300 for each of fiscal years 2005 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—

(A) $136,101,195 for fiscal year 2005;

(B) $139,855,711 for fiscal year 2006;

(C) $144,548,855 for fiscal year 2007;

(D) $150,180,629 for fiscal year 2008; and

(E) $152,996,516 for fiscal year 2009.

(16) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—For the public-private partnerships pilot program under section 109(c)(3) of that title, $8,386,289 for each of fiscal years 2005 through 2009.

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), $28,158,868 for each of fiscal years 2005 through 2009.

(18) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For planning and construction activities authorized under the Delta Regional Authority, $75,090,314 for each of fiscal years 2005 through 2009.

(19) INTERMODAL PASSENGER FACILITIES.—For intermodal passenger facilities under subchapter III of chapter 55 of title 49, United States Code, $9,386,289 for each of fiscal years 2005 through 2009.

SEC. 1102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $34,263,000,000 for fiscal year 2005;

(2) $38,924,000,000 for fiscal year 2006;

(3) $39,352,000,000 for fiscal year 2007;

(4) $41,304,000,000 for fiscal year 2008; and

(5) $42,007,000,000 for fiscal year 2009.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2003, but only in an amount equal to $639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year); and

(11) section 1106 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2005 through 2009, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code; and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the sums authorized to be appropriated for that section for the fiscal year;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2005 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2005 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) ADJUSTMENT IN OBLIGATION LIMIT.—

(1) IN GENERAL.—A limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) DISTRIBUTION.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) Limitations on Obligations for Administrative Expenses.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $436,462,453 for fiscal year 2005;

(2) $450,541,887 for fiscal year 2006;

(3) $464,621,321 for fiscal year 2007;

(4) $478,700,755 for fiscal year 2008; and

(5) $492,780,189 for fiscal year 2009.

(j) National Highway System Component.—Section 104(b)(1) of title 23, United States Code, is amended by striking "$36,400,000" and insert "$46,931,447".

SEC. 1103. APPORTIONMENTS.

(a) Administrative Expenses.—

(1) In general.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) Administrative Expenses.—

"(1) In general.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary of Transportation for administrative expenses of the Federal Highway Administration—

"(A) $436,462,453 for fiscal year 2005;

"(B) $450,541,887 for fiscal year 2006;

"(C) $464,621,321 for fiscal year 2007;

"(D) $478,700,755 for fiscal year 2008; and

"(E) $492,780,189 for fiscal year 2009.

"(2) Purposes.—The funds authorized by this subsection shall be used—

"(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

"(3) Availability.—The funds made available under paragraph (1) shall remain available until expended.".

(2) Conforming amendments.—Section 104 of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking "the deduction authorized by subsection (a) and";

(B) in the first sentence of subsection (e)(1), by striking ", and also" and all that follows through "this section"; and

(C) in subsection (i), by striking "deducted" and inserting "made available".

(b) Metropolitan Planning.—Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Set-aside.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.";

(2) in paragraph (2), by striking "per centum" and inserting "percent";

(3) in paragraph (3)—

(A) by striking "The funds" and inserting the following:

"(A) In general.—The funds"; and

(B) by striking "These funds" and all that follows and inserting the following:

"(B) Unused funds.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

(4) by adding at the end the following:

"(6) Federal share.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without the match.".

(c) Alaska Highway.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "$18,800,000 for each of fiscal years 1998 through 2002" and inserting "$30,000,000 for each of fiscal years 2005 through 2009".

SEC. 1104. EQUITY BONUS PROGRAM.

(a) In General.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Equity bonus program

"(a) Program.—

"(1) In general.—Subject to subsections (c) and (d), for each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

"(2) Specific programs.—The programs referred to in subsection (a) are—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the highway safety improvement program under section 148;

"(F) the congestion mitigation and air quality improvement program under section 149;

"(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

"(H) the infrastructure performance and maintenance program under section 139;

"(I) the equity bonus program under this section;

"(J) the Appalachian development highway system program under subtitle IV of title 40;

"(K) the recreational trails program under section 206;

"(L) the safe routes to schools program under section 150;

"(M) the rail-highway grade crossing program under section 130; and

"(N) the border planning, operations, technology, and capacity program under section 172.

"(b) State Percentage.—

"(1) In general.—The percentage referred to in subsection (a) for each State shall be—

"(A) 92 percent of the quotient obtained by dividing—

"(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

"(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, a median household income of less than $35,000, as reported in that decennial census, or a State with a fatality rate during 2002 on Interstate highways that is greater than 1 fatality for each 100,000,000 vehicle miles traveled on Interstate highways, the greater of—

"(i) the percentage under paragraph (1); or

"(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

"(2) Specific programs.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005)—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the recreational trails program under section 206;

"(F) the high priority projects program under section 117;

"(G) the minimum guarantee provided under this section;

"(H) revenue aligned budget authority amounts provided under section 110;

"(I) the congestion mitigation and air quality improvement program under section 149;

"(J) the Appalachian development highway system program under subtitle IV of title 40; and

"(K) metropolitan planning programs under section 104(f).

"(c) Special Rules.—

"(1) Minimum combined allocation.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 115 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

"(2) No negative adjustment.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(3) Minimum share of tax payments.—

"(A) In general.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than the percentage specified in subparagraph (B) of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(B) Percentages.—The percentages referred to in subparagraph (A) are—

"(i) for fiscal year 2005, 90.5 percent;

"(ii) for each of fiscal years 2006 through 2008, 91 percent; and

"(iii) for fiscal year 2009, 92 percent.

"(d) Limitation on Adjustments.—

"(1) In general.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

"(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

"(2) Percentages.—The percentages referred to in paragraph (1)(B) are—

"(A) for fiscal year 2005, 124 percent;

"(B) for fiscal year 2006, 128 percent;

"(C) for fiscal year 2007, 131 percent;

"(D) for fiscal year 2008, 137 percent; and

"(E) for fiscal year 2009, 250 percent.

"(e) Programmatic Distribution of Funds.—The Secretary shall apportion the *amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—*

"(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

"(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

"(f) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Equity bonus program."

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.

Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking "2000" and inserting "2006";

(B) in paragraph (1), by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(2)(B)(ii)(I)(cc))"; and

(C) in paragraph (2)—

(i) by striking "If the amount" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the amount";

(ii) by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc)";

(iii) by striking "the succeeding" and inserting "that";

(iv) by striking "and the motor carrier safety grant program"; and

(v) by adding at the end the following:

"(B) LIMITATION.—No reduction under subparagraph (A) shall be made for a fiscal year if, as of October 1 of the fiscal year, the cash balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.";

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

"(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and for which funds are allocated from the Highway Trust Fund by the Secretary under this title and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005; bears to";

(3) in subsection (c), by inserting "the highway safety improvement program," after "the surface transportation program,"; and

(4) by striking subsections (e), (f), and (g).

SEC. 1106. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE FUNDS.—

(A) IN GENERAL.—The term "eligible funds" means excess funds or inactive funds for a specific transportation project or activity that were—

(i) allocated before fiscal year 1998; and

(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

(B) INCLUSION.—The term "eligible funds" includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

(2) EXCESS FUNDS.—The term "excess funds" means—

(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

(3) INACTIVE FUNDS.—The term "inactive funds" means—

(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

(1) made available in accordance with this section to the State that originally received the funds; and

(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

(c) RETENTION FOR ORIGINAL PURPOSE.—

(1) IN GENERAL.—The Secretary may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—

(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

(2)(A) deobligate the funds; and

(B) reobligate the funds for any eligible purpose under that section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), this section applies only to eligible funds.

(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

(B) made available to carry out projects under section 125 of title 23, United States Code.

(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to cost-sharing.

(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

(A) section 133(d) of title 23, United States Code, shall not apply; and

(B) the period of availability of the eligible funds shall be determined in accordance with this section.

(g) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.

Subtitle B—New Programs

SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"§ 139. Infrastructure performance and maintenance program

"(a) ESTABLISHMENT.—The Secretary shall establish and implement an infrastructure performance and maintenance program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements and hurricane evacuation routes on the Federal-aid system; or

"(2) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion or through transportation systemic changes to manage or ameliorate congestion.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005; and

"(B) reallocate the funds and redistribute the obligation authority to those States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

"(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall be adjusted as a result of the allocation of funds under this subsection.

"(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

"139. Infrastructure performance and maintenance program.".

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

(a) DECLARATION OF POLICY.—Section 101 of title 23, United States Code, is amended—

(1) by striking "(b) It is hereby declared to be" and inserting the following:

"(b) DECLARATION OF POLICY.—

"(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is";

(2) in the second paragraph, by striking "It is hereby declared" and inserting the following:

"(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares"; and

(3) by striking the last paragraph and inserting the following:

"(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

"(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

"(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to change;

"(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

"(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

"(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

"(ii) flow of interstate and international commerce and freight transportation; and

"(iii) travel movements essential for national security;

"(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

"(F) it is in the national interest to seek ways to eliminate barriers to transportation investment created by the current modal structure of transportation financing;

"(G) the connection between land use and infrastructure is significant;

"(H) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

"(I) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.".

(b) NATIONAL SURFACE TRANSPORTATION POLICY STUDY COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the "National Surface Transportation Policy Study Commission" (referred to in this subsection as the "Commission").

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 12 members, of whom—

(i) 1 member shall be the Secretary, who shall serve as Chairperson;

(ii) 3 members shall be appointed by the President;

(iii) 2 members shall be appointed by the Speaker of the House of Representatives;

(iv) 2 members shall be appointed by the minority leader of the House of Representatives;

(v) 2 members shall be appointed by the majority leader of the Senate; and

(vi) 2 members shall be appointed by the minority leader of the Senate.

(B) QUALIFICATIONS.—Members appointed under paragraph (1)—

(i) shall include individuals representing State and local governments, metropolitan planning organizations, transportation-related industries, academic and technical institutions, and public interest organizations involved with scientific, regulatory, economic, and environmental transportation activities; and

(ii) shall be balanced geographically to the extent consistent with maintaining the highest level of expertise on the Commission.

(C) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(D) TERMS.—A member shall be appointed for the life of the Commission.'

(E) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(F) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(G) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(H) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(I) VICE CHAIRPERSON.—The Commission shall select a Vice Chairperson from among the members of the Commission.

(3) DUTIES.—

(A) IN GENERAL.—The Commission shall—

(i) conduct a complete and comprehensive investigation and study of—

(I) the current condition and future needs of the surface transportation system; and

(II) a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State departments of transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to sup port the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(4) RELATED WORK.—To the maximum extent practicable, the study shall build on related work that has been completed by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board, including the findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(D) other entities and persons.

(5) SURFACE TRANSPORTATION NEEDS.—With respect to surface transportation needs, the investigation and study shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection *and analysis, traffic monitoring, and transportation systems operations and management; and*

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system.

(6) Financing.—With respect to financing, the study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(7) Financing recommendations.—In developing financing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in nontaxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(8) Technical advisory committee.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined to be appropriate by the Secretary to ensure a diverse range of views.

(9) Report and recommendations.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers to be appropriate.

(10) Powers of the commission.—

(A) Hearings.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(B) Information from federal agencies.—

(i) In general.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(ii) Provision of information.—On request of the Chairperson of the Commission, the head of a Federal agency shall provide the requested information to the Commission.

(C) Postal services.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(D) Donations.—The Commission may accept, use, and dispose of donations of services or property.

(11) Commission personnel matters.—

(A) Members.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) Contractors.—The Commission may enter into contracts with an appropriate organizations, agencies, and entities to conduct the study required under this section, under the strategic guidance of the Commission.

(C) Administrative support.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.

(D) Detail of personnel.—

(i) In general.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(ii) Civil service status.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(12) Cooperation.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(13) Relationship to other law.—

(A) In general.—Except as provided in subparagraphs (B) and (C), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(B) Federal share.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(C) Availability.—Funds made available to carry out this section shall remain available until expended.

(14) Definition of surface transportation system.—In this subsection, the term "surface transportation system" includes—

(A) the National Highway System;

(B) the Interstate System;

(C) the strategic highway network;

(D) congressional high priority corridors;

(E) intermodal connectors;

(F) freight facilities;

(G) navigable waterways;

(H) mass transportation;

(I) freight and intercity passenger rail infrastructure and facilities; and

(J) surface access to airports.

(15) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,815,886 for fiscal year 2005.

(16) Termination.—

(A) In general.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under paragraph (10).

(B) Records.—Not later than the date of termination of the Commission under subparagraph (A), all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

(a) Freight Transportation Gateways.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"§325. Freight transportation gateways

"(a) In General.—

"(1) Establishment.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

"(2) Purposes.—The purposes of the freight transportation gateways program shall be—

"(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area of the gateways;

"(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

"(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

"(D) to facilitate access to intermodal freight transfer facilities; and

"(E) to increase economic efficiency by facilitating the movement of goods.

"(b) State Responsibilities.—

"(1) Project development process.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

"(2) Freight transportation coordinator.—

"(A) In general.—Each State shall designate a freight transportation coordinator.

"(B) Duties.—The coordinator shall—

"(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including—

"(I) coordination of metropolitan and statewide transportation activities with trade and economic interests,

"(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

"(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

"(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

"(c) Innovative Finance Strategies.—

"(1) In general.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

"(A) new user fees;

"(B) modifications to existing user fees, including trade facilitation charges;

"(C) revenue options that incorporate private sector investment; and

"(D) a blending of Federal-aid and innovative finance programs.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

"(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

"(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

"(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

"(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

"(B) may involve the combining of private and public funds.".

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

"(12) Intermodal freight transportation projects in accordance with section 325(d)(2).".

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

"(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

"(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

"(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

"(ii) strategic highway network connectors to strategic military deployment ports; and

"(iii) projects to eliminate railroad crossings or make railroad crossing improvements.

"(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

"(i) the product obtained by multiplying—

"(I) the total amount of funds apportioned to the State under section 104(b)(1); by

"(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

"(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

"(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

"(i) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

"(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.".

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), except as otherwise provided in section 120, the Federal share of the total cost of the project shall be 90 percent.".

(e) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking "The" and inserting the following:

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following:

"(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of those qualifying highways to include—

"(A) strategic highway network connectors to strategic military deployment ports; and

"(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).".

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"325. Freight transportation gateways.".

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION AND MAINTENANCE.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

"§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance

"(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

"(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

"(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

"(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

"(A) carry the greatest number of passengers and vehicles;

"(B) carry the greatest number of passengers in passenger-only service; or

"(C) provide critical access to areas that are not well-served by other modes of surface transportation.

"(b) NON-CONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $46,931,447 for each fiscal year to carry out this section.

"(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall not be available in advance of an annual appropriation.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal and maintenance facilities.".

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SEC. 1205. DESIGNATION OF INTERSTATE HIGHWAYS.

(a) DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.—

(1) DESIGNATION.—Interstate Route 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the "Daniel Patrick Moynihan Interstate Highway".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in paragraph (1) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

(b) DESIGNATION OF AMO HOUGHTON BYPASS.—

(1) DESIGNATION.—The 3-mile segment of Interstate Route 86 between the interchange of Interstate Route 86 with New York State Route 15 in the vicinity of Painted Post, New York, and the interchange of Interstate Route 86 with New York State Route 352 in the vicinity of Corning, New York, shall be known and designated as the "Amo Houghton Bypass".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in paragraph (1) shall be deemed to be a reference to the Amo Houghton Bypass.

SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the "Administrator") shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the General Accounting Office numbered GAO-04-113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State; and

(C) a determination by Administrator as to whether the competitive bidding procedures described under subparagraph (B) are effective.

(c) INNOVATIVE AND COST-EFFECTIVE MATERIALS.—The Secretary shall encourage and provide incentives to States to make maximum use of innovative and cost-effective materials and products in highway construction.

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

Section 120 of title 23, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy *vehicle lanes and a project to add a bridge project auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.";*

(2) in subsection (b)—

(A) by striking "Except as otherwise" and inserting the following:

"(1) IN GENERAL.—Except as otherwise";

(B) by striking "shall be—" and all that follows and inserting "shall be 80 percent of the cost of the project."; and

(C) by adding at the end the following:

"(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under paragraph (1).";

(3) by striking subsection (d) and inserting the following:

"(d) INCREASED FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

"(A) nontaxable Indian land;

"(B) public land (reserved or unreserved);

"(C) a national forest; or

"(D) a national park or monument.

"(2) AMOUNT.—

"(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

"(i) is equal to the percentage that—

"(I) the area of all land described in paragraph (1) in a State; bears to

"(II) the total area of the State; but

"(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

"(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.".

SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:

"(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

"(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

"(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—Except as provided in clauses (i) and (ii) and subparagraph (B), funds made available under this title or any other Act that are derived from Highway Trust Fund (other than the Mass Transit account) may be transferred to another Federal agency if—

"(i)(I) an expenditure is specifically authorized in Federal-aid highway legislation or as a line item in an appropriation act; or

"(II) a State transportation department consents to the transfer of funds;

"(ii) the Secretary determines, after consultation with the State transportation department (as appropriate), that the Federal agency should carry out a project with the funds; and

"(iii) the other Federal agency agrees to accept the transfer of funds and to administer the project.

"(B) ADMINISTRATION.—

"(i) PROCEDURES.—A project carried out with funds transferred to a Federal agency under subparagraph (A) shall be administered by the Federal agency under the procedures of the Federal agency.

"(ii) APPROPRIATIONS.—Funds transferred to a Federal agency under subparagraph (A) shall not be considered an augmentation of the appropriations of the Federal agency.

"(iii) NON-FEDERAL SHARE.—The provisions of this title, or an Act described in subparagraph (A), relating to the non-Federal share shall apply to a project carried out with the transferred funds, unless the Secretary determines that it is in the best interest of the United States that the non-Federal share be waived.

"(4) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the Secretary may, at the request of a State, transfer funds apportioned or allocated to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more specific projects.

"(B) ADMINISTRATION.—The transferred funds shall be used for the same purpose and in the same manner for which the transferred funds were authorized.

"(C) APPORTIONMENT.—The transfer shall have no effect on any apportionment formula used to distribute funds to States under this section or section 105 or 144.

"(D) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

"(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects are transferred under this subsection.".

SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "category" and "offered into the capital markets";

(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

(3) in paragraph (8) (as redesignated by paragraph (2))—

(A) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(B) by striking subparagraph (D) and inserting the following:

"(D) a project that—

"(i)(I) is a project for—

"(aa) a public freight rail facility or a private facility providing public benefit;

"(bb) an intermodal freight transfer facility;

"(cc) a means of access to a facility described in item (aa) or (bb);

"(dd) a service improvement for a facility described in item (aa) or (bb) (including a capital investment for an intelligent transportation system); or

"(II) comprises a series of projects described in subclause (I) with the common objective of improving the flow of goods;

"(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

"(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port."; and

(4) in paragraph (10) (as redesignated by paragraph (2)) by striking "bond" and inserting "credit".

(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

"(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application to the Secretary.";

(B) in paragraph (3)(A)—

(i) in clause (i), by striking "$100,000,000" and inserting "$50,000,000"; and

(ii) in clause (ii), by striking "50" and inserting "20"; and

(C) in paragraph (4)—

(i) by striking "Project financing" and inserting "The Federal credit instrument"; and

(ii) by inserting before the period at the end the following: "that also secure the project obligations"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "criteria" the second place it appears and inserting "requirements"; and

(B) in paragraph (2)(B), by inserting "(which may be the Federal credit instrument)" after "obligations".

(c) SECURED LOANS.—Section 183 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "of any project selected under section 182." at the end;

(ii) in subparagraphs (A) and (B), by inserting "of any project selected under section 182" after "costs" ; and

(iii) in subparagraph (B), by striking the semicolon at the end and inserting a period; and

(B) in paragraph (4)—

(i) by striking "funding" and inserting "execution"; and

(ii) by striking "rating." and all that follows and inserting a period;

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

"(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of—

"(A) 33 percent of the reasonably anticipated eligible project costs; or

"(B) the amount of the senior project obligations.";

(B) in paragraph (3)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

(C) in paragraph (4), by striking "marketable"; and

(3) in subsection (c)—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (A), by striking "during the 10 years"; and

(ii) in subparagraph (B)(ii), by striking "loan" and all that follows and inserting "loan.".

(d) LINES OF CREDIT.—Section 184 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking "interest, any debt service reserve fund, and any other available reserve" and inserting "interest (but not including reasonably required financing reserves)";

(B) in paragraph (4), by striking "marketable United States Treasury securities as of the date on which the line of credit is obligated" and inserting " United States Treasury securities as of the date of execution of the line of credit agreement"; and

(C) in paragraph (5)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "scheduled";

(ii) by inserting "be scheduled to" after "shall"; and

(iii) by striking "be fully repaid, with interest," and inserting "to conclude, with full repayment of principal and interest,"; and

(B) by striking paragraph (3).

(e) PROGRAM ADMINISTRATION.—Section 185 of title 23, United States Code, is amended to read as follows:

"§ 185. Program administration

"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

"(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

"(c) SERVICER.—

"(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

"(2) DUTIES.—The servicer shall act as the agent for the Secretary.

"(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

(f) FUNDING.—Section 188 of title 23, United States Code, is amended to read as follows:

"§ 188. Funding

"(a) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $122,021,761 for each of fiscal years 2005 through 2009.

"(2) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $1,877,258 for each of fiscal years 2005 through 2009.

"(3) COLLECTED FEES AND SERVICES.—In addition to funds provided under paragraph (2)—

"(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

"(B) the Secretary may accept and use payment or services provided by transaction participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

"(4) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.".

(g) REPEAL.—Section 189 of title 23, United States code, is repealed.

(h) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended—

(1) by striking the item relating to section 185 and inserting the following:

"185. Program administration.";

and

(2) by striking the item relating to section 189.

SEC. 1304. STATE INFRASTRUCTURE BANKS.

Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by striking "Missouri," and all that follows through "for the establishment" and inserting "Missouri, Rhode Island, Texas, and any other State that seeks such an agreement for the establishment".

SEC. 1305. PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.

Section 109(c) of title 23, United States Code, is amended by adding at the end the following:

"(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary may undertake a pilot program to demonstrate the advantages of public-private partnerships for critical capital development projects, including highway, bridge, and freight intermodal connector projects authorized under this title.

"(B) PROJECTS.—In carrying out the program, the Secretary shall—

"(i) select not less than 10 qualified public-private partnership projects that are authorized under applicable State and local laws; and

"(ii) use funds made available to carry out the program to provide to sponsors of the projects assistance for development phase activities described in section 181(1)(A), to enhance project delivery and reduce overall costs.".

Subtitle D—Safety

SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

"§ 148. Highway safety improvement program

"(a) DEFINITIONS.—In this section:

"(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

"(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

"(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

"(i) corrects or improves a hazardous road location or feature; or

"(ii) addresses a highway safety problem.

"(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

"(i) an intersection safety improvement;

"(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

"(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

"(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

"(v) an improvement for pedestrian or bicyclist safety;

"(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

"(II) construction of a railway-highway crossing safety feature; or

"(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

"(vii) construction of a traffic calming feature;

"(viii) elimination of a roadside obstacle;

"(ix) improvement of highway signage and pavement markings;

"(x) installation of a priority control system for emergency vehicles at signalized intersections;

"(xi) installation of a traffic control or other warning device at a location with high accident potential;

"(xii) safety-conscious planning;

"(xiii) improvement in the collection and analysis of crash data;

"(xiv) planning, integrated, interoperable emergency communications, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

"(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

"(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

"(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

"(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

"(i) promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist safety); or

"(ii) enforce highway safety laws.

"(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

"(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

"(A) is developed after consultation with—

"(i) a highway safety representative of the Governor of the State;

"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) persons responsible for administering section 130 at the State level;

"(vi) representatives conducting Operation Lifesaver;

"(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

"(viii) motor vehicle administration agencies; and

"(ix) other major State and local safety stakeholders;

"(B) analyzes and makes effective use of State, regional, or local crash data;

"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

"(D) considers safety needs of, and high-fatality segments of, public roads;

"(E) considers the results of State, regional, or local transportation and highway safety planning processes;

"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

"(G) is approved by the Governor of the State or a responsible State agency; and

"(H) is consistent with the requirements of section 135(f).

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

"(B) produces a program of projects or strategies to reduce identified safety problems;

"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

"(D) submits to the Secretary an annual report that—

"(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

"(ii) contains an assessment of—

"(I) potential remedies to hazardous locations identified;

"(II) estimated costs associated with those remedies; and

"(III) impediments to implementation other than cost associated with those remedies.

"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

"(B) based on the analysis required by subparagraph (A)—

"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

"(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

"(C) adopt strategic and performance-based goals that—

"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

"(ii) focus resources on areas of greatest need; and

"(iii) are coordinated with other State highway safety programs;

"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

"(ii) includes all public roads;

"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

"(ii) identify opportunities for preventing the development of such hazardous conditions; and

"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

"(d) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

"(B) as provided in subsection (e), for other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

"(f) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes progress being made to implement highway safety improvement projects under this section;

"(B) assesses the effectiveness of those improvements; and

"(C) describes the extent to which the improvements funded under this section contribute to the goals of—

"(i) reducing the number of fatalities on roadways;

"(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related crashes;

"(iv) mitigating the consequences of roadway-related crashes; and

"(v) reducing the occurrences of roadway-railroad grade crossing crashes.

"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) TRANSPARENCY.—The Secretary shall make reports under subsection (c)(1)(D) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

"(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

"(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the State involving bicyclists and pedestrians.

"(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2005 through 2009, $23,465,723 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA–RD–01–103)' and dated October 2001.".

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and

(II) by striking "80 percent" and inserting "90 percent";

(ii) in subparagraph (B), by striking "tobe" and inserting "to be";

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking "paragraph (2)" and inserting "paragraph (1)".

(3) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of

paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking "(d)(2)" each place it appears and inserting "(d)(1)".

(4) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

"148. Highway safety improvement program.".

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking "sections 130, 144, and 152 of this title" and inserting "sections 130 and 144".

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting "under" after "State's apportionment"; and

(ii) in subsection (b)—

(I) in the first sentence, by striking "the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)" and inserting "section 104(f) or 133(d)(2)"; and

(II) in the second sentence, by striking "or 133(d)(2)".

(D) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking "152" each place it appears and inserting "148".

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after "Improvement program," the following: "the highway safety improvement program,"; and

(2) by adding at the end the following:

"(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

"(i) 25 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 40 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 35 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(c) ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—Section 130(e) of title 23, United States Code, is amended by inserting before "At least" the following: "For each fiscal year, at least $187,725,786 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.".

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting "and the Committee on Commerce, Science, and Transportation," after "Public Works"; and

(B) by striking "not later than April 1 of each year" and inserting "every other year".

(3) EXPENDITURE OF FUNDS.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) EXPENDITURE OF FUNDS.—Funds made available to carry out this section shall be—

"(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

"(2) apportioned in accordance with section 104(b)(5).".

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but certifies to the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b)(3) of title 23, United States Code.

SEC. 1402. OPERATION LIFESAVER.

Section 104(d)(1) of title 23, United States Code, is amended—

(1) by striking "subsection (b)(3)" and inserting "subsection (b)(5)"; and

(2) by striking "$500,000" and inserting "$563,177".

SEC. 1403. INCREASED PENALTIES FOR HIGHER-RISK DRIVERS DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Section 164 of title 23, United States Code, is amended to read as follows:

"§ 164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) BLOOD ALCOHOL CONCENTRATION.—The term 'blood alcohol concentration' means grams of alcohol per 100 milliliters of blood or the equivalent grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having a blood alcohol concentration above the permitted limit as established by each State.

"(3) HIGHER-RISK IMPAIRED DRIVER LAW.—

"(A) IN GENERAL.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that—

"(i) an individual described in subparagraph (B) shall—

"(I) receive a driver's license suspension;

"(II)(aa) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 45 days; and

"(bb) for the remainder of the license suspension period, be required to install a certified alcohol ignition interlock device on the vehicle;

"(III)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

"(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment and paid for by the individual; and

"(IV) be imprisoned for not less than 10 days, or have an electronic monitoring device for not less than 100 days; and

"(ii) an individual who is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration level of 0.15 percent or greater shall—

"(I) receive a driver's license suspension; and

"(II)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

"(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment and paid for by the individual.

"(B) COVERED INDIVIDUALS.—An individual referred to in subparagraph (A)(i) is an individual who—

"(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a period of 7 consecutive years; or

"(ii) is convicted of a driving-while-suspended offense, if the suspension was the result of a conviction for driving under the influence.

"(4) LICENSE SUSPENSION.—The term 'license suspension' means, for a period of not less than 1 year—

"(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

"(B) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.

"(5) MOTOR VEHICLE.—

"(A) IN GENERAL.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways.

"(B) EXCLUSIONS.—The term 'motor vehicle' does not include—

"(i) a vehicle operated solely on a rail line; or

"(ii) a commercial vehicle.

"(b) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), on October 1, 2008, and each October 1 thereafter, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used in accordance with section 402(a)(3) only to carry out impaired driving programs.

"(2) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—The Secretary shall—

"(A) reserve 25 percent of the funds that would otherwise be transferred to States for a fiscal year under paragraph (1); and

"(B) use the reserved funds to make law enforcement grants, in connection with nationwide traffic safety campaigns, to be used in accordance with section 402(a)(3).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 164 and inserting the following:

"164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.".

SEC. 1404. BUS AXLE WEIGHT EXEMPTION.

Section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking subsection (h) and inserting the following:

"(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION.—

"(1) IN GENERAL.—The second sentence of section 127 of title 23, United States Code (relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways), shall not apply to—

"(A) any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12181)); or

"(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

"(2) STATE ACTION.—No State or political subdivision of a State, or any political authority of 2 or more States, shall impose any axle weight limitation on any vehicle described in paragraph (1) in any case in which such a vehicle is using the Dwight D. Eisenhower System of Interstate and Defense Highways.".

SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter I of title 23, United States Code, is amended by inserting after section 149 the following:

"§150. Safe routes to schools program

"(a) DEFINITIONS.—In this section:

"(1) PRIMARY AND SECONDARY SCHOOL.—The term 'primary and secondary school' means a school that provides education to children in any of grades kindergarten through 12.

"(2) PROGRAM.—The term 'program' means the safe routes to schools program established under subsection (b).

"(3) VICINITY OF A SCHOOL.—The term 'vicinity of a school' means the area within 2 miles of a primary or secondary school.

"(b) ESTABLISHMENT.—The Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and secondary schools in accordance with this section.

"(c) PURPOSES.—The purposes of the program shall be—

"(1) to enable and to encourage children to walk and bicycle to school;

"(2) to encourage a healthy and active lifestyle by making walking and bicycling to school safer and more appealing transportation alternatives; and

"(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety in the vicinity of schools.

"(d) ELIGIBLE RECIPIENTS.—A State shall use amounts apportioned under this section to provide financial assistance to State, regional, and local agencies that demonstrate an ability to meet the requirements of this section.

"(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

"(1) INFRASTRUCTURE-RELATED PROJECTS.—

"(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects to encourage walking and bicycling to school, including—

"(i) sidewalk improvements;

"(ii) traffic calming and speed reduction improvements;

"(iii) pedestrian and bicycle crossing improvements;

"(iv) on-street bicycle facilities;

"(v) off-street bicycle and pedestrian facilities;

"(vi) secure bicycle parking facilities;

"(vii) traffic signal improvements; and

"(viii) pedestrian-railroad grade crossing improvements.

"(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on—

"(i) any public road in the vicinity of a school; or

"(ii) any bicycle or pedestrian pathway or trail in the vicinity of a school.

"(2) BEHAVIORAL ACTIVITIES.—

"(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for behavioral activities to encourage walking and bicycling to school, including—

"(i) public awareness campaigns and outreach to press and community leaders;

"(ii) traffic education and enforcement in the vicinity of schools; and

"(iii) student sessions on bicycle and pedestrian safety, health, and environment.

"(B) ALLOCATION.—Of the amounts apportioned to a State under this section for a fiscal year, not less than 10 percent shall be used for behavioral activities under this paragraph.

"(f) FUNDING.—

"(1) SET ASIDE.—Before apportioning amounts to carry out section 148 for a fiscal year, the Secretary shall set aside and use $65,704,024 to carry out this section.

"(2) APPORTIONMENT.—Amounts made available to carry out this section shall be apportioned to States in accordance with section 104(b)(5).

"(3) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State transportation department.

"(4) FEDERAL SHARE.—Except as provided in sections 120 and 130, the Federal share of the cost of a project or activity funded under this section shall be 90 percent.

"(5) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b)(2), amounts apportioned under this section shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—The analysis for subchapter I of chapter 1 of title 23, United States Code is amended by inserting after the item relating to section 149 the following:

"150. Safe routes to school program.".

SEC. 1406. PURCHASES OF EQUIPMENT.

(a) IN GENERAL.—Section 152 of title 23, United States Code is amended to read as follows:

"§152. Purchases of equipment

"(a) IN GENERAL.—Subject to subsection (b), a State carrying out a project under this chapter shall purchase device, tool or other equipment needed for the project only after completing and providing a written analysis demonstrating the cost savings associated with purchasing the equipment compared with renting the equipment from a qualified equipment rental provider before the project commences

"(b) APPLICABILITY.—This section shall apply to—

"(1) earth moving, road machinery, and material handling equipment, or any other item, with a purchase price in excess of $75,000; and

"(2) aerial work platforms with a purchase price in excess of $25,000.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 152 and inserting the following:

"152. Purchases of equipment.".

SEC. 1407. WORKZONE SAFETY.

Section 358(b) of the National Highway System Designation Act of 1995 (109 Stat. 625) is amended by adding at the end the following:

"(7) Recommending all federally-assisted projects in excess of $15,000,000 to enter into contracts only with work zone safety services contractors, traffic control contractors, and trench safety and shoring contractors that carry general liability insurance in an amount not less than $15,000,000.

"(8) Recommending federally-assisted projects the costs of which exceed $15,000,000 to include work zone intelligent transportation systems that are—

"(A) provided by a qualified vendor; and

"(B) monitored continuously.

"(9) Recommending federally-assisted projects to fully fund not less than 5 percent of project costs for work zone safety and temporary traffic control measures, in addition to the cost of the project, which measures shall be provided by a qualified work zone safety or traffic control provider.

"(10)(A) Recommending federally-assisted projects to implement or accommodate the use of a device capable of—

"(i) automatically capturing images of, measuring the speed of, and relating to, multiple vehicles in multiple lanes simultaneously; and

"(ii) correlating measured speeds to capture images of specific identified vehicles traveling in excess of posted speed limits in road work zones and construction areas.

"(B) Recommending appropriate measures to protect public security and privacy, including—

"(i) notice to drivers of the use of the devices described in subparagraph (A); and

"(ii) with respect to the information generated by the devices described in subparagraph (A)—

"(I) limitations on the number of, and authorization process relating to, individuals that may access the information;

"(II) limitations on the use, disclosure, and retention of the information; and

"(III) any measures necessary to ensure that the information is accessed only by an individual that is authorized to access the information.

"(11) Ensuring that any recommendation made under any of paragraphs (7) through (10) provides for an exemption for applicability to a State, with respect to a project or class of projects—

"(A) to the extent that a State notifies the Secretary in writing that safety is not expected to be adversely affected by nonapplication of the recommendation to the project or class of projects; or

"(B) in any case in which the State has in effect a law that prohibits a project or class of projects (including a device or activity to be installed or carried out under such a project).".

SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

"For:	The applicable percentage is:
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year.	2 percent.

"(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.".

SEC. 1410. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 39. Traffic signal preemption transmitters

"(a) OFFENSES.—

"(1) SALE.—A person who knowingly sells a traffic signal preemption transmitter in or affecting interstate or foreign commerce to a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity, shall, notwithstanding section 3571(b), be fined not more than $10,000, imprisoned not more than 1 year, or both.

"(2) USE.—A person who makes unauthorized use of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any mechanism that can change or alter a traffic signal's phase time or sequence.

"(2) UNAUTHORIZED USE.—

"(A) IN GENERAL.—The term 'unauthorized use' means use of a traffic signal preemption transmitter by a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity.

"(B) EXCEPTION.—The term 'unauthorized use' does not apply to use of a traffic signal preemption transmitter for classroom or instructional purposes.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"39. Traffic signal preemption transmitters.".

SEC. 1411. PRESIDENTIAL COMMISSION ON ALCOHOL-IMPAIRED DRIVING.

(a) FINDINGS.—Congress finds that—

(1) there has been considerable progress over the past 25 years in reducing the number and rate of alcohol-related highway fatalities;

(2) the National Highway Traffic Safety Administration projects that fatalities in alcohol-related crashes declined in 2004 for the second year in a row;

(3) in spite of this progress, an estimated 16,654 Americans died in 2004, in alcohol-related crashes;

(4) these fatalities comprise 39 percent of the annual total of highway fatalities;

(5) about 250,000 are injured each year in alcohol-related crashes;

(6) the past 2 years of decreasing alcohol-related fatalities follows a 3-year increase;

(7) drunk driving is the Nation's most frequently committed violent crime;

(8) the annual cost of alcohol-related crashes is over $100,000,000,000, including $9,000,000,000 in costs to employers;

(9) a Presidential Commission on Drunk Driving in 1982 and 1983 helped to lead to substantial progress on this issue; and

(10) these facts point to the need to renew the national commitment to preventing these deaths and injuries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, in an effort to further change the culture of alcohol impaired driving on our Nation's highways, the President should consider establishing a Presidential Commission on Alcohol-Impaired Driving—

(1) comprised of—

(A) representatives of State and local governments, including state legislators;

(B) law enforcement;

(C) traffic safety experts, including researchers;

(D) victims of alcohol-related crashes;

(E) affected industries, including the alcohol, insurance, and auto industries;

(F) the business community;

(G) labor;

(H) the medical community;

(I) public health; and

(J) Members of Congress; and

(2) that not later than September 30, 2006, would—

(A) conduct a full examination of alcohol-impaired driving issues; and

(B) make recommendations for a broad range of policy and program changes that would serve to further reduce the level of deaths and injuries caused by drunk driving.

SEC. 1412. SENSE OF THE SENATE IN SUPPORT OF INCREASED PUBLIC AWARENESS OF BLOOD ALCOHOL CONCENTRATION LEVELS AND THE DANGERS OF DRINKING AND DRIVING.

(a) FINDINGS.—The Senate finds that—

(1) in 2003—

(A) 17,013 Americans died in alcohol-related traffic crashes;

(B) 40 percent of the persons killed in traffic crashes died in alcohol-related crashes; and

(C) drivers with blood alcohol concentration levels over 0.15 were involved in 58 percent of alcohol-related traffic fatalities;

(2) research shows that 77 percent of Americans think they have received enough information about drinking and driving and the way in which alcohol affects individual blood alcohol concentration levels; and

(3) only 28 percent of the American public can correctly identify the legal limit of blood alcohol concentration of the State in which they reside.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the National Highway Traffic Safety Administration should work with State and local governments and independent organizations to increase public awareness of—

(1) State legal limits on blood alcohol concentration levels; and

(2) the dangers of drinking and driving.

SEC. 1413. GRANT PROGRAM FOR COMMERCIAL DRIVER TRAINING.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a program for making grants to commercial driver training schools and programs for the purpose of providing financial assistance to entry level drivers of commercial vehicles (as defined in section 31301 of title 49, United States Code).

(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

(c) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the purpose of carrying out this section $5,000,000 for each of the fiscal years 2006 through 2009.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

SEC. 1501. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO STATE AND METROPOLITAN TRANSPORTATION PLANNING.

(a) METROPOLITAN PLANNING.—Section 134(f) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate for the metropolitan area to consider.".

(b) STATEWIDE PLANNING.—Section 135(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate for the State to consider.".

SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION AGENCIES AND RESOURCE AGENCIES IN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 134(g) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) MITIGATION ACTIVITIES.—

"(i) IN GENERAL.—A long-range transportation plan shall include a discussion of—

"(I) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(II) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(3) by inserting after paragraph (3) the following:

"(4) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) ISSUES.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(b) IMPROVED CONSULTATION DURING STATE TRANSPORTATION PLANNING.—

(1) IN GENERAL.—Section 135(e)(2) of title 23, United States Code, is amended by adding at the end the following:

"(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

"(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State and tribal conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(2) ADDITIONAL REQUIREMENTS.—Section 135(e) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A long-range transportation plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(5) TRANSPORTATION STRATEGIES.—A long-range transportation plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.".

SEC. 1503. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking "consider the results" and inserting "consider—

"(A) the results";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(B) the publication entitled 'Flexibility in Highway Design' of the Federal Highway Administration;

"(C) 'Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design' developed by the conference held during 1998 entitled 'Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance'; and

"(D) any other material that the Secretary determines to be appropriate.".

SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION PLANNING AND PROJECTS.

(a) METROPOLITAN PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 134(g)(5) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended—

(A) by striking "Before approving" and inserting the following:

"(A) IN GENERAL.—Before approving"; and

(B) by adding at the end the following:

"(B) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 134(g)(6)(i) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended by inserting before the semicolon the following: ", including (to the maximum extent practicable) in electronically accessible formats and means such as the World Wide Web".

(b) STATEWIDE PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 135(e)(3) of title 23, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 135(e) of title 23, United States Code (as amended by section 1502(b)(2)), is amended by adding at the end the following:

"(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.".

SEC. 1505. PROJECT MITIGATION.

(a) MITIGATION FOR NATIONAL HIGHWAY SYSTEM PROJECTS.—Section 103(b)(6)(M) of title 23, United States Code, is amended—

(1) by inserting "(i)" after "(M); and

(2) by adding at the end the following:

"(ii) State habitat, streams, and wetlands mitigation efforts under section 155.".

(b) MITIGATION FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—Section 133(b)(11) of title 23, United States Code, is amended—

(1) by inserting "(A)" after "(11)"; and

(2) by adding at the end the following:

"(B) State habitat, streams, and wetlands mitigation efforts under section 155.".

(c) STATE HABITAT, STREAMS, AND WETLANDS MITIGATION FUNDS.—Section 155 of title 23, United States Code, is amended to read as follows:

"§ 155. State habitat, streams, and wetlands mitigation funds

"(a) ESTABLISHMENT.—A State should establish a habitat, streams, and wetlands mitigation fund (referred to in this section as a 'State fund').

"(b) PURPOSE.—The purpose of a State fund is to encourage efforts for habitat, streams, and wetlands mitigation in advance of or in conjunction with highway or transit projects to—

"(1) ensure that the best habitat, streams, and wetland mitigation sites now available are used; and

"(2) accelerate transportation project delivery by making high-quality habitat, streams, and wetland mitigation credits available when needed.

"(c) FUNDS.—A State may deposit into a State fund part of the funds apportioned to the State under—

"(1) section 104(b)(1) for the National Highway System; and

"(2) section 104(b)(3) for the surface transportation program.

"(d) USE.—

"(1) IN GENERAL.—Amounts deposited in a State fund shall be used (in a manner consistent with this section) for habitat, streams, or wetlands mitigation related to 1 or more projects funded under this title, including a project under the transportation improvement program of the State developed under section 135(f).

"(2) ENDANGERED SPECIES.—In carrying out this section, a State and cooperating agency shall give consideration to mitigation projects, on-site or off-site, that restore and preserve the best available sites to conserve biodiversity and habitat for—

"(A) Federal or State listed threatened or endangered species of plants and animals; and

"(B) plant or animal species warranting listing as threatened or endangered, as determined by the Secretary of the Interior in accordance with section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).

"(3) MITIGATION IN CLOSED BASINS.—

"(A) IN GENERAL.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

"(i) construction—

"(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

"(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

"(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

"(iii) monitoring and evaluations relating to proposed construction.

"(B) REIMBURSEMENT.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

"(e) CONSISTENCY WITH APPLICABLE REQUIREMENTS.—Contributions from the State fund to mitigation efforts may occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations).".

(d) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155 and inserting the following:

"155. State habitat, streams, and wetlands mitigation funds.".

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT PROCESS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1203(a)), is amended by inserting after section 325 the following:

"§ 326. Transportation project development process

"(a) DEFINITIONS.—In this section:

"(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or federally recognized tribal government.

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means a detailed statement of the environmental impacts of a project required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing, for a project—

"(i) an environmental impact statement; or

"(ii) any other document or analysis required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) PROJECT.—The term 'project' means any highway or transit project that requires the approval of the Secretary.

"(5) PROJECT SPONSOR.—The term 'project sponsor' means an agency or other entity (including any private or public-private entity), that seeks approval of the Secretary for a project.

"(6) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for transportation.

"(b) PROCESS.—

"(1) LEAD AGENCY.—

"(A) IN GENERAL.—The Department of Transportation shall be the lead Federal agency in the environmental review process for a project.

"(B) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) CONCURRENCE OF PROJECT SPONSOR.—The lead agency may carry out the environmental review process in accordance with this section only with the concurrence of the project sponsor.

"(2) REQUEST FOR PROCESS.—

"(A) IN GENERAL.—A project sponsor may request that the lead agency carry out the environmental review process for a project or group of projects in accordance with this section.

"(B) GRANT OF REQUEST; PUBLIC NOTICE.—The lead agency shall—

"(i) grant a request under subparagraph (A); and

"(ii) provide public notice of the request.

"(3) EFFECTIVE DATE.—The environmental review process described in this section may be applied to a project only after the date on which public notice is provided under subparagraph (B)(ii).

"(c) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility to—

"(A) identify and invite cooperating agencies in accordance with subsection (d);

"(B) develop an agency coordination plan with review, schedule, and timelines in accordance with subsection (e);

"(C) determine the purpose and need for the project in accordance with subsection (f);

"(D) determine the range of alternatives to be considered in accordance with subsection (g);

"(E) convene dispute-avoidance and decision resolution meetings and related efforts in accordance with subsection (h);

"(F) take such other actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

"(G) prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

"(d) ROLES AND RESPONSIBILITIES OF COOPERATING AGENCIES.—

"(1) IN GENERAL.—With respect to a project, each Federal agency shall carry out any obligations of the Federal agency in the environmental review process in accordance with this section and applicable Federal law.

"(2) INVITATION.—

"(A) IN GENERAL.—The lead agency shall—

"(i) identify, as early as practicable in the environmental review process for a project, any other agencies that may have an interest in the project, including—

"(I) agencies with jurisdiction over environmentally-related matters that may affect the project or may be required by law to conduct an environmental-related independent review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project; and

"(II) agencies with special expertise relevant to the project;

"(ii) invite the agencies identified in clause (i) to become cooperating agencies in the environmental review process for that project; and

"(iii) grant requests to become cooperating agencies from agencies not originally invited.

"(B) RESPONSES.—The deadline for receipt of a response from an agency that receives an invitation under subparagraph (A)(ii)—

"(i) shall be 30 days after the date of receipt by the agency of the invitation; but

"(ii) may be extended by the lead agency for good cause.

"(3) DECLINING OF INVITATIONS.—A Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a cooperating agency by the lead agency, unless the invited agency informs the lead agency in writing, by the deadline specified in the invitation, that the invited agency—

"(A) has no jurisdiction or authority with respect to the project;

"(B) has no expertise or information relevant to the project; and

"(C) does not intend to submit comments on the project.

"(4) EFFECT OF DESIGNATION.—Designation as a cooperating agency under this subsection shall not imply that the cooperating agency—

"(A) supports a proposed project; or

"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

"(5) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—

"(A) IN GENERAL.—The Secretary may invite other agencies to become cooperating agencies for a category of projects.

"(B) DESIGNATION.—An agency may be designated as a cooperating agency for a category of projects only with the consent of the agency.

"(6) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

"(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

"(e) DEVELOPMENT OF FLEXIBLE PROCESS AND TIMELINE.—

"(1) COORDINATION PLAN.—

"(A) IN GENERAL.—The lead agency shall establish a coordination plan, which may be incorporated into a memorandum of understanding, to coordinate agency and public participation in and comment on the environmental review process for a project or category of projects.

"(B) WORKPLAN.—

"(i) IN GENERAL.—The lead agency shall develop, as part of the coordination plan, a workplan for completing the collection, analysis, and evaluation of baseline data and future impacts modeling necessary to complete the environmental review process, including any data, analyses, and modeling necessary for related permits, approvals, reviews, or studies required for the project under other laws.

"(ii) CONSULTATION.—In developing the workplan under clause (i), the lead agency shall consult with—

"(I) each cooperating agency for the project;

"(II) the State in which the project is located; and

"(III) if the State is not the project sponsor, the project sponsor.

"(C) SCHEDULE.—

"(i) IN GENERAL.—The lead agency shall establish as part of the coordination plan, after consultation with each cooperating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

"(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

"(I) the responsibilities of cooperating agencies under applicable laws;

"(II) resources available to the cooperating agencies;

"(III) overall size and complexity of a project;

"(IV) the overall schedule for and cost of a project; and

“(V) the sensitivity of the natural and historic resources that could be affected by the project.

“(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

“(E) MODIFICATION.—The lead agency may—

“(i) lengthen a schedule established under subparagraph (C) for good cause; and

“(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

“(F) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule, shall be—

“(i) provided to all cooperating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

“(ii) made available to the public.

“(2) COMMENTS AND TIMELINES.—

“(A) IN GENERAL.—A schedule established under paragraph (1)(C) shall include—

“(i) opportunities for comment, deadline for receipt of any comments submitted, deadline for lead agency response to comments; and

“(ii) except as otherwise provided under paragraph (1)—

“(I) an opportunity to comment by agencies and the public on a draft or final environmental impact statement for a period of not more than 60 days longer than the minimum period required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(II) for all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than the longer of—

“(aa) 30 days after the final day of the minimum period required under Federal law (including regulations), if available; or

“(bb) if a minimum period is not required under Federal law (including regulations), 30 days.

“(B) EXTENSION OF COMMENT PERIODS.—The lead agency may extend a period of comment established under this paragraph for good cause.

“(C) LATE COMMENTS.—A comment concerning a project submitted under this paragraph after the date of termination of the applicable comment period or extension of a comment period shall not be eligible for consideration by the lead agency unless the lead agency or project sponsor determines there was good cause for the delay or the lead agency is required to consider significant new circumstances or information in accordance with sections 1501.7 and 1502.9 of title 40, Code of Federal Regulations.

“(D) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

“(ii) every 60 day thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

“(3) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including a regulation).

“(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED STATEMENT.—

“(1) IN GENERAL.—With respect to the environmental review process for a project, the purpose and need for the project shall be defined in accordance with this subsection.

“(2) AUTHORITY.—The lead agency shall define the purpose and need for a project, including the transportation objectives and any other objectives intended to be achieved by the project.

“(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—Before determining the purpose and need for a project, the lead agency shall solicit for 30 days, and consider, any relevant comments on the draft statement of purpose and need for a proposed project received from the public and cooperating agencies.

“(4) EFFECT ON OTHER REVIEWS.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

“(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

“(6) CONTENTS.—

“(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

“(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

“(7) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the purpose of and need for a project:

“(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

“(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

“(C) Economic development plans adopted by—

“(i) units of State, local, or tribal government; or

“(ii) established economic development planning organizations or authorities.

“(D) Environmental protection plans, including plans for the protection or treatment of—

“(i) air quality;

“(ii) water quality and runoff;

“(iii) habitat needs of plants and animals;

“(iv) threatened and endangered species;

“(v) invasive species;

“(vi) historic properties; and

“(vii) other environmental resources.

“(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

“(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

“(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

“(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

“(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

“(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

“(B) ALTERNATIVES.—The lead agency shall consider—

“(i) alternatives that meet the purpose and need of the project; and

“(ii) the alternative of no action.

“(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

“(4) EFFECT ON OTHER REVIEWS.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

“(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

“(6) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the alternatives for a project:

“(A) The overall size and complexity of the proposed action.

“(B) The sensitivity of the potentially affected resources.

“(C) The overall schedule and cost of the project.

“(D) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135 of title 23 of the United States Code.

“(E) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

“(F) Economic development plans adopted by—

“(i) units of State, local, or tribal government; or

“(ii) established economic development planning organizations or authorities.

“(G) environmental protection plans, including plans for the protection or treatment of—

“(i) air quality;

“(ii) water quality and runoff;

“(iii) habitat needs of plants and animals;

“(iv) threatened and endangered species;

“(v) invasive species;

“(vi) historic properties; and

“(vii) other environmental resources.

“(H) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

“(h) PROMPT ISSUE IDENTIFICATION AND RESOLUTION PROCESS.—

“(1) IN GENERAL.—The lead agency, the project sponsor, and the cooperating agencies shall work cooperatively, in accordance with this section, to identify and resolve issues that could—

“(A) delay completion of the environmental review process; or

“(B) result in denial of any approvals required for the project under applicable laws.

“(2) LEAD AGENCY RESPONSIBILITIES.—

“(A) IN GENERAL.—The lead agency, with the assistance of the project sponsor, shall make information available to the cooperating agencies, as early as practicable in the environmental review process, regarding—

“(i) the environmental and socioeconomic resources located within the project area; and

“(ii) the general locations of the alternatives under consideration.

"(B) BASIS FOR INFORMATION.—Information about resources in the project area may be based on existing data sources, including geographic information systems mapping.

"(3) COOPERATING AGENCY RESPONSIBILITIES.—

"(A) IN GENERAL.—Based on information received from the lead agency, cooperating agencies shall promptly identify to the lead agency any major issues of concern regarding the potential environmental or socioeconomic impacts of a project.

"(B) MAJOR ISSUES OF CONCERN.—A major issue of concern referred to in subparagraph (A) may include any issue that could substantially delay or prevent an agency from granting a permit or other approval that is needed for a project, as determined by a cooperating agency.

"(4) ISSUE RESOLUTION.—On identification of a major issue of concern under paragraph (3), or at any time upon the request of a project sponsor or the Governor of a State, the lead agency shall promptly convene a meeting with representatives of each of the relevant cooperating agencies, the project sponsor, and the Governor to address and resolve the issue.

"(5) NOTIFICATION.—If a resolution of a major issue of concern under paragraph (4) cannot be achieved by the date that is 30 days after the date on which a meeting under that paragraph is convened, the lead agency shall provide notification of the failure to resolve the major issue of concern to—

"(A) the heads of all cooperating agencies;

"(B) the project sponsor;

"(C) the Governor involved;

"(D) the Committee on Environment and Public Works of the Senate;

"(E) the Committee on Transportation and Infrastructure of the House of Representatives; and

"(F) the Council on Environmental Quality.

"(i) PERFORMANCE MEASUREMENT.—

"(1) PROGRESS REPORTS.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

"(2) MINIMUM REQUIREMENTS.—The program shall include, at a minimum—

"(A) the establishment of criteria for measuring consideration of—

"(i) State and metropolitan planning, project planning, and design criteria; and

"(ii) environmental processing times and costs;

"(B) the collection of data to assess performance based on the established criteria; and

"(C) the annual reporting of the results of the performance measurement studies.

"(3) INVOLVEMENT OF THE PUBLIC AND COOPERATING AGENCIES.—

"(A) IN GENERAL.—The Secretary shall biennially conduct a survey of agencies participating in the environmental review process under this section to assess the expectations and experiences of each surveyed agency with regard to the planning and environmental review process for projects reviewed under this section.

"(B) PUBLIC PARTICIPATION.—In conducting the survey, the Secretary shall solicit comments from the public.

"(j) ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary may approve a request by a State or recipient to provide funds made available under this title for a highway project, or made available under chapter 53 of title 49 for a mass transit project, to agencies participating in the coordinated environmental review process established under this section in order to provide the resources necessary to meet any time limits established under this section.

"(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

"(A) for such additional amounts as the Secretary determines are necessary for the affected Federal and State agencies to meet the time limits for environmental review; and

"(B) if those time limits are less than the customary time necessary for that review.

"(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

"(1) JUDICIAL REVIEW.—Nothing in this section shall affect the reviewability of any final Federal agency action in any United States district court or State court.

"(2) SAVINGS CLAUSE.—Nothing in this section shall affect—

"(A) the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute; or

"(B) the responsibility of any Federal officer to comply with or enforce such a statute.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 325 (as added by section 1203(f)) the following:

"326. Transportation project development process.".

(2) Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed.

(c) EXISTING ENVIRONMENTAL REVIEW PROCESS.—Nothing in this section affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary under section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232; 23 U.S.C. 109 note).

SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1511(a)), is amended by inserting after section 326 the following:

"§ 327. Assumption of responsibility for categorical exclusions

"(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

"(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

"(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) OTHER APPLICABLE FEDERAL LAWS.—

"(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

"(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

"(c) MEMORANDA OF UNDERSTANDING.—

"(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

"(2) TERM.—A memorandum of understanding—

"(A) shall have term of not more than 3 years; and

"(B) shall be renewable.

"(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

"(4) MONITORING.—The Secretary shall—

"(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

"(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

"(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1511(b)), is amended by inserting after the item relating to section 326 the following:

"327. Assumption of responsibility for categorical exclusions.".

SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1512(a)), is amended by inserting after section 327 the following:

"§ 328. Surface transportation project delivery pilot program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the 'program').

"(2) ASSUMPTION OF RESPONSIBILITY.—

"(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

"(ii) the Secretary may not assign—

"(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

"(II) any responsibility imposed on the Secretary by section 134 or 135.

"(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

"(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

"(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

"(b) STATE PARTICIPATION.—

"(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the State of Oklahoma) to participate in the program.

"(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

"(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

"(3) PUBLIC NOTICE.—

"(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

"(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

"(A) the regulatory requirements under paragraph (2) have been met;

"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

"(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

"(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

"(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

"(2) be in such form as the Secretary may prescribe;

"(3) provide that the State—

"(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

"(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

"(C) certifies that State laws (including regulations) are in effect that—

"(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

"(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

"(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

"(d) JURISDICTION.—

"(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

"(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

"(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

"(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

"(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

"(g) AUDITS.—

"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c)(1) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

"(A) semiannual audits during each of the first 2 years of State participation; and

"(B) annual audits during each subsequent year of State participation.

"(2) PUBLIC AVAILABILITY AND COMMENT.—

"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

"(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

"(i) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

"(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

"(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(B) the Secretary provides to the State—

"(i) notification of the determination of noncompliance; and

"(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1512(b)), is amended by inserting after the item relating to section 327 the following:

"328. Surface transportation project delivery pilot program.".

SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking "It is hereby" and inserting the following:

"(a) DECLARATION OF POLICY.—It is"; and

(B) by adding at the end the following:

"(b) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary"; and

(B) by adding at the end the following:

"(d) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary shall—

(A) conduct a study on the implementation of this section and the amendments made by this section; and

(B) commission an independent review of the study plan and methodology, and any associated conclusions, by the Transportation Research Board of the National Academy of Sciences.

(2) COMPONENTS.—In conducting the study, the Secretary shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary shall prepare—

(A) not earlier than the date that is 3 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than March 1, 2010, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary shall—

(A) submit the report, review of the report, and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation; and

(B) make the report and update available to the public.

SEC. 1515. REGULATIONS.

Except as provided in section 1513, not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to implement the amendments made by chapter 1 and this chapter.

CHAPTER 3—MISCELLANEOUS

SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.

Section 108 of title 23, United States Code, is amended by adding at the end the following:

"(d) CRITICAL REAL PROPERTY ACQUISITION.—

"(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under this title may be used to pay the costs of acquiring any real property that is determined to be critical under paragraph (2) for a project proposed for funding under this title.

"(2) REIMBURSEMENT.—The Federal share of the costs referred to in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, before the date of acquisition—

"(A) the Secretary determines that the property is offered for sale on the open market;

"(B) the Secretary determines that in acquiring the property, the State will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

"(C) the State determines that immediate acquisition of the property is critical because—

"(i) based on an appraisal of the property, the value of the property is increasing significantly;

"(ii) there is an imminent threat of development or redevelopment of the property; and

"(iii) the property is necessary for the implementation of the goals stated in the proposal for the project.

"(3) APPLICABLE LAW.—An acquisition of real property under this section shall be considered to be an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(4) ENVIRONMENTAL REVIEW.—

"(A) IN GENERAL.—A project proposed to be conducted under this title shall not be conducted on property acquired under paragraph (1) until all required environmental reviews for the project have been completed.

"(B) EFFECT ON CONSIDERATION OF PROJECT ALTERNATIVES.—The number of critical acquisitions of real property associated with a project shall not affect the consideration of project alternatives during the environmental review process.

"(5) PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.—Section 156(c) shall not apply to the sale, use, or lease of any real property acquired under paragraph (1).".

SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

"(m) PLANNING CAPACITY BUILDING INITIATIVE.—

"(1) IN GENERAL.—The Secretary shall carry out a planning capacity building initiative to support enhancements in transportation planning to—

"(A) strengthen the processes and products of metropolitan and statewide transportation planning under this title;

"(B) enhance tribal capacity to conduct joint transportation planning under chapter 2;

"(C) participate in the metropolitan and statewide transportation planning programs under this title; and

"(D) increase the knowledge and skill level of participants in metropolitan and statewide transportation.

"(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support—

"(A) the transportation elements of homeland security planning, including—

"(i) training and best practices relating to emergency evacuation;

"(ii) developing materials to assist areas in coordinating emergency management and transportation officials; and

"(iii) developing training on how planning organizations may examine security issues;

"(B) performance-based planning, including—

"(i) data and data analysis technologies to be shared with States, metropolitan planning organizations, local governments, and nongovernmental organizations that—

"(I) participate in transportation planning;

"(II) use the data and data analysis to engage in metropolitan, tribal, or statewide transportation planning;

"(III) involve the public in the development of transportation plans, projects, and alternative scenarios; and

"(IV) develop strategies to avoid, minimize, and mitigate the impacts of transportation facilities and projects; and

"(ii) improvement of the quality of congestion management systems, including the development of—

"(I) a measure of congestion;

"(II) a measure of transportation system reliability; and

"(III) a measure of induced demand;

"(C) safety planning, including—

"(i) development of State strategic safety plans consistent with section 148;

"(ii) incorporation of work zone safety into planning; and

"(iii) training in the development of data systems relating to highway safety;

"(D) operations planning, including—

"(i) developing training of the integration of transportation system operations and management into the transportation planning process; and

"(ii) training and best practices relating to regional concepts of operations;

"(E) freight planning, including—

"(i) modeling of freight at a regional and statewide level; and

"(ii) techniques for engaging the freight community with the planning process;

"(F) air quality planning, including—

"(i) assisting new and existing nonattainment and maintenance areas in developing the technical capacity to perform air quality conformity analysis;

"(ii) providing training on areas such as modeling and data collection to support air quality planning and analysis;

"(iii) developing concepts and techniques to assist areas in meeting air quality performance timeframes; and

"(iv) developing materials to explain air quality issues to decisionmakers and the public; and

"(G) integration of environment and planning.

"(3) USE OF FUNDS.—The Secretary shall use amounts made available under paragraph (4) to make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education for research, program development, information collection and dissemination, and technical assistance.

"(4) SET-ASIDE.—

"(A) IN GENERAL.—On October 1 of each fiscal year, of the funds made available under subsection (a), the Secretary shall set aside $3,754,515 to carry out this subsection.

"(B) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using funds made available under subparagraph (A) shall be 100 percent.

"(C) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.".

SEC. 1523. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

"§ 5571. Policy and purposes

"(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) ensuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

"§ 5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

"(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

"(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

"(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

"§ 5573. Assurance of access to intermodal passenger facilities

"Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

"§ 5574. Intercity bus intermodal passenger facility grants

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

"(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

"(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

"§ 5575. Funding

"(a) HIGHWAY ACCOUNT.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $9,386,289 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
"5571. Policy and Purposes.
"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

SEC. 1524. 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY DIVISION HIGHWAY.

Not later than December 31, 2005, any funds made available to commission studies and reports regarding construction of a route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi and a route linking through Savannah, Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a route for the 14th Amendment Highway, from Augusta, Georgia, to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a route for the 3rd Infantry Division Highway, extending from Savannah, Georgia, to Knoxville, Tennessee (formerly the Savannah River Parkway in the State of Georgia), following a route generally defined through Sylvania, Waynesville, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

Subtitle F—Environment

SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF INVASIVE PLANT SPECIES AND ESTABLISHMENT OF NATIVE SPECIES.

(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, AND INVASIVE SPECIES.—

(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

"(Q) Environmental restoration and pollution abatement in accordance with section 165.

"(R) Control of invasive plant species and establishment of native species in accordance with section 166.".

(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

"(14) Environmental restoration and pollution abatement in accordance with section 165.

"(15) Control of invasive plant species and establishment of native species in accordance with section 166.".

(b) ELIGIBLE ACTIVITIES.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 165. Eligibility for environmental restoration and pollution abatement

"(a) In General.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of storm water treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

"(b) Maximum Expenditure.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

"§ 166. Control of invasive plant species and establishment of native species

"(a) Definitions.—In this section:

"(1) Invasive plant species—The term 'invasive plant species' means a nonindigenous species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

"(2) Native plant species.—The term 'native plant species' means, with respect to a particular ecosystem, a species that, other than as result of an introduction, historically occurred or currently occurs in that ecosystem.

"(b) Control of Species.—

"(1) In general.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for—

"(A) participation in the control of invasive plant species; and

"(B) the establishment of native species;

if such efforts are related to transportation projects funded under this title.

"(2) Included activities.—The participation and establishment under paragraph (1) may include—

"(A) participation in statewide inventories of invasive plant species and desirable plant species;

"(B) regional native plant habitat conservation and mitigation;

"(C) native revegetation;

"(D) elimination of invasive species to create fuel breaks for the prevention and control of wildfires; and

"(E) training.

"(3) Contributions.—

"(A) In general.—Subject to subparagraph (B), an activity described in paragraph (1) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

"(B) Condition for activities conducted in advance of project construction.—An activity described in paragraph (1) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.".

(c) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. Eligibility for environmental restoration and pollution abatement.

"166. Control of invasive plant species and establishment of native species.".

SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.

(a) In General.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "the roads as" and all that follows and inserting "the roads as—

"(A) National Scenic Byways;

"(B) All-American Roads; or

"(C) America's Byways.";

(B) in paragraph (3)—

(i) by striking "To be considered" and inserting the following:

"(A) In general.—To be considered";

(ii) in subparagraph (A) (as designated by clause (i))—

(I) by inserting ", an Indian tribe, " after "nominated by a State"; and

(II) by inserting ", an Indian scenic byway," after "designated as a State scenic byway"; and

(iii) by adding at the end the following:

"(B) Nomination by Indian tribes.—An Indian tribe may nominate a road as a National Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

"(i) jurisdiction over the road; or

"(ii) responsibility for managing the road.

"(C) Safety.—Indian tribes shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A)."; and

(C) by adding at the end the following:

"(4) Reciprocal notification.—States, Federal land management agencies, and Indian tribes shall notify each other regarding nominations under this subsection for roads that—

"(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

"(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "and Indian tribes" after "provide technical assistance to States";

(ii) in subparagraph (A), by striking "designated as" and all that follows and inserting "designated as—

"(i) National Scenic Byways;

"(ii) All-American Roads;

"(iii) America's Byways;

"(iv) State scenic byways; or

"(v) Indian scenic byways; and"; and

(iii) in subparagraph (B), by inserting "or Indian" after "State";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Byway or All-American Road" and inserting "Byway, All-American Road, or 1 of America's Byways";

(ii) in subparagraph (B)—

(I) by striking "State-designated" and inserting "State or Indian"; and

(II) by striking "designation as a" and all that follows and inserting "designation as—

"(i) a National Scenic Byway;

"(ii) an All-American Road; or

"(iii) 1 of America's Byways; and"; and

(iii) in subparagraph (C), by inserting "or Indian" after "State";

(3) in subsection (c)—

(A) in paragraph (1), by inserting "or Indian" after "State";

(B) in paragraph (3)—

(i) by inserting "Indian scenic byway," after "improvements to a State scenic byway,"; and

(ii) by inserting "Indian scenic byway," after "designation as a State scenic byway,"; and

(C) in paragraph (4), by striking "passing lane,"; and

(4) in subsection (e), by inserting "or Indian tribe" after "State".

(b) Research, Technical Assistance, Marketing, and Promotion.—Section 162 of title 23, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following:

"(d) Research, Technical Assistance, Marketing, and Promotion.—

"(1) In general.—The Secretary may carry out technical assistance, marketing, market research, and promotion with respect to State Scenic Byways, National Scenic Byways, All-American Roads, and America's Byways.

"(2) Cooperation, grants, and contracts.—The Secretary may make grants to, or enter into contracts, cooperative agreements, and other transactions with, any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, or person, to carry out projects and activities under this subsection.

"(3) Funds.—The Secretary may use not more than $1,877,258 for each fiscal year of funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

"(4) Priority.—The Secretary shall give priority under this subsection to partnerships that leverage Federal funds for research, technical assistance, marketing and promotion."; and

(3) in subsection (g) (as redesignated by paragraph (1)), by striking "80 percent" and inserting "the share applicable under section 120, as adjusted under subsection (d) of that section".

SEC. 1603. RECREATIONAL TRAILS PROGRAM.

(a) Recreational Trails Program Formula.—Section 104(h)(1) of title 23, United States Code, is amended—

(1) by striking "Whenever" and inserting the following:

"(A) In general.—In any case in which";

(2) by striking "research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee" and inserting "research, technical assistance, and training under the recreational trails program"; and

(3) by striking "The Secretary" and inserting the following:

"(B) Contracts and agreements.—The Secretary".

(b) Recreational Trails Program Administration.—Section 206 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) Permissible uses.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal land, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is—

"(I) required under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

"(II) in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

"(iv) approved by each Federal agency having jurisdiction over the affected land, under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including—

"(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(II) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

"(III) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

"(H) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section."; and

(B) in paragraph (3)—

(i) in subparagraph (D), by striking "(2)(F)" and inserting "(2)(I)"; and

(ii) by adding at the end the following:

"(E) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A State shall make available not less than 10 percent of the apportionments of the State to provide grants to, or to enter into cooperative agreements or contracts with, qualified youth conservation or service corps to perform recreational trails program activities.";

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting "and the Federal share of the administrative costs of a State" after "project"; and

(ii) by striking "not exceed 80 percent" and inserting "be determined in accordance with section 120";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "80 percent of" and inserting "the amount determined in accordance with section 120 for"; and

(ii) in subparagraph (B), by inserting "sponsoring the project" after "Federal agency";

(C) by striking paragraph (5);

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting after paragraph (3) the following:

"(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used to pay the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section."; and

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120"; and

(3) in subsection (h)—

(A) in paragraph (1), by inserting after subparagraph (B) the following:

"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under any of subparagraphs (A) through (H) of subsection (d)(2) may permit preapproval planning and environmental compliance costs incurred not more than 18 months before project approval to be credited toward the non-Federal share in accordance with subsection (f)."; and

(B) by striking paragraph (2) and inserting the following:

"(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section—

"(A) is intended to enhance recreational opportunity;

"(B) is not considered to be a highway project; and

"(C) is not subject to—

"(i) section 112, 114, 116, 134, 135, 138, 217, or 301 of this title; or

"(ii) section 303 of title 49.".

SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.

Subsection 103(c) of title 23, United States Code, is amended by adding at the end the following:

"(5) EXEMPTION OF INTERSTATE SYSTEM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) INDIVIDUAL ELEMENTS.—A portion of the Interstate System that possesses an independent feature of historic significance, such as a historic bridge or a highly significant engineering feature, that would qualify independently for listing on the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.".

SEC. 1605. STANDARDS.

Section 109 of title 23, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) CONTEXT SENSITIVE DESIGN.—

"(1) IN GENERAL.—The Secretary shall encourage States to design projects funded under this title that—

"(A) allow for the preservation of environmental, scenic, or historic values;

"(B) ensure the safe use of the facility;

"(C) provide for consideration of the context of the locality;

"(D) encourage access for other modes of transportation; and

"(E) comply with subsection (a).

"(2) APPROVAL BY SECRETARY.—Notwithstanding subsections (b) and (c), the Secretary may approve a project described in paragraph (1) for the National Highway System if the project is designed to achieve the criteria specified in that paragraph.".

SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.

Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER REQUIREMENTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) RESPONSIBLE AGENCY.—The term 'responsible agency' means—

"(i) a State transportation department;

"(ii) a local agency in a State that is responsible for transportation matters; and

"(iii) a public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility.

"(B) SERIOUSLY DEGRADED.—The term 'seriously degraded', with respect to a high occupancy vehicle lane, means, in the case of a high occupancy vehicle lane, the minimum average operating speed, performance threshold, and associated time period of the high occupancy vehicle lane, calculated and determined jointly by all applicable responsible agencies and based on conditions unique to the roadway, are unsatisfactory.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each State, 1 or more responsible agencies shall establish the occupancy requirements of vehicles operating on high occupancy vehicle lanes.

"(B) MINIMUM NUMBER OF OCCUPANTS.—Except as provided in paragraph (3), an occupancy requirement established under subparagraph (A) shall—

"(i) require at least 2 occupants per vehicle for a vehicle operating on a high occupancy vehicle lane; and

"(ii) in the case of a high occupancy vehicle lane that traverses an adjacent State, be established in consultation with the adjacent State.

"(3) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

"(A) MOTORCYCLES.—For the purpose of this subsection, a motorcycle—

"(i) shall not be considered to be a single occupant vehicle; and

"(ii) shall be allowed to use a high occupancy vehicle lane unless a responsible agency—

"(I) certifies to the Secretary the use of a high occupancy vehicle lane by a motorcycle would create a safety hazard; and

"(II) restricts that the use of the high occupancy vehicle lane by motorcycles.

"(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

"(i) DEFINITION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—In this subparagraph, the term 'low emission and energy-efficient vehicle' means a vehicle that—

"(I) meets Tier II emission levels established in regulations promulgated by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year; and

"(I)(aa) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from onboard hybrid sources); or

"(bb) is a dedicated alternative fueled vehicle under section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

"(ii) COMPARABLE VEHICLE DETERMINATION.—Not later than 180 days after the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005, the Administrator of the Environmental Protection Agency, in accordance with section 32908(b) of title 49, United States Code, shall establish guidelines and procedures for making the vehicle comparisons and performance calculations described in clause (i)(I)(aa).

"(iii) HOV LANE PERFORMANCE.—

"(I) IN GENERAL.—The responsible agency may not permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the performance of the lanes is seriously degraded.

"(II) MANAGEMENT.—In managing the use of high occupancy vehicle lanes by low emission and energy efficient vehicles that do not meet applicable occupancy requirements, the responsible agency may increase the percentages described in clause (i)(I)(aa).

"(iv) EXEMPTION FOR LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—A responsible agency may permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the responsible agency—

"(I) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;

"(II) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);

"(III) continuously monitors, evaluates, and reports to the Secretary on performance; and

"(IV) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(C) TOLLING OF VEHICLES.—

"(i) IN GENERAL.—A responsible agency may permit vehicles, in addition to the vehicles described in paragraphs (A), (B), and (D) that do not satisfy established occupancy requirements, to use a high occupancy vehicle lane only if the responsible agency charges those vehicles a toll.

"(ii) APPLICABLE AUTHORITY.—In imposing a toll under clause (i), a responsible agency shall—

"(I) be subject to section 129;

"(II) establish a toll program that addresses ways in which motorists may enroll and participate in the program;

"(III) develop, manage, and maintain a system that will automatically collect the tolls from covered vehicles;

"(IV) continuously monitor, evaluate, and report on performance of the system;

"(V) establish such policies and procedures as are necessary—

"(aa) to vary the toll charged in order to manage the demand for use of high occupancy vehicle lanes; and

"(bb) to enforce violations; and

"(VI) establish procedures to impose such restrictions on the use of high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(D) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—

"(i) DEFINITION OF DESIGNATED PUBLIC TRANSPORTATION VEHICLE.—In this subparagraph, the term 'designated public transportation vehicle' means a vehicle that—

"(I) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)); and

"(II)(aa) is owned or operated by a public entity; or

"(bb) is operated under a contract with a public entity.

"(ii) USE OF HIGH OCCUPANCY VEHICLE LANES.—A responsible agency may permit designated public transportation vehicles that do not satisfy established occupancy requirements to use high occupancy vehicle lanes if the responsible agency—

"(I) requires the clear and identifiable labeling of each designated public transportation vehicle operating under a contract with a public entity with the name of the public entity on all sides of the vehicle;

"(II) continuously monitors, evaluates, and reports on performance of those designated public transportation vehicles; and

"(III) imposes such restrictions on the use of high occupancy vehicle lanes by designated public transportation vehicles as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(E) HOV LANE MANAGEMENT, OPERATION, AND MONITORING.—

"(i) IN GENERAL.—A responsible agency that permits any of the exceptions specified in this paragraph shall comply with clauses (ii) and (iii).

"(ii) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—A responsible agency described in clause (i) shall establish, manage, and support a performance monitoring, evaluation, and reporting program under which the responsible agency continuously monitors, assesses, and reports on the effects that any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph may have on the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.

"(iii) OPERATION OF HOV LANE OR SYSTEM.—A responsible agency described in clause (i) shall limit use of, or cease to use, any of the exceptions specified in this paragraph if the presence of any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph seriously degrades the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.".

SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting "pedestrian and" after "safe";

(2) in subsection (e), by striking "bicycles" each place it appears and inserting "pedestrians or bicyclists";

(3) by striking subsection (f) and inserting the following:

"(f) FEDERAL SHARE.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways, and for carrying out nonconstruction projects relating to safe pedestrian and bicycle use, shall be determined in accordance with section 120(b).";

(4) by redesignating subsection (j) as subsection (k);

(5) by inserting after subsection (i) the following:

"(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

"(1) IN GENERAL.—The Secretary shall select and make grants to a national, nonprofit organization engaged in promoting bicycle and pedestrian safety—

"(A) to operate a national bicycle and pedestrian clearinghouse;

"(B) to develop information and educational programs regarding walking and bicycling; and

"(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

"(2) FUNDING.—The Secretary may use funds set aside under section 104(n) to carry out this subsection.

"(3) APPLICABILITY OF TITLE 23.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under section 104, except that the funds shall remain available until expended."; and

(6) in subsection (k) (as redesignated by paragraph (4))—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

"(4) SHARED USE PATH.—The term 'shared use path' means a multiuse trail or other path that is—

"(A) physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way; and

"(B) usable for transportation purposes (including by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users).".

(b) RESERVATION OF FUNDS.—Section 104 of title 23, United States Code (as amended by section 1522), is amended by adding at the end the following:

"(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each of fiscal years 2005 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $469,314 of the remaining funds apportioned under subsection (b)(3) for use in carrying out the bicycle and pedestrian safety grant program under section 217.".

SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

"(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a State may—

"(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State, so long as those idling reduction measures do not—

"(i) reduce the existing number of designated truck parking spaces at any given rest or recreation area; or

"(ii) preclude the use of those spaces by trucks employing alternative idle reduction technologies; and

"(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.

"(2) PURPOSE.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—

"(A) to reduce idling of a truck while parked in the rest or recreation area; and

"(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.".

SEC. 1609. TOLL PROGRAMS.

(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212)—

(1) is amended—

(A) in paragraph (1)—

(i) by striking "The Secretary" and inserting "Notwithstanding section 301, the Secretary"; and

(ii) by striking "that could not otherwise be adequately maintained or functionally improved without the collection of tolls";

(B) by striking paragraph (2) and inserting the following:

"(2) LIMITATION.—The Secretary may permit the collection of tolls under this subsection on 1 facility in the State of Virginia.";

(C) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project."; and

(D) in paragraph (4)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the State's analysis showing that financing the reconstruction or rehabilitation of a facility with the collection of tolls under the pilot *program is the most efficient, economical, or expeditious way to advance the project;'';*

(ii) by striking subparagraph (B) and inserting the following:

"(B) the facility needs reconstruction or rehabilitation, including major work that may require replacing sections of the existing facility on new alignment;'';

(iii) by striking subparagraph (C); and

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(2) is redesignated as subsection (d) of section 129 of title 23, United States Code, and moved to appear at the end of that section; and

(3) by striking "of title 23, United States Code'' each place it appears.

(b) FAST AND SENSIBLE TOLL (FAST) LANES PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (a)(2)), is amended by adding at the end the following:

"(e) FAST AND SENSIBLE TOLL (FAST) LANES PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE TOLL FACILITY.—The term 'eligible toll facility' includes—

"(i) a facility in existence on the date of enactment of this subsection that collects tolls;

"(ii) a facility in existence on the date of enactment of this subsection that serves high occupancy vehicles;

"(iii) a facility modified or constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds); and

"(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

"(B) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

"(2) ESTABLISHMENT.—Notwithstanding sections 129 and 301, the Secretary shall permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

"(A) to manage high levels of congestion;

"(B) to reduce emissions in a nonattainment area or maintenance area; or

"(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

"(3) LIMITATION ON USE OF REVENUES.—

"(A) USE.—

"(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

"(I) debt service for debt incurred on 1 or more highway or transit projects carried out under this title or title 49;

"(II) a reasonable return on investment of any private financing;

"(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

"(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under this title or title 49.

"(B) REQUIREMENTS.—

"(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(iii) HOV PASSENGER REQUIREMENTS.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2), a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

"(C) AGREEMENT.—

"(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

"(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

"(iii) DEBT.—

"(I) IN GENERAL.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

"(II) NOTICE.—On retirement of the debt of a tolled facility, the applicable State, public authority, or private entity designated by a State shall provide notice to the public of that retirement.

"(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

"(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

"(A) a description of the congestion or air quality problems sought to be addressed under the program;

"(B) a description of—

"(i) the goals sought to be achieved under the program; and

"(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

"(C) such other information as the Secretary may require.

"(5) AUTOMATION.—Fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

"(6) INTEROPERABILITY.—

"(A) RULE.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

"(ii) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

"(I) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

"(II) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

"(III) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

"(B) FUTURE MODIFICATIONS.—As the state of technology progresses, the Secretary shall modify the rule promulgated under subparagraph (A), as appropriate.

"(7) REPORTING.—

"(A) IN GENERAL.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

"(i) develop and publish performance goals for each FAST lane project;

"(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

"(I) effects on travel, traffic, and air quality;

"(II) distribution of benefits and burdens;

"(III) use of alternative transportation modes; and

"(IV) use of revenues to meet transportation or impact mitigation needs.

"(B) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(i) not later than 1 year after the date of enactment of this subsection, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

"(ii) not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for FAST lane programs.

"(8) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out pre-implementation studies and post-implementation evaluations of projects planned or implemented under this subsection $10,324,918 for each of fiscal years 2005 through 2009.

"(B) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds were authorized.

"(C) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that the Federal share of the cost of any project carried out under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.

"(D) PROGRAM PROMOTION.—Notwithstanding any other provision of this section, the Secretary shall use an amount not to exceed 2 percent of the funds made available under subparagraph (A)—

"(i) to make grants to promote the purposes of the program under this subsection;

"(ii) to provide technical support to State and local governments or other public or private entities involved in implementing or considering FAST lane programs; and

"(iii) to conduct research on variable pricing that will support State or local efforts to initiate those pricing requirements.

"(E) EFFECT ON OTHER APPORTIONMENTS AND ALLOCATIONS.—Revenues collected from tolls established under this subsection shall not be

taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

"(9) COMPLIANCE.—The Secretary shall ensure that any project or activity carried out under this section complies with requirements under section 106 of this title and section 307 of title 49.

"(10) VOLUNTARY USE.—Nothing in this subsection requires any highway user to use a FAST lane.

"(11) ENVIRONMENTAL REQUIREMENTS.—Nothing in this subsection affects any environmental requirement applicable to the construction or operation of an eligible toll facility under this title or any other provision of law.".

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).

(2) CONTINUATION OF PROGRAM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.

SEC. 1610. FEDERAL REFERENCE METHOD.

(a) IN GENERAL.—Section 6102 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464) is amended by striking subsection (e) and inserting the following:

"(e) FIELD STUDY.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Administrator shall—

"(1) conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;

"(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;

"(3) develop a method of measuring the composition of coarse particles; and

"(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—

"(A) the Committee on Commerce of the House of Representatives; and

"(B) the Committee on Environment and Public Works of the Senate.".

SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.

(a) IN GENERAL.—Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "ozone or carbon monoxide" and inserting "ozone, carbon monoxide, or fine particulate matter ($PM_{2.5}$)";

(B) by striking clause (i) and inserting the following:

"(i) 1.0, if at the time of apportionment, the area is a maintenance area;";

(C) in clause (vi), by striking "or" after the semicolon; and

(D) in clause (vii)—

(i) by striking "area as described in section 149(b) for ozone," and inserting "area for ozone (as described in section 149(b) or for PM-2.5"; and

(ii) by striking the period at the end and inserting a semicolon;

(2) by adding at the end the following:

"(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

"(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM-2.5 standard.";

(3) by striking subparagraph (C) and inserting the following:

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.";

(4) by redesignating subparagraph (D) and (E) as subparagraphs (E) and (F) respectively; and

(5) by inserting after subparagraph (C) the following:

"(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM-2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.".

(b) CONFORMING · AMENDMENT.—Section 149(c)(2) of title 23, United States Code, is amended by striking "104(b)(2)(D)" and inserting "104(b)(2)(E)".

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

"(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

"(8) if the project or program is for—

"(A) diesel retrofit technologies that are—

"(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

"(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

"(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

"(II) funded, in whole or in part, under this title; or

"(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.".

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "for any project eligible under the surface transportation program under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133."; and

(2) in paragraph (2), by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133.".

(c) RESPONSIBILITY OF STATES.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

"(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

"(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

"(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

"(B) funded, in whole or in part, under this title.

"(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

"(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

"(B) shall—

"(i) consider guidance issued by the Administrator under paragraph (5);

"(ii) limit technologies to those identified by the Administrator under paragraph (5);

"(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

"(iv) give special consideration to small businesses that participate in projects funded under this title;

"(v) place priority on the use of—

"(I) diesel retrofit technologies and activities;

"(II) cost-effective strategies;

"(III) financial incentives using CMAQ resources and State resources; and

"(IV) strategies that maximize health benefits; and

"(vi) not include any activities prohibited by paragraph (4).

"(4) STATE LIMITATIONS.—Emission reduction strategies may not—

"(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

"(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

"(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

"(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

"(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

"(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

"(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

"(D) options and recommendations for the structure and content of emission reduction strategies including—

"(i) emission reduction performance criteria;

"(ii) financial incentives that use CMAQ resources and State resources;

"(iii) procedures to facilitate access by contractors to financial incentives;

"(iv) contract incentives, allowances, and procedures;

"(v) methods of voluntary emission reductions; and

"(vi) other means that may be employed to reduce emissions from construction activities; and

"(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

"(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).".

(d) AVAILABILITY OF FUNDS FOR THE STATE OF MAINE.—In addition to other eligible uses, the State of Maine may use funds apportioned under section 104(b)(2) to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

(e) RESPONSIBILITY OF THE STATE OF MONTANA.—In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.".

SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

"(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

"(B) ensure the effective implementation of the program.

"(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

"(3) CONSIDERATION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program under section 149.".

SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY TIMELINES, REQUIREMENTS, AND HORIZON.

(a) METROPOLITAN PLANNING.—

(1) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—Section 134(g)(1) of title 23, United States Code, is amended by striking "periodically, according to a schedule that the Secretary determines to be appropriate," and inserting "every 4 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a maintenance plan under section 175A of that Act (42 U.S.C. 7505a), or every 5 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as attainment (as defined in section 107(d) of that Act (42 U.S.C. 7407(d)))."

(2) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 134(h) of title 23, United States Code, is amended—

(A) in paragraph (1)(D), by striking "2 years" and inserting "4 years"; and

(B) in paragraph (2)(A), by striking "3-year" and inserting "4-year".

(3) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—Section 135(f)(1)(A) of title 23, United States Code, is amended by inserting after "program" the following: "(which program shall cover a period of 4 years and be updated every 4 years)".

(4) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall promulgate regulations that are consistent with the amendments made by this subsection.

(b) SYNCHRONIZED CONFORMITY DETERMINATION.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended—

(1) in paragraph (2)—

(A) by striking "(2) Any transportation plan" and inserting the following:

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Any transportation plan";

(B) in subparagraph (C)(iii), by striking the period at the end and inserting a semicolon;

(C) in subparagraph (D)—

(i) by striking "Any project" and inserting "any transportation project"; and

(ii) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(E) the appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

"(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004);

"(ii) approves an implementation plan that establishes a motor vehicle emissions budget, if that budget has not yet been used in a conformity determination prior to approval; or

"(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.";

(2) in paragraph (4)(B)(ii), by striking "but in no case shall such determinations for transportation plans and programs be less frequent than every 3 years; and" and inserting "but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

"(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

"(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and";

(3) in paragraph (4)(B)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iv) address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel and emissions models."; and

(4) by adding at the end the following:

"(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

"(A) IN GENERAL.—For the purposes of this section, a transportation plan in a nonattainment or maintenance area shall be considered to be a transportation plan or a portion of a transportation plan that extends for the longest of the following periods:

"(i) The first 10-year period of any such transportation plan.

"(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

"(iii) The year after the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

"(B) EXCEPTION.—In a case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or has approved the revision, the transportation plan shall be considered to be a transportation plan or portion of a transportation plan that extends through the last year of the implementation plan required under section 175A(b).

"(8) DEFINITIONS.—In this subsection:

"(A) REGIONALLY SIGNIFICANT PROJECT.—

"(i) IN GENERAL.—The term 'regionally significant project' means a transportation project that is on a facility that serves a regional transportation need, including—

"(I) access to and from the area outside of the region;

"(II) access to and from major planned developments, including new retail malls, sports complexes, or transportation terminals; and

"(III) most transportation terminals.

"(ii) PRINCIPAL ARTERIALS AND FIXED GUIDEWAYS.—The term 'regionally significant project' includes, at a minimum—

"(I) all principal arterial highways; and

"(II) all fixed guideway transit facilities that offer an alternative to regional highway travel.

"(iii) ADDITIONAL PROJECTS.—The interagency consultation process and procedures described in section 93.105(c) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), shall be used to make determinations as to whether minor arterial highways and other transportation projects should be considered 'regionally significant projects'.

"(iv) EXCLUSIONS.—The term 'regionally significant project' does not include any project of a type listed in sections 93.126 or 127 of title 40, Code of Federal Regulations (as in effect on October 1, 2004).

"(B) SIGNIFICANT REVISION.—The term 'significant revision' means—

"(i) with respect to a regionally significant project, a significant change in design concept or scope to the project; and

"(ii) with respect to any other kind of project, a change that converts a project that is not a regionally significant project into a regionally significant project.

"(C) TRANSPORTATION PROJECT.—The term 'transportation project' includes only a project that is—

"(i) a regionally significant project; or

"(ii) a project that makes a significant revision to an existing project.".

SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking paragraph (3) and inserting the following:

"(3) METHODS OF CONFORMITY DETERMINATION BEFORE BUDGET IS AVAILABLE.—

"(A) IN GENERAL.—Until such time as a motor vehicle emission budget from an implementation plan submitted for a national ambient air quality standard is determined to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or the submitted implementation plan is approved, conformity of such a plan, program, or project shall be demonstrated, in accordance with clauses (i) and (ii) and as selected through the consultation process required under paragraph (4)(D)(i), with—

"(i) a motor vehicle emission budget that has been found adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or that has been approved, from an implementation plan for the most recent prior applicable national ambient air quality standard addressing the same pollutant; or

"(ii) other such tests as the Administrator shall determine to ensure that—

"(I) the transportation plan or program—

"(aa) is consistent with the most recent estimates of mobile source emissions;

"(bb) provides for the expeditious implementation of transportation control measures in the applicable implementation plan; and

"(cc) with respect to an ozone or carbon monoxide nonattainment area, contributes to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

"(II) the transportation project—

"(aa) comes from a conforming transportation plan and program described in this subparagraph; and

"(bb) in a carbon monoxide nonattainment area, eliminates or reduces the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

"(B) DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NONATTAINMENT AREA.—A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual transportation project taken as a whole during the environmental review phase of transportation project development.".

SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.—

"(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—

"(i) the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

"(ii) the substitute control measures are implemented—

"(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

"(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

"(iii) the substitute and additional control measures are accompanied with evidence of adequate personnel, funding, and authority under State or local law to implement, monitor, and enforce the control measures;

"(iv) the substitute and additional control measures were developed through a collaborative process that included—

"(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

"(II) consultation with the Administrator; and

"(III) reasonable public notice and opportunity for comment; and

"(v) the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

"(B) ADOPTION.—After carrying out subparagraph (A), a State shall adopt the substitute or additional transportation control measure in the applicable implementation plan.

"(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not be contingent on there being any provision in the implementation plan that expressly permits such a substitution or addition.

"(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

"(i) a new conformity determination for the transportation plan; or

"(ii) a revision of the implementation plan.

"(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

"(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.".

SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—

(1) by striking the section heading and all that follows through "after notice and opportunity for public hearing" and inserting the following:

"SEC. 319. AIR QUALITY MONITORING.

"(a) IN GENERAL.—After notice and opportunity for public hearing"; and

(2) by adding at the end the following:

"(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

"(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:

"(A) IN GENERAL.—The term 'exceptional event' means an event that—

"(i) affects air quality;

"(ii) is not reasonably controllable or preventable;

"(iii) is—

"(I) a natural event; or

"(II) an event caused by human activity that is unlikely to recur at a particular location; and

"(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

"(B) EXCLUSIONS.—The term 'exceptional event' does not include—

"(i) stagnation of air masses or meteorological inversions;

"(ii) a meteorological event involving high temperatures or lack of precipitation; or

"(iii) air pollution relating to source noncompliance.

"(2) REGULATIONS.—

"(A) PROPOSED REGULATIONS.—Not later than March 1, 2006, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

"(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

"(3) PRINCIPLES AND REQUIREMENTS.—

"(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

"(i) the principle that protection of public health is the highest priority;

"(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

"(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

"(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

"(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.

"(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—

“(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

“(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

“(iii) there is a public process for determining whether an event is exceptional; and

“(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Environmental Protection Agency with respect to exceedances or violations of the national ambient air quality standards.

“(4) Interim provision.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

“(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

“(B) Areas affected by PM–10 natural events, May 30, 1996.

“(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.”.

SEC. 1619. CONFORMING AMENDMENTS.

Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (D) through (F), respectively;

(2) by striking “(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate” and inserting the following:

“(4) Criteria and procedures for determining conformity.—

“(A) In general.—The Administrator shall promulgate, and periodically update,”;

(3) in subparagraph (A)—

(A) in the second sentence, by striking “No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate” and inserting the following:

“(B) Transportation plans, programs, and projects.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,”; and

(B) in the third sentence, by striking “A suit” and inserting the following:

“(C) Civil action to compel promulgation.—A civil action”; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

“(E) Inclusion of criteria and procedures in SIP.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (D)(i).”.

SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.

(a) Highway Stormwater Mitigation Projects.—Section 133(d) of title 23, United States Code (as amended by section 1401(a)(2)(B)), is amended by adding at the end the following:

“(5) Highway stormwater discharge mitigation projects.—Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.”.

(b) Highway Stormwater Discharge Mitigation Program.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(a)), is amended by adding at the end the following:

“§ 167. Highway stormwater discharge mitigation program

“(a) Definitions.—In this section:

“(1) Administrator.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) Eligible mitigation project.—The term ‘eligible mitigation project’ means a practice or technique that—

“(A) improves stormwater discharge water quality;

“(B) attains preconstruction hydrology;

“(C) promotes infiltration of stormwater into groundwater;

“(D) recharges groundwater;

“(E) minimizes stream bank erosion;

“(F) promotes natural filters;

“(G) otherwise mitigates water quality impacts of highway stormwater discharges, improves surface water quality, or enhances groundwater recharge; or

“(H) reduces flooding caused by highway stormwater discharge.

“(3) Federal-aid highway and associated facility.—The term ‘Federal-aid highway and associated facility’ means—

“(A) a Federal-aid highway; or

“(B) a facility or land owned by a State (or political subdivision of a State) that is directly associated with the Federal-aid highway.

“(4) Highway stormwater discharge.—The term ‘highway stormwater discharge’ means stormwater discharge from a Federal-aid highway, or a Federal-aid highway and associated facility, that was constructed before the date of enactment of this section.

“(5) Highway stormwater discharge mitigation.—The term ‘highway stormwater discharge mitigation’ means—

“(A) the reduction of water quality impacts of stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities; or

“(B) the enhancement of groundwater recharge from stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities.

“(6) Program.—The term ‘program’ means the highway stormwater discharge mitigation program established under subsection (b).

“(b) Establishment.—The Secretary shall establish a highway stormwater discharge mitigation program—

“(1) to improve the quality of stormwater discharge from Federal-aid highways or Federal-aid highways and associated facilities; and

“(2) to enhance groundwater recharge.

“(c) Priority of Projects.—For projects funded from the allocation under section 133(d)(6), a State shall give priority to projects sponsored by a State or local government that assist the State or local government in complying with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

“(d) Guidance.—

“(1) In general.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator, shall issue guidance to assist States in carrying out this section.

“(2) Requirements for guidance.—The guidance issued under paragraph (1) shall include information concerning innovative technologies and nonstructural best management practices to mitigate highway stormwater discharges.”.

(c) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(b), is amended by inserting after the item relating to section 166 the following:

“167. Highway stormwater discharge mitigation program.”.

SEC. 1621. FEDERAL PROCUREMENT OF RECYCLED COOLANT.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the President shall conduct a review of Federal procurement policy of off-site recycled coolant.

(b) Elements.—In conducting the review under subsection (a), the President shall consider recycled coolant produced from processes that—

(1) are energy efficient;

(2) generate no hazardous waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903));

(3) produce no emissions of air pollutants;

(4) present lower health and safety risks to employees at a plant or facility; and

(5) recover at least 97 percent of the glycols from used antifreeze feedstock.

SEC. 1622. CLEAN SCHOOL BUS PROGRAM.

(a) Definitions.—In this section:

(1) Administrator.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) Alternative fuel.—The term “alternative fuel” means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) Clean school bus.—The term “clean school bus” means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) Eligible recipient.—

(A) In general.—Subject to subparagraph (B), the term “eligible recipient” means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) Special requirements.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) Retrofit technology.—The term “retrofit technology” means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) Secretary.—The term “Secretary” means the Secretary of Energy.

(7) Ultra-low sulfur diesel fuel.—The term “ultra-low sulfur diesel fuel” means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) Program for Retrofit or Replacement of Certain Existing School Buses With Clean School Buses.—

(1) Establishment.—

(A) In general.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement, retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses.

(B) Balancing.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses;

(ii) to install retrofit technologies; and

(iii) to purchase and use alternative fuel.

(2) Priority of grant applications.—

(A) Replacement.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) Retrofitting.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) Use of school bus fleet.—

(A) In general.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) Maintenance, operation, and fueling.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) Retrofit grants.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) Replacement grants.—

(A) Eligibility for 50 percent grants.—The Administrator may award grants for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) Eligibility for 25 percent grants.—The Administrator may award grants for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) Ultra-low sulfur diesel fuel.—

(A) In general.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) Deployment and distribution.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) Annual report.—

(A) In general.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) Education.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) Coordination with stakeholders.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) Components.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

SEC. 1623. CONSERVE BY BICYCLING PROGRAM.

(a) Definitions.—In this section:

(1) Program.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

(b) Establishment.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) Projects.—

(1) In general.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) Requirements.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) Cost sharing.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) Energy and Bicycling Research Study.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) Components.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

Subtitle G—Operations

SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) Surface Transportation Program Eligibility.—Section 133(b) of title 23, United States Code (as amended by section 1601(a)(2)), is amended by adding at the end the following:

"(16) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.

"(17) Rush hour congestion relief.—

"(A) In general.—Subject to subparagraph (B), a State may spend the funds apportioned under this section to reduce traffic delays caused by motor vehicle accidents and breakdowns on highways during peak driving times.

"(B) Use of funds.—A State, metropolitan planning organization, or local government may use the funds under subparagraph (A)—

"(i) to develop a region-wide coordinated plan to mitigate traffic delays caused by motor vehicle accidents and breakdowns;

"(ii) to purchase or lease telecommunications equipment for first responders;

"(iii) to purchase or lease towing and recovery services;

"(iv) to pay contractors for towing and recovery;

"(v) to rent vehicle storage areas adjacent to roadways;

"(vi) to fund service patrols, equipment, and operations;

"(vii) to purchase incident detection equipment;

"(viii) to carry out training.".

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of title 23, United States Code, is amended by inserting "improve transportation systems management and operations," after "intersections,".

(c) ,TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(b)), is amended by adding at the end the following:

"§ 168. Transportation systems management and operations

"(a) IN GENERAL.—The Secretary shall carry out a transportation systems management and operations program to—

"(1) ensure efficient and effective management and operation of transportation systems through collaboration, coordination, and real-time information sharing at a regional and Statewide level among—

"(A) managers and operators of major modes of transportation;

"(B) public safety officials; and

"(C) the general public; and

"(2) manage and operate transportation systems in a coordinated manner to preserve the capacity and maximize the performance of transportation facilities for travelers and carriers.

"(b) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may carry out activities to—

"(A) encourage managers and operators of major modes of transportation, public safety officials, and transportation planners in urbanized areas that are responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services to collaborate on and coordinate, on a regional level and in a continuous and sustained manner, improved transportation systems management and operations; and

"(B) encourage States to—

"(i) establish a system of basic real-time monitoring for the surface transportation system; and

"(ii) provide the means to share the data gathered under clause (i) among—

"(I) highway, transit, and public safety agencies;

"(II) jurisdictions (including States, cities, counties, and metropolitan planning organizations);

"(III) private-sector entities; and

"(IV) the general public.

"(2) ACTIVITIES.—Activities to be carried out under paragraph (1) include—

"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants with respect to the manner in which the transportation systems of the region should be managed, operated, and measured;

"(B) the sharing of information among operators, service providers, public safety officials, and the general public; and

"(C) guiding, in a regionally-coordinated manner and in a manner consistent with and integrated into the metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, the implementation of regional transportation system management and operations initiatives, including—

"(i) emergency evacuation and response;

"(ii) traffic incident management;

"(iii) technology deployment; and

"(iv) traveler information systems delivery.

"(c) COOPERATION.—In carrying out the program under subsection (a), the Secretary may assist and cooperate with other Federal agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between managers and operators of major modes of transportation, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

"(d) GUIDANCE; REGULATIONS.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may issue guidance or promulgate regulations for the procurement of transportation system management and operations facilities, equipment, and services, including—

"(A) equipment procured in preparation for natural disasters, disasters caused by human activity, and emergencies;

"(B) system hardware;

"(C) software; and

"(D) software integration services.

"(2) CONSIDERATIONS.—In developing the guidance or regulations under paragraph (1), the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

"(3) FINANCIAL ASSISTANCE.—The Secretary may authorize the use of funds made available under section 104(b)(3) to provide assistance for regional operations collaboration and coordination activities that are associated with regional improvements, such as—

"(A) traffic incident management;

"(B) technology deployment;

"(C) emergency management and response;

"(D) traveler information; and

"(E) congestion relief.".

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(c)), is amended by adding at the end:

"168. Transportation systems management and operations.".

SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(1)), is amended by adding at the end the following:

"§ 169. Real-time system management information program

"(a) IN GENERAL.—The Secretary shall carry out a real-time system management information program to—

"(1) provide a nationwide system of basic real-time information for managing and operating the surface transportation system;

"(2)(A) identify long-range real-time highway and transit monitoring needs; and

"(B) develop plans and strategies for meeting those needs;

"(3) provide the capability and means to share the basic real-time information with State and local governments and the traveling public; and

"(4) provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of major highways in the United States, and to share that information with State and local governments and the traveling public, to—

"(A) improve the security of the surface transportation system;

"(B) address congestion problems;

"(C) support improved response to weather events; and

"(D) facilitate the distribution of national and regional traveler information.

"(b) DATA EXCHANGE FORMATS.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems (including statewide incident reporting systems) can readily be exchanged between jurisdictions to facilitate the nationwide availability of information on traffic and travel conditions.

"(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Not later than 2 years after the date of enactment of this section, or not later than 5 years after the date of enactment of this section if the Secretary determines that adequate real-time communications capability will not be available within 2 years after the date of enactment of this section, each State shall establish a statewide incident reporting system to facilitate the real-time electronic reporting of highway and transit incidents to a central location for use in—

"(1) monitoring an incident;

"(2) providing accurate traveler information on the incident; and

"(3) responding to the incident as appropriate.

"(d) REGIONAL ITS ARCHITECTURE.—

"(1) IN GENERAL.—In developing or updating regional intelligent transportation system architectures under section 940.9 of title 23, Code of Federal Regulations (or any successor regulation), States and local governments shall address—

"(A) the real-time highway and transit information needs of the State or local government, including coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing information; and

"(B) the systems needed to meet those needs.

"(2) DATA EXCHANGE FORMATS.—In developing or updating regional intelligent transportation system architectures, States and local governments are encouraged to incorporate the data exchange formats developed by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems can readily be—

"(A) exchanged between jurisdictions; and

"(B) shared with the traveling public.

"(e) ELIGIBLE FUNDING.—Subject to project approval by the Secretary, a State may—

"(1) use funds available to the State under section 505(a) to carry out activities relating to the planning of real-time monitoring elements; and

"(2) use funds apportioned to the State under paragraphs (1) and (3) of section 104(b) to carry out activities relating to the planning and deployment of real-time monitoring elements.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(2)), is amended adding at the end the following:

"169. Real-time system management information program.".

SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking "title 40" and all that follows through the period and inserting "title 40.";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(4) by striking subparagraph (G).

SEC. 1704. DESIGNATION OF TRANSPORTATION MANAGEMENT AREAS.

(a) FUNDING.—Section 134(d)(3)(C)(ii) of title 23, United States Code, is amended by striking subclause (II) and inserting the following:

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe Region under this title and chapter 53 of title 49, 1 percent of all funds distributed under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.".

(b) SPECIAL DESIGNATION.—For the purpose of any applicable program under title 23, United States Code, the city of Norman, Oklahoma, shall be considered to be part of the Oklahoma City urbanized area.

Subtitle H—Federal-Aid Stewardship

SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.

Section 103(c)(4)(B) of title 23, United States Code, is amended—

(1) in clause (ii), by striking "12" and inserting "20"; and

(2) in clause (iii)—

(A) in subclause (I), by striking "in the agreement between the Secretary and the State or States"; and

(B) by adding at the end the following:

"(III) EXISTING AGREEMENTS.—An agreement described in clause (ii) that is entered into before the date of enactment of this subparagraph shall be deemed to include the 20-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.".

SEC. 1802. STEWARDSHIP AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

"(e) VALUE ENGINEERING ANALYSIS.—

"(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

"(A) IN GENERAL.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

"(i) providing the needed functions safely, reliably, and at the lowest overall cost;

"(ii) improving the value and quality of the project; and

"(iii) reducing the time to complete the project.

"(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

"(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

"(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

"(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

"(A) each project on the Federal-Aid System with an estimated total cost of $25,000,000 or more;

"(B) a bridge project with an estimated total cost of $20,000,000 or more; and

"(C) any other project the Secretary determines to be appropriate.

"(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

"(4) REQUIREMENTS.—Analyses described in paragraph (1) for a bridge project shall—

"(A) include bridge substructure requirements based on construction material; and

"(B) be evaluated—

"(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

"(ii) using an analysis of life-cycle costs and duration of project construction."; and

(2) by striking subsections (g) and (h) and inserting the following:

"(g) OVERSIGHT PROGRAM.—

"(1) PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds made available under this title.

"(B) MINIMUM REQUIREMENTS.—At a minimum, the program shall monitor and respond to all areas relating to financial integrity and project delivery.

"(2) FINANCIAL INTEGRITY.—

"(A) FINANCIAL MANAGEMENT SYSTEMS.—

"(i) IN GENERAL.—The Secretary shall perform annual reviews of the financial management systems of State transportation departments that affect projects approved under subsection (a).

"(ii) REVIEW AREAS.—In carrying out clause (i), the Secretary shall use risk assessment procedures to identify areas to be reviewed.

"(B) PROJECT COSTS.—The Secretary shall—

"(i) develop minimum standards for estimating project costs; and

"(ii) periodically evaluate practices of the States for—

"(I) estimating project costs;

"(II) awarding contracts; and

"(III) reducing project costs.

"(C) RESPONSIBILITY OF THE STATES.—

"(i) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under this section have—

"(I) sufficient accounting controls to properly manage the Federal funds; and

"(II) adequate project delivery systems for projects approved under this section.

"(ii) REVIEW BY SECRETARY.—The Secretary shall periodically review monitoring by the States of those subrecipients.

"(3) PROJECT DELIVERY.—The Secretary shall—

"(A) perform annual reviews of the project delivery system of each State, including analysis of 1 or more activities that are involved in the life cycle of a project; and

"(B) employ risk assessment procedures to identify areas to be reviewed.

"(4) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section discharges or otherwise affects any oversight responsibility of the Secretary—

"(A) specifically provided for under this title or other Federal law; or

"(B) for the design and construction of all Appalachian development highways under section 14501 of title 40 or section 170 of this title.

"(h) MAJOR PROJECTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

"(A) a project management plan; and

"(B) an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

"(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

"(B) the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—A financial plan shall—

"(A) be based on detailed estimates of the cost to complete the project; and

"(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for the project, and that is not covered by subsection (h), shall prepare, and make available to the Secretary at the request of the Secretary, an annual financial plan for the project.".

(b) CONFORMING AMENDMENTS.—

(1) Section 114(a) of title 23, United States Code, is amended—

(A) in the first sentence by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or a portion of a Federal-aid highway"; and

(B) by striking the second sentence and inserting "The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.".

(2) Section 117 of title 23, United States Code, is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

SEC. 1803. REVISION OF REGULATIONS.

Section 112(b)(3) of title 23, United States Code, is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by striking subparagraph (C) and inserting the following:

"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.

"(D) REGULATORY PROCESS.—Not later than 90 days after the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall promulgate revised regulations under section 1307(c) of the Transportation Equity Act for 21st Century (23 U.S.C. 112 note; 112 Stat. 230) that—

"(i) do not preclude State transportation departments or local transportation agencies from—

"(I) issuing requests for proposals;

"(II) proceeding with awards of design-build contracts; or

"(III) issuing notices to proceed with preliminary design work under design-build contracts; prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332);

"(ii) require that the State transportation department or local transportation agency receive concurrence from the Secretary before carrying out an activity under clause (i); and

"(iii) preclude the design-build contractor from proceeding with final design or construction of any permanent improvement prior to completion of the process under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).".

SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.

(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2), respectively, and indenting appropriately;

(3) by striking "(a) CONGESTION" and all that follows through subsection (a)(1)(B);

(4) by striking subsection (b); and

(5) by inserting after the section heading the following:

"(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

"(1) without the use of Federal funds; and

"(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

"(A) with the aid of Federal funds previously apportioned or allocated to the State; or

"(B) with obligation authority previously allocated to the State.

"(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of the project authorized under this section from any category of funds for which the project is eligible.".

(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) OBLIGATION AND RELEASE OF FUNDS.—

"(1) IN GENERAL.—Funds apportioned or allocated to a State for a particular purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

"(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

"(A) credited to the same class of funds previously apportioned or allocated to the State; and

"(B) immediately available for obligation.

"(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this section shall be recorded and reported as net obligations.".

SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

Section 118(c)(1) of title 23, United States Code, is amended—

(1) by striking "$50,000,000" and all that follows through "2003" and inserting "$93,862,893 for each of fiscal years 2005 through 2009"; and

(2) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking "Federal-aid highway"; and

(B) by striking "section 104" and inserting "this title or chapter 53 of title 49".

(2) TECHNICAL REFERENCES.—Section 120(l) of title 23, United States Code, is amended by striking "section 104" and inserting "this title or chapter 53 of title 49".

(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of title 23, United States Code, is amended—

(1) by striking the first 2 sentences and inserting the following:

"(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

"(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

"(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

"(b) REIMBURSEMENT.—On execution of a project agreement with a State described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2)."; and

(2) in the last sentence, by striking "Any sums" and inserting the following:

"(c) RECOVERY AND CREDITING OF FUNDS.—Any sums".

(c) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "(a) On October 1" and all that follows through "Such allocation" and inserting the following:

"(a) ALLOCATION BASED ON NEED.—

"(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

"(2) PLANNING.—The allocation under paragraph (1)";

(2) by striking subsection (b) and inserting the following:

"(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

"(1) PUBLIC LANDS HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 33⅓ percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, or nontaxable Indian lands or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

"(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

"(2) FOREST HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66⅔ percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

"(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

"(i) renewable resource and land use planning; and

"(ii) assessments of the impact of that planning on transportation facilities.";

(3) in subsection (c)—

(A) by striking "(c) On" and inserting the following:

"(c) PARK ROADS AND PARKWAYS.—

"(1) IN GENERAL.—On"; and

(B) by adding at the end the following:

"(2) PRIORITY.—

"(A) DEFINITION OF QUALIFYING NATIONAL PARK.—In this paragraph, the term "qualifying national park" means a National Park that is used more than 1,000,000 recreational visitor days per year, based on an average of the 3 most recent years of available data from the National Park Service.

"(B) PRIORITY.—Notwithstanding any other provision of law, with respect to funds authorized for park roads and parkways, the Secretary shall give priority in the allocation of funds to projects for highways that—

"(i) are located in, or provide access to, a qualifying National Park; and

"(ii) were initially constructed before 1940.

"(C) PRIORITY CONFLICTS.—If there is a conflict between projects described in subparagraph (B), the Secretary shall give highest priority to projects that—

"(i) are in, or that provide access to, parks that are adjacent to a National Park of a foreign country; or

"(ii) are located in more than 1 State;";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking "1999" and inserting "2005"; and

(ii) by striking "1999" and inserting "2005";

(B) in paragraph (2)—

(i) in the paragraph heading, by striking "2000" and inserting "2005";

(ii) in subparagraphs (A), (B), and (D), by striking "2000" each place it appears and inserting "2005";

(iii) in subparagraph (B), by striking "1999" each place it appears and inserting "2005"; and

(iv) by adding at the end the following:

"(E) TRANSFERRED FUNDS.—

"(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula for distribution of funds under the Indian reservation roads program.

"(ii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "under this title" and inserting "under this chapter and section 125(e)"; and

(ii) by adding at the end the following:

"(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

"(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

"(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

"(iii) SELECTION OF PARTICIPATING TRIBES.—

"(I) PARTICIPANTS.—

"(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal

year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

"(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

"(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

"(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

"(aa) has successfully completed the planning phase described in subclause (IV);

"(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

"(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

"(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

"(IV) PLANNING PHASE.—

"(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

"(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

"(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project."; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) RESERVATION.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) FUNDING.—

"(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $14,079,433 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(II) by adding at the end the following:

"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1."; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) APPROVAL REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

"(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering after approval of applicable plans, specifications, and estimates in accordance with this title."; and

(5) by adding at the end the following:

"(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

"(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

"(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may approve plans, specifications, and estimates and commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

"(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: "Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent may be expended for the purpose of maintenance, excluding road sealing, and shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.".

(f) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

"(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

"(1) 12 percent to the Bureau of Reclamation.

"(2) 18 percent to the Bureau of Indian Affairs.

"(3) 17 percent to the Bureau of Land Management.

"(4) 17 percent to the Forest Service.

"(5) 7 percent to the United States Fish and Wildlife Service.

"(6) 17 percent to the National Park Service.

"(7) 12 percent to the Corps of Engineers.".

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting "safety projects or activities," after "refuge roads," each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

"(l) SAFETY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

"(A) transportation safety improvement activities;

"(B) activities to eliminate high-accident locations;

"(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

"(D) collection of safety information;

"(E) transportation planning projects or activities;

"(F) bridge inspection;

"(G) development and operation of safety management systems;

"(H) highway safety education programs; and

"(I) other eligible safety projects and activities authorized under chapter 4.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(g) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting "recreation roads," after "public lands highways,".

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (f)(1)), is amended by adding at the end the following:

"(h) RECREATION ROADS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

"(A) 8 percent to the Bureau of Reclamation.

"(B) 9 percent to the Corps of Engineers.

"(C) 13 percent to the Bureau of Land Management.

"(D) 70 percent to the Forest Service.

"(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.".

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting "recreation roads," after "Indian reservation roads,"; and

(B) in the fourth sentence, by inserting ", recreation roads," after "Indian roads".

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

"(m) RECREATION ROADS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

"(A) maintenance or improvements of existing recreation roads;

"(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

"(i) the Department of Agriculture; or

"(ii) the Department of the Interior;

"(C) transportation planning and administrative activities associated with those maintenance and improvements; and

"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

"(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

"(B) as of the date on which the funds are to be expended, there are—

"(i) no significant changes to the proposal bearing on environmental concerns; and

"(ii) no significant new information.

"(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(h) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking "public lands highways," each place it appears and inserting "public lands highways, recreation roads,".

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(3) Section 202(e) of title 23, United States Code, is amended by striking "Refuge System," and inserting "Refuge System and the various national fish hatcheries,".

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking "public lands highways," and inserting "public lands highways, recreation roads, forest highways,"; and

(B) in subsection (i), by striking "public lands highways" each place it appears and inserting "public lands highways, recreation roads, and forest highways".

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 205. National Forest System roads and trails";

and

(B) in subsections (a) and (d), by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

"205. National Forest System roads and trails.".

(7) Section 217(c) of title 23, United States Code, is amended by inserting "refuge roads," after "Indian reservation roads,".

SEC. 1807. HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

"§ 144. Highway bridge program

"(a) CONGRESSIONAL STATEMENT.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be established to enable States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads at any time at which the States and the Secretary determine that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.";

(2) by striking subsection (d) and inserting the following:

"(d) PARTICIPATION IN PROGRAM.—

"(1) IN GENERAL.—On application by a State to the Secretary for assistance in replacing or rehabilitating a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

"(A) replacing the bridge with a comparable bridge; or

"(B) rehabilitating the bridge.

"(2) SPECIFIC KINDS OF REHABILITATION.—On application by a State to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, the structure.

"(3) ELIGIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on the number of unsafe highway bridges in the State.

"(B) PREVENTATIVE MAINTENANCE.—A State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installation of scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.";

(3) in subsection (e)—

(A) in the third sentence, by striking "square footage" and inserting "area";

(B) in the fourth sentence—

(i) by striking "by the total cost of any highway bridges constructed under subsection (m) in *such State, relating to replacement of destroyed bridges and ferryboat services, and,"; and*

(ii) by striking "1997" and inserting "2003"; and

(C) in the seventh sentence, by striking "the Federal-aid primary system" and inserting "Federal-aid highways";

(4) by striking subsections (f) and (g) and inserting the following:

"(f) SET ASIDES.—

"(1) DISCRETIONARY BRIDGE PROGRAM.—

"(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2005 through 2009, all but $140,794,340 shall be apportioned as provided in subsection (e).

"(B) AVAILABILITY.—The $140,794,340 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed $23,465,723 of that amount shall be available only for projects for the seismic retrofit of bridges.

"(C) SET ASIDES.—For fiscal year 2005, the Secretary shall provide—

"(i) $46,931,446 to the State of Nevada for construction of a replacement of the federally-owned bridge over the Hoover Dam in the Lake Mead National Recreation Area;

"(ii) $46,931,446 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois; and

"(iii) not less than 40 percent of the amount made available under subparagraph (B) for the fiscal year for the seismic retrofit of bridges for multilane, suspension bridges that—

"(I) were open to traffic prior to 1940; and

"(II) are located in high-seismic zones.".

"(2) OFF-SYSTEM BRIDGES.—

"(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2005 through 2009 shall be expended for projects to replace, rehabilitate, perform systematic preventative maintenance or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

"(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may, with respect to the State, reduce the requirement for expenditure for bridges not on a Federal-aid highway if the Secretary determines that the State has inadequate needs to justify the expenditure.

"(C) PILOT PROGRAM.—Not less than 20 percent of the amount apportioned to the States of Colorado, . and ________________, for each of fiscal years 2005 through 2009 shall be expended for off-system bridge pilot projects.";

(5) in subsection (i)—

(A) in paragraph (3), by striking "and";

(B) in paragraph (4), by striking the period at the end and inserting "; and";

(C) by striking "Such reports" and all that follows through "to Congress."; and

(D) by adding at the end the following:

"(5) biennially submit such reports as are required under this subsection to the appropriate committees of Congress simultaneously with the report required by section 502(g).";

(6) in the first sentence of subsection (n), by striking "all standards" and inserting "all general engineering standards";

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by striking "title (including this section)" and inserting "section"; and

(ii) by inserting "200 percent of" after "shall not exceed"; and

(B) in paragraph (4)(B)—

(i) in the second sentence, by inserting "200 percent of" after "not to exceed"; and

(ii) in the last sentence, by striking "title" and inserting "section";

(8) by redesignating subsections (h) through (q) as subsections (g) through (p), respectively; and

(9) by adding at the end the following:

"(q) CONTINUATION OF ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

"(r) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under section 120(d).

"(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be the share applicable under section 120(a).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge program.".

SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1702(a)), is amended by adding at the end the following:

"§ 170. Appalachian development highway system

"(a) APPORTIONMENT.—

"(1) IN GENERAL.—The Secretary shall apportion funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for fiscal years 2005 through 2009 among States based on the latest available estimate of the cost to construct highways and access roads for the Appalachian development highway system program prepared by the Appalachian Regional Commission under section 14501 of title 40.

"(2) AVAILABILITY.—Funds described in paragraph (1) shall be available to construct highways and access roads under chapter 145 of title 40.

"(b) APPLICABILITY OF TITLE.—Funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the Appalachian development highway system shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that—

"(1) the Federal share of the cost of any project under this section shall be determined in accordance with subtitle IV of title 40; and

"(2) the funds shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—

(1) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting "and the Appalachian development highway system program under subtitle IV of title 40" after "(other than the emergency relief program authorized by section 125".

(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

"170. Appalachian development highway system.".

SEC. 1809. MULTISTATE CORRIDOR PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1808(a)), is amended by adding at the end the following:

"§ 171. Multistate corridor program

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and development;

"(2) facilitate transportation decisionmaking and coordinate project delivery involving multistate corridors; and

"(3) support the planning, development, and construction of high priority corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

"(b) ELIGIBLE RECIPIENTS.—A State transportation department and a metropolitan planning organization may receive and administer funds provided under this section.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for—

"(1) multistate highway and multimodal planning studies and construction; and

"(2) coordinated planning, development, and construction of high priority corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

"(1) STUDIES.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

"(2) CONSTRUCTION.—All construction funded under this program shall be consistent with section 133(b)(1).

"(e) SELECTION CRITERIA.—The Secretary shall select studies and projects to be carried out under the program based on—

"(1) the existence and significance of signed and binding multijurisdictional agreements;

"(2) endorsement of the study or project by applicable elected State and local representatives;

"(3) prospects for early completion of the study or project; or

"(4) whether the projects to be studied or constructed are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to studies or projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase—

"(i) mobility;

"(ii) freight productivity;

"(iii) access to marine or inland ports;

"(iv) safety and security (including improvements to emergency evacuation routes); and

"(v) reliability; and

"(B) enhance the environment.

"(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a study or project carried out under the program, using funds from all Federal sources, shall be 80 percent.

"(h) APPLICABILITY.—Funds authorized to be appropriated under section 1101(10) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 to carry out this section shall be available for obligation in the same

manner as if the funds were apportioned under this chapter.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)) is amended by adding at the end the following:

''171. Multistate corridor program.''.

SEC. 1810. BORDER PLANNING, OPERATIONS, TECHNOLOGY, AND CAPACITY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(a)), is amended by adding at the end the following:

''§ 172. Border planning, operations, technology, and capacity program

''(a) DEFINITIONS.—In this section:

''(1) BORDER STATE.—The term 'border State' means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.

''(2) PROGRAM.—The term 'program' means the border planning, operations, technology, and capacity program established under subsection (b).

''(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and carry out a border planning, operations, technology, and capacity improvement program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.

''(c) ELIGIBLE ACTIVITIES.—

''(1) IN GENERAL.—The Secretary shall make allocations under the program for projects to carry out eligible activities described in paragraph (2) at or near international land borders in border States.

''(2) ELIGIBLE ACTIVITIES.—A border State may obligate funds apportioned to the border State under this section for—

''(A) highway and multimodal planning or environmental studies;

''(B) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications;

''(C) technology and information exchange activities; and

''(D) right-of-way acquisition, design, and construction, as needed—

''(i) to implement the enhancements or applications described in subparagraphs (B) and (C);

''(ii) to decrease air pollution emissions from vehicles or inspection facilities at border crossings; or

''(iii) to increase highway capacity at or near international borders.

''(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

''(1) IN GENERAL.—Each project funded under the program shall be carried out in accordance with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

''(2) REGIONALLY SIGNIFICANT PROJECTS.—To be funded under the program, a regionally significant project shall be included on the applicable transportation plan and program required by sections 134 and 135.

''(e) PROGRAM PRIORITIES.—Border States shall give priority to projects that emphasize—

''(1) multimodal planning;

''(2) improvements in infrastructure; and

''(3) operational improvements that—

''(A) increase safety, security, freight capacity, or highway access to rail, marine, and air services; and

''(B) enhance the environment.

''(f) MANDATORY PROGRAM.—

''(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in paragraph (2), funds to be used in accordance with subsection (d).

''(2) FORMULA.—Subject to paragraph (3), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

''(A) 25 percent in the ratio that—

''(i) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

''(ii) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico.

''(B) 25 percent in the ratio that—

''(i) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

''(ii) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

''(C) 25 percent in the ratio that—

''(i) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

''(ii) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

''(D) 25 percent in the ratio that—

''(i) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

''(ii) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

''(3) DATA SOURCE.—

''(A) IN GENERAL.—The data used by the Secretary in making allocations under this subsection shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or other similar database).

''(B) BASIS OF CALCULATION.—All formula calculations shall be made using the average values for the most recent 5-year period for which data are available.

''(4) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), for each fiscal year, each border State shall receive at least ½ of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

''(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out under the program shall be 80 percent.

''(h) OBLIGATION.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

''(i) INFORMATION EXCHANGE.—No individual project the scope of work of which is limited to information exchange shall receive an allocation under the program in an amount that exceeds $500,000 for any fiscal year.

''(j) PROJECTS IN CANADA OR MEXICO.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border vehicle and commercial cargo movements at an international gateway or port of entry into the border region of the State, may be constructed using funds made available under the program if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—

''(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

''(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to the project.

''(k) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

''(1) STATE FUNDS.—At the request of a border State, funds made available under the program may be transferred to the General Services Administration for the purpose of funding 1 or more specific projects if—

''(A) the Secretary determines, after consultation with the State transportation department of the border State, that the General Services Administration should carry out the project; and

''(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of each project described in subsection (f).

''(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

''(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

''(ii) shall be—

''(I) administered in accordance with the procedures of the General Services Administration; but

''(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

''(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds provided for projects under subparagraph (A).

''(3) DIRECT TRANSFER OF AUTHORIZED FUNDS.—

''(A) IN GENERAL.—In addition to allocations to States and metropolitan planning organizations under subsection (c), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in border States, if—

''(i) the Secretary determines that the transfer is necessary to effectively carry out the purposes of this program; and

''(ii) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

''(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred by the Secretary under subparagraph (A)—

''(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

''(ii) shall be—

''(I) administered in accordance with the procedures of the General Services Administration; but

''(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

''(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred under subparagraph (A).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)), is amended by adding at the end the following:

"172. Border planning, operations, technology, and capacity program.".

SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(a)), is amended by adding at the end the following:

"§ 173. Puerto Rico highway program

"(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for each of fiscal years 2005 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

"(b) APPLICABILITY OF TITLE.—

"(1) IN GENERAL.—Amounts made available by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

"(2) LIMITATION ON OBLIGATIONS.—The amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

"(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

"(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—

"(A) the aggregate of the amounts for the fiscal year; by

"(B) the ratio that—

"(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title and title 49.

"(3) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)), is amended by adding at the end the following:

"173. Puerto Rico highway program.".

SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

"§ 174. National historic covered bridge preservation

"(a) DEFINITION OF HISTORIC COVERED BRIDGE.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations, the Secretary shall—

"(1) collect and disseminate information on historic covered bridges;

"(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

"(A) to rehabilitate or repair a historic covered bridge; or

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) FUNDING.—There is authorized to be appropriated to carry out this section $13,140,805 for each of fiscal years 2005 through 2009, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

"174. National historic covered bridge preservation.".

SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(a)), is amended by adding at the end the following:

"§ 175. Transportation and community and system preservation program

"(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address the goals described in subsection (b).

"(b) GOALS.—The goals of the program are to—

"(1) improve the efficiency of the transportation system in the United States;

"(2) reduce the impacts of transportation on the environment;

"(3) reduce the need for costly future investments in public infrastructure;

"(4) provide efficient access to jobs, services, and centers of trade; and

"(5) examine development patterns, and to identify strategies, to encourage private sector development patterns that achieve the goals identified in paragraphs (1) through (4).

"(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

"(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

"(A) have instituted preservation or development plans and programs that—

"(i) meet the requirements of this title and chapter 53 of title 49, United States Code; and

"(ii)(I) are coordinated with State and local adopted preservation or development plans;

"(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

"(III) are intended to promote innovative private sector strategies.

"(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

"(i) spending policies that direct funds to high-growth areas;

"(ii) urban growth boundaries to guide metropolitan expansion;

"(iii) 'green corridors' programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

"(iv) other similar programs or policies as determined by the Secretary;

"(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

"(D) examine ways to encourage private sector investments that address the purposes of this section; and

"(E) propose projects for funding that address the purposes described in subsection (b)(2).

"(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

"(4) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

"(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

"(i) any project eligible for funding under this title or chapter 53 of title 49, United States Code; or

"(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

"(I) transit-oriented development plans;

"(II) traffic calming measures; or

"(III) other coordinated transportation and community and system preservation practices.

"(d) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $46,931,447 for each of fiscal years 2005 through 2009.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(18) Transportation and community system preservation to facilitate the planning, development, and implementation of strategies of metropolitan planning organizations and local governments to integrate transportation, community, and system preservation plans and practices that address the following:

"(A) Improvement of the efficiency of the transportation system in the United States.

"(B) Reduction of the impacts of transportation on the environment.

"(C) Reduction of the need for costly future investments in public infrastructure.

"(D) Provision of efficient access to jobs, services, and centers of trade.

"(E) Examination of development patterns, and identification of strategies to encourage private sector development patterns, that achieve the goals identified' in subparagraphs (A) through (D).

"(19) Projects relating to intersections, including intersections—

"(A) that—

"(i) have disproportionately high accident rates;

"(ii) have high levels of congestion, as evidenced by—

"(I) interrupted traffic flow at the intersection; and

"(II) a level of service rating, issued by the Transportation Research Board of the National Academy of Sciences in accordance with the Highway Capacity Manual, that is not better than 'F' during peak travel hours; and

"(iii) are directly connected to or located on a Federal-aid highway; and

"(B) improvements that are approved in the regional plan of the appropriate local metropolitan planning organization.".

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(b)), is amended by adding at the end the following:

"175. Transportation and community and system preservation pilot program.".

SEC. 1814. PARKING PILOT PROGRAMS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

"§ 176. Parking pilot programs

"(a) COMMERCIAL TRUCK PARKING PILOT PROGRAM.—

"(1) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for drivers of commercial motor vehicles on the National Highway System.

"(2) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments.

"(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to an applicant that—

"(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

"(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

"(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

"(3) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

"(i) construction of safety rest areas that include parking for commercial motor vehicles;

"(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

"(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

"(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

"(v) construction of turnouts along the National Highway System for commercial motor vehicles;

"(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

"(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

"(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) FUNDING.—

"(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $9.386.289 for each of fiscal years 2005 through 2009.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

"(b) CORRIDOR AND FRINGE PARKING PILOT PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

"(B) PRIMARY FUNCTION.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

"(C) OVERNIGHT PARKING.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

"(2) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States.

"(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

"(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

"(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

"(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

"(3) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

"(i) construction of corridor and fringe parking facilities;

"(ii) costs associated with the opening of facilities;

"(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

"(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

"(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

"(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) FUNDING.—

"(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $9,386,289 for each of fiscal years 2005 through 2009.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1813(c)), is amended by adding at the end the following:

"176. Parking pilot programs.".

SEC. 1815. INTERSTATE OASIS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 177. Interstate oasis program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—

"(1) establish an Interstate oasis program; and

"(2) develop standards for designating, as an Interstate oasis, a facility that—

"(A) offers—

"(i) products and services to the public;

"(ii) 24-hour access to restrooms; and

"(iii) parking for automobiles and heavy trucks; and

"(B) meets other standards established by the Secretary.

"(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—

"(1) the appearance of a facility; and

"(2) the proximity of the facility to the Interstate System.

"(c) ELIGIBILITY FOR DESIGNATION.—If a State elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.

"(d) LOGO.—The Secretary shall design a logo to be displayed by a facility designated under this section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United

States Code (as amended by section 1814(b)), is amended by adding at the end the following:

"177. Interstate oasis program.".

SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.

Section 204 of title 23, United States Code (as amended by section 1806(f)(4)), is amended by adding at the end the following:

"(n) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, or guideline, an Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

"(A) Indian reservation roads; and

"(B) roads providing access to Indian reservation roads.

"(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

"(A) shall be negotiated between the State and the Indian tribe; and

"(B) shall not require the approval of the Secretary.

"(3) ANNUAL REPORT.—Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies—

"(A) the Indian tribes and States that have entered into agreements under paragraph (1);

"(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

"(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).".

SEC. 1817. NATIONAL FOREST SYSTEM ROADS.

Section 205 of title 23, United States Code, is amended by adding at the end the following:

"(e) PASSAGES FOR AQUATIC SPECIES.—Of the amounts made available for National Forest System roads, $14,079,433 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.".

SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

"§215. Territorial highway program

"(a) DEFINITIONS.—In this section:

"(1) PROGRAM.—The term 'program' means the territorial highway program established under subsection (b).

"(2) TERRITORY.—The term 'territory' means the any of the following territories of the United States:

"(A) American Samoa.

"(B) The Commonwealth of the Northern Mariana Islands.

"(C) Guam.

"(D) The United States Virgin Islands.

"(b) PROGRAM.—

"(1) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each territorial government in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

"(A) designated by the Governor or chief executive officer of each territory; and

"(B) approved by the Secretary.

"(2) FEDERAL SHARE.—The Secretary shall provide Federal financial assistance to territories under this section in accordance with section 120(h).

"(c) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—

"(A) engage in highway planning;

"(B) conduct environmental evaluations;

"(C) administer right-of-way acquisition and relocation assistance programs; and

"(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

"(2) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).

"(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.

"(2) APPLICABLE PROVISIONS.—The specific sections of chapter 1 that are applicable to each territory, and the extent of the applicability of those section, shall be identified in the agreement required by subsection (e).

"(e) AGREEMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), none of the funds made available for the program shall be available for obligation or expenditure with respect. to any territory until the Governor or chief executive officer of the territory enters into a new agreement with the Secretary (which new agreement shall be entered into not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005), providing that the government of the territory shall—

"(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);

"(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

"(i) appropriate for each territory; and

"(ii) approved by the Secretary;

"(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and

"(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

"(2) TECHNICAL ASSISTANCE.—The new agreement required by paragraph (1) shall—

"(A) specify the kind of technical assistance to be provided under the program;

"(B) include appropriate provisions regarding information sharing among the territories; and

"(C) delineate the oversight role and responsibilities of the territories and the Secretary.

"(3) REVIEW AND REVISION OF AGREEMENT.—The new agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

"(4) EXISTING AGREEMENTS.—With respect to an agreement between the Secretary and the Governor or chief executive officer of a territory that is in effect as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005—

"(A) the agreement shall continue in force until replaced by a new agreement in accordance with paragraph (1); and

"(B) amounts made available for the program under the agreement shall be available for obligation or expenditure so long as the agreement, or a new agreement under paragraph (1), is in effect.

"(f) PERMISSIBLE USES OF FUNDS.—

"(1) IN GENERAL.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

"(A) Eligible surface transportation program projects described in section 133(b).

"(B) Cost-effective, preventive maintenance consistent with section 116.

"(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

"(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

"(E) Studies of the economy, safety, and convenience of highway use.

"(F) The regulation and equitable taxation of highway use.

"(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

"(2) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for the program shall be obligated or expended for routine maintenance.

"(g) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.".

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLE PROJECTS.—Section 103(b)(6) of title 23, United States Code, is amended by striking subparagraph (P) and inserting the following:

"(P) Projects eligible for assistance under the territorial highway program under section 215.".

(2) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands" and inserting "for the territorial highway program authorized under section 215".

(3) ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215 and inserting the following:

"215. Territorial highway program.".

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

"§322. High-speed magnetic levitation system deployment program

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT COSTS.—

"(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

"(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—

"(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(5) SPECIAL PURPOSE ENTITY.—The term 'special purpose entity' means a nonprofit entity that—

"(A) is not a State-designated authority; but

"(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

"(6) TEA–21 CRITERIA.—The term 'TEA–21 criteria' means—

"(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

"(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

"(b) PHASE I—PRECONSTRUCTION PLANNING.—

"(1) IN GENERAL.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

"(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

"(A) a description of the purpose and need for the proposed MAGLEV project;

"(B) a description of the travel market to be served;

"(C) a description of the technology selected for the MAGLEV project;

"(D) forecasts of ridership and revenues;

"(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

"(F) a realistic schedule for construction and equipment for the project;

"(G) an environmental assessment;

"(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

"(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

"(3) DEADLINE FOR APPLICATIONS.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

"(4) EVALUATION.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

"(5) SELECTION.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

"(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

"(1) IN GENERAL.—A State, State-designated authority, or multistate-designated authority that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

"(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(B) planning for construction, operation, and maintenance of a MAGLEV project.

"(2) DEADLINE FOR APPLICATIONS.—

"(A) IN GENERAL.—The Secretary shall—

"(i) establish an annual deadline for receipt of Phase II applications; and

"(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

"(B) CRITERIA.—The Secretary shall establish criteria to evaluate applications that include whether—

"(i) the technology selected is available for deployment at the time of the application;

"(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

"(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

"(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

"(C) PROJECTS SELECTED.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

"(i) select that project for Federal Phase II support; and

"(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(d) PHASE III—DEPLOYMENT.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA–21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

"(e) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

"(2) PREVAILING WAGE AND CERTAIN TEA–21 CRITERIA.—Sections 5333(a) and the TEA-21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

"(3) FEDERAL SHARE.—

"(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

"(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

"(4) FUNDING.—

"(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

"(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

"(I) $10,000,000 for Phase I—preconstruction planning studies;

"(II) $20,000,000 for Phase II—environmental impact studies; and

"(III) $60,000,000 for Phase III—deployment projects.

"(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

"(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

"(II) the availability of the funds shall be in accordance with subsection (f).

"(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

"(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

"(I) $6,000,000 for fiscal year 2005; and

"(II) $2,000,000 for each of fiscal years 2006 through 2009.

"(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

"(I) $25,000,000 for fiscal year 2005;

"(II) $37,000,000 for fiscal year 2006;

"(III) $21,000,000 for fiscal year 2007; and

"(IV) $9,000,000 for each of fiscal years 2008 and 2009.

"(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

"(I) $500,000,000 for fiscal year 2005;

"(II) $650,000,000 for fiscal year 2006;

"(III) $850,000,000 for fiscal year 2007;

"(IV) $850,000,000 for fiscal year 2008; and

"(V) $600,000,000 for fiscal year 2009.

"(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

"(I) $13,000,000 for fiscal year 2005;

"(II) $16,000,000 for fiscal year 2006;

"(III) $8,000,000 for fiscal year 2007; and

"(IV) $5,000,000 for each of fiscal years 2008 and 2009.

"(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

"(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

"(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

"(i) MANDATORY ADDITIONAL SELECTION.—

"(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning,

deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

"(2) PRIORITY FUNDING.—The Secretary shall give priority funding to a MAGLEV project that—

"(A) has already met the TEA-21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

"(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

"(C) is based on designs that ensure the greatest life cycle advantages for the project;

"(D) contains domestic content of at least 70 percent; and

"(E) is designed and developed through public/private partnership entities and continues to meet the TEA–21 criteria relating to public/private partnerships.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

"322. High-speed magnetic levitation system deployment program.".

SEC. 1820. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c), by inserting ", or a local government from offering to donate funds, materials, or services performed by local government employees," after "services"; and

(2) striking subsection (e).

SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, II, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—

(A) IN GENERAL.—The term "small business concern" has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) EXCLUSION.—The term "small business concern" does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that has average annual gross receipts over the preceding 3 fiscal years in excess of $18,308,420, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning given the term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

SEC. 1822. [RESERVED.]

SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

"(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.".

SEC. 1824. THE DELTA REGIONAL AUTHORITY.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 178. Delta Region transportation development program

"(a) IN GENERAL.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway planning, development, and construction projects.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

"178. Delta Region transportation development program.".

SEC. 1825. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry and inland ports through and to the interior of the United States.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus or inland port;

(3) traverse at least 3 States; and

(4) are identified by section 1105(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking "$1,500,000 for each of fiscal years 1998 through 2003" and inserting "$1,800,000 for each of fiscal years 2005 through 2009".

SEC. 1827. VALUE PRICING PILOT PROGRAM.

Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C.

149 note; 105 Stat. 1938) is amended in the first sentence by striking "The Secretary" and inserting "For fiscal year 2005 and each fiscal year thereafter, the Secretary".

SEC. 1828. CREDIT TO STATE OF LOUISIANA FOR STATE MATCHING FUNDS.

(a) In General.—The Secretary may provide a credit to the State of Louisiana in an amount equal to the cost of any planning, engineering, design, or construction work carried out by the State on any project that the Secretary determines is in accordance with the project numbered 202 under section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 256).

(b) Eligibility of Credit.—The credit shall be eligible for use for any future payment relating to the completion of a project described in subsection (a) that is required by the State under title 23, United States Code.

SEC. 1829. APPROVAL AND FUNDING FOR CERTAIN CONSTRUCTION PROJECTS.

(a) In General.—Not later than 30 days after the date of receipt by the Secretary of a construction authorization request from the State transportation department for the State of Georgia for project number STP–189–1(15)CT 3 in Gwinnett County, Georgia, the Secretary shall—

(1) approve the project; and

(2) reserve such Federal funds available to the Secretary as are necessary to carry out the project.

(b) Conformity Determination.—

(1) In general.—Approval, funding, and implementation of the project referred to in subsection (a) shall not be subject to the requirements of part 93 of title 40, Code of Federal Regulations (or successor regulations).

(2) Regional emissions.—Notwithstanding paragraph (1), all subsequent regional emission analyses required by section 93.118 or 93.119 of title 40, Code of Federal Regulations (or successor regulations), shall include the project.

SEC. 1830. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary of Transportation shall notify each State or political subdivision of a State to which the Secretary of Transportation awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

SEC. 1831. ALASKA WAY VIADUCT STUDY.

(a) Findings.—Congress finds that—

(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;

(2) an effort to address the possible repair, retrofit, or replacement of the Alaska Way Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and

(3) as a result of the efforts referred to in paragraph (1), a locally preferred alternative for the Alaska Way Viaduct is being developed.

(b) Definitions.—In this section:

(1) Administrator.—The term "Administrator" means the Administrator of the Federal Highway Administration.

(2) City.—The term "City" means the city of Seattle, Washington.

(3) Earthquake.—The term "earthquake" means the Nisqually earthquake of 2001.

(4) Fund.—The term "Fund" means the emergency fund authorized under section 125 of title 23, United States Code.

(5) State.—The term "State" means the Washington State Department of Transportation.

(6) Viaduct.—The term "Viaduct" means the Alaska Way Viaduct.

(c) Study.—

(1) In general.—As soon as practicable after the date of enactment of this Act, the Administrator, in cooperation with the State and the City, shall conduct a comprehensive study to determine the specific damage to the Viaduct from the earthquake that contribute to the ongoing degradation of the Viaduct.

(2) Requirements.—The study under paragraph (1) shall—

(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the Fund, consistent with the emergency relief manual governing eligible expenses from the Fund; and

(B) determine the amount of assistance from the Fund for which the Viaduct is eligible.

(3) Report.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the findings of the study.

SEC. 1832. BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

SEC. 1833. COMMUNITY ENHANCEMENT STUDY.

(a) In General.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety, and the environment; and

(C) enhancing the architectural design and planning of communities; and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of those projects for communities.

(b) Contents.—The study shall address—

(1) the degree to which well-designed transportation projects—

(A) have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities;

(B) protect and contribute to improvements in public health and safety; and

(C) use inclusive public participation processes to achieve quicker, more certain, and better results;

(2) the degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future; and

(3) methods of facilitating the use of successful models or best practices in transportation investment or development to accomplish—

(A) enhancement of community identity;

(B) protection of public health and safety;

(C) provision of a variety of choices in housing, shopping, transportation, employment, and recreation;

(D) preservation and enhancement of existing infrastructure; and

(E) creation of a greater sense of community through public involvement.

(c) Administration.—

(1) In general.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization with expertise in the design of a wide range of transportation and infrastructure projects, including the design of buildings, public facilities, and surrounding communities.

(2) Federal share.—Notwithstanding section 1221(e)(2) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), the Federal share of the cost of the study under this section shall be 100 percent.

(d) Report.—Not later than September 20, 2006, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section.

(e) Authorization.—Of the amounts made available to carry out section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), $1,000,000 shall be available for each of fiscal years 2005 and 2006 to carry out this section.

SEC. 1834. COMPREHENSIVE COASTAL EVACUATION PLAN.

(a) In General.—The Secretary of Transportation and the Secretary of Homeland Security (referred to in this section as the "Secretaries") shall jointly develop a written comprehensive plan for evacuation of the coastal areas of the United States during any natural or man-made disaster that affects coastal populations.

(b). Consultation.—In developing the comprehensive plan, the Secretaries shall consult with Federal, State, and local transportation and emergency management officials that have been involved with disaster related evacuations.

(c) Contents.—The comprehensive plan shall—

(1) consider, on a region-by-region basis, the extent to which coastal areas may be affected by a disaster; and

(2) address, at a minimum—

(A) all practical modes of transportation available for evacuations;

(B) methods of communicating evacuation plans and preparing citizens in advance of evacuations;

(C) methods of coordinating communication with evacuees during plan execution;

(D) precise methods for mass evacuations caused by disasters such as hurricanes, flash flooding, and tsunamis; and

(E) recommended policies, strategies, programs, and activities that could improve disaster-related evacuations.

(d) Report and Updates.—The Secretaries shall—

(1) not later than October 1, 2006, submit to Congress the written comprehensive plan; and

(2) periodically thereafter, but not less often than every 5 years, update, and submit to Congress any revision to, the plan.

SEC. 1835. PRIORITY PROJECTS.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended in item 1349 of the table contained in that section by inserting ", and improvements to streets and roads providing access to," after "along".

SEC. 1836. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking "Conduct" and all that follows through "interchange" and inserting "Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area".

SEC. 1837. US–95 PROJECT, LAS VEGAS, NEVADA.

Unless an agreement is reached between the Federal Highway Administration, the State of Nevada, and the Sierra Club, the State of Nevada may continue to completion construction of the project entitled "US-95 Project in Las Vegas, Nevada", as approved by the Federal Highway Administration on November 18, 1999, and selected in the record of decision dated January 28, 2000, on June 30, 2005.

Subtitle I—Technical Corrections

SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

(a) Letting of Contracts.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) Fringe and Corridor Parking Facilities.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

SEC. 1902. CLARIFICATION OF DATE.

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking "The Secretary" and all that follows through "of 1970" and inserting "Not later than January 30, 1971, the Secretary shall issue".

SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) In General.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

"§321. Signs identifying funding sources".

(b) Conforming Amendment.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

"321. Signs identifying funding sources.".

SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

(a) In General.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

"§313. Buy America".

(b) Conforming Amendments.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 312 the following:

"313. Buy America.".

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking "by this Act" the first place it appears and all that follows through "of 1978" and inserting "to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking "this Act," and all that follows through "Code, which" and inserting "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that";

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.

Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title" and inserting "section 135";

(B) in the second sentence, by striking "He" and inserting "The Secretary";

(C) in the third sentence, by striking "where he considers it necessary to assure" and inserting "if necessary to ensure"; and

(D) in the last sentence—

(i) by striking "him" and inserting "the Secretary" and

(ii) by striking "he" and inserting "the Secretary";

(2) in subsection (b)—

(A) in the first sentence, by striking "highway construction" and inserting "surface transportation"; and

(B) in the second sentence—

(i) by striking "as he may deem necessary" and inserting "as necessary"; and

(ii) by striking "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and";

(3) in the second sentence of subsection (c)—

(A) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)"; and

(B) by striking "he may deem"; and

(4) in the heading of subsection (d), by striking "AND CONTRACTING".

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) Surface Transportation Research.—

(A) In General.—For carrying out sections 502, 503, 506, 507, 508, and 511 of title 23, United States Code—

(i) $198,050,704 for fiscal year 2005;

(ii) $201,805,220 for fiscal year 2006;

(iii) $204,621,107 for fiscal year 2007;

(iv) $206,498,365 for fiscal year 2008; and

(v) $209,314,252 for fiscal year 2009.

(B) Surface Transportation-Environmental Cooperative Research Program.—For each of fiscal years 2005 through 2009, the Secretary shall set aside $18,772,579 of the funds authorized under subparagraph (A) to carry out the surface transportation-environmental cooperative research program under section 507 of title 23, United States Code.

(2) Training and Education.—For carrying out section 504 of title 23, United States Code—

(A) $26,281,610 for fiscal year 2005;

(B) $27,220,239 for fiscal year 2006;

(C) $28,158,868 for fiscal year 2007;

(D) $29,097,497 for fiscal year 2008; and

(E) $30,036,126 for fiscal year 2009.

(3) Bureau of Transportation Statistics.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $26,281,610 for each of fiscal years 2005 through 2009.

(4) ITS Standards, Research, Operational Tests, and Development.—For carrying out sections 524, 525, 526, 527, 528, and 529 of title 23, United States Code—

(A) $115,451,358 for fiscal year 2005;

(B) $118,267,245 for fiscal year 2006;

(C) $121,083,132 for fiscal year 2007;

(D) $123,899,019 for fiscal year 2008; and

(E) $126,714,906 for fiscal year 2009.

(5) University Transportation Centers.—For carrying out section 510 of title 23, United States Code $42,238,302 for each of fiscal years 2005 through 2009.

(b) Applicability of Title 23, United States Code.—Funds authorized to be appropriated by subsection (a)—

(1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using the funds shall be the share applicable under section 120(b) of title 23, United States Code, as adjusted under subsection (d) of that section (unless otherwise specified or otherwise determined by the Secretary); and

(2) shall remain available until expended.

(c) Allocations.—

(1) Surface Transportation Research.—Of the amounts made available under subsection (a)(1)—

(A) $25,342,981 for each of fiscal years 2005 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code;

(B) $10,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title;

(C) $5,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out the high-performance concrete bridge research and technology transfer program under section 502(i) of that title, of which $750,000 for each fiscal year shall be used by the Secretary to carry out demonstration projects involving the use of ultra-high-performance concrete with ductility;

(D) $5,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out the high-performing steel bridge research and technology transfer program under section 502(k) of title 23, United States Code;

(E) $5,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out research on asphalt used in highway pavements;

(F) $5,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out research on concrete pavements;

(G) $5,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out research on alternative materials;

(H) $3,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out research on aggregates used in highway pavements, including alternative materials used in highway drainage applications;

(I) $3,000,000 for each of fiscal years 2005 through 2009 shall be made available for further development and deployment of techniques to prevent and mitigate alkali silica reactivity;

(J) $1,500,000 for fiscal year 2005 shall be remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines; and

(K) $2,500,000 for each of fiscal years 2005 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

(2) Technology Application Program.—Of the amounts made available under subsection (a)(1), $56,317,736 for each of fiscal years 2005 through 2009 shall be available to carry out section 503 of title 23, United States Code.

(3) Training and Education.—Of the amounts made available under subsection (a)(2)—

(A) $11,732,862 for fiscal year 2005, $12,202,176 for fiscal year 2006, $12,671,491 for fiscal year 2007, $13,140,805 for fiscal year 2008, and $13,610,119 for fiscal year 2009 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) $14,079,434 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) $2,815,887 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(c)(2) of that title (relating to the Eisenhower Transportation Fellowship Program).

(4) International Highway Transportation Outreach Program.—Of the amounts made available under subsection (a)(1), $469,314 for each of fiscal years 2005 through 2009 shall be available to carry out section 506 of title 23, United States Code.

(5) New Strategic Highway Research Program.—For each of fiscal years 2005 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) $14,079,434 of the amounts made available to carry out the interstate maintenance program under section 119 of title 23, United States Code, for the fiscal year;

(B) $17,833,949 of the amounts made available for the National Highway System under section

101 of title 23, United States Code, for the fiscal year;

(C) $12,202,176 of the amounts made available to carry out the bridge program under section 144 of title 23, United States Code, for the fiscal year;

(D) $18,772,579 of the amounts made available to carry out the surface transportation program under section 133 of title 23, United States Code, for the fiscal year;

(E) $4,693,145 of the amounts made available to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, for the fiscal year; and

(F) $2,815,887 of the amounts made available to carry out the highway safety improvement program under section 148 of title 23, United States Code, for the fiscal year.

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $28,158,868 for each of fiscal years 2005 through 2009 shall be available to carry out section 527 of title 23, United States Code.

(d) TRANSFERS OF FUNDS.—The Secretary may transfer—

(1) to an amount made available under paragraphs (1), (2), or (4) of subsection (c), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those paragraphs; and

(2) to an amount made available under subparagraphs (A), (B), or (C) of subsection (c)(3), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those subparagraphs.

SEC. 2002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2001(a) shall not exceed—

(1) $408,491,420 for fiscal year 2005;
(2) $416,000,453 for fiscal year 2006;
(3) $422,570,857 for fiscal year 2007;
(4) $428,202,637 for fiscal year 2008; and
(5) $434,773,037 for fiscal year 2009.

SEC. 2003. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, notice of that action shall be concurrently provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subtitle B—Research and Technology

SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended to read as follows:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—SURFACE TRANSPORTATION

"Sec.
"501. Definitions.
"502. Surface transportation research.
"503. Technology application program.
"504. Training and education.
"505. State planning and research.
"506. International highway transportation outreach program.
"507. Surface transportation-environmental cooperative research program.
"508. Surface transportation research technology deployment and strategic planning.
"509. New strategic highway research program.
"510. University transportation centers.
"511. Multistate corridor operations and management.
"512. Transportation analysis simulation system.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"521. Finding.
"522. Goals and purposes.
"523. Definitions.
"524. General authorities and requirements.
"525. National ITS Program Plan.
"526. National ITS architecture and standards.
"527. Commercial vehicle intelligent transportation system infrastructure program.
"528. Research and development.
"529. Use of funds.

"SUBCHAPTER I—SURFACE TRANSPORTATION

"§ 501. Definitions

"In this subchapter:

"(1) FEDERAL LABORATORY.—The term 'Federal laboratory' includes—

"(A) a Government-owned, Government-operated laboratory; and

"(B) a Government-owned, contractor-operated laboratory.

"(2) SAFETY.—The term 'safety' includes highway and traffic safety systems, research, and development relating to—

"(A) vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics;

"(B) accident investigations;

"(C) integrated, interoperable emergency communications;

"(D) emergency medical care; and

"(E) transportation of the injured.

"§ 502. Surface transportation research

"(a) IN GENERAL.—

"(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

"(A) all phases of transportation planning and development (including new technologies, construction, transportation systems management and operations development, design, maintenance, safety, security, financing, data collection and analysis, demand forecasting, multimodal assessment, and traffic conditions); and

"(B) the effect of State laws on the activities described in subparagraph (A).

"(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing, any material, invention, patented article, or process.

"(3) COOPERATION, GRANTS, AND CONTRACTS.—

"(A) IN GENERAL.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with—

"(I) any other Federal agency or instrumentality; and

"(II) any Federal laboratory; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

"(I) the National Academy of Sciences;

"(II) the American Association of State Highway and Transportation Officials;

"(III) planning organizations;

"(IV) a Federal laboratory;

"(V) a State agency;

"(VI) an authority, association, institution, or organization;

"(VII) a for-profit or nonprofit corporation;

"(VIII) a foreign country; or

"(IX) any other person.

"(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable and appropriate—

"(i) on a competitive basis; and

"(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

"(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508(c).

"(5) FUNDS.—

"(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

"(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities (including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State); and

"(B) Federal laboratories.

"(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

"(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41

U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include as priority areas of effort within the surface transportation research program—

"(1) the development of new technologies and methods in materials, pavements, structures, design, and construction, with the objectives of—

"(A)(i) increasing to 50 years the expected life of pavements;

"(ii) increasing to 100 years the expected life of bridges; and

"(iii) significantly increasing the durability of other infrastructure;

"(B) lowering the life-cycle costs, including—

"(i) construction costs;

"(ii) maintenance costs;

"(iii) operations costs; and

"(vi) user costs.

"(2) the development, and testing for effectiveness, of nondestructive evaluation technologies for civil infrastructure using existing and new technologies;

"(3) the investigation of—

"(A) the application of current natural hazard mitigation techniques to manmade hazards; and

"(B) the continuation of hazard mitigation research combining manmade and natural hazards;

"(4) the improvement of safety—

"(A) at intersections;

"(B) with respect to accidents involving vehicles run off the road; and

"(C) on rural roads;

"(5) the reduction of work zone incursions and improvement of work zone safety;

"(6) the improvement of geometric design of roads for the purpose of safety;

"(7) the examination of data collected through the national bridge inventory conducted under section 144 using the national bridge inspection standards established under section 151, with the objectives of determining whether—

"(A) the most useful types of data are being collected; and

"(B) any improvement could be made in the types of data collected and the manner in which the data is collected, with respect to bridges in the United States;

"(8) the improvement of the infrastructure investment needs report described in subsection (g) through—

"(A) the study and implementation of new methods of collecting better quality data, particularly with respect to performance, congestion, and infrastructure conditions;

"(B) monitoring of the surface transportation system in a system-wide manner, through the use of—

"(i) intelligent transportation system technologies of traffic operations centers; and

"(ii) other new data collection technologies as sources of better quality performance data;

"(C) the determination of the critical metrics that should be used to determine the condition and performance of the surface transportation system; and

"(D) the study and implementation of new methods of statistical analysis and computer models to improve the prediction of future infrastructure investment requirements;

"(9) the development of methods to improve the determination of benefits from infrastructure improvements, including—

"(A) more accurate calculations of benefit-to-cost ratios, considering benefits and impacts throughout local and regional transportation systems;

"(B) improvements in calculating life-cycle costs; and

"(C) valuation of assets;

"(10) the improvement of planning processes to better predict outcomes of transportation projects, including the application of computer simulations in the planning process to predict outcomes of planning decisions;

"(11) the multimodal applications of Geographic Information Systems and remote sensing, including such areas of application as—

"(A) planning;

"(B) environmental decisionmaking and project delivery; and

"(C) freight movement;

"(12) the development and application of methods of providing revenues to the Highway Trust Fund with the objective of offsetting potential reductions in fuel tax receipts;

"(13) the development of tests and methods to determine the benefits and costs to communities of major transportation investments and projects;

"(14) the conduct of extreme weather research, including research to—

"(A) reduce contraction and expansion damage;

"(B) reduce or repair road damage caused by freezing and thawing;

"(C) improve deicing or snow removal techniques;

"(D) develop better methods to reduce the risk of thermal collapse, including collapse from changes in underlying permafrost;

"(E) improve concrete and asphalt installation in extreme weather conditions; and

"(F) make other improvements to protect highway infrastructure or enhance highway safety or performance;

"(15) the improvement of surface transportation planning;

"(16) environmental research;

"(17) transportation system management and operations; and

"(18) any other surface transportation research topics that the Secretary determines, in accordance with the strategic planning process under section 508, to be critical.

"(d) ADVANCED, HIGH-RISK RESEARCH.—

"(1) IN GENERAL.—The Secretary shall establish and carry out, in accordance with the surface transportation research and technology development strategic plan developed under section 508(c) and research priority areas described in subsection (c), an advanced research program that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems.

"(2) PARTNERSHIPS.—In carrying out the program, the Secretary shall seek to develop partnerships with the public and private sectors.

"(3) REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a description of each of the projects, and the amount of funds expended for each project, carried out under this subsection during the fiscal year.

"(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall continue, through September 30, 2009, the long-term pavement performance program tests, monitoring, and data analysis.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(B) analyze the data obtained in carrying out subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future pavement technology needs.

"(3) CONCLUSION OF PROGRAM.—

"(A) SUMMARY REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a report on the initial conclusions of the long-term pavement performance program that includes—

"(i) an analysis of any research objectives that remain to be achieved under the program;

"(ii) an analysis of other associated longer-term expenditures under the program that are in the public interest;

"(iii) a detailed plan regarding the storage, maintenance, and user support of the database, information management system, and materials reference library of the program;

"(iv) a schedule for continued implementation of the necessary data collection and analysis and project plan under the program; and

"(v) an estimate of the costs of carrying out each of the activities described in clauses (i) through (iv) for each fiscal year during which the program is carried out.

"(B) DEADLINE; USEFULNESS OF ADVANCES.—The Secretary shall, to the maximum extent practicable—

"(i) ensure that the long-term pavement performance program is concluded not later than September 30, 2009; and

"(ii) make such allowances as are necessary to ensure the usefulness of the technological advances resulting from the program.

"(f) SEISMIC RESEARCH.—The Secretary shall—

"(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

"(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

"(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

"(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

"(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, and the National Center for Earthquake Engineering Research at the University of Buffalo, carry out a seismic research program—

"(A) to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity;

"(B) to develop and implement cost-effective methods to reduce the vulnerability; and

"(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

"(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

"(1) IN GENERAL.—Not later than July 31, 2005, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

"(A) estimates of the future highway and bridge needs of the United States; and

"(B) the backlog of current highway and bridge needs.

"(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

"(h) SECURITY RELATED RESEARCH AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with the Secretary of Homeland Security, with key stakeholder input (including State transportation departments) shall develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations.

"(2) COMPONENTS OF PLAN.—The plan shall include—

"(A) an identification of which agencies are responsible for the conduct of various research and technology transfer activities;

"(B) a description of the manner in which those activities will be coordinated; and

"(C) a description of the process to be used to ensure that the advances derived from relevant activities supported by the Federal Highway Administration are consistent with the operational guidelines, policies, recommendations, and regulations of the Department of Homeland Security; and

"(D) a systematic evaluation of the research that should be conducted to address, at a minimum—

"(i) vulnerabilities of, and measures that may be taken to improve, emergency response capabilities and evacuations;

"(ii) recommended upgrades of traffic management during crises;

"(iii) integrated, interoperable emergency communications among the public, the military, law enforcement, fire and emergency medical services, and transportation agencies;

"(iv) protection of critical, security-related infrastructure; and

"(v) structural reinforcement of key facilities.

"(3) SUBMISSION.—On completion of the plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(A) a copy of the plan developed under paragraph (1); and

"(B) a copy of a memorandum of understanding specifying coordination strategies and assignment of responsibilities covered by the plan that is signed by the Secretary and the Secretary of Homeland Security.

"(i) HIGH-PERFORMANCE CONCRETE BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performance concrete in the construction and rehabilitation of bridges.

"(j) BIOBASED TRANSPORTATION RESEARCH.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $12,000,000 for each of fiscal years 2005 through 2009 equally divided and available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of Public Law 107–171.

"(k) HIGH-PERFORMING STEEL BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performing steel in the construction and rehabilitation of bridges.

"§503. Technology application program

"(a) TECHNOLOGY APPLICATION INITIATIVES AND PARTNERSHIPS PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary, in consultation with interested stakeholders, shall develop and administer a national technology and innovation application initiatives and partnerships program.

"(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of technology and innovation by the surface transportation community.

"(3) APPLICATION GOALS.—

"(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with the Surface Transportation Research Technology Advisory Committee, State transportation departments, and other interested stakeholders, shall establish, as part of the surface transportation research and technology development strategic plan under section 508(c), goals to carry out paragraph (1).

"(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

"(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community, such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to—

"(A) disseminate the results of research sponsored by the Secretary; and

"(B) facilitate technology transfer.

"(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

"(6) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology.

"(7) REPORTS.—The results and progress of activities carried out under this section shall be published as part of the annual transportation research report prepared by the Secretary under section 508(c)(5).

"(8) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for use by those States.

"(b) INNOVATIVE SURFACE TRANSPORTATION INFRASTRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program for the application of innovative material, design, and construction technologies in the construction, preservation, and rehabilitation of elements of surface transportation infrastructure.

"(2) GOALS.—The goals of the program shall include—

"(A) the development of new, cost-effective, and innovative materials;

"(B) the reduction of maintenance costs and life-cycle costs of elements of infrastructure, including the costs of new construction, replacement, and rehabilitation;

"(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(D) the development of engineering design criteria for innovative products and materials for use in surface transportation infrastructure;

"(E) the development of highway bridges and structures that will withstand natural disasters and disasters caused by human activity; and

"(F) the development of new, nondestructive technologies and techniques for the evaluation of elements of transportation infrastructure.

"(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations, to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials and methods; and

"(ii) States, to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of elements of surface transportation infrastructure that demonstrate the application of innovative materials and methods.

"(B) APPLICATIONS.—

"(i) IN GENERAL.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

"(ii) APPROVAL.—The Secretary shall select and approve an application based on whether the proposed project that is the subject of the application would meet the goals described in paragraph (2).

"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to—

"(A) ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties, as specified by the Secretary; and

"(B) encourage the use of the information and technology.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"§504. Training and education

"(a) NATIONAL HIGHWAY INSTITUTE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) operate, in the Federal Highway Administration, a National Highway Institute (referred to in this subsection as the 'Institute'); and

"(B) administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, industries in the United States, and national or international entities, the Institute shall develop and administer education and training programs of instruction for—

"(A) Federal Highway Administration, State, and local transportation agency employees;

"(B) regional, State, and metropolitan planning organizations;

"(C) State and local police, public safety, and motor vehicle employees; and

"(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(3) COURSES.—

"(A) IN GENERAL.—The Institute shall—

"(i) develop or update existing courses in asset management, including courses that include such components as—

"(I) the determination of life-cycle costs;

"(II) the valuation of assets;

"(III) benefit-to-cost ratio calculations; and

“(IV) objective decisionmaking processes for project selection; and

“(ii) continually develop courses relating to the application of emerging technologies for—

“(I) transportation infrastructure applications and asset management;

“(II) intelligent transportation systems;

“(III) operations (including security operations);

“(IV) the collection and archiving of data;

“(V) expediting the planning and development of transportation projects; and

“(VI) the intermodal movement of individuals and freight.

“(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

“(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

“(i) review the course inventory of the Institute; and

“(ii) revise or cease to offer courses based on course content, applicability, and need.

“(4) ELIGIBILITY; FEDERAL SHARE.—The funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

“(5) FEDERAL RESPONSIBILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

“(i) by the Secretary, at no cost to the States and local governments, if the Secretary determines that provision at no cost is in the public interest; or

“(ii) by the State, through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

“(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training (including the cost of course development) received by the agencies, entities, and individuals, unless the Secretary determines that payment of a lesser amount of the cost is of critical importance to the public interest.

“(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

“(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

“(B) exercise the authority of the Institute independently or in cooperation with any—

“(i) other Federal or State agency;

“(ii) association, authority, institution, or organization;

“(iii) for-profit or nonprofit corporation;

“(iv) national or international entity;

“(v) foreign country; or

“(vi) person.

“(7) COLLECTION OF FEES.—

“(A) IN GENERAL.—In accordance with this subsection, the Institute may assess and collect fees to defray the costs of the Institute in developing or administering education and training programs under this subsection.

“(B) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

“(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

“(ii) persons and entities to whom education or training is provided under this subsection.

“(C) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

“(D) USE.—All fees collected under this subsection shall be used, without further appropriation, to defray costs associated with the development or administration of education and training programs authorized under this subsection.

“(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under—

“(A) paragraph (7);

“(B) memoranda of understanding;

“(C) regional compacts; and

“(D) other similar agreements.

“(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

“(A) highway and transportation agencies in urbanized areas;

“(B) highway and transportation agencies in rural areas;

“(C) contractors that perform work for the agencies; and

“(D) infrastructure security.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

“(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

“(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

“(ii) improve roads and bridges;

“(iii) enhance—

“(I) programs for the movement of passengers and freight; and

“(II) intergovernmental transportation planning and project selection; and

“(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

“(B) develop technical assistance for tourism and recreational travel;

“(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

“(D) operate, in cooperation with State transportation departments and universities—

“(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

“(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

“(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

“(c) RESEARCH FELLOWSHIPS.—

“(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal agencies and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

“(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program, to be known as the ‘Dwight David Eisenhower Transportation Fellowship Program’, for the purpose of attracting qualified students to the field of transportation.

“§ 505. State planning and research

“(a) IN GENERAL.—Two percent of the sums apportioned to a State for fiscal year 2005 and each fiscal year thereafter under sections 104 (other than subsections (f) and (h)) and 144 shall be available for expenditure by the State, in consultation with the Secretary, only for—

“(1) the conduct of engineering and economic surveys and investigations;

“(2) the planning of—

“(A) future highway programs and local public transportation systems; and

“(B) the financing of those programs and systems, including metropolitan and statewide planning under sections 134 and 135;

“(3) the development and implementation of management systems under section 303;

“(4) the conduct of studies on—

“(A) the economy, safety, and convenience of surface transportation systems; and

“(B) the desirable regulation and equitable taxation of those systems;

“(5) research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems;

“(6) the conduct of studies, research, and training relating to the engineering standards and construction materials for surface transportation systems described in paragraph (5) (including the evaluation and accreditation of inspection and testing and the regulation of and charging for the use of the standards and materials); and

“(7) the conduct of activities relating to the planning of real-time monitoring elements.

“(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities that—

“(A) are described in subsection (a); and

“(B) relate to highway, public transportation, and intermodal transportation systems.

“(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if—

“(A) the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1); and

“(B) the Secretary accepts the certification of the State.

“(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be—

"(1) combined and administered by the Secretary as a single fund; and

"(2) available for obligation for the period described in section 118(b)(2).

"(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out this section for any purpose authorized under section 506(a).

"§506. International highway transportation outreach program

"(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

"(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

"(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

"(3) to increase transfers of United States highway transportation technology to foreign countries.

"(b) ACTIVITIES.—Activities carried out under the program may include—

"(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

"(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

"(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

"(6) the gathering and dissemination of information on foreign transportation markets and industries.

"(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

"(1) Federal, State, or local agency;

"(2) authority, association, institution, or organization;

"(3) for-profit or nonprofit corporation;

"(4) national or international entity;

"(5) foreign country; or

"(6) person.

"(d) FUNDS.—

"(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

"(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

"(A) promotional materials;

"(B) travel;

"(C) reception and representation expenses; and

"(D) salaries and benefits.

"(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

"(e) REPORT—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

"§507. Surface transportation-environmental cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

"(b) CONTENTS.—The program carried out under this section may include research—

"(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

"(2) to improve understanding of the factors that contribute to the demand for transportation;

"(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

"(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

"(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

"(c) PROGRAM ADMINISTRATION.—The Secretary shall—

"(1) administer the program established under this section; and

"(2) ensure, to the maximum extent practicable, that—

"(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

"(i) on the basis of merit of each submitted proposal; and

"(ii) through the use of open solicitations and selection by a panel of appropriate experts;

"(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

"(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

"(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 509.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.

"§508. Surface transportation research technology deployment and strategic planning

"(a) PLANNING.—

"(1) ESTABLISHMENT.—The Secretary shall—

"(A) establish, in accordance with section 306 of title 5, a strategic planning process that—

"(i) enhances effective implementation of this section through the establishment in accordance with paragraph (2) of the Surface Transportation Research Technology Advisory Committee; and

"(ii) focuses on surface transportation research funded through paragraphs (1), (2), (4), and (5) of section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, taking into consideration national surface transportation system needs and intermodality requirements;

"(B) coordinate Federal surface transportation research, technology development, and deployment activities;

"(C) at such intervals as are appropriate and practicable, measure the results of those activities and the ways in which the activities affect the performance of the surface transportation systems of the United States; and

"(D) ensure, to the maximum extent practicable, that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

"(2) SURFACE TRANSPORTATION RESEARCH TECHNOLOGY ADVISORY COMMITTEE.—

"(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall establish a committee to be known as the 'Surface Transportation Research Technology Advisory Committee' (referred to in this section as the 'Committee').

"(B) MEMBERSHIP.—The Committee shall be composed of 12 members appointed by the Secretary—

"(i) each of which shall have expertise in a particular area relating to Federal surface transportation programs, including—

"(I) safety;

"(II) operations;

"(III) infrastructure (including pavements and structures);

"(IV) planning and environment;

"(V) policy; and

"(VI) asset management; and

"(ii) of which—

"(I) 3 members shall be individuals representing the Federal Government;

"(II) 3 members—

"(aa) shall be exceptionally qualified to serve on the Committee, as determined by the Secretary, based on education, training, and experience; and

"(bb) shall not be officers or employees of the United States;

"(III) 3 members—

"(aa) shall represent the transportation industry (including the pavement industry); and

"(bb) shall not be officers or employees of the United States; and

"(IV) 3 members shall represent State transportation departments from 3 different geographical regions of the United States.

"(C) MEETINGS.—The advisory subcommittees shall meet on a regular basis, but not less than twice each year.

"(D) DUTIES.—The Committee shall provide to the Secretary, on a continuous basis, advice and guidance relating to—

"(i) the determination of surface transportation research priorities;

"(ii) the improvement of the research planning and implementation process;

"(iii) the design and selection of research projects;

"(iv) the review of research results;

"(v) the planning and implementation of technology transfer activities and *“(vi) the formulation of the surface transportation research and technology deployment and deployment strategic plan required under subsection (c).*

“(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $187.726 for each fiscal year.

“(b) IMPLEMENTATION.—The Secretary shall—

“(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities; and

“(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs.

“(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—

“(1) IN GENERAL.—After receiving, and based on, extensive consultation and input from stakeholders representing the transportation community and the Surface Transportation Research Advisory Committee, the Secretary shall, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, complete, and shall periodically update thereafter, a strategic plan for each of the core surface transportation research areas, including—

“(A) safety;

“(B) operations;

“(C) infrastructure (including pavements and structures);

“(D) planning and environment;

“(E) policy; and

“(F) asset management.

“(2) COMPONENTS.—The strategic plan shall specify—

“(A) surface transportation research objectives and priorities;

“(B) specific surface transportation research projects to be conducted;

“(C) recommended technology transfer activities to promote the deployment of advances resulting from the surface transportation research conducted; and

“(D) short- and long-term technology development and deployment activities.

“(3) REVIEW AND SUBMISSION OF FINDINGS.—The Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences, on behalf of the Research and Technology Coordinating Committee of the National Research Council, under which—

“(A) the Transportation Research Board shall—

“(i) review the research and technology planning and implementation process used by Federal Highway Administration; and

“(ii) evaluate each of the strategic plans prepared under this subsection—

“(I) to ensure that sufficient stakeholder input is being solicited and considered throughout the preparation process; and

“(II) to offer recommendations relevant to research priorities, project selection, and deployment strategies; and

“(B) the Secretary shall ensure that the Research and Technology Coordinating Committee, in a timely manner, informs the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the findings of the review and evaluation under subparagraph (A).

“(4) RESPONSES OF SECRETARY.—Not later than 60 days after the date of completion of the strategic plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives written responses to each of the recommendations of the Research and Technology Coordinating Committee under paragraph (3)(A)(ii)(II).

“(d) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.

“§509. New strategic highway research program

“(a) IN GENERAL.—The National Research Council shall establish and carry out, through fiscal year 2009, a new strategic highway research program.

“(b) BASIS; PRIORITIES.—With respect to the program established under subsection (a)—

“(1) the program shall be based on—

“(A) National Research Council Special Report No. 260, entitled ‘Strategic Highway Research’; and

“(B) the results of the detailed planning work subsequently carried out to scope the research areas through National Cooperative Research Program Project 20–58.

“(2) the scope and research priorities of the program shall—

“(A) be refined through stakeholder input in the form of workshops, symposia, and panels; and

“(B) include an examination of—

“(i) the roles of highway infrastructure, drivers, and vehicles in fatalities on public roads;

“(ii) high-risk areas and activities associated with the greatest numbers of highway fatalities;

“(iii) the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities (including recommendations for methods of strengthening highway safety partnerships);

“(iv) measures that may save the greatest number of lives in the short- and long-term;

“(v) renewal of aging infrastructure with minimum impact on users of facilities;

“(vi) driving behavior and likely crash causal factors to support improved countermeasures;

“(vii) reduction in congestion due to nonrecurring congestion;

“(viii) planning and designing of new road capacity to meet mobility, economic, environmental, and community needs;

“(3) the program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials; and

“(4) the research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers as soon as practicable for their use.

“(c) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

“(1) the best projects and researchers are selected to conduct research for the program and priorities described in subsection (b)—

“(A) on the basis of the merit of each submitted proposal; and

“(B) through the use of open solicitations and selection by a panel of appropriate experts;

“(2) the National Research Council acquires a qualified, permanent core staff with the ability and expertise to manage a large research program and multiyear budget;

“(3) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

“(4) there is no duplication of research effort between the program established under this section and the surface transportation-environment cooperative research program established under section 507 or any other research effort of the Department.

“(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to research, technology, and technology transfer described in subsections (b) and (c) as the Secretary determines to be appropriate.

“(e) REPORT ON IMPLEMENTATION OF RESULTS.—

“(1) IN GENERAL.—Not later than October 1, 2007, the Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences under which the Transportation Research Board shall complete a report on the strategies and administrative structure to be used for implementation of the results of new strategic highway research program.

“(2) COMPONENTS.—The report under paragraph (1) shall include, with respect to the new strategic highway research program—

“(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

“(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

“(C) an estimate of costs that would be incurred in expediting implementation of those results; and

“(D) recommendations for the way in which implementation of the results of the program under this section should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those responsibilities.

“(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

“(A) the American Association of State highway Officials;

“(B) the Federal Highway Administration; and

“(C) the Surface Transportation Research Technology Advisory Committee.

“(4) SUBMISSION.—Not later than February 1, 2009, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the report under this subsection.

“§510. University transportation centers

“(a) CENTERS.—

“(1) IN GENERAL.—During fiscal year 2005, the Secretary shall provide grants to 40 nonprofit institutions of higher learning (or consortia of institutions of higher learning) to establish centers to address transportation design, management, research, development, and technology matters, especially the education and training of greater numbers of individuals to enter into the professional field of transportation.

“(2) DISTRIBUTION OF CENTERS.—Not more than 1 university transportation center (or lead university in a consortia of institutions of higher learning), other than a center or university selected through a competitive process, may be located in any State.

“(3) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—

“(A) comply with applicable requirements under subsection (c); and

“(B) be located at the institutions of higher learning specified in paragraph (4).

“(4) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:

“(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).

“(B) GROUP B.—Group B shall consist of the following:

“(i) [__________].
“(ii) [__________].
“(iii) [__________].
“(iv) [__________].
“(v) [__________].
“(vi) [__________].
“(vii) [__________].
“(viii) [__________].
“(ix) [__________].
“(x) [__________].
“(xi) [__________].

“(C) GROUP C.—Group C shall consist of the following:

“(i) [__________].
“(ii) [__________].
“(iii) [__________].
“(iv) [__________].
“(v) [__________].
“(vi) [__________].
“(vii) [__________].
“(viii) [__________].
“(ix) [__________].
“(x) [__________].
“(xi) [__________].

“(D) GROUP D.—Group D shall consist of the following:

“(i) [__________].
“(ii) [__________].
“(iii) [__________].
“(iv) [__________].
“(v) [__________].
“(vi) [__________].
“(vii) [__________].
“(viii) [__________].

“(b) REGIONAL CENTERS.—

“(1) IN GENERAL.—Not later than September 30, 2005, the Secretary shall provide to nonprofit institutions of higher learning (or consortia of institutions of higher learning) grants to be used during the period of fiscal years 2005 through 2009 to establish and operate 1 university transportation center in each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.

“(2) SELECTION OF REGIONAL CENTERS.—

“(A) PROPOSALS.—In order to be eligible to receive a grant under this subsection, an institution described in paragraph (1) shall submit to the Secretary a proposal, in response to any request for proposals that shall be made by the Secretary, that is in such form and contains such information as the Secretary shall prescribe.

“(B) REQUEST SCHEDULE.—The Secretary shall request proposals once for the period of fiscal years 2005 and 2006 and once for the period of fiscal years 2007 through 2009.

“(C) ELIGIBILITY.—Any institution of higher learning (or consortium of institutions of higher learning) that meets the criteria described in subsection (c) (including any institution identified in subsection (a)(4)) may apply for a grant under this subsection.

“(D) SELECTION CRITERIA.—The Secretary shall select each recipient of a grant under this subsection through a competitive process on the basis of—

“(i) the location of the center within the Federal region to be served;

“(ii) the demonstrated research capabilities and extension resources available to the recipient to carry out this section;

“(iii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;

“(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; and

“(v) the strategic plan that the recipient proposes to carry out using funds from the grant.

“(E) SELECTION PROCESS.—In selecting the recipients of grants under this subsection, the Secretary shall consult with, and consider the advice of—

“(i) the Research and Special Programs Administration;

“(ii) the Federal Highway Administration; and

“(iii) the Federal Transit Administration.

“(c) CENTER REQUIREMENTS.—

“(1) IN GENERAL.—With respect to a university transportation center established under subsection (a) or (b), the institution or consortium that receives a grant to establish the center—

“(A) shall annually contribute at least $250,000 to the operation and maintenance of the center, except that payment by the institution or consortium of the salary required for transportation-related faculty and staff for a period greater than 90 days may not be counted against that contribution;

“(B) shall have established, as of the date of receipt of the grant, undergraduate or graduate programs in—

“(i) civil engineering;

“(ii) transportation engineering;

“(iii) transportation systems management and operations; or

“(iv) any other field significantly related to surface transportation systems, as determined by the Secretary; and

“(C) not later than 120 days after the date on which the institution or consortium receives notice of selection as a site for the establishment of a university transportation center under this section, shall submit to the Secretary a 6-year program plan for the university transportation center that includes, with respect to the center—

“(i) a description of the purposes of programs to be conducted by the center;

“(ii) a description of the undergraduate and graduate transportation education efforts to be carried out by the center;

“(iii) a description of the nature and scope of research to be conducted by the center;

“(iv) a list of personnel, including the roles and responsibilities of those personnel within the center; and

“(v) a detailed budget, including the amount of contributions by the institution or consortium to the center; and

“(D) shall establish an advisory committee that—

“(i) is composed of a representative from each of the State transportation department of the State in which the institution or consortium is located, the Department of Transportation, and the institution or consortia, as appointed by those respective entities;

“(ii) in accordance with paragraph (2), shall review and approve or disapprove the plan of the institution or consortium under subparagraph (C); and

“(iii) shall, to the maximum extent practicable, ensure that the proposed research to be carried out by the university transportation center will contribute to the national highway research and technology agenda, as periodically updated by the Secretary, in consultation with stakeholders representing the highway community.

“(2) PEER REVIEW.—

“(A) IN GENERAL.—The Secretary shall require peer review for each report on research carried out using funds made available for this section.

“(B) PURPOSES OF PEER REVIEW.—Peer review of a report under this section shall be carried out to evaluate—

“(i) the relevance of the research described in the report with respect to the strategic plan under, and the goals of, this section;

“(ii) the research covered by the report, and to recommend modifications to individual project plans;

“(iii) the results of the research before publication of those results; and

“(iv) the overall outcomes of the research.

“(C) INTERNET AVAILABILITY.—Each report under this section that is received by the Secretary shall be published—

“(i) by the Secretary, on the Internet website of the Department of Transportation; and

“(ii) by the University Transportation Center.

“(3) APPROVAL OF PLANS—A plan of an institution or consortium described in paragraph (1)(C) shall not be submitted to the Secretary until such time as the advisory committee established under paragraph (1)(D) reviews and approves the plan.

“(4) FAILURE TO COMPLY.—If a recipient of a grant under this subsection fails to submit a program plan acceptable to the Secretary and in accordance with paragraph (1)(C)—

“(A) the recipient shall forfeit the grant and the selection of the recipient as a site for the establishment of a university transportation center; and

“(B) the Secretary shall select a replacement recipient for the forfeited grant.

“(5) APPLICABILITY.—This subsection does not apply to any research funds received in accordance with a competitive contract offered and entered into by the Federal Highway Administration.

“(d) OBJECTIVES.—Each university transportation center established under subsection (a) or (b) shall carry out—

“(1) undergraduate or graduate education programs that include—

“(A) multidisciplinary coursework; and

“(B) opportunities for students to participate in research;

“(2) basic and applied research, the results and products of which shall be judged by peers or other experts in the field so as to advance the body of knowledge in transportation; and

“(3) an ongoing program of technology transfer that makes research results available to potential users in such form as will enable the results to be implemented, used, or otherwise applied.

“(e) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this section, an applicant shall—

“(1) enter into an agreement with the Secretary to ensure that the applicant will maintain total expenditures from all other sources to establish and operate a university transportation center and related educational and research activities at a level that is at least equal to the average level of those expenditures during the 2 fiscal years before the date on which the grant is provided;

“(2) provide the annual institutional contribution required under subsection (c)(1); and

“(3) submit to the Secretary, in a timely manner, for use by the Secretary in the preparation of the annual research report under section 508(c)(5) of title 23, an annual report on the projects and activities of the university transportation center for which funds are made available under section 2001 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 that contains, at a minimum, for the fiscal year covered by the report, a description of—

“(A) the goals of the center;

“(B) the educational activities carried out by the center (including a detailed summary of the budget for those educational activities);

“(C) teaching activities of faculty at the center;

"(D) each research project carried out by the center, including—

"(i) the identity and location of each investigator working on a research project;

"(ii) the overall funding amount for each research project (including the amounts expended for the project as of the date of the report);

"(iii) the current schedule for each research project; and

"(iv) the results of each research project through the date of submission of the report, with particular emphasis on results for the fiscal year covered by the report; and

"(E) overall technology transfer and implementation efforts of the center.

"(f) PROGRAM COORDINATION.—The Secretary shall—

"(1) coordinate the research, education, training, and technology transfer activities carried out by recipients of grants under this section; and

"(2) establish and operate a clearinghouse for, and disseminate, the results of those activities.

"(g) FUNDING.—

"(1) NUMBER AND AMOUNT OF GRANTS.—The Secretary shall make the following grants under this subsection:

"(A) GROUP A.—For each of fiscal years 2005 through 2009, the Secretary shall make a grant in the amount of $938,629 to each of the institutions in group A (as described in subsection (a)(4)(A)).

"(B) GROUP B.—The Secretary shall make a grant to each of the institutions in group B (as described in subsection (a)(4)(B)) in the amount of—

"(i) $375,452 for fiscal year 2005; and

"(ii) $563,177 for each of fiscal years 2006 and 2007.

"(C) GROUP C.—For each of fiscal years 2005 through 2007, the Secretary shall make a grant in the amount of $938,629 to each of the institutions in group C (as described in subsection (a)(4)(C)).

"(D) GROUP D.—For each of fiscal years 2005 through 2009, the Secretary shall make a grant in the amount of $1,877,258 to each of the institutions in group D (as described in subsection (a)(4)(D)).

"(E) LIMITED GRANTS FOR GROUPS B AND C.—For each of fiscal years 2008 and 2009, of the institutions classified in groups B and C (as described in subsection (a)(4)(B)), the Secretary shall select and make grants in an amount totaling $37,545,924 to not more than 15 institutions.

"(2) USE OF FUNDS—

"(A) IN GENERAL.—Of the funds made available for a fiscal year to a university transportation center established under subsection (a) or (b)—

"(i) not less than $250,000 shall be used to establish and maintain new faculty positions for the teaching of undergraduate, transportation-related courses;

"(ii) not more than $500,000 for the fiscal year, or $1,000,000 in the aggregate, may be used to construct or improve transportation-related laboratory facilities; and

"(iii) not more than $300,000 for the fiscal year may be used for student internships of not more than 180 days in duration to enable students to gain experience by working on transportation projects as interns with design or construction firms.

"(B) FACILITIES AND ADMINISTRATION FEE.—Not more than 10 percent of any grant made available to a university transportation center (or any institution or consortium that establishes such a center) for a fiscal year may be used to pay to the appropriate nonprofit institution of higher learning any administration and facilities fee (or any similar overhead fee) for the fiscal year.

"(3) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available for obligation for a period of 2 years after September 30 of the fiscal year for which the funds are authorized.

"§511. Multistate corridor operations and management

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

"(b) INTERSTATE ROUTE I–95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(1) IN GENERAL.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route I–95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

"(2) FUNDING.—Of the amounts made available under section 2001(a)(4) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall use to carry out this subsection—

"(A) $9,386,289 for fiscal year 2005; and

"(B) $11,263,547 for each of fiscal years 2006 through 2009.

"§512. Transportation analysis simulation system

"(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary shall continue the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS') developed by the Los Alamos National Laboratory.

"(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall—

"(A) further improve TRANSIMS to reduce the cost and complexity of using the TRANSIMS;

"(B) continue development of TRANSIMS for applications to facilitate transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

"(C) assist State transportation departments and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance.

"(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section—

"(1) to further develop TRANSIMS for additional applications, including—

"(A) congestion analyses;

"(B) major investment studies;

"(C) economic impact analyses;

"(D) alternative analyses;

"(E) freight movement studies;

"(F) emergency evacuation studies;

"(G) port studies; and

"(H) airport access studies;

"(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travei modeling;

"(3) develop methods to simulate the national transportation infrastructure as a single, integrated system for the movement of individuals and goods;

"(4) provide funding to State transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

"(c) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent shall be allocated for activities described in subsection (b)(3).

"(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for each of fiscal years 2005 through 2009, the Secretary shall use $893,082 to carry out this section.

"(e) AVAILABILITY OF FUNDS.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary.".

(b) OTHER UNIVERSITY FUNDING.—No university (other than university transportation centers specified in section 510 of title 23, United States Code (as added by subsection (a)) shall receive funds made available under section 2001 to carry out research unless the university is selected to receive the funds—

(1) through a competitive process that incorporates merit-based peer review; and

(2) based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

(c) CONFORMING AMENDMENT.—Section 5505 of title 49, United States Code, is repealed.

SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL ANALYSIS EFFORTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administration" means the Federal Highway Administration.

(2) BOARD.—The term "Board" means the Transportation Research Board of the National Academy of Sciences.

(3) BUREAU.—The term "Bureau" means the Bureau of Transportation Statistics.

(4) DEPARTMENT.—The term "Department" means the Department of Transportation.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) PRIORITY AREAS OF EFFORT.—

(1) STATISTICAL STANDARDS.—The Secretary shall direct the Bureau to assume the role of the lead agency in working with other agencies of the Department to establish, by not later the date that is 1 year after the date of enactment of this Act, statistical standards for the Department.

(2) STATISTICAL ANALYSIS EFFORT.—

(A) IN GENERAL.—The Bureau shall provide to the Secretary, on an annual basis, an overview of the level of effort expended on statistical analyses by each agency within the Department.

(B) DUTY OF AGENCIES.—Each agency of the Department shall provide to the Bureau such information as the Bureau may require in carrying out subparagraph (A).

(3) NATIONAL SECURITY.—The Bureau shall—

(A) conduct a study of the ways in which transportation statistics are and may be used for the purpose of national security; and

(B) submit to the Transportation Security Administration recommendations for means by which the use of transportation statistics for the purpose of national security may be improved.

(4) MODERNIZATION.—The Bureau shall develop new protocols for adapting data collection and delivery efforts in existence as of the date of enactment of this Act to deliver information in a more timely and frequent fashion.

(c) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with, the Board for the conduct of a study of the data collection and statistical analysis efforts of the Department with respect to the modes of surface transportation for which funds are made available under this Act.

(2) PURPOSE.—The purpose of the study shall be to provide to the Department information for use by agencies of the Department in providing to surface transportation agencies and individuals engaged in the surface transportation field higher quality, and more relevant and timely, data, statistical analyses, and products.

(3) CONTENT.—The study shall include—

(A) an examination and analysis of the efforts, analyses, and products (with respect to usefulness and policy relevance) of the Bureau as of the date of the study, as compared with the duties of the Bureau specified in subsections (c) through (f) of section 111 of title 49, United States Code;

(B) an examination and analysis of data collected by, methods of data collection of, and analyses performed by, agencies within the Department; and

(C) recommendations relating to—

(i) the future efforts of the Department in the area of surface transportation with respect to—

(I) types of data collected;

(II) methods of data collection;

(III) types of analyses performed; and

(IV) products made available by the Secretary to the transportation community and Congress;

(ii) the means by which the Department may cooperate with State transportation departments to provide technical assistance in the use of data collected by traffic operations centers; and

(iii) duplication of efforts within the Department, including ways in which—

(I) the duplication may be reduced or eliminated; and

(II) each agency of the Department may cooperate with, and complement the efforts of, the others.

(4) CONSULTATION.—In conducting the study, the Board shall consult with such stakeholders, agencies, and other entities as the Board considers to be appropriate.

(5) REPORT.—Not later than 1 year after the date on which a grant is provided, or a cooperative agreement or contract is entered into, for a study under paragraph (1)—

(A) the Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study; and

(B) the results of the study shall be published—

(i) by the Secretary, on the Internet website of the Department; and

(ii) by the Board, on the Internet website of the Board.

(6) IMPLEMENTATION OF RESULTS.—The Bureau shall, to the maximum extent practicable, implement any recommendations made with respect to the results of the study under this subsection.

(7) COMPLIANCE.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the study under this subsection.

(B) NONCOMPLIANCE.—If the Comptroller General of the United States determines that the Bureau failed to conduct the study under this subsection, the Bureau shall be ineligible to receive funds from the Highway Trust Fund until such time as the Bureau conducts the study under this subsection.

(d) CONFORMING AMENDMENTS.—Section 111 of title 49, United States Code, is amended—

(1) by redesignating subsection (k) as subsection (m);

(2) by inserting after subsection (j) the following:

"(k) ANNUAL REPORT.—

"(1) IN GENERAL.—For fiscal year 2005 and each fiscal year thereafter, the Bureau shall prepare and submit to the Secretary an annual report that—

"(A) describes progress made in responding to study recommendations for the fiscal year; and

"(B) summarizes the activities and expenditure of funds by the Bureau for the fiscal year.

"(2) AVAILABILITY.—The Bureau shall—

"(A) make the report described in paragraph (1) available to the public; and

"(B) publish the report on the Internet website of the Bureau.

"(3) COMBINATION OF REPORTS.—The report required under paragraph (1) may be included in or combined with the Transportation Statistics Annual Report required by subsection (j).

"(l) EXPENDITURE OF FUNDS.—Funds from the Highway Trust Fund (other than the Mass Transit Account) that are authorized to be appropriated, and made available, in accordance with section 2001(a)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall be used only for the collection and statistical analysis of information relating to surface transportation systems."; and

(3) in subsection (m) (as redesignated by subparagraph (A)), by inserting "surface transportation" after "sale of".

SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish the centers for surface transportation excellence described in subsection (b) to promote high-quality outcomes in support of strategic national programs and activities, including—

(1) the environment;

(2) operations;

(3) surface transportation safety;

(4) project finance; and

(5) asset management.

(b) CENTERS.—The centers for surface transportation excellence referred to in subsection (a) are—

(1) a Center for Environmental Excellence to provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes to assist States in planning and delivering environmentally-sound surface transportation projects;

(2) a Center for Operations Excellence to provide support for an integrated and coordinated national program for implementing operations in planning and management (including standards development) for the transportation system in the United States;

(3) a Center for Excellence in Surface Transportation Safety to implement a program of support for State transportation departments, including—

(A) the maintenance of an Internet site to provide critical information on safety programs;

(B) the provision of technical assistance to support a lead State transportation department for each of the safety emphasis areas (as identified by the Secretary); and

(C) the provision of training and education to enhance knowledge of personnel of State transportation departments in support of safety highway goals;

(4) a Center for Excellence in Project Finance—

(A) to provide support to State transportation departments in the development of finance plans and project oversight tools; and

(B) to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds; and

(5) a Center for Excellence in Asset Management to develop and conduct research, provide training and education, and disseminate information on the benefits and tools for asset management.

(c) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—Before funds authorized under this section for fiscal years 2005 through 2009 are obligated, the Secretary shall review and approve a multiyear strategic plan to be submitted by each of the centers.

(2) TIMING.—The plan shall be submitted before the beginning of fiscal year 2005 and, subsequently, shall be annually updated.

(3) CONTENT.—The plan shall include—

(A) a list of research and technical assistance projects and objectives; and

(B) a description of any other technology transfer activities, including a summary of training efforts.

(4) COOPERATION AND COMPETITION.—

(A) IN GENERAL.—The Secretary shall carry out this section by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

(i) the National Academy of Sciences;

(ii) the American Association of State Highway and Transportation Officials;

(iii) planning organizations;

(iv) a Federal laboratory;

(v) a State agency;

(vi) an authority, association, institution, or organization; or

(vii) a for-profit or nonprofit corporation.

(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements, or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

(i) on a competitive basis; and

(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

(5) NONDUPLICATION.—The Secretary shall ensure that activities conducted by each of the centers do not duplicate, and to the maximum extent practicable, are integrated and coordinated with similar activities conducted by the Federal Highway Administration, the local technical assistance program, university transportation centers, and other research efforts supported with funds authorized by this title.

(d) ALLOCATIONS.—

(1) IN GENERAL.—For each of fiscal years 2005 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside $9,386,289 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1)—

(A) 20 percent shall be allocated to the Center for Environmental Excellence established under subsection (b)(1);

(B) 30 percent shall be allocated to the Center for Operations Excellence established under subsection (b)(2);

(C) 20 percent shall be allocated to the Center for Excellence in Surface Transportation Safety established under subsection (b)(3);

(D) 10 percent shall be allocated to the Center for Excellence in Project Finance established under subsection (b)(4); and

(E) 20 percent shall be allocated to the Center for Excellence in Asset Management established under subsection (b)(5).

(3) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

(a) GRANTS.—The Secretary shall provide grants for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

(b) FUNDING.—Of the amounts made available under section 2001(a)(3), $1,407,943 for each of fiscal years 2005 and 2006 shall be available to carry out this section.

SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

Section 5117(b) of the Transportation Equity Act for the 21st Century (112 Stat 449; 112 Stat.

864; 115 Stat. 2330) is amended by striking paragraph (3) and inserting the following:

"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—

"(A) DEFINITIONS.—In this paragraph:

"(i) CONGESTED AREA.—The term 'congested area' means a metropolitan area that experiences significant traffic congestion, as determined by the Secretary on an annual basis.

"(ii) DEPLOYMENT AREA.—The term 'deployment area' means any of the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia.

"(iii) METROPOLITAN AREA.—

"(I) IN GENERAL.—The term 'metropolitan area' means any area that—

"(aa) has a population exceeding 300,000; and

"(bb) meets criteria established by the Secretary in conjunction with the intelligent vehicle highway systems corridors program.

"(II) INCLUSIONS.—The term 'metropolitan area' includes a major transportation corridor serving a metropolitan area.

"(iv) ORIGINAL CONTRACT.—The term 'original contract' means the Department of Transportation contract numbered DTTS 59-99-D-00445 T020013.

"(v) PROGRAM.—The term 'program' means the 2-part intelligent transportation infrastructure program carried out under this paragraph.

"(vi) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means—

"(I) a State transportation department (as defined in section 101 of title 23, United States Code); and

"(II) a designee of a State transportation department (as so defined) for the purpose of entering into contracts.

"(vii) UNCOMMITTED FUNDS—The term 'uncommitted funds' means the total amount of funds that, as of the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, remain uncommitted under the original contract.

"(B) INTELLIGENT TRANSPORTATION INFRASTRUCTURE PROGRAM.—

"(i) IN GENERAL.—The Secretary shall carry out a 2-part intelligent transportation infrastructure program in accordance with this paragraph to advance the deployment of an operational intelligent transportation infrastructure system, through measurement of various transportation system activities, to simultaneously—

"(I) aid in transportation planning and analysis; and

"(II) make a significant contribution to the ITS program under this title.

"(ii) OBJECTIVES.—The objectives of the program shall be—

"(I) to build or integrate an infrastructure of the measurement of various transportation system metrics to aid in planning, analysis, and maintenance of the Department of Transportation, including the buildout, maintenance, and operation of greater than 40 metropolitan area systems with a total cost of not to exceed $2,000,000 for each metropolitan area;

"(II) to provide private technology commercialization initiatives to generate revenues that will be reinvested in the intelligent transportation infrastructure system;

"(III) to aggregate data into reports for multipoint data distribution techniques; and

"(IV) with respect to part I of the program under subparagraph (C), to use an advanced information system designed and monitored by an entity with experience with the Department of Transportation in the design and monitoring of high-reliability, mission-critical voice and data systems.

"(C) PART I.—

"(i) IN GENERAL.—In carrying out part I of the program, the Secretary shall permit the entity to which the original contract was awarded to use uncommitted funds to deploy intelligent transportation infrastructure systems that have been accepted by the Secretary—

"(I) in accordance with the terms of the original contract; and

"(II) in any deployment area, with the consent of the State transportation department for the deployment area.

"(ii) APPLICABLE CONDITIONS.—The same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment of intelligent transportation infrastructure systems under the original contract before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall apply to each deployment carried out under clause (i).

"(iii) DEPLOYMENT IN CONGESTED AREAS.—If the entity referred to in clause (i) is unable to commit the uncommitted funds by deploying intelligent transportation infrastructure systems in deployment areas, as determined by the Secretary, the entity may deploy the systems in accordance with this paragraph in 1 or more congested areas, with the consent of the State transportation departments for the congested areas.

"(D) PART II.—

"(i) IN GENERAL.—In carrying out part II of the program, the Secretary shall award, on a competitive basis, contracts for the deployment of intelligent transportation infrastructure systems that have been accepted by the Secretary in congested areas, with the consent of the State transportation departments for the congested areas.

"(ii) REQUIREMENTS.—The Secretary shall award contracts under clause (i)—

"(I) for individual congested areas among entities that seek to deploy intelligent transportation infrastructure systems in the congested areas; and

"(II) on the condition that the terms of each contract awarded requires the entity deploying the intelligent transportation infrastructure system to ensure that the deployed system is compatible (as determined by the Secretary) with systems deployed in other congested areas under this paragraph.

"(iii) PROVISIONS IN CONTRACTS.—The Secretary shall require that each contract for the deployment of an intelligent transportation infrastructure system under this subparagraph contain such provisions relating to asset ownership, maintenance, fixed price, and revenue sharing as the Secretary considers to be appropriate.

"(E) USE OF FUNDS FOR UNDEPLOYED SYSTEMS.—

"(i) IN GENERAL.—If, under part I or part II of the program, a State transportation department for a deployment area or congested area does not consent by the later of the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, or another date determined jointly by the State transportation department and the deployment area or congested area, to participate in the deployment of an intelligent transportation infrastructure system in the deployment area or congested area, upon application by any other deployment area or congested area that has consented by that date to participate in the deployment of such a system, the Secretary shall supplement the funds made available for each of the deployment areas or congested areas submitting the application by using for that purpose the funds not used for deployment of the system in the nonparticipating deployment area or congested area.

"(ii) NO INCLUSION IN COST LIMITATION.—Costs paid using funds provided through a supplementation under clause (i) shall not be considered in determining the limitation on maximum cost described in subparagraph (F)(ii).

"(F) FEDERAL SHARE; LIMITS ON COSTS OF SYSTEMS FOR METROPOLITAN AREAS.—

"(i) FEDERAL SHARE.—Subject to clause (ii), the Federal share of the cost of any project or activity carried out under the program shall be 80 percent.

"(ii) LIMIT ON COSTS OF SYSTEM FOR EACH METROPOLITAN AREA.—

"(I) IN GENERAL.—Not more than $2,000,000 may be provided under this paragraph for deployment of an intelligent transportation infrastructure system for a metropolitan area.

"(II) FUNDING UNDER EACH PART.—A metropolitan area in which an intelligent transportation infrastructure system is deployed under part I or part II of the program under subparagraph (C) or (D), respectively, including through a supplementation of funds under subparagraph (E), may not receive any additional deployment under the other part of the program.

"(G) USE OF RIGHTS-OF-WAY.—

"(i) IN GENERAL.—An intelligent transportation system project described in this paragraph or paragraph (6) that involves privately-owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance for the project, if the Secretary determines that such use is in the public interest.

"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State—

"(I) to regulate highway safety; or

"(II) under sections 253 and 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 253, 332(c)(7)).

"(H) FUNDING.—

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subparagraph (D) $4,465,409 for each fiscal year.

"(ii) ADDITIONAL AMOUNTS.—In addition to the amounts authorized to be appropriated under this subparagraph, funds made available under title II of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005, and titles 23 and 49, United States Code, for projects and activities the objectives of which are consistent with the objectives described in subparagraph (B)(ii), may be used to carry out part II of the program under subparagraph (D).

"(iii) AVAILABILITY; NO REDUCTION OR SETASIDE.—Amounts made available by this subparagraph—

"(I) shall remain available until expended; and

"(II) shall not be subject to any reduction or setaside.

"(iv) NO EFFECT ON PREVIOUSLY COMMITTED FUNDS.—Nothing in this paragraph affects any funds committed under the original contract before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.

"(v) CONTRACT AUTHORITY.—Except as provided in subparagraph (F)(i), funds authorized

to be appropriated under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.".

Subtitle C—Intelligent Transportation System Research

SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code (as amended by section 2101), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"§ 521. Finding

"Congress finds that continued investment in architecture and standards development, research,,technical assistance for State and local governments, and systems integration is needed to accelerate the rate at which intelligent transportation systems—

"(1) are incorporated into the national surface transportation network; and

"(2) as a result of that incorporation, improve transportation safety and efficiency and reduce costs and negative impacts on communities and the environment.

"§ 522. Goals and purposes

"(a) GOALS.—The goals of the intelligent transportation system research and technical assistance program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade—

"(A) to meet a significant portion of future transportation needs, including public access to employment, goods, and services; and

"(B) to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) the acceleration of the use of intelligent transportation systems to assist in the achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments in achieving national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including—

"(A) operators of commercial vehicles, passenger vehicles, and motorcycles;

"(B) users of public transportation users (with respect to intelligent transportation system user services); and

"(C) individuals with disabilities; and

"(5)(A) improvement of the ability of the United States to respond to emergencies and natural disasters; and

"(B) enhancement of national security and defense mobility.

"(b) PURPOSES.—The Secretary shall carry out activities under the intelligent transportation system research and technical assistance program to, at a minimum—

"(1) assist in the development of intelligent transportation system technologies;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

"(3) improve regional cooperation, interoperability, and operations for effective intelligent transportation system performance;

"(4) promote the innovative use of private resources;

"(5) assist State transportation departments in developing a workforce capable of developing, operating, and maintaining intelligent transportation systems;

"(6) maintain an updated national ITS architecture and consensus-based standards while ensuring an effective Federal presence in the formulation of domestic and international ITS standards;

"(7) advance commercial vehicle operations components of intelligent transportation systems—

"(A) to improve the safety and productivity of commercial vehicles and drivers; and

"(B) to reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements;

"(8) evaluate costs and benefits of intelligent transportation systems projects;

"(9) improve, as part of the Archived Data User Service and in cooperation with the Bureau of Transportation Statistics, the collection of surface transportation system condition and performance data through the use of intelligent transportation system technologies; and

"(10) ensure access to transportation information and services by travelers of all ages.

"§ 523. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—

"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) roadside safety and border crossing inspection and regulatory compliance operations.

"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

"(4) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(5) NATIONAL ITS ARCHITECTURE.—The term 'national ITS architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(6) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may—

"(i) support the national ITS architecture; and

"(ii) promote—

"(I) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(II) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 524. General authorities and requirements

"(a) SCOPE.—Subject to this subchapter, the Secretary shall carry out an ongoing intelligent transportation system research program—

"(1) to research, develop, and operationally test intelligent transportation systems; and

"(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system operational tests and projects funded under this subchapter shall encourage, but not displace, public-private partnerships or private sector investment in those tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system research and technical assistance program in cooperation with—

"(1) State and local governments and other public entities;

"(2) the private sector;

"(3) Federal laboratories (as defined in section 501); and

"(4) colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system research program, the Secretary, as appropriate, shall consult with—

"(1) the Secretary of Commerce;

"(2) the Secretary of the Treasury;

"(3) the Administrator of the Environmental Protection Agency;

"(4) the Director of the National Science Foundation; and

"(5) the Secretary of Homeland Security.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations (including intelligent transportation systems) within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—The Secretary shall—

"(1) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(2) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(h) ADVISORY COMMITTEES.—

"(1) IN GENERAL.—In carrying out this subchapter, the Secretary—

"(A) may use 1 or more advisory committees; and

"(B) shall designate a public-private organization, the members of which participate in ongoing research, planning, standards development, deployment, and marketing of ITS programs, products, and services, and coordinate the development and deployment of intelligent transportation systems in the United States, as the Federal advisory committee authorized by section 5204(h) of the Transportation Equity Act for the 21st Century (112 Stat. 454).

"(2) FUNDING.—Of the amount made available to carry out this subchapter, the Secretary may use $1,407,943 for each fiscal year for advisory committees described in paragraph (1).

"(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee described in paragraph (1) shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(i) PROCUREMENT METHODS.—The Secretary shall develop and provide appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of deployment and procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as Information Technology Omnibus Procurement (as developed by the Secretary).

"(j) EVALUATIONS.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall issue revised guidelines and requirements for the evaluation of operational tests and other intelligent transportation system projects carried out under this subchapter.

"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by—

"(i) parties to any such test; or

"(ii) any other formal evaluation carried out under this subchapter.

"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test that ensure adequate evaluation of the results of the test or project.

"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"§525. National ITS Program Plan

"(a) IN GENERAL.—

"(1) UPDATES.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National ITS Program Plan.

"(2) SCOPE.—The National ITS Program Plan shall—

"(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

"(i) major metropolitan areas;

"(ii) smaller metropolitan and rural areas; and

"(iii) commercial vehicle operations;

"(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

"(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

"(D) establish a cooperative process with State and local governments for—

"(i) determining desired surface transportation system performance levels; and

"(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

"(b) REPORTING.—The National ITS Program Plan shall be transmitted and biennially updated as part of the surface transportation research and technology development strategic plan developed under section 508(c).

"§526. National ITS architecture and standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national ITS architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

"(b) PROVISIONAL STANDARDS.—

"(1) IN GENERAL.—If the Secretary finds that the development or selection of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard—

"(A) after consultation with affected parties; and

"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(2) CRITICAL STANDARDS.—If a standard identified by the Secretary as critical has not been adopted and published by the appropriate standards development organization by the date of enactment of this subchapter, the Secretary shall establish a provisional standard—

"(A) after consultation with affected parties; and

"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall—

"(A) be published in the Federal Register; and

"(B) remain in effect until such time as the appropriate standards development organization adopts and publishes a standard.

"(c) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL CRITICAL STANDARD.—

"(1) IN GENERAL.—The Secretary may waive the requirement under subsection (b)(2) to establish a provisional standard if the Secretary determines that additional time would be productive in, or that establishment of a provisional standard would be counterproductive to, the timely achievement of the objectives identified in subsection (a).

"(2) NOTICE.—The Secretary shall publish in the Federal Register a notice that describes—

"(A) each standard for which a waiver of the provisional standard requirement is granted under paragraph (1);

"(B) the reasons for and effects of granting the waiver; and

"(C) an estimate as to the date on which the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—The Secretary may withdraw a waiver granted under paragraph (1) at any time.

"(B) NOTICE.—On withdrawal of a waiver, the Secretary shall publish in the Federal Register a notice that describes—

"(i) each standard for which the waiver has been withdrawn; and

"(ii) the reasons for withdrawing the waiver.

"(d) CONFORMITY WITH NATIONAL ITS ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund conform to the national ITS architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

"(2) DISCRETION OF SECRETARY.—The Secretary may authorize exceptions to paragraph (1) for projects designed to achieve specific research objectives outlined in—

"(A) the National ITS Program Plan under section 525; or

"(B) the surface transportation research and technology development strategic plan developed under section 508(c).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter.

"§527. Commercial vehicle information systems and networks deployment

"(a) DEFINITIONS.—In this section:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

"(A) improve the safety of commercial vehicle operations;

"(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

"(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

"(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

"(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

"(2) COMMERCIAL VEHICLE OPERATIONS.—

"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) the administration of roadside safety and border crossing inspection and regulatory compliance operations.

"(3) CORE DEPLOYMENT.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with—

"(A) safety information exchange to—

"(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

"(ii) connect to the Safety and Fitness Electronic Records system for access to—

"(I) interstate carrier and commercial vehicle data;

"(II) summaries of past safety performance; and

"(III) commercial vehicle credentials information; and

"(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data;

"(B) interstate credentials administration to—

"(i)(I) perform end-to-end (including carrier application) jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials; and

"(II) extend the processing to other credentials, including intrastate, titling, oversize or overweight requirements, carrier registration, and hazardous materials;

"(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

"(iii)(I) have at least 10 percent of the transaction volume handled electronically; and

"(II) have the capability to add more carriers and to extend to branch offices where applicable; and

"(C) roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection site and to replicate the screening at other sites.

"(4) EXPANDED DEPLOYMENT.—The term 'expanded deployment' means the deployment of systems in a State that—

"(A) exceed the requirements of a core deployment of commercial vehicle information systems and networks;

"(B) improve safety and the productivity of commercial vehicle operations; and

"(C) enhance transportation security.

"(b) PROGRAM.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

"(1) improve the safety and productivity of commercial vehicles and drivers; and

"(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

"(c) PURPOSE.—It is the purpose of the program to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

"(d) CORE DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—To be eligible for a core deployment grant under this subsection, a State shall—

"(A) have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

"(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State (including hardware procurement, software and system development, and infrastructure modifications)—

"(i) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

"(ii) promote interoperability and efficiency, to the maximum extent practicable; and

"(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems of the State conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

"(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this subsection for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000, including funds received under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the core deployment of commercial vehicle information systems and networks.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks.

"(B) REMAINING FUNDS.—An eligible State that has completed the core deployment of commercial vehicle information systems and networks, or completed the deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

"(e) EXPANDED DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (d), the Secretary may make grants to each eligible State, on request, for the expanded deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks shall be eligible for an expanded deployment grant.

"(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States in an amount that does not exceed $1,000,000 for each State.

"(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(g) FUNDING.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1, except that the funds shall remain available until expended.

"§528. Research and development

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subchapter.

"(b) PRIORITY AREAS.—Under the program, the Secretary shall give priority to funding projects that—

"(1) assist in the development of an interconnected national intelligent transportation system network that—

"(A) improves the reliability of the surface transportation system;

"(B) supports national security;

"(C) reduces, by at least 20 percent, the cost of manufacturing, deploying, and operating intelligent transportation systems network components;

"(D) could assist in deployment of the Armed Forces in response to a crisis; and

"(E) improves response to, and evacuation of the public during, an emergency situation;

"(2) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

"(A) reducing metropolitan congestion by 5 percent by 2010;

"(B) ensuring that a national, interoperable 511 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

"(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

"(ii) subject to subsection (d), improving communication between emergency care providers and trauma centers;

"(3) address traffic management, incident management; transit management, toll collection, traveler information, or highway operations systems;

"(4) conduct operational tests of the integration of at least 3 crash-avoidance technologies in passenger vehicles;

"(5) incorporate human factors research, including the science of the driving process;

"(6) facilitate the integration of intelligent infrastructure, vehicle, and control technologies;

"(7) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(8) as determined by the Secretary, will improve the overall safety performance of vehicles and roadways, including the use of real-time setting of speed limits through the use of speed management technology;

"(9) examine—

"(A) the application to intelligent transportation systems of appropriately modified existing technologies from other industries; and

"(B) the development of new, more robust intelligent transportation systems technologies and instrumentation;

"(10) develop and test communication technologies that—

"(A) are based on an assessment of the needs of officers participating in a motor carrier safety program funded under section 31104 of title 49;

"(B) take into account the effectiveness and adequacy of available technology;

"(C) address systems integration, connectivity, and interoperability challenges; and

"(D) provide the means for officers participating in a motor carrier safety program funded under section 31104 of title 49 to directly assess, without an intermediary, current and accurate safety and regulatory information on motor carriers, commercial motor vehicles and drivers at roadside or mobile inspection facilities;

"(11) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(12) improve sensing and wireless communications that provide real-time information regarding congestion and incidents;

"(13) develop and test high-accuracy, lane-level, real-time accessible digital map architectures that can be used by intelligent vehicles and intelligent infrastructure elements to facilitate safety and crash avoidance (including establishment of national standards for an open-architecture digital map of all public roads that is compatible with electronic 9-1-1 services);

"(14) encourage the dual-use of intelligent transportation system technologies (such as wireless communications) for—

"(A) emergency services;

"(B) road pricing; and

"(C) local economic development; and

"(15) advance the use of intelligent transportation systems to facilitate high-performance transportation systems, such as through—

"(A) congestion-pricing;

"(B) real-time facility management;

"(C) rapid-emergency response; and

"(D) just-in-time transit.

"(c) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for—

"(1) the collection of data to permit objective evaluation of the results of the tests;

"(2) the derivation of cost-benefit information that is useful to others contemplating deployment of similar systems; and

"(3) the development and implementation of standards.

"(d) FEDERAL SHARE.—The Federal share of the costs of operational tests under subsection (a) shall not exceed 80 percent.

"§ 529. Use of funds

"(a) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subchapter shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

"(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.".

(b) CONFORMING AMENDMENT.—Title V of the Transportation Equity Act for the 21st Century is amended by striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

TITLE III—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

SEC. 3101. SENSE OF THE SENATE ON OVERALL FEDERAL BUDGET.

It is the sense of the Senate that—

(1) comprehensive statutory budget enforcement measures, the jurisdiction of which lies with the Senate Budget Committee and Senate Governmental Affairs Committee, should—

(A) be enacted this year; and

(B) address all areas of the Federal budget, including discretionary spending, direct spending, and revenues; and

(2) special allocations for transportation should be included in that context.

SEC. 3102. DISCRETIONARY SPENDING CATEGORIES.

(a) DEFINITIONS.—

(1) HIGHWAY CATEGORY.—Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)(B)) is amended—

(A) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005"; and

(B) by adding at the end the following:

"(v) 69–8158–0–7–401 (Motor Carrier Safety Grants).

"(vi) 69–8159–0–7–401 (Motor Carrier Safety Operations and Programs).".

(2) MASS TRANSIT CATEGORY.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by striking subparagraph (C) and inserting the following:

"(C) MASS TRANSIT CATEGORY.—The term 'mass transit category' means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 or for which appropriations are provided in accordance with authorizations contained in that Act:

"(i) 69–1120–0–1–401 (Administrative Expenses).

"(ii) 69–1134–0–1–401 (Capital Investment Grants).

"(iii) 69–8191–0–7–401 (Discretionary Grants).

"(iv) 69–1129–0–1–401 (Formula Grants).

"(v) 69–8303–0–7–401 (Formula Grants and Research).

"(vi) 69–1127–0–1–401 (Interstate Transfer Grants—Transit).

"(vii) 69–1125–0–1–401 (Job Access and Reverse Commute).

"(viii) 69–1122–0–1–401 (Miscellaneous Expired Accounts).

"(ix) 69–1139–0–1–401 (Major Capital Investment Grants).

"(x) 69–1121–0–1–401 (Research, Training and Human Resources).

"(xi) 69–8350–0–7–401 (Trust Fund Share of Expenses).

"(xii) 69–1137–0–1–401 (Transit Planning and Research).

"(xiii) 69–1136–0–1–401 (University Transportation Research).

"(xiv) 69–1128–0–1–401 (Washington Metropolitan Area Transit Authority).".

(b) HIGHWAY FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

(1) in clause (i)—

(A) by inserting "for each of fiscal years 2006 through 2009" after "submits the budget";

(B) by inserting "the obligation limitation and outlay limit for" after "adjustments to"; and

(C) by striking "provided in clause (ii)(I)(cc)." and inserting the following: "follows:

"(I) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in clause (iii), plus any amount previously calculated under clauses (i)(II) and (ii) for that year.

"(II) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

"(III) OMB shall—

"(aa) take the sum of the amounts calculated under subclauses (I) and (II) and add that amount to the obligation limitation set forth in section 3103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the obligation limitation set forth in section 3103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the budget year by adding the amount calculated under subclauses (I) and (II).";

(2) by striking clause (ii) and inserting the following:

"(ii) When the President submits the supplementary budget estimates for each of fiscal years 2006 through 2009 under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

"(I) OMB shall take the most recent estimate of highway receipts for the current year (based on OMB's Mid-Session Review) and subtract the estimated level of highway receipts in clause (iii) plus any amount previously calculated and included in the President's Budget under clause (i)(II) for that year.

"(II) OMB shall—

"(aa) take the amount calculated under subclause (I) and add that amount to the amount of obligations set forth in section 3103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the amount of obligations set forth in section 3103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the budget year by adding the amount calculated under subclause (I)."; and

(3) by adding at the end the following:

"(iii) The estimated level of highway receipts for the purpose of this subparagraph are—

"(I) for fiscal year 2005, $34,163,000,000;

"(II) for fiscal year 2006, $36,972,000,000;

"(III) for fiscal year 2007, $38,241,000,000;

"(IV) for fiscal year 2008, $39,432,000,000; and

"(V) for fiscal year 2009, $40,557,000,000.

"(iv) In this subparagraph, the term "highway receipts" means the governmental receipts and interest credited to the highway account of the Highway Trust Fund.".

(c) CONTINUATION OF SEPARATE SPENDING CATEGORIES.—For the purpose of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)), the discretionary spending limits for the highway category and the mass transit category shall be—

(1) for fiscal year 2005—

(A) $33,657,000,000 for the highway category; and

(B) $6,844,000,000 for the mass transit category;

(2) for fiscal year 2006—

(A) $37,086,000,000 for the highway category; and

(B) $5,989,000,000 for the mass transit category;

(3) for fiscal year 2007—

(A) $40,192,000,000 for the highway category; and

(B) $7,493,000,000 for the mass transit category;

(4) for fiscal year 2008—

(A) $41,831,000,000 for the highway category; and

(B) $8,479,000,000 for the mass transit category; and

(5) for fiscal year 2009—

(A) $42,883,000,000 for the highway category; and

(B) $9,131,000,000 for the mass transit category.

(d) ADDITIONAL ADJUSTMENTS.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking "fiscal years 2000, 2001, 2002, or 2003," and inserting "each of fiscal years 2006, 2007, 2008, and 2009,"; and

(B) in clause (ii), by striking "2002 and 2003" and inserting "2008 and 2009"; and

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by striking "1999" and inserting "2005";

(ii) by striking "2000 through 2003" and inserting "2006 through 2009"; and

(iii) by striking "section 3103 of the Transportation Equity Act for the 21st Century" and inserting "section 6102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005"; and

(B) in clause (ii), by striking "2000, 2001, 2002, or 2003" and inserting "2006, 2007, 2008, and 2009".

SEC. 3103. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the highway category is—

(1) for fiscal year 2005, $35,154,000,000;

(2) for fiscal year 2006, $40,110,000,000;

(3) for fiscal year 2007, $40,564,000,000;

(4) for fiscal year 2008, $42,544,000,000; and

(5) for fiscal year 2009, $43,281,000,000.

(b) MASS TRANSIT CATEGORY.—For the purpose of section 251(b) of the Balanced Budget

and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2005, $7,646,336,000;

(2) for fiscal year 2006, $8,900,000,000;

(3) for fiscal year 2007, $9,267,464,000;

(4) for fiscal year 2008, $10,050,700,000; and

(5) for fiscal year 2009, $10,685,500,000.

TITLE IV—SOLID WASTE DISPOSAL

SEC. 4001. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

"(a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash;

"(C) blast furnace slag aggregate;

"(D) silica fume; and

"(E) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".

SEC. 4002. USE OF GRANULAR MINE TAILINGS.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 4001(a)) is amended by adding at the end the following:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

"(a) MINE TAILINGS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

"(A) cement or concrete projects; and

"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

"(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

"(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

"(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

"(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 4001(b)) is amended by adding after the item relating to section 6005 the following:

"Sec. 6006. Use of granular mine tailings.".

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2005".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5101. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUNDS.

(a) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2011":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1) (relating to certain alcohol fuels).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(f) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2011":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(h) (relating to termination of exemptions for highway use tax).

(c) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Paragraphs (1), (2), and (4)(D)((iii) of subsection (b) and subsection (c)(3) of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking "2005" and inserting "2011".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(i) by striking "2003" and inserting "2009", and

(ii) by striking "2004" each place it appears and inserting "2010".

(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUNDS.—

(1) HIGHWAY TRUST FUND.—

(A) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) is amended—

(i) in the matter before subparagraph (A), by striking "June 1, 2005" and inserting "October 1, 2009",

(ii) by striking "or" at the end of subparagraph (J),

(iii) by striking the period at the end of subparagraph (K) and inserting ", or",

(iv) by inserting after subparagraph (K) the following new subparagraph:

"(L) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.", and

(v) in the matter after subparagraph (L), as added by clause (iv), by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

(B) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) is amended—

(i) in the matter before subparagraph (A), by striking "June 1, 2005" and inserting "October 1, 2009",

(ii) by striking "or" at the end of subparagraph (H),

(iii) by inserting "or" at the end of subparagraph (I),

(iv) by inserting after subparagraph (I) the following new subparagraph:

"(J) Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005,", and

(v) in the matter after subparagraph (J), as added by clause (iv), by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

(C) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) is amended by striking "June 1, 2005" and inserting "October 1, 2009".

(D) EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—Section 9503(c) is amended by adding at the end the following new paragraph:

"(6) HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

"(A) for the period beginning with fiscal year 2006 and ending with fiscal year 2009 to the Internal Revenue Service—

"(i) $120,000,000 for enforcement of fuel tax compliance, including the pre-certification of tax-exempt users, and

"(ii) $80,000,000 for the excise fuel information reporting system, of which $40,000,000 shall be allocated to the excise summary terminal activity reporting system, and

"(B) for each of the fiscal years 2006, 2007, 2008, and 2009 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.".

(2) AQUATIC RESOURCES TRUST FUND.—

(A) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) is amended by striking "Surface Transportation Extension Act of 2004, Part V" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005" .

(B) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) is amended by striking "June 1, 2005" and inserting "October 1, 2009".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5102. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "'2 YEARS' " in the heading for paragraph (3) and inserting "'4 YEARS' ".

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5201. MODIFICATION OF GAS GUZZLER TAX.

(a) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2005.

SEC. 5202. EXCLUSION FOR TRACTORS WEIGHING 19,500 POUNDS OR LESS FROM FEDERAL EXCISE TAX ON HEAVY TRUCKS AND TRAILERS.

(a) IN GENERAL.—Subsection (a) of section 4051 (relating to imposition of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) EXCLUSION FOR TRACTORS WEIGHING 19,500 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer if such tractor has a gross vehicle weight of 19,500 pounds or less (as determined under regulations prescribed by the Secretary).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 2005.

SEC. 5203. EXEMPTION FOR EQUIPMENT FOR TRANSPORTING BULK BEDS OF FARM CROPS FROM EXCISE TAX ON RETAIL SALE OF HEAVY TRUCKS AND TRAILERS.

(a) IN GENERAL.—Section 4053 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(9) EQUIPMENT FOR TRANSPORTING BULK BEDS OF FARM CROPS.—Any box, container, receptacle, bin, or other similar article the length of which does not exceed 26 feet, which is mounted or placed on an automobile truck, and which is sold to a person who certifies to the seller that—

"(A) such person is actively engaged in the trade or business of farming, and

"(B) the primary use of the article is to haul to and on farms bulk beds of farm crops grown in connection with such trade or business.".

(b) RECAPTURE OF TAX UPON RESALE OR NONEXEMPT USE.—Section 4052 (relating to definitions and special rules) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF EQUIPMENT FOR TRANSPORTING BULK BEDS OF FARM CROPS PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under section 4051 on the first retail sale of any article described in section 4053(9) by reason of its exempt use, and

"(B) within 2 years after the date of such first retail sale, such article is resold by the purchaser or such purchaser makes a substantial nonexempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the first retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article described in section 4053(9) if the first retail sale of such article is not taxable under section 4051 by reason of such use.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 2005.

SEC. 5204. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax), as amended by section 5611 of this Act, is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii), and

(C) by adding at the end the following new clauses:

"(iv) in the case of P Series Fuels, 18.3 cents per gallon,

"(v) in the case of compressed natural gas and hydrogen, 18.3 cents per energy equivalent of a gallon of gasoline, and

"(vi) in the case of liquefied natural gas, any liquid fuel (other than ethanol and methanol) derived from coal (including peat), and liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.".

(2) TREATMENT OF ALTERNATIVE FUEL AS TAXABLE FUEL.—

(A) IN GENERAL.—Section 4083(a)(1) (defining taxable fuel) is amended—

(i) by striking "and" at the end of subparagraph (B),

(ii) by striking the period at the end of subparagraph (C) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(D) alternative fuel.".

(B) DEFINITION.—Section 4083(a) is amended by adding at the end the following new paragraph:

"(4) ALTERNATIVE FUEL.—The term 'alternative fuel' means—

"(A) compressed or liquefied natural gas,

"(B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code,

"(C) hydrogen,

"(D) any liquid fuel (other than ethanol and methanol) derived from coal (including peat), and

"(E) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).".

(3) CONFORMING AMENDMENT.—Section 4041(a), as amended by section 5101 of this Act, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) SPECIAL MOTOR FUELS.—

"(A) IN GENERAL.—There is hereby imposed a tax on any alternative fuel (other than gas oil or fuel oil) and liquefied petroleum gas—

"(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of any alternative fuel or liquefied petroleum gas if tax was imposed on such alternative fuel or liquefied petroleum gas under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—Except as otherwise provided, the rate of the tax imposed by this paragraph shall be the rate of tax specified in clause (iv), (v), or (vi) of section 4081(a)(2)(A) on the alternative fuel which is in effect at the time of such sale or use. In the case of liquefied petroleum gas, the rate of the tax imposed by this paragraph shall be 13.6 cents per gallon (3.2 cents per gallon in the case of any sale or use after September 30, 2011).

"(D) BUS USES.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2) (relating to school bus and intracity transportation).".

(b) CREDIT FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.—Section 6426(a) (relating to allowance of credits) is amended by striking "plus" at the end of paragraph (1), by striking the period at the end of paragraph (2) and by adding at the end the following new paragraphs:

"(3) the alternative fuel credit, plus

"(4) the alternative fuel mixture credit.".

(2) ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsection:

"(d) ALTERNATIVE FUEL CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle.

"(2) ALTERNATIVE FUEL.—For purposes of this section, the term 'alternative fuel'—

"(A) has the meaning given such term by subparagraphs (A), (B), (C), and (E) of section 4083(a)(4),

"(B) includes any liquid fuel derived from coal (including peat) through the Fischer-Tropsch process, and

"(C) does not include ethanol, methanol, or biodiesel.

"(3) GASOLINE GALLON EQUIVALENT.—For purposes of this subsection, the term 'gasoline gallon equivalent' means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

"(4) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after September 30, 2009.

"(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) ALTERNATIVE FUEL MIXTURE.—For purposes of this section, the term 'alternative fuel mixture' means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

"(A) is sold by the taxpayer producing such mixture to any person for use as fuel in a highway vehicle, or

"(B) is used as a fuel in a highway vehicle by the taxpayer producing such mixture.

"(3) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after September 30, 2009.".

(3) CONFORMING AMENDMENTS.—

(A) The section heading for section 6426 is amended by striking "**ALCOHOL FUEL AND BIODIESEL**" and inserting "**CERTAIN ALTERNATIVE FUEL**".

(B) The table of sections for subchapter B of chapter 65 is amended by striking "alcohol fuel and biodiesel" in the item relating to section 6426 and inserting "certain alternative fuel".

(C) Section 6427(a) is amended by striking "paragraph (2) or (3) of section 4041(a) or section 4041(c)" and inserting "section 4041(a)(2) or 4041(c)".

(D) Section 6427(e) is amended—

(i) by inserting "or the alternative fuel mixture credit" after "biodiesel mixture credit" in paragraph (1),

(ii) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) ALTERNATIVE FUEL.—If any person produces an alternative fuel described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.",

(iii) by striking "under paragraph (1) with respect to any mixture" in paragraph (3) (as redesignated by clause (ii)) and inserting "under paragraph (1) or (2) with respect to any mixture or alternative fuel",

(iv) by striking "and" at the end of paragraph (4)(A) (as redesignated by clause (ii)),

(v) by striking the period at the end of paragraph (4)(B) (as so redesignated),

(vi) by adding at the end of paragraph (4) (as so redesignated) the following new subparagraph:

"(C) any alternative fuel or alternative fuel mixture (as defined in section 6426 (d)(2) or (e)(3)) sold or used after September 30, 2009.", and

(vii) by striking "OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES" in the heading and inserting ", BIODIESEL, OR ALTERNATIVE FUEL".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale, use, or removal for any period after September 30, 2006.

PART II—AQUATIC EXCISE TAXES

SEC. 5211. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(4) (relating to transfers from Trust Fund for motorboat fuel taxes) is amended—

(A) by striking "Fund—" and all that follows through "shall be transferred" in subparagraph (B) and inserting "Fund which is attributable to motorboat fuel taxes received on or after October 1, 2005, and before October 1, 2011, shall be transferred",

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 9503(c)(4), as redesignated by paragraph (1)(C), is amended—

(i) by striking "ACCOUNT" in the heading thereof and inserting "AND BOATING TRUST FUND",

(ii) by striking "or (B)" in clause (ii), and

(iii) by striking "account in the Aquatic Resources" and inserting "and Boating".

(B) Paragraph (5) of section 9503(c) is amended by striking "Account in the Aquatic Resources" in subparagraph (A) and inserting "and Boating".

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration and Boating Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), section 9503(c)(5), or section 9602(b).".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "ACCOUNT" in the heading thereof and inserting "AND BOATING TRUST FUND",

(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "and Boating Trust Fund", and

(iii) by striking "ACCOUNT" both places it appears in the headings for paragraphs (1) and (2) and inserting "TRUST FUND".

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "AQUATIC RESOURCES" in the heading thereof,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sport Fish Restoration and Boating", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9504 is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration and Boating Trust Fund".

(D) Section 9504 is amended by striking "**AQUATIC RESOURCES**" in the heading thereof and inserting "**SPORT FISH RESTORATION AND BOATING**".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration and boating".

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b), shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of section 15 of the Dingell-Johnson Sport Fish Restoration Act (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005).

For purposes of section 9602, the Boat Safety Account shall be treated as a Trust Fund established by this subchapter.".

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 5212. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) In General.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

"(d) Nonapplicability of Tax to Exports.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".

(b) Conforming Amendments.—

(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".

(c) Effective Date.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5213. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) In General.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

"(1) Imposition of tax.—

"(A) In general.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(B) Limitation on tax imposed on fishing rods and poles.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".

(b) Conforming Amendments.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".

(c) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.

PART III—AERIAL EXCISE TAXES

SEC. 5221. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) No Waiver by Farm Owner, Tenant, or Operator Necessary.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) Exemption Includes Fuel Used Between Airfield and Farm.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence: "In the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) Exemption From Tax on Air Transportation of Persons for Forestry Purposes Extended to Fixed-Wing Aircraft.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) Exemption for Certain Uses.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) Effective Date.—The amendments made by this section shall apply to fuel use or air transportation after September 30, 2005.

SEC. 5222. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) In General.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and

(2) by striking "or" at the end of subclause (I) of clause (ii), by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 5223. EXEMPTION FROM TAXES ON TRANSPORTATION PROVIDED BY SEAPLANES.

(a) In General.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Exemption for Seaplanes.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) Effective Date.—The amendments made by this section shall apply to transportation beginning after September 30, 2005.

SEC. 5224. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) In General.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line at any time during which such aircraft is being operated on a flight the sole purpose of which is sightseeing.".

(b) Effective Date.—The amendment made by this section shall apply with respect to transportation beginning after September 30, 2005, but shall not apply to any amount paid before such date for such transportation.

PART IV—TAXES RELATING TO ALCOHOL

SEC. 5231. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) Repeal of Occupational Taxes.—

(1) In general.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) Nonbeverage domestic drawback.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) Industrial use of distilled spirits.—Section 5276 is hereby repealed.

(b) Conforming Amendments.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping and registration by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "and rate of tax" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "**AND RATE OF TAX**" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping and Registration by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.
"Sec. 5124. Registration by dealers.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Wholesale Dealers.—For purposes of this part—

"(1) Wholesale dealer in liquors.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.".

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Subpart C of part II of subchapter A of chapter 51, as amended by paragraph (7), is amended by adding at the end the following new section:

"SEC. 5124. REGISTRATION BY DEALERS.

"Every dealer who is subject to the recordkeeping requirements under section 5121 or 5122 shall register with the Secretary such dealer's name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.".

(9) Section 7012 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) For provisions relating to registration by dealers in distilled spirits, wines, and beer, see section 5124.".

(10) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.
"Sec. 5132. Prohibited purchases by dealers.".

(11) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(12) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(13) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)".

(B) by striking "section 5112" and inserting "section 5121(c)".

(C) by striking "section 5122" and inserting "section 5122(c)".

(14) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(15) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(16) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112, and by retail liquor dealers, see section 5122.".

(17) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(18) Section 5671 is amended by striking "or 5091".

(19)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(20)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end the following:

"Sec. 5732. Payment of tax.
"Sec. 5733. Provisions relating to liability for occupational taxes.
"Sec. 5734. Application of State laws.".

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(21) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(22) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008, but shall not apply to taxes imposed for periods before such date.

SEC. 5232. MODIFICATION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by inserting ", and $13.50 in the case of distilled spirits brought into the United States after December 31, 2005, and before January 1, 2007" after "2006".

(b) SPECIAL RULE.—

(1) IN GENERAL.—After December 31, 2005, and before January 1, 2007, the Commonwealth of Puerto Rico shall make a Conservation Trust Fund transfer from the treasury of Puerto Rico within 30 days from the date of each cover overpayment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(2) CONSERVATION TRUST FUND TRANSFER.—

(A) IN GENERAL.—For purposes of this subsection, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(B) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(C) RESULT OF NONTRANSFER.—

(i) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the Commonwealth of Puerto Rico, the Secretary of the Treasury shall, except as provided in clause (ii), deduct and withhold from the next cover overpayment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(ii) GOOD-CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the Commonwealth of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover overpayment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover overpayment.

(3) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this subsection, the term "Puerto Rico Conservation Trust Fund" means the

fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

SEC. 5233. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler, the number of cases of bottled distilled spirits—

"(i) which were bottled in the United States, and

"(ii) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State or political subdivision thereof, or an agency of either, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State or political subdivision thereof, or an agency of either.

"(c) AVERAGE TAX-FINANCING COST.—

"(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASE.—The term 'case' means 12 80-proof 750-milliliter bottles.

"(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19), and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the distilled spirits credit determined under section 5011(a).".

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2005.

SEC. 5234. QUARTERLY EXCISE TAX FILING FOR SMALL ALCOHOL EXCISE TAXPAYERS.

(a) IN GENERAL.—Subsection (d) of section 5061 (relating to time for collecting tax on distilled spirits, wines, and beer) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) TAXPAYERS LIABLE FOR TAXES OF NOT MORE THAN $50,000.—

"(A) IN GENERAL.—In the case of any taxpayer who reasonably expects to be liable for not more than $50,000 in taxes imposed with respect to distilled spirits, wines, and beer under subparts A, C, and D for the calendar year and who was liable for not more than $50,000 in such taxes in the preceding calendar year, the last day for the payment of tax shall be the 14th day after the last day of the calendar quarter during which the action giving rise to the imposition of such tax occurs.

"(B) NO APPLICATION AFTER LIMIT EXCEEDED.—Subparagraph (A) shall not apply to any taxpayer for any portion of the calendar year following the first date on which the aggregate amount of tax due under subparts A, C, and D from such taxpayer during such calendar year exceeds $50,000, and any tax under such subparts which has not been paid on such date shall be due on the 14th day after the last day of the semimonthly period in which such date occurs.

"(C) CALENDAR QUARTER.—For purposes of this paragraph, the term 'calendar quarter' means the three-month period ending on March 31, June 30, September 30, or December 31.".

(b) CONFORMING AMENDMENT.—Section 5061(d)(6), as redesignated by subsection (a), is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to quarterly periods beginning on and after January 1, 2006.

PART V—SPORT EXCISE TAXES

SEC. 5241. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any pistol, revolver, or firearm described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than an aggregate of 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

Subtitle C—Miscellaneous Provisions

SEC. 5301. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations to the President and Congress regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 6 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information

to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate as of the close of September 30, 2009.

SEC. 5302. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the "Commission"). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall, with respect to the period beginning on the date of the enactment of this Act and ending before 2016—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to maintain and improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5303. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ONBOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an onboard computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed. The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5304. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways, and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $500,000 for each of the fiscal years 2005 and 2006 to carry out the purposes of this section, to remain available until expended.

SEC. 5305. BUILD AMERICA CORPORATION.

(a) ESTABLISHMENT OF BUILD AMERICA CORPORATION.—There is established a nonprofit corporation, to be known as the "Build America

Corporation''. The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to issue Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

(b) USE OF BUILD AMERICA BOND PROCEEDS.—The proceeds from the sale of any Build America bonds issued by the Build America Corporation as authorized by subsection (a) may be used to fund any qualified project.

(c) QUALIFIED PROJECTS.—For purposes of this section—

(1) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by subsection (a), the term ''qualified project'' means any—

(A) qualified highway project,

(B) qualified public transportation project, and

(C) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under subparagraphs (A), (B), and (C) of paragraph (5).

(2) QUALIFIED HIGHWAY PROJECT.—The term ''qualified highway project'' means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(3) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term ''qualified public transportation project'' means a project for public transportation facilities or other facilities which are eligible for assistance under title 49, United States Code.

(4) CONGESTION RELIEF PROJECT.—The term ''congestion relief project'' means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail facility, intercity bus facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(B) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(5) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of paragraph (1)—

(A) COSTS OF QUALIFIED PROJECTS.—The requirement of this subparagraph is met if the costs of the qualified project funded by Build America bonds only relate to capital investments and do not include any costs relating to operations, maintenance, or rolling stock.

(B) APPLICABILITY OF FEDERAL LAW.—The requirement of this subparagraph is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(i) funds made available under Build America bonds for similar qualified projects, and

(ii) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(C) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this subparagraph is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

SEC. 5306. INCREASE IN DOLLAR LIMITATION FOR QUALIFIED TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Section 132(f)(2) (relating to limitation on exclusion) is amended—

(1) by striking ''$100'' in subparagraph (A) and inserting ''$155 (in the case of any calendar year after 2009, the dollar amount specified in subparagraph (B) for such year)'', and

(2) by striking ''$175'' in subparagraph (B) and inserting ''$200''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—Subparagraph (A) of section 132(f)(6) (relating to inflation adjustment) is amended—

(1) by striking the last sentence,

(2) by striking ''1999'' and inserting ''2008'', and

(3) by striking ''1998'' and inserting ''2007''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 5307. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes, shall propose options for implementing exemptions for classes of vehicles whose nonpropulsive fuel use exceeds 50 percent,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2007, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, except that the Secretary shall report and take action under subsection (a)(1) not later than July 1, 2006.

SEC. 5308. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking ''or'' at the end of paragraph (13), by striking the period at the end of paragraph (14), and by adding at the end the following:

''(15) qualified highway facilities, or

''(16) qualified surface freight transfer facilities.''.

(b) QUALIFIED HIGHWAY FACILITIES AND QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—Section 142 is amended by adding at the end the following:

''(m) QUALIFIED HIGHWAY AND SURFACE FREIGHT TRANSFER FACILITIES.—

''(1) QUALIFIED HIGHWAY FACILITIES.—For purposes of subsection (a)(15), the term 'qualified highway facilities' means—

''(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

''(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

''(2) QUALIFIED SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(16), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

''(3) NATIONAL LIMITATION ON AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—

''(A) NATIONAL LIMITATION.—There is a national highway and surface freight transfer facilities bond limitation for each calendar year. Such limitation is $130,000,000 for 2005, $750,000,000 for 2006, 2007, 2008, and 2009, $1,870,000,000 for 2010, $2,000,000,000 for 2011, 2012, 2013, 2014, and 2015, and zero thereafter.

''(B) ENFORCEMENT OF NATIONAL LIMITATION.—An issue shall not be treated as an issue described in subsection (a)(15) or (a)(16) if the aggregate face amount of bonds issued pursuant to such issue for any calendar year (when added to the aggregate face amount of bonds previously issued as part of issues described in subsections (a)(15) and (a)(16) for such calendar year) exceeds the national highway and surface freight transfer facilities bond limitation for such calendar year.

''(C) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among projects for qualified highway facilities and qualified surface freight transfer facilities in such manner as the Secretary determines appropriate.

''(4) EXPENDITURE OF PROCEEDS.—An issue shall not be treated as an issue described in subsection (a)(15) or (a)(16) unless at least 95 percent of the net proceeds of the issue is expended for projects described in paragraph (3)(C) within the 5-year period beginning on the date of issuance. If at least 95 percent of such net proceeds is not expended with such 5-year period, an issue shall be treated as continuing to meet the requirements of this paragraph if the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period. The Secretary, at the request of the issuer, may extend such 5-year period if the issuer establishes that any failure to meet such period is due to circumstances beyond the control of the issuer.''.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking ''or (14)'' and all that follows through the end

of the paragraph and inserting "(14), (15), or (16) of section 142(a), and".

(d) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

SEC. 5309. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation—

(1) which is a real estate investment trust on the date of the enactment of this Act,

(2) which is a non-operating class III railroad, and

(3) substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development purposes for the benefit of the State and its citizens,

then, to the extent such activities are of a type which are an essential governmental function within the meaning of section 115 of the Internal Revenue Code of 1986, income derived from such activities by the corporation shall be treated as accruing to the State for purposes of section 115 of such Code.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—

(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—

(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and

(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.

(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B of such Code.

(d) DEFINITIONS.—For purposes of this section:

(1) REAL ESTATE INVESTMENT TRUST.—The term "real estate investment trust" has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term "non-operating class III railroad" has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.

(3) STATE.—The term "State" includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation's board of directors.

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.

SEC. 5310. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a) with respect to any alternative fuel vehicle refueling property shall not exceed—

"(1) $30,000 in the case of a property of a character subject to an allowance for depreciation, and

"(2) $1,000 in any other case.

"(c) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified alternative fuel vehicle refueling property' has the meaning given to such term by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, and hydrogen.

"(2) RESIDENTIAL PROPERTY.—In the case of any property installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer, paragraph (1) of section 179A(d) shall not apply.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

"(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

"(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f)(1).".

(2) Section 55(c)(2) is amended by inserting "30B(d)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(5)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B Alternative fuel vehicle refueling property credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5311. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

"(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

"(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SEC. 5312. DIESEL FUEL TAX EVASION REPORT.

Not later than 360 days after the date of the enactment of this Act, the Commissioner of the Internal Revenue shall report to the Committees on Finance and Environment and Public Works of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives on the availability of new technologies that can be employed to enhance collections of the excise tax on diesel fuel and the plans of the Internal Revenue Service to employ such technologies.

Subtitle D—Fuels-related Technical Corrections

SEC. 5401. FUELS-RELATED TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Section 6427 is amended—

(1) by striking subsection (f), and

(2) by striking subsection (o) and redesignating subsection (p) as subsection (o).

(b) AMENDMENTS RELATED TO SECTION 853 OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) Subparagraph (C) of section 4081(a)(2) is amended by striking "for use in commercial aviation" and inserting "for use in commercial aviation by a person registered for such use under section 4101".

(2) So much of paragraph (2) of section 4081(d) as precedes subparagraph (A) is amended to read as follows:

"(2) AVIATION FUELS.—The rates of tax specified in clauses (ii) and (iv) of subsection (a)(2)(A) shall be 4.3 cents per gallon—".

(3) Section 6421(f)(2) is amended—

(A) by striking "noncommercial aviation (as defined in section 4041(c)(2))" in subparagraph (A) and inserting "aviation which is not commercial aviation (as defined in section 4083(b))", and

(B) by striking "aviation which is not noncommercial aviation" in subparagraph (B) and inserting "commercial aviation".

(c) AMENDMENT RELATED TO SECTION 9005 OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(d) EFFECTIVE DATES.—

(1) AMERICAN JOBS CREATION ACT OF 2004.—The amendments made by subsections (a) and (b) shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

(2) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—The amendment made by subsection (c) shall take effect as if included in the provision of the Transportation Equity Act for the 21st Century to which it relates.

Subtitle E—Revenue Offset Provisions

PART I—GENERAL PROVISIONS

SEC. 5501. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

"(A) IN GENERAL.—In the case of a debt instrument which—

"(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

"(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.".

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

"For the treatment of contingent payment convertible debt, see section 1275(d)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 5502. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 5503. INCREASE IN CERTAIN CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a). the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$500,000",

(B) by striking "$500.000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "Any person" and inserting the following:

"(a) IN GENERAL.—Any person", and

(ii) by striking "$25,000" and inserting "$50,000".

(B) in the third sentence, by striking "section" and inserting "subsection", and

(C) by adding at the end the following new subsection:

"(b) AGGRAVATED FAILURE TO FILE.—

"(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

"(A) 'felony' for 'misdemeanor',

"(B) '$500,000 ($1,000,000' for '$25.000 ($100,000', and

"(C) '10 years' for '1 year'.

"(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years and the aggregated tax liability for such period is at least $100,000.".

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$500,000",

(B) by striking "$500.000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 5504. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term "applicable taxpayer" means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has not signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 or voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) FEES AND EXPENSES.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) REPORT BY SECRETARY.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 5505. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence: "Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after March 2, 2005, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

SEC. 5506. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL CORPORATE INCOME TAX RETURN.

(a) IN GENERAL.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures that ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to Federal annual tax returns for taxable years ending after the date of the enactment of this Act.

SEC. 5507. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

(a) IN GENERAL.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 5508. WHISTLEBLOWER REFORMS.

(a) IN GENERAL.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(1) by striking "The Secretary" and inserting "(a) IN GENERAL.—The Secretary",

(2) by striking "and" at the end of paragraph (1) and inserting "or",

(3) by striking "(other than interest)", and

(4) by adding at the end the following new subsections:

"(b) AWARDS TO WHISTLEBLOWERS.—

"(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

"(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

"(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting *from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.*

"(B) Nonapplication of paragraph where individual is original source of information.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

"(3) Reduction in or denial of award.—If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Whistleblower Office shall deny any award.

"(4) Appeal of award determination.—Any determination regarding an award under paragraph (1), (2), or (3) shall be subject to the filing by the individual described in such paragraph of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute) and such review shall be subject to the rules under section 7461(b)(1).

"(5) Application of this subsection.—This subsection shall apply with respect to any action—

"(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

"(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $20,000.

"(6) Additional rules.—

"(A) No contract necessary.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

"(B) Representation.—Any individual described in paragraph (1) or (2) may be represented by counsel.

"(C) Award not subject to individual alternative minimum tax.—No award received under this subsection shall be included in gross income for purposes of determining alternative minimum taxable income.

"(c) Whistleblower Office.—

"(1) In general.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

"(A) shall at all times operate at the direction of the Commissioner and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner,

"(B) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

"(C) shall monitor any action taken with respect to such matter,

"(D) shall inform such individual that it has accepted the individual's information for further review,

"(E) may require such individual and any legal representative of such individual to not disclose any information so provided,

"(F) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual, and

"(G) shall determine the amount to be awarded to such individual under subsection (b).

"(2) Funding for office.—There is authorized to be appropriated $10,000,000 for each fiscal year for the Whistleblower Office. These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

"(3) Request for assistance.—

"(A) In general.—Any assistance requested under paragraph (1)(F) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). To the extent the disclosure of any returns or return information to the individual or legal representative is required for the performance of such assistance, such disclosure shall be pursuant to a contract entered into between the Secretary and the recipients of such disclosure subject to section 6103(n). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

"(B) Funding of assistance.—From the amounts available for expenditure under subsection (b), the Whistleblower Office may, with the agreement of the individual described in subsection (b), reimburse the costs incurred by any legal representative of such individual in providing assistance described in subparagraph (A).

"(d) Report by Secretary.—The Secretary shall each year conduct a study and report to Congress on the use of this section, including—

"(1) an analysis of the use of this section during the preceding year and the results of such use, and

"(2) any legislative or administrative recommendations regarding the provisions of this section and its application.".

(b) Effective Date.—The amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

SEC. 5509. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) In General.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) Fines, Penalties, and Other Amounts.—

"(1) In general.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) Exception for amounts constituting restitution.—Paragraph (1) shall not apply to any amount which—

"(A) the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, and

"(B) is identified as restitution in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) Exception for amounts paid or incurred as the result of certain court orders.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) Certain nongovernmental regulatory entities.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) Exception for taxes due.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 5510. FREEZE OF INTEREST SUSPENSION RULES WITH RESPECT TO LISTED TRANSACTIONS.

(a) In General.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2005 is amended to read as follows:

"(2) Exception for reportable or listed transactions.—

"(A) In general.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

"(B) Special rule for certain listed transactions.—

"(i) In general.—Except as provided in clause (ii) or (iii), in the case of any listed transaction, the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

"(ii) Participants in settlement initiatives.—Clause (i) shall not apply to a listed transaction if, as of May 9, 2005—

"(I) the taxpayer is participating in a published settlement initiative which is offered by the Secretary of the Treasury or his delegate to a group of similarly situated taxpayers claiming benefits from the listed transaction, or

"(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative with respect to the tax liability arising in connection with the listed transaction.

Subclause (I) shall not apply to the taxpayer if, after May 9, 2005, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary or his delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.

"(iii) Closed transactions.—Clause (i) shall not apply to a listed transaction if, as of May 9, 2005—

"(I) the assessment of all Federal income taxes for the taxable year in which the tax liability to which the interest relates arose is prevented by the operation of any law or rule of law, or

"(II) a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the listed transaction.".

(b) Effective Date.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

SEC. 5511. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) Repeal of Exception for Qualified Transportation Property.—Section 849(b) of

the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3) and (4) as paragraphs (1) and (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 5512. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) EXCLUSION FOR CERTAIN GAIN.—

"(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2005, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking "or (20)" each place it appears and inserting "(20), or (21)".

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.".

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after the date of the enactment of this Act, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 5513. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(C) by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 5514. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE C CORPORATIONS.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

"(A) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(B) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

SEC. 5515. PROHIBITION ON DEFERRAL OF GAIN FROM THE EXERCISE OF STOCK OPTIONS AND RESTRICTED STOCK GAINS THROUGH DEFERRED COMPENSATION ARRANGEMENTS.

(a) In General.—Section 83 (relating to property transferred in connection with performance of services) is amended by adding at the end the following new subsection:

"(i) Prohibition on Additional Deferral Through Deferred Compensation Arrangements.—If a taxpayer exchanges—

"(1) an option to purchase employer securities—

"(A) to which subsection (a) applies, or

"(B) which is described in subsection (e)(3), or

"(2) employer securities or any other property based on employer securities transferred to the taxpayer,

for a right to receive future payments, then, notwithstanding any other provision of this title, there shall be included in gross income for the taxable year of the exchange an amount equal to the present value of such right (or such other amount as the Secretary may by regulations specify). For purposes of this subsection, the term 'employer securities' includes any security issued by the employer.".

(b) Controlled Group Rules.—Section 414(t)(2) is amended by inserting "83(i)," after "79,".

(c) Effective Date.—The amendments made by this section shall apply to any exchange after the date of the enactment of this Act.

SEC. 5516. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) In General.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

"(2) Expenses treated as compensation.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).".

(b) Persons Not Employees.—Paragraph (9) of section 274(e) is amended by striking "to the extent that the expenses are includible in the gross income" and inserting "to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income".

(c) Effective Date.—The amendment made by this section shall apply to expenses incurred after the date of the enactment of this Act.

SEC. 5517. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) In General.—Section 6657 (relating to bad checks) is amended—

(1) by striking "$750" and inserting "$1,250", and

(2) by striking "$15" and inserting "$25".

(b) Effective Date.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 5518. ELIMINATION OF DOUBLE DEDUCTION ON MINING EXPLORATION AND DEVELOPMENT COSTS UNDER THE MINIMUM TAX.

(a) In General.—Section 57(a)(1) (relating to depletion) is amended by striking "for the taxable year)" and inserting "for the taxable year and determined without regard to so much of the basis as is attributable to mining exploration and development costs described in section 616 or 617 for which a deduction is allowable for any taxable year under this part).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment this Act.

PART II—ECONOMIC SUBSTANCE DOCTRINE

SEC. 5521. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) In General.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) Clarification of Economic Substance Doctrine; Etc.—

"(1) General rules.—

"(A) In general.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) Definition of economic substance.—For purposes of subparagraph (A)—

"(i) In general.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) Special rule where taxpayer relies on profit potential.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) Artificial income shifting and basis adjustments.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) Definitions and special rules.—For purposes of this subsection—

"(A) Economic substance doctrine.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) Tax-indifferent party.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) Exception for personal transactions of individuals.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) Treatment of lessors.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 5522. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting "and without regard to items with respect to which a penalty is imposed by section 6662B" before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting "and noneconomic substance transaction understatements" after "reportable transaction understatements" both places it appears,

(B) in paragraph (2)(A), by inserting "and a noneconomic substance transaction understatement" after "reportable transaction understatement",

(C) in paragraph (2)(B), by inserting "6662B or" before "6663",

(D) in paragraph (2)(C)(i), by inserting "or section 6662B" before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting "and section 6662B" after "This section",

(F) in paragraph (3), by inserting "or noneconomic substance transaction understatement" after "reportable transaction understatement", and

(G) by adding at the end the following new paragraph:

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).".

(3) Subsection (e) of section 6707A is amended—

(A) by striking "or" at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

"(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,".

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 5523. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking "attributable" and all that follows and inserting the following: "attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).", and

(2) by inserting "AND NONECONOMIC SUBSTANCE TRANSACTIONS" in the heading thereof after "TRANSACTIONS".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

PART III—IMPROVEMENTS IN EFFICIENCY AND SAFEGUARDS IN INTERNAL REVENUE SERVICE COLLECTION

SEC. 5531. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 5532. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

"(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

"(D) to file a return of tax imposed under this title by its due date (including extensions), or".

(b) CONFORMING AMENDMENT.—The heading for section 6159(b)(4) is amended by striking "FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION" and inserting "FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 5533. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 5534. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

"(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

"(A) LUMP-SUM OFFERS.—

"(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

"(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

"(B) PERIODIC PAYMENT OFFERS.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

"(2) RULES OF APPLICATION.—

"(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

"(B) NO USER FEE IMPOSED.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.".

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking "; and" at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.".

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(g) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-

compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

SEC. 5535. JOINT TASK FORCE ON OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a joint task force—

(1) to review the Internal Revenue Service's determinations with respect to offers-in-compromise, including offers which raise equitable, public policy, or economic hardship grounds for compromise of a tax liability under section 7122 of the Internal Revenue Code of 1986,

(2) to review the extent to which the Internal Revenue Service has used its authority to resolve longstanding cases by forgoing penalties and interest which have accumulated as a result of delay in determining the taxpayer's liability,

(3) to provide recommendations as to whether the Internal Revenue Service's evaluation of offers-in-compromise should include—

(A) the taxpayer's compliance history,

(B) errors by the Internal Revenue Service with respect to the underlying tax, and

(C) wrongful acts by a third party which gave rise to the liability, and

(4) to annually report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (beginning in 2006) regarding such review and recommendations.

(b) MEMBERS OF JOINT TASK FORCE.—The membership of the joint task force under subsection (a) shall consist of 1 representative each from the Department of the Treasury, the Internal Revenue Service Oversight Board, the Office of the Chief Counsel for the Internal Revenue Service, the Office of the Taxpayer Advocate, the Office of Appeals, and the division of the Internal Revenue Service charged with operating the offer-in-compromise program.

(c) REPORT OF NATIONAL TAXPAYER ADVOCATE.—

(1) IN GENERAL.—Clause (ii) of section 7803(c)(2)(B) (relating to annual reports) is amended by striking "and" at the end of subclause (X), by redesignating subclause (XI) as subclause (XII), and by inserting after subclause (X) the following new subclause:

"(XI) include a list of the factors taxpayers have raised to support their claims for offers-in-compromise relief, the number of such offers submitted, accepted, and rejected, the number of such offers appealed, the period during which review of such offers have remained pending, and the efforts the Internal Revenue Service has made to correctly identify such offers, including the training of employees in identifying and evaluating such offers.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to reports in calendar year 2006 and thereafter.

Subtitle F—Additional Revenue Provisions

PART I—GENERAL PROVISIONS

SEC. 5601. SUSPENSION OF TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.

(a) IN GENERAL.—Section 9503(c)(2)(A) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(1) by striking "July 1, 2006" in clause (i) and inserting "July 1, 2012",

(2) by striking "October 1, 2005" in the matter following clause (i)(III) and inserting "April 1, 2005, or for periods ending after September 30, 2009, and before October 1, 2011", and

(3) by striking "October 1, 2005" in clause (ii) and inserting "April 1, 2005, or used after September 30, 2009, and before October 1, 2011".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid for which no transfer has been made before April 1, 2005.

SEC. 5602. TEMPORARY DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),''.

(b) TEMPORARY PERIOD FOR DEDICATION.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) section 4064 with respect to taxes imposed after September 30, 2009,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed on and after July 1, 2005.

PART II—PROVISIONS TO COMBAT FUEL FRAUD

SEC. 5611. TREATMENT OF KEROSENE FOR USE IN AVIATION.

(a) ALL KEROSENE TAXED AT HIGHEST RATE.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended by adding "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

(2) EXCEPTION FOR USE IN AVIATION.—Subparagraph (C) of section 4081(a)(2), as amended by this Act, is amended to read as follows:

"(C) TAXES IMPOSED ON FUEL USED IN AVIATION.—In the case of kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in aviation, the rate of tax under subparagraph (A)(iii) shall be—

"(i) in the case of use for commercial aviation by a person registered for such use under section 4101, 4.3 cents per gallon, and

"(ii) in the case of use for aviation not described in clause (i), 21.8 cents per gallon.''.

(3) CONFORMING AMENDMENTS.—

(A) Sections 4081(a)(3)(A) and 4082(b) are amended by striking "aviation-grade" each place it appears.

(B) Section 4081(a)(4) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(C)(i)".

(C) The heading for paragraph (4) of section 4081(a) is amended by striking "AVIATION-GRADE".

(D) Section 4081(d)(2), as amended by this Act, is amended by striking so much as precedes subparagraph (A) and inserting the following:

"(2) AVIATION FUELS.—The rates of tax specified in subsections (a)(2)(A)(ii) and (a)(2)(C)(ii) shall be 4.3 cents per gallon—''.

(E) Subsection (e) of section 4082 is amended—

(i) by striking "aviation-grade",

(ii) by striking "section 4081(a)(2)(A)(iv)" and inserting "section 4081(a)(2)(A)(iii)", and

(iii) by striking "AVIATION-GRADE KEROSENE" in the heading thereof and inserting "KEROSENE REMOVED INTO AN AIRCRAFT".

(b) REDUCED RATE FOR USE OF CERTAIN LIQUIDS IN AVIATION.—

(1) IN GENERAL.—Subsection (c) of section 4041 (relating to imposition of tax) is amended—

(A) by striking "aviation-grade kerosene" in paragraph (1) and inserting "any liquid for use as a fuel other than aviation gasoline",

(B) by striking "aviation-grade kerosene" in paragraph (2) and inserting "liquid for use as a fuel other than aviation gasoline",

(C) by striking paragraph (3) and inserting the following new paragraph:

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be 21.8 cents per gallon (4.3 cents per gallon with respect to any sale or use for commercial aviation).", and

(D) by striking "AVIATION-GRADE KEROSENE" in the heading thereof and inserting "CERTAIN LIQUIDS USED AS A FUEL IN AVIATION".

(2) PARTIAL REFUND OF FULL RATE.—

(A) IN GENERAL.—Paragraph (2) of section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended to read as follows:

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.''.

(B) REFUNDS FOR NONCOMMERCIAL AVIATION.—Section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) REFUNDS FOR KEROSENE USED IN NONCOMMERCIAL AVIATION.—

"(A) IN GENERAL.—In the case of kerosene used in aviation not described in paragraph (4)(A) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—The amount which would be paid under paragraph (1) with respect to any kerosene shall be paid to the ultimate vendor of such kerosene, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 4041(a)(1)(B) is amended by striking the last sentence.

(B) The heading for subsection (l) of section 6427 is amended by striking ", KEROSENE AND AVIATION FUEL" and inserting "AND KEROSENE".

(C) Section 4082(d)(2)(B) is amended by striking "section 6427(l)(5)(B)" and inserting "section 6427(l)(6)(B)".

(D) Section 6427(i)(4)(A) is amended—

(i) by striking "paragraph (4)(B) or (5)" both places it appears and inserting "paragraph (4)(B), (5), or (6)", and

(ii) by striking "subsection (b)(4) and subsection (l)(5)" in the last sentence and inserting "subsections (b)(4), (l)(5), and (l)(6)".

(E) Paragraph (4) of section 6427(l) is amended—

(i) by striking "aviation-grade" in subparagraph (A),

(ii) by striking "section 4081(a)(2)(A)(iv)" and inserting "section 4081(a)(2)(iii)",

(iii) by striking "aviation-grade kerosene" in subparagraph (B) and inserting "kerosene used in commercial aviation as described in subparagraph (A)", and

(iv) by striking "AVIATION-GRADE KEROSENE" in the heading thereof and inserting "KEROSENE USED IN COMMERCIAL AVIATION".

(F) Section 6427(l)(6)(B), as redesignated by paragraph (2)(B), is amended by striking "aviation-grade kerosene" and inserting "kerosene used in aviation".

(c) Transfers From Highway Trust Fund of Taxes on Fuels Used in Aviation to Airport and Airway Trust Fund.—

(1) In general.—Section 9503(c) (relating to expenditures from Highway Trust Fund), as amended by this Act, is amended by adding at the end the following new paragraph:

"(7) Transfers from the trust fund for certain aviation fuel taxes.—The Secretary shall pay from time to time from the Highway Trust Fund into the Airport and Airway Trust Fund amounts (as determined by the Secretary) equivalent to the taxes received on or after October 1, 2005, and before October 1, 2011, under sections 4041 and 4081 with respect to fuels used in a nontaxable use (as described in section 6427(l)(2)(B)) to the extent such amounts exceed the amounts paid with respect to such use under paragraphs (4) and (5) of section 6427(l).".

(2) Conforming amendments.—

(A) Section 9502(a) is amended by striking "appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b)" and inserting "appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(7), or section 9602(b)".

(B) Section 9502(b)(1) is amended—

(i) by striking "subsections (c) and (e) of section 4041" in subparagraph (A) and inserting "section 4041(c)", and

(ii) by striking "and aviation-grade kerosene" in subparagraph (C) and inserting "and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C)".

(C) Section 9503(b) is amended by striking paragraph (3).

(d) Effective Date.—The amendments made by this section shall apply to fuels or liquids removed, entered, or sold after September 30, 2005.

SEC. 5612. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) In General.—Subparagraph (A) of section 6427(l)(6) (relating to registered vendors to administer claims for refund of diesel fuel or kerosene sold to farmers and State and local governments), as redesignated by section 5611, is amended to read as follows:

"(A) In general.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(b) Conforming Amendment.—The heading of paragraph (6) of section 6427(l), as so redesignated, is amended by striking "FARMERS AND".

(c) Effective Date.—The amendments made by this section shall apply to sales after September 30, 2005.

SEC. 5613. REFUNDS OF EXCISE TAXES ON EXEMPT SALES OF FUEL BY CREDIT CARD.

(a) Gasoline.—

(1) In general.—Paragraph (4) of section 6416(a) (relating to condition to allowance) is amended—

(A) by inserting "except as provided in subparagraph (B)," after "For purposes of this subsection," in subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Credit card issuer.—For purposes of this subsection, if the sale of gasoline described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—

"(i) is registered under section 4101, and

"(ii) has established, under regulations prescribed by the Secretary, that such person—

"(I) has not collected the amount of the tax from the person who purchased such article, or

"(II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and

"(iii) has so established that such person—

"(I) has repaid or agreed to repay the amount of the tax to the ultimate vendor,

"(II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or

"(III) has otherwise made arrangements which directly or indirectly assure the ultimate vendor of reimbursement of such tax.",

(C) by striking "subparagraph (A)" in subparagraph (C), as redesignated by paragraph (2), and inserting "subparagraph (A) or (B)",

(D) by inserting "or credit card issuer" after "vendor" in subparagraph (C), as so redesignated, and

(E) by inserting "OR CREDIT CARD ISSUER" after "VENDOR" in the heading thereof.

(2) Conforming amendment.—Section 6416(b)(2) is amended by adding at the end the following new sentence: "Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met."

(b) Diesel Fuel or Kerosene.—Paragraph (6) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene), as redesignated by section 5611, is amended—

(1) by striking "The amount" in subparagraph (C) and inserting "Except as provided in subparagraph (D), the amount", and

(2) by adding at the end the following new subparagraph:

"(D) Credit card issuer.—For purposes of this paragraph, if the sale of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A) or (B)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B).".

(c) Conforming Penalty Amendments.—

(1) Section 6206 (relating to special rules applicable to excessive claims under sections 6420, 6421, and 6427) is amended—

(A) by striking "Any portion" in the first sentence and inserting "Any portion of a refund made under section 6416(a)(4) and any portion",

(B) by striking "payments under sections 6420" in the first sentence and inserting "refunds under section 6416(a)(4) and payments under sections 6420",

(C) by striking "section 6420" in the second sentence and inserting "section 6416(a)(4), 6420", and

(D) by striking "**SECTIONS 6420, 6421, and 6427**" in the heading thereof and inserting "**CERTAIN SECTIONS**".

(2) Section 6675(a) is amended by inserting "section 6416(a)(4) (relating to certain sales of gasoline)," after "made under".

(3) Section 6675(b)(1) is amended by inserting "6416(a)(4)," after "under section".

(4) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking "sections 6420, 6421, and 6427" and inserting "certain sections".

(d) Effective Date.—The amendments made by this section shall apply to sales after December 31, 2005.

SEC. 5614. ADDITIONAL REQUIREMENT FOR EXEMPT PURCHASES.

(a) State and Local Governments.—

(1) Subparagraph (C) of section 6416(b)(2) (relating to specified uses and resales) is amended to read as follows:

"(C) sold to a State or local government for the exclusive use of a State or local government (as defined in section 4221(d)(4) and certified as such by the State) or sold to a qualified volunteer fire department (as defined in section 150(e)(2) and certified as such by the State) for its exclusive use;".

(2) Section 4041(g)(2) (relating to other exemptions) is amended by striking "or the District of Columbia" and inserting "the District of Columbia, or a qualified volunteer fire department (as defined in section 150(e)(2)) (and certified as such by the State or the District of Columbia)".

(b) Nonprofit Educational Organizations.—

(1) Section 6416(b)(2)(D) is amended by inserting "(as defined in section 4221(d)(5) and certified to be in good standing by the State in which such organization is providing educational services)" after "organization".

(2) Section 4041(g)(4) is amended—

(A) by inserting "(certified to be in good standing by the State in which such organization is providing educational services)" after "organization" the first place it appears, and

(B) by striking "use by a" and inserting "use by such a".

(c) Effective Date.—The amendments made by this section shall apply to sales after December 31, 2005.

SEC. 5615. REREGISTRATION IN EVENT OF CHANGE IN OWNERSHIP.

(a) In General.—Section 4101(a) (relating to registration) is amended by adding at the end the following new paragraph:

"(4) Reregistration in event of change in ownershif.—Under regulations prescribed by the Secretary, a person (other than a corporation the stock of which is regularly traded on an established securities market) shall be required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions).".

(b) Conforming Amendments.—

(1) Civil penalty.—Section 6719 (relating to failure to register) is amended—

(A) by inserting "or reregister" after "register" each place it appears,

(B) by inserting "OR REREGISTER" after "REGISTER" in the heading for subsection (a), and

(C) by inserting "**OR REREGISTER**" after "**REGISTER**" in the heading thereof.

(2) Criminal penalty.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended—

(A) by inserting "or reregister" after "register",

(B) by inserting "or reregistration" after "registration", and

(C) by inserting "**OR REREGISTER**" after "**REGISTER**" in the heading thereof.

(3) Clerical amendments.—The item relating to section 6719 in the table of sections for part I of subchapter B of chapter 68 and the item relating to section 7232 in the table of sections for

part II of subchapter A of chapter 75 are each amended by inserting "or reregister" after "register".

(c) Effective Date.—The amendments made by this section shall apply to actions, or failures to act, after the date of the enactment of this Act.

SEC. 5616. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) In General.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) Transmission of Data.—Pursuant to paragraph (2), not later than 1 year after the date of enactment of this paragraph, the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of the Internal Revenue Code of 1986) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after the date of enactment of this paragraph, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5617. REGISTRATION OF DEEP-DRAFT VESSELS.

In applying section 4101 of the Internal Revenue Code of 1986 on and after the date of the enactment of this Act, the Secretary of the Treasury shall require the registration under such section of every operator of a vessel described in section 4042(c)(1) of such Code.

SEC. 5618. TAXATION OF GASOLINE BLENDSTOCKS AND KEROSENE.

With respect to fuel entered or removed after September 30, 2005, the Secretary of the Treasury shall, in applying section 4083 of the Internal Revenue Code of 1986—

(1) prohibit the nonbulk entry or removal of any gasoline blend stock without the imposition of tax under section 4081 of such Code, and

(2) include mineral spirits in the definition of kerosene.

SEC. 5619. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) In General.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) Conforming Amendments.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale of a liquid for delivery into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) Effective Date.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

SEC. 5620. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.

"(a) In General.—Any person who knowingly transfers for resale, sells for resale, or holds out for resale any liquid for use in a diesel-powered highway vehicle or a diesel-powered train which does not meet applicable EPA regulations (as defined in section 45H(c)(3)), shall pay a penalty of $10,000 for each such transfer, sale, or holding out for resale, in addition to the tax on such liquid (if any).

"(b) Penalty in the Case of Retailers.—Any person who knowingly holds out for sale (other than for resale) any liquid described in subsection (a), shall pay a penalty of $10,000 for each such holding out for sale, in addition to the tax on such liquid (if any).".

(b) Dedication of Revenue.—Paragraph (5) of section 9503(b) (relating to certain penalties) is amended by inserting "6720A," after "6719,".

(c) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6720A. Penalty with respect to certain adulterated fuels.".

(d) Effective Date.—The amendments made by this section shall apply to any transfer, sale, or holding out for sale or resale occurring after the date of the enactment of this Act.

TITLE VI—PUBLIC TRANSPORTATION

SEC. 6001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2005".

SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) Amendments to Title 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) Updated Terminology.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking "mass transportation" each place it appears and inserting "public transportation".

SEC. 6003. POLICIES, FINDINGS, AND PURPOSES.

(a) Development and Revitalization of Public Transportation Systems.—Section 5301(a) is amended to read as follows:

"(a) Development and Revitalization of Public Transportation Systems.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.".

(b) General Findings.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) Preserving the Environment.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) General Purposes.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "improved mass" and inserting "improved public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5), by striking "urban mass" and inserting "public".

SEC. 6004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting "including the intercity bus and intercity rail portions of such facility or mall," after "transportation mall,";

(B) in subparagraph (G)(ii), by inserting ", except for the intercity bus portion of intermodal facilities or malls," after "commercial revenue-producing facility";

(C) in subparagraph (H)—

(i) by striking "and" after "innovative" and inserting "or"; and

(ii) by striking "or" after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(J) crime prevention and security, including—

"(i) projects to refine and develop security and emergency response plans; or

"(ii) projects to detect chemical or biological agents in public transportation;

"(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

"(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.";

(2) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively;

(3) by striking paragraph (7) and inserting the following:

"(7) Mass Transportation.—The term 'mass transportation' means public transportation.

"(8) Mobility Management.—The term 'mobility management' means a short-range planning or management activity or project that does not include operating public transportation services and—

"(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

"(B) addresses customer needs by tailoring public transportation services to specific market niches; or

"(C) manages public transportation demand.";

(4) by amending paragraph (11), as redesignated, to read as follows:

"(11) Public Transportation.—The term 'public transportation' means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.";

(5) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking "and" each place it appears and inserting "or"; and

(6) by amending paragraph (18), as redesignated, to read as follows:

"(18) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

SEC. 6005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

"§5303. Metropolitan transportation planning

"(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

"(1) CONSULTATION.—A 'consultation' occurs when 1 party—

"(A) confers with another identified party in accordance with an established process;

"(B) prior to taking action, considers the views of the other identified party; and

"(C) periodically informs that party about action taken.

"(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

"(3) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the Policy Board of the organization designated under subsection (c).

"(4) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means any geographic area outside all designated metropolitan planning areas.

"(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

"(b) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

"(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

"(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop plans and programs for adoption by a metropolitan planning organization; and

"(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2005 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in accordance with subsection (c)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(e) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—States are authorized—

"(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

"(C) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) Funding.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) Activities.—Highway projects included in transportation plans developed under this paragraph—

"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

"(f) Coordination of Metropolitan Planning Organizations.—

"(1) Nonattainment areas.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

"(2) Transportation improvements located in multiple metropolitan planning areas.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

"(3) Interregional and interstate project impacts.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

"(4) Coordination with other planning processes.—

"(A) In general.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

"(B) Other considerations.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

"(i) recipients of assistance under this chapter;

"(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iii) recipients of assistance under section 204 of title 23.

"(g) Scope of Planning Process.—

"(1) In general.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

"(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

"(B) increasing the safety of the transportation system for motorized and nonmotorized users;

"(C) increasing the security of the transportation system for motorized and nonmotorized users;

"(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

"(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area);

"(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

"(G) promoting efficient system management and operation; and

"(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

"(2) Selection of factors.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

"(3) Failure to consider factors.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

"(h) Development of Transportation Plan.—

"(1) In general.—

"(A) Requirement.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

"(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

"(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

"(B) Coordination factors.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

"(C) Financial estimates.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(2) Mitigation activities.—

"(A) In general.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) Consultation.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(3) Contents.— A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

"(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

"(B) a financial plan that—

"(i) demonstrates how the adopted transportation plan can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

"(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

"(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

"(E) proposed transportation and transit enhancement activities.

"(4) Consultation.—

"(A) In general.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) Issues.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(5) Coordination with clean air act agencies.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(6) Approval of the transportation plan.—Each transportation plan prepared by a metropolitan planning organization shall be—

"(A) approved by the metropolitan planning organization; and

"(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

"(i) PARTICIPATION BY INTERESTED PARTIES.—

"(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

"(A) citizens;

"(B) affected public agencies;

"(C) representatives of public transportation employees;

"(D) freight shippers;

"(E) providers of freight transportation services;

"(F) private providers of transportation;

"(G) representatives of users of public transit;

"(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

"(I) other interested parties.

"(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

"(A) shall be developed in a manner the Secretary determines to be appropriate;

"(B) shall be developed in consultation with all interested parties; and

"(C) shall provide that all interested parties have reasonable opportunities to comment on—

"(i) the process for developing the transportation plan; and

"(ii) the contents of the transportation plan.

"(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

"(A) hold any public meetings at convenient and accessible locations and times;

"(B) employ visualization techniques to describe plans; and

"(C) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

"(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT AND UPDATE.—

"(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

"(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i).

"(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

"(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

"(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

"(i) appropriate public involvement;

"(ii) financial planning;

"(iii) transportation conformity analyses; and

"(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

"(2) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

"(3) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

"(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

"(ii) by the designated recipient, in the case of projects under section 5307; and

"(iii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

"(4) PUBLICATION REQUIREMENTS.—

"(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

"(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations specifying—

"(i) the types of data to be included in the list described in subparagraph (B), including—

"(I) the name, type, purpose, and geocoded location of each project;

"(II) the Federal, State, and local identification numbers assigned to each project;

"(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

"(IV) the status of each project; and

"(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

"(k) TRANSPORTATION MANAGEMENT AREAS.—

"(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—

"(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

"(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

"(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

"(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

"(C) PENALTY FOR FAILING TO CERTIFY.—

"(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

"(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

"(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

"(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

"(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 6006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

"§ 5304. Statewide transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a "Plan") and a statewide transportation improvement program (referred to in this section as a "Program") for all areas of the State subject to section 5303.

"(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

"(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

"(1) coordinate planning under this section with—

"(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

"(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and freight;

"(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

"(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation and efficient use of the existing transportation system.

"(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate.

"(3) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(4) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

"(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

"(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

"(f) STATEWIDE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN PLANNING AREAS.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

"(i) IN GENERAL.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

"(B) to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A Plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(5) TRANSPORTATION STRATEGIES.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(6) FINANCIAL PLAN.—The Plan may include a financial plan that—

"(A) demonstrates how the adopted Plan can be implemented;

"(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

"(C) recommends any additional financing strategies for needed projects and programs; and

"(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

"(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

"(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

"(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN PLANNING AREAS.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

"(4) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) LISTING OF PROJECTS.—

"(i) IN GENERAL.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

"(ii) PUBLICATION.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

"(C) INDIVIDUAL IDENTIFICATION.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

"(i) consistent with the Plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(F) FINANCIAL PLAN.—The Program may include a financial plan that—

"(i) demonstrates how the approved Program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

"(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

"(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

"(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

"(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

"(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

"(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

"(7) PLANNING FINDING.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

"(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and section 5308 of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 6007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 6008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking "5305 of this title" and inserting "5308"; and

(B) by inserting ", as determined by local policies, criteria, and decision making," after "feasible";

(2) in subsection (b) by striking "5303–5305 of this title" and inserting "5303, 5304, and 5308"; and

(3) by adding at the end the following:

"(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.".

SEC. 6009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 that are attributable to transportation management areas designated under section 5303; or"; and

(2) by adding at the end the following:

"(3) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

"(A) capital projects, including associated capital maintenance items;

"(B) planning, including mobility management;

"(C) transit enhancements;

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

"(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

"(i) the urbanized area includes parts of more than 1 State;

"(ii) the portion of the urbanized area includes only 1 State;

"(iii) the population of the portion of the urbanized area is less than 30,000; and

"(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.";

(2) by amending paragraph (2) to read as follows:

"(2) SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2007.—

"(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2007, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

"(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2007.—In fiscal year 2007—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(3) by striking paragraph (4).

(d) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (E), by striking "section" and all that follows and inserting "section, the recipient will comply with sections 5323 and 5325;";

(3) in subparagraph (H), by striking "sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(4) in subparagraph (I) by striking "and" at the end;

(5) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).".

(e) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.";

(2) by striking "A grant for operating expenses" and inserting the following:

"(2) OPERATING EXPENSES.—A grant for operating expenses";

(3) by striking the fourth sentence and inserting the following:

"(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization."; and

(4) by adding at the end the following: "The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.".

(f) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(g) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k) RELATIONSHIP TO OTHER LAWS.—

"(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

"(2) INAPPLICABLE PROVISIONS.—

"(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

(h) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49,

United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this section and any recommendations of the Secretary regarding the application of this section.

SEC. 6010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§ 5308. Planning programs

"(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

"(1) develop transportation plans and programs;

"(2) plan, engineer, design, and evaluate a public transportation project; or

"(3) conduct technical studies relating to public transportation, including—

"(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(B) evaluations of previously financed projects;

"(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

"(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

"(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(c) METROPOLITAN PLANNING PROGRAM.—

"(1) ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

"(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

"(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

"(A) developed by the State in cooperation with the metropolitan planning organizations;

"(B) approved by the Secretary of Transportation;

"(C) that considers population in urbanized areas; and

"(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

"(3) SUPPLEMENTAL ALLOCATIONS.—

"(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

"(d) STATE PLANNING AND RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

"(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

"(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

"(e) PLANNING CAPACITY BUILDING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the "Program") to support and fund innovative practices and enhancements in transportation planning.

"(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

"(3) ADMINISTRATION.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

"(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

"(ii) to conduct research, disseminate information, and provide technical assistance.

"(B) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—In carrying out the activities described in subparagraph (A), the Secretary may—

"(i) expend appropriated funds directly; or

"(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

"(f) GOVERNMENT'S SHARE OF COSTS.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

"(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2006 and each fiscal year thereafter to carry out this section—

"(1) $5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

"(2) $20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

"(3) of the remaining amount—

"(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

"(B) 17.28 percent shall be allocated to carry out subsection (b).

"(h) REALLOCATIONS.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.".

(b) CONFORMING AMENDMENT.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows:

"5308. Planning programs.".

SEC. 6011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows:

"§ 5309. Capital investment grants".

(b) GENERAL AUTHORITY.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking "(1) The Secretary of Transportation may make grants and loans" and inserting the following:

"(1) GRANTS AUTHORIZED.—The Secretary may award grants";

(B) in subparagraph (A), by striking "alternatives analysis related to the development of systems,";

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting ", including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and"; and

(F) in subparagraph (D), as redesignated—

(i) by striking "to support fixed guideway systems"; and

(ii) by striking "dedicated bus and high occupancy vehicle";

(2) by amending paragraph (2) to read as follows:

"(2) GRANTEE REQUIREMENTS.—

"(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(B) GRANTEE NOT IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

"(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.

"(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project."; and

(3) by adding at the end the following:

"(3) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section

5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.''.

(c) DEFINED TERM.—Section 5309(b) is amended to read as follows:

''(b) DEFINED TERM.—As used in this section, the term 'alternatives analysis' means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

''(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

''(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

''(3) the selection of a locally preferred alternative; and

''(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.''.

(d) GRANT REQUIREMENTS.—Section 5309(d) is amended to read as follows:

''(d) GRANT REQUIREMENTS.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

''(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

''(2) the applicant has, or will have—

''(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

''(B) satisfactory continuing control over the use of the equipment or facilities; and

''(C) the capability and willingness to maintain the equipment or facilities.''.

(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—Section 5309(e) is amended to read as follows:

''(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—

''(1) FULL FUNDING GRANT AGREEMENT.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than $75,000,000 under this subsection for a new fixed guideway capital project that—

''(A) is authorized for final design and construction; and

''(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

''(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless the Secretary determines that the proposed project is—

''(A) based on the results of an alternatives analysis and preliminary engineering;

''(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

''(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

''(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

''(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

''(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

''(C) the direct and indirect costs of relevant alternatives;

''(D) factors such as—

''(i) congestion relief;

''(ii) improved mobility;

''(iii) air pollution;

''(iv) noise pollution;

''(v) energy consumption; and

''(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

''(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

''(F) the cost of suburban sprawl;

''(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

''(H) population density and current transit ridership in the transportation corridor;

''(I) the technical capability of the grant recipient to construct the project;

''(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

''(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

''(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

''(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

''(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

''(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

''(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

''(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

''(ii) existing grant commitments;

''(iii) the degree to which financing sources are dedicated to the proposed purposes;

''(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

''(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

''(5) PROJECT ADVANCEMENT AND RATINGS.—

''(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

''(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

''(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

''(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

''(8) POLICY GUIDANCE.—

''(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

''(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and

''(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

''(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

''(i) invite public comment to the policy guidance published under subparagraph (A); and

''(ii) publish a response to the comments received under clause (i).''.

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.—Section 5309(f) is amended to read as follows:

''(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.—

''(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

''(i) is authorized by law; and

''(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

''(B) CONTENTS.—

''(i) IN GENERAL.—An agreement under this paragraph shall specify—

''(I) the scope of the project to be constructed;

''(II) the estimated net cost of the project;

''(III) the schedule under which the project shall be constructed;

''(IV) the maximum amount of funding to be obtained under this subsection;

''(V) the proposed schedule for obligation of future Federal grants; and

''(VI) the sources of non-Federal funding.

''(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

''(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

''(2) SELECTION PROCESS.—

''(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a *proposed project unless the Secretary determines that the project is—*

"(i) based on the results of planning and alternatives analysis;

"(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

"(iii) supported by an acceptable degree of local financial commitment.

"(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

"(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

"(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

"(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

"(iii) determine the degree to which the project will have a positive effect on local economic development;

"(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

"(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

"(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

"(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

"(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

"(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

"(4) IMPACT REPORT.—

"(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

"(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

"(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.".

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

"(C) BEFORE AND AFTER STUDY.—

"(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

"(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

"(dd) analysis of the consistency of predicted project characteristics with the after data.

"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

"(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

"(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

"(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.".

(h) GOVERNMENT SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

"(h) GOVERNMENT SHARE OF ADJUSTED NET PROJECT COST.—

"(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) MAXIMUM GOVERNMENT SHARE.—

"(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

"(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

"(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

"(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

"(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

"(A) an undistributed cash surplus;

"(B) a replacement or depreciation cash fund or reserve; or

"(C) new capital, including any Federal funds that are eligible to be expended for transportation.

"(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

"(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).".

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (l);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (l), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

"(i) ALLOCATING AMOUNTS.—

"(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

"(A) $1,437,829,600 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

"(B) $1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

"(C) $669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2006 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

"(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

"(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

"(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

"(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2005 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

"(6) BUS AND BUS FACILITY GRANTS.—

"(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

"(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.".

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

"(m) REPORTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

"(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

"(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

"(ii) a recommendation of projects to be funded based on—

"(I) the evaluations and ratings determined under subsection (e) and (f); and

"(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

"(iii) detailed ratings and evaluations on each project recommended for funding.

"(2) TRIANNUAL REPORTS ON PROJECT RATINGS.—

"(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

"(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

"(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

"(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

"(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

"(A) the Committee on Transportation and Infrastructure of the House of Representatives;

"(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(C) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

"(D) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

"(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

"(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

"(i) estimates made at the time projects are approved for entrance into final design;

"(ii) costs and ridership when the project commences revenue operation; and

"(iii) costs and ridership when the project has been in operation for 2 years.

"(5) ANNUAL GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—

"(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

"(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

"(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.".

(l) RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.—Funds provided to grantees under the bus and bus facility category for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2005, or accompanying committee reports, that remain available and unobligated may be used for fixed guideway projects under this section.

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

SEC. 6012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

"§5310. New freedom for elderly persons and persons with disabilities

"(a) GENERAL AUTHORITY.—

"(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

"(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) ALLOTMENTS AMONG STATES.—

"(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

"(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

"(A) a private nonprofit organization;

"(B) a public transportation agency or authority; or

"(C) a governmental authority that—

"(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

"(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

"(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

"(c) Government Share.—

"(1) Maximum.—

"(A) In general.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) Exception.—A State described in section 120(d) of title 23 shall receive an increased Government share in accordance with the formula under that section.

"(2) Remaining costs.—The costs of a capital project under this section that are not funded through a grant under this section—

"(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

"(3) Exception.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) Grant Requirements.—

"(1) In general.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

"(2) Certification requirements.—

"(A) Fund transfers.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

"(B) Project selection and plan development.—Each grant recipient under this section shall certify that—

"(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(C) Allocations to subrecipients.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

"(e) State Program of Projects.—

"(1) Submission to secretary.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

"(2) Use of funds.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

"(f) Leasing Vehicles.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

"(g) Meal Delivery for Homebound Individuals.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(h) Transfers of Facilities and Equipment.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

"(i) Fares Not Required.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.".

(b) Conforming Amendment.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

"5310. New freedom for elderly persons and persons with disabilities.".

SEC. 6013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) Definitions.—Section 5311(a) is amended to read as follows:

"(a) Definitions.—As used in this section, the following definitions shall apply:

"(1) Recipient.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

"(2) Subrecipient.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.".

(b) General Authority.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Grants authorized.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

"(A) public transportation capital projects;

"(B) operating costs of equipment and facilities for use in public transportation; and

"(C) the acquisition of public transportation services.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) State program.—

"(A) In general.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

"(B) Submission to secretary.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

"(C) Approval.—The Secretary may not approve the program unless the Secretary determines that—

"(i) the program provides a fair distribution of amounts in the State; and

"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.";

(4) in paragraph (3), as redesignated—

(A) by striking "(3) The Secretary of Transportation" and inserting the following:

"(3) Rural transportation assistance program.—

"(A) Establishment.—The Secretary";

(B) by striking "make" and inserting "use not more than 2 percent of the amount made available to carry out this section to award"; and

(C) by adding at the end the following:

"(B) Data Collection.—

"(i) Report.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

"(I) total annual revenue;

"(II) sources of revenue;

"(III) total annual operating costs;

"(IV) total annual capital costs;

"(V) fleet size and type, and related facilities;

"(VI) revenue vehicle miles; and

"(VII) ridership."; and

(5) by adding after paragraph (3) the following:

"(4) Of the amount made available to carry out paragraph (3)—

"(A) not more than 15 percent may be used to carry out projects of a national scope; and

"(B) any amounts not used under subparagraph (A) shall be allocated to the States.".

(c) Apportionments.—Section 5311(c) is amended to read as follows:

"(c) Apportionments.—

"(1) Public transportation on Indian reservations.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

"(A) $8,000,000 for fiscal year 2006.

"(B) $10,000,000 for fiscal year 2007.

"(C) $12,000,000 for fiscal year 2008.

"(D) $15,000,000 for fiscal year 2009.

"(2) Remaining amounts.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

"(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

"(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

"(3) Apportionments based on land area in nonurbanized areas.—

"(A) In general.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(B) Maximum apportionment.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

"(4) Apportionments based on population in nonurbanized areas.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.".

(d) Use for Administrative, Planning, and Technical Assistance.—Section 5311(e) is amended—

(1) by striking "and Technical Assistance.—(1) The Secretary of Transportation" and inserting ", Planning, and Technical Assistance.—The Secretary";

(2) by striking "to a recipient"; and

(3) by striking paragraph (2).

(e) Intercity Bus Transportation.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking "(1)" and inserting the following:

"(1) In general.—"; and

(B) by striking "after September 30, 1993,"; and

(2) in paragraph (2)—

(A) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State"; and

(B) by striking "of Transportation".

(f) Government Share of Costs.—Section 5311(g) is amended to read as follows:

"(g) Government Share of Costs.—

"(1) Maximum government share.—

"(A) Capital projects.—

"(i) In general.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(ii) Exception.—A State described in section 120(d) of title 23 shall receive a Government share of the net capital costs in accordance with the formula under that section.

"(B) Operating assistance.—

"(i) In general.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(ii) Exception.—A State described in section 120(d) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under subparagraph (A)(ii).

"(2) Other funding sources.—Funds for a project under this section that are not provided for by a grant under this section—

"(A) may be provided from—

"(i) an undistributed cash surplus;

"(ii) a replacement or depreciation cash fund or reserve;

"(iii) a service agreement with a State or local social service agency or a private social service organization; or

"(iv) new capital; and

"(B) may be derived from amounts appropriated to or made available to a Government agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(3) Use of government grant.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

"(4) Exception.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.".

(g) Waiver Condition.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees".

SEC. 6014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) In General.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

"(a) Research, Development, and Demonstration Projects.—

"(1) In general.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(2) Information.—The Secretary may request and receive appropriate information from any source.

"(3) Savings provision.—This subsection does not limit the authority of the Secretary under any other law.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b)(2), as redesignated, by striking "other agreements" and inserting "other transactions"; and

(5) in subsection (c)(2), as redesignated, by striking "public and private" and inserting "public or private".

(b) Conforming Amendments.—

(1) Section heading.—The heading of section 5312 is amended to read as follows:

"§ 5312. Research, development, demonstration, and deployment projects".

(2) Table of sections.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

"5312. Research, development, demonstration, and deployment projects.".

SEC. 6015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) In General.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338"; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(b) Government Assistance.—"; and

(3) by amending subsection (c) to read as follows:

"(c) Government Share.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with such benefit.".

(b) Conforming Amendments.—

(1) Section heading.—The heading of section 5313 is amended to read as follows:

"§ 5313. Transit cooperative research program".

(2) Table of sections.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

"5313. Transit cooperative research program.".

SEC. 6016. NATIONAL RESEARCH PROGRAMS.

(a) In General.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) Availability of funds.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.";

(B) in paragraph (2), by striking "(2) Of" and inserting the following:

"(2) ADA compliance.—From";

(C) by amending paragraph (3) to read as follows:

"(3) Special demonstration initiatives.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.";

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

"(6) Medical transportation demonstration grants.—

"(A) Grants authorized.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(B) Eligible entities.—An entity shall be eligible to receive a grant under this paragraph if the entity—

"(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

"(ii) is an agency of a State or unit of local government.

"(C) Use of funds.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(D) Application.—

"(i) In general.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(ii) Selection of grantees.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

"(I) high incidence of renal disease; and

"(II) limited access to dialysis facilities.

"(E) Rulemaking.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

"(F) Report.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."; and

(2) by amending subsection (b) to read as follows:

"(b) Government Share.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Government share consistent with such benefit.".

(c) National Technical Assistance Center for Senior Transportation; Alternative Fuels Study.—Section 5314 is amended by adding at the end the following:

"(c) National Technical Assistance Center for Senior Transportation.—

"(1) Establishment.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) Eligibility.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

"(i) evaluate the state of transportation services for senior citizens;

"(ii) recognize barriers to mobility that senior citizens encounter in their communities;

"(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

"(iv) identify future transportation needs of senior citizens within local communities; and

"(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

"(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

"(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338, $3,000,000 shall be allocated to carry out this subsection.

"(d) ALTERNATIVE FUELS STUDY.—

"(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles.

"(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

"(3) CONTENTS.—The study shall consider—

"(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

"(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

"(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

"(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

"(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

"(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.".

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

"§5314. National research programs".

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

"5314. National research programs.".

SEC. 6017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

"(b) DUTIES.—

"(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

"(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

"(A) intermodal and public transportation planning;

"(B) management;

"(C) environmental factors;

"(D) acquisition and joint use rights of way;

"(E) engineering and architectural design;

"(F) procurement strategies for public transportation systems;

"(G) turnkey approaches to delivering public transportation systems;

"(H) new technologies;

"(I) emission reduction technologies;

"(J) ways to make public transportation accessible to individuals with disabilities;

"(K) construction, construction management, insurance, and risk management;

"(L) maintenance;

"(M) contract administration;

"(N) inspection;

"(O) innovative finance;

"(P) workplace safety; and

"(Q) public transportation security."; and

(2) in subsection (d), by striking "mass" each place it appears.

SEC. 6018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking "ESTABLISHMENT.—The Secretary of Transportation shall establish one facility" and inserting "IN GENERAL.—The Secretary shall maintain 1 facility"; and

(B) by striking "established by renovating" and inserting "maintained at"; and

(2) in subsection (d), by striking "section 5309(m)(1)(C) of this title" and inserting "paragraphs (1)(C) and (2)(B) of section 5309(i)".

SEC. 6019. BICYCLE FACILITIES.

Section 5319 is amended by striking "5307(k)" and inserting "5307(d)(1)(K)".

SEC. 6020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 6021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 6022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property."; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(2) LIMITATION.—";

(2) by amending subsection (b) to read as follows:

"(b) NOTICE AND PUBLIC HEARING.—

"(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

"(A) provided an adequate opportunity for public review and comment on the project;

"(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

"(C) considered the economic, social, and environmental effects of the project; and

"(D) found that the project is consistent with official plans for developing the urban area.

"(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

"(A) shall include a concise description of the proposed project; and

"(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.";

(3) by amending subsection (e) to read as follows:

"(e) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.";

(4) in subsection (f)—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—";

(B) by striking paragraph (2);

(C) by striking "This subsection" and inserting the following:

"(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

"(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.";

(5) in subsection (g), by striking "103(e)(4) and 142 (a) or (c)" each place it appears and inserting "133 and 142";

(6) by amending subsection (h) to read as follows:

"(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

"(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

"(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

"(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.";

(7) in subsection (j)(5), by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2005";

(8) by amending subsection (l) to read as follows:

"(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.";

(9) in subsection (m), by adding at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.";

(10) in subsection (o), by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "subchapter II of chapter 1 of title 23"; and

(11) by adding at the end the following:

"(p) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.";

"(q) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.".

SEC. 6023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

"§5324. Special provisions for capital projects

"(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

"(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

"(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

"(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

"(C) recent appraisals reflect a rapid increase in the fair market value of the property;

"(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

"(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

"(2) ENVIRONMENTAL REVIEWS.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(3) LIMITATION.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

"(4) EXEMPTION.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(c) RAILROAD CORRIDOR PRESERVATION.—

"(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

"(1) IN GENERAL.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary's findings under this paragraph shall be made a matter of public record.

"(2) COOPERATION AND CONSULTATION.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.".

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

"5324. Special provisions for capital projects.".

SEC. 6024. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

"§5325. Contract requirements

"(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

"(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

"(1) IN GENERAL.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

"(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

"(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

"(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(C) After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment,

and shall not be limited by administrative or de facto ceilings.

"(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

"(d) DESIGN-BUILD PROJECTS.—

"(1) DEFINED TERM.—As used in this subsection, the term 'design-build project'—

"(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

"(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

"(e) ROLLING STOCK.—

"(1) ACQUISITION.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(A) with a party selected through a competitive procurement process; or

"(B) based on—

"(i) initial capital costs; or

"(ii) performance, standardization, life cycle costs, and other factors.

"(2) MULTIYEAR CONTRACTS.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

"(f) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

"(g) GRANT PROHIBITION.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

"(h) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

"(i) AWARDS TO RESPONSIBLE CONTRACTORS.—

"(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

"(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

"(A) the integrity of the contractor;

"(B) the contractor's compliance with public policy;

"(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

"(D) the contractor's financial and technical resources.".

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended by striking section 5326.

SEC. 6025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) in paragraph (11), by striking "and" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91-143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act."; and

(2) in paragraph (2)—

(A) by striking "(2)" and inserting the following:

"(2) OTHER ALLOWABLE USES.—"; and

(B) by inserting "and security" after "safety".

SEC. 6026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant" and inserting the following:

"(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309";

(B) in paragraph (2)—

(i) by striking "(2)" and inserting the following:

"(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—"; and

(ii) by striking "is consistent with" and inserting "meets the requirements of";

(C) in paragraph (3)—

(i) by striking "(3)" and inserting the following:

"(3) RECORD OF DECISION.—";

(ii) by striking "of construction"; and

(iii) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309"; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 6027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

"§5329. Investigation of safety hazards and security risks

"(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

"(d) PUBLIC TRANSPORTATION SECURITY.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

"(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

"(A) establish national security standards for public transportation agencies;

"(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

"(C) create a method of coordination with public transportation agencies on security matters; and

"(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.".

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

"5329. Investigation of safety hazards and security risks.".

SEC. 6028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

"§5330. Withholding amounts for noncompliance with State safety oversight requirements";

(2) by amending subsection (a) to read as follows:

"(a) APPLICATION.—This section shall only apply to—

"(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d), by striking "affected States" and inserting the following: "affected States—

"(1) shall ensure uniform safety standards and enforcement; or

"(2)"; and

(4) in subsection (f), by striking "Not later than December 18, 1992, the" and inserting "The".

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. Withholding amounts for noncompliance with State safety oversight requirements.".

SEC. 6029. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking "mass" each place it appears and inserting "public";

(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

(3) in subsection (c)(5), by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49,".

(b) Conforming Amendment.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

"1993. Terrorist attacks and other acts of violence against public transportation systems.".

SEC. 6030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: "or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency"; and

(2) in subsection (f), by striking paragraph (3).

SEC. 6031. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting ": Provided, That—

"(A) the protective period shall not exceed 4 years; and

"(B) the separation allowance shall not exceed 12 months."; and

(2) by adding at the end the following:

"(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

"(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

"(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.".

SEC. 6032. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "5309–5311 of this title" and all that follows and inserting "5309 through 5311;";

(B) in paragraph (9), by striking "and" at the end;

(C) in paragraph (10), by striking the period at the end and inserting "; and"; and

(D) by inserting at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

"(b) Prohibitions Against Regulating Operations and Charges.—

"(1) In general.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

"(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

"(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

"(2) Compliance with agreement.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.";

(4) in subsection (j)(1), as redesignated, by striking "carry out section 5312(a) and (b)(1) of this title" and inserting "advise and assist the Secretary in carrying out section 5312(a)"; and

(5) by adding at the end the following:

"(l) Notification of pending discretionary grants.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.".

SEC. 6033. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1)"; and

(B) in paragraph (2), by striking "(2) The Secretary may make a grant under section 5307 of this title" and inserting the following:

"(b) Reporting and Uniform Systems.—The Secretary may award a grant under section 5307 or 5311".

SEC. 6034. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsections (d), (h), and (k);

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by redesignating subsection (i) and (j) as subsection (h) and (i) respectively;

(4) by adding before subsection (b), as redesignated, the following:

"(a) Apportionments.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

"(1) there shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, $35,000,000 to certain urbanized area's with populations of less than 200,000 in accordance with subsection (k); and

"(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).";

(5) in subsection (b), as redesignated—

(A) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount apportioned under subsection (a)(3)"; and

(B) in paragraph (2), by striking "subsections (b) and (c) of this section" and inserting "subsections (c) and (d)";

(6) in subsection (c)(2), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(7) in subsection (d), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(8) in subsection (e)(1), by striking "subsections (a) and (h)(2) of section 5338 of this title" and inserting "subsections (a) and (b) of section 5338";

(9) in subsection (g), by striking "subsection (a)(1) of this section" each place it appears and inserting "subsection (b)(1)"; and

(10) by adding at the end the following:

"(j) Small Transit Intensive Cities Factors.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

"(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

"(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

"(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

"(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

"(k) Study on Incentives in Formula Programs.—

"(1) Study.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) Report.—

"(A) In general.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) Contents.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

SEC. 6035. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking "for each of fiscal years 1998 through 2003"; and

(2) by striking "section 5336(b)(2)(A)" each place it appears and inserting "section 5336(c)(2)(A)".

SEC. 6036. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

"§5338. Authorizations

"(a) Fiscal Year 2005.—

"(1) Formula grants.—

"(A) Trust fund.—For fiscal year 2005, $3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $499,989,824 for fiscal year 2005 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) Allocation of funds.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $6,894,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(iii) $94,526,689 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iv) $173,040,330 shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(v) $3,325,048,327 shall be available to provide financial assistance for urbanized areas under section 5307;

"(vi) $49,600,000 shall be available to provide financial assistance for buses and bus facilities under section 5309; and

"(vii) $345,996,704 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.".

"(2) JOB ACCESS AND REVERSE COMMUTE.—

"(A) TRUST FUND.—For fiscal year 2005, $108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) CAPITAL PROGRAM GRANTS.—

"(A) TRUST FUND.—For fiscal year 2005, $2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $414,014,176 for fiscal year 2005 to carry out section 5309.

"(4) PLANNING.—

"(A) TRUST FUND.—For fiscal year 2005, $63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $9,052,000 for fiscal year 2005 to carry out section 5308.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

"(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

"(5) RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2005, $47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $6,820,000 for fiscal year 2005 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,968,000 shall be available to carry out programs of the National Transit Institute under section 5315;

"(ii) not less than $5,208,000 shall be available to carry out section 5311(b)(2);

"(iii) not less than $8,184,000 shall be available to carry out section 5313; and

"(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) UNIVERSITY TRANSPORTATION RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2005, $5,208,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $744,000 for fiscal year 2005 to carry out sections 5505 and 5506.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $1,984,000 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005;

"(ii) $1,984,000 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

"(iii) $1,984,000 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

"(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

"(7) ADMINISTRATION.—

"(A) TRUST FUND.—For fiscal year 2005, $67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $9,672,000 for fiscal year 2005 to carry out section 5334.

"(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.".

"(b) FORMULA GRANTS AND RESEARCH.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

"(A) $6,443,600,000 for fiscal year 2006;

"(B) $6,709,644,000 for fiscal year 2007;

"(C) $7,276,707,000 for fiscal year 2008; and

"(D) $7,737,026,000 for fiscal year 2009.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

"(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

"(B) 1.75 percent shall be available to carry out section 5308;

"(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

"(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

"(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

"(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

"(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

"(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

"(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

"(H) $25,000,000 shall be available for each of the fiscal years 2006 through 2009 to carry out section 5316;

"(I) there shall be available to carry out section 5335—

"(i) $3,900,000 in fiscal year 2006;

"(ii) $4,200,000 in fiscal year 2007;

"(iii) $4,600,000 in fiscal year 2008; and

"(iv) $5,000,000 in fiscal year 2009;

"(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

"(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

"(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

"(3) UNIVERSITY CENTERS PROGRAM.—

"(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2006 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

"(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

"(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

"(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

"(A) $864,101,000 for fiscal year 2006;

"(B) $899,778,000 for fiscal year 2007;

"(C) $975,823,000 for fiscal year 2008; and

"(D) $1,037,552,000 for fiscal year 2009.

"(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

"(1) $1,503,299,000 for fiscal year 2006;

"(2) $1,565,367,000 for fiscal year 2007;

"(3) $1,697,663,000 for fiscal year 2008; and

"(4) $1,805,057,000 for fiscal year 2009.

"(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

"(1) $89,000,000 for fiscal year 2006;

"(2) $92,675,000 for fiscal year 2007;

"(3) $100,507,000 for fiscal year 2008; and

"(4) $106,865,000 for fiscal year 2009.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1), (b)(4), or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.".

SEC. 6037. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

"§5340. Apportionments based on growing States and high density State formula factors

"(a) DEFINITION.—In this section, the term 'State' shall mean each of the 50 States of the United States.

"(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (d).

"(c) GROWING STATE APPORTIONMENTS.—

"(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

"(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

"(A) the total land area of the State (in square miles); multiplied by

"(B) 370; multiplied by

"(C)(i) the population of the State in urbanized areas; divided by

"(ii) the total population of the State.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (5)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5340. Apportionments based on growing States and high density States formula factors.".

SEC. 6038. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "means an individual" and inserting the following: "means—

"(A) an individual"; and

(ii) by striking the period at the end and inserting "; or

"(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located."; and

(B) in paragraph (2), by striking "development of" each place it appears and inserting "development and provision of";

(2) in subsection (i), by amending paragraph (2) to read as follows:

"(2) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

"(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.";

(3) by amending subsection (j) to read as follows:

"(j) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(2) SPECIAL WARRANTY.—

"(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate."; and

(4) by striking subsections (k) and (l).

SEC. 6039. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.".

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

"(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

"(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

"(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.".

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended to read as follows:

"Sec. 3038. Over-the-road bus accessibility program.".

SEC. 6040. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§5316. Alternative transportation in parks and public lands

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

"(F) is any other alternative transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); or

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in alternative transportation;

"(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(b)(2)(H) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

"(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(b)(2)(H) for any fiscal year.

"(e) PLANNING PROCESS.—In undertaking a qualified project under this section—

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under section 5303 of this title;

"(ii) the statewide planning provisions under section 5304 of this title; and

"(iii) the public participation requirements under section 5307(e); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

"(A) comply with the metropolitan planning provisions under section 5303 of this title;

"(B) comply with the statewide planning provisions under section 5304 of this title;

"(C) comply with the public participation requirements under section 5307(e) of this title; and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(f) COST SHARING.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

"(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

"(g) SELECTION OF QUALIFIED PROJECTS.—

"(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would-

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including—

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

"(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

"(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(i) RELATIONSHIP TO OTHER LAWS.—

"(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

"(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

"(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

"(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

"(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

"(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(l) REPORTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).".

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. Alternative transportation in parks and public lands.".

SEC. 6041. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,646,336,000 for fiscal year 2005;

(2) $8,900,000,000 for fiscal year 2006;

(3) $9,267,464,000 for fiscal year 2007;

(4) $10,050,700,000 for fiscal year 2008; and

(5) $10,686,500,000 for fiscal year 2009.

SEC. 6042. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2005 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2004 part V (118 Stat. 1154).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2005 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 6043. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1821(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall apply to all funds authorized or otherwise made available under this title.

SEC. 6044. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

"(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

"(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

"(3) In carrying out this subsection, a Federal agency shall—

"(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

"(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

"(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

"(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

"(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

"(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

"(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.".

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

"(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.".

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SEC. 6045. FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

"(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

"(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

"(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.".

SEC. 6046. COMMUTER RAIL.

(a) IN GENERAL.—The Federal Transit Administration shall approve final design for the project authorized under section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998 and section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) in the absence of an access agreement with the owner of the railroad right of way.

(b) TIMELY RESOLUTION OF ISSUES.—The Secretary shall timely resolve any issues delaying the completion of the project authorized under section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) and section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998.

TITLE VII—SURFACE TRANSPORTATION SAFETY IMPROVEMENT

SEC. 7001. SHORT TITLE.

This title may be cited as the "Surface Transportation Safety Improvement Act of 2005".

SEC. 7002. AMENDMENT OF UNITED STATES CODE.

(a) AMENDMENT OF TITLE 49.—Except as otherwise specifically provided, whenever in this title (other than in chapter 1 of subtitle B) an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) AMENDMENT OF TITLE 23.—Except as otherwise expressly provided, whenever in chapter 1 of subtitle B of this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 23, United States Code.

Subtitle A—Motor Carrier Safety

CHAPTER 1—MOTOR CARRIERS

SEC. 7101. SHORT TITLE.

This chapter may be cited as the "Motor Carrier Safety Reauthorization Act of 2005".

SEC. 7102. CONTRACT AUTHORITY.

Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first. Approval by the Secretary of a grant with funds made available under this chapter imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.

(a) ADMINISTRATIVE EXPENSES.—Section 31104 is amended by adding at the end the following:

"(i) ADMINISTRATIVE EXPENSES.—

"(1) There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) $211,400,000 for fiscal year 2006,

"(B) $217,500,000 for fiscal year 2007,

"(C) $222,600,000 for fiscal year 2008, and

"(D) $228,500,000 for fiscal year 2009,

of which $6,800,000 shall be available for each fiscal year to make grants to, or execute contracts with, States, local governments, or other persons for the commercial vehicle analysis reporting system, with the Federal share payable under any such grant to be 100 percent.

"(2) The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board and rules for medical examiners), performance and registration information system management, and outreach and education; other operating expenses and similar matters; and such other expenses as may from time to time become necessary to implement statutory mandates not funded from other sources.

"(3) The amounts made available under this section shall remain available until expended.".

(b) GRANT PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the following Federal Motor Carrier Safety Administration programs:

(1) Border enforcement grants under section 31107 of title 49, United States Code—

(A) $33,000,000 for fiscal year 2006;

(B) $34,000,000 for fiscal year 2007;

(C) $35,000,000 for fiscal year 2008; and

(D) $36,000,000 for fiscal year 2009.

(2) Performance and registration information system management grant program under 31109 of title 49, United States Code, $4,000,000 for each of fiscal years 2006 through 2009.

(3) Commercial driver's license and driver improvement program grants under section 31318 of title 49, United States Code—

(A) $23,000,000 for fiscal year 2006;

(B) $23,000,000 for fiscal year 2007;

(C) $24,000,000 for fiscal year 2008; and

(D) $25,000,000 for fiscal year 2009.

(4) For carrying out the commercial vehicle information systems and networks deployment program established under section 31151 of title 49, United States Code, $25,000,000 for each of fiscal years 2006 through 2009.

(c) MOTOR CARRIER SAFETY ACCOUNT.—Funds made available under subsection (a) shall be administered in the account established in the Treasury entitled "Motor Carrier Safety Operations and Program 69-8159-0-7-401" and the funds made available under subsection (b) shall be administered in the account established in the Treasury entitled "Motor Carrier Safety Grants 69-8158-0-7-401".

(d) PERIOD OF AVAILABILITY.—The amounts made available under subsection (b) of this section shall remain available until expended.

SEC. 7104. HIGH RISK CARRIER COMPLIANCE REVIEWS.

From the funds authorized by section 31104(i)(1) of title 49, United States Code, the Secretary of Transportation shall ensure that compliance reviews are completed on motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, compliance reviews shall be conducted whenever a motor carrier is rated as category A or B for 2 consecutive months.

SEC. 7105. OVERDUE REPORTS, STUDIES, AND RULEMAKINGS.

(a) REQUIREMENT FOR COMPLETION.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a schedule for the completion of the following reports, studies, and rulemaking proceedings:

(1) Motor Carrier Replacement Information and Registration System, section 103, ICC Termination Act of 1995.

(2) General Jurisdiction Over Freight Forwarder Service, section 13531, ICC Termination Act of 1995.

(3) Performance-based CDL Testing, section 4019, Transportation Equity Act for the Twenty-First Century.

(4) Improved Flow of Driver History Pilot Program, section 4022, Transportation Equity Act for the Twenty-First Century.

(5) Employee Protections, section 4023, Transportation Equity Act for the Twenty-First Century.

(6) Federal Motor Carrier Safety Administration 2010 Strategy, section 104, Motor Carrier Safety Improvement Act of 1999.

(7) New Motor Carrier Entrant Requirements, section 210, Motor Carrier Safety Improvement Act of 1999.

(8) Certified Motor Carrier Safety Auditors, section 211, Motor Carrier Safety Improvement Act of 1999.

(9) Medical Certificate, section 215, Motor Carrier Safety Improvement Act of 1999.

(10) Truck Crash Causation Study, section 224, Motor Carrier Safety Improvement Act of 1999.

(b) FINAL RULE REQUIRED.—Unless specifically otherwise permitted by law, rulemaking proceedings shall be considered completed for purposes of this section only when the Secretary has issued a final rule and the docket for the rulemaking proceeding is closed or the rulemaking proceeding is withdrawn or terminated and the docket closed without further action.

(c) SCHEDULE FOR COMPLETION.—The Secretary shall transmit a revised schedule, indicating progress made in completing the reports, studies, and rulemaking proceedings reported under subsection (a) every 6 months after the first such report under subsection (a) until they are completed. The Inspector General of the Department of Transportation shall monitor whether the schedule is being met and report periodically to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on progress made in completing the reports, studies, and rulemaking proceedings.

(e) COMPLETION OF NEW RULEMAKING PROCEEDINGS.—Nothing in this section delays or

changes the deadlines specified for new reports, studies, or rulemaking mandates contained in this chapter.

(f) REPORT OF OTHER AGENCY ACTIONS.—Within 12 months after the date of enactment of this Act, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure a report on the status of the following projects:

(1) Rescinding the current regulation which prohibits truck and bus drivers from viewing television and monitor screens while operating commercial vehicles.

(2) Consolidating Out-Of-Service Criteria regulations enforced by the Federal Motor Carrier Safety Administration.

(3) Revision of the safety fitness rating system of motor carriers.

(4) Amendment of Federal Motor Carrier Safety Administration rules of practice for conducting motor carrier administrative proceedings, investigations, disqualifications, and for issuing penalties.

(5) Requiring commercial drivers to have a sufficient functional speaking and reading comprehension of the English language.

SEC. 7106. AMENDMENTS TO THE LISTED REPORTS, STUDIES, AND RULEMAKING PROCEEDINGS.

In addition to completing the reports, studies, and rulemaking proceedings listed in section 7105(a), the Secretary of Transportation shall—

(1) cause the Interim Final Rule addressing New Motor Carrier Entrant Requirements to be amended so as to require that a safety audit be immediately converted to a compliance review and appropriate enforcement actions be taken if the safety audit discloses acute safety violations by the new entrant; and

(2) ensure that Federal motor carrier safety regulations that apply to interstate operations of commercial motor vehicles designed to transport between 9 and 15 passengers (including the driver) apply to all interstate operations of such carries regardless of the distance traveled.

SEC. 7107. MOTOR CARRIER SAFETY GRANTS.

(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—

(1) Section 31102 is amended—

(A) by striking "activities by fiscal year 2000;" in subsection (b)(1)(A) and inserting "activities for commercial motor vehicles of passengers and freight;";

(B) by striking "years before December 18, 1991;" in subsection (b)(1)(E) and inserting "years;";

(C) by striking "and" after the semicolon in subsection (b)(1)(S);

(D) by striking "personnel." in subsection (b)(1)(T) and inserting "personnel;";

(E) adding at the end of subsection (b)(1) the following:

"(U) ensures that inspections of motor carriers of passengers are conducted at stations, terminals, border crossings, or maintenance facilities, except in the case of an imminent or obvious safety hazard;

"(V) provides that the State will include in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of non-commercial vehicles, respectively; and

"(W) provides that the State will enforce the registration requirements of section 13902 by suspending the operation of any vehicle discovered to be operating without registration or beyond the scope of its registration."; and

(F) by striking subsection (c) and inserting the following:

"(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities:

"(1) If the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations—

"(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

"(2) Documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations against non-commercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.".

(2) Section 31103(b) is amended—

(A) by inserting "(1)" after "ACTIVITIES.—"; and

(B) by adding at the end the following:

"(2) NEW ENTRANT MOTOR CARRIER AUDIT FUNDS.—From the amounts designated under section 31104(f)(4), the Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments.".

(3) Section 31104(a) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102:

"(1) Not more than $193,620,000 for fiscal year 2006.

"(2) Not more than $197,490,000 for fiscal year 2007.

"(3) Not more than $201,440,000 for fiscal year 2008.

"(4) Not more than $205,470,000 for fiscal year 2009.".

(4) Section 31104(f) is amended by striking paragraph (2) and inserting the following:

"(2) HIGH-PRIORITY ACTIVITIES.—The Secretary may designate up to $15,000,000 for each of fiscal years 2006 through 2009 from amounts available for allocation under paragraph (1) for States, local governments, and organizations representing government agencies or officials for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies, and will reduce the number and rate of accidents involving commercial motor vehicles. The amounts designated under this paragraph shall be allocated by the Secretary to State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. The Secretary shall establish safety performance criteria to be used to distribute high priority program funds. At least 80 percent of the amounts designated under this paragraph shall be awarded to State agencies and local government agencies.

"(3) NEW ENTRANT AUDITS.—The Secretary shall designate up to $29,000,000 of the amounts available for allocation under paragraph (1) for audits of new entrant motor carriers conducted pursuant to 31144(f). The Secretary may withhold such funds from a State or local government that is unable to use government employees to conduct new entrant motor carrier audits, and may instead utilize the funds to conduct audits in those jurisdictions.

"(4) CDLIS MODERNIZATION.—The Secretary may designate up to $2,000,000 for fiscal year 2006 and up to $6,000,000 for fiscal years 2007 through 2009 from amounts available for allocation under paragraph (1) for commercial driver's license information system modernization under section 31309(f).".

(b) GRANTS TO STATES FOR BORDER ENFORCEMENT.—Section 31107 is amended to read as follows:

"§31107. Border enforcement grants

"(a) GENERAL AUTHORITY.—From the funds authorized by section 7103(b)(1) of the Motor Carrier Safety Reauthorization Act of 2005, the Secretary may make a grant in a fiscal year to a State that shares a border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 State or Federal fiscal years before October 1, 2005.".

(c) NONCOMPLIANCE WITH CDL REQUIREMENTS.—Section 31314 is amended by inserting "up to" after "withhold" in subsections (a) and (b).

(d) CONFORMING AMENDMENTS.—(1) The chapter analysis for chapter 311 is amended—

(A) by striking the item relating to Subchapter I, and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS";

and

(B) by striking the item relating to section 31107, and inserting the following:

"31107. Border enforcement grants.".

(2) Subchapter I of chapter 311 is amended by striking the subchapter heading and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS"

SEC. 7108. TECHNICAL CORRECTIONS.

(a) JURISDICTION OF COURT OF APPEALS OVER COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS AND MOTOR CARRIER SAFETY.—Section 2342(3)(A) of title 28, United States Code, is amended by striking "subtitle IV" and inserting "subtitle IV, subchapter III of chapter 311, chapter 313, or chapter 315".

(b) JUDICIAL REVIEW.—Section 351(a) is amended to read as follows:

"(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670; 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States

Government carrying out the duty or power immediately before the transfer or assignment.''.

(c) AUTHORITY TO CARRY OUT CERTAIN TRANSFERRED DUTIES AND POWERS.—Section 352 is amended to read as follows:

"§352. Authority to carry out certain transferred duties and powers

''In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670; 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.''.

(d) TRANSFER OF PROVISION.—

(1) Section 345 of Public Law 104-59 is transferred to subchapter III of chapter 311 of title 49, United States Code, redesignated as section 31149, and inserted after section 31148 as section 31149. Section 31149, as transferred by the preceding sentence, is amended—

(A) by conforming the section heading to the style and format of the section headings in chapter 311 of title 49, United States Code;

(B) by striking ''of title 49, United States Code,'' in subsection (a)(1), subsection (a)(5), and subsection (e)(4); and

(C) by striking subsection (f).

(2) The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31148 the following:

''31149. Exemptions from requirements relating to commercial motor vehicles and their operators.''.

(e) ELIMINATION OF COMMODITY AND SERVICE EXEMPTIONS.—

(1) Section 13506(a) is amended—

(A) by striking paragraphs (6), (11), (12), (13), and (15);

(B) by redesignating paragraphs (7), (8), (9), (10), and (14) as paragraphs (6), (7), (8), (9) and (10), respectively;

(C) by inserting ''or'' after the semicolon in paragraph (9), as redesignated; and

(D) striking ''13904(d); or'' in paragraph (10), as redesignated, and inserting ''14904(d).''.

(2) Section 13507 is amended by striking ''(6), (8), (11), (12), or (13)'' and inserting ''(6)''.

SEC. 7109. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2) is amended by adding at the end the following:

''(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A motor carrier subject to chapter 51 of subtitle III, a motor carrier, broker, or freight forwarder subject to part B of subtitle IV, or the owner or operator of a commercial motor vehicle subject to part B of subtitle VI of this title who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense, and each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $5,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing herein amends or supersedes any remedy available to the Secretary under sections 502(d), 507(c), or other provision of this title.''.

SEC. 7110. MEDICAL PROGRAM.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 7108(d) of this chapter, is amended by adding at the end the following:

"§31150. Medical program

''(a) MEDICAL REVIEW BOARD.—

''(1) ESTABLISHMENT AND FUNCTION.—The Secretary of Transportation shall establish a Medical Review Board to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

''(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of specialties relevant to the functions of the Federal Motor Carrier Safety Administration.

''(b) CHIEF MEDICAL EXAMINER.—The Secretary shall appoint a chief medical examiner who shall be an employee of the Federal Motor Carrier Safety Administration according to the SL schedule.

''(c) MEDICAL STANDARDS AND REQUIREMENTS.—

''(1) IN GENERAL.— The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—

''(A) establish, review, and revise—

''(i) medical standards for applicants for and holders of commercial driver's licenses that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely;

''(ii) requirements for periodic physical examinations of such operators performed by medical examiners who have successfully completed training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and

''(B) issue certificates to such holders and applicants that have been found, upon examination, to be physically qualified to operate a commercial motor vehicle and to meet applicable medical standards unless the authority to issue certificates has been delegated to medical examiners under subparagraph (d)(2) of this section;

''(C) require each holder of a commercial driver's license or learner's permit who operates a commercial vehicle in interstate commerce to have a current valid medical certificate;

''(D) conduct periodic reviews of a select number of medical examiners on the national registry to ensure that proper examinations of applicants and holders are being conducted;

''(E) develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to complete specific training, including refresher courses, to be listed in the registry;

''(F) require medical examiners to transmit the name of the applicant and numerical identifier, as determined by the Administrator, for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, electronically to the Chief Medical Examiner on monthly basis; and

''(G) periodically review a representative sample of the medical examination reports associated with the name and numerical identifiers of applicants transmitted under subparagraph (F) for errors, omissions, or other indications of improper certification.

''(2) MONITORING PERFORMANCE.—The Secretary shall investigate patterns of errors or improper certification by a medical examiner. If the Secretary finds that a medical examiner has issued a medical certificate to an applicant or holder who fails to meet the applicable standards at the time of the examination, such a medical examiner may be removed from the registry and the medical certificate of the applicant or holder may be deemed void.

''(d) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—The Secretary, through the Federal Motor Carrier Safety Administration—

''(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examinations and issue medical certificates;

''(2) shall delegate to those examiners the authority to issue such certificates upon successfully completing the required training;

''(3) shall remove from the registry the name of any medical examiner that fails to meet or maintain the qualifications established by the Secretary for being listed in the registry or otherwise does not meet the requirements of this section or regulation issued there under; and

''(4) shall accept as valid only medical certificates issued by persons on the national registry of medical examiners.

''(e) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to carry out this section.''.

(b) MEDICAL EXAMINERS.—Section 31136(a)(3) is amended to read as follows:

''(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely, and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and''.

(c) DEFINITION OF MEDICAL EXAMINER.—Section 31132 is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) 'medical examiner' means an individual licensed, certified, or registered in accordance with regulations issued by the Federal Motor Carrier Safety Administration as a medical examiner.''.

(d) FUNDING.—Amounts made available pursuant to section 31104(i)(1) of title 49, United States Code, shall be used by the Secretary to carry out section 31150 of title 49, United States Code.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 311, as amended by section 7108(d) of this chapter, is amended by inserting after the item relating to section 31149 the following:

''31150. Medical program''.

(f) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 7111. OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS.

(a) REVISION OF FINAL RULE.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the final rule to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal Motor Carrier Safety Regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for

the 21st Century (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.

(b) NO HISTORY OF DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.—The Secretary may not require individuals to have experience operating commercial motor vehicles while using insulin in order to qualify to operate a commercial motor vehicle in interstate commerce.

(c) HISTORY OF DIABETES CONTROL.—The Secretary may require an individual to have used insulin for a minimum period of time and demonstrated stable control of diabetes in order to qualify to operate a commercial motor vehicle in interstate commerce. Any such requirement, including any requirement with respect to the duration of such insulin use, shall be consistent with the findings of the expert medical panel reported in July 2000 in "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century".

(d) APPLICABLE STANDARD.—The Secretary shall ensure that individuals who use insulin to treat their diabetes are not held to a higher standard than other qualified commercial drivers, except to the extent that limited operating, monitoring, or medical requirements are deemed medically necessary by experts in the field of diabetes medicine.

SEC. 7112. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

(a) TRANSPORTATION OF PASSENGERS.—

(1) Section 31138(a) is amended to read as follows:

"(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by motor vehicle in the United States between a place in a State and—

"(1) a place in another State;

"(2) another place in the same State through a place outside of that State; or

"(3) a place outside the United States.".

(2) Section 31138(c) is amended by adding at the end the following:

"(4) The Secretary may require a person, other than a motor carrier as defined in section 13102(12) of this title, transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) of this section in an amount not less than that required by this section, and the laws of the State or States in which the person is operating, to the extent applicable. The extent of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

(b) TRANSPORTATION OF PROPERTY.—Section 31139 is amended—

(1) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

"(b) GENERAL REQUIREMENTS AND MINIMUM AMOUNT.—

"(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor vehicle in the United States between a place in a State and—

"(A) a place in another State;

"(B) another place in the same State through a place outside of that State; or

"(C) a place outside the United States.";

(2) by aligning the left margin of paragraph (2) of subsection (b) with the left margin of paragraph (1) of that subsection (as amended by paragraph (1) of this subsection); and

(3) by redesignating subsection (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

"(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier, as defined in section 13102 of this title, to file with the Secretary the evidence of financial responsibility specified in subsection (b) of this section in an amount not less than that required by this section, and the laws of the State or States in which the motor private carrier is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

SEC. 7113. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) Section 521(b)(2)(B) is amended to read as follows:

"(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

"(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

"(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

(b) Section 31310(i)(2) is amended to read as follows:

"(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

"(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

"(B) an operator of a commercial motor vehicle found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

"(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $25,000; and

"(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed 1 year or a fine under title 18, United States Code, or both.".

SEC. 7114. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) Subsection (a) of section 31144 is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall—

"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce within the United States, and in Canada and Mexico if the owner or operator also conducts operations within the United States;

"(2) periodically update such safety fitness determinations;

"(3) make such final safety fitness determinations readily available to the public; and

"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".

(b) Subsection (c) of section 31144 is amended by adding at the end the following:

"(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".

(c) Section 31144 is amended by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following:

"(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives Motor Carrier Safety Assistance Program funds pursuant to section 31102 of this title determines, by applying the standards prescribed by the Secretary under subsection (b) of this section, that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.".

SEC. 7115. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§39. Commercial motor vehicles required to stop for inspections

"(a) A driver of a commercial motor vehicle, as defined in section 31132(1) of title 49, shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration, Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an authorized employee.

"(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than 1 year, or both.".

(b) AUTHORITY OF FMCSA.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"§ 3064. Powers of Federal Motor Carrier Safety Administration

"Authorized employees of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.".

(c) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 38 the following:

"39. Commercial motor vehicles required to stop for inspections.".

(2) The chapter analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3063 the following:

"3064. Powers of Federal Motor Carrier Safety Administration.".

SEC. 7116. REVOCATION OF OPERATING AUTHORITY.

Section 13905(e) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

"(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(c) or 13906 of this title, or an order or regulation of the Secretary prescribed under those sections; and

"(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144 of this title.";

(2) by striking "may suspend a registration" in paragraph (2) and inserting "shall revoke the registration"; and

(3) by striking paragraph (3) and inserting the following:

"(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.".

SEC. 7117. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

(a) IN GENERAL.—Section 31135 is amended—

(1) by inserting "(a) IN GENERAL.—" before "Each"; and

(2) by adding at the end the following:

"(b) PATTERN OF NON-COMPLIANCE.—If an officer of a motor carrier engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905 of this title.

"(c) REGULATIONS.—Within 1 year after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2005, the Secretary shall by regulation establish standards to implement subsection (b).

"(d) DEFINITIONS.—In this section:

"(1) MOTOR CARRIER.—The term 'motor carrier' has the meaning given the term in section 13102(12) of this title.

"(2) OFFICER.—The term 'officer' means an owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions, and any person, however designated, exercising controlling influence over the operations of the motor carrier.".

(b) CROSS-REFERENCE.—Section 13902(a)(1)(B) is amended to read as follows:

"(B) any safety regulations imposed by the Secretary, the duties of employers and employees established by the Secretary under section 31135, and the safety fitness requirements established by the Secretary under section 31144; and".

SEC. 7118. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 31108 is amended to read as follows:

"§ 31108. Motor carrier research and technology program

"(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) The Secretary of Transportation shall establish and carry out a motor carrier and motor coach research and technology program. The Secretary may carry out research, development, technology, and technology transfer activities with respect to—

"(A) the causes of accidents, injuries and fatalities involving commercial motor vehicles; and

"(B) means of reducing the number and severity of accidents, injuries and fatalities involving commercial motor vehicles.

"(2) The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

"(3) The Secretary may use the funds appropriated to carry out this section for training or education of commercial motor vehicle safety personnel, including, but not limited to, training in accident reconstruction and detection of controlled substances or other contraband, and stolen cargo or vehicles.

"(4) The Secretary may carry out this section—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or non-profit corporation, organization, foreign country, or person.

"(5) The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

"(B) Federal laboratories.

"(2) In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(3)(A) The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(B) All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

"(4) The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(c) AVAILABILITY OF AMOUNTS.—The amounts made available under section 7103(a) of the Motor Carrier Safety Reauthorization Act of 2005 to carry out this section shall remain available until expended.

"(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under section 7103(a) of the Motor Carrier Safety Reauthorization Act of 2005 to carry out this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by striking the item relating to section 31108, and inserting the following:

"31108. Motor carrier research and technology program.".

SEC. 7119. INTERNATIONAL COOPERATION.

(a) IN GENERAL.—Chapter 311 is amended by inserting at the end the following:

"Subchapter IV—Miscellaneous

"§ 31161. International cooperation

"The Secretary is authorized to use funds appropriated under section 31104(i) of this title to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 311 is amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

"31161. International cooperation.".

SEC. 7120. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.

(a) IN GENERAL.—Section 31106(b) is amended—

(1) by striking paragraphs (2) and (3) and inserting the following:

"(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

"(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

"(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

"(B) possess the authority to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

"(C) cancel the motor vehicle registration and seize the registration plates of an employer found liable under section 31310(i)(2)(C) of this title for knowingly allowing or requiring an employee to operate a commercial motor vehicle in violation of an out-of-service order."; and

(2) by striking paragraph (4).

(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

(1) Subchapter I of chapter 311, as amended by section 7118 of this chapter, is further amended by adding at the end the following:

"§31109. Performance and Registration Information System Management

"(a) IN GENERAL.—From the funds authorized by section 7103(b)(2) of the Motor Carrier Safety Reauthorization Act of 2005, the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of section 31106(b).

"(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 7103(b)(2) of the Motor Carrier Safety Reauthorization Act of 2005 to carry out this section shall remain available until expended.

"(c) SECRETARY'S APPROVAL.—Approval by the Secretary of a grant to a State under section 7103(b)(2) of the Motor Carrier Safety Reauthorization Act of 2005 to carry out this section is a contractual obligation of the Government for payment of the amount of the grant.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31108 the following:

"31109. Performance and Registration Information System Management.".

SEC. 7121. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 7110, is amended by adding at the end the following:

"§31151. Commercial vehicle information systems and networks

"(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

"(1) improve the safety and productivity of commercial vehicles; and

"(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

"(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

"(c) CORE DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—To be eligible for a core deployment grant under this section, a State—

"(A) shall have a commercial vehicle information systems and networks program plan and a system design approved by the Secretary;

"(B) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications, are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards, and promote interoperability and efficiency to the extent practicable; and

"(C) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

"(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this section for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000.

"(4) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. Eligible States that have either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before core deployment grant funds are expended may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in their State.

"(d) EXPANDED DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (c) of this section, the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks is eligible for an expanded deployment grant.

"(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.

"(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

"(f) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated under section 7103(b)(4) of the Motor Carrier Safety Reauthorization Act of 2005 shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

"(g) DEFINITIONS.—In this section:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

"(A) improve the safety of commercial vehicle operations;

"(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

"(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

"(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

"(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) CORE DEPLOYMENT.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with the following capabilities:

"(A) SAFETY INFORMATION EXCHANGE.—Safety information exchange to—

"(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

"(ii) connect to the Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data, summaries of past safety performance, and commercial vehicle credentials information; and

"(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records for access to interstate carrier and commercial vehicle data.

"(B) INTERSTATE CREDENTIALS ADMINISTRATION.—Interstate credentials administration to—

"(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials and subsequently extend this processing to other credentials, including intrastate, titling, oversize/overweight, carrier registration, and hazardous materials;

"(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

"(iii) have at least 10 percent of the transaction volume handled electronically, and have the capability to add more carriers and to extend to branch offices where applicable.

"(C) ROADSIDE SCREENING.—Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection sites and to replicate this screening at other sites.

"(4) EXPANDED DEPLOYMENT.—The term 'expanded deployment' means the deployment of systems in a State that exceed the requirements of an core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial vehicle operations, and enhance transportation security.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31150 the following:

"31151. Commercial vehicle information systems and networks".

SEC. 7122. OUTREACH AND EDUCATION.

(a) IN GENERAL.—The Secretary of Transportation, through the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, may undertake outreach and education initiatives, including the "Share the Road Safely" program, that will reduce the number of highway accidents, injuries, and fatalities involving commercial motor vehicles.

(b) STUDY.—The Comptroller General shall update the Government Accountability Office's

evaluation of the "Share the Road Safely" program to determine if it has achieved reductions in the number and severity of commercial motor vehicle crashes, including reductions in the number of deaths and the severity of injuries sustained in these crashes, and shall report its updated evaluation to Congress no later than June 30, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2006 through 2009 to carry out this section—

(1) $1,000,000 for the Federal Motor Carrier Safety Administration; and

(2) $3,000,000 for the National Highway Traffic Safety Administration.

SEC. 7123. FOREIGN COMMERCIAL MOTOR VEHICLES.

(a) OPERATING AUTHORITY ENFORCEMENT ASSISTANCE FOR STATES.—Within 180 days after the date of enactment of this Act, the Federal Motor Carrier Safety Administration shall conduct outreach and provide training as necessary to State personnel engaged in the enforcement of Federal Motor Carrier Safety Administration safety regulations to ensure their awareness of the process to be used for verification of the operating authority of motor carriers, including buses, and to ensure proper enforcement when motor carriers are found to be in violation of operating authority requirements. The Inspector General of the Department of Transportation may periodically assess the implementation and effectiveness of the training and outreach program.

(b) STUDY OF FOREIGN COMMERCIAL MOTOR VEHICLES.—

(1) REVIEW.—Within 1 year after the date of enactment of this Act, the Federal Motor Carrier Safety Administration shall conduct a review to determine the degree to which Canadian and Mexican commercial motor vehicles, including buses, currently operating or expected to operate, in the United States comply with the Federal Motor Vehicle Safety Standards.

(2) REPORTS.—Within 1 year after the date of enactment of this Act, the Adminstrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the review. Within 4 months after the report is transmitted to the Committees, the Inspector General of the Department of Transportation shall provide comments and observations to the Committees on the scope and methodology of the review.

SEC. 7124. PRE-EMPLOYMENT SAFETY SCREENING.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 7121, is amended by adding at the end the following:

"§31152. Pre-employment safety screening

"(a) IN GENERAL.—The Secretary of Transportation shall provide companies conducting pre-employment screening services for the motor carrier industry electronic access to—

"(1) commercial motor vehicle accident report information contained in the Motor Carrier Management Information System; and

"(2) all driver safety violations contained in the Motor Carrier Management Information System.

"(b) ESTABLISHMENT.—Prior to making information available to such companies under subsection (a), the Secretary shall—

"(1) ensure that any information released is done in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all applicable Federal laws;

"(2) require the driver applicant's written consent as a condition of releasing the information;

"(3) ensure that the information made available to companies providing pre-employment screening services is not released to any other unauthorized company or individual, unless expressly authorized or required by law; and

"(4) provide a procedure for drivers to remedy incorrect information in a timely manner.

"(c) DESIGN.—To be eligible to have access to information under subsection (a), a company conducting pre-employment screening services for the motor carrier industry shall utilize a screening process—

"(1) that is designed to assist the motor carrier industry in assessing an individual driver's crash and safety violation history as a pre-employment condition;

"(2) the use of which is not mandatory; and

"(3) which is used only during the pre-employment assessment of a driver-applicant.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311, as amended by section 7121, is amended by inserting after the item relating to section 31151 the following:

"31152. Pre-employment safety screening.".

SEC. 7125. CLASS OR CATEGORY EXEMPTIONS.

(a) IN GENERAL.—The Secretary of Transportation may grant exemptions for categories or classes of drivers of commercial motor vehicles not required to hold a commercial driver's license under section 31301(4) of title 49, United States Code, from compliance in whole or in part with a regulation issued under chapter 315 of title 49, United States Code, or with regulations issued under section 31502 of that title governing hours of service if the Secretary determines that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption subject to such conditions as the Secretary may impose. An exemption may be granted for no longer than 2 years from its initial approval date and may be renewed upon application to the Secretary.

(b) AUTHORITY TO REVOKE EXEMPTION.—The Secretary shall immediately revoke an exemption if—

(1) the exemption has resulted in a lower level of safety than was maintained before the exemption was granted; or

(2) continuation of the exemption would not be consistent with the goals and objectives of that chapter or section 31136, as the case may be.

(c) REQUESTS FOR EXEMPTION.—

(1) INTERIM FINAL RULE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall specify by interim final rule the procedures by which an exemption for a category or class of drivers may be requested under this section. The rule shall, at a minimum, require the motor carrier or other entity requesting the exemption to provide the following information:

(A) The provisions from which the motor carrier or other entity requests exemption.

(B) The reason for which the exemption is requested.

(C) The time period during which the requested exemption would apply.

(D) An analysis of the safety impacts the requested exemption may cause.

(E) The specific countermeasures the motor carrier or other entity will undertake to ensure an equivalent or greater level of safety than would be achieved absent the requested exemption.

(F) The benefits to be derived from the exemption.

(2) FINAL RULE.—Not later than 2 years after the date of enactment of this Act, and after notice and an opportunity for comment, the Secretary shall promulgate a final rule specifying the procedures by which an exemption for a category or class of drivers may be requested under this section.

(d) NOTICE AND COMMENT.—

(1) UPON RECEIPT OF A REQUEST.—Upon receipt of an exemption request, the Secretary shall publish in the Federal Register a notice explaining the request that has been filed and shall give the public an opportunity to inspect the safety analysis and any other relevant information known to the Secretary and to comment on the request. This subparagraph does not require the release of information protected by law from public disclosure.

(2) UPON GRANTING A REQUEST.—Upon granting a request for exemption, the Secretary shall publish in the Federal Register the name of the motor carrier or other entity granted the exemption, the provisions from which the category or class of vehicles will be exempt, the effective period, and all terms and conditions of the exemption.

(3) AFTER DENYING A REQUEST.—After denying a request for exemption, the Secretary shall publish in the Federal Register the name of the motor carrier or other entity denied the exemption, the category or class of vehicles for which the exemption was requested, and the reasons for such denial. The Secretary may meet the requirement of this subparagraph by periodically publishing in the Federal Register the names of motor carriers or other entities denied exemptions, the categories or classes of vehicles for which the exemption was requested, and the reasons for such denials.

(e) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall grant or deny an exemption request after a thorough review of its safety implications, but in no case later than 90 days after the filing date of such request.

(f) TERMS AND CONDITIONS.—The Secretary shall establish terms and conditions for each exemption to ensure that it will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.

(g) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before granting a request for exemption, the Secretary shall notify State safety compliance and enforcement personnel, including roadside inspectors, and the public that a motor carrier or other entity will be operating pursuant to an exemption and any terms and conditions that will apply to the exemption.

(h) PREEMPTION OF STATE RULES.—During the time period that an exemption is in effect under this section, no State shall enforce any law or regulation that conflicts with or is inconsistent with the exemption with respect to the category or class of vehicles to which the exemption applies.

SEC. 7126. DECALS.

The Commercial Vehicle Safety Alliance may not restrict the sale of any inspection decal to the Federal Motor Carrier Safety Administration unless the Administration fails to meet its responsibilities under its memorandum of understanding with the Alliance (other than a failure due to the Administration's compliance with Federal law).

SEC. 7127. ROADABILITY.

(a) INSPECTION, REPAIR AND MAINTENANCE OF INTERMODAL EQUIPMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.

(2) INTERMODAL EQUIPMENT SAFETY REGULATIONS.—The Secretary shall promulgate regulations under this section as a subpart of the regulations of the Federal Motor Carrier Safety

Administration of the Department of Transportation.

(3) CONTENTS.—The regulations issued under this section shall include, at a minimum—

(A) a requirement to identify intermodal equipment providers responsible for the inspection and maintenance of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(B) a requirement to match intermodal equipment readily to an intermodal equipment provider through a unique identifying number;

(C) a requirement that an intermodal equipment provider identified under the requirement of subparagraph (A) systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, intermodal equipment described in subparagraph (A) that is intended for interchange with a motor carrier;

(D) a requirement to ensure that each intermodal equipment provider identified under the requirement of subparagraph (A) maintains a system of maintenance and repair records for such equipment;

(E) requirements that—

(i) a specific list of intermodal equipment components or items be identified for the visual or audible inspection of which a driver is responsible before operating the equipment over the road; and

(ii) the inspection be conducted as part of the Federal requirement in effect on the date of enactment of this Act that a driver be satisfied that the components are in good working order before operating the equipment over the road;

(F) a requirement that a facility at which an intermodal equipment provider regularly makes equipment available for interchange have an operational process and space readily available for a motor carrier to have an equipment defect identified pursuant to subparagraph (E) repaired or the equipment replaced prior to departure;

(G) a provision that establishes a program for the evaluation and audit of compliance by intermodal equipment providers with applicable Federal Motor Carrier Safety Administration regulations;

(H) a provision that—

(i) establishes a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable regulations; and

(ii) prohibits intermodal equipment providers from placing intermodal equipment in service on the public highways to the extent such providers or their equipment are found to pose an imminent hazard;

(I) a provision that establishes a process by which motor carriers and agents of motor carriers may request the Federal Motor Carrier Safety Administration to undertake an investigation of an intermodal equipment provider identified under the requirement of subparagraph (A) that is alleged to be not in compliance with the regulations established pursuant to this section;

(J) a provision that establishes a process by which equipment providers and agents of equipment providers may request the Federal Motor Carrier Safety Administration to undertake an investigation of a motor carrier that is alleged to be not in compliance with applicable Federal motor carrier safety regulations;

(K) a provision that establishes a process by which drivers or motor carriers are required to report any actual damage or defect in the intermodal equipment of which the driver or motor carrier is aware at the time the intermodal equipment is returned to the equipment provider;

(L) a requirement that any actual damage or defect identified in the process established under subparagraph (K) be repaired before the equipment is made available for interchange to a motor carrier, and that repairs of equipment made pursuant to the requirements of this subparagraph and reports made pursuant to subparagraph (K) process be documented in the maintenance records for such equipment; and

(M) a procedure under which motor carriers, drivers and intermodal equipment providers may seek correction of their safety records through the deletion from those records of violations of safety regulations attributable to deficiencies in the intermodal chassis or trailer for which they should not have been held responsible.

(4) DEADLINE FOR RULEMAKING PROCEEDING.—Within 120 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding for regulations under this section.

(b) JURISDICTION OF DEPARTMENT OF TRANSPORTATION.—Section 31136 is amended by adding at the end the following:

"(g) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary or an employee of the Department of Transportation designated by the Secretary may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials.

"(h) OUT-OF-SERVICE UNTIL REPAIR.—Any intermodal equipment that is determined under this section to fail to comply with applicable safety regulations may be placed out of service and may not be used on a public highway until the repairs necessary to bring such equipment into compliance have been completed. Repairs of equipment taken out of service shall be documented in the maintenance records for such equipment.".

(c) PREEMPTION OF STATE LAWS.—

(1) IN GENERAL.—Section 31141 is amended by adding at the end the following:

"(h) PREEMPTION GENERALLY.—Except as otherwise authorized by law and as provided in subsection (i), a law, regulation, order, or other requirement of a State, a political subdivision of a State, or a tribal organization, is preempted if such law, regulation, order, or other requirement exceeds or is inconsistent with a requirement imposed under or pursuant to this chapter.

"(i) PRE-EXISTING STATE REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State requirement for the periodic inspection of intermodal chassis by intermodal equipment providers that was in effect on January 1, 2005, shall remain in effect only until the date on which requirements prescribed under section 7127 of the Surface Transportation Safety Improvement Act of 2005 take effect.

"(2) NON-PREEMPTION DETERMINATIONS.—

"(A) IN GENERAL.—A State requirement described in paragraph (1) is not preempted by a Federal requirement prescribed under section 7127 of that Act if the Secretary determines that the State requirement is as effective as the Federal requirement and does not unduly burden interstate commerce.

"(B) APPLICATION REQUIRED.—Subparagraph (A) applies to a State requirement only if the State applies to the Secretary for a determination under this paragraph with respect to the requirement before the date on which requirements prescribed under section 7127 of that Act take effect. The Secretary shall make a determination with respect to any such application within 6 months after the date on which the Secretary receives the application.

"(C) AMENDED STATE REQUIREMENTS.—Any amendment to a State requirement not preempted under this subsection because of a determination by the Secretary under subparagraph (A) may not take effect unless—

"(i) it is submitted to the Secretary before the effective date of the amendment; and

"(ii) the Secretary determines that the amendment would not cause the State requirement to be less effective than the Federal requirement and would not unduly burden interstate commerce.

(2) CONFORMING AMENDMENT.—Section 31141(c)(1) is amended by striking "The Secretary" the first place it appears and inserting "Except as provided by subsection (h), the Secretary".

(d) DEFINITIONS.—In this section:

(1) INTERMODAL EQUIPMENT.—The term "intermodal equipment" means trailing equipment that is used in the intermodal transportation of freight over public highways in interstate commerce (as defined in section 31132 of title 49, United States Code), including trailers and chassis.

(2) INTERMODAL EQUIPMENT INTERCHANGE AGREEMENT.—The term "Intermodal equipment interchange agreement" means the Uniform Intermodal Interchange and Facilities Access Agreement or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

(3) INTERMODAL EQUIPMENT PROVIDER.—The term "intermodal equipment provider" means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.

(4) INTERCHANGE.—The term "interchange"—

(A) means the act of providing intermodal equipment to a motor carrier pursuant to an Intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider; but

(B) does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations.

SEC. 7128. MOTOR CARRIER REGULATIONS.

(a) IN GENERAL.—Section 31149, as amended by section 7108(d), is further amended—

(1) by striking paragraph (1) of subsection (a) and inserting the following:

"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 of this title regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.";

(2) by adding at the end of subsection (e) the following:

"(7) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) and insects).

"(8) FARM SUPPLIES FOR AGRICULTURAL PURPOSES.—The term 'farm supplies for agricultural purposes' means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.".

(b) REGULATIONS FOR MOVIE PRODUCTION SITES.—Notwithstanding sections 31136 and 31502 of title 49, United States Code, and any other provision of law, the maximum daily

hours of service for an operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of such operator shall be those in effect under the regulations in effect under those sections on April 27, 2003.

(c) Utility Service Vehicles.—Section 31149(a)(4) (as so transferred) is amended to read as follows:

"(4) Operators of utility service vehicles.—

"(A) Inapplicability of federal regulations.—Such regulations may not apply to a driver of a utility service vehicle.

"(B) Prohibition on state regulations.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.";

(2) by striking "Nothing" in subsection (b) and inserting "Except as provided in subsection (a)(4), nothing"; and

(3) by striking "paragraph (2)" in the first sentence of subsection (c) and inserting "an exemption under paragraph (1), (2), or (4)".

SEC. 7129. VEHICLE TOWING.

(a) State Laws Relating to Vehicle Towing.—Section 14501(c) is amended by adding at the end the following:

"(5) Rule of construction.—Nothing in this section shall be construed to prevent a State from requiring that, in the case of vehicles towed from private property without the consent of the owner or operator of the vehicle, towing companies have prior written authorization from the property owner or lessee (or an employee or agent thereof), or that such owner or lessee (or an employee or agent thereof) be present at the time the vehicle is towed from the property, or both.".

(b) Predatory Tow Truck Operations.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with other appropriate Federal agencies, shall—

(1) conduct a review of Federal, State and local regulation of the tow truck industry before the date of enactment of the ICC Termination Act of 1995; and

(2) conduct a study to identify issues related to the protection of the rights of consumers who are towed, to establish the scope and geographic reach of any such issues identified, and to identify potential remedies for those issues.

SEC. 7130. CERTIFICATION OF VEHICLE EMISSION PERFORMANCE STANDARDS.

(a) Registration of Motor Carriers.—Section 13902(a)(1) of title 49, United States Code (as amended by section 7117(b)), is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) a requirement that a motor carrier certify that, beginning on January 1, 2007, any vehicle operated by the motor carrier will comply with the heavy duty vehicle and engine emissions performance standards and related regulations established by the Administrator of the Environmental Protection Agency under section 202(a)(3) of the Clean Air Act (42 U.S.C. 7521(a)(3));".

(b) Study.—Not later than 180 days after the date of enactment of this Act, the Secretary shall make recommendations to Congress on methods of ensuring that trucks built before January 1, 2007, that are operating in the United States comply with any emissions performance standard under the Clean Air Act (42 U.S.C. 7401 et seq.) that was applicable to the truck on the date on which the engine of the truck was manufactured.

CHAPTER 2—UNIFIED CARRIER REGISTRATION

SEC. 7131. SHORT TITLE.

This chapter may be cited as the "Unified Carrier Registration Act of 2005".

SEC. 7132. RELATIONSHIP TO OTHER LAWS.

Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this chapter, this chapter is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.

SEC. 7133. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS.

(a) Persons Registered To Provide Transportation or Service as a Motor Carrier or Motor Private Carrier.—Section 13905 is amended by—

(1) redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) inserting after subsection (a) the following:

"(b) Person Registered With Secretary.—

"(1) In general.—Except as provided in paragraph (2), any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a) of this title, shall be deemed, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a of this title.

"(2) Exclusively intrastate operators.—Paragraph (1) does not apply to a motor carrier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.".

(b) Security Requirement.—Section 13906(a) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) inserting the following:

"(2) Security requirement.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) of this title shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139 of this title.".

(c) Termination of Transition Rule.—Section 13902 is amended—

(1) by adding at the end of subsection (d) the following:

"(3) Termination.—This subsection shall cease to be in effect on the transition termination date."; and

(2) by redesignating subsection (f) as subsection (g), and inserting after subsection (e) the following:

"(f) Modification of Carrier Registration.—

"(1) In general.—On and after the transition termination date, the Secretary—

"(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;

"(B) shall register applicants under this section as motor carriers; and

"(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.

"(2) Pre-existing certificates and permits.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B) of this title) and transportation under terms and conditions meeting the requirements of section 13710(a)(1) of this title. The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—

"(A) subsection (d) of this section, as that section was in effect before the transition termination date; or

"(B) any other provision of this title that was in effect before the transition termination date.

"(3) Transition termination date defined.—In subsection (d) and this subsection, the term 'transition termination date' means the first day of January occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.".

(d) Conforming Amendments.—

(1) Caption of section 13906.—The section caption for section 13906 is amended by inserting "**motor private carriers,**" after "**motor carriers,**".

(2) Chapter analysis.—The chapter analysis for chapter 139 is amended by striking the item relating to section 13906 and inserting the following:

"13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.".

SEC. 7134. UNIFIED CARRIER REGISTRATION SYSTEM.

(a) Section 13908 is amended to read as follows:

"§ 13908. Registration and other reforms

"(a) Establishment of Unified Carrier Registration System.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder and broker industries, and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2005 regulations to establish, an online, Federal registration system to be named the Unified Carrier Registration System to replace—

"(1) the current Department of Transportation identification number system, the Single State Registration System under section 14504 of this title;

"(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and

"(3) the service of process agent systems under sections 503 and 13304 of this title.

"(b) Role as Clearinghouse and Depository of Information.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, and freight forwarders, and others required to register with the Department, including information with respect to a carrier's safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a of this title. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and *the public have access to the Unified Carrier Registration System, including the records and information contained in the System.*

"(c) PROCEDURES FOR CORRECTING INFORMATION.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

"(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

"(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration and conducting the safety audit or examination, if required, but shall not exceed $300.

"(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed $10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

"(3) ACCESS AND RETRIEVAL FEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the Unified Carrier Registration Agreement.

"(B) EXCEPTIONS.—There shall be no fee charged—

"(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

"(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a of this title) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.

"(e) APPLICATION TO CERTAIN INTRASTATE OPERATIONS.—Nothing in this section requires the registration of a motor carrier, a motor private carrier of property, or a transporter of waste or recyclable materials operating exclusively in intrastate transportation not otherwise required to register with the Secretary under another provision of this title.".

SEC. 7135. REGISTRATION OF MOTOR CARRIERS BY STATES.

(a) TERMINATION OF REGISTRATION PROVISIONS.—Section 14504 is amended by adding at the end the following:

"(d) TERMINATION OF PROVISIONS.—Subsections (b) and (c) shall cease to be effective on the first January 1st occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.".

(b) UNIFIED CARRIER REGISTRATION SYSTEM PLAN AND AGREEMENT.—Chapter 145 is amended by inserting after section 14504 the following:

"§ 14504a. Unified carrier registration system plan and agreement

"(a) DEFINITIONS.—In this section and section 14506 of this title:

"(1) COMMERCIAL MOTOR VEHICLE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'commercial motor vehicle' has the meaning given the term in section 31101 of this title.

"(B) EXCEPTION.—With respect to motor carriers required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the term 'commercial motor vehicle' means any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

"(2) BASE-STATE.—

"(A) IN GENERAL.—The term 'Base-State' means, with respect to the Unified Carrier Registration Agreement, a State—

"(i) that is in compliance with the requirements of subsection (e); and

"(ii) in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business.

"(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder or leasing company may designate another State in which it maintains an office or operating facility as its Base-State in the event that—

"(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

"(ii) the motor carrier, motor private carrier, broker, freight forwarder or leasing company does not have a principal place of business in the United States.

"(3) INTRASTATE FEE.—The term 'intrastate fee' means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

"(4) LEASING COMPANY.—The term 'leasing company' means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

"(5) MOTOR CARRIER.—The term 'motor carrier' has the meaning given the term in section 13102(12) of this title, but shall include all carriers that are otherwise exempt from the provisions of part B of this title pursuant to the provisions of chapter 135 of this title or exemption actions by the former Interstate Commerce Commission under this title.

"(6) PARTICIPATING STATE.—The term 'participating state' means a State that has complied with the requirements of subsection (e) of this section.

"(7) SSRS.—The term 'SSRS' means the Single State Registration System in effect on the date of enactment of the Unified Carrier Registration Act of 2005.

"(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms 'Unified Carrier Registration Agreement' and 'UCR Agreement' mean the interstate agreement developed under the Unified Carrier Registration Plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders and leasing companies pursuant to this section.

"(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms 'Unified Carrier Registration Plan' and 'UCR Plan' mean the organization of State, Federal and industry representatives responsible for developing, implementing and administering the Unified Carrier Registration Agreement.

"(10) VEHICLE REGISTRATION.—The term 'vehicle registration' means the registration of any commercial motor vehicle under the International Registration Plan or any other registration law or regulation of a jurisdiction.

"(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A Freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) of this title shall be subject to the provisions of this section as if a motor carrier.

"(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of 2 or more States—

"(1) to enact, impose, or enforce any requirement or standards, or levy any fee or charge on any interstate motor carrier or interstate motor private carrier in connection with—

"(A) the registration with the State of the interstate operations of a motor carrier or motor private carrier;

"(B) the filing with the State of information relating to the financial responsibility of a motor carrier or motor private carrier pursuant to sections 31138 or 31139 of this title;

"(C) the filing with the State of the name of the local agent for service of process of a motor carrier or motor private carrier pursuant to sections 503 or 13304 of this title; or

"(D) the annual renewal of the intrastate authority, or the insurance filings, of a motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State, if the motor carrier or motor private carrier is—

"(i) registered in compliance with section 13902 or section 13905(b) of this title; and

"(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State pursuant to section 14501(c)(2)(A) of this title

except with respect to—

"(I) intrastate service provided by motor carriers of passengers that is not subject to the preemptive provisions of section 14501(a) of this title,

"(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2) and section 14506(c)(3) or permitted pursuant to section 14506(b) of this title, and

"(III) the intrastate transportation of waste or recyclable materials by any carrier); or

"(2) to require any interstate motor carrier or motor private carrier to pay any fee or tax, not proscribed by paragraph (1)(D) of this subsection, that a motor carrier or motor private carrier that pays a fee which is proscribed by that paragraph is not required to pay.

"(d) UNIFIED CARRIER REGISTRATION PLAN.—

"(1) BOARD OF DIRECTORS.—

"(A) GOVERNANCE OF PLAN.—The Unified Carrier Registration Plan shall be governed by a Board of Directors consisting of representatives of the Department of Transportation, Participating States, and the motor carrier industry.

"(B) NUMBER.—The Board shall consist of 15 directors.

"(C) COMPOSITION.—The Board shall be composed of directors appointed as follows:

"(i) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.—The Secretary shall appoint 1 director from each of the Federal Motor Carrier Safety Administration's 4 Service Areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2005), from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR Agreement.

"(ii) STATE AGENCIES.—The Secretary shall appoint 5 directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR Agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing

the administration of the UCR Agreement in their respective States.

"(iii) MOTOR CARRIER INDUSTRY.—The Secretary shall appoint 5 directors from the motor carrier industry. At least 1 of the appointees shall be an employee of the national trade association representing the general motor carrier of property industry.

"(iv) DEPARTMENT OF TRANSPORTATION.—The Secretary shall appoint the Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the United States Department of Transportation, as the Secretary may designate, to serve as a director.

"(D) CHAIRPERSON AND VICE-CHAIRPERSON.—The Secretary shall designate 1 director as Chairperson and 1 director as Vice-Chairperson of the Board. The Chairperson and Vice-Chairperson shall serve in such capacity for the term of their appointment as directors.

"(E) TERM.—In appointing the initial Board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year. Thereafter, all directors shall be appointed for terms of 3 years, except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (C)(iv) shall be at the discretion of the Secretary. A director may be appointed to succeed himself or herself. A director may continue to serve on the Board until his or her successor is appointed.

"(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The Board of Directors shall issue rules and regulations to govern the UCR Agreement. The rules and regulations shall—

"(A) prescribe uniform forms and formats, for—

"(i) the annual submission of the information required by a Base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

"(ii) the transmission of information by a Participating State to the Unified Carrier Registration System;

"(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

"(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the Board of the intent of such entity to change its Base-State, and the procedures for a State to object to such a change under subparagraph (C) of this paragraph;

"(B) provide for the administration of the Unified Carrier Registration Agreement, including procedures for amending the Agreement and obtaining clarification of any provision of the Agreement;

"(C) provide procedures for dispute resolution that provide due process for all involved parties; and

"(D) designate a depository.

"(3) COMPENSATION AND EXPENSES.—Except for the representative of the Department of Transportation appointed pursuant to paragraph (1)(D), no director shall receive any compensation or other benefits from the Federal Government for serving on the Board or be considered a Federal employee as a result of such service. All Directors shall be reimbursed for expenses they incur attending duly called meetings of the Board. In addition, the Board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed pursuant to paragraph (5). The reimbursement of expenses to directors and subcommittee and task force members shall be based on the then applicable rules of the General Service Administration governing reimbursement of expenses for travel by Federal employees.

"(4) MEETINGS.—

"(A) IN GENERAL.—The Board shall meet at least once per year. Additional meetings may be called, as needed, by the Chairperson of the Board, a majority of the directors, or the Secretary.

"(B) QUORUM.—A majority of directors shall constitute a quorum.

"(C) VOTING.—Approval of any matter before the Board shall require the approval of a majority of all directors present at the meeting.

"(D) OPEN MEETINGS.—Meetings of the Board and any subcommittees or task forces appointed pursuant to paragraph (5) of this section shall be subject to the provisions of section 552b of title 5.

"(5) SUBCOMMITTEES.—

"(A) INDUSTRY ADVISORY SUBCOMMITTEE.—The Chairperson shall appoint an Industry Advisory Subcommittee. The Industry Advisory Subcommittee shall consider any matter before the Board and make recommendations to the Board.

"(B) OTHER SUBCOMMITTEES.—The Chairperson shall appoint an Audit Subcommittee, a Dispute Resolution Subcommittee, and any additional subcommittees and task forces that the Board determines to be necessary.

"(C) MEMBERSHIP.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or non-directors.

"(D) REPRESENTATION ON SUBCOMMITTEES.—Except for the Industry Advisory Subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f) of this section), each subcommittee and task force shall include representatives of the Participating States and the motor carrier industry.

"(6) DELEGATION OF AUTHORITY.—The Board may contract with any private commercial or non-profit entity or any agency of a State to perform administrative functions required under the Unified Carrier Registration Agreement, but may not delegate its decision or policy-making responsibilities.

"(7) DETERMINATION OF FEES.—

"(A) RECOMMENDATION BY BOARD.—The Board shall recommend to the Secretary the initial annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders pursuant to the Unified Carrier Registration Agreement. In making its recommendation to the Secretary for the level of fees to be assessed in any Agreement year, and in setting the fee level, the Board and the Secretary shall consider—

"(i) the administrative costs associated with the Unified Carrier Registration Plan and the Agreement;

"(ii) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the Participating States to achieve the revenue levels set by the Board; and

"(iii) the parameters for fees set forth in subsection (f)(1).

"(B) SETTING FEES.—The Secretary shall set the initial annual fees for the next Agreement year and any subsequent adjustment of those fees—

"(i) within 90 days after receiving the Board's recommendation under subparagraph (A); and

"(ii) after notice and opportunity for public comment.

"(8) LIABILITY PROTECTIONS FOR DIRECTORS.—No individual appointed to serve on the Board shall be liable to any other director or to any other party for harm, either economic or noneconomic, caused by an act or omission of the individual arising from the individual's service on the Board if—

"(A) the individual was acting within the scope of his or her responsibilities as a director; and

"(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

"(9) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Unified Carrier Registration Plan or its committees.

"(10) CERTAIN FEES NOT AFFECTED.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement.

"(e) STATE PARTICIPATION.—

"(1) STATE PLAN.—No State shall be eligible to participate in the Unified Carrier Registration Plan or to receive any revenues derived under the Agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—

"(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the Unified Carrier Registration Agreement in accordance with the rules and regulations promulgated by the Board of Directors of the Unified Carrier Registration Plan; and

"(B) containing assurances that an amount at least equal to the revenue derived by the State from the Unified Carrier Registration Agreement shall be used for motor carrier safety programs, enforcement, and financial responsibility, or the administration of the UCR Plan and UCR Agreement.

"(2) AMENDED PLANS.—A State may change the agency designated in the plan submitted under this subsection by filing an amended plan with the Secretary and the Chairperson of the Unified Carrier Registration Plan.

"(3) WITHDRAWAL OF PLAN.—If a State withdraws, or notifies the Secretary that it is withdrawing, the plan submitted under this subsection, then the State may no longer participate in the Unified Carrier Registration Agreement or receive any portion of the revenues derived under the Agreement. The Secretary shall notify the Chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the Agreement.

"(4) TERMINATION OF ELIGIBILITY.—If a State fails to submit a plan to the Secretary as required by paragraph (1) or withdraws its plan under paragraph (3), the State shall be prohibited from subsequently submitting or resubmitting a plan or participating in the Agreement.

"(5) PROVISION OF PLAN TO CHAIRPERSON.—The Secretary shall provide a copy of each plan submitted under this subsection to the initial Chairperson of the Board of Directors of the Unified Carrier Registration Plan not later than 90 days of appointing the Chairperson.

"(f) CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.—The Unified Carrier Registration Agreement shall provide the following:

"(1) DETERMINATION OF FEES.—

"(A) Fees charged motor carriers, motor private carriers, or freight forwarders in connection with the filing of proof of financial responsibility under the UCR Agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder. Brokers and leasing companies shall pay the same fees as the smallest bracket of motor carriers, motor private carriers, and freight forwarders.

"(B) The fees shall be determined by the Secretary based upon the recommendation of the Board under subsection (d)(7).

"(C) The Board shall develop no more than 6 and no less than 4 brackets of carriers by size of fleet.

"(D) The fee scale shall be progressive and use different vehicle ratios for each bracket of carrier fleet size.

"(E) The Board may ask the Secretary to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

"(i) are insufficient to provide the revenues to which the States are entitled under this section; or

"(ii) exceed those revenues.

"(2) DETERMINATION OF OWNERSHIP OR OPERATION.—Commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder shall mean those commercial motor vehicles registered in the name of the motor carrier, motor private carrier, or freight forwarder or controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

"(3) CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of paragraph (1) of this subsection shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS–150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the each registration year of the Unified Carrier Registration System. Commercial motor vehicles used exclusively in the intrastate transportation of property, waste, or recyclable material may not be included in determining the number of commercial motor vehicles owned or operated by a motor carrier or motor private carrier for purposes of paragraph (1) of this subsection.

"(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their Base-State pursuant to the UCR Agreement.

"(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to Participating States as follows:

"(1) A State that participated in the Single State Registration System in the last SSRS registration year ending before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with the requirements of subsection (e) of this section is entitled to receive a portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received under the SSRS in the last SSRS registration year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with the provisions of subsection (e).

"(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with the requirements of subsection (e) of this section is entitled to receive an additional portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received from such interstate carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with the provisions of subsection (e).

"(3) States that comply with the requirements of subsection (e) of this section but did not participate in SSRS during the last SSRS registration year ending before the date of enactment of the Unified Carrier Registration Act of 2005 shall be entitled to an annual allotment not to exceed $500,000 from the UCR Agreement revenues generated under the Agreement as long as the State continues to comply with the provisions of subsection (e).

"(4) The amount of UCR Agreement revenues to which a State is entitled under this section shall be calculated by the Board and approved by the Secretary.

"(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—

"(1) ELIGIBILITY.—Each State that is in compliance with the provisions of subsection (e) shall be entitled to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

"(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with the provisions of subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR Agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a Participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the Board under subsection (d)(2)(D).

"(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds collected in the depository shall be distributed as follows:

"(A) Excess funds shall be distributed on a pro rata basis to each Participating State that did not collect revenues under the UCR Agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross UCR Agreement revenues collected by a Participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

"(B) Any excess funds held by the depository after all distributions under subparagraph (A) have been made shall be used to pay the administrative costs of the UCR Plan and the UCR Agreement.

"(C) Any excess funds held by the depository after distributions and payments under subparagraphs (A) and (B) shall be retained in the depository, and the UCR Agreement fees for motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Secretary accordingly.

"(i) ENFORCEMENT.—

"(1) CIVIL ACTIONS.—Upon request by the Secretary of Transportation, the Attorney General may bring a civil action in a court of competent jurisdiction to enforce compliance with this section and with the terms of the Unified Carrier Registration Agreement.

"(2) VENUE.—An action under this section may be brought only in the Federal court sitting in the State in which an order is required to enforce such compliance.

"(3) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing—

"(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

"(B) may issue an injunction requiring that the State or any person comply with this section.

"(4) ENFORCEMENT BY STATES.—Nothing in this section—

"(A) prohibits a Participating State from issuing citations and imposing reasonable fines and penalties pursuant to applicable State laws and regulations on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

"(i) submit documents as required under subsection (d)(2); or

"(ii) pay the fees required under subsection (f); or

"(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 of this title on or in a commercial motor vehicle.

"(j) APPLICATION TO INTRASTATE CARRIERS.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR Agreement to motor carriers and motor private carriers subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 145 is amended by inserting after the item relating to section 14504 the following:

"14504a. Unified carrier registration system plan and agreement".

SEC. 7136. IDENTIFICATION OF VEHICLES.

(a) IN GENERAL.—Chapter 145 is amended by adding at the end the following:

"§ 14506. Identification of vehicles

"(a) RESTRICTION ON REQUIREMENTS.—No State, political subdivision of a State, interstate agency, or other political agency of 2 or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle, other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

"(b) EXCEPTION.—Notwithstanding paragraph (a), a State may continue to require display of credentials that are required—

"(1) under the International Registration Plan under section 31704 of this title;

"(2) under the International Fuel Tax Agreement under section 31705 of this title;

"(3) in connection with Federal requirements for hazardous materials transportation under section 5103 of this title; or

"(4) in connection with the Federal vehicle inspection standards under section 31136 of this title.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 145 is amended by inserting after the item relating to section 14505 the following:

"14506. Identification of vehicles".

SEC. 7137. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS.

Section 31103(a) is amended by inserting "Amounts generated by the Unified Carrier Registration Agreement, under section 14504a of this title and received by a State and-used for motor carrier safety purposes may be included as part of the State's share not provided by the United States." after "United States Government.".

SEC. 7138. FACILITATION OF INTERNATIONAL REGISTRATION PLANS AND INTERNATIONAL FUEL TAX AGREEMENTS.

(a) IN GENERAL.—Chapter 317 is amended by adding at the end the following:

"§ 31708. Facilitation of international registration plans and international fuel tax agreements

"The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705, respectively, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to assist the State with administrative costs resulting from serving as a base jurisdiction for motor carriers from Mexico.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"31708. Facilitation of international registration plans and international fuel tax agreements.".

SEC. 7139. IDENTITY AUTHENTICATION STANDARDS.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1824(a)), is amended by adding at the end the following:

"§179. Identity authentication standards

"(a) Definition of Information-Based Identity Authentication.—In this section, the term 'information-based identity authentication' means the determination of the identity of an individual, through the comparison of information provided by a person, with other information previously verified as accurate pertaining to that individual.

"(b) Standards.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Homeland Security and the Federal Motor Carrier Safety Administration, shall promulgate regulations establishing minimum standards for State departments of motor vehicles regarding the use of information-based identity authentication to determine the identity of an applicant for a commercial driver's license, or the renewal, transfer or upgrading, of a commercial driver's license.

"(c) Minimum Standards.—The regulations shall, at a minimum, require State departments of motor vehicles to implement, and applicants for commercial driver's licenses, (or the renewal, transfer, or upgrading of commercial driver's licenses), to comply with, reasonable procedures for operating an information-based identity authentication program before issuing, renewing, transferring, or upgrading a commercial driver's license.

"(d) Key Factors.—In promulgating regulations under this section, the Secretary shall require that an information-based identity authentication program carried out under this section establish processes that—

"(1) ensure accurate sources of matching information;

"(2) enable the measurement of the accuracy of the determination of an applicant's identity;

"(3) support continuous auditing of compliance with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the program;

"(4) incorporate a comprehensive program ensuring administrative, technical, and physical safeguards to protect the privacy and security of means of identification (as defined in section 1028(d) of title 18, United States Code), against unauthorized and fraudulent access or uses;

"(5) impose limitations to ensure that any information containing means of identification transferred or shared with third-party vendors for the purposes of the information-based identity authentication described in this section is only used by the third-party vendors for the specific purposes authorized under this section;

"(6) include procedures to ensure accuracy and enable applicants for commercial driver's licenses who are denied licenses as a result of the information-based identity authentication described in this section, to appeal the determination and correct information upon which the comparison described in subsection (a) is based;

"(7) ensure that the information-based identity authentication described in this section—

"(A) can accurately assess and authenticate identities; and

"(B) will not produce a large number of false positives or unjustified adverse consequences;

"(8) create penalties for knowing use of inaccurate information as a basis for comparison in authenticating identity; and

"(9) adopt policies and procedures establishing effective oversight of the information-based identity authentication systems of State departments of motor vehicles.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1824(b)), is amended by adding at the end the following:

"179. Identity authentication standards.".

SEC. 7140. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL VEHICLES.

Paragraph (2) of section 31149(a), as transferred by section 7108, is amended by adding at the end the following: "No additional off-duty time for a driver of such a vehicle shall be required in order for the driver to operate the vehicle.".

CHAPTER 3—COMMERCIAL DRIVER'S LICENSES

SEC. 7151. CDL TASK FORCE.

(a) In General.—The Secretary of Transportation shall convene a task force to study and address current impediments and foreseeable challenges to the commercial driver's license program's effectiveness and measures needed to realize the full safety potential of the commercial driver's license program. The task force shall address such issues as State enforcement practices, operational procedures to detect and deter fraud, needed improvements for seamless information sharing between States, effective methods for accurately sharing electronic data between States, adequate proof of citizenship, updated technology, and timely notification from judicial bodies concerning traffic and criminal convictions of commercial driver's license holders.

(b) Membership.—Members of the task force should include State motor vehicle administrators, organizations representing government agencies or officials, members of the Judicial Conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.

(c) Report.—Within 2 years after the date of enactment of this Act, the Secretary, on behalf of the task force, shall complete a report of the task force's findings and recommendations for legislative, regulatory, and enforcement changes to improve the commercial driver's license program. The Secretary shall promptly transmit the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) Funding.—From the funds authorized by section 7103(b)(3) of this subtitle, $200,000 shall be made available for each of fiscal years 2006 and 2007 to carry out this section.

SEC. 7152. CDL LEARNER'S PERMIT PROGRAM.

Chapter 313 is amended—

(1) by striking "time." in section 31302 and inserting "license, and may have only 1 learner's permit at any time.";

(2) by inserting "and learners' permits" after "licenses" the first place it appears in section 31308;

(3) by striking "licenses." in section 31308 and inserting "licenses and permits.";

(4) by redesignating paragraphs (2) and (3) of section 31308 as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) before a commercial driver's license learner's permit can be issued to an individual, the individual must pass a written test on the operation of a commercial motor vehicle that complies with the minimum standards prescribed by the Secretary under section 31305(a) of this title;";

(5) by inserting "or learner's permit" after "license" each place it appears in paragraphs (3) and (4), as redesignated, of section 31308; and

(6) by inserting "or learner's permit" after "license" each place it appears in section 31309(b).

SEC. 7153. GRANTS TO STATES FOR COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.

(a) In General.—Chapter 313 is amended by adding at the end the following:

"§31318. Grants for commercial driver's license program improvements

"(a) General Authority.—From the funds authorized by section 7103(b)(3) of the Motor Carrier Safety Reauthorization Act of 2005, the Secretary may make a grant to a State, except as otherwise provided in subsection (e), in a fiscal year to improve its implementation of the commercial driver's license program, providing the State is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section. The Secretary shall establish criteria for the distribution of grants and notify the States annually of such criteria.

"(b) Conditions.—Except as otherwise provided in subsection (e), a State may use a grant under this section only for expenses related to its commercial driver's license program, including, but not limited to, computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings. The Secretary shall give priority to grants that will be used to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999. The Secretary may allocate the funds appropriated for such grants in a fiscal year among the eligible States whose applications for grants have been approved, under criteria established by the Secretary.

"(c) Maintenance of Expenditures.—Except as otherwise provided in subsection (e), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for the operation of the commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2005.

"(d) Government Share.—Except as otherwise provided in subsection (e), the Secretary shall reimburse a State, from a grant made under this section, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in implementing the commercial driver's license improvements described in subsection (b). In determining those costs, the Secretary shall include in-kind contributions by the State.

"(e) High-Priority Activities.—

"(1) The Secretary may make a grant to a State agency, local government, or organization representing government agencies or officials for the full cost of research, development, demonstration projects, public education, or other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

"(2) The Secretary may designate up to 10 percent of the amounts made available under section 7103(b)(3) of the Motor Carrier Safety Reauthorization Act of 2005 in a fiscal year for high-priority activities under subsection (e)(1).

"(f) Emerging Issues.—The Secretary may designate up to 10 percent of the amounts made available under section 7103(b)(3) of the Motor Carrier Safety Reauthorization Act of 2005 in a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

"(g) Apportionment.—Except as otherwise provided in subsections (e) and (f), all amounts *available in a fiscal year to carry out this section shall be apportioned to States according to a formula prescribed by the Secretary.*

"(h) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under section 7103(b)(3) of the Motor Carrier Safety Reauthorization Act of 2005 for that fiscal year, up to 0.75 percent of those amounts for administrative expenses incurred in carrying out this section in that fiscal year.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 313 is amended by inserting the following after the item relating to section 31317:

"31318. Grants for commercial driver's license program improvements.".

SEC. 7154. MODERNIZATION OF CDL INFORMATION SYSTEM.

(a) INFORMATION SYSTEM MODERNIZATION ACCOUNT.—Section 31309 of title 49, United States Code, is amended—

(1) by striking "The Secretary" in the last sentence and inserting "Except as provided in subsection (e), the Secretary"; and

(2) by adding at the end the following:

"(e) INFORMATION SYSTEM MODERNIZATION ACCOUNT.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an account to be known as the Information System Modernization Account within the Department of Transportation.

"(2) CREDITS.—Fees collected for any fiscal year beginning after fiscal year 2006 under subsection (d) by the Secretary of Transportation, or an organization that represents the interests of the States, in excess of the costs of operating the information system in that fiscal year shall be and credited to the Information System Modernization Account.

"(3) USE OF FUNDS.—Amounts credited to the Information System Modernization Account shall be available exclusively for the purpose of modernizing the information system under subsection (f). At the end of fiscal year 2008, the Inspector General of the Department of Transportation shall complete an assessment of whether the fees collected in excess of the costs of operating the information system are property credited to the Information System Modernization Account.".

(b) MODERNIZATION PLAN.—Section 31309 of title 49, United States Code, is further amended by adding at the end the following:

"(f) MODERNIZATION PLAN.—

"(1) IN GENERAL.—The Secretary shall develop a comprehensive plan for modernization of the information system that—

"(A) complies with applicable Federal information technology security standards;

"(B) provides for the electronic exchange of all information including the posting of convictions;

"(C) contains self auditing features to ensure that data is being posted correctly and consistently by the States;

"(D) integrates the commercial driver's license and the medical certificate; and

"(E) provides a schedule for modernization of the system.

"(2) COMPETITIVE CONTRACTING.—The Secretary may use non-Federal entities selected by an open, merit-based, competitive process to develop and implement the modernization plan.

"(3) STATE PARTICIPATION.—

"(A) DEADLINE.—The Secretary shall establish a date by which each State must convert to the new information system.

"(B) FUNDING.—A State may use funds made available under section 31318 of this title to develop or modify its system to be compatible with the modernized information system developed by the Secretary under this subsection.".

(c) BASELINE AUDIT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Inspector General of the Department of Transportation, shall perform a baseline audit of the information system maintained under section 31309 of title 49, United States Code. The audit shall include—

(1) an assessment of the validity of data in the information system on a State-by-State basis;

(2) an assessment of the extent to which convictions are validly posted on a driver's record;

(3) recommendations to the Secretary of Transportation on how to update the baseline audit annually to ensure that any shortcomings in the information system are addressed, and a methodology for conducting the update; and

(4) identification, on a State-by-State basis, of any actions that the Inspector General finds necessary to improve the integrity of data collected by the system and to ensure the proper posting of convictions.

SEC. 7155. SCHOOL BUS ENDORSEMENT KNOWLEDGE TEST REQUIREMENT.

The Secretary shall recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.

Subtitle B—Highway and Vehicular Safety

SEC. 7201. SHORT TITLE.

This subtitle may be cited as the "Highway and Vehicular Safety Reauthorization Act of 2005".

CHAPTER 1—HIGHWAY SAFETY GRANT PROGRAM

SEC. 7211. SHORT TITLE.

This chapter may be cited as the "Highway Safety Grant Program Reauthorization Act of 2005".

SEC. 7212. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS FOR FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation for the National Highway Traffic Safety Administration the following:

(1) To carry out the Highway Safety Programs under section 402 of title 23, United States Code, $209,217,985 in fiscal year 2006, $210,224,035 in fiscal year 2007, $221,906,185 in fiscal year 2008, and $226,969,685 in fiscal year 2009.

(2) To carry out the Highway Safety Research and Outreach Programs under section 403 of title 23, United States Code, $141,852,000 in fiscal year 2006, $142,323,000 in fiscal year 2007, $141,560,000 in fiscal year 2008, and $141,952,000 in fiscal year 2009.

(3) To carry out the Occupant Protection Programs under section 405 of title 23, United States Code, $149,667,110 in fiscal year 2006, $149,787,000 in fiscal year 2007, $149,509,185 in fiscal year 2008, and $149,006,000 in fiscal year 2009.

(4) To carry out the Demonstration Programs related to older drivers, law enforcement, and motorcycle training under section 406 of title 23, United States Code, $7,400,000 in each of fiscal years 2006 through 2009.

(5) To carry out the Emergency Medical Services Program under section 407A of title 23, United States Code, $5,000,000 in each of fiscal years 2006 through 2009.

(6) To carry out the Impaired Driving Program under section 410 of title 23, United States Code, $115,721,000 in fiscal year 2006, $129,065,000 in fiscal year 2007, $134,819,000 in fiscal year 2008, and $147,615,000 in fiscal year 2009.

(7) To carry out the State Traffic Safety Information System Improvements under section 412 of title 23, United States Code, $45,000,000 in each of fiscal years 2006 through 2009.

(8) To carry out chapter 303 of title 49, United States Code, $4,000,000 for each of fiscal years 2006 through 2009, to be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(9) To pay administrative and related operating expenses under section 402, section 405, section 406, section 407A, section 410, section 412, section 413, and section 414 of title 23, United States Code, and section 223 of the Highway Safety Grant Program Reauthorization Act of 2005, $17,868,000 for fiscal year 2006, $18,150,000 for fiscal year 2007, $18,837,000 for fiscal year 2008, and $19,350,000 for fiscal year 2009.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in this chapter, the amounts allocated from the Highway Trust Fund for programs provided for in chapter 4 of title 23, United States Code, shall only be used for such programs and may not be used by States or local governments for construction purposes.

(c) PROPORTIONAL INCREASES.—For each fiscal year from 2006 through 2009, if revenue to the Highway Trust Fund increases above the amounts for each such fiscal year assumed in the fiscal year 2006 joint budget resolution, then the amounts made available in such year for the programs in sections 402, 403, 405, and 410 shall increase by the same percentage. If revenue to the Highway Trust Fund for a fiscal year is lower than the amounts for such fiscal year assumed in the fiscal year 2006 joint budget resolution, then the amounts authorized to be made available in such year for those programs shall not decrease.

SEC. 7213. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS TO BE INCLUDED.—

(1) MOTOR VEHICLE AIRBAGS PUBLIC AWARENESS.—Section 402(a)(2) is amended by striking "vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags" and inserting "vehicles.".

(2) AGGRESSIVE DRIVING.—Section 402(a) is further amended—

(A) by redesignating clause (6) as clause (8);

(B) by inserting after "involving school buses," at the end of clause (5) the following: "(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,"; and

(C) by inserting "aggressive driving, distracted driving," after "school bus accidents,".

(3) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1) is amended—

(A) by striking "and" after the semicolon in subparagraph (C);

(B) by striking "State." in subparagraph (D) and inserting "State; and"; and

(C) by adding at the end the following:

"(E) provide satisfactory assurances that the State will implement activities in support of national highway safety priorities and performance goals, including—

"(i) mobilizations, including high visibility enforcement and paid media, in support of efforts to improve occupant protection and reduce impaired driving;

"(ii) sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

"(iii) an annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative;

"(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;

"(v) effective efforts to adopt Model Minimum Uniform Crash Criteria and National Emergency

Medical System Information System data elements; and

"(vi) safety priority programs identified by the Secretary based on national data trends unless a State can demonstrate with data that any such safety priority program is not a matter of significant concern in its jurisdiction.

(b) APPORTIONMENT.—

(1) TRIBAL GOVERNMENT PROGRAMS.—Section 402(c) is amended—

(A) by striking the second sentence; and

(B) by striking "three-fourths of 1 percent" and inserting "2 percent".

(c) LAW ENFORCEMENT CHASE TRAINING.—Section 402 is amended by adding at the end the following:

"(l) LIMITATION RELATING TO LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—No State may receive any funds available for fiscal years after fiscal year 2007 for programs under this chapter until the State submits to the Secretary a written statement that the State actively encourages all relevant law enforcement agencies in that State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005, or as revised and in effect after that date as determined by the Secretary.

"(m) CONSOLIDATION OF GRANT APPLICATIONS.—The Secretary shall establish an approval process by which a State may apply for all grants included under this chapter through a single application with a single annual deadline. The Bureau of Indian Affairs shall establish a similarly simplified process for applications from Indian tribes.".

SEC. 7214. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAMS.

(a) REVISED AUTHORITY AND REQUIREMENTS.—Section 403 is amended to read as follows:

"§403. Highway safety research and development

"(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—

"(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

"(2) conduct ongoing research into driver behavior and its effect on traffic safety;

"(3) conduct research on, launch initiatives to counter, and conduct demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;

"(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

"(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives;

"(6) conduct research on, evaluate, and develop best practices related to driver education programs, including driver education curricula, instructor training and certification, program administration and delivery mechanisms, and make recommendations for harmonizing driver education and multistage graduated licensing systems;

"(7) conduct research, training, and education programs related to older drivers; and

"(8) conduct demonstration projects.

"(b) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—

"(1) REQUIREMENT FOR CAMPAIGNS.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in paragraph (2) in each of years 2006 through 2009.

"(2) PURPOSE.—The purpose of each law enforcement campaign is to achieve either or both of the following objectives:

"(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

"(B) Increase use of seat belts by occupants of motor vehicles.

"(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds available under this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this subsection. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

"(4) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view to—

"(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, and 410 of this title; and

"(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

"(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of such initiatives.

"(6) FUNDING.—The Secretary shall use $24,000,000 in each of fiscal years 2006 through 2009 for advertising and educational initiatives to be carried out nationwide in support of the campaigns under this section.

"(c) INTERNATIONAL COOPERATION.—

"(1) AUTHORITY.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.

"(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 may be used for activities authorized under paragraph (1).".

(b) SPECIFIC RESEARCH PROGRAMS.—

(1) REQUIRED PROGRAMS.—The Secretary shall conduct research under section 403 of title 23, United States Code, on the following:

(A) EFFECTS OF USE OF CONTROLLED SUBSTANCES.—A study on the effects of the use of controlled substances on driver behavior to determine—

(i) methodologies for measuring driver impairment resulting from use of the most common controlled substances (including the use of such substances in combination with alcohol); and

(ii) effective and efficient methods for training law enforcement personnel to detect or measure the level of impairment of a driver who is under the influence of a controlled substance by the use of technology or otherwise.

The Secretary may develop model State legislation based on research conducted under this subparagraph.

(B) ON-SCENE MOTOR VEHICLE COLLISION CAUSATION.—A nationally representative study to collect on-scene motor vehicle collision data, and to determine crash causation, for which the Secretary shall enter into a contract with the National Academy of Sciences to conduct a review of the research, design, methodology, and implementation of the study.

(C) TOLL FACILITIES WORKPLACE SAFETY.—A study on the safety of highway toll collection facilities, including toll booths, conducted in cooperation with State and local highway safety organizations to determine the safety of highway toll collection facilities for the toll collectors who work in and around such facilities and to develop best practices that would be of benefit to State and local highway safety organizations. The study shall consider—

(i) any problems resulting from design or construction of facilities that contribute to the occurrence of vehicle collisions with the facilities;

(ii) the safety of crosswalks used by toll collectors in transit to and from toll booths;

(iii) the extent of the enforcement of speed limits at and in the vicinity of toll facilities;

(iv) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching toll facilities;

(v) the use of cameras to record traffic violations in the vicinity of toll facilities;

(vi). the use of traffic control arms in the vicinity of toll facilities;

(vii) law enforcement practices and jurisdictional issues that affect safety at and in the vicinity of toll facilities; and

(viii) data (which shall be collected in conducting the research) regarding the incidence of accidents and injuries at and around toll booth facilities.

(2) TIME FOR COMPLETION OF STUDIES.—The studies conducted in subparagraphs (A), (B), and (C) of paragraph (1) may be conducted in concert with other Federal departments and agencies with relevant expertise. The Secretary shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the progress of each study conducted under this subsection.

(3) REPORTS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report on the studies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(4) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under section 403(a)(3) of title 23, United States Code, the Secretary shall carry out not less than 2 demonstration projects to evaluate new and innovative means of combating traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

(5) PEDESTRIAN SAFETY.—

(A) IN GENERAL.—The Secretary of Transportation shall—

(i) produce a comprehensive report on pedestrian safety that builds on the current level of knowledge of pedestrian safety countermeasures by identifying the most effective advanced technology and intelligent transportation systems, such as automated pedestrian detection and warning systems (infrastructure-based and vehicle-based), road design, and vehicle structural design that could potentially mitigate the crash forces on pedestrians in the event of a crash; and

(ii) include in the report recommendations on how new technological developments could be incorporated into educational and enforcement efforts and how they could be integrated into national design guidelines developed by the American Association of State Highway and Transportation Officials.

(B) DUE DATE.—The Secretary shall complete the report not less than 2 years after the date of enactment of this Act and transmit a copy of the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(6) STUDY ON REFUSAL OF INTOXICATION TESTING.—

(A) REQUIREMENT FOR STUDY.—In addition to studies under section 403 of title 23, United States Code, the Secretary of Transportation shall carry out a study of the frequency with which persons arrested for the offense of operating a motor vehicle under the influence of alcohol and persons arrested for the offense of operating a motor vehicle while intoxicated refuse to take a test to determine blood alcohol concentration levels and the effect such refusals have on the ability of States to prosecute such persons for those offenses.

(B) CONSULTATION.—In carrying out the study under this paragraph, the Secretary shall consult with the Governors of the States, the States' Attorneys General, and the United States Sentencing Commission.

(C) REPORT.—

(i) REQUIREMENT FOR REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(ii) CONTENT.—The report shall include any recommendation for legislation, including any recommended model State legislation, and any other recommendations that the Secretary considers appropriate for implementing a program designed to decrease the occurrence refusals by arrested persons to submit to a test to determine blood alcohol concentration levels.

SEC. 7215. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE TECHNICAL CORRECTION.

Section 404(d) is amended by striking "Commerce" and inserting "Transportation".

SEC. 7216. OCCUPANT PROTECTION GRANTS.

(a) IN GENERAL.—Section 405 is amended to read as follows:

"§405. Safety belt performance grants

"(a) IN GENERAL.—The Secretary of Transportation shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

"(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

"(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

"(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

"(B) in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate for each of the 2 calendar years immediately preceding the fiscal year of a grant of 90 percent or more, as measured under criteria determined by the Secretary.

"(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c) of this title.

"(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (1)(A), a primary safety belt use law enacted after June 30th of any year shall—

"(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

"(B) be considered as if it were enacted after the beginning of the next Federal fiscal year.

"(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which—

"(A) the primary safety belt use law came into effect; or

"(B) the State's safety belt use rate was 90 percent or more for 2 consecutive calendar years (as measured by criteria determined by the Secretary),

whichever first occurs.

"(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's primary safety belt use law remains in effect or its safety belt use rate is 90 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to paragraph (4)).

"(c) GRANTS FOR PRE-2003 LAWS.—To the extent that amounts made available for any of fiscal years 2006 through 2009 exceed the total amounts to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003. The amount of a grant available to a State under this subsection shall be equal to 250 percent of the amount of funds apportioned to the State under section 402(c) of this title for fiscal year 2003. The Secretary may award the grant in up to 4 installments over a period of 4 fiscal years beginning with fiscal year 2006.

"(d) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall make additional grants under this section of any amounts available for grants under this section that, on July 1, 2009, are neither obligated nor expended. The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c) of this title.

"(e) USE OF GRANT FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

"(A) intersection improvements;

"(B) pavement and shoulder widening;

"(C) installation of rumble strips and other warning devices;

"(D) improving skid resistance;

"(E) improvements for pedestrian or bicyclist safety;

"(F) railway-highway crossing safety;

"(G) traffic calming;

"(H) the elimination of roadside obstacles;

"(I) improving highway signage and pavement marking;

"(J) installing priority control systems for emergency vehicles at signalized intersections;

"(K) installing traffic control or warning devices at locations with high accident potential;

"(L) safety-conscious planning; and

"(M) improving crash data collection and analysis.

"(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

"(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

"(f) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

"(g) FEDERAL SHARE.—The Federal share payable for grants under this subsection is 100 percent.

"(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term 'passenger motor vehicle' means—

"(1) a passenger car,

"(2) a pickup truck,

"(3) a van, minivan, or sport utility vehicle,

with a gross vehicle weight rating of less than 10,000 pounds.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 is amended by striking the item relating to section 405 and inserting the following:

"405. Safety belt performance grants".

SEC. 7217. OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.

(a) IN GENERAL.—Section 406 is amended to read as follows:

"§406. Older driver safety; law enforcement training

"(a) IMPROVING OLDER DRIVER SAFETY.—

"(1) IN GENERAL.—Of the funds made available under this section, the Secretary shall allocate $2,000,000 in each of fiscal years 2006 through 2009 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers. The program shall—

"(A) provide information and guidelines to assist physicians and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety of older drivers;

"(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;

"(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;

"(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and

"(E) conduct other activities to accomplish the objectives of this section.

"(2) FORMULATION OF PLAN.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of this program. The plan shall be submitted to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation within 1 year after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005.

"(b) LAW ENFORCEMENT TRAINING.—

"(1) REQUIREMENT FOR PROGRAM.—The Administrator of the National Highway Traffic Safety Administration shall carry out a program to train law enforcement personnel of each State and political subdivision thereof in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

"(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 shall be available for carrying out this subsection.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 is amended by striking

the item relating to section 406 and inserting the following:

"406. Older driver safety; law enforcement training".

SEC. 7218. EMERGENCY MEDICAL SERVICES.

(a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 is amended by inserting after section 407 the following:

"§407A. Federal coordination and enhanced support of emergency medical services

"(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

"(1) ESTABLISHMENT.—The Secretary of Transportation and the Secretary of Homeland Security, through the Under Secretary for Emergency Preparedness and Response, shall establish a Federal Interagency Committee on Emergency Medical Services. In establishing the Interagency Committee, the Secretary of Transportation and the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response shall consult with the Secretary of Health and Human Services.

"(2) MEMBERSHIP.—The Interagency Committee shall consist of the following officials, or their designees:

"(A) The Administrator, National Highway Traffic Safety Administration.

"(B) The Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(C) The Administrator, Health Resources and Services Administration, Department of Health and Human Services.

"(D) The Director, Centers for Disease Control and Prevention, Department of Health and Human Services.

"(E) The Administrator, United States Fire Administration, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(F) The Director, Center for Medicare and Medicaid Services, Department of Health and Human Services.

"(G) The Undersecretary of Defense for Personnel and Readiness.

"(H) The Director, Indian Health Service, Department of Health and Human Services.

"(I) The Chief, Wireless Telecom Bureau, Federal Communications Commission.

"(J) A representative of any other Federal agency identified by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in relation to the purposes of the Interagency Committee.

"(K) A State Emergency Medical Services Director.

"(3) PURPOSES.—The purposes of the Interagency Committee are as follows:

"(A) To ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9-1-1 systems.

"(B) To identify State, local, tribal, or regional emergency medical services and 9-1-1 needs.

"(C) To recommend new or expanded programs, including grant programs, for improving State, local, tribal, or regional emergency medical services and implementing improved emergency medical services communications technologies, including wireless 9–1–1.

"(D) To identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services.

"(E) To assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs.

"(F) To advise, consult, and make recommendations on matters relating to the implementation of the coordinated State emergency medical services programs.

"(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration, in cooperation with the Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security, shall provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

"(5) LEADERSHIP.—The members of the Interagency Committee shall select a chairperson of the Committee annually.

"(6) MEETINGS.—The Interagency Committee shall meet as frequently as is determined necessary by the chairperson of the Committee.

"(7) ANNUAL REPORTS.—The Interagency Committee shall prepare an annual report to Congress on the Committee's activities, actions, and recommendations.

"(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES PROGRAM.—

"(1) PROGRAM REQUIREMENT.—The Secretary of Transportation, acting through the Administrator of the National Highway Traffic Safety Administration, shall coordinate with officials of other Federal departments and agencies, and may assist State and local governments and emergency medical services organizations (whether or not a firefighter organization), private industry, and other interested parties, to ensure the development and implementation of a coordinated nationwide emergency medical services program that is designed to strengthen transportation safety and public health and to implement improved emergency medical services communication systems, including 9-1-1.

"(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES PROGRAM.—Each State shall establish a program, to be approved by the Secretary, to coordinate the emergency medical services and resources deployed throughout the State, so as to ensure—

"(A) improved emergency medical services communication systems, including 9–1–1;

"(B) utilization of established best practices in system design and operations;

"(C) implementation of quality assurance programs; and

"(D) incorporation of data collection and analysis programs that facilitate system development and data linkages with other systems and programs useful to emergency medical services.

"(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary may not approve a coordinated State emergency medical services program under this subsection unless the program—

"(A) provides that the Governor of the State is responsible for its administration through a State office of emergency medical services that has adequate powers and is suitably equipped and organized to carry out such program and coordinates such program with the highway safety office of the State; and

"(B) authorizes political subdivisions of the State to participate in and receive funds under such program, consistent with a goal of achieving statewide coordination of emergency medical services and 9–1–1 activities.

"(4) FUNDING.—

"(A) USE OF FUNDS.—Funds authorized to be appropriated to carry out this subsection shall be used to aid the States in conducting coordinated emergency medical services and 9–1–1 programs as described in paragraph (2).

"(B) APPORTIONMENT.—

"(i) APPORTIONMENT FORMULA.—The funds shall be apportioned as follows: 75 percent in the ratio that the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States. For the purpose of this subparagraph, a 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year prior to the year in which the funds are apportioned and shall be certified by the Governor of the State and subject to approval by the Secretary.

"(ii) MINIMUM APPORTIONMENT.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior on behalf of Indian tribes shall not be less than ¾ of 1 percent of the total apportionment, and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

"(5) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this subsection.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project or program funded under this subsection shall be 80 percent.

"(7) APPLICATION IN INDIAN COUNTRY.—

"(A) USE OF TERMS.—For the purpose of application of this subsection in Indian country, the terms 'State' and 'Governor of the State' include the Secretary of the Interior and the term 'political subdivisions of the State' includes an Indian tribe.

"(B) INDIAN COUNTRY DEFINED.—In this subsection, the term 'Indian country' means—

"(i) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

"(ii) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(c) STATE DEFINED.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior on behalf of Indian tribes.

"(d) CONSTRUCTION WITH RESPECT TO DISTRICT OF COLUMBIA.—In the administration of this section with respect to the District of Columbia, a reference in this section to the Governor of a State shall refer to the Mayor of the District of Columbia.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by inserting after the item relating to section 407 the following:

"407A. Federal coordination and enhanced support of emergency medical services.".

SEC. 7219. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC SAFETY PROGRAMS.

(a) REPEAL.—Section 408 is repealed.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by striking the item relating to section 408.

SEC. 7220. IMPAIRED DRIVING PROGRAM.

(a) MAINTENANCE OF EFFORT.—Section 410(a)(2) is amended by striking "the Transportation Equity Act for the 21st Century" and inserting "the Highway Safety Grant Program Reauthorization Act of 2005".

(b) REVISED GRANT AUTHORITY.—Section 410 is amended—

(1) by striking paragraph (3) of subsection (a) and redesignating paragraph (4) as paragraph (3); and

(2) by striking subsections (b) through (f) and inserting the following:

"(b) PROGRAM-RELATED ELIGIBILITY REQUIREMENTS.—To be eligible for a grant under this section, a State shall—

"(1) for fiscal year 2006 or 2007, carry out 4 of the programs required under subsection (c);

"(2) for fiscal year 2008 or 2009, carry out 5 of the programs required under subsection (c); and

"(3) for any such fiscal year—

"(A) comply with the additional requirements set forth in subsection (d) with respect to such programs and activities; and

"(B) comply with any additional requirements of the Secretary.

"(c) STATE PROGRAMS AND ACTIVITIES.—To qualify for a grant under this subsection, a State shall select programs from among the following:

"(1) CHECK-POINT, SATURATION PATROL PROGRAM.—

"(A) A State program to conduct a series of high-visibility, Statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through use of sobriety check-points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol or controlled substances that meets the requirements of subparagraphs (B) and (C).

"(B) A program meets the requirements of this subparagraph only if a State organizes the campaigns in cooperation with related periodic national campaigns organized by the National Highway Traffic Safety Administration, but this subparagraph does not preclude a State from initiating sustained high-visibility, Statewide law enforcement campaigns independently of the cooperative efforts.

"(C) A program meets the requirements of this subparagraph only if, for each fiscal year, a State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities at high incident locations, as described in subparagraph (A) (or any other similar activity approved by the Secretary), initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year, which shall not be less than 5 percent.

"(2) PROSECUTION AND ADJUDICATION PROGRAM.—A State prosecution and adjudication program under which—

"(A) judges and prosecutors are actively encouraged to prosecute and adjudicate cases of defendants who repeatedly commit impaired driving offenses by reducing the use of State diversion programs, or other means that have the effect of avoiding or expunging a permanent record of impaired driving in such cases;

"(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts' adjudication of cases of impaired driving offenses; or

"(C) annual Statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

"(3) IMPAIRED OPERATOR INFORMATION SYSTEM.—

"(A) A State impaired operator information system that—

"(i) tracks drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) includes information about each case of an impaired driver beginning at the time of arrest through case disposition, including information about any trial, plea, plea agreement, conviction or other disposition, sentencing or other imposition of sanctions, and substance abuse treatment;

"(iii) provides—

"(I) accessibility to the information for law enforcement personnel Statewide and for United States law enforcement personnel; and

"(II) linkage for the sharing of the information and of the information in State traffic record systems among jurisdictions and appropriate agencies, court systems and offices of the States;

"(iv) shares information with the National Highway Traffic Safety Administration for compilation and use for the tracking of impaired operators of motor vehicles who move from State to State; and

"(v) meets the requirements of subparagraphs (B), (C), and (D) of this paragraph, as applicable.

"(B) A program meets the requirements of this subparagraph only if, during fiscal years 2006 and 2007, a State—

"(i) assesses the system used by the State for tracking drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) identifies ways to improve the system, as well as to enhance the capability of the system to provide information in coordination with impaired operator information systems of other States; and

"(iii) develops a strategic plan that sets forth the actions to be taken and the resources necessary to achieve the identified improvements and to enhance the capability for coordination with the systems of other States.

"(C) A program meets the requirements of this subparagraph only if, in each of fiscal years 2008 and 2009, a State demonstrates to the Secretary that the State has made substantial and meaningful progress in improving the State's impaired operator information system, and makes public a report on the progress of the information system.

"(4) IMPAIRED DRIVING PERFORMANCE.—The percentage of fatally-injured drivers with 0.08 percent or greater blood alcohol concentration in the State has decreased in each of the 2 most recent calendar years for which data are available.

"(5) SELF-SUSTAINING IMPAIRED DRIVING PREVENTION PROGRAM.—A program under which a significant portion of the fines or surcharges collected from individuals who are fined for operating a motor vehicle while under the influence of alcohol are returned to communities for comprehensive programs for the prevention of impaired driving.

"(6) LAWS FOR HIGH RISK DRIVERS.—A law that establishes stronger sanctions or additional penalties for individuals convicted of operating a motor vehicle while under the influence of alcohol whose blood alcohol concentration is 0.15 percent or more than for individuals convicted of the same offense but with a lower blood alcohol concentration. For purposes of this paragraph, the term 'additional penalties' includes—

"(A) a 1-year suspension of a driver's license, but with the individual whose license is suspended becoming eligible after 45 days of such suspension to obtain a provisional driver's license that would permit the individual to drive—

"(i) only to and from the individual's place of employment or school; and

"(ii) only an automobile equipped with a certified alcohol ignition interlock device; and

"(B) a mandatory assessment by a certified substance abuse official of whether the individual has an alcohol abuse problem that includes the possibility of a referral to counseling if the official determines that such a referral is appropriate.

"(7) IMPAIRED DRIVING COURTS.—

"(A) IN GENERAL.—A program to consolidate and coordinate impaired driving cases into courts that specialize in impaired driving cases, with the emphasis on tracking and processing offenders of impaired driving laws, (hereinafter referred to as DWI courts) that meets the requirements of this paragraph.

"(B) CHARACTERISTICS.—A DWI Court is a distinct function performed by a court system for the purpose of changing the behavior of alcohol or drug dependent offenders arrested for driving while impaired. A DWI Court can be a dedicated court with dedicated personnel, including judges, prosecutors and probation officers. A DWI court may be an existing court system that serves the following essential DWI Court functions:

"(i) A DWI Court performs an assessment of high-risk offenders utilizing a team headed by the judge and including all criminal justice stakeholders (prosecutors, defense attorneys, probations officers, law enforcement personnel and others) along with alcohol/drug treatment professionals.

"(ii) The DWI Court team recommends a specific plea agreement or contract for each offender that can include incarceration, treatment, and close community supervision. The agreement maximizes the probability of rehabilitation and minimizes the likelihood of recidivism.

"(iii) Compliance with the agreement is verified with thorough monitoring and frequent alcohol testing. Periodic status hearings assess offender progress and allow an opportunity for modifying the sentence if necessary.

"(C) ASSESSMENT.—In the first year of operation, the States shall assess the number of court systems in its jurisdiction that are consistently performing the DWI Court functions.

"(D) PLAN.—In the second year of operation, the State shall develop a strategic plan for increasing the number of courts performing the DWI function.

"(E) PROGRESS.—In subsequent years of operation, the State shall demonstrate progress in increasing the number of DWI Courts and in increasing the number of high-risk offenders participating in and successfully completing DWI Court agreements.

"(d) USES OF GRANTS.—Grants made under this section may be used for programs and activities described in subsection (c) and to defray the following costs:

"(1) Labor costs, management costs, and equipment procurement costs for the high-visibility, Statewide law enforcement campaigns under subsection (c)(1).

"(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, such as and including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

"(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

"(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

"(5) The costs of the development and implementation of a State impaired operator information system described in subsection (c)(3).

"(6) The costs of operating programs that result in vehicle forfeiture or impoundment or license plate impoundment.

"(e) Additional Authorities for Certain Authorized Uses.—

"(1) Combination of grant proceeds.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402 of this title.

"(2) Coordination of uses.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

"(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

"(B) in coordination with sporting events and concerts and other entertainment events.

"(f) Funding.—

"(1) In general.—Grant funding under this section shall be allocated among States that meet the eligibility criteria in subsection (b) on the basis of the apportionment formula that applies for apportionments under section 402(c) of this title.

"(2) High fatality-rate states.—A State that is among the 10 States with the highest impaired driving-related fatality rates for the calendar year immediately preceding the fiscal year in which the grant may be made shall be eligible for a grant under this section if the State meets the requirements of subsection (g). A State that receives a grant based upon its eligibility under this paragraph may also receive a grant under subsection (b) if it meets the eligibility requirements of that subsection.

"(g) Use of Funds by High Fatality-Rate States.—

"(1) Required uses.—At least ½ of the amounts allocated to States under subsection (f)(2) shall be used for the program described in subsection (c)(1).

"(2) Requirement for plan.—A State receiving an allocation of grant funds under subsection (f)(2) shall expend those funds only after receiving approval from the Administrator of the National Highway Traffic Safety Administration for a plan regarding such expenditures.

"(h) Definitions.—In this section:

"(1) Impaired operator.—The term 'impaired operator' means a person who, while operating a motor vehicle—

"(A) has a blood alcohol content of 0.08 percent or higher; or

"(B) is under the influence of a controlled substance.

"(2) Impaired driving-related fatality rate.—The term 'impaired driving-related fatality rate' means the rate of alcohol-related fatalities, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.".

(c) NHTSA To Issue Regulations.—Not later than 12 months after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005, the National Highway Traffic Safety Administration shall issue guidelines to the States specifying the types and formats of data that States should collect relating to drivers who are arrested or convicted for violation of laws prohibiting the impaired operation of motor vehicles.

SEC. 7221. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

(a) Grant Program Authority.—Chapter 4 is amended by adding at the end the following:

"§412. State traffic safety information system improvements

"(a) Grant Authority.—Subject to the requirements of this section, the Secretary shall make grants of financial assistance to eligible States to support the development and implementation of effective programs by such States to—

"(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

"(2) evaluate the effectiveness of efforts to make such improvements;

"(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

"(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

"(b) First-Year Grants.—

"(1) Eligibility.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

"(A) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems;

"(B) completed or updated, within the preceding 5 years, an assessment or an audit of the highway safety data and traffic records system of the State; and

"(C) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system, is approved by the highway safety data and traffic records coordinating committee, and—

"(i) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

"(ii) prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

"(iii) identifies performance-based measures by which progress toward those goals will be determined; and

"(iv) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

"(2) Grant amount.—Subject to subsection (d)(3), the amount of a first-year grant to a State for a fiscal year shall be the higher of—

"(A) the amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year, by

"(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

"(B) $300,000.

"(c) Successive Year Grants.—

"(1) Eligibility.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

"(A) certifies that an assessment or audit of the State's highway safety data and traffic records system has been conducted or updated within the preceding 5 years;

"(B) submits an updated multiyear plan that meets the requirements of subsection (b)(1)(C);

"(C) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

"(D) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

"(E) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

"(F) includes a current report on the progress in implementing the multiyear plan.

"(2) Grant amount.—Subject to subsection (d)(3), the amount of a year grant made to a State for a fiscal year under this subsection shall equal the higher of—

"(A) the amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year, by

"(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

"(B) $500,000.

"(d) Additional Requirements and Limitations.—

"(1) Model data elements.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

"(2) Data on use of electronic devices.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

"(3) Maintenance of effort.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005.

"(4) Federal share.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.

"(5) Limitation on use of grant proceeds.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.

"(e) Applicability of Chapter 1.—Section 402(d) of this title shall apply in the administration of this section.".

(b) Clerical Amendment.—The chapter analysis for chapter 4 is amended by adding at the end the following:

"412. State traffic safety information system improvements.".

SEC. 7222. NHTSA ACCOUNTABILITY.

(a) In General.—Chapter 4, as amended by section 7221, is amended by adding at the end the following:

"§413. Agency accountability

"(a) Triennial State Management Reviews.—At least once every 3 years the National Highway Traffic Safety Administration shall conduct a review of each State highway safety program. The review shall include a management evaluation of all grant programs partially or fully funded under this title. The Administrator shall provide review-based recommendations on how each State may improve the management and oversight of its grant activities and may provide a management and oversight plan.

"(b) Recommendations Before Submission.—In order to provide guidance to State highway safety agencies on matters that should be addressed in the State highway safety program goals and initiatives as part of its highway safety plan before the plan is submitted for review, the Administrator shall provide data-based recommendations to each State at least 90 days before the date on which the plan is to be submitted for approval.

"(c) State Program Review.—The Administrator shall—

"(1) conduct a program improvement review of any State that does not make substantial progress over a 3-year period in meeting its priority program goals; and

"(2) provide technical assistance and safety program requirements to be incorporated in a State's highway safety plan for any goal not achieved.

"(d) Regional Harmonization.—The Administration and the Inspector General of the Department of Transportation shall undertake a State grant administrative review of the practices and procedures of the management reviews and program reviews conducted by Administration regional offices and formulate a report of best practices to be completed within 180 days after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005.

"(e) Best Practices Guidelines.—

"(1) Uniform Guidelines.—The Administrator shall issue uniform management review guidelines and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties.

"(2) Publication.—The Administrator shall make the following documents available via the Internet upon their completion:

"(A) The Administrator's management review guidelines and the program review guidelines.

"(B) State highway safety plans.

"(C) State annual accomplishment reports.

"(D) The Administration's Summary report of findings from Management Reviews and Improvement Plans.

"(3) Reports to State Highway Safety Agencies.—The Administrator may not make a plan, report, or review available under paragraph (2) that is directed to a State highway safety agency until after it has been submitted to that agency.

"(f) General Accounting Office Review.—The General Accounting Office shall analyze the effectiveness of the National Highway Traffic Safety Administration's oversight of traffic safety grants by determining the usefulness of the Administration's advice to the States regarding grants administration and State activities, the extent to which the States incorporate the Administration's recommendation into their highway safety plans and programs, and improvements that result in a State's highway safety program that may be attributable to the Administration's recommendations. Based on this analysis, the General Accounting Office shall submit a report by not later than the end of fiscal year 2008 to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.".

(b) Conforming Amendment.—The chapter analysis for chapter 4, as amended by section 7221, is amended by inserting after the item relating to section 412 the following:

"413. Agency accountability.".

SEC. 7223. GRANTS FOR IMPROVING CHILD PASSENGER SAFETY PROGRAMS.

(a) In General.—The Secretary of Transportation shall establish a program to provide grants to States to assist in the enactment and enforcement of laws implementing Anton's Law (49 U.S.C. 30127 note).

(b) Eligibility Requirements.—

(1) In general.—The Secretary shall make a grant to each State that, as determined by the Secretary, enacts or has enacted, has in effect, and is enforcing a law requiring that children riding in passenger motor vehicles (as defined in section 405(f)(4)) of title 23, United States Code, who are too large to be secured in a child safety seat be secured in a child restraint (as defined in section 7(1) of Anton's Law (49 U.S.C. 30127 note)) that meets requirements prescribed by the Secretary under section 3 of Anton's Law.

(2) Year in which first eligible.—

(A) Early qualification.—A State that has enacted a law described in paragraph (1) that is in effect before October 1, 2005, is first eligible to receive a grant under subsection (a) in fiscal year 2006.

(B) Subsequent qualification.—A State that enacts a law described in paragraph (1) that takes effect after September 30, 2005, is first eligible to receive a grant under subsection (a) in the first fiscal year beginning after the date on which the law is enacted.

(3) Continuing eligibility.—A State that is eligible under paragraph (1) to receive a grant may receive a grant during each fiscal year listed in subsection (f) in which it is eligible.

(4) Maximum number of grants.—A State may not receive more than 4 grants under this section.

(c) Grant Amount.—Amounts available for grants under this section in any fiscal year shall be apportioned among the eligible States on the basis of population.

(d) Use of Grant Amounts.—

(1) In general.—Of the amounts received by a State under this section for any fiscal year—

(A) 50 percent shall be used for the enforcement of, and education to promote public awareness of, State child passenger protection laws; and

(B) 50 percent shall be used to fund programs that purchase and distribute child booster seats, child safety seats, and other appropriate passenger motor vehicle child restraints to indigent families without charge.

(2) Report.—Within 60 days after the State fiscal year in which a State receives a grant under this section, the State shall transmit to the Secretary a report documenting the manner in which grant amounts were obligated or expended and identifying the specific programs supports by grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under this chapter.

(e) Definition of Child Safety Seat.—The term "child safety seat" means any device (except safety belts (as such term is defined in section 405(f)(6)) of title 23, United States Code, designed for use in a motor vehicle (as such term is defined in section 405(f)(4) of that title) to restrain, seat, or position a child who weighs 50 pounds or less.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation—

(1) $18,000,000 for fiscal year 2006;

(2) $20,000,000 for fiscal year 2007;

(3) $25,000,000 for fiscal year 2008; and

(4) $30,000,000 for fiscal year 2009.

SEC. 7224. MOTORCYCLIST SAFETY TRAINING AND MOTORIST AWARENESS PROGRAMS.

(a) In General.—Chapter 4 of title 23, United States Code, as amended by section 7222, is amended by adding at the end the following:

"§ 414. Motorcyclist safety training and motorist awareness programs

"(a) Definitions.—In this section:

"(1) Motorcyclist safety training.—The term 'motorcyclist safety training' means any formal program of instruction that—

"(A) provides accident avoidance and other safety-oriented operational skills to motorcyclists, including innovative training opportunities to meet unique regional needs; and

"(B) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or a motorcycle advisory council appointed by the Governor of the State.

"(2) Motorist awareness.—The term 'motorist awareness' means individual or collective motorist awareness of—

"(A) the presence of motorcycles on or near roadways; and

"(B) safe driving practices that avoid injury to motorcyclists, bicyclists, and pedestrians.

"(3) Motorist awareness program.—The term 'motorist awareness program' means any informational or public awareness program designed to enhance motorist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or, in the absence of a State Administrator, a motorcycle advisory council appointed by a Governor of the State.

"(4) State.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(b) Eligibility.—Not later than 90 days after the date of enactment of this section and on September 1 of each fiscal year thereafter, based on a letter of certification provided by the Governor of each State, the Secretary shall develop and publish a list of States that, as of the date of publication of the list, have established motorcyclist safety training programs and motorist awareness programs, including information that indicates—

"(1) the level of base funding provided for each such program for the applicable fiscal year; and

"(2) whether the level of base funding provided for each such program for the applicable fiscal year was increased, decreased, or maintained from the level of funding provided for the program for the previous fiscal year.

"(c) Allocation.—Not later than 120 days after the date of enactment of this section, on October 1 of each fiscal year, the Secretary shall allocate to each State for which the base funding allocated for motorcyclist safety training and motorist awareness programs was not less than the amount allocated for the previous year, not less than $100,000, to be used only for motorcyclist safety training and motorist awareness programs, including—

"(1) improvements to motorcyclist safety training curricula;

"(2) improvements in program delivery to both urban and rural areas, including—

"(A) procurement or repair of practice motorcycles;

"(B) instructional aides; and

"(C) mobile training units;

"(3) an increase in the recruitment or retention of motorcyclist safety training instructors certified by a State Motorcycle Safety Administrator or motorcycle advisory council appointed by the Governor; and

"(4) public awareness, public service announcements, and other outreach programs to enhance motorist awareness, such as the 'share-the-road' safety messages developed in subsection (f).

"(d) Contracts With Organizations.—The Secretary may enter into an agreement with an organization that is recommended by and represents the interests of State Motorcycle Safety Administrators to review, determine, and disseminate a description of best practices in motorcycle safety training and motorist awareness, and to recommend such practices, to State administrators, governors, State legislative bodies, and chief licensing officers of States.

"(e) Authorization of Appropriations.—From funds available to carry out section 406 of this title, $5,200,000 shall be made available for each of fiscal years 2006 through 2009 to carry out this section.

"(f) Share-the-Road Model Language.—Not later than 1 year after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005, the Secretary, in consultation with the Administrator of the Natinoal Highway Traffice Safety Administration, shall develop and provide to the States model language for use in traffic safety education courses, driver's manuals, and other driver's training materials instructing the drivers of motor vehicles on the importance of sharing the roads safely with motorcyclists.".

(b) Conforming Amendment.—The chapter analysis for chapter 4 of title 23, United States Code, as amended by section 7222, is amended by adding at the end the following:

"414. Motorcyclist safety training and motorist awareness programs.".

CHAPTER 2—SPECIFIC VEHICLE SAFETY-RELATED RULINGS

SEC. 7251. VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION.

(a) In General.—Subchapter II of chapter 301 is amended by adding at the end the following:

"§30128. Vehicle rollover prevention and crash mitigation

(a) In General.—The Secretary shall initiate rulemaking proceedings, for the purpose of establishing rules or standards that will reduce vehicle rollover crashes and mitigate deaths and injuries associated with such crashes for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(b) Rollover Prevention.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to reduce the occurrence of rollovers consistent with stability enhancing technologies. The Secretary shall issue a proposed rule in this proceeding by rule by October 1, 2006, and a final rule by April 1, 2009.

"(c) Occupant Ejection Prevention.—

"(1) In general.—The Secretary shall also initiate a rulemaking proceeding to establish performance standards to reduce complete and partial ejections of vehicle occupants from outboard seating positions. In formulating the standards the Secretary shall consider various ejection mitigation systems. The Secretary shall issue a final rule under this paragraph no later than October 1, 2009.

"(2) Door locks and door retention.—The Secretary shall complete the rulemaking proceeding initiated to upgrade Federal Motor Vehicle Safety Standard No. 206, relating to door locks and door retention, no later than 30 months after the date of enactment of this Act.

"(d) Protection of Occupants.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to upgrade Federal Motor Vehicle Safety Standard No. 216 relating to roof strength for driver and passenger sides. The Secretary may consider industry and independent dynamic tests that realistically duplicate the actual forces transmitted during a rollover crash. The Secretary shall issue a proposed rule by December 31, 2005, and a final rule by July 1, 2008.

"(e) Deadlines.—If the Secretary determines that the deadline for a final rule under this section cannot be met, the Secretary shall—

"(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce and explain why that deadline cannot be met; and

"(2) establish a new deadline.".

SEC. 7252. SIDE-IMPACT CRASH PROTECTION RULEMAKING.

The Secretary of Transportation shall complete a rulemaking proceeding under chapter 301 of title 49, United States Code, to establish a standard designed to enhance passenger motor vehicle occupant protection, in all seating positions, in side impact crashes. The Secretary shall issue a final rule by July 1, 2008.

SEC. 7253. TIRE RESEARCH.

Within 2 years after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on research conducted to address tire aging. The report shall include a summary of any Federal agency findings, activities, conclusions, and recommendations concerning tire aging and recommendations for potential rulemaking regarding tire aging.

(b) Conforming Amendment.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:

"30128. Vehicle accident ejection protection".

SEC. 7254. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY.

(a) In General.—The Administrator of the National Highway Traffic Safety Administration shall conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds attributable to movement of such vehicles. The Administrator shall complete the study within 1 year after the date of enactment of this Act and report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce not later than 15 months after the date of enactment of this Act.

(b) Specific Issues To Be Covered.—The study required by subsection (a) shall—

(1) include an analysis of backover prevention technology;

(2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and

(3) provide an estimate of cost savings that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of—

(A) injuries and fatalities; and

(B) damage to bumpers and other motor vehicle parts and damage to other objects.

SEC. 7255. NONTRAFFIC INCIDENT DATA COLLECTION.

(a) In General.—In conjunction with the study required in section 7254, the National Highway Traffic Safety Administration shall establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic incidents.

(b) Data Collection and Publication.—The Secretary of Transportation shall publish the data collected under subsection (a) no less frequently than biennially.

SEC. 7256. SAFETY BELT USE REMINDERS.

(a) Buzzer Law.—

(1) In general.—Section 30124 is amended—

(A) by striking "not" the first place it appears; and

(B) by striking "except" and inserting "including".

(2) Conforming amendment.—Section 30122 is amended by striking subsection (d).

(b) Study of Safety Belt Use Technologies.—The Secretary of Transportation shall conduct a review of safety belt use technologies to evaluate progress and to consider possible revisions in strategies for achieving further gains in safety belt use. The Secretary shall complete the study by July 1, 2008.

SEC. 7257. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) Safety Labeling Requirement.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended—

(1) by striking "and" after the semicolon in subsection (e);

(2) by inserting "and" after the semicolon in subsection (f)(3);

(3) by striking "(3)." in subsection (f)(4) and inserting "(3);"; and

(4) by adding at the end the following:

"(g) if 1 or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

"(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

"(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including http://www.safecar.gov; and

"(4) is presented in a legible, visible, and prominent fashion and covers at least—

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) Regulations.—Not later than January 1, 2006, the Secretary of Transportation shall issue regulations to implement the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a).

(c) Applicability.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2006, if the regulations under subsection (b) are prescribed not later than August 31, 2005; or

(2) September 1, 2007, if the regulations under subsection (b) are prescribed after August 31, 2005.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation, to accelerate the testing processes and increasing the number of vehicles tested under the New Car Assessment Program of the National Highway Traffic Safety Administration—

(1) $15,000,000 for fiscal year 2006;

(2) $8,134,065 for fiscal year 2007;

(3) $8,418,760 for fiscal year 2008;

(4) $8,713,410 for fiscal year 2009; and

(5) $9,018,385 for fiscal year 2010.

SEC. 7258. POWER WINDOW SWITCHES.

The Secretary of Transportation shall upgrade Federal Motor Vehicle Safety Standard

118 to require that power windows in motor vehicles not in excess of 10,000 pounds have switches that raise the window only when the switch is pulled up or out. The Secretary shall issue a final rule implementing this section by April 1, 2007.

SEC. 7259. 15-PASSENGER VAN SAFETY.

(a) TESTING.—

(1) IN GENERAL.—The Secretary of Transportation shall require the testing of 15-passenger vans as part of the rollover resistance program of the National Highway Traffic Safety Administration's new car assessment program.

(2) 15-PASSENGER VAN DEFINED.—In this subsection, the term "15-passenger van" means a vehicle that seats 10 to 14 passengers, not including the driver.

(b) PROHIBITION OF PURCHASE, RENTAL, OR LEASE OF NONCOMPLYING 15-PASSENGER VANS FOR SCHOOL USE.—Section 30112(a) is amended—

(1) by inserting "(1)" before "Except as provided"; and

(2) by adding at the end the following:

"(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title. This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of the Surface Transportation Safety Improvement Act of 2005.".

(c) PENALTY.—Section 30165(a) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) SCHOOL BUSES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be $10,000 in the case of—

"(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

"(ii) a violation of section 30112(a)(2) of this title.

"(B) RELATED SERIES OF VIOLATIONS.—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is $15,000,000.".

SEC. 7260. UPDATED FUEL ECONOMY LABELING PROCEDURES.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall, as appropriate and in consultation with the Administrator of the National Highway Traffic Safety Administration, update and revise the process used to determine fuel economy values for labeling purposes as set forth in sections 600.209-85 and 600.209.95 (40 C.F.R. 600.209–85 and 600.209.95) to take into consideration current factors such as speed limits, acceleration rates, braking, variations in weather and temperature, vehicle load, use of air conditioning, driving patterns, and the use of other fuel consuming features. The Administrator shall use existing emissions test cycles and, or, updated adjustment factors to implement the requirements of this subsection.

(b) DEADLINE.—The Administrator of the Environmental Protection Agency shall promulgate a notice of proposed rulemaking by December 31, 2005, and a final rule within 18 months after the date on which the Administrator issues the notice.

(c) REPORT.—Three years after issuing the final rule required by subsection (b) and every 3 years thereafter the Administrator of the Environmental Protection Agency shall reconsider the fuel economy labeling procedures required under subsection (a) to determine if the changes in the factors require revisting the process. The administrator shall report to the Senate Committee on Commerce, Science and Transportation and to the House of Representatives Committee on Energy and Commerce on the outcome of the reconsideration process.

SEC. 7261. IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.

(a) IN GENERAL.—Section 32908 of title 49, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsection (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.—A manufacturer shall affix, or have affixed, to each dual fueled automobile manufactured by the manufacturer (including each light duty truck) that may be operated on the alternative fuel described in section 32901(a)(1)(D)—

"(1) a permanent label inside the automobile's fuel door compartment that—

"(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

"(B) states that the automobile may be operated on the alternative fuel described in section 32901(a)(1)(D) and identifies such alternative fuel; and

"(2) a temporary label to the window or windshield of the automobile that—

"(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

"(B) identifies the automobile as capable of operating on such alternative fuel.".

(b) REGULATIONS.—Not later than March 1, 2006, the Administrator of the Environmental Protection Agency shall promulgate regulations—

(1) for the label referred to in paragraph (1) of section 32908(e) of title 49, United States Code, as amended by subsection (a), that describe—

(A) the language that shall be set out on the label, including a statement that the vehicle is capable of operating on a mixture of 85 percent ethanol blended with gasoline; and

(B) the appropriate size and color of the font of such language so that it is conspicuous to the individual introducing fuel into the vehicle; and

(2) for the temporary window or windshield label referred to in paragraph (2) of such section 32908(e), that—

(A) prohibit the label from being removed by any seller prior to the final sale of the vehicle to a consumer; and

(B) describe the specifications of the label, including that the label shall be—

(i) prominently displayed and conspicuous on the vehicle; and

(ii) separate from any other window or windshield sticker, decal, or label.

(c) COMPLIANCE.—

(1) IN GENERAL.—A manufacturer shall be required to comply with the requirements of section 32908(e) of title 49, United State Code, as amended by subsection (a), for a vehicle that is manufactured for a model year after model year 2006.

(2) MODEL YEAR DEFINED.—In this subsection, the term "model year" shall have the meaning given such term in section 32901(a) of such title.

(d) VIOLATIONS.—

(1) IN GENERAL.—Section 32908(f) of title 49, United States Code, as redesignated by subsection (a), is amended by inserting "or (e)" after "subsection (b)".

(2) CONFORMING AMENDMENT.—Section 32911(a) of such title is amended by inserting "32908(e)," after "32908(b),".

SEC. 7262. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter and chapter 301 of title 49, United States Code—

(1) $136,000,000 for fiscal year 2006;

(2) $142,800,000 for fiscal year 2007;

(3) $149,900,000 for fiscal year 2008; and

(4) $157,400,000 for fiscal year 2009.

Subtitle C—Hazardous Materials

SEC. 7301. SHORT TITLE.

This subtitle may be cited as the "Hazardous Material Transportation Safety and Security Reauthorization Act of 2005".

CHAPTER 1—GENERAL AUTHORITIES ON TRANSPORTATION OF HAZARDOUS MATERIALS

SEC. 7321. PURPOSE.

The text of section 5101 is amended to read as follows:

"The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.".

SEC. 7322. DEFINITIONS.

Section 5102 is amended as follows:

(1) COMMERCE.—Paragraph (1) is amended—

(A) by striking "or" after the semicolon in subparagraph (A);

(B) by striking the "State." in subparagraph (B) and inserting "State; or"; and

(C) by adding at the end the following:

"(C) on a United States-registered aircraft.".

(2) HAZMAT EMPLOYEE.—Paragraph (3) is amended—

(A) by inserting "on a fulltime, part time, or temporary basis" after "employed" in subparagraph (A)(i);

(B) by redesignating clause (ii) of subparagraph (A) as clause (iii) and inserting after clause (i) the following:

"(ii) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and";

(C) by inserting "such full time, part time, or temporary" in clause (iii) of subparagraph (A), as redesignated, after "course of";

(D) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(E) by inserting "on a full time, part time, or temporary basis" after "employed" in subparagraph (B), as redesignated; and

(F) by striking clause (ii) of subparagraph (B), as redesignated, and inserting the following:

"(ii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce;".

(3) HAZMAT EMPLOYER.—Paragraph (4) is amended to read as follows:

"(4) 'hazmat employer' means a person—

"(A) who—

"(i) employs or uses at least 1 hazmat employee on a full time, part time, or temporary basis, or

"(ii) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce, and

"(B) who—

"(i) transports hazardous material in commerce,

"(ii) causes hazardous material to be transported in commerce, or

"(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce, and

includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in subparagraph (B).".

(4) IMMINENT HAZARD.—Paragraph (5) is amended by inserting "relating to hazardous material" after "of a condition".

(5) MOTOR CARRIER.—Paragraph (7) is amended to read as follows:

"(7) 'motor carrier'—

"(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title; but

"(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.".

(6) NATIONAL RESPONSE TEAM.—Paragraph (8) is amended—

(A) by striking "national response team" both places it appears and inserting "National Response Team"; and

(B) by striking "national contingency plan" and inserting "National Contingency Plan".

(7) PERSON.—Paragraph (9)(A) is amended by striking "offering" and all that follows and inserting "that—

"(i) offers hazardous material for transportation in commerce;

"(ii) transports hazardous material to further a commercial enterprise; or

"(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; but".

(8) SECRETARY OF TRANSPORTATION.—Section 5102 is further amended—

(A) by redesignating paragraphs (11), (12), and (13), as paragraphs (12), (13), and (14), respectively; and

(B) by inserting after paragraph (10) the following:

"(11) 'Secretary' means the Secretary of Transportation except as otherwise provided.".

SEC. 7323. GENERAL REGULATORY AUTHORITY.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103(a) is amended by striking "of Transportation".

(b) DESIGNATING MATERIAL AS HAZARDOUS.—Section 5103(a) is further amended—

(1) by striking "etiologic agent" and all that follows through "corrosive material," and inserting "infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,"; and

(2) by striking "decides" and inserting "determines".

(c) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended to read as follows:

"(A) apply to a person who—

"(i) transports hazardous material in commerce;

"(ii) causes hazardous material to be transported in commerce;

"(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce;

"(iv) prepares or accepts hazardous material for transportation in commerce;

"(v) is responsible for the safety of transporting hazardous material in commerce;

"(vi) certifies compliance with any requirement under this chapter; or

"(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi) of this subparagraph; and".

(d) TECHNICAL AMENDMENT REGARDING CONSULTATION.—Section 5103 is amended—

(1) by striking subsection (b)(1)(C); and

(2) by adding at the end the following:

"(c) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.".

SEC. 7324. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103a is amended by striking "of Transportation" each place it appears in subsections (a)(1), (c)(1)(B), and (d) and inserting "of Homeland Security".

(b) COVERED HAZARDOUS MATERIALS.—Section 5103a(b) is amended by striking "with respect to—" and all that follows and inserting "with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce.".

(c) RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL MATERIALS.—Section 5103a is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) of this title if the Secretary of Health and Human Services determines that such material or agent is a threat to the national security of the United States.".

(d) CONFORMING AMENDMENT.—Section 5103a(a)(1) is amended by striking "subsection (c)(1)(B)," and inserting "subsection (d)(1)(B),".

SEC. 7325. BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.

(a) FOREIGN DRIVERS.—

(1) IN GENERAL.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) DEFINITIONS.—In this subsection:

(A) HAZARDOUS MATERIALS.—The term "hazardous material" has the meaning given that term in section 5102(2) of title 49, United States Code.

(B) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term by section 31101 of title 49, United States Code.

(b) OTHER DRIVERS.—

(1) EMPLOYER NOTIFICATION.—Within 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security for Transportation Security shall develop and implement a process for the notification of a hazmat employer (as defined in section 5102(4) of title 49, United States Code), if appropriate considering the potential security implications, designated by an applicant seeking a threat assessment under part 1572 of title 49, Code of Federal Regulations, if the Transportation Security Administration, in an initial notification of threat assessment or a final notification of threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations.

(2) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

(A) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

(i) has performed a security threat assessment under part 1572 of title 49, Code of Federal Regulations, and

(ii) has issued a notification of no security threat under section 1572.5(g) of that title,

is deemed to have met the requirements of any other background check that is equivalent to, or less stringent than, the background check performed under section 5103a of title 49, United States Code, that is required for purposes of any Federal law applicable to transportation workers.

(B) DETERMINATION BY ASSISTANT SECRETARY.—Within 30 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall initiate a rulemaking proceeding, including notice and opportunity for comment, that sets forth the background checks and other similar security or threat assessment requirements applicable to transportation workers under Federal law to which subparagraph (A) applies.

(C) FUTURE RULEMAKINGS.—The Assistant Secretary shall make a determination under the criteria established under subparagraph (B) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this Act.

(c) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes standards for applicants for a hazardous materials endorsement to a commercial driver's license that, as determined by the Secretary of Homeland Security, are more stringent than the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations, then the State shall also provide an appeals process similar to the process provided under section 1572.141 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial in a manner substantially similar to, and to the same extent as, an individual who received an initial notification of threat assessment under part 1572 of that title.

(d) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term "severe transportation security incident", as defined in section 1572.3 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall modify the definition of that term to reflect the preceding sentence.

(e) BACKGROUND CHECK CAPACITY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit a report by October 1, 2005, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish

the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

SEC. 7326. REPRESENTATION AND TAMPERING.

(a) Representation.—Section 5104(a) is amended—

(1) by striking "a container," and all that follows through "packaging) for" and inserting "a package, component of a package, or packaging for"; and

(2) by striking "the container" and all that follows through "packaging) meets" and inserting "the package, component of a package, or packaging meets".

(b) Tampering.—Section 5104(b) is amended—

(1) by striking "A person may not" and inserting "No person may"; and

(2) by inserting "component of a package, or packaging," after "package," in paragraph (2).

SEC. 7327. TRANSPORTING CERTAIN MATERIAL.

Section 5105 is amended by striking subsection (d).

SEC. 7328. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

(a) Reference to Secretary of Transportation.—Section 5107 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c) (other than in paragraph (1)), (d), and (f).

(b) Training Grants.—Section 5107(e) is amended—

(1) by striking "section 5127(c)(3)" and inserting "section 5128(b)(1) of this title"; and

(2) by inserting "and, to the extent determined appropriate by the Secretary, grants for such instructors to train hazmat employees" after "employees" in the first sentence thereof.

SEC. 7329. REGISTRATION.

(a) Reference to Secretary of Transportation.—Section 5108 is amended by striking "of Transportation" each place it appears in subsections (a), (b) (other than following "Department"), (d), (e), (f), (g), (h), and (i).

(b) Persons Required To File.—

(1) Requirement to file.—Section 5108(a)(1)(B) is amended by striking "class A or B explosive" and inserting "Division 1.1, 1.2, or 1.3 explosive material".

(2) Authority to require to file.—Section 5108(a)(2)(B) is amended to read as follows:

"(B) a person designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce.".

(3) No transportation without filing.—Section 5108(a)(3) is amended by striking "fabricate," and all that follows through "package or" and inserting "design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or".

(c) Form and Content of Filings.—Section 5108(b)(1)(C) by striking "the activity." and inserting "any of the activities.".

(d) Filing.—Section 5108(c) is amended to read as follows:

"(c) Filing.—Each person required to file a registration statement under subsection (a) of this section shall file the statement in accordance with regulations prescribed by the Secretary.".

(e) Fees.—Section 5108(g)(1) is amended by striking "may establish," and inserting "shall establish,".

(f) Relationship to Other Laws.—Section 5108(i)(2)(B) is amended by inserting "an Indian tribe," after "subdivision of a State,".

(g) Registration and Annual Fees.—

(1) Reduction in cap.—Section 5108(g)(2)(A) is amended by striking "$5,000" and inserting "$3,000".

(2) Rulemaking.—Any rule, regulation, or order issued by the Secretary of Transportation under which the assessment, payment, or collection of fees under section 5108(g) of title 49, United States Code, was suspended or terminated before the date of enactment of this Act is declared null and void effective 30 days after such date of enactment. Beginning on the 31st day after such date of enactment, the fee schedule established by the Secretary and set forth at 65 Federal Register 7297 (as modified by the rule set forth at 67 Federal Register 58343) shall take effect and apply until such time as it may be modified by a rulemaking proceeding.

(3) Planning and training grants.—Notwithstanding any other provision of law to the contrary, including any limitation on the amount of grants authorized by section 5116 of title 49, United States Code, not contained in that section, the Secretary shall make grants under that section from the account established under section 5116(i) to reduce the balance in that account over the 4 fiscal year period beginning with fiscal year 2006, but in no fiscal year shall the grants distributed exceed the level authorized by section 5116 of title 49, United States Code.

SEC. 7330. SHIPPING PAPERS AND DISCLOSURE.

(a) Reference to Secretary of Transportation.—Section 5110(a) is amended by striking "of Transportation".

(b) Disclosure Considerations and Requirements.—Section 5110 is amended—

(1) by striking "under subsection (b) of this section." in subsection (a) and inserting "in regulations.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) Retention of Papers.—Subsection (d) of section 5110, as redesignated by subsection (b)(3) of this section, is amended to read as follows:

"(d) Retention of Papers.—

"(1) Shippers.—The person who provides the shipping paper under this section shall retain the paper, or an electronic format of it, for a period of 3 years after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the shipper's principal place of business.

"(2) Carriers.—The carrier required to keep the shipping paper under this section, shall retain the paper, or an electronic format of it, for a period of 1 year after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the carrier's principal place of business.

"(3) Availability to government agencies.—Any person required to keep a shipping paper under this subsection shall, upon request, make it available to a Federal, State, or local government agency at reasonable times and locations.".

SEC. 7331. RAIL TANK CARS.

(a) Repeal of Requirements.—Section 5111 is repealed.

(b) Clerical Amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5111.

SEC. 7332. UNSATISFACTORY SAFETY RATINGS.

(a) In General.—The text of section 5113 is amended to read as follows:

"A violation of section 31144(c)(3) of this title shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124 of this title.".

(b) Conforming Amendments.—The first subsection (c) of section 31144 is amended—

(1) by striking "sections 521(b)(5)(A) and 5113" in paragraph (1) and inserting "section 521(b)(5)(A) of this title"; and

(2) by adding at the end of paragraph (3) "A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51 of this title, and shall be subject to the penalties in sections 5123 and 5124 of this title.".

SEC. 7333. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

(a) In General.—Section 5115(a) is amended to read as follows:

"(a) In General.—In coordination with the Director of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary shall maintain a current curriculum of lists of courses necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material.".

(b) Requirements.—Section 5115(b) is amended—

(1) by striking "developed" in the matter preceding paragraph (1) and inserting "maintained"; and

(2) by striking "under other United States Government grant programs" in paragraph (1)(C) and all that follows and inserting "with Federal assistance; and".

(c) Training on Compliance With Legal Requirements.—Section 5115(c)(3) is amended by striking "Association." and inserting "Association or by any other voluntary organization establishing consensus-based standards that the Secretary considers appropriate.".

(d) Distribution and Publication.—Section 5115(d) is amended—

(1) by striking "national response team—" and inserting "National Response Team—"; and

(2) by striking "publish a list" in paragraph (2) and all that follows and inserting "publish and distribute the list of courses maintained under this section, and of any programs utilizing such courses.".

SEC. 7334. PLANNING AND TRAINING GRANTS; EMERGENCY PREPAREDNESS FUND.

(a) Reference to Secretary of Transportation.—Section 5116 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c), (d), (g), and (i).

(b) Government Share of Costs.—Section 5116(e) is amended by striking the second sentence.

(c) Monitoring and Technical Assistance.—Section 5116(f) is amended by striking "national response team" and inserting "National Response Team".

(d) Delegation of Authority.—Section 5116(g) is amended by striking "Government grant programs" and inserting "Federal financial assistance programs".

(e) Emergency Preparedness Fund.—

(1) Name of fund.—Section 5116(i) is amended by inserting after "an account" the following: "(to be known as the 'Emergency Preparedness Fund')".

(2) Publication of emergency response guide.—Section 5116(i) is further amended—

(A) by striking "collects under section 5108(g)(2)(A) of this title and";

(B) by striking "and" after the semicolon in paragraph (2);

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

"(3) to publish and distribute an emergency response guide; and".

(3) Conforming amendment.—Section 5108(g)(2)(C) is amended by striking "the account the Secretary of the Treasury establishes"

and inserting "the Emergency Response Fund established".

(f) REPORTS.—Section 5116(k) is amended—

(1) by striking the first sentence and inserting "The Secretary shall make available to the public annually information on the allocation and uses of the planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107 of this title."; and

(2) by striking "Such report" in the second sentence and inserting "The information".

SEC. 7335. SPECIAL PERMITS AND EXCLUSIONS.

(a) SPECIAL PERMITS AND EXCLUSIONS.—

(1) IN GENERAL.—Section 5117(a)(1) is amended by striking "the Secretary of Transportation may issue" and all that follows through "in a way" and inserting "the Secretary may issue, modify, or terminate a special permit authorizing variances from this chapter, or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title, to a person performing a function regulated by the Secretary under section 5103(b)(1) of this title in a way".

(2) DURATION.—Section 5117(a)(2) is amended to read as follows:

"(2) A special permit under this subsection—

"(A) shall be effective when first issued for not more than 2 years; and

"(B) may be renewed for successive periods of not more than 4 years each.".

(b) REFERENCES TO SPECIAL PERMITS.—Section 5117 is further amended—

(1) by striking "an exemption" each place it appears and inserting "a special permit";

(2) by striking "the exemption" each place it appears and inserting "the special permit"; and

(3) by striking "exempt" in subsection (e) and inserting "granted a variance".

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of section 5117 is amended to read as follows:

"§5117. Special permits and exclusions"

(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

"5117. Special permits and exclusions.".

(3) SUBSECTION HEADING.—The heading for subsection (a) of section 5117 is amended by striking "EXEMPT" and inserting "ISSUE SPECIAL PERMITS".

(d) REPEAL OF SECTION 5118.—

(1) Section 5118 is repealed.

(2) The chapter analysis for chapter 51 is amended by striking the item relating to section 5118 and inserting the following:

"5118. Repealed.".

SEC. 7336. UNIFORM FORMS AND PROCEDURES.

The text of section 5119 is amended to read as follows:

"(a) IN GENERAL.—The Secretary may prescribe regulations to establish uniform forms and regulations for States on the following:

"(1) To register and issue permits to persons that transport or cause to be transported hazardous material by motor vehicles in a State.

"(2) To permit the transportation of hazardous material in a State.

"(b) UNIFORMITY IN FORMS AND PROCEDURES.—In prescribing regulations under subsection (a) of this section, the Secretary shall develop procedures to eliminate discrepancies among the States in carrying out the activities covered by the regulations.

"(c) LIMITATION.—The regulations prescribed under subsection (a) of this section may not define or limit the amount of any fees imposed or collected by a State for any activities covered by the regulations.

"(d) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, the regulations prescribed under subsection (a) of this section shall take effect 1 year after the date on which prescribed.

"(2) EXTENSION.—The Secretary may extend the 1-year period in subsection (a) for an additional year for good cause.

"(e) STATE REGULATIONS.—After the regulations prescribed under subsection (a) of this section take effect under subsection (d) of this section, a State may establish, maintain, or enforce a requirement relating to the same subject matter only if the requirement is consistent with applicable requirements with respect to such activity in the regulations.

"(f) INTERIM STATE PROGRAMS.—Pending the prescription of regulations under subsection (a) of this section, States may participate in the program of uniform forms and procedures recommended by the Alliance for Uniform Hazmat Transportation Procedures.".

SEC. 7337. HAZARDOUS MATERIALS TRANSPORTATION SAFETY AND SECURITY.

The text of section 5121 is amended to read as follows:

"(a) GENERAL AUTHORITY.—

"(1) To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities.

"(2) Except as provided in subsections (c) and (d) of this section, the Secretary shall provide notice and an opportunity for a hearing before issuing an order directing compliance with this chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued under this chapter.

"(b) RECORDS, REPORTS, PROPERTY, AND INFORMATION.—A person subject to this chapter shall—

"(1) maintain records, make reports, and provide property and information that the Secretary by regulation or order requires; and

"(2) make the records, reports, property, and information available for inspection when the Secretary undertakes an inspection or investigation.

"(c) INSPECTIONS AND INVESTIGATIONS.—

"(1) A designated officer or employee of the Secretary may—

"(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property relating to a function described in section 5103(b)(1) of this title;

"(B) except for packaging immediately adjacent to the hazardous material contents, gain access to, open, and examine a package offered for or in transportation when the officer or employees has an objectively reasonable and articulable belief that the package may contain hazardous material;

"(C) remove from transportation a package or related packages in a shipment offered for or in transportation for which—

"(i) such officer or employee has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

"(ii) such officer or employee contemporaneously documents such belief in accordance with procedures set forth in regulations prescribed under subsection (e) of this section;

"(D) gather information from the offeror, carrier, packaging manufacturer or tester, or other person responsible for a package or packages to ascertain the nature and hazards of the contents of the package or packages;

"(E) as necessary under terms and conditions prescribed by the Secretary, order the offeror, carrier, or other person responsible for a package or packages to have the package or packages transported to an appropriate facility, opened, examined, and analyzed; and

"(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in activities carried out under this paragraph.

"(2) An officer or employee acting under the authority of the Secretary under this subsection shall display proper credentials when requested.

"(3) In instances when, as a result of an inspection or investigation under this subsection, an imminent hazards is not found to exist, the Secretary shall, in accordance with procedures set forth in regulations prescribed under subsection (e) of this section, assist the safe resumption of transportation of the package, packages, or transport unit concerned.

"(d) EMERGENCY ORDERS.—

"(1) If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

"(2) The action of the Secretary under paragraph (1) of this subsection shall be in a written emergency order that—

"(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

"(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

"(C) describes the standards and procedures for obtaining relief from the order.

"(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the issuance of the order for the action.

"(4) If a petition for review of an action is filed under paragraph (3) of this subsection and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

"(5) In this subsection, the term 'out-of-service order' means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

"(e) REGULATIONS.—The Secretary shall prescribe in accordance with section 553 of title 5 regulations to carry out the authority in subsections (c) and (d) of this section.

"(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—

"(1) The Secretary shall—

"(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk relating to the transportation of hazardous material and material alleged to be hazardous;

"(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, and other interested individuals, and officers and employees of the United States Government and State and local governments on meeting an emergency relating to the transportation of hazardous material; and

"(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

"(2) Paragraph (1) of this subsection shall not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

"(g) Grants, Cooperative Agreements, and Other Transactions.—The Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

"(1) to expand risk assessment and emergency response capabilities with respect to the security of transportation of hazardous material;

"(2) to enhance emergency communications capacity as deemed necessary by the Secretary, including the use of integrated, interoperable emergency communications technologies where appropriate;

"(3) to conduct research, development, demonstration, risk assessment and emergency response planning and training activities; or

"(4) to otherwise carry out this chapter.

"(h) Reports.—

"(1) The Secretary shall, once every 2 years, submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a comprehensive report on the transportation of hazardous material during the preceding 2 calendar years. Each report shall include, for the period covered by such report—

"(A) a statistical compilation of the accidents, incidents, and casualties related to the transportation of hazardous material during such period;

"(B) a list and summary of applicable Government regulations, criteria, orders, and special permits;

"(C) a summary of the basis for each special permit issued;

"(D) an evaluation of the effectiveness of enforcement activities relating to the transportation of hazardous material during such period, and of the degree of voluntary compliance with regulations;

"(E) a summary of outstanding problems in carrying out this chapter, set forth in order of priority; and

"(F) any recommendations for legislative or administrative action that the Secretary considers appropriate.

"(2) Before December 31, 2007, and every 3 years thereafter, the Secretary, through the Bureau of Transportation Statistics and in consultation with other appropriate Federal departments and agencies, shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the transportation of hazardous material in all modes of transportation during the preceding 3 calendar years. Each report shall include, for the period covered by such report—

"(A) a summary of the hazardous material shipments, deliveries, and movements during such period, set forth by hazardous materials type, by tonnage and ton-miles, and by mode, both domestically and across United States borders; and

"(B) a summary of shipment estimates during such period as a proxy for risk.

"(i) Security Sensitive Information.—

"(1) If the Secretary determines that particular information may reveal a vulnerability of a hazardous material to attack during transportation in commerce, or may facilitate the diversion of hazardous material during transportation in commerce for use in an attack on people or property, the Secretary may disclose such information, on the condition that such information may not be released to the public without prior authorization by the Secretary, only—

"(A) to the owner, custodian, offeror, or carrier of such hazardous material;

"(B) to an officer, employee, or agent of the United States Government, or a State or local government, including volunteer fire departments, concerned with carrying out transportation safety laws, protecting hazardous material in the course of transportation in commerce, protecting public safety or national security, or enforcing Federal law designed to protect public health or the environment; or

"(C) in an administrative or judicial proceeding brought under this chapter, under other Federal law intended to protect public health or the environment, or under other Federal law intended to address terrorist actions or threats of terrorist actions.

"(2) The Secretary may make determinations under paragraph (1) of this subsection with respect to categories of information in accordance with regulations prescribed by the Secretary.

"(3) A release of information pursuant to a determination under paragraph (1) of this subsection shall not be treated as a release of such information to the public for purposes of section 552 of title 5.".

SEC. 7338. ENFORCEMENT.

(a) Reference to Secretary of Transportation.—Section 5122(a) is amended by striking "of Transportation".

(b) General.—Section 5122(a) is further amended—

(1) by striking "chapter or a regulation prescribed or order" in the first sentence and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval"; and

(2) by striking the second sentence and inserting "In an action under this subsection, the court may award appropriate relief, including a temporary or permanent injunction, civil penalties under section 5123 of this title, and punitive damages.".

(c) Imminent Hazards.—Section 5122(b)(1)(B) is amended by striking "ameliorate" and inserting "mitigate".

SEC. 7339. CIVIL PENALTIES.

(a) Penalty.—Section 5123(a) is amended—

(1) in paragraph (1)—

(A) by striking "regulation prescribed or order issued" and inserting "regulation, order, special permit, or approval issued"; and

(B) by striking "$25,000" and inserting "$32,500";

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following:

"(2) If the Secretary finds that a violation under paragraph (1) results in death, serious illness, or severe injury to any person, the Secretary may increase the amount of the civil penalty for such violation to not more than $100,000.

"(3) If the violation is related to training, paragraph (1) shall be applied by substituting '$450' for '$250'.".

(b) Reference to Secretary of Transportation.—Section 5123(b) is amended by striking "of Transportation".

(c) Hearing Requirement.—Section 5123(b) is amended by striking "chapter or a regulation prescribed" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued".

(d) Civil Actions To Collect.—Section 5123(d) is amended by striking "section." and inserting "section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.".

(e) Effective Date.—(1) The amendments made by subsections (b) and (c) of this section shall take effect on the date of the enactment of this Act, and shall apply with respect to violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.

(2) The amendment made by subsection (d) of this section shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), which violations occur on or after the date of the enactment of this Act.

SEC. 7340. CRIMINAL PENALTIES.

(a) In General.—Section 5124 is amended—

(1) by inserting "(a) In General.—" before "A person"; and

(2) by striking "chapter or a regulation prescribed or order" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval".

(b) Additional Matters.—Section 5124 is further amended by adding at the end the following:

"(b) Aggravated Violations.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter, who thereby causes the release of hazardous material shall be fined under title 18, imprisoned for not more than 20 years, or both.

"(c) Separate Violations.—A separate violation occurs for each day the violation, committed by a person who transports or causes to be transported hazardous material, continues.".

SEC. 7341. PREEMPTION.

(a) Reference to Secretary of Transportation.—Section 5125(b)(2) is amended by striking "of Transportation".

(b) Purposes.—Section 5125 is amended—

(1) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively;

(2) by inserting before subsection (b), as so redesignated, the following:

"(a) Purposes.—The Secretary shall exercise the authority in this section—

"(1) to achieve uniform regulation of the transportation of hazardous material;

"(2) to eliminate rules that are inconsistent with the regulations prescribed under this chapter; and

"(3) to otherwise promote the safe and efficient movement of hazardous material in commerce.";

(3) by striking subsection (g), as redesignated; and

(4) by redesignating subsection (h), as redesignated, as subsection (g).

(c) General Preemption.—Section 5125(b), as redesignated by subsection (b)(1) of this section, is further amended by striking "General.—Except as provided in subsection (b), (c), and (e)" and inserting "Preemption Generally.—Except as provided in subsections (c), (d), and (f)".

(d) Substantive Differences.—Section 5125(c), as so redesignated, is further amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking "subsection (c)" and inserting "subsection (d)";

(2) by striking subparagraph (E) of paragraph (1) and inserting the following:

"(E) the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce."; and

(3) by striking "prescribes after November 16, 1990. However, the" in paragraph (2) and inserting "prescribes. The".

(e) Decisions on Preemption.—Section 5125(e), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." in the first sentence and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(f) WAIVER OF PREEMPTION.—Section 5125(f), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(g) STANDARDS.—Section 5125 is further amended by adding at the end the following:

"(h) APPLICATION OF EACH PREEMPTION STANDARD.—Each standard for preemption in subsection (b), (c)(1), or (d) of this section, and in section 5119(b) of this title, is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

"(i) NON-FEDERAL ENFORCEMENT STANDARDS.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.".

SEC. 7342. RELATIONSHIP TO OTHER LAWS.

Section 5126 is amended—

(1) by striking "or causes to be transported hazardous material," in subsection (a) and inserting "hazardous material, or causes hazardous material to be transported,";

(2) by striking "manufactures," and all that follows through "or sells" in subsection (a) and inserting "designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented";

(3) by striking "must" in subsection (a) and inserting "shall";

(4) by striking "manufacturing," in subsection (a) and all that follows through "testing" and inserting "designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing"; and

(5) by striking "39." in subsection (b)(2) and inserting "39, except in the case of an imminent hazard.".

SEC. 7343. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 51 is amended—

(1) by redesignating section 5127 as section 5128; and

(2) by inserting after section 5126 the following:

"§5127. Judicial review

"(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals of the United States for the circuit in which the person resides or has a principal place of business. The petition shall be filed not more than 60 days after the action of the Secretary becomes final.

"(b) PROCEDURES.—When a petition on a final action is filed under subsection (a) of this section, the clerk of the court shall immediately send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—The court in which a petition on a final action is filed under subsection (a) of this section has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5 to affirm or set aside any part of the final action and may order the Secretary to conduct further proceedings.

"(d) REQUIREMENT FOR PRIOR OBJECTIONS.—In reviewing a final action under this section, the court may consider an objection to the final action only if—

"(1) the objection was made in the course of a proceeding or review conducted by the Secretary; or

"(2) there was a reasonable ground for not making the objection in the proceeding.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

"5127. Judicial review.
"5128. Authorization of appropriations.".

SEC. 7344. AUTHORIZATION OF APPROPRIATIONS.

Section 5128, as redesignated by section 7343 of this chapter, is amended to read as follows:

"§5128. Authorization of appropriations

"(a) GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116, and 5119 of this title), the following amounts are authorized to be appropriated to the Secretary:

"(1) For fiscal year 2005, not more than $24,940,000.

"(2) For fiscal year 2006, not more than $29,000,000.

"(3) For each of fiscal years 2007 through 2009, not more than $30,000,000.

"(b) EMERGENCY PREPAREDNESS FUND.—There shall be available from the Emergency Preparedness Fund under section 5116(i) of this title, amounts as follows:

"(1) To carry out section 5107(e) of this title, $4,000,000 for each of fiscal years 2005 through 2009.

"(2) To carry out section 5115 of this title, $200,000 for each of fiscal years 2005 through 2009.

"(3) To carry out sections 5116(a) and (b) of this title, $21,800,000 for each of fiscal years 2005 through 2009, to be allocated as follows:

"(A) $5,000,000 to carry out section 5116(a).

"(B) $7,800,000 to carry out section 5116(b).

"(C) Of the amount provided for by this paragraph in excess of the suballocations in subparagraphs (A) and (B)—

"(i) 35 percent shall be used to carry out section 5116(a), and

"(ii) 65 percent shall be used to carry out section 5116(b),

except that the Secretary may increase the proportion to carry out section 5116(b) and decrease the proportion to carry out section 5116(a) if the Secretary determines that such reallocation is appropriate to carry out the intended uses of these funds as described in the applications submitted by States and Indian tribes.

"(4) To carry out section 5116(f) of this title, $150,000 for each of fiscal years 2005 through 2009.

"(5) To carry out section 5116(i)(4) of this title, $150,000 for each of fiscal years 2005 through 2009.

"(6) To carry out section 5116(j) of this title, $1,000,000 for each of fiscal years 2005 through 2009.

"(7) To publish and distribute an emergency response guidebook under section 5116(i)(3) of title 49, United States Code, $750,000 for each of fiscal years 2005 through 2009.

"(c) SECTION 5121 REPORTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of the Bureau of Transportation Statistics such sums as may be necessary to carry out section 5121(h) of this title.".

"(d) CREDIT TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, political subdivision of a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, political subdivision, Indian tribe, or other authority or entity.

"(e) AVAILABILITY OF AMOUNTS.—Amounts available under subsections (a) and (b) of this section shall remain available until expended.".

SEC. 7345. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.

(a) TITLE 49 PENALTIES.—Section 46312 is amended—

(1) by striking "part—" in subsection (a) and inserting "part or chapter 51 of this title—"; and

(2) by inserting "or chapter 51 of this title" in subsection (b) after "under this part".

(b) TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by inserting "5124," before "46312,".

SEC. 7346. TECHNICAL CORRECTIONS.

(a) HIGHWAY ROUTING OF HAZARDOUS MATERIAL.—The second sentence of section 5112(a)(1) is amended by striking "However, the Secretary of Transportation" and inserting "The Secretary".

(b) AIR TRANSPORTATION OF IONIZING RADIATION MATERIAL.—Section 5114(b) is amended by striking "of Transportation".

(c) INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.—Section 5120 is amended by striking "of Transportation" each place it appears in subsections (a), (b), and (c)(1).

CHAPTER 2—OTHER MATTERS

SEC. 7361. ADMINISTRATIVE AUTHORITY FOR PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION.

Section 108 is amended by adding at the end the following:

"(h) ADMINISTRATIVE AUTHORITIES.—

"(1) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Administrator may enter into grants, cooperative agreements, and other transactions with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

"(A) to conduct research into transportation service and infrastructure assurance; and

"(B) to carry out other research activities of the Administration.

"(2) LIMITATION ON DISCLOSURE OF CERTAIN INFORMATION.—

"(A) LIMITATION.—If the Administrator determines that particular information developed in research sponsored by the Administration may reveal a systemic vulnerability of transportation service or infrastructure, such information may be disclosed only to—

"(i) a person responsible for the security of the transportation service or infrastructure;

"(ii) a person responsible for protecting public safety; or

"(iii) an officer, employee, or agent of the Federal Government, or a State or local government, who, as determined by the Administrator, has need for such information in the performance of official duties.

"(B) TREATMENT OF RELEASE.—The release of information under subparagraph (A) shall not be treated as a release to the public for purposes of section 552 of title 5.".

SEC. 7362. MAILABILITY OF HAZARDOUS MATERIALS.

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

"(n)(1) Except as otherwise authorized by law or regulations of the Postal Service under section 3018 of this title, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation as hazardous material under section 5103(a) of title 49.".

(b) MAILABILITY.—

(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§3018. Hazardous material

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mails.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable to the Postal Service for—

"(A) a civil penalty of at least $250, but not more than $100,000, for each violation;

"(B) the costs of any clean-up associated with such violation; and

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) KNOWLEDGE OF STATUTE OR REGULATION NOT ELEMENT OF OFFENSE.—Knowledge of the existence of a statutory provision or Postal Service regulation is not an element of an offense under this subsection.

"(4) SEPARATE VIOLATIONS.—

"(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or cause to be mailed in noncompliance with this section, is in the mail.

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing.

"(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 4409(d) of this title, a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

"(2) LIMITATION.—In a civil action under paragraph (1), the validity, amount, and appropriateness of the civil penalty, clean-up costs, and damages covered by the civil action shall not be subject to review.

"(3) COMPROMISE.—The Postal Service may compromise the amount a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

"(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

"(h) DEPOSIT OF AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited into the Postal Service Fund under section 2003 of this title.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

(c) CONFORMING AMENDMENT.—Section 2003(b) of title 39, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (7);

(2) by striking "purposes." in paragraph (8) and inserting "purposes; and"; and

(3) by adding at the end the following:

"(9) any amounts collected under section 3018 of this title.".

SEC. 7363. CRIMINAL MATTERS.

Section 845(a)(1) of title 18, United States Code, is amended by striking "which are regulated" and all that follows and inserting "that is subject to the authority of the Departments of Transportation and Homeland Security;".

SEC. 7364. CARGO INSPECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation may establish a program of random inspections of cargo at points of entry into the United States for the purpose of determining the extent to which undeclared hazardous material is being offered for transportation in commerce through such points of entry.

(b) INSPECTIONS.—Under the program under subsection (a)—

(1) an officer of the Department of Transportation who is not located at a point of entry into the United States may select at random cargo shipments at points of entry into the United States for inspection; and

(2) an officer or employee of the Department may open and inspect each cargo shipment so selected for the purpose described in subsection (a).

(c) COORDINATION.—The Secretary of Transportation shall coordinate any inspections under the program under subsection (a) with the Secretary of Homeland Security.

(d) DISPOSITION OF HAZARDOUS MATERIALS.—The Secretary of Transportation shall provide for the appropriate handling and disposition of any hazardous material discovered pursuant to inspections under the program under subsection (a).

SEC. 7365. INFORMATION ON HAZMAT REGISTRATIONS.

The Administrator of the Department of Transportation's Research and Special Programs Administration shall—

(1) transmit current hazardous material registrant information to the Federal Motor Carrier Safety Administration to cross reference the registrant's Federal motor carrier registration number; and

(2) notify the Federal Motor Carrier Safety Administration immediately, and provide a registrant's United States Department of Transportation identification number to the Administration, whenever a new registrant registers to transport hazardous materials as a motor carrier.

SEC. 7366. REPORT ON APPLYING HAZARDOUS MATERIALS REGULATIONS TO PERSONS WHO REJECT HAZARDOUS MATERIALS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the costs and benefits of subjecting persons who reject hazardous material for transportation in commerce to the hazardous materials laws and regulations. In completing this assessment, the Secretary shall—

(1) estimate the number of affected employers and employees;

(2) determine what actions would be required by them to comply with such laws and regulations; and

(3) consider whether and to what extent the application of Federal hazardous materials laws and regulations should be limited to—

(A) particular modes of transportation;

(B) certain categories of employees; or

(C) certain classes or categories of hazardous materials.

SEC. 7367. NATIONAL FIRST RESPONDER TRANSPORTATION INCIDENT RESPONSE SYSTEM.

(a) IN GENERAL.—The Secretary of Transportation shall provide funding to the Operation Respond Institute to design, build, and operate a seamless first responder hazardous materials incident detection, preparedness, and response system.

(b) OREIS EXPANSION.—

(1) IN GENERAL.—The system designed, built, and operated by the Institute shall include an expansion of the Operation Respond Emergency Information System.

(2) FUNCTIONALITY.—The Secretary may require that the system designed by the Operation Respond Institute function across multiple transportation modes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 2005 through 2009.

SEC. 7368. HAZARDOUS MATERIAL TRANSPORTATION PLAN REQUIREMENT.

(a) IN GENERAL.—Subpart I of part 172 of the Department of Transportation's regulations (49 C.F.R. 172.800 et seq.), or any subsequent Department of Transportation regulation in pari materia, does not apply to the surface transportation activities of a farmer that are—

(1) in direct support of the farmer's farming operations; and

(2) conducted within a 150-mile radius of those operations.

(b) FARMER DEFINED.—In this section, the term "farmer" means a person—

(1) actively engaged in the production or raising of crops, poultry, livestock, or other agricultural commodities; and

(2) whose gross receipts from the sale of such agricultural commodities or products do not exceed $500,000 annually.

SEC. 7369. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the

inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) Whenever the Administration determines that it is necessary or appropriate the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this Act; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this Act.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 1 year after the date of enactment of this Act the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall—

(1) establish a program to rank those cars according to their risk of catastrophic fracture and separation;

(2) implement measures to eliminate or mitigate this risk; and

(3) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the measures implemented.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration $1,000,000 for fiscal year 2006 to carry out this section, such sums to remain available until expended.

SEC. 7370. HAZARDOUS MATERIALS COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation $2,000,000 for each of fiscal years 2005 through 2009 to develop and administer a hazardous materials cooperative research program.

(b) GOVERNANCE.—The Secretary of Transportation shall establish an independent governing board to select projects and studies to be carried out under the hazardous materials cooperative research program. The Board shall be comprised of one voting representative from the following:

(1) The Federal Aviation Administration.

(2) The Federal Motor Carrier Administration.

(3) The Federal Transit Administration.

(4) The Federal Railroad Administration.

(5) The Maritime Administration.

(6) The Research and Innovative Technology Administration.

(7) The Pipeline and Hazardous Materials Safety Administration.

(8) The Department of Homeland Security.

(9) The Department of Energy.

(10) The Environmental Protection Agency.

(11) A State department of transportation.

(12) A State emergency management agency.

(13) A nonprofit organization representing emergency responders.

(14) A hazmat employer.

(15) A nonprofit organization representing hazmat employees.

(16) A hazardous materials shipper.

(17) A hazardous materials manufacturer.

(18) An organization representing the hazardous materials manufacturing industry.

(19) A research university or research institution.

(20) Additional representatives as the Secretary considers appropriate.

(c) RESEARCH STUDIES.—Under the cooperative resedrch program, the governing board shall select cooperative research studies of hazardous materials transportation that are cross-cutting in nature and that consider issues not adequately addressed by existing Federal or private sector research programs. Priority shall be given to research studies that will yield results immediately applicable to risk analysis and mitigation or that will strengthen the ability of first responders to respond to incidents and accidents involving transportation of hazardous materials.

(d) SPECIAL RULES REGARDING STUDIES.—

(1) SAFETY AND SECURITY.—The purpose of at least one of the studies to be conducted under the cooperative research program shall be—

(A) to provide an assessment of opportunities for integrating and supplementing safety and security measures for hazardous materials transportation;

(B) to identify areas where safety and security measures currently utilized in the transportation of hazardous materials conflict or complement one another;

(C) to outline a comprehensive approach to hazardous materials transportation that effectively incorporates safety and security procedures;

(D) to produce a model of reasonable State and local risk response and management plans that effectively address safety and security of hazardous materials transportation; and

(E) to provide an assessment of the need and feasibility of substituting less lethal substances than toxic inhalation hazards in the manufacturing process.

(2) PERFORMANCE DATA FOR BULK CONTAINERS.—The purpose of at least one of the studies to be conducted under the research program shall be to provide—

(A) an analysis of, and recommendations for, the design and funding of a nationwide system capable of collecting and analyzing performance data from bulk containers involved in transportation accidents; and

(B) recommendations that can be used to develop conditional release probabilities for various container design specifications (by transport mode).

(3) PACKAGING REQUIREMENTS.—The purpose of at least one of the studies to be conducted under the research program shall be to provide an analysis of recommendations on appropriate packaging requirements for those hazardous materials that are most frequently involved in release incidents.

(4) ROUTING.—The purpose of at least one of the studies to be conducted under the research program shall be to identify the components that could comprise a model of risk and consequence analysis in rail and highway transportation and that can be used to facilitate decisionmaking regarding the routing of hazardous materials shipments and the development of regulations regarding mandatory routing decisions.

(5) RESPONSE COVERAGE.—The purpose of at least one of the studies to be conducted under the research program shall be to provide an assessment of the quality of response coverage for hazardous materials incidents, including cost-effective strategies for improving response capabilities and making recommendations on systematic approaches that could be used to allocate government funding to enhance response capability.

(e) IMPLEMENTATION.—The Secretary of Transportation shall make grants to, and enter a cooperative agreement with, the National Academy of Sciences to carry out activities under this Act.

(f) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the effectiveness of the program in meeting the needs of government and the private sector for cooperative research on hazardous materials transportation.

(g) DEFINITIONS.—In this section, the terms 'hazmat employer' and 'hazmat employee' have the meaning given those terms in section 5102 of title 49, United States Code.

CHAPTER 3—SANITARY FOOD TRANSPORTATION

SEC. 7381. SHORT TITLE.

This chapter may be cited as the "Sanitary Food Transportation Act of 2005".

SEC. 7382. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(i) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—If the food is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 416.".

(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 416. SANITARY TRANSPORTATION PRACTICES.

"(a) DEFINITIONS.—In this section:

"(1) BULK VEHICLE.—The term 'bulk vehicle' includes a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, and any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.

"(2) TRANSPORTATION.—The term 'transportation' means any movement in commerce by motor vehicle or rail vehicle.

"(b) REGULATIONS.—The Secretary shall by regulation require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices prescribed by the Secretary to ensure that food is not transported under conditions that may render the food adulterated.

"(c) CONTENTS.—The regulations shall—

"(1) prescribe such practices as the Secretary determines to be appropriate relating to—

"(A) sanitation;

"(B) packaging, isolation, and other protective measures;

"(C) limitations on the use of vehicles;

"(D) information to be disclosed—

"(i) to a carrier by a person arranging for the transport of food; and

"(ii) to a manufacturer or other person that—

"(I) arranges for the transportation of food by a carrier; or

"(II) furnishes a tank vehicle or bulk vehicle for the transportation of food; and

"(E) recordkeeping; and

"(2) include—

"(A) a list of nonfood products that the Secretary determines may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle; and

"(B) a list of nonfood products that the Secretary determines may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle.

"(d) WAIVERS.—

"(1) IN GENERAL.—The Secretary may waive any requirement under this section, with respect to any class of persons, vehicles, food, or

nonfood products, if the Secretary determines that the waiver—

"(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

"(B) will not be contrary to the public interest.

"(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

"(e) PREEMPTION.—

"(1) IN GENERAL.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning transportation of food that is not identical to an authority or requirement under this section.

"(2) APPLICABILITY.—This subsection applies to transportation that occurs on or after the effective date of the regulations promulgated under subsection (b).

"(f) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance on request, to the extent resources are available, to the Secretary for the purposes of carrying out this section.".

(c) INSPECTION OF TRANSPORTATION RECORDS.—

(1) REQUIREMENT.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(A) by striking the section heading and all that follows through "For the purpose" and inserting the following:

"SEC. 703. RECORDS.

"(a) IN GENERAL.—For the purpose"; and

(B) by adding at the end the following:

"(b) FOOD TRANSPORTATION RECORDS.—A shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 416 shall, on request of an officer or employee designated by the Secretary, permit the officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires to be kept under section 416(c)(1)(E).".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 703 of the Federal Food, Drug, and Cosmetic Act (as designated by paragraph (1)(A)) is amended by striking "carriers." and inserting "carriers, except as provided in subsection (b)".

(d) PROHIBITED ACTS.—

(1) RECORDS INSPECTION.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by inserting "416," before "504," each place it appears.

(2) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(hh) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—The failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the sanitary transportation practices prescribed by the Secretary under section 416.".

SEC. 7383. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57, is amended to read as follows:

"CHAPTER 57—SANITARY FOOD TRANSPORTATION

"Sec.

"5701. Food transportation safety inspections.

"§ 5701. Food transportation safety inspections

"(a) INSPECTION PROCEDURES.—

"(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall—

"(A) establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

"(i) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act;

"(ii) meat subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

"(iii) poultry products subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a); and

"(B) train personnel of the Department of Transportation in the appropriate use of the procedures.

"(2) APPLICABILITY.—The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to Department of Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

"(b) NOTIFICATION OF SECRETARY OF HEALTH AND HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

"(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) of this section may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.".

SEC. 7384. EFFECTIVE DATE.

This chapter takes effect on October 1, 2005.

CHAPTER 4—HOUSEHOLD GOODS MOVERS

SEC. 7401. SHORT TITLE.

This chapter may be cited as the "Household Goods Mover Oversight Enforcement and Reform Act of 2005".

SEC. 7402. DEFINITIONS; APPLICATION OF PROVISIONS.

(a) TERMS USED IN THIS CHAPTER.—In this chapter, the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning given such terms in section 13102 of title 49, United States Code.

(b) "HOUSEHOLD GOODS MOTOR CARRIER" IN PART B OF SUBTITLE IV OF TITLE 49.—Section 13102 is amended by redesignating paragraphs (12) through (24) as paragraphs (13) through (25) and by inserting after paragraph (11) the following:

"(12) HOUSEHOLD GOODS MOTOR CARRIER.—

"(A) IN GENERAL.—The term 'household goods motor carrier' means a motor carrier described in subparagraph (B) that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

"(i) Binding and nonbinding estimates.

"(ii) Inventorying.

"(iii) Protective packing and unpacking of individual items at personal residences.

"(iv) Loading and unloading at personal residences.

"(B) REGISTRATION REQUIREMENT.—A motor carrier is described in this subparagraph if its operations require it to register as a household goods motor carrier under—

"(i) section 13902 of this title; and

"(ii) regulations prescribed by the Secretary consistent with Federal agency determinations and decisions that were in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

"(C) LIMITED SERVICE EXCLUSION.—The term 'household goods motor carrier' does not include a motor carrier solely because it provides transportation of household goods entirely packed in, and unpacked from, 1 or more containers or trailers by the individual shipper.".

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—The provisions of title 49, United States Code, or of this chapter, relating to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102(12) of title 49, United States Code).

SEC. 7403. PAYMENT OF RATES.

Section 13707(b) is amended by adding at the end the following:

"(3) SHIPMENTS OF HOUSEHOLD GOODS.—

"(A) IN GENERAL.—A carrier providing transportation for a shipment of household goods shall give up possession of the household goods transported at the destination upon payment of—

"(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

"(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or

"(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).

"(B) CALCULATION OF PRORATED CHARGES.—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.

"(C) POST-CONTRACT SERVICES.—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.

"(D) IMPRACTICABLE OPERATIONS.—Subparagraph (A) does not apply to impracticable operations, as defined by the applicable carrier tariff, except that the charges collected at delivery for such operations shall not exceed 15 percent of all other charges due at delivery. Any remaining charges due shall be paid within 30 days after the carrier presents its freight bill.".

SEC. 7404. HOUSEHOLD GOODS CARRIER OPERATIONS.

Section 14104(b) is amended—

(1) by striking "135, upon request of a prospective shipper, may provide" in paragraph (1) and inserting " 135 shall provide";

(2) by striking "services." the first place it appears in paragraph (1) and inserting "services in accordance with the requirements of sections 375.401, 375.403, 375.405, and 375.213 of title 49, Code of Federal Regulations, as those requirements were in effect on the date of enactment of the Surface Transportation Safety Improvement Act of 2005 or may thereafter be revised.";

(3) by redesignating paragraph (2) as paragraph (4); and

(4) by inserting after paragraph (1) the following:

"(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA–ESA–03–005 (or its successor edition or publication) entitled 'Ready to Move?'. Before the execution of a contract for service, a motor carrier shall provide the shipper a copy of the Department of Transportation publication OCE 100, entitled 'Your Rights and Responsibilities When You Move' required by section 375.2 of title 49, Code of Federal Regulations (or any corresponding similar regulation).

"(3) BINDING AND NONBINDING ESTIMATES.—The written estimate required by paragraph (1)

may be either binding or nonbinding. The written estimate shall be based on a visual inspection of the household goods if the household goods are located within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate. The Secretary may not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and related services.".

SEC. 7405. LIABILITY OF CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

Section 14706(f) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "A carrier"; and

(2) by adding at the end, the following:

"(2) FULL VALUE PROTECTION OBLIGATION.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier's maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment, subject to rules issued by the Surface Transportation Board and applicable tariffs.

"(3) APPLICATION OF RATES.—The released rates established by the Board under paragraph (1) (commonly known as 'released rates') shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived in writing by the shipper.".

SEC. 7406. ARBITRATION REQUIREMENTS.

(a) OFFERING SHIPPERS ARBITRATION.—Section 14708(a) is amended by inserting before the period at the end the following: "and to determine whether carrier charges, in addition to those collected at delivery, must be paid by the shipper for transportation and services related to the transportation of household goods".

(b) THRESHOLD FOR BINDING ARBITRATION.—Section 14708(b)(6) is amended by striking "$5,000" each place it appears and inserting "$10,000".

(c) DEADLINE FOR DECISION.—Section 14708(b)(8) is amended—

(1) by striking "and", and

(2) by inserting after "for damages" the following: ", and an order requiring the payment of additional carrier charges".

(d) ATTORNEY'S FEES TO SHIPPERS.—Section 14708(d)(3) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;"

(e) REVIEW AND REPORT ON DISPUTE SETTLEMENT PROGRAMS.—

(1) REVIEW AND REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a review of the outcomes and the effectiveness of the programs carried out under title 49, United States Code, to settle disputes between motor carriers and shippers and submit a report on the review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall describe—

(A) the subject of, and amounts at issue in, the disputes;

(B) patterns in disputes or settlements;

(C) the prevailing party in disputes, if identifiable; and

(D) any other matters the Secretary considers appropriate.

(2) REQUIREMENT FOR PUBLIC COMMENT.—The Secretary shall publish notice of the review required by paragraph (1) and provide an opportunity for the public to submit comments on the effectiveness of such programs. Notwithstanding any confidentiality or non-disclosure provision in a settlement agreement between a motor carrier and a shipper, it shall not be a violation of that provision for a motor carrier or shipper to submit a copy of the settlement agreement, or to provide information included in the agreement, to the Secretary for use in evaluating dispute settlement programs under this subsection. Notwithstanding anything to the contrary in section 552 of title 5, United States Code, the Secretary may not post on the Department of Transportation's electronic docket system, or make available to any requester in paper or electronic format, any information submitted to the Secretary by a motor carrier or shipper under the preceding sentence. The Secretary shall use the settlement agreements or other information submitted by a motor carrier or shipper solely to evaluate the effectiveness of dispute settlement programs and shall not include in the report required by this subsection the names, or other identifying information concerning, motor carriers or shippers that submitted comments or information under this subsection.

SEC. 7407. ENFORCEMENT OF REGULATIONS RELATED TO TRANSPORTATION OF HOUSEHOLD GOODS.

(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B) is amended by inserting "intrastate" before "transportation".

(b) ENFORCEMENT OF FEDERAL LAW WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—

(1) IN GENERAL.—Chapter 147 is amended by adding at the end the following:

"§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

"(a) ENFORCEMENT BY STATES.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions that apply to individual shippers, as determined by the Secretary of Transportation, of this title that are related to the delivery and transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall, notwithstanding any provision of law to the contrary, be paid to and retained by the State.

"(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

"(c) ENFORCEMENT ASSISTANCE OUTREACH PLAN.—The Federal Motor Carrier Safety Administration shall implement an outreach plan to enhance the coordination and effective enforcement of Federal laws and regulations with respect to transportation of household goods between and among Federal and State law enforcement and consumer protection authorities. The outreach shall include, as appropriate, local law enforcement and consumer protection authorities.

"(d) STATE AUTHORITY DEFINED.—The term 'State authority' means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

"§ 14711. Enforcement by State attorneys general

"(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions that apply to individual shippers, as determined by the Secretary of Transportation, of this title that are related to the delivery and transportation of household goods in interstate commerce, or regulations or orders of the Secretary or the Board thereunder, or to impose the civil penalties authorized by this part or such regulation or order, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or a foreign motor carrier providing transportation registered under section 13902 of this title, that is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, promulgated under this part.

"(b) NOTICE AND CONSENT.—

"(1) IN GENERAL.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action.

"(2) CONDITIONS.—The Secretary or the Board—

"(A) shall review the initiation of the action by the State if—

"(i) the carrier or broker (as such terms are defined in section 13102 of this title) is not registered with the Department of Transportation;

"(ii) the license of a carrier or broker for failure to file proof of required bodily injury or cargo liability insurance is pending, or the license has been revoked for any other reason by the Department of Transportation;

"(iii) the carrier is not rated or has received a conditional or unsatisfactory safety rating by the Department of Transportation; or

"(iv) the carrier or broker has been licensed with the Department of Transportation for less than 5 years; and

"(B) may review if the carrier or broker fails to meet criteria developed by the Secretary that are consistent with this section.

"(3) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure of any criteria developed by the Secretary under paragraph (2)(B).

"(4) 60-DAY DEADLINE.—The Secretary or the Board shall be considered to have consented to any such action if the Secretary or the Board has taken no action with respect to the notice within 60 calendar days after the date on which the Secretary or the Board received notice under paragraph (1).

"(c) AUTHORITY TO INTERVENE.—

"(1) IN GENERAL.—Upon receiving the notice required by subsection (b), the Secretary or Board may intervene in such civil action and upon intervening—

"(A) be heard on all matters arising in such civil action;

"(B) file petitions for appeal of a decision in such civil action; and

"(C) be substituted, upon the filing of a motion with the court, for the State as parens patriae in the action.

"(2) SUBSTITUTION.—If the Secretary or the Board files a motion under paragraph (1)(C), the court shall—

"(A) grant the motion without further hearing or procedure;

"(B) substitute the Secretary or the Board, as appropriate, for the State as plaintiff; and

"(C) if requested by the Secretary or the Board, dismiss the State as a party to the action.

"(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

"(1) convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation; or

"(2) prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

"(1) the venue shall be a Federal judicial district in which—

"(A) the carrier, foreign motor carrier, or broker operates;

"(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

"(C) where the defendant in the civil action is found;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

"(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

"(f) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.".

(c) INDIVIDUAL SHIPPER DEFINED.—Section 13102 is amended by redesignating paragraphs (12) through (24) as paragraphs (13) through (25) and by inserting after paragraph (11) the following:

"(12) INDIVIDUAL SHIPPER.—The term 'individual shipper' means any person who—

"(A) is the shipper, consignor, or consignee of a household goods shipment;

"(B) is identified as the shipper, consignor, or consignee on the face of the bill of lading;

"(C) owns the goods being transported; and

"(D) pays his or her own tariff transportation charges.".

(d) CONFORMING AMENDMENT.—The analysis for chapter 147 is amended by inserting after the item relating to section 14709 the following:

"14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.
"14711. Enforcement by State attorneys general.".

SEC. 7408. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State authorities that regulate the movement of household goods, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.

SEC. 7409. INFORMATION ABOUT HOUSEHOLD GOODS TRANSPORTATION ON CARRIERS' WEBSITES.

Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a motor carrier or broker that is subject to such regulations and that establishes (or has established) and maintains a website to prominently display on the website—

(1) the number assigned to the motor carrier or broker by the Department of Transportation;

(2) the OCE 100 publication referred to in section 14104(b)(2) of title 49, United States Code; and

(3) in the case of a broker, a list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

SEC. 7410. CONSUMER COMPLAINTS.

(a) REQUIREMENT FOR DATABASE.—Subchapter II of chapter 141 is amended by adding at the end the following:

"§ 14124. Consumer complaints

"(a) ESTABLISHMENT OF SYSTEM AND DATABASE.—The Secretary of Transportation shall—

"(1) establish a system to—

"(A) file and log a complaint made by a shipper that relates to motor carrier transportation of household goods; and

"(B) to solicit information gathered by a State regarding the number and type of complaints involving the interstate transportation of household goods;

"(2) establish a database of such complaints; and

"(3) develop a procedure—

"(A) to provide public access to the database, subject to section 522a of title 5;

"(B) to forward a complaint, including the motor carrier bill of lading number, if known, related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(c) in the State in which the complainant resides; and

"(C) to permit a motor carrier to challenge information in the database.

"(b) SUMMARY TO CONGRESS.—The Secretary shall transmit a summary each year of the complaints filed and logged under subsection (a) for the preceding calendar year to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 141 is amended by inserting after the item relating to section 14123 the following:

"14124. Consumer complaints.".

SEC. 7411. REVIEW OF LIABILITY OF CARRIERS.

(a) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Surface Transportation Board shall complete a review of the current Federal regulations regarding the level of liability protection provided by motor carriers that provide transportation of household goods and revise such regulations, if necessary, to provide enhanced protection in the case of loss or damage.

(b) DETERMINATIONS.—The review required by subsection (a) shall include a determination of—

(1) whether the current regulations provide adequate protection;

(2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability;

(3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of household goods; and

(4) whether the section 14706 of title 49, United States Code, should be modified.

SEC. 7412. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS.

Section 14901(d) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "If a carrier"; and

(2) by adding at the end the following:

"(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

"(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 this title or provides broker services for such transportation without being registered under chapter 139 of this title to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.".

SEC. 7413. CIVIL AND CRIMINAL PENALTY FOR FAILING TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

"§ 14915. Penalties for failure to give up possession of household goods

"(a) CIVIL PENALTY.—Whoever is found to have failed to give up possession of household goods is liable to the United States for a civil penalty of not less than $10,000. Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation. If such person is a carrier or broker, the Secretary may suspend the registration of such carrier or broker under chapter 139 of this title for a period of not less than 12 months nor more than 36 months. The force and effect of such suspension of a carrier or broker shall extend to and include any carrier or broker having the same ownership or operational control as the suspended carrier or broker.

"(b) CRIMINAL PENALTY.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 5 years, or both.

"(c) FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS DEFINED.—For purposes of this section, the term 'failed to give up possession of household goods' means the knowing and willful failure, in violation of a contract, to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title, for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A) of this title.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"14915. Penalties for failure to give up possession of household goods.".

SEC. 7414. PROGRESS REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the progress being made in implementing the provisions of this chapter.

SEC. 7415. ADDITIONAL REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS OF HOUSEHOLD GOODS.

Section 13902(a) is amended—

(1) by striking paragraphs (2) and (3);

(2) by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (1) the following:

"(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS TRANSPORTATION.—Notwithstanding paragraph (1), the Secretary may register a person to provide transportation of household goods (as defined in section 13102(10) of this title) only after that person—

"(A) provides evidence of participation in an arbitration program and provides a copy of the notice of that program as required by section 14708(b)(2) of this title;

"(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c) of this title;

"(C) provides evidence that it has access to, has read, is familiar with, and will observe all laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and

"(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within the past 3 years.

"(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and, to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

"(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration."; and

(3) by adding at the end of paragraph (5), as redesignated, "In the case of a registration for the transportation of household goods (as defined in section 13102(10 of this title), the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.".

Subtitle E—Sportfishing and Recreational Boating Safety

SEC. 7501. SHORT TITLE.

This subtitle may be cited as the "Sportfishing and Recreational Boating Safety Act of 2005".

CHAPTER 1—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

SEC. 7511. AMENDMENT OF FEDERAL AID IN SPORT FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.).

SEC. 7512. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (16 U.S.C. 777b) is amended—

(1) by striking "the succeeding fiscal year." in the third sentence and inserting "succeeding fiscal years."; and

(2) by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation." and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The first sentence of section 3 (16 U.S.C. 777b) is amended—

(A) by striking "Sport Fish Restoration Account" and inserting "Sport Fish Restoration and Boating Trust Fund"; and

(B) by striking "that Account" and inserting "that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2005.

SEC. 7513. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (c) and redesignating subsections (d), (e), (f), and (g) as subsections (b), (c), (d), and (e), respectively;

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following:

"(a) IN GENERAL.—For fiscal years 2005 through 2019, the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:

"(1) COASTAL WETLANDS.—18.5 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

"(2) BOATING SAFETY.—18.5 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) CLEAN VESSEL ACT.—2.0 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(4) BOATING INFRASTRUCTURE.—2.0 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(5) NATIONAL OUTREACH AND COMMUNICATIONS.—2.0 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c) of this section.";

(3) by striking (b)(1)(A), as redesignated by paragraph (1), and inserting the following:

"(A) SET-ASIDE.—For fiscal year 2005 and each subsequent fiscal year, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses of administration incurred in the implementation of this Act, in accordance with this section and section 9. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) for the fiscal year.";

(4) by striking "Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14, shall apportion the remainder" in subsection (c), as redesignated by paragraph (1), and inserting "Secretary, for fiscal year 2005 and each subsequent fiscal year, after the distribution, transfer, use and deduction under subsection (b), and after deducting amounts used for grants under section 14 of this title, shall apportion 57 percent of the balance";

(5) by striking "per centum" each place it appears in subsection (c), as redesignated by paragraph (1), and inserting "percent";

(6) by striking "subsections (a), (b)(3)(A), (b)(3)(B), and (c)" in paragraph (1) of subsection (e), as redesignated by paragraph (1), and inserting "paragraphs (1), (3), (4), and (5) of subsection (a)"; and

(7) by adding at the end the following:

"(f) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.".

SEC. 7514. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking "in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." in subsection (b)(2) and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(c)."; and

(2) by striking "subsection (c) or (d)" in subsection (d)(3) and inserting "subsection (a)(5) or subsection (b)".

SEC. 7515. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended by striking "section 4(b)(3)(B) of the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,' approved August 9, 1950, as amended by this Act." and inserting "section 4(a)(4) of the Dingell-Johnson Sport Fish Restoration Act".

SEC. 7516. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking "section 4(d)(1)" in subsection (a) and inserting "section 4(b)"; and

(2) by striking "section 4(d)(1)" in subsection (b)(1) and inserting "section 4(b)".

SEC. 7517. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(b) of this Act.".

SEC. 7518. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

"(a) IN GENERAL.—

"(1) AMOUNT FOR GRANTS.—For fiscal year 2005 and each subsequent fiscal year, not more than $3,000,000 of each annual appropriation made in accordance with the provisions of section 3 shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.";

(2) by striking "section 4(e)" each place it appears in subsection (a)(2)(B) and inserting "section 4(c)"; and

(3) by striking "Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—" in subsection (e) and inserting "Of amounts made available under section 4(b) for each fiscal year—".

SEC. 7519. EXPENDITURES FROM BOAT SAFETY ACCOUNT.

The Act is amended by adding at the end the following:

"SEC. 15. EXPENDITURES FROM BOAT SAFETY ACCOUNT.

"The following amounts in the boating safety account under section 9504(c) of the Internal Revenue Code of 1986 shall be made available without further appropriation and shall be distributed as follows:

"(1) In fiscal year 2006, $28,155,000 shall be distributed—

"(A) under section 4 of this Act in the following manner:

"(i) $11,200,000 to be added to funds available under subsection (a)(2) of that section;

"(ii) $1,245,000 to be added to funds available under subsection (a)(3) of that section;

"(iii) $1,245,000 to be added to funds available under subsection (a)(4) of that section;

"(iv) $1,245,000 to be added to funds available under subsection (a)(5) of that section; and

"(v) $12,800,000 to be added to funds available under subsection (b) of that section; and

"(B) under section 14 of this Act, $420,000, to be added to funds available under subsection (a)(1) of that section.

"(2) In fiscal year 2007, $22,419,000 shall be distributed—

"(A) under section 4 of this Act in the following manner:

"(i) $8,075,000 to be added to funds available under subsection (a)(2) of that section;

"(ii) $713,000 to be added to funds available under subsection (a)(3) of that section;

"(iii) $713,000 to be added to funds available under subsection (a)(4) of that section;

"(iv) $713,000 to be added to funds available under subsection (a)(5) of that section; and

"(v) $11,925,000 to be added to funds available under subsection (b) of this Act; and

"(B) under section 14 of this Act, $280,000 to be added to funds available under subsection (a)(1) of that section.

"(3) In fiscal year 2008, $17,139,000 shall be distributed—

"(A) under section 4 of this Act in the following manner:

"(i) $6,800,000 to be added to funds available under subsection (a)(2) of that section;

"(ii) $333,000 to be added to funds available under subsection (a)(3) of that section;

"(iii) $333,000 to be added to funds available under subsection (a)(4) of that section;

"(iv) $333,000 to be added to funds available under subsection (a)(5) of that section; and

"(v) $9,200,000 to be added to funds available under subsection (b) of that section; and

"(B) under section 14 of this Act, $140,000, to be added to funds available under subsection (a)(1) of that section.

"(4) In fiscal year 2009, $12,287,000 shall be distributed—

"(A) under section 4 of this Act in the following manner:

"(i) $5,100,000 to be added to funds available under subsection (a)(2) of that section;

"(ii) $48,000 to be added to funds available under subsection (a)(3) of that section;

"(iii) $48,000 to be added to funds available under subsection (a)(4) of that section;

"(iv) $48,000 to be added to funds available under subsection (a)(5) of that section; and

"(v) $6,900,000 to be added to funds available under subsection (b) of that section; and

"(B) under section 14 of this Act, $143,000, to be added to funds available under subsection (a)(1) of that section.

"(5) In fiscal year 2010, all remaining funds in the Account shall be distributed under section 4 of this Act in the following manner:

"(A) one-third to be added to funds available under subsection (b); and

"(B) two-thirds to be added to funds available under subsection (h).".

CHAPTER 2—CLEAN VESSEL ACT AMENDMENTS

SEC. 7531. GRANT PROGRAM.

Section 5604(c)(2) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

CHAPTER 3—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

SEC. 7551. STATE MATCHING FUNDS REQUIREMENT.

Section 13103(b) of title 46, United States Code, is amended by striking "one-half" and inserting "75 percent".

SEC. 7552. AVAILABILITY OF ALLOCATIONS.

Section 13104(a) of title 46, United States Code, is amended—

(1) by striking "2 years" in paragraph (1) and inserting "3 years"; and

(2) by striking "2-year" in paragraph (2) and inserting "3-year".

SEC. 7553. AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13106 of title 46, United States Code, is amended—

(1) by striking "section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b))"in subsection (a)(1) and inserting "subsections (a)(2) and (f) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2) and (f))";

(2) by striking "not less than one percent and" in subsection (a)(2);

(3) in subsection (c)(1)—

(A) by striking "Secretary of Transportation under paragraph (5)(C) of section 4(b)" and inserting "Secretary under subsection (a)(2) of section 4";

(B) by striking "(16 U.S.C. 777c(b))" and inserting "(16 U.S.C. 777c(a)(2)";

(C) by striking "$3,333,336" and inserting "not more than 5 percent";

(D) by striking "$1,333,336" and inserting "not less than $2,000,000"; and

(4) by striking "until expended." in subsection (c)(3) and inserting "during the 2 succeeding fiscal years. Any amount that is unexpected or unobligated at the end of the 3-year period during which it is available shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.".

SEC. 7554. MAINTENANCE OF EFFORT FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

(a) In General.—Chapter 131 of title 46, United States Code, is amended by inserting after section 13106 the following:

"§ 13107. Maintenance of effort for State recreational boating safety programs

"(a) In General.—The amount payable to a State for a fiscal year from an allocation under section 13103 of this chapter shall be reduced if the usual amounts expended by the State for the State's recreational boating safety program, as determined under section 13105 of this chapter, for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year. The reduction shall be proportionate, as a percentage, to the amount by which the level of State expenditures for such previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year.

"(b) Reduction of Threshold.—If the total amount available for allocation and distribution under this chapter in a fiscal year for all participating State recreational boating safety programs is less than such amount for the preceding fiscal year, the level of State expenditures required under subsection (a) of this section for the preceding fiscal year shall be decreased proportionately.

"(c) Waiver.—

"(1) In general.—Upon the written request of a State, the Secretary may waive the provisions of subsection (a) of this section for 1 fiscal year if the Secretary determines that a reduction in expenditures for the State's recreational boating safety program is attributable to a non-selective reduction in expenditures for the programs of all Executive branch agencies of the State government, or for other reasons if the State demonstrates to the Secretary's satisfaction that such waiver is warranted.

"(2) 30-day decision.—The Secretary shall approve or deny a request for a waiver not later than 30 days after the date the request is received.".

(b) Conforming Amendment.—The chapter analysis for chapter 131 of title 46, United States Code, is amended by inserting after the item relating to section 13106 the following:

"13107. Maintenance of effort for State recreational boating safety programs.".

Subtitle F—Miscellaneous Provisions

SEC. 7601. OFFICE OF INTERMODALISM.

(a) In General.—Section 5503 is amended—

(1) by inserting "Amounts reserved under section 5504(d) not awarded to States as grants may be used by the Director to provide technical assistance under this subsection." after "organizations." in subsection (e);

(2) by redesignating subsection (f) as subsection (h), and inserting after subsection (e) the following:

"(f) National Intermodal System Improvement Plan.—

"(1) In general.—The Director, in consultation with the advisory board established under section 5502 of this title and other public and private transportation interests, shall develop a plan to improve the national intermodal transportation system. The plan shall include—

"(A) an assessment and forecast of the national intermodal transportation system's impact on mobility, safety, energy consumption, the environment, technology, international trade, economic activity, and quality of life in the United States;

"(B) an assessment of the operational and economic attributes of each passenger and freight mode of transportation and the optimal role of each mode in the national intermodal transportation system;

"(C) a description of recommended intermodal and multi-modal research and development projects;

"(D) a description of emerging trends that have an impact on the national intermodal transportation system;

"(E) recommendations for improving intermodal policy, transportation decisionmaking, and financing to maximize mobility and the return on investment of Federal spending on transportation;

"(F) an estimate of the impact of current Federal and State transportation policy on the national intermodal transportation system; and

"(G) specific near and long-term goals for the national intermodal transportation system.

"(2) Progress reports.—The Director shall submit an initial report on the plan to improve the national intermodal transportation system 2 years after the date of enactment of the Surface Transportation Safety Improvement Act of 2005, and a follow-up report 2 years after that, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The progress report shall—

"(A) describe progress made toward achieving the plan's goals;

"(B) describe challenges and obstacles to achieving the plan's goals;

"(C) update the plan to reflect changed circumstances or new developments; and

"(D) make policy and legislative recommendations the Director believes are necessary and appropriate to achieve the goals of the plan.

"(3) PLAN DEVELOPMENT FUNDING.—Such sums as may be necessary from the administrative expenses of the Research and Innovative Technology Administration shall be reserved each year for the purpose of completing and updating the plan to improve the national intermodal transportation plan.

"(g) IMPACT MEASUREMENT METHODOLOGY; IMPACT REVIEW.—The Director and the Director of the Bureau of Transportation Statistics shall jointly—

"(1) develop, in consultation with the modal administrations, and State and local planning organizations, common measures to compare transportation investment decisions across the various modes of transportation; and

"(2) formulate a methodology for measuring the impact of intermodal transportation on—

"(A) the environment;

"(B) public health and welfare;

"(C) energy consumption;

"(D) the operation and efficiency of the transportation system;

"(E) congestion, including congestion at the Nation's ports; and

"(F) the economy and employment.".

SEC. 7602. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§20154. Capital grants for rail line relocation projects

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

"(b) ELIGIBILITY.—A State is eligible for a grant under this section for any construction project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

"(1) either—

"(A) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development in the municipality; or

"(B) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

"(2) meets the costs-benefits requirement set forth in subsection (c).

"(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

"(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce if the rail line were not so relocated.

"(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce.

"(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

"(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

"(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

"(3) Equitable treatment of the various regions of the United States.

"(e) ALLOCATION REQUIREMENTS.—

"(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

"(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

"(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be equal to a percentage of the shared costs of the project, as determined under subsection (g)(4).

"(g) NON-FEDERAL SHARE.—

"(1) PERCENTAGE.—A State or other non-Federal entity shall pay at least 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

"(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State or other non-Federal entity are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State or other non-Federal entity, calculated on the basis of costs incurred by the State or other non-Federal entity for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) FEDERAL PERCENTAGE; COSTS NOT SHARED.—

"(A) IN GENERAL.—The Secretary shall determine the percentage of the shared costs of a project eligible for a grant under this section, which may not exceed 90 percent of those costs, after considering—

"(i) the level of participation by the State, local government, and private sector participation in the project; and

"(ii) the relative public and private benefits excepted to be derived from the project.

"(B) COSTS NOT SHARED.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(C) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(j) DEFINITIONS.—In this section:

"(1) CONSTRUCTION.—The term 'construction' means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a project described under subsection (b)(1) or (2) of this section, including bond costs and other costs relating to the issuance of bonds or other debt financing instruments and costs incurred by the State in performing project related audits, and includes—

"(A) locating, surveying, and mapping;

"(B) track installment, restoration and rehabilitation;

"(C) acquisition of rights-of-way;

"(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(E) elimination of obstacles; and

"(G) and other activities defined by the Secretary.

"(2) STATE.—The term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2006 through 2009.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than April 1, 2006, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than October 1, 2006, the Secretary shall issue final regulations implementing the program.

SEC. 7603. REHABILITATION AND IMPROVEMENT FINANCING.

(a) DEFINITIONS.—Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended to read as follows:

"(7) 'railroad' has the meaning given that term in section 20102 of title 49, United States Code; and".

(b) GENERAL AUTHORITY.—Section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) is amended by striking "Secretary may provide direct loans and loan guarantees to State and local governments," and inserting "Secretary shall provide direct loans and loan guarantees to State and local governments, agreements or interstate compacts consented to by Congress under section 410(a) of Public Law 105–134 (49 U.S.C. 24101 nt),".

(c) PRIORITY PROJECTS.—Section 502(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(c) is amended—

(1) by striking "or" after the semicolon in subsection (5);

(2) by striking "areas." in subsection (6) and inserting "areas; or"; and

(3) by adding at the end the following:

"(7) enhance service and capacity in the national rail system.".

(d) EXTENT OF AUTHORITY.—Section 502(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)) is amended—

(1) by striking "$3,500,000,000" and inserting "$6,000,000,000";

(2) by striking "$1,000,000,000" and inserting "$3,000,000,000"; and

(3) by adding at the end "The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.".

(e) COHORTS OF LOANS.—Section 502(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)) is amended—

(1) by striking "and" after the semicolon in subparagraph (D) of paragraph (1);

(2) by redesignating subparagraph (E) of paragraph (1) as subparagraph (F);

(3) by inserting adding after subparagraph (D) of paragraph (1) the following:

"(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and"; and

(4) by adding at the end of paragraph (4) "A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.".

(f) CONDITIONS OF ASSISTANCE.—

(1) ASSURANCES.—Section 502(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(A) by inserting "(1)" before "The Secretary";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C); and

(C) by adding at the end the following:

"(2) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. Any collateral provided or thereafter enhanced shall be valued as a going concern after giving effect to the present value of improvements contemplated by the completion and operation of the project. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.

"(3) The Secretary shall require recipients of direct loans or loan guarantees under this section to comply with—

"(A) the standards of section 24312 of title 49, United States Code, as in effect on September 1, 2002, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title, and

"(B) the protective arrangements established under section 504 of this Act,

with respect to employees affected by actions taken in connection with the project to be financed by the loan or loan guarantee.".

(2) TECHNICAL CORRECTION.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by striking "offered;" in subsection (f)(2)(A) and inserting "offered, if any;".

(g) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following:

"(i) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Not later than 90 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.

"(j) CONSTRUCTION PROJECTS.—

"(1) IN GENERAL.—For loans involving construction projects that require more than one year to complete, the Secretary shall establish a repayment schedule requiring payments to commence not later than the sixth anniversary date of the original loan issuance.

"(2) ADDITIONS.—The Secretary shall add to the outstanding balance of the loan on the first anniversary date of the original loan issuance on which payments are made, the product of (A) the loan principal, (B) the annual rate of interest on the loan, and (C) the number of years payments were deferred under the repayment schedule.".

(h) INTEREST RATE.—Paragraph (1) of section 822(e) the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(e)) is amended to read as follows:

"(1) DIRECT LOANS.—For Class III railroads, as defined by the Surface Transportation Board, the Secretary shall require interest to be paid on a direct loan made under this section at a rate not more than 3 percentage points below the yield on marketable United States Treasury securities of a maturity similar to the maturity of the loan on the date on which the loan agreement was executed.".

(i) FEES AND CHARGES.—Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823) is amended by adding at the end the following new subsection:

"(l) FEES AND CHARGES.—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.".

(j) SUBSTANTIVE CRITERIA AND STANDARDS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall publish in the Federal Register and post on the Department of Transportation website the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). The Secretary of Transportation shall ensure adequate procedures and guidelines are in place to permit the filing of complete applications within 30 days of such publication.

SEC. 7604. REPORT REGARDING IMPACT ON PUBLIC SAFETY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.

(b) REPORT ON THE IMPACT OF BLOCKED HIGHWAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RESPONDERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 7605. FIRST RESPONDER VEHICLE SAFETY PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Administrator of the National Highway Traffic Safety Administration, shall—

(1) develop and implement a comprehensive program to promote compliance with State and local laws intended to increase the safe and efficient operation of first responder vehicles;

(2) compile a list of best practices by State and local governments to promote compliance with the laws described in paragraph (1);

(3) analyze State and local laws intended to increase the safe and efficient operation of first responder vehicles; and

(4) develop model legislation to increase the safe and efficient operation of first responder vehicles.

(b) PARTNERSHIPS.—The Secretary may enter into partnerships with qualified organizations to carry out this section.

(c) PUBLIC OUTREACH.—The Secretary shall use a variety of public outreach strategies to carry out this section, including public service announcements, publication of informational materials, and posting information on the Internet.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal year 2006 to carry out this section.

SEC. 7606. FEDERAL SCHOOL BUS DRIVER QUALIFICATIONS.

The effective date of section 383.123 of volume 49, Code of Federal Regulations (as in effect on the date of enactment of this Act), shall be September 30, 2006.

MEASURES PLACED ON THE CALENDAR—S. 1084 AND S. 1085

Mr. CORNYN. I understand there are two bills at the desk that are due for a second reading. I ask unanimous consent they be read for a second time en bloc.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1084) to eliminate child poverty, and for other purposes.

A bill (S. 1085) to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

Mr. CORNYN. In order to place the bills on the calendar under the provisions of rule XIV, I object to further proceeding, en bloc.

The PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

ORDERS FOR MONDAY, MAY 23, 2005

Mr. CORNYN. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11:30 a.m. on Monday, May 23. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that the Senate then return to executive session and resume consideration of the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals, provided that the time from 12 noon until 1 p.m. be under the control of the majority leader or his designee and, at 1 p.m., the Democratic leader or his designee be recognized; provided that floor time then rotate between the two leaders or their designees every 60 minutes until 4 p.m., at which time the majority leader or his designee be recognized until 4:45 p.m., to be followed by the Democrat leader or his designee from 4:45 p.m. until 5:30 p.m.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. CORNYN. Mr. President, on Monday, the Senate will resume consideration of the nomination of Priscilla Owen to serve as a circuit judge on the Fifth Circuit Court of Appeals. Monday will be the fourth consecutive day the Senate considers the Owen nomination.

Over the past 3 days, a number of Members, on both sides of the aisle, have come to the floor to speak on the nomination. We have conducted over 25 hours of debate, and we will continue on Monday. Moments ago, we filed a cloture motion on the nomination, and that will ripen on Tuesday of next week.

On behalf of the majority leader, I remind my colleagues the leader has announced our next rollcall vote will occur Monday afternoon at 5:30. That vote will be on a motion to instruct the Sergeant at Arms to request Senators' attendance. Senator FRIST will have more to say about next week's session on Monday.

ADJOURNMENT UNTIL MONDAY, MAY 23, 2005, AT 11:30 A.M.

Mr. CORNYN. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:23 p.m., adjourned until May 23, 2005, at 11:30 a.m.

EXTENSIONS OF REMARKS

CONGRATULATING KRISTOPHER JONES ON RECEIVING THE GREAT VALLEY YOUNG ENTREPRENEUR OF THE YEAR AWARD FROM THE GREATER HAZLETON CHAMBER OF COMMERCE AND THE GREATER WILKES-BARRE CHAMBER OF BUSINESS AND INDUSTRY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Kristopher Jones of Wilkes-Barre, Pennsylvania, on the occasion of having been selected to receive the Great Valley Young Entrepreneur of the Year Award.

As a founder of Peppperjam.com, a 6-year-old internet-based company established by Mr. Jones and his brother to market their grandmother's 50-year-old jam recipes and other gourmet food products, Mr. Jones has demonstrated the kind of true entrepreneurial spirit for which this award was created.

A bright and talented young man, Mr. Jones possesses a diverse background in both his education and professional pursuits.

Kris served as an intern in my Washington office and for the Financial Services Committee during the summers while he was a law student. Upon his graduation, I hired him as my district director. We talked often about his interest in growing his family business, and I encouraged him to focus on pursuing the unique opportunities presented to him. Because of his deep love of Northeastern Pennsylvania, he promised to keep his company based in the area to help stimulate the local economy.

Recently, Mr. Jones has expanded his business into e-commerce consulting, a new field that has helped enable him to add new jobs to his company and to achieve national recognition in the field of affiliate marketing management.

Always one to give back to his community, Mr. Jones regularly speaks with college students and recent graduates about business opportunities that exist in Northeastern Pennsylvania, recognizing the need to be a good corporate citizen and community advocate.

Mr. Speaker, please join me in congratulating Mr. Kristopher Jones on this auspicious occasion. The entrepreneurial spirit displayed by Mr. Jones has set a fine example for all potential young entrepreneurs and fledgling enterprises in Northeastern Pennsylvania.

IN SPECIAL RECOGNITION OF DUSTIN A. NEDOLAST ON HIS APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Dustin A. Nedolast of Fostoria, Ohio has been offered an appointment to attend the United States Air Force Academy in Colorado Springs, Colorado.

Dustin's offer of appointment poises him to attend the United States Air Force Academy this fall with the incoming cadet class of 2009. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Dustin brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending Saint Wendelin Catholic High School in Fostoria, Ohio, Dustin has attained a 3.8 grade point average which places him near the top of his class. While a gifted athlete, Dustin has maintained the highest standards of excellence in his academics. Dustin has been a member of the National Honor Society, earned scholastic First Honors for four years, and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Dustin has distinguished himself as an excellent student-athlete. On the fields of competition, Dustin has earned letters in Varsity Wrestling, Football and Baseball. Dustin has served as class representative during his junior year in high school as well as Senior Class President. Dustin's dedication and service to the community and his peers has proven his ability to excel among the leaders at the Air Force Academy. I have no doubt that Dustin will take the lessons of his student leadership with him to Colorado Springs.

Mr. Speaker, I ask my colleagues to join me in congratulating Dustin A. Nedolast on his appointment to the United States Air Force Academy in Colorado Springs, Colorado. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Dustin will do very well during his career at the Air Force Academy and I ask my colleagues to join me in wishing him well as he begins his service to the nation.

TRIBUTE TO REPUBLIC OF CHINA PRESIDENT CHEN SHUI-BIAN

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. TANCREDO. Mr. Speaker, I rise today to convey my best wishes to Republic of China President Chen Shui-Bian as he begins the sixth year of his presidency. I would also like to Congratulate President Chen on the re-establishment of diplomatic relations between Taiwan and the nation of Nauru. It is my sincere hope that the United States and Taiwan will soon re-establish formal ties as well.

The election of President Chen to his first term in 2000 was a watershed moment for Taiwan, signifying the first election of an opposition party candidate to that post since the establishment of the ROC nearly a century ago. He was re-elected last year.

Since President Chen came to office, he has maintained his commitment to the advance of democracy. Successful legislative elections, a referendum, a presidential election, and most recently a poll to elect members of a National Assembly that will undertake the monumental task of rewriting Taiwan's decades old constitution, have all been held.

Under President Chen's leadership, Taiwan has continued its progress by improving its status as the Western Pacific's flagship democracy and as one of its premier economic powerhouses. What is perhaps most astonishing, however, is that this has been accomplished in spite of the tense and ominous environment created by China.

Mr. Speaker, Taiwan's robust democratic institutions shine particularly brightly precisely because of their close proximity to the People's Republic of China. The PRC, after all, is a nation where open political discourse and the free exchange of ideas remain largely nonexistent. It is this glaring contrast between Taiwan and the People's Republic of China that will continue to be a source of tension—regardless of how many Panda bears China's leaders might send to Taiwanese zoos, or how many Wax Apples they might purchase from Taiwanese farmers.

I think President Chen summed up the situation rather eloquently when he recently said, "The greatest obstacle between the two sides of the Strait lies in our democratic disparity—not in our political separation."

So, Mr. Speaker, I extend my congratulations to President Chen on the last five years of his presidency, and I wish him the best of luck in the future as he works to strengthen the historic and decades-long friendship between our two nations.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CONGRATULATING MASTER SERGEANT VICTOR J. LUKSIC ON THE OCCASION OF HIS RETIREMENT FROM THE PENNSYLVANIA ARMY NATIONAL GUARD

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to my good friend Master Sergeant Victor J. Luksic, of Wilkes-Barre, Pennsylvania, on the occasion of his retirement from the Pennsylvania Army National Guard following 40 years of distinguished and loyal service.

For the past 22 years of Master Sergeant Luksic's military service, he was engaged in the Recruiting and Retention Command at Fort Indiantown Gap, Annville, Pennsylvania.

Indeed, Master Sergeant Luksic served as chairman for the Sergeants Major Sub Committee of the National Recruiting and Retention Council, a body that serves in the capacity of a board of directors for the Recruiting and Retention Force of the National Guard Bureau.

As chairman of that Council, Master Sergeant Luksic was charged with representing all 1,400 recruiting personnel serving throughout the United States.

During his service spanning four decades, Master Sergeant Luksic mastered the specialties of tactical communications, infantryman, senior instructor, finance, career counselor, and recruiting and retention.

The father of two children, Master Sergeant Luksic also distinguished himself by his selfless service to his home community in the great Wyoming Valley. He is a past chairman of the board of directors of Consumer Credit Counseling Service of Northeastern Pennsylvania. He is also a member of St. Nicholas Roman Catholic Church and its Holy Name Society and the St. Conrad's Young Men's Association of Wilkes-Barre.

Master Sergeant Luksic earned numerous military awards and decorations while serving the Pennsylvania Army National Guard. Some of the those accolades include the National Defense Service Medal with one oak leaf cluster; Army Achievement Medal with three oak leaf clusters; Armed Force Reserve Medal with Gold Hour Glass; Army Commendation Medal with oak leaf cluster; Non-commissioned Officer Professional Development ribbon; Meritorious Service Medal with three oak leaf clusters; Global War on Terrorism Medal and the Master Recruiting Badge.

Mr. Speaker, please join me in congratulating Master Sergeant Luksic on the completion of 40 years of military service. His devotion to duty and to the United States of America's defense has helped make this great Nation a safer place and has furthered the noble causes of promoting liberty and democracy.

IN SPECIAL RECOGNITION OF BRADLEY J. MARZEC ON HIS APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Bradley J. Marzec of Rossford, Ohio has been offered an appointment to attend the United States Air Force Academy in Colorado Springs, Colorado.

Bradley's offer of appointment poises him to attend the United States Air Force Academy this fall with the incoming cadet class of 2009. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Bradley brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. Bradley is a 2004 graduate of Saint Francis de Sales High School in Toledo, Ohio. While attending St. Francis, Bradley was an honor student in addition to serving as a church youth group volunteer. Since his graduation from St. Francis, Bradley has been preparing to attend the Academy by attending the Air Force Academy Preparatory School in Colorado Springs, Colorado.

Outside the classroom, Bradley has distinguished himself as an excellent student-athlete. On the fields of competition, Bradley earned his Varsity letter in Wrestling where he was named team captain in his junior year and has been a decorated champion. Bradley's dedication and service to the community and his peers has proven his ability to excel among the leaders at the Air Force Academy. I have no doubt that Bradley will take the lessons of his student leadership with him to Colorado Springs.

Mr. Speaker, I ask my colleagues to join me in congratulating Bradley J. Marzec on his appointment to the United States Air Force Academy in Colorado Springs, Colorado. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Bradley will do very well during his career at the Air Force Academy and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

TRIBUTE TO CAPTAIN BENJAMIN T. LYNG

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. TANCREDO. Mr. Speaker, I rise to honor Captain Benjamin T. Lyng for his eight years of military service and leadership to our country. After graduating from American University in Washington, D.C. and completing Georgetown University's ROTC program, Captain Lyng was commissioned as a Second Lieutenant in the United States Army with the 518th Maintenance Company at Fort Bliss, Texas. He served as a platoon leader and executive officer before he was promoted to First Lieutenant. With the 518th, he led a 35-soldier platoon during a six month deployment to Saudi Arabia during Operation Southern Watch. Later, he served as a Battalion Staff Officer with the First Battalion, First Air Defense Artillery Regiment (1–1 ADA) also at Ft. Bliss. Captain Lyng was promoted to Captain while deployed in Kuwait with the 1–1 ADA.

After graduating first in his class at the U.S. Navy Explosive Ordnance Disposal (EOD) School and fourth in his Officer Advanced Course, Lyng was commissioned to command the 764th EOD Unit based at Fort Carson in Colorado Springs, CO. During his command, his company conducted 165 EOD incidents and over 50 U.S. Secret Service details in support of the President, Vice President, First Lady, Vice First Lady and foreign heads of state without injury.

He also commanded the 764th EOD Unit in Kandahar, Afghanistan during Operation Enduring Freedom, where he and his company conducted over 300 combat EOD incidents, rendered safe over 20 improvised explosive devices (IED's) and improvised rocket attacks, assisted with forensic evidence collection for War Crimes Tribunals and provided technical advisory and security services for Afghanistan's first direct presidential election. In addition to serving his country, Captain Lyng also served the people of Afghanistan by collecting over 2000 pounds of clothing through the charity he founded, "Children Helping Children."

During his command in Afghanistan, Captain Lyng earned the Bronze Star Medal for his exceptionally meritorious service while serving as a member of the combined/joint task force-76 in support of Operation Enduring Freedom. Captain Lyng's tactical proficiency and selfless commitment to mission accomplishment in a combat zone greatly contributed to the success of Operation Enduring Freedom.

In addition to his Bronze Star Medal, he has also received an Army Commendation Medal, Army Achievement Medal, the Armed Forces Expeditionary Medal, the Global War on Terrorism Expeditionary Medal, the Global War on Terrorism Service Medal and the National Defense Service Medal. Captain Lyng received the Explosive Ordnance Disposal Badge and the Air Assault Badge.

Mr. Speaker, I wish to honor Captain Benjamin Lyng for his distinguished career and his contribution to our country. Captain Lyng has left a legacy of leadership and service to his community. Today, I congratulate him on his outstanding performance and meritorious service to the Armed Forces of the United States and wish him well in his future endeavors.

HONORING H.E. SUSILO BAMBANG YUDHOYONO, PRESIDENT OF THE REPUBLIC OF INDONESIA AND COMMEMORATING HIS FIRST OFFICIAL VISIT TO THE UNITED STATES

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. BURTON of Indiana. Mr. Speaker, I rise today to acknowledge the first official visit to the United States by Indonesia's new President, the first directly elected President in that nation's history, His Excellency Susilo Bambang Yudhoyono. President Yudhoyono is well known to many in the United States from his years of service in Indonesia's military, and as Minister of Energy and Mines. In fact, earlier in his career, President Yudhoyono studied for two years in the United States. But this first official working visit as President is a special occasion, and one worth marking in the United States Congress.

Barely two months into his term, the historic and devastating December 26th tsunami struck off Sumatra's north and western coasts. President Yudhoyono traveled to the hard hit areas immediately, and directed his new Cabinet to take steps to do everything possible to expedite immediate relief and assistance. His team undertook a groundbreaking effort to put together a detailed recovery plan, and develop open, inclusive, and transparent processes for aiding the hardest hit communities. President Yudhoyono has followed through on all three commitments he made to the international donor community to take the necessary steps to develop processes and institutions to assure the world that the generous outpouring of assistance is well managed, free of corruption, and gets to the people who need it the most.

There is no doubt that there will continue to be bumps along the road as Indonesia tackles the many difficult issues that arise in rebuilding and re-establishing communities. I remain hopeful that President Yudhoyono's personal commitment and leadership will keep the process moving forward to ensure a full recovery for all the people who suffered so terribly in the aftermath of the tsunami.

I am also encouraged by many other steps President Yudhoyono has taken to address longstanding issues and needs, including: an aggressive anti-corruption agenda; a plan to address serious infrastructure needs that are the basis for moving forward with his economic agenda to reduce poverty and unemployment; as well as improved cooperation with the United States and others in critical areas, such as counter-terrorism, maritime safety and law enforcement. During his visit, I hope we will learn more about how cooperation in all of these areas will be strengthened in the near term.

Furthermore, as the United States develops and diversifies sources of energy, it becomes increasingly clear that Indonesia holds enormous potential. Yet Indonesia's oil and gas sector is in need of additional investment to reverse declining production trends. The Government of Indonesia is keen on reinvigorating revenue streams needed to fund key infrastructure projects as well as health and education programs. I am told that U.S. companies have more than $6 billion in projects waiting for approval, and that there is a similar amount available for investment in power generation projects—an infrastructure area that needs immediate attention if shortages are to be avoided in the very near future.

I hope President Yudhoyono's visit will help find a way to break the logjam on some of the policy decisions that are needed to allow these investments to be made. To help jumpstart the process, I would also encourage President Bush and his Administration to restart and re-invigorate the bilateral energy talks our governments and business partners enjoyed throughout much of the 1990s.

It is also my sincere hope that our governments will find a way to reverse declining educational enrollment by Indonesian students in U.S. colleges and universities. One of the most effective ways to build bridges between our two nations is through educational exchanges, and at this time when Indonesia's new democratic institutions require the development of management and legal skills, I certainly believe that increasing opportunities for Indonesians to study in the United States should be a top priority.

As my colleagues have heard me say many times, I believe the United States needs to devote more time and attention to broadening and expanding our relationship with Indonesia, the world's third largest democracy and the nation with the largest Muslim population. Increased cooperation and improved relationships in a wide range of areas will help us build a strong bridge across the Pacific, which will benefit and strengthen both of our countries. I look forward to the outcomes of President Yudhoyono's visit and to learning how we in Congress can reinforce and strengthen our ties.

RECOGNITION OF MRS. MARY GUDE

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize Mrs. Mary Gude of Dorsey, Illinois. On May 27, Mary Gude will be retiring as a teacher at Trinity Lutheran School in Edwardsville after 30 years of teaching.

Trinity Lutheran School is the only place Mrs. Gude has ever taught. During her years there, she has taught preschool, kindergarten, first and third grades. Most recently, she has been the very beloved second grade teacher. Her second grade classes have been filled with much learning, but also the joy of music and the love of all God's creatures with several classroom pets.

Her second grade classes have annually produced a Second Grade Operetta. These productions are truly a labor of love, taking a great deal of extra time and commitment on Mrs. Gude's part. The shows are enjoyed by all the children of the school, as well as parents and family members.

Mary Gude's years at Trinity have not all been easy. Early in her tenure, she lost her husband to brain cancer and was raising two small children by herself. But God does provide, and in 1980 she married a Lutheran pastor, himself a widower, with two children. Mary Gude and Pastor George Gude together raised their four children, and she became a part of the family at Emmaus Lutheran Church in Dorsey, where she serves as the choir director yet today.

Today, Mrs. Gude is the proud grandparent of three—two of whom she was able to teach at Trinity. She looks forward to this retirement so she can spend more time with her family, continue to teach piano lessons, and continue to serve as the director of the choir at the church.

Mary Gude has seen Trinity Lutheran School and the hundreds of children who have passed through her classroom as her calling from God. Her kindness, goodness, strength, and love of God shines through in all she does and is forever part of the children who have been fortunate enough to have her as a teacher. In the words of Jesus, in Matthew 25:21, ". . . Well done, thou good and faithful servant . . ."

HONORING THE 761ST TANK BATTALION

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mrs. JONES of Ohio. Mr. Speaker, I rise today to honor the 761st Tank Battalion of World War II. On November 8, 1944 the men of the 761st became the first all black infantry unit to see combat. They successfully overtook the towns of Moyenvic and Vic-sur-Seile, which were occupied by German forces.

"Come Out Fighting," was the motto of the 761st also known as the Black Panthers. Their motto personified their tremendous sacrifice and selflessness in defeating the German army in World War II.

For 183 days, the Black Panthers fought four major engagements across six European nations. Their courageous effort contributed to the overtaking of Tillet, Belgium, a German occupied area that no other armed force could successfully take. The Black Panthers also penetrated the Seigfried Line allowing the 4th Armored Division to cross the Rhine River.

On May 6, 1945, as the easternmost Americans, the 761st ended their combat mission with a rendezvous with the First Ukrainian Army at the Steye River in Austria. The Black Panthers were the first Americans to meet the Russian Army.

In 1978, the Black Panthers were awarded a Presidential Unit Citation, 33 years after the war ended. Their recognition was long overdue.

Their tremendous sacrifices and sense of duty proved to be indispensable to the Allied Forces' war effort against the Axis powers. It gives me great pleasure to rise and join with my congressional colleagues in recognition of this elite battalion.

TRIBUTE TO MR. THOMAS P. INFUSINO

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. PASCRELL. Mr. Speaker, I would like to call your attention to the life and work of an exceptional individual, Mr. Thomas Infusino. Thomas was honored at the Wakefern Food Corporation's annual meeting on Thursday, May 19, 2005.

Over the past thirty-four years, Thomas Infusino has worked tirelessly on behalf of his investors, employees, and clients. His commitment to his business, the food distribution industry, and the community at large has left an indelible mark on the lives of many, demonstrating the difference one dedicated person can make. It is only fitting that we honor Thomas Infusino, in this, the permanent record of the greatest freely elected body on Earth.

Thomas served in the United States military during World War II, primarily stationed in Italy and Africa. Upon his return he quickly became a part of the Northern New Jersey community and has raised a family in our wonderful state. Thomas has truly made a name for himself as an innovative entrepreneur with a propensity for giving back to the community.

Tom has been chairman and CEO of Wakefern Food Corporation, a retailer-owned cooperative of the wholesale merchandising and distribution arm for ShopRite supermarkets, since 1971. He is also the owner and president of the Nutley Park ShopRite located in Nutley, NJ.

Mr. Infusino's philanthropic spirit has been recognized by an array of organizations. Tom was honored by the Cooley's Anemia Foundation and subsequently given the Lifeline Award fur his efforts. Additionally, Tom continues to work closely with the Lautenberg Center for General and Tumor Immunology, which sponsors the annual Thomas Infusino Prize. He also serves on the Board of Governors for the National Conference for Community and Justice as well as retaining a seat on the Board of Directors of the New Jersey Food Council.

The job of a United States Congressman involves so much that is rewarding, yet nothing compares to learning about and recognizing the efforts of individuals like Thomas Infusino.

Mr. Speaker, I ask that you join our colleagues, the members of the Infusino family, and myself in recognizing Thomas Infusino for his outstanding service.

HONORING CONGRESSMAN JERRY KLECZKA FOR HIS LEGACY TO PUBLIC SERVICE EDUCATION

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to honor Congressman Jerry Kleczka, an esteemed Member of this body who represented Wisconsin's 4th Congressional District for over 20 years. More specifically, today I want to recognize and celebrate the accomplishments for which he is being honored in Milwaukee this coming weekend.

My colleagues listening here on the floor today know Congressman Kleczka, my predecessor, as a champion of the causes of working men and women. A spirited and tenacious advocate, he fought for so many reforms, from legislation to protect senior citizens in public housing, to affordable and accessible healthcare and a strong Medicare program, to the rights of workers, and the rights of citizens to privacy in a digital age, just to name a few.

When he decided to leave Federal elective office in 2004, Congressman Kleczka left behind an additional legacy that will endure for many years to come. In 1984, he independently offered to host an individual intern in his Congressional office. From that single internship grew an entire program which, over the last twenty years, has developed into a remarkable center for public service education, Marquette University's Les Aspin Center for Government in Washington, D.C. As a result, over 700 students with an interest in public service have interned in nearly 100 congressional offices and in multiple federal agencies.

Jerry was there for the Center's internship program from the very start as its stalwart champion, advocate, and host of so many of its interns. Of the countless students to which he offered the opportunity for congressional experience, many have gone on to fine careers in public service and two have even won elective office, Wisconsin State Assemblyman Pedro Colon and Milwaukee County Supervisor Marina Dimitrijevic. He was awarded the Center's Founders Award in 1999 and has served on its Board of Visitors since 1996.

In addition to all his prior work on its behalf, last year Congressman Kleczka made a remarkably generous donation to Marquette's Les Aspin Center which has made possible the establishment of an entirely new program through which students will study state and local government in Milwaukee starting this summer. With this selfless act he has permanently endowed the cause of public service learning throughout Milwaukee and at Marquette and created a legacy that will last for years to come.

This weekend, Congressman Kleczka's efforts will be properly recognized. On Sunday, May 22, Marquette University will award him an honorary doctorate of laws to acknowledge him as a champion of the D.C. intern center and the benefactor of a new Milwaukee institution that will foster the desire for public service among our best and brightest closer to home. I ask my colleagues to join in congratulating Jerry on receiving this well-deserved honor.

HONORING RICHARD F. CORDELL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to an outstanding gentleman, Mr. Richard F. Cordell of Flushing, MI. This Friday, members of the Rotary Club of Flint will pay tribute to Mr. Cordell, as he celebrates 42 years of service as a Rotarian, and 25 years as Executive Secretary/Treasurer of the Club.

Born and raised in Toledo, Ohio, Dick Cordell began his long history of service to others by serving his country in World War II following his graduation from the University of Toledo. Dick piloted a B–26 as a member of the U.S. Air Force, earning the rank of Lieutenant Colonel. After the war, Dick worked as a salesman for IBM. During this time, he met and married Ruth, his wife of 58 years. When Symplex purchased Dick's division at IBM, he was transferred to Flint where he was appointed District Manager.

Dick began his distinguished career with Rotary International on September 1, 1963. After memberships on various committees and participation in many projects, Dick was elected President of the Flint Rotary Club from 1974–1976. He also served as District Governor from 1984–1985. Since 1980, he has operated as the Flint Club's Executive Secretary/Treasurer, a position he enjoys due to the constant positive interaction he experiences from his fellow Rotarians. In addition, Dick and Ruth plan to attend this year's Rotary International Convention, which will be their fifteenth.

I am appreciative of Dick Cordell's many years of leadership and for the untold number of individuals he has assisted, both personally and indirectly. He truly personifies the Rotary motto: "Service Above Self," as well as the Rotarian philosophy of truth, fairness, goodwill, and mutual benefit in all professional actions.

Mr. Speaker, as a Rotary Club fellowship beneficiary, I can attest to the unwavering support toward the community exhibited by its members, and I am grateful for people such as Richard Cordell. I ask my colleagues in the 109th to please join me in recognizing his accomplishments, and wishing him the best in all his future endeavors.

HONORING GENE TORRES

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize the lifetime achievements of Southwestern golf legend Gene Torres, a resident of the Las Vegas community in my home state of New Mexico. Gene spearheaded the golf program at New Mexico Highlands University while simultaneously winning over 80 professional tournaments and raising a family.

Born in Colorado, Gene was fascinated with golf since he was a youngster and qualified for major tournaments in high school. Early in his career he set the course record of 16 under par for 52 holes at the University of New Mexico-North golf course. Gene interrupted his golf career in 1957 to join the Navy and serve his country aboard the USS *Shangri-La*. After his tour of duty with the Navy concluded, Gene returned home to become the premier amateur golfer in Southern Colorado and Northern New Mexico in the early Sixties.

A pillar of the Las Vegas community, Gene has called New Mexico his home since 1962.

Well-known and respected, Gene served 42 years as a Professor of Physical Education and manager of the New Mexico Highlands University golf course, which he helped design. Gene instructed thousands of Northern New Mexico students and started the golfteam at Highlands University. In the absence of golf scholarships, Gene often used his own money to pay the team's tournament expenses. Despite financial challenges, Gene's golf teams won over 60% of their matches.

In 1970, Gene joined the PGA where he earned the title "The Rock", for his solid performance. He is said to have consistently hit one of the longest and straightest balls in golf. Gene won the New Mexico Open four years in a row, a feat no one else has accomplished to date, and the PGA Life Time Achievement Award. He was named the Southwest Section Player of the Year and streets have been named after him in both California and Texas. In addition to his tremendous professional success, Gene made time to be a teacher, husband, father, grandfather and great-grandfather.

Throughout his professional career Gene was diligent in promoting the University Golf Program at every opportunity. Wherever you saw the name "Gene Torres", you would see New Mexico Highlands University right beside it. As a result, the New Mexico Highlands University golf course has been aptly named after Gene in a ceremony attended by more than 200 people, a testament to his involvement in the Las Vegas community and his contribution to New Mexico.

Mr. Speaker, Gene Torres is a model athlete and educator. He exemplifies the qualities that make New Mexico great: dedication to education, devotion to family and commitment to community. Gene Torres has become a legend for not only his golf ability but his selfless giving in the Las Vegas community. I welcome this opportunity to honor his lifetime achievements and am proud that he calls New Mexico his home.

AN OPPORTUNITY TO GIVE LIFE

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. WILSON of South Carolina. Mr. Speaker, more than 86,000 men, women, and children currently await life-saving transplants.

However, due to lost wages and increased medical expenses, the organ donation process is expensive, time consuming, and discouraging for many potential donors. Since so many Americans could benefit from the tremendous generosity of organ donors, I believe Congress should help make it easier for people to donate their organs.

Today, I'm introducing the "Living Organ Donor Tax Credit Act of 2005," which will provide a one time, tax credit up to $5,000 to help cover non-reimbursable expenses, including lost wages, incurred by living organ donors.

The National Kidney Foundation has endorsed this legislation, and I believe it is an effective way to encourage more Americans to serve as living donors. Today, I'd like to ask my colleagues to join me in providing tax relief to the millions of Americans who unselfishly serve as living organ donors.

In conclusion, God bless our troops and we will never forget September 11th.

TRIBUTE TO SIM EDWARDS STOKES

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I appreciate this opportunity to tell my colleagues about a proud American and a beloved Dallas resident: Sim Edward Stokes. As family and friends fondly know him as "Simi," I would like to take a moment to acknowledge his energy and vitality to every undertaking. He is the king of networking, and his unabashed enthusiasm is irresistibly infectious. I do not doubt for a second that, he brings his skills from the NFL Champion Dallas Cowboys where he was part of the 1967–1968 team.

Anyone who has had the pleasure of working with Simi is immediately struck by his passion for education, and his belief that all children should be able to receive a top notch education, regardless of their economic standing. He is Vice Chair of the St. Paul Endowment Fund which provides grants for special programs for children, youth and adults. This fund enables them to grow in their understanding of the Christian faith and have the opportunity to receive scholarships and grants for the purpose of attending college and seminary to prepare for a church related vocation, and for funding for church camping, retreats and leadership conferences.

Mention his family and you'll see Simi burst with pride. He is married to the lovely Elnora Jean Stokes. He is also the father of four young lads, and one "princess" whom is a U.S. Army Major at the Pentagon.

Simi holds a MBA from University of Dallas. He has been member of Kappa Alpha Psi Fraternity since 1965. He was also honorably discharged from the Texas National Guard in 1968.

We, in Dallas, are lucky that Simi left Alabama and adopted Dallas as his home and, in time, adopted each of us and shared his great love for his fellow man. I ask my colleagues in the House of Representatives to join me in extending my appreciation to Simi for over three decades of service to the people of Texas.

NIGERIA'S CONTINUING PRESENCE ON CAMEROON'S BAKASSI PENINSULA

HON. JOHN R. CARTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. CARTER. Mr. Speaker, I rise today to call attention to a continuing threat to the long-standing goal of the United States to diversify our energy sources. Nigeria refuses to return full sovereign control of the oil-rich Bakassi Peninsula to Cameroon. The International Court of Justice has confirmed Cameroon as the rightful owner of this territory. However, President Obasanjo has not withdrawn Nigerian troops from the peninsula, despite having promised to do so by September 2004.

Mr. Speaker, Nigeria's intransigence in Cameroon threatens to jeopardize the United States' energy security. I agree that Nigeria, despite its turbulent history, has been a valuable source of oil for the United States over the years. However, America's interests would be better served by Cameroon becoming another such source—a stable, independent source. Nigeria must return control of the Bakassi Peninsula to Cameroon.

RECOGNIZING THE LIFE OF LOURMINIA CARINO SEN FOR HER OUTSTANDING DEDICATION TO HER COMMUNITY

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. THOMPSON of California. Mr. Speaker, I rise today to express my sadness regarding the recent passing of a leader in our community, Lourminia Carino Sen, known to all as "Mimi."

A 37-year resident of Davis, California, Mimi was born and raised in the Philippines where she received a bachelor's degree in food technology from the University of the Philippines. She also earned a bachelor's degree in food science, a master's degree from Oregon State University—where she met her husband, Arun—and a Ph.D. in agricultural chemistry and biochemistry from the University of California, Davis, where she was a National Institutes of Health Pre-doctoral Fellow.

Mimi had an illustrious career conducting research at UC Davis. In 1991 she began her service, working at the State of California Department of Food and Agriculture's Center for Analytical Chemistry. In 1996, CDFA Secretary Ann Veneman presented her with the Outstanding Performance Award for her efficient management of the laboratory. In 2001, Governor Gray Davis appointed Mimi as the Agricultural and Environmental Science Advisor to the California Department of Food and Agriculture; she was the first person to be appointed to this position.

Mimi dedicated her life to her family and the community of Davis. While raising her two daughters, she was active in the Davis School Arts Foundation, serving as president from 1987–88. She was active in Girl Scouts, Davis Ballet, the Davis Art Center and Habitat for Humanity. However, her most extensive volunteer work was on the board of the International House of Davis. Starting in 1986, she chaired the Philippines conference and eventually became vice president in charge of programs. An excellent cook, Mimi initiated the ethnic and Thanksgiving dinners that brought people together from all over the world. During that period she also cochaired a China conference, Japan conference, Sunday brunches and international teas. Over the years the Sen family hosted more than 40 foreign exchange students. Mimi's volunteer work at I-House led to her being honored with the city's Brinley Award for outstanding contributions to an organization.

Mr. Speaker, Mimi's dedication to others inspires us all. In her personal life, her volunteer life and her professional life, Mimi Sen was continually promoting respect and appreciation for all peoples and cultures. It is appropriate that we celebrate and honor her life. Mimi will be missed in our community but her dedication to international relations and her life example will be cherished forever.

NEW YORK TIMES EDITORIAL ON DEVILS LAKE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. SLAUGHTER. Mr. Speaker, I rise today to enter into the RECORD an editorial by the Canadian Ambassador to the United States, Frank McKenna, on the crisis surrounding Devils Lake.

[From the New York Times, May 12, 2005]

HELL FROM HIGH WATER

(By Frank McKenna)

WASHINGTON.—A crisis looms on the United States border with Canada, and it could easily be averted with some research and a little patience.

The problem stems from a body of water in North Dakota known as Devils Lake. The lake has no natural drainage, and because North Dakota has drained surrounding wetlands, it has risen 26 feet since 1993, flooding nearby communities. In Canada, we are sympathetic to the plight of the lake's neighbors, but not to the solution their state has proposed.

In June, North Dakota plans to open an outlet that will let Devils Lake water travel into the Sheyenne River and on into the Red River, which flows north into Canada. From there the water will eventually stream into Lake Winnipeg and the Hudson Bay watershed.

Devils Lake, a remnant of a shallow glacial sea, is a closed ecological system that has been geographically separate from the surrounding Hudson Bay basin for more than a thousand years. Its salty waters have high concentrations of nitrogen, sulfates and phosphates—minerals that could cause severe digestive distress if consumed and could be lethal to aquatic life. Because of these contaminants, North Dakota does not allow Devils Lake waters to be used for irrigation.

Once the canal is opened, the pollutants will enter the water supply of downstream communities in North Dakota, Minnesota and Manitoba. Moreover, species of fish, plants, parasites and viruses previously confined in Devils Lake, in some cases for millenniums, will spill out into the Sheyenne and Red Rivers. There they could kill the native plants and fish of the larger ecosystem. The consequences for Lake Winnipeg, the largest freshwater fishery in North America, are particularly worrisome.

Despite concerns on both sides of the border about maintaining safe water sources, North Dakota has decided to pump out Devils Lake water without undertaking any environmental assessment or establishing ecological safeguards.

There is a solution to this impending crisis. Nearly 100 years ago, Canada and the United States established the Boundary Waters Treaty. Under that treaty the two governments set up an International Joint Commission to address differences of opinion involving boundary waters. So far, of the 53 issues the two countries have jointly referred to the commission, 51 have been resolved by mutual agreement.

For over a year, Canada has been requesting that North Dakota put off pumping water while the United States and Canada refer the issue to the commission for a time-limited, independent, scientific review. Both the Canadian and Manitoban governments have stated that they will support the commission's finding, whatever it may be. The governors of Minnesota and Missouri, as well as many other officials, have expressed support for the Canadian request in letters to the United States secretary of state.

At their March meeting in Waco, Texas, President Bush, Prime Minister Paul Martin of Canada and President Vicente Fox of Mexico pledged to enhance water quality "by working bilaterally, trilaterally and through existing regional bodies." Secretary of State Condoleezza Rice should demonstrate the strength of that commitment by joining Canada in referring the Devils Lake project to the joint commission.

If instead the Devils Lake project goes forward without a review, it will damage not only the region's environment and economy, but also North America's most important bilateral water management arrangement. There is a better solution.

IN HONOR OF WOMEN'S HEALTH WEEK

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. DELAURO. Mr. Speaker, I rise in honor of Women's Health Week. It is only within the past decade that scientists have begun to uncover significant biological and physiological differences between men and women. Before that time, women were regularly left out of clinical trials and it was simply assumed that women's bodies would respond to medication in the same way as men's bodies.

Thanks to the efforts of women in the House and Senate, and dedicated organizations such as the Society for Women's Health Research, to mandate that women be included in clinical trials, we are now gaining greater knowledge of the unique differences between the genders—from the composition of bone matter and the experience of pain, to the metabolism of certain drugs and the rate of brain activity—and what we need to do to ensure optimal health care for everyone.

As an ovarian cancer survivor, I understand that research on women's health can both improve and save lives. As a result of such research, death rates have decreased for women with tumors of the cervix, breast, uterus, and ovary due to advances in detection and treatment, such as the development of a cervical cancer vaccine. Quality of life has also improved for cancer patients through the development of less invasive surgical techniques, organ-sparing treatments, and better control of pain and nausea related to chemotherapy.

Women's health research can also lead to less expensive treatments and cost-saving prevention strategies. For example, the total economic value to Americans from reductions in mortality from cardiovascular disease, which strikes 50,000 more women than men each year, averaged $1.5 trillion annually between 1970 and 1990.

While progress has been made in recent years, there is still much more that Congress can do to improve women's health. The Office of Research on Women's Health, ORWH, in the Office of the Director at NIH must be fully funded so that it can continue supporting the expansion and funding of peer-reviewed Specialized Centers of Research on Sex and Gender Factors Affecting Women's Health, SCOR, and the Building Interdisciplinary Research Careers in Women's Health, BIRCWH, programs.

In addition, I urge Congress to pass the Women's Health Office Act (S. 569/H.R. 949), which will permanently authorize the existing offices of women's health in five federal agencies: the Department of Health and Human Services; the Centers for Disease Control and Prevention; the Agency for Healthcare Research and Quality; the Health Resources and Services Administration; and the Food and Drug Administration. This will allow these offices to continue to carry out their important work without facing underfunding, understaffing, or elimination in the future.

Finally, Congress should further encourage NIH to update and modify its guidelines to actively promote sex differences research at all levels, including basic research in cell and tissue culture, development and study of appropriate animal models, and in early stage clinical research.

I would like to commend the Society for Women's Health Research for its tireless efforts to improve the health of both women and men. I hope that during Women's Health Week, all Members will take a moment to consider the importance of passing these measures and continuing our commitment to women's health.

CONGRATULATIONS AND BEST WISHES TO COLONEL ALAN R. LYNN

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. EDWARDS. Mr. Speaker, I rise to recognize a great Army officer and soldier, Colonel Alan R. Lynn, and to thank him for his contributions to the Army and the country. On Thursday, June 2, 2005, Colonel Lynn will relinquish command of the Army's 3rd Signal Brigade which is stationed at Fort Hood, Texas, for reassignment to the Army Staff in Washington, DC.

Colonel Lynn began his military career in 1979 following his graduation from the University of Pennsylvania at California, Pennsylvania. Commissioned as an Air Defense Artillery officer from ROTC he completed several successful assignments in the Air Defense Artillery before he transferred to the U.S. Army Signal Corps. During Operations Desert Shield and Desert Storm he served as the 1st Brigade Signal Officer with the fabled 101st Airborne Division. In 1997, he commanded the 13th Signal Battalion, 1st Cavalry Division both at Fort Hood, Texas and in Bosnia with Task Force Eagle. Colonel Lynn took command of the 3rd Signal Brigade, Fort Hood, Texas, on June 13, 2002. He deployed the Brigade to 66 separate locations throughout Iraq in January, 2004 in support of Operation Iraqi Freedom creating the largest tactical communications network in Army history. For over a decade Alan has been tested in conflict and hardened in battle to become one of the Army's finest and most experienced Signal Corps commanders.

Alan is a consummate professional whose performance personifies those traits of courage, competency, and commitment that our Nation has come to expect from its Army officers. It is with sadness that we wish him Godspeed and good luck as he leaves Fort Hood for his new assignment.

Alan's career has reflected his deep commitment to our Nation, and has been characterized by dedicated, selfless service, love for soldiers and their families and a commitment to excellence. I ask Members to join me in offering our heartfelt appreciation for a job well done and best wishes for continued success to a great soldier and friend—Colonel Alan R. Lynn.

HONORING GHAZAROS KADEMIAN

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. SCHIFF. Mr. Speaker, I rise today to honor Ghazaros Kademian, a resident of Glendale, Californian and a 96-year-old survivor of the Armenian Genocide. The courage of survivors like Mr. Kademian reminds all mankind of the extraordinary strength and determination of the Armenian people who endured the unspeakable atrocities perpetrated against them by the Ottoman Empire between 1915 and 1923.

Ghazaros Kademian was just six years old when his family was forced into exile from their homeland in the village of Zaitoun (modern day Sulaimane, Turkey). His mother saved him and his siblings by fleeing the oncoming slaughter of the Ottoman Turks. His father stayed behind to defend their village and was murdered by the Turk gendarmes. The family only had the clothes on their backs during the long journey away from their home. Mr. Kademian does not remember all the details of his family's tragic journey, except that it was harrowing, and they had no idea where they were going.

They ended their perilous flight in Kirkuk, in what is now northern Iraq. He remembers very vividly that first night in Kirkuk with his mother. They hugged each other for warmth and slept in front of a church for protection. That was the young Ghazaros's last embrace with his mother. In the morning he discovered that she had died from the cold and hunger. Separated from his brother and sister, he was left orphaned and homeless, in a town where he did not speak the language.

After several days he found shelter with a local Muslim man who took him in, washed him, and fed him. Ghazaros was eventually given an ultimatum by the stranger to accept Islam and a new life or to leave. Proud of his heritage as a Christian Armenian, the brave youngster refused. Ghazaros did not give up his faith and was finally released after enduring days of physical abuse. Fortunately, an Arab Christian family rescued the young survivor from the streets and gave him a new loving home. After some time he was able to reconnect with his siblings and other survivors of the Armenian Genocide. Mr. Kademian went on to marry an Armenian girl named Azadouhi from Beirut, Lebanon, had three children Ohannes, Asdghig and Anahid, and seven grandchildren.

The tragic events of 1915–1923 are part of the dark pages of history. However, the horrors of the Armenian Genocide have not diminished by the passage of time. It is our sacred obligation to honor the memory of the one and a half million men, women, and children systematically murdered during the Armenian Genocide, and the estimated half million more who were forced into exile. The story of Ghazaros Kademian's family is terrible and tragic, but not uncommon. It is our responsibility to acknowledge the Armenian Genocide and collectively demand reaffirmation of this crime against humanity.

I am very proud to honor Ghazaros Kademian of California's 29th Congressional District and I ask all Members of Congress to join me in paying tribute to this inspiring individual and the important lessons his experience illustrates.

HONORING HYUNDAI MOTOR COMPANY'S FIRST U.S. ASSEMBLY AND MANUFACTURING PLANT IN MONTGOMERY, ALABAMA

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. EVERETT. Mr. Speaker, I would like to take this opportunity to recognize the completion and grand opening of Hyundai Motor Company's first U.S. automotive assembly and manufacturing plant on May 20th in Montgomery, Alabama.

Hyundai broke ground on its $1.1 billion Alabama facility in April 2002. When Hyundai Motor Manufacturing Alabama reaches peak production, it will employ approximately 2,000 people and produce 300,000 vehicles per year. Hyundai's in-state suppliers will provide another 4,500 jobs and invest more than $500 million in the local economy.

This plant is the most advanced automobile manufacturing facility in the world, using state of the art robotics and other technologies. Hyundai is truly creating quality jobs and quality products in Alabama.

I am proud to welcome Hyundai Motor Manufacturing Alabama to our Montgomery area and look forward to the job opportunities it will provide for our motivated workforce from central Alabama to the Wiregrass.

I would like to applaud Hyundai for its commitment to building quality products, and its confidence in the great state of Alabama to continue that tradition.

HONORING THE LIFE OF JON SCRIBNER

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to note the passing of a fine man, longtime Alaskan Jon Scribner. Jon was from Juneau, where he had served as the Regional Director of the Department of Transportation and Public Facilities. In this job, Jon managed transportation issues for Southeast Alaska. He loved his job and did it well; he will be badly missed by his many friends and co-workers in Juneau.

Scribner, 63, died May 12, 2005 at elevation 3,100 feet, in an accidental fall while returning from a successful climb of Mount Stroller White near Juneau.

He was born March 1, 1942, in San Francisco, California and was raised in Weed, California. Jon majored in civil engineering and played basketball at the University of California Davis. For part of his senior year, he had been a bench warmer until he entered late into a game when his team was so far behind that the coach figured the game was lost. Jon intercepted passes, stole balls, and single-handedly scored about a dozen points in less than two minutes. Davis won and Scribner started the rest of the season.

After UC Davis, Jon earned a master's degree in engineering from Stanford, which had a distinguished program in environmental engineering.

He married Kathryn (Kit) Duggan of Carmel, California, on June 10, 1967.

After Stanford, Jon served his nation honorably in the Army Medical Service. Captain Scribner taught at the Medical Field Service School at Fort Sam Houston, Texas from 1967 to 1969. He had been selected as faculty based upon his academic record and related credentials.

Jon and Kit moved in 1969 to Alaska, and he worked for the Alaska Department of Health and Welfare in Fairbanks. In 1971, they moved to Juneau, where he served as director of air and water quality for the Alaska Department of Environmental Conservation. He was a senior official in the Alaska Department of Transportation and Public Facilities, serving as assistant deputy commissioner for design and construction and as director of the department's Southeast Alaska Region. He served at the pleasure of Governors Hammond, Sheffield, Cowper, Hickel, and Knowles. His repeated reappointments attest to his integrity and hard work.

He retired from state service in 1997 after a career publicly recognized for professionalism and accomplishment. When he left the department, then-Juneau Mayor Dennis Egan proclaimed his retirement date, Feb. 7, 1997, as

Jonathan Scribner Day in the city. The proclamation included thanks for Scribner getting a Thane Road project out to bid on his last day of work.

In the legislature, the speaker of the House and president of the Senate signed a statement honoring Scribner for his contributions. "All Alaskans, both now and in the future, will continue to benefit from his efforts," it said.

The couple raised their family in Juneau, where they enjoyed boating, hunting, fishing, bird watching, scuba diving, and hiking. They made frequent visits with family to the Mount Shasta area of California. He traveled Southeast Alaska with his 24-foot Bayliner cruiser, Mandy Ann, speeding family and close friends from one end of Southeast Alaska to the other.

He is survived by his wife, Kit; his daughters, Jennifer Laitinen and her husband Todd, and Amanda Mallott and her husband Anthony; his son, Nathan; and his grandson Tyler and granddaughter Addison.

Lu and I send our deepest sympathies to them in their hour of loss. We hope they are comforted by the memory of Jon's very full life, and of his many friends and admirers. I consider myself one of them.

HONORING MARK MORGAN

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mrs. BLACKBURN. Mr. Speaker, it is a pleasure to honor Mark Morgan of Laurel, Mississippi today. Mark was returning home one evening when he passed a vehicle that had pulled to the side of a bridge. Despite the dark and his own exhaustion, Mark pulled over to be sure the woman who sat in the car alone did not need any assistance. Little did Mark know he had just answered the prayers of a worried family and community.

Louise Martin had left church to drive home; she'd become confused and lost. Eventually her car ran out of gas, leaving her stranded along a rarely traveled stretch of highway. After Mark stopped, he called Mrs. Martin's family and told them he was going to bring her home. Nearly twelve hours after Mrs. Martin left her church, she was reunited with her husband and family.

Mr. Speaker, Mark Morgan is a shining example of the spirit of concern and the willingness to aid others.

THE 51ST ANNIVERSARY OF THE BROWN VS. BOARD OF EDUCATION DECISION

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mrs. CHRISTENSEN. Mr. Speaker, today when civil liberties are under attack, and antipoverty, anti-immigrant, anti-affirmative action, conservative ideology dictates everything from science to whether social safety nets will continue to exist; we cannot afford to lose the protection of a fair and impartial court.

When minorities and otherwise powerless groups had no other protection of our rights, the courts have been the only refuge and remedy. As we commemorate the 51st Anniversary of the *Brown* vs. *Board of Education*, we are reminded of the importance of those who are nominated to the judiciary system.

Brown vs. the *Board of Education* was a landmark decision, whose intention is still being fulfilled. One test that we can use as the Senate comes to the brink of disaster, over the final remaining seven judges, is whether based on their past decisions and behavior on the bench, would we have had such a landmark decision such as "Brown" had they been on the bench in 1954. I think we can say not!

Federal judges are immensely powerful—all cases raising constitutional issues, including school prayer, abortion, and freedom of speech are heard before a single federal judge at the trial level and a panel of federal judges on appeal. All judges are expected to follow the law, not their personal convictions, but one can get a sense of how a judge thinks by looking at previous rulings as well as writings and comments.

The nominees at issue are radical conservatives whose views are far to the right of the mainstream on issues such as abortion, the environment, and the worker protection. And their terms are not two, four or six years. Should they be confirmed, we would be subject to their dangerous judicial activism for life.

That is why the threshold must be high and their judicial history weighed heavily against the values of this country upon which our Constitution was founded.

SUPPORTING INCREASED FUNDING FOR THE NEA AND NEH

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mrs. LOWEY. Mr. Speaker, I rise in support of this amendment and strongly urge its adoption.

Our contributions to the arts and humanities are the standard by which our history as a society will be measured. A strong public commitment to the arts and humanities, along with a dedication to freedom, is the hallmark of great civilizations. History has shown that religious and political freedoms go hand in hand with greater artistic and literary activity, and that the societies that flourish and have a lasting influence on humanity are those that encourage free expression in all of its forms. This is a lesson that resonates with people of every age, background, and belief, and one we can guarantee our children learn.

By sharing ideas and images from a diverse range of backgrounds and through many different media, the arts and humanities help to create a more informed citizenry. We are better prepared to meet the responsibilities of democracy; to ask ourselves the hard questions; to demand of our leaders the full answers; and to judge fairly the actual and potential endeavors of our country.

Our support for the arts and humanities also has a profound impact on our economy. In my Congressional District, there are over 2000 arts-related businesses, providing more than ten thousand jobs. This creates a substantial economic impact. In Fiscal Year 2000, for example, the arts industry contributed more than $92 million in revenue to Westchester County alone. Nationwide, the figures are even more impressive. The arts are a $134 billion industry sustaining nearly 5 million jobs. While the federal government spends just over $250 million on the NEA and NEH annually—approximately 40 cents per person—it collects over $10 billion in tax revenue related to the arts industry. NEA and NEH dollars are crucial to the arts community, helping them leverage more state, local, and private funds. Clearly, the numbers show that investment in the arts is important not only to our national identity, but also to our national economy.

Mr. Speaker, we must act decisively to commit ourselves to our national heritage and culture, by voting to increase funding for the NEA and NEH. I urge my colleagues to support creativity and reflection, to support our economy, and to support the continued growth and expression of democracy in its fullest form.

IN MEMORY OF PAULETTE COPELAND

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to honor and celebrate the life of my constituent Ms. Paulette Copeland, an outstanding educator, a committed labor leader, and an exemplary community activist who lost her battle with cancer May 16, at the age of 61. Ms. Copeland made numerous and profound contributions to the lives of Milwaukee residents. Her death is a loss for the entire community.

A native of Milwaukee and graduate of the Milwaukee Public Schools, Ms. Copeland was devoted to public education. The impact of her commitment is apparent in every comer of this city. As an educator in the Milwaukee Public Schools for 30 years, Ms. Copeland taught hundreds of children. She was widely recognized as an advocate for children, and was especially devoted to serving children with special needs. She believed deeply that every child could learn, and strove, every day, to find teaching methods that would speak to the needs of each child she encountered.

Not only a gifted and brilliant teacher, Ms. Copeland was also a noted community leader and civil rights activist. As the first African-American President of the Milwaukee Teachers Education Association (MTEA), she led with a gentle but insistent style. Under her guidance, MTEA's agenda came to reflect more deeply the concerns and needs of the African-American community. As a member of the National Association for the Advancement of Colored People (NAACP), Ms. Copeland led an effort to reduce suspensions within MPS by offering cultural sensitivity training to teachers and other staff.

Working with others from around the country, Ms. Copeland participated in the successful struggle to designate Dr. Martin Luther King, Jr.'s birthday a national holiday. In Milwaukee, she helped found a writing contest for elementary, middle and high school students, which has become a cornerstone of local King Day celebrations. More recently, she served as chairperson of the Women in the NAACP Committee, reactivating this group even while she battled cancer.

Ms. Copeland was also a devoted wife, mother and sister, and my thoughts and prayers go out to her loving family. We will all miss her wit and wisdom, and her commitment to the Milwaukee's children. Her life and work honor our community.

RECOGNITION OF THE 150TH ANNIVERSARY OF THE ESTABLISHMENT OF THE CITY OF TRENTON, IL

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the 150th Anniversary of the establishment of the City of Trenton.

This past weekend, the City of Trenton celebrated the establishment of their city. In 1818, William Lewis and his brother-in-law, A.W. Casad of Trenton, New Jersey located Lewis' farm at the location where the city now stands. A few years later, in 1825, the first church congregated with others soon to follow.

In 1853 the area found itself in need of a Post Office, which was given the name of Trenton. On May 14, 1855, Trenton, Illinois was established. Less than a year later, on February 16, 1856, the Village of Trenton was chartered with Joseph Hanke as the first mayor. A little over 30 years later, on September 20, 1887, Trenton was incorporated as a city.

In 1955, the year of its centennial, with a population of 1,400, the City of Trenton was given the nickname, the "Friendly City", and went on, in 2003, to receive the Governor's Hometown Award.

Today, the City of Trenton has grown to a city of 2,700 citizens under the current mayor, Robert Louis Koentz.

Here's to the City of Trenton and all who reside there.

HONORING THE 40TH ANNIVERSARY OF GRACE BAPTIST CHURCH

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. GORDON. Mr. Speaker, I rise to recognize the 40th year of existence of the Grace Baptist Church of Alpine, Tennessee. The congregation will celebrate the anniversary on May 29, 2004, with a special service.

Grace Baptist Church has grown from its original 25 members to more than 100 members today. The church serves the community through weekly jail ministries, bimonthly nursing home services in Livingston, Tennessee, and Saturday youth activities. Grace Baptist Church devotionals are also heard daily on the local radio station in Livingston.

Grace Baptist Church supports missionaries every month, and members have taken mission trips to Yucatan, Mexico, and Loredo, Texas, to visit the missions they've supported. In fact, Pastor John Copeland has been to Loredo three times. "It's amazing how God can turn lives around," Pastor Copeland has said.

Overton County is a better place because of the work of Grace Baptist Church and its congregation. I am sure the church will continue to make a positive difference in the community for the next 40 years, as well. I congratulate the congregation and Pastor Copeland for all the good they have done. I also want to recognize one of the founding members of Grace Baptist Church, Bruce Ledford, who currently serves as a deacon there. Congratulations to you, too, Bruce for 40 years of service.

HONORING THE 30TH ANNUAL CAPITAL PRIDE FESTIVAL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. NORTON. Mr. Speaker, I rise to pay tribute to the 30th Annual Capital Pride Festival, a celebration of the National Capital Area's Gay, Lesbian, Bisexual and Transgender, GLBT communities, their families and friends.

The Capital Pride Festival has grown from a small block party in 1975 to the current week long celebration. This year Capital Pride culminates with the Pride Parade on June 12th and a street fair on Pennsylvania Avenue in the shadow of the Capitol.

I have marched in the Pride parades since coming to Congress to emphasize the universality of human rights and the importance of enacting federal legislation to secure those rights for the GLBT community. Each year the Parade stops for a moment of silence to remember those who have died in the preceding year. That quiet will be particularly poignant as will remember local two women, who, in confronting injustice, were never silent: Wanda Alston and my frequent marching and running companion, Sister Maria, O.W., the Blue Nun.

This year's theme of "Honor Our Past, Fight for Our Future" holds special meaning for the citizens of the District of Columbia and its GLBT community in particular. Eleven years ago the District of Columbia lost the first vote it ever won on the floor of the House of Representatives, the delegate vote in the Committee of the Whole. The Republicans retracted the District's vote when they assumed control of the House. Our city of nearly 600,000 residents, who pay more taxes per capita than 49 of the 50 states, remains the only jurisdiction in the United States subject to Taxation Without Representation. Our Nation's Capital is entitled to that vote on the House floor now and to our birthright as American Citizens of full voting representation in Congress.

The joy of the Capital Pride Festival contrasts with the unhappy lot of GLBT soldiers who volunteer to protect our country with their lives, but must serve in silence and without the open support of their chosen families and communities, neither asking nor telling. The Armed Forces' homophobic policies, especially as they apply them to their own speakers of critical languages cannot continue to compromise our national security. Congress must pass The Military Readiness Enhancement Act of 2005 this session.

IN HONOR OF ST. ADALBERT ROMAN CATHOLIC CHURCH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. MENENDEZ. Mr. Speaker, I rise today to honor St. Adalbert Roman Catholic Church, which is celebrating its 100th anniversary this year. To begin the year-long celebration, the parish will hold its opening ceremony event on May 21, 2005, in Elizabeth, New Jersey.

Founded in 1905, St. Adalbert was developed from the hopes and dreams of Polish immigrants in the Elizabeth area. Longing for a place of worship that would serve the needs of Polish-speaking Americans, the original members each contributed their own money to purchase land and construct the church. As it prepares for its centennial celebration, we look back and honor the innumerable contributions that St. Adalbert has made to the Elizabeth community. Though the building was constructed in just one year, this parish has spent the last century providing strong spiritual support for its members.

Today, I ask my colleagues to join me in honoring St. Adalbert Roman Catholic Church for 100 years of religious commitment and excellence in serving the people of Elizabeth, New Jersey.

TRIBUTE TO THE LATE WARREN "CLIP" SMITH

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. REYNOLDS. Mr. Speaker, it is with great pleasure that I rise to pay tribute to the late Warren "Clip" Smith, a veteran broadcast personality and civic leader who touched the lives of thousands through his career and work in the Western New York community. The life-long Lockport resident is fondly remembered by thousands following his unexpected passing on August 21, 2004.

From the 1960s on, the "Clipper," as he was commonly referred, was a respected name in the radio and television industry, earning a reputation for his strong opinions, as well as his quick wit and one-liner quips. His career began as Operations Manager and Director of News and Sports for WUSJ Radio, now known as WLVL in Lockport. He went on to serve as anchor, reporter and sports play-by-play announcer with WKBW–TV Channel 7 in Buffalo, New York, from 1971 to 1989, later working as a reporter and talk show host with WGR Radio in Buffalo from 1991 to 1995. Clip was also a widely recognized commentator and reporter with WBEN Radio in Buffalo. Finally, from 1990 until the time of his death, Clip served as anchor, reporter and in public relations for the Empire Sports Network in Buffalo.

The multi-talented Clipper also was a musician. He was a member of the Lockport Federation of Musicians and a professional member of the American Federation of Musicians; Clip was a concert soloist on the trombone, euphonium, tuba and string bass.

But above all else, Clip will be remembered for the active civic role he played, always ready to take up the citizens' cause on a variety of issues. Clip served on a local board of education from 2003–2004, was active with Lockport Rotary Club, Literacy Volunteers, Buffalo City Mission, New York State Recycling Congress, and the Niagara County Republican Committee. He also was a member of several local unions.

Western New Yorkers will always remember Clip as a respected community leader and a dear friend.

Mr. Speaker, I ask that this Congress join me in honoring the late Warren "Clip" Smith, and recognize his years of service to the community and broadcast industry.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following vote. If I had been present, I would have voted as follows:

Rollcall vote 182, on May 18, 2005, on Agreeing to the Resolution H. Res. 283, Providing for the consideration of H.R. 1817, Department of Homeland Security Authorization Act for Fiscal Year 2006, I would have voted "yes."

BULGARIA—AN ALLY AND FRIEND

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to commend the Republic of Bulgaria on its continued—and unwavering—support of the United States both in Iraq and Afghanistan. I am particularly encouraged by Bulgaria's commitment in Iraq. In defiance of great pressure to withdraw its troops, Bulgaria has stood shoulder-to-shoulder with the United States in bringing freedom and democracy to the Iraqi people.

One need only look to Bulgaria's past to recognize the significance of its actions now. A former Soviet bloc country, Bulgaria was a cold war adversary of the United States. Since the fall of the Soviet Union, however, Bulgaria has revitalized its economy, entered the world market, and contributed to peacekeeping operations around the globe. Indeed, bold steps supported by a profound vision for the future, have resulted in great progress. Today, Bulgaria is one of the newest members of NATO, and it is finalizing its accession to the European Union.

Perhaps the most striking illustration of Bulgaria's evolution from cold war adversary to strategic ally, is its willingness to actively promote democracy beyond its borders—particularly in Iraq. As a member of the United Nations Security Council during the Iraq debate, Bulgaria voted with the United States concerning the use of military force in Iraq. Bulgaria also routinely grants to the United States the use of its airspace, and has offered ground, air, and naval basing rights.

Most importantly, however, Bulgaria has contributed to bringing peace and democracy to Iraq not only through its words, but through its sacrifices.

Bulgaria has 500 troops in Iraq and has suffered 8 deaths there. Yet it remains resolute. On the day that two Bulgarian contractors were murdered in Iraq, the Bulgarian Government recommitted its support and later increased its troop level. The surest way to establish peace is to stand up to the terrorists and not turn and run, which encourages more terrorist barbarism.

For Bulgaria, this is not an insignificant commitment. This Eastern European country is one of the least developed to contribute troops to the Coalition, and doing so has greatly impacted the nation's economy. Yet despite its limited resources, Bulgarian troops have rebuilt hospitals and schools, restored power and water, and provided security to numerous towns and villages—considerable accomplishments for a country that itself is a budding democracy.

Some have belittled the Coalition as simply a reporting of numbers. This disparages the great sacrifices made in Iraq by smaller nations such as Bulgaria. To the contrary, it is the contribution of these smaller nations that signals to the Iraqi people that even those nations less fortunate than the world's superpowers care deeply about the future of Iraq.

Mr. Speaker, I for one, am deeply grateful to our Bulgarian friends, and I ask that my colleagues join me in recognizing and commending this United States ally for its sacrifices and continuing commitments in Iraq and Afghanistan. I know firsthand of this service having visited with Bulgarian troops in Afghanistan and my oldest son, U.S. Army Captain Alan Wilson, was eager to meet his Bulgarian colleagues during his year-long tour last fall in Iraq.

I thank you Bulgaria for your friendship to the United States, and together, we will never forget the attacks of September 11th, 2001.

"THE YOUNG AND THE JOBLESS"

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. FRANK of Massachusetts. Mr. Speaker, one of the most troubling aspects of our current economic situation is the eroding position of a very large number of working people. While I was pleasantly surprised by the relatively high-number of jobs created in April, the fact is that job creation during this recovery period has significantly lagged both historical experience in recovery, and the projections of the Bush Administration. Even more distressing is that those who have gotten jobs are being paid at rates which are historically low in real terms. Distressingly, inequality in our society is increasing even as our wealth increases, and as Alan Greenspan noted a year ago, a disproportionately large share of the increased wealth has gone to corporate profits and very little to compensation paid in wages and salaries.

In a recent New York Times article, Bob Herbert does an excellent job of documenting this problem, quoting from the excellent report from the Center for Labor Market Studies at Northeastern University in Boston. Andrew Sum, the Director of that center, is appropriately quoted in that article as noting that in the current economic phase, "younger workers have just been crushed." I admire the work that Andrew Sum is doing and I appreciate Bob Herbert's giving this the broader exposure to which it is entitled. In furtherance of this need to understand what is happening in our economy today, I ask that Mr. Herbert's article be printed here.

[From the New York Times]

THE YOUNG AND THE JOBLESS

(By Bob Herbert)

There were high fives at the White House last week when the latest monthly employment report showed that 274,000 jobs had been created in April, substantially more, than experts had predicted.

The employment bar has been set so low for the Bush administration that even a modest gain is cause for celebration. But we shouldn't be blinded by the flash of last Saturday's headlines. American workers, especially younger workers, remain stuck in a gloomy employment landscape.

For example, a recent report from the Center for Labor Market Studies at Northeastern University in Boston tells us that the employment rate for the nation's teenagers in the first 11 months of 2004—just 36.3 percent was the lowest it has ever been since the federal government began tracking teenage employment in 1948.

Those 20 to 24 years old are also faring poorly. In 2000, 72.2 percent were employed during a typical month. By last year that percentage had dropped to 67.9 percent.

Even the recent modest surge in jobs has essentially bypassed young American workers. Gains among recently arrived immigrants seem to have accounted for the entire net increase in jobs from 2000 through 2004.

Over all, only workers 55 and up have done reasonably well over the past few years. "Younger workers," said Andrew Sum, the center's director, "have just been crushed."

Whatever the politicians and the business-booster types may be saying, the simple truth is that there are not nearly enough jobs available for the many millions of out-of-work or underworked men and women who need them. The wages of those who are employed are not even keeping up with inflation.

Workers have been so cowed by an environment in which they are so obviously dispensable that they have been afraid to ask for the raises they deserve, or for their share of the money derived from the remarkable increases in worker productivity over the past few years. And from one coast to the other, workers have swallowed draconian cuts in benefits with scarcely a whimper.

Some segments of the population have been all but completely frozen out. In Chicago, only one of every 10 black teenagers found employment in 2004. In Illinois, fewer than one in every three teenage high school dropouts are working.

Last month's increase of 274,000 jobs was barely enough to keep up with the increase in the nation's working-age population.

"The economy is growing and real output is up," said Mr. Sum, who is also a professor at Northeastern. "But the distribution of income, in terms of how much is going to workers—well, the answer is very little has gone to the typical worker."

The squeeze on the younger generation of workers is so tight that in many cases the young men and women of today are faring less well than their parents' generation did at a similar age. Professor Sum has been comparing the standard of living of contemporary families with that of comparable families three decades ago.

"Two-thirds of this generation are not living up to their parents' standard of living," he said.

College graduates today are doing better in real economic terms than college graduates in the 1970's. But everyone else is doing less well. "If you look at families headed by someone without a college degree," said Professor Sum, "their income last year in real terms was below that of a comparable family in 1973. For dropouts it's like 25 percent below where it was. And for high school grads, about 15 to 20 percent below."

It shouldn't be surprising that the standard of living of large segments of the population is sinking when employers have all the clout, including the powerful and unwavering support of the federal government. Workers can't even get a modest increase in the national minimum wage.

Globalization was supposed to be great for everyone. Nafta was supposed to be a boon. Increased productivity was supposed to be the ultimate tool—the sine qua non—for raising the standard of living for all.

Instead, wealth and power in the United States has become ever more dangerously concentrated, leaving an entire generation of essentially powerless workers largely at the mercy of employers.

A remark by Louis Brandeis comes to mind: "We can have democracy in this country, or we can have great wealth concentrated in the hands of a few. But we can't have both."

HONORING THE DISTINGUISHED SERVICE OF MILLARD OAKLEY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding support that Livingston, Tennessee, resident Millard Oakley has shown his community and the education of its children. In fact, Millard is being honored by Volunteer State Community College as its Friend of the Year this weekend for his unprecedented support of the college and higher education.

Millard is a lifelong resident of Livingston who prospered after receiving a first-rate education in the community's public school systems and at nearby Tennessee Technological University and Cumberland University School of Law. A successful attorney and businessman who remembers his humble beginnings, Millard recently made a significant contribution for capital improvements at the Livingston campus of Vol State. He also established the Oakley First National Foundation, which awards full scholarships to Overton County students attending Vol State, Tennessee Technological University or the Tennessee Technology Center.

Millard's life is a prime example of what a good education and the proper motivation can do for a country boy raised in the rural hills of Tennessee. He has served in the Tennessee General Assembly, as the state's Insurance Commissioner, in the state's Constitutional Convention, as the Overton County Attorney and as the general counsel of the U.S. House of Representative's Select Committee on Small Business. He presently serves on the board of directors of the First National Banks of Tennessee in Livingston, Cookeville and Crossville, and of Thomas Nelson Publishers, the world's largest Bible-publishing company.

I cannot count the times I have sought Millard's advice on a wide range of issues. He has always given me his honest opinion and wise counsel, and I sincerely thank him for that. Millard is a true friend to me, his community and the Overton County students who benefit from his generosity. Once again, I congratulate Millard for his unselfish devotion to his community and to those who seek a better life through education.

STATEMENT OF CONGRESSWOMAN ELEANOR HOLMES NORTON ON THE ANACOSTIA WATERSHED ACT OF 2005

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. NORTON. Mr. Speaker, today, I introduce the first comprehensive clean-up plan for the Anacostia River. It has been called the "forgotten river," "a neighborhood river," "the dirtiest river in America" and an especially appropriate name would be the congressional river. The current original cosponsors include Representatives JIM MORAN, TOM DAVIS, CHRIS VAN HOLLEN, ROBERT BRADY, ED MARKEY, ALBERT WYNN, and RAUL GRIJALVA and I expect additional regional members who signed on when I originally introduced the bill during the last Congress to do so again. The Anacostia River flows within 2,000 yards of the Capitol Dome. For years the Anacostia River and region have been associated with blight and despair. Like many cities across America in the past few years that have developed their waterfronts, the District of Columbia government has decided to end the underutilization of the riverfront by creating the Anacostia Waterfront Initiative, dedicated to developing the Anacostia waterfront. However before development and hope can be brought to this area of the city, the river must be cleaned up. If the river is cleaned, it could be a very important economic development asset for the entire region. With a cleaned up river, visions of restaurants, parks, office buildings and pedestrian walkways will become a reality.

The bill introduced today would amend the Federal Water Pollution Control Act to establish a program within the federal Environmental Protection Agency (EPA) known as the "Anacostia Watershed Restoration Initiative." This initiative would create an "Anacostia Watershed Council," composed of the EPA Administrator, the Secretary of the Army, the Secretary of the Interior, the Mayor of the District of Columbia, the Governor of Maryland, the Governor of Virginia and the County Executives of Montgomery and Prince George's County. The primary responsibility of the council would be to develop an action plan for the restoration, protection, and enhancement of the environmental integrity and social and economic benefits of the Anacostia watershed. Several federal agencies, such as the Departments of Interior, Agriculture, Transportation, the EPA, and Army Corps of Engineers would be involved in the development and implementation of the action plan. This bill also calls for $3 million for each of 10 years to be authorized for use by the EPA, and $1 million for each of 10 years would be authorized for the other agencies. The strong Federal involvement in the bill reflects not only the location of the river, but also that Federal facilities represent the major source of its pollution.

This vital piece of legislation also would amend the Water Resources Development Act (WRDA) to authorize $150 million to repair and upgrade the District's inadequate combined sewer overflow system, a critical part of cleaning up the river. The District's combined sewer system was designed and constructed by the Army Corps of Engineers 160 years ago. The sewer system services Federal downtown DC, including the Capitol complex. As such, the Federal Government is directly responsible for the sewage and pollution that drains into the Anacostia River on a daily basis. I had secured a $35 million authorization in last Congress's WRDA bill in 2003, but the Senate never acted. This year I have requested $150 million, even though this amount is not enough to help the District address the combined sewer overflow problem. However, this authorization will be a major step toward correcting a serious problem.

This bill also will be the first step in bringing real hope to a region often referred to as "east of the river". With this bill, this once neglected region of our Nation's capital will become a thriving gathering place for tourists and residents of this region. 60 Minutes recently captured the story of the young people who are cleaning up the Anacostia River in a moving segment entitled "Endangered Species." These young members of the Earth Conservation Corps (ECC) are working not only to clean up the river but to "empower our endangered youth to reclaim the Anacostia River, their communities, and their lives." With the Anacostia River as their classroom, the ECC has been able to achieve positive strides, both environmentally and socially. There is more we can do to support and expand their efforts and help Anacostia to become the jewel of the District of Columbia.

IN HONOR OF JOSÉ C. CAYÓN DIÉGUEZ

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. MENENDEZ. Mr. Speaker, I rise today to honor José C. Cayón Diéguez, an accomplished Cuban-American journalist who has dedicated his career to reporting on and promoting issues important to the Hispanic community. Mr. Cayón Diéguez is the founder of El Tiempo de Nuevo York, New Jersey and Miami.

Launched in 1963, this weekly newspaper offers stories and insight into the lives of Hispanics throughout the United States. Mr. Cayón Diéguez has served as the director and guiding force behind this New York-based publication for the past 33 years. During that time, he has proven himself to be an outstanding leader and a strong voice within the Hispanic community. As the manager and contributing editor of the paper, Mr. Cayón Diéguez has become a spokesman for the causes important to community organizations such as the Puerto Rican Parade Committee, the Puerto Rican Folklore Festival, the Columbian Civic Center, and the Dominican Cultural Civic Center, among others. In addition to his work with El Tiempo de Nuevo York, New Jersey and Miami, he was also the editor for the first Hispanic Guide to New Jersey and New York.

Mr. Cayón Diéguez is an active member of the community, who volunteers his time and takes on leadership roles in a multitude of organizations. In the past he has served as treasurer of the National Federation of Hispanic Owned Newspapers, vice-president of the Hispanic Media Council, director of art and columnist for the Diario Hispanoamericano, and columnist for the weekly paper Zig Zag. He has also served on the board of directors for the National Association of Cuban Journalists.

For his exemplary work, Mr. Cayón Diéguez has received numerous awards and accolades, including being named one of the 100 most outstanding Hispanic journalists by Hispanic Media 100.

Today, I ask my colleagues to join me in honoring José C. Cayón Diéguez for his impressive career accomplishments and his dedication to serving the Hispanic community. I applaud him for the positive impact he has made through his work as a journalist, and I am confident that he will continue to enrich the lives of those who read his publication in the years to come.

TRIBUTE TO HONORABLE RICHARD BYRD

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. AKIN. Mr. Speaker, today I rise to draw the attention of the House to the passing of my friend and one of Missouri's finest elected officials, the Honorable Richard Byrd. Richard Byrd was known for his ready helping hand and his deep commitment to the people he represented.

Returning home last Saturday, the day after the first half of the 96th Session of the Missouri General Assembly was completed, Representative Byrd collapsed of an apparent heart attack after carrying his suitcase into his home. A friend to many, his death was a shock to all who knew him.

Richard Byrd received his JD from Washington University Law School and practiced commercial litigation law while serving as a Kirkwood, Missouri city councilman from 1994–2000. He served in the Missouri State House representing the Kirkwood area since 2000, where he made his mark by always listening both to colleagues and constituents, by his consistent willingness to help draft bills and amendments, and by explaining the legal ramifications of complex legislative proposals.

Richard Byrd worked hard to the very end. He was known for burning the midnight oil, always happy to help those who came to him for advice, and had a quick eye for detail. He had the ability to influence those around him and when he spoke, others listened and respected what he had to say.

A man involved in his community, he served on the St. Louis County Charter Commission, on the board of directors of the Missouri and St. Louis Easter Seals organizations, and assistant district commissioner of the St. Louis Area Boy Scouts. He was a member of the Kirkwood Rotary, Chamber of Commerce and coached soccer at St. Genevieve DuBois Catholic Church.

We extend our deepest condolences to his lovely wife, Moira, and their children Richard and Eleanor. We are also thankful for his life—a life of service well-lived. Richard, you will be missed.

IN RECOGNITION OF MR. CHEN SHUI-BIAN OF TAIWAN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. HALL. Mr. Speaker, a year ago, Mr. Chen Shui-bian was re-elected president of the Republic of China on Taiwan. On the occasion of the first anniversary of his second term in office, I offer my congratulations to President Chen and the people of Taiwan.

President Chen continues to work to ensure Taiwan's democracy and freedom, and seeks reconciliation and cooperation with Taiwan's opposition party leaders. He also is leading Taiwan's efforts to gain membership in the World Health Organization and other international organizations. Without membership or observership in the World Health Organization, Taiwan is literally an orphan in the world health arena.

I am pleased that our government has come out strongly in support of Taiwan's bid for World Health Assembly observership this May.

As we join our friends in Taiwan in celebrating President Chen's anniversary, we also recognize Taiwan's steps toward democratization. These include Taiwan's end of martial law in 1987; first direct presidential election in 1996, first change of governing party in 2000 and first national referendum in 2004. Taiwan's example is encouraging to all those who seek and support freedom and democracy around the world.

A TRIBUTE TO THE CAREER OF JOHN H. JOHNSON

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. ROSS. Mr. Speaker, I rise today to pay tribute and honor the life of John H. Johnson. Born in 1918 in Arkansas City, Arkansas, Mr. Johnson has set an example for us all by being both an entrepreneur and a philanthropist. I would like to recognize Mr. Johnson's contributions to Arkansas and our Nation.

Mr. Johnson is the founder, publisher, and chairman of Johnson Publishing Company, the world's largest African-American owned publishing Company. He is also the publisher of Ebony and Jet Magazines. Ebony alone has a circulation of 1.7 million people and reaches 11 million readers monthly.

In 1982, Mr. Johnson was the first African American to be named on Forbes' list of the 400 wealthiest Americans. Mr. Johnson's long list of awards and achievements include: the Black Journalists' Lifetime Achievement Award in 1987, the Wall Street Journal/Dow Jones Entrepreneurial Excellence Award in 1993, the Presidential Medal of Freedom in 1996—the highest honor this nation gives to a citizen, the Arkansas Business Hall of Fame Award in 2001, The Vanguard Award in 2002, and The Trumpet Award in 2002.

Arkansas City and the University of Arkansas at Pine Bluff have worked together to create the John H. Johnson Cultural and Education Museum. On Saturday, May 21st this museum will be dedicated in Desha County, Arkansas. This museum will capture Mr. Johnson's life by restoring his boyhood home and will include period memorabilia, printed material, and video chronicles about Mr. Johnson's life.

In addition to the museum, the University of Arkansas at Pine Bluff is in the planning stages of opening a learning center in Arkansas City and an academic complex at the University of Arkansas of Pine Bluff. These institutions will undoubtedly become a tremendous asset and staple of the University of Arkansas at Pine Bluff.

I am honored to recognize Mr. Johnson, and am delighted that the John H. Johnson Cultural Education Museum will be open for Arkansans to see firsthand Mr. Johnson's lifetime of work and contributions to our nation. His dedication, entrepreneurial spirit, and legacy will continue in Arkansas for the years and decades ahead.

RECOGNIZING THE 150TH ANNIVERSARY OF THE ESTABLISHMENT OF THE CITY OF TRENTON, IL

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the 150th Anniversary of the establishment of the City of Trenton.

This past weekend, the City of Trenton celebrated the establishment of their city. In 1818, William Lewis and his brother-in-law, A.W. Casad of Trenton, New Jersey located Lewis' farm at the location where the city now stands. A few years later, in 1825, the first church congregated with others soon to follow.

In 1853 the area found itself in need of a Post Office, which was given the name of Trenton. On May 14, 1855, Trenton, Illinois was established. Less than a year later, on February 16, 1856, the Villiage of Trenton was chartered with Joseph Hanke as the first Mayor. A little over 30 years later, on September 20, 1887, Trenton was incorporated as a City.

In 1955, the year of its centennial, with a population of 1,400, the City of Trenton was given the nickname, the "Friendly City", and went on, in 2003, to receive the Governor's Hometown Award.

Today, the City of Trenton has grown to a city of 2,700 citizens under the current Mayor, Robert Louis Koentz.

Here's to the City of Trenton and all who reside there.

HONORING THE 190TH ANNIVERSARY OF HURRICANE BAPTIST CHURCH

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. GORDON. Mr. Speaker, I rise to recognize the 190th year of existence of the Hurricane Baptist Church of Lebanon, Tennessee. The congregation will celebrate the church's anniversary on Sunday, May 29, 2005, with an afternoon program.

Founded in 1815, Hurricane Baptist Church is the fifth oldest Baptist church in Wilson County. Located on the edge of the Cedars of Lebanon State Park, the church began with about 30 members. Today, Hurricane Baptist Church has 190 members.

The Hurricane Baptist Church facility was built in 1907. Since that time, the church has added a fellowship hall and Sunday School rooms. Church records dating back to 1897 were lost when clerk W.B. Edwards' home was destroyed by fire. Some records survived through the Baptist association and other sources.

Ollie Edwards Lester, a descendent of W.B. Edwards, and Elsie Lou Williams Merritt are two of the surviving members among the 36 original members baptized in Hurricane Creek during a service in 1925. "It's been a family church," said brother James Gordon Williams, the 38th pastor of Hurricane Baptist Church. Brother Williams is the fourth generation of his family to be a member of the church. Four generations of the Flatt family have also attended Hurricane Baptist Church.

Former members, their families, old friends and new have been invited to join "The Little White Church down in Cedar Forest" on its special day of thanksgiving and praise. I am sure Hurricane Baptist Church will continue to make a positive difference in the community for the next 190 years. I cordially congratulate the congregation and Brother Williams for all the good they have done.

STATEMENT TO HOUSE COMMITTEE ON GOVERNMENT REFORM

HON. DENNIS KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KUCINICH. Mr. Speaker, on May 12, 2005, I made the following statement during a hearing in the House Committee on Government Reform on "Securing Our Borders: What We Have Learned from Government Initiatives and Citizen Patrols":

Good afternoon. Thank you, Chairman Davis, for holding this important hearing and thank you to the witnesses. We can all agree on the tremendous importance of securing our border. But frankly, I am not confident in how our government has been handling border security one bit. I have two concrete examples of deficiencies on the part of U.S. Customs and Border Protection that my office has been investigating that I'd like to highlight—that I think are representative of a much greater problem.

The first case involves how U.S. Customs has handled an investigation into slave labor allegations regarding a product that we import into the U.S.—as you know, importing products made with slave labor has been illegal since 1930. Allegations of slave labor used in the production of pig iron, in the Para state of Brazil, came out in the summer of 2004. As the United States reportedly imports 92 percent of the pig iron produced in Brazil, most of which is produced in Para, it is highly probable that this importation violates section 1307 of the U.S. Tariff Act of 1930, which states,

"All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/land forced labor or land indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited."

I sent a letter to U.S. Customs to ascertain what actions had been taken in response to this violation of law. After six months, I finally got a response, which said that Customs had opened a file on the case in July 2004, and had referred it to the FBI Attaché Brasilia for further investigation. The rest of the letter explained how logistical difficulties had prevented even a single investigator from visiting Para for a site visit. One excuse: "The Amazon Basin in Brazil is in a remote area where the majority of the roads to this area are only accessible via 4-wheel drive vehicles." The Trans-Amazon highway, an important route for the economic development in that area, runs right through Para. It can carry the pig iron out of Para, but can't take our investigators into Para. And frankly I would be surprised if none of our FBI investigators in Brazil had access to a 4–wheel drive vehicle.

The inaction of the investigators in this case is highly unsatisfactory, and I am deeply disturbed by the broader implications of such inadequacies. U.S. Customs and Border Patrol, along with FBI Attaché offices, are responsible not only for investigating violations of tariff law, but they are also responsible for keeping terrorists out of our country. I believe the inefficiencies highlighted in this case reflect the greater threat to the national security interests of the United States. Furthermore, I am disturbed to think of the possibility that trade motivations are hidden behind the inadequate investigation in this case. I can assure you that all the American miners forced to compete with slave labor would also be disturbed by that possibility.

The second case involves the presence of an international terrorist, Luis Posada Carriles, in the United States, and his recent application for asylum. Posada, a CIA- trained Cuban exile, was responsible for organizing the bombing of a Cuban civilian airliner flying from Bermuda to Venezuela. The bombing killed all 73 people on the plane on October 6, 1976. In addition to the civilian airline bombing, Posada was implicated in the 1976 Washington, DC assassination of former Chilean government minister Orlando Letelier. Letelier, a prominent opponent of the Pinochet dictatorship, was killed along with the American Ronni Moffit in a car bombing, which was at the time, one of the worst acts of foreign terrorism on American soil. Carter Cornick, a retired counterterrorism specialist for the FBI who worked on the Letelier case, said in an interview that both bombings were planned at a June 1976 meeting in Santo Domingo attended by Posada in addition to others. Mr. Cornick said that Posada was involved "up to his eyeballs" in planning the attack. A newly declassified 1976 F.B.I. document has confirmed this. Furthermore, at the time of the bombings, Venezuelan police found maps and other evidence in Posada's Venezuelan home that tied him to the terrorist killings.

Posada was imprisoned in Venezuela, but escaped while waiting for an appeal in 1985. In 1998, he admitted to the New York Times that he was responsible for organizing a number of bombings in tourist locations in Cuba, including hotels, department stores and other civilian targets during the summer of 1997. The bombings killed an Italian tourist and injured 11 other people. In November 2000, Posada was arrested in Panama for preparing a bomb explosion in the University of Panama's Conference Hall where Fidel Castro was going to speak. Hundreds of people were expected to attend the event there, and had intelligence not uncovered the plot beforehand there would have been massive civilian casualties.

Our nation's policy against terrorism is unequivocally clear. President Bush defined this policy when he said on September 19, 2001, "anybody who harbors a terrorist, encourages terrorism, will be held accountable. I would strongly urge any nation in the world to reject terrorism, expel terrorists." The National Security Strategy, released in 2002, further defined this policy with, "no cause justifies terror. The United States will make no concessions to terrorist demands and strike no deals with them. We make no distinction between terrorists and those who knowingly harbor or provide aid to them." Back in 1989; when the Justice Department was considering the deportation of Orlando Bosch, one of Posada's associates, Joe D. Whitley, then-Associate U.S. Attorney General said, "The United States cannot tolerate the inherent inhumanity of terrorism as a way of settling disputes. Appeasement of those who would use force will only breed more terrorists. We must look on terrorism as a universal evil, even if it is directed toward those with whom we have no political sympathy." Mr. Whitley, now General Counsel for the Department of Homeland Security has declined to comment on the Posada case.

Posada supposedly crossed the U.S. border six weeks ago, and is presently here. His Miami lawyer, Eduardo Soto, confirmed at a news conference last month that he had arrived clandestinely into the United States. Orlando Bosch said in a recent interview broadcast in Miami that he had spoken by telephone with Posada, who, "as everybody knows, is here."

Yet the U.S. government has not even acknowledged it. Roger F. Noriega, Assistant Secretary for Western Hemisphere Affairs in the State Department said he did not even know whether Posada was in the country. State Department spokesman Tom Casey said in a recent press conference, "In terms of where he presently is, I think it's fair to say we don't know."

The U.S. government has not sent teams of investigators into South Florida to find Posada—or if they have, the investigators haven't done a very good job of finding him. No bounties have been offered to recover Posada. U.S. Customs and Border Patrol is responsible for securing our border, and preventing terrorists from crossing it, yet a known international terrorist—who committed an act of terrorism on U.S. soil that killed an American citizen—crossed it, and the U.S. government hasn't done a thing. It just isn't a political priority.

I hope this hearing and the series of hearings on border security that this Committee intends to hold will shed some light not only on the two cases I described, but on the larger problem that those cases represent: major deficiencies on the part of the U.S. government to investigate Customs and Border violations, when it frankly isn't in the political interest of the United States. That is unacceptable. We cannot pick and choose when to apply our laws and our policies; they must be applied in universal situations. And when they aren't, it compromises our national security. Thank you.

INTRODUCING THE NATIONAL AMUSEMENT PARK RIDE SAFETY ACT OF 2005

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. MARKEY. Mr. Speaker, Memorial Day is the beginning of the season when American families take their children to our amusement parks for a day of fun and sun. Unfortunately, it is also the case that over 75 percent of the serious injuries suffered on these rides occur between the months of May and September. Most of America thinks that the rides at these parks are subject to oversight by the Nation's top consumer safety watchdog—the Consumer Product Safety Commission (CPSC). But this is not true. The industry used to be subject to federal safety regulation, but in 1981 it succeeded in carving out a special-interest political exemption in the law—the so-called Roller Coaster Loophole.

This loophole is a dangerous gap in child safety and prevention, and it is having serious consequences. Since 1987, 64 people have died on an amusement park ride, and the vast majority of those deaths have occurred on rides that are totally unregulated at the federal level.

It is time to put the safety of our children first—it is time to close the Roller Coaster Loophole.

Today I am introducing the National Amusement Park Ride Safety Act, to restore safety oversight to a largely unregulated industry. I am joined in this effort by Representatives SCHAKOWSKY (IL), RANGEL (NY), NEAL (MA), PAYNE (NJ), MCGOVERN (MA), NORTON (DC), MALONEY (NY), KUCINICH (OR), FRANK (MA), BROWN, S. (OR) and ESHOO (CA).

SUPPORT FOR THE BILL

We are supported in this endeavor by the Nation's leading consumer-protection advocates, including Saferparks.org, the Consumer Federation of America, the U.S. Public Interest Research Group, the National SAFE KIDS Campaign, and Kids in Danger.

Excerpts from their letters of endorsement include:

"Children are uniquely vulnerable to hazards associated with amusement ride machinery. . . It is simply indefensible for Congress to allow a special interest loophole of this magnitude in an industry that serves up high-speed thrills to 300 million paying customers every year, especially when most of the resulting injuries accrue to children."—Kathy Fackler, Saferparks.org.

"Federal oversight is crucial to the prevention of any future deaths and injuries with fixed site amusement parks due to the vast variation in state laws and the absence of any regulation in some states."—Rachel Weintraub, Consumer Federation of America and Lindsey Johnson, U.S. Public Interest Research Group.

"The CPSC must be granted jurisdiction of fixed-site amusement park rides in order for all states to benefit from federal investigation of safety hazards."—Alan Korn, National SAFE KIDS Campaign.

"Unregulated amusement rides are not what consumers expect when they visit some of the best-known tourist attractions in the U.S. Consumers expect that someone has made sure the ride is as safe as possible and that the government oversees such safety."—Nancy Cowles, Kids In Danger.

Last year, the Nation's pediatricians—the doctors who treat the injuries suffered by children on amusement park rides—endorsed our bill. According to the American Academy of Pediatrics, "a first step to prevention of these injuries is adopting stronger safety regulations that allow for better inspection and oversight of the fixed-rides."

THE PROBLEM WITH STATE-ONLY REGULATION

"Fixed" or "fixed-site" rides are found predominantly in destination theme parks. When an accident occurs on such rides, the law actually prevents the CPSC from even setting foot in the park to find out what happened. In some States, an investigation may occur, but in many, there is literally no regulatory oversight at all. And no matter how diligent a particular state might be, there is no substitute for federal oversight of an industry where; park visitors often come from out-of-state; a single manufacturer will sell versions of the same ride to park operators in many different States; no State has the jurisdiction, resources or mission to ensure that the safety lessons learned within its borders are shared systematically with every other State.

RIDES CAN KILL, NOT JUST THRILL

Although the overall risk of death on an amusement park ride is very small, it is not zero. Sixty-four have occurred on amusement park rides since 1987, and over two-thirds occur on "fixed-site" rides in our theme parks. In August 1999, 4 deaths occurred on roller coasters in just one week, "one of the most calamitous weeks in the history of America's amusement parks," according to U.S. News and World Report:

August 22—a 12-year-old boy fell to his death after slipping through a harness on the Drop Zone ride at Paramount's Great America Theme Park in Santa Clara, California;

August 23—a 20-year-old man died on the Shockwave roller coaster at Paramount King's Dominion theme park near Richmond, Virginia;

August 28—a 39-year-old woman and her 8-year-old daughter were killed when their car slid backward down a 30-foot ascent and crashed into another car, injuring two others on the Wild Wonder roller coaster at Gillian's Wonderland Pier in Ocean City, New Jersey.

In 2003:

An 11-year-old girl died at Six Flags Great America in Gurnee, Illinois.

A 32-year-old woman was killed when she fell from the Raven roller coaster at Holiday World & Splashin' Safari theme park in Santa Claus, Indiana.

A 53-year-old woman was killed after being struck by the Joker's Jukebox ride at Six Flags New Orleans. She was checking to make sure her grandson's seat belt was properly fastened.

A 34-year-old woman died a day after suffering a heart attack during her ride on the Top Gun roller coaster at Paramount's Kings Island theme park in Cincinnati, Ohio.

An 8-year-old boy has died from injuries he suffered on a bumper car ride last month at the Lake County Fair in Ohio. The boy was severely shocked when he touched a pole on a bumper car ride called the Scooter.

In 2004:

A 51-year-old woman was killed after she fell 60 feet from an amusement ride called the Hawk at the Rockin Raceway in Pigeon Forge, Tennessee. The owner was later convicted of reckless homicide for bypassing the ride safety system.

A 55-year-old man suffered fatal injuries when he fell from the Superman Ride of Steel roller coaster at Six Flags New England theme park in Agawam, Massachusetts.

At Playland amusement park in Rye, New York, a 7-year-old girl suffered massive head injuries when she fell from the park's Mind

Scrambler ride. She was rushed to a hospital where she was pronounced dead.

A 4-year-old boy died from injuries he suffered last Thursday at Water Works, a water park in Cuyahoga Falls, Ohio. Lifeguards found the boy floating in five feet of water after he nearly drowned.

A 13-year-old boy died from internal injuries he suffered in an accident at Wacky Waters Adventure Park in Davenport, Iowa. Witnesses say that the boy fell from a rappelling rope into a pool of water.

A 39-year-old man died from a fall while boarding the Revenge of the Mummy roller coaster at Universal Studios theme park in Orlando, Florida.

Every one of these is an unspeakable horror for the families, and every one of them deserves to be investigated by a federal safety expert with the knowledge and the power to ensure that what happened at the accident site does not get repeated in other States.

It is simply inexcusable that when a loved one dies or is seriously injured on these rides, there is no system in place to ensure that the ride is investigated, the causes determined, and the flaws fixed, not just on that ride, but on every similar ride in every other state. The reason this system does not exist is the Roller Coaster Loophole.

Every other consumer product affecting interstate commerce—a bicycle or a baby carriage, for example—endures CPSC oversight. But the theme park industry acts as if its commercial success depends on remaining exempt from CPSC oversight. When a child is injured on a defective bicycle, the CPSC can prevent similar accidents by ensuring that the defect is repaired. If that same child has an accident on a faulty roller coaster, no CPSC investigation is allowed. But the industry has its loophole, and it is placing its priority on protecting its special-interest privileges, rather than its special duty to ensure the safety of its patrons.

That's just plain wrong.

ROLLER COASTERS ARE AS DANGEROUS AS TRAINS, PLANES, AND BUSES

The industry attempts to justify their special-interest exemption by pretending that there is no risk in riding machines that carry human beings 70, 80 or 90 miles an hour. The rides are very short, and most people are not injured. But in fact, the number of fatalities per passenger mile on roller coasters is higher than on passenger trains, passenger buses, and passenger planes. The National Safety Council uses a standard method of comparing risk of injury per distance traveled. Riding on a roller coaster is generally safer than driving a car, but is not generally safer than riding a passenger bus, train or airplane:

Fatalities are just the tip of the problem, however. Broken bones, gashes, and other serious injuries have been rising much faster than attendance. Neither the CPSC is prohibited from requiring the submission of injury data directly from ride operators, so it is forced to fall back on an indirect method, the National Electronic Injury Surveillance System (NEISS), which gathers information from a statistical sample of hospital emergency rooms and then estimates national numbers. Nevertheless, NEISS has been gathering these statistics systematically over many years, so that trends become clear over time.

Beginning in 1996, a sharp upward trend can be seen in hospital emergency room visits by passengers on unregulated "fixed" rides—the category of rides exempt from CPSC regulation under the Roller Coaster Loophole. These injuries soared 96 percent over the next 5 years. Meanwhile, such emergency room visits were falling for passengers on rides that the CPSC still regulates.

The theme park industry likes to tell the public that its rides are safer than the mobile rides because they are overseen by a permanent park staff, but according to this independent government safety agency report, the mobile parks have less of an injury problem than the theme parks.

Why has this startling increase in amusement park rides occurred recently? No one knows for sure. If the facts were known to the CPSC, it could do its job. But the facts are kept from the CPSC, so we are left to speculate. We know, for example, that new steel technology and the roller coaster building boom of the 1990s resulted in an increase in the speed almost as dramatic as the increase in serious injuries. All of the nation's 15 fastest coasters have been built in the last 10 years. In 1980, the top speed hit 60 mph. In 1990, it hit 70 mph. The top speed today is 120 mph, and Six Flags is advertising a new ride for 2005 of 128 mph. The roller coaster arms race is alive and well.

For the most part, these rides are designed, operated and ridden safely. But clearly, the margin for error is much narrower for a child on a ride traveling at 100 mph than on a ride traveling 50 mph. Children often do foolish things, and the operators themselves are often teenagers. People make mistakes. The design of these rides must anticipate that their patrons will act like children, because they often are children.

THE BILL RESTORES BASIC SAFETY OVERSIGHT TO THE CPSC

The bill we are introducing today will close the special-interest loophole that prevents effective federal safety oversight of amusement park rides. It would, therefore, restore to the CPSC the standard safety jurisdiction over "fixed-site" amusement park rides that it used to have before the Roller Coaster Loophole was adopted. There would no longer be an artificial and unjustifiable split between unregulated "fixed-site" rides and regulated "mobile" rides. When a family traveled to a park anywhere in the United States, a mother or father would know that their children were being place on a ride that was subject to basic safety regulation by the CPSC.

It would restore CPSC's authority to: 1. Investigate accidents, 2. Develop and enforce action plans to correct defects, and 3. Act as a national clearinghouse for accident and defect data.

The bill would also authorize appropriations of $500 thousand annually to enable the CPSC to carry out the purposes of the Act.

I urge my colleagues to join us in this effort to make this the safest summer ever in our theme parks. Let's pass the National Amusement Park Ride Safety Act.

THE SIGNIFICANCE OF BROWN VS. BOARD OF EDUCATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. RANGEL. Mr. Speaker, I rise today to commemorate the historical decision and individuals involved in the Brown vs. Board of Education decision. This Supreme Court decision was one of the most significant decisions in the history of the United States and was an important impetus in the Civil Rights Movement. Those involved moved the country forward and opened the doors for generations of Americans that would no longer believe that "separate but equal" was a justifiable policy.

In 1896, the Supreme Court held in Plessy vs. Ferguson that the equal protection clause of the Fourteenth Amendment permitted separate facilities of equal quality for blacks and whites. It established the policy of "separate but equal" as a constitutionally acceptable system in this country. For the next seventy years, many parts of this great Nation promoted segregation in education, housing, transportation, and other facilities. Blacks and whites had separate water fountains, rode in separate railroad cars, and were educated in separate schools.

For the first half of the 20th century, there were two distinct Americas—one black, one white. White schools had far greater educational resources. They receive larger portions of state budgets for education. Their books were current and up-to-date. Their teachers were paid competitive salaries. Black schools were far from equal. Black students were barely prepared for the educational and living challenges ahead of them. Black students were closed to many of the opportunities for advancement. Segregation proved that separate would be inherently unequal.

Lawyers for the National Association for the Advancement of Colored People, including Thurgood Marshall, would lead a series of court cases challenging the constitutionality of segregated educational facilities. Their argument would rest on the disparities in the educational funding and spending, the quality of the educational systems, and the psychological impacts of segregated schools.

Researchers and scholars across the Nation provided evidence of the harmful effects of segregation of young minds. Dr. Kenneth Clark demonstrated that segregated schools nurtured feelings of inferiority in black children. Others showed how the preparation, opportunities, and access of black children were severely hampered by separate educational facilities.

The Supreme Court heard these arguments and agreed with the NAACP and its panel of experts. Separate facilities were inherently unequal. States must treat all its citizens equally, regardless of race. The value of education demanded that the opportunities available to one group be available to all groups.

The ruling nonetheless would have larger import outside of education. It provided hope to African-Americans that they would no longer be treated like second class citizens. It encouraged African-American leaders, such as

Martin Luther King Jr. and Malcolm X, to pursue full equality through the Civil Rights Movement.

Despite considerable resistance, this Nation has moved forward in equalizing the educational and social opportunities of its citizens, but more can still be done. Public facilities are no longer separated based on race. The gap in educational opportunities is slowly narrowing. The opportunities available to minorities are increasing. We could do more to close the gap in education and to ensure equal opportunities for all.

For today, Mr. Speaker, it is important that we reflect on the importance of that Brown vs. Board of Education decision. The Supreme Court made a wise and important decision that changed the course of this Nation for the next 50 years. It guaranteed to all of our citizens equal treatment before the law regardless of race. This was a clearly important event in American history. The men and women who challenged the policy of segregation should be commended for their deeds. They should have the full appreciation of this Nation.

HONORING MISS JEAN CORNELL

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. ANDREWS. Mr. Speaker, I rise today to honor an exceptional young lady, Jean Katherine Elizabeth Cornell. Miss Cornell is a resident of Mt. Laurel, New Jersey in my district, and is currently in the seventh grade at Harrington Middle School. She is a member of the school's Student Council, and a talented singer in the First United Methodist Church of Moorestown's Youth Choir. Above all, she is a motivated and inspired young lady who is standing up for equal rights for all women.

Miss Cornell has been involved in the Alice Paul Institute's Leadership Program, and helped start the Alice Paul Institute Girls' Advisory Council. She is very active in her community, spreading Alice Paul's message of leadership and equality. She is helping to build support for the Equal Right Amendment by educating the public about this vital piece of legislation. This amendment to the Constitution would guarantee the equality of rights under the law for all persons regardless of gender.

Mr. Speaker, I applaud Miss Cornell for her contributions to her community, and to women everywhere. Her efforts are much needed in the struggle to close the equality gap between men and women. If there were more girls like Jean, our Nation would be a more just and equal society.

RECOGNIZING REAR ADMIRAL GREG SLAVONIC

HON. TOM COLE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. COLE of Oklahoma. Mr. Speaker, today I am pleased to congratulate Rear Admiral Gregory J. Slavonic upon the completion of his career of service in the United States Navy and Navy Reserve. Throughout his 34-year military career, Rear Admiral Slavonic served with distinction and dedication, ultimately becoming the Deputy Chief of Information and Director of the Navy Reserve Public Affairs program, responsible for the training and readiness of more than 500 public affairs reservists.

In June 2004, Rear Adm. Slavonic was ordered to active duty in support of Operation Noble Eagle and Operation Enduring Freedom II, Baghdad, Iraq. He was assigned to the Multinational Force—Iraq (MFN–I) staff. He served as the senior public affairs officer for Army Gen. George W. Casey, Commanding General for MNF–I, and the Director, Combined Press Information Center (CPIC).

From June to November, Rear Adm. Slavonic led a 65-person team responsible for ensuring more than 500 national and international media organizations received timely and accurate information concerning daily combat operations throughout the Iraqi theater.

Rear Adm. Slavonic began his Navy career in 1971, as a Seaman who enlisted after graduating with a Bachelor of Science degree in advertising from Oklahoma State University. After completing boot camp at Navy Training Center, Great Lakes, Ill., and attending Signalman "A" school in Newport, R.I., he received orders to the aircraft carrier USS *Constellation* (CVA 64) and completed two western Pacific deployments.

Upon separation from active duty, Rear Adm. Slavonic affiliated with the Navy Reserve Command in Oklahoma City. He received a direct commission as a restricted line officer in public affairs and, in 1976, earned a master of education degree from the University of Central Oklahoma.

In November 1990, Rear Adm. Slavonic was recalled to active duty for Operations Desert Shield and Desert Storm. He was assigned to the staff of General H. Norman Schwarzkopf at U.S. Central Command and served at the Joint Information Bureau in Dhahran, Saudi Arabia. During his tour in the Arabian Gulf theater, Rear Adm. Slavonic served as a Chief of Navy News desk and combat media escort officer, which included escorting media pools on board USS *Curts* (FFG 38) to document processing and interrogation of more than 40 Iraqi prisoners of war.

He was serving as media escort officer with a media pool on the 18,000-ton amphibious assault ship USS *Tripoli* (LPH 10) in the Arabian Gulf when it struck an Iraqi underwater tethered mine.

Rear Adm. Slavonic has served four commanding officer tours, twice with Navy Office of Information Southwest Detachment 111 Dallas-Fort Worth and twice with the Office of Information Detachment 411 Oklahoma City. He also served as executive officer of 01 Det 411 and staff public affairs officer for REDCOM Eleven.

Rear Adm. Slavonic's Oklahoma City unit earned the Rear Adm. Robert Ravitz Award for Public Affairs Excellence and was a finalist for the Readiness Command Ten Admiral Robert Natter (small) Unit Award. In 1984, Rear Adm. Slavonic was the first recipient of the Navy Reserve Association's "Junior Navy Reserve Officer of the Year" Award.

A native of Great Bend, Kansas, Rear Adm. Slavonic was raised and resides in Oklahoma City where he is an account executive with NBC affiliate KFOR–TV. He is a life member of the Navy Reserve Association as well as Oklahoma State University and the University of Central Oklahoma alumni organizations.

Rear Adm. Slavonic has also served as president of the Navy Reserve Association (central chapter); president of the U.S. Navy League (local chapter); minority owner of the Oklahoma City Cavalry (Continental Basketball Association team); and as an adjunct professor at the University of Central Oklahoma. He is also active in the Oklahoma City Advertising Club and Leadership Oklahoma City.

Awards earned by Rear Adm. Slavonic include the Bronze Star Medal; Meritorious Service Medal (two awards); Navy Commendation Medal (two awards); Navy Achievement Medal (three awards); Presidential Unit Citation; Combat Action Ribbon; Vietnam Cross of Gallantry; Vietnam Service Medal (one star); Republic of Vietnam Service Medal; Southeast Asia Service Medal (two stars); Kuwait Liberation Medal (Saudi Arabia); Global War on Terrorism Expeditionary Medal; and the Joint Service Unit Citation, as well as other service and campaign awards.

Mr. Speaker, I know Rear Adm. Slavonic personally. We first met when he was assisting veterans of the USS *Oklahoma*, obtaining the financial and civic support necessary to create a permanent memorial to their lost ship and fallen comrades. This told me a great deal about his appreciation of Americans of every generation who have worn the uniform for their country and placed their lives at risk for their countrymen. My second opportunity to see Rear Adm. Slavonic was in Baghdad, where he was serving professionally, capably, and courageously in the combat zone. This more than anything else demonstrates that Rear Adm. Slavonic lives according to the values he professes. Like every other American, I am grateful for his service.

I asked the Rear Admiral to call upon me when he returned from Iraq because I was interested in his candid appraisal of our country's efforts there. Upon his arrival in Washington, he visited my office, and our exchange was so productive that I asked him to join me for a breakfast meeting to continue our conversation. He graciously complied, and as a result I had the benefit of his profound expertise, professional judgment, and keen insights into the challenges our country and our military face in Iraq.

On every occasion on which I have encountered and interacted with Rear Adm. Slavonic, he has impressed me with his professional courtesy, his commitment to our country, and his wise counsel. He is an able and honorable sailor who embodies the finest traditions of the United States Navy.

His family and fellow shipmates can be proud of his service. Rear Adm. Slavonic, his wife Molly, and children Kara, Maggie, and Blake, and Blake's wife Kasey and grandson Hogan have made many sacrifices during his Naval and civilian careers, and we appreciate their contributions of conscientious service to our country. As he departs the Pentagon to start his third career, I call upon my colleagues to wish Greg and his family every success, and the traditional Navy "fair winds and following seas." It is a pleasure to recognize this gentleman at the conclusion of a distinguished career of service to the United States of America.

STATEMENT DURING HEARING ON "FOSTERING DEMOCRACY IN THE MIDDLE EAST"

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KUCINICH. Mr. Speaker, on Tuesday, May 17, 2005, I, as the Ranking Minority Member for the House Subcommittee on National Security, Emerging Threats and International Relations made the following statement during a hearing on "Fostering Democracy in the Middle East: Defeating Terrorism With Ballots":

Good morning, Mr. Chairman, and good morning to the distinguished witnesses that are here today for this important hearing. We have much to learn from the experts who are here with us, and we must listen and use this knowledge to correct the disastrous foreign policy road that this Administration has embarked upon—a policy which has already taken the lives of over 1,600 U.S. soldiers and wounded thousands more. Congress can help save many more lives by changing these failed policies immediately. As the journalist Thomas Friedman wrote recently, "you can't build a decent society on the graves of suicide bombers and their victims."

Our policy is greatly misguided and also misrepresented. During the President's 2005 State of the Union address there were Iraqis in the audience who held up ink-stained thumbs in a symbol intending to convey that democracy had reached finally reached Iraq—thanks to the U.S. Their hope was to send the message that even though WMDs were never found, the victory of bringing democracy to Iraq was worth the cost in blood and treasure.

But before we congratulate ourselves, I must admit that I am skeptical of the Administration's policy of promoting democracy. The United States does not have a history of bringing democracy to nations out of pure altruism. Rather there is usually something we have to gain by overthrowing a nation and the promotion of democracy is the excuse we use to do it. Or in the case of Iraq, it was our fall-back excuse. The war to eradicate WMDs quickly transformed into the war to bring democracy to Iraqis—once the world discovered that WMDs did not in fact exist in Iraq.

Perhaps the greatest argument against this vision of pure altruism is that when it is in our interest to leave undemocratic governments alone, we do.

Examples of this argument are the Central Asian states of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. These countries have well-known horrendous human rights records and have serious impediments to democracy. According to the State Departments 2004 Report on Human Rights Practices,

"Uzbekistan is an authoritarian state with limited civil rights. . . . the December 26 elections fell significantly short of international standards for democratic elections . . . the executive branch heavily influenced the courts and did not ensure due process . . . Government's human rights record remained very poor . . . police and National Security Service forces tortured, beat, and harassed persons . . . the Government restricted freedom of religion and movement . . . the Government severely restricted fundamental worker rights."

These conditions are more or less present throughout the other Central Asian states. Yet the U.S. has not taken firm steps to encourage reforms. There have been provisions to condition aid based on progress in democratization and respect for human rights, however when the State Department decided to cut aid to Uzbekistan for failure to meet these conditions (equal to $18 million), the Chairman of the Joint Chiefs of Staff announced that Uzbekistan would receive an increase of $21 million in military aid. Furthermore, the aid condition in Kazakhstan is allowed a presidential waiver.

This "soft-line" approach is probably in large part to the strategic location of these states. The Central Asian states offered overflight and other support when the U.S. went into Afghanistan. Kyrgyzstan, Tajikistan and Uzbekistan have hosted coalition troops and provided access to airbases. In 2003, Uzbekistan endorsed coalition military action in Iraq and Kazakhstan provided about two-dozen troops for rebuilding.

Our policy is convenient, not consistent. We talk about building democracy in the Middle East out of one side of our mouth, while we keep authoritarian regimes in power on the other side.

The world is watching closely what the U.S. does in Iraq, and we are hopeful that a legitimate democracy will flourish there and throughout the region. I am hopeful other Arab nations will eventually hold elections. But it must be on their timetable, not ours.

Our presence in Iraq is only slowing any hope for genuine democratization. Violence against Iraqis is only increasing as time goes by. The country is becoming even more destabilized. But this Administration has not yet presented an exit strategy or any kind of timetable of bringing our troops home. Instead, we are pouring billions of dollars into the probable construction of long-term military facilities in Iraq so that we can have a permanent presence there, as well as in the surrounding countries, none of which could be called democratic.

So, Mr. Chairman, I hope that this hearing will go beyond self-congratulation and beyond merely illuminating the desire for democracy by people in the Middle East. Rather I hope that this hearing will illuminate how our missteps are hindering democracy, so that we can correct a failed policy.

TRIBUTE TO LIEUTENANT COLONEL MICHAEL VAN RASSEN

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. CRAMER. Mr. Speaker, I rise today to recognize Lieutenant Colonel Michael Van Rassen upon his retirement from the U.S. Army after more than 20 years of outstanding service to our country. After his retirement on August 31, 2005, Lieutenant Colonel Van Rassen will reside in my Congressional district.

Lieutenant Colonel Van Rassen has been assigned to several key military positions throughout his career, which culminated as the Product Manager for Fielding and Integration for Air and Missile Defense Command and Control Systems (AMDCCS) Product Office in Madison, Alabama, a position he has held since 2002. It is in this role that Lieutenant Colonel Van Rassen will leave an enduring mark on the future of the Army.

He was instrumental in the deployment of the Forward Area Air Defense Command, cross leveraging software capabilities through the Air and Missile Defense Planning and Control System program, designing and validating the critical need for the Air Defense Aerospace Management Cell, leading the DOD Counter-Rocket, Artillery and Mortar initiative for deployments to Afghanistan and Iraq.

Lieutenant Colonel Van Rassen has distinguished himself throughout his military service in challenging and diverse assignments. Throughout his career, he has received many medals and awards for his ability to lead by example, encourage excellence from his peers and subordinates, effectively manage the Army's resources, and consistently produce outstanding results. I commend Lieutenant Colonel Van Rassen for his ability to energize a diverse staff toward a common purpose, setting high standards and inspiring his staff to achieve them.

Mr. Speaker, on behalf of the people of North Alabama, I congratulate Lieutenant Colonel Van Rassen for his 20 years of service to our country.

INTRODUCTION OF RESOLUTION CONDEMNING RELIGIOUS INTOLERANCE AND URGING RESPECT FOR ALL HOLY BOOKS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. CONYERS. Mr. Speaker, so much of American history is defined by our national commitment to tolerate each others' religious differences. This was the wisdom behind the words of President John Kennedy, who reminded us that "tolerance implies no lack of commitment to one's own beliefs. Rather it condemns the oppression or persecution of others."

I introduce this Resolution today as a reminder that we must still strive to condemn bigotry and religious intolerance, and recognize that holy books of every religion should be treated with dignity and respect. Our dedication to this struggle has never been more important than it is today, with recent events both at home and abroad. We can begin to fulfill this obligation with a renewed effort to continued education and the dispelling of stereotypes.

For example, much of the public is not aware that the word Islam comes from the Arabic root word meaning "peace" and "submission." Terrorism cannot be justified under any valid interpretation of the Islamic faith. There are an estimated 7 million Muslims in America, from a wide variety of ethnic backgrounds. The holy book of Islam, the Quran, is recited by Muslims during prayer. From the Quran, Muslims learn valuable lessons about peace, humanity and spirituality.

This Resolution recognizes that believers of all religions, including the faiths of Christianity, Judaism and Islam, should be treated with respect and dignity. The mistreatment of prisoners and disrespect toward the holy book of any religion is unacceptable and against civilized humanity. I am concerned as anyone that our nation would disparage the Quran or the Muslim religion. This Resolution therefore makes it clear that it is not the official policy of the U.S. government to disparage the Quran, Islam or any other faith. I hope this Resolution will help us recognize that we need to embrace the Muslim people and tolerance if we are truly interested in supporting democracy around the world.

SUPPORT FOR H.R. 2057

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to express my support for H.R. 2057, which disapproves of DC. Act 16–47 (the Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005), which calls for the rerouting of hazardous materials around Washington, DC.

While re-routing hazardous materials from the Capitol area of Washington, DC sounds well-intentioned, it only shifts the risk of that transportation to other neighborhoods and other modes of transportation. The additional switching of these cars will add to the congestion in the yards, and back up traffic on CSXT main lines, potentially affecting their entire network, including Amtrak, VRE, and MARC. It also means that chemical containers could be sitting for hours, if not days, in rail yards waiting to be moved.

Longer transit times and distances, increased car handlings and dwell times are factors that tend to increase the inherent risk of transporting hazardous materials. This would also add significant cost to the shippers, and potentially disrupt the flow of commerce for those customers like water treatment plants, pharmaceutical companies, gas stations, etc.

The Federal Government has always had the ultimate authority over interstate commerce. The transportation of hazardous materials is governed by Federal regulations as proscribed under the Hazardous Materials Transportation Act, which gives the authority to DOT. And it is important to note that the railroads are governed by the common carrier duty, which means we must carry what is legally tendered to them by law.

Finally, the Department of Justice, the National Industrial Transportation League, the American Trucking Associations, the United Transportation Union, Norfolk Southern and others have either weighed in with an amicus brief in Federal Court, a letter to the STB, or a letter to the House Government Reform and Senate Homeland Security Committees.

I call upon government at all levels to develop meaningful standards that improve safety and security for all modes. Rerouting freight from one backyard to another does not constitute meaningful standards to improve safety and security for any mode, and I encourage this Congress to promptly disapprove DC's ordinance.

THE FIRST NATIONAL ASIAN AND PACIFIC ISLANDER HIV/AIDS AWARENESS DAY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. HONDA. Mr. Speaker, I rise today in support of the first National Asian and Pacific Islander HIV/AIDS Awareness Day. This commemorative day aims to raise the awareness of Asian Pacific Islander American, APIA, communities about the devastating impact of HIV/AIDS as well as educating our communities about the progress in the areas of prevention, care and treatment, and vaccines.

Asian Pacific Islander Americans are among the fastest growing racial/ethnic populations in the United States. Despite stereotypes depicting APIAs as "model citizens" who enjoy perfect health, health advocates point out that HIV/AIDS awareness is lacking in many communities. Indeed, APIAs in the U.S. have higher rates of those preventable diseases that are also co-factors for HIV/AIDS—including hepatitis B and tuberculosis—than white Americans.

Worldwide, AIDS has killed more than 20 million people, including 3.1 million in 2004 alone. Through 2003, in the United States, approximately 930,000 people had been diagnosed with AIDS and more than 400,000 people were living with AIDS. While the number of reported AIDS cases among APIAs remains small, lack of detailed HIV surveillance, underreporting, and misclassification often mask the true impact of the HIV epidemic on APIAs.

Mr. Speaker, according to such groups as the San Francisco-based Asian and Pacific Island Wellness Center, the Asian Pacific Islander American Health Forum, and the Centers for Disease Control and Prevention, CDC, HIV data collected between 2000–2003 reveals a 54 percent increase in AIDS diagnosis among APIAs. As of December 2003, men accounted for 87 percent of APIA AIDS cases, with 71 percent occurring among men who have same-sex relations. Among APIA women, 49 percent of AIDS cases were attributed to heterosexual contact.

As Chair of the Congressional Asian Pacific American Caucus, I want to say it loud and clear that there is no misunderstanding. HIV/AIDS is a public health emergency for Asian Pacific Islander Americans.

National API HIV/AIDS Awareness Day is the first step in breaking the silence and reducing the shame associated with HIV/AIDS, and I applaud the Banyan Tree Project for their efforts. Reducing stigma will give APIAs greater access to services we need and deserve, which in turn will reduce the spread of HIV.

I urge my colleagues to join me today, along with national, regional, and local HIV/AIDS groups, in supporting this effort to raise awareness of HIV/AIDS among Asians and Pacific Islanders and to mobilize communities to get involved. Only through collaboration and a willingness to break down barriers and build bridges will we be able to win this fight against HIV/AIDS.

THE PRESERVING MEDICARE FOR ALL ACT OF 2005

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. CARDIN. Mr. Speaker, I rise to introduce legislation to help fulfill the promise made by Congress and the President to our seniors. This year, Congress may consider a multifaceted approach to programs that affect the security of our seniors. Any discussion about ensuring the financial security of retired Americans must also take into account their ability to access meaningful prescription drug coverage.

In November 2003, Congress passed legislation to provide limited coverage for prescription drugs. I opposed that legislation because it contained serious flaws that will result in more harm than help for Medicare beneficiaries. The bill that I am introducing today, the Preserving Medicare for All Act of 2005 corrects the legislation's structural defects and provides additional beneficiary protections.

Over the past several years, I have met with thousands of seniors in my district about Medicare and their need for prescription drug coverage. They brought me their empty pill bottles and their pharmacy receipts. With the highest out-of-pocket costs of any age group in the country, they and millions of other seniors across the nation were looking to Congress for real prescription drug coverage that would give them substantial help with their drug costs. They wanted their drug benefit to be provided like other benefits covered by Medicare—administered by the Centers for Medicare and Medicaid Services, CMS, with a guaranteed benefit, universally available regardless of where they live, for it not to jeopardize existing coverage, and yes, they wanted the choice of their own doctor and hospital and the freedom to choose a private health plan if they prefer that option.

I believe that a clear majority of the House and Senate wanted to enact legislation that met our seniors' needs. Unfortunately, the bill that moved through Congress failed to provide seniors with what they needed or expected. The plan that became law will not be administered by CMS but by private insurers.

Under the 2003 law, the government is prohibited from using the purchasing power of 40 million beneficiaries to lower drug prices. There will be no guaranteed benefit, but rather an "actuarially equivalent" benefit whose components insurance companies can manipulate to discourage high-cost seniors from enrolling. It will not be universal, because these insurers can offer different coverage in different areas of the country. It will jeopardize existing coverage: the Congressional Budget Office has estimated that 2.7 million retirees—half of whom have annual incomes of less than $30,000—will lose the drug benefits they now enjoy as a result of insufficient subsidies to employers. Late last year, 14 months before the drug coverage provisions of the law are to take effect, hundreds of seniors in my district began receiving notices that their employer-based drug coverage would be dropped as their benefits are "coordinated" with Medicare.

Under the guise of "choice" and "competition," this bill gives billions of extra dollars to managed care plans, which are already reimbursed at rates one-fifth higher than fee-for-service Medicare. This so-called "stabilization fund" and a premium support demonstration project are not designed to offer choice, but instead to lure younger, healthier seniors away from traditional Medicare and into private plans. These features of the bill do not save money, according to the Congressional Budget Office's estimate. Instead, scarce dollars that could be used to provide a better drug benefit are used to increase health plan profits. Those beneficiaries who remain in fee-for-service Medicare will be isolated in an underfunded program and they will see their premiums skyrocket as a result of phony "competition."

Finally, the new law includes a "cost containment" provision that actually shifts rather than contains costs. By combining the Part A and Part B Trust Funds and creating a new definition of insolvency that caps Medicare's use of general revenues at 45 percent of total Medicare costs, this provision would force government to cut benefits or raise payroll taxes if this limit is exceeded. More than any other element of the new law, this provision would undermine the entire Medicare system as we know it, shifting the burden of the program onto those least able to afford it.

The bill I am introducing today will modify these damaging aspects of the new Medicare law. First it will authorize the HHS Secretary to use the purchasing power of 40 million seniors and disabled Americans to negotiate lower drug prices. Second, it will guarantee seniors the choice of a nationally available, defined benefit within Medicare. The premium, deductible, copays and stoploss will be set by law, not by private insurers. Third, my bill will fully reimburse employers for the cost of qualified retiree drug coverage and it will permit their costs to count toward seniors' catastrophic limits. Fourth, it will repeal the premium support demonstration and help ensure that Medicare remains a national program with equal access for all seniors. Fifth, it will eliminate the "stabilization" fund for private health insurers and dedicate these funds to strengthening the traditional Medicare program for seniors. Finally, it will eliminate the "cost containment" provision of the bill, which will harm both working families, seniors, and health care providers.

Mr. Speaker, the Medicare prescription drug provisions of this bill will not take effect until 2006. We have time to fix the structural problems that prevent this law from benefitting today's beneficiaries and those who will depend on Medicare in future years. If this Congress is serious about the financial security of older Americans, it will make every effort to keep the promises we have made to our seniors. I urge my colleagues to cosponsor this legislation.

LETTER TO SALVADORAN AMBASSADOR TO THE U.S., RENE ANTONIO LEÓN RODRIGUEZ

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KUCINICH. Mr. Speaker, on April 29, 2002, Rep. RAÚL GRIJALVA and I sent the following letter to Salvadoran Ambassador to the United States, Rene Antonio León Rodriguez regarding police brutality against Salvadoran government officials:

> DEAR AMBASSADOR LEÓN: It has just been brought to our attention that Salvadoran diputados Dr. Salvador Arias and Zoila Quijada were victims of police brutality yesterday while defending protesters of the Social Security Doctors Union (SIMETRISSS).
>
> The protesters were members of the doctors union who were upset about the unjust decision to deport Dr. Pedro Bachon Rodriguez, an Ecuadorian doctor and adviser to the doctors union who has been a legal resident of El Salvador for the past 8 years. Diputado Arias and Quijada stepped in to mediate between the doctors union and the police an to defend the protesters, and the police responded by beating them too. They identified themselves to the police as members of the Legislative Assembly, but the police continued to beat them. Fortunately their bodyguards stepped in to protect them before the were terribly injured.
>
> We disapprove of in the strongest terms the use of police violence against the government officials. This unconscionable violation of human rights and democracy threatens the 1992 Peace Accords and could lead to grave consequences. Furthermore, we strongly disapprove of the police violence against protesters. This violence has been increasing recently with anti-CAFTA protests in El Salvador. The Salvadoran Interior Minister endorsed the police violence against protesters that occurred on April 14 and wrongfully called the protesters "terrorists."
>
> This is not acceptable. This will not go unnoticed by the United States and by international human rights movements. Be assured that, we will pursue an investigation into this matter to the fullest.

On May 3, 2005, Ambassador León sent the following reply:

> DEAR REPRESENTATIVE KUCINICH: We acknowledge receipt of your letter dated April 29, 2005 in which you express your concern on the apparent use of police force against two congresspeople of the Salvadoran Legislative Assembly, Dr. Salvador Arias and Dr. Zoila Quijada, while seemingly defending members of the Social Security Doctors Union (SIMETRISSS).
>
> To that respect, we have proceeded to send your letter to the pertinent authorities in El Salvador who are already aware of your preoccupation and will soon deliver you their response.
>
> Please accept Mr. Representative Kucinich the assurances of our consideration and esteem.

INTRODUCTION OF "DIGITAL OPPORTUNITY INVESTMENT TRUST"

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. MARKEY. Mr. Speaker, I rise to join my good friend and colleague Rep. RALPH REGULA (R–OH) in introducing the "Digital Opportunity Investment Trust Act."

Mr. Speaker, I have long believed that when the Federal Communications Commission decides to proceed with auctions as a means of granting licenses to the public's airwaves, that the public deserves to reap the benefits. These benefits should manifest themselves not only in the more rapid offering of new, competitive commercial wireless services or the deployment of technological innovations, but also in the "dividends" that can be reaped by re-investing the auction money wisely. The legislation we are introducing today, proposes taking auction revenue and creating a permanent trust fund in order to fund grants for public interest telecommunications initiatives. I believe harnessing this resource and re-investing it for such initiatives will be vital to our national economic security and for leaving to the next generation the cultural and educational assets of our great country in an accessible digital form.

Mr. Speaker, ensuring that the research and development into the software and telecommunications tools that will animate the technologies for use in classrooms and workplaces around the country is a sound investment. Making available additional resources for public televisions and radio stations for their needs in the digital era is also vital. Finally, our nation's libraries, museums, universities are great repositories of information and possess the tremendous wealth of our cultural heritage. These treasurers can and ought to be digitized in a way that makes them accessible to all our citizens, both online and over-the-air using our national public broadcasting system. This will help to ensure we have an informed and skilled citizenry for our civic institutions. Putting these great educational resources at the heart of the technological transformation our society is undergoing will strengthen our democracy in fundamental ways.

For all of these reasons, I believe we must rise to the challenge of funding advanced research and development for education and technology training in a way that reflects the urgent need to do so and the current, inadequate resources being put to these efforts. Telecommunications technology has an awesome potential to affect change positively by driving economic growth, preparing our citizens for the tough challenges ahead, and enriching our democracy. Yet without a plan, it will remain just that—merely the "potential" and "promise" but not the reality. That's why I believe we ought to reinvest the auction resources we obtain from winning bidders to the public's airways. A permanent trust fund built from these funds will go a long way in meeting the need and that is what our legislation is designed and intended to do.

NATIONAL ASIAN AND PACIFIC ISLANDER HIV/AIDS AWARENESS DAY

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. SCHAKOWSKY. Mr. Speaker, I would like to draw attention to the first annual National Asian and Pacific Islander HIV/AIDS Awareness Day today, May 19, 2005. This day seeks to raise awareness among Asian Americans and Pacific Islanders about the devastating impact of HIV/AIDS on their community and to highlight AIDS prevention and treatment opportunities.

AIDS has claimed the lives of over 20 million people worldwide since it was first diagnosed in 1981, and the numbers continue to grow at an alarming rate. An estimated 5,500 of 750,000 Americans who face the perils of AIDS today are Asian Americans and Pacific Islanders, but with the fastest-growing racial/ethnic population in the nation, this number is increasing at a staggering rate. According to the Centers for Disease Control and Prevention (CDC), the number of AA/PIs living with AIDS has increased 10 percent annually over the past five years.

Many Asian Americans and Pacific Islanders living with HIV/AIDS too often do not take the steps necessary to prevent and combat the disease due to cultural stigmas around issues of sex, sexuality, and drug use. Other obstacles include the fact that nearly 40 percent of AA/PIs have limited English proficiency and 13 percent live below the federal poverty line. Nearly one in five are uninsured, and many others lack adequate health insurance. That is why this day is immensely important in communicating the facts and preventative practices regarding HIV/AIDS. With increased national awareness and improved communication, HIV/AIDS information will become more widely available and more effective in crossing the social, linguistic, and economic barriers this population faces.

It is also critically important that we expand the budgets of the CDC, especially the Office of Minority Health and the National Institutes of Health, and reauthorize the Ryan White CARE Act to ensure that HIV/AIDS is addressed seriously and with adequate resources. Asian Americans and Pacific Islanders face a serious health threat, and they are just one segment of the American population which battles this deadly disease on a daily basis. Our financial support is critical in providing information, medicine, care, and ultimately a cure for this debilitating disease.

Mr. Speaker, I urge my colleagues to join me in acknowledging the first National Asian and Pacific Islander HIV/AIDS Awareness Day and working to enact healthcare solutions to the HIV/AIDS crisis.

BIKE TARIFF SUSPENSION BILLS

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. BLUMENAUER. Mr. Speaker, today I am introducing seven bills that will waive tariffs for specialty bike parts not produced domestically.

The bicycle industry is an important part of our economy. There are over 6,000 bicycle shops and 2,000 companies that deal with bicycle manufacturing with tens of thousands of employees. These tariff waivers will reduce costs for the bicycle industry and will allow the savings to be passed onto the more than 57 million adult bicyclists across the country.

Similar bike components that are not produced in the United States are already exempt from tariffs in the Harmonized Tariff Schedule. Without a domestic producer of compatible components, bike companies should not be required to pay duties. This legislation will level the playing field for the industry which provides one of the cleanest, healthiest, most efficient, and environmentally friendly modes of transportation that exists.

THE SIXTY-FOURTH ANNIVERSARY OF THE HEROIC BATTLE OF CRETE

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. BILIRAKIS. Mr. Speaker, I rise proudly today to celebrate the 64th anniversary of the Battle of Crete, a World War II event of epic proportions that profoundly impacted on the determination of many countries to resist the aggression of Nazi Germany. This is a story of the sacrifices made by a battered but brave group of individuals thrown together in a combined effort to halt the domination of a smaller, weaker nation by a larger, more powerful aggressor.

Amidst the cataclysm that engulfed the countries of Europe at the time, it seems now preposterous that a small island dared to stand up to the aggressor to preserve its freedom and defend its honor. Today, more than half a century later, the heroic events that took place in the Battle of Crete remain etched in the memory of people around the world. In commemoration of this anniversary, and for the benefit of future generations, I will share a brief account of these events as they unfolded.

In early April 1941, the German army rushed to the aid of their defeated ally, Italy, and invaded Greece. Following a valiant struggle, Greek forces had been pushed entirely off the continent and were forced to take refuge on the island of Crete.

The German army then looked covetously across the sea to Crete because of the British airfields on the island, which could be used by the Allies for air strikes against the oil fields of Rumania, thereby denying this vital war commodity to Hitler's forces now preparing for their attack on Russia. If captured, it would also provide air and sea bases from which the Nazis could dominate the eastern Mediterranean and launch air attacks against Allied forces in northern Africa. In fact, the Nazi high command envisioned the capture of Crete to be the first of a series of assaults leading to the Suez Canal. Hitler intended a short, one month, campaign, starting in March. On successful completion, his troops would be re-assigned to Russia.

Crete's defenses at the time had been badly neglected due to the deployment of Allied forces in North Africa. General Bernard Freyberg of the New Zealand Division was appointed by British Prime Minister Winston Churchill as commander of a small contingent of Allied troops which had been dispatched to the island a few months before and re-enforced by additional troops who had retreated from the Greek mainland.

Early on the morning of May 20, 1941, Crete became the theater of the first and largest German airborne operation of the war. The skies above Crete were filled with more than eight thousand Nazi paratroopers, landing in a massive invasion of the island, which was subjected to heavy bombing and attacks in what became known as "Operation Mercury."

Waves of bombers pounded the Allied positions followed by a full-scale airborne assault. Elite paratroopers and glider-borne infantry units fell upon the rag-tag Allied soldiers and were met with ferocious resistance from the Allied troops and the Cretan population.

Although General Freyberg had decided not to arm the Cretans because they were believed to be apti-royalist, they fought bravely with whatever was at hand during the invasion. As soon as the battle broke out, the people of Crete volunteered to serve in the militia. Centuries of oppression and several revolts against Venetians and Turks had taught them that freedom is won and preserved by sacrifice, and there was hardly a family without a gun stashed somewhere in the house. For the first time, the Germans met stiff partisan resistance.

War-seasoned men joined the regular troops in the effort to repel the invader. Old men, women and children participated and used whatever makeshift weapons they could find. They pointed their antiquated guns at the descending German paratroopers. They used sticks, sickles and even their bare hands, to fight those soldiers already on the ground. Most of them were illiterate villagers but their intuition, honed by the mortal risk they were facing, led them to fight with courage and bravery. "Aim for the legs and you'll get them in the heart," was the popular motto that summarized their hastily acquired battle experience.

Seven days later, the defenders of Crete—though clinging to their rocky defensive positions—knew that they would soon be overrun. The evacuation order was given, and nearly 18,000 men were rescued. These valiant survivors had bought the Allies a week's precious time free of Nazi air and sea attacks based from Crete. More importantly, they inflicted severe losses on the German airborne forces, the showpieces of the Nazi army. Although well-armed and thoroughly equipped, the Germans didn't break the Cretan's love of freedom.

Although the Germans captured the island in ten days, they paid a heavy price. Of the 8,100 paratroopers involved in this operation, close to 4,000 were killed and 1,600 were wounded. So injured were the German units that they never again attempted an airborne assault of the magnitude launched at Crete. Hitler may have won the Battle of Crete, but he lost the war. The German victory proved a hollow one, as Crete became the graveyard of the German parachute troops. In fact, it is a lesson taught in almost every major military academy in the world on what not to do.

In retaliation for the losses they incurred, the Nazis spread punishment, terror and death on the innocent civilians of the island. More than two thousand Cretans were executed during the first month alone and thousands more later. Despite these atrocities, for the four years following the Allied withdrawal from the island, the people of Crete put up a courageous guerilla resistance, aided by a few British and Allied officers and troops who remained. Those involved were known as the Andartes (the Rebels).

Cretan people of all ages joined or aided the Andartes. Children would pile rocks in the roads to slow down the German convoys. They even carried messages in their schoolbooks because it was the only place that the German soldiers never looked. These messages contained information critical to the Andartes who were hiding in the mountains and would come down for midnight raids or daytime sabotages.

The German terror campaign was meant to break the fighting spirit and morale of the Andartes. Besides the random and frequent executions, German soldiers used other means to achieve their goal. They leveled many buildings in the towns and villages, destroyed religious icons, and locked hundreds of Cretans in churches for days without food or water, but nothing worked. These actions only made the Cretans more ferocious in their quest for freedom.

Even in the face of certain death while standing in line to be executed, Cretans did not beg for their lives. This shocked the German troops. Kurt Student, the German Paratrooper Commander who planned the invasion, said of the Cretans, "I have never seen such a defiance of death."

Finally, the Cretan people participated in one of the most daring operations that brought shame and humiliation to the German occupation forces and exhilaration and hope to the enslaved peoples of Europe. Major-General Von Kreipe, Commander of all German forces in Crete, was abducted from his own headquarters in April 1944 and transferred to a POW camp in England.

The German troops had never encountered such resistance. Hitler had initially sent 12,000 troops to Crete, thinking that the occupation would be swift. By the end of the three-and-a-half years of occupation, Hitler had sent a total of 100,000 troops, to confront a little more than 5,000 Cretan Andarte fighters. These German troops could have been deployed somewhere else. More German troops were lost during the occupation of Crete than in France, Yugoslavia and Poland combined.

Most importantly, as a result of the battle in Crete, Hitler's master plan to invade Russia before the coming of winter, had to be postponed, which resulted in the deaths of many German troops who were not properly prepared to survive the harsh Russian winter.

As we Americans know from our history, freedom does not come without a price. For their gallant resistance against the German invasion and occupation of their island, Cretans paid a stiff price. Within the first five months of the Battle of Crete, 3,500 Cretans were executed and many more were killed in the ensuing three-and-a-half years of occupation.

Mr. Speaker, there are historical reasons why we Americans appreciate the sacrifices of the Cretan people in defending their island during the Battle of Crete. We have a history replete with similar heroic events starting with our popular revolt that led to the birth of our nation more than two centuries.

We must always remember that as long as there are people willing to sacrifice their lives for the just cause of defending the integrity and freedom of their country, there is always hope for a better tomorrow. May we take inspiration from the shining example of the people of Crete in ensuring that this is indeed the case.

A TRIBUTE TO TSCL CHAIRMAN GEORGE A. SMITH

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. JONES of North Carolina. Mr. Speaker, I rise today to pay tribute to George Smith. Since 2001 the TREA Senior Citizens League (TSCL) has been under the strong leadership of Board of Trustees Chairman George A. Smith. With George Smith at the helm, TSCL has gained greater credibility and respectability in the Congress and in the country as a whole. TSCL has become a significant national player on Social Security issues such as the Notch, Cost of Living Adjustment based on a Consumer Price Index for the Elderly, Mexico Totalization, and a Lock Box of Trust Funds, and on other issues such as drug importation. This has largely occurred because Chairman Smith insisted that TSCL emphasize educating the public about senior issues. Like other TSCL Board of Trustees members he has served without pay.

George A. Smith was born on October 28, 1930. He currently resides in San Antonio, Texas, with his wife Marie. Mr. Smith entered the U.S. Army in July 1948 and served an illustrious 21-year career. While on active military duty, Mr. Smith earned the Bronze Star, the Army Commendation Medal with Oak Leaf Cluster and a multitude of miscellaneous awards and commendations.

Mr. Smith is a TREA (The Retired Enlisted Association) Past National President. As a TREA leader, he initiated and finalized the purchase of the first TREA National Headquarters. He has served as Chairman of the Past President's Advisory Council, Chairman of the TREA Memorial Foundation, Chairman of TREA Finance Committee, Chairman of TREA 5-Year Planning Committee, President of TREA Chapter 3, and Chairman of TREA Convention Committee.

George Smith has an Associate Degree in Business Management from Metro State College in Denver, Colorado, and is retired from the Colorado Department of Employment where he served as the Job Service Director. He also worked in the area of direct sales for Telecommunications, and was an owner of his own precision welding business. He served as President of the Veterans of Foreign Wars Post 3482, and as President of a local homeowners association.

George Smith learned from his experiences in the military and private sector that a strong foundation has to be constructed brick by brick using motivational management and a team concept. At TSCL Chairman Smith used his management expertise to revitalize the organization. He developed an expanded legislative agenda of activities in Congress.

His visionary leadership helped move TSCL forward to the status of a well-known and respected organization by most Members of Congress. During his tenure as Chairman, TSCL has become a significant national player on several senior issues.

As a member of the House Armed Services Committee, I am especially grateful for George Smith's service in the military. His advocacy for senior issues and for retired enlisted military will be missed when he steps down as TSCL Chairman later this year. Thank you George for your remarkable contributions and distinguished sacrifices for our country. You did make a difference. God bless you.

HIGH SCHOOL REFORM

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KUCINICH. Mr. Speaker, on May 17, 2005, during a Committee on Education and the Workforce hearing on High School Reform I gave the following statement:

> I am pleased we will today hear from the Governors of Massachusetts and Iowa on what measures they have found useful in reforming high schools in their own states. I am especially pleased that Governor Vilsack has highlighted the importance of vocational education and its role in high schools. High school reform is an important piece of the puzzle ensuring that our nation's young adults are able to succeed in their chosen career path. The goal of high schools should be to prepare students for the next step in their lives, whether that be continuing on to college or beginning a vocational training program.
>
> First, we must work to ensure that students graduate from high school. Recent statistics reported by the Harvard Civil Rights Project show that only 68 percent of students who entered the 9th grade graduated in the 12th grade. Minority students were even less likely to graduate. In today's economy, a high school diploma has increasingly become a minimum requirement for workers. We must address issues that keep students from graduating and get diplomas in their hands.
>
> Students, regardless of background, should also know the options they have after graduation. The knowledge of training programs, entry requirements for universities, and financial aid options is invaluable for both

students and their parents. Course work must effectively engage and challenge students, continuing their academic growth and building upon their foundation of skills. Students of all levels should make progress in their studies.

Our nation is diverse and so are the students in our high schools. There is no "one size fits all" for high schools or the students in them. Reforms for high schools should both recognize and employ that fact and aim to ensure that all students graduate from high school and are prepared for the next step in lives.

CENTRAL NEW JERSEY RECOGNIZES AND CELEBRATES THE CAREER OF GRETA KIERNAN OF PLAINSBORO, NEW JERSEY

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. HOLT. Mr. Speaker, I rise today to recognize the career of Greta Kiernan, who has served the State of New Jersey in a multitude of capacities for more than 40 years.

Having known Greta for a number of years, I can personally attest to the tremendous contributions she has made during her career as a public servant. From her introduction to politics as a member of the Bergen County Democratic Committee in 1963, Ms. Kiernan has distinguished herself by virtue of her exemplary leadership and commitment. She has served as a key aide to several members of the New Jersey State Senate and Assembly, a legislative liaison to New Jersey for the New York / New Jersey Port Authority, a principal staff member for the Low Level Radioactive Waste Siting Board and a principal staff member in the office of the Congressional Representative of the 12th District. Ms. Kiernan continues to build a political legacy. She was the first Democratic woman to serve in the New Jersey State Assembly from Bergen County. Elected in 1978, Ms. Kiernan represented what was then New Jersey's 39th District.

A woman of political acuity, skill, and expertise, Greta Kiernan is also known for her loyalty and kindness. A mother of four and grandmother of eleven, Ms. Kiernan is an avid collector of political memorabilia and artifacts. Her collection includes a rare copy of the minutes of the 1947 New Jersey Constitutional Convention, an extensive treasury of books on the political history of New Jersey (signed by their authors), and countless buttons, bumper stickers, and hats. Her wit and quiet charm are boundless, and she has earned the trust and admiration of so many.

Greta Kiernan roles have ranged the gamut of public service, but her values and dedication have remained constant throughout. An inspiration to citizens of the State of New Jersey, Greta Kiernan has contributed significantly to the life of her community. She has earned our heartfelt appreciation and respect for her efforts. I ask my colleagues to join me in giving her this recognition.

TRIBUTE TO KATIE BROWNELL

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. REYNOLDS. Mr. Speaker, it is with great pleasure that I rise to pay tribute to 11-year-old Katie Brownell, of Genesee County, New York, for pitching a perfect Little League game on May 14th. This is a terrific accomplishment and Katie has much to be proud of, as do her family and her community.

Katie, the only female player in the league, displayed tremendous ability as she pitched the perfect game, striking out every single batter she faced, allowing not even a single baserunner.

This is not the first time Katie has dominated a baseball game however. In her first appearance on the mound this season, Katie allowed only one hit, striking out 14 batters through five innings. Katie also has a batting average of .714 through the first three games of the season.

Furthermore, Katie has shown tremendous sportsmanship, taking this accomplishment humbly and in stride. Katie has never gloated and has never bragged. She simply loves the game and enjoys playing it—characteristics equally as impressive as her abilities.

Mr. Speaker, I ask that this Congress join me in honoring Katie Brownell, and recognize her tremendous athletic abilities and sportsmanship after pitching a perfect game for her Little League team.

TRIBUTE TO JOHN GARRETT, JR.—A TRUE AMERICAN PATRIOT

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. PAYNE. Mr. Speaker, I rise today to honor the memory of my uncle, John Garrett, Jr. and I ask my colleagues here in the U.S. House of Representatives to join me in paying tribute to this outstanding American patriot.

John Garrett, Jr. was a Staff Sergeant and platoon leader of the 229th Port Company attached to the 1st Engineer Specialist Brigade of the 1st Army and on June 6th, 1944, his contingent of 75 men was responsible for transporting ammunition to the landing Allied Forces.

He was extremely proud of his service in the Army during WWII; however, he was disheartened that the role of African American soldiers who helped lead our country to victory was not accurately depicted in history. Their names were not mentioned, their achievements were not celebrated, and their sacrifices were not honored. He considered it his mission to correct the historical omissions of the role of African American soldiers, and he developed a comprehensive collection of historical information, including visual displays and artifacts that he used during lectures to community groups and to the many schools where he was invited to speak.

He would speak about the contributions of African Americans in battle that history did not record. He told about the Tuskegee Airmen, the Red Ball Express, and the lesser-known Fighting 369th—a group of African Americans, largely from New York City, who valiantly chose to fight for a country that gave them only minimal civil rights and would not even allow them to carry arms or participate in battle. But this band of patriots would not be deterred, and eventually fought as Americans for our ally, the French. They were so fierce in battle, in fact, that the enemy called them "The Hell-Fighters," and they would later come to be known as The Harlem Hell-Fighters.

He was tenacious in his attempts to have the recognition due African American soldiers afforded them, and was the catalyst for the movement that eventually led President Clinton to recognize those soldiers; as a result, a number of African American soldiers who had been overlooked for the Purple Heart were later awarded that medal in recognition of their service in WWII. Purple Hearts were not the only awards withheld from African American soldiers. President Eisenhower, when presenting Letters of Commendation, chose to send Letters to white soldiers only. My Uncle John was directly responsible for President Clinton's decision to award Letters of Commendation to those African American soldiers who participated in the D-Day Invasion and whose service had gone unmentioned and unrecognized for decades.

One of my uncle's most treasured experiences, capping off his life's work, was visiting Washington last Memorial Day weekend for the official dedication of the long-awaited World War II Memorial. As a veteran of the war, he and his wonderful wife Ruth, who were married over 60 years, were able to view the moving ceremony from special seats and also mingled with the crowds, enjoying great camaraderie with other World War II veterans gathered together for this historic occasion.

John Garrett, Jr. lived life to the fullest. When he and his wife attended my Annual Congressional Ball in March, they danced the night away, outlasting most of the others on the dance floor. He also made a point of traveling to Washington every fall to participate in the Congressional Black Caucus Annual Legislative Conference.

Mr. Speaker, let us honor John Garrett, Jr. for his patriotism and his service to our country. He was tireless in his fight to ensure that all our soldiers received the honor that was due them. He was a role model for our community, enlightening thousands of school children with the true story of the role African Americans played in our Nation's history, and instilling in them pride for the legacy of their ancestors. We extend our heartfelt condolences to his wife, Ruth, his son Kenny and his granddaughter, Cindy.

IN COMMEMORATION OF THE 50TH ANNIVERSARY OF BETH ISRAEL—THE WEST TEMPLE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in recognition of Beth Israel—The West Temple, in commemoration of its 50th anniversary. Beth Israel was organized in April 1954 by Abe Silverstein, an early director of the NASA Lewis Research Center and 25 founding families, to provide a religious center for Reform Jews living on Cleveland's west side. The congregation's first service, Rosh Hashanah, was on September 27, 1954, at the First Universalist Church in North Olmsted. For the next three years, services were held at either the Universalist Church or the North Olmsted Community Club House. Following the merger with the West Side Jewish Center in October 1957, Beth Israel occupied the Center's newly completed building at 14308 Triskett Road in Ohio's 10th Congressional District. The building was dedicated on May 11, 1958. The congregation continues to worship there today.

For its first seven years, Beth Israel was served by a succession of six student rabbis from Hebrew Union College in Cincinnati. Among them was Daniel Litt who became Beth Israel's first full-time rabbi, serving from 1961 to 1965. The year 1965 also brought the construction of a new eight-room, two-story wing and the first of two Cleveland Foundation library grants. The library and its volunteer staff have provided services for the congregation as well as colleges, schools, and churches throughout western Cuyahoga County. By 1995, the library contained more than 6,000 volumes and audio-visual materials.

Beth Israel draws its members from Cleveland's west side and western suburbs in Ohio's 10th Congressional District. It prides itself on its commitment to education and social action. Its school, staffed by volunteers, covers preschool through grade 12 and has more than 100 students enrolled. Among its alumni is Sally Priesand, who went on to become the first woman ordained to the rabbinate in the United States and to serve as Beth Israel's rabbi. As an outgrowth of the temple Social Action Committee, Beth Israel's members found the Cleveland Council on Soviet Anti-Semitism. Council founder Lou Rosenberg became a leader in the national movement to assist Soviet Jewry. Beth Israel's current rabbi, Alan Lettofsky, remains active in local affairs and has spoken out at interfaith rallies to save local hospitals and on other issues of concern to the people of Ohio's 10th District.

Mr. Speaker, I am pleased to recognize Beth Israel—The West Temple for its 50 years of service to, and a center of worship and community for, my Jewish constituents on Cleveland's west side and western suburbs. Please join me in marking this auspicious occasion.

FREEDOM FOR REGIS IGLESIAS RAMÍREZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Regis Iglesias Ramírez, a political prisoner in totalitarian Cuba.

Mr. Iglesias Ramírez is a member of the Christian Liberation Movement. Because of his belief in freedom of religion, democracy and human rights, Mr. Iglesias Ramírez is an opponent of the nightmare that is the Castro regime. Despite the constant threat of retribution by the dictatorship, he has continually demanded his inalienable human rights.

Unfortunately, in March 2003, as part of the regime's heinous crackdown on peaceful, prodemocracy activists, Mr. Iglesias Ramírez was arrested. In a sham trial, he was sentenced to 18 years in the totalitarian gulag.

Mr. Iglesias Ramírez is languishing in an inhuman, grotesque gulag simply because of his religious convictions and his desire to live in liberty. According to Amnesty International, he has been threatened and harassed because he persists in studying his Bible while incarcerated by the regime. It is reprehensible that, at the dawn of the 21st Century, men and women like Mr. Iglesias Ramírez are still locked in dank dungeons because of the tenets of their faith.

Mr. Speaker, tomorrow is May 20, and on that day, 103 years ago, the Cuban people obtained their independence; the Republic of Cuba was born. Today the Cuban people, led by heroic activists such as Mr. Iglesias Ramírez, continue to fight for freedom. It is my fervent hope that next year, on May 20, the Cuban people will be able to celebrate the anniversary of Cuba's independence and also celebrate the return of freedom to that long suffering island.

Mr. Speaker, it is unconscionable that peaceful Cubans of all genders, creeds and colors are locked in Castro's barbarous gulag because they believe in a free Cuba. While the entire world sits by and ignores the suffering of the Cuban people, brave men and women like Mr. Iglesias Ramírez represent the best of mankind. My Colleagues, we must demand freedom and human rights for all people, especially those who live under the darkness of totalitarian regimes. We must demand immediate and unconditional freedom for Regis Iglesias Ramírez and every prisoner of conscience in totalitarian Cuba.

COMMEMORATING THE 64TH ANNIVERSARY OF THE BATTLE OF CRETE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mrs. MALONEY. Mr. Speaker, I rise today to mark the 64th anniversary of the Battle of Crete by introducing this House Resolution which recognizes and appreciates the historical significance of the people of Crete during World War II.

This was a historic event with direct significance to the Allies' victory of World War II. On May 20, 1941, thousands of German paratroopers and gliders began landing on Crete. Both the Allies and Nazis wanted Crete because of its strategic location. At that time the British controlled the island. It was a very strong point on the lifeline to India and protected both Palestine and Egypt.

The Nazi invasion force included the elite German paratroopers and glider troops. Hitler felt this was to be an easy victory, yet he is quoted to have said shortly after the invasion, "France fell in 8 days. Why is Crete free?"

The invasion of Crete took eleven days. It resulted in more than 6,000 German troopers listed as killed, wounded, or missing in action. The losses to the elite 7th parachute division were felt so hard by the German Military that it signified the end of large-scale airborne operations.

This valiant fight by the Cretan people began in the first hour of the Nazi airborne invasion, in contrast to the European underground movements that took a year or more after being invaded to begin.

Young boys, old men and women displayed breathtaking bravery in defending their Crete. German soldiers never got used to Cretan women fighting them. They would tear the dress from the shoulders of suspected women to find bruises from the recoil of the rifle. The penalty was death.

On July 28, 1941, The Times (London) reported that "five hundred Cretan women have been deported to Germany for taking part in the defense of their native island."

Another surprise for the German soldiers who invaded Crete was the heroic resistance of the clergy. A priest leading his parishioners into battle was not what the Germans anticipated. At Paleochora, Father Stylianos Frantzeskis, hearing of the German airborne invasion, rushed to his church, sounded the bell, took his rifle and marched his volunteers toward Maleme to write history.

This struggle became an example for all Europe to follow in defying German occupation and aggression.

The price paid by the Cretans for their valiant resistance to Nazi forces was high. Thousands of civilians died from random executions, starvation, and imprisonment. The Germans burned and destroyed entire communities as a reprisal for the Cretan resistance movement. Yet this resistance lasted for four years.

The Battle of Crete changed the final outcome of World War II, and significantly contributed in delaying Hitler's plan to invade Russia. The invasion was delayed from April to June of 1941.

The 2-month delay in the invasion made Hitler's forces face the Russian winter.

The Russian snowstorms and the sub zero temperatures eventually stalled the Nazi invasion before they could take Moscow or Leningrad. This was the beginning of the downfall of the Nazi reign of terror.

This significant battle and the heroic drive of the Cretan people must always be remembered and honored. Democracy came from Greece, and the Cretan heroes exemplified the courage it takes to preserve it.

Today, the courage and fortitude of the Cretan people are seen in the members of the United Cretan Associations of New York which are located in Astoria, Queens.

I urge my colleagues to join me in honoring the Cretans in the United States, Greece, and the diaspora.

HONORING THE CAREER OF RICHARD MARTIN

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. NUNES. Mr. Speaker, I would like to take this opportunity to honor a man who has dedicated his life to protecting our nation's treasures so generations of Americans can continue to enjoy their riches. Richard Martin, Superintendent of Sequoia and Kings Canyon National Parks, is retiring after 48 years of federal land management service.

Without question, my district has some of the finest landscapes in the world—from the High Sierras where these parks are found to the vast Central Valley where agriculture is king. All of these riches are interrelated. I came to know Superintendent Martin during his tenure of Sequoia and Kings Canyon National Parks. Since day one, I have had the privilege of working closely with Dick to find solutions to critical visitor use issues and I have found him a man of his word and deed. I have been especially impressed with his ability to reach out to Valley residents to make the park more accessible. Dick has encouraged park staff to participate as active members of the many communities the park borders and discover how any park decision affects the neighborhood. He has developed close friendships with Valley communities and provided park educational opportunities for all.

Superintendent Martin has also tackled issues that go way beyond the National Park System to include the war on drugs. This is a problem no one expected the park staff to have to undertake until the disgusting discovery of a re-routed mountain stream, poisoned by a time release fertilizer component, irrigating hundreds of thousands of dollars worth of marijuana. Automatic weapons, animal carcasses, and a landfill emitting methane gas, are often found in these illegal marijuana plantations within the park. I applaud Dick's effort to eliminate this destructive cash crop and restore the stream and vegetation. We have visitors walking along trails near these locations and private property not far away—we want to ensure the safety of everyone and Dick has taken this task to heart.

Superintendent Martin's career has spanned some of this nation's most remote and vast landscapes, from the lowest in elevation—Death Valley National Park, to a far north locale at Alaska's Wrangell St Elias National Park and Preserve, to Sequoia and Kings Canyon National Parks. Dick is an extraordinary park manager with an eye on retaining our parks for future generations. He and I have found ways to provide access, along with preservation—all in a desire to maintain our national heritage.

As the sun sets on his government career, I suspect that I will one day find him walking or riding along one of our western trails with his wife and four grown children. It will be great to see him continue to enjoy what he spent 48 years to protect. Dick, I wish you a hearty so-long and a fond farewell.

INTRODUCING A BILL TO POSTPONE THE 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. PAUL. Mr. Speaker, I rise today to introduce a bill to postpone the 2005 round of military base closure and realignment. This bill would postpone the conclusion of the Realignment report issued by the Department of Defense on 13 May 2005, as well as any preceding or subsequent plans that may ultimately be enacted to close or realign military bases on U.S. territory. This bill will postpone such closures and realignments until a specific set of criteria have been fulfilled, including until both the Defense Department and Congress have had the opportunity to fully study the recommendations and their implications for the national security and defense of the United States.

This round of base closure and realignment also should not go forward while we have hundreds of thousands of troops deployed overseas in major conflicts in Iraq and Afghanistan. The constant rotation of troops and other personnel to these major theaters of operations has caused great disruption, logistical strain, and terrible burdens on our servicemembers, their families, and the military itself.

Also, we should not proceed with this round of base closures and realignments before the 2006 release of the Quadrennial Defense Review. Congress must have ample time to study the recommendations of the QDR before agreeing on any major closure and realignment strategy. To do otherwise just does not make any sense.

Mr. Speaker, for these and other reasons I feel it is essential—for the strength of our military, the effectiveness of our defense, and the security of all Americans—that we postpone this round of BRAC closings until we are able to satisfy the critical criteria outlined in this bill. I hope my colleagues will join me by supporting this legislation and I hope for its speedy consideration on the House Floor.

IN HONOR OF SALVATORE J. CHILIA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Salvatore J. Chilia, as the State of Israel Bonds is honoring his decades-long commitment and work in supporting and protecting the American worker.

Mr. Chilia began work as an electrician with an apprenticeship in 1967. His service to workers began in 1977, when he was elected as an officer of Local 38's examining board Mr. Chilia served seventeen years on the executive board, including nine years as chairman. In 1989, he was elected president of Local 38, working on behalf of 2,200 active members and 850 retirees. Throughout his tenure as board member, president and chairman, Mr. Chilia maintained an unwavering focus on the rights and welfare of workers and their families. His ascension through the union ranks is reflected by the numerous successes for members, including the protection and promotion of workers' safety, compensation, benefits and pensions.

Mr. Chilia created strong bonds of trust and respect throughout the union community and was elected to the office of Business Manager of the Cleveland Electrical JATC. His expertise and commitment has been sought out nationally as well. In 2001, Mr. Chilia was elected as a member of the 36th Annual IBEW International Convention's executive council, representing members in the areas of construction, manufacturing, broadcasting, utilities, maintenance and railroad workers. Beyond his service to workers, Mr. Chilia has a deep and abiding dedication to his family and community. Mr. Chilia and his wife, Arlene, maintain an unbreakable focus on their children and grandchildren. His love for children extends outward into the community, where he is actively involved in children's charities, including the Children's Museum of Cleveland and the Cystic Fibrosis Foundation Golf Tournament.

Mr. Speaker and colleagues, please join me in honor and recognition of Salvatore J. Chilia, upon this worthy tribute by the State of Israel Bonds, for his outstanding service on behalf of the workers of our Cleveland community and beyond. His work continues to serve as a shield of strength, protecting the heart of our nation—the American worker.

SUPPORTING THE FIRST ANNUAL ASIAN PACIFIC AMERICAN HIV/AIDS AWARENESS DAY

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 19, 2005

Ms. BORDALLO. Mr. Speaker, I rise today in support of the First Annual Asian Pacific American HIV/AIDS Awareness Day. As Chair of the Health Task Force for the Congressional Asian Pacific American Caucus, and as the Delegate from Guam, which ranks fourth in the Pacific Region in the number of HIV/AIDS cases, I am deeply concerned about the impact of HIV/AIDS in the Asian American and Pacific Islander community.

While Asian Americans and Pacific Islanders together with Native Americans reportedly account for approximately 1 percent of new AIDS cases, the true impact of HIV/AIDS on the AAPI community is not fully understood because of the lack of data and information as well as a common misperception among the health professions that AAPIs are a healthier population than other minority groups.

Many view the Asian American and Pacific Islander population as the "model minority," a stereotype that feeds the mistaken belief that AAPIs are less at-risk for HIV/AIDS as other ethnic minorities. The reality is that AAPIs are as much at-risk as other ethnic groups and in fact, have higher rates of many preventable diseases that are co-factors to HIV infection such as tuberculosis and Hepatitis B. In addition, the reported number of HIV/AIDS cases among AAPIs is misleading due to a lack of detailed HIV surveillance, underreporting and misclassification of cases. Yet, the little data that does exist, points to increasing HIV rates within the AAPI population.

The Centers for Disease Control and Prevention indicate a 25 percent increase in the number of AAPI AIDS cases from 1999 through 2002. As one of the fastest growing ethnic groups, made up of over 49 ethnicities and 100 languages and with annual growth rates among Asian ethnicities as high as 115 percent, effective HIV prevention and education programs which utilize culturally and linguistically appropriate strategies are urgently needed. These programs must also be supported at the federal level through changes in funding guidelines and requirements that take these factors into account.

Pacific Island jurisdictions such as my district of Guam face additional challenges due to their remote location. These communities lack the infrastructure, capacity, equipment and training to deliver HIV/AIDS services. In addition, these jurisdictions lack community-based services and support found on the mainland. Prevention, testing, treatment and care depends on the local public health departments, many of which do not have the staff or funding resources to provide more than basic services. As a result, a diagnosis of AIDS usually means the patient will need to leave the island in order to receive proper care. Yet some choose to remain because of cultural and familial ties, sacrificing proper health care. No one should have to make such a choice.

Today, as we observe Asian Pacific American HIV/AIDS Awareness Day, we must take this opportunity to educate and motivate our communities to advocate for resources to support initiatives that address these issues. I look forward to working with the Asian American and Pacific Islander community in support of these efforts.

HOUSE OF REPRESENTATIVES—*Monday, May 23, 2005*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 23, 2005.

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

CHINA'S UNDERVALUED CURRENCY

Mr. STEARNS. Mr. Speaker, since 1994 China has pegged its currency, the yuan, to the United States dollar. Many economists contend that for the first several years of this peg, the fixed value was likely close to market value, but in the past few years, economic conditions have changed, such that the yuan would likely have appreciated, like virtually every other currency, if its exchange rates were determined by simple market forces. This policy constitutes a form of currency manipulation and is intended to give China an unfair trade advantage. Also, it is contributing to the loss of United States manufacturing jobs.

China's currency is significantly undervalued vis-a-vis the United States dollar. Some experts contend that it is undervalued by as much as 40 percent, making Chinese exports to the United States cheaper and U.S. exports to China more expensive than they would be if market forces determined the exchange rates.

Furthermore, the undervalued currency has contributed to the large U.S. trade deficit with China. It has hurt United States production and employment in several U.S. manufacturing sectors, such as textiles and apparel and furniture, that are forced to compete domestically and internationally against artificially low-cost goods from China.

If the yuan is undervalued against the dollar, imported Chinese goods are cheaper than they would be if the yuan were market-driven. This lowers prices for United States consumers and diminishes inflationary pressures, but in turn, lower priced goods from China hurt U.S. industries that compete with those products, diminishing their production and eventually their employment. In addition, an undervalued yuan makes U.S. exports to China more expensive, thus diminishing the level of U.S. exports to China and job opportunities for U.S. workers in those particular sectors.

Pegging the yuan to the dollar has large implications for the United States-China trade. When a fixed exchange rate causes the yuan to be less expensive than it would be if it were floating, it causes Chinese exports to the United States to be relatively inexpensive and U.S. exports to China to be relatively expensive. As a result, U.S. exports and the production of U.S. goods and services that compete with Chinese imports fall in the short run. Many of the affected firms are in the manufacturing sector. This causes the U.S. trade deficit to soar, to rise, and reduces aggregate demand in the short run.

Mr. Speaker, in 2004, China became the United States' second largest supplier of imports. A large share of China's exports to the United States are labor-intensive consumer goods such as toys and games, textiles and apparel, shoes, and consumer electronics. Because the manufacturing of these products have, over the past several years, shifted overseas, many of these exports do not compete directly with the United States domestic producers.

However, there are a number of small- and medium-sized firms, including makers of machine tools, hardware, plastics, furniture, and tool and die that are concerned over the growing competitive challenge posed by China. An undervalued Chinese currency contributes to a reduction in the output of these industries.

In addition, the low value of the yuan is forcing other East Asian economies to keep the value of their currencies low vis-a-vis the U.S. dollar in order to compete with Chinese products, to the detriment of U.S. exporters and U.S. domestic industries competing against foreign imports.

Furthermore, while China is still a developing country, it has been able to accumulate a massive foreign exchange reserve, approximately $660 billion at the end of March, and thus, it has the resources to maintain the stability of its currency if it were fully convertible.

Appreciating the yuan would greatly benefit China by lowering the cost of imports for Chinese consumers and producers who have used imported parts and machinery.

Finally, China's accumulation of large amounts of foreign exchange reserves in order to maintain the currency peg could be better spent on investment in infrastructure and development of poor regions in their country.

Recently, the Treasury Department issued a strongly worded report warning China over its pegging its currency to the dollar. The report called the Chinese currency peg highly distortionary, but the report stops short of designating China as manipulating its currency for a trade advantage. This designation would have triggered formal negotiations between the Bush administration and Chinese officials that potentially could end this peg.

The administration has taken the right steps in taking a harder line against China. While I welcome the tough language in the Treasury Department report regarding China, Mr. Speaker, the time has come for China to act, which will result in freer, fairer trade for both countries.

WE ARE HEADED TOWARDS A THIRD RATE ECONOMY

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Kansas (Mr. TIAHRT) is recognized during morning hour debates for 5 minutes.

Mr. TIAHRT. Mr. Speaker, last year our trade deficit was $670 billion, our Federal budget deficit was about $300 billion, and our government made it more and more difficult last year to keep and create jobs here in America. Barriers have been created and erected by Congress, and the results have been the wrong environment for the current day economy.

The world is changing. The world is getting more and more technical, and we, as a country, are not measuring up.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and we are headed towards a third rate economy.

What a third rate economy means to our national security, to the future of our children is rather startling, and it is something we need to start preparing today to change. We must change the environment for keeping and creating jobs here.

In 10 to 20 years from now, we are looking at countries like China, currently with 1.3 billion people, India with 1 billion people, add that to Southeast Asia, and they get a group of about 3 billion people. Currently, they are in talks with trying to create an Asian Union, similar to the European Union, with the yuan as the currency of choice. This would be a very strong economy. It would be very difficult for America, who currently has the strongest economy in the world and the envy of the world, to compete with that.

Last year, China graduated 350,000 engineers. India graduated 80,000 software engineers alone. They are preparing for the future.

Today, a columnist for MSNBC wrote an article called, "Can China build its own Silicon Valley? Beijing's recipe for technological success." In this article, China lays out what China's doing in their Zhongguancun district to create an environment to develop new technological businesses. They have already quite a few small high-tech companies in that area, and they also have the prestigious Tsinghua University, which is creating a lot of research and development to go along with this world-class technology incubator.

They are also providing business support, venture capital, legal services, property management and health care. It is a total package, a culture, if you will, to try to develop new ideas.

Dr. Meng Mei at the university said, "We need a culture that gives small companies the confidence to succeed." It sounds like something we need to do here in America. What they are giving them is an infrastructure, an entrepreneurial infrastructure, so that they can go out and create new technology, driving the leading edge, something that America has been doing for the last several decades. In China, the amount of money they spend on research and development has tripled between 1991 and 2001, according to the article.

In the meantime, what have we been doing here in America over the last generation? Well, starting in the 1960s, Congress started writing more rules and regulations and passing laws with good intent but terrible consequences.

We have come up with burdensome regulations that keeps new companies from starting up. We have a litigation system that works against success. We have health care costs that are rising faster than small employers can keep up with. We have got a tax policy that punishes success instead of rewarding success. We have an energy policy that is dependent on foreign sources. We have a trade policy that too often goes unenforced, and our research and development sometimes gets spent in wasteful ways instead of looking forward to the future. Our education system, sadly, is lagging behind, especially in math, science and engineering.

At the end of this article, it says, "While the number of U.S. science and engineering graduates declines, year after year, China's numbers are surging. China already graduates more English-speaking electrical engineers than does the U.S. Last month the U.S. came in 17th in an annual international collegiate programming contest; a team from Shanghai University came in first. And U.S. middle school math and science scores continue to lag behind those of other developed Nations."

We are on a path to a third rate economy that has worldwide implications for our future, for our kids, for our national security, and we have to change that environment.

This is the debate that we should be having today on the floor of the United States House of Representatives. This is how we are going to create the environment, by changing these rules and regulations, so that we can create new jobs, create new technology and prepare for the oncoming challenges of the future.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 43 minutes p.m.), the House stood in recess until 2 p.m. today.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. RADANOVICH) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, when Your servant Moses came down from Mount Sinai, he carried the two stone tablets of Your commands. Struck by Your awesome presence, he bowed down to the ground in worship. Then he said: "If I find favor with you, O Lord, do come along and be in our company. Indeed, this is a stiff-necked people; yet pardon our wickedness and our sins and take us as Your very own."

Today, in America, O Lord, facing the image of Moses before us in this Chamber, we are again struck by Your presence. We pray that You be in our company now. Pardon our sins, because we too can be a stiff-necked people. Truly take us as Your own. Make of us a strong and virtuous Nation, a people truly set apart to be Your hallmark of justice for all peoples and an instrument of peace in the world.

"For You are gracious and merciful, slow to anger, rich in kindness and fidelity" both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Michigan (Mr. KNOLLENBERG) come forward and lead the House in the Pledge of Allegiance.

Mr. KNOLLENBERG led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has agreed to a concurrent resolution of the following titles:

S. Con. Res. 35. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania.

The message also announced that pursuant to section 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senators to the Senate Delegation to the NATO Parliamentary Assembly during the One Hundred Ninth Congress:

the Senator from Alabama (Mr. SESSIONS).

the Senator from Wyoming (Mr. ENZI).

the Senator from Kentucky (Mr. BUNNING).

the Senator from Minnesota (Mr. COLEMAN).

TRIBUTE TO DR. BETTY SIEGEL

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, today I rise in honor of Dr. Betty Siegel, president of Kennesaw State University in Georgia. After 25 years of service to the University, Dr. Siegel will be retiring at the end of the year, and what an amazing 25 years it has been for her and for the students of Kennesaw State.

Back in 1981, Betty Siegel made headlines and chose the path less traveled when she became the first woman ever to serve as president in the 34-school university system of Georgia. Today, she makes headlines for all she has accomplished.

Under her leadership, KSU has grown tremendously, from a 4,000-student college offering 15 bachelor's degree programs and no graduate programs to today, with 18,000 students choosing from over 55 undergraduate and graduate programs.

The KSU slogan, "Dare to Dream," is epitomized by Dr. Betty Siegel in every imaginable way. Not only does she lead by example, but she instills every student with that motto.

So today I say thank you to Dr. Siegel. Thank you for daring to dream and thank you for daring to do all you have done to improve the lives of your students.

IT IS TIME FOR VOTES ON JUDICIAL NOMINEES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, Senator JIM DEMINT published an excellent op-ed in the State newspaper yesterday that the Senate has an obligation to ensure timely up-and-down votes for all nominees, regardless of who is President or which party is in power.

Ensuring that our courthouses are filled with well-qualified judges is one of the most important responsibilities of the U.S. Senate. As Senator DEMINT notes, the majority of Americans trust the Senate's judgment on judicial nominees, and it is unfair for a minority of Senators to ignore the will of the American people. If the minority's case against these nominees is so strong, they should be able to convince other Senators to oppose the nominees during a fair up-and-down vote.

This week, Majority Leader BILL FRIST will lead the Senate to vote on the constitutional option, which will restore a 200-year tradition to ensure that each nominee receives a fair vote. After years of debate on this topic, it is time for the Senate to follow the will of the American people.

In conclusion, God bless our troops and we will never forget September 11.

FISCAL LEADERSHIP

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise to praise the President and Republicans in this Congress for working to strengthen the economy and cut unnecessary spending. This is not rocket science or advanced economics. When we leave more money in the hands of citizens, the economy thrives.

Case in point: 274,000 new jobs were created in April. We have seen steady job gains for each of the last 23 months, and more Americans are working than ever before. In addition, our Federal deficit is forecast to be $50 billion lower than expected.

Clearly, the economy's growth is a direct result of the pro-growth agenda of the President and this Congress. By holding the line on fiscal responsibility in the budget and passing pro-growth bills such as the death tax repeal and the energy bill, Republican Members continue to show their commitment to America's economy.

The House has begun the appropriation season with Republicans working hard to display fiscal responsibility, just as we have been doing through out the session. We have reformulated the allocation process for Homeland Security funding so we can make sure these funds are not wasted and are used properly.

This Congress and this President are working hard and doing great work. Unfortunately, not enough focus is being put on the positive things happening in the world and in our country.

Let us not squander this opportunity to keep stepping in the right direction.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

STOP COUNTERFEITING IN MANUFACTURED GOODS ACT

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 32) to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks, as amended.

The Clerk read as follows:

H.R. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Stop Counterfeiting in Manufactured Goods Act".

(b) FINDINGS.—The Congress finds that—

(1) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

(2) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States $200 billion annually;

(3) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

(4) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

(5) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

(6) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

(7) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners.

SEC. 2. TRAFFICKING IN COUNTERFEIT MARKS.

Section 2320 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after "such goods or services" the following: ", or intentionally traffics or attempts to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive.".

(2) Subsection (b) is amended to read as follows:

"(b)(1) The following property shall be subject to forfeiture to the United States and no property right shall exist in such property:

"(A) Any article bearing or consisting of a counterfeit mark used in committing a violation of subsection (a).

"(B) Any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a).

"(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States, shall order that any forfeited article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

"(3)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

"(i) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

"(ii) any of the person's property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

"(iii) any article that bears or consists of a counterfeit mark used in committing the offense.

"(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. Notwithstanding section 413(h) of that

Act, at the conclusion of the forfeiture proceedings, the court shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

"(4) When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the mark and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).

"(5) The term 'victim', as used in paragraph (4), has the meaning given that term in section 3663A(a)(2).".

(3) Subsection (e)(1) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) a spurious mark—

"(i) that is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

"(ii) that is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered;

"(iii) that is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

"(iv) the use of which is likely to cause confusion, to cause mistake, or to deceive; or"; and

(B) by amending the matter following subparagraph (B) to read as follows:

"but such term does not include any mark or designation used in connection with goods or services, or a mark or designation applied to labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature used in connection with such goods or services, of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.".

(4) Section 2320 is further amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f) Nothing in this section shall entitle the United States to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.".

SEC. 3. SENTENCING GUIDELINES.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under—

(1) section 1204 of title 17, United States Code; or

(2) section 2318 or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall determine whether the definition of "infringement amount" set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses listed in subsection (a) and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as U.S. v. Sung, 87 F.3d 194 (7th Cir. 1996).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentlewoman from California (Ms. ZOE LOFGREN) each will control 20 minutes.

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent to yield the balance of the time to the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 32, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 32, the Stop Counterfeiting in Manufactured Goods Act. This legislation will facilitate efforts by the Department of Justice to prosecute those who exploit the good names of companies by attaching counterfeit marks to substandard products.

This is a serious problem. Legitimate businesses work hard to build public trust and confidence in their products. When a legitimate company's name is attached to counterfeit products that are not authorized by the company to bear that name, the company suffers losses not only to its bottom line but to its reputation as well.

In addition, counterfeit products are often purchased unwittingly by consumers who have come to rely on the quality of the product by a company they know and trust. Instead, what they receive is a low-quality, often dangerous imitation. Some of these products are such poor imitations of the original that they have caused physical harm to consumers.

The FBI has identified counterfeit goods in a wide range of products, including pharmaceuticals, automobile parts, airport parts, baby formulas, and children's toys. The U.S. automobile industry has reported a number of instances of brake failure caused by counterfeit brake pads manufactured from wooden chips. Counterfeits of other products, such as prescription or over-the-counter medications, may have serious health consequences if they are used by an unsuspecting consumer.

Under this legislation, section 2320 of title 18 would be expanded to include penalties for those who traffic in counterfeit labels, symbols, or packaging of any type knowing that a counterfeit mark has been applied. Additionally, this legislation would require the forfeiture of any property derived directly or indirectly from the proceeds of the violations as well as any property used or intended to be used in relation to the offense. The legislation also requires that restitution be paid to the owner of the mark which was counterfeited.

By mid-fiscal year 2003, the Department of Homeland Security had already reported 3,117 seizures of counterfeit-branded goods, including cigarettes, books, apparel, hand bags, toys, and electronic games, with an estimated street value of $38 million. Fortune 500 companies are spending between $2 million and $4 million each and every year to fight counterfeiters.

The counterfeiting of manufactured goods produces staggering losses to businesses across the United States and around the world. Counterfeit products deprive the Treasury of tax revenues, add to the national trade deficit, subject consumers to health and safety risks, and leave consumers without any legal recourse when they are financially or physically injured by counterfeit products.

In addition, established links between counterfeiting, terrorism, and organized crime have made this a priority for Federal law enforcement agencies. H.R. 32 will provide another tool for the Federal Government to stop the wave of counterfeit products flooding the marketplace.

This legislation has broad bipartisan support. It was amended in the Committee on the Judiciary to ensure only those individuals who are operating with an intent to deceive or confuse the consumer by attaching counterfeit labeling or packaging will be held criminally liable.

I urge my colleagues to support this very important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this legislation. H.R. 32 is aimed at criminals who traffic in counterfeit labels and packaging rather than the products themselves.

Many counterfeit products are labeled with brand names or trademarks that consumers know and trust. However, under current law, trafficking in counterfeit labels is not illegal if the labels are not affixed to the counterfeit products. Counterfeiters have exploited this by importing the counterfeit labels and products separately, and then affixing the labels in the United States.

This bill expands criminal penalties to include those who traffic in counterfeit labels and packaging. It also requires forfeiture of any property derived from the proceeds of the violation and requires restitution to the trademark owner.

At the same time, H.R. 32 now includes language that will ensure that criminal sanctions do not reach legitimate businesses that repackage goods or services with no intent to deceive or cause confusion.

The original bill left open the question of whether someone other than the manufacturer could affix marks to goods that could correctly identify the source. This confusion struck at the very heart of the parallel market in which third parties lawfully obtain goods and make them available in discount stores. Not only has this practice been upheld by the Supreme Court, but it also saves consumers billions of dollars each year.

I appreciate that the majority worked with us to address this concern. We now have a bill that protects manufacturers, targets illegitimate actors, protects consumers, and leaves the legitimate parallel market unscathed. Therefore, I urge a "yes" vote on this legislation.

Mr. Speaker, I reserve the balance of my time.

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Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding me this time and bringing this legislation to the floor, and I especially want to commend the gentleman from Michigan (Mr. KNOLLENBERG) for his persistence in this matter.

Several years ago I had an opportunity to bring forward legislation which passed the House and was signed into law by President Clinton which significantly increased the authority of the U.S. Customs Service to deal with this problem of counterfeit goods. Up until that time, when counterfeit goods were discovered by Customs inspectors, all they could do was refuse to allow them into the country.

What happened was they would simply bring them around to another port and try again. Eventually, they would succeed, or they would send them to another market in the world and wreak the havoc that these counterfeit goods do in terms of health and safety concerns and cost to businesses elsewhere in the world. That was changed so that now the Customs Service can seize and destroy these goods.

This is the next logical step to handling that. When the criminals bring these goods into the country and do not have the labels on them and escape liability because they have separated the labels from the counterfeit goods, that is obviously a loophole that needed to be plugged.

I commend the gentleman and the committee for offering this legislation. I urge my colleagues to adopt it.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN), an original cosponsor of this bill.

Mr. LEVIN. Mr. Speaker, I am glad to join the gentleman from Michigan (Mr. KNOLLENBERG) and all of the members on the committee who have worked hard on this bill to make sure that it is targeted in the right direction and that it will be, indeed, effective.

We have an immense counterfeiting problem in this country. A lot of it occurs overseas outside of our shores, but a lot of it occurs right here in the United States. We need to do more about what is going on overseas. I heard on the radio coming in this morning that they are selling in China a counterfeit DVD of the new "Star Wars" movie, and people here in the United States are waiting in line to get into the theater.

Here in the U.S. the counterfeiting problem has grown, and that was the inspiration for this bill. It has struck manufacturing in many respects. It has surely hurt the automobile industry, including the auto parts industry. Some estimates are that counterfeiting has cost the automotive parts industry over $12 billion in the last year. This is a time when that industry, as so many other parts of manufacturing, are having an immense challenge. They face an unlevel playing field. There is much talk in trade and competition about the need to level it, and there is nothing that rigs a field more than counterfeiting. That is the ultimate rigging.

This bill is an effort to get at this problem, to increase the sanctions, to increase the ability of law enforcement to crack down.

Mr. Speaker, I hope there is unanimous support for this bill. There is surely bipartisan support. Again, we have been glad to work with the gentleman from Michigan (Mr. KNOLLENBERG) and others on this, and we salute the Committee on the Judiciary, the majority and the minority, for taking this issue seriously and working out any problems and placing this bill on a path where it could be brought up today and, we hope, supported across the board.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), the principal sponsor of the bill.

Mr. KNOLLENBERG. Mr. Speaker, I rise today in support of my bill, H.R. 32, the "Stop Counterfeiting in Manufactured Goods Act." This legislation will help stop the scourge of counterfeit manufactured goods.

Let me thank the Committee on the Judiciary in its entirety, particularly the gentleman from Wisconsin (Chairman SENSENBRENNER) for all of his assistance, the subcommittee chairmen, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Texas (Mr. SMITH), and the majority leader for his leadership in bringing the bill to the floor today.

Most people understand that counterfeit goods is a problem, but many people do not understand how severe the problem is and how severe it has become. Counterfeiters are endangering consumers, are stealing jobs and money away from legitimate companies, destroying brand names and requiring costly investigations. The numbers are staggering, in addition to safety issues, and it has been mentioned about counterfeit auto parts, but they cost the automotive supplier over $12 billion annually. It has been estimated if these losses were eliminated, the industry could hire some 200,000 additional workers.

The impact of counterfeiters affects almost every manufacturing industry in the country, including clothing, batteries, electronics and even pharmaceuticals. When it comes to the economy, the U.S. Customs Service has estimated that counterfeiting resulted in the loss of some 750,000 jobs and cost the U.S. around $20 billion annually. It is estimated almost 7 percent of world trade is counterfeit.

My bill has two key provisions that will help address the problem. The first provision is the most important. It requires the mandatory destruction and forfeiture of the equipment and materials used to make counterfeit goods.

Under current law, a convicted trademark counterfeiter is only required to give up the actual counterfeit goods, not the machinery used to make those goods. My bill would prohibit trafficking in counterfeit labels, patches, and medallions.

Passing this bill will send a signal to counterfeiters around the world that the U.S. will fight this growing problem. This bill will give prosecutors more tools to go after the criminals and punish them severely. This legislation also addresses the global problem.

and has the widespread support of the MEMA, NEMA, and the U.S. Chamber of Commerce.

Mr. Speaker, I rise today in support of my bill, H.R. 32—the "Stop Counterfeiting in Manufactured Goods Act." This legislation will help stop the scourge of counterfeit manufactured goods.

Let me thank the Judiciary Committee, including Chairman SENSENBRENNER, Subcommittee Chairman COBLE and Subcommittee Chairman LAMAR SMITH. They've all provided important leadership to bring this bill to the floor today. I'd also like to thank the leadership, including Majority Leader DELAY, for their help in getting this bill through the process.

The economy of my district is largely centered on the auto industry, particularly auto suppliers. In fact, my district includes the headquarters of over one-fourth of the 100 largest auto suppliers in North America, as well as a host of small suppliers.

To say that the manufacturing sector is important to my district and to the State of Michigan is an understatement. In my district alone, there are more than 1,500 manufacturing entities, and over 90 percent of them have less than 100 employees.

Most people understand that counterfeit goods are a problem. But many people don't understand just how severe the problem has become.

Early last year, I was made aware of the serious and growing problem of counterfeit auto parts. What I found out was the counterfeiters are making all sorts of fake parts including brake pads, spark plugs, old filters, and in one case even an entire car. I was struck by how large an impact counterfeiters are having on the auto supplier industry.

The numbers, in fact, are staggering. In addition to the obvious safety issues, counterfeit automobile parts cost the automotive supplier industry over $12 billion annually. It's estimated that if these losses were eliminated, and those sales were brought into legitimate companies, the auto industry could hire 200,000 additional workers. It's important to remember those numbers, because counterfeiting is not a victimless crime.

In addition to selling bogus products, the counterfeiters are stealing jobs and money away from legitimate companies, destroying brand names, increasing warranty claims, and requiring legal fees and costly investigations.

The fight against counterfeiters is not limited to the automotive industry. The impact of counterfeiters is broad and affects just about every manufacturing industry in the country—including clothing, batteries, electronics, and even pharmaceuticals.

When it comes to the economy overall, the U.S. Customs Service has estimated that counterfeiting has resulted in the loss of 750,000 jobs and costs the United States around $200 billion annually. The International Chamber of Commerce estimates that 7 percent of the world's trade is in counterfeit goods and that the counterfeit market is worth $350 billion. We must provide more tools to fight counterfeiters, not only for the economy, but for the safety of our consumers.

My bill has two key provisions that will help stop criminals who use counterfeit trademarks.

The first provision is the most important and gets at the roots of the problem—it requires the mandatory destruction and forfeiture of the equipment and materials used to make the counterfeit goods.

Under current law, a convicted trademark counterfeiter is only required to give up the actual counterfeit goods, not the machinery used to make those goods. If we don't take away the equipment used to make the fake goods, what's to stop the criminals from going back to make more? My bill would require the convicted criminals to give up not just the counterfeit goods, but also the equipment they used to make those goods. This will help to dig up the counterfeiting networks by the roots.

In addition to this provision, my bill also prohibits trafficking in counterfeit labels, patches, and medallions.

Under current law, it is legal to make and sell these items if they are not attached to a particular counterfeit good. This just doesn't make sense. Why would counterfeiters make these labels, if not for the chance at illegal profits?

This bill will send a signal to counterfeiters that the United States is serious about fighting this growing problem. Passing this bill will give prosecutors more tools to go after the criminals here in the U.S. and punish them severely.

This bill is also necessary to address the problem globally. Most of the counterfeit goods are being manufactured in other countries, particularly China. Some countries are better than others at fighting counterfeiting, but we need to have ways to prod the stragglers. However, we can't demand that other countries take steps to combat trademark counterfeiting that we have not taken ourselves.

So, by passing my bill and improving our own law, Congress will empower our trade negotiators to press for stronger anti-counterfeiting provisions in other countries. We will show the world that the United States is serious about putting counterfeiters out of business for good.

This bill has broad support, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the Motor and Equipment Manufacturers Association, the National Electrical Manufacturers Association, the IACC, International Trademark Association and a host of major associations and corporations.

As I have outlined, counterfeiting is a very serious worldwide problem that threatens public safety, hurts the U.S. economy and costs Americans thousands of manufacturing jobs. No one supports counterfeiters, and we must do everything we can to eliminate the problem.

For these reasons, Mr. Speaker, I respectfully urge my colleagues to support H.R. 32, the Stop Counterfeiting in Manufactured Goods Act, and I yield back the remainder of my time.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation and thank the chairman and his staff for working with us to ensure the bill does not overreach.

The bill was designed to target illegitimate actors who trade in counterfeit marks. We all agree that manufacturers have a right to ensure that fake goods are not marketed in their names and that their own goods are not marketed under fake names.

The bill as originally written, however, could have been construed by some as going further than that. It left as an open question whether someone other than the manufacturer could affix marks to goods that correctly identify the source of the goods. This ambiguity could have had a negative impact on the parallel market, in which third parties lawfully obtain goods and make them available in discount stores. Not only has this practice been upheld by the Supreme Court, but it also saves consumers billions of dollars each year.

Fortunately, H.R. 32 was amended in the full committee pursuant to an amendment offered by Representative WEXLER to clarify that the legislation is not intended to be relied upon as a weapon against the secondary discount marketplace to the detriment of American consumers—consumers dependent upon the price options and competition afforded by alternative sources of genuine goods.

In particular, H.R. 32 was amended to specifically protect lawful repackaging of genuine goods by ensuring that any such third party repackaging, not intended to deceive or confuse, is specifically saved from criminal prosecution under this Act. The Committee specifically agreed that combining single genuine products into gift sets, separating combination set of genuine goods into individual items for resale, inserting coupons into original packaging or repackaged items, affixing labels to track or otherwise identify genuine products and removing genuine goods from original packaging for customized retail displays were not covered by the legislation as they provide important value to American consumers.

I am happy to report that the final language ensures that H.R. 32 adequately protects lawful American businesses, including those servicing the discount marketplace, while, at the same time punishes illicit counterfeiting activity. As a result of these good faith negotiations, we now have a bill that protects manufacturers, targets illegitimate actors, and leaves a legitimate industry unscathed.

I urge a "yes" vote on this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation that concerns such an important matter that affects interstate commerce as referenced in Article I, Section 8 of the United States Constitution. The Committee on the Judiciary rightly exercised oversight over the issue of counterfeiting products and conspiring to commit retail theft, and I applaud the gentleman from Michigan for having crafted legislation that has garnered bipartisan support.

Similar legislation, namely H.R. 3632, the "Anti-Counterfeiting Amendments Act of 2003" in the 108th Congress, passed under suspension of the rules and became law, and I supported it. That measure regulated the trafficking of certain security components of products, for example, Certificates of Authenticity (COAs). Now that it has become law, piracy of these security markers, which are the source of each product's value, will be discouraged by way of criminal consequences.

In the context of discussing H.R. 3632, I cited a situation in Texas in which a crime ring was implicated for the import of over 100 million counterfeit cigarettes by mislabeling shipping documents and indicating that they were importing toys or plastic parts. That crime threatened the copyright royalties of property owners.

However, this legislation extrapolates that aspect of criminal activity by inserting the possibility that unsafe products as well as counterfeit products could be circulated in the flow of interstate commerce.

Last year, U.S. Immigration and Customs Enforcement officials seized fake goods valued at $22 million in the Houston area alone. Federal inspectors now work to curtail the flow of fake Louis Vuitton and Coach handbags and other items coming from Houston, which lags behind only New York and Los Angeles in supplying counterfeit products to the rest of the Nation. Furthermore, during Super Bowl XXXVIII that was held in Houston this past year, NFL investigators seized about 1,000 counterfeit products in Houston that were peddled by two vendors.

Therefore, the subject matter of this bill is of great importance to me. This bill is largely bipartisan; however, we have a duty to ensure that its provisions are narrowly tailored before passing them into law.

At the committee level, I had questions regarding the intended scope of search and seizure law and how H.R. 32 proposes to change it. One question that I posed relates to the property forfeiture provision found on page 3, line 21 of the bill as drafted. Subparagraphs (A) and (B) are conjunctive so as to require both findings before a forfeiture would follow—how proposes to prevent law enforcement from seizing the property of an innocent person (assuming it is in possession or use by the perpetrator of the underlying offense). I hope that this legislation is clear in its provisions to jurists in order to prevent future appellate litigation that can be both costly and time consuming—to the detriment of bona fide claimants.

Another question I posed goes to the matter of restitution. Section 2, page 4, lines 15–16 would require one convicted of the offense in question to pay restitution damages to the "victim" as defined in Title 18, Section 3663(A)(2):

> a person directly and *proximately harmed* as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

(emphasis added). I queried whether the drafter of this bill contemplate those proximately harmed by the perpetration of the crimes enumerated to include State governments. As I cited earlier in my statement, criminals trafficked over 1,000 counterfeit products in the stream of commerce and caused the State of Texas, among others, to lose significant revenues.

I believe that H.R. 32 can provide much needed legislative protection of the American consumer and of the owners of intellectual and licensed property.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 32, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INTERNET SPYWARE (I–SPY) PREVENTION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 744) to amend title 18, United States Code, to discourage spyware, and for other purposes, as amended.

The Clerk read as follows:

H.R. 744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Spyware (I-SPY) Prevention Act of 2005".

SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVITIES RELATING TO COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, is amended by inserting after section 1030 the following:

"§ 1030A. Illicit indirect use of protected computers

"(a) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and intentionally uses that program or code in furtherance of another Federal criminal offense shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and by means of that program or code—

"(1) intentionally obtains, or transmits to another, personal information with the intent to defraud or injure a person or cause damage to a protected computer; or

"(2) intentionally impairs the security protection of the protected computer with the intent to defraud or injure a person or damage a protected computer;

shall be fined under this title or imprisoned not more than 2 years, or both.

"(c) No person may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant's violating this section. For the purposes of this subsection, the term 'State' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

"(d) As used in this section—

"(1) the terms 'protected computer' and 'exceeds authorized access' have, respectively, the meanings given those terms in section 1030; and

"(2) the term 'personal information' means—

"(A) a first and last name;

"(B) a home or other physical address, including street name;

"(C) an electronic mail address;

"(D) a telephone number;

"(E) a Social Security number, tax identification number, drivers license number, passport number, or any other government-issued identification number; or

"(F) a credit card or bank account number or any password or access code associated with a credit card or bank account.

"(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, is amended by inserting after the item relating to section 1030 the following new item:

"1030A. Illicit indirect use of protected computers.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other sums otherwise authorized to be appropriated for this purpose, there are authorized to be appropriated for each of fiscal years 2006 through 2009, the sum of $10,000,000 to the Attorney General for prosecutions needed to discourage the use of spyware and the practices commonly called phishing and pharming.

SEC. 4. FINDINGS AND SENSE OF CONGRESS CONCERNING THE ENFORCEMENT OF CERTAIN CYBERCRIMES.

(a) FINDINGS.—Congress makes the following findings:

(1) Software and electronic communications are increasingly being used by criminals to invade individuals' and businesses' computers without authorization.

(2) Two particularly egregious types of such schemes are the use of spyware and phishing scams.

(3) These schemes are often used to obtain personal information, such as bank account and credit card numbers, which can then be used as a means to commit other types of theft.

(4) In addition to the devastating damage that these heinous activities can inflict on individuals and businesses, they also undermine the confidence that citizens have in using the Internet.

(5) The continued development of innovative technologies in response to consumer demand is crucial in the fight against spyware.

(b) SENSE OF CONGRESS.—Because of the serious nature of these offenses, and the Internet's unique importance in the daily lives of citizens and in interstate commerce, it is the sense of Congress that the Department of Justice should use the amendments made by this Act, and all other available tools, vigorously to prosecute those who use spyware to commit crimes and those that conduct phishing and pharming scams.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from California (Ms. ZOE LOFGREN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all

Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 744, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 744, the Internet Spyware Prevention Act of 2005. This legislation clarifies and enhances criminal penalties and provides additional tools to prosecute and deter those who utilize spyware and phishing schemes to engage in illegal behavior online.

Since its inception, the Internet has been transformed from an obscure research tool into an electronic medium of unprecedented reach. The impressive growth of the Internet has been facilitated by technology that has customized the online experience of Internet users. However, the same software and technology innovations that have enhanced and personalized usage of the Internet can also provide opportunities for privacy violations and criminal behavior.

This bill establishes strong criminal penalties for those who engage in online criminal behavior using spyware programs and phishing schemes. This legislation enhances criminal penalties for those who obtain personally identifiable information, including a Social Security number or other government-issued identification number or a bank or credit card number with the intent to defraud or injure a person or cause damage to a protected computer.

The bill also authorizes appropriations for the Justice Department to crack down on spyware, phishing, and other online schemes.

As we consider this legislation, Congress must be mindful that there is no single legal regulatory or technological silver bullet to end spyware or phishing. Greater consumer awareness and utilization of commercially available countermeasures are part of the solution. Congressional efforts to curb spyware and phishing are most likely to succeed if we focus on deterring and prosecuting illegal and abusive online behavior, rather than imposing burdensome requirements upon a medium whose growth can largely be attributed to the refusal of the Federal Government to heavily regulate it.

H.R. 744 does not impose a new statutory or regulatory regime that dictates the appearance of a computer's user screen, nor does it degrade the online experience by requiring that Internet users be bombarded with incessant notices. Most importantly, it does not represent a heavy-handed government mandate that may present a greater danger to the Internet than it seeks to correct. Rather, the bill preserves and promotes the integrity of the Internet by increasing criminal penalties for those who employ it to engage in abusive and illegal online activities.

Targeted legislation tailored to address illegal online activity rather than an invasive regulatory regime with unknown consequences represents the right approach to addressing the problems associated with spyware and phishing. Congress ratified this approach by passing substantially similar legislation last Congress by a vote of 415–0.

I would like to thank the gentleman from Virginia (Mr. GOODLATTE), the author and lead proponent of H.R. 744 for his leadership on this issue. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to have partnered with the gentleman from Virginia (Mr. GOODLATTE) on this legislation, H.R. 744, the Goodlatte-Lofgren I–SPY bill. Spyware is quickly becoming one of the biggest threats to consumers on the Internet. It is one of the reasons why we have an identity theft epidemic in this country. Thieves are using spyware to harvest personal information from unsuspecting Americans. Criminals are even using spyware to track every keystroke an individual makes, including credit and Social Security numbers.

Spyware also adversely affects the business community, who are forced to spend money to block and remove it from their systems. In fact, Microsoft has stated that spyware is at least partially responsible for approximately one-half of all application crashes reported to them. Experts estimate that as many as 80 to 90 percent of all personal computers contain some form of spyware.

Last year, Earthlink identified more than 29 million spyware programs. In short, spyware is a very real problem that is endangering consumers, damaging businesses and creating millions of dollars of additional costs. I am proud to be a party to H.R. 744, this bipartisan measure, because it identifies the truly unscrupulous acts associated with spyware and subjects them to criminal punishment.

This bill is unique, however, because it focuses on behavior rather than technology. It targets the worst forms of spyware without unduly burdening technological innovation. Why is this important? We know that innovation goes faster than legislation. It is important that we not try to fix the development of legislation in time. Instead, we need to focus on misbehavior, not technology, so that technology innovation can continue to move as rapidly as it does and yet the American consumer and businesses can be protected.

It is important, and this is an issue that there was some question about and I think we can answer quite easily, it is important to note that H.R. 744 does not prevent existing or future State laws which prohibit spyware. This bill only preempts civil actions that are based on violations of this new Federal criminal law in State courts. It does not prevent a State from passing a similar law, nor does it prevent any lawsuits that are premised on existing State laws.

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H.R. 744 also gives the Attorney General the money he needs to find and prosecute spyware offenders. And, finally, it expresses the sense of Congress that the Department of Justice should vigorously pursue online phishing scams in which criminals send fake e-mail messages to consumers on behalf of famous companies and request personal information that is later used to conduct criminal activities.

Phishing and spyware are not just an inconvenience to consumers. They represent a direct threat to the vitality of the Internet itself because if people cannot trust the Internet, they will not utilize Internet commerce.

I would like to note that I also serve on the Committee on Homeland Security, and we are well aware that phishing to the extent that it yields identity theft information is of great concern as we seek to protect the Nation from terrorism. So what we are doing here today is important for consumers, it is important for business, it is important for the future of our high-tech economy, and it is important for the security of the Nation. I would urge my colleagues to strike a blow for the continued vitality of the Internet and again pass this bill unanimously.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. GOODLATTE), the principal author of the bill.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of the Internet Spyware I–SPY Prevention Act and thank the gentleman from Wisconsin, the chairman of the committee, for moving this legislation to the floor. This bipartisan legislation which I was pleased to introduce with the gentlewoman from California (Ms. ZOE LOFGREN) will impose tough criminal penalties on the truly bad actors without imposing a broad regulatory regime on legitimate online businesses. I believe that this targeted approach is the best way to combat spyware.

Specifically, this legislation would impose up to a 5-year prison sentence on anyone who uses software to intentionally break into a computer and uses that software in furtherance of another Federal crime. In addition, it would impose up to a 2-year prison sentence on anyone who uses spyware to intentionally break into a computer and either alter the computer's security settings or obtain personal information with the intent to defraud or injure a person or with the intent to damage a computer.

In addition to strong penalties, enforcement is crucial in combating spyware. The I-SPY Prevention Act authorizes $10 million for fiscal years 2006 through 2009 to be devoted to prosecutions and expresses the sense of Congress that the Department of Justice should vigorously enforce the law against spyware violations as well as against online phishing scams in which criminals send fake e-mail messages to consumers on behalf of well-known companies and request account information that is later used to conduct criminal activities.

The bill also directs resources to the Department of Justice to combat pharming scams in which hackers intercept Internet traffic and redirect unknowing Internet users to fake Web sites where they often trick consumers into giving their account information and passwords.

I believe that four overarching principles should guide the consideration of any spyware legislation: first, we must punish the bad actors while protecting legitimate online companies; second, we must not overregulate but, rather, encourage innovative new services and the growth of the Internet; third, we must not stifle the free market; and, fourth, we must target the behavior, not the technology.

The targeted approach of the I-SPY Prevention Act will protect consumers by punishing the bad actors without imposing liability on those that act legitimately online. In addition, this legislation will avoid excessive regulation such as one-size-fits-all notice and consent requirements prescribed by the Federal Government. A targeted approach will avoid red tape that hampers the creation of new and exciting technologies and services on the Internet.

By encouraging innovation, the I-SPY Prevention Act will help ensure that consumers have access to cutting-edge products and services at lower prices. Increasingly, consumers want a seamless interaction with the Internet, and we must be careful to not interfere with businesses' ability to respond to this consumer demand with innovative services. The I-SPY Prevention Act will help ensure that consumers, not the Federal Government, define what their interaction with the Internet looks like.

As we move forward, I look forward to continuing to work with all stakeholders to further ensure that bad actors are punished while legitimate businesses are protected including working with the Department of Justice which has expressed an interest in working with our office on this issue. In addition, technological solutions are crucial in winning the fight against spyware. As the spyware debate continues, I look forward to working to ensure that antispyware technologies are fostered and that they are not subjected to frivolous lawsuits from spyware providers.

I urge my colleagues to support this important legislation.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield myself such time as I may consume.

I would just note that the House will be considering at least two items having to do with spamming and phishing and the like today. Certainly we hope to move this issue forward. I strongly believe that the approach that this bill takes, which is targeting behavior instead of technology, puts us on the soundest footing; and I hope that in the end as we sort through the various approaches that that will be our guide to protect technology innovation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I support the legislation before us that has been introduced by my colleague from California, Representative LOFGREN as well as the Gentleman from Virginia, Representative GOODLATTE. It amends the Federal computer fraud and abuse statute to make it a clear offense to access a computer without authorization or to intentionally exceed authorized access by causing a computer program or code to be copied onto the computer and using that program or code to transmit or obtain personal information (for example, first and last names, addresses, e-mail addresses, telephone numbers, Social Security numbers, drivers license numbers, or bank or credit account numbers).

Furthermore, H.R. 744 authorizes appropriations for these crimes and discourages the practice of "phishing". As we all know too well, spyware is quickly becoming one of the biggest threats to consumers on the information superhighway. Spyware encompasses several potential risks including the promotion of identity theft by harvesting personal information from consumer's computers. Additionally, it can adversely affect businesses, as they are forced to sustain costs to block and remove spyware from employees' computers, in addition to the potential impact on productivity.

Spyware has been defined as "software that aids in gathering information about a person or organization without their knowledge and which may send such information to another entity with the consumer's consent, or asserts control over a computer with the consumer's knowledge." Among other things, criminals can use spyware to track every keystroke an individual makes, including credit card and social security numbers.

Some estimates suggest 25 percent of all personal computers contain some kind of spyware while other estimates show that spyware afflicts as many as 80–90 percent of all personal computers. Businesses are reporting several negative effects of spyware. Microsoft says evidence shows that spyware is "at least partially responsible for approximately one-half of all application crashes" reported to them, resulting in millions of dollars of unnecessary support calls.

Mr. Speaker, again, I am strongly in support of the legislation.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 744, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 29) to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 29

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securely Protect Yourself Against Cyber Trespass Act" or the "Spy Act".

SEC. 2. PROHIBITION OF [UNFAIR OR] DECEPTIVE ACTS OR PRACTICES RELATING TO SPYWARE.

(a) PROHIBITION.—It is unlawful for any person, who is not the owner or authorized user of a protected computer, to engage in unfair or deceptive acts or practices that involve any of the following conduct with respect to the protected computer:

(1) Taking control of the computer by—

(A) utilizing such computer to send unsolicited information or material from the computer to others;

(B) diverting the Internet browser of the computer, or similar program of the computer used to access and navigate the Internet—

(i) without authorization of the owner or authorized user of the computer; and

(ii) away from the site the user intended to view, to one or more other Web pages, such that the user is prevented from viewing the content at the intended Web page, unless such diverting is otherwise authorized;

(C) accessing, hijacking, or otherwise using the modem, or Internet connection or service, for the computer and thereby causing damage to the computer or causing the owner or authorized user or a third party defrauded by such conduct to incur charges or other costs for a service that is not authorized by such owner or authorized user;

(D) using the computer as part of an activity performed by a group of computers that causes damage to another computer; or

(E) delivering advertisements that a user of the computer cannot close without undue effort or knowledge by the user or without turning off the computer or closing all sessions of the Internet browser for the computer.

(2) Modifying settings related to use of the computer or to the computer's access to or use of the Internet by altering—

(A) the Web page that appears when the owner or authorized user launches an Internet browser or similar program used to access and navigate the Internet;

(B) the default provider used to access or search the Internet, or other existing Internet connections settings;

(C) a list of bookmarks used by the computer to access Web pages; or

(D) security or other settings of the computer that protect information about the owner or authorized user for the purposes of causing damage or harm to the computer or owner or user.

(3) Collecting personally identifiable information through the use of a keystroke logging function.

(4) Inducing the owner or authorized user of the computer to disclose personally identifiable information by means of a Web page that—

(A) is substantially similar to a Web page established or provided by another person; and

(B) misleads the owner or authorized user that such Web page is provided by such other person.

(5) Inducing the owner or authorized user to install a component of computer software onto the computer, or preventing reasonable efforts to block the installation or execution of, or to disable, a component of computer software by—

(A) presenting the owner or authorized user with an option to decline installation of such a component such that, when the option is selected by the owner or authorized user or when the owner or authorized user reasonably attempts to decline the installation, the installation nevertheless proceeds; or

(B) causing such a component that the owner or authorized user has properly removed or disabled to automatically reinstall or reactivate on the computer.

(6) Misrepresenting that installing a separate component of computer software or providing log-in and password information is necessary for security or privacy reasons, or that installing a separate component of computer software is necessary to open, view, or play a particular type of content.

(7) Inducing the owner or authorized user to install or execute computer software by misrepresenting the identity or authority of the person or entity providing the computer software to the owner or user.

(8) Inducing the owner or authorized user to provide personally identifiable, password, or account information to another person—

(A) by misrepresenting the identity of the person seeking the information; or

(B) without the authority of the intended recipient of the information.

(9) Removing, disabling, or rendering inoperative a security, anti-spyware, or antivirus technology installed on the computer.

(10) Installing or executing on the computer one or more additional components of computer software with the intent of causing a person to use such components in a way that violates any other provision of this section.

(b) GUIDANCE.—The Commission shall issue guidance regarding compliance with and violations of this section. This subsection shall take effect upon the date of the enactment of this Act.

(c) EFFECTIVE DATE.—Except as provided in subsection (b), this section shall take effect upon the expiration of the 6-month period that begins on the date of the enactment of this Act.

SEC. 3. PROHIBITION OF COLLECTION OF CERTAIN INFORMATION WITHOUT NOTICE AND CONSENT.

(a) OPT-IN REQUIREMENT.—Except as provided in subsection (e), it is unlawful for any person—

(1) to transmit to a protected computer, which is not owned by such person and for which such person is not an authorized user, any information collection program, unless—

(A) such information collection program provides notice in accordance with subsection (c) before execution of any of the information collection functions of the program; and

(B) such information collection program includes the functions required under subsection (d); or

(2) to execute any information collection program installed on such a protected computer unless—

(A) before execution of any of the information collection functions of the program, the owner or an authorized user of the protected computer has consented to such execution pursuant to notice in accordance with subsection (c); and

(B) such information collection program includes the functions required under subsection (d).

(b) INFORMATION COLLECTION PROGRAM.—

(1) IN GENERAL.—For purposes of this section, the term "information collection program" means computer software that performs either of the following functions:

(A) COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—The computer software—

(i) collects personally identifiable information; and

(ii)(I) sends such information to a person other than the owner or authorized user of the computer, or

(II) uses such information to deliver advertising to, or display advertising on, the computer.

(B) COLLECTION OF INFORMATION REGARDING WEB PAGES VISITED TO DELIVER ADVERTISING.—The computer software—

(i) collects information regarding the Web pages accessed using the computer; and

(ii) uses such information to deliver advertising to, or display advertising on, the computer.

(2) EXCEPTION FOR SOFTWARE COLLECTING INFORMATION REGARDING WEB PAGES VISITED WITHIN A PARTICULAR WEB SITE.—Computer software that otherwise would be considered an information collection program by reason of paragraph (1)(B) shall not be considered such a program if—

(A) the only information collected by the software regarding Web pages that are accessed using the computer is information regarding Web pages within a particular Web site;

(B) such information collected is not sent to a person other than—

(i) the provider of the Web site accessed; or

(ii) a party authorized to facilitate the display or functionality of Web pages within the Web site accessed; and

(C) the only advertising delivered to or displayed on the computer using such information is advertising on Web pages within that particular Web site.

(c) NOTICE AND CONSENT.—

(1) IN GENERAL.—Notice in accordance with this subsection with respect to an information collection program is clear and conspicuous notice in plain language, set forth as the Commission shall provide, that meets all of the following requirements:

(A) The notice clearly distinguishes such notice from any other information visually presented contemporaneously on the computer.

(B) The notice contains one of the following statements, as applicable, or a substantially similar statement:

(i) With respect to an information collection program described in subsection (b)(1)(A): "This program will collect and transmit information about you. Do you accept?".

(ii) With respect to an information collection program described in subsection (b)(1)(B): "This program will collect information about Web pages you access and will use that information to display advertising on your computer. Do you accept?".

(iii) With respect to an information collection program that performs the actions described in both subparagraphs (A) and (B) of subsection (b)(1): "This program will collect and transmit information about you and will collect information about Web pages you access and use that information to display advertising on your computer. Do you accept?".

(C) The notice provides for the user—

(i) to grant or deny consent referred to in subsection (a) by selecting an option to grant or deny such consent; and

(ii) to abandon or cancel the transmission or execution referred to in subsection (a) without granting or denying such consent.

(D) The notice provides an option for the user to select to display on the computer, before granting or denying consent using the option required under subparagraph (C), a clear description of—

(i) the types of information to be collected and sent (if any) by the information collection program;

(ii) the purpose for which such information is to be collected and sent; and

(iii) in the case of an information collection program that first executes any of the information collection functions of the program together with the first execution of other computer software, the identity of any such software that is an information collection program.

(E) The notice provides for concurrent display of the information required under subparagraphs (B) and (C) and the option required under subparagraph (D) until the user—

(i) grants or denies consent using the option required under subparagraph (C)(i);

(ii) abandons or cancels the transmission or execution pursuant to subparagraph (C)(ii); or

(iii) selects the option required under subparagraph (D).

(2) SINGLE NOTICE.—The Commission shall provide that, in the case in which multiple information collection programs are provided to the protected computer together, or as part of a suite of functionally related software, the notice requirements of paragraphs (1)(A) and (2)(A) of subsection (a) may be met

by providing, before execution of any of the information collection functions of the programs, clear and conspicuous notice in plain language in accordance with paragraph (1) of this subsection by means of a single notice that applies to all such information collection programs, except that such notice shall provide the option under subparagraph (D) of paragraph (1) of this subsection with respect to each such information collection program.

(3) CHANGE IN INFORMATION COLLECTION.—If an owner or authorized user has granted consent to execution of an information collection program pursuant to a notice in accordance with this subsection:

(A) IN GENERAL.—No subsequent such notice is required, except as provided in subparagraph (B).

(B) SUBSEQUENT NOTICE.—The person who transmitted the program shall provide another notice in accordance with this subsection and obtain consent before such program may be used to collect or send information of a type or for a purpose that is materially different from, and outside the scope of, the type or purpose set forth in the initial or any previous notice.

(4) REGULATIONS.—The Commission shall issue regulations to carry out this subsection.

(d) REQUIRED FUNCTIONS.—The functions required under this subsection to be included in an information collection program that executes any information collection functions with respect to a protected computer are as follows:

(1) DISABLING FUNCTION.—With respect to any information collection program, a function of the program that allows a user of the program to remove the program or disable operation of the program with respect to such protected computer by a function that—

(A) is easily identifiable to a user of the computer; and

(B) can be performed without undue effort or knowledge by the user of the protected computer.

(2) IDENTITY FUNCTION.—

(A) IN GENERAL.—With respect only to an information collection program that uses information collected in the manner described in subparagraph (A)(ii)(II) or (B)(ii) of subsection (b)(1) and subject to subparagraph (B) of this paragraph, a function of the program that provides that each display of an advertisement directed or displayed using such information, when the owner or authorized user is accessing a Web page or online location other than of the provider of the computer software, is accompanied by the name of the information collection program, a logogram or trademark used for the exclusive purpose of identifying the program, or a statement or other information sufficient to clearly identify the program.

(B) EXEMPTION FOR EMBEDDED ADVERTISEMENTS.—The Commission shall, by regulation, exempt from the applicability of subparagraph (A) the embedded display of any advertisement on a Web page that contemporaneously displays other information.

(3) RULEMAKING.—The Commission may issue regulations to carry out this subsection.

(e) LIMITATION ON LIABILITY.—A telecommunications carrier, a provider of information service or interactive computer service, a cable operator, or a provider of transmission capability shall not be liable under this section to the extent that the carrier, operator, or provider—

(1) transmits, routes, hosts, stores, or provides connections for an information collection program through a system or network controlled or operated by or for the carrier, operator, or provider; or

(2) provides an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the owner or user of a protected computer locates an information collection program.

SEC. 4. ENFORCEMENT.

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—This Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). A violation of any provision of this Act or of a regulation issued under this Act shall be treated as an unfair or deceptive act or practice violating a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

(b) PENALTY FOR PATTERN OR PRACTICE VIOLATIONS.—

(1) IN GENERAL.—Notwithstanding subsection (a) and the Federal Trade Commission Act, in the case of a person who engages in a pattern or practice that violates section 2 or 3, the Commission may, in its discretion, seek a civil penalty for such pattern or practice of violations in an amount, as determined by the Commission, of not more than—

(A) $3,000,000 for each violation of section 2; and

(B) $1,000,000 for each violation of section 3.

(2) TREATMENT OF SINGLE ACTION OR CONDUCT.—In applying paragraph (1)—

(A) any single action or conduct that violates section 2 or 3 with respect to multiple protected computers shall be treated as a single violation; and

(B) any single action or conduct that violates more than one paragraph of section 2(a) shall be considered multiple violations, based on the number of such paragraphs violated.

(c) REQUIRED SCIENTER.—Civil penalties sought under this section for any action may not be granted by the Commission or any court unless the Commission or court, respectively, establishes that the action was committed with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive or violates this Act.

(d) FACTORS IN AMOUNT OF PENALTY.—In determining the amount of any penalty pursuant to subsection (a) or (b), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(e) EXCLUSIVENESS OF REMEDIES.—The remedies in this section (including remedies available to the Commission under the Federal Trade Commission Act) are the exclusive remedies for violations of this Act.

(f) EFFECTIVE DATE.—To the extent only that this section applies to violations of section 2(a), this section shall take effect upon the expiration of the 6-month period that begins on the date of the enactment of this Act.

SEC. 5. LIMITATIONS.

(a) LAW ENFORCEMENT AUTHORITY.—Sections 2 and 3 shall not apply to—

(1) any act taken by a law enforcement agent in the performance of official duties; or

(2) the transmission or execution of an information collection program in compliance with a law enforcement, investigatory, national security, or regulatory agency or department of the United States or any State in response to a request or demand made under authority granted to that agency or department, including a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a court order, or other lawful process.

(b) EXCEPTION RELATING TO SECURITY.—Nothing in this Act shall apply to—

(1) any monitoring of, or interaction with, a subscriber's Internet or other network connection or service, or a protected computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service, to the extent that such monitoring or interaction is for network or computer security purposes, diagnostics, technical support, or repair, or for the detection or prevention of fraudulent activities; or

(2) a discrete interaction with a protected computer by a provider of computer software solely to determine whether the user of the computer is authorized to use such software, that occurs upon—

(A) initialization of the software; or

(B) an affirmative request by the owner or authorized user for an update of, addition to, or technical service for, the software.

(c) GOOD SAMARITAN PROTECTION.—No provider of computer software or of interactive computer service may be held liable under this Act on account of any action voluntarily taken, or service provided, in good faith to remove or disable a program used to violate section 2 or 3 that is installed on a computer of a customer of such provider, if such provider notifies the customer and obtains the consent of the customer before undertaking such action or providing such service.

(d) LIMITATION ON LIABILITY.—A manufacturer or retailer of computer equipment shall not be liable under this Act to the extent that the manufacturer or retailer is providing third party branded computer software that is installed on the equipment the manufacturer or retailer is manufacturing or selling.

SEC. 6. EFFECT ON OTHER LAWS.

(a) PREEMPTION OF STATE LAW.—

(1) PREEMPTION OF SPYWARE LAWS.—This Act supersedes any provision of a statute, regulation, or rule of a State or political subdivision of a State that expressly regulates—

(A) unfair or deceptive conduct with respect to computers similar to that described in section 2(a);

(B) the transmission or execution of a computer program similar to that described in section 3; or

(C) the use of computer software that displays advertising content based on the Web pages accessed using a computer.

(2) ADDITIONAL PREEMPTION.—

(A) IN GENERAL.—No person other than the Attorney General of a State may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant violating any provision of this Act.

(B) PROTECTION OF CONSUMER PROTECTION LAWS.—This paragraph shall not be construed to limit the enforcement of any State consumer protection law by an Attorney General of a State.

(3) PROTECTION OF CERTAIN STATE LAWS.—This Act shall not be construed to preempt the applicability of—

(A) State trespass, contract, or tort law; or

(B) other State laws to the extent that those laws relate to acts of fraud.

(b) PRESERVATION OF FTC AUTHORITY.—Nothing in this Act may be construed in any way to limit or affect the Commission's authority under any other provision of law, including the authority to issue advisory opinions (under part 1 of volume 16 of the Code of Federal Regulations), policy statements, or guidance regarding this Act.

SEC. 7. ANNUAL FTC REPORT.

For the 12-month period that begins upon the effective date under section 12(a) and for each 12-month period thereafter, the Commission shall submit a report to the Congress that—

(1) specifies the number and types of actions taken during such period to enforce section 2(a) and section 3, the disposition of each such action, any penalties levied in connection with such actions, and any penalties collected in connection with such actions; and

(2) describes the administrative structure and personnel and other resources committed by the Commission for enforcement of this Act during such period.

Each report under this subsection for a 12-month period shall be submitted not later than 90 days after the expiration of such period.

SEC. 8. FTC REPORT ON COOKIES.

(a) In General.—Not later than the expiration of the 6-month period that begins on the date of the enactment of this Act, the Commission shall submit a report to the Congress regarding the use of cookies, including tracking cookies, in the delivery or display of advertising to the owners and users of computers. The report shall examine and describe the methods by which cookies and the Web sites that place them on computers function separately and together, and shall compare the use of cookies with the use of information collection programs (as such term is defined in section 3) to determine the extent to which such uses are similar or different. The report may include such recommendations as the Commission considers necessary and appropriate, including treatment of cookies under this Act or other laws.

(b) Definition.—For purposes of this section, the term "tracking cookie" means a cookie or similar text or data file used alone or in conjunction with one or more Web sites to transmit or convey, to a party other than the intended recipient, personally identifiable information of a computer owner or user, information regarding Web pages accessed by the owner or user, or information regarding advertisements previously delivered to a computer, for the purpose of—

(1) delivering or displaying advertising to the owner or user; or

(2) assisting the intended recipient to deliver or display advertising to the owner, user, or others.

(c) Effective Date.—This section shall take effect on the date of the enactment of this Act.

SEC. 9. FTC REPORT ON INFORMATION COLLECTION PROGRAMS INSTALLED BEFORE EFFECTIVE DATE.

Not later than the expiration of the 6-month period that begins on the date of the enactment of this Act, the Commission shall submit a report to the Congress on the extent to which there are installed on protected computers information collection programs that, but for installation prior to the effective date under section 12(a), would be subject to the requirements of section 3. The report shall include recommendations regarding the means of affording computer users affected by such information collection programs the protections of section 3, including recommendations regarding requiring a one-time notice and consent by the owner or authorized user of a computer to the continued collection of information by such a program so installed on the computer.

SEC. 10. REGULATIONS.

(a) In General.—The Commission shall issue the regulations required by this Act not later than the expiration of the 6-month period beginning on the date of the enactment of this Act. In exercising its authority to issue any regulation under this Act, the Commission shall determine that the regulation is consistent with the public interest and the purposes of this Act. Any regulations issued pursuant to this Act shall be issued in accordance with section 553 of title 5, United States Code.

(b) Effective Date.—This section shall take effect on the date of the enactment of this Act.

SEC. 11. DEFINITIONS.

For purposes of this Act:

(1) Cable operator.—The term "cable operator" has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(2) Collect.—The term "collect", when used with respect to information and for purposes only of section 3(b)(1)(A), does not include obtaining of the information by a party who is intended by the owner or authorized user of a protected computer to receive the information or by a third party authorized by such intended recipient to receive the information, pursuant to the owner or authorized user—

(A) transferring the information to such intended recipient using the protected computer; or

(B) storing the information on the protected computer in a manner so that it is accessible by such intended recipient.

(3) Computer; protected computer.—The terms "computer" and "protected computer" have the meanings given such terms in section 1030(e) of title 18, United States Code.

(4) Computer software.—

(A) In general.—Except as provided in subparagraph (B), the term "computer software" means a set of statements or instructions that can be installed and executed on a computer for the purpose of bringing about a certain result.

(B) Exception.—Such term does not include computer software that is placed on the computer system of a user by an Internet service provider, interactive computer service, or Internet Web site solely to enable the user subsequently to use such provider or service or to access such Web site.

(C) Rule of construction regarding cookies.—This paragraph may not be construed to include, as computer software—

(i) a cookie; or

(ii) any other type of text or data file that solely may be read or transferred by a computer.

(5) Commission.—The term "Commission" means the Federal Trade Commission.

(6) Damage.—The term "damage" has the meaning given such term in section 1030(e) of title 18, United States Code.

(7) Deceptive acts or practices.—The term "deceptive acts or practices" has the meaning applicable to such term for purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(8) Disable.—The term "disable" means, with respect to an information collection program, to permanently prevent such program from executing any of the functions described in section 3(b)(1) that such program is otherwise capable of executing (including by removing, deleting, or disabling the program), unless the owner or operator of a protected computer takes a subsequent affirmative action to enable the execution of such functions.

(9) Information collection functions.—The term "information collection functions" means, with respect to an information collection program, the functions of the program described in subsection (b)(1) of section 3.

(10) Information service.—The term "information service" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(11) Interactive computer service.—The term "interactive computer service" has the meaning given such term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(12) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(13) Personally identifiable information.—

(A) In general.—The term "personally identifiable information" means the following information, to the extent only that such information allows a living individual to be identified from that information:

(i) First and last name of an individual.

(ii) A home or other physical address of an individual, including street name, name of a city or town, and zip code.

(iii) An electronic mail address.

(iv) A telephone number.

(v) A social security number, tax identification number, passport number, driver's license number, or any other government-issued identification number.

(vi) A credit card number.

(vii) Any access code, password, or account number, other than an access code or password transmitted by an owner or authorized user of a protected computer to the intended recipient to register for, or log onto, a Web page or other Internet service or a network connection or service of a subscriber that is protected by an access code or password.

(viii) Date of birth, birth certificate number, or place of birth of an individual, except in the case of a date of birth transmitted or collected for the purpose of compliance with the law.

(B) Rulemaking.—The Commission may, by regulation, add to the types of information described in subparagraph (A) that shall be considered personally identifiable information for purposes of this Act, except that such additional types of information shall be considered personally identifiable information only to the extent that such information allows living individuals, particular computers, particular users of computers, or particular email addresses or other locations of computers to be identified from that information.

(14) Suite of functionally related software.—The term suite of "functionally related software" means a group of computer software programs distributed to an end user by a single provider, which programs are necessary to enable features or functionalities of an integrated service offered by the provider.

(15) Telecommunications carrier.—The term "telecommunications carrier" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(16) TRANSMIT.—The term "transmit" means, with respect to an information collection program, transmission by any means.

(17) WEB PAGE.—The term "Web page" means a location, with respect to the World Wide Web, that has a single Uniform Resource Locator or another single location with respect to the Internet, as the Federal Trade Commission may prescribe.

(18) WEB SITE.—The term "web site" means a collection of Web pages that are presented and made available by means of the World Wide Web as a single Web site (or a single Web page so presented and made available), which Web pages have any of the following characteristics:

(A) A common domain name.

(B) Common ownership, management, or registration.

SEC. 12. APPLICABILITY AND SUNSET.

(a) EFFECTIVE DATE.—Except as specifically provided otherwise in this Act, this Act shall take effect upon the expiration of the 12-month period that begins on the date of the enactment of this Act.

(b) APPLICABILITY.—Section 3 shall not apply to an information collection program installed on a protected computer before the effective date under subsection (a) of this section.

(c) SUNSET.—This Act shall not apply after December 31, 2011.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and insert extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider legislation to prohibit Internet spying. Spyware is a growing danger to Internet users and one that demands our immediate attention. Recent statistics indicate that spyware is on the rise, with the highest areas of growth in Trojans, keystroke loggers and system monitors, the worst-of-the-worst spyware technologies.

The Committee on Energy and Commerce has worked expeditiously this Congress to move antispyware legislation through the committee for consideration by the House. This legislation is largely the same as H.R. 2929 from the 108th Congress, a bill that passed the House by a vote of 399-1. It is my hope that H.R. 29 will receive a similar endorsement today on this floor.

The changes that have been made to the SPY ACT since the last Congress are of two general types. The Committee on Energy and Commerce worked hard to refine the legislation to take into account legitimate and benign business functions, as well as standard functionalities of the Internet while preserving meaningful consumer notice and consent. The committee has also continued to strengthen the antifraud provisions of the bill by giving the Federal Trade Commission better enforcement tools against the ever-increasing types of fraudulent behavior associated with Internet spying.

The legislation that we are considering today, number one, prohibits unfair and deceptive practices like home page hijacking, keystroke logging, and Web-based phishing; two, provides for a prominent opt-in for consumers prior to the collection of personally identifiable information by monitoring spyware. This is a very, very important provision of the bill. Three, provides for a prominent opt-in for consumers prior to the collection of information regarding Web pages accessed and the subsequent delivery of advertisements based on that information; four, requires that monitoring software be easily disabled at the direction of the consumer; five, requires companies that are sending ads to computers to identify with each ad the information collection program that is generating the ad. With this disclosure, consumers will know who is bombarding them with ads and will be able to make decisions about those pieces of software accordingly. Number six, provides for FTC enforcement with significant monetary penalties for those who knowingly violate the act; and, seven, sets up a uniform national rule. Internet commerce is inherently interstate in nature. We need one set of rules for such commerce, not 50.

We have just today also passed a bill that makes explicit some criminal penalties for purveyors of the worst kinds of spyware. I think it is appropriate that in certain instances, such as deceptive phishing leading to identity theft, the perpetrators need to go to jail. I want to thank the Committee on the Judiciary for their work in that area. However, I believe we need to do more to protect consumers. I believe we need to recognize the right of each consumer to be informed of spying taking place on his or her computer and be able to say no to that spying. This bill does that. The bill that we just passed from the Committee on the Judiciary does not do that.

I believe that we need to require of ad companies the responsibility to inform consumers and to get their consent before they start installing devices on consumers' computers that keep track of everything that they do, and their children do, on the Internet. This bill does that. The bill from the Committee on the Judiciary does not do that.

And I believe that companies have an obligation to disable spying programs if the consumers no longer want them. A consumer should have more options than just throwing away his computer if it is infected with spyware. This bill does that. The bill that came out of the Committee on the Judiciary does not do that.

It is this empowerment of consumers and the recognition that each consumer has the right to control what goes on his or her own computer that makes this bill, H.R. 29, a very important tool to protect consumers against spyware. That consumer protection will be my goal when we go to conference with the Senate.

I want to commend a number of Members for their outstanding leadership on this issue. The gentlewoman from California (Mrs. BONO) who will speak later in the debated introduced the original bill in the last Congress and has been a tireless educator on the dangers of spyware. The gentleman from New York (Mr. TOWNS) cosponsored the original legislation with the gentlewoman from California (Mrs. BONO), and he has been great in his bipartisan support of this particular project. The gentleman from Florida (Mr. STEARNS), the chairman of the Subcommittee on Trade and Consumer Protection, has been a leader on all the privacy-related issues in the committee and has worked with the gentlewoman from California (Mrs. BONO) and the gentleman from New York (Mr. TOWNS) on this legislation.

The gentleman from Michigan (Mr. DINGELL), the ranking member of the full committee, and the gentlewoman from Illinois (Ms. SCHAKOWSKY), who is leading the floor debate on the Democratic side, have worked tirelessly in both the subcommittee and the full committee to perfect this bipartisan legislation.

This is a good bill. It is a bipartisan bill. It passed the Committee on Energy and Commerce unanimously. I would urge that it pass the floor later this afternoon with that same level of support.

Mr. Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

I rise today as a cosponsor and in support of a strong consumer and privacy protection bill, H.R. 29, the Securely Protect Yourself Against Cyber Trespass Act, or the SPY ACT. I want to thank the gentleman from Texas (Mr. BARTON), the gentleman from Michigan (Mr. DINGELL), the gentleman from Florida (Mr. STEARNS), the gentleman from New York (Mr. TOWNS), and the gentlewoman from California (Mrs. BONO) for their work on the SPY ACT.

I would like first to commend the manner in which this bill was handled. The process was thorough, open to input and willing to address each other's concerns; and, most importantly, the work was organized around the goal of creating a strong and effective consumer protection bill. I believe we have accomplished our goal.

Spyware is software that has tracking capabilities so pervasive that it can record every keystroke computer users enter. It can take pictures of personal computer screens. It can snatch personal information from consumers' hard drives. People can see their bank account numbers, passwords, and other personal information stolen because they quite innocently went to a bad Web site or clicked a misleading agreement. Spyware is a serious threat to consumer privacy and potentially a powerful tool for identity theft, a serious crime that is on the rise. Spyware is a nonpartisan issue. As we learned last year while not yet a household word, spyware is a household phenomenon.

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America Online recently released a study which found that 80 percent of families with broadband access had spyware on their computers. Earthlink found that in 3 million scans of computers, there was an average of 26 instances of spyware on each and every computer. With those kinds of numbers, spyware will soon be a part of everyone's vocabulary.

Technological advances have brought "the world into our homes," and the purveyors of spyware have interpreted that as an open door to come in whenever they want, whether invited or not. Still, because the software does have shady purposes, it usually comes in through the back door of consumers' computers. Because consumers do not know that spyware is on their computers, people are still surprised to hear about it. They experience the noticeable effects of the software, impossibly slow computers, hijacked home pages, unstoppable pop-ups, but they do not know where their problems are coming from or what is going on behind the scenes.

For instance, someone's computer may be sluggish because she may unwittingly have downloaded a program that records every key stroke entered and passes it on to a third party who wants to steal bank account numbers and passwords. The explosion of pop-up ads may be because a program has been tracking a consumer's every move on the Web. Serious privacy and security issues are at stake here. Spyware could be a major contributor to the fact that identity theft is the fastest-growing financial crime today.

The time has come for a bill like the Spy Act. The gentleman from Texas (Chairman BARTON) very clearly outlined the specific provisions of the bill, but it bears briefly repeating. The Spy Act ensures that consumers are protected from the truly bad acts and actors while also protecting proconsumer functions of the software. It prohibits indefensible uses of the software like keystroke logging or the copying of every keystroke entered. Additionally, it gives the consumer the choice to opt in to the installation or activation of information collection programs on their computers, but only when they know exactly what information will be collected and what will be done with it. Furthermore, the Spy Act gives the Federal Trade Commission the power it needs on top of laws already in place to pursue deceptive uses of the software. The Spy Act puts the control of computers and privacy back in consumers' hands, and I am very glad I was a part of the process that brought this bill to the floor today.

So, again, I thank my colleagues for their work on this proconsumer, proprivacy, and bipartisan legislation, and I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. STEARNS), subcommittee chairman.

Mr. STEARNS. Mr. Speaker, I thank the gentleman from Texas (Mr. BARTON), my distinguished chairman of the full committee, for yielding me this time.

This is a very important bill. We have passed this bill once before, so it is clear the House is going to pass this. The question is, we have got to appeal to the Senate to pass this thing and move forward.

During the hearings we had on this bill, there were lots of witnesses that talked about this spyware Internet-based technology that can be used to defraud Americans today. So this bill is very important. We need to move it, and we need to move the Senate to move it. That is what we need to do.

This bill describes a broad array of activity, including keystroke logging, which tracks all of a computer user's keystrokes, they are recorded and then sent to a third party; homepage hijacking, in which spyware can take control of a computer and hijack the user's homepage to a commercial site or even to a pornographic site; and phishing, in which spyware directs a computer user with false messages purporting to be from some reputable merchant to basically steal the credit card, steal the credit card numbers and other financial information from a user.

In all of these cases, Mr. Speaker, spyware is downloaded without the knowledge and without the consent of the user. It is just not another cyber nuisance. It is a major Internet plague that threatens the privacy of the American consumer, and of course the very integrity of the Internet marketplace, on which we are relying more and more. I continue to meet people who have had their Web pages hijacked, their browsers corrupted, in some cases, their children exposed to inappropriate material from these dangerous programs hidden in their family computers.

Mr. Speaker, the Spy Act will bring control back to the consumer and give the on-line computer experience a positive message. It will preserve confidence in the Internet and its related technologies that make the lives of the consumer better and more convenient, more productive, and, of course, more secure. The Spy Act strikes a right balance between preserving legitimate and benign uses of this technology, while still, at the same time, protecting unwitting consumers from the harm caused when it is misused and, of course, designed for nefarious purposes.

The Spy Act prohibits keystroke logging, hijacking, and phishing. I mentioned that. It also provides a well-crafted opt-in for consumers before personal information is collected or prior to collection of Web history information. We in the Committee on Energy and Commerce think that is extremely important to have an opt-in for consumers. The legislation specifies that monitoring software should be easily disabled and requires companies that deliver ads to simply identify themselves. Further and more importantly, it gives the Federal Trade Commission the power to severely sanction violators with significant monetary penalties. In short, Mr. Speaker, this legislation creates a uniform Federal regulatory regime that will provide clear and consistent regulation in this area.

At the bottom, the elimination of spyware and the preservation of privacy for the consumer are critical goals if the Internet is to remain safe and reliable and credible.

As I mentioned earlier, the House passed the bill H.R. 2929 by a vote of 399 to 1. This year this legislation was passed unanimously out of the Committee on Energy and Commerce, 43 to zero. I expect the same strong showing this afternoon.

So, in conclusion, Mr. Speaker, H.R. 29, the Spy Act, has been a great exercise, as mentioned by the gentlewoman from Illinois (Ms. SCHAKOWSKY), ranking member, of our bipartisan leadership. Leadership that has been focused on achieving equitable results, that is good for the consumer, good for business, and good for America.

With that in mind, I would like to thank my colleagues on the Committee on Energy and Commerce, particularly the gentleman from Texas (Chairman BARTON) and the gentlewoman from California (Mrs. BONO), whose leadership provided this bill, for their consistent and, of course, their longstanding leadership in this area. I would also like to acknowledge the superb bipartisanship of my staff working with the staff of the gentlewoman from Illinois (Ms. SCHAKOWSKY).

And, of course, I would also like to thank the gentleman from Michigan (Mr. DINGELL), the ranking member of the full committee, and the gentleman from New York (Mr. TOWNS) for his support.

So, all in all, Mr. Speaker, we have a great bill. We need to move the Senate forward. Our bill will make America greater, and I urge support for the Spy Act of 2005.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

I can only heartily agree with all that has been said. Let me just add a few words.

Spyware has changed the computing experience for so many people. Increasingly, consumers are finding that their home Web pages are changed or that their computers are sluggish; and they get, as I said, the pop-up ads that will not go away no matter how many times they try to close them. They find software in their computer they did not install and they cannot uninstall; and their computers are no longer their own, and they cannot figure out why. And consumers tend to blame viruses on their old computer or their Internet service providers, but because spyware is bundled with software people do want to download or because it is drive-by downloaded from unknowingly visiting the wrong Web site, people do not know that in many cases the real cause of their headaches is spyware.

And some of the above examples can be written off as merely annoying. Spyware is so much more than merely annoying, as we have pointed out, and there are these serious privacy and security issues at stake.

These problems of slow computers and pop-up ads are just symptoms of the real trouble spyware can cause. Again, the software is so resourceful that it can snatch personal information from computer hard drives and track every Web site visited and log every keystroke entered.

Spyware is a serious threat to consumer privacy and potentially a powerful tool for identity theft, a serious crime on the rise. As the FTC, the Federal Trade Commission, reports, in 2003 there were nearly 10 million Americans victimized by identity theft. Over the past 5 years, there have been 27 million victims, and my State of Illinois is in the top 10 for identity theft occurrences. On-line predators, like spyware transmitters, provide an easy access to personally identifiable information that can be used to steal people's identities and put them at greater risk of being financially and otherwise victimized.

So this is now the time, once again, for the House to pass this important bipartisan legislation. And I too want to thank all of the leaders who have been involved in bringing this bill once again to the floor. I want to particularly thank the gentleman from Michigan (Mr. DINGELL), whose statement, though he could not be here today, will be in the RECORD, and the gentleman from New York (Mr. TOWNS), who has worked on this legislation from the very beginning with the gentlewoman from California (Mrs. BONO). And I want to thank the staff on our side, Diane Beedle and Consuela Washington, and the Republican staff for their hours of work.

I want to join the gentleman from Florida (Chairman STEARNS) in urging our Senate colleagues to move on this very important legislation. It is time that we not only pass it in the House, but that we make it the law of the land, and I look forward to seeing that happen in the near future. I thank my colleagues for the opportunity to work with all of them.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Palm Springs, California (Mrs. BONO), the author of the original bill, who knows more about these types of issues than anybody on the committee.

Mrs. BONO. Mr. Speaker, I want to thank the gentleman from Texas for yielding me this time.

The gentleman from Texas (Chairman BARTON) has been a steadfast leader and advocate for spyware legislation. He has worked tirelessly on this important issue. I appreciate his efforts in bringing H.R. 29 to the floor. I also extend my appreciation to the gentleman from Michigan (Mr. DINGELL), ranking member; the gentleman from Florida (Chairman STEARNS); the gentlewoman from Illinois (Ms. SCHAKOWSKY), ranking member; and the gentleman from New York (Mr. TOWNS), the original Democratic cosponsor. Each of them, as well as their staff, David Cavicke, Shannon Jacquot, Consuela Washington, Chris Leahy, Diane Beedle, Andy Delia, Dave Grimaldi; as well as my staffers, Jennifer Baird and Chris Lynch, have all worked diligently over the past 2 years to improve and refine this legislation.

I would also like to thank the industry participants and consumer groups who have contributed hundreds of comments on this legislation. I am confident that we have drafted a bill that incorporates several improvements that will empower consumers without impeding the growth of technology or on-line business models.

In the wake of recent data security breaches by ChoicePoint, DSW, LexisNexis, and other companies, consumers are finally realizing the importance of data security and their vulnerability to identity theft. While consumers are waking up to these risks, many continue to remain unaware of the consequences of having spyware programs on their computers. Spyware is software that is downloaded on one's computer that collects personally identifiable information such as Social Security numbers, credit card numbers, addresses, and phone numbers. This software passes personal information on to third parties without consent, or it is used to drive advertising to their computer. In short, it compromises personal data and can physically harm their computer.

Just how prolific is this problem? Here are a few of the staggering statistics: In a recent study by Webroot, the company identified at least one form of an unwanted program in 87 percent of the personal computers it scanned. Results from a consumer spy audit in 2005 found that 88 percent of personal computers scanned were infected with an average of 25 different spyware programs in each computer. In March, 2005, alone, a research system identified over 4,000 Web sites within nearly 90,000 total associated Web pages containing some form of spyware. Trojan horse infections grew by 30 percent since last year.

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Mr. Speaker, this is not just a problem: it is an outright epidemic. As this Nation continues to push towards a global e-commerce marketplace, spyware stands to undermine the security and integrity of e-commerce and data security. Daily Web activities by consumers have become stalking grounds for computer hackers through spyware.

Consumers regularly and unknowingly download software programs that have the ability to track their every move. While some argue that consumers consented to these spyware downloads, the National Cyber Security Alliance and AOL found that 89 percent of users had no idea they had spyware on their computers. Moreover, there are Web sites and e-mail messages that deliberately trick computer users into downloading spyware.

In response to the rapid proliferation of spyware, the gentleman from New York (Mr. TOWNS) and I introduced H.R. 29. This bill prohibits such behavior by specifically outlawing Web hijacking, keystroke logging, drive-by downloads, phishing, evil-twin attacks and, several other perverse behaviors.

The concept of H.R. 29 is simple: tell consumers in plain English what personally identifiable information is going to be collected and how that information is going to be used. Consumers have a right to know and have a right to decide who has access to such highly personal information. Therefore, it is imperative that Congress pass this legislation and empower consumers while not impeding the growth of technology.

Earlier we heard my colleagues from the Committee on the Judiciary bring up their bill and talk about targeting behavior and not technology. I would ask them, what is Kazaa? Is Kazaa behavior or technology? What is Bonzi Buddy? Bonzi Buddy downloads a beautiful little purple gorilla which will dance about your screen which you cannot possibly eradicate from your computer. What is the Weather Bug? Again, the Committee on the Judiciary would say this is simply technology. I disagree. I say it is a terrible, terrible business practice, and it needs to be recognized by Congress. We need to stamp this out.

Mr. Speaker, I urge my colleagues to support H.R. 29.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I would like to read into the RECORD the companies and the organizations that support H.R. 29. This is with letters on the RECORD where they have written to me and the gentleman from Michigan (Mr. DINGELL) that they support the legislation: the Business Software Alliance; the Center For Democracy and Technology; the Council For Marketing and Opinion Research; Dell Corporation; DoubleClick, Incorporated, and ValueClick, Incorporated; eBay, Incorporated; Fidelity; Humana, Incorporated; Microsoft; 180 Solutions; the Recording Industry of America; Time Warner/AOL; United States Telecom Association; Webroot Software, Incorporated; WhenU; and Yahoo. These companies all officially on the record support H.R. 29.

Mr. Speaker, I think as the debate has shown, there is broad bipartisan support for this. There is also a need for this. I have spoken with Senator BURNS of the other body. He is preparing to move a companion bill. We have also obviously talked to the gentleman from Wisconsin (Chairman SENSENBRENNER) and the subcommittee chairman, the gentleman from Virginia (Mr. GOODLATTE), on their bill; and we are prepared to work with them to merge the bills at the appropriate time.

This is an issue whose time has come. Almost every American household now has a personal computer, and almost every one of those computers has spyware on them; and in most cases the owner of that computer does not know it. It is time to put a stop to that foolishness. It is time to say enough is enough. It is time to pass H.R. 29, work with the other body to pass a companion bill, go to conference, create a compromise bill, and then send the bill to the President's desk.

So I would encourage a "yes" vote, Mr. Speaker, and before I yield back, compliment you on your work on this. I think we should say the gentleman from California (Mr. RADANOVICH) also has been tireless in his support for the bill.

Mr. DINGELL. Mr. Speaker, identity theft is fast reaching epidemic proportions. Today we will address one aspect of the problem—spyware.

Spyware programs sneak into your computer, and allow a third party to harvest your personal information. It is the equivalent of putting a wiretap on your phone and listening to your conversations. Adware tracks your Web surfing or online shopping so that marketers can send you unwanted ads. Spyware can hijack your computer to pornographic or gambling sites, or steal your passwords and credit care information.

The rapid proliferation of spyware and adware threatens legitimate Internet commerce. The most common consumer complaints are: hijacked home pages, redirected Web searches, a flood of pop-up ads, and sluggish and crashed computers.

This bill is carefully balanced. It prohibits a number of unfair and deceptive acts or practices related to spyware, and provides for strong Federal Trade Commission (FTC) enforcement and enhanced civil fines. It also recognizes that there are legitimate, applications of spyware and, thus, exempts law enforcement, national security, network security and maintenance, and fraud detection from the SPY Act. It contains narrowly prescribed exceptions for benign internal navigation tracking on Web sites, and the ordinary construction of Web pages that do not collect personal information. It preserves legitimate online commerce.

Most importantly, this legislation requires companies that distribute spyware and adware to obtain permission from consumers through an easily understood licensing agreement before installing spyware or adware on their computers. The programs, once downloaded, would have to provide a means to identify the spyware or adware and easily uninstall or disable it.

Without aggressive enforcement, the goals of this bill will not be met. We are asking the FTC to do a great deal in a very complex area and I trust that the appropriators will provide them with sufficient resources to fulfill these tasks. If not, this bill will be an empty promise, unless the state attorneys general step in forcefully.

This legislation is supported by a coalition that includes: the Business Software Alliance, the Center for Democracy and Technology, the Council for Marketing and Opinion Research, Dell, eBay Inc., Fidelity, Humana, Inc., Microsoft, 180 Solutions, Recording Industry Association of America, Time Warner/AOL, United States Telecom Association, Webroot Software, Inc., WhenU, and Yahoo!—all of whom have submitted letters of support. The coalition also includes DoubleClick, Inc., and ValueClick, Inc.—two of the leading companies in the rapidly growing online advertising industry.

The bill has improved at every stage of its consideration, and I want to commend the leadership and hard work of Chairman BARTON, Representatives STEARNS and SCHAKOWSKY, the Chairman and Ranking Member, respectively of the Subcommittee on Commerce, Trade, and Consumer Protection, and Representatives BONO and TOWNS, the lead Republican and Democratic sponsors of the bill. I also commend the bipartisan staff team who worked very hard to get this bill to the House floor.

I am proud to cosponsor this bill. I urge my colleagues to vote "yes" on passage of H.R. 29. It is a good bill. It is good for consumers. And it is good for honest commerce on the Internet.

Mr. BARTON of Texas. Mr. Speaker, in crafting this legislation, the members of the Committee on Energy and Commerce have endeavored to understand and take into account benign and reasonable functions involved with network management, as well as standard functionalities of the Internet. In that spirit, section 5(b) provides that the Act does not apply to monitoring or interaction with a subscriber's Internet or other network connection or service, or a protected computer, to the extent that the monitoring or interaction is for security purposes, diagnostics, technical support, or repair, or for the detection or prevention of fraudulent activities. In significant part, the intent of this provision is to ensure that providers of Internet services (such as telecommunications carriers and cable operators) have the ability to conduct activities necessary to maintain the integrity of their systems. For instance, large-scale telecommunications carriers may not be held liable under the Act for enterprise-level management and maintenance activities within their own networks.

I would like to add that, in keeping with our Committee's bipartisan process, I am authorized to say that my distinguished colleague, Ranking Member DINGELL, agrees with this understanding of our bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RADANOVICH). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 29, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HEROES EARNED RETIREMENT OPPORTUNITIES ACT

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1499) to amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed Forces serving in a combat zone for contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Heroes Earned Retirement Opportunities Act".

SEC. 2. COMBAT ZONE COMPENSATION TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING LIMITATION AND DEDUCTIBILITY OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subsection (f) of section 219 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR COMPENSATION EARNED BY MEMBERS OF THE ARMED FORCES FOR SERVICE IN A COMBAT ZONE.—For purposes of subsections (b)(1)(B) and (c), the amount of compensation includible in an individual's gross income shall be determined without regard to section 112.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM JOHNSON).

GENERAL LEAVE

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1499.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of backing our troops, of backing them to the hilt, with the Heroes Earned Retirement Opportunities Act, or the HERO Act, H.R. 1499, introduced by the gentlewoman from North Carolina (Ms. FOXX).

As you know, people may contribute to $4,000 a year to the popular individual retirement account, IRA. However, the funds that go into an IRA are supposed to be post-tax money. Well, when you are serving your country in Camp Victory in Iraq or working in Afghanistan, your combat pay is tax-free. That is right, it is tax-free; and it ought to be. The theory behind that is if you are going to volunteer to risk your life, serve your country and protect our great freedom, you should not be taxed.

As a result, some military men and women come home serving in harm's way with money that they would like to put into an individual retirement account, but they cannot. It is against the law. That is wrong. The HERO Act changes that outdated and unintended tax law so that our soldiers, sailors, Marines and airmen can save some of that money for their retirement for their families' golden years.

Crazy as it may seem, right now these men and women come home with much more disposable income, yet they are not allowed to save some of it in an IRA; but they can spend it on cars, new clothes, family vacations. Yes, all of those things are nice, especially when you have been in the desert for 9 months and you just want the creature comforts and luxuries of home for you and your family. But those things are temporary. Retirement savings is about making a better future for yourself and your loved ones, and our troops should have the option of saving for retirement if they want to.

I say it is high time we change that, and that is what the HERO Act is all about. It is about tax simplification, it is about retirement savings, it is about helping our military who are out there fighting for us.

Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand today in support of H.R. 1499. This bill is supported by my Democratic colleagues. We acknowledge fully the work of our military personnel who continue to perform for our Nation. We honor their bravery and their sacrifice. Therefore, it goes without saying that we endorse this effort by this Congress to make it possible for these men and women to take advantage of every tax benefit that is available to them, including saving for their retirement.

H.R. 1499, as my colleague and friend, the gentleman from Texas (Mr. SAM JOHNSON), has said, would allow our service men and women to treat their compensation, received while serving in combat, as taxable income in order to help them meet the income eligibility retirement for making contributions to an individual retirement account.

At a recent hearing of our committee, two of our five witnesses highlighted the large shortfall in retirement savings many of our workers in this country face. I am sure that many members of the military fall within this group. This bill is a small step in the right direction of closing that gap.

Other larger steps need to be taken. For example, Democratic Members of this Congress are hopeful that we can work with our Republican colleagues to preserve another tax benefit that may be of even greater help to many military families. A provision in current law would permit military families to treat combat pay as taxable compensation for purposes of claiming the Earned Income Tax Credit. This provision is set to expire at the end of this year.

The EITC is a refundable credit many low- and middle-income taxpayers can claim when they file their Federal tax returns. Eligible families may claim a portion of their credit ratably during the year. The EITC helps to relieve the Federal tax burden on many families who are working full-time yet find themselves at or below the poverty level.

We had hoped that this provision could be included as part of the bill before us today to further help military families. However, we were assured that this provision will be taken up later in the year, and we will continue to press for the extension of this provision before it expires.

Also let me finish by expressing my hope and the hope of so many on my side of the aisle that this Congress and the administration will meet their responsibilities to our veterans on health, on re-employment, and so many other major needs of those in the military and the veterans of the United States of America.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield such time as she may consume to the gentlewoman from North Carolina (Ms. FOXX), the author of the bill.

Ms. FOXX. Mr. Speaker, I want to thank the gentlemen from Texas and Michigan for their eloquent words on behalf of this bill. I am truly honored to be here today, Mr. Speaker. I am honored because the mere consideration of this bill represents the greatness of our republican democracy.

At this time a year ago, I only dreamed of coming to the floor of this House and working for the people of the Fifth Congressional District in North Carolina. Here I am today promoting a bill I wrote to help those very constituents who deserve it most.

Just a few months ago, the father of Army Specialist Michael Hensley from my district in Clemmons, North Carolina, contacted me with a problem that his son and many of our other brave soldiers are facing. My constituent, Specialist Hensley, wanted to do the responsible thing by making the maximum allowable contribution to his individual retirement account, but found out that because of the nature of his wages, he would not be able to contribute to his nest egg this year. Thanks to the Republican leadership of this House and the bipartisan support from the minority, we stand here this afternoon to solve this problem.

Mr. Speaker, our current Tax Code wrongfully prohibits many of our brave men and women serving in combat zones from taking advantage of individual retirement accounts, or IRAs.

Most soldiers serving in these combat zones are paid in wages designated as military hazard pay. As deployment times have grown longer and longer, many soldiers now serve entire calendar years overseas, making their yearly compensation consist of hazard pay exclusively. These wages are not taxed; nor should they be. However, since this compensation is nontaxable, the wages are not eligible for IRA contributions. This is entirely unfair.

As we all know, IRAs are an excellent tool for responsible retirement savings, and responsible retirement savings should be encouraged for everyone, but especially for those who take up arms in war zones and fight for our freedom. The men and women defending America in harm's way overseas should not be excluded from fully participating in the important retirement investment opportunity that IRAs provide because of a glitch in our Tax Code. H.R. 1499, the Heroes Earned Retirement Opportunities, or HERO Act, will correct this serious injustice. The HERO Act simply designates combat hazard pay earned by a member of the Armed Forces as eligible for contribution to retirement accounts.

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The legislation, which is endorsed by the Reserve Officers Association and the Military Officers Association of America, would not actually tax these wages, it would merely allow them to be invested in the same retirement accounts available to all Americans.

To quote the Military Officers Association of America in their letter of support for the bill, "This change makes perfect sense in view of all we are asking our service members to do in the War on Terror in Iraq, Afghanistan, and elsewhere."

I could not have said it better myself.

Mr. Speaker, our heroes defending America overseas certainly deserve the same access to retirement savings that we receive. In fact, we should be encouraging and even facilitating retirement savings whenever possible. Americans need to take responsibility for and control of their retirement. Those responsible enough to save their hard-earned wages should be rewarded, not burdened with taxes and regulations.

I would like to thank our Republican Majority Leader, the gentleman from Texas (Mr. DELAY), as well as the gentleman from California (Chairman THOMAS) for recognizing the importance of this bill and for expeditiously bringing it to the floor of this House.

I would also like to thank the gentleman from California (Chairman HUNTER) for his service to our Nation in Vietnam, for his excellent leadership of the House Committee on Armed Services, and for cosponsoring and supporting this great bill. His commitment to our troops is to be applauded.

A special thanks to the gentleman from Texas (Mr. JOHNSON) for his 29 years of service to our Nation, and for his cosponsorship of this bill and his assistance in the Committee on Ways and Means to bring the bill to the floor. He recognized immediately that this is a common-sense solution.

Lastly, I would like to thank my staff members, especially Bob Honald and Deana Funderburk for their support and effort to get a good idea transformed to good legislation. I urge all of my colleagues to help right this fundamental wrong by voting for this straightforward, common-sense legislation.

Mr. LEVIN. Mr. Speaker, I thank the gentleman from Texas (Mr. SAM JOHNSON) for his leadership on this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Hero Act is going to help our combat troops by modifying a tax law that has unintended consequences, given their situation. Most of us know that IRA contributions are limited to $4,000 this year, and the cap on annual contributions will increase to $5,000 in 2008.

All of this is temporary legislation, but we would like to have it permanent, as well, I say to the gentleman from Michigan (Mr. LEVIN).

According to the Joint Committee on Taxation, this bill would provide $31 million of tax benefits to military families over the next decade. H.R. 1499 provides meaningful assistance to our troops that we can all support as the House considers ways to improve the retirement security for Americans.

I work on retirement legislation in my membership on both the House Committee on Ways and Means and the House Committee on Education and the Workforce, and I look forward to meaningful legislation moving forward from both committees in the near future.

However, this legislation needs to move on its own as soon as possible. Our troops are earning combat pay in dangerous situations, and to the extent that they can save some of it for their long-term needs, I think we ought to encourage them to do so.

We will pass this bill with no controversy, and I hope our colleagues in the other body follow suit in the near future. It is the right thing to do.

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to express my support for H.R. 1499, the Heroes Retirement Opportunities Act. This important legislation allows military personnel serving combat zones to deduct contributions to their individual retirement plans.

The brave men and women of the United States armed forces risk their lives to defend our freedom and to continue the war on terror. These outstanding individuals are called upon to be stronger, braver, and tougher than they ever thought possible.

It is our duty to reward the men and women who risk their lives for our country, and the Heroes Retirement Opportunities Act accomplishes that goal. This bill will protect as much of their pay for the future as possible.

I know first hand the sacrifices our service men and women make. My husband retired 1LT Dexter Lehtinen, was wounded in the Vietnam war by a grenade that almost took his life. Soon my stepson, aviator 1LT Douglas Lehtinen, is preparing to deploy to Iraq. I am certain that he will meet individuals who, like his father, have paid a tremendous price to uphold our ideals of freedom and democracy. By passing the Heroes Retirement Opportunities Act, we can do our part to assure a more certain future for those who risk their lives to protect ours.

To all the brave men and women who have served and now serve in our armed forces thank you, on behalf of a grateful Nation.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GINGREY). The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and pass the bill, H.R. 1499, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes.".

A motion to reconsider was laid on the table.

ANGEL ISLAND IMMIGRATION STATION RESTORATION AND PRESERVATION ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 606) to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

The Clerk read as follows:

H.R. 606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Angel Island Immigration Station Restoration and Preservation Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Angel Island Immigration Station, also known as the Ellis Island of the West, is a National Historic Landmark.

(2) Between 1910 and 1940, the Angel Island Immigration Station processed more than 1,000,000 immigrants and emigrants from around the world.

(3) The Angel Island Immigration Station contributes greatly to our understanding of our Nation's rich and complex immigration history.

(4) The Angel Island Immigration Station was built to enforce the Chinese Exclusion Act of 1882 and subsequent immigration laws, which unfairly and severely restricted Asian immigration.

(5) During their detention at the Angel Island Immigration Station, Chinese detainees carved poems into the walls of the detention barracks. More than 140 poems remain today, representing the unique voices of immigrants awaiting entry to this country.

(6) More than 50,000 people, including 30,000 schoolchildren, visit the Angel Island Immigration Station annually to learn more about the experience of immigrants who have traveled to our shores.

(7) The restoration of the Angel Island Immigration Station and the preservation of the writings and drawings at the Angel Island Immigration Station will ensure that future generations also have the benefit of experiencing and appreciating this great symbol of the perseverance of the immigrant spirit, and of the diversity of this great Nation.

SEC. 3. RESTORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $15,000,000 for restoring the Angel Island Immigration Station in the San Francisco Bay, in coordination with the Angel Island Immigration Station Foundation and the California Department of Parks and Recreation.

(b) FEDERAL FUNDING.—Federal funding under this Act shall not exceed 50 percent of the total funds from all sources spent to restore the Angel Island Immigration Station.

(c) PRIORITY.—(1) Except as provided in paragraph (2), the funds appropriated pursuant to this Act shall be used for the restoration of the Immigration Station Hospital on Angel Island.

(2) Any remaining funds in excess of the amount required to carry out paragraph (1) shall be used solely for the restoration of the Angel Island Immigration Station.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 606, introduced by the gentlewoman from California (Ms. WOOLSEY), would authorize an appropriation up to $15 million to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in San Francisco Bay.

The funds would be used in coordination with the Angel Island Immigration Station Foundation and the California Department of Parks and Recreation. The bill would also require funds appropriated by the Act to be used first for restoration of the Immigration Station Hospital on the island. Finally, the bill limits the Federal funding to 50 percent of the total funds from all the sources spent to restore the immigration station.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has already explained the purpose of H.R. 606, which was introduced by my colleague, the gentlewoman from California (Ms. WOOLSEY).

Angel Island is a nationally significant resource, as evidenced by its previous designation as a national historic landmark. Angel Island tells an important historical story about immigration into the western United States: how entry was offered to some, but denied to others under the discriminatory practices of that day.

The gentlewoman from California (Ms. WOOLSEY) is to be commended for her leadership on H.R. 606. She has a bipartisan coalition of support for her initiative, including California Governor Arnold Schwarzenegger. Many individuals and organizations have come to recognize the importance of a Federal-State-private partnership in the preservation and interpretation of this important aspect of our Nation's history.

Mr. Speaker, we support H.R. 606 as a means to help preserve the rich history of the Angel Island Immigration Station and urge its adoption by the House today.

Mr. Speaker, I yield such time as she might consume to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise to speak on H.R. 606, out of order. I was working patiently at my desk. I flew in on the red eye so that I could talk about Angel Island and how wonderful it is. And I want to thank the ranking members of this committee for making this possible for me, and allowing the consideration of a piece of legislation that is very important to my district, the San Francisco Bay area, and to Asian Americans throughout the United States.

As you know, I have worked for the past 3 years with the Angel Island Immigration Station Foundation and the gentlewoman from California (Leader PELOSI) and the gentleman from Indiana (Mr. SOUDER) in an effort to preserve the historic Angel Island Immigration Station. It is located just east of Sausalito in the San Francisco Bay. Sausalito is in my district, California's 6th Congressional District.

This landmark is a particular high priority because of what it means to Asian Americans nationwide. Many of you are familiar, all of us are familiar with the symbolism of Ellis Island to European Americans. The same feelings of legacy and pride can be equated to the Americans of Asian heritage on the west coast. In fact, Angel Island was the first American soil most Asian immigrants stepped on.

With over 1 million people having been processed through the sites, millions of Asians and Asian descendents nationwide are eager to see their roots in this country honored in the same way that we honor Ellis Island.

In addition, Angel Island Immigration Station also houses a unique literary display of Asian American culture. The walls of the main building hold layers of poetry reflecting the record of hardship endured and the indignity suffered by the early Chinese as they were being processed into America. If these walls crumble, we will lose this one-of-a-kind documentation forever. And thank you for voting not to let that happen.

Because of its rich history, the site is currently used as a teaching tool for students and a museum for visitors. Hundreds of school children and researchers have made the trip by ferry out to the site each year to learn about its rich history.

Mr. Speaker, I have worked with the foundation to find additional sources of funding for the restoration project to ensure future generations can learn from the site. The current estimate to complete the preservation is over $30 million, $16 million already raised through Federal grants, State funding, and private donations; $15 million still remains to finish the project.

With no more grants available and the State of California contributing close to half of the funding, it is important that the Federal Government become a part of this preservation effort, and that is what we are doing today. And I thank you for making that happen in the House.

Mr. Speaker, first I want to thank Chairman POMBO, Ranking Member RAHALL and the House leadership for allowing us to consider this piece of legislation that is important to my district and the San Francisco Bay Area.

As you may know, I have worked for the past 3 years with the Angel Island Immigration Station Foundation and Leader PELOSI and Congressman MARK SOUDER in an effort to preserve the historic Angel Island Immigration Station, located just east of Sausalito in the San Francisco Bay.

This landmark is a particularly high priority because of what it means to Asian Americans nationwide. Many of you are familiar with the symbolism of Ellis Island to European Americans. The same feelings of legacy and pride can be equated to the Americans of Asian heritage on the west coast. In fact, Angel Island was the first American soil most Asian immigrants stepped on.

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With no grants available, and the State of California contributing close to half of the funding, it is important that the Federal Government become a part of this preservation effort. That is what we are doing today.

Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I rise in strong support of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act.

For 30 years, between 1910 to 1940, Angel Island served as the first point of entry into our country for immigrants from around the world hopeful for the promise of America. While the history of Ellis Island, which served as a processing center for immigrants coming in from across the Atlantic, is well known, the story of Angel Island is one that is often lost between the pages of our Nation's history.

While it was open, 1 million immigrants were processed on Angel Island, including immigrants from Japan, Korea, the Philippines, and Central and South America. It would be the first, and sometimes only, American soil that many of these people, who hoped to call this country their home, would walk upon.

Among these stories are the unforgettable voices of more than 170,000 Chinese immigrants, who sacrificed everything to come to what they referred to as the "Gold Mountain," a land of unparalleled freedom and opportunity. While many found new life, others encountered discrimination, disappointment, and sometimes, despair.

The Chinese Exclusion Act of 1882 prevented many Chinese from entering the United States. Those allowed to enter were held in detention on Angel Island. Segregated and separated into barracks, the detainees faced stark living conditions, humiliating medical examinations, and grueling interrogations, while their detentions dragged on from days to months, and even years. All this while they awaited a decision on whether they would be permitted to enter the United States or sent back to China. While the detainees would eventually leave the Island and the Immigration Station would later close, they would leave behind their powerful testaments, inscribed as poetry, on the walls that confined them.

Today, more than 100 of these poems are still visible, etched on the barrack walls. Together, they capture the fears, sadness, and longing felt by the immigrants. Despite the extreme hardships faced on Angel Island, many of these poems also reflect the timeless legacy of the hope that is shared by all who are drawn to and believe in our country.

In 1940, Angel Island Immigration Station was closed after a fire destroyed the administration building. The U.S. Army used the island during World War II, departing when the war was over. Angel Island became incorporated as a part of the California State Park system in 1963.

Abandoned and neglected, the structures fell into various states of disrepair and were scheduled for demolition in 1970, when a park ranger rediscovered the poetry carved on the walls. Although the buildings were spared from being torn down, more resources are needed to restore this unique and significant landmark.

This legislation would authorize $15 million, to be matched by State and private funding, to restore the buildings at Angel Island Immigration Station, and ensure its preservation for future generations.

Understanding our past is key to our nation's success and strength, today and in the future. Preserving Angel Island ensures that the collective voices of past immigrants live on in the proud immigrant heritage we all share.

I urge my colleagues to support this significant piece of legislation.

Mr. SOUDER. Mr. Speaker, I rise in support of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act.

Historic preservation is the key to remembering our past. Without key places and artifacts from our history, it would be impossible to tell future generations of Americans how, when and where our country came to be what it is. Whenever a place or object is lost, a piece of history is gone forever. It is our duty to ensure that history is preserved.

The Angel Island Immigration Station Restoration and Preservation Act aims to preserve part of our history. Known as the Ellis Island of the West, Angel Island was the primary entry point for hundreds of thousands of immigrants from the Pacific Rim, including Australia and New Zealand, Canada, Mexico, Central and South America, Russia, and in particular, Asia. During Angel Island's years of operation (1910–1940), an estimated 175,000 Chinese immigrants were processed through Angel Island.

In 1940, Angel Island Immigration Station closed after a fire destroyed the administration building. Following the Army's departure from Angel Island, the structures fell into disrepair. Many were removed by the Army Corps of Engineers and California State Parks. Of the original immigration station structures, only the Detention Barracks, Hospital, Power House, Pump House and Mule Barn remain. Today, these structures are in various states of disrepair; hence the need for this legislation.

Without H.R. 606, the structures on Angel Island will fall further into decay. Many of the buildings are crumbling and leak; consequently, many poems written by the Chinese immigrants detained at Angel Island are in danger of being destroyed. State, private, and local entities have already contributed mightily to this project; sadly, they have not been able to complete the project. This bill will authorize $15 million in funding so that this unique aspect of our history can be preserved for future generations. Compared to the $156 million spent to restore Ellis Island, this restoration project is a bargain and of no less significance.

Millions of people journey to Ellis Island every year in order to see where their ancestors came ashore. This bill would allow descendents of Angel Island arrivals the same opportunity to visit the place where their ancestors' American Dreams started.

Although the status of Angel Island as part of the California State Parks system sets it apart from many other historic sites that receive Federal funding, the importance of the site and its contribution to the United States makes its official designation irrelevant. Our Nation's history must be preserved regardless of official status.

I urge my colleagues to support the passage of H.R. 606, the Angel Island Immigration Station Restoration and Preservation Act. Keeping our immigration heritage in good repair is essential if the United States is to maintain its unique status as a beacon of democracy and opportunity.

Mr. HONDA. Mr. Speaker, I rise today in support of H.R. 4469, the Angel Island Immigration Station Restoration and Preservation Act.

I would like to recognize my colleague Representative LYNN WOOSLEY from California for her steadfast leadership in ensuring Angel Island Immigration Station is preserved and restored.

As Chair of the Congressional Asian Pacific American Caucus (CAPAC), I support the Federal authorization of $15 million for the preservation and restoration of Angel Island, where people from China, Japan, Russia, India, Korea, Australia, and the Philippines entered the United States to start a new life.

Angel Island Immigration Station is appropriately known as the "Ellis Island of the West." Located in the San Francisco Bay, Angel Island served as a processing and detainment center for 1 million immigrants between 1910 and 1940. Of those 1 million people, 175,000 were Chinese immigrants and 150,000 were Japanese immigrants.

For the 30 years that Angel Island was in existence, detainees experienced overcrowded facilities, humiliating medical examinations, intense interrogations, and countless days—even years—waiting until approval of their applications or deportation. Although conditions could be deplorable, Angel Island was an entry point to a better future for many immigrants.

In 1940, Angel Island Immigration Station's administration building was destroyed. In 1963, California State Parks assumed the role of stewardship of the site when Angel Island became a State park.

In the 1970's, the site was set for demolition until a park ranger discovered etched writings on the walls. Etched by detainees, the writings and drawings on the wall reflect the hardships and hopes of detainees during the uncertain period in which they awaited decisions on their immigration applications. The cultural and historical value of these etchings sparked efforts to save this site. In 1997 Angel Island Immigration Station became a National Historic Landmark.

More than 50,000 people continue to visit Angel Island Immigration Station yearly, but sadly, the history of Angel Island is often left out of classroom lectures. However, with greater Federal support, we can restore the Island's historic buildings, preserve irreplaceable immigration records, and keep alive the stories and memories of those who were detained on the Island.

While preserving the Angel Island Immigration Station is important to Asian Pacific Americans, it should be a priority for all Americans. Just as Ellis Island is a critical part of our nation's history, Angel Island offers American's a richer and more comprehensive understanding of our history and the diversity we celebrate in this Nation.

Mr. Speaker, I wholeheartedly support H.R. 4469 and its authorization of $15 million to restore and preserve historic buildings at Angel Island Immigration Station. I urge my colleagues to join me in supporting this important piece of legislation.

Mr. RADANOVICH. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 606.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR THE CONVEYANCE OF CERTAIN PUBLIC LAND IN CLARK COUNTY, NEVADA, FOR USE AS A HELIPORT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 849) to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport.

The Clerk read as follows:

H.R. 849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF PROPERTY TO CLARK COUNTY, NEVADA.

(a) FINDINGS.—Congress finds that—

(1) the Las Vegas Valley in the State of Nevada is the fastest growing community in the United States;

(2) helicopter tour operations are conflicting with the needs of long-established residential communities in the Valley; and

(3) the designation of a public heliport in the Valley that would reduce conflicts between helicopter tour operators and residential communities is in the public interest.

(b) PURPOSE.—The purpose of this Act is to provide a suitable location for the establishment of a commercial service heliport facility to serve the Las Vegas Valley in the State of Nevada while minimizing and mitigating the impact of air tours on the Sloan Canyon National Conservation Area and North McCullough Mountains Wilderness.

(c) DEFINITIONS.—In this Act:

(1) CONSERVATION AREA.—The term "Conservation Area" means the Sloan Canyon National Conservation Area established by section 604(a) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2010).

(2) COUNTY.—The term "County" means Clark County, Nevada.

(3) HELICOPTER TOUR.—

(A) IN GENERAL.—The term "helicopter tour" means a commercial helicopter tour operated for profit.

(B) EXCLUSION.—The term "helicopter tour" does not include a helicopter tour that is carried out to assist a Federal, State, or local agency.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) WILDERNESS.—The term "Wilderness" means the North McCullough Mountains Wilderness established by section 202(a)(13) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2000).

(d) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary shall convey to the County, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (e).

(e) DESCRIPTION OF LAND.—The parcel of land to be conveyed under subsection (d) is the parcel of approximately 229 acres of land depicted as tract A on the map entitled "Clark County Public Heliport Facility" and dated May 3, 2004.

(f) USE OF LAND.—

(1) IN GENERAL.—The parcel of land conveyed under subsection (d)—

(A) shall be used by the County for the operation of a heliport facility under the conditions stated in paragraphs (2) and (3); and

(B) shall not be disposed of by the County.

(2) IMPOSITION OF FEES.—

(A) IN GENERAL.—Any operator of a helicopter tour originating from or concluding at the parcel of land described in subsection (e) shall pay to the Clark County Department of Aviation a $3 conservation fee for each passenger on the helicopter tour if any portion of the helicopter tour occurs over the Conservation Area.

(B) DISPOSITION OF FUNDS.—Any amounts collected under subparagraph (A) shall be deposited in a special account in the Treasury of the United States, which shall be available to the Secretary, without further appropriation, for the management of cultural, wildlife, and wilderness resources on public land in the State of Nevada.

(3) FLIGHT PATH.—Except for safety reasons, any helicopter tour originating or concluding at the parcel of land described in subsection (e) that flies over the Conservation Area shall not fly—

(A) over any area in the Conservation Area except the area that is between 3 and 5 miles north of the latitude of the southernmost boundary of the Conservation Area;

(B) lower than 1,000 feet over the eastern segments of the boundary of the Conservation Area; or

(C) lower than 500 feet over the western segments of the boundary of the Conservation Area.

(4) REVERSION.—If the County ceases to use any of the land described in subsection (d) for the purpose described in paragraph (1)(A) and under the conditions stated in paragraphs (2) and (3)—

(A) title to the parcel shall revert to the United States, at the option of the United States; and

(B) the County shall be responsible for any reclamation necessary to revert the parcel to the United States.

(g) ADMINISTRATIVE COSTS.—The Secretary shall require, as a condition of the conveyance under subsection (d), that the County pay the administrative costs of the conveyance, including survey costs and any other costs associated with the transfer of title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 849, introduced by my committee colleague, the gentleman from Nevada (Mr. GIBBONS), would provide for the conveyance of certain public land in Clark County, Nevada, currently being managed by the Bureau of Land Management, to the county for use as a heliport.

The Las Vegas Valley is among the fastest growing communities in the United States. This community thrives on tourism with one of the most popular tourist excursions being the helicopter tour of the Grand Canyon. At present, helicopter tour flight paths impact long-standing residential neighborhoods. This bill would alleviate this growing conflict while providing a suitable location for the establishment of a commercial service heliport facility to serve the Las Vegas Valley.

Mr. Speaker, one of the primary goals of this conveyance is to minimize the impact of air tours on the Sloan Canyon National Conservation Area and the North McCullough Mountains Wilderness that lie just north of the major residential areas. In addition, any operator of a helicopter tour originating from or concluding at the new heliport would pay the Clark County Department of Aviation a $3 conservation fee for each passenger on the tour if any of the helicopter tours occurs over the Conservation Area. The fee collected will be placed in a special account in the Treasury of the United States. Those funds will then be made available to the Secretary for management of cultural, wildlife, and wilderness resource on public lands in the State of Nevada.

This bill is also the result of public hearings and local decision-making on this issue, and although not a perfect solution, it seeks a fair compromise to resolve the issue.

Mr. Speaker, I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is important legislation for Nevada that will hopefully alleviate some public safety concerns regarding helicopter overflights. As a result, we do not oppose H.R. 849.

In addition to her other colleagues in Nevada, the Nevada delegation, the gentlewoman from Nevada (Ms. BERKLEY) is to be commended for her tireless efforts on behalf of this legislation. She continues to be a forceful advocate for managing the explosive growth of her communities effectively and responsibly.

Of course, the distinguished Senate Minority Leader has been a powerful advocate for this legislation, and I know the delegation and the people of Nevada appreciate his leadership.

Mr. Speaker, I reserve the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I rise today to speak on H.R. 849 on behalf of my colleague, the gentleman from Nevada (Mr. GIBBONS), before I make my own remarks on this important piece of legislation.

First, I would like to read a prepared statement by the gentleman from Nevada (Mr. GIBBONS).

Again, on behalf of the gentleman from Nevada (Mr. GIBBONS): "I would like to express my strong support for H.R. 849 to convey certain public land in Clark County, Nevada, for use as a heliport.

"Nevada is 84 percent owned and managed by the Federal Government. This large share of Federal lands makes management of Nevada's cities and counties difficult at best. Extensive Federal ownership of Nevada, coupled with the rapid growth we are currently experiencing, brings even greater need for planning and management of all types of transportation in Nevada.

"Currently, over 90 helicopter flights per day, over 32,850 flights per year, fly over the homes of 90,000 Las Vegas residents. As you can imagine, this high volume of air traffic poses challenges and problems for the residents of southern Nevada. To help alleviate this problem, Clark County has searched extensively for a separate site that will not only accommodate helicopter operators, but meet the needs of the surrounding communities.

"The heliport site agreed to in this legislation is the result of a great deal of study and planning. Several sites were identified as potentially suitable. However, the site outlined in my legislation is the most ideal location. The site outlined in this legislation is further out of the city and will not affect any of the current residential areas.

"Again, thank you, Mr. Speaker, for your consideration."

Again, these comments were based upon written remarks from my colleague, the gentleman from Nevada (Mr. GIBBONS).

□ 1530

I would also like to express my strong support for H.R. 849. As an original cosponsor of this bill, I understand the problems that the current helicopter overflight path causes to many of my constituents. With almost 33,000 flights occurring per year over approximately 90,000 people, a viable alternative to the current flight path that not only meets the needs of southern Nevadans but also the operators of the helicopters themselves is no longer wanted but needed.

In order to solve the conflict, Clark County and other major stakeholders collaborated to find this alternative. After many studies, the site outlined in H.R. 849 was determined to be the most suitable. The area chosen within the legislation moves the flight path away from the residential areas, yet still allows helicopter operators to continue their air tours over Hoover Dam, the Grand Canyon, the Las Vegas Strip, and other beautiful areas of the American Southwest.

Mr. Speaker, I would also like to voice my strong support for H.R. 849.

As an original cosponsor of this bill, I understand the problems that the current helicopter over-flight path causes to my constituents. With almost 33,000 flights occurring per year over approximately 90,000 people, a viable alternative to the current flight path that not only meets the needs of Southern Nevadans, but also the operators of the helicopters themselves, is no longer wanted, but needed.

In order to solve the conflict, Clark County and other major stakeholders collaborated to find this alternative. After many studies, the site outlined in H.R. 849 was determined to be the most suitable. The area chosen within the legislation moves the flight path away from residential areas yet still allows helicopter operators to continue their air tours over Hoover Dam, the Grand Canyon, the Las Vegas Strip, and other beautiful areas of the American Southwest.

Mr. GIBBONS. Mr. Speaker, I would like to express my strong support for H.R. 849, to convey certain public land in Clark County, Nevada for use as a heliport. Nevada is 84 percent owned and managed by the Federal Government. This large share of federal land makes management of Nevada's cities and counties difficult at best. Extensive Federal ownership of Nevada coupled with the rapid growth we are currently experiencing brings even greater need for planning and management of all types of transportation.

Currently over 90 helicopter flights per day, or 32,850 flights per year, fly over the homes of more than 90,000 Las Vegas residents. As you can imagine, this high volume of air traffic poses challenges and problems for the residents of southern Nevada. To help alleviate this problem, Clark County has searched extensively for a separate site that will not only accommodate helicopter operators, but meet the needs of the surrounding communities. The heliport site agreed to in this legislation is a result of a great deal of study and planning. Several sites were identified as potentially suitable, however the site outlined in my legislation is the most ideal location. The site outlined in the legislation is further out of the city and will not affect any current residential areas. Again, thank you Mr. Speaker for your consideration of this legislation that is so important to southern Nevada. Additionally, I would like to thank my colleague Mr. PORTER for his assistance, as well as the entire Nevada delegation for their support of this bill. I urge all of my colleagues to recognize the need for an alternative helicopter site and join me in supporting this legislation.

Mr. MICA. Mr. Speaker, H.R. 849 would transfer certain land, currently within the Sloan Canyon National Conservation Area, to Clark County, Nevada. The land is to be used as a heliport for commercial helicopter air tours.

The transfer would only take place if certain conditions on the use of the heliport are met by Clark County.

The first condition is that the county must impose and collect a per passenger "conservation fee" of $3 for each passenger of a helicopter tour that passes over any portion of the conservation area.

The second condition requires the County to ensure that any helicopter tour originating or concluding at the heliport traveling over the conservation area fly on a certain flight path and at a specified altitude except for safety reasons.

For purposes of clarity, the conditions set forth in H.R. 849 are on the transfer of the land and should the county fail to fulfill the conditions; the land would either not be transferred or if already transferred would revert back to the United States.

Let us look at each of the conditions on the transfer of the land to Clark County.

The first condition, that the county impose and collect a per passenger fee, is problematic. Elsewhere in law, States or political subdivisions of States are prohibited from levying or collecting a "tax, fee, or charge . . . exclusively upon any business located a commercial service airport [which includes heliports] . . . other than a tax, fee, or charge wholly utilized for airport or aeronautical purposes."

Therefore, it seems that the county would be unable to fulfill the first condition of the land transfer as the fee would be imposed upon and collected from helicopter tour passengers for the management of cultural, wildlife and wilderness resources on public land in Nevada.

The second condition is also problematic. Again, this condition would require the county to ensure that certain flight paths and minimum flight altitudes are utilized by the helicopter tours.

It should be emphasized that this bill does not direct Federal Aviation Administration (FAA) action with regard to airspace management and control.

In fact, should the FAA determine that the flight path and minimum altitude requirements set forth in the bill are unsafe or otherwise operationally unwise, the county would have failed to meet a condition of the land transfer and the land would revert back to the United States.

To make this perfectly clear, only the FAA has the authority to manage and control the National Airspace. State, regional, county and other local government entities, not to mention other Federal departments and agencies, have no authority in this regard.

Thus, the second condition on the transfer of land to Clark County is clearly outside of the county's authority and control.

Therefore, given that Clark County may very well be unable to fulfill either of the conditions of the land transfer; it appears that H.R. 849 is legislating a nullity.

I thank my colleagues for the opportunity to be heard on H.R. 849 and to clarify the legislative record with regard to this bill and how it should be interpreted relating to the FAA and airspace management and control.

Mr. RADANOVICH. Mr. Speaker, does the gentlewoman from the Virgin Islands have any more speakers?

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GINGREY). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 849.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REVOKING PUBLIC LAND ORDER WITH RESPECT TO CERTAIN LANDS IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1101) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The Clerk read as follows:

H.R. 1101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

SEC. 2. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.

The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1101.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume; and I am pleased to strongly support H.R. 1101, introduced by my good friend, the gentleman from California (Mr. HUNTER). The gentleman from California has done an excellent job of representing his constituents who, through no fault of their own, find themselves operating a concession within the National Wildlife Refuge System.

This concession, known as Walter's Camp, has existed since 1962. It has consistently provided recreational opportunities to thousands of Americans. It is one of the few places along the lower Colorado River that offers such a variety of healthy outdoor activities.

About 5 years ago, the concessionaire was advised by the Fish and Wildlife Service that Walter's Camp had been inadvertently added to the Cibola National Wildlife Refuge and that corrective legislation was necessary.

This is the purpose of this measure, to correct this mistake; and there is no opposition to returning the title of this property to the Bureau of Land Management. In fact, identical legislation passed the House unanimously on two separate occasions in the 108th Congress.

I urge an "aye" vote on H.R. 1101.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this legislation is to correct an error in the 1964 public land withdrawal that created the Cibola National Wildlife Refuge in California.

H.R. 1101 is identical to legislation passed by the House during the 107th and 108th Congresses, and we have no objection to this noncontroversial bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 1101.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 606.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL SERVICES ADMINISTRATION MODERNIZATION ACT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2066) to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

The Clerk read as follows:

H.R. 2066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Services Administration Modernization Act".

SEC. 2. FEDERAL ACQUISITION SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 303 of title 40, United States Code, is amended to read as follows:

"§ 303. Federal Acquisition Service

"(a) ESTABLISHMENT.—There is established in the General Services Administration a Federal Acquisition Service. The Administrator of General Services shall appoint a non-career employee as Commissioner of the Federal Acquisition Service, who shall be the head of the Federal Acquisition Service.

"(b) FUNCTIONS.—Subject to the direction and control of the Administrator of General Services, the Commissioner of the Federal Acquisition Service shall be responsible for administering the Acquisition Services Fund under section 321 of this title and carrying out functions related to the uses for which such Fund is authorized under such section, including any functions that were carried out by the entities known as the Federal Supply Service and the Federal Technology Service and such other related functions as the Administrator considers appropriate.

"(c) REGIONAL EXECUTIVES.—The Administrator may appoint up to five Regional Executives in the Federal Acquisition Service, to carry out such functions within the Federal Acquisition Service as the Administrator considers appropriate.".

(2) CLERICAL AMENDMENT.—The item relating to section 303 at the beginning of chapter 3 of such title is amended to read as follows:

"303. Federal Acquisition Service.".

(b) EXECUTIVE SCHEDULE COMPENSATION.—Section 5316 of title 5, United States Code, is amended by striking the item relating to the Commissioner of the Federal Supply Service of the General Services Administration and inserting the following:

"Commissioner of the Federal Acquisition Service, General Services Administration.".

(c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Federal Supply Service is deemed to refer to the Federal Acquisition Service;

(2) to the GSA Federal Technology Service is deemed to refer to the Federal Acquisition Service;

(3) to the Commissioner of the Federal Supply Service is deemed to refer to the Commissioner of the Federal Acquisition Service; and

(4) to the Commissioner of the GSA Federal Technology Service is deemed to refer to the Commissioner of the Federal Acquisition Service.

SEC. 3. ACQUISITION SERVICES FUND.

(a) ABOLISHMENT OF GENERAL SUPPLY FUND AND INFORMATION TECHNOLOGY FUND.—The General Supply Fund and the Information Technology Fund in the Treasury are hereby abolished.

(b) TRANSFERS.—Capital assets and balances remaining in the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be transferred to the Acquisition Services Fund and shall be merged with and be available for the purposes of the Acquisition Services Fund under section 321 of title 40, United States Code (as amended by this Act).

(c) ASSUMPTION OF OBLIGATIONS.—Any liabilities, commitments, and obligations of the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be assumed by the Acquisition Services Fund.

(d) EXISTENCE AND COMPOSITION OF ACQUISITION SERVICES FUND.—Subsections (a) and (b) of section 321 of title 40, United States Code, are amended to read as follows:

"(a) EXISTENCE.—The Acquisition Services Fund is a special fund in the Treasury.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund.

"(2) OTHER CREDITS.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

"(A) the net proceeds of disposal of surplus personal property;

"(B) receipts from carriers and others for loss of, or damage to, personal property; and

"(C) receipts from agencies charged fees pursuant to rates established by the Administrator.

"(3) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be approved by the Administrator. The Administrator shall establish rates to be charged agencies provided, or to be provided, supply of personal property and non-personal services through the Fund, in accordance with the plan.

"(4) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.".

(e) USES OF FUND.—Section 321(c) of such title is amended in paragraph (1)(A)—

(1) by striking "and" at the end of clause (i);

(2) by inserting "and" after the semicolon at the end of clause (ii); and

(3) by inserting after clause (ii) the following new clause :

"(iii) personal services related to the provision of information technology (as defined in section 11101(6) of this title);".

(f) PAYMENT FOR PROPERTY AND SERVICES.—Section 321(d)(2)(A) of such title is amended—

(1) by striking "and" at the end of clause (iv);

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

"(v) the cost of personal services employed directly in providing information technology (as defined in section 11101(6) of this title); and".

(g) TRANSFER OF UNCOMMITTED BALANCES.—Subsection (f) of section 321 of such title is amended to read as follows:

"(f) TRANSFER OF UNCOMMITTED BALANCES.—Following the close of each fiscal year, after making provision for a sufficient level of inventory of personal property to meet the needs of Federal agencies, the replacement cost of motor vehicles, and other anticipated operating needs reflected in the cost and capital plan developed under subsection (b), the uncommitted balance of any funds remaining in the Fund shall be transferred to the general fund of the Treasury as miscellaneous receipts.".

(h) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 322 of such title is repealed.

(2) The heading for section 321 of such title is amended to read as follows:

"§ 321. Acquisition Services Fund".

(3) The table of sections for chapter 3 of such title is amended by striking the items relating to sections 321 and 322 and inserting the following:

"321. Acquisition Services Fund.".

(4) Section 573 of such title is amended by striking "General Supply Fund" both places it appears and inserting "Acquisition Services Fund".

(5) Section 604(b) of such title is amended—

(A) in the heading, by striking "GENERAL SUPPLY FUND" and inserting "ACQUISITION SERVICES FUND"; and

(B) in the text, by striking "General Supply Fund" and inserting "Acquisition Services Fund".

(6) Section 605 of such title is amended—

(A) in subsection (a)—

(i) in the heading, by striking "GENERAL SUPPLY FUND" and inserting "ACQUISITION SERVICES FUND"; and

(ii) in the text, by striking "General Supply Fund" and inserting "Acquisition Services Fund"; and

(B) in subsection (b)(2)—

(i) by striking "321(f)(1)" and inserting "321(f)"; and

(ii) by striking "General Supply Fund" and inserting "Acquisition Services Fund".

SEC. 4. PROVISIONS RELATING TO ACQUISITION PERSONNEL.

Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end the following new subsections:

"(i) PROVISIONS RELATING TO REEMPLOYMENT.—If an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service becomes reemployed in an acquisition-related position (as described in subsection (g)(1)(A)), such annuity shall not be discontinued thereby. An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5, United States Code.

"(j) RETENTION BONUSES.—

"(1) The head of each executive agency, after consultation with the Administrator, shall establish policies and procedures under which the agency head may pay retention bonuses to employees holding acquisition-related positions (as described in subsection (g)(1)(A)) within such agency, except that the authority to pay a bonus under this subsection shall be available only if—

"(A) the unusually high or unique qualifications of an employee or a special need of the agency for the services of an employee makes the retention of such employee essential; and

"(B) the agency determines that, in the absence of such a bonus, it is likely that the employee would leave—

"(i) the Federal service; or

"(ii) for a different position in the Federal service under conditions described in regulations of the Office.

"(2)(A) Payment of a bonus under this subsection shall be contingent upon the employee entering into a written agreement with the agency to complete a period of service with the agency in return for the bonus.

"(B)(i) The agreement shall include—

"(I) the length of the period of service required;

"(II) the bonus amount;

"(III) the manner in which the bonus will be paid (as described in paragraph (3)(B)); and

"(IV) any other terms and conditions of the bonus, including the terms and conditions governing the termination of an agreement.

"(3) A bonus under this subsection—

"(A) may not exceed 50 percent of the basic pay of the employee;

"(B) may be paid to an employee—

"(i) in installments after completion of specified periods of service;

"(ii) in a single lump sum at the end of the period of service required by the agreement; or

"(iii) in any other manner mutually agreed to by the agency and the employee;

"(C) is not part of the basic pay of the employee; and

"(D) may not be paid to an employee who holds a position—

"(i) appointment to which is by the President, by and with the advice and consent of the Senate;

"(ii) in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a) of title 5, United States Code); or

"(iii) which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.".

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

☐ 1545

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2066.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I rise in support of H.R. 2066, the General Services Administration Modernization Act. This legislation would provide a reorganization of the General Services Administration, the Federal agency that is charged with procuring the facilities, products, services, and technology that Federal agencies and their employees need every day. H.R. 2066 will ensure that the GSA maximizes its use of taxpayer funds.

This legislation has been under consideration in our Committee on Government Reform for a number of years, and it has been the subject of multiple legislative and oversight hearings and was included in the President's budget proposal for fiscal year 2006. Specifically, H.R. 2066 would combine GSA's current Federal Supply Service and Federal Technology Service into a single entity, operating out of a united fund. This would provide Federal agencies with a one-stop shop to acquire all of their commercial goods and services.

The separate technology fund was created in the 1980s to assist agencies as they incorporated complex mainframe computers into their daily operations. But today information technology is as common in the Federal workplace as furniture. Having two separate entities within GSA, one focusing on IT goods and services, one focusing on non-IT goods and services, is no longer appropriate. So H.R. 2066 would provide GSA with the statutory structure that it needs to bring it in line with the current commercial market.

Overall, the reforms provided in H.R. 2066 would help GSA streamline its operations, improve its performance and efficiency far into the future. I urge its passage today, Mr. Speaker, and I congratulate the bill's distinguished authors, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from California (Mr. HUNTER) for working to create such a thoughtful bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), in consideration of H.R. 2066, the bill before us today.

H.R. 2066, the General Services Modernization Act, as reported by the Committee on Government Reform, represents the first major reorganization within the GSA in nearly 20 years. This bill would combine without substantive change the revolving funds used for the operations of the Federal Supply Service and the Federal Technology Service, both currently separate organizations within GSA.

The bill would also authorize a new unit, the Federal Acquisition Service, headed by a commissioner, to take over the operations of the combined services.

The Federal Supply Service provides an economic and efficient system for the procurement and supply of goods and services to Federal agencies. One way it does this is through the schedules program which manages long-term government-wide contracts for commercial goods and services. This provides customer agencies with benefits of volume discount pricing, lower administrative costs, and reduced inventories.

The Federal Technology Service offers agencies a wide range of information technology and telecommunication products and services on a number of contract vehicles. Its focus is oriented toward providing more full-service solutions for IT, telecommunications and professional services.

While I would have preferred a more thorough analysis of the benefits of the consolidation intended by this bill, the proposal would seem to offer increased organizational efficiency and improved coordination of the functions the services currently provide. I look forward to reviewing the detailed reorganization plans that the GSA is preparing.

The bill also contains provisions which would give civilian agencies additional tools to maintain their acquisition work forces. It would allow agencies to offer retention bonuses and to reemploy retirees in certain special circumstances. I would also like to thank the chairman for working with us to provide appropriate safeguards on the use of this authority and for accepting a Democratic amendment regarding the appointment of the new commissioner of the Federal Acquisition Service.

While not directly relevant to this legislation, I would like to take this opportunity to urge the GSA to consult more closely with Federal employee unions on its plans for reorganizing. A number of representatives of Federal employees have contacted the committee with concerns about the reorganization. Primary among those concerns is the fact that no one seemed to be talking to them about the plans for merging the two services. This approach can only breed distrust and fear, and I urge the administrator to improve communication with the affected employees.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I withdraw my motion to suspend the rules on H.R. 2066.

The SPEAKER pro tempore. The motion is withdrawn.

GENERAL SERVICES ADMINISTRATION MODERNIZATION ACT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2066) to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Services Administration Modernization Act".

SEC. 2. FEDERAL ACQUISITION SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 303 of title 40, United States Code, is amended to read as follows:

"§303. Federal Acquisition Service

"(a) ESTABLISHMENT.—There is established in the General Services Administration a Federal Acquisition Service. The Administrator of General Services shall appoint a Commissioner of the Federal Acquisition Service, who shall be the head of the Federal Acquisition Service.

"(b) FUNCTIONS.—Subject to the direction and control of the Administrator of General Services, the Commissioner of the Federal Acquisition Service shall be responsible for carrying out functions related to the uses for which the Acquisition Services Fund is authorized under section 321 of this title, including any functions that were carried out by the entities known as the Federal Supply Service and the Federal Technology Service and such other related functions as the Administrator considers appropriate.

"(c) REGIONAL EXECUTIVES.—The Administrator may appoint up to five Regional Executives in the Federal Acquisition Service, to carry out such functions within the Federal Acquisition Service as the Administrator considers appropriate.".

(2) CLERICAL AMENDMENT.—The item relating to section 303 at the beginning of chapter 3 of such title is amended to read as follows:

"303. Federal Acquisition Service.".

(b) EXECUTIVE SCHEDULE COMPENSATION.—Section 5316 of title 5, United States Code, is amended by striking "Commissioner, Federal Supply Service, General Services Administration." and inserting the following:

"Commissioner, Federal Acquisition Service, General Services Administration.".

(c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Federal Supply Service is deemed to refer to the Federal Acquisition Service;

(2) to the GSA Federal Technology Service is deemed to refer to the Federal Acquisition Service;

(3) to the Commissioner of the Federal Supply Service is deemed to refer to the Commissioner of the Federal Acquisition Service; and

(4) to the Commissioner of the GSA Federal Technology Service is deemed to refer to the Commissioner of the Federal Acquisition Service.

SEC. 3. ACQUISITION SERVICES FUND.

(a) ABOLISHMENT OF GENERAL SUPPLY FUND AND INFORMATION TECHNOLOGY FUND.—The General Supply Fund and the Information Technology Fund in the Treasury are hereby abolished.

(b) TRANSFERS.—Capital assets and balances remaining in the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be transferred to the Acquisition Services Fund and shall be merged with and be available for the purposes of the Acquisition Services Fund under section 321 of title 40, United States Code (as amended by this Act).

(c) ASSUMPTION OF OBLIGATIONS.—Any liabilities, commitments, and obligations of the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be assumed by the Acquisition Services Fund.

(d) EXISTENCE AND COMPOSITION OF ACQUISITION SERVICES FUND.—Subsections (a) and (b) of section 321 of title 40, United States Code, are amended to read as follows:

"(a) EXISTENCE.—The Acquisition Services Fund is a special fund in the Treasury.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund.

"(2) OTHER CREDITS.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

"(A) the net proceeds of disposal of surplus personal property; and

"(B) receipts from carriers and others for loss of, or damage to, personal property; and

"(C) receipts from agencies charged fees pursuant to rates established by the Administrator.

"(3) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be approved by the Administrator. The Administrator shall establish rates to be charged agencies provided, or to be provided, supply of personal property and non-personal services through the Fund, in accordance with the plan.

"(4) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.".

(e) USES OF FUND.—Section 321(c) of such title is amended in paragraph (1)(A)—

(1) by striking "and" at the end of clause (i);

(2) by inserting "and" after the semicolon at the end of clause (ii); and

(3) by inserting after clause (ii) the following new clause:

"(iii) personal services related to the provision of information technology (as defined in section 11101(6) of this title);".

(f) PAYMENT FOR PROPERTY AND SERVICES.—Section 321(d)(2)(A) of such title is amended—

(1) by striking "and" at the end of clause (iv);

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

"(v) the cost of personal services employed directly in providing information technology (as defined in section 11101(6) of this title); and".

(g) TRANSFER OF UNCOMMITTED BALANCES.—Subsection (f) of section 321 of such title is amended to read as follows:

"(f) TRANSFER OF UNCOMMITTED BALANCES.—Following the close of each fiscal year, after making provision for a sufficient level of inventory of personal property to meet the needs of Federal agencies, the replacement cost of motor vehicles, and other anticipated operating needs reflected in the cost and capital plan developed under subsection (b), the uncommitted balance of any funds remaining in the Fund shall be transferred to the general fund of the Treasury as miscellaneous receipts.".

(h) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 322 of such title is repealed.

(2) The heading for section 321 of such title is amended to read as follows:

"§ 321. Acquisition Services Fund".

(3) The table of sections for chapter 3 of such title is amended by striking the items relating to sections 321 and 322 and inserting the following:

"321. Acquisition Services Fund.".

(4) Section 573 of such title is amended by striking "General Supply Fund" both places it appears and inserting "Acquisition Services Fund".

(5) Section 604(b) of such title is amended—

(A) in the heading, by striking "GENERAL SUPPLY FUND" and inserting "ACQUISITION SERVICES FUND"; and

(B) in the text, by striking "General Supply Fund" and inserting "Acquisition Services Fund".

(6) Section 605 of such title is amended—

(A) in subsection (a)—

(i) in the heading, by striking "GENERAL SUPPLY FUND" and inserting "ACQUISITION SERVICES FUND"; and

(ii) in the text, by striking "General Supply Fund" and inserting "Acquisition Services Fund"; and

(B) in subsection (b)(2)—

(i) by striking "321(f)(1)" and inserting "321(f)"; and

(ii) by striking "General Supply Fund" and inserting "Acquisition Services Fund".

SEC. 4. PROVISIONS RELATING TO ACQUISITION PERSONNEL.

Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end the following new subsections:

"(i) PROVISIONS RELATING TO REEMPLOYMENT.—

"(1) POLICIES AND PROCEDURES.—The head of each executive agency, after consultation with the Administrator and the Director of the Office of Personnel Management, shall establish policies and procedures under which the agency head may reemploy in an acquisition-related position (as described in subsection (g)(1)(A)) an individual receiving an annuity from the Civil Service Retirement and Disability Fund, on the basis of such individual's service, without discontinuing such annuity. The head of each executive agency shall keep the Administrator informed of the agency's use of this authority.

"(2) SERVICE NOT SUBJECT TO CSRS OR FERS.—An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5, United States Code.

"(3) CRITERIA FOR EXERCISE OF AUTHORITY.—Polices and procedures established pursuant to this subsection shall authorize the head of the executive agency, on a case-by-case basis, to continue an annuity if—

"(A) the unusually high or unique qualifications of an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service, or

"(B) a special need of the agency for the services of an employee,

makes the reemployment of an individual essential.

"(4) REPORTING REQUIREMENT.—The Administrator shall submit annually to the Committee on Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the use of the authority under this subsection, including the number of employees reemployed under authority of this subsection.

"(5) SUNSET PROVISION.—The authority under this subsection shall expire on December 31, 2011.

"(j) RETENTION BONUSES.—

"(1) IN GENERAL.—The head of each executive agency, after consultation with the Administrator, shall establish policies and procedures under which the agency head may pay retention bonuses to employees holding acquisition-related positions (as described in subsection (g)(1)(A)) within such agency, except that the authority to pay a bonus under this subsection shall be available only if—

"(A) the unusually high or unique qualifications of an employee or a special need of the agency for the services of an employee makes the retention of such employee essential; and

"(B) the agency determines that, in the absence of such a bonus, it is likely that the employee would leave—

"(i) the Federal service; or

"(ii) for a different position in the Federal service under conditions described in regulations of the Office.

"(2) SERVICE AGREEMENTS.—(A) Payment of a bonus under this subsection shall be contingent upon the employee entering into a written agreement with the agency to complete a period of service with the agency in return for the bonus.

"(B)(i) The agreement shall include—

"(I) the length of the period of service required;

"(II) the bonus amount;

"(III) the manner in which the bonus will be paid (as described in paragraph (3)(B)); and

"(IV) any other terms and conditions of the bonus, including the terms and conditions governing the termination of an agreement.

"(3) TERMS AND CONDITIONS.—A bonus under this subsection—

"(A) may not exceed 50 percent of the basic pay of the employee;

"(B) may be paid to an employee—

"(i) in installments after completion of specified periods of service;

"(ii) in a single lump sum at the end of the period of service required by the agreement; or

"(iii) in any other manner mutually agreed to by the agency and the employee;

"(C) is not part of the basic pay of the employee; and

"(D) may not be paid to an employee who holds a position—

"(i) appointment to which is by the President, by and with the advice and consent of the Senate;

"(ii) in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a) of title 5, United States Code); or

"(iii) which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.".

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we had discussed, the bill before us is going to provide the General Services Administration with the statutory structure that it needs to bring it in line with the current commercial market transactions, and it is going to streamline its operation and improve its performance. There are no objections to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of H.R. 2066.

The bill before us today, H.R. 2066, the "General Services, Modernization Act" as reported by the Government Reform Committee represents the first major reorganization within GSA in nearly 20 years. The bill would combine, without substantive change, the revolving funds used for the operations of the Federal Supply Service and the Federal Technology Service, both currently separate organizations within GSA. The bill would also authorize a new unit, the Federal Acquisition Service, headed by a Commissioner, to take over the operations of the combined services.

The Federal Supply Service provides an economic and efficient system for the procurement and supply of goods and service to Federal agencies. One way it does this is through the schedules program, which manages long-term, governmentwide contracts for commercial goods and services. This provides customer agencies with benefits of volume discount pricing, lower administrative costs, and reduced inventories.

The Federal Technology Service offers agencies a range of information technology and telecommunications products and services on a number of contract vehicles. Its focus is more oriented toward providing "full service" solutions for IT, telecommunication, and professional services.

While I would have preferred a more thorough analysis of the benefits of the consolidation intended by this bill, the proposal would seem to offer increased organizational efficiency and improved coordination of the functions the Services currently provide.

I look forward to reviewing the detailed reorganization plans GSA is preparing.

The bill also contains provisions which would give civilian agencies additional tools to maintain their acquisition workforces. It would allow agencies to offer retention bonuses and to re-employ retirees in certain special circumstances. I would like to thank the Chairman for working with us to provide appropriate safeguards on the use of this authority, and for accepting a Democratic amendment regarding the appointment of the new Commissioner of the Federal Acquisition Service.

While not directly relevant to this legislation, I would like to take this opportunity to urge GSA to consult more closely with Federal employee unions on its plans for reorganizing. A number of representatives of Federal employees have contacted the committee with concerns about the reorganization. Primary among those concerns is the fact that no one seems to be talking to them about the plans for merging the two services. This approach can only breed distrust and fear, and I urge the Administrator to improve communication with the affected Federal employees.

Mr. TOM DAVIS of Virginia. Mr. Speaker, H.R. 2066, the General Services Administration Modernization Act, was introduced by myself and Armed Services Chairman HUNTER last month and approved by the Committee on Government Reform by unanimous consent on May 5, 2005.

The legislation would authorize a much needed reorganization and streamlining of the General Services Administration, the Federal agency charged with leveraging the Federal Government's buying power to purchase commercial goods and services for the Federal Government at the best value possible in order to maximize the use of taxpayer funds.

This legislation has been under consideration in the Government Reform Committee for a number of years and has been the subject of multiple legislative and oversight hearings. It was also included in the President's budget proposal for fiscal year 2006.

Mr. Speaker, each year GSA buys products and services from the private sector worth well over $30 billion and resells them to Federal agencies through two different Services. The Federal Technology Service uses the Information Technology Fund to purchase information technology, and the Federal Supply Service uses the General Supply Fund to purchase commercial goods and services.

This bifurcated system may have made sense when the IT fund was created two decades ago, when information technology was in its infancy. Today, however, laptop computers, cell phones, and e-mail are as ubiquitous as desks and phones. The business case for a separate system to handle IT goods and services no longer exists. In fact, the bifurcated system has become a barrier to coordinated acquisition of management services and the technology needed to support a total solution.

Since 2002, Administrator Perry has instituted and is currently carrying out an internal reorganization aimed at establishing GSA as a modern enterprise more reflective of the current market. H.R. 2066 would assist those efforts. Critical to Administrator Perry's efforts to modernize the General Services Administration is ensuring that the structural reforms are memorialized in GSA's organic legislation so that the remedies will endure.

To accomplish this, H.R. 2066 would consolidate the Federal Supply Service and the Federal Technology Service into a single entity operating out of a unified fund, providing federal agencies with a one-stop shop to acquire all of their commercial goods and services. This change in statute would provide GSA with the structure it needs to bring it in line with the current commercial market.

Specifically, the legislation would amend the Federal Property and Administrative Services Act of 1949 to create a new "Federal Acquisition Service," to be headed by a high-level Commissioner appointed by the GSA Administrator. H.R. 2066 would also provide that the new Federal Acquisition Service be supported by a newly created "Acquisition Services Fund" consisting of the assets of the old Information Technology and Supply Funds.

In addition, H.R. 2066 would authorize the GSA Administrator to appoint up to five "Regional Executives" for the Federal Acquisition Service to facilitate closer oversight and more management control over acquisition-related activities.

Finally, Mr. Speaker, the General Services Administration Modernization Act would authorize retention bonuses and reemployment relief aimed at maintaining the strength and experience of the Federal Government's civilian acquisition workforce.

The environment in which the Federal Government purchases goods and services has changed dramatically in recent decades. Relegating the Federal agency charged with purchasing goods and services for the rest of the Federal Government to an organizational structure that was constructed to function in a different era is a waste of taxpayer dollars. H.R. 2066 would remove the old structures that inhibit efficient Federal purchases of solutions that are a mix of products, services and technology. The Federal marketplace should reflect the best of the commercial marketplace: both in the products and services we buy and the way we buy them.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I urge all of my colleagues to support H.R. 2066, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the bill, H.R. 2066, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CELEBRATING ASIAN PACIFIC AMERICAN HERITAGE MONTH

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 280) celebrating Asian Pacific American Heritage Month, as amended.

The Clerk read as follows:

H. RES. 280

Whereas the contributions of Asian Pacific Americans to our Nation have been historically significant;

Whereas at the direction of Congress in 1978, the President proclaimed the week of May 4 through 10, 1979, as Asian Pacific American Heritage Week, to provide the people of the United States with an opportunity to recognize the achievements, contributions, history, and concerns of Asian Pacific Americans;

Whereas this seven day period designated Asian Pacific American Heritage Week intended to mark two historical dates—May 7, 1843, when the first Japanese immigrants arrived in the United States, and May 10, 1869, Golden Spike Day, when, with substantial contributions from Chinese immigrants, the first transcontinental railroad was completed:

Whereas in 1992, Congress by law designated that the month of May be annually observed as Asian Pacific American Heritage Month:

Whereas according to the U.S. Census Bureau an estimated 14.5 million United States residents trace their ethnic heritage, in full or in part, to Asia and the Pacific Islands;

Whereas Asian Americans and Pacific Islanders can list innovative contributions to all aspects of life in the United States ranging from the first transcontinental railroad to the Internet;

Whereas in the mid-1700's Filipino sailors formed the first Asian American and Pacific Islander communities in the bayous of Louisiana;

Whereas Asian Americans and Pacific Islanders have added to the vast cultural wealth of our Nation; and

Whereas more than 300,000 Americans of Asian or Pacific Island heritage have bravely and honorably served to defend the United States in times of armed conflict from the Civil War to the present: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes that the United States draws its strength from its diversity, including contributions made by Asian Americans and Pacific Islanders;

(2) recognizes that the Asian American and Pacific Islander community is a thriving and integral part of American society and culture;

(3) recognizes the prodigious contributions of Asian Americans and Pacific Islanders to the United States; and

(4) supports the goals of Asian Pacific American Heritage Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 280.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 280 celebrates Asian Pacific American Heritage Month. The resolution honors the immense contributions that Asians and Pacific Islanders have made to our Nation.

This month, May, is Asian Pacific American Heritage Month, and the theme is "Freedom For All—A Nation We Can Call Our Own."

Today, more than 14 million native Hawaiians, Pacific Islanders and Asians call America their home nation. This legislation is a fitting tribute to our Asian and Pacific Island friends and neighbors. I thank the House leadership, particularly the Majority Leader for scheduling this meaningful resolution today.

Congress first observed this commemoration in 1978 as Asian Pacific American Heritage week during the first 10 days of May. Then, in 1992, Congress expanded the commemoration to designate the entire month of May as Asian Pacific American Heritage Month. The first 10 days of May include two important historical dates, May 7, which in 1843 marked the arrival of the first Japanese immigrants to the United States, and May 10, the date in 1869 on which the first North American transcontinental railroad was completed.

The railway was built heading east from Sacramento, California, and west from Omaha, Nebraska, and converged in Utah thanks to the hard work of thousands of laborers, most of whom were Chinese immigrants.

Mr. Speaker, as the war on terrorism continues today, I also wish to recognize the service that more than 300,000 Asian and Pacific veterans have made throughout American history. From the Army's courageous First and Second Filipino Regiments that General Douglas MacArthur sent to spy behind Japanese lines in World War II, to the indescribable bravery of today's soldier heroes like Marine LCpl Victor Lu and Army SPC Thai Vue, who have lost their lives in the past year in Iraq.

Asian and Pacific Americans have indeed sacrificed so much for our cherished liberty and freedoms. I know that all Members of the House join me in commending the selflessness of these veterans and active duty soldiers.

Mr. Speaker, I thank the distinguished chairman of our Committee on Government Reform, the gentleman from Virginia (Mr. TOM DAVIS) for his hard work on House Resolution 280.

I am pleased to be a cosponsor of the resolution, and I urge all of my colleagues to support its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased and proud to represent an area in Chicago known as Chinatown, and also to note that I just returned during the break from visiting both China and Sri Lanka.

□ 1600

So I rise today in support of H. Res. 280, celebrating Asian Pacific American Heritage Month.

I also want to take a minute to acknowledge the gentleman from Virginia (Mr. TOM DAVIS), the distinguished chairman of the Committee on Government Reform, for his leadership on this important matter.

H. Res. 280 was introduced on May 17, 2005, and enjoys the support and cosponsorship of 66 Members of Congress. Asian Pacific Americans have a long and distinguished history of involvement and participation in this country. From the early 1800s to the 21st century, Asian and Pacific peoples have played a vital role in the development of the United States and have made lasting contributions in all elements of American society.

Today, the U.S. Census Bureau estimates that 14.5 million Americans trace at least a portion of their ethnic heritage to Asian and Pacific Islanders. Asian Pacific American Heritage Month has a rich tradition in this country as well. In June 1977, Representatives Frank Horton of New York and Norman Mineta of California introduced a resolution that called upon President Carter to proclaim the first 10 days of May as Asian Pacific Heritage Week. The celebration remained in this form until President Bush extended the event into the full month of May in 1990.

It was decided that May was the appropriate month for Asian Pacific American Heritage Month because on May 7, 1843, the first group of Japanese immigrants came to the United States. Today, Asian Pacific American Heritage Month is celebrated with events throughout the country intended to educate all of our citizens about the positive impact the Asian Pacific community has had on our Nation. The theme of this year's celebration is Freedom For All—a Nation We Call Our Own.

Mr. Speaker, I want to again thank the gentleman from Virginia (Mr. TOM DAVIS) for sponsoring this measure and thank the Asian Pacific American community for their tremendous contribution to the wealth and success of our great Nation.

I also take a moment of personal privilege to thank a young woman who worked for several years with me as my legislative assistant, Miss Courtini Pugh, who was a member of the Asian Pacific community and is known as one of the most outstanding young persons in America. And so I urge swift passage of this bill.

Ms. BORDALLO. Mr. Speaker, I rise today in honor of Asian Pacific American Heritage Month. I welcome this opportunity to highlight the contributions of Asian and Pacific Islander American communities to our nation.

Asian Pacific American Heritage Month celebrates the contributions that Asian Pacific Islander Americans make in their daily lives. By sharing with us their heritage they bring us a greater understanding and appreciation for what it means to be Asian and Pacific Islanders and proud Americans.

Asian and Pacific Islander Americans have embraced America while honoring their heritage and passing their traditions on to their children. Asian and Pacific Islander Americans also serve our country with pride and distinction in the Armed Forces. I would especially like to honor the uniformed men from Guam who have given their lives to protect our freedom. Army SPC Christopher Wesley, Lieutenant Michael Vega, SGT Eddie Chen, CPL Jaygee Meluat, SPC Jonathan Santos, and Officer Ferdinand Ibabao all paid the ultimate sacrifice while serving in Iraq.

We honor the way the experience of Asian and Pacific Islanders contributes to our national identity because while most of us understand words like freedom and oppression in the abstract, a Vietnamese-American can tell you how the dream of freedom can keep you alive while fleeing oppression on a boat in the high seas. A Chamorro or a Filipino-American who lived through enemy occupation during World War II can help you understand what freedom and liberty means because they had it taken away. If you have never experienced the immediate threat of war to your personal safety, a Korean-American can help you appreciate just how precious peace is. A Chinese-American or a Japanese-American can inspire you with their stories of making good on the American Dream after arriving in the United States without money, friends, or a strong understanding of the English language.

Asians and Pacific Islanders have powerful stories to tell. Their contribution to America is not just the varied foods and diverse cultures they have introduced to this land, it is also the stories of their incredible journeys to freedom.

As we celebrate Asian Pacific American Heritage Month, let us honor the contributions of all Asian and Pacific Islander Americans. Let us appreciate the cultural diversity, the patriotism, and the communities that make America great.

Mr. HONDA. Mr. Speaker, I rise today to honor the contributions of Asian Pacific Islander Americans, APIA. I would like to thank my colleagues for recognizing Asian Pacific American Heritage Month.

Thanks to the late Representative Frank Horton from New York and my good friend, Secretary Norman Mineta, along with Senators DANIEL INOUYE and Spark Matsunaga, May is designated as Asian Pacific American Heritage Month to celebrate and honor the contributions of the APIA community.

In the past year, the APIA community has lost extraordinary community activists, advocates, leaders, and long time friends, such as Fred Korematsu, Dr. Johns B. Tsu, K. Patrick Okura, Iris Chang, and my colleague and friend Congressman BOB MATSUI.

As Chair of the Congressional Asian Pacific American Caucus (CAPAC), I feel privileged to represent a community that is growing exponentially and exceedingly diverse in culture, ethnicities, and language. Today, there are over 12 million APIAs living in the U.S. and representing 4.5 percent of the total U.S. population. By the year 2050, there will be more than 33 million APIAs living in the U.S. My home State of California has both the largest APIA population—4.6 million—and the largest numerical increase of APIAs since april 2000.

I am proud to be a member of the APIA community, because we continue to serve as positive contributors to our many communities by investing in education, business, and cultural opportunities for all americans.

APIAs continue to build clout and power in all sectors of society. For example, APIAs had a purchasing power of $296.4 billion in 2002, up 152 percent from 1990. APIAs in california had the most buying power—$104.1 billion—but APIA buying power is growing fast in places like Nevada, Georgia and North Carolina.

Mr. Speaker, as we honor the 40th anniversary of the Immigration Nationality Act of 1965 and the 30th anniversary of the Refugee Act of 1975 this year, we need to remember that our country was founded and created to protect our freedom and civil liberties. And, as a nation of immigrants we must embrace our diversity.

Embracing diversity also means we need to do a better job of disaggregating data and information about the APIA community. The APIA community is often misperceived as a monolithic racial group and is often seen as the model minority. Aggregating such a large and diverse group makes it difficult to understand the unique problems faced by the individual ethnicities and subgroups, such as the Southeast Asian Americans, who are refugees that fled their home countries during the late 1970s and early 1980s.

The APIA community continues to fight for our civil rights and against any injustices as Americans. Even after the internment of the Japanese Americans during World War II, we as a community did not grow embittered, or cowed by discrimination; instead, we progressed and moved forward.

In closing, this Asian Pacific American Heritage Month, we take pride in our history, accomplishments, and the promise of our future as we continue to pave the way for a better tomorrow in the name of "Liberty and Freedom for All."

Mr. CUMMINGS. Mr. Speaker, as I rise today to recognize Asian Pacific American Heritage Month, one word comes to mind when I think of the people to whom we dedicate this month—and that word is persistence.

From the transcontinental railroad to academy-nominated films, Asian Pacific Americans have helped shape this Nation in incredible ways.

In fact, as many may know, the backbone of our country's railroad system was built with a labor force that consisted of 80 percent Chinese Americans, who prepared the foundation of our railroad tracks by dangling over cliffs with a mere rope tied to their waists on mountains that rose over 7,000 feet.

In literature, we have the contributions of scholarly elites such as Maxine Hong Kingston and Amy Tan, who have opened our eyes to the different practices of the Far East.

In fitness, we are exposed to the discipline of the world of martial arts with disciplines ranging from Tai Chi to Judo. Finally, in philosophy, we are introduced to the idea of Confucius, Sun Tzu, who wrote The Art of War, and Feng Sui to guide our lives.

Not to mention the Chinatowns of our nation, with cuisines ranging from India, Thailand, Korea, Japan, and Vietnam, that has transformed our taste buds with some of the best and most diverse Asian dishes—but more importantly shown the diversity of the continent.

But this wonderful list of Asian contributions did not come without a price. Thousands of Chinese Americans died under dangerous working conditions while building the transcontinental railroad, yet when the railroad was finally completed, they were not even allowed to be a part of the official photograph that documented those involved with the construction. Their names were not mentioned anywhere in news articles, and their faces quickly forgotten in American history.

Chinatowns were created out of necessity as a form of protection from discrimination and a need for survival. Stereotypes that bias our perceptions today came to form as a result of Asian Americans being restricted to specific low-level jobs as deemed appropriate by the majority of the time.

Various anti-immigration laws during the early 1900s ensured racial offenses against Asian Americans were abundant and legal. Our nation should never forget the atrocious violations we imposed on the Japanese Americans during World War II as we shunned them from society as a result of their ethnicity.

Mr. Speaker, despite all the hardship and adversity that Asian Americans have faced during their time in the United States, the persistence and resilience of Asian Americans have allowed them to flourish into the leading minority group they are today.

I encourage my colleagues to learn from the history of Asian Americans in the United States, so that we may avoid the civil rights violations and discriminatory practices that hurt ethnic communities in the name of national security.

I would also like to encourage the future generations of Asian Americans to follow in the footsteps of their ancestors. Persist in your dreams of a fair America, persist in your desires for an equal America, and persist in your fight for an America that is as dedicated and tolerant of you as your ancestors have been with us.

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of the resolution offered by my friend from Virginia, Mr. DAVIS.

I represent approximately 85,000 Asian Pacific Islander Americans in my congressional district in New York City.

I am proud to represent the most diverse congressional district in the country. From the strong Korean community in Elmhurst to the Philippine community of Woodside to Indian American in Jackson Heights to Bangladesh Americans in Parkchester, this district reflects the diversity of the continent of Asia and is a true testament of the American melting pot experience.

Thousands of Asian Americans and South Asians have left their lives behind in their homeland, just as my grandparents did, to make a better life for themselves in New York City. They have succeeded from the shops of 74th Street to the presence of Asians at all levels of law, medicine and commerce in our city. They have also become true stakeholders in our political system.

From the election of Jimmy Meng and John Liu to the New York State Assembly and City Council respectively to Uma Sen Gupta's election as the first Indian American district leader, Asian and South Asians are a vibrant part of not only the culture and economic fabric of our City but the political fabric as well.

Asian Pacific American Heritage month began on June 30, 1977, when the first 10 days of May 1978 were declared Asian Pacific American Heritage week.

Today, there are over 12 million Asian Pacific Islander Americans living in the United States. By the year 2050, there will be an estimated 33.4 million U.S. residents who will identify themselves as Asian alone, which will comprise 8 percent of the total population. This is a projected 213 percent increase of Asian Pacific Islander Americans between 2000 and 2050.

I am proud to represent Asian American and celebrate Asian Pacific American Heritage with all my constituents and colleagues.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I introduced House Resolution 280 to honor the immeasurable contributions of Asian and Pacific Islander Americans to our Nation. I want to specifically thank our distinguished Majority Leader for scheduling this resolution during May, which the Congress has designated as "Asian Pacific American Heritage Month" since 1978.

The month of May is important to Asian and Pacific Islander Americans because of two key events. The first occurred on May 7, 1843, when the first Japanese immigrants to the United States arrived. The second important event took place on May 10, 1869, a day known as "Golden Spike Day," as the first North American transcontinental railroad was completed. The Central Pacific Railroad, which was built heading east from Sacramento, California, and the Union Pacific Railroad, built west from Omaha, Nebraska, met near the Great Salt Lake in Utah. Ever since, the country could be traversed by rail from coast to coast. This momentous accomplishment was made possible by thousands of rail workers, the majority of whom emigrated from China.

Like Black History Month in February, Asian Pacific American Heritage Month was established by an act of Congress. A former member of this body, Frank Horton of New York, led Congress to first establish "Asian/Pacific American Heritage Week" through Public Law 95–419 in 1978. Each year, the Week was to begin May 4 to include the important dates of May 7 and May 10. Then, in 1992, Congress expanded the commemoration to designate the entire month of May as "Asian/Pacific American Heritage Month." I am pleased the House is celebrating this significant designation today.

The Census Bureau revealed last year that 5 percent of the total U.S. population is of either Asian, native Hawaiian or other Pacific island heritage. As an example of their achievements, half of Asian-Americans over age 25 have earned a college degree, the highest proportion of college graduates of any ethnic group in the U.S. The corresponding rate for all American adults is 27 percent.

In addition, as the war on terror continues, it is relevant to recognize the more than 300,000 Asian and Pacific Americans who have served our Nation in the armed forces. Asian and Pacific American service men and women are fighting on foreign soil today, and their sacrifices should be deeply respected. Indeed, they have performed with incredible valor during our Nation's history.

Asian Pacific American Heritage Month 2005 is being celebrated in numerous settings from community festivals to school events across the country. This year's theme—Freedom for All—A Nation We Call Our Own—is very appropriate to the more than 14 million U.S. residents of Asian and Pacific island heritage who call America home.

Mr. Speaker, I urge the adoption of House Resolution 280.

Mrs. NAPOLITANO. Mr. Speaker, I rise today to recognize Asian Pacific Heritage Month and honor the Asian Pacific Americans who make such a positive impact in the State of California and my district.

California is home to more Asian Pacific Americans—4.6 million—than any other State and it has also seen the greatest increase in this population since 2000. In my congressional district, more than 76,000 Asian Pacific Americans contribute to the vibrancy and diversity of our communities. Their effect in the community has also been felt on an economic level, including the many thriving small businesses they run. It has also been felt on a spiritual level, as a number of Buddhist temples—including the Nation's largest in Hacienda Heights—has helped raise cultural awareness throughout our communities.

Since the early 1800's, Asian and Pacific Americans have been crucial to the development of our country. They helped build our transcontinental railroads and have fought for our Nation, beginning with the Civil War. While our country wrongly imprisoned many Asian Americans in internment camps during World War II, Japanese American's and Filipinos valiantly fought for this country and our freedom and continue to do so today.

It took our country much too long a time to apologize and compensate the Asian Americans that were wronged. And it is shameful that the United States continues to fail Filipino veterans by not keeping our promise to give them full veteran's benefits for their service. I am a proud cosponsor of H.R. 302, which would repeal the provisions that deny benefits for those who served our country, fought in the organized military forces of the Philippines and as Philippine Scouts in World War II.

As the chair of the Congressional Hispanic Caucus, I have also seen the same type of barriers placed before our Asian and Pacific American brothers and sisters that have troubled my fellow Latinos. We are working with the Tri-Caucus—consisting of the Congressional Hispanic Caucus, the Congressional Black Caucus and the Congressional Asian Pacific American Caucus—to close the gap in affordable health care coverage and accessibility that continues to heavily impact all of our communities. Together in the last session of Congress, we cosponsored the Healthcare Equality and Accountability Act, H.R. 3459, and expect to reintroduce the bill in the coming weeks. So many issues, especially dealing with healthcare, small business assistance and education difficulties for bilingual students, affect both of our communities.

I am committed to reducing the inequities for all our minority populations. As we celebrate our Nation's Asian Pacific heritage this month, be assured I will continue to work year round to ensure future generations have the tools and opportunities they need to thrive.

Mr. HOLT. Mr. Speaker, this month our Nation pays tribute to the contributions of the Asian American and Pacific Islander community, including immigrants, refugees, and natives. More than 13 million Asian Americans and Pacific Islanders, representing a diverse community of backgrounds, cultures, and experiences, make their homes in the United States. Their unique contributions enhance the moral fabric and character of our great country.

The Asian American and Pacific Islander (AAPI) community is a fast-growing minority group in the United States. Asian Americans and Pacific Islanders are making valuable contributions to every aspect of American life—from business to education to science to the arts. For example, there are now more than 900,000 AAPI-owned small businesses across the country.

As we celebrate the significant progress made by Asian Americans and Pacific Islanders, it is right for us to honor the memory of great leaders of the AAPI community who have passed away recently, and by far one of the greatest was our own Congressman Bob Matsui, who despite imprisonment in an internment camp during World War II, never lost faith in our country, and went on to become a national champion for all of America's seniors. We miss Bob dearly, but the voters of California have blessed us by sending his wife, the Gentlelady from California, Ms. DORIS MATSUI, to carry on his wonderful legacy in this body.

In memory of Bob Matsui and other great figures in the history of our nation, it is only fitting that this year's theme for Asian Pacific American Heritage Month is "Liberty and Freedom for All." In my own district, we have our share of emerging leaders from the Asian community, including my friend Shing-Fu Hsueh, the mayor of West Windsor, who is a model public figure. Like Bob Matsui, Shing-Fu Hsueh is a believer in the American ideal, that anyone—regardless of religion, race, or gender—can realize their dreams for themselves and their children. Unfortunately, the faith of every member of New Jersey's Asian community in that American ideal has been sorely tested recently.

You see, on the very eve of Asian Pacific American Heritage Month, two talk show hosts—whose program airs on one of the largest stations in New Jersey—made a most obnoxious, insulting, and despicable series of anti-Asian statements.

Last month, these shock jocks verbally demeaned Mr. Jun Choi, a Korean-American running for mayor of Edison, New Jersey, mockingly asking their listeners "Would you really vote for someone named Jun Choi?" They then preceded to say that "Americans" should govern our towns, counties, and country—as if Jun Choi, Shing-Fu Hsueh, and the thousands of other hard-working, tax-paying, and participating people of Asian heritage are not real Americans.

I could cite even more examples from this outrageous broadcast but I refuse to demean this House by repeating some of the other language that these two radio racists used. I'm extremely disappointed that the management of the radio station in question, 101.5 FM, has not issued a written public apology to Jun Choi and the entire Asian community. In my judgment it is the absolute minimum they should do, and I also believe the station management should pledge never again to allow such racist rants to be aired on their station.

Mr. Speaker, as the Asian Pacific American community continues to contribute to our society and grow in influence—poltically, economically, and culturally—I am pleased to say that Americans like Jun Choi, Shing-Fu Hsueh, and DORIS MATSUI are indeed taking leading roles in our self-governing country.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 280, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING 57TH ANNIVERSARY OF INDEPENDENCE OF STATE OF ISRAEL

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 149) recognizing the 57th anniversary of the independence of the State of Israel, as amended.

The Clerk read as follows:

H. CON. RES. 149

Whereas in May 1948, the State of Israel was established as a sovereign and independent nation;

Whereas the United States was one of the first nations to recognize Israel, only 11 minutes after its creation;

Whereas Israel has provided the opportunity for Jews from all over the world to reestablish their ancient homeland;

Whereas Israel is home to many religious sites which are sacred to Judaism, Christianity, and Islam;

Whereas Israel provided a refuge to Jews who survived the horrors of the Holocaust and the evils committed by the Nazis which were unprecedented in human history;

Whereas the people of Israel have established a unique, pluralistic democracy which includes the freedoms cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed;

Whereas Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising in its Parliament, the Knesset, a democratic government that is fully representative of its citizens;

Whereas Israel has bravely defended itself from attacks repeatedly since independence;

Whereas the Government of Israel has successfully worked with the neighboring Governments of Egypt and Jordan to establish peaceful, bilateral relations;

Whereas, despite the deaths of over one thousand innocent Israelis at the hands of murderous, suicide bombers and other terrorists during the past 4 years, the people of Israel continue to seek peace with their Palestinian neighbors;

Whereas the United States and Israel enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect;

Whereas the people of the United States share affinity with the people of Israel and view Israel as a strong and trusted ally; and

Whereas Israel has made significant global contributions in the fields of science, medicine, and technology: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the independence of the State of Israel as a significant event in providing refuge and a national homeland for the Jewish people;

(2) praises the efforts of President George W. Bush and Prime Minister Ariel Sharon to create the conditions for peace in the Middle East;

(3) commends the bipartisan commitment of all United States administrations and United States Congresses since 1948 to stand by Israel and work for its security and well-being; and

(4) extends warm congratulations and best wishes to the people of Israel as they celebrate the 57th anniversary of Israel's independence.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H. Con. Res. 149, the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Con. Res. 149 marks the 57th anniversary of the State of Israel. Since its birth in 1948, Israel has stood out as a symbol of morality and courage. It has struggled constantly to maintain its independence, surmounting military attacks from hostile neighbors and prolonged terrorist campaigns.

Even while at war, Israel's democracy and its vibrant diverse and free society have stayed strong. Its doors have remained open to victims of persecution and intolerance around the world. It is the nature of the Israeli nation and the character of the Israeli people that have helped form an unbreakable bond between our nations and our people, and we are proud to call Israel our friend and ally.

The United States and Israel have a long history of friendship and cooperation. In 1948, the United States was one of the first nations to recognize Israel, doing so only 11 minutes after its creation. From that point onward, the relationship between our Nation and Israel has continued to grow.

As the first and only true democracy in the Middle East, Israel is a remarkable example to its neighbors. Israel has an active free press that constantly holds up a mirror to the government and its policies. It holds regular, free, and fair elections and has a transparent independent judiciary. Israel is home to a remarkably diverse and multiethnic society that includes Jews of Middle Eastern descent, Arabs, Druze, and immigrant communities from Russia, Ethiopia, India and, indeed, all parts of the world. Israel exemplifies religious tolerance and respect.

The Israeli people have demonstrated over and over again their commitment to peace and to security in the face of terrorist threats. Israel has worked with the neighboring countries of Egypt and Jordan to establish peaceful bilateral relations and has seen those bonds flourish and strengthen through initiatives such as the Qualified Industrial Zones which have brought prosperity and development to all of the participants involved.

Israel has also continued seeking peace with its Palestinian neighbors, despite the relentless onslaught of suicide bombers that brought the deaths of over 1,000 innocent Israelis over the last 4 years.

Even while facing militant threats from its neighbors, Israel has flourished and has given the world great gifts through its literature and art and through its medical, technological, and scientific advances. The bond between our nations and our people has never been stronger.

Accordingly, I wish to extend my best wishes and congratulations to the people of the State of Israel on their 57th Independence Day and strongly urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

First of all, let me say what an honor and privilege it is to introduce this resolution today with our great chairwoman of our Subcommittee on the

Middle East and Central Asia, my good friend and the gentlewoman from Florida (Ms. ROS-LEHTINEN). We have worked together so well and so closely on the Middle East and other things that it is an honor to do this with her again this afternoon.

I also want to commend my colleague, the gentleman from South Carolina (Mr. WILSON), for introducing this important resolution.

Mr. Speaker, I rise in strong support of this resolution. Fifty-seven years ago, the State of Israel was established as a sovereign and independent state. Rising from the ashes of the Holocaust, Israel represented not only a refuge for Jews of Europe, the Middle East and elsewhere, but the fulfillment of the age-old dream of the Jewish people for a homeland of their own once again after so many thousands of years.

As you may know, Mr. Speaker, the United States was one of the first nations to recognize Israel only 11 minutes after its creation. The home to many religious sites of Judaism, Christianity, and Islam, Israel provides fair and open access for people of all faiths to visit holy places. The people of Israel have established a unique pluralistic democracy. In fact, it is the only true democracy in the Middle East. This includes the rights and liberties cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed.

Today, Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising through its parliament, the Knesset, a democratic government that is fully representative of its citizens. Indeed, Israel and the United States have shared traditions and shared values, and democracy is certainly one of them.

Unfortunately, ever since its independence, Israel has repeatedly, time and time again, been forced to defend itself from attacks. Yet even in the face of this adversity, the government of Israel has successfully worked with the neighboring governments of Egypt and Jordan to establish peaceful bilateral relations.

During the summer of 2000, President Clinton tried to broker a permanent end to the conflict, where the Israelis signed and agreed to a very generous and deep concession. Yet Yasar Arafat rejected the deal, walked out and sparked his terror war. Despite the deaths of over 1,000 innocent Israelis at the hands of murderous suicide bombers and other terrorists since then, the people of Israel continue to seek peace with their Palestinian neighbors.

Regardless, the United States and Israel enjoy a strategic partnership based on shared democratic principles, friendship, and respect. President Bush has said this many, many times. And, indeed, all Presidents of the United States have worked closely with Israel.

Our people share a true affinity of values and view each other as strong and trusted allies. As an American of Jewish heritage myself, I am proud to speak in favor of H. Con. Res. 149, which recognizes the independence of the State of Israel as a significant event in providing refuge and a national homeland for the Jewish people.

The resolution also praises American and Israeli efforts to create the conditions for peace in the Middle East, commends the bipartisan commitment of all United States administrations and United States Congresses since 1948 to stand by Israel and work for its security and well-being, and extends warm congratulations and best wishes to the people of Israel as they celebrate their 57th anniversary of Israel's independence.

Finally, Mr. Speaker, I would like to welcome Prime Minister Ariel Sharon, who is now visiting the United States, and wish him a safe and productive visit. In fact, the APAC conference, which has been going on these past few days in Washington, as we speak, is a reminder of the work that needs to be done to continue to solidify and strengthen the U.S.-Israel relationship.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from South Carolina (Mr. WILSON), the author and the lead sponsor of this concurrent resolution.

Mr. WILSON of South Carolina. Mr. Speaker, I thank the gentlewoman from Florida (Ms. ROS-LEHTINEN) for yielding me this time, and for her leadership on this issue and her leadership on the Committee on International Relations. It is particularly an honor for me to follow my good friend, the gentleman from New York (Mr. ENGEL). It is wonderful we can be here together as Members of the House Israel Caucus.

Mr. Speaker, I urge my colleagues to join me in supporting House Concurrent Resolution 149, which recognizes the 57th anniversary of the independence of the State of Israel. Since its establishment, Israel has served as a trusted home and safe haven for Jews all over the world. After World War II, Israel welcomed Jews who survived the horrors of the Holocaust.

Mr. Speaker, I have visited firsthand to see the country continue to embrace Jews who are eager to reestablish in their ancient homeland. By regularly holding free and fair elections, promoting the exchange of ideas, and vigorously exercising in its parliament, Israel is a shining model of democracy.

The evolution of this great Nation is a true testament to the power of democracy and the resiliency of the people of Israel. Throughout the past 57 years, the relationship between Israel and the United States has continued to strengthen. Israel is a trusted ally of the United States, and our two countries now enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect.

Additionally, I am grateful my home State of South Carolina and my hometown of Charleston were the home of the largest Jewish population in North America at the time of the American Revolution. Its provincial constitution was the first to recognize Judaism to be coequal to Christianity. The first Jew to be elected to public office in North America was in South Carolina. And the first Jewish fatality in the cause of liberty during the American Revolution was a patriot from South Carolina.

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The bonds of Israel and South Carolina are strong.

Today's resolution also commends President George W. Bush of the United States and Prime Minister Ariel Sharon for continuing to work for peace in the Middle East. Despite the deaths of over 1,000 Israelis at the hands of murderous terrorists, the people of Israel continue to seek peace with their Palestinian neighbors. Their perseverance and strong spirit will ensure a bright future for their nation and the Middle East.

As we recognize the 57th anniversary of independence, please join me in extending warm congratulations and best wishes to the people of Israel.

In conclusion, God bless our troops, and we will not forget September 11.

Mr. ENGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to join with my colleagues in congratulating the people of Israel on the 57th anniversary of the independence of the State of Israel. Relationships between Israel and the United States remain strong, based on each country's expressed commitment to democracy, human rights and self-determination for all people.

This past year has been a momentous one for the people of Israel. Israel won its first Olympic gold medal this past summer. Israel won its first Nobel Prize this past year, and the Israeli economy continues to recover.

Israel as a nation continues to thrive. Its people remain strong and optimistic about the future. The negotiated end to violence and Prime Minister Sharon's proposed disengagement plan to dismantle Jewish communities in Gaza and parts of the West Bank move the peace process into a new and uncharted era.

Now the attention of the Israeli and Palestinian peoples turn to the outcome of talks between Israeli Prime Minister Sharon and Palestinian President Mahmoud Abbas as to what will come in the wake of the withdrawal from Gaza.

As we wish the Israeli people mazel tov on the anniversary of their independence, we stand ready to assist in every way in moving the peace process forward toward a permanent end to the violence and toward peace and mutual prosperity for Israel and her closest neighbor, Palestine.

On Sunday of this past week, I had an opportunity to participate with a number of my constituents in a Solidarity Day demonstration in our community. Again, I simply want to congratulate them for their continued steadfastness. I am proud and pleased to support this legislation.

Mr. HOYER. Mr. Speaker, I want to congratulate the citizens of Israel and the entire Jewish community on this 57th anniversary of the State of Israel's founding, also known as Yom Ha'atzmaut.

For 57 years, the Israeli people have faced persistent challenges and threats, and they have prevailed—and will continue to prevail and flourish—because of their unshakable courage and faith in Israel's democratic future.

Israel is today the only true democracy in the Middle East, and the foundation of her government is similar to our own—freedom of religion, freedom of speech, respect for basic human rights and respect for the rule of law. The American-Israel partnership is unbreakable. We are both nations of immigrants. We are safe havens for the oppressed. We are partners for peace. And we are united in fighting terrorism.

I am pleased that once again this summer I will have the opportunity to lead a delegation of Democratic Members of Congress to Israel. Two years ago, I had the honor of leading the largest congressional delegation in Israel's history to the Jewish state. And, I believe it is imperative that our newer Members see Israel's security challenges first-hand and gain a better appreciation of her importance to America's national security interests.

I urge my colleagues to support this important Resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it was Theodore Herzl that said, "im tirtzu ein zo agadah"; if you will it, it is no dream. Today we are here to celebrate his dream and recognize the 57th anniversary of the independence of the State of Israel.

On May 14, 1948, the State of Israel was established as a sovereign and independent nation and the United States was one of the first nations to recognize Israel, a mere 11 minutes after its creation.

Israel has provided a unique opportunity for Jews from all over the world to reestablish their ancient homeland. In addition, it is a home to many religious sites which are sacred to Judaism, Christianity, and Islam and attracts visitors every year.

Israel provided a refuge to Jews who survived the horrors of the Holocaust and the evils committed by the Nazis which were unprecedented in human history. The people of Israel have established a unique, pluralistic democracy which includes the freedoms cherished by the people of the United States, including freedom of speech, freedom of religion, freedom of association, freedom of the press, and government by the consent of the governed.

Israel continues to serve as a shining model of democratic values by regularly holding free and fair elections, promoting the free exchange of ideas, and vigorously exercising in its Parliament, the Knesset, a democratic government that is fully representative of its citizens. Israel continues to bravely defend itself from attacks repeatedly since independence, such horrors that have become a daily reality for the people who live there.

I want to applaud the Government of Israel for successfully working with the neighboring Governments of Egypt and Jordan to establish peaceful, bilateral relations. I have had the privilege of visiting Israel, and hearing firsthand how the government is taking great strides to ensure peace for generations.

The United States and Israel enjoy a strategic partnership based on shared mutual democratic values, friendship, and respect. The people of the United States share affinity with the people of Israel and view Israel as a strong and trusted ally. I hope this friendship continues to grow and blossom for decades to come, as Israel settles itself in a firm place on our global map.

Mr. HOLT. Mr. Speaker, I rise today in strong support of H. Con. Res. 149 which celebrates the 57th anniversary of the independent and democratic State of Israel. Today we remember and pay tribute to the creation of the State of Israel. The United States took only eleven minutes after Israel had been declared a state to officially welcome her into the community of nations. For the last 57 years the United Stated and Israel built a unique and strong and special relationship.

The creation of the State of Israel was a bold step in May of 1948. The first Prime Minister of Israel, David Ben-Gurion, once said that, "courage is a special kind of knowledge: the knowledge of how to fear what ought to be feared and how not to fear what ought not to be feared." It is from such courage that Israel was formed and it is that that continues to maintain Israel as a vibrant and strong democracy today. We can all learn examples from the struggles that the citizens of Israel have endured and the grief they have overcome to remain a democratic outpost in the Middle East.

Yet, much work remains unfinished. We all remain troubled by the continued violence in the Middle East and we all continue to pray for a peaceful end to the years of violence and terror. The United States and our citizens learned all too well about the effects of terrorism on an early morning in September of 2001. In that one day, the nations of the world rallied to our side, offered aid, and pledged to assist us in any way possible. Yet, sadly, events like that September morning have been frequent occurrences in Israel. This fact can to easily be lost as the continued violence and terror is pushed off the front pages of our news papers and out of the nightly news on TV. That is why it is important now, more than ever, to remember and support our strongest and oldest ally in the Middle East.

I am proud to join with my colleagues today to reiterate our continued strong support of Israel, its right to defend itself and its people from terrorism, and to focus on the special relationship that exists between our two nations. I have had the pleasure to travel to Israel on a number of occasions, and these visits have only reinforced my strong conviction that the United States needs to remain a strong partner of Israel and remain actively engaged in negotiating a peaceful and equitable agreement between the parties to this conflict.

Mr. Speaker, I am pleased to support this resolution in celebrating the 57 years of Israel's existence as a beacon of democracy and hope in the Middle East. I also celebrate today the daily courage exhibited by the citizens of Israel and want to express my personal commitment to Israel at this important milestone in its history. I look forward to future anniversaries, and to the day when Israel and her citizens can live in peace without the need for courage against fear.

Mr. VISCLOSKY. Mr. Speaker, I rise today in support of H. Con. Res. 149, a measure recognizing the 57th anniversary of the independence of the State of Israel. It is my honor to recognize this anniversary which marks the restoration of Jewish independence with the establishment of the State of Israel in 1948.

I commend the Israeli people for their remarkable achievements in building a new state and a pluralistic and democratic society in the Middle East in the face of terrorism and hostility. On this occasion, I extend my warmest congratulations and best wishes to the state of Israel and her people for a peaceful, prosperous, and successful future.

Independence Day is a celebration of the renewal of the Jewish state in the Land of Israel, the birthplace of the Jewish people. In this land, the Jewish people began to develop its distinctive religion and culture some 4,000 years ago, and here it has preserved an unbroken physical presence, for centuries as a sovereign state, at other times under foreign control.

On this 57th anniversary of the establishment of the State of Israel, we recognize that the Israeli people have created one of the leading nations in the fields of science, technology, medicine, and agriculture. The people of Israel have established a vibrant and functioning pluralistic and democratic political system that guarantees the freedoms of speech and press, and free, fair, and open elections with respect for the rule of law. With a strong democracy in a troubled part of the world, Israel has absorbed millions of new immigrants from all over the world. Some of these immigrants arrived without a single possession, but Israel welcomed them by providing housing, education, social security, and health care.

I rise also to condemn the rising tide of anti-Semitism around the globe and to demonstrate the United States' lasting bond of friendship and cooperation with Israel, which has existed for the past 57 years.

Mr. Speaker, at this time, I ask that you and my other distinguished colleagues join me in recognizing and paying tribute to the state of

Israel as she celebrates her 57th Independence Day and again extend my warmest wishes for a peaceful and prosperous future. I urge my colleagues to join me in supporting H. Con. Res. 149.

Mr. STEARNS. Mr. Speaker, I rise today in strong support of H. Con. Res. 149, honoring the 57th anniversary of Israel's independence and thank the gentleman from South Carolina for introducing this resolution. From the ashes of the Holocaust, Israel rose to become a shining example of democracy and liberty in a neighborhood otherwise dominated by totalitarian and dictatorially regimes.

The United States and Israel have had a special relationship since modem Israel's founding in 1948. The U.S. was the first country to recognize Israel, only 11 minutes after it was officially created. Since then, the two countries have developed a rock-solid friendship based on shared values and the fundamental principles of freedom and equality.

A strong U.S.-Israel relationship is in the best interest of both countries. Israel stands shoulder-to-shoulder with the U.S. in countering the greatest threats to American interests in the region. When terrorists strike U.S. targets in the region or elsewhere in the world, Israel does not duck for cover but stands by the U.S. Additionally, no other country in the region supports the American position at the United Nations as consistently as Israel.

Israel's 57th anniversary is a great day for not only Israel but for freedom loving people all around the world.

Mr. CROWLEY. Mr. Speaker, I am proud to speak in strong support of the resolution today honoring the 57th anniversary of the Independence of the State Israel.

I congratulate the people of the State of Israel and the greater Jewish community on the 57th anniversary of their Independence.

The creation of the Jewish State in 1948 was met with the immediate support and recognition from the United States, and our country has continued to consider Israel our closest friend and strongest ally.

As Israel continues to fight against terrorist groups, it is more important than ever the United States continues to show our solidarity and provide whatever aid and support both economic and moral, to our friend Israel.

Israel, as the only truly democratic nation in the Middle East should be lauded for 57 years of democracy.

Israel continues to show the world that this small state who has been surrounded by aggressive states for most of its existence is here to stay. I believe the survival of the Jewish state is paramount and the United States must continue to encourage Israel's sustained efforts to defend the freedoms and rights it has secured its citizens.

Since its Independence, Israel has endured the unstable and troubling conditions in the Middle East that have sparked several wars and incited much violence.

Yet the Israeli people remain united and strong and continue to stand up for their nation. That is why I reaffirm the right of the Israeli people to always protect themselves and their state from the forces of terrorism, no matter where it may exist.

Israel is a modern success story, the only democracy in the Middle East, the only Middle Eastern country where Arabs have the right to vote for their elected officials and their political leaders.

Her detractors and those who hide their anti-Semitism behind anti-Zionism must not denigrate the success of Israel. I am proud to be one of Israel's strongest friends in Congress and to wish Israel a hearty Mazel Tov on 57 years of Independence.

Mr. LANTOS. Mr. Speaker, I commend our colleague from South Carolina, JOE WILSON, for his effort in introducing this is resolution and I am delighted to join him extending the heartfelt congratulations of the Congress and the American people to the Israeli people in recognition of the 57th anniversary of their independence, which they celebrated this month.

Mr. Speaker, Israel is a tiny island of refuge in the midst of a roiling sea of hostile neighbors. Although relentlessly under attack since their nation's birth, the Israeli people have succeeded in creating the only democracy in the Middle East, and one of the most prosperous, technologically advanced, and reliably just societies on earth.

In the 57 years of its independence, Israel has absorbed millions of Jewish immigrants from all around the world, including over a million immigrants from the former Soviet Union in just the past 15 years. This is a remarkable and unprecedented achievement for a country whose population was only 600,000 in 1948. Israel has given immigrants the opportunity to live lives of dignity and equality in a free society—people who otherwise would have lived, at best, as second- or third-class citizens in the countries they left behind.

An indication of the vibrancy and vitality of Israeli democracy, Mr. Speaker, is the fact that Israel celebrates its anniversary this year as it prepares to resettle civilian settlements and disengage its military forces from Gaza and parts of the West Bank. This was Prime Minister Sharon's incredibly bold and courageous initiative. It will not be easy to implement, given the determined opposition of a minority of Israelis. But anyone who knows Ariel Sharon has little doubt that the disengagement will happen, just as the Prime Minister intends.

The disengagement from Gaza entails not only political risks for Prime Minister Sharon but also security risks for Israel. It is in our national interest to assist Israel to reduce those risks. The United States stood by Israel when it took courageous steps for peace with Egypt and Jordan, and we will continue to stand by Israel as it undertakes risks in order to make progress toward peace with the Palestinians. The United States is also committed to helping Israel deal with the emerging threats of radical regimes and terrorist organizations in the Middle East.

We must not forget, Mr. Speaker, that progress toward peace has come at a great cost. For the past four and half years, innocent civilians have been murdered by terrorists aiming to destroy the state, and Israelis have been killed only because they were Israelis. By supporting Israel in its struggle for peace, we honor the victims' memory and help to promote better future, both for Israelis and Palestinians and the region.

The establishment of the State of Israel has been a great boon not only for those who live there, but it is of great importance for our nation as well. We treasure Israel as our most loyal ally in the Middle East and as the embodiment of democratic values we cherish. It is no wonder that the United States has played a critical role in supporting Israel's security in a bipartisan fashion. It is a record about which we are justifiably proud and a standard to which we will aspire for years to come.

In recognizing Israeli independence, we reiterate our commitment to ensure the safety and security of the State of Israel for the sake of the Israeli people and for the sake of the American people. The historic ties and friendship between our two democratic states have been a source of great pride for both our nations, and we are committed to maintaining and reinforcing them. As the Israeli people continue to draw inspiration in their struggle for peace and security from their friends and supporters in the United States, the Israeli people should know that Israel has no greater friend and no stronger supporter than the people of the United States of America.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in support of this resolution marking the 57th anniversary of the independence of the State of Israel, and to extend my congratulations to the Israeli people.

Israel has had to overcome many obstacles in its 57 years of existence. On May 14, 1948, Israel proclaimed its independence. Less than 24 hours later, the armies of Egypt, Jordan, Syria, Lebanon and Iraq invaded the country, forcing Israel to defend itself. In what became known as Israel's War of Independence, the newly formed, poorly equipped Israel Defense Forces held off the invaders in fierce fighting, which lasted 15 months and claimed over 6,000 Israeli lives, nearly one percent of the country's Jewish population at the time.

This war characterized the struggles the Israeli people have endured since 1948. However, in the face of this hostility from their neighbors, and the numerous terrorist attacks they have suffered, Israel has maintained the ideals it was founded on, pluralism, freedom, and human rights. Israel has served as a beacon of democracy in the Middle East and its shared values with the United States has led to a natural friendship between the two nations. We in Congress stand firmly behind Israel. The United States has a stake in the future of Israel and in the entire region, and we must make every effort to assist Israel in its struggle for security by helping reach a lasting peace with its neighbors.

Mr. Speaker, the commemoration of the independence of Israel is an important reminder of the contributions of Israel to democracy worldwide. Today, I ask my colleagues to join me in celebrating Israel's independence by supporting House Concurrent Resolution 149.

Mr. NADLER. Mr. Speaker, I rise today to commemorate the 57th Anniversary of Israel's Independence Day.

Having long been the victims of discrimination and persecution, and fresh from the unimaginable horror of the Holocaust, the Jewish people of the world were successful in establishing an independent state in May 1948. Thanks to their heroic efforts, Israel was born as a pluralistic democracy that promotes the values of liberty for all of its citizens. Fifty-seven years later, Israel continues to shine as a beacon of hope in a region too often blighted by oppressive and dictatorial regimes.

Despite Israel's desire for a peaceable existence, its citizens have been the target of violence since the state's inception. These attacks have come from neighboring states, resulting in multiple wars, and from the coordinated efforts of terrorists. Innocent Israeli's have been targeted while going about their daily lives, often during activities as routine as boarding a bus or sitting in an outdoor café.

Yet, despite the recurring waves of terror, the Israeli people have managed not just to maintain their independence, but also to thrive as a society. Israelis find themselves at the leading edge of innovation in the scientific and academic fields. The industrious Israeli people transformed an arid landscape into a model green space dotted with cities rich in diversity and culture. This resilience and vibrancy is a credit to Israel's open system of government, a system that respects and promotes civil rights, free expression, and genuine democratic elections.

I am hopeful that a lasting peace in this troubled region can be reached. However, this cannot come at the expense of Israel's security. I will continue to demand that the Palestinian Authority renounce, immediately and completely, all forms of terrorism.

On this day of independence, Yom Ha'Atzmaut, the United States stands proudly with Israel and remembers the sacrifices made by her founders. In addition, we honor the soldiers and ordinary citizens who have died in defense of freedom. The U.S. takes great pride in our alliance with Israel, and we find great strength in our moral and philosophical ties, as well as our economic and military partnerships. We will continue to act jointly with Israel to preserve her status as a secure Jewish state and a model of democracy for the whole of the Middle East.

I urge my colleagues to support this concurrent resolution.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 149, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ENGEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING THE LIFE OF SISTER DOROTHY STANG

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 89) honoring the life of Sister Dorothy Stang.

The Clerk read as follows:

H. CON. RES. 89

Whereas Sister of Notre Dame de Namur Dorothy Stang, moved to the Amazon 22 years ago to help poor farmers build independent futures for their families, and was murdered on Saturday, February 12, 2005, at the age of 73, in Anapu, Para, a section of Brazil's Amazon rain forest;

Whereas, a citizen of Brazil and the United States, Sister Dorothy worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants, and defends land reforms in Brazil;

Whereas her death came less than a week after meeting with the human rights officials of Brazil about threats to local farmers from some loggers and landowners;

Whereas, after receiving several death threats, Sister Dorothy recently commented, "I don't want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment.";

Whereas Sister Dorothy was born in Dayton, Ohio, entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956;

Whereas, from 1951 to 1966, Sister Dorothy taught elementary classes at St. Victor School in Calumet City, Illinois, St. Alexander School in Villa Park, Illinois, and Most Holy Trinity School in Phoenix, Arizona, and began her ministry in Brazil in 1966, in Coroata in the state of Maranhao;

Whereas, last June, Sister Dorothy was named "Woman of the Year" by the state of Para for her work in the Amazon region, in December 2004, she received the Humanitarian of the Year award from the Brazilian Bar Association for her work helping the local rural workers, and earlier this year, she received an "Honorary Citizenship of the State" award from the state of Para: and

Whereas Sister Dorothy lived her life according to the mission of the Sisters of Notre Dame: making known God's goodness and love of the poor through a Gospel way of life, community, and prayer, while continuing a strong educational tradition and taking a stand with the poor people especially women and children, in the most abandoned places, and committing her one and only life to work with others to create justice and peace for all: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby honors the life and work of Sister Dorothy Stang.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Ohio (Mr. RYAN) and his cosponsors for bringing this important resolution to the floor. I also wish to commend the gentleman from Illinois (Chairman HYDE) and our ranking member, the gentleman from California (Mr. LANTOS), for expediting the consideration of this resolution in our Committee on International Relations.

Sister Dorothy worked in Brazil to directly help the people who are most in need, rural workers and peasants. She showed great personal courage by continuing on in her work with the Pastoral Land Commission despite death threats.

Brazil and the world were shocked when Sister Dorothy was murdered on February 12, 2005. She was 73 years of age. It is fitting and proper that the United States Congress should recognize the extraordinary example that Sister Dorothy set for her countrymen here in the United States and in her adoptive country of Brazil.

Today, we stand together to remember Sister Dorothy's extraordinary life. Perhaps an even more eloquent and lasting testament to Sister Dorothy's memory is the fact that Americans of faith are working every day for their fellow man in the remotest corners of the world. Many are to be found across our own hemisphere. Throughout their good works, they also honor Sister Dorothy's sacrifice.

Mr. Speaker, I am certain my colleagues will join me in strong support of this concurrent resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution. I want to congratulate the gentleman from Ohio (Mr. RYAN) for his leadership in commemorating the life and work of Sister Dorothy Stang.

Mr. Speaker, Sister Dorothy Stang stood firmly on the side of the weak and disposed in the Brazilian rainforest for over 40 years. Her willingness to defend the indigenous people ultimately led to her untimely and tragic death.

Dorothy Stang entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956. In 1966, she began her very important ministry in Brazil.

Sister Dorothy immediately encountered injustices which made her a lifelong crusader for the rights of indigenous minorities and a voice for the voiceless before the powerful Pastoral Land Commission.

In her work, Sister Stang took on powerful land interests, and steadfastly defended small groups of families and their traditional ways of life. Sister Stang taught the local communities ways of sustainable development and peaceful community living.

Because she was a thorn in the side of those powerful interests, Sister Dorothy received numerous death threats, but she always shrugged them off. She did so not carelessly or lightheartedly, but with a deep sense of the importance of her work and the peaceful approach to conflicts she had always promoted.

With the brutal murder of Sister Stang in February, the indigenous communities of the rainforest have lost one of their most powerful voices. Indeed, Brazil has lost one of the most respected human rights leaders.

We call on the Brazilian Government to bring to justice not only the people who pulled the trigger, but also those who devised the evil plot to kill her for sheer financial greed.

Sister Dorothy Stang leaves a huge legacy which puts the burden on the Brazilian and U.S. Governments to protect those communities for whom Sister Stang gave her life.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. RYAN), the author of this resolution.

Mr. RYAN of Ohio. Mr. Speaker, I rise today in support of H. Con. Res. 89, and I thank the gentleman from New York (Mr. ENGEL) and offer very warm thanks to the gentleman from Illinois (Chairman HYDE) and to the ranking member, the gentleman from California (Mr. LANTOS), for their leadership and support on this resolution which honors the life and the work of Sister Dorothy Stang.

I would also like to acknowledge Sister Dorothy's family, her sister, Marguerite, and her family from Fairfax, Virginia, and her brother, David Stang from Denver, Colorado.

Sister Dorothy was an American Catholic nun with the Order of Sisters of Notre Dame de Namur. She was originally from Ohio, but had moved to Brazil nearly 40 years ago with four other sisters of Notre Dame in response to a request from then-Pope John XXIII who asked religious communities around the world to serve in Latin America.

She worked in earnest to profess the order's mission, to educate and stand with the poor. Sister Dorothy also worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants. Sister Dorothy's selfless way of life brought comfort and hope to an area of the world wrought with corruption and despair. She was committed to social justice, and worked tirelessly to help poor farmers with sustainable development techniques, minister and teach the men of the village to be faith leaders, and help in the building of houses and school rooms.

Sister Dorothy taught the women of Brazil to sew and to sell clothing to finance the building of a dam to provide electricity to their community. She pioneered 21 community centers. These centers taught agriculture, health care, education, and spirituality.

Although she was a profound leader and was loved by many, her fate did not parallel her life's work. Sister Dorothy was brutally murdered on February 12 of this year after receiving several death threats from loggers and landowners. Knowing of this grave danger, Sister Dorothy wrote, "I do not want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment."

She then went on to say, "I am grateful to Notre Dame for not asking me to leave. This shows we are aware of the needs of the poor. The Sisters have said they are worried about any safety. It is not my safety, but that of the people which matters."

At the time of her death, Sister Dorothy had just traveled to drop off cloth and food to families whose homes had been burned by ranchers and loggers. She was approached by two gunmen, and knowing her fate, reached into her cloth bag, took out her Bible and began reading the Beatitudes, "Blessed are the peacemakers for they shall be called the children of God."

Sister Dorothy Stang is a true martyr. She lived and died teaching and fighting for peace and justice among a people who were poor and disenfranchised. She lifted up the oppressed and taught people about their rights as human beings. She was named "Woman of the Year" by the state of Para for her work in the Amazon, and in 2004 she received the Humanitarian of the Year award from the Brazilian Bar Association for her work in the region.

Sister Dorothy's dream was to have an area of land set aside by the federal government of Brazil as a federal reserve where the poor families and landless peasants would be safe, where they could farm their land, build their own income-producing businesses, and above all, where they could live in peace and dignity without threats to their lives.

Sister Dorothy reminds us all to be courageous and to work for what we believe in. We must all be champions of our principles and causes, and that our religion is not merely a set of beliefs, but a series of actions. She gave her life to protect the downtrodden and forgotten. While her brutal murder shows the great challenges we face in the pursuit of social justice, her life shows the awesome power one human being has to change the world.

I hope that this simple act of commemoration will not be the end of Sister Stang's story, but the very beginning. That Congress will use this opportunity to demonstrate its concern for inequality and poverty all over the world by making available the resources needed to combat these social ills.

Finally, Mr. Speaker, President Kennedy once said in a speech at Amherst College, honoring Robert Frost, that "A nation reveals itself not only by the men it produces, but also by the men it honors, the men it remembers."

Today we honor a fearless, selfless defender of peace, a champion in sustainable development, a person affectionately known as "Irma Doroty," and "Angel of the Amazon," a brave martyr, Sister Dorothy Stang.

Mr. TURNER. Mr. Speaker, I am an original co-sponsor of H. Con. Res. 89, legislation to honor a truly distinguished native of the city of Dayton, which I represent in Congress, Sister Dorothy Stang.

Sister Stang was brutally murdered in Brazil on February 12. She was a Sister of Notre Dame de Namur, and had moved to the Amazon region of Brazil 22 years ago to help impoverished families in the Amazon learn how to engage in sustainable farming, and help them in their struggle for land rights. It was while she was working for the poor that she was murdered. It was as Sister Stang was traveling to a meeting of impoverished farmers that two gunmen approached her. Sister Stang read from the Bible to the gunmen, who nevertheless shot her several times.

Sister Stang's commitment to the poor, her quest for fair treatment of those who felt they did not have a voice, and her belief in the power of faith serve as an example from which we all can draw valuable lessons. It is fitting that the House of Representatives will vote today to draw the attention of the Congress and our Nation to the life of this selfless and inspirational woman.

□ 1630

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 89.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

URGING ROMANIA TO PROVIDE RESTITUTION TO RELIGIOUS COMMUNITIES

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 191) urging the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania, as amended.

The Clerk read as follows:

H. RES. 191

Whereas the establishment of a Communist government in Romania after World War II proved disastrous for established religious institutions;

Whereas a central element of persecution by the Communist government in Romania was the uncompensated confiscation of real and personal property from religious communities and from leaders of religious communities, and the arrest and persecution of religious leaders;

Whereas 2,140 schools, hospitals, orphanages, and other charitable and civic institutions were illegally confiscated under communism from the four historic Hungarian churches (Roman Catholic, Hungarian Reformed, Evangelical Lutheran, and Unitarian) and actual possession and use of such properties has been denied in all but 30 cases;

Whereas Romania's wartime Fascist government began the process of confiscating Jewish property in September 1940 and its postwar Communist government reaffirmed most of these confiscations;

Whereas only a handful of Jewish communal properties have been restituted, often with government agencies still using the facilities and paying no rent, and over 1,000 communal properties remain in the possession of the Government of Romania;

Whereas some Jewish claims have been willfully ignored for years, such as in the case of agricultural land in Iasi, where municipal authorities continue to sell parcels of this land;

Whereas on January 2, 1990, under terms of Decree-Law 126/1990, the 1948 decree which dissolved the Romanian Greek Catholic Church was abrogated, permitting Greek Catholics again to worship openly, and legal provisions and procedures were established for the return of confiscated properties that before 1948 belonged to the Greek Catholic Church;

Whereas the commission established under Decree-Law 126/1990 composed of representatives of the Romanian Government and Greek Catholic Church has proven ineffective in resolving disputed claims;

Whereas Romanian Law No. 501/2002, providing for the restitution of religious properties, was adopted in June 2002 without consultation with the affected religious communities, does not effectively meet the needs of those communities, contains numerous legal deficiencies, and is delayed in its implementation;

Whereas all of the religious communities have demanded the return of property seized by the Romanian Communist government;

Whereas since 1990, post-Communist countries in Central and Eastern Europe have grappled with the question of how to redress these wrongful confiscations of religious property, but Romania has lagged significantly behind other post-Communist countries;

Whereas since the early 1990s, the United States Commission on Security and Cooperation in Europe has monitored the property restitution and compensation efforts being made by the governments of post-Communist countries in Central and Eastern Europe;

Whereas with respect to the role of the Romanian courts in the restitution process, the Chairman of the United States Commission on Security and Cooperation in Europe observed: "In the mid-1990s . . . hundreds of court decisions in favor of property claimants were reversed by the Supreme Court after they had become final and irrevocable judgments. The European Court of Human Rights has recently ruled that these actions violated the European Convention on Human Rights."; and

Whereas Article 18 of the Universal Declaration of Human Rights provides that "[e]veryone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.": Now, therefore, be it

Resolved, That the House of Representatives—

(1) notes with concern the unwillingness of past governments of Romania to recognize the responsibility to provide equitable, prompt, and fair restitution of religious property that was confiscated by the former Communist government of Romania;

(2) calls on the Government of Romania—

(A) to respect the constitutional rights of existence and practice of all religious communities to celebrate and practice their own religion in respectable locations, the right to propagate the given beliefs, and the right to openly communicate the beliefs and laws of the religion;

(B) to provide fair, prompt, and equitable restitution to all religious communities under Romanian law and in accordance with the Constitution of Romania and all applicable international agreements to which Romania is a party; and

(C) to provide restitution for the property rights of all agricultural and forestry lands belonging to religious communities;

(3) calls upon the Government of Romania to amend Decree-Law 126/1990 to require that claims involving Romanian Greek Catholic properties be heard by an independent, disinterested, nonreligious commission, and calls upon the Government of Romania to prevent the demolition of Greek Catholic churches and to provide immediately for the security of all Greek Catholic churches and other religious buildings dating from the 18th and 19th centuries; and

(4) with respect to Romanian Law No. 501/2002, calls upon the Government of Romania—

(A) to amend the law to reflect the principle of "restitution in integrum" as urged by Resolution 1123/1997 of the Parliamentary Assembly of the Council of Europe and to restore full ownership of all property and all rights emanating from such ownership;

(B) to amend the law to reduce the five-year period to one year during which public institutions can continue to occupy confiscated religious properties;

(C) to amend the law to include compensation, according to an equitable formula, for demolished religious properties;

(D) to increase to fair market value the amount of rent paid to religious communities for properties of which they cannot immediately regain use under law;

(E) to eliminate the practice of requiring monetary compensation from religious communities to cover state costs for maintenance and "improvement" of the buildings since their confiscation in the 1940s; and

(F) to obligate local government officials, bodies, and agencies to provide all necessary documentation and cooperation to facilitate the implementation of decisions issued by the central government's Special Restitution Committee and to cease posing court challenges and other obstacles against such implementation.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 191. This resolution was introduced by the distinguished gentleman from California (Mr. LANTOS). House Resolution 191 urges the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania.

Specifically, this resolution expresses concern at the unwillingness of past governments of Romania to provide restitution of religious property that was confiscated by former Communist government officials of Romania. A central element of persecution by the Communist government in Romania was the uncompensated confiscation of property from religious communities and religious leaders, and the arrest and persecution of religious leaders. After the collapse of the Communist regime in Romania in 1989 and 1990, the new government of Romania adopted legislation to provide for the restitution of religious property seized during the previous 45 years of Communist rule. That legislation has been poorly and slowly implemented by Romanian governments over the past 15 years, and very little of this property has been returned to Romania's religious communities.

The religious communities that have been adversely affected include the Romanian Greek Catholic Church, the Roman Catholic Church, the Hungarian Reformed Church, the Evangelical Lutheran Church, as well as the Unitarian

Church, the Jewish community, and other religious communities. Given the inherent injustice in the confiscation of these properties as well as Romania's desire to engage with other democracies through Euro-Atlantic institutions such as NATO and the European Union, Romania must take steps to accelerate the return of these properties to their rightful owners.

Mr. Speaker, it is time for the government of Romania to face its responsibilities and implement what is necessary to resolve these issues. I urge the adoption of this important resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume. I rise in support of House Resolution 191.

I first want to thank the gentleman from Illinois (Mr. HYDE) for his effort in bringing this resolution forward for action in the House today. I also want to acknowledge our colleagues who introduced this legislation: the gentleman from California (Mr. LANTOS) and the gentleman from Colorado (Mr. TANCREDO). As our colleagues know, the gentleman from California (Mr. LANTOS) has had a longstanding interest and concern for Central Europe and these issues involving religious liberty.

Mr. Speaker, freedom of religion is one of the most important of the blessings of liberty that is assured to us in the United States by the first amendment to our Constitution. It is also a freedom that is explicitly guaranteed in the universal declaration of human rights. Article 18 states: "Everyone has the right to freedom of thought, conscience and religion and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

It is not enough, Mr. Speaker, for men and women to have freedom of conscience to believe what they choose. It is also essential that they have the right to join with others of like mind to practice and worship together as a religious community; and for this right to be meaningful, they must have the right to control property that they can use for religious, charitable, and educational purposes consistent with their beliefs.

The important resolution that we are considering today goes to the heart of this problem, and it raises serious questions about continuing difficulties of some religious communities in Romania. Romania, like many other countries in Central and Eastern Europe, faced four and a half decades of Communist rule, and Communist Party leaders feared that religion would undermine their authoritarian rule. As a result, most religious property in the country was seized by the Communist government.

Following the collapse of Communist rule, the countries of Central and Eastern Europe have all had to deal with the restitution of property to religious communities, and it has been a difficult and complex process everywhere. In Romania it has been more complex and much slower than elsewhere. For this reason, the resolution before us today urges the Romanian government to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania.

Mr. Speaker, the resolution singles out the three categories of religious communities for whom restitution has been particularly slow and unsatisfactory in Romania. The Jewish community saw its properties confiscated beginning in September 1940 under the Fascist government that preceded the Communist government, but the Communist government reaffirmed these confiscations after it came to power. Only a handful of Jewish communal properties have been restituted and over 1,000 communal properties are still under government control.

The religious communities of the Hungarian ethnic minority have also faced the same problem. Over 2,000 schools, hospitals, orphanages and other charitable and civic properties were seized from the Roman Catholic Church, which in Romania is primarily Hungarian; the Hungarian Reformed Church; the Evangelical Lutheran Church; and the Hungarian Unitarian Church.

The third community is the Greek Catholic Church, a community which is united with the Roman Catholic Church but which observes the Greek Orthodox liturgy. In 1948 the Greek Catholic Church was dissolved, and its members were forcibly merged with the Romanian Orthodox Church and its properties either seized by the government or given to the Romanian Orthodox Church. In 1990 the Romanian Government adopted legislation to recognize the Greek Catholic community and permit its members to worship openly. Unfortunately, the legal provisions to resolve property restitution have been singularly unsuccessful.

Mr. Speaker, the European Court of Human Rights and the Commission on Security and Cooperation in Europe have both criticized the succession of Romanian governments' failures to satisfactorily deal with the problems. House Resolution 191 urges the recently elected government to take the initiative and work to solve religious property restitution. The government has recently adopted legislation that attempts to deal with some of the issues, and we welcome that effort to put better legislation in place to solve these problems. It will require active and continuing efforts, however; and we urge the government to take those steps.

Members of all of these religious communities in Romania have immigrated to the United States over the past century and even before, and most of the Members of this Congress have constituents who have expressed concern to us about these issues. Mr. Speaker, this resolution reflects the legitimate interests and concerns of American citizens. Let me also add that since Romania is now a member of NATO, it has an urgent responsibility and an extra responsibility to perform its responsibilities. We in the United States are looking to Romania as a NATO member, a fellow NATO member, to now act accordingly.

Mr. Speaker, as a cosponsor of this resolution, I urge my colleagues to support it.

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to be a cosponsor of this bill, and I commend Mr. LANTOS and Mr. TANCREDO for bringing this matter before the Congress. The process of providing restitution or compensation for property confiscated by former regimes in Romania has been slow, complicated and difficult. We have raised concerns about this with Romanian authorities for many years now.

As of July 2003, more than 200,000 claims for property restitution had been filed in Romania by individuals, and more than 7,000 claims had been filed by religious denominations and communal groups. As the bill indicates, the historic Hungarian churches—including the Evangelical Lutheran, Hungarian Reformed, Roman Catholic and Unitarian—lost more than 2,000 schools, hospitals, orphanages and other institutions under the communist regime in Romania.

Jewish communal properties were decimated by the Fascist regime that ruled Romania during World War II, and those confiscations were reaffirmed by the postwar communist government. Mr. Speaker, the status of more than 1,700 Jewish communal properties remains unresolved.

Further, the plight of Romania's Greek Catholic (Uniate) Church, which was banned by the Communist government in 1948, is particularly distressful. More than 2,000 churches and other buildings seized from the Uniates were given to Orthodox parishes. The government decree that dismantled the Greek Catholic Church was abrogated in 1989; however, fewer than 200 of their confiscated properties have been returned.

Mr. Speaker, I was pleased that the new Government of Romania recently announced the creation of the National Authority for Property Restitution to implement Romania's property restitution laws, and it is my understanding that next week a legislative package designed to remedy these property issues is expected to be introduced. Apparently special attention will be paid to properties once belonging to religious communities and national minorities. The goal is for all outstanding claims to be resolved by the end of 2006. This would be a welcomed achievement.

For 15 years, these property claims have been a source of anguish and frustration for so many Romanians. The political will being demonstrated by President Basescu and his government is commendable. Mr. Speaker, I join my colleagues in this action today, encouraging the Romanian authorities to provide equitable, prompt, and fair restitution of the confiscated properties.

Mr. CARDIN. Mr. Speaker, I rise in support of H. Res. 191 and I commend Mr. LANTOS and Mr. TANCREDO for bringing the issue of property restitution in Romania before the Congress.

More than 15 years since the fall of the communist regime in Romania, tens of thousand of claims for the restitution of, or compensation for, property remain unresolved. This situation is a source of anger and resentment for many citizens and, in my view, a destabilizing factor in Romanian society.

To date, more than 200,000 individual claims for property restitution have been filed with only 15,000—or 7 percent—resolved. The situation for religious and communal properties is equally as dismal. Of the more than 7,500 claims for communal properties, less than 600 have been approved for restitution.

The resolution before us addresses the plight of religious and communal properties in Romania.

Jewish citizens of Romania suffered the appropriation of all of their personal and communal property by the fascist regime that ruled the country during World War II, only to have these confiscations confirmed by the post-war communist government that ruled Romania until the fall of Ceausescu in 1989. To date, the status of more than 1,700 Jewish communal properties remains unresolved.

Romania's Greek Catholic (Uniate) Church has essentially been caught in a "catch twenty-two" for the past decade and a half. The Greek Catholic Church was banned by the Communist government in 1948 and more than 2,000 churches and other buildings seized from them were given to Orthodox parishes. In 1989, the government of Romania annulled the earlier decree, yet to date, fewer than 200 of the Greek Catholic properties have been returned to the community. Successive Romanian administrations have maintained that even though it was a government decree that confiscated the Greek Catholic property, the government has no responsibility to secure the return of those properties to the community.

I am advised that the new Government of Romania under President Basescu is taking administrative steps to resolve this crisis as soon as possible and that draft legislation to rectify the shortcomings of current law will be introduced in the near future. I urge the government of Romania to act expeditiously and to ensure a fair and equitable property restitution regime for all of its citizens.

Mr. LANTOS. Mr. Speaker, I want to acknowledge the cooperation of our distinguished colleague from Colorado, a member of the International Relations Committee, Mr. TANCREDO, for his excellent cooperation and work in behalf of H. Res. 191. I also want to thank my friend Chairman HENRY HYDE for his support in bringing this resolution to the floor today.

It is unconscionable, Mr. Speaker, that a decade and a half after the end of the Communist regime in Romania we are still dealing with the problem of the restitution of religious property. The Communist government in Romania, as well as Communist governments elsewhere in Central and Eastern Europe, wanted no challenge to their authority, and throughout that area all religious groups were systematically and meticulously brought under government control. As part of that process, most religious properties were confiscated by the Communist governments for state or party use. In Romania, that amounted to the government seizure of literally thousands of religious schools, hospitals, orphanages, and other properties that religious communities used for charitable and humanitarian purposes.

With the fall of the Communist governments in 1989, new democratic governments have had to deal with the restitution of this property to the religious communities. Unfortunately, Mr. Speaker, the process in Romania has been slower and less equitable than most other post-communist countries. A series of Romanian governments since 1990 have failed to achieve a successful and fair resolution of this problem, which the European Court of Human Rights and the Commission on Security and Cooperation in Europe both have criticized. Resolution 191 urges the recently elected government to take the initiative and work to solve religious property restitution.

Mr. Speaker, after Congressman TANCREDO and I introduced this resolution, the recently elected Government of Romania adopted legislation to deal with some of the issues that our resolution discusses, and we welcome that effort. Legislation, as we have seen, is not necessarily the solution to the problem. It will require active and continuing efforts on the part of the government to solve these problems, and we urge Romanian officials to work actively and aggressively to take the steps necessary to deal with restitution in a fair and equitable manner.

This problem essentially involves all of the religious communities in Romania other than the Romanian Orthodox Church.

The Jewish community saw communal properties confiscated by the Fascist Romanian government beginning in 1940, and these seizures were reaffirmed by the Communist government when it came power after 1944. Today over 1,000 Jewish communal properties remain under Romanian Government control, properties have not been restored to communal ownership, and no rent or compensation is being paid to the community for their continued use.

The four historic Hungarian religious communities—the Roman Catholic, the Hungarian Reformed, the Evangelical Lutheran, and the Unitarian churches—lost over 2,000 schools and other buildings used for charitable and humanitarian activities. Possession and use of these properties by government entities continues today in all but about 30 instances.

The Greek Catholic Church in Romania is one of the most complicated and clearly one of the most frustrating cases. In 1948, the Greek Catholic Church, which recognizes the authority of the Pope in Rome but uses the Greek Orthodox liturgy, was forcibly merged with the Romanian Orthodox Church, and its properties were merged as well or seized by the government. In 1990 the decree of 1948 was abrogated, but untangling the properties after more than a generation has been extremely difficult.

Mr. Speaker, we have seen Romanian governments delaying and postponing restitution, the Romanian courts have reversed cases that had already been resolved, and inaction by government officials have prevented equitable resolution of the vast majority of these property claims. The European Court of Human Rights ruled that the actions of various Romanian governments in religious property restitution cases in the mid-1990s "violated the European Convention on Human Rights."

Our resolution calls upon the Romanian Government to respect and resolve these religious restitution cases in a fair, prompt and equitable manner. In the case of the Greek Catholic Church, it calls upon the government to amend fundamentally the legislation establishing a commission for resolution of conflicting claims. In cases where property cannot be restituted within a period of one year, our resolution calls for fair compensation until the restitution can be carried out.

Mr. Speaker, I urge all of our colleagues to support this resolution urging the Government of Romania to recognize its responsibilities to provide equitable, prompt, and fair restitution to all religious communities for property confiscated by the former Communist government in Romania.

Mr. ENGEL. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 191, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

URGING WITHDRAWAL OF SYRIAN FORCES FROM LEBANON

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 273) urging the withdrawal of all Syrian forces from Lebanon, support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon, as amended.

The Clerk read as follows:

H. Res. 273

Whereas the people of the Lebanese Republic have a rich, proud, and honorable history dating from ancient times to the present;

Whereas Lebanon and the United States have enjoyed a history of friendship and cooperation which has been marked by the immigration of many Lebanese to the United States where they and their descendants have contributed greatly to the fabric of American life;

Whereas Syria has dominated the Lebanese political scene, resulting in a deterioration of Lebanon's human rights situation, the manipulation of Lebanese election results to meet Syria's requirements, and the imposition of curbs on Lebanon's media, once the freest in the Arab world;

Whereas Syria has publicly withdrawn its military forces from Lebanon, leaving behind, however, an intelligence structure;

Whereas Congress conditioned the lifting of sanctions on Damascus in the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108–175) upon the Government of Syria ending its occupation of Lebanon (including the complete withdrawal of intelligence and all other security-related personnel in Lebanon) and upon other factors;

Whereas the international community has, through the passage of United Nations Security Council Resolution 1559 (2004), reaffirmed its call for the strict respect of Lebanon's sovereignty, territorial integrity, unity, and political independence under the sole and exclusive authority of the Government of Lebanon;

Whereas there remains unresolved and as a matter of national and world concern the assassination of Rafiq al-Hariri, former Lebanese prime minister, which has justly been condemned as a terrorist act;

Whereas the international community has begun investigations into the assassination of Rafiq al-Hariri and it is the policy of the United States to urge full cooperation with the investigations;

Whereas the international community is considering further action to promote Lebanese sovereignty;

Whereas the emancipation of political prisoners and detainees held in Syrian and Lebanese prisons is a precondition for national reconciliation and a rebuilding of Lebanon's democratic institutions; and

Whereas general elections in Lebanon are scheduled to begin on May 29, 2005: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) Syria should complete its withdrawal of all remaining intelligence and security forces from the Lebanese Republic in accordance with United Nations Security Council Resolution 1559 (2004);

(2) Lebanon should allow unfettered access to international monitors present for the purpose of verifying compliance with United Nations Security Council Resolution 1559 (2004);

(3) Lebanon should hold free, fair, and transparent elections to begin on May 29, 2005, in accordance with all international standards and agreements;

(4) the United States should aid the people of Lebanon in their efforts to restore the separation of powers, the rule of law, and a proper respect for fundamental freedoms of every citizen; and

(5) it should be the policy of the United States Government to—

(A) support free and fair elections in Lebanon by encouraging international election assistance and observers;

(B) support a national dialogue that transcends sectarian divisions and urge the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon; and

(C) call for the immediate release of all political prisoners and detainees held in Lebanese and Syrian prisons.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Today I stand here filled with emotion and hope. When the gentleman from New York (Mr. ENGEL) and I began working on legislation that expressly called for Syria's full and unconditional withdrawal from Lebanon toward the restoration of the Lebanese independence, we could not have imagined that this day would come just a few years later. This is a testament to the unwavering commitment, determination, and courage of the Lebanese people and to the tireless efforts of the Lebanese-American community in the United States.

The elections scheduled to begin on May 29 mark a very important moment; but it is only the beginning of a journey toward full sovereignty and free, democratic governance. Electoral reform is necessary to ensure that future parliamentary and municipal elections are to be considered fair. We must help the Lebanese people in their quest for a free and fair electoral law as opposed to the current Syrian-orchestrated 2000 law that discriminates against certain sectors of Lebanese society and would actually help perpetuate Syrian influence in Lebanese politics.

The resolution reflects our commitment to supporting the people of Lebanon in their quest to strengthen civil society, develop democratic institutions and safeguards, and transcend sectarian divisions. A free and democratic Lebanon would have the potential to become a model for the region and a source for stability and peace.

Within this context, we must work to ensure full and immediate implementation of all aspects of U.N. Security Council Resolution 1559, beginning with international verification that Syria has withdrawn all security and intelligence forces from Lebanon. That must include the removal of pro-Syrian security officers such as the military intelligence chief, the police chief, the directors of general security and state security. United Nations Security Council Resolution 1559 clearly calls for free and fair elections devised without foreign interference and influence. We must safeguard against manipulation of the election registration process to allow Syria to keep its tentacles in Lebanese politics.

Simultaneously, steps must be undertaken, both bilaterally and in consultation with European allies and the United Nations, to ensure the immediate and unconditional disarming of all militias and terrorist organizations prior to the next round of elections.

The people of Lebanon should not have to live under repressive terrorist organizations any more than being forced to live under an oppressive Syrian-sponsored regime. For freedom and justice to fully blossom in Lebanon, all Lebanese prisoners of conscience held in Syrian and Lebanese jails must be released and the disappeared must be fully accounted for.

☐ 1645

The policy of apathy must end.

Lebanon was once a land of promise, a vibrant democratic society known as the "Paris of the Middle East." Ending the occupation and conducting free, fair, and transparent elections would take a quickly recovering Lebanon one step closer to realizing its full promise.

To the people of Lebanon, I would like to say that they are an inspiration to us all. They remind us of how precious liberty is; and we assure them, as they stand for their freedom, the United States will stand with them.

I want to thank the distinguished gentleman from Michigan (Mr. MCCOTTER) for introducing this important resolution. It was a pleasure working on this text with the gentleman from Michigan (Mr. MCCOTTER) and the gentleman from New York (Mr. ENGEL), my partner on all of these issues. My utmost appreciation goes to the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS), ranking member of the Committee on International Relations, as well as to our leadership for moving this resolution expeditiously and bringing it to the floor.

I urge my colleagues to support this measure and, in turn, to support the Lebanese people in their efforts to cast off the shackles of tyranny and occupation.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution. I would first like to commend the gentleman from Michigan (Mr. MCCOTTER) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) for their work on this important resolution.

And let me say that I quite agree with the gentlewoman from Florida (Ms. ROS-LEHTINEN), my dear friend; when we worked together on the Syria Accountability and Lebanese Sovereignty Restoration Act, we knew that we were doing the right thing. We absolutely made the Syrian withdrawal of Lebanon one of the four pillars of that act. But even in our wildest expectations and dreams, we could never have imagined the series of events since the passage of that act, which leads today to freedom for the Lebanese people. And I want to thank my colleagues for standing with us and passing the Act, giving it bipartisan support and enabling us to bring forward this resolution today.

It is an honor to stand on the floor of the House today, approximately 1 month after the Syrian armed forces ended their military occupation of Lebanon. Lebanon is at a crossroads, a place from which it can move forward towards democracy and freedom or take steps back toward the violence which tore it apart so many years ago.

The people of the Lebanese Republic have a rich, proud, and honorable history dating from ancient times to the present, and Lebanon has been a free and democratic nation for most of its modern history. Lebanon and the United States have enjoyed a history of friendship and cooperation which has been witnessed by the immigration of millions of Lebanese to the United States where they and their descendants have contributed greatly to the fabric of American life.

Let me say, Mr. Speaker, that in my years in Congress, I have had the honor and the pleasure to make many friends in the Lebanese American community, and I am proud of the contributions they have made to our country and American policy toward Lebanon. The Lebanese American community was a very important part of the Syria Accountability Act, and the Lebanese American community has played and is continuing to play a very important part in the freedom and democracy of Lebanon.

However, tragically, Syria dominated Lebanese politics and political leaders during its occupation, resulting in a deterioration of Lebanon's human rights situation, the engineering of Lebanese election results to Syria's liking and the imposition of curbs on Lebanon's media, once the freest in the Arab world.

Lebanon, in effect, became a Syrian satellite state where none of its leaders would dare defy the Syrian regime in Damascus. Yet a series of events caused pressure on the Syrian regime to grow. Beginning with the passage of the Syria Accountability and Lebanese Sovereignty Act, Congress showed very strongly that we would not tolerate this continued Syrian occupation of Lebanon.

While Syria could have made smart choices at any point, it never did, and pressure continued to grow for its full withdrawal from Lebanon, again with the President's signing the Syria Accountability Act 1 year ago. Our law ultimately led to the Security Council's adoption of Resolution 1559, which demanded Syria's withdrawal from Lebanon and the disarmament of Hezbollah and other armed groups.

Yet the most recent developments in the effort to press Syria to leave Lebanon were sparked by the terrorist murder of former Prime Minister Rafik Hariri in Beirut. His assassination, which must still be thoroughly investigated by Lebanon and the international community, triggered a series of popular protests with hundreds of thousands of Lebanese taking to the streets. At one point in one of the demonstrations, literally one-quarter of the entire population of Lebanon took to the streets of Beirut to demand that the Syrian occupation end.

Yet, while Syria has today withdrawn its military forces from Lebanon, reports indicate that it has left behind a pro-Syrian intelligence structure within the Lebanese intelligence agencies. There are lots of spies, Syrian spies, still in Lebanon and lots of Syrian nationals still in Lebanon trying to control things. These people must leave, as well, and the sooner the better.

And it must be pointed out, Mr. Speaker, that not all parts of Security Resolution 1559 have been implemented. Hezbollah, the terrorist organization which receives support from Iran and Syria, remains armed to the teeth and occupies much of southern Lebanon. As Hezbollah has not given up its weaponry and its intent to maintain a military answer to the political questions of the Middle East, Hezbollah must remain completely isolated by the international community.

Earlier this year, the House passed a resolution urging the European Union to put Hezbollah on its terrorist list. As we consider this resolution today, let us renew that call. Hezbollah is a terrorist organization.

Finally, all political prisoners and the "disappeared" must be released and returned to their families. They are still existing in Lebanon, and we must get to the bottom of the disappeared people as well.

Today, the United States must stand for the same basic values in Lebanon to which we adhere at home and around the world.

Mr. Speaker, Lebanon is scheduled to hold elections on May 29, this Saturday. As such, Congress stands with the Lebanese people as they proceed to restore democracy in their once again sovereign nation. It is our hope that the upcoming elections will be free, fair, transparent, and in accordance with all relevant international standards on elections.

However, I must express one note of concern about the elections. The electoral districts in which Lebanese candidates for parliament run later this week were drawn in accordance with the 2000 electoral law, which was written by the Syrian-dominated regime during the occupation. I am concerned that this has deprived many Lebanese from true representation as the districts were apparently drawn unfairly, packing certain groups of people into some districts while underrepresenting others. However, once these elections are completed, the United States should help the people of Lebanon in their efforts to restore the separation of powers, the rule of law, the changing of these districts, and the proper respect for fundamental freedoms of every citizen. As goes the rule of law in Lebanon and the respect for individuals, so goes the nation.

Mr. Speaker, as the sponsor, with the gentlewoman from Florida (Ms. ROS-LEHTINEN), of the Syria Accountability Act, it is an honor to be on the floor today in support of this important resolution, and I strongly urge a "yes" vote.

Mr. LANTOS. Mr. Speaker, next Sunday the people of Lebanon will go to the polls to start a series of parliamentary elections that will play out over the next 4 weeks. This resolution expresses Congress's ongoing concern that the Lebanese people be allowed to choose their own leaders freely and fairly, in light of the recent withdrawal from Lebanon of all Syrian security forces and intelligence officials, which is not yet verifiably complete. I commend our colleague Ms. ROS-LEHTINEN for bringing these important issues before us.

Mr. Speaker, freedom-loving people everywhere cheered earlier this year as the Lebanese people defied the odds, spurred on by the assassination of former prime minister Rafik Hariri, and peacefully rose up and forced the caretaker government to step down, letting key exile leaders return, and leading to the expelling of nearly all of Syria's uninformed forces from long-occupied Lebanese soil. We all hope that there will continue to be a peaceful transition to sovereign, democratic rule in Lebanon.

Sadly, the upcoming elections saw their first casualty this weekend, when adherents of rival parties clashed in the region of Metn. Government soldiers were summoned to disperse the crowds, and as they did so, one man was shot and killed. It was a somber reminder of how volatile the situation surrounding the elections can be.

Political rivalries, particularly between pro-Syrian factions and those who seek to continue reforms, threaten to further destabilize the electoral process in Lebanon; some have already threatened to boycott, which could undermine the legitimacy of the process. And the elections will be conducted according to a law passed under full Syrian occupation five years ago, which could stack the deck in favor of the Syrian elements, particularly Hezbollah. Let us hope that the wisdom of the Lebanese people, displayed in vast numbers, will over-ride the structural deficiencies of the law.

Mr. Speaker, I fully endorse this resolution's advocacy of U.S. assistance to help Lebanon restore democratic rule, including the separation of powers, the rule of law, and respect for fundamental freedoms. It is undeniably in our interest to support this process, as the flourishing of democracy in Lebanon will no doubt have a multiplier effect throughout the region.

Jordan's King Abdullah, speaking this weekend at the World Economic Forum meeting, said that this is a time for positive political reform in the Middle East, but it is Arabs themselves who need to develop it.

"Never has there been a greater sense of agreement that the future is in our hands," King Abdullah said. "Today, positive change is in the air across the region. It is an effort for the whole Middle East to create its own positive change. That demands a real-world process, specific steps that can be implemented by regional governments and civil society."

Mr. Speaker, one such specific step for Lebanon will be to fulfill its obligations under U.N. Security Council Resolution 1559, especially the requirement that all militias, including Hezbollah, be disarmed and disbanded. We will expect the Lebanese Armed Forces to put an immediate halt to the flow of arms across the Syrian border to Hezbollah as a first step.

Four years ago I sponsored legislation passed by the Congress that made a portion of U.S. aid to Lebanon contingent upon Lebanon's taking control of all of its borders. I do not intend to introduce a similar resolution at this moment, as I am hopeful that the new Lebanese Government, once it gains its footing, will take the necessary actions to demonstrate its adherence to all aspects of U.N. Security Council Resolution 1559—the resolution that made possible Lebanon's rebirth as a nation.

But I will remain seized with these issues regarding Lebanon's borders and Hezbollah—and, in the near future, I will introduce a resolution that I hope will demonstrate that Congress shares these concerns. The stability of the entire region depends on an end to militia rule in Lebanon and full implementation of Lebanese sovereignty throughout that country and along all of its borders.

The resolution before us, Mr. Speaker, focuses on certain crucial ingredients of Lebanese sovereignty—the withdrawal of Syrian troops and the holding of free and fair elections. This is an important resolution. I support it, and I urge all of my colleagues to do likewise.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a long time supporter of free and fair democratic elections in the Middle East and throughout the world. Clearly, I am in support of free and fair democratic elections in Lebanon, every human being deserves the right to choose their leaders without the fear of persecution and retribution. I stand firmly in favor of honoring the voice of the Lebanese people, who have clearly called for democratic reform. I can not deny that Syria has had a long mixed history in Lebanon, clearly the will of the Lebanese people dictated it was time for the Syrian forces to leave. However, I do not believe complete condemnation of the nation of Syria will yield the results we seek. We must continue to push for completely free and fair elections in Lebanon, but I feel that we must engage Syria in a dialogue instead of turning a cold shoulder to them.

I fully support the idea that Syria should complete its withdrawal of all remaining intelligence and security forces from the Lebanese Republic in accordance with United Nations Security Council Resolution 1559. However, I do not believe we should condemn Syria for their relationship with Lebanon, but we must now engage in an examination to determine if the current relationship between Syria and Lebanon can now be improved. We must seek to build relationships in the Middle East as opposed to tearing them down. Our goal is to establish greater stability and a more free society in the Middle East; to accomplish these lofty goals we must press forward with new initiatives as opposed to complete condemnations. Therefore, we must push for international election monitors in Lebanon so that free, fair, and transparent elections can be held on May 29, 2005, in accordance with all international standards and agreements. We must ensure that no outside nation or entity has undue influence on these elections, which should be determined only by the will of the Lebanese people.

I am in support of H. Res. 273 because the ideal of free and fair elections can not be questioned, especially when sanctioned by international law. However, I do hope the sponsors and supporters of this resolution will try to use this as an opportunity to open relations with Syria instead of further closing them. If we are to have true success in the Middle East we must ensure that we reach out to every nation in the region and its people, otherwise we are only cheating ourselves of a historic prospect for peace.

Mr. ENGEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 273, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Resolution recognizing the courageous efforts of the people of Lebanon to restore their independence and urging the withdrawal of all Syrian forces from Lebanon, the support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon.".

A motion to reconsider was laid on the table.

WELCOMING HAMID KARZAI AND SUPPORTING STRONG AND ENDURING STRATEGIC PARTNERSHIP BETWEEN UNITED STATES AND AFGHANISTAN

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 153) welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan.

The Clerk read as follows:

H. CON. RES. 153

Whereas Afghanistan, a great nation located at the crossroads of many civilizations, has suffered the ravages of war, foreign intervention, occupation, and oppression;

Whereas the Afghan people courageously resisted the decade-long occupation of their country by the former Soviet Union, forcing a Soviet withdrawal in 1989 and thereby contributing to the end of the Cold War;

Whereas following the Soviet withdrawal, Afghanistan went through a period of chaos and conflict, exacerbated by insufficient attention from the international community, during which time the Taliban militia seized control of much of the country and provided a base of operations to Al Qaeda and other terrorist elements;

Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, liberating the Afghan people from tyranny, transforming Afghanistan from a haven for terrorists into a strategic partner in the struggle against international terrorism, and helping Afghans build a democratic government;

Whereas the Afghan Constitution, drafted by a broadly representative Loya Jirga, or Grand Council, and enacted on January 4, 2004, provides for equal rights for and full participation of women, mandates full compliance with international norms for human and civil rights, establishes procedures for free and fair elections, creates a system of checks and balances between the executive, legislative and judicial branches, encourages a free market economy and private enterprise, and obligates the state to prevent all types of terrorist activity and the production and trafficking of narcotics;

Whereas more than 10.5 million Afghan men and women voted in national presidential elections in October 2004, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility;

Whereas Hamid Karzai, formerly the interim President, was elected to a five-year term as Afghanistan's first democratically-elected President in the country's history;

Whereas nationwide parliamentary elections are planned for September 18, 2005, and further demonstrate the Afghan Government's commitment to adhere to democratic norms;

Whereas the Government of Afghanistan has demonstrated a firm commitment to halting the cultivation and trafficking of narcotics and has cooperated fully with the United States and its allies on a wide range of counter-narcotics initiatives;

Whereas in addition to military and law enforcement operations, President Karzai welcomes the United States and the international community to assist Afghanistan's counter-narcotics campaign by supporting programs to provide alternative livelihoods for farmers, sustained economic development, and governmental and security capacity building;

Whereas recognizing that long-term political stability requires sustained economic security, Afghanistan is striving to create an economic base to provide meaningful livelihoods for all of its people, and the United States has a cooperative interest in helping Afghanistan achieve this goal;

Whereas section 101(1) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7511(1)) declares that the "United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan";

Whereas on June 15, 2004, during President Karzai's visit to the United States, President George W. Bush stated: "Afghanistan's journey to democracy and peace deserves the support and respect of every nation. . . . The world and the United States stand with [the people of Afghanistan] as partners in their quest for peace and prosperity and stability and democracy.";

Whereas on June 15, 2004, in his address to a joint meeting of Congress, President Karzai stated: "We must build a partnership that will consolidate our achievements and enhance stability, prosperity and democracy in Afghanistan and in the region. This requires sustaining and accelerating the reconstruction of Afghanistan, through long-term commitment. . . . We must enhance our strategic partnership. The security of our two nations are intertwined.";

Whereas on April 13, 2005, while receiving the visiting United States Secretary of Defense, Donald Rumsfeld, President Karzai, in expressing the desire of the Afghan people for a long-term strategic partnership with the United States, stated: "They want this relationship to be a wholesome one, including a sustained economic relationship, a political relationship, and most important of all, a strategic security relationship that would enable Afghanistan to defend itself, to continue to prosper, to stop interferences, the possibility of interferences in Afghanistan."; and

Whereas the people of the United States, and their elected representatives, are honored to welcome President Karzai back to the United States in May 2005 on a visit that will further advance the close partnership between the United States and Afghanistan: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress welcomes the first democratically-elected President of Afghanistan, His Excellency Hamid Karzai, as an honored guest and valued friend upon his visit to the United States in May 2005; and

(2) it is the sense of Congress that—

(A) a democratic, stable, and prosperous Afghanistan is a vital security interest of the United States; and

(B) a strong and enduring strategic partnership between the United States and Afghanistan should continue to be a primary objective of both countries to advance a shared vision of peace, freedom, security, and broad-based economic development between the two countries and throughout the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

It is a pleasure to welcome His Excellency Hamid Karzai, the President of Afghanistan, to the United States and to underscore the growing and strong friendship between our two nations.

As we continue to lead the fight against the forces of terror and oppression, we are joined by courageous leaders such as President Karzai, and we are motivated and strengthened by the strong will of the Afghan people, who experienced, firsthand, what it is to live under these dual threats.

Despite the Taliban's brutality and intolerable injustices that comprise the Taliban's legacy, their removal from power has generated clear and evident signs that the future of Afghanistan holds great promise. Millions of Afghans, once oppressed by the Taliban's terrorist regime, cast their ballots in their country's free elections in October of 2004 and elected Hamid Karzai as their leader.

A defender of freedom, President Karzai has worked tirelessly to unite and rebuild Afghanistan during this time of transition and has strived to bring security and stability while working to improve daily life.

Afghanistan has made great strides with respect to democracy, to reform, and to political openness. The women of Afghanistan, once forced to live as subhumans under a shroud that served as both a physical and symbolic instrument of the Taliban's oppression, are now vibrant and active participants in Afghan society. Afghans enjoy restored liberties and opportunities that were unheard of in recent memory. Schools have been reopened. A new banking law is in place. Businesses are blossoming around the country. But most importantly, there is hope for a better future.

The United States has stood by the Afghanistan dilemma during this critical time. We have stood by the Afghan people, helping them with the construction of centers for women, schools, building up their infrastructure, providing assistance to promote political participation, and to improve human rights for all. The United States must continue to fulfill its role as a friend to Afghanistan by providing resources and expertise and assistance to the people and the government of Afghanistan as they struggle to reconstruct themselves socially, economically, and politically.

I, therefore, Mr. Speaker, urge my colleagues to support this important resolution and clearly demonstrate to the people and the Government of Afghanistan that the United States stands firmly with them.

Mr. Speaker, I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution.

Mr. Speaker, I, first, again would like to commend the gentlewoman from Florida (Ms. ROS-LEHTINEN), my good friend, and the gentleman from New York (Mr. ACKERMAN), the Chair and ranking member of the Middle East and Central Asia Subcommittee, for introducing this important resolution.

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Mr. Speaker, Afghanistan has made real progress toward becoming a stable, peaceful, and democratic state. The Taliban has been forced from power. The presidential election last October was an unqualified success with a massive turnout among men and women in defiance of Taliban threats, and progress has been made in restoring the basic human rights of Afghan women.

Before we even heard about the Taliban, Mr. Speaker, I was talking about them when they were in control when they were denying religious freedom to Hindus and others and talking about some of their despicable acts which, unfortunately, the world had then come to know.

But even today, Afghanistan is far from out of the woods. The Taliban and al Qaeda remnants have used recent events to further their agenda of undermining the peace and stability that President Karzai aims to bring to Afghanistan and its people. Progress in reconstruction and development, which is crucial to bringing economic opportunity and hope to millions, is painfully slow. But the biggest obstacle to democracy and development is the unprecedented scale of opium cultivation and narco-trafficking.

Mr. Speaker, in the face of these obstacles, President Karzai has remained steadfast and determined to bring democracy, prosperity, and security to the people of Afghanistan; and the United States must help President Karzai achieve this goal.

This resolution welcomes President Karzai upon his visit to the United States this week and recognizes that a democratic, stable, and prosperous Afghanistan is a vital national security interest of the United States. The resolution wisely states that a strong and enduring partnership between our two countries must remain a primary objective.

President Bush met today with President Karzai in the Oval Office. I am sure the President continued to offer the strong support of the American people to President Karzai. It is my hope that President Karzai offered his thoughts on how efforts against illegal drugs can and will be intensified.

Mr. Speaker, we cannot allow Afghanistan to lapse into chaos, war, and ruin once again. The United States must demonstrates its long-term commitment to a strong and enduring partnership with Afghanistan. President Karzai is Afghanistan's best chance at achieving peace, and we must do everything to help him realize this goal.

I had the pleasure of meeting President Karzai when he was last in town and met with members of the Committee on International Relations, and I must also add on a personal note that a very good friend of mine is a first cousin of his, so he does have strong family ties to the United States as well.

Mr. Speaker, I urge my colleagues to support this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a proud cosponsor of H. Con. Res. 153, which welcomes His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expresses support for a strong and enduring strategic partnership between the United States and Afghanistan. As the Co-Chair for the Congressional Afghan Caucus along with my colleague Chairman NEY, I am proud to welcome President Karzai back to the United States. I want to thank my colleague Ms. Ros-Lehtinen for introducing this appropriate concurrent resolution.

While there will be those who have the view that the war in Afghanistan is over and we should shift our view, the truth is that Afghanistan is as vital to our nation now as it was shortly after September 11. Operation Enduring Freedom was a success in removing the Taliban leadership and giving the Afghan people new hope, however our work there is far from done. We must ensure that Afghanistan has a bright and productive future ahead of itself, in which peace and prosperity, will be possible. We can not make the same mistake we made in Afghanistan after the conclusion of the cold war. The brave Afghan warriors defeated the Red Army, stopping them for completing another brutal assault upon an innocent nation. However, we rewarded their bravery by ignoring Afghanistan and allowing it to be a place where extremists like the Taliban and Al Qaeda could take refuge and indeed have sanctuary to build upon. We can not allow ourselves to make that same mistake again, we must show the Afghan people that we stand with them even after our own short term interests have been fulfilled. I have traveled to Afghanistan on a couple different occasions and I have seen the faces of the Afghan people and I know they are ready to embrace us, if only we can really support them for the long term.

I want to applaud President Karzai; he is a man of courage and vision. More than 10.5 million Afghan men and women voted in national presidential elections in October 2004, again giving credence to the fact that they have embraced democratic reform. The Afghan people have chosen Hamid Karzai, formerly the interim President, for a 5-year term as Afghanistan's first democratically elected President. I congratulate President Karzai for this victory, his job has not been easy and surely there were few who would have been willing to assume the burden of leadership that he did. His goals and aspirations will be for the long term health and security of Afghanistan and to get to that point he needs and deserves the full support of our nation.

Again, let me welcome President Karzai back to the United States, I stand among many Members who admire his will and resolve on behalf of his people. His accomplishments despite all the obstacles are certainly praiseworthy and deserving of recognition from the United States Congress. Let us all hope that this pattern of progress and success continues for President Karzai and Afghanistan as we move forward.

Mr. ENGEL. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 153.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING THE COAST GUARD, COAST GUARD AUXILIARY AND NATIONAL SAFE BOATING COUNCIL FOR THEIR EFFORTS TO PROMOTE NATIONAL SAFE BOATING WEEK

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 243) recognizing the Coast Guard, the Coast Guard Auxiliary and the National Safe Boating Council for their efforts to promote National Safe Boating Week.

The Clerk read as follows:

H. RES. 243

Whereas recreational boating is one of our Nation's most popular pastimes, with an estimated 78,000,000 recreational boaters in the United States and nearly 13,000,000 recreational vessels registered;

Whereas the number of recreational boating fatalities has declined by more than half since 1970, thanks to the increased use of life jackets, cooperative boating safety education, enforcement efforts between the Coast Guard and State governments, and safer vessels and equipment manufactured in accordance with Coast Guard standards;

Whereas recreational boating accidents have nevertheless claimed the lives of 703 Americans in 2003, more than half of whose lives could have been saved with the proper use of a personal flotation device;

Whereas a continued emphasis on accident prevention can reduce recreational boating fatalities still further, and in particular deaths by drowning, which remain the leading cause of recreational boating fatalities; and

Whereas the National Safe Boating Council, with the support of the Coast Guard and the Coast Guard Auxiliary, has proposed designating the week of May 21 through 27, 2005, as National Safe Boating Week: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports initiatives for recreational boating safety education and accident prevention to minimize the number of annual recreational boating fatalities;

(2) recognizes the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts each year during May to highlight the importance of safe recreational boating; and

(3) supports the goals of National Safe Boating Week.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentleman from California (Mr. FILNER) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 243 was introduced by my colleagues, the gentleman from Tennessee (Mr. COOPER) and the gentleman from Florida (Mr. SHAW), and recognizes the work of the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council in promoting boat safety.

I represent a district in which recreational boating plays a huge role in the lives of many of my constituents. Sailors, waters sports enthusiasts, and fishermen enjoy recreational boating on the Chesapeake Bay and the ocean side of my district.

Recreational boating is one of the Nation's most popular pastimes, and while the number of recreational boating fatalities has declined by more than half since 1970, many lives are still lost each year. More than half of these lives could be saved with the proper use of boating safety equipment. This resolution highlights the importance of safe recreational boating, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, represent an area where boating is a very important recreational activity, representing San Diego, California, with its wonderful bay, Mission Bay Park, and, of course, the Pacific Ocean, all as places where tens of thousands of people do their recreation; so I also support House Resolution 243.

This is National Safe Boating Week. Over 70 million people this year will participate in recreational boating activities in the United States. Unfortunately, about 700 of them will die from boating accidents. National Safe Boating Week is always the week before the Memorial day weekend, the start of the summer boating season. The goal this week is to educate the public about what they can do to enjoy our Nation's waters in a safe manner. In my State of California, two-thirds of the deaths from recreational boating accidents will occur during these summers months.

Mr. Speaker, safe boating begins before you even step in a boat by planning your trip and being safety conscious. The most important thing a boater can do to save their life is to wear a life jacket. That sounds simple; but in 2003, 416 boaters were drowned while not wearing their life jackets. Today there are Coast Guard-approved life jackets that are inflatable so you can easily sail and still be safe.

Just as in driving a car, alcohol and boating do not mix. Do not drink and drive in a boat.

Today there are over 17 million boats in our Nation's waterways. It is getting crowded, so everybody should know and follow the nautical rules of the road. If you are in a small boat, do not stand up. You could flip your boat, sending you and your family into the water.

Mr. Speaker, these are simple, but they are a few of the basic tips that people should follow to have a safe and enjoyable time when they are boating.

The Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council have boating safety education programs to help everyone learn how to boat safely. I encourage everyone to take advantage of these courses. If you follow their simple guidelines, you can have a fun and relaxing time while being as safe as possible.

Mr. Speaker, I strongly urge my colleagues to join us in support of House Resolution 243.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman for sponsoring this piece of legislation as well. I would like to reiterate some of the comments that the gentleman made about boat safety, and that is when you get in a boat, it is like getting in a car. Do not drink and drive; do not drink and boat. Snap your safety belt in the car; put your life jacket on in the boat. Respect the people in your boat and respect other people in their boats; and respect the ecosystem that you are now treading on.

When you go out in a boat, enjoy yourself, enjoy the people that you are around, and enjoy the pristine nature of that particular environment. Boat Safety Week hopes to motivate people to understand the nature of their responsibility when they step in a boat, whether it is one with a big, powerful engine; whether it is a small motor boat; or I would recommend you try a kayak and canoe.

Of course, wear your life jacket regardless, respect yourself, respect your passengers, respect other boaters, and respect the pristine nature of the water.

Mr. BISHOP of New York. Mr. Speaker, I rise in strong support of H. Res. 243, a bill recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week.

In my district on eastern Long Island, water safety is of paramount concern to residents, vacationers, and the tourism industry—one of the most important contributing elements of the local economy, which includes pleasure and commercial boating.

I commend the men and women of the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their steadfast dedication to protecting boaters throughout the country. As we approach Memorial Day, kicking off the summer, we recognize National Safe Boating Week to encourage American boaters to be safe on the water and to promote the use of personal flotation devices (PFDs).

It is important to highlight the progress made to safeguard boating enthusiasts in recent years, particularly with more than 13 million watercraft registered in the U.S., a number that continues to skyrocket. Even with the ever-increasing number of people enjoying the water, there are fewer fatalities on the sea. This is in no small part due to the diligence of hard-working groups like the National Safe Boating Council and the selfless, intrepid men and women of the Coast Guard.

As vacationers throughout the country head for the coasts, it is our responsibility to encourage caution. I echo the National Safe Boating Council's important message urging all Americans to be safe on the water while they enjoy their family vacations this summer.

Mr. SHAW. Mr. Speaker, I rise today to recognize and support the efforts of the United States Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council as they coordinate yet another successful National Safe Boating Week, May 21–27, 2005.

In 2003, an estimated 78 million Americans enjoyed recreational boating on the approximately 13 million recreational vessels registered throughout the nation. Boating has truly become a treasured piece of American culture.

Thanks to the efforts of many, boating is becoming safer as it grows more popular. Boating fatalities have been cut in half since the 1970's due to increased boater education, more widespread use of life vests, and safer boating equipment.

Nonetheless, we have much work to do. In 2003, 703 Americans died in boating-related accidents. Sadly, half of these deaths could have been prevented had proper flotation devices been used.

I have co-sponsored, along with Representative JIM COOPER and Representative GENE TAYLOR, House Resolution 243, which aims at increasing boating safety education and accident prevention and supports the goals of National Safe Boating Week. As Co-Founder and Co-Chairman of the Congressional Boating Caucus, I certainly understand the importance of these issues on recreational boaters.

Mr. Speaker, the upcoming Memorial Day holiday marks the unofficial start of the summer boating season in south Florida. As such, we must continue to support boating education and awareness so that our waters can be a fun and, above all, safe place for all Americans to enjoy.

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to express my support of H.R. 243, and to recognize the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week.

I represent Florida's 18th District, and a large portion of my congressional district is surrounded by water. To many of my constituents, and to many Floridians, boating is a way of life. National Safe Boating Week reminds us that even the most experienced boater must always be attentive and vigilant to prevent accidents that hurt or kill thousands of Americans each year. The National Safe Boating Council deserves our thanks for its public education efforts.

The Coast Guard's mission is not limited to our home waters. Numerous Coast Guard vessels are deployed to U.S. Central Command in support of Operation Iraqi Freedom, including two 110-foot patrol boats from south Florida—the USCGC *Baranof* and the USCGC *Maui*, each with 22 personnel aboard—are currently deployed in Bahrain and patrol in the North Arabian Gulf.

I join the citizens of south Florida in saluting the bravery and dedication of the men and women serving in the United States Coast Guard who are keeping the American people safe and who are defending our freedom both at home and abroad.

Mr. GILCHREST. Mr. Speaker, I have no further speakers, I yield back the balance of my time, and urge the adoption of this resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCHREST) that the House suspend the rules and agree to the resolution, H. Res. 243.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 243.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

BUSINESS CHECKING FREEDOM ACT OF 2005

Mrs. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1224) to repeal the prohibition on the payment of interest on demand deposits, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Checking Freedom Act of 2005".

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

(a) Daily Transfers Allowed Into Demand Deposit Accounts.—Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following:

"(b) Transfers.—Notwithstanding any other provision of law, any depository institution, other than a nonqualified industrial loan company, may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) Nonqualified industrial loan companies.—

"(A) Definition.—For purposes of this section, the term 'nonqualified industrial loan company' means any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 that is determined by an appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) to be controlled, directly or indirectly, by a commercial firm.

"(B) Commercial firm defined.—For purposes of this paragraph, the term 'commercial firm' means any entity at least 15 percent of the annual gross revenues of which on a consolidated basis, including all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters.

"(C) Grandfathered institutions.—The term 'nonqualified industrial loan company' does not include any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

"(i) which became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance which was approved by the Federal Deposit Insurance Corporation before such date; and

"(ii) with respect to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under section 7(j) or 18(c) of the Federal Deposit Insurance Act, section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act.".

(b) Interest on Business Now Accounts.—

(1) In general.—Section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)) is amended—

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) Payment of interest on certain NOW accounts.—An industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 may not pay interest on any deposit or account of a corporation, business partnership, or other business entity from which funds may be withdrawn by negotiable instrument for payment to third parties, unless the appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) of such company, bank, or institution determines that such company, bank, or institution is not a nonqualified industrial loan company."; and

(B) by adding at the end the following new paragraph:

"(4) Rule of construction relating to demand deposits.—No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering demand deposit accounts.".

(2) Technical and conforming amendment.—Section 2(b) of Public Law 93–100 (12 U.S.C. 1832(b)) (as added by subsection (a)(2) of this section) is amended by striking "and is not a deposit or account described in subsection (a)(2)".

(3) Effective date.—The amendments made by this subsection shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.

(a) Repeal of Prohibition on Payment of Interest on Demand Deposits.—

(1) Federal reserve act.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

"(i) [Repealed]".

(2) Home owners' loan act.—The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking "savings association may not—" and all that follows through "(ii) permit any" and inserting "savings association may not permit any".

(3) Federal deposit insurance act.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows:

"(g) [Repealed]".

(b) Effective Date.—The amendments made by subsection (a) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) In General.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

"(12) Earnings on reserves.—

"(A) In general.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

"(B) Regulations relating to payments and distribution.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal reserve bank by any such entity on behalf of depository institutions.

"(C) Depository institutions defined.—For purposes of this paragraph, the term 'depository institution', in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).".

(b) Authorization for Pass Through Reserves for Member Banks.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking "which is not a member bank".

(c) Consumer Banking Costs Assessment.—

(1) In general.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(A) by redesignating sections 30 and 31 as sections 31 and 32, respectively; and

(B) by inserting after section 29 the following new section:

"SEC. 30. SURVEY OF BANK FEES AND SERVICES.

"(a) Annual Survey Required.—The Board of Governors of the Federal Reserve System shall obtain annually a sample, which is representative by type and size of the institution (including small institutions) and geographic location, of the following retail banking services and products provided by insured depository institutions and insured credit unions (along with related fees and minimum balances):

"(1) Checking and other transaction accounts.

"(2) Negotiable order of withdrawal and savings accounts.

"(3) Automated teller machine transactions.

"(4) Other electronic transactions.

"(b) Minimum Survey Requirement.—The annual survey described in subsection (a) shall meet the following minimum requirements:

"(1) Checking and other transaction accounts.—Data on checking and transaction accounts shall include, at a minimum, the following:

"(A) Monthly and annual fees and minimum balances to avoid such fees.

"(B) Minimum opening balances.

"(C) Check processing fees.

"(D) Check printing fees.

"(E) Balance inquiry fees.

"(F) Fees imposed for using a teller or other institution employee.

"(G) Stop payment order fees.

"(H) Nonsufficient fund fees.

"(I) Overdraft fees.

"(J) Fees imposed in connection with bounced-check protection and overdraft protection programs.

"(K) Deposit items returned fees.

"(L) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

"(2) Negotiable order of withdrawal accounts and savings accounts.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

"(A) Monthly and annual fees and minimum balances to avoid such fees.

"(B) Minimum opening balances.

"(C) Rate at which interest is paid to consumers.

"(D) Check processing fees for negotiable order of withdrawal accounts.

"(E) Fees imposed for using a teller or other institution employee.

"(F) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

"(3) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

"(A) Monthly and annual fees.

"(B) Card fees.

"(C) Fees charged to customers for withdrawals, deposits, and balance inquiries through institution-owned machines.

"(D) Fees charged to customers for withdrawals, deposits, and balance inquiries through machines owned by others.

"(E) Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.

"(F) Point-of-sale transaction fees.

"(4) 'OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

"(A) Wire transfer fees.

"(B) Fees related to payments made over the Internet or through other electronic means.

"(5) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be appropriate to meet the purposes of this section.

"(6) FEDERAL RESERVE BOARD AUTHORITY.—The Board of Governors of the Federal Reserve System may cease the collection of information with regard to any particular fee or charge specified in this subsection if the Board makes a determination that, on the basis of changing practices in the financial services industry, the collection of such information is no longer necessary to accomplish the purposes of this section.

"(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

"(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.

"(2) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of any discernible trend, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution and the size of the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.

"(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than June 1, 2007, and not later than June 1 of each subsequent year.

"(d) DEFINITIONS.—For purposes of this section, the term 'insured depository institution' has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term 'insured credit union' has the meaning given such term in section 101 of the Federal Credit Union Act.".

(2) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Paragraph (1) of section 136(b) of the Truth in Lending Act (15 U.S.C. 1646(b)(1)) is amended to read as follows:

"(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, from a broad sample of financial institutions which offer credit card services, credit card price and availability information including—

"(A) the information required to be disclosed under section 127(c) of this chapter;

"(B) the average total amount of finance charges paid by consumers; and

"(C) the following credit card rates and fees:

"(i) Application fees.

"(ii) Annual percentage rates for cash advances and balance transfers.

"(iii) Maximum annual percentage rate that may be charged when an account is in default.

"(iv) Fees for the use of convenience checks.

"(v) Fees for balance transfers.

"(vi) Fees for foreign currency conversions.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on January 1, 2006.

(3) REPEAL OF OTHER REPORT PROVISIONS.—Section 1002 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and section 108 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 are hereby repealed.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking "subsection (b)(4)(C)" and inserting "subsection (b)".

SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking "the ratio of 3 per centum" and inserting "a ratio not greater than 3 percent (and which may be zero)"; and

(2) in clause (ii), by striking "and not less than 8 per centum," and inserting "(and which may be zero),".

SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—Section 7(b) of the Federal Reserve Act (12 U.S.C. 289(b)) is amended by adding at the end the following new paragraph:

"(4) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2005 THROUGH 2009.—

"(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12) in each of the fiscal years 2005 through 2009.

"(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2005 through 2009, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

"(C) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2005 through 2009, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under subparagraph (A).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289(a)) is amended by adding at the end the following new paragraph:

"(3) PAYMENT TO TREASURY.—During fiscal years 2005 through 2009, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.".

SEC. 7. RULES OF CONSTRUCTION.

In the case of an escrow account maintained at a depository institution for the purpose of completing the settlement of a real estate transaction—

(1) the absorption, by the depository institution, of expenses incidental to providing a normal banking service with respect to such escrow account;

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in subparagraph (1) or (2) or similar in nature to such action, including any benefits which have been so determined by the appropriate Federal regulator,

shall not be treated as the payment or receipt of interest for purposes of this Act and any provision of Public Law 93-100, the Federal Reserve Act, the Home Owners' Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions. No provision of this Act shall be construed so as to require a depository institution that maintains an escrow account in connection with a real estate transaction to pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. No provision of this Act shall be construed as preempting the provisions of law of any State dealing with the payment of interest on escrow accounts maintained in connection with real estate transactions.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

GENERAL LEAVE

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1224, as amended

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the fifth time in three Congresses, we are here to pass legislation to bring our banking system into the 21st century. Five times this House has passed this legislation to help our small businesses, only for it to fall in the other body. We come to the floor once again with a strong hope that the enactment of this bill will finally be enacted into law this Congress.

The Business Checking Freedom Act provides important benefits for our local small businesses and our financial system alike. First, it repeals an outdated law prohibiting banks from paying interest on business checking accounts. In our 21st century economy, no American should be losing the option of making money on their assets simply because they own a small business, yet our small business owners across the country are losing potential interest income on a daily basis until the Business Checking Freedom Act becomes law.

This legislation will allow banks to better meet the needs of their small business customers while providing a necessary phase-in period to protect existing business relationships from a sudden change, and it clarifies the treatment of escrow accounts maintained for the purpose of completing the settlement of real estate transactions, and that is not changed by this bill.

H.R. 1224 also gives the Federal Reserve the opportunity to pay interest on reserves that banks keep within the Federal Reserve system. Consumers and banks will be rewarded for saving and investment by this bill. The Federal Reserve strongly supports this change and a related change on reserve requirements to better enable banks to operate safely and soundly.

H.R. 1224 will once again ensure that banks can best meet the needs of their customers while increasing the safety and soundness of our financial system. I urge all Members to join with me in passing this important bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the explanation given by the gentlewoman from New York, the major author of the bill. This House has previously passed the bill, and it did not emerge from the Senate. We hope that it does this year.

There were, if you go back 20 years or more, a number of restrictions on what various financial institutions can do. They have been outdated by technology, and passing this bill is one more step towards making sure that our financial institutions can in fact take full advantage of that.

There is one issue that is of some interest to many Members that I want to note. We have in some parts of the country institutions known as "industrial loan corporations" that have many of the functions of banks, but, unlike more traditional banks, have many of their assets in nonbanking activities. Hence the name "industrial loan corporation."

They have become somewhat controversial. The Federal Reserve system is very much unhappy with them. There have been other concerns about other entities getting into the banking business when they are primarily not banks, but doing this in various ways.

□ 1715

When the Congress passed the bill reorganizing the financial systems and removing a lot of the constraints on various financial institutions known as the Gramm-Leach-Bliley Act, it adopted a test that institutions had to be 85 percent financial in their total to get certain powers.

Working with the gentleman from Ohio (Mr. GILLMOR), I have put that formula into place, or the gentleman from Ohio (Mr. GILLMOR) and I together have, with the concurrence of most of the members of our committee, so that as we expand bank powers, whether it is for branching or, today, for interest on business checking or in other ways, we have maintained that principle that these new powers should only go to institutions that have an 85 percent financial entity.

This does not displace existing industrial loan corporations; indeed, it allows them to continue with whatever powers they get from the States where they are chartered, where they are State chartered, but it does say that as we expand banking powers, that expansion will be limited to institutions which would qualify under the 85–15 test.

That provision is in here, and with that provision and a couple of other minor changes, I think this is a piece of legislation that is very appropriate.

I would note that a question was raised about one aspect of it by people interested in land title. My colleague, the gentleman from North Carolina (Mr. WATT) negotiated, I think, a very reasonable response to their question, and we now have a bill that I hope will pass overwhelmingly.

Mr. Speaker, I reserve the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

I simply want to say that this bill is a bill that will encourage savings. It will also encourage the banks to keep more reserves at the Federal Reserve, which is a good thing for bank stability. We have passed this bill, as I said before, five times in the Congress. It is very important, I believe, to the small businesses of this Nation that this bill be passed today and that it get passed appropriately in the Senate.

Mr. OXLEY. Mr. Speaker, I rise in strong support of H.R. 1224, the Business Checking Freedom Act of 2005, which repeals antiquated banking laws that prohibit banks from paying interest on business checking accounts and the Federal Reserve from paying interest on funds that banks and other depository institutions are required by law to maintain at the Federal Reserve Banks.

Mr. Speaker, it may surprise some of our colleagues to know that since 1933, banks have been unable to pay interest on business checking accounts. The law was originally intended to ensure that larger banks did not use higher interest payments to lure deposits away from small, rural banks to fund stock market speculation. While at the time this law may have been wise public policy—although even that is debatable—in the year 2005 it is a relic of a financial world that no longer exists.

There is little doubt that now, with the current complex and competitive nature of the financial services industry, all depository institutions would benefit from the ability to offer business checking accounts and are more than able to manage the potential risks involved.

In fact, as the financial services industry grows more competitive and more complex, antiquated laws that limit the competitive capacities of financial institutions only harm the customer's ability to find appropriate financial solutions. Repealing the ban on interest on business checking accounts will free banks to compete for business customers on a level playing field, and promote the development of bank products and services geared toward a small business clientele that is ill-served by the current prohibition.

In addition to providing small businesses with much-needed regulatory relief, H.R. 1224 would authorize the payment of interest on certain reserves that depository institutions are required to maintain at the Federal Reserve. Current law prohibits such payments, thereby imposing a "hidden tax" on depository institutions and placing them at a competitive disadvantage relative to non-bank financial firms and foreign banks that are not subject to the same reserve requirements. If, under the Federal Reserve Act, banks, thrifts, and credit unions are required to hold funds against transaction accounts, simple fairness dictates that the Federal Reserve should be required to pay interest on those reserve balances. Federal Reserve Chairman Alan Greenspan has testified on numerous occasions that repealing the current prohibition would have the additional benefit of facilitating the Federal Reserve's management of U.S. monetary policy.

The bill also contains a hard fought compromise by Mr. GILLMOR of Ohio and Mr. FRANK of Massachusetts that addresses the authority of industrial loan companies (ILCs) to offer interest-bearing accounts to their business customers. The provision specifies that an ILC which obtained deposit insurance prior to October 1, 2003, is authorized to pay interest on a business account, provided the ILC is owned by the same parent company that owned it as of that date. Other ILCs could also offer such interest-bearing accounts, provided that at least 85 percent of the gross revenues of their parent company and other affiliates were derived from activities that were financial in nature or incidental to a financial activity during at least three of the prior four calendar quarters.

Mr. Speaker, legislation substantially similar to H.R. 1224 has been approved by this body on several prior occasions, including twice in the last Congress. The Bush administration has previously endorsed authorizing banks to pay interest on business checking accounts. In addition, H.R. 1224 is strongly supported by all segments of the small business community, including the National Federation of Independent Business and the U.S. Chamber of Commerce, and by America's Community Bankers.

I want to conclude by thanking two valued Members of the Financial Services Committee, the gentlelady from New York, Mrs. KELLY and Mr. GILLMOR from Ohio, who have worked tirelessly over several Congresses to advance this legislation, as well as our Ranking Minority Member, Mr. FRANK, who has contributed greatly to this legislation and has been strongly supportive of the overall effort on this bill.

Mr. Speaker, I urge all of my colleagues to vote in favor of H.R. 1224.

Ms. VELÁZQUEZ. Mr. Speaker, I rise in support of the Business Checking Freedom Act of 2005, H.R. 1224. Among other things, H.R. 1224 would repeal the prohibition against banks paying interest on checking accounts and authorize the Federal Reserve to pay interest on reserve balances maintained by depository institutions at Federal Reserve Banks. The bill is almost identical to previous legislation on the subject passed by the House, including H.R. 758, which passed in 2003.

H.R. 1224 contains some long overdue changes. I am particularly pleased that this legislation will permit small businesses to earn interest on their checking account balances. Individuals have been able to receive interest on checking accounts for some time, and small businesses, many of which are individually owned and operated, should have the same ability to receive an equitable return on their checking deposits.

Small businesses face an array of barriers to accessing the capital they need for start-up, operation and expansion. One of these barriers is the Depression-era law that prohibits interest-bearing checking accounts. The law, enacted as part of the Banking Act of 1933, was meant to keep banks solvent during the Great Depression. Almost 70 years later, the law is still in effect, despite evidence that it is no longer valid—or necessary.

In fact, a 1996 joint report issued by the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision stated that the law barring payment on business checking accounts "no longer serves a public purpose." H.R. 1224 effectively repeals this ban and permits small businesses to earn interest on their checking accounts.

Similar to past House bills, H.R. 1224 also includes a section entitled Rules of Construction, which ensure that the existing regulatory treatment of certain services and benefits provided by banks in lieu of interest on escrow accounts maintained to complete the settlement of real estate closing transactions remains as it is today.

Currently, the Federal Reserve's Regulation Q permits banks to offer services and benefits in lieu of interest to depositors. It also specifically provides that the provision or the receipt of such services and benefits does not constitute interest. Using this option, title companies and agents receive bank services, such as free safe deposit and night depository facilities and low-interest loans, in lieu of interest. This arrangement lowers the cost of maintaining real estate escrows, which in turn lowers the cost of these services to customers of title companies and title agents. H.R. 1224 does not change Regulation Q or any regulatory standard regarding the definition of interest. Rather, it ensures the continued delivery of cost-effective real estate closing services.

H.R. 1224 provides for a long overdue change to federal banking laws that will enable small businesses to gain parity with larger firms that are already able to essentially receive interest on their checking accounts. By doing so, small businesses will be better able to grow and create the new jobs that our country so desperately needs.

I urge my colleagues to support this important legislation.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 1224, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. KELLY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SERVICEMEMBERS HEALTH INSURANCE PROTECTION ACT OF 2005

Mr. BOOZMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2046) to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Servicemembers' Health Insurance Protection Act of 2005".

SEC. 2. LIMITATION ON PREMIUM INCREASES FOR REINSTATED HEALTH INSURANCE OF SERVICEMEMBERS RELEASED FROM ACTIVE MILITARY SERVICE.

(a) PREMIUM PROTECTION.—Section 704 of the Servicemembers Civil Relief Act (50 U.S.C. App. 594) is amended by adding at the end the following new subsection:

"(e) LIMITATION ON PREMIUM INCREASES.—

"(1) PREMIUM PROTECTION.—The amount of the premium for health insurance coverage that was terminated by a servicemember and required to be reinstated under subsection (a) may not be increased, for the balance of the period for which coverage would have been continued had the coverage not been terminated, to an amount greater than the amount chargeable for such coverage before the termination.

"(2) INCREASES OF GENERAL APPLICABILITY NOT PRECLUDED.—Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by the carrier of the health care insurance for the same health insurance coverage for persons similarly covered by such insurance during the period between the termination and the reinstatement.".

(b) TECHNICAL AMENDMENT.—Subsection (b)(3) of such section is amended by striking "if the" and inserting "in a case in which the".

SEC. 3. PRESERVATION OF EMPLOYER-SPONSORED HEALTH PLAN COVERAGE FOR CERTAIN RESERVE-COMPONENT MEMBERS WHO ACQUIRE TRICARE ELIGIBILITY.

(a) CONTINUATION OF COVERAGE.—Subsection (a)(1) of section 4317 of title 38, United States Code, is amended by inserting after "by reason of service in the uniformed services," the following: "or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,".

(b) REINSTATEMENT OF COVERAGE.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by inserting after "by reason of service in the uniformed services," the following: "or by reason of the person's having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,"; and

(B) by inserting "or eligibility" before the period at the end of the first sentence; and

(2) by adding at the end the following new paragraph:

"(3) In the case of a person whose coverage under a health plan is terminated by reason of the person having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title but who subsequently does not commence a period of active duty under the order to active duty that established such eligibility because the order is canceled before such active duty commences, the provisions of paragraph (1) relating to any exclusion or waiting period in connection with the reinstatement of coverage under a health plan shall apply to such person's continued employment, upon the termination of such eligibility for medical and dental care under chapter 55 of title 10 that is incident to the cancellation of such order, in the same manner as if the person had become reemployed upon such termination of eligibility.".

SEC. 4. TECHNICAL CORRECTIONS TO VETERANS BENEFITS IMPROVEMENT ACT OF 2004.

(a) CORRECTIONS.—Section 2101 of title 38, United States Code, as amended by section 401 of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3614), is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) a new subsection (c) consisting of the text of subsection (c) of such section 2101 as in effect immediately before the enactment of such Act, modified—

(A) in paragraph (1)—

(i) in the first sentence, by striking "paragraph (1), (2), or (3)" and inserting "subparagraph (A), (B), (C), or (D) of paragraph (2)"; and

(ii) in the second sentence, by striking "the second sentence" and inserting "paragraph (3)"; and

(B) in paragraph (2)—

(i) in the first sentence, by striking "paragraph (1)" and inserting "paragraph (2)"; and

(ii) in the second sentence, by striking "paragraph (2)" and inserting "paragraph (3)"; and

(3) in subsection (a)(3), by striking "subsection (c)" in the matter preceding subparagraph (A) and inserting "subsection (d)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of December 10, 2004, as if enacted immediately after the enactment of the Veterans Benefits Improvement Act of 2004 on that date.

SEC. 5. NOTIFICATION TO MEMBER'S SPOUSE OR NEXT OF KIN OF CERTAIN ELECTIONS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM.

(a) REPEAL.—Subsections (f) and (g) of section 1012 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act, 2005 (Public Law 109-13), and the amendments made by those subsections, are repealed, and sections 1967 and 1970 of title 38, United States Code, shall be applied as if those subsections had not been enacted.

(b) NOTIFICATION REQUIRED.—Section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1)(A) Whenever a member who is eligible for insurance under this subchapter executes a life insurance option specified in subparagraph (B), the Secretary concerned shall notify the member's spouse or, if the member is unmarried, the member's next of kin, in writing, of the execution of that option.

"(B) A life insurance option referred to in subparagraph (A) is any of the following:

"(i) An election under subsection (a)(2)(A) not to be insured under this subchapter.

"(ii) An election under subsection (a)(3)(B) for insurance of the member in an amount that is less than the maximum amount provided under subsection (a)(3)(A)(i).

"(iii) An application under subsection (c) for insurance coverage under this subchapter or for a change in the amount of such insurance coverage.

"(iv) In the case of a married member, a designation under section 1970(a) of this title of any person other than the spouse or a child of the member as the beneficiary of the member for any amount of insurance under this subchapter.

"(2) Whenever an unmarried member who is eligible for insurance under this subchapter marries, the Secretary concerned shall notify the member's spouse in writing as to whether the member is insured under this subchapter. In the case of a member who is so insured, the Secretary shall include with such notification—

"(A) if the member has made an election described in paragraph (1)(B)(ii), notice that the amount of such insurance is less than the maximum amount provided under subsection (a)(3)(A)(i); and

"(B) if the member has designated a beneficiary other than the spouse or a child of the member for any amount of such insurance, notice that such a designation has been made.

"(3)(A) Notification of a spouse under paragraph (1) or (2), or of any other person under paragraph (1), for purposes of this subsection shall consist of a good faith effort to provide information to the spouse or other person at the last address of the spouse or other person known to the Secretary concerned.

"(B) Failure to provide such notification, or to provide such notification in a timely manner, does not affect the validity of any life insurance option referred to in paragraph (1)(B).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. BOOZMAN) and the gentlewoman from South Dakota (Ms. HERSETH) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2046, as amended, the Servicemembers' Health Insurance Protection Act of 2005, provides several improvements to the Servicemembers' Civil Relief Act and the Uniformed Services Employment and Reemployment Rights Act.

Mr. Speaker, this is a bipartisan bill and was passed by unanimous consent in both the Subcommittee on Economic Opportunity and the full Committee on Veterans Affairs. I am delighted to bring this important piece of legislation before the House.

The bill has several components. Section 2 of the bill would amend section 704 of the Servicemembers Civil Relief Act, otherwise known as the SCRA, to limit premium increases on reinstated health insurance coverage of servicemembers who are released from active duty. Section 704 provides that a servicemember who is ordered to active duty is entitled, upon release, to reinstatement of any health insurance in effect on the day before actually beginning active duty.

This amendment would prohibit any increase in individual health insurance premiums from the period of time for which coverage would have been continued, had the coverage not been terminated due to military service. However, a health care insurance carrier would be allowed to increase the servicemember's premium if the general premium increase was implemented for all persons similarly covered during the period between the termination and the reinstatement.

Section 704 of the SCRA currently contains no express provision regarding premium increases. This amendment to the SCRA would ensure that servicemembers are treated fairly upon reinstatement of their health insurance and are not discouraged by premium increases from exercising their reinstatement entitlement rights.

Section 3 of the bill would amend section 4317 of the Uniformed Services Employment and Reemployment Rights Act, better known as USERRA, to preserve employer-sponsored health plan reinstatement rights for certain Reservists who, prior to entering active duty, acquire TRICARE coverage under Title X. This TRICARE option only became available by an amendment to the TRICARE authority enacted in the National Defense Authorization Act for fiscal year 2004 on November 24, 2003.

Under existing law, an employer is only required to provide employees returning from active duty with the same employer-sponsored health benefits they had when they reported for active duty. Unless the employer voluntarily chooses to allow immediate reinstatement of coverage, an employee would be required to wait for the next open enrollment opportunity provided by the employer.

Section 3 would confirm the health insurance reinstatement rights under USERRA to the change in TRICARE. This amendment to section 4317 of USERRA would protect both employees who did not actually report because of cancellation of active duty orders and employees who served a period of active duty.

Section 4 of the bill would make a technical correction to the Public Law 108-454 regarding the VA's adaptive housing grant program.

Finally, section 5 of the bill would make a correction to the servicemembers' group life insurance provisions of H.R. 1268 regarding spousal notification for servicemembers' elections of coverage and designation of beneficiaries.

Mr. Speaker, I reserve the balance of my time.

Ms. HERSETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 2046, as amended, the Servicemembers' Health Insurance Protection Act of 2005.

I would like to thank the gentleman from Indiana (Chairman BUYER) and the gentleman from Illinois (Ranking Member EVANS) for their leadership on the full committee and for their good work in shepherding this bill to the floor today. I would also like to personally thank the gentleman from Arkansas (Chairman BOOZMAN) of the Subcommittee on Economic Opportunity for his steady bipartisan leadership on the subcommittee.

Mr. Speaker, I support this legislation and am an original cosponsor of the bill. This legislation is aimed at improving the quality of life of our servicemembers, veterans, and military families. It is very important for the increasingly activated National Guard and Reserve components, our citizen-soldiers who leave behind their families, employment, and comforts of home to defend this Nation,

The State of South Dakota has had and continues to have National Guard units activated and serving in the Middle East. This legislation will protect them and their families as they return home to civilian life and seek to reinstate their private or employer-sponsored health insurance coverage.

Mr. Speaker, this legislation also includes two corrective provisions, as the gentleman from Arkansas (Chairman BOOZMAN) described, which amend and improve the administration of the disabled veteran adaptive housing grant program and the servicemembers' group life insurance program respectively. I am pleased we were able to include these important corrective measures.

Mr. Speaker, the servicemembers, military families and veterans of this Nation have earned and deserve our best efforts here in Congress. Indeed, they deserve so much more. I am proud to support this legislation, and I am confident it will benefit the veterans of my home State of South Dakota, as well as the other veterans across the country.

I fully support H.R. 2046, as amended, and urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. BOOZMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to thank our Committee on Veterans' Affairs Chairman, the gentleman from Indiana (Chairman BUYER), as well as the gentleman from California (Mr. FILNER), the Ranking Member, the gentleman from Illinois (Mr. EVANS), and the subcommittee chairman, the gentleman from Arkansas (Mr. BOOZMAN) for giving Congress the opportunity to vote on the Servicemembers' Health Insurance Protection Act.

Today, when a man or a woman makes a decision to serve their country through the Armed Forces, most have to give up their employer-sponsored health care. Although TRICARE insures these enlistees, in the eyes of their health care providers, they are technically without coverage until they return, and then they are subject to unfair premium increases as a "new employee." America asks these young men and women to fight for our country, then we allow their insurance costs to increase when they return. How, many would ask, is this at all fair?

The bill that we have before us, H.R. 2046, specifies that when a person enlists in the military, they will return to the same low-cost, employer-sponsored health insurance that they had before their absence. This commonsense legislation enjoyed unanimous support from Committee on Veterans' Affairs members, is supported by the Department of Defense, Department of Labor, and veterans' groups around the country.

I look forward to voting in favor of H.R. 2046 and I encourage my colleagues to do the same. Certainly those members of the military, whether it is active or the Reserve, when we have so many people serving today in the war on terrorism, they deserve to have this kind of legislation passed so that they can come back home and again provide the kind of health care insurance that their family needs.

Ms. HERSETH. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 2046, as amended. I would like to thank the gentleman from Indiana (Chairman BUYER) and the chairman and ranking member of the Subcommittee on Economic Opportunities, the gentleman from Arkansas (Mr. BOOZMAN) and the gentlewoman from South Dakota (Ms. HERSETH) for their hard work in bringing this legislation to the floor today.

Mr. Speaker, this has been a bipartisan effort. Let us keep it that way and get the job done for the veterans who deserve our help through the difficult times that they are facing. They face danger every day, and I am proud to represent them here in the United States House of Representatives. It is our responsibility to provide them the necessary benefits and protections as they serve this Nation.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. BOOZMAN. Mr. Speaker, I reserve the balance of my time.

Ms. HERSETH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I thank the gentleman from Arkansas (Chairman BOOZMAN) for his great work on this very necessary item.

I too rise today in support of the Servicemembers' Health Insurance Protection Act of 2005, a bill that we have heard will assure the men and women in active service that their private health insurance premiums will not be increased, nor will reinstatement be delayed when they return from Iraq or Afghanistan. The last thing these servicemembers need while they are at war is to worry about the details of their life after service, and health insurance, of course, being one of the most important.

H.R. 2046 will ensure a smooth transition from health care under the military to health care in civilian life.

□ 1730

This bill has support from the veterans service organizations around the country, as well as our Department of Defense.

I think, as we have heard, in addition to the primary purpose of the bill, a technical change is included which will help many disabled veterans to use what is called their adaptive housing grant prior to their discharge from the military. This will expedite their release from hospitalization because they will not have to wait for changes to be made to their homes to accommodate their disability. This provision was inadvertently omitted when changes were made in 2004 in the Veterans Benefit Act, and I am glad that we are fixing this problem today.

Congress must do everything it can to recognize and reward our brave men and women fighting today. Many are serving longer than they expected. Many are in danger each and every day.

They serve with pride and with dignity. Let us honor their service by passing this legislation to treat them with the respect that they deserve.

Mr. BOOZMAN. Mr. Speaker, I reserve the balance of my time.

Ms. HERSETH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no further requests for time. I would just like to reiterate my appreciation for the leadership of the full committee, the gentleman from Arkansas (Chairman BOOZMAN), and his leadership on the subcommittee, of course the efforts of committee staff and all of their hard work in advancing this important legislation, as well as those that were in hearings with the chairman and me and other members of the subcommittee, those from the Department of Labor, the Department of Defense, the Department of Veterans Affairs, as well as many veterans organizations serving as advocates for veterans and their families across the country and servicemembers as they return.

Mr. Speaker, I yield back the balance of my time.

Mr. BOOZMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Indiana (Chairman BUYER); the gentleman from Illinois (Mr. EVANS), our full committee ranking member; and the gentlewoman from South Dakota (Ms. HERSETH), the Economic Opportunities Subcommittee ranking member, for their leadership and hard work on this bill. And, again, as was noted, I especially want to thank the staff.

Once again, this is a bipartisan bill, and I urge all Members to support the Servicemembers Health Insurance Protection Act of 2005.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to support H.R. 2046, the Servicemembers Health Insurance Protection Act of 2005. This legislation offered by the Chairman of the Veterans Affairs Committee Mr. BUYER, would limit premium increases on health insurance for reservists who return to their civilian jobs after serving on active duty and ensure that reservists whose activation is cancelled before they report for duty can reinstate their health care coverage. It also would allow disabled service members to qualify for a housing grant provided by the Department of Veterans Affairs before being discharged from active duty. I support these provisions of the legislation because they protect the rights the men and women of our Armed Forces when they are on duty.

While I do support the provisions of this legislation, I do have concerns about the possible adverse impact on private insurance carriers. I strongly believe it is the responsibility of the Federal Government to provide for the healthcare needs of our veterans. Private insurance should not carry the entire national burden of health care for military personnel. I hope that as the agenda of the Veterans' Affairs Committee continues to unfold, further legislation will be introduced to provide healthcare for our veterans through the Federal Government. We made a promise to our men and women in the Armed Forces that we would take care of them when they were no longer on active duty and we as a government would be negligent if we did not keep our promise.

Mr. BISHOP of New York. Mr. Speaker, I proudly rise today as a cosponsor and in support of H.R. 2046, the Servicemembers' Health Insurance Protection Act of 2005.

As our brave men and women continue to put their lives on the line for our Nation, we owe each of them the health care coverage they were promised and make it easier for their families to manage the transition to active duty and back to civilian life.

Reservists, who fulfill a critical mission in supplementing our fighting forces, should be treated equally and feel as safe as their active duty counterparts in that their employer provided insurance will still be available upon termination of federal benefits. But for too many reservists, this is not the case.

The Servicemembers' Civil Relief Act was passed, in part, to guarantee reinstatement of employer-provided health care following separation from active duty. However, an unintended consequence of that law allowed insurance companies to unfairly single out reservists by inflating their premiums once they returned to civilian life.

Mr. Speaker, I am pleased that we are working to correct this problem by offering this bill as a remedy by protecting our brave reservists from inflated insurance premiums and giving them a helping hand as they return to civilian life.

Mr. REYES. Mr. Speaker, I rise today in support of H.R. 2046, the Servicemembers Health Insurance Protection (SHIP) Act of 2005, and to voice my strong commitment and appreciation to our Nation's servicemembers and veterans as we head into the Memorial Day weekend.

On May 11, 2005, my colleagues and I on the House Veterans' Affairs Committee considered H.R. 2046. This important legislation would assist in providing a seamless transition for our Reservists and Guardsmen by curbing health insurance premium increases and preserving employer-sponsored health care coverage. I voted for this legislation because our servicemembers deserve better protections and improved quality of life.

I would also like to take this time to thank our past and current members of the U.S. Armed Forces for their selfless service to our country. We owe each of them a great deal of respect and appreciation, especially those who have made the ultimate sacrifice for our nation. While many of us will be fortunate enough to be surrounded by loved ones this Memorial Day weekend, I encourage all Americans to take this special time to reflect on the sacrifice of those who died while serving their country and to pray for our troops currently in harm's way.

Mr. Speaker, I urge my colleagues in Congress to continue caring for our servicemembers by ensuring passage of H.R. 2046.

Mr. CARDIN. Mr. Speaker, as our soldiers face a time of war and strife across the globe, we must be mindful not only of the risks that they face in combat, but also the barriers that they face to planning a secure future here at home after the battle is done.

There are currently about 180,000 Americans serving in Iraq, and another 18,000 in and around Afghanistan. It is estimated that there are 1,652 Maryland national guard and reservists serving in combat today.

This bill is important, because it shows our commitment to the future of our troops, to the future of their families. Today soldiers do not pay taxes on their combat pay, as our way of saying that they are paying more than their fair share in the gift of service they bestow on their country. This is only right, and we owe our soldiers our gratitude. But we also owe them the gift of a future, and this bill allows soldiers to plan for that future even as they are protecting ours.

This bill gives soldiers the opportunity to save for their retirement by including combat zone pay as earned income in calculating the tax deduction for contributions to retirement savings plans.

I think we should go further. In my bill, the Pension Preservation and Savings Expansion Act, I included a provision that allows National Guard members and military reservists called up on active duty to continue contributing to their workplace retirement plans where their employers pay them their salary differential during their active duty service. This important provision should also be brought to the floor for a vote.

We have an obligation to ensure that our soldiers have a secure present and a secure future, and this bill takes one important step in that direction. I urge a "yes" vote on the Heroes Earned Retirement Opportunities Act.

Mr. BOOZMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 2046, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOOZMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2046, as amended.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a), rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 32 minutes p.m.) the House stood in recess until approximately 6:30 p.m.

☐ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DUNCAN) at 6 o'clock and 31 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 109–94) on the resolution (H. Res. 291) providing for consideration of the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 744, by the yeas and nays;

H.R. 29, by the yeas and nays;

H. Con. Res. 149, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

The vote on the motion to suspend the rules and pass H.R. 1224 will be taken tomorrow.

INTERNET SPYWARE (I-SPY) PREVENTION ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 744, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 744, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 395, nays 1, not voting 37, as follows:

[Roll No. 200]

YEAS—395

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)

Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—1

Paul

NOT VOTING—37

Barrett (SC)
Becerra
Brown (OH)
Burton (IN)
Buyer
Clay
Cubin
Davis (AL)
Delahunt
English (PA)
Fattah
Ferguson
Gallegly
Gibbons
Gohmert
Hastings (WA)
Istook
Kennedy (RI)
Kingston
LaTourette
Lynch
McCrery
Meeks (NY)
Millender-McDonald
Miller (MI)
Moore (KS)
Poe
Pryce (OH)
Rush
Sanchez, Loretta
Sessions
Shaw
Shays
Shimkus
Stark
Velázquez
Young (AK)

☐ 1854

Mr. CONYERS and Mr. TIERNEY changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

The SPEAKER pro tempore (Mr. DUNCAN). The pending business is the question of suspending the rules and passing the bill, H.R. 29, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 29, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 4, not voting 36, as follows:

[Roll No. 201]

YEAS—393

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich

Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (FL)

NAYS—4

Jackson-Lee (TX)
Lofgren, Zoe
Paul
Wu

NOT VOTING—36

Barrett (SC)
Becerra
Brown (OH)
Burton (IN)
Buyer
Clay
Cubin
Davis (AL)
Delahunt
English (PA)
Fattah
Ferguson
Gallegly
Gibbons
Gohmert
Hastings (WA)
Istook
Kennedy (RI)
Kingston
LaTourette
Lynch
McCrery
Meeks (NY)
Millender-McDonald
Miller (MI)
Poe
Pryce (OH)
Rush
Sanchez, Loretta
Sessions
Shaw
Shays
Shimkus
Stark
Velázquez
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1903

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING 57TH ANNIVERSARY OF INDEPENDENCE OF STATE OF ISRAEL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 149, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 149, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 0, not voting 36, as follows:

[Roll No. 202]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
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Pickering
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Platts
Pombo
Pomeroy
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Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
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Scott (GA)
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Smith (NJ)
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Snyder
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Thompson (CA)
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Upton
Van Hollen
Visclosky
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Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—36

Barrett (SC)
Becerra
Brown (OH)
Burton (IN)
Buyer
Clay
Cubin
Davis (AL)
Delahunt
English (PA)
Fattah
Ferguson
Gallegly
Gibbons
Gohmert
Hastings (WA)
Istook
Kennedy (RI)
Kingston
LaTourette
Lynch
McCrery
Meeks (NY)
Millender-McDonald
Miller (MI)
Poe
Pryce (OH)
Rush
Sanchez, Loretta
Sessions
Shaw
Shays
Shimkus
Stark
Velázquez
Young (AK)

□ 1920

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GIBBONS. Mr. Speaker, I rise today to explain how I would have voted on May 23, 2005, during rollcall vote No. 200, No. 201, and No. 202 during the first session of the 109th Congress. The first vote was on H.R. 744—the Internet Spyware (I–SPY) Prevention Act of 2005, the second vote was on H.R. 29—Securely Protect Yourself Against Cyber Trespass Act, and the last vote was on H. Con. Res. 149—Recognizing the 57th Anniversary of the independence of the State of Israel.

I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted "yes" on the rollcall votes.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I was regrettably delayed in my return to Washington, DC, from an official visit to Venezuela for meetings with various officials and therefore unable to be on the House floor for rollcall votes 200, 201, and 202. Had I been here I would have voted "yea" for rollcall vote 200, "yea" for rollcall vote 201, and "yea" for rollcall vote 202.

REPORT ON H.R. 2528, MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATION ACT, 2006

Mr. WALSH, from the Committee on Appropriations, submitted a privileged report (Rept. No. 109–95) on the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. WESTMORELAND). Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.R. 810, STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

Mr. BISHOP of Utah. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider in the House H.R. 810. The bill shall be considered as read; the previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) three hours of debate on the bill, equally divided and controlled by the chairman of the Committee on Energy and Commerce and the gentlewoman from Colorado (Ms. DEGETTE) or their designees; (2) one motion to recommit; and during consideration of H.R. 810, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

ECONOMIC GROWTH IN TENNESSEE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, you know last year this body passed the 2004 Jobs and Growth Act, and this restored sales tax deductibility to our State.

Mr. Speaker, I wanted to rise tonight just to give an update on the good work this is doing in the State of Tennessee. We have a $272 million boost in our State revenues. Now, we are one of those States that does not have a State income tax. We have a State sales tax, and restoring that deductibility that the Republican leadership pushed forward in this House has paid dividends for the State of Tennessee.

It is like a lot of the other economic news that we are hearing: 274,000 new jobs that were created in the month of April; employment ranks grew by 598,000 jobs this last month, pushing it to over 141 million Americans who are working. These are the right decisions, the right steps to promote positive economic growth in our great Nation, and I thank the leadership for their work on that issue.

DEFENSE AUTHORIZATION AMENDMENTS TO STRENGTHEN CLEANUP OF BRAC SITES

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, one reason there is so much opposition to the BRAC base closing process is that people do not know what they are going to get stuck with when their base closes. Seventeen bases from the 1988 round are still contaminated and have not been transferred back to the benefit of local communities. Over 140,000 acres on closed or realigned bases have not been cleaned up.

I am offering an amendment to the defense authorization legislation tomorrow that would delay the implementation of the 2005 Base Realignment and Closure round until the Secretary of Defense submits a strategy including an estimate of the amount of funds necessary to complete unexploded ordinance clean up and environmental remediation of the bases closed during the 1988 round. Not trying to stop the BRAC, just getting plans in place that are 17 years overdue.

At a time when we are asking communities to bear the trauma of the BRAC process, it is unacceptable that we have not finished cleaning up the first round.

TRIBUTE TO DR. LUIS GLASER

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay special tribute to an outstanding citizen from my south Florida community, Dr. Luis Glaser. For the past 19 years, Dr. Glaser has served as provost for the University of Miami. He has been one of the university's most dynamic and energetic leaders.

As a recent graduate of the University of Miami, I am proud to have experienced firsthand his exceptional leadership.

As a Jewish refugee who fled his native Austria at the dawn of the Holocaust, Dr. Glaser understands the experience of refugees of so many countries who have made the University of Miami the international academic center that it is.

His sensitivity and his insight have allowed him to fully engage in the academic life of the university and to maintain direct personal contact with its students.

I ask my colleagues to join me in thanking Dr. Luis Glaser for his wonderful service, as well as to his great wife, Ruth, for their unparalleled commitment to our south Florida community and to the University of Miami community. Go Canes. Thank you, Louie.

ALLOW STEM CELL RESEARCH

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, yesterday I met with a group of folks who are urging the House to allow commonsense, reasonable stem cell, embryonic stem cell research to continue. I talked to Dr. Charles Murray of the University of Washington Cardiovascular Regenerative Biology Center, who told us that this research some day could repair damaged hearts.

I talked to Dr. Tony Blau, a hematologist at the University of Washington, who said that they had to put some research on the shelf because of these restrictive rules that President Bush's administration has placed on this research.

I talked to Dr. Connie Davis, who works with kidney and liver transplantees, who told us about the potential that this research could bring for the health of citizens, who said, why can people not make their own decisions? When you donate a kidney or you donate embryonic cells, she said, it should be the same thing.

We should pass, tomorrow, a commonsense measure that removes these restrictions that put handcuffs on our researchers right now where we are falling behind the rest of the country. Folks who have diabetes and Parkinson's know what is at stake tomorrow. Let us pass the bill.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

OPPOSITION TO CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I rise tonight, joining with many of my friends on the Democratic side, because I am opposed to CAFTA; and I would like to take just a few minutes to explain why I am opposed to CAFTA, the Central American Free Trade Agreement; and I like to quote from a gentleman I have great respect for, particularly when it comes to protecting American jobs, Pat Buchanan.

□ 1930

The title of his article is called "CAFTA: Last Nail In The Coffin?" And I will read a few paragraphs from the article. He says, "As I write, the Department of Commerce has just released trade deficit numbers for February of 2005. Again, the monthly trade deficit set a record of $61 billion. In January-February 2005, the annual U.S. trade deficit was running $100 billion above the all-time record of $617 billion in 2004."

Let me go read a little bit more from his article. "Between 1993 and 2004, the United States trade deficit with Beijing, China, grew 700 percent to $162 billion. Since NAFTA which passed a few years ago, the U.S. trade surplus with Mexico has vanished and the annual trade deficit is now running above $50 billion that we owe Mexico. One-and-a-half million illegal aliens are caught each year crossing our borders and 500,000 make it in to take up residence and enjoy all the social programs generous but over-taxed Americans cannot afford to pay.

"The highest per capita income in Central America is $9,000 a year in Costa Rica, which is less than the U.S. minimum wage, but CAFTA will enable agribusiness and transnational companies to set up shop in Central America to dump into the United States and drive our last family farmers out of business and kill our last manufacturing jobs in textiles and apparel."

Mr. Speaker, I also want to read just a paragraph from a letter I received recently that was not signed. It is a full page and a half. I will read one paragraph. I intend to come to the floor day after day after day to talk about this issue.

He says, "Dear Congressman Jones: It is my understanding that you share my deep concern that our country is losing its industrial base. We are losing the vital jobs that are so important to support our economy and ultimately preserve the excellent standard of living that prior generations passed on to us. My view is that leaders in government and business are doing an inadequate job of protecting America's industrial base."

There is no question about that, Mr. Speaker. The gentleman that wrote this letter knows because he is a subcontractor.

Mr. Speaker, I want to show in my great State of North Carolina, which I am very proud to be one of 13 Representatives, that since NAFTA we have lost over 200,000 manufacturing jobs. The United States itself, since NAFTA, has lost 2.5 million manufacturing jobs.

Mr. Speaker, this first chart shows you Pillowtex, which happens to be in the district of my dear friend, the gentleman from North Carolina's (Mr. HAYES), in July 31 of 2003. It says, "Pillowtex Goes Bust, Erasing 6,450 Jobs." The subtitle says, "5 North Carolina plants closing in largest single job loss in State's history."

Mr. Speaker, we need to get serious about what is happening to the manufacturing jobs in America, and I am very disappointed that this administration does not seem to get it.

I will also say that 2 weeks ago in my home county of Wilson County, which I share with the gentleman from North Carolina (Mr. BUTTERFIELD), it says, "VF Jeanswear Closes Plant, Last 445 Jobs Gone By Next Summer." It further states in the article that operations performed in Wilson, which include fabric cutting and finishing garments, will be moved to Central America.

Mr. Speaker, I hope that we in a bipartisan way can defeat CAFTA, and I will do everything I can to help my friends, Republican and Democrat, to defeat CAFTA because it is about time that we care about the American workers.

Mr. Speaker, I ask God to please bless our men and women in uniform and their families.

CHEMICAL SECURITY

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, in 2003 the U.S. General Accounting Office released a report that was done at the request of myself and the gentleman from Michigan (Mr. DINGELL) and, I believe, other Members of Congress that found with regard to terrorist threats that no Federal agency has assessed the extent of security preparedness at chemical plants and that no Federal requirements are in place to require chemical plants to assess their vulnerabilities and take steps to reduce them.

I wanted to talk briefly tonight about this issue of the need for security at chemical plants. I was very pleased to note yesterday in the New York Times the lead editorial addressed this issue. I wanted to read from some sections of that editorial and comment on it.

In one part of the New York Times editorial yesterday it says, "There is no way to guarantee that terrorists will not successfully attack a chemical facility, but it would be grossly negligent not to take defensive measures. The question Americans should be asking themselves, says Rick Hind, Legislative Director of the Greenpeace Toxics Campaign, is, 'If you fast-forward to a disaster, what would you want to have done?'"

And this is what the New York Times and what Greenpeace say should be some of the priorities:

"First, tighter plant security. There should be tough Federal standards for perimeter fencing. Concrete blockades, armed guards and other forms of security at all of the 15,000 facilities that use deadly chemicals.

"Second, use of safer chemicals. Refineries, when practical, should adopt processes that do not use hydrofluoric acid, the chemical that is now putting New Orleans at risk. Some plants that once used chlorine, such as the Blue Plains wastewater treatment plant in Washington, DC, have switched to safer alternatives.

"Third, reducing quantities of dangerous chemicals. An important reason that chemical facilities make such tempting targets for terrorists is the enormous quantity of chemicals they have on hand. The industry should be encouraged and in some cases required to store and transport dangerous chemicals in smaller quantities.

"Fourth, limiting chemical facilities in highly populated areas. Many chemical facilities were built long before terrorism was a concern and when fewer people lived in their surrounding areas. There should be a national initiative to move dangerous chemical facilities, where practical, to lower population areas.

"Fifth, government oversight of chemical safety. The chemical industry wants to police itself through voluntary programs, but the risks are too great to leave chemical security in private hands. Facilities that use dangerous chemicals should be required to identify their vulnerabilities to the Environmental Protection Agency and the Department of Homeland Security and to meet Federal safety standards."

Now, those are the five points that were are mentioned by the New York Times yesterday in their editorial, and also by Greenpeace. But I wanted to say, Mr. Speaker, that more than 3 years have passed since 9/11 and Congress has yet to seriously address the need to secure our Nation's chemical plants. We are finally seeing some movement in the Senate, but not yet in the House. And it is time to take serious action to reduce the threat of an attack on a chemical facility which would endanger millions of lives.

Last month I reintroduced the Chemical Security Act, H.R. 2237, which requires the EPA and the Department of Homeland Security to work together to identify high-priority chemical facilities. Once identified, these facilities would be required to assess vulnerabilities and hazards and then development and implement a plan to improve security and use safer technologies within 18 months. Senator CORZINE has introduced this bill in the Senate.

Now, since the legislation was first introduced in the House in 2002, I have tried to get the Republican leadership to conduct a congressional hearing on chemical security. And I welcomed the announcement last week on the House floor during the discussion or debate on the Homeland Security bill, there was an announcement that the House Select Committee on Homeland Security chairman, the gentleman from California (Mr. COX) said his committee would hold a hearing or start a series of hearings on chemical security beginning June 14.

I would also like to see my own committee, the House Committee on Energy and Commerce, which has jurisdiction over chemical facilities, to follow the gentleman from California's (Mr. COX) lead and schedule hearings or begin to have hearings this summer.

Hopefully, we will see some positive signs, some movement in the House, at least to have hearings on the issue, but it really is a very important issue, not only for New Jersey, my home State, but throughout the country. I am also pleased that the New York Times has pointed this out.

Greenpeace, of course, has talked about a number of initiatives even beyond the ones that were mentioned in the New York Times, and I plan to spend some time over the next few weeks talking to Greenpeace about whether additional legislation is necessary to address some of their concerns.

HOLES IN NATIONAL GUARD BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, last weekend I traveled back to Oregon, as I frequently do, and participated in an Armed Forces Day parade in Cottage Grove, Oregon. The particular focus this year was the return from Iraq of the 2162nd, a National Guard unit which is based in Cottage Grove, in the last 60 days. There was a good turnout among members of the community.

Of course, we are looking forward next week to Memorial Day, which will be a sober event, as we will honor some of those who have recently lost their lives in service to our Nation.

But one thing stands out in both of these celebrations and that is that there is tremendous support for our troops in uniform, but that support somehow is not getting translated in many ways into policy here in Washington, DC, in the budgets proposed by the President that relate to offset of benefits for disabled veterans, a disabled veterans tax, that relate to other services for veterans or equity in benefits for the National Guard.

Today, as I got to the plane, I saw an article "Dental Problems Stymie Guard Call-ups." This particular article was about the National Guard in Washington State where 30 percent of the 4,500 called up were ineligible for active duty because of dental problems, 20 percent nationally. I do not know the percentage for Oregon; I have not seen it. But when I was meeting with members of the 2162nd, when they were down in Fort Hood prior to their deployment to Iraq, and the gentlewoman from Oregon (Ms. HOOLEY) and I were meeting with them, this one fellow in the front says, I have a problem, Congressman: I would like you to try and help me out here.

He opens up his mouth really wide and he is missing a couple of front teeth. I said, What is going on there? He said, I had two bad teeth. I went to my predeployment physical. They said, You have those bad teeth: we have to take care of them. So they yanked his teeth out and sent him to Fort Hood. But at Fort Hood they said, You are not active duty military. We are not going to take care of your problem. You go to the end of the line and you will be in Iraq before we get around to it.

So he was going to go home to Oregon on his leave before he left to try to get false teeth inserted so he would not spend a year in Iraq with a big gap in his front teeth.

We need equity in benefits and better benefits for our Guard members. We are treating the National Guard indistinguishable from active duty forces, yet they still often suffer in terms of equipment and they definitely suffer in terms of equity of benefits, health coverage for our Guard members before they are activated. All Guard members should receive health benefits during their service in the Guard. That means they will be ready to defend the country at the drop of a hat. They are ready to deploy. But it also is a good way to induce and recognize the service of these people in our National Guard.

This morning when I got to the plane there was another Guard member there from Kingsley Air Force Base who does military police work, on his way to a conference. And he and I got in a little chat and we were talking about the proposed base closure in Portland. Then he said, When are we going to get recognition on our retirement benefits. The fact that Guard members have a set age instead of a set number of years of service, they are discriminated against.

Education benefits, they are discriminated against. Active duty military soldiers serve in Iraq, come back, leave the military, can get education benefits. National Guard soldiers serve in Iraq, come back having finished their contract in their term, want to get education benefits. No. They have to sign up for another term in the Guard.

But the active duty soldier did nothing to earn those benefits.

We need equity in education benefits. We need better health care benefits. We need better pension benefits. We have to begin treating our National Guard members like the essential component they are of the Nation's national defense today.

They are not an afterthought. They are the front line as much as the active duty military. And there can be no more fitting recognition by this House of Representatives coming up to Memorial Day, in the wake of Armed Forces Day, than to deliver on those changes in benefits and those improvements for our Guard soldiers and to better deliver veterans benefits for all of our Nation's veterans so that Lincoln's words do not become a hollow promise.

☐ 1945

We will take care of our veterans. We can afford it in the greatest Nation on earth, and we should make good those promises before Memorial Day.

FOREIGN FELONS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY. Mr. Speaker, earlier this month the U.S. Supreme Court ruled the law preventing convicted felons from purchasing guns does not apply to individuals convicted of felonies in foreign countries.

In the case of Small v. United States, the ruling stated the law needs to explicitly state that foreign felons are also prohibited from buying firearms. This ruling has opened the doors for dangerous criminals to purchase guns in this country with no questions asked. But the loophole can easily be fixed.

That is why I have introduced H.R. 1931, the Foreign Felons Gun Prohibition Act. My legislation will ensure our gun laws take crimes committed in other countries into consideration before allowing a firearm purchase to go forward.

We cannot allow convicted drug dealers, murderers, rapists and even terrorists to purchase guns just because their crimes were committed in another country.

Mr. Speaker, a convicted drug dealer from South America can purchase all of the guns and ammunition that he wants and can buy in this country legally. This loophole puts the lives of our police officers, ATF officers, and innocent bystanders in danger. And as demonstrated in the recent GAO report, it is already too easy for individuals with terrorist ties to buy guns in this country. This loophole will allow someone actually convicted of assisting terrorists overseas to purchase weapons like an AK-47 or a .50 caliber sniper weapon that can shoot down a plane.

I completely understand some felony convictions handed down by foreign courts have legitimacy questions. Convictions can be trumped up for political reasons by corrupt regimes. And nations involved in civil wars or other political disputes may have more than one illegitimate court administering justice. This legislation takes that into consideration.

My bill allows individuals to challenge the legitimacy of foreign felony convictions in our courts. If the foreign felony is found to be out of bounds legally, the individual would be allowed to purchase that gun.

This would do nothing to take away the right of someone to be able to own a gun. I want this bill to ensure that anyone charged with an illegitimate or a politically motivated foreign felony is not discriminated against. This may be inconvenient for some, but we must make sure that gun sales are limited to law-abiding citizens.

Mr. Speaker, we are at war. We cannot allow our enemies in the war on terror to arm themselves within our borders just because of a loophole. This is a homeland security problem with a common-sense solution.

Congress must work to close all of the loopholes in our pre-9/11 gun laws. It is too easy for person with ties to terrorism and criminal organizations to access guns in this Nation. Passing H.R. 1931 will help us win the war on terror and keep our streets safe from gangs and criminal.

We should be working together to make this country as safe as possible, certainly for our police officers, our ATF agents and the innocent bystanders. We can do this, but we must learn to work together. We must change the rhetoric of the gun issue. We are working for gun safety, not taking away the right of someone to own a gun.

SUPPORT EMBRYONIC STEM CELL RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, critics of embryonic cell stem research maintain it is wrong to promote science which destroys life in order to save life. As the leading prolife legislator in Washington, Senator ORRIN HATCH put it, "Since when does life begin in a petri dish in a refrigerator?"

To reduce this issue to an abortion issue is a horrible insult to 100 million Americans suffering the ravages of diabetes, spinal cord paralysis, heart disease, Parkinson's and Alzheimer's disease, multiple sclerosis and Lou Gehrig's disease.

I have met with medical researchers from the University of Minnesota Stem Cell Institute, the National Institutes of Health, the Mayo Clinic, and Johns Hopkins University. As one prominent researcher told me, "The real irony of the President's policy is that at least 100,000 surplus frozen embryos could be used to produce stem cells for research to save lives. Instead, these surplus embryos are being thrown into the garbage and treated as medical waste."

Only 22 of the 78 stem cell lines approved by the President in 2001 remain today. This limit on research has stunted progress on finding cures for a number of debilitating and fatal diseases, according to scientists and patient advocacy groups across America.

Mr. Speaker, the scientific evidence is overwhelming that embryonic stem cells have great potential to regenerate specific types of human tissues, offering hope for millions of Americans suffering from debilitating, fatal and cruel diseases.

Mr. Speaker, it is too late for my beloved mother who was totally debilitated by Alzheimer's disease, which led to her death. It is too late for President Reagan who suffered a similar fate. It is too late for my cousin, Joey, who died a cruel death in his 20s from diabetes, but it is not too late for the 100 million other American people counting on this House to support funding for life-saving research on stem cells derived from donated, surplus embryos created through in vitro fertilization.

Let us not turn our backs on these people and take away their hope. Let us listen to respected colleagues and friends like Senator ORRIN HATCH, Senator CONNIE MACK, and former HHS Secretary Tommy Thompson, all prolife people, all who tell us this is not an abortion issue. Let us make it clear that abortion politics should not determine this critical vote. Embryonic stem cell research will prolong life, improve life, and give hope for life to millions of people.

Mr. Speaker, I urge Members to support funding for life-saving and life-enhancing embryonic stem cell research. The American people deserve nothing less.

STEM CELL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, we have just heard an impassioned plea to proceed with embryonic stem cell research. Tomorrow we are going to vote on a bill that would expedite embryonic stem cell research. I have here the latest issue of Time magazine. It just arrived in our office, May 23, and the lead article in it says "Why Bush's Ban Could Be Reversed." It is talking about stem cell research.

In view of the interest all across America and in view of the fact that tomorrow we are going to be voting on a bill, I thought it might be well this evening to spend a few minutes putting this debate in context.

What are stem cells? This is a new term to many Americans. Our first chart is a depiction of the development of early embryos and then all of the tissues in the body which develop from this embryo.

The ultimate stem cell here is the zygote itself. The zygote is produced by the union of the egg from the mother and the sperm from the father. A stem cell is a cell which has the capability of differentiating into a number of other cells. Of course, that is the hope of embryonic stem cell research, that we might induce a cell to develop into a tissue, an organ or cells which will be useful in treating diseases.

This is a very abbreviated depiction of the early development of the embryo because it skips the morula stage, and we will come back to that in a few moments because that is the stage where most of the attention is focused now.

This goes from the zygote through the morula and finally, to the blastula and then to the gastrula. Here we see in the gastrula the development of what we call the germ layers. I guess you would say that a cell from each of these three germ layers, a cell from the endoderm, a cell from the mesoderm or a cell from the ectoderm, are all stem cells because they are destined to become a lot of different tissues and organs in the body.

From the ectoderm develops our nervous system and the skin. From the mesoderm develops most of the mass of the body, all of the bones and all of the muscles, the heart, the red blood cells and so forth. And then the endoderm, although widely dispersed in the body represents less mass in the body because it is the lining of the lung and the digestive tract. My chart shows the germ cells, the sperm in the male and the egg in the female.

Now there are cells in all of these that one could say were stem cells. Tissue, and blood is a tissue, the tissue which has the most obvious stem cell that students were taught at least 50 years ago when I first was studying these things, is the stem cell in the bone marrow from which a number of different blood cells develop.

When you are working with adult stem cells, if you want something other than the organs from which this cell could differentiate, then you need to de-differentiate the cell. In other words, you need to convince the cell that it is not exactly what it is as a result of the development process, that it returns to its original undifferentiated, or relatively undifferentiated state, and then it can make other tissues.

The embryonic stem cells philosophically certainly hold the most promise because they are cells from which all of the tissues and organs of the body develop. There is the rationale then that these embryonic stem cells hold the promise of producing anything and everything that might be needed for fighting diseases.

☐ 2000

There is enormous theoretical potential from working with stem cells. They are useful in treating diseases that result from tissue or organ deficiencies. We need to differentiate these diseases that result from the action of pathogens. There is a very large list of diseases that theoretically might be treated by stem cell application. Diabetes is one of those. It, by the way, represents the largest cost of all the diseases in this country.

This is probably the one that in my experience is the most heart wrenching because I have seen these little children come to my office. Many times during the day and frequently at night they have to prick their finger, their hand, their ear lobe, something in their body to get a drop of blood, and now we have new instruments that require a pretty small drop of blood, and then this new almost miracle instrumentation analyzes that blood to see what the glucose content is so that they know how to set that pump. Many of them have embedded in their side a little hockey puck size pump that pumps insulin.

This of all the diseases, Mr. Speaker, is the one that perhaps most obviously might lend itself to cure through stem cell research. Giving insulin to a diabetic does not cure the disease. It simply delays the inevitable. The person whether they are young or old will go on to have circulatory problems. They may lose their eyesight. Circulation in their legs may be so bad that their toes become gangrenous and have to be removed. When you see these little children come through your office suffering with this disease, your heart really goes out to them and you want to do everything that you possibly can to make sure that they have every potential for a healthy life. And they will not live so long, they will not live so well as the average person in spite of all the miracles of medicine today because insulin does not cure diabetes.

But if through embryonic or adult, for that matter, if you could do it, stem cell research, if you could develop islet of Langerhan cells, you could then put them anywhere in the body. In our bodies, they reside in the pancreas. I am not sure why because what they do and what the pancreas does are two very different things. The pancreas secretes a large number of enzymes for digestion in the small intestine and the islet of Langerhan cells just happen to be resident there. They could be anywhere. They could be in your tongue, they could be in your toe, they could be in your ear lobe. They could be anywhere as long as there is a blood supply there to pick up the insulin that is made by these islet cells.

There is a long list of diseases: multiple sclerosis, lateral sclerosis, Lou Gehrig's disease. I have personal familiarity with this because my grandmother died of this a number of years ago, and I remember as a little boy standing by her bedside as she deteriorated and finally the only way that she could communicate with us was by blinking her eyes. She could not move anything else. She had no other way to communicate with us.

There is a hope, realizable, who knows, until we conduct the research and do the medical experimentation, but there is a hope that one might develop from stem cells tissues that could be injected into people with multiple sclerosis or lateral sclerosis. Sclerosis, by the way, means a scarring. What happens is that there is a scarring that inhibits the function of these nerves.

Alzheimer's disease, that is frequently mentioned. That is a particularly tragic disease. Although it was not specifically diagnosed in my mother because she had other ailments that were easier to diagnose, she lived to be 92 and I am sure that she had Alzheimer's because she had many of the symptoms. It was really tragic to watch a woman who was very bright and vital lose her ability to remember, lose a sense of proportion, to be calling, Roscoe, Roscoe. I would say, I'm here. She said, oh, you're not Roscoe because my father was Roscoe, Sr., and she was way back 50 years earlier in her memory. There is a hope that stem cell research could help cure diseases like this.

I have here a very large number of autoimmune diseases. There are 63 of them here. I have mentioned a couple of them. Autoimmune diseases are diseases where the body fails to recognize itself, that is, the parts of the body that have to do with recognizing foreign invaders and assimilating them, ejecting them, killing them.

Very early in our embryonic development, we have a very special kind of life cell which we call T cells. Very early in embryonic development, they are imprinted with who you are. There are 6.5 billion of us in the world and these T cells are smart enough to recognize a difference. There may be somebody out there close to you, but nobody out there quite like you; and you try to take their body organ and put it in you, these T cells are going to recognize it as foreign and move to reject it. Sometimes for reasons we do not understand, these immune reactions in the body get confused, and they attack the body itself.

We have a large number. Lupus was probably the first widely recognized of these diseases. What has happened is that when the body is attacked, the specific tissues of the body are attacked, they degenerate and become not useful. There is some evidence that the body develops an ability to recognize its own; and so the hope is that after this has happened, if you could replace the damaged tissues, that the person gets returned to normal function. There is enormous potential from use of stem cells, whether they are embryonic or adult, to cure many, many diseases.

The argument today is about whether it should be adult stem cells or whether it should be embryonic stem cells. We have been working with adult stem cells, Mr. Speaker, for over 3 decades, and so there have been a fair number of applications to medicine. You will hear the figure 58. We have been working with embryonic stem cells a little over 6 years. There just has not been time to make those applications, but the fact that there are presently no applications to medicine of embryonic stem cell work does not mean that there will not be and it does not mean that those applications might not be more efficacious than adult stem cell applications.

Indeed, if you will talk to the researchers and the experts in this area, they will all tell you to a man and to a woman that the potential for embryonic stem cell application to medicine should be greater than adult stem cell application just because embryonic stem cells, they are called totipotent, they can produce anything and everything that is in the body. The adult stem cells have already been differentiated, at least to some extent; and so they are limited in their potential application.

There is another very interesting potential that I do not hear often discussed of embryonic stem cells. Fifty years ago when I was studying and teaching in this area, there was an experiment where the researcher went into a mother black mouse and took a little patch of skin in the uterus from one of her little black babies and then he took that little patch of skin, and he went into the uterus of a white mouse with her white babies, and he cut a little patch of skin out of the white mouse and put in that little patch of black skin and when the white mouse was born with that patch of black skin, it did not reject it.

This gives the promise, Mr. Speaker, that there may be less rejection of tissues and organs developed from embryonic stem cells than from adult stem cells. I do not know whether this was a host or donor phenomenon. Both were embryos. All we know is that when the black skin was sewed onto the little embryonic mouse that there was no rejection. If you tried to do that after they were born, I do not know if we have determined at precisely what time they lose that ability, it certainly would have been rejected.

The debate that we are going to vote on tomorrow and the debate which was the subject of the Special Order just before I spoke has to do with whether or not we can effect the needed cures in medicine from adult stem cells or whether we need to move to embryonic stem cells to make this happen. Early in this debate, I had a personal involvement which was kind of an interesting one.

In a former life, I got a doctorate in human physiology. I taught medical school. I did medical research. I went out to NIH in 2001, before the President made his Executive order. It was an information meeting at NIH where the scientists working in this field were briefing, they were largely staff members from the Hill. I think I was the only Member there. It occurred to me that you ought to be able to take cells from an early embryo without hurting the embryo, because nature has been doing that forever as far as we know. That is what happens in identical twinning.

I would like to look at the next chart. This is two zygotes. This is not identical twinning. I just wanted to contrast this with identical twinning. This is where we have fraternal twins. They are so-called wombmates. They could be two boys, two girls, one of each. They are conceived at the same time. The mother that ordinarily sloughs one ovum a month this month sloughed two ovums and the sperm, and there are a whole lot of those, millions of them, they found both of them and they fertilized both of them and the uterus was receptive so they both were implanted in the uterus. This simply shows how they present at birth, depending upon how they implanted. If they are implanted far apart, they present one way at birth. If they are implanted very close together, they present another way at birth.

The next chart shows twins from monozygotic twins, that is, from a single zygote, from a single egg. This presentation looks very much like the dizygotic, that is from two eggs, dizygotic twins that implanted in the uterus very close together. Knowing that in identical twinning, regardless at what stage it occurs and it can occur all the way from the two-cell stage clear up to the inner cell mass and there are several stages between these two, but no matter where it occurs, the embryo has lost half of its cells and both parts go on to produce a perfectly healthy baby.

So I reasoned that it should be possible to take cells from an early embryo without hurting the early embryo and I asked the researchers at NIH, was that possible. They said, yes, of course that is possible. But with all the embryos out there that could be simply destroyed to get the stem cells, nobody had determined how easy this was to do. But they said that it certainly was doable.

A little bit later, and this was again before the President gave his executive order, I met the President at an event and I told him very briefly that I had met with NIH, and there was this possibility that we could take cells from an early embryo without harming the embryo. He asked Karl Rove to follow up on that. Several days later, Karl Rove called me, Mr. Speaker, and he said, ROSCOE, I went to NIH and I told them what you told the President, and they told me they cannot do that.

I said, Karl, there is some problem here. Either they misunderstood your question or something because these are the same people that go into a single cell and take out the nucleus and put another nucleus in the cell. Of course they can go into a relatively large embryo and take out a cell or two. He went back to talk with them again and called me back and said, they are telling me the same thing. And so the President came out with his Executive order which said that Federal funds could be used in research only on the cell lines that had been developed from embryos that had been killed in the process of developing them, that no new cell lines could begin with embryos that had to be killed.

□ 2015

This is only with Federal money, of course. The private sector can do whatever it wishes because there is no law prohibiting the use of embryos. My concern, Mr. Speaker, is that we in Congress ought to be a player in this, and now we are standing on the sidelines.

Mr. Speaker, I see that the gentleman from Georgia (Mr. GINGREY) has joined us, and I yield to the gentleman.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Maryland for yielding to me. And I think particularly at this point I wanted to interject some thoughts.

First of all, the gentleman from Maryland (Mr. BARTLETT), as he pointed out just a second ago, is a Ph.D. physiologist who taught years ago in medical school and taught physiology but, more importantly, has also taught the subject matter, which is difficult to understand. I know. I was there in medical school. And that is the subject of embryology. Embryology. Medical students get maybe in a 4-year period of time, 6 months' worth of embryology; and of course, to hear my colleague from Maryland explaining the embryologic process, it sort of takes me back to those days.

But I realize, of course, how difficult it is to understand for Members of the body. There are 435 of us, of course, and just a handful have ever taken any embryology. There are no embryologists other than maybe the gentleman from Maryland (Mr. BARTLETT) in the body; so it is not an easy concept to understand.

But what I hear my colleague tell us, Mr. Speaker, is that it is possible to get stem cells from an embryo without destroying the embryo. Is it being done today? No, it is not being done today because, quite honestly, it is easier to scramble an egg than to do one over easy.

It is a little more difficult. It will take some study. And we are not talking about long, many years, science fiction at all; and the gentleman from Maryland explained it very clearly. We are close. We need a little research, nonhuman primate research, but we are a lot closer to this possibility than a lot of our colleagues and the general public understand.

Mr. Speaker, I want to share with my colleagues, as an OB/GYN physician, there is a procedure that probably has been done for at least 10, 12, maybe 14 years now. There is an acronym; everything has an acronym. It is called ICSI, intracytoplasmic sperm injection.

What do I mean by that? An infertile couple where the problem is male infertility and a low sperm count. A normal sperm count is 60 million. That is a lot. When we get below 1,000, it is very difficult and the chances of a natural conception are markedly diminished at that point.

But with this ICSI technique, they literally can obtain sperm by a biopsy in someone who has just a few sperm, not 1,000, not 60 million, but maybe just a few; and take one sperm from that biopsy and under the proper laboratory techniques, maybe a specialized microscope, take the wife's egg and inject that sperm with a needle, with a very fine needle, under the microscope. Intracytoplasmic sperm injection, and all of a sudden an embryo is created. Life is created. A child is created. And after several days in cell multiplication, as the gentleman from Maryland (Mr. BARTLETT) was explaining, then that is implanted in the mom's uterus, and the miracle of birth can occur for that couple.

We are not talking about a procedure, ICSI, that is being done exclusively at the National Institutes of Health. This is being done right in my community of Marietta, Georgia, by reproductive endocrinologists, those doctors who specialize in infertility and doing those kinds of things: and it has been going on for 10, 12 years now.

So this is an opportunity to come and share this time with my colleague and say that this is not Star Wars. For goodness sake, we put a man on the moon in 1969. There is a way to do this. That is to obtain embryonic stem cells without destroying or indeed even harming the embryo, and that analogy, that explanation of twinning and how the mono-zygotic single egg identical twin that the egg divides at a certain stage; and indeed, they are taking away 50 percent of the cells, and in most instances, if the division is complete, they have two perfectly identical, beautiful children that develop. I know. I have got two precious identical twin granddaughters now who are 7 years old, Mr. Speaker. They were born at 26 weeks, right at that point where it is perfectly legal with very little prescription in our respective States to destroy those lives.

So this is a hugely important thing to me, and I thank my colleague for pointing out the fact that we are not that far away. With a little study, a little funding to be able to develop this technique of obtaining these stem cells, these totipotential cells, as he described, without scrambling the egg and doing it the easy way, the simple way, killing the embryo, which is destruction of life. It is not necessary.

And we are going to be talking, Mr. Speaker, tomorrow in this Chamber about the great successes that we are achieving today with stem cell technology, but not embryonic stem cells. The results there have been pretty dismal. We are talking about the great success, 58 different research endeavors where progress has been made in these various diseases that the gentleman from Maryland (Mr. BARTLETT) described, utilizing either stem cells obtained from umbilical cord blood or from adult stem cells, bone marrow and other tissues.

So this is why it is so important for our colleagues to hear from the gentleman from Maryland (Mr. BARTLETT) and to think about this, to understand exactly what he is saying, because I think it is really on point and very timely.

Mr. BARTLETT of Maryland. Mr. Speaker, I appreciate my colleague's coming and entering into this discussion.

Before leaving this little experience with NIH, I will, Mr. Speaker, submit for the RECORD a letter which I received today from Dr. Battey, who is the spokesman for embryonic stem cell at NIH, and what the letter says is, and I will come back to it in a few moments to read a couple parts from it, that what we are proposing to do is certainly possible; that there is no medical or scientific impediment to doing this. I just wanted to put to bed the suggestion that NIH says what we are doing cannot be done in spite of the fact that that is what Karl Rove thought they said.

In my office just a few months ago, NIH kind of sheepishly admitted that there was some misunderstanding in conversation because they had never said that we could not go into an early embryo and take a cell. What they had said, which is true, which is why I am proposing this research, was that we have never developed a stem cell line from that early an embryo. Ordinarily, we develop a stem cell line from the inner mass cell stage of the embryo. But the earlier we get the stem cell, the more totipotent it ought to be and the more efficacious it ought to be in treating the diseases.

I have here, Mr. Speaker, a little diagram which shows the ontogeny, the development of the embryo. It begins, of course, with the egg that comes from the mother, the oocyte, and then the sperm, and it shows only four or five there. There will be millions there, I assure my colleagues. And there is really a miracle that occurs here because as soon as one of them penetrates that egg, there is a big barrier put up so that there is no other candidate. It would be quite disastrous if two of them penetrated that egg because that would create an embryo which would certainly die.

And then the egg, called a zygote, goes on to develop, and it is two cells. And it may split here to make two babies, by the way, identical twins. And then the four-cell and then the eight-cell stage. It is at the eight-cell stage, and I am jumping a little ahead here, it is at the eight-cell stage in a petri dish.

This is what happens in the body. If this kind of thing happens, they can fertilize it in a petri dish. It is at this eight-cell stage in more than 1,000 times now in clinics. It started in England. It is now in this country. They have gone into the eight-cell stage and taken out one cell. They might get two. And they then do a preimplantation genetic diagnosis on that. In other words, they determine whether or not there are any genetic defects like Down's disease, for instance, in which case they would not want to implant that embryo. They do this for the benefit of their baby because one would not want, if they had a choice, to bring a child into the world that was going to have a less than optimum quality of life because they had a genetic defect.

This is not genetic engineering. Genetic engineering is when they change the genetics. All they are doing here is seeing what genetics are there, and if there is no deficiency in the genetics, they implant the six or seven cells that remain, and more than 1,000 times they have had a normal baby.

All of this happened in the intervening years between 2001 and now. This may have been going on when I talked to the President and when I talked to NIH. I did not know that it was going on, but just a few months ago, this report came out, and now I spent the other day, for a half-hour, probably, talking with two investigators here in Virginia who are doing this.

I just want to spend a couple of moments talking about the debate. The debate is between the use of discarded embryos that the proponents, and that is what the bill is tomorrow, say are going to be thrown away anyhow and why do we not get some good from them by developing stem cell lines from them since they are going to be discarded anyhow?

The argument on the other side is twofold. First of all, it is not certain they are going to be discarded because they can be adopted. What is it? Operation Snowflake where parents can adopt one of these embryos and have them implanted in a mother other than the one from whom the ovum was taken. So it is not certain that they are going to be discarded.

The other challenge to this is that this is a life. In the proper environment, this is a human being. It is an embryo. Put it in the mother's womb, and it will become a very distinct human being, unlike any other out of the 6.5 billion people in the world. And there are those who feel that it is immoral. The President is among them, and he has said this, that it is immoral to take one life so that we might help another.

The good news is, as the gentleman from Georgia (Mr. GINGREY) said, we do not have to do that because we can take cells from an early embryo without hurting the embryo.

By the way, umbilical cord blood stem cells are not an alternative to embryonic stem cells. Just a little quote here. This is from a scientist at the Johns Hopkins University School of Medicine, one of the best medical schools in the world: "As a physician-scientist who has done research involving umbilical cord blood stem cells for over 20 years, I am frequently surprised by the thought from nonscientists that cord blood stem cells may provide an alternative to embryonic stem cells for research. This is simply wrong," he says.

Do they have a place in treating? Yes, they do. But they are not a substitute for embryonic stem cells, and he makes that very plain.

Opponents of embryonic stem cell research suggested that 58 diseases have been successfully treated using adult stem cells. That is true.

I asked NIH, is that true that we had 58 treatments from adult stem cells and none from embryonic stem cells?

□ 2030

They said yes, that is true. I said, why is that true? That is true because we have had more than 3 decades' experience with adult stem cells, and just a little over 6 years' experience with embryonic stem cells. There simply has not been time. All of the 58 listed, all of them, are represented by organizations that support stem cell research. So what this says is that all of those physicians that are involved with these 58 applications of adult stem cells, all of them support stem cell research.

The argument on the other side is that it is immoral, that we should not take one life to support another life; and in making those claims, they state the following: this kills human embryos. It does. You may not think that is a problem. You may not see this little bit of life that holds the miracle of chromosomes and against that will develop the whole unique individual, not like any other. Out of 6.5 billion in the world, you may not see that as human life, but it clearly is. It kills a human embryo. You may be okay with that, you may not be, but a great number of people are not okay with that.

They argue that H.R. 810, which is the bill we will be voting on tomorrow, is an empty promise because the embryonic stem cells have not treated a single human disease, and that is true. We just gave the reason for it: they have not been worked with long enough to know whether they can treat a disease or not.

H.R. 810 does not have 400,000 discarded embryos to use, that is true; and the statement is made that if you used these 400,000 embryos, you would only get 275 stem cell lines, and that is because only 2.8 percent of them have been donated for research. That gets you down to 11,000, not 400,000. Only 65 percent of those will survive the thawing. They are frozen. This is not an event that is not traumatic. It is very traumatic to the embryos. A third of them do not survive the freezing and rethawing.

Twenty-five percent of those that are still alive after they thaw, only 25 percent will go on through this development stage, through the blastula, gastrula and so forth, so they can be implanted. Then, even if it has gone that far, in one trial only one out of 18 attempts produced a stem cell line, and in another trial only three out of 40 produced a stem cell line. So that now gets you down to about 275.

Yes, we have not developed perfection yet in these techniques; but 275 stem cell lines is more than 10 times more than all the stem cell lines we have now, which, by the way, I think are almost all in this country contaminated with mouse feeder cells.

I see that we have been joined by my colleague from Nebraska. I would be happy to yield to the gentleman from Nebraska (Mr. OSBORNE) for his comments.

Mr. OSBORNE. Mr. Speaker, I thank the gentleman very much and applaud him for his effort. I have been able to listen to most of what was said tonight. Obviously, the gentleman has a tremendous depth of scientific understanding. I do not have that depth, but I would just like to reflect on the dilemma that many Members will be placed in tomorrow as we decide on this particular vote.

As the gentleman has mentioned, those who are in favor of embryonic stem cell research, many of them are people who have children who have juvenile diabetes. There are many who have parents or others with Parkinson's or Alzheimer's and Lou Gehrig's disease and so on. We have heard from these people personally, and our hearts go out to them. We have heard that 400,000 embryos are going to be discarded anyway, and on and on and on.

Yet, on the other side of the argument, as the gentleman has amplified so well, there are some other dilemmas. One thing that is of concern to me is when is a life a life? Obviously, we would not take a 2-year-old and do any harm to that child; we would not experiment on that child. We would not do it to a 1-year-old. Probably, in many cases, most of us would say an 8-month-old fetus would not be appropriate to do some harm to. But where is it that you draw the line? Is it at 6 months? Is it at 4 months? Is it at 1 month? Is it at 1 week?

So therein lies the horns of the dilemma. So many of us are of the persuasion that you really cannot draw that line. When a life is a life is at conception, and therefore you have to respect life. There is a certain sanctity of life.

So, again, the arguments will range wide and far tomorrow. Some will say that embryos can be adopted, and they can. So whether we have 400,000 or 20,000, maybe 1,000, maybe 10,000, maybe 15,000, maybe more than that will be adopted out.

Many will argue that adult stem cells are more productive in research. As the gentleman has pointed out so effectively here, some of that has to do with the length of time of research. There is no question. But there is no question that adequate resources and adult stem cell research will produce results.

There is also the question about private funding. There is no restriction on private funding on embryonic stem cell research. If it is so promising, then why has the private sector not stepped up, because obviously there are huge profits to be made if you have some type of a cure for juvenile diabetes or Alzheimer's or whatever; and yet we do not seem to see that afoot.

Then I guess the last thing that I would mention is that there is the ethical question, should we use public funds in doing research that is so divisive, that has so many people on both sides of the fence? It seems we should have more unanimity in using public funds to do this type of research.

So I applaud the gentleman for the proposed legislation that he has before us, because in this legislation is the prospect of using embryonic stem cells without destroying the embryo. Of course, that removes the dilemma on both sides. So we think that the legislation, even though it is in its early stages, certainly has great promise and is one that we ought to pay very close heed to and one that would certainly be much more appealing to me than the other alternatives at the present time.

Mr. Speaker, I just wanted to come down briefly and let the gentleman from Maryland (Mr. BARTLETT) know I appreciate his efforts. I have read the White House white paper. I understand most of what is in there.

One other thing that is also mentioned is the fact that when these frozen embryos are thawed out, many of them die, as the gentleman mentioned; and some of those apparently will yield stem cells in the early stages.

Anyway, Mr. Speaker, I thank the gentleman again for this legislation.

Mr. BARTLETT of Maryland. Mr. Speaker, reclaiming my time, I thank the gentleman very much.

Mr. Speaker, let me yield to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding, and I thank my friend, the gentleman from Nebraska (Mr. OSBORNE), for being here with us tonight and for his very, very pertinent remarks in regard to where do you draw the line as far as life.

I have heard people on the other side of this argument say, well, we are talking about getting these stem cells, and they are not really embryos, they are pre-embryos.

Maybe our Ph.D. physiologist knows about the definition of pre-embryo, but I never learned that in embryology or any medical school course I took or in my obstetric and gynecology training and my 30 years of experience in the field. An embryo is an embryo. An embryo begins at the moment of conception when that sperm and egg come together. That is the embryonic stage.

Really, an embryo, that stage lasts until the birth of the child. Now, you can differentiate and say at 8 weeks or 10 weeks we start calling it a fetus, but there is no, to my knowledge, definition of a pre-embryo.

I wanted to just kind of follow on the gentleman from Nebraska's remarks. We are hearing a lot now about we have to catch up, Mr. Speaker, that we are behind. The South Koreans have come up with therapeutic cloning and they have cloned an embryo and they are going to get embryonic stem cells from a cloned embryo, and we are getting further and further behind.

The thing that the American public maybe does not understand is that when they are asked the question, are you for embryonic stem cell research that can cure some of these dreaded diseases, my colleagues have talked about, naturally the response is going to be, oh, yes. And use Federal funding for that? Sure. We are going to cure juvenile type I diabetes, and Christopher Reeves, God rest his soul, we are going to restore the function of his limbs, and we are going to cure Alzheimer's.

But I think so many people, Mr. Speaker, and even some of our colleagues, need to understand that in getting those embryonic stem cells, the life is destroyed. And when you ask that question, well, wait a minute now, if you are talking about sacrificing one life to get these cells in hopes that they might lead to at some point in the future a cure, no, I am not for that.

So I think we need to be very clear by it, Mr. Speaker. We need to make sure that people understand that the harvesting today and the way it is done and the way it is proposed and the way we are hearing from the Castle-DeGette bill we are going to discuss tomorrow is using Federal dollars, taxpayer dollars, where people had no choice, they had to pay their taxes, we are going to use those dollars to fund research that involves the destruction of human life, a little, tiny infant, who with a little bit of luck and ingenuity could grow up and be a Member of this body some day. We were all, were we not, embryos at one time. Of course we were.

And when you get this and you start down this slippery slope in regard to what the South Koreans are doing, suppose, Mr. Speaker, that the harvesting of these stem cells from these cloned embryos that the results are not very good, as they have not really been very good in the embryonic stem cells we have retained from these so-called throw-away babies, these 400,000 in these fertility clinics. The results have not been that good. That is why the gentleman from Nebraska said that most of the private funding is going toward adult stem cells.

But what I am saying, and I will wrap this up pretty quickly because I know the gentleman's time is running short, in these cloned embryos, if it is not working too well with the fetal cells, the embryonic cells, why not let these babies develop, maybe to the point 26 weeks, the stage at which my precious twin granddaughters were born, and then you have got an organ that you can transplant, a liver, a pancreas, and you can then just simply destroy the child at that point and take their organs?

This is a slippery slope upon which we are about to start if we do not defeat this bill tomorrow, and the gentleman from Maryland (Mr. BARTLETT) has an alternative to this, and it is something that I think is timely and it is good and I commend him for his efforts.

Mr. BARTLETT of Maryland. Mr. Speaker, reclaiming my time, I thank the gentleman.

I have here a very recent report, "Alternative Sources of Human Pluripotent Stem Cells," a white paper by the President's Council on Bioethics, and the next chart shows page 25 from this.

The highlighted part says: "It may be some time before stem cells can be reliably derived from single cells," the process we have been talking about, "extracted from early embryos and in ways that do no harm to the embryo," thus biopsy. "But the initial success of the Verlinsky Group's efforts at least reaches the possibility that embryonic stem cells could be derived from single blastomas removed from early human embryos without apparently harming them."

Then there is an asterisk, and if you go to the bottom of the page it says: "A similar idea was proposed by Representative ROSCOE BARTLETT of Maryland as far back as 2001 before the President gave his executive order."

There are four potential sources listed here. This source is number two. They do a very good job of discussing this in the body of the text. They talk about parents going for pre-implantation genetic diagnosis. They talk about the possibility that you could develop from the cell or cells taken a repair kit.

☐ 2045

This is a fascinating potential. This is why we are collecting and freezing umbilical cord blood, because we hope that through the life of that person, there might be some opportunity to use stem cells. They are not embryonic, they have limited application, but maybe, just maybe, we could produce something that would help that person later on with a disease.

But in this case, if they did preimplantation genetic diagnosis and if they developed a repair kit from that, then all that we would ask for is that a few surplus cells from the repair kit could be made available for a new stem cell line.

But that is not even what our research, our paper, our bill asks for. What our bill asks for is simply Federal money to do research on animals, on nonhuman primates, that is, the great apes, which genetically are remarkably similar to humans, if it works there, it probably would work in humans, to determine the efficacy and the safeness of doing this.

Unfortunately, if all that you read was their recommendations, you would be disappointed, because they never therein mention that the parents have made an ethical decision to make sure they do not have a baby with a genetic defect, the parents who made a decision to establish a repair kit so that their baby at any time during their life could have available compatible tissue to fix a medical problem. They simply state in their recommendation section that they consider it unethical to go to an embryo and take a cell out of it just to establish a stem cell lot.

It must be that a different person wrote the recommendations at the end as compared to the person or persons that wrote the text in the front, because they certainly should have mentioned the parents' decision to develop a repair kit, the parents' decision to make sure that their baby did not have a defect. These are decisions that parents make, I think, ethically to the benefit of their baby and for all that we would hope in the future. And, again, our bill deals only with animal experimentation to determine the efficacy and the reliability of doing this.

The next chart shows another development chart, and I would just like to reemphasize: Now, imagine this is not in the mother; this is an infant dibulum, in the ovary and the fallopian tube here. Imagine that this is in a petri dish and not in the mother, and we fertilized the egg, and it has now developed to the eight-cell stage, and we can take a cell from that stage and do a preimplantation genetic diagnosis. Maybe, as the authors of the white paper said, you could develop a stem cell line from that. We do not know. They simply have not tried. It has been too easy to take and kill embryos to get stem cell lines from them.

There is one other ethical argument that maybe is a problem, Mr. Speaker. They address this in the President's white paper. They do not think it is a problem. When you read that white paper you will see that they are bending over backwards to satisfy all of the concerns that even the most concerned prolife person could have. They do not believe that you could develop an embryo from a single cell.

But if we waited a little later, and I have asked the researchers, the medical people who are doing this preimplantation and genetic diagnosis, if they could wait until the inner cell mass stage, if they could wait until the inner cell mass stage to take the cell. Now we avoid even that potential ethical argument, because we already have a differentiation that has occurred. There are now two kinds of cells in what we call the embryo. There is the inner cell mass, which will become the baby; and then there is the rest of the trophoblast which will become the decidua. The decidua is the amnion and chorion.

Now, you cannot have a baby without amnion and chorion; it cannot grow. So if you take cells only from the inner cell mass, they could never become an embryo because these cells have lost all of their ability to produce the decidua, but they retain all of the ability to produce the cells of the body, the great variety of cells in the body.

I am prolife. I have an impeccable, 100 percent prolife voting record. I would not be here on the floor today talking about a possible solution to this debate if I did not think that this was perfectly ethical and probably perfectly doable.

I hope, Mr. Speaker, that a number of my colleagues will sign on to our bill. We are going to hold this until about noon tomorrow, because we would like to get as many prolife signers as possible.

If the other bill reaches the President's desk, no matter what he decides, some people are not going to be happy. If he vetoes the bill, as he has said he would, then all of those Americans, and I believe it is a majority, as there will be a majority tomorrow that vote for H.R. 810, will wonder why it is not okay to take these embryos that hardly look like a baby, just eight cells, to take these embryos, and they are going to be discarded anyhow. And given the two arguments, they may not be discarded, they may be adopted, and at the end of the day, you are taking a life.

If you think it is okay to take one life to help another, that is okay, but a lot of people do not think that is okay. On the other hand, if he lets it become law, then he is going to offend all of those prolife people who really see this as life.

What I hope, Mr. Speaker, is that my bill can be on the President's desk when he is faced with the unhappy choice that he will have with this bill, so that he can now say, Gee, I have a bill which supports what I want, and that is embryonic stem cell research without harming an embryo.

We are not ready yet to work with humans. This bill addresses only animal experimentation. But as we saw earlier, Mr. Speaker, from this chart that we had from that page of the white paper, let me put that back up because I think it makes the point, it may be some time. That is why we have researchers and that is why we have money from NIH, because it may be some time before stem cell lots can be reliably derived from single cells. They believe that it is possible to do that. It may take some time, taken from early embryos in ways that do not harm the embryo. As we have pointed out, they will be taken to benefit the embryo, to do preimplantation genetic diagnosis and to develop a repair kit for the embryo.

But the initial success of the Verlinsky group's efforts at least raises the future possibility that pluripotent stem cells could be derived from single-blast embryos removed from early human embryos without apparently harming them. Indeed, if it is taken for preimplantation genetic diagnosis and to establish a repair kit, not only are they not harmed, they are benefited by it.

Mr. Speaker, I know that all America will be watching this debate; they just voted $3 billion in Alaska to pursue this. I believe we can pursue all of the potential miracles that could come from embryonic stem cell research and applications to medicine without harming embryos, and I urge an early vote and adoption of this bill.

Mr. Speaker, I submit the following for the RECORD:

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Washington, DC, May 23, 2005.

Hon. ROSCOE G. BARTLETT,
Rayburn House Office Building,
Washington, DC.

DEAR MR. BARTLETT: I am pleased that Drs. Allen Spiegel and Story Landis were able to meet with you, Mr. Otis and Mr. Aitken during your visit to the National Institutes of Health (NIH) last month to discuss ways to derive human embryonic stem cells (hESCs). Drs. Spiegel and Landis were serving as Acting Co-Chairs of the NIH Stem Cell Task Force during my leave of absence from this position. Earlier this month, I returned to chair the Task Force. NIH shares your enthusiasm on the therapeutic potentials of hESC research and thank you for your continued support of this field.

Drs. Spiegel and Landis briefed me about your April 26th meeting. I am also aware that you have had previous meetings with NIH officials, including myself, Lana Skirboll and Richard Tasca, on this topic. You propose the possibility of using a cell (or two) removed from the 8-cell stage human embryo undergoing pre implantation genetic diagnosis (PGD) to: 1) create a "personal repair kit" made up of cells removed from the embryo and stored for future use; and 2) for deriving human embryonic stem cell lines.

You suggested that creating hESC lines in this manner would avoid ethical questions surrounding the fate of a human embryo. Live births resulting from embryos which undergo PGD and are subsequently implanted seem to suggest that this procedure does not harm the embryo, however, there are some reports that a percentage of embryos do not survive this procedure. In addition, long-term studies would be needed to determine whether this procedure produces subtle or later-developing injury to children born following PGD. Also, it is not known if the single cell removed from the 8–cell stage human embryo has the capacity to become an embryo if cultured in the appropriate environment.

NIH is not aware of any published scientific data that has confirmed the establishment of hESC lines from a single cell removed from an 8-cell stage embryo. We are aware of the published research of Dr. Yury Verlinsky in the Reproductive Genetics Institute in Chicago that showed that a hESC line can be derived by culturing a human morula-staged embryo (Reproductive Bio-Medicine Online, 2004 Vo. 9, No.6, 623–629, Verlinsky, Strelchenko, et al). It is also worth noting, however, that in these experiments, the entire morula was plated and used to derive the hESC lines. The human morula is generally composed of 10–30 cells and is the stage that immediately precedes the formation of the blastocyst.

At the April 26th meeting, NIH agreed that such experiments might be pursued in animals, including non-human primates. That is, animal experiments could be conducted to determine whether it is possible to derive hESCs from a single cell of the 8-cell or morula stage embryo. To date, to the best of our knowledge no such derivations have been successful. NIH also does not know whether these experiments have been tried and failed in animals and/or humans and, therefore, have not been reported in the literature. NIH agreed to explore whether there have been any attempts to use single cells from the 8-cell or morula stage of an animal embryo to start embryonic stem cell lines by consulting with scientists that are currently conducting embryo research. From these discussions, these scientists believe it is worth attempting experiments using a single cell from an early stage embryo or cells from a morula of a non-human primate to establish an embryonic stem cell line.

Of note, a recent 2003 paper from Canada shows that when single human blastomeres are cultured from early cleavage stage embryos, before the morula stage, that there is an increased incidence of chromosomal abnormalities. Even with hESCs derived from the inner cell mass of the human blastocyst, the odds of starting a hESC line from a single cell are long, perhaps one in 20 tries. Thus, the odds of being able to start with a single cell from an 8-celled or morula staged embryo are equally challenging. This would make it difficult to accomplish the goal of establishing "repair kits" and hESC lines from any single PGD embryo. (Fertil Steril, 2003 June, 79(6): 1304-11, Bielanska, et al). It is possible, however, that improvements in technologies for deriving and culturing hESCs may improve these odds.

NIH concludes that the possibility of establishing a stem cell line from an 8-cell or morula stage embryo can only be determined with additional research. NIH would welcome receiving an investigator-initiated grant application on this topic using animal embryos. The Human Embryo Research Ban would preclude the use of funds appropriated under the Labor/HHS Appropriations Act for pursuing this research with human embryos. As with all grant applications, the proposal must be deemed meritorious for funding by peer review and then will be awarded research funds if sufficient funds are available. It also bears keeping in mind that it may take years to determine the answer.

At the April 26th meeting, you had mentioned that twins can develop when the inner cell mass splits in the blastocyst and forms two embryos enclosed in a common trophoblast. You asked if cells from the inner cell mass could be safely removed without harming the embryo. In animal studies, it has been shown that the blastocyst can be pierced to remove cells of the inner cell mass and the embryo appears to retain its original form but it is not known whether the embryo will result the birth of a healthy baby. Since this experiment in human embryos at either the morula or the blastocyst stage would require evaluations of not only normal birth but also unknown longterm risks to the person even into adulthood, it would have to be considered a very high risk and ethically questionable endeavor. Because of the risk of harm, this research would also be ineligible for federal funding.

You had also asked NIH about the latest stage in development that an embryo can be artificially implanted into the womb. We know that infertility clinics transfer embryos at the blastocyst stage (approximately

Day 5 in human embryo development) as well as at earlier stages.

Finally, I am providing an additional resource that was discussed at the April meeting. I have enclosed a copy of a recently released white paper developed by the President's Council on Bioethics (PCB) on Alternative Sources of Human Pluripotent Stem Cells. In this white paper, the PCB raised many ethical, scientific and practical concerns about alternate sources for deriving human pluripotent stem cells without harming the embryo. Your proposal is specifically discussed in this report.

I hope this information is helpful.

Sincerely,

JAMES F. BATTEY, Jr.,
Chairman, NIH Stem Cell Task Force.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, once again, it is an honor to be here before the House of Representatives and have an opportunity to speak to the Members and to the American people.

Mr. Speaker, we would also like to thank the Democratic leader, the gentlewoman from California (Ms. PELOSI), along with the Democratic whip, the gentleman from Maryland (Mr. HOYER), and our chairman, the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus, and also the vice chair, the gentleman from South Carolina (Mr. CLYBURN) for providing the kind of leadership that Americans need and want here in this great country of ours.

This week, as every week, we come to the floor, the 30-something Working Group that was formed in the 108th Congress by Leader PELOSI to talk about the issues that are not only facing the 30-somethings, but also facing the American people in general.

We also come to the floor, along with the gentleman from Ohio (Mr. RYAN), my good friend, we come to the floor to be able to talk about a number of issues, not only Social Security, but also student loans; to talk about issues facing the environment, as well as the ever-growing debt, which is always on our agenda.

Without any further ado, I would say to the gentleman from Ohio (Mr. RYAN) how much I appreciate the fact that he commits, and our good friend, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), who will not be here tonight, every night to come to the floor to share good and accurate information not only with the Members of Congress, but with the American people.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for the opportunity too.

In the past several months, really since the beginning of the year, the President initiated a Social Security plan that he wanted to promote to the country, to say that privatization, these private accounts were going to be the answer to the Social Security solvency problem. We have been, just about every week since the beginning of the year that we are in session here in Washington, we have been talking about why the President's privatization scheme really is not the answer for the country.

The President, when he initiated this discussion after the election, began to say that it was a crisis and it was a crisis for the country that we all needed to address. What we want to do tonight is, we want to begin by saying that Social Security is a solvent program. There is no crisis within the Social Security program. Do we need to make some minor adjustments? Of course, we do. Do we need to tinker with the program? Yes, we do. But is there a crisis there? We really do not think so.

So tonight we are going to begin to talk a little bit about why Social Security is a solvent program and show a few numbers that we have shared with the American public every week that we have been on, but also to get into some of the areas where we believe a crisis does exist in this country that needs immediate attention.

So we have this graph here that basically shows that Social Security is secure for many, many decades to come. These are facts. These are the Congressional Budget Office numbers that they have given us.

The CBO is a nonpartisan organization, a nonpartisan group, and if they would lean one way or the other, the Republicans control the House, the Senate, and the White House, so if they are going to lean any one way, which I do not believe that they do, they would certainly lean in favor of making it look like Social Security is less secure than it actually is.

So this graph here, we can see it starts in 2005, and it goes to 2075, so it gives us a 70-year span. And from 2005 to about 2047, 2048, 2049, right in there, if we do absolutely nothing with Social Security, Social Security recipients will still receive 100 percent of their benefits. And all in the blue here. So from 2005 to the late 2040s, if we do absolutely nothing with the program, if we do not touch it at all, we are still going to get 100 percent of our benefits up to the late 2040s, 2047, 2048. So at 32 years old, after 40 years, I will be 72 years old, just about 72, on Social Security. So I will be guaranteed, if we do nothing, to at least get 100 percent of what I would earn right in here, or someone else who is 32 years old. Then, after that, from the late 2040s into 2075, one would still receive 80 percent of one's benefits if we did nothing.

So what we are saying on this side of the aisle is, is there a problem? Yes, of course. From 2047 to 2075 and beyond a recipient would only get 80 percent of what they should be getting now. So that is a problem.

Is that a crisis? No, that is not a crisis. Something that happens 40 years from now is not a crisis. What we want to do is just show tonight that this is not a crisis; 100 percent of the benefits will be paid until the late 2040s and, beyond, still get 80 percent.

So if the President wants to sit down and work out a program, we are going to be able to deal with this 80 percent issue here coming 40-some years from now, and we will sit down and talk with the President.

☐ 2100

But, unfortunately, the plans that are floating around Congress cut into the 100 percent benefits here and begin to reduce some of the 100 percent benefits there.

Mr. MEEK of Florida. Mr. Speaker, I would say to the gentleman from Ohio (Mr. RYAN), just one moment. I want to ask just a quick question. What is a crisis? I mean, the President is saying, and some of the Members of the majority side leadership are saying that Social Security is in a crisis. And I cannot help but look in the dictionary when we start talking about crisis, because a crisis, there are a number of things that we can point out that are actually a crisis. And as the gentleman from Ohio knows, we received some e-mails that I hoped the gentleman would read early in our Special Order here. But we took a look at Webster's and exactly what does crisis mean. And basically it says, an unstable situation of extreme danger or difficulty.

Now, 40 years from now, as the gentleman from Ohio had the other chart here, I could say that it would be a crisis if Social Security, like the administration and the majority side use words like, is going bankrupt. What does bankrupt mean? Bankrupt means that there is no money coming in or no money going out, and it is tomorrow, and it is eminent danger.

Mr. RYAN of Ohio. There is no money.

Mr. MEEK of Florida. There is no money. And I can tell the gentleman from Ohio right now, from what the gentleman has just said, and it is not just the gentleman from Ohio's (Mr. RYAN) report. That is from the Congressional Budget Office of this House of Representatives that put forth the kind of information that we need here in Congress, that we need to share with the American people and the Members of this Congress.

I think it is also important to understand that, yes, we do want to work on Social Security and strengthen Social Security on this side of the aisle, but we will not buy into the rhetoric of a crisis.

I would say to the gentleman from Ohio (Mr. RYAN), a crisis, in my opinion, is what we are in on the deficit. We are at a crisis level when it comes down to the deficit. Highest deficit in the history of the Republic.

You want to know what a crisis is? And I hope that we continue to share this with our colleagues. A crisis is that family right now that is a part of the 46 million American families that are working that do not have health insurance. That is a crisis. A crisis is the fact that small businesses cannot provide health care insurance for their employees. Many businesses are telling their employees you can get a better plan if you apply for Medicaid. That is a crisis.

Furthermore, if you want to talk about a crisis, a crisis is families trying to put gas in their tank. That is a crisis, because some families have had to put their car down to try to figure out some sort of way that they can be able to take their kids to school or football or soccer or Boy Scouts or Girl Scouts, to be able to conduct themselves in the way that they want to. That is a crisis, these gas prices that have doubled and tripled in some cases.

And then we talk about issues that are facing our veterans. Providing health care for our veterans, that is a crisis. And so there are a number of issues that are out there. And I say to the gentleman from Ohio (Mr. RYAN) this whole issue of abuse of power, I am sorry, I just want to point out a few things.

Mr. RYAN of Ohio. Nothing to be sorry about.

Mr. MEEK of Florida. Because we are, I think those of us that are in 30-something, and Members of the Congress, are sick and tired of individuals in Washington using Social Security as though there is some sort of imminent danger or, going back to the definition, an unstable situation.

Mr. RYAN of Ohio. And I thank the gentleman. And let us take the definition and apply it to this chart. A crisis is an unstable situation of extreme danger, or difficulty. Unstable situation.

Now, how could you call this, 100 percent of the benefits for the next 40 some years, how is that an unstable situation? It is a very stable situation. And I would even argue that 80 percent, without doing anything, 45 years from now is not unstable. That is a stable situation. It needs to be dealt with. But extreme danger or difficulty? How could you call from 2005 to the late 2040s extreme danger or difficulty? It does not apply here. And using the word "crisis" is extreme, and it is trying to scare the American public. And you see it in the poll results. The American people are beginning not to buy it.

Now, we could even try to go to the second definition of what a crisis is, a crucial stage or turning point in the course of something. There is no crucial stage or turning point that needs to happen here. We are not on a brink here that we have got to change something immediately. There is no crisis here. And as the gentleman from Florida (Mr. MEEK) stated very eloquently, there are many more issues that I think we need to deal with.

And there was one other thing, and we are kind of moving things around a little bit here, that I want to share just briefly.

Mr. MEEK of Florida. I would say to the gentleman from Ohio (Mr. RYAN) just briefly, but before the gentleman moves from that chart, I think I know the reason why some in Washington want to try to fool the American public that there is a crisis, because we have individuals that are on Wall Street that have been guaranteed, if the President has his way, if the majority side leadership have their way, that they will receive over the next 20 years $944 billion worth of the taxpayers' money in risky investment, Social Security. So I think that is the crisis of trying to close the deal before the term runs out on the present President and the term may run out on the present leadership.

But I can tell the gentleman from Ohio (Mr. RYAN), I want to talk, when the gentleman is finished, when the gentleman makes the point that the gentleman is about to make, I want to make sure that we share with the Members, if we had the opportunity to lead, not necessarily you and me, but the Democratic side, working with some of our Republican friends that understand the importance of making sure that we work for all Americans and making sure that Social Security is strengthened.

Mr. RYAN of Ohio. Well, I thank the gentleman. And after this we are going to move on to what we believe that the real issues are that need to be dealt with immediately, issues that we think are causing unstable situations, issues that we think are providing extreme danger or extreme difficulty for families here and issues, quite frankly, that we think the country is at a crucial stage or at a turning point on. We want to talk about what we believe those issues really are.

Now, last week we asked Americans who were watching to write in and to e-mail us with what they thought were the immediate issues that needed to be dealt with, what was the crisis that they believed the country needed to address. And I am just going to share a couple of these because we want to get into some other issues. Mrs. Richard from Kansas said she had been watching and listening to our program on C-SPAN. Our country now has so many needs. And we asked her to give them to us and she said, I will write them to you.

To me, the number one need is to get out of Iraq. Stop losing lives and spending money. That may be a crisis. Probably is. After that, health care, fixing our national deficit, which we are definitely going to get into tonight, and many more things that need to be fixed. She appreciates the concern.

Christie Fox, from the gentleman's great State of Florida, she is a second generation American. And on C-SPAN you asked for our comments or suggestions on what we think is important to America. Safety, the environment, the oceans heating and rising, need for solar power, recycling, windmills, fuel efficient vehicles, terrorism, which is a major issue that we are not really dealing with here, and to keep God in America. Great issues that we think may be or will have more of a profound effect if we address them immediately.

So, again, we ask the citizens who are out there tonight to give us an e-mail, what you believe to be your crisis of choice, that is, something that we need to deal with immediately in the United States of America. Send us something,

30somethingdems@mail.house.gov.

That is the number 30, the word "something," and then dems, D-E-M-S @ mail.house.gov. Send us what you think, because, quite frankly, we do not believe that Social Security that is solvent for the next 45 years and will pay 100 percent of the benefits and then for the next 20-some years and into the future will still provide 80 percent is not a crisis.

Mr. MEEK of Florida. Mr. Speaker, I think it is important that we bring about great clarification of our message to make sure that individuals do not get confused of what the real issue here is. The real issue, I think, the reason why individuals want to, leadership on the majority side and the White House, want to talk about a crisis situation in Social Security is because they do not want to talk about health care. They do not want to talk about the issues that many Americans have to deal with on a day-in-and-day-out basis. I call it drugstore health care; when your child is sick, because you do not have health insurance, 46 million Americans without health insurance that are working families without health insurance, they have to go to a CVS or a Walgreens or a Rite-Aid or whatever the case may be, or Wal-Mart pharmacy, to make their kids better or try to hope that they just have a cold because they do not have the proper health care.

And I am so glad that House Democrats are committed to taking the bold necessary steps to move us in the right direction of making sure that we do what we are supposed to do for Americans.

In the 108th Congress, we worked very hard with Partnership for America's Future that reaffirms our commitment in six core areas. And those six areas are, making sure that we have American values, prosperity, national security, fairness, opportunity, community, and also accountability. And I think it is important that we think about that, and that is something that is not happening right now.

Now, one may argue, well, what is stopping you from doing that? I can tell you what is stopping us from doing that, not being in the majority here in the House of Representatives.

And I say to the gentleman from Ohio (Mr. RYAN) that I think what is important is that we have to share with our colleagues and also with the American people, Mr. Speaker, that it is important that we hold the individuals that are sent here to Washington accountable not only for their actions but also for their inactions. And so when we start talking about crisis, look right, but we are really going left. And I think it is important that we point these issues out.

It is important that we take bold steps in expanding affordable health care and the health care coverage, including mental health coverage, making sure that we cut health care costs, increasing biomedical research, and also reducing racial and ethnic disparities, expanding affordable health care as it relates to coverage for small businesses by creating a new purchasing pool that will allow 50 percent tax credit to help small businesses and self-employed individuals in their health care costs.

That is Democratic legislation that is already filed in this Congress that should move, would move, if we had the Democratic leadership that we talked about early on in this hour. If they were in control, it would not be an issue of saying that is what we would like to do. And I think it is important, it is very important that not only Members of Congress understand our responsibility in standing up to the real needs of Americans that are out there now, but to make sure that we are able to stand up and say that health care is a crisis, the issue of our environment is a crisis, the deficit is a crisis, and not just say it as buzz words or in a speech or a punch line.

Mr. RYAN of Ohio. Mr. Speaker, I had a Social Security town hall meeting last night at Warren G. Harding High School in Warren, Ohio; and we were having a discussion about these kinds of issues. And one of the gentlemen, as we were talking about him as a small business owner, self-employed, he had to pay his own Social Security tax. He had to pay the whole amount, the employer's share and the employee's share for himself. And he was struggling because he had health care issues that he had to deal with. The health care costs were going through the roof. He had two kids in college. And tuition costs in Ohio have doubled over the past few years. And when we get back after the break we are going to get into a little more about the cost of college tuition.

But the point is, the Social Security privatization scheme sounds like a good idea to some employers, because the way that the blueprint has it set up is that the employee will be able to take 4 percent and divert it to an account, and the employer will not have to match that 4 percent; and so it is basically a tax break for the business person, which may be okay for small business folks and help them a great deal.

But what we are saying as Democrats is, why are we not dealing with the real issue, the health care costs that are going through the roof? And if we want to help small business people, then we need to use the Democratic proposal that we have that is going to help small business people contain health care costs and contain tuition costs and give them aid and assistance and grants and lower tuition costs with block grants to different universities. We have a plan to do that. And what we are saying is, let us stick together on the greatest social program in the history of mankind, and let us fix these other programs that have been causing a great deal of economic pain to the small businessperson. We want to be there, and we have a plan to do it.

Mr. MEEK of Florida. When you have employees that are healthy, you have what? A more productive company. And then what do you have then? You have more productive American workers that will be able to compete against other countries that are competing against us now.

Before the gentleman from Ohio (Mr. RYAN) goes to the chart, I think it is important we talk about the fact that health care costs, when we start talking about cutting health care costs, we have to look at the issue as it relates to prescription drugs.

Mr. RYAN of Ohio. Absolutely.

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Mr. MEEK of Florida. I think it was a blown opportunity here on this floor by the majority side saying they were carrying out true prescription drug reform and failed to do so by not allowing us to negotiate with drug companies to have lower prices, not only for seniors but for people with disabilities. Also, guaranteed American consumers the right to deal with the whole issue of importation.

I have some reservations about that, but the real issue is the fact that we have Americans that are now making a choice between groceries and prescription drugs. We still have Americans, and I am not just talking about older Americans, I am talking about middle-aged Americans and even children, because a number of children are on prescription drugs, be it for allergies, or middle-aged Americans taking heart medication or medication for diabetes or other ailments that we found that through prescription drugs that can prevent death or prolong life they are making decisions.

They have to make decisions. So they are excited about the fact that we are looking at prescription drug reform, but it was not a true bipartisan effort because if it was we would have negotiating power. And I will tell Members right now, because I want to make sure that my Republican colleagues on the other side of the aisle and I want to make sure, Mr. Speaker, that the American people understand that the Democrats have a bill filed right now to allow that to happen. Prescription drug costs would go down if we were in charge of this House right now.

Mr. RYAN of Ohio. We have a discharge petition too that will allow Members of Congress to sign it and discharge it out of the committee process and bring it right to the floor. We have had this debate. We can bring it to the floor and let us vote on it.

Mr. MEEK of Florida. But still, if we were in control of this House, if the American people said they were going to allow Democrats to be the majority in this House, we would have the following:

We would have a Social Security debate about strengthening Social Security, not privatizing it. We will have not only a debate but we will have a bipartisan bill to make sure we can combine buying power to take prescription drug costs down for everyday Americans. We would not only have legislation that will be true environmental legislation, but it would be bipartisan legislation because we believe in working together with, at that time if we have a perfect situation where we are in a majority, working with the minority party in doing that.

We would also have a health care plan, a health care plan that is a 6-point plan that would bring about health insurance for everyday working Americans, and also allow those Americans between the ages of 55 and 65 to be able to buy into Medicare early so they would have an opportunity to take advantage of good health care at a low cost as they reach their years of the 60s and 70s. So that is so very important.

I am not saying "what if," but I am saying what could be. And so I am saying this more of a challenge to the Members on the majority side because they do have the power. They have the power to be able to set the agenda and say what will be able to come to the floor. They have the power to be able to say that this is what we are going to work on and this is what we are not going to work on. I think it is important that the American people and I think the Members of this Congress also understand, Mr. Speaker, that the power of the majority sets the agenda and what happens in this House, nothing comes to this floor without the authority of the Republican leadership in this House.

Now, I am going to tell you, because I always, I do not use it as a disclaimer, I am seeing it as a Member of this House and someone that communicates with Members of the majority party, there are a number of Republicans that will go unnamed because of repercussions that want to see that kind of environment return back to this House, a true bipartisan environment that we had in 1983 when Ronald Reagan and Tip O'Neill brought about the kind of bipartisan partnership we needed to save Social Security at that time, a true bipartisan vote, not bickering, not we are going to run Social Security into the ground in some sort of schemey privatization plan, but a true approach to making sure that we do the right thing.

So it is important that individuals understand that bills like the bill that we have here on the floor to drive down prescription drug costs that we would like to pull out of on this discharge petition that is right here behind the gentleman for Members to sign to be able to have a true debate as it relates to bringing down prescription drugs costs, the buying power which AARP is on board with us on. But I think it is also important for issues as it relates to the deficit.

Mr. Speaker, I hope that the gentleman does not leave out what is happening to the American worker and our negative trade balance. If I can say the word China, I would like to say that, because I think it is important that not only Members of Congress understand our responsibility but the American people also understand what is happening right now. It is not on the 6 o'clock news, but if someone is at home right now without a job wondering where their job went, wondering why the factory, especially in the gentleman's State of Ohio, the whistle in that factory is no longer blowing when they knock off, like a blue collar worker would say, for the evening, while no lunch box is there, be it a man or woman.

The reason why we are continuing to put forth trade agreements in my State that are putting agriculture industries out of business or having them to give away jobs like the citrus industry, like the sugar industry and the nursery plant industry that is in my county of Miami Dade County that are concerned about these free trade agreements that are taking place.

Now, I voted for some free trade agreements, but I will state that some of those agreements that are coming down the pike are going to hurt the American worker and continue to give away the kind of apple pie that we have been talking about for so many years.

Mr. RYAN of Ohio. Mr. Speaker, I think this is the issue for me, that this is the crisis. This is just the issue that how can we say that a problem 40 years out from now is the crisis when you look at the numbers here. This is the crisis here. This is the manufacturing jobs loss, and I will go through some quick charts here.

Manufacturing jobs lost. In Ohio we lost 216,000. In Florida, the gentleman's home State, they lost almost 73,000. All the red States here have lost more than 20 percent of jobs in their States: Ohio, Pennsylvania, New York, Michigan, Illinois, all of these. And all throughout the country, the only two States with any kind of net gain are North Dakota and Nevada. That is the crisis and that is the issue that we need to be dealing with here in the United States.

Mr. MEEK of Florida. Before the gentleman leaves that chart, would he please let the Members know and, Mr. Speaker, we definitely want the American people to know where this information comes from, because I want to make sure we are clear.

Mr. RYAN of Ohio. This is the U.S. Bureau of Labor Statistics, so it is nonpartisan. It is from June 1998 to February 2005. This is the United States Bureau of Labor Statistics controlled by a Republican, so it is not any lies that we are just trying to stoke up propaganda here.

These States that are purple have lost between 15 and 20 percent. The green States have lost between 10 and 15 percent. The yellow States between 5 and 10 percent. We are getting decimated in our manufacturing base, and these are the jobs that pay well. These jobs are going to China. The high-tech jobs are going to India.

Now, another crisis, our overall U.S. trade deficit which led to the enormous job loss right here, overall trade deficit over $600 billion last year. We are buying $600 billion more worth of products than we are selling. And look at the growth. This is the startling thing. This is not just a kind of a temporary blip in the screen.

In 1991 we were a little over $50 billion, or not quite $50 billion: and look at this, the steady growth. And these have been the trade agreements that we have been signing, and especially when we cranked up trade with China, bang, right down at the bottom, bingo, in 2004 over $600 billion in trade deficit. Of that the main culprit in this whole deal has been with China, another crisis that we need to deal with.

I mean, how we can say Social Security is the main issue is beyond me. Again, trade deficits from 1991 to 2004. Again, a slow gradual, this is what we call in economic terms, and I am not an economist, this is what you call a trend. This is a trend that is going on in the country and has been for a good many years now, U.S. trade deficit with China over 160-some billion dollars a year. And we can see it just continue to decline. It will probably be worse next year. And when we see the job loss in Ohio, in the Midwest, all over the country except for Nevada and North Dakota, this is what is causing it.

Companies are moving from the United States, not making the investment here in the country, making it in China; and we are getting walloped.

Now, the most important issue as we are running these huge trade deficits and we are also running a national deficit, and let me just show one, before we show that one and then I will let the gentleman talk about the other, not only are we running huge trade deficits; we are also running a record national, domestic deficit on our own budget here.

This red line starts with President Johnson where we pretty much were balancing our budgets all the way along, and we pretty much stayed steady up and down throughout the 70s. And into the 80s we got into the pretty high deficit through the Reagan and Bush era. That is the red line coming down close to $300 billion in our national deficit. That means the budget money that we spend out of here, we were spending $300 billion more than we were taking in. And then the Clinton era, the balanced budget passed in 1993. Not one Republican vote, Democrat House, Senate, White House; Al Gore broke the tie in the Senate as Vice President. That led to booming surpluses in the United States. And then when the next administration came in here, we are again with record deficits.

Now, will a real fiscal conservative please stand up, because we do not have anymore here. And this is the kind of deficit that you are passing on to your kids and your grandkids and the scary thing that the gentleman will talk about right now.

Mr. MEEK of Florida. Mr. Speaker, before the gentleman moves that chart, the nonpartisan Congressional Budget Office where the gentleman got this information from, am I right?

Mr. RYAN of Ohio. Absolutely. The source is CBO, the Congressional Budget Office, nonpartisan. The most scary aspect of all of this is if we are spending 400-some billion dollars more than we are taking in, we are borrowing that from somewhere because we do not have it. Tax revenues bring us to this line here, and we are spending that much more, up to $400 billion more than we have in the kitty that we are taking in every year. So we have to go out and borrow it. This is the scary part. Who are we borrowing the money from?

Mr. MEEK of Florida. That is the question.

Mr. RYAN of Ohio. That is the ultimate question, and I know the gentleman wants to talk about it.

Mr. MEEK of Florida. No, I want the gentleman to talk about it because he is doing such a great job.

Mr. RYAN of Ohio. I will explain the chart, but I want the gentleman to lend his voice to it.

Mr. MEEK of Florida. Mr. Speaker, I want the gentleman to explain it because this issue is so very, very important. We both are on the Committee on Armed Services, and we know what it means as it relates to not only national security but financial security.

What is happening right now, and that is why it is important not only to the 30-somethings but to the 20-somethings and the teenagers and those that are yet unborn and also those seniors that understand what is going on, even the 50-somethings and the 60-somethings because this goes towards, I believe, our national security when we start looking at this issue.

Please explain.

□ 2130

Mr. RYAN of Ohio. Mr. Speaker, the gentleman is absolutely right because you can have, and Mitt Romney was in front of the Committee on Education and the Workforce last week, the Republican governor from Massachusetts, and he said you cannot have a tier two economy and a tier one military. And, unfortunately, we are moving into a tier two economy.

We were talking about the trade deficits and then our national deficit and the debt. The deficit is what we accrue every year. We are $400 billion last year. The debt is the overall debt of the whole country, which is almost $8 trillion, but last year was over $400 billion.

Here is the portion of foreign-owned debt in our country that rose to 41 percent under this administration. So this is the bottom line here in the blue. Of all of our debt, that portion is held by domestic interests, from this here, the turquoise, a nice shade of turquoise, I must say.

The next level is the percentage of our marketable U.S. Treasury debt held by foreign interests, and this goes back to 2000. So over in California, 2000. Over here on the East Coast, it is 2004. Here we have domestic-held debt up to $2.5 trillion. The rest here in purple was foreign owned.

As we move in 2001 and 2002 and 2003, you can see that the purple gets bigger. It gets up into Maine from the Carolinas. This purple is foreign-held debt. Basically what this chart says, and it is continuing to increase as the years go on, as we run these deficits that we had in the last chart, that we have been running as we are borrowing that money; more and more of that money is coming from foreign interests. This is a dangerous situation that we are putting the country in.

As the gentleman from Florida (Mr. MEEK) stated, we are on the Committee on Armed Services. We see this in the committee hearings and with the poppy in Afghanistan. We see this dealing with the Chinese in their increase in military spending and the issue of Taiwan, and North Korea is beginning to test nuclear weapons.

The more power we cede to foreign interests dealing with our own personal monetary situation, the more dangerous a situation we are going to be in. It is a bad political move, it is a bad economic move, and it threatens our country as well.

Mr. MEEK of Florida. Mr. Speaker, as I look at the printed material that I have before me, I cannot help but say this maybe is at the crisis level. Maybe what the gentleman just pointed out, maybe the fact that we have the highest deficit in the history of the Republic, maybe because we have a number of Americans that are still cutting pills in half after we, the Congress, or the majority side, has said we have done all that we can do. Maybe that is the crisis.

Maybe it is important to let not only the majority side know, but also the American people know that it is about who is running this House and who is not raising an objection to what has happened already, let alone what is going to continue to happen. If left up to the mechanics of the majority right now, 41 percent will be the early years of foreign countries buying our debt.

Mr. Speaker, it may very well go to 55 percent if the American people do not hold us accountable for the decisions we are making, or the decisions we are not making. I think it is important, and we have to talk a little bit about extreme measures in the Congress.

We know there are a number of issues that have come before us, and the American people are saying, When are you going to do something about the problems that we talk about every day? However, we spend more time in this Congress, especially in this House, getting involved in personal matters of families, taking the rules like the other side has attempted to do, which I understand some sort of deal has been worked out now on the other side of this Capitol as it relates to the filibuster, the other body. It is unfortunate we have to go to these extreme measures to threaten our way of democracy before we start to try to bring the best out of many Members of Congress.

I am concerned when the majority side in the 108th Congress made it illegal, prohibited the Medicare powers-that-be within the Federal Government to negotiate with drug companies for lower costs. They could have not addressed it and left it as a gray area for the administrators to say, maybe we can do something. But so indebted to big pharmaceutical companies, they prohibited it from happening.

That means if the administration said, Yes, we can bring diabetes or heart medication down $15 if we were to use our buying power with the drug companies. If you do it, you are not only making a career decision; it has been prohibited in Federal law.

I am so glad that so many of us on this side of the aisle, I mean record numbers, voted against that prescription drug scheme, because it is not providing what the American people were told it would provide. AARP, along with others, understand that now and that is why they are fighting to bring those prices down.

Let me tell Members something. Being from Florida, prescription drug costs are a very important issue. Being a middle-aged American, 30-something, or heading to middle age, this is an important issue to my constituents.

Mr. Speaker, I have said this before: We were not elected to have better health care than our constituents. I did not run into anyone at the polling place at 7 a.m. who walked up to me and said, "I am voting to make sure you and your family have better health care than I have. I cannot wait to go in there and vote for you so you can be better off than I am."

Mr. Speaker, they elected us to come to this House and fight on their behalf to make sure that that individual voter and their families and future generations have better opportunities than what they have. We are not doing that now.

If we were in control, because I want to make sure that we really emphasize, if Democrats were in the majority, again I will say it, and I said it earlier in this hour, we would not be having a debate on privatization because privatization is bad. Individuals lose benefits under the privatization scheme that the President has put forth, if you are in the plan or not. That is the reason why the President has lower approval ratings as it relates to his Social Security privatization scheme. I would be worried out of my mind if it was the other way around, but people are getting it.

I can tell you another thing, we would not be having a discussion about why 46 million American families that are working do not have health care because this House would be moving in that direction to provide the health care that I talked about in our six-point plan, and also our partnership with America, which is a real plan that has accountability and has follow-through. It would not be a discussion, to point out the issue of the deficit and the fact that every American at birth, when we started this hour, at birth already owed the Federal Government $26,349.67 and it has gone up since we have been here on this floor. It would not be a debate because we would be doing something about it.

We understand if we are going to do something in this Congress, we are going to start a new program, we are going to point out how we are going to pay for it, and that is not what the majority side is doing now.

The last point, because I can go on about the issue of responsibility and accountability, there would not be a what-if discussion as it relates to how we conduct business in this House and the real issues that are facing American families, programs that are working. Cut out the devolution of taxation to local governments and also to our State governments. There would not be a crisis as it relates to Medicaid and States ever running deficits in the States due to the fact that they have to balance their budget. Unlike our Congress, they have to balance their budgets on the backs of cutting programs that are helping so many young people stay out of trouble.

It would not be a what-if discussion; it would actually be reality. And the good thing that I am excited about, because of the leadership we have, the Democratic Caucus, it would be bipartisan. That is something that every American wants. They want to take the politics out of doing business here in Washington, DC.

That is the reason why our work is so important, making sure we come to this floor week after week, and letting it be known that we are doing all we can in the capacity that we are serving in to not only let the Members of Congress know about responsibilities and what we can do versus what we cannot do, but also letting the American people know what is happening here as it relates to individuals taking leadership positions, wanting to take action, and those that do not want to take leadership positions and do not take action. That is the real issue here.

That is the reason why if there is a Republican, Independent, Democrat, Green Party, what have you, these issues get those individuals together because it is talking about real-life issues. The information that we are providing here, this is not something we were in the back of the room saying. Let us use that number, it looks good. It is bipartisan Congressional Budget Office information. This is information from outside sources that have a credible way of receiving their information, have credibility in the United States of America.

So I think it is important for us to not only challenge the majority side because competition is good. I believe in that. Challenge the majority side, but also let the American people know if we had the opportunity to lead this House what this Congress could be and what it needs to be.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, we have a plan. We know what could fix the problem. The American people understand what is going on right now. If we review poll results, this Chamber is not one of the most popular institutions in the country. I think there is a 33, 34 percent approval rating for the Congress. I think some of the issues that the gentleman touched on are why that kind of sense around America is what it is.

I want to share one final chart here that we have. The gentleman from Florida (Mr. MEEK) mentioned the $7.7 trillion debt and the $26,000 that everybody owes, and the general theme tonight is, what are the real crises in the country. We explained that Social Security is solvent for another 45 years, and then we got into our over $160 billion trade deficit with China, a $400 billion deficit here at home. We are spending more money, we are borrowing it from the Chinese. We are not participating in a sound fiscal policy.

One final thing that kind of sums everything up, if Members look at it, and this is in trillions of dollars here, how much tax cuts for primarily millionaires are taking away from funding priorities that we have in this country. If we make the tax cuts permanent over the next 10 years, it will cost $1.8 trillion. The tax cuts for the top 1 percent, people making 4, 5, 6, 7, 8, over a million dollars a year, well above half a million dollars a year, will be $800 billion we are going to spend or not take in because of tax cuts primarily for the top 1 percent.

□ 2145

Look at what we are spending on veterans. This is $800 billion, this is $3 billion, over the next 10 years. So we are basically saying in this country that our priority is the top 1 percent, not the veterans of the United States of America. The other side would say, well, we have increased spending for veterans over the past few years. The answer to that is, yes, but thousands and thousands of more veterans are beginning to enter the VA system now. They are losing their pensions; they are losing their health care in places like Ohio. When I was on the Committee on Veterans' Affairs last session, Secretary Principi was in front of us and I asked him, is the reason more people are going into the health care system in places like Ohio, West Virginia, Pennsylvania because of the massive job loss and companies are going bankrupt? And he said, yes.

We have people in Ohio that were veterans, that never accessed the VA system, who lost their jobs, lost their pensions, lost their health care, they had nothing, and they entered into the VA system because they were veterans. So, yes, you may be increasing the number of what we are spending on veterans; but when you have thousands of more veterans going in and nursing homes being closed down and nursing home beds being closed down, it is time to reevaluate what the policy is. We could go on and on and on with this on what we are going to spend on education, health care, which you so eloquently mentioned, all these great issues that we need to invest in.

I want to make a point. We are not saying that some of these programs do not need reform. We are not saying that at all. These programs do need reform. We need to move into more preventative health care than we are doing now. You talked about CVS and Rite Aid and the emergency room. Why would we want people to go if they were sick into an emergency room? Because we are paying for that, anyway. The hospitals get charity aid that comes out of Federal money. Why would we wait until someone got pneumonia and went to the emergency room when we could have a clinic that provided them with basic antibiotics that would allow them to address their issue when they had a cold? But we wait. So the system does need reform.

We need to put more emphasis on early childhood education. There is no question about it. We did a study in Ohio, and I mentioned it several times here before. The University of Akron did this study. For every dollar that the State of Ohio spent on higher education, the State received $2 back in tax money because you are educating someone and they are going to be worth more, they are going to create more value, and they are going to pay more in taxes over the long run.

These systems need reform to where we are making good investments and saving the taxpayer money in the long run. These tax cuts are not having the economic impact they thought they would have. We have given trillions of dollars in tax cuts and the whole reason was to stimulate the economy. We are still in a recession or just modest, very modest, economic growth, if that. Some signs are saying we are going to go back into a recession. This is not having the impact, because these people who make this money are not investing it in the United States. I will pull out the China graphs again if you want me to, but these people are taking their tax cuts and investing it in Asia. The economic impact again is not being felt in the United States. It is being felt abroad. The old theory that tax cuts will stimulate your national economy no longer work. It is an outdated method; it is voodoo economics as President Bush, I, said; and it is not working here today.

Mr. MEEK of Florida. Mr. Speaker, the gentleman from Ohio did make the point of what is actually happening here, and I think it is important that we highlight that. We are going to close out. I see my Republican colleagues that are here. We got a little excited in talking about some of these issues, but I want to make sure that when you mentioned the veterans, like I said before and I have said like three times during this Special Order, we do have some friends on the Republican side of the aisle that see it and get it. Okay? But this is what happens to them when they do the right thing and this is from Fox News.

Representative CHRIS SMITH, former chairman of the Committee on Veterans' Affairs, passed a Veterans Administration budget that put him on the opposite side of his leadership on the Republican side. Actually doing what he should do as a chairman for the veterans. What happened? Did he get a parade? Did he get a commendation from the Republican leadership in their caucus? No. He got fired. He was ripped of his chairmanship. And so when we start talking about what we want and what we actually get, that is a perfect example.

We had nothing to do with him being removed. NANCY PELOSI, Democratic leader, had nothing to do with him being removed. The Republican leadership removed him. It is very unfortunate that that took place. I would say this, it is important that we come to the floor with solutions and not just problems. I am glad that we shared with the American people and also Members of this House what we have in store for them. Before we close, does the gentleman want to give this e-mail out quickly?

Mr. RYAN of Ohio. Again, send us an e-mail, tell us what you believe the real crises are in the country, 30somethingdems@mail.house.gov, and possibly we will read your e-mail next week.

Mr. MEEK of Florida. Mr. Speaker, we appreciate the time here on floor. We would like to thank the Democratic leader for allowing us to have this time on the Democratic side.

METHAMPHETAMINE

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Under the Speaker's announced policy of January 4, 2005, the gentleman from Nebraska (Mr. TERRY) is recognized for 60 minutes.

GENERAL LEAVE

Mr. TERRY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. TERRY. Mr. Speaker, the subject of my Special Order this hour is how meth is ravaging our communities in the United States. Yet in our budget, in our appropriations, it is called on to eliminate what are called Byrne grants and the HIDTA program reduced by 56 percent.

Let us talk a little bit about what meth does. I have a picture here from the Des Moines Register of a 13-year-old Iowa girl, a very pretty little girl. Unfortunately, she became hooked on meth. This is the before. This is within a year later. It is kind of a grainy picture, but you can see a stark difference. Unfortunately, even though her mother tried rescuing her from this life-style, this little girl committed suicide. Meth is just an incredibly difficult drug to try and break free from.

In my home State, Duaine Bullock, the captain of narcotics unit in Lincoln that the gentleman from Nebraska (Mr. FORTENBERRY) represents, gave a sobering assessment of the growing meth problem in Nebraska and just said pointblank, we have got a gigantic problem. He is right on the mark. According to Nebraska Attorney General John Bruning, 60 percent of the inmates in Nebraska jails have a problem with meth. The number of people in Nebraska jails for possessing, selling, or manufacturing meth has more than doubled since 1999.

When we talk about this fight against meth in our communities, the front line of this war, of our war on meth and drugs, the fastest growing drug in the Nation, meth has produced a wider and more extensive array of problems than any other narcotic we have ever faced before. It is no longer just a rural or Midwestern issue. The Byrne grants that I mentioned casually goes directly to our front line warriors, our local police and our sheriff. It is those folks that are going to know where the drugs are located, which houses perhaps in a certain community have meth labs or will see some of the characteristics within that family unit or that home that can lead them to the conclusion that perhaps a meth lab is in operation there.

And so it makes no sense to me, Mr. Speaker, that we have a proposal in front of Congress to completely eliminate the Byrne/JAG grants which are the dollars that go to local police departments to help them become prepared and enter into task forces all the way up to the Federal level. What we are seeing is a system of centralization of our war on drugs away from our front line warriors to the Nation's capital. While I certainly can maybe not respect, but at least understand, why a drug czar, a department, would want to consolidate its own power, I think is doing it against the best interests of this Nation.

Mr. Speaker, I would like to introduce another gentleman from Nebraska (Mr. OSBORNE). Frankly, he has been on the front lines bringing this issue to the attention of just about anyone that will listen over the last 3 years. It is my pleasure to introduce my friend and colleague from the Third District of Nebraska.

Mr. OSBORNE. I certainly thank the gentleman for yielding. Obviously, I have the worst affliction that a politician can have. I have laryngitis. I am playing hurt tonight. This is an all-Nebraska deal, it looks like. I really appreciate the gentleman from Nebraska (Mr. TERRY) organizing this. This is a very important issue. Probably half the States at the present time have a serious meth problem, but the ones that do not have it are going to have it. We think the whole country needs to be aware.

I would just like to provide a little background here. Methamphetamines first came into prominence during World War II. Quite often the Japanese kamikaze pilots were given meth. It gets you in such a euphoric state that you will take off in an airplane with not enough gas to return and think you are still going to make it somehow.

It obviously has a powerful pull. It is the most highly addictive drug that is known to man. In many cases, one exposure to methamphetamine renders the victim permanently addicted. Sometimes people take methamphetamine without even knowing what it is they are getting into. It provides a high that will last from 6 to 8 hours. It dumps a huge amount of dopamine which makes you feel good and, of course, eventually the next time it takes a little bit more and a little bit more and so on. It provides increased energy. Many working mothers, people working two jobs, will eventually get drawn into meth, truck drivers that want to stay out on the road for 48 to 72 hours. Some people on meth will stay awake for a week, sometimes even 2 weeks.

It does provide some energy. It also will provide the ability to lose weight, which is very attractive. On top of that, it is relatively cheap. In any place where you have a problem with cocaine or with heroin, meth will fix the problem, because it is cheaper, it is more powerful and almost without exception when meth comes in, the other things begin to decrease but the meth problem is so much worse that obviously the community is much worse off.

Whatever goes up must come down. I guess that is a law of physics, and so the accompanying emotions to meth abuse are anxiety, depression, hallucinations. Sometimes it is psychotic behavior. Violent behavior is often a side effect. Most meth addicts have what is known as crank bugs. They have the feeling that there is something crawling under their skin, and so they try to pick them out. We could have shown you some very graphic pictures tonight of people who have tremendous lesions on their skin. Maybe the gentleman from Nebraska (Mr. TERRY) has some of those.

Methamphetamine abuse always causes brain damage. Every time it destroys brain cells. A young person, maybe 18, 19 years old, who has been on meth for a year, will have a brain scan that will look almost identical to an 80-year-old Alzheimer's patient. You cannot distinguish the two. There are so many brain lesions, so much damage to the brain. It is very common, obviously, in rural areas because if you are going to manufacture methamphetamine, the odor is very distinct and so people seek out abandoned farmsteads. Sometimes they have mobile labs where they make it in the back of a van or something like that, but they usually like to stay out away from people.

□ 2200

The ingredients in methamphetamine are somewhat startling and a little bit bizarre. Pseudophedrine is, of course, the one ingredient that they have to have. In addition, oftentimes they use lithium batteries, drain cleaner, starter fluid, anhydrous ammonia, and iodine. So it is a tremendously toxic brew that is developed; and as a result, it costs about $5,000 or $6,000 to clean up a meth lab. It is very expensive. In some parts of the central United States, I believe Iowa had about 1,500 meth labs year; Missouri, around 2,000. So that is about $10 million just to clean up the meth labs alone. And, of course, most of those funds come from the Byrne grants and the HIDTA grants that we were talking about.

If we think about the cost of methamphetamine abuse, in our area most of the child abuse, most of the child neglect, most of the infant death, young people death, foster care are caused by methamphetamine today. So it is a very difficult situation and very costly.

The gentleman from Nebraska (Mr. TERRY) has already mentioned the Federal prison cells and the jail cells. So the last comment I will have today is simply this, that we are not saving money by cutting the Byrne grants. We are not saving money by cutting HIDTA because the average meth addict in Nebraska commits 60 crimes a year. So if we have 10 meth addicts in a community, that is 600 crimes.

The line of first defense is those law enforcement officers that the gentleman from Nebraska (Mr. TERRY) showed. And these are the people who rely almost exclusively on the Byrne grants and on the HIDTA grants, the HIDTA grants are high-intensity drug traffic grants, and we have a huge amount of methamphetamine coming up from the southwest part of the United States and Mexico, going across Nebraska on Interstate 80. And the only way to intercept that and the only way to handle those drugs is with HIDTA. So we would urge Congress, other Members in this body, to support our efforts to restore those funds.

And I would again like to thank the gentleman from Nebraska (Mr. TERRY) and the gentleman from Nebraska (Mr. FORTENBERRY), who will speak shortly, for their efforts in this regard. We have approached the Speaker. We have talked to the appropriators, and we are making every effort that we can.

I thank the gentleman for yielding to me.

Mr. TERRY. Mr. Speaker, I do appreciate the gentleman's time in playing hurt. I am sure there have been times when he was coaching that he encouraged people with sore throats to get out and take one for the team; so I appreciate that.

The gentleman from Nebraska (Mr. OSBORNE) raised several good points that I will take some time on. He talked about some of the rather toxic ingredients. In fact, where I live in Valley, Nebraska, at least for the next day or two before we moved, the Saturday night before last there was a meth bust just about a half mile outside of town, and it was rather interesting in driving by and seeing the number of fire trucks and Hazmat units that are there. And what people do not understand, although the gentleman from Nebraska (Mr. OSBORNE) outlined the recipe in some of the ingredients, including bleach and anhydrous pneumonia and other ingredients, it is highly toxic but it is also highly flammable, which is why it is incredible to me that during some of these meth police busts they raid these homes and there are toddlers in these homes.

So it has an impact not only on our police departments but our fire departments who have to coordinate these drug busts where they find these labs. And as the gentleman from Nebraska (Mr. OSBORNE) also mentioned, we can find them just about anywhere. In fact, in a very affluent area of west Omaha just a few months ago, they made a drug bust of a mobile lab literally in the trunk of a car at a department store. So there are people that will build them in any place they can.

As I introduce the gentleman from Lincoln, Nebraska, I want to explain to anyone who is listening here tonight when we talk about the HIDTA grant, it is an acronym for high-intensity drug trafficking area. That is the grant that comes to local police departments to train them in how to handle a situation. Obviously, as we talked about the very volatile toxic explosive nature of a meth lab, since it is the local police departments that are on the front line that will be reading that particular house, that will be making the arrest, they want to make should that they understand the totality of the circumstances they are engaging in and how to protect themselves.

Also, as the gentleman from Nebraska (Mr. OSBORNE) pointed out, it is such an intense high under meth that these folks literally do not know or understand what they are doing, and they have a high propensity for violence. But yet sometimes they look completely normal for that particular instance that a policeman could be walking by. So they have to be trained in the subtleties of what to look for to see or determine if someone is under the influence of meth and in understanding that even though that person may appear calm for that particular instant in time that that person becoming violent is just inherent to the nature of the drug. So they have to train them how to handle that violent situation with a person under the influence.

Also, part of the HIDTA grant trains them how to work with other law enforcement agencies. In fact, HIDTA is set up into territories where they can literally have agencies across jurisdictions, whether it is Douglas County and Lancaster County official working together or our local police departments or even into Iowa, the gentleman from Iowa's (Mr. KING) district, who wanted to be with us here tonight but, like our colleague from the third district, is suffering from the same ailment. So it allows them to learn how to put the task forces together and share each other's talents and resources.

With that, so he can get on with his evening, let me introduce the gentleman from the First District of Nebraska in his first year here but nonetheless is jumping right into the issues that are affecting the people of Nebraska the most and the deepest. So I appreciate his instantly getting involved in the meth issue of Nebraska.

Therefore, I yield to the gentleman from the First District of Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. Mr. Speaker, I thank the honorable gentleman from the second district for bringing attention to the severity of this problem in our State and throughout many parts of America as well.

Mr. Speaker, let me tell the Members when I am at home with local law enforcement, I ask a simple question: What is going on, sheriff? And nearly every time the answer is the same, a single word, "meth." And methamphetamine, commonly known as meth, as we have discussed, is a potent and highly addictive stimulant; and it is taking a terrible human toll across rural America. In fact, my hometown sheriff, Terry Wagner, recently recounted a story about a boy who had been addicted to meth for 9 years, and it is this prolonged exposure to these toxic chemicals that has caused such severe brain damage that it has given this young man an irreversibly wasted brain of an advanced Alzheimer's patient.

In Butler County, Sheriff Mark Heckler estimated that 90 percent of the prisoners he sees in jail have been involved with meth either as dealers or users or cookers.

Mr. TERRY. Mr. Speaker, reclaiming my time, I had read from our State Attorney General Jon Bruning, who is doing a fantastic job in that position, that it is 60 percent. But I did too have a local law enforcement officer that suggested it is higher than that, at least when we add the totality. He said, first of all, there are many of the folks in our State prison that are there because they are involved with meth;

that they are dealing, cooking, distributing; or that they committed a crime while high on meth or, getting up to about that 90 percent figure, they are out burglarizing, robbing, plundering to get money to buy the drug. So many of our local officers feel that it is as high as 90 percent, whether it is directly related to the distribution or cooking of meth or just that they are so hooked that they are out robbing money to get it.

Mr. FORTENBERRY. Mr. Speaker, will the gentleman yield?

Mr. TERRY. I yield to the gentleman from Nebraska.

Mr. FORTENBERRY. Mr. Speaker, their ramifications are certainly widespread. Butler County, as I just mentioned, is a serene place, a farming community, a wonderful place to raise a family. And yet this shocking statistic of 90 percent is very real and disturbing. The sheriff also reported the same problem that the gentleman from Nebraska (Mr. OSBORNE) mentioned, that he finds small portable labs for production even in the back of cars. So meth is a particular threat to our rural communities, partly because it can be cooked in this way from small batches from readily available ingredients such as chemicals commonly used in fertilizer and cold medicines, as has been mentioned.

Something else to mention, though, is that concocting meth is itself a toxic activity, and it requires a combination of deadly chemicals at high temperatures. Hazardous fumes are produced, and poisonous fires and explosions are common, as the gentleman is aware. Toxic waste is invariably dumped, which spoils the environment and requires dangerous and costly clean-up, another adverse impact of this problem.

Let me tell the Members, as well, that in 2000 Nebraska law enforcement discovered 38 labs. In 2004 they dismantled over 300, and one search for a missing person in a wooded area actually turned up 15 meth labs in a 3-square mile area. And, of course, many go undiscovered.

I would like to add a few comments about what can potentially be done about the tide of meth sweeping the country, and I think there are three approaches that do deserve our attention. First, State efforts to control the spread by controlling the access to its component chemicals, I believe, should be applauded, and smart controls on the sale of cold medicines are also a reasonable idea that may be considered at the Federal level. Second, and the gentleman has mentioned this additionally, the antidrug task force has maximized the effectiveness of law enforcement, particularly with overlapping jurisdictions. And I believe lawmakers, as he does, in Washington must listen to those who are on the front lines in the battle against meth and give them the tools they need to protect our communities this week, this month, this year.

Third, we must also recognize the national scope of the meth problem. It is estimated that 85 percent of the meth in Nebraska comes from large out-of-state labs in Arizona, California, and Mexico. These superlabs do not get their chemicals from the local drug store, but depend on multi-state and multi-national suppliers. This is why we also need a focused and multi-national, a coordinated national, strategy to stamp out meth. And I believe it is the job of the Federal Government to keep meth and its chemical precursors from crossing State borders. Existing regulations on the sale of meth chemicals should be enforced; and the development, again, of alternative compounds in cold medicines could also be determined and encouraged.

Mr. Speaker, finally, let me add that meth is clearly addictive and deadly; and I urge all to avoid it. There is no future in meth.

And again I want to thank the gentleman from the Second District of Nebraska for his willingness to spend this evening discussing this very difficult issue for our State, but a difficult issue as well for many other areas that are facing this widespread problem.

Mr. TERRY. Mr. Speaker, reclaiming my time, I thank the gentleman for his efforts in this.

I too have a police and sheriff task force like he has put together; and it is amazing, just 2 years ago when we met, asking what the most significant issue was facing them on a daily basis or what some of the trends are. They said, well, definitely meth. But we are not necessarily seeing it in the inner city of Omaha, the gangs there that are still running the traditional drugs of cocaine, crack, and marijuana.

□ 2215

Mostly what we are seeing is they were telling me 2 years ago is that the meth is more of a rural issue, but it is starting to come in through the suburbs and they are seeing a great deal of the problems as we had just mentioned, the crime that is associated with the addiction, whether it is crimes committed while high or crimes committed to get high.

When I met with them probably about 9 or 10 months ago again I asked the same question. They said the drugs the gangs are running are almost exclusively meth now. They are coming from two different directions. We still have the rural issue, where some of the ingredients are so readily available and you can go to your corner drugstore and get the pseudoephedrine out of Sudafed and other materials to make it, but the gentleman mentioned that that is incredibly important in our fight here.

Meth has become basically a war on two fronts. You have got the labs that are being operated by individuals, because they are so easy to put together, the ingredients are very accessible, although in Nebraska our State legislature, fortunately, is dealing with it, and probably by the end of this week we will have Sudafed behind the counter. It is too bad we have to do that to our local retailers. But that is one border.

Traditionally what we have tried to fight is the pop-up labs, particularly in rural areas, or mobile labs. But now you have the super labs in Mexico that are running the drugs up, and it is the same pattern we have seen with cocaine others. It comes from Central America into L.A. and Phoenix and the other gang headquarters and through their distribution schemes throughout the rest of the United States. That is where we are seeing it come into Nebraska now, and that is why it is becoming an inner-city drug as well. Now it has just infiltrated every part of our community in the last few years.

The gentleman mentioned something else, the brain damage that is caused from this. You begin that deterioration of the brain cells, as the gentleman from Nebraska (Mr. OSBORNE) mentioned, with the dopamine, the rush that gets you. It is such an intense rush of that chemical that it literally fries the synapses and cannot be restored. You are literally frying your brain. Those cannot be absorbed.

The first area that goes is your ability to make decisions. That is the first part of the brain that is affected by meth. That is why we see an incredible tolerance to the drug. You start craving it and craving it. The Catholic Charities in Nebraska, when I toured them about 3 years ago, it was all alcohol and some cocaine. Now it is almost exclusively, 90 to 95 percent, meth cases that come in there now. They told me when I toured a few months ago they cannot cure them. Even those that have only smoked or ingested or injected or however they used it a few times, it has done enough damage to the decision-making part of your brain that you cannot reason; you cannot say this is bad for me, so I am going to quit. You just lost that ability. So you have a drug that forces you. I should not say forces you, but you have lost that ability to say "no" to it anymore.

This is what happens. This poor little girl was 13-years-old. The gentleman has a daughter that is only a couple years younger than her and I have a son a couple years younger. I think of the gentleman's daughter and my son as just little kids, but yet they are being exposed to this.

Mr. Speaker, getting back to cutting the Byrne grants and HIDTA, this statistic shows how our local law enforcement officers working in task forces with the Federal agencies have been able every year from 1999 to 2003 to steadily discover and demolish a vast number of meth labs. But, as you see here, even though this is not full reporting, it is going to be pretty close, in 2004 a slight drop.

I think the slight drop can be accounted for in two ways: Number one, I would say that the Byrne funding was working and helping our local law enforcement find those labs, but also then as I mentioned with the gentleman from Nebraska (Mr. FORTENBERRY), we are seeing now this has become in drug trade like cocaine, where it is imported through Mexico into the major cities and then distributed through the gang distribution system.

Now, let me get to a couple of final points here. In the White House's fiscal 2006 budget that was delivered this year, it requested to eliminate the Byrne Justice Assistance Grants Program, which provided $634 million to law enforcement agencies nationwide, including almost $2.2 million for Nebraska.

The Nebraska State Patrol estimates that 9 of 11 State antidrug task forces that were created with this Byrne grant funding would have to be dismantled. The White House's budget also recommends reducing the HIDTA program by 56 percent. Again, those are the multi-State and local drug trafficking meth training programs. For Nebraska, ours is located in the Kansas City region.

The Byrne and the HIDTA programs are the primary tools through which the Federal Government integrates State and local law enforcement into the national drug control strategy. Tom Constantine, a former head of the Drug Enforcement Agency, recently testified to Congress that he could not recall a single case during his tenure that did not begin as a referral from State and local law enforcement, including many through Byrne and HIDTA task forces. So when we talk about the centralization, pulling the power from the local enforcement agencies to the Federal Government, you are talking about really emasculating our drug enforcement policy. Tom Constantine said every one of their referrals started at the local level.

There is a clear link between drugs and violence that I think we have covered fully here tonight, and these Byrne grants are providing cities and counties with the resources that are necessary to share the information and dismantle regional drug distribution rings. And before Byrne and HIDTA, by the way, when our local police members were out on their own, they did not have the power to work with the Federal agencies and task forces to take the meth and trace it back to their origination and be able to dismantle these incredible drug rings.

Mr. Speaker, I would like to conclude this tonight with a couple of somewhat lengthy, but I will read fast, the works of some of our local police officers.

I will start with Police Chief Melvin Griggs in Gering, Nebraska. He said: "I am the police chief of a city of 8,000 people. We are bordered by a town of 13,000. In 1989, the increase in the cocaine drug traffic prompted us to start a drug task force. The wealth of the people dealing allowed them to purchase property, semi-trucks and farms. They were becoming very powerful. They were also starting to challenge each other for control of the drug trade.

"One family we put away caused a drop of all criminal activity by 33 percent. Within a year, people were already starting to fill the void. But before they could reach the power base, we were always able to stop them because of the task force.

"Meth replaced cocaine. I have lived in this area for 60 years. We did not have murders, and now we have several every year. Our drug task force also helps investigate violent crime. We have seven agents highly trained. They have been able to solve most of these crimes. If we had ever been able to increase the task force, they may have been able to stop some of them. Yet the task force has remained the same.

"It has taken years to develop this team, to develop the cooperation and expertise. Taking away the funding to keep it going will defeat the progress in a matter of months. The dealers will again gain strength, and by the time our leaders realize the mistake they have made by taking these funds, many communities will have developed catastrophic results. Then the leaders will return the funds. It will take years to develop the level of response we now have, and we may never get it, as the problem may have well become beyond our reach.

"I have talked to other police chiefs, and we are not the only community facing this problem. Maybe we have not been vocal enough. We have seen this every day, it is in all of our newspapers, it is on CNN. It is hard for us to believe that anyone cannot understand this problem. It is hard for us to believe that they really plan on a significant reduction in funding. It is hard for us to believe that whoever wrote this article on task forces being ineffective has any idea what a task force does. I hope reason prevails. Reducing this funding is a serious mistake."

Another Nebraska police chief, Stephen Sunday of David City, heads up a 12 county, 28 agency multi-jurisdictional drug task force funded with Byrne dollars. He told me, again it is a rather lengthy quote, "Those grant dollars are the only, and I mean only way the task force was able to form as a group. In South-Central Nebraska there are nothing but small, rural law enforcement agencies that cannot afford to deal with drug investigations to the degree that we are able to do with Federal grant funding.

"Our primary goal is to investigate the individuals who are dealing drugs in our communities. The drug of choice is meth, and I am here to tell you that meth is a killer, a killer of families, of lives and of health. Health costs for dealing with meth users is terrific. Families cannot afford it.

"The drug task forces are the only effective means of going after the drug dealers. On our own, we cannot handle it. The first problem is that most of the drug dealers in rural Nebraska know all of the law enforcement officers by name and know that we are spread thin. Working with undercover investigators, our task force is able to get next to the drug dealers, but it takes money to have your own separate, dedicated drug investigators.

"By banding together with the Federal Government through Federal dollar grants we can fight the drug dealers. The task forces share intelligence information, which did not happen prior to the creation of Nebraska's drug task forces.

"The intelligence information is so important to us that if the drug task forces are shut down due to lack of Federal funding, then we will be in serious trouble. If the drug dealers find out that the government is cutting off grant funding and as a result the task forces fold up and go away, they will be holding a big party to rejoice at this news. If Federal funding is taken away, the drug task forces in the State of Nebraska will fold up shop and disappear.

"We cannot fund the task forces by ourself. If Congress wants to hear an angry outcry from rural America, take away our task force funding. See what happens. Our Federal elected officials will be eaten alive by the voters. If Congress wants to be progressive and deal with illegal drugs, give us back our funding.

"The Federal Government needs to take care of issues at home more than anywhere else. Public safety needs need to be a high priority. If the drug task force is shut down from a lack of Federal funding, the illegal drug problem in rural America will get out of control and you will pay dearly in ruined lives. Don't take away Federal funding that was coming from the Byrne grant dollars."

As the gentleman from Nebraska (Mr. OSBORNE) mentioned in his talk a few days ago myself, the gentleman from Nebraska (Mr. OSBORNE), the gentleman from California (Mr. CALVERT), the gentleman from Indiana (Mr. SOUDER) and the gentleman from North Carolina (Mr. COBLE) met with the Speaker to express our frustration with any proposed cuts to Byrne grants and HIDTA funding. The Speaker was completely knowledgeable and empathetic with this and promised to help us work with it. So I really appreciate that the leadership in the House of Representatives shares the concern that the speakers did tonight during this special order, as well as the gentleman from California (Mr. CALVERT), the gentleman from Indiana (Mr. SOUDER), the gentleman from North Carolina (Mr. COBLE) and the gentleman from Iowa (Mr. KING), who could not be here tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Ms. PELOSI) for today.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today and the balance of the week on account of continuing to recuperate from surgery.

Mr. BARRETT of South Carolina (at the request of Mr. DELAY) for today on account of family reasons.

Mr. LATOURETTE (at the request of Mr. DELAY) for today on account of a family emergency.

Mr. POE (at the request of Mr. DELAY) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Mrs. MCCARTHY, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.
Ms. DEGETTE, for 5 minutes, today.
Mr. SNYDER, for 5 minutes, today.
Mr. INSLEE, for 5 minutes, today.
Mr. CLEAVER, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, May 24, 25, 26, and 27.

Mr. POE, for 5 minutes, May 24.

Mr. HOSTETTLER, for 5 minutes, May 24.

Mr. RAMSTAD, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 35. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, to the Committee on International Relations.

□ 2230

ADJOURNMENT

Mr. TERRY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 24, 2005, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2067. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Plant Variety Protection Office, Supplemental Fees [Docket Number ST-02-02] (RIN: 0581-AC31) received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2068. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Winter Pears Grown in Oregon and Washington; Order Amending Marketing Order No. 927 [Docket No. AO-F&V-927-A1; FV04-927-1 FR] received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2069. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Olives Grown in California; Increased Assessment Rate [Docket No. FV05-932-1 FR] received May 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2070. A letter from the Chief, EBT Branch, Department of Agriculture, transmitting the Department's final rule — Food Stamp Program, Regulatory Review: Standards for Approval and Operation of Food Stamp Electronic Benefit Transfer (EBT) (Amendment No. 394) (RIN: 0584-AC37) received April 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2071. A letter from the Acting Administrator, Rural Utilities Service, Department of Agriculture, transmitting the Department's final rule — Accounting Requirements for RUS Telecommunications Borrowers (RIN: 0572-AB77) received May 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2072. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Asian Longhorned Beetle; Addition to Quarantined Areas [Docket No. 04-130-2] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2073. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities; Finding of No Significant Impact and Affirmation of Final Rule [Docket No. 03-080-7] (RIN: 0579-AB73) received April 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2074. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Introductions of Plants Genetically Engineered To Produce Industrial Compounds [Docket No. 03-038-2] (RIN: 0579-AB89) received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2075. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Karnal Bunt; Compensation for Custom Harvesters in Northern Texas [Docket No. 03-052-3] received May 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2076. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting the annual report on the impact of the improvements to compensation and benefits made by title VI of the National Defense Authorization Act for FY 2000 on the recruiting and retention programs of the Armed Forces, pursuant to 37 U.S.C. 1015 Public Law 106–65, section 673; to the Committee on Armed Services.

2077. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Albert T. Church III, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

2078. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting an annual report entitled, "Defense Acquisition Challenge Program: Fiscal Year 2004," pursuant to 10 U.S.C. 2359b(i); to the Committee on Armed Services.

2079. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting a copy of the "Annual Report on the Department of Defense Mentor-Protege Program" for FY 2004, pursuant to Public Law 101-510, section 831; to the Committee on Armed Services.

2080. A letter from the Assistant Secretary for Reserve Affairs, Department of Defense, transmitting the annual National Guard and Reserve Component Equipment Report for fiscal year (FY) 2006, pursuant to 10 U.S.C. 10541; to the Committee on Armed Services.

2081. A letter from the Deputy Secretary, Department of Defense, transmitting pursuant to the requirements in House Report 108-553 (Title III, Procurement) accompanying the Department of Defense Appropriations Act for FY 2005 (Pub. L. 108-287), a report outlining the near-term and long-term plans for repair, replacement, and recapitalization of ground force equipment used in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Armed Services.

2082. A letter from the Secretary, Department of Energy, transmitting a draft bill "To amend the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 to include worldwide nuclear weapons removal, and for other purposes"; to the Committee on Armed Services.

2083. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Technical Amendments [FAC 2005-03; Item III] received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2084. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Section 508 Micropurchase Exemption [FAC

2005-03; FAR Case 2004-020; Item II] (RIN: 9000-AK05) received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2085. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Purchases From Federal Prison Industries — Requirement for Market Research [FAC 2005-03; FAR Case 2003-023; Item I] (RIN: 9000-AJ91) received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2086. A letter from the Senior Procurement Executive, OCAO, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Circular 2005-03; Introduction — received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

2087. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's FY 2004 Annual Report, pursuant to 16 U.S.C. 797(d); to the Committee on Energy and Commerce.

2088. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting the annual report to Congress on material violations or suspected material violations of regualtions relating to Treasury auctions and other offerings of securities by Treasury, pursuant to (107 Stat. 2344, 2358-2359); to the Committee on Energy and Commerce.

2089. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Waste Management System; Testing and Monitoring Activities; Final Rule: Mathods Innovation Rule and SW-846 Final Update IIIB [RCRA-2002-0025; FRL-7916-1] (RIN: 2050-AE41) received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2090. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Project XL Rulemaking Extension for New York State Public Utilities; Hazardous Waste Management Systems; Final Rule [FRL-7916-2] received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2091. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Maintenance Plans: Michigan: Southeast Michigan Ozone Maintenance Plan Update to the State Implementation Plan [R05-OAR-2004-MI-0004; FRL-7915-8] received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2092. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Underground Storage Tank Program: Approved State Program for Minnesota [FRL-7909-5] received May 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2093. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Daytona Beach Shores, Florida) [MB Docket No. 04-240; RM-10843] received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2094. A letter from the Assistant Bureau Chief for Management, International Bureau, Federal Communications Commission, transmitting the Commission's final rule — 2000 Biennial Regulatory Review — Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations [IB Docket No. 00-248] Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellite at Reduced Orbital Spacings and to Revise Application Procedures for Satellite Communication Services [CC Docket No. 86-496] Received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2095. A letter from the Secretary, Department of Commerce, transmitting a six-month report prepared by the Department of Commerce's Bureau of Industry and Security on the national emergency declared by Executive Order 13222 of August 17, 2001, and continued on August 14, 2002, August 7, 2003, and August 6, 2004 to deal with the threat to the national security, foreign policy, and economy of the United States caused by the lapse of the Export Administration Act of 1979, pursuant to 50 U.S.C. 1641(c) 50 U.S.C. 1703(c); to the Committee on International Relations.

2096. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting an updated and corrected copy of the Department's "Country Reports on Terrorism: 2004," pursuant to 22 U.S.C. 2656f; to the Committee on International Relations.

2097. A communication from the President of the United States, transmitting a report on the Open Skies Treaty that provides an analysis of the first year of implementation of the treaty; to the Committee on International Relations.

2098. A communication from the President of the United States, transmitting a supplemental consolidated report, consistent with the War Powers Resolution, to keep Congress informed about the deployments of U.S. combat-equipped armed forces in support of the global war on terrorism, Kosovo, and Bosnia and Herzegovina, pursuant to Public Law 93–148; (H. Doc. No. 109–30); to the Committee on International Relations and ordered to be printed.

2099. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on activities under the Tropical Forest Conservation Act of 1998, pursuant to Public Law 105—214, section 813; to the Committee on International Relations.

2100. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's determination that five countries are not cooperating fully with U.S. antiterrorism efforts: Cuba, Iran, Libya, North Korea, and Syria, pursuant to 22 U.S.C. 2781; to the Committee on International Relations.

2101. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the 2003 annual report on the activities and operations of the Public Integrity Section, Criminal Division, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

2102. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the annual report on applications for court orders made to federal and state courts to permit the interception of wire, oral, or electronic communications during calendar year 2004, pursuant to 18 U.S.C. 2519(3); to the Committee on the Judiciary.

2103. A letter from the Secretary, Department of Health and Human Services, transmitting notice that an additional class of Mallinckrodt has been added to the Special Exposure Cohort in reponse to a petition filed on behalf of a class of workers from the Mallinckrodt Destrehan Street facility in St. Louis, Missouri, pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000; to the Committee on the Judiciary.

2104. A letter from the Secretary, Department of Labor, transmitting the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) Annual Report to Congress for Fiscal Year 2004, pursuant to 38 U.S.C. 4322; to the Committee on Veterans' Affairs.

2105. A letter from the Commissioner, Customs and Border Protection, Department of Homeland Security, transmitting a report entitled "Import Trade Trends: FY 2004 Year End Report (October 2003 — September 2004)"; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on May 20, 2005]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 742. A bill to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorneys' fees and costs to small employers when such employers prevail in litigation prompted by the issuance of a citation by the Occupational Safety and Health Administration (Rept. 109–61 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUNTER: Committee on Armed Services. H.R. 1815. A bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes; with amendments (Rept. 109–89). Referred to the Committee of the Whole House on the State of the Union.

[Filed on May 23, 2005]

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Resolution 243. Resolution recognizing the Coast Guard, the Coast Guard Auxiliary, and the National Safe Boating Council for their efforts to promote National Safe Boating Week (Rept. 109–90). Referred to the House Calendar.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 2066. A bill to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes; with an amendment (Rept. 109–91). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 250. A bill to establish an interagency committee to coordinate Federal manufacturing research and development efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and education, and expand outreach programs for small and medium-sized manufacturers, and for other purposes; with an amendment (Rept. 109–92). Referred to the

Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 744. A bill to amend title 18, United States Code, to discourage spyware, and for other purposes (Rept. 109–93). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 291. Resolution providing for consideration of the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–94). Referred to the House Calendar.

Mr. WALSH: Committee on Appropriations. H.R. 2528. A bill making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–95). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FILNER (for himself and Mr. Foley):

H.R. 2518. A bill to amend title XVIII of the Social Security Act to prohibit disclosure of social security numbers on Medicare-related mailings; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 2519. A bill to require the Secretary of Education to revise regulations for student loan deferments with respect to borrowers who are medical or dental residents; to the Committee on Education and the Workforce.

By Mr. SMITH of New Jersey (for himself, Mr. Barton of Texas, Mr. Davis of Alabama, Mr. DeLay, Mr. Deal of Georgia, Mr. Blunt, Mr. Towns, Mr. Davis of Kentucky, Ms. Foxx, Mr. Shimkus, Mr. Stupak, Mr. Renzi, Mr. Cantor, Mr. Payne, Mr. Green of Wisconsin, Mr. McIntyre, Mr. Ferguson, Mr. Norwood, Ms. Millender-McDonald, Mr. Everett, Mr. Kennedy of Minnesota, Mr. Conyers, Mr. Boustany, Mr. Lipinski, Mr. Aderholt, Mr. Burgess, Mr. Weldon of Florida, Mr. Pence, Mrs. Myrick, Mr. Ryun of Kansas, Mr. Pitts, Mr. McCaul of Texas, Mr. Wamp, Mr. Chabot, Mr. Murphy, Mr. Inglis of South Carolina, Mr. Terry, Mr. Fortenberry, Mr. Neugebauer, Mr. Stearns, Mr. Walsh, Mr. McCotter, Mr. Fossella, Mrs. Jo Ann Davis of Virginia, Mr. Hastings of Washington, Mrs. Drake, Ms. Hart, Mr. Burton of Indiana, Mr. King of New York, Mr. Hayworth, Mr. Sullivan, Mr. Fitzpatrick of Pennsylvania, Mr. Gutknecht, Mr. Shadegg, Mr. Akin, Mr. Souder, Mr. Hayes, Mr. Boozman, Mr. Doolittle, Mr. Price of Georgia, Mr. Meek of Florida, Mr. Kline, Mr. Ford, Mr. Hyde, Mrs. Musgrave, Mr. Forbes, Mr. Sam Johnson of Texas, Mr. Tancredo, Mr. Daniel E. Lungren of California, Mr. Marshall, Ms. Eshoo, Mr. Sodrel, Mr. Putnam, Mr. Cannon, Mr. Lincoln Diaz-Balart of Florida, Mr. Clay, Ms. Ros-Lehtinen, Mr. McHenry, and Mr. Franks of Arizona):

H.R. 2520. A bill to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program; to the Committee on Energy and Commerce.

By Mr. FERGUSON (for himself and Mr. Towns):

H.R. 2521. A bill to establish a program to transfer surplus computers of Federal agencies to schools and nonprofit community-based educational organizations, and for other purposes; to the Committee on Government Reform.

By Mr. FERGUSON:

H.R. 2522. A bill to extend the suspension of duty on filter blue green photo dye; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 2523. A bill to extend the suspension of duty on ammonium bifluoride; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 2524. A bill to extend the suspension of duty on Bis(4-fluorophenyl) methanone; to the Committee on Ways and Means.

By Mr. KENNEDY of Minnesota (for himself, Mr. Pomeroy, Mr. Moran of Kansas, and Mr. Gillmor):

H.R. 2525. A bill to amend title XVIII of the Social Security Act to make improvements to payments to ambulance providers in rural areas, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY (for herself, Mr. Hinchey, Mr. Kildee, Mr. McNulty, Mr. Bradley of New Hampshire, Mr. Wolf, Mr. Payne, Mr. English of Pennsylvania, Mr. Sweeney, Mr. Gilchrest, Mr. Hastings of Florida, and Mr. Frank of Massachusetts):

H.R. 2526. A bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 2527. A bill to expand the bases on which student loan borrowers may obtain deferments of their repayment obligations; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 2529. A bill to amend the Employee Retirement Income Security Act of 1974 to exclude cooperative employing units from multiple employer welfare arrangements; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 2530. A bill to ensure that State and local law enforcement agencies execute warrants for the arrest of nonviolent offenders only when children are not present, unless overriding circumstances exist; to the Committee on the Judiciary.

By Mr. BACA:

H.R. 2531. A bill to amend titles 10 and 14, United States Code, to provide for the use of gold in the metal content of the Medal of Honor; to the Committee on Armed Services.

By Mr. CANTOR:

H.R. 2532. A bill to suspend temporarily the duty on urea, polymer with formaldehyde (Pergopak); to the Committee on Ways and Means.

By Mrs. CUBIN (for herself, Mr. Gonzalez, Mr. King of Iowa, Mr. Radanovich, Mr. Wynn, and Mr. Brown of Ohio):

H.R. 2533. A bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act; to the Committee on Energy and Commerce.

By Mr. DEAL of Georgia:

H.R. 2534. A bill to amend the Internal Revenue Code of 1986 to encourage private philanthropy; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 2535. A bill to extend the suspension of duty on polymethine photo-sensitizing dyes; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 2536. A bill to extend the suspension of duty on 4-Hexylresorcinol; to the Committee on Ways and Means.

By Mr. FRELINGHUYSEN:

H.R. 2537. A bill to extend the suspension of duty on certain organic pigments and dyes; to the Committee on Ways and Means.

By Mr. HAYWORTH:

H.R. 2538. A bill to extend the temporary suspension of duty on a certain ultraviolet dye; to the Committee on Ways and Means.

By Mr. HAYWORTH:

H.R. 2539. A bill to extend the temporary suspension of duty on certain cathode-ray tubes; to the Committee on Ways and Means.

By Mr. HAYWORTH:

H.R. 2540. A bill to extend the temporary suspension of duty on certain cathode ray tubes; to the Committee on Ways and Means.

By Mr. KING of New York (for himself, Mr. Smith of New Jersey, Mr. Norwood, Mr. Israel, and Mr. Bishop of New York):

H.R. 2541. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health regarding qualifying adult stem cell research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KUHL of New York:

H.R. 2542. A bill to suspend temporarily the duty on low expansion laboratory glass; to the Committee on Ways and Means.

By Mr. KUHL of New York:

H.R. 2543. A bill to suspend temporarily the duty on stoppers, lids, and other closures; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2544. A bill to extend the temporary suspension of duty on benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2545. A bill to suspend temporarily the duty on Acid Blue 80; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2546. A bill to extend the temporary suspension of duty on Pigment Red 185; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2547. A bill to extend the temporary suspension of duty on Solvent blue 124; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2548. A bill to suspend temporarily the duty on Pigment Brown 25; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2549. A bill to suspend temporarily the duty on Pigment Red 188; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2550. A bill to extend the temporary suspension of duty on Pigment Yellow 154; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2551. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Ways and Means.

By Mr. LANGEVIN:

H.R. 2552. A bill to suspend temporarily the duty on Pigment Yellow 213; to the Committee on Ways and Means.

By Ms. LEE (for herself, Mr. Abercrombie, Mr. Barrett of South Carolina, Mr. Bishop of Georgia, Ms. Corrine Brown of Florida, Mrs. Capps, Ms. Carson, Mr. Crowley, Mr. Davis of Illinois, Mr. DeFazio, Mr. Doggett, Mr. Farr, Mr. Grijalva, Ms. Harman, Mr. Holt, Mr. Jackson of Illinois, Ms. Eddie Bernice Johnson of Texas, Mr. Kennedy of Rhode Island, Mr. Kucinich, Mr. Lantos, Ms. Zoe Lofgren of California, Ms. McCollum of Minnesota, Mr. McGovern, Mr. Michaud, Mr. George Miller of California, Mr. Nadler, Mr. Olver, Mr. Payne, Mr. Rangel, Ms. Roybal-Allard, Mr. Ackerman, Ms. Baldwin, Mr. Brady of Pennsylvania, Mr. Brown of Ohio, Mr. Carnahan, Mrs. Christensen, Mr. Cummings, Mrs. Davis of California, Mr. Dicks, Ms. Eshoo, Mr. Frank of Massachusetts, Mr. Gutierrez, Mr. Hinchey, Mr. Inslee, Ms. Jackson-Lee of Texas, Mrs. Jones of Ohio, Ms. Kilpatrick of Michigan, Mr. Langevin, Mr. Lewis of Georgia, Mrs. Lowey, Mr. McDermott, Mr. McNulty, Ms. Millender-McDonald, Mr. Moran of Virginia, Ms. Norton, Mr. Owens, Mr. Price of North Carolina, Mr. Rothman, Mr. Rush, Ms. Linda T. Sánchez of California, Mr. Sanders, Mr. Schiff, Mr. Simmons, Mr. Smith of Washington, Mr. Stark, Mr. Thompson of California, Mr. Towns, Ms. Waters, Mr. Waxman, Mr. Wexler, Ms. Schwartz of Pennsylvania, Mr. Wynn, Ms. Loretta Sanchez of California, Ms. Schakowsky, Mr. Sherman, Ms. Slaughter, Ms. Solis, Mrs. Tauscher, Mr. Tierney, Mr. Udall of Colorado, Ms. Watson, Mr. Weiner, Ms. Woolsey, Mr. Larson of Connecticut, and Mr. Meek of Florida):

H.R. 2553. A bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes; to the Committee on Energy and Commerce.

By Ms. McKINNEY:

H.R. 2554. A bill to provide for the expeditious disclosure of records relevant to the life and assassination of Reverend Doctor Martin Luther King, Jr.; to the Committee on Government Reform.

By Mrs. MUSGRAVE:

H.R. 2555. A bill to authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes; to the Committee on Resources.

By Mr. RYAN of Wisconsin:

H.R. 2556. A bill to suspend temporarily the duty on air freshener electric devices with warmer units; to the Committee on Ways and Means.

By Mr. RYAN of Wisconsin:

H.R. 2557. A bill to suspend temporarily the duty on air freshener electric devices; to the Committee on Ways and Means.

By Mr. SHAYS (for himself, Ms. DeLauro, and Mr. Tom Davis of Virginia):

H.R. 2558. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work at home; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 2559. A bill to provide for the recognition of certain Native communities and the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Resources.

By Mr. PALLONE:

H.J. Res. 51. A joint resolution proposing an amendment to the Constitution of the United States to allow debate to be closed on any measure, motion, or other matter pending before the Senate only by unanimous consent or the concurrence of three-fifths of the Senators; to the Committee on the Judiciary.

By Mr. GERLACH (for himself, Mr. Farr, Mr. Hoyer, Mr. Hyde, Mr. Oxley, Mr. Pickering, Mr. Schwarz of Michigan, Mr. Shuster, and Mr. Skelton):

H. Con. Res. 163. Concurrent resolution honoring the Sigma Chi Fraternity on the occasion of its 150th Anniversary; to the Committee on Education and the Workforce.

By Mr. DELAHUNT (for himself, Mr. Allen, Ms. Bordallo, Mr. Blumenauer, Mrs. Christensen, Mrs. Davis of California, Mr. Farr, Mr. Grijalva, Mr. Hinchey, Mr. Kind, Mr. George Miller of California, Ms. Norton, Mrs. McCarthy, Mr. Pallone, Mr. Olver, Mr. Markey, Mr. Holden, Mr. Rahall, Mr. Saxton, Mr. Shays, Mrs. Capps, and Mr. Frank of Massachusetts):

H. Con. Res. 164. Concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 57th Annual Meeting of the International Whaling Commission; to the Committee on International Relations.

By Mr. CROWLEY:

H. Res. 292. A resolution commending the State of Kuwait for granting women certain important political rights; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. Davis of Kentucky.

H.R. 22: Ms. Kilpatrick of Michigan, Mr. Carnahan, Mr. Lynch, Mr. Schwarz of Michigan, Ms. Solis, and Mr. Bachus.

H.R. 23: Mr. Higgins, Mr. Wu, and Mr. Serrano.

H.R. 47: Mrs. Emerson, Mr. Calvert, Mr. Hayworth, Mr. Kuhl of New York, and Mr. Putnam.

H.R. 97: Mr. Upton.

H.R. 98: Mr. Marchant.

H.R. 115: Mr. Hinchey and Ms. Zoe Lofgren of California.

H.R. 215: Mr. Davis of Florida.

H.R. 282: Mr. Linder, Mr. Thompson of California, Mr. Meehan, Mr. Hayworth, Ms. Foxx, Mr. Smith of Texas, Mr. Tanner, Ms. DeLauro, Mr. Berry, Mrs. Musgrave, Mr. Weldon of Pennsylvania, and Mr. Ross.

H.R. 303: Mr. Wynn, Mr. Meeks of New York, Mr. Menendez, Mr. Doggett, Ms. Matsui, Mr. Hoyer, Mr. Bonilla, and Mr. Levin.

H.R. 371: Mr. Chandler.

H.R. 389: Mr. Pastor.

H.R. 463: Mr. Gutierrez.

H.R. 480: Mr. Sanders.

H.R. 503: Mr. Israel and Mr. Markey.

H.R. 537: Mr. Whitfield and Mr. Barrow.

H.R. 551: Ms. Baldwin, Ms. Berkley, Mr. Meehan, and Mr. Pascrell.

H.R. 562: Mr. Brown of Ohio and Mr. Rothman.

H.R. 653: Mr. Olver.

H.R. 691: Mr. Van Hollen.

H.R. 698: Mr. Bachus.

H.R. 745: Mrs. Myrick.

H.R. 783: Mr. Gonzalez.

H.R. 801: Ms. Bordallo.

H.R. 829: Ms. Schakowsky.

H.R. 865: Mr. Marshall.

H.R. 867: Mr. Doggett and Mr. Waxman.

H.R. 968: Mrs. Wilson of New Mexico and Mr. Levin.

H.R. 917: Mr. Goode.

H.R. 930: Mr. Souder, Mr. Weldon of Pennsylvania, and Mr. Gingrey.

H.R. 698: Ms. Foxx, Mr. Johnson of Illinois, Mr. Langevin, Mrs. Maloney, Mr. Gonzalez, Mr. Putnam, Mr. Weller, Mr. Marshall, Mr. Frank of Massachusetts, Mr. Strickland, and Mr. Bonilla.

H.R. 972: Mr. Akin.

H.R. 998: Mr. Rush and Mr. Carter.

H.R. 1011: Ms. Lee.

H.R. 1042: Mr. Camp.

H.R. 1130: Mr. Jefferson and Mr. Van Hollen.

H.R. 1157: Mr. Ryan of Ohio.

H.R. 1202: Mr. McCotter.

H.R. 1227: Mr. Costello, Mr. Hinchey, and Mr. Jefferson.

H.R. 1245: Mr. Kirk.

H.R. 1286: Mr. Cox.

H.R. 1295: Mr. Peterson of Minnesota and Mr. Boustany.

H.R. 1298: Mr. Putnam.

H.R. 1299: Mr. Neugebauer.

H.R. 1329: Ms. Schakowsky and Mr. Frank of Massachusetts.

H.R. 1335: Mr. Hall.

H.R. 1338: Mr. Bishop of Georgia.

H.R. 1360: Mr. Cantor.

H.R. 1373: Mr. Pomeroy, Mr. Burton of Indiana, Mrs. Napolitano, Ms. Solis, Mr. Salazar, Mr. Grijalva, Ms. Roybal-Allard, Mr. Becerra, Mr. Cuellar, Mr. Gonzalez, Mr. Gutierrez, Mr. Hinojosa, Mr. Menendez, Mr. Ortiz, Mr. Pastor, Mr. Reyes, Ms. Linda T. Sánchez of California, Ms. Lorretta Sanchez of California, Mr. Serrano, Ms. Velázquez, and Mr. Baca.

H.R. 1409: Ms. Zoe Lofgren of California, Mr. George Miller of California, and Mr. Lincoln Diaz-Balart of Florida.

H.R. 1431: Mr. Payne, Ms. Lee, Mr. Castle, and Mr. Mack.

H.R. 1498: Mr. George Miller of California, Mrs. Miller of Michigan, Mr. Petri, and Ms. Moore of Wisconsin.

H.R. 1505: Mrs. Myrick.

H.R. 1506: Mr. Peterson of Minnesota, Ms. McCollum of Minnesota, Mr. McGovern, and Mr. Inslee.

H.R. 1509: Mr. Putnam.

H.R. 1517: Mr. Gingrey and Mr. Cantor.

H.R. 1548: Mr. Cooper, Mr. Gordon, Mr. Conaway, Mr. McCrery, Mr. Herger, Ms. Hooley, Mr. Rehberg, Mr. Moran of Virginia, and Mr. Ryan of Ohio.

H.R. 1554: Mr. Sessions.

H.R. 1558: Mr. Blumenauer.

H.R. 1578: Mr. Lewis of Kentucky, Mr. Moore of Kansas, Mr. Coble, Mr. Tanner, Mr. DUNCAN, Mr. SAM JOHNSON of Texas, and Mr. COX.

H.R. 1589: Mr. FATTAH and Ms. MOORE of Wisconsin.

H.R. 1591: Mr. PUTNAM and Mr. SCHWARZ of Michigan.

H.R. 1608: Mr. BARTLETT of Maryland.

H.R. 1652: Mr. CARNAHAN and Mr. VAN HOLLEN.

H.R. 1668: Ms. HARMAN.

H.R. 1671: Mr. BERRY.

H.R. 1687: Ms. ZOE LOFGREN of California, Mr. LEWIS of Georgia, Mr. OLVER, Ms. CARSON, Mr. SMITH of Washington, Mr. CONYERS, Mrs. CAPPS, Mr. MCNULTY, and Mr. CARNAHAN.

H.R. 1705: Mr. BOUSTANY.

H.R. 1814: Mr. COSTELLO and Ms. DELAURO.

H.R. 1898: Mr. KOLBE, Mr. HYDE, Mr. LATHAM, and Mr. CONAWAY.

H.R. 1902: Mr. SANDERS.

H.R. 1956: Mr. SOUDER, Mr. RAMSTAD, and Mr. KING of Iowa.

H.R. 1983: Mr. GERLACH.

H.R. 2036: Mr. HASTINGS of Florida.

H.R. 2044: Mr. CONYERS, Mr. HINCHEY, Mr. FORD, Mr. MCNULTY, and Mr. PLATTS.

H.R. 2074: Ms. DELAURO.

H.R. 2112: Mrs. MYRICK, Ms. GINNY BROWN-WAITE of Florida, Mrs. KELLY, and Mr. KINGSTON.

H.R. 2121: Mr. JINDAL.

H.R. 2122: Ms. KAPTUR.

H.R. 2208: Mr. BURTON of Indiana, Mrs. BLACKBURN, Mr. MCCOTTER, and Mr. DAVIS of Illinois.

H.R. 2233: Mr. DICKS.

H.R. 2238: Mr. KENNEDY of Rhode Island, Mr. SHIMKUS, and Ms. WASSERMAN SCHULTZ.

H.R. 2290: Mr. TERRY, Mr. INGLIS of South Carolina, and Mr. MCCRERY.

H.R. 2317: Mr. RUPPERSBERGER, Mr. NEAL of Massachusetts, Ms. LEE, Ms. BALDWIN, and Mr. MCHUGH.

H.R. 2327: Mr. MCDERMOTT, Mr. WEXLER, Mr. DICKS, Ms. BALDWIN, Mr. BERMAN, Ms. SOLIS, Mr. CONYERS, Ms. MATSUI, Mr. CASE, Mr. GONZALEZ, Mr. BECERRA, Mr. MARKEY, and Mr. CLEAVER.

H.R. 2346: Mr. JEFFERSON.

H.R. 2349: Mrs. CHRISTENSEN, Ms. KILPATRICK of Michigan, and Mr. CONYERS.

H.R. 2350: Mr. KUHL of New York.

H.R. 2355: Mr. INGLIS of South Carolina.

H.R. 2423: Mr. PUTNAM, Mr. SULLIVAN, and Mr. JINDAL.

H.R. 2427: Ms. SLAUGHTER, Mr. EVANS, Mr. SIMMONS, Mr. CLAY, and Mr. DELAHUNT.

H.R. 2457: Mr. BACHUS, Mr. FRANK of Massachusetts, Mr. CASE, and Ms. SCHAKOWSKY.

H.R. 2458: Mrs. MYRICK.

H.R. 2484: Mr. BEAUPREZ, Mr. FORTENBERRY, Mr. DENT, Ms. ROS-LEHTINEN, Ms. GRANGER, and Mr. RENZI.

H.R. 2512: Mr. HOLT.

H.J. Res. 10: Mr. BOREN, Mr. SHERWOOD, Mrs. EMERSON, and Mr. SOUDER.

H.J. Res. 12: Mr. GONZALEZ, Ms. ZOE LOFGREN of California, and Ms. SCHAKOWSKY.

H.J. Res. 38: Mr. MCDERMOTT.

H. Con. Res. 71: Mr. MENENDEZ, Mr. AL GREEN of Texas, and Mr. PALLONE.

H. Con. Res. 90: Mr. BARROW, Mr. BACA, Mr. BECERRA, Mr. CARDOZA, Mr. COSTA, Mr. HINOJOSA, Mrs. NAPOLITANO, Mr. SALAZAR, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Ms. VELÁZQUEZ, Mr. CUELLAR, and Mr. FRANK of Massachusetts.

H. Con. Res. 154: Mr. BROWN of South Carolina, Mr. SESSIONS, Ms. BORDALLO, and Mr. SOUDER.

H. Con. Res. 160: Ms. LEE, Mr. FATTAH, Mr. CLEAVER, and Mr. CLAY.

H. Con. Res. 162: Mr. BLUNT and Mrs. JO ANN DAVIS of Virginia.

H. Res. 67: Mr. ANDREWS.

H. Res. 84: Mr. TERRY.

H. Res. 276: Mr. MCNULTY, Mr. PAYNE, and Mr. BURTON of Indiana.

H. Res. 279: Ms. SCHAKOWSKY and Mr. SMITH of New Jersey.

H. Res. 280: Ms. MILLENDER-MCDONALD, Mr. MANZULLO, Mr. BECERRA, Ms. SOLIS, Ms. BORDALLO, and Ms. WATSON.

H. Res. 286: Mr. MCGOVERN, Mr. LANTOS, and Mr. MCNULTY.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2419

OFFERED BY: MR. FILNER

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following:

SEC.   . None of the funds made available in this Act may be used by the Secretary of Energy to issue, approve, or grant any permit or other authorization for the transmission of electric energy into the United States from a foreign country if all or any portion of such electric energy is generated at a power plant located within 25 miles of the United States that does not comply with all air quality requirements that would be applicable to such plant if it were located in the air quality region in the United States that is nearest to such power plant.

H.R. 2419

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 2: At the end of the bill, add the following:

SEC.   . Total appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $297,460,000.

H.R. 2419

OFFERED BY: MR. SPRATT

AMENDMENT NO. 3: At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be obligated or expended in contravention of the Nuclear Waste Policy Act of 1982.

H.R. 2419

OFFERED BY: MR. STUPAK

AMENDMENT NO. 4: At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be used to accept deliveries of petroleum products to the Strategic Petroleum Reserve.

H.R. 2419

OFFERED BY: MR. STUPAK

AMENDMENT NO. 5: At the end of the bill (before the Short Title), insert the following:

SEC.   . None of the funds made available in this Act may be used to implement a policy, proposed in the Annex V Navigation Programs by the Corps of Engineers, to use or consider the amount of tonnage of goods that pass through a harbor to determine if a harbor is high-use.

SENATE—*Monday, May 23, 2005*

The Senate met at 11:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Our guest Chaplain is the Reverend Penelope Swithinbank of The Falls Church at Falls Church, VA.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

O God, You are the Lord of grace and courage, of wisdom and truth. You give these good gifts to those who call on Your name and You promised to give in abundance when we ask.

We ask that You will give these gifts to the Senators today, that they may be free to think and speak only that which is right and true, without embittering or embarrassing others, that they may be united in knowing Your will and may understand the issues which face them. Give them courage to uphold what is right in Your sight, and integrity in all their words and motives. May their service be for the peace and welfare of all.

We ask these things in the name of Him who is both servant and Lord of all, Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will resume executive session to consider Priscilla Owen to be a U.S. circuit judge for the Fifth Circuit. We have a lineup of speakers throughout the afternoon and likely into the evening. As I have stated previously, if Members want to debate the nomination, we will provide them with that opportunity for debate. We have spent about 26 hours over the course of 3 days on the Owen nomination. On Friday, we asked unanimous consent to have an additional 10 hours before the vote, but there was an objection. Because of that objection, we filed a cloture motion on the nomination, and that vote will occur tomorrow. I will be talking to the Democratic leader as to the exact timing of that cloture vote.

At 5:30 this evening, Senators should anticipate a vote on the motion to instruct the Sergeant at Arms to request the presence of Members. This procedural vote is to ensure that Senators are here for this important debate.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, through the Chair to the distinguished Republican leader, does the leader have an indication of when you may be in a position to indicate how late we would go tonight?

Mr. FRIST. Mr. President, through the Chair, I expect, because of the large amount of interest, that we will stay here until everybody does have that opportunity to speak. We will have the cloture vote, and you and I can discuss shortly the timing. But likely we will do the cloture vote possibly late tomorrow morning. We do want to give people an opportunity. We have spent 26 hours over the course of 3 days, but in all likelihood it will be a very late night tonight.

Mr. REID. And we would continue dividing the time?

Mr. FRIST. I think for planning purposes, that has worked out well for the last 26 hours. If over the course of the morning and afternoon we jointly agree, we can continue that as late as necessary tonight or into the hours of the morning. As I mentioned, debate has been very orderly and very constructive. We will continue with that constructive debate over the course of today and tonight.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—RESUMED

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for consideration of Calendar No. 71, which the clerk will report.

The legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Mr. FRIST. Mr. President, over the last 3 days, for 26 hours, the Senate has debated a very simple, straightforward principle. Qualified judicial nominees, with the support of the majority of Senators, deserve a fair up-or-down vote on the Senate floor. A thorough debate is an important step in the judicial nominations process.

Debate should culminate with a decision, and a decision should be expressed through that up-or-down vote, confirm or reject, yes or no. The Constitution grants the Senate the power to confirm or reject the President's judicial nominees. In exercising this duty, the Senate traditionally has followed a careful and deliberative process with three key components: first, we investigate; second, we debate; and third, we decide. We investigate by examining nominees in committee hearings and studying their backgrounds and qualifications. We debate by publicly discussing the nominees in committee and on the floor, and we decide through an up-or-down vote. Investigate, debate, decide—that is how the Senate and the judicial nominations process operated for 214 years.

But in 2003, the Senate stopped short of a decision. A minority of Senators began routinely blocking final votes on judicial nominations. As a result, the nominees have been left in limbo. Courthouses sit empty. Justice is delayed. Political rhetoric has escalated, and political civility has suffered. It is time once again to decide.

The moment draws closer when all 100 Senators must decide a basic question of principle—whether to restore the precedent of a fair up-or-down vote for judicial nominees on this floor or to enshrine a new tyranny of the minority into the Senate rules forever. I favor fairness and an up-or-down vote.

The individual nominee now before this body is Priscilla Owen. Justice Owen is a qualified, mainstream judicial nominee. She is a sitting member of the Texas Supreme Court who has received the highest possible rating by the American Bar Association. She has been reelected by 84 percent of the people in her home State. More than 4 years ago, the President nominated her to be a judge on the U.S. Court of Appeals for the Fifth Circuit. Since then the Senate has thoroughly and exhaustively investigated and debated her nomination. A brief look at the record tells the story.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The Judiciary Committee has held two hearings on her nomination lasting more than 9 hours. During the hearings, Justice Owen answered more than 400 questions from Senators on the committee. After the hearings, Justice Owen submitted 90 pages of responses to an additional 118 written questions. The Judiciary Committee has debated her an additional 5 hours before committee votes. Today marks the 20th day of Senate floor debate on Justice Owen's nomination. We have spent more floor time on Priscilla Owen than on all the sitting Supreme Court Justices combined.

Yes, Justice Owen has not received one single up-or-down vote on the Senate floor—not one. Four years of waiting, 9 hours of committee hearings, more than 500 questions answered, another 5 hours of committee debate, and 20 days of floor debate, but not 1 up-or-down vote to confirm or reject—not 1.

As majority leader, I have tried for 2 years to find a mutually agreeable solution that will resolve this issue without sacrificing the core principle of an up-or-down vote. I have offered to guarantee up to 100 hours of debate for every judicial nominee, far more than has ever been necessary for any nominee in the past. I have offered to guarantee that no nominee ever becomes unjustly stalled in the Judiciary Committee, as some colleagues have alleged has occurred in previous Congresses. Thus far these efforts have not been successful. I remain hopeful that the Senate will restore the tradition of fair up-or-down votes without the need for procedural or parliamentary tactics.

Tomorrow, Senators will have another opportunity to diffuse this controversy. A cloture motion is pending before the Senate. If cloture is invoked, it will bring debate to an orderly close. With cloture pending, 60 votes cast in the affirmative tomorrow would yield a fair up-or-down vote on Justice Owen. I look forward to the debate ahead. I look forward to hearing from my colleagues. And I look forward to a decision by all 100 Senators on the nomination of Justice Owen, a decision expressed through a vote, a vote to confirm or reject, a vote up or down.

The American people expect us to act and not just debate. They expect results and not just rhetoric. We may not—in fact, we will not—agree on every judicial nominee, but we can agree on the principle that qualified judicial nominees deserve an up-or-down vote. Tomorrow, we will vote, and all 100 Senators will decide—judicial obstruction or fair up-or-down votes.

I yield the floor.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Mr. President, I wish to respond briefly to the distinguished Republican leader's comments. Priscilla Owen has had numerous votes. She has had three that I am aware of on the Senate floor. Those votes dealt with whether we should stop debating her. The votes three times have said no.

The Senate reception area is a beautiful part of the Capitol. I can remember coming here in 1974 and Hubert Humphrey coming off the Senate floor. He had to sit down. He couldn't stand to talk to me. I remember the first time I had a conversation in that beautiful hall. I worked here 10 years before that as a policeman. Of course, I recognized the beauty of the building and of that beautiful room.

We have put out there what we refer to as a Hall of Fame of Senators. It is a place where you have photographs of Senators who were extra special Senators, people who the rest of the Senate, after that Senator left the Senate, determined was somebody who deserved to be in the Hall of Fame. One such man is Arthur Vandenberg. I wish I could have known him. He was a wonderful Senator, a very progressive, thoughtful man.

My distinguished colleague, the Senator from Michigan, Mr. LEVIN, read into the RECORD last week, May 20:

> What the present Senate rules mean: and for the sake of law and order, shall they be protected in the meaning until changed by the Senate itself in the fashion required by the rules?

He summarized this issue that is before the Senate today and did it about 60 years ago on an occasion similar to this. How prescient are his comments to the situation in which we find ourselves today.

Senator Vandenberg:

> . . . [T]he rules of the Senate as they exist at any given time and as they are clinched by precedents should not be changed substantively by the interpretive action of the Senate's Presiding Officer, even with the transient sanction of an equally transient Senate majority. The rules can be safely changed only by the direct and conscious action of the Senate itself, acting in the fashion prescribed by the rules. Otherwise, no rule in the Senate is worth the paper it is written on, and this so-called "greatest deliberative body in the world" is at the mercy of every change in parliamentary authority, which means the Republicans are in power today and the Democrats may be tomorrow, and a simple majority can change anything.

Mr. President, this is the way it should be. You should not be able to come in here and change willy-nilly a rule of the Senate. A rule of the Senate, you change by the rules. This so-called nuclear option has now been stood on its head, and they are now using what I refer to as the Orwellian language, saying that it is the "constitutional option," and that, by all legal scholars, is foolishness.

I served in the Senate with Malcolm Wallop of Wyoming and Jim McClure of Idaho, westerners who are extremely conservative politically. But here is what they said, and they wrote this in the Wall Street Journal:

> . . . [I]t is naive to think that what is done to the judicial filibuster will not later be done to its legislative counterpart. . . . [E]ven if a Senator were that naive, he or she should take a broader look at Senate procedure. The very reasons being given for allowing a 51-vote majority to shut off debate on judges apply equally well—in fact, they apply more aptly—to the rest of the Executive Calendar, of which judicial nominations are only one part. That includes all executive branch nominations, even military promotions. Treaties, too, go on the Executive Calendar, and the arguments in favor of a 51-vote cloture on judicial nominations apply to those diplomatic agreements as well. It is little comfort that treaty ratification requires a two-thirds vote. Without the possibility of a filibuster, a future majority leader could bring up objectionable international committments with only an hour or two for debate, hardly enough time for opponents to inform the public and rally the citizenry against ratification.

What they are attempting to do in this instance is really too bad. It will change this body forever. We will be an extension of the House of Representatives, where a simple majority there can determine everything. Those of us who went to law school—and the Presiding Officer is a Harvard graduate. I went to George Washington. We know the precedent in the law is important. A precedent of the Senate is even more important. There will be a precedent set that will be here forever if the vote we take tomorrow prevails.

I feel there are Republicans of good will who are willing to be profiles in courage and step to this well tomorrow afternoon or evening and say we cannot do that. We believe that conservative Senators such as Malcolm Wallop and Jim McClure are right. They believe—Malcolm Wallop and Jim McClure—that especially small Western States need protection. The reason we had the Great Compromise of 1787 was to allow the State of Rhode Island to have equal power in the Senate with New York. What is being attempted will take that away, change the Senate forever.

So I am convinced and hopeful and confident that there will be six courageous Republican Senators who will step down here and go against their leader, go against their President, as was done by Thomas Jefferson's Senate when he had a significant majority and tried to play with the courts; and when Franklin Roosevelt, with a tremendous majority—and no President has ever been more popular than he was when elected in 1936—tried to pack the courts. His Democratic Senators said no. Even the Vice President who served under President Roosevelt, James Garner, said no deal. The President called the Democratic leadership to the White House and said this is what we are going to do. He never conferred with them. And they, wanting to go along with what was the most popular President, probably, in many years—when they walked out, they said no, we are not going to do that. Democratic Senators made the difference. We need Republican Senators here to make the difference, stand and be counted when we vote. We only need six courageous people to stop the Senate from becoming an extension of the House of Representatives.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. DOLE. Mr. President, before I speak to the important principles at stake in this debate, I want to take this opportunity to thank the Majority Leader for doing everything in his power to avoid the impasse we face today.

We have arrived at this moment in the Senate's history not because of a failure of effort, but because of a failure of cooperation.

Over the past two years, Senator FRIST and other members of the Republican leadership have made compromise an important objective.

We have repeatedly offered to extend the period of debate on the President's judicial nominees. Fifty hours, 100 hours, have been offered—even 200 hours of debate on some of these nominees—all in an effort to ensure that our Democrat colleagues have sufficient time to raise and explain their concerns. Without exception, these offers to provide more time have been rejected out-of-hand.

In May of 2003, Senator FRIST and then-Senator Miller of Georgia introduced compromise legislation that would allow the filing of successive cloture motions on judicial nominees, with each motion requiring fewer votes for passage, and ultimately a simple majority. When it came time to consider this sensible legislation in the Rules Committee, my Democrat colleagues boycotted the mark-up.

In April of 2004, the current Chairman of the Senate Judiciary Committee, Senator SPECTER, introduced legislation to help remove politics from the judicial confirmation process and ensure that nominees would be given a hearing, that they would be reported out of committee, and would receive a vote on the Senate floor. The Democrats reacted to this proposal with silence.

Senator FRIST has been in regular communication with Senator REID, and on March 17 of this year, he formally wrote to Senator REID expressing his hope that a compromise could be fashioned, and indicating that the constitutional option would only be exercised if there were no reasonable alternatives.

And, on April 28, Majority Leader formally reached out again to Senator REID, proposing to grant 100 hours of floor debate on each of the filibustered nominees—that's more than twice the time spent by the Senate debating any of the nominations of the current Supreme Court Justices. Senator FRIST also proposed to develop a process to ensure that nominees are not bottled up in the Judiciary Committee, a complaint often made by my Democrat colleagues. Once again, this sincere effort at compromise was immediately rebuffed.

So let the record be clear: The Majority Leader has pursued compromise with vigor, and he should be commended for doing so.

But, of course, when compromise fails, action must take its place. We are here today because there are important principles at stake . . . principles that are worth defending.

Does the President have the right to expect that his nominees to the Federal bench will be fully considered by the United States Senate? Does the Senate have a constitutional obligation to offer "advice and consent" on these nominations? And are judicial nominees entitled to an up-or-down vote on the Senate floor?

The answer, of course, to each of these questions is a resounding "yes."

For more than 214 years, judicial nominees with clear majority support have received an up-or-down vote on the Senate floor, with a majority vote leading to confirmation. Until just two years ago, a 60-vote supermajority was never the standard for confirmation to the Federal bench. Those are the facts.

By blocking not one, but ten, of President Bush's judicial nominees through the inappropriate use of the filibuster, my Democrat colleagues are doing nothing less than setting Senate tradition on its head. They are rewriting the rules of the game while abandoning the custom of self-restraint that has enabled the Senate to function so effectively in the past. And three of these nominees have now withdrawn their names from consideration.

To justify their actions, my colleagues on the other side of the aisle would have us believe that filibustering judicial nominees is just business as usual. They specifically cite the nominations of Abe Fortas, Marsha Berzon, and Richard Paez as examples of Republican-led obstruction efforts.

Justice Fortas, of course, lacked majority support when, in 1968, President Johnson withdrew his nomination to be Chief Justice of the Supreme Court. Today's filibuster victims, on the other hand, all have bipartisan, majority support . . . and are being permanently blocked despite this fact. Fortas' nomination was opposed not just by members of one party, as is the case today, but by Democrats and Republicans alike. And let's not forget: Justice Fortas' nomination was debated for just several days before President Johnson took action. Many of President Bush's nominees have been pending before the Senate not for days, but for years.

I am not sure what citing the Berzon and Paez nominations proves, since both individuals were given the courtesy of an up-or-down vote, and both were ultimately confirmed. They are now sitting judges. In fact, the Majority Leader at the time—TRENT LOTT—worked to end debate on both nominations, believing then, as we do now, that judicial nominees deserve a vote on the Senate floor.

So, what we are witnessing today is something wholly different: it is a highly organized obstruction campaign that is partisan in origin, unfair in its application, harmful to this institution, and unprecedented in our Nation's history.

Now, let's take a moment to examine the record of the individual whose nomination is before the Senate today. Justice Priscilla Owen has been called everything from an "extremist" to a "far-right partisan" to someone who is "out of the mainstream."

But the simple fact is that Justice Owen's record is that of a distinguished jurist who enjoys broad support and who understands that her role is to apply the law fairly and impartially.

Twice elected to the Texas Supreme Court after a long career as a litigator in a prominent Texas law firm, Justice Owen earned the highest score on the December 1977 Texas bar exam and ranked near the top of her class at the Baylor University School of Law. She has been endorsed by a bipartisan group of 15 past presidents of the Texas State bar. An advocate for providing pro bono legal services to the poor, Owen also received a unanimous "well-qualified" rating from the American Bar Association, the highest rating given by that organization—I add, the "gold standard" for our Democrat friends. And in her last election to the Texas supreme court, Justice Owen earned a stunning 84% of the vote and was endorsed by every major newspaper in the Lone Star State.

Justice Owen received her vote in Texas and she deserves her vote on the floor of the United States Senate.

Mr. President, there is another important issue that must be raised beyond that of the rules and procedures of the Senate: It is the impact this episode in the Senate's history will have on the willingness of men and women of talent to serve their country by serving on the Federal bench.

Millions of Americans have watched as the good reputation of Justice Owen has been unfairly tarnished. As have the reputations of Justice Janice Rogers Brown, and Judge Terrence Boyle, Miguel Estrada, and the other nominees. Their lives and careers have been reduced to partisan—and wholly inaccurate—television sound bites with words like right-wing, radical, extremist.

For those of either party contemplating future service on the Federal bench, this spectacle of unfairness must be chilling—chilling—a glowing "proceed with caution" signal, suggesting that other career options should be pursued instead.

For the sake of the Federal courts in our country, we must do better. We can start by restoring the traditional standard for the confirmation of judicial nominees. Guaranteeing every nominee the opportunity of an up-or-down vote on the Senate floor will dramatically reduce the role of outside interest groups who see the filibuster as a way to exert pressure and score political points. It will force us to debate these nominees on the merits, with real arguments, not with politically convenient slogans and labels. And hopefully, it will help make an appointment to the Federal bench an attractive option for those young people out there who may be thinking about a career in service to the public.

I yield the floor.

The PRESIDENT pro tempore. Under the previous agreement, the time is now divided 1 hour on each side with the first hour under the control of the majority leader or his designee.

Does the Senator from Kentucky seek recognition?

Mr. BUNNING. Mr. President, I do.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. BUNNING. Mr. President, what is the current business before the Senate?

The PRESIDENT pro tempore. The nomination of Priscilla Owen.

Mr. BUNNING. I thank the Chair.

Mr. President, it is important for Senators to understand what we are talking about here. We are talking about the nomination of Texas Supreme Court Justice Priscilla Owen to be a Federal circuit judge. We are talking about her qualifications and about fulfilling our constitutional responsibilities to give advice and consent. We are talking about whether each Senator will vote yes or no in an up-or-down vote on the nomination of Justice Owen. And soon we will be talking about the long-blocked nominations of California Supreme Court Justice Janice Rogers Brown, former Alabama Attorney General Bill Pryor, and others passed by the Judiciary Committee.

As the Presiding Officer said, the Senate's pending business is the nomination of Justice Priscilla Owen. Justice Owen has had a distinguished record as a judge who respects the rule of law. She understands that elected legislators write the law, not judges. As a judge, she has applied the law as it is written, not as she wished it were written.

The American Bar Association unanimously rated Justice Owen "well qualified." Everyone here knows that the ABA is not exactly a conservative organization, so that rating speaks volumes. She has served on the Supreme Court of Texas for more than 10 years, where she has earned the respect and endorsements of Democratic justices and attorneys, and more impressively than that, in her most recent election, she received 84 percent of the vote. I cannot imagine getting 84 percent.

Just last week, I met with Justice Owen. I was impressed with her intelligence and honesty. I was impressed with her energy and determination to see this through. But most of all, I am satisfied that Justice Owen will interpret the law rather than try to write it, and I am convinced that she will stand up to any other judges on the Fifth Circuit Court of Appeals who try to rewrite the law from the bench.

Why has Justice Owen been denied an up-or-down vote? As best I can tell, it is because they crossed the radical left when she voted not to take away a mother's right to know that her teenage daughter wanted to have an abortion. Justice Owen did not write the Texas law requiring notification. The legislature did. She merely agreed with the two lower courts that the requirement of the exceptions in the law had not been met.

In the time when a teenage girl cannot get her ears pierced at the mall or take an aspirin at school without parental consent, it is not out of the mainstream to enforce a law requiring notice to a parent before that same teenager can get an abortion.

Another nominee we are discussing this week, California Supreme Court Justice Janice Rogers Brown, is also a nominee who will stand up to the activist judges on the Ninth Circuit Court. Justice Brown has been on the California Supreme Court for 9 years, and she received 76 percent of the vote in her last election, the most of any justice on that year's ballot.

Justice Brown has earned a reputation as a judge who respects the law and the California Legislature's decisions. She has consistently deferred to the legislature's judgment and not substituted her own political views. In other words, she knows the role of a judge is not to write the law but to apply the law.

Justice Brown has also earned the respect of her California colleagues. In recent years, she has been chosen by the court to write the majority opinions more times than any of her fellow justices. She has the endorsement of both the Republicans and Democratic judges, lawyers, and law professors in California.

Critics point to the statements that Justice Brown made about her policy views outside—outside, I say—of the courtroom. While some may not agree with her personal opinions on issues, outside the courtroom is the place where she should feel free to make her policy views known.

Some of her political views may conflict with the laws of the State of California, but Justice Brown has had no problem applying those laws to the cases before her. That is exactly what a judge is supposed to do—apply the law to the facts of the case regardless of whether the judge would have voted for that law if she or he had been in the legislature.

Mr. President, 5 years ago, a discussion like this about nominees would have been overlooked by most Members of this body. A few Senators would give a statement on the Senate floor in support of a nominee to a circuit court. A few more Senators would insert a statement into the RECORD. And then the Senate would confirm the nominee by a rollcall vote or even a voice vote. That was the ordinary course of business in this body for 214 years. But that is not the case anymore.

Ever since President Bush was elected, his nominees to the circuit court have been denied an up-or-down vote. During the 107th Congress, many of his nominees did not advance when the Senate was under Democratic control. During the 108th Congress, Democrats instituted the first partisan filibuster of judicial nominees, all of whom have majority support in this body.

We hear a lot from the other side about minority rights. No one on this side of the aisle wants to restrict the opposition's ability to speak their objections and vote against these nominees. I invite Senators who oppose these nominees to come to this floor and speak their objections. I encourage them to try to convince me why I should vote against these nominees.

Instead, this is about a minority of Senators trying to take for themselves a power that the Constitution gives only to the President of the United States. This is about a minority of Senators thwarting 214 years of Senate tradition. This is about the obligation and fairness of giving a nominee a vote. This is all about whether elections in this country mean anything.

We are currently engaged in a war against terrorism. We have helped the Iraqi people conduct peaceful democratic elections; also the people of Afghanistan. We have seen the power of the democratic process in the Ukraine, and we have seen the strength of the voice of the people longing for freedom in Lebanon. Even Kuwait is taking steps to allow women to vote for the first time. How can we as a nation speak of the power of the people, the validity of the democratic process and the strength of the vote, if we let a minority in this body thwart the will of the democratically elected President and majority of this body?

Last fall, the American people spoke clearly. In the highest numbers in history, the American people went to the polls and voiced their opinion with their votes. The American people chose George W. Bush as their President, and the American people created a 55-vote majority for the Republicans in this Senate by electing 7 new Republican Senators. The message the American people sent is clear. They support President Bush and Republican policies and values more than what the other side of the aisle had to offer.

The Constitution gives the President, and only the President, the power to make nominations. It is up to him to pick a nominee. We in the Senate are only empowered to speak for or against and to vote for or against a nominee.

The nominees' records have been examined. Senators have come forth with their objections, and there is still time for objections to be spoken. We have offered to debate the nominations for as much time as the minority wants, to be followed by an up-or-down vote. But the time has come for us to set that vote. The President deserves to have that vote, the majority of the Senate deserves to have that vote, but particularly the nominees deserve to have that vote, and the American people deserve to have that vote. The American people deserve to see how their elected representatives vote on these nominations and to see what kind of judges their Senators support.

We have a crisis in the Federal judiciary. We have too many judges who act like they are in Congress, not on the bench. Those judges are imposing their values on the American people through their decisions. That is why we must confirm nominees like the ones before the Senate, to stand up to activist judges and uphold the law and the Constitution and not write new laws from the bench. Liberal special interests have taken over the Democratic Party and are fighting to stop these nominees, and therefore a minority of Senators is thwarting more than 200 years of Senate tradition to block votes on these nominees.

The other side has no other way to advance its ultraliberal agenda. They cannot pass their laws through this Congress or through State legislatures. They cannot even get elected by running on these issues. So they must turn to the courts, the last holdout of active liberal power to impose their agenda.

What is that agenda? It is unlimited abortion on demand, without even notice to the parents of a minor child or the father of that child. It is about allowing partial-birth abortions. That liberal agenda is about rewriting the definition of marriage. It is about stripping down the pledge of allegiance because it recognizes God. That agenda is about banishing the Ten Commandments from public buildings. That agenda is allowing pornographic photos and other things into our libraries and across the Internet.

That ultraliberal agenda does not sell in the heartland around the dinner table. It does not even sell here in the Congress. So the last great hope for the liberals is the judicial bench, and that is why they fight these judicial nominees who do not give in to their liberal, activist agenda. The only thing that can stop the rewriting of our Constitution and laws is judges who will stand up to that activism and fight for the rule of law. President Bush has nominated such individuals. Now the Senate must allow an up-or-down vote on those nominees.

There are other consequences to this debate as well. The confirmation process has become quite a burden on the nominees and their families. In the last Congress, one of the most qualified judicial nominees ever, Miguel Estrada, asked for his nomination to be withdrawn because of the strains on his personal life and family. Several more nominees asked not to be renominated in the 109th Congress because of those same burdens. There are also practical consequences for the American people who rely on a functioning court system.

Because of the vacant seats, our appeals courts are experiencing huge delays that are unfair to the parties and put added strain on sitting judges. Nowhere is that more pronounced than in the Sixth Circuit, which encompasses my State. One-quarter of the seats of that court sit empty because the nominees from one State, Michigan, are being denied an up-or-down vote. Those vacancies have a real effect on the lives of 30 million people who live in the Sixth Circuit. The people of Kentucky, Ohio, Tennessee, and Michigan, the people of the Sixth Circuit, are being denied justice in a timely manner.

This issue is far too important to leave unresolved any longer. We must move to a vote. The record is clear. The nominees before the Senate are qualified to serve on the Federal bench and deserve to be confirmed by the Senate. They have the proper understanding of the role of each branch of Government under our Constitution. They will stand up to those who wish to use the court as an unelected legislature. They deserve an up-or-down vote.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I am going to speak on the judge issue that is before the Senate. I was wondering what the time constraints are.

The PRESIDING OFFICER. The time until 1 o'clock is controlled by the majority.

Mr. GRASSLEY. That means I can speak until 1 o'clock; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. Mr. President, for several days now, the Senate has been debating two nominees for the Federal bench, Priscilia Owen and Janice Rogers Brown. I come to the floor to express my support for these two highly qualified women, and I also do it to urge my colleagues to support an up-or-down vote so that these folks know whether a majority of the Senate is consenting to their nomination by the President of the United States, in other words, confirm these two highly qualified judges.

One of the most important roles that we Senators have is the responsibility of advising and consenting to individuals that the President has nominated to fill positions on the three levels of the Federal judiciary. But this responsibility has been threatened by actions of Democratic leadership. Of course, that has brought us to this extended debate, over several days now, about the role of the Senate as expressed in the Constitution about the handling of Federal judges nominated by the President.

It seems to me the Constitution is very clear on the role of the Senate in this judicial confirmation process. Judicial nominees are chosen by the President with the advice and consent of this body. Until President Bush was elected, no one ever interpreted this requirement to mean anything but a simple majority vote of those present and voting in the Senate. For over 200 years, no judicial nomination, with a clear majority support in the Senate, had ever been denied an up-or-down vote on the Senate floor. This was the case regardless of whether a Republican or Democratic President was in office. This was the case, regardless of whether the Senate was controlled by Democrats or Republicans.

Recently, in the last Congress, the Democratic leadership decided it was going to change the ground rules. The Senate Democrats rejected a 200-year-old Senate tradition of giving judicial nominees an up-or-down vote. By doing this, the Democratic leadership has rejected the Constitution, rejected the traditions of the Senate, and it seems to me as a result of the last election, when approving judges was very much an issue to the American electorate, they are now rejecting the will of the American people.

The Democratic leadership targeted 16 of President Bush's 52 court of appeal nominees. They actually filibustered 10 and threatened to filibuster 6 more, a full 31 percent of President Bush's appellate court nominees being stymied. Because of this, President Bush has had the lowest percentage of his court nominees confirmed by any President in recent memory.

What is this debate all about? It is basically a debate about what the Constitution requires of the Senate. It is a debate about fairness to the individuals who do not have an opportunity to see whether a majority of the Senate supports them and approves their appointment.

And in the case of fairness to the individual nominees, they have been waiting for years to be confirmed. They have majority support in the Senate, but a minority of Senators is opposed to President Bush's appellate court nominees and, as a consequence, will not allow the Senate to give these individuals an up-or-down vote. The Democratic leadership will not allow the Senate to exercise its constitutional duty of advice and consent.

The Democratic leadership will not allow even this one Senator to exercise my constitutional responsibilities. In a sense, this Senator from Iowa and 99 others are being denied an opportunity to carry out their constitutional responsibility. That is simply not right. The Constitution demands an up-or-down vote. Fairness demands an up-or-down vote.

Some have claimed a rule change on this matter is a violation of Senators' free speech and minority rights. Let me make it very clear, we are not talking about changing rules in this process, we are talking about abiding by the practice of the Senate, until 2 years ago, over the 214-year history of the Senate. So no rule change, just doing what the Senate has always been doing, and no one has raised the issue before about a Senator's free speech and minority rights being violated. There is not anything out of the ordinary then about a majority wanting to exercise its right to keep Senate procedures the same as they have always been.

For example, we were faced with problems in 1977, 1979, 1980, and 1987, problems that were visualized by the Senate majority leader at that time as stopping the Senate from doing what is constitutionally necessary for the Senate to do. In those years, Senator BYRD led a Democratic Senate majority in setting precedents to restrict minority rights. The Republicans, who were the minority party, did not respond by threatening the shutdown of the Senate or the stalling of legislation.

On the other hand, the actions of the Senate Democrats now are an unprecedented obstruction, plain and simple. The Democratic leadership is not interested in additional debate on the nominees. This is not about minorities wanting to exercise speech and debate on the nomination as long as they might want. The Republican majority leader has offered the Democrats time and again as much time as they want for debate. Yet the Democratic leader indicated in so many words that the Democrats would not agree to any time agreement.

The Democratic leadership has taken the position that it will not even allow an up-or-down vote on these nominees. The minority leader has indicated there is no time long enough for Democrats to debate these nominations.

I clearly understand the importance of filibusters and would not want to see them done away with completely. However, it is also important to make a distinction between filibustering legislation and filibustering judicial nominations. The interests of the minority party are protected in the Senate. It is the only segment of our Government where minority points of view are protected. It has served a very good purpose over 200 years bringing about compromise. Filibusters are meant to allow insurance that the minority has a voice in crafting legislation.

When working on a bill, it is possible to make changes in compromises to legislative language until you get the 60 votes needed under Senate rules to bring debate to a close.

In the tradition of the filibuster on legislation, unlimited debate ensures that compromise can take place, protecting some of the desires of the minority. That minority might not be a partisan minority; that minority could be a bipartisan minority that wants to make sure certain changes are made in legislation.

Judicial nominees, however, are very different than legislation. An individual such as Judge Brown or Judge Owen cannot be compromised some way so the filibuster, the way it is used in legislation, can be used to bring about compromise of an individual because you cannot redraft a person like you can redraft legislation to get over a filibuster, to get to finality so a majority can rule. In a sense, the minority is saying it is possible to use the filibuster to cut off the left arm of one of these nominees and put on a new arm so they are compromised to get to finality. That is ridiculous. It just does not work.

But it also illustrates the rationale behind a filibuster applicable to legislation, not applicable to an individual.

For judicial nominations, it is the Senate's responsibility to determine whether nominees are qualified for a position they are nominated to, and to say so through an up-or-down vote. Let a majority of the Senate decide if they are qualified.

Throughout our Nation's history, it has only taken a majority of Senators to determine a nominee's qualification for the judge position they are appointed to. It seems to me after a 214-year history, that is history worth continuing.

The reality about the Democratic leadership's filibuster is that the minority wants to block filling appellate court judgeships by requiring 60 votes to proceed to the nomination. But no other President has been required to get 60 votes for his judicial nominees. No other judicial nominee needed to pass the 60-vote hurdle of a supermajority.

Many Federal judges on the bench today would have never made it, not with that sort of requirement. In fact, all Senators here got elected by a simple majority, 50 percent of the vote. If we had requirements for supermajority rule for Senators to be elected, a lot of Senators who are my colleagues might not be here today. Why are Senators now wanting to approve judges only if they get a 60-percent vote? The reality is no other Senate majority has been excluded from judicial confirmation process in 214 years. We need to restore tradition and the law of judicial process. We need to give these nominees the up-or-down vote the Constitution requires. We need to stop a systematic denial of our advice and consent responsibilities which have been shuttered by the use of the filibuster.

I have been a Member of the Senate since 1981. Before I got to the Senate I served in the other body since 1974. I love the Senate. I have worked hard to be a very productive Senator. I want to do what is best for the Senate, for my constituents, and for my country. That is not different than the other 99 Senators most of the time. That is what we were all elected to do. The Republican majority leader is also trying to do what he thinks is the best thing for this country by moving to reestablish the over 200-year Senate tradition by giving judicial nominees the up-or-down vote.

This is not going to destroy the Senate. It is in the tradition of the Senate and it is within the tradition of the Constitution. The 214-year history of this Senate speaks louder than just the last 2 years, but the last 2 years will trump the first 214 years if we do not take action to keep the advice and consent confirmation process within the tradition of the Senate.

It is just plain hogwash to say that moving to make sure the rule is to give judicial nominees an up-or-down vote will hurt our ability to reestablish fairness in the judicial nominating process. It is not going to hurt minority rights. It establishes what we call regular order as it has been for 214 years. It will be fair both to Republicans and Democrats alike. All the majority leader wants to do is to have a chance to vote these nominees up or down. If these individuals do not have 51 votes, they will be rejected and should be rejected. But if these individuals do have 51 votes, then they should be confirmed. That is according to the Constitution.

If a Senator disapproves of any one of these individuals, vote against the nomination. I have done that in the past. But do not deprive the people the right to support a nominee through their elected Senator.

Some claim many judicial nominees were filibustered by Republicans, particularly when President Clinton was in office. That isn't accurate and that is a nice way for me to say it. Very few people either inside or outside this Chamber have been as involved in the issue of judicial nominations and the use of the filibuster as I have. As a long-time chairman of the Judiciary Subcommittee on the Federal Courts, I have a unique perspective on the debate and the use of filibusters.

First, when the Democrats were in a majority in the Senate under President Reagan—and this goes back to my starting in the Senate in 1981—they blocked 30 of President Reagan's nominees and 58 of President Bush Senior's nominees. They did that in the Judiciary Committee.

Now, that is not equivalent to a filibuster. I do not want to mislead anybody. Then, in the last few years of President Clinton's administration, many Republicans became disillusioned with the number of nominees the administration had sent to the Senate, and we felt our own Republican leadership was allowing out-of-the-mainstream nominees to be confirmed. This all came to a head with the nominations of Ninth Circuit Judges Paez and Berzon. Now, understand these people are serving as judges now. They were nominated to that position by President Clinton.

Going back to this time of Judges Paez and Berzon, at that time we had a Democratic President and a Republican-controlled Senate. There was serious talk of filibustering these nominees. I have heard some Democrats and ill-informed pundits try to make the case that Paez and Berzon were filibustered. Well, they were not.

The reality is, the Republican leadership, including the chairman of the Judiciary Committee at the time, argued that there had never been a filibuster of an appellate court nominee. The Republican leadership argued Republicans should not cross that Rubicon and set the precedent because then it would be used against Republicans in the future when we had a Republican administration. So it was decided at that time there would not be a filibuster and we would not set that precedent. There would be a cloture vote, yes, but everyone knew that cloture vote would prevail and the nominee would be confirmed by a majority vote.

So the Members who wanted to filibuster decided to go along with the leadership's wise counsel even though these Members never trusted that the Democratic leadership would follow our example. I voted for cloture. I voted to get over 60 votes so we could move on with what we knew should have been done by the Senate. But I want you to know that I voted against these two nominees, Judges Paez and Berzon. And I was not alone. Other Republican Senators did the same thing. But in the end, unfortunately, those Members were right not to trust Democratic leadership because Democratic leadership has now crossed the filibuster Rubicon.

We are not only being denied the ability to perform our constitutional duty in the judicial selection process, the move to filibuster is upsetting the checks and balances and the separation of powers principle our Nation is founded upon. The Democrats are the ones who are upsetting the checks and balances. They want to grind the judicial process to a halt for appellate court nominees so they can fill the bench with individuals who have been rubberstamped by leftwing extreme groups.

Let me say something about the nominees, then, because these are the folks whom we are debating, these are the folks whose professional future, personal future is at stake by what we do here of allowing 51 votes when they will be approved or 60 votes when they will not be approved.

Priscilla Owen and Janice Rogers Brown are both highly qualified individuals, with exceptional legal abilities. They are talented women, respected women, true pioneers. But they have been drawn into the web of the far leftwing special interest groups. These women have been called outside the mainstream by their opponents. They have been called unworthy for the Federal bench.

They have been labeled, among other things, as "activist," "anticivil rights," and "anticonsumer." These claims are not true. And the claims charged against other of President Bush's judicial nominees are just as false. All these outrageous claims have consequences.

The travesty is Priscilla Owen and Janice Rogers Brown have been waiting for years to be confirmed. The travesty is other worthy nominees such as Miguel Estrada got tired of putting up with the antics of the Senate, a Senate untraditional of its first 214-year history, and just said: I am not going to fight it anymore. So Miguel Estrada withdrew his nomination. The travesty is that a nominee like Judge Pickering is trashed. The travesty is that the good name of a nominee like William Pryor is dragged through the mud.

Ripping to shreds the reputation of these individuals with unfounded allegations is unacceptable. This tactic sends a clear message to good people who want to serve their country that they will have to endure outlandish and baseless attacks on their record and character if they ever want to be a Federal judge. The Democrats are doing this because they are using a far left litmus test to satisfy their leftwing—their leftwing that is out of the mainstream—special groups. So when the Democratic leadership says these nominees are outside the mainstream, they are basically saying these individuals have not been approved by their allies, the far left special interest groups.

But judicial nominees should not be subject to a litmus test. They should not be subject to an ideology litmus test. A nominee should not be opposed, as Priscilla Owen and Janice Rogers Brown are being opposed right now, because they will strictly follow the law, be constitutionalists, rather than legislating from the bench some leftwing agenda.

Moreover, history has proven the wisdom of having the President place judges with the support of the majority, not a supermajority, in the Senate. That process ensures balance on the courts between judges placed on the bench by Republican Presidents and those placed on the bench by Democratic Presidents.

The current obstruction led by Senate Democratic leaders threatens that balance. Priscilla Owen and Janice Rogers Brown deserve an up-or-down vote. It is high time to make sure all judges receive fair up-or-down votes on the Senate floor, up-or-down votes for judicial nominees of both Republican and Democratic Presidents alike in the tradition of the Senate for 214 years, until 2 years ago.

In my town meetings across Iowa, I hear from people all the time, Why aren't the judges being confirmed? If we do not take care of this issue this week, I am going to hear it in my 22 town meetings across northwest Iowa next week when we are not in session. I think most people understand the process is being politicized to the point that good men and women are being demonized and their records distorted at an unprecedented level.

I hear from Iowans all the time that they want to see these nominees treated in a fair manner, and they want to see an up-or-down vote. The Democratic leadership likes to say the Republicans are the ones who are changing the rules. But that is not true. The Democrats are the ones who have engaged in extreme behavior and tactics, pulling out all the stops to defeat well-qualified nominees who would have majority support in the Senate if they were given an up-or-down vote. They are the ones who have distorted the rules to the point that the Senate is being denied its ability to fulfill its constitutional responsibility. And if Senator FRIST has to do it, what he is doing is leaving the rules practiced exactly the way they were for 214 years.

Filibustering judicial nominees may be touted as standing firm on principle. On the contrary, what it boils down to is an obstruction of justice. Let's do the American people a favor. Let's stop the theatrics and get back to the people's business. All the rallies and political spin doctoring are not clearing any court dockets, and they are not impressing the American public either.

Let's debate the nominees and give our advice and consent. It is a simple "yea" or "nay," when called to the altar to vote. Filibustering a nominee into oblivion is misguided warfare and the wrong way for a minority party to leverage influence in the Senate. Threatening to grind legislative activity to a standstill if they do not get their way is like being a bully on the school yard playground. Let's do our jobs.

Nothing is nuclear about asking the full Senate to take an up-or-down vote on judicial nominees. It is the way the Senate has operated for 214 years. The reality here is the Democrats are the ones who are turning Senate tradition on its head by installing a filibuster against the President's judicial nominees.

The Senate has a choice. We can live up to our constitutional duties to advise and consent to President Bush's judicial nominees or we can surrender our constitutional duty to the leftwing special interest groups who apparently control the Democratic Party. This Senator chooses to follow the Constitution.

We need to return to a respectable and fair process. We need to return to the law and the Constitution. We need to return to the Senate's longstanding tradition. We need an up-or-down vote for these judicial nominees.

In case there are some people sincerely led to believe that somehow appointing certain people with a strict constitutionalism to the courts is something to worry about, I would simply ask them to look at how history works in bringing balance to our judiciary throughout the history of our country. Think in terms of 8 years of a Republican President appointing maybe people who are strict constitutionalists to the judgeships—and not all of them are; but just say that they might all be—then you have 8 years of a Democratic president with people of an opposite point of view being appointed to the judgeships. That brings balance.

But also think in terms of how it is difficult to predict down the road 25 years how judges are going to rule. Think of two of the foremost liberal people on the Supreme Court, Justice Souter and Justice Stevens. Who do you think appointed these most liberal members to the Supreme Court? Republican Presidents did. And then balance that with the two other most liberal members on the Supreme Court, Breyer and Ginsburg. Who appointed them? A Democratic President. You could make an argument that Republican Presidents have brought more balance to the Supreme Court than Democratic Presidents have.

Then the other thing is, look at somewhere you thought they were going to be predictable where they would end up, and you have Justice Kennedy and you have Justice O'Connor, who were supposed to be very strict constructionists when they were appointed to the Supreme Court, but they go back and forth between the conservative wing of the Court and the liberal wing of the Court.

So whatever worries the Democratic Senators of today, I wish they would take a look at history. Time answers a lot of these problems. Elections answer a lot of these problems. And we have a great constitutional system that has worked for so long over such a long period of time that in the final analysis everything is going to work out OK.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I come to the floor to make a plea to my colleagues and my friends on both sides of the aisle. I have spoken on this issue twice. But within 24 hours, the time will come when the Senate may well be changed. Right now is the time to let political pressures cool, to step back from the brink and to reflect on the long-term consequences rather than the short-term gain. The time has come to walk away from a decision that will turn our governmental system on its head.

The reason this is called the nuclear option is not necessarily what it would do to the body but what it does to our ability to control the rules of the body. Because for the first time in history, a rule will be changed or, as we on this side of the aisle say, broken, by a majority vote, 51 votes, a majority of the Senate, when in fact rule changes require a two-thirds majority vote. There is virtually no rule that I know of in this body that can be changed with 51 votes.

I understand that it is going to be done without consultation of the Parliamentarian. My understanding is that he would say it is not within the Senate rules or precedent to change this rule with only 51 votes. Nonetheless, it is going to be done.

When taken to its logical conclusion, a majority vote in favor of the nuclear option will fundamentally alter our democracy, not only by breaking the rules as I just described but by altering the fundamental balance between this body and the other House and, most particularly, the role that Senators have had representing their constituents for over 200 years.

I recognize we may not agree on the qualifications of the nominees before us. I recognize many of my friends on the other side of the aisle feel very strongly about confirming these candidates to the court. But in the end, regardless of who is right and who is wrong, changing the Senate's rules, throwing out precedent, will profoundly harm this body, the comity we enjoy, the moderation that has defined the Senate, the bipartisanship that is essential, and the balance of power that is needed to maintain any form of a democratic government, particularly this one.

This nuclear option changes the deliberative nature of this body because it, in effect, ipso facto changes the Senate into the House of Representatives so that the Senate will work its will by majority. That has never necessarily been the case before. We all know the Senate is like a huge bicycle wheel. When one of the 100 spokes is out of line, it stops the wheel. So everybody respects that and pulls back from the brink because of it because we know if we are the one that puts on the hold or stops the wheel from turning, that we also can feel that happen to us with our legislation and our bills.

Former Republican Senator Warren Rudman, whom I greatly respect—he represented New Hampshire from 1980 to 1993—was quoted in the press this weekend. Let me share with you what he said:

> I will lament this vote if it succeeds. People tend to look at the history of the Senate and how it functions, and my bottom line is that the Founding Fathers wanted a true balance of power and this would shift the balance of power to the White House. My sense is, thinking back on it, that I don't think you could have gotten 51 votes on this sort of thing in the past. . . I would have clearly voted against it.

That was Warren Rudman this past weekend.

I urge my colleagues on the other side of the aisle to stand up against the political tidal wave pushing this agenda and let the passions of the moment cool. The debate last week was overwhelmed with fiery rhetoric and political posturing. One Republican compared Democrats to Adolf Hitler. Another Senator insinuated that Democratic opposition is based on a nominee's religious faith. Others twisted the history of judicial nominations beyond recognition. And to be fair, some Senators on our side of the aisle also employed fiery language.

Just listening to this debate, we can see what will happen if the majority goes forward on this path. The Senate will most certainly face a loss of civility, a loss of respect for differences. Political message will overwhelm substantive policy, and political potshots will drive our debates rather than the best interests of the American people. Playing to the base rather than playing out the real-life consequences of our acts will rule the day. Regardless of each of our opinions on whether each nominee before the Senate should be appointed to the appellate courts, the aftermath of the nuclear option will not serve the American people well.

On two prior occasions, I have come to the floor to talk about the importance of checks and balances, the intentions of our Founding Fathers, the structure of the Constitution, and the inherent benefits of conflict and compromise. Our forefathers knew, as do our modern counterparts, that essential to a true democracy is the need for a balance of power because who is in the minority has, and will, constantly change. Democrats held the House majority for over 50 years, and now Republicans have been in the majority for over a decade. Democrats held the White House for 8 years. Now Republicans will have occupied the White House for 8 years. The swing back and forth between the majority and the minority applies not just to political parties but to populations and ideas as well. Populations change and the political pendulum swings, but what moderates those swings and the tidal wave of power is the role and influence of the minority.

While it is true many of us on this side of the aisle were frustrated when Republicans used their rights and the Senate rules to block Clinton's judges and our legislative agenda, we aired our frustration. At that time, I urged my colleagues to allow a vote. However, I did not advocate breaking the rules with 51 votes and employing the nuclear option as a way to force Republicans to their knees. The role of moderation has worked and has been an important balance in our country.

As my colleague, Senator LIEBERMAN, said last week:

> In a Senate that is increasingly partisan and polarized and, therefore, unproductive, the institutional requirement for 60 votes is one of the last best hopes for bipartisanship and moderation.

For example, President Clinton understood the strong feelings of our Republican colleagues on judges, and he went to extensive efforts to consult Republicans on judges that would be nominated. In describing these efforts, Senator HATCH wrote in his book that he "had several opportunities to talk privately with President Clinton about a variety of issues, especially judicial nominations."

Senator HATCH described how when the first Supreme Court vacancy arose in 1993, "it was not a surprise when the President called to talk about the appointment and what he was thinking of doing." He went on to describe that the President was thinking of nominating someone who would require a "tough political battle." Senator HATCH recalled that he advised President Clinton to consider other candidates and suggested then-DC Circuit Judge Ruth Bader Ginsburg, as well as then-First Circuit Judge Stephen Breyer.

So there was a defined, informal consultation that showed the power and authority of the Republican chairman of the Judiciary Committee, who actually submitted to the President—at that time Bill Clinton—the names of Ruth Bader Ginsburg and Stephen Breyer for appointment to the Supreme Court. However, today there is not really active consultation by this administration in most cases. Instead, there appears to be a kind of disregard for the opinions of all Democratic Senators, even home State Senators. I know my colleagues from Michigan have been extremely frustrated in their efforts to find a solution to the stalemate over the Sixth Circuit.

I am also concerned that if the nuclear option moves forward, there will no longer really be a need for the Judiciary Committee. I ask my colleagues to think about this. If the President is to be given unlimited power to appoint whomever he chooses, there will be no need for hearings, there will be no need for an examination of a nominee's record. Any dissent or concerns will fall on deaf ears, so long as there are at least 50 Senators willing to confirm the President's choices for the Federal bench.

Checks and balances are not new. Our country's 200-year tradition of working through our differences is not new. The need for consultation is not new. The important role of the Judiciary Committee—and I have served as a member for 12 years now—in examining a nominee's qualifications, is not new. What is new is the majority party's decision that if you win an election, you should have absolute power.

Earlier this week, the Senator from Pennsylvania, Mr. SANTORUM, stated:

> I guess elections do not matter. I guess who people vote for for President is of no concern to the minority in the Senate. . . If someone happens to be reported out and a majority defeats, fine, majority rules.

It is this very sentiment that concerns me and many others because this logic ignores that the Democratic Senators won their elections, too, and that while President Bush did win the election, those who did not vote for him still maintain their rights to have their voices represented in Government. Our country is not an autocracy. It is a democracy, where the minority enjoys an active role, particularly in the Senate.

Protecting the minority and ensuring it is not overrun by a strong majority is central to the need for an independent judiciary. In fact, this is a basic lesson taught in elementary civics in schools across the country. One teacher's notes found on the Internet as a model for civic teachers states:

Purpose/Rationale/Goals of the day's lesson:

> Students should understand that majority rule does not take precedence over minority rights. The lesson should promote thought, understanding, and acceptance that unpopular ideas are protected under the United States Constitution. Students should also understand that it is the independent judiciary that protects these rights.

So it is a basic lesson we all learn in school from a very early age. Federal judges are meant to be independent. That is one of the reasons why the nuclear option is so dangerous—because it completely quells the arguments, the views, and the votes of the minority and, therefore, eases the way for absolute power to prevail with absolutely partisan appointments. There is nothing the minority can do to stop that.

I have quoted John Adams before on the specific need for an independent judiciary.

He stated in a pamphlet called "Thoughts on Government," which was distributed in 1776, the following:

> The judicial power ought to be distinct from both the legislative and the executive, and independent upon both, so that it may be a check upon both, as both should be checked upon.

Today, I also want to quote from Alexander Hamilton, who, in the Federalist Papers, No. 78, published in 1788, wrote:

> As liberty can have nothing to fear from the judiciary alone, it has everything to fear from its union with either the [executive or legislative] departments.

These statements by Adams and Hamilton clearly set forth the intent of our forefathers that the judiciary should be and must be independent. The Senate was meant to play an active role in the selection process, and the judiciary was not solely to be determined by the executive branch.

As a matter of fact, I pointed out earlier on that in the early days of the Constitutional Convention, it was proposed that the Senate solely determine who would sit on the federal bench, and then that was changed to give the President a role in the nomination of judges confirmed by the President.

I have also spoken about the history of judicial nominations under the Clinton administration. As I have explained in great detail, during the previous administration, Republicans used the practice of blue slips, or an anonymous hold, to allow a single Senator, not 41, to prevent a nomination from receiving a hearing, a markup, a cloture vote, or an up-or-down vote. This demonstrates that Senate rules have been used throughout our history by both parties to implement a strong Senate role and minority rights, even the right of one Senator to block a nominee. As has been illustrated by my colleagues on the other side of the aisle, both parties have bemoaned the impact of procedural delays on confirming judges.

However, President Clinton's nominees were pocket filibustered by as little as one Senator in secret and, therefore, provided no information about why their nomination was being blocked, let alone an opportunity to address any concerns or criticisms about their record—no up-or-down vote, no cloture vote, no vote in the Judiciary Committee, nothing. There were 23 circuit court nominees handled this way—filibustered by as few as 1 person, 1 Senator—and 38 district court nominees were filibustered by as little as 1 Senator.

In addition, unlike what some have argued, this practice was implemented throughout the Clinton administration when Republicans controlled the Senate, not just in the last years or months.

The question I have posed to this body twice now—and I do it a third time—is whether the public interest is better served by 41 Senators taking an openly declared position, publicly debating an individual's past speeches, temperament, opinions, or a filibuster of 1 or 2 Senators in secret when one does not know why or who? I think the answer is pretty clear.

This weekend, I read the press coverage on the nuclear option with great interest. I was heartened to realize that Democrats are not the only ones who are concerned with the idea of drowning out minority views and turning the Senate into the House.

The New York Times editorialized:

> The Republican attack is deeply misguided. There is a centuries-old Senate tradition that a minority can use a filibuster to block legislation or nominees. The Congressional Research Service has declared that the nuclear option would require that "one or more of the Senate's precedents be overturned or interpreted otherwise than in the past." The American people strongly oppose the nuclear option, according to recent polls, because they see it for what it is: rewriting the rules to trample the minority.

That is the New York Times.

The Associated Press reported on a new poll that asked about judges and the Senate's role. The results found that 78 percent of those polled stated that the Senate should "take an assertive role in examining each nominee." And a Time poll said 59 percent of Americans believe Republicans should not be able to eliminate the filibuster. Whereas, in sharp contrast, a poll released last Thursday by NBC News/Wall Street Journal found that only 33 percent of those surveyed approve of the job being done by the Congress. This is a monumental number. I submit that as partisanship and the polarization of this body increases, the poll numbers will continue to decrease because that is not what the American people want us to do.

In addition, there were more reports of former Republican Senators who are also concerned about the impact of a nuclear option. Former Senator Clifford Hansen, a Wyoming Republican who served from 1967 to 1978, was quoted as stating:

> Being a Republican, we were the minority party, and I suspect there are some similarities between our situation then and those that the Democrats find themselves in today. I am sure that it would have concerned me if there were limits on the filibuster. When I was in the Senate, the Democrats were in control, and we made a lot of friends with the Democratic Party, and I realized then that if I were going to get anything done, I had to reach out and establish some real friendships with members on the other side.

That is what this Democrat has tried to do over the past few years as well.

The Los Angeles Times wrote:

> If a showdown over President Bush's nominees goes forward as planned next week, it would mark one more significant step in the Senate's transformation from a clubby bastion of bipartisanship into a free-wheeling political arena as raucous as the House of Representatives.

And The Economist wrote:

> Amid all this uncertainty, the filibuster debate has almost certainly harmed one institution: the Senate. It was deliberately designed by the Founding Fathers to be the deliberative branch of the American Government. Senators who sit for 6 years rather than the 2 years of the populist House, have long prided themselves on their independence. The politics of partisanship has now arrived in the upper Chamber with a vengeance. The Senate has long stood as a barrier to government activism on either side.

As all these accounts acknowledge, the nuclear option will turn the Senate into a body that could have its rules broken at any time—and this is significant—not by 60 votes but by a majority of Senators unhappy with any position taken by the minority. It begins with judicial nominations. Next will be executive appointments, and then it will be legislation. If this is allowed to happen, if the Republican leadership insists on forcing the nuclear option, the Senate becomes the House of Representatives, where the majority rules supreme and the party in power can dominate and control the agenda with absolute power.

This country is based on a balance between majority rule and minority rights. I believe it is important to reflect on what our country is facing while this debate is moving forward.

We had another sharply divided election, where the President was elected by a slight margin. The differences in American beliefs have been highlighted through heated debate over the budget, Social Security, the war in Iraq, increased tax cuts, funding for education, health care, and law enforcement. At times, the level of disagreement can seem overwhelming. Yet, with all this tension, the majority party is attempting to implement a strategy to completely silence the minority. It is no longer acceptable to have differences. The defining theme now seems to be "my way or the highway."

Last week, I said, when 1 party rules all 3 branches, that party rules supreme, but tomorrow, if the nuclear option proceeds, the Republican party will be saying that supreme rule is not enough: total domination is what is required. The nuclear option is the majority's strategy to completely eliminate the ability of the minority to have any voice, any influence, any input. When might makes right, someone is always trampled. Instead, I believe we should be ruled by the philosophy that right makes might.

Thomas Jefferson consistently advocated for our country based on the free flow of ideas and open debate. And maybe up to this point we have taken for granted that a government of the people must be based on reason, on choice, and on open debate. But before our Nation was founded, modern governments were based on authoritarian domination. The people, in general, were considered little more than cattle to be governed and controlled by those possessing wealth, property, education, and power. The Founding Fathers introduced the revolutionary idea that government could rest on the reasoned choice of the people themselves.

In a free society, with a government based on reason, it is inevitable that there will be strong disagreements about important issues. But a government of the people requires difference of opinion in order to discover truth.

As I said at the beginning of this statement, I am deeply troubled that legitimate disagreements over a nominee's qualifications to be elevated to a lifetime appointment have been turned into a strategy to unravel our constitutional checks and balances.

Unfortunately, while the Department of Defense authorization bill sat on the calendar for the past week, we have wasted time on a clear stalemate. There are many urgent problems the Senate needs to be focused on and Americans want us to focus on: the war in Iraq, protecting our homeland, addressing the high cost of prescription drugs, alleviating rising gas prices, ensuring our Social Security system is stable and working, and reducing the Federal deficit. I am fairly certain we will not all agree on the best means to address these issues.

I very much regret what we are in today. To give you just a small example—and I think the Presiding Officer knows this—I sit on three committees. These three committees, for markups of critical bills, are meeting simultaneously. They are Intelligence, marking up the Patriot Act; Judiciary, marking up the asbestos bill; and the Energy Committee, marking up the Energy bill at the same time. This is not the way to do the people's business—constrained by time limits artificially imposed because of this present situation.

I very much agree with the sentiment expressed by my colleague, Senator SPECTER, when he said:

> If [during the cold war] the United States and the Soviet Union could avoid nuclear confrontation . . . so should the United States Senate.

I hope Republicans will choose to honor the tradition of our democracy and walk away from this confrontation. I know if the shoe were on the other foot, I would not advocate breaking Senate rules and precedent.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise today in opposition to the nomination of Texas Supreme Court Justice Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit. After being rejected by the Senate Judiciary Committee in 2002, and after being renominated and successfully filibustered by the full Senate in the 108th Congress, Justice Owen has been nominated yet again to the U.S. Court of Appeals for the Fifth Circuit.

In my opinion, Justice Owen has not demonstrated an appropriate judicial temperament for a lifetime appointment to the Federal bench. More importantly, her own colleagues on the conservative Texas State Supreme Court have described her dissents as "nothing more than inflammatory rhetoric." In another case, the majority stated that Justice Owen's dissenting opinion, ". . . not only disregards the procedural limitations in the statute but takes a position even more extreme." However, I will not dwell too long on Justice Owen's record. It speaks for itself, and as I mentioned earlier, we have given much time and thought to this nomination. Much has already been said in opposition to her nomination. Instead, I will spend some time on the majority's plan in this Chamber to subvert the minority's right to extended debate.

I have spent the past few weeks listening to the debate over seven nominees who were not confirmed in the 108th Congress and have been renominated to the Federal bench by President Bush. We are nearing the end of a debate that may forever change the very nature of how this great institution operates: by a delicate balance of the majority's ability to set the agenda and the protection of the minority's rights. One thing is clear to me, this discussion about the minority's right to extended debate is not getting us any closer to enacting much-needed legislation to assist our constituents.

Outside of Washington, DC, on a day-to-day basis our constituents face many challenges: escalating health care costs, record high gas prices, and mounting debt that will be handed down to our children and grandchildren. Despite these day-to-day challenges, the majority party continues to put seven judicial nominations at the top of its agenda.

Let it be clear to those following this debate. This discussion is over the fact that the Senate has passed only 95 percent of President Bush's nominees, not 100 percent. I take my responsibilities as a Senator very seriously. I am to provide the President with my advice and consent regarding the individuals he nominates for a lifetime position to the Federal judiciary. Let me say that again: a lifetime position on the Federal judiciary. Many have asked why the Democrats are so vigorously defending the rights of the minority in this case? Why do we need to preserve the tradition of extended debate with regard to judicial nominations?

The reason why we are taking a stand against these nominees is because once they gain the Senate's advice and consent, nominees are free to decide thousands of key cases that affect millions of Americans on a day-to-day basis. If there are any objections we may have to a judicial nominee's lifetime appointment to the Federal judiciary, this is the time for each Senator to voice that opposition. Unlike legislation, which may be amended and refined over time, judges on the Federal bench sit for a lifetime appointment with little recourse for correction or change. The only chance we as Senators have to voice our positions on their appointments is now.

From civil rights to personal privacy, from environmental protections to a corporation's financial matters; these nominees will affect public policy for decades to come. In fact, I dare say that we would be remiss in our Constitutional duties if we did not object to those nominees with whom we find unfit for a lifetime appointment to the Federal bench. It troubles me that the Senate has focused so much in the past few weeks discussing the fact that we have not acted on 7 of 218 of the President's nominees to the Federal judiciary.

We are talking about seven individuals, seven individuals who have jobs, while 1.2 million people are without jobs since President Bush took office, seven individuals who most likely have health insurance, while 45 million Americans do not have health insurance. We should be talking about jobs and access to health care. We should be focusing on the need to increase funding to ensure that veterans, especially those returning from the global war on terror, have access to quality health care and benefits. We should be looking at energy legislation that will address the vital energy needs of our Nation. In short, we should be doing what the American people sent us to Washington to do; to govern, not engage in an effort to ensure that this President has a 100 percent success rate for his judicial nominations.

If we want to start talking about legislation that is important to us as individual Senators, we could be talking about Federal recognition for Hawaii's indigenous peoples, Native Hawaiians, an issue of extreme importance to my constituents in Hawaii. We could be talking about ending mutual fund abuses for investors or promoting financial and economic literacy for our youth and adults alike. We could be talking about how to fund the promises we extended when we passed the No Child Left Behind Act which has been severely underfunded since its enactment.

Instead, over these past few weeks out of 218 judicial nominations approved we focus on the seven that Democrats have opposed. Despite confirming 208 nominations for a lifetime appointment on the Federal bench, there are those in this body who seek to subvert the rights of the minority for the sole purpose of ensuring that instead of a 95-percent success rate, the President has a 100-percent success rate with respect to his judicial nominations. This action will serve to deny me my ability to truly provide my advice and consent on individuals nominated to serve in the judiciary that our predecessors have preserved. It is sad that we have come to this point. During my tenure in the Senate, we have been able to work in a bipartisan manner to achieve our goals.

Some of my colleagues from the other side of the aisle argue that this is the first time a filibuster has been used for a judicial nominee. Republicans have openly filibustered a number of nominees on the floor of the Senate, five of whom were circuit court nominees. As we have heard multiple times during this debate, during President Clinton's two terms, close to 60 of his nominees were held in the Senate Committee on the Judiciary and never brought to the Senate floor, never given the same up-or-down vote Republicans today say every Republican nominated judge deserves.

My colleagues on the other side of the aisle say they have never engaged in efforts to block a judicial nomination. I want to share with my colleagues a situation I encountered during the 104th and 105th Congresses. An individual from Hawaii was nominated to serve on the U.S. District Court, District of Hawaii. This was a nominee strongly supported by both Senators from Hawaii. This nominee had a hearing before the Senate Judiciary Committee and was reported favorably. However, this is where the process stopped for a period of 2½ years.

A colleague from another State placed a hold on this nominee for over 30 months before allowing us to confirm this nomination. In effect, a Senator from a State thousands of miles from Hawaii blocked a district court nominee that the senior Senator from Hawaii and I supported. This colleague is a former Attorney General of the United States and happens to be a good friend of mine. I found this situation to be so unusual, that a colleague from another State would place a hold on a district court nominee from my State when both Hawaii Senators strongly supported the nomination. I raise this issue to dispute the notion that this is the first time a nomination has been blocked, after the Senate Judiciary Committee favorably reported the nomination to the Senate for consideration.

I could also speak about the nomination of Justice James Duffy to the U.S. Court of Appeals for the Ninth Circuit. A fine nominee, described by his peers as the "best of the best," he had strong support from Senator INOUYE and me to fill Hawaii's slot on the Ninth Circuit. Yet, Justice Duffy never received a hearing in the Senate, which had a Republican majority at the time. He went 791 days without a hearing, Mr. President. I should mention that Hawaii now benefits from James Duffy's service on the Hawaii State Supreme Court, who was appointed with bipartisan support.

Justice Duffy is one of the well-qualified and talented men and women nominated during the Clinton administration, individuals with bipartisan and home-State support, whose nominations were never acted on by the Senate. My colleagues on the other side of the aisle refused to hold hearings for nominees they did not agree with, effectively blocking the Senate's consideration of President Clinton's nominees. Let's look at the substance and not the rhetoric.

The last person I will mention is Richard Clifton, who is now serving on the U.S. Court of Appeals for the Ninth Circuit. Mr. Clifton was nominated after President Bush withdrew Justice Duffy's nomination. Richard Clifton served as the Hawaii State Republican Party Counsel. While I do not necessarily agree with all of his views, I supported his nomination, because I have confidence in his ability to appropriately apply the law. He was confirmed within a year of his nomination.

Since President Bush took office, we have been working in a bipartisan manner with our colleagues on the other side of the aisle to fill the vacancies on the Federal judiciary, creating the lowest vacancy rate in 13 years. According to the Administrative Office of the United States Courts, there are 45 vacancies on the Federal bench. This is a decrease in total vacancies from 97 when this President first took office. Let's return to urgent legislation which will truly help our constituents—jobs, access to health care, education, the minimum wage, and helping the poor.

In a Senate where the divide between the majority and minority is held by a handful of votes, and that division reflects the viewpoint of the American body politic at-large, it is imperative that we work together to resolve the many issues that are important to our constituents. When it comes to judicial nominations, the confirmation of 208 judges clearly shows that we in the minority are doing what we can to work with the majority in upholding our constitutional obligation to provide advice and consent to the President on judicial nominations. I can only hope we achieve a success rate of 95 percent in enacting legislation addressing funding for education, access to health care, increases to the minimum wage, benefits and services for our veterans, business and economic development, and financial literacy to enable individuals and families to make sound decisions in their lives.

Mr. President, I ask unanimous consent that the remainder of my time be provided to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, how much time do I have until the time of the Senator from South Dakota begins?

The PRESIDING OFFICER. There has been no time allocated among Senators. There is a total time of 17 minutes 3 seconds and counting.

Mr. SCHUMER. I ask that I be yielded 2 minutes so that the remaining 15 minutes be provided to the Senator from South Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I thank my colleague from Hawaii for his kind remarks and for his graciousness in yielding. I just want to make a point that we have not heard enough. It is these numbers: 2,703 to 1. This is the number of times Republican Senators have voted for court of appeals nominees either by direct vote or cloture versus the number of times they voted against them—2,703 yes, 1 no. The one "no" vote was TRENT LOTT who voted against Mr. Gregory to the Fourth Circuit who Jesse Helms would never allow to go on the bench. So when we are talking about up-or-down votes, we are really not. We do not have any diversity of opinion on the other side. Nominees who are way off the deep end, every member of the other side votes for them. So there is no great deliberation here. In fact, what 2,703 to 1 means is a rubberstamp.

The reason we are standing for what we believe in is very simple. There should be some input. But when it comes to the other side, the White House says, This is the nominee, and everyone votes for that nominee no matter how extreme.

If there were 40 or 50 or 60 negative votes compared to, say, 2,600, you might say up-or-down votes might mean something. But they do not because, unfortunately, for every single nominee on every single cloture vote, the Members on the other side just do whatever the President wants and vote for whoever the President sends us. That is not deliberation. In my judgment, that is not what the cries for an up-or-down vote call for. They call for honest deliberation. I will have more to say about that later.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

The distinguished Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I thank my colleague from New York for his excellent point.

Mr. President, tomorrow we may be casting a historic vote in this Chamber. It has to do with a fundamental decision that we, as Senators, must make as to the very nature of government in our democracy, as to the fundamental values of this body, the Senate. We must choose between whether we will remain with the 200-year-old parliamentary rules of this body, which assure that at least there will be some modicum of bipartisanship on virtually all issues of import, or whether, in unprecedented fashion, we will wind up stripping away that fundamental rule, that 60-vote rule, the filibuster rule which for over 200 years has brought both parties together whether they liked it or not. We must choose whether we should discard that and, in effect, create an environment where it is very clear that the Senate, as has happened all too often to our colleagues in the House, will collapse into a spirit of partisan vituperation that will undo efforts at bringing the parties together, will undo our efforts to build bridges between Republicans and Democrats, and will push governance in this body to the far extremes, far outside the political centrism that is the genius of the American people.

In my State of South Dakota, we have a heavy party registration on the side of the Republican Party. I respect that. I am proud of the support over the years that a great many South Dakotans have cast for me. But whether they are Republicans or Democrats, I think the overwhelming view across my State is one of common sense. It recognizes that neither one of the political parties has all the answers, that both parties have their share of bad ideas, and that governance from the far left or the far right is equally unacceptable. Wisdom in America, more often than not, is found in the political center. That is what the filibuster rule, that is what the filibuster margin has forced upon the Senate and is what makes the Senate unique, different from the House of Representatives.

I served 10 years in the House. It was an honor to serve there. But I know the nature of the rules there and what happens. One party can run roughshod over the other. All too often, bipartisanship is viewed by the current leadership on the House side with contempt. The thought that there ought to be governance from the center, and bipartisanship, is viewed by some in the other party as "girly-man" politics, unworthy of their radical agenda. It is here in the Senate that the Founders, 200 years ago, understood that this body's orientation would be to take the longer view. This body was to be the more deliberative body. This body would not march lockstep to any ideological drummer.

More than any other factor in the Senate, what has enforced that different character on the Senate, a character which has served the American people so well, has been the 60-vote margin rule. Both parties know that in order to make much of anything happen here, they must reach across the aisle. Not a lot. It doesn't require a huge number of members of the opposing political party, but it requires some. That has had a wonderful beneficial consequence for the wisdom of legislation in America, and certainly for the selection of judges.

There is no judicial crisis. We all know. One doesn't have to be a cynic to understand that the judicial crisis, if you will, is a fabricated political vehicle. President Bush has had 208 of his judges approved by broad, bipartisan margins. Essentially each and every one of them was a conservative Republican judge. That is the President's prerogative. The Senate has not reacted negatively to that.

Put this in contrast with what we saw only a few years ago during the Clinton administration. President Bush has had all of his nominees receive hearings. All of his nominees, who were so chosen, received a vote up or down—a 60-vote margin vote but a vote nonetheless. Every Senator has been required to stand up and be counted and reflect back to his or her constituencies where they stood on that judge.

In the case of President Clinton, however, over 60 of his nominees received no hearing or no vote. Where was the clamor then? Where was the cry of unfairness then? I think, to Senator REID's great good credit, as well as Senator LEAHY, we have agreed that what was done to President Clinton should never be done to President Bush. That was unfair from either political angle. In fact, all of President Bush's nominees should get hearings. If their nomination stands, they should be voted on, publicly, on the record. That is exactly what has happened.

But now there are some who suggest that 208 to 10 is unsatisfactory and, for that reason, they are going to upend these historic rules of the Senate. They are going to discard the Senate as the one body of the two that forces bipartisanship and political centrism.

Senator REID deserves great credit for his efforts to try to reach some compromise with the majority leader. Unfortunately, those effort have—to this point, in any event—been futile. One can only come to the conclusion that the majority leadership has reached such an impasse because of a certain amount of pandering to the radical right that now no compromise of any kind is acceptable. So here we stand with the very likely, very clear possibility that the fundamental checks and balances of American government—the requirement that there be moderation, the requirement that we govern from the center and not from the far left or far right—is about to be discarded.

Let no one believe that this has to do only with judges. The political tactic here once used is then available. The precedent is available for all issues, whether they have to do with education, environment, health care, the budget, war—all of these issues will henceforth be susceptible to a partisan party-line vote from one side of the political spectrum or the other. That is a tragic change after 200-some years of the Senate being the body of deliberation, being the body of political moderation.

We ought to be dealing, rather than with this issue, with the core issues that my constituents—and I think all Americans—care about. We have great undone business relative to the deficit, relative to job creation, relative to trying to make sure all Americans have access to affordable health care. We have changes that are needed in our educational system, both under No Child Left Behind as well as reauthorization of the Higher Education Act. We have a transportation bill. We have an energy bill before us. Yet here we are, arguing about a parliamentary step which—while many people will view as "inside baseball," as something of no great consequence, this issue, this vote we will take soon—is of monumental consequence to the nature of the institution that will be deciding all these other matters in the years to come.

I wish there were no need for any of us to be rising on this occasion for such an extraordinary, such a potentially tragic step that this body may be taking. The Founders of our country understood, over 200 years ago, that the House of Representatives would be the hot house, the people's House. It would be immediately responsive to whatever wind is blowing through Washington. Their rules, which give virtually no rights to the minority, and their 2-year terms, assure the nature of that House.

But the Founders also understood that Senators representing entire States would be more moderate in their outlook, and the 6-year terms would give them a longer view of what is right or not in legislation pending before us. Within the rules of the Senate, the filibuster rule, the 60-vote margin rule, has served America well. It has pushed the political debate to a commonsense point—common sense being a value that my constituents would tell me is all too rare in Washington, DC, but which does occur as often as it does in no small measure because of the filibuster rule and its insistence, grabbing both political parties by the collars, pushing them together, and saying, You must work together or otherwise neither of you will have your way.

This is an effort to radicalize the Senate, to radicalize government in America in a way that many Americans will never understand. They will never recognize how this could have happened.

It is my hope as we come down to these final hours that my colleagues on both sides of the aisle will pause and take a long view of the role of this institution, of the importance of centrism, cooperation, of bipartisanship and all that means, if we truly are to reflect the values and priorities of the American people here in the Senate. If we allow this institution to veer off sharply to either ideological end of the spectrum, we will have done a horrible disservice to the American people, to future generations of Americans, and, frankly, to the world. This issue is that fundamental. It goes to the very nature of governance in America.

It is my hope all our colleagues will rise to stand as statesmen at a time when political pressures are great for what is right and will cast a loud vote to be counted by the American people on behalf of what is right rather than what is politically convenient at this particular time in our history. It is my hope that in these intervening hours we will have a significant number of people who will understand what is at stake and, in fact, uphold the values and priorities of the American people by retaining the parliamentary rules of this body that have prevailed for well over 200 years, will understand there is no judicial crisis, will understand when it comes to giving lifetime appointments to the bench it would be very easy for President Bush to have 100 percent of his judges approved simply by nominating judges who can be approved by 60 Members of this body. That is a modest request. That is the kind of consultative role the Founders envisioned under their constitutional provision of advice and consent.

The goal was not to create a lockstep ideological opportunity. The goal was for both parties to work together and in good faith evaluate the qualities of people who will serve our judiciary for lifetime appointments. It is my hope we will not abuse that opportunity and that we will cast that vote to preserve that orientation, preserve the very values of the Senate.

Mr. President, I yield my time.

The PRESIDING OFFICER (Mr. BURR). The majority controls the next 60 minutes.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, our former Senate majority leader, Howard Baker, reportedly tells the story about his late father-in-law, Senator Everett Dirksen, who admonished him to occasionally allow himself the luxury of an unexpressed thought. After listening to the current debate on judicial nominations, there is a temptation to say, after all is said and done, pretty much all that can be said has been said.

I rise today because I do have something to say. What I want to talk about is of very crucial importance not only with regard to the judicial nominations but, perhaps more important, how we are meeting our obligations in the Senate—or better put, how we are not meeting them.

This weekend, an elderly gentleman spotted my Senator's car tag on my car in a parking lot. He wandered up to me and asked: Are you a Senator?

And I responded: Yes, sir, I am.

Well, he has some rather succinct advice for all of us who ask for and gain the public trust.

He said: You know, you fellows up there ought to get busy and quit talking past one another.

I think probably no matter the issue, most would agree he was right.

I am concerned, and so are a lot of other people—people who care, people who have given much to this country and whose advice we should be taking. One of those people is Dr. David Abshire who is president of the Center for the Study of the Presidency and whose credentials for public service are well-known and admired. Dr. Abshire recently authored a treatise, "The Grace and Power of Civility" and the necessity for renewed commitment and tolerance. He quoted John Witherspoon and Samuel Cooper during the days of our Founding Fathers and highlighted what they called "the consonance of faith and reason," if we are to cross the bridge of united purpose.

We are not doing what our Founding Fathers did so well. As a matter of fact, we are in pretty sad shape with the shape we are in. Across the bridge? Well, today, the bridge is washed out. We can't swim. And the judges are simply on the other side.

I am going to paraphrase from Dr. Abshire. Today, as our Nation and the world confront new and great perils, there are paralyzing forces of incivility and intolerance that threaten our country. Divisions in Congress also reflect the divisions in the country. The so-called wedge issues seem and appear endless. These challenges, if allowed to divide the Nation, might well deny the next generation the prosperity and civic culture that we have inherited.

It was Benjamin Franklin who stated that Congress should be a mirror image of the American people. In the sense that there are divisions in the country, the sad fact is, as evidenced by this debate, we seemingly cannot transcend these divisions. We keep talking past one another, saying the same things, but basically being in disagreement.

Dr. Abshire quoted the poet William Yeats, who said this, a dire prediction:

> Things fall apart; the center cannot hold:
> Mere anarchy is loosed upon the world,
> The blood—dimmed tide is loosed, and
> Everywhere the ceremony of innocence is drowned;
> The best lack all convictions, while the worst are
> full of passionate intensity.
> Surely some revelation is at hand.

My colleagues, on this issue and so many others, we seem to be locked into an era of partisanship that echoes a mindset of absolutism that can close off dialogue and also mutual respect.

In that vein, let me take up the matter of judicial nominations, obviously, the issue at hand that currently has us tied up in partisan knots.

First, I understand the opposition on the part of my colleagues to many of the President's nominations. I understand some of my colleagues do not support certain nominees. Their opposition is well within their rights and their belief that they are reflecting the will of their constituents.

I have a very simple solution. If you believe that your constituency does not approve of certain nominees, then simply vote against them. I have done that, but I have never denied any Member of this body the right to an up-or-down vote, knowing full well that 214-year tradition of the Senate ensures that a majority vote would confirm or deny a confirmation. Contrary to the great majority of statements made by some of my friends across the aisle, the practice of filibustering judicial nominations is not steeped in Senate history or precedent.

This is a brandnew application, quite frankly, of an obstruction tool that the minority has suddenly seized, collapsed to their breast. We are seeing the reinterpretation of history and the claiming of precedent when there is none. Again, the minority is asking the American people to ignore the obvious tradition of a simple majority vote for judicial nominations that has been honored in the Senate for 214 years.

Serving in public office for over 25 years in both the House and Senate, I am familiar with the broader points of our Constitution. What I gather from all the lather from my friends across the aisle is that President Bush should just stop nominating these "out of the mainstream judges," for approval.

In fact, the President should consult with the minority party to find a judicial nominee that is more appropriate and more mainstream or more in line with their thinking.

By this logic, the minority party—not the elected majority, the minority party—would have the determining role in choosing who is acceptable and who is not. Yet article II, Section 2 of the Constitution states that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors and other Public Ministers and Counsels, Judges of the Supreme Court, and all other Officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law."

Here's the rub: The power to choose nominations is not vested in the Senate's advice and consent role. The Senate's constitutional responsibility is to ratify or to reject.

Let's talk about this new higher standard that was put into place only 2 years ago and advocated so eloquently today by my friends across the aisle. Since 2003, two short years ago, 60 votes have been the new minority criteria forced upon the Senate in order to confirm judicial nominations. The Framers of the Constitution identified seven circumstances in which a supermajority vote is warranted by one or both chambers of commerce. Here are some examples: Impeachment—we have done that; overriding a Presidential veto—haven't done that for a while; amending the Constitution—and there are quite a few bills in the hopper that would do that.

However, Senate approval of judicial nominations is not among the seven instances identified by the Constitution. Here is the heart of the matter. We do not propose to change anything. We propose to return to the tradition that governed the Senate for 214 years and an up-or-down majority vote on pending nominations.

Then there is the charge that somehow restoring Senate precedent is reactionary. I have heard a lot of people compare the Senate to the House. I served in both bodies. Intuitively then, blocking judicial nominations is, therefore, a hallowed and sacred tradition of the Senate Chamber. But history does not support that assumption. In fact, for over 200 years, judicial nominations required a simple majority vote. And again, a simple fact that I seldom read or hear within the national media, paragraph after paragraph after paragraph about the majority trying to change the rules, we are just trying to go back to the rules that were in evidence prior to the last 2 years.

This new 2003 standard through the unprecedented use of the judicial filibuster is the result of the minority not making the case against the nominees as demanded by special issue interest group ideology. Why? They are not able to convince the majority of Senators that these nominees are radical and wrong. It has been pointed out that during this debate, for 58 percent of the last 50 Congresses—well over half, almost 60 percent—the same party did control the Senate, the House, and the White House. Now, in all that time, the minority, whether it was the Democrat or the Republican Party, never, ever resorted to this systematic filibustering of judicial nominations.

So if the contention is that returning to a simple majority standard for judicial nominations would abridge minority rights, my question is, then why in the last 100 years has that bridge never been built until 2003?

Our official Senate majority leader, Bob Dole, summed it up when he said:

> When I was the leader in the Senate, a judicial filibuster was not part of my procedural playbook. Asking a Senator to filibuster a judicial nomination was considered an abrogation of some 200 years of Senate tradition.

And there is the related issue that has been talked about in the Senate. Unfortunately, the disease of obstruction infected other aspects of our work in the Senate last week. Obviously, the fever will not break until high noon tomorrow. Senate business and the committee hearings and the markup of legislation are in early morning slow-motion. In the afternoon, they come to a grinding halt.

For those not familiar with the Senate business, for business to be conducted off and on the Senate floor, it takes only one Senator, or in this case the minority leadership, to call a halt to the Senate conducting business off of the floor.

I am chairman of the Intelligence Committee. We get hotspot briefings every week, two or three times a week. We are marking up the PATRIOT Act. I asked why this practice was initiated so early; why last week, at a time when our Nation is fighting the global war on terror. I found that obstruction rather appalling. The answer was pretty simple: We wanted to send you a message. That message, as I interpreted it, was whoa, stop the Senate, let me get off until we get our way—something akin to a toddler throwing a temper tantrum in the middle of a grocery store with much of the same rhetoric and name calling.

What is the real problem? Let's fully understand where the real controversy lies. Too many in the Senate and too many pundits have been masking the real issue, in this Senator's opinion. It is not about preserving great Senate traditions such as minority rights. It is not about lengthy debate and cooling passions of the day. That is an oxymoron in regard to the Judiciary Committee. It is not about doing away with the filibuster. By the way, it is not about Jimmy Stewart and "Mr. Smith Goes to Washington." That was a classic movie, but it is the wrong plot unless we are talking about other Jimmy Stewart movies. The movies "Vertigo" and the "Supreme Court" come to mind. Or perhaps the minority is hoping they can have the Glenn Miller Band play "Pennsylvania 65000" within Pennsylvania 1600 in 2008.

And it is not about unqualified or unacceptable judicial nominees. It is about a brandnew 2-year-old procedure that will deny—is denying—a majority of Senators their right and constitutional duty to vote on judicial nominees. In my view, we are riding into a box canyon here, where incivility and partisanship and absolutism and further division await. There is going to be a lot of milling around. We do not have to go there. Let us restore the 214-year-old precedent of an up-or-down majority vote and see if we cannot reach accord and ride to a higher—a higher—common ground.

I yield back.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, we turn on the television these days and get bombarded with advertisements saying: "Write your Senator." "Call your Senator and preserve the filibuster." "Get ahold of your Senator and make sure this tool that provides rights and protections of the minority gets preserved."

I have been associated with the Senate now since I was a 19-year-old intern sitting in the family gallery in the 1950s, falling in love with the debate that was going on, on the Senate floor. I must say there were usually more Senators here in the 1950s than there are now, but I understand, with television, the Senators stay in their offices and watch, and I am happy to accept that. But I understand the traditions of this body have great roots in history that many times get ignored. That is, these roots get ignored by people writing columns and stories today.

I want to go on record very firmly as being on the same side as those people who are buying the ads saying: "Preserve the filibuster." I have watched the filibuster be used to help shape legislation. I watched the filibuster be used as a tool of compromise. I think the filibuster is a very worthwhile thing to hang on to in order to preserve the rights of the minority.

Now, that position of saying "let's save the filibuster" has not always been popular. If you go back 10 years ago, when a proposal was made on the Senate floor to abolish the filibuster, the New York Times editorialized in favor of that position. The New York Times told us

> . . . the filibuster has become the tool of the sore loser.

The Times was anxious to have the whole thing wiped away. There were only 19 Senators who voted to abolish the filibuster, 9 of whom are still serving today. The rest of us all voted to preserve the filibuster. So I am on record as saying: We must preserve the filibuster. I value it. I believe it has a place in the Senate. However, I also believe we have the right to shape the filibuster, to focus the filibuster, to reform the filibuster, so it can be used in a more effective way.

There are those now who, when they say "save the filibuster," mean "save the filibuster the way we like it," not "save the filibuster in its historic form, because its historic form has changed over the years.

The first point, as far as history is concerned, is this: The filibuster did not come into existence with the Constitution. I had a phone call over the weekend from a very dear friend who said: This is a constitutional issue that goes back all the way to the Founding Fathers. However, the filibuster, Rule XXII, came into the Senate history in 1917. That is a long time after the Founding Fathers. And it has been changed several times since that time, some times by formal Senate rule. It was changed in 1949. It was changed again in 1959. And it was changed again in 1975. So for those who run the ads saying "save the filibuster," maybe the first question is, which filibuster do you have in mind that you want us to save?

But there is another aspect of the filibuster. I turn again to the New York Times. It is amazing how much they have changed their minds in the intervening 10 years. After the New York Times said the filibuster was a tool of the sore loser, now in this debate they decide that

> . . . the filibuster [is] a time-honored Senate procedure . . .

They editorialize: "Keep it just the way it is." Well, I want to talk a little bit about time-honored Senate procedures, and particularly time-honored Senate procedures with respect to the filibuster. It is a time-honored Senate procedure that the filibuster can be changed by majority vote. There are a number of Senators who have served here and are still serving here who, at least at one time in their careers, agreed with that.

Senator KENNEDY had this to say in 1975, when there was a debate on what kind of filibuster we could have and what the time-honored Senate procedures would say about the filibuster. Senator KENNEDY said:

> A majority may adopt the rules in the first place. It is preposterous to assert they may deny future majorities the right to change them.

Senator KENNEDY was enunciating a time-honored Senate procedure that said a majority had the right to change the rules. This was in 1975.

Senator Mondale served in 1975. Senator Mondale had this to say about what was done in 1975. For those who are talking about time-honored Senate procedures, this was the Senate procedure 30 years ago. And for 30 years it has stood the test of time. Senator Mondale said:

> . . . the President of the Senate . . . and the membership of the Senate . . . have both clearly, unequivocally, and unmistakably accepted and upheld the proposition that the U.S. Senate may . . . establish its rules by majority vote, uninhibited by rules adopted by previous Congresses.

Somehow this happened. Senator Mondale said it happened "clearly, unequivocally, and unmistakably," and the place did not blow up. There were no threats to shut everything down, to object to every unanimous consent request, to cause a "nuclear bomb" to go off in this Chamber if this policy were to happen. This is a time-honored Senate procedure and it happened with both the membership of the Senate and the President of the Senate in 1975, according to Senator Mondale.

I picked Senator Mondale because in 1976 he was elected Vice President, which meant he became the Presiding

Officer of the Senate. And something happened while he was the Presiding Officer of the Senate in this same time-honored Senate procedure.

The majority leader at the time was Senator BYRD of West Virginia. And he has described what happened while Vice President Mondale was presiding over this body. Here is what Senator BYRD had to say in 1995, as a bit of historic information for the rest of us who may not have been present back in the time when Mr. Mondale was the Vice President.

Senator BYRD explained:

> I have seen filibusters. I have helped to break them. There are few Senators in this body who were here when I broke the filibuster on the natural gas bill. . . . I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters.

Interesting choice of words, because that is what we are talking about here under the name "nuclear option," making a point of order and setting a new precedent. Senator BYRD, the majority leader, asked Vice President Mondale to "please sit in the chair," to be there when Senator BYRD made "some points of order" and created "some new precedents" to "break these filibusters." He goes on to describe what happened:

> And the filibuster was broken—back, neck, legs, and arms. It went away in 12 hours.
>
> So I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

A time-honored Senate procedure.

Senator BYRD did it again. Going ahead to 1980, Senator BYRD led 54 Senators, all but one of whom were Democrats, in overturning the Chair and eliminating all debate on motions to proceed to nominations. The point here is an important one. He did not abolish the filibuster. He did not say: Get rid of the filibuster. He did not abide by the advice of the New York Times that said it was a tool of sore losers. But he helped shape it. He helped focus it. He said the filibuster should not be quite as broad as it may have been in the past. And using the time-honored Senate procedure of making a point of order, and getting the Senate to vote, he helped shape it, and the Senate Democrats set this precedent before the Senate had even begun to debate the motion, so that the filibuster that used to apply to motions to proceed to nominations no longer does.

And how was the rule changed? It was changed by a time-honored Senate procedure.

Now, there is one other time-honored Senate procedure that Senator LEAHY has spoken of. This goes to a floor statement Senator LEAHY made in 1997, as he was talking about nominations for the Federal bench. Senator LEAHY, who at the time was the ranking minority member of the Judiciary Committee—he went on later to become the chairman—said:

> I cannot recall a judicial nomination being successfully filibustered.

I find that interesting because many of our Democratic friends are now saying: "Oh, filibusters of judicial nominations are normal. They have happened before." Well, at least in 1997, Senator LEAHY said:

> I cannot recall a judicial nomination being successfully filibustered. I do recall earlier this year when the Republican chairman of the Judiciary Committee and I noted how improper it would be to filibuster a judicial nomination.

I have the same recollection. I remember in our conference when the issue of filibustering some of President Clinton's judges came up, it was the Republican chairman of the Judiciary Committee, my senior colleague, Senator HATCH, who stood before the conference and said: "Do not do it. It would be improper to filibuster a judicial nominee. Having judicial nominees get a vote is a time-honored Senate precedent." Senator LOTT was the majority leader. He took the floor, after Senator HATCH had spoken, and said: "Senator HATCH is right." We should not cross the line and start to filibuster judicial nominations because the Senate tradition has said no.

So that is where we are now. The Senate tradition has been changed. The Members of the minority have exercised their right, which has always been on the books, to change the precedent which had held for so long that even Senator LEAHY could not recall an exception to it. What we are talking about doing now is using the time-honored Senate procedure of changing the rule by majority vote to see to it that the prior precedent remains—or, rather, returns because it was broken in the 108th Congress.

So I value the filibuster. I am in favor of the filibuster. But I think the filibuster has been and still can be shaped and changed so it is more focused than simply an across-the-board procedure.

I want to close by putting something of a human face on this whole issue because we are talking about this filibuster of judicial nominees almost as if the judicial nominees were not people, almost as if the judicial nominees were spectators in this activity. They are not spectators. They are seeing their reputations smeared. They are seeing their history attacked. It is time we spent a little time thinking about them.

I know the nomination on the floor is Priscilla Owen, but over the weekend I had called to my attention an article that appeared in the Sacramento Bee by one Ginger Rutland that I would like to close with. It is entitled: "Worrying about the right things." Ginger Rutland identifies herself as "a journalist of generally liberal leanings," and she talks about the nomination of Janice Rogers Brown.

Both Ms. Rutland and Ms. Brown live in California. Ms. Rutland says:

> I've been trying to get a fix on Brown since President Bush nominated her for the influential U.S. Circuit Court of Appeals for the District of Columbia.

It talks about the experience. And then she makes this comment:

> Championed by conservatives, Brown terrifies my liberal friends. They worry she will end up on the U.S. Supreme Court. I don't. I find myself rooting for Brown. I hope she survives the storm and eventually becomes the first black woman on the nation's highest court. I want her there because I believe she worries about the things that most worry me about our justice system: bigotry, unequal treatment and laws and police practices that discriminate against people who are black and brown and weak and poor.
>
> She was born and raised poor, a sharecropper's daughter in segregated Alabama. She was a single mother for a time, raising a black child, a male child. I don't think you can raise a black man in this country without being sensitive to the issues of discrimination and police harassment.

She goes on in the article. I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. She concludes with this comment:

> I don't pretend to know how Brown will rule on other important issues likely to reach the Federal courts. I only know that I want judges on those courts who will defend the rights of the poor and the disenfranchised in our country.

She believes Janice Rogers Brown is one of those jurists.

I am not sure whether she is right or wrong. But I do know Janice Rogers Brown deserves the opportunity to have her nomination voted on. And if one use of the filibuster has been to prevent Priscilla Owen and Janice Rogers Brown and others like them from getting this vote, a time-honored procedure of the Senate can be used with equal justification to see to it that the filibuster gets tweaked a little bit to make sure we go back to the practice that existed here for decades.

For that reason, I will support the motion of the majority leader if it becomes necessary to make sure that we have an opportunity to a vote on Priscilla Owen. I hope as a result of this debate, our friends on the Democratic side of the aisle will step back a little from their position of saying no to a vote on Priscilla Owen and allow us to have a vote. If they do, they are acting in accordance with the history of the Senate for past decades, the history of the Senate going back so far that even PATRICK LEAHY cannot remember an exception to it. If they do and we have an up-or-down vote on Priscilla Owen, it may well be that all of this talk about changing the rules will go away.

The outcome lies in their hands. If they allow us to vote on Priscilla Owen, we will not have the lack of civility, the shutting down of the Senate, the collapse of Government, all of the other things that have been predicted. If, on the other hand, they say no, we will not allow this woman who has been unanimously rated as well qualified by the American Bar Association to even get a vote, then we will see the majority leader follow the practice, follow the precedent, follow the example set by Senator BYRD, the example endorsed by Senator KENNEDY, endorsed by Senator Mondale, and use the time-honored Senate procedure to change the rule by majority vote. If the majority leader so moves, I will support it.

EXHIBIT 1

[May 8, 2005]

GINGER RUTLAND: WORRYING ABOUT THE RIGHT THINGS

(By Ginger Rutland)

I know Janice Rogers Brown, and she knows me, but we're not friends. The associate justice of the California Supreme Court has never been to my house, and I've never been to hers. Ours is a wary relationship, one that befits a journalist of generally liberal leanings and a public official with a hard-right reputation fiercely targeted by the left.

I've been trying to get a fix on Brown since President Bush nominated her for the influential U.S. Circuit Court of Appeals for the District of Columbia. She won't talk to the press. Friends, associates, even a former teacher, say the same things about her: She's "brilliant," "hardworking," "stoic" and "kind."

Her opponents on the left tell me she's a fundamentalist Christian who will bring her religious values into the courtroom. But I've never been frightened by people of faith. Brown is Church of Christ. So is my mother-in-law, a good, gentle woman and lifelong Democrat who voted for John Kerry for president and opposed the war in Iraq because, as she told me when it started, "I've never understood how killin' other folks' children ever solved anything."

I'm almost embarrassed to admit it, but desperate for deeper insight, I visited Brown's church last Sunday, the Cordova Church of Christ. The judge wasn't there, but her mother, Doris Holland, was. She was polite but understandably guarded. She told me that as a young girl Brown liked to read and had an imaginary friend; that was about it.

The congregation is integrated and friendly. Church members know Brown and her husband, jazz musician Dewey Parker, and like them. The church itself is conservative, allowing no instrumental music in its services, no robes, no bishops or hierarchy of any kind. The religious right may have taken up Brown's cause in Congress, but the sermon at Cordova that day contained no political content.

Championed by conservatives, Brown terrifies my liberal friends. They worry she will end up on the U.S. Supreme Court. I don't.

I find myself rooting for Brown. I hope she survives the storm and eventually becomes the first black woman on the nation's highest court.

I want her there because I believe she worries about the things that most worry me about our justice system: bigotry, unequal treatment and laws and police practices that discriminate against people who are black and brown and weak and poor.

She was born and raised poor, a sharecropper's daughter in segregated Alabama. She was a single mother for a time, raising a black child, a male child. I don't think you can raise a black man in this country without being sensitive to the issues of discrimination and police harassment.

And yes I know. People said that Clarence Thomas would be sensitive to those issues, too, and he's been a disappointment.

But in Brown's case, I have something more concrete on which to base my hopes—her passionate dissent in People v. Conrad Richard McKay.

The case outlines a single, unremarkable instance of police harassment, the kind of petty tyranny that plays out on the streets of big cities and small towns across America every day.

In 1999 a Los Angeles sheriff's deputy stopped Conrad Richard McKay for riding his bicycle in the wrong direction on a residential street, a minor traffic infraction. The deputy asked McKay for a driver's license. McKay had none. Instead, he provided his name, address and date of birth.

The officer arrested him for failing to have a driver's license. Then he searched him, finding a baggie of what turned out to be methamphetamine in his left sock. McKay was charged with illegal drug possession, convicted and sentenced to 32 months in prison.

He appealed, arguing that the arrest and the search were unreasonable, a violation of his Fourth Amendment rights to be protected from unreasonable searches. The officer searched him, he said, because he didn't have a driver's license, a document he was not required to carry to ride a bicycle.

Six members of the California Supreme Court rejected that argument, ruling that McKay's arrest was within the officer's discretion and therefore constitutional.

Brown was the lone dissenter. What she wrote should give pause to all my friends who dismiss her as an arch conservative bent on rolling back constitutional rights. In the circumstances surrounding McKay's arrest, the only black judge on the state's high court saw an obvious and grave injustice that her fellow jurists did not.

"Mr. McKay was sentenced to a prison term for the trivial public offense of riding a bicycle the wrong way on a residential street," Brown wrote.

"Anecdotal evidence and empirical studies confirm that what most people suspect and what many people of color know from experience is a reality: There is an undeniable correlation between law enforcement stop-and-search practices and the racial characteristics of the driver. . . . The practice is so prevalent, it has a name: 'Driving while Black.'"

After a scholarly discussion on the origin of the Fourth Amendment and an exhaustive review of the case law on unlawful searches, Brown used plain words to get to the heart of what really bothered her about what happened to Conrad McKay on that Los Angeles street. It's what bothers me, too.

"I do not know McKay's ethnic background. One thing I would bet on: He was not riding his bike a few doors down from his home in Bel Air, or Brentwood, or Rancho Palos Verdes—places where no resident would be arrested for riding the 'wrong way' on a bicycle whether he had his driver's license or not. Well . . . it would not get anyone arrested unless he looked like he did not belong in the neighborhood. That is the problem. And it matters. . . . If we are committed to a rule of law that applies equally to 'minorities as well as majorities, to the poor as well as the rich,' we cannot countenance standards that permit and encourage discriminatory enforcement."

In her dissent, Brown even lashed out at the U.S. Supreme Court and—pay close attention, my liberal friends—criticized an opinion written by its most conservative member, Justice Antonin Scalia, for allowing police to use traffic stops to obliterate the expectation of privacy the Fourth Amendment bestows.

"Due to the widespread violation of minor traffic laws, an officer's discretion is still as wide as the driving population is large," she wrote. In her view, court decisions have freed police to search beyond reason not just drivers of cars but "those who walk, bicycle, rollerblade, skateboard or propel a scooter."

She reserved special scorn for judges who permit police to discriminate while advising the targets of discrimination to sue to challenge their oppressors. "Such a suggestion overlooks the fact that most victims . . . will barely have enough money to pay the traffic citation, much less be able to afford an attorney. . . . To dismiss people who have suffered real constitutional harms with remedies that are illusory or nonexistent allows courts to be complacent about bigotry while claiming compassion for its victims," she wrote.

"Judges go along with questionable police conduct, proclaiming that their hands are tied. If our hands really are tied, it behooves us to gnaw through the ropes."

With that last pronouncement, Brown confirms what many of her enemies have said—that she's an "activist judge." Judges who "gnaw through ropes" to protect people being hassled by cops represent the kind of judicial activism I can support.

Liberals prefer to overlook Brown's strong dissent in McKay. Conservatives mention it only in passing, as if embarrassed that one of their own might have qualms about law enforcement bias or a creeping police state.

I don't pretend to know how Brown will rule on other important issues likely to reach the federal courts. I only know that I want judges on those Courts who will defend the rights of the poor and the disenfranchised in our country against the rich and the powerful when the rich and the powerful are wrong. I want someone who will defend people like Conrad McKay.

Mr. BENNETT. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I rise to talk about Priscilla Owen, a woman who serves on the Texas Supreme Court, a woman of the highest moral character, and a woman whose confirmation has been held up by the Senate for over 4 years—Justice Owen was first nominated on May 9, 2001, by President Bush. Her nomination has actually been voted on four times by the Senate: May 1, 2003, a cloture vote, she won 52 votes; May 8, 2003, she won

52 votes; July 29, 2003, she won 53 votes; November 14, 2003, she won 53 votes.

If one looks back on a 200-year Senate tradition, the Constitution's requirement for simple majority votes on judicial nominations—as well as the specific instances where the Constitution does, in fact, specify super-majority votes, one would presume that Priscilla Owen would be sitting on the Fifth Circuit Court of Appeals and the majority in the Senate would not have to be restoring precedent. My goodness, why isn't she sitting on the Fifth Circuit Court of Appeals bench?

Priscilla Owen is not sitting on the Fifth Circuit Court of Appeals, even though she received a majority of the votes in the Senate four times, because a new standard is now being required, a new standard of 60 votes. Did we have a constitutional amendment that would require 60 votes? No. Did we have a new rule that required 60 votes? No. We just have the use of a filibuster by the minority in the Senate in the last session of Congress—the first time in the history of our country when a majority of the Senate has been thwarted by the minority on Federal judicial appointments.

There have, from time to time, been filibusters when the person did not have 51 votes in the Senate; never when a majority of the Senate voted to support that nominee. Yet that is exactly what has happened to Priscilla Owen.

There has been a change in the balance of power that was envisioned in the Constitution without a constitutional amendment. Last Friday on the Senate floor, some Democratic Members of the Senate actually said: We should have a 60-vote requirement for Federal judges to be confirmed by the Senate. That is worthy of discussion. It is worthy for us to have that debate. But the debate should be in the context of a constitutional amendment—going through the process our Founding Fathers said would be required for a constitutional amendment. Let's put it to a test. Let's determine if that is the right thing and do it the right way. But that is not what is happening here today.

In fact, it is significant that we look at the historical comparison of the first term of a Presidency and the confirmation of appeals court nominees. President George W. Bush has the lowest percentage of confirmations of any President in the history of the United States. President Clinton had 77 percent of his appellate court nominees confirmed. President George H.W. Bush had 79 percent. President Reagan had 87 percent. President Carter had 93 percent. President Ford had 73 percent. President Nixon had 93 percent. President Johnson had 95 percent. President Kennedy had 81 percent. President Eisenhower had 88 percent. President Truman had 91 percent. But President Bush today has 69 percent, the lowest of any President in the history of our country. Almost 30 percent of his circuit court nominees were filibustered and let die by the Senate.

The balance of power is delicate—founded in a Constitution that is not easily changed. It is important that those who are sworn to uphold the Constitution, not tread on it without going through the proper procedures of a constitutional amendment. Thwarting the majority by requiring 60 votes on qualified judicial nominees, as the minority did last session, undermines the delicate balance of power.

I hope the Senate will come to its senses. There has been a lot written lately about the Senate, about the process in the Senate being broken. Last week, I talked to a well-known journalist to discuss his views of what is happening in Washington. I asked him a number of questions, but the most difficult was the one that he posed to me: What in the world is the Senate thinking about in the confirmation process? Don't you realize that this is impeding the President's ability to recruit quality people for Government service?

Mr. President, my colleagues on the Democratic side of the aisle are correct. We are heading for a crisis, but it is not a crisis over minority rights. No one on our side of the aisle has even suggested that minority rights should be overrun. The filibuster will remain intact. What we are trying to do is get the constitutional process for confirmation of Federal judges back to what has been the tradition in the Senate and what the Constitution envisioned, and that is a 51-vote majority.

Never, until the last session of Congress, was the majority will thwarted in Federal judge nominees and circuit court most particularly. So the crisis is not over the Senate process; the crisis is how group influence is turning the Senate into a permanent political battleground. It is unseemly, it is wrong, and it is going to harm the quality of our judiciary because we are going to start seeing nominees who are not the best and the brightest, who don't have clear opinions, and who are not well-published and renown constitutional experts.

I think it was pretty well brought out in an article in the Washington Post yesterday, titled "The Wreck of the U.S. Senate." It quoted John Breaux, our former Democratic colleague. He said:

> Today, unfortunately, outside groups, public relations firms, and the political consultants who are dedicated to one thing, a perpetual campaign to make one party a winner and the other a loser, has snatched the political process.

Some years ago, we started on a road downward toward a low common denominator, and I think we are continuing that descent. In the article, I think it mentioned that the point of embarkation for this descent was the nomination process of John Tower, a former Senator who had an incredible record on national defense, who was perhaps the most knowledgeable Senator in the Senate on that subject, who was turned down for his Secretary of Defense with innuendo, things that were totally untrue being said about him. Many of my colleagues who are in this body today say it was unconscionable what was done to Senator John Tower.

Mr. President, I am sorry to say I think it has happened again and again. I look at Priscilla Owen, who is one of the best and brightest, who is a judge with judicial temperament, who has shown her brilliance from the days she graduated from Baylor Law School cum laude, top of her class, Baylor Law Review, to making the highest score on the Texas bar exam the year she took it. The distortions of this fine judge's record have been incredible. She has been meticulous in following the law, in not trying to make law but interpret the law; and I am really concerned that if someone like Priscilla Owen, who is a judge who has the backing of 15 former State bar Presidents—probably most of the ones who are still alive—Republicans and Democrats, the support of 3 Democrats with whom she served on the Supreme Court, as well as every Republican, the support of the Attorney General of the United States, with whom she served, who actually sought her out for appointment because he was so impressed with her judicial standards. If someone like that has to take "brick baths" for 4 years, how are we going to recruit the very top legal minds in our country, people who have shown themselves time and time again to be excellent at what they do? How are we going to recruit them to submit themselves to this kind of process?

The National Abortion Rights Action League was reported by columnist Bob Novak to have hired an opposition research team not just for Priscilla Owen—and they have certainly been active against her—but to look at the records of 30 sitting judges, including Judge Edith Jones from Houston, and why would they be doing that? Why would the National Abortion Rights Action League start looking at sitting judges in our country today to try to find some way to harm them or distort their records? Why would they do that? Interestingly, it looks as if the people chosen to be investigated are people who might be potential appointees to the United States Supreme Court.

Mr. President, we are in a downward spiral in this country. Prior to holding federally-elected office, I remember watching the Senate debate over Clarence Thomas. I thought the Senate did an excellent job of debating Clarence Thomas, bringing out the major points. But the hearings on Justice Thomas' nomination were brutal. They were brutal. They were personal. It was something which I am sure was very difficult for him to overcome. I don't think we have to be personal to make points. I don't think we have to distort records. I don't think we should employ innuendo in looking at nominees for our Federal bench.

I think the Senate needs to take a very hard look at the processes we are using, at the outside influences and the motivations of these groups. When I turn on my television in Washington, I see ads for and against Priscilla Owen. Priscilla has been silent for four years, unwilling to lash out at her opponents and too respectful of Senate procedure to defend herself against empty criticisms. But I am glad she has been defended. I visited with her last week when she was here, and there is a personal toll on the people in this process. She will be a fine judge, but was she prepared for the four years of "brick baths" to which she could not respond? You know, she had several very nice opportunities to do something else in these four years, but she is such a fine person, with such a strong backbone, that she did not want to withdraw her name from consideration so it could be used in the Presidential election. She didn't want to leave President Bush vulnerable to an attack that her nomination was a mistake and that there was something hidden in her record. She is proud of her record, and she knows President Bush is proud of his appointment of her. She has nothing—nothing—upon which she can base any kind of decision to leave this nomination process. She is sticking with President Bush because he made a good decision, and he is sticking with her.

But these judges are not people who have put themselves in the arena in the same way that partisan politicians do. I don't think she was prepared to be attacked on a weekly or monthly basis and have her record distorted when she submitted herself for this important nomination. She was rated unanimously by the American Bar Association committee that gives its recommendations on judges to the Judiciary Committee as "well qualified," the highest rating that can be given by the ABA. It was unanimous. Yet, this fine person has been raked over the coals, has had misrepresentations and distortions made about her. I recently spoke about Priscilla Owen, the person—I shared what kind of person she is. I talked about her service as a Sunday school teacher and that she lost her father when she was 10 months old. I talked about what a lovely person she is.

One of my colleagues came to the floor and said, yes, she is a lovely person, but that is not enough; we should not be talking about whether she is lovely or not. Well, I wanted people to see that in addition to a stellar record, an even-handed disposition, a great legal mind, and impeccable integrity, Priscilla Owen is also a lovely person. An honest person who has even gone against the prevailing view of the Republican Party in Texas by suggesting we not elect Supreme Court justices in Texas. She has actually written on that subject, saying we should not taint the judiciary with partisan politics. So, I want the record to reflect that she is a lovely person—but also a person of principle, of strength, and of profound wisdom. She is as excellent a nominee, with as excellent a record as we have ever seen come before the United States Senate.

Mr. President, I think the Senate, as a body, should think about how we treat the people who come to submit themselves for public service. Many of them do so because they believe this is their calling and they do so with every good intention, including taking large salary cuts. Priscilla Owen chose to take a huge salary cut to run for the Supreme Court of Texas instead of continuing as a partner in a major law firm in Texas.

She has shown in every way that she is qualified for this position, and I hope we will give her what she deserves after four years of waiting, and that is an up-or-down vote. When we do, she will be confirmed and she will be one of the finest judges sitting on the Federal circuit court of appeals today.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The next hour will be controlled by the minority.

The senior Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The minority controls the next 60 minutes.

Mr. BYRD. Mr. President, I rise today to speak sadly. I have been a Member of Congress—now I am in my 53rd year. Two other members have served longer than I. Only 11,752 men and women have served in the Congress of the United States since the Republic began in 1789. That is 217 years. Those two Members were the late Senator Carl Hayden of Arizona, who was chairman of the Appropriations Committee when I came to this body, and Representative Jamie Whitten of Mississippi, who was a member of the House Appropriations Committee, a man with whom I served. So only two others have served longer in the Congress, meaning the House of Representatives or the Senate or both—only two.

I say to Senators and you, Mr. President, can you imagine my feelings as I stand now to speak in this Senate, which tomorrow—24 to 36 to 48 hours from now—may be changed from what it was when it began, when it first met in April of 1789 and from what it was when I came here to the Senate now going on 47 years ago.

I can see Everett Dirksen as he stood at that desk. He was the then-minority leader. Lyndon B. Johnson of Texas was the majority leader. Yes, I can see Norris Cotton. I can see George Aiken. I can see Jack Javits. I can see Margaret Chase Smith of Maine, the only woman in the Senate at that time, as she sat on the front row of the Republican side of the aisle. I can see others, yes.

How would they have voted? How would they have voted on this question which will confront us tomorrow? How would they have voted? I have no doubt as to how they would have voted. I have no doubt as to how they would vote were they here tomorrow. And so my heart is sad that we would even come to a moment such as this. Sad, sad, sad, sad it is.

I rise today to make a request of my fellow Senators. In so doing, I reach out to all Senators on both sides of the aisle, respectful of the institution of the Senate and of the opinions of all Senators, respectful of the institution of the Presidency as well. I ask each Senator to pause for a moment and reflect seriously on the role of the Senate as it has existed now for 217 years, and on the role that it will play in the future if the so-called nuclear option or the so-called constitutional option—one in the same—is invoked.

I implore Senators to step back—step back, step back, step back—from the precipice. Step back away from the cameras and the commentators and contemplate the circumstances in which we find ourselves. Things are not right, and the American people know that things are not right. The political discourse in our country has become so distorted, so unpleasant, so strident, so unbelievable, it is no wonder, then, that people are turning to a place of serenity, a place that they trust to seek the truth. They are turning to their religious faith in a time of ever-quickening contradictory messages transmitted by e-mail, by BlackBerrys, by Palm Pilots, answering machines, Tivo, voice mail, satellite TV, cell phones, Fox News, and so many other media outlets. America is suffering sensory overload.

We hear a lot of talk, but we do not know what to make of it. So some are turning to a place of quiet, a secure place, a place where they can find peace. They are turning to their faith, their religious faith.

Our Nation seems to be at a crossroads. People are seeking answers to legitimate questions about the future of our country, the future of our judiciary, and what role religions play in public lives. But it is difficult to find the quiet time to contemplate or to build a consensus in response to these profound questions when the venues for serious discussion of these issues often amount to little more than "shoutfests," "hardball," and "Crossfire."

Mr. President, what is next, "Slash and Burn" "Your faith or mine?" Perhaps because so few traditional channels of communication even now in the Senate provide a venue for thoughtful discussion, Americans are seeking answers to political and legal questions not in Congress or in the courts but through a higher power, through their religious faith.

In fact, it is the reaction of some to recent court decisions that has fueled the drive by a sincere minority, perhaps, in this country, the drive, where it might be a majority in this country, the drive toward the pillars of faith.

Many American citizens since the early religious people are angered and alienated by a belief that their views are not respected in the political process. They are deeply frustrated, and I am in sympathy with such feelings. I do not agree with many of the decisions that have come from the courts concerning prayer in school or concerning prohibitions on the display of religious items in public places.

For example, concerning freedom of religion, the establishment clause of the first amendment to the Constitution states:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

In my humble opinion, too many have not given equal weight to both of these clauses but have focused only on the first clause which prohibits the establishment of religion, with too little attention and at the expense of the second clause, which protects the right of Americans to worship as they please. I have always believed that this country was founded by men and women of strong faith whose intent was never to suppress religion but to ensure that our Government favors no single religion over another. This is reflected in Thomas Jefferson's insistence on religious liberty in the founding of our Republic. In his Virginia Act for Establishing Religion Freedom, Jefferson wrote that no man shall be compelled to frequent or support any religious worship or shall otherwise suffer on account of his religious opinion or belief, but all men shall be free to profess and by argument to maintain their opinions in matters of religion, and that shall in no wise diminish, enlarge, or affect their civil capacities.

In 1962, the U.S. Supreme Court decided a case called Engel v. Vitale. In that case, a group of politically appointed State officials drafted a prayer to be recited every day in the New York public schools, but the Supreme Court struck down the law, holding that the practice violated the establishment clause of the U.S. Constitution. While I strongly support voluntary prayer in schools, I can understand how the Supreme Court refused to require schoolchildren to recite a prayer that was drafted by government bureaucrats to be force-fed to every child. That decision rested on a principle that makes a lot of sense to me—namely, that government itself may not seek either to discourage or to promote religion.

In response to a question about the role of religion in society, President Bush recently stated that he believes religion is a personal matter—and it is a personal matter. It is a personal matter, something that must be revered but not imposed by the Government. The Federal Government must not prevent us from praying, but it should not tell us how to pray, either. That is a personal matter. That is a personal decision.

On May 5, our National Day of Prayer, the President reminded us that this special day was an annual event established in 1952 by an act of Congress. Yet, as said, it is part of a broader tradition that reaches back to the beginnings of America. So the President reminded us that from the landing of the Pilgrims at Plymouth Rock to the launch of the American Revolution, the men and women who founded this Nation in freedom relied on prayer to protect and to preserve it. And, of course, the President was right.

Thus, we can all understand the outrage of many good people of faith who decry the nature of our popular culture with its overt emphasis on sex, violence, profanity, and materialism. They have every reason to seek some sort of remedy, but these frustrations, great as they are, must not be allowed to destroy crucial institutional mechanisms in the Senate that have protected minority rights for over 200 years and, when necessary, must be available to curtail the power of a power-hungry Executive. Yet this is the outcome sought by those who propose to attack the filibuster.

At such times as these, the character of the leaders of this country is sorely tested. Our best leaders search for ways to avert such crises, not ways to accelerate the plunge toward the brink. Overheated partisan rhetoric is always available, of course, but the majority of Americans want a healthy two-party system built on mutual respect, and they want leaders who know how to work together. In fact, Americans admire most leaders who seek to do right, even when doing so does not prove politically advantageous in the short term.

The so-called nuclear option has been around for a long time. It didn't require a genius to figure that one out. Any cabbagehead who fell off of a turnip truck could have done that. That is easy to figure out. It has been around since the cloture rule was adopted in 1917—yes. I call it the turnip truck option, not the nuclear option, not the constitutional option. I call it the turnip truck option. It could have been talked about and suggested by someone who fell off a turnip truck and got up and dusted himself off and got back on the truck and fell off the turnip truck again—so turnip truck No. 2. Let it be that.

The nuclear option, as I say, has been around for a long time, but previous leaders of the Senate and previous Presidents, previous White Houses, did not seek to foist this turnip truck option upon the Senate and upon the right of the American people to have freedom of speech on the part of their representatives in the Senate.

So the nuclear option—yes, it has been around for a long time. Nobody wanted to resort to such a suicidal weapon. But until today, wisdom and cooler heads prevailed. In 1841, for example, a Democratic minority tried to block a bank bill supported by Henry Clay. Clay threatened to change the Senate's rules to allow the majority—have you heard that before?—to allow the majority to stop debate, just like our current majority leader. I say this respectfully. But Thomas Hart Benton angrily rebuked his colleague, Henry Clay, accusing Clay of trying to stifle the Senate's right to unlimited debate.

There is no need to tamper with the Senate's right of extended debate. It has been around for a long time. In 1806, the Senate left it out of the Senate's rules. In the 1806 version of the Senate's rules, "the previous question," as it now is still being used in the House, "the previous question" was left out, left behind. It had only been used a few times prior to 1806. It was in the 1789 rules of the Senate, yes. It was in the rules of the Continental Congress, "the previous question." It is in the rules of the British Parliament, yes. But the Senate, in 1806, decided, on the basis and upon the advisement of the Vice President of the United States, Aaron Burr, to discard it.

The text of the actual cloture rule, rule XXII, was not adopted by the Senate until 1917, the year in which I was born. Today, rule XXII allows the Senate to end a debate with 60 votes, what we call invoking cloture. I offered that resolution, to provide for a supermajority of 60 votes to invoke cloture. I believe it was 1975. That was a resolution which I introduced. So that is what we have today. But from 1919 to 1962, the Senate voted on cloture petitions only 27 times and invoked cloture only 5 times.

Political invective and efforts to divide America along religious lines may distract the electorate for the moment, but if, heaven forbid, there should be a true crisis or calamity in our country, the American people will stand shoulder to shoulder to support our country. Why can't we, then, their Senators, their leaders, find the courage to come together and solve this problem?

Nearly 4 years ago, our Nation was attacked by al-Qaida. In a Herculean effort, we came together to help the good people of New York and the patriotic citizens who worked at the Pentagon. Why can't we find some of that spirit today in the Senate? The time-honored role of the Senate as protector of minority views is at risk, and those who are in the majority today may be in the minority tomorrow. Don't forget that—the worm turns.

Our country has serious problems. Baby boomers are facing retirement with sorely diminished savings, savings hard to accrue in the face of exploding prices for gasoline, prescription drugs, housing, fuel, medicine and shelter—not frivolous purchases, all essential to survival. Alarmingly, all are becoming less affordable, even for affluent Americans. But beyond them, what is happening to America's poor today? Has anybody noticed? Has anybody noticed?

The point is that the current uproar over the filibuster serves only to underscore the mounting number of real problems—real problems—not being addressed by this Government of ours. Over 45 million persons in our country, some 15 percent of our population, cannot afford health insurance. Is your father included? Is your mother included in that number? Is your grandfather included? Is your grandmother included in that number?

Our veterans lack adequate medical care after they have risked life and limb for all of us. Our education system produces 8th graders ranked 19 out of 38 countries in the world in mathematics and 12th graders ranked 19 out of 21 countries in both math and science. Poverty in these United States is rising, with 34 million people or 12.4 percent of the population living below the poverty level. Think of it. Our infant mortality rate is the second highest of the major industrialized countries of the world.

Yet we debate and we seek solutions to none—none—none of these critical problems. Instead, what do we focus on? We focus all energy—we sweat, we perspire, we weaken ourselves, we focus all energy on the frenzy over whether to confirm seven previously considered nominees who were not confirmed by the Senate in the 108th Congress. Doesn't that seem kind of odd? Isn't that kind of odd? That seems a bit irrational, doesn't it, I say. Hear me. Maybe it sounds crazy. If I wanted to go crazy, I would do it in Washington because nobody would take notice, at least, so said Irvin S. Cobb. Would anyone apply such thinking to their own lives? My colleagues, would you insist on resubmitting the same lottery ticket if you knew it was not a winner?

Unfortunately, many Americans seek as an anecdote to their frustrations with our current system a confrontation—yes, we have to have it—a confrontation over these seven nominees and the preposterous solution of permanently crippling freedom of speech and debate and the right of a minority to dissent in the Senate.

I ask the Senate, please, I ask the Senate majority leader, please, I ask the Senator minority leader, please, I ask the White House.

I noticed the other day, I believe last Thursday, in the Washington Post—I will bring it with me tomorrow—I noticed that the White House did not want to compromise on this matter. The White House did not want to compromise. Here we have the executive branch talking to the legislative branch, two of the three branches, two of the three equal coordinate branches of Government, talking through the newspapers that it does not want to compromise.

I ask the Senate to take a moment today to reflect on the potentially disastrous consequences that could flow from invoking the so-called nuclear option. Anger will erupt. It may not be the next day or immediately. One may not see these things come about immediately, but in time they will come. They will come, they will come, they will come. Anger will erupt in the Chamber and it will be difficult to address real problems.

I implore, I beseech, I importune, I beg the Senate to consider how posterity will review such a significant occurrence, destroying 217 years of checks and balances established so carefully by the Founding Fathers 219 years ago. Will the light of posterity shine favorably on the shattering of Senate precedent solely to confirm these seven nominees, nominees whose names have been before the Senate for consideration in the previous administration? Won't this maneuver be viewed for what it really is, a misguided attempt to strong-arm the Senate for a political purpose driven by anger and raw ambition and lust for power? Will that be remembered as a profile in courage?

What has happened to the quality of leadership in this country that will allow us even to consider provoking a constitutional crisis of such magnitude?

I tell you, I am deeply, deeply troubled. I am almost sick about it, the frustration that I have had over thinking about this, this awful thing that is about to happen, unless we draw back.

Have we lost our ability to look toward the larger good? Even a child is known by his doings, whether his work be pure and whether it be right. That is according to Proverbs, 20th chapter, 11th verse.

I ask the Senate to come together and to work toward a compromise. Yes, the Washington Post last Thursday said the White House doesn't want a compromise. But I beg the Senate, I beg those on the other side of the aisle and those on my side of the aisle to reach a compromise, work toward a compromise.

What the current majority seeks to employ against the minority today can be turned against the majority tomorrow.

John Adams once said:

> Even mankind will, in time, discover that unbridled majorities are as tyrannical and cruel as unlimited despots.

Does not history prove as much? I ask the Senate to seek a compromise. Where is the gentle art of compromise? Edmund Burke once stated:

> All government, indeed every human benefit and enjoyment, every virtue and every prudent act, is founded on compromise and barter.

Let the Senate step away from this abyss and see the wisdom of coming together to preserve the checks and balances. May we stop and draw back and remember that we are all Americans before we permanently damage this institution, the Senate of the United States, and in doing so, permanently damage the Constitution as we permanently damage this institution, the Senate of the United States, and the country we love.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, how much time remains on the minority?

The PRESIDING OFFICER. The minority controls 23 additional minutes.

Mr. BIDEN. Mr. President, my friends and colleagues, I have not been here as long as Senator BYRD, and no one fully understands the Senate as well as Senator BYRD, but I have been here for over three decades. This is the single most significant vote any one of us will cast in my 32 years in the Senate. I suspect the Senator would agree with that.

We should make no mistake. This nuclear option is ultimately an example of the arrogance of power. It is a fundamental power grab by the majority party, propelled by its extreme right and designed to change the reading of the Constitution, particularly as it relates to individual rights and property rights. It is nothing more or nothing less. Let me take a few moments to explain that.

Folks who want to see this change want to eliminate one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights, and they also have a consequence, and would undermine the protections of a minority point of view in the heat of majority excess. We have been through these periods before in American history but never, to the best of my knowledge, has any party been so bold as to fundamentally attempt to change the structure of this body.

Why else would the majority party attempt one of the most fundamental changes in the 216-year history of this Senate on the grounds that they are being denied ten of 218 Federal judges, three of whom have stepped down? What shortsightedness, and what a price history will exact on those who support this radical move.

It is important we state frankly, if for no other reason than the historical record, why this is being done. The extreme right of the Republican Party is attempting to hijack the Federal courts by emasculating the courts' independence and changing one of the unique foundations of the Senate; that is, the requirement for the protection of the right of individual Senators to guarantee the independence of the Federal Judiciary.

This is being done in the name of fairness? Quite frankly, it is the ultimate act of unfairness to alter the unique responsibility of the Senate and to do so by breaking the very rules of the Senate.

Mark my words, what is at stake here is not the politics of 2005, but the Federal Judiciary in the country in the year 2025. This is the single most significant vote, as I said earlier, that I will have cast in my 32 years in the Senate. The extreme Republican right has made Federal appellate Judge Douglas Ginsburg's "Constitution in Exile" framework their top priority.

It is their purpose to reshape the Federal courts so as to guarantee a reading of the Constitution consistent with Judge Ginsburg's radical views of the fifth amendment's taking clause, the nondelegation doctrine, the 11th amendment, and the 10th amendment. I suspect some listening to me and some of the press will think I am exaggerating. I respectfully suggest they read Judge Ginsburg's ideas about the "Constitution in Exile." Read it and understand what is at work here.

If anyone doubts what I am saying, I suggest you ask yourself the rhetorical question, Why, for the first time since 1789, is the Republican-controlled Senate attempting to change the rule of unlimited debate, eliminate it, as it relates to Federal judges for the circuit court or the Supreme Court?

If you doubt what I said, please read what Judge Ginsburg has written and listen to what Michael Greve of the American Enterprise Institute has said:

> I think what is really needed here is a fundamental intellectual assault on the entire New Deal edifice. We want to withdraw judicial support for the entire modern welfare state.

Read: Social Security, workmen's comp. Read: National Labor Relations Board. Read: FDA. Read: What all the byproduct of that shift in constitutional philosophy that took place in the 1930s meant.

We are going to hear more about what I characterize as radical view—maybe it is unfair to say radical—a fundamental view and what, at the least, must be characterized as a stark departure from current constitutional jurisprudence. Click on to American Enterprise Institute Web site www.aei.org. Read what they say. Read what the purpose is. It is not about seeking a conservative court or placing conservative Justices on the bench. The courts are already conservative.

Seven of the nine Supreme Court Justices appointed by Republican Presidents Nixon, Ford, Reagan, and Bush 1—seven of nine. Ten of 13 Federal circuit courts of appeal dominated by Republican appointees, appointed by Presidents Nixon, Ford, Reagan, Bush 1, and Bush 2; 58 percent of the circuit court judges appointed by Presidents Nixon, Ford, Reagan, Bush 1, or Bush 2. No, my friends and colleagues, this is not about building a conservative court. We already have a conservative court. This is about guaranteeing a Supreme Court made up of men and women such as those who sat on the Court in 1910 and 1920. Those who believe, as Justice Janice Rogers Brown of California does, that the Constitution has been in exile since the New Deal.

My friends and colleagues, the nuclear option is not an isolated instance. It is part of a broader plan to pack the court with fundamentalist judges and to cower existing conservative judges to toe the extreme party line.

You all heard what TOM DELAY said after the Federal courts refused to bend to the whip of the radical right in the Schiavo case. Mr. DELAY declared: "The time will come for men responsible for this to answer for their behavior."

Even current conservative Supreme Court Justices are looking over their shoulder, with one extremist recalling the despicable slogan of Joseph Stalin—and I am not making this up—in reference to a Reagan Republican appointee, Justice Kennedy, when he said: "No man, no problem"—absent his presence, we have no problem.

Let me remind you, as I said, Justice Kennedy was appointed by President Reagan.

Have they never heard of the independence of the judiciary—as fundamental a part of our constitutional system of checks and balances as there is today; which is literally the envy of the entire world, and the fear of the extremist part of the world? An independent judiciary is their greatest fear.

Why are radicals focusing on the court? Well, first of all, it is their time to be in absolute political control. It is like, why did Willy Sutton rob banks? He said: Because that is where the money is. Why try it now—for the first time in history—to eliminate extended debate? Well, because they control every lever of the Federal Government. That is the very reason why we have the filibuster rule. So when one party, when one interest controls all levers of Government, one man or one woman can stand on the floor of the Senate and resist, if need be, the passions of the moment.

But there is a second reason why they are focusing on the courts. That is because they have been unable to get their agenda passed through the legislative bodies. Think about it. With all the talk about how they represent the majority of the American people, none of their agenda has passed as it relates to the fifth amendment, as it relates to zoning laws, as it relates to the ability of Federal agencies, such as the Food and Drug Administration, the Environmental Protection Agency, to do their jobs.

Read what they write when they write about the nondelegation doctrine. That simply means, we in the Congress, as they read the Constitution, cannot delegate to the Environmental Protection Agency the authority to set limits on how much of a percentage of carcinogens can be admitted into the air or admitted into the water. They insist that we, the Senate, have to vote on every one of those rules, that we, the Senate and the House, with the ability of the President to veto, would have to vote on any and all drugs that are approved or not approved.

If you think I am exaggerating, look at these Web sites. These are not a bunch of wackos. These are a bunch of very bright, very smart, very well-educated intellectuals who see these Federal restraints as a restraint upon competition, a restraint upon growth, a restraint upon the powerful.

The American people see what is going on. They are too smart, and they are too practical. They might not know the meaning of the nondelegation doctrine, they might not know the clause of the fifth amendment relating to property, they may not know the meaning of the tenth and eleventh amendments as interpreted by Judge Ginsburg and others, but they know that the strength of our country lies in common sense and our common pragmatism, which is antithetical to the poisons of the extremes on either side.

The American people will soon learn that Justice Janice Rogers Brown—one of the nominees who we are not allowing to be confirmed, one of the ostensible reasons for this nuclear option being employed—has decried the Supreme Court's "socialist revolution of 1937." Read Social Security. Read what they write and listen to what they say. The very year that a 5-to-4 Court upheld the constitutionality of Social Security against a strong challenge—1937—Social Security almost failed by one vote.

It was challenged in the Supreme Court as being confiscatory. People argued then that a Government has no right to demand that everyone pay into the system, no right to demand that every employer pay into the system. Some of you may agree with that. It is a legitimate argument, but one rejected by the Supreme Court in 1937, that Justice Brown refers to as the "socialist revolution of 1937."

If it had not been for some of the things they had already done, nobody would believe what I am saying here. These guys mean what they say. The American people are going to soon learn that one of the leaders of the constitutional exile school, the group that wants to reinstate the Constitution as it existed in 1920, said of another filibustered judge, William Pryor that "Pryor is the key to this puzzle. There's nobody like him. I think he's sensational. He gets almost all of it."

That is the reason why I oppose him. He gets all of it. And you are about to get all of it if they prevail. We will not have to debate about Social Security on this floor.

So the radical right makes its power play now when they control all political centers of power, however temporary. The radical push through the nuclear option and then pack the courts with unimpeded judges who, by current estimations, will serve an average of 25 years. The right is focused on packing the courts because their agenda is so radical that they are unwilling to come directly to you, the American people, and tell you what they intend.

Without the filibuster, President Bush will send over more and more judges of this nature, with perhaps three or four Supreme Court nominations. And there will be nothing—nothing—that any moderate Republican friends and I will be able to do about it.

Judges who will influence the rights of average Americans: The ability to sue your HMO that denies you your rights; the ability to keep strip clubs out of your neighborhood—because they make zoning laws unconstitutional—without you paying to keep the person from building; the ability to protect the land your kids play on, the water they drink, the air they breathe, and the privacy of your family in your own home.

Remember, many of my colleagues say there is no such thing as a right to privacy in any iteration under the Constitution of the United States of America. Fortunately, we have had a majority of judges who disagreed with that over the past 70 years. But hang on, folks. The fight over judges, at bottom, is not about abortion and not about God, it is about giving greater power to the already powerful. The fight is about maintaining our civil rights protections, about workplace safety and worker protections, about effective oversight of financial markets, and protecting against insider trading. It is about Social Security. What is really at stake in this debate is, point blank, the shape of our constitutional system for the next generation.

The nuclear option is a twofer. It excises, friends, our courts and, at the same time, emasculates the Senate. Put simply, the nuclear option would transform the Senate from the so-called cooling saucer our Founding Fathers talked about to cool the passions of the day to a pure majoritarian body like a Parliament. We have heard a lot in recent weeks about the rights of the majority and obstructionism. But the Senate is not meant to be a place of pure majoritarianism.

Is majority rule what you really want? Do my Republican colleagues really want majority rule in this Senate? Let me remind you, 44 of us Democrats represent 161 million people. One hundred sixty-one million Americans voted for these 44 Democrats. Do you know how many Americans voted for the 55 of you? One hundred thirty-one million. If this were about pure majorities, my party represents more people in America than the Republican Party does. But that is not what it is about. Wyoming, the home State of the Vice President, the President of this body, gets one Senator for every 246,000 citizens; California, gets one Senator for 17 million Americans. More Americans voted for Vice President Gore than they did Governor Bush. By majoritarian logic, Vice President Gore won the election.

Republicans control the Senate, and they have decided they are going to change the rule. At its core, the filibuster is not about stopping a nominee or a bill, it is about compromise and moderation. That is why the Founders put unlimited debate in. When you have to—and I have never conducted a filibuster—but if I did, the purpose would be that you have to deal with me as one Senator. It does not mean I get my way. It means you may have to compromise. You may have to see my side of the argument. That is what it is about, engendering compromise and moderation.

Ladies and gentlemen, the nuclear option extinguishes the power of Independents and moderates in this Senate. That is it. They are done. Moderates are important only if you need to get 60 votes to satisfy cloture. They are much less important if you need only 50 votes. I understand the frustration of our Republican colleagues. I have been here 32 years, most of the time in the majority. Whenever you are in the majority, it is frustrating to see the other side block a bill or a nominee you support. I have walked in your shoes, and I get it.

I get it so much that what brought me to the Senate was the fight for civil rights. My State, to its great shame, was segregated by law, was a slave State. I came here to fight it. But even I understood, with all the passion I felt as a 29-year-old kid running for the Senate, the purpose—the purpose—of extended debate. Getting rid of the filibuster has long-term consequences. If there is one thing I have learned in my years here, once you change the rules and surrender the Senate's institutional power, you never get it back. And we are about to break the rules to change the rules.

I do not want to hear about "fair play" from my friends. Under our rules, you are required to get 2/3 of the votes to change the rules. Watch what happens when the majority leader stands up and says to the Vice President—if we go forward with this—he calls the question. One of us, I expect our leader, on the Democratic side will stand up and say: Parliamentary inquiry, Mr. President. Is this parliamentarily appropriate? In every other case since I have been here, for 32 years, the Presiding Officer leans down to the Parliamentarian and says: What is the rule, Mr. Parliamentarian? The Parliamentarian turns and tells them.

Hold your breath, Parliamentarian. He is not going to look to you because he knows what you would say. He would say: This is not parliamentarily appropriate. You cannot change the Senate rules by a pure majority vote.

So if any of you think I am exaggerating, watch on television, watch when this happens, and watch the Vice President ignore—he is not required to look to an unelected officer, but that has been the practice for 218 years. He will not look down and say: What is the ruling? He will make the ruling, which is a lie, a lie about the rule.

Isn't what is really going on here that the majority does not want to hear what others have to say, even if it is the truth? Senator Moynihan, my good friend who I served with for years, said: You are entitled to your own opinion but not your own facts.

The nuclear option abandons America's sense of fair play. It is the one thing this country stands for: Not tilting the playing field on the side of those who control and own the field.

I say to my friends on the Republican side: You may own the field right now, but you won't own it forever. I pray God when the Democrats take back control, we don't make the kind of naked power grab you are doing. But I am afraid you will teach my new colleagues the wrong lessons.

We are the only Senate in the Senate as temporary custodians of the Senate. The Senate will go on. Mark my words, history will judge this Republican majority harshly, if it makes this catastrophic move.

Mr. President, I ask unanimous consent that the full text of my statement as written be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE FIGHT FOR OUR FUTURE: THE COURTS, THE UNITED STATES SENATE, AND THE AMERICAN PEOPLE

INTRODUCTION

Make no mistake, my friends and colleagues, the "nuclear option" is the ultimate example of the arrogance of power. It is a fundamental power grab by the Republican Party propelled by its extreme right and designed to change the reading of the Constitution, particularly as it relates to individual rights and property rights

Nothing more, nothing less.

It is the elimination of one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights and the protections of a minority point of view in the heat of majority excess.

Why else would the majority party attempt such a fundamental change in the 216 year history of this Senate on the grounds that they are being denied seven of 218 federal judges?

What shortsightedness and what a price history will exact on those who support this radical move.

Mr. President, we should state frankly, if for no other reason than an historical record, why this is being done. The extreme right of the Republican Party is attempting to hijack the federal courts by emasculating the courts' independence and changing one of the unique foundations of the United States Senate—the requirement for the protection of the right of individual Senators to guarantee the independence of the federal judiciary.

This is being done in the name of fairness. But it is the ultimate act of unfairness to alter the unique responsibility of the United States Senate and to do so by breaking the very rules of the United States Senate.

Mark my words. What is at stake here is not the politics of 2005, but the federal judiciary and the United States Senate of 2025.

This is the single most significant vote that will be cast in my 32-year tenure in the United States Senate.

THE FUTURE OF OUR COURTS

The extreme Republican Right has made Judge Douglas Ginsberg's "Constitution in Exile" framework their top priority. It is their extreme purpose to reshape the federal courts so as to guarantee a reading of the Constitution consistent with Judge Ginsberg's radical views of the 5th Amendment Takings Clause, the non-delegation doctrine, the 11th Amendment, and the 10th Amendment.

If you doubt what I say then ask yourself the following rhetorical question: Why for the first time since 1789 is the Republican controlled United States Senate attempting to do this?

If you doubt what I say, please read what Judge Ginsberg has written. And listen to what Michael Greve, of the American Enterprise Institute has said: "what is really needed here is a fundamental intellectual assault on the entire New Deal edifice. We want to withdraw judicial support for the entire modern welfare state."

If you want to hear more about what I am characterizing as the radical view and what must certainly be characterized as a stark departure from current constitutional law, click on the American Enterprise Institute's website www.aei.org.

This is not about seeking a conservative court and placing conservative judges on the bench.

The courts are already conservative: 7 of 9 current Supreme Court Justices, appointed by Republican Presidents Nixon, Ford, Reagan, Bush I; 10 of 13 federal circuit courts dominated by Republican appointees, appointed by Presidents Nixon, Ford, Reagan, Bush I, and Bush II; and 58 percent of all circuit court judges, appointed by Presidents Nixon, Ford, Reagan, Bush I and Bush II.

No, friends and colleagues, this is not about building conservative courts. We already have them. This is about a Supreme Court made up of men and women like those who sat on the Court in 1910, 1920.

My friends and colleagues, the nuclear option is not an isolated instance. It's part of a broader plan to pack the courts with fundamentalist judges and to cower existing conservative judges to toe the party line.

You all heard what Tom DeLay said after the federal courts refused to bend to the whip of the Radical Right in the Schiavo Case. DeLay declared:

The time will come for the men responsible for this to answer for their behavior.

Even current conservative Supreme Court Justices are looking over their shoulders. One extremist has referred to Justice Kennedy by recalling a despicable slogan attributed to Joseph Stalin. When Stalin encountered a problem with an individual, he would simply say "no man, no problem." The extreme right is adapting Stalin's adage in their efforts to remove sitting judges: "no judge, no problem."

And let me remind you, Kennedy was appointed by President Reagan.

Have these people never heard of the independence of the judiciary—as fundamental a part our constitutional system of checks and balances as there is; the envy of the world; the system that emerging democracies are clamoring to copy?

You must ask yourself why the fundamentalist Republican right is focusing so clearly on the federal courts? I'll tell you why.

Because they are unable to seek their agenda through the political branches of our government.

That's why they are trying to move their agenda by fundamentally changing the courts.

I believe that the American people already intuitively know what's going on: they're too smart; they're too practical. The strength of our country lies in our common sense and our pragmatism, which is antithetical to the ideological purity of the fundamentalist Republican Right.

The American people will soon learn that Janice Rogers Brown has decried the Supreme Court's "socialist revolution of 1937," the very year that a 5–4 Court upheld the constitutionality of Social Security against strong challenges.

The American people will soon learn that one of the leaders of the "Constitution in Exile" school—the group that wants to reinstate the Constitution as it existed in the 1920s—said that another of the filibustered judges—William Pryor—was "key to this puzzle; there's nobody like him. I think he's sensational. He gets almost all of it."

These are judges who will serve on the federal circuit courts of appeal for a quarter of a century. And no general election of Congress and the President will be able to change it.

And you may ask yourself why the focus on the circuit courts? I'll tell you why.

Today, it is more than four times as difficult to get an opportunity to argue your appeal before the Supreme Court as it was 20 years ago. Today, the Supreme Court reviews less than two tenths of one percent of the caseload of the appeals courts.

Without the filibuster, President Bush will be able to put on the bench judges who would reinstitute the "Constitution in Exile." I suggest that it is these judges who are the ones who should be exiled.

And if the actuarial tables comply there is the possibility that President Bush will possibly nominate as many as 3-4 Supreme Court Justices—and there will be little that my moderate Republican friends and I will be able to do about it.

The consequences for average Americans will be significant. They will include the ability to sue when HMOs deny you your rights; the ability to keep strip clubs out of your family's neighborhood; the ability to protect from environmental degradation the land your kids play on, the purity of the water they drink, the cleanliness of the air they breathe; and the ability to preserve the privacy that you and your family expect the Constitution to provide.

The fight over judges, at bottom, is not about abortion and about God; it is about giving greater power to the already powerful.

THE FUTURE OF THE SENATE

The exercise of the nuclear option also has another fundamental impact on the government—it will transform the Congress from a bifurcated legislature where political parties were never intended to rule supreme into a quasi-parliamentary system where a single party will dominate.

There would have been no Constitution were it not for the Connecticut Compromise—that is the compromise that guaranteed states two U.S. Senators regardless of the state's population.

The Connecticut Compromise was also done expressly to guarantee the right of the small states, as well as less powerful interests, as well as individuals, to be protected from temporary passion and excesses of the moment—whether borne out of a demagogic appeal or the overwhelming supremacy of a political party.

The guarantee of unlimited debate in the United States Senate assured not that the minority would be able to get its way but that the minority would be able to generate a compromise that would keep them from being emasculated. And this included ensuring the independence of the federal judiciary.

We have heard a lot in recent weeks about the rights of the majority. But the Senate was not meant to be a place of pure majoritarianism. Is majority rule what this is about? Do my Republican colleagues really want majority rule?

We 44 Democrats represent 161 million people in the Senate; the 55 Republicans only 131 million. By majoritarian logic, the Democrats would be in the majority in the Senate.

Wyoming, the home state of the President of this Body, gets 1 Senator for every 246,891 citizens. By that measure, California is entitled to 137 U.S. Senators.

More Americans voted for Vice President Gore in 2000 than for George W. Bush. By majoritarian logic, Gore won that election.

But Republicans control the Senate, California only gets 2 Senators, and Vice President Gore lost the 2000 election for the same reason—under our constitutional system, a majority doesn't always get what it wants; that's the system the Founders created.

At its core, the filibuster is not about stopping a nominee or a bill, it's about compromise and moderation.

The nuclear option extinguishes the power of independents and moderates in the Senate. That's it, they're done. Moderates are important if you need to get to 60 votes to satisfy cloture; they are much less so if you only need 50 votes.

Let's set the historical record straight. Never has the Senate provided for a certainty that 51 votes could put someone on the bench or pass legislation.

The facts are these. There was no ability to limit debate until 1917. And then the explicit decision was made to limit debate on legislation if 2/3 of the Senators present and accounted for supported cloture. Even then, the Senate rejected a similar limitation on executive nominations, including nominees to the federal bench. It wasn't until 1949 that the new cloture rule also applied to nominations.

The question at present is, will the Senate actually aid and abet in the erosion of its Article I power by conceding to another branch greater influence over who ends up on our courts? As Senator Stennis once said to me in the face of a particularly audacious claim by President Nixon: "Are we the President's men or the Senate's?"

My friends on the other side of the aisle like to focus on the text of the Constitution. Tell me: Where does it state that it is necessary for each bill or each nominee that comes before us to receive a simple majority vote? Where does it state that the President should always get his first choice to fill a vacancy?

FUNDAMENTAL FAIRNESS—PLAYING BY THE RULES

The nuclear option makes a mockery of the Senate rules. You'll notice that when the nuclear option is triggered, the Presiding Officer will refuse to seek the advice of the Parliamentarian, his own expert. He won't ask because he doesn't want to hear the answer.

Isn't that what's really going on here? The majority doesn't want to hear what others have to say, even if it's the truth. Well, as Senator Moynihan used to say, "You're entitled to your own opinions, but not your own facts."

The nuclear option abandons our American sense of fair play. If there is one thing this country stands for it's fair play—not tilting the playing field in favor of one side or the other, not changing the rules unilaterally.

We play by the rules, and win or lose by the rules. That is a quintessentially American trait, and it is eviscerated by the "nuclear option."

CONCLUSION

The Senate stands at the precipice of a truly historic mistake. We are about to act on a matter that will influence our country's history for the foreseeable future.

We are only the Senate's temporary custodians—our careers in the Senate will one day end—but the Senate will go on. Over the course of the next hours and days, we must be Senators first, and Republicans and Democrats second.

We must think of the rights and liberties of the American people, not just for today but for the rest of our lives.

Again, ask yourself why is this extreme change being put forward over 7 out of 218 federal judges?

As I said earlier, history will judge this Republican Majority harshly if it succeeds in changing the way the Founders intended the Senate to behave, emasculating it into a parliament governed by a single party's ideology and unable to be thrown out be a vote of no-confidence.

Mr. BIDEN. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, over the last several days we have debated some of the most important issues that most of the Members will ever face. Should the same powerful tool, such as the filibuster, that we have long used in the legislative process be part of the confirmation process to defeat a President's judicial nominees? That is a big question. Can the Senate's role of advice and consent regarding judicial nominations be exercised equally by either the majority or minority of Senators? The answer to each of these questions is no.

America's Founders designed the Senate without the ability to filibuster anything at all. The filibuster became available later but was restricted to the legislative process which we control. It was not part of the appointment process which the President controls. Allowing a minority of Senators to capture this body's role of advice and consent will allow that minority to hijack the President's power to appoint judges. I admit that we have control of the Executive Calendar, but the President has rights in that calendar, too. We cannot hijack the President's power to appoint judges. Doing so distorts the balance the Constitution establishes and mandates. That situation should not stand.

I urge my friends, Senators from the minority, to abandon their destructive course and return to the tradition we followed for more than two centuries. The Senate, acting through a majority, checks the President's power to appoint by voting on whether to consent to those appointments. You will notice it is the Senate—not the minority—who does that check. Any Senator may vote against any nominee for any reason, but we must vote. We followed that tradition for more than 200 years, and we should recommit ourselves to it now.

If the minority insists on distorting the Constitution's balance and rejecting Senate tradition, then I believe the Senate must firmly reestablish that tradition by exercising our constitutional authority to determine our own rules and procedures. If the minority will not exercise the same self-restraint this body exercised for the last two centuries, then I believe the Senate must vote to return formally to our tradition. It is surely not a sign of our political culture that we have to enforce by majority vote what we once offered by principle and self-restraint. But the Constitution's balance is too important to allow a minority to erode our principles and past practices.

The problem and the solution each have their own frame of reference drawn from the Constitution. The frame of reference for evaluating these judicial filibusters is the separation of powers into three branches. The frame of reference for the solution to this judicial filibuster crisis is the Constitution's grant of authority for us, the Senate, to determine how we want to conduct Senate business.

Let me first address the judicial filibuster crisis through the lens, the frame of reference, of the separation of powers. In Federalist No. 47, James Madison wrote of the separation of powers that "no political truth is certainly of greater intrinsic value or stamped with the authority of more enlightened patrons of liberty." Two points are particularly important here. First, the separation of powers is exclusive. The powers assigned to one branch are denied to the others.

Like our Federal charter, each State constitution also divides the legislative, executive, and judicial branches into separate branches. More than two-thirds of them, however, go even further and make the exclusive nature of separation explicit. They affirmatively prohibit each branch from exercising the powers assigned to the others. The separation of powers is that important.

While each branch may not exercise the powers given to the others, we can check the powers given to the others. A check on another branch's power is a safeguard. It is not a separate coequal power. It is neither separate from nor as significant as the power being checked. Nomination and appointment of judges is described in article II which outlines the President's power. Not a word is found in article I which describes our powers.

The second point about the separation of powers is equally important. Just as the powers belong to the branches, checks and balances are exercised by the branches. The President, to whom the Constitution gives executive power, can check Congress's legislative power through the veto that he has a right to exercise. He cannot delegate it to someone else in the executive branch. Similarly, the Constitution assigns the role of advice and consent to the Senate, not just to the minority, to the Senate.

The question raised by the current filibuster campaign, however, is this: What is the Senate, the minority or the majority? I do not want to get too technical, but these are basic civics principles that apply to legislative bodies everywhere that you can find in most high school textbooks. We must have what we call a quorum, a minimum number of Senators present to be open for business. Senate rule VI defines a quorum as a "majority of Senators duly chosen and sworn." Today that means 51 Senators. Unless the Constitution that created this body says otherwise, when a majority of those Senators acts, it is the Senate itself that acts.

This is no different from the Supreme Court. When a majority of its members votes the same way, we say it is the Court that has decided the case.

Only the Senate itself can exercise its constitutional role of advice and consent on the President's judicial nominations. That is, only a majority of Senators can exercise that role. I make this point so strongly because the minority is claiming the right to exercise this body's role of advice and consent strictly by the minority.

Last Thursday, the Senator from Massachusetts, Mr. KERRY, on the Senate floor, charged that "the Republican leadership is determined to deny the minority the right to hold the executive responsible for lifetime appointments to the judiciary."

He was not the first to make this argument. We have heard for a long time now from many Senators who support these filibusters that the Senate rejects a nomination not when the majority has voted it down but when the minority has prevented a final confirmation vote, even though there is a bipartisan majority for the nominee. I should say in this case nominees.

The minority does not check the President's power. The Senate itself does. And that means a majority of Senators checks the President's power. When the minority has prevented a confirmation vote, the minority has prevented the Senate from exercising its role of advice and consent altogether. I do not speak primarily of the majority or minority party. I speak of the numerical majority that is required in order for the Senate to act at all. The vast majority of judicial nominations are confirmed either by unanimous consent or by overwhelming margins on rollcall votes. The number of truly controversial, hotly contested judicial nominations is small. Still at least 18 Members of this body have voted against a judicial nomination of their own party.

If the case against some of these nominees is so strong—and we have heard a great hue and cry about how some of them are out of some sort of mainstream—then Senators may do so again. But the prospect of being on the losing side of a small number of confirmation votes does not justify turning these fundamental principles of separation of powers inside out. It does not justify the minority hijacking the Senate's role of advice and consent so it can hijack the President's power to appoint judges.

Yet that is indeed what these filibusters are attempting to do. Defeating a vote to end debate can serve a laudable, temporary purpose of ensuring full and vigorous debate. That full and vigorous debate can help the Senate make a more informed confirmation decision. But these recent unprecedented, leader-led filibusters defeat all votes to end debate for the purpose of preventing confirmation of these nominations altogether. Doing so turns the separation of powers on its head.

Mr. President, the frame of reference, the organizing principle for evaluating these judicial filibusters, is the separation of powers. I think the case is compelling that the judicial filibuster campaign underway today, by which the minority tries to commandeer the Senate's role of advice and consent so they can wrongly attempt to trump the President's constitutional authority to appoint judges, violates that principle and cannot be allowed to continue.

If the minority will not relent and return to the tradition by which the Senate, through a majority, exercises its role of advice and consent, then I believe the majority must act to restore that tradition. The frame of reference for solving this judicial filibuster crisis is the Senate's constitutional authority to determine our own rules and procedures.

Just as the Constitution establishes a system of self-government for the Nation, it establishes a system of self-government for the Senate. Subject always to the Constitution itself, we choose for ourselves how we want to do business. It may not always be nice, neat, and orderly, but it is up to us to decide. One of the cliches that the judicial filibuster proponents dreamed up is the cry that any solution to this crisis would require "breaking the rules to change the rules." Presumably, that catchy little phrase refers to the fact that invoking cloture on an amendment to the text of our written rules requires not just 60 votes but two-thirds of the Senators present and voting. This argument is, I suppose, intended to make people think our written rules are the only guide for how the Senate operates.

Most of our citizens may not know one way or the other. Nobody can fault them for not being schooled in the peculiar art of Senate procedure. But my fellow Senators certainly know the answer.

Every Senator in this body knows that the Standing Rules of the Senate are only one of several things that guide how we do business. The solution to the judicial filibuster crisis which the majority leader, Dr. FRIST, will pursue will neither break the rules nor change the rules. The Standing Rules of the Senate will read the same next week as they did last week. Instead, the solution we will utilize is a parliamentary ruling by the Presiding Officer, something that is at least as important as our written rules for the way we conduct our day-to-day business.

When a Senator asks the question of procedure or raises a point of order, the Presiding Officer's answer to that question, or his ruling on that point of order, becomes a precedent for the Senate. These parliamentary precedents guide what we do as much as our written rules. Let me stress something very important at this point. The Constitution gives the role of advice and consent to a majority, not to a minority.

Similarly, the Constitution gives the authority to decide how the Senate does business to the Senate, not to the Presiding Officer.

There are no monarchs or dictators in America, or in the United States Senate. Should the Presiding Officer rule that the Senate may proceed to vote on judicial nominations after sufficient debate, that will become a parliamentary precedent guiding this body only after a majority of Senators votes to make it so.

As I have discussed before in the Senate, this mechanism might better be called the Byrd option because, when he was majority leader, the distinguished Senator from West Virginia, Mr. BYRD, repeatedly used it to change how the Senate does business.

The Senator from West Virginia knows that I have the greatest respect for him. I heard him on the Senate floor again this afternoon. But as I will describe in the next few minutes, I believe my friend from West Virginia doth protest too much.

In 1977, for example, then-Majority Leader BYRD used this mechanism to eliminate what was called the postcloture filibuster. If the Senate voted to invoke cloture on a bill, rule XXII imposed a 1-hour debate limit on each Senator. Senators could get around that limit, however, by introducing and debating amendments. Rule XXII allowed this practice, but the majority leader opposed it—BYRD. He made a point of order against it, the Presiding Officer ruled in his favor, and a simple majority of Senators voted to back up the ruling.

Nearly two decades later, the Senator from West Virginia reflected on how he used the Byrd option in 1977. Let me refer to the chart. He described it this way:

> I have seen filibusters. I have helped to break them. There are few Senators in this body who were here in 1977 when I broke the filibuster on the natural gas bill.

I was here, by the way. To continue:

> I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters And the filibuster was broken—back, neck, legs, and arms. . . . So I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

So don't say we are trying to change the rules. We are following the Byrd rule that was set four times as he was majority leader. He changed Senate procedures without changing Senate rules.

The Senator from West Virginia did it again in 1979. Rule XVI explicitly states that the Senate itself must decide whether amendments to appropriations bills are germane. Then-Majority Leader BYRD made a point of order that the Presiding Officer may decide that question instead. The Presiding Officer ruled in his favor and a majority of Senators voted to affirm the ruling. Once again, a parliamentary ruling changed Senate procedures without changing Senate rules.

It happened again in 1980. As we have discussed, rule XXII requires 60 votes to invoke cloture, or end debate, on any matter pending before the Senate. This includes bills or nominations, but it also includes motions to proceed to those bills or nominations.

Then-Majority Leader BYRD wanted the Senate to confirm an individual nomination. He made a single motion to go into executive session to consider a nomination, a step that is not debatable under our rules, and to proceed to an individual nomination, a step that was debatable.

This time, the point of order came from a Republican Senator, arguing that this procedural two-step was improper. The Presiding Officer agreed, ruling against what Majority Leader BYRD was trying to do. He still prevailed when a majority of Senators voted to overturn the Presiding Officer's ruling. Doing so eliminated the filibuster on a motion to proceed to a specific nomination.

Mr. President, this chart shows that seven Democratic Senators serving in this body today voted to eliminate those nomination-related filibusters. They proved not only that the Byrd option is legitimate, but also that it can be used to limit debate. I leave it to these Senators to explain how they could vote to eliminate nomination-related filibusters in 1980 but support nomination filibusters today.

This 1980 example is particularly relevant because it utilized a parliamentary ruling to eliminate a nomination-related filibuster—not a filibuster of the nomination itself but a filibuster on the motion to proceed to the nomination. That is, of course, a distinction without a difference. Either one keeps a nomination from final approval.

Mr. President, still other examples exist, but I will not go into more detail. Suffice it to say that using parliamentary rulings to change Senate procedures without changing Senate rules is a well-established method for the Senate to govern itself. Should the majority leader, Senator FRIST, utilize it, he will be on solid ground. He will simply be relying upon the precedent that his predecessor, Senator BYRD, helped put on the books.

If the majority leader does utilize the Byrd option, nobody will be able to suggest, let alone charge, he is doing so precipitously. He has been patient, methodical, and even cautious when it comes to this important matter. Far from the image of trigger-happy warriors being used in some interest ads out there, the majority leader will utilize the Byrd option only after trying every conceivable alternative first, and he has done so.

The minority has had every opportunity to do what it says it wants to do; namely, debate these nominations. The nominees being filibustered, for example, include Texas Supreme Court Justice Priscilla Owen, nominated 1,474 days ago to a judicial position that has been vacant for more than 8 years—more than 8 years and considered a judicial emergency.

Justice Owen received a unanimous "well-qualified" rating from the American Bar Association, the highest rating they give, which our Democratic colleagues once called the gold standard for evaluating nominees. Let me repeat that. She was rated unanimously as "well-qualified" by the American Bar Association, which is not a conservative organization, and some are calling her "out of the mainstream." Give me a break.

Justice Owen was at the top of her law school class. She had the highest score on the Texas bar exam in 1977. She is supported by 15 past presidents of the Texas Bar Association, both Democrats and Republicans, and was endorsed for reelection by virtually every major newspaper in the State of Texas. Out of the mainstream? My gosh, she defines the mainstream.

I mention Justice Owen as an example, though her opponents use the same tactics against nominee after nominee. They claim that Justice Owen is what they call an extremist, or outside of the mainstream, most often by tallying up winners and losers in her judicial decisions. They say she rules too often on this side in criminal cases, too often on that side in civil cases, not enough for this or that political interest.

Whether Justice Owen is controversial, whether anybody considers her inside or outside of some kind of mainstream, these may be reasons to vote against her confirmation, not to refuse to vote at all. By the way, we have Senators on the Judiciary Committee—Democratic Senators—who believe that any business ought to be automatically found against, even if they are right under the law, that anybody who may be an unfortunate person ought to be found for even though they are wrong in the law.

That is not the way the law works. They criticize Justice Owen because, even though she has upheld the weak and the oppressed in many decisions in the Texas Supreme Court, she has upheld the law sometimes to the lament of those who think the weak and oppressed should win no matter what the law says. That is all you can ask of a judge.

The Judiciary Committee has more than once approved her nomination, and she deserves a vote in the Senate. But rather than give her a fair vote, those fearing they will lose are blocking it with a filibuster.

On April 8, 2003, Senator BENNETT, my colleague from Utah, asked the then-assistant minority leader, Senator REID, how much time the Democrats would require to debate the nomination fully. This is what he said:

> There is not a number of hours in the universe that would be sufficient [to debate this nominee].

They did not want to debate Justice Owen, they wanted to defeat her. Debate was not a means to the end of exercising advice and consent. It was an end in itself to prevent exercising advice and consent. The majority leader has made offer after offer after offer of more and more time, hoping that the tradition of full debate with an up-or-down vote would prevail. That hope is fading, as Democrats have rejected every single offer.

Finally, last month, the minority leader admitted that "this has never been about the length of the debate." That is what the minority leader said. It has never been about the length of the debate. That was said April 28, 2005.

Unanimous consent is the most common way we structure how we consider bills and nominations. Because the Democrats rejected that course, Majority Leader FRIST was forced to turn in March 2003 from seeking unanimous consent to the more formal procedure of motions to invoke cloture. During the 108th Congress, we took 20 cloture votes on 10 different appeals court nominations. More than 50, but fewer than 60, Senators supported every one of these motions.

In other words, there was bipartisan support for a vote up or down for each of those nominees. That was enough to confirm but not enough to end debate under the filibuster rules, misapplied here. The circle was complete, and the minority's strategy of using the filibuster to prevent confirmation of majority-supported judicial nominations was in full swing. Still the majority leader held off, resisting the growing calls to implement a deliberate solution to this unprecedented, unfair, and, frankly, outrageous filibuster blockade.

The election returns provided more evidence that the American people oppose using the filibuster to prevent fair up-or-down votes on judicial nominations. But hope that the voice of those we serve would change how we serve them was soon shattered. The minority made it clear that they would continue their filibuster campaign.

The minority can say this is a narrow effort focused on a few appeals court nominees. It is not. This is about the entire judicial confirmation process. It is about rigging that process so the minority can do what only the majority may legitimately do in our system of Government: determine how the Senate exercises its role of advice and consent.

It is the Constitution, not the party line or interest group pressure, not focus groups or interest group ad campaigns, that should guide us here. I have been told, for example, and I hope it is not true, that my friend from Nevada, the minority leader, may appear in a television ad created and paid for by the Alliance for Justice, one of the rabid leftwing groups involved in this obstruction campaign. I hope he will not do that. I think that would be regrettable. They are part of the problem here. They have virtually been against anybody for the circuit courts of appeal and many of the former nominees for the Supreme Court of the United States of America.

The Constitution assigns the nomination and appointment of judges to the President, not to the Senate. The Senate checks that power by deciding whether to consent to appointment of the President's nominees. We exercise this role by voting on confirmation. As such, filibusters designed to prevent confirmation of majority-supported judicial nominations undermine the separation of powers.

The Constitution helps us both evaluate the problem and highlight the solution. The Constitution gives the Senate authority to determine how we will do our business. That includes not only our written rules but also parliamentary precedents that change procedures without changing those rules.

Our Democratic colleagues have had literally dozens of opportunities to return to our confirmation tradition of up-or-down votes for judicial nominations reaching the Senate floor. They have chosen the path of confrontation rather than that of cooperation. They exercised the true nuclear option by blowing up two centuries of tradition. If the majority leader utilizes the Byrd option, it will truly be as a last resort, and it will be a constitutional means of solving an unconstitutional problem.

I go back in time because I was here when Senator BYRD was the minority leader. He had a tremendous majority of Democrats on the floor. When Ronald Reagan was President, he never once used the filibuster to stop Ronald Reagan's nominees, even though some of those nominations gave him and other Democrats tremendous angst. He utilized the power to vote against them. Whether he is right or wrong is almost irrelevant here. The fact is that he did what 214 years of Senate tradition required: he allowed those nominees to go ahead and have a vote. And, after all, that is what we need to do here.

What is wrong with giving these circuit courts of appeal nominees who have bipartisan support and the support of the American Bar Association simple up-or-down votes? If you do not agree with them, you have the right and power to vote against them, and that is the proper way to handle it. Let's not throw 214 years of tradition down the drain and, of course, let's not blow up the Senate if we do not get our way.

Mr. President, I notice the distinguished Senator from Montana is here. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from Utah. He laid out in pretty logical form what is at stake.

I have come to the Senate floor today to talk on an issue about which I seldom speak on this floor. I come to lend my voice maybe to break this impasse in which we find ourselves.

The Senate has dwelt and droned for endless hours with at times very inflammatory language of which some of us and folks in America, the viewing public, have no doubt become very weary.

I just got off an airplane from Montana. When I walked off that plane, I said it is time to act so we can move on to the business of addressing the issues that are pressing the times. We have run out of time and options, and now we must decide, and the hour is now.

I cannot remember a time when I read more history of the Senate than on this occasion or in this situation. Some have made statements that this has never happened before in our history. That is wrong because there have been some contentious times facing each and every Congress since our beginning, and Draconian actions were taken to deal with the issues of the dangerous times, times of great peril. We survived them, and we will survive this one also. That is the greatness of this country and the Senate because I think at times we underestimate our own abilities.

It just seems to me that in the Senate, we cannot allow a small minority to radically alter longstanding traditions just because it does not like a President or maybe his or her judicial nominees.

During the 108th Congress, the other side used the filibuster to block up-or-down votes on 10 nominations to the Federal appeals courts. All of these judicial nominees had bipartisan majority support. The Senate would have confirmed them had they been permitted a vote. And never in the history of this country has a judicial nominee with clear majority support been denied confirmation due to a filibuster.

Further, nearly one-third of President Bush's nominations to the courts of appeal were denied up-or-down votes. The Democrats used or threatened to use the filibuster. In that respect, President Bush now has the lowest appeals court confirmation rate for the first 4 years of any modern Presidency.

Has each judicial nomination been blocked due to improper qualifications? Everybody on this floor has talked about that, and the answer is no. Rather, each nomination has been blocked by a partisan few who are willing to change Senate tradition and custom of advice and consent imposing a 60-vote requirement on each nomination.

Every one of the judicial nominees being blocked by filibuster is of the highest academic and intellectual quality, and each represents a broad cross-section of American society.

More importantly, all these nominees have demonstrated that they respect the rule of law. They are committed to interpreting and applying the law as it relates to the Constitution of the United States of America. Those folks who want to say this is a constitutional amendment, go to article II, section 2, and read what it says.

The American people should know that for more than 200 years, the rule for confirming judges has been fair on an up-or-down vote. In the heart of every American I know, there is a common sense of fairness. These good people being nominated by President Bush are, at the very least, entitled to receive a vote. Whether you disagree or agree with the particular person being nominated for a judgeship, it is incumbent on this legislative body to provide full and fair open debate on the nomination and to then allow proper democratic procedures to take place.

We have heard words such as "rubberstamp." I do not think you could say that. Were minority leaders such as Howard Baker and Everett Dirksen and majority leaders such as ROBERT C. BYRD and Bob Dole rubberstamp Senators? I do not think so. I have heard the talk of the radical right. I wonder if there is a radical left also that grabs the ears of some folks.

Let there be no doubt about this issue—it is as clear as a Montana morning. It is obstructionism that has caused this crisis that looms over us today.

During the 108th Congress, 10 judicial nominations were either filibustered or threatened the use of filibuster, and 6 other nominations along with it. All of these nominations were supported by Senators of both parties and opposed only by a partisan minority. In fact, Judge Owen has received four votes in the Senate, and she carried the vote each time. Yet she is not on the Fifth Circuit Court of Appeals.

Look at William Myers. The President nominated the former Solicitor of the Interior Department for the Ninth Circuit. Mr. Myers, a distinguished attorney, is a nationally recognized expert in the area of natural resources and land use law. However, despite his long service as National Park Service volunteer and a lifetime of respect and enjoyment of the outdoors, the other side held his previous clients' positions against him and accused him of being hostile to the environment, therefore blocking his nomination and taking away the Senate's responsibility to give him a vote.

We have all heard about Priscilla Owen of Texas. She has already been voted on four times in this body and carried the vote every time. Janice Rogers Brown, a California Supreme Court justice, was nominated to the DC Circuit. The first African American to serve on the California high court, Justice Brown received public support of 76 percent of California voters.

I think I heard my good friend from Delaware say they have 2 Senators from California, and they each represent over 17 million people. She represented the whole State and got 76 percent. Yet she was denied a vote on this floor.

William Pryor, Judge Pryor, has been serving with distinction on the Eleventh Circuit since the President gave him a recess appointment in February of 2004. Previously, he served 6 years as an Alabama attorney general. Although he repeatedly demonstrated his ability to follow the law, he has been blocked by the Democrats' filibuster because he has "deeply held" beliefs, taking away the Senate's responsibility to vote for him.

One of the country's rising stars in the judicial world, Miguel Estrada, could be described as the finest, the best, and the brightest among his peers. This Honduran immigrant who went to Harvard Law School and clerked for the Supreme Court was debated on this Senate floor for more hours than any other judicial nomination in Senate history. After cloture votes repeatedly failed, he asked the President to withdraw his name from consideration, thereby allowing the other side to prevent the DC Circuit from having a very talented jurist to interpret and apply the law, again taking away our responsibility to vote for him.

What are we doing here? Are we dumbing down the judiciary when the best and the brightest have offered themselves to serve after they were nominated by this President?

Now we are faced with finding a solution to this so-called crisis. They have already admitted that the filibuster is not about the qualification of the judges. They just do not want these judges. They just do not want judges appointed to the court by President Bush. So if we allow this to continue, it will be acquiescing to the partisan minority's unilateral change in the Senate practices for the last 200 years, a 60-vote requirement to confirm judges when only a simple majority up-or-down vote has been the standard of practice in this Senate for a long time, and is also alluded to in the Constitution of the United States.

I would say the Constitution trumps any rule that we may make, that we put in place here for our rules of procedures and conduct. I think the Constitution trumps them. Now we find ourselves in this crisis. No more time. Now is the time to vote.

The Senate has demonstrated in the past that it need not stand by and allow a minority to redefine the traditions, rules, practices and procedures of the Senate.

The Constitution gives the Senate the power to set its own rules, procedures, and practices, and the Supreme Court has affirmed the continuous power of a majority of members to do so.

The exercise of a Senate majority's constitutional power to define Senate practices and procedures has come to be known as the "constitutional option."

The constitutional option can be exercised in several different ways, such as by creating precedents to effectuate the amendment of Senate Standing Rules or by creating precedents that address abuses of Senate customs by a minority of Senators. Regardless of the variant, the purpose of the constitutional option is the same—to reform Senate practices in the face of unforeseen abuses.

An exercise of the constitutional option under the current circumstances would return the Senate to the historic and constitutional confirmation standard of a simple majority for all judicial nominations.

Employing the constitutional option here would have no effect on the legislative filibuster because virtually every Senator would oppose such an elimination. Instead, the constitutional option's sole purpose would be the restoration of longstanding constitutional standards for advice and consent.

For more than 200 years, the rule for confirming judges has been a fair, up-or-down vote.

For over 200 years, the Senate has honored both the minority's right to debate and the full Senate's right to vote on judicial nominees. No other minority leader in American history has claimed that the right to debate equals the right to prevent the full Senate from exercising its constitutional duty to advise and consent.

For over 200 years, Senators did not filibuster judicial nominees. Was the Senate just a rubber stamp for its first 200 years? Did every Senate before the 108th Congress fail to carry out its constitutional duty to advise and consent? The answer is a resounding "no."

Further, for 70 percent of the twentieth century, the same party controlled both the White House and the Senate, yet Minority Leaders on both sides of the aisle did not filibuster the President's judicial nominees.

The choice is not between being a rubber stamp or filibustering a judicial nominee. For over 200 years, Senators agreed that the proper way to oppose a judicial nominee is to vote "no." They went to the floor and explained why they opposed the nominee. They tried to persuade their colleagues. They tried to persuade the American people. Then, they voted no. They did not filibuster or threaten to shut down the U.S. Senate.

Until now, every judicial nominee with support from a majority of Senators was confirmed. The majority-vote standard was used consistently throughout the 18th, 19th and 20th centuries—for every administration until President George W. Bush's judicial nominations were subjected to a 60-vote standard.

These good people, being nominated by President Bush, are at the very least entitled to receive a vote.

Whether you agree or disagree with the particular person being nominated for a judgeship, it is incumbent on this great legislative body to provide full, fair and open debate on the nomination and to then allow the proper democratic procedures to take place.

The Senate has demonstrated in the past that it need not stand by and allow a minority to redefine the traditions, rules, practices and procedures of the Senate.

The Constitution gives the Senate the power to set its own rules, procedures, and practices, and the Supreme Court has affirmed the continuous power of a majority of members to do so.

Because of this partisan minority, because of this obstructionism and because of the partisan minority's continued actions to take away the Senate's duty and responsibility to vote on the nominations before this great body, we face a crisis that has only 2 remedies:

Either the partisan minority allow the Senate to fulfill its duty and responsibility to vote on President Bush's judicial nominations by not continuously invoking the filibuster.

Or, the Senate must invoke the necessary and requisite constitutional option to prevent the tyranny of the minority and the radically altering of longstanding traditions of the United States Senate.

Accordingly, I rise today to strongly urge my colleagues to stop the obstructionism and to allow President Bush's judicial nominations receive a fair, up-or-down vote and, therefore, to allow this great legislative body to carry out its constitutional duty of advice and consent—a responsibility that we, as Senators, have been duly elected to uphold by the American people.

There is a little housekeeping we might do before my good friend, the Senator from Wisconsin, chooses to speak. I thank the Senator for that.

I ask unanimous consent I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928b, as amended, appoints the following Senator as Acting Vice Chairman to the NATO Parliamentary Assembly for the spring meeting in Ljubjana, Slovenia, May 2005: the Honorable PATRICK LEAHY of Vermont.

WELCOMING HIS EXCELLENCY HAMID KARZAI, THE PRESIDENT OF AFGHANISTAN

Mr. BURNS. I ask unanimous consent the Senate now proceed to consideration of S. Res. 152, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 152) welcoming His Excellency Hamid Karzai, the President of Afghanistan, and expressing support for a strong enduring strategic partnership between the United States and Afghanistan.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BURNS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 152) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follow:

S. RES. 152

Whereas Afghanistan has suffered the ravages of war, foreign occupation, and oppression;

Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, which helped to establish an environment in which the people of Afghanistan are building the foundations for a democratic government;

Whereas, on January 4, 2004, the Constitutional Loya Jirga of Afghanistan adopted a constitution that provides for equal rights for full participation of women, mandates full compliance with international norms for human and civil rights, establishes procedures for free and fair elections, creates a system of checks and balances between the executive, legislative, and judicial branches, encourages a free market economy and private enterprise, and obligates the state to prevent terrorist activity and the production and trafficking of narcotics;

Whereas, on October 9, 2004, approximately 8,400,000 Afghans, including nearly 3,500,000 women, voted in Afghanistan's first direct Presidential election at the national level, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility;

Whereas, on December 7, 2004, Hamid Karzai took the oath of office as the first democratically elected President in the history of Afghanistan;

Whereas nationwide parliamentary elections are planned in Afghanistan for September 2005, further demonstrating the Afghan people's will to live in a democratic state, and the commitment of the Government of Afghanistan to democratic norms;

Whereas the Government of Afghanistan is committed to halting the cultivation and trafficking of narcotics and has pursued, in cooperation with the United States and its allies, a wide range of counter-narcotics initiatives;

Whereas the United States and the international community are working to assist Afghanistan's counter-narcotics campaign by supporting programs to provide alternative livelihoods for farmers, sustainable economic development, and capable Afghan security forces; and

Whereas, on March 17, 2005, Secretary of State Condoleezza Rice said of Afghanistan "this country was once a source of terrorism; it is now a steadfast fighter against terrorism. There could be no better story than the story of Afghanistan in the last several years and there can be no better story than the story of American and Afghan friendship. It is a story of cooperation and friendship that will continue. We have a long-term commitment to this country": Now, therefore, be it

Resolved, That the Senate—

(1) welcomes, as an honored guest and valued friend of the United States, President Hamid Karzai on the occasion of his visit to the United States as the first democratically elected President of Afghanistan scheduled for May 21 through 25, 2005;

(2) supports a democratic, stable, and prosperous Afghanistan as essential to the security of the United States; and

(3) supports a strong and enduring strategic partnership between the United States and Afghanistan as a primary objective of both countries to advance their shared vision of peace, freedom, security and broad-based economic development in Afghanistan, the broader South Asia region, and throughout the world.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM REAUTHORIZATION ACT OF 2005

Mr. President, I ask unanimous consent the Senate now proceed to immediate consideration of Calendar No. 56, S. 188.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 188) to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

There being no objection, the Senate proceeded to consider the bill.

Mr. BURNS. I ask unanimous consent the Feinstein amendment at the desk be agreed to, the bill as amended be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 763) was agreed to, as follows:

(Purpose: To require that certain funds are used for correctional purposes)

At the end add the following new section:

SEC. 3. LIMITATION ON USE OF FUNDS.

Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(6)) is amended to read as follows:

"(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.".

The bill (S. 188), as amended, was read the third time and passed, as follows:

S. 188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Criminal Alien Assistance Program Reauthorization Act of 2005".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2005 THROUGH 2011.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking "appropriated" and all that follows through the period and inserting the following: "appropriated to carry out this subsection—

"(A) such sums as may be necessary for fiscal year 2005;

"(B) $750,000,000 for fiscal year 2006;

"(C) $850,000,000 for fiscal year 2007; and

"(D) $950,000,000 for each of the fiscal years 2008 through 2011.".

SEC. 3. LIMITATION ON USE OF FUNDS.

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"(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.".

ORDER OF PROCEDURE

Mr. BURNS. I ask unanimous consent that the majority leader be recognized at 5:30 p.m. today; provided further that from 6 to 7 this evening be under the control of the majority leader or his designee, that from 7 to 8 p.m. be under the Democratic control, with time continuing to rotate in that fashion until 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I yield the floor.

The PRESIDING OFFICER. The Chair will note the minority now controls 41 minutes.

The Senator from Wisconsin.

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Continued

Mr. KOHL. Mr. President, as passions rise higher and higher here in the Senate, I come to the floor today to urge that cooler heads prevail; to urge that the majority not take the fateful step they are contemplating; to urge that we step back from the cliff we are approaching, before it is too late.

We have all heard the arguments for and against a rule change that has been dubbed "the nuclear option." I will not reiterate those arguments here. But as someone who came to the Senate to get things done for real people, I have some experience trying to reach compromise on difficult issues. The heart of compromise is well known: one side cannot have all that they want. Yet the essence of the so called "nuclear option" is just that—one side wins, one party wins, one majority wins full power over who will sit on the Federal bench. The other side—the other party, the minority—is left powerless, silenced by a new rule that strips the minority of all power over judges. We all know that such an outcome is the opposite of moderation, the opposite of compromise, the opposite of bipartisanship. In short, the opposite of how to get things done in a way that encourages participation on both sides of the aisle.

There is no need to go down this troubled partisan path on judicial nominations and my own State of Wisconsin has shown us a smoother road for more than a quarter century. In all those years, Wisconsin has used a bipartisan nominating commission to force all sides to act in bipartisan cooperation when selecting judges. During the administrations of Democrats and Republicans, and during the tenure of Republican as well as Democratic Senators, we have used the Commission and succeeded in selecting well-qualified nominees who have been easily confirmed by the Senate in every case. Using this process, both political parties have been represented—the minority does not get to choose the nominee, but they can affect the choice and have their views count.

If we move forward with the proposed rule change—a change designed to bring about one-party rule whenever the Senate considers judges—we will silence a minority of the Senate and a majority of Americans. You see, the Democratic Senators in this body were elected by a majority of Americans. How will a majority of Americans speak up about judges who will sit in their districts, on the Seventh Circuit, on the Supreme Court, making decisions about their lives for generations to come if this rule change is made?

People all across our country—whether in the majority or the minority—deserve better. They deserve to have some say over who will sit in judgment over them. And they deserve more than that, they deserve a Senate that is working to solve the challenges they face every day, challenges like the skyrocketing cost of health care which leaves too many without coverage and even more struggling to pay for the coverage they have, challenges like factories closing and jobs that pay too little to support a family, challenges like the need to save for retirement in an age of disappearing pensions and job insecurity. These are among the problems we should be dealing with today.

So for the sake of those who need healthcare, for the sake of those working for too little, for the sake of those nearing retirement with fear and worry, I urge my colleagues to stop. Stop and listen. I hope you will hear what I hear, Americans asking for what they have always asked of the Senate—that it be a place where debate continues, passions cool, and compromise prevails for the good of all.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator will note the business at hand is the Priscilla Owen nomination, and the minority controls the time until 5:30.

Mr. LEAHY. I thank the distinguished Presiding Officer. I will take some of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the Senate is on a path toward a divisive and actually unnecessary showdown. I have been here long enough to know that if the vote on the Republican leader's nuclear option were by a secret ballot it would fail overwhelmingly. There are too many Senators who will tell you privately that on a secret ballot they would never vote for it. We know this because, as these Senators know, it is harmful to this institution and it is wrong for this country—wrong in terms of protecting the rights of the American people, wrong in terms of undercutting our fundamental system of checks and balances, wrong in terms of defending the independence of and public support for an independent Federal judiciary. But especially it is wrong in unilaterally destroying minority protections in the Senate in order to promote one-party rule, something this Senate has never known and has never wanted.

I have served in the Senate for almost 31 years. During that time, several times the Democrats were in charge of the Senate—in the majority. Several times the Republicans were. The hallmark of every leader, Republican or Democratic, was that the special minority protections of the Senate would remain. No matter who was in the majority, they believed they had as their obligation protecting the rights of the minority because that is what the Senate is all about. Every Senate majority leader took as his trust to make sure that when he left, the Senate had at least the strengths it had when he took over.

Today, Democratic Senators alone will not be able to rescue the Senate and our system of checks and balances from the breaking of the Senate rules the Republican leadership seem so insistent on demanding. It will take at least six Republicans standing up for fairness and for checks and balances. I know a number of Senators on the other side of the aisle know in their hearts that this nuclear option is the wrong way to go.

Senators on both sides of the aisle have called for the vote on the nuclear option to be one of principle rather than one of party loyalty, and for this to be a vote of conscience. I agree. To ensure that it is, I urge both the Republican leader from Tennessee and the Democratic leader from Nevada—both of whom are my friends—to announce publicly, today, in advance of the momentous vote that awaits us at the end of this debate, that every Senator should search his or her heart, his or her conscience, and vote accordingly.

I call on both the Democratic and Republican leaders to announce that there will be no retribution or punishment visited upon any Senator for his or her vote.

I remember in the aftermath of another vote, one I called at that time a profile in courage, when our friend, the senior Senator from Oregon, Mark Hatfield, cast the deciding vote against a proposed constitutional amendment. Ten years ago some of the newer Republican Senators at the time reportedly wanted to strip him of the chairmanship of the Appropriations Committee. The press at the time provided counsel to those newer Senators, some having recently arrived from the other Chamber, and who were accustomed to the way the Republican Party in that body operates, where everything is all or nothing.

At the time, some of those Members urged that Senator Hatfield be penalized for his vote of conscience, a vote they did not like. They thought conscience should be set aside, he should have toed the party line. I remember the unfair pressures brought to bear on Senator Hatfield. I do not want to see that befall other Senators, Republican or Democrat, whichever way they choose to vote on the nuclear option.

The Senate has its own carefully calibrated role in our system of Government. The Senate was not intended to function like the House. The Great Compromise of the Constitutional Convention more than 200 years ago was to create in the Senate a different legislative body from the House of Representatives. Those fundamental differences include equal representation for each State in accordance with article I, section 3. Thus, Vermont has equal numbers of Senators to New York or Idaho or California. The Founders intended this as a vital check. Representation in the Senate is not a function of population or based on the size of a State or its wealth.

Another key difference is the right to debate in the Senate. The filibuster is quintessentially a Senate practice. James Madison wrote in Federalist No. 63 that the Senate was intended to provide "interference of some temperate and respectable body of citizens" against "illicit advantage" and the "artful misrepresentations of interested men." It was designed and intended as a check, a balancing device, as a mechanism to promote consensus and to forge compromise.

The House of Representatives has a different and equally crucial function in our system. I respect the House and its traditions just as I respect and honor the Senate tradition. It is the Senate and only the Senate that has a special role in our legislative system to protect the rights of a minority from the divisive or intemperate acts of a headstrong majority.

As the Republican leader agreed in debate with Senator BYRD last week, there is no language in the Constitution that creates a right to a vote or a nomination or a bill. If there were such a right, if there were a right in the Constitution to require a vote, then Republicans violated that more than 60 times by 60 times refusing to have a vote on President Clinton's judicial nominees, by 60 pocket filibusters of Clinton judicial nominations and about 200 other executive nominations.

According to the Congressional Research Service, more than 500 judicial nominations for circuit and district court did not receive final Senate votes between 1945 and 2004. That is more than 500. It amounts to 18 percent of all overall nominations. By contrast, this President has seen more than 95 percent of his judicial nominations confirmed, 208 to date.

What the Republican leadership is seeking to do is to change the Senate rules in accordance with them but by breaking them. It is wrong that the Senators who refused to have votes on more than 60 of President Clinton's judicial nominees, and hundreds of his executive branch nominees, have only one Republican agenda now—to contend the votes and nominations are constitutionally required.

The Constitution hasn't changed from the time of the Clinton Presidency to Bush's Presidency, nor have the Senate rules been changed. That is why I like to keep the Senate autonomous and secure in a "nuclear free" zone.

The partisan power play now underway by Republicans will undermine the checks and balances established by the Founders of the Constitution. It is a giant leap toward one-party rule with an unfettered executive controlling all three branches of the Federal Government. It not only would demean the Senate and destroy the comity on which it depends, but it would undermine the strong, independent Federal judiciary protecting rights of liberties of all Americans against the overreaching of political branches.

It is saying, no matter whether you are Republican or Democrat or Independent in this country, only Republicans need apply because they will control the executive branch, the House of Representatives, the Senate, and now the independent Federal judiciary. That is what it comes down to. There will be no checks and balances on who goes on a Federal bench for a lifetime job, lifetime position. There will be no checks and balance. It will be, if you are a Republican, you can be on the Federal bench and help shape it; otherwise, forget about it.

This is not a country of one-party rule. I hope this country is never one of one-party rule. No democracy law exists if it is there by one-party rule.

Our Senate Parliamentarian, who is nonpartisan, our Congressional Research Service, which is there to serve both Republicans and Democrats, have said the so-called nuclear option would go against Senate precedent. In other words, to change the rule, you would have to break the rule. In other words, to say we are going to talk about how judges should judge, we will break our own laws to do it. What an example to a great and good country like ours. What an example to say we are somehow above the law.

What it is saying to the American people, you 280 million Americans, you follow the law, but 100 Senators are better than that. We don't have to follow the law. We stand above the law. In fact, if we don't like the law, we will break the law and make a new one.

Do our friends on the other side of the aisle want to so blatantly break the rules for short-term political gain? Do they desire to turn the Senate into a place where the parliamentary equivalent of brute force is whatever can be rammed through by partisan ramrodding and arm twisting?

We are not playing king of the hill. We are protecting the Constitution. We are protecting the best checks and balance of our Nation, the Senate, and we are doing it so we can remove the checks and balance of the Federal judiciary. What enormous stakes.

That is why I say if this were a secret ballot, the nuclear option would never pass. There are too many Senators who state privately in the cloakrooms, the dining room, and the Senate gym, they know this is wrong but they have to follow party discipline.

We did not come to this crossroad overnight. No Democratic Senator wanted to filibuster. Not one of us came to those votes easily. We hope we are never forced by an overaggressive executive and compliant majority into another filibuster over a judicial nomination. Filibusters, like the confrontation the Senate is being forced into over the last several days, are the direct result of a deliberate attack by the current administration and its supporters in the Senate against not only the traditions of the Senate but the rules: We are willing to break the rules that serve our purpose for the moment.

The nuclear option is the grand culmination of their efforts. It is intended to clear the way for this President to appoint a more extreme and more divisive choice—not only in the circuit courts of appeals but should a vacancy arise on the Supreme Court. That is not how the Senate has worked or should work.

I have been here with six Presidents. It has been the threat of a filibuster that has encouraged a President to moderate his choice and work with Senators on both sides of the aisle, both Republican and Democratic Senators. Of the six Presidents I have served with, five of them actually looked at the advice and consent clause and worked with Senators from both parties for both advice and consent of the judges. But this has been politicized and the Senate Republicans have systematically eliminated every other traditional protection for the minority. Now their target is a Senate filibuster, the only route that is left to allow a significant Senate minority to be heard.

Under pressure from the White House over the last 2 years prior to this year, the former Republican chairman of the Judiciary Committee led Senate Republicans in breaking the longstanding precedent and Senate tradition with respect to handling lifetime appointments to the Federal bench. Senate Republicans have had one set of practices to delay and defeat 61 of a Democratic President's moderate, qualified judge nominations. But then they suddenly switch gears and switch the rules to rubberstamp a Republican President's choices to lifetime judicial positions, including many who were very controversial.

The list of broken rules and precedents is long, including in the way the home State Senators were treated, the way hearings were scheduled, in the way the committee questionnaire was unilaterally altered, to the way the Judiciary Committee historic protection of the minority by committee rule IV was repeatedly violated. In the last Congress they destroyed virtually every custom and courtesy used throughout history to enforce cooperation and civility in the confirmation process.

For years, Democratic Senators have been warning that the deterioration of Senate rules and practices, if done away with, would also do away with the protection of minority rights.

So that is where we are. I have been proud to serve here both in the majority and the minority. I remember all the times when I was here as a member of the majority party, it was constantly drummed into us at our party caucuses, at party meetings, we have to maintain the Senate rules to protect the rights of the then minority, the Republicans.

It is amazing to me the Senate, the place that is supposed to be the conscience of our Nation, would allow a President, any President, to convince them to turn their back on precedent, on history, but also on their own rules.

We have always been a check and balance on Presidents. Now we have Senators who will tell you, quietly outside the Chamber, they are frustrated by taking orders from the White House and yet will not stand up and say no, we don't work for the White House. We are not appointed by the White House. We are elected by the people of our State. We swear on the oath to protect the Constitution. We are not protecting it when we break our own rules. We are not protecting the people of this country when we throw away the ability to have checks and balances. This is a serious mistake, and we will rue this day.

So at this ninth hour, I say to Senators: Vote your conscience. As I said earlier, if this was a secret ballot, the nuclear option would never pass. But vote your conscience. And again, I would urge both the Republican leader and the Democratic leader to announce on the floor of the Senate that nobody will be punished if they vote their conscience because, after all, why would anybody want to serve, why would anybody want to be 1 of 100 to represent 280 million Americans? Why would you want to serve in the Senate if you felt you could not vote your conscience? I will vote mine on this issue. I will vote to protect the rights of the minority—all minorities throughout this country. I will vote to uphold the law. I will vote to uphold the rules of the Senate. And I will vote to uphold that which causes us to have a check and balance where instead of rushing off the cliff following one person on either the right or the left, we seek the compromises that are best for this country.

I see the distinguished Senator from New York on the floor. I am perfectly willing to yield the remainder of my time to her.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I thank my friend from Vermont who has been a stalwart defender of the Constitution his entire public life. And as a member of the Judiciary Committee, as chair and ranking member, and all of his activities on behalf of this issue, he has demonstrated the highest level of leadership.

Mr. President, I started my day today in Newburg, NY, at the military headquarters of GEN George Washington. Many of the most important battles of the Revolutionary War were fought in New York, up and down the Hudson River Valley, the Champlain Valley, the Mohawk Valley, down into New York City, out on Long Island. Today, we were announcing legislation that I had sponsored here in the Senate with my friend and colleague, the senior Senator from Virginia, Mr. WARNER, to commemorate the Revolutionary War.

We were reminded at this event today of something called the Newburg Conspiracy. What was that? That was an effort by a small group of people to persuade George Washington to begin to assume the mantle of absolute power, to, in effect, become more like a king than what had been envisioned for this new Republic, a President and a system of government with checks and balances.

In one of his greatest speeches, then General Washington repudiated the Newburg Conspiracy and memorably said that we should all stand against any effort to consolidate power. We must stand for our Republic. And that Republic, which is unique in human history, has this unusual system of checks and balances that pit different parts of the Government against one another that, from the very beginning, recognized the importance of minority rights because, after all, that is what the Senate is, a guarantor of minority rights.

I represent 19 million people. Yet my vote is no more important than the Presiding Officer's or any of my other colleagues who may represent States with far fewer citizens because we have always understood that majority rule too easily can become abusive, that those in the majority and particularly those who lead that majority always believe that what they want is right by definition. It is what they fight for. It is what they care about. But we have understood, thanks to the genius of our Founders—great leaders such as George Washington—that human nature being what it is, we have to restrain ourselves, not only in the conduct of our day-to-day relations with one another but in the conduct of our government.

So we have created this rather cumbersome process of government. Sometimes people in a parliamentary system look at it and say: What is this about? You have a House of Representatives where you have majority rule, and then you have this Senate over here where people can slow things down, where they can debate, where they have something called the filibuster. It seems as if it is a little less than efficient.

Well, that is right. It is, and deliberately designed to be so, with the acute psychological understanding that every single one of us needs to be checked in the exercise of power, that despite what we may believe about our intentions and our views, not one of us has access to the absolute truth about any issue confronting us. So one of the ways we have protected the special quality of the Senate over all of these years is through unlimited debate, through the creation of rules that would make it possible for a minority to be heard, and more than that, create a supermajority for certain actions that the Constitution entrusts to the Senate, and, in particularly, the appointment of judges for lifetime tenure.

Now, why would you have a supermajority for judges? Again, I think it shows the genius of our Founders in their understanding of human nature. This is a position of such great importance, such overwhelming power and authority, that anyone who comes before this body should be able to obtain the support of 60 of our fellow Senators. It has worked well.

There have been people going back in American history, and not just back to the beginning but back just a few years into the Clinton administration, who I believe should have been confirmed as judges. The Senate decided not to. The President has sent us his nominees, and we have confirmed more than 95 percent of them. I voted against a number of them, but the vast majority were acceptable to more than 60 Members of this body.

What is happening now with this assault on the idea of the Senate, on the creation of this unique deliberative body that serves as a check and a balance to Presidential power, to the passions of the House, which has exercised the opportunity to create consensus with respect to judicial nominees, is that we have a President who is not satisfied with the way every other President has executed his authority when it comes to judicial nominees.

Many Presidents have not liked what the Senate has done to their judicial nominees. We can go back to Thomas Jefferson. Thomas Jefferson, one of our greatest Presidents, was really upset because John Adams appointed people Thomas Jefferson did not think should be on the Federal bench. He did not agree with their philosophy. He had personal problems with some of them and the relationships between them. So he tried to undue what his predecessor had done. And the Senate, recognizing what General Washington had understood back during the Revolutionary War, what the writers of the Constitution had understood in Philadelphia, said: No. Wait a minute, Mr. President. We are not substituting one king for another. We are trying something entirely different. You may get a little frustrated, but Presidential authority is not absolute, so we are going to expect you to abide by the rules.

Every President has faced these frustrations. Franklin Roosevelt, at the height of his power, with an overwhelmingly Democratic Congress, faced all kinds of setbacks from the judiciary, and he wanted to change them. He wanted to pack the courts, and the Democrats in the Senate, who put the Senate first, who put the Constitution first, said: No. Wait a minute. We admire you. You are saving our country. You are doing great things. But, no, we cannot let you go this far.

Well, today, we are here because another President is frustrated. He has gotten 95 percent of his judges. He wants 100 percent. I can understand that. That is the way a lot of people get when they have power. They want it all. If you are against him, then he thinks you are against everything he stands for as opposed to having legitimate disagreements.

So this President has come to the majority in the Senate and basically said: Change the rules. Do it the way I want it done. And I guess there were not very many voices on the other side of the aisle that acted the way previous generations of Senators have acted and said: Mr. President, we are with you. We support you. But that is a bridge too far. We cannot go there. You have to restrain yourself, Mr. President. We have confirmed 95 percent of your nominees. And if you cannot get 60 votes for a nominee, maybe you should think about who you are sending to us to be confirmed because for a lifetime appointment, 60 votes, bringing together a consensus of Senators from all regions of the country, who look at the same record and draw the same conclusion, means that perhaps that nominee should not be on the Federal bench.

But, no, apparently that is not the advice that has been given to the President. Instead, it looks as though we are about to have a showdown where the Senate is being asked to turn itself inside out, to ignore the precedent, to ignore the way our system has worked—the delicate balance we have obtained that has kept this constitutional system going—for immediate gratification of the present President.

When I was standing on the banks of the Hudson River this morning, looking at General Washington's headquarters, thinking about the sacrifice that he and so many others made, many giving the ultimate sacrifice of their life, for this Republic—if we can keep it, as Benjamin Franklin said—I felt as though I was in a parallel universe because I knew I was going to be getting on an airplane and coming back to Washington. And I knew the Republican majority was intent upon this showdown. I knew the President had chimed in today and said he wants up-or-down votes on his nominees. And I just had to hope that maybe between now and the time we have this vote there would be enough Senators who will say: Mr. President, no. We are sorry, we cannot go there. We are going to remember our Founders. We are going to remember what made this country great. We are going to maintain the integrity of the U.S. Senate.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand we have 1 minute left.

The PRESIDING OFFICER. The Senator has 1 minute 40 seconds, to be exact.

Mr. LEAHY. I thank the distinguished Presiding Officer, and I thank the Senator from New York for her comments.

Mr. President, I would simply reiterate what I said before. If the vote on the nuclear option was cast in secret, from everything I have been told by my fellow Senators, it would go down to crashing defeat. As Senators know, we have to break the rules to change the rules.

Again, I would just urge that both leaders, both the Republican and Democratic leaders, make it clear to their Members that nobody is going to be punished for a vote on conscience. I hope Senators will stand up and be a profile in courage, vote their conscience, and vote the right way.

Mr. President, the hour of 5:30 has arrived, so I yield the floor.

QUORUM CALL

Mr. President, I see the Republican leader is not on the floor yet, so I will suggest the absence of a quorum to accommodate him. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3 Ex.]

Baucus
Bingaman
Burr
Cantwell
Cochran
Cornyn
Dayton
Durbin
Frist
Gregg
Inouye
Kennedy
Leahy
Lincoln
Lott
Murkowski
Nelson, Nebraska
Pryor
Reid
Salazar
Schumer
Stabenow

The PRESIDING OFFICER. A quorum is not present.

Mr. FRIST. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mr. CORNYN), the Senator from Mississippi (Mr. LOTT), and the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted: "yea."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Arkansas (Mrs. LINCOLN), are necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 126 Ex.]

YEAS—90

Akaka
Alexander
Allard
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Coleman
Collins
Conrad
Corzine
Craig
Crapo
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Martinez
McCain
McConnell
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—1

Allen

NOT VOTING—9

Cochran
Cornyn
Dayton
Gregg
Inouye
Kennedy
Lincoln
Lott
Murkowski

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

Mr. FRIST. Mr. President, for the information of our colleagues, we will be voting around noon tomorrow on the cloture motion with respect to Priscilla Owen. We will be in session through the night, and time is roughly equally divided.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 6:04 p.m., recessed subject to the call of the Chair and reassembled at 6:13 p.m., when called to order by the Presiding Officer (Mr. THUNE).

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the previous order, with respect to the division of time, be modified to extend until 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I ask the Chair, what is the pending business?

The PRESIDING OFFICER. The pending business is the nomination of Judge Priscilla Owen to be U.S. circuit court judge.

Mr. McCONNELL. Mr. President, our colleagues complained that by affording any President's nominees a simple up-or-down vote, we are trying to stifle the right to debate, while I think it is worth noting that we have devoted 20 days—20 days—to the Owen nomination. So this is not about curtailing debating rights. This is about using the filibuster to kill nominations with which the minority disagrees so 41 Senators can dictate to the President whom he can nominate to the courts of appeal and to the Supreme Court.

If there is any doubt about this, I remind our colleagues that last year the distinguished minority leader said:

> There is not enough time in the universe—

"Not enough time in the universe" for the Senate to allow an up-or-down vote on the Owen nomination. So we should stop pretending this debate is simply about preserving debating prerogatives. It is clearly about killing nominations.

Our debate is about restoring the practice honored for 214 years in the Senate of having up-or-down votes on judicial nominees. Never before has a minority of Senators obstructed a judicial nominee who enjoyed clear majority support.

Our friends on the other side of the aisle recite a list of nominees on whom there were cloture votes, but the problem with their assertion that these nominees were filibustered is that the name of each of these nominees is now preceded by the title "judge," meaning, of course, they were confirmed.

So what my Democratic colleagues did last Congress is, indeed, unprecedented. Even with controversial nominees, the leaders of both parties historically have worked together to afford them the courtesy of an up-or-down vote.

When he was minority leader, Senator BYRD worked with majority leader Howard Baker to afford nominees an up-or-down vote, even when they did not have a supermajority, nominees such as J. Harvey Wilkinson, Alex Kozinski, Sidney Fitzwater, and Daniel Manion.

As Senator BYRD knows, it is not easy being the majority or minority leader. He, Senator BYRD, could have filibustered every one of those nominations but he did not. Instead, he chose to exercise principled and restrained leadership of the Democratic caucus when he was minority leader. I would like to compliment Senator BYRD for that decision.

Affording controversial judicial nominees the dignity of an up-or-down vote did not stop, however, with Senator BYRD. It was true as recently as 2000, when Senator LOTT worked to stop Senators on our side of the aisle, the Republican side, who sought to filibuster the Paez and Berzon nominations. But, in 2001, as the New York Times has reported, our Democratic colleagues decided to change the Senate's ground rules, a media report they have yet to deny.

Just 2 years later, after they had lost control of the Senate, our Democratic colleagues began to filibuster qualified judicial nominees who enjoyed clear majority support here in the Senate. They did so on a repeated partisan and systematic basis. After 214 years of precedent, in a span of a mere 16 months, they filibustered 10 circuit court nominees—totally without precedence. Many of these nominees would fill vacancies that the administrative offices of the courts have designated as judicial emergencies, including several to the long-suffering Sixth Circuit Court of Appeals, in which my State is located. As a result, President Bush has the lowest percentage of circuit court nominees confirmed in modern history, a paltry 69 percent.

The Senate, as we all know, works not just through the application of its written rules but through the shared observance of well-settled traditions and practices. There are a lot of things one can do to gum up the works here in the Senate, a lot of things you could do. But what typically happens is we exercise self-restraint, and we do not engage in that kind of behavior because invoking certain obstructionist tactics would upset the Senate's unwritten rules. Filibustering judicial nominees with majority support falls in that category. Let me repeat, it could have always been done. For 214 years, we could have done it, but we did not. We could have, but we did not.

By filibustering 10 qualified judicial nominees in only 16 months, our Democratic colleagues have broken this unwritten rule. This is not the first time a minority of Senators has upset a Senate tradition or practice, and the current Senate majority intends to do what the majority in the Senate has often done—use its constitutional authority under article I, section 5, to reform Senate procedure by a simple majority vote.

Despite the incredulous protestations of our Democratic colleagues, the Senate has repeatedly adjusted its rules as circumstances dictate. The first Senate adopted its rules by majority vote, rules, I might add, which specifically provided a means to end debate instantly by simple majority vote. That was the first Senate way back at the beginning of our country. That was Senate rule VIII, the ability to move the previous question and end debate.

Two decades later, early in the 1800s, the possibility of a filibuster arose through inadvertence—the Senate's failure to renew Senate rule VIII in 1806 on the grounds that the Senate had hardly ever needed to use it in the first place.

In 1917, the Senate adopted its first restraint on filibuster, its first cloture rule—that is, a means for stopping debate—after Senator Thomas Walsh, a Democrat from Montana, forced the Senate to consider invoking its authority on article I, section 5, to simply change Senate procedure. Specifically, in response to concerns that Germany was to begin unrestricted submarine warfare against American shipping, President Wilson sought to arm merchant ships so they could defend themselves. The legislation became known as the armed ship bill.

However, 11 Senators who wanted to avoid American involvement in the First World War filibustered the bill. Think about this. In 1917, there was no cloture rule at all. The Senate functioned entirely by unanimous consent. So how did the Senate overcome the determined opposition of 11 isolationist Senators who refused to give consent to President Wilson to arm ships? How did they do it?

Senator Walsh made clear the Senate would exercise its constitutional authority under article I, section 5, to reform its practices by simple majority vote. A past Senate could not, he concluded, take away the right of a future Senate to govern itself by passing rules that tied the hands of a new Senate. He said:

> A majority may adopt the rules in the first place. It is preposterous to assert that they may deny future majorities the right to change them.

What he said makes elementary good sense. Because Walsh made clear he was prepared to end debate by majority vote, both political parties arranged to have an up-or-down vote on a formal cloture rule. Senator Clinton Anderson, a Democrat from New Mexico, noted years later that "Walsh won without firing a shot." And Senator Paul Douglas, a Democrat from Illinois, observed also years later that consent was given in 1917 because a minority of obstructing Senators had Senator Walsh's proposal "hanging over their heads."

I know that the Senate's 1970 cloture rule did not pertain to a President's nominations, nor did any Senators, during the debate on the adoption of the 1917 cloture rule, discuss its possible application to nominations. This was not because Senators wanted to preserve the right to filibuster nominees. Rather, Senators did not discuss applying the cloture rule to nominations because the notion of filibustering nominations was alien to them. It never occurred to anybody that that would be done.

In the middle of the 20th century, Senators of both parties, on a nearly biennial basis, invoked article I, section 5 constitutional rulemaking authority. Their efforts were born out of frustration of the repeated filibustering of civil rights legislation to protect black Americans. A minority of Senators had filibustered legislation to protect black voters at the end of the 19th century. They had filibustered antilynching bills in 1922, 1935, and 1938; antipoll tax bills in 1942, 1944 and 1946; and antirace discrimination bills.

In 1959, Majority Leader Lyndon Johnson agreed to reduce the number required for cloture to two-thirds of Senators who were present and voting because he was faced with a possibility that a majority would exercise its constitutional authority to reform Senate procedure. He knew the constitutional option was possible.

Additionally, the Senate had voted four times for the proposition that the majority has the authority to change Senate procedures. For example, in 1969, Senators were again trying to reduce the standard for cloture—that is, the rule to cut off debate—from 67 down to 60. To shut off debate on this proposed rule change, Democratic Senator Frank Church from Idaho secured a ruling from the Presiding Officer, Democratic Vice President and former Senator Hubert Humphrey, that a majority could shut off debate, irrespective of the much higher cloture requirement under the standing rules. A majority of Senators then voted to invoke cloture by a vote of 51 to 47 in accord with the ruling of Vice President Humphrey. This was the first time the Senate voted in favor of a simple majority procedure to end debate.

The Senate reversed Vice President Humphrey's ruling on appeal. But as Senator KENNEDY later noted:

> This subsequent vote only cemented the principle that a simple majority could determine the Senate's rules.

Senator KENNEDY said:

> Although [Vice President Humphrey's] ruling may have been reversed, the reversal was accomplished by a majority of the Senate. In other words, majority rule prevailed on the issue of the Senate's power to change its rules.

Senator KENNEDY made this observation in 1975, when reformers were still trying to reduce the level for cloture from 67 down to 60. Reformers had been thwarted in their effort to lower this standard for several years.

In 1975, once again, Senate Democrats asserted the constitutional authority of the majority to determine Senate procedure in order to ensure an up-or-down vote. The Senate eventually adopted a three-fifths cloture rule—that is, 60 votes to cut off debate—but only after the Senate had voted on three separate occasions in favor of the principle that a simple majority could end debate. They had voted on three separate occasions that a simple majority could end debate, after which it was a compromise establishing the level at 60.

The chief proponent of this principle was former Democratic Senator Walter Mondale and four current Democratic Senators voted in favor of it: Senator BIDEN, Senator LEAHY, Senator KENNEDY, and Senator INOUYE. Indeed, Senator KENNEDY was an especially forceful adherent to the constitutional authority of the Senate majority to govern—a mere majority. He asked:

> By what logic can the Senate of 1917 or 1949 bind the Senate of 1975?

That was Senator KENNEDY. He then echoed Senator Walsh's observation from almost 60 years earlier:

> A majority may adopt the Rules in the first place. It is preposterous to assert that they may deny to later majorities the right to change them.

Finally, referring to unanimous consent constraints that faced the Senate in 1917, Senator KENNEDY made an astute observation as to why a majority of the Senate had to have rulemaking authority. Senator KENNEDY said:

> Surely no one would claim that a rule adopted by one Senate, prohibiting changes in the rules except by unanimous consent, could be binding on future Senates. If not, then why should one Senate be able to bind future Senates to a rule that such change can be made only by a two-thirds vote?

Recently, the authority to which I have been referring has been called the "constitutional option," or the pejorative term, "nuclear option." But while the authority of the majority to determine Senate procedures has long been recognized, most often in Senate history by our colleagues on the other side of the aisle—incidentally, it was the senior Senator from West Virginia who employed this constitutional authority most recently, most effectively, and most frequently.

Senator BYRD employed the constitutional option four times in the late 1970s and 1980s. The context varied but three common elements were present each time: First, there was a change in Senate procedure through a point of order rather than through a textual change to Senate rules; second, the change was achieved through a simple majority vote; third, the change in procedure curtailed the options of Senators, including their ability to mount different types of filibusters or otherwise pursue minority rights.

The first time Senator BYRD employed the constitutional option was in 1977 to eliminate postcloture filibuster by amendment. Senate rule XXII provides once cloture is invoked, each Member is limited to 1 hour of debate, and it prohibits dilatory and nongermane amendments. But because Democratic Senators Howard Metzenbaum of Ohio and James Abourezk of South Dakota opposed deregulating natural gas prices, they used existing Senate procedures to delay passage of a bill that would have done so after cloture had been invoked. They stalled debate by repeatedly offering amendments without debating them, thereabout delaying the postcloture clock.

If points of order were made against the amendments, they simply appealed the ruling of the Chair which was debatable, and if there were a motion to table the appeal then there would have to be rollcall votes. Neither of these options would consume any postcloture time.

After 13 days of filibustering by amendment, the Senate had suffered through 121 rollcall votes and endured 34 live quorums with no end in sight.

Under then existing precedent, the Presiding Officer had to wait for a Senator to make a point of order before ruling an amendment out of order. By creating a precedent, Senator BYRD changed that procedure. He enlisted the aid of Vice President Walter Mondale as Presiding Officer and made a point of order that the Presiding Officer now had to take the initiative to rule amendments out of order that the Chair deemed dilatory. Vice President Mondale sustained Senator BYRD's new point of order. Senator Abourezk appealed, but his appeal was tabled by majority vote. The use of this constitutional option set a new precedent. It allowed the Presiding Officer to rule amendments out of order to crush postcloture filibusters.

With this new precedent in hand, Senator BYRD began calling up amendments, and Vice President Mondale began ruling them out of order. With Vice President Mondale's help, Senator BYRD disposed of 33 amendments, making short work of the Metzenbaum-Abourezk filibuster.

Years later, Senator BYRD discussed how he created new precedent to break this filibuster. This is what Senator BYRD said years later about what he did.

> I have seen filibusters. I have helped to break them.

There are a few Senators in this body who were here when I broke the filibuster on the natural gas bill. . . .I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters.

> And the filibuster was broken—back, neck, legs, and arms. It went away in 12 hours.
>
> So I know something about filibusters. I helped to set a great many of the precedents that are in the books here.

That is Senator BYRD on his effort—one of his efforts—involving the use of the constitutional option.

Although Senator BYRD acted within his rights, his actions were certainly controversial. His Democrat colleague, Senator Abourezk, complained that Senator BYRD had changed the entire rules of the Senate during the heat of the debate on a majority vote. And according to Senator BYRD's own history of the Senate, the book that he wrote that we all admire so greatly, he and Vice President Mondale were severely criticized for the extraordinary actions taken to break the postcloture filibusters.

Some might argue that in 1977 Senator BYRD was not subscribing to the constitutional option. However, the procedure he employed, making a point of order, securing a ruling from the Chair, and tabling the appeal by a simple majority vote, is the same procedure the current Senate majority may use. Moreover, 15 months later, Senator BYRD expressly embraced the Senate majority's rulemaking authority.

Back in January of 1979, Majority Leader Byrd proposed a Senate rule to greatly reform debate procedure. His proposed rules change might have been filibustered, so he reserved the right to use the constitutional option. Here is what he said.

> I base this resolution on Article I, Section 5 of the Constitution. There is no higher law, insofar as our government is concerned, than the Constitution.
>
> The Senate rules are subordinate to the Constitution of the United States. The Constitution in Article I, section 5, says that each House shall determine the rules of its proceedings. . . . This Congress is not obliged to be bound by the dead hand of the past. . . .

Senator BYRD did not come to his conclusion lightly. In fact, in 1975 he had argued against the constitutional option but faced with a filibuster in 1979 he said he had simply changed his mind. This is what he had to say:

> I have not always taken that position but I take it today in light of recent bitter experience. . . . So, I say to Senators again that the time has come to change the rules. I want to change them in an orderly fashion. I want a time agreement.
>
> But, barring that, if I have to be forced into a corner to try for majority vote I will do it because I am going to do my duty as I see my duty, whether I win or lose. . . . If we can only change an abominable rule by majority vote, that is in the interests of the Senate and in the interests of the Nation that the majority must work its will. And it will work its will.

Senator BYRD did not have to use the constitutional option in early 1979 because the Senate relented under the looming threat and agreed to consider his proposed rule change through regular order.

As another example, in 1980, Senator BYRD created a new precedent that is the most applicable to the current dispute in the Senate. This use of the constitutional option eliminated the possibility that one could filibuster a motion to proceed to a nomination. We are on a nomination now on the Executive Calendar. The reason it was not possible to filibuster a motion to proceed to that nomination, we can thank Senator BYRD in 1980 when he exercised the constitutional option to simply get rid of the ability to filibuster a motion to proceed to an item on the Executive Calendar.

Before March of 1980, reaching a nomination required two separate motions, a nondebatable motion to proceed to executive session, which could not be filibustered and which would put the Senate on its first treaty on the calendar; and a second debatable motion to proceed to a particular nominee which could be filibustered.

Senator BYRD changed this precedent by conflating these two motions, one of which was debatable, into one nondebatable motion. Specifically, he made a motion to go directly into executive session to consider the first nominee on the calendar. Senator Jesse Helms made a point of order that this was improper under Senate precedent; a Senator could not use a nondebatable motion to specify the business he wanted to conduct on the Executive Calendar. The Presiding Officer sustained Senator Helms's point of order under Senate rules and precedence.

In a party-line vote, Senator BYRD overturned the ruling on appeal. And because of this change in precedent, it effectively is no longer possible to filibuster the motion to proceed to a nominee.

So where are we? There are other examples where our distinguished colleague used the Senate's authority to reform its procedures by a simple majority vote. We on this side of the aisle may have to employ the same procedure in order to restore the practice of affording judicial nominees an up-or-down vote. We did not cavalierly decide to use the constitutional option. Like Senator BYRD in 1979, we arrived at this point after "recent bitter experience," to quote Senator BYRD, and only after numerous attempts to resolve this problem through other means had failed.

Here is all we have done in recent times to restore up-or-down vote for judges: We have offered generous unanimous consent requests. We have had weeks of debate. In fact, we spent 20 days on the current nominee. The majority leader offered the Frist-Miller rule compromise. All of these were rejected. The Specter protocols, which would guarantee that nominations were not bottled up in committee, was offered by the majority leader. That was rejected; Negotiations with the new leader, Senator REID, hoping to change the practice from the previous leadership in the previous Congress, that was rejected; the Frist Fairness Rule compromise, all of these were rejected.

Now, unfortunately, none of these efforts have, at least as of this moment, borne any fruit.

Our Democrat colleagues seem intent on changing the ground rules, as the New York Times laid it out in 2002. They want to change the ground rules as they did in the previous Congress in how we treat judicial nominations.

We are intent on going back to the way the Senate operated quite comfortably for 214 years. There were occasional filibusters but cloture was filed and on every occasion where the nominee enjoyed majority support in the Senate cloture was invoked. We will have an opportunity to do that in the morning with cloture on Priscilla Owen. Colleagues on both sides of the aisle who want to diffuse this controversy have a way to do it in the morning, and that is to do what we did for 214 years. If there was a controversial nominee, cloture was filed, cloture was invoked, and that controversial nominee got an up-or-down vote.

Mr. GRASSLEY. Mr. President, will the Senator yield for a question?

Mr. MCCONNELL. I am happy to yield.

Mr. GRASSLEY. One of the things that the public at large can get confused about is that we are going to eliminate the use of the filibuster entirely. I have seen some of the "527" commercials advising constituents to get hold of their Congressman because minority rights are going to be trampled.

I, obviously, find that ludicrous. I know this debate is not about changing anything dealing with legislation. It is just maintaining the system we have had in the Senate on judges for 214 years. I wonder if the Senator would clear up that we are talking just about judicial nominees, and not even all judicial nominees, and nothing to change the filibuster on legislation.

Mr. MCCONNELL. I say to my friend from Iowa, if the majority leader does have to exercise the constitutional option and ask us to support it, it will be narrowly crafted to effect only circuit court appointments and the Supreme Court, which are, after all, the only areas where there has been a problem.

I further say to my friend from Iowa, in the years I have been in the Senate, the only time anyone has tried to get rid of the entire filibuster was back in 1995 when such a measure was offered by the other side of the aisle.

Interestingly enough, the principal beneficiaries of getting rid of the filibuster in January of 1995 would have been our party because we had just come back to power in the Senate, yet not a single Republican, not one, voted to get rid of the filibuster. Nineteen Democrats did, two of whom, Senator KENNEDY and Senator KERRY, are still in the Senate and now arguing, I guess, the exact opposite of their vote a mere 10 years ago.

Mr. GRASSLEY. So when we just came back into the majority, after the 1994 election, there was an effort by Democrats to eliminate the filibuster?

Mr. MCCONNELL. Entirely.

Mr. GRASSLEY. For everything, including legislation.

Mr. MCCONNELL. Right.

Mr. GRASSLEY. We were the new majority.

Mr. MCCONNELL. Right.

Mr. GRASSLEY. And we would have benefited very much from that. It would have given us an opportunity to get anything done that we could get 51 votes for doing, with no impediment, and we voted against that?

Mr. MCCONNELL. Unanimously. And interestingly enough, it was the first vote cast by our now-Senate majority leader, Senator FRIST, here in the Senate. The very first vote he cast, along with the rest of us on this side of the aisle, was to keep the filibuster.

Mr. GRASSLEY. So I think that ought to make it clear we are just talking about the unprecedented use of the filibuster within the last 2 years. We are not talking about changing anything in regard to filibusters on legislation because we understand that is where you can work compromises. You cannot really work compromises when it comes to an individual—is it either up or down. But you can change words, you can change paragraphs, you can rewrite an entire bill to get to 60, to get to finality, on any piece of legislation.

Mr. MCCONNELL. My friend from Iowa is entirely correct. The filibuster would be preserved for all legislative items, preserved for executive branch nominations, not for the judiciary. It would be preserved even for district court judges, where Senators have historically played a special role in either selecting or blocking district judges. All of that would be preserved. If we have to exercise the constitutional option tomorrow, it will be narrowly crafted to deal only with future Supreme Court appointments and circuit court appointments, which is where we believe the aberrational behavior has been occurring in the past and may occur in the future.

Mr. GRASSLEY. And maintain the practice of the Senate as it has been for 214 years prior to 2 years ago.

Mr. MCCONNELL. That is precisely the point. My friend from Iowa is entirely correct.

Mr. GRASSLEY. I thank the Senator.

Mr. HATCH. Will the assistant majority leader yield for a question?

Mr. MCCONNELL. Yes.

Mr. HATCH. Just to make it clear, there are two calendars in the Senate. One is the legislative calendar and the other is the Executive Calendar; is that correct?

Mr. MCCONNELL. That is correct.

Mr. HATCH. The legislative calendar is the main calendar for the Senate, and it is solely the Senate's; is that correct?

Mr. MCCONNELL. That is correct.

Mr. HATCH. But the Executive Calendar involves nominations through the nomination power granted by the Constitution to the President of the United States, and the Senate has the power to advise and consent on that nomination power, is that right, to exercise that power?

Mr. MCCONNELL. That is entirely correct.

Mr. HATCH. What we are talking about here is strictly the Executive Calendar, ending the inappropriate filibusters on the Executive Calendar and certainly not ending them on the legislative calendar?

Mr. MCCONNELL. My friend from Utah is entirely correct.

Mr. HATCH. Well, our Democratic friends argue—just to change the subject a little bit here—they argue we have to institute the judicial filibuster to maintain the principle of checks and balances as provided in the Constitution. But unless my recollection of events is different, this contention does not fit with the historical record.

Isn't it the case that the same party has often been in the White House and in the majority in the Senate, such as today, but in the past, while the same party has controlled the White House and been a majority in the Senate, neither party, Democrats or Republicans, over the years, has filibustered judicial nominations until this President's term?

Mr. MCCONNELL. My friend is entirely correct. The temptation may have been there. I would say to my friend from Utah, the temptation may have been there.

Mr. HATCH. Right.

Mr. MCCONNELL. During the 20th century, the same party controlled the executive branch and the Senate 70 percent of the time. Seventy percent of the time, in the 20th century, the same party had the White House and a majority in the Senate. So I am sure—by the way, that aggrieved minority in the Senate, for most of the time, was our party, the Republican Party.

Mr. HATCH. You got that right.

Mr. MCCONNELL. We are hoping for a better century in the 21st century. But it was mostly our party. So there had to have been temptation, from time to time, and frustration, on the part of the minority. Seventy percent of the time, in the 20th century, they could have employed this tactic that was used in the last Congress but did not.

Senator BYRD led the minority during a good portion of the Reagan administration. Actually, during all of the Reagan administration, 6 years in the minority, 2 years in the majority, Senator BYRD could have done that at any point. He did not do it, to his credit. To his credit, he did not yield to the temptation.

As I often say, there are plenty of things we could do around here, but we do not do it because it is not good to do it, even though it is arguably permissible. So when our friends on the other side of the aisle say the filibuster has been around since 1806, they are right. It is just that we did not exercise the option because we thought it was irresponsible.

Mr. HATCH. Not quite right because the filibuster rule did not come into effect until 1917.

Mr. MCCONNELL. No. The ability to stop the filibuster did not come about until 1917. The ability to filibuster came about in 1806.

Mr. HATCH. Well, Senators had the right to speak, and they could speak.

Mr. MCCONNELL. Absolutely.

Mr. HATCH. So in a sense it was not even known as a filibuster at that time. Nevertheless, they had the right to speak.

To follow up on what you just said, we heard repeatedly from liberal interest groups that we must maintain the filibuster to maintain "checks and balances." My understanding of the Constitution's checks and balances is that they were designed to enable one branch of Government to restrain another branch of Government. Are there really any constitutional checks that empower a minority within one of those branches to prevent the other branch from functioning properly?

Mr. MCCONNELL. Well, my friend from Utah is again entirely correct. The term "checks and balances" has actually nothing to do with what happened to circuit court appointments during the previous Congress. The term "checks and balances" means institutional checks against each other, the Congress versus the President, the judiciary versus both—the balance of power among the branches of Government. It has nothing whatsoever to do with the process to which the Senate has been subjected in the last few years. It is simply a term that is inapplicable to the dilemma in which we find ourselves now.

Mr. HATCH. One last point. The 13 illustrations that the Democrats on the other side have given that they have said are filibusters, if I recall it correctly, 12 of those 13 are now sitting on the Federal bench, as you have said; is that correct?

Mr. MCCONNELL. I say to my friend from Utah, as far as I can determine, for every judge who enjoyed majority support, upon which there was subsequently a filibuster, cloture was invoked, and all of those individuals now enjoy the title "judge."

Mr. HATCH. In other words, they are sitting on benches today?

Mr. MCCONNELL. Because they ultimately got an up-or-down vote. I would say to my friend from Utah, we will have an opportunity tomorrow, in the late morning, to handle the Priscilla Owen nomination the way our party, at your suggestion and Senator LOTT's suggestion, toward the end of the Clinton years, handled the Berzon and Paez nominations. They had controversy about them, just as this nomination has controversy about it.

How did we deal with controversy? We invoked cloture. And I remember you and Senator LOTT saying, to substantial grief from some, that these judge candidates had gotten out of committee, and they were entitled to an up-or-down vote on the floor. Senator LOTT joined Senator Daschle and filed cloture on both of those nominations, not for the purpose of defeating them but for the purpose of advancing them. They both got an up-or-down vote. They both are now called judge.

Mr. HATCH. So the cloture votes in those instances were floor management devices to get to a vote so we could vote those nominations to the bench?

Mr. MCCONNELL. For the purpose of advancing the nominations, not defeating them.

Mr. HATCH. So they were hardly filibusters in that sense?

Mr. MCCONNELL. They were not. They were situations which do occur, from time to time, where a nominee has some objection. And around here, if anybody objects, it could conceivably end up in a cloture vote.

Mr. HATCH. And spend a lot of time on the Senate floor.

Mr. MCCONNELL. Yes. It does not mean the nomination is on the way to nowhere. It could mean the nomination is on the way to somewhere because you invoke cloture and then you get an up-or-down vote. And I remember you, as chairman of the Judiciary Committee, advocating that step, even though we all ended up, many of us, voting against those nominations once we got to the up-or-down vote.

Mr. HATCH. Advocating the step that we should invoke cloture and give these people a vote up or down?

Mr. MCCONNELL. Precisely.

Mr. HATCH. One last thing. As to the 13, 12 of them are sitting on the bench. The 13th that they mentioned was the Fortas nomination. In that case, there was the question of whether there was or was not a filibuster. But let's give them the benefit of the doubt and say there was a filibuster, since there are those who do say there was, although the leader of the fight, Senator Griffin, at the time said they were not filibustering, that they wanted 2 more days of debate, and they were capable and they had the votes to win up or down—

Mr. MCCONNELL. He withdrew, didn't he?

Mr. HATCH. He did. But what happened was there was one cloture vote, and it was not invoked. But even if you consider it a filibuster, the fact is, it was not a leader-led filibuster. It was a nomination that was filibustered—if it was a filibuster—almost equally by Democrats and Republicans.

Mr. MCCONNELL. And isn't it also true, I ask my friend from Utah, that it was apparent that Justice Fortas did not enjoy majority support in the Senate and would have been defeated?

Mr. HATCH. That is right.

Mr. MCCONNELL. Had he not withdrawn his nomination.

Mr. HATCH. The important thing here is it was a bipartisan filibuster against a nominee by both parties, and in these particular cases, these are leader-led partisan filibusters led by the other party.

Mr. MCCONNELL. I thank my colleague.

Mr. SESSIONS. Mr. President, will the Senator yield?

Mr. MCCONNELL. I am happy to yield.

Mr. SESSIONS. I hope Senator HATCH will remain because he has been, much of the first years of my career in the Senate, chairman of the Senate Judiciary Committee. I think it is important to drive home what you have been discussing. I think it is so important.

First, I will say to the distinguished assistant majority leader how much I appreciate his comprehensive history of debate in the Senate. I think it is invaluable for everyone here. But I remember the Berzon and Paez nominations. Both of those were nominees to the Ninth Circuit. Judge Paez, a magistrate judge, declared that he was an activist himself, as I recall, and even said that if legislation does not act, judges have a right to act. And the Supreme Court had reversed the Ninth Circuit 28 out of 29 times one year and consistently reversed them more than any other circuit in America. And here we had an ACLU counsel, in Marsha Berzon, and Paez being nominated.

There was a lot of controversy over that. We had a big fuss over that. We had an objection. I voted for 95 percent of President Clinton's nominees, but I did not vote for these two. I remember we had a conference.

I will ask the assistant majority leader—we were having House Members saying: Why don't you guys filibuster? People out in the streets were saying: Don't let them put these activist judges on the bench. We had our colleagues saying it. I did not know what to do. I was new to the Senate. Do you remember that conference when we had the majority in the Senate, and President Clinton was of the other party and we were not in minority like the Democrats are today—we had the majority—and Senator HATCH explained to us the history of filibusters, why we never used them against judges, and urged us not to filibuster those Clinton nominees?

Mr. MCCONNELL. I remember it well. I would say, our colleague from Utah got a little grief for that from a number of members on our side of the aisle who were desperately looking for some way to sink those nominations. And he said: Don't do it. Don't do it. You will live to regret it. And thanks to his good advice, we never took the Senate to the level—never descended to the level that the Senate has been in the previous Congress.

Mr. SESSIONS. Let me ask this, with the presence of the distinguished former chairman of the Judiciary Committee in the Chamber. At that very moment when it was to the Republican interests to initiate a filibuster, if we chose to do so, at that moment, when he was, on principle, opposing it, the very Members of the opposite party, leading Senators on that side—Senator LEAHY and Senator KENNEDY and Senator FEINSTEIN and Senator BOXER—were making speeches saying how bad the filibuster was and how it should not be done.

Mr. MCCONNELL. I would say to my friend that is why we have been quoting them so much in all of our speeches on this side of the aisle. You could just change the names, and they could have been giving our speeches as recently as 1998, 1999, and even 2000.

Mr. SESSIONS. I could not agree more. A half-dozen years ago, the people who are leading the filibuster were the very ones objecting to it. But Senator HATCH and the Republicans, isn't it fair to say, have been consistent?

Mr. MCCONNELL. Absolutely. Let's just be fair here. I would say to both of my colleagues, without getting into the details of any particular nomination, that I think the Democrats have arguably a legitimate complaint—it has a patina of legitimacy—when they argue that we simply did in committee what they are doing on the floor.

The PRESIDING OFFICER. The time controlled by the majority has now expired.

Mr. MCCONNELL. Mr. President, I ask unanimous consent for an additional 5 minutes.

Mr. LAUTENBERG. I didn't hear that.

Mr. MCCONNELL. I ask unanimous consent for 5 more minutes.

Mr. LAUTENBERG. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. They argue that we simply did in committee what they are doing on the floor, and that there is not a dime's worth of difference between holding up a nominee in committee and holding up a nominee on the floor. I think there are some distinctions to be made.

It is not entirely the same thing, but granting that that might have some legitimacy, the majority leader offered these Specter protocols with which the former chairman of the Judiciary Committee is intimately familiar, which would have guaranteed some kind of procedure to extricate those nominations from committee and bring them out to the floor and give them an up-or-down vote. We are in the majority, and we volunteered to give up the ability to routinely kill nominations in committee. Yet they turned that down, too.

Mr. HATCH. Will the Senator yield on that point?

Mr. McCONNELL. I yield for a question.

Mr. HATCH. The fact is, there have always been holdovers at the end of every administration. There were 54 holdovers at the end of the Bush 1 administration, and he was only there 4 years. We didn't cry and moan and groan and threaten to blow up the Senate over that. We recognized it was part of the process.

I have to say with regard to the holdovers that were there at the end of the Clinton administration, there were some which they could have gotten through, but there were like 18 that were withdrawn. Ten withdrew their names. Some were not put up again between the two administrations. There is no question that I tried to do the very best I could to give President Clinton every possible edge.

But this has always been the case. It isn't just this time. It happened with Democrats in control of the Senate and Republicans in control of the White House. I think that point needs to be made. I have heard a lot of moaning and groaning. I know my colleagues know I did everything in my power to accommodate them and help them.

Mr. McCONNELL. I believe that is entirely correct. The only point I was seeking to make was if that criticism had any validity whatsoever—and the former chairman has pointed out that it has very little legitimacy—the distinguished majority leader offered to make that essentially impossible, and yet that was rejected as well.

Mr. SESSIONS. Will the Senator yield for one more question?

Mr. McCONNELL. Yes.

Mr. SESSIONS. Isn't it true that Trent Lott, the Republican majority leader, sought cloture to give Berzon and Paez an up-or-down vote, and those of us who opposed Berzon and Paez, as the Senator from Kentucky did, voted for cloture to give them an up-or-down vote and then voted against them when they came up for the up-or-down vote?

Mr. McCONNELL. The Senator is entirely correct. That is the way I voted. I believe that is the way he voted. That is the way the Senate ought to operate. That is a good model for how we ought to behave tomorrow. We will have a cloture vote on Justice Priscilla Owen. If the Senate wants to operate the way it used to, we will invoke cloture on Justice Owen and then give her the up-or-down vote which she richly deserves.

I yield the floor.

Mr. FRIST. Mr. President, more than 2 years ago, this Senate first took a cloture vote to end a filibuster on the nomination of Miguel Estrada for a seat on the DC Circuit Court of Appeals. Mr. Estrada epitomizes the American dream. An immigrant from Honduras, who arrived in America speaking no English, he graduated from Harvard Law School and became one of America's most distinguished lawyers. Mr. Estrada worked for Solicitors General under both President Bill Clinton and President George W. Bush. He argued 15 cases before the Supreme Court. The American Bar Association gave him its highest recommendation, and Miguel Estrada's confirmation by a bipartisan majority of the full Senate was assured.

But the confirmation vote never came. Instead, Mr. Estrada's nomination was filibustered. Each time we sought a consent agreement to limit debate, the Democratic leadership objected. We asked over and over for a simple up or down vote. If you oppose the nominee, we stressed, then vote against him, but give him a vote. But the partisan minority refused. In open session, they remarked that no amount of debate time would be sufficient and that they would not permit the Senate to vote.

After 13 days of debate, with no end in sight, I filed a cloture motion. Every Republican and a handful of Democrats voted for cloture, bringing us to 55 affirmative votes, 5 short of the 60 we needed. Shortly thereafter, we tried again. We got the same 55 votes. And then we tried five more times, never budging a single vote. It was crystal clear that the object of the filibuster was not to illuminate Mr. Estrada's record but to deny him an up or down vote. Debate was not the objective. Obstruction was the objective. Finally, to the shame of the Senate and the harm of the American people, Mr. Estrada asked President Bush to withdraw his nomination.

Before the last Congress, the record number of cloture votes on a judicial nomination was two, and no nomination with clear majority support ever died by filibuster. The Estrada case rewrote that tradition, and for the worse. On Miguel Estrada, seven cloture votes were taken, to no avail. He was a nominee who plainly could have been confirmed, but he was denied an up or down vote. Miguel Estrada's nomination died by filibuster.

And Mr. Estrada's case was just the beginning. After him, came the nomination of Priscilla Owen, a Justice on the Texas Supreme Court. Four cloture votes did not bring an end to the debate and we again were told on the record that no amount of debate would be enough and a confirmation vote simply would not be allowed. Thereafter, eight additional nominees were filibustered and Democrats threatened filibusters on six more. Something had radically changed in the way the Senate deals with nominations. Two hundred years of Senate custom lay shattered, with grave implications for our constitutional system of checks and balances.

As the filibusters began to mushroom, Democratic Senator Zell Miller and I introduced a cloture reform resolution. Our proposal would have permitted an end to nominations filibusters after reasonable and substantial debate. The Rules Committee held a hearing on our resolution and reported it with an affirmative recommendation. But the proposal languished on the Senate Calendar, facing a certain filibuster from Senators opposed to cloture reform. Quite simply, those who undertook to filibuster these nominees wanted no impediments put in their way.

When Congress convened this January, I was urged to move immediately for a change in Senate procedure so that these unprecedented filibusters could not be repeated. But I decided on a more measured and less confrontational course. Rather than move immediately to change procedure, I promoted dialogue at the leadership and committee level to seek a solution to this problem. Rather than act on the record of the last Congress, I hoped that the passage of a clearly won election and presence of new Democratic leadership would result in a sense of fairness being restored.

Sadly, these hopes were not fulfilled. More filibusters have been promised, not only against seven nominees President Bush has resubmitted but also against other nominees not yet sent up. A renewal of filibusters against persons denied an up or down vote in the last Congress is a grave problem and would be reason enough for reform. Threatening filibusters against new nominees compounds the wrong and is further reason for reform.

For many decades, two great Senate traditions existed side by side. These were a general respect for the filibuster and a consensus that nominations brought to the floor would receive an up-or-down vote. Filibusters have been periodically conducted on legislation, sometimes successfully and sometimes ended by cloture. However, filibusters have not impeded the Senate's advice and consent role on nominations. In the exceedingly rare cases they were attempted, cloture was always invoked with bipartisan support and the filibusters ceased.

But in the last Congress, judicial filibusters became instruments of partisan politics. Organized and promoted by the Democratic leadership, these filibusters proved resilient to cloture. And that was the difference between these filibusters and the handful of judicial filibusters conducted in the past. For example, to close debate on President Clinton's nominees, Marsha Berzon and Richard Paez, the Republican leader, Senator LOTT, took the initiative to file for cloture. Because he acted to conclude the debate, both Berzon and Paez sit on the bench today.

Due to the current filibusters, two great Senate traditions that used to coexist now collide. If matters are left in this posture, either the power of advice and consent will yield to the filibuster or the filibuster will yield to advice and consent.

Until these judicial filibusters were launched, the Senate observed the principle that filibusters would not impede the exercise of constitutional confirmation powers and that a majority of Senators could vote to confirm or reject a nominee brought to the floor. The unparalleled filibusters undermine that tradition, denying nominees the courtesy of an up or down vote. They represent an effort by a Senate minority to obstruct the duty of the full Senate to advise and consent. The current minority claims it has no choice but to filibuster, because Republicans control the White House and Senate. But the minority's conclusion defies history.

For 70 of the 100 years of the last century, the same party controlled the Presidency and the Senate, but the minority party leadership exercised restraint and refused to filibuster judicial nominees. The past half century amply illustrates this point. During the Kennedy and Johnson administrations, Democrats controlled the Senate, but the Republican Minority Leaders Everett Dirksen did not filibuster judicial nominees. While President Carter was in office, Democrats controlled the Senate, but Republican Leader Howard Baker did not filibuster judicial nominees. For President Reagan's first 6 years, Republicans controlled the Senate, but Democratic Leader ROBERT BYRD did not filibuster judicial nominees. In President Clinton's first 2 years, Democrats had the Senate but Republican Leader Bob Dole did not filibuster judicial nominees. During all those years, all those Congresses, and all those Presidencies, nominees brought to the floor got an up-or-down vote.

Each of those Senate minorities could have done what this minority has done, using the same rationale. But none of them did. To the great detriment of the Senate and to the constitutional principle of checks and balances, such self-restraint has vanished.

Democrats argue that by curbing judicial filibusters, we would turn the Senate into a rubberstamp. But for more than two centuries, those filibusters did not exist. Shall we conclude that for 200 years the Senate was a rubberstamp and only now has awakened to its responsibilities? What of those minority leaders who did not filibuster? Were they also rubberstamps? Was Dirksen? Was Baker? Was BYRD? Was Dole? Can the minority be right that only through the filibuster may the Senate's advice and consent check be vindicated? This is a novel conclusion and it stains the reputation of the great Senators that have preceded us.

To make their case against curbs on judicial filibusters, Democrats try to reach into history. In so doing, they cite the 1968 nomination of Abe Fortas to be Chief Justice of the U.S. Supreme Court, and Franklin Roosevelt's court-packing plan of 1937. But use of these examples is an overreach and draws false comparisons.

In 1968, Abe Fortas was serving on the Supreme Court as an Associate Justice. Three years earlier, he had been confirmed by the Senate by voice vote, following a unanimous affirmative recommendation from the Judiciary Committee. Then Chief Justice Earl Warren announced his retirement, effective on the appointment of his successor. President Lyndon Johnson proposed to elevate Fortas to succeed Warren.

The noncontroversial nominee of 1965 became the highly controversial nominee of 1968. Justice Fortas was caught in a political perfect storm. Some Senators raised questions of ethics. Others complained about cronyism. Yet others were concerned about Warren Court decisions. And still others thought that with the election looming weeks away, a new President should fill the Warren vacancy. But this political perfect storm was thoroughly bipartisan in nature, and reflected concerns from certain Republicans as well as numerous southern and northern Democrats.

Senator Mike Mansfield brought the Fortas nomination to the Senate floor late on September 24, 1968. After only 2 full days of debate, Mansfield filed a cloture motion. Almost a third of the 26 Senators who signed the cloture motion were Republicans, including the Republican whip. The vote on cloture was 45 yeas and 43 nays, well short of the two-thirds then needed to close debate. Nearly a third of Republicans supported cloture, including the Republican whip. Nearly a third of Democrats opposed it, including the Democratic whip. Of the 43 negative votes on cloture, 24 were Republican and 19 were Democratic.

Opponents of cloture claimed that debate had been too short in order to develop the full case against the Fortas nomination. In contrast to the Miguel Estrada and Priscilla Owen filibusters, no one claimed that debate would go on endlessly and that no amount of time would be sufficient. Indeed, those who opposed cloture denied there was a filibuster at all.

So, Mr. President, the Fortas case is not analogous to the judicial filibusters we now confront. Support for and opposition to Fortas was broadly bipartisan, a fact that stands in stark contrast to the partisan filibusters that began in the last Congress as an instrument of party policy. At most, it was opposition to one man, and was not an effort to leverage judicial appointments through the threat of a filibuster-veto. The Fortas opposition came together in one aberrational moment. Nothing like it happened in the previous 180 years and nothing like it happened for the next 35 years. Absolutely, it did not represent a sustained effort by a minority party to shatter Senate confirmation traditions and exercise a filibuster-veto destructive of checks and balances. No comparison can be made between that single aberrational moment and the pattern of judicial filibusters we now confront.

Democrats also contend that if we move against the judicial filibusters, we will follow in the footsteps of Franklin Roosevelt's attempt to pack the Supreme Court. But this is a scare tactic and it, too, is a comparison without basis.

Frustrated by the Supreme Court's ruling unconstitutional several New Deal measures, President Roosevelt sought legislation to pack the court by appointing a new Justice for every sitting Justice over the age of 70. In a fireside chat, he compared the three branches of government to a three horse team pulling a plow. Unless all three horses pulled in the same direction, the plow could not move. To synchronize all the horses, Roosevelt proposed to pack the court.

Roosevelt's effort was a direct assault on the independence of the judiciary and plainly undermined the principles of separation of powers and checks and balances. He failed in a Senate with 76 Members of his own party. But no good analogy can be drawn between what he attempted and our effort to end judicial filibusters.

Unlike Roosevelt, Republicans are not trying to undermine the separation of powers. And unlike Roosevelt, Republicans are not trying to destabilize checks and balances, but to restore them.

Mr. President, that the judicial filibusters undermine a longstanding Senate tradition is evident. But traditions are not laudable merely because they are old. This tradition is important because it underpins a vital constitutional principle that the President shall nominate, subject to the advice and consent of the Senate. When filibusters are used to block a vote, the advice and consent of the Senate is not possible.

A cloture vote to end a filibuster is not advice and consent within the Constitution's meaning. Notwithstanding the minority's claim, nominees denied a confirmation vote due to filibuster have not been "rejected." Instead, what has been rejected is the constitutional right of all Senators to vote up or down on the nominees.

To require a cloture threshold of 60 votes for confirmation disturbs checks and balances between the Executive and the Senate and creates a strong potential for tyranny by the minority. A minority may hold hostage the nomination process, threatening to undermine judicial independence by filibustering any appointment that does not meet particular ideological or litmus tests.

This is not a theoretical problem. Look what has happened already. Asserting claims that nominees from the last Congress were "rejected," Democrats have urged President Bush to withdraw the nominations he has submitted anew. If he does not, they will ensure the nominees are denied a confirmation vote. It is but a tiny step from there to claim that any nominee must first secure minority clearance, or else be filibustered. And at that point, the nominating power effectively passes to the Senate minority. If Senate traditions are not restored, this audacious and unprecedented assertion of minority power is coming next, and Presidents will be subject to it from now on.

The Constitution provides that a duly elected Executive shall nominate, subject to advice and consent by a majority of the Senate. Implicit in that structure is that the President and the Senate shall be politically accountable to the American people, and that accountability will be a sufficient check on the decisions made by each of them. That was the system by which we Americans addressed nominations for more than two centuries, until the last Congress. If we allow recent precedents to harden and give the minority a filibuster-veto in the confirmation process, that system and the checks and balances it serves, will be permanently destroyed.

Trying to legitimize their judicial filibusters, Democrats have taken to the floor to extol the virtue of filibusters generally. And as to legislative filibusters, I agree with them. But judicial filibusters are not cut from the same cloth as legislative filibusters and must not receive similar treatment. So, I concur with the sentiments Senator Mansfield expressed during the Fortas debate:

> In the past, the Senate has discussed, debated and sometimes agonized, but it has always voted on the merits. No Senator or group of Senators has ever usurped that constitutional prerogative. That unbroken tradition, in my opinion, merely reflects on the part of the Senate the distinction heretofore recognized between its constitutional responsibility to confirm or reject a nominee and its role in the enactment of new and far-reaching legislative proposals.

Mr. President, history demonstrates that filibusters have almost exclusively been applied against the Senate's own constitutional prerogative to initiate legislation, and not against nominations. The Frist-Miller cloture reform proposal from the last Congress dealt with nominations only, not legislation and not treaties. We addressed solely what was broken. Over many decades, numerous cloture reforms have been proposed. But ours was the only one to apply strictly to nominations. We left legislative filibusters alone.

Contrary to what Democrats would have you believe, no Republican seeks to end legislative filibusters. The Democrats are creating a myth. These are the facts: my first Senate vote was to defeat a 1995 rules change proposal to curtail filibusters of every kind. Introduced by Democrats, it received 19 votes, all from Democrats. In 1995, we had a new Republican majority. We would have been the prime beneficiaries of the rules change, but we supported minority rights to filibuster on legislation. Some of the Senators who most vigorously promote judicial filibusters and condemn us for trying to restore Senate traditions, were among those voting for the 1995 change. And here is the irony: had the 1995 change been adopted, the judicial filibusters would be impossible.

Some who oppose filibuster reform do so because they fear that curbing judicial filibusters will necessarily lead to ending the right to filibuster legislation. But history strongly suggests this slippery slope argument is groundless. In 1980, under the leadership of Senator BYRD and on a partisan vote, Senate Democrats engineered creation of a precedent to bar debate on a motion to proceed to a nomination. Before then, the potential existed for extended debate on the motion to proceed to a nomination and again on the nomination itself. Indeed, debate on the Fortas nomination occurred on the motion to proceed. The 1980 precedent rendered such debate impossible.

Simple logic would dictate that a parallel precedent would be established next, to bar debate on motions to proceed to legislation. But that logic was not followed. The Byrd precedent of 1980 has stood for 25 years and no move has ever been made to extend it to legislation. Why not? I suggest there are two reasons. First, the Senate has recognized substantial distinctions between procedures applicable to Executive matters—nominations and treaties—and those applicable to legislation. Second, within the Senate there is no discernible political sentiment to curtail the right to debate a motion to proceed to legislation.

Given those substantial procedural distinctions and the absence of such political sentiment, the spillover from the 1980 Byrd precedent has been nil.

There is a further reason why I do not believe curbing judicial filibusters implicates legislation. For 22 years, between 1953 and 1975, floor fights over the cloture rule were a biennial ritual. Finally, in 1975, the rule was amended to require 60 votes before cloture could be invoked. A bipartisan consensus gathered around the new cloture threshold and, at least as to legislation, this consensus has held fast. That is the principal cause why the 1995 effort by certain Democrats to liberalize the cloture rule got only 19 votes. Indeed, both the Republican and Democratic leadership opposed it.

The 30-year bipartisan consensus on cloture has unraveled on judges, where filibusters are new, but it remains intact on legislation, where filibusters are traditional. While no one can be sure what procedural changes a future majority may propose, this consensus is so broad and longstanding that predictions of a move against the legislative filibuster lack basis.

Finally, Mr. President, I will repeat what I have said in a series of public statements both on this floor and to the press: the Republican majority will oppose any effort to restrict filibusters on legislation.

All this, Mr. President, brings us to the question of how to address the problem of judicial filibusters. What might reform look like and how might the Senate adopt it?

A good place to start is with first principles. In the case of judicial nominations, I believe the foundational principle is that if a majority of Senators wishes to exercise its right to advise and consent to a nomination, it must be able to do so.

To that end, I have offered a Fairness Rule, which takes account of complaints set forth by both parties. My proposal addresses the question of holding nominations in committee, so that nominations can move to the floor for a conformation vote. By this step, the Senate would respond specifically to concerns Democrats have voiced about the treatment of Clinton nominees. So, if a majority of Senators wishes to advise and consent, committee inaction would not block it. Thereafter, a majority can bring a nomination to the floor. After 100 hours of debate, equally divided, the Senate can vote up or down on the nominee. This step responds specifically to concerns Republicans have had about filibusters of Bush nominees.

The Fairness Rule is the product of listening to the often rancorous arguments expressed by Democrats and Republicans. It would reform the confirmation process fairly and completely, and well serve this and future Senates and this and future Presidents.

The cycle of blame and finger-pointing must halt. We must stop nursing grievances and start addressing problems. Thus far, the Fairness Rule has received an unwelcoming response. I urge the minority to reconsider. I urge them to join hands with us in dissipating bitter partisanship by considering this proposal.

For some time, the issue of judicial filibusters has captured considerable attention in the Senate. Both parties have had substantial opportunities to think about reform. so we can initiate consideration of it through the committee process and should be able to move ahead with alacrity.

But to act on reform by this method. we must have a unanimous consent agreement that allows time for debate, a chance for amendment, and the certainty of a final vote. An agreement can provide for robust, principled, and lengthy discussion. Without an agreement, any reform we bring to the floor is subject to being filibustered itself.

So. I ask the minority for an agreement to move matters forward. It represents an opportunity. much desired by Senators on both sides of the aisle, to avoid a confrontation on judges. But if the answer is obstruction, then we are faced with having to initiate exercise of the Senate's constitutional option—best understood as reliance on the power the Constitution gives the Senate to govern its own proceedings.

The Senate is an evolving institution. Its rules and processes are not a straitjacket. Over time, adjustments have occurred in Senate procedure to reflect changes in Senate behavior. Tactics no longer limited by self-restraint became constrained by rules and precedents. This Senate, equal to the first Senate, has the constitutional right to determine how it wishes to conduct its business.

Self-governance involves writing rules or establishing precedents, and the Constitution fully grants to the Senate the power to do either.

Democrats contend that if the constitutional option is used to restore checks and balances, Republicans would be veering into unchartered waters. But history is rich with examples of how Senate rules and precedents have changed in response to changing conditions. And quite often, it was the credible threat or actual use of the constitutional option that caused these changes to be made.

The cloture rule itself was created in 1917, under pressure from Montana Democrat Thomas Walsh. Fed up with obstruction and with the prospect that any effort to amend Senate rules would be filibustered, Walsh proposed exercising the constitutional option. Old Senate rules would not operate while the Senate considered new rules, including a cloture procedure. Meanwhile, general parliamentary law would govern—affording the Senate a way to break the rules change filibuster. Faced with that pressure, and with an appropriate parliamentary tool at hand, the Senate adopted its first cloture rule.

As the issue of civil rights gripped the Senate in the 1950s, a bipartisan group of Senate liberals, led by New Mexico Democrat Clinton Anderson, proposed using the constitutional option to liberalize a cloture process, because filibusters had either doomed or weakened civil rights legislation. Anderson's support grew throughout the decade. By 1959, it was apparent he might command a majority, which forced Senator Lyndon Johnson into a compromise by which the cloture threshold was relaxed. But for the credible threat the constitutional option would be exercised, the rules change would not have happened.

In 1975, Minnesota Democrat Walter Mondale and Kansas Republican Jim Pearson pressed for cloture reform through the constitutional option. Majority Leader Mike Mansfield, who earlier in his career had supported this tactic, offered three separate points of order against it. Three times, those points of order were tabled. With a majority of Senators squarely on record supporting the constitutional option, the Majority Whip, Senator BYRD, offered a successful leadership compromise to lower the cloture threshold. But for the constitutional option, the change would not have happened.

In 1979, Majority Leader BYRD sought to make a variety of rules reforms, principally with regard to cloture. Introducing a rules change resolution, he beseeched Republicans for a time agreement to consider it. But he also expressly warned that, if an agreement were not forthcoming, he would use the constitutional option to change the rules. Minority Republicans did not threaten to shut the Senate down. Instead, they gave him an agreement, from which followed a lengthy and spirited debate. In the end, the cloture rule was amended—a change that happened under pressure from the constitutional option.

From this history, one must conclude that the threat or use of the constitutional option was a critical factor in the creation and development of the Senate cloture rule.

The constitutional option is also exercised every time the Senate creates a precedent. Four examples will illustrate the point. I have spoken already of Senator BYRD's 1980 precedent to bar debate on motions to proceed to nominations. In 1977, 1979, and 1987 he led a Senate majority to establish precedents that restricted minority rights and tactics in use at the time. We do not have to pass judgment on the purposes or value of any of these moves to note the following: three of these cases were decided on a party-line or near party-line vote. Moreover, every time Senator BYRD commanded a majority to make these precedents, minority rights were limited.

We have been publicly threatened that if we act to end judicial filibusters, Democrats will fundamentally shut the Senate down. To follow their logic, if we expect to get the public's business done, we must tolerate upending Senate traditions and constitutional checks and balances.

I would strongly prefer that matters not come to that. It would be far better for the Senate to have a vigorous and elevated debate about reforming the entire confirmation process, followed by a vote. I am ready for that debate and willing to schedule the floor time necessary to make it happen.

Mr. President, I introduced the Frist-Miller cloture reform proposal nearly 2 years ago, on May 9, 2003. The problem of judicial filibusters had just taken root. At the time, I said that I was acting with regret but determination. Regret, because no one who loves the Senate can but regret the need to alter its procedures, even if to restore old traditions. Determination, because I was determined that the changes judicial filibusters had wrought in the Senate could not become standard operating procedure in this Chamber.

Since then, the Senate majority has exercised self-restraint, hoping for a bipartisan understanding that would make procedural changes unnecessary. But if an extended hand is rebuffed, we cannot take rejection for an answer.

Much is at stake in resolving the issue of judicial filibusters. Senator Mansfield spoke to this issue during the Fortas debate in 1968. His words are instructive now:

> I reiterate we have a constitutional obligation to consent or not to consent to this nomination. We may evade that obligation but we cannot deny it. As for any post, the question which must be faced is simply: Is the man qualified for the appointed position? That is the only question. It cannot be hedged, hemmed or hawed. There is one question: shall we consent to this Presidential appointment? A Senator or group of Senators may frustrate the Senate indefinitely in the exercise of its constitutional obligation with respect to this question. In so doing, they presume great personal privilege at the expense of the responsibilities of the Senate as a whole, and at the expense of the constitutional structure of the Federal government.

Mr. President. exercising the constitutional option to restore Senate traditions would be an act of last resort. It would be undertaken only if every reasonable step to otherwise resolve this impasse is exhausted. At stake are the twin principles of separation of powers as well as checks and balances bedrock foundations for the Constitution itself. And at stake is our duty as Senators of advice and consent, to confirm a President's nominee or reject her, but at long last to give her a vote.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, the debate bounces back and forth, and we hear the complaints about the change in the system, one that has been in existence for some 200 years. It was formally adopted in the early part of the 20th century.

I see the fact that the traditions and rules of the Senate are, frankly, in deep jeopardy. The current majority leader is threatening to annihilate over 200 years of tradition in this Senate by getting rid of our right to extended debate. The Senate that will be here as a result of this nuclear option will be a dreary, bitter, far more partisan landscape, even though it obviously prevents us from operating with any kind of consensus. It will only serve to make politics in Washington much more difficult.

One has to wonder, what happened to the claims that were made so frequently, particularly in the election year 2000, when then-candidate Bush, now President, talked about being a uniter, not a divider? It has been constantly referenced. "I want to unite the American people, not divide them."

With this abuse of power, the majority is about to further divide our Nation with the precision of a sledgehammer.

I want the American people to understand what is going to happen on the floor of the Senate if things go as planned. Vice President CHENEY, whom we rarely see in this Chamber, is going to come here for the specific purpose of breaking existing rules for the operation of the Senate. He is going to sit in the Presiding Officer's chair and do something that, frankly, I don't remember in my more than 20 years in the Senate. He could intentionally misstate, if what we hear is what we are going to get, the rules of the Senate.

Think about the irony. Vice President CHENEY gets to help nominate Federal judges. Then when the Senate objects to the administration's choices, he is going to come over here and break our rules to let his judges through. Talk about abuse of power. The Founding Fathers would shudder at the thought of this scenario. It runs counter to the entire philosophy of our Constitution. Our Constitution created a system that they thought would make it impossible for a President to abuse his powers.

Tomorrow, we are going to see what amounts to a coup d'etat, a takeover right here in the Senate. The Senate, just like society at large, has rules. We make laws here and we brag about the fact that this is a country of laws. We make laws here and expect Americans to follow them. But now the majority leader wants the Senate to make it easier for the Republican Senators to change the rules when you don't like the way the game is going. What kind of an example does that set for the country? Some may ask if we don't follow our own rules, why should the average American follow the rules that we make here?

If the majority leader wants to change the rules, there is a legal way to do it. A controversial Senate rule change is supposed to go through the Rules Committee. Once it reaches the full Senate for consideration, it needs 67 votes to go into effect. But rather than follow the rules, Vice President CHENEY will break the rules from his position as the Presiding Officer and change the rules by fiat. In other words, we will see an attempt to overthrow the Senate as we know it.

Hopefully, some courageous Senators will step forward, vote their conscience, and put a stop to this once and for all. There are several people who disagree with their leader on the Republican side, and they have expressed their unwillingness to go through with this muscular takeover of the Senate.

It is unbefitting the body. President Bush and the majority leader want to get rid of the filibuster because it is the only thing standing between them and absolute control of our Government and our Nation. They think the Senate should be a rubberstamp for the President. That is not what our Founders intended. It is an abuse of power, and it is wrong, whether a Republican or a Democrat lives in the White House.

I say to the American people: Please, get past the process debate here. Let's not forget how important our Federal judges are. They make decisions about what rights we have under our Constitution. They make decisions about whether our education and environmental laws will be enforced. They make decisions about whether we continue to have health care as we know it. And sometimes, let us not forget, they may even step in to decide a Presidential election.

The Constitution says the Senate must advise and consent before a President's judicial nominations are allowed to take the bench. It doesn't say advise and relent. It doesn't say consent first and then advise. As Democratic leader HARRY REID recently said: George Bush was elected President, not king.

The Founding Fathers, Washington, Jefferson, and Madison, did not want a king. And that is why the Constitution created the Senate as a check on the President's power. With terrible ideas like Social Security privatization coming from the President these days, the American people are thankful that we are here to stop it.

President Bush once famously said:

> If this were a dictatorship, it'd be a heck of a lot easier, just so long as I'm the dictator.

I am hopeful that President Bush was kidding when he said that. But the President's allies don't seem to be. They want the Senate to simply approve every Bush nominee regardless of the record.

We have confirmed 208 of President Bush's nominees. But there are several we objected to because we believed they were too extreme. They voiced their opinions. This was not based on hearsay. It was based on things they said. They are too extreme to sit on the Federal bench.

The Republican side of the aisle calls this the tyranny of the minority. But in the Senate, who is the minority and who is the majority? When you do the math on the current Senate, you will find that the majority is actually in the minority. The minority is the majority. Here is what I mean: Majority or minority. Current Senate: Republican caucus, 55 Senators, they represent 144,765,000 Americans. The Democratic caucus has less Senators, 45 as opposed to 55, and they represent some 148,336,000 Americans. So where is the minority here?

In this chart each Senator is allotted one-half of his or her State's population, just to explain how we get there. What you find is that the minority in this body, the Democratic caucus, represents 3.5 million more people than does the majority. That is exactly why the Founding Fathers wanted to protect minority rights in the Senate because a minority of Senators may actually represent a majority of the people.

How do you discard that and say: Well, we are the majority? You don't own the place. It is supposed to be a consensus government, particularly in the Senate.

I make one last appeal to the majority leader: Don't take this destructive action.

I want the American people to understand one thing: The big fight here is because the people who will get these positions have lifetime tenure. That means they could be here 20, 30, or 40 years.

I have faith in the courage of my colleagues across the aisle. I hope they are going to put loyalty to their country ahead of loyalty to a political party.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I compliment my colleague from New Jersey for his eloquence and for his insight on the important role the filibuster has always played in building consensus in our society.

It is unfortunate that we are here. It is unfortunate for this institution. It is unfortunate for the Members of this body. It is unfortunate for our country and for the political process that governs us all.

Mr. President, let there be no illusions. There will be no winners here. All will lose. The victors, in their momentary triumph, will find that victory is ephemeral. The losers will nurture their resentments until the tables one day turn, as they inevitably will, and the recrimination cycle will begin anew.

This sorry episode proves how divorced from the reality of most America Washington and the elites that too often govern here have become. At a time when Americans need action on health care, the economy, deficit, national security, and at a time when challenges form around us that threaten to shape the future, we are obsessing about the rules of the Senate and a small handful of judges. At times like this, I feel more like an ambassador to a foreign nation than a representative of my home.

This episode feeds the cynicism and apathy that have plagued the American people for too long. It brings this institution and the process that has brought us here into disrepute and low esteem. No wonder so few of our citizens take the time to exercise even the most elementary act of citizenship—the act of going to the polls to vote.

Very briefly, let me say what this is all about, but let me begin by saying what it is most definitely not about. This is not about the precedents and history of this body. It has been interesting to sit silently and observe colleagues on both sides of the aisle make appeals to precedent and history, and both do so with equal passion. History will not provide an answer to this situation that confronts us. It is not about whether nominees get an up-or-down vote. In fact, it is about the threshold for confirmation that nominees should be held to, a simple majority or something more. It is not about whether the chief executive will have his way the vast majority of the time. This President has seen 96 percent, or more, of his nominees confirmed by this Senate, which is a high percentage by any reckoning. This debate is not about whether or not there are ideological or partisan tests being applied to nominees. I would assume that the 200-some nominees sent to us by this President are, for the most part, members of his party, that most share his ideology, and yet more than 200 have been confirmed. There are no litmus tests here.

Mr. President, this is really about the value we, as a people, place upon consensus in a diverse society. It is about the reason that the separation of powers and the balance of powers were created by the Founders of this Republic in the first place. And it is ultimately about whether we recall our own history and the understanding of human nature itself, the occasional passions and excesses and deals of the moment that lead us to places that threaten consensus and the very social fabric of this Republic. It is about the value we place upon restraint in such moments.

Is it unreasonable to ask more than a simple majority be required for confirmation to lifetime appointments to the courts of appeal or the Supreme Court of the United States, who will render justice and interpret the most fundamental, basic framing documents of this Nation? Should something more than a bare majority be required for lifetime appointments to positions of this importance and magnitude? I believe it should.

Should we be concerned about a lack of consensus on such appointees who will be called upon to rule upon some of the most profound decisions which inevitably touch upon the political process itself? I think my colleague, Senator LAUTENBERG, mentioned the decision in Gore v. Bush. And if a sizable minority of the American people come to conclude that individuals who are rendering these verdicts are unduly ideological or perhaps unduly partisan themselves, will this not undermine the respect for law and the political process itself and ultimately undermine our system of governance that brought us here? I fear it might. Essentially, aren't these concerns—respect for the rule of law, respect for the independence of the judiciary, the importance of building consensus, and the need in times of crisis to lay aside the passions of the moment and understand the importance of restraint on the part of the majority—aren't these concerns more fundamentally important to the welfare of this Republic than four or five individuals and the identities of those who will fill these vacancies? The answer to that must be, unequivocally, yes.

There are deeper concerns than even these, Mr. President. The real concerns that I have with regard to this debate have to do with the coarsening of America's politics. In the 6½ years I have been honored to serve in this body, there have been just two moments of true unity, when partisanship and rancor and acrimony were placed aside. First was in the immediate aftermath of the first impeachment of a President since 1868 and the feeling that perhaps we had gone too far. The second was in the immediate aftermath of 9/11, when our country had literally been attacked and there was a palpable understanding that we were first not Republicans or Democrats, but first and foremost Americans. It is time for us to recapture that spirit once again.

Today, all too often, we live in a time of constant campaigns and politicking, an atmosphere of win at any cost, an aura of ideological extremism, which makes principled compromise a vice, not a virtue. Today, all too often, it is the political equivalent of social Darwinism, the survival of the fittest, a world in which the strong do as they will and the weak suffer what they must. America deserves better than that.

I would like to say to you, Mr. President, and to all my colleagues, that you, too, have suffered at our hands. Occasionally, we have gone too far. Occasionally, we have behaved in ways that are injudicious. I think particularly about the President's own brother, who was brought to the brink of personal bankruptcy because he was pursued in an investigation by the Congress, not because he had plundered his savings and loan, but because he happened to be the President's brother. Each of us is to blame, Mr. President. More importantly, each of us has a responsibility for taking us to the better place that the American people have a right to deserve.

There is a need for unity in this land once again. We need to remember the words of a great civil rights leader who once said: We may have come to these shores on different ships, but we are all in the same boat now.

We need to remember the truth that too many in public life don't want us to understand; that, in fact, we have more in common than we do that divides us. We are children of the same God, citizens of the same Nation, one country indivisible, with a common heritage forged in a common bond and a common destiny. It is about time we started behaving that way. We need to remember the words of Robert Kennedy, who was in my home State the day Martin Luther King was assassinated. Indianapolis was the only major city that escaped the violence of that day, most attributed by Kennedy's presence in our city. He went into Indianapolis in front of an audience that was mostly minority citizens. He went up on a truck bed and said: I am afraid I have some bad news. Martin Luther King was killed today. A gasp went up from the audience. He said: For those of you who are tempted to lash out in anger and violence, I can only say that I too had a relative who was killed. He too was killed by a white man. Kennedy went on to say that what America needs today in these desperate times is not more hatred, or more anger, or more divisiveness; what America needs today is more unity, more compassion, and more love for one another.

That was true in 1968; it is true today. The time has come for the sons and daughters of Lincoln and the heirs of Jefferson and Jackson to no longer wage war upon each other, but instead to take up again our struggles against the ancient enemies of man—ignorance, poverty, and disease. That is what has brought us here. That is why we serve.

Mr. President, we need to rediscover the deeper sense of patriotism that has always made this Nation such a great place, not as Democrats or Independents, not as residents of the South, or the East, or the West, not as liberals or conservatives, or those who have no ideological compass, but as one Nation, understanding the threats that face us, determined to lead our country forward to better times.

So I will cast my vote against changing the rules of this Senate for all of the reasons I have mentioned in my brief remarks and those that have been mentioned by speakers before me. But more than that, I will cast my vote in the profound belief that this is a rare opportunity to put the acrimony aside, put us on a better path toward more reconciliation, more understanding and cooperation for the greater good. And if in so doing, I and those of similar mind can drain even a single drop of blood or venom from the blood that has coarsed through the body of this politic for too long, we will have done our duty to this Senate and to the Republic that sent us here, and that is reward enough for me.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, first, I commend my colleague for his wise words. I thank Senator BAYH. This morning I had the occasion to meet with members of the press and the public at the Old State House in Providence, RI, the seat of Rhode Island Government for many years in the early days of this country. In fact, in 1790, George Washington and Thomas Jefferson enjoyed a banquet in that building to celebrate the Constitution of the United States—that careful balancing of majority power and minority rights.

Unfortunately, these days in Washington, we are on the verge of upsetting that balance, of using majority power to undermine minority rights. In doing so, we are stilling the voices of millions of Americans—the millions of Americans that we represent—and not just geographically represent—the poor, the disabled, those who fight vigorously for environmental quality—all of those individuals will see their voices diminished and perhaps extinguished if we choose this nuclear option.

The Senate was created to protect the minority. It was also clearly envisioned to serve as a check on Presidential power, particularly on the power to appoint judges. Indeed, it was in the very last days of the Constitutional Convention in 1787 that the Founding Fathers decided to move the power to appoint Federal judges from the control exclusively of the Senate to that of a process of a Presidential nominee with the advice and consent of the Senate.

Indeed, in those last days, there was a shift of power, but not a surrender of power. This Senate still has an extraordinary responsibility to review, to carefully scrutinize the records of those individuals who would serve for a lifetime on our Federal courts.

It is very important that the American people, when they come before the bar of Federal justice, stand before a judge of the United States, feel and know that that individual has passed a very high test, that that individual is not a Republican judge or a Democratic judge, not an ideologue of the right or left, but they received broad-based support in the Senate, and they stand not for party, but for law and the United States of America.

We are in danger of upsetting that balance, of putting on the court people who are committed to an ideological plan. We are seeing people who are being presented to us who will, I think, undermine that sense of confidence that the American people must have in the judges they face in the courts of this land.

Indeed, it is also ironic that today as we discuss this issue of eviscerating minority rights in the United States Senate, we hear our leaders talk about the necessity—the absolute necessity—of protecting the minority in Iraq. If you listen to the President, Secretary of State Rice, and others, they talk about how essential it is to ensure that there are real procedural protections for the Sunni minority in Iraq. In fact, what they are trying to do in Iraq they are trying to undo in America by stripping away those procedural protections that give the minority a real voice in our Government.

In a recent National Review article by John Cullinan, a former senior policy adviser to the U.S. Catholic Bishops, he said it very well. He posed a question in this way:

> Will Iraq's overwhelming Shiite majority accept structural restraints in the form of guaranteed protections for others? Or does the majority see its demographic predominance as a mandate to exercise a monopoly of political power?

This, in a very telling phrase, sums it up:

> Does a 60-percent majority translate into 100 percent of the political pie?

The question we will answer today, tomorrow, and this week: Does the 55-vote majority in the Senate translate to 100 percent of the political pie when it comes to naming Federal judges? Just as it is wrong in Iraq, I believe it is wrong here because without minority protections, without the ability of the minority to exercise their rights, to raise their voice, this process is doomed to a very difficult and, I think, disastrous end.

We have today measures before us that threaten the filibuster, and I believe this is not the end of the story if this nuclear option prevails because I think the pressure by the interest groups that are pushing this issue—the far right who are demanding that this nuclear option be exercised—will not be satisfied by simply naming judges because that is just part of what we do. They will see in the days ahead, if this nuclear option succeeds, opportunities to strike out our ability to stop legislative proposals, to stop other Executive nominees. They will be unsatisfied and unhappy that in the course of debate and deliberation here, we are not willing to accept their most extreme views about social policy, about economic policy, about the world at large. The pressure that is building today will be brought to bear on other matters.

So this is a very decisive moment and a very decisive step. I hope we can avoid stepping over it into the abyss. I hope we can maintain the protections that have persisted in this Chamber in one form or another for 214 years. The rules give Senators many opportunities to express themselves. It is not just the cloture vote. There are procedures to call committee hearings, to call up nominees that have been appointed, that also give Senators an opportunity to express themselves.

I need not remind many people here that at least 60 of President Clinton's judicial nominees never received an up-or-down vote, and it is ironic, to say the least, that many who participated in that process now claim a constitutional right for an up-or-down vote on a Federal nominee to the bench.

In fact, according to the Congressional Research Service, since 1945, approximately 18 percent of judicial nominees have not received a final vote. By that measure, President Bush has done remarkably well by his nominees—218 nominees, 208 confirmations, a remarkable record, which shows not obstruction but cooperation; which shows that this Senate, acting together, with at least 60 votes, but still exercising its responsibility to carefully screen judges has made decisions that by a vast majority favor the President's nominees. That is not a record of obstruction, that is a record of responsibility.

Again, at the heart of this is not simply the interplay of Senators and politics. At the end of the day, we have to be able to demonstrate to the American public that if they stand before a Federal judge, they will be judged on the law; they will be judged by men and women with judicial temperament, who understand not only the law and precedent, but understand they have been given a responsibility to do justice, to demonstrate fairness.

If we adopt this new procedure and are able to ram through politically, ideologically motivated judges, that confidence in the fairness of federal judges might be fatally shaken and that would do damage to this country of immense magnitude.

The procedure that is being proposed is not a straightforward attempt to change the rules of the Senate because that also requires a supermajority. No, this is a parliamentary ploy, an end run around the rules of the Senate, a circumvention, and a circumvention that will do violence to the process here and, again, I think create a terrible example for the American public.

We have difficult choices before us. There are those who suggest that it is somehow unconstitutional not to provide an up-or-down vote. Where were they when the 60 judges nominated by President Clinton were denied an up-or-down vote? No, the rules of the Senate prevailed at that time, as they should prevail at this time because the Constitution clearly states that each House may determine the rules of its proceedings. And we have done that in a myriad of ways and will continue to do that. The right to unlimited debate in this Senate is one of the rights that has been protected by rules that have been in force for many years.

We are involved in a debate that has huge consequences for the country and for the Senate. I believe this institution must remain a place where even an individual Senator can stand up and speak in such a way and at such length that he not only arouses the conscience of the country, but, indeed, he or she may be able to deflect the country away from a dangerous path.

In the 1930s, President Roosevelt also had problems with the court system, he thought. He decided he would pack the courts. He would propose the expansion of the U.S. Supreme Court. Even though it was supported by the majority leader at that time, it was brought to this floor, and a small band of Senators stood up and spoke and convinced the public of the wrongness of that path and saved this country and saved President Roosevelt from a grave mistake.

Today, once again, we are debating the future of our judicial system, and I believe without the filibuster, we will make grave mistakes about who goes on our courts and what will be the makeup of those courts.

It might be that I have a particular fondness for the ability to represent those who are not numerous. I come from the smallest State, geographically, in the country, Rhode Island. We have two Senators, and we have two Members of the U.S. House of Representatives. But myself and my colleague, Senator CHAFEE, can stand up and speak and have the force of any of the larger States in this country. That is an essential part of our Federal system, an essential part of the Constitution that provided this wise balance between majority power and minority rights.

We are in danger of seeing that power—I believe arrogantly displayed—potentially undercutting the rights of one Senator or two Senators or eight Senators to stand up, to speak truth to power, to challenge the views, to awaken the conscience of the country, to prevent the accumulation of so much power that we slowly and perhaps imperceptibly slide to a position where there is no effective challenge, and that would do great harm to this constitutional balance.

Mr. President, this is a serious debate—a very serious debate. It is one in which I hope cooler heads prevail. It is one in which I hope we all step back and recognize that what we do will affect this institution and this country for a long time. I hope that we will refrain from invoking this nuclear option, that we recognize the traditions of the Senate not out of nostalgia but because they have served us well, and will continue to serve us well. They will ensure that we can speak not just as an exercise in rhetoric, but to have real effect in this body, the greatest deliberative assembly the world has ever known.

Mr. President, with that, I yield the floor to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, President Harry Truman once said that the only thing new in the world is the history that you do not know. And so it is today with those who think this effort to amend the rules by breaking them, the nuclear option, is something new under the Sun.

This is not the first time that it has been tried. Sadly, there have been a few other efforts to amend the rules by fiat, but, and this is the crucial point, the Senate has never done it.

Whenever an effort was made to change the rule by fiat, it has been rejected by this body. There are procedures for amending the Senate's rules, and the Senate has always insisted that they be followed. In previous cases, the majority of Senators has stood up for that principle, often over the wishes of their own party's leader. It is my hope there will be a majority of such Senators tomorrow.

I entered some of that history in the CONGRESSIONAL RECORD last week, and I will not repeat it all now. One incident stands out and bears repeating, and after doing so, I will add a second chapter to that incident.

In 1949, Vice President Alben Barkley ruled that cloture applied to a motion to proceed to consideration of a bill. In other words, that rule XXII, which allows for the cutoff of debate, applied to a motion to proceed to consideration of a bill. The ruling was contrary to Senate precedent and against the advice of the Senate Parliamentarian and was made despite the fact that rule XXII, as it then existed, clearly provided only that the pending matter was subject to cloture.

The Senate rejected Vice President Barkley's ruling by a vote of 46 to 41. Significantly, 23 Democratic Senators, nearly half of the Democrats voting, opposed the ruling by the Vice President of their own party. Later, the Senate, using the process provided by Senate rules, by a vote of 63 to 23, adopted a change in rule XXII to include a motion to proceed.

After that rule change, changed according to the procedures for amending rules, a supermajority could end a debate on the motion to proceed to a bill, for instance, as well as ending debate on the bill itself.

Last week, I quoted the words of one of the giants of Senate history, Senator Arthur Vandenberg of Michigan about that debate. This is what Senator Vandenberg said:

> I continue to believe that the rules of the Senate are as important to equity and order in the Senate as is the Constitution to the life of the Republic, and that those rules should never be changed except by the Senate itself, in the direct fashion prescribed by the rules themselves.

Senator Vandenberg continued:

> One of the immutable truths in Washington's Farewell Address, which cannot be altered even by changing events in a changing world, is the following sentence: "The Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

[T]he father of his country said to us, by analogy, "the rules of the Senate which at any time exist until changed by an explicit and authentic act of the whole Senate are sacredly obligatory upon all."

Senator Vandenberg continued:

> When a substantive change is made in the rules by sustaining a ruling by the Presiding Officer of the Senate—and that is what I contend is being undertaken here—it does not mean that the rules are permanently changed. It simply means, that regardless of precedent or traditional practice, the rules, hereafter, mean whatever the Presiding Officer of the Senate, plus a simple majority of Senators voting at the time, want the rules to mean. We fit the rules to the occasion, instead of fitting the occasion to the rules. Therefore, in the final analysis, under such circumstances, there are no rules except the transient, unregulated wishes of a majority of whatever quorum is temporarily in control of the Senate.

And Senator Vandenberg added:

> That, Mr. President, is not my idea of the greatest deliberative body in the world. . . . No matter how important [the pending issue's] immediate incidence may seem today, the integrity of the Senate's rules is our paramount concern, today, tomorrow, and so long as this great institution lives.

Senator Vandenberg continued:

> This is a solemn decision—reaching far beyond the immediate consequence—and it involves just one consideration. What do the present Senate rules mean: and for the sake of law and order, shall they be protected in that meaning until changed by the Senate itself in the fashion required by the rules?

Senator Vandenberg eloquently summarized what is at the root of the nuclear option:

> . . . [T]he rules of the Senate as they exist at any given time and as they are clinched by precedents should not be changed substantively by the interpretive action of the Senate's Presiding Officer, even with the transient sanction of an equally transient Senate majority. The rules can be safely changed only by the direct and conscious action of the Senate itself, acting in the fashion prescribed by the rules. Otherwise, no rule in the Senate is worth the paper that it is written on, and this so-called "greatest deliberative body in the world" is at the mercy of every change in parliamentary authority.

Mr. President, tonight, I do more than underscore the foresightful words of Senator Vandenberg, which are all the more significant because, as he made clear, he agreed that the Senate's cloture rule needed to be changed in the fashion proposed but not by using the illegitimate process proposed of amending our rules by fiat of a Presiding Officer.

There was even more to it—and it is again directly relevant to the proceeding that is pending. The year was 1948, 1 year before the Barkley ruling which I just described. Senator Vandenberg was President pro tempore of the Senate and was presented with a motion to end debate on a motion to proceed to consideration of an antipoll tax bill.

Senator Vandenberg ruled, as Presiding Officer, that the then-language of rule XXII, providing a procedure for terminating debate for "measures before the Senate" did not apply to cutting off debate on the motion to proceed to a measure, even though he thought that it should on the merits. So he ruled against what he believed in on the merits because of his deep belief in the integrity of the rules of the Senate. And in making that ruling, again while serving as the Presiding Officer, this is what Senator Vandenberg said.

> The President pro tempore [that's him] finds it necessary . . . before announcing his decision, to state again that he is not passing on the merits of the poll-tax issue nor is he passing on the desirability of a much stronger cloture rule in determining this point of order. The President pro tempore is not entitled to consult his own predilections or his own convictions in the use of this authority. He must act in his capacity as an officer of the Senate, under oath to enforce its rules as he finds them to exist, whether he likes them or not. Of all the precedents necessary to preserve, this is the most important of them all. Otherwise, the preservation of any minority rights for any minority at any time would become impossible.

Senator Vandenberg continued:

> The President pro tempore is a sworn agent of the law as he finds the law to be. Only the Senate has the right to change the law. The President pro tempore feels that he is entitled particularly to underscore this axiom in the present instance because the present circumstances themselves bring it to such bold and sharp relief.

He further stated, again referring to himself:

> In his capacity as a Senator, the President pro tempore favors the passage of this anti-poll-tax measure. He has similarly voted on numerous previous occasions. In his capacity as President pro tempore believes that the rules of the Senate should permit cloture upon the pending motion to take up the anti-poll-tax measure, but in his capacity as President pro tempore, the senior Senator from Michigan is bound to recognize what he believes to be the clear mandate of the Senate rules and the Senate precedents; namely that no such authority presently exists.

So, again, Senator Vandenberg says that he believes the rules of the Senate should be changed to permit cloture on the pending motion to take up the antipoll-tax measure, but he is bound to recognize those rules. He cannot rule against what the rules clearly provide.

Senator Vandenberg then went on to say:

> If the Senate wishes to cure this impotence it has the authority, the power, and the means to do so. The President pro tempore of the Senate does not have the authority, the power, or the means to do so except as he arbitrarily takes the law into his own hands. This he declines to do in violation of his oath. If he did so, he would feel that the what might be deemed temporary advantage by some could become a precedent which ultimately, in subsequent practice, would rightly be condemned by all.

I want to emphasize Senator Vandenberg's point for our colleagues. In the view of that great Senator, it would have been a violation of his oath of office to change the Senate rules by fiat; to rule, as Presiding Officer, contrary to the words of the Senate rules, even though he personally agreed with the proposition that the rule needed to be changed. Senator Vandenberg's ruling was a doubly difficult one because it left the Senate with no means of cutting off debate on the motion to proceed to a measure. The Senate then voted to change the rule a year or so later, with Senator Vandenberg's support, to allow for cutting off debate on the motion to proceed.

Senator Vandenberg's words and his example are highly relevant to us today. The majority leader's tactic to have the Presiding Officer by decree, by fiat amend our rules by exercising the so-called nuclear option is wrong. It has always been wrong. And the Senate has rejected it in the past.

I want to simply read that one last line of Senator Vandenberg one more time:

> In his capacity as a Senator, the President pro tempore [Senator Vandenberg] favors the passage of the anti-poll-tax measure [before him].

He has voted for it on similar occasions, he said.

> In his capacity as President pro tempore [he] believes the rules of the Senate should permit cloture on the pending motion to take up the . . . measure. But . . .

and this is the "but" which everybody in this Chamber should think about—

> in his capacity as President pro tempore the senior Senator from Michigan is bound to recognize what he believes to be the clear mandate of the Senate rules and the Senate precedents; namely that no such authority presently exists.

For him to rule as President pro tempore against the clear meaning of rule XXII and our rules would be to take the law, the rules, into his own hands. Senator Vandenberg was not about to do that.

Rule XXII is clear. It takes 60 votes to end debate on any measure, motion, or other matter pending before the Senate. It does not make an exception for nomination of judges. The nuclear option is not an interpretation of rule XXII. It runs head long into the words of rule XXII and our rules. We in this body are the custodians of a great legacy. The unique Senate legacy can be lost if we start down the road of amending our rules by fiat of a Presiding Officer. We are going to be judged by future generations for what we do here this week. Arthur Vandenberg has been judged by history as well. If you want to know what the verdict of history is relative to Arthur Vandenberg, look up when we leave this Chamber at Arthur Vandenberg's portrait in the Senate reception room alongside of just six other giants for more than 215 years of Senate history.

As the present-day custodians of the great Senate tradition, we should uphold that tradition by rejecting an attempt to change the rules by arbitrary decree of the Presiding Officer instead of by the process in our rules for changing our rules. We must reject that attempt to rule by fiat instead of by duly adopted rules of the Senate. In that way, we will pass on to those who follow us a Senate that is enhanced, not diminished, by what we do here this week.

Mr. ALEXANDER. Mr. President, I would like to take a moment to remind my colleagues across the aisle just what the Constitution has to say about the confirmation of judges.

In a recent speech on the filibuster of President Bush's judicial nominees, I cited the actions of Senator BYRD when he was majority leader in 1979 as justification for the proposed constitutional option. However, the historical precedent for the actions the Minority is forcing the majority to take goes much further back than even the tenure of the Senator from West Virginia.

The Senate has the power to confirm or deny the President's judicial nominees because the Constitution explicitly grants us that power. Article II, section 2 reads:

> He [the president] shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, which shall be established by law.

The President gets to nominate a judge, but only with the consent of the Senate is that judge actually appointed to serve.

The Constitution is not totally clear on the surface as to what should constitute "advice and consent" by the Senate. But, fortunately, our Founding Fathers provided us with not just a Constitution but with a whole raft of writings that help us understand just what they were thinking when they drafted it. Those records confirm, I believe, that they were not concerned with a clash between political parties when they wrote the Constitution, but with the balance of power between the executive, legislative, and judicial branches.

The history of the "advice and consent" clause suggests that the Founders were uncomfortable with either branch completely controlling the nomination of judges. As a result, they found a compromise that sought to prevent either the executive or the legislative branch from dominating the nomination process.

In the Constitutional Convention of 1787, there was lengthy discussion about who should appoint judges to the bench—the executive or the legislative branch.

After extensive debate, the delegates to the Constitutional Convention rejected the possibility that the power to elect judges would reside exclusively with one body or another. On June 5, 1787, the Records of the Federal Convention record James Madison's thoughts on the issue:

> Mr. Madison disliked the election of the Judges by the Legislature or any numerous body. Besides the danger of intrigue and partiality, many of the members were not judges of the requisite qualifications. . . . On the other hand he was not satisfied with referring the appointment to the Executive.

Madison and others were concerned that vesting the sole power of appointment in the executive would lead to bias and favoritism.

In the end, the Framers of the Constitution arrived at the language I just read. Should there be any doubt as to what was intended, Alexander Hamilton and others provided us with the Federalist papers. In Federalist 76, Hamilton discusses the nominations clause:

> . . . his [referring to the president] nomination may be overruled: this it certainly may, yet it can only be to make a place for another nomination by himself. The person ultimately selected must be the object of his preference. . . .

Let me emphasize that—Hamilton says the person elected is ultimately the object of the president's preference. That suggests to me that it is not up to the Senate to demand that nominees be withdrawn and that others be nominated in accordance with the leadership in the Senate or the home State senators of the nominee. It sounds to me like the Framers intended for the president to choose and then the Senate to either reject or accept the nominee.

However, I would argue that we don't even need to look to Hamilton to decide that the eventual appointee should be the object of the president's preference. Look where the power to nominate and appoint is placed in the Constitution—in article II, which sets out the powers of the President—not Congress.

In Federalist 76, Hamilton goes on to describe the role of the Senate:

> To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

Nowhere in that description of the Senate's role does it suggest that the Senate is supposed to reject nominations based on judges' views of the issues. It suggests that we are here to prevent the president from appointing only nominees from Texas, from appointing only friends or campaign contributors, or from otherwise abusing this power. It does not suggest that we should go through a lengthy process of trying to anticipate how a particular judge would rule on all future cases that may come before him or her.

In fact, given that it was the intent of the Founders to create an appointments process that would allow for the appointment of judges who could serve as a check on the other two branches, I think they would be appalled to think that the Senate might be prepared to block any judges that will not rule on abortion or gay marriage or the reinsertion of a feeding tube in the way the Senate happens to favor at any one time. That sounds to me like anything but an independent judiciary branch. What's next? Will senators ask judges how they will rule on pending bills and support only those judges who will uphold the laws passed by this body?

The role of the Senate having been established, I also want to address the mechanism by which we confirm these judges.

The issue before us centers around whether the Constitution requires a simple majority or a supermajority to confirm judicial nominations. Once again, an analysis of the history suggests that it was the intention of the Framers to provide for only a simple majority of the Senate to confirm nominees.

Look at the language of all of article II, section 2. In the clause immediately before the nominations clause, the Constitution specifically calls for two-thirds of the Senate to concur. In the nominations clause, there is no such provision.

I don't believe that this is an inadvertent omission. During the drafting of the Constitution, Roger Sherman of Connecticut argued at great length for the insertion of a comma instead of a semicolon at one point to make a section on Congressional powers crystal clear. I find it hard to believe that in the meantime the Framers deliberately left this section vague.

In fact, the debate around this section of the bill suggests that there was a specific discussion about how many Senate votes would be required to confirm judges. On July 18, 1787, James Madison proposed a plan that would allow judges to be confirmed with only one-third of the Senate. The record of the debate states that Madison felt that such a requirement would "unite the advantage of responsibility in the Executive with the security afforded in the second branch against any incautious or corrupt nomination by the Executive."

So that sounds to me like the Framers viewed the role of the Senate in such a way as to consider the possibility that even less than a majority could be required to confirm a judge—because the Senate was there as backstop to prevent the appointment of political cronies and unfit characters. That is a far cry from the role my colleagues across the aisle would like for us to play today—that of co-equal to the president in the process and capable of demanding nominees that would rule in favor of their positions.

Madison's language was not adopted, but the language that was adopted certainly cannot be read to require a supermajority. You don't have to just accept my interpretation of this language. Shortly after the Constitutional Convention, Justice Joseph Story—appointed to the Supreme Court by President James Madison—wrote his Commentaries on the Constitution and stated explicitly:

> The president is to nominate, and thereby has the sole power to select for office; but his nomination cannot confer office, unless approved by a majority of the Senate.

Judges are to be confirmed by a majority vote. That is the bottom line. That decision was made long before the first Senate was gaveled into session and before any thought was given to rules of procedure and filibusters.

You will hear during this debate ominous warnings from my colleagues across the aisle about "the tyranny of the majority." You will hear that the Founders intended for the Senate to protect the rights of the minority. You will hear that our Founders created the Senate as a check on the popular whim of the day, as a place to slow down legislation and ensure that only the very best laws are passed. This is true. George Washington is said to have said of the Senate that "we pour legislation into the senatorial saucer to cool it."

But the Founders did not create the Senate to give a minority of Senators the power to stop the President from appointing judges. Quite the opposite. As I have outlined, James Madison and Alexander Hamilton, two of the greatest minds that helped design our Constitution, put it down in writing for us that judges are to be confirmed by a majority vote.

So it is not a new idea for the majority in the Senate to believe they should have the power to confirm the president's nominees. It is a very old idea that dates back to the founding of our country.

It is a new idea, however, that a minority should have the power to deny the President's choice. The minority used the filibuster rule in the Senate 10 times in the last Congress to create this new idea that 40 percent should be able to thwart the will of both the President and the majority. It is time for us to restore the Senate to the operation envisioned by the Founding Fathers more than 200 years ago that the President's judicial nominees should be able to be confirmed by majority vote.

Mr. President, 2 years ago, my first speech as a Member of the Senate was on the topic of judges. I have spoken many times since then on this same subject. I would like to not talk about it again—other than to discuss the merits of a particular judge before having an up-or-down vote on confirmation.

That is the way we have functioned in the past, it is the way the Founders meant for us to operate, and it is the way the American people should demand their elected representatives work together.

Mr. LEAHY. Mr. President, I have made no secret how I regard the Republican Leader's bid for one-party rule through his insistence to trigger the "nuclear option." I view it as a misguided effort that would undercut the checks and balances that the Senate provides in our system of government, undermine the rights of the American people, weaken the independence and fairness of the Federal courts, and destroy minority rights here in the Senate. In that regard, I thank the Senators who joined in the debate on Friday for their contributions, including in particular Senator DODD, Senator LEVIN, Senator JEFFORDS, Senator DAYTON, Senator LINCOLN, Senator LIEBERMAN and Senator DORGAN. Theirs were outstanding statements.

The Senate is not the House. It was not intended to function like the House. The "Great Compromise" of the Constitutional Convention more than 200 years ago was to create in the Senate a different legislative body from the House of Representatives. Those fundamental differences include equal representation for each State in accordance with article I, section 3. Thus, Vermont has equal numbers of Senators to New York and Idaho, as compared to California. The Founders intended this as a vital check. Representation in the Senate is not a function of population or based on the size of a State or its mineral wealth.

Another key difference is the right to debate in the Senate. The filibuster is quintessentially a Senate practice. James Madison wrote in Federalist No. 63 that the Senate was intended to provide "interference of some temperate and respectable body of citizens" against "illicit advantage" and the "artful misrepresentations of interested men." It was designed and intended as a check and to provide balance. In no way do I intend to disrespect the House of Representatives by these remarks. I respect the House. I respect its traditions. But it is the Senate that protects the minority and thereby serves a special role in our national government.

Others have alluded to some valuable history lessons during the course of this debate. One of those lessons comes from 1937, the last time a President sought to pack the courts. President Franklin Roosevelt was coming off a landslide victory over Alf Landon. He attempted to pack the Supreme Court. Democrats—Senators from President Roosevelt's own party—stood up to him. In May 1937 the Senate Judiciary Committee criticized the Roosevelt court-packing plan as an effort by the executive branch to dominate the Judicial Branch with the acquiescence of the legislative branch. The Senate stood up for checks and balances and protected the independence of the judiciary. It is time again for the Senate to stand up, and I hope that there are Senators of this President's party who have the courage to do so, today.

The Constitution nowhere says that judicial confirmations require 51 votes. Indeed, when Vermont became the 14th State in 1791, there were then only 28 Members of the U.S. Senate. More recently, Supreme Court Justices Sherman Minton, Louis Brandeis, and James McReynolds were confirmed with 48 votes, 47 votes and 44 votes, respectively.

As the Republican leader admitted in debate with Senator BYRD last week, there is also no language in the Constitution that creates a right to a vote for a nomination or a bill. If there were such a right, it was violated more than 60 times when Republicans refused to consider President Clinton's judicial nominees. According to the Congressional Research Service more than 500 judicial nominations for circuit and district courts have not received a final Senate vote between 1945 and 2004—over 500—that is 18 percent of those nominations. By contrast, this President has seen more than 95 percent of his judicial nominations confirmed, 208 to date.

The Constitution provides for the Senate to establish its own rules in accordance with article I, section 5. The Senate rules have for some time expressly provided for nominations not acted upon by the Senate—"neither confirmed nor rejected during the session at which they are made"—being "returned by the Secretary to the President." That is what happened to those 500 nominations over the last 60 years.

What the Republican leadership is seeking to do is to change the Senate rules not in accordance with them but by breaking them. It is ironic that Republican Senators, who prevented votes on more than 60 of President Clinton's judicial nominees and hundreds of his executive branch nominees because one anonymous Republican Senator objected, now contend that the votes on nominations are constitutionally required.

No President in our history, from George Washington on, has ever gotten all his judicial nominees confirmed by the Senate. President Washington's nomination of John Rutledge to be Chief Justice of the U.S. Supreme Court was not confirmed by the Senate. Senate Republicans now deny the filibusters they attempted against President Clinton's judicial nominees and they ignore the filibusters they succeeded in using against his executive branch nominees. They seek not only to rewrite the Senate's rules by breaking them but to rewrite history. I ask that a copy of the recent article by Professor John J. Flynn be included in the RECORD.

Helping to fuel this rush toward the nuclear option is new vitriol that is being heaped both upon those who oppose a handful of controversial nominees and oppose the nuclear option, as well as on the judiciary itself. We have seen threats from House Majority Leader TOM DELAY and others about mass impeachments of judges with whom they disagree. We have seen Federal judges compared to the KKK, called "the focus of evil," and we have heard those supporting this effort quote Joseph Stalin's violent answer to anyone who opposed his totalitarianism by urging the formula of "No man, No problem." Stalin killed those with whom he disagreed. That is what the Stalinist solution is to independence. Regrettably, we have heard a Senator trying to relate the recent rash of courtroom violence and the killings of judges and judges' family members with philosophical differences about the way some courts have ruled.

This debate in the Senate last week started with rhetoric from the other side accusing disagreeing Senators of seeking to "kill" and "assassinate." Later in the week another member of the Republican leadership likened Democratic opponents of the nuclear option to Adolph Hitler. Still another Republican Senator accused Senators who oppose judicial nominees of discriminating against people of faith. This is in direct violation of the Republican leader's own statement at the outset of this debate that the rhetoric in this debate should "follow the rules, and best traditions of the Senate." This has sunk too low and it has got to stop.

It is one thing for those outside the Senate to engage in incendiary rhetoric. In fact, I would have expected Senators and other leaders to call for a toning down of such rhetoric rather than participating and lending support to events that unfairly smear Senators as against people of faith. Within the last several days, the Rev. Pat Robertson called Federal judges, quote, "a more serious threat to America then Al Qaeda and the Sept. 11 terrorists" and "more serious than a few bearded terrorists who fly into buildings." He went on to proclaim the Federal judiciary "the worst threat American has faced in 400 years worse than Nazi Germany, Japan and the Civil War." This is the sort of incendiary rhetoric that Republican Senators should be disavowing. Instead, they are adopting it and exploiting it in favor of their nuclear option.

It is base and it is wrong, and just the sort of overheated rhetoric that we should all repudiate. Not repeating such slander is not good enough. We should reject it and do so on a bipartisan basis. Republicans as well as Democrats should affirmatively reject such harsh rhetoric. It does not inspire; it risks inciting.

Last week as we began this debate, the Judiciary Committee heard the testimony of Judge Joan Lefkow of Chicago. She is the Federal judge whose mother and husband were murdered in their home. She counsels: "In this age of mass communication, harsh rhetoric is truly dangerous. [F]ostering disrespect for judges can only encourage those that are on the edge, or on the fringe, to exact revenge on a judge who ruled against them." She urged us as public leaders to condemn such rhetoric. I agree with her. She is right and she has paid dearly for the right to say so.

Those driving the nuclear option engage in a dangerous and corrosive game of religious McCarthyism, in which anyone daring to oppose one of this President's judicial nominees is branded as being anti-Christian, or anti-Catholic, or "against people of faith." It continued over the last several weekends, it continued last week on the Senate floor. It is wrong; it is reprehensible. These charges, this virulent religious McCarthyism, are fraudulent on their face and destructive.

Injecting religion into politics to claim a monopoly on piety and political truth by demonizing those you disagree with is not the American way. Injecting politics into judicial nominations, as this administration has done, is wrong, as well.

I would like to keep the Senate safe and secure and in a "nuclear free" zone. The partisan power play now underway by Republicans will undermine the checks and balances established by the Founders in the Constitution. It is a giant leap toward one-party rule with an unfettered Executive controlling all three branches of the Federal Government. It not only will demean the Senate and destroy the comity on which it depends; it also will undermine the strong, independent Federal judiciary that has protected the rights and liberties of all Americans against the overreaching of the political branches.

Our Senate Parliamentarian and our Congressional Research Service have said that the so-called nuclear option would go against Senate precedent. Do Republicans really want to blatantly break the rules for short-term political gain? Do they really desire to turn the Senate into a place where the parliamentary equivalent of brute force is what prevails?

Just as the Constitution provides in article V for a method of amendment, so, too, the Senate rules provide for their own amendment. Sadly, the current crop of partisans who are seeking to limit debate and minority rights in the Senate have little respect for the Senate, its role in our government as a check on the executive, or its rules. Republicans are in the majority in the Senate and chair all of its committees, including the Rules Committee. If Republicans have a serious proposal to change the Senate rules, they should introduce it. The Rules Committee should hold meaningful hearings on it and consider it and create a full and fair record so that the Senate itself would be in position to consider it. That is what we used to call "regular order." That is how the Senate is intended to operate, through deliberative processes and with all points of view being protected and being heard.

That is not how the "nuclear option" will work. It is intended to work outside established precedents and procedures. Use of the "nuclear option" in the Senate is akin to amending the Constitution not by following the procedures required by article V but by proclaiming that 50 Republican Senators and the Vice President have determined that every copy of the Constitution shall contain a new section—or not contain some of those troublesome amendments that Americans like to call the Bill or Rights. That is wrong. It is a kind of lawlessness that each of us should oppose. It is rule by the parliamentary equivalent of brute force.

Never in our history has the Senate changed its governing rules except in accordance with those rules. I was a young Senator in 1975 when Senate rule XXII was last amended. It was amended after cloture on proceeding to the resolution to change the rule was invoked in accordance with rule XXII itself and after cloture on the resolution was invoked in accordance with the requirement then and still in our rules that ending debate on a rule change requires the concurrence of two-thirds of the Senate. That was achieved in 1975 due in large part to the extraordinary statesmanship and leadership of Senator BYRD. And then the Senate adopted the resolution, which I supported. The resolution we adopted reduced the number of votes needed to end debate in the Senate from two-thirds to three-fifths of those Senators duly chosen and sworn. The Senate has operated under these rules to terminate debate on legislative matters and nominations for the last 30 years. Before that the Senate's requirement to bring debate to a close was even more exacting and required more Senators to vote to end a filibuster. I say, again, that the change in the Senate rules was accomplished in accordance with the Senate rules and the way in which they provide for their own amendment.

There has been a good deal of chest pounding on the other side of the aisle recently about the supposed sanctity of 51 votes to prevail, to end debate, to amend the Senate rules. Senators know that, in truth, there are a number of instances in which 60 votes are needed to prevail. These are not theoretical matters, but matters constantly used by Republican leaders to thwart "majority" votes on matters they do not like.

The most common 60-vote threshold is what is required to prevail on a motion to waive a series of points of orders arising from the Budget Act and budget resolutions. In fact, just this year in the deficit-creating budget passed by the Senate with Republican votes, they created new points of order that will require 60 votes in order to be overcome.

There are dozens of recent examples, but a few should make this concrete. In March 2001, a majority of Senators voted to establish a Social Security and Medicare "lockbox." That was a good idea. Had we been able to prevail then, maybe some of the problems being faced by the Social Security trust fund and Medicare might have been averted or mitigated. But even though 53 Senators voted to waive the point of order and create the lockbox, it was not adopted by the Senate.

There is another example from soon after the 9/11 attacks. A number of us were seeking to provide financial assistance, training and health care coverage for aviation industry employees who lost their jobs as a result of the terrorist attacks. We had a bipartisan coalition of more than 50 Senators: it was, as I recall, 56. But the votes of 56 Senators were not sufficient to end the debate and enact that assistance.

I also remember an instance in October 2001, when I chaired the Foreign Operations Subcommittee of the Senate Appropriations Committee. I very much wanted to have the Senate do our job and complete our consideration of the funding measure necessary to meet the commitments made by President Bush to foreign governments and to provide life-saving assistance around the world. We voted on whether the Senate would be allowed to proceed to consider the bill—not to pass it, mind you, just to proceed to debate it. Republicans objected to considering the bill both times. We were required to make a formal motion to proceed to the bill. Then minority Senators, Republican Senators, filibustered proceeding to consideration of the bill. We were required to petition for cloture to ask the Senate to agree to end the debate on whether to proceed to consider the bill and begin that consideration. Fifty Senators voted to end the debate. Only 47 Senators voted to continue the filibuster. Still, the majority, with 50 votes to 47 votes did not prevail. Although we had a majority, we failed and the Senate did not make progress.

It happened again, in the summer of 2002, a bipartisan majority here in the

Senate wanted to make progress on hate crimes legislation. The Senate got bogged down when the bill was filibustered. The effort to end the debate and vote up or down on the bill got 54 votes, 54 to 43. Fifty Senators voted to end the debate. Only 43 Senators voted to continue the filibuster. Did the majority prevail? No. The bill was not passed.

More recently, in 2004, 59 Senators supported a 6-month extension of a program providing unemployment benefits to individuals who had exhausted their State benefits. Those 59 Senators were not enough of a majority to overcome a point of order and provide the much-needed benefits for people suffering from extensive and longstanding unemployment. The vote was 59 to 40, but that was not a prevailing majority.

Around the same time in 2004 we tried to provide the Federal assistance needed to fund compliance with the Individuals with Disabilities Education Act. Although 56 Senates voted in support and only 41 in opposition, that was not enough to overcome a point of order. The vote was 56 to 41, but that was not a sufficient majority.

Just last month, too recently to have been forgotten, there was an effort to amend the emergency supplemental appropriations bill to include the bipartisan Agricultural Jobs bill that Senator CRAIG has championed. That amendment was filibustered and the Senate voted whether to end debate on the matter. The vote was 53 in favor of terminating further debate and proceeding to consider this much needed and long overdue measure. Were those 53 Senators, Republicans and Democrats, enough of a majority to have the Senate proceed to consider an up or down vote on the AgJobs bill to help our local industries? No, here, again, the Republican leadership prevailed and prevented consideration of the bipartisan measure with only 45 votes.

Every Senator knows, and others who have studied the Senate and its practices to protect minority rights, know that the Senate rules retained a provision that requires a two-thirds vote to end debate on a proposed change to the Senate rules. Thus, rule XXII provides that ending debate on "a measure or motion to amend the Senate rules" takes "two-thirds of the Senators present and voting." If all 100 Senators vote, that means that 67 votes are required to end debate on a proposal to amend the Senate rules. In 1975, for example, the vote to end debate on the resolution I have spoken about to change the Senate rules was 73 to 21.

Every Senator knows that for the last 30 years, since we lowered the cloture requirement in 1975, it takes "three-fifths of the Senators duly chosen and sworn," or 60 votes to end debate on other measures and matters brought before the Senate. Just recently there was a filibuster on President Bush's nomination to head the Environmental Protection Agency, Douglas Johnson. Sixty-one Senators voted to end that filibuster, to bring that debate to a close, and Mr. Johnson was confirmed. I voted for cloture and for Mr. Johnson. Despite Republican filibusters of Dr. Henry Foster to be the Surgeon General, Sam Brown to be an ambassador and others during the Clinton years, I considered the matter on its merits, as I always try to do, and voted to provide the supermajority needed for Senate action.

So when Republican talking points trumpet the sanctity of 51 votes, Senators know that the Republican majority insists upon 60-vote thresholds all the time, or rather all the time that it is in their short-term interests.

Finally, Mr. President, for purposes of the record, I need to set the record straight, again. I have done so periodically, including most recently on May 9, 2005, and toward the end of the last session of Congress on November 23, 2004.

Unlike the frog in the water who fails to notice the heat slowly rising until he finds himself boiling, Democrats have been warning for years that the Republican destruction of Senate rules and traditions was leading us to this situation. The administration and its facilitators in the Senate have left Democrats in a position where the only way we could effectively express our opposition to a judicial nominee was through the use of the filibuster.

We did not come to this crossroads overnight. No Democratic Senator wanted to filibuster, not a one of us came to those votes easily. We hope we are never forced by an aggressive Executive and compliance majority into another filibuster for a judicial nominee, again. The filibusters, like the confrontation that the Senate is being forced into over the last several days, are the direct result of a deliberate attack by the current administration and its supporters here in the Senate against the rules and traditions of the Senate. Breaking the rules to use the Republican majority to gut Senate rule XXII and prohibit filibusters that Republicans do not like is the culmination of their efforts. That is intended to clear the way for this President to appoint a more extreme and more divisive choice should a vacancy arise on the Supreme Court.

This is not how the Senate has worked or should work. It is the threat of a filibuster that should encourage the President to moderate his choices and work with Senators on both sides of the aisle. Instead, this President has politicized the process and Senate Republicans have systematically eliminated every other traditional protection for the minority. Now their target is the Senate filibuster, the only tool that was left for a significant Senate minority to be heard.

Under pressure from the White House, over the last 2 years, the former Republican chairman of the Judiciary Committee led Senate Republicans in breaking with longstanding precedent and Senate tradition with respect to handling lifetime appointments to the Federal bench. With the Senate and the White House under control of the same political party we have witnessed one committee rule after another broken or misinterpreted away. The Framer's of the Constitution warned against the dangers of such factionalism, undermining the structural separation of powers. Republicans in the Senate have utterly failed to defend this institution's role as a check on the President in the area of nominations. It surely weakens our constitutional design of checks and balances.

As I have detailed over the last several years, Senate Republicans have had one set of practices to delay and defeat a Democratic President's moderate and qualified judicial nominations and a different playbook to rubberstamp a Republican President's extreme choices to lifetime judicial positions. The list of broken rules and precedents is long—from the way that home State Senators were treated, to the way hearings were scheduled, to the way the committee questionnaire was unilaterally altered, to the way the Judiciary Committee's historic protection of the minority by committee rule IV was repeatedly violated. In the last Congress, the Republican majority of the Judiciary Committee destroyed virtually every custom and courtesy that had been used throughout Senate history to help create and enforce cooperation and civility in the confirmation process.

We suffered through 3 years during which Republican staff stole Democratic files off the Judiciary computers reflecting a "by any means necessary" approach. It is as if those currently in power believe that that they are above our constitutional checks and balances and that they can reinterpret any treaty, law, rule, custom or practice they do not like or they find inconvenient.

The Constitution mandates that the President seek the Senate's advice on lifetime appointments to the Federal bench. Up until 4 years ago, Presidents engaged in consultation with home State Senators about judicial nominations, both trial court and appellate nominations. This consultation made sense: Although the judgeships are Federal positions, home State officials were best able to ensure that the nominees would be respected. The structure laid out by the framers for involving the Senate contemplated local involvement in the appointments, and for almost 200 years, with relatively few exceptions, the system worked. This administration, by contrast, rejects our advice but demands our consent.

The sort of consultation and accommodation that went on in the Clinton years is an excellent example. The Clinton White House went to great lengths to work with Republican Senators and seek their advice on appointments to both circuit and district court vacancies. There were many times when the White House made nominations at the direct suggestion of Republican Senators, and there are judges sitting today on the Ninth Circuit and the Fourth Circuit, in the district courts in Arizona, Utah, Mississippi, and many other places because President Clinton listened to the advice of Senators in the opposite party. Some nominations, like that of William Traxler to the Fourth Circuit from South Carolina; Barbara Durham and Richard Tallman to the Ninth Circuit from Washington; Stanley Marcus to the Eleventh Circuit from Florida; Ted Stewart to the District Court in Utah; James Teilborg to the District Court in Arizona; Allen Pepper to the District Court in Mississippi; Barclay Surrick to the District Court in Pennsylvania, and many others were made on the recommendation of Republican Senators. Others, such as President Clinton's two nominations to the Supreme Court, were made with extensive input from Republican Senators. For evidence of this, just look at ORRIN HATCH's book "Square Peg," where he tells the story of suggesting to President Clinton that he nominate Ruth Bader Ginsburg and Stephen Breyer to the Supreme Court and of warning him off of other nominees whose confirmations would be more controversial or politically divisive.

In contrast, since the beginning of its time in the White House, this Bush administration has sought to overturn traditions of bipartisan nominating commissions and to run roughshod over the advice of Democratic Senators. They changed the systems in Wisconsin, Washington, and Florida that had worked so well for so many years. Senators GRAHAM and NELSON were compelled to write in protest of the White House counsel's flaunting of the time-honored procedures for choosing qualified candidates for the bench. They ignored the protests of Senators like BARBARA BOXER and John Edwards who not only objected to the unsuitable nominee proposed by the White House, but who, in attempts to reach a true compromise, also suggested Republican alternatives. Those overtures were flatly rejected.

Indeed, the problems we face today in Michigan are a result of a lack of consultation with that State's Senators. The failure of the nomination of Claude Allen of Virginia to a Maryland seat on the Fourth Circuit shows how aggressive this White House has been. Now, the White House counsel's office will say it informs Democratic Senators' offices of nominations about to be made. Do not be fooled. Consultation involves a give and take, a back and forth, an actual conversation with the other party and an acknowledgement of the other's position. That does not happen.

The lack of consultation by this President and his nominations team resulted in a predictable outcome—a number of instances where home State Senators withheld their consent to nominations. The next action, however, was unpredictable and unprecedented. The former Republican chairman of the Judiciary Committee went ahead, ignored his own perfect record of honoring Republican home State Senators' objections to President Clinton's nominees and scheduled hearings nonetheless. In defense of those hearings we have heard how other chairmen, Senators KENNEDY and BIDEN, modified the committee's policies to allow for more fairness in the consideration of a more diverse Federal bench. That is not what the former Republican chairman was doing, however. His was a case of double standards—one set of rules and practices for honoring Republican objections to President Clinton's nominees and another for overriding Democratic objections to President Bush's.

While it is true that various chairmen of the Judiciary Committee have used the blue-slip in different ways, some to maintain unfairness, and others to attempt to remedy it, it is also true that each of those chairmen was consistent in his application of his own policy—that is, until 2 years ago. When a hearing was held for Carolyn Kuhl, a nominee to the Ninth Circuit from California who lacked consent from both of her home State Senators, that was the first time that the former chairman had ever convened a hearing for a judicial nominee who did not have two positive blue slips returned to the committee. The first time, ever. It was unprecedented and directly contrary to the former Republican chairman's practices during the Clinton years.

Consider the two different blue slips utilized by the former Republican Chairman: one used while President Clinton was in office, and one used after George W. Bush became the President. These pieces of blue paper are what then-Chairman HATCH used to solicit the opinions of home-state Senators about the President's nominees. When President Clinton was in office, the blue slip sent to Senators, asked their consent. On the face of the form was written the following: "Please return this form as soon as possible to the nominations office. No further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home state senators."

Now consider the blue slip when President Bush began his first term. That form sent out to Senators was unilaterally changed. The new Republican blue slip said simply: "Please complete the attached blue slip form and return it as soon as possible to the committee office." That change in the blue slip form marked the about-face in the direction of the policy and practice used by the former Republican chairman once the person doing the nominating was a Republican.

I understand why Republican Senators want to have amnesia when it comes to what happened to so many of President Clinton's nominees. The current Republican chairman calculates that 70 of President Clinton's judicial nominees were not acted upon. One of the many techniques used by the former Republican chairman was to enforce strictly his blue slip policy so that no nominee to any court received a hearing unless both home State Senators agreed to it. Any objection acted as an absolute bar to the consideration of any nominee to any court. No time limit was set for returning the blue slip. No reason had to be articulated. In fact, the former Republican chairman cloaked the matter in secrecy from the public. I was the first Judiciary chairman to make blue slips public. During the Clinton years home State Senators' blue slips were allowed to function as anonymous holds on otherwise qualified nominees. In the 106th Congress, in 1999–2000, more than half of President Clinton's circuit court nominees were denied confirmation through such secret partisan obstruction, with only 15 of 34 confirmed in the end. Outstanding and qualified nominees were never allowed a hearing, an up or down vote in committee vote or on the Senate floor. These nominees included the current dean of the Harvard Law School, a former attorney general from Iowa, a former law clerk to Chief Justice Rehnquist and many others—women, men, Hispanics, African Americans and other minorities, an extensive collection of qualified nominees.

Another longstanding tradition that was broken in the last two years was a consistent and reasonable pace of hearings. Perhaps it is not entirely accurate to say the tradition had been respected during the Clinton administration, since during Republican control months could go by without a single hearing being scheduled. But as soon as the occupant of the White House changed and a Republican majority controlled the committee that all changed. In January, 2003, one hearing was held for three controversial circuit court nominees, scheduled to take place in the course of a very busy day in the Senate. There was no precedent for this in the years that Republicans served in the majority and a Democrat was in the White House. In 6 years during the Clinton administration, never once were three circuit court nominees, let alone three very controversial ones, before this body in a single hearing. But it was the very first hearing that was scheduled by the former Republican chairman when he resumed his chairmanship. That first year of the 107th Congress, with a Republican in the White House, and a Republican chairman of the Judiciary Committee, the Republican majority went from idling—the restrained pace it had said was required for Clinton nominees—to overdrive for the most controversial of President Bush's nominees.

When there was a Democratic President in the White House, circuit nominees were delayed and deferred, and vacancies on the courts of appeals more than doubled under Republican leadership, from 16 in January 1995, to 33 when the Democratic majority took over midway through 2001.

Under Democratic leadership we held hearings on 20 circuit court nominees in 17 months. Indeed, while Republicans averaged seven confirmations to the circuit courts every 12 months for President Clinton, the Senate under Democratic leadership confirmed 17 circuit judges in its 17 months in the majority—and we did so with a White House that was historically uncooperative.

Under Republican control, the Judiciary Committee played fast and loose with other practices. One of those was the committee practice of placing nominees on markup agendas only if they had answered all of their written questions within a reasonable amount of time before the meeting. Last Congress that changed, and nominees were listed when the former chairman wanted them listed, whether they were ready or not. Of course, any nominee can be held over one time by any member for any reason, according to longstanding committee rules. By listing the nominees before they were ready, the former chairman "burned the hold" in advance, circumvented the committee rule, and forced the committee to consider them before they were ready. Another element of unfairness was thereby introduced into the process.

Yet another example of the kind of petty changes that occurred during the last Congress were the bipartisan changes to the committee questionnaire that were unilaterally rescinded by the former Republican chairman. In April of 2003 it became clear that the President's nominees had stopped filling out the revised Judiciary Committee questionnaire we had approved a year and a half earlier with the agreement of the administration and Senate Republicans. It was a shame, because my staff and Senator HATCH's staff worked hard to revise the old questionnaire, which had not been changed in many years, and was in need of updating for a number of reasons. There were obsolete references, vague and redundant requests for information, and instructions sorely in need of clarification. There were also important pieces of information not asked for in the old questionnaire, including congressional testimony a nominee might have given, writings a nominee might have published on the Internet, and a nominee's briefs or other filings in the Supreme Court of the United States. We worked hard to include the concerns of all members of the committee, and we included the suggestions from many people who had been involved in the judicial nominations process over a number of years.

Indeed, after the work was finished, Senator HATCH himself spoke positively about the revisions we had made. At a Committee business meeting he praised my staff for, "working with us in updating the questionnaires." He noted: "Two weeks ago, we resolved all remaining differences in a bipartisan manner. We got an updated questionnaire that I think is satisfactory to everybody on the committee, and the White House as well." I accepted his words that day.

As soon as he resumed his chairmanship, he rejected the improvements we made in a bipartisan way, however. The former Republican chairman notified the Department of Justice that he would no longer be using the updated questionnaire he praised not so long before but, instead, decided that the old questionnaire be filled out. He did not notify any member of the minority party on the committee. Unlike the bipartisan consultation my office engaged in during the fall of 2001, and the bipartisan agreement we reached, the former Republican chairman acted by unilateral fiat without consultation.

The protection of the rights of the minority in the committee was eliminated with the negation of the committee's rule IV, a rule parallel to the Senate filibuster rule. In violation of the rules that have governed that committee's proceedings since 1979, the former Republican chairman chose in 2003 to ignore our longstanding committee rules and he short-circuited committee consideration of the circuit court nominations of John Roberts and Deborah Cook.

Since 1979 the Judiciary Committee has had this committee rule to bring debate on a matter to a close while protecting the rights of the minority. It may have been my first meeting as a Senator on the Judiciary Committee in 1979 that Chairman KENNEDY, Senator Thurmond, Senator HATCH, Senator COCHRAN and others discussed adding this rule to those of the Judiciary Committee. Senator Thurmond, Senator HATCH and the Republican minority at that time took a position against adding the rule and argued in favor of any individual Senator having a right to unlimited debate—so that even one Senator could filibuster a matter. Senator HATCH said that he would be "personally upset" if unlimited debate were not allowed. He explained:

> There are not a lot of rights that each individual Senator has, but at least two of them are that he can present any amendments which he wants and receive a vote on it and number two, he can talk as long as he wants to as long as he can stand, as long as he feels strongly about an issue.

It was Senator Bob Dole who drew upon his Finance Committee experience to suggest in 1979 that the committee rule be that "at least you could require the vote of one minority member to terminate debate." Senator COCHRAN likewise supported having a "requirement that there be an extraordinary majority to shut off debate in our committee."

The Judiciary Committee proceeded to refine its consideration of what became rule IV, which was adopted the following week and had been maintained ever since. It struck the balance that Republicans had suggested of at least having one member of the minority before allowing the chairman to cut off debate. That protection for the minority had been maintained by the Judiciary Committee for 24 years under five different chairmen—Chairman KENNEDY, Chairman Thurmond, Chairman BIDEN, under Chairman HATCH previously and during my tenure as chairman.

Rule IV of the Judiciary Committee rules provided the minority with a right not to have debate terminated and not to be forced to a vote without at least one member of the minority agreeing to terminate the debate. That rule and practice had until two years ago always been observed by the committee, even as we dealt with the most contentious social issues and nominations that come before the Senate. Until that time, Democratic and Republican chairmen had always acted to protect the rights of the Senate minority.

Although it was rarely utilized, rule IV set the ground rules and the backdrop against which rank partisanship was required to give way, in the best tradition of the Senate, to a measure of bipartisanship in order to make progress. That is the important function of the rule. Just as we have been arguing lately about the Senate's cloture rule, the committee rule protected minority rights, and enforced a certain level of cooperation between the majority and minority in order to get anything accomplished. That was lost last Congress as the level of partisanship on the Judiciary Committee and within the Senate sunk to a new low when Republicans chose to override our governing rules of conduct and proceed as if the Senate Judiciary Committee were a minor committee of the House of Representatives.

That this was a premeditated act was apparent from the debate in the committee. The former Republican chairman indicated that he had checked with the Parliamentarians in advance, and he apparently concluded that since he had the raw power to ignore our committee rule so long as all Republicans on the committee stuck with him, he would do so. It was a precursor of what is happening now in the Senate.

I understand that the Parliamentarians advised the former chairman that there is no enforcement mechanism for a violation of committee rules and that the Parliamentarians view Senate committees as autonomous. I do not believe that they advised him that he should violate our committee rules or that they interpreted our committee rules. I cannot remember a time when Senator KENNEDY or Senator Thurmond or Senator BIDEN were chairing the committee when any of them would have even considered violating their responsibility to the Senate and to the committee and to our rules or that we needed an enforcement mechanism or penalty for violation of a fundamental committee rule.

In fact, the only occasion I recall that the former Republican chairman was previously faced with implementing committee rule IV, he himself did so. In 1997, Democrats on the committee were seeking a Senate floor vote on President Clinton's nomination of Bill Lann Lee to be the assistant attorney general for civil rights at the Department of Justice. Republicans were intent on killing the nomination in committee. The committee rule came into play when in response to an alternative proposal by the Republican Chairman, I outlined the tradition of our Committee and said:

> This committee has rules, which we have followed assiduously in the past and I do not think we should change them now. The rules also say that 10 Senators, provided one of those 10 is from the minority, can vote to cut off debate. We are also required to have a quorum for a vote.
>
> I intend to insist that the rules be followed. A vote that is done contrary to the rules is not a valid one.

Immediately after my comment, the same former Republican Chairman abandoned his earlier plan and said:

> I think that is a fair statement. Rule IV of the Judiciary Committee rules effectively establishes a committee filibuster right, as the distinguished Senator said.

With respect to that nomination in 1997, he acknowledged:

> Absent the consent of a minority member of the Committee, a matter may not be brought to a vote. However, Rule IV also permits the Chairman of the Committee to entertain a non-debatable motion to bring any matter to a vote. The rule also provides as follows: 'The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority.'

Thereafter, he made the nondebatable motion to proceed to a vote and under the rules of the committee there was objection and a rollcall vote was taken on whether to end the debate. In that case, the former Republican chairman followed the rules of the committee.

At the beginning of the last Congress, we reaffirmed our tradition and clarified that at the time the Senate was divided 50-50 and the committee was divided 50-50, the rules would be interpreted so that the minority was the party other than that of the chairman.

But when the nominations of John Roberts, Deborah Cook and Jeff Sutton were being considered simultaneously, Democrats sought to continue debate on some of them and focus first on Sutton. We were overridden and the bipartisan tradition and respect for the rights of the minority ended when the former Republican Chairman decided to override our rights and the rule rather than follow it. He did so expressly and intentionally, declaring: "[Y]ou have no right to continue a filibuster in this committee." He decided, unilaterally, to declare the debate over even though all members of the minority were prepared to continue the debate and it was, in fact, terminated prematurely. I had yet to speak to any of the circuit nominees and other Democratic Senators had more to say. He completely reversed his own position from the Bill Lann Lee nomination and took a step unprecedented in the history of the committee.

I know the frustrations that accompany chairing the Judiciary Committee. I know the record we achieved during my 17 months of chairing that committee, when we proceeded with hearings on more than 100 of President Bush's judicial nominees and scores of his executive nominees, including extremely controversial nominations, when we proceeded fairly and in accordance with our rules and committee traditions and practices to achieve almost twice as many confirmation for President Bush as the Republicans had allowed for President Clinton, and know how that record was mischaracterized by partisans. I know that sometimes a chairman must make difficult decisions about what to include on an agenda and what not to include, what hearings to hold and when. In my time as chairman I tried to maintain the integrity of the committee process and to be bipartisan. I noticed hearings at the request of Republican Senators and allowed Republican Senators to chair hearings. I made sure the committee moved forward fairly on the President's nominees in spite of the administration's unwillingness to work with us to fill judicial vacancies with consensus nominees and thereby fill those vacancies more quickly. But I cannot remember a time when Chairman KENNEDY, Chairman THURMOND, Chairman BIDEN, or I, ever overrode by fiat the right of the minority to debate a matter in accordance without longstanding committee rules and practices.

By bending, breaking and changing so many committee rules, Republicans crossed a threshold of partisan overreaching that should never have been crossed. As they passed each awful milestone, I urged the Republican leadership to reconsider, to turn back and to reinstate comity.

That is the backdrop for this debate now before the Senate. An overly aggressive executive, added by a majority of the same political party in the Senate, acted last Congress to eliminate any meaningful role of the minority at the committee level and to eliminate our traditions, rules and practices that had protected the minority. This abuse of power and drive toward one-party rule by the Republican leadership has been building for years and is culminating this week through their unprecedented attack on the Senate's rules, role and history. For years now, Democratic Senators have been warning that the deterioration of Senate rules and practices that have protected minority rights was leaving us, the Senate, and the American people in a dire situation.

This systematic and corrosive erosion of checks and balances has brought the Senate to this precipice. The filibuster in the Senate is the last remaining check on the abuses of one-party rule and the undermining of the fairness and independence of the federal judiciary. If the Senate is to serve its constitutional role as a check on the executive, its protection must be preserved. That is the decision the Senate will be facing tomorrow.

[From the Salt Lake Tribune]

HATCH IS WRONG ABOUT HISTORY OF JUDICIAL APPOINTMENTS

(By John J. Flynn)

The Constitution provides the president "shall nominate, and by and with the Advice and Consent of the Senate," appoint judges and all other officers of the United States.

Throughout most of the Constitutional Convention, the power to appoint ambassadors, judges and other officers of the United States was vested solely in the Senate. It was decided late in the convention that the Senate should share the appointment power with the president. Clearly, the framers expected the Senate would have an equal say in appointments.

Several nominations for positions in the executive branch have been rejected over the past two centuries. Even more nominations for life-time appointments to the judiciary have been rejected because such nominations are for life and they are nominations to an independent branch of government.

For many years rejections were often carried out by the informal process of senators withholding "blue slips" for nominees from their home states. When a senator did not return a blue slip approving the nominee, the nomination was killed without a vote by the full Senate. It was a method for insuring the president sought the "advice" of the Senate and senators before nominating a person for the judiciary. The result was that only qualified moderates were usually appointed to the bench.

Utah's Sen. Orrin Hatch ended the "blue slip" practice. Sen. Hatch also began the practice of "filibustering by committee chairperson" nominees proposed by President Clinton. He simply refused to hold hearings on nominations even where senators from the nominee's home state approved of the nomination.

More than 60 Clinton judicial nominees were not even accorded the courtesy of a hearing during the Hatch chairmanship of the Senate Judiciary Committee. They were never given the chance for an "up or down vote" by the full Senate. For Sen. Hatch to now object to the use of a filibuster to halt nominations is less than disingenuous.

Contrary to Sen. Hatch's representations in his Tribune op-ed piece last Sunday, Republicans led a filibuster of the nomination of Justice Abe Fortas to the position of chief justice in 1968. I watched the filibuster. When a cloture vote failed to muster the necessary super majority to end the debate after four days of the filibuster, Justice Fortas asked to have his nomination withdrawn.

The modem divisiveness in the Senate over judicial nominations is directly traceable to the Senate's partisan treatment of judicial nominations beginning with Justice Fortas. The level of divisiveness has been increased by President Bush. He threw down a partisan gauntlet by renominating several controversial candidates not confirmed by the prior Senate.

The main qualifications of these candidates appears to be their appeal to the religious right and their rigid ideological views calling into question their capacity to judge objectively contentious issues coming before the courts.

The Bush administration apparently believes that the Senate should simply rubber-stamp nominees it selects without Senate advice, much less the consent of a sizeable majority of the Senate. Slogans like seeking the appointment of judges who will not "make law" are trumpeted while President Bush nominates persons who will "make law"—law of the sort advocated by his administration and its closed-minded right-wing supporters.

Because of the nature of the job of judges, the framers of the Constitution vested the Senate with a co-equal power over the nomination and confirmation of persons for lifetime appointments to the judiciary. The Senate's role is not a subservient one of rubber-stamping anyone the president nominates unless it is found that they are an ax murderer or child molester.

This was made clear in the Federalist Papers, numbers 76–78. Over the past two centuries, the Senate developed a number of checks on both the president and members of the Senate to prevent the president and a majority of the Senate from running roughshod over those with substantial objections to nominations made by the president.

The result, until the first Bush administration and Sen. Hatch's chairmanship of the Judiciary Committee, has been negotiation and compromise over judicial nominees and the appointment of qualified moderates to the bench for the most part.

The present dispute over whether to eliminate the filibuster as a device to block nominees that a sizeable block of senators finds objectionable presents a further and dangerous erosion of the Senate's advice-and-consent function.

The Republicans hold a 55-to-45 majority of the seats in the Senate. The Republican majority represents approximately 47 percent of the United States population, while the 45-member Democrat minority represent 53 percent of the population. Senators representing less than a majority of the population are advocating the complete ceding of the advice-and-consent function to any president with a numerical majority of the membership of the Senate from his or her own political party.

The end result of the political campaign to further weaken, if not eliminate, the advice and-consent function of the Senate, will be to establish powers similar to those of the English monarch in 1789. The founders expressly sought to avoid this result by requiring the independent advice and consent of senators in the nomination and confirmation of important executive branch positions and lifetime appointments to the bench.

For Republicans to repudiate that role of the Senate, especially after their sorry record in dealing with the judicial nominees of President Clinton, is not only the height of hypocrisy, but is a dangerous precedent they will live to regret.

This is not the time for political opportunism, presidential arrogance or misleading oped pieces by Sen. Hatch. It is a time for members of the Senate to begin to act responsibly when carrying out their advice-and-consent function rather than further erode an important institutional check upon executive branch power and a majority party in the Senate that does not represent a majority of the American people.

Mr. WARNER. Mr. President, I rise today in support of the nomination of Justice Priscilla Owen to serve as a judge on the United States Court of Appeals for the Fifth Circuit.

When I evaluate individuals for Federal judgeships, I turn first to the U.S. Constitution. Article II, section 2 of the Constitution gives the President the responsibility to nominate, with the "Advice and Consent of the Senate," individuals to serve as judges on the Federal courts. Thus, the Constitution provides a role for both the President and the Senate in this process. The President is given the responsibility of nominating, and the Senate has the responsibility to render "advice and consent" on the nomination.

As I have fulfilled my constitutional responsibilities as a Senator over the past 27 years that I have had the honor of representing the citizens of the Commonwealth of Virginia in the U.S. Senate, I have conscientiously made the effort to work on judicial nominations with the Presidents with whom I have served.

Whether our President was President Carter, President Reagan, President Bush, President Clinton, or President George W. Bush, I have accorded equal weight to the nominations of all Presidents, irrespective of party.

I have always considered a number of factors before casting my vote to confirm or reject a nominee. The nominee's character, professional career, experience, integrity, and temperament are all important. In addition, I consider whether the nominee is likely to interpret law according to precedent or impose his or her own views. The opinions of the officials from the State in which the nominee would serve and the views of my fellow Virginians are also important. In addition, I believe our judiciary should reflect the broad diversity of the citizens it serves.

These principles have served me well as I have closely examined the records of thousands of judicial nominees.

With respect to the nominee currently before the Senate, I reviewed Justice Owen's record, met with her personally last week, and considered her qualifications in light of all of these aforementioned factors. And let me say, Mr. President, that I came away rather impressed with this nominee.

You see, out of the thousands of nominees I have reviewed in the U.S. Senate, I have to say that Justice Owen has, without a doubt, one of the more impressive records.

In 1975, she earned her bachelors degree, cum laude, from Baylor University. She then remained at Baylor to earn her law degree. While in law school, she served as a member of the Baylor Law Review. And, when she graduated from law school in 1977, she once again earned the honors of graduating cum laude.

Upon graduating from law school, Justice Owen took the Texas bar exam. Not only did she pass it, she earned the highest score in the State on the December 1977 exam.

Since passing the bar, she spent approximately 16 years practicing law in a distinguished Houston law firm. She started as a young associate and through her efforts as a commercial litigator she later became a partner at the firm.

In 1994, Priscilla Owen was first elected to the Texas Supreme Court. Six years later, she overwhelmingly won a second term with 84 percent of the vote—a strong testament of public support given to her by the citizens of the State of Texas.

But not only do the people of Texas overwhelmingly believe that Judge Owens is a highly qualified Federal judge, it is important to recognize that every major newspaper in Texas endorsed her reelection.

She also has notable bipartisan support for her nomination, including three former Democrat judges on the Texas Supreme Court and the bipartisan support of 15 past Presidents of the State bar of Texas. The American Bar Association, often called the "gold standard" around here for evaluating judges, has unanimously deemed Justice Owen "Well Qualified"—its highest rating.

Despite all of this strong, bipartisan support, however, over the course of the past 4 years, we have been unable to get to an up-or-down vote in the Senate on Justice Owen's nomination. All the while, this outstanding nominee has been waiting patiently for the Senate to act on her nomination. In my view, such an exemplary nominee should have been confirmed far sooner, especially since the seat for which she has been nominated has been dubbed by the Judicial Conference of the United States as a "judicial emergency."

The fact of the matter is that Justice Priscilla Owen is a highly distinguished jurist with impeccable credentials. There is no doubt in my mind that she should be confirmed for this lifetime appointment.

I look forward to voting in support of her nomination and encourage my colleagues to do the same.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEMINT). The clerk will call the roll.

The legislative clerk proceeded to call the roll

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I have had the opportunity to review the agreement signed by the Senator from Virginia, the Senator from Arizona, the Senator from Nebraska, and 11 other Senators, an agreement that I have reviewed but to which I am not a party.

Let me start by reminding the Senate of my principle, a simple principle, that I have come to this Senate day after day stating, stressing. It is this: I fundamentally believe it is our constitutional responsibility to give judicial nominees the respect and the courtesy of an up-and-down vote on the floor of the Senate. Investigate them, question them, scrutinize them, debate them in the best spirit of this body, but then vote, up or down, yes or no, confirm or reject, but each deserves a vote.

Unlike bills, nominees cannot be amended. They cannot be split apart; they cannot be horse traded; they cannot be logrolled. Our Constitution does not allow for any of that. It simply requires up-or-down votes on judicial nominees. In that regard, the agreement announced tonight falls short of that principle.

It has some good news and it has some disappointing news and it will require careful monitoring.

Let me start with the good news. I am very pleased, very pleased that each and every one of the judges identified in the announcement will receive the opportunity of that fair up-or-down vote. Priscilla Owen, after 4 years, 2 weeks, and 1 day, will have a fair and up-or-down vote. William Pryor, after 2 years and 1 month, will have a fair up-or-down vote. Janice Rogers Brown, after 22 months, will have a fair up-or-down vote. Three nominees will get up-or-down votes with certainty now because of this agreement, whereas a couple of hours ago, maybe none would get up-or-down votes. That would have been wrong.

With the confirmation of Thomas Griffith to the DC Circuit Court of Appeals we have been assured—though it is not part of this particular agreement—there will be four who will receive up-or-down votes. And based on past comments in this Senate—although not in the agreement—I expect that David McKeague, after 3 years and 6 months, will get a fair up-or-down vote. I expect that Susan Neilson, after 3 years and 6 months, will get a fair or up-or-down vote. I expect Richard Griffin, after 2 years and 11 months, will get a fair up-or-down vote.

Now, the bad news, to me, or the disappointing news in this agreement. It is a shame that well-qualified nominees are threatened, still, with not having the opportunity to have the merits of their nominations debated on the floor.

Henry Saad has waited for 3 years and 6 months for the same courtesy. Henry Saad deserves a vote. It is not in this agreement. William Myers has waited for 2 years and 1 week for a fair up-or-down vote. He deserves a vote but is not in this agreement. If Owen, Pryor, and Brown can receive the courtesy and respect of a fair up-or-down vote, so can Myers and Saad.

I will continue to work with everything in my power to see that these judicial nominees also receive that fair up-or-down vote they deserve. But it is not in this agreement.

But in this agreement is other good news. It is significant that the signers give up using the filibuster as it was deployed in the last Congress in the last 2 years. The filibuster was abused in the last Congress. Mr. President, 10 nominees were blocked on 18 different occasions, 18 different filibusters in the last 2 years alone, with a leadership-led minority party obstruction, threatening filibusters on six others. That was wrong.

It was not in keeping with our precedents over the past 214 years. It made light of our responsibilities as United States Senators under the Constitution. It was a miserable chapter in the history of the Senate and brought the Senate to a new low.

Fortunately, tonight, it is possible this unfortunate chapter in our history can close. This arrangement makes it much less likely—indeed, nearly impossible—for such mindless filibusters to erupt on this floor over the next 18 months. For that I am thankful. Circuit court and Supreme Court nominees face a return to normalcy in the Senate where nominees are considered on their merits. The records are carefully examined. They offer testimony. They are questioned by the Senate Judiciary Committee. The committee acts, and then the Senate discharges its constitutional duty to vote up or down on a nominee.

Given this disarmament on the filibuster and the assurance of fair up-or-down votes on nominees, there is no need at present for the constitutional option. With this agreement, all options remain on the table, including the constitutional option.

If it had been necessary to deploy the constitutional option, it would have been successful and the Senate would have, by rule, returned to the precedent in the past 214 years. Instead, tonight, Members have agreed that this precedent of up-or-down votes should be a norm of behavior as a result of the mutual trust and good will in that agreement.

I, of course, will monitor this agreement carefully as we move ahead to fill the pending 46 Federal vacancies today and any other vacancies that may yet arise during this Congress. I have made it clear from the outset that I haven't wanted to use the constitutional option. I do not want to use the constitutional option, but bad faith and return to bad behavior during my tenure as majority leader will bring the Senate back to the point where all 100 Members will be asked to decide whether judicial nominees deserve a fair up-or-down vote.

I will not hesitate to call all Members to their duty if necessary. For now, gratified that our principle of constitutional duty to vote up or down has been taken seriously and as reflected in this agreement, I look forward to swift action on the identified nominations.

Now, the full impact of this agreement will await its implementation, its full implementation. But I do believe that the good faith and the good will ought to guarantee a return to good behavior, appropriate behavior, on the Senate floor and that when the gavel falls on this Congress, the 109th Congress, the precedent of the last 214 years will once again govern up-or-down votes on the floor of the Senate.

Now, this will be spun as a victory. I would assume, for everybody. Some will say it is victory for leadership, some for the group of 14. I see it as a victory for the Senate. I honestly believe it is a victory for the Senate where Members have put aside a party demand to block action on judicial nominees. They have rose to principle and then acted accordingly.

I am also gratified with how clearly the Democratic leader has repeated over and over again during this debate how much he looks forward to working with us, and I with him, as we move forward on the agenda of the 109th Congress. Our relationship has been forged in part by circumstance, but it has been leavened by friendship. I look forward to working with him as we work together to move the Nation's agenda forward together.

We have a lot to do, from addressing those vital issues of national defense and homeland security, to reinforcing a bill that hopefully will come very soon, addressing our energy independence, our role as a reliable and strong trading partner, to an orderly consideration of all the bills before us about funding, and to put the deficit on the decline. I look forward to working with the Democratic leader on these and many other issues of national importance.

Mr. President, a lot has been said about the uniqueness of this body. Indeed, our Senate is unique, and we all, as individuals and collectively as a body, have a role to play in ensuring its cherished nature remains intact. Indeed, as demonstrated by tonight's agreement, and by the ultimate implementation of that agreement, we have done just that.

It has withstood mighty tests that have torn other governments apart. Its genius is in its quiet voice, not in any mighty thunder. The harmony of equality brings all to its workings with an equal stake at determining its future. In all that the Senate has done in the last 2 years, I, as leader, have attempted to discharge my task to help steward this institution consistent with my responsibilities, not just as majority leader and not just as Republican leader, but also as a Senator from Tennessee.

In closing tonight, with this agreement, the Senate begins the hard work of steering back to its better days, leaving behind some of its worst. While I would have preferred and liked my principle of up-or-down votes to have been fully validated, for this Congress now we have begun our labors for fairness and up-or-down votes on judicial nominees with a positive course. And as all involved keep their word, it should be much smoother sailing.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, this is a day I have waited for for a long time. We can put the 8 years of the Clinton administration behind us, the problems he had with the judges, over 60. We can put the first 4 years of the Bush administration behind us. I have looked forward to this day for a long time. We are now in a new Congress and a new day, and it was made possible by virtue of some very, very unique individuals called Senators. One of them is here on the floor. The other, Senator BYRD, has left.

Senator BYRD has served 53 years in the Congress, 47 in the Senate, 6 in the House. The chairman of the most important committee, many say around here, the Armed Services Committee, Senator WARNER of Virginia—if there were ever a southern gentleman, it is the white-haired Senator from Virginia, JOHN WARNER. They worked for months with some of the youngsters here, LINDSEY GRAHAM, MARK PRYOR, KEN SALAZAR, in coming up with this unique instrument that is only possible in the Senate.

Now, Mr. President, I say that this is not a victory for the Senate, though it is. I say this is a victory for the American people. It is a victory for the American people because the Senate has preserved the Constitution of the United States. No longer will we have to be giving the speeches here about breaking the rules to change the rules. We are moving forward in a new day, a new day where the two leaders can work on legislation that is important to this country.

Just as a side note, I can throw away this rumpled piece of paper I have carried around for more than a month that has the names MCCAIN, CHAFEE, SNOWE, WARNER, COLLINS, HAGEL, SPECTER, MURKOWSKI, and SUNUNU. It is gone. I do not need that any more because of the bravery of these Senators. I am grateful to my colleagues, as I have said, who brokered this deal. And it was a brokerage, for sure.

Now we can move beyond this time-consuming process that has deteriorated the comity of this great institution called the Senate. I am hopeful we can quickly turn to work on the people's business. We need to ensure that our troops have the resources they need to fight in Iraq and around the world and that Americans are free from terrorism. We need to protect retirees' pensions and long-term security. We need to expand health care opportunities for all families. We need to address rising gasoline prices and energy independence, and we need to restore fiscal responsibility and rebuild our economy so it lifts all American workers. That is our reform agenda. Together we can get the job done.

It is off the table. People of good will recognize what is best for the institution. There are no individual winners in this. Individual winners? No. A little teamwork it took. And the American people should see this picture: Democrats and Republicans, some who have been here as long as Senator BYRD and Senator WARNER, and some newcomers. Senator SALAZAR has been here for 5 months. He was part of this arrangement. People from red States, from blue States, they represent America. That is what happened tonight.

Now, I would rather that something else had happened. I would rather that we had marched down here tomorrow and voted and we gave our high fives and we had won. We are not doing that. We have won anyway because this is a victory for the American people.

I love this country, Mr. President. I have devoted my life to public service. I do not regret a day of it. I will have been in public service 41 years, and I said to my caucus that there has never been a more important issue I have dealt with in my political life than this issue that is now terminated. It is over with. And I feel so good. This will be the first night in at least 6 weeks that I will sleep peacefully. I have not had a peaceful night's rest in at least 6 weeks.

I owe a debt of gratitude to these Senators who did what the two leaders could not do. I tried. It could not be done. But I hope, as we proceed in the days to come, that this is past history. Of course, there will be filibusters in the future. It is the nature of this institution. And that is the way it should be. We are not on a slippery slope to saying all the Presidential nominations are subject to a simple majority—to change the rules. We are not going to say that legislation is subject to a simple majority to change the rules. The filibuster is here. Mr. SMITH can still come to Washington.

I, through the Chair, extend my appreciation to the distinguished Republican leader for his patience, my many trips to his office, the few trips he made to my office, the many telephone calls, the BlackBerrys we exchanged. I have admiration for the good doctor from Tennessee. And I hope that we, working together, can do good things for this country. The country needs a Senate that works together.

Again, Mr. President, the only person I see here who I can personally thank is the distinguished Senator from Virginia. I say, through the Chair, to you and the other 13 Senators, thank you very much.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, before he leaves the floor, I want to extend my congratulations to the majority leader for moving us to this point. Obviously, human nature, being what it is, had we not had a deadline, had the Priscilla Owen nomination not been brought up, had the debate not begun, we would not be where we are today. Senator FRIST, in a tireless and persistent manner, has been working on this issue since shortly after the election last year, talking to Senator REID.

I also want to compliment the Democratic leader. I suspect there is no issue upon which Senator FRIST and Senator REID have had discussions more frequently than this one, going back for the last 6 months.

I think there was bipartisan unhappiness in the Senate with the degree to which the Senate had deteriorated in the last Congress—this sort of random, mindless killing of nominees, 10 of them.

I think what has happened tonight is a result not only of the steadfastness of our majority leader, BILL FRIST, but also this coming together of the group of 14, led in large measure on our side by Senator MCCAIN and Senator WARNER from Virginia, one of the real true supporters of this institution. They have allowed us to sort of step back from the brink. As I read this memorandum of understanding, signed by the seven Democrats and seven Republicans, all options are still on the table with regard to both filibusters and constitutional options. But what I also hear from these 14 distinguished colleagues is that they do not expect this to happen.

We have marched back from the brink, hopefully taken the first step, beginning tomorrow with cloture on Justice Priscilla Owen, to begin to deal with judicial nominations the way we always have prior to the last Congress. Sure, there were occasional cloture votes, but they were always invoked. They were always for the purpose of getting the nominee an up-or-down vote.

I want to thank Senator WARNER and his colleagues for making it possible for us to get back to the way we operated quite comfortably for 214 years. So even though this is not an agreement that I would have made or that the majority leader would have made—because he and I both believe that all nominees who come to the floor are entitled to an up-or-down vote—it is certainly a good beginning. And three very, very distinguished nominees, whose nominations have been languishing for a number of years, are going to get an up-or-down vote. I think that is something we can all celebrate on a bipartisan basis.

So I do indeed think this has been a good night for the Senate. And I am optimistic that for the balance of this Congress, we will operate the way we did for 214 years prior to the last Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

Winston Churchill once said there is nothing more exhilarating than being shot at and missed. This evening I think Members of the Senate feel as I do——

The PRESIDING OFFICER. The Senator will excuse me. Let me say that I need to recognize the Senator from Colorado.

Mr. ALLARD. Mr. President, I inquire what the regular order might be. I was scheduled to speak at 8:15. I am not entirely sure on the regular order.

The PRESIDING OFFICER. The majority controls the time until 9 o'clock.

Mr. ALLARD. Mr. President, my time right now as set aside for the majority is now being taken up by this discussion. I would like to have some time reserved for myself in the 30 minutes. Right now we have 6 or 7 or 8 speakers lined up, and so I want to have an opportunity to make my views known at some point in time. I think we need to establish regular order, and if both parties have agreed that it goes back over to the other side at 9 o'clock, I would like to have that extended out so that when we reach 9 o'clock then I can speak from 9 to 9:30.

Mr. DURBIN. Mr. President, I make the unanimous consent request that as soon as I finish speaking, and the other Senators who have sought recognition, the Senator from Colorado be recognized for 30 minutes.

Mr. HARKIN. Mr. President, reserving the right to object, do I understand the order is that at 9 o'clock it comes back to this side; that is the order before the Senate right now?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I did not hear the unanimous consent request of my friend from Illinois.

Mr. DURBIN. I say through the Chair to my friend from Iowa, since there has been the interruption of the good news of this agreement, it was taken from the time of the Senator from Colorado, the majority, and I am trying to make sure his time is protected and that we can move all times to the point where the Senator from Colorado has his 30 minutes as soon as a few of us have spoken for just a few minutes and then we will continue.

Mr. HARKIN. I ask unanimous consent at the conclusion of the 30 minutes for the Senator from Colorado, the Senator from Iowa be recognized for 15 minutes.

Mr. WARNER. Mr. President, reserving the right to object—I shall not object—I hope I could state a few words following the distinguished Senator from Illinois. I was scheduled to speak at 8 o'clock. My time I think has been put to good use, and I would be very pleased if I could make my remarks. So if I could follow the Senator from Illinois for not to exceed 4 minutes.

Mr. SCHUMER. Mr. President, I just want to get the regular order. I was scheduled to speak at 9 o'clock on our side. Is that time preserved under the order?

The PRESIDING OFFICER. The unanimous consent request that the Senator from Colorado have 30 minutes is also at 9 o'clock; is that correct?

Mr. SCHUMER. All right, then, Mr. President, I ask unanimous consent that immediately after the Senator from Colorado, I be given the 15 minutes I was going to be given at 9 o'clock.

The PRESIDING OFFICER. Will the Senator from Illinois modify his request?

Mr. DURBIN. Let me try to modify this appropriately. I ask unanimous consent that I speak for 5 minutes, that I be followed by Senator WARNER who wishes to speak for 5 minutes, Senator SCHUMER for 5 minutes, then Senator ALLARD for 30 minutes, and Senator HARKIN following him for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. And after Senator HARKIN, Senator BOXER for 15 minutes.

Mr. KYL. Mr. President, reserving the right to object, since I was to speak at 9:30, I want to intervene. I will withhold depending upon what my colleagues say in the spirit of the latest agreement to see whether it is necessary to comment, and if not then I won't, but otherwise I will not object to the request that has been made.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank my colleagues.

It is great to have these bipartisan agreements on the floor of the Senate. Maybe a new spirit is dawning. I am going to take a very few moments. As I said at the outset, Winston Churchill said there is nothing more exhilarating than being shot at and missed. Many of us in the Senate feel that this agreement tonight means some of the most cherished traditions of the Senate will be preserved, will not be attacked, and will not be destroyed. I think it is a time for celebration on both sides of the aisle.

I salute one of my colleagues who is on the Senate floor this evening, Senator WARNER of Virginia. I was asked by my friends back in Illinois not long ago, Senator WARNER, tell us the Republican Senators you really respect, and I said JOHN WARNER is certainly one of those Senators. And I mean it sincerely. He has played a central role with Senator MCCAIN, Senator BYRD, Senator NELSON, Senator PRYOR, and so many others to bring us to this point.

What I think is important is this: What we have seen as the emergence of resolving this issue is the emergence of people from the center who are dedicated to this institution and to our role in our government. I hope that continues over to other issues, and I hope the White House, as well as the leaders of both political parties, will try to work in that same spirit, the spirit of moving toward the center in moderation. I might say that the fact that the President has had 95 percent of his nominees to the bench approved by the Senate is an indication that if he will pick men and women more toward the center, even a little right of center, which we expect, that the President is not going to run into the resistance he did with a handful of nominees that we on the Democratic side thought went too far.

I would like to say a word about Senator HARRY REID, who was in the Chamber just a moment ago. He spoke about sleepless nights. He and I talked about that for weeks. No one has spent more time worrying over this situation. He understood, as we all did, that this was not just another political issue, not just another political vote, but had Vice President CHENEY come to that chair tomorrow and ruled as we heard he would under the nuclear option, the Senate would have been changed forever. This institution has been preserved. The nuclear option is off the table. We have been admonished, and I think appropriately so, not to misuse the filibuster, certainly when it comes to judicial nominees. That is good advice on both sides of the aisle under Democratic and Republic Presidents. I thank my colleagues, too, for bringing up some of the more contentious judges as part of this debate.

Senator REID went to Senator FRIST weeks ago and said if this is about one or two judges, let us get that resolved. The Senate, its traditions and the constitutional issues at stake, are more important than any single judge in our land. Unfortunately, that negotiation between Senator REID and Senator FRIST did not lead to the culmination that we had hoped it would. But thanks to the leadership of colleagues on both sides of the aisle in good faith and good spirit on a bipartisan basis we have now moved ourselves beyond this crisis. Now the challenge is whether we can continue in this spirit: Will we tomorrow come together and start working on important issues such as retirement security, health care in America, the protection of our Nation, the support of our men and women in uniform, doing something to help with education? It is an important agenda that calls for the best on both sides of the aisle to work together.

Again, let me thank Senator WARNER for his leadership. I know he has been patient. A couple weeks ago, the Senator came over to me in the corner of the Chamber and said: We ought to work together to get this resolved.

The Senator never quit. I admire him for that. I admire Senators on both sides of the aisle who brought us to this happy occasion.

And at that point, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my distinguished colleague from Illinois.

Mr. President, when we opened our brief press conference upstairs, Senator MCCAIN and Senator BEN NELSON spoke for the entire group. It was made clear our everlasting gratitude to the tireless efforts by Senator FRIST and Senator REID. The framework that we have created can be no stronger than the foundation on which it rests. And that foundation was laid by our two respective leaders, and, indeed, the whips, Senator MCCONNELL and the Senator from Illinois. So we are not around this evening to try to take credit for anything. As a matter of fact, this was the most unusual gathering of Senators, and the manner in which it was conducted over a number of days—total humility among our group.

We are proud of the leadership that Senator MCCAIN gave, Senator BEN NELSON, Senator ROBERT BYRD, and others. But each Senator of the 14 was 1, but 1 among equals, working toward a common goal. And no one articulated that goal time and time again in every meeting more than Senator ROBERT BYRD of West Virginia, who said it is the Nation, it is the institution of the Senate, and the third priority is our own career. So I thank him for that.

I am proud to have been a part of this. I do hope that our wonderful Senate can now resume its long and distinguished service to our Nation over these 214 or 216 years, and I am very privileged to have been a small part of it at this time.

I thank the Chair. I yield the floor.

PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Chair. I thank all my colleagues. This will go down, hopefully, as a fine night in the Senate, in the U.S. Government. Armageddon has been avoided, and thank God for that. We in the Senate stepped right up to the precipice, but we did not fall in. This Republic works in amazing ways. And just as we were about to fall into an abyss of partisanship, of a destruction of the checks and balances that are the hallmark of this institution and this government, 12 Senators, many Democrats from red States, some Republicans from blue States, came together and created an agreement that I think serves this body well.

Does it have everything that we would have wanted on this side? No. But it takes the nuclear option off the table. It says that filibusters may continue to be used, albeit in a restrained way—although many would argue 10 out of 218 was restrained in itself. It also asks the President to consult and that, to me, would be a key lesson of this agreement. The reason that we came so close to this Armageddon is because, in my judgment, we didn't have the typical consultation that previous Presidents—Clinton, Bush, Reagan—had with the Senate before nominating judges.

The agreement widely states that it is the hope of the Senate—at least of the 12 signatories, but I am sure the other 88 Senators would join—that the President will begin to consult. That will not mean that judges will be so far from his political philosophy. He is the President and he gets to choose them. But it will mean that the kinds of partisan division that we have seen here is gone.

Mr. President, what I most feared about the nuclear option was the destruction of the checks and balances that are the hallmark of this institution. Those checks and balances have been preserved tonight. But make no mistake about it, if we don't all make efforts, we could get right back to this point soon enough. It could be on the issue of judges or on the issue of something else. The poison of too much partisanship is still here, and it is hoped that this agreement will set a model where everyone can pull back, it is hoped that there will be consultation on judges, and it is hoped that this agreement will set the stage for a better Senate, a better Congress, and a better Republic in the future.

Mr. President, this could become a historic night if the agreement that has been created keeps. We must preserve the checks and balances in the Senate. We must preserve the rights of the minority in the Senate. We must understand that a vote of 51 percent on the most major of decisions is not the right vote that is always called for. That has been the tradition in the Senate.

The reason we say that our rules take two-thirds to change is exactly to make it hard to change the rules and force the proposed changer to seek a bipartisan coalition. That bipartisanship is what differentiates us from the other body. Those checks and balances differentiate us from most other governments. We must fight to keep them and tonight we have made a giant step in that direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator from New York for his kind comments on the judicial nomination process. My thanks extend to all my colleagues tonight for their comments on the judicial nomination process and compromise negotiations.

I rise to congratulate the 14 Senators who have indicated through a Memorandum of Understanding that they will no longer support a filibuster on 3 of President Bush's judicial nominees. This is a good first step toward a bipartisan resolution.

My statement this evening is based on remarks that I prepared prior to the announcement of the judicial nomination compromise; however, the basic intent of my remarks has not changed even though the filibuster has been broken on three of the President's nominees. Tonight, I will address the qualifications of Priscilla Owen, and how important it is that we allow a yes or no vote on judicial nominees. All I ask for is an opportunity to have a yes or no vote on those judges that are pending before the Senate.

I am concerned about the next step in the judicial nomination debate—where are we going to go from here when it comes to the filibuster? I join my colleagues on both sides of the aisle who wish to move forward and forget about finger pointing and blame—who voted for who, who voted for a filibuster and how many times did they vote against cloture. I just hope we do indeed move forward. I hope we will look at each judge that is before the Senate for confirmation and vote them up or down based on their qualifications. That is what our forefathers had in mind when the advise and consent.

I join my colleagues in support of the nomination of Priscilla Owen, the Texas Supreme Court justice who was first nominated to the Fifth Circuit Court of Appeals in May 2001 by President Bush. I urge my colleagues to support her confirmation and allow an up-or-down vote on her nomination. I hope that fairness prevails and that we do indeed proceed with a vote on her nomination, and it looks like that is indeed the way the events have unfolded this evening.

I have had the opportunity to meet with Priscilla Owen personally. I don't know how many of my colleagues who oppose or who continue to oppose her have accepted her offer to visit with them, but I hope they will have the courtesy to meet her in person before deciding to refuse to offer her a fair up-or-down vote. If they do, they will quickly learn she is a person of integrity, humility, and possesses a keen understanding of the law.

On a personal note, she is a wonderful human being. I was particularly impressed when she told me that growing up she hoped to be a veterinarian. As a veterinarian myself, you can understand why I was impressed. She spoke of growing up and participating in a family cattle ranching enterprise, helping her parents and grandparents during calving season, nursing and branding.

There is something special about a person who has been kicked by a cow and swatted across the face with a dirty cow tail. It makes a person more real, more understanding of life and hard work. This is exactly the type of judge we need on the bench, one who understands real life, honest-living and hard-working people.

Instead of defaming her, I wish my colleagues would get to know her so that they might recognize the legal skill and value she would bring to the United States as a member of the Fifth Circuit Court of Appeals. Priscilla Owen will uphold the law, not make the law. Some find this to be a problem. I find it to be a blessing.

Priscilla Owen has served the law with distinction. A justice of the Texas Supreme Court since 1995, she received overwhelming approval from the people of Texas, 84 percent of whom voted to retain her service on the bench.

Unlike many Members of the Senate, including myself, when it came time for the voters to decide whether or not she should remain on the bench, Ms. Owen received the endorsement of every major newspaper in the State of Texas. I ask, does that sound like someone who is too extreme?

Priscilla Owen's life has not been limited to the law. She is a decent human being and dedicated community servant. She has worked to educate parents about the effect divorce has on children and worked to lessen the adversarial nature of legal proceedings when a marriage is dissolved. She works with the hearing impaired and organizations dedicated to service animals for those with disabilities. She teaches Sunday school and is committed to the poor and underprivileged.

It is clear that she is qualified to serve on the Fifth Circuit Court. The American Bar Association unanimously rated Justice Owen "well qualified," its highest possible rating. She has the support of former Democrat justices on the Texas Supreme Court and 15 past presidents of the Texas State Bar.

To say that she is not qualified is utterly ridiculous. Because her credentials are so outstanding, throughout this debate, the other side has relied on hyperbole and rhetoric, accusing her of being "extreme" in order to smear her nomination. So the question her nomination presents us, then, is whether she is extreme or qualified? The great thing about the Constitution is that it provides us with a mechanism to make this type of "advice and consent" determination on whether she is extreme or qualified—through a simple up-or-down vote.

An up-or-down vote is a simple matter of fairness. Every judicial nominee that makes it out of the Judiciary Committee should receive an up or down vote. The filibuster is not in the Constitution. It is merely a parliamentary delay tactic that was relatively unused until modern times. In 214 years, never has a nominee with the majority of support of the United States Senate been denied a vote.

Throughout the history of the United States, a nominee who clearly held the majority support of the Senate had never been defeated by the use of the filibuster—until now. During the last Congress those opposed to President Bush's nominees tried to establish a precedent by using the filibuster to block a nomination. Having witnessed what was taking place, I appealed to my colleagues to restore the fairness that this body and the American people deserve. That is why I am so excited about moving forward with 3 of the nominations, which includes Priscilla Owen, so we can have an up-or-down vote.

Throughout this debate, I have consistently stated we must reach a compromise that allows an up-or-down vote on all nominees, while affording everybody an opportunity to be heard. This is not a partisan issue or flippant suggestion; it is simply a matter of fairness. If a nominee reaches the floor, then they should receive a vote—up or down. I don't believe there is anything wrong with providing a nominee an up-or-down vote once they reach the floor.

Some in this body act as if the filibuster has been used before to kill a judicial nominee. But such actions are simply misguided. Every nominee with a majority of support has received an up-or-down vote—every nominee for over 200 years.

I do not take the confirmation of judicial nominations lightly, nor do my colleagues. But we must not twist the confirmation process into a partisan platform.

Our fundamental duty to confirm the President's nominees is not an easy task. It carries with it the weight and responsibility of generations—a lifetime appointment to a position that requires a deep and mature understanding of the law.

We were elected to the Senate by people who believed we would accomplish our fundamental duties—as representatives of the people to say yes or no to the President's nominees.

I believe Members have a right to express their opinions. I also believe that Members have a right to a vote and that it is wrong to deny others of their opportunity to vote on judicial nominations.

The debate is not about numbers. It is not about percentages—how many judges that Republicans confirmed or how many judges Democrats have confirmed. To frame this debate as a numbers fight is not being fair to the American people. We were not sent to Congress to focus on a numerical count, but instead to carry out our constitutional obligations, in this instance the advice and consent clause.

Some Senators have come to the floor to argue that the advice and consent clause doesn't mean that we actually vote on nominees. They argue that a vote is only needed to confirm the nominee, but that other tactics can be used to disapprove the nominee. Unfortunately, these other tactics that have been used to kill a nomination have resulted in the obstruction of our constitutional duties.

To help address this point, I will turn to a recent article published in the National Review, which discusses the meaning of the advise and consent clause through the eyes of our country's Founders. The article notes the appointment clause is listed as an explicit power vested in the executive.

The advise and consent obligation follows this clause but it is in the article addressing executive powers. It is not listed in the article addressing legislative powers. The author believes that this is instructive because it helps us understand that the Founders intended the President to play the main role in the nomination process, not the legislature. Had the Founders intended the legislature to be the fulcrum, they would have listed the advise and consent clause as a fundamental duty in the article addressing legislative powers.

I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From National Review Online, May 17, 2005]

Breaking the Rules: The Framers Intended No More Than a Senate Majority To Approve Judges

(By Clarke D. Forsythe)

The sharpening debate in the U.S. Senate over whether Democrats can block President Bush's judicial nominations by filibuster raises the basic question of the scope of the Senate's constitutional role to give "Advice and Consent." What does it mean for the Senate to give "Advice and Consent" for federal judges?

Many people question whether changing the rules to allow only a majority vote for confirmations is proper, or even constitutional. However, the text of the Constitution, the record of the Constitutional Convention of 1787, and Supreme Court decisions all concur to show that the Constitution intended no more than a majority "vote" for the Senate's "Advice and Consent" for judicial appointments.

The key provision is Article II, Section 2, called the Appointments Clause: "[The president] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States . . ."

There are three striking aspects of the Appointments Clause, all of which are intentional and not accidental.

First, it is instructive if not definitive that the Appointments Clause is contained as an explicit power in Article II, involving executive powers, not in Article I, involving legislative powers.

Second, only a simple majority is required. The clause on the treaty power, after mentioning "Advice and Consent," requires concurrence by "two thirds of the Senators present." The clause on the appointment of ambassadors and others, including Supreme Court justices—by contrast—does not.

This is reinforced by the contrast found in several other provisions in the Constitution where a "supermajority" vote is required. In Article I, section 3, two-thirds (of members present) are required for Senate conviction for impeachment. In Article I, section 5, two-thirds are required to expel a member of either House. Article I, section 7 requires two-thirds for overriding a presidential veto. The fact that the Constitution explicitly requires two-thirds in some contexts indicates that the Senate's consent in Article II, section 2 is by majority vote when no supermajority vote is required.

The general rule is that majorities govern in a legislative body, unless another rule is expressly provided. Article I, section 5, for example, provides that "a Majority of each [House] shall constitute a Quorum to do Business."

More than a century ago, the Supreme Court stated in United States v. Ballin, a unanimous decision, that "the general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations . . . No such limitation is found in the federal constitution, and therefore the general law of such bodies obtains."

Third, the particular process in the Appointments Clause—of presidential nomination and Senate "consent" by a majority—was carefully considered by the Constitutional Convention. A number of alternative processes for appointments were thoroughly considered—and rejected—by the Constitutional Convention. And this consideration took place over several months.

The Constitutional Convention considered at least three alternative options to the final Appointments Clause: (1) placing the power in the president alone, (2) in the legislature alone, (3) in the legislature with the president's advice and consent.

On June 13, 1787, it was originally proposed that judges be "appointed by the national Legislature," and that was rejected; Madison objected and made the alternative motion that appointments be made by the Senate, and that was at first approved. Madison specifically proposed that a "supermajority" be required for judicial appointments but this was rejected. On July 18, Nathaniel Ghorum made the alternative motion "that the Judges be appointed by the Executive with the advice & consent of the 2d branch," (following on the practice in Massachusetts at that time). Finally, on Friday, September 7, 1787, the Convention approved the final Appointments Clause, making the president primary and the Senate (alone) secondary, with a role of "advice and consent."

Obviously, this question is something that the Framers carefully considered. The Constitution and Supreme Court decisions are quite clear that only a majority is necessary for confirmation. Neither the filibuster, nor a supermajority vote, is part of the Advice and Consent role in the U.S. Constitution. Until the past four years, the Senate never did otherwise. Changing the Senate rules to eliminate the filibuster and only require a majority vote is not only constitutional but fits with more than 200 years of American tradition.

Mr. ALLARD. Mr. President, had the Founders intended a 60-vote supermajority, they would have included the requirement in the Constitution the way they did on the treaty power clause. The clause on the treaty power, after mentioning "advice and consent," requires concurrence by two-thirds of the Senators present. The clause on the appointment of ambassadors and others, including Supreme Court Justices, by contrast, does not.

The author then pointed out several other provisions in the Constitution where a supermajority vote is required. In article I, section 3, two-thirds of Members present are required for Senate conviction for impeachment. In article I, section 5, two-thirds are required to expel a member of either House. Article I, section 7 requires two-thirds for overriding a Presidential veto.

The fact that the Constitution explicitly requires two-thirds in some contexts indicates that the Senate's consent in article II, section 2 is by majority vote when no supermajority vote is required. The general rule is that majorities govern in a legislative body unless another rule is expressly provided.

The article also cited a Supreme Court case noting that more than a century ago, in United States v. Ballin, that "the general rule of parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations. . . . No such limitation is found in the Federal Constitution and, therefore, the general law of such bodies obtains."

In the author's own words: ". . . the particular process in the Appointments Clause—of presidential nomination and Senate 'consent' by a majority"—was carefully considered by the Constitutional Convention. A number of alternative processes for appointments were thoroughly considered—and rejected—by the Constitutional Convention. And this consideration took place over several months.

The Constitutional Convention considered at least three alternative options to the final appointments clause: (1) placing the power in the President alone,(2) in the legislature alone, (3) in the legislature with the President's advice and consent.

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On July 18, Nathaniel Ghorum made the alternative motion "that the Judges be appointed by the Executive with the advice & consent of the 2d branch," following on the practice in Massachusetts at that time.

Finally, on Friday, September 7, 1787, the Convention approved the final appointments clause, making the President primary and the Senate alone secondary with the role of advise and consent.

I am no lawyer, but to me if a document consistently states when a supermajority vote is required and silent when it is not required, that they meant to write it that way and it was not a mere oversight no supermajority was required for the approval of judicial nominees.

Clearly, a supermajority was never intended, but what was intended was an up-or-down vote, a fair nonpartisan up-or-down vote.

If a Member of the Senate disapproves of a judge, then let them vote against the nominee. I encourage them to express their dissatisfaction and vote no on the nominee. But do not deprive those of us in the Senate who support a nominee of our right to a vote. Do not deny an up-or-down vote entirely. Let's decide whether the Members of this body approve or disapprove of the nominees, and let's vote. Let's vote to show whether this body believes the nominees are unfit for service or out of the mainstream. I believe they have majority support—majority support from the elected representatives of the people. But let's vote and find out.

It is our vote—the right of each Member to collectively participate in a show of advise and consent to the President—that exercises the remote choice of the people who sent us to Congress.

Our three-branch system of government cannot function without an equally strong judiciary. It is through the courts that justice is served, rights protected, and that lawbreakers are sentenced for their crimes.

Unfortunately, one out of four of President Bush's circuit nominees have been subjected to the filibuster, the worst confirmation of appellate court judges since the Roosevelt administration. The minority cannot willingly refuse to provide an up-or-down vote on judicial nominees without acknowledging that irreparable harm may be done to an equal branch of government.

The decision to vote up or down on a nominee or deny that vote entirely pits the Constitution against parliamentary procedure. That is the Constitution versus the filibuster. I urge my colleagues to put their faith in the founding document and not in a filibuster. To do anything else dishonors the Constitution and relegates it to a mere rule of procedure.

I am pleased that we have reached a common ground on three of the judicial nominees. I am pleased that we have recognized our duties as Members of this body to uphold the Constitution. But I would ask my colleagues for fairness as we move forward for the rest of the session, for the rest of this Congress, to put partisan politics aside and to fulfill our advise and consent obligations on all nominations. As we move through the rest of the Congress, let's vote up or down and end this debate about filibusters with honor.

Mr. President, I am excited that we can now move forward.

I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. ALLARD. Mr. President, it seems as though we need to do closing script, and if the Senator from Iowa will yield to me, I will be glad to do that formality.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

MORNING BUSINESS

Mr. ALLARD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENTIAL REPORT

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the President of the United States be printed in the RECORD today pursuant to the War Powers Resolution (P.L. 93–148) and P.L. 107–40.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, May 20, 2005.

Hon. TED STEVENS,
President pro tempore of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am providing this supplemental consolidated report, prepared by my Administration and consistent with the War Powers Resolution (Public Law 93–148), as part of my efforts to keep the Congress informed about deployments of U.S. combat-equipped armed forces around the world. This supplemental report covers operations in support of the global war on terrorism, Kosovo, and Bosnia and Herzegovina.

THE GLOBAL WAR ON TERRORISM

Since September 24, 2001, I have reported, consistent with Public Law 107–40 and the War Powers Resolution, on the combat operations in Afghanistan against al-Qaida terrorists and their Taliban supporters, which began on October 7, 2001, and the deployment of various combat-equipped and combat-support forces to a number of locations in the Central, Pacific, and Southern Command areas of operation in support of those operations and of other operations in our global war on terrorism.

I will direct additional measures as necessary in the exercise of the U.S. right to self-defense and to protect U.S. citizens and interests. Such measures may include short-notice deployments of special operations and other forces for sensitive operations in various locations throughout the world. It is not possible to know at this time either the precise scope or duration of the deployment of U.S. Armed Forces necessary to counter the terrorist threat to the United States.

United States Armed Forces, with the assistance of numerous coalition partners, continue to conduct the U.S. campaign to pursue al-Qaida terrorists and to eliminate support to al-Qaida.

These operations have been successful in seriously degrading al-Qaida's training capabilities. United States Armed Forces, with the assistance of numerous coalition partners, ended the Taliban regime in Afghanistan and are actively pursuing and engaging remnant al-Qaida and Taliban fighters. Approximately 90 U.S. personnel are also assigned to the International Security Assistance Force (ISAF) in Afghanistan. The U.N. Security Council authorized the ISAF in U.N. Security Council Resolution 1386 of December 20, 2001, and has reaffirmed its authorization since that time, most recently, for a 12-month period from October 13, 2004, in U.N. Security Council Resolution 1563 of September 13, 2004. The mission of the ISAF under NATO command is to assist the Government of Afghanistan in creating a safe and secure environment that allows reconstruction and the reestablishment of Afghan authorities. Currently, all 26 NATO nations contribute to the ISAF. Ten non-NATO contributing countries also participate by providing military and other support personnel to the ISAF.

The United States continues to detain several hundred al-Qaida and Taliban fighters who are believed to pose a continuing threat to the United States and its interests. The combat-equipped and combat-support forces deployed to Naval Base, Guantanamo Bay, Cuba, in the U.S. Southern Command area of operations since January 2002 continue to conduct secure detention operations for the approximately 520 enemy combatants at Guantanamo Bay.

The U.N. Security Council authorized a Multinational Force (MNF) in Iraq under unified command in U.N. Security Council Resolution 1511 of October 16, 2003, and reaffirmed its authorization in U.N. Security Council Resolution 1546 of June 8, 2004, noting the Iraqi Interim Government's request to retain the presence of the MNF. Under U.N. Security Council Resolution 1546, the mission of the MNF is to contribute to the security and stability in Iraq, as reconstruction continues, until the completion of Iraq's political transformation. These contributions include assisting in building the capability of the Iraqi security forces and institutions, as the Iraqi people, represented by the Transitional National Assembly, draft a constitution and establish a constitutionally elected government. The U.S. contribution to the MNF is approximately 139,000 military personnel.

In furtherance of our efforts against terrorists who pose a continuing and imminent threat to the United States, our friends and allies, and our forces abroad, the United States continues to work with friends and allies in areas around the globe. United States combat-equipped and combat-support forces are located in the Horn of Africa region, and the U.S. forces headquarters element in Djibouti provides command and control support as necessary for military operations against al-Qaida and other international terrorists in the Horn of Africa region, including Yemen. These forces also assist in enhancing counterterrorism capabilities in Kenya, Ethiopia, Yemen, Eritrea, and Djibouti. In addition, the United States continues to conduct maritime interception operations on the high seas in the areas of responsibility of all of the geographic combatant commanders. These maritime operations have the responsibility to stop the movement, arming, or financing of international terrorists.

NATO-LED KOSOVO FORCE (KFOR)

As noted in previous reports regarding U.S. contributions in support of peacekeeping efforts in Kosovo, the U.N. Security Council authorized Member States to establish KFOR in U.N. Security Council Resolution 1244 of June 10, 1999. The mission of KFOR is to provide an international security presence in order to deter renewed hostilities; verify and, if necessary, enforce the terms of the Military Technical Agreement between NATO and the Federal Republic of Yugoslavia (which is now Serbia and Montenegro); enforce the terms of the Undertaking on Demilitarization and Transformation of the former Kosovo Liberation Army; provide day-to-day operational direction to the Kosovo Protection Corps; and maintain a safe and secure environment to facilitate the work of the U.N. Interim Administration Mission in Kosovo (UNMIK).

Currently, there are 23 NATO nations contributing to KFOR. Eleven non-NATO contributing countries also participate by providing military personnel and other support personnel to KFOR. The U.S. contribution to KFOR in Kosovo is about 1,700 U.S. military personnel, or approximately 10 percent of KFOR's total strength of approximately 17,000 personnel. Additionally, U.S. military personnel occasionally operate from Macedonia, Albania, and Greece in support of KFOR operations.

The U.S. forces have been assigned to a sector principally centered around Gnjilane in the eastern region of Kosovo. For U.S. KFOR forces, as for KFOR generally, maintaining a safe and secure environment remains the primary military task. The KFOR operates under NATO command and control and rules of engagement. The KFOR coordinates with and supports UNMIK at most levels; provides a security presence in towns, villages, and the countryside; and organizes checkpoints and patrols in key areas to provide security, protect minorities, resolve disputes, and help instill in the community a feeling of confidence.

In accordance with U.N. Security Council Resolution 1244, UNMIK continues to transfer additional competencies to the Kosovar provisional Institutions of Self-Government, which includes the President, Prime Minister, multiple ministries, and the Kosovo Assembly. The UNMIK retains ultimate authority in some sensitive areas such as police, justice, and ethnic minority affairs.

NATO continues formally to review KFOR's mission at 6-month intervals. These reviews provide a basis for assessing current force levels, future requirements, force structure, force reductions, and the eventual withdrawal of KFOR. NATO has adopted the Joint Operations Area plan to regionalize and rationalize its force structure in the Balkans. The UNMIK international police and the Kosovo Police Service (KPS) have full responsibility for public safety and policing throughout Kosovo except in the area of South Mitrovica, where KFOR and UNMIK share this responsibility due to security concerns. The UNMIK international police and KPS also have begun to assume responsibility for guarding patrimonial sites and established border-crossing checkpoints. The KFOR augments security in particularly sensitive areas or in response to particular threats as needed.

NATO HEADQUARTERS—SARAJEVO IN BOSNIA AND HERZEGOVINA

Pursuant to the June 2004 decision made by NATO Heads of State and Government, and in accordance with U.N. Security Council Resolution 1575 of November 22, 2004, NATO concluded its Stabilization Force (SFOR) operations in Bosnia and Herzegovina and established NATO Headquarters—Sarajevo to continue to assist in implementing the Peace Agreement in conjunction with a newly established European Force (EUFOR). NATO Headquarters—Sarajevo, to which approximately 235 U.S. personnel are assigned, is, with EUFOR, the legal successor to SFOR. The principal tasks of NATO Headquarters—Sarajevo are providing advice on defense reform and performing operational supporting tasks, such as counterterrorism and supporting the International Criminal Tribunal for the Former Yugoslavia.

I have directed the participation of U.S. Armed Forces in all of these operations pursuant to my constitutional authority to conduct U.S. foreign relations and as Commander in Chief and Chief Executive. Officials of my Administration and I communicate regularly with the leadership and other Members of Congress with regard to these deployments, and we will continue to do so.

MEMORIAL DAY

Ms. STABENOW. Mr. President, I rise today to reflect on this year's Memorial Day and the importance of this holiday in American life.

As I attend Memorial Day parades and commemorations, I am struck by the spirit of national unity because I know that across Michigan and across our Nation our fellow Americans are taking part in similar gatherings where we take the time to reflect on our history and the sacrifice that brought us to where we are today.

Memorial Day is unique among American holidays. On Memorial Day we do not honor a particular date or event, a battle or the end of a war. On Memorial Day we do not honor an individual leader—a President or a general. On Memorial Day we do not even honor ourselves at least not in the present tense.

On Memorial Day we pay homage to the thousands and thousands of individual acts of bravery and sacrifice that stretch back to the battlefields of our revolution and to those taking place today in the deserts of Iraq and the mountains of Afghanistan.

This year, Memorial Day has a special significance as the 60th anniversary of the battle of Iwo Jima. This past February marks the dates in history that cost nearly 26,000 lives. The service members involved in that battle responded with courage and bravery. Iwo Jima is one of the most important battles of World War II. On behalf of a grateful Nation, we pay respect to the veterans of Iwo Jima and those who made the ultimate sacrifice.

This Memorial Day we also honor the men and women currently serving in Iraq and Afghanistan. We must honor our commitment to them by making sure they have everything they need to complete their mission and come home safely. We must also keep our promises to those who proudly served our country by making sure they receive the benefits they deserve.

So, as we observe this holiday we call Memorial Day, let us remember the centuries of sacrifice by the many men and women that this day represents. And let's make sure that all who served with honor are honored in return.

ADDITIONAL STATEMENTS

THE PASSING OF GEORGE POOLE

● Mr. CRAIG. Mr. President, I have sought recognition to comment on the passing of a dedicated, 28-year employee of the Department of Veterans Affairs Insurance Center, Mr. George Poole. Until his untimely death, Mr. Poole served within the VA Insurance Service, widely regarded as a model of efficiency and service excellence within the Federal Government.

We in the Congress spent a considerable amount of time on the supplemental appropriations bill debating enhancements to insurance benefits for our servicemembers fighting abroad. We were successful in not only increasing the amount of life insurance benefits available for servicemembers, but also creating a new traumatic injury insurance benefit for those severely disabled. Without the assistance of public servants like George, who provide the Veterans' Affairs Committee, and the Congress, with invaluable technical assistance on all legislation affecting insurance benefits, our job would be very difficult.

George began his life-long dedication to public service while serving honorably in the U.S. Air Force from 1964 through 1968. Subsequent to his service, he then received a bachelor's degree and a law degree, taking full advantage of the Department of Veterans Affairs-administered GI bill. There is little doubt that his time in the military service of his country, and his subsequent studies under the GI bill, inspired him to pursue a career dedicated to helping his fellow veterans. This dedication to fellow veterans translated into a long and distinguished 28-year career with the U.S. Department of Veterans Affairs where he served his Nation from 1977 until his death.

His long career with the Department of Veterans Affairs was entirely within the Insurance Service where he served in an impressive litany of capacities. Starting as a claims examiner in the death claims activity, he worked his way up through numerous management level positions including section chief, division chief and finally culminating his distinguished career as chief, program administration, a senior management position. In this, the final step in his career ladder, he was responsible for a variety of duties, not the least of which was composing legislative initiatives concerning servicemembers' and veterans' group life insurance programs. This insurance coverage is intended for members of this Nation's Active-Duty military and Reserve components, as well as veterans recently released from Active service, who are in, or recently were in, harm's way defending the United States. The importance of assuring that all members of the military, veterans, and their families are properly provided for in their time of need goes without question. Therefore, George's work will undoubtedly have a lasting effect on the families of thousands.

I would like to extend my sincere appreciation on behalf of a grateful Nation to the Poole family for George's dedicated service to this Nation's veterans. I also extend my heartfelt sympathies to the Poole family during their time of sorrow.●

TRIBUTE TO GLENN D. CUNNINGHAM

• Mr. LAUTENBERG. Mr. President, Today I wish to pay tribute to one of New Jersey's most acclaimed advocates of social justice, mayor and State senator Glenn D. Cunningham, on the 1-year anniversary of his passing.

Although Glenn's life was tragically cut short by a heart attack, his extraordinary legacy of public service lives on. His remarkable accomplishments are surpassed only by the love he felt for his family, friends, and the people in the community he served.

A lifelong resident of Jersey City, Glenn demonstrated his sense of duty early in life, enlisting in the United States Marine Corps after he completed high school. He served his country with distinction for four years, and then continued his commitment to public safety by joining the Jersey City Police Department in 1967.

Aided by a strong work ethic and intelligence, Glenn rose through the ranks of the department over the next 25 years, attaining the position of Captain. Realizing the value of education and the power of ideas, during this same time period he attended Jersey City State College and earned a bachelor's degree, graduating cum laude in 1974.

Glenn had a passion for helping people and the ability to take on many diverse responsibilities and perform many tasks at once. He expanded his public service career in 1975, serving as a Hudson County Freeholder until 1978. He was subsequently elected to the Jersey City Council, where he served two consecutive terms, including one term as city council president.

Upon his retirement from the police department in 1991, Glenn was appointed the director of the Hudson County Department of Public Safety.

In 1996, President Clinton appointed Glenn as United States Marshall for the State of New Jersey. This appointment broke a barrier for African American leaders in our State, and I was proud to support Glenn for the position, knowing that he would do a great job.

Never one to be complacent or satisfied with the status quo, Glenn set his sights on another historic milestone, and in 2001 he became the first African-American mayor of Jersey City. Adding to his already impressive list of "firsts," Glenn's 2004 election to the New Jersey State senate marked the first time a mayor of Jersey City has simultaneously held State office.

Glenn's illustrious career in public service was marked first and foremost by his unwavering commitment to the citizens of Jersey City. Like Frederick Douglass, Glenn battled to improve the lives of the people he represented even if his efforts hurt him politically.

Glenn's constituents could always approach him with their problems or concerns, and he made time to listen to them. His genuine care for others inspired hope, and his courage, dignity, and fierce determination helped reinvigorate a once-distressed city.

The effects of his reform-minded, progressive initiatives continue to resonate today. As a friend, a dedicated public servant, and a groundbreaking pioneer, Glenn is sorely missed by many. His memory, however, lives on, and will continue to inspire others to work for the same positive social change that was so close to his heart.•

HONORING THE VERMONT ARTS COUNCIL

• Mr. JEFFORDS. Mr. President, I rise today to recognize the 40th anniversary of the establishment of the Vermont Arts Council and its dedicated support for the arts in Vermont.

The Vermont Arts Council, the only nonprofit State arts agency in the country, was founded four decades ago "on a simple and powerful premise: that the arts enrich lives and form a vital part of Vermont community life."

Throughout the years, the Vermont Arts Council has served as Vermont's foremost arts advocate. Its resources are dedicated to the professional development of local artists, and it is a primary source of information about the arts, their impact on Vermont and across the Nation.

Vermont is rich in culture and creativity, and the Vermont Arts Council has played such a vital role in contributing to this environment where artists and arts organizations thrive. The arts and humanities are a powerful force in bringing us together and their presence is to be nurtured and integrated into our communities at every opportunity.

The Vermont Arts Council became a reality 40 years ago thanks to those who understand the important role the arts play in education and in our daily lives. Pauline Billings, who served as one of the original trustees of the council, has worked tirelessly in support of the arts in Vermont. It is so fitting that she is being honored with the council's Lifetime Achievement Award for the Arts. I cannot think of a more deserving recipient, and I welcome this opportunity to acknowledge Polly for her invaluable contributions.

It is with great pleasure that I recognize the Vermont Arts Council as it marks its 40th anniversary and pay tribute to the council's work in helping the arts remain a vibrant force in Vermont. Here is to another four decades of great achievement.•

OPENING OF THE NORTH DAKOTA COWBOY HALL OF FAME

• Mr. DORGAN. Mr. President, because truth in labeling is important these days, let me just simply label this as some old-fashioned bragging about my brother.

In last Sunday's Fargo Forum, a column by Jack Zaleski described the work of my brother Darrell in an extraordinary way and I wanted to share it far and wide.

Darrell has been a journalist, filmmaker, a writer, a historian and now a builder. It is already a remarkable career and much is yet to come.

But today I am reprinting for my colleagues the newspaper column that describes his latest project: the North Dakota Cowboy Hall of Fame. It will be dedicated to the history of ranch life and cowboy life on the northern Great Plains. His work is an inspiration to those who have a passion about honoring our history.

From the Indians, to the settlers and ranchers, to the rodeo cowboys and the bucking horses, the stories will be brought to life in the Cowboy Hall of Fame in Medora, North Dakota beginning next month.

It is a tribute to the dreams and hard work of Darrell Dorgan and many others who share in this accomplishment.

Congratulations to all of them.

I ask to have the attached article entitled "Long Ride to Cowboy Hall of Fame" from the May 22nd edition of the Fargo Forum printed in the RECORD.

The article follows.

[From the Forum, May 22, 2005]

LONG RIDE TO COWBOY HALL OF FAME

(By Jack Zaleski)

I've known Darrell Dorgan for 30 years. He's a member of a shrinking cadre of journalists and former journalists who got started in this business in North Dakota at about the same time. Most of them still are at it. Dorgan (a former journalist) is a contemporary of Grand Forks Herald editor/publisher Mike Jacobs, Bismarck Tribune managing editor Ken Rogers, North Dakota Public Radio news director Dave Thompson, and me.

These days Dorgan is executive director of the North Dakota Cowboy Hall of Fame. A few years ago he wrapped up a career in broadcast journalism during which he established himself as one of the most knowledgeable, dogged reporters in the Bismarck press corps. His work for Prairie Public Broadcasting was some of the best ever done for public television. For his efforts he won nearly every award a broadcaster can win.

But history was calling—specifically the history, legend and lore of western North Dakota. A bona fide expert on the exploits and foibles of Gen. George A. Custer, Dorgan eventually found a way to fold his love for the state's history into a craft and a living: filmmaking. His videos on such topics as Lewis & Clark in North Dakota, Fort Abraham Lincoln and Custer's 7th, and Sheheke, Ambassador of the Mandan have won praise and plaudits across the nation and in Europe.

It wasn't a big leap when Dorgan took on the task of raising funds to establish a North Dakota Cowboy Hall of Fame in historic Medora in the Badlands. As executive director, he worked tirelessly for several years to raise public and private money to fund the $4 million western heritage and cultural center.

His efforts have paid off: The hall of fame has a sneak preview scheduled May 28 during the Cowboy Poetry and Art Show. The center will open officially in mid-June. A dedication celebration, complete with induction of hall of fame candidates, will come in early August, at about the time of the Champions Ride rodeo near Sentinel Butte, one of the state's premier bronc riding and roping events.

Dorgan would be the first to say he didn't do it alone. And of course, a lot of people deserve a measure of credit for the success of the project. But without his vision and focus on the task, the hall would still be a wish. It takes a point man to raise that much money. It takes perserverance.

I know there were times when Dorgan was discouraged. But he knew North Dakotans would respond to a center where cowboy and ranch life could be enshrined. He understood how deep western roots are planted in the state's history and heritage. He realized that the unique saga of North Dakota's cowboys, ranches and rodeos needed to be gathered in one western place and told through the eyes and by the voices of the men and women who lived the stories.

It was an ambitious vision from the start. It's been a long ride on a sometimes skittish horse. But Dorgan stuck with it, and this summer the hall of fame will open.

Not bad for a former newsman—and a broadcast journalist at that. . . .●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:22 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2361. An act making appropriations for the Department of the Interior, Environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2361. An act making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1098. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LOTT, from the Committee on Rules and Administration:

Report to accompany S. Res. 50, An original resolution authorizing expenditures by committees of the Senate for the periods March 1, 2005, through September 30, 2005, October 1, 2005, through September 30, 2006, and October 1, 2006, through February 28, 2007 (Rept. No. 109-70).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORZINE (for himself and Mr. Lautenberg):

S. 1096. A bill to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself and Mr. Lieberman):

S. 1097. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work from home; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mrs. Murray, Ms. Mikulski, Mrs. Clinton, Mr. Dorgan, and Mr. Durbin):

S. 1098. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program; read the first time,

By Mr. SHELBY:

S. 1099. A bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans; to the Committee on Finance.

By Mr. BUNNING (for himself, Mr. Conrad, Mr. Hatch, Mrs. Boxer, Mr. Alexander, and Mr. Durbin):

S. 1100. A bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works; to the Committee on Finance.

By Mrs. MURRAY (for herself and Mr. DeWine):

S. 1101. A bill to amend the Head Start Act to address the needs of victims of child abuse and neglect, children in foster care, children in kinship care, and homeless children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself and Mr. Burns):

S. 1102. A bill to extend the aviation war risk insurance program for 3 years; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS (for himself, Mr. Grassley, Mr. Wyden, Mr. Kyl, Mr. Schumer, Mr. Crapo, Mr. Pryor, Mr. Jeffords, and Mr. Frist):

S. 1103. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. Chafee, Mr. Nelson of Florida, Ms. Collins, Mr. Bingaman, and Ms. Cantwell):

S. 1104. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs; to the Committee on Finance.

By Mr. DODD (for himself, Mr. Cochran, Mr. Levin, Mr. Kennedy, and Mr. Akaka):

S. 1105. A bill to amend title VI of the Higher Education Act of 1965 regarding international and foreign language studies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLARD (for himself and Mr. Salazar):

S. 1106. A bill to authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself and Mr. Kennedy):

S. 1107. A bill to reauthorize the Head Start Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL (for himself, Mr. Lugar, Mr. Biden, and Mr. Reid):

S. Res. 152. A resolution welcoming His Excellency Hamid Karzai, the President of Afghanistan, and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan; considered and agreed to.

By Mr. LIEBERMAN (for himself and Mr. Sessions):

S. Res. 153. A resolution expressing the support of Congress for the observation of the National Moment of Remembrance at 3:00 pm local time on this and every Memorial Day to acknowledge the sacrifices made on the behalf of all Americans for the cause of liberty; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. Hagel, Mr. Lautenberg, Mr. Durbin, Mr. Corzine, Mr. Feingold, and Mr. Levin):

S. Con. Res. 36. A concurrent resolution expressing the sense of Congress concerning actions to support the Nuclear Non-proliferation Treaty on the occasion of the Seventh NPT Review Conference; to the Committee on Foreign Relations.

By Mr. DeWINE:

S. Con. Res. 37. A concurrent resolution honoring the life of Sister Dorothy Stang; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 94

At the request of Mr. Lugar, the names of the Senator from Nevada (Mr. Ensign) and the Senator from Illinois (Mr. Durbin) were added as cosponsors of S. 94, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 117

At the request of Mrs. FEINSTEIN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. CORZINE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 117, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 211

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 211 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 267

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 285

At the request of Mr. BOND, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 365

At the request of Mr. COLEMAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 365, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

S. 401

At the request of Mr. HARKIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 401, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 441

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 441, a bill to amend the Internal Revenue Code of 1986 to make permanent the classification of a motorsports entertainment complex.

S. 515

At the request of Mr. BYRD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 528

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 528, a bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

S. 567

At the request of Mr. LUGAR, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 567, a bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices.

S. 582

At the request of Mr. PRYOR, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

S. 601

At the request of Mr. CONRAD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

S. 611

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 611, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on emergency Medical Services Advisory Council, and for other purposes.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 642

At the request of Mr. FRIST, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Maine (Ms. COLLINS) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 666

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 666, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 671

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 671, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for certain fuel cell property.

S. 713

At the request of Mr. ROBERTS, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 724

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 724, a bill to improve the No Child Left Behind Act of 2001, and for other purposes.

S. 756

At the request of Mr. BENNETT, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 772

At the request of Mr. CORNYN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. 798

At the request of Mr. FEINGOLD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 798, a bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes.

S. 811

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 884

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 884, a bill to conduct a study evaluating whether there are correlations between the commission of methamphetamine crimes and identify theft crimes.

S. 1022

At the request of Mr. SMITH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

S. 1065

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1065, a bill to amend title 10, United States Code, to extend child care eligibility for children of members of the Armed Forces who die in the line of duty.

S. 1068

At the request of Mr. BAUCUS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1068, a bill to provide for higher education affordability, access, and opportunity.

S. 1081

At the request of Mr. KYL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

At the request of Ms. STABENOW, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1081, supra.

S. 1082

At the request of Mrs. HUTCHISON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1084

At the request of Mr. KENNEDY, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1084, a bill to eliminate child poverty, and for other purposes.

S. 1086

At the request of Mr. HATCH, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. MARTINEZ) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1092

At the request of Mr. SALAZAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1092, a bill to establish a program under which the Secretary of the Interior offers for lease certain land for oil shale development, and for other purposes.

S.J. RES. 18

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 762 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 1096. A bill to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today, along with Senator LAUTENBERG, I am introducing legislation, the Musconetcong Wild and Scenic Rivers Act, to designate portions of the Musconetcong River in New Jersey as a component of the National Wild and Scenic Rivers System. I am proud to be joining my New Jersey colleague, Representative SCOTT GARRETT, who has introduced this legislation in the House of Representatives, with the support of Congressmen ROBERT ANDREWS, MICHAEL FERGUSON, RODNEY FRELINGHUYSEN, ROBERT MENENDEZ, FRANK PALLONE, DONALD PAYNE and JAMES SAXTON.

This is important legislation to help preserve and protect one of the most valuable natural resources in the State of New Jersey. The Musconetcong River is a 43 mile river that runs westward from Lake Musconetcong to the Delaware River. It provides many ecological, recreational and scenic benefits to the northwestern portion of our State. In addition, it is also home to a number of archeological sites and other historic areas, including one site in Warren County where scientists have discovered stone knives and other weapons dating back at least ten thousand years. Finally, it feeds acquifers that provide many residents in Hunterdon and Warren counties with quality drinking water.

Unfortunately, the beauty and value that the Musconetcong provides is at risk. The river faces pressures, for example, from the development that is occurring on or near its shores. This has caused water quality to deteriorate from increased levels of bacteria, silt and runoff from roadways. Further, many of the municipalities that lie along the river lack the financial resources to adequately protect the river for future generations.

The Musconetcong Wild and Scenic Rivers Act would help state, county and local officials begin to address these concerns, working alongside environmental and public interest groups. By including this river in the Wild and Scenic River System, it would allow New Jersey to implement a management plan for the river that has the support of three counties and 13 municipalities. In addition it would make the river eligible for financial, planning, and technical assistance to help preserve and protect it. The goal is to encourage uses and development that is compatible with the river.

The Wild and Scenic River System already includes the Maurice and Great Egg Harbor Rivers in New Jersey as well as the lower and middle portions of the Delaware River

I will work hard in the 109th Congress to see that the Musconetcong is added to this list. I hope my colleagues will support this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Musconetcong Wild and Scenic Rivers Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Secretary of the Interior, in cooperation and consultation with appropriate Federal, State, regional, and local agencies, is conducting a study of the eligibility and suitability of the Musconetcong River in the State of New Jersey for inclusion in the Wild and Scenic Rivers System;

(2) the Musconetcong Wild and Scenic River Study Task Force, with assistance from the National Park Service, has prepared a river management plan for the study area entitled "Musconetcong River Management Plan" and dated April 2002 that establishes goals and actions to ensure long-term protection of the outstanding values of the river and compatible management of land and water resources associated with the Musconetcong River; and

(3) 13 municipalities and 3 counties along segments of the Musconetcong River that are eligible for designation have passed resolutions in which the municipalities and counties—

(A) express support for the Musconetcong River Management Plan;

(B) agree to take action to implement the goals of the management plan; and

(C) endorse designation of the Musconetcong River as a component of the Wild and Scenic Rivers System.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADDITIONAL RIVER SEGMENT.—The term "additional river segment" means the approximately 4.3-mile Musconetcong River segment designated as "C" in the management plan, from Hughesville Mill to the Delaware River Confluence.

(2) MANAGEMENT PLAN.—The term "management plan" means the river management plan prepared by the Musconetcong River Management Committee, the National Park Service, the Heritage Conservancy, and the Musconetcong Watershed Association entitled "Musconetcong River Management Plan" and dated April 2002 that establishes goals and actions to—

(A) ensure long-term protection of the outstanding values of the river segments; and

(B) compatible management of land and water resources associated with the river segments.

(3) RIVER SEGMENT.—The term "river segment" means any segment of the Musconetcong River, New Jersey, designated as a scenic river or recreational river by section 3(a)(167) of the Wild and Scenic Rivers Act (as added by section 4).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. DESIGNATION OF PORTIONS OF MUSCONETCONG RIVER, NEW JERSEY, AS SCENIC AND RECREATIONAL RIVERS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"(167) MUSCONETCONG RIVER, NEW JERSEY.—

"(A) DESIGNATION.—The 24.2 miles of river segments in New Jersey, consisting of—

"(i) the approximately 3.5-mile segment from Saxton Falls to the Route 46 bridge, to be administered by the Secretary of the Interior as a scenic river; and

"(ii) the approximately 20.7-mile segment from the Kings Highway bridge to the railroad tunnels at Musconetcong Gorge, to be administered by the Secretary of the Interior as a recreational river.

"(B) ADMINISTRATION.—Notwithstanding section 10(c), the river segments designated under subparagraph (A) shall not be administered as part of the National Park System.".

SEC. 5. MANAGEMENT.

(a) MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall manage the river segments in accordance with the management plan.

(2) SATISFACTION OF REQUIREMENTS FOR PLAN.—The management plan shall be considered to satisfy the requirements for a comprehensive management plan for the river segments under section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

(3) RESTRICTIONS ON WATER RESOURCE PROJECTS.—For purposes of determining whether a proposed water resources project would have a direct and adverse effect on the values for which a river segment is designated as part of the Wild and Scenic Rivers System under section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)), the Secretary shall consider the extent to which the proposed water resources project is consistent with the management plan.

(4) IMPLEMENTATION.—The Secretary may provide technical assistance, staff support, and funding to assist in the implementation of the management plan.

(b) COOPERATION.—

(1) IN GENERAL.—The Secretary shall manage the river segments in cooperation with appropriate Federal, State, regional, and local agencies, including—

(A) the Musconetcong River Management Committee;

(B) the Musconetcong Watershed Association;

(C) the Heritage Conservancy;

(D) the National Park Service; and

(E) the New Jersey Department of Environmental Protection.

(2) COOPERATIVE AGREEMENTS.—Any cooperative agreement entered into under section 10(e) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e)) relating to a river segment—

(A) shall be consistent with the management plan; and

(B) may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation, and enhancement of the river segment.

(c) LAND MANAGEMENT.—

(1) IN GENERAL.—The Secretary may provide planning, financial, and technical assistance to local municipalities and nonprofit organizations to assist in the implementation of actions to protect the natural and historic resources of the river segments.

(2) PLAN REQUIREMENTS.—After adoption of recommendations made in section IV of the management plan, the zoning ordinances of the municipalities bordering the segments shall be considered to satisfy the standards and requirements under section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)).

(d) DESIGNATION OF ADDITIONAL RIVER SEGMENT.—

(1) FINDING.—Congress finds that the additional river segment is suitable for designation as a recreational river if the Secretary determines that there is adequate local support for the designation of the additional river segment in accordance with paragraph (3).

(2) DESIGNATION AND ADMINISTRATION.—If the Secretary determines that there is adequate local support for designating the additional river segment as a recreational river—

(A) the Secretary shall publish in the Federal Register notice of the designation of the segment;

(B) the segment shall be designated as a recreational river in accordance with the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); and

(C) the Secretary shall administer the additional river segment as a recreational river.

(3) CRITERIA FOR LOCAL SUPPORT.—In determining whether there is adequate local support for the designation of the additional river segment, the Secretary shall consider the preferences of local governments expressed in resolutions concerning designation of the additional river segment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1097. A bill to amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work from home; to the Committee on Finance.

Mr. DODD. Mr. President. I am pleased to rise today. together with my colleague Senator LIEBERMAN, to introduce The Telecommuter Tax Fairness Act of 2005.

The Telecommuter Tax Fairness Act of 2005 will put an end to legal doctrine that unfairly penalizes thousands of workers in Connecticut and in other States throughout the country whose only offense is that they sometimes work from home or from a local office of their employer.

Technology has changed the way business is conducted in America. With the use of cell phones, lap-top computers, email, the Internet, mobile networking, and many other telecommunication advancements of the 21st century, Americans have a greater flexibility in where they can work, without compromising productivity. Many citizens now choose to work from home or alternative offices when their physical presence is not necessary at their primary place of work.

Telecommuting provides enormous benefits for businesses, families, and communities. It helps businesses lower costs and raise worker productivity. It reduces congestion on our roads and rails, and in so doing it lowers pollution. It helps workers better manage the demands of work and family. And last but not least, it can mean lower income taxes for working men and women.

Yet, the many benefits to workers of telecommuting are today placed in jeopardy because of current law in New York and a few other States. Today, New York State requires that workers pay income tax on income even if it is not earned in the State through their "convenience of the employer" rule. While there are several States that have the "convenience of the employer" rule, no other State applies it with the same rigor as New York.

New York's "convenience of the employer" rule requires that by working for a New York employer, all income earned from that employer must be declared in New York so long as the worker "could" perform his or her duties in New York. A worker for a New

York employer who works part-time from home in Connecticut or another State is still subject to taxation by New York on 100 percent of his or her income. At the same time, the work done by that worker in a State outside New York is subject to taxation by that State.

This unfairly subjects many workers who telecommute from their homes or from satellite offices outside of New York to a double tax on that part of the income earned from home. According to Connecticut's Attorney General, thousands of Connecticut residents alone are affected by this unfair double taxation.

However, it isn't only Connecticut residents that are affected.

Thomas Huckaby is a Tennessee-based computer programmer that telecommuted for a firm in Queens, NY. In 1994 and 1995, Mr. Huckaby spent 75 percent of his time working in Tennessee and the remaining 25 percent working in the Queens office and attempted to apportion his income accordingly. New York, however, sought to tax 100 percent of his income and was successful due to it's "convenience of employer" rule. On March 29, 2005 the New York Court of Appeals upheld New York's rule in a 4 to 3 decision. Currently, Mr. Huckaby is in the process of petitioning the Supreme Court.

A similar story involves Arthur Gray, a New Hampshire resident who worked for the New York Company Cowen & Co. as an investment counselor from 1976 through 1996, and paid New York State income taxes during that time. In 1997, Arthur Gray, per his employer's request, opened and managed an office from his home in New Hampshire. Several times during the year, Mr. Gray worked in New York, but most of his days were spent in New Hampshire. When paying his taxes during this time, he paid New York State income taxes for the days he was in New York, but not for the days he worked in New Hampshire. New York, however, sought to tax 100 percent of his income and was successful due to this "convenience of the employer" rule.

These are only two examples of the far-reaching consequences of this "convenience of employer" rule. There are thousands of individuals across the country who are adversely impacted by this rule. Most, however, but most lack the time, money, or energy to take their case to court.

This potential for double taxation is not only unfair, it also discourages workers from telecommuting when we should be doing the opposite.

Legislation is needed to protect these honest workers who deserve fair and equitable treatment under the law. The Telecommuter Tax Fairness Act of 2005 accomplishes this by specifically preventing a State from engaging in the current fiction of deeming a nonresident to be in the taxing State when the nonresident is actually working in another State. In doing so, it will eliminate the possibility that citizens will be double-taxed when telecommuting.

Establishing a "physical presence" test—as this legislation would do—is the most logical basis for determining tax status. If a worker is in a State, and taking advantage of that State's infrastructure, the worker should pay taxes in that State.

Some suggest that the double-taxation quandary can easily be fixed by having other States provide a tax credit to those telecommuters. However, why should Connecticut, or any other State, be required to allow a credit on income actually earned in the State? If a worker is working in Connecticut, he or she is benefiting from a range of Services paid for and maintained by Connecticut including roads, water, police, fire protection, and communications services. It's only fair that Connecticut ask that worker to help support the services that he or she uses.

This is not just an issue which deals with a small group of citizens from one small State. Rather, this is an issue which affects workers throughout the country. It will only grow more pressing as people and businesses continue to seek to take advantage of new technologies that affect the way we live and work.

I hope our colleagues will favorably consider this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommuter Tax Fairness Act of 2005".

SEC. 2. PROHIBITION ON DOUBLE TAXATION OF TELECOMMUTERS.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

"§ 127. Prohibition on double taxation of telecommuters and others who work at home

"(a) PHYSICAL PRESENCE REQUIRED.—

"(1) IN GENERAL.—In applying its income tax laws to the salary of a nonresident individual, a State may only deem such nonresident individual to be present in or working in such State for any period of time if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such salary with respect to any period of time when such nonresident individual is physically present in another State.

"(2) DETERMINATION OF PHYSICAL PRESENCE.—For purposes of determining physical presence, no State may deem a nonresident individual to be present in or working in such State on the grounds that such nonresident individual is present at or working at home for the nonresident individual's convenience.

"(b) DEFINITIONS.—As used in this section—

"(1) STATE.—The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(2) INCOME TAX.—The term 'income tax' has the meaning given such term by section 110(c).

"(3) INCOME TAX LAWS.—The term 'income tax laws' includes any statutes, regulations, administrative practices, administrative interpretations, and judicial decisions.

"(4) NONRESIDENT INDIVIDUAL.—The term 'nonresident individual' means an individual who is not a resident of the State applying its income tax laws to such individual.

"(5) SALARY.—The term 'salary' means the compensation, wages, or other remuneration earned by an individual for personal services performed as an employee or as an independent contractor.

"(c) NO INFERENCE.—Nothing in this section shall be construed as bearing on—

"(1) any tax laws other than income tax laws,

"(2) the taxation of corporations, partnerships, trusts, estates, limited liability companies, or other entities, organizations, or persons other than nonresident individuals in their capacities as employees or independent contractors,

"(3) the taxation of individuals in their capacities as shareholders, partners, trust and estate beneficiaries, members or managers of limited liability companies, or in any similar capacities, and

"(4) the income taxation of dividends, interest, annuities, rents, royalties, or other forms of unearned income.".

(b) CLERICAL AMENDMENT.—The table of sections of such chapter 4 is amended by adding at the end the following new item:

"127. Prohibition on double taxation of telecommuters and others who work at home.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

By Mr. SHELBY:

S. 1099. A bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans; to the Committee on Finance.

Mr. SHELBY. Mr. President, I rise today to once again introduce my flat tax bill, S. 1099 the "Tax Simplification Act of 2005." The President has made fundamental tax reform a top priority for his second term. I believe my bill offers that fundamental tax reform and will drastically improve our Nation's economy and the way Americans go about the business of paying taxes. This bill would repeal the current Internal Revenue Code and create a single rate for all taxpayers—seventeen percent when the tax is fully implemented—and gives tax-free treatment to all savings and investment, not just dividends.

A major reason why I support a flat tax is because it will place more money into the hands of hardworking Americans. It will allow individuals—not the government—to decide how to best spend their money. Lowering taxes allows Americans to keep more of their money to keep up with monthly expenses like, insurance coverage, educational costs, and prescription drugs. Lowering taxes also makes it easier for Americans to save for their retirement through private savings plans. Although I strongly believe in the importance of private savings, my bill leaves the Social Security system intact and, in fact, provides seniors with more money by repealing the current tax on Social Security benefits.

I have said many times before that our current progressive tax system is unfair. It punishes success and stymies economic growth. The only way we can remedy this is to adopt a single tax rate for all taxpayers. Transitioning to a flat tax will not only increase the fairness of the tax code, but it will also increase the incentives to work and thus boost economic growth.

Today our tax code and its regulations total more than 60,000 pages which are complex, confusing and costly to comply with. Were a flat tax in place now, taxpayers would file a return the size of a postcard, and every American would be taxed equally and at the same rate. Rather than spending hours poring over convoluted IRS forms, or resorting to professional tax assistance, the flat tax allows taxpayers to determine their taxes quickly and easily. Everyone will fill out the same simple return, everyone will be taxed at the same rate, and everyone will pay their fare share. Paying taxes may never be a pleasant experience, but at least under a flat tax it wouldn't be mind-boggling.

I fully realize that the bill I am introducing today is a monumental shift from the current tax code, but the time is ripe for fundamental tax reform. We must not allow the enormity of the task to deter us from enacting better, more efficient tax laws. I therefore urge my colleagues to join me in support of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Simplification Act of 2005".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
TITLE I—TAX REDUCTION AND SIMPLIFICATION
Sec. 101. Individual income tax.
Sec. 102. Tax on business activities.
Sec. 103. Simplification of rules relating to qualified retirement plans.
Sec. 104. Repeal of alternative minimum tax.
Sec. 105. Repeal of credits.
Sec. 106. Repeal of estate and gift taxes and obsolete income tax provisions.
Sec. 107. Effective date.
TITLE II—SUPERMAJORITY REQUIRED FOR TAX CHANGES
Sec. 201. Supermajority required.

TITLE I—TAX REDUCTION AND SIMPLIFICATION

SEC. 101. INDIVIDUAL INCOME TAX.

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"There is hereby imposed on the taxable income of every individual a tax equal to 19 percent (17 percent in the case of taxable years beginning after December 31, 2007) of the taxable income of such individual for such taxable year.".

(b) TAXABLE INCOME.—Section 63 of such Code is amended to read as follows:

"SEC. 63. TAXABLE INCOME.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'taxable income' means the excess of—

"(1) the sum of—

"(A) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash and which are received during the taxable year for services performed in the United States,

"(B) retirement distributions which are includible in gross income for such taxable year, plus

"(C) amounts received under any law of the United States or of any State which is in the nature of unemployment compensation, over

"(2) the standard deduction.

"(b) STANDARD DEDUCTION.—

"(1) IN GENERAL.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

"(A) the basic standard deduction, plus

"(B) the additional standard deduction.

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) $25,580 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $16,330 in the case of a head of household (as defined in section 2(b)), and

"(C) $12,790 in the case of an individual—

"(i) who is not married and who is not a surviving spouse or head of household, or

"(ii) who is a married individual filing a separate return.

"(3) ADDITIONAL STANDARD DEDUCTION.—For purposes of paragraph (1), the additional standard deduction is $5,510 for each dependent (as defined in section 152) who is described in section 151(c) for the taxable year and who is not required to file a return for such taxable year.

"(c) RETIREMENT DISTRIBUTIONS.—For purposes of subsection (a), the term 'retirement distribution' means any distribution from—

"(1) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) an annuity plan described in section 403(a),

"(3) an annuity contract described in section 403(b),

"(4) an individual retirement account described in section 408(a),

"(5) an individual retirement annuity described in section 408(b),

"(6) an eligible deferred compensation plan (as defined in section 457),

"(7) a governmental plan (as defined in section 414(d)), or

"(8) a trust described in section 501(c)(18).

Such term includes any plan, contract, account, annuity, or trust which, at any time, has been determined by the Secretary to be such a plan, contract, account, annuity, or trust.

"(d) INCOME OF CERTAIN CHILDREN.—For purposes of this subtitle—

"(1) an individual's taxable income shall include the taxable income of each dependent child of such individual who has not attained age 14 as of the close of such taxable year, and

"(2) such dependent child shall have no liability for tax imposed by section 1 with respect to such income and shall not be required to file a return for such taxable year.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2006, each dollar amount contained in subsection (b) shall be increased by an amount determined by the Secretary to be equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment for such calendar year.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 2005.

"(3) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (2), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

"(4) CONSUMER PRICE INDEX.—For purposes of paragraph (3), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

"(5) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $10, such increase shall be rounded to the next highest multiple of $10.

"(f) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.".

SEC. 102. TAX ON BUSINESS ACTIVITIES.

(a) IN GENERAL.—Section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended to read as follows:

"SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.

"(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity a tax equal to 19 percent (17 percent in the case of taxable years beginning after December 31, 2007) of the business taxable income of such person.

"(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

"(c) BUSINESS TAXABLE INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

"(2) GROSS ACTIVE INCOME.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'gross active income' means gross receipts from—

"(i) the sale or exchange of property or services in the United States by any person in connection with a business activity, and "(ii) the export of property or services from the United States in connection with a business activity.

"(B) EXCHANGES.—For purposes of this section, the amount treated as gross receipts from the exchange of property or services is the fair market value of the property or services received, plus any money received.

"(C) COORDINATION WITH SPECIAL RULES FOR FINANCIAL SERVICES, ETC.—Except as provided in subsection (e)—

"(i) the term 'property' does not include money or any financial instrument, and

"(ii) the term 'services' does not include financial services.

"(3) EXEMPTION FROM TAX FOR ACTIVITIES OF GOVERNMENTAL ENTITIES AND TAX-EXEMPT ORGANIZATIONS.—For purposes of this section, the term 'business activity' does not include any activity of a governmental entity or of any other organization which is exempt from tax under this chapter.

"(d) DEDUCTIONS.—

"(1) IN GENERAL.—The deductions specified in this subsection are—

"(A) the cost of business inputs for the business activity,

"(B) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash for services performed in the United States as an employee, and

"(C) retirement contributions to or under any plan or arrangement which makes retirement distributions (as defined in section 63(c)) for the benefit of such employees to the extent such contributions are allowed as a deduction under section 404.

"(2) BUSINESS INPUTS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'cost of business inputs' means—

"(i) the amount paid for property sold or used in connection with a business activity,

"(ii) the amount paid for services (other than for the services of employees, including fringe benefits paid by reason of such services) in connection with a business activity, and

"(iii) any excise tax, sales tax, customs duty, or other separately stated levy imposed by a Federal, State, or local government on the purchase of property or services which are for use in connection with a business activity.

Such term shall not include any tax imposed by chapter 2 or 21.

"(B) EXCEPTIONS.—Such term shall not include—

"(i) items described in subparagraphs (B) and (C) of paragraph (1), and

"(ii) items for personal use not in connection with any business activity.

"(C) EXCHANGES.—For purposes of this section, the amount treated as paid in connection with the exchange of property or services is the fair market value of the property or services exchanged, plus any money paid.

"(e) SPECIAL RULES FOR FINANCIAL INTERMEDIATION SERVICE ACTIVITIES.—In the case of the business activity of providing financial intermediation services, the taxable income from such activity shall be equal to the value of the intermediation services provided in such activity.

"(f) EXCEPTION FOR SERVICES PERFORMED AS EMPLOYEE.—For purposes of this section, the term 'business activity' does not include the performance of services by an employee for the employee's employer.

"(g) CARRYOVER OF CREDIT-EQUIVALENT OF EXCESS DEDUCTIONS.—

"(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the credit-equivalent of such excess shall be allowed as a credit against the tax imposed by this section for the following taxable year.

"(2) CREDIT-EQUIVALENT OF EXCESS DEDUCTIONS.—For purposes of paragraph (1), the credit-equivalent of the excess described in paragraph (1) for any taxable year is an amount equal to—

"(A) the sum of—

"(i) such excess, plus

"(ii) the product of such excess and the 3-month Treasury rate for the last month of such taxable year, multiplied by

"(B) the rate of the tax imposed by subsection (a) for such taxable year.

"(3) CARRYOVER OF UNUSED CREDIT.—If the credit allowable for any taxable year by reason of this subsection exceeds the tax imposed by this section for such year, then (in lieu of treating such excess as an overpayment) the sum of—

"(A) such excess, plus

"(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year, shall be allowed as a credit against the tax imposed by this section for the following taxable year.

"(4) 3-MONTH TREASURY RATE.—For purposes of this subsection, the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less.".

(b) TAX ON TAX-EXEMPT ENTITIES PROVIDING NONCASH COMPENSATION TO EMPLOYEES.—Section 4977 of such Code is amended to read as follows:

"SEC. 4977. TAX ON NONCASH COMPENSATION PROVIDED TO EMPLOYEES NOT ENGAGED IN BUSINESS ACTIVITY.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax equal to 19 percent (17 percent in the case of calendar years beginning after December 31, 2007) of the value of excludable compensation provided during the calendar year by an employer for the benefit of employees to whom this section applies.

"(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the employer.

"(c) EXCLUDABLE COMPENSATION.—For purposes of subsection (a), the term 'excludable compensation' means any remuneration for services performed as an employee other than—

"(1) wages (as defined in section 3121(a) without regard to paragraph (1) thereof) which are paid in cash,

"(2) remuneration for services performed outside the United States, and

"(3) retirement contributions to or under any plan or arrangement which makes retirement distributions (as defined in section 63(c)).

"(d) EMPLOYEES TO WHOM SECTION APPLIES.—This section shall apply to an employee who is employed in any activity by—

"(1) any organization which is exempt from taxation under this chapter, or

"(2) any agency or instrumentality of the United States, any State or political subdivision of a State, or the District of Columbia.".

SEC. 103. SIMPLIFICATION OF RULES RELATING TO QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are hereby repealed:

(1) NONDISCRIMINATION RULES.—

(A) Paragraphs (4) and (5) of section 401(a) (relating to nondiscrimination requirements).

(B) Sections 401(a)(10)(B) and 416 (relating to top heavy plans).

(C) Section 401(a)(17) (relating to compensation limit).

(D) Sections 401(a)(26) and 410(b) (relating to minimum participation and coverage requirements).

(E) Paragraphs (3), (8), (11), and (12) of sections 401(k), and section 4979, (relating to actual deferral percentage).

(F) Section 401(l) (relating to permitted disparity in plan contributions or benefits).

(G) Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions).

(H) Paragraphs (1)(D) and (12) of section 403(b) (relating to nondiscrimination requirements).

(I) Paragraph (3) of section 408(k) and paragraph (6) (other than subparagraph (A)(i)) of such section (relating to simplified employee pensions).

(2) CONTRIBUTION LIMITS.—

(A) Sections 401(a)(16), 403(b) (2) and (3), and 415 (relating to limitations on benefits and contributions under qualified plans).

(B) Sections 401(a)(30) and 402(g) (relating to limitation on exclusion for elective deferrals).

(C) Paragraphs (3) and (7) of section 404(a) (relating to percentage of compensation limits).

(D) Section 404(l) (relating to limit on includible compensation).

(3) RESTRICTIONS ON DISTRIBUTIONS.—

(A) Section 72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans).

(B) Sections 401(a)(9), 403(b)(10), and 4974 (relating to minimum distribution rules).

(C) Section 402(e)(4) (relating to net unrealized appreciation).

(4) SPECIAL REQUIREMENTS FOR PLAN BENEFITING SELF-EMPLOYED INDIVIDUALS.—Subsections (a)(10)(A) and (d) of section 401.

(5) PROHIBITION OF TAX-EXEMPT ORGANIZATIONS AND GOVERNMENTS FROM HAVING QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—Section 401(k)(4)(B).

(b) EMPLOYER REVERSIONS OF EXCESS PENSION ASSETS PERMITTED SUBJECT ONLY TO INCOME INCLUSION.—

(1) REPEAL OF TAX ON EMPLOYER REVERSIONS.—Section 4980 of such Code is hereby repealed.

(2) EMPLOYER REVERSIONS PERMITTED WITHOUT PLAN TERMINATION.—Section 420 of such Code is amended to read as follows:

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS.

"(a) IN GENERAL.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to an employer—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) or any other provision of law solely by reason of such transfer (or any other action authorized under this section), and

"(2) such transfer shall not be treated as a prohibited transaction for purposes of section 4975.

The gross income of the employer shall include the amount of any qualified transfer made during the taxable year.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to the employer, and

"(B) with respect to which the vesting requirements of subsection (c) are met in connection with the plan.

"(2) ONLY 1 TRANSFER PER YEAR.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(c) VESTING REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—The vesting requirements of this subsection are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(d) DEFINITION AND SPECIAL RULE.—For purposes of this section—

"(1) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(2) COORDINATION WITH SECTION 412.—In the case of a qualified transfer—

"(A) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'.".

SEC. 104. REPEAL OF ALTERNATIVE MINIMUM TAX.

Part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

SEC. 105. REPEAL OF CREDITS.

Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

SEC. 106. REPEAL OF ESTATE AND GIFT TAXES AND OBSOLETE INCOME TAX PROVISIONS.

(a) REPEAL OF ESTATE AND GIFT TAXES.—

(1) IN GENERAL.—Subtitle B of the Internal Revenue Code of 1986 is hereby repealed.

(2) EFFECTIVE DATE.—The repeal made by paragraph (1) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2005.

(b) REPEAL OF OBSOLETE INCOME TAX PROVISIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), chapter 1 of the Internal Revenue Code of 1986 is hereby repealed.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) sections 1, 11, and 63 of such Code, as amended by this Act,

(B) those provisions of chapter 1 of such Code which are necessary for determining whether or not—

(i) retirement distributions are includible in the gross income of employees, or

(ii) an organization is exempt from tax under such chapter, and

(C) subchapter D of such chapter 1 (relating to deferred compensation).

SEC. 107. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply to taxable years beginning after December 31, 2005.

TITLE II—SUPERMAJORITY REQUIRED FOR TAX CHANGES

SEC. 201. SUPERMAJORITY REQUIRED.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment thereto, or conference report thereon that includes any provision that—

(1) increases any Federal income tax rate,

(2) creates any additional Federal income tax rate,

(3) reduces the standard deduction, or

(4) provides any exclusion, deduction, credit, or other benefit which results in a reduction in Federal revenues.

(b) WAIVER OR SUSPENSION.—This section may be waived or suspended in the House of Representatives or the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

By Mrs. MURRAY (for herself and Mr. DEWINE):

S. 1101. A bill to amend the Head Start Act to address the needs of victims of child abuse and neglect, children in foster care, children in kinship care, and homeless children; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, today I rise with Senator DEWINE to introduce the "Improving Head Start Access for Homeless and Foster Children Act of 2005."

Head Start has made significant strides in providing comprehensive services to low-income children. Since Head Start was established in 1965, low-income preschool-aged children have received education, health, nutritional, social and developmental services they would not otherwise have access to. Unfortunately, children in greatest need of these services—homelss and foster youth—are not receiving those services at adequate levels.

It is estimated that 1.35 million children experience homelessness each year, and the mean income of a homeless family is at 46 percent of the Federal poverty level. Due to extreme poverty and the inherent instability of homelessness, children facing these conditions have considerably higher physical, mental and emotional difficulties. It is not surprising that homeless children are reported to be twice as likely to have a learning disability and three times as likely of having an emotional or behavioral problem that interferes with their learning.

These children also face significant barriers to participation in Head Start. These children lack transportation. They lack the necessary documentation. They suffer from the invisibility of homeless families which leaves the community unaware of the need to include these children in Head Start recruitment and prioritization. As a result of these and other barriers, only 15 percent of preschool children identified as homeless are enrolled in preschool programs of any kind, compared to the 57 percent of low-income preschool children. Currently only 2 percent of the more than 900,000 students served by Head Start are children identified as homeless. States report that 60 percent of homeless students are having difficulties gaining access to Head Start.

In addition to homeless children, kids in foster care face a unique set of challenges which both increase their need for the stability and educational services provided by Head Start. Tragically, these same challenges also hinder their ability to gain access to those services. Foster children are likely to suffer from both emotional and physical instability. With more than 500,000 children in foster care and a shortage of foster parents in this country, these children often go without the attention and advocacy that preschool age children need.

More than 40 percent of the children in homeless shelters are under the age of five. The first years of a child's life significantly impact personal development and future academic achievement. That is why I once again stand with Senator DEWINE to increase access to Head Start for homeless and foster children.

Our bill would ensure equal access and benefits from to early education and supportive services provided by Head Start for the Nation's poorest children. It would make all homeless children eligible for Head Start. The bill also allow homeless children to be immediately enrolled in Head Start by allowing them extra time to provided required documentation; providing that that documentation be in a reasonable time frame. And, our bill would require school, district liaisons to assist families in obtaining necessary documents. In addition, our bill increases Head Start's outreach to homeless and foster children. Further, the bill would reduce barriers by encouraging coordination between Head Start agencies and community programs that serve these vulnerable populations.

Again, I would like to thank my colleague Senator DEWINE for his many efforts in supporting homeless and foster youth. I urge the Senate to ensure that all children, despite their background and socioeconomic situation receive equal access to a quality education.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving Head Start Access for Homeless and Foster Children Act of 2005".

SEC. 2. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

"(18) The term 'family' means all persons living in the same household who are—

"(A) supported by the income of at least 1 parent or guardian (including any relative acting in place of a parent, such as a grandparent) of a child enrolling or participating in the Head Start program: and

"(B) related to the parent or guardian by blood, marriage, or adoption.

"(19) The term 'homeless child' means a child described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)).

"(20) The term 'homeless family' means the family of a homeless child.".

SEC. 3. ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE.

(a) QUALITY IMPROVEMENT.—Section 640(a)(3) of the Head Start Act (42 U.S.C. 9835(a)(3)) is amended—

(1) in subparagraph (B)—

(A) in clause (ii), by inserting "children in foster care, children referred to Head Start programs by child welfare agencies," after "background"; and

(B) in clause (v), by inserting ", including collaboration to increase program participation by underserved populations, including homeless children, children in foster care, and children referred to Head Start programs by child welfare agencies" before the period; and

(2) in subparagraph (C)—

(A) in clause (ii)(IV)—

(i) by inserting "homeless children, children in foster care, children referred to Head Start programs by child welfare agencies, " after "dysfunctional families"; and

(ii) by inserting "and families" after "communities";

(B) in clause (v)—

(i) by inserting "homeless children, children in foster care, children referred to Head Start programs by child welfare agencies," after "dysfunctional families"; and

(ii) by inserting "and families" after "communities";

(C) by redesignating clause (vi) as clause (viii); and

(D) by inserting after clause (v) the following:

"(vi) To conduct outreach to homeless families and to increase Head Start program participation by homeless children.".

(b) COLLABORATION GRANTS.—Section 640(a)(5)(C)(iv) of the Head Start Act (42 U.S.C. 9835(a)(5)(C)(iv)) is amended—

(1) by inserting "child welfare (including child protective services)," after "child care,";

(2) by inserting "home-based services (including home visiting services)," after "family literacy services"; and

(3) by striking "and services for homeless children" and inserting "services provided through grants under section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.), and services for homeless children (including coordination of services with the Coordinator for Education of Homeless Children and Youth designated under section 722 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432)), children in foster care, and children referred to Head Start programs by child welfare agencies".

(c) ALLOCATION OF FUNDS.—Section 640(g)(2) of the Head Start Act (42 U.S.C. 9835(g)(2)) is amended—

(1) in subparagraph (C)—

(A) by inserting "organizations and agencies providing family support services, child abuse prevention services, protective services, and foster care, and" after "(including"; and

(B) by striking "and public entities serving children with disabilities" and inserting ", public entities, and individuals serving children with disabilities and homeless children (including local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)))";

(2) in subparagraph (F), by inserting "and homeless families" after "low-income families"; and

(3) in subparagraph (H), by inserting "(including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)))" after "community involved".

(d) ENROLLMENT OF HOMELESS CHILDREN.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(m) The Secretary shall issue regulations to remove barriers to the enrollment and participation of homeless children in Head Start programs. Such regulations shall require Head Start agencies to—

"(1) implement policies and procedures to ensure that homeless children are identified and prioritized for enrollment;

"(2) allow homeless children to apply to, enroll in, and attend Head Start programs while required documents, such as proof of residency, immunization and other medical records, birth certificates, and other documents, are obtained; and

"(3) coordinate individual Head Start programs with programs for homeless children (including efforts to implement subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.)).".

SEC. 4. DESIGNATION OF HEAD START AGENCIES.

Section 641(d)(4) of the Head Start Act (42 U.S.C. 9836(d)(4)) is amended—

(1) in subparagraph (B), by inserting "including providing services, to the extent practicable, such as transportation, to enable such parents to participate" after "level"

(2) in subparagraph (E)(iv), by striking "; and" and inserting a semicolon;

(3) in subparagraph (F), by inserting "and" after the semicolon; and

(4) by adding at the end the following:

"(G) to meet the needs of homeless children (including, to the extent practicable, the transportation needs of such children), children in foster care, and children referred to Head Start programs by child welfare agencies;".

SEC. 5. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

Section 641A of the Head Start Act (42 U.S.C. 9836a) is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii), by inserting "homeless children, children being raised by grandparents or other relatives, children in foster care, children referred to Head Start Programs by child welfare agencies," after "children with disabilities,"; and

(B) in clause (vi), by striking "background and family structure of such children" and inserting "background, family structure of such children (including the number of children being raised by grandparents and other relatives and the number of children in foster care), and the number of homeless children"; and

(2) in subsection (c)(2)(C), by striking "disabilities)" and inserting "disabilities, homeless children, children being raised by grandparents or other relatives, children in foster care, and children referred to Head Start programs by child welfare agencies)".

SEC. 6. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by inserting "mental health services and treatment, domestic violence services, and" after "participating children";

(B) in paragraph (10), by striking "; and" and inserting a semicolon;

(C) in paragraph (11)(B), by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(12) inform foster parents or grandparents or other relatives raising children enrolled in the Head Start program, that they have a right to participate in programs, activities, or services carried out or provided under this subchapter.";

(2) in subsection (c), by inserting ", the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a), parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.), and programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), homeless shelters, other social service agencies serving homeless children and families," after "(42 U.S.C. 9858 et seq.)"; and

(3) in subsection (d)(2)—

(A) in subparagraph (A), by striking "; and" and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(C) collaborating to increase the program participation of homeless children.".

SEC. 7. HEAD START TRANSITION.

Section 642A of the Head Start Act (42 U.S.C. 9837a) is amended—

(1) in paragraph (2), by inserting "local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))," after "social workers";

(2) in paragraph (5), by inserting "and family outreach and support efforts under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.)" before the semicolon;

(3) in paragraph (6), by striking "; and " and inserting a semicolon;

(4) in paragraph (7), by striking the period and inserting "; and"; and

(5) by adding at the end the following:

"(8) developing and implementing a system to increase program participation of underserved populations, including homeless children.".

SEC. 8. PARTICIPATION IN HEAD START PROGRAMS.

Section 645(a)(1) of the Head Start Act (42 U.S.C. 9840(a)(1)) is amended—

(1) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) programs assisted under this subchapter may include—

"(I) participation of homeless children, children whose families are receiving public assistance, children in foster care, and children who have been referred to a Head Start program by a child welfare agency; or

"(II) to a reasonable extent, participation of other children in the area served who would benefit from such programs,

whose families do not meet the low-income criteria prescribed pursuant to subparagraph (A); and"; and

(2) in the flush matter following subparagraph (B), by adding at the end the following: "A homeless child shall automatically be deemed to meet the low-income criteria.".

SEC. 9. EARLY HEAD START PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

Section 645A of the Head Start Act (42 U.S.C. 9840a) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by inserting "(including parenting skills training, training in basic child development, and training to meet the special needs of their children)" after "role as parents";

(B) in paragraph (5)—

(i) by inserting "(including home visiting and other home-based services)" after "with services";

(ii) by striking "disabilities)" and inserting "disabilities and homeless infants and toddlers (including homeless infants and toddlers with disabilities)); and

(iii) by striking "services);" and inserting "services, housing services, family support services, and other child welfare services);"; and

(C) in paragraph (8), by inserting ", and the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.)" before the semicolon; and

(2) in subsection (g)(2)(B)—

(A) in clause (iii), by striking "; and" and inserting a semicolon;

(B) in clause (iv), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(v) providing professional development designed to increase the program participation of underserved populations, including homeless infants and toddlers, infants and toddlers in foster care, and infants and toddlers referred by child welfare agencies.".

SEC. 10. TECHNICAL ASSISTANCE AND TRAINING.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (c)—

(A) in paragraph (2), by striking "disabilities)" and inserting "disabilities, children in foster care, and children referred by child welfare agencies)";

(B) in paragraph (5), by inserting ", including the needs of homeless children and their families" before the semicolon;

(C) in paragraph (10), by striking "; and" and inserting a semicolon;

(D) in paragraph (11) by striking the period and inserting "; and"; and

(E) by adding at the end the following:

"(12) assist Head Start agencies and programs in increasing the program participation of homeless children."; and

(2) in subsection (e)—

(A) by inserting "training for personnel providing services to children determined to be abused or neglected, children receiving child welfare services, and children referred by child welfare agencies," after "language),"; and

(B) by inserting "and family" after "community".

SEC. 11. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) in subsection (a)(1)(B), by striking "disabilities)" and inserting "disabilities, homeless children, children who have been abused or neglected, and children in foster care"; and

(2) in subsection (c)(1)(B) by inserting ", including those that work with children with disabilities, children who have been abused and neglected, children in foster care, children and adults who have been exposed to domestic violence, children and adults facing mental health and substance abuse problems, and homeless children and families" before the semicolon.

SEC. 12. REPORTS.

Section 650(a) of the Head Start Act (42 U.S.C. 9846(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "disabled and" and inserting "disabled children, homeless children, children in foster care, and";

(2) in paragraph (8), by inserting "homelessness, whether the child is in foster care or was referred by a child welfare agency," after "background"; and

(3) in paragraph (12), by inserting "substance abuse treatment, housing services," after "physical fitness".

Mr. DEWINE. Mr. President, today I join with Senator MURRAY to introduce the "Improving Head Start Access for Homeless and Foster Children Act of 2005." The problems children who are homeless and in foster care face are daunting. I am grateful to Senator MURRAY for her leadership in this area. She and I worked on coordinating and improving access to services for homeless and foster children in the Individuals with Disabilities Education Act (IDEA), and I am glad to have had the opportunity to work with her again on this issue.

Who is more vulnerable than a child, under the age of five, living on the street or in a shelter? Who is more vulnerable than a child under five who has been abused and neglected? Just because young children cannot speak to their needs does not mean that they should have no voice. The hundreds of thousands of children in the United States who experience homelessness, separation from their parents, or abuse and neglect each year are in need of our help to ensure their needs are met. Unfortunately, their voices are all too often not heard and their needs go unmet. The bill we are introducing today would serve as one more step, one move closer, to ensuring homeless and foster children are visible and their voices audible.

In the United States, on any given day, more than half a million children are in foster care, 20,000 of whom are in my home State of Ohio, alone. Of this group, 27 percent are age five and—under. In 2003, we also know that more than 900,000 children were found to be victims of child abuse or neglect. Children as young as six months old can suffer from long-term effects after experiencing or witnessing trauma. More than half of the children in foster care experience developmental delays. Children in foster care have three to seven times more chronic medical conditions, birth defects, emotional disorders, and academic failures than children of similar socioeconomic backgrounds who never enter foster care.

In its 2000 Report to Congress, the U.S. Department of Education noted that only 15 percent of preschool children identified as homeless were enrolled in preschool programs. In comparison, 57 percent of low-income preschool children participated in preschool in 1999. These statistics are especially troubling in light of the fact that over 40 percent of children living in shelters are under the age of five—an age when early childhood education can have a significant positive impact on a child's development and future academic achievement.

Head Start began in 1965, and since its inception, it has served more than 22 million of America's poorest children. This important program has helped these children build the skills they need to succeed in school and provide them with the services they need to be healthy and active in society. With its comprehensive services and family-centered approach, Head Start often offers the most appropriate educational setting for children and families experiencing homelessness and for children in foster care. By providing comprehensive health, nutrition, education, and social services, Head Start helps provide for the needs of these vulnerable children. And, with the passage of this bill, Head Start could help even more. Yet, programmatic and policy barriers continue to limit their access to and participation in Head Start. Some barriers to Head Start access are related to lack of coordination with child welfare agencies, high mobility, lack of required documentation, and lack of transportation.

Our bill would encourage Head Start grantees to reduce these barriers by directing them to increase their outreach to homeless and foster children. It also would encourage coordination between Head Start grantees and community service providers and homeless and foster children. It would increase the coordination for these populations as they transition out of Head Start to elementary school and increase reporting requirements. And, it would allow homeless children to be automatically eligible for Head Start.

Again, I thank my colleague, Senator MURRAY, for her leadership on this issue. I look forward to working with her to incorporate these ideas into the Head Start reauthorization bill currently being considered in the Health, Education, Labor, and Pensions Committee.

By Mr. ROCKEFELLER (for himself and Mr. BURNS):

S. 1102. A bill to extend the aviation war risk insurance program for 3 years; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation to mandate that the Federal Aviation Administration (FAA) extend the offering of war risk insurance through August 31, 2007, to our Nation's air carriers. I am very pleased that Senator BURNS, the Chairman of the Aviation Subcommittee, has agreed to co-sponsor this legislation.

Prior to September 11, 2001, war risk insurance was generally attainable and affordable for U.S. airlines. But, as we know, that day changed everything for America. No industry was more dramatically and fundamentally changed than the U.S. aviation industry. Recognizing that the commercial insurance market was not willing to provide war risk insurance to the airline industry in the immediate aftermath of September 11, Congress required the FAA provide war risk insurance to U.S. air carriers. We expected that in time U.S. air carriers would be able to obtain commercial war risk insurance. Unfortunately, the commercial war risk insurance market has priced its products beyond the means of our air carriers. According to the Air Transport Association, a return to the commercial market to obtain war risk insurance could cost U.S. airlines $600 million to $700 million a year, up from the current $140 million. Because of the lack of a vibrant competitive commercial market, last year, Congress extended its mandate that the FAA provide this insurance.

In a report to Congress, the FAA noted that even though war risk insurance is available in the private market, it is offered on terms that the industry just cannot afford. My bill would mandate the continuation of this vital program through August 31, 2008. In time, we should expect the private market to offer this coverage, but the reality is that the insurance industry continues to seek exorbitant rates for this coverage. The market has failed and it is the government's responsibility to provide this insurance as we have done in previous times of war.

The financial conditions faced by domestic airlines have seen little, if any, improvement. This legislation is supported by the low-cost carriers who are the healthiest companies in the industry, as they know that their profitability would be at risk if they were forced to go to commercial market for this insurance at this time. The current commercial market is simply unable to provide adequate war-risk coverage without unreasonable cost to airlines. For airlines, private coverage would mean annual payment increases of millions of dollars. Even with FAA insurance coverage, airlines are projected to lose $5.5 billion this year. This legislation will help the airlines weather their current financial crisis. If U.S. airlines were forced to go to the commercial market for this insurance, we would likely see more airlines in bankruptcy or cease to exist at all.

I believe that airlines remain a prime targets for terrorist acts. It is because of this threat that the commercial insurance market is unaffordable for the airlines. My legislation seeks to address a pressing problem facing one of the most critical industries in the country. My bill is one small but important measure that Congress can take to make sure our nation has a vibrant and financially secure airline industry.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AIRLINE WAR RISK POLICIES AND TERRORISM COVERAGE.

(a) EXTENSION OF POLICIES.—Section 44302(f) of title 49, United States Code, is amended by striking "August 31, 2005, and may extend through December 31, 2005," in paragraph (1) and inserting "August 31, 2008, and may extend through December 31, 2008,".

(b) EXTENSION OF TERRORISM COVERAGE.—Section 44303(b) of title 49, United States Code, is amended by striking "December 31, 2005," and inserting "December 31, 2008,".

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. WYDEN, Mr. KYL, Mr. SCHUMER, Mr. CRAPO, Mr. PRYOR, Mr. JEFFORDS, and Mr. FRIST):

S. 1103. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax; to the Committee on Finance.

Mr. BAUCUS. Mr. President, this weekend, millions of Americans watched in suspense as Anakin Skywalker was lured to the Dark side and became Darth Vader. What millions of those same Americans may not be aware of is another Darth Vader lurking in our tax code; that is, the Alternative Minimum Tax, or AMT.

The AMT has many of the same qualities as Anakin Skywalker. The AMT was supposed to bring order and fairness to the tax world, but it eventually got off on the wrong path and became a threat to middle-income taxpayers. Both Skywalker and the AMT started off with great intentions, but eventually they went astray. And now we have the Darth Vader of the Tax Code bearing down on millions of unsuspecting families.

That is why I am pleased to join with my friend and Chairman CHUCK GRASSLEY, and our fellow committee colleagues, Senators WYDEN and KYL, to introduce legislation today that will repeal the individual AMT. Our bill simply says that individuals beginning January 1, 2006 will owe zero, I repeat, zero dollars under the AMT. Further, our bill provides that individuals with AMT credits can continue to use those up to 90 percent of their regular tax liability.

If we do not act, CRS estimates that in 2006, the family-unfriendly AMT will hit middle-income families earning $63,000 with three children. What was once meant to ensure that a handful of millionaires did not eliminate all taxes through excessive deductions is now meaning millions of working families, including thousands in my home State of Montana, are subject to a higher stealth tax. It is truly bizarre, Mr. Chairman, that we have designed a tax deeming more children "excessive deductions" and duly paying your State taxes a bad thing. Already, 5,000 Montana families pay a higher tax because of the AMT. But this number could multiply many times over if we do not act soon.

Not only is the AMT unfair and poorly targeted, it is an awful mess to figure out. The Finance Committee heard testimony today from our National Taxpayer Advocate, who has singled out this item as causing the most complexity for individual taxpayers, and also from a tax practitioner who has seen first-hand how difficult this is for her clients. We heard also from other witnesses who said it is time for repeal of the AMT.

Of course, repeal does not come without cost and that cost is significant even if we assume the 2001 and 2003 tax cuts are not extended. We are committed to working together to identify reasonable offsets. Certainly, I do not think we want a tax system unfairly placing a higher tax burden on millions of middle-income families with children. But it does not serve those families either if our budget deficit is significantly worse.

Again, I look forward to working with my colleagues on this AMT repeal bill will put an end to the Darth Vader of the tax code, without any sequels.

By Mrs. CLINTON (for herself, Mr. CHAFEE, Mr. NELSON of Florida, Ms. COLLINS, Mr. BINGAMAN, and Ms. CANTWELL):

S. 1104. A bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I rise to introduce legislation that would allow States to use Federal funds to provide critical healthcare services to pregnant women and children. I want to thank Senator CHAFEE for his leadership on this important issue. I also want to recognize former Senator Bob Graham and the late Senator John Chafee, who championed this legislation for many years. Their commitment laid the groundwork for our bill introduction today.

This bill, the Immigrant Children's Health Improvement Act, is fundamentally about three things—fairness, fiscal relief, and financial savings.

I will start with fairness. All across New York and America, legal immigrants work hard, pay taxes, and exercise their civic responsibilities. I see examples of this every day in New York. They fight for our country in the military. They contribute to our Nation's competitiveness and economic growth. They help revitalize neighborhoods and small towns across the country. And most are fiercely proud to call themselves Americans.

Yet, in 1996, Congress denied safety net services to legal immigrants who had been in the country for less than 5 years. Today, Senator CHAFEE and I are here to introduce legislation that would take a first step towards correcting that injustice. The Immigrant Children's Health Improvement Act will allow States to use, Federal funds to make SCHIP, (the State Children's Health Improvement Program, and Medicaid available to pregnant women and children who are legal immigrants within the 5-year ban.

There is tremendous need for this legislation. An Urban Institute study found that children of immigrants are three times as likely to be in fair or poor health. While most children receive preventative medicine, such as vaccines, too often immigrant children do not. They are forced to receive their healthcare via emergency rooms—the least cost-effective place to provide care. To make matters worse, minor illnesses, which would be easily treated by a pediatrician, may snowball into life-threatening conditions.

This legislation is also a matter of good fiscal policy. Today, 19 States, including New York and Rhode Island, plus the District of Columbia, use State funds to provide healthcare services to legal immigrants within the 5-year waiting period. According to the most recent estimates from the Congressional Budget Office, at least 155,000 children and 60,000 adults are receiving these benefits. A total of 387,000 recent legal immigrants would be eligible to receive these services if their States opt to take advantage of the program.

And finally, this bill is about long-term healthcare cost savings. According to the National Bureau of Economic Research, covering uninsured children and pregnant women through Medicaid can reduce unnecessary hospitalization by 22 percent. Pregnant women who forgo prenatal care are likely to develop complications during pregnancy, which results in higher costs for postpartum care. And women without access to prenatal care are four times more likely to deliver low birth weight infants and seven times more likely to deliver prematurely than women who receive prenatal care, according to the Institute of Medicine. All of these health outcomes are costly to society and to the individuals involved.

Thank you for allotting me this time to speak on such an urgent matter. I look forward to working with you and the rest of my colleagues to enact this bill into law in the near future.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. LEVIN, Mr. KENNEDY, and Mr. AKAKA):

S. 1105. A bill to amend title VI of the Higher Education Act of 1965 regarding international and foreign language studies; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with Senators COCHRAN, LEVIN, KENNEDY and AKAKA to introduce The International and Foreign Language Studies Act of 2005.

In recent years, foreign language needs have significantly increased throughout the Federal Government due to the presence of a wider range of security threats, the emergence of new nation states, and the globalization of the U.S. economy. Likewise, American business increasingly needs internationally experienced employees to compete in the global economy and to manage a culturally diverse workforce.

Currently, the U.S. government requires 34,000 employees with foreign language skills across 70 Federal agencies. These agencies have stated over the last few years, that translator and interpreter shortfalls have adversely affected agency operations and hindered U.S. military, law enforcement, intelligence, and diplomatic efforts.

Despite our growing needs, the number of undergraduate foreign language degrees conferred is only one percent of all degrees. Only one third of undergraduates report that they are taking foreign language courses and only 11 percent report that they have studied abroad.

At a time when our security needs are more important than ever, at a time when our economy demands that we enter new markets, and at a time when the world requires us to engage in diplomacy in more thoughtful and considered ways, it is extremely important that we have at our disposal a multilingual, multicultural, internationally experienced workforce. The Dodd-Cochran International and Foreign Language Studies Act attempts to do this in a number of ways.

The Dodd-Cochran International and Foreign Language Studies Act will increase undergraduate study abroad as a means to enhance foreign language proficiency and deepen cultural knowledge. The bill will reinstate undergraduate eligibility for Foreign Language and Area Studies Fellowships. The bill will encourage the Department of Education to engage in the collection, analysis and dissemination of data on international education and foreign language needs so that we know and understand exactly what our needs in this area are. Within the Institute for International and Public Policy, the bill provides scholarships and creates an "expert track" for doctoral students in critical areas, disciplines and languages. And, most importantly, the Dodd-Cochran bill will demonstrate our nation's commitment to increasing the foreign language proficiency and international expertise of our citizens by increasing the amount appropriated to international education, including international business education, to allow for more opportunities for more students.

The Higher Education Act authorizes the Federal Government's major activities as they relate to financial assistance for students attending colleges and universities. It provides aid to institutions of higher education, services to help students complete high school and enter and succeed in postsecondary education, and mechanisms to improve the training of our emerging workforce. This bill will help fulfill that mission.

Foreign language skills and international study are vital to secure the future economic welfare of the United States in an increasingly international economy. Foreign language skills and international study are also vital for the nation to meet 21st century security challenges properly and effectively, especially in light of the terrorist attacks on September 11, 2001.

I hope our colleagues who are not cosponsoring this bill will give it serious consideration. By working together, I believe that the Senate as a body can act to ensure that we strengthen our Nation's security and economy by capitalizing on the talents and dreams of those who wish to enter the international arena.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senators DODD, COCHRAN, LEVIN and AKAKA in introducing the International and Foreign Languages Studies Act to increase study abroad and increase foreign language study here at home for undergraduate and graduate students.

The study of foreign language and foreign cultures is more important than ever. Yet in 2003, the number of fellowships awarded for such studies was 30 percent less than the high point in 1967. Only 40 percent of undergraduates report taking any foreign language coursework and only 20 percent have studied abroad.

Learning another language is more than a desirable educational goal. It is a national security goal as well. We need more students to pursue other languages, especially the lesser taught languages like Chinese, Japanese, Farsi, Dari Persian and Arabic, which will be critical for international business as well as for national defense.

In addition to supporting language studies, the bill builds bridges with overseas universities to promote research and training abroad for American students. It supports the expansion of the Centers for International Business Education, and increases the scope of the Institute for International and Public Policy by creating an accelerated track for PhD students in key areas.

This bill is an important part of America's participation in globalization, and I urge my colleagues to strongly support it.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1106. A bill to authorize the construction of the Arkansas Valley Conduit in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, it is with much excitement and anticipation that I, along with Congresswoman MARILYN MUSGRAVE in the House of Representatives, introduce legislation known as "The Arkansas Valley Conduit." This bill will ensure the expedited construction of a pipeline that will provide the small, financially strapped towns and water agencies along the Arkansas River with safe, clean, affordable water. By creating a Federal-Local cost share to help offset the costs of constructing the Conduit, this legislation will protect the future of Southeastern Colorado. First introduced during the 107th Session of Congress and subsequently in the 108th, we have redrafted the legislation for the 109th Session to create a stronger stand-alone bill. Congresswoman MUSGRAVE and I have worked hard to craft it so that it meets the needs of a region of Colorado that has suffered from decades of inadequate drinking water supplies. On the heels of one of the worst droughts in Colorado history, the Conduit will provide a dependable source of water to communities—water that will allow these communities to grow and prosper.

By way of background, the Arkansas Valley Conduit was originally authorized by Congress forty years ago as a part of the Fryingpan-Arkansas Project. Due to the authorizing statute's lack of a cost share provision and Southeastern Colorado's depressed economic status, the Conduit was never built. Until recently, the region has been fortunate to enjoy an economical and safe alternative to pipeline-transportation of Project Water: the Arkansas River. Sadly, the water quality in the Arkansas has degraded to a point where it is no longer economical to use as a means of transport. At the same time, the Federal Government has continued to strengthen its unfunded water quality standards.

Several years ago, in an effort to resurrect the Conduit, Senator Ben Nighthorse Campbell and I worked to secure $200,000 for a Bureau of Reclamation Re-evaluation Statement on the project. Thanks to this effort, the people of the valley began to realize that the Conduit may one day be more than just a pipedream, and that Congress was serious about fulfilling the promise of the Fryingpan-Arkansas Project.

Our legislation calls for a 80/20 Federal/Local cost share. This is a sizeable sum, but is a far cry from the estimated $640 million it would take to build new treatment facilities for each of the communities if the Conduit was not built. It requires cooperation of the Department of the Interior, U.S. Army Corps of Engineers and local project participants.

The Arkansas Valley Conduit will deliver fresh, clean water to dozens of valley communities and tens-of-thousands of people along the river. Local community participants continue to explore options for financing their share of the costs, and are working hard to develop the organization that will oversee the Conduit project. I applaud those in the community who have worked so hard for the past several years to make the Conduit a reality. Upon its completion, it will stand as testament to a pioneering vision and commitment to sensible water policy.

With the help of my colleagues, the promise made by Congress forty years ago to the people of Southeastern Colorado, will finally become a reality.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arkansas Valley Conduit Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Public Law 87-590 (76 Stat. 389) authorized the Fryingpan-Arkansas project, including construction of the Arkansas Valley Conduit, a pipeline extending from Pueblo Reservoir, Pueblo, Colorado to Lamar, Colorado;

(2) the Arkansas Valley Conduit was never built, partly because of the inability of local communities to pay 100 percent of the costs of construction of the Arkansas Valley Conduit;

(3) in furtherance of the goals and authorization of the Fryingpan-Arkansas project, it is necessary to provide separate authorization for the construction of the Arkansas Valley Conduit;

(4) the construction of the Arkansas Valley Conduit is necessary for the continued viability of southeast Colorado; and

(5) the Arkansas Valley Conduit would provide the communities of southeast Colorado with safe, clean, and affordable water.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate water supply for the beneficiaries identified in Public Law 87-590 (76 Stat. 389) and related authorizing documents and subsequent studies; and

(2) to establish a cost-sharing requirement for the construction of the Arkansas Valley Conduit.

SEC. 3. ARKANSAS VALLEY CONDUIT, COLORADO.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the "Secretary") shall plan, design, and construct a water delivery pipeline, and branch lines as needed, from a location in the vicinity (as determined by the Secretary) of Pueblo Reservoir, Pueblo, Colorado to a location in the vicinity (as determined by the Secretary) of Lamar, Colorado, to be known as the "Arkansas Valley Conduit", without regard to the cost-ceiling for the Fryingpan Arkansas Project established under section 7 of Public Law 87-590 (76 Stat. 393).

(b) LEAD NON-FEDERAL ENTITY.—

(1) DESIGNATION.—The Southeastern Colorado Water Conservancy District, or a designee of the Southeastern Colorado Water Conservancy District that is recognized under State law as an entity that has taxing authority, shall be the lead non-Federal entity for the Arkansas Valley Conduit.

(2) DUTIES.—The lead non-Federal entity shall—

(A) act as the official agent of the Arkansas Valley Conduit;

(B) pay—

(i) the non-Federal share of any increased costs required under subsection (e)(2)(C); and

(ii) the non-Federal share of construction costs under subsection (e)(2); and

(C) pay costs relating to, and perform, the operations, maintenance, and replacement of the Arkansas Valley Conduit.

(c) COOPERATION.—To the maximum extent practicable during the planning, design, and construction of the Arkansas Valley Conduit, the Secretary shall collaborate and cooperate with the United States Army Corps of Engineers, other Federal agencies, and non-Federal entities.

(d) COST ESTIMATE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in cooperation with the lead non-Federal entity, shall prepare an estimate of the total costs of constructing the Arkansas Valley Conduit.

(2) ACTUAL COSTS.—If the actual costs of construction exceed the estimated costs, the difference between the actual costs and the estimated costs shall be apportioned in accordance with subsection (e)(2)(C).

(3) AGREEMENT ON ESTIMATE AND DESIGN.—The estimate prepared under paragraph (1), and the final design for the Arkansas Valley Conduit, shall be—

(A) subject to the agreement of the Secretary and the lead non-Federal entity;

(B) developed in cooperation with the lead non-Federal entity; and

(C) consistent with commonly accepted engineering practices.

(e) COST-SHARING REQUIREMENT.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the total costs of the planning, design, and construction of the Arkansas Valley Conduit shall be 80 percent.

(B) INCREASED COSTS.—The Federal share of any increased costs that are a result of fundamental design changes conducted at the request of any person other than the lead non-Federal entity shall be 100 percent.

(2) NON-FEDERAL SHARE.—

(A) NON-FEDERAL SHARE.—The non-Federal share of the total costs of the planning, design, and construction of the Arkansas Valley Conduit shall be 20 percent.

(B) FORM.—Up to 100 percent of the non-Federal share may be in the form of in-kind contributions or tasks that are identified in the cost estimate prepared under subsection (d)(1) as necessary for the planning, design, and construction of the Arkansas Valley Conduit.

(C) INCREASED COSTS.—

(i) FUNDAMENTAL DESIGN CHANGES.—The lead non-Federal entity shall pay any increased costs that are a result of fundamental design changes conducted at the request of the lead non-Federal entity.

(ii) OTHER CAUSES.—For any increased costs that are from causes (including increased supply and labor costs and unforseen field changes) other than fundamental design changes referred to in clause (i) and paragraph (1)(B)—

(I) the Federal share shall be 80 percent; and

(II) the non-Federal share shall be 20 percent.

(D) UP-FRONT PAYMENT.—Not later than 180 days after the date of completion of the cost-estimate under subsection (d), the Secretary and the non-Federal entity may enter into an agreement under which—

(i) the Secretary pays 100 percent of the non-Federal share on behalf of the non-Federal entity; and

(ii) the non-Federal entity reimburses the Secretary for the funds paid by the Secretary in accordance with the terms of the agreement.

(E) TIMING.—Except as provided in subparagraph (D), the non-Federal share shall be paid in accordance with a schedule established by the Secretary that—

(i) takes into account the capability of the applicable non-Federal entities to pay; and

(ii) provides for full payment of the non-Federal share by a date that is not later than 50 years after the date on which the Arkansas Valley Conduit is capable of delivering water.

(f) TRANSFER ON COMPLETION.—On completion of the Arkansas Valley Conduit, as certified in an agreement between the Secretary and the lead non-Federal entity, the Secretary shall transfer ownership of the Arkansas Valley Conduit to the lead non-Federal entity.

(g) APPLICABLE LAW.—Except as provided in this Act, Public Law 87-590 (76 Stat. 389) and related authorizing documents and subsequent studies shall apply to the planning, design, and construction of the Arkansas Valley Conduit.

(h) WATER RIGHTS.—Nothing in this Act affects any State water law or interstate compact.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) LIMITATION.—Amounts made available under subsection (a) shall not be used for the operation or maintenance of the Arkansas Valley Conduit.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1107. A bill to reauthorize the Head Start Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce the Head Start Improvements for School Readiness Act with my colleague, Senator KENNEDY.

This legislation would reauthorize the Head Start program and make important improvements to the Head Start Act and help ensure that today's children receiving services by this important program will be better prepared for success in the future. Success in life depends a great deal on the preparation for that success, which comes early in life. It is well documented in early childhood education research that students who are not reading well by the third grade will struggle with reading most of their lives. That is why the Head Start program is so important. Head Start provides early education for thousands of children each year, most of whom would not have the opportunity to attend preschool programs elsewhere.

The Head Start program is important generally, but there is some room for improvement. Earlier this year the Senate Committee on Health, Education, Labor and Pensions held a hearing on the administration of the Head Start program, and found that a number of changes might help improve the performance of the program overall.

The first change required by this program would be providing for all Head Start grantees found to have a deficiency to recompete the next time the program's grant is up for renewal. The bill would also require grantees to recompete if they have not resolved issues of noncompliance within 120 days, or a longer time specified by the Secretary of Health and Human Services. This will create an important incentive for programs to operate at their best, which is in the best interest of our children.

The bill would also shorten the timeline for programs to be terminated. In some instances, Head Start grantees have been found to be operating programs that are unsafe, or improperly using Federal funds. In these cases, the Administration has acted to terminate these programs. Unfortunately, under the law, Head Start grantees have been able to appeal these rulings. This process can be lengthy, some examples exceed 600 days, or almost two years, before a final ruling is made. In order to address this issue, and put the health and education of children first, the legislation we introduce today would limit the time available for Head Start grantees to appeal decisions made by the Secretary to terminate grants.

A third improvement is to clarify the role of the governing body and policy councils in individual Head Start programs. After careful review, the Committee found that many of the important fiscal and legal responsibilities of Head Start grantees were not explicitly assigned to either the policy council or the governing body, or in many instances, were assigned equally to both. In order to clarify the shared governance model, the bill we introduce today would clarify the responsibilities of the governing body and the policy council for each Head Start grantee. We believe this will lead to more consistent, high quality fiscal and legal management, which will ensure these programs are serving children in the best way they can.

I wish to thank my colleagues on the Committee, particularly Senator KENNEDY, for their help in drafting this bipartisan legislation to reauthorize the Head Start Act. I believe the legislation we are introducing today will improve the quality and effectiveness of the Head Start program for generations of children to come.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Head Start Improvements for School Readiness Act".

SEC. 2. STATEMENT OF PURPOSE.

Section 636 of the Head Start Act (42 U.S.C. 9831) is amended by inserting "educational instruction in prereading skills, premathematics skills, and language and through" after "low-income children through".

SEC. 3. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) in paragraph (2), by inserting "(including a community-based organization)" after "nonprofit";

(2) in paragraph (3)(C), by inserting ", including financial literacy," after "Parent literacy";

(3) in paragraph (17), by striking "Mariana Islands," and all that follows and inserting "Mariana Islands."; and

(4) by adding at the end the following:

"(18) The term 'homeless child' means a child described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)).

"(19) The term 'limited English proficient', used with respect to a child, means a child—

"(A) who is enrolled or preparing to enroll in a Head Start program, Early Head Start program, or other early care and education program;

"(B)(i) who was not born in the United States or whose native language is a language other than English;

"(ii)(I) who is a Native American, Alaska Native, or a native resident of a United States territory; and

"(II) who comes from an environment where a language other than English has had a significant impact on the child's level of English language proficiency; or

"(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

"(C) whose difficulty in speaking or understanding the English language may be sufficient to deny such child—

"(i) the ability to successfully achieve in a classroom in which the language of instruction is English; or

"(ii) the opportunity to participate fully in society.

"(20) The term 'deficiency' means—

"(A) a systemic or substantial failure of an agency in an area of performance that the Secretary determines involves—

"(i) a threat to the health, safety, or civil rights of children or staff;

"(ii) a denial to parents of the exercise of their full roles and responsibilities related to program operations;

"(iii) a failure to comply with standards related to early childhood development and health services, family and community partnerships, or program design and management;

"(iv) the misuse of funds under this subchapter;

"(v) loss of legal status or financial viability, loss of permits, debarment from receiving Federal grants or contracts, or the improper use of Federal funds; or

"(vi) failure to meet any other Federal or State requirement that the agency has shown an unwillingness or inability to correct, after notice from the Secretary, within the period specified;

"(B) systemic failure of the board of directors of an agency to fully exercise its legal and fiduciary responsibilities;

"(C) substantial failure of an agency to meet the administrative requirements of section 644(b);

"(D) failure of an agency to demonstrate that the agency attempted to meet the coordination and collaboration requirements with entities described in section 640(a)(5)(D)(iii)(I); or

"(E) having an unresolved area of noncompliance.

"(21) The term 'unresolved area of noncompliance' means failure to correct a noncompliance item within 120 days, or within such additional time (if any) authorized by the Secretary, after receiving from the Secretary notice of such noncompliance item, pursuant to section 641A(d).".

SEC. 4. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended by inserting "for a period of 5 years" after "provide financial assistance to such agency".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended to read as follows:

"SEC. 639. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for carrying out the provisions of this subchapter $7,215,000,000 for fiscal year 2006, $7,515,000,000 for fiscal year 2007, $7,815,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 and 2010.

"(b) SPECIFIC PROGRAMS.—From the amount appropriated under subsection (a), the Secretary shall make available to carry out research, demonstration, and evaluation activities, including longitudinal studies under section 649, not more than $20,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010, of which not more than $7,000,000 for each of fiscal years 2006 through 2010 shall be available to carry out impact studies under section 649(g).".

SEC. 6. ALLOTMENT OF FUNDS.

(a) ALLOTMENT.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) Indian Head Start programs, services for children with disabilities, and migrant and seasonal Head Start programs, except that—

"(i) subject to the availability of appropriations, the Secretary shall reserve for each fiscal year for use by Indian Head Start and migrant and seasonal Head Start programs (referred to in this subparagraph as 'covered programs'), on a nationwide basis, a sum that is the total of not less than 4 percent of the amount appropriated under section 639 for that fiscal year (for Indian Head Start programs), and not less than 5 percent of that appropriated amount (for migrant and seasonal Head Start programs), except that—

"(I) if reserving the specified percentages for Indian Head Start programs and migrant and seasonal Head Start programs would reduce the number of children served by Head Start programs, relative to the number of children served on the date of enactment of the Head Start Improvements for School Readiness Act, taking into consideration an appropriate adjustment for inflation, the Secretary shall reserve percentages that approach, as closely as practicable, the specified percentages and that do not cause such a reduction; and

"(II) notwithstanding any other provision of this subparagraph, the Secretary shall reserve for each fiscal year for use by Indian Head Start programs and by migrant and seasonal Head Start programs, on a nationwide basis, not less than the amount that was obligated for use by Indian Head Start programs and by migrant and seasonal Head Start programs for the previous fiscal year;

"(ii) after ensuring that each grant recipient for a covered program has received an amount sufficient to enable the grant recipient to serve the same number of children in Head Start programs as were served by such grant recipient on the date of enactment of the Head Start Improvements for School Readiness Act, taking into consideration an appropriate adjustment for inflation, and after allotting the funds reserved under paragraph (3)(A) as specified in paragraph (3)(D), the Secretary shall distribute the remaining funds available under this subparagraph for covered programs, by—

"(I) distributing 65 percent of the remainder by giving priority to grant recipients in the States serving the smallest percentages of eligible children (as determined by the Secretary); and

"(II) distributing 35 percent of the remainder on a competitive basis;";

(B) by striking subparagraph (C) and inserting the following:

"(C) training and technical assistance activities that are sufficient to meet the needs associated with program expansion and to foster program and management improvement activities as described in section 648, in an amount for each fiscal year that is equal to 2 percent of the amount appropriated under section 639 for such fiscal year, of which—

"(i) 50 percent shall be made available to Head Start agencies to use directly, or by establishing local or regional agreements with community experts, colleges and universities, or private consultants, for any of the following training and technical assistance activities, including—

"(I) activities that ensure that Head Start programs meet or exceed the program performance standards described in section 641A(a)(1);

"(II) activities that ensure that Head Start programs have adequate numbers of trained, qualified staff who have skills in working with children and families, including children and families who are limited English proficient and children with disabilities;

"(III) activities to pay expenses, including direct training for expert consultants working with any staff, to improve the management and implementation of Head Start services and systems;

"(IV) activities that help ensure that Head Start programs have qualified staff who can promote language skills and literacy growth of children and who can provide children with a variety of skills that have been identified as predictive of later reading achievement, school success, and other educational skills described in section 641A;

"(V) activities to improve staff qualifications and to assist with the implementation of career development programs and to encourage the staff to continually improve their skills and expertise, including developing partnerships with programs that recruit, train, place, and support college students in Head Start centers to deliver an innovative early learning program to preschool children;

"(VI) activities that help local programs ensure that the arrangement, condition, and implementation of the learning environments in Head Start programs are conducive to providing effective program services to children and families;

"(VII) activities to provide training necessary to improve the qualifications of Head Start staff and to support staff training, child counseling, health services, and other services necessary to address the needs of children enrolled in Head Start programs, including children from families in crises, children who experience chronic violence or homelessness, and children who experience substance abuse in their families, and children under 3 years of age, where applicable;

"(VIII) activities to provide classes or in-service-type programs to improve or enhance parenting skills, job skills, adult and family literacy, including financial literacy, or training to become a classroom aide or bus driver in a Head Start program;

"(IX) additional activities deemed appropriate to the improvement of Head Start agencies' programs, as determined by the agencies' technical assistance and training plans; or

"(X) any other activities regarding the use of funds as determined by the Secretary;

"(ii) 50 percent shall be made available to the Secretary to support a regional or State system of early childhood education training and technical assistance, and to assist local programs (including Indian Head Start programs and migrant and seasonal Head Start programs) in meeting the standards described in section 641A(a)(1); and

"(iii) not less than $3,000,000 of the amount in clause (ii) appropriated for such fiscal year shall be made available to carry out activities described in section 648(d)(4);";

(C) in subparagraph (D), by striking "agencies;" and inserting "agencies);"; and

(D) by adding at the end of the flush matter at the end the following: "The Secretary shall require each Head Start agency to report at the end of each budget year on how funds provided to carry out subparagraph (C)(i) were used.";

(2) in paragraph (3)—

(A) in subparagraph (A)(i)(I)—

(i) by striking "60 percent of such excess amount for fiscal year 1999" and all that follows through "2002, and"; and

(ii) by inserting before the semicolon the following: ", 30 percent of such excess amount for fiscal year 2006, and 40 percent of such excess amount for each of fiscal years 2007 through 2010";

(B) in subparagraph (B)—

(i) in clause (i), by striking "performance standards" and all that follows and inserting "standards and measures pursuant to section 641A.";

(ii) by striking clause (ii) and inserting the following:

"(ii) Ensuring that such programs have adequate numbers of qualified staff, and that such staff is furnished adequate training, including training to promote the development of language skills, premathematics skills, and prereading in young children and in working with limited English proficient children, children in foster care, children referred by child welfare services, and children with disabilities, when appropriate.";

(iii) by striking clause (iii) and inserting the following:

"(iii) Developing and financing the salary scales and benefits standards under section 644(a) and section 653, in order to ensure that salary levels and benefits are adequate to attract and retain qualified staff for such programs.";

(iv) by striking clause (iv) and inserting the following:

"(iv) Using salary increases to—

"(I) assist with the implementation of quality programs and improve staff qualifications;

"(II) ensure that staff can promote the language skills and literacy growth of children and can provide children with a variety of skills that have been identified, through scientifically based early reading research, as predictive of later reading achievement, as well as additional skills identified in section 641A(a)(1)(B)(ii); and

"(III) encourage the staff to continually improve their skills and expertise by informing the staff of the availability of Federal and State incentive and loan forgiveness programs for professional development.";

(v) in clause (v), by inserting ", including collaborations to increase program participation by underserved populations of eligible children" before the period; and

(vi) by striking clauses (vii) and (viii) and inserting the following:

"(vii) Providing assistance to complete postsecondary coursework including scholarships or other financial incentives, such as differential and merit pay, to enable Head Start teachers to improve competencies and the resulting child outcomes.

"(viii) Promoting the regular attendance and stability of all Head Start children with particular attention to highly mobile children, including children from migrant and seasonal farmworking families (where appropriate), homeless children, and children in foster care.

"(ix) Making such other improvements in the quality of such programs as the Secretary may designate.";

(C) in subparagraph (C)—

(i) in clause (i)(I), by striking the last sentence and inserting "Salary increases, in excess of cost-of-living allowances, provided with such funds shall be subject to the specific standards governing salaries and salary increases established pursuant to section 644(a).";

(ii) in clause (ii)—

(I) in the matter preceding subclause (I), by striking "education performance" and inserting "additional educational";

(II) in subclause (I), by inserting ", prereading," after "language";

(III) by striking subclause (II) and inserting the following:

"(II) to help limited English proficient children attain the knowledge, skills, and development specified in section 641A(a)(1)(B)(ii) and to promote the acquisition of the English language by such children and families;"; and

(IV) by striking subclause (IV) and inserting the following:

"(IV) to provide education and training necessary to improve the qualifications of Head Start staff, particularly assistance to enable more instructors to be fully competent and to meet the degree requirements under section 648A(a)(2)(A), and to support staff training, child counseling, and other services necessary to address the challenges of children participating in Head Start programs, including children from immigrant, refugee, and asylee families, children from families in crisis, homeless children, children in foster care, children referred to Head Start programs by child welfare agencies, and children who are exposed to chronic violence or substance abuse.";

(iii) in clause (iii), by inserting ", educational staff who have the qualifications described in section 648A(a)," after "ratio";

(iv) in clause (v), by striking "programs, including" and all that follows and inserting "programs.";

(v) by redesignating clause (vi) as clause (ix); and

(vi) by inserting after clause (v) the following:

"(vi) To conduct outreach to homeless families in an effort to increase the program participation of eligible homeless children.

"(vii) To conduct outreach to migrant and seasonal farmworking families and families with limited English proficient children.

"(viii) To partner with institutions of higher education and nonprofit organizations, including community-based organizations, that recruit, train, place, and support college students to serve as mentors and reading coaches to preschool children in Head Start programs.

"(ix) To upgrade the qualifications and skills of educational personnel to meet the professional standards described in section 648A(a)(1), including certification and licensure as bilingual education teachers and for other educational personnel who serve limited English proficient students.";

(3) in paragraph (4)—

(A) in subparagraph (A), by striking "1998" and inserting "2005"; and

(B) by striking subparagraph (B) and inserting the following:

"(B) any amount available after all allotments are made under subparagraph (A) for such fiscal year shall be distributed as follows:

"(i) Each State shall receive an amount sufficient to serve the same number of children in Head Start programs in each State as were served on the date of enactment of the Head Start Improvements for School Readiness Act, taking into consideration an appropriate adjustment for inflation.

"(ii) After ensuring that each State has received the amount described in clause (i) and after allotting the funds reserved under paragraph (3)(A) as specified in paragraph (3)(D), the Secretary shall distribute the remaining balance, by—

"(I) distributing 65 percent of the balance by giving priority to States serving the smallest percentages of eligible children (as determined by the Secretary); and

"(II) distributing 35 percent of the balance on a competitive basis.";

(4) in paragraph (5)—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B)(i) From the reserved sums, the Secretary shall award a collaboration grant to each State to facilitate collaboration between Head Start agencies and entities (including the State) that carry out other activities designed to benefit low-income families and children from birth to school entry.

"(ii) Grants described in clause (i) shall be used to—

"(I) encourage Head Start agencies to collaborate with entities involved in State and local planning processes to better meet the needs of low-income families and children from birth to school entry;

"(II) encourage Head Start agencies to coordinate activities with the State agency responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and entities providing resources and referral services in the State to make full-working-day and full calendar year services available to children;

"(III) promote alignment of Head Start services with State early learning and school readiness goals and standards, including the Head Start child outcome framework;

"(IV) promote better linkages between Head Start agencies and other child and family agencies, including agencies that provide health, mental health, or family services, or other child or family supportive services; and

"(V) carry out the activities of the State Director of Head Start Collaboration authorized in subparagraph (D).

"(C) In order to improve coordination and delivery of early education services to children in the State, a State that receives a grant under subparagraph (B) shall—

"(i) appoint an individual to serve as the State Director of Head Start Collaboration;

"(ii) ensure that the State Director of Head Start Collaboration holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

"(iii) involve the State Head Start Association in the selection of the Director and involve the Association in determinations relating to the ongoing direction of the collaboration office.

"(D) The State Director of Head Start Collaboration, after consultation with the State Advisory Council described in subparagraph (E), shall—

"(i) not later than 1 year after the date of enactment of the Head Start Improvements for School Readiness Act, conduct an assessment that—

"(I) addresses the needs of Head Start agencies in the State with respect to collaborating, coordinating services, and implementing State early learning and school readiness goals and standards to better serve children enrolled in Head Start programs in the State;

"(II) shall be updated on an annual basis; and

"(III) shall be made available to the general public within the State;

"(ii) assess the availability of high quality prekindergarten services for low-income children in the State;

"(iii) develop a strategic plan that is based on the assessment described in clause (i) that will—

"(I) enhance collaboration and coordination of Head Start services with other entities providing early childhood programs and services (such as child care and services offered by museums), health care, mental health care, welfare, child protective services, education and community service activities, family literacy services, reading readiness programs (including such programs offered by public and school libraries), services relating to children with disabilities, other early childhood programs and services for limited English proficient children and homeless children, and services provided for children in foster care and children referred to Head Start programs by child welfare agencies, including agencies and State officials responsible for such services;

"(II) assist Head Start agencies to develop a plan for the provision of full-working-day, full calendar year services for children enrolled in Head Start programs who need such care;

"(III) assist Head Start agencies to align services with State early learning and school readiness goals and standards and to facilitate collaborative efforts to develop local school readiness standards; and

"(IV) enable agencies in the State to better coordinate professional development opportunities for Head Start staff, such as by—

"(aa) assisting 2- and 4-year public and private institutions of higher education to develop articulation agreements;

"(bb) awarding grants to institutions of higher education to develop model early childhood education programs, including practica or internships for students to spend time in a Head Start or prekindergarten program;

"(cc) working with local Head Start agencies to meet the degree requirements described in section 648A(a)(2)(A), including providing distance learning opportunities for Head Start staff, where needed to make higher education more accessible to Head Start staff; and

"(dd) enabling the State Head Start agencies to better coordinate outreach to eligible families;

"(iv) promote partnerships between Head Start agencies, State governments, and the private sector to help ensure that preschool children from low-income families are receiving comprehensive services to prepare the children to enter school ready to learn;

"(v) consult with the chief State school officer, local educational agencies, and providers of early childhood education and care to conduct unified planning regarding early care and education services at both the State and local levels, including undertaking collaborative efforts to develop and make improvements in school readiness standards;

"(vi) promote partnerships (such as the partnerships involved with the Free to Grow initiative) between Head Start agencies, schools, law enforcement, and substance abuse and mental health treatment agencies to strengthen family and community environments and to reduce the impact on child development of substance abuse, child abuse, domestic violence, and other high risk behaviors that compromise healthy development;

"(vii) promote partnerships between Head Start agencies and other organizations in order to enhance the Head Start curriculum, including partnerships to promote inclusion of more books in Head Start classrooms and partnerships to promote coordination of activities with the Ready-to-Learn Television program carried out under subpart 3 of part D of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6775 et seq.); and

"(viii) identify other resources and organizations (both public and private) for the provision of in-kind services to Head Start agencies in the State.

"(E)(i) The Governor of the State shall designate or establish a council to serve as the State advisory council on collaboration on early care and education activities for children from birth to school entry (in this subchapter referred to as the 'State Advisory Council').

"(ii) The Governor may designate an existing entity to serve as the State Advisory Council, if the entity includes representatives described in subclauses (I) through (XXIV) of clause (iii).

"(iii) Members of the State Advisory Council shall include, to the maximum extent possible—

"(I) the State Director of Head Start Collaboration;

"(II) a representative of the appropriate regional office of the Administration for Children and Families;

"(III) a representative of the State educational agency and local educational agencies;

"(IV) a representative of institutions of higher education;

"(V) a representative (or representatives) of the State agency (or agencies) responsible for health or mental health care;

"(VI) a representative of the State agency responsible for teacher professional standards, certification, and licensing, including prekindergarten teacher professional standards, certification standards, certification, and licensing, where applicable;

"(VII) a representative of the State agency responsible for child care;

"(VIII) early childhood education professionals, including professionals with expertise in second language acquisition and instructional strategies in teaching limited English proficient children;

"(IX) kindergarten teachers and teachers in grades 1 through 3;

"(X) health care professionals;

"(XI) child development specialists, including specialists in prenatal, infant, and toddler development;

"(XII) a representative of the State agency responsible for assisting children with developmental disabilities;

"(XIII) a representative of the State agency responsible for programs under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

"(XIV) a representative of the State interagency coordinating councils established under section 641 of the Individuals with Disabilities Education Act (20 U.S.C. 1441);

"(XV) a representative of the State Head Start Association (where appropriate), and other representatives of Head Start programs in the State;

"(XVI) a representative of the State network of child care resource and referral agencies;

"(XVII) a representative of community-based organizations;

"(XVIII) a representative of State and local providers of early childhood education and child care;

"(XIX) a representative of migrant and seasonal Head Start programs and Indian Head Start programs (where appropriate);

"(XX) parents;

"(XXI) religious and business leaders;

"(XXII) the head of the State library administrative agency;

"(XXIII) representatives of State and local organizations and other entities providing professional development to early care and education providers; and

"(XXIV) a representative of other entities determined to be relevant by the chief executive officer of the State.

"(iv)(I) The State Advisory Council shall be responsible for, in addition to responsibilities assigned to the council by the chief executive officer of the State—

"(aa) conducting a periodic statewide needs assessment concerning early care and education programs for children from birth to school entry;

"(bb) identifying barriers to, and opportunities for, collaboration and coordination between entities carrying out Federal and State child development, child care, and early childhood education programs;

"(cc) developing recommendations regarding means of establishing a unified data collection system for early care and education programs throughout the State;

"(dd) developing a statewide professional development and career ladder plan for early care and education in the State; and

"(ee) reviewing and approving the strategic plan, regarding collaborating and coordinating services to better serve children enrolled in Head Start programs, developed by the State Director of Head Start Collaboration under subparagraph (D)(iii).

"(II) The State Advisory Council shall hold public hearings and provide an opportunity for public comment on the needs assessment and recommendations described in subclause (I). The State Advisory Council shall submit a statewide strategic report containing the needs assessment and recommendations described in subclause (I) to the State Director of Head Start Collaboration and the chief executive officer of the State.

"(III) After submission of a statewide strategic report under subclause (II), the State Advisory Council shall meet periodically to review any implementation of the recommendations in such report and any changes in State and local needs."; and

(5) in paragraph (6)—

(A) in subparagraph (A), by striking "7.5 percent" and all that follows and inserting "11 percent for fiscal year 2006, 13 percent for fiscal year 2007, 15 percent for fiscal year 2008, 17 percent for fiscal year 2009, and 18 percent for fiscal year 2010, of the amount appropriated pursuant to section 639(a).";

(B) by striking subparagraph (B);

(C) in subparagraph (C)(i), by striking "required to be"; and

(D) by redesignating subparagraph (C) as subparagraph (B).

(b) SERVICE DELIVERY MODELS.—Section 640(f) of the Head Start Act (42 U.S.C. 9835(f)) is amended by striking "needs." and inserting "needs, including—

"(1) models that leverage the capacity and capabilities of the delivery system of early childhood education and child care; and

"(2) procedures to provide for the conversion of part-day programs to full-day programs or part-day slots to full-day slots.".

(c) ADDITIONAL FUNDS.—Section 640(g)(2) of the Head Start Act (42 U.S.C. 9835(g)(2)) is amended—

(1) by striking subparagraph (C) and inserting the following:

"(C) the extent to which the applicant has undertaken communitywide strategic planning and needs assessments involving other community organizations and Federal, State, and local public agencies serving children and families (including organizations and agencies providing family support services and protective services to children and families and organizations serving families in whose homes English is not the language customarily spoken), and individuals, organizations, and public entities serving children with disabilities, children in foster care, and homeless children including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii));";

(2) in subparagraph (D), by striking "other local" and inserting "the State and local";

(3) in subparagraph (E), by inserting "would like to participate but" after "community who";

(4) in subparagraph (G), by inserting "leverage the existing delivery systems of such services and" after "manner that will"; and

(5) in subparagraph (H), by inserting ", including the local educational agency liaison designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))," after "community involved".

(d) Regulations.—Section 640(i) of the Head Start Act (42 U.S.C. 9835(i)) is amended by inserting "and requirements to ensure the appropriate supervision and background checks of individuals with whom the agencies contract to transport those children" before the period.

(e) Migrant and Seasonal Head Start Programs.—Section 640(l) of the Head Start Act (42 U.S.C. 9835(l)) is amended by striking paragraph (3) and inserting the following:

"(3) In carrying out this subchapter, the Secretary shall continue the administrative arrangement at the national or regional level for meeting the needs of Indian children and children of migrant and seasonal farmworkers and shall ensure that appropriate funding is provided to meet such needs, including training and technical assistance and the appointment of a national migrant and seasonal Head Start collaboration director and a national Indian Head Start collaboration director.

"(4)(A) For the purposes of paragraph (3), the Secretary shall conduct an annual consultation in each affected Head Start region, with tribal governments operating Head Start and Early Head Start programs.

"(B) The consultations shall be for the purpose of better meeting the needs of American Indian and Alaska Native children and families pertinent to subsections (a), (b), and (c) of section 641, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services within tribal communities.

"(C) The Secretary shall publish a notification of the consultations in the Federal Register prior to conducting the consultations.

"(D) A detailed report of each consultation shall be prepared and made available, on a timely basis, to all tribal governments receiving funds under this subchapter.".

(f) Homeless Children.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(m) Enrollment of Homeless Children.—The Secretary shall issue regulations to remove barriers to the enrollment and participation of homeless children in Head Start programs. Such regulations shall require Head Start agencies to—

"(1) implement policies and procedures to ensure that homeless children are identified and receive appropriate priority for enrollment;

"(2) allow homeless children to apply to, enroll in, and attend Head Start programs while required documents, such as proof of residency, proof of immunization, and other medical records, birth certificates, and other documents, are obtained within a reasonable timeframe (consistent with State law); and

"(3) coordinate individual Head Start programs with efforts to implement subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

"(n) Rule of Construction.—Nothing in this subchapter shall be construed to require a State to establish a program of early education for children in the State, to require any child to participate in a program of early education in order to attend preschool, or to participate in any initial screening prior to participation in such program, except as provided under section 612(a)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(3)) and consistent with section 614(a)(1)(C) of such Act (20 U.S.C. 1414(a)(1)(C)).

"(o) Materials.—All curricula funded under this subchapter shall be scientifically based and age appropriate. Parents shall have the opportunity to examine any such curricula or instructional materials funded under this subchapter.".

SEC. 7. DESIGNATION OF HEAD START AGENCIES.

Section 641 of the Head Start Act (42 U.S.C. 9836) is amended to read as follows:

"SEC. 641. DESIGNATION OF HEAD START AGENCIES.

"(a) Designation.—

"(1) In general.—The Secretary is authorized to designate as a Head Start agency any local public or private nonprofit or for-profit agency, within a community, including a community-based organization that—

"(A) has power and authority to carry out the purpose of this subchapter and perform the functions set forth in section 642 within a community; and

"(B) is determined to be capable of planning, conducting, administering, and evaluating, either directly or by other arrangements, a Head Start program.

"(2) Required goals for designation.—In order to be designated as a Head Start agency, an entity described in paragraph (1) shall establish program goals for improving the school readiness of children participating in a program under this subchapter, including goals for meeting the performance standards and additional educational standards described in section 641A and shall establish results-based school readiness goals that are aligned with State early learning standards, if applicable, and requirements and expectations for local public schools.

"(3) Eligibility for subsequent grants.—In order to receive a grant under this subchapter subsequent to the initial grant provided following the date of enactment of the Head Start Improvements for School Readiness Act, an entity described in paragraph (1) shall demonstrate that the entity has met or is making progress toward meeting the goals described in paragraph (2).

"(4) Governing body.—

"(A) In general.—

"(i) Ensuring high quality programs.—In order to be designated as a Head Start agency, an entity described in paragraph (1) shall have a governing body—

"(I) with legal and fiscal responsibility for administering and overseeing programs under this subchapter; and

"(II) that fully participates in the development, planning, implementation, and evaluation of the programs to ensure the operation of programs of high quality.

"(ii) Ensuring compliance with laws.—The governing body shall be responsible for ensuring compliance with Federal laws and regulations, including the performance standards described in section 641A, as well as applicable State, Tribal, and local laws and regulations, including laws defining the nature and operations of the governing body.

"(B) Composition of governing body.—

"(i) In general.—The governing body shall be composed as follows:

"(I) Not less than 1 member of the governing body shall have a background in fiscal management.

"(II) Not less than 1 member of the governing body shall have a background in early childhood development.

"(III) Not less than 1 member of the governing body shall live in the local community to be served by the entity.

"(ii) Conflict of interest.—Members of the governing body shall—

"(I) not have a conflict of interest with the Head Start agency or delegate agencies; and

"(II) not receive compensation for service to the Head Start agency.

"(C) Responsibilities.—

"(i) In general.—The governing body shall be responsible, in consultation with the policy council or the policy committee of the Head Start agency, for—

"(I) the selection of delegate agencies and such agencies' service areas;

"(II) establishing criteria for defining recruitment, selection, and enrollment priorities;

"(III) all funding applications and amendments to funding applications for programs under this subchapter;

"(IV) the annual self-assessment of the Head Start agency or delegate agency's progress in carrying out the programmatic and fiscal intent of such agency's grant application, including planning or other actions that may result from the review of the annual audit, self-assessment, and findings from the Federal monitoring review;

"(V) the composition of the policy council or the policy committee of the Head Start agency and the procedures by which group members are chosen;

"(VI) audits, accounting, and reporting;

"(VII) personnel policies and procedures including decisions with regard to salary scales (and changes made to the scale), salaries of the Executive Director, Head Start Director, the Director of Human Resources, and the Chief Fiscal Officer, and decisions to hire and terminate program staff; and

"(VIII) the community assessment, including any updates to such assessment.

"(ii) Conduct of responsibilities.—The governing body shall develop an internal control structure to facilitate these responsibilities in order to—

"(I) safeguard Federal funds;

"(II) comply with laws and regulations that have an impact on financial statements;

"(III) detect or prevent noncompliance with this subchapter; and

"(IV) receive audit reports and direct and monitor staff implementation of corrective actions.

"(D) Receipt of information.—To facilitate oversight and Head Start agency accountability, the governing body shall receive regular and accurate information about program planning, policies, and Head Start agency operations, including—

"(i) monthly financial statements (including detailed credit card account expenditures for any employee with a Head Start agency credit card or who seeks reimbursement for charged expenses);

"(ii) monthly program information summaries;

"(iii) program enrollment reports, including attendance reports for children whose care is partially subsidized by another public agency;

“(iv) monthly report of meals and snacks through programs of the Department of Agriculture;

“(v) the annual financial audit;

“(vi) the annual self-assessment, including any findings related to the annual self-assessment;

“(vii) the community assessment of the Head Start agency's service area and any applicable updates; and

“(viii) the program information reports.

“(E) Training and Technical Assistance.—Appropriate training and technical assistance shall be provided to the members of the governing body to ensure that the members understand the information the members receive and can effectively oversee and participate in the programs of the Head Start agency.

“(b) Communities.—For purposes of this subchapter, a community may be a city, county, or multicity or multicounty unit within a State, an Indian reservation (including Indians in any off-reservation area designated by an appropriate tribal government in consultation with the Secretary), or a neighborhood or other area (irrespective of boundaries or political subdivisions) that provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program.

“(c) Priority in Designation.—In administering the provisions of this section, the Secretary shall, in consultation with the chief executive officer of the State involved, give priority in the designation (including redesignation) of Head Start agencies to any high-performing Head Start agency or delegate agency that—

“(1) is receiving assistance under this subchapter;

“(2) meets or exceeds program and financial management requirements or standards described in section 641A(a)(1);

“(3) has no unresolved deficiencies and has not had findings of deficiencies during the last triennial review under section 641A(c); and

“(4) can demonstrate, through agreements such as memoranda of understanding, active collaboration with the State or local community in the provision of services for children (such as the provision of extended day services, education, professional development and training for staff, and other types of cooperative endeavors).

“(d) Designation When Entity Has Priority.—If no entity in a community is entitled to the priority specified in subsection (c), the Secretary shall, after conducting an open competition, designate a Head Start agency from among qualified applicants in such community.

“(e) Rule of Construction.—Notwithstanding any other provision of law, under no condition may a non-Indian Head Start agency receive a grant to carry out an Indian Head Start program.

“(f) Effectiveness.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

“(1) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

“(2) the plan of such applicant to provide comprehensive health, educational, nutritional, social, and other services needed to aid participating children in attaining their full potential, and to prepare children to succeed in school;

“(3) the capacity of such applicant to serve eligible children with programs that use scientifically based research that promote school readiness of children participating in the program;

“(4) the plan of such applicant to meet standards set forth in section 641A(a)(1), with particular attention to the standards set forth in subparagraphs (A) and (B) of such section;

“(5) the plan of such applicant to coordinate the Head Start program the applicant proposes to carry out with other preschool programs, including—

“(A) the Early Reading First and Even Start programs under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

“(B) programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

“(C) State prekindergarten programs;

“(D) child care programs;

“(E) the educational programs that the children in the Head Start program involved will enter at the age of compulsory school attendance; and

“(F) reading readiness programs such as those conducted by public and school libraries;

“(6) the plan of such applicant to coordinate the Head Start program that the applicant proposes to carry out with public and private entities who are willing to commit resources to assist the Head Start program in meeting its program needs;

“(7) the plan of such applicant to collaborate with a local library, where available, that is interested in that collaboration, to—

“(A) develop innovative programs to excite children about the world of books, such as programs that involve—

“(i) taking children to the library for a story hour;

“(ii) promoting the use of library cards;

“(iii) developing a lending library or using a mobile library van; and

“(iv) providing fresh books in the Head Start classroom on a regular basis;

“(B) assist in literacy training for Head Start teachers; and

“(C) support parents and other caregivers in literacy efforts;

“(8) the plan of such applicant—

“(A) to seek the involvement of parents of participating children in activities (at home and in the center involved where practicable) designed to help such parents become full partners in the education of their children;

“(B) to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level, including through providing transportation costs;

“(C) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.), public and school libraries, and entities carrying out family support programs) to such parents—

“(i) family literacy services; and

“(ii) parenting skills training;

“(D) to offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), including information on the effect of drug exposure on infants and fetal alcohol syndrome;

“(E) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

“(i) training in basic child development (including cognitive development);

“(ii) assistance in developing literacy and communication skills;

“(iii) opportunities to share experiences with other parents (including parent mentor relationships);

“(iv) regular in-home visitation; or

“(v) any other activity designed to help such parents become full partners in the education of their children;

“(F) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C), (D), and (E) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities); and

“(G) to extend outreach to fathers, in appropriate cases, in order to strengthen the role of fathers in families, in the education of their young children, and in the Head Start program, by working directly with fathers and father figures through activities such as—

“(i) in appropriate cases, including fathers in home visits and providing opportunities for direct father-child interactions; and

“(ii) targeting increased male participation in the conduct of the program;

“(9) the ability of such applicant to carry out the plans described in paragraphs (2), (4), and (5);

“(10) other factors related to the requirements of this subchapter;

“(11) the plan of such applicant to meet the needs of limited English proficient children and their families, including procedures to identify such children, plans to provide trained personnel, and plans to provide services to assist the children in making progress toward the acquisition of the English language;

“(12) the plan of such applicant to meet the needs of children with disabilities;

“(13) the plan of such applicant who chooses to assist younger siblings of children who will participate in the Head Start program, to obtain health services from other sources;

“(14) the plan of such applicant to collaborate with other entities carrying out early childhood education and child care programs in the community;

“(15) the plan of such applicant to meet the needs of homeless children and children in foster care, including the transportation needs of such children; and

“(16) the plan of such applicant to recruit and retain qualified staff.

“(g) Interim Basis.—If there is not a qualified applicant in a community for designation as a Head Start agency, the Secretary shall designate a qualified agency to carry out the Head Start program in the community on an interim basis until a qualified applicant from the community is so designated.

“(h) Involvement of Parents and Area Residents.—The Secretary shall continue the practice of involving parents and area residents who are affected by programs under this subchapter in the selection of qualified applicants for designation as Head Start agencies.

“(i) Priority.—In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to applicants that have demonstrated capacity in providing effective, comprehensive, and well-coordinated early childhood services to children and their families.".

SEC. 8. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

Section 641A of the Head Start Act (42 U.S.C. 9836a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), by striking "642(d)" and inserting "642(c)";

(B) in paragraph (1)(B)—

(i) in clause (i), by striking "education performance standards" and inserting "educational performance standards"; and

(ii) by striking clause (ii) and inserting the following:

"(ii) additional educational standards based on the recommendations of the National Academy of Sciences panel described in section 649(h) and other experts in the field, to ensure that the curriculum involved addresses, and that the children participating in the program show appropriate progress toward developing and applying, the recommended educational outcomes, after the panel considers the appropriateness of additional educational standards relating to—

"(I) language skills related to listening, understanding, speaking, and communicating, including—

"(aa) understanding and use of a diverse vocabulary (including knowing the names of colors) and knowledge of how to use oral language to communicate for various purposes;

"(bb) narrative abilities used, for example, to comprehend, tell, and respond to a story, or to comprehend instructions;

"(cc) ability to detect and produce sounds of the language the child speaks or is learning; and

"(dd) clarity of pronunciation and speaking in syntactically and grammatically correct sentences;

"(II) prereading knowledge and skills, including—

"(aa) alphabet knowledge including knowing the letter names and associating letters with their shapes and sounds in the language the child speaks or is learning;

"(bb) phonological awareness and processes that support reading, for example, rhyming, recognizing speech sounds and separate syllables in spoken words, and putting speech sounds together to make words;

"(cc) knowledge, interest in, and appreciation of books, reading, and writing (either alone or with others), and knowledge that books have parts such as the front, back, and title page;

"(dd) early writing, including the ability to write one's own name and other words and phrases; and

"(ee) print awareness and concepts, including recognizing different forms of print and understanding the association between spoken and written words;

"(III) premathematics knowledge and skills, including—

"(aa) number recognition;

"(bb) use of early number concepts and operations, including counting, simple adding and subtracting, and knowledge of quantitative relationships, such as part versus whole and comparison of numbers of objects;

"(cc) use of early space and location concepts, including recognizing shapes, classification, striation, and understanding directionality; and

"(dd) early pattern skills and measurement, including recognizing and extending simple patterns and measuring length, weight, and time;

"(IV) scientific abilities, including—

"(aa) building awareness about scientific skills and methods, such as gathering, describing, and recording information, making observations, and making explanations and predictions; and

"(bb) expanding scientific knowledge of the environment, time, temperature, and cause-and-effect relationships;

"(V) general cognitive abilities related to academic achievement and child development, including—

"(aa) reasoning, planning, and problem-solving skills;

"(bb) ability to engage, sustain attention, and persist on challenging tasks;

"(cc) intellectual curiosity, initiative, and task engagement; and

"(dd) motivation to achieve and master concepts and skills;

"(VI) social and emotional development related to early learning and school success, including developing—

"(aa) the ability to develop social relationships, demonstrate cooperative behaviors, and relate to teachers and peers in positive and respectful ways;

"(bb) an understanding of the consequences of actions, following rules, and appropriately expressing feelings;

"(cc) a sense of self, such as self-awareness, independence, and confidence;

"(dd) the ability to control negative behaviors with teachers and peers that include impulsiveness, aggression, and noncompliance; and

"(ee) knowledge of civic society and surrounding communities;

"(VII) physical development, including developing—

"(aa) fine motor skills, such as strength, manual dexterity, and hand-eye coordination; and

"(bb) gross motor skills, such as balance and coordinated movements; and

"(VIII) in the case of limited English proficient children, progress toward acquisition of the English language while making meaningful progress in attaining the knowledge, skills, abilities, and development described in subclauses (I) through (VII);";

(C) in paragraph (1)(D), by striking "projects; and" and inserting "projects, including regulations that require that the facilities used by Head Start agencies (including Early Head Start agencies) and delegate agencies for regularly scheduled center-based and combination program option classroom activities—

"(i) shall be in compliance with State and local requirements concerning licensing for such facilities; and

"(ii) shall be accessible by State and local authorities for purposes of monitoring and ensuring compliance.";

(D) in paragraph (2)—

(i) in subparagraph (B)—

(I) in clause (i), by striking "the date of enactment of this section" and inserting "the date of enactment of the Head Start Improvements for School Readiness Act";

(II) in clause (ii), by striking "the date of enactment of this Act" and inserting "the date of enactment of the Head Start Improvements for School Readiness Act";

(III) in clause (vi), by striking "; and" and inserting a semicolon;

(IV) in clause (vii), by striking "public schools" and inserting "the schools that the children will be attending"; and

(V) by adding at the end the following:

"(viii) the unique challenges faced by individual programs, including those programs that are seasonal or short term and those programs that serve rural populations; and";

(ii) in subparagraph (C)(ii), by striking "the date of enactment of the Coats Human Services Reauthorization Act of 1998" and inserting "the date of enactment of the Head Start Improvements for School Readiness Act"; and

(iii) by adding at the end the following:

"(D) consult with Indian tribes, American Indian and Alaska Native experts in early childhood development, linguists, and the National Indian Head Start Directors Association on the review and promulgation of program standards and measures (including standards and measures for language acquisition and school readiness).";

(E) by adding at the end the following:

"(4) EVALUATIONS AND CORRECTIVE ACTIONS FOR DELEGATE AGENCIES.—

"(A) PROCEDURES.—

"(i) IN GENERAL.—Subject to clause (ii), the Head Start agency shall establish procedures relating to its delegate agencies, including—

"(I) procedures for evaluating delegate agencies;

"(II) procedures for defunding delegate agencies; and

"(III) procedures for appealing a defunding decision relating to a delegate agency.

"(ii) TERMINATION.—The Head Start agency may not terminate a delegate agency's contract or reduce a delegate agency's service area without showing cause or demonstrating the cost-effectiveness of such a decision.

"(B) EVALUATIONS.—Each Head Start agency—

"(i) shall evaluate its delegate agencies using the procedures established pursuant to this section, including subparagraph (A); and

"(ii) shall inform the delegate agencies of the deficiencies identified through the evaluation that shall be corrected.

"(C) REMEDIES TO ENSURE CORRECTIVE ACTIONS.—In the event that the Head Start agency identifies a deficiency for a delegate agency through the evaluation, the Head Start agency may—

"(i) initiate procedures to terminate the designation of the agency unless the agency corrects the deficiency;

"(ii) conduct monthly monitoring visits to such delegate agency until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency; and

"(iii) release funds to such delegate agency only as reimbursements until all deficiencies are corrected or the Head Start agency decides to defund such delegate agency.

"(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to impact or obviate the responsibilities of the Secretary with respect to Head Start agencies or delegate agencies receiving funding under this subchapter.";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking the paragraph heading and inserting the following:

"(2) CHARACTERISTICS AND USE OF MEASURES.—";

(ii) in subparagraph (B), by striking ", not later than July 1, 1999; and" and inserting a semicolon;

(iii) in subparagraph (C), by striking the period and inserting a semicolon;

(iv) by striking the flush matter following subparagraph (C); and

(v) by adding at the end the following:

"(D) measure characteristics that are strongly predictive (as determined on a scientific basis) of a child's school readiness and later performance in school;

"(E) be appropriate for the population served; and

"(F) be reviewed not less than every 4 years, based on advances in the science of early childhood development.

The performance measures shall include the performance standards and additional educational standards described in subparagraphs (A) and (B) of subsection (a)(1).";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "; and" and inserting a semicolon;

(ii) in subparagraph (B), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(C) to enable Head Start agencies to individualize programs of instruction to better meet the needs of the child involved.";

(C) by striking paragraph (4) and inserting the following:

"(4) RESULTS-BASED OUTCOME MEASURES.—Results-based outcome measures shall be designed for the purpose of promoting the knowledge, skills, abilities, and development, described in subsection (a)(1)(B)(ii), of children participating in Head Start programs that are strongly predictive (as determined on a scientific basis) of a child's school readiness and later performance in school."; and

(D) by striking paragraph (5) and inserting the following:

"(5) ADDITIONAL LOCAL RESULTS-BASED EDUCATIONAL MEASURES AND GOALS.—Head Start agencies may establish and implement additional local results-based educational measures and goals.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting "and Head Start centers" after "Head Start programs";

(ii) in subparagraph (A), by striking "such agency" and inserting "Head Start center";

(iii) by striking subparagraph (C) and inserting the following:

"(C) Unannounced site inspections of Head Start centers for health and safety reasons, as appropriate.";

(iv) by redesignating subparagraph (D) as subparagraph (E); and

(v) by inserting after subparagraph (C) the following:

"(D) Notwithstanding subparagraph (C), followup reviews, including—

"(i) prompt return visits to agencies, programs, and centers that fail to meet 1 or more of the performance measures developed by the Secretary under subsection (b); and

"(ii) a review of programs with citations that include findings of deficiencies not later than 6 months after the date of such citation."; and

(B) by striking paragraph (2) and inserting the following:

"(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in paragraph (1)—

"(A) that incorporate a monitoring visit, may incorporate the visit without prior notice of the visit to the agency involved or with such limited prior notice as is necessary to ensure the participation of parents and key staff members;

"(B) are conducted by review teams that shall include individuals who are knowledgeable about Head Start and other early childhood education programs and, to the maximum extent practicable, the diverse (including linguistic and cultural) needs of eligible children (including children with disabilities, homeless children, and children in foster care) and limited English proficient children and their families;

"(C) include as part of the reviews of the programs, a review and assessment of program effectiveness, as measured in accordance with the results-based performance measures developed by the Secretary pursuant to subsection (b) and with the standards established pursuant to subparagraphs (A) and (B) of subsection (a)(1);

"(D) seek information from the communities and States where Head Start programs exist about innovative or effective collaborative efforts, barriers to collaboration, and the efforts of the Head Start agencies to collaborate with the entities carrying out early childhood education and child care programs in the community;

"(E) include as part of the reviews of the programs, a review and assessment of whether the programs are in conformity with the income eligibility requirements under section 645 and regulations promulgated under such section;

"(F) include as part of the reviews of the programs, a review and assessment of whether programs have adequately addressed the population and community needs (including needs of populations of limited English proficient children and children of migrant and seasonal farmworking families); and

"(G) include as part of the reviews of the programs, data from the results of periodic child assessments, and a review and assessment of child outcomes and performance as they relate to State, local, and agency-determined school readiness goals.";

(4) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A), by inserting "or fails to address the community needs and strategic plan identified in section 640(g)(2)(C)," after "subsection (b),"; and

(B) in subparagraph (A), by inserting "and identify the technical assistance to be provided consistent with paragraph (3)" after "corrected";

(5) in subsection (e), by striking the last sentence and inserting "The information contained in such report shall be made available to all parents with children receiving assistance under this subchapter in an understandable and uniform format, and to the extent practicable, provided in a language that the parents can understand. Such information shall be made widely available through public means such as distribution through public agencies, and, at a minimum, by posting such information on the Internet immediately upon publication."; and

(6) by adding at the end the following:

"(f) SELF-ASSESSMENTS.—

"(1) IN GENERAL.—Not less frequently than once each program year, with the consultation and participation of policy groups and, as appropriate, other community members, each agency receiving funds under this subchapter shall conduct a self-assessment of the effectiveness and progress in meeting programs goals and objectives and in implementing and complying with Head Start program performance standards.

"(2) REPORT AND IMPROVEMENT PLANS.—

"(A) REPORT.—An agency conducting a self-assessment shall report the findings of the self-assessment to the relevant policy council, policy committee, governing body, and regional office of the Department of Health and Human Services. Each self-assessment shall identify areas of strength and weakness.

"(B) IMPROVEMENT PLAN.—The agency shall develop an improvement plan approved by the governing body of the agency to strengthen any areas identified in the self-assessment as weaknesses or in need of improvement.

"(3) ONGOING MONITORING.—Each Head Start agency, Early Head Start agency, and delegate agency shall establish and implement procedures for the ongoing monitoring of their Head Start and Early Head Start programs, to ensure that the operations of the programs work toward meeting program goals and objectives and Head Start performance standards.

"(4) TRAINING AND TECHNICAL ASSISTANCE.—Funds may be made available, through section 648(d)(13), for training and technical assistance to assist agencies in conducting self-assessments.

"(g) REDUCTION OF GRANTS AND REDISTRIBUTION OF FUNDS IN CASES OF UNDER-ENROLLMENT.—

"(1) DEFINITIONS.—In this subsection:

"(A) ACTUAL ENROLLMENT.—The term 'actual enrollment' means, with respect to the program of a Head Start agency, the actual number of children enrolled in such program and reported by the agency (as required in paragraph (2)) in a given month.

"(B) BASE GRANT.—The term 'base grant' means, with respect to a Head Start agency for a fiscal year, that portion of the grant derived—

"(i) from amounts reserved for use in accordance with section 640(a)(2)(A), for a Head Start agency administering an Indian Head Start program or migrant and seasonal Head Start program;

"(ii) from amounts reserved for payments under section 640(a)(2)(B); or

"(iii) from amounts available under section 640(a)(2)(D) or allotted among States under section 640(a)(4).

"(C) FUNDED ENROLLMENT.—The term 'funded enrollment' means, with respect to the program of a Head Start agency in a fiscal year, the number of children that the agency is funded to serve through a grant for the program during such fiscal year, as indicated in the grant agreement.

"(2) ENROLLMENT REPORTING REQUIREMENT FOR CURRENT FISCAL YEAR.—Each entity carrying out a Head Start program shall report on a monthly basis to the Secretary and the relevant Head Start agency—

"(A) the actual enrollment in such program; and

"(B) if such actual enrollment is less than the funded enrollment, any apparent reason for such enrollment shortfall.

"(3) SECRETARIAL REVIEW AND PLAN.—The Secretary shall—

"(A) on a semiannual basis, determine which Head Start agencies are operating with an actual enrollment that is less than the funded enrollment based on not less than 4 consecutive months of data;

"(B) for each such Head Start agency operating a program with an actual enrollment that is less than 95 percent of its funded enrollment, as determined under subparagraph (A), develop, in collaboration with such agency, a plan and timetable for reducing or eliminating under-enrollment taking into consideration—

"(i) the quality and extent of the outreach, recruitment, and community needs assessment conducted by such agency;

"(ii) changing demographics, mobility of populations, and the identification of new underserved low-income populations;

"(iii) facilities-related issues that may impact enrollment;

"(iv) the ability to provide full-day programs, where needed, through Head Start funds or through collaboration with entities carrying out other preschool or child care programs, or programs with other funding sources (where available);

“(v) the availability and use by families of other preschool and child care options (including parental care) in the local catchment area; and

“(vi) agency management procedures that may impact enrollment; and

“(C) provide timely and ongoing technical assistance to each agency described in subparagraph (B) for the purpose of implementing the plan described in such subparagraph.

“(4) IMPLEMENTATION.—Upon receipt of the technical assistance described in paragraph (3)(C), a Head Start agency shall immediately implement the plan described in paragraph (3)(B).

“(5) SECRETARIAL ACTION FOR CONTINUED UNDER-ENROLLMENT.—If, 1 year after the date of implementation of the plan described in paragraph (3)(B), the Head Start agency continues to operate a program at less than full enrollment, the Secretary shall, where determined appropriate, continue to provide technical assistance to such agency.

“(6) SECRETARIAL REVIEW AND ADJUSTMENT FOR CHRONIC UNDER-ENROLLMENT.—

“(A) IN GENERAL.—If, after receiving technical assistance and developing and implementing a plan to the extent described in paragraphs (3), (4), and (5) for 9 months, a Head Start agency is still operating a program with an actual enrollment that is less than 95 percent of its funded enrollment, the Secretary may—

“(i) designate such agency as chronically under-enrolled; and

“(ii) recapture, withhold, or reduce the base grant for the program by a percentage equal to the percentage difference between funded enrollment and actual enrollment for the program for the most recent year in which the agency is determined to be under-enrolled under paragraph (2)(B).

“(B) WAIVER OR LIMITATION OF REDUCTIONS.—If the Secretary, after the implementation of the plan described in paragraph (3)(B), finds that—

“(i) the causes of the enrollment shortfall, or a portion of the shortfall, are beyond the agency's control (such as serving significant numbers of migrant or seasonal farmworker, homeless, foster, or other highly mobile children);

“(ii) the shortfall can reasonably be expected to be temporary; or

“(iii) the number of slots allotted to the agency is small enough that under-enrollment does not constitute a significant shortfall, the Secretary may, as appropriate, waive or reduce the percentage recapturing, withholding, or reduction otherwise required by subparagraph (A).

“(C) PROCEDURAL REQUIREMENTS; EFFECTIVE DATE.—The actions taken by the Secretary under this paragraph with respect to a Head Start agency shall take effect 1 day after the date on which—

“(i) the time allowed for appeal under section 646(a) expires without an appeal by the agency; or

“(ii) the action is upheld in an administrative hearing under section 646.

“(7) REDISTRIBUTION OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall use amounts recovered from a Head Start agency through recapturing, withholding, or reduction under paragraph (6) in a fiscal year—

“(i) in the case of a Head Start agency administering an Indian Head Start program or a migrant and seasonal Head Start program, whose base grant is derived from amounts specified in paragraph (1)(C)(i), to redirect funds to 1 or more agencies that—

“(I) are administering Head Start programs serving the same special population; and

“(II) demonstrate that the agencies will use such redirected funds to increase enrollment in their Head Start programs in such fiscal year; or

“(ii) in the case of a Head Start agency in a State, whose base grant is derived from amounts specified in clause (ii) or (iii) of paragraph (1)(C), to redirect funds to 1 or more agencies that—

“(I) are administering Head Start programs in the same State; and

“(II) make the demonstration described in clause (i)(II).

“(B) SPECIAL RULE.—If there is no agency located in a State that meets the requirements of subclauses (I) and (II) of subparagraph (A)(ii), the Secretary shall use amounts described in subparagraph (A) to redirect funds to Head Start agencies located in other States that make the demonstration described in subparagraph (A)(i)(II).

“(C) ADJUSTMENT TO FUNDED ENROLLMENT.—The Secretary shall adjust as necessary the requirements relating to funded enrollment indicated in the grant agreement of a Head Start agency receiving redistributed amounts under this paragraph.”.

SEC. 9. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

The Head Start Act is amended by inserting after section 641A (42 U.S.C. 9836a) the following:

“SEC. 641B. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

“(a) DEFINITION.—In this section, the term ‘center of excellence’ means a Center of Excellence in Early Childhood designated under subsection (b).

“(b) DESIGNATION AND BONUS GRANTS.—The Secretary shall, subject to the availability of funds under this subchapter, including under subsection (f), establish a program under which the Secretary shall—

“(1) designate not more than 200 exemplary Head Start agencies (including Early Head Start agencies, Indian Head Start agencies, and migrant and seasonal Head Start agencies) as Centers of Excellence in Early Childhood; and

“(2) make bonus grants to the centers of excellence to carry out the activities described in subsection (d).

“(c) APPLICATION AND DESIGNATION.—

“(1) APPLICATION.—

“(A) NOMINATION AND SUBMISSION.—

“(i) IN GENERAL.—To be eligible to receive a designation as a center of excellence under subsection (b), except as provided in clause (ii), a Head Start agency in a State shall be nominated by the Governor of the State and shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(ii) INDIAN AND MIGRANT AND SEASONAL HEAD START PROGRAMS.—In the case of an Indian Head Start agency or a migrant or seasonal Head Start agency, to be eligible to receive a designation as a center of excellence under subsection (b), such an agency shall be nominated by the head of the appropriate regional office of the Department and Health and Human Services and shall submit an application to the Secretary in accordance with clause (i).

“(B) CONTENTS.—At a minimum, the application shall include—

“(i) evidence that the Head Start program carried out by the agency has significantly improved the school readiness of, and enhanced academic outcomes for, children who have participated in the program;

“(ii) evidence that the program meets or exceeds standards and performance measures described in subsections (a) and (b) of section 641A, as evidenced by successful completion of programmatic and monitoring reviews, and has no findings of deficiencies with respect to the standards and measures;

“(iii) evidence that the program is making progress toward meeting the requirements described in section 648A;

“(iv) evidence demonstrating the existence of a collaborative partnership among the Head Start agency, the State (or a State agency), and other early care and education providers in the local community involved;

“(v) a nomination letter from the Governor, or appropriate regional office, demonstrating the agency's ability to carry out the coordination, transition, and training services of the program to be carried out under the bonus grant involved, including coordination of activities with State and local agencies that provide early childhood services to children and families in the community served by the agency;

“(vi) information demonstrating the existence of a local council for excellence in early childhood, which shall include representatives of all the institutions, agencies, and groups involved in the work of the center for, and the local provision of services to, eligible children and other at-risk children, and their families; and

“(vii) a description of how the Center, in order to expand accessibility and continuity of quality early care and education, will coordinate the early care and education activities assisted under this section with—

“(I) programs carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.);

“(II) other programs carried out under this subchapter, including the Early Head Start programs carried out under section 645A;

“(III)(aa) Early Reading First and Even Start programs carried out under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

“(bb) other preschool programs carried out under title I of that Act (20 U.S.C. 6301 et seq.); and

“(cc) the Ready-to-Learn Television program carried out under subpart 3 of part D of title II of that Act (20 U.S.C. 6775 et seq.);

“(IV) programs carried out under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

“(V) State prekindergarten programs; and

“(VI) other early care and education programs.

“(2) SELECTION.—In selecting agencies to designate as centers of excellence under subsection (b), the Secretary shall designate not less than 1 from each of the 50 States, the District of Columbia, an Indian Head Start program, a migrant and seasonal Head Start program, and the Commonwealth of Puerto Rico.

“(3) TERM OF DESIGNATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall designate a Head Start agency as a center of excellence for a 5-year term. During the period of that designation, subject to the availability of appropriations, the agency shall be eligible to receive a bonus grant under subsection (b).

“(B) REVOCATION.—The Secretary may revoke an agency's designation under subsection (b) if the Secretary determines that the agency is not demonstrating adequate performance or has had findings of deficiencies described in paragraph (1)(B)(ii).

‘‘(4) AMOUNT OF BONUS GRANT.—The Secretary shall base the amount of funding provided through a bonus grant made under subsection (b) to a center of excellence on the number of children eligible for Head Start services in the community involved. The Secretary shall, subject to the availability of funding, make such a bonus grant in an amount of not less than $200,000 per year.

‘‘(d) USE OF FUNDS.—

‘‘(1) ACTIVITIES.—A center of excellence that receives a bonus grant under subsection (b) may use the funds made available through the bonus grant—

‘‘(A) to provide Head Start services to additional eligible children;

‘‘(B) to better meet the needs of working families in the community served by the center by serving more children in existing Early Head Start programs (existing as of the date the center is designated under this section) or in full-working-day, full calendar year Head Start programs;

‘‘(C) to model and disseminate best practices for achieving early academic success, including achieving school readiness and developing prereading and premathematics skills for at-risk children and achieving the acquisition of the English language for limited English proficient children, and to provide seamless service delivery for eligible children and their families;

‘‘(D) to further coordinate early childhood and social services available in the community served by the center for at-risk children (birth through age 8), their families, and pregnant women;

‘‘(E) to provide training and cross training for Head Start teachers and staff, child care providers, public and private preschool and elementary school teachers, and other providers of early childhood services, and training and cross training to develop agency leaders;

‘‘(F) to provide effective transitions between Head Start programs and elementary school, to facilitate ongoing communication between Head Start and elementary school teachers concerning children receiving Head Start services, and to provide training and technical assistance to providers who are public elementary school teachers and other staff of local educational agencies, child care providers, family service providers, and other providers of early childhood services, to help the providers described in this subparagraph increase their ability to work with low-income, at-risk children and their families;

‘‘(G) to develop or maintain partnerships with institutions of higher education and nonprofit organizations, including community-based organizations, that recruit, train, place, and support college students to serve as mentors and reading coaches to preschool children in Head Start programs; and

‘‘(H) to carry out other activities determined by the center to improve the overall quality of the Head Start program carried out by the agency and the program carried out under the bonus grant involved.

‘‘(2) INVOLVEMENT OF OTHER HEAD START AGENCIES AND PROVIDERS.—A center that receives a bonus grant under subsection (b), in carrying out activities under this subsection, shall work with the center's delegate agencies, several additional Head Start agencies, and other providers of early childhood services in the community involved, to encourage the agencies and providers described in this sentence to carry out model programs.

‘‘(e) RESEARCH AND REPORTS.—

‘‘(1) RESEARCH.—The Secretary shall, subject to the availability of funds to carry out this subsection, make a grant to an independent organization to conduct research on the ability of the centers of excellence to improve the school readiness of children receiving Head Start services, and to positively impact school results in the earliest grades. The organization shall also conduct research to measure the success of the centers of excellence at encouraging the center's delegate agencies, additional Head Start agencies, and other providers of early childhood services in the communities involved to meet measurable improvement goals, particularly in the area of school readiness.

‘‘(2) REPORT.—Not later than 48 months after the date of enactment of the Head Start Improvements for School Readiness Act, the organization shall prepare and submit to the Secretary and Congress a report containing the results of the research described in paragraph (1).

‘‘(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2006 and each subsequent fiscal year—

‘‘(1) $90,000,000 to make bonus grants to centers of excellence under subsection (b) to carry out activities described in subsection (d);

‘‘(2) $2,500,000 to pay for the administrative costs of the Secretary in carrying out this section, including the cost of a conference of centers of excellence; and

‘‘(3) $2,000,000 for research activities described in subsection (e).’’.

SEC. 10. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended to read as follows:

‘‘SEC. 642. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

‘‘(a) IN GENERAL.—In order to be designated as a Head Start agency under this subchapter, an agency shall have authority under its charter or applicable law to receive and administer funds provided under this subchapter, funds and contributions from private or local public sources that may be used in support of a Head Start program, and funds provided under any Federal or State assistance program pursuant to which a public or private nonprofit or for-profit agency (as the case may be) organized in accordance with this subchapter, could act as a grantee, contractor, or sponsor of projects appropriate for inclusion in a Head Start program. Such an agency shall also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and its overall program responsibilities. The power to transfer funds and delegate powers shall include the power to make transfers and delegations covering component projects in all cases in which that power will contribute to efficiency and effectiveness or otherwise further program objectives.

‘‘(b) ADDITIONAL REQUIREMENTS.—In order to be designated as a Head Start agency under this subchapter, a Head Start agency shall also—

‘‘(1) establish a program with all standards set forth in section 641A(a)(1), with particular attention to the standards set forth in subparagraphs (A) and (B) of such section;

‘‘(2) demonstrate the capacity to serve eligible children with scientifically based curricula and other interventions and support services that help promote the school readiness of children participating in the program;

‘‘(3) establish effective procedures and provide for the regular assessment of Head Start children, including observational and direct formal assessment, where appropriate;

‘‘(4) seek the involvement of parents, area residents, and local business in the design and implementation of the program;

‘‘(5) provide for the regular participation of parents and area residents in the implementation of the program;

‘‘(6) provide technical and other support needed to enable such parents and area residents to secure, on their own behalf, available assistance from public and private sources;

‘‘(7) establish effective procedures to facilitate the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development and overall conduct of the program at the local level;

‘‘(8) conduct outreach to schools in which Head Start children will enroll, local educational agencies, the local business community, community-based organizations, faith-based organizations, museums, and libraries to generate support and leverage the resources of the entire local community in order to improve school readiness;

‘‘(9) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.)), to parents of participating children, family literacy services, and parenting skills training;

‘‘(10) offer to parents of participating children substance abuse and other counseling (either directly or through referral to local entities), if needed, including information on the effect of drug exposure on infants and fetal alcohol syndrome;

‘‘(11) at the option of such agency, offer (directly or through referral to local entities), to such parents—

‘‘(A) training in basic child development (including cognitive development);

‘‘(B) assistance in developing literacy and communication skills;

‘‘(C) opportunities to share experiences with other parents (including parent mentor relationships);

‘‘(D) regular in-home visitation; or

‘‘(E) any other activity designed to help such parents become full partners in the education of their children;

‘‘(12) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents (including foster parents and grandparents, where applicable) about the benefits of parent involvement and about the activities described in this subsection in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);

‘‘(13) consider providing services to assist younger siblings of children participating in its Head Start program, to obtain health services from other sources;

‘‘(14) perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in its Head Start program as volunteers;

‘‘(15)(A) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subchapter about the availability of child support services for purposes of establishing paternity and acquiring child support; and

‘‘(B) refer eligible parents to the child support offices of State and local governments;

‘‘(16) provide parents of limited English proficient children outreach and information in an understandable and uniform format and, to the extent practicable, in a language that the parents can understand; and

“(17) at the option of such agency, partner with an institution of higher education and a nonprofit organization to provide college students with the opportunity to serve as mentors or reading coaches to Head Start participants.

“(c) PROGRESS.—

“(1) IN GENERAL.—Each Head Start agency shall take steps to ensure, to the maximum extent possible, that children maintain the developmental and educational gains achieved in Head Start programs and build upon such gains in further schooling.

“(2) COORDINATION.—

“(A) LOCAL EDUCATIONAL AGENCY.—In communities where both public prekindergarten programs and Head Start programs operate, a Head Start agency shall collaborate and coordinate activities with the local educational agency or other public agency responsible for the operation of the prekindergarten program and providers of prekindergarten, including outreach activities to identify eligible children.

“(B) ELEMENTARY SCHOOLS.—Head Start staff shall, with the permission of the parents of children enrolled in Head Start programs, regularly communicate with the elementary schools such children will be attending to—

“(i) share information about such children;

“(ii) get advice and support from the teachers in such elementary schools regarding teaching strategies and options; and

“(iii) ensure a smooth transition to elementary school for such children.

“(C) OTHER PROGRAMS.—The head of each Head Start agency shall coordinate activities and collaborate with the State agency responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), other entities carrying out early childhood education and development programs, and the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a), parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.), programs under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), Even Start programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.), and programs under section 619 and part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.), serving the children and families served by the Head Start agency.

“(3) COLLABORATION.—A Head Start agency shall take steps to coordinate activities with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

“(A) collaborating on the shared use of transportation and facilities;

“(B) collaborating to reduce the duplication of services while increasing the program participation of underserved populations of eligible children; and

“(C) exchanging information on the provision of noneducational services to such children.

“(4) PARENTAL INVOLVEMENT.—In order to promote the continued involvement of the parents of children that participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

“(A) provide training to the parents—

“(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

“(ii) to enable the parents—

“(I) to understand and work with schools in order to communicate with teachers and other school personnel;

“(II) to support the schoolwork of their children; and

“(III) to participate as appropriate in decisions relating to the education of their children; and

“(B) take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

“(d) ASSESSMENT.—Each Head Start agency shall adopt, in consultation with experts in child development and with classroom teachers, an assessment to be used when hiring or evaluating any classroom teacher in a center-based Head Start program. Such assessment shall measure whether such teacher has mastered the functions described in section 648A(a)(1) and attained a level of literacy appropriate to implement Head Start curricula.

“(e) FUNDED ENROLLMENT; WAITING LIST.—Each Head Start agency shall enroll 100 percent of its funded enrollment and maintain an active waiting list at all times with ongoing outreach to the community and activities to identify underserved populations.

“(f) TECHNICAL ASSISTANCE AND TRAINING PLAN.—In order to receive funds under this subchapter, a Head Start agency shall develop an annual technical assistance and training plan. Such plan shall be based on the agency's self-assessment, the community needs assessment, and the needs of parents to be served by such agency.”.

SEC. 11. HEAD START TRANSITION.

Section 642A of the Head Start Act (42 U.S.C. 9837a) is amended to read as follows:

“SEC. 642A. HEAD START TRANSITION AND ALIGNMENT WITH K-12 EDUCATION.

“Each Head Start agency shall take steps to coordinate activities with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

“(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

“(2) establishing ongoing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, health staff, and local educational agency liaisons designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii))) to facilitate coordination of programs;

“(3) developing continuity of developmentally appropriate curricula and practice between the Head Start agency and local educational agency to ensure an effective transition and appropriate shared expectations for children's learning and development as the children make the transition to school;

“(4) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers to discuss the educational, developmental, and other needs of individual children;

“(5) organizing and participating in joint training, including transition-related training of school staff and Head Start staff;

“(6) developing and implementing a family outreach and support program, in cooperation with entities carrying out parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), and family outreach and support efforts under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.), taking into consideration the language needs of limited English proficient parents;

“(7) assisting families, administrators, and teachers in enhancing educational and developmental continuity and continuity of parental involvement in activities between Head Start services and elementary school classes;

“(8) linking the services provided in such Head Start program with the education services, including services relating to language, literacy, and numeracy, provided by such local educational agency;

“(9) helping parents understand the importance of parental involvement in a child's academic success while teaching the parents strategies for maintaining parental involvement as their child moves from the Head Start program to elementary school;

“(10) developing and implementing a system to increase program participation of underserved populations of eligible children, including children with disabilities, homeless children, children in foster care, and limited English proficient children; and

“(11) coordinating activities and collaborating to ensure that curricula used in the Head Start program is aligned with State early learning standards with regard to cognitive, social, emotional, and physical competencies that children entering kindergarten are expected to demonstrate.”.

SEC. 12. SUBMISSION OF PLANS TO GOVERNORS.

Section 643 of the Head Start Act (42 U.S.C. 9838) is amended—

(1) in the first sentence—

(A) by inserting “for approval” after “submitted to the chief executive officer of the State”; and

(B) by striking “45” and inserting “30”; and

(2) in the last sentence, by inserting “to Indian and migrant and seasonal Head Start programs in existence on the date of enactment of the Head Start Improvements for School Readiness Act, or” after “other assistance”.

SEC. 13. PARTICIPATION IN HEAD START PROGRAMS.

Section 645(a) of the Head Start Act (42 U.S.C. 9840(a)) is amended—

(1) in paragraph (1)(A), by inserting “130 percent of” after “below”; and

(2) by adding at the end the following:

“(3)(A) In this paragraph:

“(i) The term 'dependent' has the meaning given the term in paragraphs (2)(A) and (4)(A)(i) of section 401(a) of title 37, United States Code.

“(ii) The terms 'member' and 'uniformed services' have the meanings given the terms in paragraphs (23) and (3), respectively, of section 101 of title 37, United States Code.

“(B) The following amounts of pay and allowance of a member of the uniformed services shall not be considered to be income for purposes of determining the eligibility of a dependent of such member for programs funded under this subchapter:

“(i) The amount of any special pay payable under section 310 if title 37, United States Code, relating to duty subject to hostile fire or imminent danger.

“(ii) The amount of basic allowance payable under section 403 of such title, including any such amount that is provided on behalf of the member for housing that is acquired or constructed under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code, or any other related provision of law.

"(4) After demonstrating a need through a community needs assessment, a Head Start agency may apply to the Secretary to convert part-day sessions, particularly consecutive part-day sessions, into full-day sessions.".

SEC. 14. EARLY HEAD START PROGRAMS.

Section 645A of the Head Start Act (42 U.S.C. 9840a) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 645A. EARLY HEAD START PROGRAMS.";

(2) in subsection (b)—

(A) in paragraph (4), by striking "provide services to parents to support their role as parents" and inserting "provide additional services to parents to support their role as parents (including parenting skills training and training in basic child development)";

(B) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (10), (11), and (12), respectively;

(C) by inserting after paragraph (4) the following:

"(5) where appropriate and in conjunction with services provided under this section to the children's immediate families (or as approved by the Secretary), provide home-based services to family child care homes and kin caregivers caring for infants and toddlers who also participate in Early Head Start programs, to provide continuity in supporting the children's physical, social, emotional, and intellectual development;";

(D) in paragraph (6), as redesignated by subparagraph (B)—

(i) by inserting "(including home-based services)" after "with services"; and

(ii) by inserting ", and family support services" after "health services";

(E) by inserting after paragraph (7), as redesignated by subparagraph (B), the following:

"(8) develop and implement a systematic procedure for transitioning children and parents from an Early Head Start program into a Head Start program or another local early childhood education program;

"(9) establish channels of communication between staff of Early Head Start programs and staff of Head Start programs or other local early childhood education programs, to facilitate the coordination of programs;"; and

(F) in paragraph (11), as redesignated by subparagraph (B)—

(i) by striking "and providers" and inserting ", providers"; and

(ii) by inserting ", and the agencies responsible for administering section 106 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a) and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq. and 670 et seq.)" after "(20 U.S.C. 1400 et seq.)";

(3) in subsection (d)—

(A) in paragraph (1), by inserting ", including tribal governments and entities operating migrant and seasonal Head Start programs" after "subchapter"; and

(B) in paragraph (2), by inserting ", including community-based organizations" after "private entities";

(4) in subsection (g)(2)(B), by striking clause (iv) and inserting the following:

"(iv) providing professional development and personnel enhancement activities, including the provision of funds to recipients of grants under subsection (a), relating to—

"(I) effective methods of conducting parent education, home visiting, and promoting quality early childhood development;

"(II) recruiting and retaining qualified staff; and

"(III) increasing program participation for underserved populations of eligible children.";

(5) by adding at the end the following:

"(h) STAFF QUALIFICATIONS AND DEVELOPMENT.—

"(1) CENTER-BASED STAFF.—The Secretary shall ensure that, not later than September 30, 2010, all teachers providing direct services to Early Head Start children and families in Early Head Start centers have a minimum of a child development associate credential or an associate degree, and have been trained (or have equivalent course work) in early childhood development.

"(2) HOME VISITOR STAFF.—

"(A) STANDARDS.—In order to further enhance the quality of home visiting services provided to families of children participating in home-based, center-based, or combination program options under this subchapter, the Secretary shall establish standards for training, qualifications, and the conduct of home visits for home visitor staff in Early Head Start programs.

"(B) CONTENTS.—The standards for training, qualifications, and the conduct of home visits shall include content related to—

"(i) structured child-focused home visiting that promotes parents' ability to support the child's cognitive, social, emotional, and physical development;

"(ii) effective strengths-based parent education, including methods to encourage parents as their child's first teachers;

"(iii) early childhood development with respect to children from birth through age 3;

"(iv) methods to help parents promote emergent literacy in their children from birth through age 3, including use of research-based strategies to support the development of literacy and language skills for children who are limited English proficient;

"(v) health, vision, hearing, and developmental screenings;

"(vi) strategies for helping families coping with crisis; and

"(vii) the relationship of health and well-being of pregnant women to prenatal and early child development.".

SEC. 15. APPEALS, NOTICE, AND HEARING AND RECORDS AND AUDITS.

(a) APPEALS.—Section 646(a) of the Head Start Act (42 U.S.C. 9841(a)) is amended by striking paragraphs (3) and (4) and inserting the following:

"(3) financial assistance under this subchapter may be terminated or reduced, and an application for funding may be denied, after the recipient has been afforded reasonable notice and opportunity for a full and fair hearing, including—

"(A) a right to file a notice of appeal of a decision within 30 days of notice of the decision from the Secretary; and

"(B) access to a full and fair hearing of the appeal, not later than 120 days from receipt by the Secretary of the notice of appeal;

"(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

"(A) resolve in a timely manner conflicts potentially leading to an adverse action between—

"(i) recipients of financial assistance under this subchapter; and

"(ii) delegate agencies or Head Start Parent Policy Councils;

"(B) avoid the need for an administrative hearing on an adverse action; and

"(C) prohibit a Head Start agency from expending financial assistance awarded under this subchapter for the purpose of paying legal fees pursuant to an appeal under paragraph (3), except that such fees shall be reimbursed by the Secretary if the agency prevails in such decision; and

"(5) the Secretary may suspend funds to a grantee for not more than 30 days.".

(b) RECIPIENTS.—Section 647(a) of the Head Start Act (42 U.S.C. 9842(a)) is amended by striking "Each recipient of" and inserting "Each Head Start agency, Head Start center, or Early Head Start center receiving".

(c) ACCOUNTING.—Section 647 of the Head Start Act (42 U.S.C. 9842) is amended by adding at the end the following:

"(c) Each Head Start agency, Head Start center, or Early Head Start center receiving financial assistance under this subchapter shall maintain, and annually submit to the Secretary, a complete accounting of its administrative expenses, including expenses for salaries and compensation funded under this subchapter and provide such additional documentation as the Secretary may require.".

SEC. 16. TECHNICAL ASSISTANCE AND TRAINING.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a)(2), by striking "(b) and (c)" and inserting "(b), (c), and (d)";

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(3) by inserting after subsection (a) the following:

"(b) The Secretary shall make available funds set aside in section 640(a)(2)(C)(ii) to support a regional or State system of early childhood education training and technical assistance that improves the capacity of Head Start programs to deliver services in accordance with the standards described in section 641A(a)(1), with particular attention to the standards described in subparagraphs (A) and (B) of such section. The Secretary shall—

"(1) ensure that agencies with demonstrated expertise in providing high-quality training and technical assistance to improve the delivery of Head Start services, including the State Head Start Associations, State agencies, migrant and seasonal Head Start programs, and other entities providing training and technical assistance in early education, for the region or State are included in the planning and coordination of the system; and

"(2) encourage States to supplement the funds authorized in section 640(a)(2)(C)(ii) with Federal, State, or local funds other than Head Start funds, to expand training and technical assistance activities beyond Head Start agencies to include other providers of other early childhood services within a region or State.";

(4) in subsection (d), as so redesignated—

(A) in paragraph (1)(B)(ii), by striking "educational performance measures" and inserting "measures";

(B) in paragraph (2), by inserting "and for activities described in section 1221(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371(b)(3))" after "children with disabilities";

(C) in paragraph (5), by inserting ", including assessing the needs of homeless children and their families" after "needs assessment";

(D) in paragraph (10), by striking "; and" and inserting a semicolon;

(E) in paragraph (11), by striking the period and inserting a semicolon; and

(F) by adding at the end the following:

"(12) assist Head Start agencies and programs in increasing the program participation of homeless children;

"(13) provide training and technical assistance to members of governing bodies to ensure that the members can fulfill the functions described in section 641(a)(4);

"(14) provide training and technical assistance to Head Start agencies to assist such agencies in conducting self-assessments; and

"(15) assist Head Start agencies and Head Start programs in improving outreach to, and quality of services available to, limited English proficient children and their families, including such services to help such families learn English, particularly in communities that have experienced a large percentage increase in the population of limited English proficient individuals, as measured by the Bureau of the Census.";

(5) in subsection (e), as so redesignated, by inserting "including community-based organizations," after "nonprofit entities";

(6) in subsection (f), as so redesignated, by inserting "or providing services to children determined to be abused or neglected, training for personnel providing services to children referred by entities providing child welfare services or receiving child welfare services," after "English language),"; and

(7) by adding at the end the following:

"(g) The Secretary shall provide, either directly or through grants or other arrangements, funds for training of Head Start personnel in addressing the unique needs of migrant and seasonal farmworking families, families with limited English proficiency, and homeless families.

"(h) Funds used under this section shall be used to provide high quality, sustained, and intensive, training and technical assistance in order to have a positive and lasting impact on classroom instruction. Funds shall be used to carry out activities related to 1 or more of the following:

"(1) Education and early childhood development.

"(2) Child health, nutrition, and safety.

"(3) Family and community partnerships.

"(4) Other areas that impact the quality or overall effectiveness of Head Start programs.

"(i) Funds used under this section for training shall be used for needs identified annually by a grant applicant or delegate agency in its program improvement plan, except that funds shall not be used for long-distance travel expenses for training activities—

"(1) available locally or regionally; or

"(2) substantially similar to locally or regionally available training activities.

"(j)(1) To support local efforts to enhance early language and preliteracy development of children in Head Start programs, and to provide the children with high-quality oral language skills, and environments that are rich in literature, in which to acquire language and preliteracy skills, each Head Start agency, in coordination with the appropriate State office and the relevant State Head Start collaboration office, shall ensure that all of the agency's Head Start teachers receive ongoing training in language and emergent literacy (referred to in this subsection as 'literacy training'), including appropriate curricula and assessments to improve instruction and learning. Such training shall include training in methods to promote phonological and phonemic awareness and vocabulary development in an age-appropriate and culturally and linguistically appropriate manner.

"(2) The literacy training shall be provided at the local level in order—

"(A) to be provided, to the extent feasible, in the context of the Head Start programs of the State involved and the children the program serves; and

"(B) to be tailored to the early childhood literacy background and experience of the teachers involved.

"(3) The literacy training shall be culturally and linguistically appropriate and support children's development in their home language.

"(4) The literacy training shall include training in how to work with parents to enhance positive language and early literacy development at home.

"(5) The literacy training shall include specific methods to best address the needs of children who are English language learners or are limited English proficient.

"(6) The literacy training shall include specific methods to best address the needs of children who have speech and language delays, including problems with articulation, or have other disabilities.".

SEC. 17. STAFF QUALIFICATION AND DEVELOPMENT.

Section 648A of the Head Start Act (42 U.S.C. 9843a) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

"(2) DEGREE REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall ensure that—

"(i) not later than September 30, 2010, all Head Start teachers in center-based programs have at least—

"(I)(aa) an associate degree (or equivalent coursework) relating to early childhood; or

"(bb) an associate degree in a related educational area and, to the extent practicable, coursework relating to early childhood; and

"(II) demonstrated teaching competencies, as determined by the program director involved (including, at a minimum, an appropriate level of literacy, a demonstrated capacity to be highly engaged with children, and a demonstrated ability to effectively implement an early childhood curriculum); and

"(ii) not later than September 30, 2008, all Head Start curriculum specialists and education coordinators in center-based programs have—

"(I) the capacity to offer assistance to other teachers in the implementation and adaptation of curricula to the group and individual needs of a class; and

"(II)(aa) a baccalaureate or advanced degree relating to early childhood; or

"(bb) a baccalaureate or advanced degree and coursework equivalent to a major relating to early childhood;

"(iii) not later than September 30, 2008, all Head Start teaching assistants in center-based programs have—

"(I) at least a child development associate credential;

"(II) enrolled in a program leading to an associate or baccalaureate degree; or

"(III) enrolled in a child development associate credential program to be completed within 2 years; and

"(iv) not later than September 30, 2011—

"(I) in States that have established teacher requirements for State prekindergarten programs, all Head Start teachers in center-based programs—

"(aa) if such requirements are not less than those requirements described in subclause (II), meet such teacher requirements for State prekindergarten programs; and

"(bb) if such requirements are less than those requirements described in subclause (II), meet the requirements described in subclause (II); and

"(II) in States that do not have teacher requirements for their State prekindergarten programs, 50 percent of all Head Start teachers in each center-based program have a baccalaureate degree relating to early childhood (or a related educational area or a baccalaureate degree that meets State specialized training requirements for prekindergarten teachers, such as State licensure, endorsement, or certification for prekindergarten or other early childhood area), and demonstrated teaching competencies, as determined by the program director involved (including, at a minimum, an appropriate level of literacy, a demonstrated capacity to be highly engaged with children, and a demonstrated ability to effectively implement an early childhood curriculum).

"(B) TEACHER IN-SERVICE REQUIREMENT.—Each Head Start teacher shall attend an average of not less than 15 clock hours of professional development per year. Such professional development shall be high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom, and regularly evaluated for effectiveness.

"(C) PROGRESS.—

"(i) REPORT.—The Secretary shall—

"(I) require Head Start agencies to—

"(aa) demonstrate continuing progress each year to reach the result described in subparagraph (A);

"(bb) submit to the Secretary a report indicating the number and percentage of classroom instructors in center-based programs with child development associate credentials or associate, baccalaureate, or graduate degrees; and

"(II) compile and submit a summary of all program reports described in subclause (I)(bb) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

"(ii) DEMONSTRATE PROGRESS.—A Head Start agency may demonstrate progress by partnering with institutions of higher education or other programs that recruit, train, place, and support college students to deliver an innovative early learning program to preschool children.

"(D) SERVICE REQUIREMENTS.—The Secretary shall establish requirements to ensure that, in order to enable Head Start agencies to comply with the requirements of subparagraph (A), individuals who receive financial assistance under this subchapter to pursue a degree described in subparagraph (A) shall—

"(i) teach or work in a Head Start program for a minimum of 3 years after receiving the degree; or

"(ii) repay the total or a prorated amount of the financial assistance received based on the length of service completed after receiving the degree."; and

(B) by striking paragraphs (3) and (4) and inserting the following:

"(3) WAIVER.—

"(A) IN GENERAL.—On request, the Secretary may grant a waiver of the postsecondary degree requirements of paragraph (2) for 1 or more Head Start agencies, either individually, statewide, or throughout a region, that can demonstrate—

"(i) that continuing aggressive statewide and national efforts have been unsuccessful at recruiting an individual to serve as a Head Start teacher or curriculum specialist or education coordinator who meets the requirements of paragraph (2)(A);

"(ii) limited access to degree programs (including quality distance learning programs), due to the remote location of the program involved; or

"(iii) that Head Start staff members are, as of the day the waiver is granted, enrolled in a program that—

"(I) grants the required degree; and

"(II) will be completed within 1 year.

"(B) LIMITATION.—An agency that receives a waiver under subparagraph (A) shall ensure that Head Start teachers for the agency, as of the day the waiver is granted, who have not met the postsecondary degree requirements of paragraph (2) but are otherwise highly qualified and competent shall be directly and appropriately supervised by a teacher who has met or exceeded the requirements of this subchapter.

"(C) DURATION.—The Secretary may not grant a waiver under subparagraph (A) for a period that exceeds 1 year.";

(2) in subsection (c)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(4) promote the use of appropriate strategies to meet the needs of special populations (including limited English proficient populations).";

(3) in subsection (d)(3)(C) by inserting ", including a center," after "any agency"; and

(4) by adding at the end the following:

"(f) PROFESSIONAL DEVELOPMENT PLANS.—Every Head Start agency and center shall create, in consultation with employees of the agency or center (including family service workers), a professional development plan for employees who provide direct services to children, including a plan for classroom teachers, curriculum specialists, and education coordinators to meet the requirements set forth in subsection (a).".

SEC. 18. TRIBAL COLLEGES AND UNIVERSITIES HEAD START PARTNERSHIP.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 648A the following:

"SEC. 648B. TRIBAL COLLEGE OR UNIVERSITY HEAD START PARTNERSHIP PROGRAM.

"(a) PURPOSE.—The purpose of this section is to promote social competencies and school readiness in Indian children.

"(b) TRIBAL COLLEGE OR UNIVERSITY HEAD START PARTNERSHIP PROGRAM.—

"(1) GRANTS.—The Secretary is authorized to award grants, for periods of not less than 5 years, to Tribal Colleges and Universities to—

"(A) implement education programs that include education concerning tribal culture and language and increase the number of associate, baccalaureate, and graduate degrees in early childhood education and related fields that are earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the tribal community involved;

"(B) develop and implement the programs under subparagraph (A) in technology-mediated formats, including providing the programs through such means as distance learning and use of advanced technology, as appropriate; and

"(C) provide technology literacy programs for Indian Head Start agency staff members and children and families of children served by such an agency.

"(2) STAFFING.—The Secretary shall ensure that the American Indian Programs Branch of the Head Start Bureau of the Department of Health and Human Services shall have staffing sufficient to administer the programs under this section and to provide appropriate technical assistance to Tribal Colleges and Universities receiving grants under this section.

"(c) APPLICATION.—Each Tribal College or University desiring a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a certification that the Tribal College or University has established a partnership with 1 or more Indian Head Start agencies for the purpose of conducting the activities described in subsection (b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2010.

"(e) DEFINITIONS.—In this section:

"(1) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(2) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University'—

"(A) has the meaning given such term in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c); and

"(B) means an institution determined to be accredited or a candidate for accreditation by a nationally recognized accrediting agency or association.".

SEC. 19. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) in subsection (a)(1)(B), by inserting "and children determined to be abused or neglected" after "children with disabilities";

(2) in subsection (d)—

(A) in paragraph (8), by adding "and" after the semicolon;

(B) by striking paragraph (9);

(C) by redesignating paragraph (10) as paragraph (9); and

(D) by striking the last sentence;

(3) in subsection (g)—

(A) in paragraph (1)(A)—

(i) by striking clause (i); and

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(B) in paragraph (7)(C)—

(i) in clause (i)(I), by striking "2003" and inserting "2007"; and

(ii) in clause (ii), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions"; and

(4) by striking subsection (h) and inserting the following:

"(h) NATIONAL ACADEMY OF SCIENCES STUDY.—

"(1) IN GENERAL.—The Secretary shall enter into a contract with the Board on Children, Youth, and Families of the National Research Council, the Board on Testing and Assessments, and the Institute of Medicine, of the National Academy of Sciences to establish an independent panel of experts to review and synthesize research and theories in the social, behavioral, and biological sciences regarding early childhood, and make recommendations with regard to each of the following:

"(A) Age- and developmentally appropriate Head Start academic requirements and outcomes, including the standards described in section 641A(a)(1)(B)(ii).

"(B) Differences in the type, length, mix, and intensity of services that are necessary to ensure that children from challenging family or social backgrounds (including low-income children, children with disabilities, and limited English proficient children) enter kindergarten ready to succeed.

"(C) Appropriate assessments of young children for the purposes of improving instruction, services, and program quality, including—

"(i) formal and systematic observational assessments in a child's natural environment;

"(ii) assessments of children's development through parent and provider interviews;

"(iii) appropriate accommodations for children with disabilities and limited English proficient children;

"(iv) appropriate assessments for children with disabilities, limited English proficient children, and children from different cultural backgrounds; and

"(v) other assessments used in Head Start programs.

"(D) Identification of existing, or recommendations for the development of, scientifically based, valid and reliable assessments that are capable of measuring child outcomes in the domains important to school readiness, including language skills, prereading ability, premathematics ability, cognitive ability, scientific ability, social and emotional development, and physical development;

"(E) Appropriate use and application of valid and reliable assessments for Head Start programs identified in accordance with subparagraph (D).

"(2) COMPOSITION.—

"(A) IN GENERAL.—The panel described in paragraph (1) shall consist of multiple experts in each of the following areas:

"(i) Child development (including cognitive, social, emotional, and physical development) and child education (including approaches to learning).

"(ii) Professional development, including preparation of individuals who teach young children.

"(iii) Assessment of young children (including children with disabilities and limited English proficient children), including screening, diagnostic, and classroom-based instructional assessment.

"(B) REPRESENTATIVES.—The panel described in paragraph (1) shall be selected and appointed by the National Academy of Sciences, after consultation with the Secretary of Health and Human Services.

"(3) TIMING.—

"(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Head Start Improvements for School Readiness Act, the Board on Children, Youth, and Families of the National Research Council, the Board on Testing and Assessments, and the Institute of Medicine, of the National Academy of Sciences shall establish the panel described in paragraph (1), including selecting and appointing the members of the panel. Representatives described in paragraph (2) shall be selected and appointed after consultation with the Secretary.

"(B) RECOMMENDATIONS.—Not later than 1 year after the panel described in paragraph (1) is established, the panel shall complete, and submit to the Secretary a report containing, the recommendations described in paragraph (1). The Secretary shall not implement the amendments made to section 641A(a)(1)(B)(ii) by the Head Start Improvements for School Readiness Act until the panel submits the report.

"(4) APPLICATION OF PANEL REPORT.—The Secretary shall use the results of the review and recommendations described in paragraph (1) to (where appropriate) develop, inform, and revise—

"(A) the educational standards, and the performance measures, described in section 641A; and

"(B) the assessments utilized in the Head Start programs.

"(i) SERVICES TO LIMITED ENGLISH PROFICIENT CHILDREN AND FAMILIES.—

"(1) STUDY.—The Secretary shall conduct a study on the status of limited English proficient children and their families in Head Start or Early Head Start programs.

"(2) REPORT.—The Secretary shall prepare and submit to Congress, not later than September 2009, a report containing the results of the study, including information on—

"(A) the demographics of limited English proficient children from birth through age 5, including the number of such children receiving Head Start or Early Head Start services and the geographic distribution of children described in this subparagraph;

"(B) the nature of Head Start or Early Head Start services provided to limited English proficient children and their families, including the types, content, duration, intensity, and costs of family services, language assistance, and educational services;

"(C) procedures in Head Start programs for the assessment of language needs and the transition of limited English proficient children to kindergarten, including the extent to which Head Start programs meet the requirements of section 642A for limited English proficient children;

"(D) the qualifications and training provided to Head Start and Early Head Start teachers serving limited English proficient children and their families;

"(E) the rate of progress made by limited English proficient children and their families in Head Start programs and Early Head Start programs, including—

"(i) the rate of progress of the limited English proficient children toward meeting the additional educational standards described in section 641A(a)(1)(B)(ii) while enrolled in Head Start programs, measured between 1990 and 2004;

"(ii) the correlation between such progress and the type of instruction and educational program provided to the limited English proficient children; and

"(iii) the correlation between such progress and the health and family services provided by Head Start programs to limited English proficient children and their families; and

"(F) the extent to which Head Start programs make use of funds under section 640(a)(3) to improve the quality of Head Start services provided to limited English proficient children and their families.".

SEC. 20. REPORTS.

Section 650 of the Head Start Act (42 U.S.C. 9846) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions";

(B) in paragraph (8), by inserting "homelessness, children in foster care, children who are abused or neglected," after "ethnic background,"; and

(C) in the flush matter at the end by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions"; and

(2) in subsection (b), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions".

SEC. 21. COMPARABILITY OF WAGES.

Section 653 of the Head Start Act (42 U.S.C. 9848) is amended—

(1) by striking "The Secretary shall take" and inserting "(a) The Secretary shall take";

(2) in the first sentence of subsection (a), by striking "or (2)" and inserting "(2) in excess of the salary of the Secretary, in the case of an individual compensated with funds awarded under this subchapter or the Community Services Block Grant Act (42 U.S.C. 9901 et seq.); or (3)"; and

(3) by adding at the end the following:

"(b) If in any fiscal year the restriction described in subsection (a)(2) is violated, the Secretary shall withhold from the base grant of the Head Start agency involved (as defined in section 641A(g)(1)) for the next fiscal year, an amount equal to the aggregate amount by which the salary that resulted in the violation exceeded the salary of the Secretary.".

SEC. 22. LIMITATION WITH RESPECT TO CERTAIN UNLAWFUL ACTIVITIES.

Section 655 of the Head Start Act (42 U.S.C. 9850) is amended by inserting "or in" after "assigned by".

SEC. 23. POLITICAL ACTIVITIES.

Section 656 of the Head Start Act (42 U.S.C. 9851) is amended—

(1) by striking all that precedes "chapter 15" and inserting the following:

"SEC. 656. POLITICAL ACTIVITIES.

"(a) STATE OR LOCAL AGENCY.—For purposes of"; and

(2) by striking subsection (b) and inserting the following:

"(b) RESTRICTIONS.—

"(1) IN GENERAL.—A program assisted under this subchapter, and any individual employed by, or assigned to, a program assessed under this subchapter (during the hours in which such individual is working on behalf of such program), shall not engage in—

"(A) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office;

"(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

"(C) any voter registration activity.

"(2) RULES AND REGULATIONS.—The Secretary, after consultation with the Director of the Office of Personnel Management, may issue rules and regulations to provide for the enforcement of this section, which may include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.".

SEC. 24. PARENTAL CONSENT REQUIREMENT FOR HEALTH SERVICES.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by adding at the end the following new section:

"SEC. 657A. PARENTAL CONSENT REQUIREMENT FOR NONEMERGENCY INTRUSIVE PHYSICAL EXAMINATIONS.

"(a) DEFINITION.—The term 'nonemergency intrusive physical examination' means, with respect to a child, a physical examination that—

"(1) is not immediately necessary to protect the health or safety of the child or the health or safety of another individual; and

"(2) requires incision or is otherwise invasive, or involves exposure of private body parts.

"(b) REQUIREMENT.—A Head Start agency shall obtain written parental consent before administration of, or referral for, any health care service provided or arranged to be provided, including any nonemergency intrusive physical examination of a child in connection with participation in a program under this subchapter.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit agencies from using established methods, for handling cases of suspected or known child abuse and neglect, that are in compliance with applicable Federal, State, or tribal law.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 152—WELCOMING HIS EXCELLENCY HAMID KARZAI, THE PRESIDENT OF AFGHANISTAN, AND EXPRESSING SUPPORT FOR A STRONG AND ENDURING STRATEGIC PARTNERSHIP BETWEEN THE UNITED STATES AND AFGHANISTAN.

Mr. HAGEL (for himself, Mr. LUGAR, Mr. BIDEN, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 152

Whereas Afghanistan has suffered the ravages of war, foreign occupation, and oppression;

Whereas following the terrorist attacks of September 11, 2001, the United States launched Operation Enduring Freedom, which helped to establish an environment in which the people of Afghanistan are building the foundations for a democratic government;

Whereas, on January 4, 2004, the Constitutional Loya Jirga of Afghanistan adopted a constitution that provides for equal rights for full participation of women, mandates full compliance with international norms for human and civil rights, establishes procedures for free and fair elections, creates a system of checks and balances between the executive, legislative, and judicial branches, encourages a free market economy and private enterprise, and obligates the state to prevent terrorist activity and the production and trafficking of narcotics:

Whereas, on October 9, 2004, approximately 8,400,000 Afghans, including nearly 3,500,000 women, voted in Afghanistan's first direct Presidential election at the national level, demonstrating commitment to democracy, courage in the face of threats of violence, and a deep sense of civic responsibility;

Whereas, on December 7, 2004, Hamid Karzai took the oath of office as the first democratically elected President in the history of Afghanistan;

Whereas nationwide parliamentary elections are planned in Afghanistan for September 2005, further demonstrating the Afghan people's will to live in a democratic state, and the commitment of the Government of Afghanistan to democratic norms;

Whereas the Government of Afghanistan is committed to halting the cultivation and trafficking of narcotics and has pursued, in cooperation with the United States and its allies, a wide range of counter-narcotics initiatives;

Whereas the United States and the international community are working to assist Afghanistan's counter-narcotics campaign by supporting programs to provide alternative livelihoods for farmers, sustainable economic development, and capable Afghan security forces; and

Whereas, on March 17, 2005, Secretary of State Condoleezza Rice said of Afghanistan "this country was once a source of terrorism; it is now a steadfast fighter against terrorism. There could be no better story than the story of Afghanistan in the last several years and there can be no better story than the story of American and Afghan friendship. It is a story of cooperation and friendship that will continue. We have a long-term commitment to this country'': Now, therefore, be it

Resolved, That the Senate—

(1) welcomes, as an honored guest and valued friend of the United States, President Hamid Karzai on the occasion of his visit to the United States as the first democratically elected President of Afghanistan scheduled for May 21 through 25, 2005;

(2) supports a democratic, stable, and prosperous Afghanistan as essential to the security of the United States; and

(3) supports a strong and enduring strategic partnership between the United States and Afghanistan as a primary objective of both countries to advance their shared vision of peace, freedom, security and broad-based economic development in Afghanistan, the broader South Asia region, and throughout the world.

SENATE RESOLUTION 153—EXPRESSING THE SUPPORT OF CONGRESS FOR THE OBSERVATION OF THE NATIONAL MOMENT OF REMEMBRANCE AT 3:00 PM LOCAL TIME ON THIS AND EVERY MEMORIAL DAY TO ACKNOWLEDGE THE SACRIFICES MADE ON THE BEHALF OF ALL AMERICANS FOR THE CAUSE OF LIBERTY

Mr. LIEBERMAN (for himself and Mr. SESSIONS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 153

Whereas Americans have been formally recognizing the sacrifice of those who gave their lives in the service of their country since 1868 when General John A. Logan, Commander of the Grand Army of the Republic, designated May 30 as Decoration Day;

Whereas those early commemorations encouraged Americans to decorate the graves of war dead with flowers so that, as General Logan stated, ''We should guard their graves with sacred vigilance . . . Let pleasant paths invite the coming and going of reverent visitors and fond mourners. Let no neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic.'';

Whereas in these times of challenge, when Americans have once again answered the call to defend freedom, it is as important as ever that all Americans take time to honor those brave men and women who throughout our Nation's history have given their lives in the cause of liberty;

Whereas in 2000, President Clinton signed into law ''The National Moment of Remembrance Act'' to encourage Americans to pause at 3:00 pm local time on Memorial Day for a minute of silence to remember and honor those who have died in the service of their Nation; and

Whereas the National Moment of Remembrance brings the country together in unity of purpose, to honor the sacrifice of those who have died for their Nation, and to rededicate all Americans to the original spirit of Decoration Day: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms its support for the National Moment of Remembrance at 3:00 pm on Memorial Day, created to honor the men and women of the United States who died in the pursuit of freedom and peace; and

(2) urges the people of the United States to observe the National Moment of Remembrance this Memorial Day so that the sacrifices of those who have died are not forgotten and that, as President Abraham Lincoln said, ''The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart . . . should swell into a mighty chorus of remembrance, gratitude and rededication . . .''.

Mr. LIEBERMAN. Mr. President, I rise today to submit a Resolution with my good friend, Senator JEFF SESSIONS. Our resolution reaffirms the Senate's support for a National Moment of Remembrance at 3:00 p.m. on Memorial Day, and calls upon all Americans to observe the National Moment of Remembrance this Memorial Day.

Memorial Day is a holiday unique in the world and distinctly American in spirit.

On Memorial Day we honor no single man or woman—no general or admiral—but generations of Americans who selflessly answered their Nation's call to defend not national boundaries but a noble cause.

On Memorial Day we pay homage not to a single battle or war, but to the enduring struggle for freedom that stretches from Bunker Hill to Baghdad.

In these challenging times, when we hear almost daily of American servicemen and women who have sacrificed their lives to defend this great Nation, it is especially important that all Americans take a moment on Memorial Day to honor all these fallen heroes who throughout our history have made the ultimate sacrifice so that we may enjoy the freedoms we have today.

Many may not be aware, but Americans began formally recognizing the sacrifice of those who had given their lives in the service of their country in 1868 when General John A. Logan, Commander of the Grand Army of the Republic, designated May 30 as Decoration Day.

The first large observance was held that year in Arlington National Cemetery.

Those early commemorations encouraged Americans to decorate the graves of war dead with flowers. The goal of this, as General Logan eloquently put it, was that ''We should guard their graves with sacred vigilance . . . Let pleasant paths invite the coming and going of reverent visitors and fond mourners. Let no neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic.''

Through Decoration Day, General Logan began a noble tradition that we carry forward to this day.

We in Congress recently sought to reinforce that tradition and encourage all Americans to not lose sight of the meaning of Memorial Day, as Decoration Day has been known since 1971.

In 2000 we passed and the President signed the ''National Moment of Remembrance Act'' which encouraged all Americans to pause wherever they are at 3:00 p.m. local time on Memorial Day for a moment of silence to remember and honor those who have died in service to their country.

Since we passed that legislation, we have seen our Nation attacked.

Once again our fighting men and women have responded to the call to defend their Nation. They have done so magnificently. Their courage and valor are inspiring and are important reminders that we must continue to support those that fight, and honor those who have fallen.

We honor our heroes who founded and preserved our Nation and have since carried the torch of freedom into corners of the world where people huddled under tyranny's dark shadows.

We honor these heroes with the words of President Abraham Lincoln in our heart when he said: ''The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart . . . should swell into a mighty chorus of remembrance, gratitude and rededication.''

SENATE CONCURRENT RESOLUTION 36—EXPRESSING THE SENSE OF CONGRESS CONCERNING ACTIONS TO SUPPORT THE NUCLEAR NON-PROLIFERATION TREATY ON THE OCCASION OF THE SEVENTH NPT REVIEW CONFERENCE

Mrs. FEINSTEIN (for herself, Mr. HAGEL, Mr. LAUTENBERG, Mr. DURBIN, Mr. CORZINE, Mr. FEINGOLD, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 36

Whereas the Treaty on the Non-proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (in this resolution referred to as the ''Nuclear Non-Proliferation Treaty''), codifies one of the most important international security arrangements in the history of arms control, the arrangement by which states without nuclear weapons pledge not to acquire them, states with nuclear weapons commit to eventually eliminate them, and nonnuclear states are allowed to use for peaceful purposes nuclear technology under strict and verifiable control;

Whereas the Nuclear Non-Proliferation Treaty is one of the most widely supported multilateral agreements, with 188 countries adhering to the Treaty;

Whereas the Nuclear Non-proliferation Treaty has encouraged many countries to officially abandon nuclear weapons or nuclear weapons programs, including Argentina, Belarus, Brazil, Kazakhstan, Libya, South Africa, South Korea, Ukraine, and Taiwan;

Whereas, at the 1995 NPT Review and Extension Conference, the states-parties agreed to extend the Nuclear Non-Proliferation Treaty indefinitely, to reaffirm the principles and objectives of the Treaty, to strengthen the Treaty review process, and to implement further specific and practical steps on non-proliferation and disarmament;

Whereas, at the 2000 NPT Review Conference, the states-parties agreed to further practical steps on non-proliferation and disarmament;

Whereas President George W. Bush stated on March 7, 2005, that "the NPT represents a key legal barrier to nuclear weapons proliferation and makes a critical contribution to international security," and that "the United States is firmly committed to its obligations under the NPT";

Whereas the International Atomic Energy Agency (IAEA) is responsible for monitoring compliance with safeguard agreements pursuant to the Nuclear Non-Proliferation Treaty and reporting safeguard violations to the United Nations Security Council;

Whereas Presidents George W. Bush and Vladimir Putin stated on February 24, 2005, that "[w]e bear a special responsibility for the security of nuclear weapons and fissile material in order to ensure that there is no possibility such weapons or materials would fall into terrorist hands";

Whereas Article IV of the Nuclear Non-Proliferation Treaty calls for the fullest possible exchange of equipment and materials for peaceful nuclear endeavors and allows states to acquire sensitive technologies to produce nuclear fuel for energy purposes but also recognizes that such fuel could be used to secretly produce fissile material for nuclear weapons programs or quickly produce such material if the state were to decide to withdraw from the Treaty;

Whereas the Government of North Korea ejected international inspectors from that country in 2002, announced its withdrawal from the Nuclear Non-Proliferation Treaty in 2003, has recently declared its possession of nuclear weapons, and is in possession of facilities capable of producing additional nuclear weapons-usable material;

Whereas the Government of Iran has pursued an undeclared program to develop a uranium enrichment capacity, repeatedly failed to fully comply with and provide full information to the IAEA regarding its nuclear activities, and stated that it will not permanently abandon its uranium enrichment program which it has temporarily suspended through an agreement with the European Union;

Whereas the network of arms traffickers associated with A.Q. Khan has facilitated black-market nuclear transfers involving several countries, including Iran, Libya, and North Korea, and represents a new and dangerous form of proliferation;

Whereas governments should cooperate to control exports of and interdict illegal transfers of sensitive nuclear and missile-related technologies to prevent their proliferation;

Whereas the United Nations Secretary-General's High-Level Panel on Threats, Challenges and Change concluded that "[a]lmost 60 States currently operate or are constructing nuclear power or research reactors, and at least 40 possess the industrial and scientific infrastructure which would enable them, if they chose, to build nuclear weapons at relatively short notice if the legal and normative constraints of the Treaty regime no longer apply," and warned that "[w]e are approaching a point at which the erosion of the non-proliferation regime could become irreversible and result in a cascade of proliferation";

Whereas stronger international support and cooperation to achieve universal compliance with tighter nuclear non-proliferation rules and standards constitute essential elements of nuclear non-proliferation efforts;

Whereas sustained leadership by the United States Government is essential to help implement existing legal and political commitments established by the Nuclear Non-Proliferation Treaty and to realize a more robust and effective global nuclear non-proliferation system; and

Whereas the governments of the United States and other countries should pursue a comprehensive and balanced approach to strengthen the global nuclear non-proliferation system, beginning with the Seventh NPT Review Conference of 2005: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Reinforce the Nuclear Non-Proliferation Treaty Act of 2005".

SEC. 2. SENSE OF CONGRESS ON SUPPORT OF THE NUCLEAR NON-PROLIFERATION TREATY.

Congress—

(1) reaffirms its support for the objectives of the Nuclear Non-Proliferation Treaty and expresses its support for all appropriate measures to strengthen the Treaty and to attain its objectives; and

(2) calls on all parties participating in the Seventh Nuclear NPT Review Conference—

(A) to insist on strict compliance with the non-proliferation obligations of the Nuclear Non-Proliferation Treaty and to undertake effective enforcement measures against states that are in violation of their Article I or Article II obligations under the Treaty;

(B) to agree to establish more effective controls on sensitive technologies that can be used to produce materials for nuclear weapons;

(C) to expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with non-proliferation rules and standards to which all states should adhere through existing authority and the additional protocols signed by the states party to the Nuclear Non-Proliferation Treaty;

(D) to demonstrate the international community's unified opposition to a nuclear weapons program in Iran by—

(i) supporting the efforts of the United States and the European Union to prevent the Government of Iran from acquiring a nuclear weapons capability; and

(ii) using all appropriate diplomatic and other means at their disposal to convince the Government of Iran to abandon its uranium enrichment program;

(E) to strongly support the ongoing United States diplomatic efforts in the context of the six-party talks that seek the verifiable and incontrovertible dismantlement of North Korea's nuclear weapons programs and to use all appropriate diplomatic and other means to achieve this result;

(F) to pursue diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(G) to accelerate programs to safeguard and eliminate nuclear weapons-usable material to the highest standards to prevent access by terrorists and governments;

(H) to halt the use of highly enriched uranium in civilian reactors;

(I) to strengthen national and international export controls and relevant security measures as required by United Nations Security Council Resolution 1540;

(J) to agree that no state may withdraw from the Nuclear Non-Proliferation Treaty and escape responsibility for prior violations of the Treaty or retain access to controlled materials and equipment acquired for "peaceful" purposes;

(K) to accelerate implementation of disarmament obligations and commitments under the Nuclear Non-Proliferation Treaty for the purpose of reducing the world's stockpiles of nuclear weapons and weapons-grade fissile material; and

(L) to strengthen and expand support for the Proliferation Security Initiative.

Mrs. FEINSTEIN. Mr. President, I rise today along with Senator HAGEL, Senator LAUTENBERG, Senator DURBIN, Senator CORZINE, and Senator FEINGOLD to submit a resolution calling on the parties participating at the Seventh Review Conference in New York City to reaffirm their support for and take additional measures to strengthen the Nuclear Nonproliferation Treaty.

Our resolution calls on parties to the conference to, among other things: insist on strict compliance with the nonproliferation obligations of the Treaty and to undertake effective enforcement measures against states that are in violation of their Article I or Article II obligations; agree to establish more effective controls on sensitive technologies that can be used to produce materials for nuclear weapons; support the efforts of the United States and the European Union (EU) to prevent Iran from acquiring a nuclear weapons capability; support the Six-Party talks that seek the verifiable disarmament of North Korea's nuclear weapons program; accelerate programs to safeguard and eliminate nuclear-weapons usable material to the highest standards to prevent access by terrorists or other states; agree that no state may withdraw from the Treaty and escape responsibility for prior violations of the treaty or retain access to controlled materials and equipment acquired for "peaceful" purposes, and; accelerate implementation of the NPT-related disarmament obligations and commitments that would, in particular, reduce the world's stockpiles of nuclear weapons and weapons-grade material.

More than 180 states have gathered in New York to review progress on implementing their respective obligations as signatories of the Treaty and discuss additional steps each party can take to fulfill all of the NPT objectives.

The Nuclear Nonproliferation Treaty has played a critical role in protecting U.S. national security interests and promoting peace and stability in the international community by bringing nuclear armed and non-nuclear armed states together to stop the proliferation of nuclear weapons.

Each party has clear and specific obligations. States with nuclear weapons pledge to eventually eliminate them while states without nuclear weapons pledge not to acquire them.

The track record of the Treaty speaks for itself. This framework has successfully convinced countries such as Ukraine, Kazahkstan, Belarus, Libya and South Africa to forgo possession of nuclear weapons. At the dawn of the nuclear age, who would have thought this would be possible?

Simply put, the fewer number of states with nuclear weapons, the less likely such weapons will be used or fall into the wrong hands. The Treaty has saved lives and prevented unthinkable catastrophe.

The success of the Treaty is a testament to United States leadership and our commitment to multilateral diplomacy and cooperation. The gains in the area of nuclear nonproliferation over the past thirty plus years would not have been possible if we had chosen to shut ourselves out of the international community or take on the great challenges of the world on our own.

And, I might point out, as a signatory to the Treaty, we have increased the security of Americans and our national security interests at a far less cost than any military intervention. Successful arms control treaties give us more bang for our buck.

Now is a critical opportunity to examine the successes of the past and the steps all parties can take to strengthen the Nuclear Nonproliferation Treaty in the future.

Indeed, the world has changed dramatically since the last Review Conference in 1995 and the challenges to the nuclear nonproliferation regime have become more acute. In the past few years we have witnessed: the September 11th attacks and the intent of terrorist groups such as al-Qaeda to acquire and use nuclear weapons; the discovery of the AQ Khan nuclear black market; North Korea's withdrawal from the Nuclear Nonproliferation Treaty and announcement that it possessed nuclear weapons; the exposure of Iran's violations of its obligations as a signatory of the Nuclear Nonproliferation Treaty and the possibility that states may use the "Article 4 loophole" and develop a nuclear fuel cycle capability; the existence of global stockpiles of nuclear weapons usable materials.

Combined with an uncertainty on the part of non-nuclear weapon states about the intent of nuclear weapon states to fulfill their disarmament obligations, these challenges threaten the continuation of a successful nuclear nonproliferation regime.

As the United Nation's report "A More Secure World" states: "We are approaching a point at which the erosion of the nonproliferation regime could become irreversible and result in a cascade of proliferation."

North Korea has already withdrawn from the Treaty and escaped penalty. Iran may be next. How many others will follow if we stand still and do nothing to strengthen the NPT?

It would be an understatement to say that the collapse of the nuclear nonproliferation regime will have a devastating effect on the security and stability of the entire world.

That is why the Review Conference is so important and why we must not let divisions between nuclear armed and non-nuclear armed states prevent the conclusion of a successful conference. We must come together to breathe new life into the nuclear nonproliferation regime and seriously consider the steps outlined above that will strengthen the treaty and make the world safer from the threat of nuclear terror.

I urge my colleagues to support this resolution.

SENATE CONCURRENT RESOLUTION 37—HONORING THE LIFE OF SISTER DOROTHY STANG

Mr. DEWINE submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 37

Whereas Sister of Notre Dame de Namur Dorothy Stang moved to the Amazon 22 years ago to help poor farmers build independent futures for their families, and was murdered on Saturday, February 12, 2005, at the age of 73, in Anapu, Para, a section of Brazil's Amazon rain forest;

Whereas Sister Dorothy, a citizen of Brazil and the United States, worked with the Pastoral Land Commission, an organization of the Catholic Church that fights for the rights of rural workers and peasants, and defends land reforms in Brazil;

Whereas Sister Dorothy's death came less than a week after her meeting with Brazil's Human Rights Secretary about threats to local farmers from some loggers and landowners;

Whereas, after receiving several death threats, Sister Dorothy recently commented, "I don't want to flee, nor do I want to abandon the battle of these farmers who live without any protection in the forest. They have the sacrosanct right to aspire to a better life on land where they can live and work with dignity while respecting the environment.";

Whereas Sister Dorothy was born in Dayton, Ohio, entered the Sisters of Notre Dame de Namur community in 1948, and professed final vows in 1956;

Whereas, from 1951 to 1966, Sister Dorothy taught elementary classes at St. Victor School in Calumet City, Illinois, St. Alexander School in Villa Park, Illinois, and Most Holy Trinity School in Phoenix, Arizona, and began her ministry in Brazil in 1966, in Coroata, in the state of Maranhao;

Whereas, last June, Sister Dorothy was named "Woman of the Year" by the state of Para for her work in the Amazon region, in December 2004, she received the "Humanitarian of the Year" award from the Brazilian Bar Association for her work helping the local rural workers, and earlier this year, she received an "Honorary Citizenship of the State" award from the state of Para; and

Whereas Sister Dorothy lived her life according to the mission of the Sisters of Notre Dame: making known God's goodness and love of the poor through a Gospel way of life, community, and prayer, while continuing a strong educational tradition and taking a stand with the poor, especially poor women and children, in the most abandoned places, and committing her one and only life to work with others to create justice and peace for all: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby honors the life and work of Sister Dorothy Stang.

AMENDMENTS SUBMITTED AND PROPOSED

SA 763. Mr. BURNS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 188, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

TEXT OF AMENDMENTS

SA 763. Mr. BURNS (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 188, to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program, as follows:

At the end add the following new section:

SEC. 3. LIMITATION ON USE OF FUNDS.

Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(6)) is amended to read as follows:

"(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.".

MEASURE READ THE FIRST TIME—S. 1098

Mr. ALLARD. Mr. President, I understand that S. 1098, introduced earlier today by Senator KENNEDY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the title of the bill for the first time.

The senior assistant bill clerk read as follows:

A bill (S. 1098) to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

Mr. ALLARD. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. The bill will be read the second time at the next legislative session.

ORDERS FOR TUESDAY, MAY 24, 2005

Mr. ALLARD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, May 24. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that the Senate then return to executive session and resume consideration of the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals; provided that the time until 11:40 a.m. be divided equally between the leaders or their designees, and the time from 11:40 a.m. to 12 noon be equally divided between the two leaders; provided further that notwithstanding provisions of rule XXII, at 12 noon, the Senate proceed to the cloture vote on the Owen nomination, with the live quorum waived.

I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALLARD. Mr. President, tomorrow, the Senate will resume consideration of the nomination of Priscilla Owen to be a U.S. circuit judge for the Fifth Circuit Court of Appeals. At 12 noon, we will proceed to the cloture vote on the Owen nomination, and that will be the first vote of the day. Given the events of the day, it is expected cloture will be invoked on this well-qualified nominee. We have had 4 days of substantive debate on the nomination. It is our hope that once cloture is invoked, we can quickly move to a vote on confirmation.

ORDER FOR ADJOURNMENT

Mr. ALLARD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator HARKIN for up to 15 minutes, Senator BOXER for up to 15 minutes, Senator LEAHY; provided, that Senator KYL be also recognized prior to adjournment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that Senator LEAHY, because of his time schedule, speak prior to my statement, and I still be allowed my 15 minutes and Senator BOXER still be allowed her 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Iowa for his courtesy. I apologize to the Senator from Colorado. I was distracted when he was giving the order to put us out. I should have realized, after 31 years here, when we are on autopilot. And, of course, the Senator was following precisely the agreement as usually somebody does in wrapup that has been worked out between the Democratic leader and the Republican leader and was totally within his rights. I apologize for interrupting.

Mr. ALLARD. I thank the Senator from Vermont for speaking up. We certainly did not want to shortchange on his right to speak. I was glad to see when we got to the last part of the iteration we had the Senator from Vermont included.

Mr. LEAHY. Mr. President, the distinguished Senator has always been protective of the rights of Members of both sides.

JUDICIAL NOMINEES

Mr. LEAHY. Mr. President, we have other Senators who wish to speak. There has been a lot that has gone on here tonight. I will speak further on this tomorrow. I thought on this occasion it would not be inappropriate to quote again from "Profiles in Courage."

At the end of that book, President Kennedy included a eulogy. Interestingly enough, it was a eulogy in 1866 upon the death of Senator Solomon Foot, a predecessor of mine from Vermont. The eulogy for Senator Foot of Vermont was delivered by Senator William Pitt Fessenden of Maine. Senator Fessenden, like Senator Foot, was a Republican—in fact, all Senators from Vermont, every single Senator from Vermont, with the exception of one, has been a Republican. But Senator Fessenden would soon thereafter vote against his party to acquit President Andrew Johnson of charges of impeachment.

Senator Fessenden was the first of seven courageous Republican Senators who voted his conscience before his country rather than party. Despite the pressures and whatever the consequences, he exercised his judgment as a Senator, consistent with his oath to do impartial justice.

Let me just read what he said after the death of Senator Foot of Vermont:

> When, Mr. President, a man becomes a member of this body, he cannot even dream of the ordeal to which he cannot fail to be exposed:
>
> of how much courage he must possess to resist the temptations which daily beset him;
>
> of that sensitive shrinking from undeserved censure which he must learn to control;
>
> of the ever-recurring contest between a natural desire for public appropriation and a sense of public duty;
>
> of the load of injustice he must be content to bear, even from those who should be his friends;
>
> the imputations of his motives;
>
> the sneers and sarcasms of inmorance malice:
>
> all the manifold injuries which partisan or private malignity, disappointed of its objects, may shower upon his unprotected head.
>
> All this, Mr. President, if he retained his integrity, he must learn to bear unmoved, and walk steadily onward in the path of duty, sustained only by the reflection that time may do him justice, or if not, that after all his individual hopes and aspirations, and even his name among men, should be of little account to him when weighed in the balance against the welfare of a people of whose destiny he is a constituted guardian and defender.

A number of our Senate colleagues today from both parties stood up to keep the Senate from making a terrible, an irreparable mistake—terrible and irreparable because, for the first time in over 200 years, the Senate would no longer have a check and balance. For the first time in over 200 years, the Senate would no longer be able to protect the rights of the minorities.

I applaud them for this. As I said, I will speak more tomorrow. I thank my distinguished colleague and dear friend from Iowa for letting me go ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am very pleased to hear about the bipartisan agreement that preserves minority rights in the Senate, that preserves the right of the minority to extended debate, that preserves the checks and balances that our Founding Fathers prized so highly.

My hope now is that after weeks of distraction, after weeks during which the majority leader threatened the nuclear option, to sort of blow up the Senate, now we hopefully can return to the people's business.

I thank the 14 Senators, I guess 7 Democrats and 7 Republicans, who worked so hard to bring us back from the brink and get us away from this nuclear option that really would have destroyed the smooth functioning of the Senate.

But we have been talking for weeks and weeks about this, about this nuclear option. People I have talked to have been absolutely astonished that the Senate has been distracted by these nuclear option threats. They keep asking me why haven't we been addressing the real concerns that keep Americans up at night: worrying about their jobs, their health care and their families' future. Why is the Senate spending its time on this narrow ideological agenda and ignoring the people's business?

The majority leader, the Senator from Tennessee, had planned to keep the Senate up through the night tonight as a prelude to detonating this nuclear option.

In anticipation of that, early yesterday, on my Senate Web site and through the news outlets, I informed the people of my State of Iowa I would be coming to the floor late this evening to share their concerns and their worries, the things that keep them up at night.

The response has been overwhelming. I said that my Des Moines office and my Washington offices would be open all night, answering calls and receiving e-mails. I encouraged Iowans to keep the calls and e-mails coming all through the night and to let me know what keeps them up at night. I had planned to spend as much time as possible answering the phones myself.

Since noon today, we have received over 600 e-mails and 500 phone calls. I thank all the Iowans who contacted me by e-mail or by phone. I had planned to read as many as I could tonight, during the long night that we were supposed to be here. Obviously, that is not going to happen. But we have been inundated with messages from Iowans telling us what they want the Senate to stay up all night working on. Believe me, detonating the nuclear option is not on their list.

To the contrary, my fellow Iowans are deeply concerned about "kitchen table" issues such as health care, job security, pension security, education, increasing the minimum wage, the war in Iraq, the price of gasoline.

Sherry, in Sioux City e-mailed me to make two points.

One, I do not like the GOP violating the rules and violating the Founding Fathers' checks and balances; and, two, I am retiring from teaching tomorrow and I am afraid most of my students will not be in good enough jobs to afford their own health care. Plus I myself must wait 24 months for health coverage because I don't qualify for Medicare.

Linda in Des Moines sent the following e-mail:

> Mr. Harkin, thank you for asking. I will tell you what keeps me up at night. The fear I will get sick and not be able to work. I have to work some overtime every week right now to just get by. I have not been able to accumulate a savings to fall back on. What with more health care costs my employer is putting on me, higher gas prices, higher grocery costs. I have to run as fast as I can to just barely keep up.

Patricia in West Branch, IA, sent this e-mail:

> I work two jobs, my husband 3, to send our son to college. We all need some relief from this worry. Education, health care, the poor who do not have homes or food. So let's worry about the real issues here.

Patty in Olin, IA, e-mailed me with what keeps her up at night:

> Two Things: Gas and College 1.

Shirley in Eldridge, IA, e-mailed me with the following brief message:

> I am bothered about rising health costs for retirees. I am concerned about the rising cost of gasoline and the rising cost of a college education. I am concerned that my grandchildren may not have the same opportunities that I and my children had to obtain an advanced degree.

This is the message that Al in Hinton, IA, sent me:

> Health Insurance—I am seeing many educators who want to retire, some who need to retire, however they cannot, due to the cost of health care. They have worked 30 years and must keep working until age 65. After 30 years in the classroom, an individual has earned the right to retire. Please address health care, this is the National Crisis.

Sara in Anamosa, IA, shared a broad range of worries:

> Dear Senator Harkin: I am a teacher who is concerned that American High Schools are not given the funds needed to train our students to compete in a global economy.

Sue, a librarian in Iowa City, told me:

> I am concerned about the rising cost of a college education. . . . I worry that the divide between those who can afford college and those who cannot is growing ever wider. I don't think our economy will be well-served by making an education an opportunity that only the wealthy can afford.

Susan from Des Moines send me the following e-mail:

> The fear that the Social Security system is going to be changed keeps me up at night. . . . My worry is not just for myself but everyone affected by the proposed revisions in the social security system.

Barbara from Mount Vernon, IA, had this to say:

> What keeps me up at night is how I'm going to pay my bills and still provide care for the kids. I serve at my job at Four Oaks, Inc. I'm a youth counselor at 4 Oaks serving children in a residential setting who have been abused or neglected. Some of the needs these children are the need for deep relationships with adults. With the high turnover in facilities such as mine, children go through hardship once again. Staff needs to move on to other fields where the pay will meet their day to day obligations. As a supervisor I do stay up at night worrying about the children and my own financial needs.

Shannon from Garwin, Iowa, sent me this message:

> Dear Senator Harkin. I can easily tell you what keeps me up at night. Thank you for asking. I am a 30 year old Registered Nurse. . . . I have a very expensive health insurance plan that goes up every year. It does not cover my family, me only. My husband works as an electrician and has no insurance. Our children have health insurance that we pay for out of pocket. We have no dental. We worry constantly. Save for college? That is a joke in its self.

Ron, in La Mars, IA, said:

> We need an aggressive program for alternative fuels. If we do not break away from foreign oil we will be bogged down in the Middle East forever.

Ann, an elementary school principal in Waukon, IA, had this to say:

> There are many things that keep me up at night. Among these concerns are the rising meth problem in Iowa. The reduction of services to families through medicaid cuts and cuts in the department of human services. I have families who fear their foodstamps will be cut.

Here is Fabian from Bellevue, IA:

> Collapse of the general economy in industrial and manufacturing sectors.

Patrick from Sioux City, IA:

> We need to reform the health care and transportation systems in America.

Kim of Cresco, IA:

> We need to be more focused on education in America than the filibuster.

Here is Sandra, who e-mailed me:

> Dear Senator Harkin, these are the things that keep me up at night:
>
> 1. Social security—I think we just need to improve on the program that exists. I know that my husband and I and our children will not have the needed money to start our own savings account. Our children have good jobs, but there is no way they will be able to set-aside enough needed money to retire on.
>
> 2. As a health professional, I can tell you first-hand what is happening to people who cannot afford to pay health insurance and also, prescription drugs needed. I treat the results of that each day. Each month, we personally pay, out of our own pocket, nearly $2000.00 for insurance and drugs. Our drugs are for diabetes and prostate problems, something we cannot help. That is $24.0000 a year, and farming is not that profitable. Something has got to change or we will not survive!

This is a comment from George:

> I am 62 years old. I had surgery for prostate cancer 4 years ago. Post op I can not afford $1000 month for health insurance and have not seen a doctor in 3 years for follow up procedures. I am sinking into depression (and debt) and see no way out . . . .

Doris, from Wellman said:

> We need to raise the minimum wage.

Here is Ann, another person who e-mailed me:

> I have families without jobs or such low-paying jobs they work several to make ends meet. Children are left unsupervised. How about increasing the minimum wage?

Mr. President, this is what Iowans are telling me, in 600 plus e-mails, and over 500 phone calls today. This is what they want the Senate working on. And we spent all this time talking about a filibuster, a nuclear option: This judge, that judge. People must wonder if we have become totally dysfunctional around here, so I am hopeful that, with this agreement, we are going to see a new day. I am hopeful that the majority leader will now turn his leadership and his energy to turn the Senate to the people's business.

Let's have a bill out here to raise the minimum wage and let's get an up-or-down vote on it. Let's get the Energy bill here on the floor so we can amend it and then have an up-or-down vote. Let's do something about health care. Why don't we extend the Federal Employees Health Benefit Program that all of us have—why don't we extend it to small businesses all over America so they, too, can have the same kind of health coverage that we in the Congress have?

How about pension security? Let's get legislation on the floor so we do not have more United Airlines, next maybe all the other airlines, perhaps even General Motors has now said they may not be able to meet their pension guarantees.

Education funding? How many times do we hear from our schools that we are not funding No Child Left Behind, that the guarantee we made almost 30 years ago now that we were going to fund the Individuals with Disabilities Education Act at 40 percent of the cost, now we are still at less than 20 percent?

This is what the vast majority of my Iowans say we should be working on. So I hope a new day is here. I hope, with this agreement that was forged, we can leave that past behind us and that we can now bring this type of legislation to the floor. Forget about the nuclear option and get on with the people's business here in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I understand that I have 15 minutes. I might take 10 or I might want to take another 10 in addition. I ask unanimous consent I may speak up to 25 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. What I want to say, before my friend from Iowa leaves, thank you so much, Senator HARKIN. I think what you addressed in your remarks is something that has been missing from this debate, and that is what the people are telling us back home. They, in my opinion, do not want to see the filibuster go away because they understand it is a very important part of the American fabric of politics for more than 200 years. They also understand, without a doubt, that the issues that concern their everyday lives are just not being addressed. My friend laid them out beautifully.

In Iowa, CA, our people are feeling the same things. They are struggling with high gas prices, lack of health care, worried about the cost of health care, and education. They are absolutely frightened about the President's attack on Social Security. They want us to fight back. They want us to solve the Social Security long-range problem without reducing benefits, without taking away Social Security, and not turning Social Security into a guaranteed gamble. These are issues that are key. Transportation is another issue my friend mentioned. I thank Senator HARKIN for his contribution tonight.

I also thank my colleagues on both sides of the aisle who took this Senate back from a cliff where there were very treacherous waters below. They turned us away from a power grab by the majority, from a move that was clearly an abuse of power. They called it themselves, those who wanted this option, the nuclear option. They were right to call it the nuclear option because it would have been so devastating, not only to the Senate, not only to the people of this country, but to the foundation of our Republic—the checks and balances which were put into this system by our brilliant Founders who came together. As Senator BYRD reminded us tonight that Benjamin Franklin said: "I've given you a Republic, if you can keep it."

That is the key. Can we keep the Republic? We do not keep a representative democracy such as this if we allow one side, whichever side that is, to trample upon the rights of the other. What happens is you wind up trampling on the rights of the American people themselves.

The other day I was making a mental note of who supported the nuclear option, taking away the right of any Senator to filibuster a judicial nominee, who in this body supported that, versus those who thought it ought to be sustained and we ought to have that right. When we add up the number of people we represent on each side, the senators on the side that wanted to keep the filibuster represented far more people, millions more people. So this was a moment in time when the rights of so many of those people would have been taken away, just as the rights of their Senators would be taken away.

Again, I thank my colleagues on both sides who worked so hard to bring us back from this abuse of power. I hope that it means forever. I personally hope we never hear the words "nuclear option" again. It would be best for this country if we allowed the 200-year history plus of this country to sustain us.

The filibuster started in 1806. This is the filibuster's 200th year. It has been used sparingly. Let's look at how many times we have blocked President Bush's judges. I hope I don't have to bring this chart out again. I hope we are done with this. But for tonight we need to summarize where we have been.

Mr. President, 208 to 10 is what caused all the angst by the Republicans. They wanted to take away our right to block 5 percent of George Bush's judges. As I have said at home in many meetings, if any one of you got 95 percent of what you wanted in your life, you would be smiling. I would be—unless I wanted everything and I thought I knew best and I was the smartest. We all go through those times when we think that way but one would hope at this point when we get here, after working a little bit here in the Senate—and I admit I didn't see it right in the beginning—we come to respect rights of the minority. The filibuster has been used rarely.

I also want to discuss what I call the filibuster fantasy world that cropped up in these debates. I will show a chart I was going to use in the debate which, thankfully, we do not have to have. But for the purposes of history, we ought to look at what was shaping up.

First of all, every day we came to the Senate we heard Republicans say: The Democrats started the filibusters on judges. That is funny, in a way, because the opposite is true. In modern times, the use of the filibuster began with Abe Fortas in the 1960s. I looked at a headline in the Washington Post from the 1960s. It said: "Filibuster Launched Against Fortas." This was President Johnson's, a Democrat, nominee to the Supreme Court. The first paragraph of that Post article said:

> The Republicans launched an all-out filibuster against Abe Fortas.

That is a fact. The filibuster fantasy says that Democrats started the filibusters on judges.

The second fantasy we have heard repeatedly recently from Republicans is Republicans have never filibustered judges.

That one I can state from personal experience does not hold up—I don't have to rely on newspapers; I don't have to rely on hearsay; I don't have to rely on folk tales. I was here and I saw the Republican filibuster against two terrific people from California, Marsha Berzon and Richard Paez. Guess what? That was not in the 1800s or the 1960s. It was the year 2000. And do Members know who voted to continue to filibuster Richard Paez? BILL FRIST, the good doctor, who says he wants to take away our rights. Tonight he says he is backing off. He has no choice but to back off because, luckily, we had enough people from both sides of the aisle to pull us back from this precipice. BILL FRIST himself filibustered Richard Paez. Pretty amazing for him to say that we should never filibuster when he filibustered, when his Republican colleagues are on the record saying they were proud to filibuster and it is their constitutional right to filibuster.

So you can't rewrite the record book. We have a CONGRESSIONAL RECORD. We had a vote to end the filibuster on Richard Paez, a wonderful candidate put up by President Clinton. BILL FRIST voted to filibuster that man. Yet he says if we Democrats vote to filibuster somebody, and I am quoting him, "we are behaving badly." He said that four times tonight. Bad behavior.

This is not a kindergarten class. This is not even high school. This is the Senate. When I decide to filibuster a judge, which is my prerogative, and will remain so, I am happy to say under this good agreement, I am not behaving badly. I am behaving as a Senator who has looked at this nominee, who has seen that this nominee is dangerous to America, who has seen that this nominee is extremist and will hurt the American families who I represent. Am I not behaving as a Senator? No, I am not behaving badly.

Let's look at the other Republican filibuster fantasies. They say all judges should get an up-or-down vote. Do you know how many votes Priscilla Owen had so far? Four. She is about to have the fifth. Janice Rogers Brown has had one. Clinton judges, 61 of them, most of them never made it out of committee. Most of them were pocket filibustered. They never had an up-or-down vote. Every one of George Bush's nominees have had an up-or-down vote. They may not have made the 60 votes they needed to make because for 200 years-plus the Senate has had the right for extended debate. These people could not get the 60 votes.

Why couldn't they get 60 votes? Because these nominees are so extreme. I will talk about one of them in a minute and tell Members why because it is an extraordinary circumstance. The President sent down a nominee who is out of the mainstream.

First, I want to tell you a story about ORRIN HATCH who was the Republican chairman of the Judiciary Committee for a time when Bill Clinton was President. ORRIN HATCH called me into his office and he said: Senator BOXER, if you want to get a vote on a judge from California, don't send me anyone from the liberal side. Send me mainstream judges, Senator. Send me mainstream judges and we will be OK. We had a great chat.

I said: Well, I am not so sure; maybe sometimes you want to have someone a little more liberal.

He said: Don't discuss it with me. Mainstream judges. That's it.

So for ORRIN HATCH, when Bill Clinton was President, he had a litmus test. Mainstream judges. I didn't think it was that unreasonable. Where is the litmus test now on mainstream judges? It has gone out the windows.

Alberto Gonzales himself said that Priscilla Owen's opinions were "unconscionable judicial activism". So we say to the President of the United States of America: Do what Bill Clinton did, send us mainstream judges and we do not have any problem with that. We will walk down this aisle proudly. Frankly, we did it 208 times. I am not sure this President has any cause for alarm. He got 95 percent of his judges, but he wants it all, after all, he is George Bush. We had a King George. We had a king. Now we want a President of all the people. We do not want a king. We want him to govern. We do not want him to rule. There is a difference.

This wonderful agreement sustains our right in the future to step out if each of us determines there is a reason to filibuster.

Now, again, the filibuster fantasy is that Priscilla Owen and Janice Rogers Brown have never had a vote in the Senate. I have already stated, they just cannot make the 60-vote cut because they are so out of the mainstream.

Then there is this issue the Republicans have now said they want to change from the nuclear option to the constitutional option. Nothing in the Constitution prohibits filibusters. We know that. The Constitution says the Senate shall writes its own rules, which brings me to another point.

Here is something I want the American people to know. I want my colleagues to understand. The Constitution says the Senate shall write its own rules, and Rule XXII of the Senate says if you want to change a rule of the Senate, folks, you have to get 67 votes to move to change the rules. It is important to do this when you change the rules of the Senate. The Constitution says we shall write our own rules. But the Senate rules do not envision a small group of Senators changing the rules. It ensures that a large group of Senators must approve of changing the Senate rules. If you have to change the rules, this is what you have to have 67 votes to close off debate for a rule change.

Guess what? My Republican friends who brought us the nuclear option knew they could not get 67 votes to destroy the system of checks and balances, to change our government as we have known it for so many years. They could not get 67 votes, not even close. They even had to have DICK CHENEY in the chair for this vote, folks, because it could be that close; 51, maybe. What do they do? How are they going to get around the rules of the Senate? Well, not to worry about the rules of the Senate. We will make a precedent.

The Parliamentarian will say that Senators have a right to filibuster, absolutely. The Parliamentarian will say we need 67 votes to change the rules of the Senate, but DICK CHENEY, sitting in the chair as a rubberstamp for this administration, as part of it, will say: I disagree with the Parliamentarian. We can change this right now by declaring by fiat no more filibusters of judges ever again. That is the new precedent.

I would ask my friends, what kind of an example is this to set for our children? Let's say our children go to school, and they know to get an 80 percent on a test is a B, and they get a 75 percent. Let's say they then go to their teacher and say: Oh, I got a 75 percent, and I don't want to come home with a C. Can you just change the rules today for me and make it an A? Change the rules. Or if you are serving on a jury, and everyone has to agree on the guilt of someone, but, oh, they decide on this day, only 9 of the 12 have to agree.

I could go on and on with examples like this. The fact is, it is a terrible precedent for our children to see grown people in the Senate change more than 200 years of Senate history by going around the rules of the Senate.

I was here when I was just a freshman. I was annoyed with the filibuster. I was really annoyed. The Republicans were filibustering all the time. I thought it was terrible. One of my colleagues said: Let's change the rules.

I said: Great. I think President Clinton ought to get his whole agenda through. I am tired of hearing about what I don't agree with.

I was wrong. I did not know I was wrong. I was wrong. But one thing I did. I did not try to do it with some slipshod, fake precedent change. I tried to do it by getting 67 votes. We did not even come near 20 because it is a losing proposition.

The nuclear option would have been a disaster. And I have to tell you, out in the countryside, the polling is showing that the people are sick of this place. They do not understand what we are doing. We are irrelevant to them. And indeed it is no wonder we are viewed this way given all the effort we have expended on this nuclear option business. It simply fits into what the people have been saying for a while, that we just do not get it.

They are paying these gas prices at the pump, and what are we doing? Nothing. The President could release some strategic petroleum reserves. Oh, no, the first President in modern times never to do that. And, yes, gas is going down a few pennies, I am happy about that. But, believe you me, it is not going down far enough. What are we doing about that? Nothing that I could see. No, no, we are wasting our time on the nuclear option because the President wanted 100 percent of what he asked for. He did not want 95 percent. He wanted 100 percent of his judges.

Another President once tried to pack the courts, and his name was Franklin Roosevelt, a great Democratic President. Do you know what? When Franklin Roosevelt was in office, there were 74 Democrats in the Senate. Franklin Roosevelt was annoyed. He wanted 100 percent. He got 60 percent in the election, a lot more than this President did. He had 74 Democratic Senators. And he wanted to pack the courts. He wanted to double the number of Supreme Court Justices, put his people in play, have the Democrats in the Senate rubberstamp and make sure that his New Deal would live forever more.

Do you know what stopped him? Democratic Senators. They said: Mr. President, we admire you. We respect you. But we know it is wrong to pack the courts. It is not right. We want an independent judiciary. Let us not change the rules in the middle of the game.

I was so hopeful that we would have some Republican Senators this time who had a sense of history, who understood better than I did when I was new here that the filibuster protects not only the minority but protects the American people.

I want to explain to you, in my final moments, why it is so important that we keep the filibuster. In this deal, three judges are going to go through, are going to have a simple majority vote. One of them is Janice Rogers Brown. Now, I am not thrilled about this because I think her record is so far out of the mainstream that she will hurt the American people. But I do not want to just put out rhetoric. I want to show you Janice Rogers Brown and some of the times in which Janice Rogers Brown, as a judge on the California Supreme Court, stood alone in her dissents. So when you ask me: Senator

BOXER, why is it that you filibustered Janice Rogers Brown—and, by the way, I support this deal. Even though she will only need 51 votes, I still support the deal. But I have to tell you, I am going to fight to deprive her of those 51 votes, if I can. She stood alone on a court of six Republicans and one Democrat. She is a Republican. She stood alone 31 times because the court was not rightwing enough for her.

Let's look at some of the times Janice Rogers Brown stood alone, how way out of the mainstream to the extreme she is.

She said a manager could use racial slurs against his Latino employees. Can you imagine a decision like that? It is OK to use racial slurs against Latino employees. Janice Rogers Brown said that in Aguilar v. Avis Rental Car.

She is bad on first amendment rights. She argued that a message sent by an employee to coworkers criticizing a company's employment practices was not protected by the free speech first amendment, but she has been very protective of corporate speech. So she walks away from the individual but supports the right of corporate speech.

If you want individual rights protected, this is not your person. Here is one: She protects companies, not shareholders.

She is bad for rape victims. She was the only member of the court to vote to overturn the conviction of the rapist of a 17-year-old girl because she believed the victim gave mixed messages to the rapist.

Now, I just want to say something here. Every one of us here would come to the defense of a 17-year-old rape victim. And on a court of six Republicans and one Democrat, only one person stood alone, stood by the rapist, Janice Rogers Brown. So when I say I do not want her to be promoted, you can see why.

Janice Rogers Brown is bad for children and families. She was the only member of the court to oppose an effort to stop the sale of cigarettes to children. Now, I do not know how you all feel about this, but this is 2005, and we know what an addiction to cigarettes can be. We do not want our kids being able to purchase cigarettes in stores. Janice Rogers Brown stood alone in Stop Youth Addiction v. Lucky Stores. She stood alone on a court of six Republicans, one Democrat. She stood alone and would not protect our children from the sale of tobacco.

Senior citizens: the only member of the court to find that a 60-year-old woman who was fired from her hospital job could not sue. This is what she said in this dissent, where she stood alone on a court of six Republicans and one Democrat. She said:

> Discrimination based on age does not mark its victims with a stigma of inferiority and second class citizenship.

Really? Really? A 60-year-old woman was fired from her hospital job on age discrimination. State and Federal law prohibit age discrimination. Janice Rogers Brown stood alone and said there is no stigma. Someone fires you because you are old, and there is no stigma.

But that is the least of it. Janice Rogers Brown——

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. Mr. President, I ask unanimous consent for 1 minute to close.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Thank you. I say to my friend from Alabama.

Janice Rogers Brown has an attitude toward seniors which is extraordinary. She calls senior citizens cannibals. She says they are militant and they cannibalize their grandchildren by getting free stuff from the Government. I have to tell you, this woman is so far out of the mainstream, this is just a touch of the debate that is to hit the Senate floor.

So when we stand up as Democrats and say no to Janice Rogers Brown, we have a reason. It is not about the Senate. It is not about partisanship. It is about the American people and the American family.

Thank you, Mr. President. And I thank those Senators on both sides of the aisle for bringing us back from this precipice.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I may be allowed to speak for up to 20 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I would ask the Senator, before she leaves—I notice the debates over filibusters have seen people maybe flip and change their views—but I would ask her if it is not true that she just said a few moments ago that we must keep the filibuster, but in 1995 the Senator was one of 19 Senators who voted to eliminate it entirely, not even just against judges but against the whole legislative calendar also?

Mrs. BOXER. If the Senator heard me speak, I spoke quite a while about that. I said how wrong I was, how green I was, how I was frustrated with the Republicans blocking things. And I was dead wrong. I also said that what we tried to do is change the rules, which takes 67 votes. We did not go in the dead of night to try and get it done. So, yes, the Senator is right. I was dead wrong. Tough to admit that, but I have been very open about that since the beginning of the debate.

Mr. SESSIONS. That is good. And I apologize for not being here and hearing your remarks to begin with. I would not have asked that.

Mrs. BOXER. I don't blame the Senator.

Mr. SESSIONS. Mr. President, I want to share a few thoughts at this time. There is no doubt that there has not been maintained in this body a successful filibuster against a President's nominee for a judicial office until this last Congress when the Democrats changed the ground rules, as they stated they were going to do, and commenced systematic leadership-led filibusters against some of the finest nominees we have ever had.

People say: Well, you people in the Senate are upset, and you are fractious, and there is too much of this, and you guys need to get together. But it was not the Republicans who started filibustering judges. And it was a historic change in our procedures when the Democrats started doing it. It caused great pain and anguish.

When you have somebody as fine as Judge Bill Pryor, who I know, from Alabama, the editor and chief of the Tulane Law Review, a man of incredible principle and intelligence and ability, and who always wants to do the right thing, to hear him trashed and demeaned really hurt me.

I am so pleased to hear today that those who have reached the compromise have said that we will give Bill Pryor an up-or-down vote. He had a majority of the Senate for him before, a bipartisan majority. At least two Democrats voted for giving him an up-or-down vote and would have voted for him. I am sure, if he had gotten that up-or-down vote. We would have had that done a long time ago except for having, for the first time in history, a systematic tactic of blocking those nominees from an up-or-down vote through the use of the filibuster on judges.

Priscilla Owen made the highest possible score on the Texas bar exam, got an 84-percent vote in Texas, was endorsed by every newspaper in Texas—a brilliant, successful private practitioner—and they have held her up for over 4 years. The only thing I can see that would justify holding her up was that she is so capable, so talented, that she would have been on a short list for the Supreme Court. She should not have been blocked and denied the right to have an up-or-down vote.

Justice Janice Rogers Brown from California was on the ballot a few years ago with four other judges in California. She got the highest vote in the California ballot, 74 percent of the vote on the California ballot. California is not a rightwing State. She got three-fourths of the vote. And they say she is an extremist? Not fair. It is just not fair to say that about these nominees.

It was said by the Senator from California that they did not get 60 votes, they did not make the cut. When has 60 votes been the cut? The vote, historically, since the founding of this Republic, is a majority vote. Lets look at that. The Constitution says that the Congress shall advise and consent on treaties, provided two-thirds agree, and shall advise and consent on judges and other nominees.

Since the founding of the Republic, we have understood that there was a two-thirds supermajority for ratification and advice and consent on treaties and a majority vote for judges. That is what we have done. That is what we have always done. But there was a conscious decision on behalf of the leadership, unfortunately, of the Democratic Party in the last Congress to systematically filibuster some of the best nominees ever submitted to the Senate. It has been very painful.

And to justify that, they have come up with bases to attack them that really go beyond the pale. I talked to a reporter recently of a major publication, a nationwide publication. People would recognize his name if I mentioned it. I talked about why I thought the nominees had been unfairly attacked, their records distorted and taken out of context, and they really were unfairly misrepresenting their statements, opinions and actions. She said: Well, that's politics, isn't it?

Are we in a Senate now where because somebody is on a different side of the aisle, have we gotten so low that we can just distort somebody's record—a person, a human being who is trying to serve their country—we can do that to them? I don't think that is right. I don't think we should do it. But I do believe we are sliding into that and have been doing so.

For example, it was said recently by Senator BOXER that Judge Gonzales—now Attorney General of the United States—said that Priscilla Owen was an unconscionable activist. He did not say that about her. He did not. He has written a letter to say he did not. He testified under oath at a Judiciary hearing and said he did not. What he said was he reached a certain conclusion about what the legislature meant when they passed a parental notification statute, and based on that, he himself, he said, would have been an unconscionable activist if he voted other than to say that the child did not have to notify her parents. Other members of the court reached a different conclusion about what the legislature meant with the statute, and he did not accuse anyone else of being an unconscionable activist. They have been running ads on television saying that as if it were a fact. It is not. Surely, we should have the decency not to do those kinds of things.

An allegation just made about Janice Rogers Brown was that she criticized the free speech of an employee for criticizing their boss. That is not exactly what the case was. What the facts were—that employee sent out 200,000 e-mails on the boss's computer system, attacking the boss and the company. It was a disgruntled employee. How much do you have to take, clogging up the system with spam? One of the most liberal justices on the California Supreme Court joined with her in that view. That is not an extreme position. She wasn't saying a person could not criticize her boss.

Another comment that was really troubling to me—and I have to say it because Janice Rogers Brown, although very firmly established and highly successful in California, grew up in Alabama, a small town not too far from where I grew up. She left Alabama as a young teenager and went to California and ended up going to UCLA Law School and being awarded the distinguished graduate award there. She is a wonderful person. I have taken an interest in her history. She grew up in discrimination in the South. That is one reason they left. A sharecropper's daughter, she was not raised in an environment where African Americans were treated equally. That is a fact. They say now that she said it is OK to use racial slurs against Latinos. You have heard that comment. She said that Janice Rogers Brown said that.

That is not what she said. That is absolutely not the facts of that case. It is really sad to hear that said, and the facts would demonstrate that that claim against her is a totally unfounded charge.

Also, with regard to her position on the Supreme Court of California, she wrote more majority opinions in the year 2002 than any other judge on the court. When a majority reaches a view about the case, and a majority on the court decides how it should come out, they appoint someone to write the opinion for the majority. She wrote more majority opinions than any other justice on the court. How could she be out of the mainstream of the California court? I felt really compelled to make some comments about her and her record.

Mr. President, I will conclude tonight by once again recalling that when the Republicans had the majority in 1998, right after I came to the Senate in 1997, President Clinton was nominating judges. Two of them were very activist judge nominees for the Ninth Circuit Court of Appeals, the most activist court in the United States—the California, West Coast Court of Appeals. It had been reversed 27 out of 28 times by the U.S. Supreme Court, I believe, the year before that and consistently was the most reversed court in America. Those two nominees, Berzon and Paez, which I strongly opposed—and I think a review of their record would show they have been activist and should not have been confirmed. But Orrin Hatch said in our Republican conference: No, let's don't filibuster judges; that is wrong.

I was a new Member of the Senate, as the Senator from California said she was. He stepped up and said: Don't filibuster. We need to give them and up-or-down vote. The then-majority leader, TRENT LOTT, moved for cloture to give them an up-or-down vote. I voted to give Berzon and Paez an up-or-down vote, and we did that. We invoked cloture, brought them up. The Republican majority brought up the Clinton nominees, and we voted them up. They were both confirmed, and they are both on the bench today.

Our record was one that rejected filibusters. Now, what happened after all of this occurred? It was a huge alteration of the Senate's tradition and, I think, the constitutional intent. I think the Constitution is clear that a majority is what we were looking for. So we were faced with a difficult decision of what to do and how to handle it.

I compliment Senator BILL FRIST, the majority leader of the Senate. He systematically raised this issue with the leadership on the other side. He provided every opportunity to debate these nominees so that nobody could say they didn't have a full opportunity to debate. He researched the history of the Senate, and he presented positions on it and why the filibuster on judicial nominees was against our history. He urged us to reach an accord and compromise. All we heard was no, no, no, you are giving a warm kiss to the far right, you are taking steps that are extreme, you are approving extreme nominees, people who should not be on the bench, and we are not going to compromise and we are not going to talk to you.

After considerable effort and determination and commitment to principle, Senator FRIST moved us into a position to execute the constitutional option, also referred to as the nuclear option. It has been utilized, as he demonstrated, many times by majority leaders in the past. It is not something that should be done lightly, but it is certainly an approved historical technique that has been used in this Senate. As a result of that, and the fact that they were facing a challenge, I think it was at that point we began to have movement on the other side, and they realized this deal was not going to continue as it was and that, under the leadership of Senator FRIST, we were not going to continue this unprecedented, unhistorical action of filibustering judicial nominees.

So it was out of that that we had the agreement that was reached today. With that constitutional option hanging over the heads of a number of people, a serious reconsideration took place. I think a number of Senators on the other side have been uneasy about this filibuster. They have not felt comfortable with it, but it was leadership-led and difficult, apparently, for them to not go along. Although, I have to note that Senator Zell Miller and BEN NELSON consistently opposed it and supported the Republican nominees each and every time as they came forward.

So out of all of this, we have reached an accord tonight. It has led to what appears to be a guarantee that three nominees, at least—Priscilla Owen, Janice Rogers Brown, and William Pryor, who is sitting now as a recess appointee on the Eleventh Circuit—will get an up-or-down vote. I believe all three of them will, and should be, rightfully, confirmed as members of the court of appeals of the United States of America. They will serve with great distinction. I am sorry we don't have that same confidence that Judge Saad or Judge Myers will also get a vote. They may or may not, apparently. But we don't have the same confidence from this agreement that they will. I think they deserve an up-or-down vote also. But today's agreement was a big step forward.

Maybe we can go forward now and set aside some of the things of the past, and we will see Members of the other side adhere to the view of those who signed the agreement that a filibuster should not be executed except under extraordinary circumstances. Certainly, that is contrary to the position that they were taking a few months ago and certainly the position being taken last year.

So progress has been made. I salute particularly the majority leader who I believe, through his leadership and consistency, led to this result today. I am thrilled for Judge Pryor and his family because I know him. I respect him, and I know he will be a great judge. I am excited for his future.

Mr. President, seeing no other Senator here, I yield the floor.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:45 a.m. tomorrow.

Thereupon, the Senate, at 10:13 p.m., adjourned until Tuesday, May 24, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 23, 2005:

DEPARTMENT OF EDUCATION

TOME LUCE, OF TEXAS, TO BE ASSISTANT SECRETARY FOR PLANNING, EVALUATION, AND POLICY DEVELOPMENT, DEPARTMENT OF EDUCATION, VICE BRUNO VICTOR MANNO, RESIGNED.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ARLENE HOLEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2010, VICE ROBERT H. BEATTY, JR., TERM EXPIRED.

DEPARTMENT OF JUSTICE

ROD J. ROSENSTEIN, OF MARYLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MARYLAND FOR THE TERM OF FOUR YEARS, VICE THOMAS M. DIBIAGIO.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ERIC T. OLSON, 5130

EXTENSIONS OF REMARKS

UNDERSTANDING THE LIFE AND TIMES OF MALCOLM X

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. RANGEL. Mr. Speaker, I rise again today to draw the attention of this Chamber to the importance of this day in African-American history. Today marks what would have been the 80th birthday of Malcolm X, one of the more revolutionary and controversial leaders of the Civil Rights Movement.

Malcolm X was born on May 19, 1925. It was a time in American history where the opportunities of African-Americans were limited due to segregation and racial intolerance. He nonetheless was born to parents that were, not only proud of the black race, but instilled that pride in their politics, actions, and, most importantly, their children. He learned at an early age about the challenges that Black men would face just because of the color of their skin and found ways to rise above those obstacles.

Too often, historians, social scientists, and the American public have attempted to pigeonhole Malcolm into a singular character. When they do so, they miss the true man, his life, and his experiences. Malcolm X's personal story is a tale of many challenges, many conflicting events, many goals, and many aspirations. He was not simply the young son of a slain Black nationalist or the young Black student discouraged by his White teachers in the 1930s. Neither would he only be the street thug and hustler of 1940s nor the incarcerated felon of the 1950s. Nor was he just the influential minister of the Nation of Islam or the worldly Muslim of the Organization of Afro-American Unity who loved his White brethren. He was all of these persons and more.

Malcolm Little, Detroit Red, Malcolm X, and El-Hajj Malik El-Shabazz were the same individual, seeking a goal of racial justice for himself, his family, and his people. He walked his journey in life in the same way that many Blacks of his time have and as many do today. The education, radicalism, determination, and sense of justice that Malcolm fought for in his life represented the thoughts of blacks throughout the world then and today. To box him into any one of those personas would be a failure to understand his life and experiences and those of his time.

We should all take time this day and in the days to come to reflect on the challenges and accomplishments of Malcolm X. To this goal, I would like to alert this august Chamber to the perceptive exhibition at the Schomberg Center for Research in Black Culture at the New York Public Library in Harlem. This new exhibit, "Malcolm X: A Search for Truth," opened in commemoration of the birthday of Malcolm X and provides insight into his personal story, development, and journey.

I would like to submit in the RECORD the following New York Times review on the value and insight of this exhibition to understanding Malcolm X. On the occasion of his 80th birthday, it is a fitting tribute that we honor this extraordinary individual and realize the significance of his life journey.

THE PERSONAL EVOLUTION OF A CIVIL RIGHTS GIANT

May 19, 2005—In the 1940's, Malcolm Little a k a Detroit Red (and, later, a k a Malcolm X, a k a El-Hajj Malik El-Shabazz) wanted to impress co-conspirators in petty crime with his ruthlessness and daring. He loaded his pistol with a single bullet, twirled the cylinder, put the muzzle to his head and fired. The gesture demonstrated that he was unafraid of death and therefore not afraid of much else. And when he recounts the story in his 1965 autobiography ("as told to" Alex Haley), the reader is also impressed—though evidence of his brilliance, fury and self-destructiveness is, by then, hardly necessary.

A new exhibition about Malcolm X opens at the Schomburg Center for Research in Black Culture today (which would have been his 80th birthday). And though it doesn't mention this theatrical gesture in its survey of one of the most significant black leaders in American history, Malcolm's public displays of passion and position sometimes seem as courageous, dangerous, and even, yes, foolish, as his game of Russian roulette.

The exhibition, "Malcolm X: A Search for Truth," seeks to map out the major themes of his life in a "developmental journey" reflecting his "driving intellectual quest for truth." It offers evidence that has been unavailable: personal papers, journals, letters, lecture outlines—rescued from being sold at auction in San Francisco and on eBay in 2002.

Those papers, which the Shabazz family had lost control of when monthly fees for a commercial storage facility were left unpaid, were returned to them, and then lent for 75 years to the New York Public Library's Schomburg Center in Harlem. The documents are lightly sampled in this first public showing, but they will eventually offer greater insight into Malcolm X's developmental journey: from child of a Black Nationalist father murdered in his prime, to a star elementary school pupil in a largely white school; to a hustler and criminal; to a convert, while in prison, to Elijah Muhammad's eccentric brand of Islam; to a radical minister who built Muhammad's Nation of Islam into a major national movement, declaring the white race to be the devil incarnate; and finally, to a political leader who, cut off by Muhammad, turned to traditional Islam and was rethinking his views, just as he was assassinated in New York's Audubon Ballroom in 1965 at the age of 39.

His brief life stands as a challenge no matter one's perspective, an overweening presence in the roiling currents of American racial debates. After all, Islam is a force in the American black community partly because of Malcolm X (who, after his 1964 hajj to Mecca, changed his name to El-Hajj Malik El-Shabazz). Advocates of reparations for slavery echo his arguments. Less radically, so do believers in the encouragement of black-run businesses and schools. And by seeking to internationalize race, particularly in the mid-1960's, Malcolm X helped set the stage for the doctrines of Third Worldism, which asserts that Western enslavement of dark-skinned peoples is played out on a world scale.

Even those who dissent from such views can recognize in Malcolm X's fearsome intelligence and self-discipline a kind of a developmental quest, ultimately left incomplete. The exhibition, which also includes material from the Schomburg and other collections, tells that story chronologically, using textual summaries and photographs to create a context for the personal papers.

Those papers include letters from Malcolm to his brother, Philbert Little, describing his first embrace of the Nation of Islam, as well as a disturbing sequence of letters about his final embrace, suggesting how Muhammad tried to rein him in. And above the display cases, the walls are lined with photographs chronicling the life: an elementary-school photograph of Malcolm, glimpses of the bodies of Nation of Islam followers killed by Los Angeles police in 1962, views of halls packed with devoted listeners, and finally, glimpses of the fallen chairs and stark disorder of the Audubon Ballroom after Malcolm X was murdered. An epilogue to the exhibition displays court drawings of the trial of the accused assassins, along with objects found on his body, including a North Vietnamese stamp showing an American helicopter getting shot down.

But, despite the new personal documents, there is something familiar about the exhibition, which does not offer new interpretations and misses an opportunity to delve more deeply into the difficulties in Malcolm's quest. In his autobiography, Malcolm X spoke of the importance of speaking the "raw, naked truth" about the nature of race relations. He also recognized one of the tragic consequences of enslavement: the erasure of the past. The name "X" was provided to initiates as a stand in for a lost original name. Names could also be readily changed because they were little more than expressions of newly formed identities.

In fact, invention became crucial. For Malcolm X, it was a matter of control: mastering one's past, determining one's character and, finally, controlling one's future. Documents describe how members of the Nation of Islam were expelled for any backsliding, including adultery. In one letter, Malcolm almost provides a motto for his kind of charismatic discipline:

"For one to control one's thoughts and feelings means one can actually control one's atmosphere and all who walks into its sphere of influence."

But this also means that the truth can seem less crucial than the kind of identity being constructed, the kind of past being invented. After reading the autobiography, we learn from Alex Haley's epilogue that Malcolm actually confessed that his story of Russian roulette was not what it seemed: He had palmed the bullet. Everybody had been hustled, the readers included. The adoption of Nation of Islam ideology, with its invented history and its evil scientist named Yacub breeding the white race, is another kind of hustle.

Curiously, the exhibition itself doesn't make enough of such distinctions. In a wall display, labeled "Messengers of Hope and Liberation," major figures like W. E. B. Du Bois have no more stature than such figures as Wallace D. Fard. Fard was the greater influence on Malcolm X, since he created the Nation of Islam mythology, but he may not have had any African heritage at all and, as Karl Evanzz argues in his recent book, "The Messenger: The Rise and Fall of Elijah Muhammad," he had even encouraged the practice of human sacrifice.

As if reluctant to be too judgmental, there is also not enough explanation of the quarrel with Elijah Muhammad, though the photographer Gordon Parks quoted Malcolm X saying, just before his death: "I did many things as a Muslim that I'm sorry for now. I was a zombie then—like all Muslims—I was hypnotized, pointed in a certain direction and told to march. Well, I guess a man's entitled to make a fool of himself if he's ready to pay the cost. It cost me 12 years."

That kind of statement is too blunt for this exhibition, which makes suggestions but seems reluctant to draw too many distinctions. But even the differing interpretations of Malcolm's final transformation might have been outlined with more clarity. It is intriguing to read, in one 1964 letter from Malcolm's office to Martin Luther King Jr., an expression of apology for "unkind things" said in the past. And the trial of the accused assassins from the Nation of Islam merits more explanation, particularly because a conspiracy theory of F.B.I. involvement has long simmered, even as Muhammad was known to have encouraged threats against Malcolm X and had already sent one disciple to kill him. The quest for truth, surely, goes on, but part of it means facing squarely the extent of certain kinds of hustle.

"Malcolm X: A Search for Truth" is at the Schomburg Center for Research in Black Culture, 515 Lenox Avenue, at 135th Street, Harlem, (212) 491-2200, through Dec. 31.

24TH ANNIVERSARY OF THE INDIAN MEDICAL ASSOCIATION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to announce that the Indian Medical Association will be celebrating their 24th year of establishment by hosting a gala dinner and banquet on Friday, June 3, 2005 at the Halls of St. George, in Schereville, Indiana.

The Indian Medical Association was created 24 years ago to promote goodwill and bonding friendships among local physicians through an exchange of medical knowledge and other healthcare related issues. They are dedicated to providing affordable and quality health care. The Indian Medical Association is also actively involved in patient care, health care delivery, charitable work, hosting educational seminars for physicians, and health fairs for the general public in the northwest Indiana region.

In 2004, the Indian Medical Association offered scholarships to medical, nursing, and high school students. In January 2005, they raised more than $100,000 for the Tsunami Relief Fund. The Indian Medical Association is a great asset to northwest Indiana. This organization has committed itself to providing quality service to the residents of Indiana's First Congressional District in the medical community and has demonstrated exemplary service in its cultural, scholastic, and charitable endeavors.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending the Indian Medical Association for their outstanding contributions. Their commitment to improving the quality of life for the people of northwest Indiana and throughout the world is truly inspirational and should be recognized and commended.

RECOGNIZING REVEREND DOCTOR EARL ABEL

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. CLEAVER. Mr. Speaker, I rise today to pay tribute to Reverend Doctor Earl Abel, a remarkable and compassionate leader whose legacy has touched so many Kansas Citians. After an extended illness, Reverend Abel passed on May 17, 2005. His is a deep loss felt by his family, his church congregation, the greater Kansas City community, the State of Missouri, and most assuredly, our Nation. Reverend Abel will long be remembered for his social activism and advocacy on behalf of those individuals suffering from poverty, homelessness, and injustice. He fought for the common person and his influence was far reaching, both inside and outside the African American community.

His calling brought him to organize and pastor the Palestine Missionary Baptist Church of Jesus Christ in January, 1959. His initial congregation consisted of 11 members. His present church membership is in excess of 2,000 members.

In this era where the term "faith based initiative" is a buzzword on Capitol Hill, Reverend Abel was one who took this phrase to heart, and applied it in the Kansas City community long before it was a politically popular phrase. It has been said that economic development is the last frontier of the civil rights movement. Reverend Abel was quoted in the Kansas City Star, our local newspaper, as saying, "The black churches put ourselves in this role, because we felt the community needed development, and there was nobody to develop it. We're a church, and part of our mission is to try to provide what the community needs." In providing the community's needs, he championed the building of Palestine Camp, a $5 million youth summer camp. He also built two housing complexes which house 118 senior citizens called Palestine Gardens, and a $2.5 million activity center.

Rev. Abel attended the University of Kansas and received his doctorate of divinity from Western Baptist Bible College. He was appointed by Governor Mel Carnahan to the Appellate Judicial Commission at a time when there were few minority or women representatives amongst the 39 judges on the Missouri Supreme Court and the Court of Appeals. There are now nine female judges and five African American judges on those benches, including the Chief Justice of the Missouri Supreme Court, Justice Ronnie L. White.

In 2002, he was vice chairman of a successful public safety sales tax campaign, which provided for new and renovated police facilities, replacement of aging ambulances, new tornado sirens, and other public safety capital improvements. In May 2003, Reverend Abel was appointed to the advisory board for U.S. Senator CHRISTOPHER BOND's "Kansas City Engine for Economic Development Fund." He most recently served as chaplain for the Kansas City, Missouri, Police Department and has served as past president of the Baptist Ministers Union of Kansas City, the Kansas City Council on Crime Prevention, and was twice appointed to the Kansas City Human Relations Commission.

He served on boards of the Heart of America United Way, the Local Investment Commission (LINC), Douglass National Bank, and was an Early Childhood Commission member for the Missouri Department of Social Services.

Mr. Speaker, please join me in expressing our heartfelt sympathy to his wife, Hazel Lair Abel, his children, Carol and Rick, his five grandchildren, and his many relatives and friends. I urge my colleagues to please join me in conveying our gratitude to his family for sharing this great man with us, and to accept our condolences for their tremendous loss. He was an inspiration to us all.

TRIBUTE TO THE HONORABLE MARGARET SMITH, RETIRED SENATOR OF THE GENERAL ASSEMBLY OF THE STATE OF ILLINOIS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. RUSH. Mr. Speaker, I rise today to recognize and honor the life of the Honorable Margaret Smith who made her heavenly transition on Monday, May 16, 2005. Senator Smith served with distinction in the Illinois General Assembly for 22 years until her retirement in December 2002.

Prior to her 20-year tenure in the Illinois State Senate, Senator Smith served one term as a member of the Illinois House of Representatives. Senator Smith served as the chairwoman of the influential Senate Public Health and Welfare Committee, where she had the distinction of being the first female State Senator in the United States to serve as the chairperson of the same committee chaired previously by her spouse, the late Senator Fred J. Smith.

Senator Smith has been recognized for her sponsorship and support of legislation on health care and women's issues, including requiring Illinois to cover the cost of mammograms for poor women, requiring insurance companies to cover mammograms, protecting senior citizens in nursing homes and assisted living facilities, improving the child immunization system in Illinois; and accordingly received the coveted "Legislator of the Year Award" from every major public health organization in Illinois, including the Illinois Nurses' Association, the Illinois Health Care Association, and the Illinois Hospital and Health Systems Association.

A recognized national leader, Senator Smith served as a member of the National Conference of Black State Legislators, the Midwestern Legislative Conference, and the National Conference of State Legislators, NCSL, serving as the chairperson of the NCSL's Health and Human Services Committee.

Mr. Speaker, I want to encourage all those whose lives were touched by this gentle stateswoman, the Honorable Margaret Smith, to always remember to look to the hills from which comes all of their help. Senator Smith was an anchor within the Illinois governmental and political landscape. I am truly blessed to have known, worked with and supported her. I am honored to pay tribute to this outstanding public servant and am privileged to enter these words into the CONGRESSIONAL RECORD of the United States House of Representatives.

HONORING CARL BROWN

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mrs. BLACKBURN. Mr. Speaker, it's not every day that I get the opportunity to recognize someone who has demonstrated tremendous dedication to public service. But today I have just such an opportunity.

I ask my colleagues to join me in thanking Carl Brown, Tennessee's Department of Human Services Assistant Commissioner, for being one of those people who makes government work better.

Carl has served our State for more than four decades and he's done a magnificent job. The thousands of disabled Tennesseans he has helped over the years know exactly what I mean when I say that Carl has lived to serve others. He has always known that there are few higher callings in life than helping those in need. And we are grateful for him.

While I'm thankful for Carl and his service to our State, we will miss his work at the Department of Human Services when he retires this May 2005.

All of us in Tennessee wish Carl and his wife, Mary Frances, a wonderful retirement with their children and grandchildren.

INTRODUCTION OF LANDLESS ISSUE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. YOUNG of Alaska. Mr. Speaker, today, I am introducing legislation which will correct an injustice to five Southeast Alaska Native villages.

For over 25 years, the southeast Alaska villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell have been denied fundamental rights and compensation afforded other Alaska Native villages under the Alaska Native Claims Settlement Act (ANCSA). ANCSA fails to recognize these five villages for the purposes of establishing urban or village corporations under the act. Consequently, the Alaska Natives from these villages have been denied the rights afforded other Alaska Natives to proper settlement under ANCSA of historical land claims.

A significant number of Natives enrolled at each of the villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell during the original ANCSA process, but they were denied the opportunity to establish village or urban corporations in 1971. Consequently, although Natives enrolled to these villages during the ANCSA process and did become at-large shareholders in the regional corporation for southeast Alaska, Natives from these five communities were denied rights to land and local resources that Natives enrolled to other village and urban corporations in southeast Alaska received under ANCSA.

ANCSA prohibits the Native villages in southeast Alaska from obtaining an administrative and/or judicial solution. Section 11 of ANCSA establishes a general process for determining Native village eligibility for villages outside southeast Alaska. A completely different process was set forth under Section 16 of ANCSA for determining the eligibility of Native villages in southeast Alaska. Unlike Section 11, there is no provision in Section 16 providing an appeal right or other procedures for qualification of southeast Alaska Native villages not included in the original list.

Appeals to the Alaska Native Claims Appeal Board of the U.S. Department of the Interior in 1974 and 1977, on behalf of Natives enrolled to the villages of Haines, Tenakee and Ketchikan were denied based on a narrow, technical reading, of ANCSA Section 16. The Appeals Board ruled that Section 16 prevents the Board from even considering whether "unlisted" southeast villages could be determined eligible for benefits, thus precluding any administrative or judicial redress.

In 1994, a congressionally directed study determined the omission of these southeast Alaska Native villages from ANCSA to be erroneous. In 1993, the Federal Government contracted with the Institute of Social and Economic Research (ISER) at the University of Alaska, Anchorage, to prepare a report on the status of these villages. ISER presented its report to Congress in February 1994, concluding that the eligibility requirements for villages eligible to form Native corporations were met by the Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. The report notes that, with the exception of Tenakee, the communities appeared on early versions of Native village lists, and their subsequent omission was not clearly explained in any provision of ANCSA nor in the accompanying legislative history. In short, the ISER report found no distinction between the five communities and other southeast Alaska communities listed in Section 16, and thus no justification for omission of these five southeast Native communities from ANCSA.

A solution to the myriad of issues that have prevented a resolution to this situation has presented itself in past congressional sessions. These past legislative attempts have failed for a variety of reasons outside the control of the southeast Alaska Native villages. My legislation addresses these issues and seeks to build a solid, bipartisan coalition of support among key Members of Congress, the administration, and other outside interest groups. The legislation presents a compromise that has been favorably received by the affected villages, Sealaska Corporation, the State and others. The elements of the compromise include the following:

The Native residents enrolled to the five Native villages will be allowed to organize five urban corporations, one for each unrecognized community.

The newly formed corporations would be provided the following compensation package:

The Congress would recognize the five communities as Alaska Native Villages, pursuant to the Alaska Native Claims Settlement Act.

The Secretary of the Interior would offer, and the Urban Corporation for each community could accept, the surface estate to approximately 23,000 acres of forest lands.

Sealaska Corporation, the Native regional corporation for southeast Alaska, would receive title to the subsurface estate to the designated lands.

The Urban Corporations for each community would receive a lump sum payment to be used as start-up funds for the newly established corporation.

The Secretary of the Interior would determine such other appropriate compensation to redress the inequities faced by unrecognized communities for the past 30 plus years.

I thank my colleagues and urge your support for this important legislation for five southeast Alaska communities.

TRIBUTE TO MS. CYNTHIA DUNN KEARLY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. MORAN of Virginia. Mr. Speaker, I rise today to honor a teacher who has made an impact on our community through selfless dedication and commitment to her students. Ms. Cynthia Dunn Kearly is a special education teacher at Douglas MacArthur Elementary School in Alexandria, Virginia. But to her students and their families, she is much more than that. An educator with gifts of creativity and passion, Ms. Kearly serves as an inspiration for what great instructors can offer.

At Douglas MacArthur Elementary School, Ms. Kearly is regularly asked to take students with special needs and foster in them confidence and success. Her work with students has not only earned her the respect of parents and her colleagues, but has also won her numerous accolades locally and nationwide. As an educator in the Alexandria City Public

School system, Ms. Kearly was a recipient of the Harry Burke Award for Outstanding Performance in Special Education. This honor has been bestowed on many great teachers and Ms. Kearly's selection follows perfectly in this tradition.

Additionally, Ms. Kearly's exemplary work is being recognized nationally as well. She is one of three teachers nationwide to be awarded the 2005 Commonwealth Academy Recognition for Educators (CARE) Award. The CARE award recognizes outstanding educators who have made significant contributions to leaving no child behind in their local communities. The focus of the award is to highlight teachers who work with students that have organizational, attention and learning challenges. To her coworkers and supervisors, there is little doubt that Ms. Kearly is a worthy recipient. The Superintendent of Schools for the city of Alexandria has said about her that "She truly exemplifies the kind of professional who should be recognized and honored for her great work with special needs students."

Mr. Speaker, I am proud to have Ms. Kearly teach within Virginia's Eighth Congressional District. She is transforming lives with her selfless dedication to serving young people in our community. I often remind friends and neighbors that good teachers are among our greatest assets in northern Virginia. For this reason, we must take opportunities to encourage our best and brightest to commit themselves to this service, but also to thank the men and women already giving so much of themselves.

TRIBUTE TO THE LATE MARK ELMORE

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. MOORE of Kansas. Mr. Speaker, I rise today to pay tribute to Mark Elmore of Olathe, who worked and guided Johnson County Developmental Supports, JCDS, for 27 years. Sadly, Mark Elmore died Sunday, May 15, at the age 61. I knew Mark Elmore. He was a good and decent man.

Based in Lenexa, JCDS is a comprehensive community service agency that supports Johnson County people of all ages with mental retardation and other developmental disabilities, along with their families. It provides direct services to more than 500 individuals daily. Elmore joined the agency as executive director in 1978. His leadership moved the agency from a period in the late 1970s, when staff cutbacks were a reality and financial stability was threatened, to the steady growth and fiscal solvency JCDS enjoys today.

Annabeth Surbaugh, chairman of the Johnson County Board of Commissioners, led the Johnson County community in mourning the death of this dedicated and well respected leader. As she stated publicly on learning of his death, Mark Elmore's commitment to JCDS was total. He took tremendous pride in the accomplishments of JCDS, leading the highly recognized agency through nine consecutive 3-year national accreditation awards. His self-imposed job description included doing whatever was needed to provide the best services and programs to consumers with special needs to enhance their overall quality of life.

Chairman Surbaugh noted that in the early years of developing JCDS, Elmore was known to have taken clients into his own home, to visit them in their homes and at work, and to even shovel snow off sidewalks outside the facility to ensure the safe arrival of both staff and consumers. "Johnson County has lost a great man with a great heart and a great friend. Mark Elmore was a man of high principles. His encouragement, dedication, and compassion for the special-needs community set an example for all of us," Surbaugh said. "He was the heart and soul of JCDS."

Mark Elmore also was well known throughout the State of Kansas, becoming a driving force in creation of developmental disability programs and legislation in the state. Elmore was a key player in the development and implementation of the 1995 Developmental Disability Reform Act, which emphasized opportunities for integration and inclusion in community life. Changes ushered in by the act have resulted in a continued expansion of services and supports at the local level, and the advance of what has now become a coordinated network of individual and agency service providers, which in Johnson County now serves nearly 1,000 individuals and families.

In a statement, Gayle Richardson, chairperson of the JCDS governing board, spoke on behalf of the agency in reacting to Elmore's death. "If you wish to learn how to leave this world a better place, I commend Mark Elmore to you. He was not only a skilled professional, but a man beloved by his family, staff, and the folks he served at JCDS. He gave his heart and his mind to his job, and his legacy to us is a flourishing agency, whose mission is to enhance the lives of people with disabilities—not a glamour job, but a most satisfying one," Richardson said. "He made us proud and eager to fulfill this mission. One of his last gifts was to work with the Board to ensure the health of JCDS beyond his term, which came all too soon."

County Manager Michael B. Press agreed. "His life truly exemplified the spirit of public service: to help the needy, to succor the distressed, and to serve the community without regard to the necessary personal sacrifices required," he said. "Our hearts and prayers are with his family at this time. He will be missed."

Mark Elmore is survived by his wife, Jeanette; son and daughter-in-law, Brenton and Kirsten Elmore; daughter and son-in-law, Tracie and Raymond Kaiser; and two grandsons. The couple would have celebrated their 40th anniversary next month.

Mr. Speaker, Johnson County has suffered a tremendous loss with the untimely death of Mark Elmore. I join with all Johnson Countians in mourning his loss, and place in the CONGRESSIONAL RECORD two articles from the local news media reporting on Mark Elmore's life and legacy:

[From the Kansas City Star, May 18, 2005]

ADVOCATE FOR THE DISABLED DEAD AT 61

Mark Elmore, the Olathe man whose dedication and passion for those with developmental disabilities spanned more than three decades, died Sunday of a brain tumor. He was 61.

As executive director of Johnson County Developmental Supports, Elmore helped create landmark legislation in Kansas. The new laws allowed those with mental and physical challenges to live in their own homes and learn life skills vital to landing a job, making friends and finding meaning in life.

"He gave his heart and mind to this job," said Gayle Richardson, chairwoman of the support group's board of directors. "His legacy to us is a flourishing agency."

"Flourishing" was not the adjective Elmore would have chosen 27 years ago.

In 1978, he was hired to turn around the agency facing deep federal cuts that threatened to close its doors.

He streamlined the agency and improved services by listening to parents and their children about their desire to live at home, away from sterile and impersonal institutions. He found money to hire expert workers and expand services.

When Elmore started, the agency served 66 persons. Today, Johnson County Developmental Supports, also known as JCDS, serves 530 clients daily and oversees aid for more than 1,300 residents. Its annual budget is $20 million.

"Johnson County has lost a great friend with a great heart," said Annabeth Surbaugh, chairwoman of the Johnson County Commission. "Mark Elmore was the heart and soul of JCDS."

In the early years, Elmore was known to take clients in to his own home for days and weeks at a time, Surbaugh said.

Those who knew him best describe a tireless, 36-year cheerleader and fund-raiser for the developmentally disabled who organized lobbying efforts in Topeka to create new laws and disability programs.

In 1996, he was the first to receive the Distinguished Leadership Award from InterHab, an advocacy group he helped found in 1969.

"His life truly exemplified the spirit of public service: to help the needy . . . and to support everything fine and noble," said Mike Press, the county manager.

Outside of work, Elmore enjoyed home remodeling, spending time in the Colorado Rocky Mountains and restoring a Model A, Thunderbird and a 1965 Mustang. He had planned to retire later this year.

Last week he underwent a biopsy of a spot on his brain. Surgery revealed a tumor more extensive than originally thought. He lapsed into a coma and did not regain consciousness.

He is survived by his wife, Jeanette; son and daughter-in-law, Brenton and Kirsten Elmore; daughter and son-in-law, Tracie and Raymond Kaiser; and two grandsons. The couple would have celebrated their 40th anniversary next month.

Services will be at noon Saturday at the College Church of the Nazarene, 2020 E. Sheridan St., Olathe. The family suggests memorial contributions to Friends of Johnson County Developmental Supports, 10501 Lackman Road, Lenexa, KS 66219.

Dennis Tucker, associate executive director of the support group, will serve as interim director until a new leader is named.

[From the Olathe News, May 18, 2005]

LONGTIME COUNTY EXECUTIVE DIRECTOR DIES

(By Dan J. Smith)

The man who for nearly three decades led a county agency that provides care for people with developmental disabilities has died.

Olathe resident Mark Elmore helped grow Johnson County Developmental Supports and had served as the organization's executive director since 1978. Elmore, who was 61, died Sunday at Olathe Medical Center.

"Mark was one of the special people that come around once in a lifetime," said Trish Moore, Elmore's friend and director of human services and aging for the county. "He believed in what he was doing, and he created programs that will last and help people forever. He left a great legacy."

Under Elmore's leadership, JCDS earned three-year national accreditations nine consecutive times and provided services each day to more than 500 people with mental retardation and other disabilities.

"He had incredible passion for what he was doing," Moore said. "He had wonderful ethics, and he was a great advocate. He was the person that you would want as a colleague, as a neighbor and as a friend."

Elmore opened his home to several JCDS clients during the agency's infancy, said Annabeth Surbaugh, chair of the Johnson County Commission.

"I've been here as an elected person for 13 years, and to myself and many people in this county, Mark was Developmental Supports," Surbaugh said. "He had been there so long, and he was so committed to it that it wasn't a job. It was his mission in life."

"If you wish to learn how to leave this world a better place, I commend Mark Elmore to you," a written statement read from Gayle Richardson, chair of the commission-appointed JCDS board, which oversees the agency. "He was not only a skilled professional, but a man beloved by his family, staff and the folks he served at JCDS.

"He made us proud and eager to fulfill his mission," Richardson wrote. "One of his last gifts was to work with the board to ensure the health of JCDS beyond his term, which came all too soon."

Elmore and his wife, Jeanette, would have celebrated their 40th wedding anniversary next month. Jeanette, two children and two grandchildren survive.

A noon funeral service is scheduled for Saturday at the College Church of the Nazarene, 2020 E. Sheridan St. Penwell-Gabel Funeral Home is handling funeral arrangements.

The family suggests memorial contributions to the Friends of Johnson County Developmental Supports, 10501 Lackman Road.

Dennis Tucker, associate executive director of JCDS, will assume interim executive director duties until a successor is named.

IN RECOGNITION OF NATIONAL TRANSPORTATION WEEK

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. CUMMINGS. Mr. Speaker, as a member of the Transportation and Infrastructure Committee, I rise today, during National Transportation Week, to recognize our remarkable transportation accomplishments and to draw attention to the critical challenges that we now face.

During the half-century that has passed between the first permanent Transportation Week in 1962 and this week in 2005, we have created a world-class transportation system that moved our nation forward to the 21st century.

We built an Interstate System that now extends more than 46,000 miles.

We built major new subway systems in cities like San Francisco; Washington, DC; and Atlanta.

We created a cabinet-level Department of Transportation.

We created Amtrak to preserve intercity passenger rail service.

And we maintained and expanded a Federal transportation financing system based largely on the collection of gas taxes.

Unfortunately, that system of financing is now breaking down and our forward progress is threatened.

This week, as we celebrate the 43rd annual National Transportation Week, we are 2 years into the effort to reauthorize Federal transportation spending.

Unfortunately, all the proposals currently under consideration fall short of funding our extensive transportation needs.

The transportation reauthorization legislation adopted by the House would provide $284.9 billion, while the bill passed this week by the Senate would provided $295 billion. Both of these funding levels are imperfect compromises.

Chairman YOUNG and Ranking Member OBERSTAR originally introduced the House reauthorization legislation at a funding level of $375 billion.

The Bush administration has, however, demanded that spending be limited to $284.9 billion—or a figure that is approximately $90 billion below the level of investment that even the Department of Transportation says is needed.

What is the real difference between $375 billion and $285 billion?

It is the difference between merely maintaining a transportation system in which drivers experience nearly 4 billion hours of delay and constructing the new roads and transit facilities necessary to reduce congestion and to save some of the more than 40,000 lives lost on our highways each year.

It is the difference between the 13.5 million jobs that would be supported by $285 billion and the nearly 18 million jobs that would be supported by $375 billion.

To fill the gap between the funding the Federal Government is willing to provide and the funding that is needed, we have created so-called "innovative" financing mechanisms, such as garvee bonds.

These mechanisms enable states to issue increasing amounts of debt to try to meet the transportation needs that Federal funding is no longer meeting.

As the title of an insightful report issued this year by the Brookings Institution describes it, these are simply short-sighted and unsustainable means of building "Today's Roads with Tomorrow's Dollars."

The Federal Highway Administration reports that at the end of 2003, States had more than $77 billion in total highway related debt outstanding.

As with our growing national debt, States' reliance on debt only shifts the burden of paying for our present transportation infrastructure needs on to future generations.

We are going to confront a time in the not-too-distant future when States will have a back-log of construction projects that cannot be built because States are still paying for the roads they built 15 years ago.

There is an old saying: even if you are on the right track, you'll get run over if you just sit there. The transportation reauthorization bill has now been passed by both the House and the Senate. Our immediate task must be to provide a measure of relief to our States by passing a conference report as soon as possible.

As we approach the end of our sixth extension to TEA–21, we must remember that the more we delay, the less we are able to relieve the burden of debt States are incurring to fund transportation.

REMARKS FOR H.R. 540

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. TIAHRT. Mr. Speaker, I rise today in favor of H.R. 540. This bill would authorize the Equus Beds Aquifer recharge project in my district that will help meet the water needs of nearly 500,000 people in Kansas. This is an environmentally beneficial plan that will help ensure the city of Wichita, surrounding smaller communities, agriculture irrigators and local industry will have a clean and plentiful water supply for decades to come.

I want to thank Chairman POMBO for his leadership in working with me on this important project. Seeking Federal authorization for the recharge of the Equus Beds Aquifer is something I have worked on for many years, and I am grateful to the chairman and his staff for including language contained in my original bill into H.R. 540.

I also want to thank city of Wichita officials for their efforts in helping this project move forward. Their vision to ensure our community's water needs are met both now and in the future is extremely important. Leadership from Mayor Carlos Mayans along with City Council members Carl Brewer, Sue Schlapp, Jim Skelton, Paul Gray, Bob Martz and Sharon Fearey will continue to be needed for this project to be a success.

Wichita Water and Sewer Director David Warren and Water Supply Projects Administrator Gerald Blain have been especially helpful to me and my staff over the years in navigating the details of the recharge project. I appreciate their dedication to public service.

Nearly half a million people depend on the Equus Beds Aquifer and Cheney Reservoir to meet their water needs. Without water from the Equus Beds, Wichita and surrounding communities would face a serious water shortage.

The Equus Beds Aquifer is the body of water beneath portions of Sedgwick, Harvey, McPherson and Reno counties within the boundaries of Groundwater Management District Number 2. The aquifer lies under 900,000 acres, and annual withdrawals from the aquifer average 157,000 acre feet. Approximately 55 percent of the water is used for irrigation; 39 percent is used for municipal needs in Wichita, Halstead, Newton, Hutchinson, McPherson and Valley Center; and six percent is used by local industry.

The Equus Beds Aquifer recharge project involves taking floodwater from the Little Arkansas River and depositing that excess water into the aquifer through water supply wells after going through a filtration system.

Since the 1950's, water levels in the aquifer have dropped 40 feet because water rights and pumpage exceed the aquifer's natural recharge rate of six inches per year. Due to this over usage, saltwater from the southwest and oilfield brine from the northwest are threatening the aquifer. When the aquifer levels were higher, the elevated levels created a natural barrier that kept the contamination at bay. Now that the water levels have dropped, the natural barrier is no longer there. If the aquifer is not replenished, the maximum chloride levels will eventually exceed what is permitted for both agricultural and municipal usage.

This aquifer recharge project is a win-win project for all the communities who depend on its water. The city of Wichita and surrounding municipalities benefit because water can be safely stored to meet short-term and long-term water supply needs.

Agriculture irrigators also benefit because the risk of saltwater contamination is reduced. Without the natural barrier of an elevated water level in the aquifer, the water would eventually become contaminated to the point where it would be unsuitable for use even on crops. Irrigators should also see reduced costs associated with pumping since the water level will rise.

The Little Arkansas River and its ecosystem also benefit. During times of drought, a natural discharge from the Equus Beds Aquifer into the river will occur creating a more stable base flow.

Under the language contained in H.R. 540, the city of Wichita will be required to maintain and operate the recharge project, which ensures the Federal Government will not bear costs associated with its ongoing operation costs.

Recharging the Equus Beds is the most cost-efficient means to provide water for the greater Wichita area. And it is the best option available to keep salt and oilfield brine out of this critical water supply without greatly restricting water usage.

In 2004, Gerald Bain with the city of Wichita testified before the House Committee on Resources on the need for federal authorization of the recharge project. I am including his testimony with my remarks because I think it tells of the water needs faced by our community and the many benefits that will come with a recharge of the Equus Beds.

I urge my colleagues to join me today in voting for H.R. 540. This is a good bill that will greatly benefit the people in south-central Kansas.

The 2004 testimony by Gerald T. Blain, P.E.:

The City of Wichita, Kansas has had water supply wells in the Equus Beds Aquifer for over 60 years, and the aquifer has been a major source of the City's drinking water. However, because of excess pumping from the aquifer by municipal and agricultural users, water levels in the aquifer had declined up to 40 feet from their pre-development levels by 1992. Because of this over development, the Equus Beds aquifer is threatened by saltwater contamination from two sources. One source is natural saltwater from the Arkansas River located along the southwest border of the City's wellfield. The other source is oilfield brine contamination left over from the development of oil wells in the Burrton area in the 1930's, located northwest of the wellfield.

Groundwater modeling by the Bureau of Reclamation indicates that the chloride levels, which are an indicator of salinity, could exceed 300 mg/l in much of the wellfield by the year 2050. This would be above the 250 mg/l standard for drinking water. In order to protect the water quality of the area, steps must be taken to retard the movement of the salt-water plumes.

In 1993 the City of Wichita began implementation of a unique Integrated Local Water Supply Plan that is intended to meet the City's water supply needs through the year 2050. By the year 2050 it is projected that the City's water supply needs will almost double what they are now. The City's Plan uses a variety of local water resources to meet water needs, rather than requiring the City to transfer water from a remote reservoir in Northeast Kansas. A key component of the Plan includes an Aquifer Storage and Recovery (ASR) project to recharge the City's existing wellfield in the Equus Beds Aquifer.

The excess pumping from the aquifer, and the resulting water level decline, has created a storage volume of almost 65 billion gallons that can be used to store water. The basic concept of the City's ASR project is to capture water from the Little Arkansas River and use it to recharge the aquifer. Computer modeling, and past experience at other sites throughout the country, has found that by recharging the aquifer a hydraulic barrier can be created that would retard the movement of the salt-water plumes. In addition, the 65 billion gallons that could be stored in the dewatered portion of the aquifer could be used as a component of the City's water supply.

Unfortunately, all of the "conventional" water rights in the Little Arkansas River have already been allocated. However, excess flows in the river, which occur only after it rains or snows, have not been allocated. Computer modeling has predicted that there are enough days of excess flow that enough water can be captured to allow the aquifer to be recharged and become a valuable component of the City's water supply. The modeling predicts that if the City builds an ASR system with the capacity to capture up to 100 million gallons per day, that it would still capture only a fraction of the water flowing down the river, and it would not have a negative impact on the river.

The City intends to capture water from the river using two techniques, either by using "bank storage" wells or by pumping directly from the river. "Bank Storage" wells take advantage of a unique geological condition that occurs along the river. As the river rises above the base flow, water is temporarily stored in the river's banks, but as the flow in the river declines, the water in the banks discharges back into the river. The City intends to drill wells adjacent to the river that will capture "bank storage" water and induce river water to replace the water pumped.

The City recognized that some of the concepts included in the proposed ASR project have not been done before, so to prove the feasibility of those concepts the City completed a 5-year Demonstration Project. During the Demonstration Project, which was done in partnership with the Bureau of Reclamation and the US Geological Survey, the City constructed a full-scale well adjacent to the Little Arkansas River, a river intake and a water treatment plant, and a variety of recharge facilities. To prove that the recharge project was safe, over 4,000 water samples were collected and analyzed for up to 400 different potential contaminates. During the Demonstration Project over one billion gallons of water were successfully recharged into the aquifer, and the City was able to prove that excess flows in the Little Arkansas River could be captured and recharged, and that it can be done without harming the aquifer.

The full-scale ASR project, which will be constructed in phases, will capture and recharge up to 100 million gallons per day, and will cost approximately $137 million. All of the water that will be recharged into the aquifer must meet drinking water standards, and will be monitored and regulated by the Kansas Department of Health and Environment and the U.S. Environmental Protection Agency.

Normally, when surface water is developed for a water resource, it requires the construction of a reservoir. A reservoir that would provide the same storage as this ASR project would probably consume around 25,000 to 30,000 acres of prime farmland. It is projected that the ASR project will use less than 400 acres of farmland.

The City of Wichita and others believe that the ASR project is a Win-Win project, because it appears that all of the stakeholders receive benefits from the projects. As a result of this project:

The City develops a water supply source that will allow it to meet its water supply needs through the year 2050.

The water quality of the wellfield is protected from salt-water contamination.

There is no requirement to curtail irrigation to restore water levels and protect water quality.

Irrigators will have lower pumping costs because water levels will be higher.

Low flows in the Little Arkansas River will improve, because additional water will "leak" from the Equus Beds back into the river.

The project uses less land than any other surface water development project.

The City has already implemented some components of the Integrated Local Water Supply Plan, including implementation of a water rate structure designed to reduce water consumption, and a greater emphasis on using water from Cheney Reservoir, and a corresponding reduction in water pumped from the Equus Beds. That alteration in water use has already allowed water levels in the Equus Beds to rise over 20 feet in some areas.

Phase I of the ASR Project, which is currently being designed, will have the capacity to capture and recharge up to 10 million gallons per day of water from the Little Arkansas River by using Bank Storage wells. The location of the first recharge facilities is intended to begin the formation of a hydraulic barrier to the movement of salt-water plume from the Burrton area. It will take almost 10 years to construct the entire full-scale project.

The City believes that this project represents a new approach to developing water resources, while at the same time protecting an existing water resource from contamination. The City of Wichita therefore urges support for federal assistance for this unique project.

IN HONOR AND RECOGNITION OF CONGRESSWOMAN MARCY KAPTUR OF OHIO'S NINTH CONGRESSIONAL DISTRICT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in tribute of Congresswoman MARCY KAPTUR, for her many lifetime achievements as a Representative from Ohio's Ninth Congressional District.

KAPTUR was first elected to the United States House of Representatives in 1982. She struggled forcefully to gain a seat on the prestigious Appropriations Committee. As the senior Democratic woman on the Appropriations Committee she has always been a fighter for Ohio's farmers—protecting one of the State's most important resources.

She is also the first Democratic woman to serve on the House Defense Appropriations Committee. Congresswoman KAPTUR has had the opportunity to work on many committees while in Congress, including Budget; Banking Finance and Urban Affairs; and Veterans' Affairs. Her array of experience on many different committees and subcommittees has allowed her to pursue her keen interests in economic growth, seniors issues, the environment and the economy.

KAPTUR's accomplishments include introducing legislation for Washington, DC's World War II Memorial. Although it was a 17-year process, her hard work finally paid off in the spring of 2004 with the opening of the new memorial. The World War II Memorial honors the more than 400,000 people who died in the war as well as the 16 million people who served in the Armed Forces. KAPTUR's dedication to seeing this memorial built shows her commitment to all veterans. Because of her work on the memorial, the Veterans of Foreign Wars selected her as the first woman in history to receive the organization's Americanism Award.

Mr. Speaker, I am truly honored to serve in the House of Representatives with Congresswoman KAPTUR. She is an inspiration to the people of northwest Ohio who are lucky to have her as their Representative for more than 20 years. Please join with me today to honor the many achievements of my friend and colleague Congresswoman MARCY KAPTUR—the longest serving Democratic woman currently in Congress—a woman with a dedicated mission to her constituents.

RECOGNIZING LINDA CLARK AS "ELEMENTARY TEACHER OF THE YEAR"

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize the service and commitment of Linda Clark. Ms. Clark, Denton School District's "Elementary Teacher of the Year," has dedicated 26 years to educating and enlightening elementary school students, helping them to be successful not only in the classroom but also in the community.

Ms. Linda Clark was one of 22 teachers in the district nominated for "Teacher of the Year." She helped establish the prestigious Writing Happens program, a curriculum which educates students in the basic structures of different writing structure and techniques. Additionally, Ms. Clark enrolled her students in a program that allows them to talk to the astronauts on the International Space Station. With such innovative programs, Ms. Clark has allowed her students to establish mentorship relationships with role models and has extended the classroom experience beyond its normal boundaries. Linda Clark's distinctive teaching style allows her students to experience a unique, hands-on approach in the classroom.

It is with great honor that I stand here today to recognize a woman who has inspired and motivated so many of our youth. The contribution of Linda Clark and her unique teaching style should serve as inspiration to others in her field and those who wish to make a positive difference in the lives of young people.

IN HONOR OF THE CENTRAL OHIO SINGERS ASSOCIATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Central Ohio Singers' 36th Song Festival, to be held this year at the World View Community Church, and later at the German Central Foundation in Olmsted Township, Ohio.

Since 1803, when Ohio was officially instated into the union, groups of German singers have journeyed throughout the State, offering melodies that connect the new world with the old, and preserving culture and history of their German homeland along the way.

Organizations such as the World View Community Church and the Donauschwaben German American Cultural Center serve a vital role in promoting and preserving German traditions for each new American generation. Americans of German heritage have been, and continue to be, a vital component of the diverse cultural fabric that adorns the entire State of Ohio. Places like the German American Cultural Center are havens of memories and tangible bridges extending to every corner of the world, and are also places of real support and services for newly settled immigrants.

Mr. Speaker and Colleagues, please join me in honor and tribute of every member of the Central Ohio Singers Association, past and present. These talented and dedicated singers have culled a legacy of cultural and historical preservation through melody and song, warmly reflecting their German heritage. This music of the heart adds color and depth to the American landscape, and serves to uplift our entire community.

STOP THE THEFT OF OUR SOCIAL SECURITY NUMBERS ACT OF 2005

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. FILNER. Mr. Speaker, I rise today to introduce the "Stop the Theft of Our Social Security Numbers Act of 2005" (H.R. 2518).

Many of my constituents have alerted me to a serious attack on our personal privacy, and an insidious practice that has become known as identity theft. Amazingly enough, this theft is facilitated by a public agency, the Department of Health and Human Services, which aids and abets this theft not through the Internet or any high-technology means but through the U.S. Postal Service. By including our Social Security numbers on Medicare related mailings, the Department of Health and Human Services places thousands of Medicare beneficiaries at risk of becoming victims of identity theft.

To combat this problem, I have introduced this bill which prohibits the Department of Health and Human Services from including our Social Security numbers on Medicare related mailings the department mails us every year.

Identity theft is one of the fastest growing crimes of this decade. It creates a nightmare for those who become victims. Identity thieves make off with billions of dollars each year and each day more than 1,000 people are being defrauded. In fact, the Federal Trade Commission recently listed identity theft as the top consumer complaint. With just your name and your Social Security number, a thief can open credit lines worth $10,000, rent apartments, sign up for utilities, and even earn income. Your credit rating is ruined, you risk being rejected for everything from a college loan to a mortgage, and it is up to you to fix it all. Law enforcement will generally not pursue these identity theft cases.

Having your Social Security card number on a Medicare related mailing puts people at a higher risk for identity theft. Mail that is lost or stolen with personally identifiable information like a person's Social Security number can be used by criminals to steal someone's identity and commit fraud.

The Department of Health and Human Services has said that the health insurance claim number on Medicare related mailings is a variation of the recipient's Social Security number, not the actual number. This agency has noted that the number may be based on the Social Security number of a spouse or parent; however, more often than not, the number the agency uses is the person's Social Security number preceded or followed by a single letter of the alphabet. The agency has said that it has no immediate plans of stopping this practice. What more can the Department of Health and Human Services do to aid the theft of your identity? Give thieves and unscrupulous people your mother's maiden name?

Not to long ago, we were experiencing the same problem with the mailing labels sent to us from the IRS. I was told that there was no way the IRS would change this practice. I found it incomprehensible that neither the agency nor its contractor would change a computer program for booklets that would be mailed out to millions of Americans all over our Nation. After I introduced a bill to require the IRS to stop putting our Social Security numbers on its mailings, the department finally found a way to stop this bad practice.

Many commercial health insurance companies have already taken steps to remove Social Security numbers from their mailings as well as all other forms of client identification. Some States prohibit companies from displaying Social Security numbers internally and assign consumers unique numbers that would appear on Medicare cards. It is time for the Federal Government to do its part to stop identity theft and help protect an individual's personal privacy.

There is no excuse for leaving Medicare beneficiaries vulnerable to identity theft with a thinly disguised Social Security number on Medicare related mailings.

My bill will force the Department of Health and Human Services to make this change to protect one of the most precious keys to our personal information, our Social Security number.

IN HONOR AND REMEMBRANCE OF AMBASSADOR MILTON A. WOLF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Milton Wolf, a friend and a great leader in the Greater Cleveland community and around the world. Ambassador Wolf led a multifaceted life that included time as a soldier, meteorologist, educator, real estate developer, fund-raiser, philanthropist, humanitarian, peacemaker, and family man. He grew up in Cleveland's Glenville neighborhood, the son of Cleveland policeman Sam Wolf and his wife Sylvia. His father worked for a time as a vice detective under Eliot Ness, then the Cleveland safety director.

The outbreak of World War II coincided with Milton's graduation from Glenville High School. Young Milton enlisted right away into the Army Air Corps where he served as a meteorologist. Upon his return from the war, he resumed his studies, ultimately earning his doctorate in economics from Case Western Reserve University. His early career focused on real estate development, but he also became interested in politics and raised money for political campaigns, including Jimmy Carter's successful Presidential race in 1976. In 1977, President Carter appointed him as ambassador to Austria, a post he kept until 1980. During his service there, he received Austria's Great Gold Medal of Honor with Sash for "most distinguished and successful contribution toward the enrichment of Austro-American relations." Ambassador Wolf played a key role in arranging details of the meeting in Vienna between President Carter and Soviet President Leonid Brezhnev, for the signing of the Salt II Strategic Arms Limitation Treaty. Ambassador Wolf was decorated in 1997 with the Austrian Cross of Honor for Science and Art First Class in recognition of his scholarly work in economics, his strong ties to the diplomatic community and his philanthropic activities.

Ambassador Wolf was strongly committed to local and international institutions. He recently made major endowments to Cleveland Clinic's heart center and to a faculty chair at Cleveland State University. He served as chairman of the board of trustees of the Ohio State University where he oversaw the university's $500 million investment program in the early 1990s. He served on the boards of the Jewish Community Federation of Cleveland, Case Western Reserve University, the Cleveland Orchestra, the Cleveland Clinic Foundation, and the Mount Sinai Medical Center. Ambassador Wolf also served as chairman of the Council of American Ambassadors, governor of the United Nations Association of the United States of America, and member of the board of directors of the Institute for the Study of Diplomacy at Georgetown University. He served as president of the American Jewish Joint Distribution Committee, overseeing $70 million in assistance for needy Jews and others in more than 50 countries. In 1994, the committee honored him with its Raoul Wallenberg International Humanitarian Award.

Ambassador Milton A. Wolf will be greatly missed in Greater Cleveland and around the world. He was preceded in death by his wife of 53 years, Roslyn. Mr. Speaker and colleagues, please join me in honoring and remembering Ambassador Wolf. Please also join me as I offer my deep condolences to his son, Leslie, his daughters Caryn, Nancy, and Sherri, his brother Sanford, his five grandchildren, and his extended family and many friends.

RECOGNIZING TONY SWAFFORD AND BETTY TUNNICLIFF

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize the service and commitment of Tony Swafford and Betty Tunnicliff to the education community. Mr. Swafford and Ms. Tunnicliff has dedicated 33 and 23 years of service, respectively, educating and mentoring our Nation's youth.

Serving as both administrators and teachers, Mr. Swafford and Ms. Tunnicliff retire at the end of this school year. I would like to take this occasion to thank them for their years of promoting education and the youth of Denton.

In taking time to direct the Denton Independent School District, both Tony and Betty established precedence in administrative standards that will not soon be forgotten. Their combined 56 years of work improved the quality of education in Denton; their excellence in academia influenced lives and molded bright futures.

The loyalty in which both Tony Swafford and Betty Tunnicliff served their students and the Denton Independent School District is a testament to their genuine care for America's youth.

IN HONOR AND RECOGNITION OF CONGRESSMAN SHERROD BROWN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Congressman SHERROD BROWN, for his distinctive service to the people of Ohio's 13th Congressional District.

Having served in the House for 13 years, BROWN has continually been an advocate for laborers and manufacturers. He has battled for America's working families by protecting overtime pay, advocating for an increase in the minimum wage, and extending long-term unemployment benefits.

BROWN has constantly been a leader in fighting against trade agreements. We have worked together in opposing the Central America Free Trade Agreement. He has shown dedication in opposing this legislation and has made his stance very clear until provisions are added to protect workers, the economy, and the environment. He is persistent on protecting the rights of all workers, not just in northeast Ohio.

Beyond his outstanding service to his constituents, BROWN has formed solid bonds with community leaders and agencies in his district. It is easy to see why BROWN is so popular in northeast Ohio. He has hosted press conferences covering a range of issues—from prescription drugs and the healthcare bill of rights to unemployment compensation extension. In 2002 my colleague received the Distinguished Public Health Legislator of the Year award from the American Public Health Association, the Nation's largest public health organization.

BROWN's commitment to his constituents is evident in everything he does. He travels to Ohio every weekend to host town hall meetings on Social Security, attend community events and speak with both college and high school students. He also donated all the proceeds of his latest book, "Myths of Free Trade," to RESULTS and Cleveland Jobs with Justice, two organizations committed to social and economic justice.

Mr. Speaker and colleagues, please join me in honor and recognition of one of Ohio's hardest working and most dedicated Congressmen. His exceptional work on behalf of the people of northeast Ohio should be an inspiration for all of us. His integrity and expertise has helped him to be a successful Congressman for Ohio's 13th District.

IN HONOR OF MAYOR NORMAN MUSIAL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Mayor Norman Musial, upon his retirement as mayor of the city of North Olmsted. His years of leadership and public service, first as council member and then mayor, are framed by integrity, vision and concern for every resident within this community.

Born in Toledo into a blue collar family, Mayor Musial cultivated a deep appreciation for family, community, and hard work. Reflecting personal values of integrity and public service, Mayor Musial's commitment to the betterment of his community reflects across all levels of government within the city of North Olmsted. As a longtime resident and civic leader in North Olmsted, Mayor Musial has successfully led the effort to improve, uplift, and renew all facets of the community, including vital areas of safety, residential services, recreation, streets and sidewalks, transportation; and senior citizen programs.

Mayor Musial worked his way through the University of Toledo, and graduated with a degree in engineering in 1954. He transferred from NACA to NASA Lewis Research Center in Cleveland, in 1955. While working at NASA, Mayor Musial attended Cleveland-Marshall Law School and graduated with a law degree. Equipped with an innovative mind and energetic spirit, Mayor Musial worked in the NASA Patent Office, and soon became the Chief Patent Counsel. He became an inventor himself, and holds a patent on the Heat Flux Measuring Device.

Beyond his roles as public servant and beyond a profession that extended from the sciences to law, Mayor Musial continues to hold his family and community closest to his heart. In 1953, he married his wife, Patricia. Together they raised four children: Mark, Jon, Lisa and Todd. Besides inventor, lawyer and elected official, Mayor Musial can list Boy Scout leader, Indian Guide leader and Webelos leader as titles of supreme importance, reflecting the caring and dedication he has for his family.

Mr. Speaker and colleagues, please join me in offering my good friend, Mayor Norman Musial, our appreciation and admiration on his significant accomplishments within the city of North Olmsted. Moreover, his kind nature and compassion for others has allowed the true spirit of community to flourish within the city limits and beyond its borders. I wish Mayor Musial, his wife Patricia and their children and grandchildren, blessing of peace, strength and happiness, today and throughout the coming years.

SUPPORTING THE PASSAGE OF SPYWARE LEGISLATION

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 744 and H.R. 29. Both will help eliminate the monitoring of and tampering with computers across America. I thank Representatives BOB GOODLATTE and MARY BONO for bringing this legislation before us today.

I support the goals of both the "Internet Spyware Prevention Act" and the "Securely Protect Yourself Against Cyber Trespass Act." Computer users currently lose personal information to the purveyors of malicious computer software that has come to be known as spyware. These bills establish jail terms and severe monetary penalties for various types of invasive actions. Individuals, under the veil of business activity or otherwise, will no longer be able to remotely take control of computers, nor change their settings without.

We have come to depend upon computers in almost every aspect of our lives. An unimaginable amount of personal information sits on computers that must remain secure.

Again, I applaud the efforts of the House Committees on Judiciary and Energy and Commerce.

IN HONOR OF GARY M. KLINGLER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Air Traffic Manager Gary M. Klingler, upon the occasion of his retirement after nearly 40 years of outstanding Federal service with the Cleveland Air Route Traffic Control Center.

In 1970, Mr. Klingler began his career as an air traffic controller at the Youngstown, Ohio, Control Tower. He also served as a Navy flight instructor at the Advanced Jet Training Command. Mr. Klingler's Federal service is framed by expertise, integrity and unwavering focus on safety, and has improved standards and procedures in all areas of flight operations in many airport control towers throughout our country, including Flint, Michigan; Jackson, Michigan; Springfield, Ohio; Washington, DC, and here in Cleveland, Ohio. Mr. Klingler is the recipient of numerous commendations and awards from the FAA, including the "Manager of the Year" award, "Above and Beyond" award, and the "Wings of Excellence" award. His efforts in enhancing the overall safety at Cleveland Hopkins International Airport were recognized by the White House with a "Hammer Award." Beyond his professional excellence, Mr. Klingler is an exemplary role model, citizen, and friend. His many years of community involvement has enhanced the foundations of our Cleveland community, as well as the communities of Detroit and Saline, Michigan. He has served on many civic boards and organizations, including the Far West Detroit Civic Association and the Cleveland Federal Executive Board, and continues to lend his assistance to others in need.

Mr. Speaker and colleagues, please join me in offering my friend, Gary M. Klingler, our appreciation and admiration on his significant service and accomplishments with the FAA—an exemplary career that spans nearly 40 years. His vision, expertise, and focus on air safety has served to enhance the security in our travels across the skies above Cleveland, Ohio, and across the country. Additionally, his concern for the people of his community continues to have a positive impact within many levels of our society. I wish Mr. Klingler and his entire family many blessings of peace, health and happiness, today and throughout the coming years.

TRIBUTE TO JAY VAN DEN BERG

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Jay Van Den Berg, a distinguished community leader in southwest Michigan for the past 30 years. Today, leaders from throughout the community are gathering at Michigan Works, to honor Jay's accomplishments and pay homage to a job well done as he is retiring from his numerous leadership posts.

Jay started his career as a teacher, selflessly giving all he had to each of his students, before moving on to a long, industrious career as an executive with the Whirlpool Corporation. Although he was working in the private sector, Jay utilized his leadership to promote academic achievement and excellence in our schools across the region, netting him more than a dozen State and national education awards.

Jay was a tireless advocate for bringing business and education together to create a stronger community. He could always be seen serving in leadership positions throughout southwest Michigan whether it was with the Business Roundtable, Michigan Business Leaders for Education Excellence, The Michigan Works Workforce Development Board and many many others.

Through Jay's valiant leadership, the HOSTS mentoring program was established in Benton Harbor, and since then hundreds of students improved their reading scores and have been given the opportunity to succeed in school, as well as in life. His tireless work with the career preparation systems in Berrien, Van Buren and Cass Counties have become a national model and have enabled our young students to raise their test scores, allowing them to seek post-secondary education. These are just two of the examples of Jay's great work with the young people of our community.

Education plays such an important role in the lives of our young people, and it is because of people like Jay Van Den Berg, that many have had the opportunity to succeed. I stand today, with the folks of the great Sixth District of Michigan, to give a heartfelt "thank you" to Jay, and wish him a long and enjoyable retirement.

LEGISLATION ON BEHALF OF SC JOHNSON

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. RYAN of Wisconsin. Mr. Speaker, I rise today to introduce legislation on behalf of SC Johnson, a family-owned and family-managed company headquartered in Racine, Wisconsin. The company is a global manufacturer and marketer of a broad range of well known consumer household brands including Windex, Raid, Glade, Pledge, Edge shaving gel, Ziploc and Scrubbing Bubbles. SC Johnson has

12,000 employees worldwide and 3,000 employees located in Racine, WI.

We must help manufacturers like SC Johnson remain competitive in the global marketplace so that good, high-paying manufacturing jobs are retained in Wisconsin and throughout the United States. Over the past few years, our State has lost over 77,000 manufacturing jobs. We must bring down the cost of manufacturing at home so that we can stem the job loss and help companies create new jobs for hard-working Americans.

The two bills that I am offering today will help accomplish this important objective by suspending duties for multiple components of unique air freshener products that are imported from abroad and incorporated into finished products assembled by SC Johnson in the United States. One of the devices is a continuous-action device that pumps fragrance throughout a room. The other device is plugged into an electrical outlet and diffuses warmed fragrance throughout an area. No comparable products are produced in this country. Suspending the tariffs will bring down SC Johnson's costs of doing business at home and benefit the SC Johnson employees who live and work at the company's world headquarters in Racine and at other locations throughout the United States.

I look forward to working with my colleagues in Congress to pass this legislation.

HONORING VICE ADMIRAL PHILLIP M. BALISLE, UNITED STATES NAVY

HON. DAN BOREN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. BOREN. Mr. Speaker, I rise today to honor VADM Phillip M. Balisle, United States Navy, who is retiring after more than 36 years of faithful service to our Nation.

A native of Idabel, Oklahoma, Vice Admiral Balisle began his career in 1969 as a seaman recruit in the Naval Reserve while attending Oklahoma State University. After attending Officer Candidate School he was commissioned as an ensign in the United States Navy in 1970.

During the years that followed, Vice Admiral Balisle accrued an impressive operational career highlighted by command of USS Kidd (DDG 993), USS Anzio (CG 68), Cruiser Destroyer Group THREE and the Abraham Lincoln Battle Group. Ashore he commanded NAVCOMMSTA United Kingdom and served as Director Theater Air Warfare and Director Surface Warfare on the Chief of Naval Operations' staff.

Throughout his career Vice Admiral Balisle has been a visionary. Examples of his initiatives and contributions are the conceptualization for establishment of the Afloat Training Group, the Joint Theater and Air Missile Defense Organization, the Joint Single Integrated Air Picture System Engineer Organization, the Navy's Distributed Engineering Plant, the Distance Support Concept and the Navy Virtual Systems Command. He also was a leader in the development of numerous combat systems programs and initiatives, as well as developing the concept for the Navy's newest shipbuilding program, the Littoral Combatant Ship.

In his most recent assignment as Commander of the Naval Sea Systems Command, Vice Admiral Balisle led unprecedented organizational change amid a historic time of overall Navy transformation.

Initiating a multi-phased approach to continual command transformation, he directed an unprecedented Headquarters realignment, including the establishment of five radically reshaped Program Executive Offices and the creation of a Warfare Systems Engineering Directorate and a Human Systems Integration Directorate. This realignment resulted in a 20 percent personnel downsizing—done without a single RIF. The Human Systems Integration Directorate is fundamentally changing how the Navy engineers its ships around the sailor, shaping a new Sea Warrior skills based focus. He also established a disciplined Technical Authority process as a vital NAVSEA mission component.

Vice Admiral Balisle launched a shipyard transformation plan anchored by the "One Shipyard" concept to level-load our nuclear-capable public and private yards, mobilize and share resources, develop common business practices and stabilize the country's entire ship repair industry as a vital national asset.

He significantly changed the business model for NAVSEA's warfare centers that had been in place for decades, shifting from decentralized independent geographically focused business sectors to a corporate national warfare center enterprise. This included the establishment of nationally focused product area directors, along with work assignment executives and a retooled teaming structure that eliminates geographic boundaries and better enables mission execution and resource sharing across an integrated NAVSEA Warfare Center enterprise. Through these unprecedented corporate realignments, NAVSEA positioned itself to be an agile, responsive organization to meet the unpredictable demands of a long and challenging global war against terror while supporting the development and construction of a transformed 21st century Navy.

Concurrent and complementary to this organization and business process reshaping, Vice Admiral Balisle introduced to NAVSEA a reinvigorated, disciplined program to establish, preserve and revitalize the workforce and work assignment to support Technical Authority execution, the cornerstone responsibilities of the government to operate safely and as a responsive peer of industry. He significantly changed the Navy's contracting approach and vehicles for services and ship maintenance with the introduction of a nationwide Seaport services contract and Multi-ship, Multi-option contracts for ship class maintenance availabilities.

Central to all these initiatives, Vice Admiral Balisle established NAVSEA's Task Force Lean to put in place and accelerate the implementation and expansion of Lean and Six Sigma business processes across the NAVSEA enterprise, achieving dramatic improvements in operating efficiency and process execution.

Vice Admiral Balisle has been a foremost architect in helping to shape the 21st Century Navy to meet the needs of our nation in executing the global war against terrorism and building and equipping tomorrow's fleet.

He is an individual of uncommon character and his professionalism will be sincerely missed. I am proud, Mr. Speaker, to thank him for his honorable service in the United States Navy, and to wish him "fair winds and following seas" as he closes his distinguished military career.

PROTECTING THE UNIVERSAL SERVICE FUND FROM THE ANTIDEFICIENCY ACT

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mrs. CUBIN. Mr. Speaker, last fall, the Federal Communications Commission (FCC) concluded that some components of the Universal Service Fund (USF) are subject to the Antideficiency Act, even though USF dollars are not paid out of the U.S. Treasury. This unexpected interpretation disrupted an important component of the universal service program for nearly 6 months and resulted in the Universal Service Administrative Company losing millions of dollars in investments that would otherwise have been used to support communications services in rural and high cost areas, as well as the E-Rate program for school districts and libraries.

Congress intervened late last year by temporarily exempting the USF from the Antideficiency Act until December 31, 2005. That exemption will be expiring soon, and many believe the Antideficiency Act also threatens to disrupt the much larger High Cost and Low Income USF programs. It is vital that Congress address this issue as soon as possible to permanently eliminate the uncertainty hanging over the entire USF.

That's why I am introducing legislation, along with Representative GONZALES, to permanently exempt the USF from the Antideficiency Act. This is a necessary step to ensure that consumers will continue to have access to quality telecommunications services and our schools and libraries will have Internet connectivity, all at affordable rates.

This is a bipartisan initiative that enjoys support from a broad coalition of stakeholders in the telecommunications, high-tech, educational arenas, as well as local governments and public interest organizations. This is a companion measure to a bill introduced in the other body, which also has broad bipartisan support. Fixing the situation is a time-sensitive matter and Representative GONZALES and I urge our colleagues to support this measure and help us work toward prompt passage.

IN HONOR AND REMEMBRANCE OF HOWARD W. BROADBENT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Howard W.

Broadbent, dedicated family man, friend and mentor to many, talented attorney and United States veteran.

Mr. Broadbent was born in Cleveland and graduated from Cleveland Heights High School. His studies at Ohio State University were interrupted for the call to duty during World War II, where he served as a lieutenant and Amphibious Boat Officer in the United States Navy. After the war, he completed his studies at OSU, and ultimately earned a law degree with honors from Case Western Reserve University Law School.

Mr. Broadbent began working at the law firm of James M. and John J. Carney, and specialized in zoning and real estate. He eventually formed the Carney & Broadbent Law Firm, specializing again in real estate and corporate matters. As an expert regarding zoning issues, Mr. Broadbent was consistently sought out for his advice and opinion by mayors, council representatives and planning and zoning board members from across the county. He also served as law director for Middleburg Heights, and served as substitute judge for the Rocky River Municipal Court. Additionally, Mr. Broadbent served on the Board of the Cuyahoga County Port Authority.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Howard W. Broadbent. He was married for 55 years to his beloved wife, Dorothy, who passed away in 2003. His friendship, commitment to his family, and his dedicated service to our country will be remembered always. I offer my condolences to his daughters, Diane and Kitty, and son Jack; his grandson, Douglas; his brother, John, and his many extended family members and friends.

TRIBUTE TO ROY B. KEPPY

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. LEACH. Mr. Speaker, this weekend was marked by the passing of Roy B. Keppy.

Roy Keppy was a symbol of Iowa. No family farmer has ever been held in higher esteem. No hog producer has won more honors or been more revered.

Roy's concerns were always for quality. Whether raising hogs, corn, soy beans, or children, his work ethic was the same. Every moment of every day he worked to the best of his ability, and then some more.

While Roy's formal education ended at J.B. Young Middle School in Davenport, he earned a Ph.D. in life. He was a leader: on the farm, in his community, for his country. At various points in time, he coaxed more corn and beans per acre from his wonderful Scott County soil than anyone in the State, and he raised hogs which won more State and national blue ribbons than anyone in the history of hog competitions.

At the community level, he led, it seemed, every farm organization; at the national level, he headed Farmers for Ford and played a key agricultural role in the election of two Presidents named Bush. As for Congress, there is no individual whose advice I respected more; no one to whom I am more indebted.

Two anecdotes stand out. One was a comment the former Secretary of Agriculture Earle Butz made to me. He said one day that the finest agricultural speech he ever heard was given by Roy Keppy when it was announced he would lead President Ford's agricultural team. What was so impressive about this comment was the fact that Earle Butz was generally considered the best public speaker on agriculture in his generation. But he deferred to Roy Keppy.

The second is about the time Roy manipulated a cord in his barn so that when his guest, George W. Bush, was speaking, gentle pieces of corn would fall on his slightly balding pate. The Secret Service never understood what a mischievous host the candidate they were assigned to protect had.

Roy's passing symbolizes the end of an era in Iowa life.

As we his friends contemplate and, in effect, celebrate, the meaning of his time on earth, we too are obligated to work hard to insure that Roy's death does not mark the end of a breed. Roy will always stand out, but our country will be diminished if he is the last of the hands-on farmers who by second nature serve their community and then by acclamation of their peers, unrelated to gall or personal ambition, are asked to provide leadership to their country.

Roy Keppy will be much missed. Most poignantly by this Member of Congress.

HONORING SANDRA G. SANDERSON, RECIPIENT OF THE COMMONWEALTH'S ACADEMY RECOGNITION FOR EDUCATORS AWARD

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Sandra G. Sanderson of Vienna, Virginia, upon receiving the Commonwealth's Academy Recognition for Educators (CARE) Award.

The CARE award honors outstanding educators from New York, Ohio, and Virginia who work to enhance the lives of their students. This year's honorees are recognized for their unrelenting work to enhance the lives of the students they serve. It is presented by the Commonwealth Academy located in Alexandria, Virginia, and honors those committed to diverse learning throughout the nation. Sandra Sanderson, a sixth grade teacher at Wolftrap Elementary, is honored for her work in promoting diverse learners in the spirit of the "No Child Left Behind Act."

Ms. Sanderson was born in Fredonia, New York, and was raised in Plantation, Florida. She received a bachelor's of arts in elementary education from Stetson University, and she received her master's of arts in special education from Peabody College. She is a resident of Vienna, Virginia, and has taught in Virginia for 14 years. Prior to serving in the Commonwealth, Ms. Sanderson enriched students' lives teaching in various locations including in the States of Texas, Colorado, and New York.

As a teacher at Wolftrap Elementary she has brought enjoyment to her sixth grade students teaching various subjects and activities including novel groups, math problem solving, writing skills, and photography. In her own words, she tries to bring "enthusiasm, a sense of humor, and a joy in life and learning" to her students and colleagues each day.

Ms. Sanderson has a genuine dedication to ensure that each of her students is given the opportunity to achieve success. Over the past 34 years she has made a lasting impact on thousands of students.

I ask my colleagues to join me in applauding Sandra Sanderson and congratulating her on this distinguished achievement.

RECOGNIZING ACCOMPLISHMENTS OF THE MOTIVATING YOUTH TO ACHIEVEMENT PROGRAM

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. CROWLEY. Mr. Speaker, I rise to recognize the accomplishments of The Motivating Youth to Achievement (My2A) Program and particularly its leader, John Ryu. Based in New York City, My2A was created to serve the needs of young people of New York who happen to be part of the foster care system. Young people in the foster care system routinely face challenges as they age and move onto their lives outside of foster care. Fortunately people have come together to encourage these young people to move confidently forward toward their futures, with access to job training, education, and professional employment. Fortunately, for these young people and the communities they serve, we have My2A. My2A has had tremendous success not only in training and encouraging its participants, but in creating well-qualified, thriving employees.

How does such a success story come about? It was through the shared vision of the My2A founder, John Ryu, the Consortium for Worker Education (CWE), the Catholic Home Bureau, and the Central Labor Council. Working together—each with their unique and critical understanding of youth, service, and work—this vision was carried out to fruition. The result is the program that we celebrate here today.

Of course, these results are dependent on the groups and individuals that come together to serve My2A, both through its initial development and through its continual day-to-day efforts. While John Ryu and his partner organizations have been tireless and committed in their efforts, there are other individuals that have also been instrumental. Some of these include Youth Ambassadors of My2A, Sung Eun Baek and Patricia Ji Young Jung, and Kyu Bong Sung, Business Manager of the ACE Printing Company. Overall, the Korean and Korean-American communities have been particularly supportive of My2A. Of course, this program's success is also dependent on the numerous My2A participants who take advantage of this wonderful opportunity that is made possible by inspirational people like John Ryu and those he works with, protecting the strength and goodwill of our community and this nation in countless ways.

IN MEMORY OF EMERSON BATDORFF

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KUCINICH. Mr. Speaker, I rise to remember Emerson Batdorff, a friend and colleague from my early career in journalism at the Cleveland Plain Dealer. "Bat" was a reporter, columnist, and entertainment editor who started the Plain Dealer's Friday magazine.

Fellow Plain Dealer reporter Bill Hickey called him "the ultimate newspaperman. " And he was right. Batdorff, who was inducted into the Cleveland Hall of Fame Press Club, covered police, courts, and other city beats before becoming a fixture in the features department. Bat started his career in journalism before serving in World War II. After the war, he started with the Plain Dealer's Akron bureau in 1946 before transferring to the Cleveland newsroom in the 1950s.

Computers came easily to him. He was known for waving a red flag to alert editors and reporters when the system was about to crash so that they could save their work. When he became entertainment editor, he had a lot of young writers working for him. He always made the effort to point out their mistakes in a friendly and constructive way. Bat retired from the Plain Dealer in 1984.

Emerson Batdorff served in the Army in World War II where he was a platoon leader with the Third Infantry Division, a liaison officer in the 30th Infantry Regiment, and historian with the XV Corps headquarters in Europe. He received the Bronze Star Medal for valor and a Purple Heart. Bat remained in the Army Reserve and was recalled for duty as a military historian during the Korean War.

In 1977, while in his late 50s, a would-be robber mistook Bat for an easy mark one late night after work. But Bat, who held a black belt in karate, scared off the attacker with a few deftly executed self defense moves.

Bat was a past president of the local chapter of the Newspaper Guild. He was also a past president of the Mensa Cleveland chapter.

Mr. Speaker and Colleagues, please join me in offering condolence to Bat's wife Judith, his son Lee, his daughter Ilo, his brother, and his grandchildren.

TRIBUTE TO MR. CHAPIN W. COOK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Mr. Chapin W. Cook, who will retire after 33 years of dedicated service to the Genesee County Planning Commission. Friends and family will join civic and community leaders on May 25 to honor his dedication and his many accomplishments.

Chapin Cook joined the Planning Commission in November 1972, operating as associate planner. In August 1973, he was promoted to senior planner, and in November 1975, he became principal planner. Chapin held this position until October 1986, when he was appointed assistant director of the commission, and in July 1990, he became director, the position he holds to this day.

As director, Chapin faithfully upheld the Planning Commission's mission statement: "To provide a framework and encourage development that enhances the quality of life in Genesee County through government and community partnerships." He also served as a bridge and guiding force for the Commission's 11-member board, helping them fulfill their duties efficiently and effectively.

Mr. Speaker, I ask that all of my colleagues in the House of Representatives join me today in recognizing Chapin W. Cook for his exceptional leadership, and wishing him all the best in retirement and all his future endeavors.

TRIBUTE TO JOHN MATHWIN

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise today to pay tribute to Mr. John Mathwin, a teacher at Montgomery Blair High School in my congressional district, who is retiring after a long and distinguished career.

Though Mr. Mathwin will leave Montgomery Blair when this school year closes, his spirit and legacy of dedication, hard work, and service will remain.

Mr. Mathwin began his career at Montgomery Blair as an English teacher, but found a more satisfying calling as a journalism instructor. Eventually he became the faculty advisor for Blair's student newspaper Silver Chips.

Under Mathwin's guidance, the student staffers of Silver Chips enjoyed tremendous success. During his tenure, Silver Chips earned countless awards at the local, State, and national level, including the Pacemaker Award as the Nation's top newspaper.

Mr. Speaker, on behalf of the students, parents, faculty, and administration of Montgomery Blair High School, I say to Mr. John Mathwin: Thank you for your service to our community and our children. You will be missed.

PERSONAL EXPLANATION

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. STRICKLAND. Mr. Speaker, Thursday, May 19, 2005 I was in Mingo Junction, Ohio and missed rollcall votes No. 190–199. Had I been present, I would have voted "yea" on rollcall votes No. 191, 194, 196, 198 and 199. I would have voted "no" on rollcall votes Nos. 190, 192, 193, 195 and 197.

BYRNE GRANT FUNDING

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 23, 2005

Mr. WALDEN of Oregon. Mr. Speaker, I rise today with my colleagues from Nebraska and around the country on a most important matter—Byrne Grant funding. I appreciate the leadership of Mr. TERRY and Chairman SOUDER on this issue as well as the work done by my fellow members of the House Meth Caucus to ensure that the needs of State and local communities are being met.

Byrne grants provide necessary federal resources that make possible enforcement and treatment programs undertaken by state and local governments to combat the illegal drug epidemic that is rampant throughout the nation, a plague that I've seen firsthand in communities throughout eastern, central and southern Oregon. Nowhere is the need for federal anti-drug resources more pronounced than in rural areas like Oregon's Second Congressional District, where entire communities struggle to cope with the proliferation of illegal substances and their devastating effects on families and communities.

According to an assessment conducted earlier this year by the Oregon HIDTA office, reducing funding for these programs would reduce interagency cooperation and intelligence sharing between local, state and federal law enforcement agencies. The assessment also found that operations by local taskforces on the front lines in the fight against illegal drugs would decrease by 25 to 75 percent. Without the Federal funds received many local drug taskforces in Oregon would have to severely curtail operations, reduce staffing levels or even cease operations completely. Given the threat posed to children, families and communities by illegal drugs, these efforts to control the drug problem must continue.

I want to again state my belief that Byrne Grant funding should be maintained at its current level as the House Appropriations Committee prepares to allocate funds to this and other critical anti-drug programs in the coming year.

The State of Oregon has historically received over $6 million in Byrne grants, a significant portion of which has been allocated to programs and projects in the Second District. Local task forces like the Klamath Interagency Narcotics Team, the Mid-Columbia Interagency Narcotics Task Force, the Central Oregon Drug Enforcement team, the Jackson County Narcotics Enforcement Team, and the Blue Mountain Narcotics Enforcement Team, which receives about one-third of its budget from Byrne Grants, would be devastated without continued support from federal anti-drug programs.

Mr. Speaker, earlier this year I conducted a series of seven town hall forums focused on production, distribution and abuse of illegal drugs, particularly the runaway problem of methamphetamine. While traveling throughout the Second District I heard again and again about the importance of Federal resources to the outstanding efforts being conducted by state and local enforcement agencies and treatment and prevention providers. While I realize that we are in a time of strict budget constraint I strongly support these efforts and I will continue to do all I can to ensure that the Federal Government honors its commitment to fight the scourge of illegal drugs in our communities.

PERSONAL EXPLANATION

HON. JIM GERLACH

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Monday, May 23, 2005

Mr. GERLACH. Mr. Speaker, on May 19, 2005, during consideration of H.R. 2361, I was absent during rollcall No. 196. Unfortunately, the vote occurred earlier in the evening than was expected and I was unable to make it to the floor in time to vote. Had I been present, I would have voted "yea" for the Rahall-Whitfield amendment.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 24, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 25

Time to be announced
Homeland Security and Governmental Affairs
Business meeting to consider the nominations of Philip J. Perry, of Virginia, to be General Counsel, Department of Homeland Security, and Carolyn L. Gallagher, of Texas, and Louis J. Giuliano, of New York, each to be a Governor of the United States Postal Service.
Room to be announced

9:30 a.m.
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation, focusing on provisions relating to renewable energy, nuclear matters, and studies.
SD–366

Environment and Public Works
To hold an oversight hearing to examine permitting of energy projects.
SD–406

Foreign Relations
To hold hearings to examine the nominations of David Horton Wilkins, of South Carolina, to be Ambassador to Canada, William Alan Eaton, of Virginia, to be Ambassador to Panama, James M. Derham, of Virginia, to be Ambassador to Guatemala, and Robert Johann Dieter, of Colorado, to be Ambassador to Belize, Paul A. Trivelli, of Virginia, to be Ambassador to Nicaragua, and Linda Jewell, of the District of Columbia, to be Ambassador to Ecuador.
SD–419

Homeland Security and Governmental Affairs
To hold hearings to examine how counterfeit goods provide easy cash for criminals and terrorists.
SD–562

Judiciary
Business meeting to consider pending calendar business.
SD–226

Intelligence
To hold closed hearings to examine certain intelligence matters.
SH–219

9:50 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider proposed Head Start Improvements For School Readiness Act, S. 518, to provide for the establishment of a controlled substance monitoring program in each State, and pending nominations.
SD–430

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the U.S. Grain Standards Act.
SR–328A

Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Ben S. Bernanke, of New Jersey, to be a Member of the Council of Economic Advisers, and Brian D. Montgomery, of Texas, to be Assistant Secretary of Housing, Federal Housing Commissioner, Department of Housing and Urban Development.
SD–538

Commerce, Science, and Transportation
To hold hearings to examine S. 360, to amend the Coastal Zone Management Act.
SR–253

Indian Affairs
To hold hearings to examine S.J. Res. 15, to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.
SR–485

11 a.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine human rights concerns in Kosovo.
SD–124

2:30 p.m.
Homeland Security and Governmental Affairs
To hold hearings to examine the nomination of Linda Morrison Combs, of North Carolina, to be Controller, Office of Federal Financial Management, Office of Management and Budget.
SD–562

Judiciary
Intellectual Property Subcommittee
To hold hearings to examine piracy of intellectual property.
SD–226

MAY 26

9 a.m.
Homeland Security and Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the container security initiative and the customs-trade partnership against terrorism, focusing on how Customs utilizes container security initiative and customs trade partnership against terrorism in connection with its other enforcement programs and review the requirements for and challenges involved in transitioning these from promising risk management concepts to effective and sustained enforcement operations.
SD–562

Intelligence
Closed business meeting to consider certain intelligence matters.
SH–219

9:30 a.m.
Environment and Public Works
Clean Air, Climate Change, and Nuclear Safety Subcommittee
To hold an oversight hearing to examine the Nuclear Regulatory Commission.
SD–406

Energy and Natural Resources
Business meeting to consider comprehensive energy legislation, focusing on provisions relating to oil and gas, and incentives for innovative technology, and other related issues.
SD–366

Judiciary
Business meeting to consider pending calendar business.
SD–226

10 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine aviation capacity and congestion challenges regarding summer 2005 and future demand.
SR–253

Banking, Housing, and Urban Affairs
To hold hearings to examine the report to Congress on international economic and exchange rate policies.
SH–216

Health, Education, Labor, and Pensions
To hold hearings to examine issues relating to the 21st century workplace.
SD–430

10:30 a.m.
Foreign Relations
To hold hearings to examine the nominations of Sean Ian McCormack, of the District of Columbia, to be an Assistant Secretary of State for Public Affairs, and Dina Habib Powell, of Texas, to be an Assistant Secretary of State for Educational and Cultural Affairs.
SD–419

2 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Department of Commerce.
S–146, Capitol

Veterans' Affairs
To hold hearings to examine challenges facing the VA claims adjudication and appeal process.
SR–418

2:30 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold hearings to examine federal funding for private research and development, focusing on effectiveness of federal financing of private research and development, and whether some of these programs result in the development of new technologies or displace private investment.
SD–562

Foreign Relations
To hold hearings to examine the nominations of Rodolphe M. Vallee, of Vermont, to be Ambassador to the Slovak Republic, Molly Hering Bordonaro, of Oregon, to be Ambassador to the Republic of Malta, and Ann Louise Wagner, of Missouri, to be Ambassador to Luxembourg.
SD–419

Judiciary
Immigration, Border Security and Citizenship Subcommittee
To hold hearings to examine the need for comprehensive immigration reform relating to the national economy.
SD–226

Appropriations
State, Foreign Operations, and Related Programs Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2006 for the U.S. Agency for International Development.
SD–138

JUNE 7

2:30 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine the emergence of China throughout Asia relating to security and economic consequences for the U.S.
SD–419

JUNE 9

2:30 p.m.
Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine the Western Hemisphere Initiative regarding safety and convenience in cross-border travel.
SD–419

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

SENATE—*Tuesday, May 24, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal spirit. You have said that the truth will set us free. We thank You that Your freedom leads to harmony and not discord, to consensus and not conflict. Liberate us from deceptions and distortions that caricature reality and misrepresent facts.

Empower our Senators to find freedom in being as true to duty as the needle to the pole. Continue to teach them the fine art of conciliation and motivate them to continue to choose rational roads instead of emotional dead ends. Lift them above partisan rancor, and give them power to walk in Your light, to act in Your strength, to think in Your wisdom, to speak in Your truth, and to live in Your love. Inspire each of us to stand for right, even though the heavens fall.

We pray in the Name of Him who is the truth. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 24, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Ms. MURKOWSKI thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Madam President, this morning we will continue debate in executive session on the nomination of Priscilla Owen to be a U.S. Circuit judge for the Fifth Circuit, and today at noon we will have a cloture vote with respect to the Owen nomination. In light of the events of yesterday, I expect cloture will be invoked this afternoon. If that cloture vote is successful, it is my desire to proceed expeditiously to vote on that confirmation. Members have had the opportunity to speak for over 40 hours, and hopefully we will not need much time following cloture.

I am happy to yield to the Democratic leader. I have a brief statement commenting on the events of last night.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

CLOTURE VOTE

Mr. REID. Madam President, I think it would be better—I haven't had a chance to discuss this with the majority leader—to vitiate the vote on cloture and then set a time to complete the debate on Priscilla Owen. We would be willing to do that. It would move things along. I wanted the leader to know that. We would be happy to talk about schedule, how much time people need, and what we are going to do the rest of the week. We haven't had time to talk this morning.

Mr. FRIST. Madam President, we will talk over the course of the morning because over the next 5 days, with the memorandum of understanding, we would like to move ahead and address many of the judges. At the same time, we have the nomination of John Bolton, whom the Democratic leader and I have briefly discussed. I do want to be able to continue with the cloture vote that is now on the schedule for noon today. It is important to do so in part because of the events of yesterday, and I want to follow regular order. With that memorandum of understanding, which is important—it is not what the Democratic leader or I asked for—it is important that we see how it is going to be implemented, and the first step will be that vote today.

We do have a lot to do this week. I want to keep things organized efficiently and well and use time wisely.

Mr. REID. Madam President, if I could direct another question to the distinguished leader, it was my understanding of our conversation late last night that we were not going to move forward on more judges this period but move forward to other matters. Do you now feel differently?

Mr. FRIST. Well, I think we need to think how much we can do realistically this week. With that understanding and the backlog we have on judges, if we can move those expeditiously—and we put in a plan or process to do so—we should do just that. We have had various offers from your side of the aisle on the Michigan judges and on Griffith, and now we have this memorandum of understanding for up-or-down votes on three other nominees we have been debating. Leadership to leadership, we ought to sit down and plan how we can deal with judges since we have waited a long time for these up-or-down votes and since offers have been made back and forth. In light of the understanding the 14 Senators came to, I think we should move expeditiously and address the judges who have been waiting a long time. At the same time, we have other very important business—John Bolton to be Ambassador to the U.N.—which we do need to address as well.

As I say that, I want to make an appeal to Senators. A lot has been said about many of the judges, and I don't believe we have to say it again. Whether it is on Priscilla Owen, who I am confident will get an up-or-down vote, or on to some of the other judges. I want to make sure everything gets said. But on a lot of these, we have had a lot of debate. I would like to sit down with the Democratic leader, in light of the events of yesterday, and plan out this week so it will be productive. We have a lot of other important business, such as an energy bill and a highway bill, that we need to also address.

THE MEMORANDUM OF UNDERSTANDING

Mr. FRIST. Madam President, I wish to briefly comment on the events of last night. The evening moved very quickly, and it did alter the course of what likely would have occurred over the course of today. Certain adjustments will be made and are being made, as we just heard in the colloquy between the Democratic leader and I, in terms of the schedule. Although I am not a party of the memorandum of understanding signed last night by 14 of our colleagues, I have had the opportunity to further review that agreement in more detail.

I do believe the memorandum of understanding makes modest progress in that three individuals will get up-or-down votes on the floor of the Senate. To me, it does stop far short of guaranteeing judicial nominees the fair up-or-down votes they deserve—other nominees, nominees in the future.

I say that and recognize that with civility and trust, which are two values I have tried to stress again and again, and with that memorandum of understanding being a starting point and the spirit in which it was generated, I believe we can successfully bring these nominees to the floor, after coming through the Judiciary Committee, debate them extensively, and ultimately bring them to a vote. I believe that is the spirit. It will be spun by the left and the right and conservatives and liberals in various ways. I did not sign off on the memorandum of understanding because it stops far short of the principle, but it does put us in a position to move forward expeditiously without delay, without filibuster, giving these nominees the votes they deserve and the courtesy of a vote. It is our responsibility to vote and give them that advice and consent through that up-or-down vote.

On the agreement, first, it does begin to break the partisan obstruction we have seen over the last 2 years. Thematically, it is important to get away from extreme partisanship. Parties are important, the clash of ideas is important. But where partisanship is injected into the system and brings advice and consent to a stop, it is wrong. I believe that is the spirit in which the memorandum of understanding, with seven Senators from both sides of the aisle, was written.

Indeed, Priscilla Owen will get an up-or-down vote later today. Janice Rogers Brown will get an up-or-down vote. William Pryor will get an up-or-down vote. They all will receive the courtesy and fairness of a vote.

Other qualified nominees who have been waiting deserve that same courtesy and fairness. Why just those three? Why exclude two others? Why be silent on others? That is where the agreement stops far short of the principle I have brought to the floor, a principle based on fairness.

Second, the agreement, if followed in good faith, will make filibusters in the future, including Supreme Court nominees, almost impossible. The words in that agreement of "will not filibuster except under extraordinary circumstances," obviously, I am concerned about because if extraordinary circumstances are defined as they were in the last Congress, which I believe is wrong, on people such as Miguel Estrada, who came to this country as an immigrant from Honduras, not able to speak English very well, who with hard work worked his way to the top of his profession, arguing 15 cases in the Supreme Court, if that is extraordinary circumstances, then this agreement will mean very little. We have to wait and see. The agreement will have to be monitored. The implementation of the memorandum of understanding is critical.

Third, let me be clear: The constitutional option remains on the table. It remains an option. I will not hesitate to use it if necessary. It should be used as a last resort. Nobody wants to use the constitutional option, but it is the only response if there is a change in behavior as we saw in the last Congress that is extraordinary, which is something that I believe has been absolutely rejected by the memorandum of understanding in saying that we are not going to be filibustering as we did in the last Congress.

My goal is restoring the principle of fair up-or-down votes, the principle that governed this body for 214 years until the last Congress.

I will say that if the other side of the aisle acts in bad faith, if they resume that campaign of routine obstruction where one out of every three or four nominees coming from the President who make it through the Judiciary Committee, who make it to the Executive Calendar is filibustered, the constitutional option is going to come out again. I will bring it out. And once again, I will set a date to use it. If that is what it takes to move this body forward, we will do that once again.

The constitutional option is not a threat. It ought to be used as a response behavior which I believe is inappropriate to this body as we consider nominees. All the constitutional option does is it brings it to the floor. One hundred Senators can make the decision as to whether the fairness of up-or-down votes is a principle to which they agree.

I look at all of this today as having the opportunity to begin the execution of the memorandum of understanding, using regular order of business. The regular order is, as was set out several weeks ago, to debate Priscilla Owen extensively, exhaustively, which we have done, over 21 days of debate on the Senate floor on Priscilla Owen, and then bring it to closure. We had to file a cloture motion. We made an offer of 10, 15 hours, and that was turned down by the other side. So we filed a cloture petition, and we will have the cloture vote in regular order. Depending on the outcome, we will in all likelihood move to an up-or-down vote.

I expect this afternoon that we will confirm Priscilla Owen and, by the end of the week's process, Janice Rogers Brown, and William Pryor. I will work with the minority leader in terms of the best timing. I will work with the Judiciary Committee as well and other Senators to move forward expeditiously on other nominees.

We have had discussions and offers from the other side to move ahead with Tom Griffith, which I hope we can do shortly; offers on the Sixth Circuit nominees David McKeague, Susan Neilson, and Robert Griffin, all of whom deserve a vote on the floor of the Senate, an up-or-down vote. So all this has been a very significant, substantial debate.

I believe the injustice of judicial obstruction in the last Congress has been exposed, talked about, recognized, and I believe we have now—it is not guaranteed—the opportunity to return to the traditions of 214 years and precedents of 214 years to give these nominees fair up-or-down votes.

I hope that progress continues. I am confident it will. I am cautiously optimistic. Fair up-or-down votes is a principle I believe in and will continue to fight for on the floor of the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

DOING THE WILL OF THE PEOPLE

Mr. REID. Madam President, I support the memorandum of understanding. It took the nuclear option off the table. It is gone for our lifetime. We don't have to talk about it anymore. I am disappointed there are still the threats of the nuclear option. Let's move on. We need not go over this, but there were 218 nominees of the President and we turned down 10.

All filibusters are extraordinary. There will be filibusters of judges and of other things. That is what the Senate is all about. That is what the 14 Senators acknowledged. I admire and respect what they did. I am thankful they kept me advised as to what they were doing. It is too bad there were not other opportunities to make a "deal" between the majority leader and me.

We have to understand that the Senate needs to operate. I say to my friend, the distinguished majority leader, there was an agreement made on three judges. We feel the merits of those three judges are not good and that we need time to talk about those three judges. We will continue to do that. The rules of the Senate have not been changed. That is what is so good about the agreement of these 14 Senators, who rose above the battle and did the right thing.

I am willing to work with the majority leader. I have said that publicly and privately. But we have to be realistic. Unless we work into next week, we cannot do all these judges. If that is the order—that we are going to work into next week—people should be told that now. We are willing to work within the confines of the rules of the Senate. If cloture is invoked today, the rule is you get 30 hours. We are happy to work on that to shorten it a little bit and to have a vote sometime tomorrow and then go to other matters. I would think we could go to another judge—a controversial judge. We have indicated that the judges from Michigan are not controversial. They were held up on procedural things because of longstanding problems with the Michigan Senators. We would need to debate that for a while.

We are here to work the will of the Senate. Again, I am somewhat disappointed that we still hear threats of nuclear option. That is gone. Let's forget about it. I am happy that one of the things the 14 talked about is having some consultation with the President. I am confident that will work out better for the White House and the Senate. I hope that transpires. We here want to move forward. We have so much that needs to be done.

The distinguished majority leader has talked about things that need to be done, such as the Bolton nomination, which is also controversial. We will be happy to try to work to some degree to make that as easy as possible for everybody. It is a difficult issue. I have spoken to Senator BIDEN early this morning. He has a plan as to what he feels should be done on Bolton. None of this is going to take an hour or two. There are things we have to talk about with Bolton.

As I indicated last night, last night was a good day for the Senate and today is a good day. Let's move forward and work as the Senate feels it should work. There have been no rule changes. We are here to do the will of the people of this country.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11:40 shall be equally divided between the two leaders or their designees.

The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I will say a few things about the compromise that was reached last night. It has a lot of good things in it. I think, first and foremost, it represented a consensus of a group of Senators who would represent the majority, saying that filibusters are not to be routinely utilized in the confirmation process. As a matter of fact, they said only in "extraordinary circumstances" should a filibuster be utilized.

This was a rejection of what we have seen for over 2 years in the Senate. It was a movement toward the historical principles of confirmation that I think are very important. I think it is worthy of note that the majority leader, Senator BILL FRIST, who just left the floor, moved so ably on this issue. He spent nearly 2 years studying the history, seeking compromises, working with colleagues on both sides of the aisle, and as of a few weeks ago had, I believe, quite clearly achieved a majority of the Senators who were prepared to exercise the constitutional option to establish the rule that we would not filibuster judicial nominees. We have not had a judicial filibuster in 214 years and we should not have one now. A majority in this Senate was prepared to act to ensure that we would not have one.

It was only at that point that serious discussions began on a compromise and, as a result of those discussions, seven Senators on each side agreed they would act in a certain way and issued the statement they did. It does not reflect the majority of either party, but it does reflect, in my view, the fact that a majority of this Congress does not believe that filibusters are the way to go and should not occur except in extraordinary circumstances.

Frankly, I think that is not the principle we need to adhere to. When President Clinton was President and he sought nominees that he chose for the Federal bench, and people on the Republican side discussed whether a filibuster was appropriate, the Republicans clearly decided no and allowed nominees such as Berzon and Paez to have an up-or-down vote. They were given an up-or-down vote and both were confirmed, even though they were controversial. I think that was significant.

I have to tell you how thrilled I am that Judge Bill Pryor will be able to get an up-or-down vote. He is one of the finest nominees who has come before this body. The hard left groups out there, who have been driving this process, attacked him early on and misrepresented his positions, his character, his integrity, and his legal philosophy. They called him an activist when he is exactly the opposite of that, and they created a storm and were able to generate a filibuster against him. He had a majority of votes in the Senate, if he could have gotten an up-or-down vote. But he was denied that through the inability of the majority to cut off debate and have a vote.

I am so glad the group of 14 who met and looked at these nominees concluded he was worthy of being able to get a vote up or down. I have to say that has colored my pleasure with the agreement, even though I know some other good judges or nominees were not part of the agreement.

I want to point this out. The minority leader seems to suggest that filibusters are here to stay and they are normal and logical, and get over it and accept it, and that, oh, no, the constitutional option can never be used. That was not in that agreement and that is not what is in the hearts and minds of a majority of the Senators in this body. If this tactic of filibustering is continued to be used in an abusive way, or in a way that frustrates the ability of this Congress to give an up-or-down vote to the fine nominees of President Bush, there has been no waiver of the right to utilize the constitutional option.

As I understand it, even yesterday Senator BYRD, on the Senate floor, admitted the constitutional option is a valid power of the Senate majority. I would say this. It ought not to be abused; it ought not to be used for light or transient reasons. It ought to be used only in the most serious circumstances—the most serious circumstances of the kind we have today when, after 200 years of tradition, 200 years of following the spirit of the Constitution to give judges up-or-down votes, the Senate is systematically altered as it was in the last Congress. That is why it was brought out, and with the threat of the constitutional option and a majority of Senators who were prepared to support it, a compromise was reached. I believe it is significant.

Finally, I want to note it is exceedingly important that we, as Members of this Senate, understand how judges should be evaluated, how they have basically always been evaluated, except in recent times. How should they be evaluated? They should be evaluated on their judicial philosophy, not their political views or their religious views. There are nominees who have come before this Senate who have demonstrated through a career of practice that they comply with the law, whether they agree with it or not. Some of them are pro-life, some of them are pro-choice, some of them are for big Government, some of them are for smaller Government, some of them are for strong national defense, some of them are not. That is not the test and cannot be the test.

We had one situation that troubled me. I was pleased eventually that this nominee was confirmed. A man and a woman—the man was nominated for judge and had been No. 1 in his law school class. They had written a letter to the members of their church, a Catholic Church in Arkansas, and they discussed their view of marriage in the Christian tradition. They affirmed that and quoted from Scripture. We had persons attack that nominee because they said it somehow elevated a man over a woman. That is not the rich tradition of marriage as was explained in their letter. But it led to that attack. That made starkly clear in my mind what is at stake here. This is the question: Are we to expect that every nominee that comes here has to lay out their personal philosophy, their marital philosophy, their religious beliefs, and we sit and judge them on whether we agree with that?

Is that the way you judge a judge to see if they are qualified: Do I agree with their theology? Do I agree with their political philosophy? Do I agree with their opinion on Franklin Delano Roosevelt? Is that what we do?

We cannot do that. We should not do that. We ought to be pleased that a nominee has cared enough about his or her country to speak out on the issues that come before the country. We ought to be pleased that they have been active and they care and they participate in the great political debate in America. But we ought not say to them, because you said one thing about abortion, and you are pro-life or you are pro-choice, you can never follow the law of the Supreme Court or the Constitution and, therefore, we are not going to allow you to be a judge. We cannot do that. That is a wrong step.

I think that was implicit in this compromise—at least I hope it was. I think it said that judges, such as Judge Bill Pryor who, when asked did if he said abortion was bad, answered: Yes, sir, I do. And when he was asked: Do you still believe it? He said: Yes, sir. I do. He had a record, fortunately, that he could then call on to show that he was prepared to enforce the law whether he agreed with it or not. If he had been in the legislature, he might have voted differently. But as a judge or as attorney general, he had a record on which he could call to show that he enforced the law.

For example, Judge Pryor would certainly have opposed partial-birth abortion, one of the worst possible abortion procedures. But as attorney general in the 1990s, when Alabama passed a partial-birth abortion ban, he wrote every district attorney in the State on his own motion—he did not have to, but he had the power to do so as attorney general—and told them that portions of that bill, with which he probably agreed, were unconstitutional and should not be enforced.

Later, when the Supreme Court of the United States rendered the Stenberg decision that struck down an even larger portion of the foundation of partial-birth abortion statutes that had passed around the country, he wrote another letter to the district attorneys and told them the Alabama statute was unconstitutional.

Does that not prove what we are about here? It is not your personal belief but your commitment to law that counts?

What about the circumstance when he was accused of being too pro-religion? I do not think the facts show an abuse of his power in any way. In fact, he found himself in the very difficult circumstance in Alabama of being the attorney general and having the responsibility to prosecute or present the case against the sitting chief justice of the Alabama Supreme Court who placed the Ten Commandments in the supreme court building. The chief justice had been ordered to remove it by the Federal courts, and he did not remove it. Other judges removed it. Attorney General Bill Pryor presented that case, and Judge Moore was removed from office.

That was a big deal. It was a tough deal. Time after time, he has done that.

Priscilla Owen also is a nominee of the most extraordinary qualifications. She made the highest possible score on the bar exam in Texas. That is a big State and bar exams are not easy. She is a brilliant lawyer, highly successful in the private practice of law in Texas. They encouraged her to run for the supreme court. She did so. She won. The last time she ran, she received 84 percent of the vote in Texas. This is a professional lawyer/jurist, brilliant, hardworking, a woman of great integrity and decency. She has questioned the concept or the idea that judges have a right to go back and reinterpret the meaning of the Constitution or statutes and read into them whatever they like to make them agree with the judge's philosophy. Many today seem to think they are at liberty to do this. In fact, some judges go back and try to twist, bend, stretch the meaning of words to promote agendas in which they believe. Priscilla Owen does not believe in that and has spoken against it.

Her philosophy as a judge reflects restraint, and a dedication to following the law. That is what she has stood for, and she has been criticized roundly as being an extremist—a judge who received 84 percent of the vote and was endorsed by every newspaper in the State.

Judge Priscilla Owen also was rated by the American Bar Association unanimously well qualified, the highest rating they give. This is not an extremist.

What was it here? Outside groups who have made a history of identifying and attacking these nominees have mischaracterized her, just as they did Judge Pryor. Both of these nominees, for example, have tremendous support within their State, tremendous bipartisan support in conference.

That is why I am confident the 14 people who got together and reviewed this situation felt they could not leave her or the other two judges off this list. They just could not deny Janice Rogers Brown, Priscilla Owen, or Judge Bill Pryor an up-or-down vote. They were too decent, had too much of a good record, too many supporters in the African-American community, in the Democratic leadership of their States, and that is why they were given this vote.

I think perhaps we are now moving forward to a new day in confirmations. I hope so. We have been far too bitter in attacking good people. Records have been distorted dishonestly, particularly by outside groups and sometimes that has been picked up by Senators. My Democratic colleagues have outsourced their decisionmaking process at times, I am afraid. They have allowed the People for the American Way and Ralph Neas and the Alliance for Justice, the people who spend their lives digging up dirt, sullying people's reputations, twisting facts, taking cases out of context, taking statements out of context, taking speeches out of context, posturing and painting nominees as things they are absolutely not, to influence their decisions. It is wrong. Hopefully, we are now moving in a better direction.

I am also hopeful that as a result of this agreement, the nomination process in the future will go better. Maybe even issues such as transportation, energy, and defense will go better in this Congress. I hope so. I will try to do my part.

I want to say one thing, the constitutional option has not been removed from the table. We cannot allow filibusters to come back and be abused. We absolutely cannot. The majority should never allow that historic change to occur while they have the ability to resist and that ability still exists. I believe the majority leader, BILL FRIST, is correct in that analysis. He has stated the ideals of this Senate. He has reminded us of the history and traditions of the Senate. He has reminded us that Republicans were faithful to that tradition and the Democrats need to be, too. So I hope we will be able to move forward with the consideration of more and more nominees as President Bush goes forward in his term, and that as we do so, they will be given a fair hearing. I hope that Senators on both sides of the aisle will look at the facts and allegations about nominees to make sure those are truthful, accurate, and fair characterizations of them, and not mischaracterizations, not distortions, not misrepresentations of what they are and what they have done. If we do that, we are going to be OK.

Let me say this about President Bush. He has gone to the American people. He has stated his case to them. He stated clearly and effectively he believes that judges should be committed to the rule of law, should follow the law, that they should not be activist, they should not seek to impose personal and political agendas through the redefinition of words of statutes or our Constitution. The American people have affirmed him in that.

The Senate obstruction and filibuster of Federal judges has been a big issue in the last two election cycles in this Senate, and Republicans have, as a result, in my opinion—it is my opinion, I will admit—picked up six new Senate seats. I think a large part of that is because people in these States have been concerned about the obstruction of good and decent nominees, and the people of this country are of the opinion that their liberties are in jeopardy when an unelected lifetime-appointed judge starts setting social policy. If they are not happy with my vote on social policy, I can be removed from office, but a judge has a lifetime appointment, and the American people understand that. They understand that an activist judge is, indeed, antidemocratic. It is an antidemocratic act when a judge, without accountability to the public, starts setting social and political policy, as we have seen too often in recent years.

As a result, I believe we need to return to our traditions that have served both sides well, and if we do that, we can move forward, I believe, to a better process on judges and other issues that come before this body. I am cautiously optimistic for the future.

I yield the floor and reserve the remainder of our time on this side.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Madam President. I understand that by previous agreement, time is allocated; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. KENNEDY. And there is to be 1 hour for one side, 1 hour to the other side, prior to the leadership time?

The ACTING PRESIDENT pro tempore. There is 47 minutes remaining for the minority.

Mr. KENNEDY. Madam President, I yield myself 10 minutes.

First, I commend my friend and colleague, our leader, Senator REID, for his perseverance during these past several weeks and adherence to the great traditions of the institution of the Senate. It has been an extraordinary example of devotion to the Senate, to our Constitution, the checks and balances which are written into the Constitution. Our President has a veto, and the Members of Congress have the right to speak. There are those who would like to muzzle, silence, effectively cut off the debate in the Senate. With this agreement of last evening, that time, hopefully, has ended. It certainly has been for this Congress.

I was listening to some of my colleagues earlier. I read from the agreement about rules change:

> In light of the spirit and continuing commitments made in this agreement, we commit to oppose the rules changes in the 109th Congress, which we understand to be any amendment to or interpretation of the Rules of the Senate that would force a vote on a judicial nomination by means other than unanimous consent or rule XXII.

The current rule. There it is. Yet we heard the mention by the leader earlier this morning that he believes somehow the nuclear option is still alive and well.

It does seem to me the American people want to get about the American people's business. This has been an enormous distraction.

I listened to my friend and colleague from Tennessee who says we want to follow the rules and traditions of the Senate, so we are going back to the regular order. If we go back to the regular order, we are going back to the traditions and rules as they stand: You have the vote of every member on this side. That is not what the majority leader was talking about. He was talking about we will go back to the regular order; he was going to change the order with a whole series of changed rules.

That is what the members of this side and the courageous Republicans on the other side found offensive. We believe we ought to be about our people's business. We have approved 95 percent of the Republicans' nominees. I am sure some are, perhaps, pro-choice; many of them—probably most of them—are pro-life. They have still gone through. The real question is whether we are going to be stampeded and be silenced with regard to judges who are so far outside of the mainstream of judicial thinking that it was going to be the judgment of the majority leader that he was going to change the rules in a way that would deny the Senate's Parliamentarian, who has been the safeguarder of these rules for the 214 years of the Senate, and bring in the Vice President, who was going to rule according to his liking rather than to the traditions of the Senate.

That kind of abridgement, that kind of destruction, that kind of running roughshod over the Senate rules is offensive to the American people and offensive to us. It was avoided by the actions that were taken last evening in which our Democratic leader was the principal architect and supporter.

Yesterday was a day that will live in American history, and our grandchildren and their grandchildren will discuss what happened. They will do so with much more insight than we can today because they will know what the results of yesterday's agreements actually turned out to be. I hope that history will judge us well as an institution. We came close to having a vote that threatened the essence of the Senate and of our Government. It risked destruction of the checks and balances among the branches that the Framers so carefully constructed. It risked destruction of the independence of the judiciary, which is at the heart and soul of this issue. It risked an accumulation of power in the President that might have turned back the clock toward the day when we were subjects instead of citizens.

We have avoided that confrontation and have done so within the traditions of the Senate: discussion, debate, negotiation and compromise. Moderation and reason have prevailed. As in any compromise, some on each side are unhappy with specific aspects of the result, but the essence is clear. A majority of this body does not want to break its rules and traditions. Those rules and traditions will be preserved.

This body's self-regulating mechanisms will continue to be a moderating influence, not only within the body but also on the other House and the other branches of Government. Once again, the Senate has reminded the Chief Executive that we are not merely occupants of a beautiful building at the other end of Pennsylvania Avenue. We taught George Washington that lesson when we rejected one of his Supreme Court nominations. We taught Thomas Jefferson that lesson when we refused to convict an impeached Justice whose opinions Jefferson did not like. We taught Franklin Roosevelt that lesson when he tried to pack the Supreme Court. We taught Richard Nixon that lesson when he sent us a worse nominee after we defeated his first nominee for a Supreme Court position.

As even the Republicans in the agreement group said, this agreement should persuade the President to take more seriously the advice portion of the advice and consent. If the President understands the message and takes it to heart, his nominees will be better off, the courts will be better off, and the Nation will be better off.

Our principal goal was to preserve the ability of the Senate to protect the independence of the Federal courts, including the Supreme Court, and we have succeeded in doing so. We have sent a strong message to the President that if he wants to get his judicial nominees confirmed, his selections must have a broader support from the American people.

As a result of this agreement, we can hope that no Senator will ever again pretend that the Constitution commands a final vote on every Executive nominee, for it has never done so and it does not do so now.

We can hope that no one will again pretend that there has never been a filibuster of a judicial nominee when they can look across the Senate floor at three Democratic Senators who witnessed the Republican filibuster against Justice Fortas and Republican Senators who participated in other judicial filibusters. We can hope that no one again will pretend that it is possible to break the fundamental Senate rule on ending a filibuster without shattering the basic bonds of trust that make this institution the world's greatest deliberative body.

I believe history will judge that we have not failed those who created America two centuries ago by what we have done. We have fought off those who would have destroyed this institution and its vital role in our Government for shameful partisan advantage. By rejecting the nuclear option, the Senate has lived up to its responsibilities as a separate and equal branch of Government.

I say to my colleagues on both sides of the aisle, that agreement does not change the serious objections to the nominations that have been debated in the past days. Those of us who care about the judiciary, who respect mainstream values, who reject the notion that judgeships are spoils to be awarded to political fringe groups, will continue to oppose the nomination of Priscilla Owen, Janice Rogers Brown, and William Pryor because they would roll back rights and freedoms important to the American people.

Now that these nominees are slated to get a vote on the floor. I hope courageous and responsible Republicans will show their independence from the White House and thoroughly examine the records of each of them. If they do, I hope they will agree that these nominees should not be given lifetime appointments to the Nation's courts, where they will wield enormous power over the lives of all Americans.

Those of us who oppose the nomination of Priscilla Owen have done so with good cause because her record makes clear that she puts her own ideology above laws that protect the American people. I have made that case. I just remind our colleagues of what the Houston Chronicle said. The Houston Chronicle, from her own area, wrote that her record shows less interest in impartiality and interpreting law than in pushing an agenda. She too often contorts rulings to conform to her particular conservative outlook. Those are not fringe groups. That is the Houston Chronicle.

Austin American-Statesman: Priscilla Owen is so conservative she places herself outside of the broad mainstream of jurisprudence and she seems all too willing to bend the law to fit her views.

Those are not leftwing fringe groups. That is the Austin American-Statesman.

San Antonio Express News: She has always voted with a small court minority that consistently tries to bypass the law as written by the legislature.

I have included at other times in the RECORD the 10 different occasions when the current Attorney General of the United States criticized Priscilla Owen for being outside of the mainstream of judicial thinking. I ask unanimous consent that six or eight of those, and the cases, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXAMPLES OF GONZALES'S CRITICISMS OF OWEN

In one case, Justice Gonzales held that Texas law clearly required manufacturers to be responsible to retailers that sell their defective products. He wrote that Justice Owen's dissenting opinion would "judicially amend the statute" to let manufacturers off the hook.

In a case in 2000, Justice Gonzales and a majority of the Texas Supreme Court upheld a jury award holding that the Texas Department of Transportation and the local transit authority were responsible for a deadly auto accident. He explained that the result was required by the "plain meaning" of Texas law. Justice Owen dissented, claiming that Texas should be immune from these suits. Justice Gonzales wrote that her view misread the law, which he said was "clear and unequivocal."

In another case, Justice Gonzales joined a majority opinion that criticized Justice Owen for "disregarding the procedural limitations in the statute," and "taking a position even more extreme" than had been argued by the defendant in the case.

In another case in 2000, private landowners tried to use a Texas law to exempt themselves from local environmental regulations. The court's majority ruled that the law was an unconstitutional delegation of legislative authority to private individuals. Justice Owen dissented, claiming that the majority's opinion "strikes a severe blow to private property rights." Justice Gonzales joined a majority opinion criticizing her view, stating that most of her opinion was "nothing more than inflammatory rhetoric which merits no response."

Justice Gonzales also wrote an opinion holding that an innocent spouse could recover insurance proceeds when her co-insured spouse intentionally set fire to their insured home. Justice Owen joined a dissent that would have denied coverage of the spouse, on the theory that the arsonist might somehow benefit from the court's decision. Justice Gonzales' majority opinion stated that her argument was based on a "theoretical possibility" that would never happen in the real world, and that violated the plain language of the insurance policy.

In still another case, Justice Owen joined a partial dissent that would have limited the right to jury trials. The dissent was criticized by the other judges as a "judicial sleight of hand" to bypass the Texas Constitution.

Mr. KENNEDY. This is Attorney General Gonzales on the supreme court with Priscilla Owen, critical of her of being outside the mainstream. That is the point we have basically made.

This week, the American people are saying loudly and clearly that they are tired of the misplaced priorities and abuse of power by the rightwing. This agreement sends a strong message to the President that if he wants to get his judicial nominees confirmed, his selections need to have broad support from the American people.

Going forward on any nomination, the President must take the advice and consent clause seriously. The Senate is not a rubberstamp for the White House. The message of Monday's agreement is clear: Abuse of power will not be tolerated. Attempts to trample the Constitution will be stopped.

Over the last few weeks, the Republican Party has shown itself to be outside the mainstream, holding up the Senate over the judges while gas prices have jumped up through the ceiling, stubbornly insisting on the Social Security plan that cuts benefits and makes matters worse, passing a budget that offers plenty to corporations but little to students, nurses, and cops, and running roughshod over ethics rules. These are not the priorities of the American people. The American people want us to get back to what is of central concern to their lives, the lives of their children, their parents, and their neighbors. That is what we ought to be about doing, and preserving the Constitution and the rules of the Senate. The agreement that was made in a bipartisan way does that, and it should be supported by our colleagues in the Senate.

I reserve the remainder of our time.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Madam President, No. 1, there has been a lot said about last night. I was one of the signatories of the agreement. I think last night gives us a chance to start over. Seldom in life do people get a chance to start over and learn from their mistakes.

There have been some mistakes made for about 20 years on judges, and it finally all caught up with us. It started with Judge Bork. He was the first person I can remember in our lifetime who was basically subjected to "how will he decide a particular case," and he was attacked because of his philosophy, not because of his qualifications. It has just gotten worse over time. Clarence Thomas—we all remember that.

The truth is, when the Republicans were in charge of the Judiciary Committee, there is a pretty good case to be made that some of President Clinton's nominees were bottled up when we had control of the Judiciary Committee, and they never got out into the normal process.

Where do we find ourselves now? It started with an attack on one person because people did not like the philosophy of that person, which was new for the Senate. Before that, when a judge was sent over, we looked at whether they were qualified ethically and intellectually.

One has to understand that there is a consequence to an election. When a President wins an election, that President has a right to send nominees over to the Senate for Federal courts. It has always been assumed that conservative people are going to pick conservative judges, and moderate and liberal people are going to be somewhere in the middle. That has worked for 200 years.

The bottom line is, the President can send over somebody who they think is conservative, and they can be fooled. They can send somebody they think is liberal, and over a lifetime they may change. What we have been able to do as a body is to push back but eventually give people a chance to be voted on.

I was a "yes" vote. Senator DEWINE and myself were ready to vote for the nuclear option this morning if we had to, the constitutional option. It can be called whatever one wants to call it, but it would have been a mess for the country. It would have been better to end this mess now than pass it on to the next generation of Senators because if the filibuster becomes an institutional response where 40 Senators driven by special interest groups declare war on nominees in the future, the consequence will be that the judiciary will be destroyed over time. People can get rid of us every 6 years, thank God, but once a judge is put on the bench, it is a lifetime appointment. We should be serious about that.

We should also understand that people who want to be judges have rejected the political life, and when we make them political pawns and political footballs, a lot of good, qualified men and women who are moderate, conservative, or liberal will take a pass on sitting on the bench. If the filibuster becomes the way we engage each other on judges, if it becomes the response of special interest groups to a President who won who they are upset with, the Senate will suffer a black eye with the American people, but the judiciary will slowly but surely become unraveled.

That is why I think we have a chance to start over. That is why I voted for us to start over, and I hope we have learned our lesson.

As to Priscilla Owen, it is the most manufactured opposition to a good person I have seen short of Judge Pickering, only to soon-to-be Judge Pryor and a close third is Justice Brown. What has been said about these people is beyond the pale. They have been called Neanderthals. If one has somebody they know and care about and they are thinking about being a judge, I think they need to be given fair warning that if they decide a case that a special interest group does not like, a lot of bad things are going to be coming their way.

Do we really need to call three people who have graduated near the top of their class, who have had a lifetime of service to the bar, Neanderthals? We have a chance to start over, and we better take it, because one thing the American people have from this whole show is that the Senate is out of touch with who they are and what they believe because we have allowed this thing to sink into the abyss. Priscilla Owen got 84 percent of the vote in Texas, and JOHN CORNYN knows her well. He served with her. She graduated at the top of her class; scored the highest on the bar exam. She has been a solid judge. What has been said about her has been a cut-and-paste, manufactured character assassination. Whether she is in the mainstream, the best way to find out is when people vote. When Priscilla Owen finally gets a vote here soon, you are going to see she is very much in the mainstream, if a supermajority of Senators count for anything. She is going to get votes. She is going to get a lot more than 50 of them. So is Judge Pryor.

The problem I have had with Bill Pryor and the way he has been handled is that he is the type person I grew up with. He is a conservative person. He is a good family man. But he has made some calls in Alabama that are unbelievably heroic, when it comes to politics and the law. Being for the Ten Commandments is a big deal in Alabama. Judge Moore, Justice Moore took that and rode that horse and beat it to death and it got to be a hot issue in Alabama and it got to be a hot issue all over the country. The attorney general of Alabama, Bill Pryor, followed the law and took on Justice Moore. He didn't have to, but he chose to.

At every turn he has proved to me he is bigger than the political moment. When he gets voted on, I am going to take this floor and we are going to talk a little bit longer about him. The people in Alabama across the board should be proud of Bill Pryor. He is going to make a heck of a Federal judge.

Now, where do we go? This agreement was among 14 Senators who believed that starting over would matter—14 Senators from different regions of the country, supported by their colleagues in a quiet fashion, more than you will ever know. What happens in the future depends on all of us working together. It depends on trust and good faith. The White House needs to talk with us more, and they will. Our Democratic friends need to understand that the filibuster as a tool to punish George W. Bush is not going to sustain you very long and will put you on the wrong side of the American people and will eventually destroy the judiciary.

The agreement says that in future nomination battles, the seven Democrats will not filibuster unless there are extraordinary circumstances. What does that mean? Well, we will know it when we see it. It means we will keep talking. It means they don't have to lay down in the road if there is a Supreme Court fight. There is going to be a Supreme Court nomination coming, probably soon, and that is what this is about. But our seven Democratic colleagues decided to find a middle way to bring some calm to the body. I think we can get a conservative justice nominated and confirmed if we try hard. Nobody should expect anything less from George W. Bush. But there is a way to get there from here and I do believe the seven Democrats who signed this agreement will work very hard to make that happen along with all Senators at the end of day.

But if there comes a point in time in the future when one of the seven Democrats believes this person before them is so unacceptable they have to get back in the filibuster business, here is what it means to the Republicans—because I helped write the language. It means we will talk, we will listen, and we will discuss why they feel that way. But it means I am back in the ball game. If one of the seven decides to filibuster and I believe it is not an extraordinary circumstance for the country, for the process, then I have retained my rights under this agreement to change the rules if I think that is best for the country. That is only fair. My belief is we will never have to cross that bridge. But those who say this is a one-sided deal misrepresent what happened in that room. This is about moving forward, avoiding conflict in the future by talking and trusting.

But there may come a time, and I hope to God it doesn't happen, where we go different directions. The only reason we will ever go different directions is that we will start playing politics again and lose sight of the common good.

The two nominees who were in category two I think will get back in the process in a fair way. The truth is all of the nominees were never going to make it. There are some Republicans who will vote against some of these nominees. But they all deserve a fair process and they all deserve to be fairly treated. None of them deserve to be called Neanderthals.

It is my hope and my belief we will get this group of nominees fairly dealt with. Some are going to make it and some will not. But they will get the process back to the way it used to be. As to the future, it is my belief that by talking and working together in collaboration with the White House, we can pick Supreme Court Justices, if that day ever comes, so that everybody can be at least happy with the process, if not proud of the nominee. That is possible because we have done it for 200 years. But please don't say, as a Democrat, you can do anything you want to do in the 109th Congress and nothing can happen, because that is not true.

I have every confidence we can get through this mess, but there is no agreement that allows one side to unilaterally do what it would like to do and the other side be ignored. Because if that were the case, it wasn't much of an agreement.

I look forward to voting for Justice Owen. I look forward to voting for Judge Pryor, I look forward to voting for Justice Brown, and putting to rest the idea that these nominees were out of the mainstream.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Before my friend and colleague from South Carolina leaves, I want to congratulate him and my colleagues on both sides of the aisle for bringing us to this point. The most important point about what has happened in the last 12 hours is we have maintained the checks and balances in the Senate. We are retaining the ability for minority views to be heard. That is most important.

It is not always Democrats versus Republicans. It could be little States, such as the State of my friend from Delaware, whom I see on the floor, versus Michigan or California. It could be different groups of people. It could be Great Lakes Senators banding together to protect our Great Lakes versus others who want to divert water. It could be a variety of issues.

The fact that the Senate is the place we can come together and minority views can be heard is a part of our democratic process. It is a part of our democracy that has held us together for over 200 years. I commend my colleagues for standing up and saying no to eliminating the filibuster and no to eliminating the checks and balances of our Government.

It involves some compromise, as these agreements always do. While I personally will not support the nomination of the person before us today, I understand that in order to maintain the broad principle of checks and balances in the Senate, in order to allow us to exercise our minority views at a future point if there are extreme nominees coming forward, this was an important compromise to make.

Part of that is an important piece that Senator LEVIN and I contributed to the process of allowing the Senate to move forward on three nominees of the Sixth Circuit from Michigan. So there are compromises that have been made in the interests of the larger good, in the interests of maintaining the checks and balances, the ability for us to work together on both sides of the aisle to get things done for the American people. That is why we are here.

Now we need to get about the business of getting things done for people. When I go home every weekend, when I talk to my family in Michigan, when I talk to everyone I represent—families all across Michigan, they say, We want you to focus on jobs, American jobs. We want our jobs here. We want to reward work in this country and know that when we work hard every day and play by the rules, we are going to be able to care for our families and that we have respect for the dignity of work and that we will reward Americans who are working hard every day.

They say to me they are desperately concerned about their pensions. Look what is happening. We in this body need to be focusing on protecting the pensions, the retirement security of all the Americans who worked all their lives. They put that money aside and they count on that pension in retirement for themselves and their families. Now they are seeing that American dream eroded. Pension security, strengthening Social Security, making sure health care is available to every American—these are the issues that, in this body, we need to be working on together because they directly affect every single person we represent.

I am hopeful we will now be able to put this aside and we will be able to move on with the people's agenda for this country, creating opportunities for everybody to succeed, rewarding work, making sure we are protecting and expanding American jobs and American businesses, making sure we are energy independent.

We will be having legislation brought before us shortly. I know there is important bipartisan work going on. But we need to say we are going to be independent in terms of energy resources and that we are going to move forward as well on issues that relate to national security—not only a strong defense abroad but making sure our police officers and firefighters have what they need, and our emergency responders, so that we have security at home. When somebody calls 911, they will know they are going to get the response they need in terms of their security.

We have a lot of work to do. People are expecting us to get about the people's business. I am very proud that last night our leader on this side of the aisle, the Democratic leader, Senator REID, spoke to those issues. In praising where we are now, the fact that we will continue to have the rules and checks and balances of the Senate, he also then spoke about the fact that we have to get about the people's business because every day when people get up in the morning they are wondering what is going to happen that day for themselves and their families.

It is our job to do everything we can to make sure their hard work is rewarded and opportunities for the future, for our children and grandchildren, are protected. This is a fight for the future. It is a fight about where we need to go as a country. Our families are counting on us to turn to the things they care about every day. The values and priorities of the American people need to be what we are talking about and acting on in this Chamber. I am hopeful we will very quickly turn to those matters: jobs, health care for every single American, opportunities for our kids to be successful, energy independence, a strong defense here and abroad. If we do that, then we will be able to hold our heads high, because we will have done those things that matter most to the families we represent.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, when I was in college and law school, there was a character played by the actress Gilda Radner on "Saturday Night Live," who was known best for purporting to do the news and would engage in this screed about some subject, and then she would be corrected, only to have her then reply, "Never mind."

I thought about that when I have contemplated the occurrences of the last few days, particularly the last day when it came to the sort of apocalyptic terms that were used as we approached breaking the logjam over the President's long-delayed judicial nominees. But for this secret negotiation conducted by 14 Senators that none of the rest of the Senate was a party to, we would be, I believe, about the process of reestablishing the precedent of majority rule that had prevailed for 214 years in the Senate, that would say any President's nominees, whether they be Republican or Democrat, if they have the support of a majority of the Senate, will get an up-or-down vote in the Senate. Senators who believe these nominees should be confirmed can vote for them and those who believe they should not be confirmed can vote against them.

I was not a party to the negotiations and what happened in this room off the Senate floor, but I do have some concerns I wanted to express about what has happened.

It is important to recognize what this so-called agreement among these 14 Senators does and what it does not do. First of all, one of the things it does, it means that at least three of the President's nominees—Bill Pryor, Janice Rogers Brown, and Priscilla Owen—will get an up-or-down vote on the Senate floor and that they will be, I trust, confirmed to serve in the Federal judiciary.

What this agreement by these 14 Senators does not do, it does not give any assurance that other nominees of the President—Mr. Myers, in particular, and others—will get an up-or-down vote that they deserve according to the common understanding of the Senate for more than 200 years by which those who enjoyed majority support did get that vote and did get confirmed.

What this agreement says, we are told, is that seven Democrats and, presumably, seven Republicans reserve the right to filibuster judicial nominees under extraordinary circumstances, but we are left to wonder what those extraordinary circumstances might be. What makes me so skeptical about this agreement among these 14 is that extraordinary circumstances are in the eye of the beholder.

Looking at the litany of false charges made against Priscilla Owen for the last 4 years makes me skeptical that any nominee, no matter how qualified, no matter how deserving, that under appropriate circumstances our colleagues, some of our colleagues, will find the circumstances extraordinary and still reserve unto themselves what they perceive as their right to engage in a filibuster and deny a bipartisan majority our right to an up-or-down vote.

It is clear to me this agreement among these 14 to which 86 Senators were not a party does not solve anything. What it does do is perhaps delay the inevitable. Senator DEWINE, in particular, one of the signatories of this agreement, says this is an effort to break the logjam on these three nominees, hopefully, change the standard by which at least seven Senators on the other side of the aisle will engage in a filibuster, and perhaps start anew.

I hope Senator DEWINE is correct in his reading and his understanding of this agreement. I was not a party to it; presumably, 84 Senators were not a party to it. Negotiations took place in a room where I didn't participate, where the American people were not given the opportunity to listen and judge for themselves.

The thing that disturbs me most about this temporary resolution, if you can call it that, is that while 7 Republicans and 7 Democrats were a party to this agreement, a product of these negotiations, the fact is that the 7 Republicans of this 14 would have agreed to close off debate and would have agreed to allow an up-and-down vote, while it is clear that the 7 Democrats would not have agreed otherwise to withhold the filibuster and allow an up-or-down vote.

What reminds me so much of Roseanne Rosannadanna on Saturday Night Live and Gilda Radner, now in effect what they are saying after 4 years of character assassination, unjustified attacks, and a blatant misrepresentation of the record of these fine nominees, they are saying, in effect, never mind, as if it never happened. But it did happen. It is important to recognize what has happened. It is a blight on the record of this body, and it is further evidence of how broken our judicial confirmation process has been.

I have nothing but admiration for the courage of our majority leader in bringing us to this point. I believe if he had not had the courage and determination—and, I might add, our assistant majority leader, MITCH MCCONNELL—if our leadership had not had the determination to bring us to this point, I have no doubt that we would not have reached at least this temporary resolution. They are entitled to a whole lot of credit for their courage and their willingness to hold the feet to the fire of those in the partisan minority who would have denied a bipartisan majority the right to an up-and-down vote on these nominees.

This agreement of these 14 Senators delays but does not solve the problem. Of course, we all anticipate that before long, there will be a Supreme Court vacancy which will test this definition of what these 14 call extraordinary circumstances. I wonder whether this standard will be applied to the other nominees who were not explicitly covered by this agreement; that is, other nominees who have been pending for years who were not given, as Justice Owen, Justice Brown, and Judge Pryor have been, the opportunity for an up-or-down vote.

Let me say I hope I am wrong. But there is plenty of reason to be skeptical about this so-called agreement of these 14. Perhaps we will see a triumph of hope over experience, but our experience over the last 4 years has been a bad one and one which I don't think reflects well on the Senate.

I hope I am wrong. I hope what has been established is a new precedent that says that the filibuster is inappropriate and will not be used against judicial nominees because of perceived difference in judicial philosophy, that people who have certain fundamental convictions will not automatically be disqualified from judicial office. I hope that is where we are. As we know, though, extraordinary circumstances could be interpreted by some to mean that if you can vilify and demonize a nominee enough, that, indeed, the filibuster continues to be justified. We know from the false accusations made against too many of President Bush's nominees how easy that is to do.

After $10 million—that is one estimate I have heard—in the various special interest attack ads have been run against Priscilla Owen and Janice Rogers Brown and others, after $10 million or more, perhaps, the American people are told, never mind, we did not really mean it; or even if we did mean it, you are not supposed to take us seriously because what this is all about is a game.

This is about the politics of character assassination, the politics of personal destruction. In Washington, perhaps people can be forgiven for believing that happens far too much. Indeed, that is what has happened with these fine nominees. But now they are told, particularly in the case of Justice Owen, after 4 years, never mind, all the things that were said about you, all the questions raised are beside the point, and you are not going to serve on the Fifth Circuit Court of Appeals after waiting 4 years for an up-or-down vote.

I worry some nominees in the future will simply say: I am not going to put my family through that. I think about Miguel Estrada, who waited 2 years for an up-or-down vote with the wonderful American success story, but after 2 years he simply had to say: I can't wait anymore. My reputation cannot sustain the continued unjustified attacks. I am simply going to withdraw.

Unfortunately, when we have good men and women who simply say, I can't pay the price that public service demands of me and demands of my family, I fear we are all losers as a result of that process.

I am skeptical of this agreement made by 14 after secret negotiations that we were not a party to. Perhaps I am being unduly skeptical. I hope I am wrong. I hope what has happened today and I hope we are reassured over the hours and days that lie ahead that what has been established is a new precedent, one that says we will not filibuster judicial nominees, we are not going to assassinate their character, we are not going to spend millions of dollars demonizing them.

I hope I am wrong and that we have a fresh start when it comes to judicial nominations. The American people deserve better. These nominees deserve better. This Senate deserves better than what we have seen over the last 4 years.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Delaware.

Mr. CARPER. Mr. President, a week ago, I stood in this Chamber and I reminded Members to look back some 200 years. The issue of how we are going to nominate and confirm judicial appointees is not a new issue. At the 1787 Constitutional Convention in Philadelphia, there were many issues to resolve. One of the last issues resolved was, who is going to select these Federal judges to serve a lifetime appointment?

Ben Franklin led the forces on one side in an effort to try to curb the powers of this President we are going to establish to make sure we did not have a king in this country. And Ben Franklin and those who sided with him said the judges ought to be selected by the Senate, by the Congress.

There was another school of thought that prevailed as well in the Constitutional Convention, those forces led by Alexander Hamilton. Hamilton and his allies said: No, the President should choose the people who are going to serve lifetime appointments to the Federal bench.

In the end, a compromise was proposed and voted on. Here is the compromise: The President will nominate, with the advice and consent of the Senate, men and women to serve lifetime appointments to the Federal bench. That compromise was voted on. It was defeated. They wrangled for a while longer and came back and they voted on the same compromise again. It was defeated. They went back and wrangled among themselves and came back and voted a third time on the same compromise. And it was accepted. That was 1787.

A lot of years have passed since then, and this issue, this check and balance that was embedded in our Constitution, is one we have revisited over and over again. We did it this week. It was a big issue when Thomas Jefferson was President, the beginning of his second term when he sought to stack the courts and was rebuffed by his own party. That was in the 1800s. It was a big issue in the 1900s when FDR, at the beginning of his second term, sought to stack the courts, pack the courts. He, too, was rebuffed largely by his own party.

Is this compromise hammered out over the last couple of weeks going to last forever? My guess is probably not. Just as this has been an issue of contention for over 200 years, it is probably going to be a source of controversy for a while longer.

My friend from Texas, who spoke just before me, talked about the mistreatment of those who have been nominated to serve on the Federal bench by President Bush over the last 4 years. He mentioned a number, as it turns out, about 10 out of over 200, who were confirmed over the last 4 years. He mentions the 10 who, frankly, have had their lives disrupted, and in some cases were held up to poor commentary in the public and in the Senate with respect to their worthiness to serve on the bench for a lifetime appointment.

I like to practice treating other people the way I want to be treated. I know most of us try to live by that credo. Sometimes we fall short. I know I do. But I think just to be fair we ought to go back to the first 4 years of when Bill Clinton was President. It was not just 5 percent of his nominees who were not confirmed. Some 19 percent of his nominees were not confirmed. It was not that they were denied a vote on the floor, they never got out of committee.

One person—one person—could put a hold, stop a nominee from even having a hearing in the Senate Judiciary Committee. A handful of Senators in the committee could deny a nominee ever coming out of committee to be debated and voted on in the Senate. And somehow the idea that Bill Clinton could only get 81 percent of his nominees confirmed the first 4 years was OK for some, but yet a 95-percent approval rate for this President's nominees in his first 4 years was unacceptable. I see an irony there. I hope others do, too.

Let me talk about the compromise that is before us. Most compromises I have been familiar with, frankly, do not leave either side especially happy for the final result. And that certainly is true in this case as well. But in the final analysis, the center of this body has held, barely, but it has held. A critical element of our Nation's system of checks and balances has been tested, but it still lives. For that, most of us should be happy—and if not happy, we should at least be relieved.

I believe the path to a productive legislative session has been reopened, too. And almost like Lazarus rising from the grave, I think prospects for arriving at a middle ground on a whole range of issues we face has a new lease on life. We need to transfer the trust that I hope has grown out of this negotiation among the seven Democrats and seven Republicans. I salute them all for the good work they have done. I am not going to get into naming names, but they know who they are, and I am grateful to each of them.

But what we need to do, as a body, as a Senate, is to transfer some of the trust that is a foundation of this agreement. We need to capture that trust and turn it to addressing some of the most pressing issues that face America: our huge and growing dependence on foreign oil, an enormous trade deficit and budget deficit, reining in the growth of health care and trying to make sure more people have health care available, winning this war on terrorism, and finding ways to improve our Nation's air quality. All those issues beg to be addressed.

For this Senator, the good news that comes out of this agreement over the last 24 hours is that now we can turn to our Nation's business. We can get back to work. We need to. America wants us to.

For the President and our friends in the White House, let me say, in going forward on judicial nominees, if you will consult with the Congress—Democrats and Republicans—we can actually approve most of those nominees. If this President will nominate mainstream judges, conservative judges—I expect them to be Republicans—if he will nominate those, for the most part, if they are not outside the mainstream, they will be approved. If the President will actually consult with the Senate, as the Constitution calls for, we will be better off, he will be better off, and, frankly, our Nation will be better off.

The same applies to the legislative agenda that is now before us. For if the administration, the President, will work not just with Republicans but with Democrats, too, we can make real progress, and when we look back on the 109th Congress, we can say, with pride, that we got a lot done that needed to get done.

I yield back the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Under the previous order, debate will continue until 11:40. The minority side has 20 minutes remaining. The majority side has 1 minute remaining.

Mr. LEAHY. I thank the distinguished Presiding Officer, my neighbor across the Connecticut River.

Mr. President, last night I spoke, praising the Senators on both sides of the aisle who came together to avert the so-called nuclear option. I see on the floor the distinguished Senator from Pennsylvania, the chairman of the Senate Judiciary Committee. I think those Senators have made his and my work a lot easier. I also commend the distinguished Senator from Delaware for his comments.

This President, with the compliance of the Republican majority, has tried to push the Senate across an unprecedented threshold that would forever change and weaken this body. This move would have stripped the minority of the crucial rights that have been a hallmark of this chamber, and it would have fundamentally altered the brilliant system of checks and balances designed by the Founders.

This misguided bid for one-party rule, the nuclear option, has been deterred for now. This ill-advised power grab was thwarted through the work and commitment of a bipartisan group of 14 Senators who have prevented the Republican majority leader from pulling this potentially devastating trigger. Pursuant to that agreement, I expect a few Democrats who had previously voted against cloture on the Owen nomination in the last Congress to vote in favor of cloture today. I understand that they are taking this action to save the Senate from the nuclear option and to preserve the filibuster.

This Republican tactic put the protection of the rights of the minority in this chamber in serious risk. That protection is fundamental to the Senate and to the Senate's ability to act as a check and balance in our national government. That protection is essential if we are to protect the independence of the Judiciary and the Judiciary is to remain a protector of the rights of all Americans against the overreaching of the political branches.

I will continue to work in good faith, as I have always done, to fulfill the Senate's constitutionally-mandated role as a partner with the Executive branch in determining who will serve in the Judiciary. I urge all Senators to take these matters to heart and to redouble our efforts to invest our advice and consent responsibility with the seriousness and scrutiny it deserves. As I have said before, just as Democratic Senators alone could not avert the nuclear option, Democratic Senators alone cannot assure that the Senate fulfills its constitutional role with the check and balance on the Executive. I believe Republican Senators will also need to evaluate, with clear eyes, each of the President's nominees for fitness. If they have doubts about the suitability of a nominee to a lifetime judicial appointment, well, they can no longer look the other way and wait for Democratic Senators to save them from a difficult vote. And there will be a number of difficult votes on the horizon on a number of problematic nominees. There may be even more.

But I also remind everybody that while the Senate is supposed to serve as a check and balance, the whole process begins with the President. I have served here with six Presidents. Five of them have consulted with the Senate and worked with the Senate. President Ford, President Carter, President Reagan, former President Bush, and President Clinton have done that. Frankly, if this President would work with Senators on both sides of the aisle to identify and nominate consensus choices, we can easily add to the tally of 208 confirmations. If the White House will take the view that the President should be a uniter and not a divider, then we can make significant progress.

The design of checks and balances envisioned by the Founders has served us well for over 200 years, and the agreement made last night has preserved it. Judicial nominations are for lifetime appointments to what has always been revered as an independent third branch of Government, one that while reliant on the balance between the executive and legislative branches, is actually controlled by neither.

For more than two centuries, these checks and balances have been the source of our Government's stability. It has been its hedge against tyranny. We have to preserve them in the interests of the American people. We do that so the courts can be fair and independent. We should not look at our Federal judiciary as being a Democratic judiciary or a Republican judiciary. It should be independent of all of us because they are the backstop to protect the rights of all Americans against encroachment by the Government. And all Americans have a stake in that, no matter who may control the Government at any given time.

The Senate remains available as a rudder that checks against abuse of power, and as a keel that defends the independence of the judiciary. As the distinguished senior Senator from West Virginia, Mr. BYRD, noted last night, the Senate has answered the call sounded by Benjamin Franklin at the conclusion of the Constitutional Convention by preserving our democracy and our Republic, as the Senate has been called upon to do so many times before.

Now we have before us the controversial nomination of Priscilla Owen. I will probably speak to this nomination more after the cloture vote, the cloture vote which now is a foregone conclusion. For some reason we are still having it, but there is no question, of course, that the Senate will now invoke cloture.

Three years ago, after reviewing her record, hearing her testimony, and evaluating her answers, I voted against her confirmation, and I explained at length the strong case against confirmation of this nomination. Nothing about her record or the reasons that led me then to vote against confirmation has changed.

I believe she has shown herself over the last decade on the Texas Supreme Court to be an ends-oriented judicial activist, intent on reading her own policy views into the law. She has been the target of criticism by her conservative Republican colleagues on the court, in a variety of types of cases where the law did not fit her personal views, including in cases where she has consistently ruled for big business and corporate interests in cases against workers and consumers.

The conservative Republican majority of the Texas Supreme Court has gone out of its way to criticize her and the dissents she joined in ways that are highly unusual and in ways which highlight her ends-oriented activism.

In FM Properties v. City of Austin, the majority called her dissent "nothing more than inflammatory rhetoric."

In Montgomery Independent School District v. Davis, the majority, which included Alberto Gonzales and two other appointees of then-Governor George W. Bush, is quite explicit in its view that Justice Owen's position disregards the law and that "the dissenting opinion's misconception . . . stems from its disregard of the procedural elements the Legislature established," and that the "dissenting opinion not only disregards the procedural limitations in the statute but takes a position even more extreme than that argued for by the board. . . ."

In the case of In re Jane Doe, the majority includes an extremely unusual section explaining its view of the proper role of judges, admonishing the dissenters, including Justice Owen, for going beyond their duty to interpret the law in an attempt to fashion policy. In a separate concurrence, then-Justice Alberto Gonzales says that to construe the law as the dissent did "would be an unconscionable act of judicial activism."

I understand he now says that when he wrote that opinion he was not referring to her. I recognize why he is saying that. Of course, he has to defend not Governor Bush's appointment but now President Bush's nomination. But a fair reading of his concurring opinion leads me to see it as a criticism of the dissenters, including Justice Owen. And he admitted as much in published statements in the New York Times before Justice Owen's first hearing before the Judiciary Committee.

In the case of In re Jane Doe III, Justice Enoch writes specifically to rebuke Justice Owen and her fellow dissenters for misconstruing the legislature's definition of the sort of abuse that may occur when parents are notified of the minor's intent to have an abortion, saying:

> Abuse is abuse; it is neither to be trifled with nor its severity to be second guessed.

In Weiner v. Wasson, Priscilla Owen went out of her way to ignore Texas Supreme Court precedent to vote against a young man injured by a doctor's negligence. The young man was only 15 years old. Her conservative Republican colleagues on the court, led by then-Justice JOHN CORNYN—now the junior Senator from Texas—lectured her about the importance of following that 12-year-old case and ruling in the boy's favor, calling the legal standard she proposed "unworkable."

In Collins v. Ison-Newsome, yet another case where Justice Owen joined a dissent criticized by the majority, the court was offended by the dissenters' arguments. The majority says the dissenters agree the court's jurisdiction is limited, "but then argues for the exact opposite proposition. . . . This argument defies the Legislature's clear and express limits on our jurisdiction."

These examples show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of Priscilla Owen's activist views.

Justice Owen has made other bad decisions where she skews her decisions to show bias against consumers, against victims, and against just plain ordinary people, as she rules in favor of big business and corporations. In fact, according to a study conducted last year by the Texas Watch Foundation, a nonprofit consumer protection organization in Texas, over the last 6 years, Priscilla Owen has not dissented once from a majority decision favoring business interests over victims, but has managed to differ from the majority and dissent in 22 of the 68 cases where the majority opinion was for the consumer.

As one reads case after case, her legal views in so many cases involving statutory interpretation simply cannot be reconciled with the plain meaning of the statute, the legislative intent, or the majority's interpretation.

This all leads to the conclusion that she sets out to justify a preconceived idea of what the law ought to mean. This is not an appropriate way for a judge to make decisions, but it is a way for a judge to make law from the bench—an activist judge.

Justice Owen's activism and extremism is noteworthy in a variety of cases, including those dealing with business interests, malpractice, access to public information, employment discrimination and Texas Supreme Court jurisdiction, in which she writes against individual plaintiffs time and time again, in seeming contradiction of the law as written. A few examples of this include:

FM Properties v. City of Austin, where Justice Owen showed her willingness to rule in favor of large private landowners against the clear public interest in maintaining a fair regulatory process and clean water. Her dissent, which the majority characterized as, "nothing more than inflammatory rhetoric," was an attempt to favor big landowners. At her first hearing, and since, Justice Owen and her supporters on the Committee have tried to recast this case as something more innocent, but at the time she wrote her dissent, Justice Owen was certainly clear about the meaning of this case—property rights for corporations.

GTE Southwest, Inc. v. Bruce, is another example where Justice Owen wrote in favor of GTE in a lawsuit by employees for intentional infliction of emotional distress. Despite the majority's recitation of an exhaustive list of sickening behavior by the supervisor, and its clear application of Texas law to those facts, Justice Owen wrote a concurring opinion to explain that the conduct was not, as the standard requires, so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency. The majority opinion shows Justice Owen's concurrence advocating a point of view that ignores the facts in evidence in order to reach a predetermined outcome in the corporation's favor.

City of Garland v. Dallas Morning News, Justice Owen dissented from a majority opinion and, again, it is difficult to justify her views other than as based on a desire to reach a particular outcome. In this case, she seeks to shield government decision-making from public view.

Quantum Chemical v. Toennies, another troubling case where Justice Owen joined a dissent advocating an activist interpretation of a clearly written statute, this time in the context of employment discrimination. The majority concluded that they must rely on the plain language of the statute as amended, which could not be any clearer that under Title VII discrimination can be shown to be a motivating factor, contrary to Justice Owen's more activist view.

Mr. President, I said time and time again that when somebody walks into a Federal court, they should not have to say, I may be treated one way because I am a Republican and a different way because I am a Democrat, or one way because I am a plaintiff and a different way because I am a defendant, or one way because I am rich, and a different way because I am poor. They should be treated on the merits of the case, no matter who they are.

In Priscilla Owen's case, it was almost predetermined how she would rule based upon who you are. The rich and powerful are protected. The poor or those hurt by the rich and powerful—she is going to rule against you. This is judicial activism.

After all these years, I am sure the President will get the votes to put Priscilla Owen on the court. But would it not have been better to have nominated somebody who would unite us and not divide us?

Last night, 14 Senators—7 Republicans and 7 Democrats—said: We will protect the Senate, actually protect the Constitution, protect advice and consent, and protect the checks and balances by giving the death knell to this so-called nuclear option. That was a good first step. But I urge the President to look at what was also said in that agreement. They called upon the President to now finally work with Senators from both parties in these lifetime appointments. No political party should own our Federal courts. In fact, no political party should be able to control our Federal courts. Let us work together to have courts that actually work, that are independent of the executive, independent of being swayed, and are truly independent. We can do that and call on the President to do what every President since I have been here—the five before him—has always done, and that is work with both Republicans and Democrats, work to unite us, not divide us.

The PRESIDING OFFICER. Under the previous order, Member time is reserved until 11:40, and the time between 11:40 and 12 o'clock is reserved for both the majority and minority leaders.

Mr. LEAHY. Mr. President, I yield the balance of my time to the Democratic leader to use as he wishes.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that the couple of extra minutes be divided between the majority leader and me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, in my remarks this morning, I will speak very briefly about the Priscilla Owen nomination and, more generally, about the negotiations that led to the defeat of the so-called nuclear option. As I said this morning, the nuclear option is off the table, and we should stop talking about it after today. I continue, though, to oppose the nomination of Priscilla Owen for the U.S. Court of Appeals.

As a member of the Texas Supreme Court, Justice Owen has consistently ruled for big business, corporate interests, and cases against workers and consumers. Her colleagues on the Texas court, including the man who is now Attorney General of the United States, Alberto Gonzales, have criticized her decisions. Judge Gonzales even called one of her opinions an act of "unconscionable judicial activism." In case after case, her record marks her as a judge who is willing to make law from the bench rather than following the language of the statute and the intent of the legislature. Even on the conservative Supreme Court of Texas, Justice Owen is a frequent dissenter, and her opinions reveal an extreme ideological approach to the law.

As a result of the agreement announced last night, it is clear that this nominee will receive an up-or-down vote. I intend to vote against her confirmation. I urge my colleagues to do so as well. I specifically urge my Republican colleagues to render an independent judgment on this, and the other nominations will follow in the months to come. I am confident they will.

If Justice Owen is confirmed as a Federal judge, I hope she surprises those of us who have fought her nomination. Perhaps her experience as a judicial nominee has exposed her to a broader range of views, and that experience may make her more sensitive to concerns regarding privacy, civil rights, and consumer rights. I have never questioned her intellectual capabilities.

The agreement that will allow Justice Owen to receive an up-or-down vote also had the effect of taking the nuclear option off the table for this Congress and, I think, in our lifetime. I wish to review what I believe was at stake in this debate. The agreement makes clear that the Senate rules have not changed. The filibuster remains available to the Senate minority, whether it be Democrat or Republican.

Last night, the seven Democrats agreed that filibusters will be used only in extraordinary circumstances. In my view, the fact that there have been so few out of the 218 nominations in the last 4 years means that filibusters already are rare.

In any event, the agreement provides that "each signatory must use his or her own discretion and judgment in determining whether [extraordinary] circumstances exist." This, of course, is a subjective test, as it always has been.

The 14 Democrats and Republicans who entered into the agreement last night, and the rest of us who were prepared to vote against the nuclear option, stood for the principles of extended debate, minority rights, and constitutional checks and balances. For 200 years, the Senate rules embodying those principles have protected our liberties and our freedoms. Those rules have not made life easy for Presidents and parties in power, but that is the way our Constitution was written, and that is good.

Most every occupant of the White House, most every majority on Capitol Hill, has grown frustrated with the need to build consensus instead of ruling by their own desires. But that is precisely what our Founding Fathers intended. That is our Constitution.

Those Founders created this body as a place secure from the winds of whim, a place for deliberation and honorable compromise. It is why Nevada, with its little over 2 million people, has as much to say in this body as California, which has 35 million people. It is why sometimes we are governed not by the principles of "one man, one vote" but by the principles of one person who rises with a voice of conscience and courage.

When Thomas Jefferson and Franklin Roosevelt tried to pack our courts, patriots of both parties put aside their personal interests to protect our American rights and rules. In Caro's definitive work, "Master of the Senate," he has a wonderful 10 pages where he talks about Roosevelt's attempt to pack the court. It is so revealing. Roosevelt calls Senate leaders to the White House—Democratic leaders—and the President didn't live in the White House, as they do now. His Vice President, James Garner, a former Senator, walked out of that meeting shaking his head and said that the President will not get his support on this, and he didn't. He didn't get the support of a majority of the Democrats. When Jefferson and Roosevelt tried to pack our courts, it didn't work because Members of their own parties rose up against them. They were both Democrats.

Nothing in the advice and consent clause of the Constitution mandates that a nominee receive a majority vote, or even a vote of any kind. According to the Congressional Research Service, over 500 judicial nominees since 1945—18 percent of all judicial nominees—were never voted on by the full Senate. Most recently, over 60 of President Clinton's judicial nominees were denied an up-or-down vote. In contrast, we have approved 208 of President Bush's 218 nominees.

Last night, when I came to the floor, I said it is a happy night for me because the 8 years of the Clinton judicial situation are gone. I said last night that the 4 years of problems with the Bush administration, as it relates to judges, are gone. Why? Because we are going to start legislating as Senators should. If there is a problem with a judge, that issue will be raised.

There will be occasions, although very infrequent, where a filibuster will take place. That is what the Senate is all about.

The difference between a 95-percent confirmation rate and a 100-percent rate is what this country is all about. That 5 percent reflects the moderating influence and spirit and openness made possible by the advice and consent clause of our Constitution.

When our Founders pledged their lives and fortunes and their sacred honor to the cause of our Revolution, it was not simply to get rid of King George III. It was because they had a vision of democracy. James Madison, the Father of the Constitution, wrote:

> The accumulation of all powers legislative, executive, and judiciary in the same hands, whether of one, a few, or many—and whether hereditary, self-appointed, or elective—may justly be pronounced the very definition of tyranny.

Stripping away these important checks and balances would have meant the Senate becomes merely a rubber-stamp for the President. It would have meant one political party, be it Republicans today or Democrats tomorrow, could effectively seize control of our Nation's highest courts. It would have removed the checks on the President's power, meaning one man sitting in the White House could personally hand out lifetime jobs whose rulings on our basic rights can last forever.

It is too much power for one person. It is too much power for one President. It is too much power for one political party. It is not how America works.

Our democracy works when majority rules not with a fist but with an outstretched hand that brings people together. The filibuster is there to guarantee this.

The success of the nuclear option would have marked another sad, long stride down an ever more slippery slope toward partisan crossfire and a loss of our liberties. Instead, this is the moment we turned around and began to climb up the hill toward the common goal of national purpose and rebuilding of America's promise. America owes a debt of gratitude to the 14 Senators who allowed us to be here today.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I begin by thanking the distinguished Democratic leader for his comments and noting with particularity his statement that the use of the filibuster will be occasional and very infrequent. I think that characterization is very important for the future of the Senate in the consideration of judicial nominations.

The term "extraordinary circumstances" does not lend itself to any easy interpretation. But when the Democratic leader asserts that this term means occasional and very infrequent, it is very reassuring.

The Senator from Nevada went on to say this wipes away 8 years of Clinton and 4 years of the second President Bush. That puts the whole controversy, in my judgment, into context, because what we have been talking about in the course of these filibusters has been the pattern of payback which began in the last 2 years of President Reagan's administration when Democrats won control of the Senate and the Judiciary Committee, where the nominating process was slowed down, and 4 years of President George H. W. Bush. Then it was exacerbated during the administration of President Clinton when we Republicans won the Senate in the 1994 election. And for the last 6 years of President Clinton's tenure, we had a situation where some 60 judges were bottled up in committee, which was about the same as a filibuster.

I think it is worth noting that both Senator FRIST, our Republican leader, and Senator REID, the Democratic leader, are entitled to plaudits, because a week ago today, late in the afternoon in a room off the first floor, a few steps from where we are at the present time, the leaders met with so-called Republican moderates and Democratic moderates.

While not quite the imprimatur of propriety, their presence signified they knew what was going on, that they were prepared to participate in it, and that, again, while it was not quite the Good Housekeeping stamp of approval, they were interested to see what occurred.

In a series of floor statements on this issue, as the CONGRESSIONAL RECORD will show, I had urged the leaders to remove the party loyalty straitjacket from Senators so the Senators could vote their consciences because of the consistent comments I heard in the corridors and in the cloakrooms by both Republicans and Democrats that they did not like where we were headed; that Democrats were not pleased with this pattern of filibusters, and Republicans were not pleased with the prospect of the so-called constitutional or nuclear option.

And finally, in effect, that did happen when a group of moderate Senators got together, totaling 14 in number, as the parties signatory to the memorandum of understanding of last night, to forge an arrangement where the very important constitutional checks and balances, the very important constitutional separation of powers, would be maintained.

When we talk about the delicate balance of separation of powers, the constitutional scholars traditionally talk about it as so-called play in the joints. Had there been a formal determination of a rule change so that 51 Senators could cut off debate, that would have materially affected the delicate separation of powers where the President would have had much greater authority, be he a Republican President or a Democratic President.

Similarly, had the so-called constitutional or nuclear option been defeated, then I think it is fair to say the minority party—Democrats in this situation—would have been emboldened to go further in the use of the filibuster.

The nominees who have been subjected to the filibuster, in my judgment, have been held hostage, pawns in this escalating spiral of exacerbation by both sides.

In my 25 years in the Senate, during all of which I have served on the Judiciary Committee, I have seen our committee and this body routinely confirm judicial nominees who were the equivalents of those who have been filibustered here. These nominees have every bit the qualification of circuit judges who have been confirmed in the past.

Priscilla Owen, who is the specific nominee in question, would have been confirmed as a matter of routine had she not been caught up in this partisan battle. She has an extraordinary academic record. She was cum laude from Baylor both for an undergraduate degree and a law degree, scored the highest on the Texas bar exam, worked 17 years with a very prestigious law firm in Texas, served 11 years on the Texas State Supreme Court, earned well-qualified ratings from the American Bar Association, and is personally known to President Bush, who speaks of her in the most complimentary terms.

The senior Senator from Texas, KAY BAILEY HUTCHISON, has been a personal friend for years and knows her intimately. She speaks of her glowingly. She shepherded her to many private meetings with Senators. I spoke with Justice Owen at some length and was very much impressed with her on the academic level, on the professional level, and on the personal level.

Our colleague on the Judiciary Committee, Senator JOHN CORNYN, served with her on the Texas Supreme Court and, again, spoke of her in outstanding terms.

I have spoken at length about Justice Owen in the past, and I would simply incorporate by reference the comments which I made which appear in the CONGRESSIONAL RECORD for May 18 of this year, where I cited a selection of cases showing her judicial balance and showing her excellent record on the Texas Supreme Court.

Mr. President, we have been joined by, as I turn around, two distinguished Senators—one a current Member of this body, Senator BILL FRIST, the other a former Member of this body, Senator Alfonse D'Amato. I did not recognize him at first because he was not in his pink suit.

One day, in the back row, Alfonse D'Amato appeared and sang E-I-E-I-O in a pink suit. There was some comment in the Chamber about how much it improved his appearance. I did not agree with this.

I have a very short story. I had a brother who was 10 years older than I. One day he came down from the drugstore to the junkyard where I worked. He said: Arlen, I was just at Russell Drug. Down there they were saying you weren't fit to eat with the pigs. But my brother said: I stuck up for you, Arlen. I said you were. So when I see Alfonse D'Amato on the Senate floor, I remember those good times.

Now I yield to the distinguished majority leader, whose time I hope I have not unduly encroached upon. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, in a few moments, we will vote to conclude debate on the nomination of Judge Priscilla Owen to the Fifth Circuit Court of Appeals. It has been over 4 years since the Senate began consideration of Justice Owen for this position, and the Senate over that time has thoroughly and exhaustively investigated, looked at, examined, and debated Judge Owen's nomination.

She has endured 9 hours of committee hearings, more than 500 questions, and 22 days—it is interesting, 22 days. That is more than all sitting Supreme Court Justices combined have had on the floor of the Senate—all sitting Supreme Court Justices combined. We have had Priscilla Owen's nomination debated on this floor for more days. There has been more than 100 hours of floor debate. Now finally, after more than 4 years of waiting, Judge Owen will receive a fair up-or-down vote on the floor of the Senate.

As her critics now appear to be concede, Judge Owen is a mainstream candidate, who is thoughtful, who is dignified, and imminently qualified. Her academic and professional qualifications are outstanding. The American Bar Association unanimously—unanimously—rated her as well qualified, its highest possible rating. She was reelected to the Texas Supreme Court with 84 percent of the vote. She is supported by Republicans and Democrats on the Texas Supreme Court. She has been endorsed by every major newspaper in her State of Texas.

Moreover, in the face of continuous, sometimes vicious, attacks and distortions of her record in the nominations process, Judge Owen has shown extraordinary patience with this body. Despite 4 years of attacks on her integrity, Priscilla Owen has quietly, has patiently, has gracefully waited for an up-or-down vote.

Priscilla Owen has worked hard, played by the rules, faithfully interpreted the law and gained the respect of her colleagues and constituents. We cannot ask for more from a judicial nominee. It is time to close our debate. It is time to give Justice Owen an up-or-down vote on the floor of the Senate.

Today's vote will allow that up-or-down vote. It will affirm each Senator's right to weigh the facts and vote his or her conscience up or down, yes or no, confirmed or rejected. It is as simple as that. It is about principle. It is about fairness. It is about our constitutional duty to give advice and consent.

Mr. President, I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 12 o'clock having arrived, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 71, the nomination of Priscilla Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Arlen Specter, Trent Lott, Lamar Alexander, Jon Kyl, Jim Talent, Wayne Allard, Richard G. Lugar, John Ensign, C.S. Bond, Norm Coleman, Saxby Chambliss, James Inhofe, Mel Martinez, Jim DeMint, George Allen, Kay Bailey Hutchison, John Cornyn.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit Court of Appeals, shall be brought to a close? Under the rule, the yeas and nays are mandatory. The clerk will call the roll.

Mr. LEVIN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Under the rules and precedents of the Senate, how many votes are required to invoke cloture and end debate on the pending nomination?

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn.

The clerk will call the roll.

Mr. LEVIN. Is there an answer to my parliamentary inquiry?

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURKIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 81, nays 18, as follows:

[Rollcall Vote No. 127 Ex.]

YEAS—81

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Durbin
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kohl
Kyl
Landrieu

Leahy
Lieberman
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reid
Roberts
Rockefeller
Salazar
Santorum
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—18

Biden
Boxer
Cantwell
Corzine
Dayton
Dodd
Dorgan
Feingold
Jeffords
Kennedy
Kerry
Lautenberg
Levin
Lincoln
Murray
Reed
Sarbanes
Stabenow

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the yeas are 81, the nays are 18. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I read from the King James version of the Holy Bible, from the 22nd chapter of Proverbs, the 28th verse:

> Remove not the ancient landmark, which thy fathers have set.

Mr. President, in his second inaugural address, Abraham Lincoln observed that:

> With malice toward none; with charity for all; with firmness in the right, as God give us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds. . . .

Mr. President, I have always believed that the Senate, by its nature, attracts and probably also creates men and women of the quality and character who are able to step up when faced with crises that threaten the ship of state, to calm the dangerous seas which, from time to time, threaten to dash our Republic against rocky shoals and jagged shores.

The Senate proved it to be true again yesterday, when 14 Members—from both sides of the aisle, Republicans and Democrats; 14 Members—of this revered institution came together to avert the disaster referred to as the "nuclear option" or the "constitutional option"—these men and women of great courage.

As William Gladstone said, in referring to the Senate of the United States, the Senate is

> that remarkable body, the most remarkable of all the inventions of modern politics.

I thank all of those Republicans and Democrats who worked together to keep faith with the Framers and the Founding Fathers. We have kept the faith with those whose collective vision gave us this marvelous piece of work, the Constitution of the United States. Thank God—thank God—that this work has been done and that it has been preserved, that a catastrophe has been averted.

Article II, section 2, of the Constitution gives to the President the power to nominate, and "by and with the Advice and Consent of the Senate," to "appoint . . . Judges of the supreme Court, and all other Officers of the United States. . . ."

There are two parts to that phrase: the "advice" on the one hand, and the "consent" on the other, and both must be present before any President can appoint any nominee to the Supreme Court or any other Federal court. It is, therefore, a shared responsibility between the U.S. Senate and the President of the United States.

By its agreement yesterday, the Senate is keeping that construct alive, this shared responsibility between the President of the United States, on the one hand, and the Senate of the United States, on the other.

The agreement that was obtained yesterday by the cooperation between and among the 14 Members of the Senate—representing Republicans and Democrats—it was that agreement that reminds us of the words of our Constitution, by encouraging the President of the United States, on the one hand, to consult with the Senate of the United States, on the other. In other words, the Senate will be in on the takeoff, meaning prior to sending up his nominees for our consideration. In recent times—and by that I mean under Presidents of both parties—there has not been all that much consultation by the President with the Senate.

So here we are, in the Senate, offering the hand of partnership to the Chief Executive and saying: Consult with us. That is what the Framers intended, that the President of the United States should consult with the Senate. You don't have to take our advice, but here it is. And by considering that advice, it only stands to reason that any President will be more assured that his nominees will enjoy a kinder reception in the Senate.

The agreement, which references the need for "advice and consent," as contained in the Constitution, proves once again, as has been true for over 200 years, that our revered Constitution is not simply a dry piece of parchment. It is a living document.

Yesterday's agreement was a real-life illustration of how this historical document continues to be vital in our daily lives. It inspires, it teaches, and yesterday it helped the country and the Senate avoid a serious catastrophe.

Mr. President, for this reason and others, I ask that at the end of my remarks the agreement reached by the 14 Senators be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Mr. President, I do this so that we in the Senate and the President may all have a way of easily revisiting the text of that agreement for future reference.

On the heels of this agreement, I believe that we should now move forward, propelled by its positive energy, in a new direction. We should make every effort to restore reason to the politically partisan fervor that has overtaken our Senate, this city, and our country. We must stop arguing and start legislating.

Divisive political agendas are not America's goals. The right course lies someplace in the middle. It is our job to work as elected representatives of a reasonable people to do what is right, regardless of threats from any of the angry groups that seem dedicated to intimidation. The skeptics, the cynics, the doubters, the Pharisees, those who are intoxicated by the juice of sour grapes did not prevail and must not prevail. The 14 Republican and Democratic Senators rose above those who do not wish to see accord but prefer discord.

Chaucer's "Canterbury Tales"—we have all read Chaucer's "Canterbury Tales" in high school—contains "The Pardoner's Tale."

The story tells about the journey by the pilgrims to Canterbury, to the shrine of Canterbury. The scene took place in Flanders, where once there sat drinking in a tavern three young men who were much given to folly. As they sat, they heard a small bell clink before a corpse that was being carried to the grave. Whereupon, one of the three called to his knave and ordered him to go and find out the name of the corpse that was passing by.

The boy answered that he already knew and that it was an old comrade of the roisterers who had been slain, while drunk, by an unseen thief called "Death," who had slain others in recent days.

And so out into the road the three young ruffians went in search of this monster called Death. They came upon an old man and seized him, and with rough language they demanded that he tell them where they could find this cowardly adversary who was taking the lives of their good friends around the countryside.

The old man pointed to a great oak tree on a nearby knoll, saying, "There, under that tree you will find Death," that monster. In a drunken rage, the three roisterers set off in a run until they came to the tree, and there they found a pile of gold—eight basketfuls of florins, newly minted, round, gold coins. Forgotten was the monster called Death, as the three pondered their good fortune. And they decided that they should remain with the gold until nightfall, when they would divide it among themselves and take it to their respective homes. It would be unsafe, they reasoned, to attempt to do so in broad daylight, as they might be fallen upon by thieves who would take their treasure from them.

It was proposed that the three draw straws, and the person who drew the shortest straw would go into the nearby village and purchase some bread and wine and cheese, which they could then enjoy as they whiled away the daylight hours. So off toward the village the young man who drew the shortest straw went. When he was out of sight, the remaining two decided that there was no good reason why this fortune, this pile of gold, should be divided among three individuals. So one of them said to the other, "When he returns, you throw your arm around him as if in good sport, as in jest, and I will rive him with my dagger, and with your dagger, you can do the same. Then all of this gold will be divided not among three of us but just between two of us—you and me."

Meanwhile, while the two were planning the demise of the third, the youngest rogue, as he made his way into the town, thought to himself what a shame it would be that the gold would be divided among three, when it just as well could be so easily belong only to the ownership of one, himself. Therefore, in town the young man went directly to an apothecary and asked to be sold some poison for the large rats and a polecat that had been killing his chickens. The apothecary—the pharmacist—quickly provided some poison, saying that as much as equaled only a tiny grain of wheat would result immediately in sudden death for the creature that drank the mixture.

Having purchased the poison, the young villain crossed the street to a winery, where he purchased three bottles—two for his friends, one for himself. After he left the village, he sat down, opened two bottles of wine and deposited an equal portion in each, and then returned to the oak tree, where the two older villains did as they had planned. One threw his arm, as if in jest, around the shoulders of the third, and both buried their daggers in him. He fell dead on the pile of gold. The other two villains then sat down, broke the bread, cut the cheese, and opened the two bottles of wine. Each took a good, deep swallow, and then, suffering a most excruciating pain, both fell dead upon the pile of gold and upon the body of the third. So there they were across the pile of gold, all three of them dead.

Their avarice, their greed for gain, their love of material things had destroyed them. There is a lesson here in Chaucer's Tales, as given to us by "The Pardoner." The strong temptation for political partisanship that has prevailed in the Senate can tear this Senate apart and can tear the Nation apart and confront all of us with destruction, so that in the end we three—the President, the Senate, and the people—will all be destroyed, as it were.

So we almost saw that happen here on the Senate floor—until yesterday, when that catastrophe, looming as it was before the Senate, was averted. I applaud the fact that the center, the anchor, held, and we stood together for the good of the country against mean-spirited, shallow, political ends.

Mr. President, I implore all of us to endeavor to lift our eyes to the higher things. We can perform some much needed healing on the body politic. If we can come together in a dignified way to orderly and expeditiously move forward on these nominations, perhaps we can yet salvage a bit of respect and trust from the American people for all of us, for the Senate, and for our institutions of free government.

We have a duty, at this critical time, to rise above politics as usual, in which we savage one another, and in so doing, destroy ourselves, like the three villains in "The Pardoner's Tale."

Let us put the Nation first. The American people want us to do that. In the long run, that is how we will be judged and, more importantly, it is how the Senate will be judged.

It is easy to tear down; it is difficult to build.

I saw them tearing a building down,
A group of men in a busy town.
With a "Ho, Heave, Ho and a lusty yell,
They swung a beam and the sidewall fell.

I said to the foreman, "Are these men skilled?
The type you would hire if you had to build."
He laughed, and then he said, "No indeed,
Just common labor is all I need;
I can easily erect in a day or two,
That which takes builders years to do."

I said to myself as I walked away,
"Which of these roles am I trying to play?
Am I a builder who works with care,
Building my life by the rule and square?
Am I shaping my deeds by well-laid plan,
Patiently building the best I can?
Or am I a wrecker who walks the town
Content with the labor of tearing down."

Mr. President, it is easy to tear down, but it takes a long time to build. We have been 217 years in building this Senate, making it what it was intended to be by the Framers who wrote it 219 years ago, who established three equal coordinate branches of Government, who established a separation of powers, who established checks and balances in this Constitution of the United States.

The work of those Framers and the work of the larger group of Founders took 219 years. It was about to be destroyed in a single day, this day. But thank God 14 Senators from both sides of the aisle met and rose above partisan politics and kept the faith with the Framers and with the Founders so that our posterity might enjoy the blessings of liberty, the blessings of freedom of speech, the roots of which go all the way back to the reign of Henry IV, who reigned from 1399 to 1413 and who in 1407 proclaimed that the members of Parliament—the House of Lords and the House of Commons—could speak freely and without fear.

And those words were written into the Declaration of Rights, which declaration was submitted to William III of Orange and Mary, a Declaration of Rights which included freedom of speech in Parliament. That declaration was presented on February 13, 1689, to William III and Mary. They both accepted it and were then proclaimed by the House of Commons joint sovereigns of the nation.

Then, on December 18, 1689, those words were included in a statute, the English Bill of Rights—freedom of speech, the roots going back a long way. That freedom of speech then was provided to those of us in the Senate, provided by the Constitution, and since 1806, when the provision for the previous question was discarded upon the recommendation of Vice President Aaron Burr, since 1806 that provision for the previous question or the sudden cutting off debate was discarded. Since 1806, until the year 1917, the year in which I was born during the administration of Woodrow Wilson, that freedom of speech has prevailed in the Senate, and it has lived since then except for unanimous consent agreements and the cloture provision which was first agreed to in 1917, the cloture provision shutting off debate under the rules of the Senate.

Freedom of speech has reigned in this body, and it still lives, thanks again to the 14 Republicans and Democrats who rose above politics yesterday and came forward with this accord.

So, Mr. President, let us be true to the faith of our fathers and to the expectation of those who founded this Republic. The coming days will test us again and again, but let us go forward together hoping that in the end, the Senate will be perceived as having stood the test, and may we, both Republicans and Democrats and Independents, when our work is done, be judged by the American people and by the pages of history as having done our duty and as having done it well.

Our supreme duty is not to any particular person, not to any particular President, not to any political party, but to the Constitution, to the people of the Nation, and to the future of this Republic. It is in that spirit that we may do well to remember the words of Benjamin Hill, a great Senator, a great orator from the State of Georgia, his words being inscribed on a statue in Atlanta, GA, as they are and as they appear today upon that monument:

> Who saves his country saves himself, saves all things, and all things saved do bless him. Who let's his country die dies himself ignobly, and all things dying curse him.

Remember that ancient proverb: Remove not the ancient landmark, which thy fathers have set.

I yield the floor. I suggest the absence of a quorum.

EXHIBIT 1

MEMORANDUM OF UNDERSTANDING ON JUDICIAL NOMINATIONS

We respect the diligent, conscientious efforts, to date, rendered to the Senate by Majority Leader Frist and Democratic Leader Reid. This memorandum confirms an understanding among the signatories, based upon mutual trust and confidence, related to pending and future judicial nominations in the 109th Congress.

This memorandum is in two parts. Part I relates to the currently pending judicial nominations: Part II relates to subsequent individual nominations to be made by the President and to be acted upon by the Senate's Judiciary Committee.

We have agreed to the following:

PART I: COMMITMENTS ON PENDING JUDICIAL NOMINATIONS

A. Votes for Certain Nominees. We will vote to invoke cloture on the following judicial nominees: Janice Rogers Brown (D.C. Circuit), William Pryor (11th Circuit), and Priscilla Owen (5th Circuit).

B. Status of Other Nominees. Signatories make no commitment to vote for or against cloture on the following judicial nominees: William Myers (9th Circuit) and Henry Saad (6th Circuit).

PART II: COMMITMENTS FOR FUTURE NOMINATIONS

A. Future Nominations. Signatories will exercise their responsibilities under the Advice and Consent Clause of the United States Constitution in good faith. Nominees should only be filibustered under extraordinary circumstances, and each signatory must use his or her own discretion and judgment in determining whether such circumstances exist.

B. Rules Changes. In light of the spirit and continuing commitments made in this agreement, we commit to oppose the rules changes in the 109th Congress, which we understand to be any amendment to or interpretation of the Rules of the Senate that would force a vote on a judicial nomination by means other than unanimous consent or Rule XXII.

We believe that, under Article II, Section 2, of the United States Constitution, the word "*Advice*" speaks to consultation between the Senate and the President with regard to the use of the President's power to make nominations. We encourage the Executive branch of government to consult with members of the Senate, both Democratic and Republican, prior to submitting a judicial nomination to the Senate for consideration.

Such a return to the early practices of our government may well serve to reduce the rancor that unfortunately accompanies the advice and consent process in the Senate.

We firmly believe this agreement is consistent with the traditions of the United States Senate that we as Senators seek to uphold.

E. Benjamin Nelson, Mike DeWine, Joe Lieberman, Susan Collins, Mark Pryor, Lindsey Graham, Lincoln Chafee, John McCain, John Warner, Robert C. Byrd, Mary Landrieu, Olympia Snowe, Ken Salazar, and Daniel Inouye.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. REED. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I also ask unanimous consent that the time I consume come out of my time postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF COLONEL RUSS HOWARD, UNITED STATES ARMY

Mr. REED. Mr. President, I rise today to recognize the accomplishments of Colonel Russ Howard, head of the department of social sciences and director of the Combating Terrorism Center at West Point. Colonel Howard is retiring June 3, 2005, after 37 years of Active and Reserve military service.

In his previous position, he was the deputy department head of the department of social sciences. Prior to that, Colonel Howard was an Army chief of staff fellow at the Center for International Affairs at Harvard University. Formerly, Colonel Howard was the commander of the 1st Special Forces Group (Airborne) at Fort Lewis, WA. Other recent assignments include assistant to the Special Representative to the Secretary General during UNOSOM II in Somalia, deputy chief of staff for I Corps, and chief of staff and deputy commander for the Combined Joint Task force, Haiti/Haitian Advisory Group. He also served as the administrative assistant to ADM Stansfield Turner and as a special assistant to the commander of SOUTHCOM.

When Colonel Howard was commander of 3rd Battalion, 1st Special Warfare Training Group (Airborne) at Fort Bragg, NC, he developed the curriculum for the first ever graduate degree program for the Civil Affairs and Psychological Operations officers.

Prior to Operation Desert Shield/Desert Storm, Colonel Howard took a mobile training team to Kuwait and Saudi Arabia to train the "lost boys," newly appointed Civil Affairs and Psychological Operations officers already deployed to the Persian Gulf.

The newly trained officers performed superbly during operations and 3rd Battalion won the Army Superior Unit Award, largely due to the efforts and foresight of Colonel Howard.

As a newly commissioned officer, a much younger officer, Colonel Howard served as "A" team commander in the 7th Special Forces Group from 1970 to 1972.

He left the Active component and served in the U.S. Army Reserve from 1972 to 1980. During this period, he served as an overseas manager, American International Underwriters Melbourne, Australia, and China tour manager and Canadian Pacific Airlines.

He was recalled to active duty in 1980 and served initially in Korea as an infantry company commander. Subsequent assignments included classified project officer, U.S. Army 1st Special Operations Command at Fort Bragg, and operations officer and company commander 1st Battalion, 1st Special Forces Group in Okinawa, Japan.

Colonel Howard earned a bachelor of science degree in industrial management from San Jose State University, bachelor of arts degree in Asian studies from the University of Maryland, a master of arts degree in international management from the Monterey Institute of International Studies, and a masters of public administration degree from Harvard University.

Colonel Howard was an assistant professor of social sciences at the U.S. Military Academy and a senior service college fellow at the Fletcher School of Law and Diplomacy, Tufts University.

During his extraordinary career of public service, Colonel Russ Howard was a dedicated leader, enlightened visionary, effective operator, and exemplary role model for cadets, soldiers, and civilians.

For the past 7 years, he made enormous contributions to the U.S. Military Academy, its graduates, and to the Nation through his relentless pursuits of excellence in the department of social sciences and his advancement of education, research, and policy development in the global war on terror.

He was the right person at the right time in exactly the right job as the Academy and the Nation responded to the events of 9/11 and the global war on terror. Building on his extraordinary skills as a researcher and educator, he knew the intellectual response to the war on terror would have to be as significant as the operational response and set a course for the department and the Academy to lead this response.

Building on an exceptional experience as a Special Forces officer who commanded at every level from team leader to Special Forces Group, he was able to integrate the intellectual issues of understanding terrorism with the practical issues of countering terrorism and include them in the curriculum, and eventually led to the establishment of the Combating Terrorism Center at West Point.

He inspired support from the academy leadership, from General-retired Wayne Downing, Mr. Vinnie Viola, Mr. Ross Perot, and many others, so that the U.S. Military Academy has become the international leader in undergraduate terrorism education and research.

Simultaneously, Colonel Howard enhanced all aspects of the academy and the Department of Social Sciences by supporting a robust teaching program. He taught more than 15 different courses, created 4 new ones, published 3 books and 15 articles, and encouraged and cultivated resources for other faculty to follow his example.

His support for faculty and cadet development through the scholarship, debate, model U.N., domestic affairs forum, finance forum, sports, and a myriad of other activities was exceptional. Most importantly, he is a trusted, caring, concerned, and dedicated leader who evokes the best from everybody with whom he comes in contact.

It has been my privilege to know Colonel Howard for many years, to respect him as a soldier and a scholar, and to at this moment congratulate him on a career of exceptional service to the Army and to the Nation. As he parts for other venues and other responsibilities, I wish him well.

I yield back my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMBRYONIC STEM CELL RESEARCH

Mr. BROWNBACK. Mr. President, I rise to speak about an issue that has been worked on in the country for some period of time. Soon, a House vote will take place on embryonic stem cell research. The issue that will soon be voted on in the House—and may come before this body—is whether to allow the taxpayer funding of destruction of young human life.

This legislation being considered in the House of Representatives would take young human embryos, would provide taxpayer dollars to destroy these embryos and conduct research on the stem cells derived from them. I believe we all have a duty to protect innocent life. We have a duty and a responsibility to look out for the downtrodden, those who do not have a voice. These are the youngest of human lives; they should be protected, and they should not be researched on.

We have at times in the past in the United States researched on other human beings. Whenever we have done so, at the moment in time when it was done, people did it on the basis that we need to know, or we need to be able to conduct this research, or this research will provide a cure for something. Yet in every instance—either in this country or others—when it has been done and the society at large has allowed it, we have always, always regretted it later. It has always been wrong for one group of humans who are in a more powerful position to research on somebody in a lesser position. That has always been true, and it remains true today. We should not use taxpayer dollars to fund research on the youngest of human lives. It is wrong, it is not necessary, and it should be stopped.

I am pleased that the President has promised to veto this legislation. However, I also intend to not let this piece of legislation make it forward, to move to the President's desk. If others choose to bring this destruction of human life—taxpayer-funded destruction of human life—in front of this body, I intend that we are going to talk about it for a long time and address a whole series of issues, whether it be human cloning, which is associated with this human destructive legislation, or the creation of human-animal crosses for research purposes. We are going to spend a lot of time discussing this because young human lives are at stake. I will not sit idly by and acquiesce in their tragic destruction.

If this human destructive legislation, or a Senate counterpart, comes before this body, I will use all means available to impede its progress. At the very least, we should have a lengthy debate on this issue before taking any action. The reason is that young human lives are at stake. I believe the very nature of our culture—whether we will have a culture of life or not is at stake. Will we honor human life because it is sacred per se, or are we going to use it for a research apparatus for the benefit of others? We have always regretted that when we have done it before. Today is a similar type of discussion.

Some are saying this doesn't really look like a human life; it is so small, so microscopic in some cases, that some say it really cannot be human life. Yet, according to the biological and scientific definition, this is young human life. If allowed to be nurtured, it becomes you, me, or anybody watching. Life has to be nurtured at all stages. It is no different biologically at that stage versus at a later stage. It has the same biological components, or "software," if you will, or DNA structure. It needs to be nurtured, and it matures into an adult human. If we are going to proceed on this, I think we are really hurting ourselves as a society.

I also point out that some people are saying we need to do this to find cures. I want to find cures, also—cures for people with cancer, Alzheimer's disease, Parkinson's disease, spinal cord injuries, or juvenile diabetes—and I have been working on that. The thing is, we have a route to find these cures that is ethical and moral.

The House is also considering a cord blood bill from Congressman SMITH today, and there are also adult stem cells. We have had this discussion before, but I think people hear "stem cells," and they say: I am for it. We need to be clear that there are different types of stem cells: There are cord blood stem cells in the umbilical cord, there are embryonic stem cells, where you have to destroy the embryo itself to get the stem cells, and there are adult stem cells in my body and yours and anybody watching. These adult stem cells are a kind of repair cell that goes around the body fixing different parts of the body. We have been able to take adult stem cells out and grow them outside the body to the point that, today, over 58 different human diseases are being treated in human patients. There are published clinical studies using adult stem cells—the stem cells from one's own body.

A Parkinson's disease patient, treated with his own adult stem cells, continues to exhibit relief of 80 percent of his symptoms more than 6 years after the surgery. I had the man come in himself, who was treated with his own adult stem cells taken from the base of his nose, grown outside the body, put in the left-hand side of his brain, with a substantial improvement on the right-hand side of his body. That is purely ethical research. It is working and getting the job done.

Spinal cord injuries. Dr. Carlos Limas treated 34 patients in Portugal with their own adult stem cells. I had two of them in to testify at a hearing last year—one is a paraplegic and one is a quadriplegic—and they are walking with the assistance of braces and their own adult stem cells.

Also, umbilical cord blood cells were used to treat a South Korean woman who had been paralyzed for 19 years. She had not walked for 19 years, and she can now walk with braces.

What about juvenile diabetes? This disease affects a lot of people. This is one that has vexed a lot of people. We all want to find a cure for juvenile diabetes.

Dr. Denise Faustman at Harvard is a leading diabetes researcher. She has completely reversed end-stage juvenile diabetes in mice and has FDA approval to begin human clinical trials using adult stem cell therapy.

My point in mentioning these 3 of the 58 different areas is that we have an ethical answer. We have an answer that does not involve the destruction of human life, and it is right before us. We can do it. We can fund it, and we can move forward with it. We do not have to destroy young human life to do this, and it is wrong if we do.

There is going to be a big discussion. We are going to have a lot of debate about this issue on the floor or in committee or other places if people decide to move this legislation forward. This is not about banning human embryonic stem cell research. This is about taxpayer funding of human embryonic stem cell research. Embryonic stem cell research is legal. It is being conducted in this country. It is being funded by the Government of the United States on a limited set of lines. The President had the discussion and put forward the guidelines—a limited set of lines that were identified, on which a life-and-death decision had already been made prior to funding. That research continues and goes on today.

The House bill would expand that and say we can kill young human life today for research on embryonic stem cells, and we want to do it with taxpayer funding. That is what I am saying I am opposed to is the taxpayer funding where a life-and-death decision has not been made, and we involve the destruction of young human lives. The House bill should not move forward.

Mr. President, there are two statements that the President has put forward saying that he would veto such legislation if it comes forward. I ask unanimous consent to print these statements in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY—MAY 24, 2005

H.R. 2520—STEM CELL THERAPEUTIC AND RESEARCH ACT OF 2005

(Rep. Smith (R) NJ and 78 cosponsors)

The Administration strongly supports House passage of H.R. 2520, which would facilitate the use of umbilical-cord-blood stem cells in biomedical research and in the treatment of disease. Cord-blood stem cells, collected from the placenta and umbilical cord after birth without doing harm to mother or child, have been used in the treatment of thousands of patients suffering from more than 60 different diseases, including leukemia, Fanconi anemia, sickle cell disease, and thalassemia. Researchers also believe cord-blood stem cells may have the capacity to be differentiated into other cell types, making them useful in the exploration of ethical stem cell therapies for regenerative medicine.

H.R. 2520 would increase the publicly available inventory of cord-blood stem cells by enabling the Department of Health and Human Services (HHS) to contract with cord-blood banks to assist them in the collection and maintenance of 150,000 cord-blood stem cell units. This would make matched cells available to treat more than 90 percent of patients in need. The bill would also link all participating cord-blood banks to a search network operated under contract with HHS, allowing physicians to search for matches for their patients quickly and effectively in one place. The bill also would reauthorize a similar program already in place for aiding the use of adult bone marrow in medical care. There is now $19 million available to implement the Cord Blood Cell Bank program; the Administration will work with the Congress to evaluate future spending requirements for these activities. The bill is also consistent with the recommendation from the National Academy of Science to create a National Cord Blood Stem Cell Bank program.

The Administration also applauds the bill's effort to facilitate research into the potential of cord-blood stem cells to advance regenerative medicine in an ethical way. Some research indicates that cord blood cells may have the ability to be differentiated into other cell types, in ways similar to embryonic stem cells, and so present similar potential uses but without raising the ethical problems involved in the intentional destruction of human embryos. The Administration encourages efforts to seek ethical ways to pursue stem cell research, and believes that—with the appropriate combination of responsible policies and innovative scientific techniques—this field of research can advance without violating important ethical boundaries. HR 2520 is an important step in that direction.

STATEMENT OF ADMINISTRATION POLICY—May 24, 2005

H.R. 810—STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

(Rep. Castle (R) DE and 200 cosponsors)

The Administration strongly opposes House passage of H.R 810, which would require Federal taxpayer dollars to be used to encourage the ongoing destruction of nascent human life. The bill would compel all American taxpayers to pay for research that relies on the intentional destruction of human embryos for the derivation of stem cells, overturning the President's policy that supports research without promoting such ongoing destruction. If H.R 810 were presented to the President, he would veto the bill.

The President strongly supports medical research, and worked with Congress to dramatically increase resources for the National Institutes of Health. However, this bill would support and encourage a line of research that requires the intentional destruction of living human embryos for the derivation of their cells. Destroying nascent human life for research raises serious ethical problems, and many millions of Americans consider the practice immoral.

The Administration believes that government has a duty to use the people's money responsibly, both supporting important public purposes and respecting moral boundaries. Every year since 1995, Congress has on a bipartisan basis upheld this balance by prohibiting Federal funds for research in which an embryo is destroyed. Consistent with this provision, the President's policy permits the funding of research using embryonic cell lines created prior to August 9, 2001, along with stem cell research using other kinds of cell lines. Scientists can therefore explore the potential application of such cells, but the Federal government does not offer incentives or encouragement for the destruction of nascent human life.

H.R 810 seeks to replace that policy with one that offers very little additional practical support to the research, while using Federal dollars to offer a prospective incentive for the destruction of human embryos. Moreover, H.R 810 relies on unsupported scientific assertions to promote morally troubling and socially controversial research. Embryonic stem cell research is at an early stage of basic science, and has never yielded a therapeutic application in humans. It is too early to say if a treatment or a cure will develop from embryonic stem cell research.

The Administration believes that the availability of alternative sources of stem cells further counters the case for compelling the American taxpayer to encourage the ongoing destruction of human embryos for research. Researchers are continually exploring alternative ways to derive pluripotent stem cells. And alternative types of human stem cells—drawn from adults, children, and umbilical-cord blood without doing harm to the donors—have already achieved therapeutic results in thousands of patients with dozens of different diseases.

Moreover, private sector support and public funding by several States for this line of research, which will add up to several billion dollars in the coming few years, argues against any urgent need for an additional infusion of Federal funds which, even if completely unrestricted, would not approach such figures. Whatever one's view of the ethical issues or the state of the research, the future of this field does not require a policy of Federal subsidies offensive to the moral principles of millions of Americans.

H.R. 810 advances the proposition that the Nation must choose between science and ethics. The Administration, however, believes it is possible to advance scientific research without violating ethical principles: both by enacting the appropriate policy safeguards and by pursuing the appropriate scientific techniques. HR 810 is seriously flawed legislation that would undo those safeguards and provide a disincentive to pursuing those techniques.

Mr. BROWNBACK. Mr. President, we will have much discussion of this issue if it comes before this body. I am going to be working aggressively with a number of individuals to see that we continue this stem cell work in an ethical manner, but not where it involves the destruction of human life.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I voted no on cloture, and I will vote no on the nomination of Priscilla Owen to be a judge on the U.S. Circuit Court of Appeals for the Fifth Circuit Court. I would like to take a few minutes today to explain my votes. I also would like to make a few comments on the events that led up to these votes.

I strongly oppose the threat of the nuclear option. I believe this was an illegitimate tactic, a partisan abuse of power that was a threat to the Senate as an institution and to the country. Attempting to blackmail the minority into giving up their rights that have been part of the Senate's traditions and practices for centuries was a new low for a majority that has repeatedly been willing to put party over principle. Unfortunately, the blackmail was partially successful. While I do applaud the efforts of the Senators who worked hard to broker an agreement, the end result is that three nominees who do not deserve lifetime appointments to the judiciary will now be confirmed.

The agreement reached by our colleagues states that filibusters should be reserved for extraordinary circumstances. For me, that has always been the test. I think Democrats have stuck to that standard in blocking just 10—just 10—out of the 218 nominations of President Bush that have been brought to the floor. A number of very conservative and very controversial nominees have been confirmed by the Senate. Jeffrey Sutton, now a judge on the Sixth Circuit, was confirmed by a vote of 52 to 41. No filibuster was used there. Jay Bybee, the author of the infamous torture memo, now sits on the Ninth Circuit. He was not filibustered. Michael McConnell, a very conservative and anti-choice law professor, often mentioned as a possible Supreme Court nominee, was confirmed for the Tenth Circuit. He was not filibustered. Dennis Shedd was confirmed to the Fourth Circuit by a vote of 55 to 44. He could have been filibustered, but he was not filibustered.

The idea that the filibuster has been used over the past several years as a tool to block all the nominees that the minority opposed is ludicrous. There were, and there continue to be, very good reasons to block a certain small number of nominees. Nothing that occurred last night changed that one iota. I will continue to vote against cloture only in extraordinary circumstances. I did that when we voted on cloture on the Owen nomination in 2003 and each subsequent time, and I have done that again today. For the majority to have created this constitutional crisis over what came down to five nominees was wrong, was an abuse of power. The American people did not support it, and I do not think they will support it in the future.

With respect to the Owen nomination, there are a number of factors that I believe require us to give this nomination very careful consideration. First, we should consider that judges on our courts of appeal have an enormous influence on the law. Whereas, decisions of the district courts are always subject to appellate review, the decisions of the courts of appeals are only subject to discretionary review by the Supreme Court. The decisions of the courts of appeal are, in almost all cases, final, as the Supreme Court agrees to hear only a very small percentage of the cases on which its views are sought. That means that the scrutiny we give to circuit court nominees must be greater than that we give to district court nominees. And then, of course, the scrutiny we give to Supreme Court nominees will even be greater.

Another important consideration is the ideological balance of the Fifth Circuit. The Fifth Circuit is comprised of Texas, Louisiana, and Mississippi. The Fifth Circuit contains the highest percentage of minority residents, over 40 percent of any circuit other than the DC Circuit. It is a court that, during the civil rights era, issued some of the most significant decisions supporting the rights of African-American citizens to participate as full members of our society.

As someone who believes strongly in freedom, liberty, and equal justice under law and the important role of the Federal courts to defend these fundamental American principles, I am especially concerned about the makeup of our circuit courts and their approaches to civil rights issues.

Even after 8 years of a Democratic President, the Fifth Circuit had twice as many Republican appointees as Democratic appointees. That is because during the last 6 years of the Clinton administration, the Judiciary Committee did not report out a single judge to the Fifth Circuit Court of Appeals. As we all know, that was not for a lack of nominees to consider. President Clinton nominated three well-qualified lawyers to the Fifth Circuit—Jorge Rangel, Enrique Moreno, and Alston Johnson. None of these nominees even received a hearing before the committee.

Then-Chairman LEAHY held a hearing in July 2001 on the nomination of Judge Edith Brown Clement for a seat on the Fifth Circuit only a few months after she was nominated and less than 2 months after Democrats took control of the Senate. It was the first hearing in the Judiciary Committee for a Fifth Circuit nominee since September 1994. And Judge Clement, of course, was confirmed later in the year.

The fact is, there is a history here and a special burden on President Bush to consult with our side on nominees for this circuit; otherwise, we will be simply rewarding the obstructionism that the President's party engaged in over the last 6 years of the Clinton administration by allowing him to fill, with his choices, seats that his party held open for years, even when qualified nominees were advanced by President Clinton.

I say, once again, my colleagues on the Republican side bear some responsibility for this situation. There was a time when I thought they might help resolve it by urging the administration to address the Senate's failure to take up Clinton nominees. This entire controversy over judges that has come to a head over the last several weeks could have been avoided if our Republican colleagues had convinced the President to renominate even a few of those Clinton nominees who never received a hearing or vote in the committee, including nominees to the Fifth Circuit. But, of course, that did not happen. There was no effort to reach a real compromise to take into account the concerns of all parties.

A compromise at the point of a gun is not a compromise. That, I'm afraid, is what we had last night.

With that background, let me outline the concerns that have caused me to reach the conclusion that Justice Owen should not be confirmed.

Justice Owen has had a successful legal career. She graduated at the top of her class from Baylor University Law School, worked as an associate and partner at the law firm of Andrews and Kurth in Houston, and has served on the Texas Supreme Court since January 1995. These are great accomplishments.

But Justice Owen's record as a member of the Texas Supreme Court leads me to conclude that she is not the right person for a position on the Fifth Circuit. I am not convinced that Justice Owen will put aside her personal views and ensure that all litigants before her on the Fifth Circuit received a fair hearing. Her decisions in cases involving consumers' rights, worker's rights, and reproductive rights suggest that she would be unable to maintain an open mind and provide all litigants a fair and impartial hearing.

Justice Owen has a disturbing record of consistently siding against consumers or victims of personal injury and in favor of business and insurance companies. When the Texas Supreme Court, which is a very conservative and pro- business court, rules in favor of consumers or victims of personal injury, Justice Owen frequently dissents. According to Texas Watch, during the period 1999 to 2002, Justice Owen dissented almost 40 percent of the time in cases in which a consumer prevailed. But in cases where the consumer position did not succeed, Justice Owen never dissented.

At her first hearing, Senator KENNEDY and then-Senator Edwards asked Justice Owen to cite cases in which she dissented from the majority and sided in favor of consumers. Justice Owen could cite only one case, Saenz v. Fidelity Guaranty Insurance Underwriters. But Justice Owen's opinion in this case hardly took a pro-consumer position since it still would have deprived the plaintiff of the entire jury verdict. She did not join Justice Spector's dissent, which would have upheld the jury verdict in favor of Ms. Saenz.

Also during that first hearing, Senators FEINSTEIN and DURBIN questioned Justice Owen about Provident American Ins. Co. v. Castaneda. In that case, the plaintiff sought damages against a health insurer for denying health care benefits, after the insurer had already provided pre-operative approval for the surgery. Justice Owen, writing for the majority, reversed the jury's verdict in favor of the plaintiff and rejected the plaintiff's claim that the health insurer violated the Texas Insurance Code and the Deceptive Trade Practices Act. At the hearing, Justice Owen defended her opinion by saying that she believed that the plaintiff was seeking extra-contractual damages and that the plaintiff had already received full coverage under the policy and statutory penalties. But, in the words of her colleague, Justice Raul Gonzalez, who wrote a dissent. Justice Owen's opinion "may very well eviscerate the bad-faith tort as a viable case of action in Texas." The cause of action for bad faith is designed to deter insurers from engaging in bad faith practices like denying coverage in the first place.

In addition, with respect to several decisions involving interpretation and application of the Texas parental notification law, I am deeply troubled by Justice Owen's apparently ignoring the plain meaning of the statute and injecting her personal beliefs concerning abortion that have no basis in Texas or U.S. Supreme Court law. In 2000, the Texas legislature enacted a parental notification law that allows a minor to obtain an abortion without notification of her parents if she demonstrates to a court that she has complied with one of three "judicial bypass" provisions: (1) that she is "mature and sufficiently well informed" to make the decision without notification to either of her parents; (2) that notification would not be in her best interest; or (3) that notification may lead to her physical, sexual, or emotional abuse.

During Justice Owen's first confirmation hearing, Senator CANTWELL questioned Justice Owen about her positions in cases interpreting this law, focusing on Justice Owen's insistence in In re Jane Doe. In that case, a teenager is required to consider "philosophic, social, moral, and religious" arguments before seeking an abortion. In her opinion, Justice Owen cited the Supreme Court's decision in Planned Parenthood of Southeastern Pennsylvania v. Casey to support her contention that States can require minors to consider religious views in their decision to have an abortion. But, as Senator CANTWELL noted, Casey in no way authorizes States to require minors to consider religious arguments in their decision on whether to have an abortion. Upon this further questioning, Justice Owen then said that she was referring to another Supreme Court case, H.L. v. Matheson, even though her opinion only cited Casey for this proposition. And even Matheson does not say that minors can be required by State law to consider religious arguments. It is my view that Justice Owen was going beyond not only a plain reading of the Texas statute, but Supreme Court case law, and inappropriately injecting her own personal views to make it more difficult for a minor to comply with the statute and obtain an abortion.

I was also not satisfied with Justice Owen's responses to my questions about bonuses to Texas Supreme Court law clerks. I asked her at the hearing whether she saw any ethical concerns with allowing law clerks to receive bonuses from their prospective employers during their clerkships. I also explored the topic further with her in followup written questions. Justice Owen stated repeatedly in her written responses to my questions that she is not aware of law clerks actually receiving bonuses while they were employed by the court. She reaffirmed that testimony in her second hearing. This seems implausble given the great amount of publicity given to Ian investigation pursued by the Travis County attorney of exactly that practice and the well publicized modifications to the Texas Supreme Court's rules that resulted from that investigation and the accompanying controversy.

Even more disturbing, Justice Owen took the position, both at the first hearing and in her responses to written questions, that because the Texas Supreme Court Code of Conduct requires law clerks to recuse themselves from matters involving their prospective employers, there really is no ethical concern raised by law clerks accepting bonuses while employed with the court. I disagree. It is not sufficient for law clerks to recuse themselves from matters involving their prospective employers if they have received thousands of dollars in bonuses while they are working for the court. The appearance of impropriety and unfairness that such a situation creates is untenable. As I understand it, the Federal courts have long prohibited Federal law clerks both from receiving bonuses during their clerkships and from working on cases involving their prospective employers. I am pleased that the Texas Supreme Court finally recognized this ethical problem and changed its code of conduct for clerks. Justice Owen, in contrast, seems intent on defending the prior, indefensible, practice.

Finally, I want to note the unusual nature of this particular nomination. Unlike so many nominees during the Clinton years, Justice Owen was considered in the Judiciary Committee under Senator LEAHY's leadership in 2002. She had a hearing, and she had a vote. Her nomination was rejected. This has been the first time in history that a circuit nominee who was formally rejected by the committee, or the full Senate for that matter, has been renominated by the same President to the same position. I do not believe that defeated judicial nominations should be reconsidered like legislation that is not enacted. After all, legislation can be revisited after it is enacted. If Congress makes a mistake when it passes a law, it can fix that mistake in subsequent legislation. Let us all remember that judicial appointments are for life. Confirmations cannot be taken back or fixed. A vote to confirm a nominee is final. A vote to reject that nominee should be final as well. For the President to renominate a defeated nominee and the Senate to reconsider her simply because of the change of a few seats in an election cheapens the nomination process and the Senate's constitutional role in that process.

I believe Justice Owen is bright and accomplished, but I sincerely believe that based on her judicial record, Justice Owen is not the right choice for this position.

Ms. CANTWELL. Mr. President, I discuss the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals, and to briefly discuss the compromise before us on the so-called nuclear option.

I continue to oppose all three of the nominees that will proceed to up-or-down votes as the result of this compromise, and I will be voting against cloture on Priscilla Owen as a result. But I do acknowledge the importance of preserving the process of debating judicial nominees. I do not feel that the filibuster has been misused with regard to President Bush's nominees, as I'll explain shortly, but I am impressed at the efforts of my colleagues on both sides of the aisle to avoid the all-or-nothing nuclear option vote that threatened to cause us to break down as an institution.

I also express my hope that the term "extraordinary circumstances" that is in this compromise is interpreted sensibly. When extreme nominees threaten the balance of our federal courts, I view those as extraordinary circumstances. I will continue to vote to block any nominee who is not suitable for the bench, and it will continue to be an unusual exception for me not to support a nominee. My standard has been extraordinary circumstances all along.

As a former member of the Judiciary Committee, I attended a hearing on Priscilla Owen that lasted a full day. During that hearing, Owen's record showed a particular disregard for precedent and the plain rule of law.

Anyone who walks into a courtroom as a plaintiff or a defendant in this country should do so having the full confidence that there is impartiality on the part of the judge on the bench. They should have total confidence that the rule of law will be followed, and believe the issues will be judged on their merits rather than viewed through the prism of an individual judge's personal values or beliefs.

There is reason to be concerned about the record of Priscilla Owen. Time after time, even her own Republican colleagues, on a predominantly Republican Texas Supreme Court bench, criticized her for failing to follow precedent or interpreting statutes in ways that ignore the clear intent of the law.

What some of Owen's colleagues on the bench have said about her opinions I think is important. In a case dealing with a developer seeking to evade Austin's clean water laws, her dissent was called "nothing more than inflammatory rhetoric."

In another case, her statutory interpretation was called "unworkable." In yet another case, the dissent she joined was called "an unconscionable act of judicial activism."

There is another reason this nomination is so important. This is critical to all the nominees we are considering for appointment to the Federal bench, and especially important for you here this morning. That is, what is the judicial philosophy and commitment to upholding current law as it relates to a citizen's right to privacy. I asked Justice Owen at her hearing about her beliefs on the right to privacy. I asked her if she believed there was constitutional right to privacy and where she found that right in the Constitution.

She declined at the time to answer that question without the relevant case information and precedents before her. When Senator FEINSTEIN followed up with a similar question, Owen against would not answer whether she believes a right to privacy does exist within the Constitution.

The question of whether a nominee believes that the right to privacy exists with regard to the ability to make decisions about one's own body is only the tip of the privacy iceberg. I believe that we are in an information age that poses new challenges in protecting the right to privacy. We are facing difficult issues including whether U.S. citizens have been treated as enemy combatants in a prison without access to counselor trial by jury, whether businesses have access to some of your most personal information, whether the Government has established a process for eavesdropping or tracking U.S. citizens without probable cause, and whether the Government has the ability to develop new software that might track the use of your own computer and places where you might go on the Internet without your consent or knowledge. There are a variety of issues that are before us on an individual's right to privacy and how that right to privacy is going to be interpreted. A clear understanding of a nominee's willingness to follow precedent on protecting privacy is a very important criterion for me, and it should be a concern for all Members.

Of course, some of my concern and skepticism about Justice Owen's views on privacy results from the opinions she wrote in a series of cases interpreting the Texas law on parental notification. In 2000 the State of Texas passed a law requiring parental notification. But they also included a bypass system for extreme cases.

Eleven out of 12 times Owen analyzed whether a minor should be entitled to bypass the notice requirement, she voted either to deny the bypass or to create greater obstacles to the bypass.

Owen wrote in dissent that she would require a minor to demonstrate that she had considered religious issues surrounding the decision and that she had received specific counseling from someone other than a physician, her friend, or her family. Requirements, I believe, that go far beyond what the statute requires.

In interpreting the "best interest" arm of the statute, Owen held that a minor should be required to demonstrate that the abortion itself—not avoiding notification—was in the individual's best interests. In this particular case, I think she went far beyond what the statue required.

Where does that put us? Women in this country rely on the right to choose. It is an issue on which we have had 30 years of settled law and case precedent. In the Fifth Circuit, there are three States that continue to have unconstitutional laws on the books, and legislatures that are hostile to that right to choose. The Federal courts are the sole protector of women's right to privacy in these states. I do not believe that the rights of the women of the Fifth Circuit can be trusted to Justice Priscilla Owen.

The Senate provides each of us with the procedural privilege to thoroughly discuss my concerns about this nominee—the filibuster. The filibuster has been used against me on issues I care deeply about, just as I have used this procedure when it was necessary to protect the people of my state. This body, in which I am so privileged to serve, is more important than any one of us, precisely because even one Senator can stand up for her state in the face of a powerful majority.

This agreement, whatever else I might think of it, preserves the rights in this body that make it unique and that give it the most credibility. Each of us has to respect the views of the rest. When 40 of us stand together, the other 60 must negotiate. That is healthy and that is what happened here. The rules of the Senate, and the existence of the Federal judiciary itself, pose proper checks on majority and Presidential power. That is the way it should stay.

Mr. KYL. Mr. President, I want to respond to a statement that the Senior Senator from West Virginia made yesterday. In his remarks, the Senator conceded the legitimacy of the constitutional option, what he called the "nuclear option," as a way for the Senate to determine its practices and procedures. The option is, of course, the leader's right to obtain a ruling from the presiding officer that certain actions of Senators are dilatory and cannot preclude the Senate from voting on a judicial nomination.

Here is what he said: "The so-called nuclear option has been around for a long time. It doesn't take a genius to figure that out." He went on to explain that this constitutional option had been available since at least 1917, and he repeatedly emphasized that this tool has been around "for a long time."

I appreciate this acknowledgment from the Senator from West Virginia, because I know he has studied the history of the Senate, and I know he has intimate familiarity with the workings of the Constitutional Option. There is nothing new about the constitutional option, as I discussed in my May 19 floor speech outlining the legal and constitutional rationale for its exercise. The constitutional option is simply the Senate's exercise of its power to define its own procedures—a power that comes directly from the Constitution and has been affirmed by the Supreme Court. (U.S. v. Ballin, 144 U.S. 1 (1892)) I appreciate that the Senator has acknowledged its legitimacy.

The Senator from West Virginia also argued, however, that past majority leaders have never used the constitutional option to "tamper" with extended debate. As my May 19 statement established, as did yesterday's statements by Senators MCCONNELL, HATCH, and BENNETT, that is not actually the case.

The fact is that the Senator himself used the constitutional option four times when serving as majority leader—in one case to outright eliminate the filibuster for motions to proceed to Executive Calendar nominations. Moreover, in February 1979, he forced the minority to agree to a formal rules change after credibly threatening that he would exercise the constitutional option. At that time, the Senator said on this floor, "if I have to be forced into a corner to try for a majority vote, I will do it because I am going to do my duty as I see my duty, whether I win or lose."

The Senate was nearly forced into a similar "corner" this week. Had Democrats not supported cloture on Priscilla Owen today, then all Senators would have had to make a conclusive decision as to whether it should take 60 or 51 votes to confirm a judge. Instead, we are putting off that decision until another day.

That may still come. And if it does come, I hope that we hear no more talk of the "illegitimacy" of the constitutional option. There is plenty to discuss as to whether exercising the option is prudential in a particular case. Some of the debate these past few days has addressed that prudential question, including some of the discussion from the Senator from West Virginia. But there has also been talk about the constitutional option being a case of "lawlessness" or "breaking the rules to change the rules." The constitutional option is a part of Senate history. In Senator BYRD's words, it "has been around for a long time."

And it will always be with us. The constitutional option is not, as the minority leader has repeatedly insisted, "off the table." It is simply unnecessary at present. If it becomes necessary again, we may be called on to live up to our responsibilities to the Constitution and to the Senate to ensure that we restore our traditions and guarantee up-or-down votes to all judicial nominees who reach the Senate floor.

Mr. CORNYN. Mr. President, at various times during the course of debate in recent days over the nomination of Justice Priscilla Owen, a number of her previous rulings have been badly mischaracterized. Last Thursday, May 19, I rose to speak about a number of those cases and to correct the record. And just this morning, I published an op-ed in National Review Online to further rebut these baseless criticisms. I ask unanimous consent that an excerpt of that op-ed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> It is now conceded that Justice Owen, Justice Brown, and Judge Pryor all deserve up-or-down votes. I happen to know personally that the case against Justice Owen was especially weak, because I know Priscilla personally from our service together on the Texas supreme court. Just consider the following litany of supposedly "out of the mainstream" rulings for which she was criticized:
>
> A number of senators criticized Justice Owen's opinion in *Montgomery Independent School District* v. *Davis*. One senator specifically attacked her for failing to protect a teacher who was "wrongly dismissed." The case involved the authority of a local school board to dismiss a poorly performing and abusive teacher. The teacher had admitted that she had referred to her students as "little s***s." When confronted, the teacher justified the use of the expletive on the bizarre ground that she used exactly the same language when talking to her own children. The teacher regularly insulted parents as well. The opinion joined by Justice Owen concluded that the school board was authorized to dismiss this teacher. It noted that the majority's ruling "allows a state hearing examiner to make policy decisions that the Legislature intended local school boards to make," and that the majority had "misinterpreted the Education Code."
>
> One senator attacked Justice Owen for her opinion in *Texas Farmers Insurance Co.* v. *Murphy*. In this case, Justice Owen simply joined an opinion holding that neither an arsonist nor his spouse should benefit from his crime by recovering insurance proceeds. The opinion followed two unanimous decisions of the Fifth Circuit, the very court to which Justice Owen has been nominated.
>
> Justice Owen was also criticized for a ruling she and I both joined in *Peeler v. Hughes & Luce and Darrell C. Jordan*—in which we simply held that an admitted criminal could not benefit from criminal activity by suing the criminal-defense attorney for malpractice.
>
> A number of senators focused on Justice Owen's opinion in *FM Properties Operating Co. v. City, of Austin*. One senator specifically criticized her for refusing to rule that a Texas water law "was an unconstitutional delegation of legislative authority." Yet liberal attorneys regularly criticize the nondelegation doctrine and claim that conservatives wrongly use it to invalidate laws duly enacted by the legislature. In fact, just last month one senator criticized another nominee, Bill Pryor, for championing the nondelegation doctrine. So Justice Owen's critics seem to argue that if you support the nondelegation doctrine, you are out of the mainstream, and that if you oppose the nondelegation doctrine, you are out of the mainstream. It reminds me of a country-western song: "Darned If I Don't, Danged If I Do."
>
> One senator claimed that, in *Read v. Scott Fetzer Co.*, Justice Owen ruled that a woman raped by a vacuum-cleaner salesman could not sue the company that had employed him after failing to undertake a standard background check—an allegation recently articulated in an op-ed in *Roll Call*. Yet as my letter to the editor noted, that allegation is plainly false. As the opinion joined by Justice Owen noted, "[n]o one questions that [the company that had hired the rapist] is liable." The justices simply disagreed on whether another company—one that had not hired the rapist and had no relationship with the rapist—should also have been held liable.
>
> Justice Owen was also criticized for her ruling in *Hyundai Motor Co. v. Alvarado*. In that case, an automobile alleged to be defective had in fact fully satisfied the federal standard then in effect. The plaintiff chose to sue anyway, despite federal law. Justice Owen simply held that Congress had forbidden such lawsuits once the federal standard had been met—a technical legal doctrine known as federal preemption. For this, she was sharply criticized. Yet her opinion simply followed the "solid majority of the courts to consider this issue"—including precedents authored by judges appointed by President Jimmy Carter. Moreover, the U.S. Supreme Court later adopted Justice Owen's approach (*Geier v. American Honda Motor Co., Inc.*), in an opinion authored by Clinton appointee, and former Democrat chief counsel of the Senate Judiciary Committee, Justice Stephen Breyer.
>
> Justice Owen was likewise criticized for her rulings in *Quantum Chemical Corp. v. Toennies*, a case involving a Texas civil-rights law expressly modeled after Title VII of the federal Civil Rights Act of 1964, and *City of Garland v. Dallas Morning News*, a Texas open-government law modeled after the federal Freedom of Information Act. Once again, all she did was follow precedents adopted by appointees of Presidents Carter and Clinton.
>
> Justice Owen and I happened to disagree in *Weiner v. Wasson*, a case involving a technical matter of applying a statute of limitations to a medical malpractice suit. One senator argued that my opinion was "a lecture to the dissent" about the importance of *stare decisis* and following precedent. The argument is baseless. In fact, Justice Owen didn't try to overturn precedent in that case: only the defendant did. Moreover, Justice Owen's ruling contained an equally emphatic "lecture" to the defendant about the importance of following precedent.
>
> And of course, there were the now-famous cases involving the popular Texas parental-notification law—a parental-rights law that generally requires minors to notify one parent before obtaining an abortion. Readers should ask themselves one simple question: Who would you trust to analyze and determine the quality of Justice Owen's legal analysis in those cases? The author of the Texas law—who supports Owen? Her former colleagues on the court, including former Justices Alberto Gonzales and Greg Abbott, who support her? Now-Attorney General Alberto Gonzales, who has testified—under oath—that he supports Justice Owen and that, contrary to false reports, he never accused her of "judicial activism"? The pro-choice Democrat law professor appointed by the Texas supreme court to set up procedures under the statute—who supports Owen, and who has written: "If this is activism, then any judicial interpretation of a statute's terms is judicial activism"? Or do you trust the liberal special-interest groups who sharply opposed the Texas law, and never wanted that law to be enacted in the first place? Or the groups who literally make a living destroying the reputation of this president's nominees?
>
> The attacks on these rulings by Justice Owen reminded me of what Mark Twain once said: "A lie can travel halfway around the world while the truth is still putting on its shoes." But let's keep our eye on the ball. The American people know a controversial ruling when they see one—whether it's the redefinition of marriage, or the expulsion of the Pledge of Allegiance and other expressions of faith from the public square—whether it's the elimination of the three-strikes-and-you're out law and other penalties against convicted criminals, or the forced removal of military recruiters from college campuses. Justice Owen's rulings fall nowhere near this category of cases. There is a world of difference between struggling to interpret the ambiguous expressions of a legislature, and refusing to obey a legislature's directives altogether.
>
> Thankfully, the Senate has now effectively acknowledged this important distinction, by guaranteeing Justice Owen an up-or-down vote after four long years.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. What is the regular order?

The PRESIDING OFFICER. The Senate business is the nomination of Priscilla Owen to be United States Circuit Court Judge.

Mr. INHOFE. I ask unanimous consent I be allowed to speak as in morning business for such time as I consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

GLOBAL WARMING

Mr. INHOFE. Mr. President, over the past few weeks, I have debunked the notion of scientific consensus about global warming. The claim there is consensus rests on four fundamental pillars. My previous talks made clear that the first three pillars are made of sand.

It is not true, for example, that the National Academy of Sciences believes the science of climate change is settled. In fact, the report is replete with caveats, warning the reader of the many uncertainties associated with claims of global warming. Yet advocates continue to recite small excerpts while ignoring the caution about uncertainties contained within the same paragraph or even the same science.

It is also not true that the second pillar, the U.N. science report known as the IPCC, proves a consensus. The flagship study on which the IPCC report relies, known as the hockey stick, which shows an unprecedented rise in 20th century temperatures, has been thoroughly discredited by scientists on both sides of the debate. In fact, recently, and since 1999, there hasn't been anyone who has agreed there is authenticity to the issue. In addition, the U.N. report relies on an explosive increase in emissions from poor countries over the next century based on the political decision by the report's author that countries such as Algeria will be as wealthy or wealthier than the United States.

The third pillar, supposedly proving that the science is settled that the Arctic is melting, is based on political science. Arctic temperatures are no warmer than they were in the 1930s. Similarly, the thickness of the Arctic glaciers and the sea ice appears to vary naturally by as much as 16 percent annually.

These and other factors which the alarmists find inconvenient would seem to indicate that projections of an Arctic climate catastrophe are speculative, at best.

Today I conclude the series on the four pillars of climate alarmists by discussing the problems associated with global climate models.

Let me begin by briefly explaining the climate models and how they function. Climate models help scientists describe changes in the climate system. They are not models in the conventional sense; that is, they are not physical replicas. Rather, they are mathematical representations of the physical laws and processes that govern the Earth's climate. According to Dr. David Legates of the University of Delaware, climate models "are designed to be descriptions of the full three-dimensional destruction of the earth's climate." Dr. Legates claims models are used "in a variety of applications, including the investigation of the possible role of various climate forcing mechanisms and the simulation of past and future climates."

Thousands of climate changes studied rely on computer models. The Arctic Council, whose work I addressed last week, stated that arctic warming and the impact stemming from that warming are firmly established by computer models.

Quoting from him:

> While the models differ in their projections of some of the features of climate change, they are all in agreement that the world will warm significantly as a result of human activities, and that the Arctic is likely to experience noticeable warming, particularly early and intensely.

Similarly, the IPCC, which I also discussed in the earlier talks, relied on such earlier models to project a long-term temperature increase ranging from 2.5 to 10.4 degrees Celsius and assorted and potentially dangerous climate changes over the next century.

According to Dr. Kenneth Green, Dr. Tim Ball, and Dr. Steven Schroeder, the politicians clearly do not realize that the major conclusions of the IPCC's reports are not based on hard evidence and observation but, rather, largely upon the output of assumption-driven climate models.

The alarmists cite the results of climate models as proof of the catastrophic warming hypotheses. Consider one alarmist's description, who wrote recently:

> Drawing on highly sophisticated computer models, climate scientists can project, not predict, how much temperatures may rise by say 2100 if we carry on with business as usual.

He continues:

> Although scenarios vary, some get pretty severe, and so do the projected impacts of climate change, rising sea levels, species extensions, glacier melting and so forth.

It sounds pretty scary, but the statement is completely false. It sheds no light on the likelihood or reliability of such projections. If, for example, a model shows a significant temperature increase over the next 50 years, how much confidence do we have in that projection? Attaching probabilities to model results is extremely difficult and rife with uncertainties.

In the 2000 edition of "Nature," four climate modelers noted that:

> A basic problem with all such predictions to date has been the difficulty of providing any systematic estimate of uncertainty.

This problem stems from the fact that:

> These [climate] models do not necessarily span the full range of known climate system behavior.

According to the National Academy of Sciences:

> . . . without an understanding of the sources and degree of uncertainty, decision-makers could fail to define the best ways to deal with the serious issue of global warming.

This fact should temper the enthusiasm of those who support Kyoto-style regulations that will harm the American economy.

Previously, we have talked about the harm to the economy and have referred to the Wharton Econometric Survey which was conducted by the Wharton School of Economics. It gets into a lot of detail as to what is going to happen. For example, to comply with Kyoto, it would cost the average family of four some $2,700 a year. So it is a very significant thing.

Now note, too, the distinction between "project" and "predict." The alarmist writer noted earlier creates the misimpression that a projection is more solid than a prediction. But a projection is the output of a model calculation. Put another way, it is only as good as the model's equations and inputs. As we will see later in this presentation, such inputs or assumptions about the future can be extremely flawed, if not totally divorced from reality. And this, to be sure, is only one of the many technical shortcomings that limit the scientific validity of climate modeling.

Unfortunately, rarely does any scrutiny accompany model simulations. But based on what we know about the physics of climate models, as well as the questionable assumptions built into the models themselves, we should be very skeptical of their results. This is exactly the view of the National Academy of Sciences. According to the NAS:

> Climate models are imperfect. Their simulation skill is limited by uncertainties in their formulation, the limited size of their calculations, and the difficulty of interpreting their answers that exhibit as much complexity as in nature.

At this point, climate modeling is still a very rudimentary science. As Richard Kerr wrote in Science magazine:

> Climate forecasting, after all, is still in its infancy.

Models, while helpful for scientists in understanding the climate system, are far from perfect. According to climatologist Gerald North of Texas A&M University:

> It's extremely hard to tell whether the models have improved; the uncertainties are large.

Or as climate modeler Peter Stone of the Massachusetts Institute of Technology put it:

> The major [climate prediction] uncertainties have not been reduced at all.

Based on these uncertainties, cloud physicist Robert Charlson, professor emeritus at the University of Washington-Seattle, has concluded:

> To make it sound like we understand climate is not right.

This is not to deny that climate modeling has improved over the last three decades. Indeed, scientists have constructed models that more accurately reflect the real world. In the 1970s, models were capable only of describing the atmosphere, while over the last few years models can describe, albeit inadequately, the atmosphere, land surface, oceans, sea ice, and other variables.

But greater complexity does not mean more accurate results. In fact, the more variables scientists incorporate, the more uncertainties arise.

Dr. Syukuro Manabe, who helped create the first climate model that coupled the atmosphere and oceans, has observed:

> Models that incorporate everything from dust to vegetation may look like the real world, but the error range associated with the addition of each new variable could result in near total uncertainty. This would represent a paradox: The more complex the models, the less we know.

We are often reminded that the IPCC used sophisticated modeling techniques in projecting temperature increases for the coming century. But as William O'Keefe and Jeff Kueter of the George C. Marshall Institute pointed out in a recent paper:

> The complex models envisioned by the IPCC have many more than twenty inputs, and many of those inputs will be known with much less than 90 percent confidence.

Also, tinkering with climate variables is a delicate business—getting one variable wrong can greatly skew model results. Dr. David Legates has noted that:

> Anything you do wrong in a climate model will adversely affect the simulation of every other variable.

Take precipitation, for example. As Dr. Legates noted:

> Precipitation requires moisture in the atmosphere and a mechanism to cause it to condense (causing the air to rise over mountains, by surface heating, as a result of weather fronts, or by cyclonic rotation). Any errors in representing the atmospheric moisture content or precipitation-causing mechanisms will result in errors in the simulation of precipitation.

Dr. Legates concluded:

> Clearly, the interrelationships among the various components that comprise the climate system make climate modeling difficult.

The IPCC, in its Third Assessment Report, noted this problem, and many others, with climate modeling, including—this is a quote from their report; the very basis that many of the alarmists are basing their decisions on:

> Discrepancies between the vertical profile of temperature change in the troposphere seen in observations and models.
>
> Large uncertainties in estimates of internal climate variability (also referred to as natural climate variability) from models and observations.
>
> Considerable uncertainty in the reconstructions of solar and volcanic forcing which are based on limited observational data for all but the last two decades.
>
> Large uncertainties in anthropogenic forcings associated with the effects of aerosols.
>
> Large differences in the response of different models to the same forcing.

I want to delve a little deeper into the first point concerning the discrepancies between temperature observations in the troposphere and the surface. This discrepancy is very important because it tends to undermine a key assumption supporting the warming hypothesis—that more rapid warming should occur in the troposphere than at the surface, creating the so-called greenhouse "fingerprint." But the National Research Council believes real-world temperature observations tell a different story.

In January of 2000, the NRC panel examined the output from several climate models to assess how well they mimicked the observed surface and lower atmospheric temperature trends. They found that:

> Although climate models indicate that changes in greenhouse gases and aerosols play a significant role in defining the vertical structure of the observed atmosphere, model-observation discrepancies indicate that the definitive model experiments have not been done.

John Wallace, the panel chairman and professor of atmospheric sciences at the University of Washington, put it more bluntly. He said:

> There really is a difference between temperatures at the two levels that we don't fully understand.

More recently, researchers at the University of Colorado, Colorado State University, and the University of Arizona, examined the differences between real-world temperature observations with the results of four widely used climate models. They probed the following question: Do the differences stem from uncertainties in how greenhouse gases and other variables affect the climate system or by chance model fluctuations; that is, the variability caused by the model's flawed representation of the climate system?

As it turned out, neither of these factors was to blame. According to the researchers:

> Significant errors in the simulation of globally averaged tropospheric temperature structure indicate likely errors in tropospheric water-vapor content and therefore total greenhouse-gas forcing, precipitable water, and convectively forced large-scale circulation.

Moreover, based on the "significant errors of simulation," the researchers called for "extreme caution in applying simulation results to future climate-change assessment activities and to attributions studies."

They also questioned "the predictive ability of recent generation model simulations, the most rigorous test of any hypothesis."

There does not seem to be much wiggle room here: Climate models are useful tools, but unable, in important respects, to simulate the climate system, undermining their "predictive ability."

Based on this hard fact, let me bring you back to the alarmist writer I referenced earlier. As he wrote recently:

> Drawing on highly sophisticated computer models, climate scientists can project—not predict—how much temperature may rise by, say, 2100, if we carry on with business as usual.

Again, based on what I have just recounted, this is disingenuous at best. I think a fairminded person would find it horribly misleading and inaccurate.

Another serious model limitation concerns the interaction of clouds and water vapor with the climate system.

Dr. Richard S. Lindzen, professor of meteorology at MIT, reports of "terrible errors about clouds in all the models." He noted that these errors "make it impossible to predict the climate sensitivity because the sensitivity of the models depends primarily on water vapor and clouds. Moreover, if clouds are wrong," Dr. Lindzen said, "there's no way you can get water vapor right. They're both intimately tied to each other."

In fact, water vapor and clouds are the main absorbers of infrared radiation in the atmosphere. Even if all other greenhouse gases, including carbon dioxide, were to disappear, we would still be left with over 98 percent of the current greenhouse effect. But according to Dr. Lindzen, "the way current models handle factors such as clouds and water vapor is disturbingly arbitrary. In many instances the underlying physics is simply not known."

Dr. Lindzen notes that this is a significant flaw, because "a small change in cloud cover can strongly affect the response to carbon dioxide." He further notes, "Current models all predict that warmer climates will be accompanied by increasing humidity at all levels." Such behavior "is an artifact of the models since they have neither the physics nor the numerical accuracy to deal with water vapor."

I think sometimes you have to look at the science and the contradictions, and even if we don't thoroughly understand what these people are saying, the fact is, they contradict each other. Sometimes you have to go back and look at reality. If they say the increase in the use of carbon dioxide and the presence of it is the major thing causing anthropogenic gases and global warming temperatures, look at what happened right after the war. After the war, they increased the use of CO_2 by 85 percent. You would think that would precipitate a warmer period, but it didn't. It precipitated a cooling period. When you get back to the arguments and discrepancies, they agree there are problems.

Along with water vapor and clouds, aerosols, or particles from processes such as dust storms, forest fires, the use of fossil fuels, and volcanic eruptions, represent another major uncertainty in climate modeling. To be sure, there is limited knowledge of how aerosols influence the climate system. This, said the National Academy of Sciences, represents "a large source of uncertainty about future climate change."

Further, the Strategic Plan of the U.S. Climate Change Science Program, CCSP, which was reviewed and endorsed by the National Research Council, concluded that the "poorly understood impact of aerosols on the formation of both water droplets and ice crystals in clouds also results in large uncertainties in the ability to project climate changes."

Climate researcher and IPCC reviewer Dr. Vincent Gray reached an even stronger conclusion, stating that "the effects of aerosols, and their uncertainties, are such as to nullify completely the reliability of any climate models."

Another issue affecting model reliability is the relative lack of available climate data, something the National Research Council addressed in 2001. According to the NRC, "[a] major limitation of these model forecasts for use around the world is the paucity of data available to evaluate the ability of coupled models to simulate important aspects of past climate."

There is plenty of evidence to support this conclusion. Consider, for example, that most of the surface temperature record covers less than 50 years and only a few stations are as much as 100 years old. The only reliable data come from earth-orbiting satellites that survey the entire atmosphere. Notably, while these temperature measurements agree with those taken by weather balloons, they disagree considerably with the surface record.

There is also concern of an upward bias in the surface temperature record, caused by the "urban heat island effect." Most meteorological stations in Western Europe and eastern North America are located at airports on the edge of cities, which have been enveloped by urban expansion. In the May 30, 2003, issue of Remote Sensing of Environment, David Streutker, a Rice University researcher, found an increase in the Houston urban heat island effect of nearly a full degree Celsius between 1987 and 1999. This study confirmed research published in the March 2001 issue of Australian Meteorological Magazine, which documented a significant heat island effect even in small towns.

Although climate modelers have made adjustments to compensate for the urban heat island effect, other researchers have shown such adjustments are inadequate. University of Maryland researchers Eugenia Kalnay and Ming Cai, in Nature magazine, concluded that the effect of urbanization and land-use changes on U.S. average temperatures is at least twice as large as previously estimated.

Finally, to expand on a point I raised earlier, climate models are helpful in creating so-called "climate scenarios." These scenarios help scientists describe how the climate system might evolve. To arrive at a particular scenario, scientists rely on model-driven assumptions about future levels of economic growth, population growth, greenhouse gas emissions, and other factors. However, as with the IPCC, these assumptions can create wildly exaggerated scenarios that, to put it mildly, have little scientific merit. In 2003, scientists with the Federal Climate Change Science Program agreed that potential environmental, economic, and technological developments "are unpredictable over the long time-scales relevant for climate research."

William O'Keefe and Jeff Keuter of the George C. Marshall Institute reiterated this point recently. As they wrote, "The inputs needed to project climate for the next 100 years, as is typically attempted, are unknowable. Human emissions of greenhouse gases and aerosols will be determined by the rates of population and economic growth and technological change. Neither of these is predictable for more than a short period into the future."

Put simply, computer model simulations cannot prove that greenhouse gas emissions will cause catastrophic global warming. Again, here's the National Academy of Sciences: "The fact that the magnitude of the observed warming is large in comparison to natural variability as simulated in climate models is suggestive of such a linkage, but it does not constitute proof of one because—and this is a point I want to emphasize—the model simulations could be deficient in natural variability on the decadal to century time scale."

It's clear that climate models, even with increasing levels of sophistication, still contain a number of critical shortcomings. With that in mind, policymakers should reject ridiculous statements that essentially equate climate model runs with scientific truth.

As I discussed today, climate modeling is in its infancy. It cannot predict future temperatures with reasonable certainty that these predictions are accurate. The physical world is exceedingly complex, and the more complex the models, the more potential errors are introduced into the models. We understand little about how to accurately model the troposphere and about the role of aerosols, clouds and water vapor. Moreover, there are enormous data gaps in the very short temperature records that we have. And surface data often conflict with more accurate balloon and satellite data.

Models can enhance scientists' understanding of the climate system, but, at least at this point, cannot possibly serve as a rational basis for policymaking. It seems foolish in the extreme to undermine America's economic competitiveness with policies based on computer projections about what the world will look like in 100 years. In short, we have no idea what the world will look like in 20 years, or even 10 years.

So this concludes the fourth of the pillars of climate alarmists, hopefully just to show the science is flawed.

I think it is clear, as I mentioned a minute ago, that the science is not there. Since 1999, the old argument of Michael Mann, the guy who invented the hockey-stick theory, where he was measuring the Earth's temperatures, we come into the 20th century—and that is the blade on the hockey stick—he intentionally left out the fact that between the years 700 A.D. and 1100 A.D., there is another blade on the hockey stick that went up the other way and temperatures were warmer than they are today.

If you read the Wharton Econometrics Survey, you will realize what will happen to America if we were to sign on to this, the economic damage we would have to sustain, the fact it would double the cost of energy, double the cost of gasoline to run our cars, and it would cost the average American family $2,700, and you have to ask the question: If the science is not real and it would inflict that much danger, what is the reason we are doing it?

I think we can find the answer in quoting from Margot Wallstrom. Margot Wallstrom is the European Union's Environment Commissioner. She states that Kyoto is not about climate change, it is "about leveling the playing field for big businesses worldwide."

One of your favorite people, I am sure, French President Jacques Chirac, in a speech during The Hague in 2000, said that Kyoto represents "the first component of an authentic global governance."

I think we have had an opportunity to discuss this over and over, and it is somewhat warming to me to realize that things are not getting that much warmer, and if that is happening, the science is not showing it is due to anthropogenic gases.

Consequently, we as policymakers, have to look at this and be sure before we make any rash decisions that the science is there. Clearly, the science is not there.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STEM CELL RESEARCH

Mr. HARKIN. Mr. President, the House of Representatives just minutes ago took a historic stand on behalf of the millions of Americans who can benefit from the enormous promise of stem cell research. By a vote of 238 yeas to 194 nays, the House passed H.R. 810. I congratulate both Congressman CASTLE, a Republican from Delaware, and Congresswoman DEGETTE, a Democrat from Colorado, who led a bipartisan effort in this regard to have this very historic vote in the House of Representatives.

Indeed, a bipartisan majority rejected the restrictive policies of this administration and voted to expand the number of stem cell lines that are eligible for federally funded research. In doing so, they have brought new hope to Americans who suffer from diseases such as Parkinson's and juvenile diabetes, ALS, as well as spinal cord injuries.

Now it is up to us in the Senate to pass the same bill without amendments so we can send it to the President's desk as soon as possible. The American people cannot afford to wait any longer for our top scientists to realize the full potential of stem cell research.

Regrettably, research has been stymied and slowed under the President's stem cell policy. When President Bush announced his policy, the administration said that 78 stem cells lines were eligible for federally funded research, meaning they had to be derived before the totally arbitrary date and time of August 9, 2001, at 9 p.m. Why it was permissible to use stem cell lines derived before 9 p.m. but not at 9:01 or 9:05 p.m. has always eluded me. Again, it is just an arbitrary time and date.

The administration said there were 78 stem cell lines, but now we know today that only 22 of those are available for research, not nearly enough to reflect the genetic diversity that scientists need. But more importantly, all 22 stem cell lines—all 22—that are available under the President's policy are contaminated with mouse feeder cells, making them useless for humans.

So the President's policy is not a way forward; it is, indeed, a dead-end street. It offers only false hope to the millions of people across this country who are suffering from diseases that could be potentially cured or treated through stem cell research.

We need a policy that offers true, meaningful hope to these patients and their loved ones. That is why Senator SPECTER and I, along with Senators HATCH, FEINSTEIN, SMITH, and KENNEDY, introduced a companion bill to the Castle-DeGette legislation that just passed the House. Our bill expands the number of stem cell lines that federally funded scientists can study by lifting the arbitrary eligibility date of August 9, 2001.

Under our legislation, all stem cell lines would be eligible for Federal research regardless of the date they were derived, as long as they met strict ethical requirements.

Since August of 2001, scientists have made great strides and great advances in deriving stem cell lines. Many of the new lines were grown without mouse feeder cells. So I ask, should not our top scientists be studying those lines that have great potential and which could be used to alleviate human suffering, instead of being limited to the 22 cell lines contaminated with mouse cells that will never be used in humans?

We do not require our astronomers to explore the heavens with 19th century telescopes. We do not require our geologists to study the Earth with a tape measure. If we are serious about realizing the promise of stem cell research, our biomedical researchers need access to the best stem cell lines available.

I also emphasize that none of the additional lines would require the creation of any new embryos. Instead, these lines could be derived from any of the more than 400,000 embryos that remain from fertility treatments and will otherwise be discarded. We are talking about embryos that are going to be thrown away, legally. Should we not use them instead to ease human suffering?

Think about this: We have 400,000 frozen embryos left over from in vitro fertilization. When a woman who has been a donor of these eggs notifies that they are no longer wanted, that she is not going to use them—maybe she has already had a child or two and does not need these embryos—that person can give permission to discard them. Why should that person not be able to give permission to allow them to be used by our top scientists for stem cell research that could then save other lives? That is what some people are asking us to do—just throw them away, do not let them be used for research that could save human suffering and save human lives. To this Senator, that simply does not make any sense.

So as I said, we have strict ethical guidelines that are set up so that they cannot be used for cloning, they cannot be used for other things; only to derive the stem cells. That is all. If there is a person who can give the authority right now to the in vitro fertilization clinic to discard them, why should that person not have the right to say, No, use those frozen embryos to derive stem cells so that someone with a spinal cord injury might walk again, so that someone with ALS can escape the death sentence, so that someone with Parkinson's can be returned to normal functioning?

The House performed a great public service today. I thank both sides of the aisle, Republicans and Democrats, who stepped up and voted for this bill. By passing the Castle-DeGette bill, they have given hope to millions of suffering humans that we will indeed proceed with stem cell research that will alleviate their suffering. It is now time for the Senate to act.

So together with Senator SPECTER, we are going to urge the majority leader to bring up the bill as soon as possible and let us have a vote in the Senate and get this bill to the President so we can move ahead with embryonic stem cell research in this country.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask unanimous consent that when the Senate resumes consideration of the Owen nomination tomorrow morning, the time until 12 noon be equally divided between the two leaders or their designees; provided further that at noon, all time be expired under rule XXII and the Senate proceed to the vote on the confirmation of the nomination with no intervening action or debate; and provided further, following that vote, the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

MARINE CORPORAL TODD GODWIN

Mr. DEWINE. Mr. President, I rise this afternoon to pay tribute to an exceptional young man who gave his life in the defense of freedom. Marine Cpl Todd Godwin, from Zanesville, OH, died on July 20, 2004, when the Humvee he was riding in was struck by shrapnel from a roadside explosive in the Al Anbar province in Iraq. He was 21 years old.

CPL Godwin was a sniper with the 1st Battalion, 8th Marines, 2nd Marine Division and was on his second tour-of-duty in Iraq. Always ready with a smile or a joke, Todd was an easy going, respectful person with a big heart. He was also a Marine through and through—something he took very seriously—something he had been training for his whole life.

Born on March 4, 1983, to Bill and Kathy Godwin, Todd was an alert, energetic child who grew up with an interest in the military. His father remembers him playing with G.I. Joes, wearing fatigues, and simulating wars. According to his brother, Aaron, the two boys would hang dolls outside and shoot at them with a BB gun, honing their targeting skills.

Apart from these activities, Todd sought to perfect his body. He could often be found working out at "the Fieldhouse" fitness center or practicing his Tae Kwon Do, for which he received two black-belts. Whether intentional or not, Todd seemed to be grooming himself for the military, acquiring a host of skills that would serve him well in the Marines.

After graduating from Zanesville Christian School in June 2001, he joined the Marines. His high school principal said that Todd "had a goal of being a Marine, and he wasn't going to let anything get in the way of that."

Todd excelled as a Marine and completed the intensely competitive and selective sniper training to win a spot in the sniper platoon. It was a spot he wanted because, according to his mother, "He wanted to be with people who were really serious about what they did." Indeed, Todd Godwin was a serious Marine who took pride in his duty to defend our country and to spread freedom to other parts of the world.

Todd was an exemplary Marine and also just a good, decent person—the type of person others remember as having "a way about them"—the type of person who was quick to smile, who was compassionate, and who was good at making people feel at ease. It seems as though everyone who knew Todd liked him.

One of his friends, Austin Thompson, remembers Todd's ability to laugh in almost any situation: "He always had a great sense of humor, and he was also very loyal to his friends. He always looked out for them and loved to be with them."

Todd encouraged one of his friends, Josh Carpenter, to "hang tough" in Marine boot camp. He wrote a letter to Josh that said, "I'm sure you can't wait to graduate and get some of the comforts of life back. Just remember you have to pay your dues, just like every Marine. I'm sure you'll do fine—I have confidence you'll succeed." Josh had joined the Marines because he looked up to Todd. Todd's letter helped Josh get through the challenges of boot camp, so that he, too, could be one of the few and the proud.

A letter like that is a little thing, a small deed, but Todd Godwin was always doing those "little things" for others. That is just who he was. When Todd saw that his fiancee's younger brother, Caleb, was wearing a U.S. Navy tie clasp, he brought him a Marine clasp to wear, instead. It was a small gift that meant a great deal to Caleb, who describes Todd as "my best buddy I ever had."

One of Todd's friends from high school, Kimberly Burley, remembers another of his deeds that took place on the night of the Zanesville Christian School junior-senior banquet:

> It was raining that night, and he came out to greet all the girls at their car with an umbrella.

Such a gallant act was really typical of Todd. It was just another "little thing" he had done for others.

But, when we look at all the "little things" together—the letters, the tie clasps, the way he acted always, the jokes that made people smile—we see such a much bigger picture, a picture of an exceptionally caring, thoughtful, generous young man. We see that he did the "little things" for people because he had a very big heart.

Todd also had big plans. He was engaged to Andrea Mendenhall, whom he loved dearly. They were planning on getting married when Todd finished his tour of duty in Iraq. Todd and Andrea were going to go to college with money Todd was saving through the GI bill. They also talked of someday moving to Corpus Christi, TX. These plans, of course, were not realized because Todd, once again, was looking out for others, as he did all his life. His dreams were put on hold so that others could be free and safe and able to fulfill their own dreams.

Mr. President, and Members of the Senate, a uniform does not make a marine. The person wearing that uniform makes a marine. And, each color of that uniform signifies the characteristics of the marine inside it. Todd Godwin wore his uniform with pride. He exemplified the blue standing for bravery, the white standing for honor, and the red standing for sacrifice. Unique to the Marine uniform, of course, is the bright, red stripe that runs the length of each trouser leg—the "bloodstripe." It represents all the blood shed by marines in battle. It is a red stripe of sacrifice—and for Todd Godwin, it represents the ultimate sacrifice.

Todd was truly a man of faith, who lived the Marine credo "Semper Fidelis," which means, of course, "always faithful." Todd was forever faithful to his friends and family, through his love and care; to his community, through his respect and good deeds; and to his country, through his courage and his sacrifice. For all that Todd gave us, we honor him today.

My wife, Fran, and I continue to keep Todd's parents, Bill and Kathy; his brother, Aaron; his sisters, Sarah and Anna; his grandparents, Clement and Esther Jones; and, the love of his life, Andrea Mendenhall, in our thoughts and in our prayers.

Mr. President, I thank the Chair and yield the floor.

THE HEAD START REAUTHORIZATION BILL

Mr. ALEXANDER. Mr. President, I cosponsor 1107, the Head Start Improvements for School Readiness Act, a bill to reauthorize Head Start. I join my colleagues Senators ENZI, KENNEDY, and DODD in support of this legislation.

I would like to see Head Start expanded and serve more children but first we must ensure that this program is accountable, financially solvent, and meeting the purpose for which it was intended.

This bill strengthens the Head Start program, making four key improvements by:

No. 1, establishing 200 Centers of Excellence that would serve as model Head Start programs across the country;

No. 2, providing that grantees shall re-compete to receive grants every 5 years to help ensure a constant, high level of quality;

No. 3, clearly defining "deficiency" so that local Head Start providers know the standards by which they will be held accountable: and

No. 4, providing clear authority to the governing boards to administer—and be held accountable for—local Head Start programs while ensuring policy councils, on which parents sit, continue to play an important advisory role.

Head Start has been one of our country's most successful and popular social programs. That is because it is based upon the principle of equal opportunity, which is at the core of the American character. Americans uniquely believe that each of us has the right to begin at the same starting line and that, if we do, anything is possible for anyone one of us.

We also understand that some of us need help getting to that starting line. Most Federal funding for social programs is based upon this understanding of equal opportunity. Head Start began in 1965 to make it more likely that disadvantaged children would successfully arrive at one of the most important of our starting lines: the beginning of school.

Head Start over the years has served hundreds of thousands of our most at-risk children. The program has grown and changed. It has been subjected to debates and studies touting its successes and decrying its deficiencies. But Head Start has stood the test of time because it is so very important.

We have made great progress in what we know about the early growth and development of young children since Head Start began in 1965. At that time very few professionals had studied early childhood education. Even fewer had designed programs specifically for children in poverty with their many challenges.

The origins of Head Start come from an understanding that success for these children was not only about education. The program was designed to be certain these children were healthy, got their immunizations, were fed hot meals, and—of crucial importance—that their parents were deeply involved in the program.

From the beginning comprehensive services and parent and community involvement were essential parts of good Head Start programs. And that is still true today. In the early days, teacher training and curriculum were seen as less important. But we now know a great deal more about brain development and how children learn from birth.

Today young children are expected to learn more and be able to do more in order to succeed in school. Public schools offer kindergarten in response to these changes. And 40 States now offer early childhood programs.

As we reauthorize the Head Start program, it is important to recognize its importance and commit to making it stronger. But we must also recognize that the program is not fulfilling its promise. Head Start is not meeting its purpose of serving our children who are most at risk when dollars are being squandered by those people who have been charged with providing this service. Current practices do not meet my personal standard for managing and running a program.

This bill attempts to address this issue by holding up successful local programs so that others may follow their example and by clarifying lines of accountability so that any corrupt practices may be rooted out. The bill would create a way for States to help strengthen and coordinate Head Start, but would continue to send Federal funds directly to nearly 1,700 grantees that provide services in over 29,000 Head Start centers that serve just over 900,000 disadvantaged children.

First, the bill authorizes the Secretary of HHS to create a nationwide network of 200 Centers of Excellence in Early Childhood built around exemplary Head Start programs. These Centers of Excellence would be nominated by governors. Each Center of Excellence would receive a Federal bonus grant of at least $200,000 in each of 5 years, in addition to its base funding.

The Centers of Excellence bonus grants will be used for centers:

No. 1, to work in their community to model the best of what Head Start can do for at-risk children and families, including getting those children ready for school and ready for academic success;

No. 2, to coordinate all early childhood services in their community;

No. 3, to offer training and support to all professionals working with at-risk children;

No. 4, to track these families and ensure seamless continuity of services from prenatal to age 8;

No. 5, to become models of excellence by all performance measures and be willing to be held accountable for good outcomes for our most disadvantaged children; and

No. 6, to have the flexibility to serve additional Head Start or Early Head Start children or provide more full-day services to better meet the needs of working parents.

While Head Start centers are uneven in performance, they have generally excelled in two areas critical to success in caring for and educating children—developing community support and encouraging parental involvement. Alex Haley, the author of Roots, lived by these six words, "Find the good and praise it." For me that was an invaluable lesson. That's what I hope these centers will do.

In addition to providing for the establishment of Centers of Excellence to highlight and encourage better practices among local Head Start programs, the bill establishes three new methods for ensuring accountability in the management and running of the programs.

First, it provides that grantees shall re-compete for grants every 5 years. This ensures that, after 5 years, their program is still meeting its standards. I recognize that consistency is very important for the Head Start programs, especially for the children served by these grants. Many Head Start grantees are doing a very good job administering their grants, and I hope this reapplication process will highlight their success. To help streamline the process for successful programs, grantees that have not been found deficient nor to have had an area of noncompliance left unresolved for more than 120 days will receive a priority designation during the re-competition process.

Second, the bill for the first time defines what makes a local program "deficient." This will provide clarity for Head Start grantees so that they know the precise standards to which they will be held. Under the bill, a program may be deemed deficient if it is found to threaten the health, safety, or civil rights of children or staff, deny parents the exercise of their full roles and responsibilities, misuse funds, lose its legal status or financial viability, or violates other standards specified in the bill.

Finally, the bill makes clear that the Governing Board shall be the body that is charged with running local programs and which will be held accountable for those programs. During our hearing on April 5, we learned from Mayor Wharton of Shelby County, TN, and other witnesses, that the dual governance structure between the governing board and the policy council was inadequate and neither body had decision-making authority. This bill gives governing boards direct authority—and holds them accountable—while ensuring that policy councils, on which parents sit, continue to play an important advisory role in the running of local Head Start programs.

My mother taught me the importance of preschool education. When I was growing up, she ran a kindergarten in a converted garage in our backyard in Maryville, TN. She helped our community appreciate the value of a good preschool program. I have remembered both lessons in working with my colleagues to fashion this proposal to bring out the best in Head Start.

I hope that my colleagues will join me in advancing this critical legislation to ensure the Head Start program meets its full potential.

ADDITIONAL STATEMENTS

LINCOLN FINANCIAL GROUP: CELEBRATING A CENTURY OF EXCELLENCE—1905–2005

• Mr. LUGAR. Mr. President, I rise today in celebration of the centennial anniversary of Lincoln Financial Group.

In 1905, Lincoln Financial Group began with one product, one company, four employees and a small rented space above a telegraph office in downtown Fort Wayne, Indiana. Amid the stir of controversy that gripped the big, established insurers at the time, Lincoln's founders envisioned a new insurance enterprise—one based on dependability and honesty. Believing that the name of Abraham Lincoln would powerfully convey this spirit, the founders wrote the 16th President's only surviving son, Robert Todd Lincoln, to ask for permission to use a portrait of his father on the company stationery. Robert Todd Lincoln agreed, and that is how Lincoln's legacy began with a name that reflects its character.

Since its founding, Lincoln Financial has consistently leveraged its strong capital foundation to grow. From 1905–1955, Lincoln Life grew to become the ninth largest life insurance company in the United States. Even during the Great Depression, Lincoln acquired three companies. In 1968, Lincoln National Corporation was formed as an Indiana corporation. At the time, it was one of the first holding companies in the insurance industry.

In the last decades of the 20th century, Lincoln transformed itself from a life insurance company into a nationally recognized financial services enterprise. The corporation adopted the name Lincoln Financial Group as its marketing name in 1998. In addition to Fort Wayne, Lincoln maintains primary offices in Philadelphia, PA; Hartford, CT; Chicago, IL; Portland, ME; and Barnwood, Gloucester, England.

Today, Lincoln is a family of companies working together to provide an array of financial planning, retirement income, life insurance, annuity, mutual fund, and investment management solutions to its clients. As of year-end 2004, Lincoln had consolidated assets of $116 billion and annual consolidated revenues of $5.4 billion in 2004.

Lincoln's growth has been spurred by a corporate culture that rewards creativity and believes that success is derived from a diverse and talented workforce. The people of Lincoln have always valued the trust customers place in the company each time they seek financial advice, purchase a Lincoln product or recommend the company to a friend. The company has seven shared values that reflect the principles expressed by its namesake and characterize the quality of its products: integrity; commitment to excellence; responsibility; respect; fairness; diversity; and employee ownership.

Lincoln's sense of responsibility shapes not only its business practices, but also its commitment to the communities where it operates. Since its founding, Lincoln has recognized that investing in these communities is fundamental to its success. The company's spirit of philanthropy led to the establishment of the Lincoln Financial Group Foundation in 1962, which further inspired a rich tradition of giving. Today, Lincoln sets aside 2 percent of its pre-tax earnings for philanthropy. Over the past 30 years, the Lincoln Financial Group Foundation has given over $70 million in charitable giving in Indiana.

In addition to the company's monetary donations, its employees bring the company's spirit of philanthropy to life every day. Collectively, they donate thousands of hours each year in personal volunteerism and participation in various company-sponsored community activities. To encourage and recognize their efforts, Lincoln provides employees with paid time off to participate in various volunteer projects. The company's Matching Gifts program to colleges and universities also maximizes employee donations. From food drives to donating blood, homebuilding projects to tutoring, Lincoln employees actively make a difference in the communities they call home.

As it celebrates its centennial, Lincoln's name gives a distinctive character to its legacy.

As the next 100 years begin, there is much to celebrate for the company as it looks to build a future of opportunity, focused on its shared values.●

HONORING THE CITY OF REDFIELD, SD

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the 125th anniversary of the founding of the city of Redfield, SD. As the 125th anniversary approaches, Redfield looks back on a proud history and looks forward to a promising future.

Located in east central South Dakota, Redfield is the county seat for Spink County, the largest wheat-producing county in our State. First settled in 1878 by Frank Meyers and a party of Chicago and Northwestern surveyors, Redfield was originally known as "Stennett Junction;" named after an official with the Chicago and Northwestern Railroad. The term "Junction" was added in anticipation of the railroad's popularity. Meyers established the first post office in 1880, thus marking the town's official birth. In February of 1881, however, the town's name was changed to Redfield, after Joseph Barlow Redfield, an auditor with the Chicago and Northwestern Railroad Company who purchased a great deal of the area's land for investors in Chicago.

Although Redfield now serves as the county seat for Spink County, prior to 1886, that was not the case. In fact, Redfield supporters fought a contentious and controversial county seat battle between Old Ashton, Ashton, Frankfort and Redfield. Despite these efforts, old Ashton retained its position as county seat. All that changed, however, in 1886, when Redfield honestly won the majority of the votes in Spink County and was awarded the seat it still proudly claims.

Among the city's many landmarks is the historic Carnegie Library. In 1902, Redfield welcomed a grant from the Andrew Carnegie Foundation that made the library possible. This contribution transformed a simple reading club into a majestic red brick building adorned with a tan sandstone foundation, a domed cupola and beautiful oak columns and woodwork. In the library's early years, it housed the Redfield city offices, in addition to the collections; the City Auditor doubled as librarian. Recently, I had the pleasure of helping the community of Redfield secure $100,000 to renovate and expand this historic structure, which is the oldest continuous-use Carnegie Library in South Dakota.

The South Dakota Developmental Center, SDDC, is another notable Redfield landmark. Opened in 1902, the SDDC originally housed the staff and the patients in a single building, which is still used for office space today. There are currently 175 disabled individuals receiving services from SDDC today, ranging in age from 13 months to 78 years of age. Their disabilities range from moderate to profound.

Redfield also is home to one of the last surviving drive-in movie theaters. Erected in 1952, Pheasant City Drive-in Theater still entertains more than 2,800 Redfield residents.

In the twelve and a half decades since its founding, Redfield has proven its ability to thrive and serve farmers and ranchers throughout the region. Redfield's proud residents celebrate its 125th anniversary July 1–3, 2005, and it is with great honor that I share with my colleagues the achievements made by this great community.●

FRIENDS AND FOOD FOR FIFTY YEARS IN ST. ANTHONY, ID

● Mr. CRAPO. Mr. President, there is a small town in Idaho that celebrates a very special anniversary this year. Fifty years ago in 1955, the St. Anthony, ID Chamber of Commerce paid for travelers to have coffee and donuts at any of the local cafes to celebrate the opening day of fishing season. The effort, which encouraged fishermen and women to stop in St. Anthony for supplies, was so successful that this tiny town decided to prepare and serve a full breakfast of pancakes, sausage, hash browns and beverages for hungry travelers every year. By 1966, 10,000 people were served over the course of one day, more than three times the current population of the town. Today, about 5,000 people a year get to enjoy the great food and super hospitality of this small town in southeast Idaho that serves as a gateway to the Snake River and some of the best fishing in the West.

I congratulate the St. Anthony Chamber of Commerce and all of the volunteers who this year and in years past have come together to give people a smile, laughter and a delicious hot breakfast.●

CHILDREN'S HOSPICE INTERNATIONAL

● Mr. BENNETT. Mr. President, on May 23 of this year, Children's Hospice International celebrates its 22nd anniversary of helping children with life-threatening illnesses find comfort and care through hospice care programs around the country and the world.

Several members of this distinguished body, including former Senate Majority Leader Robert K. Dole of Kansas and former Senator Claiborne Pell of Rhode Island, were among the organization's early supporters because they recognized the need to provide comprehensive hospice care for children who are suffering from difficult medical conditions.

In 1977, when CHI was founded by Ann Armstrong-Dailey, there were no hospice care programs for children in the United States. In 1983, only four of 1,400 hospice programs in the United States were willing to accept children. Now, close to 450 of 3,000 U.S. hospices include child-specific services. And while that is good news, there is much more to be done.

Of the 10 million children in America who are living with a serious chronic condition, each year about 54,000 will die; another 1.3 million will live but could greatly benefit from hospice and palliative care.

Historically, hospice reimbursement guidelines, in Medicaid and most private plans, have required that patients forego all life-saving care before they can be admitted to hospice. They have also required the patient to be within the last 6 months of life. However, this does not work with pediatric patients for whom aggressive treatment is sought and life-expectancy cannot be estimated.

Families should not be expected to give up on hope for a cure in order to receive that help. Because of the unpredictable course of many serious childhood illnesses, it is often very difficult for doctors to know when a child is within 6 months of death. Parents should not have to choose between hospice care and the hope for a cure. Parents should not have to keep their child in a hospital or other facility simply because insurance will not pay for the child to receive the same care, at a lower cost, at home.

The most critical time for children and family members is at the point of diagnosis—when they need the intensive support and guidance that hospice and palliative care programs can provide.

Since 1997, CHI has worked with the Centers for Medicare and Medicaid Services, CMS, to set up the Program for All-Inclusive Care for Children and their Families, CHI PACC. CHI PACC programs provide a continuum of care for children and their families from time of diagnosis, with hope for a cure, through bereavement, if needed.

With Congressional support, a total of 18 States are already benefiting from this initiative through CHI PACC programs in six States and two regions. States currently implementing CHI PACC are Colorado, Florida, Kentucky, New York, Virginia, and my home State of Utah, which will be among the first to implement this model.

Utah has been one of the leaders in this effort. Utah's Department of Health has spearheaded the effort in Utah, and the Primary Children's Medical Center in Salt Lake City, UT has been a central point of developing these pediatric palliative services to assist families from the point of diagnosis.

The New England Region is also preparing to implement CHI PACC to serve six States—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. The Colorado program extends to patients in six additional States—Kansas, Montana, Nebraska, New Mexico, South Dakota and Wyoming. In Pennsylvania, the Department of Defense is working to adopt the CHI PACC model for its health care system. The goal of all of these efforts is to prove the effectiveness of the CHI PACC model so that it can be adopted universally through Medicaid, S-SCHIP and private insurers.

As we approach Memorial Day, it should be noted that Children's Hospice International is a living memorial to Ensign Alan H. Armstrong and his shipmates lost aboard the U.S.S. Frank E. Evans during the conflict in Vietnam. Armstrong is the brother of CHI Founder Ann Armstrong-Dailey. I deeply appreciate Ensign Armstrong's service to our country.

I commend Children's Hospice International on its 22nd anniversary as it seeks to remove the roadblocks in private and public insurance programs that prevent these children and their families from receiving the care and support they need.

I too believe in the vision that Ann Armstrong-Dailey, along with original honorary board members Barbara Bush, and Senators Claiborne Pell and Robert Dole, put forth 22 years ago when they launched this very important effort to provide dignified care and support to children with life-threatening conditions and their families.●

NATIONAL HISTORY DAY 2005

● Mr. CONRAD. Mr. President, today I wish to say a few words about National History Day. For the past 25 years, National History Day has provided students in grades 6–12 with opportunities to study different periods or trends in American history. National History Day is a year-long educational opportunity for students to examine a period of American history closely through extensive research, development of exhibits and presentations, and multimedia documentaries. This year's national competition topic is "Communication in History," and the competition will be held on the campus of the University of Maryland in June.

I am especially proud of the students from my State of North Dakota who have been selected to participate in this program this year. These students participated in the North Dakota State competition and were selected to represent the State in the national competition. They include Edward Gallegos, Kelbi Clarke, Lyndsie Cossel, Sejal Parikh, Sarak Shirek, Amirah Ahmed, Amber Guseman, Annah Klamm, Meghan Graham, Katie Sanner and Amanda Malm from Grand Forks. They also include Erin Droske, Aaron Christianson, Jessica King, Micah Gilleshammer and Sarah Lunde of St. Thomas. These students represent the Schroeder Middle School and Red River High School in Grand Forks and the St. Thomas Public School in St. Thomas, ND. I congratulate them and wish them much success in the national competition.●

MESSAGE FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced the the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 29. An act to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes.

H.R. 32. An act to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

H.R. 606. An act to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

H.R. 744. An act to amend title 18, United States Code, to discourage spyware, and for other purposes.

H.R. 849. An act to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport.

H.R. 1101. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

H.R. 1499. An act to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes.

H.R. 2046. An act to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service, and for other purposes.

H.R. 2066. An act to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 89. Concurrent resolution honoring the life of Sister Dorothy Stang.

H. Con. Res. 149. Concurrent recognizing the 57th anniversary of the independence of the State of Israel.

H. Con. Res. 153. Concurrent resolution welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 29. An act to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 32. An act to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks; to the Committee on the Judiciary.

H.R. 606. An act to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California; to the Committee on Energy and Natural Resources.

H.R. 744. An act to amend title 18, United States Code, to discourage spyware, and for other purposes; to the Committee on the Judiciary.

H.R. 849. An act to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport; to the Committee on Energy and Natural Resources.

H.R. 1101. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; to the Committee on Energy and Natural Resources.

H.R. 1499. An act to amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed Forces serving in a combat zone for contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes; to the Committee on Finance.

H.R. 2046. An act to amend the Servicemembers Civil Relief Act to limit premium increases on reinstated health insurance on servicemembers who are released from active military service, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2066. An act to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 89. Concurrent resolution honoring the life of Sister Dorothy Stang; to the Committee on the Judiciary.

H. Con. Res. 149. Concurrent resolution recognizing the 57th anniversary of the independence of the State of Israel; to the Committee on Foreign Relations.

H. Con. Res. 153. Concurrent resolution welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1098. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–57. A resolution adopted by the General Assembly of the State of Ohio relative to the exclusion of the 179th Airlift Wing, Ohio Air National guard, at the Mansfield Lahm airport from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

CONCURRENT RESOLUTION 9

Whereas the 179th Airlift Wing, Ohio Air National Guard, at the Mansfield Lahm Airport in Mansfield, Ohio, has a mission "to develop highly qualified operations, logistics, support and medical professionals who provide airlift to serve the state and nation" and a vision to "be an outstanding airlift unit with a reputation for professionalism and world-class service—our customers' first choice"; and

Whereas the 179th Airlift Wing has won several awards, including the Air Force Outstanding Unit Award, the Alan P. Tappan Memorial Trophy, and the Rusty Metcalf Award, the latter of which acknowledges the unit as one of the best in the Air Force, and all of these awards demonstrate the high capability of the unit and the unit's ability to perform at the Mansfield Lahm Airport; and

Whereas Congress authorized a new round of the Base Realignment and Closure process to occur this year, which has the potential to affect the 179th Airlift Wing, Ohio National Guard, and the community of Mansfield that supports the unit; and

Whereas the 179th Airlift Wing is active in the community through various events and organizations, employs approximately 1,000 individuals, and provides economic support and benefits to the city of Mansfield and the surrounding communities; now therefore be it

Resolved, That the 126th General Assembly of the State of Ohio supports the 179th Airlift Wing, Ohio Air National Guard, at the Mansfield Lahm Airport and firmly believes that the unit and base should not be included in the Defense Base Closure and Realignment Commission's list of proposed bases to be closed, as it is a valuable asset to the state of Ohio and the defense of our nation, and memorializes Congress to take appropriate action so that this base is not included in the Commission's list; and be it further

Resolved, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the President of the United States, the Secretary of Defense of the United States, the members of the Ohio Congressional delegation, the Speaker and Clerk of the United States House of Representatives, the President Pro Tempore and the Secretary of the United States Senate, and the news media of Ohio.

POM–58. A resolution adopted by the General Assembly of the State of Ohio relative to the exclusion of the 178th Fighter Wing, Ohio Air National Guard, at the Springfield-Beckley Municipal Airport in Springfield, Ohio from the list of base closures for the Base Realignment and Closure process; to the Committee on Armed Services.

CONCURRENT RESOLUTION 10

Whereas the 178th Fighter Wing, Ohio Air National Guard at the Springfield-Beckley Municipal Airport in Springfield, Ohio, trains the fighter pilots of the future, and its goals are to have highly trained professionals providing world-class training air combat capability and resources in times of national emergency or war and to provide protection of life and property and to preserve peace, order, and public safety during natural disasters; and

Whereas in addition to working to protect our nation by sending unit members to participate in engagements around the world, the 178th Fighter Wing works in the community, participating in such activities as the Adopt-A-Family program, the Combined Federal Campaign, Help-A-Needy Family program, and Red Cross blood drives, as well as other activities; and

Whereas Congress authorized a new round of the Base Realignment and Closure process (BRAC) to occur this year, which has the potential to affect the 178th Fighter Wing, the base, and the community of Springfield that supports the base; and

Whereas the unit is a key component of the community, employing approximately 409 people in the unit, and the airport provides for air travel and cargo needs for citizens and business in the region; now therefore be it

Resolved, That the 126th General Assembly of the State of Ohio supports the 178th Fighter Wing, Ohio Air National Guard at the Springfield-Beckley Municipal Airport and firmly believes that the unit and the base should not be included in the Defense Base Closure and Realignment Commission's list of proposed bases to be closed, as it is a valuable asset to the state of Ohio and the defense of our nation, and memorializes Congress to take appropriate action so that this base is not included in the Commission's closure list; and be it further

Resolved, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the President of the United States, the Secretary of Defense of the United States, the members of the Ohio Congressional delegation, the Speaker and Clerk of the United States House of Representatives, the President Pro Tempore and the Secretary of the United States Senate, and the news media of Ohio.

POM–59. A resolution adopted by the House of Representatives of the Commonwealth of Pennsylvania relative to a postage stamp commemorating coal miners; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE RESOLUTION 108

Whereas our entire nation owes our coal miners a great deal more than we could ever repay them for the difficult and dangerous job which they perform so that we can have the fuel we need to operate our industries and to heat our homes; and

Whereas coal mining is as much of a culture as it is an industry; and

Whereas coal miners sacrifice life and limb for little recognition, and it would be proper and fitting for our nation to recognize our coal miners, past and present, for their contributions; therefore be it

Resolved, That the General Assembly of the Commonwealth of Pennsylvania memorialize the Citizens' Stamp Advisory Committee of the United States Postal Service to issue a commemorative stamp honoring our coal miners and their contributions to our nation and its citizens; and be it further

Resolved, That copies of this resolution be delivered to the Citizens' Stamp Advisory Committee, c/o Stamp Development, United States Postal Service, 1735 North Lynn Street, Room 5013, Arlington, VA 22209-6432, to the presiding officers of each house of congress and to each member of Congress from Pennsylvania.

POM–60. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Kentucky relative to legislation urging the Federal Communications Commission not to preempt state do not call legislation; to the Committee on Commerce, Science, and Transportation.

HOUSE RESOLUTION 191

Whereas the Commonwealth of Kentucky has enacted legislation, KRS 367.46951 et seq., to protect the privacy of Kentucky consumers from unwanted, unsolicited telemarketing phone calls and created a "zero call list" on which Kentucky consumers may place their residential phone numbers and which numbers may not be called by telemarketers for the purpose of making a telephone solicitation as defined by Kentucky law, and which list is administered by the Office of Attorney General; and

Whereas the United States Federal Trade Commission and Federal Communications Commission have established a federal registry, the National Do Not Call Registry, on which Kentucky consumers may have their residential phone numbers placed for purposes of preventing telemarketers from making unsolicited telephone solicitations, which list is administered by the Federal Trade Commission and enforced by the Federal Trade Commission as well as the Federal Communications Commission and the Attorneys General of the 50 states; and

Whereas the Attorney General has implemented the Kentucky zero call list effectively and enforced the Kentucky and federal law in such a manner as to dramatically reduce the number of complaints from Kentucky consumers regarding unsolicited telemarketing calls; and

Whereas the Kentucky House of Representatives is aware that petitions are pending before the Federal Communications Commission which seek to declare state laws in Wisconsin, New Jersey, North Dakota and Indiana preempted by federal telemarketing legislation, the Telephone Consumer Protection Act, 47 U.S.C. sec. 227; and

Whereas the Kentucky House of Representatives wishes to express its satisfaction with the enforcement efforts of the Office of the Attorney General to date and its desire that these efforts continue in the future; and

Whereas neither the Telephone Consumer Protection Act nor any other federal law expressly or by reasonable implication preempts KRS 367.46951 et seq., nor any other state telemarketing legislation establishing a state do not call registry; now therefore, be it

Resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives urges the Federal Communications Commission to clearly state that the National Do Not Call Registry does not preempt Kentucky's zero call list.

Section 2. The House of Representatives also urges the legislature of each state that has not yet done so to make a similar request to the Federal Communications Commission.

Section 3. The Clerk of the House of Representatives shall transmit copies of this Resolution to the President and Vice President of the United States, the presiding officer in each house of the legislature in each of the states in the Union, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the Commonwealth of Kentucky's Congressional Delegation.

POM–61. A resolution adopted by the Senate of the General Assembly of the State of Ohio relative to the Energy Policy Act of 1992; to the Committee on Commerce, Science, and Transportation.

SENATE RESOLUTION 35S

Whereas the United States: increasing dependence on imported oil and the relative instability of foreign oil-producing countries prompted Congress to enact the Energy Policy Act of 1992. The policy goals of the Act are to reduce our nation's reliance on foreign petroleum and to improve air quality; and

Whereas to achieve these goals, certain portions of the Act establish provisions that are designed to encourage the use of alternative fuels. One such provision, 42 U.S.C. 13257(o), specifies that pursuant to rules adopted by the Department of Energy, 75% of new light duty motor vehicles acquired annually for state government fleets must be alternative fueled vehicles; and

Whereas rules adopted by the Department of Energy, which are codified at 10 C.F.R. Part 490 and are commonly known as the Energy Policy Act State and Alternative Fuel Provider Rules, exclude electric-hybrid vehicles that run in part on gasoline from the definition of "alternative fueled vehicle," thus prohibiting states from receiving credit toward the alternative fueled vehicle quota for the acquisition of an electric-hybrid vehicle; and

Whereas this inability of states to use electric-hybrid vehicles in order to receive credit toward the quota is unfortunate and, in fact, does not make sense because these vehicles exhibit excellent fuel efficiency that would serve to accomplish the policy goals of the Energy Policy Act of 1992 by reducing dependence on petroleum products; now therefore be it

Resolved, That we the members of the Senate of the 126th General Assembly of Ohio, request Congress to amend the Energy Policy Act of 1992 to specify that an electric-hybrid vehicle must receive credit as being an alternative fueled vehicle for purposes of the requirement that 75% of new light duty motor vehicles acquired annually for state government fleets be alternative fueled vehicles, and be it further

Resolved, That the Clerk of the Senate transmit daily authenticated copies of this resolution to the Speaker and Clerk of the United States House of Representatives, to the President Pro Tempore and Secretary of the United States Senate, to the members of the Ohio Congressional delegation, to the Speaker of the House of Representatives of the General Assembly of Ohio, and to the news media of Ohio.

POM–62. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to highway funding; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION 4

Whereas the sixth short-term extension of the federal road and transit funding authorization act known as the Transportation Equity Act for the 21st Century, or TEA 21, expires on May 31, 2005. The uncertainty regarding long-term federal funding hampers Michigan's ability to effectively plan investments in infrastructure and may contribute to delays in critical highway and transit projects; and

Whereas Michigan has long been a "donor state," contributing a greater share to the Federal Highway Trust Fund and Mass Transit Account than the share of federal transportation funds returned for use in Michigan; and

Whereas last session, the United States Senate passed highway reauthorization legislation that would have provided $318 billion for highways and transit systems nationwide over six years and increased Michigan's rate of return on our federal transportation taxes from 90.5 percent to 95 percent. In addition, the bill would have provided up to $300 million more for Michigan transportation systems each year, and could have created several thousand new jobs. The House passed reauthorizing legislation that would have provided $284 billion for highways and transit systems and would have reduced Michigan's rate of return below the current level of 90.5 percent. The Conference Committee narrowed the funding difference to between $284 and $299 billion, but left unRESOLVED the question of funding equity for donor states such as Michigan; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we memorialize Congress to enact highway reauthorization legislation with a level of funding that closes the gap between federal fuel tax dollars paid by Michigan motorists and dollars received to address Michigan's transportation needs; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–63. A resolution adopted by the Legislature of the State of Michigan relative to highway funding; to the Committee on Commerce, Science, and Transportation.

SENATE CONCURRENT RESOLUTION 12

Whereas the sixth short-term extension of the federal road and transit funding authorization act known as the Transportation Equity Act for the 21st Century, or TEA 21, expires on May 31, 2005. The uncertainty regarding long-term federal funding hampers Michigan's ability to effectively plan investments in infrastructure and may contribute to delays in critical highway and transit projects; and

Whereas Michigan has long been a "donor state," contributing a greater share to the Federal Highway Trust Fund and Mass Transit Account than the share of federal transportation funds returned for use in Michigan; and

Whereas last session, the United States Senate passed highway reauthorization legislation that would have provided $318 billion for highways and transit systems nationwide over six years and increased Michigan's rate of return on our federal transportation taxes from 90.5 percent to 95 percent. In addition, the bill would have provided up to $300 million more for Michigan transportation systems each year, and could have created several thousand new jobs. The House passed reauthorizing legislation that would have provided $284 billion for highways and transit systems and would have reduced Michigan's rate of return below the current level of 90.5 percent. The Conference Committee narrowed the funding difference to between $284 and $299 billion, but left unresolved the question of funding equity for donor states such as Michigan; now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize Congress to enact highway reauthorization legislation with a level of funding that closes the gap between federal fuel tax dollars paid by Michigan motorists and dollars received to address Michigan's transportation needs; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–64. A concurrent resolution adopted by the Legislature of the State of North Dakota relative to the Grand Forks Automated Flight Service Station; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION 3058

Whereas the Grand Forks Automated Flight Service Station provides pilots with weather and aeronautical data to help them make critical and often lifesaving decisions; and

Whereas whether assisting University of North Dakota student pilots, coordinating air ambulance flights to our rural communities, relaying data to commercial operators flying passengers and supplies over the state, often in the worst of weather, or assisting the military in matters of national security, the Grand Forks Automated Flight Service Station provides an invaluable service that is intimately related to the public interest; and

Whereas the Grand Forks Automated Flight Service Station is responsible for the continuous monitoring of international border air space and daily support of the missions of the Minot Air Force Base, Grand Forks Air Force Base, Fargo Air National Guard, and Bismarck National Guard flight operations; and

Whereas maintaining the Grand Forks Automated Flight Service Station with proper staffing levels and equipment is a fundamental necessity in the continuation of these crucial services; and

Whereas the Federal Aviation Administration is primarily responsible for the safety and security of aviation; Now, therefore, be it

Resolved by the House of Representatives of North Dakota, the Senate Concurring therein:

That the Fifty-ninth Legislative Assembly urges the Federal Aviation Administration to maintain the Grand Forks Automated Flight Service Station as a federal air traffic facility properly staffed by government employees; and be it further

Resolved, That the Secretary of State forward copies of this resolution to the President and Vice President of the United States, the administrator of the Federal Aviation Administration, and to each member of the United States Senate and United States House of Representatives.

POM-65. A resolution adopted by the Senate of the General Assembly of the State of Tennessee relative to federal reauthorization of federal-aid highway and transit programs; to the Committee on Commerce, Science, and Transportation.

SENATE RESOLUTION 13

Whereas legislation to reauthorize the federal-aid highway and transit programs is more than 17 months overdue; and

Whereas the six short-term program extensions enacted by the U.S. Congress have forced states and localities to delay construction of critical highway and transit projects, impeded job creation, and postponed life-saving safety improvements and the completion of congestion-reducing measures; and

Whereas further delay will increase project costs and dilute the purchasing power of federal transportation dollars; and

Whereas investments in transportation are investments in people, and our transportation network is the means through which our children return from school safely, aging Americans and the disabled gain mobility, and commuters have affordable mass transit options to get to work; and

Whereas a well-functioning transportation system is critical to America's security, productivity and global competitiveness; and

Whereas inadequate funding proposals impede the ability of the U.S. Congress to reach agreement on a long-term bill; now, therefore, be it

Resolved by the Senate of the One Hundred Fourth General Assembly of the State of Tennessee, that the Senate hereby most fervently urges and encourages the U.S. Congress and the administration to immediately enact a well-funded, multi-year reauthorization of federal highway and transit programs, be it further

Resolved, That enrolled copies of this resolution be transmitted to the President, the Vice President, the Secretary of Transportation and to each member of Tennessee's congressional delegation.

POM-66. A resolution adopted by the Senate of the Legislature of the State of Louisiana relative to Weekly Natural Gas Storage Report procedures; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 6

Whereas Louisiana serves as a major energy source and hub for the entire nation; and

Whereas information that impacts energy markets throughout the nation is of critical importance to Louisiana; and

Whereas the Department of Energy, Energy Information Administration (EIA), solicited public comments regarding its present policies and procedures concerning revision of information contained in the Weekly Natural gas Storage Report; and

Whereas the Weekly Natural Gas Storage Report identifies the amount of natural gas stored and the amount withdrawn in underground storage on a weekly basis; and

Whereas the contents of such report are critical factors in the pricing of natural gas, and have a direct and immediate impact upon markets and consumers; and

Whereas the EIA's current revision policy provides that any errors in the Weekly Natural Gas Storage Report will not be corrected for up to one week; and

Whereas such policy is seriously flawed, as demonstrated by the events of November 24, 2004; and

Whereas the November 24, 2004, Weekly Natural Gas Storage Report contained information that had been submitted with a clerical error; and

Whereas shortly after such information had been submitted, EIA personnel requested that the company review the accuracy of its submission; and

Whereas within thirty minutes from EIA's request the correct information was obtained and submitted to EIA; and

Whereas although EIA and private sector personnel acted promptly and appropriately to discover and correct the clerical error, the contents oft he Weekly Natural Gas Storage Report were not publicly revise, updated, or corrected, due to EIA's regulations preventing the disclosure and dissemination of such information until the next week's report; and

Whereas such failure and delay in disclosure and dissemination of the corrected information had disastrous economic consequence, in that Federal Energy Regulatory Commission analysts later estimated the cost to the marketplace in relying upon the erroneous and uncorrected information was between $200 million and $1 billion; and

Whereas such cost is an unconscionable burden upon consumers and businesses for an easily correctable and actually corrected error, especially when it is within the powers of agencies overseeing the report process to diminish these costs by prompt disclosure and dissemination of revised information; and

Whereas under 15 U.S.C.A. §764(b)(5), the secretary of energy has the duty to "promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field prevent unreasonable profits . . . and promote free enterprise"; and

Whereas in light of the events of November 24th, the Energy Information Administration has proposed new policies and procedures concerning the disclosure and dissemination of revised or corrected information; and

Whereas Congress should act to ensure that the proposed changes promote market fairness and equality by mandating the corrected information is disclosed and disseminated rapidly, and that all participants in the natural gas industry markets have the ability to obtain essential information at he same time, therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to require Weekly Natural Gas Storage Report policies and procedures that mandate the prompt disclosure and dissemination of corrected information, in order to promote market equality and fairness, be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress.

POM-67. A House Joint Memorial adopted by the Legislature of the State of Idaho relative to funding for the Idaho National Laboratory; to the Committee on Energy and Natural Resources.

HOUSE JOINT MEMORIAL 6

Whereas at the direction of the United States Government, through its Department of Energy, a new national laboratory "Idaho National Laboratory" was, on February 1, 2005, formed from the former Argonne National Laboratory-West and Idaho National Engineering and Environmental Laboratory; and

Whereas the United States Department of Energy's stated vision for the new Idaho National Laboratory is to: enhance the Nation's energy security by becoming the preeminent, internationally recognized nuclear energy research, development and demonstration laboratory within ten years; establish itself as a major center for national security technology development and demonstration; be a multiprogram, national laboratory with world-class nuclear capabilities; and foster new academic, industry, government and international collaborations to produce the investment, programs and expertise that assure this vision is realized; and

Whereas the Idaho National Laboratory is considered an essential partner alongside Idaho state government, Idaho's universities and industry in carrying out the state's Science and Technology Strategic Plan and building on Idaho's key industry strengths in energy and power, imaging, new materials and nanotechnology, and ag/biotechnology; and

Whereas the state of Idaho has for fifty-six years willingly and dutifully hosted Department of Energy, Energy Research and Development Administration and Atomic Energy Commission operations at the current Idaho National Laboratory site; and

Whereas both the federal government and the state of Idaho have significant financial interests in seeing operations at the Idaho National Laboratory succeed. Now, therefore, be it

Resolved by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we herewith respectfully petition the President and Congress to pledge continued support and provide sufficient long-term funding to assure execution of the federal government's stated, public record vision for the Idaho National Laboratory, allowing this great institution to advance, as it is uniquely able to, our collective interests in strengthened energy, national and economic security for these United States, be it further

Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of Energy of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM–68. A House Joint Memorial adopted by the Legislature of the State of Idaho relative to Power Marketing Administrations (PMAs) rates; to the Committee on Energy and Natural Resources.

HOUSE JOINT MEMORIAL 9

Whereas Power Marketing Administrations (PMAs) market electricity generated primarily by federal hydropower projects in thirty-three states served by the 1,190 consumer-owned electric utilities giving preference to public bodies and cooperatives; and

Whereas Bonneville Power Administration provides a substantial amount of the electric power consumed in Idaho, including the sale of firm and surplus electric power to Idaho's investor-owned utilities and directs wholesale power to 26 rural electric cooperatives and, municipalities in Idaho serving over 250,000 Idaho citizens; and

Whereas the Administration's budget proposes to sell electric power from PMAs at market rates rather than the current practice of selling at cost-based rates; and

Whereas the Pacific Northwest region has experienced a nearly fifty percent increase in wholesale power rates since the energy crisis of 2001–2002; and

Whereas the current federal power program of cost-based rates ensures that all federal costs, with interest, from the generation, transmission and sale of federal power are recovered from purchasers through the rates charged; and

Whereas the proposal contains a projected rate increase of twenty percent each year until it totals a one hundred percent increase, which is an escalation of significant magnitude and will severely harm the region's businesses and industries, as well as all the residents of the region; and

Whereas the budget proposal constitutes a thinly disguised tax on the millions of Americans who purchase power through utilities supplied by PMAs; and

Whereas recognizing the true costs of this proposal and assessing the economic impacts it entails, we find that the proposal is not a prudent choice and should be rejected: Now, therefore, be it

Resolved by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, That we urge the Congress to reject the Administration proposal to move PMA rates to market rates thereby ensuring the continued responsible management of power generation, transmission and sale; and be it further

Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the State of Idaho in the Congress of the United States and to the Secretary of the United States Department of Energy, Samuel W. Bodman.

POM–69. A House Joint Memorial adopted by the Legislature of the State of Idaho relative to a feasibility study by the U.S. Corps of Engineers relating to the possibilities, benefits, and costs of providing flood control above Bear Lake; to the Committee on Environment and Public Works.

HOUSE JOINT MEMORIAL 1

Whereas the ongoing drought in the state of Idaho has had a profound impact throughout the state, including the area of southeastern Idaho known as the Bear River Basin. Although inadequate, during times of high water such as spring runoff, Bear Lake is the major reservoir for containing flood waters of the Bear River within the Bear River Basin. The effects of drought in the Bear River Basin would be significantly reduced in the event alternative storage sites were available; and

Whereas the Bear River Basin encompasses 7,400 square miles with 2,700 square miles in the state of Idaho. Originating in Utah's Uintah Mountains, the Bear River crosses state boundaries five times, has tributaries in Idaho, Utah and Wyoming, and ultimately discharges into the Great Salt Lake; and

Whereas the Bear River did not naturally divert into Bear Lake. The Utah Sugar Company and the Telluride Power Company first proposed diversion of the Bear River into Bear Lake for water storage in 1898. That project was taken over by Utah Power and Light Company for the purpose of producing hydropower. The project, which included a diversion dam on the Bear River, a canal, and a pumping station was completed in 1918; and

Whereas a multistate compact between the states of Idaho, Utah and Wyoming, known as the Bear River Compact, was entered into in 1958 and amended in 1980. The Compact governs the operation of the Bear River and, for management purposes, the Compact divides the river into three segments. The three segments are known as the Upper Division, located in Utah and Wyoming, the Central Division, located in Wyoming and Idaho, and the Lower Division, located in Idaho and Utah. The Bear River Commission, made up of three members from each of the Compact states, a chairman appointed by the President of the United States, and an engineer/manager, manages the day-to-day operation of the river; and

Whereas as a result of two lawsuits against Utah Power and Light Company during the 1970's, which claimed damage to crops due to flooding along the Bear River, the power company is under court order to keep the Bear River within its banks. Based on the court order, in the event the irrigation season ends with Bear Lake above 5,918 feet in elevation, water is released downstream to make room in Bear Lake for the spring runoff; and

Whereas since the 1970's, millions of acre feet of water have been released to provide capacity for flood control. Releases carry the river as well as the surface water removed from Bear Lake downstream to the Great Salt Lake where the principal beneficiary is the Great Salt Lake ecosystem. The most recent releases were in 1997, 1998 and 1999; and

Whereas lowering the elevation of Bear Lake in the Lower Division for flood control also impacts water users in the Upper and Central Divisions. Under the Compact, Woodruff Narrows Reservoir located in the Upper Division is not allowed to fill whenever the elevation of Bear Lake is below 5,911 feet above sea level, affecting both ground and surface water in that area. In addition, when Woodruff Narrows Reservoir is not full, no water is available for irrigation in a ten mile stretch of river in the Central Division leaving irrigators in that area without water for their crops; and

Whereas dredging has been necessary to provide water for irrigation due to low lake levels; and

Whereas studies to date have shown that use of Bear Lake for flood control has resulted in tons of suspended sediment solids to be deposited in the lake during the spring runoff. This is highly detrimental to the ecosystem. Increases in algae blooms on Bear Lake due to nitrates being carried in have been documented; and

Whereas in the event the water had not been released in the interest of flood control, it is likely that Bear Lake would now be full or nearly full. In that event, it is probable that there would be no need to pump water out of Bear Lake for irrigation because there would be enough capacity to allow the water to flow out by gravity, there would be no need to dredge in Bear Lake in that the elevation of the lake would be high enough to make dredging unnecessary, and an elevation above 5,911 feet would allow upstream storage at the Woodruff Narrows Reservoir; and

Whereas extremely low levels in Bear Lake could cause a water emergency to be declared by the state of Utah. The declaration would lead to closer scrutiny of the natural flow rights administered under the interstate accounting system. The lack of adequate storage water to supplement natural flow could result in the curtailment of rights in Idaho; and

Whereas if alternate storage sites were available, several hundred thousand acre feet of water would still be in Bear Lake to mitigate the effects of the drought. Pursuant to the Bear River Compact, Idaho is entitled to store approximately 125,000 acre feet of water annually and Utah about 390,000 acre feet annually. Provided adequate storage, this water, which is usually available during the spring runoff, could be stored to prevent any flooding of the Bear River. The water could then be used for irrigation, domestic and commercial development and recreation. A reservoir above Bear Lake would allow chemicals to be neutralized and suspended solids to settle out that are now entering Bear Lake. Alternative storage sites would provide for the conservation, preservation and best utilization of the water to which the state is entitled. This storage is desperately needed to allow residential, commercial and municipal development in the Bear River drainage without reducing irrigated agricultural lands; and

Whereas flood control above Bear Lake would make possible a policy that Bear Lake would be the first to fill and the last to empty. This would provide more water for irrigation, minimize fluctuations of lake levels, improve spawning habitat for Bear Lake cutthroat trout, provide boat-launching capability at Idaho state parks, and allow the filling of Woodruff Narrows Reservoir. Flood control above Bear Lake would greatly benefit the economy of all three states in the Bear River drainage; and

Whereas the United States Army Corps of Engineers is the federal agency responsible for flood control. The Corps has indicated a willingness to conduct a feasibility study of possible water storage sites upstream from Bear Lake which could be used for flood control of the Bear River. Costs of the study could range from $600,000 to $2,000,000 depending on the areas the study would include. The study will require an equal match of federal and nonfederal funds. However, with congressional approval, past local expenditures may be used as the local match; and

Whereas past local expenditures that have been made include $174,000 by the state of Wyoming for the Cokeville Reservoir project on Smith's Fork, $350,000 by the State of Wyoming for the Bear River Plan and over $2,000,000 of state funds from Idaho, Wyoming, and Utah through the Bear River Commission for stream gaging; and

Whereas concerned citizens of the Bear River drainage, including the Bear Lake

County Commission, the Bear Lake Regional Commission, Bear Lake Watch, Inc., and Love Bear Lake, Inc., are asking for Congressional approval to recognize past expenditures as the local match to make the Corps of Engineers feasibility study possible: Now, therefore, be it

Resolved by the members of the first Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, That we respectfully urge the Congress of the United States and our Idaho delegation, as well as the Utah and Wyoming delegations in Congress, to support, work to pass and vote for legislation that will authorize and fund a feasibility study by the United States Corps of Engineers relating to the possibilities, benefits and cost of providing flood control above Bear Lake; and be it further

Resolved, That we urge Congress to allow and approve past local expenditures, equivalent to fifty percent of the total cost of the study, as the required local match and that local expenditures to be allowed and approved include $174,000 by the state of Wyoming for the Cokeville Reservoir project on Smith's Fork, $350,000 by the state of Wyoming for the Bear River Plan and $2,000,000 of state funds from Idaho, Wyoming, and Utah for stream gaging; and be it further

Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegations representing the states of Idaho, Utah and Wyoming in the Congress of the United States.

POM-70. A House Joint Memorial adopted by the Legislature of the State of Idaho relative to the Central America Free Trade Agreement (CAFTA) and the Free Trade Area of the Americas (FTAA); to the Committee on Finance.

Whereas the state of Idaho is very diversified in its agricultural production; and

Whereas in January 2002, the federal government announced that it was initiating negotiations on a free trade agreement involving the countries of El Salvador, Guatemala, Honduras and Nicaragua. These negotiations concluded in December 2003. Negotiations with Costa Rica and the Dominican Republic were subsequently completed and are now included in the agreement. Congress must now decide whether to ratify the Central America Free Trade Agreement (CAFTA); and

Whereas the federal government is also negotiating the Free Trade Area of the Americas (FTAA) agreement; and

Whereas both CAFTA and the FTAA would allow these foreign countries to export commodities to the United States, harming Idaho agricultural industry in the process; and

Whereas the agricultural producers of the United States cannot be expected to compete with these foreign countries under the trade agreements due to the labor practices, lack of environmental regulations and subsidized agricultural production of these foreign countries; and

Whereas sugar is an import-sensitive commodity which will be negatively impacted by CAFTA. Idaho is our nation's second-largest producer of sugarbeets and a recent University of Idaho study concludes that the demise of the sugar industry in the state would also have a serious impact on market prices relating to other Idaho crops such as potatoes and onions which would be grown in place of sugarbeets; and

Whereas the CAFTA nations already enjoy preferential, duty-free access into the United States market for 311,700 metric tons of sugar. The United States is presently the world's fourth-largest net importer of sugar under existing trade agreements and its sugar market is already oversupplied, resulting in our region's sugarbeet processing company recently announcing the temporary closure of one of its factories due to the existing low sugar marketing allocations for United States producers; and

Whereas the United States International Trade Commission in August 2004, concluded that the Central American Free Trade Agreement would actually increase the U.S. trade deficit with the region by $100 million a year to $24 billion a year; and

Whereas concerns over free trade agreements face the agriculture industry at a time when the domestic consumption of United States agricultural products is declining, forcing domestic producers out of business; and

Whereas the state of Idaho stands to lose thousands of jobs and millions of dollars if these free trade agreements are implemented, potentially devastating the state's agricultural industry, moving production into other supply-sensitive crops, and severely harming the state's economy as a whole; and

Whereas the economic impact of any trade agreement must be recognized and considered to maintain viable economic health of agricultural industries, as well as all industries, with an emphasis on fair trade, rather than free trade; and

Whereas the provisions of CAFTA and FTAA should be renegotiated to limit exports from foreign countries to a needs-based access, allowing the United States agricultural policy to properly function and fairly treat agricultural producers in the United States: Now, therefore, be it

Resolved by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, That in negotiating any national trade agreements, the federal government is urged to recognize the economic impact of such trade agreements on the states and consider those impacts in order to maintain the viable economic health of agricultural industries, as well as all industries, with an emphasis on fair trade, rather than free trade, and be it further

Resolved, That the federal government is urged to renegotiate the provisions of CAFTA and the FTAA to limit exports from the involved foreign countries to fairly protect agricultural producers in the United States; and be it further

Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM-71. A resolution adopted by the Senate of the Legislature of the State of Louisiana relative to the Breast Cancer Patient Protection Act; to the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION 10

Whereas individuals and organizations, including many congressmen, have been fighting for access to quality health care for a women since 1996; and

Whereas the Breast Cancer Patient Protection Act is bi-partisan legislation co-sponsored by Senator Mary Landrieu of Louisiana which would create a ban on "drive through" mastectomies, in which a woman is forced out of the hospital sometimes only hours after breast cancer surgery; and

Whereas this legislation would require insurance companies to cover a 48-hour hospital stay for a woman undergoing a mastectomy and a 24-hour hospital stay for a woman undergoing a lymph node dissection; and

Whereas this legislation ensures that a physician and the patient will make a decision together regarding staying at a hospital following a mastectomy; and

Whereas both the American College of Surgeons and the American Medical Association have taken the position that most patients require a longer hospital stay than those that "drive-by" mastectomies afford; and

Whereas among the groups supporting this legislation are the American Medical Association, the American College of Surgeons, the Association of Women's Health, the Society for Advancement of Women's Health, the Susan G. Komen Foundation, and Families USA: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to enact the Breast Cancer Patient Protection Act; and be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM-72. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to "Amyotrophic Lateral Sclerosis Awareness Month", to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION 225

Whereas Amyotrophic Lateral Sclerosis (ALS) is better known as Lou Gehrig's disease; and

Whereas ALS is a fatal neurodegenerative disease characterized by degeneration of cell bodies of the lower motor neurons in the gray matter of the anterior horns of the spinal cord; and

Whereas the initial symptom of ALS is weakness of the skeletal muscles, especially those of the extremities; and

Whereas as ALS progresses, the patient experiences difficulty in swallowing, talking and breathing; and

Whereas ALS eventually causes muscles to atrophy, and the patient becomes a functional quadriplegic; and

Whereas ALS does not affect a patient's mental capacity, so a patient remains alert and aware of the loss of motor functions and the inevitable outcome of continued deterioration and death; and

Whereas ALS occurs in adulthood, most commonly between 40 and 70 years of age, with the peak at about 55 years of age, and affects men two to three times more often than women; and

Whereas more than 5,000 new ALS patients are diagnosed annually; and

Whereas on average, patients diagnosed with ALS survive two to five years from the time of diagnosis; and

Whereas ALS has no known cause, prevention or cure; and

Whereas "Amyotrophic Lateral Sclerosis (ALS) Awareness Month" will increase public awareness of ALS patients' circumstances, acknowledge the terrible impact this disease has on patients and families and recognize the research for treatment and cure of ALS: Therefore, be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania recognize the month of May 2005 as "Amyotrophic Lateral Scerosis (ALS) Awareness Month" in Pennsylvania; and be if further

Resolved, That the House of Representatives urge the President and Congress of the United States to enact legislation to provide additional funding for ALS research, and be it further,

Resolved, That copies of this resolution be transmitted to the President of the United States, to the Vice President of the United States, to the Speaker of the House of Representatives, to the members of Congress from Pennsylvania and to the United States Secretary of Health and Human Services.

POM–73. A concurrent resolution adopted by the House of Representatives and the Senate of the Legislature of the State of Hawaii relative to the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

HOUSE CONCURRENT RESOLUTION

Whereas in 2002, the No Child Left Behind Act of 2001 was enacted on a bipartisan basis and signed into law by President George W. Bush; and

Whereas all states that accept federal Title I education funds, including Hawaii, are subject to the requirements of the Act; and

Whereas the purpose of the Act is to compel all public schools to make adequate yearly progress toward the goal of 100 percent student proficiency in math and reading by 2013–2014; and

Whereas these expectations are unreasonable for students with limited English proficiency and students with disabilities, making it impossible for many of Hawaii's schools, that have a high population of these students, to comply with the law; and

Whereas the Act does not allow states that may already have successful accountability systems in place to use their system to comply with the spirit of the Act; and

Whereas states should be allowed to use a value-added or student growth approach in their state accountability plan; and

Whereas the Act is an under-funded mandate that causes states and school districts to spend more money than the amounts appropriated by Congress to implement the Act; and

Whereas the Act coerces participation by placing punitive financial consequences on states that refuse to participate; and

Whereas in 2004, the National Conference of State Legislatures created a bipartisan task force to study the Act, resulting in suggestions for specific changes to make the Act more workable, more responsive to variations among the states, and more effective in improving elementary education; and

Whereas the recommendations of the task force's February 2005 Final Report include the following:

(1) Substantially increasing federal funding for the Act;

(2) Reexamining the financial consequences for states that choose not to participate;

(3) Reevaluating the 100 percent proficiency goal established by the Act;

(4) Conducting a Government Accountability Office study of the compliance and proficiency costs associated with the Act;

(5) Giving the Individuals with Disabilities Education Act primacy over the Act in cases where these laws may conflict; and

(6) Providing states with much greater flexibility to meet the objectives of the adequate yearly progress provisions of the Act; and

Whereas although the Act aims to provide flexibility for states to improve academic achievement and to close the achievement gap, the task force found that little flexibility has been granted to states to implement the Act: Now, therefore, be it

Resolved, by the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2005, the Senate concurring, That the United States Congress is respectfully requested to amend the No Child Left Behind Act of 2001 according to the recommendations of the February 2005 Final Report of the National Conference of State Legislatures' Task Force on No Child Left Behind; and be it further

Resolved, That the current law and any revisions thereof recognize that under our federal system of government, education is primarily a state and local responsibility; and be it further

Resolved, That Congress is requested to allow states more flexibility to continue to work toward the goal of closing the achievement gap without the threat of losing federal funds; and be it further

Resolved, That Congress is requested to appropriate federal funding in amounts consistent with the levels authorized in the Act for education programs and expanded information systems needed to accurately reflect student, school, and school district performance and to pay the costs of ensuring student proficiency; and be it further

Resolved, That Congress is requested to authorize appropriate assessment methods and an alternative methodology for determining adequate yearly progress targets and progress for students who are not yet proficient in English and who have certain disabilities; and be it further

Resolved, That Congress is requested to amend the No Child Left Behind Act's current provisions relating to adequate yearly progress to apply sanctions only when the same groups or subgroups within a grade level fail to meet adequate yearly progress targets in the same subject area for two consecutive years; and be it further

Resolved, That Congress is requested to amend the Act to allow flexibility in:

(1) Determining adequate yearly progress using models that measure individual student growth or growth in the same cohort of students from year to year;

(2) Calculating adequate yearly progress for students belonging to multiple groups and subgroups; and

(3) Determining whether certain categories of teachers, such as special education teachers, are highly qualified; and be it further

Resolved, That Congress is requested to modify the No Child Left Behind Act's provisions relating to school choice by limiting the option only to those students whose performance is consistently below the proficiency level; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, and members of Hawaii's congressional delegation.

POM–74. A concurrent resolution adopted by the Legislature of the State of North Dakota relative to a human life amendment to the Constitution of the United States; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION 3017

Whereas the Legislative Assembly finds that the state of North Dakota has compelling and paramount interest in the preservation and protection of the life of all human beings; and

Whereas the Legislative Assembly finds that the life of a human being should be protected at every stage of biological development; and

Whereas the Legislative Assembly finds that abortion procedures impose significant risks to the health and life of a pregnant mother, including subjecting her to significant risk of severe depression, suicidal ideation, suicide, attempted suicide, posttraumatic stress disorders, physical injury, and a greater risk of death than risks associated with carrying the unborn child to full term and childbirth; and

Whereas the inalienable right to life is found not only in the Declaration of Independence but also in the Constitution of the United States which the senators and representatives of Congress, the members of the several state legislatures, and all federal and state executive and judicial officers are sworn to preserve, protect, and defend; and

Whereas the 5th and 14th Amendments to the Constitution of the United States guarantee that no person may be deprived of life without due process of law; and

Whereas Congress has the power and responsibility to enforce the guarantees contained in the 5th, 13th, and 14th Amendments to the Constitution of the United States of America, which guarantee to all persons the right not to be deprived of life without due process of law, the right to the equal protection of the law, and the right to be free from involuntary servitude and the power to enforce such guarantees include the power to expand the definition of persons entitled to such guarantees; and

Whereas abortion is a deprivation of the right to life and the right to the equal protection of the law and is the ultimate manifestation of the involuntary servitude of one human being to another: Now, therefore, be it

Resolved, by the House of Representatives of North Dakota, the Senate concurring therein, That the Fifty-ninth Legislative Assembly strongly urges the Congress of the United States to pass and all state executive and judicial officers to support an amendment to the Constitution of the United States recognizing that the inalienable right to life is vested in each human being and guaranteeing that no human being may be deprived the equal protection of the law without due process; and be it further

Resolved, That the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation, the Speaker of the United States House of Representatives, the President of the United States Senate, the Governor of North Dakota, and the Chief Justice of the North Dakota Supreme Court.

POM–75. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Republic of Poland and the United States Department of State's Visa Waiver Program; to the Committee on the Judiciary.

Whereas the Republic of Poland is a free, democratic and independent nation; and

Whereas in 1999 the United States and the Republic of Poland became formal allies when Poland was granted membership in the North Atlantic Treaty Organization; and

Whereas the Republic of Poland has proven to be an indispensable ally in the global campaign against terrorism; and

Whereas the Republic of Poland has actively participated in Operation Iraqi Freedom and the Iraqi reconstruction, shedding blood along with American soldiers; and

Whereas the President of the United States and other high-ranking officials have described the Republic of Poland as "one of our closest friends"; and

Whereas on April 15, 1991, the Republic of Poland unilaterally repealed the visa obligation to United States citizens traveling to Poland; and

Whereas the United States Department of State's Visa Waiver Program currently allows approximately 23 million citizens from 27 countries to travel to the United States for tourism or business for up to 90 days without having to obtain visas for entry; and

Whereas the countries that currently participate in the Visa Waiver Program include Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland and the United Kingdom; and

Whereas it is appropriate that the Republic of Poland be made eligible for the United States Department of State's Visa Waiver Program: Therefore, be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania respectfully urge the President and Congress of the United States to make the Republic of Poland eligible for the United States Department of State's Visa Waiver Program; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to the member of Congress from Pennsylvania and to Przemyslaw Grudzinski, Ambassador of the Republic of Poland to the United States.

POM–76. A joint resolution adopted by the Legislature of the State of Idaho relative to the Radiation Exposure Compensation Act (RECA); to the Committee on the Judiciary.

Whereas on October 15, 1990, Congress passed the Radiation Exposure Compensation Act (RECA), which provides for compassionate payments to persons or to their beneficiaries who developed diseases as a result of exposure to radiation from U.S. atmospheric nuclear weapons testing; and

Whereas currently, a study is underway by the National Academy of Sciences and a report will be filed with Congress to address the adequacy of the initial geographic coverage provided in RECA; and

Whereas compelling anecdotal evidence has been accumulated at public meetings and in written reports, to indicate the impact of atmospheric testing on the downwinder populations in Idaho; and

Whereas preliminary evidence suggests that scientific documentation being gathered and assessed for inclusion in the report will find that risk factors present in Idaho equal or exceed the factors present in areas previously included in RECA coverage; and

Whereas members of Idaho's congressional delegation have worked and will continue to press for responsible legislative action to address the claims of Idahoans based upon radiation exposure; and

Whereas it is appropriate that members of the Idaho Legislature, speaking on behalf of the citizens of the state, express support for the efforts of Idaho's congressional delegation in their representation of downwinders in Idaho: Now, therefore, be it

Resolved by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, That we anticipate the findings of the National Academy of Sciences will verify the impact of testing on residents of Idaho, and we conclude that it is appropriate to compensate these downwinders in the same manner and to the same extent as those individuals previously compensated for similar exposures. We urge the members of Idaho's congressional delegation to continue in their endeavors on behalf of Idaho's citizens; and be it further

Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM–77. A resolution adopted by the Board of the Town of Brookhaven of the State of New York relative to the opposition of the elimination of the Community Development Block Grant Program (CDBG); to the Committee on Banking, Housing, and Urban Affairs.

POM–78. A resolution adopted by the Mayor and City Council of Atlanta, Georgia relative to proposed cuts in Community Development Block Grant Funds (CDBG); to the Committee on Banking, Housing, and Urban Affairs.

POM–79. A resolution adopted by the City of Pembroke Pines, Florida relative to the Community Development Block Grant Program (CDBG); to the Committee on Banking, Housing, and Urban Affairs.

POM–80. A resolution adopted by the California State Lands Commission relative to the lifting of the Federal Moratorium on Oil and Gas Leasing off the California Coast; to the Committee on Environment and Public Works.

POM–81. A resolution adopted by Hudson County (New Jersey) Board of Chosen Freeholders relative to the Passaic River Restoration Initiative; to the Committee on Environment and Public Works.

POM–82. A resolution adopted by the Mayor and Council of the Town of Harrison, Hudson County, New Jersey, relative to the Passaic River Restoration Initiative; to the Committee on Environment and Public Works.

POM–83. A resolution adopted by the Macomb County Board of Commissioners of the State of Michigan relative to the Social Security program; to the Committee on Finance.

POM–84. A resolution adopted by the Board of Directors of the New Jersey Association of Counties relative to Perkins Funding; to the Committee on Health, Education, Labor, and Pensions.

POM–85. A resolution adopted by the Board of Directors of the New Jersey Association of Counties relative to the Community Development Block Grant Program (CDBG); to the Committee on Health, Education, Labor, and Pensions.

POM–86. A resolution adopted by the Borough of Maywood, State of New Jersey relative to cloture rules adopted by the United States Senate; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 21. A bill to provide for homeland security grant coordination and simplification, and for other purposes (Rept. No. 109–71).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CONRAD (for himself, Mr. ROBERTS, Mr. HARKIN, and Mr. NELSON of Nebraska):

S. 1108. A bill to amend title XVIII of the Social Security Act to make improvements to payments to ambulance providers in rural areas, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for himself, Mr. DAYTON, Mr. SESSIONS, Mr. SCHUMER, Mr. JEFFORDS, Mr. HARKIN, and Mr. LEAHY):

S. 1109. A bill to amend title XVIII of the Social Security Act to provide payments to Medicare ambulance suppliers of the full cost of furnishing such services, to provide payments to rural ambulance providers and suppliers to account for the cost of serving areas with low population density, and for other purposes; to the Committee on Finance.

By Mr. ALLEN (for himself, Mr. PRYOR, and Mr. SANTORUM):

S. 1110. A bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. BENNETT, and Mr. ALLARD):

S. 1111. A bill to promote oil shale and tar sand development, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. SMITH, Mr. WYDEN, Mr. MCCONNELL, Mr. JEFFORDS, Mr. LOTT, Mr. SCHUMER, Mr. KERRY, Mr. BINGAMAN, Mr. ROCKEFELLER, Mrs. LINCOLN, Ms. LANDRIEU, Mr. CORZINE, Mr. TALENT, and Mr. HAGEL):

S. 1112. A bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. LOTT, Mr. SANTORUM, and Mr. ENSIGN):

S. 1113. A bill to provide that no Federal funds may be expended for the payment or reimbursement of a drug that is prescribed for the treatment of sexual or erectile dysfunction; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. STEVENS):

S. 1114. A bill to establish minimum drug testing standards for major professional sports leagues; to the Committee on Commerce, Science, and Transportation.

By Ms. MURKOWSKI (for herself and Mr. JOHNSON):

S. 1115. A bill to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 300

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 300, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 333

At the request of Mr. SANTORUM, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 438

At the request of Mr. ENSIGN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 440

At the request of Mr. BUNNING, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 451

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 451, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 467

At the request of Mr. DODD, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 470

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 470, a bill to amend the Public Health Service Act to expand the clinical trials drug data bank.

S. 526

At the request of Mr. REED, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 526, a bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care.

S. 603

At the request of Ms. LANDRIEU, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 627

At the request of Mr. HATCH, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nevada (Mr. ENSIGN), the Senator from California (Mrs. BOXER) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 685

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 685, a bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60.

S. 713

At the request of Mr. ROBERTS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 811

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 836

At the request of Ms. CANTWELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 836, a bill to require accurate fuel economy testing procedures.

S. 843

At the request of Mr. SANTORUM, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 843, a bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1022

At the request of Mrs. LINCOLN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

S. 1055

At the request of Mr. DODD, his name was added as a cosponsor of S. 1055, a bill to improve elementary and secondary education.

S. 1063

At the request of Mr. NELSON of Florida, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1063, a bill to promote and enhance public safety and to encourage the rapid deployment of IP-enabled voice services.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1067

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1067, a bill to require the Secretary of Health and Human Services to undertake activities to ensure the provision of services under the PACE program to frail elders living in rural areas, and for other purposes.

S. 1075

At the request of Mr. THUNE, the names of the Senator from Montana (Mr. BURNS) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1075, a bill to postpone the 2005 round of defense base closure and realignment.

S. 1076

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1076, a bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel.

S. 1103

At the request of Mr. BAUCUS, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 1103, a bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax.

S. 1105

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1105, a bill to amend title VI of the Higher Education Act of 1965 regarding international and foreign language studies.

S. 1107

At the request of Mr. ENZI, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1107, a bill to reauthorize the Head Start Act, and for other purposes.

S.J. RES. 14

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S.J. Res. 14, a joint resolution providing for the recognition of Jerusalem as the undivided capital of Israel before the United States recognizes a Palestinian state, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. ROBERTS, Mr. HARKIN, and Mr. NELSON of Nebraska):

S. 1108. A bill to amend title XVIII of the Social Security Act to make improvements to payments to ambulance providers in rural areas, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, today I am introducing the Rural Access to Emergency Services (RAES) Act, which will improve access to emergency medical services (EMS) in rural communities. This bill will take the critical steps to help sustain rural emergency care in the future.

EMS is a vital component of the health care system, particularly in rural areas. Ambulance personnel are not only the first responders to an emergency, but also play a key role in the provision of life-saving medical care. It is said that time is one of the most important factors relating to patient outcomes in emergency situations. Rural EMS providers often have the enormous strain of responding to emergencies many miles away—sometimes nearly 50 minutes. However, current reimbursement levels are insufficient for the squads to bear the costs of responding to calls over these long distances. As rural EMS squads are forced to close, rural residents—and others traveling through rural areas—are left without access to emergency services. Due to the inadequacy of Medicare reimbursement, rural ambulance providers are also finding it difficult to maintain the heightened "readiness requirement," exposing communities to the threat of being ill-prepared to respond to a major public health emergency.

My legislation will take steps to improve the EMS system by eliminating the 35-mile rule for ambulance services that provide care in communities served by Critical Access Hospitals. In addition, it will establish an ambulance-specific definition of "urban" and "rural" for Medicare reimbursement. Moreover, my legislation will provide $15 million in funds to be used for a variety of activities aimed at improving the rural EMS system. Finally, it will expand the Universal Service Fund's definition of "health care provider" to include "ambulance services."

It is important to assure that rural Americans receive the best emergency medical services possible. This is especially important to me because 54 percent of North Dakotans live in rural communities, served largely by unpaid volunteer emergency · personnel. In fact, only 10 percent receive compensation for their services. In recent years, rural ambulance services have found it difficult to recruit and retain EMS personnel. Congress must take steps to ensure that every American has access to quality emergency care. The RAES Act would do just that by improving reimbursement, increasing collaboration among healthcare entities, and allowing EMS providers to collect quality data.

The EMS bill will provide improved healthcare and better access to EMS for the 49 million Americans living in rural areas, and I urge my colleagues to support this essential legislation.

By Mr. HATCH (for himself, Mr. BENNETT, and Mr. ALLARD):

S. 1111. A bill to promote oil shale and tar sand development, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the Oil Shale and Tar Sands Development Act of 2005. In doing so, I would like to thank Senator ROBERT BENNETT and Senator WAYNE ALLARD for cosponsoring this legislation.

It could not be any more apparent to Americans when we pay to fill up our cars that this country is in need of a strong, comprehensive energy strategy. Our citizens recognize that there is a shortage of petroleum, and that that shortage is driving up prices.

American consumers have increased their demand for oil by 12 percent in the last decade, but oil production has grown by less than one half of one percent. Is it any wonder we rely on foreign countries for more than half our oil needs? We import 56 percent of our oil today, and it's projected to be 68 percent within 20 years.

On a larger scale, global demand for oil is growing at an unprecedented pace—about two and half million barrels per day in 2004 alone. However, while global oil production is increasing, the discovery of new oil reserves is falling dramatically. Moreover, trends indicate that the global thirst for petroleum will continue to grow, especially in Asia.

Last month, Federal Reserve Chairman Alan Greenspan stated, "Markets for oil and natural gas have been subject to a degree of strain over the past year not experienced for a generation. Increased demand and lagging additions to productive capacity have combined to absorb a significant amount of the slack in energy markets that was essential in containing energy prices between 1985 and 2000."

We are quickly heading into a global energy crunch, and our lack of sufficient oil supply at home will give us little or no buffer against it. Increasing our domestic oil reserve is imperative both from an economic and a national security perspective.

I am pleased to report to my colleagues today that a solution is available.

It is a little known fact that the largest hydrocarbon resource in the world rests within the borders of Utah, Colorado, and Wyoming. I know it may be hard to believe, but energy experts agree that there is more recoverable oil in these three States than there is in all the Middle East. In fact, the U.S. Department of Energy estimates that recoverable oil shale in the western United States exceeds one trillion barrels and is the richest and most geographically concentrated oil shale and tar sands resource in the world.

This gigantic resource of oil shale and tar sands is well known by geologists and energy experts, but it has not been counted among our Nation's oil reserve because it is not yet being developed commercially. Companies have been waiting for the Federal Government to recognize publicly the existence of this resource as a potential reserve and to allow industry access to it.

This bill would give them that chance.

Some might ask why we have not yet developed these resources if doing so could have such a profound economic potential?

I understand why we have been so hesitant to develop this resource in the past. During the 1970s, we saw a very large and expensive effort begin in western Colorado to develop oil shale there. When the price of oil dropped dramatically, though, the market for oil shale went bust and the region suffered an economic disaster.

We should never forget that experience.

Much has changed since the 1970s, and it would be senseless to continue to ignore the huge potential of this resource. I think there has been a mind set within the government and the local communities resulting from the Colorado boom and bust experience that developing this resource would be risky. The fact is, developing this energy resource is no more risky than producing oil offshore or in the Arctic. It is certainly less risky than continuing to rely on oil from the Middle East or from other foreign competitors.

We need to remember that our past failure in this area was not necessarily a failure of technology, but rather an inability to sustain this technology economically because of a very large slump in gas prices. Today's economics and advances in technology combine to provide the right scenario to begin the development of the world's largest untapped oil resource.

Skeptics might ask how we know that the price of oil won't plummet, causing the problems of the 1970s all over again? The world is now reaching peak oil production of conventional oil. With the tremendous growth in India and Asia, and the accompanying need for oil, experts predict there will be little economic incentive for prices to drop. This is a new scenario for the world, and it forces us to shift our focus to unconventional resources.

We have already seen this shift in focus by the government of Alberta, Canada. Alberta recognized the potential of its own tar sands deposits and set forth a policy to promote their development. As a result, Canada has increased its oil reserves by more than a factor of 10, going from a reserve of about 14 billion barrels to its current reserve of 176 billion barrels in only a few years. And just think we are sitting on one trillion barrels, more than five times what Canada has.

I think it's outrageous that Utah imports about one-fourth of its oil from Canadian tar sands, even though we have a very large resource of those very same tar sands in our own State sitting undeveloped. The government of Alberta, which owns the resource, has moved forward in leaps and bounds, while the United States has yet to take even a baby step toward developing our untapped resource.

Our proposed legislation looks to the Alberta model to help the United States move toward greater energy independence. The Oil Shale and Tar Sands Development Act represents a necessary shift by our government from an almost complete reliance on conventional sources of oil to our vast unconventional resources, such as tar sands and oil shale.

In drafting this legislation, we have been mindful of the environment and of States' water rights. We live in a different world than when these resources were first developed. Unlike 30 years ago, we now have the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the National Environmental Policy Act, and the Mining Reclamation Act. Also, new technologies make the effort much cleaner and require less water than in the past. Industry understands that any water it needs will have to be acquired according to State law and according to existing water rights.

Let me talk, for a moment, about the specific provisions in our bill. S. 1111 would establish an Office of Strategic Fuels tasked with, among other things, the development of a five-year plan to determine the safest and steadiest route to developing oil shale and tar sands. The bill would also establish a mineral leasing program in the Department of the Interior to provide access to this resource.

Recognizing the tremendous national interest in this resource, our legislation provides a number of programs to encourage oil shale and tar sands development, including Federal royalty relief, Federal cost shares for demonstration projects, advanced procurement agreements by the military, and tax relief through the expensing of new equipment and technologies related to oil shale and tar sands development.

The size of our nation's energy challenge is enormous, but in Utah, Colorado, and Wyoming we have an answer that more than meets the challenge. This bill moves us down that path. I urge my colleagues to join us in our effort to help the United States open the door new frontier for domestic energy.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. SMITH, Mr. WYDEN, Mr. MCCONNELL, Mr. JEFFORDS, Mr. LOTT, Mr. SCHUMER, Mr. KERRY, Mr. BINGAMAN, Mr. ROCKEFELLER, Mrs. LINCOLN, Ms. LANDRIEU, Mr. CORZINE, Mr. TALENT, and Mr. HAGEL):

S. 1112. A bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am pleased to join Senator GRASSLEY, and our other colleagues, in introducing legislation to make the Section 529 enhancements enacted in 2001 permanent.

In 2001, it was the Senate, especially my good friend Chairman GRASSLEY, that insisted on including education savings in the tax bill. I am proud of that fact. And I am proud that the Senate is again taking the lead to make these important provisions permanent.

Higher education is critical to our children's future and our Nation's economy. As a parent, or grandparent, you know that providing your children with a college education means they are likely to earn substantially more than if they only have a high school degree. One study estimated a million dollars more in today's dollars.

College is a good investment, but a very expensive one. The cost of tuition is rising every year. Over the past ten years, expenses at public universities have increased nearly 40 percent. The U.S. Department of Education says the average cost of a four-year education is currently $34,000 and almost $90,000 for private colleges.

In 1996, Congress created 529 plans to help families plan for this expense. Since their inception, 529 plans have helped families' college savings grow faster by not taxing investment income while it is accumulating in the account. In 2001, we saw a need to do more to help families deal with skyrocketing costs, so we allowed tax-free distributions from the account, as long as the money goes for its intended purpose—post-secondary education expenses. This income exclusion will expire after 2010 if we don't do something about it.

There are a lot of provisions that will expire in 2010—so why focus on this one provision today? Because saving for college doesn't happen in five or six years. We want families to save today for college expenses fifteen to twenty years from now. Without this legislation, we are asking families to make critical investment decisions without the promise of today's tax benefits. This is not a good way to encourage savings. Making this tax benefit permanent will allow families to plan and finance their children's education beyond 2010.

Thousands of young people back home have 529 plan accounts. By the end of 2004, Montana families had over $128 million set aside through the Montana Family Education Savings Program. Across the country there is about $68 billion invested in over 7 million accounts. The average account balance is just over $9,000. Not enough to finance a college education, but an important start.

One of the great things about 529 plans is that grandparents can save for the future of their grandchildren. That is what Arlene Hannawalt did—she saved through a 529 plan for her granddaughter Nicole's education. Nicole dropped out of high school, but she is getting her GED. Later this year, with help from her 529 account, Nicole will be going to the University of Montana—Helena College of Technology to study accounting.

Nicole's father is in the Army National Guard, serving in Iraq. Our prayers are with him. I'm sure Nicole's family is very pleased that she will soon be a college student.

Tax-favored treatment for college savings is good policy, but it is not free. I assure my colleagues that we will be looking for appropriate offsets to cover the cost of this bill.

Education is one of my top priorities. And saving for education should be one of a family's top priorities. I encourage my colleagues to join in making the tax status of 529 benefits permanent to help millions of American families plan for their children's future.

By Mr. GRASSLEY (for himself, Mr. LOTT, Mr. SANTORUM, and Mr. ENSIGN):

S. 1113. A bill to provide that no Federal funds may be expended for the payment or reimbursement of a drug that is prescribed for the treatment of sexual or erectile dysfunction; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, over the past three decades, prescription medicines have assumed a central and critical role in treating health care conditions. Every year, researchers make new discoveries that help patients cope with illnesses and improve their quality of life. Ensuring access to prescription drugs—to treatments that can help people maintain their health and avoid costly hospitalizations, for example—is a fundamental responsibility of our Federal health programs. We would not have worked as hard as we did to establish the first-ever Medicare prescription drug benefit if we did not believe this to be true. At the same time, we have a tremendous responsibility to be good stewards of taxpayers' dollars. I, for one, take that responsibility very seriously.

In 2004, our nation spent $1.8 trillion on health care. Medicare spending accounted for 17 percent of that amount. In 2005, Medicaid spending is expected to reach $321 billion. The Federal government offers me and other Federal employees health coverage through the Federal Employees Health Benefits Program (FEHBP). The Department of Defense has TRICARE for military personnel, and the Veterans' Administration provides an important source of health care access to those who proudly served our country. Year after year, the costs of these and other Federal health care programs continue to rise. Year after year, we are forced to make difficult decisions to find ways to save money under these programs with the goal of sustaining them well into the future.

In contrast to those decisions, the bill that I am introducing today was not difficult for me at all. By eliminating all Federal payments for certain "lifestyle" drugs, the legislation restores the fundamental concept of stewardship to prescription drug coverage under Federal programs. It is a pretty simple piece of legislation—no payment for drugs prescribed for sexual or erectile dysfunction under any Federal program, period. The Congressional Budget Office (CBO) estimated that Medicare and Medicaid alone will spend $2 billion on these drugs between 2006 and 2015. In my opinion, those dollars could be spent more wisely.

When we crafted the Medicare Modernization Act of 2003, our bipartisan agreement sought to strike the most reasonable balance for Medicare beneficiaries and hard working taxpayers. We wanted to make sure that beneficiaries had access to life-saving and life-improving medicines. Now some certainly may argue that these "lifestyle" drugs can improve your life. I appreciate that view. However, we live in a world of limited resources, and in that world of limited resources coverage of these "lifestyle" drugs under Medicare—or any other Federal program, in my opinion—is inconsistent with that goal of balance. I am pleased to join with Senators LOTT, SANTORUM, and ENSIGN in working to rectify that situation today and urge my colleagues to join us in cosponsoring this important legislation.

By Mr. McCAIN (for himself and Mr. STEVENS):

S. 1114. A bill to establish minimum drug testing standards for major professional sports leagues; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, I am joined today by Senator STEVENS in introducing the Clean Sports Act of 2005. The chairman of the House Government Reform Committee, Congressman DAVIS, and the ranking member of that committee, Congressman WAXMAN, are introducing a companion bill today in the House.

The purpose of this bill is to protect the integrity of professional sports and, more importantly, the health and safety of our Nation's youth, who, for better or for worse, see professional athletes as role models. The legislation would achieve that goal by establishing minimum standards for the testing of steroids and other performance-enhancing substances by major professional sports leagues. By adhering to—and hopefully exceeding—these minimum standards, the Nation's major professional sports leagues would send a strong signal to the public that performance-enhancing drugs have no legitimate role in American sports.

This bill would prohibit our country's major professional sports leagues—the National Football League, Major League Baseball, the National Basketball Association, and the National Hockey League—from operating if they do not meet the minimum testing requirements set forth therein. Those standards would be comprised of five key components: the independence of the entity or entities that perform the leagues' drug tests; testing for a comprehensive list of doping substances and methods; a strong system of unannounced testing; significant penalties that discourage the use of performance-enhancing drugs; and a fair and effective adjudication process for athletes accused of doping. These elements are crucial components of any credible performance-enhancing drug testing policy.

More specifically, the bill would require all major professional sports leagues to have an independent third party administer their performance-enhancing drug tests. The legislation would further require that samples provided by athletes be tested by laboratories approved by the United States Anti-Doping Agency—USADA—and for substances banned by USADA. In addition, the bill would require not fewer than three unannounced tests during a league's season of play, and at least two unannounced tests during the off season. Under this legislation, if a player were to test positive for a banned performance-enhancing substance, that player would be suspended for 2 years for the first violation and banned for life for a second violation. Finally, if any player were to test positive, the professional sports league would be obligated to ensure that the player would have substantial due process rights including the opportunity for a hearing and right to counsel.

To ensure that the major professional sports leagues meet the highest standards of performance-enhancing drug testing, the bill would require each professional sports league to consult with USADA in developing its drug testing standards and procedures, its protocols for tests in the off season, and its athlete adjudication program. For 5 years, USADA has served as the official antidoping agency for Olympic sports in the United States. In that role, USADA has shown a tremendous dedication to eliminating doping in sports through research, education, testing, and adjudication efforts. The expertise that it has developed over the past half-decade would serve this country's professional sports leagues well.

A violation of this legislation would be treated as a violation of the Federal Trade Commission Act. The Federal Trade Commission would have the ability to either obtain an injunction against the league that is in violation of the bill or seek penalties of up to $1 million per violation. Any enforcement mechanism that is not as strong as this would simply not be effective to ensure that these multi-billion-dollar businesses adhere to the minimum standards set forth in the legislation.

Finally, the bill would give the Office of National Drug Control Policy—ONDCP—the ability to add other professional sports leagues as well as certain college sports if the ONDCP were to determine that such additions would prevent the use of performance-enhancing substances by high school, college, or professional athletes. The bill would also require the United States Boxing Commission, upon its establishment, to promulgate steroids testing standards consistent with those contained in the bill.

The need for reforming the drug testing policies of professional sports is clear. However, I introduce this legislation reluctantly. Over a year ago, I stated publicly that the failure of professional sports—and in particular Major League Baseball—to commit to addressing the issue of doping straight on and immediately would motivate Congress to search for legislative remedies. Despite my clear warning and the significant attention that Congress has given to this stain on professional sports, baseball, and other professional leagues have refused to do the right thing.

By introducing this bill, I am once again asking the leagues to shore up the integrity of professional sports. I am asking the leagues to realize that what is at stake here is not the sanctity of collective bargaining agreements, but rather the health and safety of America's children. Like it or not, our Nation's kids look to professional athletes as role models and take cues from their actions, both good and bad.

I remain hopeful that professional sports will reform their drug testing policies on their own—a modest proposal in the eyes of reasonable people. However, the introduction of this bill demonstrates the continued seriousness with which Congress views this issue. It should be seen as a renewed incentive for the leagues to clean up their sports on their own without Government interference.

By Ms. MURKOWSKI (for herself and Mr. Johnson):

S. 1115. A bill to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will help increase the amount of food donations going to American Indians and Alaska Natives nationwide. I am pleased to have Mr. Johnson join me in introducing this important legislation.

Despite reports from the Census Bureau that show stable income levels for many Americans, the poverty rate for the 4.4 million American Indians and Alaska Natives living throughout the United States remains nearly three times that of non-Hispanic whites. Not only do Natives face greater challenges in securing basic household necessities, but in securing food as well.

According to a U.S. Department of Agriculture report released in late 2004, nearly 36 million Americans face challenges in getting enough food to eat. This includes nearly 13 million children. Of these statistics, Natives constitute a disproportionate number due to the higher poverty rate among this group.

And yet, charitable organizations that provide hunger relief are unable to meet the basic needs of Natives due to an oversight in the Federal tax code. Section 170(e)(3) of the Internal Revenue Code allows corporations to take an enhanced tax deduction for donations of food inventory; however, the food must be distributed to 501(c)(3) nonprofit organizations, such as food banks. Nonprofit organizations cannot then transfer such donations to tribes. Although many donations to tribes are tax deductible under section 7871 of the Internal Revenue Code, tribes are not among the organizations listed under section 501(c)(3) of the Internal Revenue Code. To clarify, section 170(e)(3) does not allow tribes to be eligible recipients of corporate food donations to nonprofit organizations since they are not listed under section 501(c)(3) as an eligible entity.

With this legislation, we intend to make a simple correction to the tax code that clearly indicates that tribes are eligible recipients of food donated under section 170(e)(3) of the Internal Revenue Code. This correction is long overdue and would remedy an egregious inequity in the Federal tax code that affects Natives nationwide.

Please allow me to provide a few examples of how this legislation could foster positive change. In Alaska, approximately half of the food donated to the Food Bank of Alaska from corporations could go to tribes throughout Alaska. Much of this food would go to villages that are only accessible by air or water. In South Dakota, roughly 30 percent of the food the Community Food Banks of South Dakota distributes would go to reservations. In North Dakota, the amount of food donated to the Great Plains Food Bank could double if this legislation were enacted. The Montana Food Bank Network projects that food donations could increase by 16 percent. A food bank based in Albuquerque, NM estimates that their food donations could triple in the first year alone.

It is imperative that we address this important issue expeditiously. The health and well-being of low income American Indians and Alaska Natives across the Nation is at stake.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES .

(a) In General.—Section 170(e)(3) of the Internal Revenue Code of 1986 (relating to special rule for contributions of inventory and other property) is amended by adding at the end the following new subparagraph:

"(D) Special rule for Indian tribes.—

"(i) In general.—For purposes of this paragraph, an Indian tribe (as defined in section 7871(c)(3)(E)(ii)) shall be treated as an organization eligible to be a donee under subparagraph (A).

"(ii) Use of property.—For purposes of subparagraph (A)(i), if the use of the property donated is related to the exercise of an essential governmental function of the Indian tribal government (within the meaning of section 7871), such use shall be treated as related to the purpose or function constituting the basis for the organization's exemption.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

AMENDMENTS SUBMITTED AND PROPOSED

SA 764. Mr. MARTINEZ (for himself and Mr. Nelson, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 764. Mr. MARTINEZ (for himself and Mr. Nelson of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXII, add the following:

SEC. 2207. WHARF UPGRADES, NAVAL STATION MAYPORT, FLORIDA.

Of the amount authorized to be appropriated by section 2204(a)(4) for the Navy for architectural and engineering services and construction design, $500,000 shall be available for the design of wharf upgrades at Naval Station Mayport, Florida.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 24, 2005, at 3 p.m., to conduct a hearing on "Money Laundering and Terror Financing Issues in the Middle East."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and

Transportation be authorized to meet on Tuesday, May 24, 2005, at 10 a.m. on S. 529, a bill to authorize funding for the U.S. Anti-Doping Agency (USADA) and to designate it as the official doping agency of the U.S. Olympic Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, May 24, 2005, at 10 a.m., in 628 Dirksen Senate Office Building, to consider the nominations of Alex Azar, II, to be Deputy Secretary of Health and Human Services, Department of Health and Human Services, Washington, DC; Timothy D. Adams, to be Under Secretary for International Affairs, U.S. Department of Treasury; Shara L. Aranoff, to be Member of the International Trade Commission; Suzanne C. DeFrancis to be Assistant Secretary for Public Affairs, U.S. Department of Health and Human Services; and Charles E. Johnson, to be Assistant Secretary for Budget, Technology and Finance, U.S. Department of Health and Human Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 24, 2005 at 9:30 a.m. to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CORNYN. Mr. President, I ask unanimous consent, pursuant to Rule 26.5(a) of the Standing Rules of the Senate, that the Select Committee on Intelligence be authorized to meet after conclusion of the first two hours after the meeting of the Senate commences on May 24, 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Tuesday, May 24, 2005, at 2 p.m. for a hearing regarding "Overview of the Competitive Effects of Speciality Hospitals."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. CORNYN. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Tuesday, May 24, 2005, at 10 a.m. for a hearing entitled, "Safeguarding the Merit System: A Review of the U.S. Office of Special Counsel."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent that Claire Steele, a fellow in my office, be granted the privilege of the floor for the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Avery Wentzel, a legal intern on my Senate Judiciary Committee staff, be granted the privilege of the floor during the debate on Justice Owen.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT

Mr. FRIST. I ask unanimous consent Senate report 109-69 be star printed with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 1098

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

> A bill (S. 1098) to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

Mr. FRIST. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the calendar.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 100-696, appoints the Senator from Colorado, Mr. ALLARD, as a member of the United States Capitol Preservation Commission.

UNANIMOUS CONSENT AGREEMENT—JUDICIAL NOMINATIONS

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, it be in order to move to proceed en bloc to the following nominations, if reported by the Judiciary Committee; provided further that they be considered under a total time limitation of 10 hours equally divided between the chairman and ranking member or their designees; provided further that following the use or yielding back of time, the Senate proceed to votes on the confirmation of the nominations, with no further intervening action or debate. The nominations are as follows: David McKeague, to be U.S. circuit judge for the Sixth Circuit; Richard Griffin, to be U.S. circuit judge for the Sixth Circuit. Finally, I ask consent that following the votes, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Democratic leader.

Mr. REID. Mr. President, reserving the right to object, we are also hopeful and confident we can add Neilson to this group. The two Senators from Michigan are taking a look at her. She became very ill and, therefore, she was not able to move forward as these other two men have done. We feel confident, after speaking to the two Michigan Senators, that we will be able to add her to this list. She has now recovered her health and is back in good health, good stead.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of Executive Calendar No. 66, the nomination of Thomas Griffith to be U.S. circuit judge for the District of Columbia Circuit; provided further that there be 4 hours equally divided for debate on the nomination between the chair and the ranking member or their designees; provided further that following the use or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination with no further intervening action or debate; finally, that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL

Mr. FRIST. As in executive session, I ask unanimous consent that the nomination of Charles S. Ciccolella, of Virginia, to be Assistant Secretary of Labor for Veterans Employment and Training, be jointly referred to the Committees on HELP and Veterans' Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, MAY 25, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 25. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with 30 minutes under the control of the majority leader or his designee, and the final 30 minutes under the control of the Democratic leader or his designee.

Following morning business, the Senate will return to executive session and resume the consideration of the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume consideration of Priscilla Owen to be U.S. circuit judge for the Fifth Circuit. Under a previous agreement, at 12 noon tomorrow, we will proceed to the vote on the confirmation.

Following the vote on the Owen nomination, it is my expectation that we will move forward with the nomination of John Bolton to be ambassador to the United Nations. Our colleagues on the other side of the aisle have indicated they would need a good deal of time to debate the nomination. We plan to complete action on the Bolton nomination this week, and I will work with the Democratic leader to lock in a time agreement on the nomination.

Mr. REID. Mr. President, if the distinguished majority leader will yield, I think it is appropriate that we have this vote at noon. We would have been willing to have it earlier. This way the committees can go about their business. I know I have a ranking members meeting at 12. So this will work out perfect. Even though we are waiting for the vote, I think this will work out well for the schedule.

Mr. FRIST. Mr. President, we have a good plan for the remainder of the week with that vote and proceeding with the nomination of John Bolton.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Wednesday, May 25, 2005, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, May 24, 2005*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. PRICE of Georgia).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 24, 2005.

I hereby appoint the Honorable TOM PRICE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

FUND CLEAN-UPS FOR CLOSED MILITARY BASES

Mr. BLUMENAUER. Mr. Speaker, this week, with the consideration of the defense authorization legislation and the military quality of life appropriation, Congress should deal with the hidden issue behind base closure: The toxic legacy of unexploded bombs and hazardous pollution left behind on our military bases.

This is part of a much larger problem. The Defense Science Board has reported that unexploded bombs contaminate an area bigger than the States of Maryland, and Massachusetts combined.

One out of ten Americans live within 10 miles of a former or current military site that contains hazardous waste identified for clean-up under the Federal Super Fund programs. Indeed, 34 bases shut down since 1988 are still on the EPA Super Fund lists of worst toxic waste sites.

Ten of these sites have groundwater mitigation contaminants that are not fully under control. One of the worst examples that comes to mind is the Massachusetts Military Reservation, a source of perchlorate, a toxic chemical, has contaminated 70 percent of Cape Cod's water supply, and more than 1,000 unexploded bombs have been discovered, some less than a half a mile from an elementary school.

Former military installations with unexploded bombs are located in hundreds of communities across the country. And this has serious consequences. The most tragic example was an unexploded bomb that killed two 8-year-old boys and injured a 12-year-old friend while they were playing in their San Diego neighborhood, the site of the former 32,000 acre Camp Elliot, used as a training site during World War II.

In Texas, South Carolina, California, Colorado, Massachusetts, and even here in Washington D.C., developers have built residential and business projects on land that has not been fully cleared of unexploded bombs.

Since I have been in Congress, three times fire fighters have had to be pulled out of the woods, in Alaska, Texas and Colorado, because the heat from the forest fire was detonating bombs.

Now, closed military bases can present significant opportunities for community assets. The former Lowry Air Force Base in Denver has generated an estimated $4 billion in economic activity for that region.

With careful planning, the facility made the successful transition to civilian use, including 4,500 new homes and more than a square acre of park land, two community colleges and other schools.

Glenview, Illinois, which lost its Naval Air Station in 1993, is another example that is now home to office space, retail stores, residences, golf course, park land and a train station. That has created 5,000 jobs and put another $1.5 billion into that local economy.

Yet the reality for communities facing BRAC now, according to the GAO, is that more than a quarter of the bases previously closed have not been cleaned up and transferred. And the main impediment is the bombs and chemical pollution.

Mr. Speaker, it is time for Congress to no longer be missing in action. When we look at like Fort Ord, closed in 1991, and after a decade of redevelopment only 25 percent of its transformation plan has been completed, in large measure because it has not been able to deal with the clean-up of the site.

So far the Army has cleared just 5 percent of the base's firing range. And they have already unearthed 8,000 live shells, in a job at this rate that could take 20 years.

Our communities deserve better. It is time for us in Congress to no longer be missing in action. We should do two things this week. First we should not pass the defense authorization bill without amending it to require that the military plan and budget to clean up the military bases that it has already closed, before starting a new round of BRAC.

Second, in the military quality of life bill, we should allocate funds to clean up unexploded bombs and dangerous pollution. To clean up the unexploded bombs just in the 1988 round would cost $69 million, clearly within our capacity. Indeed, I would argue that we ought to allocate the full $626 million to clean up all of the unexploded bombs and dangerous pollution in these sites.

We have an obligation to make sure that we follow through on the pledges to these commitments for the military to clean up after itself, and it is Congress's job to make sure it happens.

AGREEMENT ON JUDICIAL FILIBUSTERS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, the Republican quest for absolute power in Washington was temporarily halted by 14 Senators last night. A truly bipartisan group of Senators, 7 Democrats and 7 Republicans came together to save the Senate from moving forward with an extreme power grab that would have undermined the very checks and balances that have existed in our Nation for over 200 years.

Senator FRIST and the Senate Republican leadership were prepared to wage an unprecedented political power grab. They wanted to change the rules in the middle of the game and wanted to attack our historic system of checks and balances so they could ram through a small number of judicial nominees who otherwise could not achieve a consensus.

In reality, the power grab that the Senate Republican leadership was prepared to move ahead with today had very little to do with these seven extreme nominees. Instead, it was all an

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

attempt by the White House and conservative interests groups to clear the way for a Supreme Court nominee who would only need 51 votes rather than 60.

Conservative interest groups and a large majority of Senate Republicans are not happy with the current make up of the Supreme Court. They do not want to see another David Souter or Anthony Kennedy nominated to the Supreme Court, even though they both were confirmed with nearly unanimous bipartisan support.

They prefer to see President Bush nominate a Supreme Court justice like Clarence Thomas, who because of extreme views could not garner strong bipartisan support. In Thomas's case he only received 52 votes, and has proven to be an extremist. If the Senate had proceeded with this extreme power grab, President Bush would have been able to appoint extreme right wing judges to the Supreme Court.

The president has already said that he most admires Justices Scalia and Thomas. How frightening to think of another Justice from that same mold.

Mr. Speaker, at the end of the day a group of 14 bipartisan Senators kept the Senate Republican leadership from moving forward with the extreme power grab. The bipartisan compromise was reached last night and shows that President Bush is not going to be able to ignore the moderate views of these Senators when he appoints future justices of the Supreme Court.

And that is good news for our Nation. There was simply no reason for the Senate to take the extreme measure of eliminating the minority's right for input on judicial nominees. In fact, the White House has manufactured the so-called judicial crisis.

Over the past 4 years, the Senate has confirmed 208 of his judicial nominations and turned back only 10. And that is a 95 percent confirmation rate, higher than any other president in modern time, including Presidents Reagan, Bush and Clinton.

In fact, it is thanks to these confirmations that President Bush now presides over the lowest court vacancy rate in 15 years. Now, Mr. Speaker, despite what Senate Republicans are saying today, judicial nominees have not always received an up or down vote on the Senate floor. In fact, back in 2000, it was Senate Republicans that attempted to filibuster two of President Clinton's appointments to the 9th Circuit Court.

Senator FRIST, the architect of the power grab voted to continue a filibuster of Clinton nominee, Richard Paez. There are also other ways Senators can prevent a nominee from receiving an up or down vote on the floor. Judicial nominees can and have been stalled in the Senate Judiciary Committee. More than one-third of President Clinton's appeals court nominees never received an up or down vote on the floor because Senator, HATCH, then the chairman of the Judiciary Committee refused to bring the nominees names up for a vote in the committee.

It is extremely disingenuous of Senator FRIST to say that all nominees are entitled to an up or down vote, when he himself helped Senate Republicans block President Clinton's nominees in the late 1990s. You did not hear Senator FRIST demanding an up or down vote then.

Now, the bipartisan agreement reached last night will keep two of the President's extreme nominees from moving forward. And I would hope the President would learn from last night's action that unlike the House, the Senate is not a chamber that is going to rubber stamp his extreme views.

Let us hope that President Bush was listening and will resist nominating extreme judges to our courts in future.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 13 minutes a.m.), the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. KLINE) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, friend of all, but especially the poor and the alienated, the widow and the orphan, You are not only the foundation of faith, but the model of generosity for Your people.

Out of Your goodness we are created. Out of Your love we are sustained. Out of Your hope for us You give us freedom. Help us personally to grow in Your image and likeness.

May this Nation, under the leadership of this Congress, grow also in responsible freedom and generous service to those most in need of protection, diligent attention, and steady encouragement.

We will never fail to meet our responsibilities, Lord, if we are truly dedicated to You, the Most High, and give to others as You have given to us, if we live with grateful and generous hearts today, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from New York (Mrs. MALONEY) come forward and lead the House in the Pledge of Allegiance.

Mrs. MALONEY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

> S. 188. An act to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program.

The message also announced that pursuant to section 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Member as Acting Vice Chairman to the NATO Parliamentary Assembly for the spring meeting in Ljubljana, Slovenia, May 2005:

the Senator from Vermont (Mr. LEAHY).

STEM CELL RESEARCH

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, today on the floor of the House, we will momentarily suspend the annual spring appropriations debates to provide a vital and noble service to the American people. We will consider two bills that transcend both party and politics and oblige us to engage in a moral and metaphysical inquiry into the very nature of man.

If it sounds a little more sobering and important than the regular goings on around here, well, we can only hope, Mr. Speaker.

The first bill to be considered under suspension of the rules, and sponsored by the gentleman from New Jersey (Mr. SMITH), would, for the first time, direct Federal funding for research on the stem cells found in umbilical cords of newborn children.

Well-developed cord-blood stem cells, unlike stem cells obtained via the destruction of human embryos, have proven valuable in the treatment of disease, 67 of them to be precise, including leukemia and sickle cell anemia. The Smith bill will direct funds for improved research and therapies using these proven cord-blood cells while expanding the existing Federal bone marrow stem cell research program as well. It will pass with bipartisan support because none of its provisions predicate its available funding upon the destruction of human life.

Unfortunately, Mr. Speaker, of the second bill on the calendar today, sponsored by the gentleman from Delaware (Mr. CASTLE), the same cannot be said. The Castle bill is both divisive and, to put it bluntly, dismissive of the dignity of human life at its embryonic stage. It has, therefore, incited loud, and in too many cases, harsh, advocacy on both sides of the debate.

But even in the midst of vocal unrelenting support for and opposition to the Castle bill, we must recognize that this is one of those issues that has no easy answers. Proponents of the Castle bill, try as they might to find wiggle room, will vote to fund with taxpayer dollars the dismemberment of living distinct human beings for the purposes of medical experimentation. And those who oppose the bill, as I do, will do nothing less than to block Federal funding for what could, in theory at least, represent a potential advance in scientific inquiry.

Given the lack of nuance of our political and media culture, Congress is unfortunately facing a perceived choice between supporting on the one hand children unlucky enough to be born with debilitating diseases, and on the other, children unlucky enough to be unwanted by the clinic customers who had them created in the first place.

Talk show rhetoric notwithstanding, Mr. Speaker, there are no easy choices. This is not a debate between science and ideology, as some would have us believe, nor is it a debate between those who care about human life and those who do not. No one in this body is unmoved by the plight of diseased victims. We have friends and family members among them. Nor is anyone insensitive to the ethical ramifications of a medical practice that purports to save some lives by destroying others. But, after all, that is why we were elected: not to make the easy choices, but to make the hard ones.

We will argue one of those choices today, and I urge everyone on both sides of the issues to do so with vigor and with respect. Our decision today, quite literally a matter of life and death, is a necessary and important step in our national conversation about the kind of people we will be in a world of ever more promising and ever more unnerving medical technologies. Lives will be changed, and perhaps ended, because of the path that we choose today.

Today's debate will be our privilege to conduct and witness, Mr. Speaker, and I have every confidence all sides will do so with the respect and compassion this issue deserves.

SPACE ACTIVITIES SHOULD BE DEVOTED TO PEACE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, this week I will offer an amendment to the defense authorization bill, cosponsored by the gentleman from Massachusetts (Mr. TIERNEY), the gentlewoman from New York (Ms. SLAUGHTER), and the gentleman from California (Mr. GEORGE MILLER), which will reaffirm the policy of the National Aeronautics and Space Act of 1958, signed into law by President Eisenhower, that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

This amendment will reaffirm that it is U.S. policy to preserve peace in space by not deploying space-based weapons. Today's New York Times states: "Congress and the administration need to assess whether a multilateral treaty to ban space weapons might not leave the Nation far safer than a unilateral drive to put the first weapons in space."

Please support my amendment, cosponsored by the gentleman from Massachusetts (Mr. TIERNEY), the gentlewoman from New York (Ms. SLAUGHTER), and the gentleman from California (Mr. GEORGE MILLER) to keep space devoted to peaceful purposes for the benefit of all mankind; and support H.R. 2420, now cosponsored by 28 Members of the House, which sets the stage for a multilateral treaty to keep space devoted to peaceful purposes.

HEALTH INSURANCE PATIENT OWNERSHIP PLAN

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, as a third-generation physician, I have seen our health care system drive patients and doctors further and further apart. The problem with our current system is that patients are prevented from having immediate control and ownership over critical health care decisions.

Right now, employers or the government determine which health benefits are included in an insurance policy, and it may not be what the patient needs or wants. When patients voice their concerns, insurance companies respond with a deaf ear because the patient cannot change the policy. They are excluded from that decision.

Nearly nine out of ten companies with fewer than 200 employees offer only one health plan. What this means is that the person most affected by the health care, the patient, has little or no input into the type of coverage they have. Patients should be able to control their health care.

Mr. Speaker, we should think about health care in a way that gives patients the power to select who takes care of them and where, that puts health care choices back in the hands of patients.

Defined contribution plans do this, and they are the hallmark of H. Res. 215, the Health Insurance Patient Ownership Plan. I ask my colleagues for their support on this new initiative.

STEM CELL RESEARCH

(Mrs. MALONEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, the President wants to create a culture of life. Stem cell research offers scientists the opportunity to extend life and the quality of life for current and future generations of Americans. In fact, stem cell research offers mankind continued insight into life itself.

Who among us has not had a loved one look at us through the vacant eyes of Alzheimer's, tremble with Parkinson's as they reached for a glass of water, or watched a child inject themselves daily with insulin? How many more lives must be ended or ravaged? How much more unimaginable suffering must be endured until government gives researchers the wherewithal to simply do their jobs?

With all speed, this body must pass the Castle-DeGette Stem Cell Enhancement Research Act. Life is too precious to wait any longer.

STEM CELL THERAPEUTIC AND RESEARCH ACT

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, the goal of stem cell research should be to help our fellow human beings. The debate on this issue has, unfortunately, moved into dangerous unethical territory when perfectly moral alternatives exist.

Rather than debating about unethical methods of research, effective, principled alternatives should be sought out that successfully treat patients and offer potential channels for further treatment and research. There are countless opportunities besides embryonic stem cell research that have proven successful.

Adult stem cells have shown great potential and have effectively helped patients. Another alternative is cord-blood stem cells. These are a neglected resource that could be used to treat a diverse body of people. Evidence has demonstrated that cord-blood stem cells have treated a variety of problems, such as spinal cord injuries and neurological diseases.

By supporting H.R. 2520 later today, progress can be made in finding solutions to many medical questions we have to face. H.R. 2520 provides an ethical solution to this issue, and I encourage my colleagues to support it.

STEM CELL RESEARCH

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, today the House can vote to give millions of Americans suffering from diseases new hope. Patients, doctors, and scientists are desperately awaiting the potential that stem cell research has for treating diseases like Alzheimer's, ALS, cancer, heart diseases, diabetes, spinal cord injuries, and so many others.

My State of California is already on the way. Californians overwhelmingly support this research and decided not to tie the hands of our scientists, not to block the promising new opportunities that stem cell research affords.

Now our Congress has the opportunity to follow suit. This is the kind of research we wanted when we created the National Institutes of Health. Federally funded research ensures that the public benefits and that the research is ethically conducted.

I urge my colleagues to support H.R. 810.

YOUNGER GENERATION IMPORTANT IN DISCUSSIONS OF SOCIAL SECURITY

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Mr. Speaker, during the month of May, many parents and grandparents, as myself, will begin to celebrate college graduations and high school graduations of the next generation of workers in this country. This is the group that we should be engaging in the debate on Social Security reform. This is the group that stands the most risk if the current system cannot sustain itself.

I encourage my colleagues to engage this group of individuals as we begin this debate, to help them understand how important it is that we put back the security in Social Security for this generation, and that we help them understand the role that a safety net of Social Security has within an overall retirement package.

So I encourage my colleagues on both sides of the aisle to begin this debate with these newly fresh-minted graduates as they take their place in exciting new careers and as they conduct their lives and help us with Social Security.

□ 1015

URGING SUPPORT FOR H.R. 810, STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

(Mr. BASS asked and was given permission to address the House for 1 minute.)

Mr. BASS. Mr. Speaker, today we will take up H.R. 810, the stem cell research bill; and I agree with the distinguished majority leader. The debate that we have today will be about life and death. It will be about the lives of many millions of children who have diabetes, who want to live a fulfilling life and have hope for finding cures at some point in the future, about those who are paralyzed, about those who have congenital heart problems, about those who suffer from cancer and Alzheimer's and other diseases, debilitating diseases.

We need to give the scientific community an opportunity to address these important issues and to do so in such a fashion that is ethical, that has adequate government oversight, that does not allow other countries around the world to take over. Indeed, Mr. Speaker, H.R. 810, with its 200 cosponsors, will pass today because America wants to find cures for these diseases and not leave it to other countries around the world.

Mr. Speaker, I urge my colleagues in the House to support H.R. 810.

STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

(Mr. CLEAVER asked and was given permission to address the House for 1 minute.)

Mr. CLEAVER. Mr. Speaker, as Americans, we continually strive toward progress. Today we find at our disposal a tool for healing that is unlike any the world has previously known, a tool with the potential to cure our most terrible diseases and ease the suffering of over a half million Americans in my State alone.

Our Nation is blessed with the greatest minds and resources on the planet. My district, Missouri five, there are two citizens, Jim and Virginia Stowers, who have dedicated their personal fortune of nearly $2 billion to conduct basic biomedical research and fight these diseases. The Stowers Institute employs brilliant researchers from more than 20 countries to use these tools to bridge the gap between diseases and cures.

Across the United States, Americans are voicing their support for stem cell research. Poll after poll after poll shows that Americans, regardless of political affiliation or religion, support using stem cell research as a tool to fight diseases. As a fourth generation ordained minister, I am delighted to be able to support H.R. 810 to ease the suffering.

PROTECT ZARA AND THE SNOWFLAKES

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I am a big supporter of stem cell research. But I do not support the dissecting and destruction of living human embryos to do so.

Steve Johnson from Reading, Pennsylvania, agrees with me. A bicycle incident, an accident, he had 11 years ago replaced his bike with a wheelchair. He has heard that embryonic stem cells might help him walk again. For Steve, though, that is unacceptable, using embryos. The way that H.R. 810 would find those cells is through the destruction of IVF living embryos. He and his wife, Kate, adopted his daughter, Zara, as an embryo from an IVF clinic when she was just a frozen embryo. And H.R. 810 would have killed Zara as an embryo for her stem cells.

There are 20 others like this child here in town today—the "snowflakes"—babies who developed from embryos given by their biological parents to a couple unable to conceive on their own. If H.R. 810 were law, there is a good chance they would not be here at all. They are living human embryos, and there are many of them that should be adopted, not dissected.

The sad thing is that Steve is more likely to be treated not with embryonic stem cell research but with stem cells from his own body. Adult stem cell treatments are helping people walk today, in 67 different diseases and treatments. The proponents of H.R. 810 can produce no such results. There are none for embryonic stem cells.

IN SUPPORT OF H.R. 810, STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

(Mr. HOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLT. Mr. Speaker, we will be hearing a great deal today about the humane and helpful and hopeful research of embryonic stem cells. This is an advance similar to advances in past years of blood transfusions and organ transplants. And to be fair, some patients do not want to take part in blood transfusions and organ transplants for personal reasons.

However, for most Americans, embryonic stem cell research falls well within public ethical standards. It is something that we should be supporting.

We will hear from some today that cord blood and adult stem cells hold promise. Not nearly so much promise as embryonic stem cells. Supporting cord blood research at the expense of supporting embryonic stem cell research is like buying a Schwinn bicycle to travel across the country. Potentially useful, but it is not likely to get us there.

This is something that is well within the public ethical norms. We should be supporting H.R. 810.

HONORING THE REVEREND DOUG WESTMORELAND

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, one of the privileges we have from time to time is to stand and recognize those in our community who do good, who improve the quality of life, who make our communities a better place to live.

And today I have that opportunity to recognize Reverend Douglas Westmoreland, the pastor of Tusculum Hills Baptist Church in Nashville, Tennessee. In June of 1975, 30 years ago, Reverend Westmoreland answered the call and began sharing his ministry with the members of Tusculum Hills Baptist Church.

It is my privilege today to join with those members and to thank him for his appreciation of the congregation, for his guidance he has given the congregation and the inspiration that he has given not only to the congregation but also to our entire community. We thank Reverend Westmoreland for his continued service, and I thank the Members of this body for joining me in honoring him.

THE ISSUE OF FEDERAL FUNDING FOR EMBRYONIC STEM CELL RESEARCH

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, we are going to take up a bill this morning that would greatly expand Federal funding for embryonic stem cell research, and that is the issue this morning, the issue of Federal funding for this process. The question is, are we going to use taxpayer dollars for destruction of human embryos in order to further a certain line of research?

President Bush in 2001 outlined his policy. There are 78 stem cell lines available at the National Institutes of Health available for study. Today's bill would in fairness expand those lines but would do so at the expense of human embryos that would be human embryos destroyed with taxpayer dollars.

Mr. Speaker, there is no prohibition on any couple who has an embryonic at an IVF clinic, at a reproductive endocrinologist clinic, who wishes to donate that embryo to a private lab for development into a stem cell line. That can happen today. There is no such prohibition.

But, Mr. Speaker, the issue today is whether or not we are going to use taxpayer dollars to fund that process. I believe the President had it right in 2001. It was correct to put parameters and boundaries around this research.

URGING MEMBERS TO SUPPORT FEDERAL FUNDING OF STEM CELL AND CORD BLOOD RESEARCH

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, if Members are interested in finding a cure for Parkinson's disease, diabetes, cancer, and many other of the dread diseases that we face, please vote for this stem cell bill today and please vote for the cord blood bill today. They need to vote for both.

The narrow issue may seem whether we expand federally funded research into embryonic stem cell work, but I think a better way to view the issue is whether we allow the continual discarding of embryos from IVF clinics or whether we allow those to be used for productive and life-giving research. This is a very important moment for this House. I would urge all of my colleagues to do the right thing for the future of our kids and grandkids because this research needs to be conducted. It needs to be conducted with Federal support. It needs to be conducted here in America.

There was a breakthrough just last week in South Korea. Are we going to send our loved ones overseas in order to get this lifesaving research? We should do it here.

URGING SUPPORT FOR H.R. 2520 AND H.R. 810, STEM CELL RESEARCH

(Mr. CASTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASTLE. Mr. Speaker, I just left a press conference; and four of the speakers there spoke about their diseases, none of which could be cured by adult stem cell research: a form of cancer, Parkinson's, juvenile diabetes, and a person who is a paraplegic.

There is absolutely no doubt in my mind that every single one of us has many constituents who have been to our offices over the years who have had these problems and have come to our offices for help. This is not the time to allow bad science or ideology to get in the way of doing what is right for the people of this country and of the world. There are 110 million people in the United States of America who potentially could be helped by embryonic stem cell research.

I have just been going through what some of the experts have said. One said: "Umbilical cord and embryonic stem cells are not in any way interchangeable," David Scadden, co-director of the Harvard Stem Cell Institute.

The National Institutes of Health said: "Human embryonic stem cells are thought to have much greater developmental potential than adult stem cells. This means that embryonic stem cells may be pluripotent, that is, able to give rise to cells found in all tissues of the embryo except for germ cells rather than being merely multipotent."

"The bottom line, as far as I'm concerned, is we just don't know at this point what each can do, and we ought to be investigating both," Dr. Joanne Kutzberg at Duke University.

One expert after another has said that there is tremendous potential there. Let us not let it go to waste. Vote "yes" on both of these bills.

AGAINST FORCING PRO-LIFE COMMUNITY TO FUND EMBRYONIC STEM CELL RESEARCH

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I have enormous respect for the gentleman from Delaware (Mr. CASTLE) and for the sincerity of his purpose in bringing forward legislation today that would fund the destruction of human embryos for the purpose of scientific research with Federal tax dollars.

Mr. Speaker, I am not a scientist. I do know that there have been more than 60 successful treatments using adult stem cells; there have been zero treatments developed using embryonic stem cells.

But let us be clear today about this debate. Embryonic stem cell research today, despite my objection and the objection of tens of millions of pro-life Americans, embryonic stem cell research is legal in America today. It goes on using private dollars every day. The debate on the floor today that the gentleman from Delaware just referred to, his legislation has to do with using Federal tax dollars to fund research that involves the destruction of human embryos. I believe it is morally wrong to destroy human embryos for the purposes of research, but I believe it is doubly morally wrong to force millions of pro-life Americans to see their tax dollars used to support research that they find morally offensive.

Let the debate begin.

PROVIDING FOR CONSIDERATION OF H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 291 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 291

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except for section 104. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. When the committee rises and reports the bill back to the House with a recommendation that the bill do pass, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

□ 1030

Mr. Speaker, H. Res. 291 is an open rule that provides for the consideration of H.R. 2419, the Fiscal Year 2006 Energy and Water Development Appropriations bill. The rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule also provides one motion to recommit, with or without instructions.

I would like to take a moment, Mr. Speaker, to reiterate that we bring forth this resolution under a fair and open rule.

Historically, appropriations bills have come to the floor of the House governed by open rules. We continue to do so in order to allow each and every Member of this House the opportunity to submit amendments for consideration, obviously as long as they are germane under the rules of the House.

This legislation before us today, Mr. Speaker, appropriates almost $30 billion for the U.S. Army Corps of Engineers, the Departments of the Interior and Energy, and several independent agencies. This bill is truly fiscally sound, representing a reduction of $131.7 million from the fiscal year 2005 legislation and the same spending level as was requested by the President in his budget request. At the same time, Mr. Speaker, this legislation provides the resources necessary to address the energy and water needs of the United States.

H.R. 2419 provides $4.7 billion for the U.S. Army Corps of Engineers. The corps is the world's premier public engineering organization, responding to the needs of the Nation in peace and in war. For over 200 years the corps has been involved in such important missions as flood control, shoreline prevention, navigation and safety on the waterways of this great Nation. The vital work of the corps will continue under this act, which includes a vigorous civil works program.

The bill also includes a number of significant changes to improve project execution and financial management, including more responsible use of reprogramming, continuing contracts and implementation of long-term financial planning.

I would like to highlight a corps project of particular interest to my community, the Comprehensive Everglades Restoration Program. The restoration of the Everglades, that wonder of nature, is the largest and most significant environmental initiative that this country has ever undertaken. The legislation continues our commitment to the restoration of this environmental treasure with an appropriation of $137 million. I am pleased to report that Everglades restoration is moving forward expeditiously and effectively. Congress, and the Committee on Appropriations especially, should be proud of this environmentally sound action.

The National Nuclear Security Administration, which includes the nuclear weapons program, defense nuclear nonproliferation, naval reactors and the Office of the Administrator, is funded at $8.8 billion, an increase of $24 million over fiscal year 2005. I am glad to see that the appropriators increased this program. Nonproliferation is essential to the defense of the homeland. Our work across the globe, especially in Russia, makes it ever more difficult for rogue states and terrorists to obtain the weapons necessary to attack the United States or our Armed Forces abroad or our allies.

I would like to thank the gentleman from California (Chairman LEWIS) and the gentleman from Ohio (Chairman HOBSON) for truly extraordinary work on this important legislation. I urge my colleagues, Mr. Speaker, to support both the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I look forward to today's consideration of H.R. 2419, which reflects much thought and long-term planning on behalf of the Committee on Appropriations. This year's energy and water bill means a great deal to my constituents and to my home in Sacramento.

Sacramento's history has long been intertwined with flood control. When the city endured a near catastrophic flood in 1986, the community quickly realized they did not have nearly the level of flood protection necessary to fully safeguard the region. After the city again faced more floods in 1997, the community set off to achieve 200-year flood protection. However, until that day arrives, flooding remains a very constant and real threat, and continued Federal assistance plays an important role to attaining that goal.

In spite of years of efforts, Sacramento still remains one of the most flood-prone and threatened cities in the country, paling in comparison to the level of protection enjoyed by other river cities. According to the U.S. Army Corps of Engineers, Sacramento's flood risk is among the highest of major urban areas in the country.

Located at the confluence of the Sacramento and American Rivers, Sacramento is the hub of a six-county regional economy that provides 800,000 jobs for 1.5 million people. A major flood along the American River would cripple this economy, cause between $7 billion and $16 billion in direct property damages and likely result in significant loss of life. The risk of serious flooding poses an unacceptable threat to the safety and economic well-being of Sacramento and to California's State Capitol.

With the steady support of Congress, Sacramento has already made good progress toward our initial goal of achieving 100-year flood protection for the region and ultimately moving as quickly as possible towards 200-year flood protection. At the beginning of this year, FEMA revised its flood maps for the majority of Sacramento to reflect 100-year flood protection. But this level of flood protection is still a far cry from the protection afforded other large river cities and at least 100,000 people and 1,500 businesses continue to be at high risk in the south Sacramento area.

Fortunately, as a result of long, bipartisan negotiations, Congress has authorized a suite of projects that will achieve 200-year flood protection. Upon completion of the authorized projects to improve area levees, modify the outlets at Folsom Dam and raise Folsom Dam by 7 feet, Sacramento will attain its long-term flood control goal. I deeply appreciate the Committee on Appropriations's commitment to funding these projects to help give Sacramento the level of flood protection that it both needs and deserves.

I am also quite pleased with the work that the committee has done to ensure corps projects are executed in an efficient manner with improved financial management. For example, the work necessary to achieve 200-year flood protection will take 15 to 20 years to complete. The committee is asking that the corps develop a 5-year plan and a vision for water infrastructure in the country. The current year-by-year strategy would not be an efficient manner to plan for the significant financial demands. This would ultimately compromise the ability to implement the region's flood control projects. Efforts to comprehensively interrogate financial planning and project management in the corps will greatly benefit not only the execution of the projects, but also the local and State partner's ability to plan their budget.

It is certainly understandable that no matter how extensive the planning and preparation for a project, that as it moves forward, it may get off schedule. With that in mind, it is certainly helpful for the corps to be able to reprogram funding to projects that can keep progressing. But this should only happen if the corps can return the funding back to the project the funds originally came from. To not do so is a complete disregard of congressional directive. In such tight financial times, the corps must curb this practice.

I strongly support the committee directive that the corps specifically identify all of the funding owed to projects as a result of reprogramming. I also believe integrating this funding into the corps budget will help clear the books and assist the corps in efficient project execution and financial management.

By working together, the Congress, the administration and the corps of Engineers will be better prepared to ensure limited Federal resources are spent efficiently, commitments to local sponsors are honored and projects remain on schedule.

I would also like to take a moment to acknowledge the committee's work determining funding priorities for the Department of Energy. This year's Energy and Water Appropriations bill highlights the committee's focus on other long-range issues, noticeably their commitment to nuclear nonproliferation.

Sadly, this President's go-it-alone approach has been ineffective in reducing the threat by cooperating and working with our allies and others around the world to bring economic, social and political pressure to bear on any country trying to gain nuclear weapon capabilities.

It is illogical to expect any other nation to listen to Americans speak of nonproliferation when we are developing bunker-busting nuclear weapons. I stand with the committee's position to stop nuclear earth penetrator research. Considering the vast amount of nuclear material that is not secured in the former Soviet Union, I believe it is a much better investment to fund the Sustainable Stockpile Initiative. Through this program, we will be able to increase our Nation's security by keeping their Cold War-era nuclear weapons and materials from falling into the hands of terrorist organizations.

My one disappointment with this rule, Mr. Speaker, is that yesterday afternoon the Committee on Rules refused to make in order a good amendment offered by the gentlewoman from Pennsylvania (Ms. SCHWARTZ). Her amendment would provide the Department of Energy an additional $250 million to accelerate energy research, development, demonstration and deployment. This investment will help our Nation harness technology to secure greater independence from foreign sources of energy. As we face rapidly rising prices for crude oil and gasoline at the pump, I believe this issue is very timely and of great relevance to our debate today about the funding priorities for the Department of Energy.

This bill moves our country forward on many levels, from improving local water infrastructure, to bigger-picture Corps of Engineers financial management and efficiency issues, to global issues like nuclear nonproliferation. I strongly support the underlying bill and am pleased it was reported in a bipartisan fashion.

Mr. Speaker, I yield 3½ minutes to the gentlewoman from Pennsylvania (Ms. SCHWARTZ).

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, I rise in opposition to the rule under consideration.

Yesterday, I asked the Committee on Rules to provide a waiver so that the House could consider my amendment to create the energy technology to power the 21st century initiative which would provide $250 million to accelerate the research, development, demonstration and deployment of new energy technologies and make our Nation less reliant on foreign energy. Unfortunately, my request was denied along party lines.

Mr. Speaker, there is no question much of our energy supply is controlled by foreign nations. Just as we are trying to improve national security, we have failed to complement these efforts with the energy policies that would move us towards greater energy independence.

The recently passed Energy Policy Act failed to adequately invest in renewable energy and conservation, directing $600 million to these efforts while allocating more than 40 percent of the bill's $8.1 billion in tax cuts, that is, $3.2 billion, toward the oil and gas industries, the same traditional resources that in large part we depend on foreign countries for.

Mr. Speaker, if we do not change our focus, our country's consumption of oil will only increase. By 2025, oil usage will increase to 28.3 million barrels per day, with imports accounting for 19.68 million of those barrels. Leaving our energy security in the hands of international oil barons is a foolish and dangerous approach.

☐ 1045

That is why I wanted to offer an amendment to the fiscal year 2006 Energy and Water Appropriations Act that would provide the Department of Energy with $250 million to accelerate the research, development, demonstration, and deployment of new energy technologies.

Mr. Speaker, the benefits of controlling our own energy sources are enormous. A down payment of $250 million would spur much-needed work in the emerging sector of energy technology. We could bring to bear reliable and successful methods of wind, solar, biomass, hydrogen, and other forms of energy. It could bring new ways to bring cleaner, safer, and more efficient energy with more traditional sources, including coal and oil. It would put the United States on a course to energy independence, something we all talk about.

It would also help maintain our standing as a world leader with regard to scientific discovery by establishing a 21st-century engine to discover new, more efficient, cleaner energy sources for the future. We would help to create new, high-paying jobs and keep the United States on the cutting edge of science and technology. With appropriate investments, consumers as well as businesses will have greater, rather than fewer, and less expensive options.

In the end, shifting our energy economy means improved national security, more American jobs, a stronger economy, and a cleaner environment. It is time to demand action on policy initiatives that will set the United States free from its reliance on imported oil.

I urge a "no" vote on the previous question.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

With regard to an amendment that was allegedly not made in order, I want to reiterate, Mr. Speaker, that we brought forth this legislation under an open rule. Obviously, an amendment has to be germane and not violate the rules of the House. We very much attempted to bring forth this appropriations bill under an open rule, and we are pleased that we were able to do so, and obviously that permits the amendment process to be wide open and obviously fair.

Mr. Speaker, I yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS), my distinguished friend and a great leader in this House.

Mr. GIBBONS. Mr. Speaker, I thank my good friend and colleague for allowing me today to rise in support of the rule, but in opposition to the underlying bill. First, I would like to thank the chairman, the gentleman from California (Mr. DREIER), for allowing me time to speak on an issue that is very important to my home State of Nevada.

Mr. Speaker, since the proposal of Yucca Mountain over 2 decades ago, Nevadans have collectively fought against this ill-advised project. I hope that one day I can come to the House floor and tell the people of Nevada that they no longer need to worry about this disastrous proposal. Unfortunately, Mr. Speaker, today is not that day.

I agree with my colleagues that we must find a solution to the escalating energy problem in this country. However, digging a hole in the Nevada desert and burying the waste is simply not the answer. The Yucca Mountain project was based on 1980s science and technology and has no place in our country today. We need to focus on 21st-century solutions like reprocessing and transmutation processes to reduce our nuclear waste. Going forward with the Yucca Mountain project is like still using cassette tapes or even 8-track stereo tapes in an era of MP3 players and Ipods.

In addition to this disregard of modern technology, it seems now the DOE does not even care about ensuring the science they are basing the project on, outdated or not, is even accurate. I met with Secretary Bodman, along with the rest of the Nevada delegation, and we discussed the recent scandal regarding the falsification of science from some employees directly involved in the project. Despite the manipulation of the data and the complete disregard for quality assurance that the employees have shown, the Secretary demonstrated absolutely no willingness to review the Yucca Mountain project.

I know most of my colleagues are not following this issue as closely as we are in Nevada; but for the sake of government accountability, we must halt this project until we have time to fully investigate these accusations.

As Members of Congress, we are entrusted with responsibly spending the taxpayers' dollars, and now is the time for us to stand up and demand that the Department of Energy be accountable for its actions. We are only wasting our constituents' tax dollars by pumping money toward a project that continues to crumble from the inside.

Mr. Speaker, I urge my colleagues to reject the funding levels for Yucca Mountain in the underlying bill. However, I will support the rule so that we can move forward with debate on this very important issue.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

I will be asking Members to oppose the previous question. If the previous question is defeated, I will amend the rule so that we can consider the Schwartz amendment that was offered in the Committee on Rules last night, but rejected on a straight party-line vote.

Mr. Speaker, the Schwartz amendment proposes an important new initiative to help the United States reduce our dependence on imported oil and strengthen our national security. It would provide the Department of Energy with an additional $250 million next year to accelerate the research and deployment of energy technology that will reduce our country's consumption of fossil fuels.

I also want to point out that the cost of this amendment is fully paid for and will not increase the deficit by one penny. The funding for this amendment will come from a small, less than 1 percent reduction in a tax cut for people making over $1 million this year.

A "no" vote will not prevent us from considering the Energy and Water Appropriations bill, but a "no" vote will allow Members to vote on the Schwartz amendment. However, a "yes" vote will prevent us from voting on this responsible and aggressive approach to help our Nation out of its dependency on foreign oil.

At this point, Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote.

The SPEAKER pro tempore (Mr. KLINE). Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. MATSUI. Mr. Speaker, vote "no" on the previous question so that we can have an opportunity to vote on the Schwartz amendment.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 291.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

This is an important appropriations bill, and it is one that we are pleased, obviously, to bring forward under the great tradition of open rules. So I very strongly support not only the underlying legislation but also the rule, and I would ask for an affirmative vote by all of our colleagues on the previous question as well.

Mr. HASTINGS of Washington. Mr. Speaker, while I am not present for today's debate on this rule or on the underlying Fiscal Year 2006 Energy and Water Appropriations bill due to an illness in my family, I do urge my colleagues to support both measures.

This is an open rule and allows for full debate on funding for the Army Corps of Engineers, Bureau of Reclamation, and all programs and activities of the Department of Energy in the next fiscal year.

Writing this bill was a challenging task, as Subcommittee Chairman HOBSON had over $130 million less to spend in Fiscal Year 2006 than was spent in Fiscal Year 2005. I commend Chairman HOBSON for the tremendous leadership he has shown in constructing this bill and for garnering bipartisan support for it in both his Subcommittee and the full Appropriations Committee. I fully expect it will pass this House with strong bipartisan support as well.

I particularly want to thank Chairman HOBSON for the continued commitment he has shown to the Department of Energy's Environmental Management program and cleanup of the Hanford site in Washington state. The Administration's proposed budget reductions at Hanford would have jeopardized the progress and cleanup momentum that has been achieved through accelerated cleanup over the past 3 years and put cleanup deadlines in jeopardy of being missed. The restoration of over $200 million for Hanford in this bill will ensure that cleanup momentum continues, the Department has the ability to meet its legal timelines, and that skilled workers remain on the job.

The Federal government has a legal and moral obligation to cleanup Hanford and the Nation's other nuclear waste sites, and this bill ensures that these promises are kept.

In addition to significantly restoring funds to Hanford's budget, this bill provides funding for preservation of the B Reactor, for operation of the Volpentest HAMMER training facility, and for the critical effort to develop replacement lab space for Pacific Northwest National Lab scientists who will soon be required to vacate their current workspaces for cleanup work. PNNL is home to world-class researchers and ensuring they are able to continue their work is important for our Nation and for the economic future of the TriCities community in Washington state.

While water project funding is much tighter this year due to overall spending constraints, I am pleased that several important Washington state initiatives were included in this bill. Scarce funds will be used to continue the progress on the Bureau or Reclamation study of additional water storage in the Yakima River Basin that I began in 2003. Additional funding is also provided for work to address depletion of the Odessa Subaquifer, the Port of Sunnyside's wastewater treatment and wetland restoration project, and the deepening of the Columbia River channel.

I urge my colleagues to support this rule and to support passage of the underlying Energy and Water Appropriations bill.

The material previously referred to by Ms. MATSUI is as follows:

PREVIOUS QUESTION H. RES. 291—RULE FOR H.R. 2419, FY06 ENERGY AND WATER APPROPRIATIONS

At the end of the resolution, add the following new sections:

SEC. 2. Notwithstanding any other provision of this resolution, the amendment printed in section 3 shall be in order without intervention of any point of order and before any other amendment if offered by Representative Schwartz of Pennsylvania or a designee. The amendment is not subject to amendment except for pro forma amendments or to a demand for a division of the question in the committee of the whole or in the House.

SEC. 3. The amendment referred to in section 2 is as follows:

AMENDMENT TO H.R. 2419, AS REPORTED

OFFERED BY MS. SCHWARTZ OF PENNSYLVANIA

Page 19, line 5, insert "(increased by $250,000,000)" after "$1,762,888,000".

Page 45, after line 8, insert the following:

SEC. 503. In the case of any taxpayer with adjusted gross income in excess of $1,000,000 for the taxable year ending in calendar year 2006, the amount of tax reduction for the taxpayer for such year resulting from enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107–16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108–27) shall be reduced by 0.78 percent.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. MATSUI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 219, nays 190, not voting 24, as follows:

[Roll No. 203]

YEAS—219

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Price (GA)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—190

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Dicks
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McGovern
McIntyre
McKinney
McNulty
Meehan
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Waxman
Weiner
Woolsey
Wynn

NOT VOTING—24

Boehlert
Brady (TX)
Burton (IN)
Cardoza
Delahunt
Dingell
Gohmert
Hastings (WA)
Istook
Jones (NC)
Kuhl (NY)
McDermott
Meek (FL)
Meeks (NY)
Millender-McDonald
Poe
Pryce (OH)
Reynolds
Rush
Sanchez, Loretta
Walsh
Watt
Wexler
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KLINE) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1115

Messrs. BISHOP of New York, ORTIZ, RUPPERSBERGER, BERMAN, GENE GREEN of Texas, Ms. WASSERMAN SCHULTZ and Ms. SOLIS changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. POE. Mr. Speaker, due to other obligations, I unfortunately missed the following vote on the House floor today, Tuesday, May 24, 2005.

Had I been able to vote, I would have voted "yes" on rollcall vote No. 203 (On Ordering the Previous Question—Providing for consideration of the bill (H.R. 2419) making appropriations for energy and water development for FY 2006).

The SPEAKER pro tempore (Mr. KLINE). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2419 and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MAKING IN ORDER AMENDED VERSION OF H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 2419, pursuant to House Resolution 291, the amendment that I have placed at the desk be considered as adopted in the House and in the Committee of the Whole and considered as the original text for purpose of further amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment to H.R. 2419 offered by Mr. HOBSON:

Add at the end the following:

This Act may be cited as the "Energy and Water Development Appropriations Act, 2006".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 291 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2419.

□ 1120

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, with Mr. GOODLATTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. HOBSON) and the gentleman from Indiana (Mr. VISCLOSKY) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my pleasure to submit to the House for its consideration H.R. 2419, the Energy and Water Development Appropriations Bill for fiscal year 2006.

The Committee on Appropriations approved this bill unanimously on May 18, and I believe it is a good bill that merits the support of the entire House.

Mr. Chairman, this bill provides annual funding for a wide range of Federal programs including such diverse matters as flood control, navigation improvements, environmental restoration, nuclear waste disposal, advanced scientific research, applied energy research, maintenance of our nuclear stockpile, and nuclear non-proliferation.

Total funding for energy and water development in fiscal year 2006 is $29,746,000,000. This funding amount represent a decrease of $728,000 below the budget request and $86.3 million below the current fiscal year. This bill is right at our subcommittee's 302(b) allocation and provides adequate funds to meet the priority needs of the House.

Title I of the bill provides for the Civil Works Program of the Army Corps of Engineers; the Formally Utilized Sites Remedial Action Program, which is executed by the corps; and the Office of the Assistant Secretary of the Army for Civil Works. The Committee recommends a total of $4.746 billion for title I activities, $294 million below the current year and $414 million above the current budget request.

I want to explain a couple of things about the corps as we go through this and take a little time on this because some of this is a change.

For a number of years, the corps Civil Works Program has been oversubscribed where Congress kept giving the corps more and more projects to do but not enough money to do them. We took steps last year to put the corps on the road to fiscal recovery by eliminating the number of new starts and concentrating resources on the completion of ongoing construction projects. We also asked OMB to adopt a new approach to future corps budget requests so that we can use our limited resources to complete the most valuable projects efficiently, instead of spreading those resources very widely to make incremental progress across a large number of projects.

The fiscal year 2006 budget request adopts such a performance-based approach for the corps budget. Proposing to use the ratio of remaining costs to remaining benefits is the primary determinant of which construction projects should receive priority consideration for funding. While this ratio may not be a perfect measure of merit of all the projects, the budget request represents good faith from the OMB to concentrate the corps' limited resources on finishing the most worthwhile projects that are already under construction.

Until we begin to clear out the enormous backlog of ongoing work, we are reluctant to start new projects; therefore, we did not include any new starts again this year in this bill.

One consequence of adopting this new performance-based approach to the corps is that the funds available for member adds for corps projects are very limited this year. In part, this is because for the first time in years we received a budget request in which many congressional priorities are already at the funded level. I think this is an improvement. However, even with that request as a good starting point, the total amount that we can provide for the corps is less than what the House passed in fiscal year 2005.

With a healthy base request and a lean 302(b) allocation, we did not add as much for Member projects as we have in previous years. We were harsh, but fair, in how we dealt with these Member projects.

Our fiscal year 2006 Energy and Water bill makes major strides to improving the corps' project execution reprogrammings and continuing contracts. For a workload of approximately 2,000 projects, the Chief of Engineers recently told me that the corps had 2,000 projects, but they had 20,000 reprogrammings. We think this is not good management, and we have done a lot in our bill to try to focus the corps on these continuing contracts.

The problem is that the corps has done a lot of reprogrammings. They have moved funds around. We believe this is a case management problem. We have taken extensive efforts to try to reform this program because we think that they may not have the money to restore what they should, and if there is a big plume in all of this, that they cannot really tell us what it is all about.

Another area that we have a problem with is in the continuing-contract area. Some people would like to get rid of continuing contracts. I do not happen to believe that. I think it is a tool that they need, but we need to make sure that they are not using them to excess and they are not using them to do things that either the administration did not want to fund, we did not want to fund, or the Senate did not want to fund; and that this money is not being shifted around or execution is being done that would inhibit our ability in future years to fund programs by the original funding by the corps.

The Department of Energy received a total of $24.318 billion in the Energy and Water bill. That is an increase of $105 million over the budget request, about $101 million less than the fiscal year 2005 level. As with the corps, we asked the Department of Energy to begin preparing 5-year budget plans.

first for individual programs and then an integrated plan for the Department. I think this is just good money management within these Departments. We need 5-year plans. We actually need longer visions in these programs so that we know what we are going to end up with in the waterways in the future and we know what the Department of Energy's plans are in the future.

The committee has several important new initiatives for the Department of Energy. DOE presently has significant quantities of weapons-usable special nuclear materials, plutonium and highly enriched uranium, scattered around its complexes. Unfortunately, even with the heightened attention to homeland security after the 9/11 attacks, the Department has done little to consolidate these high-risk materials. We have provided additional funds for material consolidation initiative and direct DOE to take aggressive action to consolidate its weapons-usable uranium and plutonium into fewer, more secure sites.

We think this is not only a security problem, but it costs us a lot of money and we think we can do better.

We also propose a spent fuel recycling initiative to stimulate some fresh thinking on how this country deals with its spent nuclear fuel. I want to state that I fully support the Yucca Mountain Repository, and our bill fully funds the request for Yucca Mountain in fiscal year 2006. It is critical that we get Yucca Mountain done and done right and done soon. However, we continue to be frustrated by the delays in getting the repository open, and we are concerned about what will happen after that first repository is built.

The Department of Energy estimates that each year of delay on Yucca Mountain costs the government an additional billion dollars, half from the legal liability for DOE's failure to begin accepting commercial spent fuel beginning in 1988, as required by the law, and the other half from the costs. In addition, the authorized capacity of Yucca Mountain will be fully utilized by the year 2010 with no place to dispose of spent fuel generated after that date.

It is time to rethink our approach on spent fuel. We need to start moving spent fuel away from reactor sites to one or more centralized, above-ground interim storage facilities located at DOE sites. If we want to build a new generation of nuclear power reactors in this country, we have got to demonstrate to investors and the public that the Federal Government will live up to its responsibilities under the Nuclear Waste Policy Act and to take title to commercial spent fuel.

□ 1130

I would note that we are already storing foreign reactor fuel on DOE sites. It is time we do the same for our domestic spent fuel. This may help to limit the billions of dollars of legal liability facing the Federal Government for its failure to accept commercial spent fuel for disposal.

It is also time to think about our reluctance to reprocess spent fuel. The Europeans are doing this very successfully, and there are some advanced reprocessing technologies in the research and development phase that promise to reduce or eliminate some of the disadvantages of the current chemical process.

We add funds to the Nuclear Waste Disposal account and direct the Secretary to begin accepting commercial spent fuel in fiscal year 2006 for interim storage at one or more DOE sites. We also include additional funds and direction within the Nuclear Energy account for the Secretary to select an advanced reprocessing technology in fiscal year 2007 and to establish a competitive process to select one or more sites for an advanced fuel recycling facility.

Lastly, the committee recommends a new Sustainable Stockpile Initiative to ensure the future of our Nation's nuclear deterrent. The committee provides additional funds for the Reliable Replacement Warhead that we initiated in last year's conference report. We placed the Reliable Replacement Warhead in the context of a larger Sustainable Stockpile Initiative, which we view as a package deal with several key components.

First, the Reliable Replacement Warhead is a program to reengineer existing warheads to be safer, more secure, cheaper to maintain, easier to dismantle and, more importantly, easier to certify without underground testing.

Secondly, we propose a modest slowdown of Life Extension work on the old warheads in preparation for a shift to the newer replacement warheads. This is coupled with a significant increase in dismantlement rates to bring down the stockpile to match the President's decision about the size of the stockpile by the year 2012. Frankly, in the long run, I am hopeful the Secretary's task force on the Nuclear Weapons Complex will propose some sensible steps to modernize the DOE Weapons Complex and bring it into line with these coming changes in the size and composition of the stockpile.

The committee provided for an aggressive nuclear nonproliferation program within the National Nuclear Security Administration. We provided an additional $65 million to keep the plutonium producing reactor shutdown program with the Russians on track to have all three reactors closed by 2011. The committee also provided $85 million additional for the Russian material protection program to secure nuclear materials overseas.

We made a significant reduction to the domestic MOX plant because of the large unexpended prior-year balances in that project, caused by the continued liability dispute with the Russians. Given the constrained budget environment, the committee cannot continue to appropriate hundreds of millions of dollars for a construction project that has been delayed for 3 years.

I believe this is a responsible bill that makes sound investment decisions for the future of our agencies. Members will not receive as many water and energy projects as they may have liked, but we did take care of their top priorities. Hopefully, we did that everywhere.

I want to thank all the Members of the Subcommittee on Energy and Water Development, and Related Agencies for helping to bring this bill to the floor today. I especially want to thank my ranking member, the gentleman from Indiana (Mr. VISCLOSKY), for his extraordinary cooperation this past year. In my opinion, this is truly a bipartisan bill that represents a hard-fought but ultimately fair and balanced compromise. This is the way I believe our constituents expect their Representatives to work together.

I also want to thank the chairman of the Committee on Appropriations, the gentleman from California (Mr. LEWIS) and the ranking minority member, the gentleman from Wisconsin (Mr. OBEY), for their support and for allowing us to move this bill forward in such an expeditious manner.

Lastly, I want to thank the staff of the committee: Kevin Cook, our clerk; John Blazey, Scott Burnison, Terry Tyborowski, and Tracy LaTurner for their work on this bill. I also want to thank Dixon Butler of the minority staff and Kenny Kraft, from my office, and Peder Moorbjerg from the Visclosky office.

I want to especially acknowledge our agency's detailees, Taunja Berquam and Felicia Kirksey, for their invaluable assistance in putting this bill and report together.

It is a shared bill. We all work together and talk to each other, and I want to thank everybody for working together to get this bill this far.

Mr. Chairman, it is my privilege to submit to the House for its consideration H.R. 2419, the Energy and Water Development Appropriations Bill for fiscal year 2006. The Appropriations Committee approved this bill unanimously on May 18, and I believe this is a good bill that merits the support of the entire House.

Mr. Chairman, this bill provides annual funding for a wide range of Federal programs, including such diverse matters as flood control, navigation improvements, environmental restoration, nuclear waste disposal, advanced scientific research, applied energy research, maintenance of our nuclear stockpile, and nuclear nonproliferation. Total funding for energy and water development in fiscal year 2006 is $29.746 billion. This funding amount represents a decrease of $728,000 below the budget request and $86.3 million below the current fiscal year. This bill is right at our subcommittee's 302(b) allocation, and provides adequate funds to meet the priority needs of the House.

Title I of the bill provides funding for the Civil Works program of the Army Corps of Engineers, the Formerly Utilized Sites Remedial Action Program, which is executed by the corps, and the Office of the Assistant Secretary of the Army for Civil Works. The committee recommends a total of $4.746 billion for title I activities, $294 million below the current year and $414 million above the budget request.

For a number of years, the Corps Civil Works program has been oversubscribed, where Congress kept giving the corps more and more projects to do, but not enough money to do them all. We took steps last year to put the corps on the road to fiscal recovery, by limiting the number of new starts and concentrating resources on the completion of ongoing construction projects. We also asked the Office of Management and Budget to adopt a new approach to future corps budget requests, so that we can use our limited resources to complete the most valuable projects efficiently, instead of spreading those resources very widely to make incremental progress across a large number of projects.

The fiscal year 2006 budget request adopts such a performance-based approach for the corps budget, proposing to use the ratio of remaining costs-to-remaining benefits as the primary determinant of which construction projects should receive priority consideration for funding. While this ratio may not be the perfect measure of merit for all projects, the budget request represents a good-faith effort from the Office of Management and Budget to concentrate the corps' limited resources on finishing the most worthwhile projects that are already under construction. Until we begin to clear out the enormous backlog of ongoing work, we are very reluctant to add new projects to the pipeline. Therefore, we did not include any new starts or new project authorizations for the corps in this House bill.

One consequence of adopting this new performance-based approach to the corps budget is that the funds available for Member adds for corps projects are very limited. In part, this is because, for the first time in years, we received a budget request in which many congressional priorities are already funded at a reasonable level. However, even with that request as a good starting point, the total amount that we can provide for the corps is less than what the House passed in fiscal year 2005. With a healthy base request and a lean 302(b) allocation, we did not add as much for Member projects as we have in previous years. We were harsh but fair in how we dealt with these Member requests.

Our fiscal year 2006 Energy and Water bill makes major strides toward improving the corps' project execution, reprogrammings, and continuing contracts. Let me talk for a moment about these interrelated issues. For a workload of approximately 2,000 projects, the Chief of Engineers recently told me that the corps does about 20,000 reprogrammings each year. We have GAO reviewing the corps reprogrammings, and they tell us that the corps has reprogrammed funds for amounts as small as 6 cents. This is not sound financial management, and suggests that the corps is more focused on moving money around frequently to meet the corps' determination of project needs, irrespective of the allocations provided in annual appropriations. Instead, the corps should be managing its workload within the project allocations provided by Congress. Much of this problem is driven by the corps' misplaced emphasis on expending 99 percent of their funding every year, and they move money around freely between projects to meet that goal. We take steps to tighten up the reprogramming guidelines and to limit the corps' ability to make such frequent funding shifts. We expect the corps to execute the program that Congress gives them, not simply take the funds that Congress appropriates and then shuffle the money around to the corps' own priorities.

Continuing contracts are a related problem. Under this mechanism, the corps can obligate the Federal Government for funding future fiscal years. In some cases, the corps is awarding continuing contracts for projects that received no appropriation in fiscal year 2005, or have not been included at all in the budget request for fiscal year 2006. Also, the corps uses accelerated earnings on continuing contracts to pay its contractors more than is appropriated for a project in the current fiscal year. In part, these accelerated earnings on continuing contracts are one of the drivers for the corps extensive reprogrammings, and also one of the mechanisms the corps uses in its pursuit of the 99 percent expenditure goal. This practice has to stop, and we include language limiting the corps' ability to obligate the government in excess of appropriations.

The Department of Energy receives a total of $24.318 billion in the Energy and Water Development bill, an increase of $105 million over the budget request but $101 million less than the fiscal year 2005 level. As with the corps, we task the Department of Energy to begin preparing 5-year budget plans, first for individual programs and then an integrated plan for the entire Department. This plan must include business plans for each of the DOE laboratories, so we understand the mission and resource needs of each laboratory.

The committee includes several important new initiatives for the Department of Energy. DOE presently has significant quantities of weapons-usable special nuclear materials, plutonium and highly enriched uranium, scattered around the complex. Unfortunately, even with the heightened attention to homeland security after the 9–11 attacks, the Department has done little to consolidate these high-risk materials. We provide additional funds for a Material Consolidation Initiative and direct DOE to take aggressive action to consolidate its weapons-usable uranium and plutonium into fewer, more secure sites.

We also propose a Spent Fuel Recycling Initiative to stimulate some fresh thinking on how this country deals with its spent nuclear fuel. I continue to support the Yucca Mountain repository, and our bill fully funds the request for Yucca Mountain in fiscal year 2006. It is critical that we get Yucca done right, and done soon. However, we continue to be frustrated by the delays in getting that repository open, and we are concerned about what happens after that first repository is built. The Department of Energy estimates that each year of delay on Yucca Mountain costs the government an additional $1 billion, half from the legal liability for DOE's failure to begin accepting commercial spent fuel beginning in 1998, as is required by law, and the other half from the costs. In addition, the authorized capacity of Yucca Mountain will be fully utilized by the year 2010, with no place to dispose of spent fuel generated after that date. It is time to rethink our approach to dealing with spent fuel. We need to start moving spent fuel away from reactor sites to one or more centralized, above-ground interim storage facilities located at DOE sites. If we want to build a new generation of nuclear reactors in this country, we need to demonstrate to investors and the public that the Federal Government will live up to its responsibilities under the Nuclear Waste Policy Act to take title to commercial spent nuclear fuel. I would note that we are already storing foreign reactor fuel on DOE sites—it is time we do the same for our domestic spent fuel. This may help to limit the billions of dollars of legal liability facing the Federal Government for its failure to accept commercial spent fuel for disposal.

It is also time that we think again about our reluctance to reprocess spent fuel. The Europeans are doing this successfully, and there are some advanced reprocessing technologies in the research and development phase that promise to reduce or eliminate some of the disadvantages of the current chemical processes. We add funds to the Nuclear Waste Disposal account and direct the Secretary to begin accepting commercial spent fuel in fiscal year 2006 for interim storage at one or more DOE sites. We also include additional funds and direction within the Nuclear Energy account for the Secretary to select an advanced reprocessing technology in fiscal year 2007 and to establish a competitive process to select one or more sites for an advanced fuel recycling facility.

Lastly, the committee recommends a new Sustainable Stockpile Initiative to ensure the future of our Nation's nuclear deterrent. The committee provides additional funds for the Reliable Replacement Warhead, which we initiated in last year's conference report. We place the Reliable Replacement Warhead in the context of the larger Sustainable Stockpile Initiative, which we view as a package deal with several key elements. First, the Reliable Replacement Warhead is a program to re-engineer existing warheads to be safer, more secure, cheaper to maintain, easier to dismantle, and most importantly, easier to certify without underground nuclear testing. Second, we propose a modest slow-down of Life Extension work on the old warheads in preparation for a shift to the newer Replacement Warheads. This is coupled with a significant increase in dismantlement rates to bring down the stockpile to match the President's decision about the size of the stockpile by the year 2012. In the long run, I am hopeful that the Secretary's Task Force on the Nuclear Weapons Complex will propose some sensible steps to modernize the DOE weapons complex and bring it into line with these coming changes to the size and composition of the stockpile.

The committee provided for an aggressive nuclear nonproliferation program within the National Nuclear Security Administration. We provided an additional $65 million to keep the plutonium producing reactor shutdown program with the Russians on track to have all three reactors closed by 2011. The committee also provided $85 million additional for the Russian material protection program to secure nuclear material overseas. We made a significant reduction to the domestic MOX plant because of the large unexpended prior year balances in that project caused by the continued liability dispute with the Russians. Given the constrained budget environment, the committee cannot continue to appropriate hundreds of millions of dollars for a construction project that been delayed for 3 years.

I believe this is a responsible bill that makes sound investment decisions for the future of our agencies. Members will not receive as many water or energy projects as they might like, but we did take care of their top priorities.

I want to thank all the members of the Energy and Water Development Subcommittee for their help in bringing this bill to the floor today. I especially want to thank my Ranking Member, Mr. VISCLOSKY of Indiana, for his extraordinary cooperation this past year. This is truly a bipartisan bill that represents a hard-fought but ultimately fair and balanced compromise. This is why I believe our constituents expect their representatives to work together. I also want to thank the Chairman of the Appropriations Committee, Mr. LEWIS, and the Ranking Minority Member, Mr. OBEY, for their support and for allowing us to move this bill forward in an expeditious manner.

Lastly, I would like to thank the staff of the Subcommittee—Kevin Cook, John Blazey, Scott Burnison, Terry Tyborowki, and Tracey LaTurner—for their hard work on this bill. I also want to thank Dixon Butler of the minority staff, and both Kenny Kraft from my office and Peder Maarbjerg of Mr. VISCLOSKY's office. I especially want to acknowledge our agency detailees, Taunja Berquam and Felicia Kirksey, for their invaluable assistance in putting this bill and report together.

Mr. Chairman, I reserve the balance of my time.

Mr. VISCLOSKY. Mr. Chairman, I yield myself such time as I may consume, and I want to pick up where my chairman, the gentleman from Ohio (Mr. HOBSON), left off and also personally thank the staff, because without their able assistance, we would not be here today and the product before this Chamber would not be of the quality that it is.

So I do want to personally thank Terry Tyborowski and Tracy LaTurner of the majority staff, as well as John Blazey, Scott Burnison, and Kevin Cook. On the minority side, although again, as the chairman pointed out, this was a bipartisan effort, Dixon Butler.

We have core detailees: Felicia Kirksey and Taunja Berquam, and I appreciate very much their help, as well as Kenny Kraft from the Chairman's office, and Peder Moorbjerg from mine.

Mr. Chairman, I would want to thank Chairman HOBSON, first of all, for his very good work; as I mentioned in subcommittee and full committee, his fairness, his judicious temperament, the fact that he is a gentleman, and also that he has exercised a great deal of foresight and leadership over the last 3 years as chairman of the subcommittee.

I certainly feel that the chairman has outlined the elements of the value of the legislation before us very fairly. I would prefer to take somewhat of a different tack, this being my seventh bill as a ranking member, and illustratively point out the three areas of the bill where over the last 3 years the chairman has had a direction, he has exercised leadership and courage, and has provided us with an excellent work product.

The first area is the area of high-performance computing, an area where the United States invented the field and long held undisputed leadership in the world. Several years ago, however, that leadership was challenged. In the House bill for fiscal year 2004, the committee recommended an increase in funding to enable the Department of Energy to acquire additional advanced computing capability and to initiate longer-term research and development. The Department used $25 million of these funds to engage a team, including Oak Ridge National Lab and Cray Computer, to pursue a leadership-class supercomputer and the next-generation computer architectures.

Despite being faced with budget constraints, the Department of Energy Office of Science sustained this increase in 2005. However, pursuing a $100 million-plus leadership-class machine with level funding was not going to put us back in the lead. So, once again, the committee recommended an increase to the request to support the Office of Science initiative to develop the hardware, software, and applied mathematics necessary for a leadership-class supercomputer to meet scientific computational needs.

This year, the President's request for fiscal year 2006 pulled back from the strong support favored by the Congress, and such a cutback would tend to undermine the progress towards actually achieving a leadership-class U.S. supercomputer. So the recommendation before us today increases funding for advanced scientific computing research by $39 million: $25 million for hardware, $5 million for computational research, and $9 million for competitive university grants to restore the ongoing level of core research in this area that the President's budget recommendation cut.

By taking the long-term perspective of the last 3 years and sustaining support for a highly desirable outcome, the chairman and the committee and all of its members are doing their part to ensure that the U.S. reasserts its technological leadership.

The second area that has been a subject of concern for a number of years, in an area where we reduced funding, is Laboratory Directed Research and Development. It is an area that grew out of all proportion to its value at the beginning of this decade. This area also raised concerns of financial oversight and the use of Federal funds for purposes for which it was not appropriated.

As an initial effort to get its arms around this program, which reached an aggregate funding level in fiscal year 2003 of $365 million, the committee mandated a comprehensive report on projects from the Department of Energy and initiated a GAO investigation. In developing recommendations for last year's bill, the committee based its guidance and statement of concerns on the results of those investigations and reports.

This year, the President's budget, recognizing the concerns of the committee and the constraints on funding, reduced the percentage allowed for lab-directed research at weapons labs from 6 percent to 5 percent. The committee today is recommending that lab-directed research be limited explicitly to $250 million for 2006, to be allocated to the labs by the Department of Energy. A quarter billion dollars is a healthy level of funding that could be used to fix many problems in energy research and water infrastructure, to name but two.

As we state in the report, the committee recognizes the value of conducting discretionary research at the national laboratories, but we have now brought the funding level to this research back within reason and given it a sense of direction.

And my last illustration, if you would, of a sense of direction that we have had over the last 3 years is in the area of nuclear weapons. It is the most sensitive area of activities under the Energy and Water Development appropriations.

Here, under Chairman HOBSON's courageous leadership, denial of funding has been effectively used to chart a safer and more efficient course for the future of our nuclear deterrents. In particular, coming into fiscal year 2004 appropriations, the President was asking for funds for a robust nuclear earth penetrator, for studies of new nuclear weapons potentially for new missions, for funds to proceed with the preparation of a modern pit facility to manufacture 450 plutonium triggers, and a shift to an 18-month readiness posture for a return to underground nuclear testing. Taken together, these policy initiatives signaled a shift in nuclear weapons policy.

In 2004, the committee, among other things, reduced funding for the robust nuclear earth penetrator to $5 million from $15 million, ultimately agreeing to $7.5 million in conference; zeroed out funds for proceeding with the modern pit facility; and held the test readiness posture at 24 months.

Most significantly, in 2004, $4 million of the funds for advanced weapons concepts were fenced so that they could not be spent until the administration delivered a nuclear weapons stockpile plan. Without this action, there is no doubt that the plan would not exist. Today, it does.

In fiscal year 2005, the committee went further and zeroed funding for the earth penetrator, while maintaining a 24-month test readiness posture.

The committee has taken a constructive approach in trying to positively influence better policies. At the insistence of the committee, reasonable new approaches have been funded, including a reliable replacement warhead. In this year's bill, the committee is solidifying the progress made last year and in the previous year.

First, advanced concepts was missing from the President's request and is essentially no longer under consideration. Secondly, the earth penetrator funding is again zero in the committee recommendation, and third, test readiness posture is held to 24 months. Finally, the reliable replacement warhead concept was included in the President's request. The committee is working to accelerate the implicit transformation of the newest nuclear deterrent stockpile by increasing funds to $25 million, while slowing programs extending the life of old weapons.

Essentially, in this bill as well, Mr. Chairman, we are taking an advanced look. We have called for the Army Corps of Engineers, the Bureau of Reclamation, as well as the Department of Energy to undertake 5-year plans in programs.

This is an exceptional piece of legislation, and I would ask my colleagues to support it.

I recommend that all members join me in supporting this bill. Its preparation has been bipartisan and the Chairman has been fair throughout its preparation. I would add my appreciation to the staff led on the majority side by Kevin Cook. He is joined by Terry Tyborowski, John Blazey, Scott Burnison, and Tracy LaTurner. They are a strong team. On the minority staff, I would thank Dixon Butler. This year we have two fine detailees from the Army Corps: Taunja Berquam helping the majority and Felicia Kirksey helping the minority. I would also thank Kenny Kraft on Chairman HOBSON's staff and Peder Maarbjerg on my staff.

This is my seventh year as ranking member on the Energy and Water Development Appropriations Subcommittee. In a few professions in our society seventh years are sabbaticals and times for reflection. In the Congress, we can't take a year off, but I feel compelled to reflect. During my years on this Committee it has been my privilege to serve with five subcommittee chairmen, and now, it has been my pleasure to serve with DAVE HOBSON for three years. During this time, Chairman HOBSON has led our subcommittee to take a long-term perspective on a number of important issues and this is resulting in some profound and positive changes. Here are three examples.

High Performance Computing is an area where the United States invented the field and long held undisputed leadership in the world. Several years ago, that leadership was challenged by Japan with their development of the Earth Simulator. In the House bill for FY 2004, the Committee recommended an increase of $40 million to enable DOE to "acquire additional advanced computing capability . . . and to initiate longer-term research and development on next generation computer architectures." Ultimately, $30 million of this increase was included in the final conference report. The Department used $25 million of these funds to engage a team including Oak Ridge National Lab and Cray Computer to pursue a leadership-class super computer and next generation computer architectures.

Despite being faced with budget constraints, the DOE Office of Science sustained this increase in the President's FY 2005 budget. However, pursuing a $100 million plus leadership-class machine with level funding of $25 million per year will never put the United States back in the lead. So once again, the Committee recommended an increase of $30 million to the request "to support the Office of Science initiative to develop the hardware, software, and applied mathematics necessary for a leadership-class supercomputer to meet scientific computation needs." It must be noted that the Committee insisted that at least $5 million of this increase be reserved for computational research and not allow additional funds to go to hardware alone.

In the face of an even more constrained funding environment, the President's request for FY 2006 pulled back from the strong support favored by the Congress. Such a cutback, if sustained, would tend to undermine the progress toward actually achieving a leadership-class US supercomputer. So, the recommendation before us today increases funding for advanced scientific computing research by $39 million—$25 million for hardware, $5 million for computational research, and $9 million for competitive university grants to restore the on-going level of core research in this area that the President's budget recommended for cuts. By taking the long-term perspective and sustaining support for a highly desirable outcome, the Committee is doing its part to ensure that the U.S. reasserts it technological leadership in the area of supercomputing—a technical capability that underpins our ability to invent the future.

Laboratory Directed Research and Development (LDRD) is an area that grew out of all proportion to its value at the beginning of this decade. This area also raised concerns of financial oversight and the use of federal funds for purposes for which it was not appropriated. As an initial effort to get its arms around this program, which reached an aggregate funding level in FY 2003 of $365 million per year, the Committee mandated a comprehensive report on LDRD projects from DOE and initiated a GAO investigation of LDRD. In developing its recommendations for FY 2005, the Committee based its guidance and statement of concerns on the results of the GAO investigation and what had been learned from reviewing the extensive DOE reports. The FY 2005 Committee report directs DOE to shift to direct requests for LDRD.

The President's budget request for FY 2006, recognizing the concerns of the Committee and the constraints on funding, reduced the percentage allowed for LDRD at Weapons Labs from 6% to 5%. The Committee is today recommending that LDRD be limited explicitly to $250 million in FY 2006, to be allocated to the labs by DOE. A quarter billion dollars is a healthy level of funding that could be used to fix many problems in energy research, water infrastructure, etc., so the "Committee [truly] recognizes the value of conducting discretionary research at DOE's national laboratories", but has now brought the funding level for this research back within reason and given it a sense of direction.

Nuclear Weapons is the most sensitive area of activity under the Energy and Water Development appropriation. Here, under Chairman HOBSON's courageous leadership, the denial of funding has been effectively used to chart a safer and more efficient course for the future of our nuclear deterrent. In particular, coming into the FY 2004 appropriations process, the President was asking for funds for a robust nuclear earth penetrator (RNEP), for studies of new nuclear weapons potentially for new missions, for funds to proceed with preparation of a Modern Pit Facility to manufacture 450 plutonium triggers per year, and a shift to an l8-month readiness posture for a return to underground nuclear testing. Taken together, these policy initiatives signaled an alarming shift in nuclear weapons policy and accordingly, many here and abroad reacted with alarm. Each of these policies was a bad idea, an idea run amok. This situation developed in part because of the absence of an approved nuclear weapons stockpile plan.

The House report accompanying the FY 2004 Energy and Water Appropriations Bill states, "The fiscal year 2004 budget request is the second budget request delivered to the Committee that is loosely justified on the requirements of the Nuclear Posture Review policy document but lacking a formal plan that specifies the changes to the stockpile reflecting the President's decision [on the Nuclear Weapons Stockpile Plan]." The Committee reduced funding for the RNEP to $5 million from $15 million (ultimately agreeing to $7.5 million in conference), zeroed funds for proceeding with a Modern Pit Facility, and held the test readiness posture at 24 months. Most significantly, $4 million of the funds for advanced weapons concepts were fenced so that they could not be spent until the Administration delivered a Nuclear Weapons Stockpile Plan. Without this action, there is doubt that this Plan would yet exist.

In FY 2005, the Committee went further and zeroed funding for the RNEP while maintaining the 24-month test readiness posture and continuing to defer the Modern Pit Facility. But, the Committee is a constructive influence and seeks to support better policies. At the insistence of the Committee, the dangerous advanced concepts approach was scrapped and a reasonable new approach was funded—the reliable replacement warhead (RRW).

In FY2006, the Committee is solidifying the progress made last year. First, advanced concepts was missing from the President's request and is essentially no longer under consideration. Second, RNEP funding is again zero in the Committee's recommendation. Third, test readiness posture is held to 24 months. Fourth, the RRW concept was included in the President's request. The Committee is working to accelerate the implicit transformation of the U.S. nuclear deterrent stockpile by increasing funds to $25 million while slowing programs extending the life of old weapons. The promise of the RRW is that the U.S. will never need to resume nuclear weapons testing and will be able to sustain our deterrent with a smaller, less-expensive complex.

In light of these examples where taking a longer-term perspective is showing results, I fully support the efforts in this FY2006 Energy and Water Development Appropriation to get all three principal agencies funded in this bill to adopt and communicate 5-year plans for their programs. Further, we have long underinvested in the water infrastructure of our nation, and although this year is no exception, the bill undertakes significant efforts to help the U.S. Army Corps of Engineers get effective control over management, particularly fiscal management of projects. Management improvements prepare the way for the most effective use of whatever level of funding can be supplied in the future. Concentrating funding on high-priority water projects to get them done should significantly improve the overall benefits of investment through the Corps and Bureau of Reclamation, and so, I support this painful approach as well.

The Chairman and I are taking steps to involve all members of the Subcommittee in the oversight of the programs we fund. Everyone is being asked to concentrate on two subsets of our work. This also takes the long-term perspective as it will prepare our capable colleagues for future roles as chairs and rankings of appropriations subcommittees while strengthening our current work as appropriators.

So, upon reflection, I am pleased with the positive effects of the last three years of Energy and Water Development Appropriations bills. Far more has been accomplished than the simple funding of government programs and the accommodation of congressional priorities. The nation and the world are better and safer as a result. What a privilege and pleasure to participate!

Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN)

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the Energy and Water appropriations bill. First, let me thank and commend Chairman HOBSON and Ranking Member VISCLOSKY for their hard work in crafting a bill that addresses so many complex national energy and water infrastructure needs. They make a good team.

Our bill includes essential funding for energy programs that seek to make our country more efficient and less dependent on traditional fossil fuels and foreign oil. As a nation, we are facing an energy crisis which does not allow us to put off significant policy changes as to how we can invest our energy infrastructure dollars any longer.

This year, we have made a significant investment in nuclear energy technology. This energy provides a clean, renewable energy source already capable of providing an alternative source of electricity to fossil fuels. Nuclear energy already provides 20 percent of our Nation's electricity and, in my home State of New Jersey, nearly 50 percent of the electrical capacity.

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I am also pleased that our subcommittee continues to fund fusion science. Our committee has been a leader in advancing fusion so that some day we will be able to realize the promise of the cleanest of energy sources. Thirty years ago the first power produced in a laboratory from fusion was barely enough to light a small light bulb. Today, our DOE labs are capable of creating enough power from fusion to light a small town.

Mr. Chairman, I credit the gentleman from Ohio (Mr. HOBSON) and the ranking member for grappling with some tough policy decisions in this bill. For example, Yucca Mountain, which is facing delays, this bill includes money, $660 million for Yucca Mountain, in anticipation of a licensing agreement being signed.

This bill also prioritizes the Army Corps' work on a number of essential navigation and flood control projects to ensure that such construction projects authorized by Congress are actually completed.

But most importantly to me and to the New York-New Jersey region, in the Army Corps' portfolio, this bill reflects our committee's continued recognition of the value of our Federal investment in the New York-New Jersey harbor deepening project. This project has been recognized as one of five national priorities by the President. It is not only an issue of national security; it is an issue of economic security. The economic return on keeping open our Nation's third largest port to larger container ships is huge. I note that the Army Corps itself has listed this deepening project as one of its highest return investments.

I cannot overstate the economic importance of the port which is the third largest in the United States. Every day thousands of goods come through the port of New York and New Jersey, and through its terminals many other goods are exported to the rest of the world. Those goods and the assets that protect them allow our Nation to proceed and keep its economy going. Therefore, I rise in support of the bill and urge other Members to do so as well.

Mr. VISCLOSKY. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, as Members of this House know, when I have objections to the content of a bill, I am not shy in stating them. There are certainly portions of this bill with which I do not agree, but I want to say that it is very unusual and it is a very pleasant experience to see a piece of legislation brought to the floor which is not so much a product of politics as it is a product of legislative craftsmanship. I think that is the case with this bill.

I think that the gentleman from Ohio and the gentleman from Indiana working together in an absolutely bipartisan fashion have produced a bill which is obviously based on some intellectual decisions about how to approach problems rather than being based simply on political judgments, and that means that this place is performing as it should perform. It is not just being a political institution: it is also being a legislative institution. That is happening in no small measure because of the leadership of the gentleman from Ohio (Mr. HOBSON).

That does not mean that I do not think this bill does not fall short in some areas. I think that the budget resolution has made it impossible for this committee to do a number of things that it ought to be doing in the area of energy research. Lord knows, that is important these days with rising gas prices and all of the rest; but I just want to say in my view, despite those shortcomings, this bill demonstrates that good government is good politics.

The gentleman has brought to the floor a bill which is extremely responsible in terms of the way it deals with the nuclear weapons issues that were referenced by the gentleman from Indiana. It is an extremely bipartisan product. While I have feelings about nuclear power that are very different than some other Members in this Chamber, I want to say I think the gentleman has produced, with the assistance of the gentleman from Indiana, a very responsible bill; and I fully intend to support it.

I hope as the process goes along we will wind up having more resources to deal with some of the problems that are shortchanged. But with that exception, I do not think we can ask for a better legislative product; and as someone who appreciates the traditions of this House, I want to extend my personal gratitude to the gentleman from Ohio for his contribution in making this the fine product that it is.

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

First of all, I thank the gentleman from Wisconsin (Mr. OBEY) for his kind comments. The gentleman from Wisconsin (Mr. OBEY) is the scholar of the

House. He reads these things and understands them, and I very much appreciate his remarks on the bill on behalf of both myself and the ranking member.

Mr. Chairman, I yield 3½ minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I thank the gentleman for yielding me this time. I want to make some brief comments and then engage in some colloquy with the chairman.

Not to repeat anything that has been already said, but just to highlight why I can believe this is such an excellent work product, really three reasons: one, this chairman over the last 2½ years has gone out into the country, both on the water side and on the energy side, gone into the depths of very complex places like our nuclear weapons complex, gone into our scientific research institutions, energy research, gone and seen demonstrations and the advancement of technology, and tried hard to understand what needs to be proposed. This chairman deserves tremendous credit. At no time in my 9 years on the Committee on Appropriations have I seen this kind of diligence that the gentleman from Ohio (Chairman HOBSON) has shown.

Secondly, it has been very fair and very bipartisan all along the way.

Third, this is one of the greatest assimilations of professional staff on both sides of the aisle, people with expertise and experience coming to the same subcommittee at the same time at a very important time. My hat is off to all of these individuals for their diligence.

Mr. Chairman, if I may engage in a colloquy, I would like to say a few words on the importance of fielding a leadership-class computer for open science. For the past 2 years under your leadership, this subcommittee has provided additional funds to achieve this goal, and I thank you for this commitment. The Oak Ridge National Laboratory and its partners were competitively selected to carry out this effort. With the additional funds provided by this bill, they will continue down that path. The $25 million for hardware will enable the Center For Computational Science at the Oak Ridge National Laboratory to upgrade the existing system to 50 teraflops. This will get us halfway to the goal of a leadership-class computer which is a 100 teraflop system. The remaining funds will help support the operations and software.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, I share the gentleman's support of this important program, and I share his goal in this field. I am disappointed that the Department's fiscal year 2006 budget request did not preserve the increases that this subcommittee provided for this purpose during the past 2 fiscal years. Because of the Department's disregard for congressional intent, the committee provides $30 million of the increase for the Center of Competition Science at Oak Ridge National Laboratory which was selected competitively to build this leadership-class supercomputer.

The committee expects the Department to make full use of this laboratory industry capability. Finally, I agree with the gentleman of the importance of this effort and encourage the Department of Energy to make the necessary budget requests in the future to continue this very important effort.

Mr. WAMP. Mr. Chairman, I thank the gentleman. In the subcommittee bill in the area of fusion energy sciences, the subcommittee offered a very reasonable approach to funding fusion science, given the uncertainty surrounding the thermonuclear experimental reactor equipment. As the subcommittee report notes: "If the United States expects to be a serious contributor to international fusion research in general, and ITER in particular, the Nation needs to maintain strong domestic research programs and user facilities to train the next generation of fusion scientists and engineers."

I think that is exactly right, and I want to commend the gentleman and subcommittee staff for putting that strong statement in our report.

Mr. Chairman, I want to highlight one area in particular that we fund and ask for the gentleman from Ohio's comments. Our bill provides $5.1 million for "compact stellarators and small-scale experiments." I understand that to be a reference to experiments such as the quasi-polloidal stellarator, or QPS, that is being developed by the Oak Ridge National Laboratory.

Mr. Chairman, I ask the gentleman from Ohio, is my understanding correct?

Mr. HOBSON. Mr. Chairman, if the gentleman would continue to yield, the gentleman's understanding is correct.

Mr. VISCLOSKY. Mr. Chairman, I yield 3½ minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank the ranking member for yielding me this time, and I commend him and the chairman of the subcommittee for producing a very good appropriation bill. I echo the sentiments that the gentleman from Wisconsin (Mr. OBEY) just gave on the floor and appreciate the hard work that has gone into it.

I think the rule, however, could have been a little stronger if the Schwartz amendment would have been made in order so we could have had further discussion about the need for increased investment in alternative and renewable energy technologies. I do not think that the energy bill that is working its way through Congress goes far enough, and this was another appropriation measure that could have been a vehicle for that increased investment.

I do appreciate the work that is being done on the Yucca Mountain funding, however. We have two nuclear facilities that are storing a lot of nuclear waste in the upper Mississippi River region right now. Many of us feel it makes sense to have a single, isolated nuclear waste repository in this country, and the studies that have gone into Yucca Mountain and the funding that this committee is providing, it seems to me to be a reasonable and practical approach dealing with the nuclear waste issue.

I especially want to commend the committee for the full support they have given to a very important program for the upper Mississippi River basin, the Environmental Management Program. This was a program that was created in the mid-1980s to strike balance on the multiple uses of the Mississippi region in the upper States. It is a multiple-use resource. It is incredibly valuable economically, quality of life, recreation and tourism. We have commercial navigation that uses the upper Mississippi along with the important recreation and tourism aspect, and the Environmental Management Program really has a twofold mission. One is habitat restoration for the upper Mississippi basin and the other is long term resource monitoring, to monitor the effects that sediment and nutrients are having in the basin.

One of the first things I did as a new Member of Congress was help form a bipartisan Mississippi River Caucus so we could work together from both the North and the South in order to draw attention to the resources that are needed along the Mississippi River.

We have made substantial progress, and I commend the committee's recognition that full funding of the EMP is appropriate at $33 million. This is a program that has received wide bipartisan support, multi-state support. The five upper States of the Mississippi River basin have been fully supportive of this program, as have the Governors and the respective legislatures, and I commend the administration who has consistently submitted their budget requests calling for full funding of the Environmental Management Program.

Finally, Mr. Chairman, I would commend to my colleagues and include for the RECORD an article that just appeared in the Washington Post Sunday edition under the Travel section called "Lolling on the River." It describes the quality of life and unique beauty that the upper Mississippi River basin has for all of us in that region.

In it the author of the article, Bill O'Brian writes: "The Mississippi, the river of Mark Twain, who once wrote, 'It is not a commonplace river, but on the contrary is in all ways remarkable.' The river of LaSalle, Marquette and Joliet, of B.B. King, Bob Dylan and the Doobie Brothers. Of Faulkner, Fitzgerald and T.S. Eliot. Of historian Stephen Ambrose who not long ago wrote, ‘The river is in my blood. Wherever, whenever, it is a source of delight. More, it is the river that draws us together as a Nation.’ "

EMP is a small part of the importance of this great natural resource which is of vital importance to our Nation. I commend the subcommittee and work they have done in recognizing by fully funding EMP the importance of this vital natural resource.

[From the Washington Post, May 22, 2005]

LOLLING ON THE RIVER: FOLLOWING THE UPPER MISSISSIPPI BY LAND

(By Bill O'Brian)

If you think the prairie of Wisconsin and Minnesota is nothing but nondescript flatlands and farms, Buena Vista Park in Alma, Wis., is the place for you. Specifically, the bluff in the park more than 500 feet above the Mississippi River, which forms the border of the two states.

From that bluff on a clear day, you can see one of the most awe-inspiring panoramas in all of North America. I've been to the Grand Canyon. To Yellowstone. To Jackson Hole. To Lake Louise. To Niagara Falls. To the Oregon, Maine, Carolina and California coasts. To the interior of Alaska. To the top of numerous skyscrapers. The vista from the bluff in Alma on a clear day can compete with any of those places.

From that precipice, you can see for miles into the Minnesota countryside below. You can gaze upon the lush greenery of the Dorer Memorial Hardwood State Forest and the dark, rich soil of the northern portion of what schoolbooks call the breadbasket of America. As the Mississippi zigzags through that bottomland, you can see that the waterway is as unruly as it is majestic, as undisciplined as it is immense. It is clear that, left to its own devices, the river would follow no laws other than those of physics, which state that water flows from higher elevation to lower via the path of least resistance.

From that bluff in Alma, you can immediately understand what Wisconsin outdoors journalist Mel Ellis meant half a century ago when he wrote, "If you haven't fished Ol' Man Mississipp, forget about any preconceived notions you may have as far as rivers are concerned. Because Ol' Man River isn't a river at all. In fact, he's a hundred rivers and a thousand lakes and more sloughs than you could explore in a lifetime."

Northeasterners by birth and temperament, my wife, Sue, and I knew almost nothing firsthand about life along the upper Mississippi.

The Mississippi—the river of Mark Twain, who once wrote, "It is not a commonplace river, but on the contrary is in all ways remarkable." The river of La Salle, Marquette and Joliet. Of B.B. King, Bob Dylan and the Doobie Brothers. Of Faulkner, Fitzgerald and T.S. Eliot. Of historian Stephen Ambrose, who not long ago wrote, "The river is in my blood. Wherever, whenever, it is a source of delight. More, it is the river that draws us together as a nation."

So, from the point just outside East Dubuque, Ill., where the Illinois-Wisconsin border meets the Mississippi about 175 miles west of Chicago, Sue and I had set out northward on the Great River Road to see what—and whom—we might find. The river road is a federally designated scenic byway that stretches from the Gulf of Mexico to Canada. We covered a minuscule portion of it, a couple of hundred miles mostly in southwestern Wisconsin, primarily along State Route 35. We had no itinerary per se. We pulled off the road when the spirit, or hunger or curiosity, moved us. It was a drive-by—a lazy, three-day upper Mississippi River drive-by.

On the first day, at a boat landing near the town of Cassville, Wis., we stopped to chat with Dwayne Durant, a fortysomething Iowan. Dressed in camouflage hunting gear, he was standing on the riverbank in the Upper Mississippi River National Wildlife and Fish Refuge with his dog, Sidney. Durant had the satisfied countenance of a man who'd just bagged his limit for the day. He welcomed us to the river, patiently explained the intricacies and the appeal of duck hunting, proudly showed us his fresh kill (two wood ducks, two teal ducks and two mallards), then humbly thanked us for visiting his corner of the world.

The next morning, at Withey's Bar in Lynxville, Wis. (pop. 176), we introduced ourselves to a soft-spoken gentleman in a flannel shirt sitting on a stool at the end of the bar. Les Neefe told us that he was born 77 years ago in a Wisconsin cheese factory ("not in a hospital, not in the hallway of the cheese factory, in the cheese factory . . . in a room above the boiler"). Over coffee, Neefe rhapsodized about the pleasures of living in a houseboat docked on the Mississippi six months a year, and he made two recommendations. First, he suggested that, to get a real taste of Wisconsin, we should go to the cheese shop up the road in Ferryville and buy some "sharp cheddar, old sharp cheddar." Then, to get a real taste of river life, we should stop by P&M Concessions next to Blackhawk Park in De Soto.

We did both. The cheese, a nine-year cheddar, was rich, creamy and sharper than sharp. Along with apples and crackers, a block of the cheddar made a memorable watchin'-the-river-flow picnic lunch.

Outside the P&M Concessions stand was a sign that read, "Welcome to the River—Sit Long, Talk Much, Fish A Lot." Behind the counter was 34-year-old Amy Kroning, whose father is the proprietor of the bait/tackle/refreshment/boat rental shop.

"I can't think of anywhere I'd rather be than right here," said Kroning, a mother of five who was born and raised in De Soto. "If I get more than an hour from the river, I get depressed. Really. I'm not kidding. We go to a Cubs game once a year [in Chicago], and I'm a nervous wreck the whole time."

So, what is the allure of the Mississippi?

"It has a calming affect. It's relaxing," Verdetta Tusa said later that day as we stood watching for more than an hour while an enormous tow barge squeezed, wheezed and creaked its way through the lock at the town of Genoa, Wis. "It's the history, too," said the 56-year-old lifelong Minnesotan. "They've been doing it this way, basically, from the beginning."

The lock at Genoa is one of 29 on the upper Mississippi. Watching tow barges come out of the sharp curves of the river and negotiate the locks with pinpoint precision is a pastime unto itself. Typically 15 barges are connected together in front of one pilot boat. They transport grain, steel, road salt, fertilizer, coal, petroleum products and other nonperishable goods up and down the Mississippi most of the year. It takes a barge about 10 days to get from Minneapolis to St. Louis, but one 15-unit tow can carry as much grain as 225 rail cars or 870 semi-trucks at a fraction of the cost.

As a barge passes through a lock, you can get close enough to chat with the stevedores on board. One deckhand told us that sometimes he stays out on the river for 60 to 80 days at a time. And that he'd rather toil on the upper Mississippi than on the lower, especially in the dead of summer, because down near New Orleans and Memphis, "it's too hot, and the skeeters are bigger than I am."

An hour north of Genoa on State Route 35, not far past La Crosse, Wis., we came to Perrot State Park, a verdant 1,400-acre refuge. There, an information marker on a small bluff overlooking braided channels of the river reminded us just how remarkable the Mississippi is. It's 2,350 miles long; it's home to 100 species of fish (most notably walleye, sturgeon and catfish in these parts); it drains all or part of 31 states and two Canadian provinces.

"From Red Wing down to Iowa is the most beautiful part of the river, with all the bluffs and trees. It's almost a fantasyland," said Bob Schleicher. "It's a place of mystery. It's got so much folklore. Some of it's true; some of it's not."

We met Schleicher, a 65-year-old retired car salesman, at the municipal marina in Red Wing, Minn., the final town on our river drive, directly across the bridge from Hager City, Wis. Captain Bob, as he likes to call himself, told us that he has navigated the Mississippi from St. Paul, Minn., to its mouth in Louisiana. He explained that part of the appeal is that "you can be whoever you want to be on the river." He told tales of river-running bootleggers, past and present. He explained how the upper Mississippi differs from the lower—it is less crowded; it has more islands, beaches and marinas; its currents are less dangerous; its water is less sandy. But, he said with a smile, river people have a "mutual bond, whether you're a Confederate or a Yankee."

Schleicher talked for a while about the river's importance to birds. Forty percent of all North American waterfowl and 326 bird species—including hawks, eagles, falcons, herons and swans—use the river as a flyway, according to the Audubon Society. We had seen a handful of bald eagles soaring over or perched along the river, and Schleicher beamed as he spoke of the resurgence of that ornithological American icon on the bluffs near Red Wing.

Then he suggested that, after spending a couple days driving along the river, Sue and I might want to spend some time on the river. For $10 apiece, he offered to take us on a leisurely two-hour cruise in his old military flatboat-turned-riverboat.

Once we cleared the dock, Schleicher allowed each of us in the small group on board to take a turn piloting the boat for a few minutes. As I stood at the helm, guiding the boat around the river's trademark sweeping bends, minding the red and green buoys that mark the shipping channel, passing huge tow barges, I suddenly understood what Schleicher meant when he said you can be who you want to be on the river.

At that moment, as we glided past the tree-lined banks, pushed along by the gentle current, the serenity was overwhelming. And the history palpable. At that moment, I was every riverman who's ever skippered a slow boat on Ol' Man Mississipp.

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Mr. HOBSON. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LATHAM), a member of the committee.

Mr. LATHAM. I thank the gentleman for yielding me this time.

Mr. Chairman, I just want to, first of all, express what an honor and privilege it is to work on a subcommittee that works in such a bipartisan way with the great leadership of the chairman and the ranking member. It is really a pleasure to actually get into policy discussions rather than a lot of the politics that we hear around here. It is very much appreciated.

Also, the tremendous staff that we have on this subcommittee. I think the gentleman from Tennessee (Mr. WAMP) mentioned the great professionalism that they have on both sides of the aisle. It is a real pleasure.

This bill is a really good bill under an allocation that could always be larger. We have worked out, I think, everything possible we can with the dollars available. I am very appreciative of the fact that we have focused on renewable energy, the kind of important work that we do on the river, on the Mississippi, and other projects that are involved also.

I want to commend the chairman and the ranking member and urge support of this very, very good bill.

Mr. VISCLOSKY. Mr. Chairman, I yield 5 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I feel like the skunk at the office party, but I rise to oppose the funding for the Yucca Mountain project contained in this bill. This bill shortchanges water projects and energy technology research and development, research into technologies to harness the sun and wind and reduce our dependence on foreign oil. Yet there is 15 percent more funding for Yucca Mountain than there was in last year's bill despite the fact that this project is unsafe and riddled with problems and, in my estimation, can and never will be built.

I want to update my colleagues on the recent developments regarding Yucca Mountain, and I sincerely hope that they listen.

Last month, the Department of Energy revealed that scientists from the U.S. Geological Survey who were working on the water infiltration and climate studies at Yucca Mountain actually falsified documentation. Water infiltration and climate are two of the most fundamental factors involved in establishing whether or not the proposed repository can safely isolate radioactive waste and prevent groundwater contamination.

In all my years fighting this project, I knew Yucca Mountain was not scientifically sound, but I never dreamed and never thought that Federal employees would purposely falsify documents to cover up the lack of basic science. In 90 pages of e-mails, the USGS employees fabricated dates and names of programs used in modeling for quality assurance audits and deleted information that did not fit favorable and hoped-for conclusions. The employees made it clear that quality assurance was not a priority of this project, but rather, an obstacle.

Let me share with my colleagues some of the comments made by these employees, and I quote: "Don't look at the last four lines. Those lines are a mystery. I've deleted the lines from the official QA version of the files. In the end, I keep track of two sets of files, the ones that will keep the QA happy and the ones that were actually used."

Another e-mail says, "Like you said all along, the Yucca Mountain project has now reached a point where they need to have certain items work no matter what, and the infiltration maps are on that list. If USGS can't find a way to make it work, someone else will."

And finally, "I don't have a clue when these programs were installed. So I've made up the dates and names. This is as good as it's going to get. If they need proof, I will be happy to make up more stuff."

No one better dare say to me on this floor that Yucca Mountain is based on sound science. It is not. Last year, the U.S. Court of Appeals ruled that the radiation standards for the proposed repository did not follow recommendations of the National Academy of Sciences and would not protect the health and safety of our Nation. The difference between the findings and the radiation standards set by the EPA, a mere 290,000 years.

Mr. Chairman, the DOE has known for some time that this project was fatally flawed, that corners were cut, that the science did not support the conclusions and that the data were doctored. That the DOE continues to move forward with the complicity of this Congress is nothing short of insanity, dangerous and insane. Employees who have raised concerns have been intimidated into silence, and the workers were purposely exposed to hazardous conditions by contractors eager to win hefty cash bonuses. Science has been manipulated to fit predrawn conclusions, and public safety and the environment have been sacrificed upon the altar of political expediency and greed.

Yucca Mountain is a disaster waiting to happen. When you build a weak foundation, your building collapses, and that is why Yucca Mountain is collapsing before our eyes. DOE is building Yucca on a weak foundation based on lies, fraud, intimidation, deception and nonexistent science. We should be pouring our resources into renewable energy, harnessing the sun, harnessing the moon, not sticking our valuable resources into a hole in the Nevada desert.

If my colleagues think that nuclear waste is so safe, let them keep it in their own States, let them keep it in their districts, by their children, by their children's schools, by homes and hospitals, synagogues and churches; and do not travel across this country in order to stick it in a hole in the middle of the Nevada desert.

I urge us to reconsider this. Let us change our direction before we go into something that is so disastrous and dangerous that we will never forgive ourselves and never be able to be forgiven by future generations of Americans.

Mr. HOBSON. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLITTLE), a member of the committee.

Mr. DOOLITTLE. Mr. Chairman, this is a vital bill for the future of our country, and this bill provides a very balanced approach to research in the scientific areas and to energy development and, indeed, renewable energy as well as vital water projects and infrastructure for this country to keep us economically sound. I would particularly like to commend the chairman and the staff in working with both sides here on this bill. It could do more if the resources were available; but given that they are not, we are making the best, I think, of what we have.

I would like to single out the energy supply and conservation account which funds renewable energy, energy efficiency, nuclear energy, nondefense environment, safety and health programs and energy conservation. These are funded at $1.7 billion. Over $360 million is provided for hydrogen and fuel cell research. This funding supports and expands the President's hydrogen initiative and promotes the Freedom CAR project. Hydrogen is the fuel source of the future and funding in this bill moves us closer to that goal.

Thirdly, the committee recommends $3.6 billion for the Office of Science, an increase of $203 million over the budget request. Additional funds are provided for priority work on advanced scientific computing, high energy physics and operation of user facilities.

Lastly, Office of Science funding provides for the basic building blocks of science and is the gateway to future scientific breakthroughs. We must keep America's scientific knowledge strong and on the cutting edge. Advanced scientific computing allows the U.S. to keep up with the rest of the world. We cannot allow other countries to surpass the U.S.'s knowledge.

I commend the chairman and I urge the passage of the bill.

Mr. VISCLOSKY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I thank the gentleman from Indiana for yielding me this time.

I want to urge strong support for the fiscal year 2006 energy and water bill. This legislation provides investment in water infrastructure essential not only to our country but to the Texas economy. I want to thank the gentleman from Ohio (Mr. HOBSON), the gentleman from Indiana (Mr. VISCLOSKY) and also the gentleman from Texas (Mr. EDWARDS) for their assistance on these projects, particularly two flood projects, Hunting and Greens Bayous in my district. Thousands of my constituents' homes and businesses are at risk from catastrophic flooding in these areas, and the funding in this bill, $500,000 and $150,000 each, keeps these projects on track.

I would also like to express my strong support for the $26 million included for the Houston ship channel deepening and widening project. This funding means we are on track to complete the deepening and widening this year and begin the barge lanes and environmental restoration. However, the tough operations and maintenance budget of the Corps could have counterproductive effects. The Houston ship channel budget is $5 million under capability for 2006. If we cannot maintain our channels to the right depth, then modern ships will not be able to take advantage of this new project. The project will also suffer as millions taken out through reprogramming are not returned as promised by the Corps.

The new policy to rein in reprogramming by requiring committee approval over $1 million is very sound. Reprogramming goes against the letter, number and intent of Congress. Financial stability is essential and large investments are made on the basis of congressional appropriations. More market risk equals higher cost for all the projects.

We should note a few brief points about projects that have been lost to reprogramming in the past and need to be made whole. It seems unjust that the solution to restore the letter and spirit of the law falls on the backs of the most recent victims of reprogramming such as our Houston ship channel who had reprogrammed dollars not returned.

Mr. Chairman, I include for printing in the RECORD written commitments from the Corps under two administrations. The word and spirit of these commitments are to honor congressional appropriations law. Congressional and Corps promises deserve to be honored. That is the same principle behind the extremely wise reprogramming policy of the future in this bill. However, we should allow the Corps to fulfill its past commitments.

Again, I would like to thank the Chair and the ranking member of the subcommittee and the full committee for making this bill possible.

DEPARTMENT OF THE ARMY, SOUTHWESTERN DIVISION, CORPS OF ENGINEERS,
Dallas, TX, September 18, 2001.
Hon. GENE GREEN,
House of Representatives,
Washington, DC.

DEAR MR. GREEN: Thank you for your letter dated August 29, 2001, concerning the Houston-Galveston Navigation Channels, Texas project.

I regret that members of my staff were not able to meet with you on September 12, 2001, to discuss this project in more detail. Based on conversations with your office and Mr. William Dawson of my staff, the following information will address your primary concern.

The U.S. Army Corps of Engineers remains fully committed to completion of this project based on the optimal construction schedule. I can further assure you that we will reprogram up to $20 million in construction funds as required to this project to ensure that this schedule is maintained irrespective of any shortfall in the fiscal year 2002 Congressional appropriation.

I continue to appreciate your patience and willingness to work with us on this matter. Please do not hesitate to contact me if you have any further questions about the Houston-Galveston Navigation Channels project.

Sincerely,
DAVID F. MELCHER,
Brigadier General, U.S. Army, Commanding General.

CONGRESS OF THE UNITED STATES,
Washington, DC, August 29, 2001.
General DAVID F. MELCHER,
U.S. Army Corps of Engineers, Southwestern Division, Dallas, TX.

DEAR GENERAL MELCHER: I am writing you today with my concerns about the FY 2002 Army Corps of Engineers (Corps) allocation for the Houston-Galveston Navigation Channel. This project, funded by the Corps at $28.785 million, realistically requires $46.8 million to keep it on an optimal construction schedule.

Over the past several years, funding totaling at least $20 million has been reprogrammed from this project to other Corps projects. Given the discrepancy between the FY 02 Corps budget and the amount of funding required to keep this project on schedule, I am requesting that the Corps return the full amount of reprogrammed money to this project in its FY 02 budget. I have enclosed correspondence from the Corps that my office received at the time when these funds were reprogrammed for your review.

I would also like to request a meeting with you in my Washington, DC office, along with Congressman Chet Edwards, during the second week in September to discuss this issue. If you have any questions on this matter, please contact Bob Turney in my Washington office at (202) 225–1688. Thank you for your prompt attention to this request.

Sincerely,
GENE GREEN,
Member of Congress.

DEPARTMENT OF THE ARMY, SOUTHWESTERN DIVISION, CORPS OF ENGINEERS,
Dallas, TX, March 11, 1999.
Hon. GENE GREEN,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GREEN: This letter is in response to your concerns regarding the proposed reprogramming of funds from the Houston-Galveston Navigation Channels, Texas project.

I am aware of, and fully appreciate the importance of the Houston-Galveston Navigation Channels project to the economy of this region and the nation. The Corps of Engineers, Southwestern Division, is fully committed to completion of the project based on the most optimal construction schedule. I have made the recommendation to reprogram funds from this project only after being personally convinced that the project schedule cannot be advanced beyond what has currently been scheduled to be accomplished this fiscal year. Based on this analysis, I have determined that these funds are truly excess to this year's project needs. The proposed reprogramming is to be a temporary reallocation of funds to maximize their use. They will be restored to the project when they are required to ensure that we will maintain the optimal construction schedule.

I am providing an identical letter to the Honorable Chet Edwards, Honorable Nick Lampson, and the Honorable Ken Bentsen. Thank you for your involvement in the development of the water resources infrastructure within the State of Texas. If I can be of assistance on any other matter, please feel free to contact me.

Sincerely,
EDWIN J. ARNOLD, Jr.,
Brigadier General, U.S. Army, Commanding General

CONGRESS OF THE UNITED STATES,
Washington, DC, February 26, 1999.
Mr. GARY A. LOEW,
Chief, Civil Programs Division, Southwestern Division, U.S. Army Corps of Engineers, Dallas, TX.

DEAR MR. LOEW: For two consecutive years, the Congress appropriated sufficient funds in the Energy and Water Development appropriations bill to permit the completion of the navigational features of the Houston Ship Channel project in four years. Maintaining this optimal construction schedule is a priority for us because it will add an additional $281 million to the project's return on investment and save taxpayers $63.5 million in increased escalation and investment costs.

We appreciate the efforts you have made to fully inform us about the need to reprogram $2.2 million to the GIWW-Aransas National Wildlife Refuge project, as well as your understanding of our concerns. In the spirit of cooperation, we and the Houston Port Authority are willing to support the corps request to reprogram funds from the Houston-Galveston Navigation project. However, we would first ask to receive assurance in writing that the corps will reprogram other funds to the Houston project to replace those lost. Further, our understanding is that funds will be reprogrammed back to the Houston Ship Channel project by FY 2001. In addition, if the dredging project suddenly moves ahead of schedule, the corps must do everything possible to ensure that a delay does not occur.

We look forward to your prompt response.

Sincerely,
GENE GREEN,
Member of Congress.
CHET EDWARDS,
Member of Congress.
KEN BENTSEN,
Member of Congress.
NICK LAMPSON,
Member of Congress.

Mr. HOBSON. Mr. Chairman, I yield 1 minute to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Chairman, I note that the gentleman from Ohio included in the committee report a provision directing the Secretary of Energy to begin moving commercial spent nuclear fuel into interim storage at one or more Department of Energy sites. I want to be sure that your intent is for the Secretary to focus his attention on existing DOE sites and not go looking for private sites that might be used for interim storage.

Is my understanding of the gentleman's intent correct?

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. BISHOP of Utah. I yield to the gentleman from Ohio.

Mr. HOBSON. The gentleman's understanding is correct.

Mr. BISHOP of Utah. So the gentleman does not see any reason the Secretary would consider a non-DOE site for interim storage?

Mr. HOBSON. I do not see any reason for the Secretary to consider making a private site, or a site on tribal land, into a DOE site for interim storage. My intent is for the Secretary to evaluate storage options at existing DOE sites.

Mr. BISHOP of Utah. Mr. Chairman, I thank the gentleman from Ohio for his hard work and his courtesy.

Mr. VISCLOSKY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member and the chairman of the subcommittee for their work on this bill. This is hard work.

This particular appropriations bill goes to the very heart of many of our congressional districts. I appreciate very much the $4.7 billion in funding provided to the Army Corps of Engineers, but let me express my disappointment that we have not been able to stretch the dollars to provide work on new projects. I am speaking particularly about Sims Bayou, Greens Bayou, White Oaks Bayou and Braes Bayou.

More importantly, having worked on legislation dealing with inland flooding, I can tell you that flooding is a very serious issue in my district. I look forward to working with this appropriations subcommittee through the coming session to be able to provide greater assistance.

Might I also acknowledge my concern on the funding for nonproliferation in nuclear weapons. While I wish we had been able to include more dollars in this area, I am pleased that we were able to increase their funding by $8 million over last year. Unlike previous years, due to the appropriations subcommittee reorganization, the bill funds several renewable energy programs, clean coal technology, and the Strategic Petroleum Reserve. Such programs greatly enhance the lives and security of my constituents.

I am very pleased that the Appropriations Committee rejected the administration's proposal to prioritize Army Corps of Engineers water projects based on the projected revenue they would bring to the government. I want to join the gentleman from Texas (Mr. GENE GREEN) as relates to our port in Houston, a very important economic arm, but also an entity that needs a great deal of oversight and funding for security and also operation. I am disappointed that the maintenance and operation funding is not as much as it should be.

I also wish there could have been added funds for new projects. Obviously, the needs of this Nation change on a daily basis. Saying that this year we will not start any new projects is a bit illogical. New projects are extremely efficient in job creation and there are many competitive projects across the Nation.

One portion of the bill I am concerned about is the underfunding of the National Nuclear Security Administration, $136 million less than the President's request. I understand that some of this withheld money would have gone to the robust nuclear earth penetrator. I agree with the Committee that we need to think long and hard before we start creating new nuclear weapons when we are pushing the rest of the world.

Mr. Chairman, I ask my colleagues to support this and hope that we can do something more about the Yucca Mountain project by not funding it, without further study and consideration of other opinions. The people of Nevada deserve no less.

Mr. Chairman, let me first say thanks to you and the ranking member for your work on this bill.

Mr. Chairman, let me raise an issue of concern for my constituents. I appreciate very much the $4.7 billion in funding provided to the Army Corps of Engineers, but let me express my disappointment that we have not been able to stretch the dollars to provide work on new projects. I am speaking particularly about Sims Bayou, Greens Bayou, White Oaks Bayou and Braes Bayou. More importantly, having worked on legislation dealing with inland flooding, I can tell you that flooding is a very serious issue in my district, and I would look forward to working with this appropriations subcommittee through conference to be able to provide some greater assistance.

Mr. Chairman, might I also acknowledge my concern on the funding for nonproliferation in nuclear weapons. While I wish we had been able to include more dollars in this area, I am please that we were able to increase their funding by $8 million over last year's levels.

I would like to commend the chairman and ranking member of the Energy and Water Subcommittee of the Appropriations Committee for their excellent work on crafting this bill. There are several elements of debate between the majority and the minority, and between the House and the administration, but in general it seems that a fair compromise has been reached. Unlike previous years, due to the Appropriations subcommittee reorganization, the bill funds several renewable energy programs, clean coal technology, and the Strategic Petroleum Reserve. Such programs greatly enhance the lives and security of my constituents.

I am very pleased that the Appropriations Committee rejected the administration's proposal to prioritize Army Corps of Engineers water projects based on the projected revenue they would bring to the government. This prioritization plan would have essentially eliminated some, while much needed, less profitable projects. I support the $4.7 billion provided for the corps, 9.5 percent more than the President's request. This is a smart investment. I wish there could have been added funds for new projects. Obviously, the needs of this Nation change on a daily basis. Saying that this year, we will not start any new projects is a bit illogical. New projects are extremely efficient in job creation. There are many competitive projects across the Nation and in my district, which should have been provided for. However, at least this bill is not a step backwards, like the administration's request. I commend the committee for its leadership on this issue.

One portion of the bill I am concerned about is the under-funding of the National Nuclear Security Administration (NNSA), $136 million less than the president's request. I understand that some of this withheld money would have gone to the "robust nuclear earth penetrator." I agree with the Committee that we need to think long and hard before we start creating new nuclear weapons, when we are pushing the rest of the world to put aside such implements of violence and destruction. We are being accused on every front of employing double standards: as we march on in war and talk about peace in the Middle East; as we spurn our own neighbors in Cuba but ask people in the occupied territories or in Korea or in South Asia, to forgive and forget; as we talk about liberating people but allow tens of millions to die from HIV/AIDS in Africa. We do not need to further degrade our own standing as a beacon of liberty and justice by creating such violent and polluting weaponry now. So, I am pleased that this bill does not provide for the nuclear earth penetrator. But, I hope we can all work together to ensure that other critical non-proliferation work done by the NNSA will be fully provided for in the years to come.

Through my work on the Science Committee I have come to understand the amazing new technologies on the horizon that will decrease our reliance on foreign sources of fossil fuels, and help preserve our environment for generations to come. It is good to see that this bill has allotted $3.7 billion, 6 percent more than the administration's request for Science programs. However, of the energy research out there, hydrogen fuels and fuel cells are some of the most promising areas that need to be developed. The Science Committee has encouraged strong support of these programs, and the administration also has recognized their value. But this appropriations bill provides for less than half of what the administration has requested for hydrogen technology research. I represent Houston, the energy capital of the world. I understand the needs of this Nation for ample and affordable energy. As gas prices take a slow decline, we are realizing that we depend too much on countries that are either directly or indirectly hostile towards us. It seems irresponsible to under-invest in these next-generation technologies. Perhaps this is something that can be re-visited in conference.

Again I thank the chairman and the ranking member for their work on this bill. The lagging economy of the past 3 years, and huge deficits that have been created by our fiscal policies, have made budgets very tight. I wish this were not the case. But considering the box we are in, I believe our appropriators have done an admirable job here to fund important priorities and serve the Nation's energy and water needs.

Yet I am very disappointed in the support for the Yucca Mountain Nuclear Waste Respository at an amount of an additional $310 million. The project needs more consideration and more study, there is much opposition in Nevada and the people of that great State deserve better from this Congress.

Mr. HOBSON. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

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Mr. FERGUSON. Mr. Chairman, I want to thank the gentleman from Ohio (Chairman HOBSON) for his leadership in delivering a comprehensive and bipartisan appropriations bill to the floor today. He has taken the responsibility as chairman of the subcommittee very seriously. He has been to New Jersey, to our home State. He has seen the channel deepening project, and he takes a real interest in the projects found in his bill, and I thank him very much for his leadership.

On a more personal note, I also want to thank the chairman for supporting the Green Brook Flood Control Project, which is in my district in New Jersey. My constituents in New Jersey thank him for his commitment to this project.

I would also be remiss if I did not mention the gentleman from New Jersey (Mr. FRELINGHUYSEN). For more than 5 years, the gentleman from New Jersey (Mr. FRELINGHUYSEN), as a member of the Committee on Appropriations, has been a champion for the Green Brook Flood Control Project. He deserves significant credit for its success and the thanks of thousands of residents whose safety and livelihood in our area of New Jersey are very much at stake with the success of this project.

The gentleman from Ohio (Chairman HOBSON) and every member of the Committee on Appropriations has a considerable task and responsibility of prioritizing local projects. There are no easy decisions, particularly in a difficult and a tight budget year like this year. The Green Brook Flood Control Project is saving homes and businesses and lives. It is equally vital that our Senators from New Jersey take up the fight for this important project and finish the work that we have begun here in the House.

Again I want to thank the gentleman from Ohio (Chairman HOBSON), and I want to thank the gentleman from New Jersey (Mr. FRELINGHUYSEN) for their compassion and their vision and their leadership and commitment to this issue.

Mr. VISCLOSKY. Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. FEENEY) for a colloquy.

Mr. FEENEY. Mr. Chairman, I thank the chairman for yielding me this time. We appreciate the chairman and the committee's hard work on this bill.

I want to specifically highlight the Rose Bay Ecosystem Project in Florida's 24th Congressional District, which I represent. Here local, county, and State agencies have worked for 10 years now and have spent more than $30 million to restore our natural aquatic ecosystem of Rose Bay. Now this project has stalled, understandably, due to limited funds at a time of war. In the 1940s, Rose Bay was a productive estuary and shellfish harvesting area on the Halifax River in Volusia County. Since the 1990s, local engineers and cities have anted up to their responsibility, and we would hope that the Army Corps of Engineers would live up to the agreed-upon 5-point plan to restore Rose Bay.

I would ask the chairman's help, along with the committee's, to do everything we can to get this project back on the appropriate steps forward.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. FEENEY. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, as the gentleman from Florida is aware, the budget is very tight this year; and due to the lack of Federal funds, many projects the committee supported in the past did not receive appropriations this year. Because money is tight, locals will need to do more with less and finish this with other local money. As the gentleman knows, I have got three grandchildren living in Florida; so I am interested in the State of Florida, and I appreciate the gentleman's bringing this to our attention.

Mr. FEENEY. Mr. Chairman, I thank the gentleman for his comments.

Mr. VISCLOSKY. Mr. Chairman, I yield myself such time as I may consume.

I simply again thank the chairman for his leadership, for being a gentleman, and for being a friend; and I recommend the legislation to my colleagues.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

Let me close and say I want to thank my ranking member because we have worked together on this bill. It is a very comprehensive and detailed bill in a lot of scientific ways. We do take some visions for the future of this country which I think are very important when it comes to the waterways and we get the increased plume, which results from not finishing these projects, completed. I think also as important, if not more so, is the vision for the corps and the waterways in the future. Also the vision for the Department of Energy both in the weapons area and in the area of future cost-effective power for this country so that this country can compete in the world in the future are both dealt with in various stages in this bill.

So I hope that everyone will support this bill.

Ms. PELOSI. Mr. Chairman, I ask my Colleagues to join us today in defeating the previous question so that we can bring back a rule that will allow us to debate an amendment that would increase funding for research and development for new energy technologies by $250 million.

Yesterday, Congresswoman ALLYSON SCHWARTZ of Pennsylvania, requested a waiver from the Rules Committee so that she could offer this amendment on the floor, but she was denied that opportunity.

Mr. Chairman, for 4 years now, the Republicans in Congress have brought us an energy policy bill that provides billions in subsidies to traditional energy industries already reaping record profits. According to the New York Times, the top 10 biggest oil companies earned more than $100 billion last year, and their combined sales are expected to exceed $1 trillion, which is more than Canada's gross domestic product.

Just a few weeks ago, Republican leaders brought to the House floor an energy bill that devoted 93 percent of its tax incentives to oil, gas and other traditional energy industries, and only 7 percent for renewable energy and investments in new technologies.

It is time for a new direction. A Democratic energy plan would set us on a faster course toward energy independence by investing more of our valuable resources in clean, renewable energy resources, promoting new emerging technologies, developing greater efficiency and improving energy conservation.

Today, we are fortunate to have a number of promising technologies that offer new ways to generate energy and improve energy efficiency. But these investments are just a beginning, and will need our commitment in future years to sustain the innovations and investment levels needed to truly establish a sound energy economy for the 21st Century.

The hydrogen economy may be a worthy goal, but its benefits may not be realized until mid-century. And while hydrogen may eventually play a major role in replacing gasoline in our cars and trucks, the sources of energy to generate hydrogen must begin accelerated development now.

The Schwartz amendment would not choose any particular type of technology. Instead, it would distribute resource across multiple technologies and use them to generate multi-year development and deployment projects, support research and development competitive grants, and increase deployment of existing and new energy conservation measures.

For example, the National Academy of Sciences examined the possible benefits of an aggressive investment in solid state lighting.

Today, lighting constitutes 30 percent of all energy use in buildings in the United States. The Academy study found that an investment of $50 million a year for 10 years would result in a $50 billion savings between now and 2050. That is a return of 100 to one for the U.S. economy.

Another excellent example—fuel cells—offer potential benefits in vehicles and stationary applications. Fuel cells are essential to a hydrogen energy economy and also have a vital role to play in other areas. Again, the National Academy of Sciences study found that a sustained investment of roughly $500 million over the coming decade is likely to produce benefits as much as $40 billion through 2025.

The government has an essential role to play in research and development. Unless a business can make a reasonable return on its research investment, it cannot afford to invest in R&D. And unless the business is a monopoly, this requires the R&D to lead to a patent on a device or a process that can be marketed. Applied research yields benefits that are too diffuse to be captured by anyone company.

So the federal government collects funds from a broad base of beneficiaries—the taxpayers—and invests in research and development that otherwise would never happen. Almost all such funding is through appropriation bills—the Energy and Water bill being one good example.

Mr. Chairman, we are the world leader in technical innovation.

From the light bulb to the space program to the Internet, the U.S. has led the way. We have built the world's largest economy on the inventiveness of our citizens and our willingness to make the investment needed to advance our society. The fundamental nature of our free society has always been the key to our achievement.

Science, engineering, and technology have enabled us to build our modern nation, and now we need to use these tools aggressively to increase our energy security, improve the lives of our citizens, and power us in the 21st Century.

I call on Members to defeat the previous question so we might consider an alternative rule that would allow Congresswoman SCHWARTZ to offer her amendment during the debate on funding energy priorities today.

Mr. KING of Iowa. Mr. Chairman, I rise today to urge funding to redraw the flood plain maps that would assist in addressing flood plan management problems along the Missouri River. The States of Iowa, Nebraska, South Dakota, and Missouri, as well as all cities and counties bordering the river, have an immediate need for improved flood plain information along the Missouri River. The lack of incomplete data hampers the way that communities plan for their economic future and interact with state and federal agencies. The existing data is approximately 30 years old. Coupled with that, is the fact that the recently completed Upper Mississippi River System Flow Frequency Study, which includes the main-Lower Missouri below Gavins Point Dam, resulted in significant change to the existing hydrology and hydraulics along the river. This indicates that current flood plain management for the Missouri River is inaccurate and does not support the regulatory requirements of the National Flood Insurance Program (NFIP).

This need for new information is due to the changes in land use and the pressure from development occurring all along the river. Improving the flood plain mapping, which meets the requirements of the NFIP (authorized by P.L. 86–645), can be developed working from the results of the Upper Mississippi River System Flow Frequency Study. The new flood plain information will allow development of water surface profiles and Digital Flood Insurance Rate Maps (DFIRM) for regulating current and future development of the 100-year and 500-year flood plains as well as the floodway along this 313-mile reach of the river.

Mr. DINGELL. Mr. Chairman, the language of this bill, which appropriates $310 million from the Nuclear Waste Fund "to carry out the purposes of the Nuclear Waste Policy Act of 1982" does not on its face present policy concerns. While the Yucca Mountain repository program faces funding problems, this is not the bill in which to address those issues and this appropriation more than meets the Administration's FY 2006 request.

The language of the committee report, however, is an altogether different matter and strays across the line from appropriating into authorizing. It does so by directing the Department of Energy (DOE) to undertake actions inconsistent with its authority under the Nuclear Waste Policy Act. Specifically, the report directs DOE to "begin the movement of spent fuel to centralized interim storage at one or more DOE sites within fiscal year 2006."

Now, it is elementary that report language does not constitute a statutory mandate. As the U.S. Supreme court ruled in its 1993 opinion, Lincoln v. Vigil, "It is a fundamental principle of appropriations law that where Congress merely appropriates lump-sum amounts without statutory restriction, a clear inference may be drawn that it does not intend to impose legally funding restrictions, and indicia in committee reports and other legislative history as to how the funds should, or are expected to, be spent do not establish any legal requirements on the agency."

Nonetheless, report language that conflicts with an agency's statutory responsibilities warrants a response. The committee report directs DOE to do something the Nuclear Waste Policy Act does not permit—to establish one or more centralized interim storage facilities for commercial spent fuel, to take title to "some" commercial spent fuel, and to consider altering the order in which utility fuel is scheduled to be removed from utility sites.

What would adoption of this "interim storage" proposal mean?

First, it would mean that some State other than Nevada, which Congress ratified as the sole candidate for licensing a permanent repository, would "win" the lottery for hosting an interim storage facility that would open in 2006. The report language helpfully notes that three DOE sites in the States of Idaho, South Carolina, and Washington, could be selected. It notes as well, however, that other Federal sites, including closed military bases, could be picked.

This would not be permitted under the Nuclear Waste Policy Act.

Second, the proposed interim facility would not be subject to licensing by the NRC. It is not clear that the National Environmental Policy Act would even apply. If you think licensing a repository at Yucca Mountain will be a demanding process, as it should be, the uncertainties surrounding an unlicensed interim storage facility should give pause to potentially affected communities.

Third, since the proposal specifies no licensing process and no statutory criteria for site selection, it is likely that pure politics—not seismic conditions, not storage capacity, not even security measures—would guide DOE in its selection of a fast track candidate to begin storing waste in FY 2006. That should send a chill up the spine of any state with a Federally-owned site, since the policy proposed in the report would not provide protections equal to the Nuclear Regulatory Commission (NRC) requirements for storage of spent fuel by utilities.

Fourth, ratepayers should be alarmed by the committee report's interim storage proposal. They have paid over $22 billion into the Nuclear Waste Fund since 1983 for the purpose of permanent disposal—not interim storage—of commercial spent fuel. An interim storage facility could add to costs in the long run, increasing ratepayers' total payments to the Fund.

Fifth, utilities and the nuclear industry should be alarmed by this interim storage proposal. While a few lucky companies' waste might get moved before Yucca Mountain opens, the vast majority are likely to be stuck holding their waste longer. Interim storage is likely to divert DOE's funds and attention, just when the Department needs to focus on submitting a license to the NRC and on getting Yucca Mountain up and running.

I commend Representatives SPRATT and HOBSON for their colloquy clarifying that the committee report's "guidance" to DOE interim storage does not obviate the need for statutory changes to authorize DOE to pursue this misguided policy. Yesterday, I sent DOE Secretary Bodman a letter asking that and other questions, and I believe all Members would be well served to consider the answers before considering such substantial modifications to current law.

Mr. HOLT. Mr. Chairman, I rise today to express my concerns with the Army Corps of Engineers and my hope that language included in this bill will rein their disregard for Congressional requests.

I concur with the committee's expressed dissatisfaction with the Army Corps managing of water projects and their excessive transfer of funds between projects. Many of us have long been frustrated with the Army Corps is their mishandling of projects throughout the Nation. Although Congress authorizes and appropriates specific projects, the Army Corps repeatedly ignores these guidelines and sets their own priorities. This has resulted significant delays that further distress the communities near these uncompleted projects.

In the 12th Congressional District, the environmental restoration of Grover's Mill Pond is a most egregious example of the Army Corps disregard for congressionally mandated projects. Located at the site made famous by Orson Wells' "War of the Worlds" radio broadcast, Grover's Mill Pond is not only a historic site, but it is a recreation destination within West Windsor Township and a vital link in the Township's stream corridors and watershed area. Years of sediment build-up and runoff from the watershed have caused the pond to become overrun with aquatic weeds and algae.

This pond in its current condition is not only an eyesore for the community and the residents that live near it, but gives off an unpleasant odor in the summer. Completion of this project is long overdue, and could have been completed had the Army Corps not transferred almost all of the $500,000 that was specifically designated by Congress for this project. Thankfully, the committee has once again designated funding for this project, and I expect that the Army Corps will follow Congressional designation and not once again shortchange my constituents in favor of a project they deem more worthy.

Unfortunately, other unfinished projects in my district such as McCarter's Pond and Rogers Pond did not receive additional funding in this bill. I am hopeful that the strong and clear direction the committee has given the Army Corps in this bill will force them to complete such projects in the future and encourage them not to create such unpleasant situations in the future.

I thank the committee for their desire to assist my constituents and this nation by providing additional funds for unfinished projects and expressing their severe dissatisfaction with the Army Corps management of water projects. I hope this legislation will serve as an important step in reforming this agency and ensuring that our communities receive the environmental restoration assistance they desperately need.

Mr. YOUNG of Florida. Mr. Chairman, the civil works program of the Corps of Engineers provides water resources development projects that are important to the Nation. I believe the restrictions on reprogramming of funds and the constraints on the use of continuing contracts contained in this bill will lead to the inefficient use of appropriated funds and will disadvantage congressionally-added projects.

Congress does not fully fund projects in a given fiscal year and the schedule for constructing these large water resources projects is subject to the weather, environmental conditions, and other dynamic circumstances. As a result, reprogramming and continuing contacts are important tools that allow for the efficient use of appropriated funds.

I share the concerns that the Appropriations Committee has for some of the reprogramming activities of the Corps of Engineers and the way they have used continuing contracts for some of their projects. However, the constraints in this bill are too restrictive.

Section 101 only allows a reprogramming of $2 million or less per project. This is not enough to allow the corps to effectively move money around among projects when projects are delayed or when they can be accelerated.

Also, the bill earmarks nearly all available funding, which makes it impossible for the corps to pay back those projects that it took money from in previous reprogramming.

I must disagree also with the restriction placed on continuing contracts by this bill. While there may have been some unwise uses of continuing contracts by the corps, the restrictions in this bill are too severe. They will lead to inefficient use of funds and a bias against Congressional priority projects.

As a result of the constraints on reprogramming, a lot of money will be carried over each fiscal year and work will have to be broken up into many smaller units making projects more expensive.

Current law requires the corps to use continuing contracts whenever funds are provided in an appropriations act, but there is not enough money to complete the project. Only funds for that fiscal year are reserved, but the contractor can proceed with additional work with the understanding that payment is subject to future appropriations.

Section 104 is inconsistent with current law in that it restricts the amount of work a contractor can do to only that which can be accomplished with FY 06 funds. Under section 104, the contractor cannot proceed at his own risk in anticipation of FY 07 and future year funding. The contractor will have to stop work and wait for a new contract the next year.

Section 104 is legislative in nature and I intend to make a point of order that will strike it from the bill.

Section 105 further restricts the use of continuing contracts and has the remarkable effect of restricting the corps' ability to carry out congressionally-added projects in this appropriation bill.

Section 105 states that none of the funds provided in FY 06 may be used to award a continuing contract that extends into FY 07 unless the Administration budgets for the project in FY 07.

This means that even if a Member has funding for a project in this bill, for FY 06, not fully funded, there are three options: (1) Hope to award a continuing contract before Administration comes out with its budget in February of 2006, (2) award a single year contract for only one increment of the project (resulting in increased costs), or (3) wait until fiscal year 2008 to award a continuing contract for the project (delaying project construction and project benefits).

These restrictions apply to on-going as well as new projects.

In Alaska, there are currently eight projects under construction using continuing contracts. Seven of these are not in the President's Budget. I expect that before this bill becomes law, it will contain funding for all of these projects.

Nevertheless, under section 105 of the bill, a continuing contract could not be used in FY 06, and the corps will have to break the projects into smaller pieces or wait until FY 08 to spend the FY 06 appropriated funds.

I believe the restrictions in this bill will delay these important projects in Alaska and make them more expensive. This is a problem that will be repeated for other Members for projects all over the country.

Finally, I want to applaud the Committee's efforts to get additional information from the Administration during the budget process. Information is needed for all projects, not just the ones in the Administration's budget. In addition, I believe that a 5-year schedule of spending for each project will allow the Congress to better appropriate funding that can match the corps capabilities for individual projects.

Chairman HOBSON and Ranking Member VISCLOSKY are to be commended for their efforts to see that program management and budgeting at the Corps of Engineers are put back on track. While I have reservations about the effects of some of the measures required by this bill, I believe I can work with the Committee leadership as this bill moves forward to see that my concerns are addressed in Conference.

Ms. LEE. Mr. Chairman, I rise in support of this bill.

I would first like to thank the Chairman of the Subcommittee, Mr. HOBSON, and the Ranking Member, Mr. VISCLOSKY, for their work in putting together the Energy and Water Appropriations Bill.

I also want to thank both of them for including $48 million in the bill to continue funding the Port of Oakland's 50-foot dredging project in my district in California.

As the fourth largest container port in the country, the Port of Oakland serves as one of our premier international trade gateways to Asia and the Pacific.

The 50-foot dredging project will underpin an $800 million expansion project funded by the Port that will improve infrastructure, expand capacity and increase efficiencies throughout the distribution chain.

Once this project is finished, an additional 8,800 jobs will be added, business revenue will increase by $1.9 billion, and local tax revenues will go up by $55.5 million. Best of all, 100 percent of the dredged materials will be reused for wetlands restoration, habitat enhancement, and upland use within the San Francisco Bay Area.

I appreciate the Subcommittee's support for this project and I look forward to continuing to work with the Chairman and Ranking Member to complete it.

Mr. ROTHMAN. Mr. Chairman, as a member of the Appropriations Committee, I rise in support of the Fiscal Year 2006 Energy and Water Bill. I want to thank Chairman HOBSON and Ranking Member VISCLOSKY for their hard work in drafting this bill. I also want to acknowledge both the Majority and Minority staff for their dedication.

I can appreciate the tough choices that both Chairman HOBSON and Ranking Member VISCLOSKY had to make with the tight allocation for this bill. I believe they have made choices with the best interests of improving U.S. water infrastructure and advancing energy programs in mind. Those decisions were not easy, but this bill is the best we can do under the budget constraints. I urge all of my colleagues to vote in favor of the FY 2006 Energy and Water Appropriations Act.

Mr. UDALL of Colorado. Mr. Chairman, this bill is not perfect. But it provides appropriate funding for many important purposes, and I will vote for it.

Subcommittee Chairman HOBSON, ranking member VISCLOSKY, and their colleagues on the Appropriations Committee deserve our thanks for their work on this legislation.

Their task was made harder by the restrictions imposed by the budget resolution championed by the Republican leadership, and the bill does not include some things that I think should have been funded. But I think they have done a good job with the allocation of funds available to them, and the bill does include some items of particular importance to Coloradans.

In particular, I am very pleased that it will provide nearly $580 million to continue—and, I hope, complete—the cleanup of Rocky Flats.

Formed by the location of a facility for making key parts of nuclear weapons, the Rocky Flats site is located just 15 miles from downtown Denver and at one time was the location of large quantities of nuclear materials and other hazardous substances. Because of its proximity to our state's major metropolitan area, timely and effective cleanup and closure of the site has been a matter of top priority for all Coloradans.

With the funding provided by this bill and barring unforeseen developments, the Department of Energy and its contractor, Kaiser-Hill, should be able to complete the cleanup in the coming months—and while the department will have ongoing responsibilities at Rocky Flats, completing the cleanup will enable it to focus even more intently on the cleanup work to be done at other sites. So, I strongly support this part of the bill.

However, while we are taking care of the site, it is essential that we also take care of those who worked there. Some of them were made sick because of exposure to beryllium, radiation, or other hazards. It was because of them, and those like them who worked at other sites, that I worked with our colleagues from Kentucky and Ohio, Mr. WHITFIELD and Mr. Strickland, as well as others in both the House and Senate, and with Secretary of Energy Bill Richardson and his colleagues in the Clinton Administration, to pass the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). I am proud to have been able to help get this program enacted and I will continue working to improve it for those who have worked at Rocky Flats and other sites.

And, we need to also remember the other workers at Rocky Flats as well. As they near the completion of their jobs at the site, they are understandably concerned about what will come next. Many have moved on to other jobs, and others will do so. But many are facing uncertainties about their futures. For all of them, it is essential that DOE acts promptly to resolve remaining questions about the futures they can expect when their work at Rocky Flats is finished.

For that reason, I recently wrote to ask Secretary Bodman to give immediate attention to two important matters—(1) determining the future administration of pension and health insurance plans for Rocky Flats workers (and for those at other closure sites as well); and (2) assuring the continued availability of medical benefits for Rocky Flats workers who will not be eligible for full retirement at the time of the site's closure.

I pointed out that DOE's Office of Legacy Management (LM) has stated that it is developing a plan for the transition of pension and insurance plans, as well as for record keeping and other matters for which LM is responsible. However, I also noted that no such plan yet exists, which means there is increasing concern among the Rocky Flats workers about their future.

There now remain only a few months for these matters to be resolved prior to closure. Time is of the essence. So, I was very glad to note that the Committee Report accompanying this bill directs DOE to report by September 30, 2005, on the Department's plan for a national stewardship contract for administration of the pension and benefit payments to former Environmental Management closure site contractor employees. I applaud the committee for including this directive, and urge the Administration to complete and submit this report as soon as possible.

The bill also includes other matters of particular importance for Colorado. It provides funding for several Bureau of Reclamation projects in our state, including the Colorado-Big Thompson project and the Fryingpan-Arkansas project as well as the ongoing construction of the Animas-La Plata project. It also includes needed funds for operation and maintenance of a number of reservoirs operated by the Army's Corps of Engineers as well as for other Corps activities in Colorado.

And I am very glad to note that the bill will provide funds for completing construction of the new science and technology facility at the National Renewable Energy Laboratory.

I am disappointed, however, that the bill shortchanges some of the important clean energy programs at NREL. As co-chair of the Renewable Energy and Energy Efficiency Caucus in the House, I have worked for years to increase—or at a minimum, hold steady—funding for DOE's renewable energy and energy efficiency research and development programs.

Given the finite supply and high prices of fossil fuels and increasing global demand, investing in clean energy is more important than ever. DOE's renewable energy programs are vital to our nation's interests, helping provide strategies and tools to address the environmental challenges we will face in the coming decades. These programs are also helping to reduce our reliance on oil imports, thereby strengthening our national security, and also creating hundreds of new domestic businesses, Supporting thousands of American jobs, and opening new international markets for American goods and services.

For our investment in these technologies to payoff, our efforts must be sustained over the long term. This bill does not do that. This bill is $23 million less than last year's bill in the area of renewable energy research. This includes cuts in biomass, geothermal, and solar energy programs. I believe that the reductions in funding levels for the core renewable energy programs are ill-advised at a time when the need for a secure, domestic energy supply is so crucial.

I am also concerned about the bill's deep cuts to energy efficiency programs such as Industrial Technologies ($16 million) and State Energy Program Grants (nearly $4 million) and a cut of nearly $5 million in the Distributed Energy and Electricity Reliability Program.

Nonetheless, Mr. Chairman, my regrets about this bill are outweighed by my appreciation for the good things that it includes, and so I urge the House to pass this important appropriations bill.

Mr. BARRETT of South Carolina. Mr. Chairman, I would like to thank Chairman HOBSON for his leadership in bringing this important legislation to the floor, and I also thank him for his continued commitment to the Yucca Mountain project. As a fiscal conservative, I share his concerns regarding the federal government's liability as result of project delays, and I would like to work with the Committee to ensure the Department of Energy (DOE) fulfills its statutory and contractual obligation to accept spent fuel for disposal. To resolve this issue the Committee has recommended the Spent Fuel Recycling Initiative (Initiative), which links interim storage to reprocessing.

I strongly believe interim storage of commercial spent fuel should not take place a DOE sites like Savannah River. However, I do agree that interim storage is an issue Congress and the DOE should examine. One argument posed by opponents of this Initiative is that interim storage would create a "de facto" permanent repository, which undermines our national policy of disposing high-level radioactive waste in a permanent deep, geologic repository. While I share the concern, this argument only has merit if interim storage is dealt with as a separate issue. But, the Committee's report expressly states the Initiative has "linked" interim storage to reprocessing. Moreover, this bill fully funds the Yucca Mountain project. These facts read together clearly imply that the DOE implementation of the Initiative's core elements should not undermine Yucca Mountain. As a result, I strongly believe the DOE should carefully examine any unintended consequences in its implementation report to ensure the Initiative supports our national policy on nuclear waste disposal as set forth by the Nuclear Waste Disposal Act.

Examining the merits of this Initiative also requires us to review its other core element—reprocessing commercial spent fuel. The Committee correctly notes prior to the mid-1970's, the Federal government encouraged the reprocessing of commercial spent fuel and even developed reprocessing facilities in several states including South Carolina. Although opponents often cite proliferation concerns as a reason not to reprocess spent fuel, the report states "there is no evidence that current [European] reprocessing operations pose a significant proliferation risk." Equally as important, I agree with the Committee that reduced volumes gained through reprocessing could avert the need to expand Yucca or site a second repository. Finally, reprocessing can also reduce the radiotoxicity of high-level waste, which makes licensing Yucca Mountain a simpler proposition. As a result, there is no question it is time for our nation to reexamine this issue, and I believe the Savannah River Site's existing reprocessing infrastructure should be considered as potential resources that could be utilized for this purpose.

Although I agree the Committee's Initiative presents our nation a possible solution to finally shipping high-level waste out of states like South Carolina more quickly than anticipated, I do not believe the Initiative could be implemented without further Congressional authorization. Under the Nuclear Waste Policy Act (NWPA), the DOE's authority to store commercial spent fuel on an interim basis at existing DOE facilities expired January 1,

1990. Moreover, the NWPA does not allow the DOE to construct a Monitored Retrievable Storage (MRS) facility until Yucca Mountain receives a construction license. Thus, if the DOE desires to implement the core elements of the Initiative, I along with the Committee request the DOE provide to Congress any necessary authority it may need to execute it.

I have no doubt Chairman HOBSON's intentions with this Initiative are to support the nuclear power industry by ensuring we have a permanent repository for commercial spent fuel, and he is to be commended for bringing this matter to the 109th Congress' attention. The issue of nuclear waste disposal is complex, and it will require big ideas for safe disposition of our high-level waste. The Spent Fuel Recycling Initiative is one of those ideas, and I look forward to working with my colleagues and my constituents to ensure it is the best policy to pursue.

Mr. RYUN of Kansas. Mr. Chairman, I am mindful of the limitations that the Appropriations Committee is under when funding project requests for the Army Corps of Engineers. I am also aware, however, that the committee works closely with the Corps in this process, and that funding decisions are based largely on the priorities put forward by the corps.

With this in mind, I am very disappointed that the Energy and Water Appropriations bill that we approved today did not contain funding for the cleanup of a logjam on Jacobs Creek in my district in Coffey County, Kansas. I am disappointed because I have made it abundantly clear to the corps on numerous occasions that I hear more from constituents about this project than any other corps project in my district. Further, I have asked the corps to make it one of their highest priorities when it comes to funds spent in my district.

This logjam began in 1973, but has only in recent years escalated to such a problematic level. Currently, the logjam covers an expanse of more than two miles. Along this stretch, boat docks are useless and garbage is trapped in the sediment. The clog poses not only a health and safety hazard to area residents, but it also threatens the economic viability of the region.

If the corps had given this request the priority it deserved, it would have received funding. The absence of funding for this project in the bill leads me to conclude that the corps has once again looked the other way.

I am disappointed that this crucial project has once again been ignored and I call on the corps to put their resources to work and remedy this situation. I fully intend to continue working to see that this project is funded in the final version of this bill.

Mr. NUSSLE. Mr. Chairman, the measure before us today—the appropriations act for Energy and Water Development—joins the early wave of discretionary spending bills pursuant to the recently adopted budget resolution for fiscal year 2006 (H. Con. Res. 95). As the name suggests, this bill provides for the Nation's energy and water development needs, with funding for all of the Department of Energy, and select activities of the Departments of Defense and the Interior, including the Corps of Engineers and the Bureau of Reclamation. While the government's overall energy strategy is now being discussed in a conference on H.R. 6, the bill before us today provides a vital additional component of the Nation's energy policies.

As Chairman of the Budget Committee, I am pleased to note that this bill complies with the budget resolution, and also reflects a responsible set of budgetary choices. Although the Appropriations Committee provided more funding that the President in certain areas, they still achieved a modest but real reduction in total spending for this bill, compared with fiscal year 2005.

ENERGY AND WATER DEVELOPMENT

H.R. 2419 provides $29.7 billion in appropriations for fiscal year 2006. This is $410 million, or 1.3 percent, below the fiscal year 2005 level, and equal to the President's request. The bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an Appropriations subcommittee's 302(b) allocation of budget authority in the budget resolution.

The bill provides $23.8 billion in discretionary BA to the Department of Energy [DOE], a reduction of $390 million from the 2005 enacted level. Within the department, BA is reduced from the 2005 level by 2.6 percent for Environmental and Other Defense Activities ($203 million), and 4 percent for the National Nuclear Security Administration ($365 million). But for Energy Programs, the bill provides a slight increase of 1.3 percent, or $98 million.

H.R. 2419 provides $661 million for the Yucca Mountain repository, an increase of $84 million above 2005 and $10 million over the President's request.

Funding for the Department of the Interior totals $933 million and discretionary spending for the Bureau of Reclamation holds flat relative to 2005.

For the Corps of Engineers, the committee provided $4.7 billion, or $396 million over the President's request, primarily through additional construction and operations and maintenance spending, which together make up two-thirds of total Corps of Engineers spending. Also, the Appropriations Committee rejected an initiative to directly fund the operations and maintenance costs through the Power Marketing Associations' revenues.

H.R. 2419 does not contain any emergency-designated BA, which is exempt from budgetary limits. While the budget resolution for fiscal year 2006, H. Con. Res. 95, did allow for an advance appropriation in the Elk Hills account, the Committee on Appropriations provided for it with a current year appropriation.

The bill also defers $257 million in previously appropriated funds for the Clean Coal Technology Initiative until fiscal year 2007, providing $257 million in BA savings for 2006, and an equal increase in 2007. The administration proposed a rescission of this amount.

Additionally, the bill allows the Nuclear Regulatory Commission [NRC] to recover 90 percent of its budget authority through licensing and annual fees, less the appropriation derived from the Nuclear Waste Fund. This will recover a projected $581 million in fiscal year 2006 with remaining 10 percent, or $65 million, funded from the General Fund of the Treasury.

In conclusion, I would like to commend Chairman LEWIS and the Appropriations Committee on their steady work in bringing bills to the floor that comply with H. Con. Res. 95 and wish them continued success as they proceed through this appropriations season.

I therefore express my support for H.R. 2419.

Mr. SALAZAR. Mr. Chairman, I rise today to express my support of the House version of the Energy and Water Appropriations Act for Fiscal Year 2006, and I urge my colleagues to vote in support of this important measure.

I commend Chairman HOBSON and Ranking Member VISCLOSKY for their work on this bill. I believe it is a good start for addressing our nation's water infrastructure and energy research needs, especially given the budget constraints.

As a farmer who works the land in Colorado's San Luis Valley, I know and understand water issues, and I can't emphasize how important it is to invest back into local water infrastructure. Without this investment, I fear we will continue to see a decline in the management of this irreplaceable resource—water is the lifeblood of our rural communities.

The House Energy and Water Appropriations Bill would provide $29.7 billion for the Army Corps of Engineers, the Bureau of Reclamation and Department of Energy, a $329 million increase over last year's funding level.

I am pleased the Committee included funding for three important projects which I had requested back in March for the 3rd District of Colorado. First and foremost, the Committee included $56 million in funding for construction of the Animas-La Plata Project. This funding level represents a $4 million increase over the President's budget request and comes on the heels of a Colorado delegation letter which I spearheaded back in March. I would also like to thank the Committee for the inclusion of language which directs a larger percentage of program funds towards construction, not administrative costs.

Completion of the A–LP will provide a much-needed water supply in the southwest corner of our state for both Indian and non-Indian municipal and industrial purposes. It will also fulfill the intent of a carefully negotiated settlement agreement in the mid-1980s to ensure the legitimate claims of the two Colorado Ute Tribes could be met without harm to the existing uses of their non-tribal neighbors.

Since 2002, the Bureau of Reclamation has made much progress, and work has been completed or initiated on many key project features. This increased funding will allow the Bureau to move forward in a way that will ensure timely completion of the A–LP and avoid costly delays.

The FY2006 Energy and Water Appropriations bill also includes $315,000 for the Arkansas River Habitat Restoration Project. The U.S. Army Corps of Engineers in cooperation with the City of Pueblo, Colorado has completed 90 percent of the project including fish habitat structures along a 9-mile section of the river below Pueblo Dam through downtown Pueblo. This funding would be used to complete the project which is an important environmental restoration project for the project.

Finally, the Committee also provided a $1.021 million appropriation for the Army Corps of Engineers to engage in operations and maintenance at Trinidad Lake, Colorado;

this amount represents almost a $100,000 increase from the FY2005 funding level. Trinidad Lake is a multipurpose project for flood control, irrigation and recreation, and was authorized by the 1958 Flood Control Act. The lake is located in southern Colorado on the Purgatoire River, and bordered by the historic Santa Fe Trail. The dam itself is an earthfill structure 6,860 feet long and 200 feet high, and constructed with some 8 million cubic yards of earth and rock.

Each project is an important part of improving water related infrastructure. As this bill proceeds through the appropriations process, I will continue the fight to preserve funding for the 3rd District of Colorado.

Mrs. WILSON of New Mexico. Mr. Chairman, I would like to point out certain things about H.R. 2419 that leave me troubled. I am quite concerned by significant reductions made in critical programs that are necessary for our Nation to maintain a credible long-term nuclear deterrent. The appropriations for the National Nuclear Security Administration (NNSA) related to weapons activities was $6.63B in FY 2005. That amount was reduced to $6.18B by the committee, a reduction of almost $0.5B, or nearly 10 percent.

The Advanced Strategic Computing (ASC) Campaign has made great advances over the past 10 years. We are now able to model things with more fidelity than ever before. This modeling is used to certify the reliability of our nuclear stockpile without nuclear testing. The ASC Campaign was funded last year at a level of $698M. The administration request for FY06 is only $661M—a reduction of $37M over last year's levels. The administration's request was further reduced by the appropriations committee from $661M to $501M, coupled with nearly $22M of earmarks out of the $501M for extraneous projects, results in a final budget of less than 70 percent of last year's budget.

These reductions come at the same time we are asking our Nation's nuclear laboratories to recertify our nuclear weapon stockpile with science and computing rather than nuclear testing. The committee states that its "recommendation recognizes the Department's inability to achieve the promises of Stockpile Stewardship effort and redirects ASCI funding to maintain current life extension production capabilities pending the initiation of the Reliable Replacement Warhead program." One cannot remove funds from the Advanced Strategic Computing program to fund the Reliable Replacement Warhead program—not expected to yield fruit for a number of years—and expect the labs to continue to certify our stockpile. These programs are not substitutes for each other.

Once again the committee has removed all funding for the Robust Nuclear Earth Penetrator Study. This is a worth while study, designed to answer whether or not a nuclear earth penetrator is even feasible as a means of holding Deeply Buried Hardened Targets (DBHTs) at risk. It is my understanding that this study will now move to the Department of Defense and outside of the jurisdiction of the Energy and Water Appropriations subcommittee.

Inconsistent reductions and increases seem to have been made to the infrastructure construction projects for NNSA. The $55M administration request for the Chemistry Matallurgy Research Replacement (CMRR) Facility at Los Alamos National Laboratory was zeroed out. On the other hand the Highly Enriched Uranium Materials Facility Y–12 National Security Complex recommended funding at a level of $81M, an increase of $11M over the request. The committee's reasoning zeroing "the CMRR facility should be delayed until the Department determines the long-term plan for developing the responsive infrastructure required to maintain the Nation's existing nuclear stockpile and support replacement production anticipated for the RRW initiative." It is my understanding that this determination will be made by the Secretary of Energy's Advisory Board subcommittee which is due to report out in June. The committee claims that its "recommendation does not prejudge the outcome of the SEAB's subcommittee's assessment of the NNSA weapons complex." However, if the committee does not want to prejudge the outcome of the SEAB's study, it would seem more appropriate to only put a hold on the CMRR funds until the SEAB study has reported its findings. There is considerable use to be made of the CMRR in supporting the general science mission of the laboratory as well. It is not a facility to only support manufacturing as the committee suggests. We should not expect our critical nuclear laboratories to be held up to the safety and security standard that are set by industry if we do not provide for ways to update sorely needed facilities around the nuclear weapons complex.

I find particularly troubling the reductions made to and restrictions placed upon the Laboratory Directed Research and Development (LDRD) and like programs within DOE. Section 311 of the Bill limits the amount of LDRD funding to $250M. This is in comparison to the $400M in FY2005. This will severely restrict fundamental R&D that is so vital to our DOE complex in meeting the needs of national security.

Section 312 of the bill is particularly troublesome since it subjects funds already subjected to overhead rates to those same rates yet again. LDRD funds have historically been used as indirect funds since they are redirected funds that have in essence already been taxed by the overhead charges.

Section 313 restricts LDRD funds derived from DOE funded programs to be used only on DOE related research, as if other funded projects (generally referred to as "Work for Others" projects) do not help fund the LDRD programs. This is in fact not the case. In general, all funding for projects at the laboratories help to fund the LDRD programs at equal rates. The accounting nightmare that would be created if the installations were forced to keep the funding separate would be particularly onerous and waste even more resources. But beyond all these arguments, the LDRD program is designed expressly to investigate basic and applied research that has broad application across the potential customer base.

Mr. HOBSON. Mr. Chairman, I yield back the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken later today.

STEM CELL THERAPEUTIC AND RESEARCH ACT OF 2005

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2520) to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program.

The Clerk read as follows:

H.R. 2520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stem Cell Therapeutic and Research Act of 2005".

SEC. 2. CORD BLOOD INVENTORY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into one-time contracts with qualified cord blood stem cell banks to assist in the collection and maintenance of 150,000 units of high-quality human cord blood to be made available for transplantation through the C.W. Bill Young Cell Transplantation Program and to carry out the requirements of subsection (b).

(b) REQUIREMENTS.—The Secretary shall require each recipient of a contract under this section—

(1) to acquire, tissue-type, test, cryopreserve, and store donated units of human cord blood acquired with the informed consent of the donor in a manner that complies with applicable Federal and State regulations;

(2) to make cord blood units that are collected pursuant to this section or otherwise and meet all applicable Federal standards available to transplant centers for stem cell transplantation;

(3) to make cord blood units that are collected, but not appropriate for clinical use, available for peer-reviewed research;

(4) to submit data in a standardized format, as required by the Secretary, for the C.W. Bill Young Cell Transplantation Program; and

(5) to submit data for inclusion in the stem cell therapeutic outcomes database maintained under section 379A of the Public Health Service Act, as amended by this Act.

(c) APPLICATION.—To seek to enter into a contract under this section, a qualified cord blood stem cell bank shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. At a minimum, an application for a contract under this section shall include an assurance that the applicant—

(1) will participate in the C.W. Bill Young Cell Transplantation Program for a period of at least 10 years; and

(2) in the event of abandonment of this activity prior to the expiration of such period, will transfer the units collected pursuant to this section to another qualified cord blood stem cell bank approved by the Secretary to ensure continued availability of cord blood units.

(d) DURATION OF CONTRACTS.—

(1) IN GENERAL.—The Secretary may not enter into any contract under this section for a period that—

(A) exceeds 3 years; or

(B) ends after September 30, 2010.

(2) EXTENSIONS.—Subject to paragraph (1)(B), the Secretary may extend the period of a contract under this section to exceed a period of 3 years if—

(A) the Secretary finds that 150,000 units of high-quality human cord blood have not yet been collected pursuant to this section; and

(B) the Secretary does not receive an application for a contract under this section from any qualified cord blood stem cell bank that has not previously entered into a contract under this section or the Secretary determines that the outstanding inventory need cannot be met by the one or more qualified cord blood stem cell banks that have submitted an application for a contract under this section.

(e) REGULATIONS.—The Secretary may promulgate regulations to carry out this section.

(f) DEFINITIONS.—In this section:

(1) The term "C.W. Bill Young Cell Transplantation Program" means the C.W. Bill Young Cell Transplantation Program under section 379 of the Public Health Service Act, as amended by this Act.

(2) The term "cord blood donor" means a mother who has delivered a baby and consents to donate the neonatal blood remaining in the placenta and umbilical cord after separation from the newborn baby.

(3) The term "human cord blood unit" means the neonatal blood collected from the placenta and umbilical cord.

(4) The term "qualified cord blood stem cell bank" has the meaning given to that term in section 379(b) of the Public Health Service Act, as amended by this Act.

(5) The term "Secretary" means the Secretary of Health and Human Services.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) FISCAL YEAR 2006.—Any amounts appropriated to the Secretary for fiscal year 2004 or 2005 for the purpose of assisting in the collection or maintenance of human cord blood shall remain available to the Secretary until the end of fiscal year 2006 for the purpose of carrying out this section.

(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to the Secretary $15,000,000 for each of fiscal years 2007, 2008, 2009, and 2010 to carry out this section. Amounts appropriated pursuant to this paragraph shall remain available for obligation through the end of fiscal year 2010.

SEC. 3. C.W. BILL YOUNG CELL TRANSPLANTATION PROGRAM.

(a) NATIONAL PROGRAM.—Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended—

(1) in the section heading, by striking "**NATIONAL REGISTRY**" and inserting "**NATIONAL PROGRAM**";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "The Secretary shall by contract" and all that follows through the end of such matter and inserting "The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall by one or more contracts establish and maintain a C.W. Bill Young Cell Transplantation Program that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow and cord blood, and that meets the requirements of this section. The Secretary may award a separate contract to perform each of the major functions of the Program described in paragraphs (1) and (2) of subsection (b) if deemed necessary by the Secretary to operate an effective and efficient system. The Secretary shall conduct a separate competition for the initial establishment of the cord blood functions of the Program. The Program shall be under the general supervision of the Secretary. The Secretary shall establish an Advisory Council to advise, assist, consult with, and make recommendations to the Secretary on matters related to the activities carried out by the Program. The members of the Advisory Council shall be appointed in accordance with the following:";

(B) in paragraph (1), by striking "except that" and all that follows and inserting "except that—

"(A) such limitations shall not apply to the Chair of the Advisory Council (or the Chair-elect) or to the member of the Advisory Council who most recently served as the Chair; and

"(B) 1 additional consecutive 2-year term may be served by any member of the Advisory Council who has no employment, governance, or financial affiliation with any donor center, recruitment group, transplant center, or cord blood stem cell bank.";

(C) by amending paragraph (4) to read as follows:

"(4) The membership of the Advisory Council—

"(A) shall include as voting members a balanced number of representatives including representatives of marrow donor centers and marrow transplant centers, representatives of cord blood stem cell banks and participating birthing hospitals, recipients of a bone marrow transplant and cord blood transplants, persons who require such transplants, family members of such a recipient or family members of a patient who has requested the assistance of the Program in searching for an unrelated donor of bone marrow or cord blood, persons with expertise in blood stem cell transplantation including cord blood, persons with expertise in typing, matching, and transplant outcome data analysis, persons with expertise in the social sciences, and members of the general public; and

"(B) shall include as nonvoting members representatives from the Department of Defense Marrow Donor Recruitment and Research Program operated by the Department of the Navy, the Division of Transplantation of the Health Resources and Services Administration, the Food and Drug Administration, and the National Institutes of Health."; and

(D) by adding at the end the following:

"(5) Members of the Advisory Council shall be chosen so as to ensure objectivity and balance and reduce the potential for conflicts of interest. The Secretary shall establish bylaws and procedures—

"(A) to prohibit any member of the Advisory Council who has an employment, governance, or financial affiliation with a donor center, recruitment group, transplant center, or cord blood stem cell bank from participating in any decision that materially affects the center, recruitment group, transplant center, or cord blood stem cell bank; and

"(B) to limit the number of members of the Advisory Council with any such affiliation.

"(6) The Secretary, acting through the Advisory Council, shall submit to the Congress—

"(A) an annual report on the activities carried out under this section; and

"(B) not later than 6 months after the date of the enactment of the Stem Cell Therapeutic and Research Act of 2005, a report of recommendations on the scientific factors necessary to define a cord blood unit as a high-quality unit.";

(3) by amending subsection (b) to read as follows:

"(b) FUNCTIONS.—

"(1) BONE MARROW FUNCTIONS.—With respect to bone marrow, the Program shall—

"(A) operate a system for listing, searching, and facilitating the distribution of bone marrow that is suitably matched to candidate patients;

"(B) carry out a program for the recruitment of bone marrow donors in accordance with subsection (c), including with respect to increasing the representation of racial and ethnic minority groups (including persons of mixed ancestry) in the enrollment of the Program;

"(C) maintain and expand medical emergency contingency response capabilities in concert with Federal programs for response to threats of use of terrorist or military weapons that can damage marrow, such as ionizing radiation or chemical agents containing mustard, so that the capability of supporting patients with marrow damage from disease can be used to support casualties with marrow damage;

"(D) carry out informational and educational activities in accordance with subsection (c);

"(E) at least annually update information to account for changes in the status of individuals as potential donors of bone marrow;

"(F) provide for a system of patient advocacy through the office established under subsection (d);

"(G) provide case management services for any potential donor of bone marrow to whom the Program has provided a notice that the potential donor may be suitably matched to a particular patient (which services shall be provided through a mechanism other than the system of patient advocacy under subsection (d)), and conduct surveys of donors and potential donors to determine the extent of satisfaction with such services and to identify ways in which the services can be improved;

"(H) with respect to searches for unrelated donors of bone marrow that are conducted through the system under subparagraph (A), collect, analyze, and publish data on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached, the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances;

"(I) support studies and demonstration and outreach projects for the purpose of increasing the number of individuals who are willing to be marrow donors to ensure a genetically diverse donor pool;

"(J) conduct and support research to improve the availability, efficiency, safety, and cost of transplants from unrelated donors and the effectiveness of Program operations; and

"(K) assist qualified cord blood stem cell banks in the Program in accordance with paragraph (3).

Subsections (c) through (e) apply with respect to each entity awarded a contract under this section with respect to bone marrow.

"(2) CORD BLOOD FUNCTIONS.—With respect to cord blood, the Program shall—

"(A) operate a system for identifying, matching, and facilitating the distribution of donated cord blood units that are suitably matched to candidate patients and meet all applicable Federal and State regulations (including informed consent and Food and Drug Administration regulations) from a qualified cord blood stem cell bank;

"(B) allow transplant physicians, other appropriate health care professionals, and patients to search by means of electronic access all available cord blood units listed in the Program;

"(C) allow transplant physicians and other appropriate health care professionals to tentatively reserve a cord blood unit for transplantation;

"(D) support studies and demonstration and outreach projects for the purpose of increasing cord blood donation to ensure a genetically diverse collection of cord blood units; and

"(E) coordinate with the Secretary to carry out information and educational activities for the purpose of increasing cord blood donation and promoting the availability of cord blood units as a transplant option.

"(3) SINGLE POINT OF ACCESS.—If the Secretary enters into a contract with more than one entity to perform the functions outlined in this subsection, the Secretary shall establish procedures to ensure that health care professionals and patients are able to obtain, consistent with the functions described in paragraphs (1)(A) and (2)(A), cells from adult donors and cord blood units through a single point of access.

"(4) DEFINITION.—The term 'qualified cord blood stem cell bank' means a cord blood stem cell bank that—

"(A) has obtained all applicable Federal and State licenses, certifications, registrations (including pursuant to the regulations of the Food and Drug Administration), and other authorizations required to operate and maintain a cord blood stem cell bank;

"(B) has implemented donor screening, cord blood collection practices, and processing methods intended to protect the health and safety of donors and transplant recipients to improve transplant outcomes, including with respect to the transmission of potentially harmful infections and other diseases;

"(C) is accredited by an accreditation body recognized pursuant to a public process by the Secretary;

"(D) has established a system of strict confidentiality to protect the identity and privacy of patients and donors in accordance with existing Federal and State law; and

"(E) has established a system for encouraging donation by a genetically diverse group of donors.";

(4) in subsection (c)—

(A) in paragraph (1), by striking "The Registry shall carry out a program for the recruitment" and inserting "With respect to bone marrow, the Program shall carry out a program for the recruitment";

(B) in paragraph (2)(A)—

(i) in the matter preceding clause (i), by striking the first sentence and inserting "In carrying out the program under paragraph (1), the Program shall carry out informational and educational activities, in coordination with organ donation public awareness campaigns operated through the Department of Health and Human Services, for purposes of recruiting individuals to serve as donors of bone marrow and shall test and enroll with the Program potential donors."; and

(ii) in clause (ii), by striking ", including providing updates"; and

(C) in paragraph (3), by striking "the availability, as a potential treatment option, of receiving a transplant of bone marrow from an unrelated donor" and inserting "transplants from unrelated donors as a treatment option and resources for identifying and evaluating other therapeutic alternatives";

(5) in subsection (d)—

(A) in paragraph (1), by striking "The Registry shall" and inserting "With respect to bone marrow, the Program shall";

(B) in paragraph (2)(C), by inserting "and assist with information regarding third party payor matters" after "ongoing search for a donor";

(C) in subparagraphs (C), (D), and (E) of paragraph (2), by striking the term "subsection (b)(1)" each place such term appears and inserting "subsection (b)(1)(A)";

(D) in paragraph (2)(F)—

(i) by redesignating clause (v) as clause (vi); and

(ii) by inserting after clause (iv) the following:

"(v) Information concerning issues that patients may face after a transplant regarding continuity of care and quality of life."; and

(E) in paragraph (3)(B), by striking "Office may" and inserting "Office shall";

(6) in the matter preceding paragraph (1) in subsection (e), by striking "the Secretary shall" and inserting "with respect to bone marrow, the Secretary shall";

(7) by amending subsection (f) to read as follows:

"(f) COMMENT PROCEDURES.—The Secretary shall establish and provide information to the public on procedures under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the Program is carrying out the duties of the Program.";

(8) by amending subsection (g) to read as follows:

"(g) CONSULTATION.—In developing policies affecting the Program, the Secretary shall consult with the Advisory Council, the Department of Defense Marrow Donor Recruitment and Research Program operated by the Department of the Navy, and the board of directors of each entity awarded a contract under this section.";

(9) in subsection (h)—

(A) by striking "APPLICATION.—" and inserting "CONTRACTS.—";

(B) by striking "To be eligible" and inserting the following:

"(1) APPLICATION.—To be eligible"; and

(C) by adding at the end the following:

"(2) CONSIDERATIONS.—In awarding contracts under this section, the Secretary shall give substantial weight to the continued safety of donors and patients and other factors deemed appropriate by the Secretary."; and

(10) by striking subsection (l).

(b) STEM CELL THERAPEUTIC OUTCOMES DATABASE.—Section 379A of the Public Health Service Act (42 U.S.C. 274l) is amended to read as follows:

"SEC. 379A. STEM CELL THERAPEUTIC OUTCOMES DATABASE.

"(a) ESTABLISHMENT.—The Secretary shall by contract establish and maintain a scientific database of information relating to patients .who have been recipients of stem cell therapeutics product (including bone marrow, cord blood, or other such product) from a biologically unrelated donor.

"(b) INFORMATION.—The outcomes database shall include information with respect to patients described in subsection (a), transplant procedures, and such other information as the Secretary determines to be appropriate, to conduct an ongoing evaluation of the scientific and clinical status of transplantation involving recipients of bone marrow from biologically unrelated donors and recipients of a stem cell therapeutics product.

"(c) ANNUAL REPORT ON PATIENT OUTCOMES.—The Secretary shall require the entity awarded a contract under this section to submit to the Secretary an annual report concerning patient outcomes with respect to each transplant center, based on data collected and maintained by the entity pursuant to this section.

"(d) PUBLICLY AVAILABLE DATA.—The outcomes database shall make relevant scientific information not containing individually identifiable information available to the public in the form of summaries and data sets to encourage medical research and to provide information to transplant programs, physicians, patients, entities awarded a contract under section 379 donor registries, and cord blood stem cell banks.".

(c) DEFINITIONS.—Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended by inserting after section 379A the following:

"SEC. 379A-1. DEFINITIONS.

"In this part:

"(1) The term 'Advisory Council' means the advisory council established by the Secretary under section 379(a)(1).

"(2) The term 'bone marrow' means the cells found in adult bone marrow and peripheral blood.

"(3) The term 'outcomes database' means the database established by the Secretary under section 379A.

"(4) The term 'Program' means the C.W. Bill Young Cell Transplantation Program established under section 379.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 379B of the Public Health Service Act (42 U.S.C. 274m) is amended to read as follows:

"SEC. 379B. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $28,000,000 for fiscal year 2006 and $32,000,000 for each of fiscal years 2007 through 2010.

"(b) EMERGENCY CONTINGENCY RESPONSE CAPABILITIES.—In addition to the amounts authorized to be appropriated under subsection (a), there is authorized to be appropriated $2,000,000 for the maintenance and expansion of emergency contingency response capabilities under section 379(b)(1)(C).".

(e) CONFORMING AMENDMENTS.—Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended—

(1) in the title heading, by striking "**NATIONAL BONE MARROW DONOR REGISTRY**" and inserting "**C.W. BILL YOUNG CELL TRANSPLANTATION PROGRAM**"; and

(2) in section 379, as amended by this section—

(A) in subsection (a), by striking the term "board" each place such term appears and inserting "Advisory Council";

(B) in subection (c)—

(i) in the matter preceding subparagraph (A) in paragraph (1), by striking "Such program" and inserting "Such recruitment program";

(ii) in paragraph (2), by striking "program under paragraph (1)" and inserting "recruitment program under paragraph (1)"; and

(iii) in paragraph (3), by striking "program under paragraph (1)" and inserting "recruitment program under paragraph (1)";

(C) in subsection (d)(2)(E), by striking "Registry program" and inserting "Program";

(D) in subsection (e)—

(i) in the matter preceding paragraph (1), by striking "participating in the program, including the Registry," and inserting "participating in the Program, including"; and

(ii) in paragraph (6), by striking "the program" and inserting "the Program"; and

(E) by striking the term "Registry" each place such term appears and inserting "Program".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2520, the Stem Cell Therapeutic and Research Act of 2005, legislation I have cosponsored along with the honorable gentleman from New Jersey (Mr. SMITH), who is in the Chamber. This would expand the number of stem cell options available to Americans suffering from life-threatening diseases.

Every year, nearly two-thirds of the approximately 200,000 patients in need of a bone marrow transplant will not find a marrow donor match within their families. These patients must rely on the help of strangers to donate bone marrow for a transplant. To assist these patients, Congress established the National Bone Marrow Registry to quickly match donors to patients. Through this program, Congress made a significant investment to connect patients with a rich source of stem cells that offer immediate clinical benefits.

With scientific advances, Congress must now make changes to reflect new therapeutic options. Cord blood units have been shown to be a suitable alternative to adult bone marrow for the treatment of many diseases, including sickle cell anemia. This is an especially important advancement for those Americans who have desperately searched for a marrow donor but could not find a match with even the help of the National Bone Marrow Registry. As another rich source of stem cells, a cord blood transplant is another chance at life for many of these patients.

The bill before us today builds on the critical investments we have made over the past 2 decades with the National Bone Marrow Registry and retools this design into a new, more comprehensive stem cell transplantation program, which will include not only bone marrow but also cord blood units. Through a competitive contracting process, this new program will allow transplant doctors and patients to access information about cord blood units and bone marrow donors, at the same time, and I want to emphasize at the same time, through a single point of access. This new program does not create a preference for either cord blood or bone marrow. Instead, it will provide comprehensive information about both sources of stem cells to doctors and patients and allow them to make the most clinically appropriate choice.

I want to recognize the gentleman from Florida (Mr. YOUNG) at this time. It was the gentleman from Florida's (Mr. YOUNG) drive, when he was chairman of the Committee on Appropriations, and his steadfast support for the idea of a national registry for bone marrow that led to the program's creation. The gentleman from Florida's (Mr. YOUNG) lifesaving work is evident again today in the program's new design and goals. I am pleased that Congress is recognizing his dedication by naming this new program the C.W. Bill Young Cell Transplantation Program. I do not see the gentleman from Florida (Mr. YOUNG) in the Chamber, but at the appropriate time when he does arrive, I hope that the body will give him a standing ovation for his work in this area.

The capacity to search for cord blood units through a national network of cord blood banks will help facilitate cord blood transplants. We also need to expand the inventory of cord blood units so that more transplants can occur. The bill before us today authorizes a new grant program to provide subsidies to cord blood stem cell banks to expand the inventory of high-quality cord blood units that will be included in the new, expanded Cell Transplantation Program. I think that number is 150,000 units, which is a significant increase.

In addition to expanding the number of cord blood units available for clinical use to save lives today, the bill would also expand the number of cord blood units available for research. Research on adult stem cells holds the potential to develop new cures for many diseases, as well as to expand our knowledge of how human beings develop and the body works.

I would also like to make a personal aside here. My wife and I are expecting a child in September, and we are working with the cord blood people as we speak so that my son, and it is going to be a little boy and we are going to name him Jack Kevin, that we are going to save his cord blood so that some day in the future, if he needs it, it will be available. So in this case I can honestly say, in addition to sponsoring the bill, I am beginning to practice what I am preaching today.

It is not enough to connect patients with lifesaving donors. We also need to better understand how these patients fair when they receive the transplants. The bill would authorize research on the clinical outcomes of patients who are recipients of a stem cell therapeutic product, including bone marrow, cord blood, and other such products, from a biologically unrelated donor. It is my hope that this additional research will trigger new scientific breakthroughs to enhance and advance human life.

This is an important bill that merited many hours of negotiation, demanded the willingness of all those involved to put the interest of their patients first. I would like to thank the bill's primary sponsor, the honorable gentleman from New Jersey (Mr. SMITH). I would also like to thank the gentleman from Florida (Mr. YOUNG); the House leadership, including the honorable gentleman from Texas (Mr. DELAY); Congressional Black Caucus; the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the committee; the gentleman from Ohio (Mr. BROWN), the subcommittee ranking member who is here to speak on the bill; and all of the staff who have labored on this bill.

Particularly, I would like to thank Cheryl Jaeger, on my left, of my committee staff, for all of her efforts. She has been tireless in the last several months working on this bill. In the last few weeks, she has been able to forge a compromise that ultimately was acceptable to all the advocates of both bone marrow and cord blood.

We will continue to improve the legislation that moves forward so that pregnant women are informed of all of their options with respect to cord blood donation and the programmatic activities of the Cell Transplantation Program are clarified.

Mr. Speaker, at the appropriate time, I would urge all of my colleagues to support this bill. It is good legislation, well thought out, and deserving of majority support.

The Stem Cell Therapeutic and Research Act of 2005 Establishes a Foundation for Improving Access to Lifesaving Cellular Therapy Transplants

The National Marrow Donor Program (NMDP) is pleased that the sponsors of the Stem Cell Therapeutic and Research Act of 2005 have taken a positive step forward toward expanding the long-standing Congressional commitment to cellular transplant therapies by introducing legislation to continue Federal support for bone marrow, peripheral blood, and umbilical cord blood transplantation and research. Through the legislation introduced today, they acknowledge the important role Congress has played and must continue to play in ensuring that the more than 14,000 Americans in need of these types of transplants have access to them.

The bill calls for Federal dollars to increase the number of umbilical cord blood units available for transplant and research. Currently, there are 42,000 units available through the existing National Bone Marrow Donor Registry (National Registry), which also lists more than 9 million adult donors worldwide. With additional umbilical cord blood units added to this registry, more Americans who would otherwise not be able to locate a suitably matched adult donor will be able to find hope through a cord blood transplant. The NMDP estimates that with access to the existing adult donors and units, the addition of 150,000 cord blood units listed through the existing registry will provide a match for approximately 95 percent of Americans.

By designating the existing National Registry as the C.W. Bill Young Cell Transplantation Program, the sponsors have acknowledged Representative Young's unwavering commitment to the National Registry and its growth. In 1986, Representative Young's vision of a single integrated national bone marrow donor registry became a reality. Since that time, the National Registry has facilitated more than 21,000 unrelated transplants involving cord blood, bone marrow, and peripheral blood. It now includes more than 5 million U.S. adult volunteer donors and has links to another 4 million worldwide. As evidence supporting cord blood as a source of the same cells found in bone marrow and peripheral blood has grown, the National Registry, operated by the NMDP, has expanded to include more than 42,000 cord blood units through the NMDP's partnership with 14 of the 20 U.S. public cord blood banks. We join the sponsors in saluting Representative Young's dedication to helping the thousands of Americans in need of these types of transplants.

The expansion of the Program will benefit patients most if they are able to access the new sources of cells easily and efficiently. The NMDP supports the intent of the sponsors to provide patients and physicians with access to cord blood, bone marrow, and peripheral blood stem cells through a single point of access. To ensure the continued expansion of cord blood transplants, it is important that patients and physicians can search for all of these sources through a single registry, compare each source of cells for transplant quickly and efficiently, and obtain the cells once the search process is finished. One-stop-shopping to obtain information and logistical support is a critical component of the success of transplantation regardless of whether adult donors or cord blood units are used. The bill recognizes this need by calling for a single point of access for these activities to build upon the National Registry. Using the current registry as a basis for the new program will ensure that limited resources are dedicated to increasing the availability of matches and not in reinventing new bureaucracies.

Although this bill is a step in the right direction, it is critically important that the Program also have the authority to establish criteria and standards that provide transplant physicians with the assurances they need to be confident that when they compare various cord blood units and/or adult donors, they have the same type of information about each unit or donor. In addition, the NMDP urges members to recognize that transplant patients may encounter other barriers to accessing cellular therapy transplants. The need for assistance in addressing barriers to access should be extended to all recipients of transplants under this program, regardless of cell source. Physicians and patients must be able to receive all of the services necessary for a successful transplant, including distribution coordination, patient counseling, translation assistance, testing, insurance coordination, and other patient advocacy services. We look forward to working with the sponsors and the Department of Health and Human Services to strengthen these provisions of the legislation.

The NMDP applauds the sponsors for undertaking this important public health initiative. Through their leadership, thousands of Americans who might otherwise die will have access to lifesaving bone marrow, peripheral blood stem cell, and cord blood transplants.

Statement of Administration Policy—May 24, 2005

H.R. 2520—Stem Cell Therapeutic and Research Act of 2005

(Rep. Smith (R) NJ and 78 cosponsors)

The Administration strongly supports House passage of H.R. 2520, which would facilitate the use of umbilical-cord-blood stem cells in biomedical research and in the treatment of disease. Cord-blood stem cells, collected from the placenta and umbilical cord after birth without doing harm to mother or child, have been used in the treatment of thousands of patients suffering from more than 60 different diseases, including leukemia, Fanconi anemia, sickle cell disease, and thalassemia. Researchers also believe cord-blood stem cells may have the capacity to be differentiated into other cell types, making them useful in the exploration of ethical stem cell therapies for regenerative medicine.

H.R. 2520 would increase the publicly available inventory of cord-blood stem cells by enabling the Department of Health and Human Services (HHS) to contract with cord-blood banks to assist them in the collection and maintenance of 150,000 cord-blood stem cell units. This would make matched cells available to treat more than 90 percent of patients in need. The bill would also link all participating cord-blood banks to a search network operated under contract with HHS, allowing physicians to search for matches for their patients quickly and effectively in one place. The bill also would reauthorize a similar program already in place for aiding the use of adult bone marrow in medical care. There is now $19 million available to implement the Cord Blood Cell Bank program; the Administration will work with the Congress to evaluate future spending requirements for these activities. The bill is also consistent with the recommendation from the National Academy of Science to create a National Cord Blood Stem Cell Bank program.

The Administration also applauds the bill's effort to facilitate research into the potential of cord-blood stem cells to advance regenerative medicine in an ethical way. Some research indicates that cord blood cells may have the ability to be differentiated into other cell types, in ways similar to embryonic stem cells, and so present similar potential uses but without raising the ethical problems involved in the intentional destruction of human embryos. The Administration encourages efforts to seek ethical ways to pursue stem cell research, and believes that—with the appropriate combination of responsible policies and innovative scientific techniques—this field of research can advance without violating important ethical boundaries. H.R. 2520 is an important step in that direction.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Today, Mr. Speaker, we will consider two bills that have significant bearing on the future of medicine and medical research in our country. I want to thank the gentleman from New Jersey (Mr. SMITH) and the gentleman from Texas (Mr. BARTON) for their work on the first of these bills. The Smith-Barton legislation reauthorizes the National Bone Marrow Donor Program and adds a new national cord blood registry. Cord blood and bone marrow have several therapeutic uses in common: first and foremost, the treatment of blood diseases. Coordinating these two registries makes sense for patients, for doctors, and for the public health. With this kind of coordinated program, there will be a single entry point for transplant doctors and their patients to locate available cord blood units.

This bill also increases outreach and education efforts so that we can amass the most diverse possible reserves of cord blood. It improves data keeping and distribution so that necessary blood gets to patients as quickly and as accurately as possible. In addition to the therapeutic uses of cord blood, this bill makes cord blood stem cells available for research purposes.

There is clearly therapeutic potential in the use of cord blood and adult stem cells. Some of the most important research in this area is taking place in Ohio, in northeast Ohio, where I call home, at the National Center for Regenerative Medicine, a partnership of Case Western Reserve University hospitals, and the Cleveland Clinic in Cleveland.

I mentioned we will be considering two bills today that have significant bearing on the future of medicine. And it is in the research area that the distinctions between these two bills takes on the greatest significance.

□ 1230

Smith-Barton focuses on cord-blood and adult stem cell research. In the Castle-DeGette bipartisan bill, it focuses on embryonic stem cell research.

That is a critical distinction, and the House needs to acknowledge that. Cord-blood and adult stem cell research are not substitutes for embryonic stem cell research. They are not alternative avenues to the same medical outcomes. Each type of research holds unique potential.

For example, while adult stem cells represent an important advance in the treatment of blood disorders, these cells simply do not occur in every tissue in the body. Because there are no adult stem cells, for example, in the pancreas, the potential of adult stem cells to develop into therapies for a disease like diabetes is very limited. That is one example of many.

Embryonic stem cell, on the other hand, can grow into any type of cell in the body, making potential use of these far more diverse and far more valuable.

We should not minimize the importance of cord-blood and adult stem cell research, but by the same token, we shouldn't mislead the public into believing that if Smith-Barton passes, the Castle-DeGette bill is unnecessary, because surely it is not. It is irresponsible and even dangerous for Members of this body to distort the value of one form of research in order to stifle another promising avenue of research.

We in this Congress have a responsibility to support medical research and to foster its development, as the committee of the gentleman from Texas (Mr. BARTON) committee has done well over time. Millions of lives have been saved and improved because of the brilliant research conducted in this country. We also have a responsibility to speak honestly about that research and its potential.

Both sides of this debate owe it to the public to draw clear lines between the beliefs we hold and the facts that hold, regardless of what we believe. The fact is that cord-blood research, adult stem cell research and embryonic stem cell research are not interchangeable. The fact is, if we invest in all three types of research, we may finally be able to find cures for debilitating illnesses, cures that are currently beyond our reach.

The fact is, if the U.S. withholds funding for embryonic stem cell research, that research will continue, just at a significantly slower pace. People that you and I know, they may be friends, they may be family members, they may be professional colleagues, will suffer and die from potentially curable illnesses while we wait for the rest of the world to fill our shoes.

Researchers in other nations, researchers in private institutions in this country, are pursuing embryonic stem cell research because they know that it is possible to accomplish this research in an ethical manner. Embryonic stem cell research does not and need not increase the number of embryos that are destroyed. Instead, it decreases the number of embryos that are destroyed in vain.

We will have an opportunity today to pass two pieces of legislation, both are important, that will deliver hope to patients whose futures depend on new answers to life and death medical questions. Our Nation cannot pick and choose between cord-blood research and adult stem cell research and embryonic stem cell research if we want to answer all these questions, unless we want to offer hope to some and sympathy to others.

Mr. Speaker, I urge Members to vote in favor of both the Smith-Barton bill and the Castle-DeGette bill. Doing so will show that what you know and what you believe intersects at the point where medical progress is harnessed to alleviate untold human suffering.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that debate on this motion be extended by 20 minutes, equally divided between myself and the gentleman from Ohio (Mr. BROWN).

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. SMITH), the original author of the bill and my cosponsor.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding and for his leadership on this bill and for cosponsoring it, along with the gentleman from Alabama (Mr. DAVIS) on the other side of the aisle for his leadership over the last 3 years as we crafted this legislation. It is finally on the floor after almost 3 years of work; and again I thank my friend, the gentleman from Alabama (Mr. DAVIS) for his leadership.

One of the best kept secrets in America today is that umbilical cord-blood stem cells and adult stem cells are curing people of a myriad of terrible conditions and diseases. One of the greatest hopes that I have is that these current-day miracles, denied to many because of an insufficient inventory and inefficient means of matching cord-blood stem cells with patients, will now become available to tens of thousands of patients as a direct result of the Stem Cell Therapeutic and Research Act of 2005, H.R. 2520.

Amazingly, we are on the threshold of systematically turning medical waste, umbilical cords and placentas, into medical miracles for huge numbers of very sick and terminally ill patients who suffer from such maladies as leukemia and sickle cell anemia. And because this legislation promotes cord-blood research as well, we can expect new and expanded uses of these very versatile stem cells.

For the first time ever, our bill establishes a nationwide stem cell transplantation system. It also authorizes the national bone marrow transplant system and combines both under a new program, providing an easy, single-access point for information for doctors and patients and for the purpose of collecting and analyzing outcomes data.

The new program created in our legislation is named for our distinguished colleague, the gentleman from Florida (Mr. YOUNG), because of all of his great work on bone marrow transplantation over the last 2 decades.

Mr. Speaker, cord-blood stem cells are already treating and curing patients. Unlike embryonic stem cell research that has not cured one person, cord-blood stem cells are treating patients. The New York Blood Center, for example, has treated thousands of patients with more than 65 different diseases, including sickle cell disease, leukemia and osteoporosis.

Some of those patients came and told their stories yesterday at a press conference, and they are in the gallery watching this debate right now. One of those men, a young man named Keonne Penn was here to tell his story of how he was cured of sickle cell anemia, and he said, "If it wasn't for cord-blood stem cells, I would probably be dead by now. It is a good thing I found a match. It saved my life."

Stephen Sprague, another man who was cured of leukemia, said he too was lucky to find a cord-blood match. And 22-year-old Jaclyn Albanese, who just graduated from Rutgers University from my State, said, "If the New York blood center had not been there, I do not know what kind of shape I would be in." She is thankful as well.

Mr. Speaker, I say to my colleagues, cord-blood has also been used to treat Hurler's disease and Krabbe's disease, both neurological conditions, which blows away the idea that cord-blood stem cells are limited in the potential and the capacity to turn into other kinds of cells. That is not too surprising, I say to my colleagues, when you simply read the published literature on the flexibility of cord-blood stem cells.

According to a July 2004 study published in the Journal of Experimental Medicine, a research group led by Dr. Kogler found "a new human somatic stem cell from placental cord-blood with intrinsic pluripotent differential potential," which means it can become any type of cell in the body. In addition, they found that the cells could expand to 10 quadrillion, or 10 to the power of 15, cells before losing any pluripotent abilities.

And cord-blood stem cells are not only ahead in treating real human patients, they are also able to turn into different kinds of cells for research. One company has already turned cord-blood stem cells into representatives of three germinal layers, including neural stem cells, nerve stem cells, liver/pancreas precursors, skeletal muscle, fat cells, bone cells and blood vessels.

Last month, Celgene Corporation announced that cord-blood cells "are 'pluripotent', or have the ability to become different types of tissue." So we are just on the beginning of realizing the vast potential of what was formerly medical waste and has now been turned into these medical miracles.

Let me just say to my colleagues that this idea that research on bone marrow and cord-blood stem cells has been researched on for decades and that embryo stem cells have only been researched for a short time is ludicrous and an unfair attack on cord-blood stem cell research. During the entire period where research has been happening in this area of regenerative medicine, the idea that cells can change types and repair organs, both adult and embryo cells have been around in animals. And, again, great progress has been made in the cord-blood and the adult stem cell. My bill needs to be passed.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. MATSUI).

Ms. MATSUI. Mr. Speaker, I rise today in support of H.R. 2520, as well as the Stem Cell Research Enhancement Act, as both bills are part of today's larger debate on stem cell research and the hope being offered with them.

As Samuel Smiles said, "Hope is the companion of power and the mother of success; for who so hopes has within him the gift of miracles."

That is what today's debate is about, because at its core, stem cell research is about the idea of hope and miracles, a hope which has become quite personal for me. As you know, my husband Bob, who worked with all of you for so many years, suffered from a rare bone marrow disorder. I saw what this disease did to him. I saw his life cut short. And it is my hope that by expanding stem cell research, other families will have more than just a hope for a cure for this disease, as well as many, many others.

But to be effective, hope and optimism need to be based on a possibility. This is what we are talking about today, whether or not this country will close the door on hope on the unexplainable, on what is truly a miracle. It is clear that by passing this bill and the Stem Cell Research Enhancement Act we will not be reading articles in next week's paper that we found the cure for cancer or any other disease, that we hope to be effected. But I feel strongly that the effects of Federal dollars and involvement in stem cell research will make an unquestionable difference.

Our country has been a leader in so many areas of medicine. Now is not the time to cede our role to countries like South Korea, France or Great Britain. By doing so, we will not only diminish the contributions of Americans, but also our ability to shape and impact the ethical debate.

Both bills are an important step in harnessing the power of optimism. I hope we will not ignore this opportunity.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), a member of the Committee on Energy and Commerce.

Mr. FERGUSON. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, today we will hear some of our colleagues talk about the empty promise of embryonic stem cell research. They will argue for research that not only requires the destruction of human life, but to date, has also not yielded a single therapy.

What we in Congress should be advocating for is the continuing advancement of adult stem cell research, a true scientific success story, which has benefited thousands of Americans already.

Perhaps nowhere is this success more evident than in the advancement of cord-blood stem cells. A rich source of stem cells, umbilical cords are already treating patients. Cord-blood stem cells have already been used to treat thousands of patients and more than 67 different diseases, including leukemia, sickle cell anemia and lymphoma. The New York Blood Center's National cord-blood program alone has provided transplants to over 1,500 gravely ill children and adults.

And there is great promise for the future. Studies have shown that these cells have the capacity to change into other cell types, giving them potential to treat debilitating conditions such as Parkinson's disease, spinal cord injury and diabetes.

The Stem Cell Therapeutic and Research Act focuses government efforts on research with real promise, providing Federal funding to increase the number of cord-blood units available to match and treat patients.

The bill also takes on the recommendations of the Institute of Medicine, providing a national network that would link all the cord-blood banks participating in an inventory program into a search system, allowing transplant physicians to search for cord-blood and bone marrow matches through a single-access point.

□ 1245

It would also promote additional stem cell research for units not suitable for transplant. The Stem Cell Therapeutic and Research Act advances true stem cell research, research with real promise, grounded in proven science; and it is ethically sound.

I urge my colleagues to join me in supporting this important and timely legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, let me begin by joining the various Members of this institution who will speak today and who will urge the passage of both of these bills. I certainly cannot speak with the particular passion of the gentlewoman from California (Ms. MATSUI) who has been touched by this issue, but this is a very good day for the House of Representatives. It is a very good day, because we have managed to reach across the partisan divides, I believe twice today, or we will manage to reach across the partisan divide, I believe twice today, to pass bills that are good for the American people and good for countless numbers of Americans who need this research.

I want to say something about the cord blood bill in particular. I have had the honor for 2 years of working with the gentleman from New Jersey (Mr. SMITH) on this bill, and I am a Democratic sponsor on it; and I want to thank him for his good work.

This bill will make an enormous difference to the African Americans around this country who often struggle with blood matches. Cord bloods do not require a blood match. The young man that we saw on the Cannon terrace yesterday who suffered from sickle cell anemia whose life has been permanently transformed by cord blood cell technology speaks to the power of this bill. We talk a great deal about health care disparities, and we ought to talk about health care disparities in this country; but rather than talk, this bill acts. It actually provides relief for a group of people who otherwise would not have seen it.

But I want to talk for just a moment about the concept of principled difference, because I think it is very much illustrated today. Mr. Speaker, the reason that this cord blood bill made it to the floor is in large measure because rather than digging in in opposition to stem cell opposition, as strongly as the gentleman from New Jersey (Mr. SMITH) feels about this issue, rather than digging in in opposition, the gentleman worked with the scientific community, he worked across the aisle to try to find another approach. And as circumstance has it, both of these approaches are before us today.

If we would somehow as an institution learn from his example, if we figured out how, rather than digging in and deciding how much we disagree with each other, what other ways exist, what ways can we find to work together, we would not have a 34 percent approval rating as an institution.

The final point that I will make is that I firmly believe that we have all of our genius and all of our brilliance as a scientific and medical community for a very good reason. I think that we are meant to use it. I am hopeful that all of the technological advances that have happened in the last several years, with cord blood cells and with stem cells, can make a significant difference.

So to all the Members of this institution, I simply urge them and encourage them to vote for both of these bills but, even more importantly, to accept this as an example of what happens when Democrats and Republicans find intelligent common ground. There will be people who will benefit from this, and I do not think it is going too far to say that lives will be saved because of these two bills.

So I thank the gentleman from New Jersey (Mr. SMITH) for his good work and, again, I am honored to be the lead Democratic sponsor of the cord blood bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. WELDON), a doctor, and one of our more thoughtful Members on this subject and somebody who has given a lot of time to it.

Mr. WELDON of Florida. Mr. Speaker, I commend the chairman of the Committee on Energy and Commerce and his staff, as well as the gentleman from New Jersey (Mr. SMITH), for their diligent work on bringing this very, very good bill to the floor of the House.

What we are going to be voting for here will help create a banking system so that if a patient comes in to see me with a particular illness that is amenable to treatment with stem cells, I can enter their genetic information in a computer, find a match of cord blood that would be kept in a freezer, and actually treat the patient. It is really exciting, I have to say. I never thought I would live to see the day where we would be curing sickle cell anemia. And for those of my colleagues who do not know about sickle cell anemia, sickle cell is a terrible disease. You get these young people, kids, coming in your office with these horrible, painful crises where their bones are aching and you end up having to give them narcotics and transfuse them. It stunts their growth, horrible condition. We now have 10, 10 kids that have been cured of sickle cell anemia.

Just yesterday I was flying up here, and as I often do, I grabbed some medical journals to read on the plane. I was reading the May 19 issue of the New England Journal of Medicine and, lo and behold, another research article, this one on transplantation of umbilical cord blood in babies with Infantile Krabbe's disease, a rare disease, a terrible disease, the babies die; and this cord blood study shows if you catch it early, you can actually cure these kids.

I know there have been a number of Members coming to the floor talking about the embryonic bill that we are going to take up later; the embryonic stem cells have never been shown to be successfully useful in a human model. They do not even have one case. We have thousands of people who have been treated with adult stem cells and these cord blood treatments.

I just want to correct the gentleman from Alabama. He has implied some of us are against stem cell research. That is not the case at all here. We are just for ethical stem cell research.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking Member for yielding me this time.

Let me thank the sponsors of this legislation, the gentleman from New Jersey (Mr. SMITH), the gentleman from Texas (Mr. BARTON), the gentleman from Alabama (Mr. DAVIS), and, of course, the gentlewoman from Colorado (Ms. DEGETTE) and the gentleman from Delaware (Mr. CASTLE) for the second bill, the bills being H.R. 810 and H.R. 2520.

Let me just say that separating these two legislative initiatives would be like separating the Flag from the Pledge of Allegiance. It is appropriate to have a marriage today of two very vital and important legislative initiatives, one dealing with adult stem cell research, which is vital and done along ethical lines and will help many in our community that have a number of significant diseases; in particular, Alzheimer's and sickle cell anemia. Then, of course, the importance of stem cell lines and expanding it under Federal funding is something that we cannot imagine.

Let me tell my colleagues about an individual that I love and admire in my community, Reverend M.L. Jackson, exciting, exuberant, a leader in our community. His family just said that with all of his leadership and heading up ministerial alliances, he has Alzheimer's. I go home this weekend to meet with Reverend Jackson and to recount his life with him as he now sees it. But would it not be wonderful for a vibrant and outstanding leader of our community to have an expanded opportunity, as Nancy Reagan argued for, for President Reagan.

Unless Federal funding for stem cell research is expanded, the United States stands in real danger of falling behind other countries in this promising area of research. I would mention that the National Academy of Sciences recently issued a set of guidelines to ensure that human embryonic stem cell research is conducted in a safe and ethical manner.

This legislation, the Castle-DeGette legislation, H.R. 810, and, of course, the fantastic and forward-thinking legislation, H.R. 2520, sponsored by the gentleman from Texas (Mr. BARTON), the gentleman from New Jersey (Mr. SMITH), and the gentleman from Alabama (Mr. DAVIS), represents a coming together of our family. It certainly deserves a good marriage. Just as we cannot separate the Pledge and the Flag, let us unite today and vote unanimously on these two outstanding initiatives to support American stem cell research, and to save lives.

Mr. Speaker, I rise this morning in support of the "Stem Cell Therapeutic and Research Act of 2005." This measure, sponsored by CHRISTOPHER H. SMITH, JOE BARTON, and ARTUR DAVIS would promote research on a type of stem cell, known as an adult stem cell, taken from umbilical cord blood. In addition, the bill creates a new federal program to collect and store umbilical-cord-blood stem cells, and expands the current bone-marrow registry program.

While I have no objections to the bill, it is important that no one view H.R. 2520 as a substitute for H.R. 810, the "Stem Cell Research Enhancement Act." These are entirely different bills, but both deserve passage.

Recent discoveries have convinced scientists that stem cells might eventually become the key to treating diseases such as Parkinson's, diabetes, and heart disease. Researchers hope to be able to study stem cells to better understand how diseases develop and eventually use them to generate tissues that could replace damaged or diseased tissues and organs in patients.

Adult stem cells are unspecialized cells found in specialized tissue such as bone marrow or skeletal tissue. Initially, scientists viewed their medical applications as limited in what they can become to the cell types from which they were extracted. Recent evidence has suggested that adult stem cells could provide more flexibility than previously thought, according to the National Institutes of Health.

This legislation would create a new federal program to collect and store umbilical-cord-blood stem cells, and reauthorizes and expands the current bone marrow registry program. I am supportive of this bill because it would be of great benefit to African Americans. This bill has specific language that would diversify the Bone Marrow Banks of this nation. This would be of extreme importance to many African Americans suffering from Sickle Cell Anemia.

As you can see, these are complicated issues, but I think we are headed in the right direction. This bill would help our doctors and scientists discover new treatments and cures for otherwise debilitating and incurable diseases and ailments. For this I must support it. However, I cannot support this bill without clarifying that it should not be viewed as an alternative to H.R. 810, rather as a complementary force.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in support of H.R. 2520, which I really view as a noncontroversial, bipartisan piece of legislation that we should all be able to agree on. I think one speaker a moment ago talked about science and our obligation to promote science. I would agree with him, but with this caveat: science tells us what we can do; science does not tell us what we should do. That is an ethical dimension, and we are called upon oftentimes to decide what the ethical thing to do is.

Here we have a piece of legislation dealing with an emerging area of science, but one that has already proven itself to be effective in human application and one that also shows itself to be easily obtained, that is, we either throw away umbilical cords, throw away the umbilical cord and the placenta at the time of birth, or we save the blood that can be captured at that time to make it available such that the stem cells can be taken from that and utilized in this therapeutic fashion. This bill would also allow us to do research with these stem cells.

There is a tremendous frontier out there. There is a tremendous frontier that shows tremendous opportunity for success. I do not want to overhype it. I do not know far it will go, but certainly it has not gotten the attention that needs to be given it. When we talk about stem cells, we can talk about how we obtain the stem cells. We can do it in several ways. And there is an ethical dimension, an ethical dilemma that exists with respect to the second bill that will be up today. There is no such dilemma that exists with respect to this bill.

We can obtain this in very easy ways, voluntarily, asking mothers at the time their children are born to donate these units such that others might be helped. We have been laggard in our approach to this particular area of science. Again, I say, where we have no ethical question, where we have strong support from the scientific community, we should do no less than to support this bill strongly.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 2520, the Stem Cell Therapeutic and Research Act of 2005. The gentleman from Texas (Chairman BARTON), the gentleman from Michigan (Ranking Member DINGELL), the gentleman from New Jersey (Mr. SMITH), and the gentleman from Alabama (Mr. DAVIS) are to be applauded for their leadership and the bipartisan way in which they worked to craft this bill and bring it to the floor today.

I have come to this floor on numerous occasions to remind my colleagues about the health care crisis taking place in minority communities. I am proud to say that while this bill is important to saving the lives of all Americans, it also has the potential to eliminate the disparity in pain management and treatment of chronic diseases, and inherited ones, like sickle cell anemia in minorities.

In September of last year, I hosted one of the first briefings on Capitol Hill about the importance of cord blood. As discussed then, with additional umbilical cord blood units added to the registry, more Americans, and minorities in particular, who would otherwise not be able to locate a suitably matched, adult transplant donor, will be able to find successful treatment and, thus, hope. With the addition of a possible 150,000 more cord blood units, we will be able to potentially match up to 95 percent of Americans.

Earlier this month, the Institute of Medicine recommended that cord blood donors be provided with clear information about their options, including a balanced perspective on the different options of banking. The bill directs the Secretary to guarantee that education.

But, Mr. Speaker, we need not only cord blood, but adult and embryonic stem cells as well to provide the full complement of this lifesaving therapy. As this chart shows, unlike human embryonic stem cells, adult stem cells and stem cells from umbilical cord blood cannot continually reproduce themselves and are unable to form diverse, nonblood cell types. The cord blood stem cells are an important tool for medicine, as I have said before, especially in the treatment of blood diseases; but they are not, they are not a substitute for embryonic stem cells. We need both.

So I strongly urge support for H.R. 810, the Stem Cell Enhancement bill of 2005, and I urge the President to sign both bills into law. That bill was introduced by the gentlewoman from Colorado (Ms. DEGETTE) and the gentleman from Delaware (Mr. CASTLE), and I commend them for their work as well.

Mr. Speaker, H.R. 810 would allow important research on embryonic stem cells to continue. Many of the initial lines have been contaminated and cannot be used. Further, the bill includes strong safeguards to protect life and against abuse.

I urge my colleagues to support these bills and to join me in urging the President to sign both bills. Through the enactment of H.R. 2520 and H.R. 810, we can provide this lifesaving therapy to many who otherwise may not have any other option to improve or extend their lives. They and their families are depending on us.

□ 1300

Mr. BARTON of Texas. Mr. Speaker, I yield 15 seconds to the gentleman from New Jersey (Mr. SMITH), very briefly.

Mr. SMITH of New Jersey. Mr. Speaker, I just want to make the point that some misinformation perhaps inadvertently is being spread on this floor, that these stem cells that are derived from cord blood only have a blood application. That is unmitigated nonsense. It is not true. And I pointed out in my opening comments that in the Celgene Cellular Therapeutics first reported back in 2001 that placental stem cells turned into nerve, blood, cartilage, skin and muscle cells, and that since that time other studies have confirmed cord blood's pluripotent capability. Surely there needs to be further research.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to a member of the committee, the distinguished gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Speaker, I thank the chairman for yielding his time.

You know, you cannot divorce medical research from medical ethics. And as such, it is critically important we are dealing here with medical facts.

First of all, although many Members and the public and the media seem to get this wrong, the truth is, I believe we will have probably close to unanimous support for using Federal dollars for stem cell research, but it is important to understand the different types:

Adult stem cell, which has much promise to harvest and grow these, although it has some risk for infections and other problems. Some 30,000 people have been treated.

Umbilical cord, which is pluripotent. It can be used in multiple ways. Over 6,000 cases have been treated.

Frozen embryo research, zero. And cloning has its own problems with that as well.

In the area of umbilical cord blood, one of the cases, because in my practice, I oftentimes dealt with children with developmental disabilities. One case of the New England Journal of Medicine reports 90 percent success rate with Hurley's syndrome, a developmental disorder, autosomal dominant one, which ends up in severe developmental delays and death. Those are incredible results, incredible results that come from looking at the facts of what cord blood stem cell research is about.

Let us not distort this discussion and confuse cord blood and embryonic, because when you are using cord blood, umbilical blood, you are not killing anyone. You are not limiting or destroying a life. You are taking something that has been discarded in the normal process of pregnancy and birth.

Let us help support the continuation of this vital research which does not just show promise, but shows demonstrable results. And it does not involve the ending of any life in the process. This is where we should continue our research. This is where we must continue our work. This is where we must take our stand today, to continue to support medical research that is important. Look also at medical ethics.

Mr. BROWN of Ohio. Mr. Speaker, could the Chair inform both sides how much time is remaining?

The SPEAKER pro tempore (Mr. FLAKE). The gentleman from Ohio (Mr. BROWN) has 13 minutes. The gentleman from Texas (Mr. BARTON) has 11 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL), a member of the Health Subcommittee.

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN) for yielding time to me. And I rise in support of H.R. 2520, the Stem Cell Therapeutic and Research Act of 2005. This act, combined with H.R. 810, the Stem Cell Research Enhancement Act of 2005, will go a long way towards helping millions of Americans who suffer from debilitating health conditions.

I wholeheartedly support umbilical stem cell research, but also support embryonic stem cell research. As anyone who suffers from diabetes, Parkinson's disease, ALS, or a host of other health problems knows, one possible treatment is the use of stem cells to help regrow the tissues affected by their ailments.

Scientists have stated that embryonic stem cells provide the best opportunity for devising unique treatments of these serious diseases since, unlike adult stem cells, they may be induced to develop into any type of cell. Adult stem cells are also problematic, as they are difficult to identify, purify and grow, and simply may not exist for certain diseased tissues that need to be replaced.

Please understand that I do not discount the promise of adult stem cell research or cord blood research, but I agree with the National Institutes of Health that we must carefully study all types of adult and embryonic stem cells. In their words, "Given the enormous promise of stem cell therapies for so many devastating diseases, NIH believes that it is important to simultaneously pursue all lines of research." Our loved ones deserve science's best hope for the future.

Now, I want to say something. This is not about cloning. I oppose cloning of human beings. This is about the use of embryonic stem cells which would have been discarded anyway.

I want to repeat that. This is about the use of embryonic stem cells which would have been discarded anyway. It has been estimated that there are currently 400,000 frozen IVF embryos, which would be destroyed if they are not donated for research.

I would never condone the donation of embryos to science without the informed, written consent of donors and strict regulations prohibiting financial remuneration for potential donors. Our Nation's scientific research must adhere to the highest ethical standards. But it is important that we do embryonic stem cell research. We are falling behind other countries, and this is not what ought to be happening.

President Bush has limited Federal funding of stem cell research to only those stem cell lines that existed prior to August of 2001. But unfortunately, only 22 cell lines are available for study, which prevents scientists from having access to important genetic cell diversity. Simply put, if it continues, that would not be ethical. Please support both bills.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I rise today in strong support of the gentleman from New Jersey (Mr. SMITH's) Stem Cell Therapeutics and Research Act of 2005, and commend the gentleman for his courageous and principled stand for the sanctity of life.

As a physician Member, I know that significant successes are being reported from the use of umbilical cord stem cells in the treatment of 67 diseases, including sickle cell anemia, leukemia, osteoporosis and lymphoma. There is great promise in this research. Umbilical cord stem cells, unlike embryonic stem cells can be matched to a recipient by blood type, gender, ethnicity, that results in fewer tissue rejections.

Compare this to embryonic stem cells. Aside from the fact that harvesting embryonic stem cells results in the destruction of innocent life, embryonic stem cells are gathered without knowledge of blood cell type, without assurance that they are free from infection, and without screening for genetic defects. These embryonic stem cells may be mismatched, carry infection, or have genetic defects with cancer-producing potential.

There is a better way, Mr. Speaker. It is H.R. 2520, which enhances Federal funding for expanding the already successful use of umbilical cord stem cells. When you consider the ethics and the science and the debate, it is clear that cord blood stem cells are the right choice for our Federal funding and scientific support.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GENE GREEN), an outstanding member of the Health Subcommittee.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to support not only H.R. 2520, but also H.R. 810, the Castle/DeGette legislation to expand Federal research for embryonic stem cells.

Undoubtedly, each of us on this floor today has a friend, family member or neighbor who could benefit from increased embryonic stem cell research, whether they suffer from spinal cord injury, Alzheimer's, MS or juvenile diabetes. As we consider both the Castle/DeGette stem cell bill and the Smith legislation on umbilical cord stem cells, it is important we differentiate between the effects of these two bills.

I support both of them. But one is not a substitute for the other. The Castle/DeGette bill will expand research on embryonic stem cells, which would have the ability to reproduce indefinitely and to evolve into any cell type in the body.

It is this element of embryonic cell research that offers the most hope for finding cures to the diverse set of diseases that plague too many Americans. We cannot take away that hope by shutting the door on Federal research on embryonic stem cells. The President's policy shut that door, and we have lost 4 years of robust research that will be needed to cure the most complex diseases.

Opponents of this bill will say that the embryonic cell research is unproven, but we will never know the true promise of embryonic stem cells if we hold back Federal dollars for the research. If embryonic stem cell research gets us even one step closer to curing Parkinson's, spinal cord injury and Alzheimer's, it is worth every penny. Just ask Michael J. Fox, Dana Reeves or Nancy Reagan.

These tremendous people, as well as countless more in each of our communities, know what it is like to live every day waiting for your cure. Slamming the door on stem cell research slams the door in their faces.

We talk about using our values to pass legislation to help people. Both these bills are important to helping people with such terrible illnesses.

This last Saturday I helped my wife's mom move into a nursing home. She was diagnosed with Alzheimer's in the mid-1990s. We have watched the progression of that terrible disease. Nothing can help my mother-in-law. But by voting today for both these bills, we can help maybe the next generation, instead of sticking our heads in the sand.

I urge my colleagues to do the right thing for the millions of Americans suffering from incurable diseases. Pass both the Castle/DeGette bill and the Smith legislation and keep the hope for embryonic cell and cord blood research alive.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished Majority Leader of the great State of Texas (Mr. DELAY), Fort Bend County, Sugarland.

Mr. DELAY. Mr. Speaker, the issue of human cloning and embryonic stem cell research cuts to the very core of politics. And today the House will hear passionate arguments, essentially about the nature and value of human life.

Now, that debate will be, among other things, controversial, because the proponents of embryo destruction in the name of progress believe it is not the embryo destruction its opponents oppose, but rather progress itself. But it is not so, and the bill before us now, the Stem Cell Therapeutic and Research Act proves it.

This bill, which provides for Federal funding of research using adult stem cells which have, unlike embryonic stem cells, proven medical benefits in treating more than 60 separate diseases, will pass with the overwhelming support of both sides of this debate.

Now, this bill, sponsored by the gentleman from New Jersey (Mr. SMITH) will, for the first time, provide for taxpayer-funded research on well-developed stem cells from umbilical cords, expand Federal funding in bone marrow stem cell research, and provide for the development of a national stem cell therapy database for medical practitioners and researchers.

This is what progress is, Mr. Speaker, concrete, definable and based on fact, rather than speculation or a false sense of hope.

The best one can say about embryonic stem cell research is that it is a scientific exploration into the potential benefits of killing human beings. Proponents of medical research on destroyed human embryos would justify admittedly unfortunate means with the potential ends of medical breakthroughs down the line.

But the deliberate destruction of unique, living self-integrated human persons is not some incidental tangent of embryonic stem cell research. It is the essence of the experiment. Kill some in hopes of saving others.

The choice, however well intentioned, is predicated upon a utilitarian view of human life that this bill shows our government need not take. The Smith bill will fund the only kind of stem cell research that has ever proven medically beneficial, while helping to develop new and exciting avenues of inquiry, all without harming a single human embryo.

This bill is progress, Mr. Speaker, and represents a perfect contrast to speculative and harmful methods of embryonic stem cell research. This is the right stem cell bill, Mr. Speaker.

Progress, even progress that pushes the envelope of medical knowledge, need not be controversial. It need not divide us or force people of goodwill to devalue human life. Progress, in fact, is the opposite of such a choice. And the Smith bill unites the public and private sectors, both doctors and patients, and recognizes the inherent dignity and value of every human person.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan. Mr. Speaker, I am a strong supporter of stem cell research. It saves lives, it prolongs life, and it helps unhealthy people remain existent on this earth.

I am a diabetic myself, and for the last decade I have been working with stem cell research in my own district. The Karmanos Cancer Institute, world renowned in our community and in Michigan, and part of the former Detroit Medical Center, is a leader in research.

This bill deals with cord research, umbilical cord research, not controversial. Medical professionals and others support umbilical cord research.

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Umbilical cord research is the cord that is separated after a woman delivers her child. In many instances, 90 percent of the time, those cords are displaced and thrown away. What this bill will help us do is first of all gather those cords across America to save lives, to renew organs, and to continue life as we know it.

So I rise in support of H.R. 2520 as another means for us to prolong life, to give life, from stem cords, umbilical cords of women that are heretofore thrown out.

In our community, we are educating women and asking for their permission that medical research is able to use the cords, the umbilical cords of the fetus. It is new, it is exciting, and it is happening all over the world. Our country is first in medical science; and this act that we are taking today will continue research and development, healthier lives and longer lives.

Support H.R. 2520 and let us bring America up so that we can save lives, prolong lives, and build a real strong America.

Mr. Speaker, I rise to support the "Stem Cell Therapeutic and Research Act".

This bill creates a new federal program to collect and store umbilical cord blood stem cells and reauthorize and expands the current bone marrow registry program.

Umbilical cord blood units, typically discarded at hospitals, can be an unlimited source of stem cells with representation of all races and ethnicities.

According to the National Marrow Donor Program (NMDP), African-Americans have only a 30 percent chance of finding a stem cell match within their own families and often require healthy stem cells from an unrelated individual, typically another African American. Of the NMDP's registry of donors, only 8 percent are from African-Americans.

I support the use of embryonic stem cells, adult stem cells and cord blood research to find cures. I urge all of my colleagues to support this bill and H.R. 810 "Stem Cell Research Enhancement Act" introduced by Representatives MIKE CASTLE and DIANA DEGETTE that would lift Bush's 2001 ban on the use of federal dollars for research using any mew embryonic stem cell lines.

All avenues of stem cell research need to be explored. The current embryonic stem cell policy must be changed.

We can no longer tie the hands of our scientists and researchers when millions of lives are at stake.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Speaker, I thank the chairman for yielding me time. I want to congratulate the chairman and the gentleman from New Jersey (Mr. SMITH) and the gentleman from Alabama (Mr. DAVIS) for their leadership.

What we are doing with this legislation is that we are celebrating life and we are celebrating science. Our debate today and this bill, this bill is so very important because it is not often that politicians get it right when dealing with health care or science. I know. As a physician I have seen government inject itself in places it ought not go and spend countless dollars on fanciful and distorted claims. However, H.R. 2520 will save lives and improve the quality of life for millions. And I know this because it will increase the use of a science that has already been proven.

As a new Member of Congress, I am proud to stand before you and lend my support to a positive and productive piece of legislation that will bring sunlight to those who have experienced too many clouds, and it will do so in an unquestionable and ethical manner.

I commend the gentleman from Texas (Mr. BARTON), the gentleman from New Jersey (Mr. SMITH), and the gentleman from Alabama (Mr. DAVIS) for their persistence, their cooperation, and their leadership.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I rise today to lend my voice to the stem cell research debate. As a co-sponsor of H.R. 810, I hope we can expand our scope and benefit of existing stem cell lines. H.R. 810 represents another step forward in our battle against diseases and illnesses which we have spent billions of dollars trying to research, treat, and cure.

As the premier medical research Nation, we must allow our researchers and doctors to remain at the top of their fields of research both internationally and nationally. We must support our research institutions as they embark on the ethical, expert and very, very necessary trials.

Federal research restricts federal funding of stem cell research to the 78 stem cell lines that existed prior to Aug. 9, 2001. Mr. Speaker, H.R. 810 does not usher us into uncharted waters: we are already engaged in both the federal funding and the federal oversight of this research. If we see the benefit to permitting research on 78, then the argument is not embryonic research—but rather numbers.

I come from a district where we have perhaps the leading medical research institutions. In my district Case Western Reserve University, the Cleveland Clinic, and University Hospital have embarked on a monumental and groundbreaking project to establish the National Center for Regenerative Medicine. Within the walls of these three institutions lie perhaps some of the most advanced and prolific members of the scientific research community on regenerative medicine.

While this research is basically focused on adult stem cell and umbilical cord research, we must continue to move forward with research in a responsible, compassionate, and humane way. We must support the efforts of the National Institutes of Health as we move forward.

I support the movement towards the treatment, research, and cure of diseases and illnesses which the use of stem cells can alleviate.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. PENCE), the distinguished leader of the Republican Study Committee.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me time. I commend the gentleman from New Jersey (Mr. SMITH) for his visionary legislation, the Stem Cell Research Act.

There is such enormous promise, Mr. Speaker, in adult stem cell research, the ethical research that has been under way for decades and has produced to date treatments to nearly 67 diseases including sickle cell, leukemia, osteoporosis, just to name a few.

Even last October, a Korean woman who had been paralyzed for 19 years took a few steps for reporters in Seoul with the aid of a walker and ethical adult cord blood stem cells injected into her spine.

I just spoke today to a young man in my congressional district who was injured last Saturday night and now faces a lifetime in a wheelchair. I can tell you, having spoken to his parents, I would do anything to help that brave young man out of that chair. I would do anything except fund the destruction of human embryos for research.

President Kennedy said: "To lead is to choose" and today Congress will choose and should choose to promote ethical healing by adopting the Stem Cell Research Act, to prevent the erosion of the principle that all human life, even embryonic human life, is sacred.

Say "yes" to ethical adult stem cell research and "no" to funding the destruction of human embryos for scientific advancement.

Mr. BROWN of Ohio. Mr. Speaker, how many speakers does the gentleman from Texas (Mr. BARTON) have remaining and, Mr. Speaker, who has the right to close?

The SPEAKER pro tempore (Mr. FLAKE). The gentleman from Texas (Mr. BARTON) has the right to close.

Mr. BARTON of Texas. Mr. Speaker, I have three willing speakers now and more on the way.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS), a member of the committee.

Mr. PITTS. Mr. Speaker, I rise in favor of adult stem cell research, characterized by the gentleman from New Jersey's (Mr. SMITH) bill, and oppose H.R. 810, the Castle legislation, that would propose Federal dollars for destroying human embryos for embryonic stem cell research.

I can illustrate the difference with these two binders. In this one binder there are 67 successful treatments using adult stem cells, and stem cells from cord blood, adult stem cells for treatment of diseases. They are all categorized here by diseases, successful treatments. From embryonic stem cell research: zero.

The simple fact of the matter is with the use of embryonic stem cells the only thing that you have today are dead embryos and dead laboratory rats with tumors. They have not worked. They do not work. With adult stem cells you have live patients with treatments. This is the ethical way to go. This is what we should support.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we wonder, as most medical scientists wonder, why not both kinds of research. We in no way want to restrict it to just one or the other like my friends on the other side of the aisle.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE), the distinguished Congressman and former Governor of the first State of our Union.

Mr. CASTLE. Mr. Speaker, I rise today in support of H.R. 2520, which establishes a national cord blood stem cell inventory, a cord blood system, and to reauthorize the National Bone Marrow Registry.

This is an important piece of legislation because it addresses a vital need to establish a publicly coordinated national umbilical cord blood bank similar to the National Bone Marrow Registry. However, it is important to note that umbilical cord blood cells are a type of adult stem cells that have been used only to treat blood disorders like leukemia and lymphoma.

Scientists do not believe that these cord blood stem cells will provide answers to diseases like diabetes, Parkinson's, spinal cord injuries, or other nonblood-related disorders.

According to Dr. David Shaywitz, an endocrinologist and stem cell researcher at Harvard, it seems extremely unlikely that adult blood cells or blood cells from the umbilical cord will be therapeutically useful as a source of anything else but blood. That is why we must support all forms of stem cell research, including embryonic stem cell research, so researchers have the greatest chance of discovering treatments and cures. That is why I am supporting this legislation as well as H.R. 810, the Stem Cell Research Enhancement Act, to expand the current Federal embryonic stem cell policy.

I urge everyone to support this legislation and support H.R. 810.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of the legislation to help us have continued success in the funding for research for uses for adult stem cells.

Adult stem cells really encompass a number of different kinds. People have talked today about cord blood. They have talked about the bone marrow stem cells. A number of them have already been used clinically and with much success.

I believe it is this Congress's duty to help support that, because certainly we will have many people who have benefited already and additional people in the future who can benefit from this kind of research. In fact, the University of Pittsburgh in my hometown just announced about a week or so ago that they are doing clinical trials regarding the use of bone marrow stem cells to help reverse chronic heart failure.

I met a gentleman actually who was involved in the research, and they talked about trials that have already been done in South America that have been successful. These are all with adult stem cells. It is important for Congress to fund research, but it is especially important for this Congress to fund responsible research and that is the research supported on this bill on adult stem cells.

Mr. BROWN of Ohio. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BROWN) has 4-½ minutes. The gentleman from Texas (Mr. BARTON) has 4 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I have two remaining speakers.

Mr. BARTON of Texas. Mr. Speaker, I have one speaker remaining, and I will close.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I rise again to set the record straight.

There have been some people who have implied there is limited capacity for these cord blood stems to be used successfully. They have been shown to be pluripotent. They can become all different cell types, and they have shown a tremendous amount of plasticity.

This poster is of a young lady who was paralyzed for years and had an adult stem cell transplant. She is able to stand up.

But I just want to clarify on the cord blood, it has been used to treat leukemia, adrenoleukodystrophy, Burkitt's lymphoma, chronic granulomatous diseases, congenital neutropenia, DiGeorge's syndrome, Fanconi's anemia, and these are just some of them. Gaucher's disease. Hodgkin's disease, cord blood has been used successfully to treat Hodgkin's disease; idiopathic thrombocytopenic purpura, which is a really bad disease. I used to see some of those. Krabbe's disease I mentioned earlier, that was just in the New England Journal this month. Lymphoma: lymphoproliferative syndrome; myelofibrosis: neuroblastoma, which is a form of brain tumor which has been successfully treated with cord blood. Osteopetrosis has been successfully treated. Reticular dysgenesis, severe aplastic anemia.

The list goes on and on. There are 65 different medical conditions that have been successfully treated with cord blood.

People have mentioned diabetes. Embryonic stem cells have not been successfully used to treat diabetes either, but actually in animal models adult stem cells have been used successfully to treat diabetes. I think most of the hope and success is in this cord blood. That is why this bill is very, very important.

Mr. BROWN of Ohio. Mr. Speaker. I yield myself 1-¼ minutes.

Mr. Speaker. I would like to share the words from the President who seems to have sent a different message than my friends on the other side of the aisle.

President Bush said. "Most scientists believe that research on embryonic stem cells offers the most promise because these cells have the potential to develop in all of the tissues in the body."

I hear my friends on the other side of the aisle argue that we really only need cord blood stem cell research, that that will lead us to all that we need.

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And the President said about that, that "No adult stem cell has been shown in culture to be pluripotent." And he said, "Embryonic stem cells have the potential to develop into all or nearly all of the tissues in the body."

I then hear my friends on the other side of the aisle talk about research. that this is going to lead to so much more research. Yet at the same time we have seen no increase, flat-lined spending, budgeting on the National Institutes of Health, something that many of us, the gentlewoman from Colorado (Ms. DEGETTE) and many of the rest of us, have thought we should increase spending on, medical research all across the board in all kinds of medical research.

Yes, in order to make room for the President's tax cuts that have gone overwhelmingly to the wealthiest in our country, we have simply cut medical research and not done what we should as a Nation do overall in medical research.

So when I hear my friends talk on this, I do not quite get how this will expand medical research while closing out one whole avenue of medical research and, at the same time, cutting spending on what we should be doing to move our country ahead.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the Keystone State of Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, this is a difficult issue for me. I am a diabetic. I have diabetes in my family. I am cochairman of the Congressional Diabetes Caucus. My wife is a full-time diabetes educator. She has spent her entire time as a health care professional educating and working with diabetics.

The gentleman from Delaware (Mr. CASTLE) and the gentleman from Massachusetts (Mr. LANGEVIN) are very good friends of mine. I have studied all their information. I have tried to be as open about this as I possibly can be. But I can say, Mr. Speaker, that in the end it comes down to not eliminating any type of research, because that is allowable in this country; it is whether or not we should use Federal funds. California is using some $3 billion right now on what this bill is attempting to deal with.

In the end, Mr. Speaker, this is a very personal decision. It is one that I agonized over. I am not a medical professional. I consulted with all four of my friends who are medical doctors in this Chamber. They have studied medicine, they understand medical research, they understand bioethics far better than I ever will, and I come down on their side. I come down on the side of life.

I will oppose the bill that is being offered by my friend, the gentleman from Delaware (Mr. CASTLE) and my friend, the gentlewoman from Colorado (Ms. DEGETTE) and I will support the alternative that is being offered by this conference.

Mr. BROWN of Ohio. Mr. Speaker, I yield the remainder of my time to the gentlewoman from Colorado (Ms. DEGETTE), the sponsor of this bill.

The SPEAKER pro tempore (Mr. FORBES). The gentleman from Ohio has 3¼ minutes remaining.

Ms. DEGETTE. Mr. Speaker, I do not know why this debate has to be either/or, either we are going to cure sickle cell anemia or we have the potential to cure Type 1 diabetes. Every single American who suffers from a terrible disease should have the right to a cure.

Now, this bill that we are debating right now, it is a fine bill. I support this bill. I think cord blood research is important. Like adult stem cells, umbilical cord stem cells have proven to be a source of hematopoietic stem cells. Those are the ones that are the blood-forming stem cells that have been used for about a decade to treat blood diseases like leukemia and lymphoma. That is great.

But it is not either that or H.R. 810, because unlike human embryonic stem cells, stem cells from umbilical cord blood cannot continually reproduce themselves. Instead of proliferating, they quickly evolve into specialized cells. That is why they have not proven to be useful in some of the early studies.

Now, the opponents of H.R. 810 say, well, embryonic stem cells have not been used to cure any disease. That is because we are in the very promising early stages of that research. And the adult stem cells have been used in their narrow milieu to cure diseases and to help with diseases that are blood specific.

Mr. Speaker, I am here to say that there is no, no scientific evidence today that will show that the cord blood or the adult stem cells will cure Alzheimer's, Parkinson's, Type 1 diabetes, or the multitude of other diseases that are not blood based.

Now, some of the opponents of H.R. 810 say, well, scientific studies have shown adult stem cells to be pluripotent. Number one, their argument, their argument is that embryonic stem cells have not shown clinical application. Guess what? Neither have adult stem cells been shown clinically to be pluripotent. Furthermore, the studies where there were some indications of that were not peer reviewed and, frankly, are rejected by the scientific community.

Here is a chart. This chart shows exactly what embryonic and adult stem cells are good for and, frankly, they are good for different things. So let us not muddle the science. If people do not want to do embryonic stem cell research, they can look in the eye of our colleague, the gentleman from Massachusetts (Mr. LANGEVIN) and others and say to them, we do not want to do the research that could cure your disease, and I challenge them to do that.

In conclusion, Curt Civin, M.D., who is a doctor at Johns Hopkins University School of Medicine and a researcher, says "As a physician-scientist who has done research involving umbilical cord stem cells for over 20 years, I am frequently surprised by the thought from nonscientists that core blood stem cells may provide an alternative to embryonic stem cells for research. This is simply wrong."

And it is wrong to say either/or. That is why we should vote "yes" on this bill and H.R. 810.

Mr. BARTON of Texas. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman has 1 minute remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time, and I want to thank the majority leader and the Speaker for bringing these two bills to the floor today.

The first vote we will have is on the cord blood and bone marrow bill, H.R. 2520. This bill, by itself, is an extremely important advance for those of us that believe you can use medical research ethically to help find cures for existing disease and enhance human life both now and in the future.

I am, obviously, as one of the original sponsors of the bill, going to vote for it and encourage all the Members on both sides of the aisle to vote for its. It is a good piece of legislation and, by itself, is a major advancement in the state of the art that we have today.

The next debate that we will have is on the Castle-DeGette bill which is another form of stem cell research, embryonic stem cell. That issue is much more controversial, but on its own merit that bill itself deserves a serious debate. And while it is not yet time to debate that bill, at that time I will announce that I will vote for that bill also.

So I hope we can do first things first. Let us pass in a strong bipartisan fashion the Smith-Barton-Young adult cord blood bone marrow bill, and then go on to the next issue.

Mr. CLAY. Mr. Speaker, I rise today to voice my support for the Stem Cell Therapeutics and Research Act of 2005. As many of my colleagues have discussed, this bill provides federal support to help cord blood banks collect and maintain new cord blood units. It's important to acknowledge that this bill also reaffirms Congress's commitment to the National Bone Marrow Donor Registry.

Established in 1986, the National Registry has facilitated more than 21,000 lifesaving transplants involving cord blood, peripheral blood, and bone marrow. Although we are discussing cord blood for the first time today, the National Marrow Donor Program (NMDP), which has operated the National Registry since its inception, has already incorporated cord blood into the registry to help patients, especially minority patients whose genetic diversity often makes it difficult to find a suitably matched adult volunteer donor. Through the NMDP today, individuals in need of a cord blood transplant already have access to the largest listing of cord blood units in the United States—more than 42,000 units. In addition, the NMDP lists more than 9 million adult volunteer donors. Today, we celebrate the National Registry's success by acknowledging its expanded role in the research and development of new sources of hematopoietic cells for transplant by renaming it the CW Bill Young Cell Therapies Program.

I am particularly proud of the work of the NMDP, especially its strong support for cord blood and because of its partnership with the St. Louis Cord Blood Bank. The St. Louis Cord Blood Bank is the cornerstone of an active clinical stem cell transplantation and research program at Cardinal Glennon Children's Hospital and St. Louis University.

Along with the St. Louis Cord Blood Bank, the NMDP partners with 14 of the 20 U.S. public cord blood banks. Another 3 are in the process of becoming partners. Together, the NMDP and these cord blood banks are working to increase the national inventory of cord blood available for transplants and research. Their work helps thousands of Americans with life-threatening diseases, such as sickle cell anemia.

It is essential that the existing integrated program continue to be able to operate as it does today. Physicians and patients must be able to search for and obtain support from a single national registry that includes cord blood, peripheral blood, and bone marrow. Physicians should not have to waste time searching multiple cord blood banks and adult donor registries or having to coordinate the further testing and delivery of units.

Searching is not the only function that must be integrated. Physicians need to be confident that the results of their searches allow them to truly compare cord blood units and adult donor information. Thus, the cord blood community should work with the National Program to establish criteria and standards to ensure consistency of the information that is part of the registry. Finally, it is important that all patients, not just those who receive a bone marrow or peripheral blood stem cell transplants, receive the patient advocacy and educational services that the NMDP provides to all the patients it assists.

The NMDP already provides physicians and their patients with this type of support. This bill is a step in the right direction because it builds upon the existing registry. We must be careful not to waste scarce federal dollars by duplicating what is already working well. Therefore, I urge my colleagues to vote in favor of H.R. 2520, which provides for an integrated National Program.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H.R. 2520, which combines legislation I introduced and passed in the 108th Congress to reauthorize the National Bone Marrow Registry with legislation by my colleague from New Jersey, Mr. SMITH to authorize a federal investment in building an inventory of 150,000 umbilical cord blood units. This life-saving bill is good for patients, good for transplant doctors, good for researchers and it represents good policy for our Nation.

I would like to take this opportunity to thank many colleagues for bringing this legislation to the floor. Let me thank the Chairman of the Energy and Commerce Committee, Mr. BARTON for providing the leadership to advance this important bill. His commitment to providing sound national policy in this area of stem cell transplantation has produced an excellent legislative design that will benefit thousands of patients immediately upon enactment. I would also like to thank my friend, Mr. SMITH of New Jersey for his leadership in the area of umbilical cord blood—an area of rapidly developing science and opportunity. His legislation from the previous Congress has provided the framework for enhancing our Nation's ability to provide cord blood units to help save lives. His vision on the potential of cord blood has helped make this bill possible today and I thank him for his dedication.

This legislation builds on the investment made by Congress 18 years ago when we established a national bone marrow donor program to save the lives of patients with leukemia and many other blood disorders. Countless dedicated doctors, patients, families, and research scientists have continued to pioneer new approaches to saving lives using these blood stem cells from bone marrow and now umbilical cord blood cells.

This bill authorizes funding for 5 years to continue federal support for bone marrow, peripheral blood and umbilical cord blood transplantation and research. With this legislation, transplant doctors and patients will have an enhanced, single point of electronic access to the full array of information on possible bone marrow matches, as well as matches with cord blood units from the new national inventory which would be created. In a matter of minutes, physicians can review the options and reserve the best possible sources for their patients. In addition, the new effort will facilitate accreditation of cord blood banks, stimulate research, and collect and share data on the outcomes of all transplants.

Last month, at the request of our Appropriations Committee direction, the Institute of Medicine released its report on cord blood and how the inventory should be built and integrated into the existing national registry. This bill before us has been shaped by the guidance provided through the IOM process and during the past year-and-a-half a consensus has been building for moving forward to combine our activities in bone marrow and cord blood. That consensus has formed the basis for this legislation.

Mr. Speaker, this literally is life saving legislation. Through the efforts of the National Marrow Donor Program—which this Congress initiated in 1987—many lives have already been saved. To date, the Program has facilitated almost 21,000 unrelated transplants involving bone marrow, cord blood or peripheral blood. That means 21,000 individuals—both children and adults who are otherwise suffering from terminal disease—received the gift of life through this national program.

When the program first started, our goal was to build a national registry of 250,000 individuals willing to donate marrow. Mr. Speaker, we found that the human spirit responded to our efforts in ways that we could not imagine. I am proud to say that as of this month, the National Bone Marrow Registry has more than 5.6 million potential bone marrow donors signed up. In addition, the Program has an additional 41,666 units of umbilical cord blood in reserve for transplant through its network of 15 affiliated cord blood banks throughout the country. Total transplants from all sources for last year alone exceeded 2500.

Let me repeat—we have 5.6 million volunteer bone marrow donors signed up in the national program. These are true volunteers in every sense of the word. They have given of their time to take a simple blood test to be listed in the national registry. For more than 20,000 who have been called upon to donate bone marrow, they have undergone a relatively simple surgical procedure to donate their bone marrow to save the life of a man, woman or child with anyone of more than 85 different diseases. Another 41,000 women have donated umbilical cord blood which can be used in the same way as bone marrow, to transplant life giving cells to cure disease.

This legislation will provide the funding to greatly increase the number of cord blood units that can be collected and stored. Nineteen million dollars has already been appropriated for this purpose over the past two years and this legislation will allow that immediate infusion of funds into building up reserves of umbilical cord blood. The scientific reason for this is clear. Thanks to research, cord blood has now become another very important source for obtaining and transplanting the particular cell found in bone marrow and peripheral blood that can restore health to those suffering from so many different diseases. In addition, by building up the cord blood inventory, the overall resource will be much more likely to meet the needs of patients from genetically diverse, ethnic populations. It is estimated that adding 150,000 new cord blood units to the number of existing bone marrow donors will provide potential cell matches for about 95 percent of all Americans.

Mr. Speaker, this national effort is a true modern miracle and this new legislation will reinforce and strengthen the program. Today, our National Bone Marrow Program is affiliated with 156 transplant centers, 82 donor centers, 15 cord blood banks, 102 transplant marrow collection centers and 82 Apheresis centers. Of these, 72 are international facilities.

Having had the great pleasure to meet with hundreds of donors and patients, I can tell you that donating bone marrow or cord blood can be a true life-changing experience. The experience of giving life to another human being is beyond mere words.

Mr. Speaker, there are many people who have been heroes in this effort and need to be recognized for their contributions. The first is a little 10 year old girl who died of leukemia at All Children's Hospital in my home district of St. Petersburg 18 years ago. Brandy Bly might have been saved from leukemia back in 1987 if matched bone marrow or cord blood cells had been available. It was during her treatment that I first learned from doctors how difficult it is to find a compatible, unrelated bone marrow donor. Her death inspired me, and her doctor—Dr. Jerry Barbosa—inspired me to help find a way to build a national bone marrow program. There were other early medical pioneers, like the late Dr. Robert Goode, Dr. John Hansen and Dr. Donnell Thomas—all who helped perfect the science of marrow transplantation and who assisted us in our legislative quest to establish a federal registry. In the early days, Admiral Elmo Zumwalt, Jr. and Dr. Bob Graves helped find a federal home for the effort. And I must recognize Navy Captain Bob Hartzman who first connected us with the Navy Medical Command to give birth to the early program. Dr. Hartzman continues to direct the military program and is an invaluable scientific leader and advisor.

There have been many members of Congress, past and present, who have stood together with me over the years to develop and fund the program that we reauthorize and enhance today. I thank each and every one for your dedication.

We must recognize the staff and members of the board of the National Marrow Donor Program and the Marrow Foundation who have volunteered their time to establish and grow a finely tuned international registry program. And we must recognize the dedicated doctors and medical teams at transplant and donor centers around the nation who use their medical expertise to perform the transplants and save lives. Dr. Joanne Kurtzberg, the head transplant doctor at Duke University's blood bank center, is the epitome of a dedicated, caring and highly knowledgeable physician who works hard to save lives. We must recognize the pioneering cord blood research of Dr. Pablo Rubenstein and Dr. Cladd Stevens at the New York Blood Center, and Dr. Claude Lenfant, the former director of the National Heart, Lung and Blood Institute at NIH who initiated the major COBLT study on cord blood banking and transplantation.

The ultimate true heroes of the national effort are the patients and donors. Every patient who has sought a marrow or cord blood transplant has helped in the overall effort to gain more scientific knowledge on perfecting the transplant process. Every patient helps all those who will follow. And every donor who has rolled up his or her sleeve to sign up for the national bone marrow program, or every family that has decided to donate umbilical cord blood, are heroes for taking part in giving the ultimate gift of life.

Mr. Speaker, in closing let me again thank Chairman BARTON and Mr. SMITH for their leadership in enhancing this great national program. Let me thank every member of this House for their support for the efforts we started 18 years ago on behalf of patients everywhere. With your support, we will provide hope—and a second chance at life—to thousands of patients today and into the future.

Mr. PAUL. Mr. Speaker, the issue of government funding of embryonic stem cell research is one of the most divisive issues facing the country. While I sympathize with those who see embryonic stem cell research as providing a path to a cure for the dreadful diseases that have stricken so many Americans, I strongly object to forcing those Americans who believe embryonic stem cell research is immoral to subsidize such research with their tax dollars.

The main question that should concern Congress today is does the United States Government have the constitutional authority to fund any form of stem cell research. The clear answer to that question is no. A proper constitutional position would reject federal funding for stem cell research, while allowing the individual states and private citizens to decide whether to permit, ban, or fund this research. Therefore, I will vote against H.R. 810.

Unfortunately, many opponents of embryonic stem cell research are disregarding the Constitution by supporting H.R. 2520, an "acceptable" alternative that funds umbilical-cord stem cell research. While this approach is much less objectionable than funding embryonic stem cell research, it is still unconstitutional. Therefore, I must also oppose H.R. 2520.

Federal funding of medical research guarantees the politicization of decisions about what types of research for what diseases will be funded. Thus, scarce resources will be allocated according to who has the most effective lobby rather than allocated on the basis of need or even likely success. Federal funding will also cause researchers to neglect potential treatments and cures that do not qualify for federal funds. Ironically, an example of this process may be found in H.R. 2520; some research indicates that adult stem cells may be as useful or more useful to medical science than either embryonic or umbilical cord stem cells. In fact, the supporters of embryonic stem cell research may have a point when they question the effectiveness of umbilical cord stem cells for medical purposes. Yet, if H.R. 2520 becomes law, researchers will have an incentive to turn away from adult stem cell research in order to receive federal funds for umbilical cord stem cell research!

Mr. Speaker, there is no question that H.R. 810 violates basic constitutional principles by forcing taxpayers to subsidize embryonic stem cell research. However, H.R. 2520 also exceeds Congress's constitutional authority and may even retard effective adult stem cell research. Therefore, I urge my colleagues to vote against both H.R. 810 and H.R. 2520.

Ms. BORDALLO. Mr. Speaker, I rise today in support of H.R. 2520, an act that will provide for a nationwide umbilical stem cell transplantation system. Not only does the implementation of such a system pave the way for numerous potentially life saving medical advances, but it builds on an area of study that has a demonstrated track record of success. Additionally, this legislation reauthorizes the national bone marrow transplant system, which has been a great success.

The Twenty-First Century witnessed many great scientific achievements and medical advances. These advances have helped to cure or mitigate against a number of formerly terminal conditions and diseases. One can only imagine the possibilities that modern technology and modern research offer, which will yield even greater achievements in the near and distant future. However, we must also be cognizant of ethical standards to ensure that new technology does not compete with the moral standards of our society. H.R. 2520 is a good start.

Studies have demonstrated that stem cells found in umbilical cords may be used to regenerate human nerve, blood, cartilage, skin and muscle cells. Research also demonstrates that conditions such as leukemia and sickle cell disease could be cured by more advanced umbilical cord stem cell research. Cord blood cells are already being used to treat over 67 diseases. We need to support this research, and creating a nationwide umbilical stem cell transplantation system is an important first step to providing scientists with the resources they need to make advances in this field of study. This database can also be used to allow potential donors to patients in need of various types of transplants.

H.R. 2520 provides a vehicle for promoting and enhancing promising scientific research in the field of umbilical stem cell transplantation. It certainly meets the highest standards of bioethics and has a track record of scientific evidence suggesting that investing taxpayer resources to promote this field of study will result in positive dividends for the health of our communities. I strongly support H.R. 2520, and I encourage my colleagues to vote yes for this important legislation.

Mr. AKIN. Mr. Speaker, I rise today in support of H.R. 2520, the Stem Cell Therapeutic and Research Act of 2005. This bill is significant because it would encourage one of the most promising, and ethically sound, avenues of medical research in our time: The stem cells within umbilical cord blood.

This is a matter of great interest to me, both because of the importance of the research itself and also because I represent the greater St. Louis area, which is home to the St. Louis Cord Blood Bank at Cardinal Glennon Children's Hospital.

Cord blood has proven successful in treating 67 diseases including sickle cell disease, leukemia, osteopetrosis and Diamond Blackfan Anemia. Just last year, a North Korean woman who had been paralyzed for 19 years was seen walking with the assistance of a walker for the media. Only a month prior she had received a cord blood treatment.

This type of extraordinary result demonstrates why we should invest in cord blood stem cells research and treatment.

An early pioneer in cord blood collection and storage, the St. Louis Cord Blood Bank has amassed the second largest inventory of cord blood in the world and has provided the second largest number of cord blood units for transplant. I commend the work of centers like the one at Cardinal Glennon Children's Hospital and am pleased to support his important legislation.

The men and women at the St. Louis Cord Blood Bank deserve our thanks for their integrity, dedication and commitment to bettering human life through ethical research. The promise of adult stem cell research is both substantial and uncontroversial, which is why I urge my colleagues to support H.R. 2520.

Mr. RAMSTAD. Mr. Speaker, I recently joined with nearly all members of this body in voting for H.R. 2520, the Stem Cell Therapeutic and Research Act.

This important piece of public health legislation will help increase awareness of the possibility of using cord blood to improve access to blood-forming stem cell transplants and research.

I also want to take a moment to bring attention to another aspect of this bill, the reauthorization of the National Bone Marrow Registry.

Since its inception in 1986, the Registry has enjoyed strong bipartisan support and has been committed to helping people who need a lifesaving marrow or blood cell transplant.

The National Marrow Donor Program (NMDP) has successfully operated the National Bone Marrow Registry through a competitive contract renewed every 5 years.

The NMDP maintains the largest listing of volunteer donors and cord blood units in the world, supports patients and their doctors throughout the transplant process and matches patients with the best marrow donor or cord blood unit.

This past November, the NMDP celebrated an important milestone when it facilitated its 20,000th transplant.

The NMDP has worked diligently to increase the diversity of the National Bone Marrow Registry so that all Americans have access to lifesaving blood-forming stem cell transplants by increasing donations from racial and ethnic minorities and incorporating umbilical cord blood units as a new source of cells.

The NMDP also provides transplant centers with the logistical support patients need from the moment a physician initiates a search.

The NMDP provides expert advice on searching the National Registry, coordinates the testing of cord blood units and adult donors, ensures that the correct cells are obtained and delivered as directed by the physician, and assists patients with insurance, travel and other needs that arise as part of the transplant process.

These programs help doctors focus on caring for their patients and helps patients and their families focus on what is important—getting well.

I salute the NMDP for all it does to help patients, and I am pleased Congress was able to pass H.R. 2520.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 2520.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

Mr. BARTON of Texas. Mr. Speaker, pursuant to the order of the House of Monday, May 23, 2005, I call up the bill (H.R. 810) to amend the Public Health Service Act to provide for human embryonic stem cell research, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 810 is as follows:

H.R. 810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stem Cell Research Enhancement Act of 2005".

SEC. 2. HUMAN EMBRYONIC STEM CELL RESEARCH.

Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 498C the following:

"SEC. 498D. HUMAN EMBRYONIC STEM CELL RESEARCH.

"(a) IN GENERAL.—Notwithstanding any other provision of law (including any regulation or guidance), the Secretary shall conduct and support research that utilizes human embryonic stem cells in accordance with this section (regardless of the date on which the stem cells were derived from a human embryo) .

"(b) ETHICAL REQUIREMENTS.—Human embryonic stem cells shall be eligible for use in any research conducted or supported by the Secretary if the cells meet each of the following:

"(1) The stem cells were derived from human embryos that have been donated from in vitro fertilization clinics, were created for the purposes of fertility treatment, and were in excess of the clinical need of the individuals seeking such treatment.

"(2) Prior to the consideration of embryo donation and through consultation with the individuals seeking fertility treatment, it was determined that the embryos would never be implanted in a woman and would otherwise be discarded.

"(3) The individuals seeking fertility treatment donated the embryos with written informed consent and without receiving any financial or other inducements to make the donation.

"(c) GUIDELINES.—Not later than 60 days after the date of the enactment of this section, the Secretary, in consultation with the Director of NIH, shall issue final guidelines to carry out this section.

"(d) REPORTING REQUIREMENTS.—The Secretary shall annually prepare and submit to the appropriate committees of the Congress a report describing the activities carried out under this section during the preceding fiscal year, and including a description of whether and to what extent research under subsection (a) has been conducted in accordance with this section.".

The SPEAKER pro tempore. Pursuant to the order of the House of Monday, May 23, 2005, the gentleman from Texas (Mr. BARTON) and the gentlewoman from California (Ms. DEGETTE) each will control 1 hour and 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. DELAY) be given 45 minutes of the debate time on the pending bill.

The SPEAKER pro tempore. Without objection, the gentleman from Texas (Mr. DELAY) will control that time.

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that the gentleman from Delaware (Mr. CASTLE) be allowed to control 20 minutes of the remaining 45 minutes that I currently have control over.

The SPEAKER pro tempore. Without objection, the gentleman from Delaware (Mr. CASTLE) will control that time.

There was no objection.

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the pending bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I have a prepared statement I am going to put into the record on this bill, H.R. 810, but I am going to actually speak from the heart because I think that this is a very important issue.

Most of the issues that come before this body, there is an automatic position on. It may be the Republican position, the Democrat position, the Texas position, or it could be the committee position. And we come to the floor and we, almost by rote, say what is the particular position, and that is the way we vote.

But every now and then an issue comes up that is really an issue of conscience. It is an issue that deserves to be thoughtfully considered, debated, and decided on its own merit.

Now, there are many Members today that believe this particular issue is an issue that they feel so strongly about, on either side, that this is an easy issue for them, it is an automatic issue. They are going to be for it or against it for very valid reasons. But there are some of us, and I am in that camp today, that believe it is not an easy issue.

I come to the floor as a 100 percent lifetime voting member on prolife issues, minus one vote, in over 21 years. On all the votes that the prolife coalition at the State and Federal levels have scored as scorable votes, my record until this year was 100 percent, and I voted the wrong way on one issue so far this year from the prolife position. So that is not a bad record, 100 percent minus one. And after this vote today, I am going to be 100 percent minus two.

Why is that? Well, part of it is personal and part of it deals with tragedies in my family in the past. My father died of complications of diabetes at the age of 71. My brother, Jon Kevin Barton, died of liver cancer at the age of 44. My first granddaughter, Bryn Barton, died in the womb 2 days before delivery with complications of the umbilical cord, which had become crimped, and she was actually born dead.

Maybe the research we are debating today could not have helped any of those diseases or could not have helped my granddaughter, but maybe it could.

I am also going to vote for Castle-DeGette because of the future, not just the past. My wife Terri and I are expecting a baby in September, Jack Kevin Barton, named after her late father and my late brother, Jon Kevin Barton. He may come into this world with some disease. Hopefully not. I have three children that are already alive, Brad, Alison, and Kristin. I have two stepchildren, Lindsay and Cullen. I have three grandchildren that are living, Blake, Brent and Bailey Barton. Maybe they will live healthy, productive lives and they will never need some therapeutic breakthrough, but maybe they will. Maybe they will.

Now, we just voted for an expansion of cord blood and bone marrow research, which is a very, very good deal, and it deals with adult stem cells. And maybe the breakthrough is going to come in adult stem cells. I hope it does. I would love it. But maybe, just maybe, it is going to come because of embryonic stem cells.

Now, the President adopted a position in early 2001 that said the existing stem cell lines then in existence could be federally funded for research. They thought there were about 78 lines. It turned out that there were 22 they are using, there are 16 that are frozen, and there may be one or two more that might be used. But in any event, none of those lines that are currently allowed to be used for research purposes at the Federal level have been shown to have that breakthrough stem cell.

There are 200 adult cells in the body. The hope of stem cell research, whether it is adult or embryonic, is that we will find that one perfect cell that can be replicated into any of the other cells.

It is assumed, and it is an assumption, not a fact, that the plasticity of the embryonic cell is better and that there is a greater likelihood, although the research has only been done for the last 7 or 8 years, that there is a likelihood there might be a greater potential. And I want to emphasize might be.

So where I come down is, let us look at all the avenues.

□ 1345

We just voted for Smith-Barton-Young. Let us also vote for Castle-DeGette and look at all of our resources. That is why I am going to vote "yes."

Mr. Speaker, I rise to manage the time of debate on H.R. 810, legislation designed to expand the number of sources of embryonic stem cell lines that may be the subject of federally funded research. The bill is straightforward, yet the policy concerns surrounding this bill are anything but black and white. Before I yield time to my colleagues, I want to clarify a few of the following facts.

What the sponsors of this bill are trying to do is create enough lines of embryonic stem cells to allow basic scientific research to move forward. Many scientists believe that once we can identify a perfect, undifferentiated stem call, it will lead to significant scientific breakthroughs and the discovery of cures for many diseases.

Currently, there are approximately 22 lines of embryonic stem cells that are available for federally funded research. This number is far below the estimated number of stem cell lines that were thought to exist in August of 2001, when the President announced his stem cell policy. When President Bush announced that Federal research dollars could be used for the first time on then existing stem cells, it was believed that there were at least 60 viable lines of stem cells that could be used for this research. For a variety of reasons, not all of these potential lines are now available for research.

We will also eventually need additional embryonic stem cell lines to make further scientific advances. In recent conversations with leading stem cell researchers, they indicated to me that all lines of embryonic stem cells eventually become exhausted. In order to produce clinical therapies, it is likely that researchers will also need more embryonic stem cell lines, of different genetic variations, than are presently eligible to receive Federal support.

In addition, the majority of the existing embryonic stem cell lines eligible for Federal support use mouse feeder cells, which will make it nearly impossible for these embryonic stem cell lines to be adopted in clinical use. For all of these reasons, researchers believe that the current number of embryonic stem cell lines will have to be increased.

It is difficult to take an ideologically pure position on this issue. President Bush recognized this on August 9, 2001. On recognizing the profound potential benefits of embryonic stem cell research, President Bush permitted for the first time Federal taxpayer dollars to be spent on embryonic stem cell research.

For my entire career in Congress, I have been a staunch defender of the culture of life and opposed all forms of abortion. At the same time, I believe we have an obligation to improve existing lives and do what we can to make them better in the future.

Today, on this difficult issue, Members will need to vote their consciences. My decision to support this bill was a difficult one, which I came to only after much personal struggle and reflection. My decision was shaped, in part, by the painful experiences of my own family. We lost my brother Jon in 2000, at the age of 44, after a long struggle with liver cancer. My father died after suffering from complications resulting from diabetes.

Let me tell you for a moment about my brother, Jon. He was younger than me. He and his wife, Jennifer, had two children, Jake and Jace. He was a State district judge in Texas. They told Jon he had liver cancer when he was just 41 years old. We tried everything and, in fact, his cancer went into remission. The next year, it came back. Jon died in just three months short of his 44th birthday. I offered to give him part of my liver, but the doctors said he was too far-gone and it wouldn't work. That was five years ago. Jake is now 15, and Jace is 12. Every time I see them and their Mom, I think of Jon and wonder what stem cell research could have done for our family.

I cannot know the truth with absolute certainty, but my heart says that my brother and my father might be with me today if their doctors had access to treatments from stem cell research. Their lives were precious to me and to our family. I come to my decision on this vote because I believe in life, and in the future. If a vote today can save other families from losing brothers and fathers, my conscience will not permit any other decision.

I fully understand that some will say I am just wrong, or blinded by personal emotion. Many who disagree with me are my friends, and I completely respect their views and their advice. They are good people, and good people with the same facts sometimes come to different conclusions. Now, a few others will say that death is simply a part of life. No, it is not. I do not believe that we can ever accept that proposition without setting out on an extraordinary and dangerous path. Life is to be cherished and extended, and death is to be fought and never accepted.

My father and my brother died because illnesses took them. If I can do something to cure illness and thwart death for other families, I will because I must. Scientists believe that expanded embryonic stem cell research holds the potential to find cures for diseases like cancer or diabetes. It is my hope that supporting this bill will mean that many other American families will never have to endure the suffering and loss that my family went through. I believe that my obligation is to help advance science to make human life better now and in the future, in a manner that is consistent with Judeo-Christian ethics.

As we move forward with debate on this bill, my only request is that my colleagues try to respect one another and the deeply held beliefs on both sides of this very complex issue.

Mr. Speaker, I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I ask unanimous consent to yield 35 minutes to the gentleman from Michigan (Mr. STUPAK), and that he be allowed to yield that time.

The SPEAKER pro tempore (Mr. FORBES). Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Ms. DEGETTE. Mr. Speaker, I yield 3 minutes to the distinguished and courageous gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I rise in strong support of H.R. 810, and I want to acknowledge the bipartisan effort that has gone into this legislation and the incredible grass roots movement that has built support for this groundbreaking medical research. It has been inspirational to see so many Members putting aside politics and partisanship to address this issue which affects the lives of millions of Americans.

Mr. Speaker, I am one of those Americans. At age 16, I was an Explorer Scout in my hometown police station. One afternoon, in the police locker room, a gun accidentally discharged. The bullet severed my spinal cord, and I have been paralyzed ever since.

This experience shapes my perspective in so many ways. Above all, it has given me tremendous appreciation and respect for life. My life as a quadriplegic is filled with challenges and obstacles, yet I am grateful for every minute. This gratitude has become a passion, and it has motivated me to help create a culture that values and protects life from its beginning to its end.

To me, being pro-life also means fighting for policies that will eliminate pain and suffering and help people enjoy longer, healthier lives. And to me, support for embryonic stem cell research is entirely consistent with that position. What could be more life-affirming than using what otherwise would be discarded to save, extend, and improve countless lives?

This research offers the opportunity to discover cures and treatments for diseases like Parkinson's, Alzheimer's, ALS, diabetes, spinal cord injury, and many others. But it will take not only the talent of our scientists, but also the support of our government to realize its full potential. We have a responsibility to ensure that this research proceeds, and it does so with ethical safeguards and strict guidelines. By permitting research only on excess embryos created in the in-vitro fertilization process, and by establishing a clear, voluntary consent process for donors, H.R. 810 meets this responsibility.

Stem cell research gives us hope and a reason to believe. I believe one day a child with diabetes will no longer face a lifetime of painful shots and tests. I believe one day families will no longer watch in agony as a loved one with Parkinson's or Alzheimer's gradually declines. And I believe one day I will walk again.

There are few moments in medical history when we can clearly identify a giant step forward in improving countless lives. We saw it with the discovery of antibiotics and the advent of organ transplants.

Mr. Speaker, I believe that adult and embryonic stem cell research is another of these great moments. Today we have a historic opportunity to make a difference in the lives of millions of Americans and for people around the world. I urge my colleagues to vote in favor of H.R. 810.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the majority leader for yielding me this time.

Mr. Speaker, I rise today in respectful opposition to this sincerely conceived, but ill-founded, legislation known as Castle-DeGette, a bill that authorizes the use of Federal tax dollars to fund the destruction of human embryos for scientific research.

As we begin this debate, I am confident we will hear the supporters of this bill argue in the name of President Ronald Reagan, that somehow this research is consistent with his long-held views on the sanctity of life. But it was Ronald Reagan who wrote: "We cannot diminish the value of one category of human, the unborn, without diminishing the value of all human life."

The supporters will also argue that this is a debate between science and ideology, that destroying human embryos for research is necessary to cure a whole host of maladies, from spinal cord injuries to Parkinson's. But the facts suggest otherwise.

As Members will hear to date, embryonic stem cell research has not produced a single medical treatment, where ethical adult cell research has produced some 67 medical miracles. Physicians on our side of the aisle will make the case for the ethical alternative of adult stem cell research, and Congress today has already voted to greatly expand funding in this area.

But the debate over the legitimacy or the potential of embryonic stem cell research is actually not the point of this debate. We are here simply to decide whether Congress should take the taxpayer dollars of millions of pro-life Americans and use them to fund the destruction of human embryos for research. This debate is really not about whether embryonic stem cell research should be legal. Sadly, embryonic stem cell research is completely legal in this country and has been going on at universities and research facilities for years.

The proponents of this legislation do not just want to be able to do embryonic stem cell research. They want me to pay for it. And like 43 percent of the American people in a survey just out today, I have a problem with that.

You see, I believe that life begins at conception and that a human embryo is human life. I believe it is morally wrong to create human life to destroy it for research, and I further believe it is morally wrong to take the tax dollars of millions of pro-life Americans who believe, as I do, that human life is sacred, and use it to fund the destruction of human embryos for research.

This debate then is not really about what an embryo is. This debate is about who we are as a Nation, not will we respect the sanctity of life, but will we respect the deeply held moral beliefs of nearly half of the people of this Nation who find the destruction of human embryos for scientific research to be morally wrong.

Despite what is uttered in this debate today, I say again, this debate is not about whether we should allow research. This debate is not about whether we should allow research that involves the destruction of human embryos. This debate is about who pays for it, and it is my fervent hope and prayer as we stand at this crossroads between science and the sanctity of life that we will choose life.

This morning on Capitol Hill I was surrounded by dozens of "snowflake babies," some 81 children who were born from frozen embryos, the throw-away material we will hear about today. As I spoke over the cries and cooing of those little fragile lives, I could not help but think of the ancient text: "I have set before you life and Earth, blessings and curses, now choose life so that you and your children may live."

Let this Congress choose life and reject Federal funding for the destruction of human embryos for research.

Mr. STUPAK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this debate we are having surrounding H.R. 810, the Stem Cell Research Enhancement Act, is really one of the most fundamentally important debates that this body can undertake. Regrettably, this discussion will only last a few hours on the floor of the House of Representatives today.

There have been no hearings on this bill or on the previous stem cell bill. H.R. 810 addresses the most fundamental, basic, ethical issue: life, and when does it begin; when should life, including human embryos, be open to experimentation and scientific research.

Those of us who believe in the sanctity of life from conception to our last breath, find the logic of the proponents of embryonic stem cell research flawed. H.R. 810 allows research and science to triumph philosophy and values.

This country seeks to be a world leader militarily, economically and scientifically, and culturally. But what about morally and ethically? What about leading the world in ethics and morals by declaring human life off limits to research and to manipulation through stem cell research? What about leading the world in ethics and morals by declaring human life from embryonic stage to old age as valued? We, as a Nation, believe that all life is precious and there is an ethical line that we as a people, as a Nation, will not cross.

We should lead by declaring that human life, even at the embryonic stage, is not open to manipulation, experimentation, or research. We cannot mask the efforts to manipulate human life under the guise of science or medical research.

You and I, each of us, we all share one thing in common: we were all embryos at one time. The embryos that were you and me were allowed to grow to become Congressmen, Congresswomen, police officers, factory workers, soldiers, government employees, lawyers, doctors, scientists. We were all embryos at one time. We were all allowed to grow. Whether an embryo, a human life, is or is not allowed to grow, to become a unique individual, is a discussion this country really should have, a meaningful discussion, not just a few hours of debate in this Chamber.

It is my hope that families, individuals, couples and our children will have a discussion on human life and when it begins. Is an embryo life? At what point does an embryo become life? At what point does our Nation shelter life with the constitutional, legal, and governmental safeguards? Are there other ways to do promising medical and scientific research without destroying human embryos?

This is an ethical discussion I hoped would take place in the Halls of Congress, in the congressional committee rooms, in homes and workplaces all across America. Whether it is at the watercooler or in the cloakroom, these ethical and moral issues should and must be discussed as a Nation, as a people, as a culture, and as a world leader. Instead, this will only be discussed for a few hours on the House floor.

The other body has just gone through public, political, and senatorial debate on the use of a filibuster in our democracy. Because of this debate, a healthy discussion occurred in America. I, for one, do not wish to avoid the moral and ethical issues of stem cell research debate.

Yesterday in a news show, the commentator asked me why not allow stem cell research on discarded medical waste. Is that what we have come to, to viewing embryos, which if allowed to grow and divide would become human beings, being treated as medical waste? Why are proponents of H.R. 810 so adamant that we do research specifically using embryonic stem cells? According to the proponents of this legislation, these stem cells are our best hope of finding cures. They can develop into all cells of the body. They say medical science can unlock the keys to life. We can cure any disease or injury. They argue we must create life and then kill it to unlock the mysteries of life for scientific medical research.

Create and clone the building blocks of life so we can manipulate and experiment? Is that the line we wish to cross today? We will hear today about other research with adult stem cells, cord and placenta cells, bone marrow, fetal tissue, and unraveling our DNA through mapping of genome, all in the pursuit of finding medical cures for the dreaded diseases, illnesses, and injuries we all wish to cure. But where do we draw the line on medical research and say we as a Nation, we as a people will not cross that line? This question has not been adequately addressed in this legislation.

When do embryos become life? If you read the materials, after 40 hours, less than 2 days, the fertilized egg begins to divide and the embryos are checked after 40 hours. Or is it 5 days when embryos are called blastocysts? At this stage there are approximately 250 cells. Or do we allow the blastocysts to survive in a laboratory culture for up to 14 days and still not call them human life but blastocysts so they are still open to research and experimentation?

□ 1400

When does life become scientifically nonexistent?

I ask these questions because H.R. 810 is silent on these issues. It does not specify how long these embryos are allowed to grow before they are killed—2 days, 5 days, 14 days or more. Proponents of H.R. 810 will claim that their legislation will address the ethical manner in which this research will be conducted. Yet their legislation is silent on the ethics, other than subsection C that directs the Secretary of HHS to create guidelines within 60 days.

Two presidential bioethics advisory panels have given us differing guidance on when and how research should be conducted. If this Nation, through its elected leaders, allows embryonic stem cell research, then we as representatives of the American people should have the courage to state unequivocally where we stand and answer the ethical questions presented before us here today. As elected leaders, we should set some basic guidelines, not leave the guidelines to unelected and unnamed administrative officials.

I know many Members on both sides of the aisle, of all political philosophies, have struggled with questions of morality, questions of life and questions of faith this past week. Many of us have asked ourselves that same question, and I have concluded that this legislation is unethical and unnecessary.

H.R. 810 mandates Federal tax dollars to be used to destroy human embryos. These embryos, if allowed to live, would grow into beautiful children like the snowflake children visiting the Capitol today. They are human life. You, I and they were embryonic stem cells that were allowed to grow.

Congress should not take lightly the destruction and manipulation of human life. It is clear that the American public does not. Forty-three percent of the American public clearly opposes more Federal funding for human embryonic research. Fifty-three percent clearly support more Federal funding, according to CNN.

As I said before, this legislation has no limits as to how long the embryo can grow. The National Academy of Sciences' guidelines recommends allowing them to grow for no more than 14 days.

Again, this legislation is not necessary. Human embryonic stem cell research is completely legal today in the private sector. Embryonic stem cell research is eligible for State funding in several States, California and New Jersey, and is funded through millions of dollars in private research money, $100 million alone at Harvard University.

Since August 2001, 128 stem cell lines have been created. And still human embryonic stem cell research is funded by the Federal Government today. The National Institute of Health spent $24 million on embryonic stem cell research in fiscal year 2004, the last year that data was available. Twenty-two human embryonic stem cell lines are currently receiving Federal funding. These lines are sufficient for basic research according to the NIH director. Former Secretary of Health and Human Services Tommy Thompson has said that these lines should be exhausted first before we move any further.

Finally, embryonic stem cell research remains unproven. Not a single therapy has been developed from embryonic stem cell research. Instead of cures, embryonic stem cell research has led to tumors and deaths in animal studies. The gentleman from Florida (Mr. WELDON) has had his staff scour the medical journals for real proof of therapeutic benefit of embryonic stem cell research, but has come up empty handed. There have been zero published treatments in human patients using embryonic stem cells.

While the promise of embryonic stem cells is questionable, the promise of adult stem cell research is being realized today. Adult stem cells are being used today to save lives. Recognizing this, the National Institutes of Health spent $568 million in fiscal year 2006 on adult stem cell research. Adult stem cells are being used today in clinical trials and in clinical practice to treat 58 diseases, including Parkinson's, spinal cord injury, juvenile diabetes, brain cancer, breast cancer, lymphoma, heart damage, rheumatoid arthritis, juvenile arthritis, stroke, and sickle cell anemia.

I am pleased the House is passing legislation today, the Stem Cell Therapeutic and Research Act, to promote adult stem cell research. But we are faced now with a bill that is unethical and incomplete. H.R. 810 says nothing about human cloning, which is still perfectly legal today. I introduced legislation with the gentleman from Florida (Mr. WELDON) and Senators BROWNBACK and LANDRIEU to ban all human cloning. The inevitable truth is that if we pass this bill today, the cloning of a human baby will only come sooner. There is no room for shades of gray on this issue. The, quote, therapeutic cloning that will result from this legislation will make reproductive cloning even more likely.

We should not allow the creation of life for the purpose of destroying it. That is what happens with this bill.

Let me be clear. I am committed to funding scientific research that will unlock the origins of disease and develop cures that can help my constituents. Again, 58 conditions are being treated using placental and adult stem cells, and we cannot begin to imagine the promising new treatments and drugs on the horizon. But we cannot let science leapfrog our ethics, our morals and our legal system. This is not a partisan issue, and it is bigger than a right-to-life issue.

It is clear that adult stem cell research has opened the door to the dreams of lifesaving treatments and cures for our most deadly and debilitating diseases, but I do not believe it is time to open the door to more embryonic stem cell research and open the floodgates to human cloning.

I urge my colleagues to vote against H.R. 810.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, just speaking to the Members perhaps back in the offices listening, I have 820,000 constituents in Delaware, and probably more than a third of them have some kind of a disease that might be able to be benefited by embryonic stem cell research.

That is true of the figures in the country. We have 110 million people who have illnesses out of the 290 million people who are living here. They have visited my office. They have visited your offices. There is not a person in this room who has not had many, many visits by people who have very, very serious needs, whose lives are going to be shortened.

I am all for the first bill we debated today because I think it might help somewhat, but I have also looked at some statistics and I have come to realize that of the 15 leading diseases, adult stem cells cannot do anything about 14 of them and can do a only little bit about heart diseases as they deal with only blood diseases in terms of what they can do. Embryonic stem cell research has the ability, perhaps, to do much more than that.

People are going to get up and they are going to say, well, it hasn't done anything yet. They were only discovered about 6½ years ago. If you read the vast body of research in the United States of America on this subject by people who are truly knowledgeable, you are going to learn there is more potential here than anything that has ever happened in medicine in the history of the United States of America. Congress should never, ever turn its back on this opportunity.

How are we going to get there? How are we going to do embryonic stem cell research? I do not have time to go through the whole in vitro fertilization process except to say that we create embryos in that particular process. They are then frozen. They are generally used and well used, the 400,000 embryos which are out there, to help give birth to people who might not otherwise be able to have a child. But at the end of the process, a decision is made by the individuals that may be involved with that. If the decision is they no longer want that particular embryo, they may do a variety of things with it. They may, as has been discussed here, give it up for adoption. They may decide to have it discarded as hospital waste. That is where the vast, almost all of them actually go as hospital waste.

We want to give them the opportunity to say, within that embryo there are stem cells which could help other people live better lives and give them the opportunity to be able, instead of having it put in a bag for hospital waste, sitting at that table, to be put over here, and the State to be able to do the research. That is what we need to do. We need to be able to develop that as rapidly as we possibly can for the benefit of all mankind.

Mr. Speaker, I rise today in support of H.R. 810, the Stem Cell Research Enhancement Act.

I have been in public office for over 30 years and throughout my career, I—just like all of you—have had the opportunity to change and improve public policy so this country may continue to flourish on the principles it was founded. And the 820,000 people I represent in the State of Delaware are a constant reminder to me of this responsibility. I am their voice in the Congress of the United States.

Some of you may be wondering why I have become so interested and involved in embryonic stem cell research. And frankly, the answer is simple—those 800,000 constituents.

We estimated that about one-half of all visits to my office are about health care and about one-half of those visits are by Delawareans who are suffering themselves or whose family members are suffering—from juvenile diabetes, Alzheimer's, cancer, Parkinson's, HIV and hosts of other dredge diseases. Year by year the groups would grow in number and soon we would have to get bigger rooms for our meetings.

In the early years we would discuss the necessity of funding the National Institutes of Health, and I was proud to be able to support Newt Gingrich and the Republican Party's drive to double funding for the NIH. And that funding has gone toward the basic science needed to find cures and treatments to our most debilitating diseases. But in the past few years, the number one topic on these groups' minds was embryonic stem cell research.

One little girl stands out in mind. I met her a few months ago at an event back in Delaware. Olivia was two months old when she was diagnosed with type 1 diabetes. Her parents were first time parents so it is no wonder that the practice of testing her blood sugar and giving her insulin shots was extremely heartbreaking. Olivia is now 6 and has never known life without diabetes. She is the person we are fighting for on the floor today.

She is one of 110 million people who are suffering that may be helped by stem cell research.

I remember very clearly the difficult decision President Bush made on August 9, 2001 and I know how careful he was to balance the needs of science with his own moral concerns. At the time, the compromise—to allow Federal funding for research on embryonic stem cells lines that had already been derived—seemed quite reasonable. But as we know, unfortunately, the number of lines eligible for research—once as high as 78—is now only at 22, with the NIH saying the number of lines will never get above 23.

So when DIANA DEGETTE and I began discussing how to expand the President's policy in an ethical manner, I went right back to the speech he gave to the Nation in 2001. We wanted to be as consistent as possible with the ethics he laid out in his speech as we worked to update the policy. The legislation we are going to vote on today, H.R. 810, the Stem Cell Research Enhancement Act, which has the backing of the medical groups, the scientists, the research universities and the patient advocacy groups, mirrors the President's ethical requirements.

I will read them to you and ask that you think about them very closely:

(1) Embryos used to derive stem cells were originally created for fertility treatment purposes and are in excess of clinical need;

(2) The individuals seeking fertility treatments for whom the embryos were created have determined that the embryos will not be implanted in a woman and will otherwise be discarded; and,

(3) The individuals for whom the embryos were created have provided written consent for embryo donation and without receiving financial inducement. You may ask what is different—we simply lift the arbitrary August 9, 2001 date.

It is also critical that we are clear about what this legislation does not do:

(1) No federal funding for the destruction of embryos or human life. This is prohibited by law.

(2) No federal funding for the creation of embryos for research.

Under our legislation it is up to the couple to decide what should happen to their embryos. Embryos can be adopted or donated; embryos can be frozen for future family building; embryos can be discarded. After that initial decision is made, and if a couple decides to discard the embryos, our legislation would allow those couples to make a second choice—do they want to donate them to research?

An embryo or blastocyst is about 250 cells and the inner cell mass is about 100 cells and that is where the stem cells come from. They are created in a petri dish, are about 5 days old and are the size of a pine head. Of the 400,000 frozen embryos in in vitro fertilization clinics throughout the U.S., about 2 percent are discarded annually—that is about 8,000—11,000 embryos that could be slated for research. Allowing the option of donating these excess embryos to research is similar to donating organs for organ transplantation in order to save or improve the quality of another person's life.

The bottom line is when a couple has decided to discard their excess embryos they are either going to be discarded as medical waste or they can be donated for research. Throughout this debate you will hear about adult stem cells and more about umbilical cord cells and how these types of cells are sufficient for scientists.

This is simply not true. Umbilical cord cells are adult stem cells and they are limited.

Adult and umbilical cord cells are already differentiated into the types of cells they are, they are difficult to harvest and grow and they do not exist for every tissue type. On the other hand, embryonic stem cells are "master cells"—they have the potential to grow into any type of cell in the body, they are easier to identify, isolate, purify and grow and they are capable of continual reproduction.

Listen to what the NIH has to say on this topic:

> Human embryonic stem cells are thought to have much greater developmental potential than adult stem cells. This means that embryonic stem cells may be pluripotent—that is, able to give rise to cells found in all tissues of the embryo except for germ cells rather than being merely multipotent—restricted to specific subpopulations of cell types, as adult stem cells are thought to be.

In 2003, 1.6 million people died of heart disease, cancer, diabetes, Alzheimer's, kidney disease, liver disease and Parkinson's. Of the 15 leading causes of death, adult stem cell research only addresses one. Adult stem cells have been around since the 1960s. Embryonic stem cells were only isolated in 1998. We must explore research on all types of stem cells, but the reality is the only policy that is restricted is the Federal embryonic stem cell policy.

The NIH is the right place to oversee this research because it can regulate the ethics, it provides for scientific collaboration and peer review and promotes publication so all breakthroughs are reported and all scientists have access to the latest research discoveries. Without NIH oversight there are no guidelines as to how this research should be conducted.

The United States has always been the premier leader in biomedical research in our country and around the world. As science continues to move rapidly forward, we need to continue to lead the way but we are not. Why should we waste one more year, one more day, forcing millions to suffer because of a policy that is outdated and unworkable.

Does this Congress really want to look back 10 years from now and say that we were the ones holding the treatments up? Or do we want to be the Congress that says, we back science, we want research to flourish and we played a small role in making that happen.

Support H.R. 810, the Stem Cell Research Enhancement Act and accelerate hope.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California is recognized for 2 minutes.

Mr. CUNNINGHAM. Mr. Speaker, a family invests their embryos. They are not going to save them for 1,000 years. Some of those embryos cryogenically deteriorate so they are going to discard those embryos. Others are just thrown down the toilet because someone does not want them anymore.

Those are the embryos that we can use for stem cell research, only the ones that are going to be thrown away. If there are 400,000, then we will use 400,000. If there are only 10, we will use 10 unless they can be adopted, which I also support in this bill.

People say that there has been no research. If you take a look in animals, they have actually saved spinal cords in animals, in heart, in Alzheimer's, but they just have not done it in humans. There is potential, both for adult and embryonic stem cell.

I have been here 15 years and I am 100 percent prolife, 100 percent. This is an issue of life to me.

I had a 6-year-old in the committee that said, Duke, you're the only person who can save my life. Do you have a child with diabetes? Do you have a child with other diseases that could be prevented? Then you would support this. I am for life and I am for the quality of life, but I do not want another 6-year-old to die.

I opposed the California bill. It went too far. I do not support cloning, but I want to save life. We are this close to stopping juvenile diabetes. There are other embryos that are tainted so bad that you would not implant those and they want to study those so that they can stop those childhood diseases. But you cannot look a child in the eye when the only chance they have to live is this research.

Ms. DEGETTE. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, this is a grand and glorious debate we are having today. Think of what we are doing. We are debating the best route for achieving wonderful, healing medical possibility, possibility that would have been unheard of not many years ago. But it is only possibility. By definition, good research is always about possibility, about the potential of finding the answers to that which we do not know.

Let me share three perspectives with you today. First, that of a friend. This is a picture of a family I know. The mother, father and I trained together at the medical school in Arkansas. She was diagnosed with insulin dependent diabetes at age 7. She had early complications with retinal problems caused by the diabetes. Her husband is a doctor. Five years ago he had an accident and now has paralysis caused by spinal cord injury at the C7–T1 level. This family has hope, realistic hope that sometime in the many years of life ahead of them, medical research may give them the possibility of cure or dramatic improvement in her diabetes and his spinal cord injury.

Second, as a family doctor, I practiced medicine. My patients and I relied on past research done by many good scientists striving in an ethical manner to end the harsh realities of so many diseases. I know some of my friends in opposition to this bill today argue that embryonic stem cell research is junk science. I do not share this view, but to those of you pondering this view today I say, let our gifted researchers, not us legislators, answer the unanswered scientific questions for us. Funded ethical research is not junk science. Premature conclusion is.

Third, as patients, my wife and I have ventured into the world of fertility clinics. We have met doctors and nurses all working hard to help couples have families, and we have studied and prayed over the patient consent forms. The ultimate decision on what happens to unneeded embryos should be up to that fully informed family, and fully informed consent is part of this bill.

I support this bill today. I do not know what, if anything, will come from this funded research. That is why we do the research.

Please vote "yes" for this bill.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Georgia

(Mr. PRICE), a physician for 25 years in Georgia and a member of the faculty at Emory University.

Mr. PRICE of Georgia. Mr. Speaker, as a physician, I know that respected scientists believe that misrepresentations and exaggerated claims in this debate are not only scientifically irresponsible, they are deceptive and cruel to millions of patients and their families who hope desperately for cures.

It seems to me that there is one unmistakable fact. Many in our society have sincere, heartfelt, passionate, ethical questions, worthy of our respect, regarding the scientific or medical use of embryonic stem cells. If our goal is truly to cure diseases and help patients, science tells us that today the use of adult and cord stem cells has successfully treated or holds real potential for treating nearly 60 diseases. The same cannot be said for embryonic stem cells, and adult stem cells carry none of the ethical questions or dilemma of embryonic stem cells.

I support stem cell research, active, aggressive and scientifically based, with respect for the difficult ethical questions we face today. I urge my colleagues to join me in respecting science, in respecting ethical concerns. If we do, we will recognize that stem cell research and treatment of disease should actively proceed with those adult and cord stem cells that are providing and will increasingly provide excellent and exciting cures for patients in need.

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Mr. CASTLE. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN), who has been a wonderful help on this bill.

Ms. BALDWIN. Mr. Speaker, I am fortunate to represent the University of Wisconsin, Madison, where Dr. Jamie Thompson and his team were the first to derive and culture human embryonic stem cells in a lab. These cells can be described as the parent cells of all tissues in the body. Embryonic stem cells open the possibility of dramatic new medical treatments, transplantation therapies, and cures.

But at 9 p.m. on August 9, 2001, the hope and promise of this embryonic stem cell research was greatly curtailed. President Bush declared that researchers who received Federal funding could work only with embryonic stem cell lines created before that date and time. There were supposed to be 78 lines that were eligible for federally funded research. However, due to age, old technologies, contamination, only 22 are useful for research today.

Mr. Speaker, why are we tying the hands of our scientists who receive NIH grants or other Federal dollars to support their research? Why are we curtailing scientific progress in America while scientists in other countries rapidly seize the opportunity inherent in advancing this research?

H.R. 810 creates strong new safeguards and guidelines concerning research on human embryonic stem cells. Strict criteria, including written informed consent for donation, must be met before Federal researchers can derive and culture new stem cell lines.

Some Members on the other side of this debate say their constituents are opposed to their Federal tax dollars being used on this groundbreaking science. Well, I have constituents as well, like young Jessie Alswager of Madison, Wisconsin. Jessie has juvenile diabetes, and every year he comes to Washington to lobby for this research to move us closer to a cure. Jessie is only 8; so I do not think he pays taxes yet; but his mom, Michelle, sure does. And Michelle, like millions of other Americans who could be helped by this science, very much want their tax dollars spent on stem cell research.

I urge support of the Castle-DeGette bill.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the leader for yielding me this time.

I ask myself this question: If we are going to deal with this debate on embryonic stem cell research, what are the ethics of this? One can go to Google and do a Google search on permissible medical experiments. And I did that, and I found that there is a list of 10 things that have to be qualifiers for permissible medical experiments on human beings. One is the subject must be a volunteer. The second one is there must be no alternative. The third one is results of animal experimentation must be proven successful prior to their experiments. The net result in death or disability cannot be accepted. The seventh one is there cannot be even a remote possibility of injury, disability, or death. The human subject must be at liberty to end the experiment. And the likely result cannot be injury, disability, or death. The exception is if a physician wants to experiment upon himself.

Where do I find this information, Mr. Speaker? I find this information in the military tribunals under Control Council Law No. 10, October, 1946, Nuremberg.

Mr. STUPAK. Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Speaker, we need to remember that embryonic stem cell research is legal. In the absence of the Federal Government, the States are already taking the lead. California is at the forefront of establishing a robust embryonic stem cell research program. New Jersey has followed suit, and seven other States are in the process of doing so. We do not want our stem cell research policies left to the vagaries of State electoral politics. The Federal Government in general, and NIH in particular, must be involved. The less NIH is involved with its time-tested methods and procedures, the less we are assured of good ethical guidelines and scientific methods will be followed. Instead, we will have more and more individual States attempting to set up their own regulatory schemes, something they may or may not be equipped to do.

Opponents argue that it is the product of a utilitarian world view, that somehow this is a zero-sum game, if the Members will, in which life is taken in order to give life. I think the strictures that are established by H.R. 810 negate that argument. Under this bill, Federal research will proceed using those embryos not used in fertility clinics, embryos voluntarily given that would otherwise be destroyed, that is, embryos that held the promise of life but are certain not to fulfill that promise. What we are doing is extending the potential life where otherwise there would be none.

I urge passage of H.R. 810.

Mr. BARTON of Texas. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Mrs. BONO), a member of the committee.

Mrs. BONO. Mr. Speaker, I rise in strong support of H.R. 810. I would like to thank the chairman for all of his work in bringing this bill to the floor, and I would like to thank my leadership for allowing a vote on this important legislation.

As Representatives, we are in the unique position to frequently meet with a wide cross-section of people, many of whom are suffering from debilitating diseases, injuries, and ailments. These millions of patients, as well as their loved ones, have a clear message for policymakers: we support this research and we need their help.

Opponents of this bill have argued that we should not use Federal funds to pay for embryonic stem cell research. I respectfully disagree. The issue at hand is allowing for more pristine stem cell lines to be eligible for research. Scientists and researchers throughout the United States are constantly reminding us that the focus needs to be on the quality of the stem cell lines available which are eligible for Federal research. I would also like to state that there is no funding for the derivation of the lines and the lines must be ethically in accordance with the principles the President has laid out in his policy. We are undoubtedly slowing research progress by forbidding researchers from using Federal funds to conduct research.

Former First Lady Nancy Reagan has said about embryonic stem cell research: "Science has presented us with a hope called stem cell research, which may provide our scientists with many answers that for so long have been beyond our grasp. I just don't see how we can turn our backs on this. We have lost so much time already. I just really can't bear to lose any more."

We all know that the impetus for Nancy Reagan was the battle that her husband, President Ronald Reagan, fought with Alzheimer's disease. The former first lady is not alone. Over 4.5 million Americans are affected by Alzheimer's. I am encouraged by scientists' claims that embryonic stem cells will allow for more research on Alzheimer's, including the possibility that they may be used to grow new brain cells to replace the brain tissue destroyed by the disease.

Dana Reeves, the widow of actor and activist Christopher Reeves, sat with me less than 2 months ago and shared her family's devastating story. The potential for turning the hope for spinal cord injury into reality is evident, and I believe that by passing this legislation we can clear the way for research to move forward.

Dana and Nancy are just two of the more visible faces of public figures who have asked for this research.

Mr. Speaker, I implore my colleagues to please support this legislation, H.R. 810.

Ms. DEGETTE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I stand today in strong support of the bipartisan Stem Cell Research Enhancement Act of 2005.

One of the few places this is really an extremely controversial bill is right here because the majority of Americans strongly support embryonic stem cell research. They want the Federal Government to fund research that is critical for some 128 million Americans who suffer from juvenile diabetes, Parkinson's, Alzheimer's, cancer, heart disease, spinal cord injuries, ALS, and other diseases.

Stem cell research is a medical issue, one that should and fortunately does transcend political lines and instead focuses on human lives. One such life is that of Clara Livingston, a 9-year-old girl with diabetes. During her testimony last week in a hearing in Chicago, Clara said, "There are things I don't like about diabetes. I have to put a one-inch needle into my skin to connect my insulin pump. I don't like pricks or shots. I don't like having high blood sugar and not being able to eat. I don't like going low and fainting." She continued, "I would like to find a cure because finding a cure will help make America and the rest of the world not worry about diabetes."

Most scientists agree that embryonic stem cell research offers the greatest hope to patients like Clara. There are limitations on the usefulness of adult stem cells when compared to embryonic stem cells. For example, there are no adult stem cells in the pancreas. That means that adult stem cell research will be inadequate in helping Clara or any other patients who are patients hoping for a cure for diabetes.

While it is important to continue working with adult stem cells, it is also vital to fund the research funding embryonic stem cells. We do a grave disservice to millions of children and adults living with serious illness, as well as the millions who will develop these conditions in the future, by prohibiting promising research. This bill will lift these arbitrary restrictions and permit funding of cell lines regardless of where they were created. Federal funding guidelines assure that research will meet ethical standards and allow advancements to be made as quickly as possible. As Steven Teitelbaum of Washington University in St. Louis said, "This is not a contest between adult and embryonic stem cells. This is a contest between us as a society and disease."

I hope my colleagues will vote "yes" on this bipartisan legislation.

Mr. DELAY. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. BURGESS), who was an OB/GYN physician for 21 years and has delivered over 3,000 babies and understands that an embryo is a stage of development.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS), member of the committee.

Mr. BURGESS. Mr. Speaker, I thank the majority leader and my chairman for yielding me this time.

I do rise in opposition to this bill today.

The debate that we are about is expanding Federal funding, not limiting research. There are no bona fide treatments available for embryonic stem cells. There is nothing in the laboratory, and there is certainly nothing in the clinics available to patients. Honesty is an important part of this debate, and I am concerned that more than a promise has been offered to people who are suffering and the reality is that those potential treatments are much more limited than they have been portrayed.

The President, I think, wisely put parameters, set boundaries around this type of research back in 2001. Let us not forget that private funding for stem cell research is available today. A couple who has an embryo developed in an IVF clinic is perfectly free to take that embryo to a lab at Harvard or California and have a stem cell line developed. The reality is in a poll of my reproductive endocrinologists back home: that never comes up as an issue.

But 22 cell lines are currently utilized. There are an additional 31 cell lines available, per Dr. Zerhouni's testimony before our committee, that will be developed after the issue of animal growth medium becomes overcome. And there are two papers out this past week that indicate that that date may be quickly upon us.

Mr. Speaker, I think it is important that we follow the money in this debate. The reality is if there are indeed a third of the population of the United States who would benefit from this research, I believe that the big biotech money would be jumping into this. We would not be able to keep them out. They would be buying patents and capturing cell lines for their future use.

If there is one thing we learned in the last Presidential election, it was that both major candidates asserted that life begins at conception, and we are talking about taking a life. Remember that that inner cell mass that we are talking about that is taken at about 2 weeks of development, if we put that on a timeline of a human pregnancy, about 5 days later we are going to see a heartbeat on a sonogram.

So, Mr. Speaker, this is what the debate is all about. I urge us to protect life and vote against this bill.

Mr. STUPAK. Mr. Speaker, I yield 6 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding me this time.

Today we in the Congress are debating the essence of human life, the creation of life and the destruction of life. We are debating how one's family's life code, their DNA, is propagated and bequeathed to the next generation. Each human life begins as an embryo. What concerns me, as someone who cherishes life and is a strong supporter of medical research for epilepsy, for diabetes, for spinal cord injury, for Alzheimer's, for so many debilitating diseases, is that this bill seems to be on a very fast track. It is moving through this Congress at record speed and not under the normal procedures we depend on to make informed decisions.

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Today I rise with more questions than answers on this bill. I respect the advocates. I respect those that do not support the bill. But I know one thing: On a matter of life and death, Congress should proceed carefully, thoughtfully and in an informed manner. All points of view must be heard and not suppressed.

Most surprisingly, this bill never had a subcommittee nor a full committee hearing. So my opinion today about this bill is: not yet. I am not yet confident that this institution has allowed for full dialogue to develop on a matter of such gravitas. Regardless of how you view the bills before us, the lack of a full hearing record is most troubling indeed.

I ask myself, why is the normal committee process subverted on a matter of such consequence? What do proponents have to lose? Where is the committee transcript that will tell us the diverging views of scientists on the potentiality of adult stem cell versus embryonic stem cell to improve life? The fact is, there is none. Some evidence indicates stem cell research from nonembryonic sources now has made a difference in treating 58 different diseases. We need to know more about the science.

Then, where is the committee record that helps us struggle with the essential moral question of: how exactly does one destroy life in order to save it? Where is the committee transcript that reveals to the majority of Members not on the committee the ethical questions that we and every family should be addressing concerning the proprietary nature of the DNA in any embryonic cell?

We go to great lengths as a Congress to protect intellectual property rights, as our Constitution requires. After all, this Nation provides for patents for computer software, for medical devices, for seed corn genomes: and yet we provide no protection for the DNA of a human embryo? Whose DNA will be bequeathed to the future and whose will not?

How do we evaluate this bill when so much is missing? How do we evaluate which embryos should be allowed to be sent to research and how many to be adopted by infertile couples so those embryos can be developed into full human beings? Who will decide? Is it just a matter for the individual couple, or is there a larger, societal responsibility to protect life?

The woman whose eggs are being taken, how is she legally protected? How is her husband or mate legally protected in this relationship? And what are the rights of the embryo? Where is the hearing record that informs us how to carefully manage any transfer of human embryos to research so their essential worth is recognized?

We are told that the ethical requirements section of the bill will suffice, yet this section is but 156 words long. It directs that NIH will issue final guidelines within 60 days of passage of this bill. Sixty days? That is not even enough time to grow a tomato plant. I ask, is this realistic? And further, who will influence NIH without more congressional guidance?

Mr. Speaker, there is a lot of money to be made in this new field of life science. I think Congress should know who is likely to be making it, especially when Federal funding becomes involved. Which biogenetic and pharmaceutical firms stand to benefit the most from moving this bill forward? Exactly who are they? Which immunosuppressant drug companies? Do we as Members of Congress not have a right to know something more from the nonexistent transcript from the committee?

I find it most coincidental that last week the South Koreans doing research in this arena announced that they had cloned cells, making it appear as though, if Congress did not act today, America would fall behind in the world research community. I found the timing of that announcement just all too convenient and asked myself, which companies were behind it?

In my opinion, the subcommittee and committees of jurisdiction have not met their responsibilities to this Congress, by abdicating their hearing responsibility. All we have are documents from outside proponents and opponents, and frankly, that is not good enough. Where is the hearing record to which all Members can refer which recounts the struggles of proponents and opponents with the ethical requirements that should be a part of this bill, and not merely leave it up to the National Institutes of Health?

On a matter of such magnitude, where some human embryos will be destroyed in the hope that new cures are made possible, the Congress needs to be more responsible.

I ask my colleagues to vote "no" on the DeGette-Castle bill and remand it back to committee.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would remind all Members to refrain from using audio devices during debate.

Mr. CASTLE. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire (Mr. BASS), a member of the committee.

Mr. CASTLE. Mr. Speaker, I yield 30 seconds to the gentleman from New Hampshire.

The SPEAKER pro tempore. The gentleman from New Hampshire (Mr. BASS) is recognized for 2½ minutes.

Mr. BASS. Mr. Speaker, a "yes" vote today is a vote for progress, for reason and for sound research.

Mr. Speaker, it is conservative to conserve, and this bill utilizes stem cells that have already been discarded, discarded because in most cases those who undergo in-vitro fertilization have excess fertilized cells available. Their only choice today has been for freezer storage, putting them up for adoption or discarding them, yes, into hospital medical waste.

Now we will add a fourth option, and that is to allow these embryos to be used for scientific research, to find cures for diseases that have afflicted Americans, a large portion of Americans, that threaten the lives of young people. This is not about life, this is about saving life, and it is important that the Congress make this statement for a brighter future for many, many Americans.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. BASS. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Speaker, we do not know yet, but the possibility is very real that stem cell research may be the greatest breakthrough in the history of science. There are deep and profound moral and philosophic issues surrounding the research, but our government should be very cautious about coming down on the wrong side of science, especially when the scientific endeavor is designed to lengthen and ennoble life.

It has been suggested here today that no breakthrough therapies have yet been developed with stem cell research. This is simply not the case. Using, for example, the microenvironment of human embryonic stem cells, Dr. Mary Hendricks and her team of researchers at Chicago's Memorial Research Center have developed a methodology to slow the aggressive properties of metastatic cancer cells. How in heaven's name can we deny the promise of such research?

There is consensus at this time in this body and in the research community that scientists should not play God in attempting to clone human beings, but we are at a stage of human existence where there is a practical possibility that a blastocyst that would otherwise be thrown away as waste can, in a petri dish, be used to help solve these incredible diseases, from Alzheimer's to Parkinson's to diabetes to cancer.

If one believes that life matters, the balance of judgment should be to carefully open the door, as this bill, led so beautifully by my good friends the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from Colorado (Ms. DEGETTE), does. Not to open the door is to put our heads in the sands and foreclose the prospect of a better life for many, many Americans.

Ms. DEGETTE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. SLAUGHTER) for the purpose of making a unanimous-consent request.

Ms. SLAUGHTER. Mr. Speaker, I rise in strong support of the Castle-DeGette amendment. I have a friend who is alive today because of stem cell research and injections that he has had. He would love to have been here today to tell you about it. He is in the bloom of health.

Mr. Speaker, a couple of years ago, a very close, longtime personal friend of mine, John McCaffery, was diagnosed with lymphatic leukemia. He underwent radiation and chemotherapy treatments. But he remained critically ill. His doctor suggested that he have a stem cell transplant.

John was fortunate enough that his brother proved to be a match. After causing John's brother to overproduce stem cells, doctors at Strong Memorial Hospital in Rochester, removed the excess stem cells and put them in John. Unlike a painful, complicated bone marrow transplant, John received his stem cell transplant via an IV.

Without advancements over the years in stem cell research, John would not have had the option for a stem cell transplant. Rather, he would have had to continue with chemotherapy treatment until the cancerous cells eventually took over his body and he died.

Mr. Speaker, stem cell research saved John's life. And, I am very happy to report that today, John is once again leading a healthy, productive life.

The U.S. has the finest research scientists in the world, but we are falling far behind other countries, like South Korea and Singapore, that are moving forward with embryonic stem cell research. Adult stem cells from umbilical cord blood will likely lead to treatments for some diseases. But this must complement, not substitute, scientific research on embryonic stem cells—which is much more promising and will yield to advancements in the prevention and treatment of almost every disease American families face. The United States must be on the cutting edge of this important research. We have a responsibility to promote stem cell research which could lead to treatments and cures for diseases affecting millions of Americans.

Without question, the U.S. should set high standards for moral and ethical use of stem cells. But how can we do this, if we are not actively involved in the research?

Mr. Speaker, John is one person whose life was saved by stem cells. There will be thousands and one day, millions more lives saved if we do the right thing today. I urge all my colleagues to support both adult and embryonic stem cell research by supporting the Stem Cell Therapeutic and Research Act and the Stem Cell Research Enhancement Act.

Ms. DEGETTE. Mr. Speaker, I am delighted to yield 4 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished Democratic whip.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding and want to congratulate the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from Colorado (Ms. DEGETTE) for her leadership and his leadership on this bill. This is, I think, one of the most important bills that we will consider for the welfare of people not only in this country, but throughout the world.

Mr. Speaker, let us be very clear about what this bipartisan, moderate bill would do and not do. This legislation, which has 200-plus cosponsors from both sides of the aisle, would not permit Federal funding for cloning; it would not permit Federal funding to create embryos, nor would it permit Federal funding to destroy embryos.

This important legislation simply expands the current Federal policy of allowing Federal funding for research on stem cell lines derived after the arbitrary date of August 9, 2001, from embryos created for fertility treatment that would otherwise be discarded.

Recall that on that date, President Bush announced that Federal funds would be available to support research on human embryo stem cells so long as such research was limited to existing stem cell lines. At the time it was believed that 78 stem cell lines were eligible. Yet today, as we know, only 22 such lines are available for research, and these lines are aged, contaminated or developed with outdated research. Meanwhile, there are at least 125 new stem cell lines with substantial potential that federally funded researchers cannot use.

Thus, Mr. Speaker, I believe the issue before this House today is this: Will we foster embryonic stem cell research, research that holds great promise for the potential treatment or cure of diseases such as ALS, Lou Gehrig's disease, Alzheimer's, Parkinson's, and other diseases, and offer hope to those with spinal cord injury and other injuries of the nervous system, or will we stand in the way?

I know that the opponents of this bill believe that we are ignoring the ethical and moral implications of such research. I do not share that view. But, in fact, this legislation requires the Department of Health and Human Services and the National Institutes of Health to issue guidelines for ethical considerations; it requires a determination that the embryos would never have been implanted and would have been discarded; and it requires the donor's written, informed consent.

Mr. Speaker, I realize this is a difficult issue for many. It is, however, I think, an issue that the American people have made a judgment on. It is an issue which they, I think, overwhelmingly support. The polls seem to reflect that at least 60 percent of the Americans asked the question support this important effort. They believe it holds promise for them, for their spouses, for their children.

We have talked much about life on this floor. It is important that we do so. It is important that we do so in a thoughtful and principled way.

I believe that this moderate, well-thought-out, carefully constructed bill takes a step that America expects us to take. This is the People's House. I believe the people would have us pass this legislation, and I urge my colleagues to vote accordingly.

Mr. DELAY. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland (Mr. AKIN).

Mr. STUPAK. Mr. Speaker, I yield 1 minute to the gentleman from Maryland.

The SPEAKER pro tempore. The gentleman from Maryland is recognized for 3½ minutes.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, will the gentleman yield?

Mr. AKIN. I yield to the gentleman from California.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, just in response to what was said on the floor, this is a statement that has appeared on the floor, and also in print, which says that the bill before us prohibits Federal funding used for the destruction of embryos.

By its very definition, it requires the destruction of embryos when it does the research. That ought to be very clear. The process talked about requires the destruction of embryos.

Mr. AKIN. Mr. Speaker, reclaiming my time, I rise today to oppose public funding for the destruction of human embryos.

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There is actually a very simple reason for that, and that is because you and I were once embryos.

Now, an embryo may seem like some scientific or laboratory term, but, in fact, the embryo contains the unique information that defines a person. All you add is food and climate control and some time, and the embryo becomes you or me.

Now, there are people who want to use public money to destroy embryos, and they talk about this bill as being a good first step. What happens if we run the clock to step two or step three?

My own daughter wrote a little story, and I will read it, about step three: "I lived with 40 others in a compound supervised by cool, efficient orderlies. Instead of playing, I stood pondering a troubling dream from the night before. It was of a loving father giving his child a name. I have always been just 52561B.

"I started imagining what it would be like to be named when the lab technician called me down the sterile white hall to my monthly checkup. I was given the usual clear injection and scanned. The medic flipped through the images which showed my organs and wrote, 'healthy, still usable' across the file.

"Several weeks later, I heard footsteps outside my cell and low voices. The door unlocked and I was led again into the clinic and placed on the stainless table, but the injection this time was amber colored and I immediately sensed that something was wrong. Numbness started spreading across my body, great agony, no breathing, and the table was lifted and I slid down a chute into a large, steel box with waste paper and garbage from the lunch room.

"My body now thrashed uncontrollably, but as everything grew dark, there was a bright figure who seemed to protect me. He looked at me with such love and said, 'I have given you the name Tesia, which means "Loved of God."'

"I awoke to see a wrinkled face with twinkling dark eyes framed by white hair. He must have seen my questioning expression. He explained, 'You were a clone being held as a source for body parts, but when a recipient dies, the clone is considered useless and is given a lethal injection. I managed to get to you before the poison finished its work.'

"I was stunned. After a pause, he said, 'What shall I call you?' At first I was startled until I remembered. I said, 'Tesia.'"'

Mr. Speaker, this building was built by our Founders on pillars, but not just pillars of marble. One pillar was the conviction that God grants life as an inalienable right, and they fought so that pillar would not be toppled by tyrants. And our sons and daughters fight so that pillar will not be toppled by terrorists. We must vote today so that that pillar will not be toppled by technology that is run amok.

Oppose public funding which destroys little you's and me's, and oppose this harvest of destruction.

Mr. STUPAK. Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina (Mrs. MYRICK), who is a member of the Committee on Energy and Commerce.

Mrs. MYRICK. Mr. Speaker, I rise today in opposition to H.R. 810.

I believe in the transforming and the lifesaving power of research and science, and I have seen firsthand how cutting-edge research can make a big difference in the lives of Americans who suffer with all sorts of diseases, and, I understand the value of federally funded research. I also support stem cell research.

However, this debate is not about the merits of scientific discovery. There is no ban on research for the limited number of IVF embryos on which such research would even be possible. This debate is about Federal tax dollars and whether these dollars should be spent on the destruction of embryos, which I do not support.

Supporters of this bill say we have nothing to lose by destroying existing embryos with Federal money because, after all, some of them will probably be discarded anyway. I would ask my colleagues to recall the reason why we do not conduct scientific research on Federal death row inmates.

Aren't they going to die anyway? By all accounts, death row inmates are not innocent lives—but we don't conduct destructive experiments on them because it would be ethically reprehensible. We certainly don't dedicate taxpayer funds for that purpose.

Those who've studied the implications of an embryonic stem cell research expansion know full well that Federal funding for the destruction of existing IVF embryos is no silver bullet for disease treatment. But that's how the bill will be sold on the floor today. H.R. 810 is merely the first step in an effort to spend federal money—not only on the destruction, but on the creation of cloned embryos for research. I ask my colleagues to join me in opposing this bill.

Ms. DEGETTE. Mr. Speaker, I am very pleased to yield 2½ minutes to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Speaker, I rise in support of H.R. 810 because we need to support studying every kind of stem cell, from cord blood to adult to embryonic.

Parkinson's disease affects over 1 million Americans, and I am one of them. Many people think that this is a disease that mostly affects older citizens. That is not true. I was diagnosed when I was in my mid-40s and Michael J. Fox, for example, was much younger than that.

Parkinson's does not keep me from doing the things that are important to my life and my work, but Parkinson's does affect me every day of my life. There are good days and bad days, but there is still a need for research and for a cure.

Parkinson's has been said to be the most curable disease that is yet to be cured. Scientists believe a cure is on the horizon within the next 5 to 10 years. They also believe that the advances in Parkinson's research will lead to accelerated cures for other illnesses such as Alzheimer's.

Only embryonic stem cells hold enormous potential in order to treat these patients. Doctors treating patients with disease or injury may feel compelled to ease the suffering by taking every ethical avenue possible to find treatments and cures. These doctors are among some of the most talented, dedicated, and well-respected doctors in this country.

Today we decide whether to free these scientists or to hold them captive. We will decide whether those suffering from Parkinson's, diabetes, spinal cord injuries, and others will have the greatest potential for cures, or whether they will just simply sit on the bench.

Mr. Speaker, I do not think that is the right message to send patients and doctors.

The American people agree. Poll after poll has shown that a wider majority of Americans support ethical embryonic stem cell research. The majority of Bush supporters, for example, have voted to support this research. Over 90 patient organizations, scientific and medical societies, and universities also support this research. Some think this research has given false hope to patients like me. But the science is moving forward and, with our help, will go even further.

This is really an exciting day for me, Mr. Speaker. I appreciate everyone who has helped us.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Mr. Speaker, as stewards of hard-working Americans' tax dollars, we cannot ask our constituents to fund the killing of human embryos.

Like the rest of my colleagues joining me today, I am strongly in support of scientific research to save and improve human life. But to fund Federal research on stem cells derived from killing human embryos is unethical and irresponsible.

While stem cell research has never been prohibited in the private sector, President Bush permitted the usage of embryonic stem cell lines sufficient for extensive government-funded research nearly 4 years ago. In these 4 years, government and private research on those stem cells have produced nothing, cured no one; and there is no indication that that will change.

In the meantime, ethical research not derived from embryos in the public and private sectors has helped cure almost 60 diseases. The private sector has proven the superiority and promise of cord blood in adult stem cell research by choosing to fund those areas. Let us learn from their example and not squander taxpayer dollars on unethical research.

Mr. Speaker, we do have the power of the purse, and we cannot misuse it by funding the slaughter of human life.

Mr. STUPAK. Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 810. Science has advanced rapidly since the President announced his stem cell research policy. These cells were just identified less than 10 years ago and, already, the technology is progressing by leaps and bounds. The 22 lines currently available under the President's policy were developed using outdated techniques and have been contaminated, possibly skewing the outcome of experiments.

Given the promise that stem cells hold, it is time to drop the limit on current stem cell lines and allow researchers to do what they do best. It is tragic to let these cells go to waste when they could help to relieve so much suffering. It is time to let researchers go where the science leads them, not where politicians dictate.

In order to explore all of the possibilities, scientists must have access to all three kinds of stem cells: adult, embryonic, and those from the umbilical cord blood. That is why I plan to vote for H.R. 810 and the Smith bill as well. The two are not in opposition; they are complementary.

Mr. Speaker, I am proud to support H.R. 810 and for the sake of the millions suffering from diseases, I ask my colleagues to do the same.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from the great State of Missouri, the Show Me State (Mr. BLUNT), the distinguished majority whip.

Mr. BLUNT. Mr. Speaker, I thank the chairman for yielding me this time and for his leadership and the leadership of others on this debate today.

This debate is defined in so many ways by the conscience of each Member; and as each Member comes to the floor, as each Member speaks, I think my colleagues can see that this debate uniquely is based on their own view of this and their deeply founded view of this.

In fact, the whip's office is not real busy today, because we are not whipping this vote. I do not think my friends on the other side are whipping this vote either. Why would that be? Why would we have a vote on a bill like this that, based on the debate, is so important that we would not be trying to persuade Members? Because we feel on both sides of this aisle, apparently, today that this is a matter of real conscience. This is a matter where people can deeply disagree. This is a matter about the very definition of life itself.

Because of that, I am firmly on the side of those who believe it is not time yet to federally fund this particular kind of research. There is private sector funding available. Some States like the State of California recently decided they would fund this in a significant way. Other States have decided they would totally outlaw research. So this is clearly an issue where the country is divided.

The ethics of this issue, as the gentlewoman from Ohio (Ms. KAPTUR) suggested earlier, are not as clear as they should be. The future ownership and use of this research is not as clear as it needs to be. The first principle of bioethics should be: first, do no harm. We are not at the point in this issue where we can firmly say we are not doing harm. We are at the point when we can say that all of those concerns that this research is not possible if we do not fund it with Federal funding are just not right. This research is possible. I do not agree with it myself, but I particularly do not agree that we should take the tax money of millions and millions of taxpayers who believe this is absolutely wrong and pay for this research in that way.

I urge a "no" vote on this bill, Mr. Speaker.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Missouri (Mr. CARNAHAN).

Mr. CARNAHAN. Mr. Speaker, I want to thank the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from Colorado (Ms. DEGETTE) for their leadership on this issue.

Like millions of American families, my own has been impacted by the loss of loved ones with debilitating diseases. My grandmother, Alvana Carpenter, died of cancer, and my first cousin Betty Stolz, to MS. We lost them too soon. That is one of the reasons I have joined this unparalleled and growing bipartisan coalition to cosponsor H.R. 810, along with over 200 Democrats and Republicans in this House. People from the Show Me State were polled not too long ago, and three-fourths of them were in support of this research continuing. Just like polls around the country, when Nancy Reagan called to lift the Bush administration ban on this research in 2004, three-fourths of Americans have come to the support of this cause.

There is great promise in this research. Since its isolation of the embryonic stem cell in 1998, research has made dramatic progress in the U.S. We cannot and we must not abandon our leadership role in the scientific community and in establishing strong ethical standards for this research, which are incorporated in this bill.

□ 1500

I also became involved in this debate because of the extraordinary citizens that have come to advocate on its behalf, advocates like Bernie Frank, an accomplished St. Louisian who has volunteered for the Parkinson's Action Network; advocates like Dr. Huskey from Washington University, who suffers with MS and continues her advocacy; advocates like Rabbi Susan Talve and her young daughter, Adina, who suffers from a congenital heart defect. Early stem cell research shows the potential to discover ways to grow new heart muscle cells.

Mr. Speaker, the promise of stem cell research is real. Science, not politics, should determine the future of this vital research.

We stand here with the tools in our hands to ease the pain and suffering of so many across the country and around the world. To forgo potential life-saving cures is simply unacceptable and unconscionable.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON), who has graduated with honors, is a physician in internal medicine, and also has degrees in biochemistry.

Mr. WELDON of Florida. Mr. Speaker, as most of my colleagues know, I practice general internal medicine and I still do it. I have treated a lot of patients with diabetes, Parkinson's; indeed, my father died of complications of diabetes. My uncle, his brother, died of complications of Parkinson's disease.

Let us just talk a little bit about how we got here, okay? This body voted years ago, no Federal funding for research that involves the destruction of a human embryo. And President Clinton, towards the tail end of his administration, did an end run around the congressional prohibition, and they were having outside labs destroy the embryos, get the embryonic stem cells and send them over to NIH. And I sent the President a letter telling him, You are violating the spirit of the law, if not the letter of the law.

When President Bush became President, a lot of us alerted him to this problem, and he came out with his policy. And I thought it was really like a Solomon-like compromise. He said, We will not allow any more Federal funds to be used that involve the killing of human embryos, but we will allow research to proceed on the existing cell lines.

And I sit on the committee that funds this. We have funded this research to the tune of $60 million over the last 3 years, embryonic stem cell research, what you are asking for more of. And the only place that I can find the research results printed is, I have to go to the rat-and-mouse journals. And the results are bad. These things tend to form tumors. The plasticity that some of you extol in these embryonic stem cells make them genetically unstable. They tend to form tumors. We call them teratomas in the medical profession. They grow hair and they grow teeth. They are genetically unstable.

Meanwhile, on the adult stem cell line it is breakthrough after breakthrough after breakthrough. Indeed, the gentlewoman from Colorado said in her opening statement, there is no, no scientific evidence that will show that cord blood or adult stem cells will cure Alzheimer's, Parkinson's or Type 1 diabetes.

Parkinson's disease was successfully treated 6 years ago in Dennis Turner using an adult stem cell. He had an 80 percent reduction in his symptoms. This was described at the American Association of Neurological Surgeons annual meeting in April of 2002.

In 2003, Science-published Harvard researchers announced they had achieved a permanent reversal of diabetes in mice. This is now under human clinical trials today, while we speak. By the way, they tried to repeat that study using embryonic, mouse embryonic stem cells and it failed. And this lady was in a wheelchair and she can now stand up with adult stem cells.

We do not need this bill. It is ethically wrong. We should be voting "no."

Mr. STUPAK. Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I reserve the balance of our time.

Mr. BARTON of Texas. Mr. Speaker, I am prepared to recognize the gentleman from Pennsylvania (Mr. PITTS) if the gentleman from Texas (Mr. DELAY) also wants to recognize him at this time. I yield him 1 minute.

Mr. DELAY. Mr. Speaker, I yield the gentleman 2 minutes.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Pennsylvania (Mr. PITTS) is recognized for 3 minutes.

Mr. PITTS. Mr. Speaker, we are all different. We are all different because we each have our own DNA. The ordering of genes in our body makes us unique. We have the color of our hair, skin, eyes, teeth, because of DNA. And each person has his or her own set of DNA, and that makes us each unique. Each and every person is valuable.

I am a supporter of ethical stem cell research, Mr. Speaker. I do not support the dissecting and destruction of living human embryos to harvest stem cells for the purpose of experimentation and research, and that is because each of these living human embryos has its own genetic makeup, its own DNA.

It is not animal DNA. It is not plant DNA. It is human genetic code, human DNA. The stuff that sets each person apart is there in this tiny little life that H.R. 810 would destroy. Each unique and distinct, but frozen.

Early today I met with a man, Steve Johnson, from Reading, Pennsylvania, who is in Washington for this debate. Steve was in a bicycle accident 11 years ago and his bike was replaced with a wheelchair, and today Steve is a paraplegic. And he has heard the promises made that embryonic stem cell research might help him walk again. For Steve, though, that is unacceptable. And so Steve and his wife, Kate, adopted a little girl. Here are three little snowflake babies.

He adopted little Zara when she was just a frozen embryo, stored at an IVF clinic. She was a leftover embryo that proponents of this bill would destroy for her cells. If someone had dissected her for embryonic stem cell research, she would not be here today. But she is here today with 21 other little snowflake children. Steve would not have his daughter because scientists want a laboratory experiment.

Zara is living proof that advocates of H.R. 810 are wrong on this issue. What they do not admit is that Steve Johnson's paralysis is more likely to be reversed using adult stem cells. How do we know that? Because recently, we learned that cells taken from a person's nose, olfactory cells, are helping people walk again. Cells taken from cord blood are helping people walk again, today.

Embryonic stem cells, no, not helping people walk again. They might say there is hope. There is no proof.

I would like to challenge the other side to put up in front of a camera one person treated for spinal cord injury with embryonic stem cells. You cannot, can you? We can. Hwang Mi-Soon, Susan Fajt.

How about Parkinson's? You cannot. We can. Dennis Turner. How about cancer? Leukemia? Sickle cell? You cannot.

Adult stem cells are treating human patients today for the very diseases that the proponents of this bill claim might hopefully one day be treated through the destruction of living human embryos.

The human being is in all stages of development, or disability, uniquely distinct and infinitely valuable.

House Resolution 810 is a tragic betrayal of that value.

Ms. DEGETTE. Mr. Speaker, before yielding to the gentlewoman from New York (Mrs. LOWEY), I would just yield a minute to myself to respond to a couple of comments.

First of all, there is a misconception here. Under the Castle/DeGette bill, no public funds are used for embryo destruction. Current law precludes that and we keep that under our bill.

Secondly, we are not spending $60 million through the NIH through embryonic stem cell research. Last year it was really $25 million, and the reason is because the President's policy, issued in August of 2001, has not worked. Instead of 80 or 90 stem cell lines, we only had around 19 to 22 stem cell lines. And of those lines, all of them were contaminated with mouse "feeder" cells, and many of them were not available to researchers here in country. That is why we have to ethically expand embryonic stem cell research.

Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I am proud to be a cosponsor of H.R. 810, and I rise in strong support of this critical legislation.

My colleagues, what an extraordinary moment we have before us. Embryonic stem cells have the potential not just to treat some of the most devastating diseases and conditions, but to actually cure them. At issue here is the fundamental value of saving lives, a value that we all share regardless of race, culture or religion.

But this promise exists only if researchers have access to the science that holds the most potential, and are free to explore, with appropriate ethical guidelines, medical advances never before imagined possible.

I also sit on the committee that funds the National Institutes of Health with the gentleman from Florida (Mr. WELDON). I am not a scientist, I am not a doctor. But as I sit on that committee and we hear the testimony, one after another, of people who are suffering, who have lost their loved ones, who are on the verge of losing another loved one, look at the 200 major groups who are supporting this legislation. And let us listen to them.

I am proud to be a cosponsor of H.R. 810, and I rise in strong support of this critical legislation.

My colleagues, what an extraordinary moment we have before us. Embryonic stem cells have the potential not just to treat some of the most devastating diseases and conditions, but to actually cure them. At issue here is the fundamental value of saving lives—a value that we all share regardless of race, culture, or religion.

But this promise exists only if researchers have access to the science that holds the most potential, and are free to explore—with appropriate ethical guidelines—medical advances never before imagined possible.

There is no question that scientific advancement often comes with moral uncertainties. We should and have ensured that difficult ethical and social questions are examined and debated before passing this legislation. In my judgment we now have a moral obligation to pursue each opportunity and provide crucial funding, support and oversight for this critical research.

Like many of you, I believe that strong guidelines must be in place with vigorous oversight from the NIH and Congress before allowing federally-funded embryonic stem cell research.

With appropriate guidelines we can ensure that the research with the most promise for medical achievement can be fully realized. While adult stem cells have yielded important discoveries, the evidence from scientists themselves suggests they don't have the same potential as embryonic stem cells.

The legislation before us today would strengthen the standards guiding embryonic stem cell research and would ensure that embryos originally created for the purpose of in vitro fertilization could be made available for research only with the consent of the donor. Let me be clear. This legislation retains the current restrictions on creating human embryos for the purpose of research.

So today I ask my colleagues to be as determined to find a cure as science allows us to be. With the appropriate guidelines in place, we are closer than ever to remarkable discoveries and on the brink of providing hope to millions of individuals who otherwise have none.

I urge my colleagues to vote "yes" on H.R. 810.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just have to respond to the comments by the gentlewoman from Colorado (Ms. DEGETTE). She must be reading a different bill. That is what this whole argument is about. The gentlewoman says that no Federal funds can go to destroying an embryo in order to have research. She just said that. That is what this whole bill does is to allow funding of embryonic stem cell research, and in order to do that research, you have to destroy the embryo.

In fact, if the gentlewoman would like, I would be willing to entertain a unanimous consent request that if, indeed, that does not happen in her bill, I will be glad to accept it and I will vote for the bill. That is the whole notion of what is going on here.

It is not true to say that her bill does not allow Federal funding for destruction of embryos.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I want to thank our chairman, and also thank the leader.

You know, I believe that everybody engaged in this debate today means well, and this is one of those great debates that we have on this floor. It is full of passion. But this is not a debate about passion. It is not a debate about style. This is a debate about substance. And the substance of this debate is life, clear and simple. You know, there is a fact on this, also, I think we ought to look at.

While we do not know where embryonic stem cell research might lead us, we do know that engaging in this form of research would require ending a human life for the purpose of experimentation. And that is something that I do not think any of us want to sanction. And in my opinion, we would be giving away our humanity, our sense of ethics, for the mere hope, the mere hope that this form of research would someday yield results.

Meanwhile, H.R. 810, the bill that is under discussion diverts funds from research that has proven results, from research that does not require us to look the other way while human life is purposely ended.

Adult stem cell research has made great leaps. We have heard about that today. Cord blood research has made great strides. We have heard about that also today. And we hear that by using islet cells from living donors or adult brain cells instead of embryos, there is a potential to cure diabetes.

I think we should all vote "no" on H.R. 810. We should stop and look at the substance of the debate.

Mr. STUPAK. Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. RAMSTAD).

Mr. RAMSTAD. Mr. Speaker, critics of embryonic stem cell research maintain that it is wrong to promote science which destroys life in order to save life. As the leading prolife legislator in Washington, Senator ORRIN HATCH put it, since when does human life begin in a petri dish in a refrigerator?

To reduce this issue to an abortion issue is a horrible injustice to 100 million Americans suffering the ravages of diabetes, spinal cord paralysis, heart disease, Parkinson's and Alzheimer's disease, cancer, MS, Lou Gehrig's disease and other fatal and debilitating diseases.

I met with researchers from four of the main stem cell institutes in America. As one prominent researcher told me, and I am quoting, "The real irony of the President's policy is that at least 100,000 surplus frozen embryos could be used to produce stem cells for research to save lives. But instead, these surplus embryos are being thrown into the garbage and treated as medical waste, thrown into the garbage and treated as medical waste."

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Only 22 of the 78 stem cell lines approved by the President remain today.

As another leading researcher said, "This limit on research has stunted progress on finding cures for a number of fatal and debilitating diseases."

Mr. Speaker, it is too late for my beloved mother who was totally debilitated by Alzheimer's disease which killed her. It is too late for my cousin who died a tragic, cruel death from juvenile diabetes while still in his 20s; but it is not too late for the 100 million other American people counting on us to support funding for life-saving research on embryonic stem cells.

Let us not turn our backs on these people. Let us not take away their hope. Let us listen to respected pro-life colleagues and friends like ORRIN HATCH, former Senator Connie Mack, former Health and Human Services Secretary Tommy Thompson when they tell us this is not an abortion issue. We should support embryonic stem cell research.

Mr. Speaker, critics of embryonic stem cell research maintain it is wrong to "promote science which destroys life in order to save life."

As the leading pro-life legislator in Washington, Sen. ORRIN HATCH put it, "Since when does human life begin in a petri dish in a refrigerator?"

To reduce this issue to an abortion issue is a horrible injustice to 100 million Americans suffering the ravages of diabetes, spinal cord paralysis, heart disease, Parkinson's and Alzheimer's disease, cancer, multiple sclerosis, Lou Gehrig's disease and other fatal, debilitating diseases.

I have met with medical researchers from the University of Minnesota Stem Cell Institute, the Mayo Clinic, the National Institutes of Health and Johns Hopkins University. As one prominent researcher told me, "The real irony of the President's policy is that at least 100,000 surplus frozen embryos could be used to produce stem cells for research to save lives. Instead, these surplus embryos are being thrown into the garbage and treated as medical waste."

Only 22 of the 78 stem cell lines approved by the President in 2001 remain today. As another leading medical researcher said, "This limit on research has stunted progress on finding cures for a number of debilitating and fatal diseases."

Mr. Speaker, the scientific evidence is overwhelming that embryonic stem cells have great potential to regenerate specific types of human tissues, offering hope for millions of Americans suffering from debilitating diseases.

Mr. Speaker, it's too late for my beloved mother who was totally debilitated by Alzheimer's disease which led to her death. It's too late for my cousin who died a cruel, tragic death from diabetes in his 20's.

But it's not too late for 100 million other American people counting on us to support funding for life-saving research on stem cells derived from donated surplus embryos created through in vitro fertilization.

Let's not turn our backs on these people. Let's not take away their hope. Let's listen to respected pro-life colleagues and friends like Senator ORRIN HATCH, former Senator Connie Mack and former HHS Secretary Tommy Thompson when they tell us this is not an abortion issue.

Let's make it clear that abortion politics should not determine this critical vote.

Embryonic stem cell research will prolong life, improve life and give hope for life to millions of people.

I urge members to support funding for life-saving and life-enhancing embryonic stem cell research.

The American people deserve nothing less.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, in 1999 young Tessa Wick was diagnosed with juvenile diabetes. She began the laborious process which changed her life and she dedicated herself to doing everything that she possibly could to ensure that no one would have to suffer as she has.

During that period of time, she has worked to raise large sums of money. She has testified before the United States Senate, and last Friday her father told me that she said to him not a lot has been accomplished yet. We have not yet found a cure. And her father said to me that we need to do everything that we possibly can to ensure that we do find a cure. We are all supportive of umbilical cord research, but I believe that it is proper for us to pursue embryonic stem cell research, Mr. Speaker.

In a week and a half, we mark the first anniversary of Ronald Reagan's passing. Everyone knows how passionately Nancy Reagan feels about the need for us to pursue this research. I believe it is the appropriate thing to do.

Now, there are no guarantees. We all know there are no guarantees at all, but passage of this legislation does provide an opportunity for hope, hope that we will be able to turn the corner on these debilitating diseases from which so many people suffer. And so I hope very much that we can pursue a bipartisan approach to this important measure. And while I am concerned that there is disagreement with the President of the United States, I hope that we will be able to, at the end of the day, work out a bipartisan agreement that will include the President of the United States in this effort.

Ms. DEGETTE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I rise in strong support of this legislation. And just to be clear once again during this debate, this bill limits the use of only those embryos that will be discarded or destroyed from in vitro fertilization clinics with the consent of the donors.

I rise in support of this legislation not because it promises cures for diabetes, Parkinson's, spinal cord injuries.

Alzheimer's, but because it gives us yet another opportunity to discover cures for these ailments. Adult stem cell research, yes, let us do it. Cord blood research, absolutely. But let us also allow the Federal Government to get more involved in embryonic stem cell research.

The University of Wisconsin has been at the forefront of this research; yet our researchers are being held back because of current Federal policy. We are already falling behind the rest of the world in this research in light of South Korea's recent announcement last week. But it is precisely because the other countries are moving forward that makes our involvement all the more necessary. I believe that we as the leader of the Free World must provide important leadership on the ethical parameters, the ethical constraints that this research requires.

Support this bipartisan bill.

Mr. DELAY. Mr. Speaker, how much time remains on all sides?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. BARTON) has 7½ minutes. The gentlewoman from Colorado (Ms. DEGETTE) has 34 minutes. The majority leader, the gentleman from Texas (Mr. DELAY), has 27 minutes. The gentleman from Michigan (Mr. STUPAK) has 17 minutes. The gentleman from Delaware (Mr. CASTLE) has 12½ minutes.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to point out that it has been said that there are 100,000 embryos available for research. I guess they want to add another portion to their bill requiring parents to give their embryos up for research because at the present time there are only 2.8 percent of the parents that have allowed or have designated their embryos to be used for research. That means there are only 11,000 available for this research.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SMITH).

Mr. STUPAK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, make no mistake about it, I support aggressive stem cell research and the judicious application of stem cells to mitigate and to cure disease. That is why I sponsored the Stem Cell Therapeutic Research Act of 2005 and I have been pushing it for almost 3 years. That is why those of us who oppose H.R. 810 strongly support pouring millions of dollars into Federal funds to support ethical stem cell research to find cures, to alleviate suffering, to inspire well-founded hope and to do it all in a way that respects the dignity and sanctity of human life.

I strongly oppose the Castle bill, however, because it will use Federal funds to facilitate the killing of perfectly healthy human embryos to derive their stem cells. Human embryos do have inherent value, Mr. Speaker. They are not commodities or things or just tissue. Human embryos are human lives at their most vulnerable beginning stages, and they deserve respect.

Parents of human embryos are custodians of those young ones. They are not owners of human property, and the public policy we craft should ensure that the best interests of newly created human life is protected and preserved.

The Castle bill embraces the misinformed notion that there is such a thing as left-over embryos, a grossly misleading and dehumanizing term in and of itself, that they are just going to be destroyed and thrown away and poured down the drain. That is simply not true.

The cryogenically frozen male and female embryos that the genetic parents may feel are no longer needed for implanting in the genetic mother are of infinite value to an adoptive mother who may be sterile or otherwise unable to have a baby.

Mr. Speaker, just one adoption initiative, the Snowflakes Embryo Adoption Program, has facilitated the adoption of 96 formerly frozen embryos with more adoptions in the works. I have met some of those kids. They are not leftovers, even though they lived in a frozen orphanage, perhaps many of them for years. They are just as human and alive and full of promise as other children. Let them be adopted, not killed and experimented on. They are not throwaways.

Mr. STUPAK. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, the issue of embryonic stem cell research places humanity on the frontier of medical science and at the outer edge of moral theology.

On the side of science there is much hope, even expectation that extraordinarily effective therapies will be developed due to a wide range of maladies from diabetes to Parkinson's, spinal cord injury and a host of others. Progress has been achieved in the laboratory in animal studies and in human application. Much has yet to be learned, however, about adverse outcomes, which is why scientists proceed cautiously without overpromising and with respect for moral considerations of their research.

The latter gives me the greatest pause. An editorial in America Magazine said it well: "The debate over embryonic stem cell research cannot be fully resolved because it is ignited by irreconcilable views of what reverence for life requires."

Let us recall Louise Brown, the first test tube baby. Her life began as a single cell, fertilized egg, in vitro. There are many leftover potential Louise Browns, potential human beings as cryogenic embryos conceived in the laboratory. Are they to be discarded or, can they be ethically used for stem cell research? That is the moral theology issue that we must resolve.

I cannot get over the reality that human life is created in creating an embryo, whether in vitro or whether in utero. Each of us has to decide the morality of this unique aspect of the issue. But I cannot get over the moral theology underpinning of this extraordinary research on the frontier of science that we are tinkering with human life. And we must not tinker further. We know not where we head. It is between God and us. Let us resolve any uncertainty in favor of life.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT), the chairman of the Committee on Science.

Mr. BOEHLERT. Mr. Speaker, every invention, each new scientific concept, every technical advance in the history of mankind has been challenged and analyzed and debated, and properly so. Change makes us uncomfortable, forces us to design new paradigms; but in the final analysis, it is man's fundamental obligation to use science for the betterment of mankind.

In this instance, we are called upon to heal diseases that have plagued and bewildered us for centuries. It would be unconscionable and irresponsible should we fail to live up to our obligation in this critical matter.

The moral and ethical question is this, do we destroy embryos, simply discard them, embryos that will never be implanted in a womb but which can advance stem cell research to cure historic illnesses?

The answer is, no, we should move forward with important scientific research, forward movement which will be enhanced in a measured way by passage of the measure before us.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. STEARNS), the distinguished subcommittee chairman of the Committee on Energy and Commerce.

Mr. STEARNS. Mr. Speaker, I rise in opposition to H.R. 810, which I believe promotes human embryonic stem cell research at taxpayers' expense.

Now, we have already spent $60 million. The gentlewoman from Colorado (Ms. DEGETTE) says, no, it is not $60 million; it is $25 million. But we have spent a lot of money, and I think $60 million is the right number.

The gentlewoman says no government taxpayers; money will be used. Once a human stem cell is destroyed, who pays for the research thereafter? The U.S. Government does. The taxpayers do.

I remind my colleagues that despite all this money, embryonic stem cell research has not resulted in any documented success whatsoever as compared to the astounding success of adult stem cells.

The gentleman from Florida (Mr. WELDON) pointed out he could not even find any success. He had to go to some obscure manuals publications to find notice of even the experiments. I also notice that there is no CBO estimate on this legislation H.R. 810. How much will this bill cost? We do not know.

I urge my colleagues to vote against this bill.

Nearly 4 years ago, in August 2001, President Bush announced his Executive order limiting Federal funding to studies on existing cell lines.

Mr. Speaker, the debate we are having today is about slippery-slope fears come tragically true. But the slope can get far more steep from here.

Just last week, it was reported that scientists in South Korea created scores of cloned human embryos that they then destroyed to produce 11 stem cell lines. The age of cloning is upon us.

Also recently in the news is the creation of man-animal hybrids, or chimeras, using animal sperm and human eggs, or human sperm and animal eggs.

The apocalyptic creations are the inevitable result of what happens when Man and government believes it can foster good medical ends from ethically dubious means.

It is bad enough that our government allows embryonic stem cell research, or that we have not yet outlawed cloning. The least that we can do is prevent the further spending of taxpayer dollars on these ill-advised experiments.

Mr. Speaker, had either, or both, of the respective stem cell research bills appearing before us for debate and been ruled amendable, I had intended to offer an amendment regarding another alternative to embryonic stem cell research: stem cells from teeth.

Another promising field of stem cell research comes from our very teeth: stem cells from human exfoliated deciduous teeth, SHED, aka "baby" teeth. Last week a constituent of mine, Marc W. Heft, DMD, PhD, Professor and Interim Chair, Department of Oral and Maxillofacial and Diagnostic Sciences of the College of Dentistry at the University of Florida, pointed this out to me. The intramural program of the National Institute of Dental and Craniofacial Research, IDCR, of the National Institutes of Health, NIH, has been a leader in this exciting line of research. On April 21, 2003, NIH scientists reported that for the first time, "baby" teeth, the temporary teeth children begin losing around their sixth birthday, contain a rich supply of stem cells in their dental pulp. The scientists said that "this unexpected discovery could have important implications because the stem cells remain alive inside the tooth for a short time after it falls out of a child's mouth, suggesting the cells could be readily harvested for research. According to the scientists, who published their findings online today in the Proceedings of the National Academy of Sciences, the stem cells are unique compared to many "adult" stem cells in the body. They are long lived, grow rapidly in culture, and, with careful prompting in the laboratory, have the potential to induce the formation of specialized dentin, bone, and neuronal cells. If followup studies extend these initial findings, the scientists speculate they may have identified an important and easily accessible source of stem cells that possibly could be manipulated to repair damaged teeth, induce the regeneration of bone, and treat neural injury or disease. "Doctors have successfully harvested stem cells from umbilical cord blood for years," said Dr. Songtao Shi, a scientist at NIH's National Institute of Dental and Craniofacial Research, NIDCR, and the senior author on the paper. "Our finding is similar in some ways, in that the stem cells in the tooth are likely latent remnants of an early developmental process." This article is titled, "SHED: Stem cells from human exfoliated deciduous teeth," and the authors are Masako Muira, Stan Gronthos, Mingrui Zhao, Bai Lu, Larry W. Fisher, Pamela Gehron Robey, and Songtao Shi.

In addition to the studies of stem cells from dental pulps of deciduous, "baby" teeth, there are ongoing studies of stem cells from the periodontium, the region where teeth connect to bone. July 8, 2004, again, NIH scientists also say these cells have "tremendous potential" to regenerate the periodontal ligament, a common target of advanced gum—periodontal—disease. The enthusiasm is based on followup studies, in which the researchers implanted the human adult stem cells into rodents and found most of them had differentiated into a mixture of periodontal ligament—including the specific fiber bundles that attach tooth to bone—and the mineralized tissue called cementum that covers the roots of our teeth.

While most of this work is coming out of the intramural program of NIDCR, Dr. Heft shared with me that two involved extramural scientists are Dr. Mary MacDougall, University of Texas Health Sciences Center at San Antonio—also President of the American Association for Dental Research—and Dr. Paul Krebsbach, University of Michigan.

And so, Mr. Speaker, I suggest that we continue to foster existing, promising, stem cell research that is regenerative, not destructive.

□ 1530

Ms. DEGETTE. Mr. Speaker, I yield 2 minutes to the very distinguished and patient gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I rise in strong support of H.R. 810. Our research policies should be decided by scientists and doctors at the National Institutes of Health and not by Karl Rove and self-appointed religious gurus.

If you believe it is morally superior to discard a single cell in a freezer rather than to use it to help millions of Americans with Parkinson's, Alzheimer's, and diabetes, and you are asked to donate an embryo, then by all means refuse to do so. But do not tell my constituents that we cannot alleviate their suffering because it might offend modern-day Pharisees.

Do not tell my constituent Don Reed and his son Roman, who is paralyzed from a high school football accident, that scientists working on stem cell research in California will not be able to collaborate with the NIH.

Many in government already think they have the right to tell you whom you can marry, what kind of birth control you can use and how you die. Now they think their moral superiority extends to the single cell level. Beyond my outrage at this arrogance, I am saddened by this country's precipitous decline in the estimation of the rest of the world.

If this bill does not pass and scientists of the world meet to discuss this rapidly advancing field, many of our key researchers will be stuck here working with the few stem cell lines that are considered inoffensive.

The Flat Earth Society will tell you that the U.S. has to show moral leadership, and just because the overwhelming majority of the world's scientific community supports research, it does not mean it is the right thing to do.

Frankly, Mr. Speaker, I do not need a lecture from the majority leader on moral and ethical leadership. I do not look to those that will not acknowledge the existence of global warming for scientific and ethical leadership. I do not think the politicians who so eagerly decided they knew what was best for Terry Schiavo know much about life, dignity, or suffering.

I stand proudly with millions of Americans on behalf of this country's tradition of scientific leadership, and I urge a "yes" vote for H.R. 810.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, I rise today in strong opposition to H.R. 810. This bill, which we have already heard today, would reverse the embryonic stem cell policy instituted by the President of the United States in 2001, and I believe it is very misguided, in my opinion.

I wish to thank the majority leader, the gentleman from Texas (Mr. DELAY), and the gentleman from Florida (Mr. WELDON) for their work on this legislation against H.R. 810. They have already outlined many of the reasons why the bill should be defeated, but I would like to share some additional thoughts.

First, let me say that good people can disagree on this issue. However, what we are discussing today is the Federal funding of the embryonic stem cell. According to the statement of administration policy this morning, the administration strongly opposes passage of H.R. 810. The bill would compel all American taxpayers to pay for research that relies on the intentional destruction of human embryos to obtain stem cells, overturning the President's policy that supports research without promoting ongoing destruction.

There are other vast financial resources available to fund this controversial issue. Therefore, I urge my colleagues to vote against and not allow embryos to be killed for Federal funding research that is ethically and scientifically uncertain.

Mr. STUPAK. Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. FERGUSON), a member of the Committee on Energy and Commerce.

Mr. STUPAK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, I thank both gentlemen for yielding me this time.

The debate over embryonic stem cell research is important because there are no more important issues that we deal with in this Chamber than when we debate life and death.

Mr. Speaker, as I stand here in this Chamber today, I am a human being. I am a man, an adult man. Sometime before I was a man, I was a teenager. Before that I was a child. And sometime before I was a child, I was a toddler. And before I was a toddler, I was an infant. And sometime before I was an infant, I was a fetus. And sometime before I was a fetus, I was an embryo. I did not look like I do today, but it was me. That embryo was me.

At some point in our history, every single person here was also an embryo. The gentleman from Texas (Mr. DELAY), you were an embryo once. The other gentleman from Texas (Mr. BARTON), the chairman of the committee; yes, sir, you too were an embryo once. The gentleman from Delaware, the sponsor of this bill, you were an embryo once. The gentlewoman from Colorado, you too were an embryo once. The gentleman from Michigan, you were an embryo once. Now, we did not look like we do today, but it did not mean it was not you.

A human embryo is a member of the human family. It has its own unique DNA. It is its own human entity. It is unique. It is irreplaceable, and it is a member of the species Homo sapiens. It is not just a bit of tissue. It is not just, as some have suggested, a couple of cells in a petri dish. It is human and it is alive. It might not look like you or me, but there was a time when you and I looked exactly like that embryo.

Today, we are debating embryonic stem cell research, a type of stem cell research in which a tiny member of the human family must die. That is not just my opinion; that is a scientific fact. The gentlewoman from Colorado would suggest that under this legislation Federal funds would not be used to destroy human life. That is simply false.

Those who conduct human embryonic stem cell research must destroy human life to do so. You cannot conduct embryonic stem cell research without destroying human life, and that is wrong. And it is certainly wrong to fund this unethical embryonic stem cell research using taxpayer money. And that is precisely what this legislation would do. It would use taxpayer money to fund research which destroys human life.

I urge a "no" vote.

Ms. DEGETTE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to clarify something. I am actually not sure that those who oppose this bill understand what this bill really does.

In 1995, two Members of Congress, Mr. Dickey and the gentleman from Mississippi (Mr. WICKER), inserted language in the appropriations bill, which is there every year and has been there every year I have been in Congress, and it says: "No Federal funds shall be used to create or destroy embryos."

Now, those on the other side of this debate say they do not think Federal funds should be used for this research, even though by their own admission the majority of Americans support this research. And so here is what this bill does, and maybe once I explain it, everyone will want to vote for it.

What it says is, People who go to in vitro fertilization clinics, there are leftover embryos as part of the process. They can decide one of two things: Number one, do they want to not discard the embryos and either donate them to other couples, and they can be these snowflake children, or to store them in a freezer? Or the donors can decide if they want to throw them away. Or do they want to donate them to science? It is their decision with informed consent.

Now, if they decide to donate them, then what would happen would be the embryos would go to a clinic where a stem cell line would be developed from the embryo with private funds. No Federal funds. The only Federal funds used under the Castle/DeGette bill are Federal funds to then develop those embryonic stem cell lines.

Just as the President's executive order in August of 2001 allowed stem cell lines to be researched with Federal funding, but he limited those lines, we are allowing more of those lines.

So no embryos will be destroyed with Federal funds. I hope that clarifies the situation.

Mr. Speaker, I am now delighted to yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I have never seen such a well-attended debate, which shows the importance of this issue; and I rise today on behalf of my father who died of Parkinson's Disease. I also rise today on behalf of the millions of Americans like me who have watched their loved ones battle the ravages of some dreaded disease.

I ask my colleagues, How many more lives must be ended or ravaged until our government gives researchers the wherewithal to simply do their jobs?

Although there are no guarantees, many scientists have told me that embryonic stem cell research offers the best and only hope to discover a cure for many, many dreaded diseases. Embryonic research offers scientists the opportunity to extend life and the quality of life for future generations of Americans.

As we are debating, other countries, other States, other people are moving forward with research with all speed. We should pass the DeGette/Castle bill. Life is too precious to wait.

Mr. Speaker, I rise today in support of H.R. 810, the Stem Cell Research Enhancement Act of 2005. As a founder and co-chair of the Congressional Working Group on Parkinson's Disease, I support this legislation that will expand the number of stem cell lines that are available for federally funded research. I believe this bill will reopen the doors to scientific inquiry, allowing us to be able, once again, to utilize embryonic stem cells while adhering to strict ethical guidelines.

I am and continue to be an opponent of human cloning. However, I recognize that we must move forward with ethical research that could lead to new drug therapies. We owe this to those suffering from Parkinson's disease, heart disease, stroke, diabetes, and Lou Gehrig's disease. And we owe this to scientists who are eager to explore new frontiers of science and medicine, but who are restrained by Federal restrictions.

Mr. Speaker, I have met with doctors, scientists, and researchers in my district's leading medical institutions who warn of a "brain drain" as their best and brightest relocate to places where funding for embryonic stem cell research is not restricted.

I have spoken with lawmakers in the State of New York, who have garnered $1 billion in embryonic stem cell research funding, but without Federal funding, stem cell research will move forward without crucial oversight and guidelines.

I have been persuaded by directors at the National Institutes of Health who have spoken out against the White House policy on stem cells.

And I have been moved by the pleas of my constituents who are eager to find cures for suffering loved ones.

Mr. Speaker, this is a mandate.

In 2003, over 900,000 Americans died of heart disease and more than 550,000 succumbed to cancer. I am sure that many in this Chamber have seen friends suffer through the misery of cancer and the indignities of chemotherapy. Who among us has not had a parent or grandparent look at us with vacant eyes because Alzheimer's has stolen their memory away from them? Too many of us have watched as our children with Juvenile Diabetes hold back tears as they give themselves insulin injections each day. Mr. Speaker, it does not have to be this way. Healing our children, family, and friends is a bipartisan issue. In fact, it is a moral imperative.

Mr. DELAY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the majority leader for yielding me this time, and I am rising in opposition to the legislation that would fund the destruction of embryos in order to take the stem cells for research.

There are a number of reasons that I oppose the bill. The very first one, though, is one of the statements we keep hearing over and over again from those who support the bill, and that is that these embryos would just be discarded. This morning, I met several families, parents with young children who are here in Washington. These children were just like every other child, but they were different. And they were different because these children are the snowflake babies.

They have been referred to a little bit today, but for those just joining the argument, the snowflake babies are born from what would have been discarded embryos in fertilization clinics. It is important that we know this, because it is not, no option, that these embryos would be discarded or tossed aside.

It is true these embryos are often adopted. And, in fact, the children I met today were wonderful evidence of that. It looks like these embryos do not have to be discarded. All they needed was a mother and 9 months.

We do not have to choose between embryonic stem cell research and cord blood, assuming that only embryonic can solve problems. And, in fact, there is no proof that embryonic stem cell research can be successful. This list on the left on this chart shows all the different treatments currently using adult stem cells. On the right is the list of success with embryonic stem cells. It is a pretty empty list.

I encourage my colleagues to reject the false promise of embryonic stem cell research and reject this legislation.

Mr. STUPAK. Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I come from Florida, and a lot of people think that only retirees and seniors live in Florida, but I want to put a face on a couple that was very successful with in vitro fertilization. They are 47 years old. They had a daughter born as a result of in vitro fertilization. The child was born with multiple heart problems and had to have three surgeries before she was 2 years old.

This couple believes that far more good can come from donating the remaining embryos for research. They have decided not to have any more children. And ultimately what we have not heard here is what the American people want. This is a couple that wants to be able to donate the embryos, which certainly they can do now, but they also want to have Federal research dollars go toward this.

This really is all about where taxpayer dollars go. And when you look at the huge book of pork that comes out every single year, when we go back home and say to our constituents, would you rather have some of this money going to, for example, some foreign countries that regularly turn their backs on us, or would you like to see some significant research done from embryonic stem cells that would be disposed of, the majority of our constituents are clearly going to say, use the money for significant research.

We have to remember that this is not an either/or. Certainly the umbilical cord research is a great science. We need to move forward with that as well as the embryonic stem cell research.

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Remember, for this couple and her husband deciding to donate those embryos, they believe they will be saving other children's lives. They believe they will be helping an aunt who has early-stage Alzheimer's. They believe they will be able to help spinal cord injury victims. That is what this research holds the potential for. No, we do not have the cures yet; but unless we go forward, we never will. I fully support the Castle/DeGette bill, and hope other Members do, too.

Mr. Speaker, I rise today in strong support of H.R. 810, the Stem Cell Research Enhancement Act of 2005. I stand with 200 of America's most respected research organizations in support of this bill.

I would like to especially thank Congressmen CASTLE and DEGETTE for their tireless efforts on behalf of the millions of people who may benefit from enhanced stem cell research.

I would also like to thank Speaker HASTERT and Leader DELAY for the debate today and for giving the 200+ cosponsors of this legislation a vote on the House floor.

I rise today as a mother, as a concerned grandparent, and as someone who is worried that the untapped potential of stem cell research may be falling by the wayside.

In my congressional district on the gulf coast of Florida, I have had the pleasure of meeting Holly, a 47-year-old mother of two.

Like many Americans, Holly and her husband had trouble getting pregnant, and their first daughter was born through in vitro fertilization.

Her daughter was born with a congenital heart condition, and had three surgeries before her second birthday.

As with most in vitro fertilization procedures, Holly and her husband had several embryos left over after the procedure. They chose to keep the remaining embryos frozen.

This couple was then blessed by a second miracle daughter who was conceived without in vitro fertilization The happy couple decided not to have any more children, and had to make a choice about what to do with their frozen embryos.

Holly and her husband are well aware of Operation Snowflake and the adoption options for their embryos.

But, like many other parents, they would rather donate their embryos for research to help prevent heart disease—like their daughter was born with—or cure cancer, Alzheimer's disease or Parkinson's.

For Holly and her husband, they decided that donating their embryos for medical research would be their best chance to save other children's lives. Increasing stem cell research could find potential cures for many diseases that affect so many American families.

Put another way, the issue of embryos and their ability to be used for stem cell research is kind of like a flashlight. Until you put the batteries in, a flashlight will not produce light.

Likewise, only when an embryo is implanted in a uterus to grow, can life be sustained. Embryos sitting frozen in a clinic help no one. The embryo does not grow in the frozen state, so human life is not being created and nurtured.

In addition, when the couple stops paying the daily fees to store the embryos, unless they have the medical donation option, their remaining embryos will be disposed of as medical waste. That would be tragic.

Holly and her husband know this fact. They know that without the nurturing and love that a woman's body provides, these embryos will be wasted.

Science tells us that after as short a time as eight years, these frozen embryos will begin to deteriorate, and lose their viability for implantation.

Mr. Speaker, these embryos are too important to linger in a frozen test tube or to see discarded without helping mankind.

Additionally, I have yet to hear in this entire debate what opponents of H.R. 810 would do with those embryos that are not adopted, and eventually go to waste in a cryogenic freezer.

Would they want those embryos to be thrown out as medical waste, or instead help provide the basis for life-affirming scientific research?

Holly and her husband know that the great potential and promise of stem cell research will not move forward without their donated embryos and their support.

However, it is their respect for the culture of life that has brought them to this decision. They have weighed the choices available to them, and rather than donating the embryo for adoption, have chosen to let their embryos potentially save millions of lives.

Thousands of people around the country have made similar decisions to support life-affirming and life-enhancing research.

H.R. 810 will give hope where hope does not exist.

Passage of this bill today will let the research on stem cells continue under ethical guidelines, and will provide millions of Americans suffering from terminal diseases the hope that they have been denied.

All these organizations listed on this posterboard, such as the American Academy for Cancer Research and the American Medical Association, support H.R. 810. I urge my fellow Members of Congress to vote yes on the bill

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

Ms. PELOSI. Mr. Speaker, this is an important day for us in Congress. I myself am deeply indebted to the gentlewoman from Colorado (Ms. DEGETTE) and the gentleman from Delaware (Mr. CASTLE) for their great leadership and courage in bringing this legislation to the floor. I thank the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from Colorado (Ms. DEGETTE).

This is important legislation because every family in America, every family in America is just one phone call away, one diagnosis, one accident away from needing the benefits of stem cell research. We want all of the research to proceed, the umbilical cord research that we talked about this morning, and adult stem cell research. That is all very important. But we must have the embryonic stem cell research if we are truly going to have science have the potential it has to cure diseases.

I served for many years, probably 10, on the Labor-HHS subcommittee which funds the National Institutes of Health. So I have studied this issue over the years. What we are doing here today is recognizing the miraculous power to cure that exists at the National Institutes of Health and in other institutes of excellence in research throughout our country. We are recognizing the miraculous, almost Biblical power that science has to cure.

And what we have said, what we are saying here today is nothing that should not be considered of value. What we are saying is when these embryos are in excess of the needs of in vitro fertilization, rather than be destroyed, they will be used for basic biomedical research.

It is interesting to me because when I first came to the Congress, some of the same forces out there that are against this embryonic stem cell research were very much against in vitro fertilization. It is difficult to imagine that now, but they were against in vitro fertilization and considered it not to be on high moral ground.

The research is going to occur with Federal funding or without. It should not occur without high ethical standards that the Federal funding can bring to it. In order for our country to be preeminent in science, we must have the most talented, the most excellent scientists. They will not be attracted to a situation which limits scientific inquiry. As we all know, in science as in business, talent attracts capital, the capital to build the labs and all that is needed to do the research, and those labs in turn attract the excellent scientists, and that makes us first in the world, preeminent in science. We cannot allow this important endeavor to go offshore.

I am particularly proud of my State of California where the people of California in a bipartisan way, as we are doing today, voted a commitment of resources to invest in embryonic stem cell research. We in California will become the regenerative capital of America, indeed, probably of the world. But this should be happening all over the country, and it should not depend on the local initiative of the State. That is good, but it should be coming from the leadership of the Federal Government with the ethical standards that go with it. We have ethical standards in California. They should be uniform throughout our country.

To some, this debate may seem like a struggle between faith and science. While I have the utmost respect, and the gentlemen know I do, for those who oppose this bill on moral grounds, I believe faith and science have at least one thing in common: both are searches for truth. America has room for both faith and science.

Indeed, with the great potential for medical research, science has the power to answer the prayers of America's families. I believe strongly in the power of prayer; but part of that prayer is for a cure, and science can provide that.

Many religious leaders endorse the Castle/DeGette bill because of their respect for life and because they believe science, within the bounds of ethics and religious beliefs, can save lives and improve its quality. Groups as diverse as the United Church of Christ, the Union for Reform Judaism, the United Methodist Church, the Episcopal Church, and the Union of Orthodox Jewish Congregations of America all support this bill.

The Union of Orthodox Jewish Congregations of America says the traditional Jewish perspective emphasizes the potential to save and heal human lives is an integral part of valuing human life.

The Episcopal Church in its letter in support of this legislation says: "As stewards of creation, we are called to help men and renew the world in many ways. The Episcopal Church celebrates medical research as this research expands our knowledge of God's creation and empowers us to bring potential healing to those who suffer from disease and disability." This is what they wrote, and much more, in support of this legislation.

It is our duty to bring hope to the sick and the disabled, not to bind the hands of those who can bring them hope. I believe God guided our researchers to discover the stem cells power to heal. This bill will enable science to live up to its potential to again answer the prayers of America's families.

I urge all of my colleagues to support this bill, thank all of our colleagues on both sides of this issue for their very dignified approach to how we are dealing with this legislation today, but also say that today is a historic day, that the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from Colorado (Ms. DEGETTE) have given us the opportunity to move forward, again to answer the prayers of America's families, to meet their needs, to allow the science to use its Biblical power to cure; and for that I am deeply in their debt.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BOUSTANY), a heart surgeon, a graduate from LSU, and chief resident of thoracic and cardiovascular surgery at the University of Rochester in Rochester, New York.

Mr. BOUSTANY. Mr. Speaker, I thank the majority leader for yielding me this time.

Mr. Speaker, I rise to vigorously oppose H.R. 810. It is ethically wrong to destroy human life, and H.R. 810 would allow for Federal funding to destroy human embryos.

As a heart surgeon, I have dealt with life and death. I have held damaged hearts in these hands, and I have seen how powerful human emotions, coupled with hope, can be; but human emotions coupled with false hope and misinformation are dangerous.

Embryonic stem cells have not produced a single human treatment and have significant limitations. They are prone to transplant rejection, prone to tumor formation, and there is a significant risk for contamination with animal viruses.

Proponents of embryonic stem cell research are certainly aware of these problems, and that is why they view H.R. 810 as a stepping stone to human cloning.

Adult stem cells have been used to treat 58 human diseases, and they do so without taking away what we are trying to preserve in the first place: life. Yes, life.

For example, heart disease, the number one cause of death in the United States, coronary artery disease, has been successfully treated with adult stem cell therapies; and there have been 10 clinical trials that have been completed in human patients using bone marrow-derived adult stem cells to treat heart attack patients, damaged hearts.

And in one trial, patients who were bedridden, not able to walk, were found to be jogging on the beach or climbing eight flights of stairs after successful treatment.

Mr. Speaker, it is irresponsible to spend scarce Federal dollars on false promises when there are certainly alternatives with existing treatments that do not create an ethical dilemma. And for these reasons, I oppose H.R. 810 and urge my colleagues to vote "no" on this as well.

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Speaker, today the political center will hold with Nancy Reagan, and this Congress will stand for Yankee ingenuity and stem cell research.

Our Constitution stands at its heart for the principle of the dignity of every individual and this idea is certainly central to our government and people. But there is a key American principle at the heart of our people that predates the Constitution. Nearly all of us are the sons and daughters of people who took risks to come to build a new life in a new world. If there is one American character that totally distinguishes us from all other countries, it is that Americans are innovators, explorers, inventors and scientists. We take risks, we try new things: and for 200 years the future came first to Americans, the most dynamic and forward-thinking people in all of human history.

We invented the telephone, the radio, the airplane, we eradicated polio. Americans now receive more Nobel Prizes in medicine than all other European countries combined. We stand for innovation and leadership, and this Congress should ensure that American patients never have to leave our shores to find a cure.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. MURPHY), a distinguished doctor on the Committee on Energy and Commerce.

Mr. PITTS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Speaker, Leon Koss said that good things men do can be made complete only by the things they refuse to do.

Now I have no doubts about the compassion and convictions of both sides on this issue, but I take issue with the direction of their convictions, because in the end a life without a name is still a life.

Words cannot take away that this is a life. By calling them "discarded" or "unwanted" embryos does not take away that they are still lives. While some may see this as scientific efforts of ingenuity and future Nobel Prize work, it does not take away the lethality of this research.

Further, let me state that President Clinton's Bioethics Council stated: "Embryos deserve respect as a form of human life." In 1999 the council said: "Funding of embryonic stem cell research should be done only if there are no alternatives." The research that we have reviewed today and has been reviewed by this Congress in the past when these amendments have been looked upon over the last decade, is that there is still no alternative in the sense that the research is showing that cord blood stem cell research and adult stem cell research is where the results are found.

□ 1600

I have as much compassion as anybody. I have worked with developmentally disabled kids all my professional life and would love to see cures for them, but I want to see the funding go in the direction where we can see success, where that direction has been achieved and we will continue to see that.

But above all, let us remember that there are other things in medical research and medical ethics which come together here because you cannot divorce the two. If we say it is all right to use lethal methods in our research to remove the life of an embryo, what next? What next?

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, twelve million baby boomers will have Alzheimer's. Three million baby boomers will suffer from Parkinson's disease. Juvenile diabetes, Lou Gehrig's disease, spinal cord injuries will wreak havoc on the daily lives of millions of American families. These diseases are going to bankrupt the health care system of our country unless we take action. Today, we can take dramatic action, a step, to deal with this looming crisis.

President Bush has threatened to use his first veto to prevent scientists from using Federal funds to search for these cures. This is wrong. Stem cell research is the light of life, the way out of the darkness, the life-giving, life-enhancing, life-extending path to hope.

Hope is the most important four-letter word in the language. We must vote for hope, vote for life, vote for a brighter future for all of our loved ones. Vote for hope for a small girl forced to stick a needle three times a day into her young arm. Vote for hope for a beloved mother whose loss of balance leads to falls in the night. Vote for hope for a spouse who realizes that his memory of life and family are dissolving into a forgetful haze.

Vote "yes" so that the next generation of children will have to turn to the history books to know that there ever was such a thing as juvenile diabetes or Parkinson's or Alzheimer's or any of these plagues that affect our Nation today and are going to turn into a crisis in the next generation.

Mr. PITTS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I am one of seven children. I am the second oldest. My older brother John is 2 years and 2 days older than I. We grew up together closer than any other members of the family.

After I left this House on the first occasion, within 2 years, my brother developed Parkinson's. He has now suffered with it for 15 years. I have learned a lot of things from my brother, but one of the things I learned most of all was there is a difference between right and wrong. There is a moral dimension in most of the serious issues that we must face.

Would I like to support embryonic stem cell research without a question of ethics because it might assist my brother? Sure. Would I like to see embryonic stem cell research in the area of cancer where it might have helped one of my sisters who has had cancer? Yes. Would I like to see it in terms of research of cancer that plagues 4-year-old children like my nephew? Of course. But can we divorce all of that from the ethical norm that we must present here?

We look back in history and, yes, America has oftentimes promoted science. But America has made mistakes in the past. The worst mistakes we have ever made in the history of this Nation have been when we have defined a part of the human family as less than fully human and then done things to them that we would not allow done to ourselves.

We have done it with slavery. We have done it with the Tuskegee medical experiments. Other countries have done it as well. The commonality among all of those mistakes, the greatest mistakes in our Nation's history, has been the ease with which we defined members of the human family as less than fully human.

We are talking about embryonic stem cell research that requires the destruction of the embryo, the destruction of part of the human family. We should remember that as we talk here today. We should resolve doubt in favor of life as we do in our criminal justice system, as we do in our civil law system.

Mr. STUPAK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as this debate has gone on, and it has been a good discussion here today, I think it is worthwhile to come back to where we are on this whole issue here.

The embryonic stem cell research we are debating here today is controversial because of the means of obtaining these cells. Research involving most types of stem cells, those derived from adult tissues or the umbilical cord, is uncontroversial except, as we saw, the second issue here today is, how effective is it? Is embryonic more effective than cord? Are embryonic stem cells more effective in treating injuries and illnesses than the adult tissue stem cells?

So we sort of have a two-pronged argument here yet: How do you obtain the stem cells and, secondly, the effectiveness of adult versus embryonic stem cells.

But I think in this whole issue here, we sort of lose questions. Before we even get to those questions, I think we should look at it and say, what is the ethical consideration of the human nature, and that should be the first question we should ask, not what are the means we obtain it by, what is left over when we obtain the embryonic stem cells, or what is its effectiveness.

I think we have to look at the ethical considerations. Because cloning is one method to produce embryos for research, the ethical issues surrounding cloning are also relevant. In fact, I believe those ethical issues should really be the first question we should ask before we debate the means of obtaining, or even the effectiveness of the proposed treatment.

I would hope that life would triumph hope and the question is really before we even get into effectiveness or means, but what is the human nature consideration? That should be the first question we should answer.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, as my colleague from Massachusetts eloquently stated a minute ago, today this House has a historic opportunity to vote for hope, hope for millions of Americans suffering with devastating diseases. These patients, their doctors and scientists, have reason to hope, the potential that embryonic stem cell research has for developing new treatments for these devastating diseases.

One of my dearest friends recently died of ALS, or Lou Gehrig's disease, which causes fatal destruction of nerve cells. The slow death sentence that ALS gives its victims is brutal. The disease took away my young friend Tom's ability to control his own muscles, paralyzing them and ultimately making it impossible for him to breathe. Stem cell research provides hope, not for Tom but for future ALS victims. Scientists believe they can use stem cell research to replace the devastated nerve cells that ALS leaves behind.

With heart disease affecting so many of us in this Nation, the promise of embryonic stem cell research has advancements for the human heart which are incredible to think of. Instead of patients suffering because their heart cells are failing and no longer able to pump blood, new ways could be discovered to replace those cells.

And with regard to cancer, stem cell research has enormous potential. For example, it could facilitate the testing of new medications and treatments, not in time for my daughter's life, but for her young children's generation. We cannot afford to wait.

And it could be used to grow bone marrow that matches a patient and is not rejected by his or her body.

In each of these cases, stem cell research holds out promise. It provides hope that longer, better-quality lives are possible. That is what this bill is about. It will expand the ability of the National Institutes of Health to fund this research and improve the chances for finding new treatments and cures.

As we have discussed, each year thousands of embryos no bigger than the head of a pin are created in the process of in vitro fertilization. A small percentage of these embryos are implanted and, hopefully, become much-longed-for children. Some of the rest will be frozen, but most are discarded.

They will not be used to create life, they will never become children, they will be lost without purpose. But under H.R. 810, with the informed consent of the donor, under strict ethical guidelines, these embryos can be used to give life to millions of Americans. Today, we can give this hope to millions who have little to hope for now.

This is an historic opportunity. I urge my colleagues to do the right thing, to support lifesaving medical research. Support H.R. 810.

Mr. PITTS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I would like to share a letter from a young girl in my district:

"Dear House of Representatives:

"My name is Kelsea King. I am 14 years old and have been dealing with diabetes for nearly 3 years now. There are many challenges in having this disease, both physical and emotional. Though it may be hard to believe, the emotional pain greatly outweighs the physical pain.

"My sister, Kendall, was also diagnosed with diabetes 2 years ago. She is now 7. It is very hard going through life knowing that both our lives could be shortened by this disease. It is also very difficult knowing what this disease makes us prone to, such as heart disease, liver problems, blindness and in extreme cases loss of limb. But the most difficult part of all is worrying about passing out due to low blood sugars, or being hospitalized. It is too large of a responsibility and too large of a burden for any 7-year-old and even for a 14-year-old.

"As you can see, my need for a cure to this disease is very great. But I do not want a cure if it takes the lives of others. I do not support embryonic stem cell research. I believe it is very wrong to take innocent lives for any reason, even if it benefits me. There are other ways of a cure. We just need proper funding. If we work together, we can find a cure through adult stem cell research.

"My hope and prayer is for my sister and I to be cured before we are adults so we can both live long and healthy lives. No one deserves diabetes but everyone deserves a cure through adult stem cell research."

The campaign for federal funding of embryonic stem cell research has been a campaign of half-truths, and at times, outright deception.

Advocates of federal funding for destructive embryonic stem cell research do three things consistently:

(1) Obfuscate the fact that a living human embryo is killed in the process of extracting the cells.

(2) Obfuscate the fact that there have been no cures, treatments, therapies, or even clinical trials using embryonic stem cells.

(3) Obfuscate the fact that there is unlimited private funding allowed for embryonic stem cell research.

As Chairman of the Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources, I sent a letter to the Director of the National Institutes of Health in October, 2002 requesting a detailed report providing comprehensive information about the medical applications of adult and embryonic stem cells. It took almost two years to get a response from the NIH, and the response omitted many of the advances, applications and trials for adult stem cell research that had already been reported in peer reviewed journals. The one thing that was complete in the NIH response to our oversight request, was the listing of applications for embryonic stem cells: zero.

The applications for embryonic stem cell research was zero then, in June of 2004, and it's zero now. The human applications for adult stem cells currently number 58, and range from lymphoma to chrones disease to heart damage to immunodeficiency syndrome.

Finally, let me be clear: there is no "ban" on embryonic stem cell research. There is no limit to the amount of private money that may be devoted to this research. The research is being conducted throughout the country. The critical fact is that we are responsible for the public purse, and forcing the public to fund unproven research where living human embryos are destroyed is completely unconscionable. If private industry sees promise in embryonic stem cell research, you can be certain that investors will find it. But the public should not be forced to subsidize a speculative venture involving destruction of human life.

Fourteen-year-old Kelsea King, an articulate young constituent of mine, has Juvenile Diabetes. Her struggle with this disease is emotionally and physically challenging, but she is strongly opposed to the idea of developing a cure that would involve the destruction of human life. As she wrote in a letter to me, "I believe it is very wrong to take innocent lives for any reason, even if it benefits me." I am submitting Miss King's letter in its entirety for the record.

H.R. 810 requires the public to pay for destructive embryonic research that has no current applications. It's an empty promise to the millions who suffer with disease, and would surely pave the way for embryo cloning.

I am voting against H.R. 810, and I urge my colleagues to do the same.

AVILA, IN,
May 23, 2005.

DEAR HOUSE OF REPRESENTATIVES, my name is Kelsea King. I am fourteen years old and have been dealing with diabetes for nearly three years now. There are many challenges in having this disease, both physical and emotional. Though it may be hard to believe, the emotional pain greatly outweighs the physical pain. My sister, Kendall, was also diagnosed with diabetes two years ago. She is now seven. It is very hard going through life knowing that both our lives could be shortened by this disease. It is also very difficult knowing what this disease makes us prone to, such as heart disease, liver problems, blindness, and in extreme cases, loss of limb. But the most difficult part of all is worrying about passing out due to low blood sugars, or being hospitalized for ketoacidosis (which is caused by blood sugar being too high). It is too large of a responsibility and too large of a burden for any seven-year-old, and even for a fourteen-year-old.

As you can see, my need for a cure to this disease is very great. But I do not want a cure if it takes the lives of others. I do not support Embryonic Stem Cell Research. I believe it is very wrong to take innocent lives for any reason, even if it benefits me. There are other ways of a cure; we just need proper funding. There is no proof that Embryonic Stem Cell Research is better or more successful than Adult Stem Cell Research. If we work together, we can find a cure through Adult Stem Cell Research.

My hope and prayer is for my sister and I to be cured before we are adults so we can both live long and healthy lives. No one deserves diabetes, but everyone deserves a cure through Adult Stem Cell Research. My sister and I need this, as well as the millions of other children in America who are afflicted with this disease. Please help us—support Adult Stem Cell Research!

Sincerely,

KELSEA KING.

Mr. STUPAK. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. I thank the gentleman for yielding me this time.

Mr. Speaker, the gentleman from Delaware (Mr. CASTLE) and the gentlewoman from Colorado (Ms. DEGETTE) deserve our thanks for sponsoring the Stem Cell Research Enhancement Act and working with so many families who have been impacted by diseases that may find cures as a result of this vital research. Their work and dedication on this legislation has been tremendous and praiseworthy. I also thank them for giving me the opportunity to cast one of the most important votes I will ever make in Congress.

Almost everyone has lost some family member prematurely. I think of the grandmother, whom I never met, who died when her daughter, my mother, was only 16. I think of my mother-in-law who never had the opportunity to know her grandchild who is now 25. I think of my cousin, who was brilliant and never got to realize his full potential.

Embryonic stem cell research has the potential to cure disease and save lives in ways never dreamed of. And it is only 6 years old. These are discarded embryos that were never in the womb. They were not taken from it and they were not put into it. But they can help save lives. That is why it is so important that we not only pass this legislation today, but that the President signs this bill into law.

Sometimes ideology can box you in and cause you to make wrong and harmful decisions. I think it is time we recognize the Dark Ages are over. Galileo and Copernicus have been proven right. The world is in fact round. The earth does revolve around the sun. I believe God gave us intellect to differentiate between imprisoning dogma and sound ethical science, which is what we must do here today.

I want history to look back at this Congress and say that in the face of the age-old tension between religion and science, the Members here allowed critical scientific research to advance while respecting important ethical questions that surrounded it.

□ 1615

We know that by allowing embryonic stem cell research to go forward, treatments and prevention for diseases will not come to us overnight. But we also know embryonic stem cell research has the potential to yield significant scientific advances to heal and prevent so many diseases throughout the world.

Mr. CASTLE. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Missouri (Mrs. EMERSON).

Mrs. EMERSON. Mr. Speaker, I have a profound deep and abiding belief in the right to life. I have introduced a constitutional amendment to ban abortions every session of Congress since 1997 and have a perfect pro-life voting record.

Two years ago I visited the Bader Peach Orchard in Campbell. I met the Baders' son, Cody, after my tour. Cody is a handsome and articulate young man who happens to live in a wheelchair because of a car accident. Cody asked that I rethink my opposition to embryonic stem cell research because he thought that one day if it did not help him, it might just help another young person like him. I later wrote a note to Cody's family telling them that even after hearing his story, I could not do as he asked. And I have regretted writing that letter ever since.

My friends Joel and Dana Wood have a son James, who was diagnosed with muscular dystrophy when Dana was 9 months pregnant. James may never see his 21st birthday, and this is just heartbreaking. My late husband, Bill Emerson, and his mother, Marie, who passed away last night, both suffered from diseases for which stem cell research holds much hope: cancer and dementia. Embryonic stem cells are the only avenue for research we know of now that can possibly help alleviate those two diseases. Neither adult stem cells nor cord blood are plausible for the study or treatment of brain tissue.

I have met with ethicists, scientists, two priests, and my own minister to talk about this agonizing decision. But when presented with an embryo, an embryo that cannot live outside a uterus, an embryo that is going to sadly be thrown out as medical waste, and the lives of little James Wood and young Cody, I ask do they not have as much of a right to life as that embryo that is going to be tossed away?

I had dinner last Thursday night with my daughter and her friend, Will Coffman. Will's story is much like Cody's. We talked and talked about this issue. And Will said to me, We may never know how the story will end, but please do not let the story end right now.

Mr. Speaker, my pro-life credentials are unquestioned. Who can say that prolonging a life is not pro-life? Technology and faith continue to present agonizing decisions and conflicts. Each life is precious, and so I must follow my heart on this and cast a vote in favor of H.R. 810.

Mr. DELAY. Mr. Speaker, I reserve the balance of my time.

Mr. STUPAK. Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield 2 minutes to the gentleman physician from the State of Michigan (Mr. SCHWARZ).

Mr. SCHWARZ of Michigan. Mr. Speaker, I have been a physician for 41 years; and like my good colleagues who will not be supporting this bill, I would expect we could tell the Members stories of all the blood and gore and problems that we have waded through in those years and done our very best. I also consider myself a guy who is pretty much pro-life.

This bill is not cloning. It is not somatic cell nuclear transfer. It is sound science. For those who have an ethical problem with the bill, I accept the fact that they have that problem and hope that at some point in the future we can sit down and discuss this issue. But for now they will have their position; I will have mine.

Stem cell research, especially embryonic stem cell research, is going to go on apace very rapidly in all parts of the world, whether it is Singapore or Korea or Japan or China or the United Kingdom or Canada, other places on continental Europe. We are being left behind in this. We have the finest universities in the world, the finest researchers, the ability to bring stem cell research to a point where we will, indeed, have cures for everyday problems such as diabetes, such as Parkinson's, such as Alzheimer's, and perhaps even being able to create neuronal cells to take care of people who have spinal cord injuries. Science will march on.

I believe this bill helps the living. Can there be any doubt that the potential of relieving widespread suffering with embryonic stem cells is morally superior to simply destroying the excess embryos? How can we call ourselves a culture of life when we ignore the living, when we ignore the infinite potential of embryonic stem cells?

The SPEAKER pro tempore (Mr. LAHOOD). The order of closing will be in this order: the gentleman from Delaware (Mr. CASTLE) first, the gentleman from Michigan (Mr. STUPAK) second, the gentleman from Texas (Mr. DELAY) third, the gentlewoman from Colorado (Ms. DEGETTE) fourth, and the gentleman from Texas (Mr. BARTON) will close.

Ms. DEGETTE. Mr. Speaker, I yield 2 minutes to the gentleman from Washington State (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, while Europe and Singapore and California and Korea are moving forward in an effort to relieve human suffering, the United States Congress, 435 theologians, have gathered here to decide a values decision. We have no guidance. There was no in vitro fertilization or stem cell research when Jesus walked on the Earth. We are left to make the decision on our own.

The decision comes down to this: a man and woman come in to a physician. He presents some semen. She presents some eggs. They put them in a jar or they put them in a petri plate, and it becomes an embryo. They have several of them; so they use one. They put it in the mother. She has a baby. And there are a bunch left. Now what shall we do with those? Shall we throw them down the sink, wash them away, or shall we use them to help people who have terribly debilitating diseases? That is what this issue is about.

Like the last speaker, I am a physician. I have counseled people who were dying with Lou Gehrig's disease. To watch somebody drown in their own secretions, someone that you know and care about, and then come in here and say we are not going to look for a way to relieve that kind of agony, we will not worry about a 13-year-old kid who gets diabetes and has to give himself thousands and thousands of shots and loses the length of life that most of us expect because of that disease; we will say to them, well, Jesus wanted us to do this. I do not remember the Lord ever saying that. I do not ever remember his saying, I gave you a brain, you human beings. I do not want you to figure anything out. I do not want you to make it any better.

This is a perfectly good values judgment on which everybody should vote "yes."

Ms. DEGETTE. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington State (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I come to speak for life, life for people with diabetes, life for people with Parkinson's, life for people with damaged hearts.

What possible benefit is it for life to discard these cells without allowing them to be used to bring life, to save life, to preserve life? If these cells have any future, it is through curing disease. If Members wish to give them life, then let them give life to others. This is their only hope, and it is our best hope.

Dr. Connie Davis, the medical director of University of Washington's Kidney and Kidney-Pancreas Transplant Program, put this discussion in perspective when I was talking to her yesterday. She reminded me that the donation of a kidney used to be a controversial issue in this country. It is no longer so.

Our bill allows donors of these stem cells to make a donation decision, a donation to research. A narrow segment of our Nation did not stop lifesaving kidney donations, and a narrow segment should not stop embryonic stem cell research. Healing is a moral thing to do.

I met a man at the Transplant Association the other day. He and his wife had, in fact, had an in vitro fertilization. He had other additional embryos that were available. He wanted to make those available to cure people with diabetes and Parkinson's disease, and he had one thing he asked me. He said to me, Let me and my wife make that moral judgment, not the 435 strangers who know nothing about my moral interior values or my life.

That is an American right to donation. We should preserve it and pass this bill.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I thank the leader for yielding me this time.

I recall being taught that the mustard seed is the smallest of all seeds, and yet it grows into the mightiest of trees. And the same can be said of the human embryo, something so very small, so unseen by the human eye, and yet so special at the very beginning of life that it needs to be safeguarded.

The real heart of this argument is whether something so innocent should be killed and whether Americans should pay to facilitate the government-sanctioned experimentation on human life based upon a prospect, based upon a maybe, based upon a possibility, based upon the potential.

The government already takes 285 million of our tax dollars each year and funnels it into pro-abortion organizations. The leadership of the gentleman from Delaware (Mr. CASTLE) undermines my ability to love my country, undermines our patriotism.

I say stand fast against the secret pollsters and vote "no" on this legislation.

Ms. DEGETTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, the debate on stem cell research challenges all of us to think carefully about the value we place on human life. Many of us turn to our faith traditions for guidance and wisdom. None of us has the right to legislate our religious beliefs and impose them on others. But as Members look to the teachings of their faiths for guidance, I ask them to remember that not all faiths hold that stem cell research is the enemy of life. The religious traditions of many of us do not tell us that a 14-day-old blastocyst has the same moral significance as a human being and do tell us that the obligation to preserve life, which includes the obligation to cure disease and alleviate human suffering, is paramount.

I understand and respect the faith of all of my colleagues. It is a sincere faith that reveres life. I ask them to accord that same respect to the faiths of others.

Unfortunately, words have sometimes been used carelessly, and these words sometimes denigrate the faith of others. When the teachings of a faith are described as "a culture of death" because they hold that the potential to save and heal human lives is an integral part of valuing human life, that faith and its adherence are being slandered. How dare anyone slander the faiths of many Americans as "a culture of death." God does not speak to one faith alone.

We hear lots of speeches about respecting people of faith and the need to bring faith into the public square. The people who make those speeches should respect all faiths. We should vote our consciences, but we should not denigrate the faith and consciences of the millions of Americans who seek to preserve life and end suffering and who believe that embryonic stem cell research can save lives and therefore embodies the highest morality.

☐ 1630

Mr. CASTLE. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, most of my colleagues that support this bill are from the pro-choice field. I come at it from the pro-life section. A lot of times I disagree with my colleagues because I think in some cases they would go further, and a fact that many people will not take under their wing is that many of these stem cells are going to be thrown away, either cryogenically they deteriorate and they throw them away, or a woman says "I don't want to keep them for 1,000 years" and they discard them. They literally throw them in the toilet.

Now we can save life. They say there is no good to be done. Animal studies have shown that work with the spinal cord, heart and others have been successful. We have not done it on humans. If you take a look at some of the blood diseases with bone marrow used, that is stem cell.

And we have hope in the future. I met a young man that had AIDS at NIH, and he only thought about dying. He said, "Duke, all I need is hope to survive." This gives that hope, and I think it has promise.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, the seminal question that we address is, should Americans be using their tax dollars to fund research that kills a living human embryo? My answer to that is an emphatic "no."

It is our duty to ensure that we spend our money on things that work, and there are no therapies in humans that have ever successfully been carried out using embryonic stem cells. And that is really what this whole debate is about, paying for what works and paying for it in a way that is consistent with the morals of our taxpayers.

Look, even the President and CEO of the Juvenile Diabetes Research Foundation, a group that is a strong supporter of destroying human embryos for research, he said, "There have been more promising results in adult stem cells than there have been in embryonic stem cells." He predicted that their foundation would soon be spending more on adult cells research than embryonic research.

Private organizations like these are choosing to use their research dollars on what works, adult stem cells research. Washington must also spend its money efficiently on what works, while representing the values of the taxpayer.

I urge a "no" vote on Federal funding for killing living human embryos.

Ms. DEGETTE. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, the gentleman that just preceded me, speaking to the House, said that he did not think this experimentation would work. Well, there is no way it will ever work if we do not allow the research to take place. There can be nothing that is more prolife than trying to pursue research that scientists tell us will lead to cures for MS and diabetes and Parkinson's and other terrible diseases that people now suffer and die from.

Some people have said, Well, let us have an alternative; let us use the stem cells from the umbilical cord.

Mr. Speaker, that is not a replacement for embryonic stem cell research that would occur if we passed H.R. 810, the Stem Cell Research Enhancement Act. We need to ensure that scientists have access to all types of stem cells, both adult and embryonic.

Rather than opening the doors to research, the President's policy of stopping this work at NIH has set the United States back. It has meant that researchers who see the promise are leaving the National Institutes of Health. It means the edge that this country has had as a leader of research is now falling behind and we look to other countries who are going to take our place.

For the sake of those who are suffering, for the sake of what science can bring to us, for the sake of life, I urge the adoption of this legislation. I do not think it is a good enough excuse to hold up a clump of cells and say, this we value and this we will protect, and then to look at our friends and our colleagues, people we know and people we do not even know, and tell them their lives we do not value.

The United States is poised to assume a role of leading the world in this promising field. Vote for this legislation that will make it possible.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Speaker, this issue is more than facts and figures. For me it is personal. It is about my children, Madison, Jeb and Ross Barrett. It is about my nieces and my nephews, Hayden and English and Jason and Andrew. They are not just names, they are living, breathing human beings. They are people I care about, they are people I love. It is my family. And they began life as an embryo.

Let us be clear, embryonic stem cell research is completely legal. What we are talking about today is whether taxpayer dollars should be used to destroy potential life, and, for me, life must supersede all other considerations, especially for the purpose of medical experimentation.

Life is so precious, Mr. Speaker, and as long as I am a United States Congressman, I will do everything I can to protect it.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of this bill, which will expand funding for embryonic stem cell research, and I am proud to be an original cosponsor of it.

What I would like to say today is the following: Scientists have informed us, the professional scientists in our country, not political scientists, but scientists, and what they have told us from their considerable work and research is that this issue represents hope. It represents hope for the cure of diseases that plague so many of our people, from juvenile diabetes all the way to the other part of life, which is Alzheimer's, and so many diseases in between.

This Congress and previous Congresses have seen fit to double the funding of the National Institutes of Health. I have always called them the National Institutes of Hope.

We are now on the threshold, we are now on the threshold of debating an issue that can bring hope to our people. It is up to us to have an ethical standard in this debate. That is why no human cloning is a part of the bill that I support. Why? Because no one supports that.

The American people are decent and they want an ethical standard, but they also want their Nation's leaders to continue to give hope to them, hope for the cure of these diseases that cause so much human suffering. We have a responsibility in terms of our compassion, in terms of the instruction that our Nation's scientists have given to us.

So I urge my colleagues to support this bill. It is an ethical bill, and it is a bill that is all about hope.

Mr. Speaker, I rise in support of this bill which will expand funding for embryonic stem cell research, and I'm proud to be an original cosponsor of it.

Under this bill embryonic stem cell lines will be eligible for Federal funding only if the embryos used to derive stem cells were originally created for fertility treatment purposes and are in excess of clinical need.

Today, there are thousands of surplus embryos from fertility treatments that will never be used and will likely be discarded.

We should allow parents who choose to donate these embryos for use in federally-funded stem cell research to do so.

My home-state of California recently approved a $3 billion ballot initiative to fund embryonic stem-cell experiments. It is the largest State-supported scientific research program in the country. This initiative places California at the forefront of the field and exceeds all current stem-cell projects in the United States.

But without additional Federal funding, our scientific leadership is being transferred overseas. Where the leading-edge research is carried out matters a great deal. Any policy restricting Federal funding for embryonic stem cell research threatens the long-term vitality of the U.S. economy, and most importantly denies millions of Americans hope.

I urge all my colleagues to vote "yes" on H.R. 810.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY), who is an OB/GYN physician, who practiced for 26 years and has delivered over 5,200 babies.

Mr. GINGREY. Mr. Speaker, I thank the majority leader for yielding.

Mr. Speaker, I rise this evening in opposition, strong opposition, to H.R. 810, not as a physician, not as an obstetrician-gynecologist, but as a pro-life Catholic who firmly believes in the sanctity of life.

I have sat here for almost 3 hours listening to every word of the debate as part of my job as a member of the rebuttal team, and here is my legal pad of notes and rebuts. Most of those rebuts are against people on my side of the aisle, because this issue is clearly a bipartisan issue. You have Members, Republicans and Democrats, who are for the bill, indeed the authors, and you have Republicans and Democrats who are in opposition to the bill. So I have got plenty of rebuttals that I could make, but very briefly, I will just mention one or two.

One of the gentlemen on my side of the aisle said that we need the Federal Government, we need the Federal Government involved in embryonic stem cell research and the funding of that to provide ethical guidelines to the States. You remember that comment, maybe an hour or so ago? Well, if the Federal Government is involved in a program where taxpayer dollars are spent to destroy human life, what ethical advice can they give to my State of Georgia, I ask? I think none.

You see, I firmly believe in the sanctity of life, and I believe that life does begin at conception, and these embryos are definitely living human beings. The gentleman just said a few minutes ago that "I can't imagine that a 14-week blastocyst has the same value as a human being." Indeed, it does.

Mr. Speaker, I would ask my colleagues to look at these charts and what we know with these so-called frozen throwaway embryos that nobody wants. Well, there are hundreds today of these snowflake children, and there will be many more when people realize this is available to them.

Yes, it starts as an embryo, just a few cells, and then a blastocyst. But then here is a 20-week ultrasound with a beating heart and brain and limbs and moving, and then here is the final result.

Let me just say in conclusion, the gentleman from New Jersey talked about his development, his growth and development, and going backwards in his life. He stood in this well and said, "I am an adult man today. But yesterday I was a teenager, and before that I was a toddler." But he did not go the opposite direction and say "In 20 years I will be a senior citizen, and after that I may be in a nursing home and I may have Alzheimer's. I may be a vegetable."

You would not want to destroy those lives, any more than the embryos at the beginning of life.

Ms. DEGETTE. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I just want to say, if people want to donate their embryos to another couple for adoption, our bill allows that. But our bill also allows people who do not want to give their embryos for adoption to donate them for science, so the children who are alive today can be cured. I assume no one on the other side of this issue would want to force everybody to give up their embryos for adoption, because clearly that would be limiting the choice that people have.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I am proud to represent New Jersey, one of the few States that devotes its own resources to embryonic stem cell research.

To help us understand this humane line of research, let us look at in vitro fertilization. Several decades ago, many people raised concerns about this procedure; everywhere there were attacks using the term "test tube babies." But today there are 400,000 young people who are the products of in vitro fertilization, and in every case, there are eggs, fertilized eggs, that were not brought to full-term birth.

But people do not condemn the use of IVF. And just as we do not place ethical burdens on the children who were conceived through IVF, we should not place ethical burdens on the millions of Americans suffering from Parkinson's, Alzheimer's, diabetes, et cetera.

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I am hoping that several decades from today, we will look back and find ourselves thankful that we came to a humane, prudent conclusion. Embryonic stem cell research will have yielded new ways to diagnose, treat, and cure tragic diseases.

I urge my colleagues to support the humane H.R. 810.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. MCHENRY).

Mr. MCHENRY. Mr. Speaker, I thank the distinguished majority leader for yielding me this time.

We are here debating H.R. 810, which directs the Federal Government to spend tax dollars on embryonic stem cell research. This bill, therefore, implies that stem cell research is not already going on, but stem cell research is alive and well in America. Adult stem cells are currently being used to treat people, and successfully.

This bill's approach, however, will remove stem cells from human embryos. This will kill the embryo. And whether we like to think about it or not, embryos are indeed human beings. Every human life begins as a human embryo; and by extracting their stem cells, this bill uses American tax dollars to destroy human life.

The embryonic stem cell research in this bill destroys human life, and I believe that we as the American people should not destroy human life with American taxpayers' dollars, not even in the name of research.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I recently had a granddaughter born. I looked at that little baby, and I was in love with her when I went to ultrasound and we saw her, even before she was born. When I saw the little snowflake children, I thought about their humanness. I thought about what joy they brought to their families. I thought about little children that needed to be comforted when they were hurt, little children that wanted to be put to bed at night with a kiss and a story, their wonderful humanness, and I thought about what the American people think of babies and how we cherish them. When I see these little children, I know their intrinsic value; and how we treat people, in whatever form of development, depends on how we perceive them.

The embryo is a human being at an early stage of development. When we talk to many who have great knowledge about this, and I appreciate the doctors in our presence, we should never spend the American taxpayers' dollars to take the life of an innocent human being.

As I look at this bill, I know it is very complex; but we need to always support human life.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I rise in strong support of H.R. 810. I commend my colleague, the gentlewoman from Colorado (Ms. DEGETTE), for her leadership on this issue.

Stem cell research is not about abortion. Stem cell research is not about human cloning. We are talking about finding cures for Alzheimer's, paralysis, Parkinson's, and other diseases. We are talking about improving the lives of countless numbers of people in this country. That is what stem cell research is about.

We are talking about putting American health care and researchers in the best position to finding the cures for today's diseases tomorrow and to preventing the diseases of tomorrow today.

This spring, I joined my colleague, the gentleman from New York (Mr. ISRAEL), for a congressional roundtable on stem cells and on the biotech industry. Doctors, researchers, and scientists spoke about how the President's strict limits on stem cell research is prohibiting them from conducting the level of research that they would like to do.

I agree, but who is missing out the most are the 650,000 people we represent and the potential this research holds.

American medical research has extended lives through immunization, treatments, and innovations. From eradicating polio to advances in diabetes, American research has been on the forefront.

But there is still so much more that can be done and much more potential that exists. I commend my colleagues again for this bill being on the floor, and I support it wholeheartedly.

Mr. STUPAK. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy of yielding me this time.

I have been touched by the personal stories that we have heard here today. I think people are genuinely speaking from the heart.

But the issue remains that we have embryonic stem cells that are either going to be thrown away for largely theological reasons, or they will be used for research to save lives. This research is going to take place in the United States and around the world. The question is, how rapidly? The question is whether the United States Government's official policy will remain frozen in place, or whether we will exert the same type of leadership that we have exerted in other areas of research, technology, and dealing with human health.

For the sake of life, for the sake of health, for the sake of our families, I hope that this legislation passes, that we will be able to make sure that the Federal Government exerts its appropriate role in making sure that we have the resources, the direction, and the control to do this successfully.

Mr. CASTLE. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of the legislation before us which I consider to be extremely important. It builds on the President's policy by merely allowing the use of embryonic stem cells created for fertility purposes to be donated with permission, but without payment, by the woman for research, research to cure some of the terrible diseases that plague our lives. These free citizens would simply exercise their right and their conscience in donating embryos that would otherwise be discarded, destroyed, as waste.

I believe we have a moral responsibility to advance the research that saves lives, relieves pain, and prevents suffering, rather than destroying those embryos. Those embryos could produce the stem cells that would save lives, and should not be destroyed as waste.

Why do we have to do this today? Because if we do not, stem cell research will be done, but will not be uniformly governed by NIH's ethics policy.

Why do we have to do this today? Because no nation has created a sustained, strong, globally-competitive economy without the freedom to research the frontiers of knowledge.

Finally, why do we have to do this today? Because it is the right thing.

Now, we have heard a lot of discussion on the floor today about destroying these cells as taking life and, as a matter of conscience, this is a complicated issue and one on which we disagree. If you believe life begins when the sperm enters the egg, then, yes, you would believe this is a taking of life, though we would unceremoniously toss those same cells into a waste bucket. But if you believe that life begins when the fertilized egg is implanted in the mother's womb, which, of course, is essential for it to realize its potential for life, then using a fertilized egg that has not been implanted is not a taking of life. If, further, you believe that life begins later in the process, then you are not taking life.

So I ask each of my colleagues to think carefully in conscience when life does begin; and, on that issue, your vote on this bill rests.

Mr. STUPAK. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, I rise in strong support of this stem cell research bill. The science will go on with or without the United States. Diabetes, Alzheimer's, Lou Gehrig's disease, these diseases will be cured either here in the United States or somewhere else in the world.

This bill is not about human cloning, which I oppose. An embryo is special tissue. We should not create them with the intent to terminate them later. But here, the embryos were created with the intent to bring more children into the world. Many eggs were fertilized in this process and, once a baby is born, many fertilized eggs are left over, created with the intention to create a baby.

As Oliver Wendell Holmes stated, even a dog can tell the difference between a stumble and a kick. Juries determine intent all the time and, here, intent is crucial. These cells were created with the intention of creating human life, and the only alternate fate for them now is disposal.

Let us not waste potential human life; let us not waste these fertilized eggs by destroying them. Let us use them to save human lives through stem cell research. Support the Castle-DeGette bill.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Speaker, 58 to zero. Today we are asked to sear our conscience and harden our heart towards human life so we can experiment on fertilized human embryos because we are told it holds such great promise. The results from testing are far from promising, though. They are very disappointing.

But there is an alternative. The adult stem cell research has been very successful compared to embryonic stem cell research, and this success was accomplished without the destruction of human life.

In fact, more than 58 diseases have been treated using adult stem cells in contrast to no diseases having been treated by using living embryonic stem cell research. Fifty-eight to zero.

Mr. Speaker, how do we know the score? Well, embryonic stem cell research is being conducted in America with private funding, but that funding is lacking. So the labs have come to us for more money. Apparently, venture capitalists invest only in projects that are profitable, and you can see it is far from profitable here: 58 to zero.

So now we are asked to support embryo stem cell research because it is so promising, when the facts are it is not promising: 58 to zero.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I rise in support of this bipartisan bill, and I will submit today's column in The Wall Street Journal written by Dr. David A. Shaywitz, an endocrinologist in stem cell research at Harvard, for the RECORD. I would call to the attention of my colleagues this column and particularly a couple of lines that he wrote today. I must say that I am one that will be voting for both bills today, the cord bill as well as the Castle/DeGette bill; but as you compare these two bills, let me note a couple of things that this noted researcher says.

He says: "Presently, only the few lines established prior to the date," this is in reference to the President's initial plan back in 2001, "are eligible for government support, a prohibition that has had a crippling effect on researchers in this emerging field." It further says, it relates to the cord bill, in essence: "It seems extremely unlikely that adult blood cells or blood cells from the umbilical cord will be therapeutically useful as a source of anything else but blood."

Mr. Speaker, there are few families that I know that have not been impacted by a myriad of these diseases. We need help. We need to find a cure, and that is why we need to support both pieces of legislation this afternoon.

THE STEM CELL DEBATE

(By David A. Shaywitz)

Perhaps themost underrated achievement of the modern conservative movement has been a renewed appreciation for the danger of "junk science"—unsubstantiated scientific research that is exploited for political gain. How sad, then, that in the ongoing debate over stem cell research, many conservatives have chosen to abandon their well-founded skepticism and to embrace dubious but convenient data for the sake of advancing their cause.

The latest tempest has emerged from remarkably modest congressional legislation, proposed by Republican MICHAEL CASTLE and Democrat DIANA DEGETTE and scheduled for a vote today, which would permit federal funds to be used on human embryonic stem cell lines derived after Aug. 9, 2001. Presently, only the few lines established prior to this date are eligible for government support, a prohibition that has had a crippling effect on research in this emerging field.

Human embryonic stem cells have the potential to develop into any adult cell type. If this process of specialization could be achieved in the lab, scientists might be able to create replacement pancreas cells for diabetics, or neurons for patient with Parkinson's Disease; these treatments are likely many years away.

For some opponents of embryonic stem cell science, the argument is fundamentally one of faith: The human embryo should be held as sacrosanct, and not used for the pursuit of any ends, regardless of how nobly intended. The trouble for such dogmatic critics of embryonic stem cell research is that most Americans hold a less extreme position; given a choice between discarding frozen, excess embryos from in vitro fertilization clinics or allowing the cells to be used for medical research—specifically, the generation of new embryonic stem cell lines—most of us would choose the second. Consequently, conservative stem cell opponents have now begun to argue in earnest that embryonic stem cell research is not just morally wrong, but also unnecessary, an argument that relies on suspect science and appears motivated by even more questionable principles.

First, the science: Opponents of the Castle-DeGette legislation assert that embryonic stem cells are unnecessary because adult stem cells, as well as umbilical cord blood stem cells, will perform at least as well as embryonic stem cells, and have already demonstrated their therapeutic value. This argument appears very popular, and has been articulated by almost every member of Congress who has spoken out against the new stem cell bill.

To be sure, one of the great successes of modern medicine has been the use of adult blood stem cells to treat patients with leukemia. The trouble is generalizing from this: There are very strong data suggesting that while blood stem cells are good at making new blood cells, they are not able to turn into other types of cells, such as pancreas or brain. The limited data purported to demonstrate the contrary are preliminary, inconclusive, unsubstantiated, or all three. Thus, it seems extremely unlikely that adult bloodcells—or blood cells from the umbilical cord—will be therapeutically useful as a source of anything else by blood.

Moreover, while stem cells seem to exist for some cell types in the body—the blood and the intestines, for example—many adult tissues such as the pancreas, may not have stem cells at all. Thus, relying on adult stem cells to generate replacement insulin-producing cells for patients with diabetes is probably an exercise in futility.

For true believers, of course, these scientific facts should be beside the point; if human embryonic stem cell research is morally, fundamentally, wrong, then it should be wrong, period, regardless of the consequences to medical research. If conservatives believe their own rhetoric, they should vigorously critique embryonic stem cell research on its own grounds, and not rely upon an appeal to utilitarian principles.

Instead, there has been a concerted effort to establish adult stem cells as a palatable alternative to embryonic stem cells. In the process, conservatives seem to have left their usual concern for junk science at the laboratory door, citing in their defense preliminary studies and questionable data that they would surely—and appropriately—have ridiculed were it not supporting their current point of view. In fact, there is little credible evidence to suggest adult stem cells have the same therapeutic potential as embryonic stem cells. Conservatives often speak of the need to abide by difficult principle; acknowledging the limitations of adult stem cell research would seem like a good place to start.

Human embryonic stem cell research represents one of the most important scientific frontiers, and also one of the most controversial: Our national debate on it deserves to be informed by our loftiest ethical aspirations—but also grounded in our most rigorous scientific standards.

Mr. DELAY. Mr. Speaker, could I inquire as to the time on all sides?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. BARTON) has 3½ minutes; the gentlewoman from Colorado (Ms. DEGETTE) has 7 minutes; the majority leader has 8 minutes; the gentleman from Michigan (Mr. STUPAK) has 6 minutes; and the gentleman from Delaware (Mr. CASTLE) has 3¼ minutes.

The order of closing will be the gentleman from Delaware (Mr. CASTLE) first; the gentleman from Michigan (Mr. STUPAK) second; the gentleman from Texas (Mr. DELAY) third; the gentlewoman from Colorado (Ms. DEGETTE) fourth; and the gentleman from Texas (Mr. BARTON) last.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I oppose this bill and support the President's position on embryonic stem cells.

Let's be clear. Embryonic stem cell research is legal in America today, and nothing in the administration's current policy has affected the legality of this research. The administration's policy simply provides that Federal taxpayer dollars not be used to destroy human embryos. I believe most Americans, when they understand this, agree with the administration. But this rule does not in any way limit the private sector from pursuing embryonic stem cell research.

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But ultimately, Mr. Speaker, no one can deny that this debate involves profound ethical and moral questions. This is a matter of conscience for millions of Americans who are deeply troubled by the idea of their own funds being used to destroy another human life. For many of my colleagues, and for me, this is a vote of conscience.

Let the private sector go forward, if it must, with the destruction of embryos for ethically questionable science. But spend the people's money on proven blood cord, bone marrow and adult stem cell research.

Ms. DEGETTE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri (Mr. CLEAVER).

Mr. CLEAVER. Mr. Speaker, in Missouri's 5th District there are two individuals, Jim and Virginia Stowers, who did not seek a Federal grant, but who used $2 billion of their own money to begin some very vital research. They founded the Stowers Institute. And the Stowers Institute employs brilliant researchers from more than 20 countries around the world, and they are working with the most advanced tools to answer the questions and build the bridges between diseases and cures.

Our Nation is blessed with the greatest minds and researchers on this planet. But to whom much is given, much is required. And so, Mr. Speaker, this Nation has a wonderful opportunity right now to respond to the needs and the interests of its people.

Two boys, twin boys were in bed. One fell out of the bed in the middle of the morning, and when the parents went in to see him and asked what happened, he said, as he looked up to the bed, I think I was sleeping too close to where I got in. And that is where we are, Mr. Speaker. Even after the President has spoken, we are, as a Nation, still sleeping too close to where we got in with regard to research on stem cells.

Mr. DELAY. Mr. Speaker, could I inquire of the gentlewoman from Colorado (Ms. DEGETTE) and the gentleman from Michigan (Mr. STUPAK) how many speakers they each have left? I have four, actually five, counting me.

Ms. DEGETTE. Mr. Speaker, I have no further speakers, and I am intending to reserve the rest of my time for closing.

Mr. STUPAK. Mr. Speaker, I have one more speaker and then I plan on closing.

Mr. DELAY. With that, Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, I rise today in opposition to H.R. 810, but in strong support of adult stem cell research as it respects life.

An embryo is a human at its earliest stage of life and deserves the same respect that we give infants, adolescents and adults.

During this debate, some would attempt to justify embryonic stem cell research on the basis that we are dealing with something other than real human beings. We use the words stem cell, but we could also use the words Nathan and Noah. These are justifications based on definitions of life that are purely arbitrary.

Indeed, a human at the embryonic stage may look a little different than a human at the adult stage, but that does not make the embryo any less a human. The embryo possesses the genetic identity as it will as an adult. It is merely at an earlier stage in life.

Just as we find it unconscionable and unethical to exploit human life in the name of science during the latter stages of life, neither should we accept the exploitation of human life at its earliest stages.

Instead, we should focus our resources on supporting medical research such as cord blood and adult stem cell research that respect human lives and have an actual track record of creating cures.

Vote against H.R. 810.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, as we debate this proposal, we cannot ignore the fact that every human life begins as a human embryo. Sadly, passage of this bill will put the government and taxpayers in the position of sanctioning and funding the destruction of that human life.

Now, we all feel strongly about the need for aggressive and advanced research to cure and combat the myriad of diseases that prematurely take the lives of our friends and our family members and our fellow citizens. When we lost my father to cancer, our family certainly wished that medical breakthroughs had come sooner.

That is why I am so supportive of the rapid progress being made in the fields of adult and umbilical cord stem cell research. Cord blood stem cells have already been used to treat patients, we have been hearing, for up to 67 diseases, and it is my understanding they have the potential to become any kind of cell, similar to what embryonic stem cells do.

While I recognize that many proponents of this bill offer their support with good intentions, in this case we do have clear alternatives, and I would strongly urge my colleagues to support adult and umbilical and reject this bill.

Mr. DELAY. Mr. Speaker, I would yield 1 minute to the gentleman from Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. Mr. Speaker, I was recently asked by a kind and gentle lady my position on stem cell research. This is always a difficult question. But I told her, I am in favor of stem cell research, research that uses stem cells from cord blood and adult stem cell sources, research that is already showing great medical promise and avoids the ethically divisive issue of the destruction of an unborn human embryo, an unborn human person.

Frankly, I did not know how she would respond. And she went on to tell me that she had MS herself. And she told me that if research found a cure using unborn human embryos, that she would not take that cure, that she could not in her conscience take that cure that sacrificed a human life.

Mr. Speaker, let us set a new standard, one that aggressively promotes good research to help the sick and injured, one that respects the consciences of tens of millions of Americans who do not wish to see their tax dollars used in the destruction of unborn human life, one that supports a consistent life ethic and gives true hope to those who are suffering in our communities.

Mr. STUPAK. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I do rise today in strong support of H.R. 810.

Over the past two decades, three-quarters of the scientists who have won the Nobel Prize in medicine have studied or taught in the United States. And this is not a coincidence. Our Nation has created an environment that values innovation and discovery, especially in biological sciences. H.R. 810 will help America continue to lead in this crucial field.

Of course, there is more at stake in this debate than America's global standing. Stem cell research holds extraordinary potential to save lives and alleviate human suffering. I had a father who suffered from Parkinson's, a mother who passed away with Alzheimer's. And I am all the more convinced that we must pursue this research vigorously, because I believe it does have potential to yield results.

I would argue that H.R. 810 is worthy of our support not just for what it allows but for what it restricts. The bill requires that embryos be in excess of clinical need. It does not permit financial compensation for those embryos, and it requires the donor's written, informed consent.

This legislation appeals to hope, but it insists on caution as well. H.R. 810 is as thoughtful as it is ambitious. For that reason I urge my colleagues to support it.

Mr. DELAY. Mr. Speaker, I only have one more speaker before I close. So I yield, Mr. Speaker, 3½ minutes to the distinguished gentleman from Illinois (Mr. HYDE), who has been fighting for the culture of life his entire career. I am very honored to yield to him.

Mr. HYDE. Mr. Speaker, the reason this vote is so important is simply because the embryo is human life. It is not animal, it is not vegetable, it is not mineral, but a tiny, microscopic beginning of a human life.

Everyone in this room was an embryo at one time. I, myself, am a 192-month-old embryo. The question we face is how much respect is due to this tiny little microscopic human life. If we are truly pro-life, we should protect it rather than treat it as a thing to be experimented with.

Lincoln asked a very haunting question at a small military cemetery in Pennsylvania. He asked whether a Nation conceived in liberty and dedicated to the proposition that all men are created equal can long endure? And that question has to be answered by every generation.

What is wrong with this legislation? The motives of its sponsors are so noble. Well, I will tell you two things that are fatally wrong with this legislation. The first one is, for the first time in our national history, taxpayers' dollars are going to be spent for the killing of innocent human life. That is number one. And number two, this bill tramples on the moral convictions of an awful lot of people who do not want their tax dollars going to be spent for killing innocent human life.

Americans paid a terrible price for not recognizing the humanity of Dred Scott. We are going to pay a terrible price for not recognizing the humanity of these little embryos. We should not go down that road.

In World War II, 1940, before America got in the war, there was a publication called the Yearbook of Obstetrics and Gynecology. And Dr. Joseph DeLee wrote in that yearbook something that applies to us today. Here is what he wrote. "At the present time, when rivers of blood and tears of innocent men and women are flowing in most parts of the world, it seems almost silly to be contending over the right to life of an unknowable atom of human flesh in the uterus of a woman.

"No, it is not silly. On the contrary, it is of transcendent importance that there be in this chaotic world one high spot, however small, which is safe against the deluge of immorality and savagery that is sweeping over us.

"That we, in the medical profession, hold to the principle of the sacredness of human life and the rights of the individual, even though unborn, is proof that humanity is not yet lost."

I believe humanity is not yet lost, and this vote will tell us the answer to that question.

Mr. STUPAK. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding time to me, and I commend the gentleman for his leadership on this issue.

We have heard a lot of discussion of the three known forms of stem cell therapies that are hypothesized to treat all these diseases. One of the nice things about adult stem cell treatments and why I think they have been embraced, and part of the reason they have been so successful is, if you use a cell from your own body, there are no tissue rejection concerns.

If you use a cord blood or placental blood stem cell, there are tissue rejection concerns; but it is felt by the advocates of the gentleman from New Jersey (Mr. SMITH's) bill, such as myself, that by obtaining the bank, we would be able to enter all of your genetic information and come up with a match. And one of the questions I have for my colleagues who have been an advocate for the Castle/DeGette bill is, how, if these embryonic cells were ever proven to be useful, and that has yet to be demonstrated in the literature, how would you override the tissue rejection concerns?

Mr. Speaker, it takes us to a very important part of this debate that we really have not dwelled on very much. They say there are 400,000 embryos in the freezers, but the truth is the vast majority of those embryos are wanted.

and their own studies suggest only 275 cell lines will be available if this bill becomes law.

Mr. Speaker, the place we are going to have to go to make embryonic stem cell work, if it ever can be demonstrated to work, is creating human embryos for this purpose. And that really brings me to my point. If you are going to go down the road of creating human embryos, you really only have two options. You are going to need tens of thousands of women to donate their eggs, or you are going to have to clone. And that is why people like myself have been saying, wait to see what is next, because that is going to be the next debate.

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If this becomes law, we are going to be asked to embrace Federal funding for creating human life for this research. No longer using the so-called excess embryos, but either exploiting women for their eggs or worse, we are going down the path of cloning. And I assure you, if you find those options objectionable, they will be cloaked with the same kind of arguments that have been used to support this bill. People will say it is for the purpose of helping the sick and suffering. And what I have been saying over and over again, if you actually read the medical journals, the promise and the potential appear to be in the ethically acceptable alternatives of adult stem research and cord blood research.

Reject this bill. Vote "no" on Castle/DeGette.

Ms. DEGETTE. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I make a simple plea to save lives by supporting H.R. 810, the DeGette/Castle bill, and to help Americans who are suffering. I ask for a "yes" vote on H.R. 810 simply to save lives.

Mr. Speaker, I rise today in support of H.R. 810, the "Stem Cell Research Enhancement Act of 2005." As a supporter of the bill, I would argue that it is necessary to expand the number of stem cell lines that can be used in federally funded research in order to accelerate scientific progress toward the cures and treatments for a wide variety of diseases and debilitating health conditions—including Parkinson's Disease, diabetes, Alzheimer's Disease, ALS, cancer, and spinal cord injuries.

According to the National Institutes of Health, NIH, of the 78 stem cell lines that were declared eligible for Federal funding in 2001, only about 22 lines are actually available for study by and distribution to researchers. Further, NIH concludes that these stem cell lines are contaminated with "mouse feeder" cells, making their therapeutic use for humans uncertain. These NIH-approved lines lack the genetic diversity that researchers need in order to create effective treatments for millions of Americans.

H.R. 810 would expand the number of stem cell lines that would be made available under strict ethical guidelines. The stem cells would be derived from excess frozen fertilized embryos that would otherwise be discarded. It is estimated that there are currently about 400,000 frozen IVF embryos, which would be destroyed if they are not donated for research. The embryos could be used only if the donors give their informed, written consent and receive no money or other inducement in exchange for their embryos.

It is important for me to note that it is simply not true that adult stem cells offer the same, or better, potential for treating disease as embryonic stem cells. While embryonic stem cells have qualities that give them the potential to treat a wide variety of diseases and injuries, adult stem cells do not have those same qualities. Unlike embryonic stem cells, adult stem cells cannot be induced to develop into any type of cell. Furthermore, adult stem cells may not exist for certain tissues, and adult stem cells are difficult to identify, purify, and grow.

Unless Federal funding for stem cell research is expanded, the United States stands in real danger of falling behind other countries in this promising area of research. Researchers have already moved to other countries, such as Great Britain, which have more supportive policies. The recent announcement that South Korean researchers have produced cloned human embryos that are genetic twins of patients with various diseases, and have derived stem cells from them, shows just how far that country is going. While it is important to recognize that this bill has nothing to do with cloning, it is also important to recognize that other countries are moving ahead in stem cell research.

This bill provides a limited—but nonetheless highly significant—change in current policy that would result in making many more lines of stem cells available for research. It would do so under strict ethical guidelines. The measure has widespread bipartisan support. Passage of this bill would provide hope for those millions of Americans suffering from diseases that may be treated or even cured as a result of stem cell research

Before concluding, I would just mention that the National Academy of Sciences, NAS, recently issued a set of guidelines to ensure that human embryonic stem cell research is conducted in a safe and ethical manner. Because of the limitations of the current federal policy, only 22 stem cell lines are eligible for federal research and fall under the jurisdiction of National Institutes of Health guidelines. Specifically, H.R. 810 requires that:

The stem cells must be derived from human embryos that were donated from in vitro fertilization clinics, and that were created for the purpose of fertility treatment, but were in excess of the clinical need of the people seeking such treatment;

The embryos would not have been used for fertility treatment, and would otherwise be discarded;

The individuals seeking fertility treatment donated the embryos with informed written consent and without any financial payment or other inducement to make the donation.

In addition, the bill requires that not later than 60 days after enactment, HHS, in consultation with the National Institutes of Health, issue final guidelines to carry out the requirements of this bill. Finally, the measure requires HHS to report annually to Congress on the activities carried out under this bill. The report must include a description of whether, and to what extent, these activities were carried out in accordance with the requirements of this bill.

In closing, I urge my colleagues to support H.R. 810.

Listen to the following news reports which indicate this research as viable and of great need for so many.

Since the federal government's science officials have abdicated their traditional role in setting ethical rules for medical experimentation, the National Academy of Sciences has filled the void with useful guidelines for research with human embryonic stem cells. Acting on behalf of scientists around the country, the NAS last week issued stem cell research guidelines that should become a blueprint for ethical behavior in both the public and private sector. The Atlanta Journal Constitution, May 3, 2005.

Kudos to the National Academy of Sciences for ably filling the breach caused by the absence of federal guidelines on human embryonic stem cell research. While we prefer that rules governing research on human tissues be federal and enforceable, the National Academy of Sciences' new voluntary guidelines are a necessary stand-in. The Baltimore Sun, May 3, 2005.

With the federal government's role limited, research has been proceeding without clear, consistent guidelines . . . These and other recommendations are a good start toward ensuring that stem cell research is conducted in an ethical way . . . The federal government is still not doing all that it should, but these recommendations ought at least to help the private companies and states that are moving ahead with research that offers so much hope for many Americans. The Winston-Salem Journal, May 3, 2005.

The National Academy of Sciences gave a much needed boost to embryonic stem cell research last week when it issued ethics guidelines that should help researchers find a clear path through a minefield of controversial issues . . . they will give practicing scientists the assurance that they can proceed with their work while adhering to principles endorsed by a panel of distinguished scientists, ethicist, and others. The New York Times, May 2, 2005.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Delaware (Mr. CASTLE) has 3½ minutes remaining.

Mr. CASTLE. Mr. Speaker, I would like to thank both the Republican and Democratic leadership for allowing this to take place here today.

Sometimes there are issues of such critical social importance that it is only right that the Congress of the United States do this in the open, and they did that and for that we should all be very appreciative.

I just want to leave my colleagues with some closing thoughts, perhaps some of the things I started with. There are 110 million people just in the United States of America out of 290 million who have some sort of illness that potentially could be helped by the use of embryonic stem cells. Most of those will never be helped by the use of adult stem cells. We know that anything other than just the use of adult stem cells in blood tissues has been experimental at best and probably will never work.

I would encourage everyone to use their conscience as they vote today, to think about their constituents at home. We talk about life, and I do not necessarily want to get into that argument back and forth, but the bottom line is there are a lot of lives that are being foreshortened in the United States of America and across the world that perhaps could be lived out to their fullest if that opportunity was given to the individuals involved.

Remember that this research is going on at the private sector level. It is also going on at the State level. It is even going on to a degree at the Federal level. There has been $60 million spent over 3 years on this research at the Federal level, and about $625 million has been spent on adult stem cells at the Federal level. So the research is going on at the time.

Our ethic standards in this bill, and if you read it, it is only 3 pages long, exceed any ethical standards that have ever existed before including what the President had before.

The National Institutes of Health said: "Human embryonic stem cells are thought to have much greater developmental potential than adult stem cells. This means that embryonic stem cells may be pluripotent, that is, able to give rise to cells found in all tissues of the embryo except for germ cells rather than being merely multipotent, restricted to specific subpopulations of cell types, as adult stem cells are thought to be."

That is where the science is. You can argue all you want, but if you do any extensive reading on this, that is where the science is. These are the stem cells which can make a difference, the embryonic stem cells.

There are discussions of dollars. There are no dollars used directly in the destruction of embryos at an in vitro fertilization clinic. There are dollars used in the research ultimately. But let us look at that. Let us consider what that is all about.

At the end, when those who have created the embryo make the decision that they no longer need or want that particular embryo, the physician has to make a decision about what to do with it. There are some options there. Not a lot of options. One of them is to give that particular embryo up for adoption. Some people do not choose to do that. There have only been fewer than 100 so far. And I think that is wonderful. I think that option should be offered.

Some people may make other decisions, but basically it will be one of two decisions if this legislation passes. One is to put it into hospital waste, warm it up to room temperature, thereby destroying it at that point and doing it that way, or to be giving it up for research. And my judgment is if that is a decision, why are we not helping the 110 million people out there who need help, as opposed to allowing this to go to hospital waste because it will happen anyhow.

If you do not like that, you better go out and lobby against what they are doing in in vitro fertilization clinics, and I do not think that we want to do that.

There are about 400,000 of these embryos. That is probably a low estimate today. That is an estimate of about 3 years ago. About 2 percent are given up a year. That is 8,000. The numbers that are more limited than that are just wrong. A lot of people now, if this passes, are going to be offered the opportunity to give up the embryo for research instead of hospital waste, and they are going to make that decision, and we will get the kind of work that we need.

I would just close by saying that 14 out of the 15 diseases that are most likely to kill people in the world are not ever going to be helped by adult stem cells. We need to do this. With your vote today you can provide hope to tens of millions of Americans and many more around the world. Support H.R. 810.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. STUPAK) has 2 minutes remaining.

Mr. STUPAK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, there has been a lot of discussion today about the quality of adult stem cells and they are not as versatile as embryonic stem cells. There are a number of things that show adult stem cells are highly versatile and just as effective if not more effective than the predicted embryonic stems.

The list of these studies is as follows:

Myth: Adult Stem Cells are Not as Versatile as Embryonic stem cells.

Fact: A number of studies show adult stem cells are highly Versatile.

1. Professor Alan Mackay-Sim of Griffith University in Australia published a study showing that olfactory stem cells could develop into heart cells, liver cells, kidney cells, muscle cells, brain cells and nerve cells. (Murrell W et al., "Multipotent stem cells from adult olfactory mucosa". Developmental Dynamics published online 21 March 2005.)

2. Dr. Douglas Losordo at Tufts University showed that a type of bone marrow stem cell can turn into most tissue types, and can regenerate damaged heart. "This discovery represents a major breakthrough in stem-cell therapy," said Dr. Douglas Losordo. "Based on our findings we believe these newly discovered stem-cells may have the capacity to generate into most tissue types in the human body. This is a very unique property that until this time has only been found in embryonic stem cells." (Yoon Y-s et al., "Clonally expanded novel multipotent stem cells from human bone marrow regenerate myocardium after myocardial infarction". Journal of Clinical Investigation 115, 326–338, Febru9ary 2005.)

3. In July 2004, research conducted in Germany, led by Dr. Peter Wernet found a type of umbilical cord blood stem cell, they call USSC's (unrestricted somatic stem cells), that they showed can turn into several different cell types, including brain, bone, cartilage, liver, heart, and blood cells. It showed that the cells can turn into all three germ layers, showing they are pluripotent. (Kogler G et al., "A new human somatic stem cell from placental cord blood with intrinsic pluripotent differentiation potential". J. Experimental Medicine 200, 123–135, 19 July 2004.)

4. In June 2004, researchers showed that human bone marrow stem cells have pluripotent potential. (D'Ippolito G et al., "Marrow-isolated adult multilineage inducible (MIAMI) cells, a unique population of postnatal young and old human cells with extensive expansion and differentiation potential", J. Cell Science 117, 2971–2981, 15 July 2004 (published online 1 June 2004)

5. This study shows that blood stem cells can form cells from all 3 primary germ layers, including endothelial cells, neuronal cells, and liver cells. (Zhao Y et al.: "A human peripheral blood monocyte-derived subset acts as pluripotent stem cells"; Proceedings of the National Academy of Sciences USA 100, 2426-2431; 4 March 2003)

6. Researchers found bone marrow stem cells in females that received transplants from male donors. Researchers found the Y chromosome in the brain, showing that bone marrow stem cells generated neurons. (Mezey E et al.; "Transplanted bone marrow generates new neurons in human brains"; Proceedings of the National Academy of Sciences USA 100, 1364-1369; 4 Feb 2003)

7. Another group of researchers showed that bone marrow stem cells can form all body tissues. (Jiang Y et al.; "Pluripotency of mesenchymal stem cells derived from adult marrow"; Nature 418, 41-49; 4 July 2002)

8. In 2002, Catherine Verfaille has turned these bone marrow stem cells into skin, brain, lungs, heart, retina, muscle, intestines, kidney and spleen. University of Minnesota researchers found a certain type of bone marrow stem cell (called a multipotent adult progenitor cells (MAPCs)) that could be turned into the three primary germ layers (endoderm, ectoderm, ectoderm and mesoderm). (Nature advance online publication, 23 June 2002 (doi: 10.1038/nature 00870)

9. A single adult mouse bone marrow stem cell can form functional marrow, blood cells, liver, lung, gastrointestinal tract, skin, heart and skeletal muscle according to researchers Dr. Neil Theise of NY Univ. School of Medicine and Dr. Diane Krause of Yale Univ. School of Medicine (Krause DS et al.; "Multi-Organ, Multi-Lineage Engraftment by a Single Bone Marrow-Derived Stem Cell"; Cell 105, 369-377; 4 May 2001)

Mr. Speaker, we have heard a lot of arguments. In fact, we just heard again that in fact we throw these cells away when we are done. We do not want them. There is nothing we can do with them so we should use them for medical research or else it will just be medical waste.

I must ask again, is that what we have come to as a Nation that in viewing embryos, that if allowed to grow and divide could become human beings but we will just treat them as human waste?

The proponents of H.R. 810 are so adamant that we do research specifically using embryonic stem cells. And why embryonic stem cells? Because they are the best hope according to proponents of finding cures. They say medical science can unlock these keys to life. We can cure any illness, any disease, or any injury.

The proponents argue we must create life, the embryo, and then destroy the embryo through research to unlock the mysteries of life; create and clone the building blocks of life so we can manipulate and experiment. I believe as a country and as a culture that is a line we should not cross.

We heard today about other research with adult stem cells, cord, placenta, bone marrow, fetal tissue, and how about unraveling our DNA through the mapping of the genome, all in the pursuit of finding medical cures.

But where do we draw a line on medical research and say we as a Nation, as a people, will not cross that line? This question has not been adequately addressed in this legislation.

When do embryos become life? We have heard all kinds of figures today. After 40 hours? That is less than 2 days after fertilization when we are able to check embryos for division and fertilization. Or is it 5 days when the embryos may be called blastocysts? At this stage, they are approximately 250 cells. Or do we allow the blastocysts to survive in the laboratory culture for up to 14 days and still then not call them human life, but blastocysts so they are open to experiment and research?

When does life become scientifically non-existent? That is the question as elected representatives we have not yet answered. H.R. 810 does not answer that. Vote "no" on H.R. 810.

Mr. DELAY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, what we have before us today is not a debate as some have suggested between science and ideology, but between aspirations and actions. Both sides of this debate wish to ease human suffering.

So what divides us is not our ends, but the means to which we would resort to pursue those ends. That is why the Castle bill must be defeated, because while we are motivated by our aspirations, we are defined by our actions; and the Federal Government simply cannot sanction the actions authorized and funded by this legislation.

For all the arguments we have heard today, scientific, ethical, political, the debate for and against the Castle bill, for and against the authorization of Federal taxpayer dollars to fund medical research predicated on the destruction of human embryos is in essence a question of the level of respect and dignity our government chooses to grant human life in its earliest stage. That embryos are human beings is not a political dispute. An embryo is a person, a distinct, internally directed, self-integrating human organism. An embryo has not merely the potential to become a human being. It is one, and as such, just like a newborn or a toddler or a teenager, possesses instead the internally directed potential to grow into adulthood, to become in a sense what he or she already is.

An embryo is whole, just unfinished, just like the rest of us. We were all at one time embryos ourselves, and so was Abraham, so was Mohammed, so was Jesus of Nazareth and Shakespeare and Beethoven and Lincoln. And so were the 79 children, those snowflake children, those snowflake children ages 6 and under who have been adopted. Do not throw them away. Adopt them.

These children have been adopted through different programs, but particularly the Snowflake Embryo Adoption Program, who under the Castle bill and its predictable progeny might otherwise have been destroyed in a petri dish, these children that were embryos.

An embryo is nothing less than a human being, a fact both morally intuited and scientifically unquestioned. What level of respect and dignity, then, should our government grant such little creatures, these tiny beings who our eyes suggest are not like us but who our hearts and minds know in fact are us?

The Castle bill is very clear, and though I oppose it, its clarity well serves both sides in this debate. The Castle bill says essentially that the potential medical and scientific progress represented by an embryo's stem cells justifies, justifies taxpayer funding for the destruction of that embryo through the harvesting of the stem cells.

Of course, it is not the hoped-for end of the Castle bill that we oppose, nor necessarily, among some on this side of the aisle, even its destructive means, but instead the entitlement of those destructive means to Federal tax dollars.

After all, human embryos are being harvested for medical research every day in this country. We just do not think the government should be forcing the American people to pay for it, especially considering the discouraging track record of the kind of research the Castle bill has in mind.

To date, Mr. Speaker, none, none, not one of the countless and extraordinarily well-endowed private embryo-cell-harvesting projects has yielded a single treatment for a single disease. Not one.

Embryonic stem cell therapies which are by design definitely untherapeutic to the embryos have in fact proven to be similarly harmful to those patients the treatments were supposed to help.

Harvested embryonic stem cells are typically rejected by the host patient and often form cancerous tumors as a byproduct of that rejection. That is to say, Mr. Speaker, it does not work.

And, indeed, many embryonic stem cell experts concede that such research will not yield results for decades, if at all, if ever. In truth, then, it is not the ends that would supposedly justify the grizzly means of the Castle bill, but the mere aspiration to those ends.

On the other hand, better developed stem cells from the umbilical cords of newborn babies and the bone marrow of fully grown adults have led to treatments of no fewer than 67 separate diseases.

Based on this successful track record, the biomedical industry is pouring its own money into adult stem cell research. It is the smart investment.

In other words, Mr. Speaker, the Castle bill would throw taxpayer money at the same unsuccessful research that companies with the financial motivation for developing such research are avoiding. It just does not work.

Indeed, one might say the stubborn advocacy of embryonic harvesting in the face of the overwhelming clinical evidence of its futility might be a genuine case of ideology trumping science.

But what if it did work, Mr. Speaker? What if all the Utopian comments of the Castle bill's proponents were to come true? What then?

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What if we could be sure that government-funded destruction of human embryos could do all the things we are asked to believe? Well, in that case, Mr. Speaker, we would still be right to oppose it because in the life of men and nations, some mistakes you cannot undo. Some mistakes do not just come back and haunt you, they define you.

A decision by our government to sanction embryo harvesting here at the very dawn of the biotechnology age could come to own us, for the paltry research sum envisioned by the Castle bill is but the first generation, the first drop of the deluge. Its offspring will ultimately include cloning, genetically engineered children, a black market of human body parts, and a global economy organized around the exploitation and hyper-ovulation of impoverished women and girls for their eggs.

If the mere aspiration of ends justify the means here, in our first ethical challenge of the biotechnology age, how could we hope for a higher standard the next time? Which returns me to the irreducible question of this debate: What level of respect and dignity ought this government grant defenseless unburdensome human life at its earliest, most vulnerable stage?

Given the biological fact of a human embryo's membership in the human family, given the technological necessity of embryonic destruction as a precondition of embryonic stem cell research, given the medical reality of embryonic stem cell research's consistent therapeutic failure, given the moral catastrophe of means-justifying-the-ends morality, and given the physical revulsion people instinctively feel when considering the destruction of defenseless human life by scientists in lab coats; given all these factors, the answer a proponent of taxpayer-funded embryonic stem cell harvesting and research must give is "none." For if we afford the little embryos any shred of respect and dignity, we cannot in good faith use taxpayer dollars to destroy them.

I wish there was another way, Mr. Speaker, but there is not. It is just wrong, not as a matter of ideology or even fate, but as a matter of respect and dignity.

We are not asking anyone here to recognize the rights of human embryos, but the wrongs of human adults. This is not about the embryo's standing as a juridical person, but our standing as moral persons. Because the choice to protect a human embryo from federally funded destruction is not ultimately about the embryos, it is about us and our rejection of the treacherous notion that while all human lives are sacred, some are more sacred than others. I heard it said here today, Some are more sacred than others.

Like our embryonic cousins, Mr. Speaker, our Nation is whole but unfinished. The issue is a test in which we are asked out of good and pure intentions just this once, just this tiny little bit, to let the ends justify the means, to let the noble aspirations justify ignoble actions.

In this test, in this vote, then, we have an opportunity today to speak truth to the power of biotechnology, to rise up against the prevailing winds of human excess and hold fast to the dignity of human life upon which all other worldly truths are based; to ensure our appetite for knowledge is checked by our knowledge of our appetites; to stand up, as only America can, in the name of the least among us, whom we serve, and become the people we are.

I ask my colleagues, seize the opportunity and vote "no."

Ms. DEGETTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first I would like to give my heartfelt thanks to my partner, the gentleman from Delaware (Mr. Castle), our bipartisan whip team, the 201 cosponsors of this bill, and so many others who spoke today from the bottom of their hearts.

More than 100 years ago, Justice Oliver Wendell Holmes recognized that we are living in an increasingly complex world and that "the chief worth of civilization is just that it makes the means of living more complex." This world, he says, "calls for great and combined intellectual efforts instead of simple, uncoordinated ones."

The truth of Justice Holmes' words in today's complex world is best seen in the state of scientific research. We are on the verge of breakthroughs that will cure diseases that affect tens of millions of Americans. Yet some want to turn away from this potential, to refuse to even acknowledge its existence, simply because they do not understand the complexity of this issue. This refusal is slowing the process of ethical science and, worse, delaying advancements that could cure diseases that affect patients and families around the world.

Our constituents want more from us. They want their elected officials to thoughtfully examine tough issues like embryonic stem cell research, and create policies that address both practical and ethical challenges. They also expect us to consider these issues not as Democrats or as Republicans, not as pro-life or pro-choice, but as people with family members and friends whose lives could be made better or even saved by our decisions.

Passing H.R. 810 will allow the Federal Government to enable scientists, not politicians, to determine whether embryonic stem cell research will lead to cures for diseases that now plague us, and it will do so while establishing the clear and strict ethical guidelines that are absent today.

In 2001, the President issued his executive order establishing the current embryonic stem cell research policy in an attempt to balance bioethics and science. In the last 4 years, it has become clear that the policy has failed on both counts. Research has been stymied in this country, going into private hands and offshore. Research moves ahead, but not with the resources and coordination of the National Institutes of Health and without clear ethical standards.

I recognize that new science creates new moral dilemmas. That is why our bill sets explicit controls on how stem cell lines can be created. It gives another option for embryos created for in vitro fertilization, embryos created in petri dishes, that would otherwise be destroyed so that they can be used to potentially save or extend lives. It gives the patients for whom the embryos are created the decision on how they will be used: as now, freezing for possible future use; discarding them as medical waste or donating them to other couples for implantation: and if this bill passes, another option, donating them for critical research that could save millions of lives of people who are already born.

Here is why we need to pass this bill. These are two young brothers from Denver, Colorado. Wyatt and Noah Forman. Both of these boys have Type 1 diabetes, and both of them have been diagnosed since they were 2. A couple of months ago, little Noah had convulsions in the middle of the night from low blood sugar. His parents thought they would lose him, and now they cannot sleep at night. Without a cure, Wyatt and Noah face possible complications ranging from a heart attack to kidney failure or even blindness as they grow up.

How can we tell these boys, these two boys and millions of others, that we would rather throw the embryonic stem cells that could provide them a cure than to allow them to be donated for science? How can we tell our colleagues, the gentleman from Rhode Island (Mr. Langevin) and the gentleman from Illinois (Mr. Evans), our mothers with Alzheimer's, our brothers with Lou Gehrig's disease, the millions of Americans who are praying for a cure and for whom embryonic stem cell research may hold the key, Sorry, the Federal Government is opting out?

Let us not let 1 more year, 1 more month, or 1 more day go by without acting. Let us reclaim the Federal Government's role as the leader in ethical basic research. Let us give those whom we are sworn to represent hope. Let us pass H.R. 810.

Mr. BARTON of Texas. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Pennsylvania (Mr. Dent).

Mr. DENT. Mr. Speaker, I rise in support of H.R. 810.

Mr. Speaker, I rise today to speak on behalf of H.R. 810, the Stem Cell Research Enhancement Act of 2005.

Today there have been bills presented that discuss, among other things, the merits of embryonic stem cell study versus cord blood cell utilization. This discussion, while interesting, misses the point of promoting stem cell research in general: Scientific breakthroughs that may originate from stem cell examination have the power to better, and even save the lives of our fellow citizens afflicted with terrible diseases. Stem cell research holds out hope for those suffering with, for example, diabetes, Parkinson's, and coronary heart disease, the number one killer of adults in this country. We must encourage this research, and the legislation offered by my colleagues from New Jersey and Delaware is an important step forward in our attempts to find cures for these diseases.

Moreover, the Stem Cell Research Enhancement Act promotes the establishment of ethical standards with regard to the procurement of embryos utilized in the research. The only embryos that can be utilized are ones that were originally created for fertility treatment purposes and are in excess of clinical need. Further, the individuals seeking fertility treatments for whom those embryos were created have determined that these embryos will not be implanted in a woman and will be otherwise discarded. Finally, these same individuals have provided written consent for embryo donation.

The development of standards, both ethical and clinical, is an important aspect of stem cell research. This bill directs that the National Institutes of Health develop guidelines to insure that researchers adhere to the highest possible principles in scientific inquiry. Here we have a unique opportunity to establish national standards that will become the benchmark for scientific study throughout the world. By encouraging scientific breakthroughs while at the same time observing the highest possible standards of ethical and clinical behavior, we can go a long way towards battling genetically-based diseases that have ended the lives of so many.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first of all, I want to thank the majority leader, the gentleman from Texas (Mr. DELAY), for the tenor of the debate today and for granting extended time and making sure all points of view have been heard on this important issue.

Although I am going to vote for Castle/DeGette, I do not necessarily speak as an advocate for its passage as much as I want to speak about why I have decided to vote for it.

I respect Members on both sides of this issue. I made sure that members of the committee I chair, the Committee on Energy and Commerce, regardless of their position, had an opportunity to speak and put their comments on the record.

I come at this as a 100 percent pro-life, lifetime, voting Member of Congress. As I said earlier, this will be my second vote this year where I have not adopted the pro-life position. So I am not quite 100 percent any more, but I would think that 99.8 percent over 21 years qualifies me as a pro-life Congressman.

I have also voted numerous times for our defense bill, where we have voted hundreds of billions of dollars to defend our Nation and put our young men and women at risk, some of them that might have to give up their lives. I have voted for many bills for our law enforcement officials, where again they may have to give up their lives to protect the common good.

Now, you might say, yes, but in those instances they were adults and they had free will and they voluntarily made a choice that they might have to sacrifice their lives.

Well, I accept and support that an embryo is a life. I agree with the gentleman from New Jersey (Mr. FERGUSON) that we were all embryos once. I understand that. And, obviously, at 7 days or 14 days, embryos do not have consciousness. They do not have free will. They do not have the neuro cells or brain cells to make a decision whether they want to voluntarily make a sacrifice. I understand that.

But I would say this: If they did, out of the 400,000 that we think may be in existence, if you narrow that down to the 2.8 percent that the gentleman from Texas (Mr. DELAY) talked about that are probably not going to be used for reproductive purposes, if they did, would not some of them, knowing the stakes, volunteer? It only takes one, the right one, that magic silver bullet embryo that creates that magic stem cell that can be replicated into any of the 200 cell lines that make up the human body.

If I had that opportunity, might I not take advantage of it? Somebody would. And since they cannot, because they do not have consciousness, under a traditional law in this United States of America we give custody to the parents. A parent will make a decision at some point in time, or a family member will make a decision at some point in time that perhaps they do not want to put up for adoption, which is the decision I would make.

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Why not? In addition to the cord blood bill that we have just passed, why not make it possible for some of these under the conditions in the Castle/DeGette bill for some to be used for research purposes. It does not take many. I respect those who say, no, you cannot do it at all. But I also say given a choice, let us err on the side of opportunity. That is why I am going to vote "yes."

Mr. CARDIN. Mr. Speaker, I rise in support of H.R. 810. This bipartisan legislation will enhance existing stem cell research and help our nation's scientists make significant progress toward the development of treatments for conditions affecting more than 100 million Americans.

But this is not just about Americans. For years, our country has led the world in medical advancements, and people from around the globe travel here for medical education as well as for lifesaving care. Today, the House is considering opening new lines of research—research that will help the United States retain its place as a world leader in this burgeoning new field, while helping to alleviate the pain and suffering of many around the world.

Current federal policy, put into place by President Bush on August 9, 2001, allows federal funds to be used to support research from the stem cell lines that existed on that date, but it bans the creation of additional stem cells from embryos that are stored at in vitro fertilization clinics. To many observers, this policy seemed a reasonable compromise at the time, as many scientists believed that the existing 78 stem cell lines would be available for use. In fact, only 22 lines are available and some of these were found to have been contaminated from contact with mouse "feeder" cells. In addition, the 22 available lines were developed using science that has since seen significant improvements. Scientists at the National Institutes of Health report that these lines also lack the genetic diversity necessary to perform extensive research for diseases that disproportionately affect minorities. These deficiencies decrease the overall number of opportunities available for our scientists and undermine potential progress in the stem cell field. In essence, our policy has discouraged scientific exploration by restricting the extent of research. It is wrong for Congress to tie the hands of our scientists while millions of Americans suffer.

Since the President's policy was implemented, I have heard from hundreds of Marylanders who have been diagnosed with debilitating illnesses, including leukemia, diabetes, Parkinson's disease, Alzheimer's disease, and spinal cord injuries. They are grateful for the federal research funding that Congress has provided in past years, particularly the doubling of the NIH budget over a five year period, and they look to the future with hope that more effective treatments and someday, cures, will be forthcoming.

I have also heard from the academic medical centers across the country. These are the places where the most complex medical procedures are performed, where medical school graduates from around the world are trained, where our most groundbreaking research is conducted. Two of the finest academic medical centers are located in Baltimore—the University of Maryland Medical Center and the Johns Hopkins University Medical Center. This bill presents an opportunity to expand their ability to make life saving and life extending discoveries.

Some of my colleagues have raised ethical concerns about stem cell research, and I believe that this bill effectively addresses these concerns. The authors of this bill, Mr. CASTLE and Ms. DEGETTE, have written this legislation so as to not encourage the creation of human embryos for research or for any other purposes. This bill stipulates that all embryos used for research must have been originally created for in vitro fertilization and are in excess of clinical need; it requires that the embryos would not have been implanted and would have otherwise been discarded; and it requires donors to provide written consent before embryos may be donated for research. These guidelines are ethically sound; they help ensure that enhancing stem cell research policy will not come at the expense of respect for human life.

It is not certain that stem cell research will result in cures, but it is fairly certain that if we close off promising avenues, such as stem cell research, finding those therapies and cures will take much longer.

In 2001, two months before President Bush issued his stem cell policy, Sue Stamos and her daughter, Faith, came to visit me in my office. At the time, Faith was three years old—a very brave little girl who had been diagnosed with juvenile diabetes. Sue asked for my support for federal research to help find a cure for Faith, and I promised to do everything I could to help. Back in June of 2001, our knowledge of stem cell research's potential was nowhere near what it is now, and we did not yet know what the President would propose. Today, we have much broader and deeper knowledge about the scientific possibilities of stem cells, but much less capacity to research stem cell lines than we had anticipated. Today, I will vote to keep my promise to Sue and Faith Stamos and to the thousands of other Marylanders who are waiting for cures. I will vote to expand the stem cells lines available for federally funded research.

Mr. Speaker, in closing, I must note that stem cell research is a controversial and emotional subject. It touches on questions of human suffering, medical ethics, scientific potential, the role of government, moral considerations, and life itself. H.R. 810 strikes the right balance. It encourages research, but it does not encourage the creation of embryos for research purposes. It allows us to support the efforts of the brilliant scientists in our research institutions who have dedicated their careers to alleviating the suffering of others. It allows us to honor the wishes of in vitro fertilization donors who want to make a contribution toward medical advancement. It was right for the leadership to allow a vote on this important bill, and it is right for the House to pass it.

I urge my colleagues to join me in supporting H.R. 810.

Mr. HIGGINS. Mr. Speaker, I rise in strong support of H.R. 810, to provide for human embryonic stem cell research. The measure is a crucial first step toward helping millions of people who suffer today from diseases that are currently without treatment. By broadening the federal government's investment in this nascent technology, I am confident that we will be able to offer help to these men, women, and children that would be impossible by conventional means.

The room for growth in embryonic stem cell research is exponential. According to the National Institutes of Health, this work may one day be used in gene therapy and to overcome immune rejection. Heart disease, Alzheimer's, Krabbe disease and stroke are just a few of the maladies that this research could help to treat and eventually cure.

My region in Western New York has a number of great research institutes that boast a rich history of tackling devastating health afflictions. For example, Roswell Park Cancer Institute (RPCI), located in Buffalo, implemented the nation's first chemotherapy program.

RPCI's Center for Pharmacology and Therapeutics is one of few in the nation capable of all phases of drug development, from the conceptual stage through manufacturing and testing. This year, RPCI's strong basic and clinical research programs attracted major research grants and contracts totaling more than $75 million. The Institute has sponsored or collaborated on more than 350 clinical trials of promising new cancer treatments and its developing cancer genetics program will rival the world's leading programs in that field.

The Institute has also made significant contributions to the landmark human genome project, and its new Center for Genetics and Pharmacology will adjoin the University at Buffalo's Center of Excellence in Bioinformatics and Life Sciences and the new 72,000 sq. ft, $24 million Hauptman-Woodward Medical Research Institute building that opened less than two weeks ago. The three centers form a state-of-the-art life science cluster in downtown Buffalo that will transform lives in my district and across the world through the cutting edge stem cell and genomic research.

Western New York has made a commitment to curing disease, caring for the sick and preventing the needless loss of life wherever possible. Our innovative institutes, led by some of the best researchers in the world, can make an immeasurable difference in people's lives. It would be unconscionable, now that we are so close to the ability to use stem cells to fight off the diseases and maladies that plague us, for us to turn our backs and withhold that care. Mr. Speaker, I urge the House to pass H.R. 810. We have the tools to save lives; it is now our duty to use them.

Ms. ESHOO. Mr. Speaker, today the House is considering H.R. 810, the Stem Cell Research Enhancement Act of 2005, which expands funding for embryonic stem cell research. As an advocate of stem cell research, I'm proud to be an original cosponsor of this legislation because I believe that this critical research can lead to cures for Type 1 Diabetes, Parkinson's disease, Alzheimer's disease, paralysis caused by spinal cord injury, and other serious health problems.

Over 3,000 people die every day in the United States from diseases that may some day be treatable as a result of stem cell research. Now is the time for Congress and the Administration to recognize that the current policy does not work.

In 2001, President Bush crafted a policy to allow limited federal support for some embryonic stem cell research. Four years later, however, it's clear that his policy has hindered progress. Today, of the 78 stem cells lines approved for federal research, only 22 are available to researchers. These 22 lines are not only contaminated but were also developed with outdated techniques.

Under H.R. 810, embryonic stem cell lines will be eligible only if embryos used to derive stem cells were originally created for fertility treatment purposes and are in excess of clinical need. Today, there are thousands of surplus embryos from fertility treatments that will never be used and will likely be discarded. We should allow parents to donate these embryos for use in federally-funded stem cell research.

This November, my home-state of California approved a $3 billion ballot initiative supported by Governor Schwarzenegger to fund embryonic stem-cell experiments. It is the largest state-supported scientific research program. This initiative puts California at the forefront of the field and exceeds all current stem cell projects in the United States.

However, with the Federal Government on the sidelines, scientists are still reluctant to pursue stem cell research and the private sector is unwilling to invest in the field. We are losing ground to the rest of the world. As the Washington Post reported last Friday (May 20, 2005), South Korea is leapfrogging ahead of us and is developing techniques proving that stem cell research is robust.

Now, the public, researchers and industry are looking to Congress for leadership. Stem cell research should not be about politics. It should be about science, medicine and hope. We have an opportunity to help end the suffering of millions of people with chronic or terminal diseases, and we should seize it.

Stem cell research is not only critical to saving lives but it also stimulates our Nation's economy. Stem cell research is the next "big thing" in biotechnology after the human genome project. Long-term economic growth depends on productivity, productivity depends on technology, and technology ultimately depends on basic science, which is why any policy restricting federal funding for embryonic stem-cell research threatens the long-term health and vitality of the U.S. economy. Biotechnology is at a stage of development similar to where information technology was in the late 1980s—ready to explode.

For our leadership in science and technological leadership, where innovative leading-edge research is carried out matters a great deal, but under the current policy we're leaving the field even before the game has begun.

Now the President has said he will veto this bill. He may succeed in stifling stem cell research in our country, but he will not stop scientific progress. It will occur elsewhere. If the U.S. fails to embrace stem cell research, we will only slow progress in treating disease and cede our leading role as a technological leader.

The Federal Government should be in the business of encouraging and assisting research that can help save the lives of its citizens. The Stem Cell Research Enhancement Act of 2005 accelerates scientific progress toward cures and treatments for a wide range of diseases while simultaneously instituting stronger ethical requirements on stem cell lines that are eligible for federally funded research.

I urge all my colleagues in the House to support this legislation.

Mr. MEEHAN. Mr. Speaker, I rise in support of H.R. 810, the Stem Cell Research Enhancement Act, to put science and compassion ahead of ideology and fear.

The promise of embryonic stem cells is that they alone have the potential to develop into any kind of body tissue, including blood, brain, muscle, organ, or nerve tissue. Scientists believe that this unique ability might lead to breakthroughs in a number of illnesses that are now untreatable. Over 100 million Americans suffer from diseases and conditions that may one day be treated using stem cell therapies, including Alzheimer's, Parkinson's, juvenile diabetes, Lou Gehrig's disease, severe burns, and spinal cord injuries.

For the very reason that we do not yet know what kind of treatments stem cell research will yield, it would be unwise not to explore the possibilities.

As one researcher at Harvard Medical School and Boston's Children's Hospital recently wrote in the New England Journal of Medicine, "the science of human embryonic stem cells is in its infancy." Restricting stem cell research now "threaten[s] to starve the field at a critical stage." It's critical to understand the science of stem cell research to weigh the moral and ethical issues involved. This bill allows funding of research on stem cells that are harnessed from fertility clinics.

In vitro fertilization is a technology that has allowed millions of couples to share in the joy of childbirth. It results in the creation of embryos that are never implanted into the womb, never grow to be more than a handful of cells, and would otherwise be discarded. Harnessing stem cells for medical research from fertility clinics is a compassionate, pro-family, and pro-life position.

As one of the world's foremost centers of medical research, Massachusetts has much at stake in the stem cell debate. Not only are our hospitals, research facilities, and institutions of higher learning on the cutting edge of conquering disease, they are also major economic drivers keeping us competitive in the global economy and employing tens of thousands of people.

Massachusetts has over 250 biotech firms. That is more than all of Western Europe combined.

If we continue the current ban on stem cell research, it does not mean that research will stop elsewhere. But it would put America—the world's most powerful engine of innovation and progress—on the sidelines.

Mr. Speaker, America should be leading the world in using our compassion and our scientific knowledge to develop lifesaving therapies. I urge support for H.R. 810.

Ms. LEE. Mr. Speaker, as an original cosponsor of H.R. 810, I rise in support of the Stem Cell Research Enhancement Act.

I want to applaud my colleagues Rep. CASTLE and Rep. DEGETTE for working together to introduce this common sense bi-partisan measure.

Mr. Speaker, we know that our population is aging. Debilitating chronic diseases like cancer, Parkinson's, Alzheimer's, and diabetes are becoming far more common.

Diabetes in particular is a huge problem, and like many other diseases, minority communities are disproportionately affected by it.

In my district in Alameda County, approximately 13.4 percent of African Americans have been diagnosed with diabetes compared to 4.5 percent of Whites. And the diabetes death rates of Latinos and African Americans are as high as 2–2.5 times those of Whites.

Expanding the number of embryonic stem cell lines available for research will assist scientists to develop therapeutic treatments and cures for diabetes and a range of other diseases.

By passing this bill we will not only help to improve the health and well being of the public, but we will also help to eliminate future chronic health care costs and improve the health of our economy as a whole.

I urge my colleagues to support this bill.

Mr. SWEENEY. Mr. Speaker, it is important that I give voice to the important issue of stem cell research. This is not an issue that anyone takes lightly. Life is precious in all forms, and it is important to do all that we can to ensure issues surrounding life and quality of life are given the highest priority.

Millions of Americans suffer from debilitating diseases like Juvenile Diabetes, Parkinson's disease, Alzheimer's and a host of other diseases that reduce the quality of life or cause loss of life. Stem cells derived from embryos have shown tremendous promise in the fight to rid society of many of these diseases. In 2003 alone there were 1,681,339 deaths from diseases that could benefit from this research.

Many couples across America struggling to have children benefit from In Vitro Fertilization, a process where embryos are created to provide couples with the potential to have children. In many cases, couples have left over embryos that would be destroyed. This legislation simply provides the opportunity for those embryos to save lives already being lived.

Lives being lived by people like Tambrie Alden from Glens Falls, NY. Tambrie has had Juvenile Diabetes for 28 years. She goes through 10 daily finger sticks a day and has worn an insulin pump for 10 years. Each day brings a different battle for Tambrie; she must constantly monitor the highs and lows of her condition. Tambrie has had over 200 laser eye surgeries due to Juvenile Diabetes, which also continues to attack her organs ability to function properly.

On Sunday, Tambrie turns 47. She celebrates every birthday to the fullest, because when she was diagnosed with Juvenile Diabetes, the doctors told her she would not live past 43. Tambrie lives on borrowed time and worries about losing her sight and not being able to see her grandchildren grow up. She knows that embryonic stem cell research probably won't help her, but she prays the promise it holds will ensure that her grandchildren don't have to suffer as she has. That's why we are here today, to make sure that people like Tambrie can live their lives to the fullest.

This action is limited to promoting responsible research with embryos that would be destroyed otherwise. Congressional oversight on this ethically sensitive issue is the right balance to ensure that our nation remains diligent in our approach to medical research, while taking important steps to improve the quality of life for those who suffer from debilitating diseases.

The bill establishes strict standards for use of fertility clinic embryos. First, written permission is required of the couple donating the embryo. Second, there can be no financial compensation, much like organ donation. Finally, the legislation requires the National Institutes of Health to establish strict oversight for the scientific community to ensure ethical guidelines are adhered to.

Embryonic stem cell research is a new form of research in the early stages. I am fundamentally opposed to cloning embryos or creating embryos for scientific research. This legislation does not allow cloning, it merely ensures that embryos already created and unused serve a higher purpose than being destroyed.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in support of H.R. 810, the Stem Cell Research Enhancement Act and H.R. 2520, the Stem Cell Therapeutic and Research Act that we debated earlier today. Both bills would expand stem cell research, which holds tremendous promise to curing and treating some of the most devastating diseases and conditions facing Americans today. This issue is about medical research coupled with high ethical standards and providing hope to those most in need—it should have no role in any party's political agenda.

In 2001, President Bush announced that for the first time federal funds could be used to support limited research on human embryonic stem cells, specifically "existing stem cell lines where the life and death decision has already been made." Under this policy, only 78 embryonic stem cell lines are eligible for use and according to the National Institutes of Health (NIH), only 22 of those lines are viable for human research. Since 2001, 128 embryonic stem cell lines have been developed that are ineligible for federally funded research.

Both bills—the Stem Cell Therapeutic and Research Act that would create a new federal program to collect and store umbilical-cord-blood cells and expand the current bone-marrow registry program and the Stem Cell Research Enhancement Act that would increase the number of stem cell lines that can be used in federally funded research—establish much-needed ethical standards and expand the possibilities of stem cell research for new treatments and cures.

According to the NIH, in the United States more than 4 million people suffer from Alzheimer's disease; one in every four deaths is from cancer; and every hour of every day, someone is diagnosed with juvenile (type 1) diabetes. These brave individuals battling life-threatening and debilitating diseases are not responsible for policy or debate, but they will be the ones most affected by the outcome of today's vote.

The President was quoted by the Associated Press over the weekend saying, "I made it very clear to the Congress that the use of federal money, taxpayers' money to promote science which destroys life in order to save life is—I'm against that. And therefore, if the bill does that, I will veto it." This legislation will not create life for the purpose of destruction. These bills will expand the scope of research that the Bush Administration has already approved. It is unfortunate President Bush would dash the hopes of so many people looking for medical answers through research.

Mr. Speaker, I urge my colleagues join me today in advancing science and supporting H.R. 810. Congress and the Administration must not withdraw from progress, but embrace the immense opportunities that expanded stem cell research can have for the future and wellbeing of our Nation's public health.

Mr. SALAZAR. Mr. Speaker, I rise today to express my support for the Stem Cell Research Enhancement Act, H.R. 810. I would like to thank Representatives CASTLE and DEGETTE for their leadership on this important issue.

Recent advancements in medical technology have created hope for the millions of people, and their families, who suffer from the effects of diseases like Alzheimer's, Parkinson's, and diabetes. Stem cell research may hold the key to better treatment options, and even a cure, for diseases like these and others.

Many of us will have lasting images of President Ronald Reagan and Christopher Reeves as their frail bodies deteriorated over the years. And I will never forget my own father's battle against Alzheimer's and how his slow deterioration and passing impacted our family. Their personal health battles took on a new meaning as the public debate heated up over the merits and ethics of embryonic stem cell research.

As we look towards the future of medical research, we must always proceed with strict ethical caution. I believe the Castle/DeGette legislation meets this criteria by establishing strict requirements for which new embryonic stem cell lines would be eligible for federal funding. Federal funding of embryonic stem cell research would mean that research could advance at a faster pace while providing stringent requirements and oversight of the research. National and international involvement is needed to ensure research institutions and companies do not intentionally or unintentionally overreach their bounds.

Mr. EMANUEL. Mr. Speaker, as an original cosponsor of H.R. 810, the Stem Cell Research Enhancement Act of 2005, I rise in strong support of this legislation. H.R. 810 is essential legislation that will expand opportunities for scientists to treat spinal cord injuries, multiple sclerosis, Parkinson's disease, Alzheimer's disease, diabetes, and other devastating diseases.

There are ethical concerns over the use of embryonic stem cells in research, and we should not treat stem cells as just another laboratory product. We must strongly prohibit unethical practices, such as human cloning. And we should not allow embryos to be bought and sold.

But it is important to recognize that, as part of the process of in vitro fertilization, many embryos are created that are never used and are slated to be destroyed. With the stringent moral safeguards established by this legislation, including the required written consent of the donors, I believe we should permit the use of stem cells from these embryos. The use of embryos for research that would otherwise be destroyed strikes a responsible balance between the ethical and medical values associated with stem cell research.

The current state of stem cell research suggests that there is significant progress to be made if we move forward in this area. Leading scientists have testified that adult stem cells and umbilical cord stem cells do not share the ability of embryonic stem cells to replicate all other cells in the human body. If we don't invest in stem cell research, millions of Americans with some of the most debilitating diseases will not be able to avail themselves of the treatments or cures that might result.

In addition, if we fail to invest federal resources in embryonic stem cell research, the U.S. will lose its competitive advantage in this essential area of science. The limited federal support for stem cell research is just one area of science in which the U.S. is falling behind. Last year China produced 160,000 more engineers than we did. Nearly 40 percent of U.S. jobs in science or technology requiring a Ph.D. are now filled by people born abroad—that's up from 25 percent in 1990. We now rank below 13 other countries—including Japan, Germany, and South Korea—in the percentage of 24-year olds with a college degree in a science or engineering field—that's down from third in the world 25 years ago.

Mr. Speaker, this legislation will help the U.S. to move forward on our moral imperative to perform stem cell research in an ethically responsible way. I urge all of my colleagues to support it.

Ms. HARMAN. Mr. Speaker, the promise for curing a whole host of debilitating diseases is brighter than it's ever been. Today, Congress has the opportunity to capitalize on breakthrough scientific research to help millions across our country.

Representatives CASTLE and DEGETTE have crafted this bill meticulously, which would allow the use of surplus embryos from in vitro fertilization treatments and require donor consent. It does not allow stem cells to be sold for profit. This legislation takes an ethical and moral approach to a challenging subject, and throughout is respectful of the value of life.

Real political courage and leadership—on both sides of the aisle, in the House and Senate—was required to bring us to this point. People from every point along the political spectrum—from Nancy Reagan to the late Christopher Reeve—have embraced the promise and potential of stem cell research.

Parkinson's, cancer, Alzheimer's, juvenile diabetes, spinal cord injuries—cures for these and other serious ailments may lie in stem cell research. We owe it to generations of suffering Americans and their families to help find treatments that could lead to full recovery.

Many in this body like to talk about "values." Today, I say to them: using discarded embryos to find scientific cures for fatal diseases is our moral obligation. Saving life is precisely what we all care about.

Mr. Speaker, a vote for H.R. 810 is a vote to save lives. I urge all my colleagues to support this bipartisan, bicameral legislation.

Ms. MILLENDER-McDONALD. Mr. Speaker, I have been watching today's proceedings from California as I recuperate from surgery. I feel compelled to reach out to my colleagues to underscore the utmost importance of H.R. 810, the "Stem Cell Research Enhancement Act."

H.R. 810 is a comprehensive bill that fully balances the ethical concerns associated with stem cell research with the incalculable benefits such research can confer upon millions of Americans.

Now is the time for action! We must continue to expand the scope of embryonic stem cell research. We must not tie the hands of researchers who will hopefully deliver to our communities cures for these life threatening diseases.

Research on adult stem cells is important. However, I think we need to recognize the limitations that are inherent in that type of research. While adult stem cells are being used to treat blood diseases such as leukemia and lymphoma, adult stem cells cannot be used to form any cell. Experts believe that adult stem cells are not going to produce the answers to diseases like sickle cell disease, Multiple Sclerosis, heart disease, liver disease, Parkinson's, Alzheimer's, and numerous kinds of cancers we so desperately seek. Adult stem cells are not a substitute for embryonic stems cells.

I would like to speak specifically to the large numbers of African Americans and other minorities who will hugely benefit from this potentially lifesaving research. Too many of my constituents are disproportionally affected by many of the diseases researchers hope to cure with information gleaned from embryonic stem cell research.

In particular, diabetes, Parkinson's, and especially sickle cell disease run rampant in our communities. I want to be able to look at every single one of my constituents who is afflicted with a disease that researchers believe they can treat eventually based on research done on embryonic stem cells and tell them that here in Washington we are doing absolutely everything we can to save their lives and assuage their pain.

I introduced bills over the last two Congresses to bring awareness to the need for expanding the number of stem cell lines because I recognize that we must embrace groundbreaking solutions to the problems posed by fatal diseases.

The research has progressed so far since 1998, when scientists first isolated human embryonic stem cells. Amazing discoveries have been made in such a short time. What sense would there be in restricting the ability of researchers to, within the boundaries set by, strict ethical guidelines, progress with this research as far as is possible? Why are we tying the hands of our scientific community to save lives on the basis of an arbitrary date, while across the world this research will be used to save lives?

This bill answers those questions resoundingly: we will not unduly restrict the essential research that could save the lives of millions. We will move forward. We will find an end to suffering that could be prevented, in my community and nationwide.

Mr. POMEROY. Mr. Speaker, I rise today to say that I will be casting my vote for H.R. 810, the Stem Cell Research Enhancement Act of 2005.

I am voting for this legislation with the face of Ashley Dahly on my mind. Ashley is a 17-year-old high school junior from Devils Lake, North Dakota. She is a happy teenager with an adoring family. She likes school, enjoys Student Congress and speech class, and loves ice skating.

Ashley also has juvenile diabetes. In fact, today she is at home missing her finals because of high blood sugars. Ashley is North Dakota's delegate for Children's Congress through the Juvenile Diabetes Research Foundation, taking place here in Washington on June 18–22nd. Ashley's goal is to enter a health-related field such as a nurse or diabetes educator, because as Ashley has said, "I know the pain that children diagnosed with diabetes go through, and I think I could help in relieving that pain."

There is currently no cure for juvenile diabetes, a disease that affects another child every hour of every day. Embryonic stem cell research offers great potential for advancing treatments or even curing diabetes, as well as many other diseases such as Parkinson's disease, cancer, ALS, paralysis and others. Particularly in the case of diabetes, embryonic stem cell research holds the greatest possibility for understanding and curing this disease, since adult stem cells are not present in the pancreas, the organ attacked by diabetes.

Embryonic stem cell research is an extremely difficult issue, involving the potential for critical medical breakthroughs on the one hand, and very complex bio-ethical issues on the other. The bill requires that research only be conducted on stem cells derived from embryos created for fertility treatments that were in excess of the need of the mother and would otherwise have been destroyed. My vote today is supported by over 200 major patient groups, scientists, and medical research groups, and I believe that my vote can provide hope to families in North Dakota like Ashley's who are suffering through the illness of a loved one.

Mr. GOHMERT. Mr. Speaker, on the birthday of my daughter, Katy, who was born 8–10 weeks prematurely, but still lives and blesses my life. There are so many well-meaning people who want to see others cured. We, everyone of us in this body, want that. We know that. It is being said that no one will be harmed by the use or destruction of human embryos that were going to be waste anyway. Dear friends, when you use the product of the callous mistreatment of life, even though you use sterilized gloves, you nonetheless are an accomplice after the fact in encouraging future such destruction and mistreatment—even though you have the very very best of intentions. How many times as a judge have I heard, "But, I never meant to hurt anyone. I thought I was just helping."

In the recent past, we lost a great American who had been injured in an accident and who encouraged the use of embryonic stem cells. That man had a heart as big as all outdoors and is an inspiration to so very many of us. His strength and courage and perseverance in the face of unsurmountable odds should be an encouragement for all who face adversity. He is quoted as saying something that others have said, but as a justification for embryonic stem cell usage—basically that we should be about doing the greatest good for the greatest number of people. That is the utilitarian way.

It is worth noting that if a society only did what was the greatest good for the greatest number of people, that society would kill off the elderly who were no longer productive and kill off the young who were not likely to ever be very productive. That would also be a society that did not spend time trying to fix something that had been extremely broken. That is a society that would simply weigh the cost to repair a human, decide that such person was "Totaled" then clone a new one to replace it. That society would be killing its very soul.

That is not the American way. We want to be a help to the helpless, and speak for those who can't speak. A moral society should do that. To demand money from American taxpayers so that we as a Congress can encourage the destructive use of life under the guise that it may be thrown away anyway, is not a direction that this America should go. Our history has been that, rather than destroying life, we go to all kinds of extremes to save it. If a child is in a deep hole, America sends all the resources it has to try to save it regardless of cost. When someone may not return from a trip to the moon, we use every available resource to try to bring them home. When a soldier is captured or out on the battlefield wounded, many others often risk their lives to save the one. That has been, that should be our legacy. What a legacy! But to demand money with the full force of the federal government's enforcement and the IRS so that the beginning of life can be destroyed, will add such a darkness on the conscience of this society, we simply should go no farther down that road.

It is a bit offensive that some would come forward and assert that we are telling individuals with Lou Gehrigs disease and other terribly debilitating diseases that we will not look for a cure—that we basically do not care. We are looking for cures and we are doing so with the most promising avenues available and that is with stem cells that do not destroy life.

It is extremely offensive that some would come forward and say basically that in the name of religion, Christian and Jewish groups support the federal government's certain destruction of embryos under the possibility that at some point it somehow may lead to possibly saving a life or lives. If we are going to invoke the thought of, as our forefathers' put it, our Creator, then let's at least invoke our Creator's unwavering honesty. The truth is that this bill is not determining whether embryonic stem cell research will go on. If it is so incredibly and amazingly promising, do you know who would be all over this? Private pharmaceutical and health care industries would be in pursuit knowing that if they find a cure, they will be the most profitable company on the face of the earth.

But it is not private investment capital that is being sought. It is people wanting grants that will be torn from the pockets of taxpayers against the will of perhaps half of them or more (polling data from those with an agenda is not all that trustworthy) and putting it into someone else's pocket in the name of destroying embryos.

Embryonic stem cell research can go on and has gone on with billions of dollars from some states and from some private money. What many of us are saying about this legislation is, if it is so promising, you go raise the capital privately by buying stock to use in embryonic stem cell research, and let our tax dollars go to the stem cell research that seeks to both save and make lives better. I know this is a matter of conscience, and I do so know and believe in the integrity and great intentions of many of those who disagree, but please do not take my tax dollars for money to destroy life. Let those who feel so compelled, spend your own, but I would hope even then you would spend your own money on the lines with the most promise and not take life in the name of helping life.

May God not only bless, but have mercy on us all.

Mr. McGOVERN. Mr. Speaker, I am pleased to support H.R. 810, the Stem Cell Research Enhancement Act of 2005. This legislation takes the critical first step in expanding the number of stem cell lines that are eligible for federally funded research.

For years, the United States has been the preeminent world leader in the field of biotechnology. We have made extraordinary advancements in the treatment, management and prevention of a wide range of disabilities. It's nearly impossible to read a newspaper without hearing of some new breakthrough—drug cocktails for AIDS patients; gene therapy treatments; new medical devices.

These advancements are cause for celebration. Our mothers and fathers, our spouses, children and grandchildren are benefiting like never before. They are living longer, healthier lives due to our investments in scientific research.

Much like this earlier research, the potential benefits from stem cells are almost limitless. And as policymakers, we have the rare opportunity to help further scientific innovation that, with the proper research and development, could produce better treatments—or even cures—for diseases like diabetes, Parkinson's Disease, and cancer.

Despite some arguments that we have heard today, recent developments have proven that we are not far off from recognizing the true potential of this research. In fact, just last week, scientists in South Korea successfully created the world's first human embryonic stem cells that are patient-specific. This advancement was applauded around the world as a major step in the effort to produce cell-based therapies that won't be rejected by the body's immune system.

And in my home state of Massachusetts, ViaCell and New World Laboratories, two small biotech companies, have made notable progress in their research on spinal cord injuries and tissue regeneration. Though no one can predict the outcome of embryonic stem cell research, what is certain is that without federal support, we will never fully recognize it's potential.

We are at a pivotal point in our nation's history, and I hope that my colleagues will carefully consider this issue, leaving out partisan politics. With federal support, this research could have a real and tangible impact on millions of lives in this country. Our Nation's current policy severely limits scientific research, and we must not continue on this dangerous course. I urge my colleagues to join me in supporting H.R. 810.

Mr DINGELL. Mr. Speaker, I support H.R. 810, the "Stem Cell Research and Enhancement Act of 2005."

Let us be very clear about why we are here today. We are here to decide whether our Nation will move forward in the search for treatments and therapies that will cure a multitude of dreaded diseases that afflict an estimated 128 million Americans.

Today, millions of Americans suffer from Alzheimer's disease, Parkinson's disease, spinal cord injuries or spinal dysfunction, and diabetes. And today, along with the tremendous number of Americans living with cancer, approximately 1.5 million new cases were diagnosed in the United States last year. Today, we can vote for H.R. 810, and in doing so, choose to save lives and help to end the suffering of so many Americans.

Stem cells are the foundation cells for every organ, tissue, and cell in the body. Embryonic stem cells, unlike adult stem cells, possess a unique ability to develop into any type of cell. Embryonic stem cell research holds the potential for treating a variety of diseases such as Lou Gehrig's disease, Parkinson's disease, Alzheimer's disease, autism, cystic fibrosis, heart disease, diabetes, multiple sclerosis, and osteoporosis, as well as spinal cord injuries.

H.R. 810 would impose strict ethical guidelines for embryonic stem cell research and would lift the arbitrary restriction limiting funds to only some embryonic stem cell lines created before August 10, 2001. By removing this arbitrary restriction, H.R. 810 will ensure that researchers can not only continue their work to prolong or save lives, but also conduct such research using newer, less contaminated, more diverse, and more numerous embryonic stem cells.

H.R. 810 does not allow Federal funding for the creation or destruction of embryos. This bill only allows for research on embryonic stem cell lines retrieved from embryos created for reproductive purposes that would otherwise be discarded. This point is critical: If these embryos are not used for stem cell research, they will be destroyed.

Former first lady Nancy Reagan once said, "Science has presented us with a hope called stem cell research, which may provide our scientists with many answers that for so long have been beyond our grasp. I just don't see how we can turn our backs on this. We have lost so much time already. I just really can't bear to lose any more."

Let us not turn our backs on this important research and the 128 million Americans who could benefit from it. Let us not lose any more time. Let us pass H.R. 810, the "Stem Cell Research Enhancement Act of 2005."

Mr. UDALL of New Mexico. Mr. Speaker, I rise today as a cosponsor and strong supporter of H.R. 810, the Stem Cell Research Enhancement Act. I am pleased that the House leadership brought this important legislation to the floor and am proud to be a part of the important debate occurring today.

Mr. Speaker, embryonic stem cells have the ability to develop into virtually any cell in the body, and many believe they may have the potential to treat many illnesses such as Parkinson's disease, juvenile diabetes, Alzheimer's, blindness, sickle cell anemia and many other medical conditions, including spinal cord injuries. Like many other issues facing us today, however, stem cell research forces us to confront the challenge of balancing long-standing ethical questions with the possibilities presented by scientific and technological advancements. The remarks made on the floor today by my colleagues have reflected the difficulty in dealing with this issue, as many members wrestle with their beliefs and emotions.

Most familiar with this issue know that in August 2001, President Bush announced that federal funds for the first time would be used to support research on human embryonic stem cells. However, the funding would be limited to "existing stem cell lines." The National Institutes of Health (NIH) has established the Human Embryonic Stem Cell Registry, which lists stem cell lines that are eligible for use in federally funded research. Although 78 cell lines are listed, 22 embryonic stem cell lines are currently available. Scientists are concerned about the quality, longevity, and availability of the eligible stem cell lines.

That is why I am a cosponsor of H.R. 810, and strongly support its passage. This important legislation increases the number of lines of stem cells that would be eligible to be used in federally funded research. It does so, however, by requiring that the stem cells meet certain requirements. Specifically, the stem cells must be derived from human embryos donated from in vitro fertilization clinics. They also must have been created for the purpose of fertility treatment, but were in excess of the clinical need. The embryos must also not have been intended for use in fertility treatment, and would otherwise be discarded. Finally, under H.R. 810, the embryos must have been donated by individuals seeking fertility treatment with informed written consent and without any financial payment or other inducement to make the donation.

Mr. Speaker, I have listened as member after member has come to the floor to tell a personal tale of a loved one suffering from a disease that, with additional research, stem cells could help cure. We all have our stories Mr. Speaker. My uncle, Morris K. Udall, who served in this body for decades, suffered from Parkinson's disease. There are too many people across the world suffering from devastating diseases for which stem cells hold great hope and promise. We need to foster additional research that is conducted in an ethically responsible way. H.R. 810 does just that.

I urge my colleagues to support this legislation.

Mr. KUCINICH. Mr. Speaker, I support H.R. 810, the Stem Cell Research Enhancement Act of 2005.

H.R. 810 is the safest, most ethically and morally sound way to proceed with this potentially life-saving scientific advancement. This debate is not about whether or not embryonic stem cell research should occur. The Administration is not stopping private embryonic stem cell research. It just opposes the expansion of public stem cell research.

The private sector is not restricted from such research. The private sector currently uses frozen embryos which would otherwise be discarded. Corporate entities already have access to 125 new and better embryonic stem cell lines, created after August 9, 2001, when the President announced his new stem cell policy.

H.R. 810 expands the number of frozen embryos to be used for stem cell research by the Federal Government. Federally sponsored research is subject to greater oversight and safeguards and higher ethical standards. Ethical controls over privately funded research are limited.

Recent scientific breakthroughs have demonstrated that embryonic stem cell research has life saving potential. It could result in saving millions of lives. It could be the answer to the prayers of those who suffer from Parkinson's, diabetes, cancer, heart disease, spinal cord injuries and other debilitating conditions. Recent studies have set back the case for the efficacy of adult stem cells.

Embryonic stem cell research will continue with or without the federal government. This bill expands federal research, which will be subject to greater oversight and safeguards.

Mr. MORAN of Virginia. Mr. Speaker, I rise in very strong support of the Stem Cell Research Enhancement Act, which will expand the federal policy and implement stricter ethical guidelines for this research.

Embryonic stem cell research is necessary in discovering the causes of a myriad of genetic diseases, to testing new drug therapies more efficiently on laboratory tissue instead of human volunteers, and to staving off the ravages of disease with the regeneration of our bodies' essential organs.

President George W. Bush's policy on stem cell research limits federal funding only to embryonic stem cell lines that were derived by August 9, 2001, the date of his policy announcement.

Of the 78 stem cell lines promised by President Bush, only 22 are available to researchers.

Unfortunately these stem cell lines are aged and contaminated with mouse feeder cells, making their therapeutic use for humans uncertain. According to the majority of scientists, if these stem cell lines were transplanted into people, they would provoke dangerous viruses in humans.

What is even more disturbing is the fact that there are at least 125 new stem cell lines, which are more pristine than the lines currently available on the National Institutes of Health registry, which are ineligible for federally-funded research because they were derived after August 9, 2001.

This restrictive embryonic stem cell research policy is making it increasingly more difficult to attract new scientists to this area of research because of concerns that funding restrictions will keep this research from being successful.

The Stem Cell Research Enhancement Act does not change the current policy on the use of federal funds; this measure simply seeks to lift the cutoff date for lines available for research.

H.R. 810 will also strengthen the ethical standards guiding the federal research on stem cell lines and will ensure that embryos donated for stem cell research were created for the purposes of in vitro fertilization, in excess of clinical need, would have otherwise be discarded and involved no financial inducement.

Contrary to what opponents have been saying, the Stem Cell Research Enhancement Act will not federally fund the destruction of embryos.

H.R. 810 is clear that unused embryos will be used for embryonic stem cell research only by decision of the donor. No federally-funded research will be supported by this measure if the embryos were created and destroyed solely for this purpose.

In February 2005, the Civil Society Institute conducted a nationwide survey of 1,022 adults and found that 70 percent supported bipartisan federal legislation to promote embryonic stem cell research.

Let public interest triumph over ideological special interests. Public interest is best served when the medical and the scientific community is free to exercise their professional judgment in extending and enhancing human life.

I urge all my colleagues to vote in favor of the Stem Cell Research Enhancement Act.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in strong support of H.R. 810, the Stem Cell Research Enhancement Act of 2005.

Stem cells have tremendous promise to treat a myriad of devastating diseases and disorders.

Embryonic stem cells can become any cell type in the body, and their promise lies in the ability to tailor-make cellular treatments, heart muscle for heart disease, pancreas cells for diabetes, or nervous system cells for spinal cord injury.

Stem cells are relatively new on the research scene; it was only in 1998 that the techniques were developed to isolate stem cells from humans, and we have a lot to learn about how to make the cells develop in the ways that will be essential for therapeutic application.

Today, I would like to highlight how the Reeve-Irvine Research Center has made significant head way in making the promise of embryonic stem cells a reality.

Work recently published by Dr. Hans Keirstead and his group has shown that they are able to turn human embryonic stem cells into a clinically useful cell type.

To use embryonic stem cells for therapy, it is critical to devise ways to cause them to turn into particular cell types. If un-differentiated stem cells are transplanted into the brain or spinal cord, they may become a teratoma, a tumor made of many different cells like bone, muscle, and hair.

So, to be useful for therapy, embryonic stem cells must be "restricted" to differentiate into the desired cell types. That is, they must be told what specific cell type to turn into as they mature.

Dr. Keirstead's group has developed a unique method to create these differentiated cells.

Moreover, as report in Journal of Neuroscience, his group has been successful in transplanting these cells into an acute spinal cord injury.

Once transplanted, these cells have been able to survive in a living organism, move to areas where they are needed, and do what they are supposed to.

The result is a significant improvement in walking ability, at least at an early time point post injury. This finding is proof of principle that human embryonic stem cells can be a viable therapeutic agent.

Dr. Keirstead's cells are on the federally approved list. They are among the very few lines that are actually usable, and he is among the very few who have had access to human embryonic stem cells.

Dr. Keirstead's progress since 2001 when he received the cells has been remarkable. His group has learned how to maintain the embryonic stem cells, no small feat in itself. They have learned how to transform the cells into differentiated cells, they have learned how to use the cells to treat new spinal cord injury in animals.

All this in less than 4 years, and in one lab.

Imagine the progress that could have been made with, 100 labs working with embryonic stem cells on not only spinal cord injury but Alzheimer's, Parkinson's, diabetes, and so many others.

The Reeve-Irvine Research Center is one of a handful of places in the U.S. that has the know-how to use embryonic stem cells.

With more lines available, we could readily address issues related to paralysis by developing new cell populations, like motor neurons, or by testing the therapeutic quality of other lines.

In addition, more researchers would be able to devote their talents to this area of research.

My father is suffering from Alzheimer's. I know that my family would do anything to find a cure for this horribly degenerative disease. I would ask my colleagues, would your family do any differently? Would the families of your constituents do any differently?

The Stem Cell Research Enhancement Act of 2005 before Congress today, if passed, would open the door to our country's brightest scientists to find the treatments that Dr. Keirstead's work suggests are really there waiting to be discovered.

I urge my colleagues to support this research and to vote for H.R. 810.

Ms. CARSON. Mr. Speaker, I wish to express my strong, principled and hopeful support of H.R. 810. I commend the vital leadership of my brave colleagues, Representatives CASTLE and DEGETTE, for bringing this urgent issue to the floor.

Federal funding for embryonic stem cell research is needed to help American scientists move this research forward, research which has the potential to revolutionize medicine and save countless lives.

While adult stem cells have been very useful in treating some cancers, embryonic stem cells appear to have a far greater potential for treating disease than adult stem cells. Scientists regard embryonic stem cell research as one of the greatest hopes for the cure of medical conditions such as Parkinson's disease and diabetes due to their unique ability to develop into virtually any type of cell in the body.

Recently, researchers at the University of Miami came up with a technique to transform embryonic stem cells into the insulin-producing cells destroyed by Type-I diabetes. Such research may also help us better understand the causes of birth defects, genetic abnormalities, and other conditions that arise during the critical period of early human growth. Other possible medical applications include the repair of crippling injuries such as spinal cord damage and the ability to correct the damaging side effects of existing medical treatments like chemotherapy.

This debate is not about whether or not embryonic stem cell research will progress, for it surely will. This research is already taking place around the globe, and right here in America. The question is: will we lead the way? This debate is about American leadership in this world. For generations America has led the world in scientific advances. We must continue to support the work of our brilliant scientists and help them once again lead the world in this vitally important new field.

This bipartisan legislation would expand the scope of stem cell research while enacting stringent procedural guidelines. All activities would be subject to the strict ethical guidelines of the National Institutes of Health. No federal funds would be used to conduct research on unapproved stem cell lines. The cells used in this research will be donated voluntarily by patients of in-vitro fertilization clinics. It makes no sense, and it is just plain wrong to ban research using embryos that are being simply thrown away today.

Mr. Speaker, it is not our place as legislators to decide which medical research does and does not have merit. We must not block advances in life-saving and ethically conducted science. I commend my colleagues for supporting this critical legislation.

Mr. VAN HOLLEN. Mr. Speaker, as a cosponsor of the Stem Cell Research Enhancement Act of 2005, I believe that stem cell research holds the promise of scientific breakthroughs that could improve the lives of millions of Americans. This bi-partisan legislation would provide federal funding for a wider range of research while establishing ethical guidelines.

The most compelling arguments for expanding federal funding for stem cell research can be heard in the heart wrenching stories of individuals suffering from debilitating diseases for which there are currently no cures or treatments. While it is too late for the countless Americans who have passed away from terrible diseases, it is not too late for the millions of other Americans hoping this House will support funding for this potentially life-saving resource. For these patients and their families stem cell research is the last hope for a cure.

This bill provides that embryos that are otherwise likely to be discarded can be used to help develop treatments for debilitating diseases and life saving cures. We should allow federally supported research to proceed to find such treatments and cures.

Mr. KIND. Mr. Speaker, I rise today in strong support of H.R. 810, the Stem Cell Research Enhancement Act of 2005. This bill would expand the current Federal policy on embryonic stem cell research by allowing federally funded research on stem cell lines derived after August 9, 2001, while implementing strong ethical guidelines to ensure Federal oversight of the research.

Most of the scientific community believes that for the full potential of embryonic stem cell research to be reached, the number of cell lines readily available to scientists must increase. Just last month, a number of NIH directors testified before the Senate Appropriations Committee that the current policy is restrictive and hinders scientific progress. We are already at risk of losing our scientific and technological edge because of increasing competition around the world.

Other countries—such as China, India, and the United Kingdom—are forging ahead with embryonic stem cell research because of less restrictive policies. India, for example, has an extensive stem cell regulatory system, yet allows the derivation of new stem cells from surplus embryos at fertility clinics. Our restrictive policy not only puts us at risk of losing our scientific edge, we are also at risk of losing some of the best American scientists to other countries where policies are less restrictive.

Important advances in the science of embryonic stem cell research have been made since the August 2001 policy was set. Earlier this year, researchers at the University of Wisconsin in Madison figured out how to grow human embryonic stem cells without using mouse feeder cells. This is exciting news since mouse feeder cells are thought to be a source of contamination if the cells are ever to be used therapeutically in humans.

From its earliest days, stem cell research has been important to the people of Wisconsin. In fact, Dr. James Thomson, a researcher at the University of Wisconsin, was the first to isolate and culture embryonic stem cells.

In 2003, this esteemed researcher received the Frank Annunzio award, given to recognize the innovative research of American scientists who devote their careers to improving the lives of people through their work in science. Wisconsin has been at the forefront of embryonic stem cell research from the beginning. This legislation is essential to make sure the important work of our scientists is not unnecessarily sidetracked by politics.

But this legislation is not only important because of the potential for advances in science and technology. More important is the fact that embryonic stem cell research could lead to new treatments and cures for the many Americans afflicted with life-threatening and debilitating diseases. Scientists believe these cells could be used to treat many diseases, including Alzheimer's, Parkinson's, diabetes, and spinal cord injuries. However, the promise of this research may not be reached if the Federal policy is not expanded.

Mr. Speaker, it has become increasingly clear that the American public supports expanding the Federal stem cell policy. Just yesterday, results from a survey of Wisconsin voters were released showing overwhelming support for embryonic stem cell research. Nearly two-thirds of those polled support expanding Federal policies to support more research—regardless of party affiliation.

I strongly urge my colleagues to join me in supporting this important legislation that will allow science to move forward unimpeded, has the potential to revolutionize the practice of medicine, and can offer hope to the millions of Americans suffering from debilitating diseases.

Mr. WOOLSEY. Mr. Speaker, I rise today in support of this bill and all of the promise that comes with funding embryonic stem cell research. This bill represents an important step forward for the scientific and medical communities in our country, offering hope to the millions of Americans who suffer from diseases that stem cell therapies may be able to cure.

Unfortunately, President Bush has threatened to veto this bill when it arrives on his desk. I am appalled that a President who talks so much about embracing a "culture of life" would deny funding for a possible cure that could save a child from suffering from juvenile diabetes; repair a damaged spinal cord to allow a person to walk again; save a grandparent from the onset of Alzheimer's disease; or put a halt to the ravages of Parkinson's disease.

The potential benefits from embryonic stem cell research are almost boundless and would certainly touch the life of a friend or family member of everyone in America. Mr. Bush's ban on providing Federal funds for stem cell research has seriously damaged our Nation's efforts to be a leading voice in the development of this new technology.

Allowing Federal funding for research on stem cells is vital to making real progress as quickly as possible to find real cures. I urge my colleagues to join me in supporting this bill that will certainly have long-lasting effects in improving the health and well being of millions of Americans.

Mr. PRICE of Georgia. Mr. Speaker, as a physician I'm certain of one thing: Science is not Republican or Democrat, Science is not conservative or liberal. Science is science. Decisions in science should be based on the scientific method—a standardized method of evaluation and implementation of a solution or treatment of a disease.

When followed, it allows for the greatest amount of critical thinking about any issue. If followed, it results in the best outcome. This would be true in public policy as well. If not followed in a legislative body, then decisions tend to be made based upon who has the largest group of supporters or greatest passion and emotion. Now there is nothing wrong with numbers, passion or emotion, it just may not get you to the correct solution—especially in the scientific arena.

There has been significant misrepresentation of science today and in this debate, because "science is not a policy or a political program. Science is a systematic method for developing and testing hypotheses about the physical world. It does not promise miracle cures based on scanty evidence. . . . statements . . . made regarding the purported medical applications of embryonic stem cells reach far beyond any credible evidence, ignoring the limited state of our knowledge about embryonic stem cells and the advances in other areas of research that may render use of these cells unnecessary for many applications. To make such exaggerated claims, at this stage of our knowledge, is not only scientifically irresponsible—it is deceptive and cruel to millions of patients and their families who hope desperately for cures and have come to rely on the scientific community for accurate information. . . . Non-embryonic stem cells" on the other hand have a history "very different from that of embryonic stem cells." Cord and adult stem cells are "Producing undoubted clinical benefits and . . . (b) one marrow transplants" have benefited "patients with various forms of cancer for many years before it was understood that the active ingredients in these transplants are stem cells. . . . Use of these cells poses no serious ethical problem, and may avoid all problems of tissue rejection if stem cells can be obtained from a patient for use in that same patient. . . . In contrast to embryonic stem cells, adult stem cells are in established or experimental use to treat human patients with several dozen conditions. . . . They have been or are being assessed in human trials for treatment of spinal cord injury, Parkinson's disease, stroke, cardiac damage, multiple sclerosis," juvenile diabetes "and so on. . . .

"Therefore . . . to declare that" embryonic stem cell research "will . . . receive any particular amount of federal funding, regardless of future evidence or the usual scientific peer review process—is . . . irresponsible. It is, in fact, a subordination of science to ideology.

"Because politicians, biotechnology interests and even some scientists have publicly exaggerated the "promise" of embryonic stem cells, public perceptions of this avenue have become skewed and unrealistic. Politicians may hope to benefit from these false hopes to win elections. . . . The scientific and medical professions have no such luxury. When desperate patients discover that they have been subjected to a salesman's pitch rather than an objective and candid assessment of possibilities, we have reason to fear public backlash against the credibility of our profession. We urge you not to exacerbate this problem now by repeating false promises that exploit patients' hopes for political gain."

I have quoted from a letter signed by 57 scientists—MD's and PhD's—written during last year's presidential campaign. It expressed real concern about a cavalier public posture and policy during a debate on such a sensitive ethical matter.

It seems to me that there is one unmistakable fact: Many in our society have sincere, heartfelt, passionate, ethical questions, worthy of our respect, regarding the scientific or medical use of ES cells.

If our goal is truly to cure diseases and help patients, science tells us that today the use of adult and cord stem cells has successfully treated or holds real potential for treating nearly 60 diseases. The same cannot be said for ES cells.

And adult stem cells carry none of the ethical questions or dilemma of ES cells.

I support stem cell research—active, aggressive, scientifically based—with respect for the difficult ethical questions we face today.

I urge my colleagues to join me in respecting current science—in respecting ethical concerns. If we do, we will recognize that stem cell research and treatment of disease should actively proceed with those adult and cord stem cells that are providing and will increasingly provide excellent and exciting cures for patients in need.

OCTOBER 27, 2004.

Senator JOHN F. KERRY,
John Kerry for President,
Washington, DC.

DEAR SENATOR KERRY: Recently you have made the promotion of embryonic stem cell research, including the cloning of human embryos for research purposes, into a centerpiece of your campaign. You have said you will make such research a "top priority" for government, academia and medicine (Los Angeles Times, 10/17/04). You have even equated support for this research with respect for "science," and said that science must be freed from "ideology" to produce miracle cures for numerous diseases.

As professionals trained in the life sciences we are alarmed at these statements.

First, your statements misrepresent science. In itself, science is not a policy or a political program. Science is a systematic method for developing and testing hypotheses about the physical world. It does not "promise" miracle cures based on scanty evidence. When scientists make such assertions, they are acting as individuals, out of their own personal faith and hopes, not as the voice of "science". If such scientists allow their individual faith in the future of embryonic stem cell research to be interpreted as a reliable prediction of the outcome of this research, they are acting irresponsibly.

Second, it is no mere "ideology" to be concerned about the possible misuse of humans in scientific research. Federal bioethics advisory groups, serving under both Democratic and Republican presidents, have affirmed that the human embryo is a developing form of human life that deserves respect. Indeed you have said that human life begins at conception, that fertilization produces a "human being." To equate concern for these beings with mere "ideology" is to dismiss the entire history of efforts to protect human subjects from research abuse.

Third, the statements you have made regarding the purported medical applications of embryonic stem cells reach far beyond any credible evidence, ignoring the limited state of our knowledge about embryonic stem cells and the advances in other areas of research that may render use of these cells unnecessary for many applications. To make such exaggerated claims, at this stage of our knowledge, is not only scientifically irresponsible—it is deceptive and cruel to millions of patients and their families who hope desperately for cures and have come to rely on the scientific community for accurate information.

What does science tell us about embryonic stem cells? The facts can be summed up as follows:

At present these cells can be obtained only by destroying live human embryos at the blastocyst (4-7 days old) stage. They proliferate rapidly and are extremely versatile, ultimately capable (in an embryonic environment) of forming any kind of cell found in the developed human body. Yet there is scant scientific evidence that embryonic stem cells will form normal tissues in a culture dish, and the very versatility of these cells is now known to be a disadvantage as well—embryonic stem cells are difficult to develop into a stable cell line, spontaneously accumulate genetic abnormalities in culture, and are prone to uncontrollable growth and tumor formation when placed in animals.

Almost 25 years of research using mouse embryonic stem cells have produced limited indications of clinical benefit in some animals, as well as indications of serious and potentially lethal side-effects. Based on this evidence, claims of a safe and reliable treatment for any disease in humans are premature at best.

Embryonic stem cells obtained by destroying cloned human embryos pose an additional ethical issue—that of creating human lives solely to destroy them for research—and may pose added practical problems as well. The cloning process is now known to produce many problems of chaotic gene expression, and this may affect the usefulness and safety of these cells. Nor is it proven that cloning will prevent all rejection of embryonic stem cells, as even genetically matched stem cells from cloning are sometimes rejected by animal hosts. Some animal trials in research cloning have required placing cloned embryos in a womb and developing them to the fetal stage, then destroying them for their more developed tissues, to provide clinical benefit—surely an approach that poses horrific ethical issues if applied to humans.

Non-embryonic stem cells have also received increasing scientific attention. Here the trajectory has been very different from that of embryonic stem cells: Instead of developing these cells and deducing that they may someday have a clinical use, researchers have discovered them producing undoubted clinical benefits and then sought to better understand how and why they work so they can be put to more uses. Bone marrow transplants were benefiting patients with various forms of cancer for many years before it was understood that the active ingredients in these transplants are stem cells. Non-embryonic stem cells have been discovered in many unexpected tissues—in blood, nerve, fat, skin, muscle, umbilical cord blood, placenta, even dental pulp—and dozens of studies indicate that they are far more versatile than once thought. Use of these cells poses no serious ethical problem, and may avoid all problems of tissue rejection if stem cells can be obtained from a patient for use in that same patient. Clinical use of non-embryonic stem cells has grown greatly in recent years. In contrast to embryonic stem cells, adult stem cells are in established or experimental use to treat human patients with several dozen conditions, according to the National Institutes of Health and the National Marrow Donor Program (Cong. Record, September 9, 2004, pages H6956-7). They have been or are being assessed in human trials for treatment of spinal cord injury, Parkinson's disease, stroke, cardiac damage, multiple sclerosis, and so on. The results of these experimental trials will help us better assess the medical prospects for stem cell therapies.

In the case of many conditions, advances are likely to come from sources other than any kind of stem cell. For example, there is a strong scientific consensus that complex diseases such as Alzheimer's are unlikely to be treated by any stem cell therapy. When asked recently why so many people nonetheless believe that embryonic stem cells will provide a cure for Alzheimer's disease, NIH stem cell expert Ron McKay commented that "people need a fairy tale" (Washington Post, June 10, 2004, page A3). Similarly, autoimmune diseases like juvenile diabetes, lupus and MS are unlikely to benefit from simple addition of new cells unless the underlying problem—a faulty immune system that attacks the body's own cells as though they were foreign invaders—is corrected.

In short, embryonic stem cells pose one especially controversial avenue toward understanding and (perhaps) someday treating various degenerative diseases. Based on the available evidence, no one can predict with certainty whether they will ever produce clinical benefits—much less whether they will produce benefits unobtainable by other, less ethically problematic means.

Therefore, to turn this one approach into a political campaign—even more, to declare that it will be a "top priority" or receive any particular amount of federal funding, regardless of future evidence or the usual scientific peer review process—is, in our view, irresponsible. It is, in fact, a subordination of science to ideology.

Because politicians, biotechnology interests and even some scientists have publicly exaggerated the "promise" of embryonic stem cells, public perceptions of this avenue have become skewed and unrealistic. Politicians may hope to benefit from these false hopes to win elections, knowing that the collision of these hopes with reality will come only after they win their races. The scientific and medical professions have no such luxury. When desperate patients discover that they have been subjected to a salesman's pitch rather than an objective and candid assessment of possibilities, we have reason to fear a public backlash against the credibility of our professions. We urge you not to exacerbate this problem now by repeating false promises that exploit patients' hopes for political gain.

Signed,

Rodney D. Adam, M.D., Professor of Medicine and Microbiology/Immunology, University of Arizona College of Medicine.

Michael J. Behe, Ph.D., Professor of Biological Sciences, Lehigh University.

Thomas G. Benoit, Ph.D., Professor and Chairman of Biology, McMurry University, Abilene, TX.

David L. Bolender, Ph.D., Department of Cell Biology, Neurobiology and Anatomy, Medical College of Wisconsin.

Daniel L. Burden, Ph.D., Assistant Professor of Chemistry, Wheaton College.

William J. Burke, M.D., Ph.D., Professor in Neurology, Associate Professor in Medicine, Associate Professor in Neurobiology, Saint Louis University Medical Center.

Mark W. Burket, M.D., Professor of Medicine, Division of Cardiology, Medical College of Ohio.

W. Malcolm Byrnes, Ph.D., Assistant Professor, Department of Biochemistry and Molecular Biology, Howard University College of Medicine.

Steven Calvin, M.D., Assistant Professor of OB/GYN and Women's Health, Co-Chair, Program in Human Rights in Medicine, University of Minnesota School of Medicine.

James Carroll, M.D., Professor of Neurology, Pediatrics, and Biochemistry and Molecular Biology, Medical College of Georgia.

John R. Chaffee, M.D., Assistant Clinical Professor, Department of Family Medicine, University of Washington.

Robert Chasuk, M.D., Clinical Assistant Professor, Department of Family Medicine, Tulane University.

William P. Cheshire, Jr., M.D., Associate Professor of Neurology, Mayo Clinic.

Richard A. Chole, M.D., Ph.D., Professor and Head of Otolaryngology, Washington University in St. Louis, School of Medicine.

Maureen L. Condic, Ph.D., Associate Professor, Department of Neurobiology and Anatomy, University of Utah School of Medicine.

Keith A. Crist, Ph.D., Associate Professor, Department of Surgery, Medical College of Ohio.

Keith A. Crutcher, Ph.D., Professor, Department of Neurosurgery, University of Cincinnati Medical Center.

Frank Dennehy, M.D., FAAFP, Assistant Clinical Professor of Family Medicine, Virginia Commonwealth University.

Kenneth J. Dormer, M.S., Ph.D., Professor of Physiology, University of Oklahoma College of Medicine.

Lawrence W. Elmer, M.D., Ph.D., Associate Professor, Dept. of Neurology Director, Parkinson's Disease and Movement Disorder Program, Medical Director, Center for Neurological Disorders, Medical College of Ohio.

Kevin T. FitzGerald, SJ, Ph.D., David P. Lauler Chair in Catholic Health Care Ethics, Research Associate Professor, Department of Oncology, Georgetown University Medical Center.

Raymond F. Gasser, Ph.D., Professor, Department of Cell Biology and Anatomy, Louisiana State University School of Medicine.

Hans Geisler, M.D., Clinical Professor of Obstetrics and Gynecology, Indiana University Medical Center.

Donald A. Godfrey, Ph.D., Professor of Otolaryngology, Department of Surgery, Medical College of Ohio.

Samuel Hensley, M.D., Assistant Clinical Professor, School of Medicine, University of Mississippi.

David C. Hess, M.D., Professor and Chairman, Department of Neurology, Medical College of Georgia.

Paul J. Hoehner, M.D., MA, Ph.D., FAHA Associate Professor, Department of Anesthesiology, The University of Virginia School of Medicine.

C. Christopher Hook, M.D., Consultant in Hematology and Internal Medicine, Assistant Professor of Medicine, Mayo Clinic College of Medicine.

Elizabeth A. Johnson, M.D., Consultant, Hematology/Oncology, Mayo Clinic Jacksonville Assistant Professor of Oncology, Mayo Clinic College of Medicine.

Nancy L. Jones, Ph.D., Associate Professor of Pathology, Wake Forest University School of Medicine.

C. Ward Kischer, Ph.D., Emeritus Professor, Cell Biology and Anatomy, Specialty in Human Embryology, University of Arizona College of Medicine.

Kirsten J Lampi, M.S., Ph.D., Associate Professor of Integrative Biosciences, School of Dentistry, Oregon Health Sciences University.

John I. Lane, M.D., Assistant Professor of Radiology, Mayo Clinic School of Medicine.

David L. Larson, M.D., Professor and Chairman, Department of Plastic Surgery, Medical College of Wisconsin.

Micheline Mathews-Roth, M.D., Associate Professor of Medicine, Harvard Medical School.

Roger R. Markwald, Ph.D., Professor and Chair, Department of Cell Biology and Anatomy, Medical University of South Carolina.

Victor E. Marquez, Ph.D., Chief, Laboratory of Medicinal Chemistry, Center for Cancer Research, National Cancer Institute, Frederick, Maryland.

Ralph P. Miech, M.D., Ph.D., Associate Professor Emeritus, Department of Molecular Pharmacology, Physiology & Biotechnology, Brown University School of Medicine.

Mary Ann Myers, M.D., Associate Professor, Medical College of Ohio.

Rimas J. Orentas, Ph.D., Associate Professor of Pediatrics, Hematology-Oncology Section, Medical College of Wisconsin.

Robert D. Orr, M.D., CM, Clinical Ethicist and Professor, University of Vermont College of Medicine.

Jean D. Peduzzi-Nelson, Ph.D., Research Associate Professor, Department of Visual Sciences, University of Alabama at Birmingham.

Edmund D. Pellegrino, M.D., Emeritus Professor, Medicine and Medical Ethics, Center for Clinical Bioethics, Georgetown University Medical Center.

John A. Petros, M.D., Associate Professor, Urology and Pathology, Emory University.

David A. Prentice, Ph.D., Affiliated Scholar, Center for Clinical Bioethics, Georgetown University Medical Center.

Paul J. Ranalli, M.D., FRCPC, Lecturer, Division of Neurology, Department of Medicine, University of Toronto.

John F. Rebhun, Ph.D., Adjunct Scientist, Indiana University School of Medicine.

Leonard P. Rybak, M.D., Ph.D., Professor of Surgery, Southern Illinois University School of Medicine.

Dwayne D. Simmons, Ph.D., Director, Inner Ear Research Core Center, Department of Otolaryngology, Washington University School of Medicine.

Joseph B. Stanford, M.D., MSPH, Associate Professor, Family and Preventive Medicine, University of Utah.

John M. Templeton, Jr., M.D., FACS, Adjunct Professor of Pediatric Surgery, University of Pennsylvania School of Medicine.

Claire Thuning-Roberson, Ph.D., Vice President, Product Development and Compliance, Sunol Molecular Corporation, Miramar, Florida.

Anton-Lewis Usala, M.D., Chief Executive Officer and Medical Director, Clinical Trial Management Group, Greenville, North Carolina.

Richard A. Watson, M.D., Professor of Urologic Surgery, The University of Medicine and Dentistry of New Jersey Medical School.

Dennis D. Weisenburger, M.D., Director of Hematopathology, Dept of Pathology and Microbiology, University of Nebraska School of Medicine.

H. Joseph Yost, PhD., Professor of Oncological Sciences, University of Utah.

Joseph R. Zanga, M.D., FAAP, FCP, President, American College of Pediatricians, Professor of Pediatrics, Brody School of Medicine, East Carolina University.

Mr. HONDA. Mr. Speaker, I rise today in strong support of the bipartisan Stem Cell Research Enhancement Act, H.R. 810, legislation that will dramatically expand the number of stem cell lines available for federally funded research. This bill will allow scientists to more effectively pursue cures and therapies for a wide array of life-threatening illnesses and disabilities affecting millions of Americans.

Earlier today, the House passed a related but very different bill: the Stem Cell Therapeutic and Research Act, H.R. 2520. This legislation will create a new Federal program to collect and store umbilical-cord-blood stem cells for research purposes. I support the additional research on adult stem cells provided for by H.R. 2250, but this legislation is not a substitute for H.R. 810 and its emphasis on embryonic stem cell research.

Embryonic stem cells have a unique ability to develop into any type of cell as they mature, offering scientists tremendous insights on the replacement of damaged cells and organs, the mechanics of life-threatening diseases, and the testing and development of new drugs. Adult stem cells, on the other hand, have not shown this ability to differentiate into specific types of cells, have not yet been identified in all vital organs, and are difficult to identify, purify, and grow.

Although embryonic stem cell research promises extraordinary medical discoveries, the available supply of existing embryonic stem cells is woefully insufficient. According to the National Institutes of Health, NIH, only 22 of the 78 stem cell lines that were deemed eligible for Federal funding by President George Bush in 2001 are currently available to NIH investigators. Some of these 22 lines are too expensive or difficult to obtain, and some have been contaminated with non-human molecules diminishing their therapeutic value for humans. To make matters worse, these stem cell lines lack the genetic variation needed to develop therapies that will benefit the diverse population of the United States.

H.R. 810 addresses the shortage of embryonic stem cell lines by lifting the arbitrary and indefensible August 9, 2001 cut-off date for stem cell eligibility. Since 2001, 128 embryonic stem cell lines have been developed, including disease-specific stem cell lines that allow researchers to understand the basic cause of some rare diseases. This legislation also provides stricter ethical guidelines to ensure that only the best and most ethical stem cell research will be federally funded.

The State of California has already taken steps to ensure that human embryonic stem cell research will be allowed to develop by establishing the Institute for Regenerative Medicine, which will devote $3 billion to California universities and research institutions over the next 10 years. The passage of H.R. 810 will further empower and equip California scientific institutions to undertake cutting-edge research on the most pressing medical challenges of our day.

Let us make no mistake, the development of lifesaving medical procedures has been slowed by an unwarranted restriction on stem cell research. I believe that, as policymakers, we have a moral imperative to pursue innovative medical research that can improve the quality of life and prevent harmful illnesses and diseases for generations to come. I urge my colleagues to join the innumerable scientists, university leaders, patient groups, and medical research groups that support H.R. 810.

Mr. ACKERMAN. Mr. Speaker, I rise in support of H.R. 810, the Stem Cell Research Enhancement Act of 2005. Stem-cell research holds tremendous promise for advances in health care for all Americans. Stem-cell research may one day lead to treatments for Parkinson's, Alzheimer's, arthritis, cancer, diabetes, multiple sclerosis, spinal-cord injuries, Lou Gehrig's disease, strokes, severe burns and many more diseases and injuries.

However, Mr. Speaker, nearly 4 years ago, the President made an arbitrary and shortsighted decision to limit federally funded embryonic stem-cell research to stem-cell lines that already existed. At that time, on August 9, 2001, the President promised 78 stem-cell lines would be available to Federal researchers, yet almost 4 years later, there are at most, only 22 lines available. Even worse, many of these lines are contaminated with animal cells that make them unusable for human therapeutic study. Mr. Speaker, the time has arrived for Congress to unshackle our researchers and scientists and allow them to expand the number of stem cell lines that are eligible for federally funded research.

Indeed, Mr. Speaker, our own top scientists and officials at the National Institutes of Health, NIH, have stated that the President's 2001 limitations have caused us to fall behind in this research field. The NIH should be leading this cutting-edge research, yet it is in jeopardy of failing in this role should the President's policy be allowed to continue.

Some States, such as California, are attempting to fill the void left by the lack of Federal funding. However, Mr. Speaker, as the Director of the NIH has warned, this could lead to a patchwork of stem-cell policies, with different laws and regulations which could defeat the type of collaborative research NIH is chartered to carry out.

Mr. Speaker, H.R. 810 would simply allow Federal funding for research on embryonic stem-cell lines regardless of the date on which they were derived. This means researchers and scientists would be eligible to utilize their Federal funds for research on a new stem-cell line as long as it met the strict ethical guidelines contained in the bill. Those rules restrict stem cell lines to embryos that have been created originally for fertility purposes, and that are no longer needed for fertility. Second, the bill requires that the embryo have no further other use and be intended for destruction. Also, there must be written consent for donation of the embryo from the individuals for whom the embryo was created. Finally, the bill calls for the Director of NIH to issue guidelines to ensure that federally funded researchers adhere to ethical standards.

Mr. Speaker, the Stem Cell Research Enhancement Act of 2005 is needed to ensure that the full promise of embryonic stem-cell research is fulfilled. H.R. 810 allows research to take place in a safe, structured, and ethical manner. While all stem-cell research is important, the unique ability of embryonic stem cells to give rise to any tissue or cell in the body that makes these stem cells critically important to medical research. Therefore, I urge my colleagues to support this legislation and lift the President's restrictions that now obstruct effective federally funded embryonic stem-cell research.

Mr. ROTHMAN. Mr. Speaker, as a proud cosponsor of H.R. 810, the Stem Cell Research Enhancement Act of 2005, I rise in support of this legislation. Those of us who have long supported the increased accessibility and possibilities of ethical stem cell research appreciate the opportunity the leadership has granted us by allowing a vote on this legislation today. I would also like to thank Representatives CASTLE and DEGETTE for their continued persistence to bring this bill to the floor.

We have all known someone who has suffered from Lou Gehrig's disease, Alzheimer's disease, Parkinson's disease, Multiple Sclerosis, Rett Syndrome, lupus, pulmonary fibrosis, juvenile diabetes, autism, cystic fibrosis, osteoporosis, spinal cord injuries, heart disease or cancer. By passing H.R. 810, we have the opportunity to help all of those individuals who are living with these and many other illnesses and injuries. Embryonic stem cell research holds the key to decreasing the pain and suffering of so many of our friends and family members. Furthermore, we have a moral obligation to do everything we can to help the millions of Americans, whose lives we hold in our hands, by allowing Federal funding to be used for this promising research.

The authors of H.R. 810 have gone to great lengths to guarantee that safeguards are in place to ensure the ethical use of embryonic stem cells. Embryos used for stem cell research under H.R. 810, will come from donor participation in in vitro fertilization, IVF, so embryos will not be created or cloned for research. This legislation also directs the experts at the National Institutes of Health to define the boundaries of this research. NIH has stated that they are prepared to institute these parameters. Such restrictions will ensure that rogue scientists are not performing dangerous and unethical experiments.

The United States has long been the leader of groundbreaking health research. Today we have the opportunity to ensure that the rest of the world does not continue to take the lead in health care advances. I urge all of my colleagues to vote in favor of H.R. 810, not only because U.S. based researchers deserve to be at the forefront of the development of promising new treatments, but also for all of our constituents, friends, and family members who are counting on us to support the effort to find cures for so many different diseases and illnesses.

Ms. DELAURO. Mr. Speaker, I am proud to stand on the House floor today to speak in favor of the Stem Cell Research Enhancement Act, legislation which will bring hope to millions of people suffering from disease in this nation. I want to thank Congresswoman DEGETTE and Congressman CASTLE for their tireless work in bringing this bill to the House floor for a vote.

The discovery of embryonic stem cells is a major scientific breakthrough. Embryonic stem cells have the potential to form any cell type in the human body. This could have profound implications for diseases such as Alzheimer's, Parkinson's, various forms of brain and spinal cord disorders, diabetes, and many types of cancer. According to the Coalition for the Advancement of Medical Research, there are at least 58 diseases which could potentially be cured through stem cell research.

That is why more than 200 major patient groups, scientists, and medical research groups and 80 Nobel Laureates support the Stem Cell Research Enhancement Act. They know that this legislation will give us a chance to find cures to diseases affecting 100 million Americans.

I want to make clear that I oppose reproductive cloning, as we all do. I have voted against it in the past. However, that is vastly different from stem cell research and as an ovarian cancer survivor, I am not going to stand in the way of science.

Permitting peer-reviewed Federal funds to be used for this research, combined with public oversight of these activities, is our best assurance that research will be of the highest quality and performed with the greatest dignity and moral responsibility. The policy President Bush announced in August 2001 has limited access to stem cell lines and has stalled scientific progress.

As a cancer survivor, I know the desperation these families feel as they wait for a cure. This Congress must not stand in the way of that progress. We have an opportunity to change the lives of millions, and I hope we take it. I urge my colleagues to support this legislation.

Mr. ISRAEL. Mr. Speaker, I rise today in strong support of this important bill.

I have met with constituents with afflictions such as Alzheimer's disease, Parkinson's disease, childhood leukemia, heart disease, Lou Gehrig's disease, diabetes, several cancers, spinal cord injuries, and other diseases, disorders and injuries. Embryonic stem cell research offers them hope.

I have also met with an amazing young woman named Brooke Ellison from Long Island. In 1990, when she was eleven years old, Brooke was hit by a car, which left her paralyzed from the neck down. Even with this hardship, she graduated from Harvard University in 2000, Harvard's Kennedy School of Government in 2004, and she is currently a Ph.D. candidate in political science at Stony Brook University. Her inspiring story was made into a movie on A&E and was directed by the late Christopher Reeves.

I have worked with her to raise public awareness of the importance of stem cell research, and under the Unanimous Consent agreement, I am including an essay that Brooke wrote on the issue in the CONGRESSIONAL RECORD.

As everyone here knows, on August 9, 2001, President Bush announced that embryonic stem cell research would be limited; he limited federal funds by limiting eligible lines for research.

Although scientists were expecting a big number of available lines, less than one third of the allowed 78 lines are available for distribution.

The Stem Cell Research Enhancement Act would expand research on embryonic stem cells by increasing the number of lines stem cells that would be eligible for federally funded research.

This bill should not be controversial. The bill ensures that strict ethical guidelines would be met: the embryos would have been donated with informed written consent and without any financial payment or other inducement to make the donation. These are embryos that will be discarded. Finally, the bill would not use any federal funds to derive the stem cells.

It is a good bill, but I wish this bill went further. There is still a need for other funding, because state or private funding would be needed to fund deriving the stem cells.

California and New Jersey have already set up funding sources for embryonic stem cell research, and a number of other states have announced intentions to fund this research. We must ensure that all entities can work together. Scientists still need funding for the aspects of research that the Federal government will not cover.

Today, I am introducing a resolution that expresses the sense of Congress that the Federal government should not infringe on states or private organizations that fund embryonic stem cell research. I hope that my colleagues will show support for all embryonic research, by supporting my resolution.

Many of us have family members suffering from devastating illnesses, and the prospect of helping them to be healthy and free of pain is a worthy goal. Make no mistake; this goal is what we are debating today.

ENTICINGLY CLOSE . . . YET PAINFULLY FAR

(By Brooke Ellison)

The ability to view the world through another's eyes is the essence of altruism. When putting their pens to the paper of policy, those who legislate ought to take into keen consideration the world as it is seen through others' eyes, wrought with the problems they face and conditions they endure. This is the basic tenet of a representative democracy, the basic belief upon which the United States was founded. Yet, despite this underlying and widely accepted notion of several voices speaking on behalf of many, this does not always appear to be the case and, in fact, those making collective decisions can become inextricably linked to their own, myopic ideology, failing to understand the situations of others or hear their voices.

In September of 1990, when I was eleven years old, I was hit by a car while walking home from my first day of 7th grade. That accident left me paralyzed from my neck down and dependent on a ventilator for every breath I take. Living as a person with a physical disability or debilitating disease, each day is a struggle. Tasks that, to others, might seem mundane or be taken for granted are strenuous challenges, sometimes taking long hours instead of mere minutes, causing frustration both from what cannot be at present and potential being lost in the future. When we place our hopes and visions for our world into the hands of those making broad decisions, we do it with the belief that they will act on behalf of our best interest and not on an isolated viewpoint. To do otherwise is bad policy. To undermine the interests of a majority of citizens is bad policy. To ignore the voices and dash the hopes of those most in need is bad policy. In the context of stem cell research legislation, these are bad policies, yet policies that are being upheld. This forces millions to wonder things like, "If I could be freed from the confines of my physical condition, what a miracle it would be." Or, "If, for an entire day, I could once again be completely whole and my body was somehow irrelevant, what a renewed gift that would be." Or, maybe, "If, for a single moment, I could wrap my arms around those I love, what a treasure that would be." And even, "If, by some chance, those making policy decisions might heed some of my recurrent thoughts and change their stance on stem cell research, what a potentially groundbreaking step it would be." The reality is that, based on current federal legislation, these "ifs" likely won't change into "thens".

On August 9th, 2001, from his ranch in Crawford, Texas, President Bush announced that he would significantly limit federal funds to stem cell research, only agreeing to fund research conducted on to stem cell lines already in existence at the time. According to this limitation, federally supported research could be done on no more than 78 existing genetic cell lines, although even the most optimistic estimates of viable cells were estimated to be far fewer, less than two dozen. To the delight of some and the grief of others. Mr. Bush indicated that the use of embryonic cells for medical research was a violation of the sanctity of life, analogous to abortion or euthanasia. In the President's own words, "I worry about a culture that devalues life, and believe as your President I have an important obligation to foster and encourage respect for life in America and throughout the world. . . . Embryonic stem cell research offers both great promise and great peril. So I have decided we must proceed with great care". Despite millions of testimonies and pleas to the contrary since that day, over three years ago, the opinion of the administration has remained constant and has not eased any restrictions. Despite strides being made in other countries around the world in the field of stem cell research, the U.S. government has remained resolute in its opposition to it.

Research that holds so much promise for so many now remains unsupported by the federal government. Similar to other issues facing our nation today, the decision of whether or not to fund embryonic stem cell research is now left in the hands of the States, with the Legislatures and Governors picking up where the U.S. Congress and President have left off. California, with its Proposition 71, has been the most recent State to make substantive progress on the issue, passing a referendum to support research conducted in the state. California joins New Jersey in leading the charge for state-funded stem cell research. But the cause should not and must not stop there, as two States out of our fifty is simply not enough. With researchers, scientists, and human lives waiting in the wings for advances, opportunity wasted is opportunity lost.

Therapeutic stem cell research, also known as somatic cell nuclear transfer, has the potential to provide cures for a considerable number of neurological and degenerative conditions, including Alzheimer's disease, Parkinson's disease, childhood leukemia, heart disease, ALS, several different types of cancer, and spinal cord injuries. In its most basic description, stem cells are the undifferentiated, unspecialized cells that can be extracted from embryos in their earliest stages of development, three to five days after fertilization. The embryos, known in this initial developmental form as blastocysts, contain only about 30 cells. Importantly, the cells taken from the blastocysts can be placed in different conditions to become other types of cells, such as heart muscle or nerve tissue, which can be used to repair similar damaged tissue in children and adults. The procedure has the potential to affect directly the lives of nearly 100 million Americans who face different conditions, equaling over one-third of the U.S. population and more than the entire populations of New York, California, Texas, and Florida, combined. As complex as embryonic stem cell research is in its design, it is equally so in its moral debate. Therapeutic stem cell research can sometimes be confused with reproductive stem cell procedures, such as genetic engineering, which have sparked controversy in some political camps. The two types of research differ considerably, though, both in terms of procedure and intent, and represent two diverse ends on a very long, complex spectrum—an understanding which often goes ignored.

Well, some have argued, isn't using stem cells just the destruction of one life for the sake of another? Aren't we simply judging some lives as more important than others? To hold such a belief is to view the world in black and white terms, thereby ignoring the much more complex gray areas. Yes, it is possible that, if a blastocyst, from where stems cells are derived, were to be inserted into a womb and allowed to grow for nine months there is the potential a life could be born. However, that is not the case for any of the blastocysts that yield stem cells that are used for research. These blastocysts are those that will go unused after in vitro fertilization procedures and will never be used to bring about life. These blastocysts, which some proclaim represent the sanctity of life, will only be kept in freezers at fertility clinics until they have expired and then will be discarded completely. Under current federal legislation, they are of no use to anybody.

To rob the stem cells of their other potential of life, which is to cure diseases or to help regenerate parts of the body that are not regenerating on their own, is really to devalue life in another, otherwise avoidable way.

Well, others have argued, isn't the work done on stem cells just the same as cloning? Aren't these cells essentially promoting the creation of another person? The once almost incomprehensible, futuristic ideas of "cloning" and "body-doubles" are now considered feasible and fearsome possibilities, and therapeutic stem cell research has been the unwitting victim of the prevalent fears. Orwell's 1984 has somehow come to life in 2004, with the speculations made by some of about unintended, science-fiction consequences. But, the connection between human reproduction and human therapy is a foggy one at best. The real fear, though, is not the potential of mad scientists reproducing people but the lost potential of sound scientists curing people.

Fourteen years ago, I could have never imagined having to advocate for something that could potentially restore for me the very basic aspects of life and humanity. But, that is something that no one should have to imagine. Science has given medicine more promise than ever before, with the potential to heal and restore people in ways once unfathomable. Stem cells, which would otherwise serve no other purpose, hold the promise of life, not just for the newly born but now for the already living and this opportunity must be seized. The time is now. If the federal government chooses not to do it, then the States must tend to it, themselves. The time has come when we can change the lives of so many, giving to them the fundamental parts of life and dignity.

Mr. ETHERIDGE. Mr. Speaker, I rise in support of H.R. 810, the Stem Cell Research Enhancement Act.

Scientific and biomedical research and innovation has made our Nation and our world a safer and healthier place. Advances in medicine have made virtually obsolete killer diseases like smallpox and polio, have increased life expectancy and improved the quality of life for people around the globe. From Roman times around 2000 years ago to 1900 life expectancy increased from 25 to 47 years of age. However, because of important discoveries and advances in medicine and medical treatments, by the year 2000 life expectancy had increased to over 76 years of age.

The advances in medicine that resulted in this dramatic increase in life expectancy did not happen by accident. They occurred as a result of visionary leadership in both the public and private sectors. They occurred as a result of political will and public capital. They occurred because of the private sector's ability to convert government funded basic research into life-saving applications. Government funded basic research has and continues to serve as the foundation for the medical advances that have improved the health and quality of life for millions of people.

While the advances we have made in medicine in the last century have been both impressive and historic, we have a long way to go. Far too many people in our society suffer from debilitating diseases like Parkinson's, Alzheimer's and diabetes for which there are no cures. The scientific community overwhelmingly believes that embryonic stem cell research holds the potential for medical advances and therapies that could make these and other diseases as obsolete as polio and small pox, and the National Institutes of Health have proposed an ethically sound policy to further this research. I support Federal funding for embryonic stem cell research because without it we run the risk of missing an historic opportunity to improve the lives of millions of North Carolinians, Americans and people around the world. Without Federal funding for this basic research we could condemn millions of human beings to the pain, misery and suffering of debilitating and degenerative diseases that otherwise might be cured.

I understand that many of the opponents of this legislation have moral qualms about using embryos for research. But the embryos covered under this legislation would otherwise be discarded, so defeat of this legislation would do nothing to assuage moral difficulties surrounding destruction of embryos. And defeat of this legislation would deny innocent victims of terrible diseases the opportunity of relief from their suffering and healing of their afflictions. I support funding for this research because of the bright promise it holds to make life better and more productive for generations to come.

Our North Carolina values guide us to expand scientific and medical knowledge to enhance the health and well being of our families, neighbors and fellow citizens, and this research is key to that effort.

Mr. LEVIN. Mr. Speaker, I rise in support of the Stem Cell Research Enhancement Act.

The American people need and want a carefully crafted stem cell research policy that allows us to seek scientific breakthroughs.

We do not have such a policy today. The stem cell policy established by President Bush is severely restrictive and arbitrary. The National Institutes of Health has reported that of the 78 stem cell lines promised by President Bush, only 22 lines meet the President's criteria for use. A number of those lines have developed genetic mutations which will make research on them useless. The vast majority of the remaining usable lines are in other countries that have shown little interest in making them available to U.S. researchers. As a result, our researchers are falling behind their counterparts in other countries, and our citizens are watching their hopes for cures within their lifetimes slip away.

What is at stake are potential cures for diseases such as Alzheimer's, Parkinson's, diabetes and cancer.

The Stem Cell Research Enhancement Act expands the number of stem cell lines that are available for federally funded research. The bill also implements strong ethical requirements on stem cell lines that would be eligible for federally funded research.

This is an issue that can impact families across America, crossing all lines of income, political persuasion or religious affiliation. Furthermore, delay in effectively resolving this issue could for countless Americans be a matter of basic health or indeed life. Keeping in mind the essential federal role in critical basic health research, I believe that it is essential that we support this bill so our country can continue in the lead in exploring the frontiers of science and medicine.

The SPEAKER pro tempore (Mr. LAHOOD). All time for debate has expired.

Pursuant to the order of the House of Monday, May 23, 2005, the bill is considered read for amendment and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CASTLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 810 will be followed by 5-minute votes on:

suspending the rules and passing H.R. 2520; and

suspending the rules and passing H.R. 1224, as amended.

The vote was taken by electronic device, and there were—yeas 238, nays 194, not voting 2, as follows:

[Roll No. 204]

YEAS—238

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Barton (TX)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boren
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Calvert
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Coble
Conyers
Cooper
Costa
Cramer
Crowley
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Doyle
Dreier
Edwards
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Fossella
Frank (MA)
Frelinghuysen
Gerlach
Gibbons
Gilchrest
Gonzalez
Gordon
Granger
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kelly
Kennedy (RI)
Kilpatrick (MI)
Kind
Kirk
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Pomeroy
Porter
Price (NC)
Pryce (OH)
Ramstad
Rangel
Regula
Reyes
Rohrabacher
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Sweeney
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—194

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boustany
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Cole (OK)
Conaway
Costello
Cox
Crenshaw
Cubin
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Forbes
Fortenberry
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Price (GA)
Putnam
Radanovich
Rahall
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Stupak
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf

NOT VOTING—2

Hastings (WA)
Millender-McDonald

☐ 1807

Ms. CARSON and Mr. BUTTERFIELD changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STEM CELL THERAPEUTIC AND RESEARCH ACT OF 2005

The SPEAKER pro tempore (Mr. LAHOOD). The pending business is the question of suspending the rules and passing the bill, H.R. 2520.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 2520, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 431, nays 1, not voting 2, as follows:

[Roll No. 205]

YEAS—431

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)

Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—2

Hastings (WA)
Millender-McDonald

☐ 1817

So (two thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BUSINESS CHECKING FREEDOM ACT OF 2005

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and passing the bill, H.R. 1224, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 1224, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 1, not voting 8, as follows:

[Roll No. 206]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton

Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

DeFazio

NOT VOTING—8

Boswell
Dingell
Hastings (WA)
Linder
Meeks (NY)
Millender-McDonald
Osborne
Wicker

☐ 1824

So (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER FURTHER AMENDED VERSION AND LIMITATION ON AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that, during further consideration of H.R. 2419 in the Committee of the Whole pursuant to House Resolution 291, the amendment I have placed at the desk be considered as adopted in the House and in the Committee of the Whole and be considered as original text for purpose of further amendment; and that no further amendment to the bill, as amended, may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments printed in the RECORD and numbered 1, 2, and 5;

The amendment printed in the RECORD and numbered 3, which shall be debatable for 24 minutes;

The amendment printed in the RECORD and numbered 4, which shall be debatable for 30 minutes;

An amendment by the gentleman from Vermont (Mr. SANDERS) regarding funding for Energy Smart schools;

An amendment by the gentlewoman from Illinois (Mrs. BIGGERT) regarding Laboratory-Directed Research and Development;

An amendment by the gentleman from Massachusetts (Mr. MARKEY) regarding funding for interim storage and reprocessing;

An amendment by the gentleman from Massachusetts (Mr. MARKEY) regarding security assessments;

An amendment by the gentleman from Kansas (Mr. TIAHRT) regarding promulgation of regulations affecting competitiveness;

An amendment by the gentleman from New York (Mr. BOEHLERT) regarding contribution of funds to ITER; and

An amendment by the gentleman from North Carolina (Mr. JONES) regarding funding for operation and maintenance for the Corps of Engineers.

Each such amendment may be offered only by the Member named in this request or a designee, or the Member who caused it to be printed in the RECORD or a designee, shall be considered as read, shall not be subject to amendment except that the chairman and ranking minority member of the Committee on Appropriations and the Energy and Water Development, and Related Agencies Subcommittee each may offer one pro forma amendment for the purpose of debate; and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent. An amendment shall be considered to fit the description stated in this request if it addresses in whole or in part the object described.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment to H.R. 2419 offered by Mr. HOBSON:

Strike the provision beginning on page 2, line 19; page 4, line 20; page 5, line 14; and page 7, line 2 and insert in lieu thereof in each instance the following:

"Provided, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report acompanying this Act."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 291 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2419.

☐ 1830

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, with Mr. GOODLATTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for general debate had expired.

Pursuant to the order of the House of today, the amendment reported therewith is adopted and the bill, as amended, shall be considered as original text for the purpose of further amendment.

No further amendment to the bill, as amended, may be offered except:

Pro forma amendments offered at any point in the reading by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate;

Amendments printed in the RECORD and numbered 1, 2 and 5;

The amendment printed in the RECORD and numbered 3, which shall be debatable for 24 minutes;

The amendment printed in the RECORD and numbered 4, which shall be debatable for 30 minutes;

An amendment by Mr. SANDERS regarding funding for Energy Smart schools;

An amendment by Mrs. BIGGERT regarding Laboratory-Directed Research and Development;

An amendment by Mr. MARKEY regarding funding for interim storage and reprocessing;

An amendment by Mr. MARKEY regarding security assessments;

An amendment by Mr. TIAHRT regarding promulgation of regulations affecting competitiveness;

An amendment by Mr. BOEHLERT regarding contribution of funds to ITER;

An amendment by Mr. JONES of North Carolina regarding funding for operation and maintenance of the Corps of Engineers.

Each such amendment may be offered only by the Member named in the request or a designee, or the Member who caused it to be printed in the RECORD or a designee, shall be considered as read, shall not be subject to amendment except that the chairman and ranking minority member of the Committee on Appropriations and the Subcommittee on Energy and Water Development and Related Agencies each may offer one pro forma amendment for the purpose of debate; and shall not be subject to a demand for division of the question.

Except as otherwise specified, each amendment shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of title I is as follows:

H.R. 2419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for energy and water development and for other purposes, namely:

TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, aquatic ecosystem restoration, and related purposes.

General Investigations

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, $100,000,000 to remain available until expended: *Provided*, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.

Construction

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); and for the benefit of federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers, $1,763,000,000, to remain available until expended; of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104–303; and of which $182,668,000, pursuant to Public Law 99–662, shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects; and of which $4,000,000 shall be exclusively for projects and activities authorized under section 107 of the River and Harbor Act of 1960; and of which $500,000 shall be exclusively for projects and activities authorized under section 111 of the River and Harbor Act of 1968; and of which $1,000,000 shall be exclusively for projects and activities authorized under section 103 of the River and Harbor Act of 1962; and of which $25,000,000 shall be exclusively available for projects and activities authorized under section 205 of the Flood Control Act of 1948; and of which $8,000,000 shall be exclusively for projects and activities authorized under section 14 of the Flood Control Act of 1946; and of which $400,000 shall be exclusively for projects and activities authorized under section 208 of the Flood Control Act of 1954; and of which $17,400,000 shall be exclusively for projects and activities authorized under section 1135 of the Water Resources Development Act of 1986; and of which $18,000,000 shall be exclusively for projects and activities authorized under section 206 of the Water Resources Act of 1996; and of which $4,000,000 shall be exclusively for projects and activities authorized under section 204 of the Water Resources Act of 1992: *Provided*, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.

In addition, $137,000,000 shall be available for projects and activities authorized under 16 U.S.C. 410–r–8 and section 601 of Public Law 106–541.

Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, $290,000,000 to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided*, That, except as provided in section 101 of this Act, amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.

Operation and Maintenance

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for the benefit of federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers (the "Corps"); for providing security for infrastructure owned and operated by, or on behalf of, the Corps, including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, $2,000,000,000 to remain available until expended, of which such sums to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662 may be derived from that fund; of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601–6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104–303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: *Provided*, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.

Regulatory Program

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $160,000,000, to remain available until expended.

Formerly Utilized Sites Remedial Action Program

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended.

General Expenses

For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, $152,021,000 to remain available until expended: *Provided*, That no part of any other appropriation provided in this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices.

Office of Assistant Secretary of the Army (Civil Works)

For expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), $4,000,000.

Administrative Provision

Appropriations in this title shall be available for official reception and representation expenses not to exceed $5,000; and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase not to exceed 100 for replacement only and hire of passenger motor vehicles.

GENERAL PROVISIONS

Corps of Engineers—Civil

SEC. 101. (a) None of the funds provided in title I of this Act shall be available for obligation or expenditure through a reprogramming of funds that—

(1) creates or initiates a new program, project, or activity;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel for any program, project, or activity for which funds are denied or restricted by this Act;

(4) reduces funds that are directed to be used for a specific program, project, or activity by this Act;

(5) increases funds for any program, project, or activity by more than $2,000,000 or 10 percent, whichever is less; or

(6) reduces funds for any program, project, or activity by more than $2,000,000 or 10 percent, whichever is less.

(b) Subsection (a)(1) shall not apply to any project or activity authorized under section 205 of the Flood Control Act of 1948, section 14 of the Flood Control Act of 1946, section 208 of the Flood Control Act of 1954, section 107 of the River and Harbor Act of 1960, section 103 of the River and Harbor Act of 1962, section 111 of the River and Harbor Act of 1968, section 1135 of the Water Resources Development Act of 1986, section 206 of the Water Resources Act of 1996, or section 204 of the Water Resources Act of 1992.

SEC. 102. None of the funds appropriated in this Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Ridge Landfill in Tuscarawas County, Ohio.

SEC. 103. None of the funds appropriated in this Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Indian Run Sanitary Landfill in Sandy Township, Stark County, Ohio.

SEC. 104. In overseeing the use of continuing and multiyear contracts for water resources projects, the Secretary of the Army shall take all necessary steps in fiscal year 2006 and thereafter to ensure that the Corps limits the duration of each multiyear contract to the term needed to achieve a substantial reduction of costs on the margin; and limits the amount of work performed each year on each project to the funding provided for that project during the fiscal year.

SEC. 105. After February 6, 2006, none of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that obligates the United States Government during fiscal year 2007 to make payment under such contract for any project that is proposed for deferral or suspension in fiscal year 2007 in the materials prepared by the Assistant Secretary of the Army (Civil Works) for that fiscal year pursuant to provisions of chapter 11 of title 31, United States Code.

SEC. 106. None of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that reserves an amount for a project in excess of the amount appropriated for such project pursuant to this Act.

SEC. 107. None of the funds in title I of this Act shall be available for the rehabilitation and lead and asbestos abatement of the dredge *McFarland*: *Provided*, That amounts provided in title I of this Act are hereby reduced by $18,630,000.

SEC. 108. None of the funds in this Act may be expended by the Secretary of the Army to construct the Port Jersey element of the New York and New Jersey Harbor or to reimburse the local sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element.

POINT OF ORDER

Mr. DUNCAN. Mr. Chairman, I rise to a point of order against Section 104.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DUNCAN. Mr. Chairman, this section violates clause 2 of rule XXI. It changes existing law, and therefore constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. HOBSON. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The provision is stricken from the bill.

Mr. DUNCAN. Mr. Chairman, I rise to express my concern about what may be the unintended consequences of some of the General Provisions applicable to the Corps of Engineers in this FY 2006 Energy and Water Development appropriations bill. I appreciate that Chairman HOBSON and Ranking Member VISCLOSKY have faced a difficult task in trying to meet the nation's water resources needs in a time of constrained budgets. I also know that the Energy and Water Appropriations Subcommittee has had some concerns about how the Corps of Engineers is managing the civil works program, particularly as it relates to reprogramming funds and to the use of contracts for work that is completed over several fiscal years—called continuing contracts.

However, I am concerned that the legislation before the House today will make it even more difficult to meet important navigation, flood control, and environmental restoration needs all over the country. The Corps' civil works budget request is based on the best information the Corps has at the time the request is made. However, circumstances can change over the course of a year. Severe weather may increase operation and maintenance costs. Major construction projects may get delayed for technical reasons. For these reasons, the Corps has traditionally attempted to maximize the benefits to the nation with the available funds by reprogramming money to best meet current needs and conditions. I agree that the Corps should get Congressional concurrence before moving around funds that have been earmarked in the report of the Appropriations Committee. I also agree that the Corps needs to track and report these reprogramming decisions, so the impact on current and future budgets is transparent. However, H.R. 2419 goes far beyond tracking and transparency and places severe restrictions on reprogramming—which could have adverse consequences for projects all over the country.

For example, if we need to conduct emergency maintenance at Chickamauga Lock in fiscal year 2006, to address the concrete growth there, and the cost is more than $2 million above the amount earmarked for operation and maintenance of that lock, the Corps will not be able to reprogram funds to carry out that work. I don't think that is the Committee's intent. H.R. 2419 also tries to place limits on the Corps' use of continuing contracts to carry out civil works projects. In a minute, I will make a point of order to remove section 104 from the bill. The Corps has had authority to enter into continuing contracts since 1922, at the discretion of the Secretary. In the Water Resources Development Act of 1999, Congress removed the Secretary's discretion and required the Corps to begin each project for which funds were provided in an Appropriations Act, using a continuing contract if the Act did not provide full funding. Congress made this change in law to prevent the prior Administration from imposing a full funding policy on the Corps.

If Corps projects had to be fully funded, the Corps would be able to undertake very few projects each year. Under a full funding policy, most appropriated funds would simply sit in the Treasury, waiting for years to be expended, while other critical navigation, flood control and environmental restoration needs go unmet.

I understand that H.R. 2419 does not completely eliminate the use of continuing contracts, but the limits it proposes may be ill-advised. I am told that section 105 of the bill represents an attempt to ensure that funding is requested each year for projects carried out using a continuing contract. However, the language that is before the House today gives Congressional priorities less favorable treatment than Administration requests. Under section 105 of the bill, if a member is successful in obtaining funding for a Congressionally-added project in the FY 2006 Energy and Water Appropriations Act, but does not receive full funding for the project, the Corps has three alternatives to carry out the project: (1) Hope to get a continuing contract awarded before February 6, 2006 (which will be difficult given the complexity of the Federal Acquisition Regulations); (2) Award a single year contract for only one increment of the project (resulting in increased costs); or (3) Wait until fiscal year 2008 to award a continuing contract for the project (delaying construction of the project).

In contrast, Administration priorities may be carried out using continuing contracts. Finally, I want to applaud the Committee's effort to improve the quality of the information in the budget documents submitted by the Corps to Congress each fiscal year. In fact, I believe that if the Corps provides Congress with budget documents that are transparent about the funding needs of all ongoing projects, the Appropriations Committee will have sufficient information to address its concerns regarding both the use of continuing contracts and reprogramming.

This information will make it unnecessary to place further restrictions on the Corps' ability to manage the civil works program. The importance of the civil works program of the Army Corps of Engineers to our nation's economic security cannot be overstated. I look forward to continuing to work with the Committee to ensure that the Corps is able to continue to carry out its mission.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, $32,614,000, to remain available until expended, of which $946,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,736,000, to remain available until expended.

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $832,000,000, to remain available until expended, of which $55,544,000 shall be available for transfer to the Upper Colorado River Basin Fund and $21,998,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis.

Central Valley Project Restoration Fund

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $52,219,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575: *Provided further*, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

California Bay-Delta Restoration

(INCLUDING TRANSFER OF FUNDS)

For carrying out activities authorized by the Calfed Bay Delta Authorization Act, consistent with plans to be approved by the Secretary of the Interior, $35,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: *Provided*, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: *Provided further*, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: *Provided further*, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

Policy and Administration

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $57,917,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

Administrative Provision

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 11 are for replacement only.

GENERAL PROVISIONS

Department of the Interior

SEC. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program-Alternative Repayment Plan" and the "SJVDP-Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

SEC. 202. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106–60.

SEC. 203. (a) Section 1(a) of the Lower Colorado Water Supply Act (Public Law 99–655) is amended by adding at the end the following: "The Secretary is authorized to enter into an agreement or agreements with the city of Needles or the Imperial Irrigation District for the design and construction of the remaining stages of the Lower Colorado Water Supply Project on or after November 1, 2004, and the Secretary shall ensure that any such agreement or agreements include provisions setting forth (1) the responsibilities of the parties to the agreement for design and construction; (2) the locations of the remaining wells, discharge pipelines, and power transmission lines; (3) the remaining design capacity of up to 5,000 acre-feet per year which is the authorized capacity less the design capacity of the first stage constructed; (4) the procedures and requirements for approval and acceptance by the Secretary of the remaining stages, including approval of the quality of construction, measures to protect the public health and safety, and procedures for protection of such stages; (5) the rights, responsibilities, and liabilities of each party to the agreement; and (6) the term of the agreement.".

(b) Section 2(b) of the Lower Colorado Water Supply Act (Public Law 99–655) is amended by adding at the end the following: "Subject to the demand of such users along or adjacent to the Colorado River for Project water, the Secretary is further authorized to contract with additional persons or entities who hold Boulder Canyon Project Act section 5 contracts for municipal and industrial uses within the State of California for the use or benefit of Project water under such terms as the Secretary determines will benefit the interest of Project users along the Colorado River.".

Mr. HOBSON (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

Energy Supply and Conservation

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply and energy conservation activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,762,888,000, to remain available until expended.

Clean Coal Technology

(DEFERRAL)

Of the funds made available under this heading for obligation in prior years, $257,000,000 shall not be available until October 1, 2006: *Provided*, That funds made available in previous appropriations Acts shall be made available for any ongoing project regardless of the separate request for proposal under which the project was selected.

Fossil Energy Research and Development

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $502,467,000, to remain available until expended, of which $18,000,000 is to continue a multi-year project coordinated with the private sector for FutureGen, without regard to the terms and conditions applicable to clean coal technological projects: *Provided*, That the initial planning and research stages of the FutureGen project shall include a matching requirement from non-Federal sources of at least 20 percent of the costs: *Provided further*, That any demonstration component of such project shall require a matching requirement from non-Federal sources of at least 50 percent of the costs of the component: *Provided further*, That of the amounts provided, $50,000,000 is available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded research, development, and demonstration projects to reduce the barriers to continued and expanded coal use: *Provided further*, That no project may be selected for which sufficient funding is not available to provide for the total project: *Provided further*, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading "Clean Coal Technology" in 42 U.S.C. 5903d as well as those contained under the heading "Clean Coal Technology" in prior appropriations: *Provided further*, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of technologies from both domestic and foreign transactions: *Provided further*, That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: *Provided further*, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. 7651n, and chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activites not included in this account: *Provided further*, That the Secretary of Energy is authorized to accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State, or private agencies or concerns: *Provided further*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under the Fossil Energy Research and Development account may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements.

Naval Petroleum and Oil Shale Reserves

For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, $18,500,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

Elk Hills School Lands Fund

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, $48,000,000, for payment to the State of California for the State Teachers' Retirement Fund, of which $46,000,000 will be derived from the Elk Hills School Lands Fund.

Strategic Petroleum Reserve

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), including the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, $166,000,000, to remain available until expended.

Energy Information Administration

For necessary expenses in carrying out the activities of the Energy Information Administration, $86,426,000, to remain available until expended.

Non-Defense Environmental Cleanup

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed six passenger motor vehicles, of which five shall be for replacement only, $319,934,000, to remain available until expended.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Would the gentleman from Vermont submit his amendment? The Clerk does not seem to have it. Is there objection to returning to that point in the reading?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. SANDERS:

Page 19, line 5, after the dollar amount, insert the following: "(increased by $1,000,000)".

Page 27, line 9, after the dollar amount, insert the following: "(reduced by $1,000,000)".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I would like to thank my colleagues for allowing me to offer the amendment.

Mr. Chairman, I have an amendment at the desk. The legislative intent of this amendment is to increase the funding for the EnergySmart Schools Program administered by the Department of Energy by $1,000,000, offset by a reduction in administrative expenses for the Department of Energy's public affairs department. It is the intent of this amendment that the increased funds for the EnergySmart Schools program will be directly administered and the grants be directly made by the DOE's National Renewable Energy Laboratory and that they will not go through a third part. I am aware that the public affairs department of the DOE has received an increase of $1,000,000 above Fiscal Year 2005 funding and it is the intent of this amendment to return the funding for the public affairs department to the Fiscal Year 2005 level.

Mr. Chairman, our Nation's school systems are in crisis. Their budgets are threadbare and most can barely pay their teachers a living wage. To make matters worse, America's school buildings are aging—the average age is 42 years—and the vast majority could greatly benefit from energy-saving improvements. Unfortunately, school administrators are often hard-pressed to allocate any of their limited funds toward improving the energy efficiency of their buildings and systems, even when it is clear that such improvements would save them substantial sums of money that could help pay their teachers of the future. Fortunately, the Department of Energy has an energy conservation program to help these schools do just that: to implement energy-saving strategies that save money, help children learn about energy and create improved teaching and learning environments.

The Department of Energy's EnergySmart Schools Program—an integral and active part of the Rebuild America program—is committed to building a nation of schools that are smart about every aspect of energy. The program provides information on energy efficient solutions for school bus transportation, conducting successful building projects and teaching about energy, energy efficiency, and renewable energy. It also works with school districts to introduce energy-saving improvements to the physical environment, enabling many schools to leverage their energy savings to pay for needed improvements, and it takes a proactive role in promoting and supporting energy education in our schools.

Often, this enables school districts to save big on utility bills and maintenance costs, in turn freeing up funds to pay for books, computers and teachers, and improve indoor air quality and comfort. According to the Department of Energy, nationally, K–12 schools spend more than $6 billion a year on energy and at least 25 percent of that could be saved through smarter energy management, meaning energy improvements could cut the Nation's school bill by $1.5 billion each year. As an added benefit, many of the same improvements that help to lower a school's energy consumption also serve to improve the classroom environment, removing noisy, inefficient heating and cooling systems, inadequate lights, and ventilation systems that don't restrict indoor contaminants.

In short, Mr. Chairman, the EnergySmart Schools program helps our Nation's schools to implement energy-saving strategies that save money, help children learn about energy and create improved teaching and learning environments. My amendment would add $1,000,000 to support this excellent program—offset by a reduction in administrative expenses for the Department of Energy's public affairs department.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, if we do not have to engage in any further debate, I support the gentleman and am prepared to accept the amendment.

Mr. SANDERS. Mr. Chairman, reclaiming my time, I thank my friend very much.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there further debate on the amendment?

If not, the question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

The amendment was agreed to.

Mr. HOBSON. Mr. Chairman, I move to strike the last word.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I understand there is a provision in the report accompanying this bill regarding employees of DOE contractors who are on detail in the Washington, D.C., area.

Mr. HOBSON. That is correct.

Mr. DICKS. The provision applies to those who are on detail from their home laboratory location. Is that not the intent of this section?

Mr. HOBSON. That is correct.

Mr. DICKS. Mr. Chairman, the gentleman should agree that provisions should not apply to scientists who are located here in the Washington, D.C., area and who have never been on detail from their home laboratory; that is, they have lived here for the duration of their employment without ever having been located at the home lab. In addition, they have not incurred additional transportation and housing costs associated with detailees for temporary assignments in the Washington, D.C., area.

Mr. HOBSON. Mr. Chairman, reclaiming my time, that is my understanding.

Mr. DICKS. Mr. Chairman, if the gentleman would yield further, would the gentleman agree that staff affiliated with the Pacific Northwest National Laboratory, located at the Joint Global Change Research Institute, who were never detailed to Washington, D.C., should be excluded from the list of contractor detailees referenced in this report?

Mr. HOBSON. I agree.

Mr. OTTER. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from Idaho.

Mr. OTTER. Mr. Chairman, as the gentleman knows, the State of Idaho has an agreement with the United States Department of Energy, enforceable by the courts, that prohibits commercial spent nuclear fuel from coming into the Idaho National Laboratory for storage.

Would the language contained within the report in any way change the existing law or alter the provisions of the State of Idaho's agreement with the Department of Energy?

Mr. HOBSON. Mr. Chairman, reclaiming my time, no, it would not.

Mr. OTTER. I thank the gentleman very much for that clarification.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Uranium Enrichment Decontamination and Decommissioning Fund

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, as amended, and title X, subtitle A, of the Energy Policy Act of 1992, $591,498,000, to be derived from the Fund, to remain available until expended, of which $20,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

Science

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed forty-seven passenger motor vehicles for replacement only, including not to exceed one ambulance and two buses, $3,666,055,000, to remain available until expended.

Nuclear Waste Disposal

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended (the "Act"), including the acquisition of real property or facility construction or expansion, $310,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: *Provided*, That of the funds made available in this Act for Nuclear Waste Disposal, $3,500,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act: *Provided further*, That $7,000,000 shall be provided to affected units of local governments, as defined in the Act, to conduct appropriate activities and participate in licensing activities: *Provided further*, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the Act and this Act: *Provided further*, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Act, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is there objection to consideration of the amendment offered by the gentleman from Massachusetts (Mr. MARKEY)?

Hearing none, the Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MARKEY:

Page 19, line 5, insert "(reduced by $5,500,000) (increased by $8,500,000) (increased by $3,500,000) (increased by $3,500,000)" after "$1,762,888,000".

Page 25, line 12, insert "(reduced by $10,000,000)" after "$310,000,000".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment which the gentleman from New Jersey (Mr. HOLT), the gentleman from Washington (Mr. INSLEE) and I are offering would take $15.5 million from the Committee on Appropriations, which was added on to the President's request for reprocessing and nuclear waste management, and reallocate these funds to programs that would improve energy efficiency.

We are offering this amendment today because we believe that now is the time to undo a policy first adopted back in the 1970s which discourages reprocessing of commercial spent fuel. We believe that nonproliferation risks associated with reprocessing are too great, that reprocessing is not economical and the additional funds recommended for reprocessing would be better spent on improving our Nation's energy efficiency.

First, reprocessing presents grave proliferation risks. President Ford first put this ban on reprocessing in place. It gives us the high moral ground as we look at the North Koreans and Iranians to tell them not to do it. It only makes sense.

Secondly, reprocessing is not economical. It would only be economical if, in fact, there was not a glut of uranium, which is what it is that we have in the world today.

Third, reprocessing is not safe. Twenty tons of highly radioactive material leaked from a broken pipe at a nuclear reprocessing plant in the United Kingdom in April of this year. This area is going to remain closed for a long, long time.

Fifth, the $15.5 million appropriated for reprocessing and interim storage would be better spent on energy efficiency priorities. It would be better to just use it to work smarter and not harder. The more efficient that we make our society is the absolute fastest way in order to guarantee that we would make ourselves less dependent upon imported oil, not moving along the route that this $15.5 million appropriation would move it.

Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio is recognized for 5 minutes.

Mr. HOBSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I rise today in strong opposition to the Markey amendment, which would cut funding for a program that ultimately could solve our nuclear waste problem.

I am proud to say that I represent Argonne National Laboratory, which has been working for years on reprocessing and recycling technologies that will allow us to do something with spent nuclear fuel besides bury it in a mountain. If you think of nuclear fuel like a log, we currently burn only 3 percent of that log at both ends and then pull it out of the fire to bury it. The bulk of what we call nuclear waste is actually nuclear fuel, which still contains over 90 percent of its original energy content.

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Does that make sense? No, but that is our current policy, and it is just plain wasteful.

Instead, scientists have developed ways to reprocess and recycle today's waste and turn it back into fuel. There are many advantages to these technologies which have names like UREX+ and pyroprocessing.

They are proliferation-resistant, unlike other, older technologies already in use throughout the world, including places like France, England, and Russia. They reduce the volume of our nuclear waste so much so that we will not need to build another Yucca Mountain. They also reduce the toxicity, the heat and radioactivity, of the waste so that it will not have to be stored for 10,000 years, but rather for only 300 years. That is still a long time, but we can design with certainty a repository that will last 300 years and one that can meet necessary radiation standards.

At the end of March, I visited reprocessing facilities in France with the gentleman from Ohio (Chairman HOBSON). The French have embraced reprocessing as a way to reduce the volume of the waste by a factor of four and safely store it until they decide exactly how to recycle it.

That is good for the French, but we can do better. The French are using a technology that is between 20 and 30 years old and produces pure plutonium as a by-product. The process and technologies this bill supports today are cutting edge and could reduce the volume of our waste by a factor of 60, are proliferation-resistant, and almost eliminate the long-term radiotoxicity and heat problems associated with our current spent fuel.

Unfortunately, the Markey amendment would have us forgo the benefits of this research.

Mr. MARKEY. Mr. Chairman, could you tell us how much time is remaining on either side.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Ohio (Mr. HOBSON) each have 3 minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, again, this is a huge moment. This is a decision to reverse a policy which is 30 years old. It has gone through Presidents, Democrat and Republican, going back to Gerald Ford, which essentially says to the North Koreans, to the Iranians, to every other country in the world, we are not going to reprocess our civilian-spent fuel; you should not do it either. You should stay away from it. This is too dangerous.

We otherwise will wind up preaching temperance from a bar stool. We will be in a situation where we will be reprocessing civilian-spent fuel into plutonium, and we will be trying to tell the rest of the world that they should not do it. It would be like your father telling you that you should not smoke with a pack of Camels in his hand. It just does not work. You have to have some standard as a Nation on a policy as important as the reprocessing of plutonium in order to take that position and be a leader worldwide.

Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

I do not support the gentleman's amendment transferring all of the funds proposed for our spent fuel recycling initiative.

Our bill, and the administration's budget request, includes $750 million for the Advanced Fuel Recycle Initiative under the Office of Nuclear Energy, Science and Technology. Among other activities, this program funds research into advanced reprocessing technologies that can avoid some of the shortcomings of existing technologies.

Specifically, there are new reprocessing technologies that have the potential to minimize the waste streams of radioactive waste products and also minimize and eliminate the presence of separated plutonium. This country would be foolish to ignore the potential benefits of new technologies.

Our bill adds $5 million to this research and directs the Secretary to make recommendations by fiscal year 2007 on advanced reprocessing technologies suitable for implementation in the United States. We also direct that the Secretary establish a competitive process for selecting one or more sites for integrated spent fuel recycling facilities.

After running through a nuclear reactor, spent nuclear fuel still contains 97 percent of its energy value, yet we continue to plan to bury the spent fuel underground rather than recycle it, as other countries do very successfully. The current Yucca Mountain repository will be full to its authorized capacity by the year 2010. If we do not look to recycle our spent fuel, then DOE should start tomorrow to expand Yucca Mountain repository or select a second site. In the near term, we direct the Secretary to begin moving spent fuel away from reactive sites and into interim storage at one or more DOE sites. I believe it is essential that the government demonstrate that it will comply with the requirement to begin accepting spent fuel from the reactor sites and begin to move it on the path to disposal in the repository.

I strongly oppose living in the past. We have to move to the future. We have to get back into this business. This is safe, this is responsible, and it is the way this country should move forward and not live in the past. Use new technology.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, the gentleman from Massachusetts (Mr. MARKEY) has addressed the serious ramifications of abandoning this bipartisan policy regarding reprocessing; but there is another evil that this amendment will fix, and that is an evil that, again, trying to go back to America's commitment not to do interim storage, that we made on a bipartisan basis back in 1990. We made a very conscious, bipartisan decision not to try to stick these communities with the misnomer of interim storage.

Interim storage of radioactive waste in America is sort of like the interim pyramids of Egypt: they tend to stay around a long time. There is nothing interim about this effort to put this in the Hanford Nuclear Reservation, a place where we had 450 million gallons of radioactive waste already leaking with a plume potentially heading to the Columbia River. It is now the largest cleanup site, one of, if not the, in America, and yet we intend to put more radioactive waste if this amendment is not adopted potentially at Hanford.

Why would we do this? This is sort of like coal is to New Castle when you send radioactive material to Hanford, which is the very place we are trying to clean up. This is the last place we ought to be sticking these repositories, not the first place.

I have to object to this being done in report language with no hearings, with no chance for the public to have input into this major decision of our nuclear policy. This is a distortion of how we have tried to make bipartisan policy about these very sensitive issues, and this is why we need to pass this amendment. By the way, this is not just Hanford. It is going to be driving by your neighborhoods on its way to these three interim sites.

Mr. MARKEY. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, this amendment goes to a central, fundamental question which this Congress is going to decide this evening. The Senate yesterday resolved something they called the nuclear option. This is the real nuclear option. This is the nuclear option which the rest of the world is going to look at: are we going back to nuclear reprocessing? Are we going to become the leader in a technology which we are telling the rest of the world we do not believe they should have, especially since we do not even need it?

So this question of nuclear weapons in the world, nuclear proliferation, this issue is a central issue in determining whether or not we are going to be the leader or we are going to be spreading these technologies across the planet. Vote "aye" on the Markey amendment.

The amendment that the gentleman from New Jersey (Mr. HOLT), the gentleman from Washington (Mr. INSLEE) and I are offering would take the $15.5 million that the Appropriations Committee added onto the President's request for the reprocessing and nuclear waste management and reallocate these funds to programs that would improve energy efficiency.

We are offering this amendment today because we believe that now is not the time to undo a policy first adopted back in 1970s which discourages reprocessing of commercial spent fuel. We believe that nonproliferation risks associated with reprocessing are too great, that reprocessing is not economical, and that the additional funds recommended for reprocessing would be better spent on improving our nation's energy efficiency.

Reprocessing represents grave proliferation risks. Just look at North Korea. It has been reprocessing spent fuel from its reactors to use in nuclear bombs. In response, President Bush has asked the Nuclear Suppliers Group to limit access to reprocessing technology, arguing that:

> This step will prevent new states from developing the means to produce fissile material for nuclear bombs.

How are we going to credibly ask the rest of the world to support us when we tell North Korea, Iran or any other nation that they cannot have the full fuel cycle and they can't engage in reprocessing, when we are preparing to do the same thing right here in America? It just won't fly.

You cannot preach nuclear temperance from a barstool. That is why President Gerald Ford called for an end to commercial reprocessing back in 1976, and why no President since then has successfully revived reprocessing.

Reprocessing also is not economical. A MIT study puts the cost of reprocessing at four times that of a once-through nuclear power. The current price of concentrated uranium "yellowcake" in the spot market is about $53.00 per kilogram. For reprocessing to be economical, there must be a sustained 8-fold increase in the long-term price of uranium. But the world is faced with a uranium glut. In addition, building a reprocessing plant would be enormously expensive. Consider Japan's nearly completed Rokkasho reprocessing plant—20 years in the making. Just building it cost on the order of $20 billion. But the total cost of Rokkasho when you factor in the full life-cycle costs—including construction, operation and decommissioning costs—is estimated to be $166 billion. Uranium costs would have to soar to 20 times what they are today for this to be economically viable.

In France, Cadarache's ATPu MOX plant has ceased commercial activity because it is not economical, but it plans to fabricate test MOX assemblies to send here. In Russia, they too have closed their reprocessing plant, RT–1, and still have not opened its successor, RT–2. The record is becoming clearer, reprocessing is not economical. Why would we think that the U.S. is immune from the fundamental laws of economics?

Reprocessing will not alleviate the nuclear waste problem. Talk to the folks at Savannah River where over 30 million gallons of high-level were left behind from reprocessing.

Under this bill, Savannah River may be targeted again for interim storage for spent fuel, awaiting reprocessing. So might Hanford and Idaho. In fact the bill report targets all DOE sites, federally owned sites, non-federal fuel storage facilities, and even closed military sites.

The Appropriations Committee Report (page 124) calls for DOE to provide "an implementation plan for such early acceptance of commercial spent fuel, transportation to a DOE site, and centralized interim storage at one or more DOE sites." If appropriate DOE sites can't be found, the Report recommends that the nuclear waste be stored at "other federally-owned sites, closed military bases, and non-federal fuel storage facilities." The Report calls for DOE to prepare a plan for centralized interim storage within 120 days of enactment of the bill, and states its belief that DOE "already has authority for these actions under the Atomic Energy Act of 1954, as amended."

So, if you just had a military base in your district closed by the BRAC, you might be a candidate to get a nuclear waste dump. Talk about adding insult to injury. Reprocessing sites will become defacto nuclear waste dumps. The spent nuclear fuel cannot even be handled to be reprocessed for 5 to 15 years—it is so radioactive. And what will happen to all this waste when the hard reality of the disastrous economics combined with the fact that our government deep in deficit cannot afford to subsidize this anymore?

Reprocessing is not safe. Twenty tons of highly radioactive material leaked from a broken pipe at a Sellafield nuclear reprocessing plant in the United Kingdom in April of this year. The affected area of the Sellafield plant will remain closed for months as officials devise a way of cleaning up the mess. Special robots may have to be built to clean up the waste as the area is too radioactive for people to enter.

Senior officials at the UK's Nuclear Decommissioning Authority, which owns the Sellafield reprocessing are pushing to close the plant altogether, arguing that it is more cost-effective to close the plant now rather than repair the problems only to decommission the plant as planned in 2012.

The MIT Study said this about safety:

> We are concerned about the safety of reprocessing plants, because of the large radioactive material inventories, and because the record of accidents, such as waste tank explosion at Chelyabinsk in the FSU [Russia], the Hanford waste tank leakages in the United States and the discharges to the environment at the Sellafield plant in the United Kingdom.

The $15.5 million appropriated for reprocessing and interim storage would be better spent on energy efficiency priorities. Under the Markey-Holt amendment, the $15.5 million added to the bill by the Committee for reprocessing and interim storage of nuclear waste would be transferred over to three under-funded domestic energy supply priority programs, as follows:

$8.5 million would be added for Industrial Technologies (which was cut by $16.5 million from current levels). Despite the fact that manufacturing makes up 35 percent of the nation's energy use, this bill would cut the industrial energy efficiency program to help manufacturers deal with high energy costs and develop innovative technologies from $93 million in FY 2004 to $76 million in FY 2005, and now the House proposes $58 million in FY 2006. We are heading in the wrong direction. We are trying to maintain manufacturing jobs. We need to cut energy use and improve technology, since we can't cut wages to equate to China and India. This is a national security issue. Do we want to vacate the field in the key areas of steel, plastics, aluminum, chemicals, forest products, glass and metal casting? We need domestic production and this program helps make our domestic industries more energy efficient.

There would be $3.5 million added for State Energy Program Grants (which was cut $3.8 million from current levels). A recent study by Oak Ridge National Laboratories concluded that for every federal dollar in the State Energy Program: (1) $7.22 in annual energy cost savings are produced; (2) $11.29 in leveraged funds are provided from the states and private sector in 18 different project areas; (3) over

$333 million is saved through annual cost savings (the appropriation is only $44 million in FY 2005); (4) 48 million source BTUs are saved—or 8 million barrels of oil; (5) 826,049 metric tons of carbon are saved; (6) 135.8 metric tons of volatile organic compounds are reduced; (7) 6,211 metric tons of NO_X are reduced; and (8) 8,491 metric tons of SO_X are reduced.

There would be $3.5 million added for the Distributed Energy and Electricity Reliability Program (which was cut by $4.8 million from current levels). This program is aimed at developing the "next generation" of clean, efficient, reliable, and affordable distributed energy technologies that make use of combined heat and power systems. The Department of Energy has established a goal of increasing installed combined heat and power systems from 66 Gigawatts in 2000 to 92 Gigawatts by 2010. As of 2004, this program is well on track, with 81 Gigawatts of installed power. However, much of the remaining potential for CHP systems is in small scale systems that are below 20 megawatts and employ microturbines, fuel cells and other technologies. This program needs full funding to continue delivering the benefits of increased reliability, security, efficiency and lower emissions to the U.S. economy.

Let me reiterate that my transfer amendment would still leave both reprocessing and nuclear waste disposal fully-funded at the levels requested in the President's budget, but would only reallocate money added by the Appropriations Committee. In addition, the Congressional Budget Office informs me that "This amendment has no effect on budget authority and would reduce outlays by $1 million for FY 2006."

Under the Markey-Holt amendment, we transfer these funds to energy efficiency programs that will provide our nation with a much better value for the dollar than the incremental investment in a nuclear reprocessing technology that is expensive, that poses serious nuclear nonproliferation risks, and which threatens to create new nuclear waste dumps at sites around the country.

I urge you to vote "yes" on the Markey-Holt-Inslee amendment.

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

I think I need to respond to a couple of comments that were made. First of all, we did not say to put anything in the interim; we said it is a site that should be looked at with all of the other sites. Second of all, this has nothing to do with nuclear weapons, and I might suggest that if you look around the world, about the only place in the world who has nuclear power that is not reprocessing is us. Everybody else, the French, the Japanese, they are building a plant; the Brits have a plant. Everybody else in the world has stepped up and said, we are going to take care of this waste; we are not going to just bury it in the ground, and we are going to keep using it over and over again.

I think it is time for us to look at this policy and change this old, old policy, especially if we have new technology that does not leave us with the type of nuclear weapons-grade plutonium left over, and that is what we believe we are developing.

So I think this is a responsible part of the bill and we should move forward and vote the amendment down.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the only question I have, is the chairman saying that this report language has the force of law? It is advisory only; is that not correct?

Mr. HOBSON. That is correct.

Ms. BERKLEY. Mr. Chairman, I rise in support of Mr. MARKEY's amendment.

As a Member from Nevada, I am vehemently opposed to the Yucca Mountain Project for numerous reasons. The transportation of thousands of tons of nuclear waste, which will pass within miles of our homes, schools and hospitals, is one of the primary reasons I object to this plan. Nuclear waste transportation, whether destined for Yucca Mountain or an interim site, is an invitation to terrorists looking to wreak havoc and cause devastation in the United States.

The Chairman of the Subcommittee has made clear that interim storage will not divert him from avidly pursuing completion of the Yucca Mountain Repository.

With my "yes" vote, I am standing firmly against transporting nuclear waste through our communities and against interim storage in Nevada or anywhere else. The only workable solution we have at this time is to leave the waste on-site where it will be safe for the next 100 years.

Mr. HOLT. Mr. Chairman, I am pleased to join with my colleagues, Representatives EDWARD MARKEY and JAY INSLEE, in offering an amendment to H.R. 2419. Our amendment eliminates funding for the new Spent Fuel Recycling Initiative, and redirects this $15.5 million to energy research.

The legislation we are debating today directs the Department of Energy to conduct a new Spent Fuel Recycling Initiative, putting the United States on the path to reprocessing of spent nuclear reactor fuel. This new Initiative was not included in the President's budget request, and is over and above the existing research program on nuclear fuel reprocessing. It is a radical measure that moves the United States from research to actually undertaking nuclear fuel reprocessing. The Initiative has two linked elements: moving existing spent nuclear fuel away from commercial reactor sites to centralized interim storage, and initiating a reprocessing program for this fuel.

Reprocessing creates a plutonium-based of fuel for nuclear reactors that is easier to use in nuclear weapons. The United States is currently working to prevent other countries from reprocessing nuclear fuel, because a country that is reprocessing nuclear fuel can easily divert this material to make nuclear weapons.

Reprocessing spent nuclear fuel would be a major departure for U.S. nuclear policy, and could set back our efforts to stop nuclear proliferation around the world. If the U.S. Congress votes to initiate a reprocessing program, U.S. nuclear proliferation policy will be directly contradicted.

Such a step must not be taken lightly, with no hearings, no authorizing legislation, no public input, no analysis of the implications for nuclear proliferation, not even an analysis of the cost to taxpayers. We must not proceed with such a major step without all members having sufficient time and information to consider what they are voting for.

The Markey-Holt-Inslee amendment leaves intact the President's request to increase to $70 million the Advanced Fuel Cycle Initiative, which includes research on nuclear fuel reprocessing technologies. Our amendment removes the new, additional $15.5 million Initiative to consolidate and reprocess spent fuel.

The Markey-Holt-Inslee amendment redirects the $15.5 million to three important and successful energy research programs, all of which have less funding in H.R. 2419 compared to fiscal year 2005 appropriations: $8.5 million to the Industrial Technologies Program, which shares the cost of research with industry to make U.S. industry more energy efficient; $3.5 million to the Distributed Energy and Electricity Reliability Program, which funds research and development for smarter, more flexible, and more efficient electricity generation through the development of distributed energy generation and combined heat and power technologies; and $3.5 million for State Energy Program grants, a program that for every federal dollar has produced over $7 of annual energy savings.

Mr. PORTER. Mr. Chairman, I rise today to oppose the Markey Amendment to H.R. 2419, Energy and Water Development and Related Agencies Appropriations Act for Fiscal Year 2006. This amendment would cut $5.5 million from nuclear reprocessing and $10 million from nuclear waste disposal to facilitate interim storage of nuclear waste. Mr. Chairman, the Federal Workforce and Agency Organization Subcommittee of which I chair is currently investigating the alleged falsification of documents and computer models at the Yucca Mountain site.

What my investigation has uncovered so far is deeply disturbing and could very well lead to compromising the validity of the entire site. If that is the case, then interim storage will be necessary. As opposed to waiting for that date, it is important that we act proactively and begin the process to identify these interim sites across the United States.

While I find it troubling that the Committee has decided to appropriate over $600 million for Yucca Mountain, I am encouraged that they have recognized the need for legislative language citing the need for interim storage for the reasons that my Subcommittee has already uncovered.

I may also take a moment, Mr. Chairman, to publicly acknowledge my opposition to Yucca Mountain and my support for any site, interim or permanent, outside of my district and the State of Nevada.

Mr. HOBSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed $35,000, $253,909,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $123,000,000 in fiscal year 2006 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2006, and any related unappropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than $130,909,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $43,000,000, to remain available until expended.

Mr. HOBSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from South Carolina (Mr. SPRATT) for the purpose of a colloquy.

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have at the desk an amendment, a proposed amendment that I intended to offer, but that I will not offer as a result of the ensuing colloquy.

Mr. Chairman, I have filed an amendment for myself and the gentleman from South Carolina (Mr. BARRETT) that states that none of the funds made available in this act may be used in contravention of the Nuclear Waste Policy Act of 1982. The committee report directs the Secretary to begin accepting commercial spent fuel for interim storage at one or more DOE sites within fiscal year 2006. The gentleman from South Carolina (Mr. BARRETT) and I are concerned that the interim storage facilities called for in the report could divert funds from a nuclear waste fund and further impede completion of the repository at Yucca Mountain.

Mr. HOBSON. Mr. Chairman, reclaiming my time, I intend for Yucca Mountain to be fully funded, and our bill does just that. As a matter of fact, I have gone head to head with the Senate since I have been the chairman of this subcommittee to ensure that the nuclear waste disposal program receives as close to the budget request as possible.

The gentleman is absolutely right that the ratepayers are not getting what they paid for because DOE has not fulfilled its statutory and contractual obligation to accept spent fuel for disposal. I have ratepayers in my own State who also have not received value for what they have paid into the Nuclear Waste Fund.

We are not intending, and I want to be very pointed about this, we are not intending to divert or diminish attention to Yucca Mountain.

Mr. SPRATT. Mr. Chairman, if the gentleman will further yield, can DOE conduct such interim storage consistent with the Nuclear Waste Policy Act? What force does the committee report have when it comes to modifying existing law?

Mr. HOBSON. Mr. Chairman, we provided our guidance only in report language and direct the Secretary to provide Congress with legislative language if he determines that changes to the authorizing statutes are necessary.

Mr. SPRATT. Mr. Chairman, I thank the gentleman for the clarification and the explanation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 40 passenger motor vehicles, for replacement only, including not to exceed two buses; $6,181,121,000, to remain available until expended.

Mr. HOBSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Ohio (Mr. MACK) for the purposes of a colloquy.

Mr. MACK. Mr. Chairman, I rise today to engage the esteemed chairman in a colloquy concerning language and funding for Florida's red tide research problem.

Mr. Chairman, earlier this year, my district in southwest Florida experienced a harmful red tide outburst off the coast which caused harmful effects that were felt by people, animals, and the environment that make up our precious ecosystem and economy.

Hundreds of people endured respiratory ills, including sneezing, coughing, and other effects that are damaging to one's health. Moreover, the Florida manatee, an endangered species that everyone seeks to protect from far less harmful events, saw a gigantic spike in their death rate. This year, in the entire State of Florida, we have seen 29 manatees die due to boating accidents. However, from this red tide bloom, which only lasted a couple of months and was confined only to southwest Florida, we have a confirmed count of 46 manatee deaths.

What is more, thousands of people, some from this very room, come to southwest Florida each year to vacation on our beaches and to swim in our waters.

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This scourge of red tide not only has a hazardous environmental effect, but also drives away tourists who undoubtedly do not want to spend their time coping with the effects of the red tide.

Thankfully, with the leadership of the gentleman from Ohio, the Energy and Water Subcommittee of the Committee on Appropriations saw fit to include funding for red tide research in last year's appropriations bill. Unfortunately, the lion's share of that money never made it down to the numerous research organizations that conduct expert analysis and tests on ways to help mitigate the effects of this damaging event in nature.

Mr. HOBSON. Mr. Chairman, I want to thank the gentleman for coming forth with this. I understand that red tide blooms are harmful, and a scientific approach, we need to learn more about these ocean events that are an appropriate use of research and development funds. In fact, I was personally involved last Congress in securing the funding that we talked about so we can learn ways to fight red tide.

Funds in excess of the budget requests have been provided for worthy research and development activity such as this. And I would hope, since I my grandchildren are residents of Florida, I hope we can get on and get rid of red tide one of these days, and especially as I get older. It affects older people and I visit there, so I want to get rid of it too.

Mr. MACK. Mr. Chairman, I thank the gentleman very much for his remarks and his leadership in this notable cause.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Is the gentleman the designee of the ranking member?

Mr. VISCLOSKY. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. VISCLOSKY. Mr. Chairman, I yield to the gentleman from Maryland (Mr. RUPPERSBERGER) for purposes of colloquy with the Chair.

Mr. RUPPERSBERGER. Mr. Chairman, I applaud this bill for maintaining the research funding for the Corps of Engineers' aquatic herbicide treatment of invasive weed species that have such impacts on our lakes and rivers, impairing agriculture, recreation and transportation. I believe that the Corps and the Tennessee Valley Authority, in considering methods of aquatic weed eradication, should give preference to EPA-registered and -approved safe chemical treatment options, including reduced-risk pesticides as designated in the Food Quality Protection Act.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. VISCLOSKY. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, I agree that the development of safe chemical treatment options may provide the Corps and the Tennessee Valley Authority with alternatives to many of the conventional methods of control that often have unintended consequences.

Mr. RUPPERSBERGER. Mr. Chairman, I believe that having a range of treatment options from which to choose and doing so in the most environmentally sensitive way is desirable

Mr. HOBSON. I agree.

Mr. RUPPERSBERGER. I thank the gentleman.

Mr. HOBSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding. I intended to offer a couple of amendments tonight before the unanimous consent request was entered into.

I have complained for a long time around here that we are funding too many earmarks, the Republicans and Democrats. In this bill there are a couple hundred million worth of earmarks, Member projects that Members, we always complain that the President does not have line item veto authority. I would be satisfied if Congress had it.

Under an open rule, I cannot come to the floor and target individual earmarks because they are in the committee report. For the first time in this bill we have actually referenced a committee report and instructed Federal agencies to spend the money, yet individual Members cannot go in and strike earmarks from the bill. That is simply wrong. We are going the exact opposite direction of where we ought to go.

Members projects ought to be put into the bill. If we are proud enough to request money, you know, $500,000 for the St. Croix River in Wisconsin to relocate endangered mussels, then we ought to be proud enough to come to the floor and defend that earmark; otherwise, we are not good stewards of the taxpayers' money.

So I would just rise to say we need to change this process. We are going in the wrong direction. Either we are going to instruct the Federal agencies to spend it and come to the floor and defend it, or we are not. We cannot have it both ways.

And I would yield back to the chairman to ask which direction we are going here.

Mr. HOBSON. Reclaiming my time, Mr. Chairman, let me suggest a couple of things to the gentleman if I might.

First of all, if you look at this bill, for the first time in the last couple of years there have been no new starts in this bill going out of the House. And I have limited the number. Even when we have gotten done with the bill, I think we only did five new starts last year.

We are trying to get control of this. We have even looked at, sometimes the administration has had new starts and we have taken them out. We have tried to limit the number of earmarks. The number of earmarks for Members' projects this year is down substantially over past years. Frankly, the administration did a better job this year of addressing some of the concerns of Members and of the overall program.

I think the gentleman would also be pleased to note that in this bill, for the first time, we are requiring a 5-year development plan for the Corps of Engineers, for example, and the Department of Energy. In that process, when we get that, similar to what we did in the military construction when I chaired that committee, we will, over a period of time, begin to get control of the situation, so that if they do not fit within the 5-year plan, then these projects are not going to be in there.

But we do not have that plan in place today. We are trying to make it in place. And I think it is going to make for better, more responsible use of taxpayers' dollars.

Mr. FLAKE. Mr. Chairman, I thank the gentleman. I think that the best way is to include it in the bill. If we are proud enough of our earmark, then we ought to come in and defend it on the House floor. Otherwise, we cannot simply refer and force the Federal agencies to spend the money without giving individual Members the opportunity to challenge an earmark on the floor of the House.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Chairman, I rise today to speak about a matter of great concern to me and many of my constituents.

The Los Alamos National Laboratory in my district, and is one of the largest employers in the State. Two years ago the Secretary of Energy determined that after more than 60 years of management by the University of California, the contract for the management and operations of Los Alamos National Laboratory would be open to competition.

We are all aware that there have been problems concerning the security of classified materials handled at the lab and questions about safety practices. It is important to note, however, that statistically the incidences of injury and illness at Los Alamos are well within the range of comparable DOE facilities and major chemical and manufacturing industrial complexes.

Still, I have consistently supported the competition in the hopes that the best management team wins so that the scientists and employees at Los Alamos can continue to contribute to our national security and conduct world-class, strategic science.

Last Thursday, the National Nuclear Security Administration released the final request for proposals, or RFP, for the management and operating contract of the Los Alamos National Laboratory. In December, the NNSA released a draft of this RFP. What concerns me is that these documents were substantially different in two very fundamental ways.

First, the draft RFP did not indicate a requirement for the establishment of a separate, dedicated corporate entity. The final RFP does, but this requirement was not included in the draft RFP. The public was never given the opportunity to comment on it.

While that structure may have emerged from the competition as the best design for the management of LANL, we will never know. By mandating a specific corporate structure from the outset, the NNSA has eliminated the proposition of an entirely different and perhaps more creative and effective management structure. That appears, to me, to severely constrain rather than promote true competition.

Secondly, the NNSA has taken the surprising step of dictating that the new management entity must establish a stand-alone pension plan, one that would serve the employees of Los Alamos only. Again, that requirement was not included in the draft RFP, so the public never had the opportunity to comment on it. The potential changes to the pension plan, under a change of management, have been of utmost concern for the vast majority of lab employees who have contacted me concerning the competition.

Currently, the employees of Los Alamos benefit greatly from being included in the University of California retirement plan, which covers more than 170,000 employees. The major organizations that have expressed the intent to bid for the Los Alamos contract already employ in excess of 100,000 people. Obviously, a pension plan designed to cover that many employees generates significant leveraging power.

The Los Alamos National Laboratory alone currently employs only 8,000 people directly. There is no way that a stand-alone pension plan designed to serve only 8,000 employees could offer benefits as great as the one that serves 5, 10, or in the case of the University of California retirement plan, 17 times that many. Should not the decision for how to best manage a financial matter as significant as that of a pension plan be left to the discretion of the new managing entity?

Furthermore, approximately 60 days ago, the NNSA completed the competition for the management of Lawrence Berkeley National Laboratory. The University of California, which has managed Lawrence Berkeley for 74 years, was awarded the contract. As such, Lawrence Berkeley will continue to be managed as a nonprofit entity and its 3,800 employees will continue to be included in the generous pension plan offered by the University of California.

The design of the final RFP for the management of Los Alamos National Laboratory ensures that a noncorporate management structure cannot even be considered in the competition. That is the type of management structure that has very successfully served Lawrence Berkeley for 74 years and Los Alamos for 62 years, and it is not even on the table.

In conclusion, while I strongly support this competition, I do not see how it is in the best interest of this country that a competition for the management and operation of a national security complex as important as Los Alamos has been so greatly narrowed.

And I thank the gentleman for yielding.

The CHAIRMAN. The Clerk will read.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent that the remainder of title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the remainder of title III is as follows:

Defense Nuclear Nonproliferation

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,500,959,000, to remain available until expended:

Naval Reactors

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, $799,500,000, to remain available until expended.

Office of the Administrator

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses not to exceed $12,000, $366,869,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

Defense Environmental Cleanup

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $6,468,336,000, to remain available until expended.

Other Defense Activities

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed ten passenger motor vehicles for replacement only, including not to exceed two buses: $702,498,000, to remain available until expended.

Defense Nuclear Waste Disposal

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $351,447,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $1,500. During fiscal year 2006, no new direct loan obligations may be made.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $5,600,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, up to $32,713,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power administration, $31,401,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, up to $1,235,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500; $226,992,000, to remain available until expended, of which $222,830,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, $6,000,000 shall be available until expended on a nonreimbursable basis to the Western Area Power Administration for Topock-Davis-Mead Transmission Line Upgrades: *Provided further*, That notwithstanding the provision of 31 U.S.C. 3302, up to $148,500,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

Falcon and Amistad Operating and Maintenance Fund

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,692,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

Federal Energy Regulatory Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses not to exceed $3,000, $220,400,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $220,400,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2006 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than $0.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a)(1) None of the funds in this or any other appropriations Act for fiscal year 2006 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy has published in the Federal Register and submitted to the Committees on Appropriations of the House of Representatives and the Senate a written notification, with respect to each such contract, of the Secretary's decision to use competitive procedures for the award of the contract, or to not renew the contract, when the term of the contract expires.

(2) Paragraph (1) does not apply to an extension for up to 2 years of a noncompetitive management and operating contract, if the extension is for purposes of allowing time to award competitively a new contract, to provide continuity of service between contracts, or to complete a contract that will not be renewed.

(b) In this section:

(1) The term "noncompetitive management and operating contract" means a contract that was awarded more than 50 years ago without competition for the management and operation of Ames Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory.

(2) The term "competitive procedures" has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) and includes procedures described in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) other than a procedure that solicits a proposal from only one source.

(c) For all management and operating contracts other than those listed in subsection (b)(1), none of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver. At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Committees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

SEC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy, under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h).

SEC. 303. None of the funds appropriated by this Act may be used to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees.

SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. When the Department of Energy makes a user facility available to universities or other potential users, or seeks input from universities or other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term "user facility" includes, but is not limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

SEC. 308. The Administrator of the National Nuclear Security Administration may authorize the manager of a covered nuclear weapons research, development, testing or production facility to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such facility in order to maintain and enhance such capabilities at such facility: *Provided*, That of the amount allocated to a covered nuclear weapons facility each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: *Provided further*, That for purposes of this section, the term "covered nuclear weapons facility" means the following:

(1) the Kansas City Plant, Kansas City, Missouri;

(2) the Y–12 Plant, Oak Ridge, Tennessee;

(3) the Pantex Plant, Amarillo, Texas;

(4) the Savannah River Plant, South Carolina; *and*

(5) the Nevada Test Site.

SEC. 309. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

SEC. 310. None of the funds made available in this Act may be used to select a site for the Modern Pit Facility during fiscal year 2006.

SEC. 311. None of the funds made available in title III of this Act shall be for the Department of Energy national laboratories and production plants for Laboratory Directed Research and Development (LDRD), Plant Directed Research and Development (PDRD), and Site Directed Research and Development (SDRD) activities in excess of $250,000,000.

SEC. 312. None of the funds made available in title III of this Act shall be for Department of Energy Laboratory Directed Research and Development (LDRD), Plant Directed Research and Development (PDRD), and Site Directed Research and Development (SDRD) activities for project costs incurred as Indirect Costs by Major Facility Operating Contractors.

SEC. 313. None of the funds made available in title III of this Act may be used to finance laboratory directed research and development activities at Department of Energy laboratories on behalf of other Federal agencies.

SEC. 314. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The CHAIRMAN. Are there any amendments to that portion of the bill?

AMENDMENT OFFERED BY MRS. BIGGERT

Mrs. BIGGERT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. BIGGERT:

Page 40, line 20, through 41, line 9, strike sections 311 and 312.

The CHAIRMAN. Pursuant to the order of the House today, the gentlewoman from Illinois (Mrs. BIGGERT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT.)

Mrs. BIGGERT. Mr. Chairman I yield myself such time as I may consume.

This amendment would strike from the bill two provisions that would limit the amount of money available for a very important activity at our national laboratories, laboratory-directed research and development, or LDRD, as it is known.

I first want to thank the distinguished chairman of the Energy and Water Subcommittee for his willingness to work with me on this issue.

While I have agreed to withdraw the amendment if the chairman agrees to work with me in the future on refining the execution of the LDRD efforts, I want to take this opportunity to address the merits of LDRD.

As the Chair of the Science Subcommittee on Energy, I am a strong supporter of LDRD. In my experience, LDRD has been well managed, is important for both scientific discovery and scientific recruiting, and has a record of producing interesting and innovative ideas.

The history of science abounds with examples of discoveries that came about while a scientist was attempting to answer a totally different question. LDRD provides funds to laboratory directors to pursue new ideas and give scientists the resources to go where the discoveries lead them.

So what are some of these new ideas that have emerged from LDRD work? Well, what has LDRD done for us? To cite just two examples, LDRD projects led to a discovery that allows geologists to model ore deposits in three dimensions. This model is now also being used to assess and plan the remediation of chemical and radioactive waste at DOD sites.

One LDRD project set out to reduce the size of a device that produces concentrated neutron beams for use in the biological and material science. After 9/11, scientists realized such a compact neutron source might be the only practical means of probing large freight containers for highly dangerous nuclear material and other contraband.

These examples show that in DOE's core missions in energy, in security and in science, LDRD is making important contributions.

In short, LDRD projects represent cutting-edge science, are well managed, are essential to recruiting, and perhaps most importantly, produce results for the American people. It is for these reasons, Mr. Chairman, that I am concerned about efforts to overly constrain LDRD at the Nation's scientific laboratories.

Will the chairman engage me in a brief colloquy?

Mr. HOBSON. Mr. Chairman, will the gentlewoman yield?

Mrs. BIGGERT. I yield to the gentleman from Ohio.

Mr. HOBSON. I would be happy to.

Mrs. BIGGERT. Mr. Chairman, will you pledge to work with me to improve and refine these programs in a way that preserves the valuable contributions that LDRD makes to the science in this country?

Mr. HOBSON. I appreciate the concerns that you have expressed and, frankly, it would be my pleasure to work with you going forward to perfect these provisions as we move into conference.

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Mrs. BIGGERT. I thank the chairman and I look forward to working with the chairman. I thank him for his cooperation.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $38,500,000, to remain available until expended.

Mr. HOBSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Kentucky (Mr. DAVIS) for purposes of a colloquy.

Mr. DAVIS of Kentucky. Mr. Chairman, I rise today to address the inadequacy of funds appropriated for the construction and repair of our lock and dam system.

First, I would like to commend the chairman and the ranking member for their work on the fiscal year 2006 Energy and Water Appropriations bill. Their efficient and bipartisan work is commendable.

This bill is a significant step in the right direction. However, the funding levels to maintain our working waterways remain insufficient. Freight transportation on our Nation's waterways is essential to the health of our economy. In 2003 the total waterborne commerce in the United States accounted for more than 2.3 trillion short tons. This system is the fundamental backbone of our energy industry and waterways carry 20 percent of America's coal, enough to produce 10 percent of all electricity used in the United States annually.

Almost one-third of the total tonnage transported over water is petroleum and petro-chemical products.

A functioning waterway network is also essential to our farmers. Sixty percent of all U.S. grain exports travel our inland waterways, and their ability to use our waterways is an essential component for the price competitiveness for our farmers in the international market.

The waterway transportation industry is a cost-effective and environmentally friendly component of our inter-modal freight system. A single towboat can move the same amount of cargo as 180 rail cars or 1,440 trucks. One does not require an environmental science degree to understand the pollution impact benefit of numbers like that.

The lock and dam systems are the keys to the viability of our waterway network. The infrastructure on the Ohio and Mississippi rivers is well beyond its design life. This network is hindered by deterioration, unreliability, and inefficiency. Waterway transportation is paralyzed when locks fail or are closed.

Repeated congressional neglect of sufficient funding levels in the operations and maintenance, general investigations and construction accounts has resulted in exponential increases in unscheduled lock closures. Since 1991 we have experienced a 110 percent increase in closure hours. The closure of a single lock creates a ripple effect that affects the entire system. Over the last 2 years, closures on the Ohio River have cost the Nation's economy incalculable millions of dollars.

Last year the Corps of Engineers was forced to close the McAlpine Lock and Dam. During that 2-week period, traffic on the Ohio River was effectively halted. The closure was announced roughly 2 months ahead of time. In anticipation of the closure, a West Virginia aluminum company whose supply was dependent on the river network began laying-off employees.

The most recent closure of the Greenup Lock and Dam cost waterways operators $12 million in lost business. Utility companies incurred $15 million in costs to make last-minute alternate arrangements to keep power plants online. I assure my colleagues that the closure cost our economy significantly more than $27 million.

I am pleased that this appropriations bill provides full and efficient funding for the McAlpine Lock and Dam project in fiscal year 2006. The fiscal year 2005 Energy and Water Appropriations bill does not include any funding for the Greenup Lock and Dam. The Water Resources Development Act of 2000 authorized the Greenup Lock and Dam project. The Greenup Lock and Dam is approaching the same level of disrepair I described with respect to the McAlpine Lock and Dam.

73.7 million tons of commerce worth almost $9.6 billion transited the Greenup Lock in 2001. Sixty-two percent of that tonnage was coal. By 2010, the annual tonnage is expected to exceed 91 million tons.

The 2000 Interim Feasibility Report recommended that the Greenup Lock and Dam project be complete by 2008. Because this appropriations bill does not include any funds for the Greenup Lock and Dam, no work will be accomplished on that project for an entire year. Every year of insufficient funding results in increased risk of closures and makes the entire project more expensive.

Mr. HOBSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentlewoman from Illinois (Mrs. BIGGERT) for purposes of a colloquy.

Mrs. BIGGERT. Mr. Chairman, would the distinguished chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations engage in a colloquy with me about some provisions and programs in this bill that fall under the jurisdiction of the Committee on Science?

Mr. HOBSON. Yes.

Mrs. BIGGERT. Under the bill, the Nuclear Energy Research Initiative, or NERI, would no longer operate as a separate program. NERI was targeted at university research which is a vital source of innovative ideas on nuclear energy. Is it the gentleman's intention that the Department of Energy continue to fund university research on nuclear energy even though NERI will no longer exist?

Mr. HOBSON. I share the gentlewoman's views on the importance of university research. The committee expects the Nuclear Energy Research Programs to set aside a portion of their funds for university research. The committee will be monitoring the programs, as I am sure you will also, to be sure that the funding is continuing in support of the university research.

Mrs. BIGGERT. I thank the gentleman.

Lastly, I would like the gentleman to clarify some language related to the FutureGen project on page 20 of the bill. The language states that the Department should manage FutureGen "without regard to the terms and conditions applicable to clean coal technology projects."

My understanding is that the phrase is intended only to apply to cost-sharing requirements. In fact, the phrase is unnecessary because the cost-sharing requirements for FutureGen are spelled out in the two provisos that immediately follow on page 20. Is my understanding correct?

Mr. HOBSON. The gentlewoman is correct. Our intention is to waive only the cost-sharing requirements for clean coal technological projects for FutureGen, and the cost-sharing requirements that are intended to operate instead are also on page 20.

Mrs. BIGGERT. I thank the gentleman, and I thank him for his time.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Chairman, earlier I entered into a colloquy with the chairman, and he was good enough to clarify for me some parts of this committee report that are important to me. I would like to further build a context on which my concerns were built.

In this committee report accompanying the bill, there is directive language at pages 122 and 123 and 124 that can be taken to amend the explicit terms of existing laws. And the laws at issue, which the report language could be construed to change, of the Nuclear Waste Policy Act and possibly even the National Environmental Policy Act, both carefully wrought, are both vitally important. I do not think it is the intention of the committee report to change the laws because I do not think it can but nevertheless it makes some strong recommendations.

The committee report laments the latest delays at Yucca Mountain. The start-up date has slipped again, this time from 2010 to 2012. The committee, to its credit, with the chairman's strong support, funds Yucca Mountain at the requested levels, I think we should, $651 million for fiscal year 2006; and I commend you for that and finds this sufficient to do the engineering work, continue the license application, continue the design work.

I have an interest in this because I represent four nuclear reactors, and I live in an area where nuclear generation accounts for 50 percent of our electricity. My constituents pay one mil per kilowatt per hour to fund a permanent waste facility, and they and the others who pay this assessment deserve to have their money spent well and used solely for that purpose, a spent fuel repository. The chairman has assured me wholeheartedly that he wants to see, too, that that end is accomplished.

But Yucca Mountain in the words of the report "recedes into the future." I am concerned if we open up new options, even expedients like interim storage, and if we use the Nuclear Waste Fund to pay for these options, then Yucca Mountain will keep on receding into the future.

This report proposes a concerted initiative. It is a bold proposal for interim storage of spent fuel and for reprocessing of spent fuel. These are ideas that have been considered in the past, but abandoned. The committee brings them back to life, provides some funding; but it is only a tiny fraction of what these facilities are going to cost. So you cannot avoid the concern that some, if not all, of this money may come from the Nuclear Waste Fund at the expense of Yucca Mountain.

I have this concern because Savannah River Site is among the specific sites singled out as a candidate for interim storage. I become more concerned when I read the report which says: "The committee directs the Department to begin the movement of spent fuel to centralized interim storage at one or more DOE sites within fiscal year 2006." That is next year.

If this is taken literally, I do not see how they can possibly prepare an EIS. That is why I was saying that the report would almost override the National Environmental Policy Act. There is no way they can finish an EIS on a matter of such importance in a year.

The report recognizes that the Nuclear Waste Policy Act applies to these matters. For example, the report recognizes that the NWPA borrows an interim storage facility at the same location as the permanent repository, Yucca Mountain, and yields to that law by proposing that the storage facility be sited elsewhere.

In another place, the report calls for a plan of implementation within 120 days. Here again, it anticipates that legislative changes may be necessary to execute the plan by asking DOE to submit them.

In these respects, the committee report supports my point that explicit law cannot be amended or overridden by report language. But in pushing for an interim storage facility, the report is on the collision course with the Nuclear Waste Policy Act because it abandoned the idea of interim storage in 1990 by sunsetting the law that passed it. In its place it authorized a retrievable storage facility, but only after Yucca Mountain is licensed.

So these were my concerns. These were the reasons for asking for the colloquy and asking for the clarification. I have problems with interim storage, and I have problems with reprocessing fuel. But I support the chairman in his endeavor to see Yucca Mountain finished, and I also support the chairman in his quest to see that nuclear power is able to make a comeback, because I think it has a role in our energy future.

That is the reason I asked for clarification, to make sure that the committee was not pushing the envelope and overriding the statutory law on pages 122, 123, and 124, which struck me as more than just report boiler plate.

I appreciate the confirmation, the clarification from the committee chairman and for all of his other efforts in bringing together this bill. I thank the gentleman for yielding to me to make this clarification.

Mr. BARRETT and I have an amendment, but before I explain it, let me explain why I am offering it.

There is a longstanding rule of this House against legislating policy on an appropriation bill, but it's honored in the breach. In the case of this bill, the committee report contains directive language at pages 122, 123, and 124 that can be taken to amend the explicit terms of existing law. And the laws at issue, which the report language could be construed to change, are the Nuclear Waste Policy Act and the National Environmental Policy Act, both carefully wrought laws, and both vitally important.

The committee report laments the latest delays at Yucca Mountain. The start-up date has slipped again, this time from 2010 to 2012. The committee, to its credit, funds Yucca Mountain at the requested level, $651 million for fiscal year 2006, and finds this sufficient to do the engineering work in support of the license application and to continue the design work.

I represent 4 nuclear reactors and live in an area where nuclear generation accounts for fifty percent of our electricity. My constituents pay 1 mil per kilowatt hour to fund a permanent waste facility, and they and others who pay this assessment deserve to have their money spent well and used solely for the intended purpose: a spent fuel repository.

But Yucca Mountain, in the words of the report, "recedes into the future." And I am concerned that if we open new options, even expedients like interim storage, and if we use the Nuclear Waste Fund to pay for these options, Yucca Mountain will keep on receding.

That's why I am concerned about this report. It proposes "a concerted initiative" (1) for interim storage of spent fuel and (2) for reprocessing spent fuel. These are ideas that have been considered in the past and discarded; but the committee report resurrects them, with a token addition of funds that is the tip of an iceberg, a tiny fraction of what these facilities will cost. One cannot avoid the concern that some, if not all, of this money will come from the Nuclear Waste Fund, at the expense of Yucca Mountain.

I have this concern because Savannah River Site is among the sites singled out as a candidate for interim storage. I become even more concerned when I read report language which says: "The Committee directs the Department to begin the movement of spent fuel to centralized interim storage at one or more DOE sites within fiscal year 2006." If this directive is taken literally, it will override the National Environmental Policy Act, because it is doubtful that an Environmental Impact Study can be finished in a year.

The report recognizes that the Nuclear Waste Policy Act applies to these matters. For example, the report recognizes that the Nuclear Waste Policy Act bars an interim storage facility at the same location as the permanent repository, and yields to that law by proposing that the storage facility be sited elsewhere. In another place, the report calls for a plan of implementation within an incredibly short time, 120 days, and here again, the report anticipates that legislative changes will be necessary to execute the plan by asking DOE to submit them.

In these respects, the committee report makes my point, that explicit, longstanding law cannot be amended or overridden by report language. But in pushing an interim storage facility, the committee report is on a collision course with the Nuclear Waste Policy Act. It abandoned the idea of an interim storage facility in 1990 by sunsetting the law that authorized it. In its place, the NWPA authorized construction of a Monitored Retrievable Storage Facility only after the completion of the license for construction of Yucca Mountain. This means that no interim storage facility is allowed under the Nuclear Waste Policy Act for the time being, and I do not believe that report language can change the explicit provisions of an existing statute.

Our amendment simply points out that despite the report language, "None of the funds made available by this Act shall be obligated or expended in contravention of the Nuclear Waste Policy Act of 1982." So, unless the NWPA is changed, DOE cannot move forward with interim storage until Yucca Mountain is licensed.

What's wrong with interim storage?

Interim storage is risky because it puts spent fuel in facilities not constructed to hold them forever, yet there is a real risk that once in place, interim storage becomes permanent storage.

Interim storage is problematic because it could shift funds and focus off Yucca Mountain, and stretch out its completion indefinitely.

Finally, interim storage is expensive. It's expensive to put nuclear waste in interim storage, and even more expensive to take it out to move it to Yucca Mountain.

How does interim storage affect you? Under the committee's report language, anyone's district could be the next nuclear waste storage facility. If you have a DOE site, a closed military base, or any other federally owned site, your district could be a candidate to store nuclear waste.

So, pages 122, 123, and 124 of the committee report are more than the usual boilerplate. To clarify their effect, I asked the distinguished Chairman of the Energy and Water Subcommittee if he would engage in a colloquy, and he confirmed that the committee "provided our guidance only in report language;" and with that assurance, I withdrew our amendment.

AMENDMENT TO 2419, AS REPORTED OFFERED BY MR. SPRATT OF SOUTH CAROLINA

At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be obligated or expended in contravention of the Nuclear Waste Policy Act of 1982.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $22,032,000, to remain available until expended.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, $6,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission, $2,562,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $714,376,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $66,717,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $580,643,000 in fiscal year 2006 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than $133,732,600: *Provided further*, That section 6101 of the Omnibus Budget Reconciliation Act of 1990 is amended by inserting before the period in subsection (c)(2)(B)(v) the words "and fiscal year 2006".

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $8,316,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at $7,485,000 in fiscal year 2006 shall be retained and be available until expended, for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than $831,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $3,608,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 502. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act or any other appropriation Act.

Mr. HOBSON (during the reading). Mr. Chairman, I ask unanimous consent that the bill through page 45, line 8, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MARKEY:

At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be used by the Nuclear Regulatory Commission to contract with or reimburse any Nuclear Regulatory Commission licensee or the Nuclear Energy Institute with respect to matters relating to the security of production facilities or utilization facilities (within the meaning of the Atomic Energy Act of 1954).

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Massachusetts (Mr. MARKEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I yield to the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. If the gentleman is agreeable, we are willing to accept this amendment and move forward.

Mr. MARKEY. Mr. Chairman, I am willing to accept the gentleman's acceptance.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BOEHLERT:

At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act may be used before March 1, 2006, to enter into an agreement obligating the United States to contribute funds to ITER, the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New York (Mr. BOEHLERT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do want to have a to-the-point and brief explanation to this amendment because its purpose is to bring to a head an important issue that might otherwise be overlooked.

The Department of Energy is moving ahead with negotiating U.S. participation in ITER, the International Fusion Energy Project, which is all to the good. I support U.S. participation in ITER, a critical experiment that will help determine finally if fusion is a realistic option for energy production. But ITER is expensive.

The U.S. contribution is expected to exceed $1 billion, and I want to make sure that before we commit even one dime to ITER, we have a consensus on how we will find that money.

The U.S. must not finalize an agreement on ITER until we have a consensus on how to pay for it. In the meantime, the site selection and planning process and negotiations on ITER can and should continue. But I will do all I can to prevent the U.S. from entering into an agreement if no one is willing to make the sacrifices necessary to pay for it.

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Moving ahead without consensus will mean either reneging on our agreement or killing other worthy programs within the Office of Science to pay the disproportionate cost of the fusion program. Let us avoid that.

I look forward to working with the gentleman from Ohio (Mr. HOBSON) and everyone concerned with this issue to build a strong and balanced fusion program.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Chairman, I share the frustration of the gentleman from New York (Mr. BOEHLERT) over how the Department has proposed to fund the International Fusion Project at the expense of domestic fusion research, and I will support the gentleman's amendment.

Mr. BOEHLERT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BOEHLERT).

The amendment was agreed to.

AMENDMENT NO. 1 OFFERED BY MR. FILNER

Mr. FILNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FILNER:

At the end of the bill (before the short title), insert the following:

SEC.   . None of the funds made available in this Act may be used by the Secretary of Energy to issue, approve, or grant any permit or other authorization for the transmission of electric energy into the United States from a foreign country if all or any portion of such electric energy is generated at a power plant located within 25 miles of the United States that does not comply with all air quality requirements that would be applicable to such plant if it were located in the air quality region in the United States that is nearest to such power plant.

Mr. HOBSON. Mr. Chairman, I reserve a point of order against the gentleman's amendment.

The CHAIRMAN. The point of order is reserved.

Pursuant to the order of the House of today, the gentleman from California (Mr. FILNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I understand the point of order, and I appreciate the advice he gave me yesterday, and I will just take a few minutes today to make some important points regarding our border communities.

This should be a simple and commonsense amendment to protect the air quality in border States without adding or subtracting appropriations from a single account in this bill. The amendment simply requires that power plants in northern Mexico that want to transmit electricity into the United States must meet U.S. air quality standards. Pretty simple.

Many communities in border States, including many in my district (I represent the whole California-Mexico border) are literally under siege from air and water pollution from northern Mexico. Companies that wish to avoid American environmental regulations, but want to meet our energy needs in California and other southwestern States, are building power plants in Mexico directly across the border from American communities. Yet many of these power plants do not have to meet any of the American regulations, even though they are in the same air basins as towns on the U.S. side of the border.

For example, companies that recently built power plants in Mexicali, which is right across the border from the Imperial County of California that I represent, have not funded any road paving projects and other clean air efforts that would be required to offset their pollution if they were a mere 3 miles to the north. In a place like Imperial County, which is plagued by the highest childhood asthma rates in the Nation, and limited public resources, these offset projects are needed to mitigate the public health problems that are worsened by the power plants.

While the Mexicali plants have largely brought their emissions into compliance in response to this Congress' pressure, they have refused to pay for any mitigation projects. The Department of Energy, which acknowledges that Imperial Valley is in the same geographical air basin as the power plants in Mexico, have turned their backs on the residents of Southern California and approved the permits without requiring the companies to pave the dusty dirt roads or implement other clean air projects that would offset their pollution. The Department had the information and opportunity, but apparently did not feel obligated to fully protect clean air in Imperial County.

I believe the Department should be obligated to require offsets because there are a dozen more power plants in northern Mexico on line right now. These power plants are now under no obligation to meet any U.S. standards despite sharing air basins with American communities.

My amendment does not interfere with the Mexican Government's right to regulate pollution; instead, it prohibits the Department of Energy from using funds in this bill to issue permits for the transmission of electricity into the U.S.

I urge adoption of this important clean air amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. CUELLAR), the cosponsor of this amendment.

Mr. CUELLAR. Mr. Chairman, I thank my colleague for yielding me this time, and I appreciate that we talked yesterday with the chairman about this particular amendment, but if he would just allow us to make a particular statement. I appreciate the time the chairman gave us, and I understand his point of order.

Mr. Chairman, this amendment helps to raise the clean air standards on the border. I am from Laredo, Texas, on the border. And if you would just take the border region and make it a particular State, you would see that it is one of the fastest growing parts of the country, and it is one of the poorest parts of the whole country. If the border region was its own State, it would rank last in access to health care, second worst in death from hepatitis, last in per capita income, and first in the number of schoolchildren living in poverty.

Air quality in the border region is just as important as in any other metropolitan area in the country. This particular amendment would help boost air quality by requiring sellers of electricity from the Mexican side to protect the consumers on the American side. We expect nothing less than corporate responsibility from our friends in the domestic corporations, and we expect the same stewardship from foreign companies that have a direct impact on our communities.

We live in a world that increasingly requires us to cooperate across the border to solve problems. Trade, commerce, and economic activity do not stop at the border, and the environmental problems that sometimes accompany economic growth do not stop at the border.

In conclusion, this amendment recognizes the simple truth that the border region is a community and that air pollution affects all the region's residents, American and Mexican alike.

Mr. Chairman, I thank my colleagues for their time and just ask that the chairman consider this particular amendment.

Mr. FILNER. Mr. Chairman, I would just say that I understand the point of order, and I appreciate the gentleman's advice and I hope he will stay interested in this topic.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. JONES of North Carolina:

At the end of the bill, add the following:

SEC. ____. The amounts otherwise provided by this Act are revised by reducing the amount made available for "DEPARTMENT OF ENERGY DEPARTMENTAL ADMINISTRATION" and increasing the amount made available for "CORPS OF ENGINEERS—CIVIL—OPERATION AND MAINTENANCE", by $20,000,000.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from North Carolina (Mr. JONES) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume, and I first would like to say to the chairman and the ranking member, thank you very much for your work on this bill and for the opportunity to offer this amendment tonight.

Mr. Chairman, I represent a coastal area of North Carolina, and many of my colleagues, both Republican and Democrat, do the same throughout the United States of America. What this amendment does is to, in my opinion, provide a small, meaningful increase to the Corps of Engineers' operation and maintenance budget of $20 million. It would be offset by taking $20 million from the administration at the Department of Energy.

Mr. Chairman, our coastal areas are in deep trouble throughout America. Not just my district, but I can tell you that the waterways are so critical to the economic importance of these counties and States in North Carolina and throughout the United States of America that we need to remember that those people who make their living off the waterways are just like every other American, they are in need of every dollar they can make.

My district says to me, Mr. Chairman, when we can find $6.5 billion, not from this bill now. I want to make that clear, but we have spent $6.5 billion in Iraq with the Corps of Engineers, and then my taxpayers say to me and to the gentleman from Indiana, why can we not get a little bit of help?

So this is a modest amendment, Mr. Chairman.

I understand the gentleman's opposition to it, but I can honestly tell you that the waterways of America are the economic engines for the coastal districts of America, and not just North Carolina. And, to me, to be able to take just $20 million and do a little bit of good is better than not having the $20 million. And I know the gentleman from Ohio and the gentleman from Indiana did try the best they could, knowing we are in a tight budget year.

Mr. Chairman, I have heard from other Members who support this amendment, and let me say the amendment is also supported by the American Shore and Beach Preservation Association and the Congressional Waterways Caucus. We believe sincerely that this modest reduction within the Department of Energy will mean a whole lot to the people who pay the taxes.

I do not know of anybody in Iraq that is paying taxes to help the American people, so I think it is time that the American people who pay the taxes get a little bit of help.

Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I rise to claim the time in opposition to the amendment offered by the gentleman from North Carolina and I yield myself such time as I may consume.

Mr. Chairman, the amendment cuts $20 million from the Department of Energy's departmental administration account and adds $20 million to the Corps of Engineers' operation and maintenance account.

This bill currently provides $253 million for the Department of Energy's departmental administration account for fiscal year 2006, and the committee recommendation is a cut of $26 million from the request. The gentleman's amendment would further reduce appropriations from the Department of Energy's salaries and expenses $5 million below the current-year enacted level. Cuts of this magnitude will require reductions in staff at the Department of Energy. Government employees may potentially be RIF'd for a period of time.

The amendment also seeks to add $20 million to the corps' operation and maintenance account, for which the committee recommendation includes $2 billion. The amendment, if adopted, would have the effect of increasing funding for operation and maintenance by 1 percent.

Frankly, I sympathize with the gentleman. Funding needs are great, but the resources we have are limited. The corps cannot, and we cannot, spend money we do not have. We need to ensure that the funds that are provided to the corps are expended efficiently, consistent with the law and on the projects we appropriate.

I would like to point out to the gentleman that the bill provides $12.4 million in operation and maintenance funds for the projects he has expressed an interest in. In the past, the corps was able to reprogram these funds and use them on other projects. In addition, the corps would take ratable reductions against projects in the name of savings and slippage and use those funds on other purposes, not this year, as the bill includes reprogramming limitations and eliminates savings and slippage.

So while the gentleman may believe the funds provided in this bill are insufficient, I can assure him that the funds provided in this act will be used for those projects and not siphoned off for other uses.

I would suggest the gentleman withdraw the amendment. Failing that, I would oppose the amendment.

I also might point out that in the gentleman's district there is a total of, in North Carolina in O&M, there is $38 million put into this bill. With the limited resources that we have, I think the State did pretty well.

I will fight with the administration, for example, for the beach renourishment, for which they do not put anything in. But we do in the House and we have supported that because I do believe that that is an economic tool that the States need.

But at this point I would have to oppose the amendment and urge it not be adopted, but I would hope the gentleman would withdraw the amendment. Hopefully, next year, we will get a better allocation and we will do a better job on some of these things.

Mr. Chairman, I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from North Carolina (Mr. JONES) has 2½ minutes remaining, and the gentleman from Ohio (Mr. HOBSON) has 2½ minutes remaining.

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume to say to the gentleman from Ohio that he has been very helpful, and I realize it is a tight money situation, but let me share with the gentlemen from Ohio, as well as Indiana, that last year I had the Marine Corps down in Camp Lejeune call me in my office and say, We need your help. We cannot train our Marines, who have been asked by this administration to go to Afghanistan and Iraq.

If the corps had not had a little bit of extra money to do some dredging that was absolutely necessary in New River Inlet, which is in Jacksonville, North Carolina, the home of Camp Lejeune, the Marines would not have been training.

Again, I respect the gentlemen greatly on both sides, but I am going to, at the proper time, ask for a recorded vote on this. I will say that I feel that I owe this not just to my district, but to the States in the United States that have waterways and have the needs that we have in North Carolina. Because it is not just North Carolina; there are many other States.

And, Mr. Chairman, I will just close by saying that I respect and appreciate the help I have received, and I hope next year will be a better budget year. But this year my State, as well as the other 49 States which have the harbors and inlets, are in desperate need and we need all the help we can get.

Mr. Chairman, I yield back the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Chairman, I respect the remarks and the impetus behind the gentleman's amendment, but would add my voice to the chairman's in opposition to the amendment.

Mr. HOBSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. JONES).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. JONES of North Carolina. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. JONES) will be postponed.

The point of no quorum is considered withdrawn.

□ 1945

AMENDMENT NO. 4 OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. STUPAK:

At the end of the bill, add the following new section:

SEC. 503. None of the funds made available by this Act shall be used to accept deliveries of petroleum products to the Strategic Petroleum Reserve.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Michigan (Mr. STUPAK) and the gentleman from Ohio (Mr. HOBSON) each will control 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I yield myself such time as I may consume.

First, let me thank the chairman and the ranking member for their hard work on this legislation. This amendment here is the Strategic Petroleum Reserve amendment.

Basically, it says no funds made available by this act shall be used to accept deliveries of petroleum products to the Strategic Petroleum Reserve. When we did the energy bill, and I sit on the Committee on Energy and Commerce, our amendment was made in order and was accepted by the committee. Our amendment then was a little more detailed. It said there would be no oil going into SPR until the cost of a barrel of oil dropped below $44 for 2 consecutive weeks under the New York Stock Exchange.

If we put that triggering provision into this amendment, there would have been a point of order and this amendment would have been accepted under the rules of the House. Therefore, we have changed it and said no more delivery of petroleum products to the SPR fund. So I am joined by the gentleman from Vermont (Mr. SANDERS) and the gentleman from New York (Mr. BISHOP) to support this amendment.

When I go back to my district, many of my constituents express their concern with rising gasoline prices. I suspect most Members are hearing the same thing when they go home to their own districts. In an already fiscally constrained economy, these high gasoline prices yield yet another burden to America's families' already-tight purse strings.

The high cost of gasoline and oil has long been a problem and one that Congress has long grappled with. Today, oil is hovering around $49 a barrel which some experts predict could spike as high as $60 a barrel this summer.

With Memorial Day just around the corner, we are seeing prices at the pump reaching over $2 a gallon, with some parts of the country seeing prices as high as $2.44 a gallon. How high does the price have to go and for how long before we take action?

It is no secret, there are no quick fixes or easy fixes when it comes to the problem of high gasoline and oil prices; but there is no reason to continue filling the SPR with petroleum products when our economy is suffering due to sky-high oil and gas prices. The suspension of oil delivery to the SPR would put additional barrels of oil out into the world market to stabilize the world's oil supply and provide some relief at the pump to our consumers.

To continue filling the SPR sends the wrong message to the American public who continues to struggle because of these record-breaking gas prices, and it does nothing to help reduce the skyrocketing prices at the pump. It just does not make economic sense to add more pressure to what we all know is a very tight oil market when the effect is creating even higher gas prices for consumers here at home.

Finally, suspending the filling of the SPR does not hurt our energy security. The reserve is already filled to 95 percent capacity. It has approximately 695 million barrels that are now in storage. That is the highest it has ever been in our Nation's history. I urge my colleagues to support this amendment that will take pressure off the price of a barrel of oil and hopefully at the gas pump at home.

Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the gentleman's amendment. The capacity of the strategic petroleum reserve is 727 million barrels. By August of 2005, the President's direction of 700 million barrels will be achieved.

The 2006 Presidential budget does not request additional barrels to be contracted. However, should the President determine in 2006, for reasons of national and economic security, to increase the supply of oil for the reserve, this amendment could prevent that.

One cannot predict the future, if there will be a national emergency to release the oil from the reserve, or a need to contract for more.

This amendment unnecessarily restricts the President from acting in a time of national need by setting an arbitrary limitation on the use of funds. Last year after hurricanes ravaged the Gulf of Mexico, there was a disruption in production at individual refineries. DOE made a short-term loan of 5.4 million barrels of oil to refiners that had a shortened supply of feed stock. If the Stupak amendment was in place at that time, these loans would not have happened because the oil would not be able to be repaid back to the reserve.

I do not think that we want to be in the business of restricting emergency powers only to make a statement on the price of oil today. Therefore, I oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. STUPAK. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the Democratic leader.

Ms. PELOSI. Mr. Chairman, I rise in support of the Stupak/Bishop/Sanders amendment and commend them for bringing this important amendment to the floor.

Before speaking on it, though, I want to commend the gentleman from Ohio (Chairman HOBSON) of the Subcommittee on Energy and Water for the very dignified way the gentleman has dealt with the legislation, and to commend the gentleman from Indiana (Mr. VISCLOSKY), our ranking member on the subcommittee. They strive to work in a very bipartisan way on this important legislation.

I rise in support of the Stupak/Bishop/Sanders amendment, which, as the gentleman from Michigan (Mr. STUPAK) has explained, would immediately stop the filling of the Strategic Petroleum Reserve while gas prices are so high.

Mr. Chairman, all over the country people are crying out for relief at the rising price at the pump. Small businesses and families are feeling the pinch, and the consequences are very substantial. Under current estimates, a family of four will spend $423 more on gasoline this year than last year and almost $800 more than 2 years ago. Consumers have paid the price for rising prices over the last year. Gas prices have remained at record levels for the past 2 months at over $2.12 per gallon nationwide with some States, my own State, the State of California, more than $2.53 a gallon.

This means that gas prices have risen 35 cents per gallon since the beginning of the year. The Department of Energy predicts that gas prices could average over $2.25 nationwide this summer. The Department of Energy also has said, their report also has said that the energy bill passed by this House a few weeks ago would increase the price at the pump.

Imagine that we are legislating on the floor of Congress measures that would increase the price at the pump instead of giving consumers the relief that they need. The gentleman from Michigan (Mr. STUPAK), the gentleman from New York (Mr. BISHOP), and the gentleman from Vermont (Mr. SANDERS) have a better idea.

This idea, as the gentleman from Michigan (Mr. STUPAK) explained, would stop filling the SPR so more oil was in the market, supply increases, and then the price should go down. This is what happened when it was done before.

When President Clinton was President, they released oil from the Strategic Petroleum Reserve in 2000 and gas prices were reduced by 14 cents a gallon, $6 a barrel. When President Bush released Strategic Petroleum Reserve oil in 1991, the price of oil per barrel dropped $10.

There was bipartisan support for this in the Senate in March 2004, and in the House in 2004 bipartisan initiatives urging the President to suspend oil deliveries in the Strategic Petroleum Reserve. This has worked for us before, whether it was releasing oil from the reserve or stopping oil from coming into the reserve.

Under current estimates, a family of four would pay so much more. As Mark Zandi, chief economist at Economy.com said recently, "Each 1-cent increase in gasoline costs consumers $1 billion a year."

It is no wonder that gas prices are the top concern of the American people, and record gas prices are starting to have a ripple effect in the economy. The airline and trucking industries are feeling the pinch. For 5 years, Republicans in Congress have pursued an energy policy to give away billions of dollars in subsidies to special interests that are already profiting from record-high gas prices. They have turned Washington into an oil and gas town when this is supposed to be the city of innovation, of fresh new thinking and ideas about our energy policy and the impact it has on the pocketbooks of the American people and on the environment and the air they breathe.

The President's own Department of Energy found the provisions in the energy bill actually increased the price of gasoline 3 cents, and our dependence on foreign oil is projected to increase 85 percent under the proposed policies of President Bush. During consideration of the energy bill, Democrats offered an amendment by the gentleman from New York (Mr. BISHOP) that called on the President to immediately urge OPEC to increase oil production and also to stop the filling of the SPR. It would have taken steps to protect the American people from price gouging and unfair practices at the gasoline pump and increased public information on prices. Unfortunately, the amendment failed.

How do Members figure that amendment would fail when it was in the interest of America's consumers? Well, if the public interest is not served and the special interest is, then it would follow that the consumer is not served. But we have another chance today. I urge my colleagues to support the amendment by the gentleman from Michigan (Mr. STUPAK), the gentleman from New York (Mr. BISHOP), and the gentleman from Vermont (Mr. SANDERS) to immediately stop filling of the Strategic Petroleum Reserve while gas prices are so high. Give the American consumer a break; vote for this important amendment.

Mr. STUPAK. Mr. Chairman, I yield 5 minutes to the gentleman from Vermont (Mr. SANDERS), a cosponsor of this amendment.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me this time, congratulate the gentleman for his leadership, and thank the gentlewoman from California (Ms. PELOSI) for her support, and concur with the gentlewoman's remarks.

Mr. Chairman, all over this country, the people are asking a simple question: When will the United States Congress stand up and protect those workers in Vermont and all over this country who are spending hundreds and hundreds of dollars a year more at the gas pump?

Our Republican friends talk about tax breaks given to people. Those tax breaks have been eaten up many times over by people who are forced to pay outrageously high prices in order to get to work. This affects not only people in rural States like Vermont. It affects small businesses, farmers, the airline industry, the trucking industry; and, in fact, nobody denies it is affecting our entire economy. When is Congress going to stand up?

Meanwhile, while working people are paying more and more to fill up their gas tanks, the large oil industry corporations are reaping record-breaking profits.

I think it is about time that we started paying attention to the American worker and we did something, at least right now, to lower the cost of gas at the pump.

As the gentleman from Michigan (Mr. STUPAK) and the gentlewoman from California (Ms. PELOSI) mentioned, this is not a new idea. In fact, it is not a partisan idea. This is a concept that has been supported by Democrats and by many Republicans. It has been supported by the first President Bush and by former President Clinton.

Specifically, this amendment would suspend oil deliveries to the Strategic Petroleum Reserve. This is what President Bush did in 1991, what President Clinton did in 2000. This action would have the very immediate impact of lowering gas prices in America now.

Mr. Chairman, the Strategic Petroleum Reserve currently contains about 693 million barrels and the administration is pushing to increase that number to over 700 million barrels.

Today, approximately 72,000 barrels of oil per day are still being added to the SPR, over 2 million barrels per month. This amendment would suspend these oil deliveries and put this oil back on the market which could lead to lower prices immediately upon its implementation.

☐ 2000

It would also keep gas prices down by making sure the government is not competing against consumers in the marketplace at a time when gas prices are so high.

Mr. Chairman, extrapolating from at least three economic studies done by Goldman Sachs, the largest crude oil trader in the world, the Air Transport Association, and petroleum economist Phillip Verleger, the estimate is, by releasing some 15 million barrels from SPR, we could reduce gasoline prices at the pump by 10 to 25 cents per gallon. By voting for this amendment today, we will be sending a very strong message to the President and that is, Mr. President, release oil from SPR right now.

Mr. Chairman, in the spring of 2002 when the price of gas was starting to increase, the staff at the Department of Energy recommended against buying more oil for SPR. DOE staff said, "Commercial inventories are low, retail prices are high, and economic growth is slow. The government should avoid acquiring oil for the reserve under these circumstances."

Mr. Chairman, as I mentioned earlier, there is bipartisan support for this concept. The time is now for the United States Congress to listen to those working people in the State of Vermont and elsewhere who have to travel 100 miles back and forth to work each day. That is not uncommon in this country.

These workers, who are seeing in many cases a real decline in their wages, need help. It seems to me that at a time when the profits of the oil industry are soaring, when workers are struggling to keep their heads above water, when the price of gas is soaring, now is the time for us to act and act immediately.

I would hope we would have strong support from both sides of the aisle for this important amendment.

Mr. STUPAK. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. BISHOP), a cosponsor of this amendment.

Mr. BISHOP of New York. Mr. Chairman, I thank the gentleman for yielding time and I thank him for his leadership on this important issue.

Mr. Chairman, I am proud to rise as a cosponsor of the Sanders-Stupak-Bishop amendment which will restrict funding in the appropriations bill from being used to add more oil to the Strategic Petroleum Reserve. Today, our Nation faces exorbitant energy costs, and taxpayers continue to suffer sticker shock at the gas pumps.

As a front page article in today's Wall Street Journal reported, we have seen a recent decrease in the cost of oil, but compared to 1 year ago, gas prices on average are still 6 cents higher per gallon, diesel fuel is up $1.75, and jet fuel is up nearly 50 percent. Congress can and must do more to help stabilize the price of fuel.

The energy bill recently passed by the House failed to address these cost increases. In fact, some reports state that the cost of fuel may actually increase between 5 and 8 cents per gallon due to provisions in that legislation. That may not sound like a lot, but for a middle-class family, already struggling to keep up with rising tuition, health care costs and saving for retirement, this increase in gas prices will add up very quickly.

Today's Journal also reports that other experts estimate that the cost of oil may spike again to as high as $60 per barrel. I offered an amendment to the energy bill that would have prevented that increase, although it was not incorporated into the House-passed bill.

Mr. Chairman, as we approach one of the most heavily trafficked holiday weekends of the year, let us act now to do something positive for American families. By restricting funds used to store petroleum in the Strategic Petroleum Reserve and in consideration of other market factors, we can realize a drop in the cost of oil of between $6 and $11 a barrel.

In 2001, President Bush ordered the Strategic Petroleum Reserve to be filled to a capacity of 700 million barrels. The Reserve currently holds 692 million barrels, nearly 99 percent of the President's goal. Thus, I believe now is the time to temporarily suspend funding for the Reserve and offer the American people a break at the pumps.

Mr. Chairman, I urge my colleagues to support the Sanders-Stupak-Bishop amendment.

Mr. STUPAK. Mr. Chairman, I yield back the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. STUPAK. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. STUPAK) will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. STUPAK:

At the end of the bill (before the Short Title), insert the following:

SEC. . None of the funds made available in this Act may be used to implement a policy, proposed in the Annex V Navigation Programs by the Corps of Engineers, to use or consider the amount of tonnage of goods that pass through a harbor to determine if a harbor is high-use.

Mr. HOBSON. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. A point of order is reserved.

Pursuant to the order of the House of today, the gentleman from Michigan (Mr. STUPAK) and the gentleman from Ohio (Mr. HOBSON) each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to bring to Members' attention a newly created OMB and Army Corps of Engineers' criterion for recommending operation and maintenance dredging of all small commercial harbors. Unfortunately, this criterion, which is highly inadequate and unfairly biased, will have a detrimental effect on communities in my northern Michigan district and on a number of communities across the country.

For fiscal year 2006 and fiscal year 2007, the corps, with the help of OMB, has implemented new guidelines for determining whether a harbor is considered high use and, therefore, eligible to be considered to be funded for dredging in the President's budget.

According to the corps, in order for a commercial harbor to be considered high use, it must now move at least 1 million tons of cargo annually. As a result of this tonnage requirement, a number of routine Army Corps operations and maintenance harbor dredging projects will not be carried out this year as they were in past years. As a result, small-town, rural America will suffer more job losses, businesses will struggle and infrastructure could be damaged.

You only need to look at the community of Ontonagon in my district for an example of the devastating effects this policy will have. Ontonagon was taken by surprise when they were not included in the President's budget for the first time in many years. If this harbor is not dredged, the future of our paper company, Smurfit-Stone Container Corporation, which relies on the harbor for coal and limestone deliveries, and White Pine Power, a revitalized coal plant that depends on the harbor for coal deliveries by ship for its power generation, will be in jeopardy.

To give you an idea of how bad the silting is in this area, last year it was dredged and it was dredged down to 19 feet. Less than a year later, this weekend when I was at Ontonagon, it was back down to 6 feet. We lost 13 feet in less than a year because of the silt coming down from the Mineral River. Imagine the consequences for small towns like Ontonagon if their largest businesses are unable to receive the goods they need to remain competitive. Rural communities already have limited resources available to them without this added hardship.

The Army Corps must develop more appropriate requirements to determine whether a harbor is to be included in the President's budget for a yearly dredge. If they continue to determine whether harbors like Ontonagon receive funding in the President's budget based primarily on tonnage, our small commercial harbors will continue to be shortchanged, affecting the economic livelihoods of our communities.

We need to ensure that the corps is putting forth guidelines and policies that are as fair as possible and also reflect an appropriate amount of transparency to the public.

Mr. Chairman. I am not going to ask for a recorded vote. In fact, I will withdraw the amendment if I may enter into a brief colloquy with the chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. HOBSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding.

For fiscal year 2006 and 2007, the Army Corps has implemented new guidelines for determining whether a harbor is considered high use and, therefore, eligible to be considered to be funded for dredging in the President's budget. In order for a harbor to be considered high use, it must move at least 1 million tons of cargo per year.

This would have severe ramifications on small, rural harbors, such as Ontonagon Harbor in my district, which has typically been included in the President's budget. If the harbor is not dredged, the future of our paper company, Smurfit-Stone Container Corporation, which relies on the harbor for coal and limestone deliveries, and White Pine Power, a revitalized coal plant that depends on the harbor for coal deliveries by ship for its power generation, will be in jeopardy. Without this yearly dredge, these communities are subject to harsh floods and the inability to receive goods they need through these harbors.

I seek assurance from the gentleman that he will work with the corps and us to reevaluate this policy that could affect not only my small harbors, but small harbors throughout this country.

Mr. HOBSON. I understand the gentleman from Michigan's concerns about the effects this policy may have on small harbors. While I believe that tonnage should be a consideration when the Army Corps prioritizes operations and maintenance dredging projects, I do not believe it should be the sole basis.

I look forward to working with the gentleman from Michigan and the Army Corps to address this issue and identify appropriate factors for consideration.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. I thank the gentleman for yielding.

Mr. Chairman, I do want to thank the gentleman from Michigan for raising the issue. It is an important one. We have had other ratios for determination of Corps funding that had been brought before the subcommittee during the hearing process. They were also questioned.

I understand that the gentleman is concerned about ports of specific size, but I also think one of the things that we have to do a better job of, and the chairman has done his very best here, is to look at entire systems, as well, to make sure there is a fair allocation of these resources for the commerce and, potentially, for the environmental cleanup of these very systems and the individual ports; and I certainly want to join with the chairman and the rest of the subcommittee to do the best job possible looking forward to address this issue. It is an important one.

I appreciate its having been raised.

Mr. STUPAK. I thank the chairman and the ranking member for their assurances. I look forward to working with them on this issue.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. TIAHRT

Mr. TIAHRT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TIAHRT:

At the end of the bill (before the short title) insert the following:

SEC. ____. None of the funds made available in this Act may be used to promulgate regulations without consideration of the effect of such regulations on the competitiveness of American businesses.

Mr. HOBSON. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. A point of order is reserved.

Pursuant to the order of the House of today, the gentleman from Kansas (Mr. TIAHRT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the United States has the number one economy in the world, and it is the envy of the world. We also have the most powerful military in the history of the world, but I believe we are headed down the wrong path.

Our trade deficit last year was $670 billion. Our Federal deficit exceeded $400 billion. And we saw the loss of many high-quality, high-paying jobs. While other countries are preparing for the future, the current trends in the United States should be of concern to us all, because I believe we are on the path towards a third-rate economy.

Our health care costs are growing too fast and forcing companies to withdraw these benefits from many of our employees. Our education system lags behind the developing world and needs to be revamped. Our trade policy fails to enforce many of the policies that we have in place. Our tax system punishes success. Our energy policy relies on imports rather than natural resources we have here in America, along with renewable energy resources that we have here in America. Our research and development policy needs to be enhanced. Lawsuits plague those who keep and create jobs here in America and that slows our economic growth.

Mr. Chairman, my amendment says that none of the funds available in this act should be used to promulgate regulations without consideration of the effects of such regulations on the competitiveness of American businesses, because that, Mr. Chairman, means more jobs. If we are going to succeed in the future, we have to create an environment here in America that encourages competition and does not discourage growth. Regulatory costs are killing our jobs. Less government regulations not only means granting the freedom to allow Americans to pursue their dreams, it also means providing the space for business to thrive, which means more jobs for working Americans.

Instead, our Federal Government has become a creeping ivy of regulations that strangle enterprise.

It is estimated today that the regulatory burden as of 2000 was $843 billion. That has cost us U.S. jobs. The regulatory compliance burden on U.S. manufacturers is the equivalent of a 12 percent excise tax.

Mr. Chairman, if we could cut the regulatory burden in half, we would be 6 percent more competitive. As we approve spending allocations for the Department of Energy and other related agencies, we need to remind them of the importance of their actions and what they do with the funding that we give them.

Mr. Chairman, I have spoken with the gentleman from Ohio (Mr. HOBSON), and I have complete confidence that he will help us make America more competitive in the future. I plan to withdraw this amendment tonight, but I do not plan to retreat from this fight to reduce the barriers to keeping and creating jobs in America.

Mr. Chairman, I know that the gentleman from Ohio will work with me to help us create an environment to bring more jobs back to America.

Mr. Chairman, I respectfully withdraw the amendment.

The CHAIRMAN. Without objection, the amendment of the gentleman from Kansas is withdrawn.

There was no objection.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Chairman, I thank the gentleman from Indiana (Mr. VISCLOSKY) and the gentleman from Ohio (Mr. HOBSON) for their work on this bill.

I wish to associate myself with the words of the gentleman from Michigan (Mr. STUPAK) concerning smaller ports and maintenance dredging by the Army Corps of Engineers. Not only would this affect the port of Astoria in my congressional district, but it would affect smaller ports up and down the coast of Oregon. This is an issue of great concern to Michiganders, to Oregonians and to other Americans.

□ 2015

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: the amendment offered by the gentleman from Massachusetts (Mr. MARKEY), the amendment offered by the gentleman from North Carolina (Mr. JONES), and the amendment offered by the gentleman from Michigan (Mr. STUPAK).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. MARKEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 110, noes 312, not voting 11, as follows:

[Roll No. 207]

AYES—110

Abercrombie
Ackerman
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boswell
Brown (OH)
Brown, Corrine
Capps
Capuano
Carson
Chandler
Clay
Conyers
Cooper
Crowley
Davis (CA)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Eshoo
Evans
Farr
Filner
Ford
Frank (MA)
Gibbons
Grijalva
Harman
Hastings (FL)
Hinchey
Holt
Honda
Hooley
Inslee
Israel
Jackson (IL)
Johnson, E. B.
Kennedy (RI)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Menendez
Michaud
Miller, George
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Payne
Pelosi
Rahall
Rangel
Roybal-Allard
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Serrano
Sherman
Slaughter
Smith (WA)
Solis
Spratt
Stark
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Wasserman Schultz
Watson
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—312

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Etheridge
Everett
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matsui
McCarthy
McCaul (TX)
McCotter
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Visclosky
Walden (OR)
Walsh
Waters
Watt
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (FL)

NOT VOTING—11

Allen
Bean
Doggett
Hastings (WA)
McCrery
Millender-McDonald
Moore (WI)
Pence
Pickering
Wamp
Young (AK)

□ 2042

Ms. GINNY BROWN-WAITE of Florida and Messrs. PETERSON of Pennsylvania, KIRK, HEFLEY, SHAYS, ROTHMAN, CLEAVER, MORAN of Virginia, GENE GREEN of Texas, REYES, McINTYRE, GILLMOR, STRICKLAND and AL GREEN of Texas changed their vote from "aye" to "no."

Ms. LOFGREN of California, Ms. DELAURO, Ms. WATSON and Mr. SHERMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. MOORE of Wisconsin. Mr. Chairman, on rollcall No. 207, the Markey-Holt amendment to H.R. 2419, had I been present, I would have voted "aye."

Stated against:

Ms. BEAN. Mr. Chairman, on rollcall No. 207, had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. JONES OF NORTH CAROLINA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. JONES) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN.

A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 152, noes 275, not voting 6, as follows:

[Roll No. 208]

AYES—152

Abercrombie
Ackerman
Baca
Baird
Barrow
Bartlett (MD)
Bean
Berkley
Bishop (NY)
Bishop (UT)
Boehner
Boswell
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Cannon
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Coble
Conyers
Costa
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
Duncan
Engel
Etheridge
Evans
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Gerlach
Gibbons
Gonzalez
Goode
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hastings (FL)
Hayworth
Herseth
Higgins
Hinojosa
Honda
Hooley
Hostettler
Hulshof
Inslee
Israel
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kennedy (RI)
Kildee
Kind
King (NY)
Kucinich
Langevin
Larsen (WA)
Leach
Lee
Lipinski
Lowey
Lungren, Daniel E.
Lynch
Maloney
Markey
Marshall
Matheson
McCaul (TX)
McDermott
McGovern
McIntyre
Meehan
Melancon
Menendez
Michaud
Miller, Gary
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Napolitano
Neal (MA)
Nussle
Oberstar
Ortiz
Pallone
Paul
Payne
Peterson (MN)
Petri
Poe
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Renzi
Reyes
Rogers (AL)
Ruppersberger
Salazar
Sánchez, Linda T.
Schakowsky
Scott (VA)
Sessions
Shaw
Sherman
Shimkus
Skelton
Slaughter
Smith (WA)
Stark
Strickland
Tancredo
Tanner
Taylor (MS)
Terry
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Wasserman Schultz
Watson
Watt
Weiner
Wexler
Wilson (SC)
Woolsey
Wynn

NOES—275

Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Baldwin
Barrett (SC)
Barton (TX)
Bass
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Carter
Castle
Chabot
Chocola
Cleaver
Clyburn
Cole (OK)
Conaway
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis, Tom
Deal (GA)
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
English (PA)
Eshoo
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Gordon
Granger
Graves
Hall
Harman
Harris
Hart
Hayes
Hefley
Hensarling
Herger
Hinchey
Hobson
Hoekstra
Holden
Holt
Hoyer
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson (IL)
Jindal
Johnson (CT)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kilpatrick (MI)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Lantos
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren, Zoe
Lucas
Mack
Manzullo
Marchant
Matsui
McCarthy
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McKeon
McKinney
McMorris
McNulty
Meek (FL)
Meeks (NY)
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moran (KS)
Murtha
Musgrave
Myrick
Nadler
Neugebauer
Ney
Northup
Norwood
Nunes
Obey
Olver
Osborne
Otter
Owens
Oxley
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (PA)
Pitts
Platts
Pombo
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Shadegg
Shays
Sherwood
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tauscher
Taylor (NC)
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wolf
Wu
Young (FL)

NOT VOTING—6

Allen
Hastings (WA)
Millender-McDonald
Pickering
Wamp
Young (AK)

☐ 2051

Mr. GEORGE MILLER of California changed his vote from "aye" to "no."

Mr. HONDA changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. STUPAK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. STUPAK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 174, noes 253, not voting 6, as follows:

[Roll No. 209]

AYES—174

Ackerman
Andrews
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Bishop (NY)
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Cleaver
Conyers
Costa
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Forbes
Frank (MA)
Goodlatte
Gordon
Green (WI)
Green, Al
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Levin
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Roybal-Allard

Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—253

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Drake
Dreier
Duncan
Ehlers
Emanuel
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Granger
Graves
Green, Gene
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Kanjorski
Kaptur
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pastor
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Waters
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—6

Allen
Hastings (WA)
Lee
Millender-McDonald
Pickering
Young (AK)

☐ 2100

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ALLEN. Mr. Chairman, on rollcall No. 207, 208, and 209, I was unavoidably detained. Had I been present, I would have voted "yes" on all 3.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Energy and Water Development Appropriations Act, 2006".

Mr. HOBSON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PUTNAM) having assumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Pursuant to House Resolution 291, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ETHERIDGE

Mr. ETHERIDGE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ETHERIDGE. Mr. Speaker, in its current form, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Etheridge of North Carolina moves to recommit the bill H.R. 2419, to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendment:

On page 23, line 20, after "$86,426,000," insert the following:

"of which $500,000 shall be available to develop and publish a report on imported crude oil and petroleum sales to the United States pursuant to 15 U.S.C. 796 and 42 U.S.C. 7135."

On page 27, line 8, strike "$35,000" and insert "$1,035,000".

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

Mr. ETHERIDGE. Mr. Speaker, I know the hour is late and folks want to go home.

Mr. Speaker, let me thank the chairman and the ranking member for their hard work on this bill. But like anything we do in this body, we can do better. This coming Friday will begin Memorial Day, and for many Americans it really is the beginning of summer.

On that day, tens of thousands of North Carolinians and millions of Americans are getting into their cars and hitting the road for vacation. They may visit our State's beautiful beaches or seashores. They may visit the cool mountain vistas to the west. Or they may just leave our State altogether and travel across this country.

Regardless of where they go and how far they travel, they will all be confronted by the same ugly truth: Our Nation is experiencing the highest gasoline prices in the history of this country. The average price of regular unleaded gasoline in the United States is over $2.12 a gallon, 6 cents higher than it was a year ago.

For diesel fuel users like truck drivers and farmers, the national average is over $2.15, 39 cents a gallon higher than last year. In the central Atlantic States, like North Carolina, the price for regular unleaded and diesel are higher than the national average.

As I travel throughout my district, I regularly hear complaints from my constituents about higher gasoline prices and diesel fuel prices. Farmers, commuters, employers, senior citizens and all North Carolinians have been hit hard by higher gasoline prices.

Truck drivers are seeing their businesses suffer. Farmers are forced to watch their costs escalate, eating into their bottom line, especially now, when they are getting into the fields. And for people who have lost their jobs and still cannot find work, higher gasoline prices place an even higher burden on them.

People who live in rural districts like mine have to travel farther than folks living in any other area to go to work, to get to a store, to go to church, to take their children to school and any number of places. While high gasoline prices hurt everyone, rural Americans are especially hit hard. Everyone talks about the problem.

The United States is too dependent on foreign oil. Every time we have a small disruption in the Middle East, the marketplace reacts wildly and drives the price of a barrel of oil even higher. We need to reduce our Nation's dependency on foreign oil, and we need to bring gas prices down, and this motion to recommit is a step in that direction.

This motion will direct $500,000 from the Energy Information Administration for analysis of imported crude oil and its impact on petroleum sales.

It also provides $1 million for the Secretary of Energy to conduct a conference with foreign oil producers of foreign oil-producing nations.

I remember when Saudi Arabia and other OPEC nations used to say they wanted to get the price of a barrel of oil between $22 and $28 a gallon.

Mr. Speaker, this is a serious issue. We may not think so in this body, but I guarantee you the people across this America do. And let me tell you, when the Saudis said $22 to $28 a barrel they were shooting for, and it is now $50 and above, they missed that by a country mile where I come from.

If they truly want to bring down prices, they could do that today. Actions speak louder than words, and it is time for action.

This administration must insist that Saudi Arabia and OPEC nations raise their production levels now. And this motion will ensure that the administration has the means to bring these nations together at a conference and deal with this issue immediately. Every day we continue to experience higher gas prices is another day that is a drain on the wallet of every single American.

Last Sunday at church a church member came to me and he said, You know, I am an independent truck driver, and the cost of my fuel is going up, and it is going to put me in bankruptcy.

Mr. Speaker, there are a lot of people across this country tonight in that same situation, and we can do something about it. Instead, we are not offering the kind of proposal to make a difference. This will offer a proposal to the U.S. Department of Energy Information Administration to move and take action and take action quickly.

Mr. Speaker, the bill that we passed earlier on energy will increase the cost by 85 percent in 20 years. That is increasing our dependency. This is an opportunity for a solution. This is the way that we should impact it positively.

I urge my colleagues to vote for this motion to recommit.

Mr. HOBSON. Mr. Speaker, I oppose the motion to recommit and urge a speedy passage of the underlying bill, and yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ETHERIDGE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for the electronic vote on the question of final passage.

The vote was taken by electronic device, and there were—ayes 167, noes 261, not voting 5, as follows:

[Roll No. 210]

AYES—167

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Bishop (GA)
Bishop (NY)
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gordon
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinojosa
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Towns
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—261

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hobson
Hoekstra
Holden
Holt
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McDermott
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—5

Hastings (WA)
Millender-McDonald
Pastor
Pickering
Young (AK)

□ 2128

Messrs. CAPUANO, COSTELLO and TIERNEY changed their vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PUTNAM). The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 13, not voting 4, as follows:

[Roll No. 211]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Pomeroy
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—13

Berkley
Etheridge
Flake
Franks (AZ)
Gibbons
Green (WI)
Inslee
Kucinich
Matheson
Paul
Porter
Sensenbrenner
Stearns

NOT VOTING—4

Hastings (WA)
Millender-McDonald
Pickering
Young (AK)

□ 2136

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

(Mr. SCHIFF asked and was given permission to address the House for 1 minute.)

Mr. SCHIFF. Mr. Speaker, embryonic stem cell research has the potential to lead to cures of debilitating diseases affecting millions of people. Well-respected medical experts from many of our Nation's finest institutions have been seeking cooperation from the Federal Government for this research and have been stymied by the cell lines available under current law.

H.R. 810, a bill which I am proud to be an original cosponsor of, provides strong, ethical guidelines that ensure high standards in stem cell research. It also provides hope to countless people who live each day less sure of their future.

Some would suggest we must choose between lifesaving research on the one hand and high moral standards on the other. This is a false choice. We can and must have both. H.R. 810 gives hope to the ill and maintains America's high ethical purpose. It has my full support.

STEM CELL RESEARCH

(Ms. ZOE LOFGREN of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include therein extraneous material.)

Ms. ZOE LOFGREN of California. Mr. Speaker, I support H.R. 810, the Stem Cell Research Enhancement Act.

Stem cell research holds the potential to improve the lives of millions of Americans suffering from diseases like cancer, heart disease, and diabetes. I believe we should do all we can to support this research, and it is why I am so frustrated at the Bush administration's attempts to stop it.

NIH said that U.S. scientists are falling behind because of the Bush 2001 limitations on stem cell research. Elizabeth Nable of the National Heart, Lung and Blood Institute said, "Because U.S. researchers who depend on Federal funds lack access to newer human embryonic stem cell lines, they are at a technological disadvantage relative to researchers funded by California, as well as investigators in Asia and Europe.

My home State of California has already moved ahead of the Federal Government by establishing the Institute for Regenerative Medicine, which will devote $3 billion to embryonic stem cell research over the next 10 years.

This bill is a modest proposal compared to California's, but it is still an important step; and that is why it is supported by all the major educational research institutions in California.

I include their letter of support in the RECORD. Let us not drive this research overseas.

MAY 19, 2005.

Hon. ZOE LOFGREN,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LOFGREN: We are writing to express our support for changing federal policy on human embryonic stem cell research to allow an expansion in available cell lines. As you probably know, a vote on legislation that would alter current policy is expected in the coming weeks, and we urge your "Yes" vote.

Embryonic stem cells hold the potential for new cures and therapies for an array of life-threatening diseases affecting millions of Americans across the nation. This potential will be enhanced by the bipartisan Stem Cell Research Enhancement Act (H.R. 810), introduced by Representatives Michael Castle (R–DE) and Diana DeGette (D–CO) and cosponsored by more than 200 members of the House of Representatives.

The Castle-DeGette bill would expand current policy to allow federal funding for research with stem cell lines discovered after the mandated August 9, 2001, cut-off date as well as lines derived in the future. With regard to future stem cell lines, the bill applies only to lines derived from days-old blastocysts that otherwise would be discarded from in vitro fertilization clinics, but that instead are voluntarily donated to research by consenting individuals, without compensation. Further, this legislation would ensure the development of ethical guidelines for research with embryonic stem cell lines.

California has moved ahead by establishing the Institute for Regenerative Medicine, which will devote $3 billion to embryonic stem cell research over the next ten years. The provisions within H.R. 810 are more restrictive than those of the California Initiative; however, H.R. 810 is crucial because it will make a significant difference to nationwide federal research programs. This expansion in policy will further facilitate and accelerate the research conducted in our state.

When the current federal embryonic stem cell research policy went into effect in 2001, the notion was that 78 cell lines would be available for research. Currently, only 22 are actually available to researchers; many others have been found unsuitable. Furthermore, a number of the available lines are entangled with commercial interests making the cells too expensive or impossible for NIH-funded investigators to obtain. For these reasons, the existing embryonic stem cell lines do not provide a sufficient supply to advance the research to its full potential.

Embryonic stem cells offer the potential to reverse diseases and disabilities experienced by millions of Americans. Stem cell research is still very new. Thus, we have a collective responsibility—scientists, university leaders, and government leaders—to support the exploration of the promising possibilities of both embryonic and adult stem cell research for curing and preventing disease.

Please support scientific advancement and the possibility of new cures by voting "Yes" on H.R. 810 to expand federal stem cell research policy.

Sincerely,

ROBERT C. DYNES,
President, University of California.
STEVEN B. SAMPLE,
President, University of Southern California.
DAVID BALTIMORE,
President, California Institute of Technology.
JOHN L. HENNESSY,
President, Stanford University.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MARCHANT). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

OIL INDUSTRY AND OPEC PRICE GOUGING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, not too long ago we passed the so-called energy bill here in the House, and tonight we passed the Energy and Water Development appropriations bill. The question that the American people should ask as we head into the Memorial Day weekend is, what has the Republican Congress done to rein in price gouging by the oil industry and the OPEC oil cartel? The answer, if you look at these two bills, is: Nothing. Absolutely nothing. Nada. Zip.

If you would listen to the Republican President from the oil industry, the Republican Vice President rich from the oil industry, and the Republican Congress replete with donations from the oil industry, they are powerless in the face of so-called market forces to do anything about the price gouging of the American people.

Now, if this were really just supply and demand, maybe, maybe you could understand that. But it is a little more than that. The OPEC oil cartel conspires to restrict supply and drive up the price of oil in violation of all the so-called free trade agreements that this Republican Congress and this Republican President say should rule the world.

The World Trade Organization, well, I have asked this President four times now in writing to file a complaint about this illegal activity by the OPEC cartel. It violates the rules of the World Trade Organization, of which this President is such a great fan. Now, why will he not file a complaint? Of seven of the OPEC cartel, six are in the World Trade Organization and one wants to join. Tremendous leverage. File a complaint about their illegal activity. Save the American people from cartels that price-gouge them.

But, no, the President will not do that. Why is that? It is because the oil companies, from which the President has sprung forth, and the Vice President make a lot of money on this. Every time the oil cartels raise the price about two bucks a barrel, well, they take that plus another 10 percent for profit. So the higher the price, the bigger their profit.

If you look at the quarterly statements of the largest oil companies in the world, ExxonMobil and others, they are awash in tens of billions of dollars of cash extracted 10, 20, 30 cents at a time in excess profits from the American people at the pump.

Now, this is hurting real people. But this administration says they are powerless. This Republican Congress says they are powerless. They cannot take on the OPEC cartel. They cannot take on the price-gouging oil industry. They pass so-called energy legislation that says maybe 10, 12, 15 years from now, if there is any oil in ANWR, and if we can pump it, and if they do not take too big of a markup or price gouge on that, it will provide some price relief. That is their answer.

Today, in this bill there was nothing. They could not even adopt the minimalist study of what the OPEC cartel is doing to the American people. That was not allowed by the Republican majority. And they certainly could not allow the amendment that would stop the United States Government from buying from the oil companies at this extortionate price and pumping that oil into the ground for a future crisis.

This is a crisis now, today, for working American men and women, people who have to commute to work in my district by car. Small businesses across this country and big businesses and the airlines are going broke. But this administration says they are powerless, they can do nothing.

Well, guess what? The United States of America can do better, but we just have to get rid of the oil cartel. Not the OPEC oil cartel, but the oil cartel running the United States Congress and the White House and the Vice President's office.

□ 2145

EXCHANGE OF SPECIAL ORDER TIME

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to assume the Special Order time of the gentleman from Minnesota (Mr. GUTKNECHT).

The SPEAKER pro tempore (Mr. MARCHANT). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

U.S. SHOULD WITHDRAW FROM IRAQ AND AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, Hamid Karzai, the President of Afghanistan, criticized the U.S. in a graduation speech in Boston on Sunday. He said the U.S. had "the power and hence the responsibility" to get involved in Afghanistan even before the tragic events we refer to as 9/11. President Karzai said because the U.S. did not get involved sooner, the result was "horrible suffering for the Afghan people."

This is a man who was given a hero's welcome at the White House, the State and Defense Departments, and the

World Bank just yesterday. This is a man who was a special guest at two joint sessions of Congress. This is a man who probably would not be president today if not for the U.S., and to whom our taxpayers have given billions of dollars since September of 2001.

It takes a lot of gall for President Karzai to come to the U.S. and blame us for the horrible suffering of the Afghan people because we did not get involved in Afghanistan in a big way before 2001.

Since 2001, U.S. taxpayers have sent billions to Afghanistan for economic, humanitarian, and reconstruction assistance. We have sent several hundreds of millions of dollars each year, in addition to what the military is spending, and most of what the military is doing in Iraq and Afghanistan is pure foreign aid. No country in the history of the world has even come close to doing as much for other countries as has the United States. No country in the history of the world has even come close to doing as much for Afghanistan as has the United States. Yet President Karzai comes here and makes a major speech and instead of thanking the American people over and over, as he should have, he criticizes us for not getting involved sooner.

Just yesterday, the front page of The Washington Post carried a story about the parents of Pat Tillman who was killed by friendly fire in Afghanistan. The parents bitterly attacked the Army for lying and covering up the details of their son's death, and they have every right to do so. Pat Tillman's dad said, "They blew up their poster boy" and then lied about it to create a "patriotic fervor" in the U.S.

I voted to go to war in Afghanistan because I and everyone but one in Congress felt we had to respond to 9/11, but we should have gotten out of there after 3 or 4 months; and if we had, Pat Tillman would still be alive today.

I voted against going to war in Iraq because, among many other reasons, Saddam Hussein's total military budget was only a little over two-tenths of 1 percent of ours, and he was no threat to us whatsoever. It is no criticism of the military to say this was a totally unnecessary war.

Unless conservatives now believe in massive foreign aid, huge deficit spending, world government and placing almost the entire burden of enforcing U.N. resolutions on our taxpayers and our military, all things that conservatives have opposed in the past, then conservatives should want us to get out of both Iraq and Afghanistan.

William F. Buckley, Jr., the godfather of conservatism, wrote a column a few days ago saying it is now time to exit Iraq. Many leaders of our military will want us to stay in Iraq and Afghanistan for many years so they can get higher and higher appropriations. But in a few months, our national debt will reach $9 trillion. By the end of this fiscal year, we will have spent over $300 billion in Iraq and Afghanistan and probably another $100 billion in the coming fiscal year which starts October 1.

Mr. Speaker, seven more Americans were killed in Iraq yesterday. Our colleague, the gentleman from Mississippi (Mr. TAYLOR), just told me that four guardsmen from his State were killed today. Already this month has been one of the bloodiest of the entire war. The headlines on the front page of the Washington Times says: "Car bombings kill scores across Iraq."

Our Founding Fathers did not intend for us to run Iraq or Afghanistan or any other country. Our first obligation should be to the American people and no one else. We should be friends to other countries, but we cannot afford to continue spending hundreds of billions all over the world.

In just a few years we will not be able to pay our own people all the Social Security, Medicare, Medicaid, drug costs, military and civil service and private pensions that we have promised. To stay any longer in Iraq or Afghanistan goes against every traditional conservative position. We can no longer afford it in either blood or treasury.

PASS H.R. 2560, THE ELAINE SULLIVAN ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. JACKSON) is recognized for 5 minutes.

Mr. JACKSON of Illinois. Mr. Speaker, today I introduced legislation, H.R. 2560, that is specifically designed to save lives and reduce suffering. It is a small, but significant, measure to protect the voiceless and the vulnerable.

In an instant, a wrong turn, a sudden fall, a missed step, someone, indeed anyone, can find himself or herself in a crisis and in need of emergency medical care.

In California alone, nearly 10 million people require emergency room care every year. And of those, 1.5 million arrive in critical condition. In fact, nationwide, nearly 1 million people arrive in emergency rooms each year unconscious or physically unable to give informed consent to their care.

What happens or what fails to happen in the critical, precious, and immediate moments after the single split second of an emergency can be the difference between healing and heartbreak, between calamity and recovery, between life and death.

Consider the story of Elaine Sullivan. A very active 71-year-old woman, Elaine fell at home while getting into her bathtub. When paramedics arrived, they realized that injuries to her mouth and head had made her unable to communicate, or as the hospital later discovered, to give informed consent for her own care.

Although stable for the first few days, she began to slip into critical condition. Despite having her daughter's contact information clearly indicated on her chart, the hospital failed to notify her family for 6 days. Tragically, just hours later, Elaine Sullivan died alone in the hospital.

In the aftermath of this tragedy, Elaine Sullivan's daughter, Jan, and granddaughter, Laura, turned their personal pain to public action. Jan and Laura Greenwald went to work to make sure that what happened to their loved one would not happen to others.

From their research, the Greenwalds learned about other incidents like their own, in which families of hospitalized patients were not notified at all or notified after lengthy delay. Although uncommon, these stories were alarming; but, alas, they were avoidable.

Let me be clear. Most hospitals notify the next of kin of unconscious emergency room arrivals relatively quickly. However, emergency rooms are extremely high pressure, intense, and sometimes chaotic environments. According to statistics compiled by the American College of Emergency Physicians, more than 88 percent of emergency room doctors surveyed reported moderate to severe overcrowding in their department. In the hustle and bustle of the ER, despite the professionalism and dedication of staff, there are real risks that a simple phone call may not be able to be made in a timely fashion.

In the case of Elaine Sullivan, the phone call was not made. In her memory and honor, I have introduced this bill so that in the future phone calls to loved ones will always be made. The bill, the Elaine Sullivan Act, is sensible. It requires hospitals that receive Medicare funding to make reasonable efforts to contact a family member, specified health care agent, or surrogate decision-maker of incapacitated patients within 24 hours of arrival at the emergency department.

The bill is realistic. Modeled after State laws in Illinois and California, the bill recognizes that such notifications would be difficult and even impractical in certain instances and under certain circumstances. Therefore, the 24-hour notification requirement does not apply when hospitals implement a disaster or mass casualty program or during a declared state of emergency or other local mass casualty situation.

The bill is constructive. The legislation makes Federal grants available for the next 5 years to qualified not-for-profit organizations to establish and operate a national next of kin registry. As a high-speed, electronic free search service, the voluntary registry would help hospitals and government agencies to locate family members of the injured, missing, and the deceased.

How would the registry work? Consider for a moment just one distressing, but relevant, scenario. Your loved one, say your spouse, is on a business trip. She is out of state and on her own. On the way, she is involved in a serious head-on collision. Unconscious and unable to communicate, she is rushed to the nearest hospital. Unbeknownst to you, your wife lay comatose, fighting for her life, miles from home.

Doctors and nurses work feverishly to provide emergency medical care to a patient who is only a name on the license; but to you, she is the love of your life. If the two of you had signed up for the next of kin registry, the hospital staff would be able to quickly notify you about your wife's critical condition. You could rush to be by her side, share critical medical history and information that could help save her life; hence, the bill is necessary.

It is not intended to frustrate the mission of hospitals, but rather to facilitate it. It is about notifying the right people at the right time in order to share the right information during an emergency. Using this crucial medical information while caring for a critically ill patient reduces the hospital's own liability. So, such notification is vital.

Not only is it important to have a family member present to comfort the patient, but also to make informed decisions that the patient can't make for him or herself and to provide the medical history that could very well be the difference between life and death.

So, Mr. Speaker, I hope that my colleagues will join me in supporting H.R. 2560—the Elaine Sullivan Act. It is a small but sensible measure designed to save lives and ease suffering. Mr. Speaker, we don't know when tragedy will strike. But, if it does, we should know that we would not be alone. This bill provides the assurance that our loved ones will be by our side.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, in the first Presidential debate of the 2004 Presidential election, moderator Jim Lehrer asked the candidates what they believe is the single most serious threat to the national security of the United States. Without delay, Senator KERRY responded "nuclear proliferation." When President Bush had the opportunity to respond, he agreed that nuclear nonproliferation is the biggest threat we face as a Nation.

If the President agrees that nuclear nonproliferation is such a grave and immediate threat, why does he and why does his administration continue to seek the creation of new nuclear weapons? Why does the President continue to seek funds to study the creation of the robust nuclear Earth penetrator, otherwise known as the "bunker buster" bomb? Why does this year's defense authorization bill continue this ridiculous trend by recommending a Department of Defense study about the possibility of creating the bunker buster?

Mr. Speaker, the stated purpose of the bunker buster is to destroy caves and difficult-to-reach terrorist hideouts, but the bunker buster is completely unnecessary. The United States military already is capable of bombing these remote locations, and they do not need to use nuclear weapons.

The bunker buster is also extremely dangerous. A detonation of this deadly weapon would create an enormous, uncontrollable explosion, spreading toxic, radioactive materials over a large area; and an explosion could cause the death of thousands of innocent civilians and devastate large tracts of lands.

How many times must we consider the merits or lack thereof of the bunker buster bomb? How many times must sensible nonproliferation priorities compete with a dangerous nuclear arms race?

To address the true security threats we face, I have introduced the SMART Security resolution, H. Con. Res. 158, with the support of 49 of my House colleagues. SMART is a Sensible, Multilateral American Response to Terrorism. It encourages renewed nonproliferation efforts over continued nuclear buildup.

SMART urges sufficient funding and support for nonproliferation efforts in countries that possess nuclear weapons and nuclear materials. One of the best ways to accomplish this goal is through CTR, the Cooperative Threat Reduction program. The Cooperative Threat Reduction program successfully works with Russia to dismantle and safeguard excess nuclear weapons and materials in the states of the former Soviet Union.

Under this program, more than 20,000 Russian scientists, formerly tasked with creating nuclear weapons, are now working to dismantle them. That is why SMART Security includes robust support for the current CTR model, including expanding the program to other nations such as Libya and Pakistan, nations that possess excess nuclear weapons and excess nuclear materials.

To promote these efforts, earlier today I introduced an amendment to the Defense authorization bill to expand CTR. My amendment would bring this important program to Libya and Pakistan, two countries that are known to possess nuclear materials.

We need to utilize our diplomatic relationships to encourage these two countries to give up their dangerous nuclear materials, and the best way to do so is through the Cooperative Threat Reduction program.

□ 2200

CTR is but one of the broad array of national security programs in SMART security and an effective one at that. But any attempt to rid the world of nuclear weapons must include nonproliferation efforts at home, in the United States. We must set an example for the rest of the world by fulfilling our international pledge to end our nuclear program and dismantle our existing weapons.

Mr. Speaker, continued efforts to study the feasibility of the bunker buster bomb are the very antithesis of these international commitments. When the United States engages in the proliferation of nuclear weapons, we lower the threshold and actually encourage other countries to proliferate with the possibility of actually using nuclear weapons. Instead, let us get smart.

Let us be smart about this issue and work both here at home and abroad to end the proliferation of any and all nuclear bombs. We owe this to our children and we owe this to their children.

CAFTA

The SPEAKER pro tempore (Mr. WESTMORELAND). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, last year President Bush signed the Central American Free Trade Agreement, a one-sided plan to benefit multinational corporations at the expense of United States and Central American farmers, small businesses and workers. Every trade agreement negotiated by this administration has been ratified by Congress within 65 days, within about 2 months of the President's signing it. But CAFTA, the Central American Free Trade Agreement, has languished in Congress for 1 year without a vote because this wrong-headed trade agreement offends both Republicans and Democrats.

Just look at what has happened with our trade policy in the last dozen years. In 1992, the year I was first elected to Congress, we had in this country a trade deficit of $38 billion. That means that we imported $38 billion of goods more than we exported. $38 billion in 1992. Then NAFTA passed, the North American Free Trade Agreement, then permanent normal trade relations with China, then a whole 'nother series of trade agreements.

Last year, our trade deficit was $618 billion, from $38 billion to $618 billion in 12 short years.

Our trade policy clearly is bankrupt, clearly is not working for American workers, clearly is not working for our families, for our school systems, for our communities, and clearly is not working in the developing world for workers in those countries. It is the same old story.

Now the President is asking us to pass the Central American Free Trade Agreement. With each trade agreement that the President asks us to pass, the President and his allies promise stronger manufacturing in the United States, more jobs for Americans, more prosperity for the U.S. economy and for communities in this country and better wages for workers in developing countries. Yet with every single trade agreement, their promises fall by the wayside in favor of big business interests that send U.S. jobs overseas, that lock in low wages in the developing world and that exploit that cheap labor abroad.

Madness, Mr. Speaker, is repeating the same action over and over and over and expecting a different result. Again, look at this trade deficit. Look what has happened after 12 years of failed trade policies. From a $38 billion trade deficit to $618 billion. President Bush, Sr., said that for every $1 billion of trade deficits, that translates into 12,000 jobs. If you have a surplus of $1 billion, you have 12,000 extra jobs. If you have a deficit of $1 billion, you lose 12,000 jobs. We have a deficit of $618 billion. Do the math.

Mr. Speaker, what has happened with this trade deficit shows in this map. These red States are States which have lost, in just a 5-year period, 6-year period, more than 20 percent of their manufacturing. Michigan, 210,000 jobs. Illinois, 224,000 jobs lost. My State, the State of the gentleman from Ohio (Mr. RYAN), 216,000 jobs. The State of the gentleman from Connecticut (Mr. LARSON), 50,000 jobs. The State of the gentleman from California (Mr. FILNER) and the gentlewoman from California (Ms. LEE), 353,000 jobs. The State of the gentleman from Illinois (Mr. DAVIS), 224,000. Hundreds of thousands of jobs lost with this trade policy, with this kind of export trade policy, import trade policy, where trade deficits continue to grow and grow and grow.

That is why, Mr. Speaker, in the face of this growing bipartisan opposition, the administration, the Republican leadership has tried every trick in the book to pass CAFTA. They cannot argue our trade policy is working when you see this kind of manufacturing job loss.

So what they do, they first try to link CAFTA with helping democracy in the developing world and they say, CAFTA will help us fight the war on terror. Ten years of NAFTA, 10 years of CAFTA's dysfunctional cousin NAFTA, have done nothing to improve border security with Mexico, so that argument does not sell.

Then, 2 weeks ago, the United States Chamber of Commerce flew on a junket the six presidents from the CAFTA countries around our country, hoping they would sell CAFTA to the American people and to the Congress and to the American media. They flew them to Albuquerque and Los Angeles. They flew them to Cincinnati, Ohio, in my State and New York and Miami. Again, they failed.

At the end of this trip, one of the presidents, the Costa Rican president said, Hey, my country is not ratifying CAFTA unless an independent commission would show that it would not hurt working families and the poor in my country of Costa Rica. So that is not working.

Calling out that we have got to do something about the war on terror and that is why we are doing this agreement, that did not work. Bringing the Central American presidents to the United States, that did not work.

So what is next? The Republican leadership is opening the bank. They are making deals. To my friends on that side of the aisle, they are promising bridges, they are promising highways, they are promising some of the sleaziest deals this Congress has ever seen. They are basically buying votes in this Congress in order to pass the Central American Free Trade Agreement. We saw it in 2002 with fast track authority when the President opened the bank and bought votes then. We are not going to stand for it this time.

Mr. Speaker, what really makes sense instead is a trade policy that lifts workers up in rich and poor countries alike while it is respecting human rights. The United States with its unrivaled purchasing power and its enormous economic clout is in a unique position to help empower poor workers in developing countries while promoting prosperity at home.

Vote "no" on CAFTA. Renegotiate a better agreement.

EXCHANGE OF SPECIAL ORDER TIME

Mr. FILNER. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Illinois (Mr. EMANUEL).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PREPARE TOMORROW'S PARENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to speak about the fourth national Prepare Tomorrow's Parents Month, the month between Mother's Day and Father's Day. This month is a time for teachers, parents and youth group leaders nationwide to promote parenting education and relationship skills classes for all young people.

Prepare Tomorrow's Parents Month is being sponsored by a national nonprofit organization formed in 1995 called Prepare Tomorrow's Parents. Suzy Garfinkle Chevrier, founder and president of Prepare Tomorrow's Parents, says, "Parenting is not a hobby. It is the most important work most of us will ever do. Let's not leave our grandchildren's future to chance."

Is it not strange, Mr. Speaker, that one of the most important and difficult skills, raising children, goes untaught? Learning parenting skills is vital because the early experiences of children's lives impact their potential for learning and for mental health. We need to create better parents because neglected or abused children are especially prone to perpetuate this cycle when they become adults without resources for healthy parenting.

An alarming number of children are at risk of being abused, neglected or otherwise poorly nurtured by inadequately prepared or nonsupportive parents. Inadequate parenting can contribute to teen pregnancy, depression, addictions, academic failure, delinquency and, later, criminal behavior.

I imagine that the vast majority of adults in the United States believe that parenting and relationship skills should be taught. Yet few students now receive this instruction. School-based parenting education programs can help to prevent future child abuse and work to build healthy children by developing an understanding of child development in future parents and by providing parenting skills such as empathy, listening, problem solving and critical thinking. Regardless of how much detail the young people remember from their classes by the time they become parents, the instruction gives them a deep sense of the reality of parenting, of the sacrifices and demands as well as the joys. Prepare Tomorrow's Parents is a group working towards a society in which every child is well-nurtured and parenting is valued and undertaken by prepared adults.

Parenting education for students is being taught successfully in many schools around the Nation, primarily through family and consumer science classes, but not enough young people, especially boys, participate in these elective courses. Expanding and requiring these classes will save many more current and future families much heartache. It will help us to help our young people succeed at being parents that will make them, their children and their parents happy, productive and proud.

Finally, establishing parent education classes honors the work of mothers and fathers by teaching our young people what a complex effort it takes to raise a child. As well as learning new skills, they will begin to appreciate more and more the care they have received from their parents.

Mr. Speaker, I thank Prepare Tomorrow's Parents for sponsoring Prepare Tomorrow's Parents Month.

JUDICIAL APPOINTMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, tonight I rise truly disappointed at the decision of my colleagues in the other body to negotiate this lose-lose situation for minority and civil rights.

While I appreciate and understand my Senate colleagues and their desire to preserve the Senate tradition and to avoid the nuclear option which their leadership unfortunately threatened to use, I join with Senator FEINGOLD, Chairman WATT and members of the Congressional Black Caucus in saying tonight that the deal that was brokered was a bad one for the American people. In the words of the Congressional Black Caucus today, we said that, one, we strongly oppose the deal that trades judges who oppose our civil rights for a temporary filibuster ceasefire.

This deal is more of a capitulation than a compromise. In fact, one of our Republican friends in the other body stated that she thinks that this deal really does help advance the goal of their majority leader.

This deal allows the right to filibuster only in extraordinary circumstances. There is no question in my mind that the judicial extremism of Janice Rogers Brown, Priscilla Owen and William Pryor constitute extraordinary circumstances. Nonetheless, the right to filibuster their nominations has been given away. I know that when it comes time to vote on their confirmation, Americans are going to be looking to Senators in both parties to reject them based on their extremist views.

The question I have about this deal is, who will really define what constitutes "extraordinary circumstances"? I believe this deal weakens the filibuster and the principles of dissent and minority rights that it was designed to safeguard. As a minority, as a woman, as a Californian and as an American, the nomination of Janice Rogers Brown to the United States Court of Appeals for the D.C. Circuit is nothing short of an extraordinary circumstance.

The American public needs to understand that we are not bickering here about peanuts. The U.S. Court of Appeals for the District of Columbia Circuit is widely regarded as the second most important court in America, second only to the United States Supreme Court. The court is a stepping stone to the United States Supreme Court. The D.C. Circuit has produced more justices to the Supreme Court than any other circuit court. For the rest of their lives, these judges have the potential to implement policies that affect all of us, not 52 percent or 48 percent, but 100 percent of the American public.

Let us look for a minute at Judge Brown's record. First, she authored an opinion that effectively ended meaningful affirmative action in California. Her opinion was severely criticized both on and off the court for its harsh rhetoric and its suggestion that affirmative action resembled racist and segregationist laws that predated landmark civil rights laws.

She has praised turn-of-the-century U.S. Supreme Court cases declaring maximum hour laws to be unconstitutional and called the decision reversing course and protecting workers the "triumph of our own socialist revolution." I could go on and on about her judicial record, and I hope people take a good look at her record. If this does not constitute extraordinary circumstances, I do not know what will.

Let us look at Justice Pryor's record for just a minute whose nomination was given away in terms of the right to filibuster. Alabama Attorney General William Pryor, nominated for the 11th Circuit, has sought repeal of a critical section of the Voting Rights Act that has proved highly successful in overcoming the historical denial of the right to vote for African Americans.

□ 2215

He also believes that some rights now protected by the Constitution should be regarded as "social disputes" that would reduce rights that protect minority views to majority votes in the States. As an African American, again, I believe that his nomination constitutes an extreme circumstance, an extraordinarily extreme circumstance; yet there can be no filibuster based upon this deal that was negotiated. His view that the eighth amendment protection against cruel and unusual punishment does not bar certain inhumane treatment of prison inmates, and this was repudiated by the United States Supreme Court. Again, I believe this is an extraordinary circumstance which again was negotiated away.

The same thing, I hope people look at Justice Owen once again. She was nominated for the fifth circuit. She is known for her dissents opposing women's rights and reproductive rights and favoring corporate interests against consumers and workers.

Mr. Speaker, we are not talking about nominees with a record of impartiality and informed reflection when making decisions. These are administration choices who were nominated, nominated under the threat of a filibuster. Heaven knows whom the administration will nominate now that that threat is gone.

The American public needs to understand that this entire process, the entire process, just threatening the nuclear option, is an abuse of power. It was designed to water down our constitutional systems of checks and balances and to turn the Congress into a rubber stamp for the President.

So I appeal to my colleagues in the other body to uphold our constitutional system of checks and balances and to at least vote against these extreme nominees that are coming forward. Extraordinary circumstance, I ask the Members, what constitutes an extraordinary circumstance when we look at nominees who affect the decisions that affect our daily lives, our children's lives?

CHRONIC FATIGUE AND IMMUNE DYSFUNCTION SYNDROME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, over 800,000 Americans have chronic fatigue syndrome, CFS, also known as chronic fatigue and immune dysfunction syndrome, or CFIDS. This is a complex and debilitating medical disorder characterized by profound exhaustion, intense widespread pain, and severe problems with memory and concentration. It usually lasts for years; and recovery, in the few cases where that occurs, is slow and unpredictable. Because the symptoms of CFS are common to other conditions and no diagnostic tests exist, it is often overlooked by health care providers. In fact, government studies show that only 15 percent of those who have CFS have been diagnosed by their doctor. It is even more difficult for CFS patients to get appropriate symptomatic treatment or to obtain disability benefits if they become too disabled to work.

The cause of CFS is not yet known. Much of what we do know about CFS has been documented by researchers funded by the National Institutes of Health and the U.S. Centers for Disease Control and Prevention. Here are some facts: women age 30 to 50 are at greatest risk for developing CFS, and Latinos and African Americans are at greater risk for CFS than Caucasians or Asians. Children can get CFS too, although it is more common in teens than younger children. The condition may begin suddenly as with the flu, or it may build gradually over time. Physical or mental exertion makes symptoms significantly worse.

Individuals with CFS are severely impacted by the disease; and according to the CDC studies, their functional status is the same as or worse than those suffering from obstructive pulmonary disease, osteoarthritis, and coronary heart disease. People with CFS often lose the ability to maintain full-time employment, attend school, and participate fully in family life. Symptomatic treatment can provide some improved quality of life, but is generally inadequate in helping patients return to normal activity levels. The Nation's economy is also seriously affected. The annual direct cost of lost productivity due to CFS is $9.1 billion, an amount equivalent to our largest corporations' annual profits. This sum does not include medical costs or disability benefits.

There is hope, though. The Department of Health and Human Services has chartered a CFS Advisory Committee that meets quarterly to advise the Secretary for Health on research and on education policy as it relates to CFS. The CDC is conducting promising research that may lead to a diagnostic test. Other researchers are following important leads that may improve treatment and deepen understanding of the way CFS affects various body systems. However, in fiscal year 2004, just $15 million was spent by the Federal Government to conduct research on this devastating illness.

CFS consistently ranks at the bottom of the NIH funding charts; and even during the period when Congress was doubling the NIH budget, support for CFS research declined. A June 2003 commitment by NIH Deputy Director Vivian Pinn to issue a request for applications for CFS has not been fulfilled. The Secretary for Health has not yet acted on a set of 11 recommendations delivered by the CFS Advisory Committee on August 23, 2004.

Many challenges remain, and more Federal funding is needed to answer basic questions. CFS warrants the support of this Congress, and we must find a way to do more for the hundreds of thousands of Americans affected by this serious illness.

HONORING FALLEN SOLDIER LANCE CORPORAL LAWRENCE R. PHILIPPON AND THE STRENGTH OF HIS FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. LARSON) is recognized for 5 minutes.

Mr. LARSON of Connecticut. Mr. Speaker, I rise to speak of the inspiration and strength of Ray and Leesa Philippon and their family in confronting the ultimate sacrifice, the loss of their son Lance Corporal Lawrence R. Philippon, who on Mother's Day, May 8, tragically lost his life while serving his country in Iraq. In 2002 Lance Corporal Philippon answered his country's call to service and joined the United States Marine Corps. Again stepping forward for his country, Lance Corporal Philippon came up and gave up his position with the Washington, D.C. Color Guard to become an infantryman with the 3rd Battalion Second Marines deployed to Al Qaim, Iraq.

In the eulogy, Ray Philippon spoke of his son's courage, his ability to overcome life's obstacles, his Forrest Gump-like philosophical manner in dealing with life. He was proud of his family, his fidelity to the Marine Corps, his commanders, his President. He was 22 years old.

Ray Philippon; his daughter, Emilee; and Olivia Lawrence, Larry's fiancee, spoke eloquently and emotionally. How this father, a veteran himself, found the strength and composure to deliver a compelling, humorous, and heartfelt tribute to his son is among the remarkable traits of the human character. He transcended his pain and heartache and credited his strength as coming from his son. He capped his comments with a final salute to his son that left no dry eye in the church.

Reverend Miller quoted Scripture and the New Testament, repeating the refrain: "No greater love can a man have than to lay down his life for his friends."

Governor Rell rose and spoke tearfully and with empathy as both a mother and the State's chief executive. Her heartfelt response, her grace veiled only by her tears of motherly sympathy, were equally moving.

As we all pause this Memorial Day to honor the fallen, our hearts are filled with gratitude for those brave soldiers, like Lance Corporal Philippon, who have laid down their lives for their country but also for their families who gave their sons and daughters to military service. In honor of those soldiers and families, I hereby submit for the RECORD his mother's farewell, a letter Leesa Philippon composed on Mother's Day, the day she learned of her son's death. This letter's sincerity, love, and implicit truth comes shining through as radiant and bright as her love for her son. I hereby submit this letter for the RECORD, which reads:

"My Dear Sweet Boy Larry, I know how busy you were on Mother's Day. Your commanding officer's message apologized that mothers may not get a call on their special day. I knew that if you could find a way, you would call. Your voice always calmed my fears. The day passed, and, again, I prayed for your safe return home. I detailed my prayers, trying to think of every danger you might encounter. No IEDs, no enemy mortars, no friendly fire, no disease. And, God, please bring Larry home safe, unharmed and of sound mind and body. But then they came, two Marines marching to my door, carrying a cross that was so very painful to bear.

"Larry, you played such a huge part in our lives. You were a Guidon bearer and team leader all along. You marched through our lives and led us to wonderful places. You imprinted your love on our hearts. It was a joy to watch you grow and play. We laughed endlessly at your antics on and off fields of grass and ice. You led us on an incredible patriotic journey with your badge of courage. We anxiously waited those 13 long weeks of boot camp to pass and we would be able to hold you in our arms again. You conquered Infantry school and you called home every day, keeping us informed from foxholes, rifle ranges, and even bars. I will never forget answering the phone and hearing my 21-year-old son say 'Hi, Mommy.' Your daily calls home meant so much to me.

"Marching on, you paraded us through our Nation's capital. You impressed us with your precision and pride. You walked in the sunshine all the way. We watched you soar even higher the day that you waltzed Olivia into our life. She fit so well into our plans, and I knew she would take good care of you. I was happy to share you with her. Then your dream to deploy came true and our hearts with dread. Oh, Larry, how thankful I was to go and see you before you left. That time I spent with you is so precious to me. You introduced me to your Marines. You were always mindful to ask them to curtail their leatherneck language in front of your mom, saying to them, 'Hey, this is my mom. Watch your mouth.'

"Then it came time to say good-bye. I prayed, and God graced me with calmness so that I could look you in the eyes. Without a quiver in my voice, I opened my heart and told you how deeply I loved you, how happy I was to be your mother and that I would see you when you came home. Olivia and I stood side by side. We held each other up as we watched the buses filled with courageous and brave Marines drive away. You'll be happy to know that Olivia picked up that Guidon and has called me every day. Oh, dear Larry, no one will ever fill your magic shoes. So many people loved you. It is so evident in these past days. Our home has been filled with love from family, friends, community, and even those we never met. You will continue to guide us into the future of your family. We must regroup and, as we learned entering the Marine Corps, 'adapt and overcome; we thank God for your presence in all our lives. He is working so faithfully to turn the evil that took you away from us into everlasting love. Your flag will continue to wave in our hearts. We proudly stand and watch you lead your fallen comrades to the Gates of Heaven.

"Look for me when I get there, and we will walk hand in hand together again.

"Semper Fi, love always, Mom."

TRICARE COVERAGE TO GUARD AND RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, I cannot help but be moved by what the gentleman from Connecticut (Mr. LARSON) just had to say. It seems with all too much frequency, on a daily basis, either in the local media, the national media, we are learning of young

Marines, young National Guardsmen, young members of the Army and Navy who have given their lives in Iraq.

Right now, 40 percent of all the force in Iraq and Afghanistan are Guardsmen or Reservists. That is something that is very different from previous wars. In fact, in the Vietnam War, very few Guardsmen and Reservists were sent over there. In the first Gulf War, there was a substantial call-up. But I do not think at any time in our Nation's recent history have we ever seen so many Guardsmen and Reservists serving. If Members take the time to look at the casualty reports, they will know that not only are 40 percent of the people serving over there Guardsmen and Reservists, but a very high new number of the people who are wounded, a very high number of the people who lose their lives are in the Guard and Reserve.

Last Friday I had the great privilege to visit some Mississippians at Walter Reed. I asked the folks on the floor if I could visit every wounded Mississippian. It might surprise some people to find out of the five soldiers that I was able to visit, every one of them was a Guardsmen or Reservist.

☐ 2230

Young William Brooks, a student at Mississippi State University, in a Humvee that ran over a mine, lost both legs. Young Corporal Rice, of Hattiesburg, Mississippi, lost a leg with the Marine Corps Reserve. Specialist Yancy, a reservist in the heating and air conditioning business back home. Young Elliot Smith, who lost a foot with the 115th Mississippi National Guard.

The stories go on. It is not unique to Mississippi. But what is I think a unique burden that is borne by our Guardsmen and Reservists is that unlike their regular counterparts that they serve next to every day, they are not afforded an opportunity to buy into our Nation's health care system.

It is called TRICARE, and it is not free. They do have to pay into the system. They have to pay even more if they want their family covered. But right now, if you are a Guardsman or Reservist, you cannot even buy in. One of the things we found out is that 20 percent of all our Nation's Guardsmen and Reservists do not have health insurance. Twenty percent of our Nation's Guardsmen and Reservists also, coincidentally, were found unfit for duty when they were called up, and it might well be because of this lack of health insurance.

Last week in the House Committee on Armed Services I offered an amendment, along with seven of my Republican colleagues and a number of Democrats, to see to it that TRICARE was extended to every Guardsman and Reservist, not just those returning from Iraq and Afghanistan.

After a spirited debate and over, by the way the objections of the committee chairman, the ranking member, the gentleman from New York (Mr. MCHUGH), by a vote of 32 to 30, the committee decided to extend TRICARE coverage to every single member of our Nation's Guard and Reserve, because we felt like they deserved it.

Sometime between 1 o'clock in the morning when this passed and 6 o'clock Thursday evening, the gentleman from California (Chairman HUNTER) informed me right there in the back of the room that there was a budgetary concern about this, that there was some mandatory spending associated with the bill, that the gentleman from Iowa (Chairman NUSSLE) of the Committee on the Budget was going to raise a point of order.

I would like to remind my colleagues that on 21 occasions already this year, 21 major pieces of legislation came to this floor where they waived every budgetary restraint. Sometimes it was so people like Paris Hilton could inherit tens if not hundreds of millions of dollars without paying any taxes on it. Sometimes it was for things like the prescription drug benefit for seniors, that we were told at the time would cost our Nation $435 billion, but it turns out it is really going to cost $1.2 trillion over the next 10 years. But they waived budgetary rules for that.

The one time they selectively chose to enforce the budgetary rules was over $5 million for a very narrow bracket of National Guardsmen who happen to be Federal employees who are already on FEHBP and who might want to enroll in TRICARE. So the same folks who in the past 4 years have added over $2 trillion to the national debt, giving the wealthiest Americans, the political contributor class of America, enormous tax breaks, decided that these folks who are serving in Iraq and Afghanistan, that they do not deserve the opportunity to buy their health care coverage. I think that is wrong.

I went to the Committee on Rules tonight, and as we speak the Committee on Rules is going to vote on this. But I would like to remind the Committee on Rules that since last Thursday, the Reserve Officers Association of the United States, the Military Officer's Association of America, the Adjutants General Association of the United States, which is the Adjutant General of every single State, EANGUS, the National Guard Association, they all have come out in support of this amendment, and I will include their letters of support for the RECORD.

Mr. Speaker, I am putting the Committee on Rules on notice that it is my intention to offer the motion to recommit should this amendment not be made in order, and that I think it is most appropriate that this amendment that has already passed the House Committee on Armed Services be voted on by every Member of this House.

RESERVE OFFICERS
ASSOCIATION OF THE UNITED STATES,
Washington, DC, May 24, 2005.

Hon. GENE TAYLOR,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE TAYLOR, I am writing to confirm the support of the Reserve Officers Association of the important amendment to the FY 2006 National Defense Authorization Act that you would like to bring to the House floor.

ROA agrees that TRICARE Reserve Select should be extended to the drilling population on a cost-share basis. Mobilization should not be the physical qualification test to achieve medical readiness, as it puts the cart before the horse.

The governments own studies have shown that between 20 to 25 percent of our Guardsmen and Reservists are without health care coverage. Medical readiness is our number one challenge when Reserve Components are mobilized.

A Reservist is required to meet the same health and physical fitness standard as is an Active-duty member. Yet Reservists are the only part-time federal employee not offered health care coverage.

Better health care benefits will help our recruiting, readiness and retention efforts. Providing TRICARE health will help persuade spouses that the Guard and Reserve is a career and not just a job.

The Reserve Officers Association with its 75 thousand members thanks you for your support. With the Guard and Reserves providing 40 percent of the deployed forces, seeking parity of benefits is a national security issue.

Sincerely,

ROBERT A. MCINTOSH,
Major General, USAFR (Retired),
Executive Director.

MILITARY OFFICERS
ASSOCIATION OF AMERICA,
Alexandria, VA, May 23, 2005.

Hon. DAVID DREIER,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 370,000 members of the Military Officers Association of America (MOAA), I am writing to urge you to support—or at least not to oppose—an amendment that Reps. Gene Taylor and Joe Wilson will offer to the FY2006 Defense Authorization Act that would extend TRICARE coverage eligibility to all members of the Selected Reserve who are not eligible for the Federal Employees Health Program (FEHBP).

A broader amendment was approved by the Armed Services Committee, but the Congressional Budget Office identified a potential mandatory spending problem because certain members also are eligible for FEHBP. The proposed Taylor-Wilson amendment will resolve this problem by excluding FEHBP enrollees from eligibility for the Reserve TRICARE program, since they already have access to federal health coverage.

MOAA believes strongly that it is essential to extend health care eligibility to all Selected Reserve members. These members make up 40 percent of our deployed forces, and the Guard and Reserve already are experiencing recruiting and retention difficulties.

State National Guard leaders have consistently told us that extending health coverage to all of these members is one of the most important things we can do to improve recruiting and retention. It is essential to ensure all Guard and Reserve families have access to quality health care and to preserve continuity of health coverage, regardless of the member's mobilization status.

I urge you to help facilitate this important initiative for the Guard and Reserve members and families who are bearing such a large and disproportional share of national sacrifice in the war on terrorism.

Sincerely,

STEVEN P. STROBRIDGE,
Colonel, USAF (Ret),
Director, Government Relations.

ADJUTANTS GENERAL ASSOCIATION
OF THE UNITED STATES
Washington, DC, May 23, 2005.

Hon. GENE TAYLOR,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE TAYLOR: I am writing to advise that the Adjutants General Association of the United States (AGAUS) wholeheartedly endorses your amendment to the 2006 National Defense Authorization Act which will provide full TRICARE benefits to all National Guard and Reserve members. The AGAUS met in Omaha, Nebraska on May 20, 2005 and voted overwhelmingly to endorse the Taylor/Wilson amendment. The Adjutants General from the fifty states and four territories make up the AGAUS. All were represented in Omaho. The discussion and vote were resoundlingly supportive.

We believe it to be in the best interests of our nation to provide full TRICARE benefits to all National Guard and Reserve members. Full time military technicians and Active Guard/Reserve (AGR) members already receive full medical benefits through existing programs or TRICARE. However, the traditional force does not have this option completely. The TRICARE Reserve Select program recently enacted is a welcome and appreciated step. However, your amendment is necessary to ensure reserve component members are always able to report "ready for duty." Many will not require the benefit because they have coverage through their civilian employment. This will mitigate some of the concerns over the cost of program.

Our National Guard and Reserve members are fighting along side active duty forces to defeat terrorism. They and their families should have the ability to share in medical benefits. On behalf of the AGAUS thank you for realizing this and so proactively working to achieve the equity our members and families deserve.

ROGER P. LEMPKE,
Major General, ANG,
President, AGAUS.

ENLISTED ASSOCIATION OF THE NATIONAL GUARD OF THE UNITED STATES,
Alexandria, VA, May 23, 2005.

Re H.R. 1815 National Defense Authorization Act of 2006 Rule.

Hon. DAVID DREIER,
Chairman, House Committee on Rules, Capitol Building, Washington, DC.

DEAR CONGRESSMAN DREIER: I am writing on behalf of 45,000 members of the Enlisted Association of the National Guard (EANGUS). We urge you to adopt a Rule making in order the amendment to be offered from Congressman Gene Taylor that would allow cost-share access to TRICARE for eligible members of the National Guard and Reserves.

Since September 11, 2001, over 400,000 members of the reserve component have been deployed. While we appreciate the enhancements to TRICARE included in the committee bill (H.R. 1815), they will not address the issues of medical readiness and continuity of care for members of the reserve component. The availability of health insurance has a direct affect on a service member's access to healthcare, health status, job decisions and financial security.

There is considerable bipartisan support for cost-share access to TRICARE for all members of the National Guard and Reserves, regardless of status. In the past two years, the Senate Armed Services Committee (SASC) has included a provision in their version of the Defense Authorization bill that provided cost-share access to TRICARE.

The House Committee on Armed Services passed an amendment that would provide TRICARE to all National Guard and Reserve members by a vote of 32–30. We understand that the amendment was stricken by the Chairman of the committee due to budgetary implications. The new amendment that will be offered by Congressman Taylor will address those issues.

We believe this issue deserves full consideration by every member of the House of Representatives. Therefore we urge you to adopt a Rule making in order the Taylor amendment allowing cost-share access to TRICARE for eligible members of the reserve component.

Working for America's Best!

MICHAEL P. CLINE
MSG (Ret), AUS,
Executive Director.

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES, INC.,
Washington DC, May 23, 2005.

Hon. DAVID DREIER,
Chairman, House Committee on Rules, Capitol Building, Washington, DC.

DEAR CHAIRMAN DREIER: Late last week, thirty-one members of the House Armed Services Committee voted to pass an amendment which would provide access to health care, on a cost-share basis, to members of the National Guard. Subsequently, Chairman Hunter struck the amendment from the bill based on potential budgetary implications which violated the rules.

I am writing on behalf of the men and women of the National Guard Association of the United States to urge you to create a rule which would allow such a measure to be included in the National Defense Authorization Bill.

Just like the Minutemen at Concord and Lexington, today's citizen-soldiers have left their homes, families, and careers to take up the fight. When they are called to duty, they must arrive physically fit for duty. Yet, many do not have access to basic health care. We consider it a key readiness issue that soldiers and airmen have access to health care so that they are ready for duty when called. Other part time Federal employees have the option of buying into a government sponsored health plan. We believe our soldiers and airmen deserve no less.

Congressman Gene Taylor plans to offer a revised amendment to the Authorization Bill which would allow members of the National Guard access to the military healthcare system, on a cost-share basis. We strongly urge your committee to pass a rule which would make consideration of this amendment possible.

Thank you very much for your kind consideration.

Sincerely,

STEPHEN M. KOPER,
Brig. Gen. (Ret.), USAF,
President.

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES, INC.,
Washington, DC, May 23, 2005.

Hon. GENE TAYLOR,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE TAYLOR: I am writing to thank you for your efforts on behalf of the 450,000 members of the National Guard who so desperately need the opportunity to access health care for themselves and their families.

As recently as May 17, 2005, the National Guard Association of the United States testified before the Defense Subcommittee of the Senate Appropriations Committee on this critical issue. We said in part:

"This committee is well versed in the contributions being made by members of the National Guard in operations in Iraq, Afghanistan and the Global War on Terror. As the Secretary of Defense has said repeatedly, "The War on Terror could not be fought without the National Guard". Battles would not be won, peace would not be kept and sorties would not be flown without the citizen soldier and citizen airman. We are asking on their behalf for the resources necessary to allow them to continue to serve the nation.

"At the top of that list of resources is access to health care. The National Guard Association believes every member of the National Guard should have the ability to access TRICARE coverage, on a cost-share basis, regardless of duty status.

"While we are encouraged by the establishment of TRICARE Reserve Select, which is a program where members "earn" medical coverage through deployments, we don't believe it goes far enough. Healthcare coverage for our members is a readiness issue. If the Department of Defense expects Guard members to maintain medical readiness, then it follows that they should also have access to healthcare. As you know, when a National Guardsman is called to full time duty, he or she is expected to report "ready for duty". Yet, studies show that a significant percentage of our members do not have access to healthcare. Making TRICARE available to all members of the National Guard, on a cost-share basis, would provide a solution to this problem. And, it would finally end the turbulence visited on soldiers and their families who are forced to transition from one healthcare coverage to another each time they answer the nation's call.

"In addition to addressing readiness concerns, access to TRICARE would also be a strong recruitment and retention incentive. In an increasingly challenging recruiting/retention environment, TRICARE could make a significant difference. Part-time civilian federal employees are eligible to participate in federal health insurance programs. NGAUS believes that National Guard members should receive, at a minimum, the opportunity afforded other federal part-time employees."

We have worked diligently for the last five years to secure legislation that would provide the healthcare access that you propose. You have our unwavering support in this endeavor and the thanks of Guard and Reserve members and their families across the country. Please continue your effort on their behalf.

Sincerely,

STEPHEN M. KOPER,
Brigadier General (Ret), USAF,
President.

APPROVAL RATE OF CONGRESS AT LOWEST POINT IN 10 YEARS

The SPEAKER pro tempore (Mr. WESTMORELAND). Under the Speaker's announced policy of January 4, 2005, the gentleman from New Jersey (Mr. PALLONE) is recognized for half the remaining time until midnight as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, as we prepare to return to our districts for the Memorial Day work period, I think it is important for us to take a look at where we are today and how exactly we got here in the Congress. I think, for the most part, and certainly a lot of recent polls indicate it, the American people are fed up with the Congress, that the approval rate of Congress is at its lowest point in 10 years, and it leads me to wonder how did we get to this place? I think we have to take a look back at the first 5 months of the 109th Congress this year to get some answers.

Earlier this year, the Republican leadership went ahead and changed the way the Committee on Standards of Official Conduct does its business. In the past, whenever ethics changes were being considered, they were addressed in a bipartisan fashion with both Democrats and Republicans at the table, and that is the only way ethics reform can honestly be addressed. But the Republican leadership ignored that protocol and strong-armed enough of their Members to pass new and weakened ethics rules, without any support from our Democratic colleagues.

Mr. Speaker, I think the American people understood that these new ethics rules were basically a blatant attempt by the majority to protect one of their Republican leaders. These new rules allowed either party, Democrat or Republican, to protect its own Members. Under the new Republican rules, if a majority of the committee could not determine whether or not an investigation should proceed after 45-days of receiving a complaint, that complaint would simply be dropped. Since the Committee on Standards of Official Conduct is made up of five members from each party, either side could prevent an ethics investigation from moving forward against one of its Members.

That is not the way the Committee on Standards of Official Conduct is supposed to work. Under the old bipartisan rules, which have now been restored, an investigative committee was created after a 45-day deadline if a majority of the committee could not determine how to proceed.

The weakened ethics rules by House Republicans did not fool anybody, certainly not the editorial writers around the country, both liberal and conservative. They followed the House proceedings closely and they were essentially fed up with the new Republican rules.

I will just give you some examples. The conservative Chicago Tribune said, "How do House Republicans respond to ethical lapses? By trying to bury them." .

The Hartford Current wrote, "The committee has been careening towards ethical oblivion in recent years as the majority Republicans have relaxed the standards, eased up on investigations and created trap doors through which alleged transgressors could escape."

Finally I cite the Sarasota Herald Tribune, which wrote, "If the GOP's leaders in Congress continue to change the rules to protect one of their own, they will have ceded the ethical high ground they pledged to take in 1994."

Again, this is what I call the Republican abuse of power, and it is a major reason why people have lost faith in Congress and why Congress is at a 10-year low in terms of people's support or feelings about the institution.

But the Republican leadership did not just stop at weakening the Committee on Standards of Official Conduct rules. No, the leadership also purged three Republican members of the Committee on Standards of Official Conduct earlier this year, three members who ruled against a Republican leader the previous year.

After losing his chairmanship on the Committee on Standards of Official Conduct, the Republican gentleman from Colorado (Mr. HEFLEY) told the Washington Post that there is "a bad perception out there that there was a purge in the Ethics Committee and that people were put in that would protect our side of the aisle better than I did."

He continues, "Nobody should be there to protect anybody. They should be there to protect the integrity of the institution."

Mr. Speaker, it took congressional Republicans nearly 4 months to finally listen to their former ethics chairman and the media. But, fortunately, in the end they did restore the old bipartisan ethics rules. The gentleman from Colorado (Mr. HEFLEY) was clearly right, the integrity of the House is much more important than any one Member, and I think it is time the Republican leadership learn that lesson, not only on that Committee on Standards of Official Conduct issue but in general.

The abuses of power by the Republican majority really make you wonder why they are necessary now. It seems clear to me that the Republican leadership went to all this trouble to protect one of its leaders. The Wall Street Journal charged "there is an odor, an unsavory whiff at the highest reaches of the House of Representatives." Every single day it seems the Members of this body and the American people are subjected to another revelation of questionable actions by one of our colleagues. It is a constant drip that is getting close to a large puddle.

Fortunately, as I said, the American people were not fooled by this abuse of power by the Republican majority with the ethics process. They saw the new rules for what they were, nothing more than an attempt to protect a powerful Republican leader, and finally, after media and public outcry became too much for the Republican majority to endure, Republicans agreed to reinstitute the old bipartisan ethics rules.

However, it is important to remember that had the public been indifferent and had the Democrats on the Committee on Standards of Official Conduct gone ahead and allowed the committee to organize under the weakened rules, today this House would be structured under ethics rules that would allow either side, Democrat or Republican, to shield its Members from scrutiny.

Mr. Speaker, the Republican ethics reversal was good for this institution and good for the American people.

Now, there are still a lot of questions remaining about what the Republican majority is doing with the Committee on Standards of Official Conduct. Despite the majority's change of heart on weakening the ethics rules, there are still several areas where the Republican leadership is continuing to delay any action by the Committee on Standards of Official Conduct.

The new chairman of the Committee on Standards of Official Conduct has said that he wants to appoint his chief of staff from his personal office to be the new staff director of the Committee on Standards of Official Conduct. This action would defy House rules, which state that Committee on Standards of Official Conduct staffers are to be nonpartisan.

It is inconceivable that the rules would allow the chairman to unilaterally appoint a chief counsel without immediately running afoul of the rules. Trying to do so would be a clear violation of the rules, as well as an affront to the committee's tradition.

The Committee on Standards of Official Conduct is supposed to be a place where Members can get straight, unbiased, trustworthy ethics guidance. How can Members who might have disagreements with the House leadership feel comfortable going to the committee for advice if they fear committee staff members are incapable of performing their official duties in a nonpartisan fashion?

My point is that the Committee on Standards of Official Conduct should be a politics-free zone. One way to ensure politics stops at the committee doors is to hire staff whose first loyalty is to the ethics rules of the House and second loyalty is in equal measure to the chairman, ranking member and remaining members of the committee. If committee staff are perceived as being loyal to or owing their position to only one member of the committee, their ability to render advice and investigate sensitive ethics issues will be called into question.

I would say once again, Mr. Speaker, the American public see the games the Republican leadership is playing with the Committee on Standards of Official Conduct and they simply do not like it. They would rather see this committee go back to work in a bipartisan fashion, and now, so the Congress can address their concerns.

Now I want to go from the one issue of abuse of power here in the House related to the Committee on Standards of Official Conduct to the other outrageous abuse of power in the other body, in the Senate, and this relates, of course, to the Senate filibuster.

Senate Republicans have spent much of the last 4 months fixating on seven extreme judges President Bush once again sent up for confirmation after they had already been rejected during his first term. Rather than dealing with rising gas prices and an economy that continues to falter and other issues that people really care about, Senate Republicans attempted to have a power grab, unlike any other in the history of the U.S. Senate.

Fortunately, Mr. Speaker, the Republican quest for absolute power in Washington was temporarily halted last night by 14 Senators. And this was a truly bipartisan group. Seven Democrats and seven Republicans came together to save the Senate from moving forward with an extreme power grab that would have undermined the very checks and balances that have existed in our Nation for over 200 years.

Senator FRIST and the Senate Republican leadership were prepared to wage an unprecedented political power grab on the filibuster. They wanted to change the Senate rules in the middle of the game and wanted to attack our historic system of checks and balances with the filibuster so that they could ram through a small number of judicial nominees who otherwise could not achieve a consensus.

In reality, the power grab by the Senate Republican leadership in trying to eliminate the filibuster did not really have much to do probably with the current judicial nominees, but instead it was an attempt by the White House and conservative interest groups to clear the way for a Supreme Court nominee eventually who would only need 51 votes rather than 60.

Conservative interest groups and a large majority of Senate Republicans are not happy with the current makeup of the U.S. Supreme Court. They do not want to see another David Souder or Anthony Kennedy nominated to the Supreme Court, even though they both were confirmed with nearly unanimous bipartisan support. They would prefer to see President Bush nominate a Supreme Court Justice like Clarence Thomas, who, because of extreme views, could not garner strong bipartisan support. In Justice Thomas's case, he only received 52 votes, and he has proven to be an extremist.

If the Senate had proceeded with this power grab and gotten rid of the filibuster, President Bush would have been able to appoint right-wing judges to the Supreme Court.

□ 2245

The President has already said he most admires Justices Scalia and Thomas and I think it would be frightening to think of another Justice with that same mold.

Mr. Speaker, at the end of the day a group of 14 bipartisan senators kept the Senate Republican leadership from moving forward with this extreme power grab. The bipartisan compromise that was reached last night shows that President Bush is not going to be able to ignore the moderate views of these senators when he appoints future justices to the Supreme Court, and I think that is certainly good news for our country.

I think certainly what was happening here, Mr. Speaker, was that the White House was manufacturing a crisis with these judicial nominees. The American people know that there was absolutely no reason for the Senate to take the measure of eliminating the minority's right for input on judicial nominees. The White House has essentially manufactured this judicial crisis because if you look at the record, over the past 4 years, the Senate has confirmed 208 of Mr. Bush's judicial nominations and turned back only 10. That is a 95 percent confirmation rate, higher than any other President in modern times, including presidents Reagan, the first President Bush, and President Clinton. In fact, it is thanks to these confirmations that President Bush now presides over the lowest court vacancy rate in 15 years.

Despite what Senate Republicans are saying today, judicial nominees have not always received an up-or-down vote on the Senate Floor. In fact, back in 2000, it was Senate Republicans that attempted to filibuster two of President Clinton's appointments to the Ninth Circuit Court. Senator FRIST, the architect, of course, of eliminating the filibuster now, voted to continue a filibuster of a Clinton nominee, Richard Paez.

There are also other ways the senators can prevent a nominee from receiving an up-or-down vote on the Floor, and this has happened many times in the past, which shows why it is not the case that there has to be an up-or-down vote. Judicial nominees have often been stalled in the Senate Committee on the Judiciary. More than one-third of President Clinton's appeals court nominees never received an up-or-down vote on the Floor of the Senate because Senator HATCH, then the chairman of the Committee on the Judiciary, refused to bring the nominees' names up for a vote in the committee.

And, I think it is extremely disingenuous of Senator FRIST to say that all nominees are entitled to an up-or-down vote when he himself helped Senate Republicans block President Clinton's nominees in the late 1990s. We did not hear him talking about an up-or-down vote then when President Clinton was nominating judges.

I just want to say, once again, Mr. Speaker, I think that the bipartisan agreement reached last night was extremely valuable. It will keep two of the President's nominees from moving forward who really do not deserve to be appointed, and I would hope that the President would learn from last night's action that, unlike the House, the Senate is not a chamber that will be a rubber stamp for his extreme views. Let us hope that President Bush was listening and will resist nominating extreme right-wing judges to our courts in the future.

But all of this, not only the action in the House on the ethics rules, but also the action in the Senate on the filibuster, I think they are examples really of how the Republican majority has abused its power. And the consequence of that is that the public is increasingly disappointed and feels that the Congress does not do its job, that it is essentially a do-nothing Congress. And as we approach the Memorial Day recess, I think I need to stress that, that I believe the reason why the polling and the media shows that people no longer have faith in Congress or that the support of Congress as an institution has dropped significantly is because of the Republican leadership's fixation on these issues that consolidate their power, that seek to consolidate their power without focusing on the real issues that affect the American people.

A USA Today CNN poll that was released today, Mr. Speaker, showed that the American people are fed up with Republican control of Congress and are ready for a democratic Congress. And who can blame them? If they had been watching the abuses of power that had been taking place in both the House and the Senate in the last four months, they would have to be disgusted. Beyond that disgust, I think it is clear that they just want Congress to address the issues of importance in their lives, and we are going to be going into a Memorial Day recess without most of those issues being addressed. It really has been, for the last five months, a do-nothing Congress.

For five months now, congressional Republicans have done nothing to reverse their abysmal economic record. The fact is that middle class families are being squeezed at the gas pump, at the pharmacy with high drug prices, and in the grocery store. There are growing signs of a faltering economy, with President Bush still having the worst jobs record in history.

Instead of addressing the serious kitchen table issues of American families, education, health care, you name it, Republicans are focusing on legislation that is written for the special interests and will actually harm middle class families.

Instead of increasing the minimum wage and expanding prosperity, Republicans are focused on undercutting bipartisan ethics rules.

Instead of creating good jobs with good paychecks by completing the much-delayed highway bill, for example, Republicans choose to focus instead on undercutting the checks and balances on judicial nominations by focusing on the filibuster.

Instead of enacting an energy bill that improves our communities and brings down gas prices and tries to create more energy independence, the Republicans have channeled their energy into replacing Social Security with a risky privatization scheme that clearly most Americans do not support, and the President probably is going to have to eventually abandon.

And, instead of passing a budget that reflects the values of America's families, Republicans brought the entire Federal Government to intervene in the personal tragedy of just one family, and I am, of course, talking about the Terry Schiavo case. I think it is no wonder that the American people are not pleased with Congress, and I think it is time congressional Republicans take a hard look at these polls. I do not say, Mr. Speaker, that we should always be looking at polls, but in this case, the polls reflect what people are thinking.

I go back, and I will, of course, go back to my district during the Memorial Day recess, and I know I am going to hear from people who are saying, why are you not talking about health care, why are you not talking about education? What are you doing about the trade deficit? What are you doing about the budget deficit? What is the reason why a crisis for everything from housing to groceries to gas continue to go up, and we in Congress do not address the issues.

I am simply saying that the Republican leadership should listen to their constituents. The polls reflect, I think, what our constituents are telling us. I think the American people really want these abuses of power to stop. They do not want to hear us talking about the filibuster and about the ethics process; not that those are not important, they are, in terms of the procedures and how we proceed. But, in each of these cases, the Republicans wanted to change the procedure here so that they could get their own way, and instead of concentrating on those procedural issues and trying to change the rules, they should get down and look at issues like the rising cost of college, the rising cost of health care, the rising price of gas at a time when most people's wages are shrinking.

It is simply time, I think, for us to get down to the people's business. I hope that when we come back after the Memorial Day recess, that we can see the end of these Republican abuses of power, we can see the end of their trying to change the rules and, rather, focusing in a bipartisan way on trying to address some of the Americans concerns of the American people.

STEPS TOWARD PEACE IN ISRAEL

I just wanted to switch to a different issue, if I could, Mr. Speaker, for a few minutes, because I know that this Thursday is an historic day when the Palestinian Authority President Mahmoud Abbas is going to be visiting Washington to talk to President Bush. I wanted to discuss briefly the recent developments in the Middle East peace process and how that relates to this historic visit to Washington by the Palestinian leader.

This is the first time a Palestinian leader has visited the United States since peace talks in 2000 collapsed into bloodshed. This is a critical opportunity for Abbas to prove to Israel and the world that their commitment to peace goes beyond rhetoric and that the Palestinian leadership is taking concrete steps towards peace.

Just as this is an important opportunity for Abbas to show that he is committed to peace, Abbas's visit to Washington is an equally important opportunity for the United States to further encourage reforms in the Palestinian Authority. As one of my constituents said to me this afternoon, and this is one of the reasons that I am here this evening, the United States must be willing to hold Abbas's feet to the fire.

That being said, in order for negotiations to move forward, Abbas must rise to the occasion. He must take steps to dismantle Hamas and the Palestinian terrorist network. Security is of the utmost concern for Israel and Hamas is a direct threat to the safety of the Israeli people.

Mr. Speaker, Israel has taken remarkable risks over the last few months to advance the peace process.

By the end of this summer, Israel has agreed to withdrawal its military and civilian presence from the Gaza Strip and four settlements in the West Bank, and this decision was made at great political, financial, and emotional risk for the Israeli people.

In his speech today in Washington at the annual meeting of the American Israeli Public Affairs Committee, AIPAC, Israeli Prime Minister Ariel Sharon said that he is willing to work with Abbas to ensure a secure transition in Gaza. Cooperation on this level is an unprecedented step. It is critical that the Palestinians work to ensure a safe transition, that any looting or violence is prevented. Israel has taken the dramatic step of withdrawal: Abbas must then ensure that Gaza does not become a haven for terrorists.

This morning, Sharon also announced that as a sign of good faith, he plans to release 400 Palestinian prisoners. This is in addition to the 500 prisoners freed in February as part of an agreement between the two sides.

I would urge President Bush to be firm in his meeting with Abbas on Thursday that any support of terrorism will not be tolerated, that these next couple months will be critical if the peace process is to continue, the disengagement, and the upcoming Palestinian elections must go smoothly.

Mr. Speaker, I would like all of my colleagues to be cautiously optimistic about the situation in Israel. These initial steps are heartening, but the words must be met with action.

I had the opportunity almost two years ago to go to Israel at the time when there was a cease-fire and there was relative peace. At that time Mahmoud Abbas was the Prime Minister, and I realized very quickly that he was not in a position of authority and that it was not likely that the peace process was going to continue or that the cease-fire was going to continue. Very quickly, after myself and the rest of the congressional delegation left, the violence began again. Abbas ceased to be the Prime Minister, and we went through essentially another year, over a year of violence, if not longer than a year.

I hope that this time is different. I hope that because of the overtures and the steps that Ariel Sharon has taken, that we can see now a situation where Abbas is ready to negotiate and to end the violence. But I do think it is incumbent upon President Bush to make that point, that we are not going to see peace, we are not going to see any new negotiations, we are not going to see any roadmap unless Abbas and the Palestinian Authority immediately take steps to ensure that there is peace and that violence does not continue.

☐ 2300

RECESS

The SPEAKER pro tempore (Mr. WESTMORELAND). Pursuant to clause 12(a), of rule I, the House is in recess, subject to the call of the Chair.

Accordingly (at 11 p.m.), the House stood in recess, subject to the call of the Chair.

☐ 0010

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PUTNAM) at 12 o'clock and 10 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. COLE of Oklahoma, from the Committee on Rules, submitted a privileged report (Rept. No. 109–96) on the resolution (H. Res. 293) providing for consideration of the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. JACKSON of Illinois, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. CLEAVER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. LARSON of Connecticut, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. FRANKS of Arizona, for 5 minutes, May 25.

Mr. DUNCAN, for 5 minutes, today.

Mr. GIBBONS, for 5 minutes, May 25.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. TAYLOR of Mississippi, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 188. An act to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2005 through 2011 to carry out the State Criminal Alien Assistance Program; to the Committee on the Judiciary.

ADJOURNMENT

Mr. COLE of Oklahoma. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 11 minutes a.m.), the House adjourned until today, Wednesday, May 25, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2106. A letter from the Acting Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting a report presenting the specific amounts of staff-years of technical effort to be allocated for each defense Federally Funded Research and Development Center (FFRDC) during FY 2006, pursuant to Public Law 108–287, section 8028(e); to the Committee on Armed Services.

2107. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting a report to Congress on the use of Aviation Career Incentive Pay (ACIP) and Aviation Continuation Pay (ACP), pursuant to 37 U.S.C. 301a(a) 37 U.S.C. 301b(i); to the Committee on Armed Services.

2108. A letter from the Acting Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the annual report on operations of the National Defense Stockpile (NDS), detailing NDS operations during FY 2004 and providing information with regard to the acquisition, upgrade, and disposition of NDS materials, as well as the financial status of the NDS Transaction Fund for FY 2004, pursuant to 50 U.S.C. 98h–2; to the Committee on Armed Services.

2109. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of Defense, transmitting a report pursuant to Section 9010 of the Department of Defense Appropriations Act, 2005 (Pub. L. 108–287); to the Committee on Armed Services.

2110. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the final report on the Department's Alternative Fuel Vehicle (AFV) program for FY 2004, pursuant to Public Law 105–388 42 U.S.C. 13211–13219; to the Committee on Energy and Commerce.

2111. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to New Zealand, Israel, and Canada (Transmittal No. DDTC 002-05), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2112. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to Section 23(g) of the Arms Export Control Act (AECA), notification concerning the request for the Goverment of Israel to cash flow finance a Direct Commercial Contract (DCC) for the procurement of Engineering, Development and Production of Hardware Components for a Digital Army Program (DAP) for the Israeli Defense Force (IDF) Command Control Division Headquarters; to the Committee on International Relations.

2113. A letter from the Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, a correction to Transmittal No. 05-10 of 26 April 2005, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Israel for defense articles and services; to the Committee on International Relations.

2114. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to the Development Fund for Iraq that was declared in Executive Order 13303 of May 22, 2003, as expanded in scope in Executive Order 13315 of August 28, 2003; to the Committee on International Relations.

2115. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification for a drawdown to support the Transitional Islamic State of Afghanistan, pursuant to Section 202 and other relevant provisions of the Afghanistan Freedom Support Act (Pub. L. 107–327, as amended) and Sections 506 and 652 of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2116. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Aliens Inadmissable Under the Immigration and Nationality Act — Unlawful Voters (RIN: 1400-AC04) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2117. A letter from the Chairman, Parole Commission, Department of Justice, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for the calendar year 2004, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

2118. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting a report on activity for FY 2004, pursuant to Public Law 107–174, section 203; to the Committee on Government Reform.

2119. A letter from the Associate Special Counsel for Legal Counsel and Policy, Office of the Special Counsel, transmitting the Office's FY 2004 Annual Report pursuant to Section 203, Title II of the No Fear Act, Pub. L. 107–174; to the Committee on Government Reform.

2120. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft bill, "To amend title 28, United States Code, to clarify the jurisdiction of the Federal courts, and for other purposes"; to the Committee on the Judiciary.

2121. A letter from the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, transmitting notification that funding under Title V, subsection 503(b)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, may exceed $5 million for the response to the emergency declared as a result of the record snow on December 22-24, 2004, in the State of Ohio, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

2122. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30439; Amdt. No. 3117] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2123. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures: Miscellaneous Amendments [Docket No. 30440: Amdt. 3118] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2124. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce (1971) Limited. Bristol Engine Division Model Viper Mk.601-22 Turbojet Engines [Docket No. FAA-2004-18024; Directorate Identifier 2003-NE-39-AD; Amendment 39-14034; AD 2005-07-10] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2125. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 and -200PF Series Airplanes [Docket No. FAA-2004-18876; Directorate Identifier 2003-NM-254-AD; Amendment 39-14032; AD 2005-07-08] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2126. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30438; Amdt. No. 3116] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2127. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-200F and -200C Series Airplanes [Docket No. 2001-NM-181-AD; Amendment 39-14046; AD 2005-07-21] (RIN: 2120-AA64) received April 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2128. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. FAA-2005-20025; Directorate Identifier 2004-NM-208-AD; Amendment 39-14016; AD 2005-06-08] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2129. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330, A340-200, and A340-300 Series Airplanes [Docket No. 2001-NM-234-AD; Amendment 39-14028; AD 2005-07-04] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2130. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CF6-80A1/A3 and CF6-80C2A Series Turbofan Engines, Installed on Airbus Industrie A300-600 and A310 Series Airplanes [Docket No. 99-NE-41-AD; Amendment 39-14015; AD 2005-06-07] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2131. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146-RJ Series Airplanes [Docket No. FAA-2004-19757; Directorate Identifier 2001-NM-273-AD; Amendment 39-14024; AD 2005-06-04] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2132. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200, -300, -300F Series Airplanes [Docket No. FAA-2004-19493; Directorate Identifier 2004-NM-69-AD; Amendment 39-14018; AD 2005-06-10] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2133. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-300, 747SP, and 747SR Series Airplanes [Docket No. FAA-2004-19535; Directorate Identifier 2004-NM-78-AD; Amendment 39-14020; AD 2005-06-12] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2134. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF6-45A, CF6-50A, CF6-50C, and CF-50E Series Turbofan Engines [Docket No. FAA-2004-19463; Directorate Identifier 2004-NE-14-AD; Amendment 39-14029; AD 2005-07-05] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2135. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fairchild Aircraft, Inc. SA226 and SA227 Series Airplanes [Docket No. 99-CE-12-AD; Amendment 39-14023; AD 2005-06-13] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2136. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Rolla, MO. [Docket No. FAA-2005-20060; Airspace Docket No. 05-ACE-2] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2137. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace: Newton, KS [Docket No. FAA-2004-19579; Airspace Docket No. 04-ACE-69] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2138. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revocation of Class E Airspace; Palmer, MA [Docket No. FAA-2005-20584; Airspace Docket No. 05-AEA-05] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2139. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Nevada, MO. [Docket No. FAA-200520062; Airspace Docket No. 05-ACE-4] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2140. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Parsons, KS. [Docket No. FAA-2005-20573; Airspace Docket No. 05-ACE-10] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2141. A letter from the Secretary, Department of Veterans Affairs, transmitting a letter reporting the FY 2004 expenditures from the Pershing Hall Revolving Fund for projects, activities, and facilities that support the mission of the Department of Veterans Affairs, pursuant to Public Law 102-86, section 403(d)(6)(A); to the Committee on Veterans' Affairs.

2142. A letter from the Secretary, Department of Veterans Affairs, transmitting a draft bill, "To amend title 38 United States Code, to improve veterans' health care benefits and for other purposes"; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on May 25 (Legislative day, May 24), 2005]

Mr. COLE: Committee on Rules. House Resolution 293. Resolution providing for consideration of the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes. (Rept. 109–96). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. JACKSON of Illinois:

H.R. 2560. A bill to amend title XVIII of the Social Security Act to require, as a condition of participation in the Medicare Program, that hospitals make reasonable efforts to contact a family member, specified healthcare agent, or surrogate decisionmaker of a patient who arrives at a hospital emergency department unconscious or otherwise physically incapable of communicating with the attending health care practitioners of the hospital, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NORWOOD (for himself and Mr. ANDREWS):

H.R. 2561. A bill to amend the Federal Employees' Compensation Act to cover services provided to injured Federal workers by physician assistants and nurse practitioners, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BROWN of Ohio:

H.R. 2562. A bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases; to the Committee on Energy and Commerce.

By Mr. OTTER:

H.R. 2563. A bill to authorize the Secretary of the Interior to conduct feasibility studies to address certain water shortages within the Snake, Boise, and Payette River systems in Idaho, and for other purposes; to the Committee on Resources.

By Mr. ENGLISH of Pennsylvania (for himself and Mr. Ford):

H.R. 2564. A bill to amend the Internal Revenue Code of 1986 to make permanent the qualified tuition deduction at the 2005 levels; to the Committee on Ways and Means.

By Mr. TOM DAVIS of Virginia (for himself, Mr. Waxman, Mr. Souder, Mr. Cummings, Mr. Shays, Mr. Owens, Mr. McHugh, Mrs. Maloney, Mr. Platts, Mr. Davis of Illinois, Mr. Duncan, Mr. Clay, Mr. Issa, Mr. Lynch, Mr. Dent, Ms. Linda T. Sánchez of California, Ms. Foxx, and Ms. Norton):

H.R. 2565. A bill to reauthorize the Office of National Drug Control Policy Act and to establish minimum drug testing standards for major professional sports leagues; to the Committee on Government Reform, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. Oberstar, Mr. Petri, and Mr. DeFazio):

H.R. 2566. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Science, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACKERMAN (for himself, Mr. Rohrabacher, Mrs. Wilson of New Mexico, Mr. Upton, Mrs. Bono, and Mr. Tanner):

H.R. 2567. A bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent so as to render it unpalatable; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 2568. A bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War era; to the Committee on Armed Services.

By Mr. ANDREWS:

H.R. 2569. A bill to amend the accountability provisions of the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 2570. A bill to amend the Federal Deposit Insurance Corporation Improvement Act of 1991 to provide for the collection of data on the availability of credit for women-owned business; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 2571. A bill to require the establishment of programs by the Administrator of the Environmental Protection Agency, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Health and Human Services to improve indoor air quality in schools and other buildings; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 2572. A bill to amend title 38, United States Code, to require that employers of members of the National Guard and Reserve who are called to active duty continue to offer health care coverage for dependents of such members, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARRETT of South Carolina:

H.R. 2573. A bill to suspend temporarily the duty on cuprammonium rayon yarn; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland (for himself, Mr. Gingrey, Mr. Norwood, Mr. Osborne, Mr. Culberson, Mr. English of Pennsylvania, Mr. Rohrabacher, Mr. Price of Georgia, and Mr. Cannon):

H.R. 2574. A bill to amend the Public Health Service Act to provide for a program at the National Institutes of Health to conduct and support research on animals to develop techniques for the derivation of stem cells from embryos that do not harm the embryos, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BONNER:

H.R. 2575. A bill to extend the suspension of duty on Methyl thioglycolate (MTG); to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2576. A bill to extend the suspension of duty on Ethyl pyruvate; to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2577. A bill to suspend temporarily the duty on Indoxacarb; to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2578. A bill to suspend temporarily the duty on Dimethyl carbonate; to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2579. A bill to suspend temporarily the duty on 5-Chloro-1-indanone (EK179); to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2580. A bill to extend the suspension of duty on Methyl-4-trifluoromethoxyphenyl-N-(chlorocarbonyl) carbamate (DPX-KL540); to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2581. A bill to suspend temporarily the duty on the formulated product containing mixtures of the active ingredients 5-methyl-5-(4-phenoxyphenyl)-3-(phenylamino)-2,4-oxazolidiedione) (famoxadone) and 2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino)acetamide (cymoxanil) and application adjuvants; to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2582. A bill to suspend temporarily the duty on ortho nitro aniline; to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2583. A bill to suspend temporarily the duty on Decanedioic acid, Bis(2,2,6,6,-tetramethyl-4-piperidinyl); to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2584. A bill to suspend temporarily the duty on Benzoxazole, 2,2′-(2,5-thiophenediyl)bis(5-(1,1-dimethylethyl)-; to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2585. A bill to extend the suspension of duty on 2methyl-4,6-bis[(octylthio)methyl]phenol; to the Committee on Ways and Means.

By Mr. BONNER:

H.R. 2586. A bill to extend the suspension of duty on 4-[[4,6-bis(octylthio)-1,3,5-traizine-2-yl]amino]-2,6-bis(1 1-dimethylethyl)phenol; to the Committee on Ways and Means.

By Mr. CUNNINGHAM:

H.R. 2587. A bill to make amendments to the Reclamation Projects Authorization and Adjustment Act of 1992; to the Committee on Resources.

By Mrs. JO ANN DAVIS of Virginia (for herself, Mr. Scott of Virginia, Mr. Gilchrest, Mr. Cardin, Mr. Platts, Mr. Van Hollen, Mr. Moran of Virginia, Mr. Goode, Mr. Holden, Mr. Tom Davis of Virginia, Mr. Hoyer, Mr. Ruppersberger, Mr. Wolf, and Mr. Forbes):

H.R. 2588. A bill to direct the Secretary of the Interior to carry out a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail; to the Committee on Resources.

By Mr. FRANK of Massachusetts:

H.R. 2589. A bill to extend the temporary suspension of duty on certain filament yarns; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 2590. A bill to extend the temporary suspension of duty on certain filament yarns; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 2591. A bill to suspend temporarily the duty on certain yarn (other than sewing thread) of synthetic staple fibers, not put up for retail sale; to the Committee on Ways and Means.

By Mr. HASTINGS of Florida (for himself, Mr. Serrano, Mr. Lynch, Mr. Conyers, Mr. Rangel, Mr. Wexler, Ms. Corrine Brown of Florida, Mr. Delahunt, and Ms. Moore of Wisconsin):

H.R. 2592. A bill to designate Haiti under section 244 of the Immigration and Nationality Act in order to render nationals of Haiti eligible for temporary protected status under such section; to the Committee on the Judiciary.

By Mr. HYDE:

H.R. 2593. A bill to encourage more vigorous investigation and prosecution, under section 2339B of title 18, United States Code, of drug crimes committed to provide material support to terrorist organizations; to the Committee on the Judiciary.

By Mr. LEWIS of Kentucky (for himself, Mr. Tanner, Mrs. Blackburn, Mr. Cooper, Mr. Jenkins, Mr. McCrery, Mr. Gordon, Mr. Ford, Mr. Foley, Mr. Doggett, Mr. English of Pennsylvania, Mr. Rogers of Kentucky, Mr. Hayworth, Mr. Cardin, Mr. Davis of Kentucky, Mr. Davis of Tennessee, Mr. Whitfield, Mr. Hall, Mr. Taylor of Mississippi, Mr. Engel, Mr. Coble, Mr. Brady of Texas, Mrs. Bono, Mr. Conyers, Mr. Franks of Arizona, Mr. Hoyer, Mr. Brown of South Carolina, Mr. Goode, Mr. Kucinich, Mr. Cramer, Mr. Chandler, and Mr. Herger):

H.R. 2594. A bill to amend the Internal Revenue Code of 1986 to provide capital gains tax treatment for certain self-created musical works; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 2595. A bill to authorize the Administrator of General Services and the Secretary of the Interior to convey certain Federal property to the District of Columbia to increase the District's taxable property base as compensation for a structural fiscal imbalance caused by Federal mandates; to the Committee on Government Reform, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REICHERT:

H.R. 2596. A bill to suspend temporarily the duty on modified steel leaf spring leaves; to the Committee on Ways and Means.

By Mr. REICHERT:

H.R. 2597. A bill to suspend temporarily the duty on suspension system stabilizer bars; to the Committee on Ways and Means.

By Mr. REICHERT:

H.R. 2598. A bill to suspend temporarily the duty on steel leaf spring leaves; to the Committee on Ways and Means.

By Mr. ROHRABACHER:

H.R. 2599. A bill to improve the quality, availability, diversity, personal privacy, and innovation of health care in the United States; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW:

H.R. 2600. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the sale or trade of prescription drugs that were knowingly caused to be adulterated or misbranded, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of New Jersey (for himself and Mr. PAYNE):

H.R. 2601. A bill to authorize appropriations for the Department of State for fiscal years 2006 and 2007, and for other purposes; to the Committee on International Relations.

By Mr. TERRY:

H.R. 2602. A bill to reduce temporarily the duty on Formulations of Azoxystrobin; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2603. A bill to reduce temporarily the duty on Cypermethrin Technical; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2604. A bill to reduce temporarily the duty on Formulations of Pinoxaden/Cloquintocet-Mexyl; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2605. A bill to suspend temporarily the duty on Formulations of Difenoconazole/Mefenoxam; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2606. A bill to suspend temporarily the duty on Fludioxonil Technical; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2607. A bill to suspend temporarily the duty on Formulations of Clodinafop-propargyl; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2608. A bill to suspend temporarily the duty on Emamectin Benzoate Technical; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2609. A bill to suspend temporarily the duty on Cloquintocet Technical; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2610. A bill to suspend temporarily the duty on Mefenoxam Technical; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2611. A bill to suspend temporarily the duty on Cyproconazole Technical; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2612. A bill to suspend temporarily the duty on Pinoxaden Technical; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2613. A bill to suspend temporarily the duty on Formulations of Tralkoxydim; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2614. A bill to suspend temporarily the duty on Propiconazole Technical - Bulk; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 2615. A bill to suspend temporarily the duty on Permethrin Technical; to the Committee on Ways and Means.

By Mr. WU (for himself, Ms. LEE, Ms. BORDALLO, Mr. McGOVERN, Mr. SCOTT of Virginia, Mrs. JONES of Ohio, Mr. VAN HOLLEN, Ms. MILLENDER-McDONALD, Mr. HINOJOSA, Mr. McDERMOTT, Mr. SCHIFF, Ms. WATSON, Mr. LANTOS, Mr. CASE, Mr. CROWLEY, Ms. SCHAKOWSKY, Mr. HONDA, Mr. AL GREEN of Texas, Ms. McCOLLUM of Minnesota, Mr. BLUMENAUER, Mr. KENNEDY of Rhode Island, Ms. ZOE LOFGREN of California, Mr. HINCHEY, Mr. FALEOMAVAEGA, and Mr. ABERCROMBIE):

H.R. 2616. A bill to amend the Higher Education Act of 1965 to authorize grants for institutions of higher education serving Asian Americans and Pacific Islanders; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H. Con. Res. 165. Concurrent resolution calling for the immediate release of all political prisoners in Cuba, including Mr. Jose Daniel Ferrer Garcia, and for other purposes; to the Committee on International Relations.

By Mr. ISRAEL:

H. Con. Res. 166. Concurrent resolution expressing the sense of the Congress that the Federal Government should not infringe on State or private programs that fund embryonic stem cell research; to the Committee on Energy and Commerce.

By Mr. BOUSTANY:

H. Res. 294. A resolution supporting the goals of "A Day of Commemoration of the Great Upheaval", and for other purposes; to the Committee on Government Reform.

By Mrs. JONES of Ohio (for herself and Mr. WELDON of Pennsylvania):

H. Res. 295. A resolution expressing the sense of the House of Representatives supporting the establishment of September as Campus Fire Safety Month, and for other purposes; to the Committee on Education and the Workforce.

By Ms. LINDA T. SÁNCHEZ of California (for herself and Mr. GREEN of Wisconsin):

H. Res. 296. A resolution recognizing the achievements and contributions of "Teenangels" and WiredSafety/WiredKids Executive Director Parry Aftab, in addressing the growing problem of cyberbullying in the United States; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SALAZAR (for himself and Mr. ROGERS of Michigan):

H. Res. 297. A resolution supporting the goals and ideals of a National Medal of Honor Day to celebrate and honor the recipients of the Medal of Honor on the anniversary of the inception of that medal in 1863; to the Committee on Armed Services.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

28. The SPEAKER presented a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 51, S.D. 1, memorializing the Hawaiian Congressional Delegation to work towards National Park status for the Kawainui Marsh Complex; to the Committee on Resources.

29. Also, a memorial of the Legislature of the State of Michigan, relative to House Concurrent Resolution No. 4 memorializing the Congress of the United States to enact Highway Reauthorization legislation with a level of funding that closes the gap between federal fuel tax dollars paid by Michigan motorists and dollars received to address Michigan's transportation needs; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. ABERCROMBIE.

H.R. 63: Mr. LYNCH and Mr. CLYBURN.

H.R. 65: Mr. HALL and Mrs. CUBIN.

H.R. 94: Mr. RYAN of Ohio and Mr. BISHOP of Georgia.

H.R. 111: Mr. THOMPSON of Mississippi, Mr. SCHWARZ of Michigan, Mr. FATTAH, and Mr. SHAW.

H.R. 127: Mr. DELAHUNT.

H.R. 128: Mr. MORAN of Virginia, Ms. HOOLEY, and Mrs. NAPOLITANO.

H.R. 181: Mr. ROHRABACHER.

H.R. 195: Mr. GARRETT of New Jersey, Mr. PAUL, and Mr. WILSON of South Carolina.

H.R. 215: Mr. CONAWAY.

H.R. 282: Ms. WOOLSEY, Mr. HONDA, Mr. MOORE of Kansas, Mr. STRICKLAND, Mr. KENNEDY of Rhode Island, Mr. CARNAHAN, Mr. CUMMINGS, Mr. MARCHANT, Mr. MILLER of Florida, Mrs. CUBIN, Mr. RYUN of Kansas, Mr. GOHMERT, Mr. NEAL of Massachusetts, and Mr. GRAVES.

H.R. 328: Ms. WASSERMAN SCHULTZ, Mr. SHADEGG, and Mr. MORAN of Virginia.

H.R. 333: Ms. HOOLEY.

H.R. 371: Mr. McCOTTER.

H.R. 376: Ms. WOOLSEY, Mrs. LOWEY, Mr. BOREN, and Mr. BISHOP of Georgia.

H.R. 408: Ms. WOOLSEY and Mr. HAYWORTH.

H.R. 420: Ms. GINNY BROWN-WAITE of Florida, Mr. ROGERS of Michigan, Mr. HENSARLING, Mr. AKIN, Mr. STEARNS, and Mr. INGLIS of South Carolina.

H.R. 528: Mr. ALEXANDER.

H.R. 554: Mr. SODREL.

H.R. 558: Mr. STRICKLAND.

H.R. 583: Mr. SESSIONS and Mr. BISHOP of Georgia.

H.R. 602: Mr. MELANCON, Mr. BONILLA, and Ms. DeLAURO.

H.R. 615: Mr. Kennedy of Rhode Island.

H.R. 700: Ms. Woolsey.

H.R. 712: Mr. Manzullo and Mr. Sweeney.

H.R. 713: Mr. Skelton and Mr. Ramstad.

H.R. 791: Ms. Roybal-Allard, Mr. Larson of Connecticut, Mr. Cardin, Mrs. Napolitano, Ms. DeLauro, Ms. Zoe Lofgren of California, and Mr. Kucinich.

H.R. 800: Mr. Weller.

H.R. 808: Mr. Allen, Ms. Berkley, Mr. Bonilla, Mr. Boozman, Mr. Boren, Mr. Brown of Ohio, Mr. Carter, Mr. Davis of Florida, Mr. Honda, Mr. Langevin, Mr. Larsen of Washington, Ms. McCollum of Minnesota, Ms. Pelosi, Mr. Rogers of Kentucky, Mr. Shimkus, Mr. Turner, and Mr. Weller.

H.R. 817: Mr. Lantos, Mr. Saxton, Mr. Ackerman, Ms. Zoe Lofgren of California, Mr. LoBiondo, Mr. Inglis of South Carolina, Mr. Shimkus, and Mr. King of New York.

H.R. 818: Mr. Holt and Mr. Moran of Virginia.

H.R. 874: Mr. Bishop of Utah.

H.R. 885: Mr. Snyder and Mr. Edwards.

H.R. 893: Mrs. Napolitano, Mr. Lantos, Ms. Watson, and Ms. Matsui.

H.R. 898: Mr. Waxman, Mr. Snyder, Mr. Taylor of Mississippi, Mr. Inslee, Mr. Langevin, Mr. Gerlach, Ms. DeGette, Mr. Allen, Mr. Engel, Ms. Hooley, Mr. Ross, Mr. Coble, Mr. Gutierrez, Mrs. McCarthy, Mr. Dicks, Mr. Baca, and Mr. Honda.

H.R. 916: Ms. Harris, Mr. Platts, Mr. Baird, Mr. Lewis of Georgia, and Mr. Pickering.

H.R. 923: Mr. Kildee.

H.R. 963: Mr. McHugh and Mr. Foley.

H.R. 976: Mrs. Northup and Mrs. Kelly.

H.R. 983: Mr. Holt.

H.R. 998: Mr. Wynn, Mr. Walden of Oregon, Mr. Bradley of New Hampshire, Mr. Dicks, Mr. Kuhl of New York, and Mr. Grijalva.

H.R. 1002: Mr. Allen.

H.R. 1020: Mr. Stark and Mr. Ruppersberger.

H.R. 1049: Mr. Lucas.

H.R. 1106: Mr. Barrow and Mr. Capuano.

H.R. 1107: Mr. Cleaver.

H.R. 1124: Mr. Sullivan.

H.R. 1140: Mr. Platts.

H.R. 1145: Mr. Boehlert, Mr. Murtha, Mr. Price of North Carolina, Mr. McCaul of Texas, Mr. Kind, Mr. Van Hollen, and Mr. Reyes.

H.R. 1149: Mr. Green of Wisconsin.

H.R. 1152: Mr. Cox.

H.R. 1182: Mr. Ford, Mr. Meek of Florida, Mr. Sanders, Mr. Moore of Kansas, and Mr. Scott of Georgia.

H.R. 1216: Mrs. Miller of Michigan and Mr. Petri.

H.R. 1232: Mr. Issa.

H.R. 1235: Mr. Aderholt.

H.R. 1259: Mr. Conyers, Mr. Frank of Massachusetts, Mr. Levin, Mr. Berman, Ms. Eddie Bernice Johnson of Texas, Mr. Scott of Georgia, Mr. Bishop of Georgia, Ms. Harman, Mr. Clyburn, and Ms. Kaptur.

H.R. 1306: Mr. Watt.

H.R. 1337: Mr. Gary G. Miller of California, Mrs. Blackburn, Mr. Radanovich, and Mr. Ehlers.

H.R. 1352: Ms. Zoe Lofgren of California and Ms. Eshoo.

H.R. 1373: Mr. Delahunt and Mr. Cummings.

H.R. 1380: Mr. Bishop of Georgia.

H.R. 1397: Mr. Fitzpatrick of Pennsylvania.

H.R. 1399: Mr. Clay.

H.R. 1402: Mr. Tierney and Mr. DeFazio.

H.R. 1406: Mr. Gordon.

H.R. 1417: Mr. Blunt.

H.R. 1426: Ms. DeLauro.

H.R. 1443: Ms. Granger.

H.R. 1469: Mr. Aderholt.

H.R. 1480: Mr. George Miller of California.

H.R. 1498: Mr. Hall, Mr. Wilson of South Carolina, and Mr. Jones of North Carolina.

H.R. 1505: Mr. Alexander.

H.R. 1510: Mr. Hinojosa and Mr. McKeon.

H.R. 1558: Mr. Alexander.

H.R. 1563: Mr. Akin.

H.R. 1592: Mr. Schwarz of Michigan, Mr. Gutierrez, Mr. Calvert, Mr. Kennedy of Minnesota, and Mr. Lipinski.

H.R. 1632: Mr. Ryan of Wisconsin.

H.R. 1671: Mrs. Emerson.

H.R. 1688: Mr. Sabo.

H.R. 1696: Ms. Wasserman Schultz.

H.R. 1704: Ms. Eddie Bernice Johnson of Texas, Ms. Schakowsky, Mr. Thompson of Mississippi, Ms. Carson, Mr. Towns, and Ms. Millender-McDonald.

H.R. 1707: Mr. Moran of Virginia, Mr. Meeks of New York, Ms. Carson, Ms. McCollum of Minnesota, Ms. Eshoo, Mrs. Davis of California, Mrs. Capps, Mr. Cleaver, and Mr. Michaud.

H.R. 1736: Ms. Hooley.

H.R. 1741: Mr. Stupak.

H.R. 1749: Mr. Paul, Mr. Pence, Mr. Souder, and Mr. Scott of Georgia.

H.R. 1751: Mr. Alexander and Mr. Gallegly.

H.R. 1762: Mr. Lewis of Kentucky and Mr. Ramstad.

H.R. 1816: Mr. Bishop of Utah.

H.R. 1849: Ms. Zoe Lofgren of California, Mr. Israel, Ms. Ros-Lehtinen, Mr. Moore of Kansas, and Ms. Linda T. Sánchez, of California.

H.R. 1851: Mr. Conaway.

H.R. 1879: Mr. Hayworth, and Mr. Nussle.

H.R. 1929: Mr. Souder.

H.R. 1954: Mr. Alexander.

H.R. 1956: Ms. Hart, Mr. Cole of Oklahoma, and Mr. Garrett of New Jersey.

H.R. 2012: Ms. Woolsey, Mrs. Capps, and Mr. Foley.

H.R. 2047: Mr. Taylor of Mississippi, Mr. Simpson, and Mr. Otter.

H.R. 2049: Mr. Souder, Mr. Alexander, and Mr. Forbes.

H.R. 2061: Mr. Gillmor, Mr. Peterson of Minnesota, Mr. Paul, Mr. Goode, Mr. Burton of Indiana, Mr. Terry, Mr. Osborne, and Mr. Alexander.

H.R. 2063: Mr. Paul, Mr. Inglis of South Carolina, and Mr. Kuhl of New York.

H.R. 2071: Ms. Eshoo.

H.R. 2089: Mr. Sessions, Mr. Carter, Mr. Issa, and Mr. Terry.

H.R. 2108: Mr. Hastings of Florida.

H.R. 2177: Mr. Cox, Mr. Kind, and Mr. Doggett.

H.R. 2183: Mr. LoBiondo, Mr. Pallone, and Mr. Andrews.

H.R. 2210: Mr. Boren.

H.R. 2233: Mr. Hastings of Florida.

H.R. 2238: Mr. Alexander.

H.R. 2259: Mr. Kennedy of Rhode Island.

H.R. 2327: Mr. Pastor, Mrs. Lowey, and Mr. Meek of Florida.

H.R. 2349: Mr. Hastings of Florida.

H.R. 2350: Mr. Miller of Florida.

H.R. 2353: Mr. Pence.

H.R. 2355: Mr. Sodrel.

H.R. 2356: Ms. Berkley, Mr. Boswell, Mrs. Christensen, Mr. Clay, Mr. Costa, Mr. Goode, Mr. Hinchey, Ms. Hooley, Mr. McIntyre, Mr. Miller of Florida, Mr. Norwood, Mr. Price of Georgia, Mr. Sessions, Mr. Towns, and Mr. Young of Alaska.

H.R. 2359: Ms. Schakowsky.

H.R. 2363: Mr. Alexander.

H.R. 2366: Ms. Bordallo, Ms. Jackson-Lee of Texas, and Mr. Gutierrez.

H.R. 2401: Ms. Slaughter.

H.R. 2423: Ms. Ros-Lehtinen and Mr. Alexander.

H.R. 2427: Ms. Moore of Wisconsin.

H.R. 2455: Ms. McKinney.

H.R. 2511: Mrs. Wilson of New Mexico.

H.R. 2533; Mr. Markey and Mr. Leach.

H.J. Res. 23: Mr. Porter.

H.J. Res. 46: Mr. Goode.

H. Con. Res. 24: Mr. Tierney.

H. Con. Res. 85: Mr. Moore of Kansas.

H. Con. Res. 107: Mr. Lewis of Georgia and Mr. Clyburn.

H. Con. Res. 141: Mr. Cox.

H. Con. Res. 144: Mrs. Myrick.

H. Con. Res. 148: Mr. Coble, Mr. Taylor of North Carolina, Mr. McHenry, Mr. Jones of North Carolina, Mr. Etheridge, and Mr. McIntyre.

H. Con. Res. 160: Mr. Nadler, Ms. Norton, and Mr. Scott of Virginia.

H. Con. Res. 162: Mr. Conaway.

H. Res. 76: Mr. Kennedy of Rhode Island.

H. Res. 199: Mr. Wolf, Mr. Lantos, Mr. Rohrabacher, Mr. Turner, Mr. McNulty, Mr. Moran of Virginia, and Mr. McGovern.

H. Res. 245: Mr. Grijalva.

H. Res. 279: Mr. Dent, Ms. DeLauro, Mrs. McCarthy, and Mr. Bishop of Georgia.

H. Res. 288: Ms. Waters.

PETITIONS, ETC.

Under clause 3 of rule XII,

The SPEAKER presented a petition of the Town Council, Davie, Florida, relative to Resolution No. R–2005–81 petitioning the Congress of the United States to preserve the Community Development Block Grant (CDBG) program within the Department of Housing and Urban Development (HUD), and provide a FY 2006 funding level of at least $4.7 billion overall, with no less than $4.35 billion in formula funding for the CDBG program; which was referred to the Committee on Financial Services.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1815

OFFERED BY: MR. FILNER

AMENDMENT NO. 1. At the end of title VI (page 279, after line 6), add the following new section:

SEC. ___. REPORT ON SPACE-AVAILABLE TRAVEL FOR CERTAIN DISABLED VETERANS.

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the feasibility of providing transportation on Department of Defense aircraft on a space-available basis for any veteran with a service-connected disability rating of 50 percent or higher. The Secretary of Defense shall prepare the report in consultation with the Secretary of Veterans Affairs.

H.R. 2419

OFFERED BY: MR. KING OF IOWA

AMENDMENT NO. 6. Page 2, line 18, after the dollar amount, insert the following: "(increased by $1,000,000)".

Page 27, line 9, after the dollar amount, insert the following:"(reduced by $1,000,000)".

H.R. 2419

OFFERED BY: MR. KING OF IOWA

AMENDMENT NO. 7. At the end of title I (before the Short Title), insert the following:

SEC. 5 . Congress finds the following:

(1) The Secretary should provide a floodplain information report for the Missouri River from River Mile 498 through 811.

(2) The floodplain information report should develop new information as well as utilize information developed in the Upper Mississippi, Lower Missouri, and Illinois Rivers Flow Frequency Study completed during 2004 under authority of section 206 of the 1970 Flood Control Act.

(3) The report should include water surface profiles for the 10-, 50-, 100-, and 500-year floods; delineation of the 100-, and 500-year flood boundaries, as well as the regulatory floodway for the Missouri River, within the States of Nebraska, Iowa, Missouri, and South Dakota.

(4) Products developed should include hydrologic and hydraulic information and should accurately portray the flood hazard areas along the Missouri River floodplain.

(5) Maps delineating the floodplain information should be produced in a high resolution format and be made available to the States of Nebraska, Iowa, Missouri, and South Dakota in a digital format, acceptable to the States.

(6) $3,000,000 should be made available for the completion of the floodplain information report.

EXTENSIONS OF REMARKS

A PROCLAMATION RECOGNIZING JONATHAN OLIVITO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. NEY. Mr. Speaker:

Whereas, Jonathan Olivito has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Jonathan Olivito has shared his time and talent with the community in which he resides; and

Whereas, Jonathan Olivito has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Jonathan Olivito must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award.

Therefore, I join with the residents of Carrollton, the entire 18th Congressional District of Ohio, Jonathan's family and friends in congratulating Jonathan Olivito as he receives the Eagle Scout Award.

PERSONAL EXPLANATION

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. POE. Mr. Speaker, due to other obligations in my district, I unfortunately missed the following votes on the House floor on Monday, May 23,2005.

I ask that the RECORD reflect that had I been able to vote that day, I would have voted "yes" on rollcall vote No. 200 (On Motion to Suspend the Rules and Pass, as Amended—the Internet Spyware (I-SPY) Prevention Act), and rollcall vote No. 201 (On Motion to Suspend the Rules and Pass, as Amended—the Securely Protect Yourself Against Cyber Trespass Act). I strongly support these two bills because they take important steps to protect the identity and privacy of computer users.

I also ask that the RECORD reflect that had I been able to vote that day, I would have voted "yes" on rollcall vote No. 202 (On Motion to Suspend the Rules and Pass, as Amended—Recognizing the 57th Anniversary of the Independence of the State of Israel). As a cosponsor of this legislation, H. Con. Res. 149, I congratulate Israel on its 57th Anniversary of Independence and their allegiance to the principles of freedom and democracy. Israel has consistently been a vital and strategic ally to the United States in the Middle East.

A PROCLAMATION IN MEMORY OF RUDY J. ZATEZALO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. NEY. Mr. Speaker:

Whereas, I hereby offer my heartfelt condolences to the family, friends, and community of Rudy J. Zatezalo; and

Whereas, Rudy J. Zatezalo was a retired press operator with Wheeling Pittsburgh Steel Corporation; and

Whereas, Rudy J. Zatezalo was a member of St. John's Catholic Church in Bellaire, the Knights of Columbus, and the Bellaire Lions Club; and

Whereas, Rudy J. Zatezalo bravely defended our country in the Army during World War II; and

Whereas, the understanding and caring to which he gave to others will stand as a monument to a truly fine person. His life and example inspired all who knew him.

Therefore, while I understand how words cannot express our grief at this most trying of times, I offer this token of profound sympathy to the family, friends, and colleagues of Rudy J. Zatezalo.

PERSONAL EXPLANATION

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. POE. Mr. Speaker, due to other obligations, I unfortunately missed a recorded vote on the House floor on Thursday, May 19, 2005.

I ask that the RECORD reflect that had I been able to vote that day, I would have voted "yes" on rollcall vote No. 196 (On Agreeing to the Amendment—prohibiting the use of funds for the sale or slaughter of wild free-roaming horses and burros.)

A PROCLAMATION RECOGNIZING THE OHIO ARMY NATIONAL GUARD'S 216TH ENGINEER BATTALION

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. NEY. Mr. Speaker:

Whereas, the 216th was mobilized in January 2004 and supported the 1st Infantry Division in Iraq from March 2004 to February 2005; and

Whereas, the 216th conducted four hundred and fifty combat patrols and completed over three hundred and fifty missions at forty separate locations in north central Iraq and An Najaf; and

Whereas, the 216th played a critical role in improving force protection at forward operating bases and fixed check points as well as in preparation of Iraq's national election.

Therefore, I congratulate the Ohio National Guard's 216th Engineer Battalion on their receipt of the Meritorious Unit Commendation for exceptionally meritorious conduct in the performance of outstanding services during military operations against an armed enemy.

PERSONAL EXPLANATION

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. BARRETT of South Carolina. Mr. Speaker, due to family obligations in South Carolina, I unfortunately missed recorded votes on the House floor on Monday, May 23, 2005.

I ask that the RECORD reflect that had I been able to vote that day, I would have voted "yes" on rollcall vote No. 200 (Motion to Suspend the Rules and Pass H.R. 744—Internet Spyware (I–SPY) Prevention Act of 2005), "yes" on rollcall vote No. 201 (Motion to Suspend the Rules and Pass H.R. 29—Securely Protect Yourself Against Cyber Trespass Act), and "yes" on rollcall vote No. 202 (Motion to Suspend the Rules and Pass H. Con. Res. 149—Recognizing the 57th Anniversary of the independence of the State of Israel).

A PROCLAMATION RECOGNIZING TAMALA LONGABERGER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. NEY. Mr. Speaker:

Whereas, Tamala Longaberger has been appointed by President George W. Bush to chair the National Women's Business Council; and

Whereas, Tamala Longaberger will oversee the bipartisan federal advisory body to provide advice to the President, Congress, and the United States Small Business Administration on economic issues important to women business owners; and

Whereas, Tamala Longaberger has served as the chief executive officer of the number one maker of handmade baskets, Longaberger Company, for ten years; and

Whereas, Tamala Longaberger should be commended for her service in the Newark,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Ohio and surrounding areas and to the Republican Party.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Tamala Longaberger for her outstanding appointment.

IN SPECIAL RECOGNITION OF QUINTEN S. WISE ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Quinten S. Wise of Waterville, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

Quinten's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2009. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Quinten brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending Anthony Wayne High School in Whitehouse, Ohio, Quinten has attained a grade point average of 3.95, which places him near the top of his class of more than three hundred students. While a gifted athlete, Quinten has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Quinten has been a member of the National Honor Society, Honor Roll, and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Quinten has distinguished himself as an excellent student-athlete. On the fields of competition, he has earned letters in both Varsity Football and Baseball. Quinten has served as class president for four years and was selected as a 2004 delegate to the American Legion's Boys State. Quinten's dedication and service to the community and his peers has proven his ability to excel among the leaders at West Point. I have no doubt that Quinten will take the lessons of his student leadership with him to West Point.

Mr. Speaker, I ask my colleagues to join me in congratulating Quinten S. Wise on his appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Quinten will do very well during his career at West Point and I ask my colleagues to join me in wishing him well as he begins his service to the nation.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. GALLEGLY. Mr. Speaker, on Monday, May 23, 2005 I was unable to vote on a motion to suspend the rules and pass H.R. 744, the Internet Spyware Prevention Act of 2005 (rollcall No. 200); H.R. 29, Securely Protect Yourself Against Cyber Trespass Act (rollcall No. 201); and H. Con. Res. 149, Recognizing the 57th Anniversary of the Independence of the State of Israel (rollcall No. 202). Had I been present, I would have voted "yea" on all three measures.

TRIBUTE TO CHARLES E. WALKER

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. RUPPERSBERGER. Mr. Speaker, I rise today to pay tribute to Charles E. Walker.

Charles Walker is a Government Affairs Officer with the Army Corps of Engineers and he will be retiring this year after thirty years of outstanding work in the Federal service.

Charles Walker has consistently demonstrated a high level of performance throughout his career serving our nation, starting with his service in the United States Army. He joined the Army in 1966 and fought in the Vietnam conflict. He left the Army in 1969 and returned to continue his education.

He earned his Russian Language Certificate from Leningrad University and a P.h.D. from West Virginia University in 1973. Prior to Vietnam, Charles Walker had been a secondary school teacher in Baltimore City. He returned to teaching in 1973 as a History Lecturer at Anne Arundel Community College and remained there until 1974.

In 1975, Charles Walker entered the Federal service as a historian in the Historical Office of the Headquarters of the Army Corps of Engineers. He left the Corps in 1978 to become an aide to the Mayor of Baltimore City and returned to teaching in 1979, taking a position as a U.S. Government instructor at Towson University.

Since 1980, Charles Walker has been working exclusively as a member of the Federal service. First as a Senior Soviet Research Analyst at the Library of Congress in 1980, he became a Public Affairs Specialist with the Corps of Engineers. He again left the Corps in 1982. In 1987, Charles Walker became the Public Affairs Director for the Maryland Department of the Environment.

In 1991, Charles Walker began his current position as a Government Affairs Officer with the Army Corps of Engineers. His professionalism, dedication, diligence and enthusiasm have had a significant positive impact on the Corps as it serves its mission.

The Baltimore District of the Corps serves five states and helps to design and construct facilities and provide real estate services to support America's Army. The Corps also plays an active role in maintaining important navigation channels to secure the safety of national commerce in addition to the many public service engineering projects it performs in our communities.

Mr. Speaker, I ask my colleagues to join me in thanking Charles E. Walker for his service to our nation and honoring him on the occasion of his retirement.

A PROCLAMATION HONORING ARLENE WHITBECK KRUEGER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. NEY. Mr. Speaker:

Whereas, Arlene May Whitbeck was born in Albany, New York on May 21, 1921; and

Whereas, Arlene Whitbeck married Robert Krueger on October 25, 1947; and

Whereas, Arlene and Robert raised their two children, John and Karen; and

Whereas, Arlene Krueger's professional career was spent in the family business, Whitbeck Motors, in Troy, New York, where she succeeded her father as President in 1965; and

Whereas, Arlene and Robert retired to Florida in the mid-1970s, but missing their family, now including their two grandchildren, Christopher and Sarah, they have returned to the New York of their roots to enjoy their golden years; and

Whereas, Arlene Krueger has exemplified a love of life, caring, and service for her family and neighbors.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Arlene Whitbeck Krueger as she celebrates her 84th Birthday.

PERSONAL EXPLANATION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. KOLBE. Mr. Speaker, on May 19, I missed the vote on agreeing to the Terry amendment to H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006 (#193). I intended to vote "nay."

TRIBUTE TO MOHAMMED KHAN, ADMINISTRATOR OF THE MONTACHUSETT REGIONAL TRANSIT AUTHORITY

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. OLVER. Mr. Speaker, I rise today to pay tribute to Mohammed Khan, Administrator of the Montachusett Regional Transit Authority, in recognition of his work in meeting the needs of transportation-disadvantaged individuals throughout the Commonwealth of Massachusetts.

Today, the Secretary of Transportation will award Mr. Khan and the Montachusett Regional Transit Authority the 2005 United We Ride National Leadership Award from the Federal Interagency Coordinating Council on Access and Mobility. The Montachusett Regional Transit Authority is one of only five organizations nationwide that will be recognized this year for exemplary coordination of transportation services for older adults, people with disabilities, and individuals with lower incomes. Through Mr. Khan's leadership, the Montachusett Regional Transit Authority is specifically being recognized for their Brokerage Services Program, a service that contracts with approximately 160 private sector vendors to provide over 11,000 rides a day.

It is not often that we are able to pay adequate tribute to our Nation's community leaders. Mr. Khan has been a strong force for progressive, efficient public service in the area of transportation. It is through Mr. Khan's humility, integrity and vision that many transportation-disadvantaged individuals receive quality, reliable transit services in the Commonwealth of Massachusetts. Mr. Khan has made outstanding contributions to his community and, is therefore, worthy of our thanks.

STOP COUNTERFEITING IN MANUFACTURED GOODS ACT

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. ROTHMAN. Mr. Speaker, as a proud cosponsor of H.R. 32, the Stop Counterfeiting in Manufactured Good Act, I rise in support of this legislation. In a time when U.S. manufacturing has been tested again and again by foreign markets, we must do everything we can to ensure that this vital industry continues to grow stronger. The Stop Counterfeiting in Manufactured Goods Act will do just that.

With its two pronged approach to destroy equipment used to manufacture counterfeit goods and to prohibit the trafficking of such goods, this legislation will save American manufacturers billions of dollars every year. Furthermore, the Stop Counterfeiting in Manufactured Goods Act will provide the same type of protection under the law for manufacturers that we now grant to copyright owners. This legislation is a welcome addition to the numerous efforts this Congress has undertaken to preserve the manufacturing sector.

I commend Congressman KNOLLENBERG for his interest in helping to protect manufacturing by granting law enforcement authorities the tools they need to put an end to counterfeiting practices. I urge my colleagues to support this legislation that will not only go a long to way in helping to preserve an American way of life, but it will also protect all Americans from the deception of counterfeit goods.

A PROCLAMATION RECOGNIZING RYAN KEITH GELTMEIER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. NEY. Mr. Speaker:

Whereas, Ryan Keith Geltmeier has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Ryan Keith Geltmeier has shared his time and talent with the community in which he resides; and

Whereas, Ryan Keith Geltmeier has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Ryan Keith Geltmeier must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award.

Therefore, I join with the residents of Sandyville, the entire 18th Congressional District of Ohio, Ryan's family and friends in congratulating Ryan Keith Geltmeier as he receives the Eagle Scout Award.

MINNESOTA'S HISTORIC OLD LOG THEATER MARKS RECORD RUN OF 65 YEARS

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to a historic Minnesota and national treasure, the Old Log Theater.

The Old Log is a pioneering lighthouse in the history of theater in our Nation, located on the shores of Lake Minnetonka in Greenwood, next to Excelsior, Minnesota.

Just as Lake Minnetonka for generations has been a powerful attraction for visitors from all over the world trying to escape the summer heat, the rich tradition of the Old Log Theater has been a magnet for theater fans around the globe.

On June 9th, the Old Log Theater will celebrate its 65th anniversary, a truly remarkable accomplishment that is most deserving of special recognition.

Mr. Speaker, the Old Log Theater, under the visionary guidance of Don Stolz, is the Nation's oldest, continuously running professional theater.

Don is largely responsible for the Old Log's legendary 65-year run.

He has worn every hat: producer, artistic director, company member, ticket seller, public address announcer, theater host and many more.

Don's distinguished presence, the great respect he enjoys in the community and the profession, and his wonderful sense of humor have as much to do with the success of the Old Log as any other factor.

The enduring legacy of this great theater is that, at its roots, the Old Log is a family affair. Don, his wife, Joan, and their sons, Tim, Tom, Dony, John and Peter, have acted as a team, filling every role.

And author and public relations manager Bob Williams is really a member of the Stolz family, too.

Originally opened in the spring of 1940 as a summer stock company in a log stable, the Old Log has entertained over 6 million patrons over the past six and a half decades.

In 1960, a new theater opened and the Old Log started running year-round its stable of the best in contemporary comedies from Broadway and London's West End.

Theater buffs can find some of the best comedic talent in the country in the Old Log's resident company of Equity actors.

Famous stars too numerous to mention have started their careers at the Old Log. Radio and TV personalities have graced its stage year after year.

But those of us who have been in the audience—and we come back time and again!—have been graced the most by the continuing excellence of the Old Log.

Mr. Speaker, please join me in congratulating Don Stolz and the Stolz family on the 65th anniversary of the Old Log Theater.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. KENNEDY of Rhode Island. Mr. Speaker, on the evening of May 23, I missed three rollcall votes. I respectfully request the opportunity to record my position on rollcall votes. It was my intention to vote: yes on H.R. 744—Internet Spyware (I–SPY) Prevention Act of 2005; yes on H.R. 29—Securely Protect Yourself Against Cyber Trespass Act; yes on H. Con. Res. 149—Recognizing the 57th anniversary of the independence of the State of Israel.

At this time I would ask for unanimous consent that my positions be entered into the RECORD following those votes or in the appropriate portion of the RECORD.

NARCO-TERRORISM ENFORCEMENT ACT OF 2005

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. HYDE. Mr. Speaker, I am pleased to introduce today the "Narco-Terrorism Enforcement Act of 2005." This legislation will provide yet another tool for our law enforcement agencies in the struggle against global terrorism and illicit drugs, and against those who traffick in the illicit narcotics which help finance terrorism.

In a recent hearing before our International Relations Committee on the heroin crisis in Afghanistan, our excellent and knowledgeable Drug Enforcement Administration (DEA) indicated that nearly half of the U.S. Government-designated Foreign Terrorist Organizations (FTOs) around the globe have links to illicit narcotics (18 of 40). The nexus between terrorism and illicit narcotics grows more and more as evidence emerges of their common, supportive links and as the use also increases of drug trafficking routes to move both narcotics and terrorists.

In the case of the Afghan narcotics, which help finance several of the terrorist organizations that are today attacking American troops and the new Afghan democratic government, much of the heroin produced there is supplied to Europe and Asia, not to the United States. In cases where there is not yet any known nexus to U.S. trafficking or any domestic destinations here at home, our DEA agents on the front line often rely on another foreign transiting nation or the producing nation itself to bring indictments of these drug trafficking cases and proceed with difficult and challenging prosecutions.

This bill makes clear that, even without direct U.S. nexus, if these drugs help support or sustain a foreign terrorist organization, the producers and traffickers can, and should be, prosecuted for material support of terrorism, whether or not the illicit narcotics are ever intended for, or enter, the United States. In addition, this bill raises the penalties under the material support-for-terrorism statute to reflect the seriousness of this offense. This bill reflects the new reality, emerging challenges, and ever-clearer drug links on the global terrorism front.

I look forward to enacting this reform as Congress continues its effort to provide our national law enforcement agencies with the tools needed to win the war on global terrorism.

WATER STORAGE

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. OTTER. Mr. Speaker, If there's one thing Idahoans understand, it's the importance of matching our limited water supplies to what seem to be unlimited demands on the water we have. Every year our water supplies face demands from irrigation, power generation, industrial and municipal users, as well as from environmental groups for fish recovery and other Endangered Species Act requirements.

These demands are constantly growing, yet every spring we watch hundreds of thousands of acre-feet of water pass through our system that could and should be stored for beneficial uses. This is water that could be used for aquifer recharge, expanding municipal systems or even environmental mitigation.

I have been told that the days of building new dams are over. However, I am not that easily convinced. Recently I convened a group of interested water users to look at additional storage opportunities in Idaho. The group is focusing on the Treasure Valley, but we are hopeful that the group can find some success and we can use a similar process in other regions of the state. We are not just talking about building dams; we also are looking at adding to existing structures, off-site storage, recharge and a host of other ideas.

As part of this process, the Bureau of Reclamation in Idaho is undertaking the appraisal level study for the Boise and Payette river systems. The legislation I am introducing today is the next step in the process. It is a broad authorization for the Bureau to conduct feasibility studies on the Snake, Boise, and Payette River systems.

Our communities, our economy and our families all depend on water to survive, grow and prosper. Deciding how to use such a rare commodity in a way that does the greatest good for the greatest number, while hewing to the principles of law and equity on which our society is based, is an enormous challenge. The task is further complicated, and brought into sharp focus, by the continuing drought plaguing Idaho and much of the arid West.

Our energy, our economy and our environment all will depend on the ability to anticipate and prioritize future water needs. Our children, our grandchildren and generations to come all are depending on the choices we make today. Preserving water rights while providing for continued growth are a top priority of mine and I will continue to work to achieve that goal.

IN TRIBUTE TO ROBERT PETERS, OUTSTANDING MILWAUKEE EDUCATOR

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to express my gratitude to an outstanding leader within the Milwaukee educational community, Mr. Robert L. Peters. Mr. Peters, who worked in the Milwaukee Public Schools for over thirty years, is retiring this month as Principal of James Madison University High School. As an educator and principal, he made a difference in the lives of thousands of young Milwaukee residents.

Mr. Peters came to Milwaukee from Mississippi. He received a B.S. cum laude from Jackson State University in 1972, earning his M.S. shortly thereafter from the University of Southern Mississippi.

As a principal, Mr. Peters sought to address long-standing problems—like discipline and attendance—in new ways. Ever an educator, he continued to teach and to develop new curricula throughout his career as an administrator. Mr. Peters developed five Milwaukee Public High Schools into praiseworthy educational facilities, creating nurturing, safe instructional environments that fostered student learning and academic excellence.

Mr. Peters is also an upstanding member of the Milwaukee community, taking an active role in his church, Tabernacle Baptist Church, and participating in numerous civic organizations and community activities. As a member of the National Association for the Advancement of Colored People (NAACP), he was active in the Annual Fund Raising Campaign. As a volunteer with Project Return, he provided counseling to local residents attempting to make the difficult transition from incarceration to regular society. He found ways to integrate this community leadership with his educational mission, for example, by developing a curriculum and conducting workshops for teachers to prepare for Black History Month.

His awards and commendations are numerous. Mr. Peters was recognized as one of North America's 100 Best Educational Administrators by Executive Educator and has been selected as Wisconsin's Principal of the Year.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Mr. Robert L. Peters for the immeasurable service he has rendered to our country and his community. I sincerely thank Mr. Peters for his enduring commitment to Milwaukee's children, and wish him a long, enjoyable retirement.

BUFFALO NEWS ARTICLE: CLOSE BASE ON LONG ISLAND, NOT IN NIAGARA, SAYS PENTAGON OFFICIAL FROM REAGAN YEARS

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. SLAUGHTER. Mr. Speaker, I rise to enter into the RECORD an article that appeared in the Buffalo News on May 24. The article details how a former Assistant Secretary of Defense under President Ronald Reagan has disagreed with Secretary Rumsfeld's recommendation to close Niagara Falls Air Reserve Station.

[From the Buffalo News, May 24, 2005]

CLOSE BASE ON LONG ISLAND, NOT IN NIAGARA, SAYS PENTAGON OFFICIAL FROM REAGAN YEARS

(By Jerry Zremski and Sharon Linstedt)

A former assistant secretary of defense under President Ronald Reagan has rushed to the defense of the Niagara Falls Air Reserve Station, saying the Pentagon should consider closing a base on Long Island instead.

Lawrence J. Korb, who oversaw personnel and base issues at the Pentagon from 1981 to 1985, wrote an op-ed article for the New York Times' Long Island regional edition Sunday that criticized the proposed Niagara closing.

He urged the independent commission that is reviewing the Pentagon's base-closure recommendations to instead consider shutting an Air National Guard station at Francis S. Gabreski Airport in Westhampton Beach.

"It should take a close look at Niagara and Gabreski," Korb wrote.

The two bases perform different tasks. The Niagara base services a Guard unit that performs refueling missions and an Air Reserve unit that hauls cargo, while the Gabreski base services a search-and-rescue Guard unit.

Korb suggested that the search-and-rescue team be moved to Stewart Air Force Base in Newburgh, north of New York City, and that Niagara stay open for several reasons.

For one, he said, such a move would keep jobs in-state and prevent the Niagara operations from being dispersed to Arkansas, Maine and Georgia.

"Moreover, the Pentagon will need to spend a lot just to bring Gabreski up to minimum standards," Korb wrote. "Paradoxically, Congress allotted Niagara more than $14 million last year for upgrades."

Korb, a native of Long Island, noted that while Gabreski contributes about $100 million to Long Island's economy, the Niagara base generates more than $150 million. "Suffolk County is better positioned than Niagara to absorb the cutbacks," he said.

In an interview, Korb said he decided to write the opinion article after reviewing the Pentagon's proposed closures. "This just doesn't make sense" that Gabreski would stay open and Niagara would close, he said.

He said that it would be very difficult for part-time air personnel from Niagara to travel to out-of-state bases to train and that Long Island would be better able than Western New York to withstand a base closing economically.

Korb, now a senior fellow at the liberal-leaning Center for American Progress in Washington, is one of Washington's most prominent and oft-quoted defense experts.

In another development, the Niagara Frontier Transportation Authority board of commissioners is throwing its support behind efforts to keep the Niagara Falls base open and will ask NFTA workers to do the same.

The NFTA board Monday unanimously approved a resolution backing the Niagara Military Affairs Council in its efforts to get the base off the list for closing.

Commissioners also approved a plan to send letters to the NFTA's 1,500 employees asking them to write to the Base Realignment and Closure Commission showing their support for keeping the base open.

"This is an important issue for the Niagara Falls community and all of Western New York. I think we need a full-court press," said Commissioner Henry M. Sloma, who represents Niagara County.

"It makes a lot of sense to show support," NFTA Chairman Luiz F. Kahl said of the USA Niagara-led effort to amass 10,000 letters before a June 27 hearing in Buffalo on the Pentagon proposal.

COMMENDING VINCENT PAUL DIEGO, PH.D.

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. BORDALLO. Mr. Speaker, I rise today to recognize and commend Vince P. Diego for the completion of his Doctor of Philosophy in Anthropology from the State University of New York at Binghamton. I had the privilege of attending Dr. Diego's Doctoral degree presentation on May 14, 2005, and was extremely impressed by the accomplishments of this promising man who hails from the village of Inarajan and completed his undergraduate studies in biology at the University of Guam. Vince is an outstanding role model for young Chamorros in Guam and a shining example that perseverance, dedication and excellence will be recognized and rewarded.

One of Dr. Diego's primary research interests is the rare neurodegenerative disease amyotrophic lateral sclerosis/Parkinsons-dementia complex, which has a historically high prevalence in Guam where it is known as lytico-bodig. Dr. Diego's ongoing research with his dissertation advisor Dr. Ralph M. Garruto seeks to provide a greater understanding of this disease, which is one of the most compelling unresolved mysteries of modern medicine. He would like to return to Guam after he completes his training to carry out his own research on the biomedical problems of Chamorros, the indigenous people of Guam, and other Micronesians.

His research interests also include diseases that are described as "metabolic syndromes," which include heart disease, diabetes, hypertension and obesity. Chamorros, Filipinos, and other Asian and Pacific Islander American groups in Guam suffer disproportionately from these diseases. As the Chair of the Congressional Asian Pacific American Caucus's Health Task Force, I have called for the need to better understand how our communities are affected by these devastating diseases. Dr. Diego is one of the scientists who is on the front line of learning more about these diseases and how they can be prevented and treated in our communities. His current research activities as a post-doctoral scientist at the Southwest Foundation for Biomedical Research's Department of Genetics include the statistical genetics of the metabolic syndrome in American Indians, Alaskan Natives, and Mexican Americans of San Antonio and on theoretical modeling in statistical genetics.

Dr. Diego's parents are Frank Paulino Diego and Teresita Taitague Diego of Inarajan and he is the youngest of six children. He graduated from Guam's Father Duenas Memorial School in 1990.

REMARKS OF SECRETARY OF STATE CONDOLEEZZA RICE TO THE AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. LANTOS. Mr. Speaker, as my colleagues know, the American Israel Public Affairs Committee (AIPAC) is holding its annual policy conference in Washington this week, and most of us will be receiving visits this week from our constituents who are here for this important yearly event.

Yesterday, Mr. Speaker, our Secretary of State, Condoleezza Rice, delivered the key address on behalf of the Administration to the AIPAC conference. Secretary Rice articulated in a clear and elegant manner the diverse and intense ties that bind the United States and our democratic ally Israel. As Secretary Rice reaffirmed as she began her speech, "Israel has no greater friend and no stronger supporter than the United States of America."

The strength of our relationship with Israel has transcended administrations and political parties. It was a critical and an intense relationship from the founding of the state of Israel in 1948, when President Harry Truman extended U.S. recognition to the Jewish state only eleven minutes after its independence was proclaimed. This relationship has continued through 57 years and eleven presidential administrations of both parties. Israel continues to enjoy strong bipartisan and bicameral support here in the Congress of the United States.

Though Israel and the United States have had close ties for more than half a century, conditions have changed, the world has changed, and our relationship has changed with the times as well. Secretary Rice has put American-Israeli ties in the framework of our ongoing fight against terrorism and our increasingly globalized world. She has emphasized the continuing importance of America's relationship with Israel to the American people and its relevance to the Administration's effort to foster democracy and respect for human rights and the rule of law throughout the Middle East.

Mr. Speaker, I ask that Secretary Rice's address be placed in the RECORD, and I urge my colleagues to read and give attention to her thoughtful remarks.

SECRETARY OF STATE CONDOLEEZZA RICE, REMARKS AT THE AIPAC ANNUAL POLICY CONFERENCE MAY 23, 2005

Thank you very much. Let me begin by saying that Israel has no greater friend and no stronger supporter than the United States of America. For over half a century, AIPAC has strengthened the religious, cultural and political bonds that unite our two great nations, and I thank you for that.

The United States and Israel share much in common. We both affirm the innate freedom and dignity of every human life, not as prizes that people confer to one another, but as divine gifts of the Almighty. As Thomas Jefferson once wrote, "The God that gave us liberty and life gave them to us at the same time."

Moral clarity is an essential virtue in our world today and for 60 years cynics and skeptics have proven that we have been looking to false choices in the Middle East. They have claimed that we must choose either freedom or stability, either democracy or security. They have said that the United States could either uphold its principles or advance its policies.

But by trying to purchase stability at the price of liberty, we achieved neither and we saw the result of that on a fine September morning. That is why President Bush has rejected 60 years of false choices in the Middle East. And as he said last week at the International Republican Institute, "The United States has a new policy, a strategy that recognizes that the best way to defeat the ideology that uses terror as a weapon is to spread freedom and democracy."

The President holds the deep belief that all human beings desire and deserve to live in liberty. This idea, of course, did not immediately find favor. Many continued to defend the false choices of the past. But we knew then and we know now America's message is clear, our principles are sound and our policies are right, and today the nations of the world are finally joining with the United States to support the cause of freedom.

We measure our success in the democratic revolutions that have stunned the entire world: vibrant revolutions of rose and orange and purple and tulip and cedar. The destiny of the Middle East is bound up in this global expansion of freedom. The days of thinking that this region was somehow immune to democracy are over. Working with our G-8 partners, the United States has created the Broader Middle East and North Africa Initiative to build partnerships with people in the region who are working for greater liberty.

The flagship of this bold new policy is the Forum for the Future, an unprecedented international venue to amplify the voices of reform that are redefining the region. Together, we will tackle the urgent goals of the Forum: political openness, economic liberty, educational opportunity and the empowerment of women.

Today, nations all across the world are speaking a common language of reform and they are helping citizens throughout the broader Middle East to transform the parameters of debate in their societies. The people of this region are expressing ideas and taking actions that would have been unthinkable only one year ago.

Some in the Arab media have even asked why the only real democracies in the Middle East are found in the "occupied lands" of Iraq and the Palestinian territories. What an incredible thought. Today, citizens in the region are demanding that their governments respond to this simple, audacious question.

And many states will have to answer their people's call for genuine reform. Jordan and Bahrain and Qatar and Morocco are all taking steps to introduce greater openness into their political systems. Egypt has amended its constitution with electoral reform. And even Saudi Arabia has held multiple elections. And just last week, remarkably, the Kuwaiti legislature granted its women citizens the right to vote.

Kuwait's recognition that it must include all of its people in political life is, hopefully, an example that its neighbors will follow. In Lebanon, hundreds of thousands of citizens have demanded an end to the foreign suffocation of their country. With strong international support, led by the United States and by France, and with an explicit mandate from the United Nations Security Council, Syria has gotten the message loud and clear that it is not welcome in Lebanon.

The Syrian regime has withdrawn its decades-long military presence. And at the end of this month, the Lebanese people will go to the polls and set a new course of action. But we cannot rest. Syria must also remove its intelligence forces and allow the Lebanese people to be free.

To be sure, a vital source of inspiration for all of these reformers comes from the people of Iraq, who defied threats of murder to vote in free elections in January. They declared with one voice that the will of the people, not the whim of a dictator, would determine Iraq's future. They declared with that same voice that no Iraqi regime would ever again torture its people, invade its neighbors, attack its neighbors and offer financial incentives to Palestinian homicide bombers.

Today, Iraq has a transitional government that will soon begin framing a new national constitution. Free nations everywhere have rallied to Iraq's side. There is a coalition of 30 countries helping the Iraqi people to defend themselves from murderers and terrorists. NATO is training Iraq's army officers, police forces and civilian administrators. And next month, at the request of Iraq's new government, the United States and the European Union will co-host an international conference to build greater support for democracy, prosperity and security.

Now, I speak to these reform efforts because the United States looks to a future and has a vision of a day when Israel is no longer the sole democracy in the Middle East. This aspiration shapes the very heart of our approach to the Israeli-Palestinian conflict as well. For four years, President Bush refused to meet with Yasser Arafat. He did so because Arafat valued neither Israel's security nor his own people's liberty.

There were those who ridiculed this principled decision as if the refusal to negotiate with a man who aided and abetted terrorism somehow revealed a lack of concern for peace. America and Israel had tried before to gain peace where democracy did not exist and we are not going down that road again.

Instead, President Bush advanced a vision of two democratic states: Israel and Palestine living side by side in peace and security. And today, the Palestinian people are trying to meet this democratic challenge. In January, they voted in historic elections for a leader who rejects violence as a path to peace. President Abbas has committed to both freedom and security and President Bush has offered his hand in friendship, just as he promised he would.

In three days, when they meet together here in Washington, they will build a relationship that is one that is based on the good faith that only democratic leaders can bring. The President will be clear that there are commitments to be met, that there are goals to be met, but that democracy is a goal that is unassailable and incontrovertible.

Prime Minister Sharon has also recognized that Israel is gaining a legitimate partner for peace and he has made courageous decisions that could change the course of history. Beginning in August, Prime Minister Sharon will implement his plan to withdraw from Gaza and parts of the West Bank. Israel's disengagement strategy presents an unprecedented and incredibly delicate opportunity for peace and we must all work together to capitalize on this precious moment.

To strengthen our present opportunities, all nations must meet their obligations. Israel must take no actions that prejudice a final settlement or jeopardize the true viability of the Palestinian state. And Israel must help to create the conditions for the emergence of that democratic state.

The Palestinian Authority must advance democratic reform and it must dismantle all terrorist networks in its society.

Arab states must end incitement in their media, cut off all support for terrorism and extremist education, and establish normal relations with Israel.

To nurture our present opportunity, President Bush proposed and the Quartet nations endorsed the appointment of James Wolfensohn as Special Envoy for Gaza Disengagement. Jim Wolfensohn will help the Israelis and Palestinians coordinate on non-military aspects of their disengagement, including disposition of assets and revitalization of the Palestinian economy.

To protect our present opportunity, President Bush has sent General William Ward to help the Palestinians reform their security services. General Ward is also coordinating all international security assistance to the Palestinians, including training and equipment.

To expand our present opportunity, the United States has greatly increased our financial assistance to the Palestinian people. We are pledging $350 million to help the Palestinians build the free institutions of their democratic state. This is an unprecedented contribution to the future of peace and freedom in the Middle East.

Yes, this past year has brought forth a dramatic shift in the political landscape of the Middle East. But this moment of transformation is very fragile and it still has committed enemies, particularly the Government of Iran, which is the world's leading sponsor of terrorism.

The United States has focused the world's attention on Iran's pursuit of weapons of mass destruction. And along with our allies, we are working to gain full disclosure of Iran's efforts to obtain nuclear weapons. The world must not tolerate any Iranian attempt to develop a nuclear weapon. Nor can it tolerate Iran's efforts to subvert democratic governments through terrorism.

Ladies and gentlemen, the Middle East is changing and even the unelected leaders in Tehran must recognize this fact. They must know that the energy of reform that is building all around them will one day inspire Iran's citizens to demand their liberty and their rights. The United States stands with the people of Iran.

President Bush has declared that advancing the cause of freedom is the calling of our time and in the broader Middle East, his policies are expanding the scope of what many thought possible. With our support, the people of the region are demonstrating that all great human achievement begins with free individuals who do not accept that the reality of today must also be the reality of tomorrow. Of course, there will always be cynics and skeptics who hold the misguided belief that if they can not see their goal, then it cannot be possible. They will try to elevate their cynicism by calling it realism and they will criticize all who echo the stirring words of Theodore Hertzel, "If you will it, it is no dream."

In 1776, cynics and skeptics could not see an independent America, so they doubted that it could be so. They saw only 13 colonies that could never hang together and would surely hang separately. But there were others who had a vision, a vision of the United States as a free and great nation, a democracy, and one day, a complete multiethnic society. With perseverance, the American people made that vision a reality. In 1948, cynics and skeptics could not see the promise of Israel, so they doubted it, said it could never be fulfilled. They saw only a wounded and wandering people beset on all sides by hostile armies.

But there were those who had another vision, a vision of a Jewish state that would shelter its children, defend its sacred homeland, turn its desert soil green and reaffirm the principles of freedom and democracy. With courage, the Israeli people made that vision a reality.

Today, cynics and skeptics cannot see a democratic Middle East, so they doubt that it is a realistic goal. They focus only on the despotism that has shaped the region's past and still defines much of its present. But ladies and gentlemen, make no mistake, freedom is on the march in Afghanistan and Iraq and in Lebanon and in Georgia and Ukraine and Kyrgyzstan and in the Palestinian territories.

Yes, it is hard and progress is uneven. There are violent men who will stop at nothing to prevent democracy's rise. Yet people all across the Middle East today are talking and demonstrating and sharing their vision for a democratic future. Many have given their very lives to this noble purpose.

The United States and Israel must defend the aspirations of all people who long to be free. And with our unwavering support, we can help to make the promise of democracy a reality for the entire region. Thank you very much.

NORTH SAN DIEGO COUNTY AREA WATER RECYCLING PROJECT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. CUNNINGHAM. Mr. Speaker, I am introducing legislation today that will authorize the U.S. Bureau of Reclamation to continue to participate in the construction of the North San

Diego County Area Water Recycling Project which also includes, as a new component, Phase II of the Olivenhain Water Treatment Plant. This project is very important in the overall water supply plan in my Congressional District and I am proud to offer this legislation that will assist in its further development.

The North San Diego County Water Recycling Project is a regional cooperative effort by the San Elijo Joint Powers Authority, the Leucadia County Water District, the City of Carlsbad and the Olivenhain Municipal Water District. When completed, the project will add up to 5 billion gallons annually to the San Diego region's local water supply. With years of drought, exploding growth rates and California's reduced intake of Colorado River water, this recycled water has become vital to the region and it is extremely important that the project is completed to its full potential.

In addition to the benefits to the San Diego County region, numerous federal objectives are advanced through the development of the North County Water Recycling Project. The project will directly reduce the surrounding region's demand for imported water from the environmentally sensitive California Bay/Delta and will help California live within its 4.4 million acre-feet allocation of water from the Colorado River. The project will also reduce the amount of effluent discharged into coastal waters and advance D.S./Mexico border environmental initiatives.

The legislation I offer today will increase the overall authorization ceiling for this project from $20 million to $35 million within the Bureau of Reclamation's Title XVI program. It is important to note that the majority of the funds necessary to construct this project are coming from local sources which represent a heavy financial burden on local agencies. Federal participation will help make this innovative water supply project a reality.

Mr. Speaker, I ask that this legislation be given prompt consideration.

HONORING MASTER SERGEANT JOSE M. LOPEZ

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. GONZALEZ. Mr. Speaker, today I rise to honor a true American hero even though that title is far too often overused. Master Sergeant Jose M. Lopez of San Antonio passed away on May 16th of this year at the age of 94 which in and of itself is remarkable but even more so when one learns of this amazing man's story. Sgt. Lopez was the nation's oldest living Hispanic Medal of Honor winner for his valor during the Battle of the Bulge in World War II. Sgt. Lopez represents the best of us and stands as a shining example of selflessness and sacrifice.

Perhaps it should not be a surprise Sgt. Lopez distinguished himself in battle since he often told one of his granddaughters, June Pedraza, "Fear is the one thing that will hold you back in life." Living that credo time and again throughout his life, Sgt. Lopez faced and overcame seemingly insurmountable odds. Born in Mexico in 1910, Sgt. Lopez's mother died when he was 8 leaving him an orphan since he never met his father. He then worked a series of hardscrabble jobs and eventually made his way to the Rio Grande Valley where a family took pity on him and let him sleep in their shed. Later, he rode trains across America and in Atlanta, a bigger man antagonized Sgt. Lopez until he fought and thoroughly whipped his larger opponent. Coincidentally, a boxing manager happened to see the incident unfold and realized potential even though it was packaged in a 5'5", 130 lb. frame and began training Sgt. Lopez. Rechristened Kid Mendoza, he went on to a professional record of 52 wins and 3 losses and later recounted meeting Babe Ruth as the highlight of his career.

In 1936, Sgt. Lopez joined the U.S. Merchant Marines and later worked a number of other maritime jobs. Once, he found himself adrift on a cargo ship without food except for bananas. After the start of World War II, Sgt. Lopez enlisted in the Army and was among the troops who hit the beaches at Normandy a day after D-Day commenced. Sgt. Lopez was wounded as a bullet nicked his hip and as he told Bill Moyers in 1990 for a PBS documentary "I was really very, very afraid. I wanted to cry, and we saw other people laying wounded and screaming and everything, and there's nothing you could do. We could see them groaning in the water, and we had to keep walking." And, he kept going despite his fears until he found himself at another of World War II's turning points, the Battle of the Bulge.

On December 17th, 1944 shortly after the sun rose, Sgt. Lopez and his troops in Company K were outside Krinkelt, Belgium when the Germans launched their last-ditch offensive which came to be known as the Battle of the Bulge. Patrolling in advance of Company K, Sgt. Lopez heard a tank which he assumed was Allied since a soldier hundreds of yards away failed to alert him otherwise. Carrying a Browning machine gun, he jumped into a shallow hole when he realized the tank was a German Tiger and the troops following it were German. Concerned for his men, he opened fired even though he was exposed from the waist up. First, he killed the 10 soldiers arrayed around the tank. After the tank fired three shell blasts that knocked him over and left him concussed, Sgt. Lopez got to his feet again and cut down 25 more soldiers until he saw that the advancing Germans would soon outflank his position. He lugged his machine gun to a fall back spot and fired again. Officers witnessing the scene stopped counting when the death toll reached 100. After delaying the German onslaught for precious minutes, Sgt. Lopez dashed into the forest while dodging enemy fire until he rejoined the men he had saved. The American forces in Krinkelt burrowed in and forced the Germans to bypass the town.

His Medal of Honor citation commended his "seemingly suicidal missions in which he killed at least 100 of the enemy . . . [and which] were almost solely responsible for allowing Company K to avoid being enveloped, to withdraw successfully and to give other forces coming up in support time to build a line which repelled the enemy drive." Despite his obvious valor, Sgt. Lopez remained a modest man who later told the San Antonio Express-News in 2001, "You learn to protect the line and do the best you can with the ammunition you have, and I did it."

Later, Sgt. Lopez served during the Korean War, and undertook a variety of jobs within the Army including overseeing a motor pool. He retired in 1973, yet continued to be physically active as he jogged until he was 88 and only gave up seeing a trainer three months ago. He was a committed family man whose beloved wife passed away in February of last year. As his son John Lopez said "He was a great hero, without being a hero around his family." He is survived by five children, 19 grandchildren, and 10 great grandchildren.

This quintessential American story reaffirms my belief in our nation as a beacon for those willing to work and sacrifice to improve their lot in life no matter how meager and humble one's beginning may have been.

TRIBUTE TO THE NEW MICHIGAN CHAPTER OF JUSTICE FOR CHILDREN AND DIRECTOR. CHIP ST. CLAIR

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. KNOLLENBERG. Mr. Speaker, today I join the people of the 9th Congressional District and the State of Michigan in announcing the opening of the Michigan Chapter of Justice for Children. JFC is the only nonprofit corporation formed to save at risk unprotected children who have been physically abused or neglected.

Justice for Children intervenes on behalf of abused children when child protection agencies and courts fail to protect them. They help children whose cases have been closed by Children's Protective Services before help has been provided and have no Court Appointed Special Advocate or who even with CASA support, are on the verge of being sent back to an abusive home.

Last year Mr. Chip St. Clair, a Rochester Hills resident, called the JFC National Office in Houston and said he wanted, to make something good arise from his childhood of abuse and violence. Becoming a regional director for JFC fulfills that desire and the abused children of Michigan now have an ardent advocate to save them from the life he had to endure as a child.

Mr. St. Clair was a victim of terrible abuse at the hands of his father—Michael Grant—who was a convicted child murderer. That murder took place in 1970 in Indiana. Grant escaped from the Indiana State Penitentiary in 1973 with the aid of the woman who would become Chip's mother. St. Clair was born in 1975 and did not discover that his father was a murderer until 1998 when he was 23 years old.

"I emptied the glass which was full of horror stories of my childhood and began filling that glass with nobility and honor. Joining JFC and helping abused children represents a major step in the Journey of Justice which began on that fateful day in 1998," said St. Clair.

Justice for Children has been acclaimed by the American Bar Association, jurists from around the country, national television networks, news programs, and bipartisan congressional leaders for its work on behalf of abused and neglected children. Today we honor the Michigan Chapter of Justice for Children and Director, Chip St. Clair for their dedication to help abused and neglected children.

RECOGNIZING THE RETIREMENT OF RUSSIAN CHESS CHAMPION GARRY KASPAROV

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. COX. Mr. Speaker, I wish to take a moment to honor the world's greatest chess player, Garry Kasparov, on the occasion of his retirement.

To chess enthusiasts around the world, Garry Kasparov's announced retirement from professional chess comes as an enormous disappointment. By the standards of international chess he is the greatest chess player of all time. His retirement at the relatively youthful age of 41 raises questions about unfulfilled possibilities. But given his legendary achievements, we can only stand in profound admiration. He is a true champion.

Throughout his career, Garry Kasparov has been a champion of human rights as well. He has been resolutely committed to the freedom of Russia and all of her citizens, and to the replacement of the grisly legacy of Soviet communism with genuine democracy, free speech, freedom of the press, religious liberty, and the rule of law. As chairman of Committee 2008: Free Choice, Mr. Kasparov is leading a natural coalition of concerned Russians dedicated to safeguarding democratic institutions in that country. It is a task worthy of his considerable ability.

Mr. Speaker, for over a decade I have had the privilege of calling Garry Kasparov a good friend. I know that everyone in this chamber shares with me their good wishes for his continued success, of gratitude for all that he has given of himself and to make the world a better place.

HONORING JOHN REX DE VLAMING, JR.

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. HENSARLING. Mr. Speaker, today, I would like to honor the memory of John Rex de Vlaming, Jr. who passed away earlier this year at the age of 85. A distinguished Navy veteran of World War II, John was instrumental in organizing and planning the Kaufman County Veteran's Memorial Park currently under construction in Kaufman.

John was a lifetime member of the Veterans of Foreign Wars (VFW) and the American Legion, serving as the Post Commander of the Kaufman VFW from 1976–1978, and later as Post Commander of the American Legion, Hamlet P. Jones Post #165 from 1981–1986. In 1990, John earned the Meritorious Service Award from the American Legion, and in 1997, he was recognized by the VFW for his 55 years of membership.

President Calvin Coolidge once said, "The nation which forgets its defenders will itself be forgotten." As a veteran, John understood that better than most Americans, and throughout his life he did his very best to ensure that our nation never forgets the sacrifices that our soldiers, sailors, marines and airmen made to defend our freedom.

As the Congressional representative for the Fifth District of Texas, today I would like to honor the life of John Rex de Vlaming, Jr. and the outstanding work he did on behalf of our nation's veterans.

THE 60TH ANNIVERSARY OF THE DISAPPEARANCE OF RAOUL WALLENBERG

TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. LANTOS. Mr. Speaker, later this week, the distinguished Swedish Ambassador to the United States, His Excellency Jan Eliasson, will give a briefing to members of the Congressional Human Rights Caucus on the lifesaving humanitarian work of Swedish citizen Raoul Wallenberg.

Mr. Speaker, this is a particularly appropriate time for us to recall Wallenberg's sacrifices to serve his fellow man. Earlier this month, we celebrated the 60th anniversary of the end of World War II in Europe, and shortly before that we marked Yom HaShoah, the Day of Holocaust Remembrance. In January the United Nations General Assembly held an extraordinary session to mark the 60th anniversary of the liberation of Auschwitz and other Nazi concentration camps during World War II.

This year also marks the 60th anniversary of the disappearance of Raoul Wallenberg. After courageously saving the lives of tens of thousands of people in Budapest during the Holocaust, Wallenberg was arrested by Soviet troops in January 1945 and disappeared into the Soviet gulag. His action during the Holocaust in Hungary led the Israeli Knesset to bestow upon him the title "Righteous Among the Nations" ("Righteous Gentile").

Born in August 1912 in Stockholm, Sweden, Raoul Gustav Wallenberg, could have lived out his life in luxury and relative obscurity as a member of one of Sweden's most prominent families. At the University of Michigan in 1935, he earned a bachelor's degree in architecture with honors, as well as a medal for his outstanding academic record. After returning to Sweden from America, he worked for the family business selling building supplies in South Africa, and he worked in a bank in Haifa, in what is now Israel.

In Haifa on the eve of World War II, he met many Jews who had escaped the horrors of Hitler's Germany, and he became an impassioned defender after hearing tales of horror under the Fascist state.

In March 1944, Mr. Speaker, the Germany army invaded Hungary, and Adolf Eichmann arrived in Budapest to supervise the deportation of Hungarian Jews to the Nazi death camps. At the request and with the support of the United States government, Raoul Wallenberg arrived in Budapest in June of 1944. Over the following six months, he became a legend at saving Jewish lives, and his remarkable heroism and creative efforts are now repeated with respect and awe around the world.

When the Soviet Army finally liberated Budapest in January 1945, Wallenberg believed, or at least hoped, that he was finally safe, and he went to the headquarters of the Soviet military command in eastern Hungary to report on conditions in Budapest and to ask for food and medicine for the surviving victims. The Soviet officers did not believe his story. They were convinced that he was an American spy. He was arrested on January 17, 1945, and he has never been officially heard from since that day.

Mr. Speaker, the Russians have never provided a full and complete account of the disappearance of Wallenberg. Numerous sightings of him within the brutal Soviet gulag were reported for decades after his untimely disappearance in Hungary. These sightings raise serious doubts about the official Soviet position that he died of a heart attack in a prison near Moscow in 1947.

In February of this year, 2005 the Israeli Knesset honored Wallenberg by officially granting him the title of "Righteous Among the Nations" ("Righteous Gentile"). President Moshe Katzav and Prime Minister Ariel Sharon spoke with great eloquence about his heroic and selfless actions. Many close family members were present for the wonderful event honoring this great man.

Last October, the city of San Francisco in my congressional district extended honorary citizenship to Wallenberg, just as the United States by Act of Congress did 23 years earlier. Raoul Wallenberg is the second person after Sir Winston Churchill to receive honorary United States citizenship. His bust, which was placed in the United States Capitol Building, is seen by tens of thousands of visitors to our Capitol every year.

Mr. Speaker, as we mark the 60th anniversary of the triumph of the democracy and freedom over Nazi brutality and horror, I invite my colleagues to join with me in commemorating the heroic actions of Raoul Wallenberg. His gift to the world is not merely the tens of thousands of lives he saved, but as important is the inspiration he is to so many people around the world.

TRIBUTE TO STEVEN SIYI HAO

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise today to recognize Steven Siyi Hao for his prize winning entry in the 56th

Intel International Science and Engineering Fair.

Last week, over 1,400 pre-college students participated in the Intel International Science and Engineering Fair in Phoenix. Students from several countries submitted entries in hopes that they would win a portion of the $3 million in scholarships, tuition grants, internships and scientific field trips given away. This annual competition awarded six of nine Bay Area students for their entries, three of whom reside in San Jose.

Steven is a 17 year old student from Silver Creek High School. His project titled, "The Effects of Oxidative Damage on Protein Translation Efficiency" studied the negative effects of oxygen-free-radicals on protein production and DNA. His entry won him a paid summer internship at an Agilent Technologies site.

The Intel International Science and Engineering Fair promotes education and creativity in a way that is vital to a youth's development. These types of activities encourage students to explore the fields of science and engineering. This kind of innovation will drive the United State's economy into the future. Being from Silicon Valley, I fully understand the importance and impact that these studies have on America's prosperity.

I am proud to stand here today and recognize Steven for his accomplishments. I urge him and youth alike to continue to take interest in these fields, and lead the United States in its development of science and engineering exploration.

LIVING WORD BAPTIST CHURCH MEMORIAL SERVICE IN HONOR OF SERVICE MEN AND WOMEN, PRESENT AND PAST

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. BURGESS. Mr. Speaker, and so it was said by Pericles, the Athenian leader some 24 centuries ago, "Not only are they commemorated by columns and inscriptions, but there dwells also an unwritten memorial of them, graven not on stone but in the hearts of men."

Those words resonate true today as they did centuries ago. Above all, I am awed by a greater sense of pride and appreciation for our fallen soldiers and those serving abroad. We approach this day with solemn affirmations of the sacrifices of our brave men and women, and in celebration for every joy and freedom bestowed to us from the Almighty.

This day was born of human necessity and the answer to an overwhelming desire to honor those who have given the ultimate sacrifice so that we may live not with fear, but with hope. No matter where he or she has served, a soldier stands in place for you, for me, for us as a country and for freedom everywhere.

May they always be honored for their commitment and respected for their bravery. For the stance taken by each man and woman is written down in the archives of history. The stories and memories shape our vision of the world and provide footsteps for future generations.

Bow one head; say one prayer; lay one flower; remember one soldier; and may we all give thanks to God and honor Veterans today.

HONORING ALLISON MORGAN AND HER FOURTH GRADE CLASSMATES AT THE CRANBERRY PINES SCHOOL IN MEDFORD, NJ

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. ANDREWS. Mr. Speaker, I recently visited the Cranberry Pines School in Medford, NJ, where I met with a group of exceptional fourth graders. They expressed to me their interest in saving wild horses from being slaughtered. One exceptional young girl, Allison Morgan, wrote me a letter about this issue which I have included below. I encourage my colleagues in Congress to support this important cause.

> DEAR CONGRESSMAN ANDREWS, Lately, I've been hearing things on the news about how so many wild horses are being slaughtered. You probably know that. You probably also know that millions of people are concerned. Well, I'm one of those people. I think wild horses deserve some help. Let's make laws to save these spectacular creatures. Horses have rights, too!
>
> There are many reasons why we should protect the wild horses. First, the wild horses have helped us in many ways. We rode them in wars, and they helped us win those wars. Also, Paul Revere rode a horse to warn us if the British were coming by land or sea. If he had to walk, he'd be too late for his message to matter. In addition, horses helped us get mail across the country in the Pony Express. They helped people all over the country communicate. Last, horses helped us get places. Without them, we'd have to walk a long way.
>
> Besides for helping us, horses deserve to be saved for another reason. That reason is that they are animals too; they deserve rights. First, horses never did things that annoyed us. We kill these poor, innocent creatures. Second, do you think animals want to die? Well, they don't; do you? Third, we treat horses like dust in the wind. I bet you don't want to be dust in the wind. Last, how would you like it if horses started slaughtering us?
>
> We've treated the wild horses horribly for so long, now they are in danger of becoming extinct. First, people sometimes kill wild horses just for fun. Next, in 1860 we had two million wild horses. By 1970 there were only 17,000 left. The horse population dropped dramatically then, it might do the same now. Last, ranchers use wild horses to round up cattle. Wild horses round up their herd all the time, so rounding up cows is easy for them. They can guess where a cow will move before it even turns. Domestic horses don't have that "cow sense."
>
> Horses are amazing animals and deserve to live. Without them, so many things would be different. So please, make laws to save these amazing animals—the wild horses.
>
> Sincerely,
>
> ALLISON M. MORGAN.

TRIBUTE TO PETE REYES

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. BACA. Mr. Speaker, Mr. COSTA and I rise to pay tribute to Mr. Pete Reyes, who is being honored this weekend as an Eagle Award winner by the Adelante foundation. Mr. Reyes is an individual of great distinction, and we join with family and friends in honoring his remarkable achievements and expressing great pride in the honor that is to be bestowed on him.

Mr. Reyes has devoted his life to helping students through his chosen profession in education. He has been an incredible resource to the Clovis Unified School District and continues to work every day to improve the school community.

For the past 38 years, Mr. Reyes has dedicated himself to educating the young minds of tomorrow and is currently serving the Fancher Creek Elementary School as Principal. In this capacity, he has been an integral contributor to the management and administration of the school, as well as leading the school to numerous awards in excellence in performance.

Through his tenure as an educator, Mr. Reyes has exhibited kindness, love, humility, and a deep resolve to ameliorate all aspects of community life, so it is only appropriate that he receive this award from Adelante.

We join with family and friends in thanking him for his 38 years of service. He is a symbol of all that is good in his profession and an inspiration to all that know him.

And so, Mr. Speaker, we salute Mr. Pete Reyes. We express admiration in his career and hope that others may recognize his good works in the community.

IN RECOGNITION OF LINCOLN PARK HIGH SCHOOL

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. EMANUEL. Mr. Speaker, I rise today in proud recognition of Lincoln Park High School, recently selected by Newsweek Magazine as one of America's best high schools.

Lincoln Park High School, formerly named Robert A. Waller High School, has served the students and families of Chicago's North Side for over 100 years. Lincoln Park High School provides its students with exciting opportunities for academic, athletic and artistic growth, while instilling values that will serve its students throughout their lives.

The students at Lincoln Park High School have established an impressive record of academic achievement. Eighty-seven percent ofthe school's 2004 graduates enrolled in a college or university. Lincoln Park High School currently has 8 National Merit Semi-Finalists in 2005, and has had more National Merit Semi-Finalists over the last 15 years than all other Chicago Public Schools combined.

Students at Lincoln Park High School enjoy the support of strong parent and alumni associations which take an active role in over 60 extra curricular activities and clubs. Community partnerships with institutions such as Children's Memorial Hospital, Charlie Trotter's Restaurant and the Lincoln Park Zoo also provide learning opportunities outside of the classroom in a wide range of disciplines.

These activities and experiences teach students the importance of academic achievement while also providing a balanced perspective on life that promotes responsibility, justice and social service.

Mr. Speaker, Lincoln Park High School is a shining example of public education at its best. I am proud of the students, faculty and families of Lincoln Park High School and I wish them continued success in the coming years.

TRIBUTE TO TERIK DALY

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise today to recognize Terik Daly for his prize winning entry in the 56th Intel International Science and Engineering Fair.

Last week, over 1,400 pre-college students participated in the Intel International Science and Engineering Fair in Phoenix. Students from several countries submitted entries in hopes that they would win a portion of the $3 million in scholarships, tuition grants, internships and scientific field trips given away. This annual competition awarded six of nine Bay Area students for their entries, three of whom reside in San Jose.

Terik is a 15-year-old student from Oak Grove High School. His project titled, "The Derivation and Interpretation of Geochemical Ratios Generated by Meteoritic Impact" derived meteor composition by examining chemical composition of granite before and after impact. His entry won him a fourth-place prize ($500) in earth science; $8,000 tuition scholarship from Office of Naval Research (on behalf of U.S. Navy and Marine Corps).

The Intel International Science and Engineering Fair promote education and creativity in a way that is vital to a youth's development. These types of activities encourage students to explore the fields of science and engineering. This kind of innovation will drive the United State's economy into the future. Being from Silicon Valley, I fully understand the importance and impact that these studies have on America's prosperity.

I am proud to stand here today and recognize Terik for his accomplishments. I urge him and youth alike to continue to take interest in these fields, and lead the United States in its development of science and engineering exploration.

IN HONOR OF MATTHEW W. FREEMAN

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. BURGESS. Mr. Speaker, I rise today to pay tribute to a man, like so many others in our Nation, who were truly American: Matthew Walden Freeman.

Although I did not personally know Midshipman Matthew Freeman, I knew of his valor and patriotism. His passing is somberly remembered by those who knew him best. A senior at the U.S. Merchant Marine Academy in New York, Matt had shown a dedication to service his entire life. A graduate of Ryan High School in Denton, Matt was honored to be awarded status as an Eagle Scout.

While Midshipman Freeman was not activated, he was a reservist and served as Navy Second Class. During his time at the Academy, Midshipman Freeman devoted time and effort into helping others. The Superintendent of the U.S. Merchant Marine Academy (USMMA) issued an Academy Achievement Ribbon for Meritorious Service to Matt for his waterborne rescue and relief efforts following the terrorist attack on the World Trade Center in New York City. As an Emergency Medical Technician (EMT) Matt interfaced with the midshipmen volunteers who manned Academy vessels used to ferry firefighters, rescue personnel and emergency equipment throughout New York Harbor in support of the New York City Fire Department's emergency operations. He personally participated in three watch tours and spent over 40 hours on the scene. As an EMT, he provided first-aid services to firefighters working ashore near the disaster and to midshipmen rescue personnel traveling aboard Academy vessels. He also helped manage the EMT watch throughout the Academy's operation and assisted with their blood drive on 9/11.

Along with the 89 other midshipmen participants, he displayed the highest levels of leadership, professionalism and compassion and served as an inspiration to his peers during the difficult days of the rescue and recovery operation. Through his unselfish service, Midshipman Freeman brought great credit to the Regiment of Midshipmen during a time on national crisis and served as role model to his fellow midshipmen, the 4th class in particular. His actions were in keeping with the highest traditions of the Regiment of Midshipmen and the USMMA. He received a citation for outstanding performance in support of Operation Guarding Liberty, following the attack on WTC.

Today, we honor Matt Freeman for his commitment to America. I want you to know, on behalf of a grateful Nation, we say, "Thank you." He will always be remembered for his kindness and generosity to others, and may he serve as a role model for others in the future.

TRIBUTE TO COACH JOE SOLTERO

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. BACA. Mr. Speaker, Mr. COSTA and I rise to pay tribute to Coach Joe Soltero who has coached Little League in Delano, CA for over 37 years. By receiving the Adelante Eagle Award, Coach Soltero is being recognized for his years of selfless service to his community and it gives us great pleasure to acknowledge his years as a coach and mentor to the students of Delano.

Coach Soltero is an exceptional individual who has not only devoted his life to helping the Delano community at-large but has also been an important pillar of support for generations of children. His kindness and passionate spirit render him a vital resource and a beloved member of his community.

As a little league coach, he instilled the values of teamwork, dedication and perseverance. He is an inspiration to those who know him and influenced countless people with his work ethic and love of teaching. He has been an integral contributor to his community, as well as an active participant and positive influence on the lives of his little league players.

During his 30-plus years, Coach Soltero has played in 16 championships, winning 12 of them. He taught the values of sportsmanship and winning humbly.

And so, Mr. Speaker, we salute Coach Joe Soltero. We join with family and friends in honoring his incomparable accomplishments and congratulate him on this well-deserved award.

TRIBUTE TO DAVID I. MARASH-WHITMAN

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise today to recognize David I. Marash-Whitman for his prize winning entry in the 56th Intel International Science and Engineering Fair.

Last week, over 1,400 pre-college students participated in the Intel International Science and Engineering Fair in Phoenix. Students from several countries submitted entries in hopes that they would win a portion of the $3 million in scholarships, tuition grants, internships and scientific field trips given away. This annual competition awarded six of nine Bay Area students for their entries, three of whom reside in San Jose.

David is a 13-year-old student from Kehillah Jewish High School. His project, titled "Design for Biodegradation: Harnessing Natural Decay by Managing Physical and Chemical Dynamics" investigated optimal nitrogen-carbon ratios, moisture and aeration for increasing the rate and total degradation of compost. His entry won him a second-place prize ($1,500) in environmental sciences.

The Intel International Science and Engineering Fair promotes education and creativity in a way that is vital to a youth's development. These types of activities encourage students to explore the fields of science and engineering. This kind of innovation will drive the United States' economy into the future. Being from Silicon Valley, I fully understand the importance and impact that these studies have on America's prosperity.

I am proud to stand here today and recognize David for his accomplishments. I urge him and all youth alike to continue to take interest in these fields, and lead the United States in its development of science and engineering exploration.

HONORING THE CIRCLE OF HOPE AWARD NOMINEES

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize the service and commitment of Sherry Davidoff, Morgan Harvard and Julianna Tisdale. These individuals have shown great dedication and loyalty in mentoring and making a difference to those in need of it most.

Ms. Davidoff, Ms. Harvard, and Ms. Tisdale were recently honored by The Colleyville Woman's Club at the annual Youth Volunteer Service Awards with the Circle of Hope Award. This prestigious award recognizes youth who have demonstrated laudable public service throughout their community. The selfless way in which they serve as mentors and volunteers speaks volumes to their loyalty and adherence to better assist those who require it most. It is the noble efforts of individuals such as the aforementioned that improve our community and strengthen America.

It is with great honor that I stand here today to recognize these ladies who have dedicated their young lives to assisting others. Their contribution and services should serve as an inspiration to others in their field and those who wish to make a positive difference in the lives of others.

THE 30TH ANNIVERSASRY OF ALU LIKE, INC.

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. CASE. Mr. Speaker, I take this opportunity to recognize and congratulate a remarkable organization, Alu Like, Inc., as it marks its 30th anniversary of service to my Hawai‘i's Native Hawaiian community.

Alu Like, which means "striving (working) together," was established in 1975 to promote social and economic self-sufficiency among Native Hawaiians. The organization was given its name by kupuna Mary Kawena Pukui, and its motto, "E alu like mai kākou, e nā ‘ōiwi o Hawai‘i" (Let us work together natives of Hawai‘i), by kupuna Edith Kanaka‘ole.

Now with 238 employees located throughout the State of Hawai‘i (Hawai‘i, Kaua‘i, Lāna‘i, Maui, Moloka‘i, and O‘ahu), it has grown into one of Hawai‘i's most successful service agencies and has been instrumental in improving the quality of life for our Native Hawaiian community from early childhood to kūpuna (elderly) programs. These include a range of services and activities such as economic development, business assistance, employment preparation, training, library services, and educational and childcare services for families with young children, all tailored to the specific often unique, needs of Hawai‘i's indigenous people. Current services include: Ho‘okahua—Early Childhood; Ho‘olōkahi—High Risk Reduction; Ho‘omānea ‘Ōiwi—Education and Employment; Ka Ipu Kā‘eo—Education and Training; Kūlia Like—Financial Literacy and Kumu Kahi—Elderly Services.

Throughout its thirty years, Alu Like has served more than 100,000 people, and continues to form strong partnerships with other service providers. To increase its outreach to our community, Alu Like has also worked closely and collaboratively to expand its commitment to education and language preservation through its Native Hawaiian Library and to community service through its AmeriCorps Project.

As always, the success of any organization requires strong and sustained leadership from its staff and board of directors, and Alu Like has benefited greatly from a whole generation of such leaders. These include its visionaries—Myron "Pinky" Thompson, Alvin Shim, James Bacon, Yukio Naito, David Peters, and Winona Ellis Rubin—and directors over the years, as well as its Presidents/CEOs, who have included: Winona Ellis Rubin, Myron "Pinky" Thompson, David Helela, Masaru Oshiro, S. Haunani Apoliona, and Tara Lulani Arquette.

Under the current leadership of Mervina K.M. Cash-Kaeo, President/CEO, I have every confidence that Alu Like will continue to be a leading service organization in its promotion of social and economic self-sufficiency for all Native Hawaiians. But today is a time for us simply to reflect on the great success of our Alu Like ‘ohana (family), all of whom deserve our praise and commendation for a job truly well done.

Mahalo, and aloha!

IN HONOR AND MEMORY OF SPECIALIST STEVEN RAY GIVENS

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. BONNER. Mr. Speaker, just over ten days ago the First Congressional District of Alabama and indeed, our entire state and nation, said goodbye to another casualty of war in Iraq.

Army Specialist Steven Ray Givens, a native of Houston, Texas, and a longtime resident of Mobile, Alabama, had recently volunteered for a second tour of duty in Iraq after having already completed an earlier 14-month tour. Steven, a member of the Third Infantry, Third Brigade, of Fort Benning, Georgia, returned to Iraq in mid-January, 2005, and had planned to make a career with the Army. Unfortunately, on May 8, 2005, he was fatally wounded during an attack by Iraqi insurgents.

During his career with the Army, Steven set a standard of excellence and displayed the qualities of discipline, devotion, and dedication to country that are the hallmarks of men and women throughout the long and distinguished history of the American military.

While serving his country with all his ability, Steven also showed great concern and charity for those he fought to liberate, frequently asking his friends and family back at home to send toys and snacks for the children in Iraq. As he left for his second tour he told his family, "I can do something," and he truly did. This dedication to devote his life to serving his country and his concern and charity towards the children are a telling sign of what kind of man Steven was. This young man has shown America and the world the values and ideals our great country stands for.

It is appropriate for us to pause and thank God that there are still young men like Steven, whose life personified the very best America has to offer.

Mr. Speaker, as you can imagine, south Alabama is truly morning the loss of this fine young man. I urge my colleagues to take a moment to pay tribute to Army Specialist Steven Ray Givens and his selfless devotion to not only our country and the freedom we enjoy, but to a people who are in the infant stages of a new life—a new freedom—in their own land.

We should remember his wife, Cayssia Givens, and his two-year-old son, his parents, Joyce and Mike McDuffie, and his other family members and many friends. Our prayer is that God will give them all the strength and courage that only He can provide to sustain them during the difficult days ahead.

IN SPECIAL RECOGNITION OF DANIEL R. BORCHERDT ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Daniel R. Borcherdt of Archbold, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

Daniel's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2009. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Daniel brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending

Archbold High School in Archbold, Ohio, Daniel has attained a grade point average of 3.80, which places him near the top of his class of more than one hundred students. While a gifted athlete, Daniel has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. In addition, Daniel has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Daniel has distinguished himself as an excellent student-athlete. On the fields of competition, Daniel has excelled in Varsity Basketball where he was selected as First-Team All Ohio. Daniel's dedication and service to the community and his peers has proven his ability to excel among the leaders at West Point. I have no doubt that Daniel will take the lessons of his student leadership with him to West Point.

Mr. Speaker, I ask my colleagues to join me in congratulating Daniel R. Borcherdt on his appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Daniel will do very well during his career at West Point and I ask my colleagues to join me in wishing him well as he begins his service to the nation.

FDA AND GENETICALLY ENGINEERED FOODS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. KUCINICH. Mr. Speaker, I wish to bring the following article to the attention of my colleagues. We must continue to challenge the FDA's assumption that all genetically engineered food is safe.

[From the Independent, May 22, 2005.]

REVEALED: HEALTH FEARS OVER SECRET STUDY INTO GM FOOD

(By Geoffrey Lean)

Rats fed on a diet rich in genetically modified corn developed abnormalities to internal organs and changes to their blood, raising fears that human health could be affected by eating GM food.

The Independent on Sunday can today reveal details of secret research carried out by Monsanto, the GM food giant, which shows that rats fed the modified corn had smaller kidneys and variations in the composition of their blood.

According to the confidential 1,139-page report, these health problems were absent from another batch of rodents fed non-GM food as part of the research project.

The disclosures come as European countries, including Britain, prepare to vote on whether the GM-modified corn should go on sale to the public. A vote last week by the European Union failed to secure agreement over whether the product should be sold here, after Britain and nine other countries voted in favour.

However, the disclosure of the health effects on the Monsanto rats has intensified the row over whether the corn is safe to eat without further research. Doctors said the changes in the blood of the rodents could indicate that the rat's immune system had been damaged or that a disorder such as a tumour had grown and the system was mobilising to fight it.

Dr. Vyvyan Howard, a senior lecturer on human anatomy and cell biology at Liverpool University, called for the publication of the full study, saying the summary gave "prima facie cause for concern".

Dr. Michael Antoniu, an expert in molecular genetics at Guy's Hospital Medical School, described the findings as "very worrying from a medical point of view", adding: "I have been amazed at the number of significant differences they found [in the rat experiment]."

Although Monsanto last night dismissed the abnormalities in rats as meaningless and due to chance, reflecting normal variations between rats, a senior British government source said ministers were so worried by the findings that they had called for further information.

Environmentalists will see the findings as vindication of British research seven years ago, which suggested that rats that ate GM potatoes suffered damage to their health. That research, which was roundly denounced by ministers and the British scientific establishment, was halted and Dr. Arpad Pusztai, the scientist behind the controversial findings, was forced into retirement amid a huge row over the claim.

Dr. Pusztai reported a "huge list of significant differences" between rats fed GM and conventional corn, saying the results strongly indicate that eating significant amounts of it can damage health. The new study is into a corn, codenamed MON 863, which has been modified by Monsanto to protect itself against corn rootworm, which the company describes as "one of the most pernicious pests affecting maize crops around the world".

Now, however, any decision to allow the corn to be marketed in the UK will cause widespread alarm. The full details of the rat research are included in the main report, which Monsanto refuses to release on the grounds that "it contains confidential business information which could be of commercial use to our competitors".

A Monsanto spokesman said yesterday: "If any such well-known anti-biotech critics had doubts about the credibility of these studies they should have raised them with the regulators. After all, MON 863 isn't new, having been approved to be as safe as conventional maize by nine other global authorities since 2003."

THE 85TH BIRTHDAY OF HELEN COLLINS FOOTE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. STARK. Mr. Speaker, Mr. HOYER and I rise today to honor Helen Foote, a woman of faith, family, a selfless spirit and infectious laughter.

Ms. Foote was born to the late Reverend Benjamin Collins and Henrietta Collins in South River, Maryland. One of eight children, Helen received her education in a one-room school and spent her free time like most children, fishing, hunting and picking apples from the trees in a nearby orchard. On Sundays, Helen and her cousins spent time learning the art of playing the piano. It was here, during those lessons, her already well-known laughter earned her the nickname "KeeKee" embodying the sound of her continuous and infectious laugh.

As she grew up, Ms. Foote developed a reputation for spreading joy both through her laugh and through her altruistic nature. Whether helping wallpaper her parent's bedroom, caring for her ailing mother or donating her time to her church, Helen Foote was the very model of selfless dedication. In fact, her benevolence eventually led Hope Memorial St. Mark United Methodist Church to name her Mother of the Year in 2004. And as a mother of five daughters, one stepdaughter, 10 grandchildren, 5 step-grandchildren, 9 great-grandchildren, 6 step-great-grandchildren and 1 great-great-grandchild, that award was well-earned.

The daughter of a Reverend, religion always remained a pivotal aspect of Ms. Foote's family life. At a young age she attended Chews United Methodist Church in Owensville, Maryland. In her later years she became a member of Hope Chapel now referred to as Hope Memorial St. Mark United Methodist Church. It was here Ms. Foote served as a Communion Steward, an Usher and a member of the United Methodist Women.

Today you can still find Ms. Foote doing the things she loves best: working in her yard, cooking meals for her family, rooting for her beloved Baltimore Orioles, and, occasionally, wallpapering a bedroom.

Helen Foote is truly a blessing to all she encounters. She is an inspiration, a foundation for the young and dedicated, and a distinguished and divine family woman. Helen Foote is truly a woman of strength and I am honored to rise today and honor her in this Congress.

THE FAIR LAND TRANSFER COMPENSATION ACT OF 2005

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. NORTON. Mr. Speaker, today I am introducing the Fair Land Transfer Compensation Act, a bill for fee simple transfer of certain federal lands to the District of Columbia to provide partial in-kind compensation for the federally imposed structural balance documented in a 2003 GAO report to be "between $470 million and up to more than $1.1 billion." My bill would transfer 65.73 acres of land in Southeast Washington, D.C. known as Reservation 13 and the parcel known as Poplar Point, also in Southeast. The bill introduced today would assist in providing the compensation that would be authorized by H.R. 1586, the Fair Federal Compensation Act (FFCA) introduced by the bipartisan House regional delegation and me in April. The FFCA would authorize an annual federal contribution of $800 million (to increase annually with the consumer price index) to partially compensate the city and relieve a dangerous structural imbalance.

The extensively documented GAO report confirming exclusive federal responsibility for the District's structural imbalance and the bipartisan sponsorship of the FFCA demonstrate the need for federal action. However, neither the administration nor the Congress has responded, despite the District's continuing apprehension and repeated introduction of the FFCA. Today's bill providing valuable land to partially compensate the District would mark the first significant federal response to the FFCA.

The District of Columbia has had administrative control of Reservation 13, a GSA property, for 150 years and has used the parcel for the D.C. General Hospital, the District of Columbia jail, and other public facilities. Poplar Point is a strip of land owned by the National Park Service but has never been developed for use as a park.

The transfer authorized in this bill has several advantages for the District and for the federal government: an immediate benefit in partial payment that the District has long sought from the federal government to compensate the city for the structural imbalance; satisfaction, through the transfer of valuable federal land, of some of the responsibility the GAO reports that the federal government bears for the District's structural imbalance; the highest and best use for underused land that the District desires for mixed uses that are unavailable if the District continues to have administrative control but not ownership; a continuing revenue stream in the nature of an annual contribution from investments the District will be able to attract following transfer of the land; and compliance with the Federal Property Act (FPA) requirement that the federal government receive value for the transfer. The bill requires an appraisal and estimates of the financial benefit to the District that are necessary to determine the extent to which the bill would reduce the federal government's responsibility for the structural deficit.

The federal government has never used the parcels in my bill, and has no intention of doing so. At the same time, the District is unable to get value from this strategically located land in the city. Achieving maximum use of available sites located in the nation's capital, where the federal government owns and occupies the most valuable land, is essential to maintaining the financial stability of the District of Columbia.

This bill would compensate the District for some of the costs responsible of the structural imbalance which include the federal removal from the tax rolls of more than 40 percent of District's land for federal and other purposes; services provided by the District to 200,000 federal employees, notwithstanding a ban on taxation of commuters, most of whom are federal employees; and the District's responsibility for several state costs, although the city is not a state and lacks the broad tax base of a state.

The costs to the District to cover this structural deficit are unsustainable. Among the most serious are the city's debt service, the highest in the country; its taxes, among the highest; and deferral of major capital improvements for vital facilities such as schools and for roads, a major factor inhibiting economic and population stability and growth.

The existence, source and danger of the structural deficit imposed by federal mandates have been fully acknowledged and are no longer debatable. In addition to the definitive GAO report and the findings of the District's Chief Financial Officer, the details are reported in two other studies (McKinsey, March 2002, requested by the Federal City Council consisting of regional business representatives; and Brookings, October 2002, led by Alice Rivlin, former director of the CBO and of the OMB).

According to the GAO, the only available options to eliminate the federally imposed deficit are "to expand the District's tax base or to provide additional financial support." The bill I introduce today will "expand the District's tax base," creating a continuing revenue stream because ownership will allow the District to get the highest and best use of valuable land through its own development initiative. I ask that the House begin the process of compensating the District for the federal deficit carried by the city by enacting the Fair Land Transfer Compensation Act.

A TRIBUTE TO RABBI LEONARD AND MRS. CAROLYNNE GUTTMAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. TOWNS. Mr. Speaker, I rise today to recognize the National Council of Young Israel Shofar Award recipient Rabbi Leonard Guttman and his wife, Carolynne, and pay tribute to their involvement and commitment to the Young Israel movement and to worldwide Jewry.

Rabbi Leonard B. Guttman, Esq. is an Assistant Vice President for Intergovernmental Relations at the New York City Health and Hospitals Corporation, the largest public health system in the United States. His prime responsibility is to serve as an advocate in Washington for New York's publicly funded hospitals and its over 1.3 million patients. While new to the Young Israel Ohab Zedek of North Riverdale-Yonkers, in 1988–1989 he worked at the National Council of Young Israel where one of his responsibilities was serving as editor of the Young Israel Viewpoint. He has also been an adjunct Professor at the Borough of Manhattan Community College and Touro College and an Assistant Commissioner of the New York City Department for the Aging. From 1994–1996, he served as First Deputy Commissioner/General Counsel at the New York City Commission for the United Nations and Consular Corps. He often worked behind the scenes to help Israel and Jewish individuals who are suffering.

Rabbi Guttman is active in a vast array of non-profit organizations. Among these activities, he serves on the Board of the American Friends of the Sanz Laniado Medical Center (Netanya, Israel), which awarded him and his wife its Community Service Award in May 2000, and also on the board of the Metropolitan Council of the American Jewish Congress. Since 1997, Rabbi Guttman has quietly taught a Torah class at the United Nations for its Judaica Club. He has published articles in Midstream, New York Affairs, Congress Monthly and The Jewish Press on issues as varied as the Holocaust, Islam and Jewish and Communal affairs and has also lectured extensively. Carolynne, originally from Toronto, Canada, comes from a distinguished family active in Jewish and Communal affairs both in Toronto and Houston, Texas where she spent her formative years. A known expert on medical reimbursements, she serves as billing manager at New Rochelle Radiology.

Mr. Speaker, I have been fortunate to witness the revitalization of the National Council of Young Israel (NCYI). Nationally, the Departments of Synagogue and Rabbinic Services and the Women's Division and the Youth Department provide Young Israel congregations with much appreciated support. When an Orthodox synagogue needs assistance, NCYI is known as the organization to contact. On the international scene, NCYI is at the forefront of speaking out in support of the State of Israel, and to ensure the return of Israel's soldiers who are missing in action. NCYI has spearheaded a campaign to provide the Israel Defense Forces with Torah Scrolls for its troops who are in mobile and isolated posts. NCYI has delivered over 100 Torah scrolls and has not only facilitated but also encouraged many other individuals and organizations to do the same.

Mr. Speaker, I believe it is incumbent upon this body to recognize the accomplishments of Rabbi & Mrs. Guttman for their outstanding efforts in the betterment of the Jewish community and the City of New York.

HONORING JACK HORKHEIMER FOR HIS OUTSTANDING CONTRIBUTION TO THE SOUTH FLORIDA COMMUNITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I am happy to pay tribute to Jack Horkheimer, the Executive Director of the Miami Space Transit Planetarium. For over 25 years, Jack has been a pioneer in the advancement of science exploration and discovery.

Jack Horkheimer has worked diligently throughout his tenure at the Miami of Science to enhance and transform planetarium presentations. He is best known as the creator, producer and host of the television show, "Star Hustler/Star Gazer," that has been shown weekly for over 25 years. His sign-off motto, "Keep Looking Up," has become familiar to many. Mr. Horkheimer has appeared on major television and radio networks, and has led several solar eclipse expeditions, as well as the first Halley's Comet Chase. Presently, Mr. Horkheimer is assisting associates position a telescope on the International Space Station.

In January 2001, the International Astronomical Union renamed "Asteroid 1999 FD," the asteroid that orbits between Mars and Jupiter, to "Asteroid Horkheimer" in honor of his contributions to astronomy. Mr. Horkheimer has also received the Outstanding Achievement Award from the Astronomical League, as well as the 12 Good Men Award presented to him by the Ronald McDonald House. In May 2000, he was awarded an Honorary Doctorate Degree by the International Fine Arts College, and was also the recipient of the Klumpke-Roberts Award from the Astronomical Society ofthe Pacific. He is the Founding Member of the International Planetarium Society, co-editor of "The Planetarium," and past editor of "Southern Skies,"

In addition, Mr. Horkheimer has established several annual scholarship funds for young students, providing them the opportunity to study astronomy.

Mr. Speaker, many in my home state of Florida have benefited immeasurably from Mr. Horkheimer's leadership and involvement in our community. My daughters are among many South Floridians that have had the unique opportunity to visit this exceptional facility. It is truly an asset to our community, and I encourage my colleagues in the House to pay tribute to Mr. Jack Horkheimer.

HONORING SAUL STERN, RECIPIENT OF THE PROJECT INTERCHANGE AM YISRAEL CHAI AWARD

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Saul Stern who will receive the Project Interchange Am Yisrael Chai Award on May 25, 2005 at the Park Hyatt Hotel in Washington, DC.

This award is presented by Project Interchange to Mr. Stern to honor his contribution to the organization. Project Interchange is the only national organization solely dedicated to providing educational seminars in Israel for America's policy and opinion makers. With exceptional leadership, Mr. Stern has guided more than 3,500 prominent Americans, including Members of Congress, congressional aides, state officials and other community leaders to experience Israel through intensive seminars. These seminars allow political and civil leaders to witness democracy at work in Israel and to provide an understanding to the complex challenges that face that country.

The Project Interchange Am Yisrael Chai Award recognizes Mr. Stern's contribution to the Jewish community including his work in advocating Jewish interests, strengthening public support for Israel, building ties with other faith, minority, and ethnic groups and establishing a framework for social action for over six decades.

Mr. Stern has served as a life-long civic leader and truly believes in the mission of Project Interchange. In his own words, he believes the eyewitness experience in Israel is one of the most effective ways to understand the value of the U.S.-Israel relationship. While Mr. Stern has impacted the Jewish Community at the international and national level, he is also extremely influential in local Jewish and secular community associations. He has served as an advisor and a dependable colleague to local elected officials, business leaders, academicians and community activists.

Mr. Speaker, in closing, I would like to congratulate Mr. Stern on receiving this award. His significant contributions are much appreciated and greatly admired. I call upon my colleagues to join me in honoring Mr. Stern and wishing him the best of luck in all future endeavors.

IN RECOGNITION OF COLORADO HISTORY DAY WINNERS

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. SALAZAR. Mr. Speaker, I rise today to recognize Caitlyn Darnell and all the other students who will represent Colorado in the National History Day competition from June 12–16, 2005.

Caitlyn placed second in the Colorado History Day competition with her dramatic performance "Anne Sullivan: Reaching Behind Closed Doors," which chronicles the life of the great teacher who taught Helen Keller to communicate.

National History Day is a year-long education program for middle and high school students across the nation. Students produce documentaries, dramatic performances, exhibits, or research papers related to the annual theme. They then compete in a series of local and state competitions, with the very best traveling to the national competition.

I would like to recognize Caitlyn and all the students representing the state of Colorado for their excellence and hard work. These extraordinary students represent educational excellence in America. I would also like to recognize the students' teachers, whose support and dedication have encouraged students like Caitlyn to strive for excellence.

INTRODUCTION STATEMENT OF THE HONORABLE ALCEE L. HASTINGS FOR THE HAITI COMPASSION ACT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce the Haiti Compassion Act. Do our colleagues know that before Haiti had even achieved its own independence in 1804, 500 Haitian troops joined American colonists in an attempt to drive the British from Savannah, Georgia? In that one battle, Haitians made up the largest military unit to fight in the 1779 siege. Haiti demonstrated through noble action and sacrifice its loyal friendship to the United States more than 225 years ago. It is now time for Congress to do the responsible thing and protect the lives and well-being of those who have stood by us for centuries.

The year 2004 was a debilitating and tragic year for Haiti and her people. Haiti remains severely devastated by the combined effects of ongoing political turmoil and the aftermath of the natural disasters of 2004, such as Tropical Storm Jeanne and Hurricane Ivan. Political oppression and human rights violations are rife in Haiti while poverty and homelessness have become the norm for too many innocent people. To return a Haitian national back to Haiti is not only morally unjustifiable, but poses a severe threat to their personal safety.

If you don't take my word, then ask, U.S. Secretary of State Condoleeza Rice. On March 11, 2005 the U.S. Department of State issued a travel warning to U.S. Citizens, warning them of the "absence of an effective police force in much of Haiti, the potential for looting, the presence of intermittent roadblocks set by armed gangs or by the police, and the possibility of random violent crime, including kidnapping, car-jacking, and assault." The Department of State's Consular Information Sheet states, "There are no "safe areas" in Haiti." As a result, "U.S. Citizens should avoid travel to Haiti at this time."

At a time when current U.S. policy is to compel its own citizens not to travel to Haiti, it is unjust to return Haitian nationals to this type of dangerous situation. To return a Haitian national back to Haiti where there is ongoing violence and a devastating environmental situation would pose a severe threat to one's personal safety. Both Democrats and Republicans have mentioned the history of blatant discrimination and mistreatment of Haitians in the immigration process. Therefore, the time has arrived for us to offer some much-deserved compassion and effective action on the behalf of our loyal friends.

My legislation would designate Haiti under section 244 of the Immigration and Nationality Act in order to render nationals of Haiti eligible for temporary protected status. In light of the political, civil, and governmental crisis and tragic conditions caused by the recent environmental disasters in Haiti, my legislation would make nationals of Haiti eligible for temporary protected status.

I ask for my colleagues' support and urge the House Leadership to bring it swiftly to the House floor for consideration.

PERSONAL EXPLANATION

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Mr. LEWIS of Georgia. Mr. Speaker, I was unable to cast rollcall votes No. 176 through 199 on May 17 through 19, 2005 because I was attending to a personal matter. Had I been present I would have cast the following votes: On rollcall No. 176, I would have voted "yes"; on rollcall No. 177, I would have voted "no"; on rollcall No. 178, I would have voted "yes"; on rollcall No. 179, I would have voted "yes"; on rollcall No. 180, I would have voted "yes"; on rollcall No. 181, I would have voted "no"; on rollcall No. 182, I would have voted "no"; on rollcall No. 183, I would have voted "yes"; on rollcall No. 184, I would have voted "yes"; on rollcall No. 185, I would have voted "no"; on rollcall No. 186, I would have voted "yes"; on rollcall No. 187, I would have voted "yes"; on rollcall No. 188, I would have voted "yes"; on rollcall No. 189, I would have voted "yes"; on rollcall No. 190, I would have voted "no"; on rollcall No. 191, I would have voted "no"; on rollcall No. 192, I would have voted "no"; on rollcall No. 193, I would have voted "no"; on rollcall No. 194, I would have voted "yes"; on rollcall No. 195, I would have voted "no"; on rollcall No. 196, I would have voted "yes"; on rollcall No. 197, I would have voted "no"; on rollcall No. 198, I would have voted "yes"; on rollcall No. 199, I would have voted "no."

HONORING DR. RAJIV RANJAN

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 24, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise to recognize the achievements of Dr. Rajiv Ranjan and would like to honor his extraordinary contributions and pioneering research work in the field of magnetic recording, which have led to a number of technological breakthroughs.

Dr. Ranjan has led the effort in the next generation of perpendicular media technology that is destined for the market place in the near future. His focus is in the field of low noise media. Prior to the mid-1980s, industry recorded information on oxide media. These media had limitations to attaining high areal density (recording density per unit area). One proposed alternative was sputtered thin-film media, but the media had high-levels of media noise. Rajiv, along with his team, demonstrated low-noise possibilities for thin film media.

This work led to an industry-wide transition to sputtered thin-media. These low-noise media led to a tremendous increase in areal density and resulted in lower cost data storage products, followed by a wider usage in the personal computers. These products are now being incorporated into consumer electronic products, such as MP3 players, PDA, cellphones and more.

Another of his key inventions is laser texturing of a selective area of the disc surface. This enabled the recording head to fly closer to the medium surface and enabled increased areal density. This also enabled a faster take-off of the head and reliable landing of the head during power on/off. The net result is higher areal density and a more reliable and safer drive. Over a billion disc-drives have been sold with laser-textured media.

Rajiv holds over 54 U.S. patents, many of them currently used in data-storage products.

Dr. Rajiv Ranjan has devoted his life to enrich and advance society through technology, and his contribution deserves to be honored to serve as an inspiration.

I am proud that Dr. Rajiv Ranjan lives in the 16th Congressional District where he is an active and respected member of his community as well as an admired scientist. Please join me, Mr. Speaker, in offering our congratulations for his success and our admiration for his leadership both in technology and the arts, but also in his family and community.

SENATE—*Wednesday, May 25, 2005*

The Senate met at 9:31 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign God, fountain of light, Your Senators still face deep valleys and challenging mountains. Please don't remove their mountains, but give them the strength to climb them. May they discover that the power required for life's low and high places will come from You. Remind them to greet those two imposters—success and failure—with the same equanimity and faith. Help them to see that the race is not to the swift and the battle not to the strong, but true victory comes only from You. Take from them distracting worries, and give them more trust.

Lord, empower each of us today to keep our hearts pure, to keep our minds clean, to keep our words true, and to keep our deeds kind.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 25, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, following the leader time, we will begin a 1-hour period of morning business. After morning business, we will resume postcloture debate on the nomination of Priscilla Owen to be a U.S. circuit judge for the Fifth Circuit. Yesterday, the Senate invoked cloture by a vote of 81 to 18. Today at noon, we will vote up or down on the Owen nomination. Following that vote, it is my intention to proceed to the Bolton nomination. There has been a request for a large amount of time, so we would like to begin those statements right away. We will finish the Bolton nomination before the end of the week, and I thank my colleagues in advance for their participation in that important debate and the opportunity to complete that nomination confirmation this week.

JUDICIAL FILIBUSTERS

Mr. FRIST. Mr. President, the confirmation over judicial filibusters is, I believe, the greatest single constitutional issue to confront the Senate in our lifetime. That is because this issue involves the very special and unique relationship between the Senate and the Presidency and the special relationship between the Senate and the courts. It involves all three branches of government. In addition, it involves the interaction between the minority and majority parties within the Senate.

The Senate confronts so many significant issues every month, every year, but none of them touches the grand institutions of American democracy the way this one does. The President has the constitutional obligation to appoint judges, and the Senate has the constitutional responsibility to offer its advice and consent.

For 214 years, the Senate gave every nominee brought to the floor a fair up-or-down vote. Most we accepted; some we rejected. But all of those nominees got a vote.

In the last Congress, however, the minority leadership embarked on a new and dangerous course. They routinely filibustered 10 of President Bush's appellate court nominees and threatened filibusters on 6 more. Organized and fueled by the minority leadership, these filibusters could not be broken. By filibuster, the minority denied the nominees a confirmation vote and barred the full Senate from exercising its obligation to advise and consent.

The purpose of those filibusters was clear. It was not only to keep the President's nominees off the bench; it was to wrest control of the appointments process from the President. Anyone who did not pass the minority leadership's ideological litmus test would be filibustered. That meant a minority would dictate whom the President should appoint, if he expected that nominee to get a confirmation vote in this body. That was a power grab of unprecedented proportions.

With more filibusters threatened for this Congress, the power grab would become even bolder. It would become even more entrenched. Fundamental constitutional principles were called into question. They included the separation of powers, checks and balances, the independence of the judiciary, and the negation of the Senate's right to advise and consent. The minority claimed the right to impose a 60-vote threshold before a nominee could pass muster, for that is the number needed to invoke cloture and to break a filibuster. The Constitution doesn't say that. It only requires a majority to confirm. But for a minority spinning novel constitutional theories, the real Constitution took a back seat.

The Republican majority tried first to invoke cloture on each of the judicial nominees, but driven by the minority leadership, the filibusters proved resilient to cloture. Then we introduced a filibuster reform proposal and, with regular order, took it through the Rules Committee, but it died without action because it was sure to be filibustered as well.

So then we turned to the voters in November. The election strengthened our majority. But the minority ignored the election and even dug their heels in further. Faced with the certainty that the minority would expand its filibusters, we faced a critical choice: either accept the filibuster power grab as the new standard for the Senate or restore the tradition of fair up-or-down votes on nominees.

We, as Republican leadership, decided to stand for a principle. That principle is simple and clear. It is clear without equivocation, without trimming. Every judicial nominee brought to the floor shall get a fair up-or-down vote—a simple principle.

The Constitution specifically gives the Senate the power to govern itself. We were fully committed to use that power to establish a process by which a confirmation vote would occur after reasonable debate. This approach has a lot of precedent. We were prepared to use this approach. The minority attempted to demean it by calling it the nuclear option, surrounding it with threats of closure of government and stopping this body from working. But realistically, the nuclear option is what they did. It is what they did when they detonated this filibuster power grab in the last Congress.

The proper term for our response is the "constitutional option" because we would rely on the Constitution's power of self-governance to restore Senate traditions barring judicial filibusters. Against their unprecedented power grab by filibuster—that is what I would call the nuclear option—there is only one antidote that is certain, that would absolutely be effective, and that is the constitutional option.

The moment of truth was to have come yesterday on May 24, but, as we all know, that action was preempted by an agreement among seven Democrats and seven Republicans to forestall use of the constitutional option in exchange for confirmation votes on just three nominees and a promise that filibusters would occur only under what are called in the agreement "extraordinary circumstances." I was not a party to that agreement, nor was our Republican leadership. It stops far short of guaranteeing up-or-down votes on all nominees. It stops far short of the principle on which this leadership stands. It leaves open the question of whether someone such as Miguel Estrada, who came to this country as a 17-year-old immigrant from Honduras, worked his way to the top of college and law school, and tried 15 cases at the Supreme Court, who was filibustered again and again and again, filibustered 7 times, would be an extraordinary circumstance.

Now we move on to a new and an uncertain phase. Today, the Senate will happily confirm Priscilla Owen to the Fifth Circuit Court of Appeals. Some of the other nominees will follow her. Priscilla Owen is a gentlewoman, an accomplished lawyer, and a brilliant Texas jurist. She was unconscionably denied an up-or-down vote for not just a few months or a year or 2 years but for 4 years. It was over 4 years ago that she was nominated to this position. The minority has distorted her record. They have cast aspersions on her abilities. They have rendered her almost unrecognizable. She had the fortitude to see the process through. Very late, too late, but finally, she will receive an up-or-down vote and will be confirmed.

Without the constitutional option, Priscilla Owen would have never come to a vote today. Neither would any of the other nominees. The other side made it clear that they would filibuster. Without the constitutional option, judicial filibusters would have become a standard instrument of minority party policy.

The agreement among those 14 is based on trust, a trust that casual use of judicial filibusters is over. Without the constitutional option, the minority would have adhered to the path it was on, and deal brokers would have had no deal to broker.

I am very hopeful now and optimistic, but I am curious what "extraordinary circumstances" will mean.

I am wary, but as Ronald Reagan was fond to say, "Trust but verify." If nominees receive up or down votes and the sword of the filibuster is sheathed, then the Republican leadership can be proud that its focused direction on the constitutional option arrested a dangerous and destructive trend.

If filibusters erupt under circumstances other than extraordinary, we will put the constitutional option back on the table and will implement it. Abraham Lincoln once said that when it is not possible to do the best, it is best to do what is possible. Standing firm for the principle of fair up-or-down votes, we have made real progress. That is something I think we can all celebrate with the up-or-down vote Priscilla Owen receives today. That principle will be our guidepost as the rest of this great constitutional drama unfolds.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

MOVING FORWARD

Mr. REID. Mr. President, I am sorry I was unable to be on the floor for the entire statement of the Republican leader. I think we should just move on. Filibusters are only under extraordinary circumstances. That is when you filibuster. I have been involved in two filibusters during my career of almost 19 years in the Senate. That is two more than most people have been involved in. Filibusters don't happen very often. I think we should move beyond this and get the business of the country done. Let's not talk about the nuclear option any more. Let the Senate work its will. Let's get over this. I have said it is good that it is over with, done.

I wish the distinguished majority leader and I could have worked something out on our own. We didn't. It was done by 14 people, 7 Democrats and 7 Republicans. We have important things to do. There is no question that these five people—actually that is what it boiled down to—are important, but keep in mind they all had jobs. They were all working. It is not as if they were in a bread line someplace. It is unfortunate that during the last 12 years there have been problems with these judges, and I would say problems we never had before.

During the Clinton years, we had more than 60 nominees that never even got a hearing. We talked yesterday about what happened in the Bush years. Let's put that behind us and move on. Let's forget about it and have the Senate work its will. If a problem comes up with a judge, there will be discussions between the Senator from Tennessee and me. If it is necessary, there will be extended debate, and we will talk about it. That is not going to happen very often. We know that. So let's just go about our business. I had a wonderful conversation with the Attorney General of the United States yesterday. He acknowledged, let's move on. I said, fine, let's move on. Let's just move on and not talk about this any more.

I have had extended conversations with the distinguished Republican leader, and the next matter that the Senate is going to be involved in is the Bolton nomination. We are clear on the Democratic side to move forward. I think it would be in the best interest of everybody if we get this agreement made as quickly as possible and we can move forward. That is why I hope my friend from Montana—if somebody comes to the floor and we can clear this in the next little bit, that should be done. I don't want us being blamed for not being able to go forward with the Bolton nomination.

Mr. FRIST. Mr. President, I appreciate the comment of the Democratic leader. We have agreed on the schedule for the week, and it is really to get to the Bolton nomination as soon as we possibly can. He is talking to Senators on his side, and I have to talk to some on our side. We are both eager to get on to the nomination, which we plan to do today.

I appreciate the Democratic leader coming to encourage us along. We will work things out here shortly on the plans to proceed to the Bolton nomination after the Owen nomination.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

The Senator from Montana is recognized.

NOMINATION OF WILLIAM MYERS

Mr. BURNS. Mr. President, now that we have established the "new" guidelines—which have always been there—

confirming or rejecting the appointment of judges to the Federal appellate courts, I have come to the floor today to speak in support of William Myers, who is the President's nominee to the Ninth Judicial Circuit. He, as nominees Owen, Brown, and Pryor, deserves a straight up-or-down vote on the floor of the Senate.

I got a call last night from a constituent in Montana who didn't understand what an up-or-down vote was on the floor of the Senate. So I explained to her that it is a "yea" or a "nay," and whoever gathers the most votes wins. That is as simple as I could put it. Of course, she understood.

Bill Myers is a native of Idaho and is a highly respected attorney who is nationally recognized for his work. He is an expert in the area of natural resources, public lands, water and water law and, most importantly, environmental law.

Mr. Myers has been nominated to the Ninth Circuit Court of Appeals, which covers my State, along with Arizona, California, Hawaii, Idaho, Nevada, Oregon and also Guam and the Northern Marianas—by far, the largest of all of the appellate district courts. It is huge. The caseload is huge. And always the caseload has burdened them to where we don't get a verdict very quickly in the Ninth. Most of us subscribe to the view that justice delayed is justice denied.

From July 2001 to October 2003, Mr. Myers served as Solicitor of the Interior, the chief legal officer and third ranking official in the Department of the Interior. He was confirmed by the Senate to serve as Solicitor of the Interior by unanimous consent.

Before coming to the Department, Mr. Myers practiced at one of the most respected law firms in the Rocky Mountain region, where he participated in an extensive array of Federal litigation involving public lands and natural resource issues.

From 1992 to 1993, he served in the Department of Energy as Deputy General Counsel for Programs, where he was the Department's principal legal adviser on matters pertaining to international energy, Government contracting, civilian nuclear programs, power marketing, and intervention in State regulatory proceedings. He really earned his stripes there.

Prior to that, he was assistant to the Attorney General of the United States from 1989 to 1992. In this capacity, he prepared the Attorney General for his responsibilities as chairman of the President's Domestic Policy Council.

Before entering the Justice Department, Mr. Myers served 4 years on the staff of the Honorable Alan Simpson of Wyoming, where he was a principal adviser to the Senator on public land issues. Everyone, in my memory, remembers with great fondness Senator Simpson of Wyoming.

Mr. Myers is an avid outdoorsman. He is a person who is totally committed to conservation, having served over 15 years of voluntary service to the National Park Service, where he did all the menial jobs—trail work, campsites, and visitor areas, understanding our Park Service and its role in American life.

He has also received widespread support from across the ideological political spectrum. For example, former Democratic Governor of Idaho, and good friend, Governor Cecil Andrus, stated that Myers possesses "the necessary personal integrity, judicial temperament, and legal experience," as well as "the ability to act fairly on matters of law that will come before him on the court."

Former Democratic Wyoming Governor Mike Sullivan endorsed Mr. Myers saying that he "would provide serious, responsible, and intellectual consideration to each matter before him as an appellate judge and would not be prone to the extreme or ideological positions unattached to legal precedents or the merits of a given matter."

That is a pretty high recommendation by two outstanding Governors. By the way, they are Democrats and are good friends of mine.

In addition, in 2004, Mr. Myers was endorsed by 15 State attorneys general, including the current Senator Ken Salazar of Colorado, as well as the Democratic attorneys general of Oklahoma and Wyoming. These chief law enforcement officers stated that Mr. Myers "would bring to the Ninth Circuit strong intellectual skills, combined with a strong sense of civility, decency, and respect for all."

Finally, in 2004, the Governors of Montana, Alaska, Hawaii, Idaho, and Nevada—five States in the Ninth Circuit—strongly backed Mr. Myers, writing that he had the "temperament and the judicial instincts to serve on the Ninth Circuit."

The Ninth Circuit needs more judges just to get their work done, to clear out the backlog. They can use some good old rural common sense on that bench as well. He brings that kind of common sense, that kind of balance, those values that are dear to the West.

Out of the Ninth Circuit, we have seen many rulings that have been very troubling to most Americans and some really radical rulings. They are the court that ruled the words "under God" in the Pledge of Allegiance were unconstitutional. Now, to a lot of us, that doesn't make a lot of sense. But I will tell you, it was evidenced by the continual overturning of many of the Ninth Circuit rulings. That court has been overturned more than any court in the land.

Bill Myers is a man of strong character, who would reestablish balance in the Ninth Circuit by accurately reflecting those commonsense values—in other words, that old country lawyer that came to town who understands people. He will reflect the population from those States, such as my State of Montana, which make up the Ninth Circuit.

I am committed to making sure he gets the vote he deserves on the floor of the Senate.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VITTER). Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, how much time remains?

The PRESIDING OFFICER. There is 16 minutes 23 seconds remaining.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, we have taken one step forward in the last few days on our advise and consent responsibility in the Senate. I am here today to say we are doing the right thing by one nominee, and that is to have a fair up-or-down vote on Judge Priscilla Owen to be a justice on the Fifth Circuit Court of Appeals after 4 years of waiting for this day.

During this entire process, she has continued to serve on the Texas Supreme Court, demonstrating judicial temperament beyond anything I have ever seen. She has waited patiently, showing courage, determination, and a quiet spirit, the likes of which I have never seen before.

This is a person who would have been confirmed by the Senate four times, though she has never been able to take her rightful place on the bench. On May 1, 2003, she received 52 votes in a cloture motion; on May 8, 2003, 52 votes; on July 29, 2003, 53 votes; and on November 14, 2003, 53 votes.

She has waited, and she is going to be rewarded. She will get over 50 votes, and she will take her place on the bench. Justice Owen ought to receive 100 votes. Anyone who has looked at her record and who has seen her experience knows she is a judge who does not believe in making law from the bench. She believes in interpreting law, trying to determine what the Supreme Court has said on this subject, trying to determine what the legislature intended, as it is her responsibility to do. To depict Justice Owen as a judicial activist is absolutely wrong. President Bush is trying to put jurists on the bench who have a strict constructionist view of the Constitution, who interpret as opposed to making laws from the bench.

Justice Owen, as has been said so many times, has bipartisan support in Texas. Fifteen State bar presidents—

Republicans and Democrats—have come out in her favor. The American Bar Association gave her a unanimous well-qualified rating, the highest they give. She was reelected to the Texas Supreme Court with 84 percent of the vote. Priscilla Owen has had distortions of her record. She has had innuendoes about what she believes, no one speaking from knowledge, and yet she has never lashed out, she has never shown anger or bitterness, always a judicial demeanor, always respect for the Senators as they were questioning her.

I believe it is an important time in the Senate that we are now voting on someone who has been held up for four years, and I hope this is a time that is never repeated in Senate history. I hope we will go forward with all of the judges who should have the respect given to people willing to serve, people who have taken an appointment with the honest view that they can do a good job for our country and, in many cases, taking pay cuts to do so. I hope they will be treated by the Senate in the future with respect. I hope we can debate their records according to the different views. But in the end, I hope they will get an up-or-down vote, not only for these nominees, but out of respect for the President of the United States. Our President, George W. Bush, has had fewer circuit court of appeals nominees confirmed by the Senate than any President in the history of our country—69 percent. Every other President of our country has had confirmation rates in the seventies, eighties, and even Jimmy Carter in the nineties, and yet our President has not had his right under the Constitution for appointment of judges who would get an up-or-down vote by the Senate.

I hope that period in the history of the Senate is at an end today. I hope this is the first day of going back to the traditions of over 200 years, except for that brief 2-year period in the last session of Congress. I think the people of our country also agree this period should end. They agreed by the votes they cast for Senators who are committed to up-or-down votes. There were Democrats who ran on that platform and won, and there were Republicans who ran on that platform and won.

I hope very much that today we will end a dark period in the Senate and return to the traditions of the past 200 years and not only confirm Priscilla Owen, as we are going to do today, but start the process of giving up-or-down votes to the other nominees who have come out of committee after thorough vetting and after debate of any length of time that is reasonably necessary to bring everything to the table and to the attention of the American people. In the end, every one of these people has reputations and experience and they deserve the respect of an up-or-down vote.

Priscilla Owen, I have to say, is the perfect person to be first in line to break a bad period in the history of the Senate because she is a person of impeccable credentials. She is a person with a great record of experience, showing what a smart, honorable judge can be. She is a person who graduated at the top of her class at Baylor Law School. She is a person who received the highest score on the State bar exam. She is a person who practiced law for over 15 years and was so well regarded that she was asked to run for the Texas Supreme Court, and she did so. She is a person who was reelected with 84 percent of the vote and endorsed by every major newspaper in Texas. No one ever said anything bad about Priscilla Owen as a person. Her record has been distorted, but she is a person of impeccable credentials.

I was able to talk with Priscilla in the last few days. She is so happy that she is going to finally have this opportunity because she certainly has withstood so much. This is going to be a bright day in her life. And Priscilla Owen deserves a bright day.

I said in one of my earlier speeches that the classmates of her father at Texas A&M, the class of 1953, have a reunion every year. They realized at their reunion 2 years ago that one of their classmates who died very early had a legacy. The class newsletter came out saying, with a headline: "Pat Richman's Legacy," and it told the story of Priscilla Owen. It related back to her dad in the class of 1953 at Texas A&M when it was an all-male school, and almost every member of the Corps of Cadets went into the service after graduation, as did Pat Richman.

Pat Richman served in Korea. He left his sweetheart, whom he had just married, pregnant, as he took off for Korea. Priscilla was born while he was gone. He came back to see her for the first time when she was 7 months old. Pat Richman died of polio 3 months later. His daughter, of course, never remembered anything about him, but he was a star in the class of 1953.

When the newsletter came out, they decided to invite Priscilla Owen to their last reunion this spring, and she went. She told me she learned things about her dad she had never heard before because, of course, it was from the perspective of his college classmates.

I ended that speech by saying I hope Priscilla Owen will be able to go to this year's reunion of the class of 1953 and that she would be able to go as a Fifth Circuit Court of Appeals judge.

In about 2 hours, this Senate is going to finally do the right thing for this woman of courage, conviction, and quiet respect for the rule of law and for our President, quiet respect for the Senate that I do not think has merited that respect in her individual case, although I love this institution. But she does respect the institution, the process, and most especially the judiciary of our country. Priscilla Owen is finally going to be treated fairly by the Senate. I know the class of 1953 is going to invite her back, and I know she will attend as a judge on the Fifth Circuit Court of Appeals to once again hear stories about her dad, Pat Richman, a man she never met but who is so respected by those classmates because he was one of the class stars.

It is time that Priscilla Owen has that opportunity. I am pleased the Senate is finally going to give her what is rightfully due and long overdue, and that is an up-or-down vote, where I am confident she will be confirmed. She will make America proud because she will undoubtedly become one of the best judges on the Federal bench in the United States of America.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA'S NUCLEAR NONPROLIFERATION POLICY

Mr. OBAMA. Mr. President, we have been spending a considerable amount of time in this body debating the so-called nuclear option. Today I want to spend a little bit of time talking about an issue that poses a more significant threat to our Republic.

Throughout the last half of the 20th century, one nation more than any other on the face of the Earth, defined and shaped the threats posed to the United States. This nation, of course, was the Soviet Union and its successor state, Russia.

While many have turned their attention to China or other parts of the world, I believe the most important threat to the security of the United States continues to lie within the borders of the former Soviet Union in the form of stockpiles of nuclear, biological, and chemical weapons and materials.

We are in a race against time to prevent these weapons from getting in the hands of international terrorist organizations or rogue states. The path to this potential disaster is easier than anyone could imagine. There are a number of potential sources of fissile material in the former Soviet Union in sites that are poorly secured. The material is compact, easy to hide, and hard to track. Weapons designs can be easily found on the Internet.

Today, some weapons experts believe that terrorist organizations will have enough fissile material to build a nuclear bomb in the next 10 years—that is right, 10 years.

I rise today to instill a sense of urgency in the Senate. I rise today to ask how are we going to deal with this threat tomorrow, a year from now, a decade from now?

The President has just completed an international trip that included a visit to Russia. I commend him for taking this trip and making our relationship with Russia a priority.

During the Cold War, the United States and the Soviet Union produced nearly 2,000 tons of plutonium and highly enriched uranium for use in weapons that could destroy the world several times over. To give an idea of just how much this is, it takes only 5 to 10 kilograms of plutonium to build a nuclear weapon that could kill the entire population of St. Louis. For decades, strategic deterrence, our alliances, and the balance of power with the Soviet Union ensured the relative safety of these weapons and materials.

With the end of the Cold War and the collapse of the Soviet Union, all this has changed. Key institutions within the Soviet national security apparatus have crumbled, exposing dangerous gaps in the security of nuclear weapons, delivery systems, and fissile material.

Regional powers felt fewer constraints to develop nuclear weapons. Rogue states accelerated weapons programs.

And while this was happening, international terrorist organizations who are aggressively seeking nuclear weapons gained strength and momentum.

Now, thanks to the leadership of former Senator Nunn and Senator LUGAR in creating the Cooperative Threat Reduction Program at the Department of Defense, there is no question that we have made some great progress in securing these weapons.

These same two leaders continue to work tirelessly on this issue to this day—Senator Nunn, through the Nuclear Threat Initiative, and Senator LUGAR, through his chairmanship of the Foreign Relations Committee.

The situation in Russia and the rest of the former Soviet Union is drastically different than it was in 1991 or even 1996 or 2001. But, the threat is still extremely dangerous and extremely real.

In March of this year, a senior Russian commander concluded that 39 of 46 key Russian weapons facilities had serious security shortcomings. Many Russian nuclear research sites frequently have doors propped open, security sensors turned off, and guards patrolling without ammunition in their weapons.

Meanwhile, the security situation outside of Russia continues to be of grave concern. Fanatical terrorist organizations who want these weapons continue to search every corner of the Earth resorting to virtually any means necessary. The nuclear programs of nations such as Iran and North Korea threaten to destabilize key regions of the world. We are still learning about the tremendous damage caused by A.Q. Khan, the rogue Pakistani weapons scientist.

Looking back over the past decade and a half, it is clear that we could and should have done more.

So as the President returns from his trip to Russia, we should be thinking—on a bipartisan basis—about the critical issues that can guide us in the future to ensure that there are no more missed opportunities.

The first question we should be thinking about is what is the future of the Cooperative Threat Reduction Program? What is our plan? I believe the administration must spend more time working with Congress to chart out a roadmap and a strategic vision of the program.

There are two things the President can do to move on this issue. First, in the National Security Strategy to Combat Weapons of Mass Destruction of 2002, the administration said the National Security Council would prepare a 5-year governmentwide strategy by March of 2003. To my knowledge, this has not been completed. In addition, Congress required the administration to submit an interagency coordination plan on how to more effectively deal with nonproliferation issues. This plan is due at the end of this month.

Completing these plans will help the United States better address critical day-to-day issues such as liability, resource allocation, and timetables. Having a better strategic vision will also help us work more efficiently and effectively with other international donors who have become increasingly involved and are making significant contributions to these efforts. This is very important, as the contribution of other donors can help us make up valuable lost time.

Mr. President, my second question concerns the U.S.-Russian relationship. Where is this relationship heading? Will Russia be an adversary, a partner, or something in between?

We do not ask these questions simply because we are interested in being nice and want only to get along with the Russians. We have to ask these questions because they directly impact our progress towards securing and destroying stockpiles of nuclear weapons and materials.

In the last few years, we have seen some disturbing trends in Russia: the rapid deterioration of democracy and the rule of law, bizarre and troubling statements from President Putin about the fall of the Soviet Union, the abuses that have taken place in Chechnya, and Russian meddling in the former Soviet Union—from the Baltics to the Ukraine to Georgia.

The Russians must understand that their actions on some of these issues are entirely unacceptable.

At the same time, I believe we have to do a better job of working with the Russians to make sure they are moving in the right direction. This starts by being thoughtful and consistent about what we say and what we do: Tone matters.

Some of the statements by our own officials have been confusing, contradictory, and problematic. At times I have been left scratching my head about what exactly our policy is and how administration statements square with this policy.

Another issue is the level of sustained engagement with Russia. I am glad the President and Secretary of State have made several trips to Russia, but as these trips are only a few days every year or so this is only one aspect of the relationship.

An additional component, which has suffered in recent years, is our foreign assistance programs to Russia and the rest of the former Soviet Union. These programs are absolutely essential in maintaining our engagement with Russia. These programs are not giveaways. They are programs that advance U.S. interests by strengthening Russian democracy and civil society, enhancing economic development and dealing with international health issues—in addition to curbing the nonproliferation threat.

At a time when these programs are desperately needed, their budgets have been cut dramatically. At a time when we should be doing more to engage and shape the future of Russia, we seem to be doing the exact opposite.

The nonproliferation threat does not exist in a vacuum. The issue I just mentioned, along with other important issues such as our own strategic nuclear arsenal, must be considered as we move forward.

Finally, Mr. President, I would like my colleagues to consider how our relationship with Russia, and our efforts to secure and destroy weapons and materials inside the former Soviet Union, fits in with our broader nonproliferation goals.

Russia is a major player in the two biggest proliferation challenges we currently face—Iran and North Korea. Russia's dangerous involvement with Iran's nuclear program has been well documented, and there is no question their actions will be pivotal if the President is to successfully resolve this deteriorating situation.

The Russians are also an important voice in trying to make progress on the deteriorating situation in North Korea. The Russian city of Vladivostok is home to 590,000 people and is very close to the North Korean border, putting the Russians smack in the middle of the crisis that we need to resolve.

In addition to all this, Russia holds a seat on the Security Council of the United Nations, which could consider Iranian and North Korean issues in the very near future.

Developing bilateral and multilateral strategies that deal with Russia's role in these growing crises will be extremely important, both in terms of resolving these crises, advancing our non-proliferation goals within the former Soviet Union, and our long-term relationship with Russia.

I realize that, at this time, none of us have all the answers to these extraordinarily difficult questions. But if we hope to successfully fight terror and avoid disaster before it arrives at our shores, we have to start finding these answers. We have a lot of work to do.

I believe it is worth putting in place a process, one that involves senior administration officials, a bipartisan group of Members of Congress, as well as retired senior military officers and diplomats, in an effort to dramatically improve progress on these issues.

I am interested in hearing from the President about his trip. I am also interested in hearing if he believes that an idea similar to the one I put forward is worth considering.

Delay is not an option. We need to start making more progress on this issue today. I urge my colleagues to act.

Despite all the distractions we have had with the so-called nuclear option and judicial nominations, this is literally a matter of life and death. I hope we start paying more attention to it in this Senate Chamber and in the debates that are going to be coming in the coming months.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, let me thank my colleague and friend from Illinois for his incisive comments on a very important topic.

I am here to discuss the vote we will take at noon on the nomination of Priscilla Owen to the U.S. court of appeals. We all know a lot has changed in the last 48 hours. The Senate has stepped back from the precipice of a constitutional crisis. Our robust system of checks and balances has been saved from an unprecedented attack. Fourteen moderates came together and said we are not going to tolerate a nuclear option and that we are asking the President to come and talk to us before he makes a nomination.

While the compromise reached by 14 Senators has dramatically changed the outlook for the Senate, one thing has not changed, the record of Justice Priscilla Owen. I want to spend some time talking about that record, though it speaks for itself.

There is no question that Justice Owen attended fine schools and clearly is a very bright woman. But there is also no question that she is immoderate, she is a judicial activist, and she puts her own views ahead of the law's views. In case after case, Justice Owen comes to conclusions that are simply not justified by the facts or by the law. These decisions consistently come down against consumers, against workers, against women seeking to exercise their constitutional rights.

In choosing judges, in voting for judges, I have one standard and one standard alone. It is not a litmus test on any one issue. It is simply this: Will judges interpret law or not? Will judges do what the Founding Fathers said they should do—because, after all, they are not elected—and interpret what the legislature and the President have wanted and the Constitution requires, not put their own views above the people's views?

If there was ever a judge who would substitute her own views for the law, it is Justice Owen. Her record is a paper trail of case after case where she knows better than 100 years of legal tradition. It does not matter how brilliant a nominee is, or what a great education or career she has had; if she puts her own views above the law's views, she does not belong on the bench. It is as simple as that. In case after case, that is just what Justice Owen has done.

She thinks she knows better than the 100 years of established law tradition. She thinks she knows better than what the people have wanted, as enunciated by their legislators. Her own views take precedence over all other views. That is why she does not belong on the bench.

Let me go over a few cases, a few of many, where she has done this. In one case, In re Jane Doe, Judge Owen's dissent came under fire from her colleagues of the Texas supreme court. They referred to her legal approach as an effort to "usurp legislative function."

Even more troubling, Attorney General Alberto Gonzales, who sat on the same court as Judge Owen at the time, wrote a separate opinion. He went out of his way to write a separate opinion to chastise the dissenting judges, including Justice Owen, for attempting to make law, not interpret law from the bench.

Here is what Judge Gonzales said. He said that to construe the law as the dissent—that is what Priscilla Owen did—would be "an unconscionable act of judicial activism." How ironic. The very same conservatives who rail against judicial activism are putting at the top of their pantheon a judge who, by Alberto Gonzales's own testimony, is an activist, somebody who thinks, "I know better."

Activism does not mean left or right. Activism means putting your own views above the law. That is not what the Founding Fathers wanted.

Let's look not at my words but at those of Judge Gonzales. They are words of a man who served for 4 years as President Bush's White House counsel. He is now the Attorney General. He is a distinguished conservative. Some of my colleagues have tried to suggest that Mr. Gonzales was not referring to Justice Owen by his caustic comment. Who are we kidding? It was brought up at her hearing originally. He didn't say a peep. Only now that she is controversial, people said: Well, explain yourself. I am sure he was pressured.

I direct my colleagues to a New York Times article by Neil Lewis last week which reported that Attorney General Gonzales specifically admitted he was referring to Justice Owen's dissent, among others, in his written opinion.

Let's take another case, Montgomery Independent School District v. Davis. There the majority, also including Judge Gonzales, ruled in favor of a teacher who had wrongly been dismissed by her employer. Justice Owen dissented, deciding against the employee. That is what she typically does.

The majority, which included Judge Gonzales, ruled in favor of a teacher who had been wrongly dismissed by her employer. Justice Owen dissented, siding against the employee. The majority, including Judge Gonzales once again, wrote that:

> Nothing in the statute requires what the dissenters claim.

They went on to say:

> The dissenting opinion's misconception stems from its disregard of the rules that the legislature established. . . .

And that:

> The dissenting opinion not only disregards procedural limitations in the statute but takes a position even more extreme than argued by the employer.

There is Justice Owen. She looks very nice. But here is another case where she not only put her own view on the table, but she went further even than the defendant employer did. That is why she does not belong on the bench. She always does that, time and time again.

A third case, Texas Department of Transportation v. Able, again Justice Gonzales took Owen to task for her activism.

I am not going to get into all these cases but they are clear. Justice Owen, yes, she has a good education; yes, she has had a distinguished, long career; and, yes, she just does not belong on the bench because she thinks her views are better, more important, and superseding the views of the law, the views of the legislature, the views of the people.

I want to speak for the few more minutes I have left about the agreement and where we go from there. It is one thing to put on the bench mainstream conservatives, who do not adhere to an extreme agenda. I have voted for many, many of the judges we have confirmed so far. Many of them have views on choice or other things quite different from my own. Where we have a duty is to stand up and oppose nominees who are outside the mainstream. We have a duty to the Constitution and a duty to the American people not simply to rubberstamp the President's picks. Mark my words, we are going to fulfill those duties as long as we have to. That is our constitutional obligation.

But there is not a single Senator on our side of the aisle who wants these fights. There is not a single Senator on our side of the aisle who wants to oppose even one of the President's nominees. We would be a lot happier if we could all come together. We have done that on the district courts in New York. They are all filled. I consulted with the White House, with the Governor, and we came to agreements. We can do it. If the White House and I can come to an agreement, so can the Senate and the White House on who should be judges.

But there is an important point here. How did we solve the problems in New York? The President and the White House consulted with the Senators and with the Senate. As the compromise of 2005 sets out, President Bush must consult with the Senate in advance of nominating appellate judges to the bench. "Advise and consent." To get the consent, you need the "advise."

So I again call on the President, once and for all, to tell him we can solve this problem by coming together, by him consulting. I really believe we can solve this problem. But we are not going to find common ground when we keep seeking nominees who will be activists on the Federal bench. We are not going to solve this problem if the President stands like Zeus on Mt. Olympus and hurtles judicial thunderbolts down to the Senate. He has to consult. He has to ask us, as President Clinton did.

Why did President Clinton's Supreme Court nominees have no trouble in the Senate? I would argue because the President proposed a number of names to ORRIN HATCH, hardly his ideological soulmate, and ORRIN HATCH said this one won't work and that one won't work, but this one will and this one will. President Clinton heeded Senator HATCH's advice. As a result, Justice Breyer and Justice Ginsburg didn't have much of a fight. Some people may have voted against them, but it didn't get to the temperature that importuned my colleagues to filibuster—which they did on some other judges, although unsuccessfully: Judge Paez, Judge Berson, et cetera.

Mr. President, this is a plea to you. Let us take an example from the group of 14. Please, consult with us. You don't have to do what we say, but at least seek our judgment. If we say this judge would be acceptable and that judge will not—take our views into consideration. What will happen is it will decrease the temperature on an awfully hot issue. But second, and more importantly, it will bring us together so we can choose someone if the Supreme Court should have a vacancy, and we can continue to choose people when the courts of appeal have vacancies, without a real fight.

It can work. It has worked in New York between this White House and this Senator. It has worked at the national level, at the Supreme Court level, when President Clinton consulted with Republicans in the Senate, who were in the majority. It can work now. The ball is in President Bush's court. If he continues to choose to make these judgments completely on his own, if he continues to stand like Zeus on Mt. Olympus and just throw thunderbolts at the Senate, we will not have the comity for which the 14 asked.

A very important part of their agreement was for the President to start paying attention to the advise, in the "advise and consent."

Again, the ball is in his court. If the President starts doing that, I am confident this rancor on judges will decline, the public will see us doing the people's business, and the generally low view that the public has had of this body because of the partisan rancor will be greatly ameliorated.

Mr. President, again, you can change the way we have done these things, but only you can. Please, consult the Senate. Bring down hot temperatures that now exist.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Mr. REID. Mr. President, we are going to move forward with a vote on Priscilla Owen. It is well that the Senate is moving. There are other judges who are waiting and have waited a long time. We have three judges from Michigan. There is no reason we can't move those four very quickly. They were held up as a result of an intractable procedural matter. That is no longer. We can do those judges in a very short timeframe.

We also have a person Senator HATCH has been wanting to have for some time now, way into last year, a man by the name of Griffith. We are willing to move him. There were some problems. Some Senators will vote against him. There is no question about that. Senator LEAHY, the ranking member of the Judiciary Committee, has made a number of negative speeches about Griffith. We will agree to a very short timeframe on his nomination and move it on. That would be four appellate court judges very quickly. I hope we can do it in the immediate future. We could clear four judges today or tomorrow.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both Senators SPECTER and LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORZINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Mr. President, I come to the floor to speak briefly about the compromise agreement reached on judicial nominees and about the pending circuit court nominees.

Let me begin by saying that I am pleased that, through the agreement reached this week, we were able to protect the rights of the minority in this body to have our voices heard. That is consistent with the best traditions of the Senate. I certainly believe it is consistent with the constitutional principle that gave each State two Senators, regardless of their number of citizens. So, for example, California has 36 million people and Wyoming has a little more than 500,000 citizens. But our forefathers saw to it, in an effort to protect the rights of the minority, that each State would have two Senators to represent their interests.

I also believe that the agreement, at least at this time and place, preserves our constitutional system of checks and balances. So I compliment my 14 colleagues who reached this agreement and, in so doing, protected two of the most essential principles of American government—the rights of the minority and our system of checks and balances.

Let me also say that I am particularly proud of Senator REID's leadership in pushing towards this compromise.

That said, my enthusiasm for this compromise is tempered by the reality that I see before us. For while I am cautiously optimistic about the immediate outcome, I am aware that, like in so many things, the devil is in the details. Time will test the meaning of the term, "extraordinary circumstances", that was included in the compromise agreement but has not been explicitly defined. And as we all know, compromises come with many challenges and I am certain that this compromise will be tested through the course of time.

Indeed, I have been deeply troubled by what has been said by some of my colleagues on the Senate floor, including comments made by the majority leader, that the so-called nuclear option is still on the table. I was also distressed by the suggestion made by some of my colleagues that judicial nominees in the future may only be blocked if they have personal or ethical problems. I look at the agreement and come to a very different conclusion about what the term "extraordinary circumstances" means. So I am deeply troubled when I hear that the nuclear option is still on the table, except under circumstances where the nominee has personal or ethical issues. I believe that interpretation is inconsistent with the spirit and intent of this delicate compromise. And, I note that the agreement specifically—and clearly—states that it is up to each individual Senator—using his or her own discretion—to decide when a filibuster is appropriate and what constitutes extraordinary circumstances. So I believe it requires a lot of vigilance and attention as we go forward with judicial nominations for appellate and Supreme Court vacancies, jobs that come with lifetime appointments. We must ensure that our courts retain the independence that has been, and should continue to be, the hallmark of our judiciary. The stakes could not be any higher.

Mr. President, let me now turn specifically to the nominees who are before the Senate. I believe many of these individuals are outside the mainstream of legal thought. That is why I have opposed them, and that is why I supported the filibuster. I believe these individuals—and I recognize that they may be very good individuals on a personal level—have demonstrated, through their judicial records and their public communications, that they are outside of the mainstream and that they have taken positions that may be fairly labeled, in my view, as extremist.

Likewise, these judicial nominees have shown a willingness to put their own political views before the rule of law as set forth in established precedent. We need judges who are fair and impartial and are absolutely committed to maintaining the credibility and independence of our judicial branch. What we do not need are judges who substitute their own political views for fact, law, and precedent. That would undermine the federal courts and remove the impartiality, independence, and fairness that American citizens have come to expect in our democracy.

It is essential that we look for these very qualities—impartiality, independence, and fairness—in our judges. We have not seen that, unfortunately, in many of the nominees currently before the Senate. I believe strongly that we need to oppose these nominations because of that—not because of their personal character—but because, in my view, they have operated outside of the mainstream and endeavored, through judicial activism, to inappropriately alter the law.

As to Priscilla Owen, I intend to vote against her because of her activist judicial opinions. She has consistently voted to throw out jury verdicts favoring consumers against corporate interests and she has also dismissed suits brought by workers for job-related injuries, discrimination, and unfair employment practices. Her record demonstrates that Judge Owen operates outside of the mainstream. She is outside of the mainstream, both in Texas and in the United States as a whole. I note that some of her colleagues on the Texas Supreme Court have taken issue with her attempts to disregard generally accepted legal precedents and to interfere with the authority of the state legislature.

In addition, I intend to vote against Janice Rogers Brown, William Pryor, and William Myers. I intend to vote against them not because of their character or their ability to think through problems but because of what I believe is their espousal of a legal theory that is far outside the mainstream—called the Constitution in Exile theory. This theory has been very eloquently argued by a number of jurists but, in my belief, falls far outside of the mainstream of legal thought in this country. Basically, it is an intent to roll back many of the socially progressive actions flowing out of the New Deal and to rescind Government protections that have been well established under the law.

And it is important, in my view, that we consider an individual's legal philosophy when we talk about extraordinary circumstances, and particularly when we are debating the nomination of someone who intends to use that philosophy as a vehicle to change the law. That is judicial activism and I believe that it is inappropriate. I also believe that this level of judicial activism in a nominee justifies the use of the filibuster as we go forward. Not everyone will agree, but I think it is absolutely essential that we take this into consideration as we debate these nominees.

I hope we can all move forward within the framework of the compromise, which I am very pleased we were able to reach. The compromise agreement encourages increased consultation between the White House and Republicans and Democrats in the Senate with regard to judges. I sincerely hope this will come about. In New Jersey, we have been fortunate to have had a good dialogue with the White House on judges and have been able to reach a consensus on both district and circuit court judges. We currently have additional vacancies—four on the district court and one on the circuit court—and I hope we will be able to have the same kind of dialogue so that we may reach a consensus on these nominees. I am hopeful that we can agree upon judges of whom we can all be proud. That is what advise and consent is all about.

If we follow that spirit, the compromise stands a much better chance of working. Again, we need to make sure—and I certainly will be making the case—that legal philosophy is taken into consideration when we discuss extraordinary circumstances in the future and that we are not limited to using the filibuster only when a nominees has personal or ethical problems.

Finally, I am pleased that my colleagues worked so hard—and I again compliment all 14 Senators who were a part of that process—to make certain that we can get back to working on the issues that the folks I know in New Jersey care about. They are getting a little hot under the collar about gas prices. They are very concerned as we see the number of men and women who have come home either injured or who have sacrificed their lives for our country.

We are about to go into Memorial Day to say thank you to all those who throughout the years have protected our country. We have hundreds of thousands of individuals now on the ground in Iraq and Afghanistan who are protecting us. People want us to be focused on what we are doing regarding national security, homeland security, making sure we are doing everything we can to keep those troops safe, and trying to ensure affordable health care. So I am pleased that we may now open up the floor for debate on those issues.

For a lot of reasons, I am very grateful about this compromise, but I do hope that, as we go forward, there is a true commitment to allowing for real debate on the meaning of extraordinary circumstances.

I appreciate very much the opportunity to speak on this and look forward to our continuing debates in the days and weeks ahead.

Mr. BYRD. Mr. President, yesterday I voted to invoke cloture on the nomination of Priscilla Owen to sit on the U.S. Court of Appeals for the Fifth Circuit. Today I shall vote to confirm her nomination by an up-or-down vote.

I voted to invoke cloture on this nominee and have committed to do so on a number of other pending nominees to preserve the right of extended debate in the Senate. For 200 years, Senators have enjoyed the right to speak at length on matters dear to them. This essential right has been rightfully employed for generations to protect minority rights—both in the Senate and nationwide.

It would have been a travesty to have permitted this cherished right of extended debate to be extinguished simply as the result of a political squabble over a handful of judges. While passions over these seven judges have run high, it is necessary for the Senate to look at the bigger picture and stop this partisan bickering over these few judges. Now is the time for logic and reason. Now is the time for cooler heads to prevail to address the truly weighty matters that confront our nation—matters like the need of every American to obtain necessary health care, sufficient pension benefits, and affordable energy.

I voted four times previously not to invoke cloture on Priscilla Owen because I respected the right of the Senate to hear further debate concerning her qualifications, her philosophy, her temperament, and exactly what she would be like if she were confirmed to fill this lifetime position on the Federal bench. Having examined these aspects, as well as her prior record as a justice on the Texas Supreme Court, I shall vote in support of her nomination.

I know that some critics assail Justice Owen's belief that, in certain circumstances, minors should be required to notify their parents prior to obtaining an abortion. However, I cannot help but believe that in many, but perhaps not all, cases, young women would do well to seek guidance from their parents or legal guardians, who would have their best interests at heart when these young women are confronted with making such a difficult decision—a life-altering decision that carries with it extraordinary consequences. I have a long history of support for parental notification in these kinds of difficult circumstances. For example, in 1991, I supported legislation that would have required entities receiving grants under title X of the Public Health Service Act to provide parental notification in the case of minor patients who seek an abortion. Based on my examination of the totality of circumstances that surround this nomination, I have decided to support the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals.

Mrs. CLINTON. Mr. President, while I commend my Senate colleagues for their success at averting an unnecessary showdown over the so-called nuclear option, the fact remains that Justice Priscilla Owen is still ill suited to serve a lifetime appointment on the Fifth Circuit Court of Appeals. While I voted to invoke cloture on her nomination, this was done in the spirit of compromise and comity. I remain steadfastly opposed to her appointment and note that nothing that has transpired in the last 24 hours has changed her record of judicial activism or extremism, nor has it changed the fact that she consistently and conveniently ignores justice and the rule of law in order to promote a conservative political agenda. For these stated reasons, I cannot vote in favor of her confirmation, and I urge my colleagues to do the same.

The American people deserve judges—be they conservative or liberal—who are dedicated to an even-handed application of our laws, free of political constraints and considerations. Justice Owen's record is littered with examples that demonstrate a lack of respect for these values. In case after case, Justice Owen shows her willingness to make law from the bench rather than follow the language and intent of the legislature.

Justice Owen consistently votes to throw out jury verdicts favoring workers and consumers against corporate interests and dismisses suits brought by workers for job-related injuries, discrimination and unfair employment practices.

For example, in Fitzgerald v. Advanced Spine Fixation Sys., the Texas Supreme Court responded to a certified question from the federal Fifth Circuit. Then Texas Supreme Court Justice and current Attorney General Alberto Gonzales wrote the majority decision holding that a Texas law required manufacturers of harmful products to indemnify sellers who defend themselves from litigation related to their sales of these and similar products. A dissent authored by Justice Owen would have effectively rewritten Texas law to preclude such third-party relief in some cases. Gonzales wrote that adopting the manufacturer's position, as Owen argued, would require the court to improperly "judicially amend the statute."

Justice Owen has also authored many opinions that severely restrict or even eliminate the rights of workers. For example, in Montgomery Independent School District v. Davis, the 6-3 majority affirmed the finding of the lower courts that the school district had to reinstate a teacher after finding there was insufficient basis not to renew the teacher's contract.

As she often does, Justice Owen dissented from the majority—a majority which included Gonzales and two other Bush nominees. Owen's dissent sets forth an interpretation of the statute that was contrary to the plain language of the law. The majority rightly points out that Owen's dissent, "not only disregards the procedural limitations in the statute but takes a position even more extreme than that argued for by the board . . ."

In another case, Austin v. Healthtrust Inc., Justice Owen held that employees in Texas could be fired for whistle blowing or refusing to act illegally. She held that whistle blowers—heroes, as Time Magazine entitled them in the wake of the Enron debacle—have no protection in her courtroom.

In a time such as this, we rely on our nation's workers to report acts of illegality and provide much needed oversight of corporations. Our courts and judges should acknowledge the important role that these people play. But, again, Justice Owen does not believe that these brave women and men should have access to the courts or a remedy in the law.

I could go on and on. These cases make clear that Justice Owen is ready and willing to take extreme positions that run contrary to the facts and the law in order to favor businesses and government.

Apart from all of the above questionable opinions favoring business, Justice Owen has also expressed a particular hostility to women's constitutionally protected right to reproductive choice.

In Texas, there is a law that is constitutional under Supreme Court precedent. This law mandates that a minor woman who seeks an abortion must notify her parents. The law provides for three exceptions that allow a court to offer what's called a "judicial bypass." The law is very clear about these three circumstances, yet Justice Owen routinely advocates adding additional obstacles to the process and making it much harder for a young pregnant woman to exercise her constitutionally protected freedom of choice.

In re Jane Doe I, Justice Owen advocated requiring a minor to show an awareness of the "philosophic, moral, social and religious arguments that can be brought to bear" before obtaining judicial approval for an abortion without parental consent, ignoring the explicit requirements of the statute.

This and other opinions prompted Justice Gonzales to criticize Owen for attempting to rewrite Texas' parental notification statute, calling her opinions In re Jane Doe "an unconscionable act of judicial activism."

As her record unequivocally demonstrates, Justice Owen lacks the impartiality and dedication to the rule of law to separate her conservative political agenda from her judicial opinions. Time after time, when presented with an opportunity to cite precedent, Justice Owen has instead chosen to interject her own political ideology, doing the litigants before her and the rule of law a tremendous injustice. Our federal courts and our constituents deserve better.

Finally, Mr. President, as has been noted by many of my colleagues over the last several weeks, the Constitution commands that the Senate provide meaningful Advice and Consent to the President on judicial nominations. I encourage the President to heed the call of our Senate colleagues who brokered the deal that spared this body from the nuclear option—consult with both Democratic and Republican Senators before submitting judicial nominations to the Senate for consideration. Only then can our Constitutional mandate of Advice and Consent be properly honored.

In the immediate case of Justice Priscilla Owen, after reviewing her judicial opinions and examining her qualifications for a lifetime appointment on the Fifth Circuit Court of Appeals, I feel it is my Constitutional duty to deny her nomination my consent, and I urge my Senate colleagues to join me in opposing her appointment.

Mr. LEAHY. Mr. President, 3 years ago I first considered the nomination of Priscilla Owen to be a judge on the United States Court of Appeals for the Fifth Circuit. After reviewing her record, hearing her testimony and evaluating her answers I voted against her confirmation and explained at length the strong case against confirmation of this nomination. Nothing about her record or the reasons that led me then to vote against confirmation has changed since then.

Now that the Republican leadership's misguided bid for one-party rule, the nuclear option, has been deterred, we have arrived at a moment when every one of the 100 of us must examine Priscilla Owen's record and decide for him or herself whether it merits a lifetime appointment to the Fifth Circuit.

I believe Justice Owen has shown herself over the last decade on the Texas Supreme Court to be an ends-oriented judicial activist, intent on reading her own policy views into the law. She has been the target of criticism by her conservative Republican colleagues on the court, and not just in the context of the parental notification cases that have been discussed so often before, but in a variety of types of cases where the law did not fit her personal views, including in cases where she has consistently ruled for big business and corporate interests in cases against worker and consumers. This sort of judging ought not to be rewarded with such an important and permanent promotion.

In 2001, Justice Owen was nominated to fill a vacancy that had by that time existed for more than four years, since January 1997. In the intervening 5 years, President Clinton nominated Jorge Rangel, a distinguished Hispanic attorney from Corpus Christi, to fill that vacancy. Despite his qualifications, and his unanimous rating of Well Qualified by the ABA, Mr. Rangel never received a hearing from the Judiciary Committee, and his nomination was returned to the President without Senate action at the end of 1998, after a fruitless wait of 15 months.

On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill that same vacancy. Mr. Moreno did not receive a hearing on his nomination either—over a span of more than 17 months. President Bush withdrew the nomination of Enrique Moreno to the Fifth Circuit and later sent Justice Owen's name in its place. It was not until May of 2002, at a hearing presided over by Senator SCHUMER, which the Judiciary Committee heard from any of President Clinton's three unsuccessful nominees to the Fifth Circuit. At that time, Mr. Moreno and Mr. Rangel, joined by a number of other Clinton nominees, testified about their treatment by the Republican majority. Thus, Justice Owen's was the third nomination to this vacancy and the first to be accorded a hearing before the Committee.

In fact, when the Judiciary Committee held its hearing on the nomination of Judge Edith Clement to the Fifth Circuit in 2001, during the most recent period of Democratic control of the Senate, it was the first hearing on a Fifth Circuit nominee in 7 years. By contrast, Justice Owen was the third nomination to the Fifth Circuit on which the Judiciary Committee held a hearing in less than 1 year. In spite of the treatment by the former Republican majority of so many moderate judicial nominees of the previous President, we proceeded in July of 2001—as I said that we would—with a hearing on Justice Owen.

Justice Owen is one of among 20 Texas nominees who were considered by the Judiciary Committee while I was Chairman. That included nine District Court judges, four United States Attorneys, three United States Marshals, and three Executive Branch appointees from Texas who moved swiftly through the Judiciary Committee.

When Justice Owen was initially nominated, the President changed the confirmation process from that used by Republican and Democratic Presidents for more than 50 years. That resulted in her ABA peer review not being received until later that summer. As a result of a Republican objection to the Democratic leadership's request to retain all judicial nominations pending before the Senate through the August recess in 2001, the initial nomination of Justice Owen was required by Senate rules to be returned to the President without action. The committee nonetheless took the unprecedented action of proceeding during the August recess to hold two hearings involving judicial nominations, including a nominee to the Court of Appeals for the Federal Circuit.

In my efforts to accommodate a number of Republican Senators—including the Republican leader, the Judiciary Committee's ranking member, and at least four other Republican members of the committee—I scheduled hearings for nominees out of the order in which they were received that year, in accordance with longstanding practice of the committee.

As I consistently indicated, and as any chairman can explain, less controversial nominations are easier to consider and are, by and large, able to be scheduled sooner than more controversial nominations. This is especially important in the circumstances that existed at the time of the change in majority in 2001. At that time we faced what Republicans have now admitted had become a vacancy crisis in the federal courts. From January 1995, when the Republican majority assumed control of the confirmation process in the Senate, until the shift in majority, vacancies rose from 65 to 110 and vacancies on the Courts of Appeals more than doubled from 16 to 33. I thought it important to make as much progress as quickly as we could in the time available to us that year, and we did. In fact, through the end of President Bush's first term, we saw those 110 vacancies plummet to 27, the lowest vacancy rate since the Reagan administration.

The responsibility to advise and consent on the President's nominees is one that I take seriously and that the Judiciary Committee takes seriously. Justice Owen's nomination to the Court of Appeals has been given a fair hearing and a fair process before the Judiciary Committee. I thank all members of the committee for being fair. Those who had concerns had the opportunity to raise them and heard the nominee's response, in private meetings, at her public hearing and in written follow-up questions.

I would particularly like to commend Senator FEINSTEIN, who chaired the hearing for Justice Owen, for managing that hearing so fairly and evenhandedly. It was a long day, where nearly every Senator who is a member of the committee came to question Justice Owen, and Senator FEINSTEIN handled it with patience and equanimity.

After that hearing, I brought Justice Owen's nomination up for a vote, and following an open debate where her opponents discussed her record and their objections on the merits, the nomination was rejected. Her nomination was fully and openly debated, and it was rejected. That fair treatment stands in sharp contrast to the way Republicans had treated President Clinton's nominees, including several to the Fifth Circuit.

That should have ended things right there, but it did not. Priscilla Owen's nomination was the first judicial nomination ever to be resubmitted after already being debated, voted upon and rejected by the Senate Judiciary Committee.

When the Senate majority shifted, Republicans reconsidered this nomination and sent it to the Senate on a straight, party-line vote. Never before had a President resubmitted a circuit court nominee already rejected by the Senate Judiciary Committee, for the same vacancy. And until Senator HATCH gave Justice Owen a second hearing in 2003, never before had the Judiciary Committee rejected its own decision on such a nominee and granted a second hearing. And at that second hearing we did not learn much more than the obvious fact that, given some time, Justice Owen was able to enlist the help of the talented lawyers working at the White House and the Department of Justice to come up with some new justifications for her record of activism. We learned that given six months to reconsider the severe criticism directed at her by her Republican colleagues, she still admitted no error. Mostly, we learned that the objections expressed originally by the Democrats on the Judiciary Committee were sincerely held when they were made and no less valid after a second hearing. Nothing Justice Owen said about her record—indeed, nothing anyone else tried to explain about her record—was able to actually change her record. That was true then, and that is true today.

Senators who opposed this nomination did so because Priscilla Owen's record shows her to be an ends-oriented activist judge. I have previously explained my conclusions about Justice Owen's record, but I will summarize my objections again today.

I am not alone in my concerns about Justice Owen. Her extremism has been evident even among a conservative Supreme Court of Texas. The conservative Republican majority of the Texas Supreme Court has gone out of its way to criticize Justice Owen and the dissents she joined in ways that are highly unusual, and in ways which highlight her ends-oriented activism. A number of Texas Supreme Court Justices have pointed out how far from the language of statute she strays in her attempts to push the law beyond what the legislature intended.

One example is the majority opinion in Weiner v. Wasson. In this case, Justice Owen wrote a dissent advocating a ruling against a medical malpractice plaintiff injured while he was still a teenager. The issue was the constitutionality of a State law requiring minors to file medical malpractice actions before reaching the age of majority, or risk being outside the statute of limitations. Of interest is the majority's discussion of the importance of abiding by a prior Texas Supreme Court decision unanimously striking down a previous version of the statute. In what reads as a lecture to the dissent, then-Justice JOHN CORNYN explains on behalf of the majority:

> Generally, we adhere to our precedents for reasons of efficiency, fairness, and legitimacy. First, if we did not follow our own decisions, no issue could ever be considered resolved. The potential volume of speculative relitigation under such circumstances alone ought to persuade us that stare decisis is a sound policy. Secondly, we should give due consideration to the settled expectations of litigants like Emmanuel Wasson, who have justifiably relied on the principles articulated in [the previous case]. . . . Finally, under our form of government, the legitimacy of the judiciary rests in large part upon a stable and predictable decisionmaking process that differs dramatically from that properly employed by the political branches of government.

According to the conservative majority on the Texas Supreme Court, Justice Owen went out of her way to ignore precedent and would have ruled for the defendants. The conservative Republican majority, in contrast to Justice Owen, followed precedent and the doctrine of stare decisis. A clear example of Justice Owen's judicial activism.

In Montgomery Independent School District v. Davis, Justice Owen wrote another dissent which drew fire from a conservative Republican majority—this time for her disregard for legislative language. In a challenge by a teacher who did not receive reappointment to her position, the majority found that the school board had exceeded its authority when it disregarded the Texas Education Code and tried to overrule a hearing examiner's decision on the matter. Justice Owen's dissent advocated for an interpretation contrary to the language of the applicable statute. The majority, which included Alberto Gonzales and two other appointees of then-Governor Bush, was quite explicit about its view that Justice Owen's position disregarded the law:

> The dissenting opinion misconceives the hearing examiner's role in the . . . process by stating that the hearing examiner 'refused' to make findings on the evidence the Board relies on to support its additional findings. As we explained above, nothing in the statute requires the hearing examiner to make findings on matters of which he is unpersuaded. . . .

The majority also noted that:

> The dissenting opinion's misconception of the hearing examiner's role stems from its disregard of the procedural elements the Legislature established in subchapter F to ensure that the hearing-examiner process is fair and efficient for both teachers and school boards. The Legislature maintained local control by giving school boards alone the option to choose the hearing-examiner process in nonrenewal proceedings. . . . By resolving conflicts in disputed evidence, ignoring credibility issues, and essentially stepping into the shoes of the factfinder to reach a specific result, the dissenting opinion not only disregards the procedural limitations in the statute but takes a position even more extreme than that argued for by the board. . . .

This is another clear example of Justice Owen's judicial activism.

Collins v. Ison-Newsome, is yet another case where a dissent, joined by Justice Owen, was roundly criticized by the Republican majority of the Texas Supreme Court. The Court cogently stated the legal basis for its conclusion that it had no jurisdiction to decide the matter before it, and as in other opinions where Justice Owen was in dissent, took time to explicitly criticize the dissent's positions as contrary to the clear letter of the law.

At issue was whether the Supreme Court had the proper "conflicts jurisdiction" to hear the interlocutory appeal of school officials being sued for defamation. The majority explained that it did not because published lower court decisions do not create the necessary conflict between themselves. The arguments put forth by the dissent, in which Justice Owen joined, offended the majority, and they made their views known, writing:

> The dissenting opinion agrees that "because this is an interlocutory appeal . . . this Court's jurisdiction is limited," but then argues for the exact opposite proposition . . . This argument defies the Legislature's clear and express limits on our jurisdiction. . . . The author of the dissenting opinion has written previously that we should take a broader approach to the conflicts-jurisdiction standard. But a majority of the Court continues to abide by the Legislature's clear limits on our interlocutory-appeal jurisdiction.

They continue:

> [T]he dissenting opinion's reading of Government Code sec. 22.225(c) conflates conflicts jurisdiction with dissent jurisdiction, thereby erasing any distinction between these two separate bases for jurisdiction. The Legislature identified them as distinct bases for jurisdiction in sections 22.001(a)(1) and (a)(2), and section 22.225(c) refers specifically to the two separate provisions of section 22.001(a) providing for conflicts and dissent jurisdiction. . . . [W]e cannot simply ignore the legislative limits on our jurisdiction, and not even Petitioners argue that we should do so on this basis.

Again, Justice Owen joined a dissent that the Republican majority described as defiant of legislative intent and in disregard of legislatively drawn limits. This is yet another clear example of Justice Owen's judicial activism.

Some of the most striking examples of criticism of Justice Owen's writings, or the dissents and concurrences she joins, come in a series of parental notification cases heard in 2000. They include:

> In In re Jane Doe 1, where the majority included an extremely unusual section explaining its view of the proper role of judges, admonishing the dissent, joined by Justice Owen, for going beyond its duty to interpret the law in an attempt to fashion policy.

Giving a pointed critique of the dissenters, the majority explained that, "In reaching the decision to grant Jane

Doe's application. we have put aside our personal viewpoints and endeavored to do our job as judges—that is, to interpret and apply the Legislature's will as it has been expressed in the statute."

In a separate concurrence. Justice Alberto Gonzales wrote that to construe the law as the dissent did. "would be an unconscionable act of judicial activism." A conservative Republican colleague of Justice Owen's points squarely to her judicial activism. I know that the Attorney General now says that when he wrote that he was not referring to her. and I don't blame him for taking that position. After all, he is the Attorney General charged with defending her nomination. But there is no way to read his concurring opinion as anything other than a criticism of the dissenters, Owen included. Listen to the words he wrote:

> The dissenting opinions suggest that the exceptions to the general rule of notification should be very rare and require a high standard of proof. I respectfully submit that these are policy decisions for the Legislature. And I find nothing in this statute to directly show that the Legislature intended such a narrow construction. As the Court demonstrates, the Legislature certainly could have written [the law] to make it harder to by pass a parent's right to be involved. . . But it did not. . . . Thus, to construe Parental Notification Act so narrowly as to eliminate bypasses or to create hurdles that simply are not to be found in the words of the statute, would be an unconscionable act of judicial activism.

Owen is one of two justices who wrote a dissent, so she is naturally included in the "dissenting opinions" to which he refers. It doesn't get much clearer than this. But you don't have to take my word for it. Mr. Gonzales himself has acknowledged as much.

Twice before Justice Owen's first hearing in the Judiciary Committee, he and his spokesperson admitted that his comments referred to a disagreement between justices. The New York Times of April 7, 2002, reported that, "a spokesman for Mr. Gonzales. minimized the significance of the disagreement, [saying] "Judge Gonzales's opinion and Justice Owen's dissent reflect an honest and legitimate difference of how to interpret a difficult and vague statute." On July 22, 2003, the New York Times reported that in an interview he had with the then-White House Counsel, "Mr. Gonzales sought to minimize the impact of his remarks. He acknowledged that calling someone a 'judicial activist' was a serious accusation. especially among Republicans who have used that term as an imprecation against liberals."

Of course. Mr. Gonzales went on to tell the reporter that he still supported Justice Owen for the Fifth Circuit. and I expect he would. He works for the President and supports his efforts to fill the federal courts with ideologues and activists. and I appreciate his honesty. It was only years later. when he was before the Judiciary Committee for his own confirmation to be Attorney General that he told us his comments did not refer to Justice Owen. rather to himself. and what he would be doing if he expressed an opinion like that of the dissent. So, I will take the Attorney General at his word, but I will take his original writing and his earliest statements as the best evidence of his view of Justice Owen's opinion in Doe 1, and leave his later, more politically influenced statements, to others.

Jane Doe 1 was not the only one of the parental consent cases where Justice Owen's position was criticized by her Republican colleagues. In In re Jane Doe 3, Justice Enoch writes specifically to rebuke Justice Owen and her fellow dissenters for misconstruing the legislature's definition of the sort of abuse that may occur when parents are notified of a minor's intent to have an abortion, saying, "abuse is abuse; it is neither to be trifled with nor its severity to be second guessed."

In one case that is perhaps the exception that proves the rule, Justice Owen wrote a majority opinion that was bitterly criticized by the dissent for its activism. In In re City of Georgetown, Justice Owen wrote a majority opinion finding that the city did not have to give The Austin American-Statesman a report prepared by a consulting expert in connection with pending and anticipated litigation because such information was expressly made confidential under other law—namely, the Texas Rules of Civil Procedure.

The dissent is extremely critical of Justice Owen's opinion, citing the Texas law's strong preference for disclosure and liberal construction. Accusing her of activism, Justice Abbott, joined by Chief Justice Phillips and Justice Baker, notes that the legislature, "expressly identified eighteen categories of information that are 'public information' and that must be disclosed upon request . . . [sec. (a)] The legislature attempted to safeguard its policy of open records by adding subsection (b). which limits courts' encroachment on its legislatively established policy decisions." Id. at 338. The dissent further protests:

> [b]ut if this Court has the power to broaden by judicial rule the categories of information that are 'confidential under other law,' then subsection (b) is eviscerated from the statute. By determining what information falls outside subsection (a)'s scope, this Court may evade the mandates of subsection (b) and order information withheld whenever it sees fit. This not only contradicts the spirit and language of subsection (b), it guts it.

Finally, the opinion concluded by asserting that Justice Owen's interpretation, "abandons strict construction and rewrites the statute to eliminate subsection (b)'s restrictions."

Yet again, her colleagues on the Texas court, cite Justice Owen's judicial activism.

These examples. together with the unusually harsh language directed at Justice Owen's position by the majority in the Doe cases. show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of her activist views.

Justice Owen makes bad decisions even when she is not being criticized by her colleagues. Among these decisions are those where she skews her decisions to show bias against consumers, victims and just plain ordinary people in favor of big business and corporations. As one reads case after case, particularly those in which she was the sole dissenter or dissented with the extreme right wing of the Court, her pattern of activism becomes clear. Her legal views in so many cases involving statutory interpretation simply cannot be reconciled with the plain meaning of the statute, the legislative intent, or the majority's interpretation, leading to the conclusion that she sets out to justify some pre-conceived idea of what the law ought to mean. This is not an appropriate way for a judge to make decisions. This is a judge whose record reflects that she is willing and sometimes eager to make law from the bench.

Justice Owen's activism and extremism is noteworthy in a variety of cases, including those dealing with business interests, malpractice, access to public information, employment discrimination and Texas Supreme Court jurisdiction, in which she writes against individual plaintiffs time and time again, in seeming contradiction of the law as written. In fact, according to a study conducted last year by the Texas Watch Foundation, a non-profit consumer protection organization in Texas, in the last six years, Owen has not dissented once from a majority decision favoring business interests over victims. but has managed to differ from the majority and dissent in 22 of the 68 cases where the majority opinion was for the consumer.

One of the cases where this trend is evident in FM Properties v. City of Austin, I asked Justice Owen about this 1998 environmental case at her hearing. In her dissent from a 6–3 ruling, in which Justice Alberto Gonzales was among the majority, Justice Owen showed her willingness to rule in favor of large private landowners against the clear public interest in maintaining a fair regulatory process and clean water. Her dissent, which the majority characterized as "nothing more than inflammatory rhetoric," was an attempt to favor big landowners.

In this case, the Texas Supreme Court found that a section of the Texas Water Code allowing certain private owners of large tracts of land to create "water quality zones," and write their own water quality regulations and plans. violated the Texas Constitution because it improperly delegated legislative power to private entities. The court found that the Water Code section gave the private landowners, "legislative duties and powers, the exercise of which may adversely affect public interests, including the constitutionally-protected public interest in water quality." The court also found that certain aspects of the Code and the factors surrounding its implementation weighed against the delegation of power, including the lack of meaningful government review, the lack of adequate representation of citizens affected by the private owners' actions, the breadth of the delegation, and the big landowners' obvious interest in maximizing their own profits and minimizing their own costs.

The majority offered a strong opinion, detailing its legal reasoning and explaining the dangers of offering too much legislative power to private entities. By contrast, in her dissent, Justice Owen argued that, "[w]hile the Constitution certainly permits the Legislature to enact laws that preserve and conserve the State's natural resources, there is nothing in the Constitution that requires the Legislature to exercise that power in any particular manner," ignoring entirely the possibility of an unconstitutional delegation of power. Her view strongly favored large business interests to the clear detriment of the public interest, and against the persuasive legal arguments of a majority of the court.

When I asked her about this case at her hearing, I found her answer perplexing. In a way that she did not argue in her written dissent, at her hearing Justice Owen attempted to cast the FM Properties case not as, "a fight between and City of Austin and big business, but in all honesty, . . . really a fight about . . . the State of Texas versus the City of Austin." In the written dissent however, she began by stating the, "importance of this case to private property rights and the separation of powers between the judicial and legislative branches . . .", and went on to decry the Court's decision as one that, "will impair all manner of property rights." At the time she wrote her dissent, Justice Owen was certainly clear about the meaning of this case property rights for corporations.

Another case that concerned me is GTE Southwest, Inc. v. Bruce, where Justice Owen wrote in favor of GTE in a lawsuit by employees for intentional infliction of emotional distress. The rest of the court held that three employees subjected to what the majority characterized as "constant humiliating and abusive behavior of their supervisor" were entitled to the jury verdict in their favor. Despite the court's recitation of an exhaustive list of sickening behavior by the supervisor, and its clear application of Texas law to those facts, Justice Owen wrote a concurring opinion to explain her difference of opinion on the key legal issue in the case whether the behavior in evidence met the legal standard for intentional infliction of emotional distress.

Justice Owen contended that the conduct was not, as the standard requires, "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency " The majority opinion shows Justice Owen's concurrence advocating an inexplicable point of view that ignores the facts in evidence in order to reach a predetermined outcome in the corporation's favor.

Justice Owen's recitation of facts in her concurrence significantly minimizes the evidence as presented by the majority. Among the kinds of behavior to which the employees were subjected—according to the majority opinion—are: Upon his arrival the supervisor, "began regularly using the harshest vulgarity . . . continued to use the word "f—" and "motherf—r" frequently when speaking with the employees . . . repeatedly physically and verbally threatened and terrorized them . . . would frequently assault each of the employees by physically charging at them . . . come up fast . . . and get up over (the employee) . . . and yell and scream in her face . . . called (an employee) into his office every day and . . . have her stand in front of him, sometimes for as long as thirty minutes, while (the supervisor) simply stared at her . . . made (an employee) get on her hands and knees and clean the spots (on the carpet) while he stood over her yelling." Id. at 613-614. Justice Owen did not believe that such conduct was outrageous or outside the bounds of decency under state law.

At her hearing, in answer to Senator Edwards's questions about this case, Justice Owen again gave an explanation not to be found in her written views. She told him that she agreed with the majority's holding, and wrote separately only to make sure that future litigants would not be confused and think that out of context, any one of the outrages suffered by the plaintiffs would not support a judgment. Looking again at her dissent, I do not see why, if that was what she truly intended, she did not say so in language plain enough to be understood, or why she thought it necessary to write and say it in the first place. It is a somewhat curious distinction to make to advocate that in a tort case a judge should write a separate concurrence to explain which part of the plaintiff's case, standing alone, would not support a finding of liability. Neither her written concurrence, nor her answers in explanation after the fact, is satisfactory explanation of her position in this case.

In City of Garland v. Dallas Morning News, Justice Owen dissented from a majority opinion and, again, it is difficult to justify her views other than as being based on a desire to reach a particular outcome. The majority upheld a decision giving the newspaper access to a document outlining the reasons why the city's finance director was going to be fired. Justice Owen made two arguments: that because the document was considered a draft it was not subject to disclosure, and that the document was exempt from disclosure because it was part of policy making. Both of these exceptions were so large as to swallow the rule requiring disclosure. The majority rightly points out that if Justice Owen's views prevailed, almost any document could be labeled draft to shield it from public view. Moreover, to call a personnel decision a part of policy making is such an expansive interpretation it would leave little that would not be "policy."

Quantum Chemical v. Toennies is another troubling case where Justice Owen joined a dissent advocating an activist interpretation of a clearly written statute. In this age discrimination suit brought under the Texas civil rights statute, the relevant parts of which were modeled on Title VII of the federal Civil Rights Act—and its amendments—the appeal to the Texas Supreme Court centered on the standard of causation necessary for a finding for the plaintiff. The plaintiff argued, and the five justices in the majority agreed, that the plain meaning of the statute must be followed, and that the plaintiff could prove an unlawful employment practice by showing that discrimination was "a motivating factor." The employer corporation argued, and Justices Hecht and Owen agreed, that the plain meaning could be discarded in favor of a more tortured and unnecessary reading of the statute, and that the plaintiff must show that discrimination was "the motivating factor," in order to recover damages.

The portion of Title VII on which the majority relies for its interpretation was part of Congress's 1991 fix to the United States Supreme Court's opinion in the Price Waterhouse case, which held that an employer could avoid liability if the plaintiff could not show discrimination was "the" motivating factor. Congress's fix, in Section 107 of the Civil Rights Act of 1991, does not specify whether the motivating factor standard applies to both sorts of discrimination cases, the so-called "mixed motive" cases as well as the "pretext" cases.

The Texas majority concluded that they must rely on the plain language of the statute as amended, which could not be any clearer that under Title VII discrimination can be shown to be "a" motivating factor. Justice Owen joined Justice Hecht in claiming that federal case law is clear—in favor of their view—and opted for a reading of the statute that would turn it into its polar opposite, forcing plaintiffs into just the situation legislators were trying to avoid. This example of Justice Owen's desire to change the law from the bench, instead of interpret it, fits President Bush's definition of activism to a "T".

Justice Owen has also demonstrated her tendency toward ends-oriented decision making quite clearly in a series of dissents and concurrences in cases involving a Texas law providing for a judicial bypass of parental notification requirements for minors seeking abortions.

The most striking example is Justice Owen's expression of disagreement with the majority's decision on key legal issues in Doe 1, which I discussed earlier in a different context. She strongly disagreed with the majority's holding on what a minor would have to show in order to establish that she was, as the statute requires, "sufficiently well informed" to make the decision on her own. While the conservative Republican majority laid out a well-reasoned test for this element of the law, based on the plain meaning of the statute and well-cited case law, Justice Owen inserted elements found in neither authority. Specifically, Justice Owen insisted that the majority's requirement that the minor be "aware of the emotional and psychological aspects of undergoing an abortion" was not sufficient and that among other requirements with no basis in the law, she, "would require . . . [that the minor] should . . . indicate to the court that she is aware of and has considered that there are philosophic, social, moral, and religious arguments that can be brought to bear when considering abortion."

In her written concurrence, Justice Owen indicated, through legal citation, that support for this proposition could be found in a particular page of the Supreme Court's opinion in Planned Parenthood v. Casey. However, when one looks at that portion of the Casey decision, one finds no mention of requiring a minor to acknowledge religious or moral arguments. The passage talks instead about the ability of a State to "enact rules and regulations designed to encourage her to know that there are philosophic and social arguments of great weight that can be brought to bear." Justice Owen's reliance on this portion of a United States Supreme Court opinion to rewrite Texas law was simply wrong.

As she did in answer to questions about a couple of other cases at her hearing, Justice Owen tried to explain away this problem with an after-the-fact justification. She told Senator CANTWELL that the reference to religion was not to be found in Casey after all, but in another U.S. Supreme Court case, H.L. v. Matheson. She explained that in "Matheson they talk about that for some people it raises profound moral and religious concerns, and they're talking about the desirability or the State's interest in these kinds of considerations in making an informed decision." Transcript at 172. But again, on reading Matheson, one sees that the only mention of religion comes in a quotation meant to explain why the parents of the minor are due notification, not about the contours of what the government may require someone to prove to show she was fully well informed. Her reliance on Matheson for her proposed rewrite of the law is just as faulty as her reliance on Casey. Neither one supports her reading of the law. She simply tries a little bit of legal smoke and mirrors to make it appear as if they did. This is the sort of ends-oriented decision making that destroys the belief of a citizen in a fair legal system. And most troubling of all was her indication to Senator FEINSTEIN that she still views her dissents in the Doe cases as the proper reading and construction of the Texas statute. In these cases, Priscilla Owen tried to insert requirements into the law that the Texas legislature had not included in the law. Simply put, Justice Owen engaged in judicial activism. In fact, as I've said, it was in one of these cases that Attorney General Alberto Gonzales, referred to Owen's position in the case as "an unconscionable act of judicial activism."

Senators have criticized Justice Owen's activism in the parental notification cases. We have not criticized the laws themselves. In fact, some Democratic Senators have noted their support for these kinds of statutes. Republicans have strayed far from the issue. What is relevant here is that Priscilla Owen tried to insert requirements into the law that the Texas legislature had not included. A State legislature can enact constitutional parental notification laws. A judge is not supposed to rewrite the law but to apply it to the facts and to ensure its constitutionality.

If she wants to rewrite the law, she should leave the bench and run for a seat in the state legislature.

At her second, unprecedented hearing in 2003, Justice Owen and her defenders tried hard to recast her record and others' criticism of it. I went to that hearing, I listened to her testimony, and I read her written answers, many newly formulated, that attempt to explain away her very disturbing opinions in the Texas parental notification cases. But her record is still her record, and the record is clear. She did not satisfactorily explain why she infused the words of the Texas legislature with so much more meaning than she can be sure they intended. She adequately describes the precedents of the Supreme Court of the United States, to be sure, but she simply did not justify the leaps in logic and plain meaning she attempted in those decisions.

I read her responses to Senator HATCH's remarks at that second hearing, where he attempted to explain away cases about which I had expressed concern at her first hearing. For example, I heard him explain the opinion she wrote in F.M. Properties v. City of Austin. I read how he recharacterized the dispute in an effort to make it sound innocuous, just a struggle between two jurisdictions over some unimportant regulations. I know how, through a choreographed exchange of leading questions and short answers, they tried to respond to my question from the original hearing, which was never really answered, about why Justice Owen thought it was proper for the legislature to grant large corporate landowners the power to regulate themselves. I remained unconvinced. The majority in this case, which invalidated a state statute favoring corporations, did not describe the case or the issues as Senator HATCH and Justice Owen did. A fair reading of the case shows no evidence of a struggle between governments. This is all an attempt at after-the-fact, revisionist justification where there really is none to be found.

Justice Owen and Chairman HATCH's explanation of the case also lacked even the weakest effort at rebutting the criticism of her by the F.M. Properties majority. In its opinion, the six justice majority said, and I am quoting, that Justice Owen's dissent was "nothing more than inflammatory rhetoric." They explained why her legal objections were mistaken, saying that no matter what the state legislature had the power to do on its own, it was simply unconstitutional to give the big landowners the power they were given. No talk of the City of Austin v. the State of Texas. Just the facts.

Likewise, the few explanations offered for the many other examples of the times her Republican colleagues criticized her were unavailing. The tortured reading of Justice Gonzales' remarks in the Doe case were unconvincing. He clearly said that to construe the law in the way that Justice Owen's dissent construed the law would be activism. Any other interpretation is just not credible.

And no reasons were offered for why her then-colleague, now ours, Justice CORNYN, thought it necessary to explain the principle of stare decisis to her in his opinion in Weiner v. Wasson. Or why in Montgomery Independent School District v. Davis, the majority criticized her for her disregard for legislative language, saying that, "the dissenting opinion misconceives the hearing examiner's role in the . . . process," which it said stemmed from, "its disregard of the procedural elements the Legislature established . . . to ensure that the hearing-examiner process is fair and efficient for both teachers and school boards." Or why, in Collins v. Ison-Newsome, a dissent joined by

Justice Owen was so roundly criticized by the Republican majority, which said the dissent agrees with one proposition but then "argues for the exact opposite proposition . . . [defying] the Legislature's clear and express limits on our jurisdiction."

These examples, together with the unusually harsh language directed at Justice Owen's position by the majority in the Doe cases, show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of her activist views. No good explanation was offered for these critical statements last year, and no good explanation was offered two weeks ago. Politically motivated rationalizations do not negate the plain language used to describe her activism at the time.

I also briefly set the record straight about a number of mischaracterizations of the opposition to Justice Owen's nomination. Earlier in this debate, at least one Senator said that opposition Senators, are "discriminating against people of faith." Sadly, these statements follow a pattern of despicable accusations, made often by the radical interest groups backing these nominations and made too frequently here by those repeated these slurs. The assertion that any Senator opposes someone because she is a Sunday school teacher is a new low, however. Even President Bush has disavowed that attack.

I oppose Priscilla Owen, not because of her faith, which I respect, but because she is an ends-oriented judicial activist who is so far outside of the mainstream that she has often been criticized harshly by the Texas Supreme Court's conservative majority. In case after case, Justice Owen's opinions make clear that she is a judge willing to make law from the bench rather than follow the language and intent of the legislature or judicial precedent. While some of the clearest examples of her judicial activism come in her dissents in cases involving the parental notification law, there are, as I have explained, many other examples in cases having nothing to do with abortion.

Justice Owen's position as a frequent dissenter on the Texas Supreme Court shows how extreme she can be and how far from the letter of the law she strays in her attempts to push her own political and ideological agenda. Not only has the majority of that conservative court criticized her dissents on numerous occasions, but the majority's criticisms of her opinions are unusual for their harsh tone. Surely the Republican members of the Texas Supreme Court criticized Priscilla Owen not because she is a person of faith, but because she insists on impermissibly legislating from the bench. I concur.

Senators oppose Priscilla Owen's confirmation because she has attempted to substitute her own views for those of the legislature. What is relevant is that she is writing law, rather than interpreting law, as evidenced in the opinions in which she would have added requirements that the Texas legislature did not put into the law.

An evaluation of Priscilla Owen's decisions shows that it is she who is results-oriented: she crafts her decisions in order to promote business interests over individuals and to advance various social agendas, rather than simply following the law and evaluating the facts of a given case. Justice Owen has been broadly and repeatedly criticized by her fellow Republican Texas Supreme Court Justices for disregarding statutes and the intent of the legislature, instead, pursuing her own activist results. In many cases in which she has dissented and been criticized by the majority, her opinions were to benefit corporate interests including numerous companies that contributed to her campaign.

For instance, in FM Properties Operating Co. v. City of Austin, which I have already discussed, where she ruled to let a single developer dodge Austin's water quality rules, Justice Owen received $2,500 in campaign contributions from one of the FM Properties company's partners and over $45,000 from the company's lawyers.

It is worth noting that my Democratic colleagues and I do not stand alone in opposing Priscilla Owen's nominations. We are in the good company of a broad array of newspaper editorial boards, prominent organizations, and individuals throughout the country and in Justice Owen's home state of Texas.

The groups opposing Justice Owen range from the AFL-CIO and the Leadership Conference on Civil Rights to the Endangered Species Coalition and the National Partnership for Women and Families. Texas opposition to the Owen nomination has come from a wide variety of groups including the American Association of University Women of Texas, Texas Lawyers for a Fair Judiciary, and the Texas chapters of the National Organization for Women and the Mexican American Legal Defense and Education Fund, MALDEF, just to name a few. Among the many citizens who have written to oppose Justice Owen's nomination are dozens of attorneys from Texas and elsewhere, as well as C.L. Ray, a retired Justice of the Texas Supreme Court, who wrote, "I have rarely seen a public servant show so much contempt for the laws of this State."

Lawyers who appear in front of Justice Owen in Texas Supreme Court rate her poorly as well. The most recent results of the Houston Bar Association's Judicial Evaluation Poll shows that 45 percent of the respondents rated Justice Owen "poor," more than gave that lowest rating to any other justice. She was in last place in the "acceptable" category, with only 15 percent, and in second-to-last place among her colleagues in receiving a rating of "outstanding", with only 39 percent giving her that review.

I have heard Senator CORNYN say that Justice Owen has been supported by major newspapers in Texas, but that support must have been for her election to the Texas Supreme Court because, to the contrary, a number of major newspaper editorial boards in Texas have expressed their opposition to Justice Owen's confirmation to the federal appellate bench.

The San Antonio Express News criticized Owen because "[o]n the Texas Supreme Court, she always voted with a small court minority that consistently tries to bypass the law as written by the Legislature."

The Houston Chronicle cited complaints about Owen "run from a penchant for overturning jury verdicts on tortuous readings of the law to a distinct bias against consumers and in favor of large corporations," and the newspaper concluded that she "has shown a clear preference for ruling to achieve a particular result rather than impartially interpreting the law. Anyone willing to look objectively at Owen's record would be hard-pressed to deny that."

The Austin American-Statesman wrote that Owen is "out of the broad mainstream of jurisprudence" and "seems all too willing to bend the law to fit her views, rather than the reverse." The newspaper continued, "Owen also could usually be counted upon in any important case that pitted an individual or group of individuals against business interests to side with business."

Editorial boards throughout the country echo the opinions of Owen's home state newspapers. Newspapers from the Palm Beach Post and the Charleston Gazette to the Los Angeles Times and the Detroit Free Press have spoken out against this extreme nomination. The Atlanta Journal-Constitution wrote that Owen "has a lopsided record favoring large corporations," while the Minneapolis Star-Tribune wrote that "[e]ven her court colleagues have commented on her habit of twisting law to fit her hyperconservative political views" and that "Owen's ethical compass is apparently broken." Educated observers who review Priscilla Owen's record recognize that she is an ends-oriented judicial activist who is not an appropriate nominee for a lifetime appointment to one of the most important courts in the land.

When he nominated Priscilla Owen, President Bush said that his standard for judging judicial nominees would be that they "share a commitment to follow and apply the law, not to make law from the bench." He said he is against judicial activism. Yet he has appointed judicial activists like Priscilla Owen and Janice Rogers Brown.

Under President Bush's own standards, Justice Owen's record of ends-oriented judicial activism does not qualify her for a lifetime appointment to the federal bench.

The President has often spoken of judicial activism without acknowledging that ends-oriented decision-making can come easily to extreme ideological nominees. In the case of Priscilla Owen, we see a perfect example of such an approach to the law, and I cannot support it. The oath taken by federal judges affirms their commitment to "administer justice without respect to persons, and do equal right to the poor and to the rich." No one who enters a federal courtroom should have to wonder whether he or she will be fairly heard by the judge.

Justice Priscilla Owen's record of judicial activism and ends-oriented decisionmaking leaves me with grave doubt about her ability to be a fair judge. The President says he opposes putting judicial activists on the Federal bench, yet Justice Priscilla Owen unquestionably is a judicial activist. I cannot vote to confirm her for this appointment to one of the highest courts in the land.

I have said time and time again that if somebody walks into a federal court, they should not have to wonder whether they will be treated fairly based on whether they are a Republican or a Democrat, a defendant or a plaintiff, rich or poor. They should know that they are going to be treated fairly no matter who they are and that their case will be determined on the merits. In Priscilla Owen's case, her record shows that litigants cannot be sure of that. The President may well get the votes to put Priscilla Owen on the Fifth Circuit today, but would it not have been better to have nominated someone with a record of fairness and impartial judging who could be confirmed by a united, not a divided Senate.

Mr. LAUTENBERG. Mr. President, I am pleased for our country and for this body that the Senate soundly rejected an abuse of power that would have done irreparable harm to Congress and to our Nation's system of checks and balances. I salute my Republican colleagues who were able to stand up to their leadership and my Democratic colleagues who labored long and hard to prevent the majority from launching the so-called nuclear option. I am especially thankful for our Democratic leader, HARRY REID, who showed a steady leadership hand through these troubling days.

As part of the agreement reached Monday night, Priscilla Owen, President Bush's nominee for the United States Court of Appeals for the Fifth Circuit, will get an up-or-down vote. It appears that she will be confirmed, which I hoped would not take place.

Consistent with my voting record, while I respect my colleagues who worked hard to preserve the filibuster, I voted against invoking cloture on the Owen nomination yesterday and today I will vote against confirming her and urge my colleagues to do the same.

I want to make it clear that I have nothing against her personally. Too often, Members on the other side of the aisle have depicted opposition to their radical nominees as a personal animus or a bias based on the nominees' sex or race or religion. That could not be further from the truth, which is obvious if one looks at my voting record. I want to try to keep Priscilla Owen off the bench because she has a troubling record on civil rights, reproductive rights, employment discrimination, and the rights of consumers.

Our Federal courts touch the lives of every American and ensure that our individual rights are upheld. It is imperative that all nominees for the Federal bench are individuals of distinction with a record of fairness and impartiality. Unfortunately, Ms. Owen just has not demonstrated those qualities while on the Texas Supreme Court.

Ms. Owen has routinely dissented on rulings regarding the rights of employees, including the right to be free from invidious discrimination. She joined in dissenting opinions which effectively tried to rewrite a key Texas civil rights law. If she had prevailed, she would have made it much more difficult for workers to prove employment discrimination. Ms. Owen has sought to override jury verdicts, and to diminish and undermine their role in cases involving consumer protections. She has repeatedly and—in my estimation—unfairly ruled in favor of big business at the expense of workers and consumers. She has gone so far as to write and join in a number of opinions that severely limit the ability of working people to recover damages under lawsuits involving on-the-job injuries. In almost every reproductive rights case decided by the Texas Supreme Court during her time there, Ms. Owen has sought to restrict a woman's right to make her own personal decisions.

Ms. Owen's views are far outside of the judicial mainstream—even by the standards of the conservative Texas Supreme Court. President Bush's own White House Counsel, Alberto Gonzales, who was a fellow Justice on the Texas Supreme Court, referred to one of Ms. Owen's dissenting opinions as "an unconscionable act of judicial activism."

On September 5, 2002, the Judiciary Committee wisely rejected reporting Ms. Owen's nomination to the full Senate. I have seen no evidence in the intervening time that makes her more suitable now than she was in 2002 for a lifetime appointment to such an important position.

The Federal courts play a critical role in upholding the fundamental rights and protections of all Americans. It is imperative that nominees to the Federal courts have a clear understanding of the importance of constitutional rights and statutory protections, and of the role and responsibility of the Federal courts in upholding these rights and protections. She has not exhibited that understanding. Consequently, I do not believe she is an appropriate nominee for the Fifth Circuit. Accordingly, I will vote against her confirmation.

It would be relatively easy for President Bush to send judicial nominees to the Senate who would enjoy overwhelming or even unanimous support. I hope he will stop trying to pack the Federal courts with extremists such as Priscilla Owen. Until he does, I have no choice but to do my duty to uphold the Constitution and oppose them.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand the time on our side has expired. While we are waiting for the distinguished Republican leader to come to the floor, I ask to continue until he arrives. Of course, I will yield to him as soon as he seeks recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. That we have terminated the debate and are now voting on this controversial nomination demonstrates our good will in light of the agreement reached two days ago to avoid triggering the Republican leadership's bid for one-party rule. Fourteen of our colleagues came to us with a bipartisan plan to avoid the Majority leader's nuclear option, which was a short-sighted effort to change the more than 200 years of Senate tradition, precedent and rules by destroying minority rights.

While we may not all agree with every part of the agreement, by our votes yesterday and today Democrats are showing that we are prepared to move on. I urge the Republican leader not to be captive of the narrow special interest that have moved and pushed so much the effort toward the nuclear option. We have a great deal of work to do in this body, work that can be accomplished easily by Republicans and Democrats working together, not by those who want simply partisan rules.

I expect that in due course the Senate will consider each of the three controversial nominees mentioned in Part I. A. of that Memorandum of Understanding. I do not expect there to be any repeat by Democrats of the extraordinary obstruction by Republicans of President Clinton's judicial nominees. For example, I do not expect any of the tactics used by Republicans during the extensive delay in Senate consideration of the Richard Paez nomination. Judge Paez waited more than four years before we were able to get a vote on his confirmation longer than the Priscilla Owen nomination has been pending. I recall some Republicans mounting an extraordinary motion after the filibuster of his nomination was broken to indefinitely postpone the vote; a last-ditch, unprecedented effort that was ultimately unsuccessful. Of course, Judge Helene White never got a vote or even a hearing in more than four years. Republicans denied her a hearing for a period longer than the Owen nomination has been pending. Like more than 60 of President Clinton's moderate and qualified judicial nominations, she was subjected to the Republican pocket filibuster.

In this connection I should also note that last night the Senate, with Democratic cooperation, entered into unanimous consent agreement to govern the consideration and vote on three additional circuit court nominees, Tom Griffith, Richard Griffin, and David McKeague. Those are nominations that will be debated and voted upon when the Senate returns from Memorial Day. The Democratic Leader deserves great credit for forging significant progress on these matters.

I have seen reports that the vote today of the nomination of Priscilla Owen is the "first" of this President's controversial nominees. That is not true. This administration has sent divisive nominee after divisive nominee to the Senate. Several controversial judicial nominees have already been voted upon by the Senate. Among the 208 judges already confirmed are some who were confirmed with less than 60 votes, some with more than 40 negative votes. The President's court-packing efforts are not new but continuing. Moreover, his penchant for insisting on divisive nominations is not limited to the judiciary, as will be demonstrated, again, when the Senate turns to the nomination of John Bolton following the vote on the Owen nomination.

As for the nomination of Priscilla Owen, after reviewing her record, hearing her testimony and evaluating her answers I am voting against her confirmation. I believe Justice Owen has shown herself over the last decade on the Texas Supreme Court to be an ends-oriented judicial activist, intent on reading her own policy views into the law. She has been the target of criticism by her conservative Republican colleagues on the court in a variety of types of cases where the law did not fit her personal views, including in cases where she has consistently ruled for big business and corporate interests in cases against worker and consumers. This sort of judging ought not to be rewarded with such an important and permanent promotion. She skews her decisions to show bias against consumers, victims and just plain ordinary people in favor of big business and corporations.

As one reads case after case, particularly those in which she was the sole dissenter or dissented with the extreme right wing of the Court, her pattern of activism becomes clear. Her legal views in so many cases involving statutory interpretation simply cannot be reconciled with the plain meaning of the statute, the legislative intent, or the majority's interpretation, leading to the conclusion that she sets out to justify some pre-conceived idea of what the law ought to mean. This is not an appropriate way for a judge to make decisions. This is a judge whose record reflects that she is willing and sometimes eager to make law from the bench.

Justice Owen's activism and extremism is noteworthy in a variety of cases, including those dealing with business interests, malpractice, access to public information, employment discrimination and Texas Supreme Court jurisdiction, in which she writes against individual plaintiffs time and again, in seeming contradiction of the law as written. In fact, according to a study conducted last year by the Texas Watch Foundation, a non-profit consumer protection organization in Texas, in the last six years, Owen has not dissented once from a majority decision favoring business interests over victims, but has managed to differ from the majority and dissent in 22 of the 68 cases where the majority opinion was for the consumer.

It is worth noting that the opposition to Priscilla Owen's nomination includes a broad array of newspaper editorial boards, prominent organizations, and individuals throughout the country and in Justice Owen's home state of Texas. Groups opposing Justice Owen range from the AFL–CIO and the Leadership Conference on Civil Rights to the Endangered Species Coalition and the National Partnership for Women and Families. Opposition to the Owen nomination has come from a wide variety of groups in Texas including the American Association of University Women of Texas, Texas Lawyers for a Fair Judiciary, and the Texas chapters of the National Organization for Women and the Mexican American Legal Defense and Education Fund (MALDEF), just to name a few. Among the many citizens who have written to oppose Justice Owen's nomination are dozens of attorneys from Texas and elsewhere, as well as C.L. Ray, a retired Justice of the Texas Supreme Court, who wrote, "I have rarely seen a public servant show so much contempt for the laws of this State."

Lawyers who appear in front of Justice Owen in Texas Supreme Court rate her poorly as well. The most recent results of the Houston Bar Association's Judicial Evaluation Poll shows that 45 percent of the respondents rated Justice Owen "poor," more than gave that lowest rating to any other justice. She was in last place in the "acceptable" category, with only 15 percent, and in second-to-last place among her colleagues in receiving a rating of "outstanding," with only 39 percent giving her that review.

I have heard Senator CORNYN say that Justice Owen has been supported by major newspapers in Texas, but that support must have been for her election to the Texas Supreme Court because a number of major newspaper editorial boards in Texas have expressed their opposition to Justice Owen's confirmation to the federal appellate bench.

When he nominated Priscilla Owen, President Bush said that his standard for judging judicial nominees would be that they share a commitment to follow and apply the law, not to make law from the bench. He said he is against judicial activism. Yet he has nominated judicial activists like Priscilla Owen. Under President Bush's own standards, Justice Owen's record of ends-oriented judicial activism does not qualify her for a lifetime appointment to the federal bench.

I have said time and time again that if somebody walks into a federal court, they should not have to wonder whether they will be treated fairly based on whether they are a Republican or a Democrat, a defendant or a plaintiff, rich or poor. They should know that they are going to be treated fairly no matter who they are and that their case will be determined on the merits. In Priscilla Owen's case, her record shows that litigants cannot be sure of that. The President may well get the votes to put Priscilla Owen on the Fifth Circuit today, but would it not have been better to have nominated someone with a record of fairness and impartial judging who could be confirmed by a united, not a divided Senate?

Mr. President, I see the distinguished Republican leader now on the floor of the Senate. I will close—so that he may be recognized—by saying, again, when somebody walks into a Federal court, they should not have to ask themselves: Is this a Republican court or Democratic court? This is an independent judiciary.

I yield to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, in a few moments, the Senate will finally vote up or down on the nomination of Justice Priscilla Owen to the Fifth Circuit Court of Appeals. Four years—it has been a long road for Justice Owen, much longer than anyone would have or could have anticipated when she was nominated about 4 years and 2 weeks ago.

She has endured 4 years of delay, 9 hours of committee hearings, hundreds of questions, and more than 100 hours of debate on this Senate floor. In fact, it is interesting, the Senate has debated Justice Owen more days than all the sitting Supreme Court Justices combined. Today she will get the fair up-or-down vote she deserves.

Justice Owen has withstood an orchestrated partisan attack on her record as a judge and, indeed, at times on her character. Only a few days ago, opponents unfairly labeled her as too extreme to serve on the Federal bench, but those unfair attacks have not succeeded. Justice Owen, as we all know, is a distinguished mainstream jurist. She has exhibited extraordinary patience and courage in the face of continuous and sometimes vicious criticism. But today finally she will get that fair up-or-down vote, and I am confident she will be confirmed.

Today does mark a triumph of principle over politics, results over rhetoric. For far too long on judicial nominees, the filibuster was used to facilitate partisanship and to subvert principle. Through this debate, we have exposed the injustice of judicial obstruction in the last Congress and advanced those core constitutional principles that all judicial nominees deserve a fair up-or-down vote.

This vote should mark—will mark, I hope—a new beginning in the Senate, a step forward for principle, a step forward for fairness and the Constitution, but we cannot stop at this single step. I look forward to confirming other previously blocked nominees. I look forward to reading about partisan judicial obstruction only in the history books, and I hope the constitutional option does not become necessary.

I urge my colleagues to join me in support of the confirmation of Justice Owen.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

Mr. STEVENS (after having voted in the affirmative). Mr. President, on this vote, I voted "yea." If the distinguished Senator from Hawaii (Mr. INOUYE) were present, he would vote "nay." Therefore, I withdraw my vote.

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 128 Ex.]

YEAS—55

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Landrieu
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED

Mr. Stevens, for

NOT VOTING—1

Inouye

The nomination was confirmed.

The PRESIDING OFFICER The President will be notified of the Senate's action.

Mr. FRIST. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF JOHN ROBERT BOLTON TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS

Mr. FRIST. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of Executive Calendar No. 103, the nomination of John Bolton, to be U.N. ambassador; provided further that the debate up to 6:30 this evening be equally divided between the chairman and ranking member; I further ask that if a cloture motion is filed on the nomination, notwithstanding the provisions of rule XXII, that vote occur at 6 p.m. on Thursday with a live quorum waived; provided further that when the Senate resumes debate on the nomination on Thursday, all time until 6 p.m. be equally divided as stated above; further, that if cloture is invoked on the nomination, the Senate then proceed to a vote on the confirmation of the nomination with no further intervening action or debate; provided further that following that vote, the President be immediately notified of the Senate's action and the Senate resume legislative Senate; finally, I ask consent during the debate on the nomination. Senator VOINOVICH be in control of 1 hour of debate.

Mr. REID. Reserving the right to object, could we have some assurance from the distinguished majority leader that we will have an early time in the morning to come to work and we do not spend all the morning on morning business.

Mr. FRIST. Madam President, calling upon my earlier cardiac surgical days, we will start as early in the morning as the Democratic leader would like.

In all seriousness, we will agree upon a time in the morning so that we will have plenty of time.

Mr. REID. I also say if, in fact, there is more time needed tonight, would the distinguished leader allow Members to move past 6:30 tonight on debate.

Mr. FRIST. Madam President, we would be happy to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of John Robert Bolton, of Maryland, to be the Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Indiana.

Mr. LUGAR. Mr. President, the Senate meets today to debate the nomination of John Bolton to be U.S. Ambassador to the United Nations. In this capacity, he would play an important role in securing greater international support for the national security and foreign policy objectives of the United States. It is my judgment that Secretary Bolton should be confirmed as U.S. Ambassador to the United Nations.

In recent years, the Foreign Relations Committee has made a special effort to work in a bipartisan manner. For 3 straight years, we have reported out foreign affairs authorization bills by unanimous votes. During the last Congress, we met 247 times, which was 50 percent more frequently than any other committee in the Senate. In almost every case, the subject of the meeting and the selection of witnesses enjoyed bipartisan support.

We have undertaken the cooperative path, not because we always agree, but because we know the stakes are high for our country in the international arena. We face severe threats capable of undermining our national security and our economic well-being. We believe we should strive to approach these questions with as much unity as possible.

On the John Bolton nomination, our committee could not develop a consensus position. From the start, members had widely divergent views of Secretary Bolton and his suitability for the U.N. ambassadorship. Members formed different opinions about the nominee based on their assessment of the role of the United Nations, their interpretation of Secretary Bolton's statements, their judgments on the testimony of many witnesses, their perspectives on managerial conduct, their philosophy on how much latitude a President should have in nominating subordinates, and many other factors.

On top of these different perspectives, allegations were raised about Secretary Bolton that led to an expanded inquiry. Republicans and Democrats differed on some procedural aspects related to this inquiry, as well as on the relevance of some allegations and documents. Despite these substantive disagreements, we were able to work together in an effort that represents one of the most intense and most far-reaching examinations of a nominee in my experience.

The Foreign Relations Committee has interviewed 29 witnesses, producing approximately 1,000 pages of transcripts. We have received and reviewed more than 830 pages of documents from the State Department, from USAID, and the CIA regarding the Bolton nomination. We have questioned Secretary Bolton in person for 7 hours, and we have received responses to nearly 100 questions for the record, many containing numerous subparts. The depth and breadth of the 11-week inquiry is particularly notable, given that Secretary Bolton has been confirmed 4 times by the Senate already and that most of us have had personal experiences with him.

I thank both Democrat and Republican members of our Foreign Relations Committee for their patience and their perseverance throughout this process. Although we disagree in our conclusions, we share the view that the committee must work together even when we have different perspectives. We also agreed that the nomination has provided an opportunity for debate on larger issues related to the conduct of U.S. foreign policy.

At the core of any nomination process is the question of whether the nominee is qualified to undertake the task for which he or she is nominated. I have no doubt Secretary Bolton is extremely well qualified. He has just served 4 years in a key under secretary position that technically outranks the post for which he is being nominated. He has succeeded in several high-profile negotiation settings. He was the primary negotiator in the creation of the successful Proliferation Security Initiative and the landmark Moscow Treaty. He played a large role in the agreement with Libya on the surrender of that nation's weapons of mass destruction program and the "10 Plus 10 Over 10" agreement that resulted in $10 billion in pledges from other G–8 countries to secure former Soviet Union weapons of mass destruction arsenals. These are among the Bush administration's most important and indisputable foreign policy successes.

Opponents have argued that Secretary Bolton's personality will prevent him from being effective at the U.N., but his diplomatic successes over the last 4 years belie that expectation. Few in Government have thought more about U.N. reform than has John Bolton. He served 4 years as the Assistant Secretary of State overseeing international organizations under the first President Bush. He has written and commented extensively on that subject.

During his confirmation hearing, Secretary Bolton demonstrated an impressive command of issues related to the United Nations. Senator BIDEN acknowledged to the nominee at his hearing that:

> There is no question you have extensive experience in UN affairs.

Deputy Secretary Rich Armitage recently told reporters:

> John Bolton is eminently qualified. He's one of the smartest guys in Washington.

Secretary Bolton also demonstrated his ability to get things done prior to becoming Under Secretary of State. Perhaps the best example is his initiative to repeal U.N. Resolution 3379, which equated Zionism with racism.

In May 1991, as Assistant Secretary of State for International Organizations, John Bolton refused to accept the common wisdom that repealing this infamous resolution was impossible. He and his staff initiated a campaign to change votes in the General Assembly, even though they were advised they would not be successful. Within a few months, they had made substantial progress. By the fall, the State Department put its full weight behind that effort. On December 16, 1991, the U.N. General Assembly voted to repeal the resolution by a vote of 111 to 25.

In the private sector, Secretary Bolton made some blunt statements about the United Nations. Many of these statements were made in academic or think-tank settings where debate on these subjects was encouraged. Many of the quotes that have been repeated by opponents came in the context of much larger speeches that were more nuanced. The fact that he has strong views and a long record of commentary on the job that he is about to undertake should not be disqualifying.

During our hearing with Secretary Bolton, he spoke of the United Nations important role in international security. He has emphasized that he wants the institution to work well on behalf of international security and the interests of the United States.

Beyond qualifications, we should recognize that Secretary Bolton has the confidence of the President of the United States and the Secretary of State. The President has made it clear this is not a casual appointment. He wants a specific person to do a specific job. President Bush has a reform agenda in mind at the U.N. This reform agenda is generally supported by the U.N. Secretary General who has put forward a reform plan of his own. The President wants John Bolton, an avowed and knowledgeable reformer, to carry out that reform agenda. Kofi Annan has welcomed John Bolton's appointment.

I would emphasize that Secretary Bolton is being appointed to a position that is within the chain of command of the President and the Secretary of State. The Ambassador to the United Nations reports directly to the President and to the Secretary of State. In fact, historically this ambassadorship has reflected directly on the President. The ambassador is seen as the President's voice at the U.N. Consequently, there are few positions in Government where the President should have more latitude in choosing his nominee. In my judgment, it would take absolutely extraordinary circumstances for the Senate to tell the President he cannot have his choice to carry out his directives at the U.N., even though the nominee is highly experienced and knowledgeable about U.N. affairs.

At times during this process, opponents have suggested that Secretary Bolton sits outside the mainstream in the Bush administration. The problem with this assertion is that President Bush is telling us this is not so. President Bush is telling us Secretary Bolton accurately reflects his views about the U.N. and how that institution should be reformed. President Bush is saying Secretary Bolton is his considered choice to implement his policies and diplomatic initiatives at the United Nations.

Some observers who want a different program than the President's may not agree with the President's choice, but the results of the 2004 election give the President the responsibility and the right to nominate like-minded representatives and to define who a like-minded representative is.

We have ample evidence that the United Nations is in need of reform. The Foreign Relations Committee held the first congressional hearing on the U.N. oil-for-food scandal more than a year ago. Since that time, through the work of Paul Volcker, our own colleague on the committee, Senator COLEMAN, and many others, we have learned much more about the extent of the corruption and mismanagement involved. This knowledge has supported the case for reform.

We know billions of dollars that should have been spent on humanitarian needs in Iraq were siphoned off by Saddam Hussein's regime through a system of surcharges, bribes, and kickbacks. This corruption depended upon members of the U.N. Security Council who were willing to be complicit in these activities. It also depended on U.N. officials and contractors who were dishonest, inattentive, or willing to make damaging compromises in pursuit of a compassionate mission.

The U.N. reform is not a new issue. The structure and the role of the United Nations have been debated in our country almost continuously since the U.N. was established in 1945. But in 2005 we may have a unique opportunity to improve the operations of the U.N. The revelations of the oil-for-food scandal and the urgency of strengthening global cooperation to address terrorism, the AIDS crisis, nuclear proliferation, and many other international problems have created momentum in favor of constructive reforms at the U.N.

Secretary General Kofi Annan has proposed a substantial reform plan that will provide a platform for further reform initiatives and discussions. The United States must be a leader in the effort to improve the United Nations, particularly its accountability. At a time when the United States is appealing for greater international help in Iraq, in Afghanistan, and in troubled spots around the world, a diminishment of U.N. credibility because of scandal reduces United States options and increases our own burdens.

Secretary Bolton has become closely associated with the U.S. efforts to reform the U.N. If he goes to the U.N. and helps achieve reform, the U.N. will gain in credibility, especially with the American people. If reform moves forward, Secretary Bolton will be in an excellent position to help convince skeptics that reform has occurred and that the United Nations can be an effective partner in achieving global security. If we reject Secretary Bolton, President Bush's hand will be weakened at the U.N. We will recover, but we will have wasted time. And we will have strengthened the position of reform opponents.

In the days immediately following Secretary Rice's March 7 announcement of Secretary Bolton's nomination, most Democratic members of the Foreign Relations Committee expressed their opposition to the nomination on policy grounds. A March 8 Associated Press report states:

> Almost immediately after Bolton's nomination was announced, Democrats objected.

The March 8 edition of the Baltimore Sun said:

> Reaction from Senate Democrats promised contentious confirmation hearings for Bolton when he goes before the Foreign Relations Committee.

In several cases, the statements by Democrats were unequivocal in opposition. In several other cases, statements were very negative, leaving open only the smallest of possibilities that the Senator would ultimately support the nominee. In all of these cases, objections were based on Secretary Bolton's supposed attitudes toward the United Nations.

Senator DODD said that Secretary Bolton's "antipathy to the U.N. will prevent him from effectively discharging his duties as our ambassador."

Senator KERRY said that the Bolton nomination was "the most inexplicable appointment the President could make to represent the United States to the world community."

Senator BOXER said of Secretary Bolton:

> He's contemptuous of the U.N.

By March 31, still almost 2 weeks before the first Bolton hearings, a Los Angeles Times report noted:

> Democrats are likely to vote unanimously against John R. Bolton when his nomination to be United States ambassador to the United Nations comes before the Senate Foreign Relations Committee . . . according to Democratic and Republican lawmakers and aides.

Senators have the right to oppose a nominee because of his substantive views and his past statements. However, it is important to acknowledge that the ethical inquiry into Secretary Bolton's background has been pressed by Members who had planned to vote against him even before we began interviewing witnesses. They have the right to ask questions, and the committee of jurisdiction has a responsibility to follow up on credible allegations. But we should also understand that at times the inquiry has followed a more prosecutorial path than most nominees have had to endure.

Our committee staff has worked long and hard to run down the salvo of allegations that were levied at Secretary Bolton. The end result is that many of the accusations have proven to be groundless or, at worst, overstated. New information has cast others in a different light. There is no doubt that Secretary Bolton has been blunt and combative in defense of his perspectives. Indeed, this is one of the qualities that President Bush and Secretary Rice have cited as a reason for their selection of this nominee.

As I have said previously, Secretary Bolton's blunt style alienated some colleagues. Our review showed that on several occasions he made incorrect assumptions about the behavior and motivations of subordinates. A few other times he failed to use proper managerial channels or unnecessarily personalized internal disputes. But there is no evidence that he has broken laws or engaged in serious ethical misconduct. The picture is one of an assertive policymaker with an intense commitment to his missions—missions that, in fact, were supported by President Bush.

With regard to the most serious charge, that Secretary Bolton sought to improperly manipulate intelligence, the insights we have gained do not support the conclusion. He may have disagreed with intelligence findings, but in the end he always accepted the final judgment of the intelligence community, and he always delivered speeches in their cleared form.

During this inquiry, there has been an implication that if the nominee challenged or opposed the conclusions of intelligence analysts, he somehow committed an ethical violation. I think we need to be very precise that arguing in favor of one's own reading of intelligence within the context of an internal policy debate is not wrongdoing. Intelligence reports are not sacrosanct. They involve interpretation. They are intended to stimulate debate.

Many Senators participate in classified briefings. The word "briefing" is a misnomer because, as Senators, we spend much of the time during briefings questioning the panel. We probe to determine not just what analysts think but why they think it, and often we challenge their conclusions.

Earlier this year, for example, the Senate Foreign Relations Committee held a highly classified briefing on North Korea in which one of our members pointedly disputed the conclusions of the briefer. There was a blunt exchange of views, and no resolution to this disagreement was achieved. I am doubtful that any of us who have attended a good number of intelligence briefings have not done the same thing on occasion. My point is that the act of challenging or disputing intelligence conclusions is not in and of itself wrong.

Some have appeared shocked that Secretary Bolton might have challenged intelligence conclusions or advanced alternative interpretations, even though the same thing happens every day in multiple departments and agencies. Congress has the benefit of something called the "speech and debate clause."

Article I, section 6 of the Constitution states that Members of Congress "shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place."

The Founders put this extraordinary provision in the Constitution because they saw the value of debate. The context surrounding arguments within an administration over intelligence is different, but the principle is the same. Policymakers should be free to exert opinions and interpretations during the policymaking process. Clearly, there are lines that should not be crossed. Some may argue that Secretary Bolton crossed these lines. But the proof is in the result. After fighting for his interpretation, Secretary Bolton conformed to the clearance process and gave the speeches as they had been approved.

It has been charged that Secretary Bolton sought to retaliate in some way against analysts and others with whom he disagreed. Our inquiry looked into these cases thoroughly, and in each one I believe the allegations are overstated.

In the case of Christian Westermann, the INR analyst whom the committee heard about from Carl Ford, the dispute was over a procedural issue, and Mr. Westermann continued in his job.

We should recall that the focus of Mr. Ford's complaint was that Mr. Bolton should not have raised his objections directly with Mr. Westermann, not that Mr. Bolton was wrong to raise the issue. Our Democratic colleagues last month made much of the fact that after this incident Secretary Powell had to go all the way down to INR to boost morale. But we heard from Secretary Powell's chief of staff that such visits were not uncommon. It was part of the Secretary's leadership style to visit with staff in the "bowels of the building," including INR.

In the case of the NIO for Latin America, e-mails the committee staff has viewed make it clear that Secretary Bolton's primary objection was over disparaging and inaccurate comments the analyst made to Members of Congress about a speech. Secretary Bolton took his complaint to the CIA. Although the NIO has said he feels his career was damaged by Secretary Bolton, his superiors fully backed him at the time, and other witnesses have told the committee that if he did not get the promotions he felt he deserved, it was for other reasons. Again, as far as Secretary Bolton was concerned, the dispute was procedural. There was no attempt to fabricate intelligence.

Other allegations related to managerial style show the same pattern upon examination—disagreement over procedure, not policy. In the case of Rexon Ryu, a mid-level civil servant in the non-proliferation bureau under Secretary Bolton, no policy issues were involved at all. Secretary Bolton believed—incorrectly, according to Mr. Ryu's supervisor—that Mr. Ryu had deliberately neglected to share information with Bolton's office. Some months later, Mr. Ryu was up for a job that would have required him to work closely with Secretary Bolton. Secretary Bolton, perhaps regrettably, expressed his opposition to working with Mr. Ryu. Mr. Ryu was given another prized post instead, an assignment to the deputy secretary.

The case of the State Department attorney, also raised by the other side, is even more off the mark. This attorney fully supported what Secretary Bolton wanted to do. It was only because of miscommunication that Secretary Bolton thought the attorney had given out wrong information on a case involving sanctions against a Chinese company. The State Department Legal Advisor, Will Taft, told our staff that he quickly straightened things out. The attorney stayed on the case, and he even wrote the affidavit that Secretary Bolton later submitted to court.

Staff also looked at a new case that came up. Secretary Bolton's chief of staff, we learned, went to an INR analyst to complain that he had inappropriately attached to a CIA document a cover memo that took exception to some of the CIA's findings regarding China. No action was sought against the analyst and none was taken. The issue was procedural, no intelligence was manipulated, and Secretary Bolton was not even directly involved, because he was out of the country at the time.

Secretary Bolton's credibility has also been called into question regarding his testimony before our committee on April 11. Senator BIDEN questioned whether Mr. Bolton really went to the CIA to learn about the National Intelligence Council. Stuart Cohen, the acting head of the NIC, said that while he could not recall why Secretary Bolton wanted to come, it was "perfectly reasonable" to believe that was the reason. In fact, he added, "I was delighted at the prospect that somebody would come out wanting to know more about the NIC." He also said that Secretary Bolton only talked about reassigning, not firing, the NIO just as Mr. Bolton testified. Our investigation has found nothing contrary to Secretary Bolton's claim that his dispute with Mr. Westermann was over procedure, not policy.

Former Ambassador to South Korea, Thomas Hubbard, called the committee after Secretary Bolton's testimony about a controversial speech he gave in South Korea. Secretary Bolton testified that Ambassador Hubbard had thanked him for the speech afterwards. The ambassador told us he indeed had thanked Secretary Bolton afterwards, but only for making certain changes in the speech that he had requested. Ambassador Hubbard told our staff that he wanted to correct the record on that point, but he was not accusing Secretary Bolton of being deliberately misleading.

That speech was one of several by Secretary Bolton that opponents of the nomination have questioned. Our investigation showed that many of these speeches and congressional testimony were preceded by strong policy debates within the administration. As one witness told our staff, "That's how good policy is made." In each case we found that, in the end, Secretary Bolton delivered a speech that was properly cleared and that expressed official U.S. policy.

One of the most sensationalized accusations against Secretary Bolton is that 11 years ago, he chased a woman around a Moscow hotel throwing things at her. This is problematic first because the behavior described seems so out of place. But secondly, because it has been very difficult for our staffs, despite many hours of interviews on this matter, to ascertain just what happened.

The woman, Melody Townsel, who lives in Dallas, admits that she is a liberal Democrat who worked for Mothers Opposing Bush in the last election. Ms. Townsel also told our staffs that her original accusation, contained in a letter that was made public, may have been too strong in some places. She said: "'Chasing' may not be the best word." What she meant was that Secretary Bolton would approach her whenever he saw her at the hotel where they were both staying because, as she describes it, she did not want to meet with him over a legal matter. It is important to remember that Secretary Bolton was a private lawyer at that time. He was not representing the U.S. Government. He was working for a company against which Ms. Townsel had made some very serious charges—charges which proved unfounded—that could have cost his company an important USAID contract in the former Soviet Union.

Ms. Townsel provided no eyewitnesses to the incidents, which are said to have occurred in public or open areas of the hotel. Moreover, although she claimed this was a highly traumatic encounter and that she told several people about it, staff had difficulty finding others who knew about it. Three people whom Ms. Townsel identified as having heard her complaints at the time of the events told staff that they had no recollection of Ms. Townsel mentioning Mr. Bolton. Her boss, Charles Black, of Black, Manafort, Stone and Kelly, who hired her for the post, said she never mentioned it to him. Neither did her immediate supervisor back in Washington. An employee of a sister company who assisted Ms. Townsel in making her charges against the prime contractor on her project and with whom she said she was in close touch at the time, also knows nothing about it. Staffs talked to three representatives of the contractor, a small Virginia firm which has long experience working for USAID overseas. Those officials also heard nothing about this encounter. They said that Secretary Bolton was in Moscow at that time, but he was working as a consultant for a health project they were involved in, not doing legal work for them. We did find one of her friends and co-workers from that time, who was not in Moscow, who recalls talking with her by telephone about it.

as well as a subordinate of hers in a later USAID-funded project who recalls her mentioning it.

Ultimately, Ms. Townsel went on to another USAID project in the former Soviet Union, and the company she accused of mismanagement was awarded more USAID contracts and continues to be well regarded.

The original charge against Secretary Bolton is uncorroborated and overstated. On the basis of what we do know, there is nothing to offset Secretary Bolton's long record of public service in several administrations. It has been charged that collectively the allegations against Secretary Bolton form an unacceptable pattern of behavior. This is an unfortunate argument by opponents because it depends on doubts arising from an intense investigation of accusations, many of which had no substantiation. By its nature, it also discounts the dozens of positive testimonials on Secretary Bolton's behalf from former coworkers who attest to his character and his effectiveness.

We need to think clearly about the context of the allegations leveled against Secretary Bolton. First, this has been an extremely public inquiry. By its nature, it has encouraged anyone with a grudge or disagreement with Secretary Bolton, stretching back to 1983, to come forward and tell their story. There have been no thematic limits on the allegations that opponents of the nominee have asked to be investigated.

I simply submit that no one working in Washington in high-ranking positions for that long would come out unscathed from such a process. Any assertive policymaker will develop opponents based on stylistic differences, personal disputes, or partisan disagreements. Most Members of the Senate have been in public life for decades. If we were nominated for a similar position of responsibility after our terms in the Senate, how many of us would want the same standard to be applied to our confirmation process? How many of us would want any instance of conflict or anger directed at our staffs or our colleagues to be fair game?

Second, as mentioned, the oldest allegation dates back all the way to 1983. Thus, we are subjecting 22 years of Secretary Bolton's career to a microscope. This included service in many Government jobs, as well as time spent in the private sector. Given the length of John Bolton's service in high-ranking positions, it is inevitable he would have a conflict with coworkers of various ranks and political persuasions. He would have had literally thousands of contacts, meetings, and issues to deal with during his career. In this context, the volume of alleged incidents is not that profound.

Third, in John Bolton's case, unsubstantiated charges may seem more material than they are because he has a reputation for being an aggressive and blunt negotiator. But this should not be a disqualifying factor, especially for posts that historically have included a number of blunt, plain-spoken individuals, including Jeane Kirkpatrick and our former colleague, Daniel Patrick Moynihan. In fact, President Bush has cited John Bolton's direct style as one of the reasons he has picked him for this particular job.

It is easy to say any inquiry into any allegation is justified if we are pursuing the truth, but as Senators who are frequently called upon to pass judgment on nominees, we know reality is more complicated than that. We want to ensure that nominees are qualified, skilled, honest, and open.

Clearly, we should pursue credible reports of wrongdoing, but in doing so, we should understand that there can be human and organizational costs if the inquiry is not focused and fair.

We have all witnessed quality nominees who have had to endure a contentious nomination process that opened them up to any charge leveled from any direction. Both Republicans and Democrats have been guilty of employing prosecutorial tactics to oppose nominees with whom they did not agree. Some would say that nominees are fair game. If they accept appointment, they enter the public arena where no quarter will be given. But we need capable people who are willing to serve our Government and the American people.

Among all the other qualifications, it seems we have required nominees to subject themselves and their families to partisan scrutiny. This has implications well beyond this current nomination.

Our Democratic colleagues have recognized this fact when they have defended Democratic nominees in the past. With respect to one nominee in October 1993, Senator BIDEN said:

> The Senate does nothing to fulfill its responsibility to advice and consent on Presidential nominations and does nothing to enhance its reputation as the world's greatest deliberative body by entertaining a long and disagreeable litany of past policy disagreements, nor by entertaining anonymous and probably false allegations.

With regard to a troubled 1999 nomination, Senator DODD quite insightfully stated:

> I am one, Mr. Chairman, who worries deeply about our ability to attract the best our society can produce to serve our country. It is not easy to submit yourselves and your families to the kind of public scrutiny that a nomination of this magnitude involves. We have got to sort out some ways in which we can go through this process without making it so discouraging to people that those who watch the process who think one day they might like to serve their country will be discouraged from doing so in any administration, and I am deeply worried that if we do not get a better handle on this, that will be the net result of what we accomplish.

Senator DODD also provided comments for a March 1, 1997, Washington Post article about the travails of a different nominee. He said:

> It's getting harder and harder to get good people to serve in government. Advice and consent does not have to be abuse.

In an investigation of this type, we constantly have to ask, where do you draw the line? Where does legitimate due diligence turn into partisanship? Where does the desire for the truth turn into a competition over who wins and who loses? Not every line of the inquiry is justified by our curiosity or even our suspicions.

The Foreign Relations Committee has focused a great deal of energy examining several accusations against the nominee. This may leave some observers with the false impression that John Bolton's service has been dominated by discord and conflict. We need to acknowledge that a great many officials with whom he has worked have endorsed him and many subordinates have attested to his managerial character. I would like to cite just a few of the comments received by the committee in support of Secretary Bolton.

Former Secretaries of State James Baker, Larry Eagleburger, Alexander Haig, Henry Kissinger, and George Shultz, former Secretaries of Defense Frank Carlucci and James Schlesinger, former Ambassadors Jeane Kirkpatrick and Max Kampelman, former National Security Adviser Richard Allen, former Arms Control and Disarmament Agency Director Kenneth Adelman, former Assistant Secretary of State David Abshire and former Department of State Counselor Helmut Sonnenfeldt strongly endorsed Secretary Bolton in a letter to the committee. They said:

> It is a moment when we must have an ambassador in place whose knowledge, experience, dedication and drive will be vital to protecting the American interest in an effective, forward-looking United Nations. . . . Secretary Bolton, like the administration, has his critics of course. Anyone as energetic and effective as John [Bolton] is bound to encounter those who disagree with some or even all of the administration's policies. But the policies for which he is sometimes criticized are those of the President and the Department of State which he has served with loyalty, honor and distinction.

Andrew Natsios, the current USAID administrator and M. Peter McPherson, a former USAID administrator, along with 37 officials who worked with John Bolton during his year at USAID wrote:

> We know John to be a forceful policy advocate who both encourages and learns from rigorous debate. We know him to be a man of balanced judgment. And we know him to have a sense of humor, even about himself. John leads from in front with courage and conviction—especially positive qualities, we believe, for the assignment he is being asked to take on. He is tough but fair. He does not abuse power or people. John is direct, yet thoughtful in his communication. He is highly dedicated, working long hours in a never-ending quest to maximize performance. Yet he does not place undue time demands on his

> staff, recognizing their family obligations. What he does demand from his staff is personal honesty and intellectual clarity.

Another letter from former Attorneys General Ed Meese and Dick Thornburgh; former Governors William Weld and Frank Keating; former counsels to the President C. Boyden Gray and Arthur Culvahouse Jr.; and 39 other distinguished Officials stated:

> Each of us has worked with Mr. Bolton. We know him to be a man of personal and intellectual integrity, deeply devoted to the service of this country and the promotion of our foreign policy interests as established by this President and Congress. Not one of us has ever witnessed conduct on his part that resembles that which has been alleged. We feel our collective knowledge of him and what he stands for, combined with our own experiences in government and in the private sector, more than counterbalances the credibility of those who have tried to destroy the distinguished achievements of a lifetime.

Another letter came from 21 former officials who worked with John Bolton in his capacity as Assistant Secretary of State for International Organization Affairs. It states:

> Despite what has been said and written in the last few weeks, John has never sought to damage the United Nations or its mission. Quite the contrary—under John's leadership the organization was properly challenged to fulfill its original charter. John's energy and innovation transformed IO from a State Department backwater into a highly appealing work place in which individuals could effectively articulate and advance U.S. policy and their own careers as well.

A letter also arrived from 43 of John Bolton's former colleagues at the American Enterprise Institute. It stated:

> As we have followed the strange allegations suddenly leveled at Mr. Bolton in recent days and reflected among ourselves on our own experiences with him, we have come to realize how much we learned from him, and how deep and lasting were his contributions. . . . Contrary to the portrayals of his accusers, he combines a temperate disposition, good spirit, and utter honesty with his well-known attributes of exceptional intelligence and intensity of purpose. This is a rare combination and, we would think, highly desirable for an American ambassador to the United Nations.

Former British Prime Minister Margaret Thatcher wrote in a recent letter to Secretary Bolton:

> To combine, as you do, clarity of thought, courtesy of expression and an unshakeable commitment to justice is rare in any walk of life. But it is particularly so in international affairs. A capacity for straight talking rather than peddling half-truths is a strength and not a disadvantage in diplomacy. Particularly in the case of a great power like America, it is essential that people know where you stand and assume that you mean what you say. With you at the UN, they will do both. Those same qualities are also required for any serious reform at the United Nations itself, without which cooperation between nations to defend and extend liberty will be far more difficult.

During consideration of the Bolton nomination, we have spent a good deal of time scrutinizing individual conversations and incidents that happened several years ago. Regardless of how each Senator plans to vote, we should not lose sight of the larger national security issues concerning UN reform and international diplomacy that are central to this nomination.

The President has tapped Secretary Bolton to undertake this urgent mission. Secretary Bolton has affirmed his commitment to fostering a strong United Nations. He has expressed his intent to work hard to secure greater international support at the UN for the national security and foreign policy objectives of the United States. He has stated his belief in decisive American leadership at the UN, and underscored that an effective United Nations is very much in the interest of U.S. national security.

I believe that the President deserves to have his nominee represent him at the United Nations. I am hopeful that we will vote to send this nominee to the United Nations without further delay and with a maximum amount of enthusiactic support.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I ask that the time now be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that quorum calls be charged equally against both sides for the duration of the debate on the Bolton nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I rise today to state what is obvious to the Chair and my colleagues, that I will oppose the nomination of John Bolton to be U.S. representative to the United Nations. I regret, frankly, we are even debating this nomination while the administration continues to withhold relevant material about Mr. Bolton that the committee has requested, and for which no reasonable explanation has been given as to why it has not been provided other than they do not think the information is "relevant" to our inquiry. I will return to that issue later today.

The job to which Mr. Bolton has been nominated is one of the most important ambassadorships the President fills. It is, in fact, the most important one. In the past, it has often held Cabinet rank. Leading figures of their day have held that job, people such as Republican Henry Cabot Lodge, Democrat Adlai Stevenson, President George Herbert Walker Bush, Daniel Patrick Moynihan, Jeane Kirkpatrick, Richard Holbrooke, Senator Jack Danforth. Aside from the President and the Secretary of State, the U.N. ambassador is the best known face of American diplomacy.

It is a job that in my view requires a person with diplomatic temperament, a person willing to listen to other points of view, and blessed with the power to be able to persuade, such as President Bush's father George Herbert Walker Bush was.

It is a job that requires a person of great credibility, such as Governor Adlai Stevenson.

It is a job that requires a person who is not an ideologue, such as Senator Daniel Patrick Moynihan, a Democrat who served a Republican President as ambassador to the United Nations.

And it is a job, in my view, that requires a person who has the complete confidence of the President of the United States and Secretary of State, such as Jeane Kirkpatrick did.

Mr. Bolton is not that person. He is no diplomat, as evidenced by his contempt for opposing views and his inability or unwillingness to listen. His credibility is in grave doubt, as evidenced by his repeated efforts to distort facts to fit preformed views. He is an ideologue—a bright ideologue, but nonetheless an ideologue, as evidenced by his long record both in and out of Government. And he lacks the trust and confidence of his superiors, as evidenced by the fact that the Secretary of State has felt the need to assure Senators in this Chamber that Mr. Bolton will be "closely supervised." As one of our colleagues said, why in the Lord's name would you send someone to the United Nations who had to be "closely supervised?"

The job of U.N. ambassador is important, to state the obvious, because of the many challenges the United States confronts in the year 2005. I would argue it is a more important post than at any time since 1962 and the Cuban missile crisis. We confront a monumental threat by radical Islamic fundamentalists bent on destroying America and our allies. We confront a radical regime in North Korea and a theocracy in Iran that seek nuclear weapons and the means to deliver them. We confront the challenge of building democratic states in Iraq and Afghanistan, two countries that have known mostly dictatorship and suffering for generations. We confront the challenges of the AIDS pandemic, war and humanitarian catastrophes across the African continent, and the threat of instability in every continent.

Despite our vast economic and military power we cannot—or I should say more appropriately, we need not—face these challenges alone. America's security is enhanced when we work with our allies, and the United Nations is one of the places we can find them. Our security is enhanced when even those who are not considered our allies understand that the threat that we are concerned about is common to all of us, to them as well as us, to almost all nation states.

For better or worse, the United Nations is an essential forum for the advancement of U.S. foreign policy and national security interests in the year 2005—a troublesome forum but in fact a necessary forum. For better or worse, the U.N. Security Council makes decisions that affect international security and stability. Granted, they cannot make any decision without the United States signing off—we can veto it—but they have the ability to isolate us instead of isolating those who should be isolated.

For better or worse, the United Nations provides a means for the United States to gain international support for difficult missions it seeks to undertake, not only in our interest but in the interest of others, allowing us to share the cost and burdens with others and not put it all on the back of the American taxpayer.

The United Nations is not perfect, as the Presiding Officer well knows—far from it. It needs significant reform—again as the Presiding Officer knows. But let's not equate reform of the United Nations with John Bolton, as some of our colleagues have attempted to do. We have, under the leadership of Jesse Helms and with my help, passed the Helms-Biden legislation reforming portions of the United Nations. Much more needs to be done.

I would note that when we had John Danforth, an incredibly well respected ambassador, up until a couple of months ago, and before him Mr. Negroponte, there was not all this talk about the primary responsibility being reform. They were fully capable of dealing with reform.

I would point out that not even the Secretary of State, Condoleezza Rice, believes John Bolton is necessary for reforming the United Nations. Four days after the Bolton nomination was announced, Dr. Rice appointed another person, Dr. Shirin Tahir-Kheli, "to serve as the Secretary's senior advisor and chief interlocutor on United Nations reform." The State Department press release announcing the appointment made no mention of Mr. Bolton.

Mr. Bolton was not picked because his job was United Nations reform. That is the job of every U.S. ambassador to the U.N., or part of the job. No, this debate is not about U.N. reform or U.N. interests; it is about whether the appointment of Mr. Bolton is in the national interests of the United States of America. I firmly believe, as my friend from Ohio, Mr. VOINOVICH, does, that it is not in the U.S. interests.

There are four reasons to vote no on Mr. Bolton. Each, standing alone, in my view, would justify a negative vote, but taken together they provide an overwhelming case. What is even more extraordinary is that much of the evidence for this case comes from senior officials in the Bush administration who worked with Mr. Bolton. The bulk of the evidence to make the cases I am about to make came from senior Republican administration officials who worked with Mr. Bolton. They had nothing to gain and a good deal to lose by appearing before our committee, but everyone came voluntarily. No one had to be subpoenaed. We asked and they came.

The first reason Mr. Bolton should, in my view, be denied the ambassadorship to the United Nations is that Mr. Bolton repeatedly sought to remove intelligence analysts who disagreed with him. Mr. Bolton was not content to fight the normal policy battles. He had to crush people, even if they were just doing their jobs.

One analyst was Christian Westermann, an expert on biological and chemical weapons with a 20-year career in the U.S. Navy who worked in the State Department's Bureau of Intelligence and Research after retiring from the U.S. military.

In February of 2002, Mr. Westermann was asked by Mr. Bolton's staff, which is standard operating procedure, to begin the intelligence community clearance process for three sentences that Mr. Bolton wanted to put in a speech about the biological weapons effort of Cuba. The speech was not made yet; the speech was in the making. What is a normal operating procedure in this State Department, the last State Department, and the ones before that, is that when a policymaker wishes to include in a speech intelligence data or assertions that the U.S. government or the intelligence community believes thus and so, it has to be cleared first by the intelligence community.

Mr. Westermann, the State Department's intelligence analyst for biological weapons, had two roles in this process of clearing these three sentences. One was to transmit the material to a clearance coordinator at the CIA who would then seek clearance from all the other intelligence agencies in the Government—Defense Intelligence, et cetera, a whole panoply of the intelligence community. The second function Mr. Westermann had as the intelligence officer at the State Department for biological weapons was to provide the substantive comments of his Bureau—that is, INR—on Mr. Bolton's text to this clearance coordinator; in other words, in addition to what the other intelligence agencies thought about these three sentences, to say what the intelligence analysts in the State Department thought about these three sentences.

In performing that latter function, Mr. Westermann proposed alternative language to the three sentences submitted by Mr. Bolton's staff, a standard means of trying to help a policymaker say something about classified matters so that the sources and methods are not compromised and so that the statement is consistent with the intelligence community's judgments on that point being spoken to. When Mr. Bolton found out that Mr. Westermann suggested alternative language, he hit the roof. He summoned Mr. Westermann to his office and gave him a tongue lashing.

Look, Mr. Westermann does not work directly for Mr. Bolton. There is within the State Department Mr. Bolton's operation, the people who work directly for him, and then there is the intelligence operation, INR, headed at the time by a guy named Carl Ford. At the bottom of the food chain is the guy in charge of biological weapons as an intelligence analyst; that is, Mr. Westermann.

Mr. Bolton summoned Mr. Westermann into his office and, according to Mr. Westermann, Bolton was "red faced" and yelling at him. When Mr. Westermann tried to explain what he had done, Mr. Bolton threw him out of his office.

Then, over the course of the next 6 months, Mr. Bolton tried on three separate occasions to have Mr. Westermann removed from his position. During the committee hearing, Mr. Bolton grudgingly conceded that he sought to remove Mr. Westermann from his portfolio, but he tried to minimize his involvement. Mr. Bolton suggested that he asked one of Mr. Westermann's supervisors to give Mr. Westermann a new portfolio, but then, he said, "I shrugged my shoulders and moved on." But the evidence is clear that Mr. Bolton did not, as he said, "move on." He tried twice more to remove Mr. Westermann, the biological weapons expert. A few days later, he tried to remove him, and then several months later.

My friend from Indiana—and as we say here, he is my friend—argues this does not matter. Mr. Westermann kept his job, no harm, no foul—my words. But the system had to work overtime to counteract the harmful effects of this episode. Don't take my word for it. Listen to Carl Ford, the former Assistant Secretary of State for INR, who says he supports the President and, in his words, is a huge fan of Vice President CHENEY, and not anyone who has ever been accused of being a liberal Democrat.

Mr. Ford testified that the analysts in his Bureau were "very negatively affected by this incident—they were scared." Ford said that after the Westermann incident, he tried to make the best of a bad situation by using the incident as a training vehicle to explain to his people how to handle similar situations if they came up. At Ford's request, Secretary Powell made a special trip to speak to the INR analysts, where Mr. Powell singled out Mr. Westermann and told the analysts they should continue to "speak truth to power." They had to do this because Mr. Bolton was allergic to people delivering news that his proposed language was not supported by the evidence.

As one of Mr. Westermann's supervisors recounted, Mr. Bolton declared "he wasn't going to be told what he could say by a mid-level munchkin analyst." At the U.N., the special representative has to listen to a lot of people who disagree with him and then report back faithfully on what they are saying. Is Mr. Bolton capable of doing that?

The second analyst Mr. Bolton tried to remove from his position is a more remarkable case for two reasons: The analyst worked in another agency; and his portfolio did not involve Mr. Bolton's area of responsibility, which was arms control and weapons of mass destruction.

The analyst was the National Intelligence Officer for Latin America. He disputed language on Cuba that was used in a speech Mr. Bolton had given, and that he then wanted to give again in congressional testimony.

During the committee hearing, Mr. Bolton again tried to minimize his actions, stating that his effort to remove this individual was "one part of one conversation with one person, one time . . . and that was it, I let it go."

The evidence shows that he did not let it go but, rather, that he and his staff actively discussed the removal of this National Intelligence Officer over the course of 4 months.

In early June of 2002, an aide to Mr. Bolton circulated a draft letter from Mr. Bolton and Ambassador Otto Reich, Assistant Secretary of State for Latin America. The draft was addressed to Director of Central Intelligence Agency, Mr. George Tenet.

The draft letter urged the immediate replacement of the National Intelligence Officer and indicated that Bolton and Reich would take several measures on their own, including banning the National Intelligence Officer from official meetings at the State Department and from official travel in the Western Hemisphere.

A response to the e-mail from a colleague reported that he discussed the same matter with Mr. Bolton, whom he said "would prefer at this point to handle this in person with [Mr.] Tenet."

The following month—again, going to the issue of whether he tried to get this guy removed—Mr. Bolton traveled to the CIA headquarters to meet with Mr. Stuart Cohen, the Acting Chairman of the National Intelligence Council, where he asked that the National Intelligence Officer be removed from his position.

Mr. Cohen, the Acting Chairman of the National Intelligence Council, said he did not remember many details about the meeting with Mr. Bolton other than Mr. Bolton's intent was clear: He wanted the National Intelligence Officer for Latin America removed.

Later that month—again, remember, Mr. Bolton said: I did not try to get this guy. I let it alone—a senior aide to Mr. Bolton told a senior aide to Mr. Reich that Bolton wanted to meet Reich to "discuss the draft letter to CIA on our favorite subject" and said that "John doesn't want this to slip any further."

The next day, the same aide to Mr. Bolton e-mailed Secretary Reich and his aide and had a new draft to the letter. He said that the draft "relies on John's tough talk with [Mr.] Cohen "about the national intelligence officers.

So much for not trying to get him removed.

Two months later, in September, another draft letter urging the removal of the National Intelligence Officer was exchanged between Mr. Bolton's office and Mr. Reich's office.

Now, does that sound like he "let it go," as he said he did? Remember, his staff said Mr. Bolton said he doesn't want to let this matter "slip any further." If you ask me, this was more than "one part of one conversation . . . one time," as Mr. Bolton said. It was a campaign, a vendetta, against a person Mr. Bolton had never met and whose work Mr. Bolton acknowledges he cannot recall ever reading, all because he questioned Mr. Bolton.

If this is how Mr. Bolton reacts to someone he has never met, how will he control himself in New York? Secretary Rice, the Secretary of State, told the Senator from Ohio that Mr. Bolton will be "closely supervised." How much energy at the State Department will be diverted to supervising Mr. Bolton?

Thankfully, senior management at CIA had the good sense to rebuff Mr. Bolton's attempts to remove the National Intelligence Officer. The former Deputy Director of Central Intelligence, John McLaughlin, remembers that when the issue was raised with him, he adamantly rejected it. Here is what the Deputy Director of the CIA said:

> Well, we're not going to do that, absolutely not. No way. End of story.

Mr. McLaughlin, at the CIA, explained why he so strongly opposed Mr. Bolton's proposal to get rid of this national intelligence officer. And I quote from Mr. McLaughlin, formerly at the CIA:

> It's perfectly all right for a policymaker to express disagreement with an . . . analyst, and it's perfectly all right for them to . . . challenge their work vigorously. But I think it's different to then request, because of the disagreement, that the person be transferred. And . . . unless there is malfeasance involved here—and, in this case, I had high regard for the individual's work; therefore, I had a strong negative reaction to the suggestion about moving him.

He is speaking of the National Intelligence Officer.

That, all by itself, is reason to vote against Mr. Bolton—thoroughly outrageous conduct as it related to two intelligence officers who disagreed with him.

A second reason to oppose Mr. Bolton is that he frequently sought to stretch the intelligence—the available intelligence—to say things in speeches and in testimony that the intelligence community would not support. The committee report lays out this allegation in extensive detail, and it is there for every Senator to see. There is ample evidence that Mr. Bolton sought to cherry-pick, as one analyst said, cherry-pick intelligence; sought to game the system, to get the clearances he wanted, or simply sought to intimidate intelligence analysts to get them to say what he wanted.

Again, don't take my word for it. Take the word of an administration appointee, Mr. Robert Hutchings, the Chairman of the National Intelligence Council from 2003 to 2004. Chairman Hutchings said, in the summer of 2003, that Mr. Bolton prepared a speech on Syria and weapons of mass destruction that "struck me as going well beyond . . . where the evidence would legitimately take us. And that was the judgment of the experts on my staff, as well."

Now, remember, this is 2003. We had 160,000 troops in Iraq and in Afghanistan. There was all kinds of talk on the floor of the Senate and in the Nation about whether we would invade Syria next. There was all kinds of discussion and supposition that the weapons of mass destruction that were never found in Iraq—and we later learned had not existed after 1991 or 1995—had been smuggled, for hiding, into Syria. It was a very delicate moment, in which if, in fact, a senior administration official came forward and said there was evidence that there was a nuclear weapons program in Syria, we might have had a war.

Mr. Bolton wanted to make a speech about that, and here is the guy who headed up the National Intelligence Council, the chairman. He said that what Bolton wanted to say "struck me as going well beyond . . . where the evidence would legitimately take us. And that was the judgment of the experts on my staff, as well."

This is not minor stuff. I remind the American people and my colleagues that an awful lot of Senators voted to go to war in Iraq on the assertion that Iraq had weapons of mass destruction, which now the administration itself acknowledges they did not have. Mr. Bolton, according to the chairman of the National Intelligence Council, wanted to say things about Syria and weapons of mass destruction that struck him and his experts as going beyond what could legitimately be stated.

Chairman Hutchings said that Bolton took "isolated facts and made much more of them to build a case than I thought the intelligence warranted."

Does that sound familiar to you? Remember aluminum tubes, offered by the Vice President as evidence that Iraq had a gas centrifuge system, had reconstituted their nuclear capability, when, in fact, the most informed elements of the intelligence community said those tubes—because they were anodized—couldn't be used for a gas centrifuge system? Facts taken out of context to make a case that didn't exist got us into war prematurely.

Here we now have Mr. Bolton, when people are talking about going to war with Syria, and the head of the National Intelligence Council says Mr. Bolton took "isolated facts and made much more of them to build a case than I thought the intelligence warranted. It was a sort of cherry-picking of little factoids and little isolated bits that were drawn out to present the starkest-possible case."

Let me take you back to aluminum tubes, out of context, an isolated fact, drawn out to present the starkest possible case that Iraq had "reconstituted its nuclear capability."

There used to be an expression my dad used to say in World War II: Loose lips sink ships. Cherry-picking little factoids and little isolated bits drawn out to present the starkest-possible case can cause wars.

Listen to Larry Wilkinson, who served as Secretary of State Colin Powell's Chief of Staff, a military man himself. He told us that because of the problems that the State Department was having with Mr. Bolton's speeches not always being properly cleared by the State Department offices and officials—think of this now, the Chief of Staff, a military man himself, I think a colonel, working for the former chairman of the Joint Chiefs of Staff, then Secretary of State, said that because Mr. Bolton didn't properly clear his speeches with the appropriate authorities and experts within the State Department—the Deputy Secretary of State, the No. 2 man, Secretary Armitage "made a decision that John Bolton would not give any testimony, nor would he give any speech that wasn't cleared first by Rich [Armitage]."

Think of that. Here is the guy, head of the arms control and nonproliferation piece of the President's operation at the State Department who needs, as much as anyone, classified information and accurate intelligence, and he has to be told by the No. 2 man at the State Department that he is no longer authorized to make any speech without it first being cleared by the No. 2 man at the State Department. I don't do that with my senior staff. I don't have to. It is truly remarkable.

This may have occurred with one of the six other Presidents with whom I have served since I have been here, but if it has, I am unaware of it, and I would like to know.

Powell's Chief of Staff later told the New York Times, referring to what I just talked about—restrictions that Mr. Bolton could not make a speech without it being cleared by the No. 2 man at the State Department—that "if anything, the [restrictions] got more stringent" as time went on. "No one else"—I assume he means in the entire State Department—"was subjected to these tight restrictions."

Consider this: we have the chairman of the National Intelligence Organization, the Chief of Staff for the President, Secretary of State, the former Deputy Director of Central Intelligence, the former head of an office within the CIA named Mr. Cohen, and the former head of the intelligence apparatus at the State Department—all of them, nary a Democratic appointee in the crowd, pointing out how Mr. Bolton overreached, cherry-picked, had to be disciplined, had to be overruled, had to be supervised. And here Mr. Bolton was, an Assistant Secretary of State, and we want to send him now to the No. 2 job in diplomacy after the Secretary of State?

Listen to Mr. Bolton's own loyal staff. After being told that the intelligence community could not support a statement Mr. Bolton wanted to make on Cuba, a member of Mr. Bolton's staff wrote to a CIA official and said that "several heavy hitters are involved in this one, and they may choose to push ahead over the objections of the CIA and INR . . . unless there is a serious source and methods concern."

We have all been around here. Let's translate that. This is Mr. Bolton's staff writing to a CIA official, when CIA is telling Mr. Bolton that he cannot say what he wants to say. Mr. Bolton's staff writes to the CIA official who said Mr. Bolton could not do that: "Several heavy hitters are involved in this one."

I am sure no staff on the floor of the Senate could possibly be intimidated to maybe reconsider a recommendation they made if, in fact, the Chief of Staff of the majority leader or the minority leader, or chairman of the Foreign Relations Committee, or the ranking member sent out an e-mail or a letter to them saying: Look, Jack, I know what you said, but let me tell you something, there are several heavy hitters here who may go beyond you. Translated: Are you sure you want to say he cannot do this? You would have had to have your head in a rain barrel for the past 20 years not to understand what the message was that was being communicated.

Mr. Bolton's staff was saying that Mr. Bolton might make statements in the name of the Government, or at least with the claim that they were supported by U.S. intelligence, despite the analysts' views that these statements were not justifiably based on the evidence. That is more than mere arrogance. It suggests a willingness to defraud the American people, and it suggests that there is a price that will be paid by you, you not-so-senior person, if you raise a ruckus about this.

That e-mail I described was not a one-time event. Mr. Bolton's staff later informed the intelligence community that they wanted to change the rules for reviewing proposed speeches to limit their objections to only those objections related to sources and method.

Let me translate that. I see my friend from Maryland on the floor. If he were an intelligence officer in the United States government who found out that another country was supporting an al-Qaida undertaking and my friend from Maryland was a CIA operative in that other country, if I were to expose the fact that, that country was cooperating with the CIA, I might inadvertently disclose who the source of that intelligence is and, by doing so, maybe get my friend killed. Or if that information is picked up by a bugging device placed in a meeting room, if I were to say on the floor that we have a recording saying that Official A of Country A met with al-Qaida, clearly, they might be able to figure out how we knew that, what the method of picking up the information was.

So we are very fastidious in this Senate—those of us who deal with intelligence matters—not to ever reveal a source or a method, and even though the information revealed may not be so classified that we are told by the Agency you cannot say this for fear of revealing a source or a method of picking up this information, we do not disclose it.

There is a second type of intelligence, and that is the intelligence analysis that says: Syria does not have nuclear weapons. That is an analysis by experts in our intelligence community who reached the conclusion, from all kinds of sources and methods, that Syria doesn't have nuclear weapons, if that were the conclusion.

Now, Mr. Bolton had been stopped repeatedly by various intelligence agencies from saying things that the intelligence did not support. I am making this up. Let's assume Mr. Bolton wanted to say that Syria has nuclear weapons and the CIA analysis says it doesn't. Under the present rules, CIA can say to Mr. Bolton that he cannot say that. So what does Mr. Bolton do? He goes back and says to the intelligence community, through his staff, we want to change the rule. You cannot tell me, I say to my friend from Maryland, what I can say about whether or not they have nuclear weapons. I can say they do, even though you say they don't.

Mr. SARBANES. Will the Senator yield for a question?

Mr. BIDEN. First, let me finish this point. But, his staff says, you can tell Mr. Bolton he cannot say it only if it will reveal a source or a method. In other words, his staff was seeking carte blanche to allow Mr. Bolton to cherry-pick, as the former chairman of the National Intelligence Council said, factoids in isolation to make a case that didn't exist.

I will yield to my friend for a question.

Mr. SARBANES. It is my understanding that if a policymaker wants to make a statement reflecting an intelligence judgment, representing the position of the Government—not his own personal position, but the position of the Government—the standard practice is for the statement to be submitted to the intelligence community for clearance, to be certain that the statement accurately reflects the judgment of the intelligence community; is that correct?

Mr. BIDEN. That is absolutely correct.

Mr. SARBANES. So you don't have policymakers making assertions about intelligence matters that are not supported by the intelligence community. If you stop and think about that, it seems to me that is a very wise rule. Otherwise, policymakers can run around making all kinds of assertions about intelligence matters, portraying them as representing the considered judgment of the Government and, therefore, the considered judgment of the intelligence community. That is the kind of review that the intelligence community—in addition to the sources and methods review—was undertaking to do.

As I understand it, it is standard operating procedure for any policymaker——

Mr. BIDEN. If I may interrupt the Senator, any administration official who wishes to purport that he speaks for the administration, which includes the intelligence community, has to have his or her statement cleared on that specific point, yes. That is standard operating procedure.

Mr. SARBANES. And that was the very thing that Bolton not only complained about, but for which he sought to have certain intelligence analysts punished; is that right?

Mr. BIDEN. That is absolutely right. When an intelligence analyst said to him, on two occasions—Mr. Westermann being one—no, Mr. Secretary, you cannot say that because the intelligence community doesn't believe that, the intelligence community doesn't think what you are about to say is accurate, you cannot say it, what did Mr. Bolton do? He tried to get that intelligence analyst fired for doing nothing but his job and telling him, no, boss, you cannot say that; that is not what the intelligence community believes.

That is different than if Mr. Bolton had said: I am going to go out and say, You know, the intelligence community doesn't agree with me, but I, John Bolton, I believe these are the facts. He probably would get fired by the President for doing that, but that is not a violation of any procedure. He is not purporting to speak for the intelligence community when he does that.

Mr. SARBANES. If the Senator will yield for a further question, I understand that the analyst with whom Bolton had this confrontation said that what Bolton was seeking to say didn't represent the judgment of the intelligence community. In other words, the analyst was stating correctly the position of the intelligence community which Mr. Bolton was, in effect, seeking to ignore or go against. So it is not as though the analyst was seeking to impose his own personal opinion. His judgment corresponded with the vetted judgment of the broader intelligence community; is that correct?

Mr. BIDEN. If the Senator will yield, not only the community he worked for, but the entire community. This National Intelligence Officer, who remains nameless because he is undercover, did not give his own opinion. He gave the opinion of what was the consensus of the intelligence community.

The Deputy Director of Central Intelligence, Mr. McLaughlin, said: No, my guy, my CIA officer is right; Mr. Bolton is wrong, and it is wrong to try to get him fired.

In addition to both of these intelligence analysts being backed up by their bosses at the highest level—one at INR, the intelligence operation within the State Department, and one in CIA—in addition to being backed up by them, they got backed up by the policymakers who are their bosses—the Secretary of State of the United States of America and the Deputy Secretary of State of the United States of America—both of whom were superior in terms of authority to Mr. Bolton.

So it is Mr. Bolton who was chastised by the Deputy Secretary of State as a consequence of these encounters, because the Deputy Secretary of State said: Hey, look, John, in addition to the analysts being correct, you are no longer authorized to make any speech that is not cleared by me; you are no longer authorized to give any testimony before the Congress that is not cleared by me.

So not only were these analysts backed up by their superiors in the intelligence hierarchy, they were backed up by the policymakers.

Mr. SARBANES. Will the Senator yield for a further question?

Mr. BIDEN. Surely.

Mr. SARBANES. I apologize if I am anticipating his statement. As I understand it, when a policymaker requests the transcripts of intelligence intercepts, let's say the intercept of a conversation, the documents that are provided identify the foreign source but they do not usually identify the American; is that how it usually works?

Mr. BIDEN. Let me restate in my own words, so the Senator from Maryland understands. Let's assume there is the country of Xanadu and an American is meeting with the President of Xanadu. In all probability, an American official is meeting with the President of Xanadu. The National Security Agency—with the ability to intercept conversations by multiple methods—picks up a conversation, or somebody's report of a conversation, between an American and the President of Xanadu. That gets reported back, based on subject matter, to the appropriate officer within the State Department or the Defense Department who they feel should know about this conversation because maybe the President said to the American: You know, we have right here in our country 47 al-Qaida operatives. That should go to the person who has that responsibility.

So a lot of stuff went to Mr. Bolton because he is the guy in charge of dealing with nonproliferation and other matters. He would get these NSA, National Security Agency, intercept reports. But in order to protect the identity of the American, for privacy reasons, he would get a statement and it would say: On such and such a date at such and such a time, the President of Xanadu met with an American. They discussed the following things. Here is what they said, here is the conversation.

That is what I understand to be—I know to be—the way in which NSA intercept reports treat a case involving an American.

Mr. SARBANES. It is my understanding that what Mr. Bolton had requested to know, although it was not revealed when they initially provided him the intercepts, was who were the Americans in each of these instances; is that correct?

Mr. BIDEN. At least in 10 instances. On 10 different occasions, when he got access to an NSA intercept that mentioned "an American," Mr. Bolton went back to NSA, and, as I understand it—and I ask to be corrected by my staff—but as I understand it, Mr. Bolton has to say to the head of NSA: I want to know more about this intercept, and I want to know the name of the American in order to better understand the intercept. He did that 10 times.

Mr. SARBANES. And he got the name, presumably.

Mr. BIDEN. To the best of our knowledge, he got the name of the American.

Mr. SARBANES. I understand in trying to do due diligence on the Bolton nomination on the part of the committee, the very able Senator from Delaware, who has had extensive experience on investigatory matters, requested that we be provided with the names of the Americans that Bolton had received from the intelligence agency; is that correct?

Mr. BIDEN. If the Senator will yield, that is correct. Not only did I ask that, but the chairman of the committee asked that, and it was resolved that we were not asking it to be made public, we were not asking those names to necessarily be made available to the whole Foreign Relations Committee, although that was the chairman's preference, and ultimately the chairman concluded it should not even be provided directly to me or the chairman, but it should be made available to the chairman of the Senate Intelligence Committee and the ranking member or vice chairman of the Senate Intelligence Committee, and they should decide how our committee would review the information.

I think the information should be provided to me and to Senator LUGAR, as well, but the way this was parsed out, it was going to be that the National Security Agency was going to come and brief the Senate Intelligence Committee, of which I am no longer a member, and—I thought—tell them the names of these Americans. I might add further, the reason for that is, there are unsubstantiated—I emphasize "unsubstantiated"—allegations that Mr. Bolton may have been seeking the names of these Americans to seek retribution; that it may have been intelligence analysts with whom he disagreed or policymakers against whom he was trying to make a case in terms of the direction of American foreign policy. I do not know that to be the case. The question is why did he need the names.

Mr. SARBANES. It seems to me a further question is that if Mr. Bolton went back to get those names for some reason—he must have had a reason for doing so—why the committee, in deciding whether to confirm him, should not have access to that same information so that we are in a position to ascertain what, if anything, may have been in play by these requests.

Mr. BIDEN. If the Senator will yield, to the best of my knowledge, there is absolutely no substantive reason why information that was provided to an Under Secretary of State down the food chain, and the Under Secretary of State's staff, to the best of my knowledge, why the information provided to them could not be provided to a Senator who has served 28 years, as the Senator has, in the Senate.

Mr. SARBANES. And Senators who are charged with making this very important decision about whether this nominee should be confirmed for this very important position. It seems to me clearly relevant in reaching some judgment about the nominee to have this information provided to those who have to render the judgment.

Mr. BIDEN. If my friend from Maryland will further yield, Senator LUGAR, the Republican chairman of the committee, and I received a letter today dated May 25, addressed to both him and me, from the vice chairman of the Intelligence Committee, saying: It is important to note, however, that our committee did not interview Mr. Bolton, so I am unable to answer directly the question of why he—Mr. Bolton—felt it necessary for him—Mr. Bolton—to have the identity information—that is, the name of the Americans—in order to better understand the foreign intelligence contained in the report. Furthermore, based on the information available to me—the vice chairman of the Intelligence Committee—I do not have a complete understanding of Mr. Bolton's handling of the identity information after he received it.

Continuing quoting: The committee—the Intelligence Committee—has learned during its interview of Mr. Frederick Fleitz, Mr. Bolton's acting chief of staff, that on at least one occasion Mr. Bolton is alleged to have shared the un-minimized identity information he received from the NSA with another individual in the State Department. In this instance, the NSA memorandum forwarding the requested identity—meaning the memorandum forwarding the names of the Americans to Mr. Bolton—to State/INR—that is the State Department's intelligence agency—included the following restriction: "Request no further action be taken on this information without prior approval of NSA."

Continuing to quote the vice chairman of Intelligence:

> I have confirmed with the NSA that the phrase "no further action" includes sharing the requested identity of U.S. persons with any individual not authorized by the NSA to receive the identity.

Continuing from the Intelligence Committee vice chairman:

> In addition to being troubled that Mr. Bolton may have shared U.S. person identity information without required NSA approval, I am concerned that the reason for sharing the information was not in keeping with Mr. Bolton's requested justification for the identity in the first place. The identity information was provided to Mr. Bolton based on the stated reason that he needed to know the identity in order to better understand the foreign intelligence contained in the NSA report.
>
> According to Mr. Fleitz—

Mr. Bolton's acting chief of staff—

> Mr. Bolton used the information he was provided in one instance in order to seek out the State Department official mentioned in the report . . .

It goes on. But my point is, on the one case that Senator ROCKEFELLER knows of, Mr. Bolton apparently violated the restriction which was imposed upon him when he requested the information, and used that information for a purpose different than he requested.

Having said all of that, even the Intelligence Committee was not provided the names of the Americans, which is a critical issue.

Mr. SARBANES. Would the Senator yield on that point?

Mr. BIDEN. Yes, I will.

Mr. SARBANES. These are the very names that were provided to Mr. Bolton; is that right?

Mr. BIDEN. And his staff, yes.

Mr. SARBANES. And his staff?

Mr. BIDEN. And his staff.

Mr. SARBANES. But there is a refusal to provide them to the committee which now has to make a judgment as to whether Mr. Bolton should be confirmed to be the American ambassador to the United Nations?

Mr. BIDEN. If the Senator would yield, not only a refusal to provide them to our committee that has that responsibility, refusal to provide them even to the Intelligence Committee that is once removed from this process—the same information that was made available to one of several Under Secretaries in the State Department and his staff.

Mr. SARBANES. Well, what rationale is advanced, if any, for this backhanded treatment of the institutions of the Senate, these two important committees, the Intelligence Committee and the Foreign Relations Committee, both of which are trying to conduct due diligence on this nominee?

I might say to my colleague, I remember when we held the nomination hearings for John Negroponte and Richard Holbrooke. That investigation went over an extended period of time and probed very deeply. The end result, of course, was that questions that had been raised were answered satisfactorily, and the body was able to come to a consensus about those nominees.

I cannot think of a rationale that can be offered that would warrant a withholding of this information.

Mr. BIDEN. There is no institutional, constitutional, or previously asserted rationale that has been offered in denying access of the Intelligence Committee or, for that matter, the Foreign Relations Committee chairman and ranking member to this information. I do not remember the exact quote. It may apply to the information we are seeking on Syria—I am not sure—saying that they did not think it was relevant, but I do not recall.

I say to my friend from Maryland, there was no assertion on the part of the NSA, that I am aware of, that asserted that it was executive privilege or even that it was extremely sensitive. We have access to incredibly sensitive information. That is the reason we have an Intelligence Committee. That is the reason we on the Foreign Relations Committee have cross-pollination on that committee. So there is no reason—the Senator asked why they would deny it. The Senator's speculation is as good as mine. It seems to me they can end this thing very quickly. The only request being made is that Senator LUGAR, Senator ROBERTS, chairman of the Intelligence Committee, Senator ROCKEFELLER, and I sit down in a room on the fourth floor of this building that is totally secure, have someone from the National Security Agency come in and say: Here are the 10 intercept reports and the U.S. person names.

I know more about—I will date myself—I know more about the PSI of an SS–18 Soviet silo, which is highly classified information. Why am I not able to get information in the execution of my responsibilities under the Constitution that is available to a staff member of an Under Secretary of State? Members can guess for themselves. I do not know why. I know it is just not appropriate.

Mr. SARBANES. I thank the Senator for yielding. I just underscore this raises, I think, very fundamental and difficult questions about how we are supposed to carry out our responsibilities, in terms of advice and consent, if we are not allowed to get what appears to be relevant information or what might well be relevant information.

The request is fairly limited, as I understand it, in terms of what is being sought. It seems to me that information ought to be provided to the Senate, or the appropriate agents or organs of the Senate, in order to put us into a position to at least address that aspect of this situation.

There are many other aspects of the Bolton situation that I want to speak to later. But this one, it seems to me, is clearly an instance in which we are simply being blocked or frustrated from having information which is important to us carrying out our task, and is in such contrast with the inquiries that were made about other nominees to be U.S. Ambassadors to the United Nations. Of course, I mentioned two of those. The inquiries there went over quite a sustained period of time.

We heard these complaints that Bolton is being held up. His nomination only came to us in March, I believe, of this year—March. Ambassador Holbrooke was nominated in June of 1998. He was finally confirmed in August of 1999. In the interim, these extensive investigations were run. I do not have the exact dates on Ambassador Negroponte, but I know that period of time extended well beyond what is already involved with respect to John Bolton.

Mr. BIDEN. If the Senator will yield, I think Negroponte was nominated in May and confirmed in September.

Mr. SARBANES. Well, there you are. That underscores the point I am trying to make.

I thank the Senator for yielding.

Mr. BIDEN. Let me continue.

Mr. ALLEN. Mr. President, if I may ask the Senator from Delaware how much longer he expects to be?

Mr. BIDEN. I will be about another 12 to 15 minutes.

Mr. ALLEN. OK.

Mr. BIDEN. Mr. President, while my friend from Maryland is here, I want to point out, first of all, the request is very limited. We are looking for the names in 10 reports. It is totally circumscribed, the request as relates to this issue which you so painstakingly went through, explaining what it was that worried everybody—and worries everybody—about Mr. Bolton and the use of intelligence information, even after he has been proscribed, prevented, from being able to speak without clearance, which is—you and I have been here a long time—fairly remarkable. That may have happened to other people in the State Department. I can't recall it happening.

Mr. SARBANES. If the Senator will yield, this is an Under Secretary of State. This is like the No. 4 person in the Department.

Mr. BIDEN. That's right. Now, after that occurs, or in the process of this occurring, Mr. Bolton's Chief of Staff contacts the CIA on a disputed issue about what can be said, and says—I don't know if you were here when I said this. To tell you the truth, I thought I knew all this, but I was surprised when my staff pointed this out. Mr. Bolton's acting Chief of Staff said Mr. Bolton wanted to make a statement on Cuba, and they didn't want to let him make that statement.

Mr. Bolton's staff gets back to the CIA and says: Several heavy hitters are involved in this one, and they may choose to push ahead over your objections and the objections of INR, unless there is serious source and method concerned.

Remember, going back to our discussions?

Mr. SARBANES. Yes.

Mr. BIDEN. Then he, this staff member, goes and contacts the CIA and says: You know, we would like to change the ground rules. We can say the intelligence community thinks the following, even if you disagree. We don't have to clear it with you. The only thing we have to clear with you is whether or not we are exposing a source or a method. Let's have that new deal.

Mr. SARBANES. Of course, that represented a sharp departure from previous practice.

Mr. BIDEN. A complete departure. But the point I am trying to make is he keeps pushing the envelope, he keeps pushing the envelope.

Mr. SARBANES. I take it, if the Senator will yield—I take it this is of such importance now because we are dealing with this problem as to whether intelligence is being misused.

Mr. BIDEN. Yes.

Mr. SARBANES. Decisions are being made by policymakers that reflect their policy attitude—

Mr. BIDEN. Right.

Mr. SARBANES. Not substantiated or backed up by the findings of the intelligence community. We have been through this issue. It seems to me a critically important issue.

Mr. BIDEN. Right. I would argue it is being pushed by a person whom everyone would acknowledge is an ideologue, or at least confirmed in what his views are and who seeks facts to sustain his opinion.

Look, the big difference, I say to my friend from Maryland, is that every time he tried to do that, repeatedly tried to do that in his job, his present job—every time he tried to push the envelope, every time he tried to intimidate, fire, cajole an intelligence officer to change his reading to comport with his prejudice, there was somebody there to intervene to stop him beyond the intelligence officer. There was the intelligence officer's boss, the deputy head of the CIA; the head of INR; the Deputy Secretary of State, the No. 2 man; the Secretary of State. That was bad enough.

But now where is Bolton going? Bolton is going to be the equivalent of the Secretary of State at the U.N. Bolton has, I don't know how large the embassy is, but a very large contingent of Americans working for him in New York City—I am told there are about 150 people there. No one, in that operation, can control the day-to-day, moment-to-moment assertions he is making. No one can say: You cannot do that, John. He's his own boss.

Now there is only one person who can do that. Well, the President can always do that. There is only one other person who can do that, and that is the Secretary of State.

Go back to the comment our friend from Ohio made, our Republican friend, in the committee. He said, when he spoke to the Secretary of State, she said, and I am paraphrasing: Don't worry. We will control him. Acknowledging that even though you are sending this guy up to what has been a Cabinet-level position, another Cabinet-level officer is going to have to control him. I would respectfully suggest our Secretary of State has her hands full as it is, without having to babysit Mr. Bolton so he doesn't get America in trouble—America; I don't care about John Bolton; I don't even care about the U.N. in this regard; I care about America.

This isn't complicated. Anybody can figure this out. Everybody acknowledges this guy is a loose cannon. Everybody acknowledges this guy has done things that, if he were able to do them unfettered, not overruled, would have at least raised the ante in the tension and the possibility of conflict with at least Syria and Cuba, among other places. And everybody acknowledges that he so far stepped out of line in the State Department that the Republican head of the State Department, Colin Powell, had to go down to analysts and say, basically: Don't pay attention to him. You did the right thing.

And then the No. 2 man at the State Department, a former military man himself, says: By the way Mr. Bolton, no more speeches by you unless I sign off on them.

Now we are going to take this guy, we are going to send him to the single most important ambassadorial spot in all of America's interests, and to make us feel confident, the Secretary of State says: Don't worry, we will supervise him.

Come on.

Mr. SARBANES. Will the Senator yield on one other point I would like to make?

Mr. BIDEN. Please.

Mr. SARBANES. First of all, I want to pay tribute to the intelligence analysts and their superiors who stood up to this pressure to which the Senator has referred. They were put in an extremely difficult situation, and they performed admirably.

It is asserted by some that no harm resulted from the pressure Mr. Bolton and his staff were placing on these people because they did not do what Mr. Bolton wanted them to do.

That seems to me to be an upside down argument. The fact that they had the strength to resist this is a tribute to them, but it is certainly no excuse for Mr. Bolton and his staff engaging in this behavior. And the fact they resisted—which is a credit to them—is still a detriment to Mr. Bolton and his staff for engaging in this practice.

So the argument that Mr. Bolton and his staff did not succeed in their efforts does not absolve them of responsibility for having tried.

Mr. BIDEN. It is as though I try to rob a bank and it turns out they shipped all the money out and there was no money there. I walk out and I get arrested. I say: Wait a minute, no harm, no foul. I didn't get any money. I went in to rob the bank, that is true, but I didn't get any money. So what is the problem? What is the problem?

Look, I told you about Mr. Bolton's staff, I assume with Mr. Bolton's authority, trying to get the intelligence community to change the groundrules. I gave the one example.

There is a second example. He did not just do this once. The e-mail I just described was not a one-time event. Later, Mr. Bolton's staff informed the intelligence community they wanted to change the rules for the review of Mr. Bolton's proposed speeches and to have the CIA and the intelligence community limit their objections only to matters related to the source and methods. They go on, in one meeting with intelligence analysts—a meeting Mr. Bolton called but he was unable to attend at the last minute—his staff informed the assembled analysts that Mr. Bolton wanted to hear only concerns relating to sources and methods from them or ideas that would strengthen his argument. But if his arguments were merely wrong, he did not want to hear about it.

Got that? I am not making this up. He, Bolton, calls the meeting of the CIA types, the INR types, to come into his office—he calls them into his office, and I guess he got called away and could not attend. But his staff says: The boss wants to make it clear there are only two things he wants to hear from you. If he wants to say the Moon is made of green cheese, the only thing he wants to hear from you is: You cannot say that because you will give away the fact that we have eyes. We have a source and a method that we do not want to release. Or he wants to hear from you how we can bolster the argument that the Moon is made of green cheese. But he does not want to hear from you if he is wrong. He does not want to hear from you if you do not believe the Moon is made of green cheese. That is none of your business. He does not want to hear that.

Look, I don't know how you define an "ideologue."

Mr. SARBANES. That is a pretty good definition.

Mr. BIDEN. I think it is pretty close. It is like that famous expression in a different context of Justice Holmes. He said prejudice is like the pupil of the eye. The more light you shine upon it, the tighter it closes.

It seems the more information you gave Mr. Bolton that conflicted with his predetermined ideological notion, the less he wanted to hear it. If you persisted in giving it to him, which was your job, he would try to get you fired.

This is not a minor deal. At the very moment when whoever we have as our ambassador to the United Nations is going to be the man, unfortunately, or woman, who will have to stand up before the whole world and say, We have evidence that North Korea is about to do the following; or, We have evidence that Iran has pursued their nuclear option to a point they are violating the NPT—let me ask the Senator, are we going to send John Bolton to a place where we have already squandered our credibility by saying something that we did not know, or saying things we thought we knew that were wrong, are we going to send John Bolton up to be the guy to make a case relating to our national security?

I ask my friend a rhetorical question—if, in fact, we fail to convince the Security Council, if we fail to convince our allies and those with a common interest that a threat exists and they do not come along, what are our options? Our options are to do nothing about it or to act alone. That is what I mean when I say I am concerned about U.S. interests.

There is a story I first heard from Zbigniew Brzezinski that I have used many times since. The Senator knows it as well. During the Cuban missile crisis, the very time when Adlai Stevenson stood up and said, don't tell me that, we know the President of the United States, John Kennedy, desperately needed—although we could have done it alone—desperately needed the support of the rest of our allies in the world for what we were about to do, confront the Soviet Union. And he sent former Secretary of State Dean Acheson to Paris to meet with then-President Charles de Gaulle. I am told this is not an apocryphal story; it is historically accurate. Acheson walked in to the Presidential palace, the President's office, and made his case. Then, after making his case, allegedly, he leaned over to pick up the satellite photographs to show President de Gaulle that what he spoke of was absolutely true, and he had pictures to show it.

At that moment, paraphrasing, to the best of my knowledge, de Gaulle put up his hands and said: You need not show me the evidence. I know President Kennedy. And I know he could never tell us anything that could take us to war that wasn't true.

Do you think there is anyone, anyone, anyone—including our own delegation in the United Nations—who would accept an assertion from John Bolton on the same grounds?

Now, my friend, the chairman and others, will argue: Well, Joe, if it is that critical, he will not be making the case. That is probably true. It may be the Secretary of State making the case, who has great credibility. It may be the President of the United States. But there are a thousand little pieces that lead up to building coalitions that relate to our self-interest, based upon an ambassador privately sitting with another ambassador and assuring him that what he speaks is true.

This is absolutely the wrong man at the wrong time for the most important job in diplomacy that exists right now.

Mr. President, I ask my colleagues, is John Bolton a man in the tradition of Adlai Stevenson or Jack Danforth or any number of people I can name?

There is a third reason to oppose Mr. Bolton.

This is one that has animated the interest and concern of my friend from Ohio even more than it has me; and that is, that Mr. Bolton engages in abusive treatment of colleagues in the State Department, and he exercises frequent lapses of judgment in dealing with them.

Again, do not take my word for it. Carl Ford, the former Assistant Secretary of State for Intelligence, described Mr. Bolton—and I am using Carl Ford's colorful language. I guess it is an Arkansas expression; he is from Arkansas—he said Mr. Bolton is a "quintessential kiss-up, kick down kind of guy."

He also objected, Mr. Ford did, in strong terms, to the treatment of one of his subordinates, Mr. Westermann. He said:

> Secretary Bolton chose to reach five or six levels below him in the bureaucracy, bring an analyst into his office, and give him a tongue lashing. . . . he was so far over the line that [it's] one of the sort of memorable moments in my 30-plus year career.

Listen to Larry Wilkerson, Secretary Powell's chief of staff, who referred to Mr. Bolton—I am not making up these phrases—he referred to Bolton as a "lousy leader." And he told the committee that he—Wilkerson had an open-door policy. Some Senators and others have that policy. They literally keep their door open so anyone in the organization can feel free to walk in and say what is on their mind. He said his open-door policy—this is the chief of staff for the Secretary of State—he said his open-door policy led to a steady stream of senior officials who came into his office to complain about Mr. Bolton's behavior.

Listen to John Wolf, a career Foreign Service Officer for 35 years, who worked under Mr. Bolton as the Assistant Secretary of State for Nonproliferation. Mr. Wolf said that Mr. Bolton blocked an assignment of a man he—Mr. Wolf—described as a "truly outstanding civil servant," some 9 months after that civil servant made an inadvertent mistake.

And Mr. Wolf says that Mr. Bolton asked him to remove two other officials because of disagreements Mr. Bolton had over policy, and that Mr. Bolton "tended not to be enthusiastic about alternative views."

If that is not a quintessentially State Department, career Foreign Service Officer phrase: he "tended not to be enthusiastic about alternative views."

Listen to Will Taft, a man whose name became known here in the investigations relating to Abu Ghraib and the treaties that were discussed about the treatment of prisoners. Mr. Taft served in the State Department as legal adviser under Secretary Powell during the tenure of Mr. Bolton. And before that, he was general counsel in two other Government Departments, as well as Deputy Secretary of Defense, and formerly an ambassador to NATO—significant positions.

Mr. Taft told our committee he had to take the extraordinary step of going to his boss—Mr. Taft's boss—to rein in Mr. Bolton after Bolton refused to work with the State Department attorney on a lawsuit in which the State Department was a defendant.

This resulted—I will skip a little bit here—this incident caused the Deputy Secretary of State, Mr. Armitage, to write to Mr. Bolton a memo reminding him that the rules applied to him, as well as others in the State Department, and that he was required—Mr. Bolton was required—to work with State Department lawyers.

There is a fourth reason, beyond his treatment of individuals—and I could go on for another hour citing examples of his alleged mistreatment of subordinates and colleagues at the State Department and in other endeavors—there is a fourth reason that, all by itself, would justify Mr. Bolton not being confirmed; and that is, Mr. Bolton gave testimony to the Foreign Relations Committee under oath that at best was misleading.

Again, do not take my word for it. It is true that I think Mr. Bolton should not go to the United Nations, and I am of a different party. But do not take my word for it. Listen to Tom Hubbard, referred to by the chairman earlier today. Mr. Hubbard is a retired Foreign Service Officer whose last post was as Ambassador to South Korea. During our hearing on April 11, Senator CHAFEE asked Mr. Bolton about a speech that Mr. Bolton gave in Seoul, South Korea, in 2003.

Let me give you some context. This was on the eve of the President's initiative to begin what is referred to as the Six-Party Talks: the two Koreas, Japan, Russia, the United States, and China—a very delicate moment. Mr. Bolton has made it clear, in many speeches he has made, what he thinks of Kim Jong Il, and that is not inappropriate. And he has made it pretty clear that he rejected the idea proffered by me, and I believe even by Senator LUGAR, and by other Senators here, several years ago that we should talk to the North Koreans—not negotiate, talk with them—and find out what it would take to make a deal and let them know what our bottom line was.

Mr. Bolton is not the architect of, but a disciple of, the policy of containing and putting the North Korean regime in a position where he thinks if enough pressure is put on them they would topple. And we are going back to when he was making a speech in Seoul, South Korea, in 2003, on the eve of the first Six-Party Talks.

The speech was filled with inflammatory rhetoric, even though it may be true, about the North Korean leadership. The result of him having given the speech was that the talks were almost scuttled.

Mr. Bolton, in reply to Senator CHAFEE of our committee regarding that speech, said:

> I can tell you [Senator] what our Ambassador to South Korea, Tom Hubbard, said after the speech.

Meaning his speech.

> He said [to me], "Thanks a lot for that speech, John. It'll help us a lot out here."

Got this, now: He makes what is termed an inflammatory speech. He is asked: Wasn't that inflammatory, and didn't that cause us real trouble in pursuing the foreign policy objectives of the President to get these talks underway? And Bolton, in effect, says: No. And then the Senator, in effect, says: Well, didn't our Ambassador to South Korea think it was damaging? And he says: No. He not only didn't think it was damaging, he said to me: "Thanks a lot for that speech, John. It'll help us a lot out here."

Now, you would draw from that exchange that this speech was totally consistent with the administration's policy, that it was something that was helpful, and that Bolton was doing a good job.

Now, we didn't call Ambassador Hubbard. I may be mistaken, but I think the Republican majority staff got a call from Mr. Hubbard, the former ambassador to South Korea, who I guess saw this on C–SPAN. I don't know what exactly prompted it. Maybe he read it in the newspaper. And he says: I want to talk to you guys. And in an interview which was totally appropriate, without minority staff there, he paints a very different story, accurately reported by the majority staff.

Ambassador Hubbard remembers that little exchange about the Bolton 2003 speech on the eve of the Six-Party Talks quite differently. The day after the committee hearing, Hubbard voluntarily contacted the committee to make clear that he disagreed at the time with the tone of the speech and thought the speech was unhelpful to the negotiating process and—this is the important part—and that he, Bolton, surely knew that, that I, Hubbard, thought it was unhelpful and was damaging.

Hubbard then told the Los Angeles Times that although he had talked to Mr. Bolton and thanked him for removing from his speech some of the attacks on South Korea. Remember this now, the speech was about North Korea. The only thing the ambassador was able to convince Bolton to do was take out some of the stuff that attacked our ally South Korea, whom, I might note parenthetically, if, God forbid, there is a war, we need on our side. We have 30,000 American troops there. Bolton is making a speech characterized as an inflammatory speech about North Korea and is going to attack our ally South Korea, as well.

And our ambassador says: Please don't do that stuff about South Korea. And so Hubbard says: It is true. I thanked him for removing some of the attacks he was about to make on South Korea.

Then he went on to say, but "it's a gross exaggeration to elevate that [statement] to praise for the entire speech and approval of it."

I don't know how you can comport how those two statements work out. Bolton saying: Remember that the ambassador said, thanks a lot for that speech, John. It helps us a lot out here. And the ambassador is saying that Mr. Bolton knows better. That is a gross exaggeration.

In other testimony, Mr. Bolton frequently tried to claim he had not sought to fire or discipline the INR intelligence analyst, Mr. Westermann.

He said:

> I never sought to have [him] fired.

He later said:

> I, in no sense, sought to have any discipline imposed on Mr. Westermann.

And finally, he said:

> I didn't try to have Mr. Westermann removed.

This is incredibly disingenuous. It is just not true. The record is clear that Bolton sought on three occasions that I referenced earlier to have Mr. Westermann removed from his position and given another portfolio. And by the way, you don't get another portfolio. If the only job you do in a restaurant is cook and they say you can't cook anymore, there are not many jobs left for you. This guy's expertise was dealing with chemical and biological weapons. Mr. Bolton wanted him taken off the case.

As a lawyer, Mr. Bolton surely knows that civil servants have job protections and can't be readily fired. By asking repeatedly that this man be moved from his established area of expertise, he was endangering the man's career and sending a message of intimidation that was heard loud and clear throughout the Intelligence and Research Bureau. Mr. Bolton did not have the honesty or the courage to admit that fact to the Foreign Relations Committee. Where is this straight talker we hear so much about?

The President has said that in his second term, one of his priorities is "to defend our security and spread freedom by building effective multinational and multilateral institutions and supporting effective multilateral action." If this is a serious objective, he sure is sending the wrong man to put together these kinds of coalitions.

It is manifestly not in our interest to send John Bolton to the United Nations.

It is not in our interest to have a person who is "a lousy leader" in charge of a mission of 150 professionals who need leadership.

It is not in our national interest to have a conservative ideologue who doesn't listen to others trying to rebuild frayed alliances at the United Nations.

It is not in our national interest to have a man with a reputation as a bully trying to construct coalitions necessary to achieve U.N. reform.

It is not in our interest to have someone with a reputation for taking factoids out of context, exaggerating intelligence information, as our spokesman in New York during the crises to come with Iran and North Korea, when we will have to convince the world to take action to stop nuclear weapons programs.

Is this the best the President of the United States can do? Is this the best among the many tough-minded, articulate, conservative Republican foreign policy experts?

The record presented by the Foreign Relations Committee is clear. The documents we have uncovered; the interviews with those who had to pick up the pieces at INR and CIA, in the office of the Secretary of State, and in South Korea; the testimony of former Assistant Secretary of State Carl Ford, a conservative Republican; all of this record has given us clear warning that Mr. Bolton is the wrong man for this job.

Mr. Bolton's nomination is not—I emphasize "not"—in the interest of the United States of America. I don't know that I have ever said this before on the floor, but I believe that if this were a secret ballot, Mr. Bolton would not get 40 votes in the Senate. I believe the President knows that. I wish the President had taken another look at this and found us someone—I am not being facetious and I am not the first one to say this, I say to my friend from Virginia, the single best guy we could send to the United Nations right now at this critical moment is former President Bush. I cannot think of anybody better. He would get absolutely unanimous support on this side of the aisle.

Mr. Bolton is no George Herbert Walker Bush. I guess not many people are. But this guy should not be going to the U.N.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, in the years I have been privileged to serve in this Chamber, I have so thoroughly enjoyed working with my good friend from Delaware. We have done a lot of things together. I listened carefully to his framework and remarks. I respectfully disagree, and I will so state my reasons momentarily.

But I wondered if we could discuss for a few minutes the following. Before we start, I think it would be advisable for both sides to have from the Presiding Officer the time remaining on both sides for the record, so Senators listening will have an idea.

The PRESIDING OFFICER. The majority has 116 minutes remaining of time, and the minority has 64 minutes.

Mr. WARNER. I thank the Chair.

Mr. BIDEN. Parliamentary inquiry: Is that for today?

The PRESIDING OFFICER. Yes.

Mr. BIDEN. And there is additional time tomorrow, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BIDEN. I thank the Chair.

Mr. WARNER. Mr. President, to my good friend from Delaware, one of the interesting aspects of what has occurred in the Senate over the last week or so is an impetus to go back and do a lot of historical research. I went back and looked at the Articles of Confederation and the Founding Fathers and what they had to say about this provision of advise and consent in the Constitution.

It is interesting. I was very taken aback with how they went about modifying. If the Senator and others will indulge me, I would like to discuss that for a moment or two because I think it poses a question I would like to put to my good friend. That begins at this juncture.

You may ask why it is particularly appropriate for the Senate to be in executive session today, because on this day in 1787, 218 years ago, our Founding Fathers of the United States Constitution first reached a quorum so that the Constitutional Convention could draft our Constitution and they could proceed. It took several years to get it done. George Washington had been calling for such a convention for years, but it was not until this day, 218 years ago, that the convention finally began.

From May 25, 1787, straight through the summer, 55 individuals gathered in Philadelphia to write our Constitution. It was a hot summer, with long and arduous debate, and many drafts went back and forth. Careful consideration was given. Finally, in mid-September, it was over. It was a monumental achievement, one that would enable the United States today, 200-plus years later, to become the oldest, continuously surviving republic form of Government on Earth today.

I mention all this because one of the key compromises our Founding Fathers made throughout the Constitutional Convention was with respect to the advise and consent clause. Our Framers labored extensively over this section of the Constitution, deferring final resolution of the clause for several months. Some of the Framers argued that the President should have total authority to appoint. Others thought both the House of Representatives and the Senate should be involved in the process. Ultimately, a plan that was put forth by James Madison—if I may say proudly—of Virginia, won the day, where the President would nominate judges and executive nominees, and the Senate would reject or confirm them.

In Federalist Paper No. 76, in 1788, Alexander Hamilton explains in detail exactly why this compromise was so important. Let me read a portion of Hamilton's quote:

> It has been observed in a former paper that "the true test of a good government is its aptitude and tendency to produce a good administration." If the justness of this observation be admitted, the mode of appointing the offices of the United States contained in the foregoing clauses must, when examined, be allowed to be entitled to particular commendation. It is not easy to conceive a plan better calculated than this to promote a judicious choice of men for filling the offices of the Union.

I presume he wasn't looking into the future, so I will add "women."

Today, this great compromise can be found, unmodified, in article II, section 2 of the Constitution. This section of the Constitution reads in part as follows:

> The President shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States. . . .

Thus, the Constitution provides a role for both the President and the Senate in this process. The President has the responsibility to nominate, and the Senate has the responsibility to render advice and consent on the nomination.

While article II, section 2 of the Constitution doesn't explicitly make a distinction between the Senate's role with respect to executive branch nominees and judicial nominees of the other branch of Government, the tradition of the Senate, in recognition of the Constitution, dictates otherwise.

Traditionally, a President, especially after taking office following an election, is given greater latitude in selecting individuals to serve in the executive branch of Government. This is in recognition of the fact that the Constitution treats Senate-confirmed executive branch nominees far differently than Senate-confirmed judges.

In contrast to Federal judicial nominees who, once confirmed under the Constitution, serve a lifetime appointment in the third branch of Government, independent of the President, executive branch nominees serve under the President solely at the pleasure of the President. That phrase, "at the pleasure of the President," is paramount. This time-honored phrase, "at the pleasure of the President," has been used by Presidents throughout American history to show the American people that the President is the final arbiter of accountability for executive nominees.

I say that because I have fought hard here recently to deal with this question of the judicial nominees, along with some others. I am not here to seek whether we did right or wrong; history will judge that. But it was a magnificent experience to go back and study the process and listen to many scholarly people and to read extensively. But it is clear to me there is a difference between the judicial nominee who goes for life on the third independent branch—independent of Congress and the executive branch—and the President's right to select those individuals who he, together with his fellow Cabinet officers and others in the administration, feels are best suited to do the job. Would you agree there is a difference in that? I yield for the purpose of answering the question.

Mr. BIDEN. Mr. President, I will answer the question. Let me say to my friend that regarding Federalist No. 76, I suffer from teaching the subject. For the last 16 years, I have taught a course in the separation of powers. I wrote a treatise, an entire book, on this subject. There is another phrase in Federalist No. 76 the Senator didn't read that I think is appropriate to mention.

Federalist No. 76 was about the issue—remember, the Federalist Papers were trying to convince a public that didn't have a television set or a radio that their legislative body should ratify the Constitution. It was sort of pamphleteering. That is what they were doing. They were taking arguments against the Constitution and framing them, setting them up, knocking them down, and making the case. The issue in Federalist No. 76 was whether the President would have undue influence on the Senate. Would he not be able to pressure the Senate because he was chief executive officer? Hamilton said: Don't worry about that. He went on to explain that there could be no better system than the one that was arrived at.

The compromise he is talking about, by the way, is the Connecticut Compromise. It was not until shortly before that the Founders decided—this is the only reason this got resolved—that the great State of Virginia with, I think, the first or second largest population at the time, could only have two Senators, and the small State of Delaware would have two Senators. That was the Connecticut Compromise. That is what it was about.

The reason it came about was that is they wanted to make sure that the minority would be able to be protected. He used the phrase—and I compliment and associate myself with my friend from Virginia; I know that is not why he sought recognition and why he asked the question, but what he did yesterday with Senator BYRD is what Alexander Hamilton was talking about—Alexander Hamilton in Federalist 76 used the following phrase in rebutting the argument that the President would be able to pressure the Senate. He said there will always be a sufficient number of men of rectitude to prevent that from happening. The Senator from Virginia demonstrated yesterday that there always is a sufficient number of men of rectitude—he and Senator BYRD—in averting a showdown that may have literally, not figuratively——

Mr. WARNER. Together with 14 in total.

Mr. BIDEN. It is true.

Mr. WARNER. Coequal.

Mr. BIDEN. The Senator from Virginia, Mr. WARNER, and Senator BYRD were the catalyst that came along and rescued something that had been attempted and written off, at least by the six Democrats with whom I had been talking, as failed until the two of them came along. This in no way is to denigrate the significant efforts of the others.

Mr. WARNER. The leadership of Senators McCAIN, BEN NELSON, and everybody else.

Mr. BIDEN. The reason I say this is that, in the debates in the Constitutional Convention on this nominating process, on three occasions I believe it was Governor Wilson of Pennsylvania—I am not positive of that—proposed a motion that the President of the United States should have the power alone to appoint his Cabinet and inferior officers in the court. It never got, to the best of my knowledge, more than seven votes. The only consideration that almost passed twice was that only the Senate, without the President even in on the deal, could make those appointments. If we look at the constitutional history, the President was an afterthought in the nominating process. That is what Madison's notes show. That is what the history of the debate in the State legislative bodies shows.

So here we are, the Connecticut Compromise comes along guaranteeing that small States will be able to have an impact on these choices, but go back and look, and I think it is Federalist 77—do not hold me to that—but it is Hamilton's treatise on why there was a need to have the Senate involved in choosing not only judges but appointments to the Federal Government. There was the fear that what happened in the British Parliament would be repeated; that, in fact, the King and the leaders of the majority would appoint incompetent people, such as their brothers-in-law, their friends, to be surrounding them in their Cabinets, in the lesser offices of the Federal Government.

So it was a genuine concern and a clear understanding—I think the phrase in Federalist 76 is; this is off the top of my head—if by this we are limiting the President, so be it; that is our intention.

To the specific question, yes, there is more deference given to the President of the United States in the appointment of his Cabinet than there is to his appointments to the Supreme Court, district court, any lower court, or any other appointed office in the Government. But the single exception that was intended by the Framers, if you read what they said, in terms of even appointing those around him, if the persons he would pick, notwithstanding that they would reflect the President's political views, if the appointment inures to the detriment of the United States, they should be opposed.

There have not been many occasions when I have opposed nominees to the President's Cabinet or Cabinet-level positions, and I imagine there have not been many my friend from Virginia has opposed. But I opposed two in the Clinton administration. I opposed one in the Carter administration. I think I opposed two in the Reagan administration. In each case, my opposition—and this would be only the second one I have opposed in this administration—is because the appointment of that individual, notwithstanding the fact that he or she is the choice of the President, would have the effect of negatively affecting the standing, security, or wellbeing of the United States.

So there are exceptions, and I would argue Mr. Bolton, as my friend from Ohio, I suspect, is going to make a compelling case, falls into the category of, yes, the President gets who he wants, unless the appointment of that person would inure to the detriment of the United States.

That is the central point I am trying to make. I understand my friend does not agree with me, but I honestly believe Mr. Bolton going to the U.N. will inure to the detriment of the United States, notwithstanding the President's judgment that it would not do that.

Mr. WARNER. Mr. President, I thank my colleague for the colloquy. We did settle clearly that greater latitude is given to the President.

Mr. BIDEN. That is right; I acknowledge that.

Mr. WARNER. And the Senator from Virginia does not infer that latitude is a rubberstamp, that everyone goes through. Clearly—and I know my good friend from Delaware speaks as a matter of clear conscience—I speak as a matter of clear conscience.

Mr. BIDEN. If the Senator will yield, I am confident that is true about the Senator.

Mr. WARNER. Correct, and we have a difference of views as it relates to our conscience.

Mr. BIDEN. If the Senator will yield, I respect that difference.

Mr. WARNER. I thank my friend. I would also go back to Federalist 76 and read the following provision dated Tuesday, April 1, 1788, author Alexander Hamilton:

> The President is "to nominate, and, by and with the advice and consent of the Senate, to appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and other officers of the United States whose appointments are not otherwise provided for in the Constitution. But the Congress may by law vest the appointment of such inferior offices as they think proper in the President alone, or in the courts of law, or in the heads of departments. The President shall have the power to fill up all vacancies which may happen during the recess of the Senate, by granting commissions. . . .

This is the operative paragraph to which I wish to refer:

> It has been observed in a former paper that "the true test of a good government is its aptitude and tendency to produce a good administration."

I said that.

> If the justness of this observation be admitted, the mode of appointing the officers of the United States contained in the foregoing clauses, must, when examined, be allowed to be entitled to particular commendation. It is not easy to conceive a plan better calculated than this to promote a judicious choice of men for filling the offices of the Union; and it will not need proof, that on this point must essentially depend the character of its administration.

Mr. President, our distinguished President has served in office 4 years. He was reelected with a clarity by the votes. He is now putting together his administration for these coming years. The nomination of John Bolton, with whom I have had considerable experience in work, in whom I have a strong sense of confidence—he has chosen this individual. I might say by and with the consent of his Secretary of State, a very able and most credible individual, in my experience, in working with the distinguished current Secretary of State.

The President, together with his principal Cabinet officers, has put together an extraordinary national security team. John Bolton will be a valuable addition to this team.

The President and his Secretary of State, Condoleezza Rice, have been clear in their belief that John Bolton has the experience and skills to represent the United States at the United Nations and to carry out the President's priorities to strengthen and reform the United Nations. I agree with the confidence they place in this nominee.

John Bolton has had a long and distinguished career in public service and in the private sector. Most recently, he has served for the past 4 years as the Under Secretary of State for Arms Control and International Security Affairs. In that capacity, Secretary Bolton worked to build a coalition of over 60 countries to help combat the spread of weapons of mass destruction through the Proliferation Security Initiative, PSI. He was a leader in creating the G–8 Global Partnership, which invited other nations to support the Nunn-Lugar nuclear threat reduction concept. As a result, many other nations are now participating with the United States in helping to eliminate and safeguard dangerous weapons and technologies which remain in the countries of the former Soviet Union.

Previously, John Bolton has served as Assistant Secretary of State for International Organization Affairs, as an Assistant Attorney General in the Department of Justice, and many years ago he held several senior positions in the Agency for International Development. He has also had a distinguished legal career in the private sector.

It is no secret that Mr. Bolton has at times advocated or represented positions which have sparked controversy. He has done so with a frankness and assertiveness that demonstrate his strongly held beliefs. As the Senate considers this nomination, we should keep in mind the words of Secretary Rice. She stated:

> The President and I have asked John Bolton to do this work because he knows how to get things done. He is a tough-minded diplomat, he has a strong record of success and he has a proven track record of effective multilateralism. Secretary Rice concluded her remarks by saying, and I quote again: John, you have my confidence and that of the President.

Given the enormity of problems facing the U.N. today, we have an obligation to send a strong-minded individual to help constructively to solve these problems and to build the confidence of the American people in the U.N.

I share the President's and the Secretary's belief that John Bolton will enthusiastically advance the President's goal of making the United Nations a stronger, more effective international organization.

I urge my colleagues to support this nomination and to send Mr. Bolton to the U.N. to represent our Nation and to advance the President's agenda of reform. Such reform is necessary to restore American confidence in the U.N. and to ensure that the U.N. will remain a vital and respected international organization in the years to come.

Mr. President, I ask unanimous consent to print in the RECORD two articles from the New York Times and the Washington Post with regard to the Bolton nomination.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 11, 2005]

THE BEST MAN FOR THE JOB

(By James A. Baker III and Edwin Meese III)

The image that critics are painting of John Bolton, President Bush's nominee to be our representative at the United Nations, does not bear the slightest resemblance to the man we have known and worked with for a quarter-century.

While we cannot speak to the truthfulness of the specific allegations by his former colleagues, we can speak to what we know. And during our time with Mr. Bolton at the Justice and State Departments, we never knew of any instance in which he abused or berated anyone he worked with. Nor was his loyalty to us or to the presidents we served ever questioned. And we never knew of an instance in which he distorted factual evidence to make it fit political ends.

At the heart of the claims made by Mr. Bolton's critics is the charge that he was imperious to those beneath him and duplicitous to those above. The implication is that Mr. Bolton saw himself as something of a free agent, guided by nothing more than his own notions of what he thought good policy might be. Woe be to those who might dare to disagree, according to these critics, be they lower-level analysts or cabinet members.

In our experience, nothing could be further from the truth. John Bolton was as loyal as he was talented. To put it bluntly, he knew his place and he took direction. As cabinet members, we took our direction from our presidents, and Mr. Bolton was faithful to his obligations as a presidential appointee on our respective teams. In his service as assistant attorney general and assistant secretary of state, we had complete confidence in him—and that confidence turned out to have been well placed. In our view he would be no different in fulfilling his duties as our United Nations ambassador.

In any administration there are going to be disagreements over process and policy, both in formulation and execution. It is not uncommon to have battle lines within any administration drawn between idealists and pragmatists. But what has made John Bolton so successful in the posts he has held, and what makes him so well suited for the position at the United Nations, is that he exhibits the best virtues of both idealists and pragmatists.

Mr. Bolton's political principles are not shaped by circumstances or by appeals to the conventional wisdom. He knows, as Abraham Lincoln once put it, that "important principles may and must be inflexible." He also knows that those principles often have to be fought for with vigor.

On the other hand, he understands from his long experience at the highest levels of government that in order to succeed, one has to work with those whose views may differ; he knows the importance of principled compromise in order to make things happen.

A most fitting example was his contribution, when serving as an assistant secretary of state, in getting the United Nations General Assembly in 1991 to abandon its morally noxious doctrine that Zionism was a form of racism. This took extraordinary diplomatic skill, combining the clear articulation of the philosophic position of the United States and his own personal persuasiveness. That this effort succeeded where earlier efforts had failed came as no surprise to anyone who had worked with Mr. Bolton. The power of his mind and the strength of his convictions make him a most formidable advocate.

These skills have been on display more recently in his current position as undersecretary of state for arms control and international security. Not even his detractors deny, for example, that he was instrumental in building a coalition of 60 countries for President Bush's Proliferation Security Initiative to combat the spread of nuclear weapons technology.

At a time when all sides acknowledge that fundamental reform is needed at the United Nations lest it see its moral stature diminished and its possibilities squandered, we need our permanent representative to be a person of political vision, intellectual power and personal integrity. John Bolton is just that person.

[From the Washington Post, April 24, 2005]

BLUNT BUT EFFECTIVE

(By Lawrence S. Eagleburger)

President Bush's nomination of John Bolton as U.S. ambassador to the United Nations has generated a bad case of dyspepsia among a number of senators, who keep putting off a confirmation vote. That hesitation is now portrayed as a consequence of Bolton's purported "mistreatment" of several State Department intelligence analysts. But this is a smoke screen. The real reasons Bolton's opponents want to derail his nomination are his oft-repeated criticism of the United Nations and other international organizations, his rejection of the arguments of those who ignore or excuse the inexcusable (i.e., the election of Sudan to the U.N. Human Rights Commission) and his willingness to express himself with the bark off.

As to the charge that Bolton has been tough on subordinates, I can say only that in more than a decade of association with him in the State Department I never saw or heard anything to support such a charge. Nor do I see anything wrong with challenging intelligence analysts on their findings. They can, as recent history demonstrates, make mistakes. And they must be prepared to defend their findings under intense questioning. If John pushed too hard or dressed down subordinates, he deserves criticism, but it hardly merits a vote against confirmation when balanced against his many accomplishments.

On Dec. 16, 1991, I spoke to the U.N. General Assembly on behalf of the United States, calling on the member states to repeal the odious Resolution 3379, which equated Zionism with racism. As I said then, the resolution "labeled as racist the national aspirations of the one people more victimized by racism than any other." That we were successful in obtaining repeal was largely due to John Bolton, who was then assistant secretary of state for international organizations. His moral outrage was clearly evident as he brilliantly led and managed the successful U.S. campaign to obtain sufficient votes for repeal. The final vote, 111 to 25, speaks volumes for the success of his "direct" style.

Bolton's impressive skills were also demonstrated at the time of the Persian Gulf War, when he steered a critical series of resolutions supporting our liberation of Kuwait through the U.N. Security Council. During this period we negotiated some 15 resolutions up to and through the removal of Saddam Hussein's forces from Kuwait. Adoption of the key Security Council document, Resolution 678, was not a foregone conclusion and faced the possibility of a Chinese veto until the final vote. While our diplomacy to obtain this and other council votes was conducted on a global scale, Bolton was deeply engaged in managing this worldwide effort.

These are but two examples of why I believe Bolton possesses the substantial qualifications necessary to be our ambassador to the United Nations. By now it should be obvious to all that the halcyon days when our advice was sought and our leadership welcomed because the security of others depended on the protection we gave are no more. I recognize that John's willingness to speak bluntly has raised questions. Perhaps there was a time when those concerns had merit—but not now. Given what we all know about the current state of the United Nations, it's time we were represented by someone with the guts to demand reform and to see that whatever changes result are more than window dressing.

It is clear that the future of the United Nations and the U.S. role within that organization are uncertain. Who better to demonstrate to the member states that the United States is serious about reform? Who better to speak for all Americans dedicated to a healthy United Nations that will fulfill the dreams of its founders?

Mr. WARNER. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COBURN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I recently sent my colleagues a letter regarding the nomination of John Bolton. I realize that they are all busy and likely they have not had an opportunity to read the letter. I will begin my remarks today by reading the letter to my colleagues so that it will be a part of the RECORD.

Dear colleague: Throughout my time in the Senate, I have been hesitant to push my views on my colleagues. However, I feel compelled to share my deep concerns with the nomination of John Bolton to be Ambassador to the United Nations. I strongly feel that the importance of this nomination to our foreign policy requires us to set aside our partisan agenda and let our consciences and our shared commitment to our nation's best interests guide us. At a time when the United States strives to fight terrorism globally, to build a stable and free Iraq, to find a peaceful resolution to the nuclear ambitions of Iran and North Korea, to spread democracy in the place of oppressive regimes, and to enact needed reforms at the United Nations, it is imperative that we have the support of our friends and allies internationally. These strong international relationships must be built upon robust and effective public diplomacy.

I applaud our President for understanding this and for his leadership on U.S. public diplomacy. He and Secretary Rice have taken important steps to reach out to the international community and strengthen relationships.

Additionally, I applaud the President's decision to appoint Karen Hughes to enhance U.S. public diplomacy at the State Department and recently to get even the First Lady involved in these important efforts to promote public diplomacy [and improve the world's opinion of the United States of America].

However, it is my concern that John Bolton's nomination sends a negative message to the world community and contradicts the President's efforts. In these dangerous times, we cannot afford to put at risk our nation's ability to successfully wage and win the war on terror with a controversial and ineffective Ambassador to the United

> Nations. I worry that Mr. Bolton could make it more difficult for us to achieve the important U.N. reforms needed to restore the strength of the institution. I strongly believe that we need to reform the U.N., make it a viable institution for world security, and remove its anti-Israel bias. However, I question John Bolton's ability to get this job done.
>
> I know that you are very busy, but I would appreciate it if you would review my edited statement before the Foreign Relations Committee as to why I think we can do much better than John Bolton . . .

In my closing words I stated this:

> Mr. Chairman, I am not so arrogant to think that I should impose my judgment and perspective of the U.S. position in the world community on the rest of my colleagues. We owe it to the President to give Mr. Bolton an up or down vote on the floor of the U.S. Senate. My hope is that, on a bipartisan basis, we send Mr. Bolton's nomination to the floor without recommendation and let the Senate work its will.
>
> I plead with my colleagues in the Senate that if this nomination gets to the floor—

And we are here today—

> to consider this decision and its consequences carefully, to read all the pertinent material, and to ask themselves several pertinent questions: Is John Bolton the best possible person to serve as the lead diplomat to the United Nations? Will he be able to pursue the needed reforms at the U.N., despite his damaged credibility? Will he share information with the right individuals, and will he solicit information from the right individuals, including his subordinates, so that he can make the most informed decisions? Is he capable of advancing the President's and the Secretary of State's efforts to advance our public diplomacy? Does he have the character, leadership, interpersonal skills, self discipline, common decency, and understanding of the chain of command to lead his team to victory? Will he recognize and seize opportunities to repair and strengthen relationships, promote peace and uphold democracy—as a team—with our fellow nations?

I mentioned in my letter the Senate faces today a very important decision, whether to send John Bolton to New York to be the next U.S. Ambassador to the United Nations. I believe we can do better, and we owe it to the United States of America, the U.S. State Department, our soldiers overseas, our children, and our grandchildren to do better than Mr. Bolton. This is not my opinion alone. The overwhelming opinion of the colleagues I have talked to about John Bolton is that he is not an ideal nominee; that they are less than enthusiastic about him and many were surprised at the decision. Many of my colleagues have said that the only reason they are going to vote for him is because he is the President's nominee. I agree with my colleague, Senator BIDEN. I think if we had a secret vote on John Bolton, he would not get 50 votes from the Senate.

I want to explain to my colleagues here today why it is I think Mr. Bolton should not be confirmed. One of my deepest concerns about this nomination involves the big picture of U.S. public diplomacy and the President's acknowledged need to improve it. It was not too long ago when America's love of freedom was a force of inspiration to the rest of the world, and America was admired for its democracy, generosity, and willingness to help others in need of protection. Today, the United States is criticized for what the world calls arrogance, unilateralism, for failure to listen and seek support of its friends and allies. There has been a drastic change in the attitude of our friends and allies in such organizations such as NATO and the countries' leaders whom we need to rely upon for help.

I discovered this personally during a trip I took to London, Serbia, Montenegro, and Italy last year, where I met with several individuals from various international backgrounds and attended the NATO parliamentary meeting in Venice. In London I met with several individuals from the Atlantic Partnership, chaired by Lord Powell, who told me that the United States needed to do something to improve its public diplomacy with countries where leaders are under a great amount of pressure. They mentioned Tony Blair, who has put his neck on the line to support the United States and needed the United States to improve its public diplomacy to meet the concerns of his constituency.

We all know that Tony Blair lost a significant number of parliamentary seats because of these concerns. The group emphasized that we needed to do more in public diplomacy to reach out to our friends and allies so that we could work together to accomplish the daunting tasks before us.

In Venice I attended the NATO Parliamentary Assembly. I could not believe some of the comments that were being made about the United States—from our allies. It was a stark contrast to the parliamentary meetings I attended in Budapest in 2000, when our allies voiced the concern: What about this Bush who is running for President? Is he an isolationist?

In Venice I heard their concerns that the United States is very much involved in international affairs but acts unilaterally, without any concern by the United States of its allies and friends.

I have traveled a great deal in my career, and I have met with leaders and academics in the international community during previous wars. There has never been as drastic a shift in the international community's perception as there has been during the last 2 or 3 years. The countries that previously admired the United States for its values and principles of democracy and freedom, encouraging other nations to develop their own democracies and speak out against injustices, now criticize the United States for its failure to respect their views and opinions.

It troubles me deeply that the United States is perceived this way in the world community. I am troubled because the United States will face a deeper challenge in achieving its objectives without their support. We will face more difficulties in conducting the war on terrorism, promoting peace and stability worldwide, and building democracies, without help from our friends to share the responsibilities, leadership, and costs.

Even as recently as last night, the former President of the Czech Republic and champion of democracy, Vaclav Havel, told me over dinner that the United States needs to improve its public diplomacy, that we have become isolated in too many instances.

If the United States wants to win the war on terrorism, win the peace in Iraq, promote freedom globally, and prevent new conflicts, we need to have the help of our friends. In order to have the help of our friends we need to have robust public diplomacy. For if we cannot win over the hearts and minds of the world community, we are not going to be able to create the team that we need and our goals will be more difficult to achieve.

Additionally, we will be unable to reduce the burdens on our own resources, the most important of which is the lives of the men and women in our Armed Forces who are leaving their families every day to serve this country overseas.

Now, 1,700 U.S. men and women—over that—have given their lives in Iraq and Afghanistan; over 12,000 have been wounded.

Nothing can compare to the cost of human lives, but the financial costs of the conflict in Iraq and Afghanistan are also placing a tremendous human resources burden on our country. Weeks ago we passed the $82 billion supplemental bill for our operations in Afghanistan and Iraq. I understand that we will need at least $50 billion next year. The costs of this war are not going down anytime soon.

We need the help of other countries to share the financial burden that is adding to our national debt, and the human resource burden that our Armed Forces, National Guardsmen, contractors, and their families are bearing so heavily now. The key is public diplomacy.

As I say, I applaud the President and the Secretary of State for understanding that public diplomacy is an important objective and beginning this new term with an emphasis on repairing relationships. I applaud the President and Secretary Rice for reaching out to our friends in the world community and articulating that the United States does respect international law and protocol.

The President's recent visits to Latvia, the Netherlands, Moscow, and Georgia, underscore the priority he places on strengthening U.S. public diplomacy. The way that he embraced the Russian people will serve the country well as we negotiate with President Putin to improve nuclear security cooperation and support U.S. positions on Iran and North Korea.

The President has also enlisted the added value of the First Lady in pursuing an agenda to improve U.S. public diplomacy in the Middle East, an important initiative. I also applaud the President's decision to appoint Karen Hughes to help lead the public diplomacy effort at the State Department.

Let's send Karen Hughes to be the next ambassador to the United Nations. There is someone who would really make a difference for us, and deal with the challenge that we have in public diplomacy.

The President clearly understands the importance of renewing our relationships and making clear that we want to work with our friends to achieve our many foreign policy goals. It is important to send a message that, though the United States may have differences with our friends at times, and though we may need to be firm about our positions, we are willing to sit down, talk about them, discuss our reasoning, and work for a solution.

It is my strong belief in the need to improve U.S. public diplomacy and in the efforts of the President that has caused me to pause and reflect so deeply on the nomination of Mr. Bolton because, I asked myself, what message are we sending to the world community? In the same breath we are considering a nominee for ambassador to the United Nations who has been accused of being arrogant, of not listening to his friends, of acting unilaterally, and of bullying those who do not have the ability to properly defend themselves. These are the very characteristics we are trying to dispel in the court of world opinion.

We must understand, next to the President, Vice President, and Secretary of State, the most prominent public diplomat is our ambassador to the United Nations. It is my concern that the confirmation of John Bolton would send a contradictory and negative message to the world community about U.S. intentions. I am afraid that his confirmation will tell the world we are not dedicated to repairing our relationships or working as a team but that we believe only someone with sharp elbows can deal effectively with the international community.

I want to make it clear that I do believe that the U.N. needs to be reformed if it is to be relevant in the 21st century. We need to pursue its transformation aggressively, sending the strong message that corruption will not be tolerated. The corruption that occurred under the Oil for Food Program made it possible for Saddam's Iraq to discredit the U.N. and undermine the goals of its members. This must never happen again, and severe reforms are needed to strengthen the organization. And, yes, I believe it will be necessary to take a firm position so that we can succeed. But it will take a special individual to succeed in this endeavor, and I have great concerns with the current nominee and his ability to get the job done.

To those who say a vote against John Bolton is a vote against reform of the United Nations, I say nonsense. Frankly, I am concerned that Mr. Bolton would make it more difficult for us to achieve the badly needed reforms to this outdated institution. I believe there could be even more obstacles to reform if Mr. Bolton were sent to the U.N. than if it were another candidate. Those in the international community who do not want to see the U.N. reformed will act as a roadblock, and I fear Mr. Bolton's reputation will make it easier for them to succeed.

I believe that some member nations in the U.N. will use Mr. Bolton as part of their agenda to further question the credibility and integrity of the United States of America and to reinforce their negative U.S. propaganda.

If we send Mr. Bolton to the United Nations, the message will be lost because our enemies will do everything they can to use Mr. Bolton's baggage to drown his words. The issue will be the messenger—the messenger and not the message.

Another reason I believe Mr. Bolton is not the best candidate for the job is his tendency to act without regard to the views of others and without respect to chains of command. We have heard Mr. Bolton has a reputation for straying off message. He is reported to have strayed off message more often than anyone else holding a responsible position at the State Department during Secretary Powell's years as Secretary of State.

U.S. Ambassador to South Korea Thomas Hubbard testified that Bolton rejected his request to soften the tone of a July 2003 speech on North Korea policy and stated that the speech hurt, rather than helped, efforts to achieve the President's objectives.

Here is the question from a committee staffer:

> And what was your impression of the speech when you first read it, the day before it was going to be delivered? Did you suggest changes in it?

We are talking now of the question to Ambassador Hubbard.

> I think our most important comment was that we thought the tone was way too strong, that he used derogatory terms about Kim Jung Il . . . throughout the speech, in virtually every sentence. And I and my staff argued that was counterproductive to our interest in getting the North Koreans back into the talks [on their reducing their nuclear threat.]

Committee staffer:

> And was Mr. Bolton aware of the South Korean request to avoid inflammatory language that might complicate the Six-Party process?

Ambassador Hubbard:

> Yes.

Committee staffer:

> Did he make all the changes [in the July 2000 speech] that had been suggested?

Ambassador Hubbard:

> No, I don't believe so. You know, I think that—to be very clear, we didn't go through the speech, scratching out the word "dictator" every time we saw it—you know, that—we made an overall comment . . . that we felt that was counterproductive and overblown.

Committee staffer:

> Did you believe the speech advanced the President's objective of achieving a peaceful denuclearization of the Korean Peninsula through negotiations? Or, if not, why not?

Ambassador Hubbard:

> No, I don't think it advanced the process . . . In my view, the invective . . . gave the North Koreans another excuse or pretext not to come back to the committee.

Committee staffer:

> Did Bolton advance President Bush's North Korea policy?

Ambassador Hubbard:

> My belief is that his actions hurt.

According to reliable sources at the State Department, it was after that speech that it was made clear to Mr. Bolton he would have to clear any future speeches through the Secretary or Deputy Secretary and that he would be put on a very short leash. This was just one of the many times he was called on the carpet.

In fairness to Mr. Bolton, the sources have said to me, once reprimanded, Bolton got back on track but that he needed to be kept on a short leash.

Who is to say that Bolton will not continue to stray off message as ambassador to the U.N.? Who is to say he will not hurt, rather than help, United States relations with the international community and our desire to reform the United Nations?

When discussing all of these concerns with Secretary Rice—John Bolton's propensity to get off message, his lack of interpersonal skills, his tendency to abuse others who disagree with him—I was informed by the Secretary of State she understood all these things and in spite of them still feels John Bolton is the best choice. She assured me she would be in frequent communication with him and that he would be supervised very closely.

My private thought, and I should have shared this with the Secretary of State, is why in the world would you want to send someone to the United Nations who requires such supervision?

I am also concerned about Mr. Bolton's interpersonal skills. I understand there will be several vacant senior posts on the staff when Mr. Bolton arrives in his new position. As a matter of fact, I understand all the top people are leaving. I understand one of the most respected and qualified people at the U.N., Anne Patterson, will be leaving her post, and others will be departing, as I mentioned.

As such, Mr. Bolton will face a challenge of inspiring, leading, and managing a new team, a staff of roughly 150 individuals, perhaps more, whom he is going to need to rely upon to get the job done. As we know, all of us are only as good as the team we have surrounding us. We are all aware of the testimony and observations related to Mr. Bolton's interpersonal and management skills.

With that record in mind, I have concern about Mr. Bolton's ability to inspire and lead a team so he can be as effective as possible in completing the important tasks before him. And I am not the only one. The Senate Foreign Relations Committee received letters from 102 U.S. diplomats who served under administrations for both sides of the aisle saying Mr. Bolton is the wrong man for the job.

Colin Powell's chief of staff, Colonel Lawrence Wilkerson, testified before the committee that Mr. Bolton would make "an abysmal ambassador," and that "he is incapable of listening to people and taking into account their views."

I would like to read some of Mr. Wilkerson's testimony.

Mr. Wilkerson:

> I would like to make just one statement. I don't have a large problem with Under Secretary Bolton serving our country. My objections to what we've been talking about here—that is, him being our ambassador at the United Nations—stem from two basic things. One, I think he's a lousy leader. And there are 100 to 150 people up there that have to be led; they have to be led well, and they have to be led properly. And I think, in that capacity, if he goes up there, you'll see the proof of the pudding in a year.

I would also like to highlight the words of another person I myself respect and who worked closely with Mr. Bolton. He told me if Bolton were confirmed, he would be ok for a short while, but within 6 months his poor interpersonal skills and lack of self-discipline would cause major problems. He told me Mr. Bolton is unable to control his temper.

I would like to read some quotes from the testimony of Christian Westermann, the analyst from the Bureau of Intelligence and Research, and Tom Fingar, Assistant Secretary of State for Intelligence and Research, about Mr. Bolton's patterns of losing his temper and getting angry.

Mr. Westermann:

> He was quite upset that I had objected and he wanted to know what right I had trying to change an Under Secretary's language.

This was in a speech and Mr. Westermann had to send that speech over to the CIA and then it came back from the CIA.

> And what he would say, or not say or something like that. And I tried to explain a little bit of the same things about the process of how we clear language. And I guess I wasn't really in a mood to listen and he was quite angry and basically told me I had no right to do that.

By the way, Mr. Westermann did not work in Mr. Bolton's section of the State Department. He worked in INR, another department, another department, not under his direct supervision.

> And he [Mr. Bolton] got very red in the face, shaking his finger at me and explaining to me I was acting way beyond my position, and for someone who worked for him. I told him I didn't work for him.

Staffer:

> And when [Bolton] threw you out of the office, how did he do that?

Committee staffer:

> He just told me to get out and get Tom Fingar, he was yelling and screaming and red in the face, and wagging his finger. I'll never forget the wagging of the finger.

Committee staffer:

> Could you characterize your meeting with Bolton? Was he calm?

Mr. Tom Fingar:

> No, he was angry.

Additionally, I want to note my concern that former Secretary of State Colin Powell, the person to whom Mr. Bolton answered over the last 4 years, was conspicuously absent from a letter signed by former Secretaries of State recommending Mr. Bolton's confirmation. Of all the people who worked with Mr. Bolton, Powell is the most qualified person to judge the man and his ability to serve as the Secretary's ambassador to the U.N. and he did not sign the letter.

In fact, I have learned that several well-respected leaders in our foreign policy community were shocked by Mr. Bolton's nomination because he is the last person thought to be appropriate for the job.

There are several interesting theories on how Mr. Bolton got the nomination. I am not going to go into them in the Senate. If anyone would like to talk to me about that, I am happy to discuss it with them; otherwise, I urge you to get in touch with senior members of the Foreign Relations Committee and ask them.

We are facing an era of foreign relations in which the choice of our ambassador to the United Nations should be one of the most thoughtful decisions we make. The candidate needs to be both a diplomat and a manager. He must have the ability to persuade and inspire our friends, to communicate and convince, to listen, to absorb the ideas of others. Without such virtues, we will face more efforts in our war on terrorism, to spread democracy and to foster stability globally.

The question is, is John Bolton the best person for the job? The administration says they believe he is the right man. They say despite his interpersonal shortcomings, he knows the U.N., he can reform the organization and make it more powerful and more relevant to the world.

There is no doubt John Bolton should be commended and thanked for his service and his particular achievements.

He has accomplished some important objectives against great odds. As the sponsor of legislation that established an office on global anti-Semitism in the State Department, I am particularly impressed by his work to repeal the U.N. legislation equating Zionism with racism. I wholeheartedly agree with Bolton that we must work with the U.N. to change its anti-Israel bias, and I applaud his work on this issue.

In 2003, I sent a letter to Secretary General Kofi Annan of the United Nations to express my profound concern about the appalling developments in the U.N. and the Palestinian Observer's equation of Zionism with Nazism and ask that the United Nations condemn the remarks and maintain a commitment to human rights.

Further, I am impressed by Mr. Bolton's achievements in the area of arms control, specifically on the Moscow Treaty, the G8 "10-Plus-10-Over-10" Global Partnership Fund, and the President's Proliferation Security Initiative.

Now, it has been suggested that we should vote for Mr. Bolton because of his achievements and qualifications despite his reputation as a "bully" and his poor interpersonal skills.

I agree that Mr. Bolton has had some achievements, but I am dubious that Mr. Bolton's record of performance has been so overwhelmingly successful that we should ignore his negative pattern of behavior and credibility problems with the international community.

For the last 4 years, Mr. Bolton served as the top arms control and nonproliferation official for the State Department. The most pressing nonproliferation issues affecting U.S. national security today involve the threat of Iran's nuclear ambitions, the threat of North Korea's nuclear ambitions, and the need to expand and accelerate our cooperation with the Russian Federation to secure and dismantle Russia's nuclear and WMD infrastructure to keep it out of the hands of would-be terrorists or proliferant nations.

The United States has not had significant success on these issues in the last 4 years. In the case of North Korea, they have withdrawn from the Nonproliferation Treaty and the situation has become more critical during Bolton's watch. Our U.S. Ambassador to South Korea, Thomas Hubbard, stated that Mr. Bolton's approach on North Korea was damaging to U.S. interests. With regard to our cooperation with Russia to secure its WMD infrastructure and fissile material, I have read several reports that Mr. Bolton also hurt efforts to move beyond the legal holdup of "liability" that has stymied our programs.

On May 16, a Newsweek article reported that for several years, the disposal of Russia's 134-ton hoard of plutonium has been stymied by an obscure legal issue in which Washington has sought to free U.S. contractors from any liability for nuclear contamination during cleanup. It says that: Bolton bore a very heavy responsibility for festering the plutonium issue. It reports that a former State Department official said: In 2004, Bolton quashed a compromise plan by his own nonproliferation bureau, even after other agencies had approved it.

I must say I am unimpressed by Mr. Bolton's failure to secure a compromise during his 4 years that would enable us to move forward to secure this material from terrorists.

The situation in Iran is also very concerning and has only worsened in the last 4 years.

Among our accomplishments in nonproliferation, there is no doubt that Libya's decision to dismantle its WMD infrastructure was one of the largest successes of the last 4 years.

We really rejoiced over that. However, there is credible reporting that Mr. Bolton was sidelined from the negotiations by the White House and that some believed he might hurt their chances of succeeding with Libya. Additional reports indicate that Mr. Bolton was sidelined at the request of British officials working on the issue, because they felt he was a liability during the negotiations.

Mr. Bolton has also been given a great deal of credit for his work on getting Article 98 agreements with several countries and important military partners. Article 98 agreements secure U.S. military officers from prosecution under the International Criminal Court while conducting operations or military exercises in a foreign country.

I support the efforts to secure Article 98 agreements and protect U.S. Forces against what could be a politically driven trial in a foreign country. However, I understand that Mr. Bolton worked to secure these agreements by putting a hold on all U.S. military education and training assistance to these countries—understanding that the last seven countries we brought into the United Nations never signed that Article 98 treaty.

This assistance that we provide to these countries provides education to military officials about U.S. and Western military doctrine, the importance of a civilian-run military, civil-military relations, and respect for human rights. It provides basic leadership training and other important training that enables foreign troops to interoperate with U.S. forces and international forces—such as English language training and general combat training. This is very important assistance at a time when we are fighting with a coalition in Afghanistan and a coalition in Iraq. But at the very same time that we were seeking additional supporters in Iraq, some military officials arriving at U.S. airports to receive the military education training were turned away because of Mr. Bolton's strong-arming tactics.

As I understand it, several different State Department officials asked Mr. Bolton to remove the holds because of the negative impact they were having on our allies, and he refused to listen to their views.

I ran into this when I was in Croatia a couple weeks ago. I talked to the new Prime Minister of Croatia, Ivo Sanader, and he was saying: I have to sign Article 98. If I don't get it, then we get no help whatsoever in terms of advice about how we civilianize our Army and so forth. And there are people in the Defense Department who think it is a good idea. And I think it is a good idea because we have to be concerned, in some of those countries that have gone democratic, that if things get bad, we do not want to see a coup d'etat come from the military part of their operation. So we should be doing everything we can to civilianize it. But, no, can't do it. Mr. Bolton doesn't want to do it.

Mr. President, how are we supposed to persuade our friends and allies to join us in Iraq and Afghanistan when we are cutting off the English-language training and other military training that would enable them to send troops to serve with us?

In fact, the policy is contradictory to U.S. public diplomacy efforts as well as efforts to secure support in Iraq and Afghanistan, but Mr. Bolton did not listen to the views of his staff who told him that the policy was damaging our bigger picture interests.

For this reason, I question the suggestion that Mr. Bolton's qualifications and his record of performance is so outstanding that we should vote for him, despite his negative pattern of behavior.

But this is another issue that is deeply concerning to me. We cannot deny that Mr. Bolton's record shows a pattern of behavior that is contradictory to that of an effective Ambassador.

I would like to read to you a quote by Mr. Carl Ford, who headed the Bureau of Intelligence and Research, INR, in the State Department from 2001 to 2003. He testified that Mr. Bolton is a "kiss up and kick down" leader who does not tolerate those who disagree with him and goes out of his way to retaliate for their disagreement.

Here is what Mr. Ford said:

> Unfortunately, my judgment, my opinion, he's a quintessential "kiss-up, kick-down" sort of guy . . . I'm sure you've met them. But the fact is that he stands out, that he's got a bigger kick and it gets bigger and stronger the further down the bureaucracy he's kicking.

Others who have worked closely with Mr. Bolton have stated that he is an ideologue and that he fosters an atmosphere of intimidation and does not tolerate disagreement, does not tolerate dissent, and that he bullies those who disagree with him.

I would like to read some excerpts from the testimony of the Ambassador to South Korea, Thomas Hubbard, and Mr. John Wolf, Assistant Secretary of the Nonproliferation Bureau, who worked directly under Mr. Bolton.

> COMMITTEE STAFFER. There have been press reports—one in December of 2003, in USA Today, that—I'll just read you the quote from that story. Quote, "In private, Bolton's colleagues can be scathing. One high-level coworker calls Bolton 'an anti-diplomat who tries to intimidate those who disagree with his views.' Another diplomat says, 'No one in the Department dares to criticize Bolton on the record, because he has support at the highest levels of the Administration. Despite his often blunt public pronouncements, he's never publicly chastised or contradicted,' the diplomat says." Does that sound like the John Bolton you know?
>
> AMBASSADOR HUBBARD. It sounds, in general, like what I experienced.
>
> COMMITTEE STAFFER. Did that—did Mr. Bolton prevent those views of debate [on policy issues from the Nonproliferation Bureau] from getting up to the Deputy Secretary?
>
> MR. WOLF, [Assistant Secretary of Nonproliferation]: There were long and arduous discussions about issues before they got to the Secretary.
>
> COMMITTEE STAFFER. And, in those discussions, how would you characterize Mr. Bolton's demeanor and professionalism in listening to alternative points of views or listening to those who disagreed with his point of view? Did he have an open mind?
>
> MR. WOLF. He tended to hold on to his own views strongly, and he tended not to be—he tended not to be enthusiastic about alternative views.
>
> Mr. WOLF. He did not—he did not—he did not encourage differing views. And he tended to have a fairly blunt manner of expressing himself.
>
> COMMITTEE STAFFER. Would you go so far as to say that he discouraged alternative views through his demeanor and through his response when people presented alternative views to him?
>
> Mr. WOLF. He did not encourage us to provide our views to the Secretary . . . our alternative views.

Colin Powell's chief of staff Lawrence Wilkerson testified that Mr. Bolton tended to focus on accomplishing his own goals as a matter of "bean-counting" and refused to consider the repercussions of his methods on the greater policy objectives of the United States.

I would like to quote from Colonel Wilkerson's testimony:

> Second, I differ from a lot of people in Washington, both friend and foe of Under Secretary Bolton, as to his, quote, "brilliance," unquote. I didn't see it. I saw a man who counted beans, who said "98 today, 99 tomorrow, 100 the next day," and had no willingness—in many cases, no capacity—to understand the other things that were happening around those beans. And that is just a recipe for problems at the United Nations. And that's the only reason that I said anything.

Mr. Wilkerson again:

> My prejudice and my bias will come out here, because I think one of the number-one

problems facing the country right now—and, you know, I'm here because of my country—

This is Wilkerson. He volunteered. We didn't go out and get him. He volunteered.

—not because of anybody else—is North Korea . . . So when people ignore diplomacy that is aimed at dealing with that problem in order to push their pet rocks in other areas, it bothers me, as a diplomat, and as a citizen of this country.

And I have citations on all of this in the testimony.

Wilkerson again:

It was the same thing with nonproliferation. The statistic I mentioned before, which I think Under Secretary Bolton mentioned in his speech in Tokyo on February the 7th, if I remember right—I still keep up with this stuff, Northeast Asia—and he said the Clinton Administration, in eight years, had sanctioned China eight times, and the Bush Administration, in four years, had sanctioned China 62 times. As I used to say, what's the measurement of effectiveness here? What's it done? Is the sanctioning of 62 times an indication that China is proliferating more? Or is it an indication that we're cracking down? I'd love to see the statistic for the next four years, if Bolton were to remain Under Secretary. It would be 120 or 140. And what is the effectiveness of this? Are we actually stopping proliferation that was dangerous to our interest? Or are we doing it, and ignoring other problems that cry out for cures, diplomatic? And no one sits and says, you know, "Okay, that's correct, that's correct, this is correct, this is what's effective, this isn't effective." The one time I had a conversation with John about this, I asked him, "How do you go beyond sanctions, John? War?" [Bolton's implied answer was:] "Not my business." [In other words, that was not his problem.]

Former Assistant Secretary of the Intelligence and Research Bureau Carl Ford testified he had never seen anyone behave as badly in all his days at the State Department and that he would not have even testified before the Committee if John Bolton had simply followed protocol and simple rules of management.

Mr. FORD. I can guarantee you . . . that if Secretary Bolton had chosen to come to see me, or in my absence, my Principal Deputy, Secretary Tom Fingar, I wouldn't be here today. He could have approached me in the same tone, and in the same attitude—shaking his finger, red in the face, high tone in his voice—and I wouldn't be here today. If he had gone to Secretary Powell, or Secretary Armitage, and complained loudly about the poor service that he was receiving from INR and the terrible treatment that he had been stabbed in the back by one of INR's analysts, I wouldn't be here today. The fact is, it is appropriate, if someone is unhappy with the service they're getting from one of the services or organizations in a bureaucracy, that they should complain. They should yell as loud as they want to. But, instead of doing any of those three things, Secretary Bolton chose to reach five or six levels down below him in the bureaucracy—

By the way, a bureaucracy he was not in charge of

—bring an analyst into his office, and give him a tongue lashing, and I frankly don't care whether he sang scat for five minutes, the attitude, the volume of his tone, and what I understand to be the substance of the conversation—he was so far over the line . . . That is, I've never seen anybody quite like Secretary Bolton . . . I don't have a second and a third or fourth, in terms of the way he abuses his power and authority with little people . . . There are a lot of screamers that work in government, but you don't pull somebody so low down in the bureaucracy that they're completely defenseless. It's an 800 pound gorilla devouring a banana. The analyst was required simply to stand there and take it, and Secretary Bolton knew when he had the tirade that, in fact, that was the case.

I want to note that in Mr. Bolton's testimony, he justifies his anger and retaliatory actions against Mr. Westermann by citing an apologetic e-mail from Mr. Tom Fingar, Assistant Secretary of the Intelligence Bureau. And when I met privately with Mr. Bolton, he said: Right after it happened, I received this apologetic e-mail from Mr. Fingar. So we asked Mr. Fingar and Mr. Ford about the e-mail.

COMMITTEE STAFFER. You said . . . that what Mr. Westermann did was entirely within the procedure, he was never disciplined, it was perfectly normal, that the only failure of his was lack of prudence. And then here [in the e-mail to Bolton] you say it's "entirely inappropriate," and "we screwed up, it won't happen again." That seems like a rather different assessment.

Mr. FINGAR. Well, I knew I was dealing with somebody who was very upset, I was trying to get the incident closed, which I didn't regard as a big deal. I know John [Bolton] was mad. I assumed, when people are mad, they get over it. So, did I lean over in the direction of "Sure, we'll take responsibility?" He thanked me for it, at least as far as I'm concerned, in my dealings with Bolton, that closed it.

So basically it was, somebody is mad. You send them back an e-mail and say our guy didn't do what he was supposed to do. You hope they will get off your butt and it will be over with. But it wasn't over. He kept going after him. We have to move this guy. We have to bring somebody else in here. I can't deal with him. That is the way he acts.

Mr. Ford:

. . . knowing him [Fingar] well, I'm assuming it simply was, as you said, this guy [Bolton] was furious, he could potentially do great damage to the bureau, and he [Fingar] was just trying to put him back in the box and keep him from doing any more harm. And I can't fault him for that.

I also want to point out that Carl Ford, Lawrence Wilkerson, and almost all of the witnesses who came before our committee are appointees of the Bush administration. These are loyal Republicans who say: I am a conservative Republican. I am loyal to the President, that they could not abide Mr. Bolton's nomination because of their concern for his conduct and his erratic, often unprofessional, behavior.

That is what this is about.

I have to say that after pouring over the hundreds of pages of testimony and speaking with many individuals, I believe John Bolton would have been fired if he had worked for a major corporation. That is not the behavior of a true leader who upholds the kind of democracy President Bush is seeking to promote globally. This is not the behavior that should be endorsed as the face of the United States to the world community at the United Nations.

It, rather, is my opinion that John Bolton is the poster child of what the diplomatic corps should not be. I worry about the signal we are sending to the thousands of individuals under the State Department who are serving their country in foreign service and civil service, living in posts across the world and in some cases risking their lives, all so they can represent our country, promote diplomacy, and contribute to the safety of Americans everywhere.

What are we saying to these people? And I care about human capital. I have been working on it now for over 6 years. When we say to these people that we look to confirm an individual with this record to one of the highest positions in the State Department, what are we saying to these people? I was in Croatia. I was in Slovenia. They can't believe it.

I want to emphasize that I have weighed Bolton's strengths carefully. I have weighed the fact that this is the President's nominee. All things being equal, it is my proclivity to support the President's nominee, as most of us. However, in this case, all things are not equal. It is a different world today than it was 4 years ago. Our enemies are Muslim extremists and religious fanatics who have hijacked the Koran and have convinced people that the way to get to Heaven is through Jihad and against the world, particularly the United States. We must recognize that to be successful in this war, one of our most important tools is public diplomacy, more than ever before—intelligence and public diplomacy. After hours of deliberation, telephone calls, personal conversations, reading hundreds of pages of transcripts, and asking for guidance from above, I have come to the determination that the United States can do better than John Bolton. We need an ambassador who understands the wisdom of Teddy Roosevelt's policy to walk softly and carry a big stick. The U.S. needs an ambassador who is interested in encouraging other people's points of view and discouraging any atmosphere of intimidation. The world needs an American ambassador to the U.N. who will show that the United States has respect for other countries and intermediary organizations, that we are team players and consensus builders and promoters of symbiotic relationships.

In moving forward with the international community, we should remember the words of the Scot poet Bobbie Burns who said:

> Oh, that some great power would give me the wisdom to see myself as other people see me.

And when thinking of John Bolton earlier today, I thought of one—I don't know whether it is a fairy tale, or whatever, called "The Emperor Has No Clothes." We are going to vote tomorrow, and I am afraid that when we go to the well, too many of my colleagues are not going to understand that this appointment is very important to our country. At a strategic time when we need friends all over the world, we need somebody who is going to be able to get the job done. Some of my friends say: Let it go, George. It is going to work out.

I don't want to take the risk. I came back here and ran for a second term because I am worried about my kids and my grandchildren. I just hope my colleagues will take the time before they get to this well and do some serious thinking about whether we should send John Bolton to the United Nations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I wanted to take a second to say to my friend and colleague from Ohio. I have been through a lot of this debate over the last several weeks and months. A lot of things are going on today, but I hope my colleagues and others—if they have not had a chance to listen to my colleague from Ohio—will read his comments. They are heartfelt. I know the feeling. I remember several occasions, but there was a time when I was one of two Democrats to support John Tower many years ago, when he was being considered for the nomination as Secretary of Defense. I supported John Ashcroft to be Attorney General from the previous administration.

I know when you are being different and standing up and going against the tide from people on your own side, it can be a lonely moment. I know what it feels like to be there. If you do it out of conviction and belief and because of how important these issues are, then I think all of us, regardless of where you come out on the issue, appreciate the courage and the determination of a Member who does it.

I am comfortable with my colleagues' remarks, with his position. As I told him the other day, I have been here a long time now—24 years in the Senate—and there are moments like this when I am deeply proud to serve with my colleagues. GEORGE VOINOVICH and I don't agree on a lot of issues. We are of different political persuasions and parties. But my respect for him as a Member of this body is tremendous. Whether you agree with GEORGE VOINOVICH or not, this is a Senator.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. COLEMAN. Mr. President, I deeply respect my colleague from Ohio, and I deeply respect the passion that he brings to his concern about this nomination.

I also bring passion and concern. I have been involved as chairman of the Permanent Subcommittee on Investigations and have been looking at the U.N. and the oil for food scandal—a scandal which allowed Saddam Hussein to rebuild his military capacity, to bribe individuals close to the leadership of member states of the Security Council, to fund terrorism. I have looked at the U.N. over recent years, at the scandals of sexual abuse and child prostitution in Africa, where U.N. officials were not responded to for months and months. I have looked at the world in which we live, and the challenges we face, and I realize the United States cannot be the world's sole policeman, the world's sole humanitarian provider. We cannot do it on our own. We need partners and we need a U.N. that is strong and credible.

This President has made a decision that the person who can best do the heavy lifting that is required for U.N. reform is John Bolton. He does that by looking at the record of John Bolton. I respect the President for that commitment to reform the United Nations, and as I look at this dangerous world in which we live, I think it is essential that we seize this moment of opportunity now. I think it is essential that we confirm this nomination.

The reality is that John Bolton is a man of strong conviction. Clearly, there are some differences of perspective even in the State Department. There was an editorial in the Washington Post on May 12 of this year in which the writer said:

> The committee interviews have provided some colorful details without breaking new ground on what has long been a well-understood split in the first Bush administration, a split between those who saw themselves as the pragmatic diplomats, (the Powell camp) and those, like Mr. Bolton, who saw themselves as more willing to bruise feelings here and abroad in standing up for U.S. interests.

In the end, the Post concludes:

> The nominee is intelligent and qualified; we still see no compelling reason to deny the president his choice.

Former Secretary of State—perhaps the model of the Secretaries of State—Lawrence Eagleburger, a career foreign service officer, said in an April 22 Washington Post op-ed:

> The real reasons Bolton's opponents want to derail his nomination are his oft-repeated criticism of the United Nations and other international organizations, his rejection of the arguments of those who ignore or excuse the inexcusable (i.e., the election of Sudan to the Human Rights Commission) . . .

And a couple weeks ago the election of Zimbabwe.

> As to the charge that Bolton has been tough on subordinates, I can say only that in more than a decade of association with him at the State Department, I never saw or heard anything to support such a charge. Nor do I see anything wrong with his challenging intelligence analysts on their findings.

My colleague from Ohio and my colleagues across the aisle talked about an incident with an analyst—Westermann—in which Bolton had a speech that he was preparing on the issue of Cuba's capacity to develop biological weapons. That speech then was supposed to be sent to analysts in the process. That is the process—send it around to analysts and they come back and tell you whether you can say what you want to say. In the end, the speeches have to get cleared.

What happened with Mr. Westermann is this. What you have heard so far is that John Bolton was angry at Mr. Westermann. My colleague from Ohio said he was quite upset as to why he would change language. That is what happened. What happened is not that Westermann sent something around and then got it back, and then Bolton had a concern with the conclusion. What happened is that when Bolton gave the document with the language to Westermann, he sent it on. What he told Bolton's chief of staff was: I sent your language to the CIA intact and only at its source citations.

What really happened, and what the record shows and demonstrates, is that what Westermann did is that he had sent it around, but he inserted language that basically said what Bolton wanted to say would not fly. So Bolton doesn't know, when he gets it back, that that piece is out. Clearly, he wanted to say it, but they said he could not. His concern with Westermann—and the testimony reflects this also—was not about policy. He said: I disagree with you going behind my back. I disagree with you not being honest with me, not telling me up front that in fact this is what you did rather than saying I circulated it, but I find out that, in effect, you lied to me.

John Bolton was angry and he said: I have lost confidence in someone who cannot be honest with me, who goes behind my back, and I have to find out about it from another source. That was the conversation he had with Westermann. What you hear and what is portrayed about Mr. Bolton is that somehow there is this pattern of abuse. What is cited is that he had this conversation with Westermann—by the way, after that conversation, Mr. Bolton did check with Westermann's superiors and got an e-mail. We heard about that e-mail. The e-mail said—and this is from Mr. Fingar, one of the superiors of Westermann:

> We screwed up but not for base reasons. It won't happen again.

So Bolton finds out that he has been tooled by somebody who did not tell him the truth about what happened. He checks with his superior and gets an e-mail that says, by the way, we made a mistake, this will not happen again.

My colleague from Ohio says they were just doing that because they found out somebody was upset. But if you are looking at it from John Bolton's perspective, what you see is: I was angry because somebody did something which is confirmed by their source, the senior person there, that, in fact, what they did was wrong.

It is interesting because Fingar basically said it was not a big deal. As far as I am concerned, that closed it.

We get a representation somehow that did not close it, that John Bolton is going around pounding this issue and looking for retribution with Mr. Westermann. In fact, the report shows just the opposite.

What happened here is Bolton was upset. He went to the guy who caused the problem. He also tried contacting his superior. He was not around. He eventually got to Fingar who came back with an e-mail—I use his language—"We screwed up," and that is it. That is it.

Then we hear the testimony of Carl Ford, a long-term, good, loyal employee of the State Department, and we hear about Ford and his representations about Mr. Bolton. John Bolton's interaction with Carl Ford was a 2 or 3-minute conversation in front of a water fountain. So it was not a matter of somebody going around to get retribution and they are angry. That was it, literally Bolton ran into Ford at a water fountain. What Ford was upset about was that John Bolton went to his guy. It was his guy on his team. Ford was upset with that. I guess you have two guys with pretty strong feelings. But that was the conversation.

John Bolton did not call the Secretary of State, did not call the Deputy Secretary of State, did not call others in the Department, did not pursue it. If I am angry about something, really angry about something, I want to take care of it and I take care of it, particularly a guy like John Bolton. He is not a soft guy, no question about that. But the interaction regarding Westermann was bumping into someone at a water fountain and having an exchange. Westermann's boss basically said: Don't mess with my guys. And that is Mr. Ford. His experience with John Bolton is essentially that 2-minute conversation—that is it—I think until he leaves.

Then the only other conversation on the record that Mr. Bolton had about Mr. Westermann is a number of months later, he was visiting with another official within the agency and asked how are things going and is there anything that troubles you? Only when asked that question does he even bring up the incident again, and that is it.

So this image being portrayed about somehow hounding down a lower level employee—by the way, Westermann was a 20-year Navy veteran; he was not a kid wet behind his ears. I have to tell you, if it was the private sector, Mr. Westermann may have been fired for not being honest with his superior, for going behind somebody's back. That is what happened.

I want to go back to the Washington Post article, the Eagleburger comment. Here is what is really happening here. When John Bolton's name was put forward as the nomination by the President, my colleagues on the other side made it very clear they were going to oppose this nomination. The issue then was his comments he made about the United Nations. My colleagues on the other side of the aisle did not think John Bolton was respectful enough of the United Nations and he did not deserve to be confirmed. That was the issue. It was about policy differences between John Bolton and my colleagues on the other side of the aisle.

What happened is because that argument did not sell, they then began an examination of some of these interpersonal exchanges and what became the Westermann issue, what became a series of contacts with John Bolton, with legitimate concerns, characterized as a series of a pattern abuser.

There were concerns raised about North Korea and about John Bolton's comments regarding North Korea, somehow that he was straying off message, that he was saying things that should not have been said, that he gave a speech in July 2000 in which I think he called Kim Jong Il, the North Korean President, a tyrant, which, by the way, he is. The comment was he was straying off message, that he was saying things that should not have been said.

I have a copy of a letter from former Secretary of State Colin Powell. It is dated August 26, 2003, when he was Secretary of State. He is sending a letter to JON KYL of the Senate. He says:

> Dear Jon, I am pleased to reply to your recent letter concerning John Bolton's speech in Korea and our reaction.
>
> Undersecretary's Bolton speech was fully cleared within the Department. It was consistent with Administration policy, did not really break new ground with regard to our disdain for the North Korean leadership and, as such, was official.

" . . . and, as such, was official." "Fully cleared," "was official."

If one sat here and listened to what was said before, one would think somehow this guy was off there on his own saying things that were disruptive to policy.

That is not the way it works. For the public who may not understand, when we have a senior State Department official making speeches in North Korea, making speeches about Cuba and its policy regarding procurement of biological weapons, these speeches are cleared. There is a process. There is not a single instance in the record where John Bolton is somehow substantiated for having said things that were not policy, said things that were disruptive of policy.

At times did he challenge analysts? Yes, he did, and that is probably a pretty good thing to do. Analysts do not speak from a holy mountain. They come in with a perspective. We have seen enough history now in the last couple of years where analysts had a perspective and they were wrong. John Bolton challenged analysts, but in the end, each and every time, what he did was he delivered the message he was supposed to be delivering.

There was a question concerning Libya and the allegation, by the way, in Newsweek—an allegation in Newsweek. My colleagues quote Newsweek as if it is the Holy Bible. Newsweek—credible reporting that he was sidelined, and then there was a conversation, an anonymous source, that somehow the British Foreign Secretary Jack Straw was complaining to Powell about John Bolton. The anonymous source, according to a Bush official, told them that Secretary of State Powell's Under Secretary for Arms Control was making it impossible to reach allied agreement on Iran's nuclear program. Powell turned to an aide and said: Get a different view on the problem, Bolton is being too tough. Jack Straw flatly rejects this. Here is what Straw's press spokesman is saying:

> Conversations between the Foreign Secretary and our U.S. counterpart are private and we do not normally comment on their content. However, the Foreign Secretary has no recollection whatsoever of telling the U.S. administration or any other whom it should or should not put in charge of its business. John Bolton held a senior position in counterproliferation arms control in the last administration and senior UK officials worked closely with him on a range of issues.

The bottom line is Mr. Powell never told Mr. Bolton he was being too tough in dealing with our European allies. Mr. Bolton has continued to represent the Bush administration's firm position that Iran has yet to make their strategic decision not to pursue nuclear weapons capability and, therefore, Iran's violation of its commitments under the Nuclear Nonproliferation Treaty should be referred to the United Nations Security Council.

There was another concern about an article 98 issue. The allegation was that somehow Mr. Bolton blocked military aid for Eastern European NATO candidate countries, even though there are article 98 restrictions, concerns for not agreeing to take U.S. servicemen to the International Criminal Court, have been waived. Bolton wanted to pressure them to sign the article 98 agreements.

Rich Armitage, the No. 2 person at the State Department under Colin Powell, has refuted this claim. He said: I did not consider this unusual at all. Different fiefdoms at State often have different positions and Deputy Secretaries resolve them. It was part and parcel of daily life. Again, allegation made and claim simply not true.

I could go on. I would just like to touch upon a few more. One of them had to do with an allegation that Mr. Bolton, before he worked for the State Department, was involved in a situation where he yelled at a colleague, a woman whom he worked with. I think this conversation was supposed to have taken place in Moscow at the time. This individual said that Bolton had yelled and screamed at her, chased her around.

We had a full committee hearing. The allegation was raised. It was raised in front of the press, raised in front of the media that somehow John Bolton—there was a source that said this woman had complained. It ended up that this woman, a very political woman, one of the leaders of Mothers Against Bush, a liberal activist, had made the claim on liberal Air America. Under questioning, when asked about whether she had been chased or harassed by Mr. Bolton, her testimony was: Well, I may have overstated that.

We then get letters from the president of the company that held the contract for which this woman worked. He said: I certainly did not hear contemporaneously from any other employee in Moscow that anything occurred between Mr. Bolton and Ms. Townsel in Moscow. Consequently, it is difficult to understand how she could make such accusations with any veracity. He then went on to talk about some of her conduct and was very concerned about that. He concluded that he found Bolton to be very intelligent, hard working, loyal, ethical, and there was nothing to this. Ultimately, my colleagues on the other side kind of dropped that but after it was made public, after they discussed it in public, though I believe they had in their hands the same letters, the same rebuttal. That is one of the problems. There are individuals who—John Bolton, by the way, has been before this Senate three and perhaps four times. He has been before this body, been scrutinized, been confirmed three to four times. Now we reach a point, and maybe it is the atmosphere around here, maybe the partisan divide has gotten so great, but what starts out with a concern over policy then slips into attacks on the personal. People's character is disparaged, even though there is no basis for it, disparaged publicly, disparaged in the media.

Folks then rely upon credible reporting in Newsweek magazine, when the sources then who are close to the issue come back and say that credible reporting simply is not very credible. People go through a ringer. If I was listening to some of these allegations, I would come to some conclusions about character, but then when one looks, for instance, at the Westermann incident and hears about serial abuse, they find out it was one conversation because Mr. Bolton believed he got stabbed in the back; that the other conversation took place over a water fountain and that was it, except when asked, about 6 months later, "Is there anything that bothered you?" and he said, "He has not bothered me." But we get a characterization of temperament and loss of temper and somehow being impolitic. It is simply not credible.

I was there for just about every portion of every hearing and heard all the evidence. For all of these claims that are made, if one looks, as they say, at the rest of the story, they find out that they are not credible.

It really gets back perhaps to where we started, that in the end this is about policy. We should end where it began. There are those who simply disagree with Mr. Bolton's approach. When I say "approach," Mr. Bolton has made it very clear that he believes in the institution; that he is committed. He made the commitment—and I am going to take him at his word—to work with the institution. That is what he is going to do.

I think we have to take him at his word, and we have to accept the fact that the President believes that U.N. reform is important and Mr. Bolton has the capacity to do the job. He negotiated the Treaty of Moscow, negotiated the U.N. reversing its position on a resolution that had been in place a number of years which said Israel was a racist state. Everybody said that would be impossible to change, and John Bolton provided the leadership to get the U.N. to reverse itself on that issue. He clearly has the qualifications and the skills. He has the support of the President. He has the support of the Secretary of State. He has my support. I know how important this job is. I know we have this window of opportunity and we have to seize it.

I was a former prosecutor, and I know how it works. In Minnesota, the prosecution gives a closing argument and the defense goes after. There is no prosecution rebuttal. So I would often go in front of the jury and I would say: What you have to watch out for is the "rabbits in the hat" approach, that what you are going to hear come out on the other side is they are going to unleash a number of rabbits that are going to come running out of that hat.

In this case, the first rabbit is of positions on the U.N.; the second rabbit is of policy positions; the third rabbit is saying things that should not have been said; the fourth rabbit is personal behavior, et cetera, hoping that somebody on the jury chases one of those rabbits. Instead, what we need folks to do is keep their eye on the main thing. The main thing, as Steve Covey said: One thing is keep the main thing the main thing.

The main thing is that this President has a belief that this U.N. needs reform. The main thing is that John Bolton has a long and distinguished record of service to this country and an ability to get things done. He has the toughness it is going to take to get 191 nations to stop putting Zimbabwe and Sudan on the Human Rights Commission. He has that ability. He has the confidence of the President. In the end, elections matter. The President of the United States won the election. He has chosen someone to carry out that vision, and that person has the record and the ability to do that. There is nothing in this record that undermines that. There is nothing in this record that he ever said he changed intelligence. There is nothing in this record that he ever got anybody fired.

What is in this record is a distinguished record that has been attacked, savaged, and abused. I hope that does not have the chilling effect on others who want to serve this country.

John Bolton is willing to serve this country. He deserves the right to do that, and I hope that my colleagues agree and they support his confirmation.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I speak as vice chairman of the Senate Intelligence Committee, and I oppose the nomination of John Bolton to be U.S. Ambassador to the United Nations. I purposely highlight that position on the Intelligence Committee because it is Mr. Bolton's pattern of attempting to distort and to misuse intelligence that is primary as a reason for my opposing his nomination. I have many reasons to oppose his nomination, but I will restrict myself to my work on the Intelligence Committee.

Senator BIDEN and other members of the Foreign Relations Committee have walked through some of these facts, although perhaps not all of them yet, related to Mr. Bolton. So I will not go into all of the details. I do intend to provide some background and expand on at least one critical issue. I want to explain why this issue should matter to my colleagues and why Mr. Bolton's actions should disqualify him from this position.

As my colleagues know, beginning in June of 2003, the Senate Intelligence Committee undertook an exhaustive inquiry into the intelligence concerning Iraq prior to the war. After more than a year, the committee unanimously approved a scathing 511 page report describing the intelligence community's systematic failures, particularly on issues related to weapons of mass destruction. One of the central issues to the committee's review was the question of "whether any influence was brought to bear on anyone to shape their analysis to support policy objectives."

It was a question so important, in fact, and so fundamental to our committee's oversight role that answering it was one of the four specific tasks laid out by Chairman ROBERTS and me at the beginning of this inquiry.

The issue of maintaining objectivity goes to the very heart of intelligence and intelligence oversight. Our intelligence agencies are charged with gathering information around the world and then objectively analyzing the information and providing it to the rest of the Government. Intelligence consumers, then, rely on that intelligence for a variety of activities. Often, that information forms the foundation of the very national security policies we depend upon to keep our country safe. It is absolutely essential that our intelligence is objective, independent, and accurate. If it is not, then the system does not work, we waste billions of dollars each year, and we end up making a critical national security decision or a series of them based upon flawed assumptions.

In the extreme, intelligence that is manipulated or shaped to fit preconceived conditions could lead the country into a war that we should not be fighting. This, of course, was the concern that many of us had when we began our investigation of prewar intelligence. It was a central point of the committee's review—a central point. It was something we pursued aggressively. In that case, the committee did not find evidence that the administration officials as a whole attempted to coerce, influence, or pressure analysts to specifically change their judgments—specifically change their judgments—relating to Iraq's WMD. I supported that finding, although in my additional views I described what I thought was a more pervasive environment of pressure, created prior to the war, to reach conclusions that supported the administration's policies.

I describe this effort now, however, not to revisit these issues that we investigated but to impress upon my colleagues and the public how serious it is when policymakers are accused of attempting to manipulate the intelligence process. This is behavior we cannot tolerate, and this is the pattern of behavior Mr. Bolton has exhibited during his tenure as Under Secretary of State. As I said, Senator BIDEN, Senator DODD, and others have done a superb job in describing the specific incidents. Let me add a few points to provide context for these episodes.

First, I want everyone to understand that the Intelligence Committee was aware of these allegations long before Mr. Bolton was nominated to this job. These are not incidents dredged up after he had been nominated.

The committee's Iraq report briefly mentions the case of an INR analyst—that is, the State Department intelligence analyst—who had the courage to stand up in a committee hearing and acknowledge what he described as political pressure. When the committee staff interviewed this analyst, they discovered that the instance involved Cuba and not Iraq. That being the case, the committee did not pursue a review because we were doing Iraq, not Cuba.

Unfortunately, the committee's final report described and commented on this incident without conducting a complete investigation of the facts. It is now clear from the record developed by the Foreign Relations Committee in their excellent work that Under Secretary Bolton attempted to exact retribution against this intelligence analyst because his analysis did not support Mr. Bolton's views.

As with the case of the INR analyst, the State Department analyst, the committee previously was aware of the allegations of politicization related to the former National Intelligence Officer for Latin America. We knew about it. In the course of a briefing to the committee staff in November of 2004, this individual described an effort to have him removed because his analysis was at odds with the views of certain policymakers, including Secretary Bolton. Unfortunately, the committee did not follow up on these allegations until March, when the minority staff on the committee began scheduling interviews. I speak now of the Intelligence Committee, not the Foreign Relations Committee. It is clear from these interviews that the minority staff on the Intelligence Committee did and from the much more extensive work done by the Foreign Relations Committee that Under Secretary Bolton and others, particularly Otto Reich, who was Acting Assistant Secretary of State for Latin America, sought to have the National Intelligence Officer reassigned because his analysis did not support their policies.

These two episodes, in my mind, are enough to disqualify Mr. Bolton from this position. But there is more to this pattern of abusing the intelligence process. During the course of the nomination process, we learned that on at least 10 occasions, Mr. Bolton had sought to learn the identity of 19 U.S. persons—this has been discussed on the Senate floor, but I am going to add something—19 U.S. persons mentioned in intelligence reports. There has been a great deal of speculation as to why he wanted these names, whether it was proper to seek this information.

To answer these questions, Chairman LUGAR asked Chairman ROBERTS and me to solicit information from the appropriate agencies. Eventually—eventually—eventually, the new Principal Deputy Director of National Intelligence, GEN Michael Hayden, briefed Senator ROBERTS and myself. He did not brief Senator LUGAR and Senator BIDEN—Chairman LUGAR and Ranking Member BIDEN. That is a mystery to me. I don't understand that. But he briefed us on the content of the intelligence in question.

Let me be clear. We did not receive the names, the very names provided to Under Secretary Bolton—which is an extraordinary sense of control of one branch of Government over another. We did not receive those names. We read everything associated with those names but not the names themselves. They were not given to us.

Based on my limited review, I noted from the rest of the context nothing improper about the request. That, however, was not the end of the story. As part of our effort to respond to Chairman LUGAR's request for information, the committee staff interviewed several individuals with knowledge of Under Secretary Bolton's request for these names. During one of those interviews, a senior member of his staff described actions Under Secretary Bolton took after he received one of those names.

According to this individual, upon receiving the name from the National Security Agency, the NSA, Under Secretary Bolton shared that information with another State Department official. The reasons for this action are not clear, but it seems inconsistent with the stated reasons for obtaining the name.

Let me explain. I must take a moment to describe the information we are talking about and put Mr. Bolton's action in some context. When a U.S. intelligence agency—in this case, the National Security Agency—receives a report that includes information concerning a U.S. person, that information is, so to speak, minimized—that is the technical term—for privacy reasons, meaning that the U.S. name is replaced with a generic designation such as "named U.S. Government official," or "named U.S. citizen," but that is all. Remember, this is information that is already classified at the highest levels, or it would not receive this treatment—classified at the highest levels and shared with a very limited number of people in order to protect the source of that information. The U.S. name is even more closely guarded and not provided unless an appropriately cleared official reading that intelligence report makes a specific request for it in order to better understand the foreign intelligence, and it is only intelligence that that person can be concerned with.

The rules for dealing with this kind of comprehensive information are very strict. It is only provided on a case-by-case basis at the request of a specific individual. The National Security Agency has a formal and very well established procedure for processing such requests and for providing the names to the requester.

When a decision is made to release the name, it is transmitted with a cover sheet with the following admonition:

> Request no further action be taken on this information without prior approval of the National Security Agency.

Probably that would not have to be there because anybody at that level understands that already, but nevertheless it is there, front and center. This language is clear. This language is unambiguous. But Mr. Bolton apparently disregarded it. Neither the NSA, the National Security Agency, nor the State Department's Bureau of Intelligence and Research has a record of him seeking the necessary approval to further disseminate the name. Now his defenders say he never saw that restriction. I don't know if that is accurate, but I do know that it is entirely irrelevant because he knew about that. Anybody who is experienced to receive intelligence at that level has to know that.

He knew the classification of the intercepts. He knew the sensitivity of information referencing U.S. persons. He knew the special procedures he had to go through to get that name. He knew the requirement to closely guard this information, even if he had not seen the specific language on the transmittal letter. Any attempt to place blame for his action on others is thinly veiled, sad, and wrong.

I still have questions about this episode, but it appears to me on its face that he violated the restrictions placed on this information by the National Security Agency. Even if we discover his actions were technically not a security violation, if by a 1 in 1,000 percent chance it turned out to be true, it emphasizes something even worse, and that is a cavalier attitude to be, therefore, projected into the future in dealing with extremely sensitive intelligence information.

This is part of a pattern which shows a blatant disregard for the importance of the intelligence process which is the spear tip of this Nation's internal security and security around the world and the sensitivity of the information contained in intelligence products.

When viewed collectively, these actions demonstrate Mr. Bolton's unfitness for this position. I thereby urge my colleagues to oppose his confirmation. I thank the Presiding Officer.

Mr. DODD. Will the Senator yield?

Mr. ROCKEFELLER. I yield to the Senator.

Mr. DODD. Let me thank my colleague from West Virginia who holds the very difficult position, along with Senator ROBERTS, of being the ranking member and chairman, respectively, of the Intelligence Committee. It is a very difficult job.

For those who have served some time, we appreciate immensely the tremendous difficulty of trying to manage and handle the information that comes their way. I am particularly grateful to my colleague for his comments here today regarding the issue of the intelligence analysts and the handling of very delicate information.

As my colleague from West Virginia knows, and I state this in the form of a question, Senator BIDEN, obviously, and Senator LUGAR, going back to April 11, have requested information regarding the intercepts that the Senator from West Virginia has just described, along with other information from the State Department regarding testimony that Mr. Bolton was to give before a House committee dealing with weapons of mass destruction in Iraq. We have been unable the last number of weeks to get the necessary information from the administration regarding these allegations.

As such, we are asking the administration today if they would not be forthcoming with that information, to give the chairman and the ranking member of the Intelligence Committee unredacted versions of these intercepts, along with the chairman and ranking member of the Foreign Relations Committee—not all members of the committee, not all Members of the Senate. I believe this is the normal operating procedure when matters like this arise, that requests are made of the administration for information and they go to selected, designated members to review, to determine whether there is something that as Members of this body we ought to be aware of in the consideration—relevant information in the consideration of a nomination.

My question is, Is this an inappropriate request from the Senator from Delaware and the Senator from Indiana, to get unredacted versions, to go to the Intelligence Committee and the Foreign Relations Committee for them to be able to review, to determine whether they would be relevant to this nomination?

Mr. ROCKEFELLER. I say to the Senator from Connecticut it is not only appropriate, but it is necessary. The Senator from Connecticut described the very condition of its sensitivity and its importance and therefore the importance of its place in this nomination consideration.

The fact that only Senator ROBERTS and myself were briefed for a long period of time is part of the way the administration either shares very sensitive information which they do not want other committee members to have—which, of course, makes other committee members furious, as it would me, but they cannot take chances—but what that emphasizes is the importance and the confidentiality and the high degree of sensitivity of the information. When you are putting somebody potentially into the United Nations to effect policy, to reflect the views of the President more directly than the President can do on a daily basis, to reflect the views of the rest of the world toward the United States, this kind of thing must be available to Senator ROBERTS and myself and, just as importantly, to Senator LUGAR as chairman of the Foreign Relations Committee, for Heavens' sake, and Senator JOE BIDEN, the ranking member.

Mr. DODD. Let me further ask my colleague, if I may, as I understand it, when a policymaker requests of the National Security Administration the raw data on an intercept, there must be a written explanation for why the policy center or policymaker is seeking that information; is that not correct?

Mr. ROCKEFELLER. That is correct. And that is not available.

Mr. DODD. That was my second question. Was that available to the ranking member and the chairman of the Intelligence Committee?

Mr. ROCKEFELLER. No, it was not available and it is part of this pattern.

We have to decide if there are two branches of Government or one.

Mr. DODD. I thank my colleague and I appreciate again his comments.

I will be very brief in my comments this afternoon. I notice there are other Members here. I saw my friend from Virginia, Senator ALLEN, in the Chamber. Senator COLEMAN of Minnesota has already spoken, but he may want to speak. I think Senator LEVIN of Michigan may be coming over shortly.

I will reserve for tomorrow further discussion of the nominee himself and the reasons for my objection for this nomination going forward, but, rather, I will focus in these brief minutes, if I may, on where we are and the procedural situation in which we find ourselves.

I say to my colleagues it is awkward. We have just come through a rather contentious period in the history of the Senate over the last number of days dealing with how we deal with executive branch nominees. It would not have been my choice to have this matter come up in the midst of all this or in the wake of all of this. I would have preferred we had dealt with judicial nominations, which I thought was the primary rationale for the crisis we ran into over the extended debate rule.

However, it is clearly the choice and the right of the majority, in my view, to set the agenda. As such, they have set the agenda to bring Mr. Bolton's nomination up before the Senate rather than additional judicial nominations before the Memorial Day recess.

I have been asked and objected to a unanimous consent request that would have allowed for an up-and-down vote on Mr. Bolton at some point tomorrow afternoon. I have said to the majority leader and the minority leader, it is not my intention at all to filibuster this nomination. That is not what I want to have occur at all.

I have suggested we ask the administration, once again, would they be forthcoming and give us this information about the National Security Agency intercepts to go just to Senator

ROCKEFELLER, Senator ROBERTS, Senator LUGAR, and Senator BIDEN for review to determine what, if any, information in those 10 intercepts involving 19 names of American citizens that might have some relevancy to the nomination of Mr. Bolton. That request has been rejected since April 11, basically, and there have been numerous requests.

The second request involves a request that Senator BIDEN has expressed a strong interest in detailed information regarding testimony of the weapons of mass destruction in Syria that was to be the subject of congressional testimony by Mr. Bolton. That information is also being sought.

I commend and thank the majority leader, by the way. Earlier today in my conversations with him, I expressed that I had no desire to filibuster this nomination but would he transmit the request—I am not suggesting he support the request—but would he transmit the request to the appropriate personnel at the State Department or the White House regarding this information. Graciously, the majority leader has said he would do so, and I presume he has.

No cloture motion has yet been filed, but it is my understanding, because it is the way I framed the request, that I would not insist upon a normal period of time to expire before a cloture motion could be invoked, or could be raised, nor would I insist that there be an adequate amount of time after the cloture motion, if it were invoked, be required, the 30 hours of debate; but, rather, we would truncate all of that some time tomorrow afternoon to give everyone an exact time to express themselves on either the motion to invoke cloture or on the nomination itself.

If we are unable to get this data, information, which has been requested now for 6 weeks, I will urge my colleagues not to invoke cloture. I would do so most reluctantly, and I urge my colleagues, regardless of feelings about the nominee.

This is what I want to address. We all have had strong views on Mr. Bolton. I see my friend from Virginia. He has been eloquent in his defense of Mr. Bolton, as has my friend from Minnesota.

I listened to the remarkable speech given by our colleagues: Senator VOINOVICH of Ohio, Senator BIDEN, Senator SARBANES, Senator ROCKEFELLER, and others. There are strong feelings about this nomination. But put aside your strong feelings about the nominee and think for a minute about what we are asking for as an institution; that is, data that pertains to this nomination.

I noted with some interest earlier today that one of the newspapers that covers Capitol Hill reported that a House Appropriations Committee, obviously under the control of the Republicans—the majority—was expressing a similar problem in getting information out of the administration on matters they thought were important.

I do not think this desire to deprive the committees of information on Mr. Bolton is unique. I believe it is a pattern that we, as Members of this coequal branch of Government, must defend ourselves on, that if the administration—this administration or any administration—believes they can successfully deprive legitimate requests for information pertaining to a matter that is before us, particularly one that invokes as much debate as this nomination has, then we all suffer. Whether you are for Mr. Bolton or against Mr. Bolton is not the point. The point is, we ought to have a right to have information given to us, under controlled circumstances—not to the availability of every Member under every circumstance but we have set up mechanisms which allow us to have information to determine its relevancy to something such as this.

Consider, if you will—I am speaking hypothetically now, obviously—that the administration deprives us of this information, the Senate invokes cloture, and there is then a vote to confirm Mr. Bolton and in a matter of days or weeks we discover that the very information requested is so damming that every Member of this body would have been against the nomination had they known the information at the time of the vote. There is the possibility of that. I would suggest to my colleagues, or I would not have requested the information.

How would we feel institutionally at that point if we did not stand up for ourselves as Senators in insisting that this administration—or any administration when there was a legitimate request for information pertaining to a nomination such as this—ought to be forthcoming, and we ought not to have to go through the parliamentary procedures and debates and invoking various tactics in order to put pressure, in order to get this information? It seems to me that ought to be forthcoming. For those reasons, I am grateful to the majority leader for transmitting the request.

I have also said, just to complete this, that if, in fact, cloture is invoked, that then I am prepared to vote immediately thereafter on the Bolton nomination. To make my point, I am not anxious for an extended debate or filibuster beyond cloture. Obviously, if cloture is not invoked, then my assumption would be the matter would go over until after the Memorial Day recess, in which case we might have some additional time to solicit the information we are seeking.

My preference would be we get the information. We still have time. It is only 5:30 in the evening tonight. If the administration would say: Listen, we can give you this information—even if we do not get it until tomorrow morning, there ought to be adequate enough time, from tomorrow morning to the afternoon, by the appropriate committees to go over the unredacted versions of this—by the way, not crossing out the names of the very people we want to know—who they are—in addition to the rationale for the request, so we can make a determination as to whether those intercepts, and the requests of them, have pertained to Mr. Bolton's determination to punish certain people in the intelligence branch of the State Department because of their analysis that Mr. Bolton had some difficulty with.

Also, of course, there is the request that Senator BIDEN is calling upon; that is, whether there was some effort here to cook up the books regarding the weapons of mass destruction or the allegation of weapons of mass destruction in Syria.

That is not going to be that hard. It could be done in a matter of hours, and we could then vote on Mr. Bolton's nomination by tomorrow afternoon, up or down, one way or the other. I would hope my colleagues would join in this effort. If we tell the administration as a body that we have a right to this information, I would wage anything to my colleagues that the administration would be forthcoming with it. It is because they believe there are more than 40 Senators here who will vote to invoke cloture that they will not provide the information. The minute they think we might insist upon seeing it, I think the information will be forthcoming.

There are those who have told me, by the way, as a general matter that while this was an extraordinary request in some sense, in others it may not have been an extraordinary request. I am thinking about Mr. Bolton's request now. So there may very well be there is nothing in these requests that should cause any of us any concern. It may be true, as well, regarding the Syria allegations. If that is the case, then there is nothing to fear by any of this to bring it up. But in the meantime, institutionally, in my view, as Senators representing a coequal branch of Government, when there is a legitimate request for information and an appropriate and proper means by which we receive and handle that information, it ought to be forthcoming. When we fail to insist upon that, in any administration, we weaken the ability of this place to do its job. That is really what is at stake in the debate here more than anything else at this moment.

Now, there will, obviously, be further debate about Mr. Bolton. We all know that. We have been through it. Those of us who serve on this committee have had hours of debate on this issue. I suspect my friends from Virginia and Minnesota could quote my remarks about

Mr. Bolton, as I could theirs. We have listened to each other for countless hours about this issue. Our colleagues will soon get the benefit of these remarks as we repeat them again in the next 24 hours or so.

That is not the issue tonight for this Senator. The issue for this Senator tonight is, does the Senate, as a body, when there is a nomination before it—when there is critical information that serious Members of this body believe is pertinent to the debate before us—should we have the ability under controlled circumstances to access that information? If my colleagues believe the answer is no and the administration is not forthcoming, then you ought to invoke cloture. If you believe we ought to have a right to this information, even though you support the nominee, as a matter of principle, as U.S. Senators charged under the Constitution to be responsible for the confirmation of high-level Federal employees and nominees, then it seems to me our answer, despite our views about the nominee, ought to be yes and to say with one voice: We support the nominee—if we do—but, Mr. President, in your administration, it is appropriate that you be forthcoming on the request.

There is the chairman of the Intelligence Committee and the ranking member, and there is the chairman of the Foreign Relations Committee and the ranking Democrat—four Senators. For them to get the unredacted versions of these intercepts and the information regarding Syria is not some breach of intelligence. Remember, Mr. Bolton and his staff had access to this information. They could read those names. They know what is in it. Does some Under Secretary of State have more rights than the Senator from Virginia or the Senator from Minnesota or the Senator from Connecticut or the Senator from Kansas? I don't think so.

The PRESIDING OFFICER. The time of the minority has expired.

Mr. DODD. Mr. President, I will conclude just by saying I would hope my colleagues would consider this, and rather than get to the point tomorrow night of having to invoke cloture, would they not even quietly ask the administration to be forthcoming? We do not need to go through this. We could have a vote on Mr. Bolton up or down tomorrow afternoon, one way or the other, and avoid this precedent-setting circumstance where legitimate information is not forthcoming. That is the point I wanted to make this evening.

I thank the Chair and thank my colleagues.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I will speak very briefly and yield to my colleague from Virginia.

Mr. President, I would note that the chairman of the Intelligence Committee is here, and I suspect he will respond to some of these issues.

There is just one point the distinguished Senator from West Virginia raised again and again, and I just want to make the RECORD very clear; that is, again, he stated that it is clear, in his words, that the Under Secretary criticized this employee "because his analysis did not support Bolton's view." I want to make it clear, the record does not support that. In fact, it was very clear that John Bolton said to the intelligence analyst:

> You are welcome to disagree with me, but not behind my back.

That is what this was about. In fact, the analyst himself gave some conflicting reasons of why he did not tell Bolton that he had tubed his language before he sent it around. He never told him that. That is what this is about. In fact, when the analyst was asked whether he disagreed with the statement "You are welcome to disagree with me"—it is Bolton speaking to the analyst—"but not behind my back," his comment was, "That does ring a bell." So that is what this is about. It is about process, it is not about policy.

The last thing I would note is that we have had 10 hours of hearings, 35 separate staff interviews, 2 business meetings, 29 different people producing 1,000 pages of transcripts and 800 pages of documents from the State Department. This individual has gone through a very thorough review.

I appreciate my colleague from Connecticut not holding us up.

Clearly, if cloture is invoked, we could wait another 30 hours. I thank him for that. But the record is clear it is time to move forward.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, I thank my wonderful colleague from Minnesota, Senator COLEMAN, for his rebuttals of what has been said. As Senator COLEMAN and I have listened to this in the Foreign Relations Committee for many weeks—and all of these different issues and allegations and charges that have been refuted—we understand that what we are now off on are the detours and tangents, avoiding the reality and what is important; that is, John Bolton being the right person to bring accountability, being a watchdog for the $2 billion the American taxpayers send to the United Nations every year. The United Nations ought not to be a front for terrorist organizations or anti-Americanism.

John Bolton has a record of performance that is exemplary, from the Proliferation Security Initiative to repealing the odious resolution that likened Zionism to racism. They don't want to talk about the United Nations and the reform that is needed.

They talk about John Bolton being straightforward. He is straightforward. He is not going to get seduced by the flowery language and pontifications of bureaucrats internationally. He is going to advance freedom and the interests of the United States and get other countries to join us.

Having been a quarterback, there is a key player you always want to put in when you want to refute allegations of the side in opposition. I note that all of these individuals who have been criticizing Mr. Bolton, before they heard any of these allegations about intercepts, anything about the sensibilities of different Government officials being offended by Mr. Bolton, all of them—Senators BIDEN, BOXER, KERRY, DODD, SARBANES, and ROCKEFELLER—in 2001, voted against Mr. Bolton in his position as Under Secretary before they heard any of these allegations.

Now to talk about and to present the facts on this latest fishing expedition that we are hearing from the opposition of Mr. Bolton insofar as the conversations, the perfect person to speak on this and to answer the issue is the chairman of the Intelligence Committee, Senator ROBERTS of Kansas. He will rebut the allegations so far as matters dealing with intelligence are concerned.

The PRESIDING OFFICER. The Senator from Kansas is now recognized.

Mr. ROBERTS. I thank the Chair. I certainly thank the distinguished Senator from Virginia. This is sort of a quandary for me in that sitting in my office listening to the debate, I was having a hard time putting two and two together with my understanding of what the Intelligence Committee determined—not the committee but the vice chairman and myself. And in listening to the statements, they just didn't jibe. It is not my intent to perjure the intent of the distinguished vice chairman, but I sure have a different take on this. I think it is supported by facts.

I am rising in the hope of providing some clarification surrounding one of the issues related to the nomination of John Bolton to be U.S. ambassador to the U.N.

On April 28, the vice chairman and I, Vice Chairman ROCKEFELLER, received a letter from the distinguished chairman of the Foreign Relations Committee, Senator LUGAR. In that letter, the chairman asked the Senate Intelligence Committee to look into all information surrounding the process by which Mr. Bolton, between the years 2001 and 2004, requested the names of U.S. persons that had been redacted from various intelligence products. The Intelligence Committee was asked to solicit all information regarding the process by which Mr. Bolton's requests were handled, the contents of the responses, and the process by which they were communicated, as well as any conclusions reached by the appropriate intelligence agencies or elements thereto as to any violations of procedures or directives or regulations or law by those with knowledge of Mr. Bolton's requests. That was a pretty clear letter. That sets out some pretty clear questions.

It is my understanding that the vice chairman of the committee, the distinguished vice chairman and a person whom I respect, Senator ROCKEFELLER, sent his own letter to Senator BIDEN with a different interpretation of the issues than I have described. I also understand that Senator BIDEN read that letter on the floor this afternoon. I regret that a meeting in the Intelligence Committee did prevent me from responding at that particular time, but since the distinguished vice chairman has made his remarks and his interpretation, perhaps this timing is even better. But what I don't understand is why the distinguished Senator from Delaware read only one of the letters from the vice chairman when he had both in his possession.

Nevertheless, in his letter of April 28, Senator LUGAR asked the Intelligence Committee to assist the Foreign Relations Committee in ascertaining the facts. This is what I attempted to do, and I think my letter certainly speaks for itself. Unfortunately, I believe that the vice chairman's account did omit some important facts which I believe give a much clearer picture of what actually took place.

This morning, I sent a letter back to Senator LUGAR detailing my findings and conclusions. This letter, which was also provided to Senator BIDEN, provides the rest of the story. With your indulgence, I will read my letter into the RECORD, as addressed to the Honorable RICHARD G. LUGAR, chairman of the Committee on Foreign Relations. It reads:

Dear Mr. Chairman:

I write in response to your April 28, 2005 letter asking this committee to examine a number of intelligence-related issues that have been raised during the Committee on Foreign Relations' consideration of the nomination of Under Secretary John Bolton to be the United States Representative to the United Nations. My hope was to respond jointly with Vice Chairman Rockefeller.

While we both agreed there was nothing within the contents of the intelligence reports in question that caused us any concern, we were unable to agree on a final text in response.

This was not for lack of trying. One day, 2 days, 3 days, a week, I think it was 10 days, trying to work out a joint letter. It just didn't happen. So we have two versions. I don't quite understand why, but especially since we both met with General Hayden, who is the Director of National Intelligence and who was the head of the NSA and, as such, is the head of intercepts and signals intelligence.

I might say right now that I really do not like this business of coming to the floor of the Senate and talking about signals intelligence and intercepts. That causes me great concern. It is of the highest classification.

I continued to Senator LUGAR:

Nevertheless, I am going to convey to you my findings and conclusions.

After completing an examination of these issues I have found no evidence that there was anything improper about any aspect of Mr. Bolton's requests for minimized identities of U.S. persons. I further found no violations of procedures, directives, regulations or law by Mr. Bolton. Moreover, I am not aware that anyone involved in handling these requests had any concerns regarding these requests at any point in the process.

State Department records indicate that Under Secretary Bolton's office did request the minimized identities of U.S. persons that are contained in the National Security Agency signals intelligence products on ten separate occasions. Every request was processed by the State Department's Bureau of Intelligence and Research.

The acronym for that is INR.

In each case, INR personnel followed standard procedure by preparing a written request which included a justification for the request.

INR sought the identities on behalf of Secretary Bolton's office in each instance to better understand or assess the foreign intelligence value of the information that was contained in these documents. Senior INR officials were then responsible for determining whether the requests were reasonably related to Under Secretary Bolton's area of responsibility.

Continuing my response to Senator LUGAR:

In every instance, they were so determined and electronically transmitted to the NSA for approval. The NSA approved all ten of Mr. Bolton's requests and transmitted its responses to [the State Department and the] INR. INR officials then notified Mr. Bolton's staff that they had received the responses and made them available.

Committee staff interviewed INR analysts and NSA officials responsible for processing the requests for the identities of U.S. persons contained in signals intelligence products. None of the individuals interviewed indicated that there was anything improper or inappropriate about Mr. Bolton's request.

We were also briefed by General Michael Hayden, former Director of the NSA and current Principal Deputy Director of National Intelligence—

He is a man who I think gives the best briefing of anybody in the intelligence community, and who was approved in regard to his nomination to that position by unanimous consent by this body.

He also stated that Under Secretary Bolton's requests were not only appropriate, but routine. In fact, INR records indicate that since May 2001, INR submitted 489 other requests for minimized identities.

John Bolton requested 10.

Finally, the Vice Chairman and I reviewed all ten documents—

We reviewed the intercepts. That is what we are supposed to do. That is the job of the Intelligence Committee. It is limited to only us two, and for darn good reason, because of the classified nature of the subject at hand.

—containing the references to U.S. persons that generated Under Secretary Bolton's requests. The documents we received did not contain the actual identities of the minimized U.S. persons. After reviewing the content of each report, however, it was apparent to us both—

This is my recollection of the meeting, and I cannot conceive of any other recollection that is accurate.

—that it was not necessary to know the actual names to determine whether the requests were proper.

Ultimately, I found no basis to question the justification for, or the appropriateness of, Mr. Bolton's requests for the identities of U.S. persons contained therein.

I continue in my letter to Senator LUGAR:

Further, General Hayden informed us that it is not uncommon for senior government officials above the rank of Assistant Secretary to make such requests. It is worth noting that Mr. Bolton did not request the identity of every U.S. person referenced in the documents which would have been his prerogative.

I can remember the distinguished vice chairman's comments indicating they didn't even ask for all of them.

While I found that Mr. Bolton's conduct was entirely appropriate and consistent with the protection of intelligence sources and methods, I did find that there are significant deficiencies in the process by which U.S. person identities are provided to requesters of such information.

We have had a lot of discussion about questioners.

As your committee has now learned, a request for a U.S. person identity is a routine occurrence in the intelligence process. The incidental collection of U.S. person identities is a fact of life in the signals intelligence business. Because U.S. persons are not the targets of foreign intelligence collection, their identities are, as a matter of policy, redacted or minimized to protect their privacy. When an intelligence analyst or policymaker determines that a U.S. person identity is necessary to better understand and assess the intelligence value of the information, they are permitted to request that identity. The NSA evaluates that request and either grants it or denies it. As already discussed, all of Mr. Bolton's requests were reviewed by both the INR and NSA and were granted.

In the course of our review, we found that the Assistant Secretary for INR requested the identities so that they could be passed to Under Secretary Bolton. The NSA provided the U.S. person identities to the INR in the form of Information Memoranda addressed to the Assistant Secretary for INR. We were provided a copy of one of the memoranda, dated 20 February, 2003. This document included a paragraph which stated:

"You may disseminate the information as requested, provided it retains the classification as stated in paragraph two above. Request no further action be taken on this information without prior approval of NSA."

Now, that is important—"request no further action be taken on this information without prior approval of NSA."

The NSA confirmed that it uses standard dissemination guidance language in response to customer requests for release of identities. We were also told that Mr. Bolton was not provided the 20 February 2003 Information Memorandum containing this language.

Upon further inquiry, we learned INR does not provide the NSA transmittal sheets containing the U.S. person information, or the handling information contained therein, to the requesters of the identities, nor does it specifically instruct the requester on the handling of such information. The INR passes U.S. person identities verbally, without any further guidance. The NSA expects the INR to provide specific handling instructions at the time INR provides the identity to the requester.

Not only did INR not provide such instructions to Mr. Bolton, it does not provide them to anyone. Also, it has never established any formal procedures to train or educate requesters Department-wide on the appropriate handling of U.S. person identities.

This came as somewhat of a shock to me, and it is something we have to review in the Intelligence Committee.

In fact, in the case of the 20 February 2003 memorandum, the INR did not pass the identity directly to Under Secretary Bolton, but rather passed it to an individual within his office, an action which violated the express dissemination guidance contained in the Information Memorandum. The Assistant Secretary at the time of this violation was Carl Ford.

The NSA did not in this particular instance, and does not as a matter of course, do anything to ensure that its dissemination guidance is actually followed by the Assistant Secretary for INR or any official in any other Department government-wide.

The NSA depends upon the recipient to provide specific handling instructions to the requester and to handle the information appropriately and in accordance with instructions. It appears that Assistant Secretary Carl Ford did neither in this case. The INR's failure to instruct the recipients of U.S. person identities on their proper handling has left the State Department officials essentially to fend for themselves.

During the course of this review, we learned that Mr. Bolton, in the absence of any guidance from INR or the NSA, discussed the U.S. person identity contained in the 20 February 2003 Information Memorandum with one other individual.

This has been pointed out as a big deal by the vice chairman and my good friends across the aisle.

This particular individual was the person referenced in the report.

This person worked directly for Under Secretary Bolton, possessed the necessary security clearances, received and read the same intelligence report in the course of his duties, and understood that he was the U.S. person referred to therein.

I don't see what the problem is in that regard. Is this the big problem here that somebody is alleging illegal activities? By the way, the first time I learned about that was reading about it in the New York Times, as opposed to reading the letter disseminated by Senator ROCKEFELLER to the distinguished vice chairman of the Senate Foreign Relations Committee.

The NSA request that recipients of information about specific identities of U.S. persons take "no further action" with regard to the information provided is driven by concerns about the privacy rights of named individuals. These privacy concerns do derive from Attorney General-approved minimization procedures which regulate the collection, processing, retention, and dissemination of information to, from, or about any U.S. persons. The request is also prompted by concerns about protecting intelligence sources and methods.

Not to mention the chilling effect it would have in regards to all intelligence analysts.

Mr. Bolton's actions in this instance would not implicate any of these concerns. He discussed the identity with the actual named person who was not only fully cleared to receive the information, but already possessed the same information. It is also important to note that the NSA's guidance is formulated as a "request," not a mandate. When asked why the NSA "requests" rather than requires, that "no further action" be taken with a U.S. person identifies without prior approval, the NSA responded by stating that the language is now "currently under review."

So it is a pretty nebulous standard we are referring to in terms of any alleged misconduct.

I intend to work closely with the Director of National Intelligence to ensure that our intelligence agencies and elements are doing everything they can to assist and educate the requesters of U.S. person identities in the proper handling and protection of this information. We must do everything we can to not only protect the privacy of our citizens, but to protect and preserve intelligence sources and methods.

I do not think you will find any quarrel among anyone on the Intelligence Committee or the vice chairman or myself on that.

It is for this reason that I was a bit surprised and dismayed when a member of your committee—

Again, this is the letter that I sent to Senator LUGAR—

broached this issue in the course of your public confirmation hearings. Normally, intelligence sources and methods are discussed in closed session to protect our continuing ability to collect the intelligence we all agree is so vital to our Nation's security.

As is often the case, some individuals, who are not familiar with intelligence issues, perceive that something is unusual and concerning when, as in this instance, it is actually very routine. That is why the U.S. Senate created the Intelligence Committee to deal with these issues in an informed, responsible, and secure manner. It is my hope, in the future, intelligence issues will be discussed in executive session so that we can protect what are vital national security assets.

I appreciate your recognition of our unique ability to assist with intelligence-related issues as you consider this very important nomination. We take very seriously our oversight responsibilities and our obligation to protect highly sensitive intelligence information. Your consideration of our duty to protect intelligence sources and methods is greatly appreciated.

Sincerely Pat Roberts, Chairman.

With a copy showing to the Honorable JOSEPH R. BIDEN, Jr.

Mr. President, I said I beg your indulgence in the reading of that entire letter on the floor of the Senate. That is the text of the letter I did send back to Senator LUGAR and obviously copied to Senator BIDEN as of this morning.

Why my colleagues chose to give you only part of the story is a question only they can answer. I have my thinking about that, but I am not going to go into that on the floor of the Senate.

I also would like to add a bit of texture to some of the statements that have been made here today in regards to Mr. Carl Ford of "kiss up and kick down fame." That has been quoted a lot. Mr. Ford has made a number of other statements that I think are relevant to these issues raised by my friends in opposition to Bolton's nomination.

For example, on page 276 of the Senate Intelligence Committee's Iraq WMD report, Mr. Ford addressed the issue of whether it was appropriate for policymakers to view intelligence assessments with skepticism.

I will just tell you that every member of the Intelligence Committee now, after our WMD report, does not take anything at face value, and I think that has helped. We just had a hearing today in which we had a response that I think was certainly more candid: Tell me what you know; tell me what you don't know; tell me what you think. I think there has been a historic change in the intelligence community as a result of our report and the WMD Commission, appointed by the President and the 9/11 Commission, in the interest of all Senators.

Mr. Ford said if a policymaker "believed everything that the intelligence community told him, including what INR tells him, he'd be a fool. You should know better than anybody that a lot of the stuff we turn out is"—well, I am going to change the name. I am not going to say what is here. I am going to say it is a lot of what we have in our Dodge City feedlots—"and that a policymaker who sticks to that intelligence, I don't even want to be in the same room with. They've got to know the stuff isn't that good. So the notion that they sometimes disagree with us I find fine."

That is a little slightly different take on what we have been hearing so far. I guess what Mr. Ford meant to say—and he has been before the committee many times; he is a fine man—is that it is fine to disagree with intelligence analysts as long as you are not John Bolton. I only highlight some of the things to emphasize that there seems to be a double standard for this particular nominee.

With the indulgence of my colleagues, I would also like to address some additional misperceptions about the intelligence community that were published as minority views in the Senate Foreign Relations Committee report on Mr. Bolton's nomination. The minority claims that policymakers should be restricted from making public statements that "defame U.S. intelligence agencies." I find this to be a rather absurd concept.

I do not know how one "defames" an entire Government agency, but I do know that criticism played a vital role in our collective effort to reform the intelligence community and demand change for failure. I am not aware of any special status that insulates members of the intelligence community from criticism, nor should there be. That should be a slam dunk.

I am also unaware of any special status that prevents intelligence analysts from having their views or actions challenged by policymakers. Intelligence analysis is not an exact science. Intelligence analysts are not infallible and their assessments are not unassailable. While the intelligence community has had many successes in the past few years for which it should, and can, be proud—there are many good things they have done in protecting the homeland and providing real-time intelligence to the warfighters—astounding failures, such as 9/11 and Iraq, should make it clear that the intelligence community does make mistakes.

I often lament that policymakers did not ask enough tough questions about Iraq's suspected WMD programs prior to the war. Let me just say that persistent questioning to an analyst is not viewed by the analysts, in the 250 analysts we interviewed, as being pressured. If anything, we should be asking more questions. If anything, several members of the Intelligence Committee, whom I admire and respect and am very proud to be their chairman, ask more repetitive questions of witnesses every time we have a hearing than people are complaining about in this particular case.

Perhaps, if we all had been more diligent, the intelligence community would have been more attuned to the gaps in its information and more accurate in its judgment. I, for one, now make it a point to repeatedly and persistently question analysts who come before our committee to ensure that I understand their judgments, understand the information upon which they base those judgments, and form my own opinions about gaps in their logic.

The vice chairman and I have agreed on that, to look at every capability we have in regard to national security threats. Do we have the intelligence capability? Do we have the collection? Do we have the analysis? Is there a consensus threat analysis that makes sense? Are there gaps?

We do not want to repeat past mistakes. I am not going to go down the laundry list, starting with Khobar Towers and ending up with 9/11 or the Madrid bombing or whatever it is we are talking about, or the USS *Cole*. We have to put that one in.

So basically I resent any suggestion that this performance of my duty is somehow improper. I do not think that is right. Intelligence is a serious business, dealing with life-and-death issues. In my experience, our intelligence analysts understand this. They know that defending their views is vital to the process and are fully capable of doing so. These are individuals who work every day to defeat terror and defend our national security. They are tough and they are good. They are not delicate, hothouse flowers unable to defend their views or take criticism. They are, however, humans involved in a fundamentally human process. Intelligence analysts can make mistakes and their judgments are not immune from their own biases.

Intelligence assessments should inform policy, not dictate it. Ultimately, as policymakers we need to understand that intelligence is merely a tool that at times can have great value as well as serious limitations.

If we are going to make an informed judgment of Mr. Bolton's fitness for this position, please, I implore my colleagues, let us do it based upon all the facts known to us, not just the facts we like or pick out.

In conclusion, I have looked at the intercept issue and allegations surrounding Mr. Bolton's management style. I have found nothing which would give me pause in voting for his confirmation. I support the Bolton nomination. I urge my colleagues to do the same.

I yield the floor.

Mr. DODD. Will my colleague yield before he leaves the floor?

Mr. ROBERTS. Sure. Why not.

Mr. DODD. I thank my colleague for doing so. Let me preface my question to him by telling him how much—as I said to Senator ROCKEFELLER, I have great admiration and respect for the work the chairman and the ranking member do.

Mr. ROBERTS. I thank the Senator for his comments.

Mr. DODD. It is a very difficult committee and I respect immensely my colleagues' efforts there. I note in my friend's letter which he has provided and read in detail to us, there was a reference—and to be quite candid, I think I am the Senator the Senator is referencing here because I am the Senator who raised the question during the Foreign Relations Committee confirmation hearing of Mr. Bolton. Here my colleague says, and I am quoting now from page 4, the last paragraph of the Senator's letter to Senator LUGAR, and I am getting down near the end of it, maybe the last sentence of that paragraph: It is for this reason that I was a bit surprised and dismayed when a member of your committee—speaking of this Senator—broached this issue in the course of your public confirmation hearings. Normally intelligence sources and methods are discussed only in closed session.

I will ask unanimous consent that the transcript of the question I raised to Mr. Bolton at that particular time be printed in the RECORD.

The question was basically a very simple one. The question was: I want to know whether you requested to see NSA information about other American officials? That is the question. There was no reference to sources and methods. A simple question: Did you request to see this information, yes or no?

And he went on to answer the question.

Now, I ask the chairman of the Intelligence Committee, is that an inappropriate question to ask of a nominee? It was a simple question: I want to know whether you requested to see NSA information about any other American officials? Mr. Bolton's answer is: Yes, on a number of occasions I can think of, and he goes on to talk about it.

My point of your letter is, there is a discussion that this Senator was acting inappropriately because I was seeking methods and sources. The only question I asked of Mr. Bolton in that public hearing was: Did you make such a request? Does my colleague believe I was violating some procedures regarding the gathering of intelligence by asking that simple question?

Mr. ROBERTS. I would never raise the question about my colleague and friend about acting inappropriately, especially in regard to intent. I am concerned about us talking about intercepts and all of this that I went through in the letter on the Senate floor. I am concerned about many things that have been talked about publicly, quite frankly, leaks that appeared in the press that I find out about later as chairman and have to address. I cannot speak to them because they are classified. It is the classic case of Catch-22, where something appears in the press or perhaps somebody says something on the floor inadvertently—if it is done on purpose, that is another matter. That can be referred to the Ethics Committee—and that certainly is not the case in terms of my distinguished colleague. Then comes sort of a feeding frenzy and we end up with things that should not be in the public discourse that are highly classified, highly compartmented. Signals intelligence is one of the highest compartmented topics we deal with.

Mr. DODD. I agree with my colleague.

Mr. ROBERTS. It was only Senator ROCKEFELLER and myself who were briefed by General Hayden, and that was a very good meeting. We went over virtually every intercept, as it should be. That was my point. That is what the Intelligence Committee does. It is accepted practice for the full committee, which many members of the full committee have trouble understanding, that only the vice chairman and the chairman have access to this kind of highly compartmented material. So when this kind of thing is bandied about on the floor in a generic way, it causes me great concern.

Mr. DODD. Well, I understand that. It is just that this Senator in this—

The PRESIDING OFFICER. The Senator from Kansas controls the time.

Mr. DODD. If he would yield, this sentence in this letter suggests that this Senator—because I am the one who asked the question—crossed the line. Let me read my whole question.

Mr. ROBERTS. I am not referring to the Senator from Connecticut by name. OK?

Mr. DODD. I am the only one who asked the question that day.

Mr. ROBERTS. Pardon me?

Mr. DODD. I am the only one who asked the question of Mr. Bolton. I asked the question in this way: I want to read the question because I want to make sure I do not overstep a line here, and then I asked the question: Did you . . .

My concern is that there is a suggestion, as the one who asked the question, that I had somehow—and I do not disagree with my colleague, by the way.

Mr. ROBERTS. Reclaiming my time. I think I addressed the Senator's personal concern. The Senator knows me well enough to know that when I say I am not accusing him personally of anything that would be inappropriate, I have stated I am talking about open discussion of intelligence information, quite frankly, not only in this nomination process but in the Intelligence Authorization Act in regard to a whole series of other subjects I will not go into, that many people have spoken to on the floor, many people have talked to the press about, and I do not think it is appropriate.

I will say again, I am not accusing the Senator of anything inappropriate. I think from the whole standpoint of this body, subjects such as this should be done in executive session. I think that because of all the problems we have had in regard to leaks and in regard to information that is not helpful to our national security. That is about as far as I will go with it. I could go through quite a laundry list of concerns I have of things that have been made public and what has happened in regard to our adversaries, what has happened in regard to our intelligence capability, and I worry about it. So my concern was basically the continued open discussion of things of this nature, not the Senator from Connecticut.

Mr. COLEMAN. Will my colleague from Kansas yield?

Mr. ROBERTS. I would be happy to yield.

Mr. COLEMAN. I take it my colleague from Kansas was not at the business meeting when the Bolton nomination was discussed. My colleague from Kansas was not at the hearing where the Bolton nomination was discussed. I do not know if it would surprise my colleague to note that in the business meeting, other Senators, not the Senator from Connecticut—this issue of intercept was raised again by another Senator and a similar question was asked. So it is not just the Senator from Connecticut who raised the issue during the questioning of Mr. Bolton.

But, in fact, during the business meeting this came up again and again. I presume my colleague from Kansas must have been informed of that, to raise the level of concern he has.

Mr. ROBERTS. I thank the Senator for his clarification.

Mr. DODD. If my colleague will yield for just one additional point. I agree with respect to General Hayden as well. I noted because I watched the hearing—our colleague from Michigan is here and participated in the hearing—when General Hayden, in his confirmation hearing, was before the Armed Services Committee, there was a rather extensive discussion with General Hayden about the whole issue of intercepts. General Hayden was very forthcoming in that discussion about it. I have great respect for him as well. About the Web site here, I ask unanimous consent to have printed in the RECORD the Web page for the National Security Agency, the page headed, "Signals Intelligence."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIGNALS INTELLIGENCE

The National Security Agency collects, processes and disseminates foreign Signals Intelligence (SIGINT). The old adage that "knowledge is power" has perhaps never been truer than when applied to today's threats against our nation and the role SIGINT plays in overcoming them.

NSA's SIGINT mission protects the nation by:

Providing information in the form of SIGINT products and services that enable our government to make critical decisions and operate successfully.

Protecting the rights of U.S. citizens by adhering to the provisions of the 4th amendment to the Constitution.

Using the nation's resources responsibly, according to the best management processes available.

SIGINT is derived from the signals environment that is described by the graphic above. Other agencies within the Intelligence Community are responsible for other types of intelligence:

Human Intelligence (HUMINT) is primarily the responsibility of the CIA and DIA.

Imagery Intelligence (IMINT) belongs to NGA.

Military Intelligence and Measurement and Signature Intelligence (MASINT) belongs to DIA.

Together, these different yet complementary disciplines give our nation's leaders a greater understanding of the intentions of our enemies.

NSA's SIGINT mission provides our military leaders and policy makers with intelligence to ensure our national defense and to advance U.S. global interests. This information is specifically limited to that on foreign powers, organizations or persons and international terrorists. NSA responds to requirements levied by intelligence customers, which includes all departments and levels of the United States Executive Branch.

The prosecution of the SIGINT mission has evolved from the relatively static, industrial age, Cold War communications environment to the ubiquitous, high speed, multi-functional technologies of today's information age. The ever-increasing volume, velocity and variety of today's communications make the production of relevant and timely intelligence for military commanders and national policy makers more challenging than ever:

NSA has a strong tradition of dedicated, highly qualified people deeply committed to maintaining the nation's security. While technology will obviously continue to be a key element of our future, NSA recognizes that technology is only as good as the people creating it and the people using it. NSA remains committed to its core mission of exploiting the Agency's deep analytical skill and technological capabilities to ensure the nation maintains a significant strategic advantage in the advancement of U.S. interests around the world.

As much as modem telecommunications technology poses significant challenges to SIGINT, the many languages used in the nations and regions of the world that are of interest to our military and national leaders require NSA to maintain a wide variety of language capabilities. Successful SIGINT depends on the skills of not only language professionals but those of mathematicians, analysts, and engineers, as well. The nation is indebted to them for the successes they have won.

SIGINT plays a vital role in our national security by employing the right people and using the latest technology to provide America's leaders with the critical information they need to save lives, defend democracy, and promote American values.

INTRODUCTION TO NSA/CSS

The National Security Agency/Central Security Service is America's cryptologic organization. It coordinates, directs, and performs highly specialized activities to protect U.S. information systems and produce foreign intelligence information. A high technology organization, NSA is on the frontiers of communications and data processing. It is also one of the most important centers of foreign language analysis and research within the government.

Signals Intelligence (SIGINT) is a unique discipline with a long and storied past. SIGINT's modern era dates to World War II, when the U.S. broke the Japanese military code and learned of plans to invade Midway Island. This intelligence allowed the U.S. to defeat Japan's superior fleet. The use of SIGINT is believed to have directly contributed to shortening the war by at least one year. Today, SIGINT continues to play an important role in keeping the United States a step ahead of its enemies.

As the world becomes more and more technology-oriented, the Information Assurance (IA) mission becomes increasingly challenging. This mission involves protecting all classified and sensitive information that is stored or sent through U.S. government equipment. IA professionals go to great lengths to make certain that government systems remain impenetrable. This support spans from the highest levels of U.S. government to the individual warfighter in the field.

NSA conducts one of the U.S. government's leading research and development (R&D) programs. Some of the Agency's R&D projects have significantly advanced the state of the art in the scientific and business worlds.

NSA's early interest in cryptanalytic research led to the first large-scale computer and the first solid-state computer, predecessors to the modern computer. NSA pioneered efforts in flexible storage capabilities, which led to the development of the tape cassette. NSA also made ground-breaking developments in semiconductor technology and remains a world leader in many technological fields.

NSA employs the country's premier cryptologists. It is said to be the largest employer of mathematicians in the United States and perhaps the world. Its mathematicians contribute directly to the two missions of the Agency: designing cipher systems that will protect the integrity of U.S. information systems and searching for weaknesses in adversaries' systems and codes.

Technology and the world change rapidly, and great emphasis is placed on staying ahead of these changes with employee training programs. The National Cryptologic School is indicative of the Agency's commitment to professional development. The school not only provides unique training for the NSA workforce, but it also serves as a training resource for the entire Department of Defense. NSA sponsors employees for bachelor and graduate studies at the Nation's top universities and colleges, and selected Agency employees attend the various war colleges of the U.S. Armed Forces.

Most NSA/CSS employees, both civilian and military, are headquartered at Fort Meade, Maryland, centrally located between Baltimore and Washington, DC. Its workforce represents an unusual combination of specialties: analysts, engineers, physicists, mathematicians, linguists, computer scientists, researchers, as well as customer relations specialists, security officers, data flow experts, managers, administrative officers and clerical assistants.

Mr. DODD. It is on public document and goes on at some length. I am not sure, my colleague may want to look at this. Maybe the agencies might be more careful about what it says here as well.

The point all along here is the simple question whether access to these records will be granted to the appropriate Members here in the Senate. I appreciate immensely what my colleague said here today. He's a remarkable Senator who does a terrific job, and I thank him for engaging with me a bit in this colloquy, but I was concerned when I saw that line as somehow being singled out about raising the question about whether or not Mr. Bolton made a request. That is all I asked that day. I knew it was an important matter, and it ought to be dealt with not in a public setting, that that ought to be done behind closed doors with the Intelligence Committee to go into further detail about what actually went on. That is why I tried to word it very cautiously and caution myself not to go over a line in asking the question.

Mr. ROBERTS. I only wish all Senators would have the same caution. I thank the Senator for his personal comments in my regard.

I think he has made his point. As the farmer said as he crawled through the barbed-wire fence: One more point and we will be through.

I suspect that you are through, and since I yielded back my time about 10 minutes ago, I yield it back one more time.

Mr. LEVIN. Mr. President, I ask unanimous consent I be allowed to proceed for 20 minutes. I am very sorry the Senator from Kansas left. Let me first ask unanimous consent I be allowed to proceed.

Mr. COLEMAN. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I ask unanimous consent that transcripts of two public hearings where I asked questions of General Hayden, relative to the process of seeking identification of people who are referred to or who participate in intercepted conversations—that those unclassified, public hearing transcripts, or portions thereof, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEVIN. Thank you.

General, this morning's New York Times had an article, which troubled me, about the number of times in which communications that had been intercepted by the NSA were released to John Bolton. I was troubled by the number of times that this happened, frankly.

But since you're here and you're in a position to give us some facts on this subject, I want to ask you a number of questions about it.

I gather that, according to the article, access to names may be authorized by NSA only in response to special requests, and these are not common, particularly from policy-makers. That's the quote in there. Is that an accurate statement?

HAYDEN. I think that's a very accurate description. In fact, I read Doug Jehl's article. And I think Doug laid it out in a very clear way.

The way it works, Senator, is that we are required to determine what is minimized U.S. person identity. Now, there is a whole body of law with regard to protecting U.S. privacy. But in an agency like ourselves, it is not uncommon for us to come across information to, from or about what we would call a protected person—a U.S. person. And then the rules kick in as to what you can do with that information.

The rule of thumb in almost all cases is that you minimize it, and you simply refer to named U.S. person or named U.S. official in the report that goes out.

LEVIN. How often did Mr. Bolton request the names?

[Crosstalk.]

HAYDEN. I don't know.

HAYDEN. We would have a record of it. Interestingly enough, I double-checked this, this morning, after reading the article, just to make sure I had this right. Because I did approve, from time to time, the release of U.S. person identity.

And it's not very often. I have to do it when the identity is released to a U.S. law enforcement agency. Just done for foreign intelligence purposes, it's about three layers below me in the NSA rule chart.

LEVIN. Was there an unusual number of accesses requested by Mr. Bolton compared to requests from other senior officials?

HAYDEN. I don't know that, Senator; I really don't. And the requests from Secretary Bolton were not of such a number that they came to my attention.

LEVIN. In other words, he obviously made requests. You say that someone other than you would have approved those.

HAYDEN. On a normal basis; that's right.

LEVIN. But you do have records as to how often...

HAYDEN. Yes, sir; we would.

LEVIN. Thank you.

HAYDEN. I should add: And that's a formal process. That's just not a phone call.

LEVIN. OK, thank you.

HAYDEN. It's documented.

LEVIN. Thank you, Mr. Chairman.

ROBERTS. Senator Levin, I wanted to let you know that in answer to the number three question that I asked, why the general replied in terms of cooperating with the committee, deal with me to to provide documents or any material requested by the committee in order for it to carry out its oversight and its legislative responsibilities. We didn't put a time frame on it, but you have. And his answer was an emphatic yes.

LEVIN. I appreciate that, Mr. Chairman. Thank you.

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LEVIN. The Bolton nomination has raised a question about protected U.S. identities. These are U.S. people who are either participants in a conversation, communication which is intercepted and included in a SIGINT product, where the identity of that person is blocked, or sometimes, as said, is minimized, and is referred to generally as a U.S. person.

There are also many cases where that person is not a participant in the conversation but is referred in a conversation, and the identity of that person is also protected as well.

At the Intelligence Committee hearing with you last week, you said that there's a formal written and documented process for U.S. government officials to request the identity of a U.S. person referred to in a SIGINT process. Is that correct?

HAYDEN. Yes, sir, that's correct.

LEVIN. Now, I take it there are a significant number of requests, a large number of requests which come in for the identity of a U.S. person who's been minimized.

Can you tell us whether the majority of those requests, indeed the vast majority of those requests, are made where the person identified is not the participant in the conversation, but rather is someone who is referred to in the conversation?

HAYDEN. Thank you very much for that question, Senator, because when this comes up—I mean, first of all, to frame the issue for me as director of NSA, I mean, the issue here is the protection of American privacy. And everything then devolves out of that fundamental principle: How do we protect U.S. privacy?

And in the course of accomplishing our mission, it's almost inevitable that we would learn information about Americans, or to or from, in terms of communications.

The same rules apply, though, in protecting privacy, whether it's to, from or about an American. You're correct. In the vast majority of the cases the information is about an American being referred to in communications between individuals that I think the committee would be most enthusiastic that we were conducting our operations against.

LEVIN. And that's a very, very helpful clarification.

My time is up. Can I just perhaps end this line of questioning?

Thank you, Mr. Chairman. Thank you.

I think the press has already indicated that there were apparently 10 requests from Mr. Bolton.

HAYDEN. Yes, sir. I've seen that number.

LEVIN. Ok. Do you know or not the majority of his requests were for persons that were referred to in the conversation or for a participant in the conversation?

HAYDEN. Yes, sir. I would like to respond to that for the record in a classified way.

LEVIN. That's fine.

And the other question that relates not just to him, but I guess to anybody, the person who makes this written application for the information states specifically what that purpose is that they want that information for. Is that correct?

HAYDEN. Yes, sir, Senator. But in all cases the purpose comes down to the fundamental principle: I need to know the identity of that individual to understand or appreciate the intelligence value of the report.

LEVIN. And is that printed there as a purpose, or does that have to be filled in by the applicant?

HAYDEN. Senator, I'm not exactly sure what the form looks like, but I can tell you that's the only criteria on which we would release the U.S. person information.

LEVIN. But you don't know how that purpose is stated in these thousands of applications?

HAYDEN. I'd have to check, Senator.

LEVIN. Or in Mr. Bolton's application?

HAYDEN. Correct.

LEVIN. Ok. And then once the information is obtained, you do not know the use to which that information is put, I gather. Is that correct?

HAYDEN. No, we would report the information to an authorized consumer in every dimension, in terms of both security clearance and need to know, just like we would report any other information.

LEVIN. But then you don't know what...

HAYDEN. No, sir.

LEVIN. . . . that person does with that information.

HAYDEN. No. The presumption, obviously, is the individual uses that then to appreciate the original report.

LEVIN. Thank you, Mr. Chairman.

Mr. LEVIN. The journalist Carl Bernstein once said, "We have a national memory in this country of about 7 minutes." Once more, he has been proven right.

Here we are, 2 years after one of the worst intelligence disasters in our history, debating the nomination of a man to the U.N. ambassadorship, a man who has a track record of attempting to manipulate intelligence by seeking to punish intelligence analysts who do not support his view. We are so slow to learn from our history, and we are so quick to repeat it.

The issue here—and I am sure my friend from Connecticut would agree—is not the issue of whether or not policymakers have a right to disagree with analysts; of course, they do. We all should challenge analysts and analysis. We do not do enough of it. I happen to agree with the Senator from Kansas on that. That is not the issue.

The question is whether or not we manipulate intelligence or try to manipulate intelligence by trying to force analysts, who are supposed to be objective, to reach conclusions with which they don't agree in order to get support for our own policy positions. That is what is unacceptable. It is not unacceptable to disagree with analysts or not to follow their analysis. That is not at all unacceptable. That is what policymakers are here for, to make judgments, to pick between analyses. But what is unacceptable is what Mr. Bolton did repeatedly, which is to try to get analysts, who are supposed to be objective, fired or removed or transferred because they would not come to the conclusion to which he wanted them to come. That is the issue here with Mr. Bolton.

This administration does not hold people who politicize intelligence to account. Following the major intelligence failures before 9/11 and Iraq, the administration has failed to hold anybody accountable for either failure. In fact, the President gave one of the people most responsible for the intelligence disaster before Iraq, the CIA Director, a gold medal. Now the President wants to give John Bolton a promotion, although John Bolton has, in unconscionable—and I believe even potentially dangerous—ways attempted to get intelligence analysts to shape their views to his views and, if they wouldn't bend, to break them.

We know what happens when intelligence is politicized. Before the Iraq war, "a slam dunk" was the CIA assessment, although the underlying intelligence contained nuances, qualifications, and caveats. Too often the CIA told the administration what it thought the administration wanted to hear.

The July 2004 bipartisan report of the Senate Intelligence Committee concluded the following:

> Most of the major key judgments in the intelligence community's October 2002 "National Intelligence Estimate, Iraq's Continuing Programs for Mass Destruction," either overstated or were not supported by the underlying intelligence reporting.

Just this month, newspapers reported on leaked notes from a July 23, 2002, meeting of the British Prime Minister and his senior national security staff. According to the note, the head of British foreign intelligence told Prime Minister Blair, 7 months before the war, that President Bush:

> . . . wanted to remove Saddam through military action justified by the conjunction of terrorism and WMD. But the intelligence and facts were being fixed around the policy.

Those are contemporaneous notes, prior to the war against Iraq. Such reports reinforce the view of much of the world that the administration shaped intelligence to serve policy purposes and that it strayed from the critical principle that intelligence must be objective, independent, and free from political influence.

Twenty-five years ago, the Iran-Contra Committee reaffirmed the principle that, after heavy manipulation of intelligence by CIA Director Bill Casey:

> . . . the gathering, analysis and reporting of intelligence should be done in a way that there could be no question that the conclusions are driven by the actual facts rather than by what a policy advocate hopes those facts will be.

That was 25 years ago. That was Iran-Contra. That was a bipartisan criticism of the then-CIA Director Casey.

Intelligence must be gathered and analyzed in a way that there can be no doubt but that the conclusions are driven by the actual facts, not by what a policy advocate hopes those facts will be.

It is going to take years of hard work to regain credibility in our intelligence assessments after the massive failures in Iraq. The Senate began that work with the intelligence reform bill in 2004. In that bill, Congress explicitly stated that national intelligence should be "objective" and "independent of political considerations." That is the law of the land. We require the process to ensure alternative analyses within the intelligence community.

The nomination of John Bolton shows a disdain for objective, independent intelligence and flies in the face of the Senate's effort to reform our intelligence system. Indeed, Mr. Bolton is the personification of what has been wrong with our system. Mr. Bolton has a deeply disturbing history of trying to punish intelligence analysts who do not agree with his views, of trying to squelch intelligence analysis and of distorting the intelligence community's view when they do not agree with his own.

He is aggressive about pursuing the answer that he wants, regardless of what the objective intelligence analysts say, and his actions have had a noticeably chilling effect on the intelligence analysts that he tries to intimidate and a harmful effect on the intelligence process itself.

Let's just look at his record. Mr. Bolton's view on intelligence on Cuba can be gained from an e-mail to him from his chief of staff that called the intelligence community's language on Cuba "wimpy." As a policymaker, he is entitled, and was entitled, to his own view. I make it clear that what the Senator from Kansas said, I agree with. Mr. Bolton was entitled to his own view, but what he was not entitled to do was force intelligence analysts to change their views.

In preparation for his speech to the Heritage Foundation, Mr. Bolton repeatedly sought clearance for stronger language on Cuba's biological warfare effort than the intelligence community would support. He was repeatedly rebuffed by intelligence analysts at the State Department and the CIA, and he repeatedly responded by seeking those analysts' dismissal or removal, thereby crossing a vital line, a clear line, a red line, the line between ignoring intelligence analyses which, wise or not, is his right to do as a policymaker, that is on one side of the line. But the other side of the line he must not cross, trying to intimidate analysts into shaping intelligence analyses to his liking, that is totally impermissible. It is potentially dangerous, and it is clearly on the wrong side, the unacceptable side, the intolerable side of the line.

When he did not receive the analysis he wanted on Cuba, Mr. Bolton unleashed a tirade against the intelligence analyst.

Soon afterwards, he went to see Tom Fingar, the Principal Deputy Assistant for INR, to try to have the analyst removed. Mr. Fingar testified that Secretary Bolton was still visibly upset during their meeting, and he said that "he wasn't going to be told what he could say by a midlevel INR munchkin analyst."

Mr. Bolton had made clear to the analyst he was his boss, and in essence had asked his subordinate: How dare you disagree with your superior?

Mr. Fingar then testified that Mr. Bolton said he wanted the analyst "taken off his accounts." Mr. Fingar protested and said "he is our chemical and biological challenge weapons specialist, this is what he does"—making clear to Mr. Bolton that reassignment would really mean termination. Mr. Bolton persisted.

The record then shows that Mr. Bolton sought the analyst's removal two more times over a 6-month period. In one of those attempts, Mr. Bolton met with then-Assistant Secretary of State for Intelligence, Carl Ford, who later said the following:

> I left that meeting with the perception that I had been asked for the first time to fire an intelligence analyst for what he had said and done. In my experience no one had ever done what Secretary Bolton did.

Months later, Mr. Bolton made yet another attempt when Neil Silver became the analyst's supervisor. In his testimony to the Foreign Relations Committee, Mr. Bolton even conceded he was still pursuing the analyst's transfer.

In his attempt to manipulate intelligence on Cuba, Mr. Bolton also tried to have a national intelligence officer from the CIA transferred. Mr. Bolton went personally to the CIA at Langley to argue for the analyst's dismissal. This is an analyst Mr. Bolton had never met, an analyst to whom he had never spoken. He had never read the analyst's work. He only knew one thing: The analyst disagreed with his views and, therefore, he had to be brought to heel.

This effort, too, lasted several months and involved repeated attempts by Mr. Bolton and his staff. Former Deputy Director of the CIA John McLaughlin said of the request to dismiss the intelligence officer that it is "the only time I had ever heard such a request."

So we have the Deputy CIA Director John McLaughlin as saying nobody has ever made a request to him, that he knew of, to dismiss an intelligence officer because of a disagreement with that officer's analysis—very similar to what Mr. Ford said at the office of the Assistant Secretary of State: "in his experience, no one had ever done what Secretary Bolton did," which was to fire an intelligence analyst for what he had said and done.

In the end, both analysts were supported by their supervisors and they rightfully kept their positions. The only person who should have been fired over those incidents was Mr. Bolton.

Mr. Bolton's defenders like to claim no harm, no foul. That is, because none of his targets were fired despite his efforts; that everything is just fine. But the harm is in the attempt. Shooting at someone is still a crime even if you miss. As soon as a policymaker threatens an intelligence analyst with removal for disagreeing with that analyst's analysis, the harm is done.

As Mr. McLaughlin testified—and this is something the Senator from Kansas either overlooked or ignores. Listen to Mr. McLaughlin's testimony: It is perfectly all right for a policymaker to express disagreement with an intelligence officer or an analyst. And it is perfectly all right for them to challenge their word vigorously. But I think it is different, McLaughlin said, to then request, because of this disagreement, that the person be transferred.

That is the line. That is the line which Mr. Bolton crossed. That is the line that we ought to insist on. Every Member of this body should insist that line never be crossed. We ought to protect the right of policymakers to disagree, to question, and to ignore the analysis. We should never condone a policymaker who wants to see an analyst fired because the policymaker disagrees with that person's analysis. That is the line which is dangerous to cross because the pressure that puts on the analyst is to come up with the answer that the policymaker wants to hear. That is what is dangerous, when we hear an analyst, or you hear a CIA Administrator say it is a slam dunk, when it isn't, because he thinks that is what the policy maker wants to hear.

We cannot tolerate people being fired, discharged, transferred because the policymaker disagrees with the analysis of that analyst.

Mr. McLaughlin is right. It was different. It was dangerous. And according to Mr. Ford, Mr. Bolton's actions had an impact. Word of the incident, according to Mr. Ford, "spread like wildfire among the other analysts." Mr. Ford testified:

> I can only give you my impressions, but I clearly believe that the analysts in INR were very negatively affected by this incident. They were scared.

Mr. Bolton's actions were so damaging that Secretary of State Powell made a special personal visit to offer encouragement to the analysts. In his remarks, Secretary Powell specifically referred to the analysts that Mr. Bolton had targeted. He told them: Continue to call it like you see it. Continue to speak truth to power.

Former Assistant Secretary of State for Nonproliferation John Wolf confirmed what should be all too clear about Mr. Bolton, that these examples of his behavior are not isolated instances but a persistent pattern. Mr. WOLF testified that Mr. Bolton sought the removal of two officers from a nonproliferation bureau over policy differences, and that, in general, officers in the bureau—and now this is Assistant Secretary of State John Wolf—that officers in the bureau "felt undue pressure to conform to the views of [Mr. Bolton] versus the views they thought they could support."

Events of the past few years involving the completely missed intelligence on Iraq, the distorted intelligence on Iraq, have shown that we need to be encouraging independent and alternative analysis, not squelching it.

The Senate Intelligence Committee report on the intelligence community's prewar intelligence assessments on Iraq concluded that a lack of alternative analysis contributed to the failure of that intelligence.

The committee wrote that:

> . . . the analysts' and collectors' chains of command, their respective agencies, from immediate services to the National Intelligence Council and the Director of the Central Intelligence Agency, all share responsibilities for not encouraging analysts to challenge their assumptions, fully consider alternative arguments, or accurately characterize the intelligence report.

"Most importantly," according to the committee, they failed "to recognize when analysts had lost their objectivity and take corrective action."

Our Intelligence Committee, the Senate Intelligence Committee, said corrective action should be taken when analysts lose their objectivity. Mr. Bolton tried to get analysts punished for insisting on their independence. Mr. Bolton did not value independent and objective analysis. He scorned it. He sought not to encourage alternative views but to impose his own. He did not challenge analysts. He bullied them. And he tried to fire those who disagreed with him.

Now, this is not "water cooler" gossip about an obnoxious boss. Objective, factual analysis can make the difference between success and failure, between life and death. In the near future, we may face a crisis over North Korea's nuclear program or Iran's nuclear intentions. Congress and the public must be confident that intelligence assessments represent information that has been assessed objectively, not shaped to serve policy goals. And if we need to go to the United Nations to make a case against a country based on our intelligence about that country's dangerous activity, the world must have confidence in the U.S. Ambassador to the United Nations.

When Bush decided to make the case against Iraq to the United Nations, he sent Secretary of State Colin Powell, one of America's most credible diplomats. Today, we are being asked to confirm one of America's least credible diplomats to serve in an important diplomatic post, where we need credibility, we need the confidence to bring other countries to our side. We should not allow a situation in which the world might question whether it is hearing a credible view or whether it is hearing a Bolton view of intelligence.

Perhaps the biggest canard of the debate is that John Bolton is the best person to reform the United Nations. The U.N. needs reform, but so does the intelligence community. So does its systems. And, frankly, so does John Bolton. Any number of people would be a far more credible voice for reform at the United Nations.

This is a momentous decision for this body. It is shocking and sad—it is shocking and sad—to me that the Senate may vote on this nomination while Senators are being denied critical, relevant information that members of the Foreign Relations Committee have sought. Members of that committee have requested information about the number of requests by Mr. Bolton for the names of U.S. persons cited in intelligence intercepts. The administration has refused to provide relevant information to members of the Foreign Relations Committee and to this body.

Now, those requests may be benign that Mr. Bolton made for the names of those persons and what they were saying in those intercepts. They could be part of an effort by this nominee to politicize and punish, since that was the pattern of his activity. We do not know that. But we have a right to know that. We have a right to ask why those requests were made. But this administration has refused to provide that information. We should insist on this information before we vote on this nomination. We should insist that at least the leaders of our committees, the Intelligence Committee and the Foreign Relations Committee, be given access to the names of people that Mr. Bolton asked the intercepts relative to.

Denying the Congress and the Members of this body—

The PRESIDING OFFICER. The Senator has consumed his time.

Mr. LEVIN. I thank the Chair and I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Denying Members of this body information is part of a woeful pattern of this administration denying information to the Congress. Even the Republicans of the House Energy and Water Appropriations Subcommittees and the Homeland Security Appropriations Subcommittee over in the House included language in their bill which says that the Bush administration should be criticized "for its lack of responsiveness to repeated Congressional requests for information."

Mr. President, this Senate, as a body, should insist on legitimate requests for information from its Members. Every Member—every Member—should add his or her voice to the demand for the production of relevant documents which Senators need to decide on confirmation or for any other legitimate reason. This body will be a lesser place if we do not stand with each other when it comes to gaining access to documents, at least in the absence of a claim of executive privilege.

Now, I happen to believe we should give deference to the President on the selection of his team, but deference does not mean abdication of our best judgment when a nominee crosses the line. If we do that, we will send the wrong message to anyone working in the intelligence community who sees Mr. Bolton's behavior rewarded rather than seeing him held accountable. If we do that, we will send the wrong message to the international community, to send a repeat abuser of intelligence and an abuser of intelligence analysts to be our representative at the United Nations.

We have the opportunity to send a different message to the intelligence community and to the world. We can cast a vote for objectivity in intelligence, for intelligence that is free of political influence, and for accountability. But before we vote—before we vote—legitimate requests for documents and information from Members of this body should be honored and should be supported by every Senator. That is a need which, at one time or another, each one of us has, and as an institution we should, in one voice, demand that need be met.

This is a demand for relevant documents relevant to the qualifications of this nominee to be confirmed to this high office. It is a demand for documents which relate to an issue which is clearly involved in this nomination, and that has to do with a pattern, on the part of Mr. Bolton, of punishing people who analyze intelligence who do not give him an analysis that he likes and that supports his own policy.

Mr. President, I thank the Chair, and thank my good friend from Minnesota for yielding the time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I ask unanimous consent for 3 minutes to engage my colleague from Michigan in a little colloquy. Will my friend from Minnesota object to that?

The PRESIDING OFFICER. Is there objection?

Mr. COLEMAN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I thank my friend.

I want to compliment my friend from Michigan on a very fine statement. He has focused, in my view, exactly on the central question here and that is not that there was disagreement over intelligence but, rather, whether someone went beyond a good, healthy fight over whether or not intelligence was accurate and took additional steps to dismiss or to change the jobs of the individuals involved.

I appreciate my colleague calling into question the access of information because this is central. That is why this Senator has taken the extraordinary step of asking my colleagues to potentially oppose a motion to invoke cloture on this nomination if the information is not forthcoming.

The reason I want to raise this is because our good friend from Kansas, the chairman of the Intelligence Committee, read into the RECORD a letter he sent to Senator LUGAR regarding this request for the intercept information. And the pertinent paragraph, to this Senator, I want to read quickly. It says:

> Finally, the Vice Chairman and I reviewed all ten documents containing the references to U.S. persons that generated Under Secretary Bolton's requests. The documents we reviewed did not contain the actual identities of the minimized U.S. persons. After reviewing the content of each report, however, it was apparent to us both that it was not necessary to know the actual names to determine whether [or not] the requests were proper.

Now, the letter goes on, but that is the important paragraph because the very identity of the individual names was redacted. The chairman of the Committee on Intelligence and the ranking member on Intelligence were not allowed to see the names, the very names that Mr. Bolton was able to see and apparently his staff was able to see. That is the relevant information that we are seeking—the names of the individuals.

Does my colleague have any comment on that particular point? Because that, to me, is the central admission in this letter.

Mr. LEVIN. Mr. President, the names of the people that he sought information on are incredibly relevant to the question of why he sought information on those people, what was his motive. There is a pattern here, a pattern of punishment of people if they did not provide analysis that he agreed with, if they disagreed with his views. And when he asks for those intercepts, he may have had a perfectly benign reason for doing it. On the other hand, it may have been part of this totally unacceptable pattern.

But the Senate has the same right to know what he knew and he asked for, which was intercepts of particular people who were either involved in the conversation or referred to in the conversation.

If the Senate doesn't insist on that right for every Member of this body, we are a lesser body. We should insist upon that for Members who agree with us or not. This is an institutional issue of great magnitude.

The PRESIDING OFFICER. The Senator's time is up.

Mr. DODD. I thank my friend for a good statement.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. COLEMAN. Mr. President, I appreciate the concern over the institutional issue of having access. I join my colleague in getting that information. Where I disagree is that when we have the chairman of the Intelligence Committee stating to us in this letter—saying: After reviewing the content of each report, it was apparent to us both that it was not necessary to know the actual names to determine whether the requests were proper. Ultimately, he found no basis to question the justification nor appropriateness of Mr. Bolton's request for the U.S. persons contained therein. So we have an individual we all deeply respect, the chairman of the Intelligence Committee, saying "it was apparent to us," the chairman and the ranking member, and then the letter went on.

I would say there is an institutional issue that we should resolve at some point. In the context of this nomination, where we have a very clear statement that this specific information that was requested—it was "not necessary to know the actual names to determine whether the requests were proper." Then it is basically saying the requests were proper.

Let us move forward with this nomination because we have a statement saying the information wasn't needed to make a determination. Let us pursue with great vigor the right of Members of this body to have access to that kind of information. I think we really have to separate the two, based on the statement of the chairman of the Intelligence Committee.

Mr. DODD. Will my colleague yield for a question?

Mr. COLEMAN. Yes.

Mr. DODD. I appreciate the Senator's comments. I ask unanimous consent that entire paragraph I quoted from the chairman be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Finally, the Vice Chairman and I reviewed all ten documents containing the references to U.S. persons that generated Under Secretary Bolton's requests. The documents we reviewed did not contain the actual identities of the minimized U.S. persons. After reviewing the content of each report, however, it was apparent to us both that it was not necessary to know the actual names to determine whether the requests were proper.

Mr. DODD. Mr. President, I raise this point. I appreciate his point. Obviously, there is a disagreement between the ranking member and chairman, unfortunately, which is not a healthy thing to see coming out of the Intelligence Committee. The point I am trying to make here is, with all due respect to the chairman of the Intelligence Committee and the ranking member, it was, in fact, the very names involved which could be the very names we are talking about that have been redacted from the document that would be terribly revealing. If, for instance, there is the name—we have called him "Mr. Smith" to protect his identity at the CIA. If there is overwhelming evidence that Mr. Bolton tried to have "Mr. Smith" dismissed as an intelligence analyst, and if one of the names being sought by Mr. Bolton was Mr. Smith, it seems that ought to send red flags up to everybody. Why? It is Mr. Bolton requesting to know who Mr. Smith was and what he said, an individual he was trying to have dismissed from the CIA. We don't know whether Mr. Smith's name is on there because the name was redacted. The chairman and ranking member cannot read that name.

Without knowing the name of the individual, you cannot get to the point. Obviously, the people at the State Department—it is the same thing. Without knowing the names, without the identities, I don't know how you can draw the conclusion that it wasn't relevant. That is my point.

Mr. COLEMAN. As I recall the statement from the ranking member, he said these incidents were not new to them. Some of these had been raised before. One was regarding Cuba. They had knowledge of this. Again, I would defer to the good judgment of the chair of the Intelligence Committee, who said we looked at it and it wasn't relevant. And then on and on in the letter again, and again he comes to the same conclusion: nothing inappropriate, nothing unusual, no violation of procedures. It is very clear.

I urge my colleagues to let us pursue this issue. I don't think there is a reasonable basis for holding up this confirmation based on the concern of getting this type of information.

Mr. LEVIN. If the Senator will yield, my good friend from Minnesota. If you agree that the Senate is entitled to this information, but not now—if not now, when? The reason for seeking this information relates to the nomination of Mr. Bolton. That is why this is so relevant and important. I think the members of the Foreign Relations Committee have been seeking this information for many weeks. So it is not as though this is a last-minute request which is holding up the vote on a nomination or would hold it up until we receive that information.

By the way, I happen to believe—and I don't know if my good friend from Connecticut agrees with me—that if the chairman and vice chairman of the Intelligence Committee saw the names and concluded that none of those names had any relationship to this nomination because none of the names are people he tried to get fired, transfer, or punish, that would satisfy me. But the administration knows the names. John Bolton got the names. But the vice chairman of the Intelligence Committee and the chairman won't be given those names and they are redacted. I believe the Senate cannot accept that standard and hold ourselves up as a body that is equal in power to the executive branch. We cannot. We cannot say to ourselves that this body will look at all relevant evidence that relates to confirmation before we give our consent to it and protect the Members' requests for information if we do not insist that at least the chairman and vice chairman of the Intelligence Committee have access to the names and see whether those names are relevant to this nomination in terms of the specific people John Bolton tried to punish or get transferred.

I find this really intolerable, incredible, that we as a body will not stand with a legitimate request for relevant information that relates to a pending nomination that was promptly and timely made.

Mr. COLEMAN. Mr. President, again, I remind my colleagues that it is a nomination with 10 hours of hearings, 2 business meetings, 35 staff interviews with 29 different people, a thousand pages of transcripts and 800 pages of documents, the opportunity for the chairman and the ranking member of the Intelligence Committee to look at this information, and they came to the conclusions they came to. In the end, I think perhaps—I agree with my colleagues on crossing the line. I agree. You should not be harassing intelligence officials because of policy disagreements to the point where you drive them out of the job. But that just didn't happen here.

In fact, Mr. President, if you look at the statement of Carl Ford, he himself in the minority report said this incident didn't turn into the politicization of intelligence. Carl Ford—and I was there and listened to the testimony—said this incident didn't turn into the politicization of intelligence.

We can walk through this again and again. We had the discussion over Cuba and the issue of biological weapons capacity. Again, the allegation was made that somehow Mr. Bolton took views that were his own and disregarded the views of the administration in regard to Cuba. Carl Ford testified before the Foreign Relations Committee on March 19, 2002. He stated that the United States believes that Cuba has at least limited developmental offensive biological warfare and research capability—on and on. What does John Bolton say when he gives his speech? He says the same thing.

The point is, in each and every instance when colleagues raise a concern about Mr. Bolton giving his own opinion versus that which is approved, it is simply not the case. I think my colleague from Kansas said this is a case of "the rest of the story." It is true on the Cuba issue. It is true on Mr. Bolton's testimony about Syria. Again, the same concern was raised. The record is saying something very different—that in each and every instance, there may have been discussion and challenges, but in the end Secretary Bolton delivered the approved language. North Korea, the same thing. Allegation was made that he was off on his own, and Secretary Powell came back and said, no, he delivered the opinion of the administration, of the Secretary of State.

What we have here—and the record is clear—is an individual with strong views and strong opinions, who challenged personnel, but never, never took any action against a single individual. Phrases are thrown out that there were threats to be fired or transferred. The reality is when Mr. Westermann backdoored Mr. Bolton, he lost confidence in him and said: I want him transferred. That is all you have.

In the end, Mr. President, what we have is an individual who has served this country well, who has a record of distinguished service, who has the support of a litany of Secretaries of State, of individuals who have worked with him for years and years, who negotiated the treaty of Moscow and got the U.N. to reverse itself on the odious resolution declaring Zionism as racism, who has the support of the Secretary of State, who has the confidence of the President of the United States to do what has to be done, and that is the heavy lifting in reforming the United Nations.

From the very beginning, my colleagues on the other side simply have said he is not acceptable, he has the wrong political perspective on the United Nations, he has the wrong political perspective perhaps on the war in Iraq and other issues, which morphed into allegations which, in the end, when we look at the rest of the story, simply are unsubstantiated.

John Bolton deserves our support. He deserves to be confirmed. I will proudly vote for his confirmation tomorrow. I urge my colleagues to do the same.

I yield back the remainder of our time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that a letter to Chairman LUGAR and to Ranking Member BIDEN from Senator ROCKEFELLER dated May 25 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 25, 2005.

Hon. RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

Hon. JOSEPH R. BIDEN, Jr.,
Ranking Member, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATORS LUGAR and BIDEN: I write in response to the Chairman's April 28, 2005 letter asking that the Senate Select Committee on Intelligence examine a number of intelligence-related issues that were raised during your Committee's consideration of the nomination of Under Secretary John Bolton to be the United States Representative to the United Nations.

As you may be aware, I wrote to then-Director of the National Security Agency (NSA), Lieutenant General Michael V. Hayden, on April 20, 2005, requesting any documentation related to Mr. Bolton's requests for the identity of a U.S. person included in classified intelligence reports produced by the NSA.

In response, General Hayden provided Chairman Pat Roberts and me the opportunity to review all ten NSA documents containing the references to U.S. persons that generated Mr. Bolton's requests. We were not permitted to retain these intelligence reports and other members of our Committee were not permitted access to them. Additionally, the actual U.S. identities provided by the NSA to Mr. Bolton were not shared with us.

State Department records indicate that Mr. Bolton requested the minimized identities of nineteen U.S. persons contained in ten NSA signals intelligence reports. These requests were processed by the State Department's Bureau of Intelligence and Research (INR). In each instance, the INR request to the NSA, on behalf of Mr. Bolton, included the justification that the identity of the U.S. person(s) was needed in order to better understand or assess the foreign intelligence value of the information contained in the intelligence report. This is the standard justification required by NSA in order for officials to request the identity of a U.S. person contained in a signals intelligence report.

Based on my personal review of these reports and the context in which U.S. persons are referenced in them, I found no evidence that there was anything improper about Mr. Bolton's ten requests for the identities of U.S. persons.

It is important to note, however, that our Committee did not interview Mr. Bolton, so I am unable to answer directly the question of why he felt it was necessary for him to have the identity information in order to better understand the foreign intelligence contained in the report.

Furthermore, based on the information available to me, I do not have a complete understanding of Mr. Bolton's handling of the identity information after he received it.

The Committee has learned during its interview of Mr. Frederick Fleitz, Mr. Bolton's acting Chief of Staff, that on at least one occasion Mr. Bolton is alleged to have shared the un-minimized identity information he received from the NSA with another individual in the State Department. In this instance, the NSA memorandum forwarding the requested identity to State INR included the following restriction: "Request no further action be taken on this information without prior approval of NSA." I have confirmed with the NSA that the phrase "no further action" includes sharing the requested identity of U.S. persons with any individual not authorized by the NSA to receive the identity.

In addition to being troubled that Mr. Bolton may have shared U.S. person identity information without required NSA approval, I am concerned that the reason for sharing the information is was not in keeping with Mr. Bolton's requested justification for the identity in the first place. The identity information was provided to Mr. Bolton based on the stated reason that he needed to know the identity in order to better understand the foreign intelligence contained in the NSA report. According to Mr. Fleitz, Mr. Bolton used the information he was provided in one instance in order to seek out the State Department official mentioned in the report to congratulate him. This use of carefully minimized U.S. person identity information seems to be not in keeping with the rationale provided in Mr. Bolton's request.

An interview of Mr. Bolton by your Committee may provide a more complete understanding of the extent to which he may have shared with others the nineteen U.S. person identities he requested and received from the NSA. I believe it is a matter that deserves more thorough attention.

I hope this information is of assistance to you.

Sincerely,
JOHN D. ROCKEFELLER IV,
Vice Chairman.

The PRESIDING OFFICER. The Republican whip is recognized.

CLOTURE MOTION

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 103.

Bill Frist, Richard G. Lugar, Richard Burr, Pat Roberts, Mitch McConnell, Jeff Sessions, Wayne Allard, Jon Kyl, Jim DeMint, David Vitter, Richard C. Shelby, Lindsey Graham, John Ensign, Pete Domenici, Bob Bennett, Mel Martinez, George Allen.

Mr. McCONNELL. Mr. President, under the previous agreement, this vote will occur tomorrow at 6 p.m. If cloture is invoked—and we hope it will be, of course—the vote on the nomination will then occur immediately.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE SERVICE OF DEPUTY SECRETARY OF DEFENSE PAUL WOLFOWITZ

Mr. WARNER. Mr. President, last Friday, May 13, Deputy Secretary of Defense Paul Wolfowitz ended his distinguished tour of duty at the Department of Defense.

During his 4 years at the Pentagon, Secretary Wolfowitz played a critical role as our Nation responded to the terrorist attacks of September 11, and our military defeated the Taliban in Afghanistan and liberated Iraq from decades of tyranny. We continue to fight an all-out global war on terrorism, guided by the policies which Secretary Wolfowitz, acting as a true partner to Secretary of Defense Rumsfeld, helped to craft.

He was a true partner with Rumsfeld throughout. I have had some modest experience in the Department having served there myself during the war in Vietnam as Secretary of the Navy. I served under Messrs. Laird and Packard. I served under three Secretaries.

Their partnership, as the two principal's sharing an evergrowing, awesome, level of responsibilities has been exemplary in the annals of the Department of Defense.

On April 29, I was privileged to attend a ceremony at the Pentagon in honor of Secretary Wolfowitz's years of service. The speeches given that day—by General Pace, Secretary Rumsfeld and Secretary Wolfowitz—are among the finest I have ever heard, and are a true testament to this extraordinary individual. I wish Secretary Wolfowitz well as he prepares for his new duties as the President of the World Bank. I ask unanimous consent to have these speeches printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Secretary of Defense Donald Rumsfeld Hosts a Full Honor Review and Award Ceremony for Deputy Secretary of Defense Paul Wolfowitz

(With Remarks by: General Pete Pace, Vice Chairman, Joint Chiefs of Staff)

Dr. Paul Wolfowitz is recognized for exceptionally distinguished public service as deputy secretary of Defense from March 2001 through April 2005. During that critical period, Dr. Wolfowitz's performance was brilliant. While overseeing many of the department's day-to-day operations, he was also a key leader in developing United States policy to respond to the terrorist attacks of September 11th, 2001.

A leader in developing United States policy to respond to terrorist attack, and an internationally recognized voice for freedom, Dr. Wolfowitz contributed to the intellectual framework for operations in Afghanistan and Iraq that removed two brutally oppressive regimes that encouraged and gave sanctuary to terrorists. Fifty million people are now free from the bonds of tyranny. Self-government is on the march in countries once believed beyond freedom's reach. And Afghanistan and Iraq have become our newest allies in the war on terror.

While addressing these sizable challenges, Dr. Wolfowitz was a driving force in addressing President Bush's charge to transform the Department of Defense to better fit the challenges of the 21st century. He encouraged a culture of planning that stresses innovation and supports intelligent risk in areas ranging from defense organization to technology development and training.

And Dr. Wolfowitz is a tireless advocate for America's men and women in uniform. A frequent visitor to wounded forces and their families in hospitals and rehabilitation centers, he paid particular attention to the needs and concerns that went beyond the typically excellent care they receive. Dr. Wolfowitz oversaw the creation of a 24-hour operations center to reduce bureaucratic procedures for the severely injured, significantly improving the flow of information to ease their burdens during recovery.

Dr. Wolfowitz's countless achievements reflect his keen intellect, management acumen, vision and compassion.

Through his dedication to the pursuit of policies of freedom and transformation, Dr. Wolfowitz contributed greatly to the work of the Department of Defense and the United States. The distinctive accomplishments of Dr. Wolfowitz reflect great credit upon himself, the Department of Defense, and the United States of America.

Dr. Wolfowitz has also received the Decoration for Distinguished Civilian Service from the secretary of the Army, the Distinguished Public Service Award from the secretary of the Navy, and the Decoration for Exceptional Civilian Service from the acting secretary of the Air Force.

Gen. Pace. Secretary Rumsfeld, Mrs. Rumsfeld, Senator Warner, Senator Coleman, assembled leadership of the Department of Defense, special guests and friends, and especially to our wounded servicemembers who are here today.

It is my distinct honor and privilege to stand here representing our Chairman, General Dick Myers, and all the men and women who are proud to wear the uniform of the United States Armed Forces to say farewell and thank you, Mr. Secretary, for all you've done for all of us in uniform during your tenure as our deputy secretary of Defense.

It's been my great honor and privilege, Secretary Wolfowitz, to have known you and worked with you for the last three-and-a-half years, and in that time, I think I've gotten to know a little bit about the man.

You have great humility. Of all the titles that you have earned—doctor, professor, dean, ambassador, secretary—the two you prefer most are Dad and Paul. That says a lot about you.

You're a man of great intellect. Put simply, you work hard and you're smart. And you make those of us who work with you feel good about our contributions, and you elicit from us our very best recommendations, because you are, in fact, a facilitator and a person who values the judgment of others—and for that, we thank you.

You're also a man of great courage. Those of us who wear the uniform understand courage on the battlefield, but there's another very distinct form of courage, and that is intellectual courage. Many times it has been my great pleasure to watch you, when conversations have been going in a particular direction, and someone would turn to you and say, "Don't you agree, Paul?" And you would say, "No, I don't." And then you'd explain why you didn't in a very, very well-reasoned, articulate way that although did not always carry the day, certainly made everybody in that room understand that you were part of this process, and that you were going to speak your mind as you knew it should be spoken, and benefit all of us in uniform by always speaking the truth, as you knew it.

You're also a man of compassion. If I speak too much about this, I will blow your cover. But the fact is that many, many times in the halls of this building, you have said to me, "Pete, Sergeant so-and-so—or Lieutenant so-and-so, or General so-and-so—has a problem, and I think if you say something to him, or you look into this, it will make life better for him." Certainly, all that you have done for the wounded, both in your official capacity, but also as a human being in your visits to the hospitals, in your caring for the families, in your attendance at funerals, in your caring for the families of the fallen.

In all those ways, Mr. Secretary, you have shown enormous compassion. And for that, we are grateful. We will miss you, but we know that there are millions of people around this world who are now going to benefit from the intellect, strength and compassion of Paul Wolfowitz as you go to lead the World Bank.

It is my great honor now to introduce the man in this building who works harder than anybody else, has more focus than anybody else, and makes the rest of us work very, very hard, very diligently, to be part of the team that is trying to do for this country all that we should be doing.

Mr. Secretary: Secretary Rumsfeld.

Sec. Rumsfeld. Well, thank you all for coming. We're pleased you're here. A special welcome to Paul Wolfowitz and his family and friends and lovely daughter, Rachel, sitting there. And welcome to Chairman John Warner. We appreciate your being here, your old stomping grounds. And Senator Coleman, thank you so much for being here, and all the senior military and civilian officials of the Department of Defense and guests. Welcome.

Three years ago, The Economist magazine had an interesting take on the job of deputy Cabinet secretary. It wrote, "Most deputy secretaries live lives of quiet frustration. They get stuck with all the grunt work, while their bosses swan around in the limelight. And they have to sit mutely while the best ideas are either buried or stolen." And then there's Paul Wolfowitz. (Laughter.)

History is not always generous to the men and women who help to shape it. Great abolitionists like John Quincy Adams and Frederick Douglas would not live to see full equality for African Americans that they had envisioned and fought to bring about. Many brave East Germans were shot as they tried to breach the Berlin Wall and would never see the wall crumble under the weight of lies and pretensions that built it. But sometimes history is kind, and it gave President Harry Truman, for example, and George Marshall the chance to see the fall of the Third Reich and the fulfillment of their charge to rebuild Western Europe.

And it allowed Corazon Aquino, with the help from a young assistant secretary of State, Paul Wolfowitz, to see the triumph of people power in the Philippines, the dream her husband had nurtured and for which he was cut down before it was fulfilled.

And although it may not always have seemed to Paul, the fact is history has smiled on Paul, as it should.

So he leaves us today with the good fortune of seeing so much accomplished—or being accomplished, I should say—he helped bring to fruition or things that he helped set in motion: reform and the modernizing of America's defense establishment, the dispatch of dangerous regimes in Afghanistan and Iraq, the spark of freedom and self-government that is finding oxygen in the Middle East.

Paul now will add one more title to all the titles that Pete Pace listed, and it's a heady list. When I stood with Paul at his welcoming ceremony at the Pentagon way back in 2001, more than four years ago—it seems like eight—(laughter)—I noted that this was Paul's third tour in the Department of Defense. I told him we were going to keep bringing him back until he got it right.

Well, he got it right this time. The activities he has been involved with over the past four years are extensive. He has helped craft four defense budgets and supplementals. He has helped bring new technologies to protect our troops. And he has helped to reconfigure a number of Cold War systems and organizations to help us meet the threats of the 21st century.

So as we bid Paul a warm farewell, I might just say a word or two about the Paul Wolfowitz that I have worked with these past four years. They say in life people tend to fall into one of two categories—dreamers and doers. Well, our friend Paul is a bit of a "mugwamp," as they used to say in the old days; he's a bit of both, one who lives the creed that "think as a man of action and act as a man of thought".

He grew up in Brooklyn in a household of Polish immigrants for whom names like Hitler and Stalin and words like holocaust were not abstractions or simply pages in a history book. And it should be no surprise to those who know him that one of Paul's early political acts—at the age of 19, I'm told—was to participate in the March for Civil Rights with Dr. Martin Luther King.

Paul was a bright young mathematician who drifted into political science, undoubtedly disappointing his father, who I am told would have preferred he pursue a career in a real subject, like chemistry or something like that. But Paul's analytic talents have been put to excellent use as someone who has grasped future trends and threats before many were able to and before some probably wanted to.

As early as the 1960s, he foresaw the dangers of nuclear weapon programs in the Middle East In the 1970s he identified the territorial ambitions of Iraq as a future concern for the U.S. military. And before September 11th, he grasped that the civilized world could not make a separate peace with terrorists and that our future security was certainly linked to addressing the freedom deficit in much of the Muslim world.

History will see Paul as one of the consequential thinkers and public servants of his generation. He's worked to ease the burdens of the wounded and their families, as we've seen. And he's departing the Pentagon now, but the legacy that Paul has been a part of, the ideas he has helped to weave into public and private debates, the effects of the policies that he's championed so effectively and with such courage and determination are not going anywhere, because they're not found only in this building or only in the department all across the globe; they are found now in towns and villages in Indonesia, where I'm told that pictures still hang in tribute to an American ambassador who put the aspirations of dissidents and ordinary Indonesians above the temporary convenience of power politics.

They're found in Afghanistan today, where a democratically elected government now protects women and imprisons terrorists, instead of imprisoning women and harboring terrorists. And they're found in a schoolroom in Iraq, where a young girl will learn real history and real subjects instead of lies and tributes to tyrants.

That girl is free, and so are millions like her—and that, in part, is because of you, Paul. You've been on their side. And as General Pace said, you have never wavered. The threatened, the oppressed and the persecuted around the world must know in their heart that they have had a friend in Paul Wolfowitz. You are one of those rare people who, as the Talmud puts it, would rather light candles than curse the darkness.

So I thank you, your country thanks you, and on behalf of the Department of Defense, we wish you Godspeed in your new post, a post of service to the world. The department will miss one of its finest public servants, and I will miss a treasured friend. Godspeed.

Staff: Ladies and gentlemen, Deputy Secretary Paul Wolfowitz.

Mr. Wolfowitz. Thank you all for coming today.

Thank you for braving the weather. Thank you, all of you who helped arrange the weather so that we could stay outdoors. I appreciate it enormously.

Senator Warner, great chairman of our Armed Services Committee and a good friend all these many years, and particularly the last four years, thank you for being here. Senator Coleman, and so many distinguished guests. You really do me honor to be here.

Secretary Rumsfeld, thank you for those extremely generous remarks. Thank you for an award, which recognizes me, but actually recognizes the work of literally millions of great Americans. Your remarks call to mind something that President Johnson said on a similar occasion many years ago when he said he wished that his late parents could have been alive to hear that introduction because his father would have been so proud, and his mother would have believed it. (Chuckles.) (Laughter.)

Maybe now is the time to come clean and to thank you for something else. For four years now, I've been telling audiences about what you said about keeping—bringing me back until I got it right. It gets a laugh every time. So I want to thank you for that great line. It's been good to me all those years.

And now I'd like to just turn the tables a little bit and trade a story somewhat along the same lines. It may be apocryphal, but it's just too good to check whether it's true or not. It's about how Don Rumsfeld once asked Henry Kissinger if he was planning to come back as secretary of State. And Kissinger said, "No, Don, I got it right the first time." (Laughter.)

So, Don, it looks like we've been in the same boat all along!

Truthfully, Don Rumsfeld has a great sense of humor, that's why I can tease him a bit too. And he's known for many other things: His determination, his forcefulness, his command of the podium, his charm, his matinee idol good looks—yes, he's one of the stars of C-SPAN!

But to be totally serious, what really stands out for me is something that may not be widely known, and that is what a great teacher Don Rumsfeld is. He has sharpened everybody's thinking and raised everybody's standards. And he's taught me an enormous amount. He encourages and cajoles everyone to do better, always for the purpose of making this Defense Department as good as it can be, and to make our country more secure.

It's been my good fortune, Don, to have you as a friend, and America's to have your steady leadership at this demanding helm. Thank you.

I also want to say thank you to so many of my wounded veteran friends from Walter Reed and Bethesda who have braved the weather to be here today. There are so many other distinguished guests and friends and colleagues, that if I tried to mention you all and give you the thanks you deserve, I'd just get into deeper trouble. At a time like this, words inevitably fall short, and I'm sure I'd leave someone out. But you don't do a job like this without enormous amounts of help.

So, to each one of you who has been there along the way, just know that I am deeply grateful for what we've shared during this most important chapter of American history.

And I'm particularly grateful to my personal staff, an extraordinary combination of civilians and military, active and reserve, officers and enlisted, who make a difference every day.

Last Friday I was privileged to be present at the White House when President Bush announced his nominee to be our next chairman of the Joint Chiefs of Staff. There in front of me was an extraordinary team of civilian and military leaders. First, there was our president, whom it's been such an honor to serve. I've been privileged to be there as George W. Bush has made some of the toughest decisions a leader can make. I can tell you that this is a man who understands the true costs of war, and his charge to defend what we hold most dear. We are blessed in this time of testing to have a president who possesses the deep moral courage to do what it takes to protect our country.

Next to him was Secretary Rumsfeld, and there too was our chairman, General Dick Myers. As we wage this global war, Dick's been a leader of quiet, reassuring confidence; a rock of strength and a source of steady judgment and deep concern for those he serves. Dick never forgets that every decision he makes directly affects the individual men and women who serve this country so well.

And its been my good luck to have as my closest military counterpart most of these past four years, General Peter Pace, our vice chairman. It was a special moment last Friday, Pete, to see you nominated to be the first Marine to serve as chairman of the Joint Chiefs of Staff. You have the character, the commitment and the courage to do an outstanding job as our top military leader.

I'm delighted, Gordon—that Gordon England, our secretary of the Navy, who has been an outstanding member of this civilian military leadership team, has agreed to take on this challenging job—and it is challenging.

Over the last four years, I've had the privilege of working with perhaps the finest group of Joint Chiefs and combatant commanders that we've ever had. And our many outstanding one- and two-star flag officers promise to continue or even exceed that record of excellence.

But the people who have earned a truly special place in my heart, in all of our hearts, are the men and women whose names don't appear in the papers or on the evening news; the ones who serve America quietly and professionally every day, the men and women who wear this country's uniform, and the dedicated civil servants who support them. They are the ones who deserve our special and lasting gratitude. They are represented here today by these magnificent troops and by our wounded veterans. Please join me now in recognizing them for their service.

And let us remember in a special way those who have fallen in service to this nation. They remain in our hearts, each one of them, a reminder that our country is blessed beyond all measure. Let us never forget how much we owe them.

When terrorists attacked us so ruthlessly on September 11th, they may have thought they knew who we were. They may have thought we were weak, grown used to comfort, softened by everything we enjoy in this great nation. But they were wrong. They must have failed to notice that it was by the sweat and blood of each soldier, sailor, airman, and Marine, and each member of the Coast Guard, that America has met every threat throughout our history.

When we needed them, the heroes of this generation stepped forward to defend America from terrorists. In the process, two brutal regimes in Afghanistan and Iraq—regimes that harbored and encouraged terrorists—have been removed from power. And as a result, 50 million people, almost all of them Muslims, have also been released from tyranny.

In a region where many thought freedom and self-government could never succeed, those values are beginning to take hold. The tide is turning against the terrorists' brand of totalitarianism. Like Nazism and communism before them, this false ideology is headed for the ash heap of history.

And at the same time that we are facing the enormous of winning a global war, we've also advanced the president's agenda for transforming the department. We've made major adjustments in programs such as the Trident Submarine Force, new classes of surface ships, unmanned aerial vehicles, Army artillery and Army aviation, missile defense and transformational communications across the department.

We've introduced a whole new civilian personnel system for the department. And along the way, we've done four regular budgets, four budget amendments, and at least six supplementals. None of these decisions was easy; indeed, many were difficult. But in no small measure, because of what seemed, at times, like endless hours of meetings—and no, Don, I'm not complaining—we managed to achieve agreement between the senior civilian and military leadership of DoD.

Senator TED STEVENS paid tribute to that fact this past week when he said, "I've never seen such a relationship between chiefs and the secretary—open discussions, open critique—and really, a give and take that was very helpful and very healthy as far as the department is concerned."

However, as important as these programmatic decisions have been, transformation is most of all about new ways of thinking; about how to use old systems in new ways. During the last four years, the concepts of transformation and asymmetric warfare have gone from being theoretical concepts to battlefield realities, and are even penetrating our vast acquisition apparatus, from the bureaucracy, to industry, to Congress.

But I don't have to tell this audience that all our marvelous machines and technology would mean nothing without innovative and skillful people to employ them.

And even then, this department would be of little value if our people lacked one particular quality. It's the indispensable quality and the most precious one of all, human courage. In this job, which has been so much more than a job to me, I've seen courage in abundance.

I remember the valor of an Army sergeant named Steve Workman. In the desperate moments after Flight 77 slammed into these walls, he risked his life to get Navy Lieutenant Kevin Shaeffer out of the building and to the medical attention he desperately needed. Sergeant Workman stayed with the badly wounded—burned officer and kept him talking and kept him alive.

I'll remember the bravery of people like Corporal Eddie Wright, a Marine who was hit by an RPG that ruptured his eardrum, broke his femur and, most seriously, blew off both his hands. In the confusion, Marines who had never seen combat before needed reassurance, and it was Eddie Wright, as badly wounded as he was, who gave it to them, telling them he was fine, giving instructions on his own first aid, pointing out enemy positions while directing his driver to get them out of the ambush zone. Like so many of our wounded heroes, Eddie's moving on in life with the same courage that he summoned in those desperate moments in Iraq.

And I remember October 26, 2003, the day our hotel in Baghdad, the Al-Rashid, was attacked. Tragically, a great soldier, Lieutenant Colonel Chad Buehring, was killed that day, and five others, civilian and military, were severely wounded.

Visiting the hospital that afternoon, I spoke to an Army colonel who was the most severely wounded. I asked him where he was from, and he said, "I live in Arlington, Virginia, but I grew up in Lebanon, in Beirut." So I asked him how he felt about building a new Middle East. He gave me a thumbs-up, and despite his obvious pain, he also gave me a smile. Today Colonel Elias Nimmer is now virtually recovered and still on active duty with the U.S. Army.

But courage comes in many forms. Sometimes moral courage, the courage to face criticism and challenge-received wisdom is as important as physical courage, and I see many examples of that. One such hero I've been privileged to know is Navy Medical Doctor Captain Marlene DeMaio. She was convinced that there was a serious flaw in the way we were designing body armor. In the face of considerable resistance and criticism, she put together a team whose research proved the need to modify the body armor design. She and her team took on the bureaucracy and won. Her moral courage has saved countless American lives in Afghanistan and in Iraq.

There are so many other stories I could share, but I will tell you just one more. Three months ago, I attended a funeral at Arlington for a soldier from St. Paul, Minnesota. Sergeant Michael Carlson had been killed just before the January 30th elections in Iraq. Not long after those historic elections, I received a letter from his mother.

Mrs. Carlson wrote to tell me how much it meant to her to see the joy on the faces of Iraqi voters, men and women who had risked their lives for something they believed in. She knew her son shared that same sort of vision, and she sent me an essay that he had written as a high school senior that explained how she could be certain of that. It's a remarkable essay, particularly from such a young man.

Michael had been an outstanding high school football player, but he didn't want to become a professional athlete. He wrote, "I want my life to count for something more than just a game. I want to be good at life. I want to fight for something, be part of something that is greater than myself. The only way to live forever," this high school senior wrote, "is to live on in those you have affected. I sometimes dream of being a soldier, helping to liberate people from oppression. In the end," he said, "there's a monument built to immortalize us in stone."

Men and women like that, men and women like Michael Carlson do become immortalized because they live on in our nation's soul.

President Reagan used to ask, where do we find such people? And he would answer: We find them where we've always found them, on the streets and the farms of America. They are the product of the freest society man has ever known.

On one of my visits to Iraq, I met a brigade commander who told me how he explained his mission to his men. He said, "I tell them what they're doing in Iraq and what their comrades are doing in Afghanistan is every bit as important what their grandfathers did in Germany and Japan in World War II, or what their fathers did in Korea or Europe during the Cold War."

That colonel was right.

It's been a privilege of a lifetime to serve with the heroes of this generation who will be remembered with the same gratitude as we remember those who have gone before. Nothing is more satisfying than to be able to do work that can really make a difference, and I've been lucky to have many opportunities to do that, but this one was as good as they come.

Now the president has asked me to take on a new mission that of working on behalf of the world's poor. Although I leave the Department of Defense, I believe both our missions serve the goal of making this world a better place. It's an honor. But I have one big regret: I'll be leaving some of the most dedicated, most capable, most courageous people in the world.

In many speeches over these years, I've been accustomed to ask the good Lord to bless our troops and our country. While I do it for the last time as your deputy secretary, I want you to know that I will always carry these words as a prayer in my heart: May God bless you, may God bless the men and women who serve this country so nobly and so well, and may God bless America.

PUTTING PARTISANSHIP ASIDE

Mr. NELSON of Nebraska. Mr. President, when I was running for the Senate in 2000, I pledged to put partisanship aside to do what is right for Nebraska. I told Nebraskans that if they elected me they could count on me to carefully consider the issues and ultimately do what I think is best.

From tax cuts, to Medicare reform to campaign finance reform and now to the battle over stalled judicial nominations, I have distanced myself from the partisan atmosphere in Washington to get things done.

Over the past few months and with great intensity over the past two weeks, I have been working with a bipartisan group of moderate-minded Senators to craft an alternative to the "nuclear option"—the partisan and political attempt to force a change in the rules of the Senate to end filibusters against judicial nominations.

The nuclear option is a temporary political fix to a very serious and ongoing problem: The Senate's failure to confirm more than 60 nominations during the last administration and the filibustering of ten of President Bush's nominations. To address this problem, I would prefer a permanent rules change to the Senate over a temporary procedural maneuver like the nuclear option that can be reversed if the White House or the Congress changes hands.

The Senate was designed by our Founding Fathers to act as a counter balance to the House of Representatives which represented States based on population. The Senate was the chamber where each State would have equal representation, two Senators and two votes. The intent was to prevent the power in Congress from becoming concentrated in large population States like New York, California, Florida and Texas. In the Senate, a Senator from Nebraska has the same power as a Senator from any other State.

As a former Governor and a firm believer in the power of the executive branch to appoint Cabinet members, judges and other officials, I do not support filibustering nominations. In fact, as Nebraska's Senator, I have voted against filibustering judicial appointments in every case but one where I was denied access to background information on the nominee. However, I also do not think the nuclear option is the solution to the impasse over judicial nominations.

We have built consensus behind a plan whereby seven Republican Senators pledge to vote against the nuclear option in exchange for an agreement from seven Democrats to allow most of the stalled nominations to get up-or-down votes as well as a pledge to not support filibusters of future nominations except in extraordinary circumstances.

Our compromise would be constructed completely within the existing rules of the Senate; it would prevent the nuclear option and the expected fallout of bringing all Senate business, including the energy bill and other important legislation, to a halt; and would preserve the rights of the Senate minority not only for this Congress but for future Congresses regardless of who is in the majority. Protecting the Senate's minority rights might seem to go against the concept of democracy and majority rule. In reality and without the spin on this issue that the special interest groups from both extremes put on this matter, the Senate's minority rights are part of the system of checks and balances that keep any branch of government from dominating the others.

The minority rights aren't always about party politics either. Many filibusters throughout history were conducted by Senators who disagreed with the president or the majority of Senators. Filibusters also give small States such as Nebraska an important tool to protect itself from the will of the larger States.

The debate over these judges has consumed the Senate and all of Washington. When I am in Nebraska most folks do not ask me about the judicial nomination process. Nebraskans tell me they want an energy bill that will boost ethanol production and reduce our dependence on foreign oil. Nebraskans are concerned about the President's plan to divert Social Security funds to private accounts and a myriad of other important legislative priorities.

Those who do mention judges and nominations express concern about where the Senate seemed to be headed. Many expressed to me the desire to stop the bickering and get on with the Senate's business. Others offered encouraging words in support of the compromise effort and those comments made me feel that Nebraskans were appreciative of our efforts.

The business, that we as Senators are tasked with carrying out for the American people would cease in the Senate if the majority leader follows through on his threats to employ the nuclear option. Nebraskans waiting for the energy bill, a Federal budget, asbestos litigation reform and even confirmation of future judicial nominations are the ones who will suffer if the nuclear option is detonated.

With our compromise everybody wins. Those seeking to protect minority rights win. Those seeking to confirm judicial nominations win. Small States win.

We accomplished this by working together with common purpose and shared concern for the future of this body. I am proud of what we have accomplished and I will treasure the new friends I made in the process. I thank you, all of you, for working with me, for trusting me, and for joining me in this great challenge.

I would like to include all the names of the signatories on the memorandum of understanding as part of my statement. These brave senators are: Senator JOHN MCCAIN, Senator JOHN WARNER, Senator ROBERT BYRD, Senator MARY LANDRIEU, Senator OLYMPIA SNOWE, Senator KEN SALAZAR, Senator MIKE DEWINE, Senator SUSAN COLLINS, Senator MARK PRYOR, Senator LINCOLN CHAFEE, Senator LINDSEY GRAHAM, Senator JOSEPH LIEBERMAN, and Senator DANIEL INOUYE.

MEMORIAL DAY 2005

Mr. DOMENICI. Mr. President, I would like to pay tribute to those men and women of the U.S. armed services, who have given their lives to defend our Nation and the ideals it represents.

Since the birth of our Nation 229 years ago, millions of Americans have answered the call to serve. They left behind the comfort of home, family and friends, to protect the American way of life and insure that our country would remain free and a land of opportunity for all. On this day I would like to remember those whom did not return.

On this Memorial Day, I am put in mind of the 200th and 515th Costal Artillery units of the New Mexico National Guard, better known as the New Mexico Brigade. The New Mexico Brigade played a prominent and heroic role in the fierce fighting in the Philippines, during those first dark days of the Second World War. For 4 months the men of the 200th and 515th helped hold off the Japanese only to be defeated by disease, starvation and a lack of ammunition.

Tragically the survivors of the Battle of Bataan from the New Mexico Brigade were subjected to the horrors and atrocities of the 65 mile "Death March" and to years of hardship and forced labor in Japanese prisoner of war camps. Sadly, of the 1800 men of the New Mexico Brigade more than 900 lost their lives in that far off place. This day belongs to them and all other Americans such as them.

I believe it is especially important not to forget; the men and women of America's Armed Forces have given their lives not only in defense of our Nation, but to preserve the freedom of others around the globe. This is almost unquiet in human history, and no praise can be too great for those individuals.

Today I would like to make special mention of those New Mexicans who have given their lives in Operation Iraq Freedom and the global war on terror. I ask that New Mexicans on Memorial Day think of them and their families and give thanks that we are blessed with such heroic men and women.

We must never forget the sacrifices of our solders, sailors, airmen, and marines. I encourage New Mexican's and all Americans on Memorial Day to take a moment to remember and honor the brave men and women whom have fallen in our defense. At this moment in America's history, our men and women in uniform are again furthering the cause of freedom around the world and ensuring the safety of the United States of America. They serve with the same courage and commitment shown by Americans of generations past and they deserve our thoughts and prayers on this Memorial Day as well.

49TH FIGHTER WING

Mr. DOMENICI. Mr. President, I would like to recognize the outstanding men and women of the 49th Fighter Wing at Holloman Air Force Base in New Mexico.

The 49th has received a deployment order to the Western Pacific region in support of our national defense objectives.

Around 250 personnel from Holloman, along with approximately 15 F-117A Nighthawks, are preparing to depart for the Republic of Korea. Their 4-month deployment is part of an ongoing measure to maintain a credible deterrent posture and presence in the region and demonstrates the continued U.S. commitment towards fulfilling security responsibilities throughout the Western Pacific.

The F-117A, and the personnel that fly and maintain them, continue to be vital to our national security strategy. This is why I am so pleased the Senate Armed Services Committee included my bill to restrict retirement of any Nighthawks in fiscal year 2006 in the committee passed bill.

We must maintain the ability to deliver precision munitions onto time sensitive, high value targets, wherever and whenever the need arises. And I am so proud of the men and women from New Mexico that take on this very dangerous but important mission in service to their country. They are all superstars that deserve the heartfelt appreciation of a grateful Nation.

AFRO-LATINOS

Mr. OBAMA. Mr. President, I rise today to bring attention to the situation of Afro-Latinos throughout Latin America, in the hopes that we can encourage more action on this issue. From Colombia to Brazil to the Dominican Republic to Ecuador, persons of African descent continue to experience racial discrimination and remain among the poorest and most marginalized groups in the entire region. While recent positive steps have been taken in some areas—for example, giving land titles to Afro-Colombians and passing explicit anti-discrimination legislation in Brazil—much work still needs to be done to ensure that this is the beginning of an ongoing process of reform, not the end.

In places where civil conflict has taken hold, Afro-Latinos are much more likely to become victims of violence or refugees in their own countries. In many areas, Afro-Latinos are also subject to aggression by local police forces at far greater rates than those perceived to be white. Access to health services is another serious concern, and recent studies have shown that Afro-Latino communities are at greater risk of contracting HIV/AIDS.

In the last Congress, there was not one mention in the Senate of the millions of Afro-Latinos who continue to experience this widespread discrimination and socioeconomic marginalization. Now is the time for more action on this issue, not less. Emerging civil society groups are growing stronger throughout many countries in Latin America, and this growth should be encouraged as it presents important opportunities for partnerships and collaboration. I look forward to working with my colleagues in the Senate and House on this critical concern in the coming months, and I believe that together we can and will make a difference.

REACH OUT AND READ

Mr. KERRY. Mr. President, today I rise in support of the Reach Out and Read program. Reach Out and Read is a program that promotes early literacy by educating doctors and parents about the importance of reading aloud. Reach Out and Read facilitates reading by giving books to children at pediatric check-ups from six months to five years of age, with a special focus on children growing up in poverty. Children who are exposed to reading in their first years of life learn to love books at an early age—a love that often stays with them throughout their teenage and adult lives. They are also more likely to escape the many problems associated with illiteracy and reading difficulty, including school absenteeism and dropout, juvenile delinquency, substance abuse, and teenage pregnancy.

Reach Out and Read is active in more than 2,300 hospitals and health care centers in 50 States, the District of Columbia, Guam, and Puerto Rico. Two million children participate annually and 3.2 million new, developmentally appropriate books are given to family members.

There are 123 Reach Out and Read clinical locations in my State of Massachusetts. More than 116,000 children participate in Reach Out and Read and more than 200,000 books are distributed annually.

Reach Out and Read is unique. Funded both by both the Federal Government and private donations, it is a program with documented results. In 1998, the National Research Council released the much-acclaimed report, "Preventing Reading Difficulties n Young Children" which specifically cites Reach Out and Read as a program that effectively encourages young children to read. It is supported by the Department of Pediatrics at the Boston University School of Medicine and is endorsed by the American Academy of Pediatrics. We should all continue to support this very special program.

PONTIFICAL VISIT OF HIS HOLINESS KAREKIN II, CATHOLICOS OF ALL ARMENIANS, TO THE WESTERN DIOCESE

Mrs. BOXER. Mr. President, I take this opportunity to recognize the Pontifical Visit of His Holiness Karekin II, Catholicos of All Armenians, to the Western Diocese of the Armenian Church of North America during the month of June 2005. The Catholicos will visit the Western Diocese, headquartered in Burbank in my home State of California and travel around California from June 1 through 20. As the 132nd Catholicos of all Armenians, His Holiness Karekin II is spiritual leader to more than 7 million Armenian Apostolic Christians worldwide. I would also like to recognize the Western Diocese Primate, His Eminence Archbishop Hovnan Derderian, for his good works on behalf of Armenian-Americans in California and the Western U.S.

This momentous occasion marks the second Pontifical visit of the Catholicos to the Western Diocese. The visit has been titled "The Renaissance of Faith" because it marks a source of spiritual inspiration and reawakening for Christian Armenians, whose faith is 1700 years old.

The Diocese of the Armenian Church, established 107 years ago in Worcester, MA, originally served Armenian churches in the United States and Canada. In 1927, the Western Diocese of the Armenian Church of North America was established by a directive from the Mother See. The establishment of the Western Diocese was an historic occasion, which marked the growth of a strong Armenian community in California and the Western United States.

The Western Diocese was originally headquartered in Fresno. In 1957, the headquarters were moved to Los Angeles. In 1994, the headquarters were damaged by the Northridge Earthquake. Later that year, the Diocesan Assembly decided to purchase a new Diocesan Headquarters. In 1997, the Western Diocese officially moved into a multipurpose complex located in Burbank, CA, which will be the future site of the Mother Cathedral. This Pontifical visit is even more special because the Catholicos will be there in June to bless the foundation stones at the groundbreaking of the new Mother Cathedral.

The visit is also appropriately timed to coincide with two important anniversaries—the 90th Anniversary of the commemoration of the Armenian Genocide and the 1600th Anniversary of the creation of the Armenian alphabet. Earlier this year, I joined my Armenian friends in commemorating the 90th anniversary of the Armenian Genocide, which was the first genocide of the 20th century.

The Armenian alphabet, along with the Armenian language, has contributed immensely to the vibrant continuity of Armenian culture. The Catholicos' visit will highlight these two anniversaries and further empower Armenians in the Western Diocese to continue their long-fought efforts for justice.

I am honored to recognize this historic and joyous visit, which will strengthen ties between Armenia and Armenians in California. I know that His Holiness Karekin II will have a very special visit to California and I wish the Armenian community in California an increased sense of purpose and inspiration.

ADDITIONAL STATEMENTS

TRIBUTE TO LOVELAND, COLORADO, POLICE CHIEF TOM WAGONER

• Mr. ALLARD. Mr. President, I rise today to commend the chief of police of Loveland, CO, Tom Wagoner, for his distinguished career of service to the people of Loveland.

Chief Wagoner was born in Minnesota and raised in eastern Illinois. After spending 2 years in the Army, he became a police officer and joined the Greeley, CO, Police Department in 1979. Having served in several positions in the Greeley Police Department, Chief Wagoner left Colorado in 1987 to be the police chief in Tullahoma, TN.

Fortunately, it was not long before Chief Wagoner came back to Colorado to serve as the police chief in my hometown of Loveland in 1989. The city of Loveland has greatly benefited from his leadership. Over the course of his tenure, he made many additions to the department, including a mounted patrol unit, a motorcycle unit, a community policing program, and a new radio system. Chief Wagoner also presided over a move to a new police headquarters in 2002 and has ensured that the Loveland Police Department has received national accreditation since 1992.

I thank Chief Wagoner for over 15 years of service to the citizens of Loveland. He leaves behind a difficult set of shoes to fill, and he will be missed.•

100TH ANNIVERSARY OF THE AMERICAN THORACIC SOCIETY

• Mrs. BOXER. Mr. President, on the occasion of its 100th anniversary, I am proud to recognize and honor the American Thoracic Society for its continuing commitment to the prevention and treatment of respiratory disease.

While respiratory disease may not pose the same public threat that it did 100 years ago, we cannot forget, nor overlook, the need to continue our fight against such debilitating illnesses. It is imperative that we continue to explore the causes and effects of respiratory disease as well as educating the public here and abroad.

Since its establishment in 1905, the American Thoracic Society has demonstrated an unyielding determination to reduce the number of deaths from respiratory disorder and acute-illness. I commend ATS for its dedication to the cause.

ATS not only directs its attention to the care and treatment of respiratory disease patients, it also places preventative practices at the forefront of its mission. Through extensive scientific research, ATS has established itself as a leader in the discovery of new information and knowledge. Furthermore, ATS has developed numerous educational programs, as well as several medical journals, to help keep both the medical community and the public up to date on new scientific information and innovative practices.

Finally, ATS has established itself as a leading advocate of respiratory research, paving the way for unprecedented developments in the treatment of respiratory disease. As host of the world's leading respiratory medicine conference, which provides doctors and scientists the opportunity to share their successes with specialists from all over the world, ATS has truly confirmed its status as a leader in the medical community.

Over the years, ATS has grown to meet the needs of the changing world in which we live, while never losing sight of its basic goals of prevention and treatment. I congratulate the American Thoracic Society on its 100 years of outstanding research and innovation.•

BRIGADIER GENERAL GERVIS A. PARKERSON

• Mr. LOTT. Mr. President, Brigadier General Gervis Parkerson is a lifelong resident of Mississippi, having graduated from Gulfport High School in 1967 and Mississippi State University in 1971. He enlisted in the United States Marine Corps following his graduation from college and completed Officer Candidate School at Quantico, VA. He graduated from Naval Flight School in 1972 and served as a carrier based pilot in the Marine Corps until 1976.

He is a Master Aviator with over 7000 flight hours, having flown in the T–42A, U–8F, U–21A, CH–53D, T–34, T–28, OH–6A, UH–1H, and the C–7A with the United States Marine Corps, and the 1108th AVCRAD.

After leaving active duty, Brigadier General Parkerson returned to Mississippi and was employed in the private sector. In 1980, he joined the Mississippi Army National Guard with the 114th Area Support Group, and in 1981 began full-time duty as Aircraft Maintenance Officer, HHC 114th Area Support Group, in Hattiesburg, MS.

He assumed command of the 1108th Aviation Classification Repair Activity Depot, in 1994 at the rank of Colonel. As Commander, he directed the maintenance of over 500 aircraft within the 9 southeastern States, Puerto Rico and the Virgin Islands. The AVCRAD also provided sustainment maintenance to the Army Aviation and Missile Command's Corpus Christi Army Depot, as well as mobilization of non-deployable assets for the Army National Guard.

Brigadier General Parkerson has received several awards and decorations including the Legion of Merit, Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, Army Reserve Medal, National Defense Service Medal, Global War on Terrorism Medal, Armed Forces Reserve Medal, Overseas Service Medal, and Meritorious Unit Citation. He has also received the Mississippi Magnolia Cross, one of the highest medals awarded to a member of the Armed Forces of the United States of America by the Governor of the State of Mississippi. Additionally, he was awarded the Bronze and Silver Order of Saint Michael from the Army Aviation Association of America for his superb dedication to Army Aviation.

Brigadier General Parkerson has been married to his wife, Brenda, for the past 26 years and they are the proud parents of two grown children, Beau and Leah.

Through his personal contributions and effective leadership, Brigadier General Parkerson has greatly strengthened the United States Army and the Mississippi National Guard while reflecting great honor upon himself, his family, and those with whom he has served.

Under the authority of the State of Mississippi, he will be promoted to the rank of Brigadier General, and placed on the retirement list after 34 years of dedicated commissioned service. On behalf of the United States Senate, I would like to thank Brigadier General Parkerson for his honorable and tireless service to this Nation, and congratulate him on completion of an outstanding and successful career.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 10:35 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1224. An act to repeal the prohibition on the payment of interest on demand deposits, and for other purposes.

At 2:38 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2419. An act making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2419. An act making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1127. A bill to require the Secretary of Defense to submit to Congress all documentation related to the Secretary's recommendations for the 2005 round of defense base closure and realignment.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2316. A communication from the Founder, National Slave Ship Museum/Landrieu Project 146300, transmitting, proposed legislation entitled "Implementation and Appropriations of Public Law 103–433, Title XI-Lower Mississippi Delta Initiatives"; to the Committee on Appropriations.

EC–2317. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Department's Alternative Fuel Vehicle (AFV) program for Fiscal Year 2004; to the Committee on Foreign Relations.

EC–2318. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis; Reduction in Timeframe for Movement of Cattle and Bison from Modified Accredited and Accreditation Preparatory States or Zones Without an Individual Tuberculin Test" (APHIS Docket No. 04–065–1) received on May 24, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2319. A communication from the Acting Administrator, Science and Technology Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Plant Variety Protection Office, Supplemental Fees" ((Docket No. ST-02-02) (RIN0581–AC31)) received on May 23, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2320. A communication from the Acting Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Winter Pears Grown in Oregon and Washington; Order Amending Marketing Order No. 927" (Docket Numbers: AO–FV–927–A1; FV04-927-1) received on May 23, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2321. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the status of the Exxon and Stripper Well Oil overcharge funds as of September 30, 2004; to the Committee on Energy and Natural Resources.

EC–2322. A communication from the Assistant General Counsel for Legislation and Regulatory Law, Office of Policy and International Affairs, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Guidelines for Voluntary Greenhouse Gas Reporting" (RIN1901–AB11) received on May 23, 2005; to the Committee on Energy and Natural Resources.

EC–2323. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's first annual financial report required by the Animal Drug User Fee Act of 2003 (ADUFA); to the Committee on Health, Education, Labor, and Pensions.

EC–2324. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Performance Improvement 2005: Evaluation Activities of the U.S. Department of Health and Human Services"; to the Committee on Health, Education, Labor, and Pensions.

EC–2325. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on Health, Education, Labor, and Pensions.

EC–2326. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to the Administration's Fiscal Year 2006 Capital Investment and Leasing Program; to the Committee on Homeland Security and Governmental Affairs.

EC–2327. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's Semiannual Report to Congress; to the Committee on Homeland Security and Governmental Affairs.

EC–2328. A communication from the Acting Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Environmental Differential Pay for Asbestos Exposure" (RIN3206-AK64) received on May 23, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2329. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–2330. A communication from the Deputy General Counsel for Equal Opportunity and Administrative Law, Office of General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Policy Development and Research, received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2331. A communication from the Deputy General Counsel for Equal Opportunity and Administrative Law, Office of General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Administration, received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2332. A communication from the Chief Financial Officer (Acting), Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's Annual Report required by the Chief Financial Officers Act of 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC–2333. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (Doc. No. FEMA–7871) received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2334. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" ((44 CFR 64) (Doc. No. FEMA–7873)) received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2335. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR 67) received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2336. A communication from the Assistant to the Board, Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled "Regulation DD—Truth in Savings" (Docket No. R–1197) received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2337. A communication from the Director, Office of National Drug Control Policy, the Secretary for Health and Human Services, and the Attorney General of the United States, Office of National Drug Control Policy, Executive Office of the President, transmitting jointly, pursuant to law, an Interim Report from the Interagency Working Group on Synthetic Drugs; to the Committee on the Judiciary.

EC–2338. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Placement of Alpha-Methyltryptamine and 5-Mexthoxy-N, N-Diisopropyltryptamine into Schedule I of the Controlled Substances Act Final Rule Substantive nonsignificant No reg flex No info collection" (DEA–252) received on May 23, 2005; to the Committee on the Judiciary.

EC–2339. A communication from the Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Classification of Certain Scientists of the Commonwealth of Independent States of the Former Soviet Union and the Baltic States as Employment--Based Immigrants" ((RIN1615–AB14) (CIS 2277–03)) received on May 23, 2005; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 494. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes (Rept. No. 109–72).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 898. A bill to amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes (Rept. No. 109–73).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Kenneth J. Krieg, of Virginia, to be Under Secretary of Defense for Acquisition, Technology, and Logistics.

Air Force nomination of Col. Kathleen D. Close to be Brigadier General.

Air Force nomination of Maj. Gen. Charles E. Croom, Jr. to be Lieutenant General.

Air Force nomination of Col. Benjamin J. Spraggins to be Brigadier General.

Air Force nomination of Lt. Gen. Ronald E. Keys to be General.

Army nomination of Brig. Gen. Benjamin C. Freakley to be Major General.

Army nomination of Maj. Gen. Clyde A. Vaughn to be Lieutenant General.

Army nominations beginning with Brigadier General Rita M. Broadway and ending with Colonel Margaret C. Wilmoth, which nominations were received by the Senate and appeared in the Congressional Record on April 25, 2005.

Army nomination of Col. Neil Dial to be Brigadier General.

Army nominations beginning with Col. Donald M. Bradshaw and ending with Col. David A. Rubenstein, which nominations were received by the Senate and appeared in the Congressional Record on May 16, 2005.

Marine Corps nomination of Maj. Gen. John W. Bergman to be Lieutenant General.

Marine Corps nomination of Lt. Gen. Robert R. Blackman, Jr. to be Lieutenant General.

Navy nomination of Vice Adm. Gary Roughead to be Admiral.

Navy nominations beginning with Captain William R. Burke and ending with Captain James P. Wisecup, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

Navy nomination of Rear Adm. (lh) Alan S. Thompson to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Nancy J. Lescavage to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Jeffrey A. Brooks to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Robert B. Murrett to be Rear Admiral.

Navy nomination of Capt. Victor C. See, Jr. to be Rear Admiral (lower half).

Navy nomination of Capt. Christine M. Bruzek-Kohler to be Rear Admiral (lower half).

Navy nomination of Capt. Mark W. Balmert to be Rear Admiral (lower half).

Navy nominations beginning with Capt. Raymond E. Berube and ending with Capt. John J. Prendergast III, which nominations were received by the Senate and appeared in the Congressional Record on April 27, 2005.

Navy nominations beginning with Capt. Kevin M. McCoy and ending with Capt. William D. Rodriguez, which nominations were received by the Senate and appeared in the Congressional Record on April 27, 2005.

Navy nomination of Rear Adm. (lh) David J. Venlet to be Rear Admiral.

Navy nominations beginning with Rear Adm. (lh) Bruce W. Clingan and ending with Rear Adm. (lh) James A. Winnefeld, Jr., which nominations were received by the Senate and appeared in the Congressional Record on May 9, 2005.

Navy nomination of Capt. Carol M. Pottenger to be Rear Admiral (lower half).

Navy nomination of Capt. Nathan E. Jones to be Rear Admiral (lower half).

Navy nomination of Capt. Albert Garcia III to be Rear Admiral (lower half).

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Donnell E. Adams and ending with Daniel J. Zalewski, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005.

Air Force nomination of Michael E. Van Valkenburg to be Colonel.

Army nominations beginning with Robert D. Bowman and ending with Theresa M. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record on February 15, 2005.

Army nominations beginning with Catherine D. Schoonover and ending with Vincent M. Yznaga, which nominations were received by the Senate and appeared in the Congressional Record on May 9, 2005.

Navy nominations beginning with Joel P. Bernard and ending with Marc K. Williams, which nominations were received by the Senate and appeared in the Congressional Record on April 21, 2005.

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Charles P. Ruch, of South Dakota, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring August 11, 2010.

*Harry Robinson, Jr., of Texas, to be a Member of the National Museum Services Board for a term expiring December 6, 2008.

*Kim Wang, of California, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2009.

By Mr. WARNER for Ms. COLLINS for the Committee on Homeland Security and Governmental Affairs.

*Philip J. Perry, of Virginia, to be General Counsel, Department of Homeland Security.

By Ms. COLLINS for the Committee on Homeland Security and Governmental Affairs.

*Tony Hammond, of Virginia, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2010.

*Carolyn L. Gallagher, of Texas, to be a Governor of the United States Postal Service for the remainder of the term expiring December 8, 2009.

*Louis J. Giuliano, of New York, to be a Governor of the United States Postal Service for a term expiring December 8, 2005.

*Louis J. Giuliano, of New York, to be a Governor of the United States Postal Service for a term expiring December 8, 2014.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1116. A bill to amend the Older Americans Act of 1965 to provide for mental health screening and treatment services, to amend the Public Health Service Act to provide for integration of mental health services and mental health treatment outreach teams, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LIEBERMAN (for himself and Mr. ALEXANDER):

S. 1117. A bill to deepen the peaceful business and cultural engagement of the United States and the People's Republic of China, and for other purposes; to the Committee on Foreign Relations.

By Mr. FEINGOLD:

S. 1118. A bill to amend the Reclamation Reform Act of 1982 to reduce irrigation subsidies, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAMBLISS:

S. 1119. A bill to permit an alien to remain eligible for a diversity visa beyond the fiscal year in which the alien applied for the visa, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. LUGAR, and Mr. SMITH):

S. 1120. A bill to reduce hunger in the United States by half by 2010, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM (for himself and Mr. DEMINT):

S. 1121. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Southern Campaign of the Revolution Heritage Area in South Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1122. A bill to authorize and direct the exchange and conveyance of certain National

Forest land and other land in southeast Arizona; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself and Mr. DEWINE):

S. 1123. A bill to suspend temporarily the duty on certain microphones used in automotive interiors; to the Committee on Finance.

By Mr. LUGAR:

S. 1124. A bill to postpone by 1 year the date by which countries participating in the visa waiver program shall begin to issue machine-readable tamper-resistant entry passports; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. 1125. A bill to reform liability for certain charitable contributions and services; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 1126. A bill to provide that no Federal funds may be expended for the payment or reimbursement of a drug that is prescribed to a sex offender for the treatment of sexual or erectile dysfunction; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. THUNE, Ms. COLLINS, Mr. SUNUNU, Ms. MURKOWSKI, Mr. DOMENICI, Mr. LIEBERMAN, Mr. DODD, Mr. GREGG, Mr. LOTT, Mr. JOHNSON, Mr. CORZINE, Mr. BINGAMAN, and Mr. LAUTENBERG):

S. 1127. A bill to require the Secretary of Defense to submit to Congress all documentation related to the Secretary's recommendations for the 2005 round of defense base closure and realignment; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. ALLARD, Mr. ALLEN, Mr. BUNNING, Ms. CANTWELL, Mr. COCHRAN, Mr. DORGAN, Mrs. HUTCHISON, Mr. ISAKSON, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. SANTORUM, and Mr. WYDEN):

S. Res. 154. A resolution designating October 21, 2005 as "National Mammography Day"; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BOND, Mr. CHAMBLISS, Mr. COBURN, Ms. COLLINS, Mr. CRAPO, Mrs. DOLE, Mr. FEINGOLD, Mr. GREGG, Mr. HAGEL, Mr. INHOFE, Mr. ISAKSON, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, and Mr. THOMAS):

S. Res. 155. A resolution designating the week of November 6 through November 12, 2005, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. SMITH, Mrs. LINCOLN, Mrs. DOLE, and Mr. LEAHY):

S. Res. 156. A resolution designating June 7, 2005, as "National Hunger Awareness Day" and authorizing that the Senate offices of Senators Gordon Smith, Blanche L. Lincoln, Elizabeth Dole, and Richard J. Durbin be used to collect donations of food from May 26, 2005, until June 7, 2005, from concerned Members of Congress and staff to assist families suffering from hunger and food insecurity in the Washington, D.C. metropolitan area; considered and agreed to.

By Mr. CRAIG (for himself and Mr. BAUCUS):

S. Con. Res. 38. A concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to award the Congressional Award Gold Medal to national recipients; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 21

At the request of Ms. COLLINS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 103

At the request of Mr. TALENT, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 191

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 191, a bill to extend certain trade preferences to certain least-developed countries, and for other purposes.

S. 313

At the request of Mr. LUGAR, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 340

At the request of Mr. LUGAR, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 340, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 424

At the request of Mr. BOND, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 471

At the request of Mr. SPECTER, the names of the Senator from Maine (Ms. SNOWE), the Senator from Michigan (Mr. LEVIN), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 503

At the request of Mr. BOND, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 503, a bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes.

S. 506

At the request of Mr. HAGEL, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 506, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 642

At the request of Mr. FRIST, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 658

At the request of Mr. BROWNBACK, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 658, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 681

At the request of Mr. HATCH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 681, a bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells.

S. 689

At the request of Mr. DOMENICI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 689, a bill to amend the Safe Drinking Water Act to establish a program to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards.

S. 691

At the request of Mr. DOMENICI, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 691, a bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names.

S. 695

At the request of Mr. BYRD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 695, a bill to suspend temporarily new shipper bonding privileges.

S. 757

At the request of Mr. CHAFEE, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Wisconsin (Mr. KOHL), the Senator from New York (Mr. SCHUMER), the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 770

At the request of Mr. LEVIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 770, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 785

At the request of Mr. LOTT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 785, a bill to amend the Internal Revenue Code of 1986 to modify the small refiner exception to the oil depletion deduction.

S. 828

At the request of Mr. HARKIN, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 828, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 853

At the request of Mr. LUGAR, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 853, a bill to direct the Secretary of State to establish a program to bolster the mutual security and safety of the United States, Canada, and Mexico, and for other purposes.

S. 930

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 930, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to drug safety, and for other purposes.

S. 1002

At the request of Mr. GRASSLEY, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

S. 1076

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1076, a bill to amend the Internal Revenue Code of 1986 to extend the excise tax and income tax credits for the production of biodiesel.

S. 1103

At the request of Mr. BAUCUS, the names of the Senator from Missouri (Mr. BOND), the Senator from Oregon (Mr. SMITH) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 1103, a bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax.

S. CON. RES. 15

At the request of Mr. SANTORUM, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 15, a concurrent resolution encouraging all Americans to increase their charitable giving, with the goal of increasing the annual amount of charitable giving in the United States by 1 percent.

S. RES. 104

At the request of Mr. FEINGOLD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

S. RES. 149

At the request of Ms. SNOWE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 149, a resolution honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America.

S. RES. 153

At the request of Mr. LIEBERMAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Res. 153, a resolution expressing the support of Congress for the observation of the National Moment of Remembrance at 3:00 pm local time on this and every Memorial Day to acknowledge the sacrifices made on the behalf of all Americans for the cause of liberty.

AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 762 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1116. A bill to amend the Older Americans Act of 1965 to provide for mental health screening and treatment services, to amend the Public Health Service Act to provide for integration of mental health services and mental health treatment outreach teams, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, today, Senator COLLINS and I, and in the House of Representatives, Congressman KENNEDY and Congressman ROS-LEHTINEN, are reintroducing the Positive Aging Act, in an effort to improve the accessibility and quality of mental health services for our rapidly growing population of older Americans.

We are pleased to be reintroducing this important legislation during Mental Health and Aging Week.

I want to acknowledge and thank our partners from the mental health and aging community who have collaborated with us and have been working diligently on these issues for many years, including the American Association for Geriatric Psychiatry, the American Psychological Association, the National Association of Social Workers, the American Nurses Association.

Today, advances in medical science are helping us to live longer than ever before. In New York State alone, there are 2½ million citizens aged 65 or older. And this population will only continue to grow as the firs wave of Baby Boomers turns 65 in less than 10 years.

As we look forward to this increased longevity, we must also acknowledge the challenges that we face related to the quality of life as we age. Chief among these are mental and behavioral health concerns.

Although most older adults enjoy good mental health it is estimated that nearly 20 percent of Americans age 55 or older experience a mental disorder. It is anticipated that the number of seniors with mental and behavioral health problems will almost quadruple, from 4 million in 1970 to 15 million in 2030.

In New York State alone, there are an estimated 500,000 older adults with mental health disorders. As the baby boomers age we expect to see the number of seniors in need of mental health services in the State of New York grow to over 750,000.

Among the most prevalent mental health concerns older adults encounter are anxiety, depression, cognitive impairment, and substance abuse. These disorders, if left untreated, can have severe physical and psychological implications. In fact, older adults have the highest rates of suicide in our country and depression is the foremost risk factor.

The physical consequences of mental health disorders can be both expensive and debilitating. Depression has a powerful negative impact on ability to function, resulting in high rates of disability. The World Health Organization projects that by the year 2020, depression will remain a leading cause of disability, second only to cardiovascular disease. Even mild depression lowers immunity and may compromise a person's ability to fight infections and cancers. Research indicates that 50–70 percent of all primary care medical visits are related to psychological factors such as anxiety, depression, and stress.

Mental disorders do not have to be a part of the aging process because we have effective treatments for these conditions. But in far too many instances our seniors go undiagnosed and untreated because of the current divide in our country between health care and mental health care.

Too often physicians and other health professionals fail to recognize the signs and symptoms of mental health problems. Even more troubling, knowledge about treatment is simply not accessible to many primary care practitioners. As a whole, we have failed to fully integrate mental health screening and treatment into our health service systems.

These missed opportunities to diagnose and treat mental health disorders are taking a tremendous toll on seniors and increasing the burden on their families and our health care system.

That is why I am reintroducing the Positive Aging Act with my co-sponsors Senator COLLINS and Representatives KENNEDY and ROS-LEHTINEN.

This legislation would amend the Older Americans Act and the Public Health Service Act to strengthen the delivery of mental health services to older Americans.

Specifically, the Positive Aging Act would fund grants to states to provide screening and treatment for mental health disorders in seniors.

It would also fund demonstration projects to provide these screening and treatment services to older adults residing in rural areas and in naturally occurring retirement communities, NORC's.

This legislation would also authorize demonstration projects to reach out to seniors and make much needed collaborative mental health services available in community settings where older adults reside and already receive services such as primary care clinics, senior centers, adult day care programs, and assisted living facilities.

Today, we are fortunate to have a variety of effective treatments to address the mental health needs of American seniors. I believe that we owe it to older adults in this country to do all that we can to ensure that high quality mental health care is both available and accessible.

This legislation takes an important step in that direction and I look forward to working with you all to enact the Positive Aging Act during the upcoming Older Americans Act and SAMHSA reauthorizations.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Positive Aging Act of 2005".

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

SEC. 101. DEFINITIONS.

Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(44) MENTAL HEALTH SCREENING AND TREATMENT SERVICES.—The term 'mental health screening and treatment services' means patient screening, diagnostic services, care planning and oversight, therapeutic interventions, and referrals that are—

"(A) provided pursuant to evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals (including, but not limited to, mood and anxiety disorders, dementias of all kinds, psychotic disorders, and substances and alcohol abuse), relying to the greatest extent feasible on protocols that have been developed—

"(i) by or under the auspices of the Secretary; or

"(ii) by academicians with expertise in mental health and aging; and

"(B) coordinated and integrated with the services of social service, mental health, and health care providers in an area in order to—

"(i) improve patient outcomes; and

"(ii) assure, to the maximum extent feasible, the continuing independence of older individuals who are residing in the area.".

SEC. 102. OFFICE OF OLDER ADULT MENTAL HEALTH SERVICES.

Section 301(b) of the Older Americans Act of 1965 (42 U.S.C. 3021(b)) is amended by adding at the end the following:

"(3) The Assistant Secretary shall establish within the Administration an Office of Older Adult Mental Health Services, which shall be responsible for the development and implementation of initiatives to address the mental health needs of older individuals.".

SEC. 103. GRANTS TO STATES FOR THE DEVELOPMENT AND OPERATION OF SYSTEMS FOR PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LACKING ACCESS TO SUCH SERVICES.

Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) is amended—

(1) in section 303, by adding at the end the following:

"(f) There are authorized to be appropriated to carry out part F (relating to grants for programs providing mental health screening and treatment services) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.";

(2) in section 304(a)(1), by inserting "and subsection (f)" after "through (d)"; and

(3) by adding at the end the following:

"PART F—MENTAL HEALTH SCREENING AND TREATMENT SERVICES FOR OLDER INDIVIDUALS

"SEC. 381. GRANTS TO STATES FOR PROGRAMS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES FOR OLDER INDIVIDUALS.

"(a) PROGRAM AUTHORIZED.—The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 307 for the development and operation of—

"(1) systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services; and

"(2) programs to—

"(A) increase public awareness regarding the benefits of prevention and treatment of mental disorders in older individuals;

"(B) reduce the stigma associated with mental disorders in older individuals and other barriers to the diagnosis and treatment of the disorders; and

"(C) reduce age-related prejudice and discrimination regarding mental disorders in older individuals.

"(b) STATE ALLOCATION AND PRIORITIES.—A State agency that receives funds through a grant made under this section shall allocate the funds to area agencies on aging to carry out this part in planning and service areas in the State. In allocating the funds, the State agency shall give priority to planning and service areas in the State—

"(1) that are medically underserved; and

"(2) in which there are a large number of older individuals.

"(c) AREA COORDINATION OF SERVICES WITH OTHER PROVIDERS.—In carrying out this part, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall—

"(1) coordinate services described in subsection (a) with other community agencies, and voluntary organizations, providing similar or related services; and

"(2) to the greatest extent practicable, integrate outreach and educational activities with existing (as of the date of the integration) health care and social service providers serving older individuals in the planning and service area involved.

"(d) RELATIONSHIP TO OTHER FUNDING SOURCES.—Funds made available under this part shall supplement, and not supplant, any Federal, State, and local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide the services described in subsection (a).".

SEC. 104. DEMONSTRATION PROJECTS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LIVING IN RURAL AREAS.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(1) by inserting before section 401 the following:

"TITLE IV—GRANTS FOR EDUCATION, TRAINING, AND RESEARCH";

and

(2) in part A of title IV, by adding at the end the following:

"SEC. 422. DEMONSTRATION PROJECTS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LIVING IN RURAL AREAS.

"(a) DEFINITION.—In this section, the term 'rural area' means—

"(1) any area that is outside a metropolitan statistical area (as defined by the Director of the Office of Management and Budget); or

"(2) such similar area as the Secretary specifies in a regulation issued under section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

"(b) AUTHORITY.—The Assistant Secretary shall make grants to eligible public agencies and nonprofit private organizations to pay part or all of the cost of developing or operating model health care service projects involving the provision of mental health screening and treatment services to older individuals residing in rural areas.

"(c) DURATION.—Grants made under this section shall be made for 3-year periods.

"(d) APPLICATION.—To be eligible to receive a grant under this section, a public agency or nonprofit private organization shall submit to the Assistant Secretary an application containing such information and assurances as the Assistant Secretary may require, including—

"(1) information describing—

"(A) the geographic area and target population (including the racial and ethnic composition of the target population) to be served by the project; and

"(B) the nature and extent of the applicant's experience in providing mental health screening and treatment services of the type to be provided in the project;

"(2) assurances that the applicant will carry out the project—

"(A) through a multidisciplinary team of licensed mental health professionals;

"(B) using evidence-based intervention and treatment protocols to the extent such protocols are available;

"(C) using telecommunications technologies as appropriate and available; and

"(D) in coordination with other providers of health care and social services (such as senior centers and adult day care providers) serving the area; and

"(3) assurances that the applicant will conduct and submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

"(e) REPORTS.—The Assistant Secretary shall prepare and submit to the appropriate committees of Congress a report that includes summaries of the evaluations and reports required under subsection (d)(3).

"(f) COORDINATION.—The Assistant Secretary shall provide for appropriate coordination of programs and activities receiving funds pursuant to a grant under this section with programs and activities receiving funds pursuant to grants under sections 381 and 423, and sections 520K and 520L of the Public Health Service Act.".

SEC. 105. DEMONSTRATION PROJECTS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LIVING IN NATURALLY OCCURRING RETIREMENT COMMUNITIES IN URBAN AREAS.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3032 et seq.), as amended by section 104, is further amended by adding at the end the following:

"SEC. 423. DEMONSTRATION PROJECTS PROVIDING MENTAL HEALTH SCREENING AND TREATMENT SERVICES TO OLDER INDIVIDUALS LIVING IN NATURALLY OCCURRING RETIREMENT COMMUNITIES IN URBAN AREAS.

"(a) DEFINITIONS.—In this section:

"(1) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term 'naturally occurring retirement community' means a residential area (such as an apartment building, housing complex or development, or neighborhood) not originally built for older individuals but in which a substantial number of individuals have aged in place (and become older individuals) while residing in such area.

"(2) URBAN AREA.—The term 'urban area' means—

"(A) a metropolitan statistical area (as defined by the Director of the Office of Management and Budget); or

"(B) such similar area as the Secretary specifies in a regulation issued under section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)).

"(b) AUTHORITY.—The Assistant Secretary shall make grants to eligible public agencies and nonprofit private organizations to pay part or all of the cost of developing or operating model health care service projects involving the provision of mental health screening and treatment services to older individuals residing in naturally occurring retirement communities located in urban areas.

"(c) DURATION.—Grants made under this section shall be made for 3-year periods.

"(d) APPLICATION.—To be eligible to receive a grant under this section, a public agency or nonprofit private organization shall submit to the Assistant Secretary an application containing such information and assurances as the Assistant Secretary may require, including—

"(1) information describing—

"(A) the naturally occurring retirement community and target population (including the racial and ethnic composition of the target population) to be served by the project; and

"(B) the nature and extent of the applicant's experience in providing mental health screening and treatment services of the type to be provided in the project;

"(2) assurances that the applicant will carry out the project—

"(A) through a multidisciplinary team of licensed mental health professionals;

"(B) using evidence-based intervention and treatment protocols to the extent such protocols are available; and

"(C) in coordination with other providers of health care and social services serving the retirement community; and

"(3) assurances that the applicant will conduct and submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

"(e) REPORTS.—The Assistant Secretary shall prepare and submit to the appropriate committees of Congress a report that includes summaries of the evaluations and reports required under subsection (d)(3).

"(f) COORDINATION.—The Assistant Secretary shall provide for appropriate coordination of programs and activities receiving funds pursuant to grants made under this section with programs and activities receiving funds pursuant to grants made under sections 381 and 422, and sections 520K and 520L of the Public Health Service Act.".

TITLE II—PUBLIC HEALTH SERVICE ACT AMENDMENTS

SEC. 201. DEMONSTRATION PROJECTS TO SUPPORT INTEGRATION OF MENTAL HEALTH SERVICES IN PRIMARY CARE SETTINGS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb-31 et seq.) is amended—

(1) in section 520(b)—

(A) in paragraph (14), by striking "and" after the semicolon;

(B) in paragraph (15), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(16) conduct the demonstration projects specified in section 520K."; and

(2) by adding at the end the following:

"SEC. 520K. PROJECTS TO DEMONSTRATE INTEGRATION OF MENTAL HEALTH SERVICES IN PRIMARY CARE SETTINGS.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, shall award grants to public and private nonprofit entities for projects to demonstrate ways of integrating mental health services for older patients into primary care settings, such as health centers receiving a grant under section 330 (or determined by the Secretary to meet the requirements for receiving such a grant), other Federally qualified health centers, primary care clinics, and private practice sites.

"(b) REQUIREMENTS.—In order to be eligible for a grant under this section, the project to be carried out by the entity shall provide for collaborative care within a primary care setting, involving psychiatrists, psychologists, and other licensed mental health professionals (such as social workers and advanced practice nurses) with appropriate training and experience in the treatment of older adults, in which screening, assessment, and intervention services are combined into an integrated service delivery model, including—

"(1) screening services by a mental health professional with at least a masters degree in an appropriate field of training;

"(2) referrals for necessary prevention, intervention, follow-up care, consultations, and care planning oversight for mental health and other service needs, as indicated; and

"(3) adoption and implementation of evidence-based protocols, to the extent available, for prevalent mental health disorders, including depression, anxiety, behavioral and psychological symptoms of dementia, psychosis, and misuse of, or dependence on, alcohol or medication.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this section, the Secretary, to the extent feasible, shall ensure that—

"(1) projects are funded in a variety of geographic areas, including urban and rural areas; and

“(2) a variety of populations, including racial and ethnic minorities and low-income populations, are served by projects funded under this section.

“(d) Duration.—A project may receive funding pursuant to a grant under this section for a period of up to 3 years, with an extension period of 2 additional years at the discretion of the Secretary.

“(e) Application.—To be eligible to receive a grant under this section, a public or private nonprofit entity shall—

“(1) submit an application to the Secretary (in such form, containing such information, and at such time as the Secretary may specify); and

“(2) agree to report to the Secretary standardized clinical and behavioral data necessary to evaluate patient outcomes and to facilitate evaluations across participating projects.

“(f) Evaluation.—Not later than July 31 of each calendar year, the Secretary shall submit to Congress a report evaluating the projects receiving awards under this section for such year.

“(g) Supplement, Not Supplant.—Funds made available under this section shall supplement, and not supplant, other Federal, State, or local funds available to an entity to carry out activities described in this section.

“(h) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal year 2006 and each fiscal year thereafter.”.

SEC. 202. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH TREATMENT OUTREACH TEAMS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb-31 et seq.), as amended by section 201, is further amended by adding at the end the following:

“SEC. 520L. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH TREATMENT OUTREACH TEAMS.

“(a) In General.—The Secretary, acting through the Director of the Center for Mental Health Services, shall award grants to public or private nonprofit entities that are community-based providers of geriatric mental health services, to support the establishment and maintenance by such entities of multi-disciplinary geriatric mental health outreach teams in community settings where older adults reside or receive social services. Entities eligible for such grants include—

“(1) mental health service providers of a State or local government;

“(2) outpatient programs of private, nonprofit hospitals;

“(3) community mental health centers meeting the criteria specified in section 1913(c); and

“(4) other community-based providers of mental health services.

“(b) Requirements.—To be eligible to receive a grant under this section, an entity shall—

“(1) adopt and implement, for use by its mental health outreach team, evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals (including, but not limited to, mood and anxiety disorders, dementias of all kinds, psychotic disorders, and substance and alcohol abuse), relying to the greatest extent feasible on protocols that have been developed—

“(A) by or under the auspices of the Secretary; or

“(B) by academicians with expertise in mental health and aging;

“(2) provide screening for mental disorders, diagnostic services, referrals for treatment, and case management and coordination through such teams; and

“(3) coordinate and integrate the services provided by such team with the services of social service, mental health, and medical providers at the site or sites where the team is based in order to—

“(A) improve patient outcomes; and

“(B) to assure, to the maximum extent feasible, the continuing independence of older adults who are residing in the community.

“(c) Cooperative Arrangements With Sites Serving as Bases for Outreach.—An entity receiving a grant under this section may enter into an agreement with a person operating a site at which a geriatric mental health outreach team of the entity is based, including—

“(1) senior centers;

“(2) adult day care programs;

“(3) assisted living facilities; and

“(4) recipients of grants to provide services to senior citizens under the Older Americans Act of 1965, under which such person provides (and is reimbursed by the entity, out of funds received under the grant, for) any supportive services, such as transportation and administrative support, that such person provides to an outreach team of such entity.

“(d) Considerations in Awarding Grants.—In awarding grants under this section, the Secretary, to the extent feasible, shall ensure that—

“(1) projects are funded in a variety of geographic areas, including urban and rural areas; and

“(2) a variety of populations, including racial and ethnic minorities and low-income populations, are served by projects funded under this section.

“(e) Application.—To be eligible to receive a grant under this section, an entity shall—

“(1) submit an application to the Secretary (in such form, containing such information, at such time as the Secretary may specify); and

“(2) agree to report to the Secretary standardized clinical and behavioral data necessary to evaluate patient outcomes and to facilitate evaluations across participating projects.

“(f) Coordination.—The Secretary shall provide for appropriate coordination of programs and activities receiving funds pursuant to a grant under this section with programs and activities receiving funds pursuant to grants under section 520K and sections 381, 422, and 423 of the Older Americans Act of 1965.

“(g) Evaluation.—Not later than July 31 of each calendar year, the Secretary shall submit to Congress a report evaluating the projects receiving awards under this section for such year.

“(h) Supplement, Not Supplant.—Funds made available under this section shall supplement, and not supplant, other Federal, State, or local funds available to an entity to carry out activities described in this section.

“(i) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal year 2006 and each fiscal year thereafter.”.

SEC. 203. DESIGNATION OF DEPUTY DIRECTOR FOR OLDER ADULT MENTAL HEALTH SERVICES IN CENTER FOR MENTAL HEALTH SERVICES.

Section 520 of the Public Health Service Act (42 U.S.C. 290bb-31) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) Deputy Director for Older Adult Mental Health Services in Center for Mental Health Services.—The Director, after consultation with the Administrator, shall designate a Deputy Director for Older Adult Mental Health Services, who shall be responsible for the development and implementation of initiatives of the Center to address the mental health needs of older adults. Such initiatives shall include—

“(1) research on prevention and identification of mental disorders in the geriatric population;

“(2) innovative demonstration projects for the delivery of community-based mental health services for older Americans;

“(3) support for the development and dissemination of evidence-based practice models, including models to address dependence on, and misuse of, alcohol and medication in older adults; and

“(4) development of model training programs for mental health professionals and care givers serving older adults.”.

SEC. 204. MEMBERSHIP OF ADVISORY COUNCIL FOR THE CENTER FOR MENTAL HEALTH SERVICES.

Section 502(b)(3) of the Public Health Service Act (42 U.S.C. 290aa-1(b)(3)) is amended by adding at the end the following:

“(C) In the case of the advisory council for the Center for Mental Health Services, the members appointed pursuant to subparagraphs (A) and (B) shall include representatives of older Americans, their families, and geriatric mental health specialists.”.

SEC. 205. PROJECTS OF NATIONAL SIGNIFICANCE TARGETING SUBSTANCE ABUSE IN OLDER ADULTS.

Section 509(b)(2) of the Public Health Service Act (42 U.S.C. 290bb-2(b)(2)) is amended by inserting before the period the following: “, and to providing treatment for older adults with alcohol or substance abuse or addiction, including medication misuse or dependence”.

SEC. 206. CRITERIA FOR STATE PLANS UNDER COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANTS.

(a) In General.—Section 1912(b)(4)of the Public Health Service Act (42 U.S.C. 300x-2(b)(4)) is amended to read as follows:

“(4) Targeted services to older individuals, individuals who are homeless, and individuals living in rural areas.—The plan describes the State's outreach to and services for older individuals, individuals who are homeless, and individuals living in rural areas, and how community-based services will be provided to these individuals.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to State plans submitted on or after the date that is 180 days after the date of enactment of this Act.

By Mr. LIEBERMAN (for himself and Mr. ALEXANDER):

S. 1117. A bill to deepen the peaceful business and cultural engagement of the United States and the People's Republic of China, and for other purposes; to the Committee on Foreign Relations.

Mr. LIEBERMAN. Mr. President, I rise to introduce a bill that aims to redefine and enhance the relationship between the People's Republic of China and the United States of America.

At this point in our history we stand at the threshold of a new era in American Foreign policy and indeed of world history. For the first time ever an economic and military superpower is about to emerge without war or catastrophe: Asia's middle kingdom: the People's Republic of China, stands at the precipice of becoming one of the two most influential nations on Earth.

I have always held that our foreign policy is best conducted when our values as a Nation form the basis of our policies. With that in mind, I stand before you today to introduce legislation that will deepen the scope and breadth of America's relationship with China through the reaching out of our Nation's hand in friendship.

We introduce this with a bit of humility because history constantly shows us that the more things change, the more they stay the same. Fortunately American history is filled with good ideas to guide us.

Back in 1871, President Ulysses S. Grant told Congress that trade imbalances with China were threatening the viability of key United States' industries and warned that federal intervention might be needed to restore the balance of trade.

That is true today and I am both sponsoring and supporting legislation to fairly revalue the Yuan so that U.S. industries and workers enjoy a fair playing field in the global market.

But Grant also thought many problems with China could be solved if we just better understood Chinese language and culture. He proposed sending at least four American students a year to China to study the language and culture and who would then act as effective translators for business and government officials.

Grant's idea was never acted on and years of unfortunate history separated China from the rest of the world anyway.

But China is back and so are the challenges.

Those versed in international affairs and trade are fully aware of China's emerging influence. However, our present education system is not equipped to supply the number of skilled professionals required to constructively interact with China. According to the 2000 Census there are about 2.2 million Americans that speak Chinese. Of that 2.2 million, approximately 85-95 percent are Americans of Chinese descent. According to several studies there is a dearth of knowledge among college-bound students regarding Chinese cultural pillars like Mao Zedong in the United States. China, on the other hand, mandates English instruction beginning in—what we would call—the third grade. For every student we send to China to study there, they send 25 to study here.

If you combine these findings with the fact that well over half of the 500 largest companies are currently invested in China, with many more drawing up plans to do so, it becomes clear to me that the talent pool for future American-produced leaders with expertise in Chinese affairs is woefully inadequate. If you take a look at China's top ten trading partners, seven of those have a trade surplus with China and most importantly, five of those seven have a significant population with deep-seated knowledge of Chinese language and culture. America needs more people with the expertise to transact with China in international affairs and to increase the number of professionals that will assist both nations in growing and balancing our economic interdependency.

The future repercussions of our lack of knowledge about Chinese culture are immense. The Chinese have just begun to compete with U.S. firms for precious natural resources to feed the exponential growth of their economy. China is the world's biggest consumer of steel and in another decade will be the biggest consumer of petroleum. Currently, China's middle class is the fastest growing anywhere in the world. Over 400 of the world's Fortune 500 companies are invested in China's economy, which will soon be the largest consumer market in the world. Already, our trade with Asia is double that with Europe and is expected to exceed one trillion dollars annually before 2010. China, soon to be the biggest economic power in Asia, will play a large role in that growth. Consequently, the one in six U.S. jobs that are currently tied to international trade will grow substantially. If the U.S. is to grab a significant piece of China's burgeoning consumer market, we must begin by engaging China as experts of their culture.

The United States-China Cultural Engagement Act of 2005 authorizes $1.3 billion over the five years after its enactment. This is a symbolic gesture for the recent birth of China's one billion three hundred millionth citizen. One may argue that is too much given other important—under-funded—national priorities. However, the dividend from this investment in our future business and government leaders pays for itself a hundred or even a million times over in opportunities for economic growth and in potential foreign crises that will be averted.

In this legislation, I propose to significantly enhance our schools and academic institutions' ability to teach Chinese language and culture from elementary school through advanced degree studies. This act will expand student physical exchange programs with China as well as create a virtual exchange infrastructure for secondary school students that study Chinese. Initiatives were included, that offer the Department of State more flexibility in granting visas to Chinese scientists to come here and study at American academic institutions. For American businesses, I seek a substantial increase in Foreign Commercial Service officers stationed in China to uncover and facilitate more American export opportunities. For non-corporate entrepreneurs, provisions that provide for the expansion of state specific export centers and greater Small Business Administration outreach were also included.

Engaging China as an ally in international affairs and as a partner in building economic prosperity is of the utmost importance to the United States. Only if we succeed in fostering this relationship can we have a future that is as bright as our past. Education experts, corporate leaders, and even some government officials have talked for sometime about the convergence of economic, demographic, and national security trends that require our young people to attain a greater level of international knowledge and skills to be successful as workers and citizens in our increasingly dynamic American economy.

The rise of China comes with a whole set of challenges. But the ability to talk to and understand each other should not be among them.

The United States-China Cultural Engagement Act sets forth a strategy for achieving that level of understanding and cooperation with China. I urge my colleagues to look favorably upon this measure.

By Mr. FEINGOLD:

S. 1118. A bill to amend the Reclamation Reform Act of 1982 to reduce irrigation subsidies, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. FEINGOLD. Mr. President, today I am introducing a measure aimed at curbing wasteful spending. In the face of our ever growing Federal deficit, we must prioritize and eliminate programs that can no longer be sustained with limited Federal dollars, or where a more cost-effective means of fulfilling those functions can be substituted. The measure that I introduce today establishes a means test for large agribusinesses receiving subsidized water from the Bureau of Reclamation.

The irrigation means test provision is drawn from legislation that I have sponsored in previous Congresses to reduce the amount of Federal irrigation subsidies received by large agribusiness interests. I believe that reforming Federal water pricing policy by reducing subsidies is important as a means to achieve our broader objectives of achieving a truly balanced budget. This legislation is also needed to curb fundamental abuses of reclamation law that cost the taxpayer millions of dollars every year.

In 1901, President Theodore Roosevelt proposed legislation, which came to be known as the Reclamation Act of 1902, to encourage development of family farms throughout the western United States. The idea was to provide needed water for areas that were otherwise dry and give small farms, those no larger than 160 acres, a chance, with a helping hand from the Federal Government, to establish themselves. According to a 1996 General Accounting Office report, since the passage of the Reclamation Act, the Federal Government has spent $21.8 billion to construct 133 water projects in the west to provide water for irrigation. Agribusinesses, and other project beneficiaries, are required under the law to repay to the Federal Government their allocated share of the costs of constructing these projects.

As a result of the subsidized financing provided by the Federal Government, however, some of the beneficiaries of Federal water projects repay considerably less than their full share of these costs. According to the 1996 GAO report, agribusinesses generally receive the largest amount of federal financial assistance. Since the initiation of the irrigation program in 1902, construction costs associated with irrigation have been repaid without interest. The GAO further found, in reviewing the Bureau of Reclamation's financial reports, that $16.9 billion, or 78 percent, of the $21.8 billion of Federal investment in water projects is considered to be reimbursable. Of the reimbursable costs, the largest share, $7.1 billion, is allocated to irrigation interests. GAO also found that the Bureau of Reclamation will likely shift $3.4 billion of the debt owed by agribusinesses to other users of the water projects for repayment.

There are several reasons why large agribusinesses continue to receive such significant subsidies. Under the Reclamation Reform Act of 1982, Congress acted to expand the size of the farms that could receive subsidized water from 160 acres to 960 acres. The RRA of 1982 expressly prohibits farms that exceed 960 acres in size from receiving federally subsidized water. These restrictions were added to the Reclamation law to close loopholes through which Federal subsidies were flowing to large agribusinesses rather than the small family farmers that Reclamation projects were designed to serve. Agribusinesses were expected to pay full cost for all water received on land in excess of their 960 acre entitlement.

Despite the express mandate of Congress, regulations promulgated under the Reclamation Reform Act of 1982 have failed to keep big agricultural water users from receiving Federal subsidies. The General Accounting Office and the Inspector General of the Department of the Interior continue to find that the acreage limits established in law are circumvented through the creation of arrangements such as farming trusts. These trusts, which in total acreage well exceed the 960 acre limit, are comprised of smaller units that are not subject to the reclamation acreage cap. These smaller units are farmed under a single management agreement often through a combination of leasing and ownership.

The Department of the Interior has acknowledged that these trusts exist. Interior published a final rulemaking in 1998 to require farm operators who provide services to more than 960 nonexempt acres westwide, held by a single trust or legal entity or any combination of trusts and legal entities, to submit RRA forms to the district(s) where such land is located. Water districts are now required to provide specific information about farm operators to Interior annually. This information is an important step toward enforcing the legislation that I am reintroducing today.

A recent report by the Environmental Working Group examined water subsidies in the Central Valley Project (CVP) of California and it provides further evidence that this legislation is long overdue. According to EWG, in 2002, the largest 10 percent of the farms in the area got 67 percent of the water, for an average subsidy worth up to $349,000 each at market rates for replacement water. Twenty-seven large farms received subsidies each worth $1 million or more at market rates. Yet, the median subsidy for a Central Valley farmer in 2002 was $7,076 a year, almost 50 times less than the largest 10 percent of farms. One farm in Fresno County received more water by itself than 70 CVP water user districts. Its subsidy alone was worth $4.2 million a year at market rates.

This analysis is significant because the Bureau of Reclamation program is supposed to help small farmers, not large agribusinesses. The CVP analysis is also important because CVP farmers get about one-fifth of all the water used in California, at rates that by any measure are far below market value. In 2002, for example, the average price for irrigation water from the CVP was less than 2 percent what Los Angeles residents pay for drinking water, one-tenth the estimated cost of replacement water supplies, and about one-eighth what the public pays to buy its own water back to restore the San Francisco Bay and Delta. Meanwhile, many citizens in living in the CVP do not have access to clean, safe drinking water. Unfortunately, this situation is pervasive in many other Western communities.

My legislation combines various elements of proposals introduced by other members of Congress to close loopholes in the 1982 legislation and to impose a $500,000 means test. This new approach limits the amount of subsidized irrigation water delivered to any operation in excess of the 960 acre limit that claimed $500,000 or more in gross income, as reported on its most recent IRS tax form. If the $500,000 threshold were exceeded, an income ratio would be used to determine how much of the water should be delivered to the user at the full-cost rate, and how much at the below-cost rate. For example, if a 961 acre operation earned $1 million, a ratio of $500,000, the means-test value, divided by its gross income would determine the full cost rate. Thus the water user would pay the full cost rate on half of their acreage and the below-cost rate on the remaining half.

This means-testing proposal was featured in the 2000 Green Scissors report. This report is compiled annually by Friends of the Earth and Taxpayers for Common Sense and supported by a number of environmental, consumer and taxpayer groups. The premise of the report is that there are a number of subsidies and projects that could be cut to both reduce the deficit and benefit the environment. The Green Scissors recommendation on means-testing water subsidies indicates that if a test is successful in reducing subsidy payments to the highest grossing 10 percent of farms, then the federal government would recover between $440 million and $1.1 billion per year, or at least $2.2 billion over 5 years.

When countless Federal programs are subjected to various types of means tests to limit benefits to those who truly need assistance, it makes little sense to continue to allow large business interests to dip into a program intended to help small entities struggling to survive. Taxpayers have legitimate concerns when they learn that their hard-earned tax dollars are being expended to assist large corporate interests in select regions of the country, particularly in tight budgetary times.

I urge Congress to act swiftly to save money for the taxpayers.

By Mr. CHAMBLISS:

S. 1119. A bill to permit an alien to remain eligible for a diversity visa beyond the fiscal year in which the alien applied for the visa, and for other purposes; to the Committee on the Judiciary.

Mr. CHAMBLISS. Mr. President, today, I am introducing legislation to fix a problem that some of my colleagues have experienced in serving their constituents. Immigration case work is one of the top issues that my State offices handle on a regular basis. Occasionally, people who are in our country legally and playing by the rules can slip through the cracks as they wait on the immigration process to run its course. With the massive caseload handled by immigration services, there are bound to be mistakes, and this legislation allows the agency to remedy those mistakes in the limited situation of the Diversity Visa program.

The case of an Atlanta couple, Charles Nyaga and his wife, Doin, came to my attention about a year ago. Charles Nyaga, a native of Kenya, came to the U.S. with his family as a student in 1996, and he is currently pursuing a master's degree in divinity. In 1997, he applied for the fiscal year 1998 Diversity Visa program and the Immigration and Naturalization Service (INS) selected him. In accordance with the Diversity Visa requirements, Nyaga and his wife submitted an application and a fee to adjust their status to legal permanent resident.

A cover letter on the Diversity Visa application instructed: "While your application is pending before the interview, please DO NOT make inquiry as to the status of your case, since it will result in further delay." During the eight months that INS had to review his application, Nyaga accordingly never made inquiry, and he unfortunately never heard back. His valid application simply slipped through the cracks. At the end of the fiscal year, Nyaga's application expired, although a sufficient number of diversity visas remained available.

Nyaga and his wife took their case all the way to the 11th Circuit Court of Appeals. In a decision last year, the Court found that the INS lacks the authority to act on Nyaga's application after the end of the fiscal year, regardless of how meritorious his case is. The court even went so far as to note that a private relief bill is the remedy for Nyaga in order to overcome the statutory barrier that prohibits the INS from reviewing a case in a prior fiscal year. The U.S. Supreme Court declined to take up this case.

My legislation would overcome this statutory hurdle for Charles Nyaga, his wife, and others who are similarly situated. The legislation would give the Department of Homeland Security (DHS) the opportunity to reopen cases from previous fiscal years in order to complete their processing. It is important to understand that this process would only be available to those individuals who have been here since the time they filed their claim. The bill would still give DHS the discretion to conduct background checks and weigh any security concerns before adjusting an applicant's status.

I look forward to working with my colleagues and with Homeland Security officials to pass this legislation this year. We must provide relief in these cases. I believe this targeted legislation strikes the proper balance to provide thorough processing of Diversity Visa applications while not compromising the Department's national security mission.

By Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. LUGAR, and Mr. SMITH):

S. 1120. A bill to reduce hunger in the United States by half by 2010, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, nearly a decade ago, at the 1996 World Food Summit, the United States joined 185 other countries in a commitment to cut the number of undernourished people in the world in half by 2015. In 2000, as part of the Healthy People 2010 initiative, the U.S. government set another, more ambitious goal—to cut U.S. food insecurity in half from the 1995 level by 2010.

These are laudable and achievable goals. But our actions as a Nation have not kept pace with our words. Hunger and food insecurity have increased in this country each year since 1999. According to Household Food Security in the United States, 2003, the most recent report on hunger and food insecurity in the U.S. from the U.S. Department of Agriculture, 36.3 million people—including nearly 13.3 million children—lived in households that experienced hunger or the risk of hunger in 2003. This represents more than one in ten households in the United States (11.2 percent) and is an increase of 1.4 million, from 34.9 million in 2002.

In his remarks to delegates at the first World Food Congress in 1963, President John F. Kennedy said, "We have the means, we have the capacity to eliminate hunger from the face of the earth in our lifetime. We only need the will."

Forty-two years later, we still need the will, especially the political will.

In June 2004, the National Anti-Hunger Organization (NAHO), which is comprised of the 13 national organizations that are working to end widespread hunger in our country, released A Blueprint to End Hunger. It is a roadmap setting forth a strategy for government, schools and community organizations, nonprofit groups, businesses, and individuals to solve the problem of hunger. The report recommends that Federal food programs continue as the centerpiece of our strategy to end hunger. It also urges us, the Federal Government, to invest in and strengthen the national nutrition safety net and increase outreach and awareness of the importance of preventing hunger and improving nutrition.

We know that Federal nutrition programs work. WIC, food stamps, the school breakfast and lunch programs, and other federal nutrition programs are reaching record numbers of Americans today, and making their lives better. But we're not reaching enough people. There are still too many parents in this country who skip meals because there is not enough money in the family food budget for them and their children to eat every night. There are still too many babies and toddlers in America who are not getting the nutrition their minds and bodies need to develop to their fullest potential. There are too many seniors, and children, who go to bed hungry. In the richest Nation in the history of the world, that's unacceptable.

Today, in an effort to stir the political will and rekindle our commitment to achieve the goal of ending hunger, I am introducing the Hunger-Free Communities Act of 2005 with Senators SMITH, LUGAR, and LINCOLN. This bill builds on the recommendations made by NAHO and is designed to put our nation back on track toward the goal of cutting domestic food insecurity and hunger in half by 2010. It contains a sense of the Congress reaffirming our commitment to the 2010 goal and establishing a new goal: the elimination of hunger in the United States by 2015. This sense of Congress also urges the preservation of the entitlement nature of food programs and the protection of federal nutrition programs from funding cuts that reduce benefit levels or the number of eligible participants.

The Hunger-Free Communities Act also increases the resources available to local groups across the country working to eliminate hunger in their communities. Each day, thousands of community-based groups and millions of volunteers work on the front lines of the battle against hunger. This bill establishes an anti-hunger grant program, the first of its kind, with an emphasis on assessing hunger in individual communities and promoting cooperation and collaboration among local anti-hunger groups. The grant program recognizes the vital role that community-based organizations already play in the fight against hunger and represents Congress' commitment to the public/private partnership necessary to reduce, and ultimately eliminate, food insecurity and hunger in this country.

Hunger is not a partisan issue. During the 1960s and 1970s, under both Democratic and Republican Administrations, our country undertook initiatives and put in place programs that substantially reduced the number of people who struggle to feed their families in our nation. Unfortunately, this progress has not been sustained.

We now have the opportunity to forge a new bipartisan partnership, committed to addressing hunger in the United States. Senators SMITH, DOLE, LINCOLN, and I have created the bipartisan Senate Hunger Caucus with that goal in mind. Progress against hunger is possible, even with a war abroad and budget deficits at home. I thank my colleagues for their leadership on the Hunger Caucus and look forward to working with them, and other members of this body, as we consider the Hunger-Free Communities Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hunger-Free Communities Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—NATIONAL COMMITMENT TO END HUNGER

Sec. 101. Sense of Congress.
Sec. 102. Data collection.
Sec. 103. Annual hunger report.

TITLE II—STRENGTHENING COMMUNITY EFFORTS

Sec. 201. Hunger-free communities assessment grants.
Sec. 202. Hunger-free communities infrastructure grants.
Sec. 203. Training and technical assistance grants.
Sec. 204. Report.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Authorization of appropriations.

SEC. 2. FINDINGS.

Congress finds that—

(1) food insecurity and hunger are growing problems in the United States;

(2) in 2003, more than 36,000,000 people, 13,000,000 of whom were children, lived in households that were food insecure, representing an increase of 5,200,000 people in just 4 years;

(3) over 9,600,000 people lived in households in which at least 1 person experienced hunger;

(4)(A) at the 1996 World Food Summit, the United States, along with 185 other countries, pledged to reduce the number of undernourished people by half by 2015;

(B) as a result of this pledge, the Department of Health and Human Services adopted the Healthy People 2010 goal to cut food insecurity in half by 2010, and in doing so reduce hunger;

(5)(A) the Healthy People 2010 goal measures progress that has been made since the 1996 World Food Summit and urges the Federal Government to reduce food insecurity from the 1995 level of 12 percent to 6 percent;

(B) in 1999, food insecurity decreased to 10.1 percent, and hunger decreased to 3 percent, but no progress has been made since 1999;

(C) in 2003, food insecurity increased to 11.2 percent and hunger increased to 3.5 percent, so that the United States needs to reduce food insecurity by approximately 5 percentage points in the next 5 years in order to reach the Healthy People 2010 goal;

(6) anti-hunger organizations in the United States have encouraged Congress to achieve the commitment of the United States to decrease food insecurity and hunger in half by 2010 and eliminating food insecurity and hunger by 2015;

(7) anti-hunger organizations in the United States have identified strategies to cut food insecurity and hunger in half by 2010 and to eliminate food insecurity and hunger by 2015;

(8)(A) national nutrition programs are among the fastest, most direct ways to efficiently and effectively prevent hunger, reduce food insecurity, and improve nutrition among the populations targeted by a program;

(B) the programs are responsible for the absence of widespread hunger and malnutrition among the poorest people, especially children, in the United States;

(9)(A) although national nutrition programs are essential in the fight against hunger, the programs fail to reach all of the people eligible and entitled to their services;

(B) according to the Department of Agriculture, only approximately 56 percent of food-insecure households receive assistance from at least 1 of the 3 largest national nutrition programs, the food stamp program, the special supplemental nutrition program for women, infants, and children (WIC), and the school lunch program;

(C) the food stamp program reaches only about 54 percent of the households that are eligible for benefits; and

(D) free and reduced price school breakfasts are served to about ½ of the low-income children who get free or reduced price lunches, and during the summer months, less than 20 percent of the children who receive free and reduced price school lunches are served meals;

(10) in 2001, food banks, food pantries, soup kitchens, and emergency shelters helped to feed more than 23,000,000 low-income people;

(11) community-based organizations and charities can help—

(A) play an important role in preventing and reducing hunger;

(B) measure community food security;

(C) develop and implement plans for improving food security;

(D) educate community leaders about the problems of and solutions to hunger;

(E) ensure that local nutrition programs are implemented effectively; and

(F) improve the connection of food insecure people to anti-hunger programs;

(12) according to the Department of Agriculture, in 2003, hunger was 8 times as prevalent, and food insecurity was nearly 6 times as prevalent, in households with incomes below 185 percent of the poverty line as in households with incomes at or above 185 percent of the poverty line; and

(13) in order to achieve the goal of reducing food insecurity and hunger by ½ by 2010, the United States needs to—

(A) ensure improved employment and income opportunities, especially for less-skilled workers and single mothers with children; and

(B) reduce the strain that rising housing and health care costs place on families with limited or stagnant incomes.

SEC. 3. DEFINITIONS.

In this Act:

(1) DOMESTIC HUNGER GOAL.—The term "domestic hunger goal" means—

(A) the goal of reducing hunger in the United States to at or below 2 percent by 2010; or

(B) the goal of reducing food insecurity in the United States to at or below 6 percent by 2010.

(2) EMERGENCY FEEDING ORGANIZATION.—The term "emergency feeding organization" has the meaning given the term in section 201A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501).

(3) FOOD SECURITY.—The term "food security" means the state in which an individual has access to enough food for an active, healthy life.

(4) HUNGER-FREE COMMUNITIES GOAL.—The term "hunger-free communities goal" means any of the 14 goals described in the H. Con. Res. 302 (102nd Congress).

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

TITLE I—NATIONAL COMMITMENT TO END HUNGER

SEC. 101. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) Congress is committed to—

(A) achieving domestic hunger goals;

(B) achieving hunger-free communities goals; and

(C) ending hunger by 2015;

(2) Federal food and nutrition programs should receive adequate funding to meet the requirements of the programs; and

(3) the entitlement nature of the child and adult care food program, the food stamp program established by section 4 of the Food Stamp Act of 1977 (7 U.S.C. 2013), the school breakfast and lunch programs, and the summer food service program should be preserved.

SEC. 102. DATA COLLECTION.

(a) IN GENERAL.—The American Communities Survey, acting under the authority of the Census Bureau pursuant to section 141 of title 13, United States Code, shall collect and submit to the Secretary information relating to food security.

(b) COMPILATION.—Not later than October 31 of each year, the Secretary shall compile the information submitted under subsection (a) to produce data on food security at the Federal, State, and local levels.

SEC. 103. ANNUAL HUNGER REPORT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study, and annual updates of the study, of major matters relating to the problem of hunger in the United States, as determined by the Secretary.

(2) MATTERS TO BE ASSESSED.—The matters to be assessed by the Secretary shall include—

(A) the information compiled under section 102(b);

(B) measures carried out during the previous year by Federal, State, and local governments to achieve domestic hunger goals and hunger-free communities goals; and

(C) measures that could be carried out by Federal, State, and local governments to achieve domestic hunger goals and hunger-free communities goals.

(b) RECOMMENDATIONS.—The Secretary shall develop recommendations on—

(1) removing obstacles to achieving domestic hunger goals and hunger-free communities goals; and

(2) otherwise reducing domestic hunger.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the President and Congress a report that contains—

(1) a detailed statement of the results of the study, or the most recent update to the study, conducted under subsection (a); and

(2) the most recent recommendations of the Secretary under subsection (b).

TITLE II—STRENGTHENING COMMUNITY EFFORTS

SEC. 201. HUNGER-FREE COMMUNITIES COLLABORATIVE GRANTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means a public food program service provider or a nonprofit organization, including but not limited to an emergency feeding organization, that demonstrates the organization has collaborated, or will collaborate, with 1 or more local partner organizations to achieve at least 1 hunger-free communities goal.

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made

available under title III to make grants to eligible entities to pay the Federal share of the costs of an activity described in subsection (d).

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this section shall not exceed 80 percent.

(3) NON-FEDERAL SHARE.—

(A) CALCULATION.—The non-Federal share of the cost of an activity under this section may be provided in cash or in kind, fairly evaluated, including facilities, equipment, or services.

(B) SOURCES.—Any entity may provide the non-Federal share of the cost of an activity under this section through a State government, a local government, or a private source.

(c) APPLICATION.—

(1) IN GENERAL.—To receive a grant under this section, an eligible entity shall submit an application to the Secretary at the time and in the manner and accompanied by any information the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) identify any activity described in subsection (d) that the grant will be used to fund;

(B) describe the means by which an activity identified under subparagraph (A) will reduce hunger in the community of the eligible entity;

(C) list any partner organizations of the eligible entity that will participate in an activity funded by the grant;

(D) describe any agreement between a partner organization and the eligible entity necessary to carry out an activity funded by the grant; and

(E) if an assessment described in subsection (d)(1) has been performed, include—

(i) a summary of that assessment; and

(ii) information regarding the means by which the grant will help reduce hunger in the community of the eligible entity.

(3) PRIORITY.—In making grants under this section, the Secretary shall give priority to eligible entities that—

(A) demonstrate in the application of the eligible entity that the eligible entity makes collaborative efforts to reduce hunger in the community of the eligible entity; and

(B)(i) serve a predominantly rural and geographically underserved area;

(ii) serve communities in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates;

(iii) provide evidence of long-term efforts to reduce hunger in the community;

(iv) provide evidence of public support for the efforts of the eligible entity; or

(v) demonstrate in the application of the eligible entity a commitment to achieving more than 1 hunger-free communities goal.

(d) USE OF FUNDS.—

(1) ASSESSMENT OF HUNGER IN THE COMMUNITY.—

(A) IN GENERAL.—An eligible entity in a community that has not performed an assessment described in subparagraph (B) may use a grant received under this section to perform the assessment for the community.

(B) ASSESSMENT.—The assessment referred to in subparagraph (A) shall include—

(i) an analysis of the problem of hunger in the community served by the eligible entity;

(ii) an evaluation of any facility and any equipment used to achieve a hunger-free communities goal in the community;

(iii) an analysis of the effectiveness and extent of service of existing nutrition programs and emergency feeding organizations; and

(iv) a plan to achieve any other hunger-free communities goal in the community.

(2) ACTIVITIES.—An eligible entity in a community that has submitted an assessment to the Secretary shall use a grant received under this section for any fiscal year for activities of the eligible entity, including—

(A) meeting the immediate needs of people in the community served by the eligible entity who experience hunger by—

(i) distributing food;

(ii) providing community outreach; or

(iii) improving access to food as part of a comprehensive service;

(B) developing new resources and strategies to help reduce hunger in the community;

(C) establishing a program to achieve a hunger-free communities goal in the community, including—

(i) a program to prevent, monitor, and treat children in the community experiencing hunger or poor nutrition; or

(ii) a program to provide information to people in the community on hunger, domestic hunger goals, and hunger-free communities goals; and

(D) establishing a program to provide food and nutrition services as part of a coordinated community-based comprehensive service.

SEC. 202. HUNGER-FREE COMMUNITIES INFRASTRUCTURE GRANTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means an emergency feeding organization (as defined in section 201A(4) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501(4))).

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall use not more than 40 percent of any funds made available under title III to make grants to eligible entities to pay the Federal share of the costs of an activity described in subsection (d).

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this section shall not exceed 80 percent.

(c) APPLICATION.—

(1) IN GENERAL.—To receive a grant under this section, an eligible entity shall submit an application to the Secretary at the time and in the manner and accompanied by any information the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) identify any activity described in subsection (d) that the grant will be used to fund; and

(B) describe the means by which an activity identified under subparagraph (A) will reduce hunger in the community of the eligible entity.

(3) PRIORITY.—In making grants under this section, the Secretary shall give priority to eligible entities the applications of which demonstrate 2 or more of the following:

(A) The eligible entity serves a predominantly rural and geographically underserved area.

(B) The eligible entity serves a community in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.

(C) The eligible entity serves a community that has carried out long-term efforts to reduce hunger in the community.

(D) The eligible entity serves a community that provides public support for the efforts of the eligible entity.

(E) The eligible entity is committed to achieving more than 1 hunger-free communities goal.

(d) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out activities of the eligible entity, including—

(1) constructing, expanding, or repairing a facility or equipment to support hunger relief agencies in the community;

(2) assisting an emergency feeding organization in the community in obtaining locally-produced produce and protein products; and

(3) assisting an emergency feeding organization in the community to process and serve wild game.

SEC. 203. HUNGER-FREE COMMUNITIES TRAINING AND TECHNICAL ASSISTANCE GRANTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means a national or regional nonprofit organization that carries out an activity described in subsection (d).

(b) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall use not more than 10 percent of any funds made available under title III to make grants to eligible entities to pay the Federal share of the costs of an activity described in subsection (d).

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this section shall not exceed 80 percent.

(c) APPLICATION.—

(1) IN GENERAL.—To receive a grant under this section, an eligible entity shall submit an application to the Secretary at the time and in the manner and accompanied by any information the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) demonstrate that the eligible entity does not operate for profit;

(B) describe any national or regional training program carried out by the eligible entity, including a description of each region served by the eligible entity;

(C) describe any national or regional technical assistance provided by the eligible entity, including a description of each region served by the eligible entity; and

(D) describe the means by which each organization served by the eligible entity—

(i) works to achieve a domestic hunger goal;

(ii) works to achieve a hunger-free communities goal; or

(iii) used a grant received by the organization under section 201 or 202.

(3) PRIORITY.—In making grants under this section, the Secretary shall give priority to eligible entities the applications of which demonstrate 2 or more of the following:

(A) The eligible entity serves a predominantly rural and geographically underserved area.

(B) The eligible entity serves a region in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.

(C) The eligible entity serves a region that has carried out long-term efforts to reduce hunger in the region.

(D) The eligible entity serves a region that provides public support for the efforts of the eligible entity.

(E) The eligible entity is committed to achieving more than 1 hunger-free communities goal.

(d) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out national or regional training and technical assistance for organizations that—

(1) work to achieve a domestic hunger goal;

(2) work to achieve a hunger-free communities goal; or

(3) receive a grant under section 201 or 202.

SEC. 204. REPORT.

Not later than September 30, 2011, the Secretary shall submit to Congress a report describing—

(1) each grant made under this title, including—

(A) a description of any activity funded by such a grant; and

(B) the degree of success of each activity funded by such a grant in achieving hunger-free communities goals; and

(2) the degree of success of all activities funded by grants under this title in achieving domestic hunger goals.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out title II $50,000,000 for each of fiscal years 2006 through 2011.

Mrs. LINCOLN. Mr. President, while serving as a Congressmen from Texas in the 1980s, Mickey Leland said. "I cannot get used to hunger and desperate poverty in our plentiful land. There is no reason for it, there is no excuse for it, and it is time that we as a nation put an end to it."

Over 15 years have passed since Mr. Leland delivered those powerful remarks, and we have yet to achieve his goal of ending hunger in America. In many respects, we have only slipped backwards. According to the U.S. Department of Agriculture, 36.3 million Americans, including 13.3 million children, experienced hunger or food insecurity in 2003. These figures, startling on their own, have been increasing steadily since 1999. We need to reverse this trend.

Mr. President, I rise today to pledge my commitment to this cause. Today, I am pleased to join Senators DURBIN, SMITH, and LUGAR in introducing the Hunger-Free Communities Act of 2005. This bill establishes a goal of ending hunger in America by 2015. The bill also supports preserving the entitlement framework of the federal food programs. Our federal food programs are vitally important to the millions of working Americans that are trying to make ends meet and the millions of children who need access to nutritious food.

In addition, this bill commits our fullest efforts to protecting the discretionary food program from budget cuts that would prevent these programs from addressing identified need. Lastly, the bill provides needed resources to non-profit organizations that fight to reduce hunger every day. The grant programs this bill establishes will promote new partnerships and help build the infrastructure we believe is necessary to root out hunger in every corner of our nation.

Almost a year ago, I joined Senators SMITH, DURBIN and DOLE in founding the bipartisan Senate Hunger Caucus to address the growing problem of hunger in America and around the world. The Senate Hunger Caucus currently has 34 members and we are working together to raise awareness about these issues and help create solutions to the hunger problem.

While there are many difficult problems we work to solve in Congress, hunger is a problem that has a solution. This bill is an example of our bipartisan effort to develop solutions to the hunger problem in America. I am proud to work with my colleagues to support ending hunger for the millions of Americans who find themselves without access to one of the most basic needs—nutritious food.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1122. A bill to authorize and direct the exchange and conveyance of certain National Forest land and other land in southeast Arizona; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, today I am pleased to join with Senator MCCAIN to introduce the Southeast Arizona Land Exchange and Conservation Act of 2005. This bill, which facilitates an important land exchange in Arizona, is the product of months of discussion between the United States Forest Service, Bureau of Land Management, State and local officials, community groups, recreational and conservation groups, and other stakeholders. It will allow for the protection of some of the most environmentally sensitive lands in Arizona while providing a much needed economic engine for the people of Superior, AZ and the surrounding communities. An identical companion bill is being introduced today in the House of Representatives by Representative RENZI.

The exchange conveys approximately 3,025 acres of land controlled by the Forest Service to Resolution Copper Company. The acreage to be traded to Resolution Copper will facilitate future exploration, and possible development, of what may be one of the largest deposits of copper ore ever discovered in North America. The 3,025 acres are intermingled with, or lie next to, private lands already owned by Resolution Copper, and are located south and east of Resolution's existing underground Magma copper mine. Approximately 75 percent of the 3,025 acre Federal parcel is already blanketed by federally authorized mining claims owned by Resolution Copper that give Resolution the right to explore and develop mineral deposits on it. Given the intermingled ownership, the public safety issues that may be associated with mining activities, and the significant financial investment Resolution Copper must make to even determine whether development of a mine is feasible, it makes sense, for Resolution Copper to own the entire mining area.

However, we also recognize that there is public resource value associated with the Federal land that would come into private ownership and, to the extent we can, we should protect and or replace these resources. The Apache Leap Escarpment, a spectacular cliff area comprising approximately 562 acres on the western side of the federal parcel, is an area deserving of protection. To protect the surface of this area from mining and development, the bill requires that a permanent conservation easement be placed on this area. In addition, the bill sets up a process to determine whether additional or enhanced public access should be provided to Apache Leap and, if so, provides that Resolution Copper will pay up to $250,000 to provide such access.

The bill also requires replacement sites for the Oak Flat Campground and the climbing area that are located on the Federal parcel that will be traded to Resolution Copper. The process to locate replacement sites is already under way, and I am told it is going well. Access to these public areas will not immediately terminate on enactment of this legislation: The bill allows continued public use of the Oak Flat Campground for two years after the enactment and it allows for continued rock climbing use for two years after, and use of the land for the annual "Boulder Blast" rock climbing competition for five years after enactment. Replacement sites will be designed and developed largely with funding provided by Resolution Copper.

I am also working with Resolution Copper and community groups to determine whether there may be additional climbing areas within the Federal parcel that could continue to be accessible to the public without compromising public safety or the mining operation. I have included a placeholder in the bill for such additional climbing provisions if agreed to.

In return for conveying the Federal land parcel to Resolution Copper, the Forest Service and Bureau of Land Management will receive six parcels of private land, totaling 4,814 acres. These parcels have been identified, and are strongly endorsed for public acquisition, by the Forest Service, BLM, Arizona Audubon Society, Nature Conservancy, Sonoran Institute, Arizona Game and Fish Department, and numerous others.

The largest of the six parcels is the Seven B Ranch located near Mammoth. It runs for 6.8 miles along both sides of the lower San Pedro River—one of the few remaining undammed rivers in the southwestern United States. The parcel also has: one of the largest, and possibly oldest, mesquite bosques in Arizona; a high volume spring that flows year round; and potential recovery habitat for several endangered species, including the southwestern willow flycatcher. It lies on an internationally recognized migratory bird flyway, with roughly half the number of known breeding bird species in North America passing through the corridor. Public acquisition of this parcel will greatly enhance efforts by Federal and State agencies to preserve for future generations the San Pedro River and its wildlife and bird habitat.

A second major parcel is the Appleton Ranch, consisting of 10 private inholdings intermingled with the Appleton-Whittell Research Ranch, adjacent to the Las Cienegas National Conservation Area southeast of Tucson. This acquisition will facilitate and protect the study of southwestern grassland ecology and unique aquatic wildlife and habitat.

Finally, the Forest Service will acquire four inholdings in the Tonto National Forest that possess valuable riparian and wetland habitat, water resources, historic and cultural resources, and habitat for numerous plant, wildlife and bird species, including the endangered Arizona hedgehog cactus.

Although the focus of this bill is the land exchange between Resolution Copper and the United States, it also includes provisions allowing for the conveyance of Federal lands to the Town of Superior, if it so requests. These lands include the town cemetery, lands around the town airport, and a Federal reversionary interest that exists at its airport site. These lands are included in the proposed exchange to assist the town in providing for its municipal needs and expanding its economic development.

Though I have described the many benefits of this exchange, you may be asking why we are legislating this land exchange. Why not use the existing administrative land exchange process? The answer is that this exchange can only be accomplished legislatively because the Forest Service does not have the authority to convey away federal lands in order to acquire other lands outside the boundaries of the National Forest System, no matter how ecologically valuable.

Of primary importance to me is that the exchange have procedural safeguards and conditions that ensure it is an equal value exchange that is in the public interest.

I will highlight some of the safeguards in this legislation: First, it requires that all appraisals of the lands must follow standard Federal practice and be performed in accordance with appraisal standards promulgated by the U.S. Department of Justice. All appraisals must also be formally reviewed, and approved, by the Secretary of Agriculture. Second, to ensure the Federal Government gets full value for the Federal parcel it is giving up, the Federal parcel will be appraised to include the minerals and appraised as if unencumbered by the private mining claims that detract from the fair market value of the land. These are important provisions not required by Federal law. They are especially significant given that over 75 percent of the Federal parcel is covered by mining claims owned by Resolution Copper and the bulk of the value of the Federal parcel is expected to be the minerals. Third, it requires that the Apache Leap conservation easement not be considered in determining the fair market value of the Federal land parcel. I believe by following standard appraisal practices and including these additional safeguards in the valuation process, the United States, and ultimately the taxpayer, will receive full fair market value for both the land and the minerals it contains.

In summary, with this land exchange we can preserve lands that advance the important public objectives of protecting wildlife habitat, cultural resources, the watershed, and aesthetic values, while generating economic and employment opportunities for State and local residents. I hope we approve the legislation at the earliest possible date. It is a winning scenario for our environment, our economy, and our posterity.

By Mr. SANTORUM:

S. 1125. A bill to reform liability for certain charitable contributions and services; to the Committee on the Judiciary.

Mr. SANTORUM. Mr. President, I am introducing the Expanding Charitable and Volunteer Opportunities Act of 2005. I am proud of the charitable work that is continuously done throughout this country. However, individual charitable giving rates among Americans have stagnated over the past fifty years. As legislators, we must provide incentives for charitable giving and opportunities for low-income families to build individual assets, and support faith-based and secular organizations as they provide charitable social services. We must also eliminate unnecessary road blocks that might keep businesses and individuals from donating to the needy. I remain committed to promoting increased opportunities for the less fortunate to obtain help through faith-based and community organizations. There are people all around the country waiting to give more to charity—they just need a little push.

The Expanding Charitable and Volunteer Opportunities Act provides such a push. This legislation builds on the Volunteer Protection Act of 1997 that immunizes individuals who do volunteer work for non-profit organizations or governmental entities from liability for ordinary negligence in the course of their volunteer work. My bill prevents a business from being subject to civil liability when a piece of equipment has been loaned by a business entity to a nonprofit organization unless the business has engaged in gross negligence or intentional conduct. This provision passed the House of Representatives in the 107th Congress as part of H.R. 7, and I am hopeful we can do the same here in the Senate in the 109th.

This bill also builds on the success of the Good Samaritan Food Donation Act by providing similar liability protections for volunteer firefighter companies. The basic purpose of this provision is to induce donations of surplus firefighting equipment by reducing the threat of civil liability for organizations (most commonly heavy industry) and individuals who wish to make these donations. The bill eliminates civil liability barriers to donations of surplus fire fighting equipment by raising the liability standard for donors from "negligence" to "gross negligence." By doing this, the legislation saves taxpayer dollars by encouraging donations, thereby reducing the taxpayers' burden of purchasing expensive equipment for volunteer fire departments.

The Good Samaritan Volunteer Firefighter Assistance Act of 2005 is modeled after a bill passed by the Texas state legislature in 1997 and signed into law by then-Governor George W. Bush which has resulted in more than $10 million in additional equipment donations from companies and other fire departments for volunteer departments which may not be as well equipped. Now companies in Texas can donate surplus equipment to the Texas Forest Service, which then certifies the equipment and passes it on to volunteer fire departments that are in need. The donated equipment must meet all original specifications before it can be sent to volunteer departments. Alabama, Arizona, Arkansas, California, Florida, Illinois, Indiana, Missouri, Nevada, South Carolina, and Pennsylvania have passed similar legislation at the state level.

Finally, my legislation provides commonsense medical liability protections to physicians who volunteer their time to assist patients at community health centers. The Expanding Charitable and Volunteer Opportunities Act would extend the medical liability protections of the Federal Torts Claim Act (FTCA) to volunteer physicians at community health centers. These protections are necessary to ensure that the centers can continue to lay an important role in lowering our Nation's health care costs and meeting the needs for affordable and accessible quality healthcare.

Community health centers offer an affordable source of quality health care, but we need more of them. The President has proposed a $304 million increase for community health center programs to create 1,200 new or expanded sites to serve an additional 6.1 million people by next year. In order to meet that goal, the centers must double their workforce by adding double the clinicians by 2006. Hiring this many doctors would be costly, but encouraging more to volunteer would help to meet this need. While many physicians are willing to volunteer their services at these centers, they often hesitate due to the high cost of medical liability insurance. As a result, there are too few volunteer physicians to meet our health care needs. Expanding FTCA protection to these physicians cannot come at a more opportune time.

The spirit of giving is part of what makes America great. But more can be done to assist the needy. The Expanding Charitable and Volunteer Opportunities Act provides added incentives to those who wish to donate equipment or time. I encourage my colleagues to support this legislation.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 1126. A bill to provide that no federal funds may be expended for the payment or reimbursement of a drug that is prescribed to a sex offender for the treatment of sexual or erectile dysfunction; to the Committee on Finance.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NO FEDERAL FUNDS FOR DRUGS PRESCRIBED TO SEX OFFENDERS FOR THE TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) RESTRICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds may be expended for the payment or reimbursement, including payment or reimbursement under the programs described in paragraph (2), of a drug that is prescribed to an individual described in paragraph (3) for the treatment of sexual or erectile dysfunction.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph are the medicaid program, the medicare program, the Federal employees health benefits program, the Defense Health Program, the program of medical care furnished by the Secretary of Veterans Affairs, health related programs administered by the Indian Health Service, health related programs funded under the Public Health Service Act, and any other Federal health program.

(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who has a conviction for sexual abuse, sexual assault, or any other sexual offense.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to drugs dispensed on or after the date of enactment of this Act.

By Ms. SNOWE (for herself, Mr. THUNE, Ms. COLLINS, Mr. SUNUNU, Ms. MURKOWSKI, Mr. DOMENICI, Mr. LIEBERMAN, Mr. DODD, Mr. GREGG, Mr. LOTT, Mr. JOHNSON, Mr. CORZINE, Mr. BINGAMAN, and Mr. LAUTENBERG):

S. 1127. A bill to require the Secretary of Defense to submit to Congress all documentation related to the Secretary's recommendations for the 2005 round of defense base closure and realignment; read the first time.

Ms. SNOWE. Mr. President, I rise today to introduce a bill designed to ensure the Department of Defense releases both to the Congress and to the Base Realignment and Closure Commission all of the information used in generating its recommendations in the current BRAC round.

First, I want to thank the bill's sponsors for their support in this effort—Senators THUNE, COLLINS, SUNUNU, MURKOWSKI, DOMENICI, LIEBERMAN, DODD, GREGG, LOTT, JOHNSON, CORZINE, and BINGAMAN. I appreciate their recognition of the critical importance of ensuring we are given the information it is only right we have with regard to this base closure process.

Under the current Base Closing and Realignment statute, the Secretary of Defense shall make:

> all information used by the Secretary to prepare the recommendations under this subsection available to Congress, including any committee or member of Congress.

The Secretary owes this same obligation to the BRAC Commission and to the Comptroller General of the United States.

Moreover, the Secretary of Defense is required to produce the data justifying their base closing decisions within 7 days—7 days. The 2005 BRAC list was released on Friday, May 13. Here we are, nearly two weeks later, and the Department of Defense continues to flout a key requirement of the very BRAC statute that gives it base closure authority in the first place. This amounts to a blatant refusal by the Pentagon to back up its highly questionable decisions to close a number of military facilities that are absolutely irreplaceable and indispensable to our national security.

Closing bases—or effectively shuttering them through massive realignment—of the magnitude that we are dealing with could only have been made by ignoring or misapplying BRAC criteria. The Defense Department's subsequent refusal to release the very data on which such decisions were made effectively shrouds the entire process in secrecy, depriving the bases and communities impacted, as well as the BRAC Commission, from gaining access to the very data needed to review the Pentagon's decisions.

What type of data am I talking about? To us a few examples from my own office's experience, the Department of the Navy has yet to release a detailed breakdown of cost of closure assessments, including factors applied by the COBRA model if they did not do actual cost estimates. We have yet to see all of the options considered by the Chief of Naval Operations or the Vice Chief of Naval Operations to reduce excess capacity in shipyards, including closure, realignment, workload shifts and private sector capacity. We have still not received a detailed breakdown of cost of operations assessment, including shipyard and base costs.

These are just a few specific examples of what has not been provided. Other general categories would include data on the economic impact on existing communities, the degree to which the Defense Department looked into the ability of Maine's bases to accommodate future mission capabilities, and the impact of costs related to potential environmental restoration, waste management, environmental compliance restoration, readiness, future mission requirements. There are a number of such issues that are included in the base closing statute that requires the Defense Department to consider in making its evaluation and making, as well, its original determination, in terms of which bases they would recommend for closure or realignment.

The Defense Department's stall tactics are most acutely felt by those currently preparing to make presentations before realignment or closure of their specific bases. Here we are, on May 25, almost 2 weeks after the release of the base-closing list, and yet this critical data is still being sequestered behind Pentagon walls, and the communities affected by these closures are now forced to fly blind as they make their cases before the base-closing commission.

How hamstrung are these advocates, including many of my colleagues in the Senate and in the House of Representatives? Allow me to elaborate.

The first base-closing hearings are expected to take place in Salt Lake City on June 7, less than 2 weeks from now. How are the advocates for Mountain Home Air Force Base in Idaho or Defense Finance and Accounting Service stations in Kansas City and St. Louis supposed to prepare for a case, for a hearing in less than 2 weeks with this critical data being withheld?

The scheduled base-closing hearings to follow are no less forgiving. In fact, between June 15 and June 30, base-closing commission hearings will be held in the following cities: Fairbanks, AK; Portland, OR; Rapid City, SD; Dallas, TX; Grand Forks, ND; Clovis, NM; Buffalo, NY; Charlotte, NC; and Atlanta, GA.

In my case, in the State of Maine, in Portsmouth, NH, for Portsmouth Naval Shipyard, for Brunswick Air Force station, for the Defense Accounting Service in Limestone, ME, those will be scheduled on July 6 in Boston.

We are all working feverishly, as many of my colleagues are, along with State governments and all officials, to get our presentations for these most vital and critical hearings in order. Yet given the current blackout of backup data, that task is akin to defending one's self in a criminal case without the prosecutor putting forth the supposedly incriminating evidence.

This Department of Defense has taken foot dragging and obfuscation to new state-of-the-art levels. The bill I am introducing today will make clear that this delinquency will result in serious consequences.

So the legislation I am introducing is very straightforward and to the point. First, it states that the Department of Defense has 7 days from the date of the enactment of this law in which to release all of its supporting data for its realignment and closure decisions. Second, if this 7-day deadline is not met, the entire base-closing process of 2005 is canceled. Third, even if this deadline is met, all the base-closing statutory deadlines are pushed back by the number of days that the Defense Department delayed in producing this data.

This legislation is the full embodiment of fairness and due process. It ensures that those bases in communities attempting to prevent closures or realignment have access to the same facts the Pentagon did, and that failure to provide that information will carry appropriate consequences. And it is our last chance to reverse the egregious decisions made in the closing and realignment process.

The integrity of the base-closing process and of the decisions that are made on individual facilities depends on the accuracy of the data used and on the validity of the calculations and comparisons made using this data. Congress and the base-closing commission simply cannot discharge their responsibilities under the base-closing statute without this most vital information.

It would be bad enough if it were only the Congress and the Commission that were being hindered in carrying out our collective duties with regard to the base-closing process. But it is the communities where these bases are located that are suffering the greatest harm through their inability to find out what the basis of the Department's decision to close these installations was.

These towns and cities that have supported these bases for decades—or in some cases, like Kittery, ME, and Portsmouth, NH; Brunswick Air Station in Limestone, ME, for centuries—are being harmed through DOD's continued delay in making this data available. The community groups are handicapped in their efforts to understand the Department's base-closing analysis, assumptions, and conclusions therefore in their efforts to provide accurate rebuttal arguments or information to the Commission that the Department of Defense may not have considered.

So the communities not only have suffered the shock of potentially losing what is in most cases the single most important economic engine in their communities, but to add insult to injury, have not been given the full picture of why these installations they rely upon and that relied upon them was among those chosen to close. That cannot be allowed to stand.

Indeed, I am certain DOD will realize it cannot continue to withhold this information and will ultimately get to the bottom of this. We will then be able to see the weaknesses in the Navy's arguments with respect to the facilities in Maine. We will see that the facts indisputably prove there is no way to reasonably conclude this Nation should forfeit the long and distinguished history embodied in these facilities in a critical report like Kittery-Portsmouth Naval Shipyard or Brunswick Naval Air Station that are unequal in their performance.

We will also make sure the base-closing commission has the information with respect to the role that the Defense Accounting Services has played in Limestone, ME, the very anchor for the conversion of the former Loring Air Force Base closed in one of the last rounds of 1991 that certainly devastated that area and the State of Maine when we lost more than 10,000 that led to the outmigration of more than 20,000 in our northern county. It really was devastating to also learn that the Department of Defense decided to select Defense Accounting Services not only in Limestone but across this country. It was the very anchor for conversion to help mitigate the loss of this most crucial base up in northern Maine.

We will see that the facts undisputedly prove that the Navy ignored aspects of the base-closing criteria that I happen to believe can only lead to a finding that Brunswick Naval Air Station, as the only remaining fully operational airfield in the Northeastern United States, plays a singular, critical role in this Nation's homeland security and homeland defense posture and must continue to do so in the future. It really was inconceivable to me that the Department of Defense would also recommend closing Kittery-Portsmouth Naval Shipyard, the finest shipyard of its kind in the U.S. Navy.

In fact, the day before the base-closing list was announced on May 13, the Secretary of the Navy issued a Meritorious Unit Commendation to Kittery-Portsmouth Naval Shipyard for, in its words, "superbly and consistently performing its missions," establishing benchmarks above and beyond both the public and private sector, having established, in their words, again, "a phenomenal track record" when it came to cost and quality and schedule and safety.

In fact, it had just been awarded the top safety award—the only facility in the Department of Defense and the only facility in the Navy, and only the second in the Department of Defense. That is a remarkable track record.

It also saves money for the taxpayers, and it saves time and money for the Navy. In fact, when it comes to refuelings at Kittery-Portsmouth Naval Shipyard, it saves $75 million on average compared to the other yards that do the same work. It saves $20 million when it comes to overhauls compared to the other yards that do the same work. It saves 6 months in time in sending the ships back to sea sooner on refuelings compared to the other yards that do the same work. And it saves 3 months in time on overhauls compared to other yards that do the same work.

So one would argue, and certainly would ask the question, as I did of the Secretary of the Navy, what message does that send to the men and women of that shipyard when they are the overachievers, doing the best work and told they are No. 1 of its kind in its category, and we are saying, well, we are going to transfer that work elsewhere, to those who have not performed the equivalent result when it comes to time and money.

They are No. 1. But we are sending a message to those who are the best, we tell them the next day, well, you know what. You are doing such a great job that we have decided to close.

When it comes to Brunswick Naval Air Station, it is the only remaining active military airfield in the Northeast. The Northeast is home to 18 percent of America's population. It was, obviously, the region that received the most devastating attack on American soil on September 11.

And now we hear from the Defense Department that we want to realign this base—essentially, it is tantamount to closure—when it is a state-of-the-art facility, well positioned strategically, with unincumbered airspace of 63,000 miles—space of which to expand many times over—well positioned on our coastline for conducting surveillance in the North Atlantic sealane so important to extending the maritime domain awareness of the Coast Guard when it comes to one of the greatest threats facing America; that is, the shipments of weapons of mass destruction. So it raises a number of questions as to why these facilities were designated by the Department of Defense for closure.

What is even more disturbing is that in order to make the case before the base-closing commission, in an extremely limited period of time compared to the four previous base-closing rounds—which I am intimately familiar with, having been part of them in the past; we had 6 months—in this base-closing round, we have 4 months. It is on an expedited timeframe; therefore, it makes it even more difficult, more problematic, to make your case, when every day is going to count, and the Department of Defense is withholding all of the information upon which we have to make our case.

We are required by law to have that information because in order to make your case, you have to prove that the Department of Defense deviated substantially—deviated substantially—from the criteria in the base-closing statute when it comes to military value, operational readiness, the closing costs, the costs of operations of that particular facility, the economic impacts, so on and so on.

Now, it certainly is a mystery to me as to how the Defense Department could have made all these decisions—33 major base closings and another 29 realignments and many more for adjustments—and yet they cannot ensure that the information and the data they utilized is forthcoming. Well, then, it just raises the question, How did they make these decisions in the first place? Why have they not readily turned over the information that we require in order to make our case?

For the Commission to overturn a decision recommendation by the Department of Defense, it requires us to make a case that they deviated substantially from the criteria set forth in the base-closing statute. So it is obvious we need the information because not to have the information they used inhibits us and prohibits us from making the documentations that are required under the law.

I think it is a fundamental flouting of the law. We have insisted, day in and day out, we need this information. We deserve to have this information. The men and women who work at these military facilities who serve our country deserve to have this information. It is important to our national security interests because we need to know the information upon which this Defense Department predicated its assumptions. And it is not enough just to get their conclusions, it is not enough just to get their assumptions, we need all of the empirical data that was used to make those assumptions and conclusions. How did they arrive at those decisions?

For example, when you look at the force structure of submarines, the new attack submarines, on which the Portsmouth Naval Yard works, those decisions have to be predicated on 55 attack submarines, 55. That was included in the base-closing criteria, 2004. The force structure at that time was 55 attack submarines—still is—but the Department of Defense is changing their force structure after they already made the recommendations. How can they make a recommendation based on 55 attack submarines but then decide, well, maybe a year later we can reduce that number? We have already made the decision.

It raises a considerable number of questions about the flawed information and the flawed process. Yet we have not had an opportunity to evaluate it. We have lost a critical 2 weeks in this process and, again, as I said, on a very expedited timeframe in which to make these decisions, to evaluate the information, and to submit our case before the base-closing commission in the scheduled hearings over this next month.

If the Department of Defense does not provide this information in a timely manner, then this round of base closings is fundamentally flawed and is designed to close critical military infrastructure at a time when our Nation faces a changing, unpredictable threat environment, and, therefore, it should be brought to an end. If they cannot provide this information in a timely fashion, that is exactly what should occur.

I believe it does really underscore the integrity and the lack of the integrity in this process because it certainly stands to reason, and certainly it is a fair assumption to make, that the Department of Defense should be able to turn over instantaneously all of the information they used to make these critical decisions. After all, they have had a considerable period of time in which to make these decisions. So, therefore, it should not be very difficult to provide that information. But we continue to get the consistent stonewalling and obfuscation that is preventing us from evaluating these decisions in order to do what is required under the law to demonstrate how these decisions are faulty and to evaluate the information. We deserve no less than that.

So I thank my colleagues for joining me in this effort to compel the Department of Defense to stand up and be accountable for this decisionmaking process and to release the data that we deserve that led to these decisions with respect to base closings so we understand exactly how they arrived at their decisions that are so critical and central to our national security.

I regret we are in this position in the first place. I opposed this base-closing process. It certainly should have been deferred. We should have considered the overseas base closings before we looked at domestic installations. In fact, that certainly was an issue in the overseas base-closing report that was issued recently. So we do not have an overall structure in which to consider the macroplans. That is what should have been done. We should be looking at all these issues in a totality because we are in a very different environment than we were even pre-September 11, 2001, and our threat environment has to be looked through an entirely different prism.

In fact, as I mentioned on the floor just about a year ago, in attempting to defer this process until we had a chance to evaluate overseas bases, one of the issues I looked at was the track record of the Department of Defense in terms of ascertaining the future threat environments. What could they anticipate were future threats? I have to say that I was somewhat shocked by the findings because I evaluated the force structure reports and military threat assessments that were required to be accompanied with the base-closing rounds in previous years.

It was interesting. I decided to discern, exactly when did they anticipate a threat of terrorism, asymmetric threats, or threats to our homeland security? And it was a startling and abysmal picture because they had a significantly flawed track record. The first time that a threat to our homeland security was even mentioned was in the Quadrennial Defense Review of 1997. Mr. President, 1997—that was 4 years before September 11. At that time, with the previous base-closing rounds, these base-closing commissions were required to make a 6-year outlook for the potential threats and anticipated threats—6 years. Now, with this base-closing round, it requires 20 years. But even with 6 years out, they could not even discern a threat to our homeland security. They mentioned it in the Quadrennial Defense Review of 1997, but it was a fourth-tier concern. And that was 4 years out from September 11—4 years out from September 11.

Nineteen days after September 11, we had another quadrennial defense review issued by the Department of Defense. Al-Qaida wasn't even mentioned in that quadrennial defense review. It wasn't even mentioned 19 days after September 11.

So I think that gives you a measure of the understanding that the Department of Defense has not had an accurate or reliable determination of potential threats this country could face—not even 4 years out, not even 19 days after September 11—to the degree that al-Qaida was a threat to this country. That is the problem, Mr. President. We do not have an accurate picture.

This base-closing round is required to ascertain the threat environment and projecting 20 years out. Mind you, over the last more than 10 years, all throughout the nineties, when we had the World Trade Center bombing, Khobar Towers, Kenya, and Tanzania, all throughout that decade—and we had the USS *Cole* in 2000—there was only one time in that decade there was a mention of homeland security in any fashion. I think that is pretty telling.

So the fact that the Department of Defense cannot bring forward the information that validates or invalidates their assumptions and conclusions is particularly troubling in this threat environment. I regret we are in the situation today of having to beg, plead, and persuade to try to get some glimmer into the insights, into the documentation evaluation they made in reaching these final conclusions. More than anything else, the statute requires those to be making the case before the Base Closing Commission to determine how the Department of Defense deviated substantially from the criteria. How are we to know, if they don't depend upon the very department who makes the decision, has the information, and has yet to transmit them forthwith to all of the respective delegations and officials who are given the opportunity to make the case before the Base Closing Commission?

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 154—DESIGNATING OCTOBER 21, 2005 AS "NATIONAL MAMMOGRAPHY DAY"

Mr. BIDEN (for himself, Mr. ALLARD, Mr. ALLEN, Mr. BUNNING, Ms. CANTWELL, Mr. COCHRAN, Mr. DORGAN, Mrs. HUTCHISON, Mr. ISAKSON, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. SANTORUM, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 154

Whereas according to the American Cancer Society, in 2005, 212,930 women will be diagnosed with breast cancer and 40,410 women will die from this disease;

Whereas it is estimated that about 2,000,000 women were diagnosed with breast cancer in the 1990s, and that in nearly 500,000 of those cases, the cancer resulted in death;

Whereas African-American women suffer a 30 percent greater mortality rate from breast cancer than White women and more than a 100 percent greater mortality rate from breast cancer than women from Hispanic, Asian, and American Indian populations;

Whereas the risk of breast cancer increases with age, with a woman at age 70 having twice as much of a chance of developing the disease as a woman at age 50;

Whereas at least 80 percent of the women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at a certified facility, can provide safe screening and early detection of breast cancer in many women;

Whereas mammography is an excellent method for early detection of localized breast cancer, which has a 5-year survival rate of more than 97 percent;

Whereas the National Cancer Institute and the American Cancer Society continue to recommend periodic mammograms; and

Whereas the National Breast Cancer Coalition recommends that each woman and her health care provider make an individual decision about mammography: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 21, 2005, as "National Mammography Day"; and

(2) encourages the people of the United States to observe the day with appropriate programs and activities.

Mr. BIDEN. Mr. President, today I am submitting a resolution designating October 21, 2005, as "National Mammography Day." I might note that I have submitted a similar resolution each year since 1993, and on each occasion the Senate has shown its support for the fight against breast cancer by approving the resolution.

Each year, as I prepare to submit this resolution, I review the latest information from the American Cancer Society about breast cancer. For the year 2005, it is estimated that slightly more than 211,000 women will be diagnosed with breast cancer and slightly more than 40,000 women will die of this disease.

In past years, I have often commented on how gloomy these statistics were. But as I review how these numbers are changing over time, I have come to the realization that it is really more appropriate to be optimistic. The number of deaths from breast cancer is actually stable or falling from year to year. Early detection of breast cancer continues to result in extremely favorable outcomes: 97 percent of women with localized breast cancer will survive 5 years or longer. New digital techniques make the process of mammography much more rapid and precise than before. Government programs will provide free mammograms to those who can't afford them, as well as Medicaid eligibility for treatment if breast cancer is diagnosed. Just a few weeks ago, the headline on the front page of the Washington Post trumpeted a major improvement in survival of patients with early breast cancer following use of modern treatment regimens involving chemotherapy and hormone therapy. Information about treatment of breast cancer with surgery, chemotherapy, and radiation therapy has exploded, reflecting enormous research advances in this disease. So I am feeling quite positive about our battle against breast cancer. A diagnosis of breast cancer is not a death sentence, and I encounter long-term survivors of breast cancer nearly daily.

In recent times, the newspapers have been filled with discussion over whether the scientific evidence actually supports the conclusion that periodic screening mammography saves lives. It seems that much of this controversy relates to new interpretations of old studies, and the relatively few recent studies of this matter have not clarified this issue. Most sources seem to agree that all of the existing scientific studies have some weaknesses, but it is far from clear whether the very large and truly unambiguous study needed to settle this matter definitively can ever be done.

So what is a woman to do? I do not claim any expertise in this highly technical area, so I rely on the experts. The American Cancer Society, the National Cancer Institute, and the U.S. Preventive Services Task Force all continue to recommend periodic screening mammography, and I endorse the statements of these distinguished bodies.

On the other hand, I recognize that some women who examine these research studies are unconvinced of the need for periodic screening mammography. However, even those scientists who do not support periodic mammography for all women believe that it is appropriate for some groups of women with particular risk factors. In agreement with these experts, I encourage all women who have doubts about the usefulness of screening mammography in general to discuss with their individual physicians whether this test is appropriate in their specific situations.

So my message to women is: have a periodic mammogram, or at the very least discuss this option with your own physician.

I know that some women don't have annual mammograms because of either fear or forgetfulness. It is only human nature for some women to avoid mammograms because they are afraid of what they will find. To those who are fearful, I would say that if you have periodic routine mammograms, and the latest one comes out positive, even before you have any symptoms or have found a lump on self-examination, you have reason to be optimistic, not pessimistic. Such early-detected breast cancers are highly treatable.

Then there is forgetfulness. I certainly understand how difficult it is to remember to do something that only comes around once each year. I would suggest that this is where "National Mammography Day" comes in. On that day, let's make sure that each woman we know picks a specific date on which to get a mammogram each year, a date that she won't forget: a child's birthday, an anniversary, perhaps even the day her taxes are due. On National Mammography Day, let's ask our loved ones: pick one of these dates, fix it in your mind along with a picture of your child, your wedding, or another symbol of that date, and promise yourself to get a mammogram on that date every year. Do it for yourself and for the others that love you and want you to be part of their lives for as long as possible.

And to those women who are reluctant to have a mammogram, I say let National Mammography Day serve as a reminder to discuss this question each year with your physician. New scientific studies that are published and new mammography techniques that are developed may affect your decision on this matter from one year to the next. I encourage you to keep an open mind and not to feel that a decision at one point in time commits you irrevocably to a particular course of action for the indefinite future.

I urge my colleagues to join me in the ongoing fight against breast cancer by cosponsoring and voting for this resolution to designate October 21, 2005, as "National Mammography Day."

SENATE RESOLUTION 155—DESIGNATING THE WEEK OF NOVEMBER 6 THROUGH NOVEMBER 12, 2005, AS "NATIONAL VETERANS AWARENESS WEEK" TO EMPHASIZE THE NEED TO DEVELOP EDUCATIONAL PROGRAMS REGARDING THE CONTRIBUTIONS OF VETERANS TO THE COUNTRY

Mr. BIDEN (for himself, Mr. Allard, Mr. Allen, Mr. Baucus, Mr. Bond, Mr. Chambliss, Mr. Coburn, Ms. Collins, Mr. Crapo, Mrs. Dole, Mr. Feingold, Mr. Gregg, Mr. Hagel, Mr. Inhofe, Mr. Isakson, Mr. Kennedy, Mr. Lautenberg, Mr. Levin, and Mr. Thomas) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 155

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century;

Whereas the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by the people of the United States;

Whereas the advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces;

Whereas this reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in the Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations;

Whereas the system of civilian control of the Armed Forces makes it essential that the future leaders of the Nation understand the history of military action and the contributions and sacrifices of those who conduct such actions; and

Whereas, on November 9, 2004, President George W. Bush issued a proclamation urging all the people of the United States to observe November 7 through November 13, 2004, as "National Veterans Awareness Week": Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of November 6 through November 12, 2005, as "National Veterans Awareness Week"; and

(2) encourages the people of the United States to observe the week with appropriate educational activities.

Mr. BIDEN. Mr. President, today I am submitting a resolution expressing the sense of the Senate that the week that includes Veterans' Day, corresponding this year to November 6–12, 2005, be designated as "National Veterans Awareness Week". This marks the sixth year in a row that I have submitted such a resolution, which has been adopted unanimously by the Senate on all previous occasions.

The purpose of National Veterans Awareness Week is to serve as a focus for educational programs designed to make students in elementary and secondary schools aware of the contributions of veterans and their importance in preserving American peace and prosperity. This goal takes on particular importance and immediacy this year as we find ourselves again with uniformed men and women in harm's way in foreign lands.

Why do we need such an educational effort? In a sense, this action has become necessary because we are victims of our own success with regard to the superior performance of our armed forces. The plain fact is that there are just fewer people around now who have had any connection with military service. For example, as a result of tremendous advances in military technology and the resultant productivity increases, our current armed forces now operate effectively with a personnel roster that is one-third less in size than just 15 years ago. In addition, the success of the all-volunteer career-oriented force has led to much lower turnover of personnel in today's military than in previous eras when conscription was in place. Finally, the number of veterans who served during previous conflicts, such as World War II, when our military was many times larger than today, is inevitably declining.

The net result of these changes is that the percentage of the entire population that has served in the Armed Forces is dropping rapidly, a change that can be seen in all segments of society. Whereas during World War II it was extremely uncommon to find a family in America that did not have one of its members on active duty, now there are numerous families that include no military veterans at all. Even though the Iraqi war has been prominently discussed on television and in the newspapers, many of our children are much more preoccupied with the usual concerns of young people than with keeping up with the events of the day. As a consequence, many of our youth still have little or no connection with or knowledge about the important historical and ongoing role of men and women who have served in the military. This omission seems to have persisted despite ongoing educational efforts by the Department of Veterans Affairs and the veterans service organizations.

This lack of understanding about military veterans' important role in our society can have potentially serious repercussions. In our country, civilian control of the armed forces is the key tenet of military governance. A citizenry that is oblivious to the capabilities and limitations of the armed forces, and to its critical role throughout our history, can make decisions regarding our military involvement that may have unexpected and unwanted consequences. Even more important, general recognition of the importance of those individual character traits that are essential for military success, such as patriotism, selflessness, sacrifice, and heroism, is vital to maintaining these key aspects of citizenship in the armed forces and even throughout the population at large.

The failure of our children to understand why a military is important, why our society continues to depend on it for ultimate survival, and why a successful military requires integrity and sacrifice, will have predictable consequences as these youngsters become of voting age. Even though military service is a responsibility that is no longer shared by a large segment of the population, as it has been in the past, knowledge of the contributions of those who have served in the Armed Forces is as important as it has ever been. To the extent that many of us will not have the opportunity to serve our country in uniform, we must still remain cognizant of our responsibility as citizens to fulfill the obligations we owe, both tangible and intangible, to those who do serve and who do sacrifice on our behalf.

The importance of this issue was brought home to me several years ago by Samuel I. Cashdollar, who was then a 13-year-old seventh grader at Lewes Middle School in Lewes, DE. Samuel won the Delaware VFW's Youth Essay Contest that year with a powerful presentation titled "How Should We Honor America's Veterans"? Samuel's essay pointed out that we have Nurses' Week, Secretaries' Week, and Teachers' Week, to rightly emphasize the importance of these occupations, but the contributions of those in uniform tend to be overlooked. We don't want our children growing up to think that Veterans Day has simply become a synonym for a department store sale, and we don't want to become a nation where more high school seniors recognize the name Britney Spears than the name Dwight Eisenhower.

National Veterans Awareness Week complements Veterans Day by focusing on education as well as commemoration, on the contributions of the many in addition to the heroism and service of the individual. National Veterans Awareness Week also presents an opportunity to remind ourselves of the contributions and sacrifices of those who have served in peacetime as well as in conflict; both groups work unending hours and spend long periods away from their families under conditions of great discomfort so that we all can live in a land of freedom and plenty.

Last year, my Resolution designating National Veterans Awareness Week was approved in the Senate by unanimous consent. Responding to that Resolution, President Bush issued a proclamation urging our citizenry to observe National Veterans Awareness Week. I ask my colleagues to continue this trend of support for our veterans by endorsing this resolution again this year. Our children and our children's children will need to be well informed about what veterans have accomplished in order to make appropriate decisions as they confront the numerous worldwide challenges that they are sure to face in the future.

SENATE RESOLUTION 156—DESIGNATING JUNE 7, 2005, AS "NATIONAL HUNGER AWARENESS DAY" AND AUTHORIZING THAT THE SENATE OFFICES OF SENATORS GORDON SMITH, BLANCHE L. LINCOLN, ELIZABETH DOLE, AND RICHARD J. DURBIN BE USED TO COLLECT DONATIONS OF FOOD FROM MAY 26, 2005, UNTIL JUNE 7, 2005, FROM CONCERNED MEMBERS OF CONGRESS AND STAFF TO ASSIST FAMILIES SUFFERING FROM HUNGER AND FOOD INSECURITY IN THE WASHINGTON, D.C. METROPOLITAN AREA

Mr. DURBIN (for himself, Mr. SMITH, Mrs. LINCOLN, Mrs. DOLE, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 156

Whereas food insecurity and hunger are a fact of life for millions of low-income Americans and can produce physical, mental, and social impairments;

Whereas recent census data show that almost 36,300,000 people in the United States live in households experiencing hunger or food insecurity;

Whereas the problem of hunger and food insecurity can be found in rural, suburban, and urban America, touching nearly every American community;

Whereas although substantial progress has been made in reducing the incidence of hunger and food insecurity in the United States, certain groups, including the working poor, the elderly, homeless people, children, migrant workers, and Native Americans remain vulnerable to hunger and the negative effects of food deprivation;

Whereas the people of the United States have a long tradition of providing food assistance to hungry people through acts of private generosity and public support programs;

Whereas the United States Government, through Federal food assistance programs like the Federal Food Stamp Program, child nutrition programs, and food donation programs, provides essential nutrition support to millions of low-income people;

Whereas there is a growing awareness of the important public and private partnership role that community-based organizations, institutions of faith, and charities provide in assisting hungry and food insecure people;

Whereas more than 50,000 local community-based organizations rely on the support and efforts of more than 1,000,000 volunteers to provide food assistance and services to millions of vulnerable people;

Whereas a diverse group of organizations have documented substantial increases in requests for emergency food assistance over the past year; and

Whereas all Americans can help participate in hunger relief efforts in their communities by donating food and money, volunteering, and supporting public policies aimed at reducing hunger: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 7, 2005, as "National Hunger Awareness Day";

(2) calls upon the people of the United States to observe "National Hunger Awareness Day"—

(A) with appropriate ceremonies, volunteer activities, and other support for local antihunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters; and

(B) with the year-round support of programs and public policies that reduce hunger and food insecurity in the United States; and

(3) authorizes the offices of Senators Smith, Lincoln, Dole, and Durbin to collect donations of food from May 26, 2005, until June 7, 2005, from concerned Members of Congress and staff to assist families suffering from hunger and food insecurity in the Washington, D.C. metropolitan area.

SENATE CONCURRENT RESOLUTION 38—PERMITTING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A CEREMONY TO AWARD THE CONGRESSIONAL AWARD GOLD MEDAL TO NATIONAL RECIPIENTS

Mr. CRAIG (for himself and Mr. BAUCUS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 38

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need positive direction as they transition into adulthood;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Congressional Awards program is committed to recognizing our Nation's most valuable asset, our youth, by encouraging them to set and accomplish goals in the areas of volunteer public service, personal development, physical fitness, and expedition/exploring;

Whereas more than 21,000 young people have been involved in the Congressional Awards program this year;

Whereas through the efforts of dedicated advisors across the country, this year 238 students earned the Congressional Award Gold Medal;

Whereas increased awareness of the program's existence will encourage youth throughout the Nation to become involved with the Congressional Awards: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on June 22, 2005, for a ceremony to award Congressional Award Gold Medals to national recipients. Physical preparation for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday, May 25, 2005, at 10 a.m. in SR-328A, Russell Senate Office Building. The purpose of this hearing will be to review the United States Grain Standards Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 25, 2005, at 10 a.m., to conduct a hearing on the nomination of Mr. Ben S. Bernanke, of New Jersey, to be a member of the Council of Economic Advisers; and Mr. Brian D. Montgomery, of Texas, to be Assistant Secretary of Housing/Federal Housing Commissioner, U.S. Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 25, 2005, at 10 a.m. on S. 360, Coastal Zone Management Reauthorization Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 25, 2005, at 9:30 a.m. to consider comprehensive energy legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, May 25, 2005, at 9:30 a.m., to conduct an oversight hearing to review Permitting of Energy Projects. The hearing will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, May 25, 2005, at 10 a.m., to hear testimony on "Social Security: Achieving Sustainable Solvency."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 25, 2005, at 9:30 a.m., to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. VOINOVICH. Mr. President, I as unanimous consent that the Committee on Health, Education, Labor, and Pensions meet in executive session during the session of the Senate on Wednesday, May 25, 2005, at 9:50 a.m., in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, May 25, 2005, at 9:30 a.m., for a hearing titled, "How Counterfeit Goods Provide Easy Cash for Criminals and Terrorists."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, May 25, 2005, at 2:30 p.m., to consider the nomination of Linda M. Combs to be Controller, Office of Federal Financial Management, Office of Management and Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, May 25, 2005, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a hearing on S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native peoples on behalf of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Wednesday, May 25, 2005 at 9:30 a.m., in Senate Dirksen Office Building, room 226. Currently, S. 852, the asbestos legislation, is the only item on the agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. VOINOVICH. Mr. President, I ask unanimous consent, pursuant to rule 26.5(a) of the Standing Rules of the Senate that the Select Committee on Intelligence be authorized to meet after conclusion of the first 2 hours after the meeting of the Senate commences on May 25, 2005.

The PRESIDING OFFICER. Without objection, it so ordered.

SUBCOMMITTEE ON INTELLECTUAL PROPERTY

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Intellectual Property be authorized to meet to conduct a hearing on "Piracy of Intellectual Property" on Wednesday, May 2005, at 2:30 p.m., in Dirksen 226. The witness list is attached.

Panel I: Marybeth Peters, Register of Copyrights and Associate Librarian for Copyright Services, United States Copyright Office, Washington, DC; Stephen M. Pinkos, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office, Alexandria, VA; and James E. Mendenhall, Acting General Counsel, Office of the United States Trade Representative.

Panel II: Eric Smith, President, International Intellectual Property Alliance, Washington, DC; Taylor Hackford, Board Member, Directors Guild of America, Los Angeles, CA; and Robert W. Holleyman II, President and Chief Executive Officer, Business Software Alliance, Washington, DC.

The PRESIDENT OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LUGAR. Mr. President, I ask unanimous consent that Jennifer Gergen, a State Department detailee who is currently serving on the Foreign Relations Committee staff, be given floor privileges during the consideration of the John Bolton nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HUNGER AWARENESS DAY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of S. Res. 156, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 156) designating June 7, 2005, as "National Hunger Awareness Day" and authorizing that the Senate offices of Senators Gordon Smith, Blanche L. Lincoln, Elizabeth Dole, and Richard J. Durbin be used to collect donations of food from May 26, 2005, until June 7, 2005, from concerned Members of Congress and staff to assist families suffering from hunger and food insecurity in the Washington, D.C. metropolitan area.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 156) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 156

Whereas food insecurity and hunger are a fact of life for millions of low-income Americans and can produce physical, mental, and social impairments;

Whereas recent census data show that almost 36,300,000 people in the United States live in households experiencing hunger or food insecurity;

Whereas the problem of hunger and food insecurity can be found in rural, suburban, and urban America, touching nearly every American community;

Whereas although substantial progress has been made in reducing the incidence of hunger and food insecurity in the United States, certain groups, including the working poor, the elderly, homeless people, children, migrant workers, and Native Americans remain vulnerable to hunger and the negative effects of food deprivation;

Whereas the people of the United States have a long tradition of providing food assistance to hungry people through acts of private generosity and public support programs;

Whereas the United States Government, through Federal food assistance programs like the Federal Food Stamp Program, child nutrition programs, and food donation programs, provides essential nutrition support to millions of low-income people;

Whereas there is a growing awareness of the important public and private partnership role that community-based organizations, institutions of faith, and charities provide in assisting hungry and food insecure people;

Whereas more than 50,000 local community-based organizations rely on the support and efforts of more than 1,000,000 volunteers to provide food assistance and services to millions of vulnerable people;

Whereas a diverse group of organizations have documented substantial increases in requests for emergency food assistance over the past year; and

Whereas all Americans can help participate in hunger relief efforts in their communities by donating food and money, volunteering, and supporting public policies aimed at reducing hunger: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 7, 2005, as "National Hunger Awareness Day";

(2) calls upon the people of the United States to observe "National Hunger Awareness Day"—

(A) with appropriate ceremonies, volunteer activities, and other support for local antihunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters; and

(B) with the year-round support of programs and public policies that reduce hunger and food insecurity in the United States; and

(3) authorizes the offices of Senators Smith, Lincoln, Dole, and Durbin to collect donations of food from May 26, 2005, until June 7, 2005, from concerned Members of Congress and staff to assist families suffering from hunger and food insecurity in the Washington, D.C. metropolitan area.

RECOGNIZING THE HISTORIC EFFORTS OF THE REPUBLIC OF KAZAKHSTAN

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 122.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 122) recognizing the historic efforts of the Republic of Kazakhstan to reduce the threat of weapons of mass destruction through cooperation in the Nunn-Lugar/Cooperative Threat Reduction Program, and celebrating the 10th anniversary of the removal of all nuclear weapons from the territory of Kazakhstan.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 122) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 122

Whereas at the time of the collapse of the Union of Soviet Socialist Republics in December 1991, 1,410 nuclear warheads on heavy intercontinental ballistic missiles, air-launched cruise missiles, and heavy bombers were located within the Republic of Kazakhstan;

Whereas, on July 2, 1992, the parliament of Kazakhstan approved and made Kazakhstan a party to the Treaty on the Reduction and Limitation of Strategic Offensive Arms, with annexes, protocols and memorandum of understanding, signed at Moscow July 31, 1991, and entered into force December 5, 1994 (commonly known as the "START Treaty");

Whereas, on February 14, 1995, Kazakhstan formally acceded to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the "Nuclear Non-Proliferation Treaty");

Whereas, on December 13, 1993, the Government of Kazakhstan signed the Safe and Secure Dismantlement Act (SSD) and its 5 implementing agreements with the United States, and became eligible to receive $85,000,000 in assistance under the Nunn-Lugar/Cooperative Threat Reduction Program;

Whereas the decision of the people and the Government of Kazakhstan to transfer all nuclear weapons from the territory of Kazakhstan to the control of the Russian Federation allowed Kazakhstan to become a non-nuclear-weapon State Party to the Nuclear Non-Proliferation Treaty;

Whereas the continuing efforts of the Government of Kazakhstan to pursue cooperative efforts with the United States and other countries to secure, eliminate, destroy, or interdict weapons and materials of mass destruction and their means of delivery provides a model for such efforts; and

Whereas, in April 1995, the Government of Kazakhstan formally transferred the last nuclear warhead from the territory of Kazakhstan to the territory of the Russian Federation: Now, therefore be it

Resolved, That the Senate commends, on the occasion of the 10th anniversary of the removal of the last nuclear warhead from the territory of Kazakhstan, the people and the Government of the Republic of Kazakhstan for their historic decision to rid Kazakhstan of nuclear weapons.

MEASURE READ THE FIRST TIME—S. 1127

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1127) to require the Secretary of Defense to submit to Congress all documentation related to the Secretary's recommendations for the 2005 round of defense base closure and realignment.

Mr. McCONNELL. I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR THURSDAY, MAY 26, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate stand in adjournment until 9:30 in the morning, Thursday, May 26. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that the Senate then return to executive session and resume consideration of the nomination of John Bolton to be U.S. ambassador to the U.N. as provided under the previous order; provided that 1 hour be under the control of Senator VOINOVICH.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow, the Senate will resume consideration of the nomination of John Bolton to be U.S. ambassador to the U.N. As a reminder, cloture was just filed a moment ago on the nomination. The cloture vote on Bolton will occur at 6 p.m. tomorrow night. If cloture is invoked, we will immediately proceed to a confirmation vote. Therefore, I encourage all Members who wish to speak on the nomination to contact the managers as soon as possible.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the remarks of Senators LAUTENBERG, SNOWE, and SESSIONS.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR IN IRAQ

Mr. LAUTENBERG. Mr. President, as we approach this weekend, I thought I would give some thought to what occasions this commemorative holiday and what I think about as we approach Memorial Day. I want to recall some of the incidents, the results of war and its consequences.

It has been a historic week in the Senate. We averted a showdown that could have permanently damaged this institution and destroyed the unique American system of checks and balances that makes our Government the greatest in the history of the world. This was the topic of nonstop television coverage and a forest worth of newspaper articles.

In short, the story about the Senate's procedure for approving judicial nominees totally dominated the news, but there was another story this week, a story that did not receive much attention. It was the story of at least 14 brave American soldiers who died in Iraq since Sunday. These deaths came as a wave of bombings and suicide attacks engulfed Baghdad and other cities.

While we go about our business in the Senate, while other Americans go about their daily lives, the war in Iraq drags on. It has been a month since the Prime Minister Ibrahim al-Jaafari announced his new government, and during that time at least 620 people have been killed in Iraq, including 58 U.S. troops. During that time, it has been a painful recognition for families across America and across my State. Sadly, the American people have become so numb to these deaths that they are no longer considered major news, and the administration has not helped matters by continuing its questionable policy of banning photographs or video images of the flag-draped coffins of our heroes making their final trip home.

I have to ask a question: Is the purpose of this policy to hide the sacrifices of our soldiers and their families? I am hard-pressed to think of any other reason. This is an issue I have discussed on the floor of the Senate before. It stuns me that at the moment of the return of the remains of a family member, that casket covered in honor by the flag of our country is hidden from the public. No photos are allowed, no photographs allowed, and no attention paid.

As a veteran of an earlier war, I am very conscious of our responsibility to veterans and to those who are fighting the battle for all of us, and I wonder why the administration continues its policy of banning photographs or video images of the flag-draped coffins of our heroes making their final trip home. It seems as if they want to conceal the sacrifices of our soldiers and their families. I am hard pressed to think of any other reason.

As have most of my colleagues, where there has been a loss of life in the State that they represent, we have gone to a funeral or a ceremony acknowledging the sacrifice that these individuals have made and the pain their families undergo. I was at a funeral ceremony at Arlington when one of our New Jersey soldiers was buried. His family was present, mother and father. He was a young man, in his early twenties. I watched the ceremony as the Honor Guard escorted his coffin to the place of burial. It was covered with a flag. The Honor Guard was so precise and so immaculate in their appearance, so honorable. They took the American flag and folded it so gently but ever so precisely until through eight escorts and the captain of the Honor Guard, they made the folds so carefully until they got it into a triangle, and the captain of the Guard walked over to the man's mother and presented it to her. It was such a touching ceremony, this recognition of honor, this understanding of what this soldier who perished had done for his country.

I cannot understand why it is that we are not allowed to photograph these coffins when they come home with the remains, when they come to the Dover Air Force Base in Delaware before they go to the mortuary where the families have an opportunity to make certain that it is their family member who is being buried. But there is no identification of name, there is no ceremony. No family needs to feel as though its privacy is being invaded.

So I question that. I think it would be appropriate on this Memorial Day to start off after the Memorial Day recess and say, yes, anyone who is returned in a flag-draped coffin is entitled to receive the honor and the respect of the country that sent them there, our country. It is appropriate.

The pain goes on almost every day—reports of car bombings, roadside bombs, suicide attacks. They kill soldiers, they kill civilians, they kill children, sometimes in the double digits in a single incident, 20, 30 people. What they are trying to do is crush the spirit of the Iraqis who have been through so much at this point. Our people continue on bravely serving their country, serving the orders that they get from their Nation.

Within the last week, military leaders, however, had a change of tune when the leading general in charge of our operations in Iraq described as a sober assessment the situation in Iraq. That is the first that we have heard about that. We have heard continuously that we have enough troops to do the job, that the Iraqis are learning what they have to do to take over. It is not true. I was in Iraq approximately a year ago and saw how slowly the job of preparing policemen to take over was going. It was painfully slow. Often the recruits were found to be hopelessly untrained for the assignment, without the ability to drive a car, no driver's license, not literate. They were training something like 80 every 6 weeks.

So it is going to take a long time at the rate of 80 in 6 weeks to get 50,000 policemen trained.

According to the assessment that we heard from the commanding general, the bottom line was that American troops will probably be there for years to come. For the 140,000 who serve there today, there is no quick end in sight.

I do not take the floor to debate the wisdom of the war in Iraq or the way it has been prosecuted. Today I speak to honor the more than 1,600 American soldiers who have given their lives in Iraq and more than 170 who have died in Afghanistan.

In front of my office in the Hart Building there are pictures of those fallen heroes identifying them by name as a reminder of what is going on even as we discuss issues of some critical relevance and some not so important. The most important thing is that we have people who are in their young years paying with their lives for the battle in which we are engaged in the Middle East.

Monday is Memorial Day. It is a day when our Nation honors the fallen heroes of all of our wars. I hope every American will pause for a minute during the day and reflect on the price that is being paid for our freedom and on those who have paid that price. The wars in Iraq and Afghanistan so far have claimed 56 sons of New Jersey, sons who died pursuing the battle in Afghanistan. Thirty were killed since last Memorial Day. Eleven have died this year. The wars have produced funerals and wakes and I have met the grieving families.

One of the most recent funerals I attended was for PFC Min Soo Choi. Here is a picture of the young man. His family came to America from Korea 5 years ago, in search of a better life. I have met his parents. I saw them this week again.

His story struck a chord with me because many years ago my parents were also immigrants, and I also enlisted in the Army as a young man. I enlisted when I was 18 years old. Min Soo was killed by a roadside bomb in Iraq on February 26. He wasn't even a U.S. citizen, but he loved this country and what it stands for.

At Min Soo's funeral I heard about what a unique individual he was. I felt the void that his death had left in the lives of his family and friends, and that is true of every 1 of the 1,600 who have died in this war. Each death leaves an ache that will never heal in the heart of a parent or spouse, brother or sister, or a small child. So on this Memorial Day I will pause not only to remember our fallen soldiers but also the loved ones they have left behind.

Mr. President, I know the hour is late, but I hope you will indulge me by allowing me to read into the CONGRESSIONAL RECORD, where they will be enshrined for all times, the names of the 56 soldiers with New Jersey connections who have given their lives in Iraq and Afghanistan:

SGT Steven Checo, Elizabeth; Corporal Michael Edward Curtin, Howell; Specialist Benjamin W. Sammis, West Long Branch; Staff Sergeant Terry W. Hemingway, Willingboro; Specialist Gil Mercado, Paterson—The city I was born in; Specialist Narson B. Sullivan, North Brunswick; Specialist, Kyle A. Griffin, Emerson; Sergeant First Class Gladimir Philippe, Linden; Specialist, Richard P. Orengo, Perth Amboy; First Sergeant Christopher D. Coffin, Somerville; Petty Officer First Class David M. Tapper, Atco; Captain Brian R. Faunce, Ocean; Staff Sgt. Fredrick L. Miller Jr., Jackson; Specialist Simeon Nathaniel Hunte, Essex; 2nd Lieut. Richard Torres, Passaic; Sergeant Joel Perez, Newark; Specialist Marion P. Jackson, Jersey City; Specialist Ryan Travis Baker, Browns Mills; Major Steven Plumhoff, Neshanic Station; Staff Sergeant Thomas A. Walkup, Millville; Specialist Marc S. Seiden, Brigantine; Second Lieutenant Seth J. Dvorin, Pennington; Private First Class Bruce Miller Jr., Orange; Specialist Adam D. Froehlich, Pine Hill; Second Lieutenant John Thomas Wroblewski, Oak Ridge; Lance Corporal Phillip E. Frank, Cliffwood Beach; Specialist Frank K. Rivers, Newark; Specialist Phillip I. Spakosky, Browns Mills; Sergeant Frank T. Carvill, Carlstadt; Specialist Christopher M. Duffy, Brick; Sergeant Ryan E. Doltz, Mine Hill; Sergeant Humberto F. Timoteo, Newark; Chief Warrant Officer Nicholas P. DiMona II, Barrington; Sergeant Alan D. Sherman, Ocean; CPL Terry Holmes Ordonez, Paterson; Lance Corporal Vincent M. Sullivan, Chatham; Specialist Anthony J. Dixon, Lindenwold; Army Special Forces Michael Yury Tarlavsky, Clifton; Specialist Yoe M. Aneiros, Newark; Specialist Bryan L. Freeman, Lumberton; Corporal Tyler Ryan, Gloucester City; Private First Class Stephen Benish, Linden; Specialist David P. Mahlenbrock, Maple Shade; Lance Cpl Brian P. Parrello, West Milford; 1st Class Sgt. Paul Karpowich, trained in Pennsauken; Specialist Alain Kamolvathin, Blairstown; Sergeant Stephen Sherman, Neptune; Corporal

Sean P. Kelly, Pitman; Lance Corporal Harry Raymond Swain III, Millville; PFC Min Soo Choi, River Vale—his picture is here; Captain Sean Grimes, Mother lives in Dover; Major Steven W. Thornton, based at Fort Monmouth; Private Robert C. White, Camden; Major John Charles Spahr, Cherry Hill; Staff Sgt. Anthony Lee Goodwin, Mt. Holly; Lance Corporal Jourdan L. Grez, Long Branch.

I also want to mention two civilians from New Jersey who were killed while supporting the war effort in Iraq: Paul M. Johnson of Eagleswood, and Thomas Jaichner of Burlington City.

I know each of my colleagues will join me this weekend in paying tribute to the brave soldiers who have sacrificed their lives for our country.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I ask unanimous consent I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Ms. SNOWE related to the introduction of S. 1127 are printed in today's RECORD under "Statements On Introduced Bills And Joint Resolutions.")

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:53 p.m., adjourned until Thursday, May 26, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 25, 2005:

COMMODITY FUTURES TRADING COMMISSION

WALTER LUKKEN, OF INDIANA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2010. (REAPPOINTMENT)

DEPARTMENT OF THE TREASURY

JOHN M. REICH, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM EXPIRING OCTOBER 23, 2007, VICE JAMES GILLERAN, TERM EXPIRED.

DEPARTMENT OF COMMERCE

WILLIAM ALAN JEFFREY, OF VIRGINIA, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY, VICE ARDEN BEMENT, JR.

DEPARTMENT OF TRANSPORTATION

ASHOK G. KAVEESHWAR, OF MARYLAND, TO BE ADMINISTRATOR OF THE RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, VICE ELLEN G. ENGLEMAN, RESIGNED.

INTER-AMERICAN DEVELOPMENT BANK

JAN E. BOYER, OF TEXAS, TO BE UNITED STATES ALTERNATE EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK, VICE HECTOR E. MORALES.

NATIONAL SCIENCE FOUNDATION

KATHIE L. OLSEN, OF OREGON, TO BE DEPUTY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION, VICE JOSEPH BORDOGNA.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. ROBERT J. KASULKE, 2949

To be brigadier general

COL. STANLEY L. K. FLEMMING, 1103

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. LARRY J. STUDER, 2654

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ANTHONY COOPER, 2968
RODERICK J. GIBBONS, 8614
WILLIAM S. GURECK, 5573

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ANNIE B. ANDREWS, 1926
CAROLINE M. OLINGER, 7320
YOLANDA Y. REAGANS, 3201
SUSAN L. SHERMAN, 3395

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ROBERT G. BERGMAN, 9785
EUGENIA L. CAIRNSMCFEETERS, 1720
WILLIAM J. CUNNINGHAM, 6339
MICHAEL R. FISHER, 9044
STEVEN L. PARODE, 3103
PHILIP G. STROZZO, 6585

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

SCOTT D. KATZ, 0667
JOHN G. KUSTERS, JR., 3284
JAMES C. PETTIGREW, 8640
WILLIAM J. SCHULZ, JR., 3980
ROBERT S. STEADLEY, 2891
PAUL C. STEWART, 2191

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

WILLIAM T. AINSWORTH, 1163
WILLIAM A. BRANSOM, 7780
TERRY M. BURT, 4378
MICHAEL A. KELLY, 5092
DOUGLAS S. KILLEY, 1723
GEORGE D. SEATON, 1260

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

KATHERINE M. DONOVAN, 0759
LARRY N. FLINT, 0739
GRETCHEN S. HERBERT, 7285
JOHN F. HOLMS, 8884
JON T. KENNEDY, 3492
NANCY KINGWILLIAMS, 2694
DAWN M. MASKELL, 1800
JOHN P. STEINER, 6801
MARTHA M. WARNER, 2267

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

TERRY W. AUBERRY, 1063
RANDALL L. GETMAN, 2845
HAROLD L. HARBESON, 0505
CHRISTOPHER F. JEWETT, 3334
DAVID H. LEPARD, 3282
MARTIN A. NAGLE, 9820
JOHN P. OTTERY, 9328
STEPHEN G. RILEY III, 2714
FRANK E. SHEARMAN IV, 6232
JAMES F. STONE, 4365
CYNTHIA J. TALBERT, 7167
DAVID B. WILKIE, 8646

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

NICHOLAS V. BUCK, 3551
WILLIAM M. CHUBB, 2723
LARRY M. EGBERT, 1962
SCOTT D. KRAMBECK, 2115
DARRYL J. LONG, 6177
MICHAEL S. MURPHY, 8669
LISA M. NOWAK, 3586
GORDON D. PETERS, 3388
RALPH I. PORTNOY, 6074
LARRY A. PUGH, 9016
WILLIAM H. REUTER IV, 4894
STEPHEN A. SCHMEISER, 9174
SCOTT N. WELLER, 2787
MATHIAS W. WINTER, 8144

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

MICHAEL E. DEVINE, 8896
DANIEL M. DRISCOLL, 2146
DAVID B. HANSON, 4273
DONALD J. HURLEY, 8878
ROBERT P. KENNETT, 4353
WILLIAM C. KOTHEIMER, JR., 6775
THOMAS H. LANG, 3560
THOMAS M. LEECH, JR., 4286
STEPHANIE S. K. LEUNG, 1857
BRIAN D. NICHOLSON, 9246
VALERIE A. ORMOND, 2283
MICHAEL L. REYNOLDS, 9063
JON T. ROSS, 8879
DARREN A. SAWYER, 6442
EVA L. SCOFIELD, 4210
MARK S. SIMPSON, 6731
ALVIN C. WILSON III, 8148

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

RAYMOND M. ALFARO, 5703
SCOTT M. CARLSON, 3917
JAMES E. CHISUM, JR., 0551
JOHN S. DAY, 9016
GARY H. DUNLAP, 1694
LESLIE R. ELKIN, 6828
MYLES ESMELE, JR., 4656
LUTHER B. FULLER III, 6259
DENNIS M. GANNON, 0960
RICHARD M. HARTMAN, 2412
CLOYES R. HOOVER, JR., 0675
JOSEPH M. IACOVETTA, 5789
JOSEPH S. KONICKI, 3718
DEAN M. KRESTOS, 2441
CHARLES S. LASOTA, 6727
STEPHEN W. MITCHELL, 8514
TIMOTHY B. MULL, 4085
ROBERT E. PARKER, JR., 9022
STEPHEN P. REIMERS, 7464
PETER E. SCHUPP, 2271
DANIEL M. SEIGENTHALER, 7962
PAUL E. SKOGERBOE, 0767
HEIDEMARIE STEFANYSHYNPIPER, 4256
JAMES D. SYRING, 0061
KEVIN B. TERRY, 1963
MARK W. THOMAS, 5373
RODERICK C. WESTER, 8849
MICHAEL J. WIEGAND, 0367
JOSEPH YUSICIAN, 1115

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ALAN J. ABRAMSON, 7483
KEVIN R. ANDERSEN, 0254
DOUGLAS E. ARNOLD, 0791
KENNETH J. BARRETT, JR., 2324
BRET C. BATCHELDER, 1297
JEFFREY L. BAY, 6262
WARREN C. BELT, 8656
TIMOTHY J. BLOCK, 3254
DEBRA A. BODENSTEDT, 1689
RONALD A. BOXALL, 5125
BRIAN J. BRAKKE, 1968
KEVIN R. BRENTON, 8128
JOHN L. BRYANT, JR., 9380
PATRICK E. BUCKLEY, 9302
ANDREW BUDUO III, 2576
ROBERT P. BURKE, 5633
DAVID L. BUTTRAM, 6208
THOMAS M. CALABRESE, 8978
KERRY B. CANADY, 6471
FREDERICK J. CAPRIA, 4367
BRADLEY A. CARPENTER, 5838
DENNIS E. CARPENTER, 3753
JOHN B. CARROLL, 6673
THOMAS CARROLL, 7724
KEFF M. CARTER, 9062
ALEXANDER T. CASIMES, 2611
MARK E. CEDRUN, 9777
COLIN B. CHAFFEE, 7636
ROBERT E. CLARK II, 0708
RODNEY A. CLARK, 0524
BARRY W. COCEANO, 9367
JOHN P. CORDLE, 9452
LAWRENCE E. CREEVY, 0189
LOWELL D. CROW, 6171
AARON L. CUDNOHUFSKY, 0445
BRYAN L. CUNY, 5721
ADAM J. CURTIS, 9573
PETER K. DALLMAN, 7548
TIMOTHY N. DASELER, 2413
GERRAL K. DAVID, 3322
DOUGLAS J. DENNENY, 6646
MICHAEL J. DOBBS, 5073
WILLIAM J. DOORIS, 4513

DANIEL G. DOSTER, 3249
THOMAS M. DOWNING, 2990
GLENN C. DOYLE, 2452
TITO P. DUA, 3959
SUSAN L. DUNLAP, 4320
WILLIAM A. EBBS, 8976
RICHARD E. FARRELL, 0202
DANIEL H. FILLION, 9756
DAVID S. FITZGERALD, 3820
JEFFREY A. FRANKLIN, 0499
JOHN C. P. FRISTACHI, 9119
JOHN W. FUNK, 8379
JOHN P. GELINNE, 5001
WILLIAM T. GILLIGAN, 7002
MICHAEL J. GINTER, 7556
BRIAN J. GLACKIN, 8352
DAVID P. GORMAN, 8800
CHRISTOPHER W. GRADY, 8461
JEFFREY R. GRAHAM, 8514
KENNETH L. GRAY, 2982
MICHAEL E. GROODY, 9748
RUSSELL E. HAAS, 0803
LINDSAY R. HANKINS, 2526
WILLIAM C. HARRIS, 9298
CHRISTIAN N. HAUGEN, 2338
BRIAN W. HELMER, 8590
ROGER G. HERBERT, JR., 4196
JAMES A. HERTLEIN, 5058
JAMES J. HIRST III, 6639
JEFFREY D. HOOD, 7058
DONALD G. HORNBECK, 0048
SAMUEL C. H. HOWARD, 0816
PHILIP G. HOWE, 8436
ROBERT P. IRELAN, 7849
MICHAEL E. JABALEY, JR., 1792
ADRIAN J. JANSEN, 0913
ANTHONY C. KARKAINEN, 6493
CRAIG A. KAUBER, 3077
THOMAS J. KEARNEY, 5350
WILLIAM A. KEARNS III, 9693
STEPHEN H. KELLEY, 8110
JOHN M. KERSH, JR., 2523
DAVID L. KIEHL, 0169
RICHARD W. KITCHENS, 6465
DAVID C. KNAPP, 6845
STEVEN W. KNOTT, 8262
DAVID M. KRIETE, 8992
THOMAS P. LALOR, 0442
GEORGE M. LANCASTER, 9414
ANDREW L. LEWIS, 6076
JOSEPH W. LISENBY, JR., 6730
PAUL A. LLUY, 6693
CHARLES J. LOGAN, 1250
GREGORY L. LOONEY, 2931
STEVEN A. LOTT, 5014
THEODORE J. LUCAS, 3996
BRIAN E. LUTHER, 0311
BRADLEY C. MAI, 8525
PAUL A. MARCONI, 0741
BRADLEY A. MARTIN, 1566
THOMAS J. MASER, 7300
GEORGE M. MATAIS, 8628
KEITH W. MAY, 5470
JOHN K. MCDOWELL, 6135
BRIAN MCILVAINE, 2841
WILLIAM C. MCMASTERS, 8757
THOMAS A. MEADOWS, 5609
CHARLES P. MELCHER, 1940
DAVID W. MELIN, 2572
JOHN S. MITCHELL III, 7701
MARK C. MOHR, 0898
MICHAEL T. MORAN, 1607
TERRY D. MOSHER, 4325
MARK B. MULLINS, 2576
STUART B. MUNSCH, 7275
HAL C. MURDOCK, 8838
CHRISTOPHER J. MURRAY, 1729
ROSS A. MYERS, 3373
THOMAS C. NEAL, 5688
FREDERICK M. NILES, 3523
JOHN B. NOWELL, JR., 6530
GARY R. PARRIOTT, 1705
THOMAS J. QUINN, 5620
PATRICK C. RABUN, 5463
ROBERT B. RABUSE, 7734
DAVID S. RATTE, 2996
WILLIAM P. REAVEY, JR., 2049
BRIAN D. REEVES, 2367
DEAN A. RICHTER, 3598
ALTON E. ROSS, JR., 5789
KEVIN W. RUCE, 5552
WILLIAM D. SANDERS, 3559
CLAYTON D. SAUNDERS, 9338
DONALD A. SCHMIELEY, JR., 9795
JOHN A. SEARS III, 5457
MARK T. SEDLACEK, 5580
CRAIG M. SELBREDE, 3170
ALEXANDER V. SHARP, 7195
DWIGHT D. SHEPHERD, 6413
BRADLEY J. SMITH, 6722
JACK L. SOTHERLAND III, 0227
JAMES B. SPERRY, 7153
WALTER H. STAMMER III, 3525
JOHN P. STAMOS, 0501
JOHN A. STEWART, 3713
MICHAEL A. STRANO, 1261
PATRICK T. SULLIVAN, 4327
JOHN W. TAMMEN, JR., 5426
DAVID M. TAYLOR, 5764
TUSHAR R. TEMBE, 7814
CYNTHIA M. THEBAUD, 1148
CHRISTOPHER B. THOMAS, 7293
GREG A. THOMAS, 4142
KEVIN J. TOKARICK, 3289
JAMES E. TRANORIS, 5001
BRIAN T. VANCE, 5227
STEPHEN J. VISSERS, 4600
MICHAEL A. VIZCARRA, 0672
PHILIP L. WADDINGHAM, 7351
CURT R. WALTHER, 7901
HUGH D. WETHERALD, 0160
KENT D. WHALEN, 4221
JAMES B. WHITE II, 7142
GARY H. WILLIAMS, 1749
RICHARD L. WILLIAMS, JR., 9224
DONALD E. WILLIAMSON, 4888
DOUGLAS E. WRIGHT, 2436

HOUSE OF REPRESENTATIVES—*Wednesday, May 25, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. MILLER of Michigan).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC.
May 25, 2005.

I hereby appoint the Honorable CANDICE S. MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Father Val J. Peter, Executive Director, Girls and Boys Town USA, Boys Town, Nebraska, offered the following prayer:

Dear Lord, we come before You on this fine morning to ask Your blessings on this House. Give wisdom and humility to all Representatives in their work today. May they seek what will bring light and goodness to our country, to our world. May they achieve what is best for our people.

Let us each this day do one blessed thing for another person; ask pardon from another person. Bless and keep safe those who are in the service of our beloved country and bless especially our children, those who are hurt and suffering. Send people to put joy and happiness into their lives.

In this we pray in Your name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Minnesota (Mr. KLINE) come forward and lead the House in the Pledge of Allegiance.

Mr. KLINE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

INTRODUCTION AND WELCOME TO FATHER VAL J. PETER

(Mr. TERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TERRY. Madam Speaker, I have the honor of extending a warm welcome to Father Val J. Peter, our guest chaplain in the House of Representatives today. And I also want to thank him for his heartfelt moving prayer.

Father Val is a native Nebraskan and has been the fourth executive director for Girls and Boys Town USA, with 20 years of service to Girls and Boys Town. Father Peter is renowned as one of the principal supporters of youth in the world.

Father Peter once said, "We are like strong swimmers. When a child is floundering, we have a moral obligation to plunge in and help the child out of harm's way. Girls and Boys Town is not only to save children from harm but to make them whole again so they can become a strong, positive force that will touch other lives."

As the Bible's Book of Psalms, chapter 127, verses 3 through 5 says: "Behold, children are a blessing from the Lord. Like the arrows in the hand of a warrior, so are the children of one's youth. Happy is the man who has his quiver full of them."

Father Val is undoubtedly one of the happiest and most devoted men I have ever had the privilege to meet. Father Val Peter began his service to Girls and Boys Town in 1985. Twenty years later, as he now nears his retirement, the following words he wrote about Girls and Boys Town's ongoing work have never rung truer: "In the midst of apathy, we bring enthusiasm. In the midst of despair, we bring hope. In the midst of burdensome bureaucracies, we bring an entrepreneurial spirit. In the midst of violence, we bring the hope of peace." Father Val Peter has earned the gratitude of thousands of children and families across America.

Madam Speaker, I know I speak for my colleagues when I say we are honored to have Father Val Peter here with us today.

TIME FOR UNIVERSAL HEALTH CARE FOR ALL

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Madam Speaker, why should a family risk losing everything they have worked a lifetime for because one of their family members gets sick? Right now, one of the major economic crises in this country is the lack of accessibility to affordable health care for the American people.

There are 45 million Americans without health insurance, and those who have health insurance are finding that their premiums, copays, and deductibles are putting a tremendous financial burden on their families. It is time for this Congress to come up with a solution.

There is a solution at hand. It is H.R. 676, a bill to establish Medicare for all. A universal, single payer, not-for-profit health care system, which takes the resources of our system and makes it possible for people to be covered for all medically necessary procedures: for vision care, for dental care, for mental health care, for long-term care, and a prescription drug benefit.

It is time that we recognize that the people of this country are suffering from a health care system which is not responsive to their needs. It is time for Medicare for all, universal single payer, not-for-profit health care, H.R. 676.

NATIONAL MISSING KIDS DAY

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Madam Speaker, as cochairman, along with the gentleman from Alabama (Mr. CRAMER) of the Congressional Missing and Exploited Childrens Caucus, I rise today in order to recognize National Missing Kids Day.

The numbers are stunning. Every day over 2,000 children go missing. Even though many are returned home, there are still many who remain missing to this day. If not for the efforts of the National Center For Missing and Exploited Children, signed into law by President Reagan in 1983, and thanks to the hard work of John and Reve Walsh, and many of our Nation's law enforcement and colleagues here in Congress, I am afraid many more parents would be mourning the loss of their children.

Despite our success in recent years in tracking down our missing kids, much more needs to be done. Over the years, we have heard the names: Jessica Lunsford, Jetseta Gage, Sarah Michelle Lunde, Megan Kanka, Jacob Wetterling, and Adam Walsh, all of them beautiful children carrying with them some hopes and dreams of every young child in this country. All of these children taken away from their parents and killed by sex offenders.

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

There are over 500,000 registered sex offenders in this country, and 150,000 of them are missing. Now we hear that Medicare may be giving them Viagra. How disgusting. How sad. How sick. We have to stop playing Russian roulette with our children.

Last week, the gentleman from Alabama (Mr. CRAMER), my cochairman, and I, along with Senators Hatch and Biden, introduced the Sex Offender Registration Notification Act. I urge my colleagues in the House to work with the gentleman from Wisconsin (Mr. SENSENBRENNER) in passing this important bill.

CONSENSUS ON SOCIAL SECURITY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Madam Speaker, yesterday the President said, "Those who obstruct reform, no matter what party they are, will pay a political price." Ironically, it is the President's insistence on privatization of Social Security that is slowing retirement reform. Privatization of Social Security has become the poison pill of progress.

We need to broaden the debate on privatizing Social Security into a discussion of retirement security. Democrats have ideas and proposals; our Republican friends have ideas and their proposals. We are not all that far apart. But before we can move forward, the privatization of Social Security has brought progress to a standstill.

Here are four ideas I have proposed: automatic enrollment in 401(k)s for all Americans; direct deposits of tax refunds into savings accounts; a government match of the first $2,000 you save, matching it for 50 percent; and the universal 401(k) to simplify and consolidate the 16 different savings vehicles that exist.

Madam Speaker, make no mistake, this is the domestic issue of our time. We can choose to lead, or we can continue to debate the privatization plan the public has already rejected. Let us not allow the President to stand in the way of progress. The American people deserve a secure retirement.

PRESIDENT BUSH SUPPORTS RENEWABLE FUELS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, I rise today to applaud President Bush on his recent statements in support of renewable fuels such as ethanol and biodiesel. While touring a biodiesel facility in Virginia last week, President Bush stated, "Our independence on foreign oil is like a foreign tax on the American Dream, and that tax keeps growing every year."

The President called on Americans to increase our use of renewable fuels and highlighted biodiesel as a fuel of the future. "You are beginning to see a new industry evolve," the President stated, "and as more Americans choose biodiesel over petroleum fuel, they can be proud knowing they are helping to make this country less dependent on foreign oil."

The energy bill that passed the House and is currently being debated in the Senate would increase our use of renewable fuels and reduce our reliance on foreign fuel. The President has called on Congress to get him that energy bill by the August break.

We need a national energy policy sooner rather than later, and a policy that strengthens and encourages the development and use of renewable fuels like biodiesel and ethanol.

HIDDEN ISSUE OF BASE CLOSURES

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Madam Speaker, one item the House will not debate today in the Defense authorization is the hidden issue behind base closure: the Pentagon's inability and Congress' unwillingness to have the military clean up after itself.

Incredibly, we are starting the fifth round of base closures when we have 17 bases and thousands of acres that remain from the 1988 round that have not been cleaned up. No wonder people are concerned about BRAC. This footdragging is bad for the environment, it is bad for local economies, and it gives the military a reputation for being a poor partner.

Congress should no longer be missing in action in this critical area, and it is time for Secretary of Defense Donald Rumsfeld to stop trying to sidestep environmental responsibility and make sure that the military cleans up after itself. The public demands and deserve no less.

POLITICAL AGENDA OF DEMOCRATIC WATCHDOGS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, government watchdogs seem to be popular these days. They claim to keep an eye on politicians to keep them honest. Political Money Line is gathering data that is available to the public on who is paying for congressional travel. That is a watchdog. It puts the truth out for the public and sounds a warning when there is a problem.

However, other so-called watchdogs are not watching out for the public; they are promoting their own political agenda. They are partisans. Four of the big ones, Citizens For Responsibility and Ethics in Washington, Common Cause, Public Citizen, and Campaign Legal Center all have deeply embedded partisan ties with the Democrats. Together, they have hired Democrat staffers and former Democrat public officials, and they have contributed millions to Democrats in elections. Together, they have launched an attack on their partisan rivals and their number one enemy, the gentleman from Texas (Mr. DELAY).

They do not care about the public. They care about power. They want it back. This has nothing to with watching out for the public, but everything to do with partisans deceiving the American people and trying to change the party in power.

WOMEN IN THE MILITARY

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Madam Speaker, today I rise to honor the courage and commitment of women who have served and continue to serve in defense of our Nation. Today, we will be voting on an appropriations bill to limit and restrict women in the military. How ironic.

Tomorrow, women Members of Congress, from this Congress, will be attending the eighth annual Congressional Caucus for Women's Issues' wreath laying ceremony at Arlington National Cemetery. The event is an annual opportunity to recognize women who play and have played a critical role in the Armed Forces, both in times of war and peace, and currently now in Afghanistan and Iraq.

Our troops and all of our servicewomen deserve our utmost respect for protecting our freedom. As of March 2005, an estimated 203,000 women serve in our U.S. military and another 142,000 women serve in the reserve units in the U.S. Armed Forces. These women give of themselves and make extraordinary sacrifices.

The Congressional Caucus of Women's Issues is committed to supporting women in our Armed Forces. As Democratic Chair of that women's caucus, I want to thank all the servicewomen for their unyielding courage, selfless commitment, and long-standing dedication to our military and our country. Let us remember them over the Memorial Weekend.

□ 1015

HONORING AMERICA'S MILITARY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Madam Speaker, I rise today to honor America's military men and women. As we approach Memorial Day, our grateful Nation says thank you to those who have sacrificed so much in the name of freedom.

We here at home often show our appreciation for all that our troops have done by sending care packages, letters and phone cards to them while they serve, but our appreciation for their efforts, their courage, and their valor go far beyond the battlefield. These selfless acts of heroism have helped maintain our most fundamental freedoms, life, liberty and the pursuit of happiness for all Americans, all earned with the help of those who have paid the ultimate sacrifice.

At the same time, we have a responsibility to our veterans and their families. While Memorial Day is filled with parades and festivals in many towns across the country, let us not forget its true meaning: A heartfelt thank-you to those who serve our country.

Madam Speaker, I encourage all Americans to join me in thanking America's military men and women in all they do for us. Their sacrifices have proven that we should never underestimate the price of freedom and all it stands for.

SENATE SHACKLES DEMOCRACY

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, as we approach Memorial Day, we should recognize that the honor of our men and women in the United States military should be a yearlong event.

Madam Speaker, I rise to question the idea of democracy as articulated by the United States Senate. President Lyndon Baines Johnson indicated that a man cannot finish a race if his hands and feet are shackled. The furlough of democracy took place in the United States Senate.

The compromise on the filibuster is really an extinguishing of democracy. It is now extinct because now there is an override, if you will, on whether or not men and women can rise to the floor of the Senate and express the views of the minority, not a minority of African Americans or Hispanics or others, but simply the minority view. That is what democracy is.

It is an outrage that any qualification would be put on the rights of those in the United States Senate whom happen to be in the minority to speak on the issues of concern. The judges that will receive a vote today have great opposition from many in this country. Now the filibuster is not in place, because it has be limited, and now democracy has been shackled and tied.

AMERICAN EDUCATION BEING LEFT BEHIND

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Madam Speaker, in a recent Washington Times technology section, Fred Reed gives us good evidence while America is on the path towards a third-rate economy.

First, in 2001 through the end of the last school year, New York City 8th graders' failure rate in history and government grew from 61 percent to 81 percent. That is four out of five students.

Second, 22 percent of the students entering college in Indiana needed remedial math.

Third, this year's top U.S. university finished in 17th place in an international collegiate programming contest.

We are not preparing for tomorrow's economy. The world is getting more and more technical, and we are falling behind. While China is creating 350,000 engineers every year, while India is creating 80,000 software engineers every year, we are putting more and more of our students in remedial math. We have to change the educational environment in America if we are going to avoid becoming a third-rate economy.

Education is just one of the issues the Economic Competitive Caucus will be addressing this year so we can prepare for tomorrow's economy.

HONORING MAJOR BILL McCOLLOUGH

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Madam Speaker, I rise this morning to salute and wish a hearty farewell to Major Bill McCollough of the House Marine Corps liaison office.

In the midst of a career in the field and leading troops around the globe, Bill was selected by the Marine Corps leadership to serve as a Congressional Fellow in 2002.

Representing the Nation's largest Navy-Marine Corps complex, I had hoped to get a military fellow with the right mix of brains, brawn, and ability to "get things done" to help me better serve the San Diego community.

I met Bill, and knew I had found the right fit. Bill worked a number of sensitive military issues for me with great skill and finesse. So our office quickly rewarded him with an expanded portfolio, including domestic issues of critical importance to my district.

Major McCollough impressed me with his professionalism, his good will and dedication to family and Nation. I will always be grateful for the opportunity to work with him and his family.

As he returns to Camp Pendleton, and likely another tour in the Middle East soon, I wish Bill, his wife, Caroline, and sons, Hunter and Jack, the best of luck and a fond farewell. They know they will always have a family here in Washington.

HONORING DAUGHTERS OF THE AMERICAN REVOLUTION

(Mr. KLINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINE. Madam Speaker, I rise today to recognize an outstanding group of women who have made an incomparable contribution to Northfield, Minnesota, and have set an example of service for all Americans.

The Daughters of the American Revolution is a volunteer women's service organization dedicated to promoting patriotism, preserving American history, and securing America's future through better education for our children.

Next month the Josiah Edison Chapter, Daughters of the American Revolution, in Northfield will celebrate their 100th anniversary. Over the past century they have established a proud tradition of service from bestowing Good Citizen Awards to high school students to volunteering at VA centers and laying wreaths during memorial services.

The women of the Josiah Edison Chapter are mothers and grandmothers, business women, teachers, ministers and veterans united by a belief in God, love of country, commitment to preserving our history, and dedication to improving education.

As a proud husband of a member, I can assure you these women live their motto of "God, Home and Country." On this anniversary, I want to thank the women of the Josiah Edison Chapter for their exemplary service and wish them continued success.

TRICARE FOR GUARD AND RESERVE

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAYLOR of Mississippi. Madam Speaker, we have a lot to remember on Memorial Day. Today in south Mississippi, four families will be receiving death notices. Every one of those families had a young guardsman over in Iraq who was killed yesterday.

Last Friday, I visited Walter Reed. Five young soldiers were wounded, four of them amputees, every one of them Guardsmen Or Reservists.

Just last week the Committee on Armed Services passed an amendment that would allow Guardsmen and Reservists to buy TRICARE insurance for themselves and their families. Somewhere between the committee, where it passed, and the Committee on Rules, where it failed, it was blocked on a straight party-line vote.

So as we remember Memorial Day, I hope every Guardsman in America will remember the gentleman from California (Mr. DREIER), the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), the gentleman from Washington (Mr. HASTINGS), the gentleman from Texas (Mr. SESSIONS), the gentleman from Florida (Mr. PUTNAM), the gentlewoman from West Virginia (Mrs. CAPITO), the gentleman from Oklahoma (Mr. COLE), the gentleman from Connecticut (Mr. BISHOP) and the gentleman from Georgia (Mr. GINGREY), eight of the nine who never served a day in uniform who voted to see that our Nation's Guardsmen and Reservists cannot buy Federal health insurance.

EMBRYONIC RESEARCH

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Madam Speaker, this week we have heard people of all types arguing vehemently either for or against embryonic research.

It is hard for lay people to cut through all this scientific mumbo-jumbo, so let me ask a common-sense question: At what point is it not okay for researchers to create life in order to destroy it? Some argue that we should destroy human embryos to try to save an existing life. That is just totally immoral. And it is not the government's place to fund destruction of those embryos with taxpayer money.

What makes America the strongest Nation on earth is that we protect those who cannot protect themselves. I commend the President for his promise to veto H.R. 810.

STRENGTHEN SOCIAL SECURITY

(Mr. CANTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANTOR. Madam Speaker, I rise today to talk about a serious challenge facing our government. Social Security, Medicaid, and Medicare are growing at alarming rates. By 2042, these three programs alone are going to comprise 26 percent of our gross domestic product. This number far exceeds today's entire Federal budget in relative terms, which is roughly 18 percent of GDP.

Our focus now in this House should be to strengthen Social Security and to ensure that it is around for our children and grandchildren. Along with the leadership of President Bush, this House must commit itself and take advantage of an opportunity to enact real reforms to the Social Security system, making this vital program better for all recipients.

We can no longer afford to have partisanship prevail on the other side of the aisle, and instead invite all to join the debate of ideas to ensure progress in this crucial debate.

PASS CAFTA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, I have been listening to our colleagues talk about the fact that we are approaching Memorial Day, which we are. It is a very important time to remember the war dead and people who today are continuing to sacrifice.

I have had the privilege of serving here for nearly a quarter century, and I remember very well in the 1980s when U.S. military men and women were struggling side by side with freedom fighters in Central America to ensure that we could see self-determination, the rule of law, and the development of political pluralism and democratic institutions.

Madam Speaker, we are going to, in the coming weeks, be voting on the Central American Free Trade Agreement. Every single president in Central America has made it very clear to us that if we want to maintain the things for which U.S. men and women in uniform gave their lives, along with many Central Americans, we must lock it in by ensuring passage of the Central American Free Trade Agreement.

We need to think about that sacrifice made a decade and a half ago in Central America as we proceed with the prospect of keeping freedom alive.

PROVIDING FOR CONSIDERATION OF H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. COLE of Oklahoma. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 293 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 293

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. After general debate the bill shall be considered for amendment under the five-minute rule.

SEC. 2. (a) It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived.

(b) Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 3 of this resolution.

(c) Each amendment printed in the report of the Committee on Rules shall be considered only in the order printed in the report (except as specified in section 4 of this resolution), may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Each amendment printed in the report shall be debatable as specified in the report equally divided and controlled by the proponent and an opponent and shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment).

(d) All points of order against amendments printed in the report of the Committee on Rules or amendments en bloc described in section 3 of this resolution are waived.

SEC. 3. It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules accompanying this resolution not earlier disposed of. Amendments en bloc offered pursuant to this section shall be considered as read, shall be debatable for 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 4. The Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules accompanying this resolution out of the order printed, but not sooner than one hour after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

SEC. 5. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 6. During consideration of the bill under this resolution—

(a) after a motion that the Committee rise has been rejected on a legislative day, the Chairman of the Committee of the Whole may entertain another such motion on that day only if offered by the chairman of the Committee on Armed Services or the Majority Leader or a designee; and

(b) after a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII) has been rejected, the Chairman may not entertain another such motion.

□ 1030

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Oklahoma (Mr. COLE) is recognized for 1 hour.

Mr. COLE of Oklahoma. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. COLE of Oklahoma. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H. Res. 293.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE of Oklahoma. Madam Speaker, on Tuesday the Rules Committee met and reported a rule for consideration of H.R. 1815, the National Defense Authorization Act for Fiscal Year 2006.

Madam Speaker, the rule is a structured rule providing for 1 hour of debate equally divided and waives all points of order against the rule. It provides that the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read and waives all points of order against the amendment. It makes in order only those amendments printed in the report of the Committee on Rules and provides that amendments shall be considered only in the order specified in the report, may be offered only by a Member designated in the report, shall be debatable for the time specified in the report, and shall not be subject to amendment. Additionally, it allows the chairman of the Committee on Armed Services to offer an en bloc amendment consisting of amendments printed in the report of the Committee on Rules and provides one motion to recommit, with or without instructions.

Madam Speaker, I rise today in support of the rule for H.R. 1815 and the underlying bill. This bill will enhance our security, increase the capabilities of our military, and improve the lives of the brave men and women who defend our country. Since September 11, 2001, our military has proven its mettle and validated its doctrine, plans, and programs during the ongoing war on terror.

Madam Speaker, I genuinely believe that the Committee on Armed Services has presented us with an outstanding bill that addresses many of the challenges our troops face on a daily basis. However, it is important to remember that this yearly authorization is at root an ongoing transformative process that occurs on an annual basis. This year we have taken important steps in the improvement and transformation of our existing forces during an era that is dangerous, demanding, and filled with challenges that our country neither anticipated nor prepared for during the 1990s.

To fully appreciate the significance of H.R. 1815, one must understand the four long-term challenges we seek to address in this legislation. The first long-term challenge stems from the procurement holiday that our government voluntarily took during the 1990s. In those years, neither the President nor the Congress funded the procurement needs of our Armed Forces. As one example, during the 1990s the ammunition accounts of our military were woefully underfunded. As a result, even after radically increasing the productivity of our ammunition plants in the last few years, we are still struggling to keep pace with our current and projected needs.

The same is true of equipment, which was neither acquired nor replaced in sufficient quantities during the years between the collapse of the old Soviet Union and the onset of the war on terror. As a result, our military is still dealing with the shortages of equipment and munitions that were created in the 1990s and that have yet to be fully resolved. This bill helps address these shortages.

Madam Speaker, the second long-term challenge we must address on a continual basis is related to the transformation of our military forces. With the passage of the Goldwater-Nickles reforms of 1986, our military began putting an increased emphasis on jointness. Over the years, increased jointness has generated different requirements for our forces. Those requirements demand procedural, bureaucratic, and technological changes within our Armed Forces. The principle of transformation has affected everything that our military does, from how we fight to how we deliver services to those who serve in our Armed Forces. Properly used, joint planning, procurement, and operations are an effective combat multiplier that creates the critical edge that our forces need to defeat our adversaries. However, transformation comes with a substantial cost. This is an issue we must address on an ongoing basis. H.R. 1815 does just that.

Madam Speaker, the third long-term challenge we face is the need to expand the size of our military. Over the past few years, it has become clear that we went much too far in downsizing our military forces after the end of the Cold War. To begin to address our manpower shortage, the Committee on Armed Services increased end strength by 10,000 soldiers for the Army and 1,000 Marines for the Marine Corps. This is on top of increases made in the last 2 years. It is also in addition to reforms allowing us to use a greater percentage of our military personnel in a combat capacity.

Unfortunately, even these steps are not enough for our long-term needs, but they are at least a start and responsive to the heavy demands we are placing on our military forces. Over the next several years, we will be forced to look more carefully at manpower needs and come up with a more realistic assessment of what is actually required. Still, H.R. 1815 is a good next step and one which we should support and build upon in the coming years.

The fourth long-term challenge faced by the military results from the global war on terror. This is not a conventional war. It is a generational war which will take decades to win. We need to remember this when approaching the needs of the military in the authorization and the appropriations process. Hence, I believe we took a wise and important step in this direction when we added $49 billion to the defense bill to offset a portion of the costs of this conflict next year. It is something that indicates our understanding of the long-term nature of the challenge we face.

Madam Speaker, H.R. 1815 is not a perfect bill; but it is a very, very good piece of legislation. We must remember that the National Defense Authorization Act moves us in the direction we need to go. For that, all of us should be grateful. Ultimately, this bill is not about programs, weapons, or research and development. It is about our soldiers and their ability to defend the United States.

Today, some may want to discuss issues that, however important, are superfluous to the war on terrorism and the long-term military challenges that we face. We owe it to the sons and daughters of America who are on a global battlefield in the war on terror to address the real issues and challenges our military will confront today and tomorrow. This legislation is a step in a continuing process of enhancing our military capabilities in a dangerous world.

I would ask Members to support these prudent steps taken in this thoughtful and comprehensive piece of legislation. Madam Speaker, to that end, I urge support for the rule and the underlying bill.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman from Oklahoma for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Madam Speaker, we find ourselves here today debating the rule for next year's Defense authorization bill. But while we should be discussing ways to better support our hardworking men and women in uniform, we find ourselves revisiting a debate I had assumed we settled years ago. Buried within H.R. 1815 is section 574, a provision that would severely limit the participation of women in our military. To say that I am disappointed would be an understatement of enormous proportions.

Some will say that section 574 merely codifies existing military policy; but if this provision is passed, we will be sending an entirely different message, not just to the brave women currently serving our Nation throughout the world but to those who have made the ultimate sacrifice, those who have been wounded or even killed. We will be telling them and indeed their families, We have seen you at work defending freedom and liberty here at home and abroad and you aren't good enough. I cannot think of a more disgusting message to be sending our troops, especially in a time of war.

This year, the Subcommittee on Military Personnel has not held hearings, commissioned studies, or released reports on this important issue. In fact, we have not seen a shred of evidence that a problem even exists with the integration of women in the Armed Forces. Yet the religious right wing in this country, against the advice of our military leaders, has once again decided to bend the process of government to their political will and force this issue upon America without research, without fact, without debate, and without the benefit of the democratic process.

We are in the middle of a war, in Iraq and on terror. Now is not the time to be telling more than 20,000 women that we do not value their service, especially when you consider that we are having serious problems meeting our recruitment goals. What woman is going to join a military that treats them as if they are second-class citizens not worthy of respect and dignity? Last night in the Rules Committee we watched as the coalition of members who stand rightly beside our women in uniform were slapped down on a party-line vote by the majority in their attempts to approve the Skelton-Snyder amendment which would remove this ill-conceived provision from the bill. The Secretary of the Army and the Army Vice Chief of Staff wrote the Armed Services Committee voicing their strong opposition to this provision.

Likewise, we can have no real discussion on the future of America's defense without talking about the base realignment and closure process. I share the concern of many experts and many of my colleagues across the political spectrum when I say that we are a Nation at war. Now is not the time to be closing America's military bases.

Many experts are also concerned that we are overconsolidating our resources in too few locations, especially when the greatest threat to our security comes not from a massive invasion but from a sneak attack by a terrorist organization on a target of opportunity. Did we not learn after Pearl Harbor not to put everything in one place? Does it not make more sense to have our resources strategically placed across the country? Moreover, as record numbers of Guard and Reserve troops are dying in combat defending this country, the Defense Secretary's proposed BRAC list would ground a third of the Nation's Air National Guard and Reserve units and shutter hundreds of other armories and readiness centers across the country.

Many local leaders and homeland security specialists, including the National Guard Association of the United States, has said that the consolidation would hamper State responses to local emergencies and domestic terrorist threats.

Unfortunately, the DOD did not adequately take into account a military installation's value to homeland security when developing their criteria. For example, the Niagara Falls Air Reserve Station has been recommended for closure despite the fact that it is the closest base to three major United States cities and the two largest cities in Canada. The Guard and Reserves who train there assist the Department of Homeland Security in interrogating suspicious individuals detained at the northern border. Yet the Air Force proposes to reduce the Air Mobility Command by 54 percent in the Northeast, incapacitating homeland defense in a region which comprises 20 percent of the entire United States population. I understand this is also a problem for other major cities and population centers around the country.

That is why I offered an amendment last night that would have required the commission to evaluate bases for their homeland security value, but unfortunately it was voted down.

All of us know that recruitment is another major issue that we are facing today. We have a recruitment crisis in America and an Armed Forces already stretched way too thin. But the DOD wants to close bases that regularly exceed their recruitment goals for the Guard and military reserves, like Niagara Falls. We do not know what will happen to the large Guard and Reserve units who serve at bases recommended for closure. We know exactly where their equipment is headed, but even the Pentagon admits it does not know what is going to happen to our most valuable assets, and those are the people stationed at the bases.

But perhaps what is most troubling about the BRAC list that was submitted to the commission is that according to an Air Force BRAC spokesman, the extensive criteria used to evaluate the strategic military value of each base was not even adhered to by the Pentagon when compiling their closure list.

□ 1045

Instead, they used a collective judgment. I do not even know what "collective judgment" is supposed to mean, but I know that in Niagara, thousands of people are losing their jobs and are at risk at a base that is highly ranked in performing its duties, and one that has always been evaluated highly that is on the chopping block. This is unacceptable to me, and it should be unacceptable to this body.

This BRAC constitutes a complete reorganization of our military resources during a time of war with very little thought, doing untold damage to the National Guard and military Reserves, and does not consider the homeland security role.

But there are a lot of concerns about the Pentagon that we have that we will not talk about today because we did not get enough amendments approved.

Madam Speaker, I reserve the balance of my time.

Mr. COLE of Oklahoma. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Madam Speaker, I rise in strong support of this very fair and balanced rule that will allow us to deal with what is clearly the single most important issue that we address as a Federal Government and as a Congress.

I want to begin by complimenting my very good friend, the gentleman from Oklahoma (Mr. COLE), for his great service to the United States of America, his superb management of this rule, and his commitment to our Nation's security. I also want to compliment the distinguished chairman of the Committee on Armed Services, as well as the ranking member, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON), for their fine work and the fact that they have worked together so well on a wide range of very important issues.

Madam Speaker, I also want to extend my congratulations to our commander in chief, George W. Bush, and our great Secretary of Defense, Donald Rumsfeld.

It is very clear that the United States of America over the past few years has gone through challenges the likes of which we have never in our Nation's history seen. Frankly, I believe that we are doing extraordinarily well.

The Defense Authorization bill that we are going to be considering today will create an opportunity for a free-flowing debate, a wide-ranging discussion on important issues that we face. Eighty-nine amendments were submitted to the Committee on Rules for consideration by 10 o'clock yesterday morning, and I am happy to say that of those 89 amendments, we have been able to take 29 of them and make them in order. Of those 29, 16 amendments were offered by Democrats that will be made in order, 13 will be offered by Republicans, and they will deal with the tough issues that we have faced.

Now, the issue that my friend, the gentlewoman from Rochester, New York (Ms. SLAUGHTER), just raised is one which has been contentious, and I believe we have been able to come to a consensus on the issue. There was a great deal of stir over this question of women in combat and what exactly we were going to do.

The manager's amendment, Madam Speaker, throws out the provisions that the committee had, and it put into place a requirement that over a 60 legislative day period, the United States Congress will be involved in any kind of change in the policy of women in combat that will be on the horizon. Secretary Rumsfeld has made it very clear publicly that he does not support any kind of change, and I believe that the action that we will see in the passage of the manager's amendment will help to ensure that that will take place.

I also have to say, Madam Speaker, that we are in a position today where we have just gotten the report issued from the Base Realignment and Closure Commission, and we know that there are concerns that have come to the forefront from a number of our Members on the recommendations of the BRAC Commission. As we begin debate on this bill, we will allow for a wide-ranging discussion on the issue of base realignment and closure.

The gentleman from New Hampshire (Mr. BRADLEY) and the gentleman from Connecticut (Mr. SIMMONS), have a BRAC amendment that is made in order, so that we will be able to discuss that here.

Madam Speaker, the five most important words in the preamble of the U.S. Constitution are "provide for the common defense." There is nothing that we do that is more important than providing for the common defense. Virtually every issue that we address can be handled by some other level of government, but local governments and State governments cannot provide for the common defense. That is why it is so important that we step up to the plate, have bipartisan support for this rule which will allow for free-flowing debate, and do everything that we can to ensure that we get a great Defense Authorization bill to the President of the United States.

Ms. SLAUGHTER. Madam Speaker, I yield 4 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Madam Speaker, I thank the gentlewoman from New York for yielding me this time, and I rise in strong opposition to the rule. To start with, the Committee on Rules made in order almost no amendments that were of importance to the Democrats, including my amendment on women in the military.

Madam Speaker, in my opinion, the Committee on Rules has a duty to this institution and to each of us to create circumstances that will permit orderly consideration of legislation that is important to our country and also structured to the debate, so that we will have the opportunity to work our will on these important issues. Sadly, that is not the case.

Let me start with the most important issue, women in the military. Not only did the Committee on Rules not make my amendment in order, which would have stricken horrendous language and established a study; and by the way, my amendment was bipartisan in nature, along with my colleague, the gentleman from Arkansas (Mr. SNYDER), the ranking member on the Subcommittee on Military Personnel of the Committee on Armed Services; the gentlewoman from New Mexico (Mrs. WILSON), and the gentleman from Illinois (Mr. SHIMKUS) from the other side of the aisle.

It was not only not made in order, but a brand-new amendment by our colleague, the gentleman from California (Mr. HUNTER), was filed, not in a very timely fashion, and which we did not see for the first time until last evening. His amendment, which creates a time mechanism wherein any MOS or specialty changes for women will be notified to the Congress, also establishes a study. Should that amendment pass, that wipes out the onerous language that is presently in the bill.

This amendment, though, that the gentleman from California (Mr. HUNTER) is offering, is camouflaged with other amendments, including a memorial to the USS *Oklahoma* and a veterans' preference amendment and one amendment dealing with missile defense. Further, it allows only 10 minutes of debate.

I think that is wrong. It is not an overstatement to say that the action by the Committee on Rules is not living up to its responsibility.

Let me give a bit of a history of the women in military. All of a sudden, with only hours' or a day's notice, an amendment was passed in the Subcommittee on Military Personnel of the House Committee on Armed Services. That amendment related to women in the military, and the military stated in a letter signed by Lieutenant General Campbell, and I will place it in the RECORD, that over 21,900 positions would have to be closed to women. To say it was wrong is an understatement.

That was wiped out by a second amendment in full committee. The second amendment was one that froze the specialties and did not allow full expansion of specialties or MOS's for the women and, furthermore, it was an attempt to codify 1994 language from Secretary Les Aspin, but it did not include all of the elements. That is the bill right now.

The new Hunter language, which I described a few moments ago, fortunately wipes that out. If the Hunter language passes, which is not necessarily artfully written, but if that passes, the women in the military can breathe easier. It is a victory for the women in the military and victory for national security.

Every person that wears the uniform of the United States of America has the respect of every one of us in this body. We thank them for their service. The women are putting their hearts, their souls, their professionalism, their careers on the line every time they put the uniform on every day, and I think it is wrong to have come up and challenged these women in what they do for our country in this fashion.

I would also like to mention that the rule failed to mention the Taylor amendment regarding TRICARE for Reservists.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF STAFF,
Washington, DC, May 17, 2005.

Hon. IKE SKELTON,
Committee on Armed Services,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SKELTON: Sir, if the amendment to H.R. 1815, proposing to prohibit the assignment of female Soldiers to Forward Support Companies (FSC) addressed only FSCs in Heavy and Infantry Brigade Combat Teams and equivalent elements of Stryker Brigades, a total of 21, 925 spaces currently open for assignment to female Soldiers would be closed.

We appreciate your interest in and support of our Soldiers as we continue to fight the Global War on Terrorism.

Sincerely,

JAMES L. CAMPBELL,
Lieutenant General, U.S. Army,
Director of the Army Staff.

Mr. COLE of Oklahoma. Madam Speaker, I am pleased to yield 3½ minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Madam Speaker, I thank the gentleman for yielding me this time.

I rise today in support of the rule to provide consideration for the National Defense Authorization bill. This legislation focuses on force protection and personnel benefits for the soldiers and airmen in my district at Fort Bragg and Pope Air Force Base. The ability to adequately execute the mission for which they are called and care for their families are the two issues that are second to none. I believe this legislation makes significant progress in these areas and will enable our men and women in uniform to continue to successfully win the war on terrorism.

My trip to Iraq just a few weeks ago, the third I have made, did nothing but reinforce my pride and confidence in our Nation's warfighters. These brave men and women serve with honor and distinction as they liberate a nation. Troops from the Eighth District of North Carolina have been at the tip of the spear that ended the dark reign of Saddam Hussein and continue to lead the way in post-conflict resolution in Iraq and Afghanistan.

This legislation, first and foremost, takes care of our most vital asset of our military: our people. It provides every serviceman with an across-the-board 3.1 percent pay raise and increases the force structure of the Army and the Marine Corps. It boosts the maximum amount of hardship-duty pay and increases the amounts paid for active duty and Reserve enlistments and reenlistments.

I am particularly happy that we are expanding the capacity of the military health care system to provide health care to service members and their families by requiring the reimbursement for services of mental health counselors without a referral from a primary care manager.

Additionally, I would like to mention the direct effects this legislation will have for the men and women at Fort Bragg. There is over $200 million for infrastructure and housing improvement, including $11.4 million more than was in the President's request for the Third Brigade Combat Team barracks complex. I worked hard to secure this funding because it will help improve the living conditions for our soldiers and support the Army's transformation to modularity.

Additionally, I am happy to support the funding for a new junior high school at Fort Bragg.

The National Defense Act also addresses another critical issue, that of fortifying the defense industrial base, ensuring that the Department of Defense purchases textiles that are made in America. My top two priorities are national security and economic security. There is seldom, if ever, a reason that these two goals should be considered mutually exclusive. I have vowed to always work and support and promote the U.S. manufacturing industry, but we must develop transparency within DOD to ensure that our troops are wearing uniforms made in America. I am hopeful that our colleagues in the other body will recognize the need to safeguard U.S. textile jobs and work with us through the conference process.

Madam Speaker, it is a gross injustice and misfortune that it took the tragedy of 9/11 to focus the public eye on the need for a more robust defense budget, but I feel that the legislation in front of us today will help our troops accomplish their mission. We are establishing a clear and strong course of support for our troops. I encourage my colleagues to send a message loud and clear to our soldiers, sailors, airmen, Marines and Coasties, that we will strongly support you and give you the resources necessary to perform the mission.

Madam Speaker, I urge a vote in favor of the rule, as well as the national defense bill.

The campaign began with shock and awe. At this point, it should be awe, admiration and appreciation for what these men and women are doing. Having been here for 7 years, the trend and support for our men and women in uniform has trended ever upward. That is where it should be.

As we look at this bill today, the way we can best thank our troops, show our love and appreciation for them, is to pass this bill and continue the upward trend that shows that we not only talk about our troops, but we do things that will make their lives better and show our appreciation.

I urge support for the rule and the underlying bill.

Ms. SLAUGHTER. Madam Speaker, I yield 3 minutes to the gentlewoman from California (Ms. MATSUI).

Ms. MATSUI. Madam Speaker, I thank the gentlewoman from New York for yielding me this time.

Our men and women in uniform are honorably serving this Nation on the ground in Iraq, Afghanistan, and many other locations. But because of our commitments, our Armed Forces are relying even more heavily than usual on our National Guard and Reserves.

It is estimated that National Guard forces make up about half of the U.S. force on the ground in Iraq. With this in mind, it is truly disappointing that an excellent amendment by the gentleman from Mississippi (Mr. TAYLOR) was not made in order under this rule.

The Taylor amendment would give our Reserve and National Guard members full access to TRICARE, the health care insurance provided to those in our Armed Forces.

□ 1100

It is simply irresponsible for us to allow the families of 20 percent of Reservists and National Guardsmen to go without health care benefits.

Our National Guard and Reserves know that they can be called up for more than the usual 1 weekend a month, but they never would have expected their 1-year tours of duty to be extended well beyond that time frame. I am concerned that the civilian leadership of the military has forced us to lean so heavily on the Reserve and National Guard personnel.

These men and women serving in the National Guard and Reserves are responding to the unexpected; and now we, their government, need to respond in kind and not with a lot of platitudes. For all that these men and women are doing, we should be able to find the $1 billion necessary to provide them and their families with health care.

Offering every member of the National Guard and Reserves the ability to access health care coverage is a moral issue. Our treatment of our Reserve and Guard members is unacceptable. The Taylor amendment began to address it. I am truly saddened that at a time of great service and dedication on their part, we are quibbling about fully providing for our servicemen and women.

The line between active and reserve personnel has already been blurred. Our Guard and Reservists need to be focused on fulfilling their missions. They should not have worries in the back of their mind about whether their spouse or their child is getting health care back home.

This provision, passed in full committee, deserves debate on the House floor. I encourage my colleagues to oppose this rule which will allow this amendment to be made in order. We should honor our servicemembers and give them the health care coverage they not only deserve, but are entitled to.

Mr. COLE of Oklahoma. Mr. Speaker, may I inquire as to how much time is remaining.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from Oklahoma has 16 minutes remaining. The gentlewoman from New York has 17½ minutes.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, in South Mississippi this morning, four families of National Guardsmen will be notified that their loved ones died yesterday in Iraq.

Last Friday, as I visited Walter Reed, I had the opportunity to visit five Mississippians, three of whom are amputees, all of whom are National Guardsmen or Reservists.

As the gentlewoman from California just mentioned, over 40 percent of all the people serving in Iraq right now are Guardsmen and Reservists, and a disproportionately high percentage of the deaths and wounds have been received by them.

One way we tried to make it up to them for their supreme sacrifice to our

Nation was to see to that those Guardsmen and Reservists who choose to can buy into the TRICARE health care coverage provided by our Nation to every other member of the Armed Forces, the regular soldier to their right, the regular Marine to their left.

It was brought up in committee, and by a majority vote the Armed Services Committee voted to allow National Guardsmen and Reservists to buy into TRICARE. But somewhere between the committee and the Rules Committee, someone decided that there was mandatory spending involved. So the same Congress that has brought 21 bills to this floor that waived all budgetary rules, no matter how much it ran up the deficit, the same Congress that has added $2.2 trillion to the National debt in just 4 years, that decided Paris Hilton can inherit hundreds of millions of dollars without paying a penny in taxes, decided because there was $5 million mandatory spending, these National Guardsmen could no longer buy into that policy.

So we went to the Rules Committee. We showed the Rules Committee where the National Guard Association, the Military Officers Association of America, the Enlisted Association of the National Guard, the Adjutant Generals of every single State voted unanimously for this amendment. The Reserve Officers Association and the Fleet Reserve Association all endorsed this amendment. And yet the Rules Committee, in a straight party line vote, decided that National Guardsmen and Reservists cannot buy their health care.

The gentleman from Illinois (Mr. HASTERT), the Speaker of the House, ignored the call of the adjutant general of Illinois and the 12,500 National Guardsmen in his State.

The gentleman from Texas (Mr. DELAY) ignored the call of his adjutant general and the 20,000 National Guardsmen in Texas.

The gentleman from Missouri (Mr. BLUNT) ignored the call of his adjutant general and the 10,000 National Guardsmen from Missouri.

The gentleman from California (Mr. DREIER) ignored the call of his adjutant general and 20,400 National Guardsmen.

The gentleman from Florida (Mr. PUTNAM) ignored the call of 12,000 National Guardsmen. The list goes on.

The bottom line is, if these people are good enough to serve our Nation in Iraq, if they are going to die in disproportionately high numbers, if they are going to lose their limbs in disproportionately high numbers, do you not think this Congress could find the time to debate an amendment that has already passed the Armed Services Committee, and let every Member of this body decide whether or not those Americans who are serving our country in the Guard deserve the opportunity to buy health insurance for themselves and their families?

Mr. Speaker, I urge a "no" vote on the rule.

Committee on Rules

David Dreier, CA—Chairman; Lincoln Diaz-Balart, FL; Doc Hastings, WA; Pete Sessions, TX; Adam Putnam, FL; Shelley Moore Capito, WV; Tom Cole, OK; Rob Bishop, UT; and Phil Gingrey, GA.

Louise McIntosh Slaughter, NY—Ranking Minority Member; James P. McGovern, MA; Alcee Hastings, FL; and Doris Matsui.

Hastert, IL—12,594.
DeLay, TX—20,124.
Blount, MO—10,751.
McHugh, NY—16,010
Dreier/Hunter, CA—20,459.
Putnam, FL—12,088.
Doc Hastings, WA—8,495.
Sessions, TX—20,124.
Capito, WV—6,270.
Cole, OK—9,407.
Rob Bishop, UT—6,497.
Gingrey, GA—12,594.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, the well of this House ought to be a free market of ideas. It ought to be a great national forum where we dissect legislation and debate the big issues both.

And particularly today, as we take up the Defense authorization bill, with thousands of troops deployed all over the globe in harm's way, suffering casualties daily, we are spending $440 billion a year on national defense, plus the $80 billion in supplementals, over a half trillion dollars, today particularly we should have a full, vigorous, and complete debate.

In the 1980s, it was this way. At the height of the Cold War, when this bill came to the floor, 100, 200 amendments were offered; and most of them, many of them were made in order. It sometimes took us 2, 3 weeks to get this bill off the floor. We had a full, free, and open debate.

Today the debate will be circumscribed, carefully controlled to bar the issues that our Republican colleagues want to avoid or fear losing if the House were allowed to weigh the issues and work its will. This is not the way this institution should treat something so important.

In addition, in years past, when we ran the House, there was something called comity. And senior members of the committee in particular were allowed to have the deference at least of a few amendments that would be offered on the House floor. Their experience was valued.

Today, the gentleman from Missouri's (Mr. SKELTON) amendment, shut out. My amendment on nonproliferation, well crafted, carefully considered, at least I wanted the opportunity to present that choice to the people of the House, shut out. I will go down the list with senior members on the committee, senior Members in the House, offering thoughtful amendments that at least this House should consider, weigh and work its will upon, all have been shut out. This is no way to run a debate on something of such gravity and importance.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague for yielding.

Mr. Speaker, I rise this morning to speak for peace. I can no longer keep silent. Mr. Speaker, the time for silence is long past. As we debate the rule on the Defense Authorization Act of 2006, I believe that somebody, someplace, sometime, must stand up and speak up for the cause of peace.

Mr. Speaker, it is time for us to bring the conflict in Iraq to an end; 12,000 of our young men and women, the sons and daughters of America, have been wounded, and more than 1,600 of our soldiers have died. Tens of thousands of Iraqi citizens are dead, wounded, living in fear and chaos, uncertain about tomorrow.

How many more of our young men and women will we have to lose in a car bombing, a kidnapping or armed conflict before we understand that this war was unnecessary?

I have said it before, and I say it again today: war is vicious. It is evil. It is bloody. It is messy. It destroys the hopes, the dreams, the longing and aspirations of a people. It leaves little children without fathers and mothers. The war in Iraq is tampering with the very soul of our Nation.

In these Chambers we have struggled with many human problems. We have made decisions that have changed the course of history. Today I ask of my colleagues, Mr. Speaker, to search their souls and ask themselves, is it possible for a great Nation to come to a point where we decide to lay down the burden of war? Is it possible for a great Nation, a powerful Nation with a proud people to evolve to that level where we study war no more; where we decide we are going to destroy the tools and instruments of violence and war and devote all of our intelligence and all of the resources of this great Nation to lay the foundation for peace?

The way of peace is a better way, a more excellent way. We cannot and must not continue to move down the road that leads to a more bloody war, more violence, more death. If we fail to take heed, if we fail to listen and be guided by the spirit of history, the future will not be kind to us.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I rise today in strong opposition to this partisan rule.

The Rules Committee has once again failed to promote debate and instead rubber-stamped the majority and the administration's policies.

As a senior member of the Armed Services Committee, I do not offer so-called political amendments. I offer substantive amendments to real solutions to real problems.

Prisoner abuse is a real problem.

Nuclear proliferation is a real problem.

But the Rules Committee apparently does not think so.

I offered three simple amendments that would have improved the bill in these areas. They were all rejected.

My first amendment would have mandated that the Pentagon share International Committee of the Red Cross reports on treatment of detainees with Congress that we would hold confidential so that we could be informed and be part of the solution.

The Rules Committee clearly does not worry about fixing our dismal image in the Muslim world or preventing human rights abuse or upholding our end of the bargain in overseeing the military.

I submitted an amendment that would have created an office of nonproliferation in the White House to better coordinate our nonproliferation efforts.

But the Rules Committee is not worried about nuclear proliferation.

And, finally, over the last 2 weeks the majority has sought to limit the opportunities for women in the military over the objections of the Secretary of Defense, the service chiefs and Democrats.

The Rules Committee seems to agree with the majority on the Armed Services Committee that when men volunteer for the Army, they become soldiers. But when women volunteer for the Army, they become women soldiers.

Mr. Speaker, this rule is a travesty and should be soundly rejected. Vote "no" on the rule.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to my good friends on the other side, I would simply point out that most of the speakers are actually members of the authorizing committee and passed out this bill 61 to 1, had opportunities to offer those amendments at the committee level, presumably did so, and if they did so, were not successful, and still felt the bill was worthy of being sent on to the floor for further consideration.

In addition, the Rules Committee actually considered and has allowed 29 amendments, a majority of which are Democratic amendments. There is always going to be a judgment debate as to what should or should not be considered and how much time should be devoted in a process to any particular piece of legislation. So I respect the gentlewoman from California's opinion, but obviously we have a difference on this.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. Mr. Speaker, I thank the distinguished gentlewoman from New York (Ms. SLAUGHTER) for allowing me time to speak.

Mr. Speaker, today I rise in opposition of Rule H.R. 1815. Last night the Rules Committee rejected an amendment that I offered to help our military families who have lost loved ones in the defense of our freedom. My amendment would eliminate the survivors benefit pension dependency and indemnity compensation offset.

Under current law, survivors are prohibited from receiving payments from both programs at the same time. This is unfair and an unjust provision that hurts the families of those who have made the ultimate sacrifice to defend our freedom and democracy.

If a soldier was enrolled in a survivor benefit plan when they died of service connected causes, the spouse's SBP benefit is reduced dollar for dollar by the amount of the DIC, a $933 a month deduction. The remaining SBP is barely enough for a spouse with a family to survive or pay the basic needs such as food, clothing, and rent. We should be taking care of these families, not abandoning them in this time of need.

□ 1115

I am a proud cosponsor of H.R. 808, which would correct the gross injustice for the families of all military personnel and retirees who died of a service-connected cause.

We must keep our promise that we made to the brave men and women who have given their lives for our freedom.

Mr. Speaker, I urge my colleagues to defeat the previous question, so that we can have the opportunity to debate my amendment and to vote on this important issue. If this effort fails, I would ask that you vote "no" on the rule for H.R. 1815, and give our soldiers and their families the respect that they deserve.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. Mr. Speaker, most Americans do not know that this country taxes disabled veterans. We take from military retirees, who are also disabled, 100 percent of their disability benefits. We started doing this in the 1800s. It is indefensible, in my opinion, and I think most Americans, if they realized we were doing it, would recognize that this is an indefensible policy of our country.

Mr. Speaker, for the last 20-some-odd years a supermajority of the Members of this House have signed on to legislation to end the disabled veterans tax. Once again, there is legislation that would end the disabled veterans tax with many cosponsors. Most of the Members of this House will ultimately cosponsor that legislation.

My amendment, Mr. Speaker, would have brought to the floor as part of the Armed Services authorization bill a complete elimination of the disabled veterans tax. That amendment was ruled out of order by the Committee on Rules. I think that rule is wrong. I think Members of this House want to vote on that particular subject.

Two years ago in the House Committee on Armed Services authorization bill we took a small step toward eliminating this tax. Mr. Speaker, we should take the final step of eliminating this tax by permitting the amendment to be made. It would receive an overwhelming vote. We would end the disabled veterans tax and we would end an injustice to our veterans.

The SPEAKER pro tempore (Mr. FOLEY). The gentlewoman from New York (Ms. SLAUGHTER) has 5 minutes remaining. The gentleman from Oklahoma (Mr. COLE) has 15 minutes remaining.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman yielding me time.

This restrictive rule is unfortunate and unnecessary. We have heard from my colleagues today, talking about huge issues and deep concerns. It is unfortunate that one additional casualty in the short-circuiting of this process is that we will not discuss the hidden issue surrounding base closures, and that is the cleanup of the mess the military leaves behind.

I offered a modest amendment that would have at least required that the 17 bases from the 1988 round of base closures be dealt with by the Department of Defense with a framework. But even as we move into a fifth round of base closures, that problem remains unaddressed.

To date, the Pentagon has been dragging its feet and Congress has been missing in action. Due to this unnecessarily restrictive rule, the bill is another lost opportunity to treat communities with closed bases fairly, and for Congress to continue to be absent without leave.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I rise to voice my strong objection to this rule. It allows debate on some important amendments, but leaves out many more, some of them dealing with key issues that I believe the House should have an opportunity to consider.

As a new member of the Committee on Armed Services, I am grateful to the gentleman from California (Mr. HUNTER) for working with me on a number of provisions on the bill that are important to my State of Colorado. But I am disappointed that the gentleman from California (Mr. HUNTER) and the committee did not see it fit to work with Democrats on issues of additional importance to the Nation.

Last week, the Committee on Armed Services voted for the Taylor amendment to provide TRICARE to all Reservists on a permanent basis. But this language was removed due to budget constraints, and the Committee on Rules refused to make the Taylor amendment in order.

The Committee on Rules also precluded debate on the Spratt amendment to increase spending on nonproliferation programs, on the excellent Tauscher amendment on sharing reports on detainee treatment, and on an amendment I offered with my colleague, a bipartisan amendment to help former nuclear weapons workers in Colorado who are suffering from cancer related to exposure to radiation.

The rule also precludes debate on the Skelton-Snyder-Wilson-Shimkus amendment that should have been offered, another bipartisan amendment, to strike the provisions saying that any positions currently closed to women shall remain closed.

Many more amendments worthy of consideration were not made in order, Mr. Speaker.

My friend, the gentleman from Oklahoma (Mr. COLE) mentioned that in the committee the bill was voted out almost unanimously, but that does not mean that on the floor we cannot improve it. There are many of these amendments that should have been made in order.

For that reason, Mr. Speaker, I oppose the rule. It stifles debate and I cannot support it.

Mr. Speaker, I rise to voice my strong objection to this rule. It allows debate on some important amendments but leaves out many more, some of them dealing with key issues that I believe the House should have an opportunity to consider.

As a new Member of the Armed Services Committee, I am grateful to Chairman HUNTER for working with me on a number of provisions in the bill that are important to me and my state of Colorado. But I'm disappointed that Mr. HUNTER and the Committee didn't see fit to work with the Democrats on additional issues of importance to the nation and to the prosecution of the war in Iraq and Afghanistan.

I'm sure that the views of the Republican leadership of the Armed Services Committee influenced the deliberations of the Rules Committee and thus the final rule that was adopted. But it is the Rules Committee—not the Armed Services Committee—that determines which amendments are made in order.

Last week the Armed Services Committee voted for Representative TAYLOR's amendment to provide TRICARE to all Reservists on a permanent basis. But Chairman HUNTER took the language out due to budget constraints, and the Rules Committee refused to make Mr. TAYLOR's amendment in order. The Rules Committee also precluded debate on Representative SPRATT's amendment to increase spending on nonproliferation programs, on Representative TAUSCHER's excellent amendment on sharing reports on detainee treatment with Congress, and on an amendment I offered with my colleague Representative BEAUPREZ to help former nuclear weapons workers in Colorado who are suffering from cancer and other conditions related to their exposure to radiation and other hazards.

The rule also precludes debate on an amendment to be offered by Representatives SKELTON, SNYDER, WILSON and SHIMKUS to strike the provision saying that any positions currently closed to women shall remain closed. Mr. HUNTER will offer an amendment that waters down the provision slightly but combines it with other provisions, thus preventing a clean up or down vote on this very important issue.

Many more amendments worthy of House consideration were not made in order. This means that the bill we will debate today on the House floor will not address some of the key issues affecting our military and our policy in Iraq and Afghanistan.

Mr. Speaker, this rule stifles debate, and I cannot support it.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. COLE of Oklahoma. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, I had to leave the room briefly. It was my understanding, when I left the room, that the gentleman had mentioned that the bill had passed committee 61 to 1. Is that correct?

Mr. COLE of Oklahoma. That is correct.

Mr. TAYLOR of Mississippi. Is the gentleman aware that when the bill passed the committee, the amendment that provided TRICARE for every single Guard member and Reservist was a part of that bill?

Mr. COLE of Oklahoma. I am aware of that.

Mr. TAYLOR of Mississippi. Okay. I just want the gentleman to know that that 61 to 1 vote included that amendment.

Mr. COLE of Oklahoma. Reclaiming my time, I am also aware that the item the gentleman mentioned was actually stricken on the parliamentary question.

I would like to submit for the RECORD the chairman of the committee's letter to that effect and also the statement from CBO upholding that decision.

COMMITTEE ON ARMED SERVICES,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 2005.

DEAR ARMED SERVICES COMMITTEE COLLEAGUE: This morning the Congressional Budget Office informed me via letter (copy attached), that the amendment agreed to during the committee's mark-up of H.R. 1815, the National Defense Authorization Act for Fiscal Year 2006, extending TRICARE coverage to all reservists will result in additional direct (or mandatory) spending. As a result, the inclusion of this provision would cause the bill to exceed the mandatory spending allocation provided under the Concurrent Resolution on the Budget. Exceeding the mandatory allocation will cause H.R. 1815 to violate the Congressional Budget Act and subject the bill to a point of order against its consideration on the House floor.

I have consulted the Chairman of the House Budget Committee on this matter and he informs me that if the bill is brought forward to the floor in violation of the Budget Act, he will exercise his prerogative to raise the applicable point of order and thus prevent its consideration on the floor.

Accordingly, after informing Mr. SKELTON and the sponsor of the amendment, I am exercising the authority granted to me by the committee to remove this section in order to bring the bill back into compliance with the Budget Act and eliminate this impediment to its floor consideration. In summary, if this action is not taken, a point of order will be raised and sustained against the bill and its consideration will be blocked.

Sincerely,

DUNCAN HUNTER,
Chairman.

Attachment.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 20, 2005.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, U.S. House of Representatives, Washington DC.

DEAR MR. CHAIRMAN: As requested by your staff, we are sending you this letter containing our preliminary estimate of a provision in H.R. 1815, the National Defense Authorization Act for Fiscal Year 2006, as ordered reported by the committee on May 19, 2005. The provision would provide access to TRICARE health insurance benefits for reserve component personnel. Implementing that provision would have significant effects on both spending subject to appropriation and direct spending.

The provision would affect direct spending by increasing mandatory expenditures in the Federal Employees Health Benefits (FEHB) program. On a preliminary basis, CBO estimates that enacting this provision would increase direct spending for the government's share of FEHB premiums for retirees by $5 million in 2006, $94 million over the 2006–2010 period, and $269 million over the 2006–2015 period.

Under the provision, all reservists in the Selected Reserve would be eligible to enroll in TRICARE, the health insurance system for the Department of Defense (DoD). Based on information from DoD, CBO estimates that about 120,000 reservists work for the federal government. CBO expects that some of these reservists who are currently enrolled in the FEHB program would leave that program and enroll in the new TRICARE for Reservists program because the premiums would be lower than for FEHB and the coverage would be more generous. Generally, TRICARE premiums are lower because medical costs are highly correlated with age—the average reservist is age 34 while the average for enrollees in the FEHB program (including retirees) is closer to age 60.

Because the estimated health care costs for reservists switching to TRICARE are likely to be lower than the average per capita costs for all other enrollees in the FEHB program, average costs for the FEHB program would rise, even though its total costs would decline. Thus, CBO expects premiums for the remaining enrollees in the FEHB program would rise to cover the higher average cost. The government's share of premiums for annuitants (about 72 percent) is direct spending.

In addition to the direct spending effects, this provision would affect spending subject to appropriation. CBO estimates that implementing this provision would increase spending by DoD for this new benefit by about $230 million in 2006, and $4.6 billion over the 2006-2010 period, assuming appropriation of the estimated amounts. In addition, we estimate that spending for reservists in the Coast Guard would increase by $2 million in 2006 and $46 million over the 2006–2010 period, assuming appropriation of the estimated amounts. Finally, under this provision, spending by the federal government for active workers in the FEHB program would decline by an estimated $340 million over the 2006–2010 period.

If you have any questions, the CBO staff contact is Sam Papenfuss, who can be reached at 226–2840.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Georgia (Ms. MCKINNEY).

Ms. MCKINNEY. Mr. Speaker, I am against this rule and the underlying bill. Good substantive amendments that the American people need to hear debate on were not ruled in order.

I have offered an amendment to force the Pentagon to share the names of the companies that have received $20 billion to make Pentagon computers talk to each other. According to the GAO, DOD business systems remain fundamentally flawed, unable to provide timely and reliable information and leaving DOD vulnerable to fraud, waste, and abuse. And yet we continue to give the Pentagon more and more, despite their admission that they cannot track $2.3 trillion and despite the fact that they lost $100 million in Iraqi building funds and $9 billion in Iraqi oil revenue.

Both my amendments would force the Pentagon to tell us where all of this money is going.

My second amendment would have required the Pentagon to tell the American people who had the contracts to operate the detention centers like Abu Ghraib that have so shamed us recently.

Just imagine what we could do for Americans in need without all that Pentagon waste. I do, and that is why I ask these questions.

Other amendments addressing critical issues were not allowed, and I can think of no reason why the majority refuses to allow a full debate on these critical issues confronting us today.

The SPEAKER pro tempore. The gentlewoman from New York (Ms. SLAUGHTER) has 1 minute remaining.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman from Oklahoma (Mr. COLE) for yielding me time and the Committee on Rules for their hard work on this bill, on the many amendments that they reviewed, took testimony on, and for their shaping of this package which will move the defense bill onto the floor here momentarily and allow us to do what it takes to make sure that the men and women of the Armed Forces, who are fighting in the war against terror in Afghanistan, Iraq, and other theaters around the world, will have the tools to get the job done.

Now, we have two considerations here. One consideration is to make sure that Members get their amendments heard and have their voices heard. The other consideration is to make sure we get a bill. And sometimes one of those considerations overbalances the other.

The worst thing that could happen is not to move this bill expeditiously through the House, move it quickly to conference, and provide the leadership not only for the base bill this year, but for the $49 billion that we have bolted onto the base package that, at the end of this fiscal year, will give our troops in Iraq and Afghanistan the force protection, the armor, the pay, the troop levels and all the other things that we need to carry out this mission.

So this is a crucial and critical bill, Mr. Speaker, and I appreciate the expeditious fashion that the committee has moved in.

This bill provides a 3.1 percent pay raise for our troops. We have increased pay 25 percent over the last 4 years. It provides many, many personnel benefits. It provides an expansion of family housing. It provides additional bonus flexibility for the services to continue to attract and recruit Americans to come into the armed services. And it gives our people additional warfighting capability, additional sensors, additional armor, additional munitions and weapons, all the tools that they need to get the job done.

At the same time, Mr. Speaker, we have put in some very important limitations on the costs of weapons systems. We see weapons systems costs going through the roof. We see a DDX program that now says it is going to cost $3 billion a ship. In a very businesslike way, we have analyzed these costs and the increases, and we have put in limitations and mechanisms that will allow us to control these costs. If we do not start bringing down the costs per ship, per aircraft, per big unit, we are not going to have enough of these systems to provide the coverage we need around the world.

Mr. Speaker, this is the most important of bills. It is a bill that goes to the very heart of our freedom, and that is the equipping and projection of our Armed Forces. I thank the Committee on Rules for doing a great job in packaging this bill in a way that we can move it expeditiously across the floor.

I thank the gentleman for his great work and his great work as a former member of the Committee on Armed Services, who is going to be coming back to see us and who sits in with us regularly.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank the gentleman from Oklahoma (Mr. COLE) for yielding me time.

Mr. Speaker, my faith means everything to me. And because of it, I strongly believe that the men and women in uniform should be able to practice their own faith as the Constitution guarantees.

Recent accounts paint a picture of considerable religious intolerance at our Air Force Academy. There has been a tide of complaints about harassment of anyone who is not an Evangelical Christian and special treatment for those who are. And the Air Force recently reassigned Captain MeLinda Morton, an Academy chaplain, who spoke out about this issue.

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These accounts must be thoroughly and publicly investigated. We must avoid a repetition of the initial slow response of allegations of sexual assaults at the Air Force Academy.

Last week, I, along with 45 of our colleagues, sent a letter to the Air Force Secretary asking for a thorough and public investigation. I understand that the DOD Inspector General is looking into the reassignment of Captain Morton. But Air Force investigators looking into the allegations of religious intolerance have not interviewed key people who brought this issue to light, and this does not bode well for how seriously the Air Force is taking this matter.

Mr. Speaker, the gentleman from New York (Mr. ISRAEL) had an amendment to direct the Pentagon to protect religious freedom at the Air Force Academy. Unfortunately, it was not made in order. I hope this does not signal that the House will not take this issue seriously.

Religious freedom is the bedrock on which this Nation is founded. It would be intolerable if those who risk their lives for American ideals and values are denied the very religious freedom that they are defending.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time, and I urge Members to vote "no" on the previous question. If the previous question is defeated, I will amend the rule to allow three very important amendments that were offered to the Committee on Rules last night and defeated on party-line votes.

The first amendment is by the gentleman from Mississippi (Mr. TAYLOR) and would provide members of the selected reserves access to the TRICARE military health care program on a permanent basis for the duration of their service. The second amendment, by the gentleman from Georgia (Mr. MARSHALL), would provide eligibility for payment of both retired pay and veterans disability compensation for certain additional military retirees with compensable service-connected disabilities. The last amendment is by the gentleman from Colorado (Mr. SALAZAR) and would repeal the dependency and indemnity compensation offset from survivor benefit plans' surviving spouse annuities.

Let me make it clear that a "no" vote will not stop the House from taking up the authorization bill, but a "yes" vote will preclude the House from considering these three amendments critical to the debate of our national defense. I urge a "no" vote on the previous question.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, in closing, I again want to draw the attention of the Members to the strengths of H.R. 1815. It takes many steps forward in reforming the procurement and acquisition systems, increasing end strength, and provides $49.1 billion in supplemental funds for the war on terror.

Mr. Speaker, I would also like to respond just briefly to some of the concerns expressed on the other side of the aisle. First, about the process by which the Committee on Rules operated.

I remind my good friends that this bill was again reported out of the House Committee on Armed Services by a vote that was nearly unanimous, only one dissent; that 29 amendments have been made in order; that the majority of those amendments are Democratic amendments; and that we will, obviously, have an additional opportunity to debate the full merits of the bill as we move forward. I think there is more than ample time for discussion and debate.

Second, on the Reservist health care issue. This is a difficult issue, to say the least. It is an emotional issue and an important issue. I would like to point out that under the leadership of the gentleman from California (Mr. HUNTER), the Committee on Armed Services has made important progress in this particular area. It has extended the amount of time that members that are going to be deployed are eligible for TRICARE. It has extended the amount of time that those who are leaving service are able to enjoy the benefits of TRICARE. It has allowed additional time granted for time served in deployment and combat situations. So I think the Committee on Armed Services has expressed a continuous desire to keep looking at these issues.

I have personally visited with the gentleman from New York (Mr. MCHUGH), who is the subcommittee chairman responsible for this particular area; and he has assured me he wants to continue the progress that has been made over the last several years.

Again, I remind my good friends there were many opportunities when they were in the majority to address these type of issues. While we have been in the majority, we have addressed concurrent receipt in a step-by-step process that is moving us in the right direction. We have addressed survivor benefits in a step-by-step process moving us in the right direction. And now we are addressing the critical issue of health care as well. So I think important progress is being made on all these fronts, Mr. Speaker.

Finally, I would like to note that this legislation would not have been possible without much hard work on the part of the gentleman from California (Chairman HUNTER); the gentleman from Missouri (Mr. SKELTON), the ranking member of the committee; and the other subcommittee chairmen, and finally the members of the Committee on Armed Services themselves. As evidenced by their hard work, this is a bipartisan bill that the vast majority of the House should be able to agree is a good product. H.R. 1815 passed in the committee, again by a vote of 61 to 1. It deserves the same strong bipartisan support on the floor, as does its underlying rule.

Mr. Speaker, many today have complained about what they consider to be critical shortcomings in this legislation. No legislation is ever perfect; and as I said in my opening statement, the defense authorization specifically is more of an ongoing process than a final product. However frustrated some may be with particular aspects of H.R. 1815, it undoubtedly moves our military in the direction it needs to evolve and enhances the security of our country and the well-being of our men and women in uniform.

I would urge the Members on the other side of the aisle to consider carefully what a "no" vote would mean and say to our servicemen and -women in the field. Therefore, I once again urge my colleagues to support this rule and the underlying legislation.

Mrs. MALONEY. Mr. Speaker, while I rise today in support of H.R. 1815, the "National Defense Authorization Act for Fiscal Year 2006," I do have concerns about language in the bill that would limit the role of women serving in the military and restrict the opportunities available to them. I am hopeful that we will pass an amendment later today to correct this language.

I am pleased that the bill includes provisions to provide retirement credit to the members of the National Guard serving on State duty who responded to the 9/11 attacks in New York and at the Pentagon.

I, along with my friend and colleague, Representative KING, and other members of the New York delegation, have introduced legislation, H.R. 2499, which would accomplish the same goal, and I am thankful that the Committee has worked with us to correct this inequity.

I would like to thank Chairman HUNTER, Ranking Member SKELTON, Representative SYNDER, and especially Representative MCHUGH, who were so instrumental in this process, and I commend them for their commitment to the men and women serving this country all over the world.

I also would like to acknowledge both the military and minority staff of the committee for their assistance.

The terrorist attacks of September 11, 2001 were an unprecedented event in American history.

The provisions included in this bill will show our gratitude to the brave men and women who responded on that day by giving them the retirement benefits to which they are entitled.

The material previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION FOR H. RES. 293—RULE ON H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2006

At the end of the resolution, add the following:

SEC. 7. Notwithstanding any other provision of this resolution, the amendments printed in section 8 shall be in order as though printed after the amendment numbered 1 in the report of the Committee on Rules if offered by the Member designated. Each amendment may be offered only in the order specified in section 8 and shall be debatable for 20 minutes equally divided and controlled by the proponent and an opponent.

SEC. 8. The amendments refered to in section 7 are as follows:

(1) Amendment by Representative TAYLOR of Mississippi or a designee.

AMENDMENT TO H.R. 1815, AS REPORTED

OFFERED BY MR. TAYLOR OF MISSISSIPPI

At the end of subtitle A of title VII (page 290, after line 5), add the following new section:

SEC. 707. EXPANDED ELIGIBILITY OF SELECTED RESERVE MEMBERS UNDER TRICARE PROGRAM.

(a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking "(a) ELIGIBILITY.—A member" and inserting "(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member";

(2) by striking "after the member completes" and all that follows through "one or more whole years following such date"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.".

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended by striking "(b) PERIOD OF COVERAGE.—(1) TRICARE Standard" and all that follows through "(3) Eligibility" and inserting "(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility".

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d).

(2) The heading for such section is amended to read as follows:

"§ 1076d. TRICARE program: TRICARE standard coverage for members of the selected reserve".

(d) REPEAL OF OBSOLETE PROVISION.—Section 1076b of title 10, United States Code, is repealed.

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

"1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.".

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

Page 508, line 14, insert after the dollar amount the following: "(reduced by $180,000,000)".

Page 509, line 22, insert after the dollar amount the following: "(reduced by $180,000,000)".

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(2) Amendment by Representative SALAZAR of Colorado or a designee:

AMENDMENT TO 1815, AS REPORTED
OFFERED BY MR. SALAZAR OF COLORADO

At the end of subtitle B of title XV (page 474, after line 9), insert the following new section:

SEC. 15xx. REPEAL OF DEPENDENCY AND INDEMNITY COMPENSATION OFFSET FROM SURVIVOR BENEFIT PLAN SURVIVING SPOUSE ANNUITIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Dependency and Indemnity Compensation program under chapter 13 of title 38, United States Code, and the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, are separate and distinct programs, with—

(A) the Dependency and Indemnity Compensation program, administered by the Secretary of Veterans Affairs, providing financial support for the survivors of those dying on active duty or from a service-connected disability and available only to unmarried surviving spouses, minor children, and low-income parents; and

(B) the Survivor Benefit Plan, a contributory program administred by the Secretary of Defense, providing the surviving spouse of a military retiree and those killed in service a monthly annuity upon the death of the servicemember.

(2) By law, an amount paid to a beneficiary under the Dependency and Indemnity Compensation program for any month is deducted from a payment for that month to the same beneficiary under the Survivor Benefit Plan.

(3) The offset described in paragraph (2) is inequitable, and it is necessary that such inequity should be corrected, both as a matter of fairness and as an important tool for recruiting and retention of critical personnel in the Armed Forces.

(4) The inequity of the offset requirement described in paragraph (2) has quickly become a significant issue for surviving spouses and the families of those who have died in Operation Iraqi Freedom and Operation Enduring Freedom.

(5) The requirements of Operation Iraqi Freedom and Operation Enduring Freedom and the fatalities that continue to occur in those operations have created a compelling need to rectify issues that adversely affect retention of critical personnel in the Armed Forces.

(6) Congress and the leadership of the Department of Defense did not anticipate that the offset between Dependency and Indemnity Compensation benefits and Survivors Benefit Plan annuities would create financial hardships on surviving families of members of the uniformed services whose cause of death is service-connected.

(7) In light of the matters stated in paragraphs (1) through (6), there is an urgent and compelling need for Congress to immediately eliminate the offset of payments between the Dependency and Indemnity Compensation program and the Survivor Benefits Plan program.

(b) REPEAL OF DIC/SBP OFFSET.—Subsections (c), (e), and (k) of section 1450 of title 10, United States Code, and subsection (c)(2) of section 1451 of such title are repealed.

(c) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) shall take effect on September 11, 2001; and

(2) shall apply with respect to payment of annuities under subchapter II of chapter 73 of title 10, United States Code, for months beginning on or after that date.

(d) RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SPB RECIPIENTS.—(1) A surviving spouse who is in receipt of an SBP annuity that is in effect before the date specified in subsection (b) and that is adjusted by reason of the amendments made by subsection (a) and who had previously received an SBP retired pay refund shall repay an amount determined under paragraph (2). Any such repayment shall be made in the same manner as a repayment under subsection (k)(2) of section 1450 of title 10, United States Code, as in effect on the date of the enactment of this Act.

(2) The amount of a repayment under paragraph (1) shall be the amount that bears the same ratio to the amount of that refund as the surviving spouse's life expectancy (determined in accordance with standard actuarial practices) bears to the anticipated total duration of the annuity (determined as the sum of such life expectancy and the duration of the annuity already received).

(3) In this subsection:

(A) The term "SBP annuity" means an annuity under the program established under subchapter II of chapter 73 of title 10, United States Code.

(B) The term "SBP retired pay refund" means a refund under subsection (e) of section 1450 of title 10, United States Code, as in effect before the date specified in subsection (b).

(e) BUDGET TREATMENT.—All amounts paid pursuant to this section for fiscal year 2006 and prior years are designated as an emergency requirement pursuant to section 402(a)(2) of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006.

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(2) Amendment by Representative MARSHALL of Georgia or a designee:

AMENDMENT TO H.R. 1815, AS REPORTED
OFFERED BY MR. MARSHALL OF GEORGIA
[ENDING THE DISABLED VETERANS TAX]

At the end of subtitle D of title VI (page 243, after line 2), insert the following new sections:

SEC. 6XX. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN ADDITIONAL MILITARY RETIREES WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—Section 1414 of title 10, United States Code, is amended by striking paragraph (2) of subsection (a).

(b) REPEAL OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.—Such section is further amended—

(1) in subsection (a), by striking the final sentence of paragraph (1);

(2) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) in subsection (d) (as so redesignated), by striking subparagraph (4).

(c) CLERICAL AMENDMENTS.—

(1) The heading for section 1414 of such title is amended to read as follows:

"§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation".

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2006, and shall apply to payments for months beginning on or after that date.

SEC. 6XX. COORDINATION OF SERVICE ELIGIBILITY FOR COMBAT-RELATED SPECIAL COMPENSATION AND CONCURRENT RECEIPT.

(a) ELIGIBILITY FOR TERA RETIREES.—Subsection (c) of section 1413a of title 10, United States Code, is amended by striking "entitled to retired pay who—" and all that follows and inserting "who—

"(1) is entitled to retired pay, other than a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

"(2) has a combat-related disability".

(b) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

(1) CLERICAL AMENDMENT.—The heading for paragraph (3) of section 1413a(b) of such title is amended by striking "RULES" and inserting "RULE".

(2) SPECIFICATION OF QUALIFIED RETIREES FOR CONCURRENT RECEIPT PURPOSES.—Subsection (a) of section 1414 of such title, as amended by section 2(a), is amended—

(A) by striking "a member or" and all that follows through "retiree')" and inserting "an individual who is a qualified retiree for any month";

(B) by inserting "retired pay and veterans' disability compensation" after "both"; and

(C) by adding at the end the following new paragraph:

"(2) QUALIFIED RETIREES.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

"(A) is entitled to retired pay, other than in the case of a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

"(B) is also entitled for that month to veterans' disability compensation.".

(3) STANDARDIZATION WITH CRSC RULE FOR CHAPTER 61 RETIREES.—Subsection (b) of section 1414 of such title is amended—

(A) by striking "SPECIAL RULES" in the subsection heading and all that follows through "is subject to" in paragraph (1) and inserting "SPECIAL RULE FOR CHAPTER 61 DISABILITY RETIREES.—In the case of a qualified retiree who is retired under chapter 61 of this title, the retired pay of the member is subject to"; and

(B) by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 1, 2006, and shall apply to payments for months beginning on or after that date.

Mr. COLE of Oklahoma. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 225, nays 200, not voting 8, as follows:

[Roll No. 212]

YEAS—225

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Castle
Clay
Emerson
Gingrey
Hastings (WA)
Millender-McDonald
Murtha
Pickering

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1200

Mr. BRADY of Pennsylvania and Mr. HIGGINS changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 225, noes 198, not voting 10, as follows:

[Roll No. 213]

AYES—225

Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono

Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart

Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Istook
Jackson (IL)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce

Pence
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—198

Abercrombie
Ackerman
Allen
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps

Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette

Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman

Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott

McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar

Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Clay
Emerson
Gingrey
Hastings (WA)

Issa
Jones (NC)
Millender-McDonald

Murtha
Musgrave
Pickering

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1208

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NOTICE OF OUT OF ORDER CONSIDERATION OF CERTAIN AMENDMENTS ON H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. HUNTER. Mr. Speaker, pursuant to section 4 of House Resolution 293, I am providing the requisite notice and request that the following amendments as printed in House Report 109-96 be considered out of order: Goode No. 20, Jo Ann Davis of Virginia No. 24, Davis of California No. 12, Hunter No. 1, Stearns No. 6, Bradley of New Hampshire No. 29, Woolsey No. 26.

The SPEAKER pro tempore. The gentleman's notice has been received.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The SPEAKER pro tempore. Pursuant to House Resolution 293 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1815.

The Chair designates the gentleman from Idaho (Mr. SIMPSON) as chairman of the Committee of the Whole, and requests the gentleman from Arkansas (Mr. BOOZMAN) to assume the chair temporarily.

□ 1212

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes, with Mr. BOOZMAN (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

This year, the Committee on Armed Services has put together a bill that is a true example of bipartisan cooperation, providing the men and women of the armed services with the best equipment, best training, and a benefit package that is worthy of their service and their sacrifice.

The National Defense Authorization Act For Fiscal Year 2006 provides $441 billion for the Department of Defense and the Department of Energy. The bill was voted out of committee by a vote of 61 to 1 and contains significant improvements in areas of military personnel, acquisition reform, responsible defense procurement strategies, and addresses a need for continuity in funding for our ongoing efforts in the global war on terror.

But before I get into any details, Mr. Chairman, I would like to thank the gentleman from Missouri (Mr. SKELTON), who has been my partner on this committee, for all the great work that he has done. I would also like to praise our subcommittee chairmen and ranking members. This bill is a culmination of their many hearings and oversight reviews.

Almost every member of this full committee has been to the war fighting theaters in Iraq and Afghanistan and gathered firsthand important information that has ultimately been reflected in this bill that we have put together. I want to thank all the members of the committee and all our great leaders on both the Democrat and Republican side, the chairmen of the subcommittees and the ranking members, for their work.

This year, Mr. Chairman, we have made taking care of our troops, both now and in the future, one of our top priorities. We can do all of these things in developing great weapons systems and facilities, but the only thing that really is important, the element that drives the security apparatus of the United States, is people. It is the men and women in uniform. To recognize these sacrifices, the committee has included a number of very well-deserved changes in our MILPER system, and it starts with this 3.1 percent pay raise across the board.

Incidentally, that pulls down this difference in pay on the outside in the domestic world and military pay. There has always been a differential. If you were a military technician in a certain area, you have historically made less money than your counterpart in the private world.

□ 1215

But we have pulled down that differential now to a very low rate, which is now about 4.6 percent. We have increased, in fact, military pay 25 percent over the last 4 years, and that has been the result of the great work of members of our committee, Mr. Chairman.

We have also increased the death gratuity to $100,000, and understanding that there is no way we can repay those who have lost their loved ones, this helps to bridge those very difficult times when that man or woman does not come back from the warfighting theaters.

We also provide additional increases in end strength. With this bill we have completed our end strength increase plan of 30,000 more soldiers for the Army and 4,000 for the Marine Corps.

But we also realize that there are a lot of other things we need to do, especially in the warfighting theaters. We have increased by $572 million our inventory of Humvees, $183 million for counter-rocket and mortar systems. Those are the systems that can take down those mortars and rockets that are coming into the fire bases in Iraq and Afghanistan, inflicting in some cases egregious wounds on our personnel.

And we have put in an additional $45 million for these jamming devices to jam improvised explosive devices that the insurgents are using in the warfighting theaters. That is a place where the insurgents can stand back 300 or 400 yards from a roadway, wait for that Marine or Army convoy to line up on a lamppost, and by using a low-power device like a garage door opener, detonate an improvised explosive device, which may be an artillery shell next to that road, hurting the Americans. Jamming that capability, defeating that capability, is an important thing, and we have put a lot of money into that, Mr. Chairman.

These are a couple of examples I wanted to go over.

But I wanted to go to another area that is very important for our Nation's future and the future of our defense apparatus. We are paying a ton of money now for single systems. The future combat system for the Army is now projected to cost almost twice what we originally projected. The cost of the new destroyer, the DD(X), is going to be, according to projections, well over $3 billion.

So we see these escalating prices threatening our ability to buy enough systems, enough trucks, tanks, ships, planes, to provide the coverage that we need in power projection around the world. We are putting some very important disciplines into the acquisition process to make it more difficult for the private sector to increase these prices dramatically and for this combination of our own bureaucracy and the private sector to inadvertently allow their program costs to rise. So we are working to instill some fiscal discipline, Mr. Chairman, and that is manifested in this particular mark.

Finally, Mr. Chairman, let me just say that we have extraordinary people in the warfighting theaters today. These young men and women went in initially thinking they would see poison gas on the battlefield. They did not see that poison gas, but they have come up against things like IEDs, new ways of attacking that we did not anticipate, and that will continue to evolve as the insurgents search for new ways to attack Americans. And we have to have the flexibility and the agility to provide new systems and new types of operations to counter what we are going to see not only in Iraq and Afghanistan, but around the world in this global war against terrorism.

So we have given the tools to our troops today, and this is just part of the process, but we have initiated, with this bill, giving to our troops the tools that they need to get the job done. It has been a bipartisan effort, and the gentleman from Missouri has been a real partner in putting this bill together.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

First let me thank the gentleman from California (Mr. HUNTER), my friend and colleague, the chairman, for his leadership on this committee, for the by and large strong bipartisanship that we have had on this bill. I thank him and all the members on both sides of the aisle, the chairman, the subcommittee chairmen and ranking members. They have all worked so well and so hard.

This is a $440 billion bill, and it means so very much for the national security of our country.

So we again thank the gentleman from California (Mr. HUNTER) for his participation, for his friendship and for being a strong colleague in national defense.

I am pleased that this year's defense budget represents a real increase in defense spending over last year's level. The committee made good use of the money in recommending vital readiness, modernization, infrastructure improvements, which will keep our forces the best trained and best equipped in the world.

At this point, Mr. Chairman, I feel that I must say that I am so very proud of every man and every woman who wears the uniform of the United States. It is up to us, in the Constitution, to provide and maintain them, and, that is, from all of us who serve on this committee, it is a labor of love. Those young men and young women putting their hearts and souls, their bodies, their careers on the line for our country. So the least we can do at this moment is say a special thanks to them by passing an excellent bill which does help them in their duties.

I want to commend the gentleman from Arkansas (Mr. SNYDER), ranking member, and the gentleman from New York (Chairman Mr. MCHUGH) for increasing the Army and Marine Corps end-strength. I have been saying since 1995, Mr. Chairman, that we needed 40,000 more troops in the United States Army, and this year we are authorizing an additional 30,000 for the Army and an additional 4,000 for the United States Marines.

However, they are paid for out of the supplemental that we are authorizing. Nevertheless, it is happening. It should be paid for out of the base bill, but it is happening because they are stretched, they are strained.

I also want to commend the efforts to reform the purchase of Navy ships. If we are ever going to get to the point where we can afford to buy more than just a few ships a year, we are going to have to do things differently, and I think that buying the number of ships that we are doing, the additional three ships, is a major step in the right direction.

I do, however, want to raise two matters of concern. The bill authorizes almost $50 billion in fiscal year 2006 supplemental appropriations for the wars in Iraq and Afghanistan. These funds are separate and apart from the $440-plus billion we are authorizing. My concern is that the conflicts for which we are authorizing this additional money are mature enough that their costs are foreseeable and could and should be included in the base bill. In my view, budgeting in this fashion has adverse consequences.

Secondly, the "emergency" designation that goes along with supplemental appropriations hides the true extent of the Federal deficit. Although we may disagree on the practice of funding operations in the Iraq war and the Afghanistan conflict through supplemental appropriations, if we are going to go down this road, then we should not short-circuit the authorization process. And that is what we are doing. We are authorizing, as we should, rather than leave it up to the Committee on Appropriations; and I think that is a move in the right direction.

Finally, Mr. Chairman, let me say a word about the Hunter amendment. This deals with the women in uniform. At the outset I must say I am proud of every man and woman who wears the uniform and the duty that they perform.

In the Military Personnel Subcommittee, the amendment was adopted on a party-line vote, which had the effect of freezing out and causing to be closed some 21,950 positions. That was not a good move. That would be disruptive, not just to women; it would be disruptive to our national defense because so many of them are serving all over the globe in such superb fashion.

In the full committee, another amendment was adopted that was an attempt to codify Secretary Les Aspin's 1994 women issue language. It was not full and complete, and there were some serious problems with that, and the United States Army opposed that. That is the way the bill is at this moment.

I understand there is an amendment by the gentleman from California (Mr. HUNTER) that will wipe that out and that will call for a special way of counting notification to Congress and call for a study. Should that pass, it will wipe out the onerous language that is there that is causing a great deal of concern not just with women in the uniform, but those others who work with them and for them.

The process in this regard has been, I think, unfair to Democrats. So as a matter of fact, we have come out on the issue regarding women. If the new Hunter amendment is adopted, possibly those two amendments are behind us and we do not have to worry about their being concerned; and that is the major victory in this issue of personnel.

I feel constrained to mention that the committee adopted an amendment that would have extended TRICARE coverage to Reservists. Unfortunately, the provision was technically defective, and the Committee on Rules had the opportunity to right that wrong, and they did not do so. So we look forward to discussing that at a later time. The gentleman from Mississippi (Mr. TAYLOR), I am sure, will address that situation.

By and large, this is a good bill. We have worked hard on it. The subcommittees have worked hard on it. And so often we have serious problems, as we have with the issue regarding the women in uniform, but I do not want those issues to detract from the fact that this is a solid piece of legislation that helps fight the war against terrorism and helps fight against the insurgency in Iraq and also funds the men and women in the performance of their duties all over this globe.

So I will say that we have a tremendous military that we should be very proud of.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. WELDON), who is the vice chairman of the full committee and the chairman of the Tactical Air and Land Forces Subcommittee, and who has done a great job in putting his package together in terms of modernizing our forces.

Mr. WELDON of Pennsylvania. Mr. Chairman, I, first of all, want to thank my distinguished chairman and the ranking member for their work.

Let me say this at the outset. I cannot tell the Members how proud I am to serve on this committee. Every day that I serve in this institution, I am happy that we work so well together. But this committee, I think, sets the entire example for the entire Congress. Democrats and Republicans, we work together.

I think the best evidence of that is, we had a vote out of committee of 61 of the 62 members coming together, and where we had areas of disagreement, we have been able to work those out. What a real credit and testimony to this Congress and those 62 members who are on this committee and to our leader.

The chairman has done a fantastic job. He has done what many said was the impossible, and I applaud him for that, under extremely difficult circumstances.

The gentleman from Missouri (Mr. SKELTON) has been a tireless advocate for what is right for our military, and I applaud him for that. To the gentleman from Hawaii (Mr. ABERCROMBIE), my ranking member, I thank him. He is a great American and it is great to work with him.

And I want to add a special amount of praise to our new staff director, who is sitting here for the first time at the table. I look forward to what I know is going to be an extremely productive relationship with a real professional who is going help us in our job.

Mr. Chairman, in my part of the bill in the Tactical Air and Land Forces Subcommittee, we had some difficult decisions to make. I had $10 billion of requests for plus-ups that I could not meet, that the services wanted, that Members came to me for. It was impossible. We did the best that we could.

And again this committee did what we did last year. It was this committee that called for additional funding to up-armor our Humvees and take care of the troops that were in harm's way. It was this committee that led the White House last year in getting that first $25 billion supplemental.

This weekend, I will take a bipartisan delegation back to Iraq, and we will spend Memorial Day in theater with the troops seeing the visible examples that we have helped provide to allow our military to be so capable and so successful. And that was our primary focus in the defense bill this year, how best to support our military and civilian personnel in the war against terrorism.

The second thing that we did, and it was difficult, was accountability for DOD programs. And that is not easy. We have services each wanting their own individual platforms while accomplishing the same objective. We put language in this that says they cannot do that. We cannot afford to have the exact same helicopter for the Army that meets the exact same need of the Marine Corps. Why do we not come together with one platform for both? This committee took that action, and I am proud to say that is a part of our recommendation.

We also said that in the case of new technology and new programs, we want to see the technology before we buy it. What disappointed me was that some of the contractors and some of my good friends in this body tried to mischaracterize the language we put in the bill on the Presidential helicopter.

□ 1230

Our language on the Presidential helicopter was not to score a point against or for any contractor or any region of the country. I fully support the decision of the Navy and the Marine Corps and the down-select that they made. And it is not about "Buy America" or not buying America. It is about what is the best helicopter to meet the needs of our President. But I would say we have to have closer control over the dollar amount going into this program.

We also had to make a difficult decision, as my chairman outlined, on Future Combat Systems. We cut the program by $400 million; but it was the right decision to make financially, to make sure that we are protecting the taxpayers' interest as well as giving the warfighter the best technology. We made a number of other changes in terms of the overall purchasing of our major platforms. I will not go into them. I will submit them all for the RECORD.

In closing, I want to say again how proud I am to serve with a Democrat and Republican who truly understand how to lead, to work together, and in the end to do what is best for our warfighters. I thank my distinguished chairman and ranking member and the gentleman from Hawaii (Mr. ABERCROMBIE), as my own subcommittee ranking member, for their cooperation on this final product. It is deserving of a "yes" vote from every Member of this body.

Jurisdiction includes $67 billion in DOD procurement and research and development.

Bill increases the requested authorization for programs within the jurisdiction of the Tactical Air and Land Forces Subcommittee by $4.5 billion.

Focus: First, how best to support our military and civilian personnel serving in the global war on terrorism; and second, accountability in DOD programs.

Legislative initiatives that seek to redress several unfavorable trends in the Department of Defense:

Programs being called joint programs with only one service participating in the program. This results in large, single service and program research and development expenditures for service unique programs followed by short production runs and inefficient use of taxpayer dollars.

Each service would like its 100 percent solution to every requirement, but that simply cannot be afforded. We want to make sure valid needs of the services are met, but affordability and unique solutions to requirements have to be balanced. We cannot afford to continue to have individual, service solutions within our ground forces for helicopters, tactical wheeled vehicles, blue force tracking, body armor, armored vehicle upgrades, vehicle add-on armor kits, and unmanned aerial vehicle systems, as well as other programs.

Also, programs cannot continue to be allowed to enter pre-production R&D, with immature technologies and ill-defined or unrealistic requirements.

Further, the Office of the Secretary of Defense is there for a purpose, to exercise oversight and reconcile differing service requirements. OSD needs to start exercising its responsibility in programs like unmanned aerial vehicles and helicopter development.

We must stop the trend toward excessive research and development and procurement concurrency in acquisition programs, resulting in not "flying before buying," potential extensive post production modifications, and the associated increased acquisition costs. An example is in the action we have taken on the VXX—the presidential helicopter replacement program. The companies involved have tried to portray the action we have taken as a win for their particular marketing strategy when all that our legislation requires is flying the VXX before buying. It is not a Buy American provision. It is not trying to reverse the source selection. It is simply telling the Pentagon to test and fly the R&D aircraft before you buy production aircraft, so we don't have to go back and spend millions of dollars on already produced aircraft because the test results were not available in time to incorporate fixes into production aircraft. The Pentagon request to us would have us authorize procurement of 15 of the required 23 VXX aircraft before any testing has been done—likely resulting in expensive retrofits to production aircraft.

Other legislation includes:

Multiyear Procurement for UH–60 helicopters;

Multiyear Procurement for the Apache helicopter Target Acquisition/Pilot Night Vision Sensor;

Multiyear Procurement for Apache Helicopter Block II conversion;

A Requirement for an Acquisition Strategy for Tactical Wheeled Vehicle programs;

A Requirement for Full and Open competition for the Objective Individual Combat Weapon;

A Requirement for use of the Tactical Common Data Link by all services for tactical unmanned aerial vehicles;

A Requirement for the Office of the Secretary of Defense to approve all new UAV programs;

An annual Government Accountability Office review of the Future Combat Systems program;

A Requirement to maintain the lethality and survivability requirement of the Non Line of Sight Cannon as established in the operational requirements document;

A Requirement for an independent analysis of the FCS manned ground vehicle weight requirement; and

A Requirement for a single, joint heavy lift rotorcraft program.

In addition adjustments have been made to the following programs:

The C–130J multiyear procurement is reinstated to the levels projected in the fiscal year 2005 budget, resulting in an authorization for 9 C–130Js and 4 KC–130Js, with advance procurement for those same quantities included for fiscal year 2007. [This program has been poorly managed by the Pentagon, but we need the tactical airlift that these aircraft will provide and termination costs were estimated to exceed the one year procurement value of these aircraft.]

The Future Combat Systems' budget request is reduced by $400 million.

The Joint Strike Fighter program is reduced by $150 million, the amount requested for advance procurement—again to require flying test aircraft before procuring production aircraft.

The Heavy Lift Rotorcraft replacement program is restructured and combined with the Joint Heavy Lift rotorcraft program.

The Global Hawk unmanned aerial vehicle program is reduced by $30 million, as the requested amount is early to need.

Mr. SKELTON. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Chairman, I rise in support of this bill. I thank the gentleman from California (Chairman HUNTER); my ranking member, the gentleman from Missouri (Mr. SKELTON); and all the subcommittee chairmen and subcommittee members for their skill and leadership in addressing the military issues before us.

This bill provides for the needs of our troops and their families. While we are at war, we must always see that they are given the equipment and supplies that they need to do the mission that we ask them to perform.

Like many other things now, this bill is not perfect. In fact, there are a number of challenges still unaddressed by the bill, particularly relating to our retention and recruitment problems. The war in Iraq and the global war on Terror, coupled with the uncertainties of Base Realignment and Closure, the overseas base changing and the accompanying QDR, Quadrennial Defense Review, present many challenges to our readiness posture.

As the ranking member of the Subcommittee on Readiness, I remain deeply concerned about the shortfalls in our recruiting and retention across the board. For example, in March, the Army missed its recruiting goal by 27 percent. We do need soldiers for our all-volunteer Army.

Our Armed Forces have many, many pressing needs, including basic equipment, body armor, Humvee armor, other vehicles, tanks and more; and our troops are doing a great job. We need to continue to support them, to give what they need.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. SAXTON), the chairman of the Subcommittee on Terrorism, Unconventional Threats and Capabilities, and oversees those wonderful people in our Special Operations Command.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in strong support of H.R. 1815, the National Defense Authorization Act for the next fiscal year. Last week, the Committee on Armed Services approved this bill by an overwhelming vote, as was noted by the gentleman from Pennsylvania (Mr. WELDON), 61 to 1. This demonstrates once again the committee's long tradition of bipartisanship in addressing the defense needs of our Nation.

Mr. Chairman, I would like to commend the chairman and the ranking member for leading us through this process this year in a bipartisan basis.

Mr. Chairman, the war on terror requires the determination of this Nation. This bill demonstrates that determination.

The war on terror requires flexibility to be able to change to meet the threat. This bill demonstrates our ability to change to meet the threat.

The war on terror requires the use of new technology, information technology, robotics, detection equipment. This bill demonstrates our ability to do that.

The members of the Committee on Armed Services never forget that we are a Nation at war. Our young people in uniform face danger daily, while bringing peace and prosperity to benighted areas around the world. Moreover, they are taking the fight to the terrorists on their home ground, keeping the terrorists on the run and fearing for their very lives.

The highest responsibility of those of us privileged to serve on the Committee on Armed Services is to do whatever we can to help our troops. We make the point of visiting the troops in the theater to better appreciate the conditions they live and operate under and the needs they have.

My subcommittee and I have been diligent in that regard and have tried our best to include measures that help our soldiers. We have taken several actions in the bill that will provide the resources and direction to better protect our men and women who are selflessly serving in dangerous conditions overseas.

We have not forgotten our valiant warriors in the Special Operations Command in particular. We have authorized funds for several items in the SOCOM commander's unfunded requirements list and have authorized additional funding that would provide some necessary operational flexibility for special operations forces on the ground.

The bill provides increased funding to accelerate the development and fielding of advanced technologies that I mentioned earlier for emerging critical operational needs, including protection of our forces against improvised explosive devices and rocket and mortar attack and to provide real-time surveillance of suspected enemy activities.

The bill also provides increased funding for combating terrorism technology support to accelerate the development and fielding of advanced technologies in the war on terror. We continue our successful initiative to develop chemical and biological defense countermeasures and start a new initiative for medical defensive countermeasures.

The bill recommended by the committee recognizes that we remain a nation at war. The asymmetrical threat that I have warned of since the middle 1980s has indeed grown to be a worldwide menace. Our successes in meeting this new world threat are measured by our ability to evolve our warfighting strategies and tactics more quickly than the enemy. While we certainly have the initiative, we do not have a monopoly on all of the ideas. The enemy is clever, growing desperate and must be taken seriously by the people of our country. This bill will help our soldiers keep the enemy on the defensive.

In closing, Mr. Chairman, I want to express my appreciation again to you and to the ranking member, as well as to the ranking member on our subcommittee, the gentleman from Massachusetts (Mr. MEEHAN), with whom I have worked closely over the years and particularly this year. This is an excellent bill, and I urge all Members to support it.

Mr. SKELTON. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Chairman, I rise in strong support of the fiscal year 2006 Defense authorization bill. I believe it is a fair bill. I am pleased it has been handled in a bipartisan manner. It is a rare practice in this House, and I commend the gentleman from California (Chairman HUNTER) for avoiding the politics of "divide and conquer."

I want to take this opportunity to express my great disappointment with the BRAC process. Rock Island Arsenal in my district was negatively affected by these recommendations. After further research, it seems that there are numerous errors in the Secretary's recommendations. For example, the report recommends a shift of 181 depot-level jobs in my district amounting to a savings of $13,000 over 20 years. That is $13,000 over the current expenditure.

BRAC also recommends the closing of DFAS and C–POC, which both are rated number one above their peers. This Secretary of Defense wants to close the number one C–POC and number one DFAS, knowing full well that only 20 percent of the civilian employees will follow such recommendation.

I am very disappointed at these recommendations and will work to hard fight them. I will be voting for amendments that would scrap or delay the BRAC process.

Furthermore, I am disappointed that the BRAC commissioners do not seem interested in meeting with community leaders during their visit to installations. This is completely unprecedented and I call upon my friend, Chairman Tony Principi, to request that commissioners meet with the local communities to discuss these recommendations.

Finally, I would like to express my disappointment at the Rules Committee for being grossly unfair in preventing important Democratic amendments. They should be ashamed for their sheer partisanship on an issue that should not be Democratic or Republican and that is the defense of our Nation.

Chairman HUNTER and Ranking Member SKELTON, I thank you and your staff for their hard work.

Mr. HUNTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. HEFLEY), who chairs the Subcommittee on Readiness and does a wonderful job making sure our men and women have the facilities that they need.

Mr. HEFLEY. Mr. Chairman, I thank the chairman for yielding me time. The gentleman and our ranking member have done a wonderful job in pulling all of these committees together to make this thing work.

The ranking member mentioned that this is a good bill. It is a good bill, and I will probably not belabor that point. But I am pleased to come to the floor today in support of H.R. 1815, the fiscal year 2006 National Defense Authorization Act.

The gentleman from Texas (Mr. ORTIZ) and the subcommittee and I worked very closely together to examine the Department's funding for military readiness, which includes $108 billion in operation and maintenance funds, as well as another $12 billion for military construction, family housing, and base realignment and closure.

The actions we took this year addressed the needs of our Armed Forces, both on the battlefield and on the home front. We looked at the readiness levels of our military units, the ability of the military services to maintain equipment in theater and to reset and reconstitute equipment that returns from war; and we confirmed what we already knew, war is expensive and funding is needed.

This is why the bill contains a "bridge fund," which is intended to provide the resources necessary up front to allow our military to continue to fight the war against terrorism. I believe this to be the proper approach and eventually one way to move away from the annual supplemental appropriations bills.

On the home front, we examined funding for the upkeep and maintenance of military installations. While the readiness needs of our forward deployed military personnel are our top priority, we cannot forget the families at home, the servicemembers preparing for deployment, and the personnel just returning.

The committee is well aware of the Department's long-standing practice of utilizing infrastructure budgets as billpayers for operational requirements. Unfortunately, the consequences of taking this approach are reductions to basic services such as child care, dining hall operations, or facility management activities. H.R. 1815 will alleviate the Department's need to raid infrastructure budgets for operational needs and includes the tools we need to improve oversight of infrastructure accounts.

On a final note, we are well aware that the Secretary of Defense recently sent over a list of bases that he is recommending to be closed or realigned. For the past several years, I have fought for a delay in the base closure process. I do not think this is the right time to do it. But, unfortunately, we win that battle in the committee, in the subcommittee, on the House floor, and then we lose it over in the conference because the other body and the President did not go along with our thinking on that. Now I think it is not a fun time, BRAC is never a fun time; but I think it is probably a little too late to get that process reversed.

But we are going to get an opportunity to debate it today and get an opportunity to vote on it, and I would encourage all of us to not support that effort and to support the bill. It is a good bill.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I want to thank the gentleman from Missouri (Mr. SKELTON), the gentleman from California (Chairman HUNTER), and the gentleman from New York (Mr. MCHUGH), my subcommittee chairman, for the work they have done on this bill.

I rise in support of this bill. There are a lot of good things in here, a 3.1 percent pay raise for the troops, which is ½ percent over the employment cost index. The bill continues the efforts to eliminate out-of-pocket housing costs for servicemembers and their families and eliminates the two-tier housing allowance, or BAH-2, for Reservists and National Guardsmen who are called to duty for more than 30 days and serve less than 140 days.

The bill also has some issues to address health and dental readiness, which Members heard was a problem during the Reserve mobilization.

I also want to thank the gentleman from New York (Mr. McHUGH) for working with the gentlewoman from California (Ms. LORETTA SANCHEZ) and others to include provisions that will update the UCMJ with regard to sexual assault crimes. These proposed changes will send a clear signal from Congress that this type of behavior is unacceptable.

The bill also includes provisions that will speed up concurrent receipt payments for unemployables.

I want to say a word about the women-in-combat issue. I am pleased that the amendment to be proposed by the gentleman from California (Chairman HUNTER) here shortly today will eliminate the terrible language that is in the underlying bill, language that sends such a bad message to our women in uniform. But that language should never have been in the bill to begin with.

This last Saturday we had a big homecoming ceremony for a lot of our troops coming back from Iraq that are in the National Guard. These are some of the troops that I met with, amongst others, some women that had served in Iraq.

Some of the comments I heard from some of these women, they thought we were "returning to the Stone Age," were one woman's words; "an insult to the job that they had done in Iraq," was another woman's words. They alleged that we "do not know what is going on in Iraq," was the words of another woman officer.

The original subcommittee language was terrible. It would have impacted on tens of thousands of women. The language at the full committee level eliminated the bad subcommittee language, but it also was terrible.

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We now have thousands of women in the military confused by these 3 weeks of discussions, and I am pleased that the Hunter amendment today will eliminate it, but it should not have been in there to begin with.

I support the bill.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. McHUGH), who does such an able job of presiding over the Subcommittee on Military Personnel and who takes care of all of our folks in uniform, men and women, active, Guard, and Reserve.

Mr. McHUGH. Mr. Chairman, I thank the distinguished chairman, the gentleman from California, for yielding me this time, and I give my compliments both to both him and the ranking member, the gentleman from Missouri (Mr. SKELTON) for always working together to bring us a good bill.

The gentleman from Arkansas (Mr. SNYDER), my distinguished ranking member, pretty much gave my speech, except for perhaps the closing comments that he made, and I am looking forward later, at the appropriate time, to making some comments about the path that we traveled to get to the issue of women in combat.

But without trying to be too redundant, Mr. Chairman, let me just say that the gentleman from Arkansas (Mr. SNYDER) indeed spoke about the 3.1 percent pay increase, and that reduces the gap in civilian and military pay from 5.1 to 4.6 percent. Importantly, this is the seventh year in a row that the subcommittee has recommended a pay raise that is larger than the level that is granted for private-sector pay raises.

We also very importantly recommend continued growth in the Army and the Marine Corps end strength. The House has long advocated those kinds of increases. We supported increases of 10,300 in fiscal year 2003, 6,200 in fiscal year 2004, and in fiscal year 2005, Congress authorized manpower increases of 20,000 in the Army and 3,000 in the Marine Corps.

Under the bill today, we propose additional growth of 10,000 in the Army and 1,000 in the Marine Corps, and that would bring Army end strength to 512,400 and the Marine Corps to 179,000. I think this is critical to alleviating the stress on the operations and personnel tempo that has been so negative upon our troops.

This bill also provides very important recruiting and retention and pay initiatives that increase the maximum amounts that may be paid for active duty enlistments from $20,000 to $30,000, and Reserve enlistments from $10,000 to $15,000, and active duty enlistments and reenlistments from $60,000 to $90,000.

As the gentleman from Arkansas (Mr. SNYDER) said, it would eliminate BAH II, which is an irritant within the Reserve component. With this mark, Reserve rates for the basic allowance for housing will be the same as active duty rates when Reservists are mobilized for more than 30 days, and on and on and on.

In essence, Mr. Chairman, this is a very, very good bill. It continues this House's very remarkable and, I think, very admirable record toward trying to respond to the efforts of those brave men and women, men and women who do such an amazingly incredible, fantastic job for us as they go about the hard work of defending freedom across this globe.

Let me say, Mr. Chairman, I would urge all of our Members to support this initiative, and I look forward to its passage.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I rise today in support of the 2006 National Defense Authorization Act. The bill contains many provisions to protect our troops and give them the services that they need.

Although it is largely a product of the committee's bipartisan work, I am highly concerned by several aspects of the bill. I am extremely troubled by the new restriction against women serving in the military. While the committee-passed bill included far worse language, preventing women from serving in forward-deployed units, the current provision is also not worthy of the brave women who make up 15 percent of the active duty Army, 23 percent of the Army Reserve, and 13 percent of the Guard. And it dishonors the service of women soldiers who are fighting the global war on terror and hurts readiness at a time when our military is facing a recruitment and retention crisis.

I am also deeply concerned that the Committee on Rules did not allow a vote on my amendment stating that it is United States policy not to have a permanent presence in Iraq. My amendment simply codified what the administration has been saying all along, that U.S. troops will stay in Iraq as long as necessary, but not 1 day more. It would have made clear and unambiguous statements that the United States does not intend to maintain a permanent presence.

While this bill takes many small steps towards improving benefits for our Nation's servicemembers, it does not recognize the urgency in responding to the needs of a whole new generation of combat veterans.

I introduced two amendments in committee to improve transition assistance services and preseparation counseling to separating servicemembers. These programs are critical to providing servicemembers with the tools they need to succeed in civilian life. As we prepare to take on thousands of new veterans who have served in Iraq and Afghanistan, many of whom have been critically injured and will need long-term support, we must expand these programs. The committee did a disservice to our troops when it failed to adopt these amendments.

Finally, I am also troubled by the chairman's decision to ignore the views of his fellow committee members and strike bipartisan language. The committee recognized the need to extend TRICARE to nonactive-duty Reservists by adopting the Taylor amendment.

Our chairman later struck the provision, and the Rules Committee has denied Mr. TAYLOR the opportunity to bring an amendment to the floor.

I also want to extend a special word of thanks to Lauren Briggerman, my Military Legislative Aide, who is leaving my office in June to attend law school.

In the nearly 2 years Lauren has been with my office, she has proven to be tremendously talented and dedicated.

Lauren has contributed immeasurably to my work on the Armed Services Committee, particularly on Iraq exit strategies, repeal of the military's unjust "don't ask, don't tell" policy, transition assistance for returning veterans, weapons non-proliferation, and defense issues affecting Massachusetts.

I wish her the best.

I thank the ranking member for providing me time to speak on this bill.

Mr. HUNTER. Mr. Chairman, I yield an additional 2 minutes to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Chairman, let me just say with respect to what the gentleman from Arkansas (Mr. SNYDER) said, never has so much been written and said about one issue in such a short period that has been so wrong, and I wanted to clarify the record.

The amendment that was introduced, and the second amendment that the gentleman from Arkansas (Mr. SNYDER) described as terrible and that the manager's amendment will replace, has been described as antiwoman, has been described as disruptive to current operations, and has been described as confusing to commanders.

I just want to be clear, Mr. Chairman. The language that was inserted would not have resulted in one woman losing her job or risk being shut out from any position for which she was qualified or that was open to her, not one, not now, not at any time in the future, despite what some of the opponents have said.

That was the entire intent, to make it clear for the first time in law that the women who are doing a fantastic job on behalf of the military could not be excluded from any job for which they are operating and were qualified at that moment, not from forward support companies, not from any other position which they had, just because the traditional, linear battlefield had changed.

As to the confusion that some say occurred, let me just say to my friends in the military and to my friends who have questioned this amendment, and particularly my friends in the Army, does it not trouble you when you say that it would be confusing to your commanders when, for the first time ever, they are handed something that just embodies what you say is your policy? The policy that was developed and placed into that amendment, the military wrote and now you claim that you are following.

Congress did not make that up. Politicians did not define it; the military did. Now you say it is confusing. I would ask my friends in the military particularly, when did you plan on making it clear?

The amendment today will clarify matters even further. I fully support it. But I really think the characterizations that have been made against the text that is replacing it have been unfair and simply inaccurate as to what the position would be with respect to the honorable men and women in military uniform.

Mr. SKELTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland (Mr. HOYER), the distinguished whip.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of this Defense Authorization Act because I believe it provides the critical items necessary for our forces arrayed in Afghanistan and Iraq and around the world. I also support the recognition of the pay necessities that confront our people and gives them a raise.

In addition, it provides increases in enlistment bonuses obviously necessary, hazardous duty, and other special pay to improve recruiting and retention, and funding for a number of key modernization priorities that will ensure that our military remains the best-equipped fighting force in the world for decades to come.

I believe many Democrats will vote for this legislation because we are committed to providing our troops with every resource necessary to succeed in Iraq and Afghanistan and anywhere else the call to defend freedom takes our men and women in the military.

However, this measure is by no means perfect. First, I would say I was disturbed by the rule. I was particularly disturbed, Mr. Chairman, that the amendment offered by the gentleman from South Carolina (Mr. SPRATT), one of the most substantive amendments that was offered, was not allowed by the Committee on Rules. I think it is a shame that we did not have a full debate on the Spratt amendment dealing with proliferation. In fact, Mr. Chairman, it highlights the Republican Party's inability to move past the threats of the Cold War to the threats posed by global terrorism and have a full debate on the ramifications of that.

Specifically, this bill underfunds the Cooperative Threat Reduction program, which has helped to keep unsecured weapons of mass destruction in the former Soviet Union out of the hands of terrorists. This is the gravest threat that our Nation faces; yet, funding for the Cooperative Threat Reduction program barely keeps pace with inflation, even though the 9/11 Commission urged that it be expanded. At the very same time, this bill provides billions of dollars for a national missile system that moves forward the process of developing new nuclear weapons. Neither of these priorities helps to protect the American people from a future terrorist attack.

As I said, Mr. Chairman, I will vote for this bill, but it is a shame that we will not have a fuller, effective debate on the grave policies that this bill deals with or fails to deal with.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as the ranking member of the Subcommittee on Strategic Forces, I rise today in strong support of this bill. The Subcommittee on Strategic Forces has jurisdiction over several of the most complex and contentious programs, which include ballistic missile defense and nuclear weapons.

I want to recognize and I want to thank our subcommittee chairman, the gentleman from Alabama (Chairman EVERETT), my good friend, for his leadership and all the effort that he put into forging a bipartisan mark. I should tell my colleagues that we often do not see eye-to-eye on every single matter, but I am pleased to report that our subcommittee reached bipartisan accord on several major issues that are important to our Nation.

In the short time that I have here this morning, I want to highlight two areas of bipartisan agreement: satellite programs and the Department of Energy's Reliable Replacement Warhead program.

Mr. Chairman, H.R. 1815 restructures two high-profile satellite development programs, TSAT and Space Radar. Restructuring these programs was a bipartisan decision, an effort that I think will save both programs from experiencing cost overruns and schedule slips that have plagued them in the past.

Turning to the Department of Energy, I am also pleased that we were able to set a reasonable, bipartisan objective for the Reliable Replacement Warhead program. The RRW program has the potential to significantly lower the number of weapons in the U.S. nuclear arsenal and to ensure that our Nation never resumes nuclear testing.

Of course, as always, the devil is in the details. The mark contains a detailed reporting requirement on the RRW, and in truth, only when we receive the report will we likely know whether or not that program can live up to its full potential. Still, setting a bipartisan charter for this program and others in our subcommittee is a significant accomplishment of this mark.

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With that, Mr. Chairman, time does not permit me to go into the other areas that are of concern to our great Nation, only to say that I urge all Members to support this bill. It is important to our Nation. It is important to those that are in harm's way today keeping us free.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BARTLETT), the gentleman who chairs the Projection Forces Subcommittee.

Mr. BARTLETT of Maryland. Mr. Chairman, before proceeding as chairman of the Subcommittee on Projection Forces, I believe it appropriate to underscore the magnificent service rendered the Nation by the men and women serving in our Armed Forces around the world who so steadfastly meet every challenge with true dedication and commitment. We thank each and every one of them for their service. And we thank all Americans, specifically the families of servicemembers, for their unwavering support of our servicemen and -women.

History has repeatedly taught us that peace is only achieved through strength. We have sought to apply the lessons learned from the ongoing global operations to the committee markup of the National Defense Authorization Act for Fiscal Year 2006 in order to strengthen our Armed Forces.

Oceans cover three-quarters of the Earth's surface. The vast majority of the world's population lives within a few miles of a sea coast. Seventy percent of our trade moves by sea. Thus, maintaining America's naval superiority is an imperative. I am pleased to report that the National Defense Authorization Act that we will consider initiates a program to infuse our shipyards with leading-edge manufacturing technology and management systems that reduce shipbuilding costs and to return our shipyards to global competitiveness.

We have also taken steps to confront excessive shipbuilding cost growth by capping costs on specific ship types, recognizing that both the Navy and industry must work together to design and build affordable ships with adequate capability.

Authorization for Department of Defense programs within the jurisdiction of the Projection Forces Subcommittee are increased by $2.3 billion above the budget request. $538 million of the additional authorization is for programs on the military service chiefs' unfunded requirements list.

Authorization is included for two additional Arleigh Burke-class guided missile destroyers, an additional T-AKE ship, and to accelerate fielding of the new amphibious assault ship. This is three more ships than the budget requested. Also included is a recommendation to authorize a multiyear procurement for the C–17.

We have also taken several initiatives to begin to address shortfalls in important requirements to the Department of Defense. These programs include:

$418 million to accelerate the development of the amphibious assault ship replacement;

$20 million to upgrade the fleet of B–2 bombers;

$60 million to complete development and evaluation of the Affordable Weapon System, a low-cost cruise missile, and increased authorization for several procurement, research and development programs of the services.

While there is much more to do, the National Defense Authorization Act of 2006 is an important step in making our country more secure. I urge all of my colleagues to support the bill.

I would like to thank the gentleman from Mississippi (Mr. TAYLOR), ranking member of our subcommittee, for his extraordinary partnership, dedication, and support. I would like to thank all my colleagues on the subcommittee for their diligence, commitment, and hard work.

I would like to also thank our chairman, the gentleman from California (Mr. HUNTER), for his leadership, and our ranking member, the gentleman from Missouri (Mr. SKELTON).

In conclusion, I would like to recognize the contributions and thank the many staff members for their invaluable assistance in preparing H.R. 1815.

Mr. HUNTER. Mr. Chairman, I want to thank the previous speaker.

Mr. Chairman, I yield to the gentleman from California (Mr. MCKEON) for a unanimous consent request.

Mr. MCKEON. Mr. Chairman, I rise in strong support of this legislation and commend the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), the ranking member, for their leadership.

I rise today in strong support of H.R. 1815, the National Defense Authorization Act.

Mr. Chairman, our nation is entering its fifth year in the global war on terrorism. Since the tragic events of 9/11, thanks to the heroic efforts of our men and women of the armed services, the United States has had important victories around the world. Just in the past few months alone, we have witnessed democratically elected governments taking power in Iraq and Afghanistan, and we have captured some of al Qaeda's top leadership, including the third most senior member of that evil organization.

Mr. Chairman, these outstanding developments will only carry forward if we provide our men and women of uniform with the tools and resources they need to do their jobs.

This legislation includes the necessary funding to pay for our troops in Iraq and Afghanistan, whether it's for protective gear, clothing, fuel, parts, or maintenance of equipment. It also includes funding to take care of the families of our troops, who make so many sacrifices for our freedom.

Mr. Chairman, this legislation will undoubtedly strengthen and enhance our military, and help us root our terror around the world. I applaud Chairman DUNCAN HUNTER and ranking member IKE SKELTON for their bipartisan work on this important bill and urge all of my colleagues to vote "yes."

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I first want to compliment my chairman, the gentleman from Maryland (Mr. BARTLETT). I want to wish him a happy 79th birthday. Many more to come. And I think the gentleman set the proper tone by saying that everything we do is to support the troops.

By and large, this is a very good bill. It could have been better if one amendment had stayed in. But by and large this is a very good bill. And I want to compliment the gentleman from Maryland (Mr. BARTLETT) on taking what was dealt in the beginning of the year, a pretty bad hand, just asking for four ships, and through his good work, through our chairman's good work, through our ranking member's good work, we were able to add, as he said, 2 DDG–51s.

And as far as the taxpayers are concerned, the last ships you get of any run are not only the best ships of that run, but also the most affordable because all of the learning that has gone into building the previous 50 ships go into these, and so these will be the most affordable, most technologically advanced of the DDG–51s.

The first of the LHARs, the replacement for the LHAs, is in this bill. Again, that is very good news for the United States Marine Corps. This is an aviation variant of an existing hull. Again, the savings that we have learned from the first seven hulls will go into this one and make it an outstanding addition to the fleet.

A T–AKE ammunition ship, in addition to the LCS, one *Virginia*-class submarine, one LPD–17 rounds out what started off to be a pretty bad Navy shipbuilding year and made it considerably better. So I do want to compliment our chairman on this.

Also, I want to compliment the Air Force. You recall at the beginning of the year the Air Force was talking about canceling the C–130J program. That was a very bad mistake on the part of the Air Force. With this committee's prodding, a number of Members, the Air Force has reversed that decision. That is an excellent platform that will continue to be built and is very much needed by our forces. So let me compliment the men and women who serve our Nation.

As I have said before, just today, four notices will be delivered in south Mississippi alone today on the lives of Guardsmen and Reservists who died just yesterday in Iraq. They deserve the very best. And I want to compliment this committee for bringing many of the platforms that they deserve to fruition.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman who just spoke.

Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. EVERETT), the chairman of the Strategic Forces Subcommittee.

Mr. EVERETT. Mr. Chairman, I thank the full committee chairman, the gentleman from California (Mr. HUNTER), and our ranking member, the gentleman from Missouri (Mr. SKELTON). And I would be remiss for not saying thank you to my ranking subcommittee chairman, the gentleman from Texas (Mr. REYES), for the kind remarks that he has made. And without question, we do have some of the most complex and controversial issues in the mark. And I appreciate the hard work of all the members in trying to reach agreement on this. We did not always agree, but we did reach a bipartisan mark; and I again thank all the members and the hard work done by the staff.

The subcommittee's portion of the bill makes some very hard decisions containing appropriate development of transformational capabilities while imposing reductions in certain areas where the technology is not yet mature.

In the Missile Defense Agency, the bill before you adds $150 million for additional testing of the ground-based midcourse defense system.

While we fund both the boost phase defense programs and the budget request, the bill does call for a cost-and-capability comparison between the Airborne Laser and Kinetic Energy Interceptor programs.

In the area of military space, the bill addresses concerns with space acquisition programs. In particular, we slow the pace and provide direction on two programs: Transformational Satellite Communications, or TSAT; and the space radar program. The bill also calls for development of a strategy for space situation awareness, and takes steps to move forward with operational responsive space.

Within Atomic Energy Defense Activities, the bill funds the Department of Energy programs at the budget request. The report includes minor reductions in direct stockpile work, while adding just under $50 million for badly needed infrastructure upgrades.

The bill includes a provision that establishes the objectives for the Reliable Replacement Warhead program, a critical step towards ensuring our nuclear arsenal remains reliable, safe, and secure. The bill includes funding for penetrator study to explore all options for holding Hard and Deeply Buried Targets at risk. The bill also adds $122 million for environmental cleanup activities at Hanford site in Washington State.

Mr. Chairman, the committee's work addresses the administration's objectives on funding military requirements and military member priorities. I certainly urge all Members to support this mark.

Mr. SKELTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman from Missouri for this time. I made a request to the Rules Committee that we be able, on this House floor, to debate a very important issue, but permission was denied, even though this subject goes to the core of who we are as Americans.

The issue is a concept called "extraordinary rendition." That is a situation where the United States has a prisoner in its possession. We have him. We control that prisoner. And, yet, because we receive diplomatic assurances from another country, a country that does not abide by the convention against torture, we send the prisoner to that country. Now, these are just not ordinary countries that we send these prisoners too. These are countries like Syria; these are countries like Uzbekistan.

The United States, in other words, has captured someone. We believe that they are a terrorist. We believe that they are a threat to our country. We have them in our own possession. By receiving these diplomatic assurances, we send these prisoners to other countries, knowing that there is a high likelihood that these people will be tortured. If Syria, for example, a country that Secretary Rice says we cannot trust, says that they will not torture someone who we have sent to them, can we really trust them?

Just this week, Syria broke off all relations with the United States military and the CIA. What does this mean for the diplomatic assurances that we received from Syria? Did we really need these additional lessons to know that they do not abide by the convention against torture?

Just this week in the New York Times there was a story about a case in which hooded operatives, in the middle of the night, took two Swedish prisoners to Egypt in a CIA-operated Gulfstream. Here is what the story said: one agent quickly slit their clothes with a pair of scissors. Another agent checked the suspects' hair, mouth and lips, while a third agent took photographs from behind. As prisoners stood there, naked and motionless, they were zipped into gray track suits and their heads were covered with hoods. The suspects were then marched in chains to the plane where they were strapped to mattresses on the floor of the cabin.

The two Egyptians later told lawyers, relatives, and Swedish diplomats that they were subjected to electric shocks and other forms of torture.

This is wrong. We should have had a vote here on the floor of Congress on this practice to prohibit it. And I regret that we will not. And I think it is a great deficiency in the debate we are having over the conduct of the war.

Mr. HUNTER. Mr. Chairman, how much time do we have?

The Acting CHAIRMAN (Mr. BOOZMAN). The gentleman from California has 1½ minutes.

Mr. HUNTER. Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise today to speak about our Nation's military space programs. But first I would like to offer my sincere thanks to the gentleman from California (Chairman HUNTER) and to the gentleman from Missouri (Mr. SKELTON), the ranking member, and particularly the gentleman from New York (Chairman McHugh) and the gentleman from Arkansas (Mr. SNYDER), ranking member of the HASC Military Personnel Subcommittee, for their hard work and support on another issue, that of revising the sexual assault statute in the Uniform Code of Military Justice, the UCMJ, language included in this bill adopting a modern complete sexual assault statute that protects victims, empowers commanders and prosecutors, and improves the good order and the discipline of the Armed Forces. It offers military prosecutors a clear definition of sexual assault and refined tools for effectively prosecuting sexual offenses. It also affords increased protection for victims by emphasizing acts of the perpetrator rather than the reaction of the victim during the assault.

As I said several months ago, we are at a critical juncture in dealing with sexual assault in the military. And I am thrilled to see that Congress is taking a major step to help with these problems in the military.

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Mr. Chairman, I would like to discuss our Nation's military space program. Last year, I offered an amendment in committee regarding the Near-Field Infrared Experiment, or what we know as NFIRE. NFIRE would have fired a kill vehicle from its host satellite at an incoming intercontinental-range ballistic missile. The Missile Defense Agency would have tried to narrowly avoid a collision only through split-second timing, but admitted there was a nontrivial chance of intercept.

I objected to the use of a kill vehicle flying from a host satellite because it basically would have been a de facto test of space interceptor technology. I felt strongly then, and I still do today, that we should have a coherent policy in place before we start conducting tests of weapons in space. Congress needs to be an active participant in the shaping of that policy.

I am pleased that the Missile Defense Agency decided against including a kill vehicle on the NFIRE satellite, and I appreciate their reconsideration of the NFIRE test.

I draw the NFIRE matter to the attention of this body because I think MDA's reconsideration was at least partly due to the recognition that this Nation needs to have a space policy in place prior to making decisions about testing or placing weapons in space.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Georgia (Ms. MCKINNEY).

Ms. MCKINNEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, where do I begin? I rise to oppose this bill for all that it represents about an America that has lost its way.

The snows are melting on Mount Kilimanjaro. Polar ice caps are contracting. In Africa, wars stoked by the United States contribute to the deaths of millions. Millions more die from hunger and disease. More Americans than ever do not have health insurance. Joblessness in some areas is at an all-time high. And this Congress is cutting Medicaid.

You might hear some talk up here about deficit spending, but there is precious little about the deficit so obvious as our values.

Dr. King told us that we all live in a world house, that we have the resources and the know-how to provide everyone everywhere with the basic necessities of life and that we must learn to live together as brothers or perish together as fools.

He reminded us that there is no deficit in human resources, but a deficit in human will. Nowhere is that more evident than in this half-trillion authorization for more fraud, waste, abuse and war.

At some point, Mr. Chairman, we ought to have a serious talk in this body about peace. The American people have been blunted with the horrors of hate and just like we rejected the outrageous behavior of Southern demagogues during the Civil Rights era, the American people reject the outrageous behavior at our detention centers like Abu Ghraib. But such is the collateral damage of war.

Today, courageous young men and women who joined the military to get a college education and not to go to war are taking a stand in their own way to reject war and hate. I urge my colleagues to find a new way and to do it today.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New Mexico (Mrs. WILSON) who worked very hard on putting together the compromise amendment on women in combat.

Mrs. WILSON of New Mexico. Mr. Chairman, I appreciate the opportunity to speak.

We will have a manager's amendments later on this afternoon that will strike the language limiting the assignment of women in the military. I believe that those provisions were unnecessary and unhelpful, and I appreciate the willingness of the chairman to remove them from the bill.

I also wanted to thank the gentleman from Missouri (Mr. SKELTON) and the gentleman from Arkansas (Mr. SNYDER) and the gentleman from Illinois (Mr. SHIMKUS), the leadership and the staffs of the various committees in their efforts to craft an alternative that I think is worthy of support.

It strikes all of the language with respect to the women on assignment in the military, and increases from 30 days to 60 days the amount of time that the Defense Department would have to give us notice that they are changing policy. That seems, to me, to be the appropriate thing to do.

In the history of this country, there has never been a law limiting the assignment of women in the Army, and we will not do so this year. Throughout the history of this country, 2 million women have served in the uniform of this country. Every single one of them has been a volunteer. We thank them for their service and we honor them today.

The Acting CHAIRMAN (Mr. BOOZMAN). The gentleman from California's (Mr. HUNTER) time has expired.

Mr. SKELTON. Mr. Chairman, I yield 30 seconds to the gentlewoman from Virginia (Mrs. DRAKE).

Mrs. DRAKE. Mr. Chairman, I certainly would like to thank the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) for their leadership on this amendment.

I think the important issue before us today is that if women were to serve in direct ground combat positions, if that be the decision of the Congress, then I think the amendment before us today does that.

The important thing to remember is that this amendment, as was just explained, will provide a 60-day notice, time so Congress can act as necessary. It also provides for a report to Congress by the end of March of 2006. No women will lose their positions, nor would that be acceptable.

Mr. SKELTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in reference to the gentlewoman from New Mexico's (Mrs. WILSON) remarks, the women in the military issue is past. There were some trying moments, there were two amendments, one quite onerous and the other just onerous. I thank the gentlewoman.

I thank the gentleman from Arkansas (Mr. SNYDER), I thank the gentleman from Illinois (Mr. SHIMKUS), for their work, along with the chairman and the gentlewoman from Virginia (Mrs. DRAKE) for gluing together a piece of legislation that replaces the onerous language.

Mr. Chairman, we have a remarkable military. History will prove that we have the finest young men and young women who are in uniform ever. As it was pointed out a few moments ago, they are all volunteers. They are all dedicated. They understand duties. They understand service. They understand professionalism.

And today when we pass this bill, and I know the gentleman from California (Mr. HUNTER) joins me, we hope this will be a tribute to them and their hard work, their dedication and their patriotism. For without them, without the young men and women who wear the uniform of all the services today, our country would not be safe and secure.

Mr. Chairman, I admire and appreciate those who serve in our military today.

Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent to yield for the purpose of making a unanimous consent request to the gentleman from South Carolina (Mr. WILSON).

The Acting CHAIRMAN (Mr. BASS). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WILSON of South Carolina. Mr. Speaker, I support the National Defense Authorization Act.

Mr. Chairman, as our troops continue to risk their lives to defend our country, Congress is acting today to ensure that these brave men and women have the necessary training and equipment to win the war on terror.

As a father of three sons who are currently serving in the military, I am personally invested in the war on terror and the safety of our troops. In February, my son Alan returned after serving for one year in Iraq. I am proud of his Army National Guard service, and I am dedicated to ensuring a safe return for all of the brave soldiers who selflessly serve in the United States Armed Forces.

Today, I am honored to vote for the National Defense Authorization Act, legislation that will ensure American troops receive the best equipment, weapons systems, training, and support.

During my visits to both Iraq and Afghanistan, I have seen firsthand the challenges facing our soldiers. H.R. 1815 addresses these challenges by authorizing additional funding for force protection, including up-armored Humvees, tactical wheeled vehicle programs, night vision devices, and improvised explosive device jammers.

As our soldiers continue to sacrifice their lives for our freedom, they should be able to provide for their families. By including a 3.1% pay raise for members of the Armed Forces, and increasing the maximum amount of hardship pay, this legislation rewards the tremendous sacrifices of our soldiers.

Finally, H.R. 1815 contains several measures that will provide for military families who have lost ones in the war on terror. It permanently increases the death gratuity to $100,000, and also extends the amount of time dependents of deceased service members can stay in housing or receive housing allowances. Although we can never fully compensate for the sacrifices of our soldiers, these measures will help express our heartfelt appreciation to military families.

The terrorists fighting against us are a cowardly and brutal enemy, inspired by hatred and evil. Their agenda of evil will fail against the thousands of men and women of the United States Armed Forces who serve a greater cause of freedom.

I would like to thank Chairman HUNTER and other members of the House Armed Services Committee for their leadership and continued efforts to provide for the men and women of the United States Armed Forces.

In conclusion, God bless our troops and we will never forget September 11.

Ms. BORDALLO. Mr. Chairman, I rise in support of the Department of Defense Authorization Act for Fiscal Year 2006. This bill provides $441 billion in budget authority for the Department of Defense, as well as an additional $49 billion funding bridge for Fiscal Year 2006 costs associated with Operation Iraqi Freedom and Operation Enduring Freedom. Overall I am pleased with the funding authorization level and the major initiatives outlined in this bill, though I do harbor reservations over several more minor provisions which I believe should be more thoroughly reviewed in conference. However, after working diligently with my colleagues on the Armed Services Committee, I am confident that we have produced a Defense Authorization bill that will support the mission of our men and women in uniform who are currently deployed in Iraq and Afghanistan and provide adequate direction for our armed forces to meet future challenges.

One issue that I hope will be revisited in conference is that of allowing members of the National Guard and Reserves to access health benefits under the military's TRICARE program. Despite bi-partisan support for extending this benefit to National Guardsmen and Reservists, this provision was stripped from the Defense Authorization bill without the full consent of members of the Armed Services Committee due to a budget technicality. My colleague, Congressman GENE TAYLOR of Mississippi, had hoped to offer an amendment to the Defense Authorization bill to restore this provision. Unfortunately, however, the House Rules Committee did not make his amendment in order for consideration, therefore House members were deprived of the opportunity to vote to restore this important initiative.

It is important that we recognize the hardship encountered by National Guardsmen and Reservists when they are called up for duty. In addition to placing their lives in the line of fire and separating themselves from their families for extended periods of time, these individuals must bear additional personal financial costs. One way to recognize their courage and sacrifice and to mitigate against the economic hardships that they must endure is to allow these men and women to enroll in TRICARE. TRICARE offers high quality coverage at a reasonable cost to members of the armed forces and their families. Allowing National Guardsmen and Reservists to enroll in TRICARE would serve as an additional incentive and help strengthen morale.

At a time when the military is facing unprecedented difficulties insofar as personnel recruitment and retention, it is important that we do everything we can to demonstrate to our men and women of the National Guard and Reserves that we recognize their sacrifice and the hardship that they and their families endure. National Guardsmen and Reservists have played a vital and integral role as soldiers on the front lines of Operation Iraqi Freedom and Operation Enduring Freedom. National Guardsmen and Reservists have been required to extend their tours of duty in Iraq and Afghanistan to a point where their level of involvement in this conflict is virtually indistinguishable from that of active duty members of the armed services. It is also clear that their efforts will be required indefinitely.

We must take this opportunity to recognize the heroic efforts and the vital role played by our National Guardsmen and Reservists in securing freedom for the people of Iraq and Afghanistan. We must also recognize the evolving nature of the role of National Guardsmen and Reservists and how much our armed services now depend upon their service, a trend that one can only assume will continue in the future. These men and women have labored well beyond traditional tours of duty in order to help maintain security for the new democracies. They are soldiers and they deserve to be treated as such. I hope that conferees will revisit this bi-partisan proposal and that it will ultimately be included in the final version of the Defense Authorization Act.

Mr. HOLDEN. Mr. Chairman, I rise today in support of the Defense Authorization Act for Fiscal Year 2006. I am pleased Chairman HUNTER and Ranking Member SKELTON were agreeable in adding my legislation to create the Combat Medevac Badge in the bill. I would also like to thank Congressman GEOFF DAVIS for his support in offering my legislation as an amendment during mark-up.

Two years ago I was approached by the Vietnam Veterans of America Chapter 542 in Central Pennsylvania, who told me great stories of heroism performed by DUSTOFF pilots and crews during the Vietnam War. But despite their heroic acts, the Vietnam Veterans of America continued to struggle to establish a combat badge in honor of these brave pilots and medics.

Upon my meeting with the Vietnam Veterans of America Chapter 542, I introduced legislation to establish the Combat Medevac Badge to recognize these Medevac pilots and crews. Simply stated, my legislation would make any person who served in combat as a pilot or crewmember of a Medevac unit beginning June 25, 1950 eligible for the Combat Medevac Badge.

Current law provides for two honor recognitions, the Combat Medical Badge and the Combat Infantryman Badge. The basic eligibility standards for both of these awards were crafted during World War II, a time before helicopters entered the field of battle for rescue and medical evacuation purposes.

Non-Medevac pilots and co-pilots, who flew aircraft during the Korean War, and every war since then, have long been recognized with a Combat Badge. However, because of an omission in the statute, Medevac crews that operate rescue helicopters have never been eligible for the same recognition.

Last week, this omission was corrected during the Defense Authorization mark-up, when Congressman DAVIS offered an amendment to establish the Combat Medevac Badge, which was passed en bloc. I commend Congressman DAVIS for taking the lead in committee and bringing this long overdue award one step closer to fruition.

Mr. Chairman, I would again like to commend Chairman HUNTER, Ranking Member SKELTON, and Congressman DAVIS for their leadership in bringing forth this very good bill and including the establishment of the Combat Medevac Badge. I would also like to thank my colleague from Pennsylvania, JOE PITTS, for all of his assistance and hard work. Lastly, I would like to recognize John Travers and Mike McLaughlin of the Vietnam Veterans of America Chapter 542 for brining this to my attention and for all of their time and dedication to the effort.

Medevac pilots and crews have performed heroically during times of military conflict. This long overdue award will acknowledge their service to our country.

Mr. FARR. Mr. Chairman, I rise to express my support for two amendments to H.R. 1815, the Department of Defense Authorization Bill, which are critical to improving the health and welfare of our servicewomen at home and overseas. The Slaughter amendment would authorize funding for the DOD to provide better care to military victims of sexual assault. The Davis amendment would allow servicewomen overseas to use their own funds to obtain a safe abortion in military hospitals. I urge my colleagues to support both of these amendments.

Incidents of sexual assault in the military are unfortunately all too common and, despite this fact, DOD does not currently provide adequate training in evidence gathering and preservation for first responders to sexual assaults. In addition, many military healthcare providers are not familiar with the gathering and processing of rape kits and some facilities are not even equipped with rape kits. It is unacceptable that DOD has not provided more comprehensive resources for dealing with the problem of sexual assault in the military. The Slaughter amendment would authorize $25 million annually for training and resources for the DOD to improve the response to incidents of sexual assault. The amendment would also require the Secretary of Defense to develop a plan to enhance accessibility and availability of supplies, trained personnel, and transportation resources in response to sexual assaults occurring in deployed units.

In light of DOD's inability to protect servicewomen from sexual assault, and to provide comprehensive health care after a sexual assault, it is even more important that we support the Davis amendment to ensure that servicewomen stationed overseas could receive a safe abortion, paid for with their own private funds, in a military hospital. Currently, servicewomen and female military dependents are prohibited from using their own funds for abortions at overseas military hospitals. Military women should be able to depend on their base hospitals for all their health care services, but instead they are forced to compromise their medical privacy and wait for space on a military transport, or to seek an abortion in a foreign hospital. It is unacceptable to endanger the health of our servicewomen by denying them safe and timely medical care. This amendment would not require the government to pay for abortions, and it would not force medical providers to perform abortions, but it would allow military women and military dependents stationed overseas to exercise the reproductive rights they are entitled to as Americans.

American servicewomen dedicate themselves to defending our constitutional rights and civil liberties; they should not have to worry about receiving inadequate healthcare for sexual assault, or sacrificing their constitutional rights and civil liberties simply because they have chosen to serve their country. I urge my colleagues to support both the Slaughter amendment and the Davis amendment.

Mr. PRICE of North Carolina. Mr. Chairman, I rise today in support of the Defense Authorization Bill. I want to specifically express my support for the "Contractors on the Battlefield" section of the bill, which takes a number of positive steps toward improving federal oversight of contractors providing security services in war zones.

Several major incidents last year brought to light the problems and dangers inherent in the federal government's use of security contractors, including the Abu Ghraib scandal and the brutal murder of four Blackwater contractors in Fallujah.

A year ago, more than 100 members of Congress joined me in writing to the GAO to request an investigation into the use of security contractors in combat zones. Last month, GAO confirmed many of our fears, releasing a report that found substantial confusion surrounding these contracts and how they fit into larger military operations.

I have been working with Congressmen SPRATT, WAXMAN, CRAMER, and SNYDER—and with the various security contractor groups—to develop legislation that would address these problems and help rationalize the security contracting system.

Last month, we introduced a bill based on those efforts, the Transparency and Accountability in Security Contracting Act, and we have been working with the Armed Services Committee to incorporate the major elements of our bill into the Defense Reauthorization legislation we are considering today. I am grateful for the support that Representatives HUNTER and SKELTON have provided in addressing these issues.

There were some items in our bill that I would have preferred be included in the measure now before us, but I understand there are some jurisdictional issues that would have complicated that. Nevertheless, the provisions that are part of the Defense Authorization bill are a solid first step, and I am pleased with this bipartisan accomplishment.

To date, the federal government has had no precise estimate of the number of armed contractors working in Iraq and, as a result, the Defense Department has had no systematic way to communicate with them, putting both contractors and troops at risk.

The Defense Authorization bill would address that problem by requiring DoD contractors to provide information on their personnel who carry weapons, including the exact location where they are working. They would also be required to certify that those personnel have received the necessary training to do their jobs safely and effectively.

The bill also would require combat commanders to establish protocols to improve communication between military personnel and contractor personnel. And it would require the Pentagon to establish guidelines for contractors as to the type of weapons they may use and the amount of training required to use them.

These provisions would help keep our troops and contractors safe, and they should improve the effectiveness of contractors in Iraq and other areas of conflict. And after two years of being in the dark, this bill would also provide us with the information we need to provide appropriate oversight of contractors in war zones. I urge my colleagues to support this bill.

Mr. CROWLEY. Mr. Chairman, I rise today to speak in support of the Defense Authorization bill. I would like to commend the distinguished Chairman of the Armed Services Committee DUNCAN HUNTER and his counterpart IKE SKELTON, a man who I greatly respect, for crafting a bipartisan bill.

While this is not a perfect bill, in today's environment on Capitol Hill it is a testament to both of these men and their staff that they are able to work so well together to put a bill forward that so many of us can support. I would also like to thank the Rules Committee for making my amendment in order for debate today.

My amendment is a Sense of Congress honoring the diversity of the men and women who have given their lives in defense of our country. Diversity is an essential part of the strength of the Armed Forces, in which members having different ethnic backgrounds and faiths share the same goal of defending the cause of freedom, democracy, and liberty. These brave men and women who come from such diverse backgrounds are one of the best foreign policy tools we have.

When we have a broad mosaic of the diversity of our country all working together, like African Americans, Arab Americans, Asian Americans, Hindu Americans, Jewish Americans, Latino Americans, Muslim Americans, and Sikh Americans all working together fighting for the same cause, it says something to the rest of the world.

I know a lot about diversity because I have the privilege of representing one of the most diverse Congressional districts and I'm proud to say that my constituents are members of the Armed Forces and unfortunately, several have lost their lives fighting to defend the cause of freedom, democracy, and liberty.

As the former co-chair of the Caucus on India and Indian Americans, I read with interest about a young Sikh American, Specialist Uday Singh, who died fighting in Iraq. He was the first Sikh to die in combat operations during Operation Iraqi Freedom. As I read on, it told the story of how Specialist Singh joined the military—Singh joined because he believed in what the United States represents and felt the strong desire to fight for the freedoms we have here. I would like to commend the family of this young man for his sacrifice for our freedom.

I also represent a large Latino community and have had the privilege of meeting with the Latino members of the Armed Forces. They've told me stories about what made them join, whether it was to defend the cause of freedom, democracy, and liberty or to make a better life for themselves through the military, regardless of the reasons their actions are commendable.

A constituent of mine, Sergeant Christian Engeldrum was killed during service in Iraq. This patriot was a Firefighter in New York City and was one of the first people to raise an American flag over Ground Zero after September 11, 2001. The events he witnessed that horrible day spurred him to re-enlist into the Army to fight for our nation overseas and ensure our protection here at home. While he left his pregnant wife and two growing sons behind, he volunteered so they could live in a safer country, and a better world. Tragically, on November 30, he paid the ultimate price for his love of family and country when a roadside bomb exploded near his convoy outside of Baghdad.

Sergeant Engeldrum was the first New York City firefighter to die in service to his nation in Iraq. My heart and sincerest condolences go out to his family and all the other families who have lost loved ones, but we also need to focus our attention on those who have lost their lives but also the ones who have come back with injuries and unexplained ailments.

I also have some veterans who are still struggling with the effects of serving in the military, both mentally and physically. One such veteran had gone undiagnosed and recently had a child born with birth defects. The military doesn't know why this happened but I believe it had to do with the large amount of depleted uranium found in his body. I would like to thank the committee for including language in the bill for the Department of Defense which addresses and acknowledges the widespread problem of exposure to depleted uranium by military personnel.

The language, which I authored, was in honor of my constituent Gerard Mathew and his family. This language will require the Department of Defense to rework its strategy regarding depleted uranium, require the Department of Defense to update their testing methodology to the most modern standards and provide testing to all who request it and provide better protections and coverage for members of the military.

This language is an important issue that all the members of our Armed Forces face and I want to thank the Committee for their willingness to address this concern. No piece of legislation is perfect but I would like to commend the chairman and the ranking member and their incredible staff for working hard to craft such a bipartisan bill that I hope many of the members of this House will support.

Mr. TIBERI. Mr. Chairman, I rise in support of the National Defense Authorization Act, and the inclusion of my language that extends hiring preferences for federal jobs to more veterans.

I want to thank armed services Chairman DUNCAN HUNTER for including this language in his manager's amendment. Chairman HUNTER's concern for our men and women in uniform is second to none.

Currently, only veterans who have spent 30 consecutive days in a combat area are eligible for federal hiring preference.

Thousands of regular military, reserve and national guard forces who have served in the war on terror, both in this country and abroad, don't qualify because they don't meet the 30 day standard.

That's wrong. They've sacrificed and faced the same hardships. They deserve the same benefits.

My language extends the hiring preference to any honorably discharged vet who has spent 180 days on active duty in the war on terror. This is very similar to language approved by Congress for veterans of the gulf war.

This problem was brought to my attention by reservists in my district. On their behalf, and on behalf of all our veterans, I want to thank Chairman HUNTER and my colleagues in the House for accepting my language.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of this bill. It is deficient in many ways, but it includes critical provisions that I think are necessary. So I will vote for it.

As a new Member of the Armed Services Committee, I am grateful to Chairman HUNTER for working with me on a number of provisions in the bill that are important to me and my state of Colorado.

The bill incorporates an amendment I offered to reauthorize for one year the Welcome Home Warrior and Freedom Salute programs for the Army Reserve and Army and Air National Guard. Both programs are first and foremost recruiting and retention programs. They help reintroduce returning soldiers to civilian life and honor them with gifts of flags, lapel pins and other items honoring their service. Especially given the amount of strain our citizen soldiers are under, it's all the more important that we take the time to let them know how much their service and sacrifices mean to their communities and to the nation.

The bill also includes language directing the Secretary of the Army to evaluate the type of aircraft available in the Army's inventory that can replace aging equipment currently in use at High-Altitude Aviation Training Site (HAATS) in Eagle, CO. HAATS, which is operated by the Colorado Army National Guard, is the primary site for training military pilots on operations in hostile and high-altitude environments under all weather conditions. The training that is done at HAATS is essential to reduce the number of accidents our forces have recently experienced when operating in high mountainous areas, such as Afghanistan and Northern Iraq. But the training site currently uses aircraft that are being phased out this year, and no replacement aircraft have been programmed. So I'm glad that the Chairman has pledged to work with me to help HAATS continue to provide its important training.

I was pleased that the bill includes favorable language on the Pueblo Chemical Depot, a former chemical weapons site located in southeastern Colorado. Coloradans were alarmed last year when the demilitarization project was put on hold, so they want to see that DoD is committed to using the neutralization technology to destroy the 2,600 tons of mustard agent stored at Pueblo—not transporting the weapons to a different site for destruction. The Colorado delegation has worked hard to put the project back on the right track, so I am grateful for language in the bill directing the Secretary of the Army to continue to implement fully the neutralization technology at Pueblo.

I also want to call attention to language that would transfer program responsibility from the Under Secretary of Defense for Acquisition, Technology, and Logistics to the Secretary of the Army. I understand that objection to this transfer in the past was due to the preference of the Program Manager for Chemical Destruction under the Department of the Army for baseline incineration. Now that DoD is committed to the neutralization approach, and given the numerous GAO reports and testimony to Congress stating that effective management of the chemical demilitarization program has been hindered by the complexity of its management structure, it appears to make sense to pursue the transfer. Still, I've asked the Chairman to follow this move closely to ensure that this proposed change in oversight of the project doesn't change the path forward for the development of the neutralization technology.

Finally, I'm pleased that the bill includes $6.4 million for the Air National Guard Station at Greeley for the Space Warning Squadron Support Facility as well as $5.5 million for the Network Information and Space Security Center (NISSC) at the University of Colorado at Colorado Springs. These funds will enable Colorado's Air National Guard to replace its outdated facility and allow NISSC to expand its programs and services through a multidisciplinary homeland security lab environment.

There are also many broad provisions in the bill that benefit our troops. An important one increases the active duty Army and Marine Corps by 10,000 and 1,000 respectively, thereby helping to ease the strain on our troops. I'm also glad that the bill includes provisions to increase recruiting and retention incentives, increase the death gratuity to $100,000, and provide a 3.1 percent pay raise for members of the armed forces. The bill also provides better force protection for our troops, including nearly doubled funding for up-armored Humvees.

Also important—especially at this time of budget tightening—is the bill's focus on reining in costs of major procurement programs, particularly the Future Combat Systems and other programs that have relied on immature technology.

On a less positive note, I am concerned that the bill authorizes nearly $50 billion in a "bridge fund"—over and above the $440 billion in the regular bill—for FY06 supplemental appropriations for the wars in Iraq and Afghanistan and the global war on terror. While inclusion in the bill does mean that the authorizing process has been followed to an extent, still, the additional money in this bridge fund should be included in the regular budget request, since there is nothing unexpected about the need for these funds. The "emergency" label that these funds bear hides the fact that they do increase the size of the budget deficit. I don't believe this is a responsible way for us to pay for our military operations.

I'm also disappointed that the leadership and the Rules Committee did not provide for adequate debate on issues of importance to the nation and to the prosecution of the war in Iraq and Afghanistan.

Last week the Armed Services Committee voted for Representative TAYLOR's amendment to provide TRICARE to all Reservists on a permanent basis. But Chairman HUNTER took the language out due to budget constraints, and the Rules Committee refused to make Mr. TAYLOR's amendment in order. I agree with my colleague Representative TAYLOR that as long as our nation continues to use our reserve components in the same capacities as active duty troops, they deserve similar benefits for similar service. The needs of our Reservists will continue to grow as we continue to call them to service in the war in Iraq and Afghanistan. But the Republicans put off this decision on TRICARE to another day.

The Rules Committee also precluded debate on Representative SPRATT's amendment to increase spending on nonproliferation programs. As Mr. SPRATT pointed out, we are currently spending less on the cooperative threat reduction program than we did before September 11th. President Bush agreed with Senator KERRY in one of the presidential debates that the biggest danger we face is the threat of nuclear weapons and other weapons of mass destruction in the hands of terrorists. Yet this bill doesn't provide funding for our nonproliferation programs commensurate with this threat.

I am disappointed that debate was not allowed on Representative TAUSCHER's excellent amendment on sharing reports on detainee treatment with Congress or on an amendment I offered with my colleague Representative BEAUPREZ to help former nuclear weapons workers in Colorado who are suffering from cancer and other conditions related to their exposure to radiation and other hazards.

I'm very relieved that the majority saw fit to scale back for the second time language that was first proposed two weeks ago in the Personnel Subcommittee on which I serve. That language would have removed women from Army combat support and combat service support units in which they currently serve, a move that would have affected many thousands of women in Iraq and Afghanistan.

Last week's amendment watered down the initial language, codifying the status quo with regard to positions women currently hold in the military. Along with my colleagues in the Armed Services Committee, I objected to this revised language because it would take flexibility away from our commanders who need to make their own decisions about battlefield needs. So last week's amendment meant that if one of the services wanted to expand or change positions open to women, this could only be done through a change in the law. Ranking Member SKELTON said it best: "By limiting women to only those jobs they perform today, it will be more difficult for commanders to adapt their forces to the changing needs of current operations around the world."

Given the current difficulties our military is facing with recruitment and retention, it doesn't make sense to tie the hands of our commanders, discourage women from joining the armed forces, or create confusion among our troops. So I'm glad that Chairman HUNTER revised his language yet again in the manager's amendment today. This final provision requires the Defense Department to provide more detailed reporting if the services want to expand the role of women, and establishes a longer waiting period following notice to Congress before those changes can go into effect.

Finally, I want to discuss an amendment brought to the floor by our colleague from California, Ms. WOOLSEY.

This is an annual authorization bill, but its provisions will have lasting effects beyond the next fiscal year. So, I sympathized with those who supported the amendment calling for the Administration to tell us how they intend to complete the work we have undertaken to do in Iraq. But, after careful consideration, I decided that I could not support the Woolsey amendment.

That does not mean I am confident that the Administration has a clear blueprint—in fact, just the opposite. I opposed the resolution authorizing the use of force in Iraq because I thought other alternatives had not been exhausted. And events since then have made clear that while the Administration planned for invasion, they lacked a plan for what would follow.

But just as rushing into Iraq was a mistake, rushing to get out would also be a mistake. Ms. WOOLSEY's amendment may be helpful in sending an important signal to the Muslim world that America has no desire to stay in Iraq, but it fails to address the necessary linkage between an exit strategy and security. Moreover, I am persuaded that this is not the moment for Congress to cast what the insurgents predictably would describe as a vote of no confidence in our efforts to assist the new Iraqi government to draft a constitution and to develop the police and military forces needed to maintain order so that the Iraqi people can decide in free and fair elections whether to ratify that document.

Mr. Chairman, this is not a perfect bill. And the process under which it was debated was not all that it should have been. But, overall, the bill deserves to pass and I urge its approval.

Mr. BLUMENAUER. Mr. Chairman, I voted against this bill because, at its core, it gives too much money to the wrong people to do the wrong things, while missing out on important priorities for the safety and wellbeing of our troops and our nation. This budget provides $3.4 billion—$170 million more than the President's request—for an untested and unproven national missile defense system and continues to fund the unnecessary FA/22 Raptor and the C–130J cargo plane, which even Secretary of Defense Donald Rumsfeld has tried to kill. At a time when we are at war, the United States can hardly afford to waste billions of our defense dollars on programs that don't work or address the new threats we face.

I'm disappointed that an amendment I intended to offer was not allowed to be debated, which would have delayed the 2005 BRAC round until the Pentagon had a strategy, including expected funding, to cleanup the bases closed in the 1988 BRAC round. At the same time, in addition to missing the opportunity to deal with issues of unexploded ordnance and environmental cleanup at BRAC sites, this bill doesn't include TRICARE for our reservists or address the threat of nuclear proliferation by sufficiently funding the Nunn-Lugar Cooperative Threat Reduction program, as recommended by the 9/11 Commission.

A glaring omission is the lack of any meaningful provisions dealing with torture and prison abuse by our country. The failure to hold anyone up the chain of command responsible for documented gross violations of human rights is appalling. Placing the blame entirely on a few low-level enlisted personnel is shameful. It sends the wrong message to our fighting forces and to the rest of the world, with dangerous consequences for the United States.

I opposed the War in Iraq from the beginning because this administration had inadequate preparation for the war and never had a plan for winning the peace. Nothing in this bill solves this most pressing problem for our troops. We still lack a plan to win the peace in Iraq.

Mr. LANGEVIN. Mr. Chairman, I rise in support of H.R. 1815, and thank Chairman HUNTER and Ranking Member SKELTON for their hard work. This bill supports our men and women serving in the armed forces and make-investments to keep our military strong in the future.

H.R. 1815 is committed to a strong Navy through shipbuilding increases. With cost controls and investments in our industrial base, we can ensure that our future navy will be robust, innovative and effective. I am pleased that the bill directs the Navy to begin design work on a next-generation submarine that will incorporate emerging technologies. Currently our Navy has no plans for the submarine to follow the *Virginia*-class, which threatens to cause our design and engineering base to disappear. If we lose design capability, we will do irreparable harm to our shipbuilding industry. Given certain nations' investments in their navy and undersea capabilities, I appreciate the commitment in this bill to guaranteeing our nation's undersea dominance.

However, I am concerned by the recommended cuts to DD(X), the Navy's future destroyer that will serve as the model for our naval surface combatant transformation. DD(X) is the cornerstone of our future fleet, and I fear that the cuts in this bill could endanger the project. I look forward to working with my colleagues to address any existing concerns with DD(X) and to continue this program.

This bill also contains important language to ensure that civilian employees at the Department of Defense do not lose their jobs to private contractors without first having the opportunity to compete for the work. It closes loopholes that have permitted DOD to outsource work without proving that the private sector can do it more cost-effectively. Finally, it expresses the sense of Congress that civilian employees should have the same rights as private contractors during contract competitions. I thank the chairman of the Readiness Subcommittee, Mr. HEFLEY, for working with me to craft the language and Chairman HUNTER for his commitment to defend our provisions.

Furthermore, the committee report encourages the President to update the National Security Strategy so that we incorporate all instruments of national power into a comprehensive approach to security. We need a vision of national security that complements our military might with enhanced soft power capabilities such as communications and diplomacy, economic cooperation and foreign aid, cultural exchanges, and investments in educational disciplines such as science, engineering and foreign language skills. Joseph Nye, the former dean of the Kennedy School of Government and Assistant Secretary of Defense for International Security Affairs, has written extensively about the need to supplement our military might with efforts to win the world's hearts and minds with our values and culture. As the 9/11 Commission so eloquently put it: "If the U.S. does not act aggressively to define itself [. . .], the extremists will gladly do the job for us." I thank the committee leadership for addressing my concerns in this area.

Again, I commend the Chairman HUNTER, Ranking Member SKELTON and my colleagues on the committee for a well-balanced bill, and I urge its adoption.

Ms. BALDWIN. Mr. Chairman, I rise in opposition to H.R. 1815, the Defense Authorization Act for Fiscal Year 2006. This legislation reflects misplaced priorities, wrong choices, excessive spending, and a failure to make hard choices. This bill also fails to assert any meaningful Congressional oversight over the war in Iraq which has been mismanaged from the very beginning.

Passage of this bill today will set our annual defense spending in Fiscal Year 2006 at $490.7 billion, including additional funding for the war in Iraq. This will account for 55 percent of all discretionary spending. In real terms, it will be 20 percent higher than the average defense budget during the Cold War. We will spend just shy of a million dollars a minute, 24 hours a day, for all 365 days next year.

Mr. Chairman, in the past, I have supported many defense authorization and defense appropriations bills. As a Member of this House, I take extremely seriously my oath of office that obligates me to provide for the protection of the American people. Providing for our common defense is critical, but like other federal government programs, we are bound to ensure that each dollar that we spend is necessary and used wisely.

Not only will this be a record defense budget, it will also be nearly as large as every other country in the world combined. Let me repeat that, this defense budget will nearly equal all other military spending in the world, including nations that are our allies and nations that are potential adversaries. According to estimates by the Center for Arms Control and Nonproliferation, all nations except for the United States are spending a total of $527 billion. This includes our NATO allies like Britain at $49 billion and France at $40 billion, and Japan at $45 billion. Our spending dwarfs those of countries that are considered possible threats to our security: Iran at $3.5 billion, North Korea at $5.5 billion, Syria at $1.6 billion, and Sudan at $500 million.

We have already appropriated approximately $250 billion for the wars in Iraq and Afghanistan since 2003. The day after we passed our latest FY 2005 supplemental, the Administration signaled that we should expect another supplemental request in the $50 billion range. It is clear that the Administration has no idea what the costs of the Iraq operations will be or is withholding that information from the Congress and the American people.

In March 2003, before the war began, I wrote to the President with 22 of our colleagues to ask him to specifically define our objectives and to provide an exit strategy. We asked the President a number of questions including: "Under what circumstances will our military occupation of (and financial commitment to) Iraq end? And how will we know when these circumstances are present." We, and the American people, never received an answer to these crucial questions. Even today, the Administration is unwilling or unable to answer. This is simply unacceptable.

Time and again, the President has requested money to fund the war in Iraq while refusing to answer our questions about this war and provide a comprehensive strategy for bringing our troops home. We must insist that the administration articulate the conditions necessary to bring our troops home, and push them to do that as soon as possible. The administration's refusal to address these is quite astounding to me and should be of great concern to all Americans who believe in principles of accountability and checks and balances.

It is absolutely essential that President Bush formulate an exit strategy. This strategy must specify our objectives clearly, benchmarks to measure our success, or lack of success, and a realistic time line for withdrawing our troops. I know that many argue that a timeline for withdrawal would encourage insurgents to "run out the clock." I disagree. A timeline would establish deadlines for us and the Iraqis to achieve our objectives. It gives us deadlines with which to hold ourselves accountable. For example, we set a date for elections, and despite the violence, we were successful in holding them on time.

My colleague from California, LYNN WOOLSEY, offered an amendment today to ask the President to develop a plan for withdrawing U.S. forces from Iraq. This amendment did not set a date for withdrawal, nor did it require that any plan developed by the President have a fixed timeline for withdrawal. It simply said that the President should put together a plan and share it with Congress and the American people. Yet, the House leadership only allocated 30 minutes for this crucial debate.

This legislation fails to make tough choices about our military priorities. I support transformation of our armed forces into a more mobile, flexible force that can take on a wide variety of missions, from combat to peacekeeping, from hurricane relief to securing weapons of mass destruction. Our country cannot afford to maintain our current Cold War structure and legacy weapons systems while fully transforming into the modern force we need in this century. Yet this bill fails to make the tough choices and instead tries to fund both. And it fails to fully succeed at either.

I want to focus on some of the weapons systems we are funding in this bill.

Since 1983, we have spent $100 billion on missile defense. President Bush decided to move forward with deployment of a system that has been inadequately tested. As the Government Accountability Office (GAO) noted last year, the system is "largely unproven." The GAO went on to state that tests so far have been "repetitive and scripted" and that "decision makers in the Defense Department and Congress do not have a full understanding of the overall cost of developing and fielding the Ballistic Missile System and what the system's true capabilities will be." Each year we put more and more resources into this unproven technology that does not address the most likely threats from weapons of mass destruction. Is a nuclear weapon likely to arrive on an intercontinental ballistic missile? Homeland security experts don't believe so. Moving forward with another $7.9 billion this year and plans for at least $50 billion more in coming years does not make military or fiscal sense.

I am pleased that the committee report on this bill raises serious questions about the future of the Future Combat System (FCS) program. The GAO found in March 2005 that "the FCS program faces significant challenges in setting requirements, developing systems, financing development, and managing the effort." Let me quote from the report:

> The FCS has demonstrated a level of knowledge far below that suggested by best practices or DOD policy. Nearly 2 years after program launch and about $4.6 billion invested to date, requirements are not firm and only 1 of over 50 technologies are mature—activities that should have been done before the start of system development and demonstration.
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> If everything goes as planned, the program will attain the level of knowledge in 2008 that it should have had before it started in 2003. But things are not going as planned. Progress in critical areas, such as the network, software, and requirements has been slower than planned. Proceeding with such low levels of knowledge makes it likely that FCS will encounter problems late in development, when they are costly to correct. The relatively immature state of program knowledge at this point provides an insufficient basis for making a good cost estimate.

Despite the clear concern of the committee expressed in the committee report, FCS is funded at $3.4 billion, only $400 million less than the President's request.

The F/A–22 Raptor is the most expensive fighter ever built. Originally budgeted at $96 billion for 648 planes, it is now going to cost us $68 billion for 178 planes. Because of changing capabilities, the planes are now estimated to cost $258 million each, five times the cost of the F–15 and F–16 that they are replacing. This year, we are going to spend $3.8 billion for 24 planes while spending another $480 million for research and development. We have a plane that is way over budget and whose mission is unclear. The answer to this dilemma is to end the program, not spend more.

In December, the Defense Department proposed cutting the C–130J cargo plane, which would have saved $30 billion over the next five years. This made a lot of sense since the plane cannot complete its intended mission. Most of the planes have design flaws that prevent them from dropping paratroopers or heavy equipment. The chief weapons inspector at the Pentagon reported that it is "neither operationally effective nor operationally suitable." Unfortunately, DOD has backed off cancellation and this bill will authorize more than $1 billion for procurement in FY 2006.

I do want to mention some positive features of this legislation. I am pleased that it contains a 3.1 percent increase in military pay. Our men and women in uniform deserve our admiration and respect for their dedication and commitment. They have demonstrated again and again their professionalism when faced with incredibly difficult challenges. They truly are the best in the world. This legislation contains improvements to benefits and facilities that will help members of our armed forces and their families. It also increases hazardous duty pay, raises the caps on enlistment and reenlistment bonuses, and enhances the TRICARE Reserve Select Program (TRS). I support those provisions.

I was disappointed that expanded eligibility for TRICARE for our guard and reserve that the committee added to the bill was dropped by Chairman HUNTER. This bill should also have included full concurrent receipt and ended taxation of survivor benefits.

This bill fails to make the tough choices necessary to transform our military force for the 21st Century. This bill fails to account for the real costs of war in Iraq and fails to press the President to put together a realistic exit strategy. I therefore must vote against this legislation.

Mr. SALAZAR. Mr. Chairman, I rise today in support of H.R. 1815, the Defense Authorization Act for Fiscal Year 2006. I commend the Committee for their hard work in crafting this bill. I do wish to express my concern over a certain section of the bill that directly impacts a facility in my district.

Since 1997, the Assembled Chemical Weapons Alternatives (ACWA) program has overseen the development of new technologies for the destruction of chemical weapons at the Pueblo Chemical Depot in my congressional district and the Blue Grass Army Depot in Lexington, Kentucky. The ACWA program has been highly successful and construction activities are now set to commence in the very near future. Congress intentionally gave oversight authority to the Under Secretary of Defense for Acquisition, Technology, and Logistics in an effort to develop alternative destruction techniques from the incineration process that existed at the time. This year's Defense Authorization gives that authority to the Secretary of the Army.

In a letter dated May 2, 2005, my colleague Mr. CHANDLER of Kentucky, and I asked Under Secretary Mike Wynne to answer several questions about a change of authority of this nature. I still look forward to Under Secretary Wynne's response. The ACWA program's success has been due to the unique interaction between the Federal, State and local government representatives, regulators and the community; I encourage the Secretary of the Army to foster these relationships and ensure that a transparent and open decision making process remains intact. I also urge the Secretary of the Army to make this transition in a way that does not negatively affect the program timelines at either facility or increase the cost of completing this important work.

Mr. Chairman, we are already at risk of not meeting our treaty obligations laid forth in the Chemical Weapons Convention. I fear that if an inefficient and closed organizational structure is established for the two ACWA facilities, the progress we have already made will be lost. This Congress must expect and ensure efficiency in the effort to destroy our chemical weapons stockpiles.

Mrs. MALONEY. Mr. Chairman, I rise today in support of H.R. 1815, the "National Defense Authorization Act for Fiscal Year 2006." I am pleased that the bill includes provisions to provide retirement credit to the members of the National guard serving on State duty who responded to the 9/11 attacks in New York and at the Pentagon. I along with my friend and colleague, Representative KING, and other members of the New York delegation, have introduced legislation, H.R. 2499, which would accomplish the same goal, and I am thankful that the Committee has worked with us to correct this inequity.

In the aftermath of 9/11, the National Guard responded to the call of duty heroically. While others were moving toward safety, the guard moved into unknown dangers around Ground Zero. They did not know if another attack was coming, but they did not hesitate to respond. All they did was their selfless duty.

They secured lower Manhattan, they protected against a possible second attack, and they stood up for our Nation, knowing their lives may be in danger. For almost a year after 9/11, these National Guard heroes streamlined the movement of rescue personnel during the critical first phases of the response and they endured the toxic air conditions of Ground Zero with thousands of responders.

What we face now is a question of fairness. Last year, I visited the units of the Manhattan based 69th National Guard Regiment—known as the Fighting 69th—just days before they were to leave for Iraq. I asked if there was anything I could do on their behalf. And the had only one request. It was to seek fair federal retirement credit for their 9/11 service to the country.

We, in Congress, now have a chance to express the Nation's gratitude to these soldiers, not just through words of praise but through action.

The problem is a simple one: The national Guard units that served in the disaster zones of New York after 9/11 are not receiving Federal retirement credit, while the National Guard units that protected Federal sites like West Point are receiving Federal retirement credit. We all agree that protecting Federal sites was an important duty after 9/11, and that soldiers who served in that capacity deserve Federal retirement credit. But those who risked their lives at Ground Zero, in the most dangerous conditions anywhere in the country, deserve the same fair treatment.

Right now, many of the same soldiers who protected New York after 9/11 from the Fighting 69th are serving courageously in Iraq. Sixteen members of the Manhattan-based 69th National Guard Regiment have died in the Iraq war—8 in the past year. In April, 6 members of the 69th were Awarded Purple Hearts after being wounded in Iraq from roadside bombs. We can honor the service of our National Guard, by providing them with fair Federal retirement credit for their 9/11 service.

I would like to thank Chairman HUNTER, Ranking Member SKELTON, Representative SNYDER, and especially Representative MCHUGH, who were so instrumental in this process, and I commend them for their commitment to the men and women serving this country all over the world. I also would like to acknowledge both the majority and minority staff of the committee for their assistance.

The terrorist attacks of September 11, 2001, were an unprecedented event in American history. The provisions included in this bill will show our gratitude to the brave men and women who responded on that day by giving them the retirement benefits to which they are entitled.

Mr. WAXMAN. Mr. Chairman, under the current Administration, waste, fraud, and abuse in federal contracts have proliferated. No-bid contracts have soared. Oversight of federal contracts has often been turned over to private companies with blatant conflicts of interest. Billions of dollars have been squandered on contracts that enrich private companies but provide little or no benefit to the taxpayer.

Yesterday, at the Rules Committee, I offered an amendment to the Defense Authorization Bill to help restore integrity to the federal contracting process. The amendment would have prohibited contractor conflicts of interest and stop the use of abusive "monopoly contracts." It would have also ensured greater transparency and accountability. I am deeply disappointed that the Rules Committee refused to make the amendment in order and allow an open debate on this important issue on the House floor.

This Administration now relies on oversight contractors with conflicts of interest. In March 2004, the Defense Department awarded seven contracts to help oversee the implementation of a larger number of Iraqi reconstruction contracts. One of the oversight contractors, CH2M Hill, has ongoing domestic contractual relationships with three of the four firms it oversees: Washington Group International, Fluor, and AMEC.

My amendment would have ensured that oversight contractors are truly independent, without any business or contractual relationships with the companies whose contracts they are helping to assess.

My amendment would have prohibited the abusive practice of monopoly contracts, requiring the Administration to use contract vehicles that allow multiple contractors to compete for individual projects. That way we could have some competition between the companies at the project level—and competition is the best way to control costs.

Finally Mr. Chairman, my amendment would have required the Department to submit to appropriate congressional committees a list of all audits that find more than $1 million in contractor overcharges, and to provide full copies of specific audits requested by the chairmen and ranking members of those committees. In this way, the amendment would have enhanced the ability of Congress to discover contractor abuses and promoting greater transparency.

Unfortunately, the current Administration has tried to hide contractor overcharges from Congress, international auditors, and the public, impeding oversight and diminishing accountability.

For example, for months the Defense Department refused to provide copies of audits completed by the Defense Contract Audit Agency relating to Halliburton's oilfield reconstruction work in Iraq. Slowly, we gained access to these reports through unofficial channels. The first report showed overcharges of more than $100 million. We now have six of these audits, and the overcharges exceed $212 million. To this day, we have still not received the remaining audits under this contract.

By refusing to allow a debate on the common sense changes proposed by my amendment, the Republican leadership in Congress is trying to bury these serious problems as well.

I will vote for this bill. I support our troops and this bill will enhance the safety of our men and women in uniform and improve their quality of life. But I am deeply concerned that Congress is not doing nearly enough to stop wasteful and unethical contracting practices.

Ms. DELAURO. Mr. Chairman, I rise in support of this legislation. I am especially pleased that the amendment I will offer later today has been accepted. I will support this bill because it contains several important provisions that are good for our troops, good for our national security, and good for Connecticut's economy.

Every Member of this body understands our troops represent the very best of America. The bill authorizes additional funding for equipment so desperately needed by troops serving in Iraq and those fighting the war on terror in Afghanistan and elsewhere—up-armored Humvees, tactical wheeled vehicle recapitalization and I modernization programs, night vision devices and improvised explosive device (IED) jammers. The bill also provides our troops with a 3.1 percent pay raise for members of the armed forces and increases bonuses for active duty enlistments, reserve enlistments and active duty re-enlistments. Each of these measures is necessary to stem the decline in recruiting and retention among our Armed Forces.

This legislation also makes good on our obligations to provide for the families of those who make the ultimate sacrifice for their country. It increases the death gratuity to $100,000, allows dependents of deceased servicemembers to continue receiving housing benfits for one year, and expands travel authorizations for families of hospitalized servicemembers. This is the right thing to do, and I strongly support these provisions.

The bill also contains an important provision requested by myself and several of my colleagues regarding the Marine One helicopter program. It ensures that the Navy will not procure the helicopter until it can certify that its design is essentially complete. In doing so, this provision ensures this program does not waste taxpayer dollars in the rush to field the President's helicopter.

Unfortunately, there are other provisions in this bill that I believe are not in the best interests of the American people or our national security.

First, over the objections of the Joint Chiefs of Staff, it restricts the role of women in combat. Congress ought to charge the military with the responsibility to move people into jobs and positions based on merit. But excluding women from combat effectively creates two classes of servicemember, which is both bad for morale and may ultimately limit the ability of women to receive promotions in the future. Regrettably, the military already suffers from a case of not having enough women in senior positions, and this bill threatens to make that problem worse, not better.

And this bill misses two real opportunities to make a tangible difference in the lives of the men and women of our Armed Services and their families. Firstly, it does nothing to expand the availability of health care to members of the Reserves and their families, even though there are more than 100,000 Reservists and National Guardsmen currently on the front lines of Iraq, Afghanistan and around the world.

And incredibly, this bill does nothing about the military families tax and the disabled veterans tax. At a time when Congress has repealed the tax on inherited wealth—the estate tax—it is unconscionable that we would continue to tax those who have become disabled in service to their country and the survivors benefits of those killed in combat. To my mind, that is the real "death tax," Mr. Speaker—taxing the families of those whose loved ones gave their lives and their livelihoods to this great country of ours. They deserve better.

Of course, the alternative to the bill is delay. And we cannot afford to put off the much-deserved pay raise for our troops in this bill or the purchase of new equipment that they so desperately need. Because we have an obligation to act now, I support the bill. But it is my hope that Congress will address these important issues—and soon.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today with grave concerns in regard to the deficiencies of this National Defense Authorization Act. It is truly unfortunate that the brave men and women of our Armed Forces are fighting around the world while the Department of Defense is in the current state it is in. Leadership must be accountable for the actions of the Armed Forces; the unfortunate events taking place in Iraq have caused our Nation irreparable harm.

I am most outraged by the fact that there will be no consideration of the Taylor amendment on TRICARE for reservists, the Salazar amendment on ending the Military Families Tax, and the Marshall amendment on ending the Disabled Veterans Tax. These amendments are three key provisions in the GI Bill of Rights for the 21st Century, which House Democrats unveiled in March. It seems blatant, that the Rules Committee would not allow the full body to consider these vital amendments which could have greatly strengthened this Defense Authorization.

H.R. 1815 authorizes $441.6 billion, slightly less than the President's request and the total provided for by the budget resolution for FY 2005. The total is $21 billion, 5 percent more than the current regular authorized and appropriated level. This does not even include the $75.9 billion in FY 2005 emergency supplemental defense funds appropriated last month for operations in Iraq. In addition, this measure also authorizes an additional $49.1 billion in expectation of another supplemental budget request for the war in Iraq later this year. This brings the bill's authorization total to $490.7 billion.

This measure continues the spending by providing $79.1 billion for weapons procurement, a full $1.1 billion more than the president's request; $69.5 billion for research and development, another $113 million more than the request; $124.3 billion for operations and maintenance, $2.6 billion less than the president's request; $108.8 billion for personnel, slightly less than requested; $12.2 billion for military construction and family housing; and $17 billion for weapons-related and environmental-cleanup activities of the Energy Department.

If Congress provides the full amount in the FY 2006 budget resolution—including the $50 billion in emergency spending for operations in Iraq and Afghanistan—defense spending in FY 2006 will total about 55 percent of the entire federal discretionary budget. The percentage could rise even higher if more than $50 billion is provided for operations in Iraq later this year. If the administration's request is approved, overall defense spending, in real terms, would be more than 20 percent higher than the average Cold war budget.

The sad truth is that when compared to other nations around the world, you quickly realize that our military spending is not about defense needs as much as it is about overkill. The nearly $500 billion expected to be provided for defense this year—assuming another supplemental—is only slightly less than the $527 billion estimated by the Center for Arms Control and Nonproliferation as currently being spent by other nations combined, including China ($56 billion), France ($40 billion), Great Britain ($49 billion) and Japan ($45 billion). Furthermore, when comparing U.S. defense spending to those countries determined by the Defense Department as most likely to threaten the United States, the difference is even greater. Such rogue states, including Iran (which spent $3.5 billion), North Korea ($5.5 billion), Syria ($1.6 billion), Cuba ($1.2 billion) and Sudan ($500 million). Clearly, we are not only the world's leader in military spending, but now we are determined to lap the field many times over.

It's just disgraceful that many so-called advocates of fiscal responsibility talk about discretionary spending for federal programs when they represent only a tiny sliver of spending compared to our military spending. While we continue to allocate funds for this costly war, our federal debt continues to soar and that debt continues to be owned by foreign nations. We are now borrowing $1 trillion every 20 months and the federal debt will soon exceed $8 trillion. The Japanese own more than $800 billion of that debt, the People's Republic of China more than $250 billion and all our foreign debt continues to explode.

It is truly unfortunate that this Defense Authorization continues this Administration's policy of having misplaced priorities. Instead of directing more money for proper planning in Iraq, or for greater protection equipment for our troops, or maybe for greater pay raises for our troops; this Authorization provides $7.9 billion for ballistic-missile defense programs—$100 million more than the administration's request. Missile defense systems are not new, in fact they have been discussed for decades. The truth is that missile defense systems have proven to be overly complex, unreliable, and often been little more than pipe dreams. Why in good conscience, in this time of budget constraints and increased need, would we allocate even more money for failed programs? There are more responsible ways to budget this money. Money from the Defense Authorization should go to our men and women in the Armed Forces who actually defend our Nation instead of into programs that just waste needed funds.

I am heartened by a few provisions of this legislation. This Authorization provides an average 3.1 percent pay increase for military personnel in FY 2006, equal to the President's request, and extends certain special pay and bonuses for reserve personnel. Our men and women in the Armed Forces deserve these pay increases, in fact they deserve much more for the sacrifice they are making for our Nation abroad. The bill provides added funds for increased protection for U.S. troops in Iraq, including funding for up-armored Humvees, tactical wheeled-vehicle recapitalization and modernization programs, night-vision devices, and improvised explosive device (IED) jammers. The war in Iraq gets more dangerous by the day and the Pentagon won't even give this Congress a timeline for our exit. As always, this leaves our brave men and women of the Armed Forces and their families in the lurch. We as a Congress owe it to them to give them more answers, instead of only providing more questions. Unfortunately, while this Authorization gives a little comfort to our Armed Forces abroad, it really falls far short of what we owe to our Nation's bravest.

The Acting CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2006".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for UH–60/MH–60 helicopters.

Sec. 112. Multiyear procurement authority for Apache Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor.
Sec. 113. Multiyear procurement authority for Apache Block II conversion.
Sec. 114. Acquisition strategy for tactical wheeled vehicle programs.
Sec. 115. Limitation on Army Modular Force Initiative.
Sec. 116. Contract requirement for Objective Individual Combat Weapon - Increment 1.

Subtitle C—Navy Programs

Sec. 121. Virginia-class submarine program.
Sec. 122. LHA Replacement amphibious assault ship program.
Sec. 123. Future major surface combatant, destroyer type.
Sec. 124. Littoral Combat Ship (LCS) program.
Sec. 125. Authorization of two additional Arleigh Burke class destroyers.
Sec. 126. Refueling and complex overhaul of the U.S.S. Carl Vinson.
Sec. 127. Report on propulsion system alternatives for surface combatants.
Sec. 128. Aircraft carrier force structure.
Sec. 129. Contingent transfer of additional funds for CVN–21 Carrier Replacement Program.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C–17 aircraft.

Subtitle E—Joint and Multiservice Matters

Sec. 141. Requirement that all tactical unmanned aerial vehicles use specified standard data link.
Sec. 142. Limitation on initiation of new unmanned aerial vehicle systems.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Annual Comptroller General report on Future Combat Systems program.
Sec. 212. Objective requirements for non-line-of-sight cannon system not to be diminished to meet weight requirements.
Sec. 213. Independent analysis of Future Combat Systems manned ground vehicle transportability requirement.
Sec. 214. Amounts for Armored Systems Modernization program.
Sec. 215. Limitation on systems development and demonstration of manned ground vehicles under Armored Systems Modernization program.
Sec. 216. Testing of Internet Protocol version 6 by Naval Research Laboratory.
Sec. 217. Program to design and develop next-generation nuclear submarine.
Sec. 218. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
Sec. 219. Single joint requirement for heavy lift rotorcraft.
Sec. 220. Requirements for development of tactical radio communications systems.
Sec. 221. Limitation on systems development and demonstration of Personnel Recovery Vehicle.
Sec. 222. Separate program element required for each significant research, development, test, and evaluation project.
Sec. 223. Small Business Innovation Research Phase III Acceleration Pilot Program.
Sec. 224. Revised requirements relating to submission of Joint Warfighting Science and Technology Plan.
Sec. 225. Shipbuilding Industrial Base Improvement Program for development of innovative shipbuilding technologies, processes, and facilities.
Sec. 226. Renewal of University National Oceanographic Laboratory System fleet.
Sec. 227. Limitation on VXX helicopter program.

Subtitle C—Missile Defense Programs

Sec. 231. Report on capabilities and costs for operational boost/ascent-phase missile defense systems.
Sec. 232. Required flight-intercept test of ballistic missile defense groundbased midcourse system.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.

Subtitle B—Environmental Provisions

Sec. 311. Revision of required content of environmental quality annual report.
Sec. 312. Pilot project on compatible use buffers on real property bordering Fort Carson, Colorado.
Sec. 313. Repeal of Air Force report on military installation encroachment issues.
Sec. 314. Payment of certain private cleanup costs in connection with Defense Environmental Restoration Program.

Subtitle C—Workplace and Depot Issues

Sec. 321. Proceeds from cooperative activities with non-Army entities.
Sec. 322. Public-private competition.
Sec. 323. Public-private competition pilot program.
Sec. 324. Sense of Congress on equitable legal standing for civilian employees.

Subtitle D—Extension of Program Authorities

Sec. 331. Extension of authority to provide logistics support and services for weapons systems contractors.
Sec. 332. Extension and revision of temporary authority for contractor performance of security guard functions.

Subtitle E—Utah Test and Training Range

Sec. 341. Definitions.
Sec. 342. Military operations and overflights, Utah Test and Training Range.
Sec. 343. Planning process for Federal lands in Utah Test and Training Range.
Sec. 344. Designation and management of Cedar Mountain Wilderness, Utah.
Sec. 345. Identification of additional Bureau of Land Management land in Utah as trust land for Skull Valley Band of Goshutes.
Sec. 346. Relation to other lands and laws.

Subtitle F—Other Matters

Sec. 351. Codification and revision of limitation on modification of major items of equipment scheduled for retirement or disposal.
Sec. 352. Limitation on purchase of investment items with operation and maintenance funds.
Sec. 353. Provision of Department of Defense support for certain paralympic sporting events.
Sec. 354. Development and explanation of budget models for base operations support, sustainment, and facilities recapitalization.
Sec. 355. Report on Department of Army programs for prepositioning of equipment and other materiel.
Sec. 356. Report regarding effect on military readiness of undocumented immigrants trespassing upon operational ranges.
Sec. 357. Congressional notification requirements regarding placement of liquefied natural gas facilities, pipelines, and related structures on defense lands.
Sec. 358. Report regarding army and air force exchange system management of army lodging.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2006 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

Subtitle C—Authorizations of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Temporary increase in percentage limits on reduction of time-in-grade requirements for retirement in grade upon voluntary retirement.
Sec. 502. Two-year renewal of authority to reduce minimum commissioned service requirement for voluntary retirement as an officer.
Sec. 503. Separation at age 64 for reserve component senior officers.
Sec. 504. Improved administration of transitions involving officers in senior general and flag officer positions.
Sec. 505. Consolidation of grade limitations on officer assignment and insignia practice known as frocking.
Sec. 506. Authority for designation of a general/flag officer position on the Joint Staff to be held by reserve component general or flag officer on active duty.
Sec. 507. Authority to retain permanent professors at the Naval Academy beyond 30 years of active commissioned service.
Sec. 508. Authority for appointment of Coast Guard flag officer as Chief of Staff to the President.
Sec. 509. Clarification of time for receipt of statutory selection board communications.
Sec. 510. Standardization of grade of senior dental officer of the Air Force with that of senior dental officer of the Army.

Subtitle B—Reserve Component Management

Sec. 511. Use of Reserve Montgomery GI Bill benefits and benefits for mobilized members of the Selected Reserve and National Guard for payments for licensing or certification tests.

Sec. 512. Modifications to new Reserve educational benefit for certain active service in support of contingency operations.
Sec. 513. Military technicians (dual status) mandatory separation.
Sec. 514. Military retirement credit for certain service by National Guard members performed while in a State duty status immediately after the terrorist attacks of September 11, 2001.
Sec. 515. Use of National Guard to provide military support to civilian law enforcement agencies for domestic counter-terrorism activities.

Subtitle C—Education and Training

Sec. 521. Repeal of limitation on amount of financial assistance under ROTC scholarship programs.
Sec. 522. Increased enrollment for eligible defense industry employees in the defense product development program at Naval Postgraduate School.
Sec. 523. Payment of expenses to obtain professional credentials.
Sec. 524. Authority for National Defense University award of degree of Master of Science in Joint Campaign Planning and Strategy.
Sec. 525. One-year extension of authority to use appropriated funds to provide recognition items for recruitment and retention of certain reserve component personnel.
Sec. 526. Report on rationale and plans of the Navy to provide enlisted members an opportunity to obtain graduate degrees.
Sec. 527. Increase in annual limit on number of ROTC scholarships under Army Reserve and National Guard program.
Sec. 528. Capstone overseas field studies trips to People's Republic of China and Republic of China on Taiwan.
Sec. 529. Sense of Congress concerning establishment of National College of Homeland Security.

Subtitle D—General Service Requirements

Sec. 531. Uniform enlistment standards for the Armed Forces.
Sec. 532. Increase in maximum term of original enlistment in regular component.
Sec. 533. Members completing statutory initial military service obligation.
Sec. 534. Extension of qualifying service for initial military service under National Call to Service program.

Subtitle E—Matters Relating to Casualties

Sec. 541. Requirement for members of the Armed Forces to designate a person to be authorized to direct the disposition of the member's remains.
Sec. 542. Enhanced program of Casualty Assistance Officers and Seriously Injured/Ill Assistance Officers.
Sec. 543. Standards and guidelines for Department of Defense programs to assist wounded and injured members.
Sec. 544. Authority for members on active duty with disabilities to participate in Paralympic Games.

Subtitle F—Military Justice and Legal Assistance Matters

Sec. 551. Clarification of authority of military legal assistance counsel to provide military legal assistance without regard to licensing requirements.
Sec. 552. Use of teleconferencing in administrative sessions of courts-martial.
Sec. 553. Extension of statute of limitations for murder, rape, and child abuse offenses under the Uniform Code of Military Justice.
Sec. 554. Offense of stalking under the Uniform Code of Military Justice.
Sec. 555. Rape, sexual assault, and other sexual misconduct under Uniform Code of Military Justice.

Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

Sec. 561. Enrollment in overseas schools of Defense Dependents' Education System of children of citizens or nationals of the United States hired in overseas areas as full-time Department of Defense employees.
Sec. 562. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 563. Continuation of impact aid assistance on behalf of dependents of certain members despite change in status of member.

Subtitle H—Decorations and Awards

Sec. 565. Cold War Victory Medal.
Sec. 566. Establishment of Combat Medevac Badge.
Sec. 567. Eligibility for Operation Enduring Freedom campaign medal.

Subtitle I—Other Matters

Sec. 571. Extension of waiver authority of Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.
Sec. 572. Adoption leave for members of the Armed Forces adopting children.
Sec. 573. Report on need for a personnel plan for linguists in the Armed Forces.
Sec. 574. Ground combat and other exclusion policies.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

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Sec. 601. Increase in basic pay for fiscal year 2006.
Sec. 602. Additional pay for permanent military professors at United States Naval Academy with over 36 years of service.
Sec. 603. Basic pay rates for reserve component members selected to attend military service academy preparatory schools.
Sec. 604. Clarification of restriction on compensation for correspondence courses.
Sec. 605. Permanent authority for supplemental subsistence allowance for low-income members with dependents.
Sec. 606. Basic allowance for housing for Reserve members.
Sec. 607. Overseas cost of living allowance.
Sec. 608. Income replacement payments for Reserves experiencing extended and frequent mobilization for active duty service.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension or resumption of certain bonus and special pay authorities for reserve forces.
Sec. 612. Extension of certain bonus and special pay authorities for certain health care professionals.
Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
Sec. 614. One-year extension of other bonus and special pay authorities.
Sec. 615. Expansion of eligibility of dental officers for additional special pay.
Sec. 616. Increase in maximum monthly rate authorized for hardship duty pay.
Sec. 617. Flexible payment of assignment incentive pay.
Sec. 618. Active-duty reenlistment bonus.
Sec. 619. Reenlistment bonus for members of Selected Reserve.
Sec. 620. Combination of affiliation and accession bonuses for service in the Selected Reserve.
Sec. 621. Eligibility requirements for prior service enlistment bonus.
Sec. 622. Increase in authorized maximum amount of enlistment bonus.
Sec. 623. Discretion of Secretary of Defense to authorize retroactive hostile fire and imminent danger pay.
Sec. 624. Increase in maximum bonus amount for nuclear-qualified officers extending period of active duty.
Sec. 625. Increase in maximum amount of nuclear career annual incentive bonus for nuclear-qualified officers trained while serving as enlisted members.
Sec. 626. Uniform payment of foreign language proficiency pay to eligible reserve component members and regular component members.
Sec. 627. Retention bonus for members qualified in certain critical skills or satisfying other eligibility criteria.
Sec. 628. Availability of critical-skills accession bonus for persons enrolled in Senior Reserve Officers' Training Corps who are obtaining nursing degrees.

Subtitle C—Travel and Transportation Allowances

Sec. 641. Authorized absences of members for which lodging expenses at temporary duty location may be paid.
Sec. 642. Extended period for selection of home for travel and transportation allowances for dependents of deceased member.
Sec. 643. Transportation of family members incident to repatriation of members held captive.
Sec. 644. Increased weight allowances for shipment of household goods of senior noncommissioned officers.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 651. Monthly disbursement to States of State income tax withheld from retired or retainer pay.
Sec. 652. Revision to eligibility for nonregular service retirement after establishing eligibility for regular retirement.
Sec. 653. Denial of military funeral honors in certain cases.
Sec. 654. Child support for certain minor children of retirement-eligible members convicted of domestic violence resulting in death of child's other parent.
Sec. 655. Concurrent receipt of veterans disability compensation and military retired pay.
Sec. 656. Military Survivor Benefit Plan beneficiaries under insurable interest coverage.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 661. Increase in authorized level of supplies and services procurement from overseas exchange stores.
Sec. 662. Requirements for private operation of commissary store functions.

Sec. 663. Provision of information technology services for accommodations provided by nonappropriated fund instrumentalities for wounded members of the Armed Forces and their families.
Sec. 664. Provision of and payment for overseas transportation services for commissary and exchange supplies.
Sec. 665. Compensatory time off for certain nonappropriated fund employees.

Subtitle F—Other Matters

Sec. 671. Inclusion of Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff among senior enlisted members of the Armed Forces.
Sec. 672. Special and incentive pays considered for saved pay upon appointment of members as officers.
Sec. 673. Repayment of unearned portion of bonuses, special pays, and educational benefits.
Sec. 674. Leave accrual for members assigned to deployable ships or mobile units or to other designated duty.
Sec. 675. Army recruiting pilot program to encourage members of the Army to refer other persons for enlistment.
Sec. 676. Special compensation for reserve component members who are also tobacco farmers adversely affected by terms of tobacco quota buyout.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Tricare Program Improvements

Sec. 701. Services of mental health counselors.
Sec. 702. Additional information required by surveys on TRICARE standard.
Sec. 703. Enhancement of TRICARE coverage for members who commit to continued service in the selected reserve.
Sec. 704. Study and plan relating to chiropractic health care services.
Sec. 705. Surviving-dependent eligibility under TRICARE dental plan for surviving spouses who were on active duty at time of death of military spouse.
Sec. 706. Exceptional eligibility for TRICARE prime remote.

Subtitle B—Other Matters

Sec. 711. Authority to relocate patient safety center; renaming MedTeams Program.
Sec. 712. Modification of health care quality information and technology enhancement reporting requirement.
Sec. 713. Correction to eligibility of certain Reserve officers for military health care pending active duty following commissioning.
Sec. 714. Prohibition on conversions of military medical positions to civilian medical positions until submission of certification.
Sec. 715. Clarification of inclusion of dental care in medical readiness tracking and health surveillance program.
Sec. 716. Cooperative outreach to members and former members of the naval service exposed to environmental factors related to sarcoidosis.
Sec. 717. Early identification and treatment of mental health and substance abuse disorders.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

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Sec. 801. Requirement for certification by Secretary of Defense before major defense acquisition program may proceed to Milestone B.
Sec. 802. Requirement for analysis of alternatives to major defense acquisition programs.
Sec. 803. Authority for Secretary of Defense to revise baseline for major defense acquisition programs.

Subtitle B—Acquisition Policy and Management

Sec. 811. Applicability of statutory executive compensation cap made prospective.
Sec. 812. Use of commercially available online services for Federal procurement of commercial items.
Sec. 813. Contingency contracting corps.
Sec. 814. Requirement for contracting operations to be included in interagency planning related to stabilization and reconstruction.
Sec. 815. Statement of policy and report relating to contracting with employers of persons with disabilities.
Sec. 816. Study on Department of Defense contracting with small business concerns owned and controlled by service-disabled veterans.
Sec. 817. Prohibition on procurement from beneficiaries of foreign subsidies.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 821. Increased flexibility for designation of critical acquisition positions in defense acquisition workforce.
Sec. 822. Participation by Department of Defense in acquisition workforce training fund.
Sec. 823. Increase in cost accounting standard threshold.
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Sec. 825. Rapid acquisition authority to respond to defense intelligence community emergencies.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense Management

Sec. 901. Restoration of parity in pay levels among Under Secretary positions.
Sec. 902. Eligibility criteria for Director of Department of Defense Test Resource Management Center.
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Sec. 904. Redesignation of the Department of the Navy as the Department of the Navy and Marine Corps.

Subtitle B—Space Activities

Sec. 911. Space Situational Awareness Strategy.
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Subtitle C—Chemical Demilitarization Program

Sec. 921. Transfer to Secretary of the Army of responsibility for assembled chemical weapons alternatives program.
Sec. 922. Clarification of Cooperative Agreement Authority under Chemical Demilitarization Program.

Subtitle D—Intelligence-Related Matters

Sec. 931. Department of Defense Strategy for Open-Source intelligence.
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Sec. 1002. Authorization of supplemental appropriations for fiscal year 2005.
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Sec. 1004. Reports on feasibility and desirability of capital budgeting for major defense acquisition programs.

Subtitle B—Naval Vessels and Shipyards

Sec. 1011. Conveyance, Navy drydock, Seattle, Washington.
Sec. 1012. Conveyance, Navy drydock, Jacksonville, Florida.
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Sec. 1014. Transfer of U.S.S. IOWA.
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Sec. 1016. Limitation on leasing of foreign-built vessels.

Subtitle C—Counter-Drug Activities

Sec. 1021. Extension of Department of Defense authority to support counter-drug activities.
Sec. 1022. Resumption of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities.
Sec. 1023. Clarification of authority for joint task forces to support law enforcement agencies conducting counter-terrorism activities.

Subtitle D—Matters Related to Homeland Security

Sec. 1031. Responsibilities of Assistant Secretary of Defense for Homeland Defense relating to nuclear, chemical, and biological emergency response.
Sec. 1032. Testing of preparedness for emergencies involving nuclear, radiological, chemical, biological, and high-yield explosives weapons.
Sec. 1033. Department of Defense chemical, biological, radiological, nuclear, and high-yield explosives response teams.
Sec. 1034. Repeal of Department of Defense emergency response assistance program.

Subtitle E—Other Matters

Sec. 1041. Commission on the Long-Term Implementation of the New Strategic Posture of the United States.
Sec. 1042. Reestablishment of EMP Commission.
Sec. 1043. Modernization of authority relating to security of defense property and facilities.
Sec. 1044. Revision of Department of Defense counterintelligence polygraph program.
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Sec. 1046. Technical and clerical amendments.
Sec. 1047. Deletion of obsolete definitions in titles 10 and 32, United States Code.

TITLE XI—CIVILIAN PERSONNEL MATTERS

Sec. 1101. Extension of eligibility to continue Federal employee health benefits.
Sec. 1102. Extension of Department of Defense voluntary reduction in force authority.

Sec. 1103. Extension of authority to make lump sum severence payments.
Sec. 1104. Authority for heads of agencies to allow shorter length of required service by Federal employees after completion of training.
Sec. 1105. Authority to waive annual limitation on total compensation paid to Federal civilian employees.
Sec. 1106. Transportation of family members incident to repatriation of Federal employees held captive.
Sec. 1107. Permanent extension of Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Program.

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

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Sec. 1201. Extension of humanitarian and civic assistance provided to host nations in conjunction with military operations.
Sec. 1202. Commanders' Emergency Response Program.
Sec. 1203. Military educational exchanges between senior officers and officials of the United States and Taiwan.
Sec. 1204. Modification of geographic restriction under bilateral and regional cooperation programs for payment of certain expenses of defense personnel of developing countries.
Sec. 1205. Authority for Department of Defense to enter into acquisition and cross-servicing agreements with regional organizations of which the United States is not a member.
Sec. 1206. Two-year extension of authority for payment of certain administrative services and support for coalition liaison officers.

Subtitle B—Nonproliferation Matters and Countries of Concern

Sec. 1211. Report on acquisition by Iran of nuclear weapons.
Sec. 1212. Procurement sanctions against foreign persons that transfer certain defense articles and services to the People's Republic of China.
Sec. 1213. Prohibition on procurements from Communist Chinese military companies.

Subtitle C—Other Matters

Sec. 1221. Purchase of weapons overseas for force protection purposes.
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TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

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TITLE XIV—CONTRACT DISPUTE ENHANCEMENT

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Sec. 1522. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2007 through 2009.
Sec. 1523. Military death gratuity enhancement.
Sec. 1524. Permanent prohibition against requiring certain injured members to pay for meals provided by military treatment facilities.
Sec. 1525. Permanent authority to provide travel and transportation allowances for dependents to visit hospitalized members injured in combat operation or combat zone.
Sec. 1526. Permanent increase in length of time dependents of certain deceased members may continue to occupy military family housing or receive basic allowance for housing.
Sec. 1527. Availability of special pay for members during rehabilitation from combat-related injuries.
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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

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Sec. 3501. Authorization of appropriations for fiscal year 2006.
Sec. 3502. Payments for State and regional maritime academies.
Sec. 3503. Maintenance and repair reimbursement pilot program.
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Sec. 3505. Improvements to the Maritime Administration vessel disposal program.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for UH-60/MH-60 helicopters.
Sec. 112. Multiyear procurement authority for Apache Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor.
Sec. 113. Multiyear procurement authority for Apache Block II conversion.
Sec. 114. Acquisition strategy for tactical wheeled vehicle programs.
Sec. 115. Limitation on Army Modular Force Initiative.
Sec. 116. Contract requirement for Objective Individual Combat Weapon - Increment 1.

Subtitle C—Navy Programs

Sec. 121. Virginia-class submarine program.
Sec. 122. LHA Replacement amphibious assault ship program.
Sec. 123. Future major surface combatant, destroyer type.
Sec. 124. Littoral Combat Ship (LCS) program.
Sec. 125. Authorization of two additional Arleigh Burke class destroyers.
Sec. 126. Refueling and complex overhaul of the U.S.S. Carl Vinson.
Sec. 127. Report on propulsion system alternatives for surface combatants.
Sec. 128. Aircraft carrier force structure.
Sec. 129. Contingent transfer of additional funds for CVN–21 Carrier Replacement Program.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C–17 aircraft.

Subtitle E—Joint and Multiservice Matters

Sec. 141. Requirement that all tactical unmanned aerial vehicles use specified standard data link.
Sec. 142. Limitation on initiation of new unmanned aerial vehicle systems.

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Army as follows:

(1) For aircraft, $2,861,380,000.

(2) For missiles, $1,242,919,000.

(3) For weapons and tracked combat vehicles, $1,601,978,000.

(4) For ammunition, $1,750,772,000.

(5) For other procurement, $4,043,289,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Navy as follows:

(1) For aircraft, $10,042,526,000.

(2) For weapons, including missiles and torpedoes, $2,775,041,000.

(3) For ammunition, $869,770,000.

(4) For shipbuilding and conversion, $10,779,773,000.

(5) For other procurement, $5,634,318,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Marine Corps in the amount of $1,407,605,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Air Force as follows:

(1) For aircraft, $12,793,756,000.

(2) For ammunition, $1,031,207,000.

(3) For missiles, $5,490,287,000.

(4) For other procurement, $14,068,789,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2006 for Defense-wide procurement in the amount of $2,715,446,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR UH–60/MH–60 HELICOPTERS.

The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2007 program year, for procurement of up to 461 helicopters in the UH–60M configuration and, acting as executive agent for the Department of the Navy, in the MH–60S configuration.

SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR APACHE MODERNIZED TARGET ACQUISITION DESIGNATION SIGHT/PILOT NIGHT VISION SENSOR.

The Secretary of the Army may, in accordance with section 2306b of title 10, United States

Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year and for four program years, for procurement of 612 Apache Modernized Target Acquisition Designation Sights/Pilot Night Vision Sensors.

SEC. 113. MULTIYEAR PROCUREMENT AUTHORITY FOR APACHE BLOCK II CONVERSION.

The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year and for four program years, for procurement of conversion of 96 Apache helicopters to the Block II configuration.

SEC. 114. ACQUISITION STRATEGY FOR TACTICAL WHEELED VEHICLE PROGRAMS.

(a) Army.—If, in carrying out a program for modernization and recapitalization of the fleet of tactical wheeled vehicles of the Army, the Secretary of the Army determines to award a contract for procurement of a new vehicle class for the next-generation tactical wheeled vehicle (other than a contract for modifications, upgrades, or product improvements to the existing fleet of vehicles), the Secretary shall award and execute the acquisition program under that contract as a joint service program with the Marine Corps.

(b) Marine Corps.—If, in carrying out a program for modernization and recapitalization of the fleet of tactical wheeled vehicles of the Marine Corps, the Secretary of the Navy determines to award a contract for procurement of a new vehicle class for the next-generation tactical wheeled vehicle (other than a contract for modifications, upgrades, or product improvements to the existing fleet of vehicles), the Secretary shall award and execute the acquisition program under that contract as a joint service program with the Army.

SEC. 115. LIMITATION ON ARMY MODULAR FORCE INITIATIVE.

(a) Limitation.—From funds available to the Army for fiscal year 2006, not more than $3,000,000,000 may be obligated or expended for acquisition programs for the Army Modular Force Initiative until the Secretary of the Army submits to the congressional defense committees a report described in subsection (b).

(b) Report.—A report under subsection (a) shall set forth the following:

(1) An outline of the full scope of acquisition programs that are considered part of the Modular Force Initiative and the acquisition objectives for each such program.

(2) An outline of the funding levels provided in the fiscal year 2007 Future Years Defense Program for each program specified under paragraph (1) and, for each such program, the adequacy of that funding for achieving the acquisition objectives referred to in paragraph (1).

(3) A detailed accounting of the use of funds provided for the Modular Force Initiative in title I of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terrorism, and Tsunami Relief Act, 2005.

SEC. 116. CONTRACT REQUIREMENT FOR OBJECTIVE INDIVIDUAL COMBAT WEAPON - INCREMENT 1.

In awarding a contract for procurement of the Objective Individual Combat Weapon - Increment 1, the Secretary of the Army shall ensure that the contractor is selected through a full and open competition process that allows potential offerors adequate time to prepare and submit qualifying proposals.

Subtitle C—Navy Programs

SEC. 121. VIRGINIA-CLASS SUBMARINE PROGRAM.

(a) Limitation of Costs.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the five Virginia-class submarines designated as SSN–779, SSN–780, SSN–781, SSN–782, and SSN–783 may not exceed the following amounts (such amounts being the estimated total procurement end cost of those vessels in the fiscal year 2006 budget):

(1) For the SSN–779 submarine, $2,143,700,000.

(2) For the SSN–780 submarine, $2,238,800,000.

(3) For the SSN–781 submarine, $2,402,000,000.

(4) For the SSN–782 submarine, $2,581,300,000.

(5) For the SSN–783 submarine, $2,690,000,000.

(b) Adjustment of Limitation Amounts.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for any Virginia-class submarine specified in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(c) Notice to Congress of Program Changes.—The Secretary of the Navy shall annually submit to Congress, at the same time as the budget is submitted under section 1105(a) of title 31, United States Code, written notice of any change in any of the amounts set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

SEC. 122. LHA REPLACEMENT AMPHIBIOUS ASSAULT SHIP PROGRAM.

(a) Limitation of Costs.—Except as provided in subsection (b), the total amount obligated or expended for procurement of each ship of the LHA Replacement (LHA(R)) amphibious assault ship program may not exceed $2,000,000,000.

(b) Adjustment of Limitation Amount.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for the program referred to in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(c) Written Notice of Change in Amount.—The Secretary of the Navy shall annually submit to Congress, at the same time as the budget is submitted under section 1105(a) of title 31, United States Code, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(d) Limitation on Procurement Funds.—Funds available to the Navy for Shipbuilding and Conversion, Navy, may be obligated or expended for procurement for the LHA Replacement ship program only after the Secretary of Defense certifies in writing to the congressional defense committees that—

(1) the Joint Requirements Oversight Council has approved a detailed Operational Requirements Document for the program; and

(2) there exists a stable design for the LHA(R) class of vessels.

(e) Stable Design.—For purposes of this section, the design of a class of vessels shall be considered to be stable when no substantial change to the design is anticipated.

SEC. 123. FUTURE MAJOR SURFACE COMBATANT, DESTROYER TYPE.

(a) Limitation of Costs.—Except as provided in subsection (b), the total amount obligated or expended for procurement of each ship for the future major surface combatant, destroyer type, may not exceed $1,700,000,000 (such amount being the estimated total procurement end cost of that ship in the fiscal year 2006 budget).

(b) Adjustment of Limitation Amount.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for the ship type referred to in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(c) Written Notice of Change in Amount.—The Secretary of the Navy shall annually submit to Congress, at the same time as the budget is submitted under section 1105(a) of title 31, United States Code, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(d) Authorization of Appropriations.—Of the amount provided in section 201(2) for Research and Development, Navy, for fiscal year 2006, $700,000,000 is available for technology development and demonstration for the ship referred to in subsection (a).

(e) Acquisition Plan.—In developing the acquisition plan for the future major surface combatant, destroyer type, the Secretary shall ensure that the resulting acquisition program—

(1) uses technologies from the DD(X) and CG(X) programs, as well as any other technology the Secretary considers appropriate;

(2) has an overall capability not less than that of the Flight IIA version of the Arleigh Burke (DDG–51) class destroyer; and

(3) would be ready for lead-ship procurement not later than fiscal year 2011.

SEC. 124. LITTORAL COMBAT SHIP (LCS) PROGRAM.

(a) Limitation of Costs.—Except as provided in subsection (b), the total amount obligated or expended for procurement of each ship for the Littoral Combat Ship (LCS) program, including amounts for mission modules, may not exceed $400,000,000 (such amount being the estimated total procurement end cost of that ship in the fiscal year 2006 budget).

(b) Adjustment of Limitation Amount.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for the ships referred to in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(c) Written Notice of Change in Amount.—The Secretary of the Navy shall annually submit to Congress, at the same time as the budget is submitted under section 1105(a) of title 31, United States Code, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(d) Limitation on Ships and Mission Modules.—No funds available to the Navy may be used for the acquisition of Littoral Combat Ships, or Littoral Combat Ship mission modules until the Secretary of Defense submits to the congressional defense committees—

(1) the results of an operational evaluation of the first four Littoral Combat Ships conducted by the Director of Operational Test and Evaluation Force of the Department of Defense; and

(2) the Secretary's certification in writing that there exists a stable design for the Littoral Combat Ship class of vessels.

(e) Stable Design.—For purposes of this section, the design of a class of vessels shall be considered to be stable when no substantial change to the design is anticipated.

SEC. 125. AUTHORIZATION OF TWO ADDITIONAL ARLEIGH BURKE CLASS DESTROYERS.

Of the amount provided in section 102(a)(4) for Shipbuilding and Conversion, Navy, for fiscal year 2006, the amount of $2,500,000,000 is available for construction of two additional Arleigh Burke class destroyers, to be constructed under a single contract which shall be competitively awarded.

SEC. 126. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. CARL VINSON.

(a) Amount Authorized From SCN Account.—Of the amount authorized to be appropriated by section 102(a)(4), for fiscal year 2006, $1,493,563,000 is available for the commencement of the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70). The amount made available in the preceding sentence is the first increment in the incremental funding planned for the nuclear refueling and complex overhaul of that vessel.

(b) Contract Authority.—The Secretary of the Navy may enter into a contract during fiscal year 2006 for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson.

(c) Condition for Out-Year Contract Payments.—A contract entered into under subsection (b) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for that later fiscal year.

SEC. 127. REPORT ON PROPULSION SYSTEM ALTERNATIVES FOR SURFACE COMBATANTS.

(a) Report Required.—The Secretary of the Navy shall submit to the congressional defense committees a report on the results of the study directed by the Chief of Naval Operations and in progress in mid-2005 on alternative propulsion methods for surface combatant vessels of the Navy. The report shall be submitted not later than the date of the President's submission of the budget of the United States Government for fiscal year 2007.

(b) Matters to Be Included.—The report of the Secretary of the Navy under subsection (a) shall include the following:

(1) The objectives and scope of the study referred to in subsection (a) and the timeframes for analysis under the study and the key assumptions used in carrying out the study.

(2) The methodology and analysis techniques used to conduct the study.

(3) A description of current and future technology relating to propulsion that has been incorporated in recently-designed surface combatants or is expected to be available within the next 10-to-20 years.

(4) The propulsion alternatives for surface combatants considered under the study and the analysis and evaluation under the study of each of those alternatives from an operational and cost-effectiveness standpoint.

(5) The conclusions and recommendations of the study, including those conclusions and recommendations that could impact the design of future ships or lead to modifications of existing ships.

(6) The Secretary's intended actions and timeframes for implementation, if any, of the findings and conclusions of the study.

SEC. 128. AIRCRAFT CARRIER FORCE STRUCTURE.

(a) Requirement for 12 Operational Aircraft Carriers Within the Navy.—Section 5062 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The naval combat forces of the Navy shall include not less than 12 operational aircraft carriers. For purposes of this subsection, an operational aircraft carrier includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance or repair.".

(b) U.S.S. John F. Kennedy.—

(1) Fully Mission Capable Status.—The Secretary of Defense shall take all necessary actions to ensure that the U.S.S. John F. Kennedy (CVN–67) is maintained in a fully mission capable status.

(2) Maintenance.—From the amounts provided under section 301 for operation and maintenance of the Navy for fiscal year 2006, $60,000,000 is authorized for the operation and routine maintenance of the U.S.S. John F. Kennedy.

SEC. 129. CONTINGENT TRANSFER OF ADDITIONAL FUNDS FOR CVN–21 CARRIER REPLACEMENT PROGRAM.

If the Director of Program Analysis and Evaluation of the Office of the Secretary of Defense certifies to Congress that an additional amount of $86,700,000 for fiscal year 2006 for advance procurement for the CVN–21 Carrier Replacement Program would allow construction of the CVN–21 vessel to begin in fiscal year 2007, then upon such certification the amount of $86,700,000 shall be transferred from amounts available for fiscal year 2006 for Defense-wide Operation and Maintenance, to be derived from amounts for Defense-wide Advisory and Assistance Services, to amounts available for fiscal year 2006 for Shipbuilding and Conversion, Navy, to be available for advance procurement for the CVN–21 Carrier Replacement Program.

Subtitle D—Air Force Programs

SEC. 131. MULTIYEAR PROCUREMENT AUTHORITY FOR C–17 AIRCRAFT.

The Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for procurement of up to 42 additional C–17 aircraft.

Subtitle E—Joint and Multiservice Matters

SEC. 141. REQUIREMENT THAT ALL TACTICAL UNMANNED AERIAL VEHICLES USE SPECIFIED STANDARD DATA LINK.

(a) Requirement.—The Secretary of Defense shall take such steps as necessary to ensure that all tactical unmanned aerial vehicles (UAVs) of the Army, Navy, Marine Corps, and Air Force are equipped and configured so that—

(1) the data link used by those vehicles is the Department of Defense standard tactical unmanned aerial vehicle data link known as the Tactical Common Data Link (TCDL), until such time as the Tactical Common Data Link standard is replaced by an updated standard for use by those vehicles; and

(2) those vehicles use data formats consistent with the architectural standard for tactical unmanned aerial vehicles known as STANAG 4586, developed to facilitate multinational interoperability among NATO member nations.

(b) Funding Limitation.—After December 1, 2006, no funds available to the Department of Defense may be used to equip a tactical unmanned aerial vehicle with data links other than as required by subsection (a)(1).

(c) Report.—Not later than February 1, 2006, the Secretary of each military department shall submit to Congress a report on the status of compliance by all tactical unmanned aerial vehicles under the jurisdiction of the Secretary with subsection (a).

SEC. 142. LIMITATION ON INITIATION OF NEW UNMANNED AERIAL VEHICLE SYSTEMS.

(a) Limitation.—Funds available to the Department of Defense may not be used to procure an unmanned aerial vehicle (UAV) system, including any air vehicle, data link, ground station, sensor, or other associated equipment for any such system, or to modify any such system to include any form of armament, unless such procurement or modification is authorized in writing in advance by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) Exception for Existing Systems.—The limitation in subsection (a) does not apply with respect to an unmanned aerial vehicle (UAV) system for which funds have been appropriated for procurement before the date of the enactment of this Act.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Annual Comptroller General report on Future Combat Systems program.
Sec. 212. Objective requirements for non-line-of-sight cannon system not to be diminished to meet weight requirements.
Sec. 213. Independent analysis of Future Combat Systems manned ground vehicle transportability requirement.
Sec. 214. Amounts for Armored Systems Modernization program.
Sec. 215. Limitation on systems development and demonstration of manned ground vehicles under Armored Systems Modernization program.
Sec. 216. Testing of Internet Protocol version 6 by Naval Research Laboratory.
Sec. 217. Program to design and develop next-generation nuclear submarine.
Sec. 218. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
Sec. 219. Single joint requirement for heavy lift rotorcraft.
Sec. 220. Requirements for development of tactical radio communications systems.
Sec. 221. Limitation on systems development and demonstration of Personnel Recovery Vehicle.
Sec. 222. Separate program element required for each significant research, development, test, and evaluation project.
Sec. 223. Small Business Innovation Research Phase III Acceleration Pilot Program.
Sec. 224. Revised requirements relating to submission of Joint Warfighting Science and Technology Plan.
Sec. 225. Shipbuilding Industrial Base Improvement Program for development of innovative shipbuilding technologies, processes, and facilities.
Sec. 226. Renewal of University National Oceanographic Laboratory System fleet.
Sec. 227. Limitation on VXX helicopter program.

Subtitle C—Missile Defense Programs

Sec. 231. Report on capabilities and costs for operational boost/ascent-phase missile defense systems.
Sec. 232. Required flight-intercept test of ballistic missile defense groundbased midcourse system.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,777,372,000.

(2) For the Navy, $18,022,140,000.

(3) For the Air Force, $22,408,212,000.

(4) For Defense-wide activities, $19,261,263,000, of which $168,458,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2006.—Of the amounts authorized to be appropriated by section 201, $11,418,146,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. ANNUAL COMPTROLLER GENERAL REPORT ON FUTURE COMBAT SYSTEMS PROGRAM.

(a) ANNUAL GAO REVIEW.—The Comptroller General shall conduct an annual review of the Future Combat Systems program and shall, not later than March 15 of each year, submit to Congress a report on the results of the most recent review. With each such report, the Comptroller General shall submit a certification as to whether the Comptroller General has had access to sufficient information to enable the Comptroller General to make informed judgments on the matters covered by the report.

(b) MATTERS TO BE INCLUDED.—Each report on the Future Combat Systems program under subsection (a) shall include the following with respect to research and development under the program:

(1) The extent to which systems development and demonstration under the program is meeting established goals, including the goals established for performance, key performance parameters, technology readiness levels, cost, and schedule.

(2) The budget for the current fiscal year, and the projected budget for the next fiscal year, for all Department of Defense programs directly supporting the Future Combat Systems program and an evaluation of the contribution each such program makes to meeting the goals established for performance, key performance parameters, and technology readiness levels of the Future Combat Systems program.

(3) The plan for such systems development and demonstration (leading to production) for the fiscal year that begins in the year in which the report is submitted.

(4) The Comptroller General's conclusion regarding whether such systems development and demonstration (leading to production) is likely to be completed at a total cost not in excess of the amount specified (or to be specified) for such purpose in the Selected Acquisition report for the Future Combat Systems program under section 2432 of title 10, United States Code, for the first quarter of the fiscal year during which the report of the Comptroller General is submitted.

(c) TERMINATION.—No report is required under this section after systems development and demonstration under the Future Combat Systems program is completed.

SEC. 212. OBJECTIVE REQUIREMENTS FOR NON-LINE-OF-SIGHT CANNON SYSTEM NOT TO BE DIMINISHED TO MEET WEIGHT REQUIREMENTS.

In carrying out the program required by section 216 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2482) to provide the Army with a non-line-of-sight cannon capability, the Secretary of Defense shall ensure that the objective requirements set forth in Appendix C of the Operational Requirements Document for the Future Combat Systems, dated April 14, 2003, are not reduced or diminished in order to achieve the weight requirements in existence as of April 14, 2003.

SEC. 213. INDEPENDENT ANALYSIS OF FUTURE COMBAT SYSTEMS MANNED GROUND VEHICLE TRANSPORTABILITY REQUIREMENT.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall ensure that an independent analysis is carried out with respect to the transportability requirement for the manned ground vehicles under the Future Combat Systems program. The purpose of the analysis shall be to determine whether—

(1) the requirement can be supported by the projected extended planning period inter-theater and intra-theater airlift force structure;

(2) the requirement is justified by any likely deployment scenario envisioned by current operational plans;

(3) mature technologies have been demonstrated that allow the requirement to be met while demonstrating at least equal lethality and survivability compared with the manned ground vehicles intended to be replaced by such manned ground vehicles; and

(4) the projected unit procurement cost warrants the investment required to deploy such manned ground vehicles.

(b) REPORT.—Not later than February 1, 2006, the Secretary shall submit to the congressional defense committees a report on the results of the analysis required by subsection (a).

SEC. 214. AMOUNTS FOR ARMORED SYSTEMS MODERNIZATION PROGRAM.

Of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201 for the Armored Systems Modernization program—

(1) $100,000,000 may be made available for manned ground vehicles in advanced component development and prototypes;

(2) $2,322,197,000 may be made available for future combat systems common operating environment in systems development and demonstration;

(3) $47,203,000 may be made available for reconnaissance platforms and sensors in advanced component development and prototypes;

(4) $58,130,000 may be made available for reconnaissance platforms and sensors in advanced technology development;

(5) $2,504,000 may be made available for unattended sensors in advanced component development and prototypes; and

(6) $86,445,000 may be made available for robotic ground systems in advanced component development and prototypes.

SEC. 215. LIMITATION ON SYSTEMS DEVELOPMENT AND DEMONSTRATION OF MANNED GROUND VEHICLES UNDER ARMORED SYSTEMS MODERNIZATION PROGRAM.

Of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201 for the Armored Systems Modernization program, no funds may be obligated for systems development and demonstration of manned ground vehicles until the objective requirements for those vehicles with respect to lethality and survivability have been met and demonstrated in a relevant environment to be at least equal to the lethality and survivability for the manned ground vehicles to be replaced by those vehicles.

SEC. 216. TESTING OF INTERNET PROTOCOL VERSION 6 BY NAVAL RESEARCH LABORATORY.

(a) IN GENERAL.—Section 331 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108—375; 118 Stat. 1850) is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following new subsection:

"(d) TESTING AND EVALUATION BY NAVAL RESEARCH LABORATORY.—In each of fiscal years 2006 through 2008, the Secretary of Defense shall carry out subsection (c) through the Naval Research Laboratory."; and

(3) in subsection (e) (as so redesignated) by adding at the end the following new paragraph:

"(3) For each of fiscal years 2006 through 2008, the Secretary of Defense shall, not later than the end of that fiscal year, submit to the congressional defense committees a report on the testing and evaluation carried out pursuant to subsection (d).".

(b) FUNDING.—Of the amount authorized to be appropriated by section 201(2), $10,000,000 shall be available in program element 63727D8Z only to carry out section 331 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

SEC. 217. PROGRAM TO DESIGN AND DEVELOP NEXT-GENERATION NUCLEAR SUBMARINE.

(a) PROGRAM REQUIRED.—The Secretary of the Navy shall carry out a program to design and develop a class of nuclear submarines that will serve as a successor to the Virginia class of nuclear submarines.

(b) OBJECTIVE.—The objective of the program required by subsection (a) is to develop, for procurement beginning with fiscal year 2014, a nuclear submarine that meets or exceeds the warfighting capability of a submarine of the Virginia class at a cost dramatically lower than the cost of a submarine of the Virginia class.

(c) REPORT.—

(1) IN GENERAL.—The Secretary of the Navy shall include, with the defense budget justification materials submitted in support of the President's budget for fiscal year 2007 submitted to Congress under section 1105 of title 31, United States Code, a report on the program required by subsection (a).

(2) CONTENTS.—The report shall include—

(A) an outline of the management approach to be used in carrying out the program;

(B) the goals for the program; and

(C) a schedule for the program.

SEC. 218. EXTENSION OF REQUIREMENTS RELATING TO MANAGEMENT RESPONSIBILITY FOR NAVAL MINE COUNTERMEASURES PROGRAMS.

Section 216 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317), as most recently amended by section 212 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2480), is amended—

(1) in subsection (a), by striking "2008" and inserting "2011";

(2) in subsection (b)(1) by inserting after "Secretary of Defense" the following: ", and the Secretary of Defense has forwarded to the congressional defense committees,";

(3) in subsection (b)(2) by inserting before the semicolon at the end the following: "and, in so certifying, shall ensure that the budget meets the requirements of section 2437 of title 10, United States Code"; and

(4) by striking subsection (c) and inserting the following new subsection (c):

"(c) NOTIFICATION OF CERTAIN PROPOSED CHANGES.—

"(1) IN GENERAL.—With respect to a fiscal year, the Secretary may not carry out any change to the naval mine countermeasures master plan or the budget resources for mine countermeasures with respect to that fiscal year until after the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the *congressional defense committees a notification of the proposed change. Such notification shall describe the nature of the proposed change and the effect of the proposed change on the naval mine countermeasures program or related programs with respect to that fiscal year.*

"(2) Exception.—Paragraph (1) does not apply to a change if both—

"(A) the amount of the change is below the applicable reprogramming threshold; and

"(B) the effect of the change does not affect the validity of the decision to certify.".

SEC. 219. SINGLE JOINT REQUIREMENT FOR HEAVY LIFT ROTORCRAFT.

(a) Joint Requirement.—The Secretary of the Army and the Secretary of the Navy shall develop a single joint requirement for a next-generation heavy lift rotorcraft for the Army and the Marine Corps.

(b) Approval by JROC Required.—The Secretary of Defense may not authorize a new program start for the next-generation heavy lift rotocraft until the single joint requirement required by subsection (a) has been approved by the Joint Requirements Oversight Council.

SEC. 220. REQUIREMENTS FOR DEVELOPMENT OF TACTICAL RADIO COMMUNICATIONS SYSTEMS.

(a) Interim Tactical Radio Communications.—The Secretary of Defense shall—

(1) assess the immediate requirements of the military departments for tactical radio communications systems; and

(2) ensure that the military departments rapidly acquire tactical radio communications systems utilizing existing technology or mature systems readily available in the commercial marketplace.

(b) Joint Tactical Radio System.—

(1) Milestone b.—The Secretary of Defense shall apply Department of Defense Instruction 5000.2 to the Joint Tactical Radio System in a manner that does not permit the Milestone B entrance requirements to be waived.

(2) Management of funds.—The head of the single joint program office designated under section 213 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1416) shall manage and control all research and development funds for the entire Joint Tactical Radio System, including all waveform development.

(c) Report on Implementation Required.—Not later than February 14, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

SEC. 221. LIMITATION ON SYSTEMS DEVELOPMENT AND DEMONSTRATION OF PERSONNEL RECOVERY VEHICLE.

None of the amounts made available pursuant to the authorization of appropriations in section 201 for systems development and demonstration of the Personnel Recovery Vehicle may be obligated until 30 days after the Secretary of Defense submits to the congressional defense committees each of the following:

(1) The Secretary's certification that the requirements and schedule for the Personnel Recovery Vehicle have been validated by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) The Secretary's certification that all technologies required to meet the requirements (as validated under paragraph (1)) for the Personnel Recovery Vehicle are mature and demonstrated in a relevant environment.

(3) The Secretary's certification that no other aircraft, and no other modification of an aircraft, in the inventory of the Department of Defense can meet the requirements (as validated under paragraph (1)) for the Personnel Recovery Vehicle.

(4) A statement setting forth the independent cost estimate and manpower estimate (as required by section 2434 of title 10, United States Code) for the Personnel Recovery Vehicle.

SEC. 222. SEPARATE PROGRAM ELEMENT REQUIRED FOR EACH SIGNIFICANT RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PROJECT.

(a) Program Elements Specified.—The Secretary of Defense shall ensure that a project is assigned a separate, dedicated program element if—

(1) the project is carried out or proposed to be carried out using amounts for research, development, test, and evaluation activities; and

(2) the estimated expenditures and proposed appropriations for that project in the future-years defense program are $100,000,000 or more.

(b) Display in Budget Justification Materials.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), the amount requested for research, development, test, and evaluation activities shall be set forth in a manner that complies with subsection (a).

(c) Not Applicable to Missile Defense.—This section does not apply to the Missile Defense Agency.

SEC. 223. SMALL BUSINESS INNOVATION RESEARCH PHASE III ACCELERATION PILOT PROGRAM.

(a) Pilot Program to Expand Role of Small Business Concerns in Defense Acquisition.—

(1) Pilot program.—The Secretary of Defense shall designate the Secretary of a military department to carry out a pilot program, to be known as the "Small Business Innovation Research Phase III Acceleration Pilot Program" to expand the role of small business concerns in the defense acquisition process by designating certain Department of Defense research or research and development projects for accelerated transition under the Small Business Innovation Research Program (in this section referred to as the SBIR program), as defined in section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)).

(2) Accelerated transition.—In this section, the term "accelerated transition" means the expeditious transfer under existing authority from the second phase of the SBIR program (as described in section 9(e)(4)(B) of the Small Business Act (15 U.S.C. 638(e)(4)(B))) to the third phase, in which applications of research or research and development projects are funded (as described in section 9(e)(4)(C)(i) of such Act).

(b) Designation of Projects for Accelerated Transition.—For each of fiscal years 2006 through 2008, the Secretary designated under subsection (a)(1) shall designate for accelerated transition under the pilot program under this section at least 10 research or research and development projects for which funds have been provided by that Secretary through a second phase award under the SBIR program.

(c) Report.—Not later than September 30, 2008, the Secretary of Defense shall submit to the congressional defense committees a report which contains the following:

(1) The name of each research or research and development project designated for accelerated transition under subsection (b).

(2) The rationale behind the selection of each such project.

(3) A recommendation as to whether the pilot program under this section should be extended.

(d) Definition.—In this section, the term "research" or "research and development" has the same meaning as in section 9(e)(5) of the Small Business Act (15 U.S.C. 638(e)(5)).

SEC. 224. REVISED REQUIREMENTS RELATING TO SUBMISSION OF JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.

(a) Biennial Submittal.—Section 270 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 2501 note) is amended—

(1) by striking "annual" in the section heading and inserting "biennial"; and

(2) by striking "(a) Annual Plan Required.—On March 1 of each year" and inserting "Not later than March 1 of each even-numbered year,".

(b) Repeal of Requirement for Inclusion of Technology Area Review and Assessment Summaries.—Subsection (b) of such section is repealed.

SEC. 225. SHIPBUILDING INDUSTRIAL BASE IMPROVEMENT PROGRAM FOR DEVELOPMENT OF INNOVATIVE SHIPBUILDING TECHNOLOGIES, PROCESSES, AND FACILITIES.

(a) Program for United States Private Shipyards.—The Secretary of the Navy shall establish a program under which the Secretary shall provide funds, in such amounts as are made available to carry out this program—

(1) to qualified applicants to facilitate the development of innovative design and production technologies and processes for naval vessels and the development of modernized shipbuilding infrastructure; and

(2) to private shipyards to facilitate their acquisition of such technologies, processes, and infrastructure.

(b) Purposes of Program.—The purposes of the program referred to in subsection (a) are—

(1) to improve the efficiency and cost-effectiveness of the construction of naval vessels for the United States;

(2) to enhance the quality of naval vessel construction; and

(3) to promote the international competitiveness of United States shipyards for the construction of commercial ships and naval ships intended for sale to foreign governments.

(c) Application for Development Funding.—An entity requesting assistance under the program referred to in subsection (a) to develop new design or production technologies or processes for naval vessels or to improve shipbuilding infrastructure shall submit to the Secretary of the Navy an application that describes the proposal of the entity and provides evidence of its capability to develop one or more of the following:

(1) Numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology designed to improve shipbuilding and related industrial productivity.

(2) Novel techniques and processes designed to improve shipbuilding quality, productivity, and practice on a broad and sustained basis, including in such areas as engineering design, quality assurance, concurrent engineering, continuous process production technology, employee skills enhancement, and management of customers and suppliers.

(3) Technology, techniques, and processes appropriate to enhancing the productivity of shipyard infrastructure.

(d) Selection of Participating Entities.—Using the applications submitted under subsection (c), the Secretary of the Navy shall select entities to receive funds under subsection (a)(1) based on their ability to research and develop innovative technologies, processes, and infrastructure to alleviate areas of shipyard construction inefficiencies discovered under the assessment described in subsection (f).

(e) Shipyard Use of Developed Technologies, Processes, and Infrastructure.—

Upon making a determination that a technology, process, or infrastructure improvement developed using funds provided under subsection (a)(1) will improve the productivity and cost-effectiveness of naval vessel construction, the Secretary of the Navy may provide funds under subsection (a)(2) to a shipyard to facilitate the purchase of such technology, process, or infrastructure improvement.

(f) ASSESSMENTS OF NAVAL VESSEL CONSTRUCTION INEFFICIENCIES.—

(1) PERIODIC ASSESSMENTS REQUIRED.—The Secretary of the Navy shall conduct, in the third quarter of each fiscal year or as often as necessary, an assessment of the following aspects of naval vessel construction to determine where and to what extent inefficiencies exist and to what extent innovative design and production technologies, processes, and infrastructure can be developed to alleviate such inefficiencies:

(A) Program design, engineering, and production engineering.

(B) Organization and operating systems.

(C) Steelwork production.

(D) Ship construction and outfitting.

(2) RELATION TO INDEPENDENT NAVY SHIP CONSTRUCTION ASSESSMENT.—The assessments required by paragraph (1) shall occur subsequent to, and take into consideration the results of, the study of the cost effectiveness of the ship construction program of the Navy required by section 1014 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2041).

(g) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated pursuant to section 201(2) for research, development, test, and evaluation for the Navy, $100,000,000 shall be available to the Secretary of the Navy only to provide assistance under this section.

(h) DEFINITIONS.—In this section:

(1) The term "shipyard" means a private shipyard located in the United States whose business includes the construction, repair, and maintenance of United States naval vessels.

(2) The term "vessel" has the meaning given such term in title 1, United States Code.

SEC. 226. RENEWAL OF UNIVERSITY NATIONAL OCEANOGRAPHIC LABORATORY SYSTEM FLEET.

(a) PROGRAM PLAN.—The Secretary of the Navy shall develop a plan for a program to renew the University National Oceanographic Laboratory System (UNOLS) fleet. The Secretary shall include in the plan provisions for the construction of up to four Ocean-class ships.

(b) FUNDING FOR PRELIMINARY DESIGN AND FEASIBILITY STUDIES.—Of the amount provided in section 201 for fiscal year 2006 for the Navy, $4,000,000 is available, through Program Element PE 63564N (Ship Preliminary Design and Feasibility Studies), to conduct feasibility assessments and initiate design of the first Ocean-class ship that would be constructed under the program referred to in subsection (a).

SEC. 227. LIMITATION ON VXX HELICOPTER PROGRAM.

No funds available to the Department of Defense for research, development, test, and evaluation, or for procurement, may be obligated for acquisition of pilot production helicopters for the VXX helicopter program until the Secretary of the Navy certifies to the congressional defense committees that the results of tests conducted by the fleet of test article helicopters for the VXX program demonstrate that VXX helicopters in the VXX mission configuration can be produced without significant further design modification.

Subtitle C—Missile Defense Programs

SEC. 231. REPORT ON CAPABILITIES AND COSTS FOR OPERATIONAL BOOST/ASCENT-PHASE MISSILE DEFENSE SYSTEMS.

(a) SECRETARY OF DEFENSE ASSESSMENT.—The Secretary of Defense shall conduct an assessment of the United States missile defense programs that are designed to provide capability against threat ballistic missiles in the boost/ascent phase of flight.

(b) PURPOSE.—The purpose of the assessment shall be to compare and contrast—

(1) capabilities of those programs (if operational) to defeat, while in the boost/ascent phase of flight, ballistic missiles launched from North Korea or a location in the Middle East against the continental United States, Alaska, or Hawaii; and

(2) asset requirements and costs for those programs to become operational with the capabilities referred to in paragraph (1).

(c) REPORT.—Not later than October 1, 2006, the Secretary shall submit to Congress a report providing the results of the assessment.

SEC. 232. REQUIRED FLIGHT-INTERCEPT TEST OF BALLISTIC MISSILE DEFENSE GROUNDBASED MIDCOURSE SYSTEM.

Of the amount provided for the Missile Defense Agency in section 201(4) for defense-wide research, development, test, and evaluation, the amount of $100,000,000, in addition to amounts otherwise available for the Ballistic Missile Defense Midcourse Defense Segment, shall be provided to conduct one flight-intercept test of the Ballistic Missile Defense Groundbased Midcourse system in addition to the flight tests planned for that system as of the submission of the President's budget for fiscal year 2006. The interceptor for such additional flight-intercept test shall be launched from an operational silo, and the test shall be conducted as soon as practicable.

TITLE III—OPERATION AND MAINTENANCE

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Sec. 357. Congressional notification requirements regarding placement of liquefied natural gas facilities, pipelines, and related structures on defense lands.
Sec. 358. Report regarding army and air force exchange system management of army lodging.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,383,873,000.

(2) For the Navy, $30,312,736,000.

(3) For the Marine Corps, $3,631,277,000.

(4) For the Air Force, $30,559,135,000.

(5) For Defense-wide activities, $18,375,781,000.

(6) For the Army Reserve, $1,998,282,000.

(7) For the Naval Reserve, $1,245,695,000.

(8) For the Marine Corps Reserve, $207,434,000.

(9) For the Air Force Reserve, $2,501,686,000.

(10) For the Army National Guard, $4,521,119,000.

(11) For the Air National Guard, $4,727,091,000.

(12) For the United States Court of Appeals for the Armed Forces, $11,236,000.

(13) For Environmental Restoration, Army, $407,865,000.

(14) For Environmental Restoration, Navy, $305,275,000.

(15) For Environmental Restoration, Air Force, $406,461,000.

(16) For Environmental Restoration, Defense-wide, $28,167,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $221,921,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $61,546,000.

(19) For Cooperative Threat Reduction programs, $415,549,000.

(20) For the Overseas Contingency Operations Transfer Fund, $20,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $316,340,000.

(2) For the National Defense Sealift Fund, $1,697,023,000.

(3) For the Defense Working Capital Fund, Defense Commissary, $1,155,000,000.

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of $19,756,194,000, of which—

(1) $19,204,219,000 is for Operation and Maintenance;

(2) $176,656,000 is for Research, Development, Test, and Evaluation; and

(3) $375,319,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, in the amount of $1,405,827,000, of which—

(A) $1,241,514,000 is for Operation and Maintenance;

(B) $116,527,000 is for Research, Development, Test, and Evaluation; and

(C) $47,786,000 is for Procurement.

(2) USE.—Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, in the amount of $895,741,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, in the amount of $174,487,000, of which—

(1) $173,487,000 is for Operation and Maintenance; and

(2) $1,000,000 is for Procurement; and

Subtitle B—Environmental Provisions

SEC. 311. REVISION OF REQUIRED CONTENT OF ENVIRONMENTAL QUALITY ANNUAL REPORT.

Section 2706(b)(2) of title 10, United States Code, is amended—

(1) by striking subparagraphs (D), (E), and (F); and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) A statement of the amounts expended, and anticipated to be expended, during the period covered by the report for any activities overseas related to the environment, including amounts for activities relating to environmental remediation, compliance, conservation, and pollution prevention.".

SEC. 312. PILOT PROJECT ON COMPATIBLE USE BUFFERS ON REAL PROPERTY BORDERING FORT CARSON, COLORADO.

(a) PILOT PROJECT REQUIRED.—The Secretary of Defense shall carry out a pilot project at Fort Carson, Colorado, for purposes of evaluating the feasibility and effectiveness of utilizing conservation easements and leases granted by one or more willing eligible entity to limit development on real property in the vicinity of military installations in the United States.

(b) PHASES.—The Secretary shall carry out the pilot project in four phases, as specified in the Fort Carson Army Compatible Use Buffer Project.

(c) LEASE AND EASEMENT AGREEMENTS; PURPOSE.—Under the pilot project, the Secretary shall enter into agreements with one or more willing eligible entities to purchase from the entity or entities one or more conservation easements, or to lease from the entity or entities one or more conservation leases, on real property in the vicinity of Fort Carson for the purposes of limiting any development or use of the property that would be incompatible with the current and anticipated future missions of Fort Carson.

(d) ENCROACHMENTS AND OTHER CONSTRAINTS ON USE.—In entering into agreements under the pilot project, the Secretary may utilize, subject to this section, the authority for agreements under subsection (c) to limit encroachments and other constraints on military training, testing, and operations under section 2684a of title 10, United States Code.

(e) EXPIRATION.—The authority of the Secretary to enter into agreements under the pilot project shall expire on the earlier of—

(1) the date of the completion of phase IV of the Fort Carson Army Compatible Use Buffer Project; or

(2) the date that is five years after the date of the enactment of this Act.

(f) DEFINITIONS.—In this section:

(1) The term "eligible entity" means any of the following:

(A) The State of Colorado or a political subdivision of the State.

(B) A private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, as determined by the Secretary.

(2) The term "Fort Carson Army Compatible Use Buffer Project" means the plan developed for Fort Carson to use conservation easements and leases on property in the vicinity of Fort Carson to create a land buffer to accommodate current and future missions at Fort Carson, while also conserving sensitive natural resources.

SEC. 313. REPEAL OF AIR FORCE REPORT ON MILITARY INSTALLATION ENCROACHMENT ISSUES.

Section 315 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1843) is repealed.

SEC. 314. PAYMENT OF CERTAIN PRIVATE CLEANUP COSTS IN CONNECTION WITH DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) ACTIVITIES AT FORMER DEFENSE PROPERTY SUBJECT TO COVENANT FOR ADDITIONAL REMEDIAL ACTION.—Section 2701(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "any owner of covenant property," after "any Indian tribe,"; and

(B) by inserting "owner," after ", Indian tribe,";

(2) in paragraph (3), by adding at the end the following new sentence: "An agreement under such paragraph with respect to a site also may not change the cleanup standards selected for the site pursuant to law.";

(3) in paragraph (4), by adding at the end the following new subparagraph:

"(C) The term 'owner of covenant property' means an owner of property subject to a covenant provided by the United States in accordance with the requirements of paragraphs (3) and (4) of section 120(h) of CERCLA (42 U.S.C. 9620(h)), so long as the covenant property is the site at which the services procured under paragraph (1) are to be performed."; and

(4) by adding at the end the following new paragraph:

"(5) SAVINGS CLAUSE.—Nothing in this subsection affects the applicability of section 120 of CERCLA (42 U.S.C. 6920) to the Department of Defense or the obligations and responsibilities of the Department of Defense under subsection (h) of such section.".

(b) SOURCE OF FUNDS FOR FORMER BRAC PROPERTY SUBJECT TO COVENANT FOR ADDITIONAL REMEDIAL ACTION.—Section 2703 of such title is amended—

(1) in subsection (g)(1), by striking "The sole source" and inserting "Except as provided in subsection (h), the sole source"; and

(2) by adding at the end the following new subsection:

"(h) SOLE SOURCE OF FUNDS FOR ENVIRONMENTAL REMEDIATION AT CERTAIN BASE REALIGNMENT AND CLOSURE SITES.—In the case of property disposed of pursuant to a base closure law and subject to a covenant that was required to be provided by paragraphs (3) and (4) of section 120(h) of CERCLA (42 U.S.C. 9620(h)), the sole source of funds for services procured under subsection 2701(d)(1) of this title shall be the applicable Department of Defense base closure account.".

Subtitle C—Workplace and Depot Issues

SEC. 321. PROCEEDS FROM COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

Section 4544 of title 10, United States Code, is amended—

(1) by redesignating subsections (h) through (j) as subsections (i) through (k), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h) PROCEEDS CREDITED TO WORKING CAPITAL FUND.—Proceeds received from the sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service.".

SEC. 322. PUBLIC-PRIVATE COMPETITION.

Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) A function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

"(i) formally compares the cost of civilian employee performance of the function with the costs of performance by a contractor;

"(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003;

"(iii) determines whether the submitted offers meet the needs of the Department of Defense with respect to factors other than cost, including quality and reliability; and

"(iv) requires continued performance of the function by civilian employees if the difference in the cost of performance of the function by a contractor compared to the civilian employees would, over all performance periods required by the solicitation, be less than—

"(I) 10 percent of the personnel-related costs for performance of that activity or function in the agency tender; or

"(II) $10,000,000.

"(B) An activity that is performed by the Department of Defense and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

"(C) In no case may a commercial or industrial type function being performed by Department of Defense personnel be modified, reorganized, divided, or in any way changed for the purpose of exempting from the requirements of subsection (a) the change of all or any part of *such function to performance by a private contractor.*

"(D) The Secretary of Defense may waive the competition requirement in specific instances if—

"(i) the written waiver is prepared by the Secretary of Defense, or the relevant Assistant Secretary or agency head; and

"(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a public-private competition.".

SEC. 323. PUBLIC-PRIVATE COMPETITION PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a pilot program to examine the use of the public-private competition process of Office of Management and Budget Circular A–76, as defined by such Circular, and functions currently being performed by contractors that could be performed by civilian employees of the Department of Defense.

(b) PROCESS AND CRITERIA.—

(1) The process and criteria for competition under the pilot program established in subsection (a) shall be consistent with the criteria for conducting a similar competition for work performed by the public sector.

(2) The pilot program shall include not less than four competitions.

(c) REPORT.—The Secretary of Defense shall submit a report to Congress on the results of the competitions conducted under the pilot program and any potential benefit or detriment of expanding the pilot program.

(d) TERMINATION.—The pilot program established under this subsection shall terminate on the date that is three years after the date of the enactment of this Act.

SEC. 324. SENSE OF CONGRESS ON EQUITABLE LEGAL STANDING FOR CIVILIAN EMPLOYEES.

It is the sense of Congress that, in order to ensure that when public-private competitions are held, they are conducted as fairly, effectively, and efficiently as possible, competing parties, both Department of Defense civilian employees (or their representatives) and contractors (or their representatives), should receive comparable treatment throughout the competition regarding access to relevant information and legal standing to challenge the way a competition has been conducted at all appropriate forums.

Subtitle D—Extension of Program Authorities

SEC. 331. EXTENSION OF AUTHORITY TO PROVIDE LOGISTICS SUPPORT AND SERVICES FOR WEAPONS SYSTEMS CONTRACTORS.

Section 365(g)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2521; 10 U.S.C. 2302 note) is amended by striking "2007" and inserting "2010".

SEC. 332. EXTENSION AND REVISION OF TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY GUARD FUNCTIONS.

Section 332(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2513) is amended—

(1) by striking "2006" each place it appears and inserting "2008"; and

(2) by adding at the end the following new paragraphs:

"(3) No contract, subcontract, or task order for the performance of security-guard functions at a military installation or facility in the United States awarded before September 30, 2006, shall be extended beyond September 30, 2006.

"(4) A contract for the performance of security-guard functions at a military installation or facility in the United States awarded on or after September 30, 2006, shall be awarded using full and open competition, as authorized under section 2304 of title 10, United States Code. Section 602 of the Business Opportunity Development Reform Act of 1988 (Public Law 100–656; 15 U.S.C. 637 note) shall not apply to such a contract.".

Subtitle E—Utah Test and Training Range

SEC. 341. DEFINITIONS.

In this subtitle:

(1) The term "covered wilderness" means the wilderness area designated by this subtitle and wilderness study areas located near lands withdrawn for military use and beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of the Interior.

(2) The term "Tribe" means the Skull Valley Band of Goshute Indians.

(3) The term "Utah Test and Training Range" means those portions of the military operating area of the Utah Test and Training Area located solely in the State of Utah. The term includes the Dugway Proving Ground.

(4) The term "Wilderness Act" means Public Law 88–577, approved September 3, 1964 (16 U.S.C. 1131 et seq.).

SEC. 342. MILITARY OPERATIONS AND OVERFLIGHTS, UTAH TEST AND TRAINING RANGE.

(a) FINDINGS.—The Congress finds the following:

(1) The testing and development of military weapons systems and the training of military forces are critical to ensuring the national security of the United States.

(2) The Utah Test and Training Range in the State of Utah is a unique and irreplaceable national asset at the core of the test and training mission of the Department of Defense.

(3) The Cedar Mountain Wilderness Area designated by section 344, as well as several wilderness study areas, are located near lands withdrawn for military use or are beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range.

(4) The Utah Test and Training Range and special use airspace withdrawn for military uses create unique management circumstances for the covered wilderness in this subtitle, and it is not the intent of Congress that passage of this subtitle shall be construed as establishing a precedent with respect to any future national conservation area or wilderness designation.

(5) Continued access to the special use airspace and lands that comprise the Utah Test and Training Range, under the terms and conditions described in this section, is a national security priority and is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources of such lands.

(b) OVERFLIGHTS.—Nothing in this subtitle or the Wilderness Act shall preclude low-level overflights and operations of military aircraft, helicopters, missiles, or unmanned aerial vehicles over the covered wilderness, including military overflights and operations that can be seen or heard within the covered wilderness.

(c) SPECIAL USE AIRSPACE AND TRAINING ROUTES.—Nothing in this subtitle or the Wilderness Act shall preclude the designation of new units of special use airspace, the expansion of existing units of special use airspace, or the use or establishment of military training routes over the covered wilderness.

(d) COMMUNICATIONS AND TRACKING SYSTEMS.—Nothing in this subtitle shall prevent any required maintenance of existing communications, instrumentation, or electronic tracking systems (or infrastructure supporting such systems) or prevent the installation of new communication, instrumentation, or other equipment necessary for effective testing and training to meet military requirements in wilderness study areas located beneath special use airspace comprising the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of Interior, so long as the Secretary of the Interior, after consultation with the Secretary of the Air Force, determines that the installation and maintenance of such systems, when considered both individually and collectively, comply with section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(e) EMERGENCY ACCESS AND RESPONSE.—Nothing in this subtitle or the Wilderness Act shall preclude the continuation of the memorandum of understanding in existence as of the date of enactment of this Act between the Department of the Interior and the Department of the Air Force with respect to emergency access and response.

(f) PROHIBITION ON GROUND MILITARY OPERATIONS.—Except as provided in subsections (d) and (e), nothing in this section shall be construed to permit a military operation to be conducted on the ground in covered wilderness in the Utah Test and Training Range unless such ground operation is otherwise permissible under Federal law and consistent with the Wilderness Act.

SEC. 343. PLANNING PROCESS FOR FEDERAL LANDS IN UTAH TEST AND TRAINING RANGE.

(a) ANALYSIS OF MILITARY READINESS AND OPERATIONAL IMPACTS.—The Secretary of the Interior shall develop, maintain, and revise land use plans pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S. C. 1712) for Federal lands located in the Utah Test and Training Range in consultation with the Secretary of Defense. As part of the required consultation in connection with a proposed revision of a land use plan, the Secretary of Defense shall prepare and transmit to the Secretary of the Interior an analysis of the military readiness and operational impacts of the proposed revision within six months of a request from the Secretary of Interior.

(b) LIMITATION ON RIGHTS-OF-WAYS.—The Secretary of the Interior shall not grant or issue any authorizations for rights-of-way under section 501(a)(6) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761(a)(6)) upon Federal lands identified as inventory units UTU–020–086, UTU–020–088, UTU–020–095, UTU–020–096, UTU–020–100, UTU–020–101, UTU–020–103, UTU–020–104, UTU–020–105, and UTU–020–110, as generally depicted on the map entitled "Wilderness Inventory, State of Utah" and dated August 1979, until the later of the following:

(1) The completion of a full revision of the Pony Express Area Resource Management Plan, dated January 12, 1990, by the Salt Lake Field Office of the Bureau of Land Management.

(2) January 1, 2015.

SEC. 344. DESIGNATION AND MANAGEMENT OF CEDAR MOUNTAIN WILDERNESS, UTAH.

(a) DESIGNATION.—Certain Federal lands in Tooele County, Utah, as generally depicted on the map entitled "Cedar Mountain Wilderness" and dated March 7, 2004, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System to be known as the Cedar Mountain Wilderness Area.

(b) Withdrawal.—Subject to valid existing rights, the Federal lands in the Cedar Mountain Wilderness Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments to such laws.

(c) Map and Description.—

(1) Transmittal.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall transmit a map and legal description of the Cedar Mountain Wilderness Area to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) Legal effect.—The map and legal description shall have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(3) Availability.—The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah.

(d) Administration.—Subject to valid existing rights and this subtitle, the Cedar Mountain Wilderness Area shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of the enactment of this Act.

(e) Land Acquisition.—Any lands or interest in lands within the boundaries of the Cedar Mountain Wilderness Area acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the Cedar Mountain Wilderness Area.

(f) Fish and Wildlife Management.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this subtitle shall be construed as affecting the jurisdiction of the State of Utah with respect to fish and wildlife on the Federal lands located in that State.

(g) Grazing.—Within the Cedar Mountain Wilderness Area, the grazing of livestock, where established before the date of the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary of the Interior considers necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, section 101(f) of Public Law 101–628 (104 Stat. 4473), and appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(h) Buffer Zones.—Congress does not intend for the designation of the Cedar Mountain Wilderness Area to lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard within the wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(i) Release From Wilderness Study Area Status.—The lands identified as the Browns Spring Cherrystem on the map entitled "Proposed Browns Spring Cherrystem" and dated May 11, 2004, are released from their status as a wilderness study area, and shall no longer be subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of those areas for preservation of wilderness.

SEC. 345. IDENTIFICATION OF ADDITIONAL BUREAU OF LAND MANAGEMENT LAND IN UTAH AS TRUST LAND FOR SKULL VALLEY BAND OF GOSHUTES.

(a) Identification of Trust Land.—The Secretary of the Interior shall identify approximately 640 additional acres of Bureau of Land Management land in the State of Utah to be administered in trust for the benefit of the Skull Valley Band of Goshutes.

(b) Special Considerations.—In identifying the land under subsection (a), the Secretary of the Interior shall—

(1) consult with leaders of the Tribe and the Governor of Utah; and

(2) ensure that the land has ready access to State or Federal highways and, in the judgment of the Secretary, provides the best opportunities for commercial economic development in closest proximity to other lands of the Tribe.

(c) Placement in Trust.—Not later than December 31, 2005, the Secretary of the Interior shall place the land identified pursuant to subsection (a) into trust for the purposes of economic development for the Tribe. At least 30 days before placing the land in trust for the Tribe, the Secretary shall publish in the Federal Register legal descriptions of the land to be placed in trust.

(d) Management of Trust Land.—The land placed into trust for the Tribe under subsection (c) shall be administered in accordance with laws generally applicable to property held in trust by the United States for Indian Tribes, except that the land shall immediately revert to the administrative control of the Bureau of Land Management if the Tribe sells, or attempts to sell, any part of the land.

(e) Effect.—Nothing in this section—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of any person or entity (other than the United States) in or to the trust land that exists before the date on which the land is placed in trust for the Tribe under subsection (c);

(2) enlarges, impairs, or otherwise affects a right or claim of the Tribe to any land or interest in land based on Aboriginal or Indian title that exists before the date of the enactment of this Act;

(3) constitutes an express or implied reservation of water or water right for any purpose with respect to the trust land; or

(4) affects any water right of the Tribe that exists before the date of the enactment of this Act.

SEC. 346. RELATION TO OTHER LANDS AND LAWS.

(a) Other Lands.—Nothing in this subtitle shall be construed to affect any Federal lands located outside of the covered wilderness or the management of such lands.

(b) Conforming Repeal.—Section 2815 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 852) is amended by striking subsection (d).

Subtitle F—Other Matters

SEC. 351. CODIFICATION AND REVISION OF LIMITATION ON MODIFICATION OF MAJOR ITEMS OF EQUIPMENT SCHEDULED FOR RETIREMENT OR DISPOSAL.

(a) In General.—Chapter 134 of title 10, United States Code, is amended by inserting after section 2244 the following new section:

"§2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications

"(a) Prohibition.—Except as otherwise provided in this section, the Secretary of a military department may not carry out a significant modification of an aircraft, weapon, vessel, or other item of equipment that the Secretary plans to retire or otherwise dispose of within five years after the date on which the modification, if carried out, would be completed.

"(b) Significant Modification Defined.—In this section, a significant modification is any modification for which the cost is in an amount equal to or greater than $1,000,000.

"(c) Exception for Safety Modifications.—The prohibition in subsection (a) does not apply to a safety modification.

"(d) Waiver Authority.—The Secretary concerned may waive the prohibition in subsection (a) in the case of any modification otherwise subject to that subsection if the Secretary determines that carrying out the modification is in the national security interest of the United States. Whenever the Secretary issues such a waiver, the Secretary shall notify the congressional defense committees in writing.".

(b) Clerical Amendment.—The table of section at the beginning of such chapter is amended by inserting after the item relating to section 2244 the following new item:

"2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications.".

(c) Conforming Repeal.—Section 8053 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56; 10 U.S.C. 2241 note), is repealed.

SEC. 352. LIMITATION ON PURCHASE OF INVESTMENT ITEMS WITH OPERATION AND MAINTENANCE FUNDS.

(a) Limitation on Use of Operation and Maintenance Funds.—Chapter 134 of title 10, United States Code, is amended by inserting after section 2245 the following new section:

"§2245a. Use of operation and maintenance funds for purchase of investment items: limitation

"Funds appropriated to the Department of Defense for operation and maintenance may not be used to purchase any item (including any item to be acquired as a replacement for an item) that has an investment item unit cost that is greater than $250,000.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2245 the following new item:

"2245a. Use of operation and maintenance funds for purchase of investment items: limitation.".

SEC. 353. PROVISION OF DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

Section 2564 of title 10, United States Code, is amended—

(1) in subsection (c), by adding at the end the following new paragraphs:

"(4) A sporting event sanctioned by the United States Olympic Committee through the Paralympic Military Program.

"(5) A national or international paralympic sporting event (other than one covered by paragraph (3) or (4))—

"(A) which is—

"(i) held in the United States or any of its territories or commonwealths;

"(ii) governed by the International Paralympic Committee; and

"(iii) sanctioned by the United States Olympic Committee; and

"(B) for which participation exceeds 500 amateur athletes."; and

(2) in subsection (d)—

(A) by inserting "(1)" before "The Secretary"; and

(B) by adding at the end the following new paragraph:

"(2) No more than $1,000,000 may be expended in any fiscal year to provide support for events

specified under paragraph (5) of subsection (c).".

SEC. 354. DEVELOPMENT AND EXPLANATION OF BUDGET MODELS FOR BASE OPERATIONS SUPPORT, SUSTAINMENT, AND FACILITIES RECAPITALIZATION.

(a) Reports on Models Used.—The Secretary of Defense shall include with the defense budget materials for fiscal years 2007 through 2011 a report describing the models used to prepare the budget requests for base operations support, sustainment, and facilities recapitalization.

(b) Content of Reports.—The report for a fiscal year under subsection (a) shall include the following:

(1) An explanation of the methodology used to develop each model and, if there have been any changes to the methodology since the previous report, an explanation of the changes and the reasons therefor.

(2) A description of the items contained in each model.

(3) An explanation of whether the models are being applied to each military department and Defense Agencies under common definitions of base operations support, sustainment, and facilities recapitalization and, if common definitions are not being used, an explanation of the differences and the reasons therefor.

(4) A description of the requested funding levels for base operations support, sustainment, and facilities recapitalization for the fiscal year covered by the defense budget materials and the funding goals established for base operations support, sustainment, and facilities recapitalization for at least the four succeeding fiscal years.

(5) If the requested funding levels for base operations support, sustainment, and facilities recapitalization for the fiscal year covered by the defense budget materials deviate from the goals for that fiscal year contained in the preceding report, or the funding goals established for succeeding fiscal years deviate from the goals for those fiscal years contained in the preceding report, a justification for the funding levels and goals and an explanation of the reasons for the changes from the preceding report.

(c) Defense Budget Materials Defined.—In this section, the term "defense budget materials" means the materials submitted to Congress by the Secretary of Defense in support of the budget for a fiscal year submitted to Congress by the President under section 1105(a) of title 31, United States Code.

SEC. 355. REPORT ON DEPARTMENT OF ARMY PROGRAMS FOR PREPOSITIONING OF EQUIPMENT AND OTHER MATERIEL.

(a) Secretary of Army Assessment.—The Secretary of the Army shall conduct an assessment of the programs of the Department of Army for the prepositioning of equipment and other materiel stocks. The assessment shall focus on how those programs are configured to support the evolving goals of the Department of Army and shall include identification of the following:

(1) The key operational capabilities currently available in both the afloat and ashore prepositioned stocks of the Army, by geographic region, including inventory levels in brigade sets, operational projects, and sustainment programs.

(2) Any significant shortfalls that exist in those stocks, particularly in combat and support equipment, spare parts, and munitions, and how the Army would mitigate those shortfalls in the event of a new conflict.

(3) The maintenance condition of prepositioned equipment and supplies, especially the key "pacing" items in brigade sets, including the percentage currently maintained at the Technical Manual -10/20 standard required by the Army.

(4) The percentage of required cyclic maintenance performed on all stocks for each of fiscal years 2003, 2004, and 2005 and the quality control procedures used to ensure that such maintenance was completed according to Army standards.

(5) Whether the oversight mechanisms and internal management reports of the Army with respect to those stocks are adequate and ensure an accurate portrayal of the readiness of stocks covered by the report.

(6) The funding allocated and expended for prepositioning programs each fiscal year since fiscal year 2000, by region, and an assessment of whether that funding level has been adequate to maintain program readiness.

(7) The facilities used to store and maintain brigade sets and whether those facilities provide adequate (or excess) capacity, by region, for the current and future mission.

(8) The current funding for the war reserve, the sufficiency of the war reserve inventory, and the effect of the war reserve on the ability of the Army to conduct operations.

(b) Report.—The Secretary shall submit to Congress a report on the assessment under subsection (a) not later than January 1, 2006. The report shall include each of the matters specified in paragraphs (1) through (7) of that subsection.

(c) Comptroller General Review.—Not later than 120 days after the date of receipt of the report under subsection (b), the Comptroller General shall submit to Congress an independent review of the assessment conducted by the Secretary of the Army under subsection (a). The review under this subsection shall include the following:

(1) The Comptroller General's assessment of whether the assessment by the Secretary of the Army under subsection (a) comprehensively addresses each of the matters specified in paragraphs (1) through (7) of that subsection.

(2) The status of the Army in addressing any shortfalls or other issues reported by the Department of the Army or identified by the Government Accountability Office.

SEC. 356. REPORT REGARDING EFFECT ON MILITARY READINESS OF UNDOCUMENTED IMMIGRANTS TRESPASSING UPON OPERATIONAL RANGES.

(a) Report Containing Assessment and Response Plan.—Not later than March 15, 2006, the Secretary of Defense and the Secretary of Homeland Security shall submit to Congress a report containing—

(1) an assessment, conducted jointly by the Secretaries, of the impact on military readiness caused by undocumented immigrants whose entry into the United States involves trespassing upon operational ranges of the Department of Defense; and

(2) a plan, prepared jointly by the Secretaries, for the implementation of measures to prevent such trespass.

(b) Elements of Assessment.—The assessment required by subsection (a) shall include the following:

(1) A listing of the operational ranges adversely affected by the trespass of undocumented immigrants upon operational ranges.

(2) A description of the types of range activities affected by such trespass.

(3) A determination of the amount of time lost for range activities, and the increased costs incurred, as a result of such trespass.

(4) An evaluation of the nature and extent of such trespass and means of travel.

(5) An evaluation of the factors that contribute to the use by undocumented immigrants of operational ranges as a means to enter the United States.

(6) A description of measures currently in place to prevent such trespass, including the use of barriers to vehicles and persons, military patrols, border patrols, and sensors.

(c) Elements of Plan.—The plan required by subsection (a) shall include the following:

(1) The types of measures to be implemented to better prevent the trespass of undocumented immigrants upon operational ranges, including the construction of barriers to vehicles and persons, the use of additional military or border patrols, and the installation of sensors.

(2) The costs of, and timeline for, implementation of the plan.

(d) Implementation Reports.—Not later than September 15, 2006, March 15, 2007, September 15, 2007, and March 15, 2008, the Secretary of Defense shall submit to Congress a report detailing the progress made by the Department of Defense, during the six-month period covered by the report, in implementing measures recommended in the plan required by subsection (a) to prevent undocumented immigrants from trespassing upon operational ranges. Each report shall include the number and types of mitigation measures implemented and the success of such measures in preventing such trespass.

(e) Definitions.—In this section, the terms "operational range" and "range activities" have the meaning given those terms in section 101(e) of title 10, United States Code.

SEC. 357. CONGRESSIONAL NOTIFICATION REQUIREMENTS REGARDING PLACEMENT OF LIQUEFIED NATURAL GAS FACILITIES, PIPELINES, AND RELATED STRUCTURES ON DEFENSE LANDS.

(a) Notification Required.—Not less than 30 days before the Secretary of Defense or the Secretary of a military department issues a final approval or disapproval or a formal opinion regarding the placement of any liquefied natural gas facility, pipeline, or related structure on or in the vicinity of a military installation, range, or other lands under the jurisdiction of the Department of Defense, the Secretary shall submit to Congress a report detailing the justification for the approval, disapproval, or opinion.

(b) Content of Report.—A report under subsection (a) shall include consideration of the potential long-term effects of the liquefied natural gas facility, pipeline, or related structure that is the subject of the approval, disapproval, or opinion on military readiness, particularly the effects on the use of operational ranges.

(c) Definitions.—In this section:

(1) The term "military installation" has the meaning given that term in section 2687(e)(1) of title 10, United States Code.

(2) The terms "range" and "operational range" have the meanings given those terms in section 101(e) of such title.

SEC. 358. REPORT REGARDING ARMY AND AIR FORCE EXCHANGE SYSTEM MANAGEMENT OF ARMY LODGING.

(a) Report Required.—The Secretary of Defense shall submit to Congress a report containing the results of a study evaluating the merits of allowing the Army and Air Force Exchange System to manage Army lodging. The study should consider at a minimum the following:

(1) Whether current lodging agreements with the Army and Air Force Exchange System to provide hospitality telecommunication services would be impacted by privatization and whether the proposed change will have an impact on funds contributed to morale, welfare, and recreation accounts.

(2) Whether allowing the Army and Air Force Exchange System to participate as a partner in the management of Army lodging would enhance the quality of lodging and improve access to such lodging as a nonprofit organization versus a partnership with a for-profit corporation.

(3) Whether privatization of Army lodging will result in significant cost increases to members of the Armed Forces or other eligible patrons or the

loss of such lodging if it is determined that management of such lodging is not a profitable marketing venture.

(4) Whether there are certain benefits to having the Army and Air Force Exchange System become the partner with the Army that would not exist were the Army to partner with a private sector entity.

(b) LIMITATION PENDING SUBMISSION OF REPORT.—Until the Secretary of Defense submits the report required by subsection (a) to Congress, the Department of the Army may not solicit or consider any request for qualifications that would privatize Army lodging beyond the level of privatization identified for inclusion in Group A of the Privatization of Army Lodging Initiative.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2006 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

Subtitle C—Authorizations of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2006, as follows:

(1) The Army, 482,400.

(2) The Navy, 352,700.

(3) The Marine Corps, 175,000.

(4) The Air Force, 357,400.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

(a) REVISION.—Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) For the Army, 482,400.

"(2) For the Navy, 352,700.

"(3) For the Marine Corps, 175,000.

"(4) For the Air Force, 357,400.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005, or the the date of the enactment of this Act, whichever is later.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2006, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 73,100.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 106,800.

(6) The Air Force Reserve, 74,000.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2006, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 27,345.

(2) The Army Reserve, 15,270.

(3) The Naval Reserve, 13,392.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 13,089.

(6) The Air Force Reserve, 2,290.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2006 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 7,649.

(2) For the Army National Guard of the United States, 25,563.

(3) For the Air Force Reserve, 9,853.

(4) For the Air National Guard of the United States, 22,971.

SEC. 414. FISCAL YEAR 2006 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2006, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2006, may not exceed 695.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2006, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.

During fiscal year 2006, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 17,000.

(2) The Army Reserve, 13,000.

(3) The Naval Reserve, 6,200.

(4) The Marine Corps Reserve, 3,000.

(5) The Air National Guard of the United States, 16,000.

(6) The Air Force Reserve, 14,000.

Subtitle C—Authorizations of Appropriations

SEC. 421. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2006 a total of $108,824,292,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2006.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2006 from the Armed Forces Retirement Home Trust Fund the sum of $58,281,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Temporary increase in percentage limits on reduction of time-in-grade requirements for retirement in grade upon voluntary retirement.
Sec. 502. Two-year renewal of authority to reduce minimum commissioned service requirement for voluntary retirement as an officer.
Sec. 503. Separation at age 64 for reserve component senior officers.
Sec. 504. Improved administration of transitions involving officers in senior general and flag officer positions.
Sec. 505. Consolidation of grade limitations on officer assignment and insignia practice known as frocking.
Sec. 506. Authority for designation of a general/flag officer position on the Joint Staff to be held by reserve component general or flag officer on active duty.
Sec. 507. Authority to retain permanent professors at the Naval Academy beyond 30 years of active commissioned service.
Sec. 508. Authority for appointment of Coast Guard flag officer as Chief of Staff to the President.
Sec. 509. Clarification of time for receipt of statutory selection board communications.
Sec. 510. Standardization of grade of senior dental officer of the Air Force with that of senior dental officer of the Army.

Subtitle B—Reserve Component Management

Sec. 511. Use of Reserve Montgomery GI Bill benefits and benefits for mobilized members of the Selected Reserve and National Guard for payments for licensing or certification tests.
Sec. 512. Modifications to new Reserve educational benefit for certain active service in support of contingency operations.
Sec. 513. Military technicians (dual status) mandatory separation.
Sec. 514. Military retirement credit for certain service by National Guard members performed while in a State duty status immediately after the terrorist attacks of September 11, 2001.

Sec. 515. Use of National Guard to provide military support to civilian law enforcement agencies for domestic counter-terrorism activities.

Subtitle C—Education and Training

Sec. 521. Repeal of limitation on amount of financial assistance under ROTC scholarship programs.

Sec. 522. Increased enrollment for eligible defense industry employees in the defense product development program at Naval Postgraduate School.

Sec. 523. Payment of expenses to obtain professional credentials.

Sec. 524. Authority for National Defense University award of degree of Master of Science in Joint Campaign Planning and Strategy.

Sec. 525. One-year extension of authority to use appropriated funds to provide recognition items for recruitment and retention of certain reserve component personnel.

Sec. 526. Report on rationale and plans of the Navy to provide enlisted members an opportunity to obtain graduate degrees.

Sec. 527. Increase in annual limit on number of ROTC scholarships under Army Reserve and National Guard program.

Sec. 528. Capstone overseas field studies trips to People's Republic of China and Republic of China on Taiwan.

Sec. 529. Sense of Congress concerning establishment of National College of Homeland Security.

Subtitle D—General Service Requirements

Sec. 531. Uniform enlistment standards for the Armed Forces.

Sec. 532. Increase in maximum term of original enlistment in regular component.

Sec. 533. Members completing statutory initial military service obligation.

Sec. 534. Extension of qualifying service for initial military service under National Call to Service program.

Subtitle E—Matters Relating to Casualties

Sec. 541. Requirement for members of the Armed Forces to designate a person to be authorized to direct the disposition of the member's remains.

Sec. 542. Enhanced program of Casualty Assistance Officers and Seriously Injured/Ill Assistance Officers.

Sec. 543. Standards and guidelines for Department of Defense programs to assist wounded and injured members.

Sec. 544. Authority for members on active duty with disabilities to participate in Paralympic Games.

Subtitle F—Military Justice and Legal Assistance Matters

Sec. 551. Clarification of authority of military legal assistance counsel to provide military legal assistance without regard to licensing requirements.

Sec. 552. Use of teleconferencing in administrative sessions of courts-martial.

Sec. 553. Extension of statute of limitations for murder, rape, and child abuse offenses under the Uniform Code of Military Justice.

Sec. 554. Offense of stalking under the Uniform Code of Military Justice.

Sec. 555. Rape, sexual assault, and other sexual misconduct under Uniform Code of Military Justice.

Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

Sec. 561. Enrollment in overseas schools of Defense Dependents' Education System of children of citizens or nationals of the United States hired in overseas areas as full-time Department of Defense employees.

Sec. 562. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

Sec. 563. Continuation of impact aid assistance on behalf of dependents of certain members despite change in status of member.

Subtitle H—Decorations and Awards

Sec. 565. Cold War Victory Medal.

Sec. 566. Establishment of Combat Medevac Badge.

Sec. 567. Eligibility for Operation Enduring Freedom campaign medal.

Subtitle I—Other Matters

Sec. 571. Extension of waiver authority of Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

Sec. 572. Adoption leave for members of the Armed Forces adopting children.

Sec. 573. Report on need for a personnel plan for linguists in the Armed Forces.

Sec. 574. Ground combat and other exclusion policies.

Subtitle A—Officer Personnel Policy

SEC. 501. TEMPORARY INCREASE IN PERCENTAGE LIMITS ON REDUCTION OF TIME-IN-GRADE REQUIREMENTS FOR RETIREMENT IN GRADE UPON VOLUNTARY RETIREMENT.

Section 1370(a)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Notwithstanding subparagraph (E), during the period beginning on October 1, 2005, and ending on December 31, 2007, the number of lieutenant colonels and colonels of the Army, Marine Corps, and Air Force, and the number of commanders and captains of the Navy, for whom a reduction is made under this section during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed four percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade.".

SEC. 502. TWO-YEAR RENEWAL OF AUTHORITY TO REDUCE MINIMUM COMMISSIONED SERVICE REQUIREMENT FOR VOLUNTARY RETIREMENT AS AN OFFICER.

Sections 3911(b), 6323(a)(2), and 8911(b) of title 10, United States Code, are amended by striking "during the period beginning on October 1, 1990, and ending on December 31, 2001" and inserting "during the period beginning on October 1, 2005, and ending on December 31, 2007".

SEC. 503. SEPARATION AT AGE 64 FOR RESERVE COMPONENT SENIOR OFFICERS.

Section 14512(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "Unless retired,";

(2) by striking "who is Chief" and all that follows through "of a State," and inserting "who is specified in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) applies to a reserve officer of the Army or Air Force who is any of the following:

"(A) The Chief of the National Guard Bureau.

"(B) The Chief of the Army Reserve, Chief of the Air Force Reserve, Director of the Army National Guard, or Director of the Air National Guard.

"(C) An adjutant general.

"(D) If a reserve officer of the Army, the commanding general of the troops of a State.".

SEC. 504. IMPROVED ADMINISTRATION OF TRANSITIONS INVOLVING OFFICERS IN SENIOR GENERAL AND FLAG OFFICER POSITIONS.

(a) EXCLUSION FROM GRADE DISTRIBUTION LIMITATIONS FOR SENIOR OFFICERS TRANSITIONING BETWEEN POSITIONS OR AWAITING RETIREMENT.—Section 525(d) of title 10, United States Code, is amended to read as follows:

"(d) An officer continuing to hold the grade of general, admiral, lieutenant general, or vice admiral under paragraph (2) or (4) of section 601(b) of this title shall not be counted for purposes of this section.".

(b) APPOINTMENTS TO POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Section 601 of such title is amended—

(1) in subsection (b)(2), by inserting before the semicolon at the end the following: ", but not for more than 30 days"; and

(2) by adding at the end the following new subsection:

"(e)(1) If a transition period for an officer under subsection (b)(2) or (b)(4) exceeds the maximum period specified in that subsection, the officer shall revert to the officer's permanent grade, effective on the day after the date on which that period is exceeded.

"(2) In each case in which the transition period for an officer under subsection (b)(2) exceeds 30 days, the Secretary of Defense shall promptly submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the matter. The report shall include the following:

"(A) The officer's name.

"(B) The date on which the transition period began and the date on which the 30-day limit was exceeded.

"(C) The former position of the officer and the position to which the officer has been ordered transferred.

"(D) The reason for extended transition to the position to which ordered transferred.

"(E) The date on which the officer reverted to the officer's permanent grade pursuant to paragraph (1). ".

(c) PROHIBITION OF FROCKING TO GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.—Section 777(a) of such title is amended by inserting "in a grade below the grade of major general or, in the case of the Navy, rear admiral," after "An officer" in the first sentence.

SEC. 505. CONSOLIDATION OF GRADE LIMITATIONS ON OFFICER ASSIGNMENT AND INSIGNIA PRACTICE KNOWN AS FROCKING.

Section 777(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "brigadier generals and Navy rear admirals (lower half)" and inserting "colonels, Navy captains, brigadier generals, and rear admirals (lower half)";

(B) by striking "the grade of" and all that follows through "30" and inserting "the next higher grade may not exceed 85";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 506. AUTHORITY FOR DESIGNATION OF A GENERAL/FLAG OFFICER POSITION ON THE JOINT STAFF TO BE HELD BY RESERVE COMPONENT GENERAL OR FLAG OFFICER ON ACTIVE DUTY.

Section 526(b)(2)(A) of title 10, United States Code, is amended by inserting ", and a general and flag officer position on the Joint Staff," after "combatant commands".

SEC. 507. AUTHORITY TO RETAIN PERMANENT PROFESSORS AT THE NAVAL ACADEMY BEYOND 30 YEARS OF ACTIVE COMMISSIONED SERVICE.

(a) WAIVER OF MANDATORY RETIREMENT FOR YEARS OF SERVICE.—

(1) LIEUTENANT COLONELS AND COMMANDERS.—Section 633 of title 10, United States Code, is amended—

(A) by striking "Except an" and all that follows through "except as provided" and inserting "(a) 28 YEARS OF ACTIVE COMMISSIONED SERVICE.—Except as provided in subsection (b) and as provided";

(B) by adding at the end the following:

"(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

"(1) An officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies.

"(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.".

(2) COLONELS AND NAVY CAPTAINS.—Section 634 of title 10, United States Code, is amended—

(A) by striking "Except an" and all that follows through "except as provided" and inserting "(a) 30 YEARS OF ACTIVE COMMISSIONED SERVICE.—Except as provided in subsection (b) and as provided";

(B) by adding at the end the following:

"(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

"(1) An officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies.

"(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.".

(b) AUTHORITY FOR RETENTION OF PERMANENT PROFESSORS BEYOND 30 YEARS.—

(1) AUTHORITY.—Chapter 573 of such title is amended by inserting after section 6371 the following new section:

"§ 6372. Permanent professors of the United States Naval Academy: retirement for years of service; authority for deferral

"(a) RETIREMENT FOR YEARS OF SERVICE.—(1) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is not on a list of officers recommended for promotion to the grade of captain or colonel, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

"(2) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of captain or colonel who is not on a list of officers recommended for promotion to the grade of rear admiral (lower half) or brigadier general, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

"(b) CONTINUATION ON ACTIVE DUTY.—(1) An officer subject to retirement under subsection (a) may have his retirement deferred and be continued on active duty by the Secretary of the Navy.

"(2) Subject to section 1252 of this title, the Secretary of the Navy shall determine the period of any continuation on active duty under this section.

"(c) ELIGIBILITY FOR PROMOTION.—A permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is continued on active duty as a permanent professor under subsection (b) remains eligible for consideration for promotion to the grade of captain or colonel, as the case may be.

"(d) RETIRED GRADE AND RETIRED PAY.—Each officer retired under this section—

"(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under section 1370 of this title; and

"(2) is entitled to retired pay computed under section 6333 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6371 the following new item:

"6372. Permanent professors of the United States Naval Academy: retirement for years of service; authority for deferral.".

(c) MANDATORY RETIREMENT AT AGE 64.—

(1) REORGANIZATION AND STANDARDIZATION.—Chapter 63 of such title is amended by inserting after section 1251 the following new section:

"§ 1252. Age 64: permanent professors at academies

"(a) MANDATORY RETIREMENT FOR AGE.—Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by subsection (b) shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

"(b) COVERED OFFICERS.—This section applies to the following officers:

"(1) An officer who is a permanent professor or the director of admissions of the United States Military Academy.

"(2) An officer who is a permanent professor at the United States Naval Academy.

"(3) An officer who is a permanent professor or the registrar of the United States Air Force Academy.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1251 the following new item:

"1254. Age 64: permanent professors at academies.".

(3) CONFORMING AMENDMENT.—Section 1251(a) of such title is amended by striking the second sentence.

(d) CONFORMING AMENDMENTS RELATING TO COMPUTATION OF RETIRED PAY.—

(1) AGE 64 RETIREMENT.—Chapter 71 of such title is amended—

(A) in the table in section 1401(a), by inserting at the bottom of the column under the heading "For sections", in the entry for Formula Number 5, the following: "1252"; and

(B) in the table in section 1406(b)(1), by inserting at the bottom of the first column the following: "1252".

(2) YEARS-OF-SERVICE RETIREMENT.—Section 6333(a) of such title is amended—

(A) in the matter preceding the table, by inserting "6372 or" after "section"; and

(B) in the table, by inserting "6372" immediately below "6325(b)" in the column under the heading "For sections", in the entry for Formula B.

SEC. 508. AUTHORITY FOR APPOINTMENT OF COAST GUARD FLAG OFFICER AS CHIEF OF STAFF TO THE PRESIDENT.

(a) AUTHORITY.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 54. Chief of Staff to President: appointment

"The President, by and with the advice and consent of the Senate, may appoint a flag officer of the Coast Guard as the Chief of Staff to the President.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"54. Chief of Staff to President: appointment.".

SEC. 509. CLARIFICATION OF TIME FOR RECEIPT OF STATUTORY SELECTION BOARD COMMUNICATIONS.

(a) OFFICERS ON ACTIVE-DUTY LIST.—Section 614(b) of title 10, United States Code, is amended in the first sentence by inserting "11:59 p.m. on the day before" after "to arrive not later than".

(b) OFFICERS ON RESERVE ACTIVE-STATUS LIST.—Section 14106 of such title is amended in the second sentence by inserting "11:59 p.m. on the day before" after "so as to arrive not later than".

SEC. 510. STANDARDIZATION OF GRADE OF SENIOR DENTAL OFFICER OF THE AIR FORCE WITH THAT OF SENIOR DENTAL OFFICER OF THE ARMY.

(a) AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES.—Section 8081 of title 10, United States Code, is amended by striking "brigadier general" in the second sentence and inserting "major general".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the occurrence of the next vacancy in the position of Assistant Surgeon General for Dental Services in the Air Force that occurs after the date of the enactment of this Act or, if earlier, on the date of the appointment to the grade of major general of the officer who is the incumbent in that position on the date of the enactment of the Act.

Subtitle B—Reserve Component Management

SEC. 511. USE OF RESERVE MONTGOMERY GI BILL BENEFITS AND BENEFITS FOR MOBILIZED MEMBERS OF THE SELECTED RESERVE AND NATIONAL GUARD FOR PAYMENTS FOR LICENSING OR CERTIFICATION TESTS.

(a) CHAPTER 1606.—Section 16131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a licensing or certification test described in section 3452(b) of title 38 is the lesser of $2,000 or the fee charged for the test.

"(2) The number of months of entitlement charged in the case of any individual for such licensing or certification test is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance which, but for paragraph (1), such individual would otherwise be paid under subsection (b).

"(3) In no event shall payment of educational assistance under this subsection for such a test exceed the amount of the individual's available entitlement under this chapter.".

(b) CHAPTER 1607.—Section 16162 of such title is amended by adding at the end the following new subsection:

"(e) The provisions of section 16131(j) of this title shall apply to the provision of educational assistance under this chapter, except that, in applying such section under this chapter, the reference to subsection (b) in paragraph (2) of such section is deemed to be a reference to subsection (c) of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tests administered on or after October 1, 2005.

SEC. 512. MODIFICATIONS TO NEW RESERVE EDUCATIONAL BENEFIT FOR CERTAIN ACTIVE SERVICE IN SUPPORT OF CONTINGENCY OPERATIONS.

(a) ELIGIBILITY CRITERIA.—Subsection (a) of section 16163 of title 10, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "On or after September 11, 2001, a member" and inserting "A member";

(2) in paragraph (1), by striking "served on active duty in support of a contingency operation" and inserting "was called or ordered to active duty on or after September 11, 2001, in support of a contingency operation and served on active duty in support of that contingency operation"; and

(3) in paragraph (2), by inserting "on or after September 11, 2001," after "Secretary of Defense".

(b) ADMINISTRATION OF SPECIFIED BENEFITS ELECTION.—Subsection (e) of such section is amended by striking "Secretary concerned" and inserting "Secretary of Veterans Affairs".

(c) EXCEPTION TO IMMEDIATE TERMINATION OF ASSISTANCE.—Section 16165 of such title is amended—

(1) by striking "Educational assistance" and inserting "(a) TERMINATION.—Except as provided in subsection (b), educational assistance"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION FOR SELECTED RESERVE MEMBERS CONTINUING IN READY RESERVE.—Under regulations prescribed by the Secretary of Defense, educational assistance may be provided under this chapter to a member of the Selected Reserve when the member incurs a break in service in the Selected Reserve of not more than 90 days, if the member continues to serve in the Ready Reserve.".

SEC. 513. MILITARY TECHNICIANS (DUAL STATUS) MANDATORY SEPARATION.

(a) DEFERRAL OF SEPARATION.—Section 10216 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) DEFERRAL OF MANDATORY SEPARATION.—The Secretary of the Army shall implement personnel policies so as to allow a military technician (dual status) who continues to meet the requirements of this section for dual status to continue to serve beyond a mandatory removal date for officers, and any applicable maximum years of service limitation, until the military technician (dual status) reaches age 60 and attains eligibility for an unreduced annuity (as defined in section 10218(c) of this title).".

(b) EFFECTIVE DATE.—The Secretary of the Army shall implement subsection (f) of section 10216 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

SEC. 514. MILITARY RETIREMENT CREDIT FOR CERTAIN SERVICE BY NATIONAL GUARD MEMBERS PERFORMED WHILE IN A STATE DUTY STATUS IMMEDIATELY AFTER THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) RETIREMENT CREDIT.—Service of a member of the Ready Reserve of the Army National Guard or Air National Guard described in subsection (b) shall be deemed to be service creditable under section 12732(a)(2)(A)(i) of title 10, United States Code.

(b) COVERED SERVICE.—Service referred to in subsection (a) is full-time State active duty service that a member of the National Guard performed on or after September 11, 2001, and before October 1, 2002, in any of the counties specified in subsection (c) to support a Federal declaration of emergency following the terrorist attacks on the United States of September 11, 2001.

(c) COVERED COUNTIES.—The counties referred to in subsection (b) are the following:

(1) In the State of New York: Bronx, Kings, New York (boroughs of Brooklyn and Manhattan), Queens, Richmond, Delaware, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester

(2) In the State of Virginia: Arlington.

(d) APPLICABILITY.—Subsection (a) shall take effect as of September 11, 2001.

SEC. 515. USE OF NATIONAL GUARD TO PROVIDE MILITARY SUPPORT TO CIVILIAN LAW ENFORCEMENT AGENCIES FOR DOMESTIC COUNTER-TERRORISM ACTIVITIES.

(a) IN GENERAL.—Title 32, United States Code, is amended by adding the following new section:

"§ 116. Use of National Guard to provide military support to civilian law enforcement agencies for domestic counter-terrorism activities

"(a) PROVISION OF SUPPORT.—The Governor of a State may order the National Guard of such State to perform full-time National Guard duty under section 502(f) of this title for the purpose of providing, on a reimbursable basis, military support to a civilian law enforcement agency for domestic counter-terrorism activities. Members of the National Guard performing full-time National Guard duty in the Active Guard and Reserve Program may support or execute military support to civilian law enforcement agencies for domestic counter-terrorism activities performed by the National Guard under this section.

"(b) REIMBURSEMENT.—Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or the designee of the Chief in the State concerned, shall accept monetary reimbursements for the costs incurred by the National Guard to provide support under subsection (a). Such monetary reimbursements will be deposited into the appropriations used to fund activities under this title and may be used in the fiscal year in which received. The Secretary of Defense may waive the reimbursement requirement under this section.

"(c) CONDITION OF PROVISION OF SUPPORT.—Military support to civilian law enforcement agencies for domestic counter-terrorism activities may not be provided under subsection (a) if the provision of such support will affect adversely the military preparedness of the United States. To ensure that the use of units and personnel of the National Guard under such subsection does not degrade training and readiness, the following requirements shall apply in determining the activities that units and personnel of the National Guard of a State may perform:

"(1) The performance of the activities may not affect adversely the quality of training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

"(2) The performance of the activities will not degrade the military skills of the members of the National Guard performing those activities.

"(d) STATUTORY CONSTRUCTION.— Nothing in this section shall be construed as a limitation on the authority of any unit or member of the National Guard of a State, when not in Federal service, to perform functions authorized to be performed by the National Guard by the laws of the State concerned. Nothing in this section shall be construed as a limitation on the authority of any unit or member of the National Guard of a State, when not in Federal service, to provide military assistance or support to civil authority in the normal course of military training or operations on a non-reimbursable basis.

"(e) DEFINITIONS.—In this section:

"(1) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

"(2) The term 'domestic counter-terrorism' means measures taken to prevent, deter, and respond to terrorism within a State.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by adding at the end the following new item:

"116. Use of National Guard to provide military support to civilian law enforcement agencies for domestic counter-terrorism activities.".

(c) CONFORMING AMENDMENT TO TITLE 10.—Section 115(i) of title 10, United States Code, is amended by inserting "or providing military support to civilian law enforcement agencies for domestic counter-terrorism activities under section 116 of such title" after "title 32".

Subtitle C—Education and Training

SEC. 521. REPEAL OF LIMITATION ON AMOUNT OF FINANCIAL ASSISTANCE UNDER ROTC SCHOLARSHIP PROGRAMS.

(a) GENERAL ROTC PROGRAM.—Section 2107(c) of title 10, United States Code, is amended—

(1) by striking paragraph (4); and

(2) in paragraph (5)(B), by striking ", (3), or (4)" and inserting "or (3)".

(b) ARMY RESERVE AND ARMY NATIONAL GUARD PROGRAM.—Section 2107a(c) of such title is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—Paragraph (4) of section 2107(c) of title 10, United States Code, and paragraph (3) of section 2107a(c) of such title, as in effect on the day before the date of the enactment of this Act, shall continue to apply in the case of any individual selected before the date of the enactment of this Act for appointment as a cadet or midshipman under section 2107 or 2107a of such title.

SEC. 522. INCREASED ENROLLMENT FOR ELIGIBLE DEFENSE INDUSTRY EMPLOYEES IN THE DEFENSE PRODUCT DEVELOPMENT PROGRAM AT NAVAL POSTGRADUATE SCHOOL.

Section 7049(a) of title 10, United States Code, is amended—

(1) by inserting "and systems engineering" after "curriculum related to defense product development"; and

(2) by striking "10" and inserting "25".

SEC. 523. PAYMENT OF EXPENSES TO OBTAIN PROFESSIONAL CREDENTIALS.

(a) IN GENERAL.—Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2015. Payment of expenses to obtain professional credentials

"(a) AUTHORITY.—The Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, may pay for—

"(1) expenses for members of the armed forces to obtain professional credentials, including expenses for professional accreditation, State-imposed and professional licenses, and professional certification; and

"(2) examinations to obtain such credentials.

"(b) LIMITATION.—The authority under subsection (a) may not be used to pay the expenses of a member to obtain professional credentials that are a prerequisite for appointment in the armed forces.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2015. Payment of expenses to obtain professional credentials.".

SEC. 524. AUTHORITY FOR NATIONAL DEFENSE UNIVERSITY AWARD OF DEGREE OF MASTER OF SCIENCE IN JOINT CAMPAIGN PLANNING AND STRATEGY.

(a) JOINT FORCES STAFF COLLEGE PROGRAM.—Section 2163 of title 10, United States Code, is amended to read as follows:

"§ 2163. National Defense University: master of science degrees

"(a) AUTHORITY TO AWARD SPECIFIED DEGREES.—The President of the National Defense University, upon the recommendation of the faculty of the respective college or other school within the University, may confer the master of science degrees specified in subsection (b).

"(b) AUTHORIZED DEGREES.—The following degrees may be awarded under subsection (a):

"(1) MASTER OF SCIENCE IN NATIONAL SECURITY STRATEGY.—The degree of master of science in national security strategy, to graduates of the University who fulfill the requirements of the program of the National War College.

"(2) MASTER OF SCIENCE IN NATIONAL RESOURCE STRATEGY.—The degree of master of

science in national resource strategy, to graduates of the University who fulfill the requirements of the program of the Industrial College of the Armed Forces.

"(3) MASTER OF SCIENCE IN JOINT CAMPAIGN PLANNING AND STRATEGY.—The degree of master of science in joint campaign planning and strategy, to graduates of the University who fulfill the requirements of the program of the Joint Advanced Warfighting School at the Joint Forces Staff College.

"(c) REGULATIONS.—The authority provided by this section shall be exercised under regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to section 2163 in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

"2163. National Defense University: master of science degrees.".

(c) EFFECTIVE DATE.—Paragraph (3) of section 2163(b) of title 10, United States Code, as amended by subsection (a), shall take effect for degrees awarded after May 2005.

SEC. 525. ONE-YEAR EXTENSION OF AUTHORITY TO USE APPROPRIATED FUNDS TO PROVIDE RECOGNITION ITEMS FOR RECRUITMENT AND RETENTION OF CERTAIN RESERVE COMPONENT PERSONNEL.

Section 18506(d) of title 10, United States Code, and section 717(e) of title 32, United States Code, are each amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 526. REPORT ON RATIONALE AND PLANS OF THE NAVY TO PROVIDE ENLISTED MEMBERS AN OPPORTUNITY TO OBTAIN GRADUATE DEGREES.

(a) REPORT.—The Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the plans, if any, of the Secretary, and the rationale for those plans, for a program to provide enlisted members of the Navy with opportunities to pursue graduate degree programs either through Navy schools or paid for by the Navy in return for an additional service obligation. The report shall include the following:

(1) The underlying philosophy and objectives supporting a decision to provide opportunities for graduate degrees to enlisted members of the Navy.

(2) An overall description of how the award of a graduate degree to an enlisted member would fit in an integrated, progressive, coordinated, and systematic way into the goals and requirements of the Navy for enlisted career development and for professional education, together with a discussion of a wider requirement, if any, for programs for the award of associate and baccalaureate degrees to enlisted members, particularly in the career fields under consideration for the pilot program referred to in subsection (b).

(3) A discussion of the scope and details of the plan to ensure that Navy enlisted members have the requisite academic baccalaureate degrees as a prerequisite for undertaking graduate-level work.

(4) Identification of the specific enlisted career fields for which the Secretary has determined that a graduate degree should be a requirement, as well as the rationale for that determination.

(5) A description of the concept of the Secretary of the Navy for the process and mechanism of providing graduate degrees to enlisted members, including, as a minimum, the Secretary's plan for whether the degree programs would be provided through civilian or military degree-granting institutions and whether through in-resident or distance learning or some combination thereof.

(6) A description of the plan to ensure proper and effective utilization of enlisted members following the award of a graduate degree.

(b) REPORT ON PILOT PROGRAM.—In addition to the report under subsection (a), the Secretary of the Navy may submit a plan for a pilot program to make available opportunities to pursue graduate degree programs to a limited number of Navy enlisted members in a specific, limited set of critical career fields. Such a plan shall include, as a minimum, the following:

(1) The specific objectives of the pilot program.

(2) An identification of the specific enlisted career fields from which candidates for the program would be drawn, the numbers and prerequisite qualifications of initial candidates, and the process for selecting the enlisted members who would initially participate.

(3) The process and mechanism for providing the degrees, described in the same manner as specified under subsection (a)(5), and a general description of course content.

(4) An analysis of the cost effectiveness of using Navy, other service, or civilian degree granting institutions in the pilot.

(5) The plan for post-graduation utilization of the enlisted members who obtain graduate degrees under the program.

(6) The criteria and plan for assessing whether the objectives of the pilot program are met.

SEC. 527. INCREASE IN ANNUAL LIMIT ON NUMBER OF ROTC SCHOLARSHIPS UNDER ARMY RESERVE AND NATIONAL GUARD PROGRAM.

Section 2107a(h) of title 10, United States Code, is amended by striking "208" and inserting "416".

SEC. 528. CAPSTONE OVERSEAS FIELD STUDIES TRIPS TO PEOPLE'S REPUBLIC OF CHINA AND REPUBLIC OF CHINA ON TAIWAN.

Section 2153 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) OVERSEAS FIELD STUDIES TO CHINA AND TAIWAN.—The Secretary of Defense shall direct the National Defense University to ensure that visits to China and Taiwan are an integral part of the field study programs conducted by the university as part of the military education course carried out pursuant to subsection (a) and that such field study programs include annually at least one class field study trip to the People's Republic of China and at least one class field study trip to the Republic of China on Taiwan.".

SEC. 529. SENSE OF CONGRESS CONCERNING ESTABLISHMENT OF NATIONAL COLLEGE OF HOMELAND SECURITY.

It is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of Homeland Security, should establish within the National Defense University an educational institution, to be known as the National College of Homeland Security, to have the mission of providing strategic-level homeland security and homeland defense education and related research to civilian and military leaders from all agencies of government in order to contribute to the development of a common understanding of core homeland security principles and of effective interagency and multijurisdictional homeland security strategies, policies, doctrines, and processes.

Subtitle D—General Service Requirements

SEC. 531. UNIFORM ENLISTMENT STANDARDS FOR THE ARMED FORCES.

(a) UNIFORM STANDARDS.—Section 504 of title 10, United States Code, is amended—

(1) by inserting "(a)" at the beginning of the text; and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided under paragraph (2), a person may not be enlisted in any armed force unless that person is one of the following:

"(A) A national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(B) An alien who is lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"(C) A person described in section 341 of one of the following:

"(i) The Compact of Free Association between the Federated States of Micronesia and the United States (section 201(a) of Public Law 108–188 (117 Stat. 2784; 48 U.S.C. 1921 note)).

"(ii) The Compact of Free Association between the Republic of the Marshall Islands and the United States (section 201(b) of Public Law 108–188 (117 Stat. 2823; 48 U.S.C. 1921 note)).

"(iii) The Compact of Free Association between Palau and the United States (section 201 of Public Law 99–658 (100 Stat. 3678; 48 U.S.C. 1931 note)).

"(2) The Secretary concerned may authorize the enlistment of persons not described in paragraph (1) when the Secretary determines that such enlistment is vital to the national interest.".

(b) CONFORMING REPEAL OF SERVICE-SPECIFIC PROVISIONS.—

(1) REPEAL.—Sections 3253 and 8253 of such title are repealed.

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 333 is amended by striking the item relating to section 3253. The table of sections at the beginning of chapter 833 is amended by striking the item relating to section 8253.

SEC. 532. INCREASE IN MAXIMUM TERM OF ORIGINAL ENLISTMENT IN REGULAR COMPONENT.

Section 505(c) of title 10, United States Code, is amended by striking "six years" and inserting "eight years".

SEC. 533. MEMBERS COMPLETING STATUTORY INITIAL MILITARY SERVICE OBLIGATION.

(a) NOTIFICATION TO INITIAL ENTRANTS.—Section 651(a) of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Each person covered by subsection (a), upon commencing that person's initial period of service as a member of the armed forces, shall be provided the date on which the initial military service obligation of that person under this section ends.".

(b) NOTIFICATION TO INDIVIDUAL READY RESERVE MEMBERS.—Section 10144 of such title is amended by adding at the end the following new subsection:

"(c) In the case of a member of the armed forces who is serving in the Individual Ready Reserve to complete the initial military service obligation of that member under section 651 of this title, the Secretary concerned shall—

"(1) notify the member when the period of that service obligation is completed; and

"(2) before the date when that period is completed, provide to that member an opportunity, if the member is qualified, to—

"(A) continue voluntarily in the Ready Reserve; or

"(B) transfer voluntarily to an active component.".

(c) PROHIBITION OF CERTAIN INVOLUNTARY PERSONNEL ACTIONS.—

(1) IN GENERAL.—Chapter 1215 of such title is amended by adding at the end the following new section:

"§ 12553. Members of Individual Ready Reserve completing initial military service obligation: prohibition of certain involuntary personnel actions

"(a) PROHIBITION.—In the case of a member of the armed forces who is serving in the Individual Ready Reserve to complete the initial military service obligation of that member under section 651 of this title, the Secretary concerned

may not, after the end of the period of that service obligation, issue the member an order for an action specified in subsection (b) unless the member, before the end of that period, has entered into a service agreement that commits the member to military service beyond the end of that period.

"(b) Covered Actions.—Subsection (a) applies to an involuntary mobilization in accordance with section 12301(a), 12301(b), 12302, or 12304 of this title, or a recall to active duty, that commences after the date of the end of the period of the military service obligation or a transfer to the Selected Reserve. ".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"12553. Members of Individual Ready Reserve completing initial military service obligation: prohibition of certain involuntary personnel actions.".

(3) Effective date.—Section 12533 of title 10, United States Code, as added by paragraph (1), shall apply with respect to orders issued by the Secretary concerned after the date of the enactment of this Act.

SEC. 534. EXTENSION OF QUALIFYING SERVICE FOR INITIAL MILITARY SERVICE UNDER NATIONAL CALL TO SERVICE PROGRAM.

Section 510(d) of title 10, United States Code, is amended by inserting before the period at the end the following: "and shall include military occupational specialties for enlistments for officer training and subsequent service as an officer, in cases in which the reason for the enlistment and entry into an agreement under subsection (b) is to enter an officer training program".

Subtitle E—Matters Relating to Casualties

SEC. 541. REQUIREMENT FOR MEMBERS OF THE ARMED FORCES TO DESIGNATE A PERSON TO BE AUTHORIZED TO DIRECT THE DISPOSITION OF THE MEMBER'S REMAINS.

(a) Designation Required.—Section 655 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The Secretary concerned shall, upon the enlistment or appointment of a person in the armed forces, require that the person specify in writing the person authorized to direct the disposition of the person's remains under section 1482 of this title. The Secretary shall periodically, and whenever the member is deployed as part of a contingency operation or in other circumstances specified by the Secretary, require that such designation be reconfirmed, or modified, by the member.".

(b) Change in Designation.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by inserting "or (b)" after "subsection (a)".

(c) Persons Authorized to Direct Disposition of Remains.—Section 1482(c) of such title is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"(c) The person designated under section 655(b) of this title shall be considered for all purposes to be the person designated under this subsection to direct disposition of the remains of a decedent covered by this chapter. If the person so designated is not available, or if there was no such designation under that section, one of the following persons, in the order specified, shall be the person designated to direct the disposition of remains:"; and

(2) in paragraph (4), by striking "clauses (1)–(3)" and inserting "paragraph (1), (2), or (3)".

(d) Effective Date.—Subsection (b) of section 655 of title 10, United States Code, as added by subsection (a)(2), shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act and shall be applied to persons enlisted or appointed in the Armed Forces after the end of such period. In the case of persons who are members of the Armed Forces as of the end of such 30-day period, such subsection—

(1) shall be applied to any member who is deployed to a contingency operation after the end of such period; and

(2) in the case of any member not sooner covered under paragraph (1), shall be applied before the end of the 180-day period beginning on the date of the enactment of this Act.

(e) Treatment of Prior Designations.—

(1) A qualifying designation by a decedent covered by section 1481 of title 10, United States Code, shall be treated for purposes of section 1482 of such title as having been made under section 655(b) of such title.

(2) Qualifying designations.—For purposes of paragraph (1), a qualifying designation is a designation by a person of the person to be authorized to direct disposition of the remains of the person making the designation that was made before the date of the enactment of this Act and in accordance with regulations and procedures of the Department of Defense in effect at the time.

SEC. 542. ENHANCED PROGRAM OF CASUALTY ASSISTANCE OFFICERS AND SERIOUSLY INJURED/ILL ASSISTANCE OFFICERS.

(a) Required Standards and Training.—

(1) In general.—Subchapter I of chapter 88 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1790. Casualty Assistance Officers; Seriously Injured/Ill Assistance Officers

"(a) Assignment of CAOs.—Whenever a member of the Army, Navy, Air Force, or Marine Corps dies while on active duty or otherwise under circumstances for which a death gratuity under section 1475 or 1476 of this title is to be paid, the Secretary of the military department concerned shall provide for the assignment of a Casualty Assistance Officer to assist the family members of the deceased member.

"(b) Assignment of SIAOs.—Whenever a member of the Army, Navy, Air Force, or Marine Corps is seriously injured or becomes seriously ill while on active duty or otherwise under circumstances for which, if the member died, a death gratuity under section 1475 or 1476 of this title would be paid, the Secretary of the military department concerned shall provide for the assignment of a Seriously Injured/Ill Assistance Officer to assist the member and the member's family members.

"(c) Persons Who May Be Assigned.—The Secretary concerned may only assign as a Casualty Assistance Officer or Seriously Injured/Ill Assistance Officer a member of the armed forces who is an officer or a noncommissioned officers in pay grade E–7 or above or a person who is a Federal civilian employee.

"(d) Duties and Functions .—The Secretary of Defense shall prescribe the duties and functions of Casualty Assistance Officers and Seriously Injured/Ill Assistance Officers. Such functions shall include the following functions for family members:

"(1) Information source.

"(2) Counsellor.

"(3) Advisor on obtaining needed information and services.

"(4) Administrative assistant.

"(5) Advocate for family members with military authorities.

"(e) Duration and Location of Assistance.—Once a family is assigned a Casualty Assistance Officer or Seriously Injured/Ill Assistance Officer, the Secretary concerned shall ensure that such an officer is continuously assigned to that family, regardless of family location, until the Secretary determines that the family is no longer in need of assistance from such an officer.

"(f) Training and Oversight.—(1) The Secretary of Defense shall establish standards for performance of the duties of Casualty Assistance Officers and Seriously Injured/Ill Assistance Officers, and shall monitor the training programs of the military departments for persons assigned to duty as such officers, in order to ensure that Casualty Assistance Officers and Seriously Injured/Ill Assistance Officers are properly trained.

"(2) The Secretary of each military department shall—

"(A) ensure that Casualty Assistance Officers and Seriously Injured/Ill Assistance Officers are properly trained; and

"(B) monitor the performance of persons assigned to duty as Casualty Assistance Officers and Seriously Injured/Ill Assistance Officers.

"(g) Criteria for Determination of Serious Injury or Illness.—The Secretary of Defense shall specify criteria for determination for purposes of this section of whether a member is seriously injured or seriously ill. ".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1790. Casualty Assistance Officers; Seriously Injured/Ill Assistance Officers.".

(b) Implementation.—The Secretary of Defense shall prescribe regulations for the implementation of section 1790 of title 10, United States Code, as added by subsection (a), not later than180 days after the date of the enactment of this Act.

SEC. 543. STANDARDS AND GUIDELINES FOR DEPARTMENT OF DEFENSE PROGRAMS TO ASSIST WOUNDED AND INJURED MEMBERS.

The Secretary of Defense shall examine the programs of the Army, Navy, Air Force, and Marine Corps that provide assistance to members of the Armed Forces who incur severe wounds or injuries in the line of duty, including the Army Disabled Soldier Support Program and the Marine for Life Injured Support Program, and (based on such examination) shall develop standards and guidelines as necessary to coordinate and standardize those programs with the activities of the Severely Injured Joint Support Operations Center of the Department of Defense, established as of February 1, 2005. The Secretary shall publish regulations to implement the standards and guidelines developed pursuant to the preceding sentence not later than 180 days after the date of the enactment of this Act.

SEC. 544. AUTHORITY FOR MEMBERS ON ACTIVE DUTY WITH DISABILITIES TO PARTICIPATE IN PARALYMPIC GAMES.

Section 717(a) of title 10, United States Code, is amended by striking "participate in—" and all that follows through "(2) any other" and inserting "participate in any of the following sports competitions:

"(1) The Pan-American Games and the Olympic Games, and qualifying events and preparatory competition for those games.

"(2) The Paralympic Games, if eligible to participate in those games, and qualifying events and preparatory competition for those games.

"(3) Any other".

Subtitle F—Military Justice and Legal Assistance Matters

SEC. 551. CLARIFICATION OF AUTHORITY OF MILITARY LEGAL ASSISTANCE COUNSEL TO PROVIDE MILITARY LEGAL ASSISTANCE WITHOUT REGARD TO LICENSING REQUIREMENTS.

Section 1044 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

"(2) In this subsection, the term 'military legal assistance' includes—

"(A) legal assistance provided under this section; and

"(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.".

SEC. 552. USE OF TELECONFERENCING IN ADMINISTRATIVE SESSIONS OF COURTS-MARTIAL.

Section 839 of title 10, United States Code (article 39 of the Uniform Code of Military Justice), is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by designating the matter following paragraph (4) of subsection (a) as subsection (b); and

(3) in subsection (b), as so redesignated—

(A) by striking "These proceedings shall be conducted" and inserting "Proceedings under subsection (a) shall be conducted"; and

(B) by adding at the end the following new sentence: "If authorized by regulations of the Secretary concerned, and if the defense counsel is physically in the presence of the accused, the presence required by this subsection may otherwise be established by audiovisual technology (such as videoteleconferencing technology).".

SEC. 553. EXTENSION OF STATUTE OF LIMITATIONS FOR MURDER, RAPE, AND CHILD ABUSE OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) No Limitation for Murder, Rape, or Rape of a Child.—Section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended in subsection (a) by inserting after "in a time of war," the following: "with murder, rape, or rape of a child,".

(b) Special Rules for Child Abuse Offenses.—Such section is further amended in subsection (b)(2)—

(1) in subparagraph (A), by striking "before the child attains the age of 25 years" and inserting "during the life of the child or within five years after the date on which the offense was committed, whichever provides a longer period,";

(2) In subparagraph (B)—

(A) in the matter preceding clause (i), by striking "sexual or physical";

(B) in clause (i), by striking "Rape or carnal knowledge" and inserting "Any offense"; and

(C) in clause (v), by striking "Indecent assault." and inserting "Kidnapping; indecent assault:"; and

(3) by adding at the end the following new subparagraph:

"(C) In subparagraph (A), the term 'child abuse offense' includes an act that involves abuse of a person who has not attained the age of 18 years and would constitute an offense under chapter 110 or 117, or under section 1591, of title 18.".

SEC. 554. OFFENSE OF STALKING UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) In General.—(1) Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 928 (article 128) the following new section:

"§ 928a. Art. 128a. Stalking

"Any person subject to this chapter who, on two or more occasions, engages in one or more threatening acts with respect to a specific person—

"(1) that the person knows or should know would place the specific person in emotional distress or in reasonable fear of death or bodily harm to the specific person or to an immediate family member or intimate partner of the specific person; and

"(2) that places the specific person in emotional distress or in reasonable fear of death or bodily harm to the specific person or to an immediate family member or intimate partner of the specific person;

is guilty of stalking and shall be punished as a court-martial may direct.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 928 the following new item:

"928a. Art. 128a. Stalking.".

(b) Applicability.—Section 928a of title 10, United States Code (article 128a of the Uniform Code of Military Justice), as added by subsection (a), applies to offenses committed after the date that is six months after the date of the enactment of this Act.

SEC. 555. RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER UNIFORM CODE OF MILITARY JUSTICE.

(a) Revision to UCMJ.—

(1) In General.—Section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), is amended to read as follows:

"§ 920. Art. 120. Rape, sexual assault, and other sexual misconduct

"(a) Rape.—Any person subject to this chapter who causes another person of any age to engage in a sexual act by—.

"(1) using force against that other person;

"(2) causing grievous bodily harm to any person;

"(3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping;

"(4) rendering another person unconscious; or

"(5) administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairs the ability of that other person to appraise or control conduct,

is guilty of rape and shall be punished as a court-martial may direct.

"(b) Rape of a Child.—Any person subject to this chapter who—

"(1) engages in a sexual act with a child who has not attained the age of twelve years; or

"(2) engages in a sexual act under the circumstances described in subsection (a) with a child who has attained the age of twelve years,

is guilty of rape of a child and shall be punished as a court-martial may direct.

"(c) Aggravated Sexual Assault.—Any person subject to this chapter who—

"(1) causes another person of any age to engage in a sexual act by—

"(A) threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping); or

"(B) causing bodily harm; or

"(2) engages in a sexual act with another person of any age if that other person is substantially incapacitated or substantially incapable of—

"(A) appraising the nature of the sexual act;

"(B) declining participation in the sexual act; or

"(C) communicating unwillingness to engage in the sexual act,

is guilty of aggravated sexual assault and shall be punished as a court-martial may direct.

"(d) Aggravated Sexual Assault of a Child.—Any person subject to this chapter who engages in a sexual act with a child who has attained the age of twelve years is guilty of aggravated sexual assault of a child and shall be punished as a court-martial may direct.

"(e) Aggravated Sexual Contact.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

"(f) Aggravated Sexual Abuse of a Child.—Any person subject to this chapter who engages in a lewd act with a child is guilty of aggravated sexual abuse of a child and shall be punished as a court-martial may direct.

"(g) Aggravated Sexual Contact With a Child.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (b) (rape of a child) had the sexual contact been a sexual act, is guilty of aggravated sexual contact with a child and shall be punished as a court-martial may direct.

"(h) Abusive Sexual Contact.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (c) (aggravated sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

"(i) Abusive Sexual Contact With a Child.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (d) (aggravated sexual assault of a child) had the sexual contact been a sexual act, is guilty of abusive sexual contact with a child and shall be punished as a court-martial may direct.

"(j) Indecent Liberty With a Child.—Any person subject to this chapter who engages in indecent liberty in the physical presence of a child—

"(1) with the intent to arouse, appeal to, or gratify the sexual desire of any person; or

"(2) with the intent to abuse, humiliate, or degrade any person,

is guilty of indecent liberty with a child and shall be punished as a court-martial may direct.

"(k) Indecent Act.—Any person subject to this chapter who engages in indecent conduct is guilty of an indecent act and shall be punished as a court-martial may direct.

"(l) Forcible Pandering.—Any person subject to this chapter who compels another person to engage in an act of prostitution with another person to be directed to said person is guilty of forcible pandering and shall be punished as a court-martial may direct.

"(m) Wrongful Sexual Contact.—Any person subject to this chapter who, without legal justification or lawful authorization, engages in sexual contact with another person without that other person's permission is guilty of wrongful sexual contact and shall be punished as a court-martial may direct.

"(n) Indecent Exposure.—Any person subject to this chapter who intentionally exposes, in an indecent manner, in any place where the conduct involved may reasonably be expected to be viewed by people other than members of the actor's family or household, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall by punished as a court-martial may direct.

"(o) Age of Child.—

"(1) Twelve Years.—In a prosecution under subsection (b) (rape of a child), (g) (aggravated sexual contact with a child), or (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of twelve years. It is not an affirmative defense that the accused reasonably believed that the child had attained the age of twelve years.

“(2) SIXTEEN YEARS.—In a prosecution under subsection (d) (aggravated sexual assault of a child), (f) (aggravated sexual abuse of a child), (i) (abusive sexual contact with a child), or (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of sixteen years. Unlike in paragraph (1), however, it is an affirmative defense that the accused reasonably believed that the child had attained the age of sixteen years.

“(p) PROOF OF THREAT.—In a prosecution under this section, in proving that the accused made a threat, it need not be proven that the accused actually intended to carry out the threat.

“(q) MARRIAGE.—

“(1) IN GENERAL.—In a prosecution under paragraph (2) of subsection (c) (aggravated sexual assault), or under subsection (d) (aggravated sexual assault of a child), (f) (aggravated sexual abuse of a child), (i) (abusive sexual contact with a child), (j) (indecent liberty with a child), (m) (wrongful sexual contact), or (n) (indecent exposure), it is an affirmative defense that the accused and the other person when they engaged in the sexual act, sexual contact, or sexual conduct are married to each other.

“(2) DEFINITION.—For purposes of this subsection, a marriage is a relationship, recognized by the laws of a competent state or foreign jurisdiction, between the accused and the other person as spouses. A marriage exists until it is dissolved in accordance with the laws of a competent state or foreign jurisdiction.

“(3) EXCEPTION.—Paragraph (1) shall not apply if the accused's intent at the time of the sexual conduct is to abuse, humiliate, or degrade any person, or if the child is under the age of fifteen years.

“(r) CONSENT AND MISTAKE OF FACT AS TO CONSENT.—Lack of permission is an element of the offense in subsection (m) (wrongful sexual contact). Consent and mistake of fact as to consent are not an issue, or an affirmative defense, in a prosecution under any other subsection, except they are an affirmative defense for the sexual conduct in issue in a prosecution under subsection (a) (rape), (c) (aggravated sexual assault), (e) (aggravated sexual contact), and (h) (abusive sexual contact).

“(s) OTHER AFFIRMATIVE DEFENSES NOT PRECLUDED.—The enumeration in this section of some affirmative defenses shall not be construed as excluding the existence of others.

“(t) NO PREEMPTION.—The prosecution or punishment of an accused for an offense under this section does not preclude the prosecution or punishment of that accused for any other offense.

“(u) DEFINITIONS.—In this section:

“(1) SEXUAL ACT.—The term ‘sexual act’ means—

“(A) contact between the penis and the vulva, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or

“(B) the penetration, however slight, of the genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

“(2) SEXUAL CONTACT.—The term ‘sexual contact’ means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, or intentionally causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person or to arouse or gratify the sexual desire of any person.

“(3) GRIEVOUS BODILY HARM.—The term ‘grievous bodily harm’ means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose. It is the same level of injury as in section 928 (article 128) of this chapter, and a lesser degree of injury than in section 2246(4) of title 18.

“(4) DANGEROUS WEAPON OR OBJECT.—The term ‘dangerous weapon or object’ means—

“(A) any firearm, loaded or not, and whether operable or not;

“(B) any other weapon, device, instrument, material, or substance, whether animate or inanimate, that in the manner it is used, or is intended to be used, is known to be capable of producing death or grievous bodily harm; or

“(C) any object fashioned or utilized in such a manner as to lead the victim under the circumstances to reasonably believe it to be capable of producing death or grievous bodily harm.

“(5) FORCE.—The term ‘force’ means action to compel submission of another or to overcome or prevent another's resistance by—

“(A) the use or display of a dangerous weapon or object;

“(B) the suggestion of possession of a dangerous weapon or object that is used in a manner to cause another to believe it is a dangerous weapon or object; or

“(C) physical violence, strength, power, or restraint applied to another person, sufficient that the other person could not avoid or escape the sexual conduct.

“(6) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—The term ‘threatening or placing that other person in fear’ under paragraph (3) of subsection (a) (rape), or under subsection (e) (aggravated sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to death, grievous bodily harm, or kidnapping.

“(7) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—

“(A) IN GENERAL.—The term ‘threatening or placing that other person in fear’ under paragraph (1)(A) of subsection (c) (aggravated sexual assault), or under subsection (h) (abusive sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another being subjected to a lesser degree of harm than death, grievous bodily harm, or kidnapping.

“(B) INCLUSIONS.—Such lesser degree of harm includes—

“(i) physical injury to another person or to another person's property; or

“(ii) a threat—

“(I) to accuse any person of a crime;

“(II) to expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

“(III) through the use or abuse of military position, rank, or authority, to affect or threaten to affect, either positively or negatively, the military career of some person.

“(8) BODILY HARM.—The term ‘bodily harm’ means any offensive touching of another, however slight.

“(9) CHILD.—The term ‘child’ means any person who has not attained the age of sixteen years.

“(10) LEWD ACT.—The term ‘lewd act’ means—

“(A) the intentional touching, not through the clothing, of the genitalia of another person, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

“(B) intentionally causing another person to touch, not through the clothing, the genitalia of any person with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

“(11) INDECENT LIBERTY.—The term ‘indecent liberty’ means indecent conduct, but physical contact is not required. It includes one who with the requisite intent exposes one's genitalia, anus, buttocks, or female areola or nipple to a child. An indecent liberty may consist of communication of indecent language as long as the communication is made in the physical presence of the child. If words designed to excite sexual desire are spoken to a child, or a child is exposed to or involved in sexual conduct, it is an indecent liberty; the child's consent is not relevant.

“(12) INDECENT CONDUCT.—The term ‘indecent conduct’ means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations. Indecent conduct includes but is not limited to observing, or making a videotape, photograph, motion picture, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material, without another person's consent, and contrary to that other person's reasonable expectation of privacy, of—

“(A) that other person's genitalia, anus, or buttocks, or (if that other person is female) that person's areola or nipple; or

“(B) that other person while that other person is engaged in a sexual act, sodomy (under section 925 (article 125)), or sexual contact; and

“(13) ACT OF PROSTITUTION.—The term ‘act of prostitution’ means a sexual act, sexual contact, or lewd act for the purpose of receiving money or other compensation.

“(14) CONSENT.—The term ‘consent’ means words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused's use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship by itself or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent. A person cannot consent to sexual activity if—

“(A) under sixteen years of age; or

“(B) substantially incapable of—

“(i) appraising the nature of the sexual conduct at issue due to—

“(I) mental impairment or unconsciousness resulting from consumption of alcohol, drugs, a similar substance, or otherwise; or

“(II) mental disease or defect which renders the person unable to understand the nature of the sexual conduct at issue; or

“(ii) physically declining participation in the sexual conduct at issue; or

“(iii) physically communicating unwillingness to engage in the sexual conduct at issue.

“(15) MISTAKE OF FACT AS TO CONSENT.—The term ‘mistake of fact as to consent’ means the accused held, as a result of ignorance or mistake, an incorrect belief that the other person engaging in the sexual conduct consented. The ignorance or mistake must have existed in the mind of the accused and must have been reasonable under all the circumstances. To be reasonable the ignorance or mistake must have been based on information, or lack of it, which would indicate to a reasonable person that the other person consented. Additionally, the ignorance or mistake cannot be based on the negligent failure to discover the true facts. Negligence is the absence of due care. Due care is what a reasonably careful person would do under the same or similar circumstances. The accused's state of intoxication, if any, at the time of the offense is not relevant to mistake of fact. A mistaken belief that the other person consented must be that which a reasonably careful, ordinary, prudent, sober adult would have had under the circumstances at the time of the offense.

"(16) AFFIRMATIVE DEFENSE.—The term 'affirmative defense' means any special defense which, although not denying that the accused committed the objective acts constituting the offense charged, denies, wholly, or partially, criminal responsibility for those acts. The accused has the burden of proving the affirmative defense by a preponderance of evidence. After the defense meets this burden, the prosecution shall have the burden of proving beyond a reasonable doubt that the affirmative defense did not exist.".

(2) CLERICAL AMENDMENT.—The item relating to section 920 (article 120) in the table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended to read as follows:

"920. Art. 120. Rape, sexual assault, and other sexual misconduct.".

(b) INTERIM MAXIMUM PUNISHMENTS.—Until the President otherwise provides pursuant to section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), the punishment which a court-martial may direct for an offense under section 920 of such title (article 120 of the Uniform Code of Military Justice), as amended by subsection (a), may not exceed the following limits:

(1) SUBSECTIONS (A) AND (B).—For an offense under subsection (a) (rape) or (b) (rape of a child), death or such other punishments as a court-martial may direct.

(2) SUBSECTION (C).—For an offense under subsection (c) (aggravated sexual assault), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 30 years.

(3) SUBSECTIONS (D) AND (E).—For an offense under subsection (d) (aggravated sexual assault of a child) or (e) (aggravated sexual contact), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(4) SUBSECTIONS (F) AND (G).—For an offense under subsection (f) (aggravated sexual abuse of a child) or (g) (aggravated sexual contact with a child), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.

(5) SUBSECTIONS (H) THROUGH (J).—For an offense under subsection (h) (abusive sexual contact), (i) (abusive sexual contact with a child), or (j) (indecent liberty with a child), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 7 years.

(6) SUBSECTIONS (K) AND (L).—For an offense under subsection (k) (indecent act) or (l) (forcible pandering), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

(7) SUBSECTIONS (M) AND (N).—For an offense under subsection (m) (wrongful sexual contact) or (n) (indecent exposure), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of the enactment of this Act and section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to offenses committed on or after that effective date.

(d) CONFORMING AMENDMENT.—Section 918 of title 10, United States Code (article 118 of the Uniform Code of Military Justice), is amended in paragraph (4) by striking "rape," and inserting "rape, rape of a child, aggravated sexual assault, aggravated sexual assault of a child, aggravated sexual contact, aggravated sexual abuse of a child, aggravated sexual contact with a child,".

Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

SEC. 561. ENROLLMENT IN OVERSEAS SCHOOLS OF DEFENSE DEPENDENTS' EDUCATION SYSTEM OF CHILDREN OF CITIZENS OR NATIONALS OF THE UNITED STATES HIRED IN OVERSEAS AREAS AS FULL-TIME DEPARTMENT OF DEFENSE EMPLOYEES.

Paragraph (2) of section 1414 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 932) is amended to read as follows:

"(2) The term 'sponsor' means a person who is—

"(A) a member of the Armed Forces serving on active duty who—

"(i) is authorized to transport dependents to or from an overseas area at Government expense; and

"(ii) is provided an allowance for living quarters in that area;

"(B) a full-time civilian officer or employee of the Department of Defense who—

"(i) is a citizen or national of the United States;

"(ii) is authorized to transport dependents to or from an overseas area at Government expense; and

"(iii) is provided an allowance for living quarters in that area; or

"(C) a full-time civilian officer or employee of the Department of Defense who—

"(i) is a citizen or national of the United States;

"(ii) resided in an overseas area at the time of the person's employment; and

"(iii) is employed by the Department of Defense in that area.".

SEC. 562. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—

(1) ASSISTANCE AUTHORIZED.—The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—

(1) ASSISTANCE AUTHORIZED.—To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under this subsection for a fiscal year if —

(A) the local educational agency is eligible for assistance under subsection (a) for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of the local educational agency is the result of the closure or realignment of military installations under the base closure process or the relocation of members of the Armed Forces and civilian employees of the Department of Defense as part of force structure changes or movements of units or personnel between military installations.

(3) CALCULATION OF AMOUNT OF ASSISTANCE.—

(A) PRO RATA DISTRIBUTION.—The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for that fiscal year; by

(ii) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under paragraph (1).

(B) PER-STUDENT RATE.—For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the total amount of funds made available for that fiscal year to provide assistance under this subsection; by

(ii) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under this subsection.

(c) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for that fiscal year of—

(1) the eligibility of the local educational agency for the assistance, including whether the agency is eligible for assistance under either subsection (a) or (b) or both subsections; and

(2) the amount of the assistance for which the local educational agency is eligible.

(d) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) for that fiscal year.

(e) FINDING FOR FISCAL YEAR 2006.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

(1) $50,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a); and

(2) $10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b).

(f) DEFINITIONS.—In this section:

(1) The term "base closure process" means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term "military dependent students" refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term "State" means each of the 50 States and the District of Columbia.

(g) REPEAL OF FORMER AUTHORITY.—Section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note) is repealed. The repeal of such section shall not affect the distribution of assistance to local educational agencies under section 559 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1917) for fiscal year 2005.

SEC. 563. CONTINUATION OF IMPACT AID ASSISTANCE ON BEHALF OF DEPENDENTS OF CERTAIN MEMBERS DESPITE CHANGE IN STATUS OF MEMBER.

(a) SPECIAL RULE.—For purposes of computing the amount of a payment for an eligible local educational agency under subsection (a) of section 8003 of the Elementary and Secondary Education Act (20 U.S.C. 7703) for school year 2005–2006, the Secretary of Education shall continue to count as a child enrolled in a school of such agency under such subsection any child who—

(1) would be counted under paragraph (1)(B) of such subsection to determine the number of children who were in average daily attendance in the school; but

(2) due to the deployment of both parents or legal guardians of the child, the deployment of a parent or legal guardian having sole custody of the child, or the death of a military parent or legal guardian while on active duty (so long as the child resides on Federal property (as defined in section 8013(5) of such Act (20 U.S.C. 7713(5))), is not eligible to be so counted.

(b) TERMINATION.—The special rule provided under subsection (a) applies only so long as the children covered by such subsection remain in average daily attendance at a school in the same local educational agency they attended before their change in eligibility status.

Subtitle H—Decorations and Awards

SEC. 565. COLD WAR VICTORY MEDAL.

(a) AUTHORITY.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1134. Cold War Victory Medal

"(a) MEDAL AUTHORIZED.—The Secretary concerned shall issue a service medal, to be known as the 'Cold War Victory Medal', to persons eligible to receive the medal under subsection (b). The Cold War Victory Medal shall be of an appropriate design approved by the Secretary of Defense, with ribbons, lapel pins, and other appurtenances.

"(b) ELIGIBLE PERSONS.—The following persons are eligible to receive the Cold War Victory Medal:

"(1) A person who—

"(A) performed active duty or inactive duty training as an enlisted member during the Cold War;

"(B) completed the person's initial term of enlistment or, if discharged before completion of such initial term of enlistment, was honorably discharged after completion of not less than 180 days of service on active duty; and

"(C) has not received a discharge less favorable than an honorable discharge or a release from active duty with a characterization of service less favorable than honorable.

"(2) A person who—

"(A) performed active duty or inactive duty training as a commissioned officer or warrant officer during the Cold War;

"(B) completed the person's initial service obligation as an officer or, if discharged or separated before completion of such initial service obligation, was honorably discharged after completion of not less than 180 days of service on active duty; and

"(C) has not been released from active duty with a characterization of service less favorable than honorable and has not received a discharge or separation less favorable than an honorable discharge.

"(c) ONE AWARD AUTHORIZED.—Not more than one Cold War Victory Medal may be issued to any person.

"(d) ISSUANCE TO REPRESENTATIVE OF DECEASED.—If a person described in subsection (b) dies before being issued the Cold War Victory Medal, the medal shall be issued to the person's representative, as designated by the Secretary concerned.

"(e) REPLACEMENT.—Under regulations prescribed by the Secretary concerned, a Cold War Victory Medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

"(f) APPLICATION FOR MEDAL.—The Cold War Victory Medal shall be issued upon receipt by the Secretary concerned of an application for such medal, submitted in accordance with such regulations as the Secretary prescribes.

"(g) UNIFORM REGULATIONS.—The Secretary of Defense shall ensure that regulations prescribed by the Secretaries of the military departments under this section are uniform so far as is practicable.

"(h) DEFINITION.—In this section, the term 'Cold War' means the period beginning on September 2, 1945, and ending at the end of December 26, 1991.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1134. Cold War Victory Medal.".

SEC. 566. ESTABLISHMENT OF COMBAT MEDEVAC BADGE.

(a) ARMY.—

(1) IN GENERAL.—Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3757. Combat Medevac Badge

"(a) The Secretary of the Army shall issue a badge of appropriate design, to be known as the Combat Medevac Badge, to each person who while a member of the Army served in combat on or after June 25, 1950, as a pilot or crew member of a helicopter medical evacuation ambulance and who meets the requirements for the award of that badge.

"(b) The Secretary of the Army shall prescribe requirements for eligibility for the Combat Medevac Badge.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3757. Combat Medevac Badge.".

(b) NAVY AND MARINE CORPS.—

(1) IN GENERAL.—Chapter 567 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6259. Combat Medevac Badge

"(a) The Secretary of the Navy shall issue a badge of appropriate design, to be known as the Combat Medevac Badge, to each person who while a member of the Navy or Marine Corps served in combat on or after June 25, 1950, as a pilot or crew member of a helicopter medical evacuation ambulance and who meets the requirements for the award of that badge.

"(b) The Secretary of the Navy shall prescribe requirements for eligibility for the Combat Medevac Badge.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6259. Combat Medevac Badge.".

(c) AIR FORCE.—

(1) IN GENERAL.—Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 8757. Combat Medevac Badge

"(a) The Secretary of the Air Force shall issue a badge of appropriate design, to be known as the Combat Medevac Badge, to each person who while a member of the Air Force served in combat on or after June 25, 1950, as a pilot or crew member of a helicopter medical evacuation ambulance and who meets the requirements for the award of that badge.

"(b) The Secretary of the Air Force shall prescribe requirements for eligibility for the Combat Medevac Badge.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8757. Combat Medevac Badge.".

(d) AWARD FOR SERVICE BEFORE DATE OF ENACTMENT.—In the case of persons who, while a member of the Armed Forces, served in combat as a pilot or crew member of a helicopter medical evacuation ambulance during the period beginning on June 25, 1950, and ending on the date of enactment of this Act, the Secretary of the military department concerned shall issue the Combat Medevac Badge—

(1) to each such person who is known to the Secretary before the date of enactment of this Act; and

(2) to each such person with respect to whom an application for the issuance of the badge is made to the Secretary after such date in such manner, and within such time period, as the Secretary may require.

SEC. 567. ELIGIBILITY FOR OPERATION ENDURING FREEDOM CAMPAIGN MEDAL.

For purposes of eligibility for the campaign medal for Operation Enduring Freedom established pursuant to Public Law 108–234 (10 U.S.C. 1121 note), the beginning date of Operation Enduring Freedom is September 11, 2001.

Subtitle I—Other Matters

SEC. 571. EXTENSION OF WAIVER AUTHORITY OF SECRETARY OF EDUCATION WITH RESPECT TO STUDENT FINANCIAL ASSISTANCE DURING A WAR OR OTHER MILITARY OPERATION OR NATIONAL EMERGENCY.

Section 6 of the Higher Education Relief Opportunities for Students Act of 2003 (20 U.S.C. 1070 note) is amended by striking "September 30, 2005" and inserting "September 30, 2007".

SEC. 572. ADOPTION LEAVE FOR MEMBERS OF THE ARMED FORCES ADOPTING CHILDREN.

(a) AUTHORITY.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) Under regulations prescribed by the Secretary of Defense, a member of the armed forces adopting a child in a qualifying child adoption is allowed up to 21 days of leave in a calendar year to be used in connection with the adoption.

"(2) For the purpose of this subsection, an adoption of a child by a member is a qualifying child adoption if the member is eligible for reimbursement of qualified adoption expenses for such adoption under section 1052 of this title.

"(3) In the event that two members of the armed forces who are spouses of each other adopt a child in a qualifying child adoption, only one such member shall be allowed leave under this subsection. Those members shall elect which of them shall be allowed such leave.

"(4) Leave under paragraph (1) is in addition to other leave provided under other provisions of this section.".

(b) EFFECTIVE DATE.—Subsection (i) of section 701 of title 10, United States Code (as added by subsection (a)), shall take effect on October 1, 2005.

SEC. 573. REPORT ON NEED FOR A PERSONNEL PLAN FOR LINGUISTS IN THE ARMED FORCES.

(a) NEED ASSESSMENT.—The Secretary of Defense shall review the career tracks of members of the Armed Forces who are linguists in an effort to improve the management of linguists (in enlisted grades or officer grades, or both) and to assist them in reaching their full linguistic and analytical potential over a 20-year career. As part of such review, the Secretary shall assess the need for a comprehensive plan to better manage the careers of military linguists (in enlisted grades or officer grades, or both) and to ensure that such linguists have an opportunity to progress in grade and are provided opportunities to enhance their language and cultural skills. As part of the review, the Secretary shall consider personnel management methods such as enhanced bonuses, immersion opportunities, specialized career fields, establishment of a dedicated career path for linguists, and career monitoring to ensure career progress for linguists serving in duty assignments that are not linguist related.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the review and assessment conducted under subsection (a). The report shall include the findings, results, and conclusions of the Secretary's review and assessment of the careers of officer and enlisted linguists in the Armed Forces and the need for a comprehensive plan to ensure effective career management of linguists.

SEC. 574. GROUND COMBAT AND OTHER EXCLUSION POLICIES.

(a) IN GENERAL.—

(1) CODIFICATION.—Chapter 37 of title 10, United States Code, is amended by inserting after section 651 the following new section:

"§652. Assignment eligibility; direct ground combat and other exclusions applicable to female members

"(a) GENERAL RULE.—A member of the armed forces is eligible to be assigned to all positions for which qualified, except that female members of the armed forces shall be excluded from assignment to units below brigade level the primary mission of which is to engage in direct ground combat.

"(b) ADDITIONAL RESTRICTIONS.—In addition to the limitation under subsection (a), female members of the armed forces may be excluded from assignment to a unit, or a position, as follows:

"(1) Where the Secretary concerned determines that the costs of appropriate berthing and privacy arrangements would be prohibitive.

"(2) Where the unit, or the position, is doctrinally required to physically collocate and remain with a direct ground combat unit to which female members may not be assigned.

"(3) Where the unit is engaged in long-range reconnaissance operations or Special Operations Forces missions.

"(4) Where job-related physical requirements would necessarily exclude the vast majority of female members.

"(c) CLOSURE OF OCCUPATIONAL SPECIALTIES.—

"(1) Any military career designator related to military operations on the ground that is covered by paragraph (2) and that as of May 18, 2005, is closed (in whole or in part) to the assignment of female members shall remain closed (in the same manner) to the assignment of female members.

"(2) Paragraph (1) applies—

"(A) for enlisted members and warrant officers, to military occupational specialties, specialty codes, enlisted designators, additional skill identifiers, and special qualification identifiers; and

"(B) for officers (other than warrant officers), to officer areas of concentration, occupational specialties, specialty codes, designators, additional skill identifiers, and special qualification identifiers.

"(d) NOTICE TO CONGRESS OF PROPOSED CHANGES IN UNITS, ASSIGNMENTS, ETC. TO WHICH FEMALE MEMBERS MAY BE ASSIGNED.—

"(1) NOTICE.—Except in a case covered by section 6035 of this title, whenever the Secretary of Defense or the Secretary of a military department proposes to make a change to military personnel policies described in paragraph (2), the Secretary shall, not less than 30 days before such change is implemented, submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice, in writing, of the proposed change.

"(2) COVERED PERSONNEL POLICY CHANGES.—Paragraph (1) applies to a proposed military personnel policy change that would make available to female members of the armed forces assignment to any of the following that, as of the date of the proposed change, is closed to such assignment:

"(A) Any type of existing or new unit, position, or other assignment (other than an assignment covered by the exclusions required by subsections (a) and (c)).

"(B) Any class of combat vessel.

"(C) Any type of combat platform.

"(e) DIRECT GROUND COMBAT DEFINED.—In this section, the term 'direct ground combat' means engaging an enemy on the ground with individual or crew-served weapons, while being exposed to hostile fire and to a high probability of direct physical contact with personnel of the hostile force, and when well forward on the battlefield while locating and closing with the enemy to defeat them by fire, maneuver, or shock effect.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 651 the following new item:

"652. Assignment eligibility; direct ground combat and other exclusions applicable to female members.".

(b) REPORT ON POSITIONS OPENED TO FEMALE MEMBERS SINCE JULY 1994.—

(1) REPORT.—Not later than March 30, 2006, the Secretary of Defense shall submit to Congress a detailed report of all units, positions, military occupational specialties, career fields, and other assignments that—

(A) were reported to Congress on July 28, 1994, as being closed to the assignment of female members of the Armed Forces; and

(B) have since that date been opened to the assignment of female members.

(2) MATTERS TO BE INCLUDED.—The report under paragraph (1) shall include the following:

(A) A detailed description of, and justification for, each of the changes identified under that paragraph.

(B) For any unit or position that was reported closed to the assignment of female members as described in subparagraph (A) of paragraph (1) that no longer exists in the service inventory, identification of the successor unit performing the function and whether that successor unit is open or closed to the assignment of female members.

(c) LIST OF UNITS, POSITIONS, ETC., CLOSED TO FEMALE MEMBERS.—At the same time the report under subsection (b) is submitted to Congress, the Secretary of Defense shall submit to Congress a report providing—

(1) a list of the military career designators covered by paragraph (2) of section 652(c) of title 10, United States Code (as added by subsection (a)(1)), that were closed (in whole or in part) to the assignment of female members of the Armed Forces as of May 18, 2005, and that, pursuant to paragraph (1) of that section, are required to remain closed to the assignment of female members of the Armed Forces; and

(2) for each such military career designator—

(A) specification of whether that designator is closed to the assignment of female members in whole or in part; and

(B) the numbers of positions that are closed to the assignment of female members.

(d) CONFORMING REPEAL.—Section 542 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 113 note) is repealed.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2006.
Sec. 602. Additional pay for permanent military professors at United States Naval Academy with over 36 years of service.
Sec. 603. Basic pay rates for reserve component members selected to attend military service academy preparatory schools.
Sec. 604. Clarification of restriction on compensation for correspondence courses.
Sec. 605. Permanent authority for supplemental subsistence allowance for low-income members with dependents.
Sec. 606. Basic allowance for housing for Reserve members.
Sec. 607. Overseas cost of living allowance.
Sec. 608. Income replacement payments for Reserves experiencing extended and frequent mobilization for active duty service.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension or resumption of certain bonus and special pay authorities for reserve forces.
Sec. 612. Extension of certain bonus and special pay authorities for certain health care professionals.
Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
Sec. 614. One-year extension of other bonus and special pay authorities.
Sec. 615. Expansion of eligibility of dental officers for additional special pay.
Sec. 616. Increase in maximum monthly rate authorized for hardship duty pay.
Sec. 617. Flexible payment of assignment incentive pay.
Sec. 618. Active-duty reenlistment bonus.
Sec. 619. Reenlistment bonus for members of Selected Reserve.
Sec. 620. Combination of affiliation and accession bonuses for service in the Selected Reserve.

Sec. 621. Eligibility requirements for prior service enlistment bonus.
Sec. 622. Increase in authorized maximum amount of enlistment bonus.
Sec. 623. Discretion of Secretary of Defense to authorize retroactive hostile fire and imminent danger pay.
Sec. 624. Increase in maximum bonus amount for nuclear-qualified officers extending period of active duty.
Sec. 625. Increase in maximum amount of nuclear career annual incentive bonus for nuclear-qualified officers trained while serving as enlisted members.
Sec. 626. Uniform payment of foreign language proficiency pay to eligible reserve component members and regular component members.
Sec. 627. Retention bonus for members qualified in certain critical skills or satisfying other eligibility criteria.
Sec. 628. Availability of critical-skills accession bonus for persons enrolled in Senior Reserve Officers' Training Corps who are obtaining nursing degrees.

Subtitle C—Travel and Transportation Allowances

Sec. 641. Authorized absences of members for which lodging expenses at temporary duty location may be paid.
Sec. 642. Extended period for selection of home for travel and transportation allowances for dependents of deceased member.
Sec. 643. Transportation of family members incident to repatriation of members held captive.
Sec. 644. Increased weight allowances for shipment of household goods of senior noncommissioned officers.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 651. Monthly disbursement to States of State income tax withheld from retired or retainer pay.
Sec. 652. Revision to eligibility for nonregular service retirement after establishing eligibility for regular retirement.
Sec. 653. Denial of military funeral honors in certain cases.
Sec. 654. Child support for certain minor children of retirement-eligible members convicted of domestic violence resulting in death of child's other parent.
Sec. 655. Concurrent receipt of veterans disability compensation and military retired pay.
Sec. 656. Military Survivor Benefit Plan beneficiaries under insurable interest coverage.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 661. Increase in authorized level of supplies and services procurement from overseas exchange stores.
Sec. 662. Requirements for private operation of commissary store functions.
Sec. 663. Provision of information technology services for accommodations provided by nonappropriated fund instrumentalities for wounded members of the Armed Forces and their families.
Sec. 664. Provision of and payment for overseas transportation services for commissary and exchange supplies.
Sec. 665. Compensatory time off for certain nonappropriated fund employees.

Subtitle F—Other Matters

Sec. 671. Inclusion of Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff among senior enlisted members of the Armed Forces.
Sec. 672. Special and incentive pays considered for saved pay upon appointment of members as officers.
Sec. 673. Repayment of unearned portion of bonuses, special pays, and educational benefits.
Sec. 674. Leave accrual for members assigned to deployable ships or mobile units or to other designated duty.
Sec. 675. Army recruiting pilot program to encourage members of the Army to refer other persons for enlistment.
Sec. 676. Special compensation for reserve component members who are also tobacco farmers adversely affected by terms of tobacco quota buyout.

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2006.

(a) Waiver of Section 1009 Adjustment.—The adjustment to become effective during fiscal year 2006 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) Increase in Basic Pay.—Effective on January 1, 2006, the rates of monthly basic pay for members of the uniformed services are increased by 3.1 percent.

SEC. 602. ADDITIONAL PAY FOR PERMANENT MILITARY PROFESSORS AT UNITED STATES NAVAL ACADEMY WITH OVER 36 YEARS OF SERVICE.

Section 203(b) of title 37, United States Code, is amended by inserting after "Military Academy" the following: ", the United States Naval Academy,".

SEC. 603. BASIC PAY RATES FOR RESERVE COMPONENT MEMBERS SELECTED TO ATTEND MILITARY SERVICE ACADEMY PREPARATORY SCHOOLS.

(a) Pay Equity for Reserves.—Section 203(e)(2) of title 37, United States Code, is amended—

(1) by striking "on active duty for a period of more than 30 days shall continue to receive" and inserting "shall receive"; and

(2) by inserting before the period at the end the following: "or at the rate provided for cadets and midshipmen under subsection (c), whichever is greater".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

SEC. 604. CLARIFICATION OF RESTRICTION ON COMPENSATION FOR CORRESPONDENCE COURSES.

Section 206(d)(1) of title 37, United States Code, is amended by inserting after "reserve component" the following: "or by a member of the National Guard while not in Federal service".

SEC. 605. PERMANENT AUTHORITY FOR SUPPLEMENTAL SUBSISTENCE ALLOWANCE FOR LOW-INCOME MEMBERS WITH DEPENDENTS.

(a) Repeal of Termination Provision.—Section 402a of title 37, United States Code, is amended by striking subsection (i).

(b) Technical and Conforming Amendments.—Subsection (f) of such section is amended—

(1) in the first sentence, by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security, with respect to the Coast Guard"; and

(2) by striking the second sentence.

SEC. 606. BASIC ALLOWANCE FOR HOUSING FOR RESERVE MEMBERS.

(a) Equal Treatment of Reserve Members.—Subsection (g) of section 403 of title 37, United States Code, is amended——

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

"(A) A member who is called or ordered to active duty for a period of more than 30 days.

"(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation."; and

(3) in paragraph (4), as so redesignated, by striking "less than 140 days" and inserting "30 days or less".

(b) Conforming Amendment Regarding Members Without Dependents.—Paragraph (1) of such subsection is amended by inserting "or for a period of more than 30 days" after "in support of a contingency operation" both places it appears.

SEC. 607. OVERSEAS COST OF LIVING ALLOWANCE.

(a) Payment of Allowance Based on Overseas Location of Dependents.—Section 405 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(e) Payment of Allowance Based on Overseas Location of Dependents.—In the case of a member assigned to duty inside the continental United States whose dependents continue to reside outside of the continental United States, the Secretary concerned may pay the member a per diem under this section based on the location of the dependents and provide reimbursement under subsection (d) for an unusual or extraordinary expense incurred by the dependents if the Secretary determines that such payment or reimbursement is in the best interest of the member or the member's dependents and in the best interest of the United States.".

(b) Clarification of Expenses Eligible for Lump-Sum Reimbursement.—Subsection (d) of such section, as added by section 605 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1945), is further amended—

(1) in the subsection heading, by striking "Nonrecurring" and inserting "Unusual or Extraordinary";

(2) by inserting "or (e)" after "subsection (a)" each place it appears; and

(3) in paragraph (1)—

(A) by striking "a nonrecurring" and inserting "an unusual or extraordinary" in the matter preceding subparagraph (A); and

(B) in subparagraph (A), by inserting "or the location of the member's dependents" before the semicolon.

SEC. 608. INCOME REPLACEMENT PAYMENTS FOR RESERVES EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.

(a) In General.—Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

"(a) Payment Required.—The Secretary concerned shall pay to an eligible member of a reserve component of the armed forces an amount equal to the monthly active-duty income differential of the member, as determined by the Secretary. The payments shall be made on a monthly basis.

"(b) Eligibility.—Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

"(1) completes 18 continuous months of service on active duty under such an order;

"(2) completes 24 months on active duty during the previous 60 months under such an order; or

"(3) is involuntarily mobilized for service on active duty six months or less following the member's separation from the member's previous period of active duty.

"(c) Minimum and Maximum Payment Amounts.—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than $50.

"(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed $3,000.

"(d) Monthly Active-Duty Income Differential.—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

"(1) the average monthly civilian income of the member; and

"(2) the member's total monthly military compensation.

"(e) Definitions.—In this section:

"(1) The term 'average monthly civilian income', with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member's mobilization or the 12 months covered by the member's most recent Federal income tax filing, divided by 12.

"(2) The term 'total monthly military compensation' means the amount, computed on a monthly basis, of the sum of—

"(A) the amount of the regular military compensation (RMC) of the member; and

"(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service.".

(c) Effective Date.—Section 910 of title 37, United States Code, as added by subsection (a), shall apply for months after December 2005.

(d) Limitation on Fiscal Year 2006 Obligations.—During fiscal year 2006, obligations incurred under section 910 of title 37, United States Code, to provide income replacement payments to involuntarily mobilized members of a reserve component who are subject to extended and frequent active duty service may not exceed $60,000,000.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OR RESUMPTION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) Selected Reserve Reenlistment Bonus.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Special Pay for Enlisted Members Assigned to Certain High Priority Units.—Section 308d(c) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) Ready Reserve Enlistment Bonus for Persons Without Prior Service.—Section 308g(h) of such title is amended by striking "September 30, 1992" and inserting "December 31, 2006".

(d) Ready Reserve Enlistment and Reenlistment Bonus for Persons With Prior Service.—Section 308h(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Selected Reserve Enlistment Bonus for Persons With Prior Service.—Section 308i(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 612. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) Nurse Officer Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 16302(d) of such title is amended by striking "January 1, 2006" and inserting "January 1, 2007".

(c) Accession Bonus for Registered Nurses.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(d) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Special Pay for Selected Reserve Health Professionals in Critically Short Wartime Specialties.—Section 302g(f) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(f) Accession Bonus for Dental Officers.—Section 302h(a)(1) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(g) Accession Bonus for Pharmacy Officers.—Section 302j(a) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 613. EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Nuclear Career Accession Bonus.—Section 312b(c) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(c) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) Aviation Officer Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(b) Assignment Incentive Pay.—Section 307a(f) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(c) Reenlistment Bonus for Active Members.—Section 308(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(d) Enlistment Bonus for Active Members.—Section 309(e) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(e) Retention Bonus for Members With Critical Military Skills.—Section 323(i) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

(f) Accession Bonus for New Officers in Critical Skills.—Section 324(g) of such title is amended by striking "December 31, 2005" and inserting "December 31, 2006".

SEC. 615. EXPANSION OF ELIGIBILITY OF DENTAL OFFICERS FOR ADDITIONAL SPECIAL PAY.

(a) Repeal of Internship and Residency Exception.—Section 302b(a)(4) of title 37, United States Code, is amended by striking the first sentence and inserting the following new sentence: "An officer who is entitled to variable special pay under paragraph (2) or (3) is also entitled to additional special pay for any 12-month period during which an agreement executed under subsection (b) is in effect with respect to the officer.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 616. INCREASE IN MAXIMUM MONTHLY RATE AUTHORIZED FOR HARDSHIP DUTY PAY.

(a) Increase.—Section 305(a) of title 37, United States Code, is amended by striking "$300" and inserting "$750".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 617. FLEXIBLE PAYMENT OF ASSIGNMENT INCENTIVE PAY.

(a) Authority to Provide Lump Sum or Installment Payments.—Section 307a of title 37, United States Code, is amended—

(1) in subsection (a), by striking "monthly";

(2) in subsection (b)—

(A) by inserting "(1)" before the first sentence;

(B) in the second sentence, by striking "and, subject to subsection (c), the monthly rate of the incentive pay." and inserting ", the total or monthly amount to be paid under the agreement, and whether the incentive pay will be provided on a monthly basis, in a lump sum, or in installments other than monthly."; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary concerned and a member may agree to extend an existing agreement under this section to cover an additional period of service in a designated assignment."; and

(3) in subsection (c), by adding at the end the following new sentences: "The maximum amount of a lump sum payment under an agreement under this section may not exceed the product of the maximum monthly rate and the number of months covered by the agreement. Installment payments shall be calculated using the same formula for the months covered by the installment.".

(b) Repayment of Incentive Pay.—Such section is further amended—

(1) by redesignating subsection (f), as amended by section 614(b), as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Repayment.—A member who enters into an agreement under this section and receives incentive pay under the agreement in a lump sum or installments, but who fails to complete the period of service covered by the payment, whether voluntarily or because of misconduct, shall be subject to the repayment provisions of section 303a(e) of this title.".

SEC. 618. ACTIVE-DUTY REENLISTMENT BONUS.

(a) Eligibility of Senior Enlisted Members.—Subsection (a) of section 308 of title 37, United States Code, is amended—

(1) in paragraph (1)(A), by striking "16 years of active duty" and inserting "20 years of active duty"; and

(2) in paragraph (3), by striking "18 years" and inserting "24 years".

(b) Increase in Authorized Maximum Amount of Bonus.—Paragraph (2)(B) of such subsection is amended by striking "$60,000" and inserting "$90,000".

(c) Repeal of Reference to Obsolete Special Pay.—Paragraph (1) of such subsection is amended—

(1) by inserting "and" at the end of subparagraph (B);

(2) by striking subparagraph (C); and

(3) by redesignating subparagraph (D) as subparagraph (C).

(d) Authority to Waive Eligibility Requirements.—Such subsection is further amended by striking paragraph (5) and inserting the following new paragraph:

"(5) In time of war or national emergency, the Secretary concerned may waive all or a part of the eligibility requirements specified in paragraph (1) for the payment of a bonus under this section.".

(e) Repeal of Obsolete Special Pay.—

(1) Repeal.—Section 312a of title 37, United States Code, is repealed.

(2) Clerical amendment.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 312a.

(f) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 619. REENLISTMENT BONUS FOR MEMBERS OF SELECTED RESERVE.

(a) Eligibility of Senior Enlisted Members.—Subsection (a)(1) of section 308b of title 37, United States Code, is amended by striking "16 years of total military service" and inserting "20 years of total military service".

(b) Computation of Bonus Amount.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(3) Any portion of a term of reenlistment or extension of enlistment of a member that, when added to the total years of service of the member at the time of discharge or release, exceeds 24 years may not be used in computing the total bonus amount under paragraph (1).".

(c) Authority to Waive Eligibility Requirements.—Subsection (c)(2) of such section is amended by striking "In the case" and all that follows through "the Secretary" and inserting "In time of war or national emergency, the Secretary".

SEC. 620. COMBINATION OF AFFILIATION AND ACCESSION BONUSES FOR SERVICE IN THE SELECTED RESERVE.

(a) Bonuses Authorized.—Section 308c of title 37, United States Code, is amended to read as follows:

"§308c. Special pay: bonus for affiliation or enlistment in the Select Reserve

"(a) Affiliation Bonus Authorized.—(1) The Secretary concerned may pay an affiliation bonus to an enlisted member of an armed force who—

"(A) has completed fewer than 20 total years of military service; and

"(B) executes a written agreement with the Secretary to serve in the Selected Reserve, after being discharged or released from active duty, for a period of not less than three years in a skill, unit, or pay grade designated under paragraph (2).

"(2) The Secretary concerned shall designate the critical skills, units, and pay grades for which an affiliation bonus is available under this subsection.

"(b) Accession Bonus Authorized.—The Secretary concerned may pay an accession bonus to a person who—

"(1) has not previously served in the armed forces; and

"(2) executes a written agreement to serve as an enlisted member in the Selected Reserve for a period of not less than three years.

"(c) Limitation on Amount of Bonus.—The amount of a bonus under subsection (a) or (b) may not exceed $15,000.

"(d) Payment Method.—Upon acceptance of a written agreement by the Secretary concerned under subsection (a) or (b), the total amount of the bonus payable under the agreement becomes fixed. The agreement shall specify whether the bonus will be paid by the Secretary in a lump sum or in installments.

"(e) Payment to Mobilized Members.—A member of the Selected Reserve entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

"(f) Repayment.—A person who enters into an agreement under subsection (a) or (b) and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.

"(g) Regulations.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary of Defense and by the Secretary of Homeland Security for the Coast Guard when it is not operating as a service in the Navy.

"(h) Termination of Bonus Authority.—No bonus may be paid under this section with respect to any agreement under subsection (a) or (b) entered into after December 31, 2006.".

(b) Repeal of Separate Reserve Affiliation Bonus.—Section 308e of such title is repealed.

(c) Clerical Amendments.—The table of sections at the beginning of chapter 5 of such title is amended—

(1) by striking the item relating to section 308c and inserting the following new item:

"308c. Special pay: bonus for affiliation or enlistment the Select Reserve."

(2) by striking the item relating to section 308e.

(d) Limitation on Fiscal Year 2006 Obligations.—During fiscal year 2006, obligations incurred under section 308c of title 37, United States Code, to provide bonuses for affiliation or enlistment in the Select Reserve using the expanded authority provided by the amendment made by subsection (a) may not exceed $30,000,000. The bonus authority available under such section shall not be considered to be an expanded authority to the extent that the authority was available under section 308e of such title, before the repeal of such section by subsection (b).

SEC. 621. ELIGIBILITY REQUIREMENTS FOR PRIOR SERVICE ENLISTMENT BONUS.

Section 308i(a)(2) of title 37, United States Code, is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) The person has not more than 16 years of total military service and received an honorable discharge at the conclusion of all prior periods of service.".

SEC. 622. INCREASE IN AUTHORIZED MAXIMUM AMOUNT OF ENLISTMENT BONUS.

(a) Increase.—Section 309(a) of title 37, United States Code, is amended by striking "$20,000" and inserting "$30,000".

(b) Limitation on Fiscal Year 2006 Obligations.—During fiscal year 2006, obligations incurred under section 309 of title 37, United States Code, to provide enlistment bonuses in the increased amounts authorized by the amendment made by subsection (a) may not exceed $30,000,000.

SEC. 623. DISCRETION OF SECRETARY OF DEFENSE TO AUTHORIZE RETROACTIVE HOSTILE FIRE AND IMMINENT DANGER PAY.

Section 310(c) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

"(1) In the case of an area described in subparagraph (B) or (D) of subsection (a)(2), the Secretary of Defense shall be responsible for designating the period during which duty in the area will qualify members for special pay under this section. The effective date designated for the commencement of such a period may be a date occurring before, on, or after the actual date on which the Secretary makes the designation. If the commencement date for such a period is a date occurring before the date on which the Secretary makes the designation, the payment of special pay under this section for the period between the commencement date and the date on which the Secretary made the designation shall be subject to the availability of appropriated funds for that purpose.".

SEC. 624. INCREASE IN MAXIMUM BONUS AMOUNT FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.

Section 312(a) of title 37, United States Code, is amended by striking "$25,000" and inserting "$30,000".

SEC. 625. INCREASE IN MAXIMUM AMOUNT OF NUCLEAR CAREER ANNUAL INCENTIVE BONUS FOR NUCLEAR-QUALIFIED OFFICERS TRAINED WHILE SERVING AS ENLISTED MEMBERS.

Section 312c(b)(1) of title 37, United States Code, is amended by striking "$10,000" and inserting "14,000".

SEC. 626. UNIFORM PAYMENT OF FOREIGN LANGUAGE PROFICIENCY PAY TO ELIGIBLE RESERVE COMPONENT MEMBERS AND REGULAR COMPONENT MEMBERS.

(a) Availability of Bonus in Lieu of Monthly Special Pay.—Subsection (a) of section 316 of title 37, United States Code, is amended—

(1) by striking "monthly special pay" and inserting "a bonus"; and

(2) by striking "is entitled to basic pay under section 204 of this title and who".

(b) Payment of Bonus.—Such section is further amended—

(1) by striking subsections (b), (d), (e), and (g);

(2) by redesignating subsections (f) and (h) as subsections (d) and (f) respectively;

(3) by inserting after subsection (a) the following new subsection (b):

"(b) Bonus Amount; Time for Payment.—A bonus under subsection (a) may not exceed $12,000 per one-year certification period. The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period. The bonus is in addition to any other pay or allowance payable to a member under any other provision of law.".

(c) Conforming Amendments.—Such section is further amended—

(1) in subsection (c)—

(A) by striking "special pay or" both places it appears; and

(B) by striking "or (b)";

(2) in subsection (d), as redesignated by subsection (b)(2)—

(A) in paragraph (1)—

(i) by striking "monthly special pay or" in the matter preceding subparagraph (A); and

(ii) in subparagraph (C), by striking "for receipt" and all that follows through the period at the end and inserting "under subsection (a)";

(B) in paragraph (2), by striking "For purposes" and all that follows through "the Secretary concerned" and inserting "The Secretary concerned";

(C) in paragraph (3)—

(i) by striking "special pay or" both places it appears; and

(ii) by striking "subsection (h)" and inserting "subsection (f)"; and

(D) in paragraph (4), by striking "subsection (g)" and inserting "section 303a(e) of this title"; and

(3) by inserting after such subsection (d) the following new subsection (e):

"(e) Repayment.—A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall be subject to the repayment provisions of section 303a(e) of this title.".

(d) Clerical Amendments.—

(1) Section heading.—The heading of such section is amended to read as follows:

"§316. Special pay: bonus for members with foreign language proficiency".

(2) Table of sections.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316 and inserting the following new item:

"316: Special pay: bonus for members with foreign language proficiency.".

SEC. 627. RETENTION BONUS FOR MEMBERS QUALIFIED IN CERTAIN CRITICAL SKILLS OR SATISFYING OTHER ELIGIBILITY CRITERIA.

(a) Availability of Bonus for Reserve Component Members.—Section 323 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "who is serving on active duty and" and inserting "who is serving on active duty in a regular component or in an active status in a reserve component and who";

(B) in paragraph (1), by inserting "or to remain in an active status in a reserve component for at least one year" before the semicolon; and

(C) in paragraph (3), by inserting "or to remain in an active status in a reserve component for a period of at least one year" before the period; and

(2) in subsection (e)(1), by inserting "or service in an active status in a reserve component" after "active duty" each place it appears.

(b) Additional Criteria for Bonus.—Such section is further amended—

(1) in subsection (a), by striking "designated critical military skill" and inserting "critical military skill designated under subsection (b) or satisfies such other eligibility criteria established under such subsection";

(2) in subsection (b)—

(A) by striking "Designation of Critical Skills.—" and inserting "Eligibility Criteria.—(1)"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may establish such other criteria as the Secretary considers appropriate under which a retention bonus will be provided to a member of the armed forces under subsection (a)."; and

(3) in subsection (h)(1), by striking "members qualified in the critical military skills for which the bonuses were offered" and inserting "members of the armed forces who were offered a bonus under this section".

(c) Extended Eligibility Period for Certain Members.—Subsection (e) of such section is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) The limitations in paragraph (1) do not apply with respect to an officer who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered, is assigned duties as a health care professional.

"(3) The limitations in paragraph (1) do not apply with respect to a member who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered—

"(A) is qualified in a skill designated as critical under subsection (b)(1) related to special operations forces; or

"(B) is qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.".

(d) Repayment Requirements.—Subsection (g) of such section is amended to read as follows:

"(g) Repayment.—A member paid a bonus under this section who fails, during the period of service covered by the member's agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in the critical military skill or to satisfy the other eligibility criteria for which the bonus was paid shall be subject to the repayment provisions of section 303a(e) of this title.".

(e) Clerical Amendments.—

(1) Section heading.—The heading of section 323 of such title is amended to read as follows:

"§323. Special pay: retention incentives for members qualified in a critical military skill or who satisfy other eligibility criteria".

(2) Table of sections.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 323 and inserting the following new item:

"323. Special pay: retention incentives for members qualified in a critical military skill or who satisfy other eligibility criteria.".

(f) Effective Date.—Section 323(a) of title 37, United States Code, as amended by this section, shall apply to agreements, reenlistments, and the voluntary extension of enlistments referred to in subsection (a) of such section entered into on or after October 1, 2005.

SEC. 628. AVAILABILITY OF CRITICAL-SKILLS ACCESSION BONUS FOR PERSONS ENROLLED IN SENIOR RESERVE OFFICERS' TRAINING CORPS WHO ARE OBTAINING NURSING DEGREES.

(a) Authority to Provide Bonus.—Section 324 of title 37, United States Code, as amended by section 614(f) of this Act, is further amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) Nurse Candidates in Senior Reserve Officers' Training Corps.—(1) A person enrolled in the Senior Reserve Officers' Training Corps program of the Army for advanced training under chapter 103 of title 10, including a person receiving financial assistance under section 2107 of such title, may receive an accession bonus under this section if the person—

"(A) has completed the second year of an accredited baccalaureate degree program in nursing; and

"(B) executes an agreement under this section to serve on active duty as a commissioned officer in the Army Nurse Corps.

"(2) Notwithstanding subsection (c), the amount of the accession bonus paid to a person described in paragraph (1) may not exceed $5,000. ".

(b) Retroactive Application to Existing Agreements.—Subsection (f) of section 324 of title 37, United States Code, as added by subsection (a), shall apply with respect to agreements referred to in paragraph (1)(B) of such subsection executed on or after October 5, 2004.

Subtitle C—Travel and Transportation Allowances

SEC. 641. AUTHORIZED ABSENCES OF MEMBERS FOR WHICH LODGING EXPENSES AT TEMPORARY DUTY LOCATION MAY BE PAID.

(a) Absences Covered by Allowance.—Section 404b of title 37, United States Code, is amended—

(1) in subsection (a), by striking "while the member is in an authorized leave status" and inserting "during an authorized absence of the member from the temporary duty location";

(2) in subsection (b)—

(A) in paragraph (1), by striking "taking the authorized leave" and inserting "the authorized absence"; and

(B) in paragraph (3), by striking "immediately after completing the authorized leave" and inserting "before the end of the authorized absence";

(3) in subsection (c), by striking "while the member was in an authorized leave status" and inserting "during the authorized absence of the member"; and

(4) by adding at the end the following new subsection:

"(d) Authorized Absence Defined.—In this section, the term 'authorized absence', with respect to a member, means that the member is in an authorized leave status or that the absence of the member is otherwise authorized by the commander of the member.".

(b) Clerical Amendments.—

(1) Section heading.—The heading of such section is amended to read as follows:

"§404b. Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member".

(2) Table of sections.—The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to section 404b and inserting the following new item:

"404b. Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member.".

SEC. 642. EXTENDED PERIOD FOR SELECTION OF HOME FOR TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS OF DECEASED MEMBER.

(a) Death of Member Entitled to Basic Pay.—Subsection (f) section 406 of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(f)";

(2) by striking "he" and inserting "the member"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary concerned shall give the dependents of a member described in paragraph (1) a period of not less than three years, beginning on the date of the death of the member, during which to select a home for the purposes of the travel and transportation allowances authorized by this section.".

(b) Certain Other Deceased Members.—Subsection (g)(3) of such section is amended in the first sentence—

(1) by striking "he exercises it" and inserting "the member exercises the right or entitlement";

(2) by striking "his baggage and household effects" and inserting "the baggage and household effects of the deceased member"; and

(3) by striking "his surviving dependents or, if" and inserting "the surviving dependents at any time before the end of the three-year period beginning on the date on which the member accrued that right or benefit. If".

SEC. 643. TRANSPORTATION OF FAMILY MEMBERS INCIDENT TO REPATRIATION OF MEMBERS HELD CAPTIVE.

(a) ALLOWANCES AUTHORIZED.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411i the following new section:

"§ 411j. Travel and transportation allowances: transportation of family members incident to repatriation of members held captive

"(a) ALLOWANCES AUTHORIZED.—(1) The Secretary concerned may provide the travel and transportation allowances described in subsection (c) to not more than three family members of a member of the uniformed services who—

"(A) is serving on active duty;

"(B) was officially carried or determined to be absent in a missing status (as defined in section 551 of this title); and

"(C) is repatriated to a site in or outside the United States.

"(2) In circumstances determined to be appropriate by the Secretary concerned, the Secretary may waive the limitation on the number of family members of a member provided travel and transportation allowances under this section.

"(b) ELIGIBLE PERSONS.—(1) In this section, the term 'family member' has the meaning given that term in section 411h(b) of this title.

"(2) The Secretary concerned may also provide the travel and transportation allowances to an attendant who accompanies a family member if the Secretary determines that—

"(A) the family member is unable to travel unattended because of age, physical condition, or other justifiable reason; and

"(B) no other family member who is receiving the allowances under this section is able to serve as an attendant for the family member.

"(3) If no family member is able to travel to the repatriation site, the Secretary concerned may provide the travel and transportation allowances to not more than two persons who are related to the member (but who do not satisfy the definition of family member) and are selected by the member.

"(c) ALLOWANCES DESCRIBED.—(1) The transportation authorized by subsection (a) is round-trip transportation between—

"(A) the home of the family member (or the home of an attendant or other person provided transportation pursuant to paragraph (2) or (3) of subsection (b)); and

"(B) the location of the repatriation site or other location determined to be appropriate by the Secretary concerned.

"(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of this title.

"(d) PROVISION OF ALLOWANCES.—(1) The transportation authorized by subsection (a) may be provided by any of the following means:

"(A) Transportation in-kind.

"(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned.

"(C) Reimbursement for the commercial cost of transportation.

"(2) An allowance payable under this subsection may be paid in advance.

"(3) Reimbursement payable under this subsection may not exceed the cost of government-procured commercial round-trip air travel.

"(e) REGULATIONS.—The Secretaries concerned shall prescribe uniform regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 411i the following new item:

"411j. Travel and transportation allowances: transportation of family members incident to repatriation of members held captive.".

SEC. 644. INCREASED WEIGHT ALLOWANCES FOR SHIPMENT OF HOUSEHOLD GOODS OF SENIOR NONCOMMISSIONED OFFICERS.

(a) INCREASE.—The table in section 406(b)(1)(C) of title 37, United States Code, is amended by striking the items relating to pay grades E–7 through E–9 and inserting the following new items:

"E–9	13,000	15,000
E–8	12,000	14,000
E–7	11,000	13,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006, and apply with respect to an order in connection with a change of temporary or permanent station issued on or after that date.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 651. MONTHLY DISBURSEMENT TO STATES OF STATE INCOME TAX WITHHELD FROM RETIRED OR RETAINER PAY.

Section 1045(a) of title 10, United States Code, is amended in the third sentence—

(1) by striking "quarter" the first place it appears and inserting "month"; and

(2) by striking "during the month following that calendar quarter" and inserting "during the following calendar month".

SEC. 652. REVISION TO ELIGIBILITY FOR NON-REGULAR SERVICE RETIREMENT AFTER ESTABLISHING ELIGIBILITY FOR REGULAR RETIREMENT.

(a) REVISION TO ALLOW CONTINUATION IN ACTIVE STATUS.—Subsection (a) of section 12741 of title 10, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "becoming entitled to" and inserting "having met the requirements for"; and

(2) in paragraph (3), by striking "become entitled to" and inserting "met the requirements for".

(b) CONFORMING AMENDMENT.—Subsection (b)(1) of such section is amended by striking "entitlement to" and inserting "eligibility for".

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 12741. Retirement from active reserve service performed after becoming eligible for regular retirement".

(2) TABLE OF SECTIONS.—The item relating to section 12741 in the table of sections at the beginning of chapter 1223 of such title is amended to read as follows:

"12741. Retirement from active reserve service performed after becoming eligible for regular retirement.".

SEC. 653. DENIAL OF MILITARY FUNERAL HONORS IN CERTAIN CASES.

(a) ADDITIONAL CIRCUMSTANCES FOR DENIAL OF FUNERAL HONORS.—Subsection (a) of section 985 of title 10, United States Code, is amended—

(1) by inserting "(under section 1491 of this title or any other authority)" after "military honors".

(2) by striking "a person" and all that follows and inserting "any of the following persons:

"(1) A person who has been convicted of a capital offense under Federal or State law for which the person was sentenced to death or life imprisonment without parole.

"(2) A person not covered by paragraph (1) who is ineligible for interment in Arlington National Cemetery or a national cemetery under the control of the National Cemetery Administration by reason of section 2411(b) of title 38.

"(3) A person who is a veteran (as defined in section 1491(h) of this title) or who died while on active duty or a member of a reserve component, when the circumstances surrounding the person's death or other circumstances as specified by the Secretary of Defense are such that to provide military honors at the funeral or burial of the person would bring discredit upon the person's service (or former service).".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 985. Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits".

(2) TABLE OF SECTIONS.—The item relating to section 985 in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

"985. Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits.".

(c) CROSS-REFERENCE AMENDMENT.—Section 1491(a) of such title is amended by inserting before the period at the end the following: ", except when military honors are prohibited under section 985(a) of this title".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funerals and burials that occur on or after the date of the enactment of this Act.

SEC. 654. CHILD SUPPORT FOR CERTAIN MINOR CHILDREN OF RETIREMENT-ELIGIBLE MEMBERS CONVICTED OF DOMESTIC VIOLENCE RESULTING IN DEATH OF CHILD'S OTHER PARENT.

(a) AUTHORITY FOR COURT-ORDERED PAYMENTS.—Section 1408(h) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end of such paragraph the following:

"(B) If, in the case of a member or former member of the armed forces referred to in paragraph (2)(A), a court order provides for the payment as child support of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible dependent child of the member or former member, the Secretary concerned, beginning upon effective service of such court order, shall pay that amount in accordance with this subsection to such dependent child.";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ", or a dependent child," after "former spouse";

(B) in subparagraph (B)—

(i) by inserting "in the case of eligibility of a spouse or former spouse under paragraph (1)(A)," after "(B)"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) in the case of eligibility of a dependent child under paragraph (1)(B), the other parent of the child died as a result of the misconduct that resulted in the termination of retired pay.";

(3) in paragraph (4), by inserting ", or an eligible dependent child," after "former spouse";

(4) in paragraph (5), by inserting ", or the dependent child," after "former spouse"; and

(5) in paragraph (6), by inserting ", or to a dependent child," after "former spouse".

(b) EFFECTIVE DATE.—A court order authorized by the amendments made by this section may not provide for a payment attributable to any period before October 1, 2005, or the date of the court order, whichever is later.

SEC. 655. CONCURRENT RECEIPT OF VETERANS DISABILITY COMPENSATION AND MILITARY RETIRED PAY.

Section 1414(a) of title 10, United States Code, is amended by inserting before the period at the *end the following: ", and in the case of a qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on September 30, 2009".*

SEC. 656. MILITARY SURVIVOR BENEFIT PLAN BENEFICIARIES UNDER INSURABLE INTEREST COVERAGE.

(a) AUTHORITY TO ELECT NEW BENEFICIARY.—Section 1448(b)(1) of title 10, United States Code, is amended—

(1) by inserting "or under subparagraph (G) of this paragraph" in the second sentence of subparagraph (E) before the period at the end; and

(2) by adding at the end the following new subparagraph:

"(G) ELECTION OF NEW BENEFICIARY UPON DEATH OF PREVIOUS BENEFICIARY.—

"(i) AUTHORITY FOR ELECTION.—If the reason for discontinuation in the Plan is the death of the beneficiary, the participant in the Plan may elect a new beneficiary. Any such beneficiary must be a natural person with an insurable interest in the participant. Such an election may be made only during the 180-day period beginning on the date of the death of the previous beneficiary.

"(ii) PROCEDURES.—Such an election shall be in writing, signed by the participant, and made in such form and manner as the Secretary concerned may prescribe. Such an election shall be effective the first day of the first month following the month in which the election is received by the Secretary.

"(iii) VITIATION OF ELECTION BY PARTICIPANT WHO DIES WITHIN TWO YEARS OF ELECTION.—If a person providing an annuity under a election under clause (i) dies before the end of the two-year period beginning on the effective date of the election—

"(I) the election is vitiated; and

"(II) the amount by which the person's retired pay was reduced under section 1452 of this title that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the vitiated election if the deceased person had died after the end of such two-year period.".

(b) CHANGE IN PREMIUM FOR COVERAGE OF NEW BENEFICIARY.—Section 1452(c) of such title is amended by adding at the end the following new paragraph:

"(5) RULE FOR DESIGNATION OF NEW INSURABLE INTEREST BENEFICIARY FOLLOWING DEATH OF ORIGINAL BENEFICIARY.—The Secretary of Defense shall prescribe in regulations premiums which a participant making an election under section 1448(b)(1)(G) of this title shall be required to pay for participating in the Plan pursuant to that election. The total amount of the premiums to be paid by a participant under the regulations shall be equal to the sum of the following:

"(A) The total additional amount by which the retired pay of the participant would have been reduced before the effective date of the election if the original beneficiary (i) had not died and had been covered under the Plan through the date of the election, and (ii) had been the same number of years younger than the participant (if any) as the new beneficiary designated under the election.

"(B) Interest on the amounts by which the retired pay of the participant would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable.

"(C) Any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.".

(c) TRANSITION.—

(1) TRANSITION PERIOD.—In the case of a participant in the Survivor Benefit Plan who made a covered insurable-interest election (as defined in paragraph (2)) and whose designated beneficiary under that election dies before the date of the enactment of this Act or during the 18-month period beginning on such date, the time period applicable for purposes of the limitation in the third sentence of subparagraph (G)(i) of section 1448(b)(1) of title 10, United States Code, as added by subsection (a), shall be the two-year period beginning on the date of the enactment of this Act (rather than the 180-day period specified in that sentence).

(2) COVERED INSURABLE-INTEREST ELECTIONS.—For purposes of paragraph (1), a covered insurable-interest election is an election under section 1448(b)(1) of title 10, United States Code, made before the date of the enactment of this Act, or during the 18-month period beginning on such date, by a participant in the Survivor Benefit Plan to provide an annuity under that plan to a natural person with an insurable interest in that person.

(3) SURVIVOR BENEFIT PLAN.—For purposes of this subsection, the term "Survivor Benefit Plan" means the program under subchapter II of chapter 73 of title 10, United States Code.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

SEC. 661. INCREASE IN AUTHORIZED LEVEL OF SUPPLIES AND SERVICES PROCUREMENT FROM OVERSEAS EXCHANGE STORES.

Subsection 2424(b) of title 10, United States Code, is amended by striking "$50,000" and inserting "$100,000".

SEC. 662. REQUIREMENTS FOR PRIVATE OPERATION OF COMMISSARY STORE FUNCTIONS.

Section 2485(a)(2) of title 10, United States Code, is amended by adding at the end the following new sentence: "Until December 31, 2010, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A-76 relating to the possible contracting out of commissary store functions.".

SEC. 663. PROVISION OF INFORMATION TECHNOLOGY SERVICES FOR ACCOMMODATIONS PROVIDED BY NONAPPROPRIATED FUND INSTRUMENTALITIES FOR WOUNDED MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) AUTHORITY TO PROVIDE SERVICES.—Section 2494 of title 10, United States Code, is amended—

(1) by inserting "(a) UTILITY SERVICES.—" before "Appropriations"; and

(2) by adding at the end the following new subsection:

"(b) INFORMATION TECHNOLOGY SERVICES.—Appropriations for the Department of Defense may be used to provide information technology services, including equipment and access to the internet, for—

"(1) Fisher Houses and Fisher Suites associated with health care facilities of a military department; and

"(2) other accommodations made available by a nonappropriated fund instrumentality of the Department of Defense to members of the Armed Forces recovering from a wound or injury or to dependents of such members.".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§2494. Nonappropriated fund instrumentalities: furnishing certain services for morale, welfare, and recreation purposes".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter III of chapter 147 of such title is amended by striking the item relating to section 2494 and inserting the following new item:

"2494. Nonappropriated fund instrumentalities: furnishing certain services for morale, welfare, and recreation purposes.".

SEC. 664. PROVISION OF AND PAYMENT FOR OVERSEAS TRANSPORTATION SERVICES FOR COMMISSARY AND EXCHANGE SUPPLIES.

Section 2643 of title 10, United States Code, is amended—

(1) by inserting "(a) TRANSPORTATION OPTIONS.—" before "The Secretary";

(2) in the first sentence, by striking "by sea without relying on the Military Sealift Command" and inserting "to destinations outside the continental United States without relying on the Air Mobility Command, the Military Sealift Command";

(3) in the second sentence, by striking "transportation contracts" and inserting "contracts for sea-borne transportation"; and

(4) by adding at the end the following new subsection:

"(b) PAYMENT OF TRANSPORTATION COSTS.—Section 2483(b)(5) of this title, regarding the use of appropriated funds to cover the expenses of operating commissary stores, shall apply to the transportation of commissary supplies. Appropriated funds for the Department of Defense shall also be used to cover the expenses of transporting exchange supplies to destinations outside the continental United States.".

SEC. 665. COMPENSATORY TIME OFF FOR CERTAIN NONAPPROPRIATED FUND EMPLOYEES.

Section 5543 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The appropriate Secretary may, on request of an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), grant such employee compensatory time off from duty instead of overtime pay for overtime work.

"(2) For purposes of this subsection, the term 'appropriate Secretary' means—

"(A) with respect to an employee of a nonappropriated fund instrumentality of the Department of Defense, the Secretary of Defense; and

"(B) with respect to an employee of a nonappropriated fund instrumentality of the Coast Guard, the Secretary of the Executive department in which it is operating.".

Subtitle F—Other Matters

SEC. 671. INCLUSION OF SENIOR ENLISTED ADVISOR FOR THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AMONG SENIOR ENLISTED MEMBERS OF THE ARMED FORCES.

(a) BASIC PAY RATE.—

(1) EQUAL TREATMENT.—The rate of basic pay for an enlisted member in the grade E–9 while serving as Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff shall be the same as the rate of basic pay for an enlisted member in that grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply beginning on the date on which an enlisted member of the Armed Forces is first appointed to serve as Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.

(b) PAY DURING TERMINAL LEAVE OR WHILE HOSPITALIZED.—Section 210(c) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(6) The Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.".

(c) PERSONAL MONEY ALLOWANCE.—Section 414(c) of such title is amended—

(1) by striking "or" after "Sergeant Major of the Marine Corps,"; and

(2) by inserting before the period at the end the following: ", or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff".

(d) RETIRED PAY BASE.—Section 1406(i)(3)(B) of title 10, United States Code, is amended by adding at the end the following new clause:

"(vi) Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.".

SEC. 672. SPECIAL AND INCENTIVE PAYS CONSIDERED FOR SAVED PAY UPON APPOINTMENT OF MEMBERS AS OFFICERS.

(a) INCLUSION AND EXCLUSION OF CERTAIN PAY TYPES.—Subsection (d) of section 907 of title 37, United States Code, is amended to read as follows:

"(d)(1) In determining the amount of the pay and allowances of a grade formerly held by an officer, the following special and incentive pays may be considered only so long as the officer continues to perform the duty that creates the entitlement to, or eligibility for, that pay and would otherwise be eligible to receive that pay in the former grade:

"(A) Incentive pay for hazardous duty under section 301 of this title.

"(B) Submarine duty incentive pay under section 301c of this title.

"(C) Special pay for diving duty under section 304 of this title.

"(D) Hardship duty pay under section 305 of this title.

"(E) Career sea pay under section 305a of this title.

"(F) Special pay for service as a member of a Weapons of Mass Destruction Civil Support Team under section 305b of this title.

"(G) Assignment incentive pay under section 307a of this title.

"(H) Special pay for duty subject to hostile fire or imminent danger under section 310 of this title.

"(I) Special pay or bonus for an extension of duty at a designated overseas location under section 314 of this title.

"(J) Foreign language proficiency pay under section 316 of this title.

"(K) Critical skill retention bonus under section 323 of this title.

"(2) The following special and incentive pays are dependent on a member being in an enlisted status and may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer:

"(A) Special duty assignment pay under section 307 of this title.

"(B) Reenlistment bonus under section 308 of this title.

"(C) Enlistment bonus under section 309 of this title.

"(D) Reenlistment bonus for nuclear-trained and qualified enlisted members under section 312a of this title.

"(E) Career enlisted flyer incentive pay under section 320 of this title.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsections (a) and (b)—

(A) by striking "he" each place it appears and inserting "the officer"; and

(B) by striking "his appointment" each place it appears and inserting "the appointment";

(2) in subsection (c)(2), by striking "he" and inserting "the officer".

SEC. 673. REPAYMENT OF UNEARNED PORTION OF BONUSES, SPECIAL PAYS, AND EDUCATIONAL BENEFITS.

(a) REPAYMENT OF UNEARNED PORTION OF BONUSES AND OTHER BENEFITS.—

(1) UNIFORM REPAYMENT PROVISION.—Section 303a of title 37, United States Code, is amended by adding at the end the following new subsection:

"(e) REPAYMENT OF UNEARNED PORTION OF BONUSES AND OTHER BENEFITS WHEN CONDITIONS OF PAYMENT NOT MET.—(1) A member of the uniformed services who receives a bonus or similar benefit and whose receipt of the bonus or similar benefit is subject to the condition that the member continue to satisfy certain eligibility requirements shall repay to the United States an amount equal to the unearned portion of the bonus or similar benefit if the member fails to satisfy the requirements, except in certain circumstances authorized by the Secretary concerned.

"(2) The Secretary concerned may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to the required repayment may be granted. The Secretary concerned may specify in the regulations the conditions under which an installment payment of a bonus or similar benefit to be paid to a member of the uniformed services will not be made if the member no longer satifies the eligibility requirements for the bonus or similar benefit. For the military departments, this subsection shall be administered under regulations prescribed by the Secretary of Defense.

"(3) An obligation to repay the United States under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after—

"(A) the date of the termination of the agreement or contract on which the debt is based; or

"(B) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

"(4) In this subsection:

"(A) The term 'bonus or similar benefit' means a bonus, incentive pay, special pay, or similar payment, or an educational benefit or stipend, paid to a member of the uniformed services under a provision of law that refers to the repayment requirements of this subsection.

"(B) The term 'service', as used in paragraph (3)(B), refers to an obligation willingly undertaken by a member of the uniformed services, in exchange for a bonus or similar benefit offered by the Secretary of Defense or the Secretary concerned—

"(i) to remain on active duty or in an active status in a reserve component;

"(ii) to perform duty in a specified skill, with or without a specified qualification or credential;

"(iii) to perform duty at a specified location; or

"(iv) to perform duty for a specified period of time.".

(2) APPLICABILITY TO TITLE 11 CASES.—In the case of a provision of law amended by subsection (b), (c), or (d) of this section, paragraph (3) of subsection (a) of section 303a of title 37, United States Code, as added by this subsection, shall apply to any case commenced under title 11 after March 30, 2006.

(b) CONFORMING AMENDMENTS TO TITLE 37.—

(1) AVIATION CAREER OFFICER RETENTION BONUS.—Subsection (g) of section 301b of title 37, United States Code, is amended to read as follows:

"(g) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(2) MEDICAL OFFICER MULTIYEAR RETENTION BONUS.—Subsection (c) of section 301d of such title is amended to read as follows:

"(c) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(3) DENTAL OFFICER MULTIYEAR RETENTION BONUS.—Subsection (d) of section 301e of such title is amended to read as follows:

"(d) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(4) MEDICAL OFFICER SPECIAL PAY.—Section 302 of such title is amended—

(A) in subsection (c)(2), by striking the last sentence and inserting the following new sentence: "If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title."; and

(B) by striking subsection (f) and inserting the following new subsection:

"(f) REPAYMENT.—An officer who does not complete the period for which the payment was made under subsection (a)(4) or subsection (b)(1) shall be subject to the repayment provisions of section 303a(e) of this title.".

(5) OPTOMETRIST RETENTION SPECIAL PAY.—Paragraph (4) of section 302a(b) of such title is amended to read as follows:

"(4) The Secretary concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). An officer who does not complete the period for which the payment was made under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.".

(6) DENTAL OFFICER SPECIAL PAY.—Section 302b of such title is amended—

(A) in subsection (b)(2), by striking the second sentence;

(B) by striking subsection (e) and inserting the following new subsection:

"(e) REPAYMENT.—An officer who does not complete the period of active duty for which the payment was made under subsection (a)(4) shall be subject to the repayment provisions of section 303a(e) of this title.";

(C) by striking subsection (f); and

(D) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(7) ACCESSION BONUS FOR REGISTERED NURSES.—Subsection (d) of section 302d of such title is amended to read as follows:

"(d) An officer who does not become and remain licensed as a registered nurse during the period for which the payment is made, or who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(8) NURSE ANESTHETIST SPECIAL PAY.—Section 302e of such title is amended—

(A) in subsection (c), by striking the last sentence; and

(B) by striking subsection (e) and inserting the following new subsection:

"(e) An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(9) RESERVE, RECALLED OR RETAINED HEALTH CARE OFFICERS SPECIAL PAY.—Subsection (c) of

section 302j of such title is amended by striking "refund" and inserting "repay.".

(10) SELECTED RESERVE HEALTH CARE PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES SPECIAL PAY.—Section 302g of such title is amended—

(A) by striking subsections (d) and (e);

(B) by inserting after subsection (c) the following new subsection (d):

"(d) REPAYMENT.—An officer who does not complete the period of service in the Selected Reserve specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title."; and

(C) by redesignating subsection (f) as subsection (e).

(11) ACCESSION BONUS FOR DENTAL OFFICERS.—Subsection (d) of section 302h of such title is amended to read as follows:

"(d) A person after signing a written agreement who thereafter is not commissioned as an officer of the armed forces, or does not become licensed as a dentist, or does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(12) ACCESSION BONUS FOR PHARMACY OFFICERS.—Subsection (e) of section 302j of such title is amended to read as follows:

"(e) A person after signing a written agreement who thereafter is not commissioned as an officer of the armed forces, or does not become and remain certified or licensed as a pharmacist, or does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(13) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Subsection (d) of section 308 of such title is amended to read as follows:

"(d) REPAYMENT.—A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.".

(14) REENLISTMENT BONUS FOR SELECTED RESERVE.—Subsection (d) of section 308b of such title is amended to read as follows:

"(d) A member who does not complete the term of enlistment in the element of the Selected Reserve for which the bonus was paid to the member under this section shall be subject to the repayment provisions of section 303a(e) of this title.".

(15) READY RESERVE ENLISTMENT BONUS.—Section 308g of such title is amended—

(A) by striking subsection (d) and inserting the following new subsection:

"(d) REPAYMENT.—A person who does not serve satisfactorily in the element of the Ready Reserve in the combat or combat support skill for the period for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title.";

(B) by striking subsections (e) and (f); and

(C) by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(16) READY RESERVE REENLISTMENT, ENLISTMENT, AND VOLUNTARY EXTENSION OF ENLISTMENT BONUS.—Section 308h of such title is amended—

(A) by striking subsection (c) and inserting the following new subsection:

"(c) REPAYMENT.—A person who does not complete the period of enlistment or extension of enlistment for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title.";

(B) by striking subsections (d) and (e); and

(C) by redesignating subsections (f) and (g) as subsections (d) and (e), respectively.

(17) PRIOR SERVICE ENLISTMENT BONUS.—Subsection (d) of section 308i of such title is amended to read as follows:

"(d) A person who receives a bonus payment under this section and who, during the period for which the bonus was paid, does not serve satisfactorily in the element of the Selected Reserve with respect to which the bonus was paid shall be subject to the repayment provisions of section 303a(e) of this title.".

(18) ENLISTMENT BONUS.—Subsection (b) of section 309 of such title is amended to read as follows:

"(b) A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.".

(19) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING ACTIVE DUTY.—Subsection (b) of section 312 of such title is amended to read as follows:

"(b) REPAYMENT.—An officer who does not complete the period of active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants that the officer agreed to serve, and for which a payment was made under subsection (a)(3) or subsection (d)(1), shall be subject to the repayment provisions of section 303a(e) of this title.".

(20) NUCLEAR CAREER ACCESSION BONUS.—Paragraph (2) of section 312b(a) of such title is amended to read as follows:

"(2) An officer who does not commence or complete satisfactorily the nuclear power training specified in the agreement under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.".

(21) ENLISTED MEMBERS EXTENDING DUTY AT DESIGNATED LOCATIONS OVERSEAS.—Subsection (d) of section 314 of such title is amended to read as follows:

"(d) A member who, having entered into a written agreement to extend a tour of duty for a period under subsection (a), receives a bonus payment under subsection (b)(2) for a 12-month period covered by the agreement and ceases during that 12-month period to perform the agreed tour of duty shall be subject to the repayment provisions of section 303a(e) of this title.".

(22) ENGINEERING AND SCIENTIFIC CAREER CONTINUATION PAY.—Subsection (c) of section 315 of such title is amended to read as follows:

"(c) An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(23) CRITICAL ACQUISITION POSITIONS.—Subsection (f) of section 317 of such title is amended to read as follows:

"(c) An officer who, having entered into a written agreement under subsection (a) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(24) SPECIAL WARFARE OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.—Subsection (h) of section 318 of such title is amended to read as follows:

"(h) An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty in special warfare service as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(25) SURFACE WARFARE OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.—Subsection (f) of section 319 of such title is amended to read as follows:

"(f) An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as a department head on a surface vessel specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.".

(26) JUDGE ADVOCATE CONTINUATION PAY.—Subsection (f) of section 321 of such title is amended to read as follows:

"(f) An officer who has entered into a written agreement under subsection (b) and has received all or part of the amount payable under the agreement but who does not complete the total period of active duty specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.".

(27) 15-YEAR CAREER STATUS BONUS.—Subsection (f) of section 322 of such title is amended to read as follows:

"(f) If a person paid a bonus under this section does not complete a period of active duty beginning on the date on which the election of the person under paragraph (1) of subsection (a) is received and ending on the date on which the person completes 20 years of active duty service as described in paragraph (2) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) of this title.".

(28) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Subsection (g) of section 324 of such title, as redesignated by section 628(a)(1), is amended to read as follows:

"(g) REPAYMENT.—An individual who, having received all or part of the bonus under an agreement referred to in subsection (a), is not thereafter commissioned as an officer or does not commence or does not complete the total period of active duty service specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.".

(29) SAVINGS PLAN FOR EDUCATION EXPENSES AND OTHER CONTINGENCIES.—Subsection (g) of section 325 of such title is amended to read as follows:

"(g) REPAYMENT.—If a person does not complete the qualifying service for which the person is obligated under a commitment for which a benefit has been paid under this section, the person shall be subject to the repayment provisions of section 303a(e) of this title.".

(30) INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY.—Subsection (e) of section 326 of such title is amended to read as follows:

"(e) REPAYMENT.—A member who does not convert to and complete the period of service in the military occupational specialty specified in the agreement executed under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.".

(c) CONFORMING AMENDMENTS TO TITLE 10.—

(1) ENLISTMENT INCENTIVES FOR PURSUIT OF SKILLS TO FACILITATE NATIONAL SERVICE.—Subsection (i) of section 510 of title 10, United States Code, is amended to read as follows:

"(i) If a National Call to Service participant who has entered into an agreement under subsection (b) and received or benefitted from an incentive under paragraph (1) or (2) of subsection (e) fails to complete the total period of service specified in such agreement, the National Call to Service participant shall be subject to the repayment provisions of section 303a(e) of title 37.".

(2) ADVANCED EDUCATION ASSISTANCE.—Section 2005 of such title is amended—

(A) in subsection (a), by striking paragraph (3) and inserting the following new paragraph:

"(3) that if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed pursuant to paragraph (4), such person shall be subject to the repayment provisions of section 303a(e) of title 37.";

(B) by striking subsections (c), (d), (f), (g) and (h);

(C) by redesignating subsection (e) as subsection (c); and

(D) by inserting after subsection (c), as so redesignated, the following new subsection:

"(d) As a condition of the Secretary concerned providing financial assistance under section 2107 or 2107a of this title to any person, the Secretary concerned shall require that the person enter into the agreement described in subsection (a). In addition to the requirements of paragraphs (1) through (4) of such subsections (a), the agreement shall specify that, if the person does not complete the education requirements specified in the agreement or does not fulfill any term or condition prescribed pursuant to paragraph (4) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) of title 37 without the Secretary first ordering such person to active duty as provided for under subsection (a)(2) and sections 2107(f) and 2107a(f) of this title.".

(3) TUITION FOR OFF-DUTY TRAINING OR EDUCATION.—Section 2007 of such title is amended by adding at the end the following new subsection:

"(f) REPAYMENT.—If such person does not complete the period of active duty specified in the agreement under subsection (b), the person shall be subject to the repayment provisions of section 303a(e) of title 37.".

(4) FAILURE TO COMPLETE ADVANCED TRAINING OR TO ACCEPT COMMISSION.—Section 2105 of such title is amended—

(A) by striking "A member" and inserting "(a) A member"; and

(B) by adding at the end the following new subsection:

"(b) If such person does not complete the period of active duty specified under subsection (a), the person shall be subject to the repayment provisions of section 303a(e) of title 37.".

(5) FINANCIAL ASSISTANCE PROGRAM FOR SPECIALLY SELECTED MEMBERS.—Section 2107 of such title is amended by adding at the end the following new subsection:

"(j) REPAYMENT.—A person who, after signing a written agreement under this section, is not commissioned as an officer or does not complete the period of service as specified in subsection (b), (f) or (h)(2) shall be subject to the repayment provisions of section 303a(e) of title 37.".

(6) HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE.—Subparagraph (C) of section 2123(e)(1) of such title is amended to read as follows:

"(C) If such person does not complete the period of active duty obligation specified under subsection (a), such person shall be subject to the repayment provisions of section 303a(e) of title 37.".

(7) FINANCIAL ASSISTANCE: NURSE OFFICER CANDIDATES.—Subsection (d) of section 2130a of such title is amended to read as follows:

"(d) REPAYMENT.—A person who does not complete a nursing degree program in which the person is enrolled in accordance with the agreement entered into under subsection (a), or having completed the nursing degree program, does not become an officer in the Nurse Corps of the Army or the Navy or an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service or does not complete the period of obligated active service required under the agreement, shall be subject to the repayment provisions of section 303a(e) of title 37.".

(8) EDUCATION LOAN REPAYMENT PROGRAM.—Subsection (g) of section 2173 of such title is amended—

(A) by inserting "(1)" after "(g)"; and

(B) by adding at the end the following new paragraph:

"(2) An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a)(3), or the alternative obligation under paragraph (1), shall be subject to the repayment provisions of section 303a(e) of title 37.".

(9) SCHOLARSHIP PROGRAM FOR DEGREE PROGRAM FOR DEGREE OR CERTIFICATION IN INFORMATION ASSURANCE.—Section 2200a of such title is amended—

(A) by striking subsection (e) and inserting the following new subsection:

"(e) REPAYMENT FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—(1) A member of an armed force who does not complete the period of active duty specified in the service agreement under section (b) shall be subject to the repayment provisions of section 303a(e) of title 37.

"(2)(A) A civilian employee of the Department of Defense who voluntarily terminates service before the end of the period of obligated service required under an agreement entered into under subsection (b) shall refund to the United States an amount determined by the Secretary of Defense as being appropriate to obtain adequate service in exchange for financial assistance and otherwise to achieve the goals set forth in section 2200(a) of this title.

"(B) An obligation to reimburse the United States imposed under this paragraph is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under this subsection.

"(C) The Secretary of Defense may waive, in whole or in part a refund required under this paragraph if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.".

(B) by striking subsection (f); and

(C) by redesignating subsection (g) as subsection (f).

(10) ARMY CADET AGREEMENT TO SERVICE AS OFFICER.—Section 4348 of such title is amended by adding at the end the following new subsection:

"(f) A cadet or former cadet who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.".

(11) MIDSHIPMEN AGREEMENT FOR LENGTH OF SERVICE.—Section 6959 of such title is amended by adding at the end the following new subsection:

"(f) A midshipman or former midshipman who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.".

(12) AIR FORCE CADET AGREEMENT TO SERVICE AS OFFICER.—Section 9348 of such title is amended by adding at the end the following new subsection:

"(f) A cadet or former cadet who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.".

(13) EDUCATIONAL ASSISTANCE FOR MEMBERS OF SELECTED RESERVE.—Section 16135 of such title is amended to read as follows:

"§16135. Failure to participate satisfactorily; penalties

"(a) PENALTIES.—At the option of the Secretary concerned, a member of the Selected Reserve of an armed force who does not participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter, and during which the member has received such assistance, may—

"(1) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 16132 of this title, whichever is less; or

"(2) be subject to the repayment provisions under section 303a(e) of title 37.

"(b) EFFECT OF REPAYMENT.—Any repayment under section 303a(e) of title 37 shall not affect the period of obligation of a member to serve as a Reserve in the Selected Reserve.".

(14) HEALTH PROFESSIONS STIPEND PROGRAM PENALTIES AND LIMITATIONS.—Subparagraph (B) of section 16203(a)(1) of such title is amended to read as follows:

"(B) shall be subject to the repayment provisions of section 303a(e) of title 37.".

(15) COLLEGE TUITION ASSISTANCE PROGRAM FOR MARINE CORPS PLATOON LEADERS CLASS.—Subsection (j) of section 16401 of such title is amended—

(A) in paragraph (1), by striking "may be required to repay the full amount of financial assistance" and inserting "shall be subject to the repayment provisions of section 303a(e) of title 37"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Any requirement to repay any portion of financial assistance received under this section shall be administered under Secretary of Defense regulations issued under section 303a(e) of title 37. The Secretary of the Navy may waive the obligations referenced in paragraph (1) in the case of a person who—".

(d) CONFORMING AMENDMENT TO TITLE 14.—Section 182 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(g) A cadet or former cadet who does not fulfill the terms of the obligation to serve as specified under section (b), or the alternative obligation under subsection (c), shall be subject to the repayment provisions of section 303a(e) of title 37.".

(e) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 303a of title 37, United States Code, is amended to read as follows:

"§303a. Special pay: general provisions".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 303a and inserting the following new item:

"303a. Special pay: general provisions.".

(f) CONTINUED APPLICATION OF CURRENT LAW TO EXISTING BONUSES.—In the case of any bonus, incentive pay, special pay, or similar payment, such as education assistance or a stipend, which the United States became obligated to pay before April 1, 2006, under a provision of law amended by subsection (b), (c), or (d) of this section, such provision of law, as in effect on the day before the date of the enactment of this Act, shall continue to apply to the payment, or any repayment, of the bonus, incentive pay, special pay, or similar payment under such provision of law.

SEC. 674. LEAVE ACCRUAL FOR MEMBERS ASSIGNED TO DEPLOYABLE SHIPS OR MOBILE UNITS OR TO OTHER DESIGNATED DUTY.

Subparagraph (B) of section 701(f)(1) of title 10, United States Code, is amended to read as follows:

"(B) This subsection applies to any of the following:

"(i) A member who serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37.

"(ii) A member who is assigned to—

"(I) a deployable ship or mobile unit; or

"(II) other duty that is designated for the purpose of this subsection.".

SEC. 675. ARMY RECRUITING PILOT PROGRAM TO ENCOURAGE MEMBERS OF THE ARMY TO REFER OTHER PERSONS FOR ENLISTMENT.

(a) REFERRAL BONUS AUTHORIZED.—The Secretary of the Army may pay a bonus under this section to a member of the Army who refers, to an Army recruiter, a person who has not previously served in an armed force and who, after such referral, enlists in the Regular Army or the Army Reserve. The referral may occur when a member contacts a recruiter on behalf of an interested person or when the interested person contacts the recruiter and informs the recruiter of the member's role in initially recruiting the person.

(b) AMOUNT OF BONUS; TIME FOR PAYMENT.—A referral bonus under this section may not exceed $1,000 and may not be paid to the member making the referral unless and until the enlistee completes basic training and individual advanced training. The bonus shall be paid in a lump sum.

(c) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10, United States Code.

(d) CERTAIN MEMBERS INELIGIBLE.—

(1) REFERRAL OF IMMEDIATE FAMILY.—A member may not receive a referral bonus under this section for the referral of an immediate family member.

(2) MEMBERS IN RECRUITING ROLES.—A member serving in a recruiting or retention assignment or assigned to other duties regarding which eligibility for a referral bonus could be perceived as creating a conflict of interest may not receive a referral bonus.

(e) LIMITATION ON INITIAL USE OF AUTHORITY.—During the first year in which referral bonuses are offered under this section, the Secretary of the Army may not provide more than 1,000 referral bonuses.

(f) DURATION OF AUTHORITY.—A referral bonus may not be paid under this section with respect to any referral made after December 31, 2007.

SEC. 676. SPECIAL COMPENSATION FOR RESERVE COMPONENT MEMBERS WHO ARE ALSO TOBACCO FARMERS ADVERSELY AFFECTED BY TERMS OF TOBACCO QUOTA BUYOUT.

(a) FINDINGS.—Congress finds the following:

(1) The dispute resolution mechanism provided in section 624(b) of the Fair and Equitable Tobacco Reform Act of 2004 (7 U.S.C. 518c), which was intended to help tobacco producers in hardship circumstances, is not likely to provide relief to tobacco producers who are also members of the reserve components of the Armed Forces and were called or ordered to active duty for extended deployment.

(2) The special compensation provided under this section addresses a unique situation and does not set a precedent for other persons seeking exceptions to the eligibility requirements for payments under such Act.

(b) AVAILABILITY OF COMPENSATION.—Subject to subsection (c), the Secretary of Defense shall make a payment under this section to any member of a reserve component whose eligibility for a payment under section 623 of the Fair and Equitable Tobacco Reform Act of 2004 (7 U.S.C. 518b) as a producer of quota tobacco was adversely affected, or whose payment amount under such section was determined using a variable payment rate specified in subparagraph (B) or (C) of subsection (d)(3) of such section, because the member was serving on active duty under a call or order to active duty for a period of more than 30 days during any of the tobacco marketing years specified in subparagraph (A) of such subsection.

(c) RESTRICTION TO MEMBERS WHO ARE LONG-TIME TOBACCO GROWERS.—To be eligible for a payment under this section, a member described in subsection (b) must have been a producer of quota tobacco (as defined in section 621 of the Fair and Equitable Tobacco Reform Act of 2004 (7 U.S.C. 518a)) during at least two of the three tobacco marketing years before the 2002 marketing year.

(d) AMOUNT OF PAYMENT.—The amount of the payment required under this section for a member shall be equal to 70 percent of the difference between—

(1) the amount the member will receive under section 623 of the Fair and Equitable Tobacco Reform Act of 2004; and

(2) the amount that the member would have likely received under such section had the member remained a full-time producer of quota tobacco and not been called or ordered to active duty.

(e) CALCULATION OF PAYMENT AMOUNT.—The Secretary of Defense shall make the calculation required by subsection (c) in consultation with the Secretary of Agriculture.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Tricare Program Improvements

Sec. 701. Services of mental health counselors.
Sec. 702. Additional information required by surveys on TRICARE standard.
Sec. 703. Enhancement of TRICARE coverage for members who commit to continued service in the selected reserve.
Sec. 704. Study and plan relating to chiropractic health care services.
Sec. 705. Surviving-dependent eligibility under TRICARE dental plan for surviving spouses who were on active duty at time of death of military spouse.
Sec. 706. Exceptional eligibility for TRICARE prime remote.
Subtitle B—Other Matters
Sec. 711. Authority to relocate patient safety center; renaming MedTeams Program.
Sec. 712. Modification of health care quality information and technology enhancement reporting requirement.
Sec. 713. Correction to eligibility of certain Reserve officers for military health care pending active duty following commissioning.
Sec. 714. Prohibition on conversions of military medical positions to civilian medical positions until submission of certification.
Sec. 715. Clarification of inclusion of dental care in medical readiness tracking and health surveillance program.
Sec. 716. Cooperative outreach to members and former members of the naval service exposed to environmental factors related to sarcoidosis.
Sec. 717. Early identification and treatment of mental health and substance abuse disorders.

Subtitle A—Tricare Program Improvements

SEC. 701. SERVICES OF MENTAL HEALTH COUNSELORS.

(a) REIMBURSEMENT OF MENTAL HEALTH COUNSELORS UNDER TRICARE.—

(1) REIMBURSEMENT UNDER TRICARE.—Section 1079(a)(8) of title 10, United States Code, is amended—

(A) by inserting "or licensed or certified mental health counselors" after "certified marriage and family therapists" both places it appears; and

(B) by inserting "or licensed or certified mental health counselors" after "that the therapists."

(2) AUTHORITY TO ASSESS MEDICAL OR PSYCHOLOGICAL NECESSITY OF SERVICE OR SUPPLY.—Section 1079(a)(13) of such title is amended by inserting ", licensed or certified mental health counselor, " after "certified marriage and family therapist".

(b) SERVICES OF MENTAL HEALTH COUNSELORS.—

(1) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "mental health counselors," after "psychologists,".

(2) APPLICABILITY OF LICENSURE REQUIREMENT FOR HEALTH-CARE PROFESSIONALS.—Section 1094 (e)(2) of title 10, United States Code, is amended by inserting "mental health counselor," after "psychologist,".

SEC. 702. ADDITIONAL INFORMATION REQUIRED BY SURVEYS ON TRICARE STANDARD.

Section 723(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) is amended by adding at the end the following new paragraph:

"(4) Surveys required by paragraph (1) shall include questions seeking to determine from health care providers the following:

"(A) Whether the provider is aware of the TRICARE program.

"(B) What percentage of the provider's current patient population uses any form of TRICARE.

"(C) Whether the provider accepts patients for whom payment is made under the medicare program for health care services.

"(D) If the provider accepts patients referred to in subparagraph (C), whether the provider would accept additional such patients who are not in the provider's current patient population.".

SEC. 703. ENHANCEMENT OF TRICARE COVERAGE FOR MEMBERS WHO COMMIT TO CONTINUED SERVICE IN THE SELECTED RESERVE.

(a) EXTENSION OF COVERAGE FOR MEMBERS RECALLED TO ACTIVE DUTY.—Section 1076d of title 10, United States Code, is amended—

(1) in subsection (b), by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of a member recalled to active duty before the period of coverage for which the member is eligible under subsection (a) terminates, the period of coverage of the member—

"(A) resumes after the member completes the subsequent active duty service (subject to any additional entitlement to care and benefits under section 1145(a) of this title that is based on the same subsequent active duty service); and

"(B) increases by any additional period of coverage for which the member is eligible under subsection (a) based on the subsequent active duty service.";

(2) in subsection (b)(2), by striking "Unless earlier terminated under paragraph (3)" and inserting "Subject to paragraph (3) and unless earlier terminated under paragraph (4)"; and

(3) in subsection (f), by adding at the end the following new paragraph:

"(3) The term 'member recalled to active duty' means, with respect to a member who is eligible for coverage under this section based on a period of active duty service, a member who is called or ordered to active duty for an additional period of active duty subsequent to the period of active duty on which that eligibility is based.".

(b) EXTENSION OF COVERAGE FOR MEMBERS FACING INVOLUNTARY RETIREMENT.—Section 1076d of such title is amended in subsection (b)(4), as redesignated by subsection (a)(1)—

(1) by striking "Eligibility" and inserting "(A) Except as provided in subparagraphs (B) and (C), eligibility"; and

(2) by adding at the end the following:

"(B) In the case of a member who is separated from the Selected Reserve during a period of coverage for which the member is eligible under subsection (a) and whose separation is a qualifying involuntary separation, that period of coverage shall not terminate on account of the separation. For purposes of the preceding sentence, a qualifying involuntary separation is involuntary retirement, involuntary transfer to the Retired Reserve, or discharge while qualified for transfer to the Retired Reserve when required by law or regulation to be either transferred to the Retired Reserve or discharged.".

(c) CONTINUED ELIGIBILITY FOR MEMBERS IN THE INDIVIDUAL READY RESERVE.—Section 1076d of such title is amended in subsection (b)(4), as redesignated by subsection (a)(1), by adding at the end the following:

"(C) Subparagraph (A) shall not apply in special circumstances prescribed by the Secretary, including continued service by a member in the Individual Ready Reserve.".

(d) SPECIAL RULE FOR MOBILIZED MEMBERS OF INDIVIDUAL READY RESERVE FINDING NO POSITION IN SELECTED RESERVE.—Section 1076d of such title is amended by adding at the end of subsection (b) (as amended by this section) the following new paragraph:

"(5) In the case of a member of the Individual Ready Reserve who meets the requirements for eligibility for health benefits under TRICARE Standard under subsection (a) except for membership in the Selected Reserve, the period of coverage under this section may begin not later than one year after coverage would otherwise begin under this section had the member been a member of the Selected Reserve, if the member finds a position in the Selected Reserve during that one-year period.".

(e) ELIGIBILITY OF FAMILY MEMBERS FOR 6 MONTHS FOLLOWING DEATH OF MEMBER.—Section 1076d(c) of such title is amended by adding at the end the following: "If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Standard coverage shall continue for six months beyond the date of death of the member."

(f) OTHER AMENDMENTS.—Section 1076d of such title is amended—

(1) in subsection (a)(2), by striking "on or before the date of the release" and inserting "not later than 120 days after release"; and

(2) by amending subsection (f)(2) to read as follows:

"(2) The term 'TRICARE Standard' means—

"(A) medical care to which a dependent described in section 1076(a)(2) of this title is entitled; and

"(B) health benefits contracted for under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.".

SEC. 704. STUDY AND PLAN RELATING TO CHIROPRACTIC HEALTH CARE SERVICES.

(a) STUDY REQUIRED.—

(1) GROUPS COVERED.—The Secretary of Defense shall conduct a study of providing chiropractic health care services and benefits to the following groups:

(A) All members of the uniformed services on active duty and entitled to care under section 1074(a) of title 10, United States Code.

(B) All members described in subparagraph (A) and their eligible dependents, and all members of reserve components of the uniformed services and their eligible dependents.

(C) All members or former members of the uniformed services who are entitled to retired or retainer pay or equivalent pay and their eligible dependents.

(2) MATTERS EXAMINED.—For each group listed in subparagraphs (A), (B), and (C), the study shall examine the following with respect to chiropractic health care services and benefits:

(A) The cost of providing such services and benefits.

(B) The feasibility of providing such services and benefits.

(C) An assessment of the health care benefits of providing such services and benefits.

(D) An estimate of the potential cost savings of providing such services and benefits in lieu of other medical services.

(3) SPACE AVAILABLE COSTS.—The study shall also include a detailed analysis of the projected costs of providing chiropractic health care services on a space available basis in the military treatment facilities currently providing chiropractic care under section 702 of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (as enacted by Public Law 106–398; 10 U.S.C. 1092 note).

(4) ELIGIBLE DEPENDENTS DEFINED.—In this section, the term "eligible dependent" has the meaning given that term in section 1076a(k) of title 10, United States Code.

(b) PLAN REQUIRED.—Not later than March 31, 2006, the Secretary of Defense shall revise the plan required under section 702 of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (as enacted by Public Law 106–398; 10 U.S.C. 1092 note), including a detailed analysis of the projected costs, to provide chiropractic health care services and benefits as a permanent part of the Defense Health Program (including the TRICARE program) as required under that section.

(c) REPORT REQUIRED.—Not later than March 31, 2006, the Secretary of Defense shall submit a report on the study required under subsection (a), together with the plan required under subsection (b), to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 705. SURVIVING-DEPENDENT ELIGIBILITY UNDER TRICARE DENTAL PLAN FOR SURVIVING SPOUSES WHO WERE ON ACTIVE DUTY AT TIME OF DEATH OF MILITARY SPOUSE.

Section 1076a(k) of title 10, United States Code, is amended to read as follows:

"(k) ELIGIBLE DEPENDENT DEFINED.—(1) In this section, the term 'eligible dependent' means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(2) Such term includes any such dependent of a member who dies while on active duty for a period of more than 30 days or a member of the Ready Reserve if, on the date of the death of the member, the dependent—

"(A) is enrolled in a dental benefits plan established under subsection (a); or

"(B) if not enrolled in such a plan on such date—

"(i) is not enrolled by reason of a discontinuance of a former enrollment under subsection (f); or

"(ii) is not qualified for such enrollment because—

"(I) the dependent is a child under the minimum age for such enrollment; or

"(II) the dependent is a spouse who is a member of the armed forces on active duty for a period of more than 30 days.

"(3) Such term does not include a dependent by reason of paragraph (2) after the end of the three-year period beginning on the date of the member's death.".

SEC. 706. EXCEPTIONAL ELIGIBILITY FOR TRICARE PRIME REMOTE.

Section 1079(p) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The Secretary of Defense may provide for coverage of a dependent referred to in subsection (a) who is not described in paragraph (3) if the Secretary determines that exceptional circumstances warrant such coverage.".

Subtitle B—Other Matters

SEC. 711. AUTHORITY TO RELOCATE PATIENT SAFETY CENTER; RENAMING MEDTEAMS PROGRAM.

(a) REPEAL OF REQUIREMENT TO LOCATE THE DEPARTMENT OF DEFENSE PATIENT SAFETY CENTER WITHIN THE ARMED FORCES INSTITUTE OF PATHOLOGY .—Subsection (c)(3) of section 754 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654–196) is amended by striking "within the Armed Forces Institute of Pathology".

(b) RENAMING MEDTEAMS PROGRAM.—Subsection (d) of such section is amended by striking "MEDTEAMS" in the heading and inserting " MEDICAL TEAM TRAINING".

SEC. 712. MODIFICATION OF HEALTH CARE QUALITY INFORMATION AND TECHNOLOGY ENHANCEMENT REPORTING REQUIREMENT.

Section 723(e) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 697) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) Measures of the quality of health care furnished.

"(2) Population health.

"(3) Patient safety.

"(4) Patient satisfaction.

"(5) The extent of use of evidence-based health care practices.

"(6) The effectiveness of biosurveillance in detecting an emerging epidemic.".

SEC. 713. CORRECTION TO ELIGIBILITY OF CERTAIN RESERVE OFFICERS FOR MILITARY HEALTH CARE PENDING ACTIVE DUTY FOLLOWING COMMISSIONING.

(a) CORRECTION.—Clause (iii) of section 1074(a)(2)(B) of title 10, United States Code, is amended by inserting before the semicolon the following: "or the orders have been issued but the member has not entered active duty".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of November 24, 2003, and as if included in the enactment of paragraph (2) of section 1074(a) of title 10, United States Code, by section 708 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1530).

SEC. 714. PROHIBITION ON CONVERSIONS OF MILITARY MEDICAL POSITIONS TO CIVILIAN MEDICAL POSITIONS UNTIL SUBMISSION OF CERTIFICATION.

(a) PROHIBITION ON CONVERSIONS.—A Secretary of a military department may not convert any military medical position to a civilian medical position until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a certification that the conversions within that department will not increase cost or decrease quality of care or access to care. Such a certification may not be

submitted before April 1, 2006. A Secretary submitting such a certification shall include with the certification a report in writing setting forth the methodology used by the Secretary in making the determinations necessary for the certification, including the extent to which the Secretary took into consideration the findings of the Comptroller General in the report under subsection (d).

(b) REQUIREMENT FOR STUDY.—The Comptroller General shall conduct a study on the effect of conversions of military medical positions to civilian medical positions on the defense health program.

(c) MATTERS COVERED.—The study shall include the following:

(1) The number of military medical positions, by grade and specialty, planned for conversion to civilian medical positions.

(2) The number of military medical positions, by grade and specialty, converted to civilian medical positions since October 1, 2004.

(3) The ability of the military health care system to fill the civilian medical positions required, by specialty.

(4) The degree to which access to health care is affected in both the direct and purchased care system, including an assessment of the effects of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of lack of direct care providers.

(5) The degree to which changes in military manpower requirements affect recruiting and retention of uniformed medical personnel.

(6) The effect of the conversions of military medical positions to civilian medical positions on the defense health program, including costs associated with the conversions, with a comparison of the estimated costs versus the actual costs incurred by the number of conversions since October 1, 2004.

(7) The effectiveness of the conversions in enhancing medical readiness, health care efficiency, productivity, quality, and customer satisfaction.

(d) REPORT.—Not later than March 1, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under this section.

(e) DEFINITIONS.—In this section:

(1) The term "military medical position" means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

(2) The term "civilian medical position" means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

SEC. 715. CLARIFICATION OF INCLUSION OF DENTAL CARE IN MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE PROGRAM.

(a) INCLUSION OF DENTAL CARE.—Subtitle D of title VII of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 1074 note) is amended by adding at the end the following new section:

"SEC. 740. INCLUSION OF DENTAL CARE.

"For purposes of the plan, this title, and the amendments made by this title, references to medical readiness, health status, and health care shall be considered to include dental readiness, dental status, and dental care.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of title VII of such Act and in section 2(b) of such Act are each amended by inserting after the item relating to section 740 the following:

"Sec. 740. Inclusion of dental care." .

SEC. 716. COOPERATIVE OUTREACH TO MEMBERS AND FORMER MEMBERS OF THE NAVAL SERVICE EXPOSED TO ENVIRONMENTAL FACTORS RELATED TO SARCOIDOSIS.

(a) OUTREACH PROGRAM REQUIRED.—The Secretary of the Navy, in coordination with the Secretary of Veterans Affairs, shall conduct an outreach program to contact all members and former members of the naval service who, in connection with service aboard Navy ships may have been exposed to aerosolized particles resulting from the removal of nonskid coating used on those ships.

(b) PURPOSES OF OUTREACH PROGRAM.—The purposes of the outreach program are as follows:

(1) To develop additional data for use in subsequent studies aimed at determining a causative link between sarcoidosis and military service.

(2) To inform members and former members identified in subsection (a) of the findings of Navy studies identifying an association between service aboard certain naval ships and sarcoidosis.

(3) To assist members and former members identified in subsection (a) in getting medical evaluations to help clarify linkages between their disease and their service aboard Navy ships.

(4) To ensure the Department of Veterans Affairs has data and information for the effective evaluation of veterans who may seek care for sarcoidosis.

(c) IMPLEMENTATION.—The Secretary of the Navy shall begin the outreach program not later than six months after the date of the enactment of this act and provide to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the outreach programs not later than one year after beginning the program.

SEC. 717. EARLY IDENTIFICATION AND TREATMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE DISORDERS.

(a) AUTHORITY.—The Secretary of Defense may carry out activities to foster the early identification and treatment of mental health and substance abuse problems experienced by members of the Armed Forces, with special emphasis on members who have served in a theater of combat operations within the preceding 12 months.

(b) ACTIVITIES.—The activities carried out by the Secretary under subsection (a) may include the conduct of a series of campaigns that uses internal mass media (including radio and television) communications and other education tools to change attitudes within the Armed Forces regarding mental health and substance abuse treatment, with the aim of lessening the stigma associated with mental health and substance abuse problems and the treatment of such problems, including the development of pertinent messaging targeted to—

(1) members of the Armed Forces who may be experiencing mental health or substance abuse problems and their family members;

(2) commanders and supervisory personnel; and

(3) peers of members of the Armed Forces who may be experiencing mental health or substance abuse problems or be at risk of such problems.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Provisions Relating to Major Defense Acquisition Programs
Sec. 801. Requirement for certification by Secretary of Defense before major defense acquisition program may proceed to Milestone B.
Sec. 802. Requirement for analysis of alternatives to major defense acquisition programs.
Sec. 803. Authority for Secretary of Defense to revise baseline for major defense acquisition programs.
Subtitle B—Acquisition Policy and Management
Sec. 811. Applicability of statutory executive compensation cap made prospective.
Sec. 812. Use of commercially available online services for Federal procurement of commercial items.
Sec. 813. Contingency contracting corps.
Sec. 814. Requirement for contracting operations to be included in interagency planning related to stabilization and reconstruction.
Sec. 815. Statement of policy and report relating to contracting with employers of persons with disabilities.
Sec. 816. Study on Department of Defense contracting with small business concerns owned and controlled by service-disabled veterans.
Sec. 817. Prohibition on procurement from beneficiaries of foreign subsidies.
Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations
Sec. 821. Increased flexibility for designation of critical acquisition positions in defense acquisition workforce.
Sec. 822. Participation by Department of Defense in acquisition workforce training fund.
Sec. 823. Increase in cost accounting standard threshold.
Sec. 824. Amendments to domestic source requirements relating to clothing materials and components covered.
Sec. 825. Rapid acquisition authority to respond to defense intelligence community emergencies.

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

SEC. 801. REQUIREMENT FOR CERTIFICATION BY SECRETARY OF DEFENSE BEFORE MAJOR DEFENSE ACQUISITION PROGRAM MAY PROCEED TO MILESTONE B.

(a) CERTIFICATION REQUIREMENT.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2366 the following new section:

"§2366a. Major defense acquisition programs: certification required before Milestone B or Key Decision Point B approval

"(a) CERTIFICATION.—A major defense acquisition program may not receive Milestone B approval, or Key Decision Point B approval in the case of a space program, until the Secretary of Defense certifies that—

"(1) the technology in the program has been demonstrated in a relevant environment;

"(2) the program demonstrates a high likelihood of accomplishing its intended mission;

"(3) the program is affordable when considering the per unit cost and the total acquisition cost in the context of the total resources available during the period covered by the future-years defense program submitted during the fiscal year in which the certification is made;

"(4) the program is affordable when considering the ability of the Department of Defense to accomplish the program's mission using alternative systems;

"(5) the Joint Requirements Oversight Council has accomplished its duties with respect to the program pursuant to section 181(b) of this title, including an analysis of the operational requirements for the program; and

"(6) the program complies with all relevant policies, regulations, and directives of the Department of Defense.

"(b) SUBMISSION TO CONGRESS.—The certification required under subsection (a) with respect to a major defense acquisition program *shall be submitted to the congressional defense committees at least 30 days before approval of Milestone B or Key Decision Point B.*

"(c) Waiver for National Security.—The Secretary may waive the applicability of the certification requirement under subsection (a) to a major defense acquisition program if the Secretary determines that, but for such a waiver, the Department would be unable to meet national security objectives. Whenever the Secretary makes such a determination and authorizes such a waiver, the Secretary shall submit notice of such waiver and of the Secretary's determination, and the reasons for the determination, in writing to the congressional defense committees within 30 days after authorizing the waiver.

"(d) Nondelegation.—The Secretary may not delegate the certification requirement under subsection (a) or the authority to waive such requirement under subsection (d).

"(e) Definitions.—In this section:

"(1) The term 'major defense acquisition program' means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of this title.

"(2) The term 'Milestone B approval' has the meaning provided that term in section 2366(e)(7) of this title.

"(3) The term 'Key Decision Point B' means the official program initiation of a National Security Space program of the Department of Defense, which triggers a formal review to determine maturity of technology and the program's readiness to begin the preliminary system design.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2366 the following new item:

"2366a. Major defense acquisition programs: certification required before Milestone B approval or Key Decision Point B approval.".

SEC. 802. REQUIREMENT FOR ANALYSIS OF ALTERNATIVES TO MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Analysis of Alternatives Requirement.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2433 the following new section:

"§ 2433a. Analysis of alternatives

"(a) Requirement If Unit Costs Exceed 15 Percent.—If the percentage increase in the program acquisition unit cost or procurement unit cost of a major defense acquisition program (as determined by the Secretary concerned under section 2433(d)(3) of this title) exceeds 15 percent, then the Secretary concerned shall initiate an analysis of alternatives for the major defense acquisition program, in accordance with this section.

"(b) Matters Covered in Analysis of Alternatives.—An analysis of alternatives for a major defense acquisition program shall include, at a minimum, the following:

"(1) Projected cost to complete the program if current requirements are not modified.

"(2) Projected cost to complete the program based on potential modifications to the requirements.

"(3) Projected cost to complete the program based on design modifications, enhancements to the producibility of the program, and manufacturing efficiencies.

"(4) Projected cost and capabilities of the program that could be delivered within the originally authorized budget for the program, including any increase or decrease in capability.

"(5) Projected cost for an alternative system or capability.

"(c) Completion and Submission to Congress.—With respect to any analysis of alternatives initiated under this section, the Secretary—

"(1) shall complete the analysis not later than 1 year after the date of initiation; and

"(2) shall submit the analysis to the congressional defense committees not later than 30 days after the date of completion.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2433a. Analysis of alternatives.".

SEC. 803. AUTHORITY FOR SECRETARY OF DEFENSE TO REVISE BASELINE FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Authority.—Section 2433(e)(2) of title 10, United States Code, is amended—

(1) by redesignating clauses (i) through (iv) of subparagraph (A) as subclauses (I) through (IV), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii); and

(3) by inserting after "the Secretary of Defense shall" the following: "either (A) return the program to Milestone B or to Key Decision Point B in the case of a space system, conduct a re-baseline for the program under section 2435(d), and notify the congressional defense committees of such return and revision, or (B)".

(b) Baseline Description.—Section 2435(a)(1) of such title is amended by adding at the end the following: "The baseline shall be the baseline used for all purposes under this chapter.".

(c) Re-Baseline Authorized.—Section 2435 of such title is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) Re-baselining.—

"(1) Re-baseline authorized.—For purposes of this chapter, a baseline for a major defense acquisition program may be re-baselined only if a percentage increase in program acquisition unit cost or procurement unit cost of the program exceeding 25 percent occurs (as determined by the Secretary under section 2433(d)).

"(2) Notification to congress of re-baselining.—The Secretary shall notify the congressional defense committees not later than 30 days after a re-baselining has been conducted for a major defense acquisition program.".

Subtitle B—Acquisition Policy and Management

SEC. 811. APPLICABILITY OF STATUTORY EXECUTIVE COMPENSATION CAP MADE PROSPECTIVE.

(a) Prospective Applicability of Executive Compensation Cap.—Section 808(e)(2) of Public Law 105–85 (41 U.S.C. 435 note; 111 Stat. 1838) is amended by striking "before, on," and inserting "on".

(b) Effective Date.—The amendment made by subsection (a) shall apply as if included in Public Law 105–85 as enacted.

SEC. 812. USE OF COMMERCIALLY AVAILABLE ONLINE SERVICES FOR FEDERAL PROCUREMENT OF COMMERCIAL ITEMS.

(a) Amendment to the Federal Acquisition Regulation.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to include provisions that require the head of an executive agency, to the maximum extent practicable, to use commercially available online procurement services to purchase commercial items, including those procurement services that allow the agency to conduct reverse auctions.

(b) Report.—Not later than one year after the revisions to the Federal Acquisition Regulation are issued pursuant to subsection (a), the Administrator for Federal Procurement Policy shall submit to the Committees on Governmental Affairs and Homeland Security and on Armed Services of the Senate and the Committees on Government Reform and on Armed Services of the House of Representatives a report on the use of commercially available online procurement services. The report shall include—

(1) a list of the executive agencies that have used commercially available online procurement services, and the number of times each has so used such services;

(2) a list of the types of commercially available online procurement services used by each executive agency and the dollar value of the procurements conducted through each type of commercially available online procurement service; and

(3) the Administrator's recommendations for further encouraging the use of commercially available online procurement services, particularly those that afford the Federal Government the opportunity to conduct reverse auctions.

(c) Definitions.—In this section:

(1) The term "commercially available online procurement services", with respect to procurement by executive agencies, includes reverse auctions and other services accessible on the Internet that allow executive agencies to purchase commercial items from electronic catalogs and offerors to bid for delivery orders of such items.

(2) The term "reverse auction", with respect to procurement by executive agencies, means a method of soliciting offers on the Internet for commercial items, not including construction-related services, in which—

(A) firms compete against each other on the Internet in real time and in an open and interactive environment; and

(B) each firm's identity and pricing are safeguarded.

(3) The term "Federal Acquisition Regulation" means the single Government-wide procurement regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 405 and 421).

(4) The terms "executive agency", "commercial item", and "procurement" have the meanings provided those terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.).

SEC. 813. CONTINGENCY CONTRACTING CORPS.

(a) Requirement to Establish Contingency Contracting Corps.—

(1) Requirement.—The Secretary of Defense shall establish a contingency contracting corps, to be implemented, subject to the authority, direction, and control of the Secretary, through a joint policy developed by the Chairman of the Joint Chiefs of Staff, in accordance with this section.

(2) Head of corps.—The policy shall provide that the corps shall be directed by a senior commissioned officer with appropriate acquisition experience and qualifications, who shall report directly to the commander of the combatant command in whose area of responsibility the corps is operating when deployed. In the case of more than one operation for which the corps is deployed, the head of the corps may delegate command authority, but any officer to whom the authority is delegated shall report directly to the commander of the combatant command concerned.

(3) Operation of corps.—The policy shall provide that the contingency contracting corps shall conduct contingency contracting—

(A) during combat operations and use rapid acquisition authority to the maximum extent appropriate;

(B) during post-conflict operations to assist the commander of the combatant command in meeting urgent contracting requirements; and

(C) by using both deployed and non-deployed contingency contracting personnel for carrying out contingency contracting.

(4) Training of corps.—

(A) The policy developed under paragraph (1) shall provide for training all contingency contracting personnel in the use of law, regulations, policies, and directives related to contingency contracting operations, and shall ensure that the training is maintained for such personnel even when they are not deployed in a contingency operation.

(B) The policy shall require the training of contingency contracting personnel to include instruction from a program to be created by the Defense Acquisition University and inclusion of contingency contracting personnel in relevant wargaming and operational planning.

(C) The policy shall require contingency contracting personnel to remain proficient in contingency contracting operations during peacetime and shall allow such personnel to be used for other acquisition and contracting-related activities when not required in support of contingency contracting operations.

(D) The policy shall provide for the corps to use integrated contracting, financial, and other support systems.

(5) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. The regulations shall be developed in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Secretaries of the military departments, and the acquisition support agencies. The regulations shall be uniform to the maximum extent practicable among the military departments and shall address, at a minimum, applicable laws, regulations, policies, and directives related to contingency contracting.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on contingency contracting.

(2) MATTERS COVERED.—The report shall include discussions of the following:

(A) Progress in the implementation of the contingency contracting corps, in accordance with the requirements of subsection (a).

(B) The ability of the Armed Forces to support contingency contracting.

(C) The ability of commanders of combatant commands to request contingency contracting support and the ability of the military departments and the acquisition support agencies to respond to such requests and provide such support, including the availability of rapid acquisition personnel for such support.

(D) The ability of the current civilian and military acquisition workforce to deploy to combat theaters of operations and to conduct contracting activities during combat and during post-conflict, reconstruction, or other contingency operations.

(E) The effect of different periods of deployment on continuity in the acquisition process.

(c) DEFINITIONS.—In this section:

(1) CONTINGENCY CONTRACTING PERSONNEL.—The term "contingency contracting personnel" means members of the Armed Forces and civilian employees of the Department of Defense who are members of the defense acquisition workforce and, as part of their duties, are assigned to provide support to contingency operations (whether deployed or not).

(2) CONTINGENCY CONTRACTING.—The term "contingency contracting" means all stages of the process of acquiring property or services by the Department of Defense during a contingency operation.

(3) CONTINGENCY OPERATION.—The term "contingency operation" has the meaning provided in section 101(13) of title 10, United States Code.

(4) ACQUISITION SUPPORT AGENCIES.—The term "acquisition support agencies" means Defense Agencies and Department of Defense Field Activities that carry out and provide support for acquisition-related activities.

SEC. 814. REQUIREMENT FOR CONTRACTING OPERATIONS TO BE INCLUDED IN INTERAGENCY PLANNING RELATED TO STABILIZATION AND RECONSTRUCTION.

(a) INCLUSION OF CONTRACTING OPERATIONS IN INTERAGENCY PLANNING.—The Secretary of Defense shall include contracting operations in all relevant interagency planning operations of the Department of Defense related to stabilization and reconstruction operations.

(b) SECRETARY OF DEFENSE REQUIREMENTS.—If the President designates the Department of Defense as the executive agency with primary responsibility for contracting operations in post-conflict, stabilization, or reconstruction operations, the Secretary of Defense shall develop policy and procedures for the Department of Defense to serve as such executive agency.

(c) REPORT.—

(1) REQUIREMENT.—The Secretary of Defense and the Secretary of State shall jointly prepare a report on lessons learned from carrying out contracting operations during Operation Iraqi Freedom.

(2) MATTERS COVERED.—The report shall address the following with respect to such activities:

(A) Development of an appropriate acquisition planning strategy before obligation of funds, including the scope of planned contracting operations, project management, logistics, and financial considerations.

(B) Flow of appropriated funds.

(C) Ability to obtain military and civilian acquisition workforce personnel.

(D) Ability to obtain country clearances for such personnel.

(E) Ability to reprogram funds and to coordinate interagency activities.

(3) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act, the report shall be submitted to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives.

SEC. 815. STATEMENT OF POLICY AND REPORT RELATING TO CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

(a) EXTENSIONS OF INAPPLICABILITY OF CERTAIN ACTS.—Section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2021) is amended in subsections (a)(2) (A) and (b)(2)(A) by striking "2005" and inserting "2006".

(b) STATEMENT OF POLICY.—The Secretary of Defense and the Secretary of Education shall jointly issue a statement of policy related to the implementation of the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and the Javits-Wagner-O'Day Act (41 U.S.C. 48) within the Department of Defense and the Department of Education. The joint statement of policy shall specifically address the application of those Acts to both operation and management of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces, and shall take into account and address, to the extent practicable, the positions acceptable to persons representing programs implemented under each Act.

(c) REPORT.—Not later than April 1, 2006, the Secretary of Defense and the Secretary of Education shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report describing the joint statement of policy issued under subsection (b), with such findings and recommnendations as the Secretaries consider appropriate.

SEC. 816. STUDY ON DEPARTMENT OF DEFENSE CONTRACTING WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on Department of Defense procurement contracts with small business concerns owned and controlled by service-disabled veterans.

(b) ELEMENTS OF STUDY.—The study required by subsection (a) shall include the following determinations:

(1) Any steps taken by the Department of Defense to meet the Government-wide goal of participation by small business concerns owned and controlled by service-disabled veterans in at least 3 percent of the total value of all prime contract and subcontract awards, as required under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(2) If the Department of Defense has failed to meet such goal, an explanation of the reasons for such failure.

(3) Any steps taken within the Department of Defense to make contracting officers aware of the 3 percent goal and to ensure that procurement officers are working actively to achieve such goal.

(4) The number of small business concerns owned and controlled by service-disabled veterans which submitted offers on contracts with the Department of Defense during the preceding fiscal year.

(5) Any outreach efforts made by the Department to enter into contracts with small business concerns owned and controlled by service-disabled veterans.

(6) Any such outreach efforts the Department could make but has not made.

(7) Whether, in awarding subcontracts, prime contractors are aware of the preference for small business concerns owned and controlled by service-disabled veterans under section 36 of the Small Business Act (15 U.S.C. 657f).

(8) Any plans of the Department of Defense to increase the percentage of Federal contracts it awards to small businesses owned and controlled by service-disabled veterans.

(c) REPORT.—Not later than the date that is six months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the findings of the study conducted under this section.

(d) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—In this section, the term "small business concern owned and controlled by service-disabled veterans" has the meaning given that term in section 3(q) of the Small Business Act (15 U.S.C. 632(q)).

SEC. 817. PROHIBITION ON PROCUREMENT FROM BENEFICIARIES OF FOREIGN SUBSIDIES.

(a) PROHIBITION.—The Secretary of Defense may not enter into a contract for the procurement of goods or services from any foreign person to which the government of a foreign country that is a member of the World Trade Organization has provided a subsidy if—

(1) the United States has requested consultations with that foreign country under the Agreement on Subsidies and Countervailing Measures on the basis that the subsidy is a prohibited subsidy under that Agreement; and

(2) either—

(A) the issue before the World Trade Organization has not been resolved; or

(B) the World Trade Organization has ruled that the subsidy provided by the foreign country

is a prohibited subsidy under the Agreement on Subsidies and Countervailing Measures.

(b) JOINT VENTURES.—The prohibition under subsection (a) with respect to a foreign person also applies to any joint venture, cooperative organization, partnership, or contracting team of which that foreign person is a member.

(c) SUBCONTRACTS AND TASK ORDERS.—The prohibition under subsection (a) with respect to a contract also applies to any subcontracts at any tier entered into under the contract and any task orders at any tier issued under the contract.

(d) DEFINITIONS.—In this section:

(1) The term "Agreement on Subsidies and Countervailing Measures" means the agreement described in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3501(d)(12)).

(2) The term "foreign person" means—

(A) an individual who is not a United States person or an alien lawfully admitted for permanent residence into the United States; or

(B) a corporation, partnership, or other nongovernmental entity which is not a United States person.

(3) The term "United States person" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

(e) APPLICABILITY.—

(1) PROGRAMS WITH MILESTONE B APPROVAL NOT COVERED.—The prohibition under subsection (a) shall not apply to any contract under a major defense acquisition program that has received Milestone B approval as of the date of the enactment of this Act.

(2) DEFINITIONS.—In this subsection:

(A) The term "major defense acquisition program" means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of title 10, United States Code.

(B) The term "Milestone B approval" has the meaning provided that term in section 2366(e)(7) of such title.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 821. INCREASED FLEXIBILITY FOR DESIGNATION OF CRITICAL ACQUISITION POSITIONS IN DEFENSE ACQUISITION WORKFORCE.

Subparagraph (A) of section 1733(b)(1) of title 10, United States Code, is amended to read as follows:

"(A) Any acquisition position that is required to be filled by a senior civilian employee in the National Security Personnel System or a senior commissioned officer of the Army, Navy, Air Force, or Marine Corps, as determined in accordance with guidelines prescribed by the Secretary.".

SEC. 822. PARTICIPATION BY DEPARTMENT OF DEFENSE IN ACQUISITION WORKFORCE TRAINING FUND.

(a) REQUIRED CONTRIBUTIONS TO ACQUISITION WORKFORCE TRAINING FUND BY DEPARTMENT OF DEFENSE.—Section 37(h)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3)) is amended—

(1) in subparagraph (B), by striking "(other than the Department of Defense)"; and

(2) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (H), respectively, and inserting after subparagraph (C) the following new subparagraph (D):

"(D) The Administrator of General Services shall transfer to the Secretary of Defense fees collected from the Department of Defense pursuant to subparagraph (B), to be used by the Defense Acquisition University for purposes of acquisition workforce training for the entire Federal acquisition workforce.".

(b) CONFORMING AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 37(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by striking "This section" and inserting "Except as provided in subsection (h)(3), this section".

(2) PUBLIC LAW 108–136.—Section 1412 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1664) is amended by striking subsection (c).

(c) DEFENSE ACQUISITION UNIVERSITY FUNDING.—Amounts transferred under section 37(h)(3)(D) of the Office of Federal Procurement Policy Act (as amended by subsection (a)) for use by the Defense Acquisition University shall be in addition to other amounts authorized for the University.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts entered into after the date of the enactment of this Act.

SEC. 823. INCREASE IN COST ACCOUNTING STANDARD THRESHOLD.

Section 26(f)(2)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(A)) is amended by striking "$500,000" and inserting "$550,000".

SEC. 824. AMENDMENTS TO DOMESTIC SOURCE REQUIREMENTS RELATING TO CLOTHING MATERIALS AND COMPONENTS COVERED.

(a) NOTICE.—Section 2533a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an item described in subparagraph (B), (C), (D), or (E) of subsection (b)(1), if the Secretary of Defense or of the military department concerned applies an exception set forth in subsection (c) or (e) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the General Services Administration known as FedBizOps.gov (or any successor site). ".

(b) CLOTHING MATERIALS AND COMPONENTS COVERED.—Subsection (b) of section 2533a of title 10, United States Code, is amended in paragraph (1)(B) by inserting before the semicolon the following: "and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof)".

SEC. 825. RAPID ACQUISITION AUTHORITY TO RESPOND TO DEFENSE INTELLIGENCE COMMUNITY EMERGENCIES.

(a) RAPID ACQUISITION AUTHORITY.—In the case of any critical intelligence capability that, as determined in writing by the Secretary of Defense, without delegation, is urgently needed to address a demonstrable, imminent, and urgent threat to national security that would likely result in combat fatalities or grave harm to the national security of the United States, the Secretary shall use the procedures developed under this section in order to accomplish the rapid acquisition and deployment of the needed critical intelligence capabilities.

(b) DESIGNATION OF SENIOR OFFICIAL.—Whenever the Secretary makes a determination under subsection (a) that the rapid acquisition of critical intelligence capability is needed, the Secretary shall designate a senior official of the Department of Defense to ensure that the intelligence capability is acquired and deployed as quickly as possible, with a goal of awarding a contract for the acquisition of the intelligence capability within 15 days after the determination is made.

(c) WAIVER AUTHORITY.—Upon designation of a senior official under subsection (b), the Secretary shall authorize that official to waive any provision of law, policy, directive, or regulation described in subsection (f) that such official determines in writing would unnecessarily impede the rapid acquisition and deployment of the needed intelligence capability.

(d) FUNDING OF RAPID ACQUISITIONS.—The authority of this section may not be used to acquire intelligence capability in an amount aggregating more than $20,000,000 during any fiscal year. For acquisitions of intelligence capability under this subsection during the fiscal year in which the Secretary makes the determination described in subsection (a) with respect to such intelligence capability, the Secretary may use any funds available to the Department of Defense for that fiscal year.

(e) NOTICE TO CONGRESS.—The Secretary of Defense shall notify the congressional defense committees within 15 days after each determination made under subsection (a). Each such notice shall identify in either classified or unclassified format, as appropriate—

(1) the intelligence capability to be acquired;

(2) the amount anticipated to be expended for the acquisition; and

(3) the source of funds for the acquisition.

(f) WAIVER OF CERTAIN STATUTES AND REGULATIONS.—

(1) IN GENERAL.—Upon a determination described in subsection (a), the senior official designated in accordance with subsection (b) with respect to that designation is authorized to waive any provision of law, policy, directive or regulation addressing—

(A) the establishment of the requirement for the intelligence capability;

(B) the research, development, test, and evaluation of the intelligence capability; or

(C) the solicitation and selection of sources, and the award of the contract, for procurement of the intelligence capability.

(2) LIMITATION.—Nothing in this subsection authorizes the waiver of any provision of law imposing civil or criminal penalties.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense Management

Sec. 901. Restoration of parity in pay levels among Under Secretary positions.
Sec. 902. Eligibility criteria for Director of Department of Defense Test Resource Management Center.
Sec. 903. Consolidation and standardization of authorities relating to Department of Defense Regional Centers for Security Studies.
Sec. 904. Redesignation of the Department of the Navy as the Department of the Navy and Marine Corps.

Subtitle B—Space Activities

Sec. 911. Space Situational Awareness Strategy.
Sec. 912. Military satellite communications.
Sec. 913. Operationally responsive space.

Subtitle C—Chemical Demilitarization Program

Sec. 921. Transfer to Secretary of the Army of responsibility for assembled chemical weapons alternatives program.
Sec. 922. Clarification of Cooperative Agreement Authority under Chemical Demilitarization Program.

Subtitle D—Intelligence-Related Matters

Sec. 931. Department of Defense Strategy for Open-Source intelligence.

Sec. 932. Comprehensive inventory of Department of Defense intelligence and intelligence-related programs and projects.

Subtitle A—Department of Defense Management

SEC. 901. RESTORATION OF PARITY IN PAY LEVELS AMONG UNDER SECRETARY POSITIONS.

(a) Positions of Under Secretaries of Military Departments Raised to Level III of the Executive Schedule.—Section 5314 of title 5, United States Code, is amended by inserting after "Under Secretary of Defense for Intelligence" the following:

"Under Secretary of the Air Force.

"Under Secretary of the Army.

"Under Secretary of the Navy.".

(b) Conforming Amendment.—Section 5315 of such title is amended by striking the following:

"Under Secretary of the Air Force.

"Under Secretary of the Army.

"Under Secretary of the Navy.".

SEC. 902. ELIGIBILITY CRITERIA FOR DIRECTOR OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

Section 196(b) of title 10, United States Code, is amended to read as follows:

"(b) Director.—At the head of the Center shall be a Director, who shall be appointed by the Secretary from among individuals who have substantial experience in the field of test and evaluation.".

SEC. 903. CONSOLIDATION AND STANDARDIZATION OF AUTHORITIES RELATING TO DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) Basic Authorities for Regional Centers.—

(1) In general.—Section 184 of title 10, United States Code, is amended to read as follows:

"§184. Regional Centers for Security Studies

"(a) In General.—The Secretary of Defense shall administer the Department of Defense Regional Centers for Security Studies in accordance with this section as international venues for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

"(b) Regional Centers Specified.—(1) A Department of Defense Regional Center for Security Studies is a Department of Defense institution that—

"(A) is operated, and designated as such, by the Secretary of Defense for the study of security issues relating to a specified geographic region of the world; and

"(B) serves as a forum for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

"(2) The Department of Defense Regional Centers for Security Studies are the following:

"(A) The George C. Marshall European Center for Security Studies, established in 1993 and located in Garmisch-Partenkirchen, Germany.

"(B) The Asia-Pacific Center for Security Studies, established in 1995 and located in Honolulu, Hawaii.

"(C) The Center for Hemispheric Defense Studies, established in 1997 and located in Washington, D.C.

"(D) The Africa Center for Strategic Studies, established in 1999 and located in Washington, D.C.

"(E) The Near East South Asia Center for Strategic Studies, established in 2000 and located in Washington, D.C.

"(3) No institution or element of the Department of Defense may be designated as a Department of Defense Regional Center for Security Studies for purposes of this section, other than the institutions specified in paragraph (2), except as specifically provided by law after the date of the enactment of this section.

"(c) Regulations.—The administration of the Regional Centers under this section shall be carried out under regulations prescribed by the Secretary.

"(d) Participation.—Participants in activities of the Regional Centers may include United States military and civilian personnel, governmental and nongovernmental personnel, and foreign military and civilian, governmental and nongovernmental personnel.

"(e) Employment and Compensation of Faculty.—At each Regional Center, the Secretary may, subject to appropriations—

"(1) employ a Director, a Deputy Director, and as many civilians as professors, instructors, and lecturers as the Secretary considers necessary; and

"(2) prescribe the compensation of such persons, in accordance with Federal guidelines.

"(f) Payment of Costs.—(1) Participation in activities of a Regional Center shall be on a reimbursable basis (or by payment in advance), except in a case in which reimbursement is waived in accordance with paragraph (3).

"(2) For a foreign national participant, payment of costs may be made by the participant's own government, by a Department or agency of the United States other than the Department of Defense, or by a gift or donation on behalf of one or more Regional Centers accepted under section 2611 of this title on behalf of the participant's government.

"(3) The Secretary of Defense may waive reimbursement of the costs of activities of the Regional Centers for foreign military officers and foreign defense civilian officials from a developing country if the Secretary determines that attendance of such personnel without reimbursement is in the national security interest of the United States. Costs for which reimbursement is waived pursuant to this paragraph shall be paid from appropriations available to the Regional Centers.

"(4) Funds accepted for the payment of costs shall be credited to the appropriation then currently available to the Department of Defense for the Regional Center that incurred the costs. Funds so credited shall be merged with the appropriation to which credited and shall be available to that Regional Center for the same purposes and same period as the appropriation with which merged.

"(5) Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.

"(g) Support to Other Agencies.—The Director of a Regional Center may enter into agreements with the Secretaries of the military departments, the heads of the Defense Agencies, and, with the concurrence of the Secretary of Defense, the heads of other Federal departments and agencies for the provision of services by that Regional Center under this section. Any such participating department and agency shall transfer to the Regional Center funds to pay the full costs of the services received.

"(h) Annual Report.—Not later than February 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the operation of the Regional Centers for security studies during the preceding fiscal year. The annual report shall include, for each Regional Center, the following information:

"(1) The status and objectives of the center.

"(2) The budget of the center, including the costs of operating the center.

"(3) A description of the extent of the international participation in the programs of the center, including the costs incurred by the United States for the participation of each foreign nation.

"(4) A description of the foreign gifts and donations, if any, accepted under section 2611 of this title.".

(2) Clerical amendment.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"184. Regional Centers for Security Studies.".

(b) Standardization of Authority for Acceptance of Gifts and Donations.—

(1) In general.—Section 2611 of title 10, United States Code, is amended to read as follows: .

"§2611. Regional Centers for Security Studies: acceptance of gifts and donations

"(a) Authority to Accept Gifts and Donations.—Subject to subsection (c), the Secretary of Defense may accept, on behalf of one or more of the Regional Centers for Security Studies, a gift or donation from any source in order to defray the costs of, or enhance the operation of, one or more of the Regional Centers.

"(b) Regional Centers.—For purposes of this section, the Regional Centers for Security Studies are the Department of Defense institutions specified in section 184(b) of this title.

"(c) Limitation.—(1) The Secretary may not accept a gift or donation under subsection (a) if the acceptance of the gift or donation would compromise or appear to compromise—

"(A) the ability of the Department of Defense, or any employee of the Department or member of the armed forces, to carry out the responsibility or duty of the Department in a fair and objective manner; or

"(B) the integrity of any program of the Department of Defense or any person involved in such a program.

"(2) The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether the acceptance of a gift or donation would have a result described in paragraph (1).

"(d) Crediting of Funds.—Funds accepted by the Secretary under subsection (a) shall be credited to appropriations available to the Department of Defense for the Regional Centers. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Regional Centers for the same purposes and the same period as the appropriations with which merged.

"(e) Gifts and Donations Defined.—For purposes of this section—

"(1) a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country; and

"(2) the term 'gift' includes a devise of real property or a bequest of personal property and any gift of an interest in real property.".

(2) Clerical amendment.—The item relating to section 2611 in the table of sections at the beginning of chapter 155 of such title is amended to read as follows:

"2611. Regional Centers for Security Studies: acceptance of foreign gifts and donations.".

(c) Conforming Amendments.—

(1) Marshall center general authority.—Section 1306 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2892) is repealed.

(2) MARSHALL CENTER GIFT AUTHORITY.—Section 1065 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 113) is amended—

(A) by striking subsections (a) and (b);

(B) by redesignating subsection (c) as subsection (a); and

(C) by redesignating paragraph (3) of such subsection as subsection (b) and inserting "CERTAIN NON-CITIZENS AUTHORIZED TO SERVE ON BOARD.—" before "Notwithstanding".

(3) EMPLOYMENT AND COMPENSATION AUTHORITY FOR CIVILIAN FACULTY.—Section 1595 of title 10, United States Code, is amended—

(A) in subsection (c)—

(i) by striking paragraphs (3) and (5); and

(ii) by redesignating paragraphs (4) and (6) as paragraphs (3) and (4), respectively; and

(B) by striking subsection (e).

(4) STATUS OF CENTER FOR HEMISPHERIC DEFENSE STUDIES.—Section 2165 of title 10, United States Code, is amended—

(A) in subsection (b)—

(i) by striking paragraph (6); and

(ii) by redesignating paragraph (7) as paragraph (6); and

(B) by striking subsection (c).

SEC. 904. REDESIGNATION OF THE DEPARTMENT OF THE NAVY AS THE DEPARTMENT OF THE NAVY AND MARINE CORPS.

(a) REDESIGNATION OF MILITARY DEPARTMENT.—The military department designated as the Department of the Navy is redesignated as the Department of the Navy and Marine Corps.

(b) REDESIGNATION OF SECRETARY AND OTHER STATUTORY OFFICES.—

(1) SECRETARY.—The position of the Secretary of the Navy is redesignated as the Secretary of the Navy and Marine Corps.

(2) OTHER STATUTORY OFFICES.—The positions of the Under Secretary of the Navy, the four Assistant Secretaries of the Navy, and the General Counsel of the Department of the Navy are redesignated as the Under Secretary of the Navy and Marine Corps, the Assistant Secretaries of the Navy and Marine Corps, and the General Counsel of the Department of the Navy and Marine Corps, respectively.

(c) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—

(1) DEFINITION OF "MILITARY DEPARTMENT".—Paragraph (8) of section 101(a) of title 10, United States Code, is amended to read as follows:

"(8) The term 'military department' means the Department of the Army, the Department of the Navy and Marine Corps, and the Department of the Air Force.".

(2) ORGANIZATION OF DEPARTMENT.—The text of section 5011 of such title is amended to read as follows: "The Department of the Navy and Marine Corps is separately organized under the Secretary of the Navy and Marine Corps.".

(3) POSITION OF SECRETARY.—Section 5013(a)(1) of such title is amended by striking "There is a Secretary of the Navy" and inserting "There is a Secretary of the Navy and Marine Corps".

(4) CHAPTER HEADINGS.—

(A) The heading of chapter 503 of such title is amended to read as follows:

"CHAPTER 503—DEPARTMENT OF THE NAVY AND MARINE CORPS".

(B) The heading of chapter 507 of such title is amended to read as follows:

"CHAPTER 507—COMPOSITION OF THE DEPARTMENT OF THE NAVY AND MARINE CORPS".

(5) OTHER AMENDMENTS.—

(A) Title 10, United States Code, is amended by striking "Department of the Navy" and "Secretary of the Navy" each place they appear other than as specified in paragraphs (1), (2), (3), and (4) (including in section headings, subsection captions, tables of chapters, and tables of sections) and inserting "Department of the Navy and Marine Corps" and "Secretary of the Navy and Marine Corps", respectively, in each case with the matter inserted to be in the same typeface and typestyle as the matter stricken.

(B)(i) Sections 5013(f), 5014(b)(2), 5016(a), 5017(2), 5032(a), and 5042(a) of such title are amended by striking "Assistant Secretaries of the Navy" and inserting "Assistant Secretaries of the Navy and Marine Corps".

(ii) The heading of section 5016 of such title, and the item relating to such section in the table of sections at the beginning of chapter 503 of such title, are each amended by inserting "and Marine Corps" after "of the Navy", with the matter inserted in each case to be in the same typeface and typestyle as the matter amended.

(d) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended by striking "Department of the Navy" and "Secretary of the Navy" each place they appear and inserting "Department of the Navy and Marine Corps" and "Secretary of the Navy and Marine Corps", respectively.

(e) OTHER REFERENCES.—Any reference in any law other than in title 10 or title 37, United States Code, or in any regulation, document, record, or other paper of the United States, to the Department of the Navy shall be considered to be a reference to the Department of the Navy and Marine Corps. Any such reference to an office specified in subsection (b)(2) shall be considered to be a reference to that office as redesignated by that subsection.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

Subtitle B—Space Activities

SEC. 911. SPACE SITUATIONAL AWARENESS STRATEGY.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Defense has the responsibility, within the executive branch, for developing the strategy and the systems of the United States for ensuring freedom to operate United States space assets affecting national security; and

(2) the foundation of any credible strategy for ensuring freedom to operate United States space assets is a comprehensive system for space situational awareness.

(b) SPACE SITUATIONAL AWARENESS STRATEGY.—

(1) REQUIREMENT.—The Secretary of Defense shall develop a strategy, to be known as the "Space Situational Awareness Strategy", for ensuring freedom to operate United States space assets affecting national security. The Secretary shall submit that strategy to Congress not later than April 15, 2006. The Secretary shall submit to Congress an updated, current version of the Space Situational Awareness Strategy not later than April 15 of every even-numbered year thereafter.

(2) TIME PERIOD.—The Space Situational Awareness Strategy shall cover the 20-year period from 2006 through 2025.

(3) MATTERS TO BE INCLUDED.—The Space Situational Awareness Strategy shall include the following (set forth for the 20-year period specified in paragraph (2) and separately for each successive five-year period beginning with 2006):

(A) A threat assessment describing the perceived threats to United States space assets affecting national security.

(B) Details for a coherent and comprehensive strategy for the United States for space situational awareness, together with a description of the systems architecture to implement that strategy in light of the threat assessment under subparagraph (A).

(C) A description of each of the individual program concepts that will make up the systems architecture described pursuant to subparagraph (B) and, for each such program concept, a description of the specific capabilities to be achieved and the threats to be abated.

(c) SPACE SITUATIONAL AWARENESS CAPABILITIES ROADMAP.—

(1) REQUIREMENT.—The Secretary of the Air Force shall develop a roadmap, to be known as the "space situational awareness capabilities roadmap", for the development of the systems architecture described pursuant to subsection (b)(3)(B).

(2) MATTERS TO BE INCLUDED.— The space situational awareness capabilities roadmap shall include—

(A) capabilities of all systems deployed as of mid-2005 or planned for modernization or acquisition from 2006 to 2015; and

(B) a description of recommended solutions for inadequacies in the architecture to address threats identified under subsection (b)(3)(A).

SEC. 912. MILITARY SATELLITE COMMUNICATIONS.

(a) FINDINGS.—Congress finds the following:

(1) Military requirements for satellite communications exceed the capability of on-orbit assets as of mid-2005.

(2) To meet future military requirements for satellite communications, the Secretary of the Air Force has initiated a highly complex and revolutionary program called the Transformational Satellite Communications System (TSAT).

(3) If the program referred to in paragraph (2) experiences setbacks that prolong the development and deployment of the capability to be provided by that program, the Secretary of the Air Force must be prepared to implement contingency programs to achieve interim improvements in the capabilities of satellite communications to meet military requirements through upgrades to current systems.

(b) DEVELOPMENT OF OPTIONS.—In order to prepare for the contingency referred to in subsection (a)(3), the Director of the National Security Space Office of the Department of Defense shall provide for an assessment, to be conducted by an entity outside the Department of Defense, to develop and compare options for individual acquisition, and block acquisition, of the Advanced Extremely High Frequency space vehicles numbered 4 and 5, in conjunction with modifications to the current Wideband Gapfiller System program, that will accomplish the following:

(1) Minimize nonrecurring costs.

(2) Improve communications-on-the-move capabilities.

(3) Increase net centricity for communications.

(4) Increase satellite throughput.

(5) Increase user connectivity.

(6) Improve airborne communications support.

(c) ANALYSIS OF ALTERNATIVES REPORT.—Not later than February 28, 2006, the Director of the National Security Space Office shall submit to Congress a report providing an analysis of alternatives with respect to the options developed pursuant to subsection (b). The analysis of alternatives shall be prepared taking into consideration the findings and recommendations of the independent assessment conducted under subsection (b).

SEC. 913. OPERATIONALLY RESPONSIVE SPACE.

(a) JOINT OPERATIONALLY RESPONSIVE SPACE PAYLOAD TECHNOLOGY ORGANIZATION.—

(1) IN GENERAL.—The Secretary of Defense shall establish or designate an organization in the Department of Defense to coordinate joint operationally responsive space payload technology.

(2) MASTER PLAN.—The organization established or designated under paragraph (1) shall

produce an annual master plan for coordination of operationally responsive space payload technology and shall coordinate resources provided to stimulate technical development of small satellite payloads. The annual master plan shall describe focus areas for development of operationally responsive space payload technology, including—

(A) miniaturization technology for satellite payloads;

(B) increased sensor acuity;

(C) concept of operations exploration;

(D) increased processor capability; and

(E) such additional matters as the head of that organization determines appropriate.

(3) REQUESTS FOR PROPOSALS.—The Secretary of Defense, acting through the Director of the Office of Force Transformation, shall award contracts, from amounts available for that purpose for any fiscal year, for technology projects that support the focus areas set out in the master plan for development of operationally responsive space payload technology.

(4) ASSESSMENT FACTORS.—In assessing any proposal submitted for a contract under paragraph (3), the Secretary shall consider —

(A) how the proposal correlates to the goals articulated in the master plan under paragraph (2) and to the National Security Space Architecture; and

(B) the probability, for the project for which the proposal is submitted, of eventual transition either to a laboratory of one of the military departments for continued development or to a joint program office for operational deployment.

(b) REPORT ON JOINT PROGRAM OFFICE FOR TACSAT.—Not later than February 28, 2006, the Secretary of Defense shall submit to the congressional defense committees a report providing a plan for the creation of a joint program office for the Tactical Satellite program and for transition of that program out of the Office of Force Transformation and to the administration of the joint program office. The report shall be prepared in conjunction with the Department of Defense executive agent for space.

(c) JOINT REPORT ON CERTAIN SPACE AND MISSILE DEFENSE ACTIVITIES.—Not later than February 28, 2006, the Department of Defense executive agent for space and the Director of the Missile Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a joint report on the value of each of the following:

(1) Increased use of the Rocket Systems Launch Program for the respective missions of the Department of the Air Force and the Missile Defense Agency.

(2) An agreement between the Director of the Missile Defense Agency and the Secretary of the Air Force for eventual transition of operational control of small satellite demonstrations from the Missile Defense Agency to the Department of the Air Force.

(3) A partnership between the Missile Defense Agency and the Department of the Air Force in the development of common high-altitude and near-space assets for the respective missions of the Missile Defense Agency and the Department of the Air Force.

Subtitle C—Chemical Demilitarization Program

SEC. 921. TRANSFER TO SECRETARY OF THE ARMY OF RESPONSIBILITY FOR ASSEMBLED CHEMICAL WEAPONS ALTERNATIVES PROGRAM.

Effective January 1, 2006, the text of section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1521 note) is amended to read as follows:

"(a) PROGRAM MANAGEMENT.—(1) The program manager for the Assembled Chemical Weapons Alternatives program shall report to the Secretary of the Army.

"(2) The Secretary of the Army shall provide for that program to be managed as part of the management organization within the Department of the Army specified in section 1412(e) of Public Law 99–145 (50 U.S.C. 1521(e)).

"(b) CONTINUED IMPLEMENTATION OF PREVIOUSLY SELECTED ALTERNATIVE TECHNOLOGIES.—(1) In carrying out the destruction of lethal chemical munitions at Pueblo Chemical Depot, Colorado, the Secretary of the Army shall continue to implement fully the alternative technology for such destruction at that depot selected by the Under Secretary of Defense for Acquisition, Technology, and Logistics on July 16, 2002.

"(2) In carrying out the destruction of lethal chemical munitions at Blue Grass Army Depot, Kentucky, the Secretary of the Army shall continue to implement fully the alternative technology for such destruction at that depot selected by the Under Secretary of Defense for Acquisition, Technology, and Logistics on February 3, 2003.".

SEC. 922. CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY UNDER CHEMICAL DEMILITARIZATION PROGRAM.

(a) AGREEMENTS WITH FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS.—Section 1412(c)(4) of the Department of Defense Authorization Act, 1986 (50 U.S.C 1521(c)(4)) is amended—

(1) by inserting "(A)" after "(4)";

(2) in the first sentence—

(A) by inserting "and to tribal organizations of Indian tribes" after "to State and local governments"; and

(B) by inserting "and organizations" after "assist those governments"

(3) by designating the text beginning "Additionally, the Secretary " as subparagraph (B);

(4) in the first sentence of subparagraph (B), as designated by paragraph (2), by inserting ", and with tribal organizations of Indian tribes," after "with State and local governments"; and

(5) by adding at the end the following new subparagraph:

"(C) In this subparagraph, the terms 'tribal organization' and 'Indian tribes' have the meanings given those terms in subsections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of December 5, 1991, and shall apply with respect to cooperative agreements entered into on or after that date.

Subtitle D—Intelligence-Related Matters

SEC. 931. DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE.

(a) FINDINGS.—Congress makes the following findings:

(1) Open-source intelligence (OSINT) is intelligence that is produced from publicly available information collected, exploited, and disseminated in a timely manner to an appropriate audience for the purpose of addressing a specific intelligence requirement.

(2) With the Information Revolution, the amount, significance, and accessibility of open-source information has exploded, but the Intelligence Community has not expanded its exploitation efforts and systems to produce open-source intelligence.

(3) The production of open-source intelligence is a valuable intelligence discipline that must be integrated in the intelligence cycle to ensure that United States policymakers are fully and completely informed.

(4) The dissemination and use of validated open-source intelligence inherently enables information sharing as it is produced without the use of sensitive sources and methods. Open-source intelligence products can be shared with the American public and foreign allies because of its unclassified nature.

(5) The National Commission on Terrorist Attacks Upon the United States, in its Final Report released on July 22, 2004, identified shortfalls in the ability of the United States to employ all-source intelligence, a large component of which is open-source intelligence.

(6) The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) advocates for coordination of the collection, analysis, production, and dissemination of open-source intelligence.

(7) The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, in its report to the President released on March 31, 2005, found "that the need for exploiting open-source material is greater now than ever before," but that "the Intelligence Community's open source programs have not expanded commensurate with either the increase in available information or with the growing importance of open source data to today's problems".

(b) STRATEGY FOR OPEN-SOURCE INTELLIGENCE.—

(1) DEVELOPMENT OF STRATEGY.—The Secretary of Defense shall develop a strategy, to be known as the "Strategy for Open-Source Intelligence", to be incorporated within the larger military intelligence strategy, for the purpose of integrating open-source intelligence into the military intelligence cycle.

(2) SUBMISSION.—The Secretary shall submit the Strategy for Open-Source Intelligence to Congress not later than January 31, 2006.

(3) MATTERS TO BE INCLUDED.—The Strategy for Open-Source Intelligence shall include the following:

(A) An investment strategy for the development of a robust open-source intelligence capability, with particular emphasis on exploitation and dissemination.

(B) A description of how management of open-source intelligence collection is currently performed at the Department level and how it can be improved in the future.

(C) A description of the tools, systems, centers, personnel, and procedures that will be used to perform open-source intelligence tasking, collection, exploitation, and dissemination.

(D) A description of proven tradecraft for effective open-source intelligence exploitation, to include consideration of operational security.

(E) A detailed description on how open-source intelligence will be fused with all other intelligence sources across the Department of Defense.

(F) A description of open-source intelligence training plan and guidance for Department of Defense and service intelligence personnel.

(G) A plan to incorporate the open-source intelligence oversight function into the Office of the Undersecretary of Defense for Intelligence and into service intelligence organizations.

(H) A plan to incorporate and identify an open-source intelligence specialty into Department and service personnel systems.

(I) A plan to use reserve component intelligence personnel to augment and support the open-source intelligence mission.

(J) A plan for the use of the Open-Source Information System for the purpose of exploitation and dissemination.

SEC. 932. COMPREHENSIVE INVENTORY OF DEPARTMENT OF DEFENSE INTELLIGENCE AND INTELLIGENCE-RELATED PROGRAMS AND PROJECTS.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional committees specified in subsection (b) a report

providing a comprehensive inventory of Department of Defense intelligence and intelligence-related programs and projects. The Secretary shall prepare the inventory in consultation with the Director of National Intelligence, as appropriate.

(b) COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial matters

1001. Transfer authority.
1002. Authorization of supplemental appropriations for fiscal year 2005.
1003. Increase in fiscal year 2005 general transfer authority.
1004. Reports on feasibility and desirability of capital budgeting for major defense acquisition programs.

Subtitle B—Naval Vessels and Shipyards

1011. Conveyance, Navy drydock, Seattle, Washington.
1012. Conveyance, Navy drydock, Jacksonville, Florida.
1013. Conveyance, Navy drydock, Port Arthur, Texas.
1014. Transfer of U.S.S. IOWA.
1015. Transfer of ex-U.S.S. Forrest Sherman.
1016. Limitation on leasing of foreign-built vessels.

Subtitle C—Counter-Drug Activities

1021. Extension of Department of Defense authority to support counter-drug activities.
1022. Resumption of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities.
1023. Clarification of authority for joint task forces to support law enforcement agencies conducting counter-terrorism activities.

Subtitle D—Matters Related to Homeland Security

1031. Responsibilities of Assistant Secretary of Defense for Homeland Defense relating to nuclear, chemical, and biological emergency response.
1032. Testing of preparedness for emergencies involving nuclear, radiological, chemical, biological, and high-yield explosives weapons.
1033. Department of Defense chemical, biological, radiological, nuclear, and high-yield explosives response teams.
1034. Repeal of Department of Defense emergency response assistance program.

Subtitle E—Other Matters

1041. Commission on the Long-Term Implementation of the New Strategic Posture of the United States.
1042. Reestablishment of EMP Commission.
1043. Modernization of authority relating to security of defense property and facilities.
1044. Revision of Department of Defense counterintelligence polygraph program.
1045. Repeal of requirement for report to Congress regarding global strike capability.
1046. Technical and clerical amendments.
1047. Deletion of obsolete definitions in titles 10 and 32, United States Code.

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $4,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2005.

Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased by a supplemental appropriation or decreased by a rescission, or both, or are increased by a transfer of funds, pursuant to title I and chapter 2 of title IV of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

SEC. 1003. INCREASE IN FISCAL YEAR 2005 GENERAL TRANSFER AUTHORITY.

Section 1001(a)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2037) is amended by striking "$3,500,000,000" and inserting "$6,185,000,000".

SEC. 1004. REPORTS ON FEASIBILITY AND DESIRABILITY OF CAPITAL BUDGETING FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) CAPITAL BUDGETING DEFINED.—For the purposes of this section, the term "capital budgeting" means a budget process that—

(1) identifies large capital outlays that are expected to be made in future years, together with identification of the proposed means to finance those outlays and the expected benefits of those outlays;

(2) separately identifies revenues and outlays for capital assets from revenues and outlays for an operating budget;

(3) allows for the issue of long-term debt to finance capital investments; and

(4) provides the budget authority for acquiring a capital asset over several fiscal years (rather than in a single fiscal year at the beginning of such acquisition).

(b) REPORTS REQUIRED.—Not later than July 1, 2006, the Secretary of Defense and the Secretary of each military department shall each submit to Congress a report analyzing the feasibility and desirability of using a capital budgeting system for the financing of major defense acquisition programs. Each such report shall address the following matters:

(1) The potential long-term effect on the defense industrial base of the United States of continuing with the current full up-front funding system for major defense acquisition programs.

(2) Whether use of a capital budgeting system could create a more effective decisionmaking process for long-term investments in major defense acquisition programs.

(3) The manner in which a capital budgeting system for major defense acquisition programs would affect the budget planning and formulation process of the military departments.

(4) The types of financial mechanisms that would be needed to provide funds for such a capital budgeting system.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. CONVEYANCE, NAVY DRYDOCK, SEATTLE, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy is authorized to sell the yard floating drydock YFD–70, located in Seattle, Washington, to Todd Pacific Shipyards Corporation, that company being the current user of the drydock.

(b) CONDITION OF CONVEYANCE.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of Todd Pacific Shipyards Corporation until at least September 30, 2010.

(c) CONSIDERATION.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall pay to the United States an amount equal to the fair market value of the drydock, as determined by the Secretary.

(d) TRANSFERS AT NO COST TO UNITED STATES.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1012. CONVEYANCE, NAVY DRYDOCK, JACKSONVILLE, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy is authorized to sell the medium auxiliary floating drydock SUSTAIN (AFDM–7), located in Duval County, Florida, to Atlantic Marine Property Holding Company, that company being the current user of the drydock.

(b) CONDITION OF CONVEYANCE.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of Atlantic Marine Property Holding Company until at least September 30, 2010.

(c) CONSIDERATION.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall pay to the United States an amount equal to the fair market value of the drydock, as determined by the Secretary.

(d) TRANSFERS AT NO COST TO UNITED STATES.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1013. CONVEYANCE, NAVY DRYDOCK, PORT ARTHUR, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy is authorized to convey, without consideration, to the port authority of the city of Port Arthur, Texas, the inactive medium auxiliary floating drydock designated as AFDM–2,

currently administered through the National Defense Reserve Fleet.

(b) CONDITION OF CONVEYANCE.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of the port authority named in subsection (a).

(c) TRANSFERS AT NO COST TO UNITED STATES.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1014. TRANSFER OF U.S.S. IOWA.

(a) WAIVER OF REQUIREMENT FOR CONTINUED LISTING ON NAVAL VESSEL REGISTER.—The provisions of the following laws do not apply with respect to the U.S.S. IOWA (BB–61):

(1) Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421).

(2) Section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2118).

(b) TRANSFER.—The Secretary of the Navy shall—

(1) strike the U.S.S. IOWA (BB–61) from the Naval Vessel Register; and

(2) subject to the submission of a donation application for that vessel that is satisfactory to the Secretary, transfer that vessel to the Port of Stockton, California, subject to subsections (b) and (c) of section 7306 of title 10, United States Code.

SEC. 1015. TRANSFER OF EX-U.S.S. FORREST SHERMAN.

(a) TRANSFER.—The Secretary of the Navy shall transfer the decommissioned destroyer ex-U.S.S. Forrest Sherman (DD–931) to the USS Forrest Sherman DD–931 Foundation, Inc., a nonprofit organization under the laws of the State of Maryland, subject to the submission of a donation application for that vessel that is satisfactory to the Secretary.

(b) APPLICABLE LAW.—The transfer under this section is subject to subsections (b) and (c) of section 7306 of title 10, United States Code. Subsection (d) of that section is hereby waived with respect to such transfer.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transfer under subsection (a) as the Secretary considers appropriate.

(d) EXPIRATION OF AUTHORITY.—The authority granted by subsection (a) shall expire at the end of the five-year period beginning on the date of the enactment of this Act.

SEC. 1016. LIMITATION ON LEASING OF FOREIGN-BUILT VESSELS.

(a) IN GENERAL.—

(1) CONTRACTS FOR LEASES FOR MORE THAN 24 MONTHS.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2401a the following new section:

"§2401b. Limitation on lease of foreign-built vessels

"(a) LIMITATION.—The Secretary of a military department may not make a contract for a lease or charter of a vessel for a term of more than 24 months (including all options to renew or extend the contract) if the hull, or a component of the hull and superstructure of the vessel, is constructed in a foreign shipyard.

"(b) PRESIDENTIAL WAIVER FOR NATIONAL SECURITY INTEREST.—(1) The President may authorize exceptions to the limitation in subsection (a) when the President determines that it is in the national security interest of the United States to do so.

"(2) The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date on which the notice of the determination is received by Congress.".(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401a the following new item:

"2401b. Limitation on lease of foreign-built vessels.".

(b) EFFECTIVE DATE.—Section 2401b of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the date of the enactment of this Act.

Subtitle C—Counter-Drug Activities

SEC. 1021. EXTENSION OF DEPARTMENT OF DEFENSE AUTHORITY TO SUPPORT COUNTER-DRUG ACTIVITIES.

Section 1004(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note), as amended by section 1021 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1212), is amended by striking "2006" and inserting "2011".

SEC. 1022. RESUMPTION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.

(a) ADDITIONAL REPORT REQUIRED.—Section 1022 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255), as amended by section 1022 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1215), is further amended by striking "January 1, 2001, and April 15, 2002," and inserting "April 15, 2006,".

(b) ADDITIONAL INFORMATION REQUIRED.—Such section is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) A description of each base of operation or training facility established, constructed, or operated using the assistance, including any minor construction projects carried out using such assistance, and the amount of assistance expended on base of operations and training facilities.".

SEC. 1023. CLARIFICATION OF AUTHORITY FOR JOINT TASK FORCES TO SUPPORT LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.

Section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1594) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) AVAILABILITY OF FUNDS.—Funds available to a joint task force to support counter-drug activities may also be used to provide the counter-terrorism support authorized by subsection (a).".

Subtitle D—Matters Related to Homeland Security

SEC. 1031. RESPONSIBILITIES OF ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE RELATING TO NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.

Subsection (a) of section 1413 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2313) is amended to read as follows:

"(a) DEPARTMENT OF DEFENSE.—The Assistant Secretary of Defense for Homeland Defense is responsible for the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving nuclear, radiological, biological, chemical weapons, or high-yield explosives or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear, radiological, biological, chemical weapons, and high-yield explosives and related materials and technologies.".

SEC. 1032. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, BIOLOGICAL, AND HIGH-YIELD EXPLOSIVES WEAPONS.

(a) SECRETARY OF HOMELAND SECURITY FUNCTIONS.—Subsection (a) of section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2315) is amended—

(1) in the subsection heading, by striking "CHEMICAL OR" and inserting "NUCLEAR, RADIOLOGICAL, CHEMICAL, OR";

(2) in paragraph (1)—

(A) by striking "Secretary of Defense" and inserting "Secretary of Homeland Security"; and

(B) by striking "biological weapons and related materials and emergencies involving " and inserting "nuclear, radiological, biological, and";

(3) in paragraph (2), by striking "during each of fiscal years 1997 through 2013" and inserting "in accordance with sections 102(c) and 430(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 112(c), 238(c)(1))"; and

(4) in paragraph (3)—

(A) by inserting "the Secretary of Defense," before "the Director of the Federal Bureau of Investigation"; and

(B) by striking "the Director of the Federal Emergency Management Agency,".

(b) REPEAL OF SECRETARY OF ENERGY FUNCTIONS.—Such section is further amended by striking subsection (b).

(c) CONFORMING AMENDMENTS.—Subsection (c) of such section—

(1) is redesignated as subsection (b); and

(2) is amended—

(A) in the first sentence, by striking "The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program" and inserting "The Secretary of Homeland Security shall revise the program developed under subsection (a)"; and

(B) in the second sentence, by striking "the official" and inserting "the Secretary".

(d) REPEAL OF OBSOLETE PROVISIONS.—Such section is further amended by striking subsections (d) and (e).

SEC. 1033. DEPARTMENT OF DEFENSE CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAMS.

Section 1414 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2314) is amended as follows:

(1) The heading of such section is amended to read as follows:

"SEC. 1414. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAM.".

(2) Subsection (a) of such section is amended by striking "or related materials" and inserting "radiological, nuclear, and high-yield explosives".

(3) Subsection (b) of such section is amended—

(A) in the subsection heading, by striking "PLAN" and inserting "PLANS";

(B) in the first sentence, by striking "Not later than" and all that follows through "response plans and" and inserting "The Secretary of Homeland Security shall incorporate into the National Response Plan prepared pursuant to section 502(6) of the Homeland Security Act of

2002 (6 U.S.C. 312(6)), other existing Federal emergency response plans, and''; and

(C) in the second sentence—

(i) by striking ''Director'' and inserting ''Secretary of Homeland Security''; and

(ii) by striking ''consultation''and inserting ''coordination''.

SEC. 1034. REPEAL OF DEPARTMENT OF DEFENSE EMERGENCY RESPONSE ASSISTANCE PROGRAM.

Section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312) is repealed.

Subtitle E—Other Matters

SEC. 1041. COMMISSION ON THE LONG-TERM IMPLEMENTATION OF THE NEW STRATEGIC POSTURE OF THE UNITED STATES.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the ''Commission on the Long-Term Implementation of the New Strategic Posture of the United States''. The Secretary of Defense shall enter into a contract with a federally funded research and development center to provide for the organization, management, and support of the Commission. Such contract shall be entered into in consultation with the Secretary of Energy. The selection of the federally funded research and development center shall be subject to the approval of the chairman of the Commission.

(2) COMPOSITION.—(A) The Commission shall be composed of 12 members who shall be appointed by the Secretary of Defense. In selecting individuals for appointment to the Commission, the Secretary of Defense shall consult with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

(B) Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political, military, operational, and technical aspects of nuclear strategy.

(3) CHAIRMAN OF THE COMMISSION.—The Secretary of Defense shall designate one of the members of the Commission to serve as chairman of the Commission.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(5) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(b) DUTIES OF COMMISSION.—

(1) REVIEW OF LONG-TERM IMPLEMENTATION OF THE NUCLEAR POSTURE REVIEW.—The Commission shall examine long-term programmatic requirements to achieve the goals set forth in the report of the Secretary of Defense submitted to Congress on December 31, 2001, providing the results of the Nuclear Posture Review conducted pursuant to section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654, 1654A-262) and results of periodic assessments of the Nuclear Posture Review. Matters examined by the Commission shall include the following:

(A) The process of establishing requirements for strategic forces and how that process accommodates employment of nonnuclear strike platforms and munitions in a strategic role.

(B) How strategic intelligence, reconnaissance, and surveillance requirements differ from nuclear intelligence, reconnaissance, and surveillance requirements.

(C) The ability of a limited number of strategic platforms to carry out a growing range of nonnuclear strategic strike missions.

(D) The limits of tactical systems to perform nonnuclear global strategic missions in a prompt manner.

(E) An assessment of the ability of the current nuclear stockpile to address the evolving strategic threat environment through 2025.

(2) RECOMMENDATIONS.—The Commission shall include in its report recommendations with respect to the following:

(A) Changes to the requirements process to employ nonnuclear strike platforms and munitions in a strategic role.

(B) Changes to the nuclear stockpile and infrastructure required to preserve a nuclear capability commensurate with the changes to the strategic threat environment through 2025.

(C) Actions the Secretary of Defense and the Secretary of Energy can take to preserve flexibility of the defense nuclear complex while reducing the cost of a Cold War strategic infrastructure.

(D) Identify shortfalls in the strategic modernization programs of the United States that would undermine the ability of the United States to develop new nonnuclear strategic strike capabilities.

(3) COOPERATION FROM GOVERNMENT OFFICIALS.—(A) In carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, and any other United States Government official in providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

(B) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(c) REPORTS.—

(1) COMMISSION REPORT.—The Commission shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives a report on the Commission's findings and conclusions. Such report shall be submitted not later that 28 months after the date of the first meeting of the Commission.

(2) SECRETARY OF DEFENSE RESPONSE.—Not later than one year after the date on which the Commission submits its report under paragraph (1), the Secretary of Defense shall submit to Congress a report—

(A) commenting on the Commission's findings and conclusions; and

(B) explaining what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and, with respect to each such recommendation, the Secretary's reasons for implementing, or not implementing, the recommendation.

(d) HEARINGS AND PROCEDURES.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out the purposes of this section, hold hearings and take testimony.

(2) PROCEDURES.—The federally funded research and development center with which a contract is entered into under subsection (a)(1) shall be responsible for establishing appropriate procedures for the Commission.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) FUNDING.—Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense.

(f) TERMINATION OF COMMISSION.—The Commission shall terminate 60 days after the date of the submission of its report under subsection (c)(1).

(g) IMPLEMENTATION.—

(1) FFRDC CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a)(1) not later that 60 days after the date of the enactment of this Act.

(2) FIRST MEETING.—The Commission shall convene its first meeting not later than 60 days after the date as of which all members of the Commission have been appointed.

SEC. 1042. REESTABLISHMENT OF EMP COMMISSION.

(a) REESTABLISHMENT.—The commission established pursuant to title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–345), known as the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack, is hereby reestablished.

(b) MEMBERSHIP.—The Commission as reestablished shall have the same membership as the Commission had as of the date of the submission of the report of the Commission pursuant to section 1403(a) of such Act, as in effect before the date of the enactment of this Act. Service on the Commission is voluntary, and Commissioners may elect to terminate their service on the Commission.

(c) COMMISSION CHARTER DEFINED.—In this section, the term ''Commission charter'' means title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–345 et seq.).

(d) ESTABLISHMENT AND PURPOSE.—Section 1401 of the Commission charter (114 Stat. 1654A–345) is amended—

(1) by striking subsections (e) and (g);

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following new subsection (b):

''(b) PURPOSE.—The purpose of the Commission is to monitor, investigate, make recommendations, and report to Congress on the evolving threat to the United States from electromagnetic pulse (hereinafter in this title referred to as 'EMP') attack resulting from the detonation of a nuclear weapon or weapons at high altitude.'';

(4) in subsection (c), as redesignated by paragraph (2), by striking the second and third sentences and inserting ''In the event of a vacancy in the membership of the Commission, the Secretary of Defense shall appoint a new member.''; and

(5) in subsection (d), as redesignated by paragraph (2), by striking ''pulse (hereafter'' and all that follows and inserting ''pulse effects referred to in subsection (b).''.

(e) DUTIES OF COMMISSION.—Section 1402 of the Commission charter (114 Stat. 1654A–346) is amended to read as follows:

''SEC. 1402. DUTIES OF COMMISSION.

''The Commission shall on an ongoing basis assess the following:

''(1) The nature and magnitude of potential EMP threats to the United States from terrorists and all other potentially hostile actors.

''(2) The proliferation of technology relevant to the EMP threat.

''(3) The vulnerability of electric-dependent military systems and other electric-dependent systems in the United States to an EMP attack, giving special attention to the progress, or lack of progress, by the Department of Defense, other Government departments and agencies of the United States, and entities of the private sector in taking steps to protect such systems from such an attack.''.

(f) REPORT.—Section 1403 of the Commission charter (114 Stat. 1654A–345) is amended to read as follows:

''SEC. 1403. REPORTS.

''(a) ANNUAL REPORT.—Not later than March 1 each year (beginning in 2007 and ending three

years later), the Commission shall submit to Congress an annual report providing the Commission's current assessment of the matters specified in section 1402.

"(b) ADDITIONAL REPORTS.—The Commission may submit to Congress additional reports at such other times as the Commission considers appropriate.

"(c) CONTENT OF REPORTS.—Each annual report under subsection (a) shall include recommendations for any steps the Commission believes should be taken by the United States to better protect systems referred to in section 1402(3) from an EMP attack.".

(g) CLERICAL AMENDMENT.—The heading for subsection (c) of section 1405 of the Commission charter (114 Stat. 1654A–347) is amended by striking "Commission" and inserting "Panels".

(h) COMMISSION PERSONNEL MATTERS.—Section 1406(c)(2) of the Commission charter (114 Stat. 1654A–347) is amended by striking "for grade GS–15 of the General Schedule" and inserting "for senior level and scientific or professional positions".

(i) FUNDING.—Section 1408 of the Commission charter (114 Stat. 1654A–348) is amended—

(1) by inserting "for any fiscal year" after "activities of the Commission"; and

(2) by striking "for fiscal year 2001" and inserting "for that fiscal year".

(j) TERMINATION OF COMMISSION.—Section 1409 of the Commission charter (114 Stat. 1654A–348) is amended by striking "60 days" and all that follows through "section 1403(a)" and inserting "on May 1, 2010".

SEC. 1043. MODERNIZATION OF AUTHORITY RELATING TO SECURITY OF DEFENSE PROPERTY AND FACILITIES.

Section 21 of the Internal Security Act of 1950 (50 U.S.C. 797) is amended to read as follows:

"PENALTY FOR VIOLATION OF SECURITY REGULATIONS AND ORDERS

"SEC. 21. (a) MISDEMEANOR VIOLATION OF DEFENSE PROPERTY SECURITY REGULATIONS.—

"(1) MISDEMEANOR.—Whoever willfully violates any defense property security regulation shall be fined under title 18, United States Code, or imprisoned not more than one year, or both.

"(2) DEFENSE PROPERTY SECURITY REGULATION DESCRIBED.—For purposes of paragraph (1), a defense property security regulation is a property security regulation that, pursuant to lawful authority—

"(A) shall be or has been promulgated or approved by the Secretary of Defense (or by a military commander designated by the Secretary of Defense or by a military officer, or a civilian officer or employee of the Department of Defense, holding a senior Department of Defense director position designated by the Secretary of Defense) for the protection or security of Department of Defense property; or

"(B) shall be or has been promulgated or approved by the Administrator of the National Aeronautics and Space Administration for the protection or security of NASA property.

"(3) PROPERTY SECURITY REGULATION DESCRIBED.—For purposes of paragraph (2), a property security regulation, with respect to any property, is a regulation—

"(A) relating to fire hazards, fire protection, lighting, machinery, guard service, disrepair, disuse, or other unsatisfactory conditions on such property, or the ingress thereto or egress or removal of persons therefrom; or

"(B) otherwise providing for safeguarding such property against destruction, loss, or injury by accident or by enemy action, sabotage, or other subversive actions.

"(4) DEFINITIONS.—In this subsection:

"(A) DEPARTMENT OF DEFENSE PROPERTY.—The term 'Department of Defense property' means covered property subject to the jurisdiction, administration, or in the custody of the Department of Defense, any Department or agency of which that Department consists, or any officer .or employee of that Department or agency.

"(B) NASA PROPERTY.—The term 'NASA property' means covered property subject to the jurisdiction, administration, or in the custody of the National Aeronautics and Space Administration or any officer or employee thereof.

"(C) COVERED PROPERTY.—The term 'covered property' means aircraft, airports, airport facilities, vessels, harbors, ports, piers, water-front facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places.

"(D) REGULATION AS INCLUDING ORDER.—The term 'regulation' includes an order.

"(b) POSTING.—Any regulation or order covered by subsection (a) shall be posted in conspicuous and appropriate places.".

SEC. 1044. REVISION OF DEPARTMENT OF DEFENSE COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) IN GENERAL.—Section 1564a of title 10, United States Code, is amended to read as follows:

"§ 1564a. Counterintelligence polygraph program

"(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be conducted in accordance with the standards specified in subsection (e).

"(b) PERSONS COVERED.—Except as provided in subsection (d), the following persons, if their duties are described in subsection (c), are subject to this section:

"(1) Military and civilian personnel of the Department of Defense.

"(2) Personnel of defense contractors.

"(3) A person assigned or detailed to the Department of Defense.

"(4) An applicant for a position in the Department of Defense.

"(c) COVERED TYPES OF DUTIES.—The Secretary of Defense may provide, under standards established by the Secretary, that a person described in subsection (b) is subject to this section if that person's duties involve—

"(1) access to information that—

"(A) has been classified at the level of top secret; or

"(B) is designated as being within a special access program under section 4.4(a) of Executive Order 12958 (or a successor Executive order); or

"(2) assistance in an intelligence or military mission in a case in which the unauthorized disclosure or manipulation of information, as determined under standards established by the Secretary of Defense, could reasonably be expected to—

"(A) jeopardize human life or safety;

"(B) result in the loss of unique or uniquely productive intelligence sources or methods vital to United States security; or

"(C) compromise technologies, operational plans, or security procedures vital to the strategic advantage of the United States and its allies.

"(d) EXCEPTIONS FROM COVERAGE FOR CERTAIN INTELLIGENCE AGENCIES AND FUNCTIONS.—This section does not apply to the following persons:

"(1) A person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency.

"(2) A person who is—

"(A) employed by or assigned or detailed to the National Security Agency;

"(B) an expert or consultant under contract to the National Security Agency;

"(C) an employee of a contractor of the National Security Agency; or

"(D) a person applying for a position in the National Security Agency.

"(3) A person assigned to a space where sensitive cryptographic information is produced, processed, or stored.

"(4) A person employed by, or assigned or detailed to, an office within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs or a contractor of such an office.

"(e) STANDARDS.—(1) Polygraph examinations conducted under this section shall comply with all applicable laws and regulations.

"(2) Such examinations may be authorized for any of the following purposes:

"(A) To assist in determining the initial eligibility for duties described in subsection (c) of, and aperiodically thereafter, on a random basis, to assist in determining the continued eligibility of, persons described in subsections (b) and (c).

"(B) With the consent of, or upon the request of, the examinee, to—

"(i) resolve serious credible derogatory information developed in connection with a personnel security investigation; or

"(ii) exculpate him- or herself of allegations or evidence arising in the course of a counterintelligence or personnel security investigation.

"(C) To assist, in a limited number of cases when operational exigencies require the immediate use of a person's services before the completion of a personnel security investigation, in determining the interim eligibility for duties described in subsection (c) of the person.

"(3) Polygraph examinations conducted under this section shall provide adequate safeguards, prescribed by the Secretary of Defense, for the protection of the rights and privacy of persons subject to this section under subsection (b) who are considered for or administered polygraph examinations under this section. Such safeguards shall include the following:

"(A) The examinee shall receive timely notification of the examination and its intended purpose and may only be given the examination with the consent of the examinee.

"(B) The examinee shall be advised of the examinee's right to consult with legal counsel.

"(C) All questions asked concerning the matter at issue, other than technical questions necessary to the polygraph technique, must have a relevance to the subject of the inquiry.

"(f) OVERSIGHT.—(1) The Secretary shall establish a process to monitor responsible and effective application of polygraph examinations within the Department of Defense.

"(2) The Secretary shall make information on the use of polygraphs within the Department of Defense available to the congressional defense committees.

"(g) POLYGRAPH RESEARCH PROGRAM.—The Secretary shall carry out a continuing research program to support the polygraph examination activities of the Department of Defense. The program shall include the following:

"(1) An on-going evaluation of the validity of polygraph techniques used by the Department.

"(2) Research on polygraph countermeasures and anti- countermeasures.

"(3) Developmental research on polygraph techniques, instrumentation, and analytic methods.".

(b) EFFECTIVE DATE; IMPLEMENTATION.—The amendment made by subsection (a) shall apply with respect to polygraph examinations administered beginning on the date of the enactment of this Act.

SEC. 1045. REPEAL OF REQUIREMENT FOR REPORT TO CONGRESS REGARDING GLOBAL STRIKE CAPABILITY.

(a) REPEAL OF REQUIREMENT FOR ANNUAL UPDATE TO PLAN FOR GLOBAL STRIKE CAPABILITY.— Subsection (a) of section 1032 of the

National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1605; 10 U.S.C. 113 note) is amended by striking the second sentence.

(b) Repeal of 2006 Report Requirement.—Subsection (b)(1) of such section is amended by striking ", 2005, and 2006" and inserting "and 2005".

SEC. 1046. TECHNICAL AND CLERICAL AMENDMENTS.

(a) Amendments Relating to Definition of Congressional Defense Committees.—

(1) Chapter 169 of title 10, United States Code, is amended as follows:

(A) Paragraph (4) of section 2801(c) is amended to read as follows:

"(4) The term 'congressional defense committees' includes, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense—

"(A) the Permanent Select Committee on Intelligence of the House of Representatives; and

"(B) the Select Committee on Intelligence of the Senate.".

(B) The following sections are amended by striking "appropriate committees of Congress" each place it appears and inserting "congressional defense committees": sections 2803(b), 2804(b), 2805(b)(2), 2806(c)(2), 2807(b), 2807(c), 2808(b), 2809(f)(1), 2811(d), 2812(c)(1)(A), 2813(c), 2814(a)(2)(A), 2814(g)(1), 2825(b)(1), 2827(b), 2828(f), 2837(c)(2), 2853(c)(2), 2854(b), 2854a(c)(1), 2865(e)(2), 2866(c)(2), 2875(e), 2881a(d)(2), 2881a(e), 2883(f), and 2884(a).

(C) Section 2835 is amended by adding at the end the following new subsection:

"(i) Appropriate Committees of Congress Defined.—In this section, the term 'appropriate committees of Congress' means the congressional defense committees and, with respect to the Coast Guard, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

(D) Section 2836 is amended by adding at the end the following new subsection:

"(h) Appropriate Committees of Congress Defined.—In this section, the term 'appropriate committees of Congress' means the congressional defense committees and, with respect to the Coast Guard, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

(2) Section 2694a of such title is amended—

(A) in subsection (e), by striking "appropriate committees of Congress" and inserting "congressional defense committees"; and

(B) in subsection (i), by striking paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(b) Amendments Relating to Definition of Base Closure Laws.—

(1) Section 2694a(i) of title 10, United States Code, is amended by striking paragraph (2).

(2) Paragraph (1) of section 1333(i) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2701 note) is amended to read as follows:

"(1) Base closure law.—The term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.".

(3) Subsection (b) of section 2814 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 10 U.S.C. 2687 note) is amended to read as follows:

"(b) Base Closure Law Defined.—In this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.".

(4) Subsection (c) of section 3341 of title 5, United States Code, is amended to read as follows:

"(c) For purposes of this section, the term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10.".

(5) Chapter 5 of title 40, United States Code, is amended—

(A) in section 554(a)(1), by striking "means" and all that follows and inserting "has the meaning given that term in section 101(a)(17) of title 10."; and

(B) in section 572(b)(1)(B), by striking "section 2667(h)(2)" and inserting "section 101(a)(17) of title 10".

(6) The Act of November 13, 2000, entitled "An Act to Amend the Organic Act of Guam, and for other purposes" (Public Law 106–504, 114 Stat. 2309) is amended by striking paragraph (2) of section 1(c) and inserting the following new paragraph (2):

"(2) The term 'base closure law' has the meaning given such term in section 101(a)(17) of title 10, United States Code.".

(c) Definition of State for Purposes of Section 2694a.—Subsection (i) of section 2694a of title 10, United States Code, as amended by subsections (a)(2)(B) and (b)(1), is further amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively; and

(2) in paragraph (2), as so redesignated, by striking "and the territories and possessions of the United States" and inserting ", Guam, the Virgin Islands, and American Samoa".

(d) Other Miscellaneous Corrections to Title 10, United States Code.—Title 10, United States Code, is amended as follows:

(1) Section 101(e)(4)(B)(ii) is amended by striking the comma after "bulk explosives".

(2) Section 127b(d)(1) is amended by striking "polices" in the second sentence and inserting "policies".

(3) Section 1732 is amended—

(A) in subsection (c)—

(i) by striking "(b)(2)(A) and (b)(2)(B)" in paragraphs (1) and (2) and inserting "(b)(1)(A) and (b)(1)(B)"; and

(ii) by striking paragraph (3); and

(B) in subsection (d)(2), by striking "(b)(2)(A)(ii)" and inserting "(b)(1)(A)(ii)".

(4) Section 2410m(b) is amended by striking "compeititon" in the second sentence and inserting "competition".

(5) Section 2507(d) is amended by striking "section (a)" and inserting "subsection (a)".

(6) Section 2665(a) is amended by striking "under section 2664 of this title".

(7) Section 2703(b) is amended by striking "The terms 'unexploded ordnance', 'discarded military munitions', and" and inserting "In this subsection, the terms 'discarded military munitions' and".

(8) Section 2773a(a) is amended by inserting "by" after "incorrect payment made" in the first sentence.

(9) Section 2801(d) is amended by striking "sections 2830 and 2835" and inserting "sections 2830, 2835, and 2836 of this chapter".

(10) Section 2881a(f) is amended by striking "Notwithstanding section 2885 of this title, the" and inserting "The".

(11) Section 3084 is amended by striking the semicolon in the section heading and inserting a colon.

(e) Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.—The Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 108–375) is amended as follows:

(1) Section 513(c)(2)(C) (118 Stat. 1881) is amended by striking "404(a)(4)" and inserting "416(a)(4)".

(2) Section 1105(h) (118 Stat. 2075) is amended by striking "(21 U.S.C." and inserting "(20 U.S.C.".

(f) Bob Stump National Defense Authorization Act for Fiscal Year 2003.—The Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended as follows:

(1) Section 314 (116 Stat. 2508) is amended—

(A) in subsection (d), by striking "(40 U.S.C." and inserting "(42 U.S.C. "; and

(B) in subsection (e)(2), by striking "(40 U.S.C." and inserting "(42 U.S.C.)".

(2) Section 635(a) (116 Stat. 2574) is amended by inserting "the first place it appears" after "by striking 'a claim' ".

(g) National Defense Authorization Act for Fiscal Year 1994.—Section 1605(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking "Logisitics" in the first sentence and inserting "Logistics".

(h) Title 38, United States Code.—Section 8111(b)(1) of title 38, United States Code, is amended by inserting "of 1993" after "the Government Performance and Results Act".

SEC. 1047. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.

(a) Deleting Obsolete Definition of "Territory" in Title 10.—Title 10, United States Code, is amended as follows:

(1) Section 101(a) is amended by striking paragraph (2).

(2) The following sections are amended by striking the terms "Territory or", "or Territory", "a Territorial Department,", "or a Territory", "Territory and", "its Territories,", and "and Territories" each place they appear: sections 101(a)(3), 332, 822, 1072, 1103, 2671, 3037, 5148, 8037, 8074, 12204, and 12642.

(3) The following sections are amended by striking the terms "Territory," and "Territories," each place they appear: sections 849, 858, 888, 2668, 2669, 7545, and 9773.

(4) Section 808 is amended by striking "Territory, Commonwealth, or possession," and inserting "Commonwealth, possession,".

(5) The following sections are amended are by striking "Territories, Commonwealths, or possessions" each place it appears and inserting "Commonwealths or possessions": sections 846, 847, 2734, 3062, 3074, 4747, 4778, 5986, 7652, 7653, 8062, 9778, and 12406.

(6) The following sections are amended by striking "Territories, Commonwealths, and possessions" each place it appears and inserting "Commonwealths and possessions": sections 3062, 3074, 4747, 4778, 8062, and 9778.

(7) Section 312 is amended by striking "States and Territories, and Puerto Rico" and inserting "States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands".

(8) Section 335 is amended by striking "the unincorporated territories of".

(9) Sections 4301 and 9301 are amended by striking "State or Territory, Puerto Rico, or the District of Columbia" each place it appears and inserting "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands".

(10) Sections 4685 and 9685 are amended by striking "State or Territory concerned" each place it appears and inserting "State concerned or Guam or the Virgin Islands" and by striking "State and Territorial" each place it appears and inserting "State, Guam, and the Virgin Islands".

(11) Section 7851 is amended by striking "States, the Territories, and the District of Columbia" and inserting "States, the District of Columbia, Guam, and the Virgin Islands".

(12) Section 7854 is amended by striking "any State, any Territory, or the District of Columbia" and inserting "any State, the District of Columbia, Guam, or the Virgin Islands".

(b) Deleting Obsolete Definition of "Territory" in Title 32.—Title 32, United States Code, is amended as follows:

(1) Paragraph (1) of section 101 is amended to read as follows:

"(1) For purposes of other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, the term 'Territory' includes Guam and the Virgin Islands.".

(2) Sections 103, 104(c), 314, 315, 708(d), and 711 are amended by striking "State and Territory, Puerto Rico and the District of Columbia" and "State or Territory, Puerto Rico, and the District of Columbia" each place they appear and inserting "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands".

(3) Sections 104(d), 107, 109, 503, 703, 704, 710, and 712 are amended by striking "State or Territory, Puerto Rico or the District of Columbia" and "State or Territory, Puerto Rico, the Virgin Islands or the District of Columbia" each place they appear and inserting "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands".

(4) Sections 104(a), 505, 702(a), and 708(a) are amended by striking "State or Territory and Puerto Rico" and "State or Territory, Puerto Rico" each place they appear and inserting "State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands".

(5) Section 324 is amended by striking "State or Territory of whose National Guard he is a member, or by the laws of Puerto Rico, or the District of Columbia, if he is a member of its National Guard" and inserting "State of whose National Guard he is a member, or by the laws of the Commonwealth of Puerto Rico, or the District of Columbia, Guam, or the Virgin Islands, whose National Guard he is a member".

(6) Section 325 is amended by striking "State or Territory, or of Puerto Rico" and "State or Territory or Puerto Rico" each place they appear and inserting "State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands".

(7) Sections 326, 327, and 501 are amended by striking "States and Territories, Puerto Rico, and the District of Columbia" each place it appears and inserting "States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands".

TITLE XI—CIVILIAN PERSONNEL MATTERS

1101. Extension of eligibility to continue Federal employee health benefits.
1102. Extension of Department of Defense voluntary reduction in force authority.
1103. Extension of authority to make lump sum severence payments.
1104. Authority for heads of agencies to allow shorter length of required service by Federal employees after completion of training.
1105. Authority to waive annual limitation on total compensation paid to Federal civilian employees.
1106. Transportation of family members incident to repatriation of Federal employees held captive.
1107. Permanent extension of Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Program.

SEC. 1101. EXTENSION OF ELIGIBILITY TO CONTINUE FEDERAL EMPLOYEE HEALTH BENEFITS.

Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) in clause (i), by striking "October 1, 2006" and inserting "October 1, 2010"; and

(2) in clause (ii)—

(A) by striking "February 1, 2007" and inserting "February 1, 2011"; and

(B) by striking "October 1, 2006" and inserting "October 1, 2010".

SEC. 1102. EXTENSION OF DEPARTMENT OF DEFENSE VOLUNTARY REDUCTION IN FORCE AUTHORITY.

Section 3502(f)(5) of title 5, United States Code, is amended by striking "September 30, 2005" and inserting "September 30, 2010".

SEC. 1103. EXTENSION OF AUTHORITY TO MAKE LUMP SUM SEVERENCE PAYMENTS.

Section 5595(i)(4) of title 5, United States Code, is amended by striking "October 1, 2006" and inserting "October 1, 2010".

SEC. 1104. AUTHORITY FOR HEADS OF AGENCIES TO ALLOW SHORTER LENGTH OF REQUIRED SERVICE BY FEDERAL EMPLOYEES AFTER COMPLETION OF TRAINING.

Section 4108 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d);

(2) by striking "subsection (b)" in subsection (d) (as so redesignated) and inserting "subsection (c)"; and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) The head of an agency that authorized training for an employee may require a period of service for the employee that is shorter than the period required under subsection (a)(1) if the head of the agency determines it is in the best interests of the agency to require a shorter period. ".

SEC. 1105. AUTHORITY TO WAIVE ANNUAL LIMITATION ON TOTAL COMPENSATION PAID TO FEDERAL CIVILIAN EMPLOYEES.

(a) Waiver Authority.—During 2006 and notwithstanding section 5547 of title 5, United States Code, the head of an executive agency may waive, subject to subsection (b), the limitation established in that section for total compensation (including limitations on the aggregate of basic pay and premium pay payable in a calendar year) of an employee who performs work while in an overseas location that is in the area of responsibility of the commander of the United States Central Command, in direct support of or directly related to a military operation (including a contingency operation as defined in section 101(13) of title 10, United States Code).

(b) $200,000 Maximum Total Compensation.—The total compensation of an employee whose pay is covered by a waiver under subsection (a) may not exceed $200,000 in a calendar year.

(c) Additional Pay not Considered Basic Pay.—To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay—

(1) shall not be considered to be basic pay for any purpose; and

(2) shall not be used in computing a lump sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

SEC. 1106. TRANSPORTATION OF FAMILY MEMBERS INCIDENT TO REPATRIATION OF FEDERAL EMPLOYEES HELD CAPTIVE.

(a) Allowances Authorized.—Chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§5760. Travel and transportation allowances: transportation of family members incident to repatriation of employees held captive

"(a) Allowances Authorized.—(1) The head of an agency may provide the travel and transportation allowances described in subsection (c) to not more than three family members of an employee as defined in section 2105 of this title who—

"(A) was held captive, as determined by the head of the agency, and

"(B) is repatriated to a site in or outside the United States.

"(2) In circumstances determined to be appropriate by the head of the agency concerned, the head of the agency may waive the limitation on the number of family members provided travel and transportation allowances under this section.

"(b) Eligible Persons.—(1) In this section, the term 'family member' has the meaning given that term in section 411h(b) of title 37.

"(2) The head of an agency may also provide such travel and transportation allowances to an attendant who accompanies a family member if the head of the agency determines that—

"(A) the family member is unable to travel unattended because of age, physical condition, or other justifiable reason; and

"(B) no other family member who is receiving the allowances under this section is able to serve as an attendant for the family member.

"(3) If no family member is able to travel to the repatriation site, the head of the agency concerned may provide the travel and transportation allowances to not more than two persons who are related to the member (but who do not satisfy the definition of family member) and are selected by the member.

"(c) Allowances Described.—(1) The transportation authorized by subsection (a) is round-trip transportation between—

"(A) the home of the family member (or the home of an attendant or other person provided transportation pursuant to paragraph (2) or (3) of subsection (b)); and

"(B) the location of the repatriation site or other location determined to be appropriate by the head of the agency concerned.

"(2) In addition to the transportation authorized by subsection (a), the head of an agency may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of title 37.

"(d) Provision of Allowances.—(1) The transportation authorized by subsection (a) may be provided by any of the following means:

"(A) Transportation in-kind.

"(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the heads of the agencies concerned.

"(C) Reimbursement for the commercial cost of transportation.

"(2) An allowance payable under this subsection may be paid in advance.

"(3) Reimbursement payable under this subsection may not exceed the cost of government-procured commercial round-trip air travel.

"(e) Regulations.—The heads of the agencies concerned shall prescribe uniform regulations to carry out this section.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 57 of title 5, United States Code, is amended by adding at the end the following new item:

"5760. Travel and transportation allowances: transportation of family members incident to repatriation of employees held captive.".

SEC. 1107. PERMANENT EXTENSION OF SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE SCHOLARSHIP PROGRAM.

(a) Permanent Extension.—Section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2074; 10 U.S.C. 2192 note) is amended—

(1) by striking "pilot" each place it appears in the section and subsection headings and the text;

(2) in subsection (a)—

(A) by striking "(1)"; and

(B) by striking paragraph (2); and

(3) in subsection (b)—

(A) in paragraph (1)(B), by striking "undergraduate" and inserting "associates degree, undergraduate degree,"; and

(B) by adding at the end the following new paragraph:

"(3) Financial assistance provided under a scholarship awarded under this section may be paid directly to the recipient of such scholarship or to an administering entity for disbursement of the funds.".

(b) CODIFICATION.—

(1) AMENDMENT TO TITLE 10.—Chapter 111 of title 10, United States Code, is amended—

(A) by inserting after section 2192 the following:

"§2192a. Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Program"; and

(B) by transferring and inserting the text of section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2074; 10 U.S.C. 2192 note), as amended by subsection (a), so as to appear below the section heading for section 2192a, as added by subparagraph (A).

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2192 the following new item:

"2192a. Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Program.".

(c) CONFORMING AMENDMENT.—Section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2074; 10 U.S.C. 2192 note) is amended by striking subsections (a), (b), (c), (d), (e), (f), and (h).

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Subtitle A—Assistance and Training

1201. Extension of humanitarian and civic assistance provided to host nations in conjunction with military operations.
1202. Commanders' Emergency Response Program.
1203. Military educational exchanges between senior officers and officials of the United States and Taiwan.
1204. Modification of geographic restriction under bilateral and regional cooperation programs for payment of certain expenses of defense personnel of developing countries.
1205. Authority for Department of Defense to enter into acquisition and cross-servicing agreements with regional organizations of which the United States is not a member.
1206. Two-year extension of authority for payment of certain administrative services and support for coalition liaison officers.

Subtitle B—Nonproliferation Matters and Countries of Concern

1211. Report on acquisition by Iran of nuclear weapons.
1212. Procurement sanctions against foreign persons that transfer certain defense articles and services to the People's Republic of China.
1213. Prohibition on procurements from Communist Chinese military companies.

Subtitle C—Other Matters

1221. Purchase of weapons overseas for force protection purposes.
1222. Requirement for establishment of certain criteria applicable to on-going Global Posture Review.

Subtitle A—Assistance and Training

SEC. 1201. EXTENSION OF HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED TO HOST NATIONS IN CONJUNCTION WITH MILITARY OPERATIONS.

(a) LIMITATION ON AMOUNT OF ASSISTANCE FOR CLEARANCE OF LANDMINES, ETC.—Subsection (c)(3) of section 401 of title 10, United States Code is amended by striking "$5,000,000" and inserting "$10,000,000".

(b) EXTENSION AND CLARIFICATION OF TYPES OF HEALTH CARE AUTHORIZED.—Subsection (e)(1) of such section is amended—

(1) by inserting "surgical," before "dental," both places it appears; and

(2) by inserting ", including education, training, and technical assistance related to the care provided" before the period at the end.

SEC. 1202. COMMANDERS' EMERGENCY RESPONSE PROGRAM.

(a) FISCAL YEAR 2006 AUTHORITY.—During fiscal year 2006, from funds made available to the Department of Defense for operation and maintenance pursuant to title XV, not to exceed $500,000,000 may be used by the Secretary of Defense to provide funds—

(1) for the Commanders' Emergency Response Program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people; and

(2) for a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal-year quarter, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes stated in subsection (a).

(c) LIMITATION ON USE OF FUNDS.—Funds authorized for the Commanders' Emergency Response Program by this section may not be used to provide goods, services, or funds to national armies, national guard forces, border security forces, civil defense forces, infrastructure protection forces, highway patrol units, police, special police, or intelligence or other security forces.

(d) SECRETARY OF DEFENSE GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall issue to the commander of the United States Central Command detailed guidance concerning the types of activities for which United States military commanders in Iraq may use funds under the Commanders' Emergency Response Program to respond to urgent relief and reconstruction requirements and the terms under which such funds may be expended. The Secretary shall simultaneously provide a copy of that guidance to the congressional defense committees.

SEC. 1203. MILITARY EDUCATIONAL EXCHANGES BETWEEN SENIOR OFFICERS AND OFFICIALS OF THE UNITED STATES AND TAIWAN.

(a) DEFENSE EXCHANGES.—The Secretary of Defense shall undertake a program of senior military officer and senior official exchanges with Taiwan designed to improve Taiwan's defenses against the People's Liberation Army of the People's Republic of China.

(b) EXCHANGES DESCRIBED.—For the purposes of this section, the term "exchange" means an activity, exercise, event, or observation opportunity between Armed Forces personnel or Department of Defense officials of the United States and armed forces personnel and officials of Taiwan.

(c) FOCUS OF EXCHANGES.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall include exchanges focused on the following, especially as they relate to defending Taiwan against potential submarine attack and potential missile attack:

(1) Threat analysis.

(2) Military doctrine.

(3) Force planning.

(4) Logistical support.

(5) Intelligence collection and analysis.

(6) Operational tactics, techniques, and procedures.

(d) CIVIL-MILITARY AFFAIRS.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall include activities and exercises focused on civil-military relations, including parliamentary relations.

(e) LOCATION OF EXCHANGES.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall be conducted in both the United States and Taiwan.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "senior military officer" means a general or flag officer of the Armed Forces on active duty.

(2) The term "senior official" means a civilian official of the Department of Defense at the level of Deputy Assistant Secretary of Defense or above.

SEC. 1204. MODIFICATION OF GEOGRAPHIC RESTRICTION UNDER BILATERAL AND REGIONAL COOPERATION PROGRAMS FOR PAYMENT OF CERTAIN EXPENSES OF DEFENSE PERSONNEL OF DEVELOPING COUNTRIES.

Section 1051(b)(1) of title 10, United States Code, is amended—

(1) by inserting "to and" after "in connection with travel"; and

(2) by striking "in which the developing country is located" and inserting "in which the meeting for which expenses are authorized is located".

SEC. 1205. AUTHORITY FOR DEPARTMENT OF DEFENSE TO ENTER INTO ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH REGIONAL ORGANIZATIONS OF WHICH THE UNITED STATES IS NOT A MEMBER.

Subchapter I of chapter 138 of title 10, United States Code, is amended by striking "of which the United States is a member" in sections 2341(1), 2342(a)(1)(C), and 2344(b)(4).

SEC. 1206. TWO-YEAR EXTENSION OF AUTHORITY FOR PAYMENT OF CERTAIN ADMINISTRATIVE SERVICES AND SUPPORT FOR COALITION LIAISON OFFICERS.

Section 1051a(e) of title 10, United States Code, is amended by striking "September 30, 2005" and inserting "September 30, 2007".

Subtitle B—Nonproliferation Matters and Countries of Concern

SEC. 1211. REPORT ON ACQUISITION BY IRAN OF NUCLEAR WEAPONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Iran Nonproliferation Act of 2000 (Public Law 106–178) has been a critical tool in preventing the spread of weapons of mass destruction and their associated delivery systems to Iran;

(2) the prevention of the development by Iran of weapons of mass destruction and their associated delivery systems remains the paramount policy goal of the United States with respect to matters associated with Iran; and

(3) the Iran Nonproliferation Act of 2000 should not be weakened by creating exceptions

to requirements of such Act that are intended to serve lesser policy priorities.

(b) REPORT.—Not later than nine months after the date of the enactment of this Act, the Secretary of Defense and Chairman of the Joint Chiefs of Staff shall submit to Congress a report that examines the strategic and military implications of the acquisition by Iran of nuclear weapons during the five-year period beginning on the date of the enactment of this Act. The report shall include the following:

(1) An assessment of the acquisition by Iran of nuclear weapons on the balance of power among states within the area of responsibility of the United States Central Command.

(2) A description of the active and passive defense systems of the United States that may be able to counter such nuclear weapons based on the future-years defense program under section 221 of title 10, United States Code, extant at the time of the fiscal year 2005 defense budget request.

(3) A description of the military capabilities that the United States possesses that would enable it to deal with the potential acquisition and use of nuclear weapons by Iran within the area of responsibility of the United States Central Command.

(4) An assessment of Iran's ability to deliver and detonate nuclear weapons outside of the area of responsibility of the United States Central Command.

(5) A summary of the entities that have provided technology, knowledge, or assistance useful in the efforts of Iran to develop weapons of mass destruction or their associated delivery systems during the ten-year period ending on the date of the enactment of this Act.

(c) FORM.—The report described in subsection (b) shall be submitted in unclassified form as appropriate, with a classified annex as necessary.

SEC. 1212. PROCUREMENT SANCTIONS AGAINST FOREIGN PERSONS THAT TRANSFER CERTAIN DEFENSE ARTICLES AND SERVICES TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States to deny the People's Republic of China such defense goods and defense technology that could be used to threaten the United States or undermine the security of Taiwan or the stability of the Western Pacific region.

(b) PROCUREMENT SANCTION.—(1) The Secretary of Defense may not procure, by contract or otherwise, any goods or services from—

(A) any foreign person the Secretary of Defense determines has, with actual knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to governmental or nongovernmental entities of the People's Republic of China any item or class of items on the United States Munitions List (or any item or class of items that are identical, substantially identical, or directly competitive to an item or class of items on the United States Munitions List); or

(B) any foreign person the Secretary of Defense determines—

(i) is a successor entity to a person referred to in paragraph (1);

(ii) is a parent or subsidiary of a person referred to in paragraph (1); or

(iii) is an affiliate of a person referred to in paragraph (1) if that affiliate is controlled in fact by such person.

(2) The prohibition under paragraph (1) with respect to a foreign person shall last for a period of five years after a determination is made by the Secretary of Defense with respect to that person under paragraph (1)(A).

(c) PUBLIC AVAILABILITY OF LIST OF SANCTIONED PERSONS.—(1) The Secretary of Defense shall annually publish in the Federal Register a current list of any foreign persons sanctioned under subsection (b). The removal of foreign persons from, and the addition of foreign persons to, the list shall also be so published.

(2) The Secretary shall maintain the list published under paragraph (1) on the Internet website of the Department of Defense.

(d) REMOVAL FROM LIST OF SANCTIONED PERSONS.—The Secretary of Defense may remove a person from the list of sanctioned persons referred to in subsection (c) only after the five-year prohibition period imposed under subsection (b) with respect to the person has expired.

(e) EXCEPTIONS.—(1) Subsection (b) shall not apply—

(A) to contracts, or subcontracts under such contracts, in existence on the date of the enactment of this Act, including options under such contracts;

(B) if the Secretary of Defense determines in writing that the person to which the sanctions would otherwise be applied is a sole source supplier of the goods or services being procured, that the goods or services are essential, and that alternative sources are not readily or reasonably available;

(C) in the case of a contract for routine servicing and maintenance, if the Secretary of Defense determines in writing alternative sources for performing the contract are not readily or reasonably available; or

(D) if the Secretary of Defense determines in writing that goods or services proposed to be procured under the contract are essential to the national security of the United States.

(2) Determinations under paragraph (1) shall be published in the Federal Register.

(f) DEFINITIONS.—In this section:

(1) The term "foreign person" has the meaning given the term in section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note).

(2) The term "United States Munitions List" means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

SEC. 1213. PROHIBITION ON PROCUREMENTS FROM COMMUNIST CHINESE MILITARY COMPANIES.

(a) PROHIBITION.—The Secretary of Defense may not procure goods or services, through a contract or any subcontract (at any tier) under a contract, from any Communist Chinese military company.

(b) DEFINITION.—In this section, the term "Communist Chinese military company" has the meaning provided that term by section 1237(b)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note).

Subtitle C—Other Matters

SEC. 1221. PURCHASE OF WEAPONS OVERSEAS FOR FORCE PROTECTION PURPOSES.

(a) PURCHASES IN COUNTRIES IN WHICH COMBAT OPERATIONS ARE ONGOING.—

(1) FORCE PROTECTION PURCHASES.—Chapter 3 of title 10, United States Code, is amended by inserting after section 127b the following new section:

"§ 127c. Purchase of weapons overseas: force protection

"(a) AUTHORITY.—When elements of the armed forces are engaged in ongoing military operations in a country, the Secretary of Defense may, for the purpose of protecting United States forces in that country, purchase weapons from any foreign person, foreign government, international organization, or other entity located in that country.

"(b) LIMITATION.—The total amount expended during any fiscal year for purchases under this section may not exceed $15,000,000.

"(c) ANNUAL CONGRESSIONAL REPORT.—Not later than 30 days after the end of each fiscal year during which the authority under subsection (a) is used, the Secretary of Defense shall submit to the congressional defense committees a report on the use of that authority during that fiscal year. Each such report shall include the following:

"(1) The number and type of weapons purchased during that fiscal year under subsection (a), together with the amount spent for those weapons and the Secretary's estimate of the fair market value of those weapons.

"(2) A description of the dispositions (if any) during that fiscal year of weapons purchased under subsection (a).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127b the following new item:

"127c. Purchase of weapons overseas: force protection.".

(b) EFFECTIVE DATE.—Section 127c of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2005.

SEC. 1222. REQUIREMENT FOR ESTABLISHMENT OF CERTAIN CRITERIA APPLICABLE TO ON-GOING GLOBAL POSTURE REVIEW.

(a) CRITERIA.—As part of the on-going review of overseas basing plans being conducted within the Department of Defense that is referred to as the "Global Posture Review", the Secretary of Defense shall develop criteria for assessing, with respect to each type of facility specified in subsection (c), the following factors in deciding whether to seek agreement with a foreign country to establish or maintain such a facility in that country:

(1) The effect on strategic mobility of units deployed to overseas locations in areas in which United States Armed Forces have not traditionally been deployed.

(2) The cost of deploying units to areas referred to in paragraph (1) on a rotational basis (rather than on a permanent basing basis).

(3) The strategic benefit of rotational deployments through countries with which the United States is developing a close or new security relationship.

(4) The relative speed and complexity of conducting negotiations with a particular country.

(5) The appropriate and available funding mechanisms for changes to specific Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

(6) The effect on military quality of life of establishing or maintaining any of such types of facilities.

(7) Other criteria as Secretary of Defense determines appropriate.

(b) ANALYSIS OF ALTERNATIVES TO BASING OR OPERATING LOCATIONS.—The Secretary of Defense shall develop a mechanism for analyzing alternatives to any particular overseas basing or operating location. Such a mechanism shall incorporate the factors specified in paragraphs (1) through (4) of subsection (a).

(c) MINIMAL INFRASTRUCTURE REQUIREMENTS FOR OVERSEAS INSTALLATIONS.—The Secretary of Defense shall develop a template of minimal infrastructure requirements for each of the following types of facilities:

(1) Facilities categorized as Main Operating Bases.

(2) Facilities categorized as Forward Operating Bases.

(3) Facilities categorized as Cooperative Security Locations.

(d) CONSULTATION WITH SENIOR MILITARY OFFICERS.—The Secretary of Defense shall carry out subsections (a), (b), and (c) in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the regional combatant commands.

(e) Annual Budget Element.—The Secretary of Defense shall provide to Congress, as an element of the annual budget request of the Secretary, information regarding the funding sources for changes to individual Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

(f) Report.—Not later than March 30, 2006, the Secretary of Defense shall submit to Congress a report on the matters specified in subsections (a) through (c).

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

1301. Specification of Cooperative Threat Reduction programs and funds.
1302. Funding allocations.
1303. Authority to obligate weapons of mass destruction proliferation prevention funds for nuclear weapons storage security.
1304. Extension of limited waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union.
1305. Report on elimination of impediments to nuclear threat-reduction and nonproliferation programs in the Russian Federation.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) Specification of CTR Programs.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) Fiscal Year 2006 Cooperative Threat Reduction Funds Defined.—As used in this title, the term "fiscal year 2006 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) Availability of Funds.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) Funding for Specific Purposes.—Of the $415,549,000 authorized to be appropriated to the Department of Defense for fiscal year 2006 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $78,900,000.

(2) For nuclear weapons storage security in Russia, $74,100,000.

(3) For nuclear weapons transportation security in Russia, $30,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,600,000.

(5) For chemical weapons destruction in Russia, $108,500,000.

(6) For biological weapons proliferation prevention in the former Soviet Union, $60,849,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $14,600,000.

(b) Report on Obligation or Expenditure of Funds for Other Purposes.—No fiscal year 2006 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2006 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) Limited Authority to Vary Individual Amounts.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2006 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. AUTHORITY TO OBLIGATE WEAPONS OF MASS DESTRUCTION PROLIFERATION PREVENTION FUNDS FOR NUCLEAR WEAPONS STORAGE SECURITY.

(a) In General.—Subject to subsection (b), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2006 for the purpose listed in subsection (c)(4) of section 1302 for the purpose listed in subsection (c)(2) of that section.

(b) Limitation.—The authority provided in subsection (a) may be used only after—

(1) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(2) 15 days have elapsed following the date of the notification.

SEC. 1304. EXTENSION OF LIMITED WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.

Section 1306 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (22 U.S.C. 5952 note) is amended by adding at the end the following new subsection:

"(f) Coverage of Calendar Years.—The authority under subsection (a) applies with respect to calendar years 2005, 2006, and 2007 in the same manner as it applies to fiscal years. The authority under this subsection shall expire on December 31, 2007.".

SEC. 1305. REPORT ON ELIMINATION OF IMPEDIMENTS TO NUCLEAR THREAT-REDUCTION AND NONPROLIFERATION PROGRAMS IN THE RUSSIAN FEDERATION.

(a) Findings.—Congress finds that—

(1) despite the importance of programs and activities to assist in securing nuclear weapons and fissile materials in the states of the former Soviet Union, the effective conduct of some programs and activities in the Russian Federation is impeded by numerous legal and administrative disagreements regarding a variety of issues, including issues relating to access to sites, liability, and taxation; and

(2) it has been possible to resolve disagreements of that nature in other republics of the former Soviet Union through committed and high-level discussions between the United States and those republics.

(b) Report.—Not later than November 1, 2006, the President shall submit to Congress a report on impediments in the states of the former Soviet Union to the effective conduct of programs and activities of the United States relating to securing nuclear weapons and fissile materials in those states. The report shall—

(1) identify the impediments to the rapid, efficient, and effective conduct of programs and activities of the Department of Defense, the Department of State, and the Department of Energy to assist in securing such materials in those states, including issues relating to access to sites, liability, and taxation; and

(2) describe the plans of the United States to overcome or ameliorate such impediments, including an identification and discussion of new models and approaches that might be used to develop new relationships with entities in Russia capable of assisting in removing or ameliorating those impediments, and any congressional action that may be necessary for that purpose.

TITLE XIV—CONTRACT DISPUTE ENHANCEMENT

Subtitle A—General provisions

1411. Definitions.

Subtitle B—Establishment of civilian and defense Boards of contract appeals

1421. Establishment.
1422. Membership.
1423. Chairmen.
1424. Rulemaking authority.
1425. Authorization of appropriations.

Subtitle C—Functions of defense and civilian Boards of contract appeals

1431. Contract disputes.
1432. Enhanced access for small business.
1433. Applicability to certain contracts.

Subtitle D—Transfers and transition, savings, and conforming provisions

1441. Transfer and allocation of appropriations and personnel.
1442. Terminations and savings provisions.
1443. Contract disputes authority of Boards.
1444. References to agency Boards of contract appeals.
1445. Conforming amendments.

Subtitle E—Effective Date; Regulations and Appointment of Chairmen

1451. Effective date.
1452. Regulations.
1453. Appointment of Chairmen of Defense Board and Civilian Board.

Subtitle A—General Provisions

SEC. 1411. DEFINITIONS.

(a) In General.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following:

"TITLE II—DISPUTE RESOLUTION

"Subtitle A—General Provisions

"SEC. 201. DEFINITIONS.

"In this title:

"(1) The term 'Defense Board' means the Department of Defense Board of Contract Appeals established pursuant to section 8(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607).

"(2) The term 'Civilian Board' means the Civilian Board of Contract Appeals established pursuant to section 8(b)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607).

"(3) The term 'Board judge' means a member of the Defense Board or the Civilian Board, as the case may be.

"(4) The term 'Chairman' means the Chairman of the Defense Board or the Civilian Board, as the case may be.

"(5) The term 'Board concerned' means—

"(A) the Defense Board with respect to matters within its jurisdiction; and

"(B) the Civilian Board with respect to matters within its jurisdiction.

"(6) The term 'executive agency'—

"(A) with respect to contract disputes under the jurisdiction of the Defense Board, means the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, or the National Aeronautics and Space Administration; and

"(B) with respect to contract disputes under the jurisdiction of the Civilian Board, has the meaning given by section 4(1) of this Act except that the term does not include the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, and the Tennessee Valley Authority.".

(b) CONFORMING AMENDMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is further amended—

(1) by inserting the following before section 1:

"TITLE I—FEDERAL PROCUREMENT POLICY GENERALLY";

and

(2) in section 4, by striking out "As used in this Act:" and inserting in lieu thereof "Except as otherwise specifically provided, as used in this Act:".

Subtitle B—Establishment of Civilian and Defense Boards of Contract Appeals

SEC. 1421. ESTABLISHMENT.

(a) DEFENSE BOARD.—Subsection (a)(1) of section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is amended to read as follows:

"(a)(1) There is established in the Department of Defense a board of contract appeals to be known as the Department of Defense Board of Contract Appeals.".

(b) CIVILIAN BOARD.—Subsection (b)(1) of section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is amended to read as follows:

"(b)(1) There is established in the General Services Administration a board of contract appeals to be known as the Civilian Board of Contract Appeals.".

SEC. 1422. MEMBERSHIP.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1411, is further amended by adding at the end the following:

"SEC. 202. MEMBERSHIP.

"(a) APPOINTMENT.—(1)(A) The Defense Board shall consist of judges appointed by the Secretary of Defense from a register of applicants maintained by the Defense Board, in accordance with rules issued by the Defense Board for establishing and maintaining a register of eligible applicants and selecting Defense Board judges. The Secretary shall appoint a judge without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Defense Board judge.

"(B) The Civilian Board shall consist of judges appointed by the Administrator for Federal Procurement Policy from a register of applicants maintained by the Administrator, in accordance with rules issued by the Administrator for establishing and maintaining a register of eligible applicants and selecting Civilian Board judges. The Administrator shall appoint a judge without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Civilian Board judge.

"(2) The members of the Defense Board and the Civilian Board shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, United States Code, with an additional requirement that such members shall have had not fewer than five years of experience in public contract law.

"(3) Notwithstanding paragraph (2) and subject to subsection (b), the following persons shall serve as Board judges:

"(A) For the Defense Board, any full-time member of the Armed Services Board of Contract Appeals serving as such on the day before the effective date of this title.

"(B) For the Civilian Board, any full-time member of any agency board of contract appeals other than the Armed Services Board of Contract Appeals, the Postal Service Board of Contract Appeals, and the board of contract appeals of the Tennessee Valley Authority serving as such on the day before the effective date of this title.

"(b) REMOVAL.—Members of the Defense Board and the Civilian Board shall be subject to removal in the same manner as administrative law judges, as provided in section 7521 of title 5, United States Code.

"(c) COMPENSATION.—Compensation for the Chairman of the Defense Board and the Chairman of the Civilian Board and all other members of each Board shall be determined under section 5372a of title 5, United States Code.".

SEC. 1423. CHAIRMEN.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1422, is further amended by adding at the end the following:

"SEC. 203. CHAIRMEN.

"(a) DESIGNATION.—(1)(A) The Chairman of the Defense Board shall be designated by the Secretary of Defense to serve for a term of five years. The Secretary shall select the Chairman from among sitting judges each of whom has had at least five years of service as a member of the Armed Services Board of Contract Appeals.

"(B) The Chairman of the Civilian Board shall be designated by the Administrator for Federal Procurement Policy to serve for a term of five years. The Administrator shall select the Chairman from among sitting judges each of whom has had at least five years of service as a member of an agency board of contract appeals other than the Armed Services Board of Contract Appeals.

"(2) A Chairman of a Board may continue to serve after the expiration of the Chairman's term until a successor has taken office. A Chairman may be reappointed any number of times.

"(b) RESPONSIBILITIES.—The Chairman of the Defense Board or the Civilian Board, as the case may be, shall be responsible on behalf of the Board for the executive and administrative operation of the Board, including functions of the Board with respect to the following:

"(1) The selection, appointment, and fixing of the compensation of such personnel, pursuant to part III of title 5, United States Code, as the Chairman considers necessary or appropriate, including a Clerk of the Board, a General Counsel, and clerical and legal assistance for Board judges.

"(2) The supervision of personnel employed by or assigned to the Board, and the distribution of work among such personnel.

"(3) The operation of an Office of the Clerk of the Board, including the receipt of all filings made with the Board, the assignment of cases, and the maintenance of all records of the Board.

"(4) The prescription of such rules and regulations as the Chairman considers necessary or appropriate for the administration and management of the Board.

"(c) VICE CHAIRMEN.—The Chairman of the Defense Board or the Civilian Board, as the case may be, may designate up to two other Board judges as Vice Chairmen. The Vice Chairmen, in the order designated by the Chairman, shall act in the place and stead of the Chairman during the absence of the Chairman.".

SEC. 1424. RULEMAKING AUTHORITY.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1423, is further amended by adding at the end the following:

"SEC. 204. RULEMAKING AUTHORITY.

"Except as provided by section 1452 of the National Defense Authorization Act for Fiscal Year 2006, the Chairman of the Defense Board and the Chairman of the Civilian Board, in consultation with the Administrator for Federal Procurement Policy, shall jointly issue and maintain—

"(1) such procedural rules and regulations as are necessary to the exercise of the functions of the Boards under section 211; and

"(2) statements of policy of general applicability with respect to such functions.".

SEC. 1425. AUTHORIZATION OF APPROPRIATIONS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1424, is further amended by adding at the end the following:

"SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for fiscal year 2006 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this title. Funds for the activities of each Board shall be separately appropriated for such purpose. Funds appropriate pursuant to this section shall remain available until expended.".

Subtitle C—Functions of Defense and Civilian Boards of Contract Appeals

SEC. 1431. CONTRACT DISPUTES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1425, is further amended by adding at the end the following:

"Subtitle B—Functions of the Defense and Civilian Boards of Contract Appeals

"SEC. 211. CONTRACT DISPUTES.

"The Defense Board shall have jurisdiction as provided by section 8(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(a)). The Civilian Board shall have jurisdiction as provided by section 8(b)(1) of such Act (41 U.S.C. 607(b)).".

SEC. 1432. ENHANCED ACCESS FOR SMALL BUSINESS.

Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608) is amended by striking out the period at the end of the first sentence and inserting the following: "or, in the case of a small business concern (as defined in the Small Business Act and regulations under that Act), $150,000 or less.".

SEC. 1433. APPLICABILITY TO CERTAIN CONTRACTS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 1431, is further amended by adding at the end the following:

"SEC. 212. APPLICABILITY TO CERTAIN CONTRACTS.

"(a) CONTRACTS AT OR BELOW THE SIMPLIFIED ACQUISITION THRESHOLD.—Notwithstanding section 33 of this Act, the authority conferred on the Defense Board and the Civilian Board by this title is applicable to contracts in amounts not greater than the simplified acquisition threshold.

"(b) CONTRACTS FOR COMMERCIAL ITEMS.—Notwithstanding section 34 of this Act, the authority conferred on the Defense Board and the Civilian Board by this title is applicable to contracts for the procurement of commercial items.".

Subtitle D—Transfers and Transition, Savings, and Conforming Provisions

SEC. 1441. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) Transfers.—

(1) Armed Services Board of Contract Appeals.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the Armed Services Board of Contract Appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date described in section 1451), shall be transferred to the Department of Defense Board of Contract Appeals for appropriate allocation by the Chairman of that Board.

(2) Other boards of contracts appeals.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date described in section 1451) other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley Authority, and the Postal Service Board of Contract Appeals shall be transferred to the Civilian Board of Contract Appeals for appropriate allocation by the Chairman of that Board.

(b) Effect on Personnel.—Personnel transferred pursuant to this subtitle shall not be separated or reduced in compensation for one year after such transfer, except for cause.

(c) Regulations.—(1) The Department of Defense Board of Contract Appeals and the Civilian Board of Contract Appeals shall each prescribe regulations for the release of competing employees in a reduction in force that gives due effect to—

(A) efficiency or performance ratings;

(B) military preference; and

(C) tenure of employment.

(2) In prescribing the regulations, the Board concerned shall provide for military preference in the same manner as set forth in subchapter I of chapter 35 of title 5, United States Code.

SEC. 1442. TERMINATIONS AND SAVINGS PROVISIONS.

(a) Termination of Boards of Contract Appeals.—Effective on the effective date described in section 1451, the boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before such effective date), other than the board of contract appeals of the Tennessee Valley Authority and the Postal Service Board of Contract Appeals, shall terminate.

(b) Savings Provision for Contract Dispute Matters Pending Before Boards.—(1) This title and the amendments made by this title shall not affect any proceedings pending on the effective date described in section 1451 before any board of contract appeals terminated by subsection (a).

(2) In the case of any such proceedings pending before the Armed Services Board of Contract Appeals, the proceedings shall be continued by the Department of Defense Board of Contract Appeals, and orders which were issued in any such proceeding by the Armed Services Board of Contract Appeals shall continue in effect until modified, terminated, superseded, or revoked by the Department of Defense Board of Contract Appeals, by a court of competent jurisdiction, or by operation of law.

(3) In the case of any such proceedings pending before an agency board of contract appeals other than the Armed Services Board of Contract Appeals or the board of contract appeals of the Tennessee Valley Authority, the proceedings shall be continued by the Civilian Board of Contract Appeals, and orders which were issued in any such proceeding by the agency board shall continue in effect until modified, terminated, superseded, or revoked by the Civilian Board of Contract Appeals, by a court of competent jurisdiction, or by operation of law.

SEC. 1443. CONTRACT DISPUTES AUTHORITY OF BOARDS.

(a) Section 2 of the Contract Disputes Act of 1978 (41 U.S.C. 601) is amended—

(1) in paragraph (2), by striking out ", the United States Postal Service, and the Postal Rate Commission";

(2) by redesignating paragraph (7) as paragraph (9);

(3) by amending paragraph (6) to read as follows:

"(6) the terms 'agency board' or 'agency board of contract appeals' mean—

"(1) the Department of Defense Board of Contract Appeals established under section 8(a)(1) of this Act;

"(2) the Civilian Board of Contract Appeals established under section 8(b)(1) of this Act;

"(3) the board of contract appeals of the Tennessee Valley Authority; or

"(4) the Postal Service Board of Contract Appeals established under section 8(h) of this Act;"; and

(4) by inserting after paragraph (6) the following new paragraphs:

"(7) the term 'Defense Board' means the Department of Defense Board of Contract Appeals established under section 8(a)(1) of this Act;

"(8) the term 'Civilian Board' means the Civilian Board of Contract Appeals established under section 8(b)(1) of this Act; and".

(b) Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607), as amended by section 1421, is further amended—

(1) by striking out subsection (c);

(2) in subsection (d)—

(A) by striking out the first sentence and inserting in lieu thereof the following: "The Defense Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, or the National Aeronautics and Space Administration relative to a contract made by that department or agency. The Civilian Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of any executive agency (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Rate Commission, or the Tennessee Valley Authority) relative to a contract made by that agency. Each other agency board shall have jurisdiction to decide any appeal from a decision of a contracting officer relative to a contract made by its agency."; and

(B) in the second sentence, by striking out "Claims Court" and inserting in lieu thereof "Court of Federal Claims";

(3) by striking out subsection (h) and inserting in lieu thereof the following:

"(h) There is established an agency board of contract appeals to be known as the 'Postal Service Board of Contract Appeals'. Such board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the United States Postal Service or the Postal Rate Commission relative to a contract made by either agency. Such board shall consist of judges appointed by the Postmaster General who shall meet the qualifications of and serve in the same manner as judges of the Civilian Board of Contract Appeals. This Act and title II of the Office of Federal Procurement Policy Act shall apply to contract disputes before the Postal Service Board of Contract Appeals in the same manner as they apply to contract disputes before the Civilian Board."; and

(4) by striking out subsection (i).

SEC. 1444. REFERENCES TO AGENCY BOARDS OF CONTRACT APPEALS.

(a) Defense Board.—Any reference to the Armed Services Board of Contract Appeals in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the Department of Defense Board of Contract Appeals.

(b) Civilian Board.—Any reference to an agency board of contract appeals other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley Authority, or the Postal Service Board of Contract Appeals in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the Civilian Board of Contract Appeals.

SEC. 1445. CONFORMING AMENDMENTS.

(a) Title 5.—Section 5372a(a)(1) of title 5, United States Code, is amended by inserting after "of 1978" the following: "or a member of the Department of Defense Board of Contract Appeals or the Civilian Board of Contract Appeals appointed under section 202 of the Office of Federal Procurement Policy Act".

(b) Office of Federal Procurement Policy Act.—

(1) The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by inserting the following before the item relating to section 1:

"TITLE I—FEDERAL PROCUREMENT
POLICY GENERALLY".

(2) The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by adding at the end the following:

"TITLE II—DISPUTE RESOLUTION

"Subtitle A—General provisions

"201. Definitions.
"202. Membership.
"203. Chairmen.
"204. Rulemaking authority.
"205. Authorization of appropriations.

"Subtitle B—Functions of the defense and
civilian Boards of contract appeals

"211. Contract disputes.
"212. Applicability to certain contracts.".

Subtitle E—Effective Date; Regulations and Appointment of Chairmen

SEC. 1451. EFFECTIVE DATE.

Title II of the Office of Federal Procurement Policy Act, as added by this title, and the amendments and repeals made by this title shall take effect 1 year after the date of the enactment of this Act.

SEC. 1452. REGULATIONS.

(a) Regulations Regarding Claims.—Not later than 1 year after the date of the enactment of this Act, the Chairman of the Armed Services Board of Contract Appeals and the Chairman of the General Services Board of Contract Appeals, in consultation with the Administrator for Federal Procurement Policy, shall jointly issue—

(1) such procedural rules and regulations as are necessary to the exercise of the functions of the Department of Defense Board of Contract Appeals and the Civilian Board of Contract Appeals under sections 211 of the Office of Federal

Procurement Policy Act (as added by this title); and

(2) statements of policy of general applicability with respect to such functions.

(b) REGULATIONS REGARDING APPOINTMENT OF JUDGES.—Not later than 1 year after the date of the enactment of this Act—

(1) the Chairman of the Armed Services Board of Contract Appeals shall issue rules governing the establishment and maintenance of a register of eligible applicants and the selection of judges for the Department of Defense Board of Contract Appeals; and

(2) the Administrator for Federal Procurement Policy shall issue rules governing the establishment and maintenance of a register of eligible applicants and the selection of judges for the Civilian Board of Contract Appeals.

SEC. 1453. APPOINTMENT OF CHAIRMEN OF DEFENSE BOARD AND CIVILIAN BOARD.

Notwithstanding section 1451, not later than 1 year after the date of the enactment of this Act—

(1) the Secretary of Defense shall appoint the Chairman of the Department of Defense Board of Contract Appeals; and

(2) the Administrator for Federal Procurement Policy shall appoint the Chairman of the Civilian Board of Contract Appeals.

TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Subtitle A—General Increases

1501. Purpose.
1502. Army procurement.
1503. Navy and Marine Corps procurement.
1504. Defense-wide activities procurement.
1505. Research, development, test, and evaluation, defense-wide activities.
1506. Operation and maintenance.
1507. Defense working capital funds.
1508. Defense Health Program.
1509. Military personnel.
1510. Iraq Freedom Fund.
1511. Classified programs.
1512. Treatment as additional authorizations.
1513. Transfer authority.
1514. Availability of funds.

Subtitle B—Personnel Provisions

1521. Increase in active Army and Marine Corps strength levels.
1522. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2007 through 2009.
1523. Military death gratuity enhancement.
1524. Permanent prohibition against requiring certain injured members to pay for meals provided by military treatment facilities.
1525. Permanent authority to provide travel and transportation allowances for dependents to visit hospitalized members injured in combat operation or combat zone.
1526. Permanent increase in length of time dependents of certain deceased members may continue to occupy military family housing or receive basic allowance for housing.
1527. Availability of special pay for members during rehabilitation from combat-related injuries.
1528. Allowance to cover monthly deduction from basic pay for Servicemembers' Group Life Insurance coverage for members serving in Operation Enduring Freedom or Operation Iraqi Freedom.

Subtitle C—Matters Involving Support Provided by Foreign Nations

1531. Reimbursement of certain coalition nations for support provided to United States military operations.

Subtitle A—General Increases

SEC. 1501. PURPOSE.

The purpose of this title is to authorize emergency appropriations for the Department of Defense for fiscal year 2006 to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom. Funds authorized for appropriation in this title are available upon the enactment of this Act.

SEC. 1502. ARMY PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement accounts of the Army in amounts as follows:

(1) For weapons and tracked combat vehicles, $574,627,000.

(2) For ammunition, $105,700,000.

(3) For other procurement, $1,945,350,000.

SEC. 1503. NAVY AND MARINE CORPS PROCUREMENT.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement accounts for the Navy in amounts as follows:

(1) For weapons procurement, $36,800,000.

(2) For other procurement, $15,300,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Marine Corps in the amount of $445,400,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement of ammunition for the Navy and the Marine Corps in the amount of $144,721,000.

SEC. 1504. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for Defense-wide procurement in the amount of $103,900,000.

SEC. 1505. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the Department of Defense for research, development, test and evaluation, Defense-wide, in the amount of $75,000,000.

SEC. 1506. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $20,305,001,000.

(2) For the Navy, $1,838,000,000.

(3) For the Marine Corps, $1,791,800,000.

(4) For the Air Force, $3,195,352,000.

(5) For Defense-wide, $2,870,333,000.

(6) For the Army National Guard, $159,500,000.

(7) For the Army Reserve, $26,400,000.

SEC. 1507. DEFENSE WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the Defense Working Capital Fund in the amount of $1,700,000,000.

SEC. 1508. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Defense Health Program in the amount of $846,000,000, for Operation and Maintenance.

SEC. 1509. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2006 a total of $9,390,010,000.

SEC. 1510. IRAQ FREEDOM FUND.

(a) IN GENERAL.—Funds are herby authorized to be appropriated for fiscal year 2006 for the account of the Iraq Freedom Fund in amount of $1,000,000,000, to remain available for transfer to other accounts in this title until April 30, 2006. Amounts of authorization so transferred shall be merged with, and be made available for, the same purposes as the authorization to which transferred.

(b) NOTICE TO CONGRESS.—A transfer may be made from the Iraq Freedom Fund only after the Secretary of Defense notifies the congressional defense subcommittees with respect to the proposed transfer in writing not less than five days before the transfer is made.

SEC. 1511. CLASSIFIED PROGRAMS.

There is hereby authorized to be appropriated for fiscal year 2006 for classified programs the amount of $2,500,000,000.

SEC. 1512. TREATMENT AS ADDITIONAL AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

SEC. 1513. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,000,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—A transfer may be made under the authority of this section only after the Secretary of Defense—

(1) consults with the chairmen and ranking members of the congressional defense committees with respect to the proposed transfer; and

(2) after such consultation, notifies those committees in writing of the proposed transfer not less than five days before the transfer is made.

SEC. 1514. AVAILABILITY OF FUNDS.

Funds in this title shall be made available for obligation to the Army, Navy, Marine Corps, Air Force, and Defense-wide components by the end of the second quarter of fiscal year 2006.

Subtitle B—Personnel Provisions

SEC. 1521. INCREASE IN ACTIVE ARMY AND MARINE CORPS STRENGTH LEVELS.

(a) AUTHORIZED END STRENGTHS.—The end strength level authorized for fiscal year 2006 under section 401—

(1) for the Army is hereby increased by 30,000; and

(2) for the Marine Corps is hereby increased by 4,000.

(b) Statutory Minimum Active Strength Levels.—

(1) Army.—The minimum strength for the Army under section 691(b) of title 10, United States Code (notwithstanding the number specified in paragraph (1) of that section) for the period beginning on October 1, 2005, and ending on September 30, 2006, shall be the number specified in section 401(1) of this Act, increased by 30,000.

(2) Marine corps.—The minimum strength for the Marine Corps under section 691(b) of title 10, United States Code (notwithstanding the number specified in paragraph (3) of that section) for the period beginning on October 1, 2005, and ending on September 30, 2006, shall be the number specified in section 401(3) of this Act, increased by 4,000.

(c) Limitation.—The authorized strengths for the Army and Marine Corps provided in subsection (a) for active duty personnel for fiscal year 2006 are subject to the condition that costs of active-duty personnel of the Army and the Marine Corps for that fiscal year in excess of 482,400 and 175,000, respectively, shall be paid out of funds appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

SEC. 1522. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY AND MARINE CORPS ACTIVE DUTY END STRENGTHS FOR FISCAL YEARS 2007 THROUGH 2009.

Effective October 1, 2006, the text of section 403 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1863) is amended to read as follows:

"(a) Authority.—

"(1) Army.—For each of fiscal years 2007, 2008, and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Army at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2006 baseline plus 20,000.

"(2) Marine corps.—For each of fiscal years 2007, 2008, and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Marine Corps at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2006 baseline plus 5,000.

"(3) Purpose of increases.—The purposes for which increases may be made in Army and Marine Corps active duty end strengths under paragraphs (1) and (2) are—

"(A) to support operational missions; and

"(B) to achieve transformational reorganization objectives, including objectives for increased numbers of combat brigades and battalions, increased unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces.

"(4) Fiscal-year 2006 baseline.—In this subsection, the term 'fiscal-year 2006 baseline', with respect to the Army and Marine Corps, means the active-duty end strength authorized for those services in section 1521 of the National Defense Authorization Act for Fiscal Year 2006.

"(5) Active-duty end strength.—In this subsection, the term 'active-duty end strength' means the strength for active-duty personnel of one the Armed Forces as of the last day of a fiscal year.

"(b) Relationship to Presidential Waiver Authority.—Nothing in this section shall be construed to limit the President's authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

"(c) Relationship to Other Variance Authority.—The authority under subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

"(d) Budget Treatment.—

"(1) Fiscal year 2007 budget.—The budget for the Department of Defense for fiscal year 2007 as submitted to Congress shall comply, with respect to funding, with subsections (c) and (d) of section 691 of title 10, United States Code.

"(2) Other increases.—If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under subsection (a), then the budget for the Department of Defense for that fiscal year as submitted to Congress shall include the amounts necessary for funding that active duty end strength in excess of the fiscal year 2006 active duty end strength authorized for that service under section 401 of the National Defense Authorization Act for Fiscal Year 2006.".

SEC. 1523. MILITARY DEATH GRATUITY ENHANCEMENT.

(a) Increase in Amount.—Section 1478 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (e), respectively;

(2) by designating the second sentence of subsection (a) as subsection (b) and by striking therein "this purpose" and inserting "the purpose of subsection (a)";

(3) in subsection (a), by striking "title shall be $12,000 (as adjusted under subsection (c))." and inserting the following: "title—

"(1) except as provided in paragraph (2), shall be $12,000 (as adjusted under subsection (e)); and

"(2) in the case of a death described in subsection (d), shall be $100,000.";

(4) by inserting after subsection (c), as redesignated by paragraph (1), the following new subsection:

"(d) A death referred to in subsection (a)(2) is a death resulting from wounds, injuries, or illnesses that are—

"(1) incurred as described in section 1413a(e)(2) of this title; or

"(2) incurred in an operation designated by the Secretary of Defense as a combat operation or in an area designated by the Secretary as a combat zone."; and

(5) in subsection (e), as redesignated by paragraph (1), by striking "subsection (a)" and inserting "subsection (a)(1)".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 2005, immediately after the provisions of the second sentence of section 1013(e)(2) of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

SEC. 1524. PERMANENT PROHIBITION AGAINST REQUIRING CERTAIN INJURED MEMBERS TO PAY FOR MEALS PROVIDED BY MILITARY TREATMENT FACILITIES.

(a) Prohibition.—Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) No Payment for Meals Received at Military Treatment Facilities.—(1) A member of the armed forces who is undergoing medical recuperation or therapy, or is otherwise in the status of continuous care, including outpatient care, at a military treatment facility for an injury, illness, or disease described in paragraph (2) shall not be required to pay, during any month in which the member is entitled to a basic allowance for subsistence under this section, any charge for meals provided to the member by the military treatment facility.

"(2) Paragraph (1) applies with respect to an injury, illness, or disease incurred or aggravated by a member while the member was serving on active duty—

"(A) in support of Operation Iraqi Freedom or Operation Enduring Freedom; or

"(B) in any other operation designated by the Secretary of Defense as a combat operation or in an area designated by the Secretary as a combat zone.".

(b) Repeal of Temporary Authority.—Section 1023 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is repealed.

(c) Effective Date.—The amendments made by this section shall take effect on the earlier of the following:

(1) The date of the enactment of this Act.

(2) September 30, 2005.

SEC. 1525. PERMANENT AUTHORITY TO PROVIDE TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS TO VISIT HOSPITALIZED MEMBERS INJURED IN COMBAT OPERATION OR COMBAT ZONE.

(a) Authority to Continue Allowance.—Effective as of September 30, 2005, section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) Codification of Reporting Requirement.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection:

"(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii) of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.".

(c) Conforming Amendment.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking "under section 1967(c)(1)(A) of title 38".

SEC. 1526. PERMANENT INCREASE IN LENGTH OF TIME DEPENDENTS OF CERTAIN DECEASED MEMBERS MAY CONTINUE TO OCCUPY MILITARY FAMILY HOUSING OR RECEIVE BASIC ALLOWANCE FOR HOUSING.

Effective as of September 30, 2005, section 1022 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 1527. AVAILABILITY OF SPECIAL PAY FOR MEMBERS DURING REHABILITATION FROM COMBAT-RELATED INJURIES.

(a) Special Pay Authorized.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 327. Combat-related injury rehabilitation pay

"(a) Special Pay Authorized.—The Secretary concerned may pay monthly special pay under this section to a member of the armed forces who incurs a combat-related injury in a combat operation or combat zone designated by the Secretary of Defense and is evacuated from the theater of the combat operation or from the combat zone for medical treatment.

"(b) Commencement of Payment.—Subject to subsection (c), the special pay authorized by subsection (a) may be paid to a member described in such subsection for any month beginning after the date on which the member was *evacuated from the theater of the combat operation or the combat zone in which the member incurred the combat-related injury.*

"(c) TERMINATION OF PAYMENTS.—The payment of special pay to a member under subsection (a) shall terminate at the end of the first month during which any of the following occurs:

"(1) The member is paid a benefit under the traumatic injury protection rider of the Servicemembers' Group Life Insurance Program issued under section 1980A of title 38.

"(2) The member is no longer hospitalized in a military treatment facility or a facility under the auspices of the military health care system.

"(d) AMOUNT OF SPECIAL PAY.—The monthly amount of special pay paid to a member under this section shall be equal to $430.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled or authorized to receive.

"(f) COMBAT-RELATED DISABILITY.—In this section, the term 'combat-related injury', with respect to a member, means a wound, injury, or illness that is incurred (as determined using the criteria prescribed by the Secretary of Defense under section 1413a(e)(2) of title 10) by the member—

"(1) as a direct result of armed conflict;

"(2) while engaged in hazardous service;

"(3) in the performance of duty under conditions simulating war; or

"(4) through an instrumentality of war.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new item:

"327. Combat-related injury rehabilitation pay.".

(c) EFFECTIVE DATE.—The Secretary of a military department may provide special pay under section 327 of title 37, United States Code, as added by subsection (a), for months beginning on or after the date of the enactment of this Act. A member of the Armed Forces who incurred a combat-related injury, as defined in subsection (f) of such section, before the date of the enactment of this Act may receive such pay for months beginning on or after that date so long as the member continues to satisfy the eligibility criteria specified in such section.

SEC. 1528. ALLOWANCE TO COVER MONTHLY DEDUCTION FROM BASIC PAY FOR SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE FOR MEMBERS SERVING IN OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.

(a) ALLOWANCE TO COVER SGLI DEDUCTIONS.—Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§437. Allowance to cover monthly premium for Servicemembers' Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom

"(a) REIMBURSEMENT FOR PREMIUM DEDUCTION.—In the case of a member of the armed forces who has obtained insurance coverage for the member under the Servicemembers' Group Life Insurance program under subchapter III of chapter 19 of title 38 and who serves in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom at any time during a month, the Secretary concerned shall pay the member an allowance under this section for that month in an amount equal to the lesser of the following:

"(1) The amount of the deduction actually made for that month from the basic pay of the member for the amount of Servicemembers' Group Life Insurance coverage obtained by the member under section 1967 of title 38.

"(2) The amount of the deduction otherwise made under subsection (a)(1) of section 1969 of title 38 for members who have in effect for themselves the maximum amount of coverage under section 1967(a) of title 38.

"(b) NOTICE OF AVAILABILITY OF ALLOWANCE.—To the maximum extent practicable, in advance of the deployment of a member to a theater of operations referred to in subsection (a), the Secretary concerned shall give the member information regarding the following:

"(1) The availability of the allowance under this section for members insured under the Servicemembers' Group Life Insurance program.

"(2) The ability of members who elected not to be insured under Servicemembers' Group Life Insurance, or elected less than the authorized maximum coverage, to obtain insurance, or to obtain additional coverage, as the case may be, under the authority provided in section 1967(c) of title 38.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 37, United States Code, is amended by adding at the end the following new item:

"437. Allowance to cover monthly premium for Servicemembers' Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom.".

(c) EFFECTIVE DATE; NOTIFICATION.—Section 437 of title 37, United States Code, as added by subsection (a), shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after October 1, 2005. In the case of members who are serving in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom as of the date of the enactment of this Act, the Secretary of Defense shall provide such members, as soon as practicable, the information specified in subsection (b) of that section.

(d) FUNDING SOURCE.—Amounts appropriated pursuant to the authorization of appropriations in section 1509 for emergency appropriations for military personnel accounts for the Department of Defense for fiscal year 2006 shall be available to the Secretary of a military department to provide the allowance established by section 437 of title 37, United States Code, as added by subsection (a).

Subtitle C—Matters Involving Support Provided by Foreign Nations

SEC. 1531. REIMBURSEMENT OF CERTAIN COALITION NATIONS FOR SUPPORT PROVIDED TO UNITED STATES MILITARY OPERATIONS.

(a) AUTHORITY.—From funds made available for the Department of Defense by this title for Defense-Wide Operations and Maintenance, the Secretary of Defense may reimburse any key cooperating nation for logistical and military support provided by that nation to or in connection with United States military operations in Iraq, Afghanistan, and the global war on terrorism.

(b) DETERMINATIONS.—Payments authorized under subsection (a) may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, may determine, in the Secretary's discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided. Any such determination by the Secretary of Defense shall be final and conclusive upon the accounting officers of the United States. To the maximum extent practicable, the Secretary shall develop standards for determining the kinds of logistical and military support to the United States that shall be considered reimbursable under this section.

(c) LIMITATIONS.—

(1) TOTAL AMOUNT.—The total amount of payments made under the authority of this section during fiscal year 2006 may not exceed $1,500,000,000.

(2) PROHIBITION ON CONTRACTUAL OBLIGATIONS TO MAKE PAYMENTS.—The Secretary may not enter into any contractual obligation to make a payment under the authority of this section.

(d) CONGRESSIONAL NOTIFICATIONS.—The Secretary of Defense—

(1) shall notify the congressional defense committees not less than 15 days before making any payment under the authority of this section; and

(2) shall submit to those committees quarterly reports on the use of the authority under this section.

TITLE XVI—CONTRACTORS ON THE BATTLEFIELD

1601. Short title.
1602. Findings.
1603. Definitions.
1604. Requirements for commanders of combatant commands relating to contractors accompanying and not accompanying the force.
1605. Requirements for contractors relating to possession of weapons.
1606. Battlefield accountability.

SEC. 1601. SHORT TITLE.

This title may be cited as the "Contractors on the Battlefield Regulatory Act".

SEC. 1602. FINDINGS.

Congress finds the following:

(1) Contract personnel have provided invaluable services in support of combat, humanitarian, peacekeeping, and reconstruction operations worldwide, and they should be recognized for their contributions, including in some instances the loss of their lives, in support of such operations.

(2) Contract personnel are appropriately prohibited from performing inherently governmental functions.

(3) Contract personnel will be present on and supporting the battlefield of tomorrow providing crucial goods and services for military, humanitarian, peacekeeping, and reconstruction operations.

SEC. 1603. DEFINITIONS.

In this title:

(1) CONTRACTOR ACCOMPANYING THE FORCE.—

(A) IN GENERAL.—The term "contractor accompanying the force" means a contractor for a contract with the Department of Defense, a subcontract at any tier under such a contract, or a task order at any tier issued under such a contract, if the contract, subcontract, or task order—

(i) is paid for using funds appropriated to or for the use of the Department; and

(ii) is for the performance of work that directly supports United States military operations overseas or deployed United States Armed Forces.

(B) EMPLOYEES INCLUDED.—The term includes employees of any contractor described in subparagraph (A).

(2) CONTRACTOR NOT ACCOMPANYING THE FORCE.—

(A) IN GENERAL.—The term "contractor not accompanying the force" means a contractor for a contract with the Federal Government, a subcontract at any tier under such a contract, or a task order at any tier issued under such a contract, if the contract, subcontract, or task order is for the performance of work related to private security, reconstruction, humanitarian assistance, peacekeeping, or other activities in an area of responsibility of a commander of a combatant command.

(B) EMPLOYEES INCLUDED.—The term includes employees of any contractor described in subparagraph (A).

(3) COMBATANT COMMAND.—The term "combatant command" has the meaning provided in section 161(c) of title 10, United States Code.

SEC. 1604. REQUIREMENTS FOR COMMANDERS OF COMBATANT COMMANDS RELATING TO CONTRACTORS ACCOMPANYING AND NOT ACCOMPANYING THE FORCE.

(a) PROTECTION OF CONTRACTORS BY ARMED FORCES.—

(1) CONTRACTORS ACCOMPANYING FORCE.—The Secretary of Defense shall require each commander of a combatant command to make a determination regarding the appropriate level of security protection by the Armed Forces of contractors accompanying the force in the commander's area of responsibility, and to include in the operational plans of the commander the results of the determination.

(2) CONTRACTORS NOT ACCOMPANYING FORCE.—Any requirements for security protection of contractors accompanying the force included in operational plans under paragraph (1) may also be applied by the commander to contractors not accompanying the force.

(b) COMMUNICATIONS PLAN.—

(1) CONTRACTORS ACCOMPANYING FORCE.—The Secretary of Defense shall require each commander of a combatant command to include in the operational plans of the commander a communications plan for contractors accompanying the force in the commander's area of responsibility.

(2) CONTRACTORS NOT ACCOMPANYING FORCE.—Such communications plan may be applied by the commander to contractors not accompanying the force in such area.

(3) PROVISION OF PLAN TO CONTRACTORS.—Any communications plan included in operational plans under this subsection shall be provided by the commander concerned to the affected contractors.

(c) SHARING INTELLIGENCE.—

(1) CONTRACTORS ACCOMPANYING FORCE.—The Secretary of Defense shall require each commander of a combatant command to share with contractors accompanying the force open-source intelligence, threat assessments, and information related to contractor movement to avoid hostile or friendly fire incidents and to further the missions of both the Department of Defense and the contractors.

(2) CONTRACTORS NOT ACCOMPANYING FORCE.—The Secretary of Defense shall require each commander of a combatant command to share, to the extent practicable, the intelligence, assessments, and information referred to in paragraph (1) with contractors not accompanying the force.

(3) WAIVER.—The commander of a combatant command may waive the requirements of this subsection if required to ensure operational security in the commander's area of responsibility.

SEC. 1605. REQUIREMENTS FOR CONTRACTORS RELATING TO POSSESSION OF WEAPONS.

(a) REQUIREMENT FOR REGULATIONS REGARDING CARRYING WEAPONS FOR CONTRACTORS ACCOMPANYING FORCE.—The Secretary of Defense shall prescribe regulations describing the type of weapons and circumstances under which contractors accompanying the force may carry a weapon for self defense or in order to perform work required under the contract, and information required to be provided by such contractors relating to such weapons. The regulations shall include the following:

(1) A requirement that a contractor accompanying the force request in writing approval, from the commander of the combatant command for the area in which the contractor is performing work under a contract, for the contractor to carry weapons.

(2) Subject to subsection (b), a requirement that the commander of a combatant command determine whether it is appropriate for a contractor accompanying the force to carry a weapon for self defense or in order to perform work required under the contract, taking into account the duties required to be performed under the contract and the security situation in the area of operations, and, if determined appropriate, to approve a request referred to in paragraph (1).

(3) A requirement that any contractor accompanying the force that is carrying a weapon for self defense use only a firearm that meets United States military specifications for self defense and ammunition that meets United States military specifications.

(4) A requirement that a contractor accompanying the force must have proof of appropriate training for using any firearm for self defense, as determined by the Secretary of Defense.

(b) DEEMED APPROVAL FOR CARRYING WEAPON.—The regulations shall provide that, for purposes of the requirements of paragraphs (1) and (2) of subsection (a), a requirement in a contract awarded by the Department that a contractor carry a weapon to perform work under the contract shall be deemed to be approved by the commander for the contractor to carry such a weapon. The regulations shall require that the contracting officer for such a contract shall notify the appropriate commander of any such requirement.

SEC. 1606. BATTLEFIELD ACCOUNTABILITY.

(a) QUARTERLY LIST OF CONTRACTOR PERSONNEL IN COMMANDER'S AREA.—The Secretary of Defense shall require each commander of a combatant command to obtain quarterly from contractors accompanying the force a list of all contractor personnel who are present in the commander's area of responsibility, with the following information for each individual on the list:

(1) Whether the individual carries a weapon.

(2) Proof of appropriate training with respect to any weapon carried by the individual.

(3) Proof of citizenship.

(b) MEETINGS WITH CONTRACTORS.—The Secretary of Defense shall require each commander of a combatant command to meet regularly with representatives of contractors both accompanying and not accompanying the force who are present in the commander's area of responsibility, in order to provide information about the requirements of the commander with respect to the contractors and recommendations to the contractors regarding security for the protection of the contractors.

(c) DATABASE.—The Secretary of Defense shall require each commander of a combatant command to maintain a central database of the information provided under subsection (a) with respect to all contractors accompanying the force in the commander's area of responsibility and shall allow the commander to maintain such a database with respect to contractors not accompanying the force. The Secretary shall prescribe a design for the information to be collected for the database required under this subsection, which shall be uniform for all combatant commands. To the extent practicable, the Secretary shall rely on existing sources in the Department of Defense for the information to be included in the database and make such existing information available to each commander.

(d) CONTRACTOR REQUIREMENT.—Any contractor accompanying the force, and, upon determination of the commander of a combatant command concerned, any contractor not accompanying the force, shall provide information sought by a commander of a combatant command for purposes of subsection (a), upon request from the commander.

Division B—Military Construction Authorizations

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2006".

TITLE I—ARMY

2101. Authorized Army construction and land acquisition projects.
2102. Family housing.
2103. Improvements to military family housing units.
2104. Authorization of appropriations, Army.
2105. Modification of authority to carry out certain fiscal year 2004 project.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or Location	Amount
Alabama	Anniston Army Depot	$3,150,000
	Fort Rucker	$9,700,000
	Redstone Arsenal	$4,700,000
Alaska	Fort Wainwright	$33,560,000
Arizona	Ft. Huachuca	$5,100,000
California	Concord	$11,850,000
	Fort Irwin	$21,250,000
Colorado	Fort Carson	$70,622,000
Georgia	Fort Benning	$30,261,000
	Fort Gillem	$3,900,000
	Fort Stewart/Hunter Army Air Field	$57,980,000
Hawaii	Pohakuloa Training Area	$43,300,000
	Schofield Barracks	$53,900,000
Illinois	Rock Island Arsenal	$7,400,000

Army: Inside the United States—Continued

State	Installation or Location	Amount
Indiana	Crane Army Ammunition Activity	$5,700,000
Kansas	Fort Riley	$23,000,000
Kentucky	Fort Campbell	$108,175,000
Louisiana	Fort Polk	$28,887,000
Missouri	Fort Leonard Wood	$8,100,000
New Jersey	Picatinny Arsenal	$4,450,000
New York	Fort Drum	$73,350,000
	United States Military Academy, West Point	$4,000,000
North Carolina	Fort Bragg	$301,250,000
Ohio	Joint Systems Manufacturing Center, Lima	$11,600,000
Oklahoma	Fort Sill	$5,850,000
	McAlester	$6,500,000
Pennsylvania	Letterkenny Depot	$6,300,000
South Carolina	Fort Jackson	$1,600,000
Texas	Fort Bliss	$5,000,000
	Fort Hood	$57,888,000
Utah	Dugway Proving Ground	$25,000,000
Virginia	Fort A.P. Hill	$2,700,000
	Fort Belvoir	$18,000,000
	Fort Lee	$3,900,000
	Fort Myer	$15,200,000
Washington	Fort Lewis	$99,949,000

(b) Outside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or Location	Amount
Germany	Grafenwoehr	$84,081,000
Italy	Pisa	$5,254,000
Korea	Camp Humphreys	$114,162,000
	Yongpyong	$1,450,000

SEC. 2102. FAMILY HOUSING.

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or Location	Units	Amount
Alaska	Fort Richardson	117	$49,000,000
	Fort Wainwright	180	$91,000,000
Arizona	Fort Huachuca	131	$31,000,000
	Yuma Proving Ground	35	$11,200,000
Oklahoma	Fort Sill	129	$24,000,000
Virginia	Fort Lee	96	$19,500,000
	Fort Monroe	21	$6,000,000

(b) Planning and Design.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $17,536,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $300,400,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,955,400,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $985,172,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $204,947,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $20,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $168,023,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $549,636,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $803,993,000.

(6) For the construction of phase 3 of the Lewis & Clark instructional facility at Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $42,642,000.

(7) For the construction of phase 2 of a barracks complex at Vilseck, Germany, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), as amended by section 2105 of this Act, $13,600,000.

(8) For the construction of phase 2 of the Drum Road upgrade at Helemano Military Reservation, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $41,000,000.

(9) For the construction of phase 2 a vehicle maintenance facility at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $24,656,000.

(10) For the construction of phase 2 of a barracks complex, at Fort Campbell, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $24,650,000.

(11) For the construction of phase 2 of trainee barracks, Basic Training Complex 1 at Fort

Knox, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act of Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $21,000,000.

(12) For the construction of phase 2 of a library and learning center at the United States Military Academy, West Point, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $25,470,000.

(13) For the construction of phase 2 of a barracks complex renewal project at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2101), $30,611,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $16,500,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for Fort Drum, New York).

(3) $31,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for the 2nd Brigade at Fort Bragg, North Carolina).

(4) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for the 3nd Brigade at Fort Bragg, North Carolina).

(5) $77,400,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for divisional artillery at Fort Bragg, North Carolina).

(6) $13,000,000 (the balance of the amount authorized under section 2101(a) for construction of a defense access road for Fort Belvoir, Virginia.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECT.

(a) MODIFICATION OF OUTSIDE THE UNITED STATES PROJECT.—The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1698) is amended—

(1) in the item relating to Vilseck, Germany, by striking "$31,000,000" in the amount column and inserting "$26,000,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$226,900,000".

(b) CONFORMING AMENDMENT.—Section 2104(b)(6) of that Act (117 Stat. 1700) is amended by striking "$18,900,000" and inserting "$13,900,000".

TITLE II—NAVY

2201. Authorized Navy construction and land acquisition projects.
2202. Family housing.
2203. Improvements to military family housing units.
2204. Authorization of appropriations, Navy.
2205. Modification of authority to carry out certain fiscal year 2004 project.
2206. Modifications of authority to carry out certain fiscal year 2005 projects.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or Location	Amount
Arizona	Marine Corps Air Station, Yuma	$3,637,000
California	Air-Ground Combat Center, Twentynine Palms	$24,000,000
	Marine Corps Air Station, Camp Pendelton	$1,400,000
	Marine Corps Air Station, Miramar	$5,070,000
	Marine Corps Base, Camp Pendleton	$90,437,000
	Naval Air Station, Lemoore	$8,480,000
	Naval Air Station, North Island	$13,700,000
	Naval Air Warfare Center, China Lake	$19,158,000
	Naval Postgraduate School	$6,500,000
Florida	Diving&Salvage Training Center, Panama City	$9,678,000
	Naval Air Station, Jacksonville	$88,603,000
	Naval Air Station, Pensacola	$8,710,000
	Naval Station, Mayport	$15,220,000
Georgia	Naval Submarine Base, Kings Bay	$6,890,000
	Marine Corps Logistics Base, Albany	$5,840,000
Hawaii	Marine Corps Air Station, Kaneohe Bay	$5,700,000
	Naval Base, Pearl Harbor	$29,700,000
Illinois	Recruit Training Command, Great Lakes	$167,750,000
Maryland	Naval Air Warfare Center, Patuxent River	$5,800,000
	Naval Surface Warfare Center, Indian Head	$13,460,000
	United States Naval Academy, Annapolis	$51,720,000
New Hampshire	Portsmouth Naval Shipyard	$8,100,000
North Carolina	Marine Corps Air Station, Cherry Point	$29,147,000
	Marine Corps Air Station, New River	$6,840,000
	Marine Corps Base, Camp Lejeune	$44,590,000
Pennsylvania	Naval Station Weapons Center, Philadelphia	$4,780,000
Rhode Island	Naval Station, Newport	$4,870,000
Texas	Naval Air Station, Kingsville	$16,040,000
Virginia	Marine Corps Air Field, Quantico	$19,698,000
	Marine Corps Base, Quantico	$4,270,000
	Naval Air Station, Oceana	$11,680,000
	Naval Amphibious Base, Little Creek	$36,034,000
	Naval Station, Norfolk	$111,033,000
Washington	Naval Station, Everett	$70,950,000
	Naval Submarine Base, Bangor	$60,160,000
	Naval Air Station, Whidbey Island	$4,010,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installation outside the United States, and in the amount, set forth in the following table:

Navy: Outside the United States

Country	Installation or Location	Amount
Guam	Naval Station, Guam.	$55,473,000

SEC. 2202. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installation, in the number of units, and in the amount set forth in the following table:

Navy: Family Housing

State	Installation or Location	Units	Amount
Guam	Commander Naval Region, Marianas	126	$43,495,000

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $178,644,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,916,779,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $802,311,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $25,584,000.

(3) For architectural and engineering services and construction design under section 2807 of title 10, United States Code $36,029,000.

(4) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $218,942,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $588,660,000.

(5) For the construction of increment 3 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205 of this Act, $54,432,000.

(6) For the construction of increment 3 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $40,200,000.

(7) For the construction of increment 2 of the apron and hangar at Naval Air Facility, El Centro, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), $18,666,000.

(8) For the construction of increment 2 of the White Side complex, Marine Corps Air Facility, Quantico, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), $34,730,000.

(9) For the construction of increment 2 of the limited area production and storage complex at Strategic Weapons Facility Pacific, Bangor, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2106), as amended by section 2206 of this Act, $47,095,000.

(10) For the construction of increment 2 of the lab consolidation at Strategic Weapons Facility Pacific, Bangor, Washington authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2106), as amended by section 2206 of this Act, $9,430,000.

(11) For the construction of increment 2 of the presidential helicopter programs support facility at Naval Air Station, Patuxent River, Maryland, authorized by section 2201(c) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2106), as amended by section 2206 of this Act, $40,700,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $37,721,000 (the balance of the amount authorized under section 2201(a) for a reclamation and conveyance project for Camp Pendleton, California).

(3) $43,424,000 (the balance of the amount authorized under section 2201(a) for a helicopter hangar replacement at Naval Air Station, Jacksonville, Florida).

(4) $45,850,000 (the balance of the amount authorized under section 2201(a) for infrastructure upgrades to Recruit Training Command, Great Lakes, Illinois).

(5) $26,790,000 (the balance of the amount authorized under section 2201(a) for construction of a field house at United States Naval Academy, Annapolis, Maryland).

(6) $31,059,000 (the balance of the amount authorized under section 2201(a) for replacement of Ship Repair Pier 3 at Norfolk Naval Shipyard, Virginia).

(7) $21,000,000 (the balance of the amount authorized under section 2201(a) for construction of bachelor quarters for Naval Station, Everett, Washington).

(8) $29,889,000 (the balance of the amount authorized under section 2201(b) for wharf upgrades at Naval Station, Guam).

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECT.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1703) is amended—

(1) in the item relating to Naval Weapons Station, Earle, New Jersey, by striking "$123,720,000" in the amount column and inserting "$140,372,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,352,524,000".

(b) CONFORMING AMENDMENT.—Section 2204(b)(4) of that Act (117 Stat. 1706) is amended by striking "$96,980,000" and inserting "$113,632,000".

SEC. 2206. MODIFICATIONS OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECTS.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECTS.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105) is amended—

(1) in the item relating to Marine Corps Air Facility, Quantico, Virginia, by striking "$73,838,000" in the amount column and inserting "$74,462,000";

(2) in the item relating to Strategic Weapons Facility Pacific, Bangor, Washington, by striking "$138,060,000" in the amount column and inserting "$147,760,000"; and

(3) by striking the amount identified as the total in the amount column and inserting "$962,379,000".

(b) CONFORMING AMENDMENTS.—Section 2204(b) of that Act (118 Stat. 2107) is amended—

(1) in paragraph (4), by striking "$34,098,000" and inserting "$34,722,000";

(2) by redesignating paragraph (7) as paragraph (8) and, in such paragraph—

(A) by striking "$65,982,000" and inserting "$66,614,000"; and

(B) by striking "at an unspecified location" and inserting "at Naval Air Station, Patuxent River, Maryland"; and

(3) by inserting after paragraph (6) the following new paragraph (7):

"(7) $9,700,000 (the balance of the amount authorized under section 2201(a) for naval laboratory consolidation, Strategic Weapons Facility Pacific, Bangor, Washington).".

TITLE III—AIR FORCE

2301. Authorized Air Force construction and land acquisition projects.
2302. Family housing.
2303. Improvements to military family housing units.

2304. Authorization of appropriations, Air Force.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or Location	Amount
Alabama	Maxwell Air Force Base	$14,900,000
Alaska	Clear Air Force Base	$20,000,000
	Elmendorf Air Force Base	$84,820,000
Arizona	Davis-Monthan Air Force Base	$8,600,000
	Luke Air Force Base	$13,000,000
Arkansas	Little Rock Air Force Base	$8,900,000
California	Beale Air Force Base	$14,200,000
	Edwards Air Force Base	$103,000,000
	Travis Air Force Base	$31,600,000
	Vandenberg Air Force Base	$16,845,000
Colorado	Buckley Air Force Base	$20,100,000
	Peterson Air Force Base	$25,500,000
	United States Air Force Academy	$13,000,000
Delaware	Dover Air Force Base	$19,000,000
District of Columbia	Bolling Air Force Base	$14,900,000
Florida	Hurlburt Field	$2,540,000
	MacDill Air Force Base	$107,200,000
	Tyndall Air Force Base	$21,500,000
Georgia	Robins Air Force Base	$7,600,000
Hawaii	Hickam Air Force Base	$13,378,000
Idaho	Mountain Home Air Force Base	$9,835,000
Massachusetts	Hanscom Air Force Base	$10,000,000
Mississippi	Keesler Air Force Base	$47,500,000
Missouri	Whiteman Air Force Base	$5,721,000
Nebraska	Offutt Air Force Base	$50,280,000
Nevada	Indian Springs Auxiliary Field	$60,724,000
	Nellis Air Force Base	$23,311,000
New Jersey	McGuire Air Force Base	$13,185,000
New Mexico	Kirtland Air Force Base	$6,600,000
North Dakota	Minot Air Force Base	$8,700,000
Ohio	Wright Patterson Air Force Base	$32,620,000
Oklahoma	Tinker Air Force Base	$31,960,000
South Carolina	Charleston Air Force Base	$2,583,000
	Shaw Air Force Base	$16,030,000
Texas	Goodfellow Air Force Base	$4,300,000
	Laughlin Air Force Base	$7,900,000
	Sheppard Air Force Base	$36,000,000
Utah	Hill Air Force Base	$24,100,000
Virginia	Langley Air Force Base	$44,365,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or Location	Amount
Germany	Ramstein Air Base	$11,650,000
	Spangdahlem Air Base	$12,474,000
Guam	Andersen Air Base	$18,500,000
Italy	Aviano Air Base	$22,660,000
Korea	Kunsan Air Base	$50,900,000
	Osan Air Base	$40,719,000
Portugal	Lajes Field, Azores	$12,000,000
Turkey	Incirlik Air Base	$5,780,000
United Kingdom	Royal Air Force Lakenheath	$5,125,000
	Royal Air Force Mildenhall	$13,500,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or Location	Units	Amount
Alaska	Eielson Air Force Base	392	$55,794,000
California	Edwards Air Force Base	226	$59,699,000
District of Columbia	Bolling Air Force Base	157	$48,223,000
Florida	MacDill Air Force Base	109	$40,982,000
Idaho	Mountain Home Air Force Base	194	$56,467,000

Air Force: Family Housing—Continued

State or Country	Installation or Location	Units	Amount
Missouri	*Whiteman Air Force Base*	*111*	*$26,917,000*
Montana	*Malmstrom Air Force Base*	*296*	*$68,971,000*
North Carolina	*Seymour Johnson Air Force Base*	*255*	*$48,868,000*
North Dakota	*Grand Forks Air Force Base*	*300*	*$86,706,000*
	Minot Air Force Base	*223*	*$44,548,000*
South Carolina	*Charleston Air Force Base*	*10*	*$15,935,000*
South Dakota	*Ellsworth Air Force Base*	*60*	*$14,383,000*
Texas	*Dyess Air Force Base*	*190*	*$43,016,000*
Germany	*Ramstein Air Base*	*101*	*$62,952,000*
	Spangdahlem Air Base	*79*	*$45,385,000*
Turkey	*Incirlik Air Base*	*100*	*$22,730,000*
United Kingdom	*Royal Air Force Lakenheath*	*107*	*$48,437,000*

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $37,104,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $409,103,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $3,162,877,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $871,297,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $193,308,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $15,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $91,733,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $1,236,220,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $755,319,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a):

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $30,000,000 (the balance of the amount authorized under section 2301(a) for construction of a C-17 maintenance complex at Elmendorf Air Force Base, Alaska).

(3) $66,000,000 (the balance of the amount authorized under section 2301(a) for construction of a main base runway at Edwards Air Force Base, California).

(4) $29,000,000 (the balance of the amount authorized under section 2301(a) for construction of a joint intelligence center at MacDill Air Force Base, Florida.)

TITLE IV—DEFENSE AGENCIES

2401. Authorized Defense Agencies construction and land acquisition projects.

2402. Energy conservation projects.

2403. Authorization of appropriations, Defense Agencies.

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following tables:

Defense Education Activity

State	Installation or Location	Amount
Georgia	*Fort Stewart/Hunter Army Air Field*	*$16,629,000*
North Carolina	*Fort Bragg*	*$18,075,000*

Defense Intelligence Agency

State	Installation or Location	Amount
District of Columbia	*Bolling Air Force Base*	*$7,900,000*

Defense Logistics Agency

State	Installation or Location	Amount
Arizona	*Yuma Proving Ground*	*$7,300,000*
California	*Defense Distribution Depot, Tracy*	*$33,635,000*
	Miramar	*$23,000,000*
Kansas	*McConnell Air Force Base*	*$15,800,000*
New Mexico	*Cannon Air Force Base*	*$13,200,000*
North Carolina	*Seymour Johnson Air Force Base*	*$18,500,000*
Pennsylvania	*Defense Distribution Depot, New Cumberland*	*$6,500,000*
Virginia	*Fort Belvoir*	*$4,500,000*
	Naval Station, Norfolk	*$6,700,000*

National Security Agency

State	Installation or Location	Amount
Georgia	*Augusta*	*$61,466,000*
Maryland	*Fort Meade*	*$28,049,000*

Special Operations Command

State	*Installation or Location*	*Amount*
California	*Naval Surface Warfare Center, Coronado*	*$28,350,000*
Florida	*Hurlburt Field*	*$6,500,000*
	Eglin Air Force Base	*$12,800,000*
Georgia	*Fort Stewart/Hunter Army Air Field*	*$10,000,000*
Kentucky	*Fort Campbell*	*$37,800,000*
North Carolina	*Fort Bragg*	*$14,769,000*
Washington	*Fort Lewis*	*$53,300,000*

TRICARE Management Activity

State	*Installation or Location*	*Amount*
California	*Beale Air Force Base*	*$18,000,000*
	Naval Hospital, San Diego	*$15,000,000*
Colorado	*Peterson Air Force Base*	*$1,820,000*
Maryland	*Fort Detrick*	*$55,200,000*
	Uniformed Services University, Bethesda	*$10,350,000*
Mississippi	*Keesler Air Force Base*	*$14,000,000*
Nevada	*Nellis Air Force Base*	*$1,700,000*
South Carolina	*Charleston*	*$35,000,000*
Texas	*Lackland Air Force Base*	*$11,000,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following tables:

Defense Education Activity

Location	*Installation or City*	*Amount*
Germany	*Landstuhl*	*$6,543,000*
	Vilseck	*$2,323,000*
Guam	*Agana*	*$40,578,000*
Korea	*Taegu*	*$8,231,000*
Spain	*Naval Station, Rota*	*$7,963,000*

Defense Logistics Agency

Location	*Installation or City*	*Amount*
Greece	*Souda Bay*	*$7,089,000*

Missile Defense Agency

Location	*Installation or City*	*Amount*
Kwajalein	*Kwajalein Atoll*	*$4,901,000*

National Security Agency

Location	*Installation or City*	*Amount*
United Kingdom	*Menwith Hill*	*$44,997,000*

TRICARE Management Activity

Location	*Installation or City*	*Amount*
Bahrain		*$4,750,000*

SEC. 2402. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $50,000,000.

SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $2,973,848,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $586,843,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $126,404,000.

(3) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $15,736,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $5,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $135,681,000.

(6) For energy conservation projects authorized by section 2402 of this Act, $50,000,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base

Closure Account 1990 established by section 2906 of such Act, $377,827,000.

(8) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, $1,570,466,000.

(9) For military family housing functions:

(A) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $46,391,000.

(B) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,500,000.

(10) For the construction of increment 2 of the hospital replacement at Fort Belvoir, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2112), $57,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

2501. Authorized NATO construction and land acquisition projects.
2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $206,858,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

2601. Authorized Guard and Reserve construction and land acquisition projects.

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $410,624,000; and

(B) for the Army Reserve, $138,425,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $45,226,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $225,727,000; and

(B) for the Air Force Reserve, $110,847,000.

TITLE VII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

2701. Expiration of authorizations and amounts required to be specified by law.
2702. Extension of authorizations of certain fiscal year 2003 projects.
2703. Extension of authorizations of certain fiscal year 2002 projects.
2704. Effective date.

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2008; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2008; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2009 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2700), authorizations set forth in the tables in subsection (b), as provided in section 2301, 2302, or 2401 of that Act, shall remain in effect until October 1, 2006, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2003 Project Authorizations

Installation or Location	Project	Amount
Aviano Air Base, Italy	Area consolidation	$5,000,000
Eglin Air Force Base, Florida	Family housing (134 units)	$15,906,000
	Family housing office	$597,000
Keesler Air Force Base, Mississippi	Family housing (117 units)	$16,505,000
Randolph Air Force Base, Texas	Family housing (112 units)	$14,311,000
	Housing maintenance facility	$447,000

Defense Wide: Extension of 2003 Project Authorization

Installation or Location	Project	Amount
Stennis Space Center, Mississippi	SOF Training Range	$5,000,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) EXTENSION AND RENEWAL.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1301), authorizations set forth in the tables in subsection (b), as provided in section 2101 or 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), shall remain in effect until October 1, 2006, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2002 Project Authorization

Installation or Location	Project	Amount
Pohakuloa Training Area, Hawaii	Land acquisition	$1,500,000

Air Force: Extension of 2002 Project Authorization

Installation or Location	Project	Amount
Barksdale Air Force Base, Louisiana	Family housing (56 units)	$7,300,000

SEC. 2704. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2005; or

(2) the date of the enactment of this Act.

TITLE VIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes
2801. Modification of congressional notification requirements for certain military construction activities.
2802. Improve availability and timeliness of Department of Defense information regarding military construction and family housing accounts and activities.
2803. Expansion of authority to convey property at military installations to support military construction.
2804. Effect of failure to submit required report on need for general and flag officers quarters in National Capital Region.
2805. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
2806. Clarification of moratorium on certain improvements at Fort Buchanan, Puerto Rico.
Subtitle B—Real Property and Facilities Administration
2811. Consolidation of Department of Defense land acquisition authorities and limitations on use of such authorities.
2812. Report on use of utility system conveyance authority and temporary suspension of authority pending report.
2813. Authorized military uses of Papago Park Military Reservation, Phoenix, Arizona.
Subtitle C—Base Closure and Realignment
2821. Additional reporting requirements regarding base closure process and use of Department of Defense base closure accounts.
2822. Termination of project authorizations for military installations approved for closure in 2005 round of base realignments and closures.
2823. Expanded availability of adjustment and diversification assistance for communities adversely affected by mission realignments in base closure process.
2824. Sense of Congress regarding consideration of national defense industrial base interests during Base Closure and Realignment Commission review of Department of Defense base closure and realignment recommendations.
Subtitle D—Land Conveyances
PART I—ARMY CONVEYANCES
2831. Modification of land conveyance, Engineer Proving Ground, Fort Belvoir, Virginia.
2832. Land conveyance, Army Reserve Center, Bothell, Washington.
PART II—NAVY CONVEYANCES
2841. Land conveyance, Marine Corps Air Station, Miramar, San Diego, California.
PART III—AIR FORCE CONVEYANCES
2851. Purchase of build-to-lease family housing, Eielson Air Force Base, Alaska.
2852. Land conveyance, Air Force property, Jacksonville, Arkansas.
Subtitle E—Other Matters
2861. Lease authority, Army Heritage and Education Center, Carlisle, Pennsylvania.
2862. Redesignation of McEntire Air National Guard Station, South Carolina, as McEntire Joint National Guard Base.
2863. Assessment of water needs for Presidio of Monterey and Ord Military Community.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. MODIFICATION OF CONGRESSIONAL NOTIFICATION REQUIREMENTS FOR CERTAIN MILITARY CONSTRUCTION ACTIVITIES.

(a) CONTINGENCY CONSTRUCTION.—Section 2804(b) of title 10, United States Code, is amended—

(1) by striking "21-day period" and inserting "14-day period"; and

(2) by striking "14-day period" and inserting "seven-day period".

(b) ACQUISITION IN LIEU OF CONSTRUCTION.—Section 2813(c) of such title is amended—

(1) by striking "30-day period" and inserting "21-day period"; and

(2) by striking "21-day period" and inserting "14-day period".

SEC. 2802. IMPROVE AVAILABILITY AND TIMELINESS OF DEPARTMENT OF DEFENSE INFORMATION REGARDING MILITARY CONSTRUCTION AND FAMILY HOUSING ACCOUNTS AND ACTIVITIES.

(a) MAINTENANCE OF INFORMATION ON INTERNET.—Section 2851 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) MAINTENANCE OF MILITARY CONSTRUCTION INFORMATION ON INTERNET; ACCESS.—(1) The Secretary of Defense shall maintain, as part of the Internet site of the Department of Defense, a link that, when activated by a person authorized under paragraph (3), will permit the person to access and view on a separate page of the Internet site a document or other file containing information regarding—

"(A) a specific military construction project or military family housing project, including the information required by paragraph (2); and

"(B) the accounts that are used to fund the project or support the operation and maintenance of military family housing.

"(2) The information required to be maintained under this subsection shall include the following:

"(A) The solicitation date and award date (or anticipated dates) for each contract entered into (or to be entered into) by the United States in connection with a military construction project or a military family housing project.

"(B) The contract recipient, contract award amount, and current working estimate of the cost of the project.

"(C) The latest form 1391 for the project and the status of design and construction for the project.

"(D) The date (or anticipated date) for completion of the project.

"(E) If funds appropriated for the project exceed (or are likely to exceed) the amount required to complete the project, the amount of the excess and the purpose for which the excess funds will be used.

"(F) If funds appropriated for the project are insufficient (or are likely to be insufficient) to complete the project, the additional amount necessary to complete the project and the source of the additional funds.

"(G) For accounts such as planning and design, unspecified minor construction, and family housing operation and maintenance, detailed information regarding expenditures and anticipated expenditures under these accounts and the purposes for which the expenditures are made.

"(3) Access to the Internet page referred to in paragraph (1) shall be restricted to the following persons:

"(A) Members of the congressional defense committees and their staff.

"(B) Staff of the congressional defense committees.

"(4) The Secretary shall update the information required to be maintained under this subsection as promptly as practicable to ensure that the information is available to persons referred to in paragraph (3) in a timely manner.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "SUPERVISION OF MILITARY DEPARTMENT PROJECTS. " after "(a)"; and

(2) in subsection (b), by inserting "SUPERVISION OF DEFENSE AGENCY PROJECTS.__" after "(b)".

SEC. 2803. EXPANSION OF AUTHORITY TO CONVEY PROPERTY AT MILITARY INSTALLATIONS TO SUPPORT MILITARY CONSTRUCTION.

(a) INCLUSION OF ALL MILITARY INSTALLATIONS.—Subsection (a) of section 2869 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" before "The Secretary concerned";

(3) by striking "located on a military installation that is closed or realigned under a base closure law" and inserting "described in paragraph (2)"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned that—

"(A) is located on a military installation that is closed or realigned under a base closure law; or

"(B) is determined to be surplus to the needs of the Federal Government.".

(b) ADVANCE NOTICE OF USE OF AUTHORITY; CONTENT OF NOTICE.—Subsection (d) of such section is amended—

(1) in paragraph (1), by striking "closed or realigned under the base closure laws is to be conveyed" and inserting "is proposed for conveyance";

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

"(A) the Secretary submits to Congress notice of the conveyance, including—

"(i) the military construction activities, military family housing, or military unaccompanied housing to be obtained in exchange for the conveyance of the property; and

"(ii) the amount of any payment to be made under subsection (b) by the recipient of the property to equalize the fair market values of the property to be conveyed and the military construction activities, military family housing, or military unaccompanied housing to be obtained in exchange for the property; and

"(B) a period of 21 days has elapsed from the date of receipt of the notice or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title".

(c) DEPOSIT AND USE OF FUNDS.—Subsection (e) of such section is amended to read as follows:

"(e) DEPOSIT AND USE OF FUNDS.—(1) The Secretary concerned shall deposit funds received under subsection (b) in the appropriation 'Foreign Currency Fluctuations, Construction, Defense'.

"(2) The funds deposited under paragraph (1) shall be available, in such amounts as provided in appropriation Acts, for the purpose of paying increased costs of overseas military construction and family housing construction or improvement associated with unfavorable fluctuations in currency exchange rates. The use of such funds for this purpose does not relieve the Secretary concerned from the duty to provide advance notice to Congress under section 2853(c) of this title whenever the Secretary approves an increase in the cost of an overseas project under such section.".

(d) ANNUAL REPORTS; EFFECT OF FAILURE TO SUBMIT.—Subsection (f) of such section is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subparagraph (C), as so redesignated, by inserting before the period at the end the following: "and of surplus real property at military installations";

(3) by striking "(f)" and all that follows through "the following:" and inserting the following:

"(f) ANNUAL REPORTS; EFFECT OF FAILURE TO SUBMIT.—(1) Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a report detailing the following:"; and

(4) by adding at the end the following new paragraph:

"(2) If the report for a year is not submitted to Congress by the date specified in paragraph (1), the Secretary concerned may not enter into an agreement under subsection (a) after that date for the conveyance of real property until the date on which the report is finally submitted.".

(e) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading for such section is amended to read as follows:

"§2869. Conveyance of property at military installations to support military construction".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 169 of such title is amended by striking the item relating to section 2869 and inserting the following new item:

"2689. Conveyance of property at military installations to support military construction.".

(f) CONFORMING AMENDMENTS TO OTHER LAWS.—Section 2883(c) of such title is amended—

(1) in paragraph (1), by striking subparagraph (F); and

(2) in paragraph (2), by striking subparagraph (F).

SEC. 2804. EFFECT OF FAILURE TO SUBMIT REQUIRED REPORT ON NEED FOR GENERAL AND FLAG OFFICERS QUARTERS IN NATIONAL CAPITAL REGION.

Section 2802(c) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2120) is amended—

(1) by inserting "(1)" before "Not later than March 30, 2005,"; and

(2) by adding at the end the following new paragraph:

"(2) Until the report required by this subsection is submitted to the congressional defense committees, amounts appropriated for the Department of Defense for fiscal year 2006 may not be used for the operation, maintenance, or repair of housing units for general officers and flag officers in the National Capital Region.".

SEC. 2805. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.

(a) CONDITIONAL EXTENSION.—Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by section 2810 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2128), is further amended—

(1) in subsection (a), by striking "fiscal year 2005" and inserting "fiscal years 2005 and 2006"; and

(2) in subsection (d)(2)—

(A) by striking "during fiscal year 2005" and inserting "during a fiscal year";

(B) by inserting "for that fiscal year" after "commence"; and

(C) by striking "for fiscal year 2004" and inserting "for the preceding fiscal year".

(b) ADVANCE NOTICE OF PROPOSED OBLIGATION OF FUNDS.—Subsection (b) of such section 2808 is amended—

(1) in the first sentence—

(A) by striking "Within seven days after" and all that follows through "are first" and inserting "Not later than seven days before the date on which appropriated funds available for operation and maintenance will be first"; and

(B) by striking "the obligation" and inserting "the proposed obligation";

(2) in paragraph (2), by striking "are being obligated" and inserting "will be obligated"; and

(3) in paragraph (4), by striking "obligated" and inserting "to be obligated".

(c) QUARTERLY REPORTS; EFFECT OF FAILURE TO SUBMIT.—Subsection (d) of such section 2808 is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) Not later than 30 days after the end of each fiscal-year quarter during which appropriated funds available for operation and maintenance are obligated or expended to carry out construction projects outside the United States, the Secretary of Defense shall submit to the congressional committees specified in subsection (f) a report on the worldwide obligation and expenditure during that quarter of such appropriated funds for such construction projects. If the report for a fiscal-year quarter is not submitted to such committees by the required date, appropriated funds available for operation and maintenance may not be obligated or expended after that date under the authority of this section to carry out construction projects outside the United States until the date on which the report is finally submitted.".

SEC. 2806. CLARIFICATION OF MORATORIUM ON CERTAIN IMPROVEMENTS AT FORT BUCHANAN, PUERTO RICO.

(a) EXCEPTIONS TO MORATORIUM.—Section 1507 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–355) is amended—

(1) in subsection (a), by striking "conversion, rehabilitation, extension, or improvement" and inserting "or extension";

(2) in subsection (b)(1), by inserting ", repair, or convert" after "maintain"; and

(3) in subsection (c), by striking "conversion, rehabilitation, extension, or improvement" and inserting "or extension".

(b) RULE OF CONSTRUCTION.—The amendments made by subsection (a) do not trigger the termination of the moratorium on certain improvements at Fort Buchanan, Puerto Rico, as provided by subsection (c) of section 1507 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. CONSOLIDATION OF DEPARTMENT OF DEFENSE LAND ACQUISITION AUTHORITIES AND LIMITATIONS ON USE OF SUCH AUTHORITIES.

(a) LAND ACQUISITION AUTHORITY.—Chapter 159 of title 10, United States Code, is amended—

(1) in section 2663—

(A) by striking the section heading and inserting the following new section heading:

"§2663. Land acquisition authorities";

(B) in subsection (a)—

(i) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(ii) in subparagraph (C), as so redesignated, by striking "clause (2)" and inserting "subparagraph (B)"; and

(iii) by inserting "ACQUISITION OF LAND BY CONDEMNATION FOR CERTAIN MILITARY PURPOSES.—(1)" before "The Secretary";

(C) by redesignating subsection (b) as paragraph (2) and, in such paragraph, by striking "subsection (a)" and inserting "paragraph (1)";

(D) by redesignating subsection (c) as subsection (b) and, in such subsection, by inserting "ACQUISITION BY PURCHASE IN LIEU OF CONDEMNATION.—" before "The Secretary"; and

(E) by striking subsection (d);

(2) by transferring subsections (a), (b), and (d) of section 2672 to section 2663 and inserting such subsections in that order after subsection (b), as redesignated by paragraph (1)(D);

(3) in subsection (a), as transferred by paragraph (2), by striking "(a) ACQUISITION AUTHORITY" and inserting "(c) ACQUISITION OF LOW-COST INTERESTS IN LAND";

(4) in subsection (b), as transferred by paragraph (2)—

(A) by striking "(b) ACQUISITION OF MULTIPLE PARCELS.—This section" and inserting "(3) This subsection";

(B) by striking "subsection (a)(1)" and inserting "paragraph (1)"; and

(C) by striking "subsection (a)(2)" and inserting "paragraph (2)";

(5) in subsection (d), as transferred by paragraph (2)—

(A) by striking "(d) AVAILABILITY OF FUNDS.—Appropriations" and inserting "(4) Appropriations"; and

(B) by striking "this section" and inserting "this subsection";

(6) by transferring subsections (a), (c), and (b) of section 2672a to section 2663 and inserting such subsections in that order after subsection (c), as redesignated and amended by paragraphs (3), (4), and (5);

(7) in subsection (a), as transferred by paragraph (6)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(B) by striking "(a) The Secretary" and inserting "(d) ACQUISITION OF INTERESTS IN LAND WHEN NEED IS URGENT.—(1) The Secretary";

(8) in subsection (c), as transferred by paragraph (6)—

(A) by striking "(c)" and inserting "(2)"; and

(B) by striking "this section" and inserting "this subsection";

(9) in subsection (b), as transferred by paragraph (6)—

(A) by striking "(b)" and inserting "(3)";

(B) by striking "this section" in the first sentence and inserting "this subsection"; and

(C) by striking the second sentence;

(10) by transferring subsection (b) of section 2676 to section 2663 and inserting such subsection after subsection (d), as redesignated and amended by paragraphs (7), (8), and (9); and

(11) in subsection (b), as transferred by paragraph (10), by striking "(b) Authority" and inserting "(e) Survey Authority; Acquisition Methods.—Authority".

(b) Limitations on Acquisition Authority.—Section 2676 of such title, as amended by subsection (a)(10), is further amended—

(1) in subsection (a)—

(A) by inserting "Authorization for Acquisition Required.—" before "No military department"; and

(B) by striking ", as amended";

(2) in subsection (c)—

(A) in paragraph (1), by inserting "Cost Limitations.—" before "(1)";

(B) in paragraph (2)—

(i) by striking "A land" and inserting "Until subsection (d) is complied with, a land"; and

(ii) by striking "lesser," and all that follows through the period at the end and inserting "lesser.";

(3) in subsection (d), by inserting "Congressional Notification.—" before "The limitations"; and

(4) in subsection (e), by inserting "Payment of Judgements and Settlements.—" before "The Secretary".

(c) Transfer and Redesignation of Revised Limitation Section.—Section 2676 of such title, as amended by subsections (a)(10) and (b)—

(1) is inserted after section 2663 of such title, as amended by subsection (a); and

(2) is amended by striking the section heading and inserting the following new section heading:

"§2664. Limitations on real property acquisition".

(d) Inclusion of Limitation on Land Acquisition Commissions.—Subsection (c) of section 2661 of such title is transferred to section 2664 of such title, as redesignated by subsection (c)(2), is inserted after subsection (a) of such redesignated section, and is redesignated as subsection (b).

(e) Conforming Repeals.—Sections 2672 and 2672a of such title are repealed.

(f) Clerical Amendments.—The table of sections at the beginning of chapter 159 of such title is amended—

(1) by striking the items relating to sections 2663, 2672, 2672a, and 2676; and

(2) by inserting after the item relating to section 2662 the following new items:

"2663. Land acquisition authorities.
"2664. Limitations on real property acquisition.".

SEC. 2812. REPORT ON USE OF UTILITY SYSTEM CONVEYANCE AUTHORITY AND TEMPORARY SUSPENSION OF AUTHORITY PENDING REPORT.

(a) Report on Use of Authority.—Subsection (e) of section 2688 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "Quarterly Report.—" and inserting "Reporting Requirements.—(1)"; and

(3) by adding at the end the following new paragraph:

"(2) Not later than March 15, 2006, the Secretary of Defense shall submit to Congress a report containing—

"(A) a discussion of the methodology by which a military department conducts the economic analyses of proposed utility system conveyances under this section, including the economic analysis referred to in this subsection, and any guidance issued by the Department of Defense related to conducting such economic analyses;

"(B) a list of the steps taken to ensure the reliability of completed economic analyses, including post-conveyance reviews of actual costs and savings to the United States versus the costs and savings anticipated in the economic analyses;

"(C) a review of the costs and savings to the United States resulting from each utility system conveyance carried out under this section;

"(D) a discussion of the requirement for consideration equal to the fair market value of a conveyed utility system, as specified in subsection (c), and any guidance issued by the Department of Defense related to implementing that requirement, and the effect of that requirement and guidance on the costs and savings to the United States resulting from procuring by contract the utility services provided by the utility system;

"(E) a discussion of the effects that permanent conveyance of ownership in a utility system may have on the ability of the Secretary concerned to renegotiate contracts for utility services provided by the utility system or to procure such services from another source;

"(F) a discussion of the efforts and direction within the Department of Defense to oversee the implementation and use of the utility system conveyance authority under this section and to ensure the adequacy of utilities services for a military installation after conveyance of a utility system; and

"(G) a discussion of the effect of utility system conveyances on the operating budgets of military installations at which the conveyances were made.".

(b) Suspension of Authority.—Such section is further amended by adding at the end the following new subsection:

"(j) Temporary Suspension of Conveyance Authority.—The Secretary concerned may not convey a utility system, including any part of a utility system, under subsection (a) or make a contribution under subsection (g) toward the cost of construction, repair, or replacement of a utility system by another entity until the later of the following dates:

"(1) The date of the enactment of an Act authorizing funds for military construction for fiscal year 2007.

"(2) The date that is one year after the date of the submission of the report required by subsection (e)(2).".

SEC. 2813. AUTHORIZED MILITARY USES OF PAPAGO PARK MILITARY RESERVATION, PHOENIX, ARIZONA.

The Act of April 7, 1930 (Chapter 107; 46 Stat. 142), is amended in the first designated paragraph, relating to the Papago Park Military Reservation, by striking "as a rifle range".

Subtitle C—Base Closure and Realignment

SEC. 2821. ADDITIONAL REPORTING REQUIREMENTS REGARDING BASE CLOSURE PROCESS AND USE OF DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNTS.

(a) Information on Future Receipts and Expenditures.—

(1) 1990 Account.—Section 2906(c)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A)—

(i) by striking "committees of the amount" and inserting "committees of—

"(i) the amount";

(ii) by striking "such fiscal year and of the amount" and inserting "such fiscal year;

"(ii) the amount"; and

(iii) by striking "such fiscal year." and inserting "such fiscal year;

"(iii) the amount and nature of anticipated deposits to be made into, and the anticipated expenditures to be made from, the Account during the first fiscal year commencing after the submission of the report; and

"(iv) the amount and nature of anticipated expenditures to be made made pursuant to section 2905(a) during the first fiscal year commencing after the submission of the report."; and

(B) in subparagraph (B)—

(i) in clause (i), by inserting "and installation" after "subaccount"; and

(ii) by adding at the end the following new clause:

"(v) An estimate of the net revenues to be received from property disposals to be completed during the first fiscal year commencing after the submission of the report at military installations the date of approval of closure or realignment of which is before January 1, 2005.".

(2) 2005 Account.—Section 2906A(c)(1) of such Act is amended—

(A) in subparagraph (A)—

(i) by striking "committees of the amount" and inserting "committees of—

"(i) the amount";

(ii) by striking "such fiscal year and of the amount" and inserting "such fiscal year;

"(ii) the amount"; and

(iii) by striking "such fiscal year." and inserting "such fiscal year;

"(iii) the amount and nature of anticipated deposits to be made into, and the anticipated expenditures to be made from, the Account during the first fiscal year commencing after the submission of the report; and

"(iv) the amount and nature of anticipated expenditures to be made made pursuant to section 2905(a) during the first fiscal year commencing after the submission of the report."; and

(B) in subparagraph (B)—

(i) in clause (i), by inserting "and installation" after "subaccount"; and

(ii) by adding at the end the following new clause:

"(v) An estimate of the net revenues to be received from property disposals to be completed during the first fiscal year commencing after the submission of the report at military installations the date of approval of closure or realignment of which is after January 1, 2005.".

(b) Information on BRAC Process.—Section 2907 of such Act is amended—

(1) by striking "fiscal year 1993" and inserting "fiscal year 2007";

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(3) a description of the closure or realignment actions already carried out at each military installation since the date of the installation's approval for closure or realignment under this part and the current status of the closure or realignment of the installation, including whether—

"(A) a redevelopment authority has been recognized by the Secretary for the installation;

"(B) the screening of property at the installation for other Federal use has been completed; and

"(C) a redevelopment plan has been agreed to by the redevelopment authority for the installation;

"(4) a description of redevelopment plans for military installations approved for closure or realignment under this part, the quantity of property remaining to be disposed of at each installation as part of its closure or realignment, and the quantity of property already disposed of at each installation;

"(5) a list of the Federal agencies that have requested property during the screening process for each military installation approved for closure or realignment under this part, including the date of transfer or anticipated transfer of the property to such agencies, the acreage involved in such transfers, and an explanation for any delays in such transfers;

"(6) a list of known environmental remediation issues at each military installation approved for closure or realignment under this part, including the acreage affected by these issues, an estimate of the cost to complete such environmental remediation, and the plans (and timelines) to address such environmental remediation; and

"(7) an estimate of the date for the completion of all closure or realignment actions at each military installation approved for closure or realignment under this part.".

SEC. 2822. TERMINATION OF PROJECT AUTHORIZATIONS FOR MILITARY INSTALLATIONS APPROVED FOR CLOSURE IN 2005 ROUND OF BASE REALIGNMENTS AND CLOSURES.

(a) Project Termination.—If a military installation is approved for closure in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), any authorization for a military construction project, land acquisition, or family housing project that is related to that installation and contained in title XXI, XXII, XXIII, or XXIV of this Act or in an Act authorizing funds for a prior fiscal year for military construction projects, land acquisition, and family housing projects (and authorizations of appropriations therefor) shall terminate and no longer constitute authority under section 2676, 2802, 2821, or 2822 of title 10, United States Code, to carry out the military construction project, land acquisition, or family housing project.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, or family housing projects (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the date of approval of the military installation for closure under the Defense Base Closure and Realignment Act of 1990. In this subsection, the term "date of approval" has the meaning given that term in section 2910(8) of such Act.

SEC. 2823. EXPANDED AVAILABILITY OF ADJUSTMENT AND DIVERSIFICATION ASSISTANCE FOR COMMUNITIES ADVERSELY AFFECTED BY MISSION REALIGNMENTS IN BASE CLOSURE PROCESS.

(a) Eligibility Requirements.—Subsection (b)(3) of section 2391 of title 10, United States Code, is amended—

(1) by striking "significantly reduced operations of a defense facility" and inserting "realignment of a military installation";

(2) by striking "cancellation," and inserting "closure or realignment, cancellation or"; and

(3) by striking "community" and all that follows through the period at the end and inserting "community or its residents.".

(b) Addition of Definition of Realignment.—Subsection (d) of such section is amended by adding at the end the following new paragraph:

"(4) The term 'realignment' has the meaning given that term in section 2910(5) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).".

SEC. 2824. SENSE OF CONGRESS REGARDING CONSIDERATION OF NATIONAL DEFENSE INDUSTRIAL BASE INTERESTS DURING BASE CLOSURE AND REALIGNMENT COMMISSION REVIEW OF DEPARTMENT OF DEFENSE BASE CLOSURE AND REALIGNMENT RECOMMENDATIONS.

It is the sense of Congress that national defense industrial base interests, including the relationships between military installations and proximate commercial facilities and the maintenance of, and accessibility to, skills and knowledge critical to military installations and their operation, are an integral part of military value, and should be given full consideration by the Base Closure and Realignment Commission when it conducts its review and analysis of the recommendations made by the Secretary of Defense regarding the closure or realignment of military installations.

Subtitle D—Land Conveyances

PART 1—ARMY CONVEYANCES

SEC. 2831. MODIFICATION OF LAND CONVEYANCE, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) Consideration.—Subsection (b)(4) of section 2836 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1314) is amended by striking ", jointly determined" and all that follows through "Ground" and inserting "equal to $3,880,000".

(b) Replacement of Fire Station.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by striking "Building 5089" and inserting "Building 191"; and

(B) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)";

(2) in paragraph (2), by striking "Building 5089" and inserting "Building 191"; and

(3) by striking paragraph (3).

SEC. 2832. LAND CONVEYANCE, ARMY RESERVE CENTER, BOTHELL, WASHINGTON.

(a) Conveyance Authorized.—Subject to subsection (c), the Secretary of the Army may convey to the Snohomish County Fire Protection District #10 (in this section referred to as the "Fire District") all right, title, and interest of the United States in and to a parcel of real property consisting of approximately one acre at the Army Reserve Center in Bothell, Washington, and currently occupied, in part, by the Queensborough Firehouse for the purpose of supporting the provision of fire and emergency medical aid services.

(b) In-Kind Consideration.—As consideration for the conveyance under subsection (a), the Fire District shall provide in-kind consideration acceptable to the Secretary with a total value equal to not less than the fair market value of the conveyed real property, as determined by the Secretary.

(c) Reversionary Interest.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to all or any portion of the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) Payment of Costs of Conveyance.—

(1) Payment Required.—The Secretary shall require the Fire District to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Fire District in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Fire District.

(2) Treatment of Amounts Received.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) Exemption From Federal Screening.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART 2—NAVY CONVEYANCES

SEC. 2841. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) Conveyance Authorized.—Subject to subsection (c), the Secretary of the Navy may convey to the County of San Diego, California (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 230 acres along the eastern boundary of Marine Corps Air Station, Miramar, California, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the property as public open space and reopen the tract known as the Stowe Trail to public use.

(b) Consideration.—

(1) In-Kind Consideration.—As consideration for the conveyance under subsection (a), the County shall provide in-kind consideration with a total value equal to not less than the fair market value of the conveyed real property, as determined by the Secretary.

(2) Types of Consideration.—The in-kind consideration provided by the County shall be in a form and quantity that is acceptable to the Secretary, and may include the following forms of in-kind consideration:

(A) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities under the control of the Secretary.

(B) Construction of new facilities for the Secretary.

(C) Provision of facilities for use by the Secretary.

(D) Facilities operation support for the Secretary.

(E) Provision of such other services as the Secretary considers appropriate.

(3) Relation to Other Laws.—Sections 2662 and 2802 of title 10, United states Code, shall not apply to any new facilities whose construction is accepted as in-kind consideration under this subsection.

(c) Reversionary Interest.—If the Secretary determines at any time that the County is not using the property conveyed under subsection

(a) in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) Release of Reversionary Interest.—The Secretary shall release, without consideration, the reversionary interest retained by the United States under subsection (c) if—

(1) Marine Corps Air Station, Miramar, is no longer being used for Department of Defense activities; or

(2) the Secretary determines that the reversionary interest is otherwise unnecessary to protect the interests of the United States.

(e) Payment of Costs of Conveyance.—

(1) Payment required.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of in-kind consideration under subsection (b), including appraisal costs, survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of in-kind consideration.

(2) Treatment of amounts received.—Section 2695(c) of title 10, United States Code, shall apply to any amounts received by the Secretary under paragraph (1). If amounts are received from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(f) Description of Property.—The exact acreage and legal description of the real property to be conveyed by the Secretary under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) Exemptions.—Section 2696 of title 10, United States Code, does not apply to the conveyance authorized by subsection (a), and the authority to make the conveyance shall not be considered to render the property excess or underutilized.

(h) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

PART 3—AIR FORCE CONVEYANCES

SEC. 2851. PURCHASE OF BUILD-TO-LEASE FAMILY HOUSING, EIELSON AIR FORCE BASE, ALASKA.

(a) Authority to Purchase.—After the expiration of the contract for the lease of a 300-unit military family housing project at Eielson Air Force Base, Alaska, that was entered into by the Secretary under the authority of former subsection (g) of section 2828 of title 10, United States Code (now section 2835 of such title), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 782), the Secretary of the Air Force may purchase the entire interest of the developer in the military family housing project if the Secretary determines that the purchase of the project is in the best economic interests of the Air Force.

(b) Consideration.—The consideration paid by the Secretary to purchase the interest of the developer in the military family housing project under subsection (a) may not exceed the fair market value of the military family housing project, as determined by the Secretary.

(c) Congressional Notification.—If a decision is made to purchase the interest of the developer in the military family housing project under subsection (a), the Secretary shall submit a report to the congressional defense committees on that decision. The report shall include—

(1) the economic analyses used by the Secretary to determine that purchase of the military family housing project is in the best economic interests of the Air Force, as required by subsection (a); and

(2) a schedule for, and an estimate of the costs and nature of, any renovations or repairs that will be necessary to ensure that all units in the military family housing project meet current housing standards.

(d) Purchase Delay.—A contract to effectuate the purchase authorized by subsection (a) may be entered into by the Secretary only after the end of the 30-day period beginning on the date the report required by subsection (c) is received by the congressional defense committees or, if earlier, the end of the 21-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

SEC. 2852. LAND CONVEYANCE, AIR FORCE PROPERTY, JACKSONVILLE, ARKANSAS.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey to the City of Jacksonville, Arkansas (in this section referred to as the "City"), all right, title, and interest of the United States in and to real property consisting of approximately 45.024 acres around an existing short line railroad in Pulaski County, Arkansas.

(b) Consideration.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value of the conveyed real property, as established by the assessment of the property conducted under contract for the Corps of Engineers and dated 15 September 2003.

(c) Condition of Conveyance.—The conveyance under subsection (a) shall be subject to the lease agreement dated October 29, 1982, as amended, between the Secretary and the Missouri Pacific Railroad Company (and its successors and assigns) and any other easement, lease, condition, or restriction of record, including streets, roads, highways, railroads, pipelines, and public utilities, insofar as the easement, lease, condition, or restriction is in existence on the date of the enactment of this Act and lawfully affects the conveyed property.

(d) Payment of Costs of Conveyance.—

(1) Payment required.—The Secretary shall require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Treatment of amounts received.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) Exemption From Federal Screening.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Other Matters

SEC. 2861. LEASE AUTHORITY, ARMY HERITAGE AND EDUCATION CENTER, CARLISLE, PENNSYLVANIA.

Section 2866 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1333) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) Lease of Facility.—(1) Under such terms and conditions as the Secretary considers appropriate, the Secretary may lease portions of the facility to the Military Heritage Foundation to be used by the Foundation, consistent with the agreement referred to in subsection (a), for—

"(A) generating revenue for activities of the facility through rental use by the public, commercial and nonprofit entities, State and local governments, and other Federal agencies; and

"(B) such administrative purposes as may be necessary for the support of the facility.

"(2) The annual amount of consideration paid to the Secretary by the Military Heritage Foundation for a lease under paragraph (1) may not exceed an amount equal to the actual cost, as determined by the Secretary, of the annual operations and maintenance of the facility.

"(3) Amounts paid under paragraph (2) may be used by the Secretary, in such amounts as provided in advance in appropriation Acts, to cover the costs of operation of the facility.".

SEC. 2862. REDESIGNATION OF MCENTIRE AIR NATIONAL GUARD STATION, SOUTH CAROLINA, AS MCENTIRE JOINT NATIONAL GUARD BASE.

McEntire Air National Guard Station in Eastover, South Carolina, shall be known and designated as "McEntire Joint National Guard Base" in recognition of the use of the installation to house both Air National Guard and Army National Guard assets. Any reference to McEntire Air National Guard Station in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to McEntire Joint National Guard Base.

SEC. 2863. ASSESSMENT OF WATER NEEDS FOR PRESIDIO OF MONTEREY AND ORD MILITARY COMMUNITY.

Not later than April 7, 2006, the Secretary of Defense shall submit to Congress an interim assessment of the current and reasonable future needs of the Department of the Defense for water for the Presidio of Monterey and the Ord Military Community.

Division C—Department of Energy National Security Authorizations and Other Authorizations

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

3101. National Nuclear Security Administration.
3102. Defense environmental management.
3103. Other defense activities.
3104. Defense nuclear waste disposal.

Subtitle B—Program Authorizations, Restrictions, and Limitations

3111. Reliable Replacement Warhead program.
3112. Report on assistance for a comprehensive inventory of Russian nonstrategic nuclear weapons.

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,100,852,000, to be allocated as follows:

(1) For weapons activities, $6,455,744,000.

(2) For defense nuclear nonproliferation activities, $1,515,239,000.

(3) For naval reactors, $786,000,000.

(4) For the Office of the Administrator for Nuclear Security, $343,869,000.

(b) Authorization of New Plant Projects.—From funds referred to in subsection (a) that, are available for carrying out plant projects, the Secretary of Energy may carry out, for weapons activities, the following new plant projects:

Project 06–D–140, project engineering and design, various locations, $14,113,000.

Project 06–D–160, Facilities and Infrastructure Recapitalization Program, project engineering and design, various locations, $5,811,000.

Project 06–D–180, Defense Nuclear Nonproliferation Program project engineering and design, National Security Laboratory, Pacific Northwest National Laboratory, $5,000,000.

Project 06–D–401, Central Office Building 2, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $7,000,000.

Project 06–D–402, replace fire stations no. 1 and no. 2, Nevada Test Site, $8,284,000.

Project 06–D–403, Tritium Facility Modernization, Lawrence Livermore National Laboratory, $2,600,000.

Project 06–D–404, Building B–3 remediation, restoration, and upgrade, Nevada Test Site $16,000,000.

Project 06–D–601, electrical distribution system upgrade, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 06–D–602, gas main and distribution system upgrade, Pantex Plant, Amarillo Texas, $3,700,000.

Project 06–D–603, steam plant life extension project, Y–12 national security complex, Oak Ridge, Tennessee, $729,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for environmental management activities in carrying out programs necessary for national security in the amount of $6,311,433,000, to be allocated as follows:

(1) For defense site acceleration completion, $5,480,102,000.

(2) For defense environmental services, $831,331,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for other defense activities in carrying out programs necessary for national security in the amount of $635,998,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $351,447,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3111. RELIABLE REPLACEMENT WARHEAD PROGRAM.

(a) In General.—Subtitle A (50 U.S.C. 2521 et seq.) of title XLVII of the Atomic Energy Defense Act is amended by adding at the end the following new section:

"SEC. 4214. RELIABLE REPLACEMENT WARHEAD PROGRAM.

"(a) Program Required.—The Secretary of Energy, in consultation with the Secretary of Defense, shall carry out a program, to be known as the Reliable Replacement Warhead program, to develop reliable replacement components that are producible and certifiable for the existing nuclear weapons stockpile.

"(b) Objectives.—The objectives of the Reliable Replacement Warhead program shall be—

"(1) to increase the reliability, safety, and security of the United States nuclear weapons stockpile;

"(2) to further reduce the likelihood of the resumption of nuclear testing;

"(3) to remain consistent with basic design parameters by using, to the extent practicable, components that are well understood or are certifiable without the need to resume underground nuclear testing;

"(4) to ensure that the United States develops a nuclear weapons infrastructure that can respond to unforeseen problems, to include the ability to produce replacement warheads that are safer to manufacture, more cost-effective to produce, and less costly to maintain than existing warheads;

"(5) to achieve reductions in the future size of the nuclear weapons stockpile based on increased reliability of the reliable replacement warheads;

"(6) to use the design, certification, and production expertise resident in the nuclear complex to develop reliable replacement components to fulfill current mission requirements of the existing stockpile; and

"(7) to serve as a complement to, and potentially a more cost-effective and reliable long-term replacement for, the current Stockpile Life Extension Programs.".

(b) Report.—Not later than March 1, 2007, the Nuclear Weapons Council shall submit to the congressional defense committees a report on the feasibility and implementation of the Reliable Replacement Warhead program required by section 4214 of the Atomic Energy Defense Act (as added by subsection (a)). The report shall—

(1) identify existing warheads recommended for replacement by 2035 with an assessment of the weapon performance and safety characteristics of the replacement warheads;

(2) discuss the relationship of the Reliable Replacement Warhead program within the Stockpile Stewardship Program and its impact on the current Stockpile Life Extension Programs;

(3) provide an assessment of the extent to which a successful Reliable Replacement Warhead program could lead to reductions in the nuclear weapons stockpile;

(4) discuss the criteria by which replacement warheads under the Reliable Replacement Warhead program will be designed to maximize the likelihood of not requiring nuclear testing, as well as the circumstances that could lead to a resumption of testing;

(5) provide a description of the infrastructure, including pit production capabilities, required to support the Reliable Replacement Warhead program; and

(6) provide a detailed summary of how the funds made available pursuant to the authorizations of appropriations in this Act, and any funds made available in prior years, will be used.

(c) Interim Report.—Not later than March 1, 2006, the Nuclear Weapons Council shall submit to the congressional defense committees an interim report on the matters required to be covered by the report under subsection (b).

SEC. 3112. REPORT ON ASSISTANCE FOR A COMPREHENSIVE INVENTORY OF RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.

(a) Findings.—Congress finds that—

(1) there is an insufficient accounting for, and insufficient security of, the nonstrategic nuclear weapons of the Russian Federation; and

(2) because of the dangers posed by that insufficient accounting and security, it is in the national security interest of the United States to assist the Russian Federation in the conduct of a comprehensive inventory of its nonstrategic nuclear weapons.

(b) Report.—

(1) Report Required.—Not later than November 1, 2005, the Secretary of Energy shall submit to Congress a report containing—

(A) the Secretary's evaluation of past and current efforts by the United States to encourage or facilitate a proper accounting for and securing of the nonstrategic nuclear weapons of the Russian Federation; and

(B) the Secretary's recommendations regarding the actions by the United States that are most likely to lead to progress in improving the accounting for, and securing of, those weapons.

(2) Consultation with Secretary of Defense.—The report under paragraph (1) shall be prepared in consultation with the Secretary of Defense.

(3) Classification of Report.—The report under paragraph (1) shall be in unclassified form, but may be accompanied by a classified annex.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2006, $22,032,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

3301. Authorized uses of National Defense Stockpile funds.
3302. Revision of fiscal year 1999 authority to dispose of certain materials in the National Defense Stockpile.
3303. Revision of fiscal year 2000 authority to dispose of certain materials in the National Defense Stockpile.

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) Obligation of Stockpile Funds.—During fiscal year 2006, the National Defense Stockpile Manager may obligate up to $52,132,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. REVISION OF FISCAL YEAR 1999 AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN THE NATIONAL DEFENSE STOCKPILE.

(a) REQUIRED RECEIPTS FROM DISPOSALS.—Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2193), is amended by striking paragraph (5) and inserting the following new paragraph:

"(5) $1,000,000,000 by the end of fiscal year 2011.".

(b) EFFECT OF AMENDMENT.—The amendment made by subsection (a) will result in the continued disposal of certain materials in the National Defense Stockpile after September 30, 2005, pursuant to the disposal authority provided by section 3303 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, and allow the National Defense Stockpile Manager to take advantage of favorable market conditions for the sales of several of the materials authorized for disposal, such as tungsten ferro, tungsten metal power, and tungsten ores and concentrates.

SEC. 3303. REVISION OF FISCAL YEAR 2000 AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN THE NATIONAL DEFENSE STOCKPILE.

Section 3402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 50 U.S.C. 98d note), as amended by section 3302 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1788), is amended by striking paragraph (4) and inserting the following new paragraph:

"(4) $550,000,000 by the end of fiscal year 2011.".

TITLE XXXIV—NAVAL PETROLEUM RESERVES

3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $18,500,000 for fiscal year 2006 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

3501. Authorization of appropriations for fiscal year 2006.
3502. Payments for State and regional maritime academies.
3503. Maintenance and repair reimbursement pilot program.
3504. Tank vessel construction assistance.
3505. Improvements to the Maritime Administration vessel disposal program.

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.

Funds are hereby authorized to be appropriated for fiscal year 2006, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $113,650,000, of which $10,000,000 shall be available only for paying reimbursement under section 3517 of the National Defense Authorization Act for Fiscal Year 2004, as amended by section 3503 of this Act.

(2) For administrative expenses related to loan guarantee commitments under the program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), $3,526,000.

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402, $21,000,000.

SEC. 3502. PAYMENTS FOR STATE AND REGIONAL MARITIME ACADEMIES.

(a) ANNUAL PAYMENT.—Section 1304(d)(1)(C)(ii) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(d)(1)(C)(ii)) is amended by striking "$200,000" and inserting "$300,000 for fiscal year 2006, $400,000 for fiscal year 2007, and $500,000 for fiscal year 2008 and each fiscal year thereafter".

(b) SCHOOL SHIP FUEL PAYMENT.—Section 1304(c)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(c)(2)) is amended—

(1) by striking "The Secretary may pay to any State maritime academy" and inserting "(A) The Secretary shall, subject to the availability of appropriations, pay to each State maritime academy"; and

(2) by adding at the end the following:

"(B) The amount of the payment to a State maritime academy under this paragraph shall not exceed—

"(i) $100,000 for fiscal year 2006;

"(ii) $200,000 for fiscal year 2007; and

"(iii) $300,000 for fiscal year 2008 and each fiscal year thereafter.".

SEC. 3503. MAINTENANCE AND REPAIR REIMBURSEMENT PILOT PROGRAM.

Section 3517 of the National Defense Authorization Act for Fiscal Year 2004 (46 U.S.C. 53101 note) is amended—

(1) in subsection (a)(1) by striking "may" each place it appears and inserting "shall";

(2) in subsection (a)(2) by striking "LIMITATION.—The Secretary may not" and inserting "REQUIREMENT OF AGREEMENT.—The Secretary shall, subject to the availability of appropriations,";

(3) in subsection (d)(2) by striking "80 percent of"; and

(4) by amending subsection (g) to read as follows:

"(g) ANNUAL REPORT.—The Secretary shall submit a report to the Congress each year on the program under this section. The report shall include a listing of future inspection schedules for all vessels included in the Maritime Security Fleet established by chapter 531 of title 46, United States Code.".

SEC. 3504. TANK VESSEL CONSTRUCTION ASSISTANCE.

(a) REQUIREMENT TO ENTER CONTRACTS.—Section 3543(a) of the National Defense Authorization Act for Fiscal Year 2004 (46 U.S.C. 53101 note) is amended by striking "may" and inserting "shall, to the extent of the availability of appropriations,".

(b) AMOUNT OF ASSISTANCE.—Section 3543(b) of the National Defense Authorization Act for Fiscal Year 2004 (46 U.S.C. 53101 note) is amended by striking "up to 75 percent of".

SEC. 3505. IMPROVEMENTS TO THE MARITIME ADMINISTRATION VESSEL DISPOSAL PROGRAM.

(a) COMPREHENSIVE MANAGEMENT PLAN.—

(1) REQUIREMENT TO DEVELOP PLAN.—The Secretary of Transportation shall prepare, publish, and submit to the Congress by not later than 120 days after the date of the enactment of this Act a comprehensive plan for management of the vessel disposal program of the Maritime Administration in accordance with the recommendations made in the Government Accountability Office in report number GAO–05–264, dated March 2005.

(2) CONTENTS OF PLAN.—The plan shall—

(A) include a strategy and implementation plan for disposal of obsolete Maritime Administration vessels (including vessels added to the fleet after the enactment of this Act) in a timely manner, maximizing the use of all available disposal methods, including dismantling, use for artificial reefs, donation, and Navy training exercises;

(B) identify and describe the funding and other resources necessary to implement the plan, and specific milestones for disposal of vessels under the plan;

(C) establish performance measures to track progress toward achieving the goals of the program, including the expeditious disposal of ships commencing upon the date of the enactment of this Act;

(D) develop a formal decisionmaking framework for the program; and

(E) identify external factors that could impede successful implementation of the plan, and describe steps to be taken to mitigate the effects of such factors.

(b) IMPLEMENTATION OF MANAGEMENT PLAN.—

(1) REQUIREMENT TO IMPLEMENT.—The Secretary shall implement the vessel disposal program of the Maritime Administration in accordance with—

(A) the management plan submitted under subsection (a); and

(B) the requirements set forth in paragraph (2).

(2) UTILIZATION OF DOMESTIC SOURCES.—In the procurement of services under the vessel disposal program of the Maritime Administration, the Secretary shall—

(A) use full and open competition; and

(B) utilize domestic sources to the maximum extent practicable.

(c) FAILURE TO SUBMIT PLAN.—

(1) PRIVATE MANAGEMENT CONTRACT FOR DISPOSAL OF MARITIME ADMINISTRATION VESSELS.—The Secretary of Transportation, subject to the availability of appropriations, shall promptly award a contract using full and open competition to expeditiously implement all aspects of disposal of obsolete vessels of the Maritime Administration.

(2) APPLICATION.—This subsection shall apply beginning 120 days after the date of the enactment of this Act, unless the Secretary of Transportation has submitted to the Congress the comprehensive plan required under subsection (a)

(d) TEMPORARY AUTHORITY TO TRANSFER OBSOLETE COMBATANT VESSELS TO NAVY FOR DISPOSAL.—The Secretary of Transportation shall, subject to the availability of appropriations and consistent with section 1535 of title 31, United States Code, popularly known as the Economy Act, transfer to the Secretary of the Navy during fiscal year 2006 for disposal by the Navy, no fewer than 4 combatant vessels in the nonretention fleet of the Maritime Administration that are acceptable to the Secretary of the Navy.

The Acting CHAIRMAN. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in House Report 109–96 and amendments en bloc described in section 3 of House Resolution 293.

Each amendment printed in the report shall be offered only in the order printed, except as specified in section 4 of the resolution, may be offered only by a Member designated in the report, shall be considered read, and shall not be subject to a demand for division of the question. Each amendment shall be debatable as specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment, except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment.

It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of. Amendments en bloc shall be considered read, shall be debatable for 40 minutes, equally divided and controlled by the chairman and ranking minority member or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The original proponent of an amendment included in amendments en bloc may insert a statement in the Congressional RECORD immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report out of the order printed, but not sooner than 1 hour after the chairman of Armed Services or a designee announces from the floor a request to that effect.

It is now in order to consider amendment No. 20 printed in House Reports 109–96.

AMENDMENT NO. 20 OFFERED BY MR. GOODE

Mr. GOODE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. GOODE:

At the end of subtitle D of title X (page 372, after line 8), add the following new section:

SEC. 1035. ASSIGNMENT OF MEMBERS OF THE ARMED FORCES TO ASSIST BUREAU OF BORDER SECURITY AND BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

"§ 374a. Assignment of members to assist border patrol and control

"(a) ASSIGNMENT AUTHORIZED.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist—

"(1) the Bureau of Border Security of the Department of Homeland Security in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

"(2) the United States Customs Service of the Department of Homeland Security in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

"(b) REQUEST FOR ASSIGNMENT.—The assignment of members under subsection (a) may occur only if—

"(1) the assignment is at the request of the Secretary of Homeland Security; and

"(2) the request is accompanied by a certification by the Secretary of Homeland Security that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

"(c) TRAINING PROGRAM REQUIRED.—The Secretary of Homeland Security and the Secretary of Defense, shall establish a training program to ensure that members receive general instruction regarding issues affecting law enforcement in the border areas in which the members may perform duties under an assignment under subsection (a). A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

"(d) CONDITIONS OF USE.—(1) Whenever a member who is assigned under subsection (a) to assist the Bureau of Border Security or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

"(2) Nothing in this section shall be construed to—

"(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

"(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

"(e) ESTABLISHMENT OF ONGOING JOINT TASK FORCES.—(1) The Secretary of Homeland Security may establish ongoing joint task forces if the Secretary of Homeland Security determines that the joint task force, and the assignment of members to the joint task force, is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

"(2) If established, the joint task force shall fully comply with the standards as set forth in this section.

"(f) NOTIFICATION REQUIREMENTS.—The Secretary of Homeland Security shall provide to the Governor of the State in which members are to be deployed pursuant to an assignment under subsection (a) and to local governments in the deployment area notification of the deployment of the members to assist the Department of Homeland Security under this section and the types of tasks to be performed by the members.

"(g) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members assigned under subsection (a).".

(b) COMMENCEMENT OF TRAINING PROGRAM.—The training program required by subsection (b) of section 374a of title 10, United States Code, shall be established as soon as practicable after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

"374a. Assignment of members to assist border patrol and control.".

The Acting CHAIRMAN. Pursuant to House Resolution 293, the gentleman from Virginia (Mr. GOODE) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would permit military personnel to secure America's borders. It authorizes, but does not require the Secretary of Defense to utilize members of the Army, Navy, Air Force, Marine Corps and Reserves under certain circumstances and subject to certain conditions to assist the Department of Homeland Security upon the request of the Department of Homeland Security in the performance of its border functions.

This amendment has passed in the two previous Congresses, and prior to my offering this amendment in the past two Congresses, it was offered by other Members and it has passed the House, but has not survived conference. I hope this year it will pass the House and then survive a conference.

I want to emphasize, this is an authorization measure so that the Department of Homeland Security and the Department of Defense would not be subject to posse comitatus charges if they utilize this in a nonemergency situation.

This simply makes it clear that if the Secretary of Homeland Security requests of the Secretary of Defense the utilization of forces to assist the border patrol in combating illegal drugs, combating illegal immigration or to reduce the threat of terrorism, that authority exists and it would not require the declaring of a national emergency by the executive branch.

Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I claim time in opposition to the amendment.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to express strong opposition to my good friend, the gentleman from Virginia (Mr. GOODE's) amendment.

I understand his concern. There has been a lot of talk both on the floor of Congress, throughout the country about border control. I understand the need to increase enforcement along our borders to protect against terrorism and drug trafficking.

Mr. Chairman, as a former Border Patrol agent with 26½ years' experience along our Nation's border, I know firsthand the difficulties that we have protecting our borders. But I also know that what we need are more trained law enforcement professionals, not military forces and, most certainly, not untrained civilians and vigilantes.

I know how difficult it is to secure our Nation's borders and the need for additional resources; however, this amendment is the wrong solution to our current problem along the border. The military has been more than willing to provide assistance to law enforcement already, but, Mr. Chairman, let me just for the record state that the Department of Defense opposes this amendment.

The Department of Homeland Security needs more border patrol agents, not troops on the border. The President already has the constitutional authority to deploy troops, as necessary, during a national emergency. There is no reason for this amendment.

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We have recently authorized an additional 1,500 border agents and have funded those 1,500 border agents.

Last August, we passed the intelligence reform legislation that has a provision for 2,000 border patrol agents per year for the next 5 years. That is the solution, in my opinion, that we need: professional trained Spanish-speaking border patrol agents that know and understand the challenge they face.

Our military today is already stressed. Just last month, the U.S. Army told us that their recruitment was down some 42 percent. We do not have the forces, we do not have the Reserves, and we do not have the National Guard because of the commitments overseas.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODE. Mr. Chairman, I yield 3 minutes to the gentlewoman from North Carolina (Ms. Foxx).

Ms. FOXX. Mr. Chairman, I rise today in strong support of the Goode amendment. The terrorist attacks on our homeland highlighted the potential disastrous effects of porous borders and the need to bolster border security. While we continue to fight the war on terror overseas, we cannot neglect our homeland and must increase our efforts at fighting terrorism at home by controlling immigration and strengthening our borders.

The defense authorization bill we are considering today makes excellent progress in setting funding levels for our troops and staging the war on terror overseas, but cannot and should not neglect our borders here at home. The Goode amendment will protect terrorists, illegal immigrants, and drug traffickers from entering the country.

Mr. Chairman, border security cannot be taken too seriously. I urge my colleagues to support the Goode amendment so we can continue fighting terror in the streets of Baghdad and in the mountains of Afghanistan rather than in our cities and communities. We must increase our efforts at achieving closed borders with open, guarded doors.

The Goode amendment helps accomplish that goal and supplements the greater objectives of the national defense authorization bill we are considering today. Without the Goode amendment, the authorization bill is incomplete and its goals are unmet.

In fighting the war on terror overseas, we have made our Nation and indeed the whole world a much safer place. Let us make sure we continue to build on that historic progress by protecting our homeland and defending our borders, when necessary. Vote for the Goode amendment and for the passage of the defense authorization bill.

Mr. REYES. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. Ortiz), a former sheriff who knows and understands border issues.

Mr. ORTIZ. Mr. Chairman, I oppose the provision regarding troops on the border. Our servicemen and -women are simply spread too thin. But one of the things that we need to remember is that we are in Iraq fighting a war in order not to fight in our homeland; that we need to fight the terrorists in Iraq. Well, just from the beginning of the year to today, we have had over 17,000 OTMs, other than Mexicans; and most of them are from Brazil. If you go to Brazil, you do not need a visa to go into Mexico.

It is good to see that we have given the border patrol 1,500 more border patrolmen, but we have no detention centers. If you have no detention centers, the illegals come in knowing one thing: when they come to the border, they turn themselves in to the border patrol. And you know what they ask for? I want my walking papers. I am not a Mexican; I can stay here, and I can appear before a judge.

I would like to engage my good friend, the gentleman from Texas (Mr. Reyes), for a few moments because he was the border patrol sector chief in McAllen. Not only that, we are beginning to see gangs coming in, the Mara Salvatrucha gang, and many other people. And unless we build detention centers, they are going to continue to come. My friend has talked to some of the border patrol officers down in the McAllen sector.

Mr. REYES. Mr. Chairman, will the gentleman yield?

Mr. ORTIZ. I yield to the gentleman from Texas.

Mr. REYES. Mr. Chairman, we have been in contact with border patrol agents that currently are telling us that they are demoralized. Because if you are an other-than-Mexican undocumented individual, you can come in. We have instances where they are actually flagging down our border patrol agents and they are asking local residents to call the border patrol so they can get what they call their permiso, or their permit, to be able to travel anywhere in the United States.

This is an abuse of our immigration laws, and it is all because we will not fund and we will not establish temporary detention facilities. When I was chief in McAllen sector, we had the same situation in the mid-1980s, where we had Central Americans coming in to the country. I was told that my agents were to issue I–210 letters, which is that permiso, that permit, they want today and wanted in the mid-1980s. I said, no, we are going to arrest them, and we are going to detain them.

We put together a plan. We put temporary detention facilities down in south Texas, and guess what, Mr. Chairman? It worked. They stopped coming. And more importantly, Mexico had to become engaged to make sure that people coming from Central America did not come into Mexico and create difficulties for them.

There is a solution, my colleagues, to this issue. The solution is enforcing our laws. If we put military on the border, all they are going to be doing is refer these undocumented other-than-Mexican aliens to the border patrol so they can be issued another permit to go anywhere in the country that they want. Does that make sense? Is that what we want to use our military for, just the equivalent of tour guides, referring illegals to the border patrol for issuing of a permit so they can go anywhere in the country?

Mr. ORTIZ. Reclaiming my time, Mr. Chairman, I just want to say something. We have had experience. About 12 years ago, we had 57,000 individuals, illegal, come from Central America when Attorney General Meese said if you fear for your life, come to the United States. My colleagues, we had to put up tents, and my colleague from Texas remembers that; 57,000. It impacts on your infrastructure, on your highways, on everything else.

So this is one of the reasons I oppose this bill. We need to build detention centers, otherwise the problem will never be solved.

Mr. GOODE. Mr. Chairman, how much time remains on each side?

The Acting CHAIRMAN (Mr. Bass). The gentleman from Virginia (Mr. Goode) has 11 minutes remaining, and the gentleman from Texas (Mr. Reyes) has 7½ minutes.

Mr. GOODE. Mr. Chairman, I yield 4½ minutes to the gentleman from Arizona (Mr. Hayworth).

Mr. HAYWORTH. Mr. Chairman, I rise in strong support of the Goode amendment, and I do so with the utmost respect for the preceding speakers on the other side of the aisle. Because in pointing out the symptoms and the challenges of the problems we confront on our border, rather than arguing against the amendment, as is the intent of my friends from Texas, in fact they are bolstering the argument for the very reason we should support this amendment.

Here is why, Mr. Chairman. National security and border security are one and the same. As my colleagues from Texas, who share a common border as I do in my home State in Arizona, as we share a common border with the Republic of Mexico, I would remind my colleagues that to our north there is a border stretching with Canada that is close to 8,000 miles, when you take a look at all the ins and outs. So it is not directed absolutely at our neighbors in the south. There is a danger to our north.

This has little to do with morale or professionalism of border patrol agents. Instead, it has to do with the incredible job we ask our border patrol to do across that vast northern border and across our important southern border. It is because of the tenor of the times, in the wake of 9/11, and, Mr. Chairman, precisely because of what we heard our former colleague, Mr. Goss of Florida, now Director of the Central Intelligence Agency, say in an open session to a committee in the other body, that his greatest concern is the introduction of some sort of weapon or some hostile action taken by those crossing our porous borders.

My colleagues from Texas just pointed out, in terms of those other-than-Mexicans coming across our southern border, and as the Director of the FBI confirmed to a subcommittee of this House, there are individuals coming in to this Nation through our southern border who are coming from nations that export Islamofascism and terrorism and they are adopting Hispanic-sounding surnames as their aliases. And my good friend, the gentleman from Texas (Mr. Ortiz), took a direct hand in pointing out those who are involved in creating security risks along our border. He mentioned the threat of the MS-13 gangs and all that is going on.

My colleagues, the Goode amendment is needed now more than ever. And I say that as one from a border State who stood in opposition to amendments of this type during my previous years in Congress. But the bottom line, Mr. Chairman, is this: yes, we have troops in the field; we have troops far from home fighting on the streets of Tikrit so we do not see a fight on the streets of Tucson; fighting on the streets of Baghdad so we do not see this on the streets of Boston.

But by the same token, 1 week ago, when we discussed the challenges that we were confronting in terms of border security and national security, I would suggest that a vacuum exists, because we hear so much debate in this House about resources for first responders.

Mr. Chairman, I would recommend and I would suggest that there is an interim vacuum that we should take into account. Not only are men and women in uniform on the offensive around the world in a global war on terror, but we also must deal with the ability of the Secretary of Defense in coordination with the Secretary of the Department of Homeland Security to utilize our military personnel. If we had in place the adequate manpower and resources for first defenders on our borders, perhaps the first responders would not be needed.

Mr. Chairman, I respect my colleagues from Texas. I understand their concerns. Indeed, there is much on this topic where we have agreement. We understand the danger we confront. But we have seen the results of force multiplication, or at least the presence of American citizens on the border in my home State. Force multiplication, and another option here is what is needed. Support the Goode amendment.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume to remind my friend from Arizona that the Department of Defense opposes this amendment, and the President already has the constitutional authority.

Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota (Mr. Kline), who is, coincidentally, from the northern border that the gentleman from Arizona was just speaking about and who is a member of our committee.

Mr. KLINE. Mr. Chairman, I thank my friend for yielding me this time, and I rise in opposition to the amendment put forward by my good friend, the gentleman from Virginia (Mr. Goode). While I support his intention with all my heart to provide increased border security to our Nation, I would remind my colleagues that we have been taking action in this Congress, and will take more, to increase the number of border patrol, and as my friend, the gentleman from Texas, said, to pass a REAL ID Act, and to take steps where professional law enforcement officials are stepping up to provide security for our borders.

I oppose this amendment because of my fear of what it does to our Armed Forces at a time when we are stretched incredibly thin. I think back to my days on active duty, and my son's service now on active duty, and how hard they are training for this war on terror, how much time they are spending deployed, and to think we are now going to ask more of them.

My colleague from Arizona mentioned 8,000 miles of border. I am afraid that in our eagerness to defend the border, we will call more and more on our men and women in the Armed Forces and put them in a very untenable position where they are poorly trained to do a job that should be done by professional law enforcement officers and taking them away from their primary mission and stretching them ever thinner in their primary duties. So, reluctantly, I oppose this amendment.

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Mr. GOODE. Mr. Chairman, I yield myself such time as I may consume.

Just to comment briefly, this amendment does not require forces on the border, it simply authorizes the Department of Homeland Security and the Department of Defense to utilize them if necessary to supplement the border control, and they have to be trained.

This amendment is a message-sender to tell the world we are serious about illegal immigration, drug trafficking and the threat of terrorism coming across the border.

Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. King).

Mr. KING of Iowa. Mr. Chairman, I appreciate the gentleman from Virginia (Mr. Goode) for yielding me this time and for bringing this amendment before this Chamber.

We look at our borders of this Nation. No nation without borders can be a sovereign nation. Without borders, you have no nation. We have borders that are absolutely porous, and we are hearing from the criticizing media that we cannot control the borders between Iraq and Syria, between Iraq and Iran. What about controlling the borders between the United States of America and our neighbors to the south and to the north?

We know we have troops that are training all over this country at bases around America and around the world. We also know it is good for morale to be engaged in something that is meaningful. What better terrain than, particularly, our southern border where coffee-stain camouflage matches that terrain as well as it does the terrain they are in in Iraq today.

We are dealing with this giant haystack of illegal immigration, and we have a policy that says we are going to look for OTMs and terrorists and criminals. And we have 8 or 12 or 14 million illegals that have come across the border and live in this country today, or more; and that number is so great, we stopped 1,139,000 from coming across the border in the past year. That is how many we caught.

Most people will tell you that two out of every three make it through. So out of that number and that huge haystack of 3 million or more pouring across our borders, we are going to reach in and find the needles, the terrorists or criminals or OTMs? I do not think so.

I think this Nation has to mobilize the resources that is has, consistent with the Goode amendment, training the military, put them on the border not as a protection force that is going to draw from our national security at other places in the world, but put them where they can protect our national security while they train to be deployed elsewhere as well.

The Minute Men that stood on the border set that standard, and I think the United States military can follow through.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I remind my good friend, the gentleman from Iowa (Mr. King), that the Department of Defense is opposed to this amendment. The President already has the authority.

Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. Filner).

Mr. FILNER. Mr. Chairman, as California's border Congressman, I rise to oppose this amendment.

I am amazed at some of the arguments supporting this amendment.

Members who agree that we need more security on the border, yet every one of them voted for a budget that only had 10 percent of the border patrol increase that this Congress has authorized. So they talk about more border patrol, but they voted for a budget that did not include it!

Mr. Chairman, I would not vote for an amendment that militarizes my colleagues' districts, and I urge my colleagues to oppose the amendment aimed at militarizing my district on the California-Mexico border.

We have a highly trained military. It is the best in the world, but it is not trained to perform domestic security duties. It is not trained to go on patrol in my neighborhood. It is trained to pursue and kill foreign enemies, not to check if visas have expired.

We do need more border security, but we should give the border patrol the support they need to do the job. They are the professionals. Let us give them the critical manpower and equipment they need. Let us invest in 21st century technology.

The gentleman from Iowa (Mr. KING) talked about a haystack. As our border patrol looks for the dangerous needle in the haystack, we can use technology to make that haystack smaller. Let us pass more support for the border patrol, let us pass comprehensive immigration reform. Let us allow the border patrol and other homeland security officials to focus on the real dangers to our national security.

We must have a secure and efficient border, but do not confuse immigrants with terrorists, and do not send the Army into my neighborhood. The Goode amendment is bad!

Mr. GOODE. Mr. Chairman, I yield myself such time as I may consume.

I would point out to the gentleman from California, I did vote for his motion to recommit to increase funding to add more border patrol officers. This is simply an authorization measure to allow the United States, if the Department of Homeland Security and if the Department of Defense thought necessary, to utilize forces to supplement the border control.

There are troops on the border today, but they are not U.S. troops, they are Mexican troops. We should certainly allow, not mandate, just give the permission for our troops to be there and not have them violate posse comitatus.

Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Chairman, I want to say to the gentlemen on the other side, I do not have two better friends than the two gentlemen handling the opposition to this, but this is not about anything except responding to the people of America who are concerned about what is happening at our borders. I support my good friend from Virginia because, as the gentleman says, this is an authorization bill.

But I can say to Members today, the American people are fed up, tired about the fact we have between 8,000 and 10,000 illegal aliens coming across the border each and every week. People in this country feel we are not doing our job as elected officials in Washington, D.C.

I have one of the best staffs in eastern North Carolina, in the State of North Carolina, of helping people who want to come to this country legally. We do everything we can to help them. But what the Goode amendment is proposing is absolutely a national security issue. It is no more or no less than national security.

How in the world, when we have terrorists that are planting themselves down in Central and South America, and we have had this told to us on the Committee on Armed Services, we know this is happening; how can we not say to the American people that their security is of the utmost importance?

I heard the gentleman from Minnesota (Mr. KLINE), whom I have great respect for, talking about our troops being stressed. I would say to the gentleman from Minnesota (Mr. KLINE), we need to start bringing those troops back from Iraq, but that is not the debate here today. The debate here today is the fact that we need to do what the American people think we were sent here for, and that is to represent their interests.

I was so disappointed when the President of the United States called the "Minute Men" in Arizona "vigilantes." I would tell Members that in the Third Congressional District of North Carolina, where we have 60,000 retired military, those men that served on that border did not do anything but help those who came here illegally go back without any threat to them. Those men that stood on the borders of Arizona, they are, in the Third District of North Carolina, heroes.

I say that to the President.

I hope we will support the Goode amendment because we should care about the national security of America.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

I would say to the gentleman from North Carolina (Mr. JONES) that I have the utmost respect for him, but I would remind the gentleman that it is poor public policy to allow citizens to take the law into their own hands, whether it is Arizona or not.

Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HINOJOSA), who represents a border district.

Mr. HINOJOSA. Mr. Chairman, I rise in opposition to the Goode amendment. As a Member whose district lies along the U.S.-Mexico border, I understand my colleague's frustration with our inability to stop illegal immigration. However, placing military troops on the border is not the solution. Border patrol agents are highly trained to handle the jobs of border security, as has been stated this afternoon.

Mr. Chairman, we need to be providing more funding to hire more border patrol personnel. We also need to provide more detention space facilities for immigrants who are apprehended, but we do not have the money to build them. The Homeland Security bill, which we passed last week, takes steps in this direction, although I wish it would have gone further.

We will never stop illegal immigration until this country has a comprehensive, realistic immigration policy. I urge the gentleman from Virginia (Mr. GOODE) to support immigration reform legislation that has been introduced by the gentleman from Arizona (Mr. KOLBE), the gentleman from Arizona (Mr. FLAKE) and the gentleman from Illinois (Mr. GUTIERREZ).

When we are already facing military recruitment shortages, when our National Guard and Reserves are going into their second year of active service, when this bill will remove thousands of women from support positions and when commanders in Iraq and Afghanistan are crying out for more troops, we do not need to be giving our military the additional mission of securing our borders.

I urge my colleagues to oppose the amendment.

Mr. GOODE. Mr. Chairman, I yield 30 seconds to the gentleman from California (Chairman HUNTER).

Mr. HUNTER. Mr. Chairman, I want to say, we all know one thing in this House Chamber, those who know the record of the gentleman from Texas (Mr. REYES), he is the finest border patrol chief probably in the history of our country. He has done a wonderful job.

We are on opposite sides of this vote. I think the gentleman pointed out very clearly one reason we can be on opposite sides of this vote, and that is, this is a permission which, arguably, the President already has. It is not a mandate; it is a permission. I would contemplate this would only be used in extraordinary circumstances.

Nonetheless, it is a resource that the Department of Homeland Security should have at their disposal should they need it for some exigency in the future.

I want to support the Goode amendment, as I have historically. I thank Members on both sides for a very high-level debate.

Mr. REYES. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), the ranking member on the Subcommittee on Immigration.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it should be known that the gentleman from Texas (Mr. REYES) has years of very profound experience, serving our country not only in the United States military, but certainly as a border patrol agent and certainly a leader in that particular profession.

Let me suggest to my colleagues that albeit there is a crisis and a need for Federal intervention on immigration, I would join my colleagues and ask that we join it in comprehensive immigration reform, legislative initiatives that have been offered by the Senate and the House. I have just introduced a Save America comprehensive immigration reform bill; and frankly, if we would fund fully border patrol agents and ICE agents, the problem would be solved.

Putting military at the borders is a violation of the Posse Comitatus Act of 1878, and it misuses our military whose basic training is defense and shoot to kill. Migrants and immigrants are not enemy combatants. And, frankly, if you come to the border of Texas where people live in harmony, those who happen to look possibly alike, illegal immigrants, there is a great possibility of danger, danger to the soldiers and danger to those civilians.

Border patrol agents are serving our country. In fact, in testimony yesterday before our Subcommittee on Homeland Security, when I spoke to one of their representatives, he indicated what is the sense of training military personnel who are temporarily in the United States Army or Marines, and then lose or eliminate that training by them leaving the service and losing the investment, where you would have border patrol agents who have the long-term investment.

Mr. Chairman, yes, this sounds great and it has an emotional appeal as we go toward Memorial Day, but I have the greatest respect and honor for the United States military as they fight to defend this Nation. To use them in a civilian capacity that is the responsibility of the Federal Government is an outrage and should not be done.

Let us work together harmoniously to secure the American borders in the right way, and let us allow the United States military to serve their Nation and defend this country in the way that they have been trained to do it, not water down their duties and add to the danger of civilian/military conflict.

I rise in opposition to this amendment. It would authorize the Secretary of Defense to assign members of the Army, the Navy, the Air Force, and the Marines to assist the Department of Homeland Security in the performance of border protection functions.

I share my colleague's desire for a secure border, but this is not the way to do it. Border security is a civilian responsibility that has been assigned to the Department of Homeland Security, not to the military. I also want to express my disapproval of permitting civilian volunteers such as the minutemen to assist in securing our borders. We can provide the additional support the Department needs by increasing the number of border patrol agents. Soldiers are not necessary or desirable as border patrolmen.

Putting troops on the border would violate the Posse Comitatus Act of 1878, which prohibits the United States military from patrolling within United States borders.

The United States military is stretched thin from wars in Afghanistan and Iraq. Putting troops at our border would further strain our capabilities abroad.

Migrants are not enemy combatants. They are seeking better economic opportunities for their families. Their plight should not be combated with military force, but rather with immigration reform.

The United States Border Patrol actively cooperates with the military in many areas—from infrastructure construction to the implementation of new high-tech monitoring such as unmanned aerial vehicles. The Border Patrol already knows when and how to ask for cooperation from the military.

The military is not trained to operate in United States civilian communities, as is the case with much of the border. More than 10 million people live along the American side of the Mexico border. Putting military patrols in their communities would put many people at risk.

For instance, on May 20, 1997, a Marine shot and killed an 18-year-old goat herder, Ezekiel "Zeke" Hernandez. The incident occurred on the eastern outskirts of the village of Redford, Texas. The Marines were on the border to patrol against drug smugglers. Ezekiel was shot because he was carrying a gun to protect his flock, and fired a shot, most likely to scare away predators threatening his herd. In view of the fact the Marines were camouflaged, it is unlikely that Ezekiel saw them. I do not want to see more incidents like this take place on American soil.

I urge you to vote against this amendment.

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Mr. GOODE. Mr. Chairman, I yield myself the balance of my time.

I would like to say that I think the gentlewoman from Texas (Ms. JACKSON-LEE) was right on target when she said allowing troops on the border under current law in the United States would violate posse comitatus. I am not sure that it would, but if they were requested tomorrow by the Secretary of Homeland Security and went there, I assure you there would be lawsuits and national media saying we were violating posse comitatus. Pass this amendment and we will not have that obstruction to protecting the security of the United States of America.

I want to salute the gentleman from Texas (Mr. REYES) for his conducting of this debate, a great debate. I also want to thank him for his service which was truly outstanding, as the gentleman from California said.

I would like to close by urging you to vote for the security of the United States and simply give to the Department of Homeland Security with the concurrence of the Department of Defense the authorization to use troops without running afoul of posse comitatus.

Mr. REYES. Mr. Chairman, it is my pleasure to yield 30 seconds to the gentleman from Missouri (Mr. SKELTON), the ranking member of the committee.

Mr. SKELTON. I thank the gentleman for yielding time.

Mr. Chairman, if there is anyone in this Chamber that understands the border and the business at the border, it is the former border patrol chief, the gentleman from Texas (Mr. REYES). His expertise is beyond question.

At a time when we are stretching our young people in uniform, particularly the United States Army, at a time when 40 percent of those in Iraq and Afghanistan are Reservists or National Guardsmen, at a time when we are having a difficult time in recruiting and problems rising in retention, we just cannot afford to put additional troops on the border. That is the purpose of the border patrol, and it is up to this body in other amendments and other bills to authorize and appropriate more border patrolmen for that necessary job.

Mr. REYES. Mr. Chairman, I yield myself the balance of my time. I want to also thank the gentleman from Virginia (Mr. GOODE) for a great debate here and all the Members that participated.

Mr. Chairman, this is an issue that is very much discussed around the country. As my friend from South Carolina said, this is in response to the issue that the American people seek relief on. But this is a false response. The Department of Defense opposes this amendment. Homeland Security needs more border patrol agents, more technology, more resources, not troops, to help them. The President already has the constitutional authority to deploy troops as necessary.

I would ask all Members that have spoken on this very important issue, let us get together and let us ask for hearings so that we can have relief in areas like my friend and colleague from south Texas (Mr. ORTIZ) articulated. Border patrol agents are demoralized today because they are the equivalent of tourist enterprises, in terms of passing out letters to other-than-Mexican undocumented people that are allowed to travel anywhere in the country.

I urge my colleagues to oppose this amendment and support efforts to recruit, train, and deploy additional border patrol agents and resources. That is the way we ought to be going.

The Acting CHAIRMAN (Mr. BASS). The question is on the amendment offered by the gentleman from Virginia (Mr. GOODE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. REYES. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. GOODE) will be postponed.

AMENDMENTS EN BLOC OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer amendments en bloc.

The Acting CHAIRMAN. The Clerk will designate the amendments en bloc.

The Clerk designated the amendments en bloc, as follows:

Amendments en bloc offered by Mr. HUNTER printed in House Report 109-96 consisting of amendment No. 2; amendment No. 3; amendment No. 7; amendment No. 10; amendment No. 13; amendment No. 15; amendment No. 21; amendment No. 28; amendment No. 18; and amendment No. 25.

AMENDMENT NO. 2 OFFERED BY MR. ORTIZ

The text of the amendment is as follows:

Page 45, line 18, insert "(a) IN GENERAL.— " before "Section 216".

Page 47, after line 6, insert the following:

(b) SUSTAINMENT PLAN.—Not later than December 31, 2005, the Secretary of Defense shall submit to the congressional defense committees a plan for sustaining the MHC-51 class mine countermeasures ships and supporting dedicated mine countermeasures systems until the Littoral Combat Ship and next-generation mine countermeasures systems are deployed and capable of assuming the mission of the MHC–51 class mine countermeasures ships.

AMENDMENT NO. 3 OFFERED BY MS. KAPTUR

The text of the amendment is as follows:

At the end of subtitle B of title III (page 70, after line 11), insert the following new section:

SEC. ___. STUDY ON USE OF BIODIESEL AND ETHANOL FUEL.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study on the use of biodiesel and ethanol fuel by the Armed Forces and the Defense Agencies and any measures that can be taken to increase such use.

(b) ELEMENTS.—The study shall include—

(1) a review and assessment of potential requirements for increased use of biodiesel and ethanol fuel within the Department of Defense and research and development efforts required to meet those increased requirements;

(2) based on the review in subparagraph (1), a forecast of the requirements of the Armed Forces and the Defense Agencies for biodiesel and ethanol fuels for each of fiscal years 2007 through 2012;

(3) an assessment of the current and future commercial availability of biodiesel and ethanol fuel, including facilities for the production, storage, transportation, distribution, and commercial sale of such fuel;

(4) a review of the actions of the Department of Defense to coordinate with State, local, and private entities to support the expansion and use of alternative fuel refueling stations that are accessible to the public; and

(5) an assessment of the fueling infrastructure on military installations in the United States, including storage and distribution facilities, that could be adapted or converted for the delivery of biodiesel and ethanol fuel.

(c) REPORT.—Not later than February 1, 2006, the Secretary shall submit to the congressional defense committees a report on the study conducted under subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term "ethanol fuel" means fuel that is 85 percent ethyl alcohol.

(2) The term "biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 7545 of title 42, United States Code.

AMENDMENT NO. 7 OFFERED BY MR. SIMMONS

The text of the amendment is as follows:

At the end of title V (page 194, after line 11), add the following new section:

SEC. 575. ELIGIBILITY OF CERTAIN PERSONS FOR SPACE-AVAILABLE TRAVEL ON MILITARY AIRCRAFT.

(a) ELIGIBILITY OF "GRAY AREA" RETIREES AND SPOUSES.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2641a the following new section:

"§ 2641b. Space-available travel on Department of Defense aircraft: Reserve members eligible for retired pay but for age; spouses

"(a) RESERVE RETIREES UNDER AGE 60.—A member or former member of a reserve component under 60 years of age who, but for age, would be eligible for retired pay under chapter 1223 of this title shall be provided transportation on Department of Defense aircraft, on a space-available basis, on the same basis as members of the armed forces entitled to retired pay under any other provision of law.

"(b) DEPENDENTS.—The dependent of a member or former member under 60 years of age who, but for age, would be eligible for retired pay under chapter 1223 of this title, shall be provided transportation on Department of Defense aircraft; on a space-available basis, on the same basis as dependents of members of the armed forces entitled to retired pay under any other provision of law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2641a the following new item:

"2641b. Space-available travel on Department of Defense aircraft: Reserve members eligible for retired pay but for age; spouses.".

AMENDMENT NO. 10 OFFERED BY MR. FILNER

The text of the amendment is as follows:

At the end of title VI (page 279, after line 6), add the following new section:

SEC. . REPORT ON SPACE-AVAILABLE TRAVEL FOR CERTAIN DISABLED VETERANS.

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the feasibility of providing transportation on Department of Defense aircraft on a space-available basis for any veteran with a service-connected disability rating of 50 percent or higher. The Secretary of Defense shall prepare the report in consultation with the Secretary of Veterans Affairs.

AMENDMENT NO. 13 OFFERED BY MS. DELAURO

The text of the amendment is as follows:

At the end of title VII (page 297, after line 26), insert the following new section:

SEC. 718. MENTAL HEALTH AWARENESS FOR DEPENDENTS.

(a) PROGRAM.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop a program to improve awareness of the availability of mental health services for, and warning signs about mental health problems in, dependents of members of the Armed Forces whose sponsor served or will serve in a combat theater during the previous or next 60 days.

(b) MATTERS COVERED.—The program developed under subsection (a) shall be designed to—

(1) increase awareness of mental health services available to dependents of members of the Armed Forces on active duty;

(2) increase awareness of mental health services available to dependents of Reservists and National Guard members whose sponsors have been activated; and

(3) increase awareness of mental health issues that may arise in dependents referred to in paragraphs (1) and (2) whose sponsor is deployed to a combat theater.

(c) TOLL-FREE NUMBER.—In carrying out this section, the Secretary of Defense shall establish a toll-free informational telephone number and website devoted to helping members of the Armed Forces and their dependents recognize, and locate treatment providers for, post-traumatic stress disorder and other forms of combat stress.

(d) COORDINATION.—The Secretary may permit the Department of Defense to coordinate the program developed under subsection (a) with an accredited college, university, hospital-based, or community-based mental health center or engage mental health professionals to develop programs to help implement this section.

(e) AVAILABILITY IN OTHER LANGUAGES.—The Secretary shall ensure that the program developed under subsection (a) is made available in foreign languages if necessary to aid comprehension among persons to be helped by the program.

AMENDMENT NO. 15 OFFERED BY MR. MANZULLO

The text of the amendment is as follows:

At the end of subtitle B of title VIII (page 321, after line 3), insert the following new section:

SEC. 818. BUY AMERICAN REQUIREMENT FOR PROCUREMENTS OF GOODS CONTAINING COMPONENTS.

(a) REQUIREMENT.—Notwithstanding any agreement described in subsection (b), with respect to any manufactured end product procured by the Department of Defense—

(1) the end product shall be manufactured in the United States; and

(2) the cost of components of the end product that are mined, produced, or manufactured inside the United States shall exceed 50 percent of the cost of all components of the end product.

(b) AGREEMENT DESCRIBED.—An agreement referred to in subsection (a) is any reciprocal defense procurement memorandum of understanding between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act (41 U.S.C. 10a et seq.) for certain products in that country.

AMENDMENT NO. 21 OFFERED BY MR. CROWLEY

The text of the amendment is as follows:

At the end of title X (page 402, after line 22), add the following new section:

SEC. 1048. SENSE OF CONGRESS RECOGNIZING THE DIVERSITY OF THE MEMBERS OF THE ARMED FORCES KILLED IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM AND HONORING THEIR SACRIFICES AND THE SACRIFICES OF THEIR FAMILIES.

(a) FINDINGS.—Congress finds the following:

(1) Over 1,500 members of the United States Armed Forces have been killed while serving

in Operation Iraqi Freedom and Operation Enduring Freedom.

(2) The members of the Armed Forces killed in Operation Iraqi Freedom and Operation Enduring Freedom came from diverse ethnic backgrounds.

(3) All of these members of the Armed Forces lost their lives defending the cause of freedom, democracy, and liberty.

(4) Diversity is an essential part of the strength of the Armed Forces, in which members having different ethnic backgrounds and faiths share the same goal of defending the cause of freedom, democracy, and liberty.

(5) The Armed Forces are representative of the diverse culture and backgrounds that make the United States a great nation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should—

(1) recognize and celebrate the diversity of the Armed Forces; and

(2) recognize and honor the sacrifices being made by the diverse members of the Armed Forces and their families in the war against terrorism.

AMENDMENT NO. 28 OFFERED BY MR. SPRATT

The text of the amendment is as follows:

At the end of title XII (page 427, after line 11), insert the following new section:

SEC. ____. WAR-RELATED REPORTING REQUIREMENTS.

(a) REPORTS REQUIRED FOR OPERATION IRAQI FREEDOM, OPERATION ENDURING FREEDOM, AND OPERATION NOBLE EAGLE.—The Secretary of Defense shall submit to Congress, in accordance with this section, war-related reports on costs, military personnel force levels, reconstitution, and military construction for each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle.

(b) COSTS.—

(1) COSTS.—Each report prepared under subsection (a) shall specify, for each operation named in that subsection, for each fiscal year beginning with fiscal year 2001, the following:

(A) The initial planned allocation of budget authority, by funding source and appropriation account.

(B) The amount of budget authority made available through reported and below-threshold funding transfers, categorized by account and type of expense.

(C) A monthly obligation plan for the year, by appropriation account.

(D) Amounts of obligations and outlays, by appropriation account and type of expense.

(2) SUBMISSION REQUIREMENTS.—The Secretary of Defense shall submit the initial report, which shall document cost data for each fiscal year beginning with fiscal year 2001 through fiscal year 2005, no later than 180 days after the date of the enactment of this Act. Thereafter, the Secretary of Defense shall submit cost reports monthly, no later than 45 days after the end of each reporting month.

(c) MILITARY PERSONNEL FORCE LEVELS.—

(1) MILITARY PERSONNEL FORCE LEVELS.—Each report prepared under subsection (a) shall specify the following:

(A) The number of military personnel supporting Operation Iraqi Freedom and Operation Enduring Freedom by component (active and reserve).

(B) The number of Guard and reserve personnel backfilling in the United States or elsewhere, training up, or demobilizing in support of Iraqi Freedom or Operation Enduring Freedom each month from September 2001 to the present.

(C) The number of Guard and reserve activations by service, for each of Operation Enduring Freedom, Operation Iraqi Freedom, and Operation Noble Eagle, starting with 2002, and including the number of personnel activated once, twice, and three times in the previous four years in support of those operations.

(D) The number of active-duty personnel who have deployed once, twice, and three times in support of Operation Enduring Freedom and Operation Iraqi Freedom in the previous four years.

(E) The number of personnel by primary occupational skill for reservist-component personnel who were activated more than once and active-duty personnel who were deployed more than once in support of those operations.

(2) SUBMISSION REQUIREMENTS.—The first report required by paragraph (1) shall be submitted to Congress not later than 180 days after the date of the enactment of this Act. Thereafter, the Secretary of Defense shall submit reports monthly updating personnel information no later than 45 days after the end of each reporting month.

(d) RECONSTITUTION.—

(1) PROCUREMENT.—The report prepared under subsection (a) shall identify, for each war-related procurement funding request since fiscal year 2003, end-item quantities requested and the purpose of the request (such as replacement for battle losses, improved capability, increase in force size, restructuring of forces), shown by service.

(2) EQUIPMENT MAINTENANCE.—The report prepared under subsection (a) shall provide an assessment that compares peacetime versus wartime equipment maintenance requirements. The assessment should include the effect of war operations on the backlog of maintenance requirements over the period of fiscal years 2003 to the present. It should also examine the extent that war operations have precluded maintenance from being performed because equipment was unavailable.

(3) SUBMISSION REQUIREMENTS.—The report under this subsection shall be submitted to the Congress not later than 180 days after the date of the enactment of this Act. The Secretary of Defense shall submit updated procurement and equipment maintenance reports concurrently with future war-related funding requests.

(e) MILITARY CONSTRUCTION.—

(1) MILITARY CONSTRUCTION.—The report prepared under subsection (a) shall identify all funded military construction projects, including temporary projects funded with operations and maintenance funds, in the Iraq and Afghanistan theaters of operations in each fiscal year beginning with 2003. For each such project, the report shall identify the funding amount, purpose, location, and whether the project is for a temporary or permanent structure. The report shall also identify the number of United States military personnel that can be supported by the facility infrastructure in Iraq and Afghanistan and in the neighboring countries from where Operations Iraq Freedom and Enduring Freedom are supported.

(2) SUBMISSION REQUIREMENTS.—The report shall be submitted the Congress not later than 180 days after the date of the enactment of this Act. The Secretary of Defense shall submit an updated military construction report concurrently with future war-related funding requests.

AMENDMENT NO. 18 OFFERED BY MR. SIMMONS

The text of the amendment is as follows:

At the end of subtitle B of title VIII (page 321, after line 3), add the following new section:

SEC. 818. DOMESTIC SOURCE RESTRICTION FOR LITHIUM ION CELLS AND BATTERIES.

Section 2534(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) LITHIUM ION CELLS AND BATTERIES.—Lithium ion cells and batteries and manufacturing technology for lithium ion cells and batteries.".

AMENDMENT NO. 25 OFFERED BY MR. ISRAEL

The text of the amendment is as follows:

Page 409, line 9, strike "**SCHOLARSHIP**" and insert "**EDUCATION**".

Page 409, line 18, strike "and".

Page 409, after line 19, insert:

(C) by inserting "foreign languages," after "engineering,"; and

MODIFICATION TO AMENDMENT NO. 13 AND AMENDMENT NO. 28 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I ask unanimous consent that amendment No. 13 offered by the gentlewoman from Connecticut (Ms. DELAURO) and amendment No. 28 offered by the gentleman from South Carolina (Mr. SPRATT) and printed in House Report 109-96 be modified in the form I have placed at the desk.

The Acting CHAIRMAN. The Clerk will report the modifications.

The Clerk read as follows:

Modification to amendment No. 13 offered by Ms. DELAURO:

The amendment as modified is as follows:

At the end of title VII (page 297, after line 26), insert the following new section:

SEC. 718. MENTAL HEALTH AWARENESS FOR DEPENDENTS.

(a) PROGRAM.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop a program to improve awareness of the availability of mental health services for, and warning signs about mental health problems in, dependents of members of the Armed Forces whose sponsor served or will serve in a combat theater during the previous or next 60 days.

(b) MATTERS COVERED.—The program developed under subsection (a) shall be designed to—

(1) increase awareness of mental health services available to dependents of members of the Armed Forces on active duty;

(2) increase awareness of mental health services available to dependents of Reservists and National Guard members whose sponsors have been activated; and

(3) increase awareness of mental health issues that may arise in dependents referred to in paragraphs (1) and (2) whose sponsor is deployed to a combat theater.

(c) COORDINATION.—The Secretary may permit the Department of Defense to coordinate the program developed under subsection (a) with an accredited college, university, hospital-based, or community-based mental health center or engage mental health professionals to develop programs to help implement this section.

(d) AVAILABILITY IN OTHER LANGUAGES.—The Secretary shall evaluate whether effectiveness of the program developed under subsection (a) would be improved by providing materials in languages other than English and take action accordingly

(e) Report.—Not later than one year after implementation of the program developed under subsection (a), the Secretary shall submit to Congress a report on the effectiveness of the program, including the extent to which the program is used by low-English-proficient individuals.

Modification to amendment No. 28 offered by Mr. Spratt:

At the end of title XII (page 427, after line 11), insert the following new section:

SEC. ____. WAR-RELATED REPORTING REQUIREMENTS.

(a) Reports Required for Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle.—The Secretary of Defense shall submit to the congressional defense committees, in accordance with this section, war-related reports on costs, reconstitution, and military construction for each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle.

(b) Submission to GAO of Certain Reports on Costs.—The Secretary of Defense shall submit to the Comptroller General, no later than 45 days after the end of each reporting month, the Department of Defense Supplemental and Cost of War Execution reports. Based on these reports, the Comptroller General shall provide Congress quarterly updates on war costs.

(c) Reconstitution.—

(1) Procurement.—The report prepared under subsection (a) shall identify, for each war-related procurement funding request since fiscal year 2003, end-item quantities requested and the purpose of the request (such as replacement for battle losses, improved capability, increase in force size, restructuring of forces), shown by service.

(2) Equipment maintenance.—The report prepared under subsection (a) shall provide an assessment that compares peacetime versus wartime equipment maintenance requirements. The assessment should include the effect of war operations on the backlog of maintenance requirements over the period of fiscal years 2003 to the present. It should also examine the extent that war operations have precluded maintenance from being performed because equipment was unavailable.

(3) Submission requirements.—The report under this subsection shall be submitted to the Congress not later than 180 days after the date of the enactment of this Act. The Secretary of Defense shall submit updated procurement and equipment maintenance reports concurrently with future war-related funding requests.

(d) Military Construction.—

(1) Military construction.—The report prepared under subsection (a) shall identify the number of United States military personnel that can be supported by the facility infrastructure in Iraq and Afghanistan and in the neighboring countries from where Operation Iraq Freedom and Operation Enduring Freedom are supported.

(2) Submission requirements.—The report shall be submitted to Congress not later than 180 days after the date of the enactment of this Act. The Secretary of Defense shall submit an updated military construction report concurrently with future war-related funding requests.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments, as modified, be considered as read and printed in the Record.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Acting CHAIRMAN. Without objection, the modifications are agreed to.

There was no objection.

The Acting CHAIRMAN. Pursuant to House Resolution 293, the gentleman from California (Mr. Hunter) and the gentleman from Missouri (Mr. Skelton) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. Hunter).

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut (Mr. Simmons).

Mr. SIMMONS. Mr. Chairman, I rise in strong support of the en bloc amendments. I would like to draw particular attention to one portion of the en bloc amendments that deals with space-available travel, space-available, or space-A travel for certain military personnel.

One of the benefits of serving in the U.S. military is that you are allowed to access available spaces on military aircraft flying around the country or, indeed, flying around the world. It is a benefit that we extend to our active duty servicemembers, to some of the Guard and the Reserve. But if you happen to be a retired member of the U.S. Army reserve or a retired member of the Guard, not yet 60 years old, you are not eligible for space-A, or space-available travel.

What my amendment does is extends to those members of our Guard and Reserve who are retired but under 60 years old the benefit of allowing them to go on space-A travel for themselves and for their dependents. This would affect all branches of service, for those Guardsmen and those retirees from the U.S. Army and other branches of the Reserve. This eligibility is cost free. After all, the airplanes are flying. They have empty seats. So why should we not extend this privilege to those retired members of our Guard and Reserve?

I think that in recent years, we have come to understand and respect the fact that members of the Guard and the Reserve are stepping up to the plate when it comes to deployments in the war against terror. The least that we can do here in this body, in this amendment, is extend to them the privilege of space-available travel when they retire.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DeLauro).

Ms. DeLAURO. Mr. Chairman, my amendment would require the Department of Defense to implement a new mental health awareness campaign for families of servicemembers who are soon to be deployed or have recently been deployed to a combat theater.

The amendment is important for families of National Guardsmen and Reservists whose families face unique challenges when loved ones are deployed. Unlike their active duty counterparts, Reserve and Guard families often live far from a military base and the wider array of social, family, and medical services that can be found there.

According to the Army, one in six soldiers serving in Operation Iraqi Freedom suffers from post-traumatic stress disorder. More than 900 soldiers have been evacuated from Iraq because of problems related to mental health. Today, mental illnesses like PTSD remain a stigma for many in our society. We know the damage mental illnesses can do away from the battlefield, ruining families, causing alcoholism, drug abuse, and homelessness. It is a difficult time for troops and their families when our soldiers are deployed.

In April 2004, I met with many families of the Army Reserve's 439th Quartermaster Company. Initially what was supposed to be a 6-month tour of duty was extended twice and the unit wound up serving for 14 months or longer. I met with their families. I saw the unbelievable strain they were under, bills mounting, responsibilities to family multiplying, frustrated in their efforts to get the answers they needed regarding the unit's status. It illustrated what we need to do for our Reservists, what it means for what they leave behind, not only their families, their jobs and their lives back home. That is what happens when Reservists are activated. Everyone sacrifices. We need to make sure that when all our soldiers come home that their homecomings are accompanied by any services and treatment that they and their families may need. They deserve no less.

This is a commonsense amendment. I want to thank the gentleman from California (Mr. Hunter) and the gentleman from Missouri (Mr. Skelton) for their advice and my colleagues on the Rules Committee for making this amendment in order. I urge my colleagues to support it.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. Spratt).

Mr. SPRATT. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to speak in support of the en bloc amendment and also a particular provision of it whereby the leadership of the committee has worked with me to include some reporting requirements. They are not as complete as I would like. In fact, we have pared them back three or four times in order to reach consensus, but nevertheless I am glad that we will put them in here because they relate to reporting and oversight of our commitment in Iraq and Afghanistan and Operation Nobel Eagle.

There are three main areas that will be covered in these war-related reports: costs with numerous breakdowns, the reconstitution of equipment, and military construction, partly because it is a good indicator of where we are headed. The Congress has just passed an $82 billion supplemental making the total amount provided this year for Afghanistan and Iraq over $100 billion. Only 2 weeks after its enactment, the Army is already hinting that they may run out of O&M funds. As a consequence, we have a bridge provision in this particular bill authorizing an additional $49 billion. The House Appropriations Committee just approved a $45 billion bridge, a supplemental that is intended to carry the services through the early months of fiscal year 2006, at which time another supplemental will be needed.

We need a better system for tracking these costs as they are incurred. We do not get it in advance on the Committee on Armed Services. That is why we are providing an advance authorization in this bill. But we need to have at least the information retrospectively so that we can see where the costs are being incurred and we can keep tabs on some of the contingencies that are going to have to be paid down the road, costs that are being incurred now like repairing equipment which has suffered greatly in the environment in Afghanistan and in Iraq.

These are, I think, essential amendments if we are to do our oversight job on the Committee on Armed Services. I appreciate the chairman and the ranking member working with me to see that they are included in the en bloc amendments.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise today to express concerns about the recent Department of Defense study, "Domestic Dependent Elementary and Secondary Schools Transfer Study," that was released in February. It is called DDESS. It calls for significant changes to a number of the 58 elementary, middle and high schools on U.S. military installations that would, I believe, be viewed as a reduction in benefits for our military personnel. These are first-class schools, all 58 of which provide prekindergarten programs, special education programs, and maintain significantly higher student achievement in national test results.

My district is home to West Point, the U.S. Military Academy. The elementary school at the academy is the finest of its kind in the Department of Defense. During a recent study, it was ranked number one out of 55 in the entire Nation. The school maintains a number of advantages that simply cannot be duplicated, including the maintenance of a federally funded pre-K program, onsite provision for 95 percent of special education services, and minority achievement scores which meet or exceed national averages. Notwithstanding these factors, the DOD study recommended the students be transferred to the local school system. Similarly, seemingly unsupportable recommendations were made for other DOD schools.

Mr. Chairman, given this, I ask that the committee and Congress give careful consideration before allowing the Secretary of Defense to implement any recommendation of the DDESS transfer study to close any Department of Defense domestic dependent elementary or secondary school or to transfer any faculty or students of the Department of Defense domestic dependent elementary or secondary schools system to an entity of a State or local government.

Mr. HUNTER. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I understand the gentlewoman's concern. I look forward to working with her to prevent unnecessary closures or transfers not just at West Point but also at DDESS across the country. I agree it is important to provide such benefits for our military personnel to not only recruit the best for our military but to provide the safety, security, and necessary programs to the DDESS students and their parents.

☐ 1415

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I thank the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member, for yielding me this time.

Mr. Chairman, I rise in support of the Defense Authorization bill. I want to thank the gentleman from California (Chairman HUNTER), chairman of the committee; and, again, his counterpart, the gentleman from Missouri (Mr. SKELTON), a man whom I greatly respect for crafting along, with the gentleman from California (Mr. HUNTER), a very bipartisan bill.

While this is not a perfect bill, in today's environment here on Capitol Hill, it is a testament to both of these men and their staffs that they are able to work so well together to put a bill forward that so many of us can support; and to both of them we are extremely grateful.

I would also like to thank the Committee on Rules for making our amendment in order for debate today. My amendment is a Sense of Congress honoring the diversity of the men and women who have given their lives in defense of our country. The people of our Armed Forces are put in harm's way on a daily basis, and I am so proud of them for having the ability to keep fighting to protect our Nation's security.

Over 1,500 members of the armed services have been killed while serving in Operation Iraqi Freedom and Operation Enduring Freedom. And I believe it is important for this body to recognize the sacrifices being made by these diverse members of the Armed Forces and their families in the war on terror. Several members of our Armed Forces from my district have been killed while serving in defense of our Nation.

I happen to represent one of the most diverse districts in our country today, and I am proud to say that this diversity is strongly represented in the military today as well. When I am back in my district, I make it my business to meet with veterans and members of the Armed Forces who have just returned from service, and I have found that many of these brave men and women are from the Latino and African American communities. While they are so happy to be home with their families, many of them still have the sense that their mission is not over, and they want to continue to protect our Nation against those who look to do us harm.

The military is an opportunity for minority communities to start a better way of life for themselves, whether it is going to college after service or using the skills they have learned in the military to find a good job.

I commend these men and women and send my sincerest condolences to the families of those who have lost loved ones in their service to our Nation.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I would like to speak against the Manzullo amendment, which is part of the en bloc amendments, and also the Blunt amendment.

The Manzullo amendment, basically, will radically change the current application of the Buy American Act. I think it could place the United States in violation of more than 20 critical defense memoranda of understanding with some of our strong allies like Australia, Canada, Israel, and the United Kingdom.

Under DOD policies, under Buy American, there is a 50 percent cost differential if they cannot certify that a product is made with more than half of its components in the United States. In a global economy it is often hard to certify, and we actually put some of these companies at risk with their certifications. Some companies have had to set up costly accounting procedures so that they can track where different pieces of a product's components are assembled around the world to add up: Does it comply with the Buy American Act or does it not comply with the Buy American Act?

This amendment would sweep away the current waivers of the Buy American Act that have been carefully negotiated with our strongest military partners, and I am afraid will invoke retaliation if they are upheld. The restriction would cause the Department of Defense problems in purchasing the best goods for a fair price, particularly commercial technologies, so we would be denied in some cases the best cameras, the best laboratory and surveillance equipment. Even the BlackBerrys, which Members have, would be subject to this because 50 percent of its components are not assembled in the United States.

With this we would deprive our soldiers of the best equipment, the best equipment in many cases that would make them more efficient. In some cases it could make them even less safe. And that is the problem with this amendment. Our soldiers deserve the best wherever its components are assembled, and this blanks out some of the waiver provisions that we have under the current law.

We are already challenged to compete in a global marketplace where we do not always have a competitive advantage. Dismantling the regime of defense memoranda of understanding that have helped create and support the vibrant world marketplace in the end only hurts American workers.

Besides violating our defense MOUs, this provision will require DOD to pay an artificially high price for products it needs to protect all of us. Defense dollars are already scarce. We need to be getting the maximum bang for our bucks, and the difficulty with our procurement system is that the Members try to do too many things with them.

In the Blunt amendment case, they want to give a differentiation for people who hire a number of National Guard or Reserve officers: in this case, it is Buy American; in other cases, it may be a small or minority business. At the end of the day, this creates many inefficiencies in our procurement system that cost our taxpayers billions of dollars when, in fact, we do not have them.

I think when we go out and procure goods for our soldiers, we ought to get the best goods, we ought to get them at the lowest price. The American taxpayer demands it and our soldiers demand it.

Under this amendment, more businesses would be required to certify compliance with the Buy American Act, potentially exposing them to civil false claims and other sanctions even if they have made a good-faith effort to comply with these government-unique requirements. This creates significant financial and legal burdens for industry, given that more and more IT, information technology, so critical for our defense efforts, is being sourced, in a global economy, from around the world.

Some companies have responded by setting up costly, labor-intensive product tracking systems that are not needed in their commercial business simply to sell to the government. That ends up costing the taxpayer more. Some companies have simply stopped selling certain products in the Federal marketplace, denying us access to some of the latest, most cost-effective, safest products for our soldiers.

This radical expansion of the application of the Buy American Act will impose financial and legal burdens on commercial companies that sell to the government. In fact, it could well prevent our brave servicemembers from obtaining the best technology to protect them and to protect our Nation.

This increased restriction on DOD's ability to obtain needed technology from the world market is basically a Cold War anachronism. Given DOD's growing reliance on information technology and other products and the current global nature, these are crippling in their restrictive provisions.

Mr. HUNTER. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado (Mr. BEAUPREZ), who has exhibited enormous concern and support for our men and women in uniform.

Mr. BEAUPREZ. Mr. Chairman, I appreciate the chairman's comments.

I rise for the purpose of engaging the gentleman from Maryland (Mr. BARTLETT), the chairman of the Projection Forces Subcommittee of the Committee on Armed Services, in a colloquy.

Mr. BARTLETT of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BEAUPREZ. I yield to the gentleman from Maryland.

Mr. BARTLETT of Maryland. Mr. Chairman, I would be happy to join my colleague in a colloquy.

Mr. BEAUPREZ. Mr. Chairman, reclaiming my time, as the chairman is aware, our larger ships such as carriers, amphibious, and logistic ships with many sailors and Marines embarked, could be vulnerable to torpedo attack. The threat increases when we move our ships from open ocean to restricted littoral waters where torpedo launch platforms such as diesel submarines and surface patrol craft can get closer to our ships and our reaction time is lessened.

Currently, there is a proliferation of torpedoes of various types available on the world market that could cause significant damage to our surface ships. These weapons could be launched from the shoreline or small boats, threats that we were not too worried about until the USS *Cole* incident.

The gentleman and the Committee on Armed Services have provided the leadership needed for defense of our Navy ships and its sailors from torpedo attack through their support of the Surface Ship Torpedo Defense program. I agree with the gentleman that this is a very important program and believe that the Anti-Torpedo Torpedo is a key element of the program.

My concern, Mr. Chairman, is that we have not made the type of progress on this issue that we likely should have. I would appreciate the chairman's thoughts on this.

Mr. BARTLETT of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BEAUPREZ. I yield to the gentleman from Maryland.

Mr. BARTLETT of Maryland. Mr. Chairman, I agree with the gentleman from Colorado (Mr. BEAUPREZ) that the Surface Ship Torpedo Defense program is extremely important for the protection of our high-value ships and sailors at sea. I will encourage the Navy to move expeditiously to field this system with the Anti-Torpedo Torpedo.

Mr. BEAUPREZ. Mr. Chairman, reclaiming my time, I thank the gentleman from Maryland for his commitment to this issue and look forward to working with him and the House Committee on Armed Services on this critical problem.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Chairman, I thank the gentleman from Missouri (Mr. SKELTON), ranking member, for yielding me this time.

I also want to thank the gentleman from California (Chairman HUNTER) for including the amendment concerning America's energy independence in the en bloc amendments. I thank him for helping us move toward energy independence.

We all know that our Nation is petroleum addicted, that those supplies are being drawn down from the most undemocratic places in the world. America has to change and the world has to change in this century.

This amendment requires the Department of Defense and related agencies to conduct a study and report back to Congress on the use of new fuels, biodiesel and ethanol, that can be manufactured right here in the good old U.S.A. and used by the Armed Forces and the defense agencies, as compared to how the Department currently uses petroleum.

The study requires a review of requirements for increased use of biodiesel and ethanol by the U.S. Department of Defense. It requires a forecast of the requirements of the Armed Forces and the Department for the use of biodiesel and ethanol fuels for each of the years 2007 through 2012.

It requires a review of what actions the Department of Defense has taken to work in collaboration with State and local governments to support the expansion of alternative fuel refueling stations that are accessible to the public. Members might think about the one that is located right across the street, the Citgo station, from the Pentagon itself.

We know that the Department of Defense has the largest vehicle fleet in the United States Government. It should be a leader in the use of new fuels and power systems. It should be a leader also in alternative fuels research to help America transition to a new day. So we are really looking to this report to help us meet that growing need for energy independence.

I end with a story as a member of the Defense Subcommittee of the Committee on Appropriations. It was shocking to me to hear the Secretary of Defense, Mr. Rumsfeld, when he came before us and I asked him, "Mr. Secretary, what is your role and your department's role, in helping America to move toward energy independence?" Again, over two-thirds of the petroleum we use is imported and it puts America in a very vulnerable position strategically on the globe.

And his answer was, "I do not have anything to do with it. That is the job of another department."

No, Mr. Secretary. It is every department's job, and it is every household's job in this country to convert. You and your department—the largest in the government of the U.S.—are not exempt. In fact, you must be the leader.

I thank the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) for including this amendment in the en bloc. amendments and the membership to ask support the measure.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I thank the gentleman for yielding me this time.

I thank the gentleman from San Diego, California (Mr. HUNTER), for including my amendment in the en bloc amendment.

My amendment would call for a study by the Secretary of Defense in conjunction with the Secretary of the Department of Veterans Affairs on the feasibility of allowing veterans with a service-connected disability rating 50 percent or higher access to transportation on military aircraft on a space available, or Space-A, basis. Such a study is supported by the national organization, Disabled American Veterans.

Space-A, of course, is used for government-owned or contracted aircraft where there is space available that is unused for the primary purpose of the flight. Currently, disabled veterans are not eligible for this Space-A travel solely on the basis of their disability. But other groups are, whether they are members of the uniformed services and their families, foreign exchange servicemembers on permanent duty with the Department of Defense, civilian employees of the Department of Defense stationed overseas, American Red Cross personnel stationed overseas. All these are eligible for Space-A travel.

We should allow disabled veterans the same access to Space-A travel. From all indications, the Department of Defense would incur no cost by allowing disabled veterans access to this Space-A travel. We need to allow the seats which would otherwise go unused to be occupied by men and women who have been disabled in their service to our great Nation.

Again, I thank the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) for including the amendment in the bill.

Mr. MANZULLO. Mr. Chairman, I thank Mr. HUNTER, Chairman of the House Armed Services Committee, for including my amendment in the en bloc package.

It is the intent of Congress and in the interest of national security that we maintain a strong and healthy industrial base if we are to remain the strongest nation on Earth. Even the founder of modern-day capitalism and free trade, Adam Smith, recognized the need for a nation to be able to depend upon its own industrial and agricultural base and not rely on foreign sources for its defense needs. We cannot maintain our role as global leader on a pure services-based economy.

This amendment strengthens the Buy American Act, BAA, by restoring the original intent that more than 50 percent of the components in end products purchased by the Department of Defense shall be mined, produced, or manufactured inside the United States.

The Buy American Act originally passed Congress during the Great Depression. The intent of Congress was that to qualify under the Buy American Act, a company had to have substantially all of a product made, grown, or mined in the United States. However, regulations implementing the Buy American Act have subsequently redefined "substantially all" to mean simply greater than 50 percent.

Yet even that regulation has been weakened even further over the years. The Pentagon has used the "public interest" exception to waive the Buy American Act to treat the purchase of some foreign goods as if they were made in America. The original intent of the Buy American Act has been undermined by procurement memoranda of understanding, MOU, and other agreements with various foreign countries that permit the substitution of foreign components for components mined, produced, or manufactured inside the United States. These are not treaties or trade agreements approved by Congress—these were Executive Branch agreements not subject to review by Congress.

Thus, the Buy American laws are basically worthless. There are so many holes in the law that it means nothing when a company says they comply with the Buy American Act. The exception—and it's a big one—is that the domestic content requirement doesn't have to be met if the items are procured from certain designated countries.

The Pentagon has MOUs with 21 developed countries that waive the Buy American Act because the Defense Department has determined that, for these countries, complying with the BAA is "inconsistent with the public interest." Basically, a company getting an award from the Pentagon can claim compliance with the Buy American Act without having to actually make anything here, as long as the components come from one of the 21 countries.

Too often, agencies claim they need the best for the least, implying that Americans can't make the best or compete on price and quality. But "best value" is the standard, which means price shouldn't be the reigning factor. The best value for Americans is to have a strong industrial base and we can't do that if DOD forces U.S. companies to compete on price with foreign companies that are owned, subsidized, or controlled by their governments.

It is important to remember that this amendment does not increase the share of the Buy American content, but simply codifies the content percentage of what is in existing regulation.

Ms. WOOLSEY. Mr. Chairman, I rise in support of the DeLauro amendment because every time we send our young men and women into a combat situation, we are asking them to make a sacrifice for the rest of us. When they return we must honor them by giving them the services they need. The lives and health of our soldiers are the real cost of war.

The new England Journal of Medicine recently reported that a many as one out of four veterans of the wars in Afghanistan and Iraq treated at VA Hospitals in the past 16 months were diagnosed with mental disorders. Alarmingly, veterans of these wars are already showing up in our homeless populations.

We must take steps to protect those who protect us. I urge my colleagues to join me in supporting the DeLauro amendment to expand mental health services to our soldiers.

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Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. CULBERSON). All time having expired on this debate, the question is on the amendments, en bloc, as modified, offered by the gentleman from California (Mr. HUNTER).

The amendments, en bloc, as modified, were agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 24 printed in House Report 109–96.

AMENDMENT NO. 24 OFFERED BY MRS. JO ANN DAVIS OF VIRGINIA

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mrs. JO ANN DAVIS of Virginia:

At the end of title X (page 402, after line 22), add the following new section:

SEC. 1048. DEPARTMENT OF DEFENSE SUPPORT FOR YOUTH ORGANIZATIONS, INCLUDING THE BOY SCOUTS OF AMERICA.

(a) SUPPORT FOR YOUTH ORGANIZATIONS.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit the Department of Defense from providing any form of support described in subsection (b) to a youth organization (including the Boy Scouts of America and any group officially affiliated with the Boy Scouts of America) described in part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years that would result in the Department of Defense providing less support to that youth organization than was provided by the Department of Defense during each of the preceding four fiscal years.

(b) TYPES OF SUPPORT.—Support referred to in subsection (a) includes—

(1) holding meetings, camping events, or other activities on defense property; and

(2) hosting any official event of the youth organization.

The Acting CHAIRMAN. Pursuant to House Resolution 293, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and a Member opposed each will control 15 minutes.

Mr. DINGELL. Mr. Chairman, although not opposed, I ask unanimous consent to claim the 15 minutes in opposition.

The Acting CHAIRMAN. Without objection, the gentleman from Michigan (Mr. DINGELL) will control the 15 minutes in opposition.

There was no objection.

The Acting CHAIRMAN. The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment in support of the Boy Scouts of America in order to reaffirm their long-standing partnership with the Department of Defense. This summer an estimated 40,000 Boy Scouts and their leaders will take to the 76,000 acres of land at Fort A.P. Hill to do something traditionally American: they will go camping. The Boy Scout Jamboree at A.P. Hill is a quadrennial gathering of Scouts and a celebration of what is good in America.

Mr. Chairman, I think we can all agree that institutions like the Boy Scouts and their Boy Scout Jamboree are welcome sights in our current times. I remind my colleagues that the Supreme Court asked that "God save the United States and this honorable Court," and that our national currency reads "In God We Trust," and that the military and congressional oaths of office end with "so help me God."

There are some who believe that this simple acknowledgment of God by young men is reason to sever a nearly 100-year-old relationship between the Boy Scouts and the Federal Government. This amendment will ensure that the Boy Scouts are treated fairly by guaranteeing their right to equal access to public facilities, forums and programs, and will clarify Federal law so that the Boy Scouts of America will receive the same amount of support from the Department of Defense as any other nonprofit organization in this country, including the right to continue the Boy Scout Jamboree at Fort A.P. Hill in Caroline County, Virginia, in my district.

The Department of Defense has every right to support the activities of the Boy Scouts of America, and this amendment will protect this important relationship. This relationship between the Scouts and DOD should not be manipulated or infringed upon. The national jamboree is an incomparable opportunity for training our military, and it would be a detriment to our armed services and to the Boy Scouts to jeopardize it by frivolous lawsuits. Since 1937 when the Boy Scouts have held the national jamboree, six jamborees have taken place at Fort A.P. Hill since 1981.

Mr. Chairman, this relationship between DOD and the Boy Scouts of America is a mutually beneficial partnership, as many former Scouts choose to join the ranks of our Nation's Armed Forces.

It is worth noting that every enlistee and officer swear a similar oath before God as a prerequisite for service to our country.

In a time of uncertainty and angst, our Nation's young people face more challenges than ever before. As a parent and a concerned citizen, I have seen the temptations and the dangers that meet our children every day of their lives. I have seen the decisions that they must make, and I have seen the repercussions from poor decisions.

Yet here is a refuge, an institution that teaches civility, friendship, loyalty, honor, and character. It is an institution that encompasses all that is good in our society: faith, family, and country. The Boy Scouts of America has made a lasting contribution to America, and the partnership between the Pentagon and the Boy Scouts has played an important role in this contribution.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. HUNTER. Mr. Chairman, will the gentlewoman yield?

Mrs. JO ANN DAVIS of Virginia. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I just want to thank the gentlewoman for her amendment, she is a valued member of the committee, and let her know I support her amendment very strongly. I think it is an excellent partnership, and one that has taken place for many, many years. We hope at some point to have a Shining Sea Scout March from the shores of California all the way out to A.P. Hill, almost to the ocean.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in strong support of the amendment. I thank my colleague, the gentlewoman from Virginia (Mrs. JO ANN DAVIS), for introducing a very important amendment to support the Boy Scouts of America and their jamborees. I also would like to thank my colleagues, the gentleman from Missouri (Mr. BLUNT) and the gentleman from Colorado (Mr. HEFLEY), for their hard work on this issue.

Mr. Chairman, in 1937, the first jamboree was held at the base of the Washington Monument on the National Mall. Interestingly enough, as a young boy, I attended, not as a Scout, but as an observer, that wonderful event. Since then, there have been 15 national scout jamborees, with the last six being held at Fort A.P. Hill.

These jamborees have given better than 600,000 young Americans the opportunity to celebrate the skills and lessons they have learned in scouting. They have had the opportunity to learn to hike, camp, learn about citizenship, leadership, and service to their community. In short, the Scouts teach our young people important skills and values that will help them throughout their lives and make them more productive and more valuable citizens.

I recently introduced H.R. 1301, which, if passed, would restore the ability of our Armed Forces to directly support Scout troops and to ensure that Scouts will continue to have the use of Fort A.P. Hill and the assistance of our Armed Forces for its jamborees as they have for so many years. I believe this amendment furthers that objective, and I support it strongly for that reason.

I grew up, Mr. Chairman, as a Boy Scout. I became a scoutmaster and I watched proudly as both of my sons became Scouts and my two daughters became Girl Scouts. It is important for Scouts to continue to be able to hold their national jamborees at A.P. Hill and for us to remove impediments to proper contributions by this government to the citizenship of our young people.

Mr. Chairman, I urge my colleagues to support the Davis amendment, and I urge the adoption of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Chairman, I thank the gentlewoman for yielding me time and for her leadership on this issue. I also appreciate the leadership of our chairman, the gentleman from California (Chairman HUNTER), and the support from our friends on the other side. This is a very important issue, providing for the ability of the Department of Defense to support youth organizations, including the Boy Scouts of America.

I am very pleased about scouting and what it means as a worldwide movement to so many young people and how it has been so inspiring in promoting character, education, and training. I also know that you can look at young people and tell and forecast success, because persons involved in scouting, nearly 70 percent of the persons who attend the different academies of the United States have been members of scouting; 23 of the 26 first American astronauts were active in scouting; 85

percent of FBI agents have been active in scouting. This has a great impact on our Nation.

Additionally, I know the hard work of the adult leaders. We have people in my home community with the Indian Waters Council, the past president, John Hipp, has raised phenomenal amounts of money to promote scouting camps so young people have opportunities during the summer. We have got good people, such as our commissioner, Larry Brown, who is now leading our council, so that we have opportunities for young people.

I know firsthand, too, and am very pleased about the national jamboree. I have had two sons attend at Camp A.P. Hill. Additionally, I am very familiar that the Naval Academy provides the Eagle Scout Association Weekend with opportunities for the Scouts to learn about opportunities at the Naval Academy at Annapolis.

I have worked very closely with Scouts units in visiting here in Washington to tour Washington. We have the ability of Scouts to stay overnight with space available for Scouts to come and visit and tour Washington, to go to Philmont, the Boy Scout camp in New Mexico.

A final point I would like to make is personally I have worked with Troop 1, Faith Lutheran Church in West Columbia, and I have three sons who are Eagle Scouts. All three are now military officers in the military of the United States. The fourth will be an Eagle Scout later this year.

A highlight for us is that our second son, a Navy lieutenant, arrives for service in San Diego today, so we are very proud that he will be in the company of our chairman, the gentleman from California (Chairman HUNTER).

In conclusion, God bless our troops. We will never forget September 11.

Mr. DINGELL. Mr. Chairman, with great pleasure, I yield 2 minutes to my dear friend, the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I thank the gentleman from Michigan for yielding me time.

Mr. Chairman, there are magic moments in a person's life. One of those magic moments happened to me in April 1948 in Kansas City, Missouri, at the Music Hall Auditorium, where I manned the stage with a good number of other Boy Scouts, my mother walking up the steps with me, a rose being handed to me which I handed to her, and I shook hands with the sponsor of the Eagle Scout class, Dr. Milton Eisenhower, the then-president of Kansas State University. It was a moment to remember. That was my Eagle Scout Code of Honor. Of course, I am pleased to say that we have a son also that is an Eagle Scout.

Scouting builds good citizenship. I have been around it all my life. Looking back, I have so much to thank my scoutmaster, John L. Marchetti, old Troop 418, for the young men he worked with and molded into good Missouri citizens.

It is important that young Scouts have the finest places to camp, the finest places to learn the skills, the camping, the frontiering, learn the active parts of the Scout law: to be trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean and reverent. They can learn these on reservations that are and do belong to our military. As a matter of fact, a good number of Scouts that come through the Scouts ranks volunteer and become part of the military, many of them for a career.

So it certainly is fitting that the gentlewoman from Virginia offers this amendment. I thoroughly endorse it. I certainly hope it passes overwhelmingly. I thank the gentleman from Michigan (Mr. DINGELL) again for giving me this opportunity to speak in support thereof.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT), our majority whip.

Mr. BLUNT. Mr. Chairman, I thank the gentlewoman for yielding me time, and I am pleased to be here on the floor as she brings this amendment to this bill. I am also pleased to be part of the debate that is joined by my good friend, the gentleman from Michigan (Mr. DINGELL), and my good friend, the gentleman from Missouri (Mr. SKELTON), and to listen a moment ago when the gentleman from South Carolina (Mr. WILSON) gave such a great sense of what scouting has meant to America and to so many American lives.

At one time I know the military academy applications had the question on there, "Were you an Eagle Scout?" It mattered if you were, just as it matters now if people realize you received that kind of recognition, had that kind of dedication to scouting, the value of scouting to our country, the value of scouting to individuals, the memories like the one that the gentleman from Missouri (Mr. SKELTON) just mentioned, which are important.

But the values of scouting are also important, and as we evaluate those values, you have to ask yourselves based on the reason to have this debate today, what is next? What other core value of America would begin to stand in the way of institutions that have been so much part of what we are? Extremist groups want to remove God from the national symbols, attack the Pledge of Allegiance, and now even the Boy Scouts.

There is no more American symbol of our Scouts than the understanding that the Scouts represent the values of America. Some groups well outside the mainstream of our society have wanted to penalize the Scouts for representing those mainstream values by isolating them, by not allowing them to use some public facilities, some public forums, to really see a fundamental change in these programs that should not be changed because they are based on fundamentals.

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So as we bring this amendment today, obviously our goal is to support the Scouts, support their commitment to God and country, support the Jo Ann Davis of Virginia amendment, and ensure that our Scouts have access to Department of Defense facilities, and the support and encouragement of this Congress.

Mr. DINGELL. Mr. Chairman, I have no requests for time at this time, so I reserve the balance of my time. If the gentlewoman wants to terminate the debate, I will be supportive of that.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I have several other speakers. I yield 3 minutes to the gentleman from Missouri (Mr. AKIN), who is chairman of the Boy Scout Caucus.

Mr. AKIN. Mr. Chairman, I am the cochair, with the gentleman from Missouri (Mr. SKELTON), and I rise in support of this good amendment of the gentlewoman from Virginia.

I am a father of four Eagle Scouts, and I have to say I am a little proud of that. I have had a chance to work with Eagle Scouts and Boy Scouts now for a good many years, more than I would care to publicly admit. I have to say that this is an institution just as American and just as fine as any American tradition. I have seen so many young Boy Scouts come in, and they hardly know their right hand from their left hand, and after a couple years of scouting, they emerge as young leaders. It is always an encouragement to work with them.

Now, what the Jo Ann Davis of Virginia amendment would do would be to reaffirm the Boy Scouts' long-standing partnership with the Department of Defense. I was really opposed to and offended by the fact that the Department of Defense gave instruction to its bases worldwide that precluded official sponsorship of Boy Scout troops. While this policy allows military personnel to sponsor scouting events and troops in a private capacity, this unsound policy was reached as a partial settlement to a lawsuit filed against the Department of Defense in 1999 by the ACLU, because the ACLU did not like the scouting oath of allegiance to God.

Now, this is particularly ironic, is it not, that they do not like the Boy Scouts having a pledge saying that this is under God, and, yet, the armed services take the same oath when they join the armed services. There seems to be some sort of an irony here, I suppose.

The amendment would further clarify that relationship between the Department of Defense and the Boy Scouts of America, and it would specifically authorize meetings, jamborees, camporees or other scouting activities on

Federal property as long as the scouting troops obtain the appropriate permission.

So I think this is an excellent amendment, and I thank my colleagues so much for their consideration of this amendment.

Hats off to the gentlewoman from Virginia (Mrs. DAVIS), and I strongly urge the support of my colleagues.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I rise in support of the Jo Ann Davis of Virginia amendment which would allow the Department of Defense to continue its prior support of youth organizations, including the Boy Scouts of America and its affiliates.

The Boy Scouts of America is a valuable organization which has served thousands of children and young adults since 1910, teaching them the value of family, community, service and leadership. The Department of Defense has sponsored affiliates of the Boy Scouts of America for years, providing valuable support by holding meetings, camping events and other activities on Defense property, as well as hosting official events. That partnership will come to a halt if Congress does not act.

In order to settle a lawsuit, the Department of Defense agreed to instruct its bases worldwide not to sponsor Boy Scout troops because of the Scouts' oath of allegiance to God. How can we as a Nation punish an organization for a pledge similar to that which every single enlistee and officer swears before God as a prerequisite for service to our country?

By passing this amendment, we will ensure that youth organizations, including the Boy Scouts of America, are not discriminated against because of their values and beliefs; and for that reason, I urge adoption of this amendment.

Mr. DINGELL. Mr. Chairman, I have no further requests for time on this side. If the gentlewoman would like, then, we could yield back time and conclude the debate and have a vote.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I have no further speakers either, and I urge adoption of the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I urge the adoption of the amendment.

Mr. DUNCAN. Mr. Chairman, I rise in support of the gentlelady from Virginia's amendment to allow the Department of Defense to allow Boy Scout troops on military bases. The Boy Scouts of America is probably one of the finest organizations in the Nation today.

The Scouts teach young boys to support God and family and Country, and this Nation would be a stronger place today if we had more organizations like the Boy Scouts. The Scouts also teach young boys all sorts of skills and how to work to achieve ranks and merit badges that they certainly would not learn from any other group.

Most young people today have grown up with the television as a babysitter and have been taught to worship the computer. I have nothing against either television or computers, but anything that we can do to get young people outdoors or actually into constructive activities rather than just staring at a screen is a really good thing in my opinion. The Boy Scouts do this.

I was a Scout leader for two years prior to coming to Congress and several years ago was given the highest designation given to any adult in Scouts, the Silver Beaver Award. Only about 16 percent of all boys ever start in Scouts in the first place, and these are probably primarily our finest boys. Anything we can do to get more boys involved in Scouting is a good thing for this Country, and I think Scouting will lead many young boys to consider careers in the military. So, I strongly support the amendment by Mrs. DAVIS and urge my colleagues to do likewise.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. CULBERSON). All time having expired, the question is on the amendment offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) will be postponed.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 12 printed in House report 109–96.

AMENDMENT NO. 12 OFFERED BY MRS. DAVIS OF CALIFORNIA

Mrs. DAVIS of California. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mrs. DAVIS of California:

Add at the end of title VII the following new section:

SEC. 7___. LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.

Section 1093(b) of title 10, United States Code, is amended by inserting "in the United States" after "Defense".

The Acting CHAIRMAN. Pursuant to House Resolution 293, the gentlewoman from California (Mrs. DAVIS) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are considering how the Defense bill can best provide for the men and women serving overseas. The Davis-Harman-Sanchez amendment lifts the current restriction on reproductive care in overseas military hospitals and permits servicewomen to walk into a U.S. military hospital, a familiar and trusted place, to use their own private funds for safe and legal pregnancy termination services.

Under current law, women have to return home for medical services after obtaining permission from their commanding officer and finding space on military transport. The other option for them is venturing out to a hospital in a foreign country if, in fact, they are able to do that.

Servicewomen do not receive the protection of the Constitution they defend. Mr. Chairman, let me repeat that again. Servicewomen do not receive the protection of the Constitution they defend.

We trust women in the military to secure our safety. We ask women to put their lives at risk for our freedoms. So why is it that we do not support them when they require safe and legal medical services?

I want to clarify a few points about this amendment. No Federal funds would be used for these procedures. Military women would use their own funds. This amendment only affects overseas military hospitals and would not violate host country laws. It will, however, open up reproductive services at bases in countries where abortion is legal. And it does not compel any doctor, any doctor who opposes these procedures on principle, to perform one.

I ask that all the Members support our servicewomen, support our servicewomen by supporting the Davis-Sanchez-Harman amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. RYUN of Kansas. Mr. Chairman, I rise in opposition, and I yield myself such time as I may consume.

Mr. Chairman, I strongly oppose the Davis amendment. Allowing self-funded abortions would simply turn our military hospitals overseas into abortion clinics.

This amendment is not about equal access to health care; it is simply offered to make a political point. Female military personnel who are stationed overseas already have access to abortion clinics where they are legal. In some cases, women prefer to have abortions in the United States, and that option is available under the current law that is now in operation.

Furthermore, overseas military hospitals already offer self-funded abortions when the life of the mother is in danger or the pregnancy is the result of rape or incest.

Abortion services are already available, and there is no demonstrated need for expanding abortion access. Furthermore, this amendment does not seek to address operational requirements or ensure access to an entitlement.

Although this amendment is presented as providing for solely self-funded abortion, the fact is that American taxpayers will be forced to pay for the use of military facilities, the procurement of additional equipment needed to perform abortions, and the use of needed military personnel to perform these abortions.

Military doctors signed up to save the lives of our dedicated servicemen and women, not to end the lives of babies. Many military doctors, even those who are pro-choice, would not want to perform abortions.

I think it is important to note that this amendment was offered in the Committee on Armed Services where only 19 of the committee's 64 members supported it.

I ask my colleagues to vote against turning our military hospitals into abortion clinics and to vote against the Davis amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Chairman, I thank my colleague for yielding me this time and other colleagues from California for letting me speak early in this debate.

Mr. Chairman, I was a member of the Committee on Armed Services for 6 years and, during that time, every single year, played a role in sponsoring this worthy amendment. I urge its adoption again this year.

Mr. Chairman, I just returned from the Middle East and the World Economic Forum where the First Lady spoke. Her speech, which emphasized the importance of women's equality in the region, was extremely well received.

Mrs. Bush serves as a wonderful ambassador to the world, but she is just one woman. There are over 200,000 women serving in the U.S. military and 19,000 women currently in Iraq and Afghanistan. These women are flying helicopters and fighter aircraft. They are saving lives as nurses and doctors. They are driving support vehicles, patrolling bomb-ridden highways, and standing duty at checkpoints, shouldering weapons. They serve as an example and an inspiration to the women they come into contact with, and they break down stereotypes held by many men.

With this in mind, I urge my colleagues to support this amendment which would lift the current ban on privately funded abortions in military overseas hospitals.

The amendment does not force military doctors to perform abortions, and it does not place an undue focus on the procedure in such facilities, because abortions in the case of incest, rape, or life endangerment are already performed there. What this amendment does is to give servicewomen and female military dependents stationed abroad the same constitutional rights as women living here.

Separate from this amendment, but also enormously important, is the issue of career opportunities for women in the military. I applaud the Committee on Armed Services for coming back from the precipice and removing language barring women from serving in forward support companies. I am confident that following the Pentagon's review of its personnel policies, assessing what positions should be open to servicewomen, we will be here on the floor to heap praise on our GI Janes, rather than barring them from opportunities to serve our country.

Vote for the Davis-Harman-Sanchez amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina (Ms. FOXX).

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Ms. FOXX. Mr. Chairman, I rise today in strong opposition to the Davis amendment.

Military treatment centers which are dedicated to healing, nurturing and saving life should not be forced to facilitate the taking of the most innocent human life, the child in the womb. This amendment is a barely germane, blatant distraction from the important bill we are considering today.

The amendment would mandate that Federal dollars be used to fund abortions, and contradicts fundamental U.S. military values such as honor, courage, and taking responsibility for one's own actions.

Mr. Chairman, as stewards of hard-working Americans' tax dollars, we cannot ask our constituents to fund the killing of human life on our military installations.

Life does begin at conception, and it is sacred.

As Members of Congress, we should do all we can to protect life.

Instead, while we stand here today to fund our troops and protect our great Nation, opportunist Members of the Democratic Party are once again belittling and devaluing the sanctity of human life.

If this inappropriate amendment were adopted, not only would taxpayer-funded facilities be used to provide abortion on demand, but resources could be used to search for, hire, and transport new personnel simply so that abortions could be performed.

That is right. Instead of hiring new personnel to operate tanks, fly planes, fight insurgents, train coalition forces, treat troops and defend America, this amendment asks taxpayers to pay new personnel to perform abortions and kill human fetuses.

Mr. Chairman, that is despicable.

This amendment must be defeated so we can return to the meaningful consideration of the national defense authorization bill.

I urge my colleagues to join me in protecting human life by voting against the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I would like to thank the gentlewoman from California for introducing this very important and necessary amendment.

Members of the Armed Forces are entitled to quality of life equal to that of the Nation that they are pledged to defend. Female military servicemembers and military dependents are stationed overseas, and they deserve the same rights as their counterparts who are stationed here in the United States.

Whether you are pro-choice or pro-life, agree or disagree with the merits of reproductive freedom, the fact remains: women of the United States have a constitutional right to these services.

Military women should not be forced to go to off-post medical facilities where language barriers and questionable conditions can be insurmountable obstacles. Nor should they be forced to arrange for leave and military transport to return stateside, requiring the intensely personal reason for their leave to be, at best, an open secret, if not outright common knowledge.

If your daughter or your wife or your sister or friend had to make this tough reproductive choice and was stationed overseas, do you believe that, as an adult woman, they should be required to disclose this information to their commanding officer? Would you want to put her on a plane, alone? Our servicewomen and their dependents deserve better.

This amendment allows military personnel and their dependents serving overseas to use their private funds to obtain safe, legal abortion services in overseas military hospitals. No Federal funds will be used.

This amendment will not violate host country laws, nor does it compel any doctor who opposes abortion on principle to perform one. It will, however, open up reproductive services at bases and countries where abortion is legal.

Current law treats the women who so bravely defend our country like second-class citizens in terms of their legal right to have an abortion. And this injustice needs to end.

Mr. Chairman, I urge my colleagues to vote for the rights of our servicewomen and dependents abroad. And again I thank the gentlewoman from California (Mrs. DAVIS) for introducing this amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentlewoman from Virginia (Mrs. JOANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I rise today in opposition to the amendment offered by my colleague, the gentlewoman from California. For the last 9 years, without fail, this body has voted against funding abortions in DOD medical treatment facilities, and I trust that today we will make that number 10.

Military physicians and personnel are tasked to provide life-saving and nurturing care to our men and women of the armed services. In this amendment, we are asking them to facilitate the exact opposite of their mission by performing abortions.

Particularly at a time when their resources are devoted to addressing the needs of servicemembers suffering from wounds and trauma sustained in Operations Iraqi Freedom and Enduring Freedom, we must continue to support the doctors and nurses of the military in their effort to save and sustain life.

Mr. Chairman, American taxpayer dollars should not be used to pay for abortions, directly or indirectly, wherever they occur. Supporters of this amendment claim that taxpayer dollars would not actually pay for abortions, as you just heard. However, as previously pointed out, this simply is not true.

Taxpayers would be paying for these abortions by subsidizing the cost of the physician services, the hospitals, and the abortion equipment. Our current law protects against this, and I urge my colleagues to keep this commonsense policy intact.

Mrs. DAVIS of California. Mr. Chairman, I yield one minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I rise today in strong support of the Davis-Harman amendment. Today, and over the last few years, we continually have voiced our support for our troops many, many times over, passing resolutions of support, providing our troops with adequate training and equipment, just the beginning. And I know of no better way to demonstrate our genuine support than by finally giving women in our Armed Forces and the wives and the daughters of the men in our military, the ability to exercise their constitutional right to choose, to choose their reproductive options while being stationed abroad.

We routinely ask servicewomen to put their lives on the line in defense of our country and our country's ideals. That is why we must not require them to put their lives on the line when seeking constitutionally protected reproductive services. Please join me in supporting our troops by supporting this much needed amendment. Lift the current ban on life-threatening procedures withheld from our women serving overseas.

Mr. RYUN of Kansas. Mr. Chairman, may I inquire as to how much time I have left.

The Acting CHAIRMAN (Mr. PUTNAM). The gentleman from Kansas has 10½ minutes remaining.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. Mr. Chairman, this is the second time this week that the House has considered the important issue of life of the unborn.

I rise in strong opposition to the Davis amendment which attempts for the ninth time in 9 years to repeal a provision of law which prevents military doctors from performing abortions at overseas military hospitals.

As a physician, I have dedicated my life to healing and nurturing human life. Military hospitals, which are paid entirely with taxpayer dollars, should not facilitate the taking of innocent human lives. Additionally, this does not take away a single existing right for women serving overseas, as they do have the option to travel to other locations for the procedure.

Mr. Chairman, I urge my colleagues to preserve military hospitals as a place of healing and to vote against the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I rise in strong support of the amendment being offered by the gentlewoman from California (Mrs. DAVIS), the gentlewoman from California (Ms. HARMAN), and the gentlewoman from California (Ms. LORETTA SANCHEZ).

No one here would dare question the contributions being made by American woman living on military bases overseas.

Whether they are active servicemembers, spouses or dependents of military personnel, every last one of them is making a great sacrifice to support our country abroad.

Every last one of them should have access to safe medical procedures that are legally available to every American woman here in the United States.

Why would our government tell these women that they can receive abortion care in the U.S., that with their own private funds that it is too bad they are serving in our military and happen to be overseas, and therefore be denied access to care they could receive right here on terra firma?

Why would our government tell women who are willing to die to protect their country that their country's laws on health care services do not extend to them when they leave U.S. soil?

Regardless of one's personal feelings on abortion, I would hope that everyone could agree that it is most certainly wrong to discriminate against women in the military.

For our government to tell this essential and noble group of women, some of whom literally dodge bullets to protect our interests, that we will not allow them the same range of quality care available to women living within our borders, that is not only dangerous; I believe it is un-American, and I urge an "aye" vote.

Mr. RYUN of Kansas. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Chairman, I once again come to this floor, to this body to a debate on the issue of abortion in overseas military hospitals. And I would urge my colleagues to honor the consciences of the caregivers and also the taxpayers who fund these facilities.

As a member of the Armed Services Committee, as a former military officer, but also as a father with two sons in the military, I have seen the dedication of our troops. I have even heard very-close-to-home accounts of people that are willing to sacrifice their lives so that we could have life and liberty and the pursuit of happiness in this land. And is it so odd then to make the next step to understand that the young men and women who are entering our medical divisions of the armed services also hold the same set of values? And now, are we going to compel these people to be active and to take part in destroying life when they are risking their lives to protect life? It seems to make no sense whatsoever to compel them to do this thing.

Well, in fact when the Clinton administration overturned the DOD policy against abortion in 1993 through 1996, military physicians refused to perform or assist in elective abortions, thus forcing the administration to spend additional taxpayer dollars on recruiting and hiring civilians who would do the abortions.

Now, this government should never condone abortion by turning military hospitals into abortion clinics with the taxpayers picking up the tab. Now, I understand that supposedly this woman is going to pay for it. But certainly, even if she does, you are still going to have to hire these new doctors that are going to come in and all of the other services to support that all come out of taxpayer expense. This is unconscionable. Our policy is reasonable the way it is stated, and the language before us has been debated and rejected year after year since 1996.

I ask my colleagues to defeat this amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I rise in support of the Davis amendment which would allow our brave servicewomen to obtain safe, legal abortion services in overseas military hospitals at no cost to the taxpayers.

Today a female soldier overseas lacks on-base access for her constitutional right to choose, even if she pays for it herself.

At a time when the military is spread thin and not meeting its recruiting targets, we are sending an odd message to women soldiers and possible recruits. As a reward for protecting our freedom, we restrict yours. As a reward for risking your life, we give you a lecture on the right to life instead of giving you the care that you seek. As a reward for receiving modest wages, we tell you that you cannot buy some health care, even at any price.

This Congress has made over 211 anti-choice votes since 1994. For the sake of our women serving in Afghanistan and Baghdad, let us not make it 212.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise to oppose the Davis amendment, which year after year has been offered and defeated. When President Clinton allowed abortions in military facilities in the early 1990s, all military physicians, as well as many nurses and supporting personnel, refused to perform or assist in elective abortions. In response, the administration sought to hire civilians to do abortions. The current administration would not do this. But future administrations could. Therefore, if the Davis amendment were adopted, not only could taxpayer-funded facilities be used to support abortion on demand, but resources could be used to search for, hire, and transport new personnel simply so that abortions could be performed.

Military treatment centers, which are dedicated to healing and nurturing life, should not be forced to facilitate the taking of the most innocent human life, the child in the womb. The American working family should not be forced to fund the extremist health care agenda of this amendment. Vote "no" on the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, can I inquire into the time we have available.

The Acting CHAIRMAN (Mr. PUTNAM). The gentlewoman has 6 minutes remaining.

Mrs. DAVIS of California. Mr. Chairman, I now yield 1½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I will rise to support this amendment which would reverse the shameful policy forbidding women in our Armed Forces from using even their own funds to pay for an abortion at a safe U.S. medical facility abroad. It is truly sad and disgraceful that our current policy requires women who are serving their country to sacrifice their constitutional right to an abortion if they so choose.

I have heard the rhetoric from the opponents of this amendment. They say that abortion is terrible. Well, that is their opinion. They are entitled to it. But it is the law. It is a constitutional right of a woman, if she so chooses, to have an abortion. And as long as that is so, she should not be required to sacrifice her constitutional right because she serves her country in the military abroad, or to choose to give up her right or to go into a possibly unsafe foreign facility.

I have heard people say, well, even if she spends her own money, she might have to spend money for a doctor because doctors do not want to do it.

☐ 1515

It is not up to doctors or anybody else as to whether people should enjoy their constitutional rights. If it costs money to enable a woman who has chosen to serve her country in the armed services to have the ability to have her constitutional rights, then it costs money. Although I do not see why we should make sure that among the doctors in the military there are those who are willing to perform any service that the Constitution requires be afforded upon request.

So even to require a woman to give up her constitutional right which she has, and whatever you may say about the duty is to heal and not to take a life, some of us do not regard that as taking a life. But it is her constitutional right. She should not be required to give it up, especially when she pays for it herself. We should not discriminate against women in the military.

Mr. RYUN of Kansas. Mr. Chairman, how much time have I remaining?

The Acting CHAIRMAN (Mr. PUTNAM). The gentleman from Kansas (Mr. RYUN) has 6½ minutes remaining.

Mr. RYUN of Kansas. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I thank my friend for yielding me time, and I congratulate him for his courage in leading the battle on this amendment.

Mr. Chairman, 90 percent of the hospitals in the United States today refuse to abort unborn children, and the trend is for hospitals to divest themselves of this violence against children.

It is outrageous that as hospitals in our country repudiate abortion, the Davis amendment seeks to turn our overseas military hospitals into abortion mills. With all due respect to the gentlewoman from California (Mrs. DAVIS), the amendment she offers will result in babies being brutally killed by abortion. It will harm women, and it will force pro-life Americans to facilitate and subsidize the slaughter of innocent children.

We want no part of the carnage.

Abortion is violence against children and it harms women. Some methods of abortion dismember and rip apart the fragile little bodies of children. Other methods chemically poison kids. Abortion has turned children's bodies into burned corpses, the direct result of the caustic effect of the chemicals.

Now we learn, Mr. Chairman, from science and from medicine that due to the nerve cell development, unborn children from at least 20 weeks onward, and most likely even earlier, feel excruciating pain. They feel pain, two to four times more pain than you and I would feel from the same assault.

One of those methods depicted to my left on this poster board, the D and E method, it is a common, later-term method of abortion, takes about 30 minutes to commit as the arms and the legs and the torso are painfully hacked into pieces. Interestingly, Mr. Chairman, the partial-birth abortion legal trials in various courts around the country drew attention to the pain issue that children feel during an abortion.

Dr. Sunny Anand, Director of the Pain Neurobiology Lab at Arkansas Children's Hospital said, "The human fetus possesses the ability to experience pain from 20 weeks of gestation onward, if not earlier, and the pain that is perceived by a fetus is more intense than that perceived by newborns or by older children." He went on to explain that the pain inhibitory mechanisms, in other words, the fibers that dampen and modulate the pain or the experience of it, do not begin to develop until about 32 to 34 weeks.

Finally, Mr. Speaker, Dr. Alveda King, niece of the late Dr. Martin Luther King, has said, "How can the dream survive if we murder the children?"

Dr. King, who has had an abortion herself, but is now pro-life and bravely speaks out, says, "We can no longer sits idly by and allow this horrible spirit of murder to cut down and cut away our unborn. This is the day to choose life."

Dr. King goes on to say, "We must allow our babies to live. If the dream of Dr. Martin Luther King is to live, our babies must live."

There is nothing benign or nurturing or curing about abortion. It is violence against children. It dismembers them. It chemically poisons them.

Vote down the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I thank the gentlewoman for yielding me time, and I thank her and her colleagues for this amendment.

The prior speaker was talking about Dr. King, and Dr. King believed in the rights of all people. This amendment provides rights to women serving overseas and their dependents.

They are hollering over here, "Murder." I do not believe in murder. They are hollering over here about all these other issues. But the reality is that the

United States Supreme Court has decided that women have the right to a legal, safe abortion. And all we are saying is that women serving in the military ought to have the same rights as the women in the United States of America since they give their lives.

The amendment allows women to pay for it. The amendment allows women to exercise their right of choice.

If we were debating whether or not the United States would fund Viagra, all these guys who talk about the pain that they know about having an abortion would not be standing up saying that. None of them will know about a woman's choice, and none of them will ever understand the dilemma the woman has to face when she makes a choice.

Mr. Chairman, I rise in support of the Davis/Harman/Sanchez Amendment to the Defense Authorization Bill.

This amendment repeals the statutory prohibition on abortions in overseas hospitals and simply allows military personnel and their family members serving overseas to use their own funds to obtain safe, legal abortion services in overseas U.S. military hospitals.

Mr. Chairman, this administration has continued at attempts to chip away the rights of women. This congress has proposed that women be prohibited from paying for their own abortion and now have plans to exclude us from military combat. What is next, Mr. Chairman?

I believe that military women should be able to depend on their base hospitals for all of their health care needs. A repeal of the current ban on privately funded abortion would allow military women and dependents based overseas the same range and quality of medical care available to women in the United States. No Federal funds would be used to perform these procedures and no undue burden is placed on military physicians overseas. In addition, this amendment does not compel any doctor who opposes abortion on principle to perform one; it simply opens up reproductive services at bases in countries where abortion is legal.

It is unconscionable that this Congress would seek to prohibit a woman's right to a safe and legal procedure. The fact that a woman is stationed and is serving overseas should not deny her the opportunity to obtain safe, reproductive services. I urge adoption of the Davis/Harman/Sanchez amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, let me say to my colleagues, I come from north central Florida, and we have a lot of beautiful Indian-sounding names like Ocala, Okhumpka, Micanopy, Oklawaha.

Just for a moment, let us say I walked down anywhere from Jacksonville through these wonderful small towns and I walked up to somebody on the street and I said, Do you think we should allow the Department of Defense medical facilities to be turned into abortion clinics?

Now, if I asked that to anyone in north central Florida, I bet you almost 99 percent of the people would say, Why are we turning our military medical hospitals into abortion clinics?

That is why here on the House floor we have voted time and time again and overwhelmingly defeated it. In fact, going back to 1996, 1997, 1998, 1999 right on up to currently we have defeated this amendment. It will be defeated on the House floor too.

So I really find this debate one of persuasion on this side who wants to turn medical facilities or medical military hospitals into abortion clinics. I think, for many of us, that is just wrong, and that is why I am against this amendment.

I urge my colleagues to vote against the bill.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, today I rise in strong support of the Davis-Harman-Sanchez amendment.

This amendment would repeal the current ban that forbids servicewomen and female military dependents from using their own private funds for an abortion, abortion care at overseas military hospitals.

Abortion is a very personal issue. I do not think it is one that anyone here takes very lightly, but Members have to understand that currently there are over 100,000 women that are right now serving on active duty somewhere abroad, or their family members are there near a military base. Health care for them is very important.

God forbid that one of these young women, or soldiers, is raped when we know in fact in Afghanistan and currently in Iraq there have been sexual assaults and rapes. For God's sake, let us be rational about this discussion. Let us allow these servicewomen to pay for the appropriate care that they are willing to pay.

It is not taxpayer dollars that we are expending on this particular procedure, and I think it is a gross misrepresentation for Members to think that somehow this is an abuse of unwanted children. The fact of the matter is that there are women who do need this health care and many women who are in the service who are rape victims.

Mr. RYUN of Kansas. Mr. Chairman, I believe I have the right to, and I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in support of the Davis-Harman amendment to H.R. 1815, the National Defense Authorization Act. This amendment would lift the ban on privately funded abortion care provided at overseas military bases. It would restore the right of female servicemembers and dependents who are stationed overseas to use their own funds to obtain reproductive health services, including abortion.

Current law forbids military hospitals from offering abortion care except in cases of life endangerment, rape or incest. This amendment does not ask for public funds to be used to finance these additional reproductive health services. Rather, it allows U.S. servicewomen and their military dependents to have access to privately funded abortion services, the same as they would if they were living in the United States.

I was disappointed the Committee on Rules did not make in order an amendment I offered with the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) that would have allowed publicly funded abortions in the case of rape or incest, just as Medicare allows and as currently allowed if a woman's life is in danger.

Despite its not being included, I think passage of the Davis-Harman amendment would be a positive development for women in the military, and I urge its passage.

Currently, there are over 100,000 women who serve the United States and are working in the military overseas, and the number grows rapidly each year.

This amendment seeks to give back to servicewomen the Constitutionally guaranteed right to reproductive choice.

Although I know many of my colleagues would prefer otherwise, Roe v. Wade is the law of the land, and this ban takes away the legal rights of servicewomen and their families in the military.

The ban discriminates against the women and families who have volunteered to serve their country.

I support this amendment and encourage my colleagues to do so as well.

Mr. RYUN of Kansas. Mr. Chairman, I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Chairman, how much time remains?

The Acting CHAIRMAN. The gentlewoman has 1½ minutes remaining.

Mrs. DAVIS of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as we consider this amendment and others today, I want to urge my colleagues to consider the following questions:

What message do we give to the brave servicewoman whose life is on the line this very minute in Iraq? What message do we give the young woman who recently chose to join the military and defend this country?

Distilled to its essence, this defense bill reaches to the heart of some very basic questions about America's policy towards servicewomen and how we choose to treat them. And the question is, will we treat them equally and with respect, or not?

Military women deserve the right to make private medical decisions according to their own beliefs and to receive timely care from a doctor. They should not have to find themselves alone on a plane to the U.S. or alone in a foreign hospital.

The Davis-Harman-Sanchez amendment is about safety, individual responsibility and fairness. I believe we owe our servicewomen this much.

Mr. RYUN of Kansas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in conclusion, let me say I urge my colleagues to oppose this amendment. It is an unnecessary amendment. We must not turn our military installations into abortion clinics. Our military doctors did not sign up to perform abortions, and we must not put them in that position.

I urge my colleagues to vote "no" on the Davis amendment.

Ms. LEE. Mr. Chairman, I rise today in strong support of the Davis-Harman-Sanchez Amendment.

There are over 200,000 women serving on active duty in the United States military, and over 150,000 serving with the Guard or Reserve.

This common sense amendment allows these military women stationed overseas and their dependents to exercise the same rights as women in this country: The right to comprehensive family planning, including access to a safe, legal abortion.

This amendment does not allow one cent of taxpayer money to fund these procedures. It simply allows women to use their own money to pay for this procedure in an overseas military facility.

It makes no sense that we have asked these soldiers to serve our country and yet we cannot serve them with basic comprehensive health care.

Let us reject this administration's ongoing, politically and ideologically motivated war on women. Let's adopt this important common sense amendment. I urge a "yes" vote.

Mr. RYUN of Kansas. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Mrs. DAVIS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mrs. DAVIS of California. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Mrs. DAVIS) will be postponed.

It is now in order to consider amendment No. 1 printed in House Report 109-96.

AMENDMENT NO. 1 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. HUNTER:

Page 34, line 1, insert ", to the extent provided in advance in appropriations Acts," after "shall".

Page 58, after line 15, insert the following new section:

SEC. 228. FUNDING FOR SUPERSONIC CRUISE MISSILE ENGINE QUALIFICATION.

(a) IN GENERAL.—The amount in section 201(3) for research, development, test, and evaluation, Air Force, is hereby increased by $10,000,000, to be available for supersonic cruise missile engine qualification, program element 0603216F, project 4921.

(b) OFFSET.—The amount in section 104 for procurement, Defense-wide, is hereby reduced by $10,000,000, to be derived from the chemical demilitarization program.

Strike section 574 (page 188, line 21, through page 194, line 11) and insert the following:

SEC. 574. GROUND COMBAT AND OTHER EXCLUSION POLICIES.

(a) IN GENERAL.—

(1) Chapter 37 of title 10, United States Code, is amended by inserting after section 651 the following new section:

"§ 652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned

"(a) RULE FOR GROUND COMBAT PERSONNEL POLICY.—(1) If the Secretary of Defense proposes to make any change described in paragraph (2)(A) or (2)(B) to the ground combat exclusion policy or proposes to make a change described in paragraph (2)(C), the Secretary shall, before any such change is implemented, submit to Congress a report providing notice of the proposed change. Such a change may then be implemented only after the end of a period of 60 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received.

"(2) A change referred to in paragraph (1) is a change that—

"(A) closes to female members of the armed forces any category of unit or position that at that time is open to service by such members;

"(B) opens to service by female members of the armed forces any category of unit or positon that at that time is closed to service by such members; or

"(C) opens or closes to the assignment of female members of the armed forces any military career designator as described in paragraph (6).

"(3) The Secretary shall include in any report under paragraph (1)—

"(A) a detailed description of, and justification for, the proposed change; and

"(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the application of the Military Selective Service Act (50 App. U.S.C. 451 et seq.) to males only.

"(4) In this subsection, the term 'ground combat exclusion policy' means the military personnel policies of the Department of Defense and the military departments, as in effect on October 1, 1994, by which female members of the armed forces are restricted from assignment to units and positions below brigade level whose primary mission is to engage in direct combat on the ground.

"(5) For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.

"(6) For purposes of this subsection, a military career designator is one that is related to military operations on the ground as of May 18, 2005, and applies—

"(A) for enlisted members and warrant officers, to military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and

"(B) for officers (other than warrant officers), to officer areas of concentration, occupational specialties, specialty codes, designators, additional skill identifiers, and special qualification identifiers.

"(b) OTHER PERSONNEL POLICY CHANGES.—(1) Except in a case covered by section 6035 of this title or by subsection (a), whenever the Secretary of Defense proposes to make a change to military personnel policies described in paragraph (2), the Secretary shall, not less than 30 days before such change is implemented, submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice, in writing, of the proposed change.

"(2) Paragraph (1) applies to a proposed military personnel policy change, other than a policy change covered by subsection (a), that would make available to female members of the armed forces assignment to any of the following that, as of the date of the proposed change, is closed to such assignment:

"(A) Any type of unit not covered by subsection (a).

"(B) Any class of combat vessel.

"(C) Any type of combat platform.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 651 the following new item:

"652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned.".

(b) REPORT ON IMPLEMENTATION OF DEPARTMENT OF DEFENSE POLICIES WITH REGARD TO THE ASSIGNMENT OF WOMEN.—Not later than March 31, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report of the Secretary's review of the current and future implementation of the policy regarding the assignment of women as articulated in the Secretary of Defense memorandum, dated January 13, 1994, and entitled, "Direct Ground Combat Definition and Assignment Rule". In conducting that review, the Secretary shall closely examine Army unit modularization efforts, and associated personnel assignment policies, to ensure their compliance with the Department of Defense policy articulated in the January 1994 memorandum.

(c) CONFORMING REPEAL.—Section 542 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 113 note) is repealed.

In section 825(d) (page 325, line 22), insert after "Defense" the following: "for the Joint Military Intelligence Program or Tactical Intelligence and Related Activities".

In section 825(e) (page 325, line 24), insert after "committees" the following: "and the Permanent Select Committee on Intelligence of the House of Representatives".

At the end of subtitle B of title X (page 365, after line 19), insert the following new section:

SEC. 1017. ESTABLISHMENT OF MEMORIAL TO U.S.S. OKLAHOMA.

(a) IDENTIFICATION OF SITE FOR MEMORIAL.—The Secretary of the Navy, in consultation with the Secretary of the Interior, shall identify an appropriate site on Ford Island, Hawaii, for the location of a memorial to the U.S.S. Oklahoma, which was sunk during the attack on Pearl Harbor on December 7, 1941.

(b) ESTABLISHMENT AND ADMINISTRATION.—After the site for the memorial is identified under subsection (a), the Secretary of the Interior shall establish and administer a memorial to the U.S.S. Oklahoma as part of the USS Arizona National Memorial, a unit of the National Park System, in accordance with the laws and regulations applicable to lands administered by the National Park Service.

(c) MEMORIALIZATION PLAN.—Not later than one year after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a memorialization plan for the portion of Pearl Harbor where United States naval vessels were attacked on December 7, 1941. The Secretary of the Navy shall prepare the plan in consultation with the Secretary of the Interior.

At the end of title XI (page 411, after line 5), insert the following new section:

SEC. 1108. VETERANS' PREFERENCE STATUS FOR CERTAIN VETERANS WHO SERVED ON ACTIVE DUTY DURING THE PERIOD BEGINNING ON SEPTEMBER 11, 2001, AND ENDING AS OF THE CLOSE OF OPERATION IRAQI FREEDOM.

(a) DEFINITION OF VETERAN.—Section 2108(1) of title 5, United States Code, is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by adding "or" after the semicolon; and

(3) by inserting after subparagraph (C) the following:

"(D) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom;".

(b) CONFORMING AMENDMENT.—Section 2108(3)(B) of such title is amended by striking "paragraph (1)(B) or (C)" and inserting "paragraph (1)(B), (C), or (D)".

Redesignate titles I through VIII of division B as titles XXI through XXVIII, respectively.

The Acting CHAIRMAN. Pursuant to House Resolution 293, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this is a manager's amendment which has several components. One component is cruise missile funding for the supersonic cruise missile; another is a USS Oklahoma memorial; another is veterans' preference. But the heart of this manager's amendment is the amendment on women in combat, and that is not women in uniform as the gentleman from Missouri (Mr. SKELTON) likes to describe it, but women in combat and the exclusion from direct ground combat in the United States Department of Defense.

Mr. Chairman, let us make it clear to everyone, because clarity is what we all want, there is presently a policy, a DOD policy, put forth by then-Secretary of Defense Les Aspin, that has been adhered to, that continues the American policy and tradition of not having women in direct ground combat. That means manning machine guns, assaulting enemy positions at close range with rifle and bayonet, with tanks, with Bradley fighting vehicles, engaging in firefights; in short, doing all the things that we know now that we have elements of the Marine Special Operations and Army doing in the war against terror.

Now, the committee in asking, in inquiring of the Army as to what their position was on this as they go into the development of the new Army, it became clear that they were not sure.

□ 1530

There were three separate briefing teams sent to the Hill, each of whom had a different position within 3 days as to exactly what the policy would be of excluding women from direct ground combat. As a result of that, we had a provision in the bill that would statutorily take the Army policy, the present policy, and Xerox it, exactly the same policy, but would make it law.

We have had a number of people who have expressed concern about that. We have had also a number of people who want to make sure we maintain that policy and, as a result of that, we have, I think, an excellent compromise, an excellent provision in the bill which says this: if DOD wants to change the existing policy that excludes women from direct ground combat, they have to give Congress 60 continuous legislative days' notice.

Now, what that means is we have now injected ourselves, as we should, being people who under the Constitution have the obligation of regulating the Armed Forces, we have injected ourselves into any change of this longstanding DOD policy. We will have 60 legislative days, continuous legislative days, in which we can change that policy. We direct the Secretary of Defense to come back to us and tell us how he is going to implement that policy and specifically how he is going to reshape the Army and the Army modularity and comply with that 1994 policy which excludes women from direct ground combat.

This is an excellent provision, Mr. Chairman. And for all the women out there who are concerned about the possibility of being moved into direct ground combat, certainly we make it very clear they will not be, by action of the U.S. Congress.

Mrs. TAUSCHER. Mr. Chairman, I claim the time in opposition, although I will not, in the end, oppose it.

The Acting CHAIRMAN. Without objection, the gentlewoman from California (Mrs. TAUSCHER) will control the time in opposition.

There was no objection.

Mrs. TAUSCHER. Mr. Chairman, I yield myself such time as I may consume, and I rise to express my deep concern about the portion of the Hunter amendment that amends the language regarding women in combat. Currently, women in the military are barred from direct ground combat positions by policy and by the will of the American people. However, while I recommend that the Hunter amendment get passed, I want to make it crystal clear to the American people that this does not go far enough in amending what previously had been put in the bill, and it potentially infringes on the right of women to serve in combat support positions alongside men, positions that women currently hold. Equally important, it also greatly reduces the ability of the Pentagon to make needed personnel changes at a time of war.

For the last 2 weeks, Mr. Chairman, women in the military have been under assault by the majority in the House Committee on Armed Services. While this latest version of the Hunter amendment is an improvement over the horrendous language he included in the bill 2 weeks ago, this is like a school yard bully taking your lunch money, getting caught, giving you half the money back and then demanding you thank him for it. We should not be in this position in the first place.

At a time when our Armed Forces are overstretched and Army recruiting and retention has hit the skids, we should not appear to be restricting patriotic Americans who want to serve their country in the military. This entire effort sends a harmful message to the women serving today on the front lines of Iraq that Congress is considering the right that they have achieved to serve their country through military service may be in jeopardy.

Just a short while ago, this Congress was praising Jessica Lynch and Shoshana Johnson for their service. We should be thanking women in uniform, not limiting their opportunities. Suicide bombers do not discriminate, why should we?

Mr. Chairman, this is an ill-thought-out policy that has been proposed, revised, revised again, and argued all at the last minute without any hearings in the subcommittee or the committee. Apparently, in offering the most recently altered amendment, even the gentleman from California (Mr. HUNTER) recognizes he had gone too far. While far from undoing the mixed signal this effort to change the rules has sent to women and men serving with distinction in a very dangerous environment, this amendment corrects the most egregious language currently in the bill and should be supported.

I guess what is most disappointing about this issue is that nothing has been done to repair the damage that this effort inflicts on women serving in the military today. Repairing the damage in this bill still begs the question: What are we going to do to restore the trust of our servicewomen?

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, how much time do we have left?

The Acting CHAIRMAN (Mr. PUTNAM). The gentleman from California has 2 minutes remaining.

Mr. HUNTER. Mr. Chairman, I yield myself 2 minutes. Mr. Chairman, we live sometimes in a fantasy world here in Washington, D.C. Let me take us to the real world. The real world in direct ground combat is what you saw in Fallujah, where people were assaulting heavily fortified areas, very close range, fierce firefights, rocket-propelled grenades, machine gun fire, and in the end, 78 dead Marines, KIA.

I have here an article: "War Makes Recruiting Women Tough." Reading from the Columbia State Journal: "As the Iraq war wears on and casualties mount, young women are marching away from the Army." This is the real world, not the fantasy world the gentlewoman speaks about. "The number of women in Army recruiting classes has dropped 20 percent in the last 5 years. Why the drop? 'It's the war,' Army spokesman Douglas Smith said, adding 'recruiting of women has slipped, despite larger signing bonuses and an increase in the number of recruiters.'"

The facts are that 90 percent of the women polled who are in the Army do not want to go in direct ground combat. There may be people here in Washington, D.C. who want to send young women into direct ground combat, but the vast majority of those in the military do not want that. And the real reassurance to American moms and dads sitting around the breakfast table talking to their youngsters about joining the military is that they will not be sent into direct ground combat. And if a proposal is made to change that, then the U.S. Congress, under its obligation, will have a requirement to review that policy and act before it becomes the new policy.

Mr. Chairman, I reserve the balance of my time.

Mrs. TAUSCHER. Mr. Chairman, how much time do I have left?

The Acting CHAIRMAN. The gentlewoman from California has 2½ minutes remaining.

Mrs. TAUSCHER. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I think that several of our colleagues want to really put this issue aside, but I think it has had an impact. I spoke to Sergeant Cynthia Hanna this morning. Sergeant Hanna works for the San Diego Police Department and is a Marine Corps veteran. Like many women in Iraq right now, Sergeant Hanna was an integral part of the fight. But let me tell you where her fight is now. Her fight is on the streets of San Diego.

I thought Sergeant Hanna summed up the issue best. Not once did she talk about whether this is a Democrat or Republican issue. She said, "The desire to serve has never been about women's equality to the exclusion of readiness considerations. The struggle," the struggle, "is about the privilege of serving one's country without artificial barriers based solely on gender. Women's struggle for a place in the military has been about seeking the full rights and responsibilities of citizenship. The struggle is about women being judged by the same standards as men in any job for which they can qualify. It has always been about being able to pursue a career based on individual qualifications rather than unrelated stereotypes."

Mrs. TAUSCHER. Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank my colleague from California for yielding me this time, and I rise today in support of the thousands of women serving their country bravely and honorably in the armed services today.

Two weeks ago, in the Subcommittee on Military Personnel of the Committee on Armed Services, there was an amendment put forward by the gentleman from New York (Mr. MCHUGH) and it was wrong, and I told him it was wrong; but they passed it. A week ago, they changed it because it was so bad. And I told him, I do not even know what we are voting on, and yet the majority passed it. Today, they have a third amendment, because it was wrong and it did not make sense. This one, we can live with. It is just about reporting and reporting to the Congress.

But I will tell my colleagues something I believe is true. Not every man nor every woman makes a good soldier. But if a woman can do it, and she wants to do it, and she is good at it, then let her do it. As I have said before, this is not a question of equal opportunity; it is a question of our national security.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, there are 2,800 job opportunities open to women in the military. This provision, very appropriately, injects Congress into the policy role of making the determination, if it should ever be proposed by DOD to move women into direct ground combat. That injects Congress into that policy role.

And if anybody makes that profound determination, it has to be Congress. I hope it is never made, but certainly we should not stand by and have such a profound decision made without the U.S. Congress weighing in. This guarantees our participation.

Mrs. DRAKE. Mr. Chairman, first let me thank the gentleman from California for his leadership and hard work on this issue and for drafting an amendment that confirms Congress' constitutional duty to oversee the military. Any decision to allow women to serve in direct ground combat is a decision that must be made by Congress.

Our men and women in Iraq, Afghanistan, Bosnia, and around the world are serving our Nation with distinction and honor. In the Global War on Terror, there are no designated front lines and at any moment even a mess hall can become a combat zone.

The jobs that place our military members in direct ground combat are currently closed to women.

The amendment before us today will allow congressional oversight in any decision to open direct ground combat specialties to women by requiring notification by the Defense Secretary and Congress. It also requires a report from the Secretary in March of 2006 which will allow Congress to further explore this issue.

Let me be clear, this amendment does not impact any specialties currently open to women. All women will continue serving in their current roles. Any change in current roles would be completely unacceptable.

I urge my colleagues to support this measure.

Mrs. MALONEY. Mr. Chairman, I rise to express my opposition to Mr. Hunter's Manager Amendment to H.R. 1815, the National Defense Authorization Act for Fiscal Year 2006.

Like so many of my colleagues, I was concerned about the original language in H.R. 1815, language that would have excluded women from 20,000 positions in which they have already served to great acclaim.

However, while the Manager's Amendment is an improvement upon the original language, it is still flawed.

First of all, the Hunter Amendment extends the notification period for changes to women's assignments from thirty to sixty legislative days, a period that could last as long as 4 to 5 months.

Mr. Chairman, I know how long debates on this floor can last, and I guarantee you, an Iraqi insurgent is not going to hold his fire until we have reached agreement on which positions women can fill.

In addition, the Hunter Amendment requires Army commanders to send more detailed reports to Congress about the kinds of enlisted jobs, or Military Occupational Specialties, they would like to open to women. Unfortunately, this will also have the effect, intended or not, of limiting women's roles in the military. Our generals are swimming in paperwork as it is. By burdening them with even more paperwork, the new provisions in the Hunter Amendment create an unnecessary and dangerous delay.

Now is the time to be praising women for their contributions to the war effort, not curtailing their roles. Army spokesperson Elizabeth Robbins recently declared, "Women soldiers are performing magnificently in all formations in which they are permitted to serve."

Mr. Chairman, this is high praise! Why are we trying to fix a problem that does not exist?

Today, women comprise a quarter of our available soldiers. As General Claudia Kennedy, the highest ranking woman ever to serve in the Army said to me, "Numbers matter! Why should we prohibit our brave soldiers from doing their jobs when the Army is having trouble recruiting?"

We should devote our time to enhancing soldiers' protections, not restricting women's roles.

Several months ago we learned that soldiers were digging up rusted scrap metal to protect unarmored vehicles. This is a problem worth fixing! The best way to protect our women and men in uniform is to guarantee them the armor, supplies and resources they need.

In April 2003, a soldier named Jessica Lynch captured our hearts. She also taught us an important lesson. Jessica Lynch was a member of the 507th Maintenance Company. Her convoy, a supply unit, was not supposed to be in the line of fire. But, Mr. Chairman, as Jessica Lynch's terrifying ordeal taught us, everywhere in Iraq is a potential combat zone, and every soldier is serving on the front lines.

I would like to thank Representatives SKELTON and WILSON for their hard work on this issue and for their advocacy for women's rights in the military.

I stand here in support of the military. My husband, brother and father all served with honor on our country's behalf. I am grateful for the sacrifice of each of our service men and women. But I did not come to Congress to restrict the roles of women anywhere.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. HUNTER) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: amendment No. 20 offered by the gentleman from Virginia (Mr. GOODE), amendment No. 24 offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS), amendment No. 12 offered by the gentlewoman from California (Mrs. DAVIS), and amendment No. 1 offered by the gentleman from California (Mr. HUNTER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 20 OFFERED BY MR. GOODE

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 184, not voting 4, as follows:

[Roll No. 214]

AYES—245

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown-Waite, Ginny
Burgess
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Duncan
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—184

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Buyer
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Dreier
Edwards
Ehlers
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kline
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Price (NC)
Putnam
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Souder
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thornberry
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—4

Brown (SC)
Emerson
Hastings (WA)
Millender-McDonald

☐ 1608

Ms. McCOLLUM of Minnesota and Messrs. BROWN of Ohio, DINGELL, ENGEL and SCOTT of Georgia changed their vote from "aye" to "no."

Messrs. ISSA, ISTOOK, CANTOR, KNOLLENBERG and BISHOP of Georgia changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 24 OFFERED BY MRS. JO ANN DAVIS OF VIRGINIA

The Acting CHAIRMAN (Mr. PUTNAM). The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Virginia (Mrs. Jo Ann Davis) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 413, noes 16, not voting 4, as follows:

[Roll No. 215]

AYES—413

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—16

Ackerman
Baldwin
Blumenauer
Conyers
Frank (MA)
Gutierrez
Kucinich
Lee
McDermott
Moore (WI)
Sánchez, Linda T.
Schakowsky
Solis
Stark
Wasserman Schultz
Woolsey

NOT VOTING—4

Brown (SC)
Emerson
Hastings (WA)
Millender-McDonald

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. Terry) (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1616

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 12 OFFERED BY MRS. DAVIS OF CALIFORNIA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 12 offered by the gentlewoman from California (Mrs. Davis) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 194, noes 233, not voting 6, as follows:

[Roll No. 216]

AYES—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frelinghuysen
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kilpatrick (MI)
Kind
Kirk
Kolbe
Kucinich
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Walden (OR)
Wasserman Schultz
Waters
Watson
Watt

Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—233

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boren
Boustany
Brady (TX)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costello
Cox
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kuhl (NY)
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Melancon
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Putnam
Radanovich
Rahall
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Brown (SC)
Buyer
Emerson
Hastings (WA)
Mica
Millender-McDonald

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1625

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. MICA. Mr. Chairman, on rollcall No. 216 I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Chairman, on rollcall No. 216, I inadvertently voted "nay." I meant to vote "aye."

AMENDMENT NO. 1 OFFERED BY MR. HUNTER

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 1 offered by the gentleman from California (Mr. HUNTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 428, noes 1, not voting 4, as follows:

[Roll No. 217]

AYES—428

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
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Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—1

Maloney

NOT VOTING—4

Brown (SC)
Emerson
Hastings (WA)
Millender-McDonald

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. TERRY) (during the vote). Members are advised 2 minutes remain in this vote.

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So the amendment was agreed to.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 109-96.

AMENDMENT NO. 6 OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. STEARNS:

At the end of title V (page 194, after line 11), insert the following new section:

SEC. 6XX. SENSE OF CONGRESS THAT COLLEGES AND UNIVERSITIES GIVE EQUAL ACCESS TO MILITARY RECRUITERS AND ROTC IN ACCORDANCE WITH THE SOLOMON AMENDMENT AND REQUIREMENT FOR REPORT TO CONGRESS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Reserve Officer Training Corps (ROTC) program is the most common means for undergraduates to become United States military officers, producing 60 percent of all officers in the Armed Forces and 75 percent of Army officers.

(2) The ROTC program is officially banned from many leading universities and, although students at those institutions can participate in ROTC programs at other colleges, they often have to travel significant distances to do so.

(3) The United States is engaged in a global war on terrorism, and it is thus more important than ever for the Armed Forces to recruit high quality and well-qualified personnel.

(4) Recruiting on university campuses is one of the primary means of obtaining new, highly qualified personnel for the Armed Forces and is an integral, effective, and necessary part of overall military recruitment.

(5) In 1996, Congress enacted a provision of law that has become known as the "Solomon Amendment" that provides for the Secretary of Defense to deny Federal funding to colleges and universities if they prohibit or prevent ROTC or military recruitment on campus.

(6) A group of university law schools have challenged the constitutionality of the Solomon Amendment, and the Supreme Court has agreed to hear the case in the term beginning in October 2005.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) any college or university that discriminates against ROTC programs or military recruiters should be denied certain Federal taxpayer support, especially funding for many military and defense programs; and

(2) universities and colleges that receive Federal funds should provide military recruiters access to college campuses and to college students equal in quality and scope to that provided all other employers.

(c) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the colleges and universities that are denying equal access to military recruiters and ROTC programs.

The Acting CHAIRMAN. Pursuant to House Resolution 293, the gentleman from Florida (Mr. STEARNS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to urge all of my colleagues to support this very simple amendment to the Defense authorization bill. This amendment does two very important things.

First, it expresses the sense of Congress that any college or any university that denies equal access or discriminates against ROTC programs or military recruiters should be denied certain Federal taxpayer support, especially funding for many military and defense programs. Secondly, Mr. Chairman, it requires the Secretary of Defense to issue a report to Congress on those colleges and universities that are denying equal access to military recruiters and these ROTC programs.

In 1996, Congress enacted a provision of law that became known as the Solomon Amendment. Representative Solomon, as you remember, was a colleague from New York who was chairman of the Committee on Rules. This provision provided for the Secretary of Defense to deny Federal funding to colleges and universities if they prohibited or prevented ROTC or military recruitment on campuses.

Mr. Chairman, a number of universities and colleges today are denying equal access to military recruiters. For example, at Yale University students who wish to participate in the ROTC program must drive to the University of Connecticut in Storrs at least once a week. That is like you and me driving down to Richmond once a week while attending a university here in Washington, D.C. This trip could take up to an hour and a half each way.

Perhaps worse, Yale accepts ROTC dollars, but refuses to grant credit for ROTC courses; so if you are an ROTC scholarship and taking courses at Yale and attending at Storrs, the Air Force, the Army and the Navy will pay for your courses at Yale; but, again, Yale says you have to go to Storrs and denies access to the ROTC program right there at Yale.

While students at Harvard can participate in ROTC programs at nearby MIT, ROTC courses may be taken only on a noncredit basis. This banishment of ROTC led Harvard President Lawrence Summers to say, "We need to be careful about adopting any policy on campus of nonsupport for those involved in defending this country. We should be proud that we have in our midst students who will make the commitment to the ROTC."

This is why it is so important for Congress to make a strong statement in support of full and equal access to military recruiters on campus and for the ROTC.

Therefore, it is vital to national security that we improve the ability of students to simply participate in ROTC programs and ensure that colleges and universities provide military recruiters entry to campuses and simple access to students that is at least equal in quality and scope to that provided by any other employer in America.

Mr. Chairman, I urge my colleagues to support my amendment.

Mr. ANDREWS. Mr. Chairman, although I do not intend to oppose the amendment, I ask unanimous consent to claim the time in opposition.

The Acting CHAIRMAN. Without objection, the gentleman from New Jersey is recognized for 5 minutes.

There was no objection.

Mr. ANDREWS. Mr. Chairman, I yield such time as he may consume to the ranking member of our committee, the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I stand in full support of this amendment. ROTC has been an integral part of college life for many, many, many decades in our country. Land grant colleges across the Nation are required to have ROTC, as they should. But I think those colleges and universities, institutions of higher learning, that have Federal funds flow into them for any number of reasons, any number of grants, for good purposes, of course, should also support the ROTC programs and allow recruiters free access to those that wish to inquire of and join the ROTC.

ROTC is not just a proposition whereby someone may become an officer in the United States Army, Air Force, Navy or Marines. It also is a character builder for young people. They learn about obligations, about duty, about patriotism. I think ROTC has certainly played an important part in so many young lives in our country.

Mr. Chairman, I certainly support this amendment, and I think it is wrong not to allow ROTC on such campuses.

Mr. ANDREWS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment, although I would note that there are three interests that must be delicately balanced in this instance. The first is the need for our military institutions to have full access to recruit on every campus in the country and to do so in a thorough way; the second interest that has to be balanced is the academic freedom of our colleges and universities to make judgments about what they think should and should not happen on their campuses; and the third interest that has to be balanced is the right of students who are enrolled in ROTC programs, and other students, for that matter, to have a full range of employment options so that if they choose to go into the military, they are not denied that option because of a policy of their college or university.

This is a delicate balance that I think is being properly handled under present law. I would note that the amendment before the body is a sense of Congress resolution. It is one of the reasons I am supporting the amendment. It expresses, I think accurately, the sentiment of the Congress; but it does not disrupt the delicate balance under the law that we presently have today, which I think is wise and prudent.

Mr. Chairman, I yield back the balance of my time.

Mr. STEARNS. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. ROGERS).

Mr. ROGERS of Alabama. Mr. Chairman, I would like to thank my colleague, the gentleman from Florida (Mr. STEARNS), for offering this amendment.

Mr. Chairman, Congress has voted time and time again to remove obstacles facing some of our military recruiters; and to the credit of most institutions, like those in my home State of Alabama, most do the right thing. Yet a small, but growing, group of institutions just do not seem to get it.

Recently, the University of Wisconsin at Stout joined the exclusive club of liberal institutions that prohibit the military from campus. Instead of doing the right thing and opening their doors to the uniformed personnel, this university has instead chosen to make a narrow-minded political statement.

What the university is doing simply flies in the face of common sense, especially during wartime. For the graduating students, this says clearly that a career in the military is not worth their consideration. Try telling that to the soldiers serving with honor and dignity in Afghanistan and Iraq, or their families praying for their safety.

This practice has got to stop, and I urge my colleagues to vote for this amendment.

Mr. STEARNS. Mr. Chairman, I yield 50 seconds to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this is a very important subject. I wholeheartedly support the amendment. While our men and women in uniform are fighting around the world, we have colleges and universities around this country denying equal access to ROTC programs and military recruiters in the name of political correctness.

□ 1645

I would just remind my colleagues of the words of the former Commandant of the Marine Corps, General Krulak, who told us that our "all-volunteer force" is an "all-recruited force." By recruiting the best and the brightest, our United States Armed Forces are today the very best in the world.

We have to stand up for the rights of our recruiters and the rights of our military to gain access to those campuses. Vote for this amendment.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

With the United States engaged in a global war on terrorism, it is more important than ever before for the Armed Forces to recruit high-quality, well-qualified, and well-trained personnel. This amendment ensures in a larger sense that this Congress is on record saying we support them and we think the universities and colleges in this country should also support them by giving access.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. TERRY). The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. STEARNS) will be postponed.

AMENDMENTS EN BLOC OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer amendments en bloc.

The Acting CHAIRMAN. The Clerk will designate the amendments en bloc.

The Clerk designated the amendments en bloc, as follows:

Amendments en bloc offered by Mr. HUNTER printed in House Report 109–96 consisting of amendment No. 4; amendment No. 5; amendment No. 8; amendment No. 9; amendment No. 11; amendment No. 14; amendment No. 16; amendment No. 17; amendment No. 22; and amendment No. 23.

AMENDMENT NO. 4 OFFERED BY MR. STARK

The text of the amendment is as follows:

At the end of title V (page 194, after line 1), insert the following new section:

SEC. 5xx. COMPTROLLER GENERAL STUDY OF MILITARY RECRUITING.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on military recruiting.

(b) MATTERS TO BE INCLUDED.—The Comptroller General shall include in the report the following:

(1) Whether military recruitment criminal violations have increased in any branches of the Armed Forces since the beginning of combat in Iraq.

(2) Whether policies of the Department of Defense or of any of the specific military branches have caused or encouraged military recruiters to carry out criminal actions to increase recruitment numbers.

(3) Whether the Department of Justice, Department of Defense, or specific military branches have adequately and independently carried out investigations and prosecutions of all Department of Defense officials who are complicit or directly involved in criminal actions to increase military recruitment.

(4) Any recommendations for any legislation or administrative actions that the Comptroller General considers appropriate.

(5) Any other matter the Comptroller General considers relevant.

AMENDMENT NO. 5 OFFERED BY MR. STRICKLAND

The text of the amendment is as follows:

At the end of title V (page 194, after line 11), insert the following new section:

SEC. 5xx. ADDITION OF INFORMATION CONCERNING MENTAL HEALTH SERVICES AND TREATMENT TO SUBJECTS REQUIRED TO BE COVERED IN MANDATORY PRESEPARATION COUNSELING.

Section 1142(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(11) Information concerning the availability of mental health services and the treatment of post-traumatic stress disorder, anxiety disorders, depression, suicidal ideations, or other mental health conditions associated with service in the armed forces.".

AMENDMENT NO. 8 OFFERED BY MS. SLAUGHTER

The text of the amendment is as follows:

At the end of title V (page 194, after line 11), insert the following new section:

SEC. 5xx. IMPROVEMENT TO DEPARTMENT OF DEFENSE RESPONSE TO SEXUAL ASSAULT AFFECTING MEMBERS OF THE ARMED FORCES.

(a) ASSESSMENT.—The Secretary of Defense shall conduct an inventory of supplies, trained personnel, and transportation resources assigned or deployed to deal with sexual assault. The Secretary shall assess the availability and accessibility within deployed units of rape evidence kits, testing supplies for sexually transmitted infections and diseases (STIs), including HIV, and for pregnancy, transportation resources, and medication. The assessment shall be completed not later than 120 days after the date of the enactment of this Act.

(b) ACTION PLAN FOR DEPLOYED UNITS.—The Secretary shall develop a plan to enhance accessibility and availability of supplies, trained personnel, and transportation resources in response to sexual assaults occurring in deployed units. Such plan shall include the following:

(1) Training of new and existing first responders to sexual assaults, including criminal investigators, medical providers responsible for rape kit evidence collection, and victims advocates, with such training to include current techniques on processing of evidence, including rape kits, and conducting investigations.

(2) Accessibility and availability of supplies for victims of sexual assault who present at a military hospital, including rape kits, equipment for processing rape kits, and testing supplies and treatment for sexually transmitted infections and diseases, including HIV, and pregnancy.

(c) ANNUAL REPORT.—The Secretary shall include in the annual report to the Committees on Armed Services of the Senate and

House of Representatives on sexual assaults a report as to the supply inventory, location, accessibility, and availability of supplies, trained personnel, and transportation resources in response to sexual assault in deployed units.

AMENDMENT NO. 9 OFFERED BY MR. REICHERT

The text of the amendment is as follows:

At the end of title V (page 194, after line 11), insert the following new section:

SEC. 575. REPORT ON EMPLOYMENT MATTERS FOR MEMBERS OF THE NATIONAL GUARD AND RESERVE.

(a) REQUIREMENT FOR REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on difficulties faced by members of the National Guard and Reserve with respect to employment as a result of being ordered to perform full time National Guard duty or being ordered to active duty service, respectively.

(b) SPECIFIC MATTERS.—In preparing the report required under subsection (a), the Comptroller General shall include information on the following matters

(1) TYPE OF EMPLOYERS.—An estimate of the number of employers of members of the National Guard and Reserve who are private sector employers and those who are public sector employers.

(2) SIZE OF EMPLOYERS.—An estimate of the number of employers of members of the National Guard and Reserve who employ fewer than 50 full-time employees.

(3) SELF-EMPLOYED.—An estimate of the number of members of the National Guard and Reserve who are self-employed.

(4) NATURE OF BUSINESS.—A description of the nature of the business of employers of members of the National Guard and Reserve.

(5) REEMPLOYMENT DIFFICULTIES.—A description of difficulties faced by members of the National Guard and Reserve in gaining reemployment after having performed full time National Guard duty or active duty service, including difficulties faced by members who are disabled and who are Veterans of the Vietnam Era.

AMENDMENT NO. 11 OFFERED BY MR. MENENDEZ

The text of the amendment is as follows:

At the end of title VI (page 279, after line 6), add the following new section:

SEC. 677. COMPTROLLER GENERAL REPORT REGARDING COMPENSATION AND BENEFITS FOR RESERVE COMPONENT MEMBERS.

(a) REPORT REQUIRED.—The Comptroller General shall prepare a report reviewing the terms and elements of reserve compensation, benefit, and personnel support programs, including the retirement system.

(b) ELEMENTS OF REPORT.—The report required by subsection (a) shall address at a minimum the following:

(1) The effectiveness and adequacy of compensation and benefit programs, income protection for members of the reserve components called to active duty, family support programs, health care access, and other programs of interest to such members.

(2) The need for these programs to be improved, including such recommendations as the Comptroller General considers appropriate for achieving needed improvements.

(3) A comparison of these programs to similar programs conducted for the benefit of regular forces to determine if the reserve programs are fair and equitable given the increased contributions by reserve component forces to the defense of the United States.

(4) An examination of the differences in benefits and protections provided to reservists who are called to serve under different authorities, including title 10, United States Code, title 32, United States Code, and State active duty.

(5) The need for benefits and protections to be made consistent regardless of the authority under which members of the reserve components are called to serve, including such recommendations as the Comptroller General considers appropriate for achieving that objective.

(c) RELATIONSHIP TO OTHER STUDIES AND REPORTS.—To the extent that an issue required to be addressed by subsection (b) is also the subject of other studies or reports being prepared by the Comptroller General, the Comptroller General may drop the issue from this report to avoid duplication of effort.

(d) SUBMISSION OF REPORT.—The Comptroller General shall submit the report to the congressional defense committees not later than March 31, 2006.

AMENDMENT NO. 14 OFFERED BY MR. BISHOP OF GEORGIA

The text of the amendment is as follows:

At the end of title VII (page 297, after line 26), add the following new section:

SEC. 718. STUDY RELATING TO PREDEPLOYMENT AND POSTDEPLOYMENT MEDICAL EXAMS OF CERTAIN MEMBERS OF THE ARMED FORCES.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall conduct a study of the effectiveness of self-administered surveys included in predeployment and post-deployment medical exams of members of the Armed Forces that are carried out as part of the medical tracking system required under section 1074f of title 10, United States Code.

AMENDMENT NO. 16 OFFERED BY MR. ANDREWS

The text of the amendment is as follows:

At the end of subtitle B of title VIII (page 321, after line 3), insert the following new section:

SEC. 818. PROHIBITION ON DEFENSE CONTRACTORS REQUIRING LICENSES OR FEES FOR USE OF MILITARY LIKENESSES AND DESIGNATIONS.

The Secretary of Defense shall require that any contract entered into by the Department of Defense include a provision prohibiting the contractor from requiring toy and hobby manufacturers, distributors, or merchants to obtain licenses from or pay fees to the contractor for the use of military likenesses or designations on items provided under the contract.

AMENDMENT NO. 17 OFFERED BY MR. BLUNT

The text of the amendment is as follows:

At the end of subtitle B of title VIII (page 321, after line 7), add the following new section:

SEC. 818. ESTABLISHMENT OF EVALUATION FACTOR FOR DEFENSE CONTRACTORS EMPLOYING OR SUBCONTRACTING WITH MEMBERS OF THE SELECTED RESERVE OF THE RESERVE COMPONENTS OF THE ARMED FORCES.

(a) DEFENSE CONTRACTS.—In awarding any contract for the procurement of goods or services, the Department of Defense, when considering source selection criteria, shall use as an evaluation factor whether entities intend to carry out the contract using employees or individual subcontractors for goods and services who are members of the Selected Reserve of the reserve components of the Armed Forces.

(b) DOCUMENTATION OF SELECTED RESERVE-RELATED EVALUATION FACTOR.—Any entity claiming intent to carry out a contract using employees or individual subcontractors for goods and services who are members of the Selected Reserve of the reserve components of the Armed Forces shall be required to document to the Department of Defense the number (and names, if requested) of such members of the Selected Reserve that the entity will employ, or execute personal services contracts with, for the contract in question.

(c) NATIONAL SECURITY WAIVER.—The Secretary of the military department concerned, or, in the case of contracts which are not negotiated by a military department, the Secretary of Defense, may waive the requirement in subsection (a) with respect to a contract if the Secretary concerned determines that the waiver is necessary for reasons of national security.

(d) REGULATIONS.—The Federal Acquisition Regulation shall be revised as necessary to implement this section.

AMENDMENT NO. 22 OFFERED BY MR. MATHESON

The text of the amendment is as follows:

At the end of title X (page 402, after line 22), insert the following new section:

SEC. 10xx. PRESERVATION OF INFORMATION AND RECORDS PERTAINING TO RADIOACTIVE FALLOUT.

(a) PROHIBITION OF DESTRUCTION OF CERTAIN DOCUMENTS.—The Secretary of Defense may not destroy any document in the custody or control of the Department of Defense that is a historical record (or part of a historical record) relating to radioactive fallout from the testing of any nuclear device.

(b) PRESERVATION AND PUBLICATION OF INFORMATION.—The Secretary of Defense shall identify, preserve, and publish information contained in documents referred to in subsection (a).

AMENDMENT NO. 23 OFFERED BY MR. HOSTETTLER

The text of the amendment is as follows:

At the end of title X (page 402, after line 22), insert the following new section:

SEC. ___. SPECIAL IMMIGRANT STATUS FOR PERSONS SERVING AS TRANSLATORS WITH UNITED STATES ARMED FORCES.

(a) IN GENERAL.—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), subject to subsection (c)(1), the Secretary of Homeland Security may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—

(1) files with the Secretary of Homeland Security a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if the alien—

(A) is a national of Iraq or Afghanistan;

(B) worked directly with United States Armed Forces as a translator for a period of at least 12 months;

(C) obtained a favorable written recommendation from the first general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien; and

(D) prior to filing the petition described in subsection (a)(1), cleared a background check and screening, as determined by the first general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien.

(2) SPOUSES AND CHILDREN.—An alien is described in this subsection if the alien is the spouse or child of a principal alien described in paragraph (1), and is following or accompanying to join the principal alien.

(c) NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—The total number of principal aliens who may be provided special immigrant status under this section during any fiscal year shall not exceed 50.

(2) COUNTING AGAINST SPECIAL IMMIGRANT CAP.—For purposes of the application of sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants described in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section.

(d) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) shall apply in the administration of this section.

MODIFICATION TO AMENDMENT NO. 16 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I ask unanimous consent that amendment No. 16 offered by the gentleman from New Jersey (Mr. ANDREWS) and printed in House Report 109–96 be modified in the form I have placed at the desk.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 16 offered by Mr. ANDREWS:

At the end of subtitle B of title VIII (page 321, after line 3), insert the following new section:

SEC. 818. PROHIBITION ON DEFENSE CONTRACTORS REQUIRING LICENSES OR FEES FOR USE OF MILITARY LIKENESSES AND DESIGNATIONS.

(a) IN GENERAL.—The Secretary of Defense shall require that any contract entered into by the Department of Defense include a provision prohibiting the contractor from requiring toy and hobby manufacturers, distributors, or merchants to obtain licenses from or pay fees to the contractor for the use of military likenesses or designations on items provided under the contract.

(b) LIMITATION TO UNITED STATES COMPANIES.—Subsection (a) applies only with respect to toy and hobby manufacturers, distributors, or merchants incorporated in or organized under the laws of the United States.

Mr. HUNTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Acting CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

The Acting CHAIRMAN. Pursuant to House Resolution 293, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, we are gathering our speakers, and I would hope my colleague, the gentleman from Missouri (Mr. SKELTON) would be able to lead off with his speakers, so I reserve my time.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, over the past 15 to 20 years, there has been a major and fundamental change in the way that our Reserve component has been used. Historically, National Guardsmen and Reservists were primarily viewed as a force expansion that could be used to supplement our active duty troops at times of a major war or conflict. But today these forces not only support our active forces, they also replace them in operations around the world.

Since September 11, a large number of our Reserve component has been called to active duty, and the pace of Reserve perstempo is very high and expected to remain that way for the foreseeable future. In fact, as of May 20, we had over 162,000 National Guard members and Reservists on active duty both here at home and around the world.

Unfortunately, there have been a variety of reports detailing recruiting and retention problems that our Armed Forces have experienced over the last year. Clearly, if our Nation continues to rely more and more on National Guard members and Reservists without providing them and their families the support they need at home, we risk establishing a pattern of failure when it comes to meeting the recruitment and retention targets.

That is why I am very happy that we have included this amendment as part of the en bloc, and I appreciate the chairman's and the ranking member's help in doing so.

In September of 2003, the GAO found that the DOD lacked sufficient information and data to address financial and health care issues affecting Reservists and their families. Fortunately, there is new information that could be used to determine the effect on readiness, recruiting, retention and, yes, on these families.

Both a CBO study and a DOD survey, which were recently completed, have some interesting facts: 56 percent of National Guard members and Reservists are married; 55 percent of married Guard members and Reservists report a loss of income over their civilian jobs; 15 percent of those Guard members and Reservists report a pay decrease of $30,000 a year; and 71 percent of them cite family burdens as a reason to leave the military.

For all of those reasons, I am happy to see that our amendment, which will have a GAO report to provide recommendations to the Congress on how these programs can be improved to treat more fairly our Guardsmen, our Reservists, and their families, will be a reality.

Mr. SKELTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise today in support of the en bloc amendment to H.R. 1815 and in support of my "Healthy Troops" amendment contained therein.

Mr. Chairman, I first introduced the Healthy Troops Act when it was brought to my attention that many of our men and women serving in harm's way are not receiving hands-on medical examinations before or after they are deployed in combat. A 1997 congressional mandate requires both pre- and post-deployment medical exams, but this requirement is currently being met by the DOD by having our troops fill out self-administered questionnaires.

This concerns me, as I believe it should concern all Americans, first, because the health of our servicemembers should not rely on their ability to self-diagnose; and secondly, because these brave men and women deserve an accurate documentation of their health status in combat so that, if necessary, they can claim veterans' health benefits when they come home.

My original amendment required that DOD provide full hands-on and pre- and post-deployment exams for all deployed troops as opposed to the self-administered questionnaires. It also mandated a study of the effectiveness of the self-administered exams.

The revised amendment, which reflects a bipartisan compromise struck with the chairman and the committee, provides only for the study into the effectiveness of the questionnaires and that the study be performed within 120 days of enactment.

I do not believe that this is enough, but it does represent a victory for our servicemembers, men and women because, one, it continues an important, ongoing dialogue on the health and safety of our servicemen and -women, and two, because it requires further analysis of the effectiveness of the actual hands-on health screens.

I think that we can all agree that the health of servicemembers must be at the top of our agenda. This amendment puts the focus where it belongs.

I urge my colleagues to support the en bloc amendment.

Mr. HUNTER. Mr. Chairman, I yield 3½ minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I thank the gentleman from California (Chairman HUNTER) for yielding me this time and for the work he has done on this bill.

In the en bloc amendment, really several of the provisions of a bill that I introduced recently, along with the gentleman from Illinois (Mr. KIRK) and others, to try to address the concerns that we have and, I think, concerns that are shared by not only the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Ranking Member SKELTON), but many of the Members of this Congress, on people who serve in the National Guard and Reserves.

We see declining recruitment numbers. Clearly, the service, and the Guard and Reserves is a service where people who often have already served full-time in the military are willing to be available to the country in time of crisis, in times of imminent need; but people who were joining the Guard and Reserve, until recent years, until the last decade, at least, did not expect to be joining the Guard and Reserve to effectively be serving in the full-time force.

I believe in an integrated armed service. I believe in the importance of a full-time force that is no bigger than it needs to be, to be supplemented in times of crisis by the great skills of people who either have served in the full-time force or who have received their training in the Guard and the Reserve.

The Army is more than halfway through its fiscal year with only 33,000 soldiers signed up, and is certainly likely to miss the target of 80,000 for 2005. That sort of recruiting puts more pressure on the Guard and Reserve. For 3 consecutive months, the Army has been short of its goal; and the Marines, that traditionally meet their goals, have not met their monthly goal this entire year. So we need to be concerned about the use of the full-time force and, obviously, the impact that has on the Guard and Reserve that are available.

Legislation from our bill will be included in this en bloc amendment. The gentleman from Illinois (Mr. KIRK) is joining me in proposing this amendment, and the gentleman from Connecticut (Mr. SIMMONS) and the gentleman from Washington (Mr. REICHERT) will bring other amendments from our bill to the floor.

In the amendment that I am speaking in favor of, this is an amendment that just simply would allow and encourage the Department of Defense to take into account National Guard and Reserve personnel as one of the items that they would look at when they evaluate a bid for DOD work.

I had a specific instance in my district in the last year where a business that had a government repair contract, that had a significant number of Guardsmen, in fact, those Guardsmen had been called up; and while those Guardsmen were called up, the work that they had been doing was given, in competitive bidding, no doubt, but given in competitive bidding to a Canadian company. Nobody in that Canadian company was serving in Iraq at the time for reasons we all understand.

We would like to see that taken into account as these contracts are evaluated and look for other ways that the military can do things to further support our Guardsmen and Reservists.

Mr. HUNTER. Mr. Chairman, I yield myself 1 minute to thank the gentleman for his amendment.

There is nothing more important for our returning Guardsmen and Reservists than to know that they have a good job, and the idea of directing some of this money, the massive amount is $441 billion, that we pass in this bill goes to not only pay for people, but also to pay for the products that are used in the defense apparatus; to make sure that that is, as much as possible, those products are made by Americans. And made by Americans who are serving this flag should be a priority for our country.

So I can assure the gentleman, we will be happy to continue to work on this as it moves through the process.

Mr. BLUNT. Mr. Chairman, if the gentleman will yield, I really appreciate the chairman's understanding of this problem and his commitment to this problem.

The other thing that we need to be doing is to ensure that Guardsmen and Reservists do have jobs when they come back; and if that job is a government contract, we should be doing everything we can to ensure that their service is noted in awarding the extension of that contract.

Mr. SKELTON. Mr. Chairman, before I recognize the gentleman from Utah, let me say I wish to compliment my fellow Missourian on his amendment. The Guard and Reserve mean very much to us, and I think it is a major step in the right direction.

Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. MATHESON).

□ 1700

Mr. MATHESON. Mr. Chairman, I rise in support of this en bloc amendment to the Defense bill.

I have offered an amendment to the bill that would require the Department of Defense to preserve irreplaceable historical records related to radioactive fallout, and I am pleased this amendment was ruled in order and is part of this en bloc amendment.

Now currently the Department of Energy has ordered a moratorium on the destruction of such records, but the Department of Defense has no such prohibition and relevant records could potentially be lost.

The National Academy of Sciences has pointed out that both the Navy and the Air Force have important documents that should be archived.

As a result, the National Academy urged Congress to require better preservation of historical data related to radioactive fallout records.

That is exactly what this amendment does.

My amendment prohibits the Department of Defense from destroying these historical records and directs the Department to identify, preserve, and publish information contained in these records.

Atmospheric testing was a dark period in our history for many Americans. We should do whatever we can to preserve the limited records from that time so they remain viable for scientific study. With this amendment we are taking a good first step toward preserving history.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I thank the chairman especially for his inclusion of major parts of the Americans in Uniform Act authored by the majority whip, the gentleman from Missouri (Mr. BLUNT), in this legislation.

One amendment in particular would allow the Defense Department to review the record of a contractor in retaining and keeping Reservists. Now, we have had a case in which some employers are so good at keeping Reservists that they have got a number of positions missing; and then they have failed to get a new contract award and providing material to the Department of Defense, and contracts have even gone to other companies in other countries that have no such Reserve obligation. That is wrong.

This amendment says that the Department of Defense at least will be able to look at the record of contractors in keeping Americans in uniform when they make new awards. And that means a signal will go throughout the business community that you should be a good employer of Reservists.

We have had over 400,000 Americans called to active duty. I stand here as, I think, the only Member of Congress still regularly drilling in the Reserves. I have got duty this weekend. And when I talk to my fellow Americans in uniform, there are unique pressures on the Reserves. But we are proud. We are proud to wear the uniform. We are proud to take part in what we need to do in the war on terror. And we are proud to stand with other leaders, like my colleague, the gentleman from Washington (Mr. LARSEN), that have done so much to make it easier for Reservists to keep their jobs.

When you look at the gentleman from Washington (Mr. REICHERT), sheriff, now Congressman, and what he did as a good employer of making sure that Reservists, when they go on active duty, do not suffer a loss in pay, it is what every employer should do in America; but sadly some do not. And we need to change that. This set of reforms in this legislation under the Americans in Uniform Act, the Blunt legislation, help do that, on the Space-A reforms of the gentleman from Connecticut (Mr. SIMMONS), on the study in which we are going to see exactly what we need to do for Reservists under the Reichert legislation and under the Blunt/Larsen/Kirk reforms that make DOD contractors report on how they are taking care of our Americans in uniform, and to know that it will be considered in the award of contracts sends a powerful signal that the all-volunteer military is working, that the total force is working, and that we look on these Americans who wear the uniform part-time, in Winston Churchill's eyes, as twice a citizen, as someone who is a good member of their community, but when the country calls they respond exactly when we need them to go into harm's way and to be on the frontier of freedom.

And, Mr. Chairman, thank you so much for including these reforms in the Americans for Uniform Act.

Mr. SNYDER. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. LARSEN).

Mr. LARSEN of Washington. Mr. Chairman, I also want to stand in support of the Blunt/Kirk amendment to the Defense Authorization Act.

Today our Guard and Reserve are protecting our security abroad. And, frankly, it is Congress's job and responsibility to create a network of job security when they come home. That is why I support this amendment.

Our Guard and Reserve are overextended. Their Nation has called on them to serve. In most cases they have left a place of employment to do so, and Congress has a responsibility to ensure that we do not create any barriers for our Guard and Reserve that would keep them from returning to those jobs.

This amendment will help ensure that if you are a member of the National Guard or Reserve you will not be at a disadvantage if working on a DOD contract through your employment.

Mr. Chairman, this amendment will push the DOD to consider the employment of Guard and Reserve members when they award contracts. When serving, these women and men of the Guard and Reserve protect this Nation. This amendment gives us one more way that we can protect these brave women and men and their families when they come home.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. REICHERT).

Mr. REICHERT. Mr. Chairman, I too am proud to be a part of today's process and ensuring that our National Guardsmen and -women and Reservists are respected and we are showing them that we have listened to their concerns.

I have served in the Air Force Reserves, and I will not tell you how long ago that exactly was. But let us just say that my pay at that time was as a police officer around $700 to $800 a month. So it was awhile ago.

When I was on duty as a Reservist, I took a pay cut. And that was a cut from $700 a month. So you can imagine that it was a little bit hard to keep your family supported during that period of time. And I know what it is like to be a Reservist. I had a financial responsibility. I had employment issues. And it is not easy to juggle those weighty concerns while preparing to serve your country or as soon as you return.

When I was sheriff of King County, we developed a standard to support our employees who were also Reserve soldiers. Their jobs were guaranteed no matter what length of time they served or how long their tour of duty was. The soldiers knew that when they came back they had a job, they had employment, and that they were supported 100 percent. Men and women serving our country should be praised, not punished for being guardians of our Flag.

During the last recess, I had the honor of sitting down with 20 National Guard soldiers who had just returned from Iraq. In the 2 hours I spent with them, we discussed a number of concerns. But the issue reiterated by nearly every soldier in attendance was employment.

That is why I am offering an amendment today to commission a study requiring the GAO to report on employment matters for the National Guard and Reserve, in particular the difficulties faced by soldiers in gaining reemployment once they return from duty.

It is important that we know what types of jobs our servicemembers hold so we can address their employment issues. Our National Guard and Reserves are an incredibly important part of our military; and we need to protect their interests, protect their families, protect their jobs, and make sure that they are respected for their service.

Mr. SNYDER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Chairman, I rise today in support of the en bloc amendment which includes my amendment regarding VA mental health services. My amendment will make sure that soldiers returning from Iraq and Afghanistan know about the mental health services available to them by requiring that they be fully informed of these services when separating from active duty.

Our men and women are returning from deployments with very high rates of mental and emotional disorders. And as we know, there is often a stigma regarding mental health treatment, especially in the military. That is why we need to clearly communicate to our returning troops that they are entitled to receive help in dealing with problems resulting from their service to our country. Whether they are struggling with PTSD, depression or any other mental disorder, there is treatment available for them at our VA facilities. My amendment would simply require that those mental health treatment options are presented to our soldiers so that they can make informed decisions as they return to civilian life.

I appreciate that this amendment was made in order, and I encourage my colleagues to support the en bloc amendment. Our men and women are bearing great physical and mental burdens from the operations in Iraq and Afghanistan. The very least we can do is to inform them of the benefits they have earned.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to engage my colleague, the gentleman from California (Mr. FARR), in a colloquy.

Mr. FARR. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, I rise today to ask for the gentleman's help to make military golf courses accessible with specialty golf carts for veterans community and disabled golf patrons. Our Nation's disabled military personnel and veterans have paid a great debt to their country. We have an obligation to make their reintegration into society as seamless as possible, and one way is to make it easier for them to resume recreational activities like golf.

And I would ask the chairman if he would agree that the committee should explore the feasibility of the cost of providing specialty carts for disabled golf patrons at military golf courses with DOD and the services.

Mr. HUNTER. Mr. Chairman, I would just say to my colleague, I think he has brought a great idea forward. We have military bases around the country that serve not only the active duty folks, but also retired folks and disabled folks; and it seems absolutely appropriate that we make sure that those golf courses, all of which have electric golf carts, have some specialty carts to accommodate those who need them. So I will work with the gentleman, and let us see if we can make sure that there are enough carts available at all the courses to accommodate all the folks that need them.

Mr. FARR. I thank the chairman. I look forward to working with the gentleman.

Mr. HUNTER. Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, first of all I want to thank the ranking member, the gentleman from Missouri (Mr. SKELTON), and the chairman, the gentleman from California (Mr. HUNTER), for a bill that is probably one of the more important initiatives that this Congress addresses, and that is the ordering and the governance of the United States Military, particularly this week that we honor those fallen heroes.

Might I also say, however, that I wish appropriately that this legislation had the fullness of opportunity for many of us to debate. I am reminded that times before this legislation was debated for 2 weeks because it is so important and so crucial for the men and women of the United States military.

I rise in support of an amendment offered by my distinguished colleague, the gentleman from Indiana (Mr. HOSTETTLER), which I am a cosponsor of. I was a cosponsor of that bill, and this was an amendment that was taken from H.R. 2293. I continue to support it. It would provide special immigrant status for a limited number of Iraqis and Afghanis who have served as translators for the U.S. armed services.

The translators are providing services for our combat forces in Iraq. And according to the Marines who work with them, the translators and their immediate families live in constant danger of debt because of the key support they are providing for our combat forces. The Marine commanders have expressed a desire to help them come to the U.S. with their immediate families, and we wanted to answer their call. The commanders believe that the lives of the translators will be in even jeopardy when the Marines withdraw from Iraq.

The translators have gone far beyond just providing translation services. They stay with the Marines in their camps, in the same living quarters, and eat chow with the soldiers every day.

I am reminded of the individual who helped translate and ultimately found Saddam Hussein. He now is a citizen of the United States, was previously so, but has the ability to come here and he is provided safety for him and his family.

The amendment would make permanent resident visas available to the nationals of Iraq and Afghanistan and their spouses and children who have helped the U.S. in this most difficult effort. And so I would ask my colleagues to support this.

As I rise to honor these individuals, might I also say that we need to honor the fallen dead who come home to our shores and allow them to be honored when these soldiers return home. And I hope that we will look forward to removing the executive order that requires lights out when our fallen heroes have come back having served in the United States military, and having lost their lives in battle.

Mr. Chairman, I ask my colleagues to support the Hostettler/Jackson-Lee amendment.

I rise in support of the amendment offered by my distinguished colleague, the gentleman from Indiana, Mr. HOSTETTLER. I was a cosponsor of the bill that this amendment was taken from, H.R. 2293, and I continue to support it in its present form. It would provide special immigrant status for a limited number of Iraqis and Afghanistani who have served as translators for the U.S. Armed Forces.

The translators are providing services for our combat forces in Iraq. According to the Marines who work with them, the translators and their immediate families live in constant danger of death because of the key support they are providing for our combat forces. The Marine commanders have expressed a desire to help them to come to the U.S. with their immediate families. The commanders believe that the lives of the translators will be in even greater jeopardy when the Marines withdraw from Iraq.

The translators have gone far beyond just providing translation services. They stay with the Marines in their camp, in the same living quarters, and eat chow with the soldiers every day. They go into the field with the Marines. They have fought along side of them and shed blood with them during combat operations. Some of the Marines feel so strongly about helping the translators that they have offered to take them into their homes in the United States until they have had enough time to settle in and find places of their own.

The amendment would make permanent resident visas available to nationals of Iraq and Afghanistan (and their spouses and minor children) who have worked directly with U.S. Armed Forces as translators for at least 12 months, who have obtained favorable written recommendations from the officer in charge of the unit they worked with, and who have cleared a background check. No more than 50 principals would be eligible to receive permanent resident status. The recipients would count towards the 10,000-per-year quota of special immigrant visas.

I am pleased that we can offer permanent resident status to such deserving immigrants with a bipartisan bill. I urge you to vote for this amendment.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, the en bloc amendment calls among other things for special immigrant status for Iraqi or Afghani nationals who have served as translators with the United States Armed Forces. This amendment is a direct response to the critical need for translators and linguists in our military. This interpreter shortage is well documented. The 9/11 Commission report stated that the government "lacked sufficient translators proficient in Arabic and other key languages, resulting in a significant backlog of untranslated intercepts."

The 2002 GAO study and the September 2004 Justice Department IG report made the same findings. The shortage of Arabic translators in Iraq and Afghanistan has made it harder for U.S. soldiers to protect themselves and has jeopardized interrogations of suspected al Qaeda terrorists in U.S. custody.

□ 1715

I commend the author of this legislation for his willingness to open the immigration doors to Arabic and Farsi linguists serving as translators with the United States Armed Forces. Yet, the answer to this dire need is not to give U.S. citizenship to Iraqis and Afghanis, but rather to stop discriminating against American citizens who are ready to loyally serve their country as Arabic translators.

It is no coincidence that this bill would create 50 spots for Iraqi and Afghani nationals, almost the exact number of translators who have been discharged under the military's "Don't Ask, Don't Tell" law in effect since 1994. Fifty-four Arabic and nine Persian/Iranian, including Farsi, translators have been discharged under this policy.

Because of "Don't Ask, Don't Tell," the military continues to devote its resources to rooting out patriotic gay Americans whose service is central to the war on terrorism. This is another example of how "Don't Ask, Don't Tell" is not in the best interest of our national security.

Mr. Chairman, this Congress says, "Don't ask, Don't tell, Don't translate."

I urge my colleagues to recognize the fundamental rights of American citizens and the fundamental absurdity of denying the right to serve to citizens who have vitally needed skills that we all know we need.

I urge this Congress to repeal the obnoxious and incredibly self-defeating policy of "Don't Ask, Don't Tell."

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the gentleman from Missouri (Mr. SKELTON) for yielding me time.

Mr. Chairman, I want to express my appreciation to the gentleman from California (Mr. HUNTER) and to the ranking member, the gentleman from Missouri (Mr. SKELTON), and to the members of the staff for including in this en bloc amendment a proposal with respect to the retailers and distributors of model airplanes and model ships.

One way to express your patriotism and support for the military is to collect and assemble and build models of military craft and military vehicles. An unfortunate occurrence has happened in the last few years where the large defense contractors which received the right to build these materials are extracting royalties from the consumers who buy them. They extract those royalties from the distributors and the retailers. We would like to stop that practice.

These ships and planes are designed with public money. They are conceived of with public money, and we do not think the American public should pay for this twice.

I very much appreciate the fact that language that takes us in that direction has been included in the bill. Frankly, there is more work to do in my judgment concerning who is covered by the scope of the language but this is an important first step. It will promote patriotism for those who collect and build these models, and it will do so in a fair way to the consumer.

I thank the gentleman from California (Mr. HUNTER), the gentleman from Missouri (Mr. SKELTON) and the staffs for making this possible.

I would ask for support of the en bloc amendment.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. HEFLEY), the chairman of the Subcommittee on Readiness.

Mr. HEFLEY. Mr. Chairman, I do not intend to take 2 minutes, but I just wanted to say that in committee the gentleman from New Jersey (Mr. ANDREWS) introduced this amendment. I thought it was an excellent amendment and that we ought to follow through on it.

We had a problem in committee that it might have a jurisdictional problem. The gentleman was nice enough to agree to withdraw it so we could check that jurisdictional problem. We do not have that problem at this point.

The gentleman is on the right track. It ought to be passed. I am glad it is in the en bloc, and I thank the gentleman for bringing this to our attention.

I do not think most of us who grew up with the thrill of playing with model airplanes ever dreamed that this was the situation, and this will correct the situation. I appreciate the gentleman doing that.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have talked about the translator provision that would give some accommodation to those folks who have served our U.S. military in those warfighting theaters, and I just wanted to give some credit for the originator of this proposal. It was a Marine captain in Fallujah who talked about the service of these translators, how much they risk, the exposure that they take, and the dedication that they have to America and to our cause. So it was that recommendation that found its way back to the floor of the House, and I am glad that we are passing it.

I want to thank all of my colleagues who have spoken in favor of this provision.

Mr. STARK. Mr. Chairman, I rise in opposition to this defense authorization bill. Once again, the Republican majority has pushed forward a defense budget that does nothing to make this country any safer.

This bill continues Congress' long-held tradition of throwing away billions on the development of ineffective or duplicative weapons systems that pad the pockets of big defense contractors. It authorizes $7.9 billion on pie-in-the-sky Star Wars missile defense, a $100 million increase over President Bush's request. Yet, this unproven Cold War concept does not address the very real security threat posed by weapons of significant magnitude that are readily delivered in a suitcase or cargo container.

Developing new nuclear weapons, as this bill encourages, will not deter terrorists or rogue nations like North Korea. It encourages them to answer in kind, especially as the Bush Administration pursues its belligerent policy of preemption.

Further, as long as the United States is in Iraq, the Iraqi insurgency will continue to have a justification to carry out their savage attacks on the Iraqi people and security forces and American soldiers. It is unfortunate the Republican majority continues to believe that throwing more money at the problems in Iraq will somehow slow death rates.

Over 1,500 young Americans and more than 20,000 Iraqi civilians have been killed; the immediate withdrawal of U.S. troops from Iraq is necessary if the United States is serious about bringing peace and security to the Iraqi people.

Whether or not those soldiers currently fighting overseas are active duty, National Guard or reserves, they all deserve the same access to health care. Unfortunately, this bill once again shortchanges our troops. The Chairman of the Armed Services Committee unilaterally stripped out language in the bill that provided the same health care to our National Guard members and reservists as the rest of our soldiers. President Bush's war in Iraq has leaned heavily on National Guard members and reservists. It is only fair that we provide them—and their family members—the same health care as the rest of our soldiers; their sacrifice has been no less.

The American people may be surprised to know that even a defense bill can be used to advance the agenda of the religious right. An amendment to allow servicewomen to use their own funds to obtain an abortion at an overseas U.S. military medical facility was beaten back by conservatives who continue to prove they vote first, and think second.

How can we ask our women in uniform to fight abroad for the rights of others, when we prevent them from exercising their own constitutional right to choose?

I urge my colleagues to vote down this wasteful and irresponsible bill. It is time we had a defense budget that lives within its means, accounts for what is truly required in Iraq, and provides the best possible support for all our troops. Nor does it alleviate years of Defense Department policies that discriminate against sexual orientation and gender.

Ms. SLAUGHTER. Mr. Chairman, I am pleased to have the opportunity to offer this very important amendment that will help the Department of Defense improve their capability to provide care to victims of sexual assault in the military.

Earlier this month, the Department of Defense released their first annual report to Congress on sexual assault in the military. And the findings were not good. Of the 1,275 cases of sexual assault among service members, only 113 cases resulted in a court martial.

More discouraging is the fact that 278 cases were not pursued because the perpetrator could not be identified. And, another 351 cases were not pursued because of unsubstantiated or insufficient evidence. Mr. Chairman, this amounts to 629 sexual assault cases, nearly 50 percent of those reported, where the perpetrator is still out there, free to commit further assaults on our brave service women defending our country.

Surely the Department of Defense can and needs to do a better job of training new and existing first responders to respond to sexual assaults occurring in the military. Criminal investigators, medical professionals, and victims advocates all need to be trained on gathering, protecting, and processing evidence.

The Defense Department must do a better job of providing the best possible care for service women who are victims of sexual assault. And that is what my amendment will do.

Last March, servicewomen spoke before the Congressional Women's Caucus about the inability of some military healthcare facilities to appropriately care for women who had been sexually assaulted. In some areas, medical providers are not familiar with the gathering and processing of rape kits. More dismaying, some facilities are not even equipped with rape kits. With great emotion, these service women recounted the military's failure to provide them with a private examination or tests for pregnancy and sexually transmitted infections.

Mr. Chairman, we cannot allow women to be victimized once by their perpetrator and then again by the lack of appropriate, compassionate care at military healthcare facilities.

My amendment seeks to prevent our women in uniform from experiencing this egregious treatment. It requires the Secretary of Defense to assess the training and resource gaps, which have prevented victims of sexual assault in the military from receiving the best possible care. Based on this assessment, my amendment also requires the Secretary to develop a plan to address these gaps by enhancing the accessibility and availability of supplies and trained personnel by military victims of sexual assault.

It is my hope that through this plan the Secretary will require military healthcare facilities to carry emergency contraception (EC). Although emergency contraception has been available in the U.S. by prescription since the late 1990s, it is not available to U.S. servicewomen. EC is widely recognized as an integral part of comprehensive and compassionate emergency treatment for sexual assault survivors. We do a disservice to women in the military by not requiring EC be available to them after a sexual assault.

Women in the service put themselves in harms way to protect us and our Nation from threats at home and abroad. The least we can do is ensure they are protected when facing a horrible tragedy. My amendment helps the Defense Department provide military victims of sexual assault with honor, respect, and the best possible care that they deserve.

I urge everyone to support my amendment.

Ms. WOOLSEY. Mr. Chairman, when a woman enlists in the military to serve her country honorably, she expects that the resources will be there to take care of her in the unfortunate tragedy of rape. But a recent report from the Miles Foundation revealed that three fourths of the female veterans who were raped did not report the incident to a ranking officer. One third didn't know how to; and one fifth believed that rape was to be expected in the military. Even if they had reported the incident, if the service woman who had been sexually assaulted seeks care at a military healthcare facility, she may not be granted a private examination or tests for pregnancy and STIS. This is an outrageous way to treat our female military volunteers. That's why I urge my colleagues to support the Slaughter amendment, which would assure that our service women have access to the medical care and evaluation that they need when this type of strategy strikes. We owe them no less.

Mr. GRAVES. Mr. Chairman, I would like to commend the gentleman from Washington on this amendment. It is important to evaluate and understand the financial difficulties that citizen-soldiers face when called to serve their country.

Over 400,000 citizen-soldiers have been mobilized since September 11, 2001. This is the largest activation of National Guard and Reserve members since World War II and will likely continue for the immediate future. About half of our total military are National Guard and Reserve forces.

Recent government studies show that 40 percent of them make less money while mobilized than they earn in their civilian jobs. To solve this pay problem, I have introduced H.R. 838, which would offer employers a tax credit to help make up some of the pay gap.

Military Reservists and Guardsmen unselfishly answer the call to serve and protect their country at a moment's notice, many times at a personal and financial cost. In turn, we need to show appreciation and support for their patriotic efforts.

We ask a lot of those who serve the cause of American freedom. Financial ruin should not be one of those sacrifices.

I commend the gentleman for his work on behalf of our Guard and Reservists and urge passage of this amendment.

Mr. HUNTER. Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The Acting CHAIRMAN (Mr. TERRY). The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider the amendment No. 2 printed in House Report 109-96.

AMENDMENT NO. 2 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

Mr. BRADLEY of New Hampshire. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. BRADLEY of New Hampshire:

At the end of subtitle C of title XXVIII, insert the following new section:

SEC. 28 . POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) POSTPONEMENT.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-09510; 10 U.S.C. 2687 note) is amended by adding at the end the following new section:

"SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

"(b) ACTIONS REQUIRED BEFORE BASE CLOSURE ROUND.—(1) The actions referred to in subsection (a) are the following actions:

"(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

"(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

"(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

"(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

"(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

"(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

"(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

"(ii) the return of the major combat units and assets described in subparagraph (B);

"(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

"(iv) the National Maritime Security Strategy; and

"(v) the Homeland Defense and Civil Support directive.

"(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

"(c) ADMINISTRATION.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005.".

(b) INEFFECTIVENESS OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.—Effective as of the date of the enactment of this Act, any list of military installations recommended for closure or realignment submitted to Congress pursuant to section 2914 of the Defense Base Closure and Realignment Act of 1990 shall have no further force and effect.

The Acting CHAIRMAN. Pursuant to House Resolution 293, the gentleman from New Hampshire (Mr. BRADLEY) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BRADLEY).

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, let me start out by thanking the ranking member, the gentleman from Missouri (Mr. SKELTON); the chairman of the House Committee on Armed Services, the gentleman from California (Mr. HUNTER); the gentleman from Colorado (Mr. HEFLEY); the gentleman from Arkansas (Mr. SNYDER); and all of the members of the House Committee on Armed Services for the defense of our Nation and for working so hard for our troops.

The gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) are indeed fine leaders and it is a pleasure to serve under them in the bipartisan fashion that they conduct the committee business.

Mr. Chairman, let me explain this amendment because the sponsors believe that this amendment is critical to our Nation's defense. It postpones the base realignment and closure process until 1 year after a number of studies are completed and until 1 year after the troops have returned home from the Iraqi theater.

The studies in question, number one, the Overseas Base Commission Report, which was released on May 9, 4 days before the BRAC list came out, what of the 70,000 troops that are slated to return to our country and the 30,000 new troops that we have authorized? Where will they be housed, on what bases? Where will the children of these troops go to school? What are the MILCON expenditures likely to be that we have to appropriate? We need to have those answers.

We also need the Quadrennial Defense Review, the potential threats that our Nation faces, the force structure, the defense infrastructure.

Mr. Speaker, the last QDR was completed on September 30 of 2001, so the Department of Defense is using outdated information, information that predates Iraq, predates the hostility in Afghanistan, predates the war on terror. The next QDR is slated to be completed this fall, too late for the BRAC Commission's report.

Other studies that are necessary are the National Marine Security Strategy Study by the Department of Defense, as well as the Secretary's report assessing our Nation's military installation needs.

Mr. Speaker, let us be extremely careful before closing 33 major bases and hundreds of smaller facilities that we have not undermined through the base closure process the security of our Nation.

This amendment ensures that we exercise that necessary care and necessary restraint so important to the security of our country.

Mr. Chairman, I yield 3 minutes to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Chairman, I thank the gentleman from New Hampshire (Mr. BRADLEY) for his leadership on this important issue.

I rise today in support of this amendment, delaying the implementation of the BRAC recommendation, because it is clear that we need to slow this process down. Given the broad range of uncertainties surrounding our overall military infrastructure and operations, now is not the time to be shutting down domestic military installations. There are serious questions that need to be answered first.

We have more than 120,000 soldiers currently deployed in Iraq and Afghanistan. We are planning to realign our overseas bases. We are less than 1 year away from completing a comprehensive Quadrennial Defense Review. There are simply too many moving parts and too many unanswered questions right now to complete this domestic BRAC round end process on the currently prescribed schedule and close bases here at home.

Simply put, we need to slow the process down to ensure we do not make critical mistakes when we are deciding our national security and military strategy. These are decisions that we should make with all available information and we are nowhere near having all of the necessary information.

Ellsworth Air Force Base in Rapid City, South Dakota, is my State's second largest employer and an integral part of our national defense as home to the 28th Bomb Wing and the B–1 Bomber. It is also scheduled for closure, along with 32 other major installations across the country. Now, inexcusably, we have yet to receive complete information regarding the criteria and the reasons for the Department of Defense's recommendations. This is true of many other installations in affected communities.

Site visits by BRAC commissioners are already under way. We are only weeks away from the commission holding regional hearings, including one in Rapid City to discuss the DOD's recommendations. But neither they nor we have received the complete information that was used to make those recommendations.

That fact alone is evidence that there is not adequate time built into this process and ample reason to slow the process down.

I respectfully request every one of my colleagues, regardless of how your district may have been affected by DOD's recommendations, to support this important amendment for our national security and for essential fairness in the process.

Is postponing this BRAC round a reasonable action in light of the fact that we as Members of Congress and every member of the commission lacks the information that we have identified here today, lacks the information underlying the DOD's analysis in their decisions? The obvious answer to that question is "yes," it is a reasonable action. And the obvious vote on this amendment is a "yes" vote.

Mr. HEFLEY. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) is recognized for 30 minutes.

Mr. HEFLEY. Mr. Chairman, I ask unanimous consent to yield 15 minutes of my time to the gentleman from Arkansas (Mr. SNYDER), a very active and thoughtful member of the Subcommittee on Readiness of the Committee on Armed Services, for purposes of control.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

Over the past several years many Members of this body, including myself, have tried to delay or cancel the 2005 Base Closure Realignment and Closure round. Last year, in fact for a couple of years, the House has actually passed something to do that. And last year in the Defense act we passed a 2-year delay which would have required very much similar types of reports and so forth, which we thought was a very reasonable approach to give us more evidence to base our decision on.

I think the approach the gentleman makes today is a very reasonable approach. And I had hopes that last year we could delay the process because it did not seem to me to be the time for a base closure round, and I used many of the same reasons that the gentleman from New Hampshire (Mr. BRADLEY) does. But I do think that last year was the last chance to delay BRAC.

Unfortunately, we faced a veto threat from the President and opposition from the other body, and in the conference committee what we passed here in the House disappeared. And as I said, I think it is too late now. The Secretary of Defense has made recommendations for the base realignments and closures.

The BRAC Commission has been appointed and has begun review of BRAC data. The Commission has held hearings. I think today they started their visits to bases around the Nation. And as the old cliche says, "The train has left the station." I think it is very difficult to call that train back at this stage.

BRAC is a carefully crafted process. It was designed in time to ensure that base closures are made in a fair and nonpartisan manner. The process allows for Congress to disapprove the final BRAC recommendations. And while I recognize that disapproving the recommendations is a difficult hurdle to clear, that is our best remaining opportunity to terminate the BRAC process.

The Bradley amendment before us today may be tempting to anybody who has a military installation in or near their district. Those who dodged the bullet fired by the DOD's BRAC recommendations are still at risk of being placed on a closure or realignment list by the Commission. Those who were not so fortunate face a very difficult task in trying to convince the BRAC Commission to remove their bases from the closure and reassignment list.

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However, those tempted to support this amendment should know that it does have some problems.

First, the amendment would terminate all that has already occurred and would restart the BRAC process at some undetermined time out in the future. For communities not on the DOD's BRAC list, this amendment would reset the process and put them through years, perhaps, of worry that DOD might change its mind. For communities on DOD's BRAC list, the Bradley amendment may spare them temporarily, but they would face the likelihood and perception that DOD is likely to reach the same closure and realignment conclusions when the round recommenced in the future. Such a stigma would leave those communities in a state of limbo.

Can any of us imagine businesses investing money into a community around a base they almost are sure or know will be closed or realigned, but that lacks a redevelopment plan? For such communities, the sooner BRAC is complete, the sooner they will be able to redevelop and attract new businesses and commerce.

Secondly, the Bradley amendment would postpone BRAC until some unknown period in the future. According to the amendment, BRAC would restart 1 year after a number of items are completed, including the quadrennial defense review and the withdrawal of substantially all major combat units and assets from Iraq.

Not only would this rolling delay leave all of our communities without any clarity when the next BRAC round will occur, but it means the next BRAC round ,could occur during an election year. We tried to get away from that because of the partisanship of it. Those that built the 2005 round of BRAC timed it carefully to ensure that Presidential politics or even congressional politics for that matter do not drive the process. So the timing would be a problem, perhaps.

On a final note, the Bradley amendment is effectively dead on arrival, unfortunately. The administration threatened to veto the bill 2 years ago, and I am sure that threat will come about again. I do not think the Senate is in a mood to change its mind, although that may have changed because of the recommendations that were made.

Mr. Chairman, I have the greatest respect for my colleagues from New Hampshire and Connecticut and those who are very interested in this. They have the best of intentions. But with reluctance, I cannot support the amendment, and I encourage a "no" vote on it.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding because he mentioned our great colleague, the gentleman from New Hampshire (Mr. BRADLEY); and I know this is a matter of heartfelt importance to him and to his constituents, and to the gentleman from Connecticut (Mr. SIMMONS) and to all the Members who have bases in their districts that have been targeted.

I have had bases removed from our defense complex in San Diego. I know what it means and how difficult it is, and I can just say that those constituents have had no finer representation than the people who are fighting for them right now. I understand this is a very difficult process. It is a tough one.

We do have another, through this summer, the opportunity for communities to make their case with their congressional leadership to the base closing commission, which reports on September 5; and that is the course that all Members will have to take.

It is a tough, tough call. I join with my friend from Colorado in his analysis of this particular situation. I think the horse is out of the stable at this point, and we need to move ahead with the process; but I want to thank everyone who is involved in this debate.

Mr. HEFLEY. Mr. Chairman, I reserve the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I rise in support of the amendment, and I thank my friend, the gentleman from New Hampshire (Mr. BRADLEY), for his leadership on this important undertaking.

In simplest terms, this amendment simply delays the process of realigning and closing bases across our country until certain events take place and certain reports are submitted to Congress by the Department of Defense. And there are several important reasons why this should take place.

First and foremost, Mr. Chairman, we are at war. We are at war. We have troops abroad fighting in Iraq and Afghanistan. We should focus all of our energy on supporting these troops in the field. We should not be distracted with the complicated burden of realigning our whole military base structure here at home.

In October of 2003, I went to Iraq and learned that our troops were desperately in need of armor on their vehicles. One month later, the Secretary of the Army wrote to me and said getting armor into the field was a "top priority." A top priority, and yet today there are tens of thousands of vehicles in theater that are still not armored. We should be spending our time, Mr. Chairman, and our money on this life-threatening problem and not wasting time and energy and resources on realigning and closing bases.

Second, the strategic environment in which we are trying to operate is changing. The threats from North Korea, from China, from Iran are rising while we are still engaged in Iraq and Afghanistan. How do we know what the future basing requirements will be? We do not. We do not. The quadrennial defense review, the last one we did, is September 2001. The next one due is later this year. The quadrennial defense review will answer the questions that we need answered before we can decide what our basing needs are going to be.

Thirdly, closing bases costs billions of dollars. Not millions of dollars, billions of dollars. The Department of Defense cannot close or dispose of a property until it is properly cleaned up, but the investment of these cleanup dollars takes dollars away from our troops. That is wrong.

Fourth, I hope that our troops overseas will not be there forever. I look forward to when they come home. But when will they come home? Who knows? Where will they go when they come home? Who knows? As for the Guard and the Reserve, we do know that many of them will no longer have a Guard or a Reserve center when they get back.

For example, in my State of Connecticut, where I served for many years as a Reserve officer, they are recommending closing three Reserve centers and realigning the Air Guard's A-10s out of Bradley Field. Why is this good for morale of returning troops? It is not. Why does this help build the force and contribute to readiness of those Guard and Reserve forces still in this country? It does not.

I know from my own service as a member of the U.S. Army Reserve that the location of the drill center contributes to reenlistment and readiness. This is why we need to slow this process down and take a closer look.

Fifth, I represent the Naval Submarine Base New London located in Groton, Connecticut, the submarine capital of the world. Working with our friends around the country, we design, develop, build, maintain, base and deploy the best submarines in the world. The synergy between those who design and build submarines and those who drive them is critical to our national security.

One of the BRAC principles requires "access to logistical and industrial infrastructure capabilities optimally integrated into a skilled and cost-efficient industrial base." This synergy is just what we have between this submarine base and Electric Boat, which designs and builds these submarines. Yet the Department of Defense is violating its own principles for BRAC in making a recommendation to close the base.

Close the submarine base in Groton is kind of like taking cars out of Detroit. Decisions of this magnitude require time and study, and yet the Department of Defense has delayed release of vital data in support of their decision, making it impossible for us, the defense communities, to respond to these decisions in a timely manner. I still do not have the data that was used in their decisions, and yet the BRAC committee will be going up to Groton New London on the 31st of this month. We need additional time, Mr. Chairman, to make reasonable judgments.

We, as Members of Congress, have the responsibility under article 1, section 8 to provide for the common defense. Let us accept these responsibilities. Let us support the Bradley amendment.

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I too want to join in commending the gentleman from New Hampshire (Mr. BRADLEY) for his zealous advocacy on behalf of our men and women in uniform and on behalf of the national defense of this country. We have served together on the Committee on Armed Services, and he is a great, great member.

One of the problems that we have with base closure is we are not talking about bad bases. We are not talking about bases that are not achieving good things on behalf of America. We are not talking about bad workers that are somehow not cutting it. We are talking about wonderful people working at great and historic places that have been a vital part of the national security of our country. The problem is, the world has changed and our military must be leaner and smarter and save money to prepare for the future.

During the Committee on Armed Services markup, we had two different amendments on BRAC, one to eliminate it and one to delay it. The vote on the amendment to eliminate it was eight people for it and 50 against in the Committee on Armed Services. On the one to delay it, there were 10 votes in support of it and 47 against. Also, the chairman, the gentleman from California (Mr. HUNTER), and the ranking member, the gentleman from Missouri (Mr. SKELTON), are in opposition to this amendment, as they were during the committee markup.

Now, why is that? The issue that we have here is this is not a good process to go through, and the gentleman from Connecticut and New Hampshire make good points about wanting additional information and would like to have additional time. The problem is, we cannot take a time out. The United States cannot declare and say, Time out. We need a couple, 3 or 4 years to go through finding the most efficient way of delivering our national security. The world does not work that way. There will never be a good time to do something like this.

As the gentleman from Colorado (Mr. HEFLEY) pointed out, we have already had a considerable amount of effort put into coming up with the process thus far. That money will be wasted if we were to delay this further.

I think it also bears repeating, in reflection on the fact that the supporters of base closure have been bipartisan, both the Clinton administration and the second Bush administration have been in support of another round of base closures. When we look at the numbers of former Secretaries of Defense and former chairmen of the joint chiefs, they have been in support of another round of base closures.

And it is not just closure; it is realignment. It is shifting things around to modernize the military and to prepare for the efficiencies of the future. If we delay 1 year or 2 years or 3 years, it delays the savings that can come from a realignment and closure. Obviously, the American people expect us as lawmakers to administer government efficiently.

Probably the biggest concern I have, as someone who also has facilities in my district and in our State, we know the turmoil that communities go through. This will prolong that turmoil were we to adopt this amendment and delay it. So I strongly recommend a vote against this amendment. Let the process proceed in a very fair manner over the next 4 or 5 months.

Mr. Chairman, I reserve the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Chairman, it is with great pleasure that I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Chairman, I thank the gentleman from New Hampshire for yielding me this time, and I appreciate his efforts on this important issue.

Mr. Chairman, I rise today in strong support of the Bradley amendment to delay the 2005 round of base closings and realignment because of questions involving these decisions, the timing, and also the way it is affecting my State.

The BRAC recommendations released by the Secretary of Defense include the removal of eight C–130 aircraft from the 130th Airlift Wing in Charleston, West Virginia. That means taking all the aircraft out. Do you have an air base without aircraft? I do not believe so. This removal will cost hundreds of jobs in the Kanawha Valley. The loss of the C–130s will strip the 130th of its primary mission, and it will hurt the West Virginia National Guard that responds to natural disasters in our State quite frequently and also inhibits their important mission in training and readiness.

The 130th Airlift Wing has a long reputation as one of the Nation's elite National Guard units. They have served in the first Gulf War, Kosovo, Afghanistan, and are currently in Iraq. They have demonstrated a commitment to service and sacrifice made by thousands of West Virginians and their families.

Despite adding four new units, the 130th is at 104 percent strength. The unit has a retention rate of nearly 97 percent, fifth best in the Nation. The National Guard Association has consistently ranked the 130th as one of the best units in the country. These are not the rankings of a unit that should be realigned.

The Bradley amendment to delay BRAC is the correct approach because the additional time will allow the Department of Defense and the BRAC Commission to gather accurate information about the bases they are closing and realigning.

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In West Virginia's case, the Department of Defense makes the incorrect assertion that Yeager Airport is only large enough for eight C–130s, when it can already accommodate 14 C–130s, and they are making accommodations to accommodate up to 26 C–130s.

I ask my colleagues to join me in supporting the Bradley amendment to allow a comprehensive look at our defense needs prior to the closing of these important facilities.

Mr. HEFLEY. Mr. Chairman, I reserve the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Bradley-Herseth-Simmons-Allen amendment to postpone the base closure process. Why are we closing military installations when we are at war? Why are we building new bases in Iraq while closing them in America? Will our troops in Iraq and Afghanistan have the right facilities to come home to?

These are the questions my constituents are asking. I do not have good answers, but neither does the Pentagon. This BRAC was formulated in 2001 before September 11 and before our occupation of two countries. The world has changed, but the process has not.

The Pentagon says it wants to bring home 70,000 troops, but the Overseas Basing Commission has found that the massive realignment of forces requires that the pace of events be slowed and reordered.

This validates our concern that this BRAC is the wrong process at the wrong time. If we do not do this right, our Nation risks losing key assets that can never be reconstituted, like the nuclear shipyard in Kittery, Maine. We jeopardize our security if we close infrastructure before we first come to consensus on an overall defense and homeland security strategy.

Our amendment puts the horse where it belongs, before the cart. It requires implementation of the Overseas Basing Initiative, the Quadrennial Defense Review, the National Maritime Security Strategy and the Homeland Defense and Civil Support Strategy before BRAC takes effect.

It is the right process, and I urge my colleagues to vote "yes" on the Bradley amendment.

Mr. SNYDER. Mr. Chairman, I reserve the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I rise in strong support of this amendment.

Some Members wonder why I would support this amendment, considering the fact that I am the most fiscally conservative Member of Congress and vote for the least amount of spending. But I think this amendment is a good amendment, and I think the closing of these bases represents bad policy. I do not have a base in my district that is being threatened to be closed.

Let me tell Members why I think this is a mistake. First, I think the process is very poor. I think we are ducking our responsibility. To turn this responsibility over to a commission and duck the responsibility of facing up to making tough decisions, I think, is something we do too often. Too often in the Congress, we do things we should not be doing, and we forget to assume the responsibilities we have. In this case, I think we are not assuming the responsibility to face up to making this tough decision.

It is claimed we will save $5 billion a year on base closings. We spend $5 billion a month in Iraq. We are spending nearly a billion dollars in building an embassy in Iraq. We are going to build four bases in Iraq that are going to be permanent, costing tens of billions of dollars. I think we have our priorities all messed up.

I think that it makes a lot more sense to keep a submarine base in Connecticut and keep a deep seaport in Ingleside, Texas, than it does to be closing these down and at the same time building bases up around the world.

I think the savings issue is a red herring. Between 1995 and 2001, the last base closing, $6.5 billion was spent, and $6.1 billion was saved. So we are spending more money than we are saving in closing down these bases.

I have a quote here I want to read; it comes from a think tank, one of the defense policy think tanks. This to me is important. "The big story here is not going to be saving money; the big story is going to be preparing the force for future threats by moving it to more logical locations." In other words, defending our borders, protecting our homeland, worry about defending this country is less important than spreading our troops and protecting the empire and expanding the empire and exposing us to greater danger.

This is an issue of policy. This is an issue of process, and this is a red herring when you think you are saving money. We are not going to be saving money in this process. We are just going to be giving an excuse to build bases around the world.

This is the time that we ought to reassess our policies and how we spend our money. This is why a 1-year delay is a perfect time to take time, stand back and figure out when we are going to get our troops home, when are we going to have a defense policy that defends this country and our borders rather than spreading ourselves so thinly around the world and building huge bases in foreign lands.

That, to me, is the real issue. I hope we take deep consideration and support this amendment.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, if you were to travel to North Carolina today, you would find the Navy out trying to buy 35.000 acres of land. Once they buy it, they have to get the environmental permits. Once they do that, they are going to bulldoze the woods and build a runway. After they build a runway, they build a firehouse. After they build a firehouse, they build the enlisted barracks. After that, they build the married housing. After that, they will have to have mess halls, a clinic, golf course, tennis courts, swimming pools, all of the things that people in uniform deserve.

They had all of those things. It is called Cecil Field. They had three 8,000-foot runways and a 10,000-foot runway. It had world-class dining facilities, world-class barracks and world-class family housing. It was already paid for by the American taxpayer, and they shut it down in a previous round of BRAC.

If Members need one word, or two words, to tell you why we do not need another round of BRAC, it is Cecil Field.

Right now, the Navy has to have a place to put their F–18E and Fs when they come off the carriers. Cecil Field would have been the perfect place, but no, because it was closed and the property was given away. And before we gave it away, we had to clean it up environmentally at no telling how many billions of dollars.

So before we closed it and gave it away, just to replace it by building it someplace else, maybe we should not make that mistake again. Maybe the people who are given the constitutional responsibility to provide for the common defense, who every 2 years go out and beg for this job, which entails the constitutional responsibility to provide for the common defense, maybe we ought to make that call and maybe we should not rush into more bad judgments like Cecil Field.

Last year, this House by over a 100-vote margin passed the 2-year delay to BRAC. Now we have even more troops coming home from Korea and Iraq. We have agreed finally to grow the Army and the Marine Corps. Where are we going to put these folks if we are closing bases? And how many more mistakes like Cecil Field are we going to rush into just for the sake of doing something, even if it is wrong?

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

Mr. SNYDER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, I thank the gentleman for offering this amendment, and I rise in support of it.

We could go through a list of all of the problems that will be created, but let me just paint a picture here. At Fort Monmouth in New Jersey, there are really the best people in the world, mostly civilians, engineers, scientists, procurement specialists, providing communications, surveillance, tracking friendly forces and unfriendly forces, providing equipment, services, software that men and women in the field in Iraq and Afghanistan need and use every day. Thousands of jobs will be sent elsewhere.

Now picture this: A commander in Iraq places an emergency call back to the U.S. The insurgents have changed the electronics in the roadside bombs, the IED devices, and they need new electronics to detect and disarm them. The reply, "I am sorry, that guy does not work here anymore. We are in the middle of realignment and we have not hired his replacement yet."

Repeated 5,000 times, "That guy does not work here anymore," that is what is at stake here. The gentleman from Arkansas says there is never a good time, there are no bad bases; this is a terrible time.

I can talk about the economic impact of moving jobs away from Fort Monmouth or to some other place. That is not the point. There are soldiers in the field. We are to look after their safety and effectiveness. The Secretary of the Army himself said before the BRAC Commission this past week that they have concerns whether those civilians, those experts with security clearance, with advanced degrees, with specialties, will make the move. How many years of reduced capability can we tolerate while we have men and women in the field?

This is a terrible time to proceed. Let us admit that we have gotten off on the wrong track, slow it down and look after the interests of the people in the field.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield the gentleman from New Mexico (Mr. UDALL) 2 minutes.

Mr. UDALL of New Mexico. Mr. Chairman, first of all, I thank the gentleman from New Hampshire (Mr. BRADLEY) for his hard work on this important issue and support the amendment today.

This amendment simply postpones the implementation of the Pentagon's BRAC recommendations until we have a more thorough inventory of our military assets and priorities. This is entirely appropriate and necessary, considering the number of operations our Armed Forces are currently engaged in around the world.

As we have heard, we are at war. I have great concern about the Pentagon's ability to adequately assess our needs and assets while there are so many soldiers abroad and while the Pentagon awaits recommendations and reviews pertaining to almost all of its branches of service.

My concern about the Pentagon's ability to adequately assess their needs is further heightened by their recommendation to close Cannon Air

Force Base. This recommendation demonstrates to me that they have failed to adequately collect and interpret the facts. Cannon Air Force Base is the home of the 27th Fighter Wing and offers the Air Force and its pilots unrestricted air space and bombing ranges in which to train just off the runways. This is a rarity in today's Air Force as more and more bases experience increasing encroachment. Cannon has zero encroachment.

In addition, the Pentagon did not take into account the New Mexico Training Initiative, which is expected to be approved soon. This initiative would make Cannon's air space wider and taller and allow for training at supersonic speeds, another rarity today.

If we lose this air space, we lose it forever. I urge my colleagues to support the Bradley-Herseth amendment.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 2 minutes to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. Mr. Chairman, I rise in strong support of the Bradley amendment. I do not believe that the Department of Defense's BRAC recommendations were based on facts and future threats, and I believe this amendment is critical to ensuring that we understand the security environment in which we are making BRAC decisions.

The Department of Defense's recommendations continue an irrational and dangerous assault on New England that would leave it as an undefended region of our Nation.

□ 1800

The proposals would close the best performing shipyard in the country, Portsmouth Naval Shipyard, a facility that actually saves the Navy money by completing its work ahead of schedule and under budget. They would realign Brunswick Naval Air Station, the last active military airfield in the Northeast, despite being described as critical to our national security by the Department of Defense. And they would close one of the most cost-efficient and innovative facilities in the Defense Finance and Accounting Service system located in Limestone, Maine.

Worst of all, the BRAC Commission and the affected communities do not even have the detailed information used by the Department of Defense to formulate their proposal. The delay by DOD in releasing the data to the BRAC Commission and local communities is an outrage. It calls into question the credibility of the process. And from reviewing the limited information that DOD has submitted, it turns out that some of the data used by DOD is actually inaccurate. BRAC is not an experiment for testing theories. Once we lose these assets, we cannot bring them back.

Mr. Chairman, our national security is at stake. We must move cautiously when we use these facts to justify our actions, and we must allow the critical actions outlined in this amendment to take place to make sure we understand our future threats before we close any of our key military assets.

I urge my colleagues to support this amendment.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. SNYDER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

The CHAIRMAN. The gentleman from New Jersey is recognized for 2 minutes.

Mr. PALLONE. Mr. Chairman, let me say that I very much support the Bradley amendment. At a time when American troops are dying on a daily basis in Iraq, we simply cannot afford to disrupt the military framework that our soldiers rely on every day to help them in their mission and to keep them alive.

I want to say last week I listened to the BRAC hearings and I saw the commissioners ask many questions related to the fact that our military are now in combat. The Pentagon could not answer many of the more important questions that were asked by the BRAC commissioners. This was not the case in previous BRAC rounds. I have been here since 1988, and I have now been through three or four BRAC rounds. The fact of the matter is there were many unanswered questions regarding the future of our military, and it is simply not the right time to be shutting down military facilities here at home. If you listened to the BRAC last week and you listened to the questions, you could see why in fact the Bradley amendment makes sense.

I want to mention one thing about my base, Fort Monmouth, that was mentioned already by the gentleman from New Jersey (Mr. HOLT). What many people do not realize, and I will use Fort Monmouth but it could be any base, in the case of Fort Monmouth, though, we have people on a daily basis, soldiers in the field and their commanders that will call back and ask for a particular type of communications or electronic equipment that may have to be altered in a matter of days or a number of weeks in order to be able to be prepared for combat, to defend the soldier in the field, to make sure that they are not wounded, to make sure that they are adequately prepared for combat.

Imagine a situation where in the course of the next 2 or 3 years, that research and development, that operation, that communication, electronics function, is transferred to another location and all that science and all that engineering background is lost. It would be very, very difficult to operate and make sure that that soldier in the field is properly equipped and is able to deal with that particular situation that he or she may face on a daily or weekly basis. That is why it does not make sense to do this in time of war.

Support the Bradley amendment.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 1 minute to the gentlewoman from Wisconsin (Ms. MOORE).

Ms. MOORE of Wisconsin. Mr. Chairman, I would like to associate myself with the many sage comments of supporters of this amendment. The gentleman from Colorado has opined that the BRAC Commission would reach the same conclusion if we were to grant this extension. I really question that. Since we are at war, we have engaged in two wars since the BRAC Commission was last considering these bases, we have had many humanitarian requests for assistance. Our men and women in uniform have been stretched thin all across this country and throughout the world.

Mr. Chairman, I would ask that we support the Bradley amendment because I believe that a comprehensive examination of our future defense needs, our potential threats, have not been adequately reviewed.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON of New Mexico. Mr. Chairman, I thank the gentleman from Colorado for yielding me this time. I thank the gentlemen from New Hampshire and Connecticut for their leadership on this issue.

The Base Realignment and Closure Commission is starting its visit to America's bases today and many of our communities do not have the data or the analysis to be able to explain where they are wrong. That is not fair. We are expanding the Army and the Marine Corps by 39,000 troops over the next 3 years and bringing back 70,000 troops and their families from overseas. We are fighting a war 6,000 miles from home and about to go through a quadrennial defense review to restructure our forces and changing around the organization of the entire United States Army. BRAC was a bad idea when we started it, and it is an even worse idea today.

I encourage my colleagues to vote in favor of the amendment.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I thank the gentleman from New Hampshire for yielding me the time and for his leadership here. I thank all of those who are participating in this evening's debate.

Mr. Chairman, I rise today to speak in strong support of the Bradley/Simmons/Herseth/Allen amendment to postpone the base realignment and closure. This amendment will force the

Department of Defense to postpone BRAC for 1 year until more information is out there. I believe it is imperative to have a real discussion of this issue before the closures begin.

The amendment would postpone the BRAC recommendations until 1 year after the last of the following actions occurs: the recommendations of the Commission to Review of Overseas Military Facility Structure are implemented by the Secretary of Defense; a substantial number of American troops return from Iraq as determined by the Secretary of Defense; the House and Senate Armed Services Committees receive the quadrennial defense review; the national maritime security strategy is implemented; and the homeland defense and civil support directive is implemented.

While I do not have any bases in my district, I recognize the devastation too many of my colleagues' districts who have bases will incur by the closure of those bases. In today's environment of job loss all around the country, many of these towns that depend on the military bases for their livelihoods will be simply devastated if these bases were to close. Before the Department of Defense closes bases, they need to keep in mind what the closure will do to the communities that have been supportive of our military for many, many years. I urge all of my colleagues to support this amendment to make sure we have all the facts before us before this process moves any further forward.

Mr. SNYDER. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I want to thank the gentleman from Arkansas for yielding me this time.

Mr. Chairman, I rise in strong support of the Bradley amendment because my hometown, Cleveland, is losing 1,100 jobs. The Defense Finance and Accounting Service, DFAS, which is the fourth largest employer in Cleveland, is shifting these jobs to DFAS facilities in Columbus; Denver, Colorado; and Indianapolis. The NASA Glenn Research Center will also lose 50 civilian military research jobs as a part of BRAC. The Army research laboratory at Glenn is losing the vehicle tecnology directorate. And, finally, the Navy Corps Reserve Center in Cleveland will close and lose 25 jobs.

The Secretary of Defense is required to consider the economic impact on existing communities in the vicinity of military installations. In this case, the Department of Defense erroneously states that a 0.1 percent job loss in the Cleveland metropolitan statistical area has minimal economic impact. However, the Department of Defense failed to take into account the current economic position of the Cleveland area.

Cleveland has been labeled as the poorest city in the country today. Its poverty rate of 31.3 percent is the highest in the Nation, according to the most recent Census Bureau data from 2003. Cleveland's number one ranking in poverty rate results from the significant job losses in the steel and manufacturing industries over the past several decades.

These job losses continue. For example, the current 2006 budget recently passed by Congress would slash up to 700 high-paying Federal jobs at the NASA Glenn Research Center. The economy around Cleveland is stagnating. It is inconceivable that the Department of Defense thinks that 1,100 more job losses will not have a major impact on the city of Cleveland.

If the process used to cut these jobs is flawed, I have no choice but to vote for a fix to disable the BRAC process.

Mr. HEFLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in strong support of the Bradley amendment that would postpone the BRAC recommendations until 1 year after several important actions by the Department of Defense occur, including the recommendations of the Review of Overseas Military Facility Structure are implemented by the Secretary of Defense and the Armed Services Committees receive the quadrennial defense review. These are important and very telling studies that have not yet been completed that will give us in Congress a much clearer picture of our military's future landscape and needs.

For example, Mr. Chairman, I just returned a few moments ago from my district where I had the pleasure of meeting one of the nine BRAC commissioners as he toured Naval Air Station Atlanta in my district. While we were there, a comment was made that the commander of the facility would like to have rolled out the 40-plus planes, Humvees, and Cobra helicopters on the tarmac for review, but they are all deployed in the war on terror. Mr. Chairman, the DOD has recommended that these assets be realigned elsewhere. Yet I am concerned that proper due diligence has not been paid to consider the overall force structure needs of the military, the very purpose of the QDR that will not be completed for months.

If BRAC is to occur, I believe that it can be carried out in a much more effective manner once we have a better idea about what the future holds.

Mr. SNYDER. Mr. Chairman, I yield 1 minute to the gentlewoman from South Dakota (Ms. HERSETH) who is one of the cosponsors of the gentleman from New Hampshire's amendment.

Ms. HERSETH. I thank the gentleman for yielding me this time.

Mr. Chairman, I would just like to echo the comments made by the gentleman from Texas (Mr. PAUL) a little bit ago. It has been about a year since I came to Congress to represent South Dakota. This is one of those instances in which we do have time to do the right thing. We can take a step back and take a breath and realize that the train has not left the station and the growing frustration of Members of this body as you can see from the testimony offered today is about whether or not we have complete information for us to make wise and prudent decisions and for the commission to make wise and prudent decisions. And we can learn from the lessons of what is happening with our overseas Base Realignment and Closure Commission when they released major conclusions and recommendations on May 9, only 4 days before the BRAC list was released.

According to that report "the detailed synchronization required by so massive a realignment of forces requires that the pace of events be slowed and reordered. That is precisely what the Bradley amendment is requesting to do, an action this body has taken before.

Again, I encourage my colleagues to vote "yes" on the Bradley amendment.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. CONAWAY), a member of the committee.

Mr. CONAWAY. I thank the gentleman from Colorado for yielding me this time and appreciate this opportunity, Mr. Chairman.

I want to speak against the Bradley amendment. Many of my colleagues have stood at these microphones this afternoon and said it is our responsibility as Members of this House to perform this function. I would respectfully disagree with that. No one member of this committee could speak or vote to close a facility in their district.

□ 1815

I represent a community that has a base that was not on the list, and the euphoria of that day would be lost if we have to put that community back through this process over again.

All of the communities affected have an opportunity to present their best foot forward through the BRAC Commission's visits. The gentleman from Georgia has already said he met with one of the members of the BRAC Commission on that base that was affected today. That process will go on. Those communities will be able to demonstrate to the Commission that the criteria were improperly applied to their bases and present their case for keeping those open.

So I respectfully disagree with the Members who have spoken in favor of the amendment and ask my colleagues to vote against the Bradley amendment.

Mr. HEFLEY. Mr. Chairman, I yield myself such time as I may consume.

It will not be much time because we are coming to the end of this. I just want to say this. I think we have heard some excellent debate here this afternoon, and the arguments have been very good, mostly in favor of the Bradley amendment and very positive. And if I thought it was possible for us to get from here to there in a reasonable manner, as those who serve on the Committee on Armed Services with me know, I would be very sympathetic with the Bradley amendment.

The gentleman from New Hampshire (Mr. BRADLEY) and the gentleman from Connecticut (Mr. SIMMONS) and the gentleman from Mississippi (Mr. TAYLOR) particularly serve on the Committee on Armed Services. I serve with these gentlemen on the Committee on Armed Services. They are fine, decent, hard-working, thoughtful members of the committee that are valued by, I think, all of their colleagues on that committee.

And I got to thinking about this as we have approached this day, if anyone could have kept those bases of theirs off the list, they would have been able to do it because they have that kind of respect. But the gentleman from Texas made the point that the way the BRAC situation is set up is to take us out of that formula at this stage and to let the Department of Defense and then the Commission do their work. Once the Commission gets started, we can get back into it and do whatever we can do to do that, but it was designed to take politics out of it.

So the people who try to make a political issue out of someone's base closing, I think, are making a very bad mistake and are fooling the American public.

And we see this from both sides going on, rushing to say, oh, my gosh, if someone else had been there. No, that is not the case. This should not be a political issue; this should be a national defense issue. It should be evaluated based upon the need to defend this country. And we will have disagreements about what is needed and what is not needed, but that is what it should be based on. It should not be political.

I commend these gentlemen and all those who have spoken. They did an excellent job.

But I encourage people, reluctantly, not to support the Bradley amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

I will be brief here. I once again want to commend the gentleman from New Hampshire (Mr. BRADLEY) for the work he does on behalf of our country and on national security. He is a great member of the committee.

I would like to restate two points. First of all, there is never a good time to do a round of base closure. The United States cannot say, let us take a break here for a few years, let us just stop having conflict, let us let the tension go away so we can all work this out on our time schedule.

It is not going to work that way. The world has never worked that way. There is never a good time. This is the time, and the process needs to move forward.

For those Members who are watching in their offices and who follow the committee process, the Committee on Armed Services dealt last week with two different amendments to either eliminate or delay the BRAC process, and the vote on one was 8 in support, 50 against. The other one was 10 in support and 47 against.

The committee now recognizes, as has been the gentleman from Colorado's (Mr. HEFLEY) metaphor, The horse is out of the barn, and the opposition to this amendment includes the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), the ranking member.

With that, I recommend a "no" vote on the gentleman from New Hampshire's (Mr. BRADLEY) amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield myself such time as I may consume.

First of all, I would like to commend my colleague from Arkansas and my colleague from Colorado for the very courteous way in which they have conducted this debate, allowing those of us who did not have adequate time to speak to be able to do so tonight.

Mr. Chairman, I believe that we must be very cautious before reducing our Nation's industrial base capability and base capacity. Many of the 33 bases are irreplaceable national security assets. For instance, the nuclear license facility in my area, the Portsmouth Naval Shipyard, it will never be recreated again if closed. The Portsmouth Naval Shipyard has served our Nation well for 200 years and saves taxpayers millions and millions of hard-earned dollars while returning our Nation's nuclear submarines to the water ahead of schedule.

Mr. Chairman, we all know that our Nation is fighting a war on terror. It began on a fateful morning in September 3½ years ago. Let us be careful before we close irreplaceable national security assets that we will not have the ability to recreate without either huge expense or local opposition.

This amendment appropriately delays that process, enables our Nation to study that process so that we can best defend ourselves from the threats to our national security.

I urge my colleagues to vote for the Bradley amendment.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today in strong support of the Bradley amendment to H.R. 1815 to postpone the 2005 Base Realignment and Closure (BRAC) recommendations until Congress receives critical reports from the Overseas Basing Commission and the 2005 Quadrennial Defense Review.

Quite simply, this is the wrong process at the wrong time. Even as 100,000 of our men and women are in uniform are serving overseas in the Middle East and our armed services continue to miss their recruiting goals, this Administration has rushed forward with a plan that closes 33 major bases across the country. We should not be closing and consolidating bases and infrastructure here in the states now, when in another 2 years we may be bringing a significant amount of troops and equipment back from Europe and other forward deployed locations and we would have to spend more money again to reopen or recreate space for them.

Since the Pentagon released their recommendations on May 13, the BRAC commission has moved swiftly forward with its job. Yet even as BRAC begins to hold regional hearings and site visits as early as next week, the Pentagon has yet to release the detailed and facility specific information that was used to formulate their recommendations.

The BRAC process has the potential to drastically impact communities surrounding facilities slated for closure or realignment, and it is vital that this process be as open and opaque as possible. However, if the department continues to delay the release of this information, these same communities will be unable to asses or challenge the Pentagon's recommendations in the limited time they have remaining.

Anyone familiar with the 103rd Fighter Wing at Bradley, the Sub base in New London, and the assets both bring to our national defense are at a loss to explain these recommendations. The 103rd calls home an international airport with the capability and resources to host a range of aircraft, large and small—including Air Force One. Yet, the Pentagon apparently deemed Bradley unable to retain their current aircraft or take on more. In New London, one finds incredible and dynamic synergy between the base, the Sub School and an industrial base capable of manufacturing and repairing today's most advanced vessels. Yet, the birthplace of the modem submarine service was unable to garner enough military value points in the Pentagon's review to stay off the BRAC list.

Were other options explored? How did each score in critical evaluation areas? Did the Pentagon accurately asses both bases and their capabilities? Will leaving the state, like several others, without a flying unit affect recruiting and retention for the Air National Guard? These are all questions that hold the key to the future of the "Flying Yankees" and the Sub base—questions that cannot be answered until the Pentagon levels with us and countless other bases around the country facing the same delay.

I sincerely hope that there is no agenda behind this delay. But the clock is ticking and deadlines are fast approaching. Next week, four commissioners will visit the New London Submarine base without ever seeing the facility specific data that led to its recommended closure. And, in little over a month, Connecticut will have the opportunity to present its rebuttal to the recommendations to the commission. The submariners, airmen and communities affected deserve the most thorough and extensive review possible because once these recommendations are implemented, they can never be undone.

There is no doubt that Connecticut was hit hard by BRAC, but this is not a political or parochial issue. This is an issue of ensuring the best possible defense of our Nation, and the best possible resources for our men and women in uniform. But neither this Congress, nor the BRAC Commissioners, can make a judicious and thoughtful review of these recommendations with the lack of data and shortened timeframe we now face.

In 2002 I voted in the Armed Services Committee to repeal the BRAC process outright, and again in 2003 to postpone it for 2 more years, because I have felt all along that the process had serious flaws. However, there is still time to put on the brakes before we reach the point of no return. That time is now. I urge my colleagues to support this amendment.

Mrs. JONES of Ohio. Mr. Chairman, I thank my colleagues on both sides of the isle for their leadership on this issue and I rise in support of the Bradley/Simmons/Herseth/Allen amendment to the National Defense Authorization Bill.

Mr. Chairman, why are we proposing base closures during a time of war? This BRAC round should be delayed until the recommendations of the Review of Overseas Military Facility Structure are implemented by the Secretary of Defense, a substantial number of American troops return from Iraq, the House and Senate Armed Services Committees receive the quadrennial defense review, the National Maritime Security Strategy is implemented, and the Homeland Defense and Civil Support directive is implemented. It is important that these issues be addressed before implementing the BRAC process because once a base is closed, it can never be reopened.

In the 11th Congressional District and in Northeast Ohio, over 1100 jobs will be lost through the BRAC process. These job losses will have a tremendous economic impact on the City of Cleveland, which has been named "The Most Impoverished City" in the country. Now is simply not the time for BRAC; in Cleveland or around the country.

Communities affected by the BRAC process are going to be hit with a double whammy—once when the base closes and the military leaves town, then again when the Defense Department leaves an environmental mess behind: unexploded bombs, chemical contamination, and environmental toxins.

I believe we need to address the environmental and redevelopment issues pending from previous rounds before initiating another round of BRAC closings. According to the General Accountability Office, 28 percent of the bases closed in previous BRAC rounds have still not been transferred, which means about 219 square miles of property are sitting unused.

Mr. Chairman, I realize the importance of the BRAC process, however, now is simply not the time for it. I commend my Colleagues STEPHANIE HERSETH and JOHN THUNE for introducing legislation to address this issue. I support this amendment.

Mr. HOLT. Mr. Chairman, I rise today in strong support of the amendment to the Fiscal Year 2006 Defense Authorization bill offered by the gentleman from New Hampshire, Mr. BRADLEY. Like my friend from New Hampshire, I believe that the current BRAC round should be delayed and the process re-evaluated. Let me explain why.

At the BRAC hearing on May 4, BRAC Commission Chairman Anthony Principi and several other Commissioners asked Defense Department witnesses whether they had taken into account the need to house troops returning from Europe and other overseas locations as part of the BRAC evaluation. The Pentagon's witnesses assured the Commission that, yes, the department had indeed factored the returning troops into the equation, and that the proposed BRAC list would reflect those planning assumptions.

The next day—the very next day—Mr. Al Cornella, Chairman of the Overseas Basing Commission, issued a statement in which he said in part:

> Our review leads us to conclude that the timing and synchronization of such a massive realignment of forces... requires that the proposed pace of events for our overseas basing posture be slowed and re-ordered. Such a step is of paramount importance in addressing quality of life issues for 70,000 returning American military personnel plus their families. Schools, health care and housing need to be in place at domestic receiving bases on the first day troops and their families arrive home.

Mr. Cornella went on to note that "The interagency process has not been fully used in the development of the Department's plan" and that "The Commission notes there has been almost no public discussion of this multi-billion dollar process that affects the security of every American."

In other words, DoD had failed to truly factor in the return of American forces from overseas into the BRAC equation . . . and the Overseas Basing Commission isn't the only independent body to question the Pentagon's BRAC criteria.

On May 3, the Government Accountability Office issued a report on the methodology used by the Pentagon in the BRAC process that states the Defense Department "did not fully consider the impact of force structure changes underway and the planned restationing of thousands of forces from overseas bases."

Mr. Chairman, we know the day is coming—and I pray that it's sooner rather than later—that those serving in Iraq and Afghanistan will be coming home. The Overseas Basing Commission and GAO are warning DoD and the Congress that we must ensure that any changes in our domestic basing structure do not leave these troops and their families with no place to call home. That's reason enough to delay the current BRAC round, but there are others.

The Defense Department will not submit its report on the Quadrennial Defense Review—the QDR, as it's known, is the Department's method of examining of America's defense needs from 1997 to 2015—until at least the first quarter of 2006, after the current BRAC round has run its course. Several BRAC Commissioners have questioned the wisdom of proceeding with the current BRAC round before the QDR report has been delivered to Congress. I would argue, as others have, that this is another example of putting the proverbial cart before the horse. How can DoD restructure its forces for the future—including its domestic and overseas bases—when its primary blueprint for the future is still a work in progress?

For my part, I've also discovered a BRAC-related planning issue that the Pentagon does not appear to have addressed. Nowhere in the hundreds of pages of BRAC reports that DoD has thus far made public will you find a single reference to the difficulty in getting properly qualified scientists and engineers the security clearances they need in a timely fashion.

Why is this important? At the May 18 BRAC hearing on the Army's portion of the proposed BRAC list, Army Secretary Francis Harvey said, "I won't sit here and tell you that we expect all the people from Fort Monmouth to move to Aberdeen Proving Ground . . . I won't sit here and tell you that that's not a concern." Mr. Speaker, the bottom line is that the vast majority of the skilled scientists and engineers who have current security clearances won't move to Aberdeen Proving Ground or anywhere else. Their lives, their families, their research centers are all in New Jersey—and we can say the same thing about any other community with a military installation that employs a large number of skilled civilian specialists with security clearances anywhere in the country.

Every day at Ft. Monmouth, the talented engineers, scientists and technicians—working in secrecy—are providing the latest intelligence and communications technologies to our troops in the field, including the roadside bomb jammers that have become so very important in our struggle against the insurgents in Iraq. If we allow the Pentagon to play the BRAC equivalent of musical chairs with our critical research and development assets in wartime, we will lose thousands of skilled, trained, and cleared intelligence and communications specialists that we will not be able to replace for years. That's an unacceptable risk in wartime, Mr. Speaker, and for that reason and the other, strategic reasons cited by the Overseas Basing Commission and GAO, we need to terminate the current BRAC round. Let's restructure our military for the 21st century, but let's do it right, and minimize the risk to our warfighters in Iraq and Afghanistan. Again, I urge adoption of the Bradley amendment.

Mr. DELAHUNT. Mr. Chairman, I rise today in support of the amendment.

Since the BRAC list was announced, many of my constituents have been asking the same question. Did the Pentagon, did the White House, take into account the homeland security implications of closing military bases?

The honest answer is that it doesn't appear so. In fact, it doesn't appear that anyone is obligated to consider the homeland security implications of these base closings.

On September 11, 2001, fighter jets from the 102nd Fighter Wing of the Otis Air Force Base on Cape Cod, Massachusetts, were the first military presence to arrive on the scene in New York City.

Just last week, the Air Wing escorted an Al Italia flight to Bangor, Maine, after it was discovered that a passenger on board was on the no-fly list.

Yet, Otis is slated for closure on the BRAC list.

It takes nine minutes for the fighters on Cape Cod to reach New York City. Nine minutes because they can take off and land in totally unrestricted air space. The same can't be said of Atlantic City—where some of the planes may be reassigned.

We shouldn't have to ask commercial air traffic to back off so we can scramble our own planes to defend us.

Contrary to the prevailing logic at the Pentagon, national defense and homeland security are not conflicting priorities—they go hand in hand. Many of these bases—like Otis—complement the defense of our homeland.

I urge the adoption of this amendment.

Mr. ORTIZ. Mr. Chairman, I rise in support of the amendment by the gentleman from New Hampshire, Mr. BRADLEY and join him in his concerns about conducting a BRAC right now.

There are a number of concerns that I have about conducting base closures during a time of war, and without the benefit of global forethought.

I have spoken to the need for this Nation to be more focused and more careful about how we proceed.

We are conducting a global war.

We are closing bases overseas.

We are just one year out from our QDR to establish our global strategic footprint.

It is folly to proceed with domestic base closures while we are at war and unclear of our global military presence.

It is akin to replacing a hot engine in a flying plane—we ought not do it.

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of the Bradley amendment. We are a nation at war and now is not the time to be closing American military bases.

In formulating the BRAC list, Secretary Rumsfeld ignored the base-closure criteria that Congress approved. Just yesterday, an Air Force BRAC spokesman admitted that the extensive criterion used to evaluate the strategic military value of each base was not adhered to by the Pentagon. Instead, the Base Closure Executive Group used their "collective judgment" to recommend closure for bases that had higher rankings—such as the Niagara Falls Air Reserve Station—than many others which were kept off the list.

This amendment would let the DoD know that a group's "collective judgment" is not good enough. Secretary Rumsfeld better have some stronger arguments than "collective judgment," because his proposed BRAC list would cripple Guard and Reserve recruitment and weaken our homeland defense.

By passing this amendment, Congress would recognize that the DoD's base closure recommendations were budget-driven and did not take into account the military's long-term needs. I urge a "yes" vote on the Bradley amendment.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. BRADLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BRADLEY of New Hampshire. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Hampshire (Mr. BRADLEY) will be postponed.

It is now in order to consider amendment No. 26 printed in House Report 109–96.

AMENDMENT NO. 26 OFFERED BY MS. WOOLSEY

Ms. WOOLSEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 Offered by Ms. WOOLSEY:

At the end of title XII (page 427, after line 11), insert the following new section:

SEC. 1223. WITHDRAWAL OF UNITED STATES ARMED FORCES FROM IRAQ.

It is the sense of Congress that the President should—

(1) develop a plan as soon as practicable after the date of the enactment of this Act to provide for the withdrawal of United States Armed Forces from Iraq; and

(2) transmit to the congressional defense committees a report that contains the plan described in paragraph (1).

The CHAIRMAN. Pursuant to House Resolution 293, the gentlewoman from California (Ms. WOOLSEY) and the gentleman from California (Mr. HUNTER) each will control 15 minutes.

The Chair recognizes the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the members of the Committee on Rules for making this important amendment in order. It has been a long time coming for Congress to discuss this war in Iraq and how we will plan to end the terrible suffering it is causing our troops, their families, and the Iraqi people.

First and foremost, I honor and I support the brave men and women who are serving our country in Iraq, and I believe that the best way to support them is to establish a plan to bring them home.

In just over 2 years of war, more than 1,600 American soldiers and an estimated 25,000 Iraqi civilians have been killed. The number of American wounded, according to the Pentagon, is greater than 12,000, and that does not even count the invisible mental wounds they are bringing home, afflicting tens of thousands of our soldiers.

And, of course, with more than $200 billion on the line, do the Members not think that the American people deserve to know what the President plans to do in Iraq?

I also honor the many voters who risked their lives to "give Iraq back to the Iraqi people." But our continued presence in Iraq after the election has caused America to be seen by the Iraqi people as an occupying power, not as a liberating force. Our continued presence in Iraq works against efforts for democracy, provides a rallying point for angry insurgents, and ultimately makes the United States less safe.

My amendment expresses the Sense of the Congress that the President must develop a plan to bring our troops home and that he must submit this plan to the appropriate committees in Congress. We can truly support our troops by bringing them home.

At the same time, withdrawing U.S. troops must not result in abandoning a country that has been devastated. We must assist Iraq, not through our military but through international humanitarian efforts to rebuild their war-torn economic and physical infrastructure. We need to defend America by relying on the very best of American values, our commitment to peace and freedom, our compassion for the people of the world, and our capacity for multilateral leadership.

Mr. Chairman, Congress must support our troops, and we must begin the difficult recovery process from a long and destructive war. But first, the President must create a plan to bring our troops home. Our troops deserve nothing less.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the gentlewoman's amendment.

Make no mistake about it. This amendment is a message-sender. It is a message-sender to people like Al Sadr who are considering even now continuing to foment rebellion against the elected government in Iraq. It is a message-sender to Zarqawi and his followers, who think that perhaps the United States does not have the stomach to continue to oppose them. It is a message-sender to our troops, who might, in seeing if this amendment should pass, feel that the resolve of the American people is fading away.

This is precisely the kind of a message we do not want to send to friend and foe alike, and certainly not to the 140,000 Americans serving presently in Iraq, who feel that the country is strongly behind them.

Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. DAVIS).

Mr. DAVIS of Kentucky. Mr. Chairman, I speak not simply as a Member of Congress, but as a former enlisted soldier and military officer.

I find myself somewhat dismayed that we have to spend time here today debating an amendment that would tell our enemies when our forces are going to withdraw from Iraq. This amendment is tantamount to posting a billboard saying, "We will be gone by 5 o'clock Friday. If you wait until 6 o'clock, you can perform a murderous rampage through this growing democracy and terrify and intimidate the people back into living under a despotic regime."

I respect the gentlewoman's passionate declarations regarding tolerance, diversity, and the rights of women, all of which would be ruthlessly, violently, and murderously suppressed if we were to leave at this time, something I am sure she would not want to see happen.

Some might argue that this amendment does not set a timetable, but rather states that Congress just wants to see a plan. The amendment, some would argue, is innocuous. I cannot stress enough how damaging this amendment would be, if it passes, to our troops, to our national security, and also to the Iraqi democracy.

Our troops in the field look to us for strength and solid, confident, unwavering leadership. If this passes, they would instead see a government that does not possess the fortitude to hold the course and finish the job. If this passes, their families would see a Congress that cares more for timelines and wordy resolutions than it does for the safety of their loved ones.

We also need to understand how others will see this around the world. If this passes, the Iraqis, who every day put their lives on the line to form security forces and battle terrorists in their streets and in their neighborhoods, would see a military that is not committed to training them to defend themselves. They would see an America that broke its promise to walk with them to democracy and independence.

If this passes, the world would see a country that takes no pride in its role in establishing a free Iraq, one that confirms the lies of the terrorists that we are weak and lack the fortitude and resolve to finish this mission.

Are we going to let less than 1 percent of the Iraqi population dictate our course and the course of the Iraqi people? I say no. Our enemies would stand up if this passes and cheer the moment it is passed because they would know that we will desert the Iraqi people who have invested their blood to defeat.

Mr. Chairman, we will not abandon a people who have so willingly given of themselves for the dream that we can help them achieve. Mohandas Gandhi said, "The spirit of democracy cannot be imposed from without. It has to come from within." The people have democracy in their hearts. They can feel it within their grasp. They can look up and see it shining near them. We just have to stand and give them a hand to reach for it.

It is all the more distressing to me that we would consider this amendment so close to Memorial Day, a day when we honor the courage and the valor of our veterans, especially those who gave the ultimate sacrifice. We can all sleep better at night because of the blood shed by ordinary heroes who believe their government supported them and believe they were doing the right thing.

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I recently spent 3 days visiting with numerous units of the United States Special Operations Command. Their valor, their commitment to protecting our freedom is insulted by bringing forth this amendment so close to Memorial Day.

I ask my colleague to join me in opposing this amendment in honor of those who have gone before us and in honor of those whose names we do not yet know, but will learn as we read of their sacrifice.

Let our foes understand one thing. Our exit strategy from Iraq is simply this: winning the war on terror. We must hold firm to the course and be resolved in our determination to win this fight.

I ask my colleagues on the other side of the aisle to stand with us today and reaffirm our commitment to our troops, to their families, to our country, to the Iraqis and to our enemies that we will not retreat in the face of this evil.

Ms. WOOLSEY. Mr. Chairman, I am proud to yield 2½ minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Chairman, I want to thank the gentlewoman for yielding me this time.

Mr. Chairman, I want to say to my side, my leader on the Committee on Armed Services who I have great respect for, this is not about our troops. This is about a policy, that I believed when I voted 2 years ago to commit the troops that I was making my decision on facts. Since that time, I have been very disappointed in what I have learned about the justification for going into Iraq. Afghanistan, absolutely. We should be there. We should probably have more troops. But we cannot have more troops when they are in Iraq.

Mr. Chairman, with regard to this effort by the gentlewoman from California, we have never voted one time together, not one time in the 11 years I have been here. But, Mr. Chairman, I have beside me a picture of a young man whose name is Tyler Jordan. His daddy was a gunny sergeant killed two years ago, Phillip Jordan. He has under his arm the flag that was over the coffin.

To my left are just a few faces of those who have died for this country. They died doing what they thought was right for America, and God bless them.

But all this amendment does is just say that it is time for the Congress to meet its responsibility. The responsibility of Congress is to make decisions whether we should send our men and women to war or not send them to war. What we are saying here tonight is we think it is time for the Congress to begin, to start the debate and discussion of what the exit strategy is of this government, whether it be 2 years down the road, 3 years down the road, or 1 year.

Mr. Chairman, what I am saying tonight is we have a responsibility. We should not be into some endless, endless war in Iraq, when we have so many other countries that we need to be watching much more carefully than Iraq. So I hope that this resolution passes and we can start meeting our responsibilities of discussing the policy for America.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Michigan (Mrs. MILLER)

Mrs. MILLER of Michigan. Mr. Chairman, I thank our great chairman of the Committee on Armed Services for yielding.

Mr. Chairman, I would urge all of my colleagues to oppose this amendment because it is totally unnecessary. In fact, no one who has ever studied at a war college, no one who is a combat commander, no military strategist, no one who really wants to achieve victory, would ever support what this amendment is asking those of us in the House to support here today. Besides, we already have a timetable for withdrawal from Iraq, and that is when we have achieved victory, that is when we have helped to deliver freedom to the Iraqi people, and that is when we have secured a foothold for liberty in the Middle East.

My question is this: Did we ask General Eisenhower for a plan for the withdrawal of the forces from Europe before the war was won? Of course not. And I would ask this: Did we ask General McArthur for a plan for withdrawal in the Pacific before the war was won? Of course not.

Mr. Chairman, it makes no sense to telegraph our plans to the enemy. In fact, that would be an incredibly dangerous thing for us to do. But our enemies should know this: America will not cut and run. And to the Iraqi people, I would say this: liberty, democracy and freedom are coming, and the men and women of the American Armed Forces, God bless them, will help you achieve all of them.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Chairman, I rise in support of this amendment. This is a very modest amendment. As a sense of Congress provision, it is a recommendation from Congress, not a requirement. It sets no date by when the President must present a plan to Congress, just as soon as it is practicable. I cannot imagine why anyone would oppose this language.

Currently, we have close to 140,000 uniformed men and women in Iraq. No matter where you stand on the question of Iraq, we owe it to these courageous men and women, and to their families, to let them know when and how we will bring them home to stay.

Mr. Chairman, it is easy to start a war; but it is hard to get out of one. It is easy to go along and accept the military occupation. It is a lot harder to take an honest look at where we are now and determine when and how we are going to get out. But that is what we need to do, and we need to do it now.

As a Congress, we should be ashamed that we have not demanded such a report from the President. This is the least we can do, to suggest that he send one.

There has been no accountability with regard to this war, and this Congress has been all too content to just go along with an open-ended occupation. It is time we change that complacency. It is time we do our job. Support the Woolsey amendment.

Mr. HUNTER. Mr. Chairman, I yield 2¾ minutes to the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Chairman, I thank the chairman of the Committee on Armed Services for yielding me time.

Mr. Chairman, I would speak today in strong opposition to this amendment of my colleague from California. First, let me say that I certainly understand their concern about the safety and well-being of our dedicated men and women of our Armed Forces who are currently deployed in Iraq. I, too, look forward to their safe and expeditious return home to the United States and to their loved ones.

However, I cannot support this amendment, as I believe it sends exactly the wrong message concerning our current commitment in Iraq and gives aid and comfort to those who oppose us.

Mr. Chairman, I am concerned that passing this amendment will send a clear signal to the insurgents in Iraq that Congress, and by extension the United States, is wavering in our commitment to their defeat. Doing so would create the impression that their terrorist tactics are working and that a U.S. withdrawal from the region is imminent.

The last thing we want to do is create a new burst of enthusiasm for the misguided causes championed by the insurgents and al Qaeda. Establishing a plan for withdrawal would give those groups the hope that they are wearing down our resolve when, instead, we need to be clear in our commitment to defeating the insurgents in Iraq.

Further, I believe that this amendment would serve only to discourage those Iraqi citizens who are dedicated to building a stable and secure democracy and defending it against terrorist factions. The coalition forces involved in the Multinational Security Transition Command in Iraq are working hard to build and train a competent Iraqi security force capable of defending their government and aiding the transition to democracy. Thus far, they have demonstrated initial success, as evidenced by the ISF's role in securing polling locations during the January elections.

It is imperative that we continue to mirror their commitment and remain dedicated to the stabilization efforts as they work toward the ultimate goal of a free and democratic Iraq. This amendment would, in my opinion, undermine the Iraqis' confidence in our continuing support.

Mr. Chairman, I think it is important to stress that we in Congress, in addition to the President and the Department of Defense leadership, do not want to maintain a U.S. military presence in Iraq one day longer than is necessary. Clearly, the goal is to bring our troops home as quickly and as efficiently as possible. However, we cannot do so until we succeed in enabling the Iraqis to defend themselves, secure their borders, and ensure the success of this new democracy.

We agree there are certain milestones that must be met before we can in good conscience withdraw our forces from Iraq. It is not prudent to set an arbitrary date or timeline about which we can only speculate. While my colleague's amendment does not specify specifically a required date or timeline, I believe any formal plan would be misinterpreted and would send the wrong message.

As the President has stated, "It is inappropriate to put a specific timeline on the ultimate goal of ensuring that the Iraqi people can take care of themselves, protect themselves and provide for their fellow citizens."

Mr. Chairman, I urge my colleagues to vote against this amendment and send a message to the Iraqi forces and the Iraqi people, as well as to the insurgent groups, that the U.S. Congress and, by extension, the United States of America, is fully committed to the establishment of a stable and secure democracy in Iraq.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentlewoman from California for yielding me time.

The reason I am rising to support her amendment is because I think that we have come to a time in the war in Iraq where Democrats and Republicans alike need to consider all the events that have transpired, to do it in a way that is compassionate for the decisions that were made to send us into war, and to do it without recriminations, without challenging each other's integrity, without challenging each other's love for our country or support for the troops.

Democrats and Republicans came together to send this country to war. We can only come together to take this country out of Iraq. You start to see the signs that make it so apparent that the time is near. The time is near when this Congress must consider the reality facing our troops, the reality of the circumstances which sent our troops into battle. And we need to do this as colleagues who may have started from different points of view on Iraq. I certainly have a different point of view. I voted against the war. But now we are starting to see people who voted for the war coming forward and expressing their concerns.

We have to have that capacity for rational reflection and an ability, not to say so much that we were wrong, but to say we have new information and we therefore have a right to reappraise the situation and take a new direction. The Woolsey amendment gives us a chance to do that, and it sets us on a path.

So whether it is the Woolsey amendment or something that happens in the next few weeks and months, Democrats and Republicans are going to have to come together to help the President get out of the mess that this country is in.

So I think we can proceed in a spirit that is amicable. We do not have to be beating each other up on this. We do not have to have a war about war, or certainly a war about a peaceful withdrawal.

So the Woolsey amendment is an important step in the direction of setting this country on a path towards extricating ourself from Iraq. For that reason, I support it, and I want to commend her for her activity on behalf of it.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. BUYER), a veteran of Desert Storm and the chairman of the Committee on Veterans' Affairs.

Mr. BUYER. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in opposition to this amendment because of its timing. It is wonderful to talk about an exit strategy, if in fact it was timely to do so. But I oppose the timing of this conversation and debate.

As a Nation and society committed to freedom and democratic principles and peace, I believe this amendment at this time would undermine our core values and the mentorship that we are having with a new, free country.

When the President declared the global war on terrorism and Congress authorized the use of force in Iraq, the United States made a significant investment in world peace. Like any sound investment, our investment in peace is subject to volatility and outside influences. The forces of evil that oppose the U.S. liberation of Iraq are the same forces in Iraq that want to suppress women and children, kill innocent people, attack schools, hospitals and religious institutions.

Asking for an exit strategy for U.S. forces at this time is essentially calling it quits, and that is not the America I know. I believe that peace and freedom are inextricable and inseparable. Forsaking the Iraqi people in their hour of need is counter to the fabric of this great Nation.

As a newly established free society, the Iraqi people are in their infancy of establishing the rule of law. Like the birth of any nation, there will be growing pains and unpleasant and tragic events. But let us be very clear: it has been the United States and our coalition partners that have given the Iraqi people hope.

So this debate with regard to setting an exit strategy or a timetable for withdrawal, again, is not timely. It would be arbitrary. It is the mission that determines the exit strategy.

Mr. Chairman, the debate we are having here really is not too much different from the debate we had during the Balkans, at the time when President Clinton, to his credit, brought the guns to silence. But what he said was, "I want to commit U.S. ground troops for only 1 year."

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The Republicans immediately said, But, Mr. President, that is not an exit strategy. You cannot say we will only send the troops for 1 year, because it is the mission that will determine the exit. The exit then was determined in the civil implementation of the Dayton Accords by creating benchmarks for the success of the implementation of Dayton.

So it is the mission with regard to stable civil institutions in achieving benchmarks of that free society in Iraq that will determine the exit strategy. The stabilizing of Iraq is extremely important. The training of their security forces is extremely important. And I assure my friends that the more that the insurgents attack security forces and police forces in Iraq, mosques, schools, innocent people within Iraq, it builds the esprit of the Iraqi people themselves, who are a very proud people, that they want to take these insurgents who are not of their land, not of their people and expel them from their land. I assure my colleagues that they equally, at that moment in time, will be just as eager for us to come home.

So it is the mission that will determine the exit strategy. This amendment, while worthy and noble in its cause, is just not timely and, therefore, I will oppose the amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, what a great day this is. After 73 times on the floor, the gentlewoman from California (Ms. WOOLSEY) now has an amendment to discuss a plan to develop a plan as soon as practicable to provide for the withdrawal of the United States Armed Forces from Iraq. Here are Members of the House of Representatives who are, if we look at Article I, Section 8, the only ones that can declare war under this great Constitution, saying, We do not even want to talk about a plan.

Well, I say to my colleagues, the President of the United States has already said that America does not plan an indefinite occupation of Iraq, and neither do the independent Iraqi people. So what we want our colleagues to understand is that Congress can talk about this. Please, summon up your courage. That is your job. That is why we are here.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from San Diego, California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Chairman, summon up my courage? I do not think I have to question anybody to summon up my courage. I am a combat veteran, I was shot down in Vietnam, I was shot, and you do not tell the enemy what you are going to do, because you put those people at risk.

Mr. Chairman, it is interesting that as a combat veteran, I spoke to literally thousands of other combat veterans, and it is amazing the differences of their opinions versus liberal politicians.

Our kids over there are proud of what they do. Yes, I want them back. I wanted to get out of Vietnam just like anybody else, but I did not want to leave before the job was done. I do not want the over 1,700 men and women that have died in Iraq to die for nothing. And if we go ahead and tell the enemy what we are going to do, we put those kids at risk.

I just think it is wrong. From my experience in the military of 20 years, it is wrong, what the gentlewoman is trying to do. She has good intentions. But I will tell my colleagues that if we let folks know what we are going to do, I say to the gentlewoman, it is going to put those men and women at risk, and I think it is wrong.

I urge opposition to this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Chairman, as a cosponsor of the Woolsey amendment calling on the President to develop and implement a plan to begin the withdrawal of U.S. troops from Iraq and to take other steps to provide the Iraqi people with the opportunity to control their internal affairs, I rise in support of this amendment.

Mr. Chairman, although I strongly opposed the preemptive war in Iraq, which the administration promoted based on false information and which has resulted in tragic loss of American and Iraqi lives, I would have supported as many troops as necessary in Afghanistan where our enemy, Osama bin Laden, was.

I do not believe that it would be fair to abandon the Iraqi people at this juncture. So, therefore, we should look towards having the United Nations create an international peacekeeping force to keep Iraq secure.

I would also like to take this opportunity, though, to commend a group of activists in my congressional district who are lending their voices to the important debate about our future in Iraq. South Mountain Peace Action, representing residents of Maplewood and South Orange, New Jersey, are strongly committed to seeking an international solution, led by the United Nations, and a rapid return of U.S. soldiers. Nearly 80 percent of Maplewood and South Orange voters and 52 percent of New Jersey voters voiced their agreement that President Bush's war in Iraq is the wrong war at the wrong time in the wrong place.

The war has already exacted a heavy price. More than 1,600 American lives have been lost and over 10,000 servicemen and women have been wounded. More than 100,000 Iraqi civilians have lost their lives, and $210 billion have been spent.

I urge support of the Woolsey amendment.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. SCHWARZ).

Mr. SCHWARZ of Michigan. Mr. Chairman, I rise in opposition to the Woolsey amendment.

As a veteran of two tours of duty in Vietnam, I do not think it is appropriate to pull the forces out. The Iraqis want us to stay until the government takes on its full mission. Creating a timetable for withdrawal would hand the military initiative over to the insurgents and undermine the Iraqi Government to draft a constitution and prepare for a constitutional government.

As Generals Myers, Pace, and Abizaid have reminded us, the enemy gets a vote on how the war is fought. Iraqi-U.S. coalition forces need flexibility to respond to any enemy offensive which a benchmark-based plan for withdrawal would absolutely preclude.

I believe the amendment is well-intentioned, but the President, the Secretary of Defense, General Abizaid and the democratically elected Government of Iraq agree that it would not be in U.S. or Iraqi interests for the U.S. to remain in Iraq any longer than the government wants us there, but they are committed to reducing the U.S. presence only when that U.S. presence can safely be reduced and no sooner.

Vote "no" on this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentleman from Washington State (Mr. MCDERMOTT).

Mr. McDERMOTT. Mr. Chairman, Monday's Guardian's editorial line was, "U.S. Military to Build Four Giant New Bases in Iraq."

The violence in Iraq has never been greater. That is not what winning looks like to me.

The President's strategy is to re-create the Old West: Build four forts capable of withstanding mortar rounds. With the death toll and casualties mounting, the President's best idea is to keep U.S. soldiers in the midst of uncontrollable, horrific violence.

This administration has put this Nation and our generals in a no-win situation. We have been there before in Vietnam, and we vowed never to let it happen again. But this administration has frayed the military, keeping soldiers in the target zone without enough armor to protect them and without a plan to bring them home.

Colonel David Hackworth died about 2 weeks ago, a highly decorated combat veteran of the Vietnam War, eight Purple Hearts, a soldier's soldier who recently died, said we will be in Iraq for 30 years, 30 years. Colonel Hackworth was a man who saw the battlefield and could see the folly of the Iraq war.

The American people know the truth. The President misled this country into war, and it is time to get out.

[From the Guardian, Monday, May 23, 2005]

U.S. Military To Build Four Giant New Bases in Iraq

(By Michael Howard in Baghdad)

U.S. military commanders are planning to pull back their troops from Iraq's towns and cities and redeploy them in four giant bases in a strategy they say is a prelude to eventual withdrawal.

The plan, details of which emerged at the weekend, also foresees a transfer to Iraqi command of more than 100 bases that have been occupied by U.S.-led multinational forces since the invasion of Iraq in March 2003.

However, the decision to invest in the bases, which will require the construction of more permanent structures such as blast-proof barracks and offices, is seen by some as a sign that the U.S. expects to keep a permanent presence in Iraq.

Politicians opposed to a long-term U.S. presence on Iraqi soil questioned the plan.

"They appear to settling in a for the long run, and that will only give fuel for the terrorists," said a spokesman for the mainstream Sunni Iraqi Islamic party.

A senior U.S. official in Baghdad said yesterday: "It has always been a main plank of our exit strategy to withdraw from the urban areas as and when Iraqi forces are trained up and able to take the strain. It is much better for all concerned that Iraqis police themselves."

Under the plan, for which the official said there was no "hard-and-fast" deadline, U.S. troops would gradually concentrate inside four heavily fortified air bases, from where they would provide "logistical support and quick reaction capability where necessary to Iraqis". The bases would be situated in the north, south, west and centre of the country.

He said the place of the "troop consolidation" would be dictated by the level of the insurgency and the progress of Iraq's fledgling security structures.

A report in yesterday's Washington Post said the new bases would be constructed around existing airfields to ensure supply lines and troop mobility. It named the four probable locations as: Tallil in the south; Al Asad in the west; Balad in the centre and either Irbil or Qayyarah in the north.

U.S. officers told the paper that the bases would have a more permanent character to them, with more robust buildings and structures than can be seen at most existing bases in Iraq. The new buildings would be constructed to withstand direct mortar fire.

A source at the Iraqi defence ministry said: "We expect these facilities will ultimately be to the benefit of the domestic forces, to be handed over when the U.S. leaves."

Three Romanian journalists kidnapped in Iraq were freed yesterday after two months in captivity.

Ms. WOOLSEY. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I rise in strong support of the Woolsey amendment.

This amendment does not say, Cut and run. This amendment does not call it quits. It asks the President for an exit strategy. And since the President declared victory in Iraq, more than 1,500 Americans have been killed. The Bush administration still has not laid out a strategy to win the peace in Iraq and bring our American forces home.

Now, when he was Governor of Texas, this is the advice that George W. Bush gave President Clinton about the war in Kosovo. Victory, he said, means exit strategy, and it is important for the President of the United States to explain to us what the exit strategy is.

Now, that is what Governor Bush said about President Clinton and the war in Kosovo, and the need for an exit strategy is even more apparent in Iraq. In the absence of an exit strategy, the administration continues to pursue the same strategy that has only led to more casualties and less stability. We have killed or captured 1,000 to 3,000 insurgents every month for more than a year. But with thousands of new recruits, the insurgency strengths have quadrupled.

Without an exit strategy to win the peace and bring our troops home, our policy is going in circles.

Our troops have won tactical victories, but they have not translated into strategic advances. Any successful strategy in Iraq has to address the fundamental factors that are continuing to fuel the insurgency.

One of those factors is the suspicion that U.S. troops are going to occupy Iraq indefinitely. Those suspicions are being reinforced by the fact that we have three or four times as many troops in Iraq today as the administration predicted we would. Until we lay out a framework for bringing our troops home and replacing them with Iraqis, the Iraqi people will never feel that they are in control of their own destiny.

A clear exit strategy would help splinter insurgent groups who have set aside their own differences in order to unite against the United States. It would send a message to the Iraqi Government that it needs to take responsibility for its own security. And, finally, an exit strategy is that light at the end of the tunnel that our troops need and the taxpayers need.

Ms. WOOLSEY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I want to thank my friend and cochair of the Congressional Progressive Caucus, the gentlewoman from California (Ms. WOOLSEY), for her leadership in offering this amendment.

I stand here today as the proud daughter of a veteran of two wars. Let me just say, this amendment says what we have been saying all along, and it is time to make it real in terms of supporting our troops. The way we support our troops is by developing a plan to get them out of harm's way and to bring them home.

To date, more than 1,600 American troops have given their lives, over 11,000 American troops have been injured, and over 17,000 innocent Iraqi civilians, including women and children, have died in a war that should never have started in the first place.

I distinctly remember the day in May 2003 when the President stood on the deck of the USS *Abraham Lincoln* and proclaimed, "Mission Accomplished." Of course, the administration has called off the search for weapons of mass destruction because there simply were not any. But the occupation still continues.

We have seen a war that has created a haven for terrorists in Iraq. We have seen troops become targets of the insurgency when they were supposed to be liberators.

Mr. Chairman, the President needs to be honest with the American people and tell us what his plan is, and that is what this amendment says. Give us a plan to bring our troops home. It is very important. We need an exit strategy.

The taxpayers have spent over $200 billion, soon to be $300 billion, and we have little or no accountability for where this money has gone.

I congratulate the gentlewoman from California (Ms. WOOLSEY) for this amendment. We should adopt this amendment. We should send the signal that we support our troops, we love our troops, we value our troops, and we want them home.

☐ 1900

Mr. SKELTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from Missouri (Mr. SKELTON), and I thank him again for his leadership. I thank the distinguished gentlewoman from California (Ms. WOOLSEY) for allowing us to have the opportunity to stand on the floor of the House just a few days away from honoring America's war dead, and I hope that this debate is not in any way suggesting our lack of respect and admiration for those fallen as well as their families. I do not believe the distinguished gentlewoman from California has any idea or any sense of disrespecting the Nation's fallen dead. In fact, so many of us, no matter where we have come from, have soldiers and families living among us, families that mourned and families that are willing and wanting for their loved ones to come home.

This is not Vietnam in terms of the approach that those of us who are against the war would put it in that context. We understand that the troops are following the orders of their leaders, the Commander in Chief, the United States Congress. That is why this amendment puts the burden on the United States Congress and asks for the President to create a success strategy, an exit strategy that will allow these troops to come home.

This is about conserving resources. We have 140,000 troops in Iraq. We have equipment that is stretched. We have questions about the armor that is being utilized by our troops, the body armor. We have 60 people dead in the last 24 hours and eight of our troops dying in the last 24 hours and troops dying every single day. And you know what the tragedy of it is? That when our fallen heroes come to the soil of the United States we cannot even view their bodies with the Flag draped over the coffin. We are denied that opportunity to mourn them.

So this amendment is really to respond to the need that the Congress have the opportunity to address the question in hearing and to review the President's offering of a withdrawal or a success strategy, in great respect to the men and women in the United States military, in great respect to the families, in great respect to those who have lost their lives.

I ask my colleagues to consider this amendment primarily to give us an opportunity to do our constitutional duty, and that is a declaration of war is a constitutional duty by this Congress to declare war. We failed in that duty a couple of years ago, in 2002 September. But let us accept the challenge to review the process and the strategy of this administration.

I close by simply saying to the executive, I ask you to join us in a collaborative effort to have a vote for peace and to be able to conserve the resources and to honor our fallen dead and those who now serve, that we respect their families, respect, in fact, their lives and we will craft a strategy to return our heroes home. That is not in any way giving up on them. That is saving them.

Mr. SKELTON. Mr. Chairman, I yield to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, again, I would like to thank the members of the Rules Committee that made this important amendment in order. It is about time that in the Congress we discuss what is going on in the war in Iraq. And it is only too bad that we had only 15 minutes for this, well, a half an hour, 15 minutes on both sides, for this very, very important issue that is facing everybody in the United States of America, our troops and their families and the Iraqi people.

My amendment expresses the sense of the Congress that the President must develop a plan to bring our troops home, that he must submit this plan to the appropriate committees in Congress so that we can truly support our troops and bring them home where they are safe.

So in closing, Mr. Chairman, Congress must support our troops. We must begin the difficult recovery process from a long and destructive war. The President has to create a plan and tell us what he is going to do, and he must get these troops home before we lose any more lives. This is the best way to support our troops, and they deserve nothing less.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from California has 30 seconds remaining.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, and my colleagues, we have an exit strategy, and that exit strategy is a free Iraq and a free government in Iraq and a military which is strong enough to protect that government. And that is the military that we are standing up right now, and that is the mission, and that is the timetable. And I would hope that the gentlewoman's amendment would be defeated.

Mr. FARR. Mr. Chairman, a safe and democratic Iraq is a goal I share with every American. Congresswoman WOOLSEY's amendment is critically important for reaching this goal. The amendment urges the administration to lay out a plan for withdrawing U.S. troops from Iraq. This amendment does not demand the U.S. troops be withdrawn from Iraq immediately or prematurely. It simply requests that the President establish a plan for when he will begin to bring our soldiers back home.

The best way to make Iraq a strong and democratic country is to give Iraqis the training and education necessary for them to assume responsibility for their own security needs and to develop their civil society infrastructure. Iraqis yearn for freedom and democracy, and ownership of their own country. American soldiers, sailors and marines want to return home to be reunited with their families. A withdrawal plan is in the best national security interests of the United States and in the best interests of a democratic Iraq.

I urge my colleagues to support the Woolsey amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. WOOLSEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. WOOLSEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. WOOLSEY) will be postponed.

The Chair understands that amendment No. 19 was disposed of by the adoption of amendment No. 1.

It is now in order to consider amendment No. 27 printed in House Report 109–96.

AMENDMENT NO. 27 OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 27 offered by Mr. WELDON of Pennsylvania:

At the end of title XII (page 427, after line 11), insert the following new section:

SEC. ____. SENSE OF CONGRESS CONCERNING COOPERATION WITH RUSSIA ON ISSUES PERTAINING TO MISSILE DEFENSE.

It is the sense of Congress that—

(1) cooperation between the United States and Russia with regard to missile defense is in the interest of the United States;

(2) there does not exist strong enough engagement between the United States and Russia with respect to missile defense cooperation;

(3) the United States should explore innovative and nontraditional means of cooperation with Russia on issues pertaining to missile defense; and

(4) as part of such an effort, the Secretary of Defense should consider the possibilities for United States-Russian cooperation with respect to missile defense through—

(A) the testing of specific elements of the detection and tracking equipment of the Missile Defense Agency of the United States Department of Defense through the use of Russian target missiles; and

(B) the provision of early warning radar to the Missile Defense Agency by the use of Russian radar data.

The CHAIRMAN. Pursuant to House Resolution 293, the gentleman from Pennsylvania (Mr. WELDON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an amendment that I wish I did not have to offer because the amendment follows the language of the President of the United States, our leader, who has called for joint cooperation with Russia on missile defense. The amendment calls for the language of our Secretary of Defense, who has called for joint cooperation on missile defense. The language calls for an amendment that my good friend, the gentleman from South Carolina (Mr. SPRATT), and I offered in 1998 in H.R. 4 that actually calls for a national missile defense, and as a part of that called for joint cooperation on missile defense.

In fact, the weekend before the vote on H.R. 4, I took Don Rumsfeld, private citizen; Jim Woolsey, private citizen; Bill Snyder, private citizen; and Democrat Jim Turner and other Republicans to Moscow, and we told the Russians that our move in moving forward on missile defense and not only abrogating the ABN treaty was not about us scoring a strategic advantage over them, but was about an effort to protect ourselves, as they had been doing with their system around Moscow. And we told them that we saw threats coming from North Korea, China and Iran and, therefore, we had to take the action.

Mr. Chairman, for the past several years we have had a joint program with the Russians called RAMOS. A year ago, our four star general, General Kadisch, came in and said to me, Congressman, I have got to cancel the program, but I want to do a follow-on with the Russians. And I said, that is great because that is the intent of the President and that is the intent of the Congress. He said, But Congressman, I cannot get a meeting with my Russian counterparts.

So in April of last year, we took, at the request of General Kadisch and General Obering, General Shakleford to Moscow with us. And General Shakleford sat across the table in Straya Polochad, the equivalent of the West Wing in Moscow with General Balyevsky who would become the chief of the general staff. During the summer of last year, they negotiated a multi-phase agreement to work with the Russians on joint use of their large phased array radar, which we need; on joint use of the Russian missile systems for targeting purposes, which we want. But because none of the Missile Defense Agency, but because of the bureaucracy in the Pentagon, today we have no cooperative program with Russia, and that is unacceptable and it is outrageous.

So this amendment gets to the heart of the office of Secretary of Defense and the policy shop. You do not override the President of the United States. You are not the ultimate decisionmakers above the Congress. The Congress made a conscientious bipartisan veto-proof effort in passing H.R. 4 in 1998. We were the ones that called for this cooperation. The President has said this repeatedly, and this amendment says to those bureaucrats in the policy shop, do your job.

I thank my colleagues for their effort. I ask all of my colleagues to support this because this is about our word. This is about the trust of America. This is about building a relationship that our Missile Defense Agency wants.

General Obering was in my office 2 months ago with a policy person sitting across the room, and General Obering looked at him and said, I want to do this. What we are saying is we support General Obering. We support the Secretary of Defense. We support the President of the United States. And to those bureaucrats in the Pentagon, wake up and listen, because that is who this amendment is aimed at.

Mr. Chairman, I yield back the balance of my time.

Mr. SPRATT. Mr. Chairman, I do not object to the amendment, but ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN. The gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my good friend and colleague, the gentleman from Pennsylvania (Mr. WELDON), has been a leader in the Congress on relations with Russia for some time. I reviewed his amendment, and I support it and would like to state several reasons for supporting it that I think others can readily identify with.

First of all, this is not a new idea. It has been talked about at least as long ago as Reagan's Presidency, when Mr. Reagan was trying to make the point that he did not necessarily seek nuclear dominance, and that he was ready to share certain parts of missile defense with the Russians if necessary to show that it was consistent with the balance of power between our two countries.

But today, if you want principle reasons, one reason to have an amendment like this and the policy that it supports is to show the Russians that ballistic missile defense need not be perceived by them as adverse to their security. Just as our missiles are no longer explicitly targeted at the Russians, the ballistic missile defense systems we are building are not directed really at countering their systems, but of the adversaries.

The gentleman from Pennsylvania (Mr. WELDON) mentions two good reasons, two practical reasons, for making this amendment our policy. Number one, it is possible that the Russians could cooperate with us in allowing us to test specific elements of their tracking equipment of their own missile systems. And, number two, they have early warning radar that the Missile Defense Agency may find very useful. In fact, if we begin some day in the near future to install systems that will give us protection against threats like Iran, we may find the geography inside Russia is ideal geography, ideally located for the kind of early warning system and detection that we would need and want and would be preferable possibly to locating some of these systems in Eastern European countries.

So there are many good reasons at this point in time to support this policy and therefore to support this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WELDON).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 6 offered by the gentleman from Florida (Mr. STEARNS), amendment No. 29 offered by the gentleman from New Hampshire (Mr. BRADLEY), amendment No. 26 offered by the gentlewoman from California (Ms. WOOLSEY).

The Chair will reduce to 5 minutes the time for any electronic votes after the first vote in this series.

AMENDMENT NO. 6 OFFERED BY MR. STEARNS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. STEARNS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 336, noes 92, not voting 5, as follows:

[Roll No. 218]

AYES—336

Abercrombie
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza

Carnahan
Carter
Case
Castle
Chabot
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Engel
English (PA)
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—92

Ackerman
Allen
Baldwin
Becerra
Blumenauer
Brady (PA)
Brown (OH)
Capps
Carson
Conyers
Crowley
Davis (IL)
DeGette
DeLauro
Dingell
Emanuel
Eshoo
Farr
Filner
Frank (MA)
Green, Al
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kaptur
Kilpatrick (MI)
Kucinich
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Melancon
Michaud
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Rahall
Rangel
Rothman
Roybal-Allard
Rush
Sánchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Serrano
Slaughter
Solis
Stark
Thompson (CA)
Tierney
Udall (NM)
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu

NOT VOTING—5

Brown (SC)
Chandler
Emerson
Hastings (WA)
Millender-McDonald

☐ 1935

Mr. MORAN of Virginia, Mr. BROWN of Ohio, Ms. KAPTUR, Ms. PELOSI, Mr. RAHALL and Mr. MOLLOHAN changed their vote from "aye" to "no."

Mr. WAXMAN, Mr. MEEK of Florida, and Ms. LORETTA SANCHEZ of California changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 29 OFFERED BY MR. BRADLEY OF NEW HAMPSHIRE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Hampshire (Mr. BRADLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 112, noes 316, not voting 5, as follows:

[Roll No. 219]

AYES—112

Abercrombie
Allen
Baird
Barrow
Bass
Boozman
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Capito
Capps
Cardoza
Clay
Crowley
Cuellar
Davis (AL)
Davis, Jo Ann
Davis, Tom
DeFazio
Delahunt
DeLauro
Doyle
Ehlers
Evans
Fattah
Fitzpatrick (PA)
Ford
Gallegly
Gerlach
Gibbons
Gingrey
Gohmert
Gonzalez
Gordon
Green, Al
Green, Gene
Hall
Hart
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Hooley
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Jones (NC)
Jones (OH)
Kucinich
LaHood
Langevin
Larson (CT)
LaTourette
Lewis (GA)
Lowey
Lynch
Manzullo
McCollum (MN)
McCotter
McNulty
Melancon
Menendez
Michaud
Mollohan
Moore (WI)
Moran (VA)
Murphy
Murtha
Oberstar
Ortiz
Owens
Pallone
Pascrell
Paul
Payne
Pearce
Pickering
Poe
Rahall
Rehberg
Reynolds
Ross
Rothman
Schakowsky
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shays
Shimkus
Simmons
Slaughter
Smith (NJ)
Strickland
Taylor (MS)
Thompson (MS)
Udall (NM)
Velázquez
Wasserman Schultz
Watson
Weldon (FL)
Wicker
Wilson (NM)
Wolf
Wu

NOES—316

Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boren
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Deal (GA)
DeGette
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gilchrest
Gillmor
Goode
Goodlatte
Granger
Graves
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Honda
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Lantos
Larsen (WA)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Maloney
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCrery
McDermott
McGovern
McHenry

McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (KS)
Moran (KS)
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Osborne
Otter
Oxley
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Reichert
Renzi
Reyes
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simpson
Skelton
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wilson (SC)
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—5

Bishop (UT)
Brown (SC)
Emerson
Hastings (WA)
Millender-McDonald

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). There are 2 minutes remaining in this vote.

☐ 1944

Mr. TAYLOR of Mississippi changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 26 OFFERED BY MS. WOOLSEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. WOOLSEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 128, noes 300, not voting 5, as follows:

[Roll No. 220]

AYES—128

Abercrombie
Allen
Baca
Baird
Baldwin
Becerra
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Capps
Capuano
Carnahan
Carson
Clay
Cleaver
Clyburn
Coble
Conyers
Costello
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
Doggett
Doyle
Duncan
Emanuel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hinojosa
Holt
Honda
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kaptur
Kilpatrick (MI)
Kucinich
Larson (CT)
Leach
Lee
Lewis (GA)
Lipinski
Lofgren, Zoe
Lynch
Maloney
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Price (NC)
Rahall
Rangel
Rothman
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Solis
Stark
Strickland
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—300

Ackerman
Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Drake
Dreier
Edwards
Ehlers
Engel
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Sanchez, Loretta
Saxton
Schiff
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Brown (SC)
Emerson
Hastings (WA)
Millender-McDonald
Porter

☐ 1952

Mr. BUTTERFIELD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection the gentleman is recognized for 5 minutes.

There was no objection.

Mr. HUNTER. Mr. Chairman, this place and our accomplishments all depend on great staff people. And that is what we had in Mr. Robert Rangel, who has been the staff director over these last several terms on the Committee on Armed Services. He was a staff leader for some 18 years, heading up our great bipartisan staff, and he is now leaving.

I thought of all of the great descriptions of people who serve this Nation in uniform, that adherence to duty and honor and country, and I think those are the metrics by which Mr. Rangel has worked to serve our interests and serve the interests of the people of this country and to serve the interests of the people who wear the uniform of the United States.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, let me add a thank-you and it is a job well done to Robert Rangel. Your professionalism, your friendship, your integrity, your hard work have served this institution well. You love this institution, we know that, and we are most appreciative of all you have done for us in a bipartisan way. You understand politics; but on the other hand, you understand this institution and help make it work very, very well.

I might say, Robert, back in Lafayette County, Missouri, the highest compliment you ever get is, You done good. So Robert Rangel, you done good.

The CHAIRMAN. There being no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1815) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2006, and for other purposes, pursuant to House Resolution 293, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today unfortunately with the news that the Rules Committee rejected several major Democratic amendments that could have greatly strengthened the National Defense Authorization Act. It is sad to see that so many relevant and necessary amendments to this Defense Authorization were not ruled in order. Among the most relevant amendments were those submitted by my distinguished colleagues including Mr. WAXMAN's amendment on government contracting, Mr. SKELTON's amendment on women in combat, Mr. TIERNEY's amendment on the Truman Commission, Mr. MARKEY's amendment on torture, Mr. SALAZAR's amendment on Survivors Benefit Plans, Mr. TAYLOR's amendment on TRICARE, Mr. MARSHALL's amendment on concurrent receipt and Mr. SPRATT's amendment on nonproliferation. It is truly unfortunate that such pertinent amendments were not ruled in order and debated by this entire body. When the amendment process is compromised like it has been here then the legislative process suffers and unfortunately that means our Armed Forces will suffer as a result of this Defense Authorization.

I am most outraged by the fact that there will be no consideration of the Taylor amendment on TRICARE for reservists, the Salazar amendment on ending the Military Families Tax, and the Marshall amendment on ending the Disabled Veterans Tax. These amendments are three key provisions in the GI Bill of Rights for the 21st Century, which House Democrats unveiled in March. It seems blatant, that the Rules Committee would not allow the full body to consider these vital amendments which could have greatly strengthened this Defense Authorization.

My colleague Mr. TAYLOR's amendment would have provided full TRICARE to all members of the Guard and Reserve and their families. Currently, the Guard and Reserve are covered by TRICARE only when they are mobilized for active duty. Under the Taylor amendment, all members of the Guard and Reserve could buy into TRICARE for an affordable monthly premium. The Taylor amendment was in fact adopted by the Armed Services Committee by a vote of 32 to 30. However, after the mark-up, Chairman HUNTER stripped the amendment from the bill based on a violation of the Budget Act, instead of allowing Representative TAYLOR to make a slight modification to his amendment which would have addressed the violation. It is the slightly modified version that Representative TAYLOR had sought the Rules Committee to make in order and which the Rules Committee has egregiously rejected for consideration. It is a travesty indeed because this amendment could have done so much good for so many Guardsmen and Reservists. The simple fact is that more than 433,000 of our National Guard and Reserves have been called up over the past two and one-half years. Reserve Components make up almost 50 percent of our forces in Iraq. It is time that we as a body recognize their service to our Nation by providing TRICARE for Reserve Component personnel on a permanent basis. It is disgraceful that this Congress will not demonstrate the level of commitment for its citizen-soldiers that they so richly deserve.

I am also greatly disturbed by the fact that there will be no consideration of Mr. SPRATT's amendment on nuclear nonproliferation. The amendment offered by Mr. SPRATT would have provided an additional $80 million for nuclear nonproliferation activities. These vital activities would have been paid for by a modest decrease to future silo construction of ground-based missile defense. Clearly, this Administration and this Congress would rather waste money on futile missile defense systems that have proven not to work instead of safeguarding against the proliferation of nuclear weapons which pose a threat to our entire Nation and indeed the world. I can not even fathom how so many officials elected by the people can have such misplaced priorities. I can only pray that clearer judgment will prevail one day soon before we have to face the consequences of these misplaced priorities.

Mr. SALAZAR's amendment would have ended the Military Families Tax. Currently, the Survivor Benefit Plan (SBP) penalizes survivors, mostly widows of those killed as a result of combat. These widows lose their survivor benefits if they receive Dependency and Indemnity Compensation (DIC) benefits because their spouse has died of a service-connected injury. The Salazar amendment would have ended this offset requirement—the Military Families Tax—for the 53,000 spouses who continue to pay this unfair tax, which affects families that have made the greatest sacrifice for our country. Again, I find it disgraceful that this Congress will not have the opportunity to aid those military families that are penalized under the Military Families Tax and who have made the ultimate sacrifice to our Nation.

Mr. MARSHALL's amendment would have completely ended the Disabled Veterans' Tax for about 400,000 military retirees who were left behind under the partial repeal which the GOP-controlled Congress reluctantly enacted in 2003 and would speed up the end of the Disabled Veterans' Tax for the remaining disabled military retirees. For almost two years Democrats have been working to end the Disabled Veterans' Tax, and we have only been partially successful because the Republican leadership has put up roadblock after roadblock to eliminating this most unfair tax. Now, the Republican leadership and the Rules Committee have completed a hat trick of disgrace by rejecting the Marshall amendment for consideration which would have completely ended the Disabled Veterans Tax for all disabled military retirees.

I can only hope in the future that such significant legislation as this will involve the debate and full consideration of all necessary and relevant amendments. The men and women of our Armed Forces and indeed the American people as a whole deserve as much.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. TAYLOR of Mississippi. In its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. TAYLOR of Mississippi moves to recommit the bill H.R. 1815 to the Committee on Armed Services with instructions to report the same back to the House forthwith with the following amendments:

At the end of subtitle A of title VII (page 290, after line 5), add the following new section:

SEC. 707. EXPANDED ELIGIBILITY OF SELECTED RESERVE MEMBERS UNDER TRICARE PROGRAM.

(a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking "(a) ELIGIBILITY.—A member" and inserting "(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member";

(2) by striking "after the member completes" and all that follows through "one or more whole years following such date"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.".

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended by striking "(b) PERIOD OF COVERAGE.—(1) TRICARE Standard" and all that follows through "(3) Eligibility" and inserting "(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility".

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d).

(2) The heading for such section is amended to read as follows:

"§ 1076d. TRICARE program: TRICARE standard coverage for members of the selected reserve".

(d) REPEAL OF OBSOLETE PROVISION.—Section 1076b of title 10, United States Code, is repealed.

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

"1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.".

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

Page 508, line 14, insert after the dollar amount the following: "(reduced by $182,000,000)".

Page 509, line 22, insert after the dollar amount the following: "(reduced by $182,000,000)".

Mr. TAYLOR of Mississippi (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, a few minutes ago the gentleman from California (Chairman HUNTER), in speaking to the Woolsey amendment, described it as a message-sender. This motion to recommit, which is an amendment to the bill, is a message-sender.

This is a message-sender to the Guardsmen and Reservists of this Nation who comprise 38 percent of the total force, and who at this moment comprise 40 percent of the men and women who are serving in Iraq and Afghanistan. By the way, they provide about that same percentage of the wounded, about the same percentage of the people who come home dead from that war.

See, unlike the regular soldier to their right and the regular Marine to their left, who are guaranteed health care coverage through the TRICARE program, 20 percent of our Guardsmen and Reservists have no health care coverage whatsoever. Coincidentally, about 20 percent of our Guard and Reservists who are called up could not be deployed because they were not medically ready to be deployed. This amendment addresses that.

This amendment would take $185 million out of the fund that is going to fund base closure and apply it to TRICARE for Guard and Reservists to let those people know we appreciate them.

☐ 2000

Why is this important? Just today in south Mississippi, five families got the worst message you could ever receive, and that is that their loved one died in Iraq. Every one of them was a Guardsman or Reservist. Last Friday, I visited Walter Reed just like all of you do, but a little bit different from my colleagues, just to see Mississippians. Every one of the five Mississippians that are there are Guardsmen or Reservists. One is a double amputee. The other two have lost one leg. The other two are in wheelchairs and will be for some time. Every one of them is a Guardsman or Reservist.

I have heard in committee that maybe the Guard and Reserve does not deserve this. What could be farther from the truth? There are people who say, Well, we can't afford the money. It is going to be expensive. I am not going to lie about that. When it is fully implemented, it is going to cost $1 billion a year. But I will also remind you that when it is fully implemented, that will amount to one-quarter of 1 percent of the entire DOD budget, one-quarter of 1 percent of the DOD budget so we can tell our Guardsmen, so we can tell our Reservists, and there are really only three types of Guardsmen and Reservists, because I know a bunch of them. There are those that have been to Iraq, there are those that are in Iraq, and there are those that are going to Iraq. That is the only type of Guardsmen and Reservists we have now. That is how much we use them in the force. As a matter of fact, the aviation classification repair unit that is shared in the district of the gentleman from Connecticut (Mr. SIMMONS) and my own has already been to Iraq and they have been told they are going back.

This is going to become law. It is going to become law. The question is whether the House is going to lead on this or whether we are going to follow, because tomorrow the Senator from South Carolina is going to offer this amendment, and it is going to pass. So then it goes to conference. One of the arguments that is going to be made is that by this motion to recommit, we are slowing the process down. I would beg to differ. By this motion to recommit, we are stating the House's position that we agree with you, that this is something that is worthwhile to do and we go to conference, we are already in agreement that we are going to provide TRICARE for our Guardsmen and Reservists. I think it is a pretty good idea, but that is just me. But there are a lot of other folks who think this is a good idea.

This motion to recommit has been endorsed by the Military Officers Association of America, by the National Guard Association of America, by the Enlisted Association of the National Guard, a unanimous vote last weekend by the Adjutants General of the 54 States and territories, the Reserve Officers Association, and the Fleet Reserve Association.

Mr. Chairman, we are all going to go to Memorial Day services on Monday. A heck of a lot of people in that crowd are going to be Guardsmen, Reservists and their families. They are going to know how we voted. So you can plan to maybe duck some and hide from some, you can give them some lame excuse that, well, it wasn't what my party wanted, it wasn't what my chairman wanted; or you can look that young person who in the next year might be the father of a child and say, You're a National Guardsman. You're a Reservist. We as a Nation are willing to help you pay for that child.

Who in the next year may have cancer in their family, we are saying, Doggone it, you're serving your country. We're there to help you for that. Or that you have a preexisting condition. We all know how hard it is for someone who has a loved one with a preexisting condition to get insurance. We are telling them we value your service.

On Monday, when you look them in the eye, I hope you will be in a position to say we appreciate your service. You were there for us. And last Wednesday night, I was there for you.

Mr. HUNTER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, my good colleague from Mississippi has spoken of our great Guardsmen and Reservists a number of times in his very eloquent statement and talked about their deployment, their imminent deployment, or the deployment they are involved in right now or the one they are returning from in Afghanistan, Iraq, or other places around the world.

We, in fact, do provide TRICARE. It is medical care for every one of them and every one of their dependents, for 90 days before mobilization and 180 days after mobilization.

So this body, starting with the Committee on Armed Services and then the full House, moving and working with the Senate and with the President, have done that. Now, let me just tell you, there is a major problem from my perspective and I have looked at this during the last session and you have a major, major problem, because all of these people have jobs, they have employers who are carrying health care in the private sector right now. If you give an opportunity to employers, to the private sector, to terminate the health care that they are providing right now to their employees, once they understand that the government will pick up that health care pursuant to that status in the Guard, across the board, you are going to see that 18 percent of Guardsmen who right now do not have that health care, you are going to see that number go way up in the private sector and you are going to see, very simply, a large displacement of that burden from the private sector on to the DOD budget.

That gets to another responsibility that everyone here has. We have a responsibility to replace those 18-year-old helicopters. We have a responsibility to replace those jet aircraft that average now in the Navy about 17½ years old. We have a responsibility to replace those tanks, those trucks, those ships. If we take that $5.8 billion that this will amount to over 5 years, much of which will be the shifting of this burden from the private sector to DOD, we may think we have served that Guardsman very well in one way, but we will disserve him in another way because he will not have the best equipment.

Let me get to the issue at hand. We have a $500 billion bill which provides the tools to get the job done in this war against terror. The war really started when Todd Beamer, when that United flight was over Pennsylvania and he took on the terrorists and the last words we heard from him were, Let's roll. Let's roll echoed across the mountains of Afghanistan, through those dark canyons and those caves, across the sands of Iraq; and right now it is being carried in units like the 10th Mountain Division, the First Marine Division out to the western AO in Iraq, the First Armored Division in Baghdad, and all those great Guardsmen and Reservists who are fighting in this war against terror. We have provided in this bill the tools to get the job done.

Let us pass this bill. Let's roll.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the Taylor Motion to Recommit today on the issue of providing full TRICARE to all members of the Guard and Reserve and their families. I am most outraged by the fact that there will be no consideration of the Taylor amendment on TRICARE for reservists as well as the Salazar amendment on ending the Military Families Tax and the Marshall amendment on ending the Disabled Veterans Tax. These amendments are three key provisions in the GI Bill of Rights for the 21st Century, which House Democrats unveiled in March. It seems blatant, that the Rules Committee would not allow the full body to consider these vital amendments which could have greatly strengthened this Defense Authorization.

My colleague Mr. TAYLOR's amendment would have provided full TRICARE to all members of the Guard and Reserve and their families. Currently, the Guard and Reserve are covered by TRICARE only when they are mobilized for active duty. Under the Taylor amendment, all members of the Guard and Reserve could buy into TRICARE for an affordable monthly premium. The Taylor amendment was in fact adopted by the Armed Services Committee by a vote of 32 to 30. However, after the mark-up, Chairman HUNTER stripped the amendment from the bill based on a violation of the Budget Act, instead of allowing Representative TAYLOR to make a slight modification to his amendment which would have addressed the violation. It is the slightly modified version that Representative TAYLOR had sought the Rules Committee to make in order and which the Rules Committee has egregiously rejected for consideration. It is a travesty indeed because this amendment could have done so much good for so many Guardsmen and Reservists.

The simple fact is that more than 433,000 of our National Guard and Reserves have been called up over the past two and one-half years. Reserve Components make up almost 50 percent of our forces in Iraq. It is time that we as a body recognize their service to our nation by providing TRICARE for Reserve Component personnel on a permanent basis. It is disgraceful that this Congress will not demonstrate the level of commitment for its citizen-soldiers that they so richly deserve.

I know how TRICARE is insufficient for our men and women fighting abroad, I've talked to many of them in my district and it's sad that we can't provide them with the support they need when they are the ones making the ultimate sacrifice. The cuts to TRICARE over the years are despicable and soon we will have almost nothing to offer our men and women fighting abroad in the area of domestic care. Among those in Houston who have been brave enough to serve is Texas State Representative Rick Noriega who is with the Texas Army National Guard. He has served as state representative for District 145 for 6 years and when he was called to duty in Afghanistan he went to serve his nation, truly an inspiration to many. However, he left behind a wife and two children, who were proud, but unfortunately they were left with insufficient coverage by TRICARE. His family has suffered harsh treatment because they demanded more from TRICARE and weren't receiving it. Their story is not uncommon throughout the nation. Many doctors won't accept TRICARE because it is inadequate. The sad fact is that 20 percent of all Reservists do not have health insurance, and 40 percent of Reservists aged 19 to 35 lack health coverage according to a 2003 report by the General Accounting Office. According to the latest Defense Department data, 18 percent of activated Reservists have no medical coverage. These facts are deplorable, I pray for families like State Representative Noriega's and others who don't have access to sufficient care. How can we say that we are proud of our men and women fighting abroad when we can't even care for them and their families when they return to this nation of ours?

I can only hope in the future that such significant legislation as this will involve the debate and full consideration of all necessary and relevant amendments. The men and women of our Armed Forces and indeed the American people as a whole deserve as much. Again, I rise in full support of the Taylor Motion to Recommit and consider this truly vital amendment on TRICARE.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 211, noes 218, not voting 4, as follows:

[Roll No. 221]

AYES—211

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe

Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—218

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Brown (SC)
Emerson
Hastings (WA)
Millender-McDonald

☐ 2026

Mr. WHITFIELD changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DELAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 390, nays 39, not voting 4, as follows:

[Roll No. 222]

YEAS—390

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—39

Baldwin
Blumenauer
Conyers
Davis (IL)
Delahunt
Duncan
Filner
Frank (MA)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Jackson (IL)
Jones (OH)
Kilpatrick (MI)
Kucinich
Lee
Lewis (GA)
McDermott
McGovern
McKinney

Moore (WI)
Oberstar
Olver
Owens
Paul
Payne
Rangel
Rush
Schakowsky
Serrano
Solis
Stark
Tierney
Velázquez
Waters
Watt
Woolsey
Wu

NOT VOTING—4

Brown (SC)
Emerson
Hastings (WA)
Millender-McDonald

□ 2037

So the bill was passed.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the committee amendment to the title is adopted.

There was no objection.

The text of the committee amendment to the title is as follows:

Amend the title so as to read: "A bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.".

A motion to reconsider was laid on the table.

EXPRESSION OF THANKS TO ARMED SERVICES COMMITTEE STAFF

(Mr. HUNTER asked and was given permission to address the House for 1 minute.)

Mr. HUNTER. Mr. Speaker, let me extend my thanks, and I know on the other side of the aisle the leadership and membership extend their thanks, to all of our great staff people who did such a wonderful job putting this bill together and bringing it to the House floor. We appreciate them.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN ENGROSSMENT OF H.R. 1815, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1815, the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, and that the Clerk be authorized to make the additional technical corrections which are at the desk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1815.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The message also announced that pursuant to Public Law 100-696, the Chair, on behalf of the President pro tempore, appoints the following individual as a member of the United States Capitol Preservation Commission:

The Senator from Colorado (Mr. ALLARD), vice the Senator from Utah (Mr. BENNETT).

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2528, MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2006

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109-97) on the resolution (H. Res. 298) providing for consideration of the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken tomorrow.

SURFACE TRANSPORTATION EXTENSION ACT OF 2005

Mr. PETRI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2566) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The Clerk read as follows:

H.R. 2566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Extension Act of 2005".

SEC. 2. ADVANCES.

(a) IN GENERAL.—Section 2(a)(1) of the Surface Transportation Extension Act of 2004, Part V (23 U.S.C. 104 note; 118 Stat. 1144) is amended by striking "as amended by this section" and inserting "as amended by this Act and the Surface Transportation Extension Act of 2005".

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) ADMINISTRATION OF FUNDS.—Section 2(b)(3) of such Act (118 Stat. 1145) is amended by striking "the amendment made under subsection (d)" and inserting "section 1101(l) of the Transportation Equity Act for the 21st Century".

(2) SPECIAL RULES FOR MINIMUM GUARANTEE.—Section 2(b)(4) of such Act is amended by striking "$1,866,666,667" and inserting "$2,100,000,000".

(3) EXTENSION OF OFF-SYSTEM BRIDGE SET-ASIDE.—Section 144(g)(3) of title 23, United States Code, is amended by striking "May 31" inserting "June 30".

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101(l)(1) of the Transportation Equity Act for the 21st Century (118 Stat. 1145) is amended by striking "$22,685,936,000 for the period of October 1, 2004, through May 31, 2005" and inserting "$25,521,678,000 for the period of October 1, 2004, through June 30, 2005".

(d) LIMITATION ON OBLIGATIONS.—Section 2(e) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1146) is amended to read as follows:

"(e) LIMITATION ON OBLIGATIONS.—

"(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—Subject to paragraph (2), for the period of October 1, 2004, through June 30, 2005, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading 'FEDERAL-AID HIGHWAYS' in title I of division H of the Consolidated Appropriations Act, 2005 (23 U.S.C. 104 note; 118 Stat. 3204), in accordance with section 110 of such title (23 U.S.C. 104 note; 118 Stat. 3209); except that the amount of obligation limitation to be distributed for such period for each program, project, and activity specified in sections 110(a)(1), 110(a)(2), 110(a)(4), and 110(a)(5) of such title shall equal the greater of—

"(A) the funding authorized for such program, project, or activity in this Act and the Surface Transportation Extension Act of 2005 (including any amendments made by this Act and such Act); or

"(B) $^{9}/_{12}$ of the funding provided for or limitation set on such program, project, or activity in title I of division H of the Consolidated Appropriations Act, 2005.

"(2) LIMITATION ON TOTAL AMOUNT OF AUTHORITY DISTRIBUTED.—The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2004, through June 30, 2005, shall not exceed $26,025,000,000; except that this limitation shall not apply to $479,250,000 in obligations for minimum guarantee for such period.

"(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—After June 30, 2005, no funds shall be obligated for any Federal-aid highway program project until the date of enactment of a law reauthorizing the Federal-aid highway program.

“(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2005 for the purposes of the matter under the heading ‘FEDERAL-AID HIGHWAYS’ in title I of division H of the Consolidated Appropriations Act, 2005 (23 U.S.C. 104 note; 118 Stat. 3204).”.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2004 (118 Stat. 1147) is amended by striking “$234,682,667” and inserting “$264,018,000”.

SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA-21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 1147) is amended—

(i) in the first sentence by striking “$183,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$206,250,000 for the period of October 1, 2004, through June 30, 2005”; and

(ii) in the second sentence by striking “$8,666,667” and inserting “$9,750,000”.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 1148) is amended by striking “$164,000,000 for the period of October 1, 2004, through May 31, 2005” and inserting “$184,500,000 for the period of October 1, 2004, through June 30, 2005”.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 1148 is amended by striking “$110,000,000 for the period of October 1, 2004, through May 31, 2005” and inserting “$123,750,000 for the period of October 1, 2004, through June 30, 2005” .

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 1148) is amended by striking “$13,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$15,000,000 for the period of October 1, 2004, through June 30, 2005”.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 1148) is amended by striking “$93,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$105,000,000 for the period of October 1, 2004, through June 30, 2005”.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 1148) is amended by striking “$25,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$28,500,000 for the period of October 1, 2004, through June 30, 2005”.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1148) is amended—

(i) in clause (i) by striking “$6,666,667” and inserting “$7,500,000”;

(ii) in clause (ii) by striking “$3,333,333” and inserting “$3,750,000”; and

(iii) in clause (iii) by striking “$3,333,333” and inserting “$3,750,000”.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1148) is amended by striking “2001,” and all that follows through “May 31, 2005” and inserting “2001, $25,500,000 for fiscal year 2002, $26,500,000 for each of fiscal years 2003 and 2004, and $19,875,000 for the period of October 1, 2004, through June 30, 2005”.

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 1148) is amended by striking “$7,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$8,250,000 for the period of October 1, 2004, through June 30, 2005”.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 1148) is amended by striking “$3,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$3,750,000 for the period of October 1, 2004, through June 30, 2005”.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15)(A) of such Act (112 Stat. 113; 118 Stat. 1149) is amended by striking “$73,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$82,500,000 for the period of October 1, 2004, through June 30, 2005”.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 1149) is amended by striking “$333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$375,000 for the period of October 1, 2004, through June 30, 2005”.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 1149) is amended by striking “$16,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “$18,750,000 for the period of October 1, 2004, through June 30, 2005”.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) by striking subsection (a)(1)(G) and inserting the following:

“(G) $97,500,000 for the period of October 1, 2004, through June 30, 2005.”;

(B) in subsection (a)(2) by striking “$1,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$1,500,000 for the period of October 1, 2004, through June 30, 2005”; and

(C) in the item relating to fiscal year 2005 in table contained in subsection (c) by striking “$1.733,333,333” and inserting “$1,950,000,000”.

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 210; 118 Stat. 1149) is amended—

(A) by striking “$1,000,000” and inserting “$1,125,000”; and

(B) by striking “May 31” and inserting “June 30”.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA-21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 1149) is amended by striking “$68,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “$77,250,000 for the period of October 1, 2004, through June 30, 2005”.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 1149) is amended by striking “$33,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$37,500,000 for the period of October 1, 2004, through June 30, 2005”.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “$13,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$15,000,000 for the period of October 1, 2004, through June 30, 2005”.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “$20,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “$23,250,000 for the period of October 1, 2004, through June 30, 2005”.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “$73,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$82,500,000 for the period of October 1, 2004, through June 30, 2005”.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “$81,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$91,500,000 for the period of October 1, 2004, through June 30, 2005”.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “$17,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “$19,875,000 for the period of October 1, 2004, through June 30, 2005”.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1150) is amended by striking “$145,000,000 for the period of October 1, 2004, through May 31, 2005” and inserting “$163,125,000 for the period of October 1, 2004, through June 30, 2005”.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 1150) is amended by striking “$24,266,667 for the period of October 1, 2004, through May 31, 2005” and inserting “$27,300,000 for the period of October 1, 2004, through June 30, 2005”.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (118 Stat. 1150) is amended by striking “$12,533,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$14,100,000 for the period of October 1, 2004, through June 30, 2005”.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (118 Stat. 1151) is amended by striking “$333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “$375,000 for the period of October 1, 2004, through June 30, 2005”.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (118 Stat. 1151) is amended—

(1) by striking “$66,666,667” and inserting “$75,000,000”; and

(2) by striking “May 31” and inserting “June 30”.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (118 Stat. 1151) is amended—

(1) by striking “$66,666,667” and inserting “$75,000,000”; and

(2) by striking “May 31” and inserting “June 30”.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (118 Stat. 1151) is amended by striking “$500,000 for the period of October 1, 2004, through May 31, 2005” and inserting “$562,500 for the period of October 1, 2004, through June 30, 2005”.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (118 Stat. 1151) is amended—

(1) by striking “$3,500,000” and inserting “$3,937,500”;

(2) by striking "$166,667" and inserting "$187,500"; and

(3) by striking "May 31" each place it appears and inserting "June 30".

(k) Nondiscrimination.—Section 1101(k) of such Act (118 Stat. 1151) is amended—

(1) in paragraph (1) by striking "$6,666,667 for the period of October 1, 2004, through May 31, 2005" and inserting "$7,500,000 for the period of October 1, 2004, through June 30, 2005"; and

(2) in paragraph (2) by striking "$6,666,667 for the period of October 1, 2004, through May 31, 2005" and inserting "$7,500,000 for the period of October 1, 2004, through June 30, 2005".

(l) Administration of Funds.—Section 5(l) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1151) is amended—

(1) by inserting "and section 4 of the Surface Transportation Extension Act of 2005" after "this section" the first place it appears; and

(2) by inserting "or the amendment made by section 4(a)(1) of such Act" before the period at the end.

(m) Reduction of Allocated Programs.—Section 5(m) of such Act (118 Stat. 1151) is amended—

(1) by inserting "and section 4 of the Surface Transportation Extension Act of 2005" after "but for this section";

(2) by striking "both";

(3) by striking "and by this section" and inserting ", by this section, and by section 4 of such Act"; and

(4) by inserting "and by section 4 of such Act" before the period at the end.

(n) Program Category Reconciliation.—Section 5(n) of such Act (118 Stat. 1151) is amended by inserting "and section 4 of the Surface Transportation Extension Act of 2005" after "this section".

SEC. 5. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) Chapter 1 Highway Safety Programs.—

(1) Seat belt safety incentive grants.—Section 157(g)(1) of title 23, United States Code, is amended by striking "$74,666,667 for the period of October 1, 2004, through May 31, 2005" and inserting "$84,000,000 for the period of October 1, 2004, through June 30, 2005".

(2) Prevention of intoxicated driver incentive grants.—Section 163(e)(1) of such title is amended by striking "$73,333,333 for the period of October 1, 2004, through May 31, 2005" and inserting "$82,500,000 for the period of October 1, 2004, through June 30, 2005".

(b) Chapter 4 Highway Safety Programs.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 1152) is amended by striking "$110,000,000 for the period of October 1, 2004, through May 31, 2005" and inserting "$123,750,000 for the period of October 1, 2004, through June 30, 2005".

(c) Highway Safety Research and Development.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 1152) is amended by striking "1998 through" and all that follows through "May 31, 2005" and inserting "1998 through 2004 and $54,000,000 for the period of October 1, 2004, through June 30, 2005".

(d) Occupant Protection Incentive Grants.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 1152) is amended by striking "$13,333,333 for the period of October 1, 2004, through May 31, 2005" and inserting "$15,000,000 for the period of October 1, 2004, through June 30, 2005".

(e) Alcohol-Impaired Driving Countermeasures Incentive Grants.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 1153) is amended by striking "$26,666,667 for the period of October 1, 2004, through May 31, 2005" and inserting "$30,000,000 for the period of October 1, 2004, through June 30, 2005".

(f) National Driver Register.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 1153) is amended by striking "$2,400,000 for the period of October 1, 2004, through May 31, 2005" and inserting "$2,700,000 for the period of October 1, 2004, through June 30, 2005".

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) Administrative Expenses.—Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153) is amended by striking "$160,552,536 for the period of October 1, 2004, through May 31, 2005" and inserting "$192,631,044 for the period October 1, 2004 through June 30, 2005".

(b) Motor Carrier Safety Assistance Program.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

"(8) Not more than $126,402,740 for the period of October 1, 2004, through June 30, 2005.".

(c) Information Systems and Commercial Driver's License Grants.—

(1) Authorization of appropriation.—Section 31107(a)(6) of such title is amended to read as follows:

"(5) $14,958,904 for the period of October 1, 2004, through June 30, 2005.".

(2) Emergency CDL grants.—Section 7(c)(2) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153) is amended—

(A) by striking "May 31," and inserting "June 30,"; and

(B) by striking "$665,753" and inserting "$747,945".

(d) Crash Causation Study.—Section 7(d) of such Act (118 Stat. 1154) is amended—

(1) by striking "$665,753" and inserting "$747,945"; and

(2) by striking "May 31" and inserting "June 30".

SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) Allocating Amounts.—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1) by striking "May 31, 2005" and inserting "June 30, 2005";

(2) in paragraph (2)(B)(iii)—

(A) in the heading by striking "MAY 31, 2005" and inserting "JUNE 30, 2005";

(B) by striking "$6,933,333" and inserting "$7,800,000"; and

(C) by striking "May 31, 2005" and inserting "June 30, 2005";

(3) in paragraph (3)(B)—

(A) by striking "$2,000,000" and inserting "$2,250,000"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(4) in paragraph (3)(C)—

(A) by striking "$33,333,333" and inserting "$37,500,000"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005".

(b) Formula Grants Authorizations.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking "MAY 31, 2005" and inserting "JUNE 30, 2005";

(2) in paragraph (2)(A)(vii)—

(A) by striking "$2,201,760,000" and inserting "$2,545,785,000"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005";

(3) in paragraph (2)(B)(vii) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(4) in paragraph (2)(C) by striking "May 31, 2005" and inserting "June 30, 2005".

(c) Formula Grant Funds.—Section 8(d) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1155) is amended—

(1) in the heading by striking "May 31, 2005" and inserting "June 30, 2005";

(2) in the matter preceding paragraph (1) by striking "May 31, 2005" and inserting "June 30, 2005";

(3) in paragraph (1) by striking "$3,233,300" and inserting "$3,637,462";

(4) in paragraph (2) by striking "$33,333,333" and inserting "$37,500,000";

(5) in paragraph (3) by striking "$65,064,001" and inserting "$73,197,001";

(6) in paragraph (4) by striking "$172,690,702" and inserting "$194,277,040";

(7) in paragraph (5) by striking "$4,633,333" and inserting "$5,212,500"; and

(8) in paragraph (6) by striking "$2,473,245,331" and inserting "$2,782,400,997".

(d) Capital Program Authorizations.—Section 5338(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "MAY 31, 2005" and inserting "JUNE 30, 2005";

(2) in subparagraph (A)(vii)—

(A) by striking "$1,740,960,000" and inserting "$2,012,985,000"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(3) in subparagraph (B)(vii) by striking "May 31, 2005" and inserting "June 30, 2005".

(e) Planning Authorizations and Allocations.—Section 5338(c)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "MAY 31, 2005" and inserting "JUNE 30, 2005";

(2) in subparagraph (A)(vii)—

(A) by striking "$41,813,334" and inserting "$48,346,668"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(3) in subparagraph (B)(vii) by striking "May 31, 2005" and inserting "June 30, 2005".

(f) Research Authorizations.—Section 5338(d)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "MAY 31, 2005" and inserting "JUNE 30, 2005";

(2) in subparagraph (A)(vii)—

(A) by striking "$28,266,667" and inserting "$32,683,333"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005";

(3) in subparagraph (B)(vii) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(4) in subparagraph (C) by striking "May 31, 2005" and inserting "June 30, 2005".

(g) Allocation of Research Funds.—Section 8(h) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1156) is amended—

(1) in the heading by striking "May 31, 2005" and inserting "June 30, 2005";

(2) in the matter preceding paragraph (1) by striking "May 31, 2005" and inserting "June 30, 2005";

(3) in paragraph (1) by striking "$3,500,000" and inserting "$3,937,500";

(4) in paragraph (2) by striking "$5,500,000" and inserting "$6,187,500"; and

(5) in paragraph (3)—

(A) by striking "$2,666,667" and inserting "$3,000,000"; and

(B) by striking "$666,667" and inserting "$750,000".

(h) University Transportation Research Authorizations.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "MAY 31, 2005" and inserting "JUNE 30, 2005";

(2) in subparagraph (A)—

(A) by striking "$3,200,000" and inserting "$3,700,000"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005";

(3) in subparagraph (B) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(4) in subparagraphs (C)(i) and (C)(iii) by striking "May 31, 2005" and inserting "June 30, 2005".

(i) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1157) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1) by striking "May 31, 2005" and inserting "June 30, 2005";

(B) in paragraph (1)(A) by striking "$1,333,333" and inserting "$1,500,000";

(C) in paragraph (1)(B) by striking "$1,333,333" and inserting "$1,500,000"; and

(D) in paragraph (2) by striking "May 31, 2005" and inserting "June 30, 2005".

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 857; 118 Stat. 1157) is amended by striking "May 31, 2005" and inserting "June 30, 2005".

(j) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "MAY 31, 2005" and inserting "JUNE 30, 2005";

(2) in subparagraph (A)(vii)—

(A) by striking "$41,600,000" and inserting "$48,100,000"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(3) in subparagraph (B)(vii) by striking "May 31, 2005" and inserting "June 30, 2005".

(k) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391; 118 Stat. 1157) is amended—

(1) in paragraph (1)(A)(vii)—

(A) by striking "$80,000,000" and inserting "$92,500,000"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005";

(2) in paragraph (1)(B)(vii) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(3) in paragraph (2) by striking "May 31, 2005, not more than $6,666,667" and inserting "June 30, 2005, not more than $7,500,000".

(l) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 1158) is amended—

(1) by striking paragraph (1)(G) and inserting after paragraph (1)(F) the following:

"(G) $3,937,500 for the period of October 1, 2004, through June 30, 2005."; and

(2) in paragraph (2)—

(A) by striking "$1,133,333" and inserting "$1,275,000"; and

(B) by striking "May 31, 2005" and inserting "June 30, 2005".

(m) URBANIZED AREA FORMULA GRANTS.—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "MAY 31, 2005" and inserting "JUNE 30, 2005"; and

(2) in subparagraph (A) by striking "May 31, 2005" and inserting "June 30, 2005".

(n) OBLIGATION CEILING.—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 1158) is amended—

(1) by striking "$5,172,000,000" and inserting "$5,818,500,000"; and

(2) by striking "May 31, 2005" and inserting "June 30, 2005".

(o) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361; 118 Stat. 1158) is amended—

(1) by striking "May 31, 2005" and inserting "June 30, 2005"; and

(2) by striking "$3,233,333" and inserting "$3,637,500".

(p) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 1158) is amended—

(1) by striking "May 31, 2005," and inserting "June 30, 2005"; and

(2) by striking "$3,333,333" and inserting "$3,750,000".

(q) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Subsections (a), (b), and (c)(1) of section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373; 118 Stat. 1158) are amended by striking "May 31, 2005" and inserting "June 30, 2005".

(r) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 1158) are amended by striking "May 31, 2005" and inserting "June 30, 2005".

(s) TREATMENT OF FUNDS.—Amounts made available under the amendments made by this section shall be treated for purposes of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note) as amounts made available for programs under title III of such Act.

(t) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 1158) is amended by striking "May 31, 2005" and inserting "June 30, 2005".

SEC. 8. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c)(7) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)(6)) is amended to read as follows:

"(6) $7,499,997 for the period of October 1, 2004, through June 30, 2005;".

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

"(4) FIRST 9 MONTHS OF FISCAL YEAR 2005.—For the period of October 1, 2004, through June 30, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $61,499,997, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

"(A) $7,499,997 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(B) $6,000,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.".

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

(1) by striking "$3,333,336" and inserting "$3,750,003"; and

(2) by striking "$1,333,336" and inserting "$1,500,003".

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking "June 1, 2005" and inserting "July 1, 2005",

(B) by striking "or" at the end of subparagraph (J),

(C) by striking the period at the end of subparagraph (K) and inserting ", or",

(D) by inserting after subparagraph (K) the following new subparagraph:

"(L) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005.", and

(E) in the matter after subparagraph (L), as added by this paragraph, by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Surface Transportation Extension Act of 2005".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking "June 1, 2005" and inserting "July 1, 2005",

(B) in subparagraph (H), by striking "or" at the end of such subparagraph,

(C) in subparagraph (I), by inserting "or" at the end of such subparagraph,

(D) by inserting after subparagraph (I) the following new subparagraph:

"(J) the Surface Transportation Extension Act of 2005,", and

(E) in the matter after subparagraph (J), as added by this paragraph, by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Surface Transportation Extension Act of 2005".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking "June 1, 2005" and inserting "July 1, 2005".

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "Surface Transportation Extension Act of 2004, Part V" each place it appears and inserting "Surface Transportation Extension Act of 2005".

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking "June 1, 2005" and inserting "July 1, 2005", and

(B) by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Surface Transportation Extension Act of 2005".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking "June 1, 2005" and inserting "July 1, 2005".

(c) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking "2005" each place it appears and inserting "2006":

(1) Section 4481(f).

(2) Section 4482(c)(4).

(3) Section 4482(d).

(4) Section 4483(h).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on June 30, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. PETRI).

GENERAL LEAVE

Mr. PETRI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2566.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill will extend for 30 days our Nation's highway, transit and safety programs when the current program expires at the end of May. We need to take this action to give us some more time to get a long-term authorization in place. Conferees will soon be named so that we can get to work to complete a conference report on H.R. 3 by the time this extension has run its course.

I ask my colleagues to approve this extension with the clear intention that the next time we are on the floor, we will be here to ask for your vote for a conference report to extend these programs to the year 2009.

Mr. Speaker, H.R. 2566 will extend for 30 days our nation's highway, transit and safety programs. I am not pleased that we have to bring this bill before the House, but we must move this extension—and I trust this is the last time we will do so—in order to keep our transportation program functioning as we work to finalize a multi-year reauthorization bill.

As the members know, we worked to enact such a reauthorization bill last year, but with the pressure of election-year politics and the various demands placed on the program with not enough resources to meet them, we were unable to do so before the 108th Congress adjourned.

This year, the House passed H.R. 3 by an overwhelming 417 to 9 vote on March 10. But the other body passed its version of the reauthorization just last week. With the current program expiring at the end of May, we need to take this action to give us some more time to get a long-term authorization in place.

Having said that, I hope conferees will be named soon so that we can get to work to complete a conference report on H.R. 3 by the time this extension runs its course. I do not want to be here 30 days from now, saying once again that we need just a few more weeks to get to a final agreement.

But it is going to take some hard work and require some tough decisions being made on the part of the committees and the leadership on both sides of the Capitol.

We have to work with the White House. There are complicated policy issues and, whenever you are dealing with formulas to distribute money, there are sensitive funding issues to address. But we need to get it done—and get it done right.

So one more time I will ask my colleagues to approve this extension—with the clear intention that next time we are on the floor, we will be here to ask for your vote on a conference report to extend these programs through 2009.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it was September 24, 2003, when this House was considering the first surface transportation extension bill that I said, "I am afraid we will be back here on this floor once again pleading for another extension of time to keep transportation programs from once again expiring. I do not want to be back on this floor saying again what I said 6 years ago. Time is running out."

Well, what I said 20 months ago has been right again and again. Tonight we are here following six extensions of current law pleading for, once again, a temporary extension of authorization for highway construction, safety and public transportation funding. And what is discouraging is we are almost in the same position we were a year ago when both Houses passed legislation, met in conference to resolve our differences, but the unwillingness of the White House to agree to a level of investment the country really needs and which we all understand is needed prevented the conference from coming to a successful resolution. So here we are with extension number seven.

Like the six previous extensions, this bill provides for a clean extension of program funding authorization, which means that in the interim we have not been able to modify or update current surface transportation programs that need those adjustments.

The bill will provide $3.14 billion in new contract authority for highway programs through June 30, 2005. I better say 2005, lest we get confused with the next year. For transit programs, the bill provides $647 million for the month of June to allow programs to continue for one more month.

□ 2045

The best news about this bill is that the prospects look better than they have for the past 2 years. The chairman of our full committee, the gentleman from Alaska (Mr. YOUNG) has been designated, or will be designated and agreed upon to be the Chair of the conference. I think that indicates that we will move with expeditious resolve to get this legislation completed in the month allotted by this extension of time.

But let us not underestimate the problems lying ahead of us. They are enormous, and they are principally funding problems. We have passed through our committee, through this House, in extraordinarily good time, early in this year, carrying our responsibility as we said we would do, to the transportation needs of America; but it has been the other body and the other branch of government that have not done their part.

Now, I am confident that when we get into conference, we could just take our bill, if the other body would simply accept it, we would get it passed, and we would meet the transportation needs of the country, but I suspect it is not going to be quite that simple. So it is reassuring that our chairman will be the conference chair, and that means that things will move along, I think, very expeditiously.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I continue to reserve my time.

Mr. OBERSTAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO), the ranking member on the Subcommittee on Surface Transportation.

Mr. DEFAZIO. Mr. Speaker, I thank the ranking member for yielding me this time.

I am pleased that we finally have a bill out of the Senate, and I am pleased that we are going to move forward to conference. At this point, given the tardy adoption of the legislation by the Senate, it is necessary that we have, hopefully, one last, final, temporary, 30-day extension.

We are now 20 months overdue on this essential piece of legislation. This is a bill that, if adequately funded, could provide tens of thousands of jobs, putting Americans to work at projects that are needed to improve the transportation infrastructure, failing bridges, roads, highways, congestion management, mass transit; to more efficiently move people to work, from work, about in their daily lives; to move goods to firms for just-in-time delivery. It could be a real boost for an economy that, in my opinion, is still sputtering, and dependent upon too much borrowing and not enough real investment.

This is real investment. This is money we do not have to borrow. We are borrowing $1.3 million a minute to run the government. We do not have to borrow a single penny to build and rebuild these roads, bridges, and highways and move Americans more efficiently about the country.

I have a letter from the American Association of State Highway and Transportation Officials, and I think they have said it well: "An uncertain funding stream has forced the States to slow down planning and design and to delay construction of critically needed highway and transit projects. Further delay in enacting a reauthorization bill continues to reduce the purchasing power of Federal transportation dollars and increase the costs of projects."

I think that says it well.

So we should act with all dispatch to move forward to conference and resolve the differences between the House and Senate, and adopt the most robust funding level possible, perhaps even having to challenge the White House on the numbers where they have drawn a line in the sand.

I have tremendous confidence in our chairman of the committee and of the conference, the gentleman from Alaska (Mr. YOUNG), and I know that the gentleman from Minnesota (Mr. OBERSTAR), of vast experience in a number of past reauthorizations, will lend all the support he can from our side of the aisle, and I will back him up as best as I can.

We need to adopt a permanent surface transportation reauthorization before or by the end of this next extension.

Mr. OBERSTAR. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, I want to thank the gentleman from Alaska (Chairman YOUNG) and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO) for their leadership on this issue.

This bill is almost 2 years overdue, and that is just not fair to the Nation-traveling public who deserve better from this Congress and this administration. If you have been watching the floor today, you will know that we are building the world's largest embassy in Iraq, even though the Iraqi people do not want us there, and even though this will be the biggest target for terrorists in the world.

We are spending $1 billion a week to destroy and rebuild Iraq's infrastructure, while completely ignoring the infrastructure right here in America, the people who are paying the bills.

Transportation projects are a natural economic development tool which this Nation sorely needs. The Department of Transportation statistics show that every $1 billion invested in transportation infrastructure creates 42,000 jobs. Let me repeat that: 42,000 jobs for every $1 billion we invest, and $2.1 billion in economic activities. It also saves 1,400 lives. We cannot argue with those statistics.

Transportation funding is a win-win for everyone involved. States get an improved transportation infrastructure that creates economic development, puts people back to work, enhances safety, and improves local communities.

Why the President is opposed to this bill that has the potential of creating millions of jobs is beyond me. The President's own Highway Administration has stated that we need a minimum of $375 billion just to maintain current infrastructure. By delaying the passage of this much-needed legislation, we are doing a disservice to the driving public and the Nation as a whole.

The States who are battling red ink want to see this bill passed, the construction companies who are laying off employees want to see this bill passed, and the citizens who are waiting in traffic jams want to see this bill passed.

Let us get serious about putting people back to work. Let us pass a bill that truly meets the needs of the traveling public and not the need for the President to seem fiscally responsible while he runs up the national debt.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, let me express my appreciation to the committee leadership and the entire committee. We were faced with the Department of Transportation saying that we need $376 billion just to take care of the areas of crisis for safety and for travel; yet, we are still trying at this bill. It is unfortunate that we have to extend one more time, but I hope this is the last time that we have to extend before we get a permanent bill.

I appreciate all of the support that the committee has given. As a matter of fact, the committee is trying to cooperate with the Department of Transportation by even mentioning $376 billion, and we did pass something that the President has agreed to, but now we go to conference. So to tide us over, because, yes, our communities are suffering, the persons who build are having to lay off people, things are becoming more expensive while we wait and debate the real bill of which we can start to work on the real problems in transportation in this country. Our environment is getting worse, the congestion in the cities is getting worse, as well as bridges falling.

It is time for us to think of the American people, put them to work, and give us the needed infrastructure improvement that we need in this country.

I urge everyone to vote for this extension and hope this is the last one.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say it was quite a coincidence that just as we began, or just before beginning consideration of this bill, the papers arrived from the other body, signaling that we are ready, perhaps tomorrow, to move to go to conference.

That is a good sign: Appoint conferees, and return from the Memorial Day recess ready to, well, I would not say roll up our sleeves, because it will be short-sleeve time by then, but to go to work on the conference report and bridge the differences, literally, between the two bodies and two versions of the bill with the least amount of interference from the executive branch of government.

Left to our own devices, the House and the Senate will come to agreement on the conference report and do what is good and necessary for the country in transportation.

Mr. Speaker, almost 20 months ago, on September 24, 2003, when this House was considering the first surface transportation extension bill, I stated: "I am afraid . . . we will be back here on this floor once again pleading for another extension of time to keep transportation programs from once again expiring . . . I do not want to be back on this floor saying again what I said six years ago, time is running out." What I predicted then has repeatedly proven correct—we have had six extensions since that day. And here we are today pleading once again for a temporary extension of authorizations for highway construction, highway safety, and public transportation funding.

What is even more discouraging is that we are almost at exactly the same position we were a year ago when both houses of Congress passed legislation and met in Conference Committee to resolve our differences. But the unwillingness of the Administration to agree to a level of investment that this country needs to meet its transportation requirements prevented the Conference from coming to a successful conclusion. So we are here today, trying to pass the 7th temporary extension to keep our federal surface transportation programs going.

It is time, in fact it is long overdue, for this Congress to realize that it is not a parliamentary body. The Constitution gives Congress the power to make laws. It is now up to the House and Senate to come together in Conference Committee and resolve their difference, including deciding the overall funding level of the bill. Too often the Republican Leadership in both bodies simply bows to the wishes of the Administration, which in this case has drawn an arbitrary line in the sand. In doing so, they abdicate their Constitutional duty to make laws and do a real disservice to the American people.

Delay in a long-term reauthorization of the federal surface transportation programs has been costly to our Nation. When the first extension was about to expire last year, the American Association of State Highway and Transportation Officials (AASHTO) estimated that failure to enact a long-term reauthorization would mean a $2.1 billion increase in project cost and a loss of more than 90,000 jobs that could have been created. The uncertainty caused by Congress' failure to pass this bill has significantly limited the States' willingness to plan and budget for large, multi-year projects.

We must now finish the job that Congress should have completed 20 months ago. Now that the Other Body has passed its version of the transportation reauthorization bill last week, we should immediately begin the work of the Conference Committee to ensure that we reach agreement on a Conference Report before this extension expires at the end of next month. Continuing our federal surface transportation programs by temporarily extending their funding authorization is no way to do business, especially when we are dealing with costly, multi-year transportation projects that require long-term certainty in planning, development, and financing. The 2005 construction season is upon us. I can only imagine what further damage and financial cost will be inflicted if another extension is needed to carry us to the promised land of a long-term transportation act.

Like the six previous extensions, H.R. 2566 provides for a "clean" extension of program funding authorization. As a result, Congress has not been able to modify or update current surface transportation programs that are in need of such adjustment.

Overall, this bill would provide $3.14 billion in new contracts authority for highway programs for the month ending on June 30, 2005. For transit programs, this bill would provide $647 million for the month of June. This funding will allow the programs to continue for one more month.

I hope we can complete the Conference Report during this time and will not have to come back here again to set new records for the number of temporary extensions and the length of time since the expiration of a regular long-term surface transportation act. I strongly urge my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I urge my colleagues to support this bill.

Mr. UDALL of Colorado. Mr. Speaker, I am voting for this bill because without enactment of such an extension the current transportation law will expire on May 31, 2005. It is critical that transportation programs and projects continue while Congress continues to work toward their long-term renewal.

With that being said I feel it important that Congress act swiftly and pass into law a long-term authorization for highway and mass transit programs. The number of continuing extensions passed by Congress have not provided state Departments of Transportations (DOT)s, Metropolitan Planning Organizations (MPO)s, cities and municipalities the certainty they need to plan for, manage and fund their transportation priorities.

I am hopeful Congress acts quickly to resolve the differences between the House and Senate version so that we can invest the needed long term resources to create jobs and address transportation challenges facing the Colorado and United States.

Mr. CUMMINGS. Mr. Speaker, today, we are poised to enact our seventh extension of the Transportation Equity Act for the 21st Century (TEA–21). This Act was originally set to expire in September 2003. Unfortunately, after nearly two years of consideration, Congress has been unable to pass a new reauthorization measure.

I truly hope that this is the last extension we have to pass. The transportation reauthorization guides all federal spending on highways and transit systems. The delay in enactment of this legislation has left states and transit systems uncertain about the funding they will have. As a result, they have delayed critical constructions projects—and good paying jobs have been lost.

State departments of transportation reported at the end of last year that collectively they had already delayed the implementation of more than $2 billion worth of highway and transit projects, which has caused nearly 90,000 job opportunities to be lost.

The delay in implementation of transportation construction projects is also causing the traveling public to suffer. The new 2005 Urban Mobility Report published by the Texas Transportation Institute found that drivers now waste nearly 4 billion hours and $63 billion waiting in congestion.

The only way to reduce this congestion and to create new jobs is for states to build the new roads and transit projects they need—and states cannot do that until the federal government meets its responsibility and commits funding for these projects to the states.

There is an old saying: even if you are on the right track, you'll get run over if you just sit there. Right now, it is time to get moving—and to get our transportation system moving—by passing a transportation reauthorization.

Mrs. TAUSCHER. Mr. Speaker, here we go again. For the seventh time since the expiration of TEA 21 in September 2003, the House will adopt a temporary extension of highway, transit and highway safety programs.

Why can't we get this bill done? The House adopted the legislation on a 417–9 vote. The Senate adopted the legislation on an 89–11 vote. And yet, the President has threatened to veto the legislation.

Mr. Speaker, Americans are spending more time in traffic today than they ever have before. They're commuting hours to work, missing their children's soccer games, and losing their precious free time to traffic.

Commuters in my district in San Francisco's Bay Area are suffering in the second worst city in America for gridlock. They're losing a total of over $2 million in wasted fuel and several hours each week, away from their offices and their families.

At the same time, our infrastructure is in need of repair. Our roads and highways are crumbling and we have limited funds to invest in new transit systems.

Mr. Speaker, the American people get it. They know that we need an infusion of federal funds to begin addressing our critical transportation infrastructure needs. They're tired of paying gas taxes at the pump and receiving nothing in return.

It's time to get this bill done. It's time for the President to put his veto stamp away and listen to the American people.

Mr. PETRI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and pass the bill, H.R. 2566.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MILITARY APPRECIATION MONTH

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, we have just voted on a bill with many important elements for our troops, and I wanted to say a few words about our men and women in uniform.

Since taking office, I have had the chance to meet with our troops in Afghanistan, Iraq, and those here at home in my State of Tennessee, and I cannot describe a more patriotic, dedicated, and courageous group of human beings.

In the face of adversity, tackling this enormous new war on terror, they have put on their game face and they have gotten to work. Their commitment to, as they like to call it, "the mission," inspires me, and it inspires all of us to be sure that we are working here to do everything we can to support their work.

So today, during Military Appreciation Month, I want to extend to our men and women in uniform the world over a great big thank-you from this American and from every other citizen whose freedom in life depends on their strength and conviction. May God bless all of them.

RAISING AWARENESS FOR PULMONARY HYPERTENSION

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to commend the Pulmonary Hypertension Association for raising awareness and for creating a network of support for patients with pulmonary hypertension. I would especially like to recognize the dedication of my colleague, the gentleman from California (Mr. LANTOS) and his family, but especially the courage of his granddaughter, Charity Sunshine, who suffers from this rare, chronic, debilitating condition, which is characterized by increased pressure in the pulmonary vessels.

It is encouraging to note that significant advances have been made, enabling doctors to provide more effective medical therapies.

So please join me in thanking the Lantos family and the PHA for their unwavering commitment to finding a cure for pulmonary hypertension. My prayers are with all who are affected by this condition.

U.S. TRADE POLICY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, President Bush is asking this Congress to pass the Central American Free Trade Agreement, a dysfunctional cousin of the North American Free Trade Agreement, in spite of the fact that our trade policy has failed.

Twelve years ago, the U.S. had a $38 billion trade deficit. After NAFTA, China and a host of other trade agreements, our trade deficit is now $618 billion.

□ 2100

Mr. Speaker, someone defined insanity as if you do the same thing over and over and over again, you expect a different outcome. It is clear our trade policy has failed. The Central American Free Trade Agreement, an extension of NAFTA, will continue the failed trade policy. We should pass trade agreements that lift up standards around the world, create jobs, both in the developing world and in the United States and change the direction of our trade policy.

ADOPTION OF CUBAN POLITICAL PRISONER HECTOR FERNANDO MASEDA GUTIERREZ

(Mr. MANZULLO asked and was given permission to address the House for 1 minute.)

Mr. MANZULLO. Mr. Speaker, today I stand in this great Chamber of democracy to adopt a Cuban political prisoner, Mr. Hector Fernando Maseda Gutierrez.

Mr. Gutierrez was arrested on March 18, 2003 during a regime crackdown on dissidents, sentenced to 20 years in prison for associating himself with the Florida International University, participating in Radio Marti programs, writing articles for foreign magazines and possessing a typewriter, fax machine, and books in his home.

I urge Fidel Castro to release him immediately.

The Cuban authorities are refusing to give Mr. Gutierrez the medicine he needs for a skin ailment and several allergies. He is 62 years old, and therefore his health problems are of great concern to his family.

Faced with crude living conditions and the possibility of merciless consequences to his family, Mr. Gutierrez is determined not to back down from his conviction for a free Cuba.

Let me finish by saying that I am grateful that my distinguished colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN), promoted this idea of adopting Cuban political prisoners.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

EVERYDAY HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nevada (Mr. GIBBONS) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, tonight I rise to celebrate individual courage and individual strength. Last Saturday in Carson City, Nevada, an act of bravery and unselfishness occurred when Mr. Loren Boyles saved the life of a Carson City deputy sheriff.

As he was leaving for work early Saturday morning, Mr. Boyles came across Deputy Wayne Gray who was down and being attacked by a suspect he was attempting to restrain.

Without hesitating, Mr. Boyles jumped in and kept that suspect from doing serious, if not fatal, bodily harm to the deputy. He helped to apprehend the assailant and then stayed with Deputy Gray until additional officers arrived at the scene.

Loren Boyles represents the best in the people of Nevada and of America.

He was not afraid to intervene in what was undoubtedly a dangerous situation to save the life of Deputy Gray.

Afterwards, he just went on to work, saying, It was not a big deal; I was just helping out.

But, Mr. Speaker, it was a big deal. Everyday heroes make this country great.

Heroes like Arland D. Williams, Jr., who died in the icy Potomac River helping fellow survivors of Flight 90 get to lifelines. He did not worry about his own safety. Instead, selflessly he helped others.

Heroes like Pat Tillman, who walked away from a $3.6 million contract as the starting safety for the Arizona Cardinals to defend our country. He too did not want glory, refusing even to grant interviews to talk about his decision.

Mr. Boyles has a long record of selfless bravery as well. A veteran U.S. Air Force military policeman, Boyles risked his life repeatedly during his three tours of duty in Vietnam. And earlier this week, he did not hesitate to risk his life to save someone in need from a dangerous individual.

Yet Boyles has remained modest about the entire incident, telling the local newspaper, the Nevada Appeal: "The cops are the real heroes here. They are on the front lines every day protecting us from guys like this."

Mr. Boyles' bravery is commendable, and his modesty is laudable. His heroism is an inspiration to not only the people of Nevada but to all Americans.

So to Mr. Boyles I say thank you for aiding your fellow citizens, and I commend you for your heroism. May your sense of duty and selflessness be a model for all Americans.

HEALTH INSURANCE FOR NATIONAL GUARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, next Monday is Memorial Day. And tonight, in my opinion, a majority in the House of Representatives besmirched that day. A majority, a partisan majority, on a near party-line vote, rejected the idea that our National Guard troops deserve health insurance while they are serving our country. They said, oh, they get it 90 days before they are deployed. Yet many Guard members fail to qualify for deployment because of existing and pre-existing medical problems.

They get it for 180 days after they come back. That should be enough. The chairman of the committee said something extraordinary. He said, oh, they have all got health insurance at their jobs. What jobs? 50 percent of my Guard unit that just came back from Iraq do not have jobs, and they have a very limited health insurance that is going to run out pretty darn soon because of that vote tonight.

Now, they are probably going to go back next year to Afghanistan. But in the interim, we cannot afford health insurance for those young men and women and their families. That is extraordinary to me.

The chairman talked eloquently about 16-year-old helicopters. We need to replace them. What about the 22-year-old Guardsman who does not have a job, just came back from Iraq, whose health insurance is going to expire this summer, who has a wife and a kid and a not really great economy in Oregon and cannot get health insurance through our State because of cutbacks in Medicaid? But we are going to ask him to go back to Afghanistan next year. What is that all about? We cannot afford health insurance for that young family?

We have to buy some new helicopters. Those helicopters are junk without the Guardsmen and the Guardswomen and the regular Army and the Marines, the people who make them work. It does not matter if they are 1 month old, 1 year old, 16 years old. Without those dedicated troops, those helicopters cannot fly.

It is unbelievable to me that the chairman of the committee would force Members of his own party to follow him in this vote.

Fifty percent of my Guardsmen are unemployed. Fifty percent have just returned from Iraq to no job. They do not have insurance. And of the 50 percent that have jobs, despite the chairman's statement, most of those people do not have health insurance either, like so many Americans who work full-time and do not have health insurance.

And we are worried about Guard retention. They are going to have fabulous new bonuses to try and get people to enlist or re-up. How about basics? Basics? Health insurance for those Guardsmen and -women and their families; the same education benefits that people on active duty get.

We are using our Guardmembers indistinguishably from the active duty Army. Indistinguishably. They are performing special operations. They are doing all the same things we ask the regular Army to do. But they do not get the same education benefits. They do not get the same health benefits. They do not get the same retirement benefits, and many times they do not even get the same equipment. They are put in harm's way with inadequate equipment.

It is a disgrace to this House that we were told we cannot afford to add one-quarter of 1 percent. That is about 18 hours' spending out of a year to the military budget in order to provide permanent health insurance for everybody who is still active in a Guard unit in this country. Hopefully, the Senate will act with more wisdom and force a reversal here.

I am proud to have voted with our Guardsmen and -women, and I am proud to have stood up with them and said they deserve better and our country recognizes their service and they recognize it by extending adequate benefits including health care, particularly as we come up to Memorial Day.

So those who voted against it, I hope they are asked on Memorial Day, why did you vote against giving me health insurance? Because there are an awful lot of Guardsmen and -women who would like to know the answer to that question.

ORDER OF BUSINESS

Mr. GINGREY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

THE LIFE OF ROSE WING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise this evening to honor the life and career of Marietta teacher Rose Lee Wing, who passed away on April 30. She will be deeply missed by a grateful community and scores of former students who were fortunate enough to call her teacher.

Mr. Speaker, I want you to focus your attention not on my words so much, but on this portrait of this beautiful, beautiful person.

Born the youngest of seven children in Kingston, North Carolina, Rose graduated from Meredith College. After completing a master's degree in education at Temple University, she moved to Marietta, Georgia in 1938.

She married Steve Mosher Wing and was blessed with two children: Rose, an attorney, and Steve, Jr., a physician, my friend at the Medical College of Georgia. She was later blessed with two grandchildren, Jennifer Wing and Molly Wing Kintz.

Mrs. Wing taught in the Marietta School System for 47 years, instructing students at Waterman Street Elementary, Marietta High School, Westside Elementary School, and Hickory Hills Elementary School. She taught social studies and organized the annual school social science fair.

When she finally retired in 1987, she had touched the lives of hundreds of students. My daughter, Phyllis, was lucky enough to be among those students. In fact, I remember how hard Phyllis worked on her social science project, "The History of Kenneth Stone Hospital," for Mrs. Wing's class.

Mrs. Wing expected hard work from all of her students. Former pupils will tell you how she insisted that they recite all 50 States and capitals in front of the class. You see, Mrs. Wing did not just teach the facts; she wanted her students to learn how to stand up and be outspoken.

Rose Wing organized her classroom to make everyone feel included. She did not stand in front of the class and lecture, but instead she taught from the center of the room with the desks surrounding her. It was these smaller decisions that truly showed Mrs. Wing's dedication to helping students learn.

The brilliance of her teaching method was that it provided students with the opportunity to participate, while at the same time teaching discipline and respect.

After teaching four generations of children, Rose Wing always had a plethora of stories to share, many memories, and memorable students.

Her students included Georgia State Representative Steve Tumlin; former State Representative Fred Bentley; Actress Joanne Woodward, the wife of Paul Newman; former State Representative Jack Vaughn; and former Marietta mayor, Ansley Meaders, sat in her classroom to learn.

Mrs. Wing loved seeing her former students, hearing about their lives and seeing how they developed. She often said that there was no more rewarding experience than teaching because teachers have the ability to directly affect a community.

□ 2115

She enjoyed seeing her students grow up to become community leaders. She felt appreciated in the process.

On the day she retired in 1987, Mrs. Wing was welcomed to school by rows of her students holding red roses in the form of an arc. As she walked through, the students cheered.

Even after retirement, Rose Wing kept on giving. She became a community volunteer. In fact, she was the first volunteer at the Marietta Welcome Center. Rose Wing was a fixture not only in our schools but in our community.

Mr. Speaker, Rose Wing will be missed, but not forgotten. Her legacy lives on in the Marietta school system with the Rose Wing Award for Tenure; and without question, Rose Wing's memory lives on in the students she taught, who continue to strengthen the Marietta community through leadership and involvement, and in the appreciative parents of those students.

Mr. Speaker, I ask that you join me in honoring the memory of a great teacher and a great lady.

NEW CAFTA NEEDED

The SPEAKER pro tempore (Mr. DAVIS of Kentucky). Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the President and Republican leadership were going to ask this Chamber to vote on the Central America Free Trade Agreement this week, but apparently because it does not have the votes, they will ask us to vote on it in June or July or whenever.

The administration continues, however, to mislead all of us with the wrong-headed notion that by exploiting the poor workers and promoting the agendas of the largest multinational corporations, that America will expand democracy and increase national security. If the administration is going to pursue this kind of illogical rhetoric, they should answer some questions for us.

How do we promote national security by privatizing these poor nations' water systems and public services?

How do we promote democracy by inserting provisions in the Central American Free Trade Agreement that call for secret international tribunals to make decisions affecting America's public health and safety laws, thereby undercutting and subverting America's sovereignty?

How do we promote democracy by extending drug patents beyond U.S. law in Central America, making it more difficult for AIDS patients and the terminally ill in these nations to receive life-saving medicines?

How do we promote democracy when pharmaceutical companies and other industries well connected to the Bush administration are granted a seat at the negotiating table while workers' representatives are excluded?

More than 40 percent of workers in Central America earn less than $2 a day, putting them below the global poverty level. How does CAFTA ensure that wages will increase to benefit workers?

If CAFTA helps workers, why does it allow the Central American nations to weaken or undercut their already substandard labor laws after the agreements is enacted?

Why are trade sanctions an effective trade enforcement mechanism available for violations of intellectual priority provisions of agreement, but not for violations of labor and environmental provisions? In other words, why do we protect drug companies and not protect workers?

While opponents of CAFTA gather by the hundreds in public places, elected Democrats, elected Republicans, union members, environmental groups, manufacturers, small farmers, ranchers, environmentalists, we meet out in the open, but CAFTA supporters hunker down behind closed doors to manipulate backdoor deals.

With all the talk of democracy, why the secrecy, Mr. Speaker?

Proponents of the status quo argue that free trade promotes democracy, but then they turn a blind eye to human rights abuses, to coerced labor, to slave labor, to child labor. Supporters of CAFTA conveniently fail to mention that democracy in Mexico recently suffered a severe setback when Mexico's legislatures voted to strip the popular Mayor of Mexico City, and their political rival, of official immunity on a technicality; the goal was to imprison him and knock him out of the 2006 election.

The U.S. State Department remains silent. Mexico now ranks as one of the world's ten largest economies. While overall wealth increased since passing the North America Free Trade Agreement, poverty has also increased. In Mexico, 10 percent of the population controls 50 percent of the Nation's wealth and 50 percent of the nation's citizens live in poverty. That was the legacy of NAFTA, the dysfunctional cousin of CAFTA.

There is no burgeoning middle class in Mexico, just another of NAFTA's failed promises. How can the administration say this income disparity and persistent inequality is progress. We promote democracy instead, Mr. Speaker, by ensuring prosperity for all, not just a select few. This CAFTA fails to do that.

We protect our own borders and security by protecting workers and families in our sister countries by raising wages and improving their living standards. This CAFTA fails to do that.

We help our neighbors at home and overseas by creating healthy and safe communities through worker protections and investments in the environment. This CAFTA fails to do that.

We ensure democracy when we conduct trade negotiations openly and publicly, not by doing so behind closed doors and protecting the drug industry. CAFTA's negotiators failed to do that.

This CAFTA fails to promote fair trade. It fails to protect workers and the environment. It fails to raise living standards either in the United States or in the Central America nations.

I support trade with our good friends and neighbors in Central America. I strongly support trade with our friends and neighbors in Central America, but not this Central American Free Trade Agreement.

This CAFTA is dead in the water. The President signed it a year ago. We still have not voted on it. It is time to renegotiate a better CAFTA, one that benefits all, not just a few, one that all Members of Congress and the American people can support.

UNIVERSAL COVERAGE INEVITABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, we in the Congress are in danger of becoming as irrelevant to medicine as the use of leaches are to the cure of patients.

Last night the House took what some called a bold step to approve to thoughtful, modest bill to advance stem cell research to use science to alleviate pain and suffering and prolong life.

To its credit the House followed the guiding principle written thousands of years ago by Hippocrates, the father of medicine. "I will apply dietetic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice."

That statement was taken directly from the Hippocratic Oath that I and every other medical doctor swears to uphold. That is what we did last night. We took a small step on the path of hope last night but it will not go very far.

The President, bowing to the religious fanatics, has already declared he will veto the stem cell bill. Vowing allegiance to the right wing, the President will use the veto stamp to wash his hands of any hope that science can commute a sentence of debilitating pain and suffering, or even death, imposed on countless Americans.

Other nations are intent on living in the 21st century with or without the United States. Under this administration, we are more dependent than ever on countries to loan us money to keep the lights on under the Republican budget assault. Now the administration intends to make us more dependent than ever before on countries for advances in medicine and science.

We have great research scientists in this country, including the University of Washington. The President will tell them that his administration chooses the religious right over the human right to live your life without pain and suffering. For this, history will judge us equal to the political leadership last seen in the Dark Ages. Despite this, I believe that we are at the dawn of a new medical renaissance, and not even the extreme right wing in this country can stop it. The mass of Americans will stop it.

We have all known someone who is suffering from Alzheimer's disease or Lou Gehrig's disease or diabetes or a spinal cord injury, and now we have hope that stem cell research can unlock the secrets to relieve suffering. We could get there faster if we renew our relevance as political leaders and support groundbreaking scientific and medical research, but we will get there.

Today, 47 million Americans have no health insurance. Millions of other Americans can barely afford health care and still others avoid going to the doctor because of copays or having to work a second or third job to make ends meet. More and more companies are forcing their workers to shoulder most, if not all, of the financial burden of obtaining health care. Health care costs in this country are soaring and there appears to be no end in sight.

This is health care in America today. But tomorrow it will be different.

Scientists have cracked the genetic code, taking the first steps to predicting serious illness and disease before a baby is born. Treatments will come before the baby is born. The day is coming when we will be able to predict and treat serious illness and disease before it strikes.

Traditional health insurance as we know it will end. We will have no alternative, but to have universal national coverage.

Today, we talk about prevention and we mean going to the doctor before we get sick. Tomorrow we will redefine prevention as curing what ails you before it ails you. The heroes and heroines are working in the research laboratories right now. People do not read about it in the newspapers or see it on television, but they are there and they are changing their world for the better. It will not come easy and it will not come quick, and in some cases, it will not come cheap.

I look ahead to see a world where we care enough about one another that we will vow as a nation to follow the oath I take as a doctor. Do everything in your power to alleviate pain and suffering.

We voted for hope in the House of Representatives last night. The President will try and take that away. But he cannot stop the spark of genius God gave to men and women of faith and science.

The American people may not have reason to believe in their national leaders, but they do have every reason to be proud of the men and women who use science, intellect and personal faith to save lives and end suffering.

Universal coverage is coming sooner than you think.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, it is time for Congress to discuss the war in Iraq and how to end the terrible suffering that it is causing our troops, their families and the Iraqi people.

First and foremost, I honor, I support the brave men and women who are serving our country in Iraq, and I believe that the best way to support them is to establish a plan to bring them home. In just over 2 years of war, more than 1,600 American soldiers and an estimated 25,000 Iraqi civilians have been killed. The number of American wounded, according to the Pentagon, is greater than 12,000 and that does not count the invisible mental wounds they are bringing home, which afflict as many as 25,000 more of our soldiers.

The war in Iraq has also cost our country about $200 billion in slightly more than 2 years. With this much money on the line, do the American people not deserve to know what the President's plan is for Iraq? How long he expects U.S. troops to remain there? How much this war will cost all told and how he plans to pay for it?

I credit the many brave individuals in Iraq who risked their lives to give back to the Iraqi people by voting in their January election, but after the election, our continued presence in Iraq has caused America to be seen by the Iraqi people as an occupying power, not as a liberating force.

Our continued military presence in Iraq works against efforts for democracy. It provides a rallying point for angry insurgents and ultimately makes the United States less safe. That is why earlier today I offered an amendment to the Defense Authorization Bill for fiscal year 2006. My amendment expressed the sense of the Congress that the President must develop a plan to bring our troops home and that he must submit this plan to the appropriate committee in our Congress.

We can truly support our troops by bringing them home. At the same time, withdrawing U.S. troops must not result in abandoning a country that has been devastated. We must assist Iraq, not through our military but through the international humanitarian efforts.

This humanitarian approach is reflected in the SMART Security legislation, H. Con. Res. 158, that I have introduced with the support of 49 of my House colleagues.

□ 2130

SMART security is a sensible, multilateral American response to terrorism for the 21st century.

The SMART approach would defend America by relying on the very best of American values: our commitment to peace and freedom, our compassion for the people of the world, and our capacity for multilateral leadership. This is the very essence of SMART security.

SMART security will prevent terrorism by addressing the very conditions which give rise to terrorism in the first place: poverty, despair, and resource scarcity. SMART will ensure America's security by reaching out and engaging in the Muslim world. Instead of rushing off to war for the wrong reasons, SMART security encourages the United States to work with other nations to address the most pressing global issues.

There is a demonstrated link between debt relief and lack of support for terrorism. That is why SMART security encourages the world's wealthy nations to provide debt relief and developmental aid for the world's poorest countries.

SMART security encourages democracy-building, human rights education, conflict resolution through nonmilitary means, educational opportunities, particularly for women and girls, and strengthening civil society programs in the developing world.

Mr. Speaker, our future efforts in Iraq must take the SMART approach: humanitarian assistance to rebuild Iraq's war-torn physical and economic infrastructure. Congress must commit to this type of support for Iraq, not a continuation of a military approach.

It is time to support our troops and begin the difficult recovery process from a long and destructive war. The best way to do this is to bring our troops home. Mr. Speaker, our troops deserve nothing less.

PERSONAL REFLECTIONS ON IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 60 minutes as the designee of the majority leader.

Mr. OSBORNE. Mr. Speaker, it is my privilege this evening to be joined by some of my colleagues. We went to Iraq a few weeks ago. We find a lot of conversation on the House floor about what should and should not be done, and so we would like to take this opportunity to discuss what we saw.

I guess one of the main objectives tonight is to inform the public that this is not always a highly partisan issue. The Members that went to Iraq were both Republicans and Democrats. We got along very well. We continue to get along very well. Sometimes the general impression that is conveyed by conversation on the House floor is that we are always at each other's throats and that this is what politics is all about. I think this is very misleading in many cases; and as a result, we hope to have a bipartisan discussion tonight of those events that we encountered as we traveled overseas.

Those who went with us were the gentleman from New Hampshire (Mr. BRADLEY), the gentleman from Colorado (Mr. BEAUPREZ), who is here now, the gentleman from Tennessee (Mr. DAVIS), the gentleman from Texas (Mr. NEUGEBAUER), and the gentleman from Colorado (Mr. UDALL).

As we talked to the soldiers over there, we often heard this comment: there seem to be really two wars. There is the war that ofttimes is seen on television; and certainly the bombings, the beheadings and all the really violent things we see are very true, they are part of this conflict; but also the soldiers would continually mention the fact that there is another war that they are seeing, another war they are fighting that ofttimes is not conveyed over the airwaves. So we would like to really discuss these issues.

I have made three trips to Iraq. I have been to Afghanistan, Kuwait, and Jordan twice, Landstuhl Air Base in Germany a couple of times, and Walter Reed many times. So I have had many chances to talk to the soldiers. And I guess the thing that continues to impress me and the overwhelming impression that I get is the efficiency of our Army, the sense of mission, the sense of accomplishment, and a generally upbeat attitude.

Now, certainly being in Iraq or Kuwait or Afghanistan, or in a hospital, cannot be an entirely uplifting experience; and there is some hardship and there is some difficulty. But, still, it seems the soldiers are amazingly intact and amazingly upbeat when you consider their circumstances.

I will just mention two things on this trip and then turn it over to some of my other colleagues here for discussion. The first stop that we had in Iraq was at al Asad. Al Asad is a base out in the desert. It is in al Anbar Province, which is the largest province in Iraq. It is a desert area. It is becoming a fairly dangerous area because many of the insurgents have been driven out of the cities and are now in the desert. So it is a fairly wild situation.

In my previous trips, again I had always had a fairly positive reception from the troops. But as we landed in al Anbar, I thought, well, this is the place where I am going to start hearing the complaints. Because there was not a blade of grass, there was not a tree, obviously very little to do socially, and quite a large number of troops out there. There are two groups from Nebraska, one was a medical troop and one was a transportation group. So I spent quite a bit of time talking to those soldiers, probably met about 100 of them personally, and there were about another 80 who were out on patrol. Again, the same attitude that we had encountered other places was very prevalent. They were proud of what they were doing, they had a sense of mission, and generally were very positive about what was going on.

So that trip, the first part, was, again, somewhat of a surprise in view of the surroundings. The second area that I want to mention was towards the end of our trip. We went to an Iraqi women's caucus, and this caucus was held in Jordan on the banks of the Dead Sea. And the reason we went over there was that we had formed an Iraqi Women's Caucus for Women's Issues here in Washington.

The genesis of that caucus was simply a conversation between Paul Wolfowitz, Jennifer Dunn, and myself, where we began to speculate on the role of women in the new Iraqi government as the war progressed. And we began to talk about the fact that women would certainly play an important role; that women ofttimes are the peacemakers; and possibly to have a positive resolution to this whole conflict would have to involve the women of Iraq.

So we began to move forward on this. Iraqi women were brought to the United States. And part of this movement was to bring Iraqi women over to the Dead Sea, out of Iraq, where they could learn a little more about democracy and strategies in terms of running for office and so on.

So there were 1,000 women who applied for 250 spots at this seminar. And so we met with those 250 women. They came by auto, and they came from all points in Iraq. And they were stopped for about 12 hours, most of them, at the Jordan border. They could not get in the country. So that was difficult. Three carloads of them were fired upon as they went across al Anbar Province. And of course there was a great deal of danger and a great deal of risk. Two of the women we had had over here in the United States as part of the caucus had been killed during the elections, when they ran for office. So it was a very dangerous business.

As we interacted with those women, we had some interesting conversation and we picked up some general themes, and those themes were reinforced by three women who were from Iraq who were in my office yesterday. Essentially, what these women were saying yesterday and also several weeks ago was very similar. They said, first of all, we now have a sense of hope. We have a sense that the future is going to be reasonably bright. We appreciate freedom.

They pointed out that there is now a great deal of marriage going on in Iraq, where under Saddam, for many years, very few people got married because of the situation. They have noticed a resurgence of entrepreneurial activity. They are pleased with the number of women in government. There were roughly 80 out of 275 spots in the constitutional convention that belonged to women. Schools have been renovated. Attendance, particularly by women, has gone up in the schools. And, of course, a great many of the children, about 97 percent of the children, have been vaccinated.

Now, we do not mean to paint an entirely rosy picture. The women I saw yesterday, the women we saw in Iraq said that security is a major problem. They live with some sense of fear almost all the time. They mentioned problems with the infrastructure. Electricity still is a problem. In many cases, it is on only about half the time. The thing about it now, though, is different than under Saddam. Under Saddam, there were certain areas, where his people were, that had very good electrical service and the rest of the country had no service at all. Now there is service all over the country, but many times people have only intermittent service.

Sewage disposal is still a problem, water problems still persist; and the job market is not what we would like to see it, but it is better than it was before. And of course the other issue is there has been a resurgence, particularly as it relates to women to fundamentalism. Sharia, the rather fundamental interpretation of Islamic law, sometimes is regaining a hold in terms of how women are perceived and how they feel they should be treated or are treated.

So it is a mixed picture. But still, overall, they say they would not trade their present situation with the insecurity that they are now experiencing for what they had under Saddam and feel they are generally much better off.

So with those prefatory comments, I would like to yield to my colleague from Colorado (Mr. BEAUPREZ), who we really enjoyed being with and spending time with. And so I will let each Member have a shot at it, say a few words, and then we will all have a dialogue as time goes on.

Mr. Speaker, I yield now to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman and commend him for leading a wonderful delegation to Iraq. It was my second visit. I know it was your third, but it was my second visit. The first one was in November of 2003. And I was taken by several things, of course, but one that really sticks out in my mind.

As the gentleman will recall, the day we were in Baghdad, Camp Victory, and took the helicopter rides, the Blackhawks, and flew over the city, I think you, myself, all of our colleagues were struck by how much normalcy, and we have to put that in the appropriate context of course, because it is still Baghdad and it is obviously still very much a zone of much conflict, but how normal it looked by comparison to when I was there last in November of 2003. Then, it was obviously in considerable turmoil, and that is probably an understatement.

But as we flew over the city that day, I remember seeing cars going up and down the streets in the residential areas. We saw people walking in and out of their homes. We saw the market areas that looked fairly busy and life going on, much as you would think to see in many other cities.

What really caught me even more later on that day was that when we got back to our rooms that night and turned on the TV, we realized that was the day there were these demonstrations in Baghdad. And watching TV that night, I thought, goodness, the entire city was somehow under siege and we missed it.

As you will recall, that was the day we sat with the generals, Petraeus, Casey, Vines, and we were also with the new Prime Minister Jafari, and I thought what did we miss? Because we did not see anything really of significance and nobody brought it to our attention.

The next day we were with the Iraqi women, as the gentleman from Nebraska pointed out, at their conference, and I recall bringing that up to a group that I was talking to, and some that were actually from Baghdad, and they were remarkably dismissive.

Now, Baghdad is a city, as I recall, roughly the population of Chicago. It is a big city. And when we mentioned what about the demonstration yesterday, it was kind of an, oh, that was Muqtada al-Sadr's bunch. They do not amount to much. It was almost like there was a demonstration in a Safeway parking lot back home. It was kind of, oh, well.

I mention that not to make light of the struggles they have, because the gentleman from Nebraska put it in an appropriate context, it is still very much a dicey place. It is very troubled.

☐ 2145

Security is their number one issue, and will remain their number one issue for quite awhile.

I think what we struggle with back here at home is watching the 6 p.m. news or reading the morning paper and trying to put in the appropriate context what the rest of Iraq is dealing with on a daily basis. And I saw evidence in relative terms, they are starting to experience some degree of normalcy. Life is coming back. Choices are becoming theirs. They have some opportunity. They have that wonderful four-letter word, hope. I do not think we can underestimate how powerful that is.

We have all wondered at our own moment in time, are we on the right course, maybe even the right mission. But I at least came home feeling, because we heard it again, that this is worth it, that we do have a plan now.

The security mission has changed, or is in the process of changing rather dramatically from us doing it for them and them looking over our shoulder, to them now taking, day by day, an increasingly larger role in their own security, taking care of their own neighborhoods and their own security, and us being more the observer and the counselor.

That is a dramatic shift in the paradigm and that is critical to our exit strategy. If we are going to get out of there, they need to take care of their own security operations.

A couple of other observations. When we sat by coincidence with their new prime minister, Ibrahim Jaafari, he was in his second day of office. I was so taken by him sitting there and invoking the beginnings of a nation.

Remember, this is the Fertile Crescent. This is where civilization began. This is humanity's beginnings, and we are the upstarts by comparison. Here he is talking to us about how he would like to be the kind of nation. Iraq would like to be the kind of nation that Thomas Jefferson wrote about that honored life, liberty and the pursuit of happiness. That was a humbling moment for me.

He spoke with great eloquence in his native language through an interpreter. He spoke with tremendous courage and inspiring vision, and asked us all to bring back a message to the American people. He told us, We realize you did not have to send your daughters and sons over here to do as they have done, spill their blood for us to give us a chance at liberty, but they did. And he told us again, That is the kind of nation we would like to be. He said, Please take home a message to the American people from me. He said, It is a message of love, a message of love to the American people.

That is a powerful thing, Mr. Speaker. It is a powerful thing.

I remember I asked him, Mr. Prime Minister, it seems we are at a point where the history of the world might actually change. And he said, We realize in Iraq that we are a bit of a candle in the darkness, and as goes Iraq, very well may go the entire Middle East.

We do not know for sure. There is a great deal of uncertainty ahead of us. But I submit tonight as we approach Memorial Day weekend, and last week I was home and helped celebrate Armed Forces Day at one of our cemeteries where Civil War veterans are buried, especially tonight as we think about our troops still there in harm's way, as we think about this weekend thanking those who put on the uniform, both current as well as in the past, as we think about how different even our opportunity is simply because they answered the call, they put on the uniform, they went into harm's way, they took the risk, and they are making a difference. I hold in my heart of hope that it is a dramatic difference.

I would say to the gentleman, I remember as well our last stop on the way home was in Germany at Landstuhl, the military hospital. We stopped in that room with those two soldiers that the very day before had encountered an IED, an improvised explosive device. It went off under their Humvee and literally lifted that armed Humvee up in the air and turned it upside down and dropped it on its top. They were lying in their hospital beds. And I said, in my naivete, Boy, I bet you are looking forward to when you heal up enough and get sent back home to the United States.

They looked at me like I must be the dumbest person in the world. Finally one of them spoke and said, No, sir, we want to get released from this hospital so we can go back and be with our buddies and finish the job we were sent here to do.

It is very inspiring to go over there and witness not only the progress that is being made, but especially the patriotism of our young men and women.

I want to thank the gentleman from Nebraska especially because I recall the first trip I took over there, and I asked a colonel from Grand Junction, Colorado, what I could possibly do for him. He said, I am committed to this mission and I can sleep at night. I know we are in control, but please go home and tell the truth because, he said, My wife has trouble sleeping.

So I think it is important while we recognize the challenges in front of us and the tough days still ahead of us, we also recognize the good that is being done and the progress that is very much being made.

Mr. Speaker, I thank the gentleman for this opportunity to share tonight and thank the gentleman for leading a wonderful trip to Iraq.

Mr. OSBORNE. Mr. Speaker, I thank the gentleman from Colorado (Mr. BEAUPREZ) for those observations. Many people do not realize that life does go on in Baghdad. There is a degree of normalcy. It has been almost universal, my experience with the troops, who have indicated that their number one desire is to get back to their units, some who have even lost limbs.

Mr. Speaker, I would now like to yield to a very unusual Member. He spends a lot of his time in the House gym. He has been up on Everest several times. I do not know if he has ever made it to the top. He has climbed a lot of the highest mountains in the world, and has become a great friend.

We have actually been to Iraq twice, and he even wore a Nebraska football hat as we flew over Baghdad, so Members can tell he is an unusual person. I am referring to the gentleman from Colorado (Mr. UDALL), and I would appreciate any recollections the gentleman has of the trip.

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentleman from Nebraska (Mr. OSBORNE) for organizing this important hour tonight. I concur with the remarks of the gentleman from Colorado and we enjoyed your leadership. I would duly note that it took two Coloradans to take care of one Nebraskan, but that is usually the situation we face out West.

This, too, was my second trip to Iraq. We were there last September as well. I have to say as we left Iraq, we had a feeling that although the armed services personnel and the great civilians and the State Department are always optimistic, there was a greater sense of optimism, particularly on the heels of the election that was held at the end of January.

I would also say, this is kind of unusual to have both Democrats and Republicans in a special order. I am here to listen as much to my colleagues' perspectives on our very fascinating time spent in Iraq and Jordan, and I am eager to hear all of my colleagues' impressions.

I have a couple of things to add. The gentleman from Nebraska (Mr. OSBORNE) covered many of the important interactions we had in Iraq, and particularly when we were on the shores of the Dead Sea with the 150 Iraqi women who had traveled 2 and 3 days across Iraq. A number had been robbed and detained along the way, but they were there because they wanted to have a say in the future of their country.

We were also joined by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentlewoman from Texas (Ms. GRANGER), and they added a very important perspective to the conference itself. But you cannot come home and not feel a connection to those brave women, very brave women who were risking their lives every day.

The gentleman from Colorado (Mr. BEAUPREZ) mentioned our trip through Ramstein Air Base on our way home, and what a facility that is, along with the world-class Landstuhl Hospital. We had an opportunity to see the jointness that we hear so much about within DOD. It was seamless. You could not tell whether the personnel in a particular setting was a Marine, sailor, airman, or soldier. For that, the DOD is to be commended because we are creating this synergy that in the end continues to put us on the cutting edge.

I think it is notable also to acknowledge the important role the Jordanians are playing in the Middle East. We were staged out of Jordan. We spent time in Amman. We received important briefings from our embassy staff. And King Abdullah and his government and the people of Jordan are a key part of the efforts in the Middle East.

On the flight over and then on the flight back, as you peer out the windows of the jet, we looked down over Israel for that short time frame that it takes to fly over Israel, and you understand the importance of the geography and the strategic and special relationship we have with Israel. They are, of course, a key player in this effort that we are all involved to stabilize and create free and democratic systems in the Middle East.

If I could just at this point conclude, I think it is important to acknowledge that there were different points of view in our delegation. You have to number me as one who had misgivings about the war in Iraq and the approach that we took. But now that we are there, my attitude is that we have to find a way clear to stabilize the situation and make good on our promises to the Iraqi people. In that undertaking, I think we are neither Democrats nor Republicans nor members of other political parties; we are Americans with a commitment to that part of the world.

The strategy to all of us is clear. It has three sections. As we have done, we have to hold the elections and support the standing up of this new government and it still has a ways to travel. That is well under way.

The second, and we heard a great deal about this from General Casey, General Petraeus and other military leaders, is to support the Iraqi security forces, the police and the military.

The third part of the strategy is to create a more stable environment in Iraq, which means providing jobs and electricity and clean water.

These three parts are all interactive. We have to stay committed and support our men and women in uniform.

I would just conclude by sharing, the men and women there are performing magnificently. Their commitment to each other, the mission, and to the United States of America and to the world at large is exemplary. I think we all came back the better for those interactions with the men and women in uniform in Iraq. For that, I am deeply grateful.

Mr. Speaker, I thank the gentleman from Nebraska for convening all of us, and I look forward to hearing what my colleagues have to say.

□ 2200

Mr. OSBORNE. Mr. Speaker, I thank the gentleman from Colorado for his insights. He has been a great guy to travel with, a great person to get to know, and certainly someone whom I admire a great deal. You mentioned being at Landstuhl. All of you remember the young guy whose name was Chris Ruehl. He had been shot and been in an ambush. This guy was interesting because I thought, if I was coaching a football team, I would like to have a whole bunch of Chris Ruehls, because he had this hole in his shoulder, but he got up and he was explaining what happened. Then he gets out his camera, and he is showing us pictures that he took while he was getting shot at. I thought, you know, this is one brave guy. I tracked him down, I got his cell phone, after he got back to the United States. He was all geared up, ready to go back. He wanted to get back in the fight.

An interesting guy, an interesting time. The gentleman from Texas (Mr. NEUGEBAUER) is next. He and I made a couple of trips. We were in Afghanistan and Iraq together and Kuwait, and then this last trip. I am interested in hearing his insights into what he saw and what he remembers. Even though it has been 6 weeks ago, I am sure he remembers a lot.

Mr. NEUGEBAUER. I thank the gentleman for yielding. It was a remarkable trip. My second trip, also. As I was going over there, I was wondering what was going to be different or if things were going to be different from the first time I was there and kind of two historic events took place.

As the gentleman from Nebraska will remember, we were on our way to Iraq the first time and Afghanistan. We were eating in Ramstein Air Force Base in Germany and it was the day that they caught Saddam Hussein. Then, of course, the second time we were sitting in Baghdad and got to have, I guess, one of the first delegations to meet with the new Prime Minister Jafari. What a historic event that was. I, too, was struck, as the gentleman from Colorado was, by his enthusiasm and his passion for his new responsibility. I thought about the weight that is on his shoulders as he begins to lead the Iraqi people into uncharted territory for them.

Someone said the other day, and one of the things I wanted to talk about was General Patraeus was briefing us. I think the first thing he started off with was a little video or slide show that he had prepared for us to kick off the meeting. It was about the election. He talked about the great impact that that election had not only on our young men and women that are over there providing this opportunity for a free Iraq and a democracy but the impact that it had on the Iraqi people.

They were a little bit skeptical as to how many of the people would brave to come out with all of the threats that the terrorists, the insurgents, were going to be out on the streets and there would be a lot of people killed. As we were watching that video, I remembered seeing the thousands and thousands of Iraqi people that were standing in lines for what they said were hours and hours for that first opportunity to experience what our young men and women had gone over and provided for them. Of course, the famous holding up their index finger to signify that they had voted, that they had gotten to exercise that wonderful freedom.

I also was thinking about what General Patraeus was saying about how they are now teaching the Iraqi people how to defend their own country and how that is an integral part of bringing our young men and women home and how now, though, in many areas, Iraqi soldiers are primarily providing security forces in parts of that country and we in some cases take a secondary role but in many cases we are working alongside the Iraqi people and how important that is.

One of the things that I tell the people back home about understanding what is going on in Iraq, I use the analogy that if you can imagine if you were blind and deaf at birth, you had never been able to hear, you had never been able to see, but on your 30th birthday, you woke up and you could hear and you could see. Imagine all of the adjustments that you would have to go through in your life. You would have to really learn how to live your life in a new way. That is very much similar to what the Iraqi people are learning how to do. They have been oppressed for most all of their lives and all of a sudden one day they are a free people, beginning a journey of becoming a democracy, much like this country did over 200 years ago.

I think also, as the gentleman mentioned, about that historic meeting of these Iraqi women that had come from all over Iraq and many of them, we sat at various tables and had lunch. They wanted to interface with us, we wanted to hear from them, but them telling their stories of the peril, the risks that they took coming to that meeting, that meeting to learn how to begin to be a part of this process. I think about a third of the people in the parliament are women. They wanted to come and learn how do we participate. And watching them go through those exercises of how to go to a city council or how to deal with the media or how to introduce legislation, how to run for office, all of the things that make this democracy great.

I think one of the things that I did go back home and say to the people in my district as I was sitting at lunch on that day, I had probably nine, 10 women at that table with me. And so the big question I finally got around to, and I think it is a question that probably some of your constituents back home ask, So do the Iraqi people really appreciate what the Americans are doing for them? A smile came on the faces of many, but I looked over and I will never forget this one lady. I believe she was a Kurdish lady, and tears were rolling down her eyes. She said, Oh, yes, Congressman, we appreciate that very much. Because, you see, we are mothers, we are sisters, we are wives, we are aunts, and we know there are mothers and wives and sisters and aunts in America that have paid the ultimate price for freeing our people. She looked me right square in the eye and said, And we will never forget. That made a huge impression on me, because I needed to hear that and I wanted to convey that to the American people. When I told that story back home, they said, You know, we didn't get to hear that on the evening news.

One of the things I think is so important as we have Military Appreciation Month, I think the thing that as I come back and I look at the big picture and I think the gentlemen that are in the Chamber with us tonight that traveled, is that we understand a couple of concepts about our military today. Number one, it is an all-volunteer force. Everyone that we ran into in that theater was there because they chose to be. I am overwhelmed at the dedication, the commitment, the quality of young men and women that we have defending our country, our Nation and helping liberate Iraq and Afghanistan.

I think one of the real treats for many of us was that we tried to eat about every meal with the troops that we could while we were there. Sometimes we were eating meals on the go, but many times we had an opportunity to meet with the troops and we tried to eat with people from our State or from our area. Of course, you know for sure that the people from Nebraska certainly recognize the former head coach of the Nebraska Cornhuskers. It was like traveling around with a rock star actually, because everybody wanted his autograph and wanted his picture. The rest of us kind of felt like we were part of the groupies that were following him along.

One of the things that I thought was so significant, we let those young men and women talk nonattribution, tell us kind of what is going on, how do you feel about what you are doing, your job. I never heard one soldier say, Congressman, we shouldn't be here. Congressman, get me home as quick as you can. What they wanted to talk about is how they are helping the Iraqi people and how they were proud that those Iraqi people got to exercise that right to vote and when they saw them with those index fingers stained, that they say, hey,. you know, I was a part of that. I helped make that happen for the Iraqi people.

One of the things, it was an idea I think I got from the gentleman from Colorado (Mr. BEAUPREZ), was that many of us, I think, got names of loved ones back home. I know that I got about 30 or 40 names of young men and women that gave me their loved ones back home, and so they gave me those numbers. It was so fun to call back and say, I was with your son, I was with your husband and talked and tell them how proud that we are of them.

But what it did remind me, and I think it reminds everyone, is that when these young men and women are serving our Nation, their families are serving right alongside them. I had been over to thank their husband or their wife or their brother or their sister or their son or their daughter, but it also gave us an opportunity to thank the parents and the wives and the husbands of those young men and women serving. It was a great trip. I enjoyed it so much. I thank the gentleman from Nebraska for including me. I look forward to going back with him soon.

Mr. OSBORNE. The gentleman from Texas has been a great guy to travel with. I have had some good experiences.

Mr. Speaker, I would like to call on the gentleman from New Hampshire (Mr. BRADLEY). He and I had not traveled before, so I got to know him a lot better. He is really a very astute individual, a lot of insightful questions.

Mr. BRADLEY of New Hampshire. Mr. Speaker, it is certainly a tribute to the leadership of the gentleman from Nebraska (Mr. OSBORNE) that we would be joined tonight with Members of the other side of the aisle. We went to Iraq not as Republicans, not as Democrats, but as Americans who are interested in our troops and interested in the fate of that country. It is certainly a tribute to both the gentleman from Tennessee (Mr. DAVIS) and the gentleman from Colorado (Mr. UDALL) that they are joining us tonight. There is precious little of this type of bipartisan cooperation and certainly it is a pleasure for me to participate in it tonight. It is important that when we think about the ongoing hostilities in Iraq, that we see both sides of the picture. I think we had the opportunity 6 weeks ago to see an awful lot of positive developments in Iraq.

Since then, I think we all have seen the news on the television and the spate of bombings and the threat that the insurgents are trying to bring down a newly elected government. That is horrifying, especially after the reaction that I think all six of us got in Iraq, which was positive, which is that we are starting to see light at the end of the tunnel, that the Iraqi security forces are doing much better in their ability to operate. Yes, they have a ways to go. We need more of them. There are about 152,000. We need about 300,000. But they are doing better. They still have to be able to operate independently, with a command and control structure, but General Patraeus explained to us how that is on its way, that it cannot happen overnight.

The Iraqi women that we met, and perhaps this was the most telling thing when they talked about the Iraqi security forces, said that the Iraqi people are beginning to be able to trust the Iraqi security forces much more. That was so important to me, to be able to hear it straight from the horse's mouth, the Iraqi women. These are women that had endured so much, not only to be there but they had endured 30 years of horrifying events. I will touch on that in a moment.

As the others who have spoken tonight have said, we also had the chance to talk to the new leadership, Dr. Ibrahim Jafari, the newly elected Shiite prime minister. One of the most important things he stressed to us is the need for a permanent constitution. The Shiites are a majority in Iraq, but Dr. Jafari recognized that in order for this experiment in Iraqi democracy to be successful, they will have to reach out to the Sunnis and to the Kurds. He promised us that they would do that. That is occurring now as we speak. Unfortunately, we are also seeing the resistance coming from some disaffected Sunnis that are trying to bring down the government. That is unfortunate.

But most Sunnis, working with the majority party, the Shiites in Iraq, I believe will be able to bridge these differences working with the Kurdish people and the new president who is also a Kurd, Jalal Talabani. It was a good experience in meeting with Dr. Jafari.

One thing that needs to be stressed, and I think we have all touched upon this, is the morale of our forces. We all had the opportunity. The gentleman from Texas (Mr. NEUGEBAUER) met people from Texas, the Colorado contingent, the gentleman from Tennessee (Mr. DAVIS), certainly from Nebraska, I from New Hampshire, we all had an opportunity to meet troops from our home State. I was struck by their commitment to their mission, by the fact that they said their living accommodations were getting better, not just the food and the housing but that they felt as American soldiers, men and women, that they were making progress, and they saw the progress, they saw the fact that the vote had gone off successfully, that a government had been formed, and they felt part of this historic change in Iraq, and they reflected that to all of us.

One thing that as we approach Memorial Day that I think is critically important for all Americans to realize regardless of how we may feel about the policy of the Iraq war, it was highlighted by a wall that was at the base in al Ansar that we saw. That wall, as I recall, had about 40 letters from a second grade class in Texas.

□ 2215

These were letters from American school children thanking, thanking, our troops for their sacrifice. And I asked the captain, What does this mean to the men and women that are here in Iraq? And he said, It inspires us every day to get out and do our job; every day we know that the American people are behind us.

So whether it is school children throughout our country, whether it is supporting the families who are still here, the spouses, the children, the parents of our soldiers, we can never forget the sacrifice that our families are making; and certainly this second grade class from Texas and millions of other classes from around the country that have sent letters to our troops, not just in Iraq, but Afghanistan and all of the countries where our troops are fighting and winning the war on terrorism, how important our show of support is for their efforts.

And, lastly, let me, like others, touch on the experience that we all had in meeting with the Iraqi women leaders, members of parliament, the new ambassador to Egypt, the acting health minister, and many others. They were Shiites, they were Kurds, they were Sunnis. But they were Iraqi women who had endured so much, unspeakable horrors.

At one point in the lunch we were having, we were asking questions of each other. And finally they asked me to introduce myself after about 45 minutes. And I talked a little bit about my family and my situation in New Hampshire, and I said that I was from the "Live Free or Die" State, and I think my colleagues all remember that every time I repeated my State motto, this really resonated with the Iraqi people because "Live free or die" means something in New Hampshire, it means something in America, and it means something in Iraq.

So then I went on to tell them about my first experience in Iraq where I had gone to the Abu Ghraib prison. We have all heard about the abuses there, and we are dealing with those abuses as a country, as well we should. But what I saw, and perhaps some of my colleagues have seen, was what happened to 80,000 Iraqis who were executed in that prison.

And I was describing this to the Iraqi women, and I realized that they were all starting to cry. I did not really know what to do because it had been such a horrifying experience to me. And then one of them said, My husband was executed in that prison. And another one said to me, My brother was executed in that prison. And I knew at that point how much they had endured on a personal level of the suffering, of the depravity, of the barbaric nature of that regime.

The most important thing, I think, for Americans to realize and the whole world to realize is the tenacity and the singleness of their purpose, that they will rebuild a country if the world will support them in that effort. And that is important for us to remember as we approach Memorial Day, that they have the will to succeed if we have the will to persevere with them.

I thank the gentleman from Nebraska (Mr. OSBORNE) for yielding to me.

Mr. OSBORNE. Mr. Speaker, reclaiming my time, I thank the gentleman for his insights. We were at Abu Ghraib also last September, and at one time Saddam Hussein had been told he had too many people in the prison and to get rid of 2,000. The ones that he did not like a whole lot, but did not hate, he hung. And the rest of them, he put in the wood shredder. It is unbelievable that one human being could do that to another, but in one day he got rid of 2,000 to get the numbers down to where he felt it was more comfortable.

The last person I would like to yield to is a great friend of mine, and we cochair the Congressional Prayer Breakfast on Thursday morning. So tomorrow morning we will be together. And that is the gentleman from Tennessee (Mr. DAVIS). We sat across from each other for about 14 hours going over, and I learned how to speak Tennessee during that period of time. The first 3 hours I did not understand him, but as time went on, I got to understand him really well.

We really had a great time with the gentleman. We put him in the Dead Sea, and we could not even sink him in the Dead Sea.

So, Mr. Speaker, I now yield to the gentleman from Tennessee.

Mr. DAVIS of Tennessee. Mr. Speaker, it was certainly a blessing to have traveled with the gentleman from Nebraska (Mr. OSBORNE) and with the entire delegation to Iraq, the time that we spent in Jordan, the times that we spent with the ladies from Iraq as we tried to relate to them how wonderful a democracy is and how wonderfully it works in our country.

I had an opportunity on more than one occasion, once before, in February, to go to Iraq. And when I was there it was just before the insurgency really started. It was February of 2004. And we spent time in Basra, as well as in Baghdad in the Sunni triangle. The troops I met there were upbeat, they were excited. We had, very quickly with the military that we had, won a war from what many of us in this country felt would be more difficult. But I think the enthusiasm of our troops, the training of our troops, the commitment of our troops to be sure that Iraq was liberated from a tyrant called Saddam Hussein was the driving force in those who serve in our military services. I think that all of us who have been to Iraq or Afghanistan have renewed energy for support of our troops that are there.

If one goes to Iraq or Afghanistan, they also have this deep, abiding feeling that if they only knew how it was in America, if every person only knew in this country how it is in America how wonderful it would be, because the insurgencies and the occurrences that are happening there today would cease to exist, because even they would realize what a greater life they could have, a better life they could have if they would just look at this country as an example.

Can that happen? I hope it can. I think it can. We must believe that it can, and we must be sure that we support the newly elected officials of Iraq to be sure that that happens.

I was asked a question in late 2003 by a sixth grader in one of the schools in Manchester, Tennessee. And sixth graders will ask, How much do we make as a Congressman? Have we met the President? What kind of person is he? Do we like him? Do we have a family? Do we have children? Do we have grandchildren? Obviously they look at me, and they think he has grandchildren, which I do. So we get a lot of questions.

But this one little girl, with almost a certainty and it seems like she had just a mission, she said, "Congressman, do you think we can establish a democracy in Iraq?" And generally what I would tell someone at the general store, where I go on Saturdays when I have time, or on Sundays after church, generally what I would tell them is that we have to try, we have to try, because it is important that people living throughout the world have an opportunity to enjoy the freedom that we enjoy in this country.

But I felt that sixth grader, who may not have watched TV, needed a more concise answer; and my comment to her was that virtually all the democracies today, Israel, started from within, as a result of a holocaust and as a result of many of those individuals removed from other countries, in many cases arrested for being expelled from those countries.

This great country we live in with the assistance of other nations, obviously our army that was put together, the Continental Army, fought to achieve our liberty and our freedom and we established, as a result of that, a democracy where we are governed by our Constitution. So most of the democracies today started from within.

And I was looking at Iraq and saying, I am not sure this is possible, until I made the visit to Iraq. I realized democracies can be established without an uprising from within, because I believe when our troops went to Iraq and we deposed the tyrant who was imposing on the people of Iraq, the ill will that he was imposing, the horrible circumstances, the deaths of so many that he took, I realized that those individuals in Iraq have suffered and suffered greatly.

So I truly believe that in Iraq we can see a democracy established. And what I told the young lady was that if we can work in the Middle East to establish a democracy in Iraq and perhaps in Afghanistan, in my opinion, it will be the crowning accomplishment of this century. Democracies do not go to war with each other.

So I am extremely impressed with our troops that I met there. I am impressed and pleased with what I think is a great opportunity for a country in the Middle East to reach out and be governed by laws rather than a man. When we are governed by laws instead of men, then we do have a democracy. And I truly believe that will happen.

I watched the women, the Iraqi Women's Democracy Initiative Training Conference, and I sat with them, like all of us did. We talked to them. And I was sitting in this breakout group where there were eight or ten individuals, and we were talking about whether or not a shelter should be built for women who may have been abused, or whether there should be a safe haven for them: and that was just part of a schedule problem they had to solve. It did not matter whether they supported or did not support it: they had to find a solution to it.

And this one lady sitting to my right continued to get very fretful. She was extremely irritated because she was in this group that was in the process of putting together a reason why there needed to be shelters in Iraq for women who had been abused.

There was another group that was put together, problem solving, that would say, We do not need a shelter for women. She finally left that group. And when one of the ladies who was helping to put the program together came to me, I said, I do not think I have ever seen as much fear in anyone's eyes as I saw in that woman's, and I do not understand why she would be so fearful of even putting together a plan which is like problem solving in math skills, why she would be so frightened.

She came back to me a little bit later and she said, The lady has had an attempt on her life because she was advocating this in Iraq and she was fearful that somehow it would get back to her neighbors that she was participating in just problem solving.

So when I realized that these ladies who came to Jordan to be a participant in this initiative, talking about democracy, and all of those who were traveling were actually fired upon with small arms fire, it opened up my eyes about the challenges that lie ahead for the nation of Iraq. But with the heart of the women that I met and with others that in Iraq that are Iraqi citizens, the men there, I truly believe that we have made the right decision, and I believe we will see a democracy established in the Middle East in Iraq.

One of the things that impressed me was the troops, all of them, wanted me to be sure to tell folks back home, We are safe. We are okay. Let our families know that we are okay. Great morale, totally committed.

The district I represent is in the Cumberland Mountains of Tennessee. We have a volunteer spirit in Tennessee. The 278th Cavalry is one of two of the cavalries in our Nation's Army. The regular cavalry was brought back from Iraq. The 278th was activated; 2,200 members of that 278th, of 3,000, are from Tennessee's Fourth Congressional District that I represent.

I met some of them in Iraq, and I can assure the folks back home, we can all be proud of our soldiers that are serving us in Iraq and other parts of the world. The ones I met with, if one is a father or a mother or a husband or a wife or a son or a daughter or a grandparent of one of these troops, they can rest assured they are making us proud, and I know they are making them proud.

I thank the gentleman from Nebraska (Mr. OSBORNE) for the opportunity to go on the visit. It was a wonderful trip. I got to know a lot about the gentleman. As a matter of fact, a young fellow named Chris Ruehl was telling us about the 278th, if the gentleman from Nebraska remembers, and he got emotional and showed pictures, and he even found out some of the trials that we had had in Tennessee, which I will not express here on the House floor, but he even gave us a history of part of Tennessee that he learned from some of our 278th. So our folks of the 278th are serving us well in Iraq, and when they come back home, we will welcome them with open arms.

Mr. OSBORNE. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments. And we will not even get into that elephant that was hung in his district. That is for another special order.

I just want to mention the bravery of Iraqi officials. We kind of stick our necks out here a little bit, but over there when they run for office, they are literally putting their life on the line and their families. And that jumped out at us.

The other thing I might mention is that General Casey mentioned to us that he thought things were going better since the elections, but he said the wild card here is the issue of the Sunnis, are the Sunnis going to be incorporated?

□ 2230

That is still up for grabs. So we do not want to leave the American people with an impression that everything is perfect. There are still problems. But I think anyone who goes there and spends time there, spends time with the soldiers, from either party, we may disagree on how we got there, whether we should have gone there, but you have to be impressed with the soldiers in this situation.

If anyone has a closing comment for the good of the order, we would be glad to hear it from any of you.

Mr. UDALL of Colorado. Mr. Speaker, if the gentleman will yield, I thank the gentleman.

I wanted to also acknowledge that the gentlewoman from Illinois (Mrs. BIGGERT) joined us there, along with the gentlewoman from Texas (Ms. GRANGER) and the gentleman from Tennessee (Mr. DAVIS).

The other insight I had, and we shared this with General Casey and Dr. Jafari, local governments are going to be crucial to success in Iraq. After I returned, we had Baghdad city council members visit Denver, and I know the gentleman from Colorado (Mr. BEAUPREZ) met with them. They are the people who are in charge of making sure the lights are on, the garbage is collected and the potholes are filled and that local services are delivered. If we do that and they do that, then the local Iraqi people will see the benefits of self-government.

We pay a lot of attention to the national government, and it is important, because they will be charged with the defense of the Nation and they will present the face of Iraq to the world, but those local governments are crucial. The civil affairs officers in our military and the civilian non-government organizations that are there, we need to remember that we have to support them in every way possible.

Mr. OSBORNE. Mr. Speaker, reclaiming my time, it makes it all work.

Mr. Speaker, I have enjoyed this. We enjoyed the trip and thank all of you for participating tonight. Again, we tried to show that a lot of us do get along pretty well. Some of the best hours here are in the gym and places like that, where we do not really have an identity as Republicans or Democrats, and we simply come together and try to solve problems in the country.

I was honored to have time with these gentleman. I thought I learned a lot. I learned a lot from the Iraqis, but I learned a lot from you, and thank I you for participating tonight.

THE FINANCIAL CONDITION OF OUR NATION'S GOVERNMENT

The SPEAKER pro tempore (Mr. POE). Under the Speaker's announced policy of January 4, 2005, the gentleman from Arkansas (Mr. ROSS) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. ROSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. ROSS. Mr. Speaker, as whip of the Blue Dog Coalition I rise this evening to talk about the financial condition of our Nation's government. There are about 35 of us that are fiscally conservative Democrats. We refer to ourselves as members of the Blue Dog Coalition and we are trying to bring some common sense back to our Nation's government as it relates to trying to restore some fiscal discipline to the way we operate our government.

Our Nation today is $7.769 trillion in debt. To put that another way, our Nation today is spending $160 billion a year simply paying interest on the national debt. That is about $500 million a day. In fact, it is $13 billion per month, it is $444 million per day, it is $18 million an hour, it is $308,000 a minute, or $5,100 a second. That is how much our Nation is simply taking tax money from you and me and using it to pay interest on the national debt.

I have got about $4 billion in road needs in Arkansas's Fourth Congressional District, which includes 29 counties and 150 towns and three interstate projects that are now under construction. Give me less than a week's interest on the national debt and I can put thousands of people to work and complete these road projects, like I–49, I–69 and I–430, and four-laning U.S. Highway 167.

When we speak about the debt in public opinion surveys, it simply does not show up. It is like it is someone else's problem. But, Mr. Speaker, I contend this evening that it is every American citizen's problem, because every American citizen's share of the national debt equals $26,000. $26,000 is each individual's share of the national debt, including the children, the babies that are being born today. Every United States citizen would have to write a check for $26,000 in order to get our Nation out of this hole that we are in.

Yet our Nation continues to go further in debt. For a fifth year in a row, we are seeing a budget that provides this Nation with the largest budget deficit ever in our Nation's history, which means more interest on more debt, which means more priorities continue to go unmet. Again, we are spending $13 billion per month simply paying interest on the national debt. We could build 100 brand new elementary schools every single day in America just with the interest we are paying on the national debt.

Earlier today the gentleman from Mississippi (Mr. TAYLOR), a Blue Dog member, offered a proposal on the floor of this House to guarantee every National Guard and Army Reservist in America health care for life. These are men and women that are going to Iraq, they are going to Afghanistan. If they have not been, they are headed that way, and if they are coming back, they are probably getting ready to go again. Yet they are treated different than our full-time men and women in uniform at a time when we are really dispatching them the same. The reality is they deserve health care for life, they deserve health care like the full-time soldiers.

Yet this House rejected that proposal today because they said it would cost $1 billion. Because of the reckless spending going on in our Nation, we are spending that much money in about two days simply paying interest on the national debt.

I want to talk more about the debt and the deficit, but at this time it gives me great honor to introduce the Cochair For Policy for the Blue Dog Coalition to speak more about the debt and the deficit and how it impacts all of us as Americans, Democrats and Republicans alike, and that is my friend the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I thank my friend for yielding. The gentleman was focusing on one of the gravest problems our Nation has ever faced, one of the gravest threats to our children's and our grandchildren's well-being, because those debt payments the gentleman is talking about, the interest payments, they are like a tax that can never be repealed until our Nation one day, we hope and pray, will return to a surplus. We had a couple years of surplus under President Clinton, but, sadly, those days are gone. Now we have plunged deep back into debt.

As the gentleman points out, the debt now is $7.7 trillion. We all as Blue Dogs have signs like this outside of our office doors so that anybody who visits our offices here in Washington or back home, and for me that is Nashville, Tennessee, can see exactly the hole that we have dug for our Nation's future and how much it is per person, $26,000 per person. So I appreciate the gentleman's focus on this grave problem.

Blue Dogs have been great leaders on this issue. We will talk in a few moments about the 12 step plan that the Blue Dogs have put forward to try to rescue our Nation from this debt binge that we have been on. It is kind like the 12 step plan for Alcoholics Anonymous, 12 steps to get out of a problem that so many Americans are unwilling to face up to and recognize.

Before we do that, I would like to take a moment to give our friends in Congress and across the country some key dates so they can write these down and look at the deficit and the debt from a little bit different perspective.

Date number one is last year, 2004. Why is that significant? Because the auditor for the United States of America, David Walker of the GAO, said it was "arguably the worst year in American fiscal history." That is pretty grave news. If you had a company and your auditor said you have been through one of the worst years in history, you would probably be facing bankruptcy. That is what the U.S. auditor said about last year. Most people do not know about that. That news should get out.

Take the year 2005, this year. What did we do about the deficit and the debt? Well, the Republican majority rammed a budget through this body, $2.6 trillion, in a record-setting 2 hours. That is from start to finish, from the first moment we could look at the document to final passage vote, never get to see it again, $2.6 trillion in 2 hours. If that is not financial mismanagement and irresponsibility, I do not know what is.

The next date is 2009. That is the date when we will be spending more money on interest on the national debt than we will on all regular domestic government in America. Due to the deficits and the debts that the Bush administration has accumulated, our debt burden will be so great by then, by the last year of the Bush administration, we will have to spend more money to our creditors than we will on our citizens. In a sense it will be a better deal then to be a creditor of this country than to be a citizen of this country. That is an outrage. That is the first time in American history that has ever happened.

Another key date is the year 2012. That is when the Chinese, if current rates continue, will own all of our debt. In fact, a firm in Connecticut has predicted by February 9, 2012, the Chinese will own all of our foreign debt. That is another outrage. The Chinese are not necessarily the friendliest holders of this debt. To be financially beholden to them is really a national security risk.

Another key date is 2017. That is the date we will have the first honest deficits in America, because that is the date the Social Security surplus will diminish down to zero. Then the true size of the deficit will be unveiled, because, as the gentleman knows, the deficit last year was not $412 billion, like most people think, which is still an all time U.S. record. The deficit was $569 billion, because the Social Security surplus was $155 billion last year, and it was used to hide the true size of the deficit.

Another key date is 2035. That is when Standard & Poor's, the bond rating agency, says that American debt will become junk bond debt because we will have so little financial credibility in the markets. That is not from a government official, that is from the official business rating agency.

Finally, probably the worst number of all, this is truly so hard to believe that I think it needs a chart to display it, the General Accounting Office says that by the year 2040 it will take all revenues collected by the Federal Government just to pay interest on the debt. In other words, by the year 2040, just 35 years from now, there will be no money left, not one red cent, for any of our national defense needs, for any Social Security, for any Medicare, for any anything. It will take all of that money just to pay interest on the debt. That is an outrage, and it is a particular outrage if our only creditor then is the Chinese government.

We are clearly on a road to ruin. We have to change our course. We need to change our course immediately. Sadly, this Congress is not doing that. They need to follow the Blue Dog 12 step plan.

I appreciate the gentleman's great leadership on this issue as one of our leading Blue Dog Members.

Mr. ROSS. Mr. Speaker, reclaiming my time, I thank the gentleman from Tennessee. If I understand the gentleman correctly, what the gentleman is telling us is that basically the government of the United States of America as we know it today ends in 2040 if we continue down this path of reckless fiscal spending?

Mr. COOPER. The gentleman is exactly correct. We are the greatest Nation on Earth, we are the greatest Nation in the history of the world, and that will probably end well before 2040 if we keep on the current path.

Mr. ROSS. Mr. Speaker, it sounds outlandish, until you stop and look at history. No country has stood forever. Every country has undergone changes. What the gentleman is saying is according to the Government Accounting Office, not some Democratic Party group or some Republican Party group, but according to the Government Accounting Office, if we continue to spend at the rate that we are spending today, if we continue to borrow at the rate we are borrowing today, what the gentleman is saying is that the Government Accounting Office is saying, we are not saying this, the Government Accounting Office, not a bipartisan, but a nonpartisan Federal agency, is saying that beginning in 2040, every dime of every tax dollar in America will simply go to pay interest on the national debt?

Mr. COOPER. The gentleman is exactly correct. And it is terrible to deliver such tough news to the American people, but the GAO is telling us the truth, in a nonpartisan fashion, as the gentleman indicates. And this bad news is not 35 years off. As I indicated earlier, the GAO has already said that the year 2004, last year, was "arguably the worst year in American fiscal history." They are saying that is only going to get worse still on the path that we are on, on the high deficit, high debt path we are on.

□ 2245

Mr. Speaker, if the gentleman will yield, what the gentleman from Tennessee is talking about is the debt. We are not even talking about the deficit yet, but debt. Again, our Nation is spending $13 billion a month, over $13 billion a month simply paying interest on the national debt. That is $444 million a day, that is $18 million an hour, that is $308,000 a minute, or $5,100 a second.

On top of that, we have the deficit, and the gentleman from Tennessee talked about this a little bit. It is hard now to think back that we had a balanced budget in this Nation from 1998 through 2001.

Mr. COOPER. Just 5 years ago.

Mr. ROSS. Just 5 years ago. Ever since I was a small child growing up in Hope, Arkansas, I heard people talk about how it was the Democrats who spent all the money; yet it was President Clinton that left this Nation with a balanced budget from 1998 to 2001. Now, this administration, this Republican Congress has given us the largest budget deficit ever in our Nation's history for a 5th year in a row.

It started in 2001. The deficit was $128 billion, with Social Security, and what I mean by that is they borrow money from the Social Security Trust Fund to pay for government spending that is above and beyond what tax dollars bring in. No wonder they are talking about the need to reform Social Security. No wonder they would not give me a hearing on a vote on the first bill I filed as a Member of Congress back in 2001, which was a bill to tell the politicians in Washington to keep their hands off the Social Security Trust Fund.

In 2002, the deficit was $157 billion. In 2003, it went to $377 billion. In 2004, it went to $412 billion. In 2005, it went to $427 billion. That is counting the money that is borrowed from Social Security. If it was not for Social Security, those numbers would be much larger. If it was not for the money being borrowed from the Social Security Trust Fund, last year's deficit would have been $567 billion; this year's deficit, $589 billion.

Now, where is this money coming from that we are borrowing? Japan, $702 billion. We have borrowed $702 billion from Japan. Mr. Speaker, $250 billion from China, the Caribbean Banking Centers, I have never heard of such; $103 billion our Nation has borrowed from the Caribbean Banking Centers to do what? To run our government where we are spending more than we are taking in.

Now, some people may want to pause and say, well, America is at war. Well, that is true, and no one supports our troops any more than I do. I have a brother-in-law in the U.S. Air Force, I have a first cousin in the U.S. Army, and I am so very proud of them. Last August 11, I was in Iraq to see some 3,000 National Guard soldiers from Arkansas; and as long as we have troops in Iraq, I am going to support them and provide them the funding they need to get the job done and to get home as safely as they possibly can.

But that makes up about 20 percent of this deficit. Eighty percent of it is coming from reckless spending and from tax cuts. This is the first time in America's history that we have cut taxes when America is at war. So we are asking these men and women to take a year to a year and a half away from their jobs and away from their families and go to Iraq and fight this war, and then come home, go back to work, and pay taxes to pay for the war they fought. This is the first time we have ever cut taxes when America is at war. It may make for good politics, but it makes for bad, it makes for horrible fiscal policy.

I did pretty good off of tax cuts last year, but my kids have to pay for them someday, because we borrowed the money from the Caribbean Banking Centers to give me a tax cut. And the list goes on and on. Korea, we have borrowed $67.1 billion. OPEC nations, I mean, we wonder why gas is over two bucks a gallon. OPEC nations have loaned our Nation to fund our government and our tax cuts $65.3 billion. Germany, $59.5 billion; Taiwan, $59.1 billion; and Mexico, for crying out loud, has loaned the United States of America $40.6 billion to pay for tax cuts for the wealthiest people in this country, and then ask our men and women to go to Iraq, fight this war, come home, get a job, pay taxes, and pay for the war that they have fought.

There is so much more that we could talk about, but before I get too carried away, I would like to yield back to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, the gentleman is focusing on the problem, and I think the American people are hungry for more facts, more real information about the situation we are in. I would like to encourage them to look on the Web site of an institution called the Cato Institute. It is here in Washington, D.C. It is not a Democratic group. If anything, they are mainly Republican, but they issued a report on May 3, 2005. It is by Stephen Slavinski, and it talks about how under this Republican-only government, because Republicans run the White House and the Senate and the House of Representatives, we have seen the biggest spending binge since Lyndon Baines Johnson in the 1960s.

It is not just defense-related. If we look at nondefense spending programs, it is the biggest spending binge since Richard Nixon. Most Americans do not know this, and they do not know that we just went through arguably the worst year in American fiscal history. So I appreciate the gentleman sharing the message.

Several of our colleagues have arrived, and it is probably appropriate at this time to recognize them.

Mr. ROSS. Mr. Speaker, I appreciate the gentleman from Tennessee joining us tonight as we talk about this huge crisis facing America, the debt and the deficit, and the Blue Dog Coalition's desire to try to restore some common sense and fiscal discipline to our Nation's government. This is not a Democratic issue or a Republican issue. This is a commonsense issue, and this is about trying to restore some fiscal discipline and common sense to our Nation's government.

Mr. Speaker, when we talk about the deficit this year, $589 billion, someone the other day asked me, they said, Mike, what is $1 billion? I put that number in my calculator and get that little E at the end. Well, a billion seconds ago, Richard Nixon was President. Mr. Speaker, 6.8 billion seconds ago, President George Washington was sworn into office. A billion minutes ago was just after the time of Christ, and to count out 1 billion nonstop without sleep or eating would take 38½ years.

So we are talking about a number with a lot of zeroes, and we are talking about money that is going down this deep, dark hole to simply pay interest on the national debt due to reckless fiscal policies that could be going to build new elementary schools, to invest in education, to invest in our teachers, to provide our National Guard and Reservists with health insurance, not just during a time of war, but all the time. We could build roads, we could create jobs, we could create economic opportunities in this era where 9 million people are out of work. None of these things are being done because of this horrible, reckless, irresponsible fiscal policy.

To talk more about this, a fellow Blue Dog member, another one from Tennessee, Tennessee is full of fiscally conservative Democrats, and that is my colleague, the gentleman from Tennessee (Mr. DAVIS), and I yield to the gentleman.

Mr. DAVIS of Tennessee. Mr. Speaker. I thank my good friend from Arkansas; and, certainly, it is a privilege to serve in the U.S. House with my good friend, the gentleman from Tennessee (Mr. COOPER). The gentleman at one time served the district that I represent, and he is one of the few great intellects we have in Tennessee. He is, in my opinion, very analytic on this issue, and it is certainly a pleasure to follow the gentleman, although sometimes quite difficult, obviously, but he is someone we can be proud of.

I am extremely pleased to be a part of a group who call themselves Blue Dog Democrats, and there is a reason for that. We truly believe that deficit hawks and defense hawks are something that America believes in, and that is why I can believe in this group, in this caucus of 30-some-odd individuals who have committed themselves to fiscal responsibility and being sure that our Nation is defended against our enemies, and our enemy today comes in more than one way. It certainly can come in the form of what happened on September 11 from individuals who want to do harm to liberty and freedom. It can also come from an economic assault on this Nation.

I want to talk some about that in a few moments. But as we look at what has happened in this country since 2000 and look at the huge deficits, and it is my understanding that if we take the trade deficits in the last 4 years and total those up, I have heard that it is greater than the entire deficits, trade deficits in the history of this country.

What does that mean, and what does that do for us? It means we are losing our jobs. It means that as that continues to happen, we will also start losing our revenue streams. So we have got to start looking at putting our house in order and managing what we are doing today. Otherwise, this country not only could be attacked by some military power; I am not sure there is one in the world that would threaten to do that, by those who are terrorists who would threaten this country or attack this country, but the economic threat to our Nation is almost as equally dangerous today unless we get our fiscal house in order.

To my colleagues and folks back home who may be watching, this may sound a little partisan to you, but a lot of folks back home on both sides of the aisle I think that have supported me, and I appreciate that, but I think it is time that I expressed my views pretty strongly because I love this country. I want my grandchildren to be sure that they enjoy the same liberties and opportunities and options in their life that this wonderful country gave me.

I do believe that this administration and the Republican majority has spent a great deal of time in the first session of the 109th Congress trying to convince the American people that Social Security is in a crisis. Well, that is debatable, and I am sure Congress will spend valuable time over the next few months arguing about how to fix this system. While I think that we should address Social Security's pending solvency problems at some point in the future, I truly believe the responsible and moral thing for this Congress to do is to address the crisis that is knocking at our front door.

That crisis is a $7.7 trillion national debt, over $600 billion a year in trade deficits, and over $400 billion a year in budget deficits. These numbers are so big that they sound like something out of a science fiction movie. If only they were science fiction. Sadly, it is really the fact.

Since this administration has taken office, we have seen, as the gentleman from Tennessee (Mr. COOPER) said a moment ago, the largest Federal increase in spending since Lyndon Johnson. Our friends on the other side of the aisle often cite that 9/11 and the war on terrorism are responsible for this. There is no doubt it is true that the new threats to our security has caused a need for new spending in the areas of defense and homeland security. But even if we exclude those spending increases, we have still seen under this administration and Republican majority the largest spending increase in the past 30 years. I find it ironic that the party of small government has overseen a 33 percent growth in government during the President's first term.

As a recent publication by the Cato Institute says, the GOP establishment in Washington today has become a defender of big government.

Mr. Speaker, maybe this is just a result of partisan politics during the Clinton administration, but Republicans and Democrats were forced to work together if they were going to get anything done. What happened? From fiscal year 1998 to 2001, we actually had budget surpluses and a projected overall surplus in the range of $5 trillion. Even if we remove the Social Security surpluses from the total budget line for these years, we still had budget surpluses in fiscal year 1999 and 2000, and the largest budget deficit we saw was $32 billion.

Under this administration, we have seen on-budget deficits as high as $567 billion, a remarkable turnaround. In my humble opinion, the Republican majority has been reckless and spent the taxpayers' money like drunken sailors on a weekend pass.

Mr. Speaker, it is time to resolve that pass and to revoke it and take a stand for all of the American people because, sadly, the Members of Congress currently serving are not going to have to pay off this debt. Instead, our children and grandchildren will have to pay it off. Our soldiers who are serving us so bravely in Iraq will come back home and find they have to foot the bill for the war we sent them off to fight; and this is simply wrong. It is simply immoral.

□ 2300

There is hope. It is called the Blue Dog Coalition 12-point plan. And I am up here to ask for an up-or-down vote. We have heard that a lot recently, have we not? An up-or-down vote for the people of America. An up-or-down vote, because ultimately this issue does not just affect people in certain districts. It affects all Americans.

So I am here for the American people asking for an up-or-down vote. I want an up-or-down vote on H.R. 903, the Fiscal Accountability and Honesty Act of 2005. This will, among other things, extend PAYGO that expired in 2002 and close the loopholes on emergency spending.

I want an up-or-down vote on H.R. 121, a package of rules changes for the House. These changes will require a rollcall vote on raising the debt ceiling and give Members of Congress 3 days so that we can actually read and study the bills we vote on. I mean, if the Republican majority is so confident that the legislation they send to the floor is right for the American people, should it not withstand 3 days' public scrutiny? What is there to hide? Why not an up-or-down vote on 121?

I want an up-or-down vote on House Joint Resolution 22, the Balanced Budget Amendment. This amendment has already been passed by the House as part of the GOP Contract with America.

Now, the Blue Dogs, in an effort to provide security for our current and future retirees, have added language to protect Social Security benefits from being cut to balance the budget. There are 49 States in this Nation that require a balanced budget. If it is good enough for them, it is good enough for me.

Mr. Speaker, I will repeat this three or four times. Give us an up-or-down vote on budget restraint issues, measures that have been introduced, get them out of the committee, bring them on this floor. Give us an up-or-down vote, an up-or-down vote. If it is good enough for judges and Presidential appointees, it is good enough for all 200-some-odd million people who live in this country.

So to the majority on this floor, I ask you, an up-or-down vote. Now is the time. It is time to get it done.

Mr. ROSS. I thank the gentleman from Tennessee (Mr. DAVIS). And just to quickly quote, I believe the newspaper there in Tennessee is called The Tennesseean, and on May 9, in an editorial they said this: "If Members want to get serious about addressing deficits, they should take an approach more like those proposed by the Blue Dog Coalition, which includes Tennessee Democrats John Tanner," one of the founders of the Blue Dogs, "Jim Cooper," who has been with us here tonight and will return, "Lincoln Davis," who just spoke, "and Harold Ford, Jr. The Blue Dogs not only emphasize the need to balance the books, they advocate bringing down the national debt, which has climbed to more than $7 trillion and is becoming a national security issue since much of the debt is in the hands of foreign investors." Again, the Tennesseean editorial on Monday, May 9, 2005.

As the gentleman from Tennessee (Mr. DAVIS) indicated, this is not about partisan politics. I do not know about you, but I am sick and tired of all the partisan bickering that goes on at our Nation's Capital. It should not be about whether it is a Democratic idea or Republican idea. It ought to be about is it a commonsense idea, and does it make sense for the people that sent us here to be their voice and to represent them.

Mr. Speaker, I yield to the gentleman from Tennessee.

Mr. DAVIS of Tennessee. Mr. Speaker, thank you for an opportunity to be here tonight. And I deeply appreciate it. This is my second term, so I am kind of new as far as being a Member of Congress. But it is a delightful group that I am with, and I certainly look forward to this Nation having better leadership with individuals like those I serve with who are Members of our Blue Dog Coalition.

Mr. ROSS. Mr. Speaker, I thank the gentleman from Tennessee (Mr. DAVIS) for joining us this evening and for his commitment to trying to restore some fiscal discipline to our Nation's government.

You know, when you hear about the Blue Dogs, this group of fiscally conservative Democrats, a lot of people think we are all from the South, and they all think we sound kind of like I do. And that is not the case at all. We stretch from California to Long Island.

Mr. Speaker, at this time I am pleased to yield as much time as the gentleman from New York (Mr. ISRAEL) might consume. The gentleman from New York will talk more about this crisis that we find ourselves in, and in a little bit we will be coming back as a group to talk more about this 12-point plan that we have to try and help get us out of this hole that we find ourselves. But at this time I yield to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank my good friend, the gentleman from Arkansas (Mr. ROSS). The gentleman and I were elected in the same class, in 2000. I thank the gentleman for his leadership for so ably representing the conservative values of his district. I do not agree with every one of his positions, but nobody advocates more fearlessly for the interests of his district than the gentleman from Arkansas (Mr. ROSS).

Mr. Speaker, I also want to thank the gentleman from Tennessee (Mr. DAVIS). I am honored to be on the floor with both of them this evening.

The gentleman from Arkansas (Mr. ROSS) noted that I am from New York, from Long Island, New York. One of the wisest decisions that I ever made in coming to Congress with the gentleman was to join the Blue Dogs. And, in fact, most of the Blue Dogs do come from the South. I am probably the only Blue Dog who speaks with a distinct New York accent. Sometimes we need a translator to figure each other out.

But it really does not matter whether you are from the Deep South or the south shore of Long Island. What binds Blue Dogs are principally two issues: Number one, a sense of fiscal responsibility. We believe that we ought to play by the same rules on the floor of the House that every American family has to play by at their kitchen tables. You have got to balance the books. Those folks do not have the ability to simply print money in their basements. They have got to balance their books. They have got to reconcile their checkbooks. We believe the same.

The second thing that we believe is that we have got to have a strong and robust military, something I agree with passionately.

Now, I have the privilege of serving with the gentleman from Tennessee (Mr. COOPER) on the Armed Services Committee. There are only two New Yorkers who serve on the Armed Services Committee. I am the only New York Democrat on that committee. And I call myself a Harry Truman Democrat. I believe in a strong and robust defense. I spend most of my time on this floor in this Congress thinking about how to keep our country stronger and safer. And what I want to talk about just for a few minutes this evening is the linkage between this $7 trillion debt and our national security, our national defense, because this figure does not make us stronger in the long run.

Think about what happened on the floor of the House just a few hours ago. We spent the day debating a Defense authorization approaching $500 billion. And at the end of that debate, our Blue Dog colleague, the gentleman from Mississippi (Mr. TAYLOR), stood up and suggested that we make a simple, but important, change in the budget that was about to pass. He said to our colleagues on both sides of the aisle, it does not matter whether you are Republican or Democrat; let us do the right thing for our Guard and Reserves. Let us provide them with health care. Let us not tell a single American Guard or Reservist that if you are going to go fight for us in Iraq or Afghanistan, 40 percent of our military in Iraq, Guard and Reserve, if you are going to do that, when you come home we are not going to abandon you, abandon your families with respect to health care. If you need health care, we will take care of it. If you are willing to sacrifice yourself for us, we are willing to take care of your health care, your health insurance, not just while you are fighting, but after.

And what was the response that we heard? It is the same response that we hear time after time after time on the floor of the House. It is not that anybody is against our Guard and Reserve. It is not that anybody is against providing health care for our military. It is just that we cannot afford it because of this number.

Mr. ROSS. Will the gentleman yield?

Mr. ISRAEL. I will be happy to yield to the gentleman.

Mr. ROSS. The gentleman is telling us that we, tonight, the majority in this Chamber refused to provide health insurance every day of the week, every week of the month, every month of the year for our men and women who have gone to Iraq, who are going to Iraq, or who have been to Iraq, because they said we could not afford it

Mr. ISRAEL. That is exactly what happened.

Mr. ROSS. And it was going to be a billion a year.

Mr. ISRAEL. The gentleman is correct, a billion a year.

Mr. ROSS. And this is the same crowd that gave us a budget this year that includes $106 billion in new tax cuts.

Mr. ISRAEL. These are the Members of this body who argue that we can afford to make every single penny of tax cuts permanent, but we cannot afford to provide health care for Members of the National Guard and the Reserve who are fighting for survival around the world.

Mr. ROSS. If the gentleman would yield, so what you are telling me is that the majority on the floor of the U.S. House this evening decided it was more important to maintain $106 billion in tax cuts and not provide health insurance year round for our Reservists and Guardsmen that have either been to Iraq, are going to Iraq, or just got back from Iraq or are in Iraq today. They were not willing to take $106 billion in tax cuts and make it $105 billion so they could take care of our men and women in uniform?

Mr. ISRAEL. If the gentleman would yield, the gentleman is precisely correct. That is the decision that was made tonight. But it gets worse, because many of us on the Armed Services Committee approached our colleagues and said, you know, if somebody is willing to go to Iraq and they lose their life, we ought to be able to take care of their life insurance. We ought to pay for their life insurance.

□ 2310

The answer was, great idea, we cannot afford it. After all, we have a $7 trillion debt. Nobody ever says, we do not care about our troops; nobody ever says, we do not care about our military.

It all comes down to this: We used to have a $5.6 trillion surplus. Maybe in those days we could support our military and our military families, but now we have got into deep debt. We have got to make tough decisions so we can improve life insurance for our troops, our military families. We can pay a very modest amount in health care for our Guard and Reserve because of this debt, but also because we want to make sure we can make those tax cuts permanent. Now, that is fundamentally unfair. That is just bad priority.

Meanwhile, as we are telling our Guard and Reserves that we cannot afford their health care, which does not make us stronger, for 2 years, as we told military families that we could not take care of their life insurance, increase their life insurance, increase the death gratuity.

Meanwhile, we continue to engage in reckless fiscal policies with the enemies that we are told that we will have in the future, namely, the Chinese. Every time you have a briefing they tell you, you have to start worrying about China, but meanwhile we are allowing them to finance our debts.

So the adversaries that we are told we should worry about in the next few years are keeping the lights on in the House of Representatives, are running our Humvees in Iraq. How can you have a coherent national security policy when you have to rely on the adversaries that you expect to finance your Treasury, when they own 40 percent of your debt? It makes absolutely no sense whatsoever.

The final point I want to make is this: This is bad enough. The decisions that are made on the floor of the House with respect to our military are bad enough, but think about what our children are going to have to deal with when they are here on the floor of the House, when they have to figure out how they are going to pay their taxes, balance their checkbooks.

We have a $2.5 trillion budget right now. In 10 years when my kids are approximately my age or approaching my age, think about what that budget is going to do to them. Their defense budget, the gentleman from Tennessee (Mr. COOPER) probably knows this, will likely approach $600 billion. Interest on the debt which they have to pay will likely approach $500 billion. And everything else, whatever is left in the budget will be allocated to all of their needs, Social Security, and Medicare, the FBI, education, environmental protection, crime reduction.

That is an intolerable budget that we are inflicting on them.

One of the things that the Blue Dogs emphasize is our fundamental responsibility to be fiscally conservative, but to give our kids a better, safer, stronger world than we have today. What we are doing with these numbers, with these policies is raising our kids' taxes, straining their military, mortgaging them to our potential adversaries.

And I am reminded of the very profound words of one of our distinguished colleagues, another member of the Tennessee delegation, the gentleman from Tennessee (Mr. TANNER), who last spring said to a gathering of Blue Dogs that no nation in the history of humankind has ever been strong, free and bankrupt.

If nothing else, our obligation in Washington, DC, in the administration, in the House of Representatives, is to put politics aside and agree to make sure that we are strong, free and not bankrupt. And all we have done over the past several years is to strain our military, deny military families the basic, decent conditions they need, the health care they need, the life insurance they need; and end up owing more to the adversaries we are told to worry about more and more every day.

We have an obligation to treat our military families better, to treat our troops better, to treat our kids better. Thank goodness the Blue Dogs take that obligation seriously. I thank the gentleman for giving me this time.

Mr. ROSS. Mr. Speaker, I would advise the gentleman to continue to join us if he will.

The gentleman speaks to us on these veteran issues and these military issues with a lot of authority as a member of the House Committee on Armed Services. And I want to thank the gentleman for what he does for our veterans and our men and women in uniform as we continue to try and advance health insurance around the clock for our men and women in the National Guard and our Reservists.

I think what the gentleman from Long Island has basically summed up for us this evening is about priorities. It is about, do we want another $106 billion in tax cuts when we borrow 45 percent of that money from Japan and China and the Caribbean banking centers and Korea and the OPEC nations and Germany and Taiwan and Mexico? Or do we want to do right by our men and women in uniform, by our veterans?

Do we want to build the kind of roads we need to create jobs and economic opportunities for the future and do we want to fix Medicare? All this talk about Social Security, if we do not touch it, the first reduction in benefits happens when I am 91 years of age. And yet Medicare, which is what our seniors count on to stay healthy and get well, is bankrupt in 14 years. And yet no one is talking about that.

These are priorities that are important to those of us in the Blue Dog Coalition. And we understand that as long as we continue to borrow money from foreign countries, as we continue to borrow money to the tune of $1.1 billion per day, think about that, as a Nation we are spending $1.1 billion a day more than we are taking in.

It is about priorities. And until we get our fiscal house in order, we are not going to be able to meet the needs of our children, our grandchildren and the future of this great country.

Mr. Speaker, I would like to yield at this time to the gentleman from Tennessee (Mr. COOPER), the cochair for policy for the Blue Dog Coalition. I thought we could engage in a colloquy to discussing the 12-point reform plan.

We do not just want to beat up the Republicans for bankrupting this country. We want to offer a solution, and we have got one.

Mr. COOPER. Mr. Speaker, I appreciate the gentleman yielding. There are several ways out of this terrible dilemma that we are in an as a Nation.

First, we have to acknowledge that we have Republican cosponsors for our proposal. Particularly the Republican Study Committees deserves great thanks for their lending a hand to our proposal. A number of us have cosponsored their proposals. The solution out of this has to be bipartisan.

Our 12-point plan includes the following elements: It includes a balanced budget amendment to the Constitution of the United States. Remember, that was part of the Republican Contract with America, but somehow they have forgotten about it these last 10 years. We need to have a balanced budget amendment to the Constitution.

Mr. ROSS. Mr. Speaker, this is important to note, and the gentleman from New York (Mr. ISRAEL) mentioned it earlier this evening, those of us with families, we get around the kitchen table and we have to balance the family budget. My wife and I own a small-town family pharmacy with 12 employees back home. We have to have a balanced budget. Forty-nine States in America, I was in the State Senate in Arkansas for 10 years; 49 States in America require a balanced budget.

Is it asking too much of the politicians in Washington to give the citizens of this country a balanced budget? That is what we are talking about doing here.

Mr. COOPER. The gentleman is correct. Our balanced budget amendment would completely protect Social Security so it would not in any way be endangered by this. It would also require a three-fifths majority of this House in order to raise the debt limit. So it would really do a lot to control the spending binge we are on.

Another key element of the plan is, pay as you go. In other words, this Congress could no longer buy on credit. We would take up the national credit card, cut it up, put it away.

Alan Greenspan, the Chairman of the Federal Reserve, says this is probably the single most important policy reform we could undertake. Why does he say that? Because we had it for 12 years and it worked brilliantly. We had it in place from 1990 to 2002. And under Republican leadership they let it expire, so the pay-as-you-go principle no longer operates. We need to reinstate PAYGO.

Mr. ROSS. So the gentleman is saying that under President Clinton that we had what was called pay-as-you-go rules in place, which meant that if you are going to raise spending, you have got to cut spending somewhere else, which led to the first balanced budget in 40 years; and now that no longer applies to the House here?

□ 2320

Mr. COOPER. The gentleman is exactly correct. And if you cut taxes, you have to make up the lost revenue, either through spending cuts or other taxes. And it is an important way to live within your means, by cutting up the credit cards so you are no longer borrowing more than you can afford. It is a key principle.

Another element of the Blue Dog spending plan is to put spending caps on spending, so that we live within our means; so that we live within our own budget; so that the budget does not become a joke, as it so often does within this House.

Another element of the Blue Dog reform plan is to require our Federal agencies to live within their means and get their fiscal houses in order, because so many Federal agencies are not auditable. They do not know how to account for the money that they are charged with, and it is very important that they live within their means just as any family or business has to do in this country.

Mr. ROSS. If the gentleman will yield for a moment there, I want to go back and make sure I understand. When you talk about requiring agencies to put their fiscal houses in order, you are talking about Federal agencies?

Mr. COOPER. Exactly.

Mr. ROSS. It is my understanding that the Government Accounting Office found that 16 of 23 major Federal agencies cannot even issue a simple audit of their books.

Mr. COOPER. They would be pretty much out of business if they were a public company in this country, and they are all large enough to be giant public companies. And the Federal Government simply cannot find $24 billion. They do not know where it went.

This is an outrage. And guess what the worst offending Federal agency happens to be? The U.S. Pentagon. And it is not because we are at war. Even during peacetime, the Pentagon has not been able to account for the money it is spending.

Mr. ROSS. That is the agency that spends $800 on a hammer and $600 on a commode seat?

Mr. COOPER. That has been true in the past. We hope that is not true today.

Mr. ROSS. So you are saying, if the gentleman will continue to yield, that the Federal Government cannot account for $24.5 billion that it spent in 2003; and what this plan would do is it would say to those agencies that we are going to freeze your budget until you learn how to be fiscally responsible?

Mr. COOPER. We have heard their excuses for too long. So this would freeze them until they learned how to behave and learned how to count the money they are entrusted with.

Another key element of the plan is that Congress has to tell taxpayers back home how much we are spending, because right now many bills go through this body with a voice vote, with no cost estimate. So we are proposing, just as a place to start, not that this is a perfect number, but any bill that spends more than $50 million we will have to have a recorded vote on so that the taxpayers back home will know who voted for what; so there is finally some accountability in this body.

Mr. ROSS. So if the gentleman will yield, right now, with the leadership in this House, under the gentleman from Texas (Mr. DELAY), they will allow a voice vote without an actual rollcall vote on millions, if not billions, of dollars of taxpayer money being spent; and what we are saying here is, if you are going to spend $50 million or more of taxpayer money to fund our government, it requires a vote of the full Congress?

Mr. COOPER. A recorded vote so that people back home can tell how we behave up here.

Mr. ISRAEL. Would the gentleman yield?

Mr. COOPER. I would be delighted to yield to the gentleman from New York.

Mr. ISRAEL. I thank the gentleman for yielding. Does the gentleman recall when the House of Representatives voted on the entire $2.5 trillion budget resolution?

Mr. COOPER. That was some 3 weeks ago we had the budget resolution. They rammed it through here in 2 hours.

Mr. ISRAEL. And would the gentleman state how long Members of Congress actually had to read that $2.5 trillion budget?

Mr. COOPER. The gentleman asks an interesting question. I am on the Committee on the Budget, and we were only allowed 2 hours from first glance of the document, and this is a complex document, any document would be that spends $2.6 trillion, and 2 hours later, final passage and you never see it again.

That is an outrage to ram through a budget like that. No responsible board of directors in America, no responsible businessman or woman would tolerate that situation, yet it has become commonplace in the U.S. House of Representatives under Republican leadership.

And lest this be viewed as partisan, check again the Cato Institute report. They say that government accountability has suffered terribly under our all-Republican government because there are no checks and balances any more. There is nobody calling them to task, and so we have got to restore fiscal sanity to this Nation.

Another key element of the Blue Dog spending plan is to set aside a real rainy day fund. We know that emergencies and tragedies are going to occur. Let us set aside a little money in advance so that not everything becomes an emergency here.

We spend tens, sometimes hundreds, of billions of dollars a year here because it is a so-called emergency. And some of them are. But in the most recently past emergency supplemental bill of $82 billion, a lot of that was for our troops in Iraq, and we are all for that; but a lot of it was for other stuff that powerful Congressmen and Senators snuck in the bill because they knew they could get away with it.

Mr. ROSS. If the gentleman will yield on that, I think it is so important that we do have a rainy day fund. We have had natural disasters every year since I have been here. We either have droughts or floods, and sometimes both depending on where you live; and we have to be there for our farm families if we want to have a safe and reliable source for food and fiber, which I believe is every bit as important to our national security as oil.

But what is so important about the need for a rainy day fund, I believe, is it helps stop the deficit spending. You have money set aside in a fund knowing that something is going to happen.

And the gentleman raised the issue of the $82 billion supplement. Most folks think that went to support our troops. I supported it, because a large part of it did go to our support our troops. But the reality is during that same week on the floor of the House we did two things: we passed a budget that included $500 million in cuts to farm families in this country, and in the same week we passed $82 billion, and most people think it was all to support our troops. I supported it because part of it was and I support our troops, but what most people do not know is that that bill included a $266 million buyout, you have heard of tobacco buyouts, to do a buyout of opium farmers in Afghanistan.

Now if we cannot find Osama bin Laden hiding in the hills over there in Afghanistan, how in the world are we going to police what thousands of Afghan farmers are or are not growing? Just one example of what the gentleman is talking about that goes on that I believe people need to be held accountable for.

Mr. COOPER. The gentleman is exactly correct. The other elements of the Blue Dog reform plan, point number seven, would be let us have real votes, recorded votes, on raising the debt ceiling for this country.

A lot of Americans think we vote on that here. Well, we used to, in the good old days. But now, under Republican leadership, if you voted for Speaker HASTERT, you also voted to make debt ceiling votes disappear. They no longer happen anymore.

And to put it in perspective, it took the first 204 years of our Nation's history to run up the first $1 trillion in debt, and now we are doing it about every year or two. That is an outrage. And no one is recorded in their votes when we do that. Every year or two it is another trillion; we raise the debt ceiling. And that vote has simply disappeared.

Mr. ROSS. If the gentleman will yield, he is absolutely right. It took 200 years to go $1 trillion in debt, and now we do it every 20 months in this Nation. But in terms of raising the debt limit, it is my understanding that what the gentleman means by that is it is kind of like a credit card with a credit limit. And when the Federal Government reaches its limit, the Congress has to vote either by voice vote or rollcall to raise the debt limit before we can exceed whatever it was before.

And it is my understanding that we exceeded the debt limit back in October of 2004, but we really did not want to bring attention to it. The leadership here did not want to bring attention to the fact. They did not want to bring us back to raise the debt limit weeks before the election, so they literally used Federal employees' 401(k) savings contributions to fund our government for 2 or 3 weeks, to buy time until the election was over and bring us back up here.

As a small business owner, if I do that with my employees' 401(k) plans, I go to the Federal pen. And yet it is my understanding that is how we ran our government in late October and early November of 2004.

Mr. COOPER. Sadly, Mr. Speaker, the gentleman is exactly correct.

In the little time we have remaining, let me make sure we finish the remaining Blue Dog points here.

We have to admit that Congress likes to spend money on its own pet projects. It is called earmark spending. We do not ban that, but we require a written justification for every project, so that things like Senator CHARLES GRASSLEY's $50 million indoor rain forest in Iowa would no longer happen without written justification. The Wall Street Journal reported "it would be cheaper to fly everyone in Iowa to a real rain forest rather than build a fake one somewhere in Iowa."

Another key element of the Blue Dog reform plan is to give us the 3 days that we have under House rules to read these bills so that we have a chance to know what is going on; so we have a chance to share with our constituents back home what is in these bills so we can get their ideas. That is the best way to represent them, instead of ramming things through here, like our budget 3 weeks ago in 2 hours, or other legislation they rammed through in 1 day under what they call the martial law rule. That is not a pejorative; that is what they call it, a martial law rule for running our democracy.

Another key element of the Blue Dog reform plan is let us get an honest cost estimate for every bill. I mentioned earlier let us have a recorded vote for the larger bills, but we need to know what each bill costs so we have some idea what we are spending.

☐ 2330

Most Americans back home are probably shocked that after 200-plus years of this great democracy, we still do not know what bills cost.

Finally, we need to make sure that each piece of legislation fits within the budget, so we do not routinely bust the budget. Last year, I think four or five of the appropriations bills busted the budget.

Finally, Congress needs to make sure that we do a better job of keeping tabs on government programs. This Congress has failed miserably, and even the most partisan Republican would admit that. Most of the oversight subcommittees have been abolished. They do not exist anymore. There is no one to hold hearings to make sure that the taxpayers' money is being well spent. Those are the key points in the 12-point Blue Dog reform plan.

We have bipartisan support for this. Many of the elements are shared with the Republican Study Committee Plan. Many of us have also supported their reform efforts. We need to work together to form a bipartisan majority, much as our Senate colleagues did to avert the nuclear showdown on judicial nominations, get the sensible center of this Congress to come together and do the right thing for the American taxpayer.

We are so close because if just 10 or 20 of the Republicans would break from their leadership, they could do as the CATO Institute report suggests, start reforming the budget process in this House. All it takes is 10 or 20 renegades on their side to stand up for the American taxpayer. We can get budget reform. It may be the Republican Study Committee that does it. It may be the Mainstream Republicans, or the Tuesday Group that does it, but I believe the Blue Dog Democrats will be there to make sure that sensible fiscal policy is restored to this Nation.

I appreciate the gentleman holding this special order.

Mr. ROSS. Mr. Speaker, I would thank the gentleman from Tennessee.

Mr. Speaker, one of the 12 points is to ensure that the Congress reads the bills we are voting on. We cannot pass a law to make Members of Congress read a bill, but several examples have been given this evening of what we are talking about here.

Last year, before the election, there were 13 spending bills that had to pass to fund our government. Two were passed before the election. They brought us back up here after the election, saying that they could roll all 11 into one and call it the omnibus spending bill and pass it in 3 or 4 days, and they did.

The gentleman from Texas (Mr. DELAY), the majority leader, did. It was over 1,000 pages, over 12,000 local spending projects. We had just a few hours to read it. Sure enough, it was full of errors, including allowing congressional staffers to look at people's tax returns. And so all 435 Members had to fly back up here to fix that, among other things.

That is just one of 12 common-sense budget reform steps that we think have to happen before Democrats or Republicans can provide a truthful, meaningful budget again.

Mr. ISRAEL. Mr. Speaker, just one concluding point. This Blue Dog 12-point plan is not radical or inventive. It is what every American family has to abide by every single day. All this plan says is, we will play by the same rules that our businesses are supposed to play by and our families are supposed to play by. I do not know of a single American family that can just decide to go beyond their means and tell their bank, I want to borrow more. We should play by the same rules.

Mr. Speaker, I thank the gentleman from Arkansas (Mr. ROSS) and the gentleman from Tennessee (Mr. COOPER) for their stalwart leadership on fiscal responsibility and common sense.

Mr. ROSS. Mr. Speaker, in the hour that we have discussed the debt and the deficit, our Nation has borrowed $48 million. On top of that, our Nation has paid $18 million in interest on the national debt. That is $66 million that our Nation has spent during the 60 minutes we have been here.

It is about priorities. That money could have gone for better education, better roads, and better veterans' benefits.

Mr. Speaker, I raise these issues because my grandparents left this Nation better than they found it for my parents. And my parents left this Nation better than they found it for our generation, and I believe we have a duty and an obligation to try and leave this country just a little bit better than we found it for our children and grandchildren.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. EMERSON (at the request of Mr. DELAY) for today and May 26 on account of the death of Marie Hahn, mother of the late Representative Bill Emerson.

Mr. GINGREY (at the request of Mr. DELAY) for today through 2:30 p.m. on account of his accompanying the BRAC commissioners on a site visit of NAS Atlanta.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. BEAN, for 5 minutes, today.

(The following Members (at the request of Mr. GIBBONS) to revise and extend their remarks and include extraneous material:)

Mr. NORWOOD, for 5 minutes, May 26.

Mr. POE, for 5 minutes, May 26.

Mr. FRANKS of Arizona, for 5 minutes, May 26.

Mr. GINGREY, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

ADJOURNMENT

Mr. ROSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, May 26, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2143. A letter from the Inspector General, Department of Defense, transmitting the annual report of the results of the assessment of voting assistance programs, pursuant to 10 U.S. C. 1566 Public Law 107-107, section 1602; to the Committee on Armed Services.

2144. A letter from the Chairman, Vice Chairman, and Commissioners, Commission on Review of Overseas Military Facility Structure, transmitting a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate, pursuant to 10 U.S.C. 111 note, Pub. L. 108-132, Section 128(b)(3)(A) (117 Stat. 1383); to the Committee on Armed Services.

2145. A letter from the Director, Defense Finance and Accounting Service, transmitting a letter updating the May 9, 2003 notification that the DFAS planned to start an A-76 competition of the Marine Corps accounting function in which DFAS has decided not to conduct a competition at this time, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.

2146. A letter from the Assistant Secretary of the Army for Acquisition, Logistics and Technology, Department of Defense, transmitting the annual status report of the U.S. Chemical Demilitarization Program (CDP) as of September 30, 2004, pursuant to 50 U.S.C. 1521(g); to the Committee on Armed Services.

2147. A letter from the Chief of Staff, Comptroller of the Currency, transmitting four issues of the Quarterly Journal for CY 2003 and one issue for CY 2004, the annual reports for FY 2003 and 2004, and a review of the actions the Office has taken during CY 2003 and 2004 with regard to the applicability of state law to national banks, pursuant to 12 U.S.C. 14 12 U.S.C. 36(f)(1)(C); to the Committee on Financial Services.

2148. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to the Republic of Korea pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

2149. A letter from the Vice Chairperson, Advisory Committee on Student Financial Assistance, transmitting the Committee's final report of the special study of simplification of need analysis and application for Title IV aid, entitled "The Student Aid Gauntlet: Making Access to College Simple and Certain," pursuant to the FY 2004 Consolidated Appropriations Act; to the Committee on Education and the Workforce.

2150. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2151. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2152. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergency Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13338 of May 11, 2004, a six-month periodic report on the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on International Relations.

2153. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on International Relations.

2154. A letter from the Secretary, Department of the Treasury, transmitting as required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on International Relations.

2155. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report concerning methods employed by the Government of Cuba to comply with the United States-Cuba September 1994 "Joint Communique" and the treatment by the Government of Cuba of persons returned to Cuba in accordance with the United States-Cuba May 1995 "Joint Statement," together known as the Migration Accords, pursuant to Public Law 105–277, section 2245; to the Committee on International Relations.

2156. A letter from the Investment Manager, Treasury Division, Army & Air Force Exchange Service, transmitting the annual report on Federal Pension Plans for the year ended 31 December 2003, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

2157. A letter from the Federal Co-Chairman, Delta Regional Authority, transmitting a report describing the activities of the Delta Regional Authority for 2004, entitled "Promises Made/Promises Kept," pursuant to 7 U.S.C. 1921, et seq; to the Committee on Government Reform.

2158. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Virginia Regulatory Program [VA-121-FOR] received April 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2159. A letter from the Deputy Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Chickasaw National Recreational Area, Personal Watercraft Use (RIN: 1024-AC98) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2160. A letter from the Deputy Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Delaware Water Gap National Recreation Area, Pennsylvania and New Jersey; U.S. Route 209 commercial vehicle fees. (RIN: 1024-AD14) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2161. A letter from the Deputy Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Rocky Mountain National Park Snowmobile Routes (RIN: 1024-AD15) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2162. A letter from the Biomass and Forest Health Program Manager, Department of the Interior, transmitting the Department's final rule — Woody Biomass Utilization (RIN: 1084-AA00) received May 17, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2163. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Ozark, MO. [Docket No. FAA-2005-20061; Airspace Docket No. 05-ACE-3] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2164. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 041105A] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2165. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 040805C] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2166. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processor Vessels Using Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 0411263332-5039; I.D. 040805B] received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2167. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Correction [Docket No. 040830250-5109-04; I.D. 081304C] (RIN: 0648-AS27) received May 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2168. A letter from the Director, NMFS, National Oceanic and Atmospheric Administration, transmitting a report, covering FY 2003 and 2004 as required by the Interjurisdictional Fisheries Act of 1986, also containing information for FY 2003 and 2004 about grants authorized by the Anadromous Fish Conservation Act of 1965, pursuant to 16 U.S.C. 4106, as amended 16 U.S.C. 757(d), as amended; to the Committee on Resources.

2169. A letter from the Chair, United States Sentencing Commission, transmitting the Commission's amendments to the sentencing guidelines, policy statements, and official commentary, pursuant to 28 U.S.C. 994(p); to the Committee on the Judiciary.

2170. A letter from the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, transmitting notification that funding under Title V, subsection 503(b)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, may exceed $5 million for the response to the emergency declared as a result ofthe record/near record snow on December 21-23, 2004, in the State of Indiana, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

2171. A letter from the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, transmitting notification that funding under Title V, subsection 503(b)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, may exceed $5 million for the response to the emergency declared as a result ofthe record and/or near record snow on January 22-23, 2005, in the Commonwealth of Massachusetts, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

2172. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Elizabeth River-Eastern Branch, Norfolk, VA [CGD05-04-209] (RIN: 1625-AA09) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Transportation and Infrastructure.

2173. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Virginia [CGD05-05-031] (RIN: 1625-AA09) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Transportation and Infrastructure.

2174. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation for Marine Events; Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, MD [CGD05-05-023] (RIN: 1625-AA08) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Transportation and Infrastructure.

2175. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; National Maritime Week Tugboat Races, Seattle, WA [CGD13-05-004] (RIN: 1625-AA08) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A): to the Committee on Transportation and Infrastructure.

2176. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Chicago Sanitary and Ship Canal, Chicago, IL [CGD09-05-009] (RIN: 1625-AA00) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2177. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace, Cocoa Beach Patrick AFB, FL [Docket No. FAA-2004-19911; Airspace Docket No. 04-ASO-20] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2178. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Boonville, MO. [Docket No. FAA-2005-20576; Airspace Docket No. 05-ACE-13] received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2179. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, and -50 Series Airplanes; and Model DC-9-81 (MD-81) and DC-9-82 (MD-82) Airplanes [Docket No. FAA-2004-18774; Directorate Identifier 2003-NM-212-AD; Amendment 39-14027; AD 2005-07-03] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2180. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, -100B, -100B SUD, -200B, and -300 Series Airplanes; and Model 747SR and 747SP Series Airplanes [Docket No. FAA-2004-19495; Directorate Identifier 2003-NM-180-AD; Amendment 39-14019; AD 2005-06-11] (RIN: 2120-AA64) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2181. A letter from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting the Department's final rule — Rail Fixed Guideway Systems; State Safety Oversight [Docket No. FTA-2004-17196] (RIN: 2132-AA76) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2182. A letter from the Chairman, Advisory Committee for Trade Policy Negotiations, transmitting pursuant to Section 2103(c)(3)(A) of the Trade Act of 2002, the

Committee's report on the Extension of Trade Promotion Authority; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GINGREY: Committee on Rules. House Resolution 298. Resolution providing for consideration of the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept 109–97). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DAVIS of Florida (for himself, Mr. FLAKE, Mr. MCDERMOTT, Mr. DELAHUNT, Mr. OLVER, Mr. RUSH, Ms. SOLIS, Mr. SHAYS, Mr. CONYERS, Mr. FARR, Mr. OBERSTAR, Mrs. BONO, Ms. KILPATRICK of Michigan, Mrs. EMERSON, Mr. LYNCH, Mr. GORDON, Mr. TOWNS, Mr. PAUL, Mr. SPRATT, Mr. OTTER, Ms. BALDWIN, Mr. RANGEL, Mr. MCGOVERN, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. MORAN of Virginia, Ms. LEE, Mr. BERRY, Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Mr. MCNULTY, Mr. RAMSTAD, Ms. WATERS, Mr. BERMAN, Ms. WOOLSEY, Ms. DELAURO, and Mr. MEEK of Florida):

H.R. 2617. A bill to bar certain additional restrictions on travel and remittances to Cuba; to the Committee on International Relations.

By Mr. RENZI (for himself, Mr. PASTOR, Mr. KOLBE, Mr. HAYWORTH, Mr. SHADEGG, Mr. FLAKE, and Mr. FRANKS of Arizona):

H.R. 2618. A bill to authorize and direct the exchange and conveyance of certain National Forest land and other land in southeast Arizona; to the Committee on Resources.

By Mr. ANDREWS:

H.R. 2619. A bill to waive copayments and deductibles for military personnel who qualify for TRICARE and use other health insurance as their primary form of coverage; to the Committee on Armed Services.

By Ms. JACKSON-LEE of Texas (for herself, Mr. CONYERS, Mr. RANGEL, Mr. TOWNS, Mr. PAYNE, Mr. WYNN, Mr. CLEAVER, Mr. RUSH, Mr. LEWIS of Georgia, Mr. DAVIS of Illinois, Ms. WOOLSEY, Mr. FATTAH, Mr. JEFFERSON, Ms. WATSON, Mr. JACKSON of Illinois, and Mr. OWENS):

H.R. 2620. A bill to increase the evidentiary standard required to convict a person for a drug offense, to require screening of law enforcement officers or others acting under color of law participating in drug task forces, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 2621. A bill to clarify that bail bond sureties and bounty hunters are subject to both civil and criminal liability for violations of Federal rights under existing Federal civil rights law, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 2622. A bill to amend title II of the Social Security Act to provide monthly benefits for certain uninsured children living without parents; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 2623. A bill to require States to conduct DNA tests to ascertain the degree of genetic relatedness between two or more persons in accordance with a national standard; to the Committee on Ways and Means.

By Mr. BOEHNER:

H.R. 2624. A bill to suspend temporarily the duty on certain items and to reduce temporarily the duty on certain items; to the Committee on Ways and Means.

By Mr. DOGGETT (for himself, Mr. LEVIN, Mr. STARK, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. MCNULTY, Mr. LEWIS of Georgia, Mr. JEFFERSON, Mr. BECERRA, Mr. EMANUEL, Mr. ALLEN, Ms. BALDWIN, Mr. BERMAN, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CASE, Mr. CONYERS, Mr. COSTELLO, Mr. CROWLEY, Mr. DAVIS of Illinois, Mr. DEFAZIO, Ms. DEGETTE, Ms. DELAURO, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Ms. LEE, Mr. MARKEY, Mr. MCGOVERN, Mrs. MALONEY, Mr. GEORGE MILLER of California, Mr. NADLER, Mrs. NAPOLITANO, Mr. OBERSTAR, Mr. RYAN of Ohio, Mr. SABO, Ms. LORETTA SANCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STRICKLAND, Ms. SOLIS, Mr. TAYLOR of Mississippi, Mr. TIERNEY, Mrs. JONES of Ohio, Ms. WATERS, and Mr. WAXMAN):

H.R. 2625. A bill to amend the Internal Revenue Code of 1986 to curb tax abuses by disallowing tax benefits claimed to arise from transactions without substantial economic substance, and for other purposes; to the Committee on Ways and Means.

By Mr. EDWARDS (for himself and Mr. BONILLA):

H.R. 2626. A bill to amend titles XVIII and XIX of the Social Security Act to prohibit coverage under the Medicare and Medicaid Programs of sex-enhancing drugs for individuals convicted of a sex offense; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 2627. A bill to require the Federal Trade Commission to monitor and investigate gasoline prices under certain circumstances; to the Committee on Energy and Commerce.

By Mr. FLAKE:

H.R. 2628. A bill to modify certain deadlines pertaining to machine-readable, tamper-resistant entry and exit documents; to the Committee on Homeland Security, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Rhode Island (for himself, Ms. ROS-LEHTINEN, Mr. MCDERMOTT, Ms. WASSERMAN SCHULTZ, Mr. STARK, and Mr. OWENS):

H.R. 2629. A bill to amend the Older Americans Act of 1965 to provide for mental health screening and treatment services, to amend the Public Health Service Act to provide for integration of mental health services and mental health treatment outreach teams, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAHOOD (for himself, Mr. HASTERT, Mr. RUSH, Mr. LIPINSKI, Mr. WELLER, Mr. JOHNSON of Illinois, Mr. DAVIS of Illinois, Mr. HYDE, Mr. EMANUEL, Mr. KIRK, Ms. SCHAKOWSKY, Mr. GUTIERREZ, Mr. SHIMKUS, Mr. COSTELLO, Mr. EVANS, Ms. BEAN, Mr. JACKSON of Illinois, Mrs. BIGGERT, and Mr. MANZULLO):

H.R. 2630. A bill to redesignate the facility of the United States Postal Service located at 1927 Sangamon Avenue in Springfield, Illinois, as the "J.M. Dietrich Northeast Annex"; to the Committee on Government Reform.

By Mr. LEWIS of Georgia (for himself, Mr. LEACH, Ms. JACKSON-LEE of Texas, Mr. OBERSTAR, Mr. PAYNE, Mr. PAUL, Mr. MCDERMOTT, Ms. CORRINE BROWN of Florida, Mr. HINCHEY, Mr. BROWN of Ohio, Mr. OWENS, Mr. TOWNS, Ms. ESHOO, Mr. FRANK of Massachusetts, Mr. MCGOVERN, Ms. LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. WATSON, Ms. WOOLSEY, Mr. RUSH, Mr. FARR, Mr. DEFAZIO, Mr. RANGEL, Mr. MORAN of Kansas, Mr. DELAHUNT, Mr. SERRANO, Ms. BALDWIN, Mr. CUMMINGS, Mr. JACKSON of Illinois, Mr. WATT, Mr. CONYERS, Ms. NORTON, Mr. DAVIS of Illinois, Ms. MCKINNEY, and Mr. STRICKLAND):

H.R. 2631. A bill to affirm the religious freedom of taxpayers who are conscientiously opposed to participation in war, to provide that the income, estate, or gift tax payments of such taxpayers be used for nonmilitary purposes, to create the Religious Freedom Peace Tax Fund to receive such tax payments, to improve revenue collection, and for other purposes; to the Committee on Ways and Means.

By Mr. LEWIS of Kentucky:

H.R. 2632. A bill to suspend temporarily the duty on 3,3'-Dichlorobenzidine Dihydrochloride; to the Committee on Ways and Means.

By Mr. MATHESON:

H.R. 2633. A bill to provide for preservation by the Department of Defense of historical radiation records; to the Committee on Armed Services.

By Mr. MELANCON (for himself, Mr. BAKER, Mr. MCCRERY, Mr. JEFFERSON, Mr. ALEXANDER, Mr. BOUSTANY, Mr. JINDAL, and Mr. BONNER):

H.R. 2634. A bill to amend the Submerged Lands Act to make the seaward boundaries of the States of Louisiana, Alabama, and Mississippi equivalent to the seaward boundaries of the State of Texas and the Gulf Coast of Florida; to the Committee on the Judiciary.

By Mr. MICHAUD (for himself and Mr. ALLEN):

H.R. 2635. A bill to amend title 10, United States Code, to require emergency contraception to be available at all military health care treatment facilities; to the Committee on Armed Services.

By Mr. NADLER (for himself, Mr. SANDERS, Mr. OBERSTAR, Mr. GEORGE MILLER of California, Mr. MCDERMOTT, Ms. SCHAKOWSKY, Ms.

Velázquez, Mr. Cummings, Mr. Cleaver, Mr. Rangel, Ms. Eddie Bernice Johnson of Texas, Ms. Slaughter, Ms. Eshoo, and Mr. Stark):

H.R. 2636. A bill to authorize the Secretary of Housing and Urban Development to make grants to States to supplement State assistance for the preservation of affordable housing for low-income families; to the Committee on Financial Services.

By Mr. PASCRELL (for himself, Mr. Wilson of South Carolina, Mr. Weldon of Pennsylvania, Mr. Petri, Mr. Burton of Indiana, Mr. Foley, Mr. LaHood, Mr. Brown of South Carolina, Mr. Walsh, Mr. Whitfield, Mr. Boozman, Mr. Boehlert, Mr. Menendez, Mr. Rangel, Mr. Skelton, Mr. Pallone, Mr. Andrews, Mrs. McCarthy, Mr. Owens, Mr. Hinchey, Mr. Marshall, Mr. Holt, Ms. Bordallo, Mr. Capuano, Mr. Davis of Illinois, Mr. Payne, Mr. Clay, Mr. Holden, Mr. Kucinich, Mrs. Jones of Ohio, Mr. Grijalva, and Mrs. Maloney):

H.R. 2637. A bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes; to the Committee on Education and the Workforce.

By Mr. RENZI:

H.R. 2638. A bill to allow the waiver of certain terms contained in a deed of conveyance to the City of Williams, Arizona; to the Committee on Transportation and Infrastructure.

By Mr. RUSH:

H.R. 2639. A bill to establish a pilot program to provide low interest loans to nonprofit, community-based lending intermediaries, to provide midsize loans to small business concerns, and for other purposes; to the Committee on Small Business.

By Mr. RUSH:

H.R. 2640. A bill to make improvements to the microenterprise programs administered by the Small Business Administration; to the Committee on Small Business, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. SLAUGHTER (for herself, Mr. Paul, Mr. Delahunt, Ms. Herseth, and Mr. Taylor of Mississippi):

H.R. 2641. A bill to require the Defense Base Closure and Realignment Commission to take into consideration the homeland security contributions and value of military installations when the Commission conducts its review and analysis of the list of military installations recommended for closure or realignment by the Secretary of Defense; to the Committee on Armed Services.

By Mr. TANNER (for himself, Mr. Cooper, Mr. Chandler, Mr. Costa, Mr. Cardoza, Mr. Boyd, Mr. Case, Mr. Moore of Kansas, Mr. Schiff, Mr. Ford, and Mr. Matheson):

H.R. 2642. A bill to prohibit States from carrying out more than one Congressional redistricting after a decennial census and apportionment, to require States to conduct such redistricting through independent commissions, and for other purposes; to the Committee on the Judiciary.

By Mr. WEINER (for himself, Mr. Ackerman, Mr. Berman, Mr. Blumenauer, Mr. Brady of Pennsylvania, Mr. Conyers, Mr. Cummings, Mr. DeFazio, Ms. DeLauro, Mr. Engel, Mr. Evans, Mr. Grijalva, Mr. Hastings of Florida, Mr. Hinchey, Ms. Jackson-Lee of Texas, Mrs. Jones of Ohio, Ms. Kilpatrick of Michigan, Mr. Kucinich, Ms. Lee, Mrs. Maloney, Mr. McDermott, Mr. George Miller of California, Mr. Neal of Massachusetts, Mr. Owens, Mr. Payne, Mr. Sanders, Ms. Schakowsky, Mr. Stark, Ms. Wasserman Schultz, Ms. Watson, Mr. Waxman, and Mr. Wynn):

H.R. 2643. A bill to protect innocent parties from certain fees imposed by depository institutions for dishonored checks, and for other purposes; to the Committee on Financial Services.

By Mr. WYNN:

H.R. 2644. A bill to amend the Servicemembers Civil Relief Act to extend from 90 days to one year the period after release of a member of the Armed Forces from active duty during which the member is protected from mortgage foreclosure under that Act; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. WYNN introduced a bill (H.R. 2645) for the relief of Web's Construction Company, Incorporated; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. Wu and Mr. Davis of Kentucky.

H.R. 23: Mr. Engel.

H.R. 94: Ms. Eddie Bernice Johnson of Texas, Mr. Gerlach, and Mrs. McCarthy.

H.R. 115: Mr. Price of North Carolina.

H.R. 195: Mr. Souder.

H.R. 222: Mr. Souder.

H.R. 303: Mr. Cardin, Mrs. Lowey, Mr. Kennedy of Rhode Island, Ms. Kilpatrick of Michigan, Mr. Andrews, and Ms. McCollum of Minnesota.

H.R. 389: Mr. Miller of Florida.

H.R. 528: Mr. Payne.

H.R. 558: Mr. LoBiondo.

H.R. 582: Mr. LaTourette and Mr. Owens.

H.R. 602: Mr. Menendez and Mr. Delahunt.

H.R. 615: Ms. Woolsey.

H.R. 669: Mr. Schwarz of Michigan.

H.R. 670: Mr. Kuhl of New York, Mr. Young of Alaska, Mr. Jefferson, and Mr. Carnahan.

H.R. 676: Mr. Grijalva, Mr. Jackson of Illinois, Mr. Scott of Virginia, Mr. Weiner, Mr. Nadler, and Mr. Lewis of Georgia.

H.R. 747: Mr. Putnam, Mr. Clay, Mr. Wynn, Mr. Al Green of Texas, Ms. Solis, and Ms. Harman.

H.R. 759: Mr. Thompson of California.

H.R. 761: Mr. Radanovich.

H.R. 772: Ms. Bordallo, Ms. Jackson-Lee of Texas, and Mr. Jefferson.

H.R. 819: Mr. Nussle and Mr. Weller.

H.R. 823: Mr. Platts and Mr. Ryun of Kansas.

H.R. 880: Mr. Payne.

H.R. 887: Mr. Cummings.

H.R. 893: Mr. Rangel and Mr. Stark.

H.R. 896: Mr. Rogers of Michigan.

H.R. 908: Mr. Van Hollen.

H.R. 925: Mr. Bradley of New Hampshire and Mrs. Myrick.

H.R. 952: Mr. Meehan.

H.R. 997: Mrs. Kelly and Mr. Walsh.

H.R. 1002: Mr. Stupak.

H.R. 1079: Mr. Herger.

H.R. 1120: Mr. English of Pennsylvania.

H.R. 1126: Mr. Bishop of New York and Mr. Castle.

H.R. 1153: Mr. McGovern, Ms. Berkley, Mr. Van Hollen, and Ms. Ros-Lehtinen.

H.R. 1176: Mr. Bishop of Georgia and Mr. Conaway.

H.R. 1219: Ms. Herseth.

H.R. 1242: Mr. Delahunt.

H.R. 1249: Mr. Cardin, Mr. Higgins, and Mr. DeFazio.

H.R. 1288: Mr. McHugh, Mr. Putnam, Mr. Kingston, Mr. Walden of Oregon, Mr. Rogers of Alabama, Mr. Smith of Texas, Mr. Hensarling, Mr. Feeney, Mr. Carter, Mr. Tancredo, Mr. Boyd, Mr. Peterson of Minnesota, and Mr. Lincoln Diaz-Balart of Florida.

H.R. 1298: Mr. Moore of Kansas.

H.R. 1302: Mr. Emanuel and Mr. Meehan.

H.R. 1304: Mr. Emanuel and Mr. Meehan.

H.R. 1313: Mr. Tancredo.

H.R. 1352: Mr. DeFazio and Mr. Clay.

H.R. 1384: Mr. Bishop of Utah.

H.R. 1386: Mrs. Davis of California.

H.R. 1397: Mr. Weldon of Pennsylvania.

H.R. 1409: Mr. Price of North Carolina.

H.R. 1421: Mr. Gordon.

H.R. 1445: Mr. Clay.

H.R. 1448: Mr. Schwarz of Michigan and Mr. Camp.

H.R. 1492: Mr. Jefferson and Ms. McCollum of Minnesota.

H.R. 1505: Mr. Davis of Tennessee.

H.R. 1554: Ms. Eshoo.

H.R. 1591: Mr. Calvert.

H.R. 1602: Mr. Ruppersberger, Mr. Schiff, Mr. Case, Mr. Rohrabacher, Mr. Cunningham, Mr. Franks of Arizona, and Mr. Forbes.

H.R. 1615: Mr. Green of Wisconsin.

H.R. 1648: Mr. Gonzalez, Mr. Filner, and Mr. Cleaver.

H.R. 1652: Mr. Strickland, Mrs. Napolitano, Ms. Watson, and Mr. Tierney.

H.R. 1671: Mr. Snyder and Ms. Eddie Bernice Johnson of Texas.

H.R. 1689: Mr. Beauprez, Ms. Berkley, Mr. Sessions, Mr. Issa, Mr. Hayworth, Mr. Wilson of South Carolina, Mr. Westmoreland, Mr. Hastings of Florida, Mr. Bonilla, Mr. Ackerman, Ms. Watson, Mr. McHenry, and Mr. Tancredo.

H.R. 1696: Mr. Meeks of New York.

H.R. 1770: Ms. Harris.

H.R. 1870: Mr. Weldon of Florida.

H.R. 1876: Mr. Jefferson.

H.R. 1955: Mr. Holt.

H.R. 1973: Mr. Lynch and Mr. Conyers.

H.R. 1974: Mr. Cooper.

H.R. 1993: Mr. Stark and Mr. Towns.

H.R. 1994: Mr. Conyers.

H.R. 2018: Mr. Green of Wisconsin.

H.R. 2037: Ms. Schwartz of Pennsylvania.

H.R. 2057: Mr. Schwarz of Michigan and Mr. Price of Georgia.

H.R. 2058: Mr. Delahunt, Mr. Gonzalez, and Mr. Hinchey.

H.R. 2060: Mr. Kirk, Mr. Reichert, Mr. Walsh, Mr. Boehlert, Mr. Brady of Texas, Mr. Ehlers, Mr. Putnam, Mr. Hayworth, Mr. Gilchrest, Mr. Wicker, Mr. Wilson of South Carolina, Ms. Foxx, Mr. Shuster, Mr. Thompson of Mississippi, Ms. DeLauro, Ms. Zoe Lofgren of California, Mr. Skelton, Mr. Bishop of Georgia, Ms. Hooley, Mr. Butterfield, Mr. Scott of Virginia, Mr. Boren, Mr. Higgins, Mr. Barrow, Mr. Costello, Mr. Strickland, Mr. Sabo, Mr. Etheridge, Mr. Frank of Massachusetts, Mr. Miller of

North Carolina, Ms. HARMAN, Ms. JACKSON-LEE of Texas, Mr. MICHAUD, Mr. MOORE of Kansas, and Mr. MCNULTY.

H.R. 2076: Mr. GOODE.

H.R. 2106: Mr. BARROW, Mr. MARSHALL, and Mr. SIMMONS.

H.R. 2109: Ms. KILPATRICK of Michigan.

H.R. 2123: Mr. INGLIS of South Carolina and Mrs. NORTHUP.

H.R. 2193: Mr. PAYNE.

H.R. 2209: Mr. PETERSON of Minnesota, Mr. GORDON, and Mr. GOODE.

H.R. 2230: Mr. ISRAEL.

H.R. 2231: Mr. MENENDEZ, Mr. ANDREWS, Mr. LOBIONDO, Mr. FARR, Ms. ROS-LEHTINEN, Mr. HIGGINS, Mr. DOYLE, Ms. MOORE of Wisconsin, Mr. WEINER, Mr. MCHUGH, Mr. HOLT, Mr. MCGOVERN, Mr. GRIJALVA, Mr. RUPPERSBERGER, Mr. MOORE of Kansas, Ms. SCHAKOWSKY, Mr. BISHOP of New York, Mr. GUTIERREZ, Ms. BORDALLO, Mr. BOSWELL, Ms. SOLIS, Mr. WAXMAN, Mr. BOUCHER, Mr. LATHAM, Mr. HINCHEY, Mr. MEEKS of New York, Mr. BRADLEY of New Hampshire, Mr. PETRI, Mr. MCDERMOTT, Mr. ENGEL, Mr. THOMPSON of California, Mr. COOPER, and Mr. UDALL of Colorado.

H.R. 2234: Mr. MCCOTTER, Mr. BOUCHER, Mr. MOORE of Kansas, Mr. FORD, Mr. MORAN of Virginia, Mrs. CHRISTENSEN, Mr. SNYDER, Mr. SCHIFF, Mr. HIGGINS, Mr. MARCHANT, Ms. HARMAN, Mr. PLATTS, Ms. WASSERMAN SCHULTZ, Mr. SESSIONS, and Mr. SMITH of Washington.

H.R. 2238: Mr. CARDOZA, Mr. LYNCH, Mr. MEEK of Florida, Mr. LARSON of Connecticut, Mr. CLAY, Mr. MCINTYRE, and Ms. MILLENDER-MCDONALD.

H.R. 2239: Mr. SHAW and Mr. NEUGEBAUER.

H.R. 2291: Mr. WEXLER.

H.R. 2321: Mr. ACKERMAN and Mr. LANTOS.

H.R. 2327: Ms. MCCOLLUM of Minnesota, Ms. CARSON, Mr. LIPINSKI, and Ms. DEGETTE.

H.R. 2344: Ms. SCHAKOWSKY and Mr. GUTIERREZ.

H.R. 2347: Mr. SCHIFF.

H.R. 2355: Miss MCMORRIS.

H.R. 2359: Mr. GRIJALVA.

H.R. 2423: Mr. WELLER and Mr. MARIO DIAZ-BALART of Florida.

H.R. 2427: Mr. TAYLOR of Mississippi and Mrs. CAPITO.

H.R. 2565: Mr. SWEENEY, Mr. MARCHANT, and Mrs. MILLER of Michigan.

H.R. 2574: Mr. GUTKNECHT and Mr. DEAL of Georgia.

H.J. Res. 12: Mr. PASTOR.

H.J. Res. 37: Mr. SWEENEY and Mr. COOPER.

H.J. Res. 38: Mr. HINCHEY.

H. Con Res. 71: Ms. MOORE of Wisconsin.

H. Con Res. 90: Mrs. MALONEY and Mr. HOLT.

H. Con Res. 99: Mr. CLAY.

H. Con Res. 144: Mr. MURPHY, and Ms. SCHWARTZ of Pennsylvania.

H. Con Res. 162: Mr. TANCREDO, Mr. BISHOP of New York, and Mr. ANDREWS.

H. Res. 85: Mr. SHAYS.

H. Res. 146: Mr. WELDON of Florida, Mr. ISTOOK, Mrs. CUBIN, Mr. SAM JOHNSON of Texas, Mr. MCCAUL of Texas, Mr. HERGER, Mr. CHOCOLA, Mr. BEAUPREZ, Mr. CANTOR, Mr. RYAN of Wisconsin, and Mr. BRADY of Texas.

H. Res. 199: Mr. FORTENBERRY, Mrs. JO ANN DAVIS of Virginia, Mr. MCCOTTER, Mr. BOOZMAN, Mr. WYNN, Mr. OBERSTAR, Mr. KENNEDY of Rhode Island, and Mr. EVANS.

H. Res. 220: Mr. LAHOOD, Mr. DOGGETT, and Miss MCMORRIS.

H. Res. 245: Mr. PAYNE.

H. Res. 246: Mr. BAIRD.

H. Res. 276: Mrs. BIGGERT, Mr. KUHL of New York, Mr. WILSON of South Carolina, Ms. ROYBAL-ALLARD, Ms. BORDALLO, and Mr. BOEHLERT.

H. Res. 279: Mr. LYNCH, Mr. SHIMKUS, Mr. HASTINGS of Florida, Mr. SALAZAR, Mr. SHERMAN, Mr. VAN HOLLEN, and Mr. GRIJALVA.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2528

OFFERED BY: MR. KUCINICH

AMENDMENT NO. 1: Page 17, line 17, after the dollar amount insert the following: ''(reduced by $15,000,000) (increased by $15,000,000)''.

H.R. 2528

OFFERED BY: MR. BLUMENAUER

AMENDMENT NO. 2: Page 9, line 22, insert after the dollar amount the following: ''(increased by $351,000,000)''.

Page 10, line 6, insert after the dollar amount the following: ''(reduced by $351,000,000)''.

H.R. 2528

OFFERED BY: MR. BLUMENAUER

AMENDMENT NO. 3: Page 9, line 22, insert after the dollar amount the following: ''(increased by $55,000,000)''.

Page 10, line 6, insert after the dollar amount the following: ''(reduced by $55,000,000)''.

EXTENSIONS OF REMARKS

TRIBUTE TO GEORGE F. HEFFNER

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. SOUDER. Mr. Speaker, today I would like to recognize an individual from my district who has dedicated his life to making our country safer. Not only has this man served our Country in World War II, but he continues to go beyond the call of duty by providing his service to military funerals and always being available to lend a helping hand for the community.

George F. Heffner was born on March 30, 1923 in Osceola, Indiana. He served in the U.S. Army in France and Germany during WWII, and was wounded in action. Mr. Heffner received the Purple Heart three times and was awarded the Bronze Star for his valiant actions. He married Senora who passed away in 2002. Together they have one son and one daughter. After returning home from the war, Mr. Heffner was one of the founders of Auspro Manufacturing in the 1950s which has enabled him the time to freely dedicate his life to service for others. Mr. Heffner has held many offices in the Veterans of Foreign Wars, including Commander in 1964. He is also a member of the Disabled American Veterans and the American Legion.

Mr. Heffner was honored on April 29, 2005 by the United Labor Agency for Community Services as their "Retiree of the Year" for his volunteer work in Elkhart County with the Harvest Basket for the past 8 years. He has spent many hours assisting the Salvation Army in ringing bells at Christmas time and helping with their community-wide breakfasts. He has been active in the VFW in helping with purchasing the food and delivering the baskets to the needy at Christmas. He always volunteers to distribute "Buddy Poppys" at Memorial Day and helps put crosses on the gravesites of deceased members during the month of May. Every January he hosts a meal at the VFW Post of ham and beans, paying for the food and cooking it himself. He is an active member of the Goshen Military Funeral Detail which conducts gravesite services for deceased veterans. He always insists on driving members to the cemetery in his van. He always has a smile on his face and tries to make everyone smile. His personality shines through to make everyone a happier person. He has helped many organizations in many different ways and continues to make a difference in the community.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. SHAYS. Mr. Speaker, on May 19, I was participating in the World Economic Forum in Amman, Jordan and, therefore, missed 10 recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted "yes" on recorded vote No. 190, "no" on recorded vote No. 191, "no" on recorded vote No. 192, "no" on recorded vote No. 193, "yes" on recorded vote No. 194, "no" on recorded vote No. 195, "yes" on recorded vote No. 196, "no" on recorded vote No. 197, "no" on recorded vote No. 198, and "no" on recorded vote No. 199.

SBA MICROENTERPRISE IMPROVEMENT ACT

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. RUSH. Mr. Speaker, I rise today to introduce the "SBA Microenterprise Improvement Act". This act would revise the eligibility for microloan intermediaries, increase the maximum microloan small loan amount from $7500 to $10,000, increase technical assistance contracting to 30 percent, adjust the term limit for loans, and create reporting requirements that will highlight the successes of public-private partnerships.

This bill will also provide several improvements to the "Program for Investment in Microentrepreneurs Act of 1999", also known as the PRIME Act, a bill that I introduced in 1999 to help disadvantaged microentrepreneurs obtain technical and training assistance.

The SBA Microloan and the Program for Investment in Microentrepreneurs (PRIME) are unique from other SBA programs because they combine training and technical assistance with loan capital. These programs serve small businesses without access to loans through conventional means because they lack business experience, collateral, or the credit scores needed. Loans that are very small are unprofitable for banks to service and often are not available in rural or low income communities.

The combination of technical support and small loans has made these programs the most successful in the SBA portfolio. In FY2004 the default rate was five hundredths of one percent even though the loans were made to the riskiest category of borrowers. Microloan programs create jobs that stay in the community, which is very important these days as we hear of increased off-shore movements by large corporations to remain competitive worldwide. With most small businesses participating in this program employing less than five people the cost for job creation in the microloan program averages approximately $3000 per employee which is eight times less than SBA's stated goal of creating one job for every $23,000 loaned through the 7(a) program.

The "SBA Microenterprise Improvement Act" also amends the Riegle Community Development and Regulatory Improvement Act of 1994 to extend the program to disadvantaged Native American entrepreneurs and prospective entrepreneurs by providing 2 million dollars annually over the next three years for loans and training programs.

I believe that the SBA Microloan and the Program for Investment in Microentrepreneurs has proven that it can help unbankable small business owners with intensive technical assistance; training and small loans to succeed financially and become important service providers in our communities. I hope that all my colleagues will join me in supporting "The SBA Microenterprise Improvements Act" legislation.

HOME SCHOOL STUDENTS IN THE MILITARY

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. SOUDER. Mr. Speaker, recently I was made aware of a discriminatory policy within the Department of Defense that is preventing some of America's best young people from enlisting in the military. At a time when we need as many individuals as are interested to consider a career in the military, it is outrageous that the DoD is turning away home school students—a group of young people who happen to be, generally speaking, very mature, smart, well-disciplined and highly patriotic. What more is our military looking for? If any students should qualify for priority enlistment it is these students!

Instead, however, a young man in my district was recently informed that he would have an extremely difficult time being accepted into the Air Force merely because he was educated at home. He was told that homeschooled students were categorized as Tier 2 applicants—the same category in which high school dropouts are classified. Upon further inquiry by my office, the Air Force confirmed that, yes, home school applicants could not be considered on a level playing field with other high school graduates and that, "as a rule, less than 1 percent of [the Air Force's] annual

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

non-prior service accessions [would] be alternate credential holders." Additionally, even if a home school student is accepted into a branch of the military, the fact that he or she started in Tier 2 means that they will not qualify for the same benefits and positions available to traditional high school students.

I am aware that a 5-year pilot project was initiated in 1998 that allowed home-schoolers greater access to the Armed Services by considering them as Tier 1 applicants. While the project was extended an additional year, it expired without further extension on September 30, 2004. In January of this year, the DoD appeared to make an effort to remove remaining obstacles to home-schoolers entering the military. However, the memo that was issued contained conflicting language, and ultimately, the classification of home school students as Tier 2 applicants remains on the books, perpetuating the military's policy of discrimination.

While the Army has recently found a way to get around the Tier 2 categorization, the other branches of the military are still excluding home school students from priority consideration. It doesn't matter how qualified and motivated a home school student may be, it is highly unlikely that he or she will be able to serve their country in the Marines, Navy or Air Force.

Mr. Speaker, I raise this disturbing situation to the House today to highlight the lack of fairness and equality within our military with respect to home school students. While I will not be offering an amendment today, it is my intention to introduce a bill soon to address this problem. I sincerely hope that with the Armed Services Chairman's support, we will be able to find a resolution to this issue that will enable all qualified students to live out their dream of serving their country in the U.S. Armed Services.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. SHAYS. Mr. Speaker, on May 23, I was participating in the World Economic Forum in Amman, Jordan and, therefore, missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted "yes" on recorded vote number 200, "yes" on recorded vote number 201, and "yes" on recorded vote number 202.

SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM ACT OF 2005

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. RUSH. Mr. Speaker, I rise today to introduce the "Small Business Intermediary Lending Pilot Program Act of 2005" (SBILPP). This bill would establish a pilot program to provide low interest loans to nonprofit, community-based lending intermediaries. The program would also provide midsize loans for small businesses.

Small businesses and startups continue to face barriers when accessing midsize loans between $35,000 and $200,000, with affordable terms and conditions. With all of the banking industry consolidation, the method by which banks make small business credit decisions has changed to the disadvantage of small or startup businesses. Nonprofit intermediary lenders, including community development corporations, are in a better position to provide financial support to small businesses.

These nonprofit intermediary lenders provide riskier, up front capital to small businesses, with more flexible terms and underwriting procedures. These lenders also offer technical assistance to reduce the transaction costs and risk exposure of banks. The effectiveness of these types of programs has been demonstrated by several Federal programs, including the Microloan Program under the Small Business Act, and the Intermediary Relending Program in the Department of Agriculture. There are more than 1,000 nonprofit intermediaries around the country that are addressing the needs of small businesses by providing financial and technical assistance, leveraging additional capital for borrowers, and creating employment opportunities for low income individuals through their lending and business development activities.

This bill would establish a midsize loan pilot program, providing loans averaging $150,000 to eligible intermediaries, particularly for startup, newly established, or growing small businesses. The bill would also assess the effectiveness of nonprofit intermediaries, and determine the feasibility of implementing a midsize loan program nationwide.

I hope my colleagues will join me to support this initiative.

HONORING JUDGE SOLOMON CASSEB, JR., ON HIS 90TH BIRTHDAY

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. GONZALEZ. Mr. Speaker, I rise today to honor a jurist of distinction and a good friend, Judge Solomon Casseb, Jr. on the occasion of his 90th birthday. He has been a pillar of the Texas legal community for over half a century and God willing will continue to wield his expertise and knowledge in the years to come for the betterment of our State. This San Antonio native has been pivotal in the affairs of our city but also throughout South Texas.

During his long and distinguished career, Judge Casseb has served as judge of the 57th District Court in Bexar County for two terms, as Presiding Judge for the Fourth Administrative District and he now serves as a Senior District Judge of Texas. He presided over a critical phase of the Pennzoil versus Texaco case which led to the largest jury award in American judicial history.

Judge Casseb's hard work and dedication have been recognized and honored by a variety of organizations. In 1961, St. Mary's University named him the Outstanding Ex-Student and in 1968 he was given the St. Thomas More Award which St. Mary's Law School annually awards to a "judge, lawyer, law teacher or layperson who has made exceptional contributions to legal education, the legal profession, or government." Judge Casseb's dedication to jurisprudence and service has earned him his place alongside other luminaries such as Archibald Cox, Alexander Haig, and Leon Jaworski.

The Texas Trial Lawyers Association named him the Outstanding Judge in 1985, and two years later he won the Texas Bar Foundation's Outstanding Jurist Award. In 1991, the University of the Incarnate Word gave Judge Casseb the Insigne Verbum Award and the University of Texas Law School named a Professorship in his honor, the Judge Solomon Casseb Jr. Research Professorship in Law. Finally, the first Joe Frazier Brown Award for Excellence, the San Antonio Bar Association's highest honor was bestowed on Judge Casseb on Law Day in 1994. In fact, this list of awards contains representation from nearly every legal association, society or school in Texas which should convey an idea of the breadth and depth of his contribution to the field of law in our State.

In addition to his myriad legal contributions, Judge Casseb has sought to help those less fortunate than him. He has been pivotal in the administration of the Lamar Bruni Vergara Trust, an organization that has improved the lives of many in Laredo. The Trust he co-administers with JC Martin III supports a wide range of organizations and institutions dedicated to helping the youth of Laredo. The Trust gave the largest philanthropic gift in Laredo history to Texas A&M International University in the form of the Lamar Bruni Vergara Science Center and Planetarium.

On the wondrous occasion of his 90th birthday, I wish many more years of health and good fortune for him and his family and may he continue his service to San Antonio and Texas.

COMMEMORATING DR. PHILIP A. GARY FOR HIS OUTSTANDING CONTRIBUTION TO UKIAH HIGH SCHOOL

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. THOMPSON of California. Mr. Speaker, I rise today to honor Dr. Philip A. Gary who is retiring in June 2005 after 19 years as principal of Ukiah High School in Ukiah, California and nearly 40 years in education.

Dr. Gary is widely recognized for his dedication to staff, students, parents, community and profession. He has received numerous awards, recognitions and recommendations from students and parents, including Mendocino County's High School Principal Administrator of the Year and California Schoolmasters' Mendocino County Educator of the

Year for exemplary commitment to children and leadership in an educational profession.

Dr. Gary brought creative problem solving to many sections of the school curriculum. Under his guidance the state recognized vocational education classes, which developed between industry ties and local businesses for student job placement. Large numbers of Advanced Placement classes were added; a widely lauded Mathematics Engineering Science Achievement (MESA) program increased the number of college-bound Hispanic students; a Native American counselor and out-reach program were initiated; at-risk student classes and support systems were added and increased; special education student programs were enhanced; gang forum, drug and alcohol prevention programs were instigated; and monies needed to keep athletic, fine arts and performing arts were raised.

Dr. Gary also encouraged programs to support gender equity, as well as ethnic and cultural diversity. And he encouraged professional development and personal creativity among staff members, maintaining the highest standards for the faculty, students and himself.

Mr. Speaker and colleagues, Dr. Gary gained the admiration and respect of all and represents everything that is positive in our public education system. For these reasons and countless others, it is most appropriate that we honor his commitment and service to perhaps our nation's most important resource—educating our youth.

TOGO ELECTION STATEMENT

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Ms. CORRINE BROWN of Florida. Mr. Speaker, I am Congresswoman CORRINE BROWN, and have served in the House of Representatives over twelve years. I have observed and monitored elections in areas as diverse as Eastern Europe, Africa, and the Caribbean, and Haiti in particular. In years past, I have traveled to Africa and other parts of the world to monitor living conditions and the status of human rights.

From what I saw, although there was some tension in Lome before and during the election, I witnessed more than anything thousands of calm voters who patiently waited in long lines to vote for the candidate of their choice. Overall, the Togolese seemed very pleased that an American, particularly a Member of Congress, was present during the election.

The election problems I encountered on Election Day were similar to voting problems in the United States. These problems consisted of the following: Very long voting lines, polls not opening on time, electricity (where it existed) going out briefly, and some voters' names not being on the voting rolls (by the way, I found it interesting that the international monitors in Togo told me they would not mention that I was from Florida). I stayed at the polls through the evening when the voting boxes from Lome's polling sites were brought to City Hall for a public count. Many of Togo's citizens, together with international observers and dignitaries, were present for the count which lasted into the night. Although our team stayed in Lome, there were observers stationed throughout the country.

By the next day, the Economic Coalition of West African States (ECOWAS) declared that the election, although not perfect, was generally peaceful and successful. ECOWAS accepted the announced vote tally of 60 percent of the vote for Gnassingbe Essozimna Faure, declaring him the newly elected President of Togo. In addition to meetings and briefings with ECOWAS leaders, I also met with and worked closely with hundreds of other international Independent Election Monitors.

To me, Togo's Presidential Election of 2005 was an exceptional election because of the unexpected death of Togo's President, who had been in power for thirty-five years. Under his rule, Togo developed a Constitution and a Parliamentary government with a Prime Minister. And, according to the Togolese Constitution, within 60 days of the death of a President, there must be a Presidential election, and Africa's Coalition of Economic Countries (ECOWAS) set the election date for April 24th 2005.

Indeed, Togo's recent Presidential Election was important, not just for Togo, but for all of Africa and for the world. Clearly, each African election is newsworthy as another step towards democratization. I believe that a free, fair and democratic election in Togo was also particularly important, so that post election Togo does not descend into chaos, and destabilize the neighboring African countries with refugees.

Lastly, as a sign of ongoing progress, the elected government and the opposition groups are meeting in Abuja, Nigeria's capitol, to discuss the distribution of power within the new government. Attending the meeting will be the African Union's chairman, Nigeria's President Obasanjo, and Niger's President Tandja, who is currently presiding over ECOWAS. Also in attendance are Faure Gnassingbe, Togo's elected President, representatives of Togo's opposition coalition, led by exiled leader Gilchrest Olympio, defeated presidential candidate Emmanuel Akitani Bob and Harry Olympio, an independent candidate, as well as the leaders of Gabon, Burkina Faso, and the UN Secretary General's representative, Ould Abdallah.

PERSONAL EXPLANATION

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. PASTOR. Mr. Speaker, on rollcall No. 210, I was detained in my office. Had I been present, I would have voted "yea."

REMARKS REGARDING TRANSPORTATION OF HAZARDOUS MATERIALS

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. BACHUS. Mr. Speaker, I recently had the opportunity to meet with the senior operating officials of nearly all of the Nation's freight railroads, large and small. What I heard from them, each of them, was their continued commitment to the safe and secure transportation of all goods tendered to them in interstate commerce.

I also heard their concern about being caught in the middle of a political crossfire over the issue of transporting certain hazardous materials through major cities located along their rail lines. They find themselves in this untenable position because of a legal duty. The common carrier obligation requires them to accept all legal goods for transport. Despite this legal duty and with no regard for the vital role some of these commodities play in protecting the public health and welfare, there are communities like the District of Columbia that are using every resource at their disposal to prevent railroads from going through their towns with these goods; in particular, hazardous materials.

Railroads clearly are the safest means of transporting hazardous materials, with a 99.996 percent safety record. These materials include chlorine to clean your water and propane to heat your homes. The transportation of the most hazardous chemicals represent three-tenths of one percent of the railroads' annual revenue, but well over 50 percent of their insurance premiums. But the railroads are not allowed to get out of the business. And if they did, the transportation of these goods would be much less safe.

That is why I urge my colleagues to oppose local initiatives such as those enacted by the District of Columbia and now being contemplated by other cities, like Cleveland, Philadelphia, Pittsburgh, Baltimore and Atlanta, in trying to prohibit the routing of these goods through their cities. The Constitution vests the Federal Government with the responsibility for regulating interstate commerce (Article I, Section 8). Through (among others) the Federal Railroad Safety Act, the Hazardous Materials Transportation Act, and ICCTA, Congress has given Federal agencies the responsibility to oversee the transportation of hazardous materials in interstate commerce. Further, in the case of DC, the Department of Homeland Security is actively analyzing rail security matters, particularly hazmat transportation (e.g., through the DC Rail Corridor Project's vulnerability assessment, and an analysis of security of hazmats that pose a toxic inhalation hazard).

What the DC Council has done, and what other cities are threatening to do, not only usurps the responsibilities and actions of the Federal Government, but also actually increases the risks of hazmat transportation, by increasing transit time and distance due to rerouting, and by shifting the risk involved with hazmat transport to other areas of the country.

Rerouting trains carrying hazardous materials will cause delays, idling of hazmat containers, and switching of containers to other trains. Each handling of hazmat containers raises the risk level. In sum, the re-routing potentially threatens national security, disrupts interstate commerce, and jeopardizes public health.

We should be constantly vigilant about our national security. Thus, we cannot let the misguided efforts of myopic municipalities compromise our Nation's health, economy, safety and security through punitive and ill-advised legislation, such as that passed by the District of Columbia.

TRIBUTE TO W. CALVERT "CAL" BRAND

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. PENCE. Mr. Speaker, the State of Indiana lost a pillar of the community last week. On Thursday, May 19, 2005, Cal Brand passed away in the City of Columbus, Indiana, an intimate community in my Congressional District and also my hometown. Hundreds of Hoosiers mourned his passing yesterday at the First Presbyterian Church where Cal was an elder, deacon, trustee and Sunday school teacher.

Cal Brand founded, owned and operated Brand Inc. Lumber, a successful venture that led to appointments on the Indiana Lumber & Builders Supply Association, the Indiana Building Congress and the National Lumber and Building Materials Dealers Association.

In his role as a member of the Columbus Area Chamber of Commerce, Cal received both the Community Service award and the Small Businessman of the Year award. He was also a member of various service organizations including the Kiwanis Club and the Columbus Foundation for Youth.

In his respected political life, Cal Brand carried himself in a gentle manner, all while advising Hoosier Governors, U.S. Senators and President Ronald Reagan. He even served as an elected official on the Columbus City Council in 1955 and in the Indiana House of Representatives from 1966–1970.

Cal Brand's confidence and wisdom was outshone only by his gentle nature and humble attitude. He is the perfect example of a good businessman and citizen. The kind of person every community needs.

Mr. Speaker, on behalf of the City of Columbus, I extend heartfelt sympathies to the family of Cal Brand, specifically his wife Betty, his daughter Joan of New Jersey; his sons the Rev. D. Calvert Brand of Martinsville and John S. Brand and Jesse R. Brand, both of Columbus; and his seven grandchildren and eight great-grandchildren.

Living in Columbus, Indiana, means making a commitment to getting involved and improving the community in which you live. Cal Brand embodied that allegiance to his Columbus. He will be deeply missed, and his generosity will never be forgotten.

HONORING MAJOR WILLIAM McCOLLOUGH

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mrs. BLACKBURN. Mr. Speaker, most Americans probably don't know that there are military men and women who serve their country right here in the U.S. House of Representatives as liaisons between members of Congress and the Nation's armed forces.

These men and women have a critical role in helping Congress do its job, and today, while America is at war, the importance of their work is clearer than ever before.

It is with great appreciation and sadness that I rise to thank one of our finest military liaisons, U.S. Marine Corps Major William McCollough, for his service to this institution and our country as he leaves Washington to join the 3rd Battalion, 5th Marine Regiment as Executive Officer.

During my time in Congress, I've had the opportunity to work with Major McCollough—and I know that my colleagues who've worked with him will agree—that his leadership, professionalism, and friendship have enabled us to better represent our districts.

We will miss Major McCollough, but we wish him well in his new assignment.

PRESIDENT CHEN SHUI-BAN AND THE PEOPLE OF TAIWAN

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. BOEHLERT. Mr. Speaker, I rise today to congratulate President Chen Shui-ban and the people of Taiwan, as they celebrate the close of the 1st year of President Chen's second term in office.

Taiwan and the United States share universal values of freedom, human rights, and democracy. Based on these common principles, our two countries work together closely politically and economically. Taiwan is our 8th largest trading partner, and we are Taiwan's largest trading partner. There are more than 270 direct flights between the United States and Taiwan every week and more than twenty eight thousand Taiwanese students currently studying in the United States. We hope that this relationship will become even closer in the years ahead, as President Chen continues his leadership.

Mr. Speaker, our colleagues here in the Congress have recently written a letter to Lee Jong-wook, Director General of the World Health Organization, asking him to support Taiwan's bid for observer status in the World Health Assembly, the WHO's governing body. Taiwan has a modern, world-class health care system and has lent its talent and resources to people in need throughout Asia and around the world. As such, Taiwan has much to contribute to global health and deserves a place under the WHO umbrella, and it is important that they be given the opportunity to do so.

President Chen continues to call for resumption of dialogue between the PRC and Taiwan to ensure that any resolution of the "Taiwan Question" is through peaceful means. He remains committed to promoting the establishment of a peaceful and stable mechanism for cross-strait relations, a goal that we here in the Congress certainly share with him. Maintaining the status quo between the PRC and Taiwan is of paramount importance to the United States.

Once again, I congratulate President Chen and his 23 million countrymen.

HONORING GRAHAM JACKSON

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. BURGESS. Mr. Speaker, I rise today to honor the service and commitment of Mr. Graham Jackson. Mr. Jackson was recognized by the North Central Texas College/Small Business Development Center for his zealous business approach and his passionate entrepreneurial spirit.

In early 2000, while working in the classroom support services department at the University of North Texas, Mr. Jackson recognized there was a distinct need for an audio/visual rental service in the Denton area. Electing his mother as his business partner and with some assistance from the Small Business Development Center, Jackson opened Audio Visual Solutions in August 2000.

With clients such as Denton Presbyterian Hospital, the City Hall of Gainesville, and the Denton Civic Center, and with this year's sales estimated to increase three-fold compared to 2004, Jackson has established himself as a true business pioneer.

In addition to Audio Visual Solutions, Mr. Jackson dedicates a considerable amount of time giving back to the Denton community by volunteering at the Denton Children's Advocacy Center and serving on the Board of the Denton Young Professionals organization.

Despite several setbacks along the way, and the fact that over 80 percent of small businesses fail within five years, Mr. Jackson has relied on character and personal perseverance to become successful in his field. It is with great honor I stand here today to recognize a man who not only is the epitome of the entrepreneurial spirit, but one who has devoted his time giving back to the community that has given him so much.

HONORING JOHN LUKES, SR.

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. KILDEE. Mr. Speaker, it is a great honor to rise before you today to pay tribute to a loyal friend and a tireless advocate for America's workers, Mr. John Lukes, Sr. This Friday, members and friends of UAW Local 599 in Flint, Michigan, will honor the life and legacy of this great man, who died May 23 at the age of 82.

It has been said that "death ends a life, not a relationship," and this is certainly the case with those who have ever come into contact with John Lukes and have benefited from his influence. A longtime Flint resident, World War II veteran, and committed labor activist, John's association with the UAW began October 6, 1949. As a member of Local 599, John served as Alternate Committeeman from 1949 to 1967, and worked as Editor of the Headlight newspaper from 1957–1964. John was elected Recording Secretary for the Local in 1967, a position he held until his retirement, and provided leadership and insight on the executive boards of the Veterans Committee, CAP Committee, and the Health & Safety Committee. On a national level, John operated as National Publicity Chair for the UAW's 30 & Out Committee. In 1977, John was honored with the Walter P. Reuther Distinguished Service Award.

Upon his retirement from General Motors in 1992, after 43 years, John continued to work on behalf of his peers through the Local's Retiree chapter, where he served as chairman until 2003. He was also found at the forefront of many community projects.

Mr. Speaker, John Lukes, Sr. was not just a constituent, but also a very good friend. It is with a heavy heart that I stand before you today, however it is also with great pride that I do so. It is people like John, who make it their life's work to improve the quality and dignity of life for us all, that continue to inspire us to greater efforts. I, along with John's family, and his UAW extended family will truly miss him. I ask my colleagues to join me in honoring the life of a remarkable man.

IN MEMORY OF ANTHONY ATHANAS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. ENGEL. Mr. Speaker, I rise to pay tribute to Anthony Athanas, who passed away last Friday in Massachusetts at the age of 93. Anthony Athanas was a prominent Albanian American, the founder and president of the Anthony's fine family of restaurants, and one of the most illustrious business personalities in Boston.

Anthony Athanas was an institution in the Albanian American community. Not only was he an Honorary Consul of the Republic of Albania in Massachusetts, Anthony Athanas was a founding member and on the Board of Directors of the National Albanian American Council (NAAC). He was the community's senior statesman, a winner of the NAAC Lifetime Achievement Award.

In 1999, he and I were members of an historic joint Congressional and Albanian/American delegation to Kosova, Albania, and Macedonia right after the Kosovar war. Anthony told me this was one of the most extraordinary trips he ever took. Upon arriving in Kosova, he kissed the ground and said he never thought he would see the day Kosova would be free. Yet, during this trip, he told a gathering crowd of more than 3000 people in Vranoc, a town which was 80 percent burned by the Serb army, "Today you are free; tomorrow you will become an independent nation." All his life he wanted to visit a free Kosova. It was an honor to be with him when he finally saw it with his own eyes.

Anthony Athanas was born in Albania in 1911 and came to the United States at the age of 5, where he settled with his parents in New Bedford, Massachusetts. His first jobs were peddling fruits and vegetables from a cart, selling newspapers, and lighting wood and coal ovens in restaurant kitchens. He worked his way through various positions in restaurants and hotels throughout New England and New York, gaining invaluable knowledge from chefs, managers and owners. In 1937, he opened his first restaurant, Anthony's Hawthorne, in Lynn, Massachusetts. In the following years, Anthony opened several other successful restaurants.

In 1963, Anthony Athanas opened what would become his flagship restaurant, Anthony's Pier 4, on a Boston Harbor pier. The restaurant was an instant success, garnering acclaim and awards from around the world. Through the years, the restaurant has hosted heads of government, United States presidents, religious leaders, notable artists and writers, athletes, and a virtual who's who from the entertainment world.

Anthony Athanas also served on the Boards of several prominent organizations, including the National Restaurant Association, and was awarded a number of honorary degrees and doctorates.

Anthony Athanas personified the American dream. From humble beginnings in Albania, he rose through the ranks to become a successful businessman, a national role model, and a vocal advocate for Albanian issues. He serves as an example to us all of the kind of achievement and success possible for those who are capable and willing to strive for something better. He will sorely be missed.

HONORING DR. JAMES L. RORIE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the extraordinary life and achievements of Dr. James L. Rorie, M.D. of Oakland California. James was a passionate and widely respected physician, a leader in our community and a wonderful friend. After decades of service to his patients throughout Oakland and the East Bay, James passed away on May 15, 2005.

James L. Rorie was born on May 15, 1945 in Albemarle, North Carolina to James W. Rorie and Raddie Ewing Rorie. He graduated second in his class from the High School of Albemarle, and went on to earn his B.S. degree from North Carolina Central University in Durham, North Carolina. After earning his college degree, James became a teacher at Kittrell Grade School in North Carolina, and later at St. Rita's Parochial School in New York. He then went on to teach physical science at Washington Irving Jr. High School in New York City, and also worked with his students as an assistant track coach.

During this time, James was also in the process of completing Summer Studies at North Carolina University, and later Post Graduate Studies at Columbia University in New York. In 1971, he entered medical school at the S.U.N.Y. Downstate Medical Center in New York, where he received his M.D. in 1976. James then did his four-year residency in Obstetrics and Gynecology at Metropolitan Hospital in New York, which he completed in 1980. Following his residency, he became a member of the National Medical Association, and in 1985, became board-certified by the American College of Obstetrics and Gynecology.

During the early 1980s, James remained in New York, working at the Woman Infant Care and P.A.A.M. Medical Clinics, and later as a clinical instructor at Metropolitan Hospital. In 1982, he relocated to Oakland, where he opened his own general Ob/Gyn practice, with an emphasis on infertility and laparoscopic surgery. James ran his practice from that time until the present, while simultaneously working as an on-call physician providing emergency room coverage in obstetrics and gynecology at the Alta Bates Summit Medical Centers in Oakland and Berkeley and for East Bay Medical Associates. For a number of years, he also served on the Board of Directors of the East Bay Surgery Center, and as the chief of obstetrics and gynecology at Oakhill Medical Group.

Though James' commitment to others was evident through his devotion to his patients, his concern for others extended beyond the medical field. He was a member of Kappa Alpha Psi Fraternity and also served on the board of directors of the Black Filmmakers Hall of Fame and the Boys and Girls Club of Oakland. James was a devoted brother, father and friend, and is survived by his daughter Raina, his son James, his brothers Glen and Bobby, his sisters Eleanor and Shirley, his foster sister Vangie, and numerous other relatives, friends and colleagues.

On a very personal note, James Rorie, with great skill and compassion, brought my youngest granddaughter Simone Lee into the world on August 30, 2004. For this, I am deeply grateful and I will always remember Dr. Rorie as a competent physician, a good friend and a community leader.

On Sunday, May 22, 2005, we join together to celebrate the life of James L. Rorie, and everything he contributed to those around him during his lifetime. The impact he had on the lives of his patients and students is truly immeasurable, as was the effect he had on those of us who had the privilege of knowing him as relatives and as friends. The role played in our community by individuals as committed to serving others as James is of paramount importance in ensuring the health of our community and the well-being of our families and young people. On behalf of the 9th Congressional District, I salute James L. Rorie for a lifetime of service to others, and for his devotion to making our community a better place.

ON THE FIRST ANNIVERSARY OF TAIWAN PRESIDENT CHEN SHUI-BIAN'S RE-ELECTION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. ENGEL. Mr. Speaker, I rise today to pay tribute to Taiwan President Chen Shui-bian on the occasion of his first anniversary of his second presidential term. He was re-elected to president of the Republic of China last year.

A number of my colleagues and the American public have taken notice of Taiwan's political and economic achievements during the last two decades. A recent Business Week online article says "the global economy couldn't function without it (Taiwan). But can it really find peace with China?" I agree with the article's assessment of Taiwan's importance to the information and technology industry in the world. The revenues of Taiwan's 25 key tech companies should reach $12 billion this year. The article goes on to say that if a shooting war starts across the Taiwan Strait, the damage to the world economy would be equivalent to a "nuclear bomb going off' and the information and technology supply could be severely compromised.

Hence peace and stability in the Taiwan Strait are in everyone's best interest. Taiwan's President Chen Shui-bian is a man of impressive leadership skills who has made it clear over and over again that he would like to resolve the difficulties between Taipei and Beijing at the negotiating table rather than the battlefield. Unfortunately his call for Beijing to resume cross strait dialogue with Taipei without preconditions on either side has so far been rejected by China.

It is regrettable that the Chinese leadership has refused to even talk with President Chen, the duly elected president of Taiwan. If real progress is going to be made in reducing tensions between China and Taiwan, it should be based on a genuine dialogue between the elected Taiwanese government and the established Chinese leadership.

In this respect I concur with Assistant Secretary of State Randal Shriver's statement that "Dialogue is better than no dialogue at all, and we think talking is better than no talking . . . the leaders in Beijing will ultimately have to talk to the elected leaders of Taiwan.

So, once again, Mr. Speaker, I would like to take this opportunity to commemorate the first anniversary of the election of Taiwan President Chen Shui-bian to his second term and offer my hopes that real dialogue across the Taiwan Straits, without preconditions, will begin someday soon.

TRIBUTE TO CHERYL SABAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a talented and creative friend, Cheryl Saban, who is being honored by Parents' Action for Children for her many outstanding contributions and longtime support of the organization. Parents' Action for Children is a national organization dedicated to advancing the interests of families and young children. Cheryl's heartfelt compassion for children make her an outstanding choice for the recognition.

Cheryl is a selfless, caring person of enormous energy, intellect talent and integrity. She is an author, producer, philanthropist and child advocate. As a mother of four, she understands the critical services needed by parents to ensure the wellbeing and future success of their children. She actively transforms this understanding into a plethora of positive and highly effective projects.

Cheryl authored 50 Ways to Save Our Children and founded the 50 Ways to Save our Children Foundation which provides resource guides for individuals interested in finding ways to help children and families. She also authored a toddler series, Miracle Child. Griffin. Sins of the Mother and Recipe for a Good Marriage. Her credits also include television films "Au Pair" and "Au Pair II' which she co-wrote and co-executive produced for the Fox Family Channel.

In addition to devoting time and energy to her own initiatives, Cheryl works diligently with many of America's most respected non-profits. She is a Board Trustee of Children's Hospital Los Angeles where she focuses on pediatric research and volunteers in the Neonatal Intensive Care Unit. She serves on the Board of United Friends of the Children, an organization dedicated to foster youth, on the Advisory Board of the Marc and Jane Nathanson Mental Health Resource Center at UCLA and on the Boards of Parents' Action for Children, and Los Angeles Universal Preschool, and Crossroads School. She is a member of Every Child Foundation and recently served on the Los Angeles City Commission for Children, Youth and Their Families.

Cheryl has a master's degree in Psychology and has recently received a Ph.D. in Pediatric Psychology. Married to Haim Saban, together they have made a tremendous difference in the lives of countless numbers of children and their families.

I am proud to be one of the many friends of this charming and accomplished woman, and it is my distinct pleasure to ask my colleagues to join with me in saluting Cheryl Saban for her outstanding contributions to our community.

INTRODUCTION OF LEGISLATION TO FACILITATE LAND EXCHANGE IN THE STATE OF ARIZONA

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. RENZI. Mr. Speaker, with Congressman ED PASTOR, Congressman JIM KOLBE, Congressman J.D. HAYWORTH, Congressman JOHN SHADEGG, Congressman JEFF FLAKE and Congressman TRENT FRANKS, I rise today to introduce legislation to facilitate a land exchange in the State of Arizona.

Mr. Speaker, this legislation, the Southeast Arizona Land Exchange and Conservation Act of 2005, facilitates a land exchange between the Resolution Copper Company and the United States in southeast Arizona. The exchange will convey 3,025 acres of National Forest land to Resolution Copper near the Town of Superior. In return, the United States will acquire 4,814 acres of non-federal conservation land.

The 3,025 acres of Forest Service land to be traded to Resolution Copper will facilitate future exploration, and possible development, of what may be one of the largest deposits of copper ore discovered in North America. Approximately seventy-five percent of the land is blanketed by federally-authorized mining claims owned by Resolution Copper. This provides Resolution Copper with the right to explore and develop mineral deposits on this land.

Six parcels, totaling 4,814 acres, will be conveyed by Resolution Copper to the U.S. Forest Service and the Bureau of Land Management. The largest of the six parcels is a 3,073 acres ranch, Seven B Ranch, near Mammoth, Arizona. The parcel borders a Nature Conservancy preserve and runs 6.8 miles along both sides of the San Pedro River, a river recognized for its wildlife and bird habitat.

Another parcel, the Appleton Ranch, inside the Appleton-Whittell Research Ranch and Las Cienegas National Conservation Area, is intermingled with federal and National Audubon Society lands which are managed as an environmental refuge and ecological laboratory.

Mr. Speaker, the public acquisition of the six parcels will benefit the Federal Government and the public. This land exchange has been endorsed by the Arizona Audubon Society, Nature Conservancy, Sonoran Institute, Arizona Game and Fish Department and several other groups. In addition, Governor Janet Napolitano wrote a letter supporting the exchange.

In addition to the land exchange, the Southeast Arizona Land Exchange and Conservation Act of 2005 places a permanent conservation easement on the 562 acre Apache Leap portion of the land Resolution Copper will acquire from the Forest Service. This easement will permanently protect the surface of the Apache Leap area from any disturbance that could occur during mining.

The legislation also requires Resolution Copper to pay up to $500,000 to finance the design, construction and access to the new campground to replace Oak Flat Campground. In addition, the legislation allows continued use of the Oak Flat Campground for 2 years after the enactment of this legislation.

Mr. Speaker, I will be remiss if I do not recognize concerns raised by the climbing community on their potential loss of recreational use caused by this exchange. I am still hopeful that Resolution Copper will continue a productive dialogue with the climbing community. I have included placeholder language on page 20 of the legislation entitled "Additional Rock Climbing Provisions." This language represents my firm commitment to address this issue before this legislation moves forward. The legislation does include language that requires Resolution Copper to pay up to

$250,000 to access and develop a new climbing area. Resolution Copper is in the process of identifying these new climbing areas. I am hopeful that Resolution Copper will include the climbing groups in this important process.

Mr. Speaker, I urge my colleagues to support the Southeast Arizona Land Exchange and Conservation Act of 2005.

RECOGNIZING CHILDREN'S HOSPICE INTERNATIONAL ON ITS 22ND ANNIVERSARY ON MAY 23, 2005

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. MORAN of Virginia. Mr. Speaker, I rise today to commemorate the 22nd anniversary of Children's Hospice International, a groundbreaking, non-profit organization based in Alexandria, Virginia.

Since 1983, Children's Hospice International (CHI) has been a champion of children with life-threatening conditions—and their families—by calling for the U.S. healthcare system to do more to meet their medical and emotional needs.

In 1983, only four of 1,400 hospice programs in the United States were willing to accept children.

Since then, great progress has been made—and now, aided by the efforts of Children's Hospice International, 450 of about 3,000 hospices include child-specific services.

But CHI's work is far from done. The standards and training it has developed for pediatric hospice programs need to be universally adopted by hospice, palliative care, and home care programs. CHI is also working to include the hospice perspectives in all areas of pediatric care and education.

Of the 10 million children in the United States who are living with a serious chronic condition, each year about 54,000 will die without hospice services—and another 1.3 million children's lives could greatly benefit from this care.

CHI is seeking to eliminate the roadblocks in private and public insurance programs that prevent these children and their families from receiving the full range of services they need.

Historically, hospice and reimbursement guidelines—in Medicaid and most private plans—require that patients forego all life-saving care before they can be admitted to hospice, and that the patient be within the last six months of life. CHI has worked with the Centers for Medicare and Medicaid Services (CMS) to facilitate State implementation of CHI PACC programs that will reduce the impact of these requirements on children and families.

These restrictions simply do not work with patients in pediatric care.

We know that the most critical time for children and family members—when they need intensive support and guidance that hospice and palliative care programs provide—is at the point of diagnosis.

A parent should never have to choose between hospice care and the hope for a cure. And, because of the unpredictable course of many serious childhood illnesses, it is often very difficult for doctors to determine when a child is within six months of death.

Since 1997, CHI has worked with CMS to set up the Program for All-Inclusive Care for Children and their Families (CHI PACC).

Unlike traditional hospice/palliative care models, a CHI PACC program provides a continuum of care for children and their families from time of diagnosis, with hope for a cure, and through bereavement if a cure is not attained.

This program will allow states to receive federal reimbursement for a more coordinated service package than is generally provided under Medicaid, including counseling for children and families, respite care, and bereavement services. States operating CHI PACC programs through the Medicaid Home and Community-Based Waiver authority will also be able to serve children in families who earn too much to typically qualify for Medicaid.

With Congressional support, a total of 16 states are already benefiting from CHI PACC. Six states have their own CHI PACC Medicaid program in development. These are Colorado, Florida, Kentucky, New York, Utah and my state of Virginia. In addition, the New England Region is also working toward implementing CHI PACC to cover four states—Maine, Massachusetts, New Hampshire and Vermont. The Colorado program will also cover a region, providing services to patients in six additional states—Kansas, Montana, Nebraska, New Mexico, South Dakota and Wyoming.

While the CHI PACC model creates a core set of standards and principles have been developed, the model itself is flexible, allowing states to tailor-make different approaches to running the program. Currently, about 30% of the children who have life-threatening conditions qualify for Medicaid. All of these children and perhaps many more will benefit from this model of care.

And with the support of my good friend, Mr. Murtha of Pennsylvania, the Department of Defense is working to adopt the CHI PACC model for its health care system. Children's Hospice International is a living memorial to Ensign Alan H. Armstrong and his shipmates lost aboard the U.S.S. Frank E. Evans during the conflict in Vietnam. Armstrong is the brother of CHI Founder Ann Armstrong-Dailey.

The goal of all of these efforts is to prove the effectiveness of the CHI PACC model so that it can be adopted universally—through Medicaid, S-CHIP and private insurers.

Projections from the states developing CHI PACC programs indicate that they not only expect these programs to be budget neutral, but they hope they will actually save the taxpayers money.

Since 1983, Children's Hospice International has provided new hope to the millions of children with life threatening conditions and their families.

It is in recognition of these efforts that I want to express my personal gratitude for the work of Children's Hospice International—and to congratulate them on their 22nd anniversary.

Mr. Speaker, I would like to also submit for the RECORD, a poem by young Mattie J.T. Stepanek, a New York Times best selling author who passed away last summer, after a valiant fight with dysautonomic mitochondrial myopathy. Mattie volunteered for many years to be CHI's spokesperson—he is a hero and inspiration to us all CHI PACC is a living memorial to Mattie.

A NEW HOPE

I need a hope—a new hope.
A hope that reaches for the stars, and That
does not end in violence or war.
A hope that makes peace on our earth, and
That does not create evil in the world.
A hope that finds cures for all diseases, and
That does not make people hurt, In
their bodies, in their hearts, Or most of
all, in their spirits.
I need a hope—a new hope, A hope that inspires me to live, and To make all
these things happen.
So that the whole world can have A new
hope, too.

—Mattie J.T. Stepanek, 1999.

IN RECOGNITION OF THE JACKSON COUNTY VETERANS MEMORIAL COMMITTEE ON THE DEDICATION OF VETERANS PARK

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. WALDEN of Oregon. Mr. Speaker, I rise today on the occasion of the dedication of Medford, Oregon's Veterans Park Memorial to pay special tribute to the members of the Veterans Park Memorial Committee of Jackson County and the many area volunteers whose time and effort have made this event possible. I am proud to represent these distinguished Americans in Congress, and recognize not only their tremendous work to make this park a fitting memorial to the many brave patriots who have served our great Nation, but also for each of their years of military service.

In 1919, on a small plot of land just south of Medford, a young man named Paul Rynning planted a maple tree in memory of a friend who had been killed in World War I. After that first tree was planted, others soon followed, each dedicated to the memory of a World War I soldier who had given his life for the cause of freedom. In 1958, Jackson County deeded the park to the City of Medford and on Memorial Day, in 1986, it was officially proclaimed Veterans Park. Later that year the Veterans Memorial Committee was incorporated with the goal of completing the memorial that had been started so humbly 67 years earlier.

For the past 19 years, local veterans service organizations including the Non Commissioned Officers Association, the Disabled American Veterans, the Fleet Reserve Association, the Veterans of Foreign Wars, the American Legion, the Military Order of the Purple Heart, the Korean War Veterans Association, the Air Force Sergeants Association, the Vietnam Veterans of America, the American Merchant Marine Veterans, the Military Officers Association of America, the Marine Corps League and the Navy League, along with individual volunteers and public and corporate sponsors, have pulled together, donating thousands of hours of their time and hundreds of thousands of dollars to make this memorial a reality. The fruit of their labor is this memorial that recognizes the services of all our Nation's veterans—from the American Revolution to the Global War on Terrorism and from all of the Armed Services.

On May 29th, 2005, the citizens of Jackson County dedicate the Veterans Park Memorial and laud the volunteers of the Veterans Park Memorial Committee who have, through their untiring efforts and devotion to their cause, brought their 19-year dream to reality.

Mr. Speaker, I am proud to be part of this celebration and I will continue to do all I can in Congress to express my gratitude to the brave patriots who've preserved the freedoms we all enjoy.

RECOGNIZING THE CONTRIBUTION OF DR. WILLIAM C. McCORKLE, JR. TO OUR NATIONAL DEFENSE

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. EVERETT. Mr. Speaker, I would like to recognize the outstanding work of Dr. Bill McCorkle, who serves as the Director of the Aviation and Missile Research, Development, and Engineering Center (AMRDEC) at Red Stone Arsenal, Alabama. As Director, Dr. McCorkle is responsible for providing major research and development I support to more than 25 Army Aviation and Missile Command (AMCOM) project systems, and over 200 Defense agencies.

Dr. McCorkle came to Redstone Arsenal in 1957 from Tulane University and has since served in a number of scientific and engineering positions, including an 18-month rotational assignment in the Department of Army Staff as Science Advisor to the Director of Weapon Systems. In November 1980, Dr. McCorkle was selected for the dual role of Technical Director of the Missile Command and Director of the U.S. Army Missile Laboratory. Additionally, Dr. McCorkle was named the first Director of AMRDEC in 1999.

Dr. McCorkle has been involved with missile-related research and development on virtually every Army missile and rocket system. His contributions include numerous papers and patents for guidance and control systems, such as the HAWK missile system and include the most recent improvement permitting multiple simultaneous engagements. Dr. McCorkle has received national recognition for initiating and guiding AMRDEC's highly successful work in fiber optic guidance links for missiles, providing a revolutionary countermeasure-resistant capability for finding and engaging both rotary wing and armored targets out of the gunner's line of sight. Dr. McCorkle has long championed the use of simulation techniques for missile design and analysis, which led to AMRDEC's Advanced Simulation Center, a major national facility and key to a number of successful missile development and improvement programs.

I join with Dr. McCorkle's family, friends, and the state of Alabama in saluting Dr. McCorkle for his nearly 5 decades of service, and congratulate him on his outstanding career on behalf of our national defense.

HONORING THE LIFE OF MAURICE HORWITZ

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. ENGLISH. Mr. Speaker, I rise today to recognize and honor the life of Maurice Horwitz. Born and raised in Pennsylvania's 3rd Congressional District, Maurice was a man of honor who brought both wisdom and leadership to the city of Butler. A 1930 graduate of the Wharton School of Business at the University of Pennsylvania, Maurice went on to become the president of his family's business, Keystone Pipe and Supply, where he displayed an unwavering commitment to innovation and industry. Under his direction, the company flourished, becoming one of the largest international distributors of specialty tubular products.

In addition to his strong business ethics, Maurice was known for his generosity in his private life. He had earned a reputation of having a commitment of giving both time and resources to improve the quality of life for his family and his neighbors. He was the embodiment of a renaissance man: a constant learner, a collector, accomplished tennis player, scholar of art history, and a man of culture who sought to bring the joys of the fine arts to the Butler community. He was also known for his devotion to many charitable causes. Maurice served as a director for the Butler County Memorial Hospital, worked with the United Way, and the Butler YMCA. In addition, he served as president and chairman of the board of Irene State Community Mental Health Center, and was chairman of the Tri-State District of the United Jewish Appeal.

The life of Maurice Horwitz serves as a role model for us all to follow. He embodied the word service in its finest sense through his kindness, hard work and generosity and will greatly be missed by all.

Mr. Speaker, I hope my colleagues will join me in commemorating the life of Maurice Horwitz.

ON THE RETIREMENT OF GENE A. LUNDQUIST

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. THOMAS. Mr. Speaker, I rise today to honor my constituent and friend, Mr. Gene A. Lundquist, of Bakersfield, California, upon his recent retirement from Calcot, Ltd., where he had an accomplished 36-year career. Although I will miss working with Gene on issues of importance to Kern County and California, I wish Gene and his family well as he enters this next stage of his life.

Gene was born in Bakersfield, California, graduated from Arvin High School, and earned his Bachelor of Science from Colorado State University. He then served two years in the Army, where he was awarded the Decorated Army Commendation Medal.

Gene joined Calcot in 1969, and spent the next 36 years working hard to further the interests of cotton growers in California and Arizona, who grew to admire him for his dependability and effectiveness. During his career, he directed the grower relations program, was active in Management Committee and Board of Directors activities, and most recently served as the Vice President of the Legislative and Public Affairs Department. Through his strong relationships with growers, manufacturers, and legislators he was able to expand markets for raw cotton to textile producers.

During his distinguished career, Gene used his talent and time to serve Kern County and local farmers on a broad range of agricultural and water issues through his active involvement with various agencies, committees, and boards. In fact, Gene became an integral component of the local agriculture and water communities and is known simply as someone who can get the job done.

Gene's involvement in these organizations was broad but deep. For instance, Gene served as Chairman of the Water Association of Kern County, Chairman of the Board of the Agricultural Council of California, Director of the California Farm Water Coalition, President of the Kern County Water Agency (he remains on its Board of Directors), Member of the Cotton Board, and as Delegate to the National Cotton Council of America. He also was appointed to the California Governor's Agricultural Summit, and participated in the California Agricultural Leadership Program, where he traveled to Africa to learn more about the governments and economies of Egypt, Ethiopia, Kenya, Nigeria, and South Africa.

As he enters retirement, Gene leaves behind a legacy of dedicated service, expertise, and accomplishment. Accordingly, I thank Gene for all of his contributions and wish him well.

TRIBUTE TO JOHNSON COUNTY, KANSAS, DISTRICT ATTORNEY

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. MOORE of Kansas. Mr. Speaker, for 12 years, I had the honor of serving as Johnson County District Attorney. I was proud of the accomplishments of our office during my tenure, including establishing the first Victim Assistance Unit, and beginning programs to protect the victims of family violence—spouse abuse and child abuse.

When I left office to enter private practice, one of my Assistant District Attorneys, Paul Morrison, was elected and was sworn in as Johnson County District Attorney in 1989. This year Paul is celebrating 25 years of working in the Johnson County District Attorney's office, the last 16 as District Attorney.

As my Assistant D.A., Paul headed up our county's narcotics prosecution efforts, and tried many homicide cases. As District Attorney, he and his office have been tough, but fair. His professionalism is unquestioned. Paul has continued the tradition of personally prosecuting many of Johnson County's most difficult and serious cases. During his 25 years as a prosecutor, Paul has tried over 100 jury trials, including many complex homicide cases. Among the accomplishments during his years as D.A., Paul has established a gang task force, successfully promoted "hard 40" legislation to increase sentences for murder, and helped establish D.A.R.E. programs in our county.

All of Paul's friends enjoyed this story: two years ago, on his 49th birthday, Paul was driving down a suburban street when he witnessed a burglary. Paul followed one of the suspects in his car, and ended up chasing him down on foot. Two youths were charged with burglary, theft and possession of alcohol.

Paul is a past president of the Kansas County and District Attorneys Association and of the Johnson County Bar Foundation. He is a past recipient of the Clarence M. Kelly Award for Excellent in Criminal Justice Administration in Kansas City, and was named 2001 Prosecutor of the Year by the Kansas County and District Attorneys Association.

Paul has actively supported community organizations, serving as board president of Sunflower House and Safehome, Inc., two organizations that began during my term as D.A. Paul has also been active in the Metropolitan Organization to Counter Sexual Assault (MOCSA), where he served on the board and chaired the Johnson County Advisory Council. He has also chaired the Johnson County United Way campaign.

Paul and his wife Joyce are the proud parents of three children, and are active in their church, Good Shepherd Catholic Church in Shawnee, Kansas.

Mr. Speaker, on Friday, June 3rd, a reception in the Johnson County Courthouse will celebrate Paul Morrison's career in the District Attorney's office. Although I am unable to attend, I am proud of Paul and I want to recognize my friend for devoting his career to protecting our families and our community. The citizens of Johnson County hope his career continues for many more productive years.

RECOGNIZING WILLIAM "BILL" BROOKS

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. WYNN. Mr. Speaker, it is with great pleasure that I rise today to recognize William "Bill" Brooks on his retirement as a member of the Board of Directors of the National Association of Federal Credit Unions (NAFCU). A native of Maryland, Mr. Brooks has served on the Board of Directors of NAFCU since 1996, and with 28 years of experience in the credit union industry I know that his presence will be sorely missed by NAFCU.

Mr. Brooks began his credit union career in 1976, working as an Examiner with the National Credit Union Administration (NCUA). He later moved on to the Government Printing Office Federal Credit Union, where he served as the President/CEO. After a short period working as a CPA, Mr. Brooks took a position as President/CEO of Lafayette Federal Credit Union. Today, he serves as the President/CEO of First Combined Community Federal Credit Union, located in Kensington, Maryland.

Mr. Brooks is also heavily involved in the Credit Union Cherry Blossom Run, which benefits the Children's Miracle Network. Several years ago, after the race lost its sponsor and needed a new one, Mr. Brooks was the driving force behind getting credit union sponsorship of the race and establishing a partnership with the Children's Miracle Network. He is Chairman Emeritus of the Credit Union Miracle Day, Inc. Board of Directors. This year, the event raised $400,000 in donations, and to date, the run has raised over $1 million in donations for the Children's Miracle Network.

I congratulate Mr. Brooks on his longtime service to NAFCU, and to the entire credit union community. While this marks the end of his time at NAFCU, I am certain it also marks a beginning for some new activity to which he will no doubt tirelessly devote himself. Congratulations on your retirement from the NAFCU Board, Mr. Brooks.

RECOGNIZING THE CONTRIBUTIONS OF ANN R. McNAIR IN SUPPORT OF AMERICA'S EXPLORATION OF SPACE

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. EVERETT. Mr. Speaker, I would like to recognize the efforts of Ann R. McNair, who serves as the Director of the Mission Operations Laboratory in the Engineering Directorate, Marshall Space Flight Center, Huntsville, Alabama.

A native of Moundville, Alabama, Ms. McNair is a graduate of the University of Alabama where she earned a Bachelor of Science in Mathematics and Physics. Ms. McNair accepted an engineering position with the Army in 1958 and was transferred with the von Braun team to NASA in July 1960 when that group became the nucleus for the George C. Marshall Space Flight Center in Huntsville, Alabama.

Ms. McNair is responsible for the expert technical and programmatic direction of the operations ground support facilities, including operational control, engineering, and training for all programs supported at the Huntsville Operations Support Center. Her work encompasses the Payload Operations Integration Center (POIC) for International Space Systems, the U.S. Payload Control Center for International Space Systems, and the U.S. Operations for International Space Systems. Additionally, Ms. McNair has been involved in the development, implementation, and verification of Chandra Operations Control Center and deployment for a remote non-NASA location, the Smithsonian Astronomical Observatory at Cambridge, Massachusetts—a first for NASA.

Ms. McNair has authored several technical papers and has been recognized with numerous awards, including the NASA Exceptional Service Medal in 1973 and 1989 as well as the NASA Exceptional Achievement medal in 1998. She has also been selected as a member of the 1998 SES Center Development Program.

I join with Ms. McNair's family, friends, and the state of Alabama in honoring, the public service of Ms. Ann R. McNair and congratulate her on an outstanding career.

STEM CELL RESEARCH ENHANCEMENT ACT OF 2005

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. CAPUANO. Mr. Speaker, I rise today to express my strong support for H.R. 810—the Stem Cell Research and Enhancement Act.

I want to make it clear that the type of scientific research some in this chamber are trying to prevent will occur. It is occurring as we speak—all around the world.

However, we face a substantial threat that in this new field, with all of its promise and potential, America will be left behind. If our current political leadership continues to restrict research as other countries embrace it—we risk losing not only our research edge, but also our scientists. American scientists will pursue their research in places like Korea and Israel, and international scientists will no longer come to America as they have for generations . . . people like Einstein and Fermi, just to name two.

Make no mistake—as a result of the restrictive policies of this Congress and the current Administration, many companies may not invest in this research here in America. However, American companies will make sure that they have a piece of this business by investing in foreign countries where the basic research has been performed, scientists have perfected the techniques, and the government is welcoming to their industry, not hostile to it. Private industry will look for a place to make these investments because the chance that this research could produce cures for many devastating diseases seems very good not only to scientists, but also to business leaders.

It is simple: There is no question that this research will occur; there is no question that this research will result in scientific breakthroughs; there is no question that this science will create jobs and wealth. The only question is, who will benefit. Will America lead the way as we have in all other scientific advancements? Will we be the pioneers and producers? Or, will we relegate ourselves to mere consumers who send our fortunes around the world?

The question is whether America will continue to lead the world in scientific breakthroughs or take a backseat to other countries.

We can already read articles in our daily newspapers that tell us of the commitments other countries have made to this research and the subsequent advancements they have made. Two years ago, China announced plans for the construction of a massive stem cell complex in Tianjin, which is scheduled for completion in 2010. One of their professors claimed, "We are not that far behind [the West] anymore." We have come a long way from the shocking news eight years ago that researchers in Scotland cloned Dolly the Sheep to the promising news just last week that researchers in South Korea produced 11 new embryonic stem cell lines that were genetic matches to patients with devastating diseases and ailments. Increasingly we are reading about advances that occur in other places around the world. Some of these advances raise ethical concerns, but because they do not occur on our shores, we do not have a say over the ethical standards and considerations that accompany the research.

I do not intend to imply that nothing is happening in America. To the contrary, many scientists, many of them in my own district, are working feverishly to find new cures for various diseases. I understand that some Americans object to embryonic stem cell research. However, many thoughtful, principled persons from all of our Nation's religious and ethical traditions support embryonic stem cell research. Self-anointed moralists should not jeopardize the health of our loved ones and the economic future of our country.

We will not know for another decade just how far we have fallen behind the rest of the world. I am including for the record just a small list of scientific breakthroughs using these procedures that have been made in other countries. We have waited long enough to expand our Nation's restrictive policy. I urge my colleagues to join me in voting yes for H.R. 810.

STEM CELLS—MAY 2005

1997

Scotland—An embryologist at the Roslin Institute in Edinburgh created a lamb using DNA from adult sheep—known to the world as Dolly the Sheep

2002

Singapore—Researchers grow human embryonic stems cells without using animal cells to protect them.

2003

Japan and Scotland—Researchers identify a gene in embryonic stem cells that allows them to regenerate and develop into any kind of cell.

2004

Israel—Researchers develop human embryonic stem cells into beating heart cells.

Israel—Scientists coax embryonic stem cells to become nerve cells that when transplanted into rats with symptoms of Parkinson's alleviate some of the symptoms.

Israel and Chicago—Teams from Israel and Chicago develop disease-specific embryonic stems cell lines from embryos carrying genetic disorder.

South Korea—Researchers produce a human embryonic stem cell line through somatic cell nuclear transfer.

2005 (JUST LAST WEEK)

South Korea—Scientists create stem cell lines that are tailored to match the DNA of patients with medical conditions, creating 11 new lines from patients with spinal cord injuries and juvenile diabetes—putting the promise of effective treatments within reach.

RECOGNIZING ADRIAN ANTHONY REMPILLO EVANGELISTA

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Ms. BORDALLO. Mr. Speaker, I rise today to commend Midshipman Adrian Anthony Rempillo Evangelista on his graduation from the United States Naval Academy and his commissioning as a Second Lieutenant in the United States Marine Corps on Friday, May 27, 2005. Adrian hails from our sister island to the north, Tinian. He is a young man of character and determination who, if his past success is any indication, has a promising future ahead.

Adrian has distinguished himself during his four years at the Naval Academy, where he will graduate with a Bachelor of Science in Information Technology. Most Marine Corps officers seek positions in the infantry, but for Adrian—who marches to a different beat—Navy familiarization training has convinced him that Marine Corps aviation provides the greatest challenge and fulfillment. Following completion of his training in Quantico, Virginia, Adrian plans on pursuing a career as a Marine pilot and will attend flight school in Pensacola, Florida.

Adrian was an outstanding athlete at the Naval Academy. As the 2005 Brigade Boxing Champion at the 139 pound weight class, Adrian went on to become the 2005 Midwest Regional Champion. He finished his collegiate boxing career by placing third at the National Collegiate Boxing Championship held in Colorado Springs, Colorado earlier this year, earning All-American Collegiate Boxing Team honors from the National Collegiate Boxing Association.

Midshipman Evangelista's parents are Antonio and Evelyn Evangelista and he is the oldest of four children. He is a graduate of Tinian High School. We all share in the pride that the people of Guam and the Northern Mariana Islands have in Adrian Evangelista's accomplishments.

Semper Fidelis!

THE FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. POMEROY. Mr. Speaker, I rise today to say that I will be voting for H.R. 1544, the Faster and Smarter Funding for First Responder Act with the expectation that this bill's serious flaws will be fixed in conference negotiations with the Senate.

Our police, firefighter and other emergency service officers are routinely putting themselves at risk in order to ensure our safety. As a strong supporter of our nation's first responders, I believe it is imperative that the federal government provide these fine, brave public servants the resources they need to properly respond to threats of terrorism.

Unfortunately, the current system for distributing grants to first responders does not allocate funding in a timely fashion. According to the Department of Homeland Security, only about 48 percent of the funding obligated to the State of North Dakota between 2002 and 2004 has actually been spent to support first responders' efforts to prepare for and respond to terrorist attacks, leaving about $20.6 million to still be spent. H.R. 1544 addresses this issue by streamlining the funding process for terrorism preparedness grants and moving the planning to the front end of the application process. By restructuring this process, it is predicted that the time it takes to get funds from the federal government to the local entity will be shortened by about 6 months.

However, I have deep concerns regarding the minimum funding levels provided in H.R. 1544. Every state and city needs to have some minimum infrastructure for emergency response. Unfortunately, the minimum funding levels provided in H.R. 1544 do not go far enough to ensure that a rural state such as North Dakota will be provided the resources needed to develop and maintain a safe, emergency response infrastructure. Seeing that we do not know where terrorists will strike next, it is important that all communities possess properly trained first responders who are equipped with the appropriate equipment and technology to prevent, prepare for and respond to acts of terrorism. Despite my objections to H.R. 1544's minimum funding levels, I am going to vote for this bill based on the expectation that the minimum guarantee will be increased during negotiations with the Senate.

HONORING THE CONTRIBUTIONS OF ELEANOR FORD

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. GORDON. Mr. Speaker, I rise today to honor Eleanor Ford, Executive Director of the Hartsville-Trousdale County Chamber of Commerce and Roastee of the Trousdale Reading, Education, Arts, Drama and Science (READS) Benefit Roast, Thursday, May 26, 2005.

Eleanor has quite a large list of individual accomplishments, as well as numerous contributions to the Hartsville, Tennessee community. She was a florist for 32 years, an instructor at Volunteer State Community College in Hendersonville, Tennessee, Brownie Scout Troop Leader, President of the PTA, during which time she brought a music instructor into the school system, and the first woman to serve on a jury in Trousdale County. Eleanor was chosen as the first Ms. Senior Tennessee in 1991 and was in the Top Ten in Atlantic City. She later served as Board Chairman for Ms. Tennessee Senior.

Most everywhere you look in Hartsville, there are touches of Eleanor: Fred's the Dollar Store, Subway, Trey Park, the Gazebo, the 1800's train depot, the amenities around the courthouse, and the Living History Museum. Eleanor continues to work tirelessly to make Hartsville an even better place to live.

Currently, Eleanor stays busy teaching Seniorcize Class twice a week, hosting a radio show each Friday, and writing a weekly column.

The Trousdale READS program was formed earlier this year to promote learning and oversees the distribution of books from the Dolly Parton Imagination Library. The program provides a free book each month to every child under age 5 in the county. I can think of no better way to honor Eleanor, than to do so in a way which benefits Trousdale County. I wish Eleanor and her family continued success.

PROTECT FIRST AMENDMENT

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. McDERMOTT. Mr. Speaker, I, like many, believe that the First Amendment is currently under attack. Yesterday I attended a forum titled "Media Bias and the Future of Freedom of Press." I'd like to submit to the RECORD the statement that I distributed there yesterday, as well as the Freedom of Information request that I filed with the Department of Justice.

I'd like to call attention to an issue of extreme and growing importance: an alarming trend in the dilution of First Amendment rights regarding freedom of the press. Today reporters are being compelled to reveal their confidential sources—or else face jail time and/or stiff fines. Prosecutors are insisting upon this and judges are backing up their demands by ordering reporters to testify and provide confidential information. This is turning the news media into an investigative arm of the judicial system and a research tool of the government—exactly the opposite of what it is supposed to be. The increasing pressure on journalists will most certainly lead to a decline in investigative reporting, threatening freedom of press and the public's need, and right, to know.

This trend is not just talk, although anecdotally, the past few years document the greatest assault on source confidentiality in the U.S. in decades. Hard evidence and more specific statistics are being sought so that this issue can be brought to the attention of the nation without room for dispute. In fact, in an effort to uncover statistics that the government is unwilling to disclose, I have just filed a Freedom of Information (FOI) request to the Department of Justice, asking for access to and copies of records which show the number of subpoenas requested, as well as the number of subpoenas authorized, in order to obtain information from, or about, members of the news media in the years 2001-2004. I believe this information will prove that my concerns with the First Amendment go farther than just anecdotes. As soon as I obtain this information, I will release it to the public, as I feel it will be very eye-opening.

The protection of freedom of the press is a central pillar of our democracy, and sharing information with the public is imperative in a nation with these strong democratic traditions. Other countries are being sent the wrong message when they look to us and see the precedents that we are setting. For example, when Venezuelan officials were recently criticized for adopting a restrictive new media law, they immediately cited a ruling that sentenced a Rhode Island journalist to six months house arrest for refusing to divulge a source. As is evident from Venezuela, instances such as these are bound to weaken freedom of press in other countries, where reporters are already more frequently forced to cooperate in government investigations. The last thing we need is for international journalists to be questioning our dedication to upholding free speech guaranteed in the U.S. Constitution.

We must do something to remedy this situation that is making honest journalism and true confidential sources a thing of the past. The administration and judiciary should exercise greater discretion in requiring reporters to reveal their sources so that journalists and every American can regain their confidence in the First Amendment's protection.

FATHER LAWRENCE T. GAUTHIER 50TH ORDINATION ANNIVERSARY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to an outstanding man of faith, Father Lawrence T. Gauthier. On June 4th, 2005, Father Gauthier will celebrate the 50th anniversary of his ordination as a priest. Father Gauthier's contribution to the Catholic Church and his faith has touched so many in Michigan's Upper Peninsula and beyond.

Father Gauthier's has focused on education throughout his entire life. Born to Leo and Margaret Gauthier on February 26, 1929 in Marquette, Michigan, he attended grade school in the Catholic school of Marquette. In 1949, he studied at the Salvatorian Minor Seminary and St. Francis Major Seminary in Wisconsin, earning his Bachelor of Arts in Philosophy in 1951. He then went on to complete four years of theology at St. John's Provincial Seminary in Plymouth, Michigan.

On June 4th, 1955 at St. Peter Cathedral, Bishop Thomas L. Noa, D.D. ordained Father Lawrence T. Gauthier as a priest of the Holy Catholic Church. Although he had obtained a major goal in his career, he continued to pursue his education. In 1960, Father Gauthier attended Catholic University where he earned his Masters Degree in school administration and counseling. From 1965–1973 he undertook post graduate studies in his hometown of Marquette at Northern Michigan University in Education Systems. He also studied at Mount Mary College in Cincinnati, Ohio and Catholic University in Washington, D.C. in the field of Religious Education.

As a priest, Father Gauthier has dedicated his entire life and career to the church. He served as administrator of two missions in the diocese and also as pastor at Nativity Parish in Sault Ste. Marie, St. Michael's Parish in Marquette and St. Louis the King Parish in Marquette.

During those years in the church, he continued his devotion to education by spending the greater part of his priestly ministry in the field of Catholic Education serving as principal of Loretto Central High School in Sault Ste. Marie, Holy Name High School in Escanaba and Bishop Baraga Central High School in Marquette. In 1968, he was appointed Superintendent of Catholic Schools for the Diocese of Marquette and three years later was appointed Superintendent of Catholic Education focusing on not only Catholic schools but also for all religious education throughout the Diocese.

Throughout his 50 years of ministry, Father Gauthier has held many positions in the church. He was the Director of Evangelization and served as Secretary, Treasurer and then as President of the Priests' Council. He was a member and President of the Priest Personnel Board and also a member of the Diocesan Reconciliation Board. He spent several terms on the St. Joseph's Association for Priest Retirement and was also a consultant to the Bishop.

Although Father Gauthier is retired now, he continues to help parishes and serve his faith. He continues his 30th year as Director of the Propagation of the Faith, Director of the Holy Childhood Association, the Home Mission and in 2000 he was assigned as the Catholic Relief Services Director. Once again for the third year, Father Gauthier has been assigned to represent the senior priests of the dioceses on the Priests' council.

Mr. Speaker, I ask the House of Representatives to join me in thanking Father Lawrence T. Gauthier for his service to the Holy Catholic Church and his tireless dedication to the value of education and involvement in his faith community. Beyond the incredible credentials, leadership roles and accomplishments that span his lifetime, Father Gauthier has shown unwavering commitment to the people he has served. He has truly done God's work through his teachings and as a role model for parishioners.

HONORING THE TOWN OF MILLRY, ALABAMA, ON THE OCCASION OF ITS 100TH ANNIVERSARY

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. BONNER. Mr. Speaker, today I rise to honor the Town of Millry, Alabama, on the occasion of the 100th anniversary of its founding.

Millry was founded on June 2, 1905, incorporated in 1921, and the community's first election was held in 1922. Millry derived its name from "Mill Creek," which ran almost directly through the center of the town and was a resource which contributed heavily to the community's development. Millry also took its name from the two grist mills and the saw mill located on the creek's fast-flowing waters. Settlers who came to the Millry area were attracted to the fishing at the state lake, the beautiful scenery of the stands of tall pine trees, and the green pastures.

The first schools were run in local homes or in available buildings. In the early 1900s, a small school served by three teachers was constructed. Later, a two-story school building was constructed in 1920, with the first graduating class marching in 1929. Additionally, in those early days, there was only a single church of the Methodist denomination which was built in 1910.

The Alabama, Tennessee, and Northern (AT&N) Railroad was initially supposed to run near the town of Healing Springs, a thriving resort area near Millry. However, Mr. Pettus, the owner of the resort, refused to grant a right-of-way through his property for the railroad. As a result, in 1912 the route was moved one-and-a-half-miles east through the town of Millry. The location of the railroad station, being the nearest station to Healing Springs, was responsible for much of Millry's growth.

It is not known when the town became more commonly referred to as Millry. However, postal records indicate that the first post office was established in Millry on May 21, 1859. Mr. James C. Warrick was the first postmaster. The first post office was located in Healing Springs from 1894 until the present post office in Millry was opened in 1905. Therefore, it is possible that Millry was a town or community as far back as 1859, but maps only show Millry in 1905. Regardless, Millry was by 1918 a booming community. The town's early businesses consisted of three stores, a two-story hotel, a blacksmith shop, a cotton gin and grist mill, a barber, a dentist and a doctor.

The Citizen's Bank was established in the early 1920s but closed during the depression in 1930. By 1922, the Millry Baptist Church was organized in the school building with Reverend H.M. Mason as its pastor and with a congregation of 29 members. By 1960, a brick structure was constructed on the same site to replace the earlier structure.

The current city hall was built during Mayor Carpenter's administration, and a water system and fire department were completed during Mayor Lamberth's administration.

Mr. Speaker, the Town of Millry has experienced many changes over the past 100 years. Despite these sometimes difficult challenges, Millry remains one of the most attractive communities in the Washington County area. The nearly 800 residents of Millry, Alabama, are firmly rooted in their proud past, and continue to display an optimistic outlook on the future of their community. The hard work and devotion the leaders of the community have exhibited for the past 100 years has yielded a stable community that will be a continuing success.

It is my hope the Town of Millry enjoys all the best of continued prosperity for the next one hundred years, and it is my distinct pleasure to represent this fine community in the United States House of Representatives.

CLEANING UP BRAC SITES

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. BLUMENAUER. Mr. Speaker, when the Military Quality of Life Appropriations bill comes to the floor, I intend to offer two amendments to increase funding for the Base Realignment and Closure 1990 Account. One, at $351 million, would provide the funding to complete all environmental remediation on bases closed during the 1988 BRAC round. The second, at $55 million, would provide the funding necessary to complete all unexploded ordnance cleanup on bases closed during the 1988 BRAC round. The offset for these increases come from a corresponding decrease in the Base Realignment and Closure 2005 Account.

MEMORIAL DEDICATION IN HONOR OF OWEN F.P. HAMMERBERG

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to an All-American hero. On Memorial Day, May 30 2005, Medal of Honor Veteran Owen Francis Patrick Hammerberg will have a large granite monument dedicated in his honor and memory by the Menominee Mid County VFW Post 5966. This monument dedication is fitting in honoring the epitome of a hero on this Memorial Day.

Born to Elizabeth (Leaveck) and Jonas Hammerberg, a Swedish immigrant, on a farm 3 miles east of Dagget, Michigan, Owen Hammerberg was instilled with the values that would later make him an American hero. After moving to several small towns in Michigan's Upper Peninsula, the Hammerbergs settled in Stephenson long enough for Owen Hammerberg to attend grade school and a portion of high school. The family then went on to Flint, Michigan, where Owen Hammerberg dropped out of school and hitch hiked out west to work on a ranch before joining the Navy.

At age 21, Hammerberg enlisted in the Navy on July 16, 1941. After training at the Great Lakes Training Center near Chicago, he was assigned to the USS *Idaho* and USS *Advent*, a minesweeper, for several years. While aboard the *Advent*, he showed a first glimpse of true bravery when a cable tangled in a mine risked an explosion and the lives of the men on board. Without hesitation, Hammerberg dove into the water, freeing the cable and saving the lives of his comrades. He was recommended for a Bronze Star, but unfortunately never received one.

Hammerberg's instincts combined with his swimming ability made him the perfect member of the Deep Sea Diving School where upon graduation he was assigned to the Commander Service Force, U.S. South Pacific Fleet, Salvage Unit in Pearl Harbor, Hawaii. On February 17, 1945, Boatwain's Mate Second Class, Owen Francis Patrick Hammerberg showed his incredible talent, instinct and bravery that would later cause roads, ships and parks to be named in his honor.

In May 1944, the Navy was forced to blow up and sink 5 ship-tanks that had been set ablaze risking the explosion of nearby battle air-ships. Then the following February, they called in five diving teams to raise the hulks and clear the channel. Hammerberg was assigned to one of the teams. Each team would be allowed to go "on leave" when their ship was raised. An easy task for the skilled Hammerberg and his team, they completed their assignment and went on leave.

Another team, not bearing nearly the same fortune, became trapped in the steel and cables of a downed ship. In the attempt to reach them, the waters became muddied and not even a special diving team from New York would risk the rescue mission. After the call went out for volunteer divers, 23-year-old Hammerberg agreed and instinctively suited up his gear and set out through the black muddy waters to save the stranded divers.

It took Hammerberg five hours to free the first diver. George Fuller, who had been pinned by a steel plate, shook Hammerberg's hand underwater before heading to the surface for safety. In the attempt to save the second diver, Earl Brown, a large steel plate slid through the mud toward them. Hammerberg took the brunt of the plate on himself to save the life of the other diver. As a result, Hammerberg was crushed to death. Seventy-three hours after Hammerberg volunteered for the assignment, a Filipino father and son used their unsophisticated methods to rescue the last trapped diver, Earl Brown. The father-son team recovered Hammerberg's body.

That February, Hammerberg was awarded the last non-combat Congressional Medal of Honor in Michigan at the Grosse Ile Naval Station where his mother and father received duplicate medals. He also received the American Defense Service Medal Fleet Clasp, Asiatic-Pacific Campaign Medal, the American Campaign Medal, and the World War II Victory Medal. These medals and his uniform are on display at Michigan's Own Inc., Military and Space Museum in Frankenmuth, Michigan.

On August 19, 1954, the U.S. Navy launched a destroyer escort, the USS *Hammerberg*, in the name and honor of Owen Hammerberg with his family present. His mother christened the new ship. Approximately the same time, Hammerberg Road was dedicated in Flint, Michigan and a park in Detroit was named in his honor.

Mr. Speaker, I'd like to remind the House of Representatives that on February 17, 1945, Owen Francis Patrick Hammerberg did not have to put on his diving suit that last time and brave the dark waters to save these men. Yet without hesitation, this young man from Dagget, Michigan showed the world what it means to be an American serviceman—unselfishly courageous. I ask the House of Representatives to join me in honoring the life and memory of Owen Hammerberg, an All-American hero on this most appropriate of holidays, Memorial Day.

CONGRATULATING MR. DONALD G. WALDON ON THE OCCASION OF HIS RETIREMENT AS ADMINISTRATOR OF THE TENNESSEE-TOMBIGBEE WATERWAY DEVELOPMENT AUTHORITY

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor Mr. Donald G. Waldon on the occasion of his retirement from the position of Administrator of the Tennessee-Tombigbee Water Development Authority. Mr. Waldon has held this position for the past 20 years and has served the waterway and its many users well. His dedication and hard work have been a powerful asset in helping to develop the waterway and the areas surrounding it.

Mr. Waldon, a native of Columbus, Mississippi, grew up in Mobile, Alabama. He graduated from Mississippi State University with a degree in Civil Engineering in 1961. He completed his post-graduate studies in science and engineering at the Massachusetts Institute of Technology in 1963 and Texas A&M University in 1964. He is also a 1994 graduate of the Economic Development Institute at the University of Oklahoma.

In 1961, Don Waldon moved back to Mobile and began his career with the U.S. Army Corps of Engineers, where he worked as a project engineer conducting feasibility studies for water resource projects such as ports and waterways. In 1966, Don became a Budget Examiner in the Office of Management and Budget (OMB) of the Executive Office of the President where he advised the OMB and White House officials, including the president, on major budgetary, policy, and legislative matters involving natural resources. His agency responsibilities included the Interior Department, the Corps of Engineers and the Tennessee Valley Authority. From 1969 to 1974, he held the position of Principal Examiner, at which time he assumed the duties of Deputy Assistant Secretary for the U.S. Department of the Interior. His responsibilities included management of all land and water resource agencies within the Department of the Interior. At that point in time, they had a total annual budget of nearly $2 billion and nearly 12,000 employees. Additionally, he served on a number of White House task forces, particularly those involving energy during this period.

In 1974, after a successful career in the federal government, Don decided to move back to the south and was hired as the Deputy Administrator at the Tennessee-Tombigbee Waterway Development Authority. On July 1, 1984 Don took over the position of Administrator, a position he has held for the past 20 years.

Mr. Speaker, there are few individuals who have provided more invaluable service to their community, their state, and their country than Donald Waldon. He is an outstanding example of the quality individuals who have devoted their lives to public service, and I ask my colleagues to join with me in congratulating him on the occasion of his retirement. I know his family—his wife, Jackie, his four children, and his four grandchildren—as well as his colleagues and many friends join with me in praising his accomplishments and extending heartfelt thanks for his many efforts on behalf of the state of Alabama, and indeed, a grateful nation. I would like to wish him much success in all future endeavors as he enters this new phase of his life.

TRIBUTE TO TIMBERLINE LODGE ON ITS 50TH ANNIVERSARY

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. WALDEN of Oregon. Mr. Speaker, I rise to pay tribute to Timberline Lodge on the occasion of its 50th Anniversary under the management of the Kohnstamm Family and their business, RLK & Company, and to commemorate the important historical events that have contributed to the lodge's status as one of the great landmarks in Oregon. Timberline Lodge is a National Historic Landmark and treasure of Oregon that provides abundant recreational activities on Mt. Hood and the Mt. Hood National Forest, providing Oregonians and Americans alike with a special place to enjoy the natural beauty of the Pacific Northwest. As I commute each week from my home in Hood River to our nation's capital city, I am warmly greeted by the sight of Mt. Hood and thus frequently reminded that Timberline Lodge is a very special place in our very special country.

100 years ago the U.S. Forest Service was established by President Teddy Roosevelt to maintain and sustain the diverse, healthy, and productive management of our national forests. Since its establishment in 1905, the U.S. Forest Service has been an integral part of the history of Mt. Hood and Timberline Lodge.

Timberline Lodge sits 6,000 feet above sea level on Mt. Hood, the tallest mountain in Oregon at 11,235 feet above sea level. Mr. Speaker, the lodge itself is a testament to the trials and tribulations that our nation faced during the Great Depression. It can be seen as a symbol of our strength and resolve, as well as a past generation's struggle to overcome adversity. President Franklin D. Roosevelt commissioned the construction of Timberline Lodge in 1936, a project many at the time called the "American Experiment." Through the Works Progress Administration, Roosevelt employed numerous craftsmen throughout the country who had fallen onto hard times during the depression. Over 500 people worked diligently for 15 months while battling the cold of the Cascades as they worked to construct the lodge by hand, even through the heart of winter. They did so with remarkable skill, style, and substance, and they did so very quickly and efficiently. In September of 1937, President Roosevelt opened the lodge to great fanfare.

Today we see Timberline Lodge as a fantastic success story and a shining example of the self-determination that helped propel a nation and a generation from the hardship and difficulties we faced during the Great Depression. This was not always the case. There were times when it appeared that Timberline Lodge would not succeed. Soon after the dedication in 1937, it fell on hard times. Mismanagement and poor decisions by numerous operators left many wondering if the toils of the labor that went into the construction of Timberline Lodge would be left for future generations of Oregonians to enjoy. It was closed temporarily during World War II, and just 18 years after its inception the future of the lodge appeared bleak.

Then a remarkable young man named Richard Kohnstamm arrived on the scene from New York City and brought hope and enthusiasm to the region, albeit with little experience in the hotel and lodging business. During his travels, Richard had seen how great lodges and castles were woven into Europe's cultural fabric and envisioned that Timberline Lodge could one day mean the same for tourists from all over the world in our beautiful state of Oregon. Through his creativity, perseverance, and steadfast entrepreneurship, he fulfilled the promise of the lodge and the plentiful recreational opportunities that were previously untapped. Not only did the Kohnstamm family repair the damages that existed at the time they first assumed management of Timberline Lodge and create a sense of permanent stability for it, they also established a world class tourist attraction and state of the art ski lift and trail system.

Mr. Speaker, on the occasion of the 50th Anniversary of Timberline Lodge's management under the Kohnstamm Family and RLK & Company, I would like to highlight the tremendous job that has been done to make the lodge one of the premier destinations in the Pacific Northwest that all walks of life enjoy year round. The Kohnstamms are great hosts and great neighbors to all of us in Oregon, and to outdoor enthusiasts around the world. Oregonians are fortunate to have them as our neighbors.

HONORING THE SERVICE OF ROBERT RANGEL

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. HUNTER. Mr. Speaker, I rise today to recognize and honor Mr. Robert Rangel, the staff director for the House Armed Services Committee, for his 18 years of loyal and dedicated commitment to the Committee and to the United States Congress.

Robert graduated from the University of Kentucky and immediately went to work for Representative Larry J. Hopkins in Lexington, Kentucky. He then moved to Washington, D.C. to be a Rep. Hopkin's Senior Legislative Assistant.

In 1987, Robert joined the House Armed Services Committee as a Professional Staff Member responsible for intelligence, defense, acquisition and counter-drug policy. He also served as the lead writer of the committee's after-action report on Operation Desert Storm. By 1994, Robert assumed the role of Deputy Staff Director and was responsible for the daily operations of the committee and staff. In 2000, he was appointed Staff Director for the Committee under former Chairman Floyd Spence.

Robert is a respected leader who shepherds the annual defense authorization act through the Congressional process and ultimately into public law. As such, he is a constant and trusted advisor to the Chairman, ranking member, staff, and the committee as a whole. Through his 18 years of steadfast service, Robert has bestowed onto the committee an extensive knowledge of national security issues & policy and was able to provide a clear understanding of legislative procedure. I speak for myself, past chairman, ranking minority members, and any and everyone who has had the privilege of working with Robert, in thanking him for his tireless work and dedication to the House Armed Services Committee.

On behalf of the Committee and the United States Congress, I wish him, his wife Joy, and two boys Alex and John, the best of luck as he leaves the Committee and begins a new chapter of his life.

TRIBUTE TO LTC JUAN CRISTOBAL GOMEZ III

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. SALAZAR. Mr. Speaker, on this coming Memorial Day, we pay tribute to the men and women in uniform who have risked life and limb in the name of Liberty and Freedom. I wish to give special attention to LTC Juan Cristobal Gomez III, an extraordinary man who devoted his life to God and Country.

Those of us from the San Luis Valley and Northern New Mexico were privileged to know this man of exceptional character and profound faith. LTC Gomez always said "When you honor one veteran, you honor all veterans." Through this tribute to Juan, I pay homage to all who have served and sacrificed for this great Nation.

Juan Cristobal Gomez III was born in Durango, CO in 1946 and was raised on the Gomez Ranch in Frances. He enlisted in the Army June 2, 1969 at Ft. Polk, LA, and then graduated from Officer Candidate School in 1970. During his time in the Army and Army Reserves, Juan was stationed with Ft. Carson, CO, Evans Army Medical Center, CO, and William Beaumont Army Medical Center, Ft. Bliss, TX. He served on active duty with Evans Army Medical Center Unit during Operation Desert Storm, and also spent time with Medcom Unit #15281 in Korea in 1996 and again in 1998. Throughout his career he received many military awards and attended several military schools. Juan retired from the United States Army Reserves as a Lieutenant Colonel in 1996.

Juan touched the lives of everyone he came into contact with, always parting with "I love you" or "God bless". After he retired from the Army Reserves, he continued to serve his country through the work he did with veterans. He exemplified the notion that even when the uniform is placed in the closet, a soldier's duty is never complete to his Nation.

In November of 2003, Gomez was honored with an award from the Congressional Medal of Honor Society for "furthering the goals of the Congressional Medal of Honor Society by fostering and perpetuating patriotism in communities throughout the San Luis Valley and Northern New Mexico." Juan cherished his friendships with our Medal of Honor recipients and honored them in all he did because of who they are and the values they embody.

Colorado and the Nation were at a great loss on July 10, 2004, when we lost LTC Juan Gomez. However, the life Juan led inspired us all; he challenged us to give a little of ourselves for the betterment of our Nation. We pay tribute this Memorial Day to thousands of veterans like LTC Juan Gomez, patriots who gave selflessly to protect this great Nation, and community leaders who inspire those around them by their service to a cause greater than themselves.

HONORING THE SERVICE OF MARINE LANCE CORPORAL JOHN T. SCHMIDT III TO OUR COUNTRY

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. MICA. Mr. Speaker, I rise today to honor and pay tribute to Marine Lance Corporal John T. Schmidt III, who died on May 11 from injuries sustained while in combat in Iraq and in service to our country.

John was born in Carmel, New York and was a graduate of Oviedo High School in Oviedo, Florida. This fine young man was just 21 years old.

Lance Corporal Schmidt was a proud member of the United States Marine Corps, and today he was laid to rest at Arlington National Cemetery. We remember today John's courage and his ultimate sacrifice to our nation.

Greater love hath no man than to give up his life for others. The freedom we enjoy and the liberty in the world for which he fought are part of the great legacy John leaves behind.

He was the son of John Schmidt, Jr. of Bunnell, Florida. His additional family included his mother and stepfather, Barbara and Eric Jimenez, and another stepfather, Donald Porricelli, all of Danbury, Connecticut; and his maternal grandparents, Richard and Jean Backlund of St. Augustine, Florida. To all of John's family, we extend our deepest sympathy.

Mr. Speaker, because of Lance Corporal John T. Schmidt III's sacrifice for our country, I ask all Members of the House of Representatives to join me in recognizing his service as a Marine and his life as a wonderful son, and in remembering his dedication to the United States of America.

TRIBUTE TO JAN ELIASSON, SWEDEN'S AMBASSADOR TO THE UNITED STATES AND THE NEW PRESIDENT OF THE UN GENERAL ASSEMBLY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 25, 2005

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to an extraordinary diplomat, a remarkable representative of his native Sweden, a friend and admirer of the United States, and a man whom Annette and I count as a dear, dear friend—Jan Eliasson, the Ambassador of Sweden to the United States. Jan is now leaving his position here in Washington, D.C., and shortly he will assume the critical role of President of the United Nations General Assembly, the first Swede to serve in this post.

In a biographical article, an American magazine reported that Jan Eliasson is referred to by his friends and family as "James Bond" "because of his charm, elegance, and rugged good looks." The same article described Jan as "brilliant, serious and dedicated to strengthening the role of the United Nations, as well as improving the lot of man." Mr. Speaker, I know Jan Eliasson, and I believe that these descriptions suit his persona and his character to perfection.

Another facet of Jan that I particularly admire and respect has been his commitment to the legacy of Raoul Wallenberg. At the request and with the support of the United States Government, Wallenberg was assigned to the Swedish Legation in Budapest at the height of Nazi deportations of Hungarian Jews to death camps. Through creativity, tenacity and grit, Wallenberg saved the lives of tens of thousands of Hungarian Jews, including my wife Annette and myself. After the liberation of Budapest, Wallenberg was arrested by the Soviet military, and he was never seen outside the Soviet gulag since then. Sweden did not press the Soviets for his release, and many Swedish diplomats saw him as an example of what a diplomat should not do. Jan Eliasson disagreed strongly with that view. He has been one of the strongest and most effective advocates of Raoul Wallenberg, and he has been a leader in Sweden in honoring Wallenberg's humanitarian heritage.

Mr. Speaker, the position of President of the UN General Assembly is critically important, and Jan Eliasson comes to it at a critical time in the history of the United Nations. But he also brings an exceptional background that makes him uniquely qualified to lead the General Assembly at this time.

As Jan takes the helm at the General Assembly, the United Nations faces demands for reform. The Secretary General has already made positive and far-reaching proposals, and the Congress is preparing to consider legislation on that same issue in the next few weeks. The President of the General Assembly will also chair a summit this fall to review the Millennium Development Goals on sustainable and equitable global development.

Jan served as Sweden's Ambassador to the United Nations from 1988 to 1992, and at that same time he served as the Secretary General's personal representative on Iran/Iraq. In 1992 he was appointed the first Under Secretary General for Humanitarian Affairs, and in that post he was involved in UN operations in Somalia, Sudan, Mozambique and the Balkans. Few Presidents of the General Assembly come to that position with the broad experience as well as the intellectual and emotional commitment to the United Nations that Jan brings.

During his five years as Sweden's ambassador to the United States, he has contributed to strengthening our bilateral relations in a critical time as we here faced the shock and tragedy of September 11th and engaged in the fight against terrorism. For six years prior to his assignment in Washington, Jan was Deputy Secretary of State in the Swedish Foreign

Ministry, a key position in the formulation and implementation of Swedish foreign policy.

Mr. Speaker, while I am enthusiastic about Jan Eliasson's new opportunity, we also bid him farewell with serious reservations. He has been a truly outstanding representative of Sweden in the United States. He has brought a genuine love of America as well as a deep understanding and sympathy of our country as well. Jan was an exchange student and graduated from high school in Indiana. He has spent well over a decade as a Swedish diplomat living in New York City and Washington, D.C.

My wife, Annette, and I will sorely miss Jan and his wife Kerstin. We wish them well in their very important new assignment in New York, and we look forward to seeing them in New York and again in the Nation's Capital.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 26, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 7

2:30 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine the emergence of China throughout Asia relating to security and economic consequences for the U.S.
SD–419

JUNE 9

2:30 p.m.
Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine the Western Hemisphere Initiative regarding safety and convenience in cross-border travel.
SD–419

JUNE 21

2:30 p.m.
Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine issues relating to American history.
SD–430

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

HOUSE OF REPRESENTATIVES—*Thursday, May 26, 2005*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, our Defender in Battle and Cause of Peace, be with this body as it completes its legislative work this week and asks Your blessing upon the Nation.

This Congress is ever assisted by liaison offices and the personnel of our military forces in the United States. This tour of duty by the military here on Capitol Hill must be most pleasing in Your sight, as our Supreme Commander.

With strategic information and military training, this liaison force helps Congressional Members and committees to resolve military issues and accomplish mutual undertakings that solidify necessary operations by this government. The daily work of men and women of the military bolsters the House of Representatives and its resolve to protect and defend this Nation. Their constant presence is a regular invitation of all of us to turn to You, Almighty God, and lift up to You all our men and women in military uniform and their families, especially those who are presently deployed in Afghanistan and Iraq.

As Memorial Day approaches, we praise You, Lord God, and thank You for the service and dedication of our military, especially those who have made the ultimate sacrifice of themselves for the good of us all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) come forward and lead the House in the Pledge of Allegiance.

Ms. LINDA T. SÁNCHEZ of California led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 1-minute speeches per side.

CONGRATULATIONS TO KEY WEST HIGH SCHOOL

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to honor and congratulate the newest baseball, State of Florida, High School Champions, the Key West High School baseball team.

Located in the southernmost point of Florida, the Conchs captured their 11th State title by beating Orlando Bishop Moore by a score of 7–0. This is the first State title for the Conchs since 1998, capping an incredible season.

At the beginning of the year, the Conchs were ranked fifth in the Nation by Baseball America Magazine, and they surely did not disappoint. Their 27-to-5 record demonstrates their commitment and their resilience, Mr. Speaker.

Key West High School is the little school that could; and, boy, they sure did. Congratulations to the Key West High School baseball team on its incredible season. Hats off to the athletes, their proud parents, the coaching staff, the school administrator, the Monroe County Public School Superintendent Randy Acevedo, and all of the proud residents of Monroe County, and most especially Key West. Their win is a victory for all of Monroe County. Go Conchs!

UNIVERSAL HEALTH CARE FOR ALL

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, health care in this country is a crisis of major proportions. Seniors are still splitting pills to make their medications last. People will not go to a doctor because they cannot afford it. Only if some are near death will they rush to the hospital. It is clearly time for a universal, single payer, not-for-profit health care system called Medicare For All, and that is exactly what H.R. 676, sponsored by the gentleman from Michigan (Mr. CONYERS) and by myself would achieve.

Medicare For All will cost the same amount the Nation currently spends for health care overall, but funds will be reallocated to cover everyone, to improve care and eliminate cost for individuals. And here is what would be covered: all medically necessary procedures, primary care and prevention, inpatient care, outpatient care, emergency care, prescription drugs, long-term care, mental health, dental health, and vision care, as well as chiropractic services.

It is time for us to realize a primary purpose of our government is to make sure our people are healthy. Health care is a basic right in a democratic society.

I am urging support for H.R. 676.

COMMENDING LAKE WORTH, FLORIDA POLICE DEPARTMENT ON HEROIC RESPONSE

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, at 3:48 a.m. on the morning of Sunday, May 22, an 8-year-old girl from my hometown of Lake Worth, Florida, was reported missing. She was thought to have been abducted by someone she knew and the Lake Worth Police Department quickly went into action.

In coordination with the Florida Department of Law Enforcement, an Amber Alert was issued at 7:30 a.m. and an all-points bulletin, including off-duty police, were called in to respond. Under the leadership of Deputy Chief Patrick Hampshire, more than 100 officers from five agencies responded within an hour.

Sergeant Michael Hall was charged with searching for her at the city dump. Opening a large bin, Sergeant Hall found cement blocks, but on a second look he saw the faint shadow of a small hand. With the help of Corporal Robert Cresswell of the Palm Beach Sheriff's Department, Lieutenant Dave Matthews of the Lake Worth Police Department, Special Agent Mike Driscoll of the Florida Department of Law Enforcement, the searchers were able to get this young girl out from under these blocks and debris and save her life. SWAT Medic Earl Bakki gave her medical attention until she could get to the hospital.

Mr. Speaker, these are true heroes, working as a team and using the tools they had been provided to save this young, precious life. I want to commend Chief William Smith and the members of the Lake Worth Police Department for their swift, heroic response on Sunday, as well as the Palm Beach County Sheriff's Department, Lantana Police Department, Boca Raton Police Department, the Florida

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Department of Law Enforcement for aiding in the search for this young girl.

TRIBUTE TO KATIE BROWNELL

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to salute a young girl who is truly in a league of her own, Kate Brownell.

Katie is a shy 11-year-old girl of few words, but when she gets on the baseball field she lets her pitching do the talking, and she rocks. Brownell is the only girl in the Oakfield-Alabama Little League Baseball Program. Last week, she threw a perfect game for the Dodgers in an 11–0 victory for the Yankees.

How dominant was she? She struck out all 18 batters she faced, yielding no more than two balls to any batter in a 6-inning victory. Katie accomplished something that league officials cannot remember anyone, boy or girl, ever doing. Brownell is not just good at pitching, she is also great at the plate, and her batting average is .714.

When I first read her story, I was excited and inspired by this young girl's talent. I was so impressed that I wanted to be sure to come down to the floor and recognize her achievement. She exemplifies what you can achieve, regardless of gender.

That is why it is bewildering to me that in this day and age we are debating whether or not to allow women in combat. If anything, young women like Katie serve to remind us that we can pretty much do anything that men can, and sometimes even better.

WE NEED THE MARRIAGE PROTECTION AMENDMENT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, the States should decide. Is that not what we heard in debate on gay marriage?

Well, that is what Nebraska did, with a constitutional amendment passed by their State legislature and approved by over 70 percent of their voters in a referendum. The State decided that the definition of marriage should be limited to one man and one woman, a definition that nearly everyone in this country agrees with.

But recently an activist Federal judge disagreed and the duly enacted law of the State, the decision of the State and its reelected representatives and voters, was overruled by an activist Federal court.

Does not sound like States deciding to me. On the contrary, it is exactly what many of us have said would happen, activist courts would erode the will of the people in States like Nebraska. The other side, the side screaming for States' rights just 10 months ago, has not said a word while Federal courts decide and impose their will of what marriage is on the States.

This is too far. We need to act. The Federal Marriage Protection Amendment will ensure that States decide this issue of critical importance. If the other side really believes their own rhetoric, they will back this amendment and fight for judges who allow the people and their elected representatives to debate and decide cultural issues.

CARIBBEAN-AMERICAN HERITAGE BILL

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, there are many Caribbean Americans who have helped to shape American government, politics, business, arts, education, science and culture: Sidney Poitier, Tito Puente, Colin Powell, Edwidge Danticat, Harry Belafonte, Julia Alvarez, Kelsey Grammer, Wyclef Jean, Celia Cruz, Mervyn Dymally, Raul Julia, Jesus Colon, Gloria Estafan, Shirley Chisholm, Alex Rodriguez, and John Point du Sable. These are just a few Caribbean Americans who have contributed so much to the United States.

This year, I reintroduced a resolution which we introduced last year, H. Con. Res. 71. It is a bipartisan and long-overdue effort to create a national Caribbean American Heritage Month. I ask all of my colleagues to join me, the 72 cosponsors, and numerous Caribbean American voices from across the country who have supported this measure.

When we return from the Memorial Day recess, I hope the House will consider this bipartisan goodwill resolution that honors the legacy and the diversity of the Caribbean American community. It is long overdue.

ECONOMIC GROWTH

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, earlier this week I came to the floor to share great economic news from my State of Tennessee. We had just learned that Tennessee expects to have a $272 million boost in sales revenue, State revenues. It appears that our fight to restore the sales tax deductibility to our Federal income tax is paying off big time, and we thank the leadership for that.

But, Mr. Speaker, the good thing we have learned is that this news is not just limited to Tennessee. Just this morning the Bureau of Economic Analysis revised the Nation's first quarter growth upward. America's GDP grew at 3.5 percent, not 3.1 percent, as had previously been estimated.

If you do not know what that means, let me tell you. It means that the Republican support for lower taxes and less regulation is paying off. It works. It works. In April, America's free enterprise system created 274,000 new jobs.

Everyone in this body should recognize the fact that our leadership and our majority are putting America on the right track for growth and job creation.

ACCOMPLISHMENTS OF REPUBLICAN-LED CONGRESS TO DATE

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, as we head home for the Memorial Day recess this weekend, let us take a look at all of the accomplishments of our Republican-led Congress so far this year: bankruptcy reform, class action fairness, REAL ID Act with immigration reform, permanent repeal of the death tax, continuity of government, comprehensive energy policy, and many others that I would like to list, but the time is too short.

All of these bills were overwhelmingly bipartisan and overwhelming common-sense, good government legislation. Constituents will appreciate the fact that Republicans are listening to their concerns and taking positive, productive steps to reach solutions.

There is much work to do, and we are methodically getting that work done. It may not be flashy, but it is responsibility in action, and Americans appreciate this. Republicans will continue to tackle the tough issues of the day rather than pass the buck on to future generations. Americans may not read about it in their newspapers or hear about it on the nightly news; however, solutions are happening here and now.

Mr. Speaker, success is defined in terms of solutions, not in terms of rhetoric, and solutions are what Republicans are bringing to the American people.

☐ 1015

IN HONOR OF TODD VENETTE

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to mourn the loss of a great American, Todd Venette, whose life was cut short by a terrorist attack in Iraq.

Todd, a former Marine, was helping Iraq's young democracy as a government contractor when he was killed by a terrorist car bomb in Baghdad. As his friends and family would tell you. Todd was a selfless person who volunteered to reenlist shortly after the war in Iraq started. When he completed his tour, his dedication to the mission led him to return to Iraq as a government contractor.

A giving person, a mentor, and a servant are among the words that have been used to describe Todd. As a firefighter in Russellville, Arkansas. Todd helped protect the community. His service to the people of Russellville did not end there. Todd was instrumental in establishing a wrestling program for kids at the local Boys and Girls Club. putting his talents to work as a mentor to shape the lives of young people of Russellville in a positive way.

Mr. Speaker. Todd touched many people in his short life. I ask my colleagues to keep Todd's family and friends in their thoughts and prayers during these very difficult times.

RECOGNIZING JIM LONGWORTH

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise today to recognize and congratulate Triad Today for being awarded the Spectrum of Democracy Award for Responsible Election Coverage by the North Carolina Center For Voter Education. The program is aired in the Fifth Congressional District on Sinclair Broadcasting's WXLV/WUPN station covering the Winston-Salem/Greensboro/High Point metropolitan area.

Triad Today was created October 2003 by veteran television broadcaster, author, and columnist Jim Longworth. It is the Piedmont Triad's only local television talk show. Its guests have included Senators and Congressmen. mayors and sports celebrities like Richard Petty. But most of the time it serves the community by disseminating information about the issues that matter the most to the community, like health care, public safety. and government.

But it was another kind of public service for which Triad Today was recently recognized. During the 2004 election cycle, Jim Longworth distributed free blocks of air time on his show to scores of congressional and gubernatorial candidates. His action helped raise citizen awareness of candidates and issues and encouraged more people to participate in the political process. For this, Mr. Longworth and Triad Today were awarded the Spectrum of Democracy Award.

Mr. Speaker, the press has a responsibility to fulfill its role as the fourth estate, that is, to serve as a guardian of democracy and defender of the public interest. I am pleased to congratulate Triad Today for its outstanding commitment to keeping the community informed.

REPUBLICANS RETURN CONTROL TO THE AMERICAN PEOPLE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker. Ronald Reagan once said that the government's view of the economy could be summed up in a few short phrases: if it moves, tax it. If it keeps moving. regulate it: and if it stops moving, subsidize it.

I believe the American people. not the government, have a better view of our economy. By working to remove the economic barriers of taxation, litigation and regulation. House Republicans are returning control of the economy to the American people. The 109th Congress has passed legislation this year which will permanently repeal the death tax. decrease the deficit. strengthen American borders. prevent frivolous lawsuits. improve our highways. and provide our country with a comprehensive energy policy.

In my home State of South Carolina. the unemployment rate continues to decrease and over 1,300 new jobs have been created since March. This great news is positive proof that the Republican leaders are creating more jobs. growing the economy, and returning control to the American people.

In conclusion, God bless our troops and we will never forget September 11.

THE HISTORY OF MEMORIAL DAY

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, as we prepare to celebrate Memorial Day, let me give a brief history lesson. We know that Southern families decorated the graves of their fallen friends after the Civil War on what was known as Decoration Day.

However, it was a former Member of Congress, a Democrat-turned-Republican, an individual who got elected to the Senate, General John A. Logan, who gets credit for memorializing Memorial Day as he established the Grand Army of the Republic and issued General Order 31 which formerly established Memorial Day.

General Logan was from Illinois in the deep southern part of the State. He was a congressman, a U.S. Senator and a vice presidential candidate. He is memorialized with a statue here in Washington. DC and a statue in Raleigh, North Carolina, where he kept Union soldiers from burning down the city. He also has a community college named after him in the southern part of the State of Illinois.

As we remember the men and women who have fallen in combat, let us also remember our soldiers from all wars and the folks that made it possible for us to have and celebrate Memorial Day, and one of those individuals is General John A. Logan.

HONORING OUR VETERANS

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, shortly after the conclusion of the Civil War, a group of veterans began a tradition known as Decoration Day. The day was set aside to decorate the graves of the men who had perished during battle. and it was believed Decoration Day was always during the month of May because flowers needed for the occasion were finally blooming. Two centuries later, Decoration Day is now Memorial Day. but two core traditions remain: we honor those who died protecting our Nation, and we still do so in May when the flowers are blooming.

Today, as our Nation spends it third consecutive Memorial Day at war, we remember the men and women who made the ultimate sacrifice defending the precious gift of liberty. We honor the people who have left behind husband, wives. children and parents, as well as the riches and celebrations of life, to fight for the freedoms of all Americans; and we should remain always remindful of that symbolic tradition of Decoration Day, that flowers will bloom. a beautiful America will bloom from the sacrifices made by our fallen veterans.

Mr. Speaker. we give thanks for the service of our veterans; and to those who served and paid the ultimate price, we give our deepest thanks.

PROVIDING FOR CONSIDERATION OF H.R. 2528, MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2006

Mr. GINGREY. Mr. Speaker. by direction of the Committee on Rules. I call up House Resolution 298 and ask for its immediate consideration.

The Clerk read the resolution. as follows:

H. RES. 298

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. When the committee rises and reports the bill back to the House with a recommendation that the bill do pass, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 298 is an open rule providing for consideration of H.R. 2528, the Military Quality of Life and Veterans Affairs Appropriations Act of 2006. The rule allows for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. It waives all points of order against consideration of the bill. It waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI, prohibiting unauthorized appropriations or legislative provisions in an appropriations bill.

It authorizes the Chair to accord priority and recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and it provides one motion to recommit with or without instructions. Under the rules of the House, the bill shall be read for amendment by paragraph.

Mr. Speaker, today I am proud to present for consideration the rule for the very first Military Quality of Life and Veterans Affairs Appropriation bill. This important subcommittee was formed to take an all-inclusive look at the programs related to the quality of life for the brave servicemen and -women who currently serve America in the Armed Forces, their families and those men and women who sacrificed so much for our freedom in the past.

I also believe the bill before us achieves this important goal in a fiscally responsible manner. The new subcommittee held 14 hearings this year covering a wide range of issues pertaining to their new jurisdiction, and I believe their product is a strong one.

The underlying bill totals $121.8 billion of which $85.2 billion is discretionary and $36.6 billion is mandatory. The discretionary funding level represents a $1 billion increase above the President's request and $5.9 billion above last year's enacted level. The bill funds the Department of Veterans Affairs at $68.1 billion, $2.3 billion above the fiscal year 2005 enacted level, and $635 million above the 2006 budget request.

Particularly important is the $21 billion for veterans medical services, $1.6 billion above the 2005 enacted level and a billion dollars more than the budget request. This is an 8.5 percent increase over last year's level, and an 18.2 percent increase in medical services from fiscal year 2004.

Perhaps most importantly, and what I heard the most about from the veterans back home in northwest Georgia, is that this bill does not contain any new fees for veterans medical services or prescription drugs. The bill restores funding for long-term care to the level it was in the fiscal year 2005 appropriation legislation, and the bill directs the Secretary to work with the National Association of State Veterans Homes to generate an agreeable policy to make the program function more effectively for the veterans and for the taxpayer.

Mr. Speaker, there are two State veterans homes in Georgia that are hugely important to many aging citizens and their families, and I am personally grateful for this measure.

Additionally, the bill includes language directing the Department to spend more than $2.2 billion on specialty mental health care in fiscal year 2006, an important issue that many Members of Congress brought to the attention of the chairman. The subcommittee also included report language directing the VA to double the funding available for mental health research.

For the Department of Defense, the bill provides a total of $53.5 billion, and within this total is funding for military construction, for family housing construction and maintenance, basic allowance for housing payments, facilities maintenance, modernization, and environmental restoration.

Also included in this bill is $20 billion for the Defense health program. This is an increase of $1.8 billion above the fiscal year 2005 enacted level, and it is $192.3 million above the 2006 Presidential budget request.

This amount will sufficiently allow for ongoing preparation of our brave soldiers, sailors, airmen and Marines while caring also for their families at home.

□ 1030

Finally, the subcommittee has allowed for greatly enhanced interaction between the Department of Defense and the VA to explore joint ventures that can enhance a continuity of services provided between the two departments.

Mr. Speaker, in a tough budget year such as this, we have a responsibility to make sure that scarce resources are allocated in the most effective and efficient manner possible. This bill achieves that goal.

Mr. Speaker, I would be remiss if I did not acknowledge Subcommittee Chairman WALSH, Ranking Subcommittee Member EDWARDS and, of course, Chairman LEWIS for their vision and hard work on this bill. I look forward to this debate, and I encourage my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Georgia for yielding me the customary 30 minutes, and I yield myself 5 minutes.

Mr. Speaker, this is the first year that the House will consider a military quality of life-VA appropriations bill. As a result of the subcommittee realignment adopted earlier this year by the Appropriations Committee, military construction, Defense Department health programs and all veterans' programs are now contained in this one appropriations bill.

I want to commend Chairman WALSH and Ranking Member EDWARDS for the bill that they have crafted. Both gentlemen are well known for their skill at reaching out and working in a bipartisan manner and this bill reflects that collaboration as well as their deep commitment to our uniformed men and women and their families, both those in current service and those who have honored our Nation with past service.

Regrettably, while H.R. 2528 is a significant improvement over the President's shameful budget for veterans' health care, even this bill will not get the job done for the men and women who are depending on the Department of Veterans Affairs to meet their health care needs. I appreciate that this bill is $1 billion more than the President suggested for veterans' medical services, but a significant portion of that increase is offset by cutting the very personnel and equipment necessary for the VA to carry out its mission and provide timely, and quality, service to our veterans. Further, the increases in this bill are simply not enough to keep up with inflation and the rapidly growing number of veterans needing services from the VA.

Mr. Speaker, more than 20 percent of soldiers who have left active duty after service in Iraq or Afghanistan have sought health care services from the VA, and with no end of combat in sight, I am sure that that number will continue to rise. Recent studies show that the mental and psychological impact of war is taking its toll on our newest generation of veterans. Through February 11, 2005, according to a study performed by the VA, over 17,000 veterans of the Iraq and Afghanistan wars have been diagnosed with mental disorders. The New England Journal of Medicine reported last July that nearly one in five soldiers is leaving the war with post-traumatic stress disorder and other mental health problems.

How can we ensure the successful treatment and rehabilitation of these veterans when we know that the system in place is already insufficient to meet current needs?

Mr. Speaker, this bill does not meet the needs of our veterans, old or new, because it simply does not provide the resources for the transition from soldier to veteran. It does not provide the resources needed to update and modernize crumbling facilities. It does not provide the funds to adequately staff and equip veterans' health care problems. You can spin it all you want, but those are the facts.

This is an important question of priorities, Mr. Speaker, and the Members of this House should have a chance to debate and vote on these priorities.

Last night in the Rules Committee, the gentleman from Wisconsin (Mr. OBEY) presented a very simple amendment to provide an additional $2.6 billion for veterans' health care. To pay for this increase, the amendment proposed reducing the tax cut for people making over $1 million this year in taxable income from $140,000 to $129,000.

But the Republicans on the Rules Committee said "no," Mr. Speaker. They voted not to allow the amendment to be debated on the floor today. They voted to deny every Member of this House from expressing what their priorities would be if given a chance to vote on the matter: a slightly smaller tax cut for millionaires? Or $2.6 billion for our veterans? That is the choice. A smaller tax cut for millionaires, or to make sure our veterans get the health care that they need and that they deserve and have earned.

Mr. Speaker, it was even suggested in the Rules Committee last night that millionaires need this tax cut more than our veterans returning from Iraq and Afghanistan need the services provided by the veterans' health system. I could not disagree more. If this rule passes, the Members of this House will be denied their right to debate and vote on whether or not it is a priority for them to adequately fund the VA and health care for America's veterans.

At the end of this debate today, Mr. Speaker, I will call for a vote on the previous question. If the previous question is defeated, I will amend the rule so that we can consider and vote on the Obey amendment to increase funding for veterans' health services.

Last night, Mr. Speaker, the Republican majority on this floor voted to deny adequate health care to our National Guard and Reserves. It was shameful what happened on the floor last night. Today, they have a chance to redeem themselves by voting "no" on the previous question and allowing the Obey amendment to be voted on on this floor today.

Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

In regard to the gentleman's comments about mental health care for our veterans, for the first time ever, the President proposed and Congress provided a dedicated pool of resources, actually $2.2 billion, to provide specialty mental health care to veterans, particularly those who are returning from the combat area, as so many are now.

In order to better serve combat veterans, the Department of Veterans Affairs is directed to do a comprehensive study on post-traumatic stress disorder, focusing on improving mental health, mental health research, mental health care and access to information. In addition, in encouraging better cooperation and care of veterans and active military personnel, VA and the Department of Defense are directed to develop a plan to improve seamless transition on internal and external obstacles to transition and recommendations that would continue to enhance the continuity of care.

Mr. Speaker, in regard to total spending on VA medical care, let us just go back to 1999 and come forward to 2005 over the last 6 years. In 1999, VA medical care appropriations were $17.8 billion. In fiscal year 2005, that number was $29.9 billion. The increases over those 6 years:

1999 to 2000, 9.2 percent;

2000 to 2001, 11.3 percent;

2001 to 2002, a lean year, as we all know, because of the economy and 9/11; nevertheless, a 4.6 percent increase;

2002 to 2003, 11.9, an almost 12 percent increase;

2003 to 2004, another 11.4 percent increase;

2004 to 2005, a 6.2 percent increase.

The commitment is there. Absolutely the numbers show it. I do not see how anybody could refute that.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me just respond to the gentleman. He talks about how the Republican majority has increased the amount of money that we are spending on veterans' issues. But the bottom line is, we are at war and there are more and more veterans coming back. And so you can spin this all you want, but what you are providing in this bill is not nearly enough to take care of the needs of our veterans. That is a fact.

It is not just me saying it. The American Legion sent a letter to the Congress saying the same thing, that VA medical care is approximately $2.5 billion short for fiscal year 2006. They write, As Operations Enduring Freedom and Iraqi Freedom veterans continue to seek timely access to the VA health care delivery system, older veterans should not be kicked to the curb to make room for the newest generation of wartime veterans.

The coalition of Amvets, Paralyzed Veterans of America, Disabled American Veterans and Veterans of Foreign Wars have endorsed the Obey amendment because, they wrote, the Obey amendment would provide the funding needed to meet fixed costs and to care for returning veterans as well as provide the resources the VA needs to meet shortfalls that are affecting veterans today.

We are asking you to support this amendment and to provide the dollars needed to care for servicemembers returning from Iraq and Afghanistan, as well as all veterans who rely upon the VA to provide their health care.

Almost every veterans organization in this country is saying that what we are doing here today is not enough. You can say that you have increased it a little bit, but the bottom line is that we are at war. We are in Afghanistan and we are in Iraq, and more and more veterans are coming back, and we do not have the resources in this bill to adequately take care of their needs.

Let us be clear. Let us not try to spin to the American people that somehow we are doing our job here. The Republican leadership has made a choice. They would rather spend the money to provide more tax cuts for millionaires and billionaires than adequately fund the VA budget. I think at a time of war that that is just absolutely wrong.

Mr. Speaker, I am happy to yield 3 minutes to my colleague on the committee, the gentlewoman from California (Ms. MATSUI).

Ms. MATSUI. Mr. Speaker, it is appropriate that the last bill we take up before recessing for the Memorial Day District Work Period is the military quality of life appropriations bill, the bill which includes funding for Veterans Affairs. Today, when we pass this bill and fund veterans' programs, we are reaffirming the promise we made to each veteran when they agreed to serve and protect our Nation. Part of that promise, one of the most important promises, is to provide them with superior medical care.

While I do commend the committee for increasing funding for veterans' health care over the President's request, as the gentleman from Massachusetts mentioned, even leading veterans' groups state it does not increase funding enough. The funding does not keep pace with the rising population of veterans or the rising cost of health care.

Yesterday, as the gentleman from Massachusetts also mentioned, the

Rules Committee had the opportunity to make in order an amendment by the gentleman from Wisconsin (Mr. OBEY) that would have increased funding for veterans' health care to the necessary levels. The Republican majority chose not to. This is truly, truly unfortunate.

Most Members, myself included, have already heard from veterans in their district that they have to wait far too long for medical care. In some instances, veterans face wait times of up to 6 months. Yet the bill before us does not provide the funding necessary to provide prompt access to health services. And with our ongoing operations in Iraq and Afghanistan, the number of veterans needing medical service will only continue to rise.

I am truly thankful that those men and women honorably serving our Nation in the world's hot spots are likely to return home to their family and friends. With protective armor and the improving quality of medical treatment in the field, more of our servicemembers are surviving combat wounds and returning, though with an increased need for medical service. Many of these men and women are amputees who will need months of rehabilitation to learn to walk and use prosthetic limbs. Because of these injuries, the men and women of our Armed Forces will need continuous care for the rest of their lives.

At a time when American men and women are serving our Nation in hostile environments, we must demonstrate our intent to fulfill our promise and fund veterans' medical services at the highest possible level. We must provide them with the most efficient and highest quality medical care this country can offer.

I hope that on the floor today, we can make in order the gentleman from Wisconsin's amendment increasing our commitment to veterans.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

In regard to the comment about the waiting time for our veterans to receive care, we had several years ago, and I want to respond, of course, to the gentlewoman from California about her concerns, but there was a waiting time of greater than 6 months for up to 350,000 veterans. I think most of those were in Category, priority level, 7 and 8. But because of increased funding and policy change, that number was reduced to 36,000.

We do not want to have, Mr. Speaker, any of our veterans having to wait 6 months or more. But to cut that down from hundreds of thousands to 36,000, I think, is significant progress.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM), a member of the subcommittee.

□ 1045

Mr. CUNNINGHAM. Mr. Speaker, the thing, I guess, that irks me the most, some of the Members on the other side come from the liberal left. They do not support the military. They vote against defense bills. They vote against defense supplementals, which protect our men and women and gives them the equipment and things they need to survive to do their job and come back alive. Many of these same Members give a cry for the veterans that we want to increase above budget, we want to increase that, because they know they vote. We want them to come back alive.

When the Democrats had control of this House, they cut the military COLAs. They cut veterans' COLAs. They increased Social Security tax. They increased the tax on the veterans and the military. And cut their health care, VFW and American Legion chastised the Democrats because they not only just level funded it or reduced it, they gutted it. And I still have the articles in my office about how the Democrats did not come up to speed on the health care for the veterans.

Since we took the majority over the last few years, we have increased health care over 60 percent. Subvention was my bill for the military, TRICARE for everybody.

Another thing last night where they said, well, the Republicans did not vote to take care of our National Guard, they sign a contract, Mr. Speaker. When one goes into the National Guard or Reserve, they are a citizen soldier. They sign up and they are working in a business and they get your health care through the business or they sign up with private insurance.

My colleagues on the other side want socialized medicine. They want single-payer, government controlled system. If the government gets involved in that, all of a sudden we are up around $5-plus billion, and the private sector will not provide for it. And they tried to use it as a political pawn. It sickens me. I am military retired, and I have health care, and so do our veterans in an increasing manner.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me say just to the gentleman from California who referred to the vote we had yesterday to provide more health care benefits to our Guard and Reserves, he may not think that an important thing to do, but those of us on this side do, especially when we are relying on them more and more to be the soldiers on the frontline in Iraq and Afghanistan.

And I also want to point out that currently about 50,000 of our veterans are waiting in line for at least 6 months for veterans health care, and that problem will only gets worse with the growing number of returning soldiers from Operation Iraqi Freedom and Enduring Freedom. And as of May, 2005, the Department of Veterans Affairs had treated more than 85,000 of the 360,675 veterans from these deployments. In 2006 the Department expects to treat 5.2 million veterans, double the number in 1995. And overall, the medical care inflation rate for 2004 was close to double the inflation rate.

So, Mr. Speaker, again, the point here is if we are going to send our young men and women overseas to fight wars, then I think we have an obligation, a moral obligation, to make sure they have the health care and the support when they return home that they not only deserve but they have earned.

Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. OBEY), ranking member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, appropriation bills represent the legislation where we have a chance to put our money where our rhetoric is. On Veterans' Day, I would venture to say that virtually every Member of this House has gone home and spoken about how much we care for veterans, and I am sure on Memorial Day that many Members will be going home and they will put their hands over their hearts and say how much they respect veterans.

When wars start, we are very good at having the bands play. We are very good at having the crowds cheer. But all too often, when those veterans come home, they do not get the same treatment. They certainly did not during Vietnam. And I think the test of our concern for veterans is not the kind of speeches we give as we send them off to war. It is the kind of treatment we give them when they get home.

Now, we can brag all we want about the fact that this bill is a billion dollars above the President's for veterans health care. Fine. I am glad it is. But the fact is that still does not keep up with the cost of inflation. The fact is there are still waiting lists and waiting lines. The fact is that VA facilities are still badly in need of repair. The fact is we still do not do enough prosthesis research.

Next year, the VA expects to handle twice as many veterans as they did in 1995, and medical care inflation is twice the rate of inflation in the regular economy.

The reason this bill is so squeezed is because the budget resolution, which this House passed about a month ago, has imposed tight limits on this Congress's ability to fund veterans health care and a number of other areas because the number one priority in that budget bill was tax cuts and we wound up guaranteeing to everybody who makes $1 million a year or more that they will take home a tax cut of $140,000 on average this year.

The amendment that I wanted the Committee on Rules to make in order was very simple. We simply wanted this House to reconsider that tax package and to shave that $140,000 average tax cut down to 129,000 bucks. I think every American would be very happy to settle for a $129,000 tax cut this year. If we simply shaved it down to 129,000 bucks for people making over 1 million bucks a year, we would be able to put $2.6 billion more into veterans health care.

In the past, this country has always thrived because it believed in the sense of shared sacrifice. How is the sacrifice being shared today? We are asking those who wear the uniform of the United States, whether they be regular forces or Guard or Reserves, we are asking them to bear the full burden of our effort in Iraq and Afghanistan. And what burden are we asking the folks to bear here at home? We are saying, "Oh, they have got to sacrifice by taking a tax cut." What we are asking is that we adjust that sense of shared sacrifice so that we shave the benefits for people who are already the most blessed in this society, we shave their tax benefits by just a little bit in order to make just a little bit more room for veterans health care. And I make no a apology for trying to do that.

I believe that we need to remember Abraham Lincoln's admonition in the second inaugural address: "To care for him who shall have borne the battle, and for his widow and his orphan." This Congress has taken some initiatives to do that this year. But it is not enough. I plead fully guilty to wanting to have health care for every single American. I think it is a mortal sin that there are 45 million Americans who do not have health care coverage, but at the very least, we ought to see to it that every person who wears the uniform of the United States has whatever health care they need whenever they need it.

We do not worry about how much a war is going to cost when we start one or when we get into one. We pay the cost. We should also not worry about how much it is going to cost to provide adequate health care for people who fight that war. Whatever they need is what we ought to provide, and there is not a Member in this House who can demonstrate that this bill is fully adequate. Is it better than the President's budget? Of course. Anything would be. But it is not enough, and we have tried to show a way for us to provide more funding for veterans without doing serious damage to anybody else's interests in this country.

And I would hope we would turn down the previous question so that we have a chance to offer that amendment.

Mr. GINGREY. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I have a question for the gentleman from Massachusetts: Has he ever been in the Guard?

Mr. McGOVERN. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Massachusetts.

Mr. McGOVERN. No, Mr. Speaker. But I am in awe of those who serve this country.

Mr. CUNNINGHAM. Mr. Speaker, has he ever been in the Reserves?

Mr. McGOVERN. No, I have not.

Mr. CUNNINGHAM. Has he ever been in active duty military?

Mr. McGOVERN. No, Mr. Speaker. But I support these men and women who are serving our country, and they deserve health care, which it is a disgrace what the Republican majority did.

Mr. CUNNINGHAM. Mr. Speaker, reclaiming my time. I have. And I thought not.

Mr. McGOVERN. Mr. Speaker, it was shameful what happened on the House floor, and they have an opportunity to redeem themselves today.

Mr. CUNNINGHAM. I thought not, Mr. Speaker.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I should say to the gentleman I respect his service as well. I just wish he would join with us in providing the adequate allocation for our veterans.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, just to follow up on the last comment of my colleague who has served our Nation so well in service in the military, let me just point out that Vice President CHENEY did not serve our country in the military. And I do not think any one of us in this room would have the right, based on that, to question his allegiance to our country or his commitment to our servicemen and -women.

I do not want to get into a partisan debate between Republicans and Democrats over military service. What I do want to do is raise one simple question: Should this House not have the right to vote on the Obey amendment, which would provide a $2.6 billion increase for veterans health care, education, and other programs? Should we not have the right during a time of war to vote on that?

Now, the gentleman from Georgia said in his comments that this rule waives points of order against the bill. My follow-up question is if the House Committee on Rules waives points of order against the bill to pass the bill, would it not be fair to say why do we not waive one point of order against an amendment in order to help veterans receive better health care? This would not be the first time, if my Republican colleagues will check the record, that they would have waived a point of order to allow a tax measure to be part of an appropriations bill. It has been done multiple times by this leadership in this House.

The point has been made that VA health care has been increased by, I believe, 40 percent over the last 5 years. And that is correct, and I think that has been a bipartisan effort. In fact, it has taken Congress a lot of increases over the President's requests over the last 5 years in order to get to that 40 percent increase. But what that fact does not paint a true picture of is that during that time period there has been an increase in the number of veterans needing VA health care of 31 percent.

So that means over the last 5 years, including during a time of war, we have only had a 9 percent increase in VA health care spending to cover all of the inflationary cost for that health care. And we all know health care budgets, whether they are within the VA or the private system, are going up at 5, 6, 7, 8 percent a year.

Let us look at the inflationary costs in the VA health care that, frankly, make the Obey amendment very critical in trying to improve health care for our veterans. First is just a mandated 2.3 percent salary increase, which is the minimum increase we probably will pass this year, will take $247 million out of the VA health care budget. For prescription drugs, last year alone prescription drugs in the VA went up $548 million. So that is nearly $800 million we are talking about in inflationary costs.

The fact is that this year, according to the Bush administration, we will expect a net increase of 300,000 veterans needing VA health care services. Many of those, tens of thousands of those, would be veterans of the Iraqi and Afghanistan war. Using the administration's own numbers, a little over $6,400 per veteran per year for VA health care times 300,000 veterans, that alone would require a $1.94 billion increase in VA health care funding for fiscal year 2006 just to meet inflationary costs and the increase in the number of veterans needing that care.

□ 1100

The fact is, and I think we all know this, we can talk statistics and percentages, that VA hospitals today all over the country are using capital equipment and other equipment budgets just to keep the lights on and to pay salaries. We all know, as Members of Congress who visit our VA hospitals back home, they are underfunded and are having to cut corners, which should not have to be cut, especially during a time of war.

Through all this debate we might forget what the Obey amendment does. It prevents a $500 million cut in medical administration for VA care. It prevents a $417 million cut in dollars needed to keep the lights on and run our VA hospitals. It prevents a cut in VA health care research dollars. That is what this amendment is all about, not a partisan debate.

Let us vote against this rule, vote against the previous question, and allow the veterans of America during a time of war to have the right for Congress to vote on increasing our commitment to quality care for our veterans.

Mr. GINGREY. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in permitting me to speak on this rule.

I, too, am pleased with the establishment of the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies. This is an important new development to be able to look holistically at the needs of our military.

I also appreciate the great leadership that this subcommittee has with the gentleman from New York (Chairman Walsh) and the ranking member, the gentleman from Texas (Mr. EDWARDS). These are people who have proven their commitments to our veterans and who understand the intricacies of the appropriations process, are willing to get into the details and work hard. I commend their leadership, and look forward to ultimately supporting this bill today.

I certainly support the open rule that has been granted, as is customary for an appropriations bill, particularly because it will allow for the first time in at least 10 years, and perhaps longer, for us to have a specific vote on the opportunity to have money dedicated to the cleanup of unexploded ordnance and military pollution.

Mr. Speaker, this is one of the great hidden issues surrounding military quality of life. Unexploded ordnance and military toxins pollute an area we anticipate is larger than the States of Maryland and Massachusetts combined. Let me repeat that. We face military pollution of over 200 years of military activity in this country that is suspected to pollute an area larger than the combined States of Maryland and Massachusetts.

This is an area that is taking billions of dollars, we do not know how much, frankly, and we are on a path, given the current patterns of expenditure, that it will take not dozens of years, not decades, but it could take centuries to clean up.

Now, military quality of life is threatened by exposure to unexploded ordnance and military toxins. My good friend from Massachusetts knows well the problem with the Massachusetts Military Reservation, where groundwater contamination is threatening the water supply of Martha's Vineyard, and there were 8,000 shells that have been discovered already, some within half a mile of an elementary school. We have the opportunity under this bill to be able to dedicate funds to meaningfully accelerate the cleanup.

I am shocked as a Member of Congress that we are talking about the fifth round of base closures, the fifth round of base closures, threatening upset for communities across the country and job loss, and we have not yet cleaned up bases that were closed in the 1988 round.

I will be offering amendments to remedy this situation and deal with the unexploded ordnance and the military toxins. I would suggest that this is an opportunity that will not only protect the people in these communities that lost military facilities and were not cleaned up, but it will accelerate the development of technology that will save lives for our military around the world. Because the sooner we can figure out whether it is a hubcap or a shell that is buried, it is not just going to make a difference in Massachusetts or in Georgia, where you have unexploded ordnance, or in my State, but it will make a difference in Iraq, Afghanistan and for innocent people that are dying in former battlefields every day around the world.

Mr. GINGREY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY), a Member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, let me support strongly this bill which supports our veterans who have served this country so incredibly well. We are a nation of freedom because of the hard work and sacrifice of veterans everywhere, and every day of my life I think of my father and others who have served this great country with distinction.

We are a free nation, and we are winning the battles because of the bravery of our active duty Reservists. But it is the veteran who has brought honor to the flag behind the Speaker's well, and it is the veteran who has made it possible for us to be the free and proud Nation we are.

Today, at 12:45, I will go to the Board of Veterans Appeals on a case that is vitally important to a person in my district, and that is Almon Scott. I have never personally gone to the Board of Appeals level for any veteran personally. My staff has worked tirelessly, Diana Robins in my district, fighting for veterans. But this is a unique case.

Almon Scott served this Nation during Vietnam. He was asked to guard a base where we believe there were potential radioactive materials. Almon Scott is dying now of cancer, a cancer largely linked with radioactive material.

Almon Scott has been shunted aside, if you will, by a system that suggests somehow his ailments are not related to his tour of duty. Unfortunately, he is not entitled to his records, they have been sealed, so Mr. Scott cannot even prove his case, which is why I have taken this extraordinary opportunity to testify on his behalf. He is in Stuart, Florida, today and cannot travel because of his illness. His illness is serious, and it is possibly close, from what I understand, to the end of his life.

What we are hoping to do today is to give Al Scott justice. We are hoping that they recognize his valiant efforts at service, and that the final measure of devotion to this Nation is, he did what he was told. Now they will not tell him what he was guarding.

Subsequent facts have indicated there may have been nuclear or other kinds of biological-type weaponry stored at the site he was requested to guard. At the end of his tour of duty he was told to go home and remain silent about what he did at that time. He honored that contract with America. Now I am hoping today, as I approach the Board of Veterans Appeal not as a lawyer, not as a Congressman, but as a fellow American, that Almon Scott's plea for justice will be heard, and that those hearing his appeal will look at his case specifically and recognize that the right thing to do for this veteran, this proud American, this Marine, is to stand by that same commitment he gave this Nation, that same devotion and that same dedication.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is inadequate to meet the health care needs of our veterans, plain and simple. Every veterans group in America has recognized that fact. They have all written to all of us. So we can spin this all we want, that somehow this is this incredible bill that is going to take care of all the health care needs of our veterans, but the bottom line is, it is better than what the President requested, but it is not enough. And we have an opportunity to fix it.

To the gentleman from California who earlier questioned my patriotism and pointed out I did not serve in the military, let me say to him that I am in awe of those men and women who have served in our military. I am grateful for what they have done.

I have two children, and there is not a day that I do not wake up and thank God they live in the freest country in the world. And it is precisely because of the veterans who have served our country over the years that they have that privilege. And it is precisely because of my gratitude to the men and women who serve in our military that I feel so passionately about making sure that we do the right thing here today and we adequately fund our veterans' health care budget.

That is what this debate is all about, and that is whether you are a Republican or Democrat, liberal or conservative. I would like to think we could come together on this one issue and make sure that the veterans get what they deserve and have earned. We are at war, and yet, as the gentleman from

Texas (Mr. EDWARDS) pointed out earlier and as the gentleman from Wisconsin (Mr. OBEY) pointed out, we are not making any sacrifices.

What the Obey amendment would do is simply shave a little bit off of the tax cuts that millionaires are getting and put it towards the veterans budget to make sure we get what we need.

Mr. Speaker, I will be asking Members to vote "no" on the previous question. If the previous question is defeated, I will amend the rule so we can consider the Obey amendment that was rejected in the Committee on Rules last night on a straight party line vote.

Mr. Speaker, the Obey amendment would add an additional $2.6 billion for VA health care and pay for it by slightly reducing the size of the tax cut for those persons who make more than $1 million a year. Instead of receiving a tax cut of $140,000, they would get $129,000, a reduction of $11,000 for millionaires. I will tell you that I cannot believe anybody in this country would object to that. I think if you did a poll right now, overwhelmingly the American people would say, that makes sense in this time of war. I am sure that the Donald Trumps and the Bill Gates of this country could afford to reduce their tax cut by $11,000 so that our troops can have the best health care possible when they return from Iraq and Afghanistan.

This amendment will correct one of most serious shortfalls in this bill, quality health care for our Nation's veterans. It is absolutely critical that this funding be increased to meet the growing needs of our country's veterans.

This Nation made a promise to those serving in the military that they would receive quality health care in return for their valiant service to this country, and now that wounded soldiers are returning to their homes, they deserve the best medical treatment and care available.

We can fix this today. We can fix this today if we allow the Obey amendment to be considered on the floor. But the only way that will happen is if we defeat the previous question.

I want to assure my colleagues that a "no" vote will not prevent us from considering the military quality of life-VA appropriations bill under an open rule, but a "no" vote will allow Members to vote on the Obey amendment. However, a "yes" vote will block consideration of this amendment to help our Nation's soldiers and our veterans.

Mr. Speaker, as I said, I am in awe of our Nation's veterans. A few hours from now, Members of this body will get on planes and go to their districts and prepare to attend various Memorial Day events throughout the country, and I know all of us will pay tribute to our veterans. We will thank them, we will pay tribute by using the most wonderful words that we can express to be able to say "thank you" adequately.

But, Mr. Speaker, words are not enough. We have enough words in this House. They are not enough. Yesterday, the Republican majority turned their backs on so many veterans by defeating the motion by the gentleman from Mississippi (Mr. TAYLOR) to provide more health care benefits to our members of the Guard and Reserve. It was shameful. But today you have a chance to redeem yourself. Today, you have a chance to stand up and do the right thing.

Mr. Speaker, we need to support our veterans. We need to make sure they have what they need. We need to support them not just with words, but with action.

Mr. Speaker, at this point, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

☐ 1115

Mr. GINGREY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I rise again in support of this rule and in recognition of its importance to the men and women who have and who continue to serve and protect America.

Mr. Speaker, our service men and women sacrifice so much for the safety and security of this Nation, and we have the responsibility to ensure that they have everything that they need, not only to succeed in their duties, but also to enjoy the quality of life that they deserve.

This bill represents the culmination of a lot of hard work and a lot of cooperation to not only completely support our service men and women but to also do so in the most helpful and fiscally responsible way. With a total amount of $121.8 billion, this bill includes an overall increase of $5.8 billion in discretionary spending from last year. Specifically, the Department of Veterans Affairs will receive $2.3 billion more than the previous year. The VA medical care increase from 2005 to 2006, I gave the number earlier for the previous 5 years, another 8.5 percent increase. They will receive, they the VA medical services, an increase of $1.6 billion. And again, I emphasize that there will be no new fees for either veterans medical services or for prescription drugs.

Today represent a victory for our service men and women in all stages of service from recruitment to retirement. And I appreciate all of my colleagues who have spoken on behalf of the rule and in support of the underlying bill.

Mr. Speaker, I would again like to thank the subcommittee chairman, the gentleman from New York (Mr. WALSH); the ranking member, the gentleman from Texas (Mr. EDWARDS); and the chairman, the gentleman from California (Mr. LEWIS), for leading the way and ensuring the necessary funds to provide for the quality of life of our service men and women.

I want to encourage my colleagues to support both this rule and the underlying bill for the sake of those who spend their lives defending ours.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in opposition to the previous question on H. Res. 298, the rule providing for the Military Quality of Life Appropriations Bill for FY06.

Memorial Day will soon be here, and members of this body will head home to join Americans all across the country in celebrating those who serve, and have served, our Nation. These brave men and women undeniably deserve our praise and enduring gratitude for all they have done to defend our nation and secure our freedom. While grateful words and thoughtful recognition is right and necessary, it is incumbent on us in this Congress to ensure that words are met with action.

Over 1 million of our active-duty and reserve soldiers have served to date in Iraq and Afghanistan. These men and women—like their predecessors before them—were promised a life time of health care in return for their service to our country. However, as these young soldiers return home, they find that this promise has not been kept by this Congress or the current Administration.

Today, more than 50,000 veterans are waiting in line for at least 6 months for veterans' health care—and that problem will only get worse with the growing numbers of returning soldiers from Operations Iraqi Freedom and Enduring Freedom. As of May 2005, VA had treated only about 85,000 of the 360,675 veterans from these deployments. In 2006, the Department expects to treat 5.2 million veterans—double the number in 1995. And the overall medical care inflation rate for 2003 was close to double the inflation rate.

It is telling that major veteran service organizations call this bill "totally inadequate" and tantamount to veterans being "kicked to the curb." The current proposal before us is no less than $2.6 billion below the amount needed to maintain current V A services.

The majority is nothing if not consistent, and has once again blocked attempts to fully fund the VA. The Obey amendment, blocked from even being considered on the floor today, would have increased spending on veterans health services by a total of $2.6 billion over H.R. 2528 This amendment means real improvements to medical services to meet increased demand for mental health services, prosthetics and amputee care, and for priority 8 veterans. It adds $300 million to upgrade and improve accessibility to VA medical facilities, restoring most of the $400 million cut in the bill. And it does so by reducing the tax cuts for millionaires by about 8 percent—so instead of a $140,000 tax cut, the millionaire filer would get $129,000 tax cut. When compared to all our veterans have fought for and sacrificed, this seems like the least that we can do.

When Americans serve their nation in the military, whether it is the Second World War or the current war in Iraq, this government makes the promise of a lifetime of guaranteed healthcare. It is outrageous that after all the lip service and rhetoric paid to American veterans, the Republican Majority then turns around and reduces funding for their healthcare. It is long past time that Congress match rhetoric with real action to ensure veterans receive the level of service they were promised.

As my good friend Mr. TAYLOR of Mississippi said last night on this floor, our soldiers, sailors, airmen and marines have been there for us. Now it is our turn to be there for them. I urge my colleagues to defeat the previous question and finally give our veterans the health care system they deserve.

The material previously referred to by Mr. MCGOVERN is as follows:

PREVIOUS QUESTION STATEMENT ON H. RES. 298—RULE FOR H.R. 2528 FY06 MILITARY QUALITY OF LIFE—VA APPROPRIATIONS

At the end of the resolution, add the following new sections:

SEC. 2. Notwithstanding any other provision of this resolution, the amendment printed in section 3 shall be in order without intervention of any point of order and before any other amendment if offered by Representative Obey of Wisconsin or a designee. The amendment is not subject to amendment except for pro forma amendments or to a demand for a division of the question in the committee of the whole or in the House.

SEC. 3. The amendment referred to in section 2 is as follows:

AMENDMENT TO MILITARY QUALITY OF LIFE, VA. APPROPRIATIONS BILL OFFERED BY MR. OBEY OF WISCONSIN

Page 31, line 1, relating to VA compensation and pensions, insert after the dollar amount the following: "(increased by $26,000,000)".

Page 34, line 21, relating to VA medical services, insert after the dollar amount the following: "(increased by $1,500,000,000)".

Page 36, line 9, relating to VA medical administration, insert after the dollar amount the following: "(increased by $500,000,000)".

Page 37, line 1, relating to VA medical facilities, insert after the dollar amount the following: "(increased by $300,000,000)".

Page 37, line 8, relating to VA medical and prosthetic research, insert after the dollar amount the following: "(increased by $67,000,000)".

Page 37, line 20, relating to VA general operating expense, insert after the dollar amount the following: "(increased by $11,000,000)".

Page 39, line 16, relating to major construction projects, insert after the dollar amount the following: "(increased by $150,000,000)".

Page 41, line 11, relating to minor construction projects, insert after the dollar amount the following: "(increased by $51,000,000)".

At the end of the bill (before the short title) add the following new section:

SEC. 409. In the case of taxpayers with an adjusted gross income in excess of $1,000,000 for taxable year 2006, the amount of tax reduction resulting from the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Public Law 108-27) shall be reduced by 8.125 percent.

Mr. GINGREY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. LATHAM). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 223, nays 194, not voting 16, as follows:

[Roll No. 223]

YEAS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—16

Doyle
Emerson
Filner
Frelinghuysen
Hastings (WA)
Herseth
Hyde
Johnson, E. B.
Jones (OH)
McKinney
Menendez
Millender-McDonald
Murtha
Norwood
Sweeney
Young (FL)

□ 1143

Messrs. SERRANO, CHANDLER and POMEROY changed their vote from "yea" to "nay."

Mr. TURNER changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 223, on H. Res. 298, I was in my Congressional District on official business. Had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. LATHAM). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1145

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1449

Mr. BUTTERFIELD. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1449.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2528 and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 298 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2528.

The Chair designates the gentleman from New Hampshire (Mr. BASS) as chairman of the Committee of the Whole, and requests the gentlewoman from Illinois (Mrs. BIGGERT) to assume the chair temporarily.

□ 1147

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, with Mrs. BIGGERT (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. WALSH) and the gentleman from Texas (Mr. EDWARDS) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. WALSH).

Mr. WALSH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, today I am proud to represent the first Subcommittee on Military Quality of Life and Veterans Affairs and Related Agencies appropriations bill for consideration of the House.

This subcommittee was formed for the purpose of taking a more comprehensive look at the programs related to providing a suitable quality of life for our service men and women, from recruitment through retirement. I believe the bill before Members today does just that, and it does it in a fiscally responsible way.

Since the advent of the All-Volunteer Force in 1973, quality of life has come to play an increasingly important role. In the short time between the subcommittee's organization and today, I have met with many officials from the Department of Defense who are energized and excited with the makeup of this new subcommittee. Everyone we met said the same thing, you recruit the soldier, but you retain "the family"; and this new bill structure will make a significant contribution to that goal.

I have also met with many people on the issues related to the Defense Health Program and the VA. Again, there is excitement about the synergies that currently exist and the ones that can be developed or enhanced between DOD and VA. This bill makes all that possible.

I salute the gentleman from California (Chairman LEWIS) for having the foresight and persistence to bring about this positive change.

The bill before us today totals $121.8 billion, of which $85.2 billion is discretionary spending and $36.6 billion is mandatory spending. On the discretionary side, the bill is $1.1 billion above the President's request and $5.9 billion above last year's bill. The bill funds the VA at $68.1 billion, $2.3 billion above fiscal year 2005, and $635 million above the budget request. Included in this amount is $21 billion for medical services, a $1.6 billion increase above the 2005 enacted level, and $1 billion above the budget request. This is an 8.5 percent increase over last year. I would also note that with the funding in this bill, the medical services account will grow by 18.2 percent over the past 2 years.

Also, this funding level does not assume adoption of any new fees, nor does it preclude the committee of jurisdiction from moving on such legislation. The VA funding level, among other things, restores funding for long-term care to the level it was in the fiscal year 2005 appropriation, and we direct the Secretary to work with the National Association of State Veterans Homes to come to some agreeable policy to make the program work better for veterans and the taxpayers.

The bill also includes language directing the Department to spend not less than $2.2 billion on specialty mental health care in fiscal year 2006, in direct concern to many Members of Congress that the VA needs to make this a priority. We have never specified funding for a category of care in this bill in the past.

We have also included report language directing the Department to more than double the funding available for mental health research. For the Department of Defense, the bill provides $53.5 billion. Within this total is funding for military construction, family housing construction and maintenance, costs associated with BRAC for the prior rounds and the current round, basic allowance for housing payments, facilities sustainment, restoration and modernization, and environmental restoration.

Regarding BRAC, let me just repeat what we have said in subcommittee. As of now, we consider the Secretary of Defense's recommendations just that, recommendations only. We will be following the commission process, but we see no need to make changes to the military construction budget at this time. Also included in this total is $20 billion for the Defense Health Program, an increase of $1.8 billion above fiscal year 2005 and $192 million above the budget request. This amount supports troop readiness by making sure we have an adequate funding level to prepare our soldiers, sailors, and airmen for training and deployments while caring for their families and dependents.

One last thing I wanted to mention is the joint DOD-VA incentives program which was authorized in fiscal year 2003 and has been appropriated since that time. This program creates a fund which creates the opportunity for the DOD and VA to explore joint ventures in research and information technology that establishes and enhances continuity between these two Departments and contributes to the synergies we all want.

We have a responsibility to make sure that the limited resources we have are spent efficiently and effectively and that programs achieve their mission. The structure of this bill provides us with an opportunity to take a bold look across programs and Departments and find synergies and efficiencies. Change is not always easy to go through, and it does not happen overnight; but we have taken the first step towards producing a more focused bill, and I want to thank the gentleman from California (Mr. LEWIS) for his vision and support.

Lastly, I would like to express my gratitude to the gentleman from Texas (Mr. EDWARDS), the ranking member of the subcommittee. We have developed a strong working relationship based upon trust. He has a wealth of experience with the military, given his long association with Fort Hood, Texas. He has been very generous with his time and his counsel as we assembled this bill, and it is much appreciated.

Thanks to my subcommittee members for their active participation in the hearing process and also for their advice, and also to our very professional staff led by the capable Carol Murphy, and to my personal staff for their help in preparing this work product. I am very grateful to all of them. This would not have been possible without their help.

MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATION BILL, 2006 (H.R. 2528)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF DEFENSE					
Military construction, Army	1,981,084	1,479,841	1,652,552	-328,532	+172,711
Rescissions	-18,976	---	---	+18,976	---
Total	1,962,108	1,479,841	1,652,552	-309,556	+172,711
Military construction, Navy and Marine Corps	1,069,947	1,029,249	1,109,177	+39,230	+79,928
Rescissions	-24,000	---	---	+24,000	---
Emergency appropriations (P.L. 108-324)	138,800	---	---	-138,800	---
Additional appropriations (Div. J) (P.L. 108-447)	-4,350	---	---	+4,350	---
Total	1,180,397	1,029,249	1,109,177	-71,220	+79,928
Military construction, Air Force	866,331	1,069,640	1,171,338	+305,007	+101,698
Rescission	-21,800	---	---	+21,800	---
Total	844,531	1,069,640	1,171,338	+326,807	+101,698
Military construction, Defense-wide	686,055	1,042,730	976,664	+290,609	-66,066
Rescission	-22,737	---	---	+22,737	---
Total	663,318	1,042,730	976,664	+313,346	-66,066
Total, Active components	4,650,354	4,621,460	4,909,731	+259,377	+288,271
Military construction, Army National Guard	446,748	327,012	410,624	-36,124	+83,612
Military construction, Air National Guard	243,043	165,256	225,727	-17,316	+60,471
Rescission	-5,000	---	---	+5,000	---
Total	238,043	165,256	225,727	-12,316	+60,471
Military construction, Army Reserve	92,377	106,077	138,425	+46,048	+32,348
Emergency appropriations (P.L. 108-324)	8,700	---	---	-8,700	---
Total	101,077	106,077	138,425	+37,348	+32,348
Military construction, Naval Reserve	44,246	45,226	45,226	+980	---
Additional appropriations (Div. J) (P.L. 108-447)	4,350	---	---	-4,350	---
Total	48,596	45,226	45,226	-3,370	---
Military construction, Air Force Reserve	123,977	79,260	110,847	-13,130	+31,587
Total, Reserve components	958,441	722,831	930,849	-27,592	+208,018
Total, Military construction	5,608,795	5,344,291	5,840,580	+231,785	+496,289
Appropriations	(5,553,808)	(5,344,291)	(5,840,580)	(+286,772)	(+496,289)
Emergency appropriations	(147,500)	---	---	(-147,500)	---
Rescissions	(-92,513)	---	---	(+92,513)	---
North Atlantic Treaty Organization Security Investment Program	165,800	206,858	206,858	+41,058	---
Rescission	-5,000	---	---	+5,000	---
Total	160,800	206,858	206,858	+46,058	---
Family housing construction, Army	636,099	549,636	549,636	-86,463	---
Rescission	-21,000	---	---	+21,000	---
Total	615,099	549,636	549,636	-65,463	---
Family housing operation and maintenance, Army	926,507	812,993	803,993	-122,514	-9,000
Emergency appropriations (P.L. 108-324)	1,200	---	---	-1,200	---
Total	927,707	812,993	803,993	-123,714	-9,000

MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATION BILL, 2006 (H.R. 2528)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Family housing construction, Navy and Marine Corps....	139,107	218,942	218,942	+79,835	---
Rescission..	-12,301	---	---	+12,301	---
Total..	126,806	218,942	218,942	+92,136	---
Family housing operation and maintenance, Navy and Marine Corps.......................................	696,304	593,660	588,660	-107,644	-5,000
Emergency appropriations (P.L. 108-324)...........	9,100	---	---	-9,100	---
Total..	705,404	593,660	588,660	-116,744	-5,000
Family housing construction, Air Force...............	846,959	1,251,108	1,236,220	+389,261	-14,888
Rescission..	-45,171	---	---	+45,171	---
Total..	801,788	1,251,108	1,236,220	+434,432	-14,888
Family housing operation and maintenance, Air Force...	853,384	766,939	755,319	-98,065	-11,620
Emergency appropriations (P.L. 108-324)...........	11,400	---	---	-11,400	---
Total..	864,784	766,939	755,319	-109,465	-11,620
Family housing construction, Defense-wide............	49	---	---	-49	---
Family housing operation and maintenance, Defense-wide	49,575	46,391	46,391	-3,184	---
Department of Defense Family Housing Improvement Fund...	2,500	2,500	2,500	---	---
Rescission..	-19,109	---	---	+19,109	---
Total..	-16,609	2,500	2,500	+19,109	---
Total, Family housing..........................	4,074,603	4,242,169	4,201,661	+127,058	-40,508
Appropriations..............................	(4,150,484)	(4,242,169)	(4,201,661)	(+51,177)	(-40,508)
Emergency appropriations....................	(21,700)	---	---	(-21,700)	---
Rescissions.................................	(-97,581)	---	---	(+97,581)	---
Chemical demilitarization construction, Defense-wide..	81,886	---	---	-81,886	---
Base realignment and closure:					
Base realignment and closure account, 1990........	246,116	377,827	377,827	+131,711	---
Base realignment and closure account, 2005........	---	1,880,466	1,570,466	+1,570,466	-310,000
Emergency appropriations (P.L. 108-324)...........	50	---	---	-50	---
Total, Base realignment and closure............	246,166	2,258,293	1,948,293	+1,702,127	-310,000
Basic Allowance for Housing:					
Army..	3,341,882	3,945,392	3,945,392	+603,510	---
Navy..	3,471,251	3,592,905	3,592,905	+121,654	---
Marine Corps......................................	1,053,573	1,179,071	1,179,071	+125,498	---
Air Force...	3,010,770	3,240,113	3,240,113	+229,343	---
Army National Guard...............................	434,073	453,690	453,690	+19,617	---
Air National Guard................................	214,151	248,317	248,317	+34,166	---
Army Reserve......................................	290,117	310,566	310,566	+20,449	---
Naval Reserve.....................................	202,282	191,338	191,338	-10,944	---
Marine Corps Reserve..............................	38,945	40,609	40,609	+1,664	---
Air Force Reserve.................................	59,781	71,286	71,286	+11,505	---
Total, Basic Allowance for Housing.............	12,116,825	13,273,287	13,273,287	+1,156,462	---
Facilities Sustainment, Restoration and Modernization:					
Army..	1,967,028	1,825,518	1,850,518	-116,510	+25,000
Navy..	1,333,288	1,344,971	1,344,971	+11,683	---
Marine Corps......................................	523,756	553,960	553,960	+30,204	---
Air Force...	1,991,710	1,815,701	1,845,701	-146,009	+30,000
Defense-Wide......................................	95,000	115,400	115,400	+20,400	---
Army National Guard...............................	384,044	391,544	391,544	+7,500	---
Air National Guard................................	230,642	169,791	184,791	-45,851	+15,000
Army Reserve......................................	201,141	204,370	204,370	+3,229	---
Naval Reserve.....................................	73,410	62,788	67,788	-5,622	+5,000
Marine Corps Reserve..............................	12,126	10,105	10,105	-2,021	---

MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATION BILL, 2006 (H.R. 2528)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Air Force Reserve	53,056	55,764	55,764	+2,708	---
Total, Facilities Sustainment, Restoration and Modernization	6,865,201	6,549,912	6,624,912	-240,289	+75,000
Environmental Restoration:					
Army	400,948	407,865	407,865	+6,917	---
Navy	266,820	305,275	305,275	+38,455	---
Air Force	397,368	406,461	406,461	+9,093	---
Defense-Wide	23,684	28,167	28,167	+4,483	---
Formerly used Defense sites	266,516	221,921	221,921	-44,595	---
Total, Environmental Restoration	1,355,336	1,369,689	1,369,689	+14,353	---
Defense Health Program:					
Operation and maintenance	17,297,419	19,247,137	19,184,537	+1,887,118	-62,600
Procurement	367,035	375,319	355,119	-11,916	-20,200
Research and development	506,982	169,156	444,256	-62,726	+275,100
Total, Defense Health Program	18,171,436	19,791,612	19,983,912	+1,812,476	+192,300
General provision (sec. 128)	---	65,000	65,000	+65,000	---
Total, title I:					
New budget (obligational) authority	48,681,048	53,101,111	53,514,192	+4,833,144	+413,081
Appropriations	(48,706,892)	(53,101,111)	(53,514,192)	(+4,807,300)	(+413,081)
Emergency appropriations	(169,250)	---	---	(-169,250)	---
Rescissions	(-195,094)	---	---	(+195,094)	---
TITLE II - DEPARTMENT OF VETERANS AFFAIRS					
Veterans Benefits Administration					
Compensation and pensions	32,607,688	33,412,879	33,412,879	+805,191	---
Readjustment benefits	2,556,232	3,214,246	3,214,246	+658,014	---
Veterans insurance and indemnities	44,380	45,907	45,907	+1,527	---
Veterans housing benefit program fund program account (indefinite)	43,784	64,586	64,586	+20,802	---
(Limitation on direct loans)	(500)	(500)	(500)	---	---
Credit subsidy	-144,000	-112,000	-112,000	+32,000	---
Administrative expenses	152,842	153,575	153,575	+733	---
Vocational rehabilitation loans program account	47	53	53	+6	---
(Limitation on direct loans)	(4,108)	(4,242)	(4,242)	(+134)	---
Administrative expenses	309	305	305	-4	---
Native American veteran housing loan program account	566	580	580	+14	---
(Limitation on direct loans)	(50,000)	(30,000)	(30,000)	(-20,000)	---
Total, Veterans Benefits Administration	35,261,848	36,780,131	36,780,131	+1,518,283	---
Veterans Health Administration					
Medical services	19,316,995	19,995,141	20,995,141	+1,678,146	+1,000,000
Emergency appropriations (P.L.108-324)	38,283	---	---	-38,283	---
Medical administration	4,667,360	4,517,874	4,134,874	-532,486	-383,000
Emergency appropriations (P.L.108-324)	1,940	---	---	-1,940	---
Medical facilities	3,715,040	3,297,669	3,297,669	-417,371	---
Emergency appropriations (P.L.108-324)	46,909	---	---	-46,909	---
Medical and prosthetic research	402,348	393,000	393,000	-9,348	---
Medical care cost recovery collections:					
Offsetting collections	-1,985,984	-2,170,000	-2,170,000	-184,016	---
Appropriations (indefinite)	1,985,984	2,170,000	2,170,000	+184,016	---
Total, Veterans Health Administration	28,188,875	28,203,684	28,820,684	+631,809	+617,000
Departmental Administration					
General operating expenses	1,314,155	1,418,827	1,411,827	+97,672	-7,000
Emergency appropriations (P.L.108-324)	545	---	---	-545	---
National Cemetery Administration	147,734	156,447	156,447	+8,713	---
Emergency appropriations (P.L.108-324)	50	---	---	-50	---
Office of Inspector General	69,153	70,174	70,174	+1,021	---

MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS, AND RELATED AGENCIES APPROPRIATION BILL, 2006 (H.R. 2528)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Construction, major projects	455,130	607,100	607,100	+151,970	---
Construction, minor projects	228,933	208,937	208,937	-19,996	---
Emergency appropriations (P.L.108-324)	36,343	---	---	-36,343	---
Grants for construction of State extended care facilities	104,322	---	25,000	-79,322	+25,000
Grants for the construction of State veterans cemeteries	31,744	32,000	32,000	+256	---
Total, Departmental Administration	2,388,109	2,493,485	2,511,485	+123,376	+18,000
Total, title II:					
New budget (obligational) authority	65,838,832	67,477,300	68,112,300	+2,273,468	+635,000
Appropriations	(65,714,762)	(67,477,300)	(68,112,300)	(+2,397,538)	(+635,000)
Emergency appropriations	(124,070)	---	---	(-124,070)	---
(Limitation on direct loans)	(54,608)	(34,742)	(34,742)	(-19,866)	---
Discretionary	30,730,748	30,851,682	31,486,682	+755,934	+635,000
Mandatory	35,108,084	36,625,618	36,625,618	+1,517,534	---
TITLE III - RELATED AGENCIES					
American Battle Monuments Commission					
Salaries and expenses	40,771	35,250	35,750	-5,021	+500
Foreign currency fluctuations	11,904	15,250	15,250	+3,346	---
Total, American Battle Monuments Commission	52,675	50,500	51,000	-1,675	+500
U.S. Court of Appeals for Veterans Claims					
Salaries and expenses	17,112	18,295	18,295	+1,183	---
Department of Defense - Civil					
Cemeterial Expenses, Army					
Salaries and expenses	29,363	28,050	29,550	+187	+1,500
Armed Forces Retirement Home					
Operation and maintenance	57,163	57,033	57,033	-130	---
Capital program	3,968	1,248	1,248	-2,720	---
Total, Armed Forces Retirement Home	61,131	58,281	58,281	-2,850	---
Total, title III:					
New budget (obligational) authority	160,281	155,126	157,126	-3,155	+2,000
Grand total, all titles:					
New budget (obligational) authority	114,680,161	120,733,537	121,783,618	+7,103,457	+1,050,081
Appropriations	(114,581,935)	(120,733,537)	(121,783,618)	(+7,201,683)	(+1,050,081)
Emergency appropriations	(293,320)	---	---	(-293,320)	---
Rescissions	(-195,094)	---	---	(+195,094)	---

Madam Chairman, I reserve the balance of my time.

Mr. EDWARDS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I first want to salute the gentleman from New York (Mr. WALSH) for his professional, thorough, and fair-minded leadership in crafting this bill, which I support.

Throughout this entire process, every step of the way, the gentleman from New York (Mr. WALSH) focused on doing one thing: asking what is best for our service men and women and veterans, and for that he has my deep respect.

I would like to offer my observations on this important bill from the perspective of someone who had the privilege of representing over 40,000 Army soldiers who served our country in Iraq. For 14 years I represented Fort Hood, Texas, an Army installation which is now very ably represented by the gentleman from Texas (Mr. CARTER).

I have seen firsthand, like so many Members of Congress here, the sacrifices made by our troops and their families in time of war and peace: time away from children and loved ones, combat injuries, both mental and physical, and I have seen widows in their 20s holding babies in their arms that will never know their fathers because they gave the ultimate sacrifice to our Nation in combat.

I believe, as other Members do, that we have a solemn, moral obligation to support our troops, their families, military retirees, and veterans. They have kept their promise to our Nation, and now we should keep our promise to them. That is why I consider it a privilege to serve on the first Subcommittee on Military Quality of Life and Veterans Affairs with the gentleman from New York (Mr. WALSH).

My respect for our service men and women and veterans is also why I voted against the House budget resolution earlier this year and against the 302(b) allocation that determined how many dollars our subcommittee would have today to allocate to spend on DOD health, military construction and VA programs, including VA health and research programs.

I believe, especially during a time of war, Congress should make greater investments in health care and military construction programs that are vital to the training and well-being of our troops and their families. I believe we should invest significantly more in VA health care for our veterans. And despite dollar increases, and they have been real and they have been significant over the last 5 years for VA health care, our VA hospitals are facing serious budget challenges due to two things: one, high health care inflation that is affecting all hospitals, whether they be VA or in the private sector; and secondly, because the average annual increase in the number of veterans needing VA health care has been about 250,000 to 300,000 veterans.

Having said that, our appropriations subcommittee did not have the power to determine how much money we had to spend on programs under our jurisdiction. That was largely decided by the budget resolution. I commend the gentleman from California (Mr. LEWIS). Given the FY 2006 budget resolution, the gentleman worked hard to get an increased allocation for this subcommittee.

Given what I consider to have been tough choices, I believe the gentleman from New York (Mr. WALSH) and our subcommittee worked hard and we have worked in good faith on a bipartisan basis to put limited dollars where they are most needed: veterans and DOD medical services and housing for military troops and their families. We went the extra mile, along with professional staff on both sides of the aisle, to scrub the budget to put dollars in the highest priority areas. That was our responsibility, and I think we did it well.

I believe there are a number of very important positive steps taken in this bill. First, VA medical services were increased by $1 billion over the President's request, a request which I thought, frankly, was inadequate. The bottom line is we are allocating $1.6 billion over last year's VA medical services. I believe the VA needs more to keep up with medical inflation and an expected increase of 300,000 veterans. But given our allocation, the gentleman from New York (Mr. WALSH), in particular, fought very hard to make VA medical services funding our top priority; and I stand with him in that priority. I think it is the right choice.

Second, it is positive that DOD health care was increased by 10 percent. During a time of war, that is important.

Third, base allowance for housing was increased by 9.5 percent. Our troops deserve improved housing.

□ 1200

Let me also add that this committee, under Chairman WALSH and its bipartisan committee membership, has continued the very important role in leading what I consider to be the most important family housing improvement program in our military history, that is, the public-private partnership that is building tens of thousands of new homes to deserving men and women and their families serving in our military.

I salute the subcommittee's leadership on that important program.

Fourth, the subcommittee rejected the Administration's request to more than double prescription copays for veterans and to add a new $250 annual enrollment fee for some veterans. In addition, in my viewpoint, the committee wisely rejected massive proposed cuts in veterans' nursing home care. The committee's work in this area will mean tens of thousands of veterans will get long-term nursing care that otherwise might have been deprived of that care.

A fifth good thing that this committee did in its work is, it directed the VA to focus more of its medical care and research dollars on mental health care, an essential priority given our wars in Iraq and Afghanistan, as well as the mental health care needs of veterans from past wars. I particularly salute the gentleman from New York for his leadership in this much-needed initiative. I, for one, believe it will be one of the important legacies of his service in Congress.

The VA has underfunded mental health care services and research for too long and that is going to change because of the leadership of this committee.

While I wish we did not have to cut VA medical facilities operations by $400 million and VA health administration programs and DOD health care research and cut, $9 million out of VA health care research, I believe the committee put the limited dollars where they were most needed, in funding VA and DOD health care during a time of war.

I also wish we were not at the point where we were still funding military construction at levels below levels spent before the Iraqi war began, but this bill moves us in a positive direction, increasing military construction by 4 percent.

Given a smaller budget than I would have preferred, the bottom line is that I believe the subcommittee, led by its chairman, made solid decisions on a bipartisan basis to scour the budget and to fund our highest-priority needs. We stopped harmful cuts to VA nursing home care and took important new steps to ensure that mental health care services for our troops and our veterans will be improved. That is why I intend to support this bill and ask my colleagues, on a bipartisan basis, to do the same.

Madam Chairman, I reserve the balance of my time.

Mr. WALSH. Madam Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I rise today in support of H.R. 2528—The Military Quality of Life and Veterans' Affairs Appropriations Act for Fiscal year 2006. Let me begin by commending the gentleman from New York, Mr. WALSH, for his work on this important bill.

I'd like to comment briefly on an issue that is important to me as the Chairman of the Disability Assistance and Memorial Affairs Subcommittee on the Veterans' Affairs Committee—the National Shrine Commitment. As you may know, pursuant to Public Law 106–117 the Department of Veterans Affairs entered into a contract to assess the state of VA's national cemeteries. That study identified $279 million of needed repairs and maintenance. While the President requested $14.4 million to fund this initiative, the Veterans' Affairs Committee, in its views and estimates letter to the Budget Committee, recommended an additional $45.6 million in minor construction funding to begin a 5-year plan to fully fund needed repairs and maintenance.

It is necessary that Congress ensure our national cemeteries are maintained in a manner that pays proper tribute to our fallen veterans. Funding the National Shrine Commitment achieves that end. I look forward to working with Chairman WALSH to see if we can find the necessary resources to fund the National Shrine Commitment.

Mr. WALSH. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Madam Chairman, I rise today in support of H.R. 2528, a bill which will provide the essential funding that our Nation's heroes, our veterans, need. I applaud the gentleman from California (Mr. LEWIS) and the gentleman from the 25th District of New York (Mr. WALSH) for their vision and leadership on this important issue, and I also thank them for allowing me the time to speak on a bill that is so important to our country.

This bill increases overall veterans' benefits to $21 billion which is nearly $1.6 billion more than last year's funding level for our veterans.

Madam Chairman, over the last 2 years alone, this Congress has increased funding for veterans' medical care by 18 percent. In addition, H.R. 2528 doubles veterans' mental health research funding and requires a comprehensive study on post-traumatic stress disorder. As a veteran of our Armed Forces, I understand that this is an issue that our future veterans, who are currently fighting in the war on terror, will most certainly struggle with. I applaud the efforts that this bill makes to ensure America's veterans will receive the mental health care they need when they return home as our heroes.

Madam Chairman, I also support this bill because of the assistance it will provide to the veterans in my home State of Nevada. H.R. 2528 provides $199 million for a new veterans hospital in Las Vegas. Las Vegas is the fastest-growing metropolitan area in our Nation. Nevada's veteran population is simply exploding. This new hospital will ensure that those who have bravely served our country have access to all their health care needs. This is great news for Nevada's veterans.

The committee's report that accompanies H.R. 2528 also ensures that the vital per diem payments that the VA provides to our State veterans home in Boulder City will not be cut. This report language also requests Secretary Nicholson to engage in a dialogue with our State-operated veterans homes to come up with a solution to increasing the costs of providing quality health care to our veterans.

Madam Chairman, I urge my colleagues to support this bill because it provides our Nation's veterans with the benefits that they have earned by protecting our great Nation.

Mr. EDWARDS. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. I thank the gentleman for yielding me this time.

Mr. Chairman, as a member of the Committee on Appropriations, I rise in support of the Military Quality of Life and Veterans Affairs Appropriations bill. I want to thank the gentleman from New York (Mr. WALSH) and the gentleman from Texas (Mr. EDWARDS) for their very hard work in drafting this well-balanced bill.

I also want to acknowledge the majority and minority staff for the diligence and dedication that they have demonstrated throughout this process. I can appreciate the tough choices that both the gentleman from New York and the gentleman from Texas had to make with this tight allocation. Admittedly, if there were a different majority in the House, there would have been more money allocated to these programs, but within the budget constraints imposed upon the gentleman from California (Mr. LEWIS), the gentleman from New York (Mr. WALSH) and the gentleman from Texas (Mr. EDWARDS), I believe they have done a fine job, and I urge all of my colleagues to support the bill.

Mr. WALSH. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, as a member of the subcommittee, I want to commend both our chairman and ranking minority member for producing a bill which will dramatically improve the life and the experience of men and women joining the United States Navy and going for basic training and other schools in my district at Great Lakes Naval Training Center.

This bill funds two new barracks for the Great Lakes Naval Training Center and an infrastructure upgrade. It continues a $1 billion capitalization program which has transformed Great Lakes into the birthplace of the United States Navy.

But this bill does something even more important. Throughout the country, we know that we have several hospital facilities funded by the Department of Defense close to VA facilities also funded by the taxpayer in caring for our veterans. What this bill does is it accelerates plans to build a new joint VA-Navy hospital in North Chicago, Illinois. This new facility, with two reports required by the administration to accelerate the progress, will be the first ever Navy-VA joint facility. We are very proud that that will be located in North Chicago, Illinois. This $100 million facility will ensure veterans' health care in northern Illinois and provide cutting-edge, quality care for the recruits who are joining the United States Navy.

For these reasons and others, I really commend the chairman and the staff for what they have done to accelerate this, better health care for veterans, better health care for naval recruits and at lower cost to the taxpayer.

Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. I appreciate the gentleman's courtesy in yielding me this time.

Mr. Chairman, I, too, am pleased that we have the creation of a Military Quality of Life committee. It is hard to imagine more capable leadership than that that will be offered by the gentleman from New York (Mr. WALSH) and the gentleman from Texas (Mr. EDWARDS) and there is tremendous potential to look holistically at the problems and opportunities dealing with military quality of life.

I am particularly pleased because it will give for the first time a true focus to look at what is a serious, hidden issue of military quality of life, and that is military cleanup. For too long, this Congress has been missing in action. It has never given priority to the vast stretches of the United States in every State of the Union, an area the size of the States of Maryland and Massachusetts combined, to deal with the cleanup of past military activities.

It impacts our troops and their families on the bases, their neighbors past and present, and it has significant financial impacts, although if we do this job right, we have the opportunity to dramatically reduce the cost. I am impressed over the last 7 years working on this issue that the military, the men and women in the ranks, want to do this job right. They have sensitivity to the environment and they know that they are in trouble if they are exposed unnecessarily to pollution and unexploded ordnance.

Cleanup gives the military many advantages. There are less hazards to fighting men and women. There will be more area to train. There are better relationships with the surrounding area. Most important, it will develop tools and techniques that will save American lives. It will give the military long-term security with these new techniques and technologies.

Every day people die unnecessarily from land mines and UXO around the world. I am going to offer some amendments because, frankly, as much respect as I have for the new subcommittee and the fact it is new, they are looking at a whole new range of areas.

We are looking at allocating over $1.5 billion to the 2005 base closure rounds, and we have not yet cleaned up after the very first round of military closures. That is unacceptable. It is time for Congress to no longer be missing in action. We need to step up, provide the guidance, and clean up these areas.

It is unacceptable after 17 years that we will tell the people in Sacramento that their base might be cleaned up in the year 2072. The money is available. The Congress just needs to find the will to allocate it and support the Military Quality of Life Subcommittee in its important work to make sure that we protect military families and the military environment.

Mr. WALSH. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. BISHOP), a very respected member of the subcommittee.

Mr. BISHOP of Georgia. Mr. Chairman, I thank the gentleman very much for yielding me this time. I would like to congratulate the gentleman from New York (Mr. WALSH) and the gentleman from Texas (Mr. EDWARDS) for a fine job, with limited resources, in producing, I think, a very good work product.

I know that the gentleman from New York shares my concern for our service men and women who are returning from Iraq and Afghanistan with the adverse psychological effects of combat. Many of the difficulties experienced by these brave men and women can be classified as post traumatic stress disorder, or PTSD. As you are aware, the GAO report on VA and defense health care dated September 2004 has highlighted the lack of services at the Department of Defense military treatment facilities and VA hospitals to address the needs of these former and active duty personnel. The report language and various initiatives that you have included in our bill address this problem, and I want to thank you for your leadership.

However, the lack of services available demands that we take immediate steps to increase psychological screening and treatment for our returning troops. PTSD cannot be just a Veterans' Administration problem. The needs of our active duty men and women have to be at the forefront of our agenda, meaning that it is wrong simply to discharge service men and women because we do not have the capacity to treat them while they are on active duty.

Since most of our military hospitals lack the expertise to deal with a large influx of such patients, I would like to urge the chairman, as the bill goes to conference, to consider allowing the creation of regional centers across our country located at private hospitals or available military clinics to help meet these increasing needs.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. BISHOP of Georgia. I yield to the gentleman from New York.

Mr. WALSH. I thank the gentleman from Georgia for raising this issue, and I share his concern.

The gentleman has correctly indicated that this bill works to address PTSD research so that we can better treat mental health symptoms of our active and retired military personnel.

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As the gentleman is aware, in this difficult budget climate, we crafted a bill that uses our resources wisely. I commit to the gentleman that I will take his views with great respect as they relate to PTSD into consideration as we move forward toward the conference of this bill.

Mr. BISHOP of Georgia. Mr. Chairman, reclaiming my time, I thank the chairman for his consideration and for his leadership, and I thank him for yielding me the time.

Mr. WALSH. Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank my colleague from Texas for yielding me this time.

I rise in support of this bill because, as a member of the Military Personnel Subcommittee of the House Committee on Armed Services, I can tell the Members that people are the most precious resource we have in our Armed Forces.

As we get closer to Memorial Day, many of us here in Congress will go home and talk about how important it is to support our troops and our veterans, and that is a fine sentiment, and I agree 100 percent. But what does Congress actually do to follow through? Our obligation to support our troops by no means ends when they separate from their branch of service. Yet in the age of spiraling deficits, some folks in Washington seem all too willing to forget the promises that we have made to our veterans.

The Veterans Administration is chronically underfunded every year, and it is struggling to provide the basic services and benefits that veterans have been promised.

The President's proposed VA budget, for example, would have significantly raised out-of-pocket health care expenses for many veterans. That was his so-called increase, by increasing fees to our veterans. And I am glad that this Committee on Appropriations saw to it that we would not raise the out-of-pocket costs for veterans. That is not the acceptable answer for the VA funding problems. The answer to the funding problem is to adequately fund the VA in the budget so that the veterans will receive the kind of care that they were promised when they signed up to defend our country.

While I am pleased that the Committee on Appropriations saw fit to increase VA funding from the wholly inadequate amount requested by the President, I am very disappointed that the efforts of the gentleman from Wisconsin (Mr. OBEY), our ranking member, to provide significant additional funding, $2.6 billion, for our Nation's veterans, financed by reducing the tax cut for the very richest Americans, that all of this was blocked by the Republican majority.

As a member of the Blue Dog Coalition, I readily advocate the importance of fiscal responsibility in government, but let us not do that on the backs of our veterans.

Mr. WALSH. Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS. Mr. Chairman, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, the first order of business is to thank the gentleman from New York (Chairman WALSH) and to thank the gentleman from Texas (Mr. EDWARDS), ranking member, for a very fine effort on behalf of the Nation's veterans.

We leave today and most Americans will join us on Memorial Day to honor the fallen heroes and, might I say, sheroes. The women of the United States Congress just came back from Arlington Cemetery honoring the fallen women who lost their lives in battle. Again, we restate our commitment for the opportunity for women to be able to serve on the front lines, as they have advocated for and as we have noted that they have offered their lives in battle without any suggestion of taking the back seat.

Today we attempt to pass legislation that speaks to the Nation's veterans; and many of them, all of them, will be joining us on Memorial Day as we honor those who have lost their lives, but we will be with the veterans who were willing to give the ultimate sacrifice.

I want to thank the gentleman from Texas (Mr. EDWARDS) so very much and the gentleman from New York (Mr. WALSH) for the work that they have done dealing with keeping veterans hospitals opened. I would have hoped, however, that we would have been able to debate the Obey amendment that would have given us $2.6 billion to really be able to honor and be with our veterans and mourn those who had lost their lives, because let me remind them, when soldiers fall, their families are left behind and we need a strong VA health system.

In fact, I recently, in my representation, had the Veterans Hospital of Houston in my congressional district. I now share it with the distinguished gentleman from Texas (Mr. AL GREEN), but we are all still fighting for our veterans hospitals. And I thank both of them, and I thank the gentleman from Texas (Mr. EDWARDS), for the great fight that they have had.

I see the gentleman from Florida (Chairman YOUNG) on the floor, and I just want to note the great work done with the Fisher House in years past when we funded a place for veterans' families, families of veterans who are in the hospital, that their families may stay nearby.

We must realize that we have 1,500 dead in Iraq and Afghanistan, maybe upwards of 2,000, and they are dying every day. But we also have the injured who are coming home who need to have a full open hospital system. Their families need to have it. So it is important, Mr. Chairman, that even as we look at the good work that this committee did, to see the opportunity to be able to debate the Obey amendment because the $2.6 billion is needed.

I would like to ask the distinguished gentleman from Texas about the concerns that I have raised. One, we know the trauma that many of these returning soldiers will face in mental health. That is one of the aspects of service of the veterans hospital. We know the fact that there is a need, even though the CARE Commission is now looking at closing eight hospitals, that we need to keep the hospitals open, and then, of course, we need to protect the families and give them good health care.

I would like to ask the distinguished gentleman that if we were able to add an extra $2.6 billion, a mere drop in the bucket, to this particular funding, and, by the way, that only gives the rich a $129,000 tax break versus $140,000, but would we be able to answer the concerns of America's veterans whom he has heard from around the Nation?

Mr. EDWARDS. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Chairman, let me just say I am proud of the work the subcommittee did on a bipartisan basis to take limited dollars and use them wisely and focus them on high priorities. But, clearly, the reason I supported the Obey amendment and am sorry it was not allowed by the Committee on Rules is because it would allow a significant increase in resources and provide mental health care services and funding for the operations of our hospitals. And I thank the gentlewoman from Texas for her great leadership over the years in standing up and fighting for our men and women who have served our country in uniform.

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming my time, I will simply thank the gentleman for his comments and say I know that the hospitals are vital to our veterans and I hope that we can continue the fight for them and I look forward to working with him and the chairman.

Mr. WALSH. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana (Mr. BUYER), the distinguished chairman of the Committee on Veterans' Affairs, my good friend, someone who has worked very closely with us throughout this process.

Mr. BUYER. Mr. Chairman, I thank the chairman for the quality of his work, and I want to thank the gentleman from Texas (Mr. EDWARDS). We have had the opportunity to work over the years in the Committee on Armed Services, and we continue to work with them.

I came down here to tell them I am proud of them. They put together a pretty good product. They are operating under new procedures. I am really pleased with regard to the leadership of taking the personnel and housing and coupling it with veterans. I want to work with the gentlemen and the gentlewoman on their committees and their staff because the only way we can get the seamless transition is through working together.

And we are going to end this procurement of I will buy my own systems and VA buys their own systems and then they are incompatible and we have got duplicity and multiplicity and, guess what, it is now up to us to end this.

And we are going to make this seamless transition work. We are going to give the right platforms with regard to IT. I want to thank them for making that cut in IT. A lot of people are going to say, Why did they do that? We are about to set the correct platform under the right form of leadership. And what I would like to work with the gentlemen on is that we are going to hopefully take the chief information officer within the VA and we are going to give them line and budget authority. We are going to end the stovepipes and the wasting of hundreds of millions of dollars, because we need to modernize this system. So I want to work with them as we proceed.

Despite this recent comment about $1 billion being a drop in the bucket, they plussed-up health care $1 billion. That is real money. One billion dollars in my congressional district, and I cannot speak for yours, but in my congressional district, I take all of the income tax receipts of my constituents and it is $990 million. So $1 billion represents the labor of every constituent who works in my congressional district.

So they work together and plus this up $1 billion over the President's mark; and as a matter of fact, they exceeded the mark that we gave to the budget views and estimates. So I stand here and congratulate the bipartisan work; 1.64 billion is meaningful, Mr. Chairman.

With regard to their focus on PTSD and following the President's recommendation of the $100 million, I thank them. We are going to be holding a hearing coming up; so to the gentleman from Georgia (Mr. BISHOP) and his concerns, hopefully he can contact us and we can also address his ideas. I am pleased about the COLA adjustment. We are going to move in June to do the authorization on the COLA.

And I also want to pause for a moment and thank them with regard to the second pilot on revenue enhancement. This is boring stuff that a lot of people do not like to talk about, but it is the operations of these health systems. And we are not getting it right at the beginning, and we are not getting coding right. We are not getting the number right even on collections. So we have this project out in the visit in Ohio, and now we are opening up a second front, a competitive pilot. This is going to be the right thing as we move to improve revenue enhancement.

So I want to thank them, and I want to thank their staff for their fine work. I know I focused my entire remarks on the veterans side, but let me thank them also for what they do for the men and women and the families in taking care of their housing on these bases. It is extremely important and very valued. And they are doing some real grinding, and sometimes it does not get all of the attention, and I know what they are doing on the inside. So on behalf of the men and women in uniform, I thank them and God bless them.

Mr. EDWARDS. Mr. Chairman, I yield myself 30 seconds.

To respond to the distinguished chairman of the Committee on Veterans' Affairs, my mentor and one of the real heroes in this world is former Congressman Olin E. Teague, who once held the position that the gentleman from Indiana (Chairman BUYER) now holds. Mr. Teague was a distinguished combat veteran of World War II, served in Congress 32 years, played a leadership role on writing the modern G.I. bill. And I thank the chairman for his leadership on veterans issues, and I think his point regarding the importance of the Committee on Appropriations and authorizing committee regarding veterans working together is terribly important, and I thank him for bringing that point to the floor of the House.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the gentleman from Texas, my friend and colleague, for yielding me this time.

I would like to bring to the subcommittee's attention and to all of the Members of the House an issue that falls under the jurisdiction of the Military Quality of Life Subcommittee, and that is the Department of Defense's security standards for buildings. I do not think that these standards really meet the test of scrutiny when applied to cost effectiveness nor to mission accomplishment. The Department of Defense has issued standards without checking with the Congress, without having any hearings and I think without fully assessing what the cost and operational impact will be.

These building security standards preclude the Department of Defense from leasing any office space in a metropolitan area because they require a setback of anywhere from 82 feet to 148 feet from the street. Under these newly issued requirements, buildings cannot have underground or rooftop parking. They cannot have retail activity on the ground floor. They basically cannot be accessible to the public or have reasonable traffic and parking plans in operation.

We have been working in Northern Virginia in concert with the Pentagon for years to get the Department of Defense employees to their work in a cost-efficient manner and to be able to meet the Pentagon's needs.

□ 1230

Now they say none of your buildings qualify. Well, I am not going to go into this just for my own self-serving purposes, but I do think that when DOD issues a mandatory requirement affecting tens of thousands of people that its consequences ought to be fully considered. In this case, it is a mandate that has been imposed unilaterally, resulting in the displacement of over 23,000 Defense Department personnel in Northern Virginia. It is going to affect additional thousands of people around the country.

But beyond that, it is going to require hundreds of millions of dollars to build new buildings with this enormous setback from the street, and no one else is going to want to use these buildings. The cost premium of building these buildings that meet the prescriptive DOD standards is so excessive that no other activity is going to be able to afford the cost of these buildings. So we are talking about hundreds of millions of dollars spent excessively to build buildings that will soon become outmoded by technology and common sense.

The General Services Administration has come up with an alternative, what is called a performance-based standard, as opposed to DOD's prescriptive-based standard, that provides just as much security, but they use traffic management, they harden the building, make the windows shatterproof, and move the most sensitive activities to the interior space. They use technology, they use a lot of common sense and judgment, and they accomplish the same purpose and still they can locate buildings in metropolitan areas at much less expense. They just built a building in New York that meets all of the building security standards, much less expensive than DOD wants but just as secure from terrorist attack.

So what I am suggesting is that this subcommittee look at this matter, look at the cost implications, consider whether there may be better ways of accomplishing the same security objectives. This DOD requirement is based upon protecting ourselves from a truck bomb carrying an arbitrary figure of 200 pounds of TNT, whereas a truck can carry 1,000 pounds of TNT. Furthermore, there are so many other ways a building could be attacked that these security standards don't address.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I would be happy yield to my friend, to the gentleman from New York.

Mr. WALSH. Mr. Chairman, I thank the gentleman from Virginia for bringing this to us. This certainly would have an impact on all metropolitan areas where land values are high. So I would be happy to work with the gentleman as we go forward with this bill.

Mr. MORAN of Virginia. Mr. Chairman, reclaiming my time, would the gentleman consider some report language, requiring some feedback from the Defense Department on cost implications and alternative ways of accomplishing the same security objectives?

Mr. WALSH. Mr. Chairman, if the gentleman will yield further, I certainly cannot commit to language I haven't seen, but as I said, I would be happy to continue to work with the gentleman as we go towards conference.

Mr. MORAN of Virginia. Mr. Chairman, I thank my friend very much and look forward to fixing this situation in a fiscally efficient and operationally effective manner.

Ms. DELAURO. Mr. Chairman, I want to thank my colleagues Chairman WALSH and Ranking Member EDWARDS for including two provisions very important to me and so many Americans in this legislation.

This bill preserves the organization of our Defense Cancer Research Programs, which have served our Nation so well and have helped drive breakthroughs in breast, prostate and ovarian cancer research. Consolidation of these programs would have disrupted and delayed the granting of research awards, siphoned scarce resources away from research endeavors to support administrative functions. And I am pleased my colleagues, with the help of Mr. Murtha, were able to maintain the distinct nature of these cancer research programs.

I am especially pleased by the funding level for ovarian cancer research. Ovarian cancer is the fourth deadliest cancer for women. This year, approximately 22,220 women will be diagnosed and an estimated 16,210 will lose their lives to the disease. One in 57 women will get ovarian cancer, a disease with a 5-year survival rate of only 24 percent when caught in advanced stages. As an ovarian cancer survivor, I can tell you first-hand how important early detection is critical.

Despite progress made, we still do not fully understand the risks factors, symptoms and causes of ovarian cancer. Unlike other diseases and conditions, there is no screening test for ovarian cancer—there is no equivalent to the mammogram. And as such, more than 80 percent of women are diagnosed late stages when prognosis is the worst, and the overall rates of ovarian cancer mortality remain unchanged year after year.

Appropriately, the DOD Ovarian Cancer Research Program is focusing its efforts on developing science and scientists to help us achieve the breakthroughs desperately needed in the field of ovarian cancer. Sustaining the current structure of the program and providing sufficient resources will help speed the day that we have a valid and reliable early detection tool for ovarian cancer reducing and preventing suffering from ovarian cancer for our nation's wives, mothers, aunts, nieces, daughters, and friends.

Mr. Chairman, this bill also includes $2.2 billion in funding for veterans' mental health needs—and I want to thank my colleague, Mr. EDWARDS, for ensuring that it did. Many of us have long been concerned with the growing mental health needs of our returning soldiers, marines, sailors and airmen. That is why I offered an amendment to add additional funding to the Supplemental for veterans mental health needs.

Today, more than one-quarter of Operation Enduring Freedom and Operation Iraqi Freedom veterans who seek care at the VA do so for mental health reasons. And according to the New England Journal of Medicine, 16 percent of surveyed Marines and 17 percent of Army soldiers meet screening criteria for major depression, generalized anxiety, or PTSD. These rates are similar to those of service men and women in the Vietnam and Gulf Wars. And I understand from some in the veterans community that these numbers may even understate the severity of the problem.

While this bill will help provide the VA with some of the tools to meet the needs of our brave servicemembers, I do believe we have a moral obligation to do more. In particular, I am concerned that the overall VA budget is not sufficient to meet the needs of troops returning from Iraq and Afghanistan. The American Legion and other veterans groups have said that this bill falls short by as much as $2.5 billion in veterans health care funding. Indeed, in my own district, veterans tell me that they are waiting up to 9 months for some surgical procedures. And our veterans deserve better than that.

Mr. Chairman, ensuring that we are funding cancer research and providing services to our veterans are two of the most important responsibilities we have with this bill. And I am pleased the House was able to come together in a bipartisan way to see that we did. That is why I urge my colleagues to support this bill.

Mr. PAUL. Mr. Chairman, I rise in favor of this appropriations bill, although with some reservations. I am pleased that the reorganization of the appropriations bills has brought about a more logical and supportable Veterans Affairs appropriations product.

I do retain strong concerns over some of the funds appropriated under the Military Construction and North Atlantic Treaty Organization Security Investment Program sections of this bill.

Although I recognize the need for legitimate funds for military construction, I do remain concerned that the funds appropriated herein will be used to fund the construction of U.S. military installations overseas. At a time when we are closing dozens of military installations in the United States—installations that actually contribute to the defense of the United States—under the auspices of saving money, it is unconscionable to be spending money for the defense of foreign countries.

I also strongly object to the appropriation of U.S.taxpayer funds for, as the bill states, "the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area." NATO is a relic of the Cold War and most certainly has no purpose some fifteen years after the fall of the Soviet Union. As we saw in the NATO invasion of Yugoslavia, having outlived its usefulness as a defensive alliance, the Organization has become an arm of aggressive militarism and interventionism. NATO deserves not a dime of American taxpayer's money, nor should the United States remain a member.

In conclusion, though I support this appropriations bill, I remain concerned about the construction of military bases overseas and the dangerous interventionist foreign policy that drives this construction.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to speak on H.R. 2528 the Military Quality of Life-Veterans Affairs Appropriations. Unfortunately, in rising to speak on this spending legislation, I have to tell our Nation' s veterans that they can not expect the level of medical care that they deserve from this appropriation's measure. The sad truth is that our veteran's have been getting the short end of the stick, and unfortunately they will receive no relief from H.R. 2528.

Being from the City of Houston, which is the home to the Michael E. DeBakey Veterans Affairs Medical Center where more than 137,000 veterans are provided their primary healthcare, I know how vitally important it is to provide our veterans with the care they were promised. Now is the time for the U.S. government to again fulfill our moral obligation to those who have fought for freedom and democracy. However, as outrageous as it may seem, this body will not be considering the Obey Amendment that would have increased this bill's appropriation for veterans' medical care by a total of $2.6 billion. The Obey Amendment would have paid for this vitally important medical care by simply reducing the size of the tax cut for those making over one million dollars, those millionaires would have received a tax cut of $129,000 this year, instead of $140,000. Is this what our Nation has come to? Where we chose to give millionaires a few thousand dollars more in tax cuts instead of funding proper medical care for our veterans, who left their families and risked their lives abroad to keep our Nation free, does this seem just in any way? Its truly a shame that the Appropriations Committee in a completely partisan vote decided to reject the Obey Amendment and its truly disgraceful that the Rules Committee did not allow this pertinent Amendment to come before this body for full consideration.

The sad secret of Veterans Affairs and medical care for our veterans is that with the rising cost of health care these days, the modest increases in funding for veterans' medical care in this legislation are not even enough to maintain the current level of care, which in itself is insufficient. Our veterans need and deserve proper VA benefits because they depend so heavily upon them. According to the Veteran's Administration, 28 million veterans are currently using VA benefits. Another 70 million Americans are potential candidates for such programs. This amounts to a quarter of the country's population. Veterans and their families will sadly begin finding that they have no place to turn for their medical treatment as V.A. hospitals across the country face closing their doors. With the budget shrinking, staff will be let go. This could mean the loss of over 19,000 nurses. Without these nurses, this leads to the loss of over 6.6 million outpatient visits. Approximately one out of every two veterans could lose their only source of medical care. This is a shameful situation and one that again is not properly addressed in this appropriation bill.

While I am greatly disappointed that this legislation does not fully address the crisis in veterans medical care, I am pleased to find that the Appropriations Committee rejected the administration's proposal to restrict payments to State veterans' homes for long-term care, and provides sufficient funding within this account to continue the current policy. I am also pleased the Appropriations Committee directed the VA to work with the National Association of State Veterans Homes and other stakeholders to develop and implement solutions that will give veterans the best options for quality long-term care at the most reasonable cost to the taxpayer. I can only hope that this legislation offers our veterans more options in getting quality long-term care instead of less.

We must protect the rights of our veterans because they went abroad and protected our Nation when they were called to duty. I find it unfortunate that this legislation only goes halfway towards solving the veterans medical care crisis that exists, the sad fact is that it could do so much more. I can only pray that all members of Congress will give the same effort in fighting for our veterans that they did fighting for us.

Mr. FILNER. Mr. Chairman, as a Senior Member of the House Veterans' Affairs Committee, I oppose this appropriations bill because the amount included for veterans' healthcare is woefully inadequate. An additional $2.6 billion, the amount called for in the Obey amendment which was not accepted, is desperately needed for the coming fiscal year because the number of veterans is growing and the quantity of health care per veteran is growing.

As many of our servicemembers return from Iraq and Afghanistan without legs and arms and with many and varied physical and mental heath care needs, as many of our veterans live longer and need long-term care, a grateful nation should be prepared to provide for them. Shamefully, this appropriations bill does not keep that promise, and I cannot support it.

Finally, the new appropriations structure irresponsibly pits active military needs against veterans needs. Our great Nation can support both!

Mr. LEVIN. Mr. Chairman, I rise in strong support of the Obey Amendment. This amendment provides badly needed funding for veterans health care, and represents the minimum necessary to maintain the current level of services.

While the increase in veterans health care funding in the underlying Military Quality of Life and Veterans Appropriations bill is welcome, it is also inadequate. The underlying bill fails to maintain the level of health care provided to our veterans at time when demand for those services is on the rise. The Obey Amendment corrects this by providing an additional $2.6 billion to ensure that all our veterans receive the health care they have earned and that they deserve.

I am disappointed that the President has failed to provide leadership on this issue. His request for less than a 1 percent increase for VA health care services was completely inadequate to meet the needs of our veterans. Furthermore, for the third straight year, the President proposed doubling prescription drug co-pays to $15 and charging a $250 enrollment fee to many of our veterans. Fortunately, the Appropriations Committee has rejected placing this unfair burden on our Nation's veterans and did not impose these new fees.

I urge the Majority to allow a vote on the Obey Amendment and let the House complete the work of writing a bill that honors our veterans by providing the necessary health care resources. This is the very least we can do for the men and women who have given so much in the service of our country.

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in strong support of this Military Quality of Life and Veterans Affairs Appropriations bill and would like to commend the gentleman from New York—Mr. WALSH—and the gentleman from Texas Mr. EDWARDS—(and their very able staff) for their good work on this legislation.

Mr. Chairman, many of us will spend this weekend doing exactly what we should be doing—returning home to our communities to pay solemn tribute to those brave men and women who have paid the ultimate price in service of our Nation.

We are painfully mindful that we are a Nation at war. Our young fighting men and women are in action around the world, serving with distinction and dedication. To honor them, we should pass this legislation which provides important assistance to our American heroes—past and present—our veterans and our current warfighters.

This legislation: Significantly increases funding devoted to military housing and health care. Increases total funding for the VA by 3.5 percent; Boosts Veterans Medical Services $1 billion above the budget request and $1.64 billion over last year's levels: (Over the last 2 years, funding for Veterans medical care has increased by 18 percent.)

Appropriates $20 billion for the Defense Health Program—a 9.9 percent increase over fiscal 2005. Proposes a 10-percent increase in the basic allowance for military housing; Hikes total military construction 4.2 increase above last year's levels.

Mr. Chairman, our troops—active, reserve and Guard—are enduring extraordinary mental and physical stress during long tours of duty battling an insurgency engaged in intense guerilla warfare. Clearly, these troops will have special needs, including mental health needs, when they rotate from the combat zone. I am proud that this bill goes to extraordinary lengths to fund treatment of Post Traumatic Stress Syndrome, and doubles funding for mental health research.

We know from experience that the mental health and physical health of our troops are closely linked, and mental health disorders can exacerbate or even induce physical disorders. Returning service men and women need to be treated for both through integrated physical and mental health care and this bill recognizes that fact on many important levels.

Mr. Chairman, I would also like to point out what is NOT in this bill, namely higher copays at veterans health care facilities and new annual surcharges for certain categories of veterans.

Mr. Chairman, we are a Nation at war. And our young fighting men and women have real needs. Our veterans have real needs.

I want to thank the Appropriations Committee for providing for those needs and urge support for the bill.

Mr. NUSSLE. Mr. Chairman, when the Appropriations Committee realigned its subcommittees earlier this year, one of the larger challenges fell to the measure we are considering today—the Military Quality of Life and Veterans Affairs appropriations bill. The bill provides benefits, housing, and health care for our military troops and their families; and ensures that our veterans—who have given so much for our Nation—continue to receive pensions, readjustment benefits, loans, and medical care. I am pleased to rise in full support of the bill the appropriators have crafted.

MILITARY QUALITY OF LIFE

In structure, H.R. 2528 adds considerably to the previous Military Construction bill by including the Department of Veterans Affairs; the Defense Health Program; the military personnel base allowance and housing accounts; the military facilities, sustainment, restoration, and modernization accounts; the military environmental restoration accounts; and a number of small related agencies.

The bill is consistent with the levels established in H. Con. Res. 95, the House concurrent resolution on the budget for fiscal year 2006, which Congress adopted as its fiscal blueprint on April 28th. It stays within the 302(b) allocation to the subcommittee, as provided by the full Appropriations Committee pursuant to the budget resolution. Consequently, it does not violate section 302(f) of the Budget Act, which prohibits consideration of bills in excess of the 302(b)s.

[I should note that the Congressional Budget Office [CBO] has recast the 2005 enacted levels into the new subcommittee structure for this year's appropriations bills, so we can make year-to-year comparisons. Also, please be aware that CBO's figures, which I am using, employ base figures and categories that may differ slightly from those published by the Appropriations Committee.]

H.R. 2528 provides $53.5 billion to the Department of Defense [DoD]. Of that amount, $20 billion is for the Defense Health Program, which provides top-notch medical care to our service members and their families at little or no cost to them. This amount represents a slight increase over the President's request and an increase of $1.8 billion over the 2005 enacted level. This bill also funds the military construction and family housing accounts used by DoD to provide our service members and their families quality housing. The funds made available in this bill for base allowance and housing—$13.3 billion—also ensure that those serving our country are able to afford to live in quality housing whether on or offbase. This represent an increase of $1.2 billion over the 2005 enacted level.

H.R. 2528 provides $31.5 billion in discretionary funds for the Department of Veterans Affairs [VA]. Most of this amount—$28.8 billion of it—is for the Veterans Health Administration, which provides medical care to our Nation's veterans, medical research, medical facilities, and medical administration. The largest component is medical care, which is funded at $21.0 billion, an increase of $745 million over the President's request and an increase of $1.1 billion, or 6 percent, over the 2005 enacted level. The bill does not include a medical care enrollment fee or an increase in prescription drug copayments. H.R. 2528 provides total discretionary funding for the Department of Veterans Affairs of $33.7 billion, an increase of $637 million above the President's request and an increase of $2.9 billion, or 9.5 percent, above the 2005 enacted level.

H.R. 2528 does not contain any emergency-designated BA, which is exempt from budget limits. The bill contains no rescission of previously enacted discretionary BA.

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I would also like to acknowledge a specific provision that benefits the National Guard in my State. The measure includes $431,000 for planning and design of a field maintenance shop at Readiness Center in Iowa City.

THE BUDGET RESOLUTION/CONCLUSION

As I have noted before, the budget resolution provides a total allocation for discretionary appropriations of $843 billion in fiscal year 2006. This relatively tight spending level requires significant effort by the Appropriations Committee to set priorities and make choices. As we continue the appropriations season, I commend Chairman Lewis and our colleagues on the Appropriations Committee for meeting the needs of the American public within the framework established by the budget resolution.

In conclusion, I express my support for H.R. 2528.

Mr. EDWARDS. Mr. Chairman, I have no other speakers on this side, so I yield back the balance of my time.

Mr. WALSH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies, for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $1,602,552,000, to remain available until September 30, 2010: *Provided*, That of this amount, not to exceed $168,804,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor.

AMENDMENT OFFERED BY MR. MELANCON

Mr. MELANCON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MELANCON:

Page 2, line 15, insert after the dollar amount the following: "(reduced by $1) (increased by $1)".

Page 10, line 6, insert after the dollar amount the following: "(reduced by $169,000,000)".

Page 31, line 1, insert after the dollar amount the following: "(increased by $23,000,000)".

Page 34, line 21, insert after the dollar amount the following: "(increased by $8,000,000)".

Page 36, line 9, insert after the dollar amount the following: "(increased by $6,000,000)".

Page 37, line 8, insert after the dollar amount the following: "(increased by $9,000,000)".

Page 37, line 20, insert after the dollar amount the following: "(increased by $7,000,000)".

Mr. MELANCON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. MELANCON. Mr. Chairman, as I begin my remarks, let me say that in my first 2 days as a newly sworn-in Congressman, I had the unfortunate experience of attending seven funerals for young men within a 20-mile radius of my home.

I bring this war-related veterans service amendment to you today. This amendment provides an additional $53 million in urgently needed funding for items critical for veterans returning from the war. The increased money for vets is paid for by cutting back this year's funding for the next round of the BRAC by 9 percent.

The amendment will provide $8 million for combat-related trauma care. The VA is currently operating four polytrauma centers for research. education and clinical activities on complex multitrauma associated with combat injuries. The important work of these centers needs to be expanded and demands dedicated funding.

Six million dollars is provided for hardware and software to support telemedicine initiatives to allow the polytrauma centers to support wounded troops once they return to their homes. Long-term follow-up is particularly problematic for Reservists and National Guardsmen who return to their communities without the support of nearby military bases.

Nine million dollars is added for medical and prosthetic research, which is needed to support current spending levels for VA research. Last year, this was funded at $402, but the bill only includes $393. a $9 million cut. Unlike NIH. VA research is uniquely focused on veterans' health issues. It investigates new prosthetic devices, infectious disease. the effects of various environmental hazards, postdeployment mental health and war-related illnesses. Veterans returning from the global war on terrorism will all benefit from this research. It should not be cut.

Provide retroactively $23 million for war orphans: Surviving spouses with minor children are eligible for Dependency and Indemnity Compensation to assist the families with immediate and transitional needs after the death of a spouse. Right now, only servicemember families whose spouses die after November 30, 2004. receive this $250 per month benefit for 2 years. This amendment will help approximately 4,100 spouses with children whose servicemember spouse died during the war on terrorism between September 11. 2001, and November 30, 2004.

This will also provide $7 million for 100 additional staff who process claims for compensation and pension benefits. Veterans coming home from the war deserve quick response to their claims, but as of May 21, 2005. over half a million claims for compensation and pension benefits were pending at VA regional offices. This includes 342,811 claims by veterans who are seeking a disability rating.

I propose a BRAC offset. The administration requested $1.88 billion for fiscal year 2006 for the new round of BRAC. While the administration was formulating this request, the DOD consistently was stating that there was about a 20 to 24 percent excess capacity in military installations. Then, on May 12, just 2 weeks ago, Secretary Rumsfeld reported at a press conference that the new BRAC list would only cut between 5 and 11 percent of excess capacity.

The 2005 BRAC round will actually require less than half of the closure and realignment activities originally projected. The administration's budget request reflects much more money than will be needed to be spent for BRAC activities in fiscal year 2006.

The bill already cuts $310 million from the BRAC request, and the program would not suffer with an additional $169 million cut. This is well under the $180 million in additional cuts that was approved by the Committee on Armed Services.

While it is important to begin funding the implementation of the new BRAC round, this money is the first installment in a process that will take several years. By contrast, money for veterans' health is urgently needed, especially in the critical areas funded in this amendment. We need to take care of our servicemen and -women returning from the war as they come home.

Mr. WALSH. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes.

Mr. WALSH. Mr. Chairman, I would like to welcome the gentleman to the Congress. We are very proud and happy that he is here, and I hate to oppose the very first amendment that he is offering, but I think it is the responsible thing to do.

We believe this bill is a balanced bill that addresses all of the needs of the Nation in a fair manner. This amendment would cut $169 million from the funding required to carry out the BRAC recommendation. This cut would slow down the cleanup and disposal of closed bases for this round, and also the realignment of bases, and will therefore negatively impact the economies of those communities by stalling the reuse and development of that land.

Now, the gentleman is from Louisiana. As we are all aware, there were a number of closures and realignments in the State of Louisiana, particularly around Baton Rouge and New Orleans, if this amendment were to pass, the redevelopment of those bases and properties. and I am sure land values are quite high in New Orleans and people would like to redevelop those properties. that would stall. It would be delayed. It would cause confusion. And I suspect that others Members of the Louisiana delegation may not want to support this because it will definitely affect their communities.

I would also offer that at this point we are talking about a list of proposed closures. We do not know exactly which bases will be closed or realigned until the process is over.

We do know one thing, though. that this $169 million that the gentleman would like to take out of BRAC will not get you, dollar for dollar. the money that you would like to see spent in veterans' health care.

Because of our budget rules. this money that is in the BRAC fund, the $169 million that the gentleman would like to cut from BRAC, will only get $30 million. It would only free up $30 million in 2006 for the purposes that the gentleman has described.

The reason is because. again. under our budget rules, this money in BRAC spends out or outlays at a rate of only 15 percent. So, in effect, this is penny wise and pound foolish, because you lose almost $170 million in the BRAC funding to get $30 million in veterans' health. That money would be much better spent in BRAC, because you will get the full benefit of $170 million.

The bill that we presented does much to improve VA health care by adding $1 billion to the budget request. This results in an 8.5 percent increase over last year and over a 40 percent increase since the year 2001. So as I have said before to Members who appeared before the hearing, members of the veterans community, the House has the power of the purse. We establish our priorities by how we allocate funds, how we appropriate funds. And other than Defense health, no area, no budget within the Federal budget, has increased the way veterans' health care has. This would be an 18.2 percent increase in 2 years in veterans' health care.

So this would do great harm to the BRAC and it would do little to impact on veterans' health care. This comes at a high cost to BRAC, especially when one considers the large increases that we have already provided in veterans' health care programs.

Mr. Chairman, I would urge that the Members oppose this amendment.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Louisiana (Mr. MELANCON).

Mr. MELANCON. Mr. Chairman, I thank the gentleman from New York (Chairman WALSH) and the ranking member, the gentleman from Texas (Mr. EDWARDS), and I thank the gentleman from New York (Mr. WALSH) for the welcome to the floor of the House. to the Chamber. It is an honor to be here.

I, too, regret that the gentleman has to oppose my amendment.

Mr. OBEY. Mr. Chairman, reclaiming my time, I simply want to say that I congratulate the gentleman for offering this amendment. I would say that I greatly respect the chairman of the subcommittee, but I disagree with the implication of one thing that he said. He is evidently suggesting that because of a difference in outlay rates between these two accounts, that we would not get the full amount in the amendment, or that the full amount in the amendment would not be immediately made available for the purposes of the amendment.

I would simply point out that whether it is $79 million being redirected or $53 million being redirected, it is still better than nothing.

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I would also say that BRAC is going to go on for a long, long time. We have no idea how much money we are going to need for BRAC, and this Congress will be adjusting what it provides for BRAC many times over, the next 7 or 8 or 9 years. But the fact is that the troops coming home now need these services now. I do not think that anyone believes that either the budget amount or the amount in the committee is fully sufficient, given the needs of the troops.

So I would urge a "yes" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. MELANCON).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MELANCON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana (Mr. MELANCON) will be postponed.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

In addition, $50,000,000, to remain available until September 30, 2007, for overhead cover systems to support force protection activities in Iraq: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,109,177,000, to remain available until September 30, 2010: *Provided*, That of this amount, not to exceed $36,029,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,171,338,000, to remain available until September 30, 2010: *Provided*, That of this amount, not to exceed $91,733,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $976,664,000, to remain available until September 30, 2010: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $107,285,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $410,624,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $225,727,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $138,425,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $45,226,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, $110,847,000, to remain available until September 30, 2010.

NORTH ATLANTIC TREATY ORGANIZATION

SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, $206,858,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $549,636,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $803,993,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $218,942,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $588,660,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, $1,236,220,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $755,319,000.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to enter into a colloquy with the chairman of the Subcommittee on Military Quality of Life and Veterans Affairs of the Committee on Appropriations.

First of all, I want to take a moment to commend the gentleman from New York (Mr. WALSH) and the committee for bringing this important pending bill to the floor and providing resources to our military and those who serve in our military. I thank him for his leadership in the United States House of Representatives and for his service to our Nation.

I had intended to offer an amendment to add $1.3 million to the Army National Guard construction account in order to complete the design of a joint National Guard Reserve Center in Daytona Beach, Florida. Last year, through the good work of this appropriations subcommittee, the Subcommittee on Military Construction appropriated $789,000 in fiscal year 2005 funding to begin the design, and that funding is now being depleted.

Mr. Chairman, this project is the Florida National Guard's number one priority in the 2012 to 2013, 5-year plan and will be included in the President's budget for the 2007 budget.

I am concerned that possibly cutting the funding or not providing the funding for this project now may negatively impact on the Florida National Guard's ability to move forward with this important project that is now some nearly 8 years behind schedule.

I would ask the gentleman from New York whether he can commit to working with me during the conference on this bill to ensure that funding or adequate attention and language is in the final bill.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from New York.

Mr. WALSH. Mr. Chairman, I congratulate the gentleman from Florida for his hard work and his dedication to getting this base back on track, and I will be happy to work with the gentleman from Florida as we go forward.

Mr. MICA. Mr. Chairman, I thank the gentleman.

Mr. CHANDLER. Mr. Chairman, I move to strike the last word for the purpose of entering into a colloquy with the gentleman from New York (Chairman WALSH).

Mr. Chairman, I would like to enter into a colloquy to discuss a funding matter concerning the Assembled Chemical Weapons Alternatives program.

I rise today, Mr. Chairman, to bring attention to a significant funding problem that, if it is not solved, could halt the destruction of dangerous chemical weapons stockpiles in Richmond, Kentucky and Pueblo, Colorado.

Within the last 2 months, there have been significant changes in the status of what is known as the ACWA program which manages the Blue Grass Ammunition Demilitarization Facility at the Blue Grass Army Depot in Kentucky and at the Pueblo Chemical Depot in Pueblo, Colorado.

Due to recent Department of Defense decisions, the President's fiscal year 2006 budget no longer reflects the funding requirements needed for the Blue Grass site.

If the United States is to meet the 100 percent extended destruction deadline of April 2012 set by the Chemical Weapons Convention, a total of $31 million in funding needs to be allocated to the Military Quality of Life Chemical Demilitarization Construction account.

This $31 million would come in the form of a zero-sum adjustment to the President's budget, as he had included a $33 million request for ACWA under the RDT&E account.

I recognize that this bill does not have jurisdiction over the RDT&E account, which complicates the transfer of these funds. However, I request that when the House and Senate conferees meet to reconcile the two versions of this bill, that they consider adding these vital military construction funds to the ACWA program.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from New York.

Mr. WALSH. Mr. Chairman, I thank the gentleman.

I am aware that the Department of Defense wants to revise the budget request for this program. I am also aware that the Department does not want to submit a budget amendment. The gentleman from Kentucky is correct, the jurisdiction complicates the transfer of funds from RDT&E to the Chemical Demilitarization Construction account, and the timing of this request is also a complicating factor. However, I assure the gentleman from Kentucky that this issue will be kept in mind during the conference consideration of this bill.

Mr. CHANDLER. Mr. Chairman, reclaiming my time, I thank the gentleman from New York for his recognition of both the funding needs of the ACWA program and the need to dispose of these dangerous weapons that threaten the safety of communities in Richmond, Kentucky and Pueblo, Colorado.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $46,391,000.

Mr. MEEHAN. Mr. Chairman, I move to strike the last word to engage in a colloquy with the gentleman from New York (Chairman WALSH).

Mr. WALSH. Mr. Chairman, if the gentleman will yield, I would be pleased to engage in a colloquy with my friend, from the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, as the gentleman from New York is aware, over 75 million Americans suffer serious pain, and over 50 million of these endure serious pain with a duration of 6 months or more. Many of these Americans are being treated in facilities within the Department of Veterans Affairs. Currently, available treatment mechanisms do not cure the pain and usually involve medications that are hardly more effective than a placebo, while introducing the risk of serious side effects. Recent clinical findings are causing widespread concern that pain killers available through prescription and over the counter are placing users at additional risk.

As the chairman of the appropriations subcommittee that must find funding to pay for these medications, the gentleman from New York has an important role in directing the Department of Veterans Affairs to use their medical dollars wisely.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. MEEHAN. I yield to the gentleman from New York.

Mr. WALSH. Mr. Chairman, I am aware of those facts and of the significant cost to society in the form of dollars and the quality of life.

I am also recently aware that research being done in the gentleman's district may lead to significant changes in how we treat pain and offers the promise of reducing the side effects. This research in the area of photon mediated treatment for pain, in effect using light and its associated heat, offers enough hope that I would suggest it as an area of further research within the Department of Veterans Affairs.

Mr. MEEHAN. Mr. Chairman, reclaiming my time, I thank the gentleman for his remarks and look forward to working with him as he moves this bill forward and into conference. I would hope that the conference statement of managers would include a suggestion to the Department of Veterans Affairs that they consider doing research in this area.

Mr. WALSH. Mr. Chairman, if the gentleman will continue to yield, I thank the gentleman and pledge to do all I can to work with the other body to put some language on this subject in the statement of managers when we get to conference.

Mr. MEEHAN. Mr. Chairman, I thank the gentleman from New York.

Mr. FARR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage with the gentleman from New York (Chairman WALSH) in a brief colloquy, if he would be so kind, on the subject of cleanup at closed bases.

Mr. WALSH. Mr. Chairman, if the gentleman will yield, I am happy to enter into a colloquy with my friend, the gentleman from California.

Mr. FARR. Mr. Chairman, I rise to bring to the attention of the House a problem that desperately needs attention, which is cleanup at our closed military bases. I realize that in today's tight budget situation, we have difficult choices to make, but I think it is critical that the Members of this body realize that the issue of cleanup at military bases, both the active bases and the closed bases, but especially at those that are closed, is literally a time bomb.

Mr. Chairman, I know the gentleman from New York (Chairman WALSH) has tried to accommodate the cleanup needs of closed bases. Through the gentleman's efforts, this bill provides $377 million in BRAC money for previous rounds of closed bases. Most of this will go to cleanup, but that is far from enough to complete the cleanup and transfer this land to others so that economic growth can occur.

To my colleagues I say, if we are serious about BRAC, we have to get serious about cleanup. DOD officials claim that earlier rounds of BRAC have saved about $7 billion a year, but that is false savings when the Defense Science Board Task Force on UXO, unexploded ordnances, in February of 2004, put the cost of unexploded ordnance cleanup between $26 billion and $52 billion.

Just this past January, the GAO reported that $3.6 billion remains to be cleaned up at closed bases, and identified the base in my district, closed base Fort Ord, as having yet another $322 million in cleanup costs before the land can be transferred. This is on top of the $327 million that has already been spent on the cleanup at Fort Ord.

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The scope of this problem is large, and Fort Ord is not the only problem. The same GAO report shows that Kelly Air Force Base in Texas still has about $209 million in cleanup costs outstanding. Seneca Army Depot in New York has $72 million in cleanup costs remaining. Savanna Depot in Illinois has $55 million, and the naval air station in South Weymouth, Massachusetts, has $39 million. The five bases cited carry a $697 million cleanup price tag, yet the bill is only able to provide $377 million for that purpose, less than half.

If, 10 years after the last BRAC round, we are still struggling to remove these bases from the Pentagon's inventory, but cannot because of cleanup problems, how are we going to cope with a round that was just announced a week ago?

BRAC has become all about disposal of military property. We have forgotten about the part of BRAC that is supposed to be about conversion of military property.

Disposal must contain a more aggressive component of cleanup so that conversion and, therefore, economic recovery can take place more quickly and more effectively.

I would suggest one option for us to consider is to rescind the MILCON money in this bill currently slated for bases that are on the closure list, and reallocate it to the BRAC cleanup. Closing bases do not need new construction, but they will need cleanup.

Mr. WALSH. Mr. Chairman, I thank the gentleman from California (Mr. FARR), who is a respected and active member of the subcommittee and knows these issues very well. Certainly, the gentleman has made us all more sensitive to the problems of unexploded ordnance and hazardous wastes at closed bases, and I commend the gentleman for that.

While I do not dispute the gentleman's logic, I cannot endorse his suggestion at this time.

As we all know, the Secretary of Defense released his BRAC recommendations to the BRAC Commission on May 13. At this time, they are just that, recommendations to the Commission. It is the Commission who will present the final report to the President later this year.

However, I will commit to my friend, the gentleman from California (Mr. FARR), that we will be following this process closely, and as we move to conference on this bill, I will work with him to adjust the funding available for cleanup of bases closed in previous BRAC rounds.

Mr. FARR. Mr. Chairman, I thank the gentleman. I appreciate his commitment to address this matter in conference and eagerly look forward to working with the gentleman on it.

I thank the chairman for engaging in this colloquy.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, $2,500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

BASE REALIGNMENT AND CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $377,827,000, to remain available until expended.

AMENDMENT NO. 2 OFFERED BY MR. BLUMENAUER

Mr. BLUMENAUER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. BLUMENAUER:

Page 9, line 22, insert after the dollar amount the following: "(increased by $351,000,000)".

Page 10, line 6, insert after the dollar amount the following: "(reduced by $351,000,000)".

Mr. BLUMENAUER. Mr. Chairman, I appreciated what we just heard a moment ago from the chairman and my friend, the gentleman from California (Mr. FARR). And I appreciate the gentleman's long involvement with this issue and sensitizing us to it.

I am deeply concerned that the parameters that the gentleman from California outlined are such that we are going to have to take a serious step back and do something this Congress. I mentioned earlier, I know that the new subcommittee's configuration gave it broad scope with lots to do. But it is time for us to take a step back and give proper focus to the problem of military cleanup on bases that have been realigned and closed.

My amendment would simply say, before we start the fifth round of base closure, the fifth round, that we ought to take some of that money that has been designated for the fifth round and instead keep faith with the 17 communities that are waiting, now since 1988, to have their problems solved.

We are all aware of the trauma that can take place in communities when bases close, how they lose jobs. They are upset. But to compound it by leaving people with a toxic white elephant is absolutely unacceptable.

I have before me here a list of the 1988 BRAC installations and the estimated date of the cleanup. At the top of the list, in no particular order, in Sacramento, California. They are going to have to wait till the year 2072 to be able to fully clean this up.

As we go down the list, it is absolutely unacceptable. It is one of the reasons that we find such apprehension regarding the BRAC process, although there is the promise of redevelopment. There are opportunities that we have seen, for example, in Lowry Air Force Base in Denver. Where it is done right, bases can be cleaned up, it can add economic vitality to communities. The sorry fact is that we have not kept faith with the communities that have suffered base closure.

I strongly urge that each and every Member of Congress take a step back. To the best of my knowledge, we have not voted specifically to put money in the cleanup process in at least the 9 years that I have been in Congress, and I have not been able to identify a specific vote before that.

The fact is that Congress is missing in action. There are people in the Department of Defense who are skilled, eager and interested to go. There is a significant private sector range of activities, businesses that are ready to do their job in base cleanup.

What is missing is that Congress has never made it a funding priority. And at the top, at the Pentagon, despite having some great people through the last two administrations who understand this problem, it has never been a top priority of the Pentagon, until we come around again talking about base closures.

I am strongly suggesting that we step forward, that we allocate this $351 million, put it here, so that we are keeping faith with these people. The fact is that if we were to approve this amendment, it would still be only a third of what is necessary, less than a third of what is necessary to deal with prior base closures. And frankly, that is just the tip of the iceberg because there are 2,307 formerly used defense sites in every State of the Union that are littered with unexploded ordnance and military toxins.

Mr. Chairman, I appreciate the opportunity to bring this amendment forward. I appreciate the opportunity of working with this subcommittee in the future, but I want to make clear that it is time for Congress to no longer be missing in action and to take this small step to keep faith with these people who have been waiting for 17 years for the Pentagon and Congress to do the cleanup job that faces them.

Mr. WALSH. Mr. Chairman, I rise in opposition to the gentleman from Oregon (Mr. BLUMENAUER's) amendment.

Mr. Chairman, let me begin by saying that I know the gentleman from Oregon (Mr. BLUMENAUER) brings a tremendous amount of history to this issue and expresses the concerns that all of us feel for communities that have this long-term problem. So I accept his genuineness and his attention to this. And pressure is a good thing.

Let me state that we have just discussed this with my colleague on the subcommittee, the gentleman from California (Mr. FARR), and we intend to work on this when we get to conference with the Senate.

I would just point out that the Navy recently sold the former Marine Corps Air Station at El Toro in California for $650 million, which was a much higher price than was anticipated. Since all land sale revenues must come back into the priority BRAC account, there will be some additional funds available in fiscal year 2006 for environmental cleanup.

This amendment is probably not necessary. DOD has indicated that by the year 2008 it will have either completed the cleanup or put into place all the remedial systems it needs for cleanup at all but two installations. Once in place, the cleanup will take time, and more funds will not necessarily speed up the process.

These are areas, for example, where you have a range, firing range, where mortars or small arms or other weaponry was fired and remains unexploded in the ground. It will take time to find that. It is a very dangerous process. I am sure it is a very tedious, stressful process, but it has to be done right, so it does take time.

I would also note that by taking money out of the 2005 BRAC account, the gentleman would actually compound the very problem he is trying to correct for the upcoming BRAC. It will slow down the cleanup and disposal of closed bases for this round and will, therefore, negatively impact the economies of those communities by stalling reuse development.

We do intend to deal with this issue in conference. And we will look at what funds may reasonably be added to the prior BRAC account to accelerate environmental cleanup. We need to make sure that more funds will actually translate into more effect. Since I do not know, at this time, what that plus-up could be, I am afraid that I must oppose the gentleman's amendment.

Mr. LARSON of Connecticut. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to rise and associate myself with the remarks of the distinguished gentleman from Oregon (Mr. BLUMENAUER) and strongly support his amendment. Let me also add and thank the very thoughtful colloquy that was conducted by the gentleman from California (Mr. FARR) and the distinguished chairman from New York (Mr. WALSH). Clearly, his involvement and assistance is much needed and greatly appreciated.

But as a State and, I daresay, for the Northeast as an entire region that has been targeted, when you look at statistically what is going on here in the 17 communities, as the gentleman noted, that are in dire shape, and you look at the length of time as we project out, you now understand why communities have such enormous apprehension about this. Or as Peter Finley Dunne would say, "Trust everyone, but cut the cards." And in the case of the BRAC hearings, we feel that we need a new deal.

I further would just say in listening to the distinguished Chair, the gentleman from New York (Mr. WALSH), and again, I applaud him personally for his efforts, while there will be more money available for cleanup from the sale of the El Toro Marine Air Station, the amount needed is over $3.6 billion. Even with these new funds, we are less than one-third of the way there in terms of the funding. One-third of the way there, and we are adding on all these new communities.

And in looking at what the BRAC findings initially have projected, and especially looking at the State of Connecticut in terms of the cleanup, how drastically underestimated they have been in those areas as well. So these are very disturbing, and that is why I again thank the gentleman from Oregon (Mr. BLUMENAUER) for raising this very important and thoughtful amendment, a common-sense approach, that before we proceed to a fifth round, that we make sure that we address these very important issues that impact all of our communities.

If we are going to have trust in this process, as the gentleman has appropriately pointed out, then Congress cannot abrogate its responsibility. It has to assume that responsibility and assure these communities that are going to be impacted, if we are to proceed in a strategic and very important, common-sense approach to this issue.

Mr. FARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment to discuss it in a broad sense. I am also very supportive of our chairman, the gentleman from New York (Mr. WALSH). I am on the committee. But this is an opportunity for us to focus in on the need for base cleanup.

And it is an easy expression to say base "cleanup," the word, but the process is elaborate because there are all kinds of cleanup. Essentially, the cleanup that most people know that would be in any city where you had a motor pool, where you had garages and fuel spent, all bases have that. Those are common kinds of industrial types of cleanup.

You have areas that most communities do not have, which are firing ranges. Most of that is lead cleanup. Those are not necessarily unexploded ordnances because you fire in for targets. You have cleanup because big bases have their own places that they dumped, in many cases, the old days they just dumped the fuel, poured it on the ground, but they also had solid waste sites. And as the rains came the leachates through the solid waste site get into the groundwater. So we have now ground water contamination. That is another cleanup.

And lastly and most elaborately, you have one cleanup that only the Federal Government does and only people that have been trained by the Federal Government, even though they may be in the private sector, are authorized to do. We do all the unexploded ordnance cleanup; nobody else in the world does that. And that cleanup is very specific because, as the chairman said, it is dangerous. It is unexploded ordnances that are in the ground and oftentimes buried. And it is slow.

But the fact of the matter is that if these were private lands, the private sector would have to clean it up. That is the law. And we know about Superfund law and things like that. When it is the government they can take more time and do it at their own pace, and particularly the military, because their mission is to go fight military battles.

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The last thing that you want to do is spend a lot of money just trying to clean up the ground which is left behind. And on that ground, are some buildings that, I might add, are old buildings that have lead paint and asbestos in them which have to have certain protocols for getting rid of the lead paint and asbestos.

So unless this attention is given, what people do is they put this stuff on the back burner and say, that is expensive. Let us go at it slowly. We will not have to appropriate enough money to it. You have communities now coming and begging to the military saying, why do you not just give us the money. This is called a buy-out. I am working on this in my own district to see if you can buy a buy-out so that the government can put up the money and the community will accept the responsibility for getting it done. They may be able to get it done faster. They think they can.

So these are the kinds of issues that I think it is important that we focus on. I really applaud the gentleman from Oregon (Mr. BLUMENAUER) for not only bringing this amendment to the floor, but he has been doing this for years by trying to tweak the conscience of Congress to say these things are about cleanup. It is a responsibility that the private sector knows they have to do, and we in the public sector ought to be doing the same and particularly the military.

I might add, it is not all criticism of the military. Recently, since the environmental laws have come along, I found that the military has been a very good steward of these laws. In fact, now on all our ranges and all the things that the military does, they have reports of where every shell goes. They keep those reports. They know where the contamination is. They try to do cleanup as they go along, and they try to minimize any kind of adverse impacts on the environment. I applaud the military for that.

We have to be good stewards and good citizens of our communities where our military bases are and take the responsibility for cleaning up these extraordinary amounts of messes, particularly at a time when you want to use that land for economic recovery. And you cannot even get on the land; you cannot walk on it. They put a fence around it. That is the worst thing that can ever happen to a community and to closed bases.

I applaud this effort to bring attention to all of the Members of Congress that we have got a real problem here, and that we have got to focus some attention and figure out the resources that we need to get the job done. I applaud the chairman for his work and conscientiousness in trying to see that we might be able to go some money in conference to address this problem.

Mr. GINGREY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today I rise in support of the Blumenauer amendment that would shift funding for the 2005 BRAC round into accounts that would be used to finish the cleanup of all the installations closed in previous rounds, all of which, by the way, occurred over 10 years ago.

The Department of Defense is currently conducting a review of the military's overseas facility structure as well as the upcoming Quadrennial Defense Review, the QDR. These are important and very telling studies that have not yet been completed that will give us in Congress a much clearer picture of our military's future landscape and needs; and meanwhile, we should take the time to finish the job we started in the late 80s.

Mr. Chairman, yesterday morning I flew home to Marietta, Georgia, in my district, where I had the pleasure of meeting one of the nine BRAC commissioners as he toured Naval Air Station Atlanta in the 11th district. While we were there, a comment was made that the commander of the facility would like to have rolled the 40-plus planes, Humvees, and Cobra helicopters out on the tarmac for review, but they were all deployed in the war on terror.

Mr. Chairman, the DOD has recommended that these assets be realigned elsewhere; yet I am concerned that proper due diligence has not been paid to consider the overall force structure needs of the military, the very purpose of the QDR that will not be completed for months.

If BRAC is to occur, I believe that it can be carried out in a much more effective manner once we have a better idea about what the future holds. So for that reason, I believe that we should allocate our scarce resources to completing the cleanup necessary for those communities already impacted by BRAC to reclaim the land and put it to good use.

Once again, Mr. Chairman, I fully support the Blumenauer amendment.

Mr. CASE. Mr. Chairman, on June 22, 2004, I came to the floor of this house in support of the gentleman from Oregon's (Mr. BLUMENAUER) amendment to the Fiscal Year 2005 Defense Appropriations bill relative to unexploded ordnance (UXO). I rise again today in support of my colleague's UXO amendment.

My home state of Hawaii is the perfect example of how and why funds for the cleanup of UXO are very much needed. Several years ago, the Department of Defense (DOD) identified over fifty DOD-registered locations in my state that have not been cleaned up. These sites continue to present significant and ongoing public safety risks.

One of these locations is the Waikoloa/Waimea Formerly Used Defense Site (FUDS) on my Island of Hawaii. The site includes over 137,000 acres and all or parts of the communities of Waikoloa and Waimea (Kamuela). The U.S. Navy acquired the area in 1943 through licensing agreements for use as a military training camp and artillery range. U.S. Marine Corps maneuvers and intensive live-fire training included hand grenades, 4.2-inch mortar, and 37 millimeter (mm), 75mm, 105mm, and 155mm high explosive shells.

The first ordnance cleanup activity occurred in 1946. In 1954, military ordnance disposal units began to identify and dispose of thousands of munitions. The United States Army Corps of Engineers determined the site was eligible for the Defense Environmental Restoration Program Formerly Used Defense Site in 1992.

An engineering evaluation/cost analysis, completed in January 2002, designated the entire property as a potential ordnance health and safety risk. Eleven areas within property (48,000 acres) were determined to have the highest risk, including all of the Waikoloa Village and the developing urban area from Kawaihae to Waimea. In that analysis, the United States Army Corps of Engineers estimated that the cost to complete the cleanup for the entire site is $653 million.

Mr. Chairman, our military plays a vital role in our society and throughout the world. My state of Hawaii is the location for the regional headquarters of each of the service branches as well as the Pacific Command. Hawaii proudly continues to play a vital role in America's military, commercial, and diplomatic relations with countries in the Pacific Rim and beyond.

However, I strongly believe that the military must also follow practices espoused by parents, teachers, and camp counselors alike: Leave any place you have visited cleaner than when you arrived. Along these lines, the United States Army Corps of Engineers is ready and willing to be better engaged in the cleanup process. Congress must now take the first step of appropriating sufficient funds for this important action.

I again wish to commend the gentleman from Oregon (Mr. BLUMENAUER) for his continued diligent work on this important issue. I look forward to working with him in the future and urge my colleagues to support this important, vital amendment for communities throughout our country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. BLUMENAUER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BLUMENAUER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon (Mr. BLUMENAUER) will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. BLUMENAUER

Mr. BLUMENAUER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BLUMENAUER:

Page 9, line 22, insert after the dollar amount the following: "(increased by $55,000,000)".

Page 10, line 6, insert after the dollar amount the following: "(reduced by $55,000,000)".

Mr. BLUMENAUER. Mr. Chairman, it is my intention not to unduly delay this effort. I will withdraw this amendment at the end, but I want to finish the thought because I deeply appreciate what my colleagues have mentioned referencing the unexploded ordnance issue.

I want to agree with what the gentleman from California (Mr. FARR) said, the Department of Defense is making tremendous progress dealing with cleanup of unexploded ordnance.

This is a representative sample of the problem. I will tell you that this picture could have been taken at any of dozens of sites around the country. What is most distressing is that we do not know the full extent of all of the unexploded ordnance that is our responsibility.

A couple of years ago, I led a tour with my colleague, the gentlewoman from the District of Columbia (Ms. NORTON), to the campus of American University where the toxic residue of World War I was still being cleaned up after three efforts. The child care center was closed down. An athletic field was denied access to athletes, and over the fence, the back yard of the $10 million little bungalow of the Korean ambassador was all dug up because they were trying to complete what they hoped might be the final cleanup of this site within the boundaries of the District of Columbia. There are 2,307 sites around the country were formally used sites.

It is true that these amendments, as the chairman says, may take a little money away from the fifth round. It may slow it. I would be prepared to argue that in good faith that it is not going to slow it, but frankly, if we cannot keep faith with the people 18 years ago, maybe we should slow it down before we go to the districts in Georgia and Connecticut and elsewhere around the country. But, in fact, I do not think that will be the case.

This program has been plagued by an on-again off-again effort. We have not geared it up. We have not turned loose the expertise in the military and in the private sector, people who could solve these problems if we had a guaranteed stream of funding.

If we did the research, we would find that more people would be in the business, the cost of the bids would go down, we would develop the technology, and not only would we remove unexploded ordnance that is in every State of the Union, but we would develop technology that would make our fighting men and women safer in Iraq and Afghanistan. It would make civilians safer in Southeast Asia and in Africa and the Balkans.

This is our responsibility, and we have been missing in action too long as a Congress.

The gentleman from New York (Mr. WALSH) talks about the complexity of being able to survey large areas. It takes time. But there is new technology that can speed it up. I have been working with another subcommittee to get funding for what is called Wide Area Assessment. The Defense Science Board says if we would spend a billion dollars over the next 5 years, we could probably identify 8 million acres or more that was not contaminated. We could return it to be wildlife or redeveloped, or it could even be used for other military purposes. It is an example of where, if we do our job, we will save money, we will save lives, we will advance technology, and it will move forward.

I deeply appreciate the time that has been taken this afternoon for this discussion. I appreciate the chairman and ranking member for their engagement in this, for providing feedback to me and my staff and others, for the assurances that in conference we will try to move some of this money around, that the El Toro money that could be used for additional naval cleanup. All this is great, but it is a drop in the bucket of the overall problem. It is less than half of our obligation just for things that we have already closed.

Mr. Chairman, as I said, I am going to withdraw this amendment. I appreciate being able to make the point. I look forward to working with the gentleman, but I would hope that our colleagues will take this seriously because it can have vast implications for military readiness, for the environment, and keeping faith with our communities who expect that we will do our job. Today I hope we will take a step in doing just that.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BASE REALIGNMENT AND CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Realignment and Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $1,570,466,000, to remain available until expended.

BASIC ALLOWANCE FOR HOUSING, ARMY

For basic allowance for housing, for members of the Army on active duty, $3,945,392,000.

BASIC ALLOWANCE FOR HOUSING, NAVY

For basic allowance for housing, for members of the Navy on active duty, $3,592,905,000.

BASIC ALLOWANCE FOR HOUSING, MARINE CORPS

For basic allowance for housing, for members of the Marine Corps on active duty, $1,179,071,000.

BASIC ALLOWANCE FOR HOUSING, AIR FORCE

For basic allowance for housing, for members of the Air Force on active duty, $3,240,113,000.

BASIC ALLOWANCE FOR HOUSING, ARMY NATIONAL GUARD

For basic allowance for housing, for members of the Army National Guard on active duty, $453,690,000.

BASIC ALLOWANCE FOR HOUSING, AIR NATIONAL GUARD

For basic allowance for housing, for members of the Air National Guard on active duty, $248,317,000.

BASIC ALLOWANCE FOR HOUSING, ARMY RESERVE

For basic allowance for housing, for members of the Army Reserve on active duty, $310,566,000.

BASIC ALLOWANCE FOR HOUSING, NAVAL RESERVE

For basic allowance for housing, for members of the Naval Reserve on active duty, $191,338,000.

BASIC ALLOWANCE FOR HOUSING, MARINE CORPS RESERVE

For basic allowance for housing, for members of the Marine Corps Reserve on active duty, $40,609,000.

BASIC ALLOWANCE FOR HOUSING, AIR FORCE RESERVE

For basic allowance for housing, for members of the Air Force Reserve on active duty, $71,286,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, ARMY

For expenses for facilities sustainment, restoration and modernization of the Army, $1,850,518,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, NAVY

For expenses for facilities sustainment, restoration and modernization of the Navy, $1,344,971,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, MARINE CORPS

For expenses for facilities sustainment, restoration and modernization of the Marine Corps, $553,960,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, AIR FORCE

For expenses for facilities sustainment, restoration and modernization of the Air Force, $1,845,701,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, DEFENSE-WIDE

For expenses for facilities sustainment, restoration and modernization of the Department of Defense, $115,400,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, ARMY NATIONAL GUARD

For expenses for facilities sustainment, restoration and modernization of the Army National Guard, $391,544,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, AIR NATIONAL GUARD

For expenses for facilities sustainment, restoration and modernization of the Air National Guard, $184,791,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, ARMY RESERVE

For expenses for facilities sustainment, restoration and modernization of the Army Reserve, $204,370,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, NAVAL RESERVE

For expenses for facilities sustainment, restoration and modernization of the Naval Reserve, $67,788,000.

FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION, MARINE CORPS RESERVE

For expenses for facilities sustainment, restoration and modernization of the Marine Corps Reserve, $10,105,000.

Facilities Sustainment, Restoration and Modernization, Air Force Reserve

For expenses for facilities sustainment, restoration and modernization of the Air Force Reserve, $55,764,000.

Environmental Restoration, Army

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $407,865,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Navy

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $305,275,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Air Force

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $406,461,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $28,167,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Environmental Restoration, Formerly Used Defense Sites

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $221,921,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Defense Health Program

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $19,983,912,000, of which $19,184,537,000 shall be for operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2007, and of which up to $10,212,427,000 may be available for contracts entered into under the TRICARE program; of which $355,119,000, to remain available for obligation until September 30, 2008, shall be for procurement; and of which $444,256,000, to remain available for obligation until September 30, 2007, shall be for research, development, test and evaluation: *Provided*, That notwithstanding any other provision of law, of the amount made available under this heading for research, development, test and evaluation, not less than $7,500,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations.

Administrative Provisions

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than $25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Acts making appropriations for military construction.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. The Secretary of Defense is to provide the Committees on Appropriations of both Houses of Congress with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in "Military Construction" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

SEC. 121. None of the funds made available in this title may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

SEC. 122. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(TRANSFER OF FUNDS)

SEC. 123. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 124. Notwithstanding this or any other provision of law, funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

SEC. 125. None of the funds made available in this title under the heading "North Atlantic Treaty Organization Security Investment Program", and no funds appropriated for any fiscal year before fiscal year 2006 for that program that remain available for obligation, may be obligated or expended for the conduct of studies of missile defense.

SEC. 126. Whenever the Secretary of Defense or any other official of the Department of Defense is requested by the subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives or the subcommittee on Military Construction and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate to respond to a question or inquiry submitted by the chairman or another member of that subcommittee pursuant to a subcommittee hearing or other activity, the Secretary (or other official) shall respond to the request, in writing, within 21 days of the date on which the request is transmitted to the Secretary (or other official).

SEC. 127. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

(TRANSFER OF FUNDS)

SEC. 128. During the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation, "Foreign Currency Fluctuations, Construction, Defense," to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 129. None of the funds appropriated in this title available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 130. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B)).

SEC. 131. None of the funds made available in this title may be used to carry out a military construction project, land acquisition, or family housing project for a military installation approved for closure in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), and the Secretary of Defense may not transfer funds appropriated for such a military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the approval of the Committees on Appropriations of both Houses of Congress.

SEC. 132. None of the funds in this title for operation, maintenance, or repair of housing for general officers and flag officers in the National Capital Region may be used until the Department of Defense submits the report required by section 2802(c) of the Military Construction Authorization Act for Fiscal Year 2005.

Mr. WALSH. Mr. Chairman, I ask unanimous consent that the remainder of title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App. 540 et seq.) and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $33,412,879,000, to remain available until expended: *Provided*, That not to exceed $23,491,000 of the amount appropriated under this heading shall be reimbursed to "General operating expenses" and "Medical services" for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

Page 31, line 1, relating to VA compensation and pensions, insert after the dollar amount the following: "(increased by $26,000,000)".

Page 34, line 21, relating to VA medical services, insert after the dollar amount the following: "(increased by $1,500,000,000)".

Page 36, line 9, relating to VA medical administration, insert after the dollar amount the following: "(increased by $500,000,000)".

Page 37, line 1, relating to VA medical facilities, insert after the dollar amount the following: "(increased by $300,000,000)".

Page 37, line 8, relating to VA medical and prosthetic research, insert after the dollar amount the following: "(increased by $67,000,000)".

Page 37, line 20, relating to VA general operating expense, insert after the dollar amount the following: "(increased by $11,000,000)".

Page 39, line 16, relating to major construction projects, insert after the dollar amount the following: "(increased by $150,000,000)".

Page 41, line 11, relating to minor construction projects, insert after the dollar amount the following: "(increased by $51,000,000)".

At the end of the bill (before the short title) add the following new section:

SEC. 409. In the case of taxpayers with an adjusted gross income in excess of $1,000,000 for taxable year 2006, the amount of tax reduction resulting from the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Public Law 108–27) shall be reduced by 8.125 percent.

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. WALSH. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order is reserved.

Mr. OBEY. Mr. Chairman, let me simply explain the amendment.

As I discussed earlier, under existing law given the tax cuts that the Congress has passed this year, persons making a million dollars or more will on average get a tax cuts of $140,000. Meanwhile, we have a significant squeeze on veterans funding.

Very briefly, my amendment would simply scale back the size of those tax cuts from $140,000 to $129,000. It would use the $2.6 billion saved by that action to add funding to a number of accounts for veterans health care. It would add $1.5 billion more for medical services for returning veterans. It would add $500 million more for increased medical administrative costs. It would add $300 million to keep the VA medical facilities up and running by refurbishing them. It would add $67 million for VA medical and prosthetic research; $201 million to build medical clinics and long-term care facilities; and $37 million for general administrative costs to assist veterans in receiving the prompt attention they deserve.

As has been indicated, the rule that was adopted precludes this amendment from being, or I should put it this way, the rule that is offered makes this amendment subject to a point of order. That means that it cannot be considered unless a point of order is not lodged against it.

I would hope that the majority would not lodge a point of order against it so that we might adjust so very slightly the tax cut for those who are already the most fortunate people in our society economically, and allow this money to be added for veterans health care.

I do not want to take any more of the House's time. I would simply urge an "aye" vote in the event that a point of order is not lodged against the amendment.

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POINT OF ORDER

Mr. WALSH. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of rule XXI. The rule states in pertinent part: An amendment to a general appropriation bill shall not be in order if changing existing law. The amendment does indeed change the application of existing law.

The gentleman from Wisconsin has served for many, many years with distinction on the Committee on Appropriations. He knows full well the powers of the Committee on Appropriations. This is not one of them. The ability to manipulate and change the Tax Code is not within our jurisdiction.

So, Mr. Chairman, with that, I insist on the point of order and I ask for a ruling from the Chair.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

Mr. OBEY. Yes, Mr. Chairman.

Mr. Chairman, the purpose of the Budget Act, when it was passed several decades ago, was to force Congress to make trade-offs between different spending programs and between revenues and spending. The problem is that the way the Budget Act is being used these days, instead of forcing the Congress to face those trade-offs, the process is being segmented, thereby enabling the House to avoid facing those trade-offs.

I think that is unfortunate because it prevents the House from making value judgments that would put veterans' health care, for instance, higher in our value structure than a $140,000 tax cut for somebody making $1 million.

I cannot deny that under the rules of the House, as they are being pursued under the Budget Act, this amendment is not in order. And so, Mr. Chairman, I regretfully concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The amendment is not in order.

The Clerk will read.

The Clerk read as follows:

Readjustment Benefits

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $3,214,246,000, to remain available until expended: *Provided*, That expenses for rehabilitiation program services and assistance which the Secretary is authorized to provide under section 3104(a) of title 38, United States Code, other than under subsection (a)(1), (2), (5), and (11) of that section, shall be charged to this account.

Veterans Insurance and Indemnities

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by 38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487, $45,907,000, to remain available until expended.

Veterans Housing Benefit Program Fund Program Account

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be neccessary to carry out the program, as authorized by 38 U.S.C. chapter 37: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during fiscal year 2005, within the resources available, not to exceed $500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carrry out the direct and guaranteed loan programs, $153,575,000, which may be transferred to and merged with the appropriation for "General operating expenses".

Vocational Rehabilitation Loans Program Account

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $53,000, as authorized by chapter 31 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,242,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $305,000, which may be transferred to and merged with the appropriation for "General operating expenses".

Native American Veteran Housing Loan Program Account

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, $580,000, which may be transferred to and merged with the appropriation for "General operating expenses": *Provided*, That no new loans in excess of $30,000,000 may be made in fiscal year 2006.

Guaranteed Transitional Housing Loans for Homeless Veterans Program Account

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 37, of title 38, United States Code, not to exceed $750,000 of the amounts appropriated by this Act for "General operating expenses" and "Medical administration" may be expended.

Veterans Health Administration

MEDICAL SERVICES

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment and salaries and expenses of health-care employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; $20,995,141,000, plus reimbursements, of which not less than $2,200,000,000 shall be expended for specialty mental health care: *Provided*, That of the funds made available under this heading, not to exceed $1,100,000,000 shall be available until September 30, 2007: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for treatment for veterans who are service-connected disabled, lower income, or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 721 of Public Law 107–314, a minimum of $15,000,000, to remain available until expended, for the purposes authorized by section 8111 of title 38, United States Code.

MEDICAL ADMINISTRATION

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; information technology hardware and software; uniforms or allowances therefor, as authorized by sections 5901–5902 of title 5, United States Code; administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.); $4,134,874,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2007.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities for the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering and architectural activities not charged to project costs; for repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry and food services, $3,297,669,000, plus reimbursements, of which $250,000,000 shall be available until September 30, 2007.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, to remain available until September 30, 2007, $393,000,000, plus reimbursements.

Departmental Administration

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-wide capital planning, management and policy activities, uniforms or allowances therefor; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, $1,411,827,000: *Provided*, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: *Provided further*, That the Veterans Benefits Administration shall be funded at not less than $1,086,938,000: *Provided further*, That of the funds made available under this heading, not to exceed $70,000,000 shall be available for obligation until September 30, 2007: *Provided further*, That from the funds made available under this heading, the Veterans Benefits Administration may purchase up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; and hire of passenger motor vehicles, $156,447,000: *Provided*, That of the funds made available under this heading, not to exceed $7,800,000 shall be available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $70,174,000, to remain available until September 30, 2007.

Construction, Major Projects

For constructing, altering, extending and improving any of the facilities including parking projects under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, or where funds for a project were made available in a previous major project appropriation, $607,100,000, to remain available until expended, of which $532,010,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities; and of which $8,091,000 shall be to make reimbursements as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contract disputes: *Provided*, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, such as portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund and CARES funds, including needs assessments which may or may not lead to capital investments, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 2006, for each approved project (except those for CARES activities referenced above) shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2006; and (2) by the awarding of a construction contract by September 30, 2007: *Provided further*, That the Secretary of Veterans Affairs shall promptly report in writing to the Committees on Appropriations of the House of Representatives and Senate any approved major construction project in which obligations are not incurred within the time limitations established above.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities including parking projects under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, $208,937,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth in such section, of which $160,000,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities: *Provided*, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131-8137 of title 38, United States Code, $25,000,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by section 2408 of title 38, United States Code, $32,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2006 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

SEC. 202. Appropriations available in this title for salaries and expenses shall be available for services authorized by section 3109 of title 5, United States Code, hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefore, as authorized by sections 5901–5902 of such title.

SEC. 203. No appropriations in this title (except the appropriations for "Construction, major projects", and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 204. No appropriations in this title shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under sections 7901–7904 of title 5, United States Code or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)), unless reimbursement of cost is made to the "Medical services" account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 205. Appropriations available in this title for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2005.

SEC. 206. Appropriations available in this title shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from sections 3328(a), 3334, and 3712(a) of title 31, United States Code, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 207. Notwithstanding any other provision of law, during fiscal year 2006, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans' Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the "General operating expenses" account for the cost of administration of the insurance programs financed through those accounts: *Provided*, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 2006 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further*, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further*, That the Secretary shall determine the cost of administration for fiscal year 2006 which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 208. Notwithstanding any other provision of law, the Department of Veterans Affairs shall continue the Franchise Fund pilot program authorized to be established by section 403 of Public Law 103–356 until October 1, 2006: *Provided*, That the Franchise Fund, established by title I of Public Law 104–204 to finance the operations of the Franchise Fund pilot program, shall continue until October 1, 2006.

SEC. 209. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

SEC. 210. Funds available in this title or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management and the Office of Employment Discrimination Complaint Adjudication for all services provided at rates which will recover actual costs but not exceed $29,758,000 for the Office of Resolution Management and $3,059,000 for the Office of Employment and Discrimination Complaint Adjudication: *Provided*, That payments may be made in advance for services to be furnished based on estimated costs: *Provided further*, That amounts received shall be credited to "General operating expenses" for use by the office that provided the service.

SEC. 211. No appropriations in this title shall be available to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits a report which the Committees on Appropriations of the Congress approve within 30 days following the date on which the report is received.

SEC. 212. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: *Provided*, That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: *Provided further*, That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

SEC. 213. None of the funds made available to the Department of Veterans Affairs in this Act, or any other Act, may be used to implement sections 2 and 5 of Public Law 107-287 and section 303 of Public Law 108-422.

SEC. 214. Notwithstanding any other provision of law, at the discretion of the Secretary of Veterans Affairs, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the "Construction, major projects" and "Construction, minor projects" accounts and be used for construction (including site acquisition and disposition), alterations and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in "Construction, major projects" and "Construction, minor projects".

SEC. 215. Amounts made available under "Medical services" are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the Department.

SEC. 216. That such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to "Medical services", to remain available until expended for the purposes of this account.

SEC. 217. Amounts made available for fiscal year 2006 under the "Medical services", "Medical administration", and "Medical facilities" accounts may be transferred between the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts after notice of the amount and purpose of the transfer is provided to the Committees on Appropriations of the Senate and House of Representatives and a period of 30 days has elapsed: *Provided*, That the limitation on transfers is 20 percent in fiscal year 2006.

SEC. 218. Any appropriation for fiscal year 2006 for the Veterans Benefits Administration made available under the heading "General operating expenses" may be transferred to the "Veterans Housing Benefit Program Fund Program Account" for the purpose of providing funds for the nationwide property management contract if the administrative costs of such contract exceed $8,800,000 in the budget year.

SEC. 219. Notwithstanding any other provision of law, the Secretary of Veterans Affairs (Secretary) shall allow veterans eligible under existing VA Medical Care requirements and who reside in Alaska to obtain medical care services from medical facilities supported by the Indian Health Services or tribal organizations. The Secretary shall: (1) limit the application of this provision to rural Alaskan veterans in areas where an existing VA facility or VA-contracted service is unavailable; (2) require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary; (3) require this provision to be consistent with CARES; and (4) result in no additional cost to the Department of Veterans Affairs or the Indian Health Service.

SEC. 220. That such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to section 8118 of title 38, United States Code, may be transferred to the "Construction, major projects" and "Construction, minor projects" accounts, to remain available until expended for the purposes of these accounts.

SEC. 221. None of the funds available to the Department of Veterans Affairs in this Act, or any other Act, may be used by the Department of Veterans Affairs to implement a national standardized contract for diabetes monitoring systems.

TITLE III

RELATED AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; not to exceed $7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, $35,750,000, to remain available until expended.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, $15,250,000, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251–7298 of title 38, United States Code, $18,295,000, of which $1,260,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses, $29,550,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account.

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home--Washington and the Armed Forces Retirement Home—Gulfport, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $58,281,000, of which $1,248,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.

TITLE IV

GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 402. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 403. Such sums as may be necessary for fiscal year 2006 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 404. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 405. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before Congress, except in presentation to Congress itself.

SEC. 406. All departments and agencies funded under this Act are encouraged, within the limits of the existing statutory authorities and funding, to expand their use of "E-Commerce" technologies and procedures in the conduct of their business practices and public service activities.

SEC. 407. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 408. Unless stated otherwise, all reports and notifications required by this Act shall be submitted to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

Mr. WALSH (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 54, line 13, be considered as read, printed in the RECORD and open to any amendment at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MRS. JONES OF OHIO

Mrs. JONES of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. JONES of Ohio:

At the end of the bill (before the short title), insert the following new section:

SEC. 4   . None of the funds appropriated or otherwise made available by this Act may be used to implement the results of the 2005 round of base closures and realignments until the completion of all environmental remediation associated with the closure of military installations approved for closure in the 1995 round of base closures and realignments.

Mr. WALSH. Mr. Chairman, I reserve a point of order on the gentlewoman's amendment.

Mrs. JONES of Ohio. Mr. Chairman, I intend to withdraw this amendment, but what I wanted to have in the RECORD before I do the withdrawal is the fact that in many of the prior base closures there are still environmental issues that have not been addressed, that have not been remedied; and we really need to take a look at that as we go through the next round to make sure that the dollars we have allocated and the closures we have put in place under BRAC have been taken care of.

Mr. Chairman, in order to ensure the movement of this legislation through the house, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is considered withdrawn.

There was no objection.

AMENDMENT OFFERED BY MRS. JONES OF OHIO

Mrs. JONES of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. JONES of Ohio:

At the end of the bill (before the short title), add the following new section:

SEC. 4___. None of the funds made available by this Act may be used to close or realign any military installation approved for closure or realignment in 2005 before the Secretary of Defense makes the information available upon which the Secretary's closure and realignment recommendations were based, as required by section 2903(c)(4) of the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

Mr. WALSH. Mr. Chairman, I reserve a point of order against the gentlewoman's amendment.

Mrs. JONES of Ohio. Mr. Chairman, I rise to offer an amendment to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations, which would require that all information used by the Secretary of Defense to implement its current base closing recommendations be released to Congress, the public, and the BRAC Commission before any actions on base closings can take place.

Mr. Chairman, first things first. Why are we proposing base closures during a time of war? This BRAC round should be delayed until the following actions can be completed: recommendations of the review of overseas military structures are implemented by the Secretary of Defense, a substantial number of American troops returned from Iraq, the House and the Senate Committee on Armed Services receive the Quadrennial Defense Review, the National Maritime Security Strategy is implemented, and the Homeland Defense and Civil Support Directive is implemented.

In addition, all information used by the Secretary to determine base closings should be released to the Congress and the American public. It is important these be addressed before implementing the BRAC process because once a base is closed, it can never be reopened.

Mr. Chairman, in the 11th Congressional District and in northeast Ohio, over 1,100 jobs will be lost due to the BRAC process. These job losses will have a tremendous economic impact on the City of Cleveland, which has been named the most impoverished city in the country. Now is simply not the time for BRAC, in Cleveland or around the country.

Mr. Chairman, I realize the importance of the BRAC process; however, I feel that all information should be released in order for communities to prepare adequate defense tactics for future hearings. Now is simply not the time for BRAC.

I commend my colleagues, the gentlewoman from South Dakota (Ms. HERSETH) and Senator THUNE for introducing legislation to address this issue.

Mr. Chairman, I support this amendment.

Mr. WALSH. Mr. Chairman, will the gentlewoman yield?

Mrs. JONES of Ohio. I yield to the gentleman from New York.

Mr. WALSH. Mr. Chairman, the gentlewoman from Ohio has changed the language to comply with the existing legislation, so I have no objection to it, and I withdraw my reservation of the point of order.

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Mr. PALLONE. Mr. Chairman, will the gentlewoman yield?

Mrs JONES of Ohio. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, I just wanted to rise in support of the Jones amendment. I think the gentlewoman is right on point here. I know for my base, in this case Fort Monmouth, we have not received a lot of the data, most of the data upon which the Pentagon's recommendations were made. I think that was quite clear if you listen to the hearings that were held last week by the BRAC. Many of the commissioners at that time indicated they did not have the background data upon which the Pentagon's recommendations were made.

I think this is just another indication of the fact that we have not been able to proceed with this BRAC round in the way we have in the past. I have actually been through three other BRAC rounds since I have been in the Congress; and just from the questioning that occurred last week at the BRAC hearings from the commissioners, it was clear this is not the time to have a BRAC round.

We are in the middle of a war, both in Iraq and in Afghanistan. Many of the commissioners asked questions about the war and the military value because they frankly felt that in a general sense questions had not been answered by the Pentagon, and the Pentagon was not able to answer the questions properly about how this BRAC round was supposed to proceed in the context of an ongoing war.

Mrs. JONES of Ohio. Mr. Chairman, in closing, I am so pleased that Senator SNOWE is offering a similar piece of legislation in the Senate with regard to data information on specific projects. I thank all of my colleagues for coming to the floor to support this amendment, and I yield back the balance of my time in the name of the people of the 11th Congressional District of Ohio.

Ms. HERSETH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Jones amendment today because it gives this House another opportunity to slow the process down. We did not take that opportunity last night in support of the amendment offered by the gentleman from New Hampshire (Mr. BRADLEY), despite the compelling testimony offered by a number of Members about the fact that we still have a lot of information outlying that should come to us within the upcoming months, within the year, including the Quadrennial Defense Review, that would actually help the BRAC commissioners to evaluate the DOD's recommendations for those installations that they have submitted on a list for recommendations of closure and realignment.

But the Jones amendment says, okay, if we are not going to do that, if we are not going to postpone the BRAC rounds to get all of the information from the overseas base closures, from the QDR, getting troops home from Iraq and Afghanistan, dealing with the maritime issues, dealing with homeland defense and civil support directives, then let us at least say in fairness and for a process that should be open and transparent as opposed to emulating litigation discovery processes here, give us the information as Members of Congress, the task force and the communities, the commissioners now that are supposed to be evaluating these recommendations.

How can we expect them to do that in a process that is supposed to be open and transparent, when piecemeal by piecemeal the Department of Defense is releasing this information as opposed to releasing it in a more comprehensive way, as was done in the last BRAC round in 1995?

Let me give an example. Last night right before we voted on the Bradley amendment, we received word, the offices for South Dakota here and over in the Senate and in the community of Rapid City, that the Department of Defense had just released some additional information.

Here we thought we have what we need to start assessing and evaluating these recommendations. Most of this information had already been released. We have less than 10 percent of what we need. Less than 10 percent of what we need, just a couple of weeks out from our regional hearing to begin evaluating what drove the Department of Defense's evaluation to rank Ellsworth Air Force Base the way they did, and how they applied the criteria.

We cannot make our case, and there are people in Rapid City, South Dakota, with the task force in support of Ellsworth Air Force Base that have been working for years in anticipation of this day, and we are not willing to slow this process down enough to get adequate and comprehensive information from the Department of Defense?

It is clear that either they were so under the gun to meet the deadline of May 13 that they did not adequately plan or have enough time to determine what it was that was going to have to be classified or declassified before releasing the information, either in the aggregate or installation by installation.

If the reason for that is primarily for national security reasons because we are at war, that justifies slowing this process down at least a little bit so the Department of Defense is forced to release this information that we have had in past BRAC rounds so it is in fairness to the communities and really faithful to the BRAC process which is to be open and transparent and allow communities to make their best case before the commissioners prior to the site reviews, prior to the regional hearings.

I encourage my colleagues, while Members may have had reservations last night, to postpone the BRAC round awaiting all of the other information. Can we not at least slow it down enough to ensure that the Department of Defense is accountable to each and every one of us and our constituents and our military installations to get that information to ensure a fair, open, and transparent process? I hope Members will agree and support the Jones amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

I just wanted to comment on what the gentlewoman from South Dakota (Ms. HERSETH) said. In the last BRAC round in 1995, we had all of the information to back up the Pentagon's recommendations within a few days. It is almost 2 weeks now since the base closure list came out. I think it was the Friday before last.

As the gentlewoman mentioned, we are still lacking most of the background information for these recommendations.

For example, in the case of Fort Monmouth, which is represented by me and the gentleman from New Jersey (Mr. HOLT), the recommendation says that to close Fort Monmouth and move it would cost $822 million and that over the next 6 years, annually, there would be a savings of about $143 million.

We do not have the background information that the Pentagon used to make those kinds of number-crunching decisions. The number-crunchers have not given us that kind of information. How are we supposed to prepare for a site visit next week, or regional hearings in early July, without having that information?

It is simply inappropriate, and it certainly has not been the case in the past. I have been through three previous BRAC rounds, and that was never the case. That is why the Jones amendment is so important. And particularly when the gentlewoman from Ohio (Mrs. JONES) references military value, this is all about military value.

In the case of Fort Monmouth, New Jersey, we are an electronics and communications command for the Army. We basically back up the soldier in the field with equipment that is electronic or related communications. Our point that we have been trying to make is if you close Fort Monmouth over the next few years, that commander in the field who might need some communications or electronics equipment in the next few days or the next few weeks will not have access to it because Fort Monmouth is in the process of moving and people will not be available to do what is necessary for the soldier in the field.

How can the Pentagon make recommendations and not take that into mind? We have no indication of how they address that issue because we do not have the backup data. That is why this amendment is important. I urge my colleagues on a bipartisan basis to support it.

Mr. HOLT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to elaborate very briefly on the preceding remarks. We are talking about a time when men and women are risking their lives in the field, facing roadside bombs and mortar fire from insurgents. They need help and support from back here in the United States, from our bases, from places such as, as my colleague from New Jersey was talking about, Fort Monmouth, for example.

We are not looking so much for the data on what is the implication of base closing and realignment on local economies. We are looking for the data on how the Pentagon intends to provide for the needs of the men and women in the field today, tomorrow and next year, how they will make up for any loss of capability that results from realignment and transfer of personnel.

In order to have a conscientious evaluation of what is being proposed here, we need the data. It is as simple as that. I applaud the gentlewoman from Ohio (Mrs. JONES) for offering this amendment and demanding that we get the information that we need to do our job.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio (Mrs. JONES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TIAHRT

Mr. TIAHRT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TIAHRT:

At the end of the bill (before the short title) insert the following:

SEC. ____. None of the funds made available in this Act may be used to promulgate regulations without consideration of the effect of such regulations on the competitiveness of American businesses.

Mr. WALSH. Mr. Chairman, I reserve a point of order against the gentleman's amendment.

The CHAIRMAN. The gentleman from New York (Mr. WALSH) reserves a point of order.

Mr. TIAHRT. Mr. Chairman, in this legislation, the Military Quality of Life and VA appropriations, much of the work, especially for construction and maintenance, are governed by rules and regulations. A good example of the problem this can create occurred in Wichita, Kansas, not too long ago when OSHA targeted the Wichita area building and construction industry.

Through the threat of citations and fines, they literally shut down all of the work going on in the area of home building. What I did was go back to the Wichita area and I met with OSHA and the area home builders, and I found out they both had the same goal. That goal was to see that the workplace was safe. So by bringing them together, they worked out an agreement that they would work together, instead of assessing fines and citations, and create a better work environment, a safe work environment, and they were successful.

Only recently have I found that the OSHA department here in Washington wants to renege on that agreement and can no longer sustain the concept of working together to have a safe workplace. Instead, they are going to continue on an adversarial relationship. That brings me to the point that I want to stress with this amendment, and that is if we would work together, the Federal Government and the private sector, we could be much more successful in achieving the goals that both want.

Mr. Chairman, less regulation and working together means granting the freedom to allow Americans to pursue their dreams. It also provides the space for businesses to thrive and create more jobs. Regulations promulgated by the Federal Government often become a creeping ivy of regulations that strangle enterprise. The unrealistic and impractical environment that OSHA mandates create are literally driving our industries and small businesses and our health care system to a grinding halt.

How can we expect our economy to develop and grow when bureaucracy prevents businesses from starting and expanding. It is estimated today that the total regulatory burden is about $850 billion a year. That is $850 billion that could go toward creating more jobs instead of stifling growth.

As we approve spending allocations on this bill and other bills, we need to remind regulators about the importance of their actions with that funding.

Regulations can help create jobs or strangle them. Each and every Federal agency should take into consideration the effect of proposed policies on competitiveness of United States business. Each agency should be held accountable for those effects.

Other countries are preparing for tomorrow's economy. Countries like Ireland are reducing regulations, working hand in hand with businesses. They have lowered their taxes, and they have changed their educational system to prepare their workers to be part of a technical economy.

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We are working in the opposite direction.

My concern, Mr. Chairman, is that we are going to be a third-rate economy within 10 to 20 years if we do not change the environment that helps us keep and create jobs. That means having some common-sense regulations that work with our industries instead of against them.

Mr. Chairman, I have complete confidence that Chairman WALSH is going to be working together with us to make a better America, a more competitive America and to prepare us for the economy, because we all know that if we do not, we are going to have a third-rate economy.

With that hope in mind, I am going to respectfully withdraw my amendment.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. HINOJOSA. Mr. Chairman, I move to strike the last word. This is my last opportunity to express some remarks on the Military Quality of Life Appropriations bill.

Mr. Chairman, I rise today to express my disappointment with the amount of funding in this bill for our Nation's veterans. As we enter the Memorial Day weekend, I am concerned that the funding levels for veterans' health will not allow us to keep up with the current demand for services, let alone meet the needs of the thousands of new veterans who are returning from Iraq and Afghanistan.

Eighteen young soldiers have been killed in south Texas, which is where I was born and raised and that I represent, and many, many more have been injured. One of my constituents, Sergeant Nieves Rodriguez, Jr., is lying in a bed at Walter Reed Hospital right now. He has lost an arm and the doctors are fighting to save his leg. He is going to need months of therapy, expensive prosthetics and years of follow-up care. He is only one of thousands in similar situations.

Proponents of this legislation claim it increases veterans' health funding by $1 billion, but in fact, funds are just being shifted from other veterans' accounts. The real increase is a mere $700 million, not enough to meet inflation and mandated salary increases. I would have supported the Obey amendment that would add $2.6 billion for veterans' health care, but the amendment was not made in order.

Mr. Chairman, this funding would have allowed us to care for our returning veterans and meet current shortfalls. Although I will support the final bill, I urge the committee to find a way to increase funding for veterans' health.

Mr. EDWARDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we draw to a close, I again want to take this time to congratulate, salute and thank the gentleman from New York (Mr. WALSH) for his leadership in this, the first product of the new Military Quality of Life and Veterans Affairs Subcommittee on Appropriations. It has been a professional process, a thorough process, a respectful one and a bipartisan one, exactly the manner in which I think the people of this country would want us to deal with the important business of providing quality of life, training and other programs and facilities for our servicemen and -women, military retirees and veterans.

I want to thank the minority staff, Bob Bonner and Tom Forhan, for their leadership. I want to thank the professional staff on the majority side, led by the very able Carol Murphy, with a tremendous staff, for their great work. All of this would not have been possible today and the good work that is in this bill would not have been possible today without the genuine cooperation and great leadership of the chairman, and I thank him.

Mr. WALSH. Mr. Chairman, I move to strike the last word.

I would like to associate myself with the remarks of my colleague from Texas regarding our staff. They have done a remarkable job. This is a brand-new structure. The leadership of the committee, the chairman, Chief Clerk Frank Cushing, helped us to organize the staff and they gave us the best people they could give us. I am very proud of the work product that they have provided us with and the support that they have given us along the way.

Again, I credit the gentleman from Texas (Mr. EDWARDS), who has been a pleasure to work with. His knowledge of the military has helped me a great deal to get up to speed on these issues. I have a lot more to learn, but I look forward to working with him as we complete this bill after House passage and the conference with the Senate.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment offered by the gentleman from Louisiana (Mr. MELANCON), amendment No. 2 offered by the gentleman from Oregon (Mr. BLUMENAUER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. MELANCON

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Louisiana (Mr. MELANCON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 214, not voting 7, as follows:

[Roll No. 224]

AYES—213

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fitzpatrick (PA)
Ford
Fossella
Frank (MA)
Gerlach
Gibbons
Gonzalez
Gordon
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Jefferson
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Poe
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Rangel
Reichert

Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—214

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Harris
Hart
Hastert
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Doyle
Emerson
Filner
Hastings (WA)
Johnson, E. B.
Menendez
Millender-McDonald

□ 1432

Messrs. BILIRAKIS, GINGREY, TOM DAVIS of Virginia, and SIMMONS, and Mrs. JOHNSON of Connecticut changed their vote from "aye" to "no."

Messrs. WYNN, FRANK of Massachusetts, PETERSON of Minnesota, DICKS, HALL, REYES, PASTOR, BISHOP of Georgia, SABO, DOGGETT, Ms. WOOLSEY, and Ms. LORETTA SANCHEZ of California changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chairman, on rollcall No. 224, on the Melancon Amendment, I was in my Congressional District on official business. Had I been present, I would have voted "aye."

AMENDMENT NO. 2 OFFERED BY MR. BLUMENAUER

The CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from Oregon (Mr. BLUMENAUER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 171, noes 254, not voting 8, as follows:

[Roll No. 225]

AYES—171

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Beauprez
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Costa
Costello
Crowley
Cummings
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Edwards
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ford
Gingrey
Gonzalez
Gordon
Green, Al
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Jones (OH)
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Miller (NC)
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Serrano
Simmons
Slaughter
Smith (WA)
Sodrel
Solis
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Walden (OR)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—254

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Michaud
Miller (FL)
Miller (MI)
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes

Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Visclosky
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Cox
Doyle
Emerson
Filner
Hastings (WA)
Johnson, E. B.
Menendez
Millender-McDonald

☐ 1441

Mr. HALL and Mr. SCHIFF changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chairman, on rollcall No. 225, on the Blumenauer Amendment, I was in my Congressional District on official business. Had I been present, I would have voted "aye."

The CHAIRMAN. The Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Military Quality of Life and Veterans Affairs Appropriations Act, 2006".

Mr. WALSH. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILLMOR) having assumed the chair, Mr. BASS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2528) making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Pursuant to House Resolution 298, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 425, nays 1, not voting 7, as follows:

[Roll No. 226]

YEAS—425

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Stark

NOT VOTING—7

Doyle
Emerson
Filner
Hastings (WA)
Johnson, E. B.
Menendez
Millender-McDonald

☐ 1501

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 226 on H.R. 2528, I was in my Congressional District on official business. Had I been present, I would have voted "nay."

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, JUNE 3, 2005 TO FILE PRIVILEGED REPORT ON AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATION ACT, 2006

Mr. BONILLA. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight, June 3, 2005, to file a privileged report on a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, all points of order are reserved on the bill.

PERMISSION FOR THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO HAVE UNTIL MIDNIGHT, JUNE 3, 2005 TO FILE PRIVILEGED REPORT ON H.R. 2475, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence may have until midnight, June 3, 2005 to file a privileged report on the bill, H.R. 2475, the Intelligence Authorization Act for Fiscal Year 2006.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR REDACTION OF MISSTATEMENT FROM CONGRESSIONAL RECORD

Mr. EDWARDS. Mr. Speaker, today I made a factual statement about Secretary Rumsfeld. I later corrected myself. But to ensure against the possibility that the initial misstatement might be viewed out of context with the correction, I ask unanimous consent to redact my initial reference to Secretary Rumsfeld and the statement of correction from the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT REGARDING H.R. 2475, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2006

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute.)

Mr. HOEKSTRA. Mr. Speaker, I wish to announce to all Members of the House that the Permanent Select Committee on Intelligence has ordered the bill, H.R. 2475, the Intelligence Authorization Act for Fiscal Year 2006, reported favorably to the House with an amendment. The committee's report will be filed next week under the unanimous consent just agreed to.

Mr. Speaker, I would also like to announce that the classified Schedule of Authorizations and the classified Annex accompanying the bill will be available for review by Members at the offices of the Permanent Select Committee on Intelligence in Room H–405 of the Capitol beginning any time after the report is filed. The committee office will be open during regular business hours for the convenience of any Member who wishes to review this material prior to its consideration by the House. I anticipate that H.R. 2475 will be considered on the floor of the House the first week after the recess.

I recommend that Members wishing to review the classified Annex contact the committee's Director of Security to arrange a time and date for that viewing. This will assure the availability of committee staff to assist Members who desire assistance during their review of these classified materials.

I urge interested Members to review these materials in order to better understand the committee's recommendation. The classified Annex to the committee's report contains the committee's recommendations on the intelligence budget for Fiscal Year 2006 and related classified information that cannot be disclosed publicly.

It is important that Members keep in mind the requirements of clause 13 of House rule XXIII, which only permits access to classified information by those Members of the House who have signed the oath provided for in the rule. Members are advised that it will be necessary to bring a copy of the rule XXIII oath signed by them when they come to the committee offices to review the material.

If a Member has not yet signed the oath, but wishes to review the classified Annex and Schedule of Authorizations, the committee staff can administer the oath and see to it that the executed form is sent to the Clerk's office.

In addition, the committee's rules require that Members agree in writing to a nondisclosure agreement. The agreement indicates that the Member has been granted access to the classified Annex and that they are familiar with the rules of the House and the committee with respect to the classified nature of that information and the limitations on the disclosure of that information.

APPOINTMENT OF CONFEREES ON H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

Is there objection to the request of the gentleman from Alaska?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

> Mr. Oberstar moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, be instructed to insist on a level of funding for highway, transit, and highway and motor carrier safety programs equal to: (1) the level of funding provided in H.R. 3 ($283.9 billion); plus (2) the additional resources necessary to increase the guaranteed rate of return for States to not less than 92 percent while ensuring that each State receives no less than it is provided under H.R. 3.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Alaska (Mr. YOUNG) each will control 30 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday, when we passed the legislation to extend highway programs for another 30 days, I said that the most hopeful sign for the upcoming conference was the apparent agreement that the chairman of our committee, the gentleman from Alaska (Mr. YOUNG) would chair the conference. That assures that this conference will move expeditiously, on time, with attention to detail and with a deliberate spirit of achieving all that we need to do in policy and financing to get a bill back, a conference report back to the House, to the other body and downtown to be signed.

I know how hard the chairman has worked, how much time and effort and commitment he has made personally to that initiative, and I am proud to work alongside with him.

The motion to instruct that I offer directs House conferees to do two things: Insist in the conference on a level of funding for highway transit and highway and motor carrier safety programs equal to the level of funding that is in the bill that passed this body, was reported from our committee, passed this body, 283.9. It should be 284, but who is going to quibble with Filene's Basement's version of transportation, and the additional resources necessary to increase the guaranteed rate of return for States to not less than 92 percent, while ensuring that every State gets no less than we provided for every State in our version of the bill.

It has been our goal all along to increase from 90.5 to 92 percent. The question of equity has been central to last year's and the year before and this year's reauthorization debate on surface transportation. In fact, the very title of our bill, Transportation Equity Act: A Legacy for Users, makes equity the very top issue in our legislation.

Donor States, as we have heard for months and months, want their guaranteed rate of return raised from 90.5 percent to as much as 95 percent. Now, we could do 95 percent handily at $375 billion, the bill that the chairman and I agreed upon, and 74 to 75 members of our committee cosponsored, but that was not possible under the politics of transportation. We understand that.

Donee States, on the other hand, want to ensure that they continue receiving the adequate highway transportation funding that they have been accustomed to and committed to. So the bipartisan bill that we reported from committee in the last Congress set the level at $375 billion.

We knew that that was not going to be acceptable downtown or very likely in the other body, so we scaled the bill back to $275 billion. But even then the administration threatened to veto a bill with funding above its view of the proper investment level, which was a paltry $256 billion that everyone, the contractor community, the labor community, the States, the transit authorities, everybody knows that does not build you one more mile of highway, one new bridge or buy one new transit bus or rail car. Everybody knew that. It was completely unrealistic.

When we got into conference last year just before the August recess, the administration finally put on the table $283.9 billion. And we said, you know, it is movement in the right direction. Let us take it and let us go with this. But we never reached agreement in conference, which is why, of course, we are back here on the floor.

We agreed at the outset of this Congress to start where we left off in the last Congress, without any smoke and mirrors, without any fussing said, this is the number that is realistic, that if you want to do legislation, this is the way to do it. Let us start with this number.

But we also had to face the reality that it is not possible to do anything above 90.5 percent return on equity for those States who want us to move higher, without taking away from someone else, without doing damage to core programs, without a whole host of other difficulties.

Now, the other body found some money. The other body found $11 billion; and in their bill, provided $295 billion in funding and were able to increase the minimum rate of return to 92 percent. Now, whether that $11 billion is fiscally sound or politically sustainable is a matter we will have to address when we get into conference, which is why this motion to instruct is important.

We all want to achieve equity. We all want to raise those States up. We all understand, as the other body understood, that if they did not raise their numbers to get to be able to commit $295 billion, they would not be able to achieve the equity they needed for those western States, large geographic areas and large highway mileages and transportation needs, nor would they be able to satisfy the donor States or other, smaller, donee States. So they needed more money. They realistically approached the issue and approved 11 billion additional dollars.

The reality, as we get into conference, we are not going to be able to, without additional resources, to come up to the $292 billion level. The other body will need to pass a conference report, and we will not be able to bring back to this body a conference report that will satisfy donor States, donee States without additional resources. So that is why the additional resources language is needed.

□ 1515

All of it comes right on the heels of the Texas Transportation Institute Annual report on congestion, their Urban Mobility Report, issued just a few weeks ago, which finds once again, every year, they find congestion increasing. Overall traffic delays totaled 3.7 billion hours, up from 3.6 billion a year ago.

Congestion and delay cause an additional consumption of 2.3 billion gallons of fuel. That means every driver in America in a congested area is spending 1 week longer in their car than they would if they could drive at posted highway speeds, and they are buying one tank of gasoline more than they would if they could drive at posted highway speeds. It is a moral issue because they are taking the name of the Lord more often in traffic on weekdays than they do in church on Sundays.

We need to address that issue, all three of those issues. We are the most mobile society in history. We travel at an increasing rate and we travel in our cars. Population in the decade of the '90s as expressed in the Census of 2000 group is 4 percent. But transportation usage grew 14 percent, 3-plus times as much as population growths. Total vehicle miles traveled, just vehicle miles traveled, rose 19 percent in that decade. Number of households grew 72 percent in that decade, but household vehicle miles soared 193 percent.

The fact is congestion is choking our cities. It is choking off commerce. It is causing business to spend more money. UPS told me that for every 5 minutes' delay they lose $40 million nationally, every 5-minute delay. There is a business adverse impact unless we make the investment. It is within our hands to do this.

Now, even at the Senate-passed level of 295, we are $80 billion below where we know we need to be. What we are saying with this motion to instruct is let us go to conference. Let us keep 92 percent the rate of return on the radar screen, which is our objective and the other body's objective, and get the resources we need and do no less for every State in conference than we did in the House bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I reluctantly oppose this motion to instruct the conferees.

It is a beautifully drafted, I thought, solution to a problem. But I will tell you after reviewing it that if we go to 92 percent and we insist that they be no less than what is in H.R. 3, there will be a problem of having a higher number in de facto. I think we can get there. I just do not think we ought to be instructing the conferees and having the illusion of actually going above to what we vote with 417 votes for in this House.

I will urge the gentleman to consider that as we go to conference that I will do everything in my power to get more money. I think what we ought to be concentrating on is, that yesterday was the seventh extension that we had on this legislation. It is not this body's fault. It is not the House and the people's fault. It is the other side who decided not to finish this product. Yes, we just got the papers today, before we go on this short recess so it has hamstrung us.

I want us to get to conference. I want the conferees to be nominated today. I want us to get the staffs working together to solve this problem. Try to get more money than was there, but sticking with the number of House-passed so that we finally get some stability within the States.

Everything the gentleman said about traffic is absolutely right: it has got worse in the last 4 years. We have seen a tremendous increase of automobile and trade traffic, and we are not addressing that issue as we should be.

I have tried to explain to the people that this is just another step forward. When we do get this bill, it is every intention I have by the first or the middle of June that we will have this bill on the President's desk. But that is just the beginning. We will come back again, and with the gentleman's help, again and again and again until we solve this problem with transportation in this great Nation of ours.

Yes, we are mobile compared to the rest of the world, but we are very quickly becoming less mobile. We are becoming standing in traffic. We are not able to deliver next day. We are losing effort. We are losing what I call productive hours. And more than that we are losing the edge globally. We are going to have a vote here in the near future on CAFTA, or whatever they call that thing, Central America. We had a vote on NAFTA. We had a vote on GATT. We had a vote on world trade, et cetera, et cetera; and this is well and good, but if we are going to get into that business of trade and production and import and export, we have got to have the transportation system in place. We have to have the rail in place, which it is not.

Every railroad we have today is oversubscribed. We have not laid any new rail access or relieved the congestion on the highway. We have not improved, what I think is necessary, truck lanes, which is in our bill. We have not done the things we should have done and everyone says, well, it will take care of itself. Well, that is a very shortsighted, I think, point of view for this country.

So for those who look upon this bill as the final thing, whatever we come out of a conference, if it is 289, 284, 283, whatever it will be, if it is 290, that is just the beginning. And I hope you take time to understand that.

I again reluctantly oppose the motion to instruct. We will be together in that conference, and we will hopefully together achieve the goals they are seeking.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I appreciate the comments of the chairman, and I simply reiterate what a delight it is to work with him in concert towards the objective we all share.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO), the ranking member of the Subcommittee on Surface Transportation.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman. I thank the ranking member for his leadership on this issue, and I thank the chairman for his leadership.

I know that were we acting independently as a committee to formulate the legislation and set the surface transportation policy for the United States of America, the bill would be much more robust than what is before us today. But we have to deal with the facts that are before us.

We are 20 months overdue on a surface transportation reauthorization. We have extended the old transportation bill seven times at lower levels of funding than under any scenario of bill that will come out of any conference with the House and the Senate. That means that projects have been foregone, investments have not been made, jobs have not been created.

As the gentleman from Minnesota (Mr. OBERSTAR) point out, people are sitting in traffic. We are not keeping up with demand; we are not keeping up with maintenance as we should.

For every billion dollars we invest, now, remember, we are borrowing a pile of money to run this government, $1.3 million a minute to run the government. Some of it goes to pay people, not to grow things. Some of it goes to other programs of dubious value. But for this program, for surface transportation, for highways, for roads, for bridges, for mass transit, we are not borrowing the money. The American people have already paid the tax. It is sitting there waiting to be spent, spent productively, putting people to work, and moving us more efficiently and moving goods more efficiently. We should not forego that.

A billion dollars, 47,000 jobs are created or sustained for every billion-dollar investment; $6.1 billion in additional economic activity; 32 percent of our major roads are in poor or mediocre condition; 28 percent of bridges are structurally deficient or functionally obsolete; 36 percent of the Nation's urban rail vehicles and maintenance facilities, 29 percent of the Nation's bus fleet and maintenance facilities are in substandard or poor condition.

My State alone, the little State of Oregon, has a $4.7 billion interstate, not intrastate, interstate bridge problem. The interstate that connects Canada, the United States and Mexico; California, Oregon, and Washington, $4.7 billion.

Our neighbors to the north in Washington State have one problem, a viaduct problem in Seattle, an incredible safety issue on an incredible choke point and problem. That is $1.5 billion for that one project. And so it is across the country. Member after Member can come forward and enumerate these projects that are necessary, needed investments.

We need the most robust bill possible. I am hopeful that this is the last extension. I am hopeful this will be a conference that comes to a positive conclusion. We can get this done before the end of June with a sense of urgency and with the leadership of these two gentlemen.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Speaker, I thank the chairman for yielding me time. I must say that I enjoy serving with the gentleman from Minnesota (Mr. OBERSTAR). He certainly is one of the most knowledgeable people on transportation issues. He was working on it long before I came to Congress. We agree on many transportation issues. However, I think we may disagree on this particular action he is asking for the House to take.

To paraphrase him, he said we need to address the problem of people taking the Lord's name more in traffic than they do in church on Sunday. I am right with him. And I am trying to correct that situation.

Again, we agree that we need to move this process forward. This is the seventh extension. There are people waiting. There are jobs waiting. In some areas, unlike Florida, you only have a certain building season. But we have come to an agreement on a 30-day extension. We are about to appoint conferees and move forward with the process that will finish the job. But we do not want to finish the job and start on a shaky foundation. We would send the wrong message now if we put our position forward, the 283.9 or 284 billion, it is the House position.

Agreeing on 92 and sending a message to conference at this point, I submit, is premature. Why would you show your cards at this particular juncture in the conference process? We may be able to do better. We may not have the money to do the 92. We may be putting ourselves in a very difficult position to start out the conference in already dealing with an administration that we know is temperamental on this issue. So we need to move forward on a good solid foundation.

We do not need to pass this.

The other thing, too, I heard our majority leader address some folks from Florida, and he said in Congress the legislative process is something that is very important. He said they have a term for this in Texas. He said they called it "strategey," just joking of course, for strategy. And I submit this is strategery, not good strategy, because we are not moving forward in a timely fashion.

Members have not been alerted to this action. Some Members, I think, have already departed the Chamber and are on their way to Memorial Day events back in their districts. So from a strategic standpoint, I think we make a mistake by even offering this at this time. I think at the right time with the right strategy that we could do better to move this process and also the dollars forward to build our Nation's infrastructure.

□ 1530

Mr. OBERSTAR. Mr. Speaker, I yield myself 15 seconds.

I appreciate the difficulty in which my committee colleagues find themselves in this matter, but I would also observe that the business of the House is never over until the adjournment vote.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in yielding me this time to speak on his motion to instruct.

And I must say, Mr. Speaker, that I join in the gentleman's assessment of the capacity of the chairman of our committee, who will be chairing the conference committee; and we know there will be no cell phones that will violate the sanctity of the conference committee activity. Would that it would set the tone for the entire Congress.

I take modest exception to my friend from Florida, because I think the spirit with which this is offered is to, in fact, strengthen the foundation upon which the chairman and the members of our conference committee will go into this discussion. It is an opportunity for us to present a united front in the House.

I think it is quite clear, based on the work that has gone on in the course of the last 2½ years, that there is strong, strong interest and understanding and appreciation of what robust means. This is an opportunity for us to demonstrate once again the breadth of support that our chairman and our leadership take into this conference committee.

It is truly the broadest base of support for a transportation infrastructure bill that we have ever seen. It represents from coast to coast, rural and urban, small State, suburb, not just highway, of which we are deeply concerned, but our chairman and ranking member are deeply appreciative of the relationship of all the transportation modes and many of the smaller projects that are within the ambit of the ISTEA legislation.

This vote on the motion to instruct will clearly strengthen the hand of the Chair and of the House. It is a point of departure. I am willing to follow them forward if we can expand the boundaries here to capture the spirit and the interest and the concern not just of our committee, but the people that we represent at home and the Members in the House.

With all due respect, I would suggest that the offer with which I think this is offered and that I will support is to strengthen the hand of the chairman and ranking member, strengthen the hand of the House, and capture the broad base of support so we can be successful in this important deliberation.

Mr. YOUNG of Alaska. Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me this time, and I echo the remarks of my colleague from Oregon as well the ranking member of the Committee on Transportation and Infrastructure. This is a bipartisan bill. I cannot do anything more than to congratulate Chairman YOUNG and Ranking Member OBERSTAR for the collaborative method in which they have approached the legislation that would provide for transportation for America.

But, Mr. Speaker, this motion to instruct is a big plus for the State of Texas because of the great changing needs that we are facing: The congestion that we are facing not only in our cities, but in our rural areas, the necessity of urban areas to have sound walls in order to ensure that transportation is near neighborhoods, the increasing use of toll roads, primarily because there is need for more money to provide for transportation, the lack of dollars to help with our rail systems throughout America.

Clearly, we need to ensure that the funding in H.R. 3, that was collaboratively voted on in a bipartisan manner, is preserved and to instruct that our States receive the dollars necessary for safety and for transportation. This motion to instruct is simply a gift to the conferees in order to give them the enhanced instruction to make the transportation bill the one that provides jobs, builds highways, provides highway safety programs and transit programs; and for me, happening to be a mass transit supporter, we would hope these dollars would also be focused on bus transportation and mass transportation, including light rail, which is so needed in the city of Houston.

So I hope my colleagues will support enthusiastically this motion to instruct because, again, it provides a solid foundation for us to build a new and innovative transportation system for all of America.

Mr. OBERSTAR. Mr. Speaker, I yield myself 15 seconds to thank the gentlewoman from Houston for her thoughtful remarks, representing the Nation's fourth largest urban area. She certainly knows whereof she speaks about transportation and congestion.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN), the ranking member on our Subcommittee on Railroads.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to thank Chairman YOUNG and Chairman PETRI, and particularly I want to thank Ranking Member OBERSTAR for his leadership on this issue.

This bill is over 2 years overdue, and that is just not fair to the Nation's traveling public who deserve better from this Congress and, of course, from this administration. We spend $1 billion a week in Iraq, yet there is a question as to the level of spending in this transportation bill. Clearly, the committee voted $318 billion for transportation. The Department of Transportation itself said that we needed $375 billion. They said $375 billion.

The Department of Transportation statistics show that for every $1 billion invested in transportation infrastructure, it creates 42,000 jobs. It also saves the lives of 1,400 people, and you cannot argue with those figures. Transportation funding is a win-win for everyone involved. The States get to improve their transportation and infrastructure. That creates economic development and puts people back to work; it enhances safety and improves local communities.

By delaying the passage of this much-needed legislation, we are doing a disservice to the driving public and to the Nation as a whole. The States are battling red ink and want to see this bill passed. The construction companies, who are laying off employees, want to see this bill passed. And the citizens waiting in traffic jams in Orlando, Florida, and central Florida want to see this bill pass.

Let us get serious about putting people back to work and let us pass a bill that truly meets the needs of the traveling public and not the needs of this President who is trying to look fiscally responsible while he runs up the national debt.

I encourage everyone to contact their Members and ask them to support transportation funding that truly meets the needs of this growing Nation. We need to stop spending money everywhere but here in the United States. Transportation infrastructure spending is an investment in America, and it is time we spent money on something that benefits the people that are actually paying the bills.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself the balance of my time.

We have had a good discussion of the subject matter. I think it need not be further elaborated. Again, if you are serious about a good result in the conference, you will support this motion to instruct conferees, a fair, equitable, and balanced motion.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota (Mr. OBERSTAR).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 189, nays 223, not voting 21, as follows:

[Roll No. 227]

YEAS—189

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCollum (MN)
McGovern
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—21

Berkley
Cramer
Cunningham
Deal (GA)
Delahunt
Doyle
Emerson
Filner
Green, Gene
Hastings (WA)
Holden
Jenkins
Kind
McCarthy
McDermott
McNulty
Menendez
Millender-McDonald
Smith (WA)
Taylor (MS)
Weldon (PA)

☐ 1602

Mr. BONNER, Mr. OTTER, Ms. PRYCE of Ohio, Mr. ISTOOK and Mr. DANIEL E. LUNGREN of California changed their vote from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SIMPSON). The Chair will appoint conferees at a later time.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 227, on H.R. 3 Motion to Instruct, I was in my Congressional District on official business. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, on May 26, 2005, I unfortunately missed 5 recorded votes and regret missing them.

Mr. Speaker, on rollcall No. 223, On Ordering the Previous Question (House Resolution 298), had I been present, I would have voted "no."

Mr. Speaker, on rollcall No. 224, On Agreeing to the Melancon of Louisiana Amendment (House Resolution 2528), had I been present, I would have voted "aye."

Mr. Speaker, on rollcall No. 225, On Agreeing to the Blumenauer of Oregon Amendment (House Resolution 2528), had I been present, I would have voted "aye."

Mr. Speaker, on rollcall No. 226, Final Passage of H.R. 2528, the Military Quality of Life & Veterans Affairs Appropriations Act, had I been present, I would have voted "aye."

Mr. Speaker, on rollcall No. 227, On Motion to Instruct Conferees to the Transportation Equity Act, had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. FATTAH. Mr. Speaker, I inadvertently voted against the Motion to Instruct Conferees on H.R. 3, which instructs conferees to increase funding for the Transportation/Highway bill. The motion would increase the minimum guaranteed rate of return to 92 percent, while ensuring that each state receives no less than what is provided under the bill.

I request that the record reflect that I support the motion and I intended to vote for it.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. PRICE of Georgia. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 167) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read as follows:

H. CON. RES. 167

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, May 26, 2005, or Friday, May 27, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, June 7, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, May 26, 2005, or Friday, May 27, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 6, 2005, or Tuesday, June 7, 2005, or until such other time on either of those days as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassembled at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONDITIONAL ADJOURNMENT TO MONDAY, MAY 30, 2005

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, May 30, 2005, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 167, in which case the House shall stand adjourned pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JUNE 8, 2005

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, June 8, 2005.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

MEMORIAL DAY

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wanted to take this opportunity to thank America's veterans and to offer my sympathy to those families that will experience for the first time and for many, many times the difficulty of Memorial Day, for they are the families that are now suffering the loss of a loved one who has fallen in battle or in the service of his or her country.

Today, we had the honor of traveling to Arlington Cemetery, as I said earlier, to place the wreath of honor in honor of women who have fallen in battle. The good news about America is that in times of conflict, however we may disagree on the policy, we are united behind the men and women who leave their homes and leave their families and leave all that they love to be able to serve this country.

My sadness, however, is that there are so many that are coming back in caskets covered and draped by the American flag. And so I think it is extremely important that on this Memorial Day, we are united in our honoring and our admiration and our affection for those who have lost their lives in Iraq and Afghanistan.

May God bless them, God bless their families, and God bless the United States of America.

COMMUNICATION FROM INSPECTOR GENERAL, HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. KUHL of New York) laid before the House the following communication from Steven A. McNamara, Inspector General, House of Representatives:

OFFICE OF INSPECTOR GENERAL,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 16, 2005.

MEMORANDUM

To: Hon. DENNIS HASTERT, Speaker of the House.
Hon. TOM DELAY, Majority Leader of the House.
Hon. NANCY PELOSI, Minority Leader of the House.
From: STEVEN A. MCNAMARA, Inspector General.
Subject: Notification of Resignation and Retirement.

Please accept my offer of resignation, as the Inspector General for the U.S. House of Representatives, effective May 30, 2005. This date will also be my effective date of retirement from Federal Service.

It has been an honor to serve the House as the Inspector General for the last five years. My goal, and that of my staff, has been to help the House achieve the best use of all the dollars it spends, increase efficiencies, and ensure the health, safety, and security of Members, staff, and visitors. Through the combined support of the House Leadership, the Committee on House Administration, and the hard work of my staff, I believe we have helped the House accomplish its administrative goals.

Now, after slightly more than 35 years of Federal Service, I look forward to a new chapter in my life; the pursuit of a hobby and business venture as a kayak instructor and kayaking guide.

Once again, it has been a great honor to serve the House of the Inspector General for the last five years. It has been a fulfilling and rewarding experience!

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INTRODUCTION OF REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS ACT OF 2005

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, along with the gentleman from North Carolina (Mr. COBLE), chairman of the Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security, I am pleased to introduce the Reducing Crime and Terrorism at America's Seaports Act of 2005.

There are 361 seaports in the United States that serve essential national interests by facilitating the flow of trade and the movement of cruise passengers, as well as supporting the effective and safe deployment of U.S. Armed Forces. These seaport facilities and other marine areas cover some 3.5 million square miles of ocean area and 95,000 miles of coastline.

Millions of shipping containers pass through our ports every month. A single container has room for as much as 60,000 pounds of explosives, 10 to 15 times the amount in the Ryder truck used to blow up the Murrah Federal Building in Oklahoma City. When you consider that a single ship can carry as many as 8,000 containers at one time, the vulnerability of our seaports is alarming.

Each year, more than 141 million ferry and cruise ship passengers, more than 2 billion tons of domestic and international freight and 3 billion tons of oil move through U.S. seaports. Millions of truck-size cargo containers are off-loaded onto U.S. docks. Many seaports are still protected by little more than a chain link fence and, in far too many instances, have no adequate safeguards to ensure that only authorized personnel can access sensitive areas of the port. If we allow this system to continue unchecked, it is only a matter of time until terrorists attempt to deliver a weapon of mass destruction to our doorstep via ship, truck or cargo container.

New reports by the Government Accountability Office, Congress' investigative arm, fault both the Customs-Trade Partnership Against Terrorism and the Container Security Initiative. C-TPAT allows international shippers to get quicker clearance through Customs in exchange for voluntary security measures. But the GAO said that the U.S. Customs and Border Protection's vetting process was not thorough enough. It found that only 10 percent of the certified members had been validated through an actual physical inspection by the Agency. The rest had been certified by paperwork applications.

As part of the recently passed Homeland Security authorization bill, the House took some important steps to improve the screening of cargo by expanding the Container Security Initiative and refocusing it, based on risk. But the truth is that not every container can be inspected, and we need to use other tools at our disposal to deter those who would use our seaports as a point of attack until we can inspect or somehow verify each container. Strengthening criminal penalties, as Chairman COBLE and I are proposing with this bill, is one way we make our Nation's ports less vulnerable.

The Reducing Crime and Terrorism at America's Seaports Act of 2005 will fill a gaping hole in our defense against terrorism and make American ports, passengers and cargo safer. Our bill is substantially similar to bipartisan Senate legislation introduced earlier this year by Senators BIDEN and SPECTER and supported by other key members of the Judiciary Committee, including Senators DIANNE FEINSTEIN and ORRIN HATCH. The Senate version of this legislation has been reported favorably by the Senate Judiciary Committee and is awaiting action by the full Senate.

Our bill makes common-sense changes to our criminal laws and will help to close security gaps confronting our ports. The amendment will make it a crime to use a vessel to smuggle terrorists or dangerous materials, including nuclear material, into the U.S., impose stiff criminal penalties for providing false information to a Federal law enforcement officer at a port or on a vessel, and double the sentence of anyone who fraudulently gains access to a seaport.

Our bill would also directly access several immediate threats by increasing penalties for smugglers who misrepresent illicit cargo. It would also bridge specific gaps in current Federal law by making it a crime for a vessel operator to fail to stop when ordered to do so by a Federal law enforcement officer.

Mr. Speaker, America's ports remain vulnerable and this Nation needs a multifaceted strategy to secure them and to deter those who would harm this country. The Reducing Crime and Terrorism at America's Seaports Act of 2005 is part of that strategy.

I urge my colleagues to join Chairman COBLE and me by cosponsoring this legislation.

□ 1615

ORDER OF BUSINESS

Mr. NORWOOD. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

BORDER CONTROL AND AMNESTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, this month a bill to grant amnesty to illegal immigrants was introduced in the United States Senate.

I think we should send a very clear message to the other body not to waste their time or ours on any bill dealing with the status of illegal immigrants until we first secure our borders.

What good does it do to try to address the problems of 11 to 16 million people who are here illegally if we do not address the gaping wound that allowed them in this country to start with?

The majority of illegals simply walk across our woefully undermanned 2,000-mile border with Mexico. We could deport them back to their country of origin, and millions would be pouring back across that same border within hours. We could turn our backs on justice and the rule of law and declare everyone here as now to be legal. Within hours we would have millions more illegal immigrants walking across that same border, encouraged by the fact that they could laugh at our laws with impunity.

Either extreme, or anything in between, is pointless while we let our border continue to bleed. Trying to defend 1,951 miles of border against 4 million illegal immigrants a year with just 10,817 border patrol officers is a mathematical impossibility.

This month Customs and Border Protection Commissioner Robert Bonner told the House Committee on Government Reform that we could secure the border, that we could secure the border, with an additional 50,000 auxiliary officers. That figure is in very close agreement with the draft field research by the Immigration Reform Caucus that was reported this week by the Washington Times, CNN's Lou Dobbs, and Fox News, which estimates 36,000 auxiliaries may accomplish the same purpose.

Governor Arnold Schwarzenegger of California and Janet Napolitano of Arizona, Bill Richardson of New Mexico, and Governor Rick Perry of Texas can order their National Guard, with support from other States through the National Guard Bureau, to secure their section of their border today. We have already authorized the Secretary of Defense to pay the cost of that deployment in last year's Defense Authorization Act. In addition, we are bringing home 70,000 Federal troops from around the world, where they have been guarding other nations' borders for the past 60 years. A simple executive order from the President would allow them to relieve our National Guard and have 20,000 men and women to spare.

All it takes, Mr. Speaker, is will. We have the manpower and we have the money.

Mr. Speaker, on May 5 the American people responded to a Zogby nationwide poll on this issue. They approve using Federal troops to secure our border by a 53 to 40 percent margin. They approve using State and local law agencies to help secure our border by an 81 to 14 percent margin. They oppose an amnesty plan like that proposed in the Senate by a 56 to 35 percent margin.

This week, after the border patrol draft reported by caucus investigators was released, CNN online polls were running 92 percent in favor of using our military to control our borders. In response, the Mexican Government this week spoke out against us securing our border with our troops.

The American public demands we do so.

Now is the time for every Member of this body to choose whose side we are on.

SMART SECURITY AND THE NEED FOR AN IRAQ PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, it is time for Congress to take a good, hard look at the role the United States is playing in Iraq and whether or not it is in our national interest to maintain a military presence.

We need to acknowledge the fact that Iraq's insurgency is growing in strength, not diminishing, and that the very presence of 150,000 American troops on Iraqi soil appears as though they see us as occupiers that actually unites the growing collection of insurgent forces.

Since our military presence actually encourages further fighting, this war will continue as long as U.S. troops remain in Iraq. That is why Congress must accept the fact that we cannot possibly bring our involvement in Iraq to any kind of successful conclusion through military means.

Yesterday, during consideration of the National Defense Authorization Act for Fiscal Year 2006, I offered an amendment urging the President to develop a plan for the withdrawal of troops from Iraq. Surprisingly, this was the first time the House has formally debated the possibility of withdrawal from Iraq. We were allotted only 30 minutes for the debate: 15 minutes on my side, 15 minutes on the side opposing my amendment. But it is no surprise, of course, the amendment was defeated. But in spite of that, it is clear that the Congress is starting to get serious about a plan for leaving Iraq. 128 Members, including five Republicans, voted for this amendment.

But there is much more work to do, Mr. Speaker. The Iraq war has now raged on for more than 2 years, and we are no closer to winning this conflict than we were when President Bush declared an end to major combat operations under an arrogant banner declaring "Mission Accomplished."

Despite this lack of progress, the war has exacted a deeply troubling human and financial toll. In just over 2 years of war, more than 1,600 American soldiers and an estimated 25,000 Iraqi innocents have been killed. The Pentagon lists the number of Americans wounded as just over 12,000. But that does not take into account even the invisible wounds many of our soldiers will be bringing home and have already brought home, the painful mental trauma they have contracted from months and years of fighting. When accounting for these psychological injuries, the number of wounded jumps to nearly 40,000.

To date, Congress has appropriated more than $200 billion for military operations in Iraq, despite little to no oversight as to how these funds are going to be spent, which has allowed $9 billion in reconstruction funds to just vanish from the coffers of the Coalition Provisional Authority, which was the American governing body that managed Iraq until the year 2004.

Given what is at stake here, do the American people not deserve a plan? Do our brave men and women, who are selflessly sacrificing their lives, not to mention their arms, legs, for a war that we should not be in in the first place, not deserve a plan?

Let us not forget that the legislative branch is constitutionally mandated to oversee expenditures from our National Treasury. Instead of allowing fat-cat war profiteers like Halliburton and its subsidiary, Kellogg, Brown and Root, to line their pockets as war profiteers, it is time Congress started fulfilling our responsibility.

We must develop a smarter agenda. We must develop an agenda that will help Iraq, and we will then be able to reduce our military occupation. We must insist on planning by the Bush administration. This 2-year war has left us disturbingly weak against the true security threats we face. Let us not forget that Osama bin laden is still at large and al Qaeda continues to recruit new members in Iraq as well as the rest of the Middle East.

Fortunately, there is a plan that would secure America for the future: the SMART Security concurrent resolution, H. Con. Res. 158, which I recently reintroduced with the support of 49 of my House colleagues. SMART is a Sensible, Multilateral, American Response to Terrorism for the 21st Century. It will help us address the threats we face as a Nation. SMART Security will prevent terrorism by addressing the very conditions which allow terrorism to take root: poverty, despair, resource scarcity, and lack of educational opportunity. Instead of rushing off to war under false pretenses, SMART Security encourages the United States to work with other nations to address the most pressing global issues.

ORDER OF BUSINESS

Mr. FRANKS of Arizona. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMERICAN POLICY IN THE BALKANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Mr. Speaker, allow me to address a very deep and growing concern about American policy in the Balkans. The policy of the United States should be predicated upon its own interests and its own sovereignty and security. Defying reason, somehow we keep hearing that the current administration plans to continue the former administration's policy in Southeast Europe.

Mr. Speaker, I cannot understand this, given the fact that we have learned so much about the nature of the foreign fighters that have come into Bosnia-Herzegovina to fight the Serbs, and now we have encountered them ourselves in Iraq.

To observe the current unemployment and socialist economic structure in Kosovo is to recognize that the previous administration's so-called policy there has been an absolute and utter failure. I certainly agree that we should be looking for a workable solution for all in that region; but in order to do so, we cannot disregard the fact that there have been over 300 mosques constructed in Kosovo since 1999, mostly funded by Saudi Arabia, while at the very same time, 150 Serbian churches, Orthodox churches, about 10 percent of all the churches in Kosovo, have been destroyed. And I am wondering if this is the legacy that we want to leave for the United States involvement, Mr. Speaker.

Further, we can now clearly see that many of the most dangerous terrorists that the United States has encountered in the fight against terrorism have had some connection to the Balkans and particularly Bosnia. For example, two of the September 11 hijackers fought in the wars in Bosnia. Sohel al Saahli fought in Afghanistan, Bosnia, and Chechnya; and he later became a leader in Iraq and was killed in a U.S. air strike in March of 2003. Abdel Aziz al Muqrin, al Qaeda's leader in Saudi Arabia, personally decapitated Paul Johnson; and he had fought in Bosnia, Algeria, Ethiopia, and Afghanistan.

Mr. Speaker, there is an alarming pattern here.

Abu Anas al Shami fought with other Jordanian extremists to fight jihad in Bosnia. He was the right hand of Abu Masab al Zarqawi fighting against U.S. forces in Iraq until he was killed in September, 2004.

And, unfortunately, Mr. Speaker, our Balkans policies helped these terrorists.

And now there is data found on Mr. Zarqawi's laptop computer indicating that terrorists have the means and the plans to use WMDs here in Europe and perhaps even here someday, in the United States.

Mr. Speaker, given these disturbing details, the fact that we are now moving troops out of Bosnia and out of the Balkans is a profound concern to me. Further, as a guarantor of the Dayton Peace Accords, we have a duty to reaffirm them and to ensure a sense of comity and fair play. We should not seek to change them through a coercive top-down pressure, as has been recently attempted in the talks in Bosnia under the auspices of the High Representative, Paddy Ashdown, and this with the approval of our U.S. Ambassador Douglas McElhaney.

I am also very concerned that, according to news reports, our ambassador incited public opinion against the Republic of Srpska's chief of police by insinuating that he should be removed from office for statements he made concerning the nexus between Bosnia and the Madrid bombings.

□ 1630

Mr. Speaker, the police chief's statements concerning the relationship between certain individuals and materials in Bosnia and the horrific Madrid bombings that took place last year deserve our attention and our investigation rather than our rebuke. I truly believe, Mr. Speaker, it is time we take a second, very serious look at the realities and the growing terrorist danger in Bosnia.

IN OPPOSITION TO CANCELLATION OF GENOCIDE CONFERENCE IN TURKEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this afternoon to voice my outrage and great disappointment about a recent development in Turkey. A conference set to begin yesterday in Bogazici University, of Turkish scholars and academics, entitled "Ottoman Armenians During the Decline of the Empire: Issues of Scientific Responsibility and Democracy," was indefinitely postponed by the university organizers.

According to Agence France-Presse, Turkish Justice Minister Cemil Cicek yesterday accused conference organizers of committing treason, saying, "We must put an end to this cycle of treason and insults, of spreading propaganda against the Turkish nation by people who belong to it." In addition, Turkish officials have demanded copies of all papers submitted to the conference.

The development further affirms the speculation that the image that the Turkish Government has attempted to create for itself is nothing more than a desperate attempt to create a facade. Contrary to what Turkish Prime Minister Erdogan and other Turkish officials would have us believe, the Government of Turkey is not democratic.

is not committed to creating a democracy, is not making an effort to create better relations with Armenia and is definitely not ready to join the European Union.

Over the last year, we have witnessed the Government of Turkey attempt to move towards democratization. However, the manner in which they have chosen to do so is an insult to any truly democratic government. Their attempts have included the adoption of a penal code that, in reality, represents a dramatic display of the Turkish government's campaign to deny the Armenian genocide. Furthermore, this new criminal code further hindered improved relations between the Republic of Armenia and Turkey.

Section 306 of this penal code punishes individual Turkish citizens or groups that confirm the fact of the Armenian genocide in Ottoman Turkey or call for the end of the Turkish occupation of Northern Cyprus, with up to 10 years in prison. Far from coming to terms with the genocide or reaching out to Armenia, Turkey, in adopting Section 306 of its new penal code, hardened its anti-Armenian stance and undermined hopes for reduction of tension in the region. This sets the stage for possible legal action against conference planners and participants. The Turkish Government has refused to support rescinding this prohibition against free speech, despite international criticism.

Mr. Speaker, with the cancellation of this conference, we find that the Government of Turkey will go to any length to avoid facing its bloody past. In just 2 weeks, Turkey's prime minister will be in the United States for an official visit, proclaiming that his nation is a democracy ready for full membership in the European Community and asking for U.S. support. The sad reality, Mr. Speaker, is that when it comes to facing the judgment of history about the Armenian genocide, Turkey, rather than acknowledging the truth, has instead chosen to trample on the rights of its citizens and still maintain lies.

Hrant Dink, editor of the Armenian weekly Agos in Turkey stated, "This decision strengthens the hand of those outside Turkey who say Turkey has not changed, it is not democratic enough to discuss the Armenian issue, it shows there is a difference between what the government says and its intentions."

Numerous European countries, including Poland, France and Greece, have passed Armenian genocide resolutions and have continuously urged Turkey to admit its crime. Just this week, French President Jacques Chirac urged Turkey to recognize the genocide and said failure to do so could harm Ankara's drive to join the European Union.

We cannot sit by and allow any nation that we consider an ally and a nation that is desperately seeking admission into the European Union to behave in such a manner. To bring this development into perspective, consider that according to current law in Turkey, dozens of U.S. Senators and hundreds of Congressmen would be punished simply for having voted for Armenian genocide resolutions, spoken about the lessons of this crime against humanity or commemorated the victims of the atrocity. So, too, would the American academic establishment, human rights groups, the mainstream media and just about everyone else aside from the Turkish embassy and its paid lobbyists here in Washington, D.C.

Only by being prepared to admit mistakes and make amends can the Turkish Government truly be considered a nation governed by the values of democracy. This recent event reveals the vulnerable side of Turkey, one that is still hiding from its history and is incapable of learning from its mistakes so as to ensure that they will not be repeated in the future.

Mr. Speaker, the United States prides itself on being the world's leader in spreading democracy and liberty. As an effective leader, it is our duty to recognize that Turkey is not yet a democratic state and it will take a sincere effort on the part of Turkey to make a transition from a government that currently advocates censorship and lack of freedom of speech to one that embraces the principles of democracy in its true meaning.

MEMORIAL DAY—PAYING A DEBT TO THOSE WE CAN NEVER REPAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, with Memorial Day 2005 just around the corner, men and women in Congress are hurrying home for festivities like those that we will enjoy in Indiana. This Sunday, the Indianapolis 500 Mile Race will draw half a million people. But it will not be the most important occasion of this long family weekend, because Hoosiers will gather in places like New Castle and Muncie and Elwood, Indiana, to commemorate this Memorial Day.

I could not help but think about the obligations of this day as I toured the battlefield of Antietam, near Sharpsburg, Maryland, just last weekend. There, Mr. Speaker, I walked on the ground that saw 6,000 Americans fall in battle in a single day, the bloodiest day in American history. Six thousand Americans at Antietam would turn into 600,000 Americans on both sides of the battle that fell in the Civil War.

Just 3 years after the end of that conflict, Americans set aside the 30th day of May each year to remember their sacrifice, and for 130 years, Decoration Day became Memorial Day, and it is something that we take seriously in the Hoosier State, as it will be taken seriously in every State in this Union.

The Bible says, If you owe debts, pay debts; if honor, then honor; if respect, then respect. I rise humbly as the Congressman from the Sixth District of Indiana to pay a debt of respect and honor to those men who have fallen most recently in the service of this Nation in my congressional district.

These are men like Sergeant Jeremy Wright, who died January 3, 2005, when an improvised explosive device struck his military vehicle. He was 31 and a part of the Special Forces group from Fort Lewis.

Master Sergeant Mike Hiester died March 26, 2005, when his military vehicle also struck a land mine 30 miles west of Kabul, Afghanistan. He was 33, from Bluffton, Indiana, survived by his brave wife, Dawn, and two small children. He was with the 76th Infantry Brigade, Army National Guard, Indianapolis. Both men fell in Operation Enduring Freedom.

In Operation Iraqi Freedom we remember Lance Corporal Matthew Smith, who died May 10, 2003, in a vehicle accident in Kuwait, age 20, from Anderson, Indiana. He was a Reservist assigned to Detachment 1, Communications Company, 4th Force Service Support Group, Peru, Indiana.

Private Shawn Pahnke was killed June 16, 2003, by a sniper while on patrol. He was 25, of Shelbyville, Indiana. He was with the 1st Battalion, 37th Armored Regiment, 1st Armored Division, Friedberg, Germany.

Specialist Chad Keith who was killed July 7, 2003, in Iraq, when a roadside bomb exploded as his unit patrolled the streets of Baghdad. He was 21, from Batesville, Indiana. He was with Company D, Fort Bragg, North Carolina.

Staff Sergeant Frederick Miller, Jr. Fred was killed September 20, 2003, when an IED hit his vehicle. He was 27, from Hagerstown, Indiana, and was with the 3rd Armored Cavalry Regiment, Fort Carson, Colorado.

Sergeant Robert Colvill, Jr., was among five soldiers killed 8 July 2004 in Baghdad. All were in the Iraqi National Guard headquarters when it came under mortar attack. He was 31 and from Anderson, Indiana, part of the 1st Infantry Division in Schweinfurt, Germany.

And Specialist Raymond White. Ray died 12 November 2004, in Baghdad, when his patrol was attacked with small arms fire. Ray was 22 and from Elwood, Indiana.

It is an honor to serve such men, Mr. Speaker, and it is an honor to rise and to pay some debt of honor and recognition to these brave men and their families.

As we approach this Memorial Day, we do it with humility and no small amount of emotion, knowing that as we read these names, they are more than names. They are sons, they are husbands, they are brothers, they are uncles, they are friends and they are neighbors; and they are gone. Gone perhaps to this world, but I am confident not to the next. Their duty was to serve. Our duty is to remember.

So I rise with a deep spirit of humility simply before this Memorial Day arrives to remember these men; to assure them and all of the tens of thousands who went before them that this Nation will never fail to feel the gratitude for their sacrifice, and on this Memorial Day never fail to pray for them, for the salvation of their immortal souls, and for the comfort of those they left behind.

Happy Memorial Day.

DEMOCRATS NOT REVEALING THEIR HAND ON SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I was stunned today when I picked up a copy of The Hill magazine and saw an article written by Hans Nichols, and the headline was "Rubin Urges Democrats Not to Reveal Their Hand, Clinton Aide Tells Party to Hold Firm on Social Security."

They go on to describe, "The steward of President Clinton's economic policy told the House Democratic Caucus yesterday that it needs to continue to hold firm in opposition to the President's plan and advised Democrats not to introduce their own plan, according to aides and lawmakers in the meeting."

It goes on to say, "The aide said that Rubin told his party that his party's colleagues would be hard-pressed to win a battle of specifics."

Hard-pressed to win a battle of specifics, this from the former Treasury Secretary, a man largely credited with building the international reputation of Goldman Sachs, which is all about specifics, tells the party, the Democrats, not to offer specifics.

And they say, "Democratic lawmakers said that the encouragement from a Clinton administration figure would steel the Caucus in its resolve to defeat the President's plan." Steel the caucus to defeat a plan. Of course, they do not have one of their own.

Since they are using President Clinton as an example, his experts say, "Do not offer a plan," let me read to you Morton Kondracke's editorial, "Democrats Need Their Own Social Security Plan."

"It is time for Democrats to declare what kind of Social Security reform they favor. Even former President Clinton thinks so. Yet the Democrats persist in attacking President Bush's ideas, often misleadingly.

President Clinton told ABC's "Good Morning, America" in an exchange curiously not broadcast, curiously not broadcast, "'I think Democrats should say what they are for on Social Security in the next couple weeks. Democrats should have a plan and they should talk to the President and congressional Republicans about it.'

"According to ABC's political blog, The Note, Clinton said he didn't think Democrats deserved criticism for not producing a plan yet, but they still had time to produce one. He added, 'I think they need to come up with a plan of their own.'

"One Member," the gentleman from Florida, ROBERT WEXLER, whom I respect and admire, "came up with a plan and he was largely booed by his colleagues." Largely booed. "According to numerous aides, minority leader PELOSI's strategy is to wait until we see the whites of their eyes before offering a Democratic alternative. Democratic leadership aides were critical of WEXLER's timing, saying it clashed with PELOSI's strategy of waiting until they see the whites of their eyes before offering a Democratic alternative."

□ 1645

Wait until they see the whites of their eyes. Like this is a battle, like this is a combat mission. It is, after all, about saving Social Security for future generations, not about fighting an enemy force. Seeing the whites of their eyes has largely been equated to battle, to taking down the enemy. They are using those same kinds of conversations about American citizens trying to build a safety net in Social Security.

Lo and behold: "Teamsters President Praises Bush's Social Security Work. Teamsters President James P. Hoffa, breaking his estrangement from the White House, praised President Bush on Tuesday for attempting to fix Social Security and said Democrats were wrong to oppose any discussion until Mr. Bush drops his personal retirement account plan." That is Jimmy Hoffa representing 1.4 million members of a union. And he said he was willing to work with the administration and the Republican majority in Congress to come up with a bipartisan solution.

I quote Mr. Hoffa: "Social Security is a major problem in this country. We have to make sure that it is preserved for those that come after us." Mr. Hoffa said in an interview with Gannett News Service. "I think President Bush should be given credit for the fact that he has initiated a debate regarding what we should do."

Now let me read some quotes from Democrats who, when President Clinton had a plan, oh, they were enthusiastic. This refers to President Clinton: "This fiscal crisis in Social Security affects every generation."

Let us read HARRY REID, the minority leader of the Senate: "Most of us have no problem with taking a small amount of the Social Security proceeds and putting it into the private sector."

When asked by Tony Snow on Fox News, "Are you opposed to letting people make the investment decisions? In other words, having some component where they say, I will save the money rather than letting Uncle Sam doing it for me?" Senator REID in 1999: "I think it is important that we look, and I am totally in favor to do this. And, in fact, there are a couple of programs now that we are taking a look at to see if it works for Social Security."

Now, I agree in my heart that there is opportunity for negotiations, but simply saying "no" by the Democrats is unacceptable to every senior and every future generation to follow.

EDUCATION FUNDING

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Oregon (Mr. WU) is recognized for 5 minutes.

Mr. WU. Mr. Speaker, on Monday, May 23, I read a disturbing story in The Oregonian newspaper. It was not about the war in Iraq, the rise of unemployment in Oregon, or even the growing problem with methamphetamine abuse. Instead, this story focused on a school fundraiser.

What was so disturbing about this fundraiser is that the students and their parents at Redland Elementary School in Oregon City were hosting a jog-a-thon to raise money to hire a physical education teacher. It was not for band uniforms, not for supplies, or even for a field trip; it was to hire a teacher. The parents and students have hosted this fundraiser every year since 1994 when the school district no longer had enough money to pay for a PE teacher.

Sadly, this is not the first tale of such fundraisers in Oregon. In 2003, the Eugene Register-Guard reported on similar efforts of parents who were hosting fundraisers to pay for a math teacher. Math classes were jeopardized because the then current math teacher was retiring and there was not enough money to hire a new math teacher. The parents and teachers decided to give their blood to fund the position. That is right, blood. After realizing that bake sales would not raise enough money, parents and teachers decided to sell their blood plasma to raise money to fund a teacher.

When it comes to education funding, it is increasingly parents and teachers who are scrambling to cover budget shortfalls; and, unfortunately, Oregon has been one of the States hit hardest by budget shortfalls. Across our State, schools are closing, increasing class sizes, or eliminating or cutting music, art, athletics, marching band, and other important so-called "extracurricular" activities.

Oregon's school districts have carved a total of almost 500 days or 12 million instructional hours off the 2003 school year, and at least 1,100 teacher positions have been lost so far. Oregon has abolished State tests for writing, math, and science in middle schools; and some schools have received no new textbooks since 1988.

Spanish is emerging as the sole option for Oregon students who want to study a foreign language, as budget cuts translate to reduced programs in languages such as German, French, Russian, Chinese, and Japanese.

In Douglas County, 80 new teaching positions were eliminated, class sizes are expected to increase from 20 or so students to the low 30s, and sports and other extracurricular activities are going to take a hit.

Yamhill High School in my congressional district saw average class size jump by 10 to 20 students. That is 10 to 20 more students in the average classroom.

A math teacher in Hillsboro has two classes that top out at 54 students in each class, and other classes throughout our State routinely have 40 or more students per class.

In Portland, high school students and their parents were running telethons and auctions and collecting recyclables to pay money for teacher salaries and basic supplies.

The Medford School District eliminated 23 staff members, including seven child development specialists, two school nurses, two psychologists, and several maintenance and secretarial positions; and the district will start charging each student, each student, $100 to pay a fee per sport in high school and $50 in middle school.

In Lake Oswego, families are paying as much as $900 a year for their children to play high school sports.

In order to retain as many teachers as possible and to keep class sizes down, the Dallas school district was unable to purchase new textbooks. Many students were studying from textbooks older than themselves until an anonymous donor gave $185,000 and provided 2,700 students with new science and math books. Other school districts have asked parents to help curb the supply shortage by pitching in a variety of items, including crayons and even toilet paper.

And after Junction City School District cut art, music, and gym classes, laid off three teachers, and eliminated all field trips, some local male farmers ages 40 to 70 decided to drop everything, Full Monty style, by modeling for a nude pin-up calendar to raise money for schools.

These stories would be funny if they were not so deeply disturbing. We have a responsibility so that our children can get their education, and we should not be relying on parents to do bake sales, students to do jog-a-thons, parents to do pin-up calendars, or, worst of all, blood sales to bridge budget gaps; but they are, and sadly, they are not the only ones making sacrifices. A couple of years ago, the teachers in the Portland public schools taught for 2 weeks without pay.

Mr. Speaker, I urge this Chamber to do a better job, and I urge my home State of Oregon to do a better job.

Parents, teachers, and community leaders continuously demonstrate their deep pride in and commitment to public education. Most parents will make any sacrifice to ensure that their children receive a quality education. And I know that teachers want nothing more than to see their students learn. While this generosity and commitment are heartwarming and inspiring we should hang our heads in shame that our schools are so desperate that parents and teachers have to sell their blood, pose for pinups, or work without pay to provide our children with the education they deserve.

I ran for Congress to improve the quality and accessibility of our education system. I believe strongly that an education is the best investment that we can make in our children and for our future.

We already have a glimpse of what our future can bring.

We can now travel the globe in a matter of hours. Business transactions can be performed with the click of a mouse. And our cars have more computing power than the Apollo spacecraft.

In this fast paced, digital age, it is important that we provide our children with a high quality education that will equip them for what the future holds.

Since I have been in Congress, I have made over 200 visits to over a hundred schools, and I have talked to teachers, students and parents from all over Oregon. In every school I have visited, the parents, students and teachers all agreed about what works: quality teachers, small class size, high standards and shared accountability, parental and community involvement, and adequate and equitable funding.

That is why I introduced the Class Size Reduction Initiative, which would hire 100,000 new teachers to reduce class size to 18 students in kindergarten through third grade. As a result of this initiative, we were able to provide over $3 billion to school districts all across the country, hiring over 30,000 teachers—including over 300 in Oregon. One of those new teachers was placed in Reedville Elementary School in Aloha and reduced class size in first grade 54–27 54–18.

Yet, today the Administration and the Majority Leadership in Congress are turning their backs on education. President Bush in his budget has proposed a cut of $530 million in education. He has eliminated funding for the Class Size Reduction Initiative. In fact, of the 150 programs that the president has targeted for massive reduction or elimination, 50 of them are education programs. He also shortchanges the No Child Left Behind Act (NCLB) by $12 billion. That guarantees children will be left behind.

The Federal Government is not the only one at fault. States across the nation are also balancing their budgets on the backs of our children, and our schools.

We can and must do better for our children, for ourselves and for our future. Common sense tells us that we need to prepare our students for the future so that the United States will continue to prosper. But this issue is more than about staying economically competitive. An education is necessary for everyone's quality of life. It is necessary for our society and for our democracy.

I urge my colleagues to join me in fighting for high quality public education. Our children should not be short-changed. They should not be forced to jog to raise money for a PE teacher, their teachers should not be asked to work for free, and their parents should not pose nude or be drained of blood to keep the schoolhouse doors open.

IN MEMORY OF VICE MAYOR KATHLEEN NICOLA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. HAYWORTH) is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, it is my sad duty to inform this House and the people of this Nation of the passing of a dedicated public servant. The vice mayor of Fountain Hills, Arizona, Kathleen Nicola, passed away last week as the result of a boating accident.

A longtime Arizona resident, Kathleen Connelly Nicola moved to Lake Havasu City, Arizona, in June of 1967. After a move to Mesa in 1985, Kathleen and her family settled in Fountain Hills in 1989.

Kathleen's service to the town of Fountain Hills began in 1990 when she began working for the municipal court after a brief period of volunteering her services. During her tenure as administrator of the court over the following 9 years, Kathleen's extensive duties included budget preparation and day-to-day management of that court.

Kathleen's responsibilities likewise included the court's compliance with local, county, and State statutes, rules and administrative orders, in addition to statistical and financial reports; and with that involvement and background in government, Kathleen Nicola decided to run for the Fountain Hills Council in 2002, serving there with distinction, rising to the post of vice mayor prior to her tragic death last week.

Kathleen earned a Bachelor of Science degree in Justice Studies from the College of Public Programs from Arizona State University. She graduated from the Arizona School of Real Estate and Business, making a career change in the summer of 2000 to become a licensed real estate salesperson. A local real estate professional, Kathleen was an active member of the Fountain Hills Chamber of Commerce and the Scottsdale Association of Realtors.

Kathleen Nicola, one of those in America who understood that public service can be expressed through many avenues of citizen involvement, finally choosing to run for public office, serving as the vice mayor of the town she loved.

Residents of the fifth congressional district, the town of Fountain Hills join as one to express their sympathies and condolences to the Nicola family. And, Mr. Speaker, I would hope that all Americans would remember the Nicola family in their prayers during these difficult days.

The legacy of Kathleen Connelly Nicola, a woman called to service, service in her town, service in public office, service in her profession. She will be long remembered, and she is most definitely missed.

DEMOCRATS OUT OF MAINSTREAM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, I rise today to put the lie to House Democrat rhetoric. The Democrat leadership, from Howard Dean to the gentlewoman from California (Ms. PELOSI), claim that House Republicans are out of the mainstream. Well, Mr. Speaker, if we are out of the mainstream, they are swimming downriver in some backwoods tributary.

From a parent's right to know what their children are doing, to protecting citizens across the country from the growing threat of gang violence, the House Democrat leadership is simply out to lunch.

Eight pieces of landmark legislation that passed this House with strong support from rank-and-file Democrats, and still the minority leadership refuses to see the light. On every one of these important bills, the gentlewoman from California (Leader PELOSI) chose to vote against legislation that the vast majority of Americans, Democrats and Republicans alike, approve of.

Bankruptcy reform, 73 Democrats voted for it, but Leader PELOSI did not. Class action reform, 50 Democrats voted for it, but Leader PELOSI did not. The Gang Deterrence and Protection Act of 2005, 71 Democrats voted for it, but Leader PELOSI did not. A new energy policy for America, 41 Democrats voted for it, and, you guessed it, Leader PELOSI did not. Protecting a parent's right to know before their daughter has an abortion, 54 Democrats voted for it, and Leader PELOSI did not.

It is as simple as this, Mr. Speaker. The House Democrat leadership is engaged in a strategy designed to do one and only one thing: prevent any and all action sponsored by Republicans from becoming law. Their obstruction of House Republicans' solutionist agenda shows just how far out of the mainstream they really are.

Mr. Speaker, it would be one thing if House Democrats tried to block legislation based on policy disagreements, but it is quite another for them to block legislation based on politics. And that, Mr. Speaker, is just what they are doing.

Democrats believe they can win at the ballot box by obstructing, and they would rather win the next election than move America forward. Make no mistake: the votes I just spoke about are telling. Rank-and-file Democrats, those who believe what is best for America is more important than election politics, are brave in their defiance of their leaders. They understand that simply being the Democrat Party of No will not increase our security, build our economy, or create jobs.

If you need more proof, just look at retirement security. Republicans, led by President Bush, have the foresight to address the looming crisis facing tomorrow's retirees. We know that sometime in the near future, our Social Security system will be bankrupt.

□ 1700

If we do not make tough decisions now, future Americans will have to make even tougher ones. But Democrats just do not see a problem. Or is it that they would rather pretend there is not one?

When President Bush announced his intention to reform Social Security, he and other Republicans crossed the country to engage the American people in dialogue. He declared that nothing was off the table and signaled his willingness to consider any and all options. The Democrat response: refusal to come to the negotiating table.

One poll shows that by 61 percent to 29 percent Americans under 40 say that Social Security needs to be fixed. At the same time, many in the minority stick to their head-in-the-sand argument that there is no problem. Democrat leaders are not only out of the American mainstream, but are also out of the Democratic mainstream. Yet they have the gumption to accuse Republicans of being out of touch.

The American people must not buy into the Democrat rhetoric. They are doing a lot of talking. But do not confuse activity for achievement. What tangible results can the minority point to? The answer is none. They have no agenda. They have no vision and they have a fundamental misunderstanding of the issues we face as a Nation.

Democrats, not Republicans, Mr. Speaker, are the ones who are out of the mainstream.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 2566. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

EMBRYONIC STEM CELL RESEARCH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, we want to spend some moments this evening talking about a subject which is a very high priority for a lot of Americans, including a number of us here in the Congress, and that has to do with embryonic stem cell research. I want to start out by telling you what the essence of a bill that we have dropped is. We filed this bill a couple of days ago. And then I will come back to this later on, to a more detailed discussion of it.

What I have here, Mr. Speaker, is a little depiction of what happens in the human body. This shows one-half of the reproductive tract of a female. This would be replicated, mirror image, on the other side, because here we are seeing only one ovary and one Fallopian tube and one-half of the uterus; and what this depicts, Mr. Speaker, is the sequence of events in the fertilization and the growth and the ultimate implantation of the embryo, this whole trip, not an unhazardous trip for the embryo, because not all of them make that trip successfully.

In fact, probably about as many as two-thirds of those that are fertilized here never are implanted down in the uterus. But this is a sequence of events which takes 10 days, perhaps, to make the trip down to finally be implanted in the uterus.

Fertilization, as is noted here, occurs very far up in the Fallopian tube, and then there is a single cell called a zygote, and that splits to form two cells. They split to form four cells and eight cells. And we are going to come back and talk about those eight cells because that is the focus of a lot of attention in today's world, particularly in infertility clinics where they are doing in vitro fertilization.

Let us imagine now that that sequence of events is not occurring in the uterus and the fallopian tube of the mother, but it is occurring in a petri dish in the laboratory. For some reason, the mother cannot become pregnant, and so they, with the use of hormones, take eggs, generally more than one, from the mother, and they take sperm, of which there are millions, from the male, and they expose these eggs to sperm, and they are fertilized. And so the doctor has a number, generally several, of these fertilized embryos. And he looks under a microscope and determines the embryos which look the strongest, and then he implants them in the mother.

Because not every embryo takes when it is implanted in the mother, he will usually implant more than one. One of my good friends here in the Congress, the gentleman from California (Mr. ROHRABACHER), his wife had three babies because all of the embryos that were implanted took. And so now they are the very happy parents of triplets that were born.

Well, at this eight-cell stage, in clinics, it started in England a couple of years ago; it has now spread to this country. At the eight-cell stage, the doctors are able, with a very fine pipette, to remove a cell or two from that embryo, and they then do a genetic diagnosis on that cell. It is called a preimplantation genetic diagnosis because they are doing it before they implant the embryo in the uterus. The parents want to make sure that their baby is not going to have a genetic defect. If there is no genetic defect, they put the egg, minus a cell or two, in the uterus. And more than 600 times in the clinic in England, and well more than 1,000 times worldwide, we have had a perfectly normal baby born.

Now, the hope is that ultimately, but that is not what our bill is. I will come to that in a moment. The hope is, ultimately you could take that cell and do two other things with it, that cell or two that you have removed. One of the other things that you would do with it is to establish a repair kit for your baby.

We are now attempting to sort of do that when we are freezing umbilical cord blood, Mr. Speaker, and I know you have heard of that, with the hope that the stem cells, they are not really a true embryonic stem cell because they are already differentiated somewhat, that is, they have already decided ultimately what they are going to be, at least to some measure, that the baby can get, or the adult later on can get, some help from that.

We hope that we will be able to develop a repair kit from the cell that is taken. If that is true, then you could take some of the cells from the repair kit to produce a new stem cell line.

And as you know, Mr. Speaker, we are now down to 22 stem cell lines of humans that we can use Federal money working with. They are all contaminated with mouse "feeder" cells, and so there is a need in the medical research community for additional stem cell lines.

There is, Mr. Speaker, the hint of a moral ethical problem here, and that is that maybe the cell that I take out of this eight-cell-stage embryo could, under proper circumstances, become another embryo and, therefore, another baby. There is some cause to reflect on that, Mr. Speaker, because nature, on occasion, at some point between the two-cell stage and the inner cell mass, which is clear down here, will split the embryo and then end up with two embryos, and obviously, half of the cells went to each embryo and those half cells, each one, develops into a perfectly normal identical twin.

But if we could take the cell for preimplantation genetic diagnosis, if we could take that cell from the inner cell mass, then it is already differentiated, so that it cannot produce decidua.

Now the decidua, Mr. Speaker, is the amnion, chorion. These are elements of the placenta. And already the cells that are the inner cell mass, which will become the baby, have lost the ability to produce the decidua, so there would be no concern that the cells you took could produce another embryo and, if implanted, another baby.

Our bill looks only at animal experimentation because we need to determine several things. First of all, we need to determine, can you, in fact, from these single cells? By the way, one of the additional advantages of the inner cell mass is that there are a lot of cells there. So you could potentially take much more than one cell, which would give you an enhanced capability of producing a stem cell line and a repair kit, because these cells do not like being alone. And what we want to do is have animal experimentation on nonhuman primates, which are the great apes, which are 99.99 percent genetically identical to humans. That may reflect something on who you think you are, but the truth is that the gene differences between the great apes and humans is very, very small.

If, in fact, we can do these things with cells taken from embryos and cells taken from nonhuman primates, then we will have increased confidence that it will be safe in humans, that we can, in fact, develop the repair kit and the stem cell line that we would like to develop.

Let me take just a moment, and then I am going to recognize my friend, the gentleman from Georgia (Mr. GINGREY). Let me take just a moment to talk about what stem cells are.

There are fundamentally two types of stem cells. There are adult stem cells and there are embryonic stem cells. Here we show the growth of the embryo, and as you notice, there are fewer stages here than that previous chart we had, because they have skipped the morula and they go to the blastula, and then they skip the gastrula, well, here is the gastrula, and then they go on to the three derm layers.

These cells start differentiating. They first differentiate into the inner cell mass and the tissues which will become the decidua, and then the inner cell mass differentiates into three types of cells, the ectoderm and the mesoderm and the endoderm. And at the bottom here it shows the kinds of tissues that will develop from those.

From ectoderm will develop your skin and your nervous system, the brain and spinal cord and all the nerves that run to and fro in the body.

From the mesoderm, that is in the middle. From the mesoderm the middle layer will develop most of what you are, all of your muscle, all of your bone, all of your heart and so forth, the smooth muscle of your gut.

And then we have small but important contributions of the endoderm. And this is some of the glands in the body and the lining of the digestive system and the lining of the lungs and so forth.

Now, adult stem cells, and a good example of those is a stem cell that produces red blood cells here, that cell produces more than that. It is in the bone marrow and it produces red blood cells. It produces the thrombocytes for clotting. It produces the polymorphonuclear leukocytes, that is some of the white cells.

Now, maybe you can take that stem cell, which is not totally differentiated, and you can put it in an environment where it will be confused as to what it really is, so that it might be able to produce for you something else. And that is what we do, at least partially, with adult stem cells.

The embryonic stem cell is a cell taken from the embryo no later than the blastocyst, which has the inner cell mass, because only then will it be purely embryonic.

In the morula, the eight-cell stage we talked about, it is totally undifferentiated. Conceivably, it might produce an embryo. The President's Commission on Bioethics does not think so, but conceivably, it might. But if you take that cell or cells from the inner cell mass, it certainly will not, because it is already differentiated to the point that these cells in the inner cell mass will become the baby, and these cells in the trophoblast will become the decidua, the amnion and chorion, the placenta.

Mr. Speaker, now I would like to yield to my good friend, the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I want to, first of all, thank the gentleman from Maryland (Mr. BARTLETT). And I want to tell my colleagues, Mr. Speaker, how enthused I am to be an original cosponsor on H.R. 2574, the Respect for Life Embryonic Stem Cell Act of 2005.

□ 1715

I think that the gentleman has an excellent idea of solving this moral, ethical problem that we spent so much time talking about on the floor of this great body yesterday in the passage of those two pieces of legislation, the one, of course, to expand the opportunity for obtaining umbilical cord blood with up to 150,000 umbilical cord banks that would communicate with each other in regard to trying to match the stem cells obtained in that blood to the specific recipient who is suffering from one of these terrible diseases that we have heard so much about. I am talking about things like juvenile type I diabetes. I am talking about spinal cord injuries, Alzheimer's, leukemia.

That was the one bill. And, of course, also in that bill would expand the banking ability of bone marrow where adult stem cells are plentiful. That bill I think passed this body with maybe one dissenting vote out of 435. That does not happen very often that you get such a unanimous support.

The other bill, of course, the Castle/DeGette bill, is the one that caused a great controversy, consternation. Not partisan concern, because we had Members, both Republican and Democratic Members, for and opposed to that bill. Indeed, the authors were the gentleman from Delaware (Mr. CASTLE), a Republican Member, and the co-author, the gentlewoman from Colorado (Ms. DEGETTE), a Democrat; so it was a very, I think, in some ways it was a good thing even though I was very, very much opposed to the bill and disappointed to be on the losing side. There were 194 of us, though, who felt very strongly that we did not want to go in that direction of destroying embryos, even though the proponents, Mr. Speaker, used the term, hey, these are throwaway babies.

I even heard somebody say in their time in the well, Mr. Speaker, that these embryos, these frozen embryos were just going to be flushed down the toilet. Well, as we know, my colleagues know this week we had, I do not know how many of the hundred snowflake babies, the babies that infertile couples have adopted, the frozen embryos with the permission of the natural parents and carried these precious children to term. I think 22 of them were roaming around Capitol Hill yesterday and had an opportunity to be over at the White House with President Bush. You ask one of those moms or dads if those were throwaway babies. Indeed, they were not. They were precious lives. And I am just so thankful that that opportunity is there.

I will say this, if my colleague from Maryland will permit me to digress just a little bit on this subject, reproductive endocrinologists are superspecialist OB/GYNs. Their work involves primarily infertility. And they are wonderful doctors. They are so well trained and it is amazing the things that they can do with infertile couples, whether the infertility is a female problem with a sparsity or lack of sufficient number of eggs or whether it is a male infertility where the sperm count is extremely low, and maybe like in 25 percent of the cases you just do not know. But the success rates that they achieve is remarkable.

One of the most exciting things that they do and have been doing now for, gosh, 15, almost 20, years is in vitro fertilization. But when they first started that technology of actually stimulating a woman's ovaries to produce multiple eggs, not without some risks because when you do that with injections, the ovaries swell, they get quite large, and of course there is some danger there, as all of us in the medical profession, especially the OB/GYNs know, Mr. Speaker. But they do. It is called hyperstimulation when it gets to the dangerous stage. But even before that, it is superstimulation so that they can obtain multiple eggs.

So then there is this fertilization in the petri dish, whether it is the husband's sperm or the donor sperm if the husband is azospermic, has no sperm. So you are getting really so many of these fertilized eggs, many more than you can safely put back into the uterus. And that has created, really in a way, somewhat of a dilemma with these so-called throwaway frozen embryos, some 100,000 of them.

I think I want to hopefully sometime soon talk to my colleagues in that specialty of reproductive endocrinology and say, first of all, there should be a limit to the number of embryos that can actually be implanted in a woman's uterus, and you should never put more in than they can safely conceive.

What has been done in this country and others is if all of the sudden six or eight are implanted with the hopes that two or three or maybe just one will take and be a successful pregnancy, in those situations where lo and behold five or more take, then what is typically recommended is something called "pregnancy reduction" where the doctor is able to go in actually at a certain stage with a needle and destroy two or three or four sort of indiscriminately. Not knowing whether you were getting the boys or the girls or an equal mix of the same or the most intelligent or the least intelligent, the one that will grow up to be a doctor or the one that will grow up to be a lawyer. Pretty unethical in my estimation, Mr. Speaker, a pretty unethical procedure to be doing or recommending to a couple. And I think that we need to get away from that.

We need to be a little more careful and only implant a total number so that if every one of them took, that it would be safe for them to carry to near term so that all of those children would survive. And also in getting into the situation that maybe, Mr. Speaker, couples need more counseling when they go to their reproductive endocrinologist and they sign up for IVF, in vitro fertilization, maybe they need a little more counseling as to, well, how many children do you hope to have. And if they say, well, only two; I would certainly not want to have more than two children, then I think it is unethical to do this egg retrieval process and get 10 or 12 eggs and fertilize all of them and then freeze the extras when the couple had absolutely no intention of ever having a family of six or eight or 10 children.

Now, some people do. We have a Member on our side of the aisle, the gentleman from Arizona (Mr. RENZI), who has 12 precious children, and he is still a young man. But it is an amazing thing that we have really created this problem ourselves by not regulating this specialty.

So I have digressed a little bit and I hope the gentleman from Maryland (Mr. BARTLETT) will understand. I wanted to make that point because I think it is very important. But what the gentleman recommended here, this is not some mad scientific proposal. Not at all. The gentleman from Maryland (Mr. BARTLETT) is one of the most thoughtful Members of this body, Mr. Speaker, and I think colleagues on both sides of the aisle recognize that.

He is serving in his seventh term. He is not a rookie. He is a very, very bright Ph.D., physiologist, who taught in medical school. He has taken advanced course work in embryology, so he does understand, Mr. Speaker. He is thinking about what can we do to solve this problem where we in this country do not have to fight about this moral, ethical divide. He does not want us to have to cross that divide and we do not have to.

So I really commend the gentleman, and this bill I have great support for because we need some studies and we need Federal funding of those studies and we are not destroying a human life in the process. So his allowing me to come and spend a few minutes here to be with him to discuss this is most appreciated on my part.

I plan to stay here for a little while and if the gentleman would like for me to comment further, I would be glad to do so.

Mr. BARTLETT of Maryland. Mr. Speaker, I thank the gentleman so much. I am honored he has come, and I really appreciate your articulate description of the situation we are in in the country where I think that a vast majority of Americans believe that there is considerable potential from embryonic stem cell research. And yet we have this big divide in our country where a lot of our citizens in this country and a lot of our Members here in the Congress have real problems taking a life, the life of one of these early embryos.

By the way, this has in it the blueprint for a completely unique individual. There are now 6½ billion people in the world and no two alike. And so each of these embryos created in the laboratory has in it a completely unique genetic blueprint. It is not that we know which of these embryos is going to be implanted because they are frozen, could be implanted in the future. But one thing we do know, one thing we do know is that if you take the embryo and destroy it, that that potential life is gone.

Now you may argue, you may argue that you really ought to opt for the greater good and there could be enormous potential from embryonic stem cell research. If that were the only argument, Mr. Speaker, I would engage in that argument, but it is not because we do not have to kill embryos. You do not have to hurt embryos to get stem cell lines.

I have here a piece today from Roll Call which is kind of an inside paper here on the Hill. And it is quoting from freshman Senator TOM COBURN. He is a freshman there because fairly recently he was here in the House. He came in 2 years after I came in. He is a doctor. He has delivered a lot of babies in Oklahoma. And I called him the other day and he said, I will carry this bill in the Senate.

This is what he is quoted as saying in Roll Call just today: "Coburn said, It is possible to harvest stem cells without destroying embryos and would focus his efforts on amending the bill," that is the bill that will be going through the Senate, "amending the bill to promote this procedure."

I also want to note in this week's edition of Time magazine, the first story, a pretty big story on stem cells, "Why Bush's Ban Could Be Reversed." Now, we voted yesterday to reverse that ban. It needs to be voted in the Senate, and then it needs to go to conference and then it needs to go to the President's desk and the President has assured the world that he will veto this because of his respect for life.

I hope that the bill we are discussing tonight reaches the President's desk at the same time as the bill we voted on yesterday so the President has before him the option of signing a bill which opens up all of the promises of embryonic stem cell medical application and still preserves life.

I want to emphasize again, Mr. Speaker, that our bill deals only with the animal experimentation because we want to know that in fact it is efficacious and safe to do the procedures that will need to be done if we are going to reach the potential for medical application of embryonic stem cells.

I would like to for just a moment talk about the general potential from stem cells, whether they are embryonic or whether they are adult stem cells.

□ 1730

There are two basic kinds of diseases in the body. There are diseases from tissue or organ deficiencies, and there are diseases from pathogens. Mostly what we are talking about are diseases from tissue or organ deficiencies, although if there is a pathogen that destroys an organ or a tissue and it might be replaced through embryonic or adult stem cell application, that would be included also. But there are a large number of diseases that represent tissue or organ deficiencies, which appear to hold promise for stem cell medical application.

My colleague mentioned Type 1 diabetes. This is really a very tragic disease. It represents the largest cost of any disease in our country. I see diabetics come through my office and the most heart-wrenching are those little children, juvenile diabetes, sometimes very virulent. They have to sample, several times a day, their blood.

Thank God, we have improved techniques which require just a fraction of a drop of blood. And they have, many of them, embedded in their side a little hockey-puck-size pump that pumps insulin. But they have to sample their blood to know what the sugar level is so they know how to set the pump, so it is pumping the right dose of insulin. This they have to do 24 hours a day. And some of them are so brittle that they have to wake up at night to do this.

When they come to your office with diseases like this, or like multiple sclerosis, or like lateral sclerosis that my grandmother died from, then your heart really goes out to these people. I remember my grandmother's death. I was a teenager. They had misdiagnosed it for quite a while, because this is Lou Gehrig's disease, and it was not all that common. When they finally figured out what it was, there was nothing that could be done for it. We hope in the future, with stem cell application, there will be something that can be done for it.

My grandmother went from falling now and then to degenerating slowly, until just before she died the only motion she had was blinking her eyes. And that was the only way she could communicate with us. One blink for "yes," two blinks for "no."

So from a personal perspective, and I suspect many families are like my family, that they have a relative, if not a relative, a friend who has one of these many diseases, diabetes, multiple sclerosis, lateral sclerosis, or Alzheimer's disease.

And, Mr. Speaker, there are a whole host. I have here 63 different autoimmune diseases. These are diseases where the body gets confused as to what is really body. You see, very early in our embryonic development there are certain miracle cells in our body called T-cells that are imprinted with who we are. And that is very essential, because in the future there are going to be a lot of foreign invaders, mainly bacteria and particularly viruses, that would like to occupy us and live there comfortably without being rejected; and that, of course, would be hazardous and frequently fatal. So these T-cells are imprinted with who we are so that they reject everything that is not us.

Well, in many people, and there are 63 diseases here that are listed, in many people these immune reactions get confused, and so we have what are called autoimmune diseases where the body starts attacking its own tissues. Well, the body marshals its resources and many times it has overcome this deficiency, but by that time, the tissues are decimated. So we have the potential that we could provide enormous medical help in a great number of diseases.

There is another potential, which is much debated and explored, and that is the potential difference between adult stem cells and embryonic stem cells. And there are many people who will tell you that adult stem cells have the most potential because they have presently the most medical applications, 58 as compared to zero for embryonic stem cells. The reason for that, Mr. Speaker, or at least one reason, is that we have been working with adult stem cells for over 3 decades and just over 6 years with embryonic stem cells. And so there has not really been time for medical applications.

But all of the professionals in the area will tell you that, theoretically, because of what embryonic stem cells are, embryonic stem cells way back here in early development of the embryo, that they retain, or they have the ability to make any and every tissue in the body. So, theoretically, they ought to have the most potential.

You will hear, Mr. Speaker, debates on this issue, and it is well to remember that from a teleological perspective, the embryonic stem cells ought to have more application than adult stem cells, which is why all the clamor, why the $3 billion in California voted by the voters for embryonic stem cell research, because the professionals and most people who think about it believe that there is more potential from embryonic stem cells. There may not be, but that is why we need to do the research so that we know what is feasible here.

I just want to spend a moment, Mr. Speaker, going over my personal involvement with this field. As was mentioned by my good friend, the gentleman from Georgia (Mr. GINGREY), I was privileged in a former life to work in a scientific medical environment. I taught medical school for 4 years, I taught postgraduate medicine at the School of Aviation Medicine in Pensacola, Florida. I had the opportunity, while studying for my doctorate, to take a course in advanced embryology. And so when I went to NIH in 2001 with a group from the Hill here, most of them staff members, quite a large number as I remember, for a briefing at NIH on the potential for embryonic stem cell applications, and this was in 2001 before the President came down with his executive order that we could not kill any more embryos; that there were 60 cell lines, maybe not quite 60, but 60 cell lines in existence and that Federal money could be spent only on those, we knew then that these cell lines would eventually run out.

Now they are down to 22 and all of them contaminated with mouse "feeder" cells, so there is now a need, if this research is going to continue with Federal funding, there is a need for additional stem cell lines. That is why the bill yesterday and why the bill that we are talking about today.

Because I remembered my embryology, and the next chart here will show what happens with ordinary twinning with fraternal twins, in fraternal twins there are two eggs, and those two eggs may implant in the uterus far apart, in which case the babies will present in separate amnions, or they may implant in the uterus close together so that they will present with a single chorion, I guess it is.

The next chart shows what happens in identical twinning. In identical twinning, early in the development of the embryo, and you will remember the first chart we looked at that went from one cell to two to four to eight, then 16 and on to the inner-cell mass stage, and the embryo can divide at either the two-cell stage or clear up to the inner-cell mass stage. And the little chart here shows two inner-cell masses.

The cell at which it divides determines how the babies will present. Here you see you have two babies in the same chorion and they mimic the two babies that were fraternal twins that happened to implant in the uterus close together. Well, I knew, Mr. Speaker, that in both of these cases half of the cells were taken away from the developing embryo either at the two-cell stage or anything in between clear up to the inner-cell mass, and there are a lot of stages in between here. And when you took half the cells away, the half you took away made a perfectly normal baby, and the half that was left made a perfectly normal baby: identical twins.

So it was reasonable to me that you ought to be able to take a cell or two or three or so away and the cells that were left ought to produce a perfectly normal baby. And I asked NIH researchers, is this theoretically possible? They said, yes, it is theoretically possible.

A few days later I happened to be at an event with the President, and I knew he was struggling with this decision. So I mentioned to him my visit to NIH and the possibility that this could be done. The President handed the follow-up to this to Karl Rove, and so Karl Rove went to NIH.

Now, I did not know he was involved until he called me and he said, Roscoe, they tell me at NIH they cannot do this. I said, Karl, either they did not understand the question or there is some confusion, because these are the same people that can take a nucleus out of a single cell and put another nucleus in it. That is what people do in cloning, and this is now done widely since that Dolly sheep up there in Scotland.

In fact, I went to a farm in Maryland that has two cloned cows, and it may be unique in all the world. They have a heifer there, born to a cloned cow, fertilized by a cloned bull.

So I knew that it was possible to go in and do this. But they told him again, no, they could not do it. So the President came out with his executive order saying we could use only the stem cell lines in existence.

Subsequent to that, a couple years later, in my office talking about this with NIH, they admitted that there was some confusion that permitted Mr. Rove to believe something that they had not said. What they told him was that they were not sure that we could make a stem cell line from such an early embryo, at the eight-cell stage. We make them all the time, by the way, from the inner-cell mass. That is the stage at which they do this. That is true. That is why I wanted then and want now to do the animal experimentation to determine whether this is true or not.

I have here a letter, and I submitted this for the RECORD the last time we spoke about this, so I will not do it again, but this is a letter from Dr. Battey, who is the NIH spokesman, the point person for embryonic stem cell work. It is a large, 3-page letter in which he discusses a number of the things that we are discussing here this evening, Mr. Speaker.

There are several statements in his letter which indicate the probability that what we want to do in fact can be done, which could have enormous potential applications for good to the people that have diseases that could be cured, well, maybe not cured, but where defective tissues and organs could be replaced.

We were talking about diabetes, Mr. Speaker. That has a really high potential application. The problem in the diabetic is that the cells of Langerhans, these are little island cells. They are called the islands of Langerhans for the gentleman who first described them. They happen to be located in the pancreas. They do not need to be there. They have nothing to do with what the pancreas does.

The pancreas secretes a large number of enzymes in the intestine that help digest all three classes of food in the intestine: fats, carbohydrates, and protein. The islands of Langerhans, if we could make them from stem cells and they could be placed in people, anywhere, their earlobe, their groin, under the skin in their side, anywhere, they would then secrete the insulin that is so essential.

And by the way, it is more than just insulin, because giving insulin to a diabetic prolongs their life and helps a great deal, but it does not cure the disease. There still would be potential eye problems and potential circulation problems. Many people, Mr. Speaker, have friends and relatives that have diabetes and they see this progression.

What we want to do in our bill is to provide an opportunity to explore in nonhuman primates the potential for making a repair kit so that that individuals, through all of their life, would have the possibility of applications with completely genetically compatible material. And then with surplus cells from the repair kit, we could establish new embryonic stem cell lines. But our research aims only at the animal experiments which would determine the efficacy and the safety of doing this.

There is debate, and you, Mr. Speaker, heard the debate yesterday. That was a really good illustration of something my wife notes frequently, that during those debates everything has been said, but they go on and on because everybody has not said it. We heard yesterday people from both sides repeating. And since repetition is the soul of learning, I am sure the message from both sides got through.

And what was that message? From the side that voted for the Castle bill, the message was that we have 400,000 frozen embryos out there. They are not all going to be used; some will die because they are frozen too long.

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Ultimately, some will be discarded so why should we not get some potential medical benefit since they are going to be discarded?

The argument on the other side, and I am on the other side because I have a true reverence for life, the argument on the other side is that for any one of those 400,000 embryos, you do not know that is not the embryo that could be adopted in the snowflake operation and become a much longed for and loved child.

At the end of the day, if you have taken one of these embryos and destroyed it in your pursuit of embryonic stem cell research, you have destroyed the potential life of a unique individual with a genetic blueprint unlike any other individual on the planet, another Albert Einstein, another Ronald Reagan. I think the reverence for life argues very strongly in favor of the President's position that he will veto the bill.

I hope that my bill can get to his desk at the same time because this is a bill that is reverent of life, and everything that is done is done for the benefit of the embryo. The parents cannot conceive normally, so they have in vitro fertilization. They would like to know, since they have the ability to know, that their baby is not going to have a genetic defect. So what happens to the embryo with the genetic defect?

Mr. Speaker, I hope it is refrozen and made available for adoption. There are many people in the world that get genuine fulfillment in adopting children that are handicapped. That is why they adopt crack cocaine babies or babies with AIDS. I would not want to preclude that this baby with a genetic defect might not be wanted by another family. If the family decides that they want to ensure that their baby is going to have a high quality of life and does pre-implantation genetic diagnosis, if the potential is there, and our research in animals will help determine that, if the potential is there, they will certainly go on to develop a repair kit so their baby will have more than just a potential of frozen cord blood. And then once they have established the repair kit, hopefully if it is needed, they will donate a few cells so we can start another stem cell line to do the research and the medical applications that are necessary to determine the full potential of embryonic stem cells in medicine.

Mr. Speaker, I want to spend a few moments on a white paper produced by the President's Council on Bioethics called "Alternative Sources of Pluripotent Stem Cells." What it really means is you can go into this early embryo that I talked about, and let me put that up on the board. This is from page 25 in their paper. The highlighted part says it may be some time before stem cell lines can be reliably derived from single cells. If we go to the cell mass stage, we may be able to get several cells since there are a lot of them there. And, of course, our chances will be enhanced with single cells extracted from early embryos and in ways that do no harm to the embryo.

So they are saying this is possible. But the initial success of the Verlinsky Group's effort, and this is a group that says they have done this, that needs to be corroborated by other scientists, and our research would determine whether or not that is feasible through animal experimentation; but it raises the future possibility that pluripotent stem cells could be derived from single blastomeres removed from early human embryos without apparently harming them.

They do a really good job of talking about the potential opportunities, and I want to note the asterisk: and a similar idea was proposed by the gentleman from Maryland (Mr. BARTLETT) as far back as 2001. This was a suggestion that I made to the people at NIH and then to the President, and that was well before the President came down with his executive order on the stem cell lines that could be used for further experimentation with Federal money.

They do a really good job in the body of this text. They talk about all of the potential benefits. They talk about developing the repair kit and taking cells in the repair kit to produce the stem cell line. And they said here at the beginning of it that all of this may be possible. But then it almost looks to me like somebody else wrote their recommendation section because going to the back to the recommendation section, they said the second proposal, blastomere extraction from living embryos, we find this proposal to be ethically unacceptable in humans owing to the reasons given. We would not impose risk on living embryos destined to become children for the sake of getting stem cells for research.

Mr. Speaker, that is not what they said in the first part of it. They said they were getting the stem cells to do preimplantation genetic diagnosis and getting the stem cells to develop a repair kit. I, too, have some concern about getting cells if the only reason for getting the cells is for research, but that is not the reason that the parents decide to do preimplantation genetic diagnosis: they do that because they want to have a baby that does not have a genetic defect.

That is not the reason that they have the cells cultured to produce a repair kit, because they want their baby to have the potential miracle of embryonic stem cells for the rest of their life. It is only at that time, after successful animal experimentation, as outlined in our bill, it is only at that time you would ask the parents, if you have surplus cells from your repair kit, might we start a stem cell line with them.

So although they do a very good job of discussing in the body of the text, please go back to the body of the text and read what they said there because they really short circuit the whole thing in their recommendations because the presumption in the recommendation is that we are taking the cells only for research. That was never the presumption, that we were taking the cells only for research.

In closing, I would like to look again, and this is a different chart, but it shows the same sequence of events, come back to what we are proposing so there is no misunderstanding of what we are proposing.

Again, I will go through what happens in normal fertilization, and then you have to imagine this is not occurring in the body of the mother, but it is occurring in a petri dish in a laboratory, in a fertility clinic.

This is the ovary and this is the funnel end called the infundibulum and this is the fallopian tube, and we come down to the uterus. This is half of the uterus, and there is a mirror image on this on the other side. It takes about 10 days until the egg implants in the uterus.

This is occurring now in the petri dish. We know at the 8-cell stage here that you can take a cell or two out, they have done it more than a thousand times, and get a perfectly normal baby after taking that cell or two out for preimplantation genetic diagnosis.

There is the possibility, although the authors of the "Alternative Sources of Pluripotent Stem Cells" argue that it is probably not possible, but there is a faint possibility, perhaps, if you put this in the proper environment you might have another embryo. Therefore, you start the ethical argument all over again.

But if you can wait, and I believe you can, if you wait until the inner cell mass to take that cell, now you have completely avoided that argument because at the inner cell mass there has already been enough differentiation that the cells in the inner cell mass will become the baby, but they can only become the baby if there are the cells in the trophoblast which will produce the decidua which is the amnion and the chorion, and they have not yet done this because there is no reason to do this. The inner cell mass stage is the stage at which the embryos are ordinarily taken to produce stem cell lines.

Again, our bill deals only with animal experimentation in nonhuman primates, and those are the great apes which I emphasized previously were genetically very similar, and they are widely used in research that would affect humans to determine the efficacy and the safety of those procedures on humans.

I would like to return for just a moment to the fundamentals of this debate: Christopher Reeves, Ronald Reagan, ever so many people out there that have diseases that one can imagine could be cured with applications of stem cell research. The real challenge is to be able to do that without what I think is a morally unacceptable procedure of destroying another potential human being in doing that. I know that there are 400,000 embryos out there. I know that not all of them will probably be implanted; but for any one of those embryos, Mr. Speaker, it could be implanted. It could be tomorrow's Albert Einstein; it could be tomorrow's Ronald Reagan.

Mr. Speaker, I do not want to be in the position of making the decision that it is okay to take this potential baby, it is a life, to take this potential baby and destroy it because in doing so I might help some other people. We do not have to do that because as Dr. Coburn said in the Senate and as this letter from NIH says, it is completely feasible that we can reach these objectives by taking cells from an early embryo for the benefit of the embryo. Let me stress again that these cells would be taken at the parents' request to benefit their baby, to do a preimplantation genetic diagnosis to develop a repair kit.

Mr. Speaker, it would be wonderful if the 6.5 million people in the world today had repair kits. How much human suffering could be alleviated by that. The parents would have made these three decisions: in vitro fertilization because they cannot have a baby otherwise; to do a preimplantation genetic diagnosis because they want a baby that is going to have the highest possible quality of life; and to develop a repair kit. It is only at that time that we would ask them if you have surplus cells from your repair kit, might we not start another stem cell line with them.

Mr. Speaker, again, I want to emphasize that our bill is just preparatory to all of this because it deals with none of this. It deals only with the animal experimentation that would determine the efficacy of developing repair kits and stem cell lines from this early embryo.

I hope my colleagues on both sides of the aisle, I have now cosponsors on both sides of the aisle, hopefully we will have a large number of cosponsors because this bill meets both the objectives and the objections of any Member who is concerned with the potential for embryonic stem cell application to medicine.

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2005 AND THE 5-YEAR PERIOD FY 2005 THROUGH FY 2009

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2005 and for the five-year period of fiscal years 2005 through 2009. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act. This status report is current through May 23, 2005.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 95, the conference report on the budget resolution. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2005 because those years are not considered for enforcement of spending aggregates.

The second table compares, by authorizing committee, the current levels of budget authority and outlays for discretionary action with the "section 302(a)" allocations made under H. Con. Res. 95 for fiscal year 2005 and fiscal years 2005 through 2009. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. This comparison is needed to enforce section 302(f) of the Budget Act, which crates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of budget authority and outlays for discretionary appropriations for fiscal year 2005 with the total of "section 302(b)" suballocations among Appropriations subcommittees. The comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures reported by the Appropriations Committee that would breach its section 302(a) discretionary action allocation of new budget authority.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2005 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 95

[Reflecting action completed as of May 23, 2005—On-budget amounts, in millions of dollars]

	Fiscal year—2005	Fiscal years 2005–2009
Appropriate Level:		
Budget Authority	2,078,456	([1])
Outlays	2,056,006	([1])
Revenues	1,483,658	8,519,748
Current Level:		
Budget Authority	2,073,350	([1])
Outlays	2,055,934	([1])
Revenues	1,484,065	8,603,391
Current Level over (+) / under (−) Appropriate Level:		
Budget Authority	−5,106	([1])
Outlays	−72	([1])
Revenues	407	83,643

[1] Not applicable because annual appropriations Acts for fiscal years 2006 through 2009 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing new budget authority for FY 2005 in excess of $5,106,000,000 (if not already included in the current level estimate) would cause FY 2005 budget authority to exceed the appropriate level set by H. Con. Res. 95.

OUTLAYS

Enactment of measures providing new outlays for FY 2005 in excess of $72,000,000 (if not already included in the current level estimate) would cause FY 2005 outlays to exceed the appropriate level set by H. Con. Res. 95.

REVENUES

Enactment of measures that would reduce revenue for FY 2005 in excess of $407,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate level set by H. Con. Res. 95.

Enactment of measures resulting in revenue reduction for the period of fiscal years 2005 through 2009 in excess of $83,643,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 95.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION REFLECTING ACTION COMPLETED AS OF MAY 23, 2005

[Fiscal years, in millions of dollars]

House committee	2005		2005–2009 total	
	BA	Outlays	BA	Outlays
Agriculture:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Armed Services:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Education and the Workforce:				
Allocation	0	0	400	400
Current Level	0	0	0	0
Difference	0	0	−400	−400
Energy and Commerce:				
Allocation	0	0	1.525	1.525
Current Level	0	0	0	0
Difference	0	0	−1.525	−1.525
Financial Services:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Government Reform:				
Allocation	0	0	50	50
Current Level	0	0	0	0
Difference	0	0	−50	−50
House Administration:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Homeland Security:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION REFLECTING ACTION COMPLETED AS OF MAY 23, 2005—Continued

[Fiscal years, in millions of dollars]

House committee	2005		2005–2009 total	
	BA	Outlays	BA	Outlays
International Relations:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Judiciary:				
Allocation	0	0	6	6
Current Level	0	0	0	0
Difference	0	0	−6	−6
Resources:				
Allocation	6	6	45	45
Current Level	0	0	0	0
Difference	−6	−6	−45	−45
Science:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Small Business:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Transportation and Infrastructure:				
Allocation	3,488	0	12,238	0
Current Level	0	0	0	0
Difference	−3,488	0	−12,238	0
Veterans' Affairs:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Ways and Means:				
Allocation	554	64	1,800	1,558
Current Level	0	0	0	0
Difference	−554	−64	−1,800	−1,558

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2005—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations subcommittee	302(b) suballocations [1]		Current level reflecting action completed as of May 23, 2005		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	n.a.	n.a.	18,689	18,844	n.a.	n.a.
Defense	n.a.	n.a.	352,127	398,270	n.a.	n.a.
Energy & Water Development	n.a.	n.a.	30,533	30,107	n.a.	n.a.
Foreign Operations	n.a.	n.a.	18,892	25,898	n.a.	n.a.
Homeland Security	n.a.	n.a.	38,469	31,925	n.a.	n.a.
Interior-Environment	n.a.	n.a.	26,969	26,874	n.a.	n.a.
Labor, HHS & Education	n.a.	n.a.	143,180	141,773	n.a.	n.a.
Legislative Branch	n.a.	n.a.	3,545	3,785	n.a.	n.a.
Military Quality of Life-Veterans Affairs	n.a.	n.a.	80,263	76,417	n.a.	n.a.
Science-State-Justice-Commerce	n.a.	n.a.	58,438	57,956	n.a.	n.a.
Transportation-Treasury-HUD-Judiciary-DC	n.a.	n.a.	67,873	117,669	n.a.	n.a.
Total (Section 302(a) Allocation) [1]	840,036	929,520	838,978	929,518	−1,058	−2

[1] Appropriations Committee has not submitted the subcommittee allocations since the restructuring of the committee.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 26, 2005.
Hon. JIM NUSSLE,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2005 budget and is current through May 23, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2005 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 of the report).

Since my last letter, dated January 24, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for fiscal year 2005:

An act to provide for the proper tax treatment of certain disaster mitigation payments (Pub. L. 109–7);

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Pub. L. 109–8); and The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. 109–13).

The effects of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 are identified separately on the enclosed report. The effects of all other laws are included in the "previously enacted" section of the report, consistent with the budget resolution assumptions.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

FISCAL YEAR 2005 HOUSE CURRENT LEVEL REPORT AS OF MAY 23, 2005

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions: [1]			
Revenues	n.a.	n.a.	1,484,024
Permanents and other spending legislation	1,191,357	1,102,621	n.a.
Appropriation legislation	1,298,963	1,369,221	n.a.
Offsetting receipts	−415,912	−415,912	n.a.
Total, enacted in previous sessions:	2,074,408	2,055,930	1,484,024

FISCAL YEAR 2005 HOUSE CURRENT LEVEL REPORT AS OF MAY 23, 2005—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted this session:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. 109–13) [2]	−1,058	4	41
Total Current Level [2, 3]	2,073,350	2,055,934	1,484,065
Total Budget Resolution	2,078,456	2,056,006	1,483,658
Current Level Over Budget Resolution	n.a.	n.a.	407
Current Level Under Budget Resolution	5,106	72	n.a.
Memorandum:			
Revenues, 2005–2009:			
House Current Level	n.a.	n.a.	8,603,391
House Budget Resolution	n.a.	n.a.	8,519,748
Current Level Over Budget Resolution	n.a.	n.a.	83,643
Current Level Under Budget Resolution	n.a.	n.a.	n.a.

Notes: n.a. = not applicable; P. L. = Public Law.

[1] The effects of an act to provide for the proper tax treatment of certain disaster mitigation payments (Pub. L. 109–7) and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Pub. L. 109–8) are included in this section of the table, consistent with the budget resolution assumptions.

[2] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $83,140 million in budget authority and $33,034 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. 109–13).

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Source: Congressional Budget Office.

STATUS REPORT ON CURRENT SPENDING LEVELS OF ON-BUDGET SPENDING AND REVENUES FOR FY 2006 AND THE 5-YEAR PERIOD FY 2006 THROUGH FY 2010

Mr. NUSSLE. Mr. Speaker, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 2006 and for the five-year period of fiscal years 2006 through 2010. This report is necessary to facilitate the application of sections 302 and 311 of the Congressional Budget Act and section 401 of the conference report on the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95). This status report is current through May 23, 2005.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set forth by H. Con. Res. 95. This comparison is needed to enforce section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 2006 because those years are not considered for enforcement of spending aggregates.

The second table compares, by authorizing committee, the current levels of budget authority and outlays for discretionary action with the "section 302(a)" allocations made under H. Con. Res. 95 for fiscal year 2006 and fiscal years 2006 through 2010. "Discretionary action" refers to legislation enacted after the adoption of the budget resolution. This comparison is needed to enforce section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 302(a) discretionary action allocation of new budget authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 2006 with the "section 302(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. The comparison is also needed to enforce section 302(f) of the Budget Act because the point of order under that section equally applies to measures that would breach the applicable section 302(b) suballocation as well as the 302(a) allocation.

The fourth table gives the current level for 2007 of accounts identified for advance appropriations under section 401 of H. Con. Res. 95. This list is needed to enforce section 401 of the budget resolution, which creates a point of order against appropriation bills or amendments thereto that contain advance appropriations that are: (I) not identified in the statement of managers or (ii) would cause the aggregate amount of such appropriations to exceed the level specified in the resolution.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 2006 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONGRESSIONAL RESOLUTION 95

[Reflecting action completed as of May 23, 2005—On-budget amounts, in millions of dollars]

	Fiscal year 2006	Fiscal years 2006—2010
Appropriate Level:		
Budget Authority	2,144,384	(1)
Outlays	2,161,420	(1)
Revenues	1,589,892	9,080,006
Current Level:		
Budget Authority	1,320,811	(1)
Outlays	1,644,899	(1)
Revenues	1,607,661	9,185,688
Current Level over (+)/under (−) Appropriate Level:		
Budget Authority	−823,573	(1)
Outlays	−516,521	(1)
Revenues	17,769	105,682

[1] Not applicable because annual appropriations Acts for fiscal years 2007 through 2010 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing new budget authority for FY 2006 in excess of $823,573,000,000 (if not already included in the current level estimate) would cause FY 2006 budget authority to exceed the appropriate level set by H. Con. Res. 95.

OUTLAYS

Enactment of measures providing new outlays for FY 2006 in excess of $516,521,000,000 (if not already included in the current level estimate) would cause FY 2006 outlays to exceed the appropriate level set by H. Con. Res. 95.

REVENUES

Enactment of measures that would reduce revenue for FY 2006 in excess of $17,769,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate level set by H. Con. Res. 95.

Enactment of measures resulting in revenue reduction for the period of fiscal years 2006 through 2010 in excess of $105,682,000,000 (if not already included in the current level estimate) would cause revenues to fall below the appropriate levels set by H. Con. Res. 95.

DIRECT SPENDING LEGISLATION COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION REFLECTING ACTION COMPLETED AS OF MAY 23, 2005

[Fiscal years, in millions of dollars]

House committee	2006		2006–2010 total	
	BA	Outlays	BA	Outlays
Agriculture:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Armed Services:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0

DIRECT SPENDING LEGISLATION COMPARISON OF CURRENT LEVEL WITH AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR DISCRETIONARY ACTION REFLECTING ACTION COMPLETED AS OF MAY 23, 2005—Continued

[Fiscal years, in millions of dollars]

House committee	2006		2006–2010 total	
	BA	Outlays	BA	Outlays
Education and the Workforce:				
Allocation	100	100	500	500
Current Level	0	0	0	0
Difference	−100	−100	−500	−500
Energy and Commerce:				
Allocation	100	100	2,000	2,000
Current Level	0	0	0	0
Difference	−100	−100	−2,000	−2,000
Financial Services:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Government Reform:				
Allocation	50	50	50	50
Current Level	0	0	0	0
Difference	−50	−50	−50	−50
House Administration:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Homeland Security:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
International Relations:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Judiciary:				
Allocation	6	6	6	6
Current Level	0	0	0	0
Difference	−6	−6	−6	−6
Resources:				
Allocation	8	8	50	50
Current Level	0	0	0	0
Difference	−8	−8	−50	−50
Science:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Small Business:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Transportation and Infrastructure:				
Allocation	3,027	0	4,107	0
Current Level	0	0	0	0
Difference	−3,027	0	−4,107	0
Veterans' Affairs:				
Allocation	0	0	0	0
Current Level	0	0	0	0
Difference	0	0	0	0
Ways and Means:				
Allocation	350	346	1,537	1,914
Current Level	0	0	0	0
Difference	−350	−346	−1.537	−1,914

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 2006—COMPARISON OF CURRENT LEVEL WITH APPROPRIATIONS COMMITTEE 302(a) ALLOCATION AND APPROPRIATIONS SUBCOMMITTEE 302(b) SUBALLOCATIONS

[In millions of dollars]

Appropriations subcommittee	302(b) Suballocations as of May 18, 2005 (H. Rpt. 109–85)		Current level reflecting action completed as of May 23, 2005		Current level minus suballocations	
	BA	OT	BA	OT	BA	OT
Agriculture, Rural Development, FDA	16,832	18,691	7	5,399	−16,825	−13,292
Defense	363,440	372,696	27	126,306	−363,413	−246,390
Energy & Water Development	29,746	30,273	36	11,092	−29,710	−19,181
Foreign Operations	20,270	25,380	0	17,091	−20,270	−8,289
Homeland Security	30,846	33,233	0	14,762	−30,846	−18,471
Interior-Environment	26,107	27,500	0	11,504	−26,107	−15,996
Labor, HHS & Education	142,514	143,802	19,166	98,279	−123,348	−45,523
Legislative Branch	3,719	3,804	0	624	−3,719	−3,180
Military Quality of Life-Veterans Affairs	85,158	81,634	−2,170	16,515	−87,328	−65,119
Science-State-Justice-Commerce	57,453	58,856	0	23,080	−57,453	−35,776
Transportation-Treasury-HUD–Judiciary-DC	66,935	120,908	4,223	70,800	−62,712	−50,108
Unassigned	0	59	0	0	0	−59
Total (Section 302(a) Allocation)	843,020	916,836	21.289	395,452	−821.731	−521,384

STATEMENT OF FY2007 ADVANCE APPROPRIATIONS UNDER SECTION 401 OF H. CON. RES. 95, REFLECTING ACTION COMPLETED AS OF MAY 23, 2005

[In millions of dollars]

	Budget authority
Appropriate Level	23,158
Current Level:	
Elk Hills	0
Employment and Training Administration	0
Education for the Disadvantaged	0

STATEMENT OF FY2007 ADVANCE APPROPRIATIONS UNDER SECTION 401 OF H. CON. RES. 95, REFLECTING ACTION COMPLETED AS OF MAY 23, 2005—Continued

[In millions of dollars]

	Budget authority
School Improvement	0
Children and Family Services (Head Start)	0
Special Education	0
Vocational and Adult Education	0
Payment to Postal Service	0

STATEMENT OF FY2007 ADVANCE APPROPRIATIONS UNDER SECTION 401 OF H. CON. RES. 95, REFLECTING ACTION COMPLETED AS OF MAY 23, 2005—Continued

[In millions of dollars]

	Budget authority
Section 8 Renewals	0
Shipbuilding and Conversion, Navy	0
Total	0

STATEMENT OF FY2007 ADVANCE APPROPRIATIONS UNDER SECTION 401 OF H. CON. RES. 95, REFLECTING ACTION COMPLETED AS OF MAY 23, 2005—Continued

[In millions of dollars]

	Budget authority
Current Level over (+) / under (−) Appropriate Level	−23,158

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 26, 2005.
Hon. JIM NUSSLE,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: the enclosed report shows the effects of Congressional action on the fiscal year 2006 budget and is current through May 23, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 of the report). This is my first report for fiscal year 2006.

Sincerely,

ELIZABETH M. ROBINSON
(For DOUGLAS HOLTZ-EAKIN, *Director*).

Enclosure.

FISCAL YEAR 2006 HOUSE CURRENT LEVEL REPORT AS OF MAY 23, 2005

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:[1]			
Revenues	n.a.	n.a.	1,607,650
Permanents and other spending legislation	1,351,021	1,318,426	n.a.
Appropriation legislation	0	382,272	n.a.
Offsetting receipts	−479,872	−479,872	n.a.
Total, enacted in previous sessions:	871,149	1,220,826	1,607,650
Enacted this session:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Pub. L. 109–13)[2]	−39	−21	−11
Entitlements and mandatories:			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	449,701	424,094	n.a.
Total Current Level[2, 3]	1,320,811	1,644,899	1,607,661
Total Budget Resolution	2,144,384	2,161,420	1,589,892
Current Level Over Budget Resolution	n.a.	n.a.	17,769
Current Level Under Budget Resolution	823,573	516,521	n.a.
Memorandum:			
Revenues, 2006–2010:			
House Current Level	n.a.	n.a.	9,185,688
House Budget Resolution	n.a.	n.a.	9,080,006
Current Level Over Budget Resolution	n.a.	n.a.	105,682
Current Level Under Budget Resolution	n.a.	n.a.	n.a.

Notes: n.a. = not applicable. P.L. = Public Law.

[1] The effects of an act to provide for the proper tax treatment of certain disaster mitigation payments (P.L. 109–7) and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109–8) are included in this section of the table, consistent with the budget resolution assumptions.

[2] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provision designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $30,790 million in outlays from funds provided in the Emergency Supplement Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13).

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Source: Congressional Budget Office.

COLORADO TORPEDO PROGRAM REALIZES COST SAVINGS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Colorado (Mr. BEAUPREZ) is recognized for 60 minutes.

Mr. BEAUPREZ. Mr. Speaker, I come to the floor tonight to speak to my colleagues and those watching these proceedings about something that is occurring in Colorado's 7th Congressional District which is directly benefiting the Department of the Navy and the U.S. taxpayer.

I am so honored to have met the great folks in Arvada, Colorado, my home State, who work for Barber-Nichols, Incorporated, and to hear their story about what they have been able to do so far for the Navy's Surface Ship Torpedo Defense, SSTD, program.

☐ 1800

This program uses a torpedo, or more particularly an anti-torpedo torpedo to protect our ships.

I know it sounds a bit off center, a landlocked State such as Colorado with such expertise in torpedo programs. In fact, Barber-Nichols possesses both advanced engineering and manufacturing prowess that are ideal for reducing the high cost of technology equipment such as the ATT, a very complicated weapon which has approximately 700 separate parts.

Barber-Nichols has used their expertise to help the Navy and the American taxpayer reduce the cost of the torpedo and provide tremendous cost savings in the program. To date, for every $1 we have spent on the ATT affordability program, the Navy has realized future production cost savings of $15. Barber-Nichols approached the Navy and their design agent, the Applied Research Laboratory, or ARL, at Penn State to discuss how to consider manufacturability and assemble ability concepts in the design today so that we can save money in the production tomorrow.

As we have all witnessed, Mr. Speaker, developing and maintaining the best military in the world comes with a hefty price tag. In an extremely tight budget environment, it goes without saying that any program that can save money helps that service perform better.

With that said, let me tell you more about the ATT program and the affordability efforts that are ongoing in this program. The surface ship torpedo defense program and the anti-torpedo torpedo program were started by the United States Navy because our ships were, and remain, vulnerable to torpedo attack. Currently, there are several torpedoes available on the world market that we have little or no defense against. That is right, little to no defense against a torpedo attack.

The threat increases when we move our ships from the open ocean, where we can see for hundreds of miles, to coastal areas where threats can get closer to our ships and our reaction time is lessened. As we project our forces into the Third World areas, we operate in locations like the Persian Gulf where we are much more vulnerable.

Torpedoes can be bought on the black market by people and organizations who wish to do us harm. These torpedoes can be launched from the shoreline or small boats, threats that we were not too worried about until the USS *Cole* incident where 17 U.S. sailors made the ultimate sacrifice.

Because of this threat to our ships and sailors, Congress has weighed in heavily in support of torpedo defense, as was stated in a letter to the Secretary of the Navy back in 1997, signed by Chairman DUNCAN HUNTER and other Members of this House, including ROSCOE BARTLETT, who is with us tonight, Bob Dornan, DUKE CUNNINGHAM and GENE TAYLOR. I quote from their letter:

"We are especially concerned that our high-value ships that carry hundreds or even thousands of our young sailors and marines are very vulnerable to particular classes of torpedoes."

Congress has also asked the Navy to study the vulnerability of our ships as evidenced in this quote:

"We therefore ask you to conduct an independent review of the SSTD program and provide us with your findings." That in a letter to the Under Secretary of the Navy, again from Congressman HUNTER, BARTLETT, Dornan and CUNNINGHAM.

And Congress has agreed with the independent studies that say we should move forward with torpedo defense as seen in this quote:

"I understand that the IDA study is completed and that the results strongly confirm that all ships need to be protected from torpedoes. I look forward to working with you to improve the capability of our ships to defend themselves against torpedo attack." That, in a letter to the Secretary of Defense from Chairman DUNCAN HUNTER.

Congress since has provided multiple years of funding to allow the Navy to address the issue. The Navy agrees our sailors and high-value ships are worth protecting and that torpedo defense is an important capability to have.

Thus, the Navy has, first, teamed with our ally, Great Britain, to jointly develop elements of a surface ship torpedo defense system; secondly, made torpedo defense a requirement for new ship design efforts; third, identified the anti-torpedo torpedo as the solution for torpedo defense; and fourth, developed an anti-torpedo torpedo technology demonstrator that has included successful in-water testing.

In the FY 2006 budget, the Navy requested over $47 million for torpedo defense, so Congress is well aware of their interest in continuing this program into the future.

Mr. Speaker, I have talked a lot about the need and the desire to protect our ships and our sailors. I bet you would like to hear about how the Navy envisions the system will work. This chart to my left depicts the AN/WSQ-11, this surface ship torpedo defense system. In very simple terms, surface ship torpedo defense is accomplished by detecting a threat torpedo with a sensor towed behind the ship, launching the anti-torpedo torpedo against that threat, intercepting the threat torpedo with the ATT, and destroying it, obviously, before the threat can reach our ship.

Conceptually, it looks fairly simple. Practically, intercepting a torpedo under water is quite difficult. We have all seen the challenges played out in the newspapers regarding missile defense. This is essentially the same thing under water, albeit at far slower speeds. The good news is that the tests, to date, show that the technology works.

Mr. Speaker, we started this discussion tonight with an acknowledgment regarding the hefty price tag associated with developing and maintaining the best military in the world. However, as stewards of the public's money in this Chamber, we should be looking for ways to spend it wisely. The ATT affordability program is a prime example of fiscal responsibility in military spending.

The anti-torpedo torpedo affordability program was started to ensure we could afford the surface ship torpedo defense system when it goes to production. The ATT affordability program is very similar to the efforts commercial companies across our Nation practice on a daily basis.

Commercial product companies develop a new product with a final cost in mind. They eliminate features that are not cost effective, and they continually look for ways to reduce cost during that product design. Once the product is designed and developed, they work hard to manufacture the product in a cost-effective manner.

The important fact to realize is that 80 percent of the product cost is predetermined in the design process, not in the manufacturing process. Thus, addressing affordability must be done in that first design process.

In the ATT affordability program, my constituent Barber-Nichols, a commercial company again in Arvada, Colorado, is working with the Navy's design agent, ARL-Penn State, to simplify the product, reduce costs of manufacture and assembly and ensure affordability and cost reduction are considered in the design process.

Affordability is usually not addressed in government technology development programs until after a production program is awarded. Contractors can reduce cost with innovative manufacturing approaches, but the bulk of the potential cost savings will not ever be realized because they were not addressed in the product design. Incorporating commercial best practices like we have just discussed into government procurement practices could save us potentially a great deal of taxpayer money.

One aspect of affordability is design for manufacturability. In a simplistic way, this chart to my left depicts the major steps in the process. The way this is accomplished is that you first start with a baseline design, understand what each part of it costs to make, then look at the high-priced pieces to see if costs can be reduced. You then develop lower-cost alternative designs that are constructed and tested. If these alternative designs are successful, both technically and costwise, you can incorporate the alternative design into the baseline design.

This design for manufacturability method has been used on the anti-torpedo torpedo. First, a baseline design cost study was performed. From this study, the most expensive parts of the torpedo were found and it was determined that the engine was the most expensive subsystem of the product, as depicted in this new graph. This cost analysis helped in understanding what to focus on first. Where is the biggest bang for the buck? From this analysis, the development moved into affordability projects.

One example of a high-priced component that was made into an ATT affordability project is the torpedo propulsor shown on this next chart. That is this machined part from the ATT depicted here. In the production quantities planned, the part was estimated to cost about $14,000 each. I have seen this part. It fits easily into the palm of my hand. Again, it was estimated initially to cost about $14,000 each.

The DFM process yielded a lower-cost design that was much easier to make. This low-cost design was manufactured and tested. The tests showed it performed as well as the expensive design. Thus, this low-cost design will now be incorporated into the government's baseline design. When this part goes into production, it will now cost a little over $2,000 each instead of the $14,000, resulting in production program savings of about 80 percent of the original cost estimate.

Another example of an affordability project under way is the electronic card carrier set, one of which is shown here. The current design is a set of fully machined metal pieces that would cost approximately $4,000 a set if manufactured in production today as originally designed.

The low-cost alternative design uses die cast pieces with very little machining. If these are successfully fabricated and tested later this year, the Navy will achieve a very substantial cost savings with this part as well. The low-cost design is expected to cost approximately $200 per set and result is a cost savings of almost that full $4,000 of the original estimated cost, or about 95 percent.

In conclusion, Mr. Speaker, the ATT affordability program has been extremely successful and must stay the programmatic course in order to protect our sailors and ships when they are in harm's way. The projects completed in 2003 and 2004 are expected to save $31.2 million of taxpayer money when the ATT goes into production. More projects are planned in 2005 through 2007. We estimate the government will save $15 in production costs for every $1 spent in this affordability effort.

Developing and maintaining the best military in the world comes with a price. In an extremely tight budget environment, any program that can save money should be applauded and supported.

I congratulate Barber-Nichols, Inc., of Arvada, Colorado; ARL-Penn State, and certainly the Navy for their efforts with the ATT program and hope other such collaborative design projects will provide for our security, protect our troops and use taxpayer dollars as prudently as possible.

APPOINTMENT OF HON. MAC THORNBERRY OR HON. WAYNE T. GILCHREST TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JUNE 7, 2005

The SPEAKER pro tempore (Mr. KUHL of New York) laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
THE SPEAKER'S ROOMS,
Washington, DC, May 26, 2005.

I hereby appoint the Honorable MAC THORNBERRY or, if he is not available to perform this duty, the Honorable WAYNE T. GILCHREST to act as Speaker pro tempore to sign enrolled bills and joint resolutions through June 7, 2005.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

☐ 1815

APPOINTMENT OF CONFEREES ON H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The SPEAKER pro tempore (Mr. KUHL of New York). Without objection, the Chair appoints the following conferees:

From the Committee on Transportation and Infrastructure, for consideration of the House bill (except title X) and the Senate amendment (except title V), and modifications committed to conference:

Messrs. YOUNG of Alaska, PETRI, BOEHLERT, COBLE, DUNCAN, MICA, HOEKSTRA, LATOURETTE, BACHUS, BAKER, GARY G. MILLER of California, HAYES, SIMMONS, BROWN of South Carolina, GRAVES, SHUSTER, BOOZMAN, OBERSTAR, RAHALL, DEFAZIO, COSTELLO, Ms. NORTON, Messrs. NADLER, MENENDEZ, Ms. CORRINE BROWN of Florida, Mr. FILNER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TAYLOR of Mississippi, Ms. MILLENDER-MCDONALD, Mr. CUMMINGS, Mr. BLUMENAUER, and Mrs. TAUSCHER.

From the Committee on the Budget, for consideration of sections 8001–8003 of the House bill, and title III of the Senate amendment, and modifications committed to conference: Messrs. NUSSLE, MARIO DIAZ-BALART of Florida, and SPRATT.

From the Committee on Education and the Workforce, for consideration of sections 1118, 1605, 1809, 3018, and 3030 of the House bill, and sections 1304, 1819, 6013, 6031, 6038, and 7603 of the Senate amendment, and modifications committed to conference: Messrs. KLINE, KELLER, and BARROW.

From the Committee on Energy and Commerce, for consideration of provisions in the House bill and Senate amendment relating to Clean Air Act provisions of transportation planning contained in sections 6001 and 6006 of the House bill; and sections 6005 and 6006 of the Senate amendment; and sections 1210, 1824, 1833, 5203, and 6008 of the House bill; and sections 1501, 1511, 1522, 1610–1619, 1622, 4001, 4002, 6016, 6023, 7218, 7223, 7251, 7252, 7256–7262, 7324, 7381, 7382, and 7384 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, PICKERING, and DINGELL.

From the Committee on Government Reform, for consideration of section 4205 of the House bill, and section 2101 of the Senate amendment, and modifications committed to conference: Messrs. TOM DAVIS of Virginia, PLATTS, and WAXMAN.

From the Committee on Homeland Security, for consideration of sections 1834, 6027, 7324, and 7325 of the Senate amendment, and modifications committed to conference: Messrs. COX, DANIEL E. LUNGREN of California, and THOMPSON of Mississippi.

From the Committee on the Judiciary, for consideration of sections 1211, 1605, 1812, 1832, 2013, 2017, 4105, 4201, 4202, 4214, 7018–7020, and 7023 of the House bill, and sections 1410, 1512, 1513, 6006, 6029, 7108, 7113, 7115, 7338, 7340, 7343, 7345, 7362, 7363, 7406, 7407, and 7413 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

From the Committee on Resources, for consideration of sections 1119, 3021, 6002, and 6003 of the House bill, and sections 1501, 1502, 1505, 1511, 1514, 1601, 1603, 6040, and 7501–7518 of the Senate amendment, and modifications committed to conference: Messrs. POMBO, WALDEN of Oregon, and KIND.

From the Committee on Rules, for consideration of sections 8004 and 8005 of the House bill, and modifications committed to conference: Mr. DREIER, Mrs. CAPITO, and Mr. MCGOVERN.

From the Committee on Science, for consideration of sections 2010, 3013, 3015, 3034, 3039, 3041, 4112, and title V of the House bill, and title II and sections 6014, 6015, 6036, 7118, 7212, 7214, 7361, and 7370 of the Senate amendment, and modifications committed to conference: Messrs. EHLERS, REICHERT, and GORDON.

From the Committee on Ways and Means, for consideration of title X of the House bill, and title V of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, MCCRERY, and RANGEL.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DOYLE (at the request of Ms. PELOSI) for today on account of a family emergency.

Mr. GENE GREEN of Texas (at the request of Ms. PELOSI) for today after 3:00 p.m. on account of business in the district.

Mr. MENENDEZ (at the request of Ms. PELOSI) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. SCHIFF, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. WU, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. PENCE, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. HAYWORTH, for 5 minutes, today.

Ms. FOXX, for 5 minutes, today.

Mr. NUSSLE, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2566. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

ADJOURNMENT

Mr. BEAUPREZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the previous order of the House today, the House stands adjourned until noon on Monday, May 30, 2005, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 167, in which case the House shall stand adjourned pursuant to that concurrent resolution.

Thereupon, (at 6 o'clock and 23 minutes p.m.), pursuant to the previous order of the House of today, the House adjourned until noon on Monday, May 30, 2005, unless it sooner has received a message from the Senate transmitting its adoption of House Concurrent Resolution 167, in which case the House shall stand adjourned pursuant to that concurrent resolution.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2183. A letter from the Acting Assistant Deputy Secretary, Office of Innovation and Improvement, Department of Education, transmitting the Department's final rule—Notice of Final Selection Criteria and Other Application Requirements—Teaching American History—received April 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2184. A letter from the Assistant Secretary for Elementary and Secondary Education, Department of Education, transmitting the Department's final rule—Comprehensive School Reform Quality Initiative—received May 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2185. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2186. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2187. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2188. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2189. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2190. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2191. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2192. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2193. A letter from the Director, Office of White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2194. A letter from the Director, Office of White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2195. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2196. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2197. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2198. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2199. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2200. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2201. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2202. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2203. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2204. A letter from the Director, Office of National Drug Control Policy, transmitting a report on the "Fiscal Year 2004 Accounting of Drug Control Funds," pursuant to Public Law 105-277, section 705(d)(Div. C—Title VII); to the Committee on Government Reform.

2205. A letter from the Deputy Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Special Regulations; Areas of the National Park System (RIN: 1024-AD29) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2206. A letter from the Deputy Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Apostle Islands National Lakeshore; Designation of snowmobile and off-road motor vehicle areas, and use of portable ice augers or power engines. (RIN: 1024-AD26) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2207. A letter from the Deputy Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—National Park System Units in Alaska (RIN: 1024-AD13) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2208. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Illinois Regulatory Program [Docket No. IL-104-FOR] received May 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2209. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Iowa Regulatory Program [Docket No. IA-014-FOR] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2210. A letter from the Assistant Secretary, Land and Mineral Mgmt., Department of the Interior, transmitting the Department's final rule—Land Use Planning [WO-350-2520-24 1A] (RIN: 1004-AD57) received March 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2211. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Recordkeeping and Reporting Requirements; Regulatory Amendment to Modify Seafood Dealer Reporting Requirements [Docket No. 050216041-5105-02; I.D. 020705C] (RIN: 0648-AS87) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2212. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Residence and Source Rules Involving U.S. Possessions and Other Conforming Changes [TD 9194] (RIN: 1545-BE22) received April 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2213. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Diesel fuel and kerosene excise tax; dye injection [TD 9199] (RIN: 1545-BE44) received April 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2214. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Appeals Settlement Guidelines: Maquiladora—Section 168(g)—received April 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2215. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Coordinated Issue: "Notice 2002-65" Tax Shelter—received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2216. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Coordinated Issue: "Notice 2002-50" Tax Shelter—received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2217. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Nonconventional Source Fuel Credit, Section 29 Inflation Adjustment Factor, and Section 29 Reference Price [Notice 2005–33] received April 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2218. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters. (Rev. Proc. 2005–25) received April 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2219. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rates Update [Notice 2005–34] received April 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2220. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Election for Multiemployer Plan to Defer Net Experience Loss Charge [Notice 2005–40] received May 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2221. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Guidance Under Section 355(e); Recognition of Gain on Certain Distributions of Stock or Securities in Connection with and Acquisition [TD 9198] (RIN: 1545–AY42) received April 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2222. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005–27) received April 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 1496. A bill to return general aviation to Ronald Reagan Washington National Airport; with an amendment (Rept. 109–98). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2293. A bill to provide special immigrant status for aliens serving as translators with the United States Armed Forces; with an amendment (Rept. 109–99). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. House Joint Resolution 27. Resolution withdrawing the approval of the United States from the Agreement establishing the World Trade Organization; adversely; (Rept. 109–100). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HENSARLING (for himself and Mr. Sam Johnson of Texas):

H.R. 2646. A bill to eliminate certain restrictions on air transportation to and from Love Field, Texas; to the Committee on Transportation and Infrastructure.

By Mr. NUSSLE:

H.R. 2647. A bill to amend the Internal Revenue Code of 1986 to clarify that qualified personal service corporations may continue to use the cash method of accounting, and for other purposes; to the Committee on Ways and Means.

By Mr. FOSSELLA (for himself, Mr. Stearns, Mrs. McCarthy, Mr. Walden of Oregon, Mr. Ney, Mr. Goode, Mr. Kuhl of New York, Mr. Gibbons, and Mr. Engel):

H.R. 2648. A bill to amend title XIX of the Social Security Act to require Medicaid drug utilization review programs to deny coverage of erectile dysfunction drugs for individuals registered (or required to be registered) as sex offenders; to the Committee on Energy and Commerce.

By Mr. MARKEY:

H.R. 2649. A bill to strengthen aviation security; to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NORWOOD:

H.R. 2650. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF (for himself and Mr. Coble):

H.R. 2651. A bill to reduce crime and terrorism at America's seaports, and for other purposes; to the Committee on the Judiciary.

By Mr. COLE of Oklahoma:

H.R. 2652. A bill to provide for the establishment of a memorial to the U.S.S. Oklahoma as part of the USS Arizona Memorial in Pearl Harbor, Hawaii; to the Committee on Resources.

By Mr. ANDREWS:

H.R. 2653. A bill to ensure that dwelling units assisted under the rental housing voucher program under section 8 of the United States Housing Act of 1937 comply with housing quality standards; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 2654. A bill to provide for renewal of project-based assisted housing contracts at reimbursement levels that are sufficient to sustain operations, and for other purposes; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 2655. A bill to establish neighborhood review committees to advise public housing agencies regarding the enforcement of laws and regulations governing assistance provided under tenant-based rental assistance programs; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 2656. A bill to amend section 502(h) of the Housing Act of 1949 to improve the rural housing loan guarantee program, and for other purposes; to the Committee on Financial Services.

By Mr. BAIRD (for himself, Mr. Moran of Virginia, and Mr. Ruppersberger):

H.R. 2657. A bill to provide comprehensive reform regarding medical malpractice; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER (for himself, Mr. Berry, Mr. Brown of South Carolina, Mrs. Northup, Mr. Cannon, and Mr. Duncan):

H.R. 2658. A bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the Federal Government over waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BOSWELL:

H.R. 2659. A bill to provide grants to States to improve sex offender registries; to the Committee on the Judiciary.

By Mr. OXLEY (for himself and Mr. Frank of Massachusetts):

H.R. 2660. A bill to amend the Bank Holding Company Act of 1956 to clarify that real estate brokerage activities and real estate management activities are authorized financial activities for financial holding companies and financial subsidiaries of national banks, and for other purposes; to the Committee on Financial Services.

By Mr. BRADY of Texas:

H.R. 2661. A bill to amend the Deficit Reduction Act of 1984 to clarify the Permanent University Fund arbitrage exception and to increase from 20 percent to 30 percent the amount of securities and obligations benefitting from the exception; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Mr. Abercrombie, Mr. Ackerman, Mr. Allen, Ms. Baldwin, Ms. Berkley, Mr. Berman, Mr. Bishop of Georgia, Mr. Blumenauer, Mr. Boswell, Mr. Brown of Ohio, Mrs. Capps, Mr. Capuano, Mr. Cardin, Mr. Case, Mr. Clay, Mr. Cooper, Mr. Crowley, Mr. Cummings, Mr. Davis of Alabama, Mr. Davis of Florida, Mr. Delahunt, Ms. DeLauro, Mr. Engel, Ms. Eshoo, Mr. Farr, Mr. Fattah, Mr. Filner, Mr. Frank of Massachusetts, Mr. Gene Green of Texas, Mr. Grijalva, Mr. Gutierrez, Mr. Hastings of Florida, Mr. Holt, Mr. Honda, Mr. Hoyer, Mr. Inslee, Mr. Israel, Ms. Jackson-Lee of Texas, Mr. Jefferson, Mrs. Jones of Ohio, Mr. Kennedy of Rhode Island, Mr. Kildee, Mr. Kind, Mr. Kirk, Mr. Kolbe, Mr. Langevin, Mr. Lantos, Mr. Larson of Connecticut, Mr. Leach, Ms. Lee, Mrs. Lowey, Mr. Lynch, Mrs. Maloney, Mr. Matheson, Mrs. McCarthy, Ms. McCollum of Minnesota, Mr. McDermott, Mr. McGovern, Mr. McNulty, Mr. Meehan, Mr. Meek of Florida, Mr. Menendez, Mr. George Miller of California, Mr. Moore of Kansas, Mr. Nadler, Mr. Olver, Mr. Owens, Mr. Pallone, Mr. Pastor, Mr. Payne, Mr. Price of North Carolina, Ms. Ros-Lehtinen, Ms. Roybal-Allard, Mr. Sabo, Ms. Loretta Sanchez of California, Mr. Sanders, Ms. Schakowsky, Mr. Schiff, Mr. Scott of Georgia, Mr.

Serrano, Mr. Shays, Mr. Sherman, Mr. Simmons, Mr. Smith of Washington, Ms. Solis, Mr. Stark, Mrs. Tauscher, Mr. Thompson of Mississippi, Mr. Tierney, Mr. Udall of Colorado, Mr. Van Hollen, Ms. Waters, Ms. Watson, Mr. Wexler, Ms. Woolsey, and Mr. Wu):

H.R. 2662. A bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, and for other purposes; to the Committee on the Judiciary.

By Ms. DELAURO (for herself, Mr. Larson of Connecticut, Mr. Simmons, Mrs. Johnson of Connecticut, and Mr. Shays):

H.R. 2663. A bill to provide a grant program to support the establishment and operation of Teachers Professional Development Institutes; to the Committee on Education and the Workforce.

By Mr. DREIER (for himself, Mr. Young of Florida, Mr. Regula, Mr. Whitfield, Mr. Jones of North Carolina, Mr. Bass, and Mrs. Napolitano):

H.R. 2664. A bill to provide a biennial budget for the United States Government; to the Committee on the Budget, and in addition to the Committees on Rules, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL:

H.R. 2665. A bill to encourage the availability and use of motor vehicles that have improved fuel efficiency, in order to reduce the need to import oil into the United States; to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania:

H.R. 2666. A bill to amend the Internal Revenue Code of 1986 to modify the determination and deduction of interest on qualified education loans; to the Committee on Ways and Means.

By Mr. FITZPATRICK of Pennsylvania (for himself, Ms. Herseth, Mr. Simmons, and Ms. Schwartz of Pennsylvania):

H.R. 2667. A bill to require the Secretary of Homeland Security to prepare a report on the homeland security consequences of the base closure and realignment recommendations made by the Secretary of Defense and to require the Defense Base Closure and Realignment Commission to consider the report during their review of such recommendations; to the Committee on Armed Services.

By Mr. FOLEY (for himself, Mr. English of Pennsylvania, Mr. Royce, Mr. Radanovich, Mr. Doolittle, and Mr. Paul):

H.R. 2668. A bill to amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds by property and casualty insurance companies for the payment of policyholders' claims arising from future catastrophic events; to the Committee on Ways and Means.

By Mr. GERLACH (for himself and Mr. Farr):

H.R. 2669. A bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry; to the Committee on Agriculture.

By Mr. GENE GREEN of Texas:

H.R. 2670. A bill to amend title 10, United States Code, to require the amounts reimbursed to institutional providers of health care services under the TRICARE program to be the same as amounts reimbursed under Medicare, and to require the Secretary of Defense to contract for health care services with at least one teaching hospital in urban areas; to the Committee on Armed Services.

By Mr. GENE GREEN of Texas (for himself, Ms. Ros-Lehtinen, Mr. Price of North Carolina, and Mr. Tiberi):

H.R. 2671. A bill to provide for the expansion of Federal programs to prevent and manage vision loss, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARRIS (for herself, Mr. Pearce, and Mr. Shays):

H.R. 2672. A bill to direct the Secretary of State and the Secretary of Homeland Security to establish a program to enhance the mutual security and safety of the United States, Canada, and Mexico, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Armed Services, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY (for himself, Mr. Kildee, Mrs. Davis of California, Mr. Udall of Colorado, Mr. Holt, Mr. Honda, Mr. Cunningham, and Ms. McCollum of Minnesota):

H.R. 2673. A bill to protect diverse and structurally complex areas of the seafloor in the United States exclusive economic zone by establishing a maximum diameter size limit on rockhopper, roller, and all other groundgear used on bottom trawls, and for other purposes; to the Committee on Resources.

By Mr. HOLDEN (for himself and Mr. Pomeroy):

H.R. 2674. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Richard L. Etchberger of Hamburg, Pennsylvania, for acts of valor on March 11, 1968, while an Air Force Chief Master Sergeant serving in Southeast Asia during the Vietnam era; to the Committee on Armed Services.

By Mr. HOLT:

H.R. 2675. A bill to suspend temporarily the duty on TMC114; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 2676. A bill to suspend temporarily the duty on certain chemicals and chemical mixtures; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 2677. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Ways and Means.

By Mr. HOLT:

H.R. 2678. A bill to suspend temporarily the duty on mixtures of (1A1B1A)-(cis and trans)-1-(2-(2,4-Dichlorophenyl)- 4-propyl-1,3-dioxalan-2-yl)methyl)-1H-1,2,4-triazole (Propiconazole) and application adjuvants; to the Committee on Ways and Means.

By Mr. HOSTETTLER (for himself, Mr. Wamp, Mr. Norwood, Mr. Jenkins, Mr. Paul, Mr. Doolittle, Mr. Sodrel, Mr. Weldon of Florida, Mr. Alexander, Mr. Bachus, Mr. Pitts, Mr. Inglis of South Carolina, Mr. Otter, Mr. Duncan, Mr. Jones of North Carolina, Mr. Kingston, Mr. Smith of Texas, Mr. Bartlett of Maryland, Mr. Poe, and Mr. Barrett of South Carolina):

H.R. 2679. A bill to amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees; to the Committee on the Judiciary.

By Mr. HULSHOF (for himself, Mr. Pomeroy, Mr. Foley, and Mr. Shaw):

H.R. 2680. A bill to amend the Social Security Act to permit a waiver by the Secretary of Health and Human Services of the 24-month waiting period for Medicare coverage of disabled individuals who are terminally ill; to the Committee on Ways and Means.

By Mr. JEFFERSON (for himself, Mr. English of Pennsylvania, Mr. Rangel, Mrs. Johnson of Connecticut, Mr. Cardin, Mr. Foley, Mr. McDermott, Mr. Lewis of Georgia, Mr. Becerra, Mrs. Jones of Ohio, Mr. Larson of Connecticut, Mr. Abercrombie, Ms. Carson, Mrs. Christensen, Mr. Clay, Mr. Cleaver, Mr. Conyers, Mr. Crowley, Mr. Cummings, Mr. Davis of Alabama, Mr. Davis of Illinois, Mr. Fattah, Mr. Frank of Massachusetts, Mr. Grijalva, Mr. Gutierrez, Mr. Hastings of Florida, Mr. Hinojosa, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Ms. Kilpatrick of Michigan, Mrs. Maloney, Mr. Meeks of New York, Mr. Menendez, Ms. Millender-McDonald, Mr. Miller of North Carolina, Mr. George Miller of California, Mr. Moore of Kansas, Ms. Moore of Wisconsin, Mr. Owens, Mr. Pallone, Mr. Payne, Mr. Price of North Carolina, Mr. Ross, Mr. Rush, Mr. Ryan of Ohio, Ms. Linda T. Sánchez of California, Ms. Loretta Sanchez of California, Mr. Serrano, Mr. Thompson of Mississippi, Ms. Wasserman Schultz, Ms. Waters, Ms. Watson, Mr. Wynn, and Mr. Cuellar):

H.R. 2681. A bill to amend the Internal Revenue Code of 1986 to rename the low-income housing credit the affordable housing credit and to increase the per capita amount allowed in the determination of the State housing credit ceiling; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Pomeroy, Mr. Ramstad, Ms. Herseth, Mr. Simmons, Mr. Michaud, Mr. Shays, Mr. Markey, Mr. Boozman, and Mr. King of New York):

H.R. 2682. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs; to the Committee on Ways and Means.

By Mrs. JONES of Ohio (for herself, Mr. Tiberi, Mr. Grijalva, Mr. Blumenauer, Mr. McIntyre, Ms. Eddie Bernice Johnson of Texas, Mr. Owens, Mr. Kildee, Ms. Carson, Ms. Schakowsky, and Mr. Brown of Ohio):

H.R. 2683. A bill to increase the expertise and capacity of community-based organizations involved in economic development activities and key community development programs; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY (for herself and Mrs. TAUSCHER):

H.R. 2684. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. LARSON of Connecticut (for himself, Mr. GRIJALVA, and Mr. HINCHEY):

H.R. 2685. A bill to provide for prescription drugs at reduced prices to Medicare beneficiaries; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LOBIONDO (for himself, Mrs. DAVIS of California, and Mr. SAXTON):

H.R. 2686. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for grants for coastal recreation water quality monitoring and notification programs; to the Committee on Transportation and Infrastructure.

By Ms. ZOE LOFGREN of California (for herself, Mr. SMITH of New Jersey, Mr. HONDA, Mr. TOM DAVIS of Virginia, Ms. WOOLSEY, Ms. LORETTA SANCHEZ of California, Ms. JACKSON-LEE of Texas, Mr. LEWIS of Georgia, Mr. GRIJALVA, Mr. FARR, Mr. DELAHUNT, Mr. MCDERMOTT, Mr. GUTIERREZ, Mr. MORAN of Virginia, Mr. EMANUEL, Ms. SLAUGHTER, Ms. MILLENDER-MCDONALD, Ms. MCCOLLUM of Minnesota, Mr. FRANK of Massachusetts, and Mr. ABERCROMBIE):

H.R. 2687. A bill to amend the Immigration and Nationality Act to provide for the automatic acquisition of citizenship by certain Amerasians; to the Committee on the Judiciary.

By Mrs. LOWEY (for herself, Mr. THOMPSON of Mississippi, Ms. LORETTA SANCHEZ of California, Mr. ANDREWS, and Mr. MCNULTY):

H.R. 2688. A bill to amend title 49, United States Code, to establish a deadline for the screening of all individuals, goods, property, vehicles, and other equipment entering a secure area of an airport, and for other purposes; to the Committee on Homeland Security.

By Mr. MARKEY:

H.R. 2689. A bill to increase the security of radiation sources, and for other purposes; to the Committee on Energy and Commerce.

By Ms. MCKINNEY:

H.R. 2690. A bill to provide that a State may use a proportional voting system for multiseat congressional districts, to require the use of instant runoff voting in certain elections for Federal office, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MELANCON:

H.R. 2691. A bill to amend the Bipartisan Trade Promotion Authority Act of 2002 to require the President to submit to the Congress, within 90 days after entering into a trade agreement, the implementing legislation, the statement of administrative action, and supporting information, with respect to that trade agreement; to the Committee on Ways and Means.

By Mr. MICHAUD:

H.R. 2692. A bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes; to the Committee on Resources.

By Mr. GEORGE MILLER of California (for himself and Mr. BAIRD):

H.R. 2693. A bill to amend the Great Ape Conservation Act to reauthorize the Secretary of the Interior to provide project grants and emergency assistance to address critical great ape conservation needs, and for other purposes; to the Committee on Resources.

By Mr. MOORE of Kansas (for himself, Mr. RAMSTAD, Mr. TANNER, Mr. JEFFERSON, Mr. ISRAEL, Mr. WEINER, Mr. ROTHMAN, Mr. DOGGETT, Mr. NADLER, Ms. MCCOLLUM of Minnesota, Mr. OWENS, Mr. CASE, Mr. GORDON, Mr. MATHESON, Mr. FORD, Mr. MICHAUD, and Ms. WOOLSEY):

H.R. 2694. A bill to require full funding of part A of title I of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001; to the Committee on Education and the Workforce.

By Ms. MOORE of Wisconsin (for herself and Ms. HARRIS):

H.R. 2695. A bill to amend the McKinney-Vento Homeless Assistance Act to protect the personally identifying information of victims of domestic violence, dating violence, sexual assault, and stalking; to the Committee on Financial Services.

By Mrs. MYRICK:

H.R. 2696. A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2697. A bill to suspend temporarily the duty on Chromate(2-), [2,4-dihydro-4-[[2-(hydroxy-kO)-4-nitrophenyl]azo-kN1]-5-methyl-3H-pyrazol-3-onato(2-)-kO3][3-[[4,5-dihydro-3-methyl-1-(4-methylphenyl)-5-(oxo-kO)-1H-pyrazol-4-yl]azo-kN1]-4-(hydroxy-kO)-5-nitrobenzenesulfonato(3-)]-, disodium; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2698. A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-bis(phenylthio)-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2699. A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 4-amino-3,6-bis[[5-[[4-chloro-6-[methyl[2-(methylamino)-2-oxoethyl]amino]-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]azo]-5-hydroxy-, lithium potassium sodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2700. A bill to suspend temporarily the duty on 2-Naphthalenesulfonic acid, 7-[(5-chloro-2,6-difluoro-4-pyrimidinyl)amino]-4-hydroxy-3-[(4-methoxy-2-sulfophenyl)azo]-, sodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2701. A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-[[2-methoxy-5-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-3-[[4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo-, tetrasodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2702. A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-3,6-bis[[4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-, tetrasodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2703. A bill to suspend temporarily the duty on [2,2'-Bi-1H-indole]-3,3'-diol-, potassium sodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2704. A bill to suspend temporarily the duty on 3-Pyridinecarbonitrile, 5-[(2-cyano-4-nitrophenyl)azo]-2-[[2-(2-hydroxyethoxy)ethyl]amino]-4-methyl-6-(phenylamino)-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2705. A bill to suspend temporarily the duty on Acetic acid, cyano[3-[(6-methoxy-2-benzothiazolyl)amino]-1H-isoindol-1-ylidene]-, pentyl ester; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2706. A bill to suspend temporarily the duty on Benzenesulfonic acid, [(9,10-dihydro-9,10-dioxo-1,4-anthracenediyl)bis[imino[3-(2-methylpropyl)-3,1-propanediyl]]]bis-, disodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2707. A bill to suspend temporarily the duty on Acetic acid, [4-(2,6-dihydro-2,6-dioxo-7-phenylbenzo[1,2-b:4,5-b']difuran-3-yl)phenoxy]-, 2-ethoxyethyl ester; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2708. A bill to suspend temporarily the duty on Benzo[1,2-b:4,5-b']difuran-2,6-dione, 3-phenyl-7-(4-propoxyphenyl)-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2709. A bill to suspend temporarily the duty on Ethanesulfonic acid, 2-[[[2,5-dichloro-4-[(2-methyl-1H-indol-3-yl)azo]phenyl]sulfonyl]amino]-, monosodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2710. A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[(3-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-4-hydroxy-3-[[4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo],sodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2711. A bill to suspend temporarily the duty on 1,3,6-Naphthalenetrisulfonic acid, 7-[[2-[(aminocarbonyl)amino]-4-[[4-[4-[2-[[4-[[3-[(aminocarbonyl)amino]-4-[(3,6,8-trisulfo-2-naphthalenyl)azo]phenyl]amio]-6-chloro-1,3,5-triazin-2-yl]amino]ethyl]-1-piperazinyl]-- chloro-1,3,5-triazin-2-yl]amino]phenyl]azo]-, lithium potassium sodium salt)-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2712. A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2713. A bill to suspend temporarily the duty on 2-Anthracenesulfonic acid, 4-[[3-(acetylamino)phenyl]amino]-1-amino-9,10-dihydro-9,10-dioxo-, monosodium salt; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2714. A bill to suspend temporarily the duty on Acetic acid, [4-[2,6-dihydro-2,6-dioxo-

7-(4-propoxyphenyl)benzo[1,2-b:4,5 -b′]difuran-3-yl]phenoxy]-, 2-ethoxyethyl ester; to the Committee on Ways and Means.

By Mr. NADLER (for himself and Mr. FLAKE):

H.R. 2715. A bill to establish reasonable procedural protections for the use of national security letters, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OLVER (for himself, Mr. BOEHLERT, Mrs. CAPPS, Mr. LATOURETTE, Mr. TOWNS, Mrs. JOHNSON of Connecticut, Mr. WAXMAN, Mrs. KELLY, Ms. HERSETH, Mr. ENGLISH of Pennsylvania, Mr. MARKEY, and Mr. PLATTS):

H.R. 2716. A bill to amend title XIX of the Social Security Act to improve access to advanced practice nurses and physician assistants under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. OSBORNE (for himself and Mr. MCGOVERN):

H.R. 2717. A bill to reduce hunger in the United States by half by 2010, and for other purposes; to the Committee on Agriculture.

By Mr. OTTER:

H.R. 2718. A bill to authorize the exchange of certain Federal land within the State of Idaho, and for other purposes; to the Committee on Resources.

By Mr. PALLONE (for himself, Mr. SHAYS, Ms. MILLENDER-MCDONALD, Mr. OLVER, Mr. GEORGE MILLER of California, Mr. VAN HOLLEN, Mr. MARKEY, Mr. FARR, Mr. SERRANO, Mr. GUTIERREZ, Mr. KILDEE, Mr. DEFAZIO, Mrs. JONES of Ohio, Mr. ANDREWS, Ms. LEE, Mr. HOLT, Mr. WAXMAN, Ms. BALDWIN, Ms. SCHAKOWSKY, Mr. OWENS, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. CASE, Mr. FRANK of Massachusetts, Mr. BERMAN, Mr. FILNER, Mr. HONDA, Ms. WOOLSEY, Mr. KENNEDY of Rhode Island, Mr. SANDERS, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. CUMMINGS, Ms. DELAURO, Mr. SPRATT, Mr. LANGEVIN, Mr. ALLEN, Mr. BROWN of Ohio, Ms. SLAUGHTER, Ms. ESHOO, Mr. SMITH of Washington, Ms. MCCOLLUM of Minnesota, Mr. WEXLER, Mr. STARK, Mr. GILCHREST, Mrs. JOHNSON of Connecticut, Mr. MCHUGH, Mr. MENENDEZ, Mr. GRIJALVA, Mr. HINCHEY, Mr. NEAL of Massachusetts, Mr. PAYNE, Mr. BLUMENAUER, Mrs. CAPPS, and Mr. MILLER of North Carolina):

H.R. 2719. A bill to amend the Federal Water Pollution Control Act to clarify that fill material cannot be comprised of waste; to the Committee on Transportation and Infrastructure.

By Mr. PEARCE (for himself, Mr. OSBORNE, Mr. BONILLA, Mr. CONAWAY, Mr. HUNTER, Mr. SALAZAR, Mr. UDALL of Colorado, and Mrs. CUBIN):

H.R. 2720. A bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to control salt cedar and Russian olive, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PETERSON of Pennsylvania (for himself, Mr. HOLDEN, Mr. SHUSTER, Mr. PLATTS, Mr. GERLACH, Mr. ENGLISH of Pennsylvania, Ms. HART, Mr. KANJORSKI, Mr. SHERWOOD, Mr. DAVIS of Tennessee, Mr. REGULA, Mr. WAMP, Mr. RUPPERSBERGER, Mrs. BLACKBURN, Mr. FORD, Mr. GORDON, and Ms. SCHWARTZ of Pennsylvania):

H.R. 2721. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes; to the Committee on Resources.

By Mr. PLATTS (for himself, Mr. HOLDEN, and Mr. SHERWOOD):

H.R. 2722. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating Camp Security, located in Springettsbury, York County, Pennsylvania, as a unit of the National Park System; to the Committee on Resources.

By Mr. RANGEL:

H.R. 2723. A bill to provide for the common defense by requiring that all young persons in the United States, including women, perform a period of military service or a period of civilian service in furtherance of the national defense and homeland security, and for other purposes; to the Committee on Armed Services.

By Mr. RANGEL:

H.R. 2724. A bill to establish a national Civilian Volunteer Service Reserve program, a national volunteer service corps ready for service in response to domestic or international emergencies; to the Committee on Transportation and Infrastructure.

By Mr. REGULA (for himself, Mr. DINGELL, Mr. HYDE, Mr. HALL, Mr. LANTOS, Mr. WELDON of Pennsylvania, Mr. BAKER, Mr. MCCRERY, Mr. JEFFERSON, Mr. WICKER, Mr. ALEXANDER, Mr. BOUSTANY, Mr. JINDAL, and Mr. MELANCON):

H.R. 2725. A bill to direct the Secretary of Defense to make a grant to the National D-Day Museum Foundation for facilities and programs of America's National World War II Museum; to the Committee on Armed Services.

By Mr. SESSIONS:

H.R. 2726. A bill to prohibit municipal governments from offering telecommunications, information, or cable services except to remedy market failures by private enterprise to provide such services; to the Committee on Energy and Commerce.

By Mr. SESSIONS (for himself, Mrs. DAVIS of California, Mrs. CHRISTENSEN, Mr. SANDERS, and Ms. SCHAKOWSKY):

H.R. 2727. A bill to amend the Public Health Service Act to provide for educational activities and research with respect to women's pelvic floor health through the Centers for Disease Control and Prevention and the National Institutes of Health; to the Committee on Energy and Commerce.

By Mr. SHADEGG:

H.R. 2728. A bill to amend the Public Health Service Act to expand health care access and choice of coverage through Individual Membership Associations (IMAs); to the Committee on Energy and Commerce.

By Mr. SHADEGG:

H.R. 2729. A bill to amend the Public Health Service Act to protect certain health care providers against legal liability for providing emergency and related care to uninsured individuals; to the Committee on Energy and Commerce.

By Mr. SHADEGG (for himself, Mr. SHERMAN, Mr. KING of New York, Mr. PASTOR, Mr. BURTON of Indiana, Mr. RENZI, Mr. MILLER of Florida, Mr. CANNON, Mr. PALLONE, Mr. ENGEL, Mr. CROWLEY, Mr. GORDON, Mr. KENNEDY of Rhode Island, Ms. BERKLEY, Mr. MCNULTY, Mrs. MALONEY, Mr. WAXMAN, and Ms. SCHAKOWSKY):

H.R. 2730. A bill to establish a grant program to fund eligible joint ventures between United States and Israeli businesses and academic persons, to establish the International Energy Advisory Board, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHADEGG:

H.R. 2731. A bill to limit the liability of hospitals and emergency departments for noneconomic and punitive damages when providing uncompensated care, and for other purposes; to the Committee on the Judiciary.

By Mr. SHADEGG:

H.R. 2732. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable and advanceable credit against income tax for health insurance costs; to the Committee on Ways and Means.

By Ms. SLAUGHTER:

H.R. 2733. A bill to prohibit the closure or adverse realignment of facilities of the reserve components that the Secretary of Homeland Security determines have a significant role in homeland defense; to the Committee on Armed Services.

By Mr. SMITH of New Jersey:

H.R. 2734. A bill to amend title 38, United States Code, to enhance the authority of the Department of Veterans Affairs to recover from third parties costs of medical care furnished to veterans and other persons by the Department; to the Committee on Veterans' Affairs.

By Mr. SMITH of New Jersey (for himself, Mr. FITZPATRICK of Pennsylvania, and Mr. MURPHY):

H.R. 2735. A bill to amend title 38, United States Code, to provide an enhanced funding process to ensure an adequate level of funding for veterans health care programs of the Department of Veterans Affairs, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. STARK (for himself, Mr. LEACH, Mr. WEXLER, Mr. WAXMAN, Mr. HINCHEY, Mr. MCNULTY, Ms. BORDALLO, Mr. ABERCROMBIE, and Mr. KILDEE):

H.R. 2736. A bill to amend title XVIII of the Social Security Act to permit direct payment under the Medicare Program for clinical social worker services provided to residents of skilled nursing facilities; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STRICKLAND (for himself, Mr. SERRANO, Mr. WAXMAN, Mr. HOLDEN, Mr. HASTINGS of Florida, Mr. BROWN of Ohio, Mrs. CHRISTENSEN, Mr. PAYNE, Mr. MCDERMOTT, and Mr. GRIJALVA):

H.R. 2737. A bill to amend the Public Health Service Act to establish an Office of Correctional Public Health; to the Committee on Energy and Commerce.

By Mr. STUPAK:

H.R. 2738. A bill to amend the Railroad Retirement Act of 1974 to provide that a current connection is not lost by an individual who is misled or not properly informed by the Railroad Retirement Board of the requirement for, and the circumstances resulting in the loss of, a current connection; to the Committee on Transportation and Infrastructure.

By Mr. TIERNEY (for himself, Ms. McCollum of Minnesota, Mr. George Miller of California, Mr. Kildee, Mr. Emanuel, Mr. Bishop of New York, Mr. Payne, Ms. Woolsey, Mrs. McCarthy, Mr. Wu, Mr. Davis of Illinois, Mr. Grijalva, Mr. Meehan, Mr. Becerra, Mr. Reyes, Mr. Gonzalez, Ms. Linda T. Sánchez of California, Mr. McGovern, Ms. DeLauro, Mr. Owens, Mr. Hinojosa, Mr. Kucinich, Mr. Holt, Mr. Case, Mr. Van Hollen, Mr. Ortiz, Mr. Gutierrez, Mr. Cardoza, Mrs. Jones of Ohio, Ms. Baldwin, Mr. Wexler, Mr. Barrow, Mr. Jefferson, Mr. Ryan of Ohio, Ms. Solis, Ms. Velázquez, and Ms. Schakowsky):

H.R. 2739. A bill to address rising college tuition by strengthening the compact between the States, the Federal Government, and institutions of higher education to make college more affordable; to the Committee on Education and the Workforce.

By Mr. WYNN:

H.R. 2740. A bill to amend title 31, United States Code, to require the provision of a written prompt payment policy to each subcontractor under a Federal contract and to require a clause in each subcontract under a Federal contract that outlines the provisions of the prompt payment statute and other related information; to the Committee on Government Reform.

By Mr. WYNN:

H.R. 2741. A bill to amend the Small Business Act to provide a penalty for the failure by a Federal contractor to subcontract with small businesses as described in its subcontracting plan, and for other purposes; to the Committee on Small Business.

By Mr. WYNN:

H.R. 2742. A bill to amend the Small Business Act to increase the minimum Government-wide goal for procurement contracts awarded to small business concerns; to the Committee on Small Business.

By Mr. LANTOS (for himself, Mr. Thomas, Mr. King of New York, Mr. Berman, Mr. Smith of New Jersey, Mr. Ackerman, Mr. Burton of Indiana, Ms. Pelosi, Ms. Ros-Lehtinen, Mr. Faleomavaega, Mr. Rohrabacher, Mr. Menendez, Mr. Tancredo, Mr. Brown of Ohio, Mr. Pitts, Mr. Sherman, Mr. Weller, Mr. Wexler, Mr. Pence, Mr. Engel, Mr. Wolf, Mr. Delahunt, Mr. Poe, Ms. Lee, Mr. Souder, Mr. Crowley, Mr. Kirk, Mr. Blumenauer, Ms. Watson, Ms. McCollum of Minnesota, Mr. Evans, Mr. Frank of Massachusetts, Ms. DeLauro, Mr. Udall of New Mexico, Mr. Gutierrez, Mr. Kucinich, Mr. DeFazio, Mr. Snyder, Mr. McGovern, Mrs. Maloney, Mr. Grijalva, Mr. Abercrombie, and Mr. Stark):

H.J. Res. 52. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; to the Committee on Ways and Means.

By Mr. PRICE of Georgia:

H. Con. Res. 167. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Mr. HYDE (for himself, Mr. Chabot, Mr. Shimkus, Mr. Rohrabacher, Mr. Pitts, Mr. Lynch, and Mr. Frank of Massachusetts):

H. Con. Res. 168. Concurrent resolution condemning the Democratic People's Republic of Korea for the abductions and continued captivity of citizens of the Republic of Korea and Japan as acts of terrorism and gross violations of human rights; to the Committee on International Relations.

By Mr. BISHOP of New York (for himself and Mr. Jones of North Carolina):

H. Con. Res. 169. Concurrent resolution recognizing the families of the members of the Armed Forces for their contributions and sacrifices to the United States; to the Committee on Armed Services.

By Mr. EVANS:

H. Con. Res. 170. Concurrent resolution supporting the goals and ideals of National Purple Heart Recognition Day; to the Committee on Armed Services.

By Mr. ISRAEL:

H. Con. Res. 171. Concurrent resolution commending individuals that have participated in volunteer programs that repair the homes of families of deployed members of the Armed Forces, and in particular those of the National Guard and Reserves; to the Committee on Armed Services.

By Ms. McCOLLUM of Minnesota (for herself, Mr. Leach, Mr. Shays, Ms. Carson, Mr. Oberstar, Mr. Crowley, Mr. Olver, Ms. Watson, Mr. Serrano, Mrs. Davis of California, Mr. Kind, Mr. Markey, Mr. Jackson of Illinois, Ms. Eddie Bernice Johnson of Texas, Ms. Lee, Mr. Sabo, Mr. George Miller of California, Mr. Brown of Ohio, Mrs. Christensen, Mr. Case, Ms. DeLauro, Mr. Farr, Ms. Baldwin, Mr. Blumenauer, Mr. Lynch, Mr. Fattah, Mr. Honda, Mrs. Maloney, Mrs. Capps, Mr. Meeks of New York, Mr. McGovern, and Mr. Payne):

H. Con. Res. 172. Concurrent resolution affirming the commitment and leadership of the United States to improve the lives of the world's 1.3 billion people living in extreme poverty and conditions of misery; to the Committee on International Relations.

By Mr. PALLONE (for himself, Ms. Pryce of Ohio, Ms. Hart, Mr. Holt, Mr. Menendez, Mr. Faleomavaega, Mr. Brady of Pennsylvania, Mr. Bishop of Georgia, Mr. Case, Mr. Kind, Mr. Wynn, Mr. Skelton, Mrs. McCarthy, Mr. Spratt, Mr. Chandler, Ms. Carson, Mr. McDermott, Mr. Van Hollen, Mr. Tanner, Mr. Moran of Virginia, Mr. Kucinich, Mrs. Jones of Ohio, Mr. Costello, Mr. Brown of Ohio, Mr. Conyers, Mr. Serrano, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Ms. Bordallo, Mr. Grijalva, Mr. Davis of Florida, Mr. Scott of Georgia, Mr. Wexler, Ms. Corrine Brown of Florida, Mr. Sanders, Mr. Gibbons, Mr. Wilson of South Carolina, Mr. Porter, Mr. Turner, Mr. Jones of North Carolina, Mrs. Northup, Mr. Burton of Indiana, Mr. Alexander, Mr. Goode, Mr. Kennedy of Minnesota, Mr. Goodlatte, Mr. Bartlett of Maryland, Mr. Green of Wisconsin, Mrs. Myrick, Mr. Fossella, Mr. Shimkus, Mr. Platts, Mr. Sessions, Ms. Harris, Mr. Herger, and Mr. King of New York):

H. Con. Res. 173. Concurrent resolution expressing support for the goals of Veterans Educate Today's Students (VETS) Day, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BISHOP of New York:

H. Res. 299. A resolution expressing the sense of the House that the President should take immediate action to initiate measures to lower the burden of gasoline prices on the economy of the United States, prevent Members of the Organization of Petroleum Exporting Countries from reaping windfall profits on sales of oil to the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on International Relations, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WILSON of South Carolina (for himself, Mr. Spratt, Mr. Clyburn, Mr. Brown of South Carolina, Mr. Barrett of South Carolina, and Mr. Inglis of South Carolina):

H. Res. 300. A resolution recognizing the South Carolina Farm Bureau Mutual Insurance Company on the occasion of its 50th anniversary and saluting the outstanding service of the Company to the people of South Carolina; to the Committee on Financial Services.

By Mr. BISHOP of New York (for himself, Mr. King of New York, Mr. Israel, Mr. Weldon of Pennsylvania, Mrs. McCarthy, Mr. Ackerman, Mr. Higgins, and Mr. Andrews):

H. Res. 301. A resolution recognizing career and volunteer Emergency Medical Technicians and Paramedics for their bravery and critically important life-saving responsibilities in responding to crises and safeguarding the public; to the Committee on Energy and Commerce.

By Mr. POMBO (for himself, Mr. Pickering, Mr. Jindal, Mr. Jones of North Carolina, Ms. Bordallo, Mr. Duncan, Mr. Radanovich, Mrs. Christensen, Mr. Udall of Colorado, Mr. Ferguson, Mr. Gary G. Miller of California, Mr. Fitzpatrick of Pennsylvania, Mr. Kuhl of New York, Mr. Cannon, Mr. Castle, Mr. Doolittle, Ms. Herseth, Mr. Souder, Mr. Gohmert, Mr. Rogers of Michigan, Mr. Walden of Oregon, Mr. Issa, Mr. Case, Mr. Calvert, Mr. Davis of Tennessee, Mr. McCaul of Texas, Mr. Tanner, Mr. Kind, Mr. Graves, Mr. Wilson of South Carolina, Mr. Simpson, Mr. Ryan of Ohio, and Mr. Alexander):

H. Res. 302. A resolution recognizing and commending the continuing dedication and commitment of employers of the members of the National Guard and the other reserve components who have been mobilized during the Global War on Terrorism and in defense of the United States; to the Committee on Education and the Workforce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII.

Mr. CUELLAR introduced a bill (H.R. 2743) for the relief of Aida Abigail Trevino de Zamarron; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. BOUSTANY, Mr. ORTIZ, Mr. REYES, and Ms. JACKSON-LEE of Texas.

H.R. 22: Mr. DELAHUNT.

H.R. 36: Mr. GREEN of Wisconsin.

H.R. 66: Mr. BARRETT of South Carolina.

H.R. 111: Mr. CARNAHAN and Mr. KENNEDY of Rhode Island.

H.R. 115: Mr. MILLER of North Carolina.

H.R. 128: Mr. PASCRELL.

H.R. 131: Mr. SMITH of Washington.

H.R. 192: Mr. BACA, Mr. BECERRA, Mr. BRADY of Pennsylvania, Mr. CARDOZA, Mr. COSTA, Mr. CUELLAR, Mr. DOGGETT, Mr. GONZALEZ, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HINOJOSA, Mr. PAYNE, Mr. SALAZAR, Mr. SERRANO, and Ms. VELÁZQUEZ.

H.R. 195: Mr. MILLER of Florida.

H.R. 215: Mr. CLAY.

H.R. 224: Mr. INSLEE.

H.R. 226: Mr. BARTLETT of Maryland and Mr. RUPPERSBERGER.

H.R. 277: Mrs. MCCARTHY.

H.R. 282: Mr. MANZULLO and Mr. LEVIN.

H.R. 292: Mr. SHADEGG.

H.R. 302: Mr. BISHOP of Georgia, Ms. MATSUI, and Mrs. MCCARTHY.

H.R. 303: Mr. ROGERS of Kentucky, Ms. DELAURO, Mrs. JONES of Ohio, and Mr. CLEAVER.

H.R. 305: Mr. TANCREDO and Mr. UDALL of Colorado.

H.R. 328: Mr. MURTHA and Mr. TAYLOR of North Carolina.

H.R. 376: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 414: Mr. CAPUANO, Mr. ORTIZ, Mr. KNOLLENBERG, Ms. HOOLEY, Mr. CUMMINGS, Mr. RAMSTAD, Mr. PALLONE, Mr. BOREN, and Mr. GREEN of Wisconsin.

H.R. 415: Mr. TOWNS, Ms. HERSETH, Mr. CUMMINGS, and Ms. MCCOLLUM of Minnesota.

H.R. 420: Mr. BACHUS and Mr. PUTNAM.

H.R. 421: Mr. RUPPERSBERGER.

H.R. 463: Mr. MCGOVERN.

H.R. 469: Mr. GRIJALVA.

H.R. 500: Mr. HEFLEY.

H.R. 503: Mr. PRICE of North Carolina and Mrs. TAUSCHER.

H.R. 550: Mr. KENNEDY of Rhode Island.

H.R. 557: Mr. LEWIS of California.

H.R. 558: Mr. COOPER.

H.R. 581: Ms. GRANGER, Mr. SANDERS, and Mr. POE.

H.R. 583: Mr. MURPHY.

H.R. 586: Mr. LARSEN of Washington.

H.R. 653: Mr. BOREN and Mr. THOMPSON of California.

H.R. 676: Mr. DAVIS of Illinois, Ms. KILPATRICK of Michigan, Mrs. MALONEY, Mr. TOWNS, and Mr. UDALL of New Mexico.

H.R. 697: Mr. HOLT, Mr. BISHOP of New York, Mr. MURPHY, Mr. OWENS, and Mr. MEEK of Florida.

H.R. 710: Mr. SMITH of Washington.

H.R. 786: Mr. FOLEY and Mr. SOUDER.

H.R. 791: Ms. WOOLSEY.

H.R. 799: Ms. ESHOO.

H.R. 809: Mr. NEUGEBAUER, Mr. SOUDER, Mr. SODREL, Mr. WESTMORELAND, Mr. CARTER, and Mr. BARRETT of South Carolina.

H.R. 817: Mr. NEAL of Massachusetts, Mr. GUTIERREZ, Mr. SCHIFF, Ms. MCCOLLUM of Minnesota, Mr. KELLER, Mr. WAXMAN, Mr. FORBES, Mr. BURTON of Indiana, Mr. WEINER, Ms. LINDA T. SÁNCHEZ of California, Ms. JACKSON-LEE of Texas, Mr. RANGEL, and Mr. ROYCE.

H.R. 818: Mr. VAN HOLLEN.

H.R. 819: Mr. LEACH.

H.R. 823: Mr. CAPUANO and Mr. GORDON.

H.R. 839: Ms. ZOE LOFGREN of California.

H.R. 865: Mr. JONES of North Carolina and Mr. DOYLE.

H.R. 869: Mr. RUPPERSBERGER.

H.R. 893: Ms. LORETTA SANCHEZ of California.

H.R. 910: Mr. PASCRELL, Mr. PAYNE, Mr. KIND, Mrs. CHRISTENSEN, Mr. HOLT, Ms. SCHAKOWSKY, and Mr. MCNULTY.

H.R. 913: Ms. HARMAN, Mr. SCHIFF, and Mr. PUTNAM.

H.R. 916: Mr. CLAY and Mr. WEXLER.

H.R. 920: Mr. DICKS.

H.R. 994: Mrs. MYRICK, Mr. DELAHUNT, Mr. SODREL, Mr. COOPER, Mr. BISHOP of Utah, Mr. BERRY, Mr. TIERNEY, Mr. RYUN of Kansas, and Mr. SIMPSON.

H.R. 997: Mr. GILCHREST and Mr. PUTNAM.

H.R. 1000: Ms. BORDALLO, Mr. WYNN, and Mr. MCHUGH.

H.R. 1010: Mr. WELLER.

H.R. 1063: Mr. MCINTYRE.

H.R. 1071: Mr. COSTA.

H.R. 1126: Ms. JACKSON-LEE of Texas and Mr. NEAL of Massachusetts.

H.R. 1131: Mr. ROTHMAN, Mr. PASCRELL, Ms. SCHWARTZ of Pennsylvania, and Mr. SHAYS.

H.R. 1133: Ms. WASSERMAN SCHULTZ, Mr. FALEOMAVAEGA, and Mr. PRICE of North Carolina.

H.R. 1156: Ms. BERKLEY.

H.R. 1175: Mr. ROTHMAN.

H.R. 1177: Mr. PLATTS.

H.R. 1208: Mr. JACKSON of Illinois and Mr. SKELTON.

H.R. 1227: Mr. MORAN of Virginia.

H.R. 1233: Mr. LANTOS and Mr. PRICE of North Carolina.

H.R. 1241: Mrs. MILLER of Michigan.

H.R. 1243: Mr. SHUSTER, Mr. HAYWORTH, Mr. KUHL of New York, Mr. PUTNAM, Mr. BISHOP of Georgia, and Mr. KELLER.

H.R. 1246: Mr. CUMMINGS.

H.R. 1262: Mr. TIERNEY.

H.R. 1305: Mr. HIGGINS.

H.R. 1306: Mr. NUSSLE.

H.R. 1312: Mr. WYNN.

H.R. 1316: Mr. MARCHANT and Mr. GOHMERT.

H.R. 1333: Mr. WELLER, Mr. CHOCOLA, Mrs. MCCARTHY, Ms. MCCOLLUM of Minnesota, Mr. SANDERS, Mr. CLAY, Mr. JENKINS, Mr. JONES of North Carolina, and Mr. BARROW.

H.R. 1335: Mr. ABERCROMBIE and Mr. PASTOR.

H.R. 1357: Mr. MURPHY.

H.R. 1358: Mr. MCINTYRE and Mr. BISHOP of Georgia.

H.R. 1360: Mr. SIMMONS and Mr. SCHWARZ of Michigan.

H.R. 1374: Ms. JACKSON-LEE of Texas.

H.R. 1376: Mr. BRADLEY of New Hampshire.

H.R. 1424: Mr. KENNEDY of Rhode Island, Mr. GUTIERREZ, and Mr. SCHIFF.

H.R. 1426: Mr. LIPINSKI.

H.R. 1431: Mr. CASE.

H.R. 1451: Mr. LANGEVIN and Mr. CROWLEY.

H.R. 1456: Mr. MCGOVERN and Mr. ETHERIDGE.

H.R. 1468: Mr. MCCRERY and Mr. BECERRA.

H.R. 1492: Mr. SANDERS.

H.R. 1498: Mr. SMITH of New Jersey, Mr. BISHOP of Utah, Mr. BRADLEY of New Hampshire, and Mr. BARTLETT of Maryland.

H.R. 1508: Mr. HIGGINS.

H.R. 1510: Mr. WELLER and Mr. PUTNAM.

H.R. 1548: Mr. DAVIS of Kentucky.

H.R. 1549: Mr. OSBORNE, Mr. JINDAL, Mr. FRANK of Massachusetts, Mr. RAHALL, Mr. MENENDEZ, Mrs. CAPPS, Mr. PITTS, Mr. LOBIONDO, Mr. SAXTON, Mr. SCHIFF, Mr. SMITH of New Jersey, Mr. HYDE, Ms. HARRIS, Mr. DOYLE, Mr. HOLT, Mrs. JO ANN DAVIS of Virginia, Mr. JONES of North Carolina, Ms. BALDWIN, Ms. HARMAN, Mr. BACA, Mr. NUNES, Mr. COSTA, Mr. MACK, Mr. PAUL, Mrs. MCCARTHY, Mr. WOLF, Mr. NUSSLE, Ms. CORRINE BROWN of Florida, Mrs. BONO, Mr. CARDOZA, Mr. PETERSON of Minnesota, Mr. LANTOS, Mr. BACHUS, and Mr. MOORE of Kansas.

H.R. 1554: Mr. DOGGETT.

H.R. 1582: Mr. BISHOP of New York.

H.R. 1588: Mr. FRANK of Massachusetts, Mr. UDALL of Colorado, and Mr. ROTHMAN.

H.R. 1591: Mr. ABERCROMBIE, Ms. DELAURO, Ms. MOORE of Wisconsin, and Mr. BOEHLERT.

H.R. 1600: Mrs. CAPITO.

H.R. 1602: Mr. BACHUS.

H.R. 1608: Mr. CHOCOLA.

H.R. 1632: Mr. LANTOS, Mr. PALLONE, and Mr. HOLDEN.

H.R. 1634: Mr. GEORGE MILLER of California, Mr. DENT, and Mr. JOHNSON of Illinois.

H.R. 1642: Mr. CARDOZA.

H.R. 1649: Ms. JACKSON-LEE of Texas.

H.R. 1663: Mr. COSTA and Mr. UDALL of New Mexico.

H.R. 1671: Mr. PLATTS.

H.R. 1682: Mrs. JONES of Ohio.

H.R. 1689: Mr. PLATTS, Mr. MCCOTTER, Mr. PUTNAM, and Mr. GERLACH.

H.R. 1696: Mr. REYES and Mr. LEWIS of Georgia.

H.R. 1707: Ms. WOOLSEY.

H.R. 1709: Mr. DAVIS of Florida, Mr. UDALL of Colorado, Mr. DICKS, Mr. ABERCROMBIE, Mr. STARK, Mr. SABO, Ms. WATSON, Mr. AL GREEN of Texas, and Mr. GUTIERREZ.

H.R. 1736: Mr. HOLT, Mr. MCCAUL of Texas, and Ms. HARMAN.

H.R. 1745: Mr. BRADY of Pennsylvania and Mrs. JONES of Ohio.

H.R. 1748: Mr. BARRETT of South Carolina and Ms. JACKSON-LEE of Texas.

H.R. 1749: Mr. ROSS, Mr. COSTA, and Ms. JACKSON-LEE of Texas.

H.R. 1790: Mr. NEUGEBAUER.

H.R. 1791: Mr. DAVIS of Tennessee.

H.R. 1804: Mr. SHAW, Mrs. MUSGRAVE, Mrs. MYRICK, and Mr. NEY.

H.R. 1835: Mr. LARSEN of Washington, Mr. MCDERMOTT, Mrs. CAPPS, Mr. SCHIFF, Ms. WOOLSEY, and Mr. PAYNE.

H.R. 1849: Mr. FRANK of Massachusetts, Mr. LOBIONDO, Mr. MICHAUD, Mr. BOYD, Mr. PASCRELL, Mr. DELAHUNT, Mr. GRIJALVA, and Mr. ETHERIDGE.

H.R. 1851: Mr. COSTA.

H.R. 1862: Mr. SHAYS.

H.R. 1898: Mr. KING of Iowa and Mrs. BLACKBURN.

H.R. 1946: Ms. WOOLSEY and Mr. LANTOS.

H.R. 1956: Mr. BARRETT of South Carolina.

H.R. 1957: Mr. MARCHANT, Ms. HARRIS, and Ms. FOXX.

H.R. 1996: Ms. ROS-LEHTINEN.

H.R. 2045: Mr. WALSH.

H.R. 2048: Mr. MANZULLO, Mr. MEEKS of New York, Mr. BURGESS, Mr. GARY G. MILLER of California, Mr. SENSENBRENNER, Mr. PLATTS, and Mr. MOORE of Kansas.

H.R. 2061: Mr. HOEKSTRA, Mr. BISHOP of Utah, and Mr. TIBERI.

H.R. 2063: Mr. MILLER of Florida, Mr. FLAKE, Mr. MCCOTTER, Mr. PENCE, and Mr. BURTON of Indiana.

H.R. 2068: Mr. CHOCOLA, Mr. THOMPSON of Mississippi, Mr. TANNER, Mr. MARCHANT, and Mr. BEAUPREZ.

H.R. 2073: Mr. BISHOP of New York.

H.R. 2076: Mrs. DAVIS of California.

H.R. 2103: Mr. OWENS, Mr. NEAL of Massachusetts, and Mr. MCHENRY.

H.R. 2106: Mr. MARCHANT and Mr. HOSTETTLER.

H.R. 2121: Mr. ENGLISH of Pennsylvania.

H.R. 2122: Mr. GUTIERREZ.

H.R. 2131: Mr. ANDREWS, Ms. CARSON, Mr. FATTAH, and Ms. MOORE of Wisconsin.

H.R. 2177: Mr. MURPHY.

H.R. 2196: Mr. SERRANO.

H.R. 2202: Mr. FLAKE, Mr. GARRETT of New Jersey, and Mr. CARTER.

H.R. 2217: Mrs. MCCARTHY.

H.R. 2230: Mr. FRANK of Massachusetts.

H.R. 2231: Mr. LANTOS, Mr. FORD, Mr. KIRK, Mr. DELAHUNT, Mrs. MALONEY, Mr. PETERSON of Minnesota, Mr. SCHIFF, and Mr. SHERMAN.

H.R. 2238: Mr. LINCOLN DIAZ-BALART of Florida, Mr. CLEAVER, Mr. FILNER, Mr. WELDON of Pennsylvania, Mr. FRANK of Massachusetts, Mr. DAVIS of Illinois, Mr. MCGOVERN, and Mr. MILLER of North Carolina.

H.R. 2251: Mr. GERLACH, Mr. DOOLITTLE, and Mr. BOSWELL.

H.R. 2259: Mr. LANTOS.

H.R. 2306: Mr. UDALL of Colorado.

H.R. 2317: Mr. UDALL of Colorado, Mr. ALLEN, Mr. BISHOP of New York, Mr. WALSH, and Mr. BACA.

H.R. 2327: Mr. HINOJOSA, Ms. WATSON, Mrs. CAPPS, Mr. MANZULLO, Mr. PAUL, Mrs. MALONEY, and Mr. INSLEE.

H.R. 2328: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2330: Mr. WALSH and Mr. CROWLEY.

H.R. 2335: Mr. CHANDLER, Mr. SCOTT of Virginia, Mr. LEWIS of Kentucky, Mr. BAIRD, Mr. COSTELLO, Mr. MORAN of Virginia, Mr. CRAMER, Mr. BOREN, and Mr. JEFFERSON.

H.R. 2349: Ms. WOOLSEY.

H.R. 2350: Ms. JACKSON-LEE of Texas.

H.R. 2354: Mr. DUNCAN.

H.R. 2356: Mr. WELDON of Florida, Mr. ALLEN, Mr. FITZPATRICK of Pennsylvania, Ms. JACKSON-LEE of Texas, Mr. KILDEE, Mr. CUNNINGHAM, and Mr. FILNER.

H.R. 2357: Ms. JACKSON-LEE of Texas and Mr. KUHL of New York.

H.R. 2359: Ms. WOOLSEY.

H.R. 2363: Mr. RUPPERSBERGER.

H.R. 2386: Mr. RAHALL, Mr. HERGER, Mr. SHIMKUS, Mr. JEFFERSON, and Mr. BACHUS.

H.R. 2387: Mr. GORDON, Mr. BISHOP of Georgia, Mr. KINGSTON, Mr. DUNCAN, Mr. BISHOP of Utah, Mr. PICKERING, Mr. RYUN of Kansas, and Mr. BACHUS.

H.R. 2389: Mr. HEFLEY, Mr. LINDER, Mr. SAXTON, Mr. CONAWAY, Mr. BARTON of Texas, Mr. GIBBONS, Mr. MCCRERY, Mr. TERRY, Mr. WELLER, Mr. SENSENBRENNER, Mr. CANNON, Mr. HOEKSTRA, Mrs. KELLY, Mr. KINGSTON, Mrs. MILLER of Michigan, Mr. MURPHY, Mr. OSBORNE, Mr. REGULA, Mr. SESSIONS, Mr. TURNER, Mr. WAMP, Mr. ALEXANDER, and Mr. MARCHANT.

H.R. 2412: Mr. GONZALEZ.

H.R. 2418: Mr. PICKERING, Mr. ENGEL, Mr. WYNN, Mrs. MCCARTHY, Mr. BROWN of Ohio, Mr. KIRK, Mr. WELLER, Mr. MCINTYRE, and Mr. RUSH.

H.R. 2420: Mr. BROWN of Ohio, Mr. NADLER, Mr. SANDERS, Mr. TOWNS, Mr. FRANK of Massachusetts, Mrs. MALONEY, and Ms. VELÁZQUEZ.

H.R. 2423: Mr. REICHERT.

H.R. 2427: Mr. RAHALL, Mrs. JONES of Ohio, and Mr. OBERSTAR.

H.R. 2458: Mr. BURGESS.

H.R. 2471: Ms. PRYCE of Ohio, Mr. BOREN, Mr. ROGERS of Michigan, and Mrs. JOHNSON of Connecticut.

H.R. 2472: Mr. MORAN of Virginia.

H.R. 2474: Ms. HARRIS.

H.R. 2498: Mr. MORAN of Kansas, Mr. PENCE, and Mr. SKELTON.

H.R. 2513: Mr. MARSHALL, Mr. CHABOT, and Mr. GOODE.

H.R. 2525: Mr. GORDON.

H.R. 2526: Mrs. MCCARTHY, Mr. WELLER, Mr. MENENDEZ, and Mr. DAVIS of Illinois.

H.R. 2533: Mr. BOEHLERT, Mr. LATHAM, Mr. KIND, and Mr. GENE GREEN of Texas.

H.R. 2553: Mrs. MCCARTHY.

H.R. 2561: Mr. KLINE.

H.R. 2574: Mr. BILIRAKIS and Mr. ABERCROMBIE.

H.R. 2592: Mr. RUSH and Ms. ROS-LEHTINEN.

H.R. 2600: Mr. OWENS and Mr. KUHL of New York.

H.R. 2631: Mr. SANDERS.

H.R. 2636: Ms. WOOLSEY and Mrs. MALONEY.

H.R. 2641: Mr. HIGGINS.

H.J. Res. 10: Mr. OSBORNE and Mr. HERGER.

H.J. Res. 22: Mr. MARSHALL and Mr. RUPPERSBERGER.

H. Con. Res. 108: Mr. THOMPSON of Mississippi.

H. Con. Res. 148: Ms. FOXX, Mr. MILLER of North Carolina, Mr. BUTTERFIELD, and Mr. PRICE of North Carolina.

H. Con. Res. 154: Mr. TANCREDO and Mrs. KELLY.

H. Con. Res. 160: Ms. ZOE LOFGREN of California and Ms. BORDALLO.

H. Con. Res. 162: Mr. KUHL of New York, Mr. MCHUGH, Mr. LEWIS of Georgia, and Mr. LIPINSKI.

H. Res. 166: Mr. ACKERMAN, Mr. BACA, Mr. BECERRA, Ms. BERKLEY, Mr. BROWN of Ohio, Mr. CAPUANO, Mr. CROWLEY, Ms. ESHOO, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HINCHEY, Mr. KENNEDY of Rhode Island, Mr. LANGEVIN, Mr. NADLER, Mrs. NAPOLITANO, Mr. ORTIZ, Mr. REYES, Mr. ROTHMAN, Ms. LINDA T. SÁNCHEZ of California, Mr. SCHIFF, Mr. SHERMAN, Ms. SOLIS, Mr. VAN HOLLEN, Ms. VELÁZQUEZ, Mr. LINCOLN DIAZ-BALART of Florida, Mr. WEINER, Mr. DAVIS of Illinois, Ms. NORTON, Mr. MCNULTY, and Ms. ROS-LEHTINEN.

H. Res. 175: Mr. SANDERS, Mr. ROTHMAN, and Mr. PAYNE.

H. Res. 199: Mr. PAYNE, Ms. SLAUGHTER, Mr. ENGEL, Ms. MCCOLLUM of Minnesota, Mrs. TAUSCHER, Mr. TIERNEY, and Mrs. MALONEY.

H. Res. 214: Mr. BARRETT of South Carolina and Mr. HERGER.

H. Res. 246: Mr. ABERCROMBIE.

H. Res. 259: Mr. RUSH, Mr. HONDA, Mr. WAXMAN, Mr. DREIER, Mr. INGLIS of South Carolina, Mr. GRIJALVA, Mr. KIRK, and Ms. SCHWARTZ of Pennsylvania.

H. Res. 274: Mr. GONZALEZ, Ms. ESHOO, Mr. GUTIERREZ, Mr. CARDOZA, Mr. COSTA, Mr. CUELLAR, Mr. HINOJOSA, Mr. MENENDEZ, Mr. ORTIZ, Mr. PASTOR, Mr. REYES, Mr. SALAZAR, Mr. SERRANO, and Ms. VELÁZQUEZ.

H. Res. 277: Mr. POE and Mr. MURPHY.

H. Res. 279: Mr. CARDIN and Mr. FILNER.

H. Res. 286: Mr. PAYNE, Mr. RANGEL, Ms. WOOLSEY, and Mr. DAVIS of Illinois.

H. Res. 292: Ms. MCCOLLUM of Minnesota, Mr. BROWN of Ohio, Ms. JACKSON-LEE of Texas, Mrs. DAVIS of California, Mr. WILSON of South Carolina, Mrs. MCCARTHY, Ms. SOLIS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ENGEL, Mrs. KELLY, and Mr. SANDERS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1449: Mr. BUTTERFIELD.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 2. May 24, 2005, by Mr. MARSHALL, on House Resolution 270, was signed by the following Members: Jim Marshall, Emanuel Cleaver, Artur Davis, G. K. Butterfield, Grace F. Napolitano, Carolyn McCarthy, Eddie Bernice Johnson, Dale E. Kildee, Diane E. Watson, Bill Pascrell, Jr., Tim Holden, Doris O. Matsui, Michael H. Michaud, Thomas H. Allen, Bob Filner, Timothy H. Bishop, Ron Kind, Ted Strickland, Patrick J. Kennedy, Wm. Lacy Clay, Stephanie Herseth, Dan Boren, Ed Case, Benjamin L. Cardin, Jim Costa, C. A. Dutch Ruppersberger, John Barrow, Bob Etheridge, Ben Chandler, John F. Tierney, Rush D. Holt, Rick Larsen, Russ Carnahan, Peter A. DeFazio, Joseph Crowley, John W. Olver, Martin T. Meehan, Major R. Owens, Susan A. Davis, Carolyn B. Maloney, Gene Green, Barney Frank, Henry A. Waxman, William J. Jefferson, Nick J. Rahall II, Sherrod Brown, Steve Israel, Ellen O. Tauscher, Earl Blumenauer, David Scott, Mike McIntyre, Daniel Lipinski, Tom Udall, Cynthia McKinney, Darlene Hooley, Brad Miller, Betty McCollum, Lois Capps, David E. Price, Hilda L. Solis, Earl Pomeroy, Henry Cuellar, Sheila Jackson-Lee, Robert Menendez, Lane Evans, Michael R. McNulty, Gregory W. Meeks, Donald M. Payne, Julia Carson, Gwen Moore, James P. Moran, John T. Salazar, Bennie G. Thompson, Gene Taylor, Bernard Sanders, Silvestre Reyes, James P. McGovern, Frank Pallone, Jr., John B. Larson, Jane Harman, Lucille Roybal-Allard, Marion Berry, Jim McDermott, Tammy Baldwin, David Wu, Harold E. Ford, Jr., Nancy Pelosi, Stephen F. Lynch, Joe Baca, Zoe Lofgren, Gary L. Ackerman, Al Green, Charles B. Rangel, Bart Stupak, Marcy Kaptur, Bobby L. Rush, Brad Sherman, Steny H. Hoyer, Bart Gordon, Alcee L. Hastings, Adam B. Schiff, Dennis J. Kucinich, Robert C. Scott, Chris Van Hollen, Linda T. Sánchez, Mike Thompson, Dennis A. Cardoza, Raúl M. Grijalva, Mike Ross, Brian Higgins, Jim Davis, Rosa L. DeLauro, Charlie Melancon, Leonard L. Boswell, Jose E. Serrano, James R. Langevin, Elijah E. Cummings, Danny K. Davis, Janice D. Schakowsky, Dennis Moore, Louise McIntosh Slaughter, Lloyd Doggett, Robert A. Brady, Maxine Waters, Jim Cooper, William Delahunt, Sanford Bishop, Albert Russel Wynn, Debbie Wasserman Schultz, Pete Fortney Stark, Steven R. Rothman, Barbara Lee, Michael F. Doyle, Sam Farr, Shelley Berkley, Michael Honda, Diana DeGette, Stephanie Tubbs Jones, Robert E. Andrews, Jim Matheson, John Lewis, Tom Lantos, Kendrick B. Meek, George Miller, John Conyers, Jr., Carolyn C. Kilpatrick, Corrine Brown, David R. Obey, Jerrold Nadler, Jay Inslee, Rahm Emanuel, Collin C. Peterson, Allyson Y. Schwartz, Vic Snyder, Michael E. Capuano, Mark Udall, Tim Ryan, Sander M. Levin, Nydia M. Velázquez, Xavier Becerra, Maurice D. Hinchey, and Allen Boyd.

DISCHARGE PETITIONS— ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Ms. HOOLEY on House Resolution 267: Martin Olav Sabo, John Lewis, Jerry F. Costello, Jesse L. Jackson, Jr., Robert E. Andrews, Maxine Waters, Luis V. Gutierrez, Stephanie Tubbs Jones, Cynthia McKinney, Brad Miller, Norman D. Dicks, Ike Skelton, Frank Pallone, Jr., John B. Larson, Jane Harman, Marion Berry, Harold

E. Ford, Jr., Bobby L. Rush, Gene Taylor, Alan B. Mollohan, Richard E. Neal, and John M. Spratt, Jr.

The following Member's name was withdrawn from the following discharge petition:

Petition 1 by Ms. HOOLEY on House Resolution 267: Wm. Lacy Clay.

SENATE—*Thursday, May 26, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rabbi Gary Zola, Jacob Rader Marcus Center, Cincinnati, OH.

PRAYER

The guest Chaplain offered the following prayer:

Eternal One, Rock of all ages, help us to hear the voices of our forebears that still linger in the silent places of this historic Chamber of debate and decision. Let us draw devotional inspiration this morning from the life of Rabbi Isaac Mayer Wise, founder of the Hebrew Union College, who led this Senate in prayer 135 years ago to this very week. May one brief moment from the life of this famed American clergyman renew in us a commitment to the core of righteous living.

For we have been taught that once, when this rabbi took ill amidst a class and was compelled to descend from his teaching platform, a young, eager student jumped up, grabbed his arm, and said: "May I help you down, Doctor?"

In response to this question, the rabbi uttered words that remind us anew of what is good and what God does require of us all: "Never help a person down," the rabbi told his student. "Try always to help people up."

In this year, marking 350 years of Jewish life in America, we offer up our prayerful and reverential gratitude to the source of life for implanting within our hearts the vision of our noble Republic, ever striving to help people up.

O may all who labor in this House—and in every house—be inspired anew by the prophet Micah's exhortation, a charge that the father of this Nation deeply cherished and repeatedly cited: Do justly, love mercy, and walk humbly with thy God.

Fervently we pray that the vision we hallow will animate all of us to live "with malice toward none, with charity for all . . . [so we can finish] the work we are in."

Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, May 26, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, following the leader time, we will resume debate on the nomination of John Bolton to be ambassador to the Security Council of the United Nations. The debate will be divided until the cloture vote which is scheduled for 6 o'clock tonight. If we are able to invoke cloture at 6, then we would immediately vote up or down on the nomination of John Bolton. We will also receive from the House a short-term extension of the highway bill. We will need to pass that measure before we finish our work for the week as well. We hope to finish our business this evening, and if so, we would not be in session on Friday. That implies a full day today, a lot of discussion and cooperation among our colleagues to accomplish that. We will be making further announcements regarding our schedule when we return at the close of business today.

Finally, I ask unanimous consent that at 5:30, Senator STEVENS be recognized for up to 10 minutes, to be followed by the Democratic leader for 10 minutes, to be followed by the majority leader for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF BUSINESS

Mr. REID. Mr. President, so we have an orderly process on our side, I would ask unanimous consent that of the time that has been allotted this side, Senator BOXER be given 45 minutes; Senator DODD, 60 minutes; Senator SARBANES, 15 minutes; Senator VOINOVICH, 30 minutes; Senator KERRY, 30 minutes; Senator FEINGOLD, 20 minutes; Senator NELSON of Florida, 10 minutes; Senator OBAMA, 15 minutes; Senator REID, 15 minutes; and Senator BIDEN to control the remaining time for 15 minutes. I am quite certain that the staff has worked it out so our time is equal to what Senator LUGAR controls on his side. If there is any difference in the numbers, he and Senator DODD can adjust it accordingly.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JOHN ROBERT BOLTON TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume executive session for the consideration of Calendar No. 103, which the clerk will report.

The legislative clerk read the nomination of John Robert Bolton, of Maryland, to be the Representative of the United States of America to the United Nations.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 6 p.m. will be equally divided between the chairman and ranking member of the Foreign Relations Committee, of which 1 hour will be reserved under the control of the Senator from Ohio, Mr. VOINOVICH, and with the exceptions just noted by consent.

The Senator from Indiana.

Mr. LUGAR. Mr. President, I will yield shortly to distinguished colleagues who have sought an opportunity to speak for the first time on the nomination of John Bolton. I had the privilege of addressing the Senate yesterday for over 50 minutes in which I attempted to outline all of the best reasons for John Bolton's confirmation, which I hope will occur today. I

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

believe he will be an outstanding representative of our country, a very able diplomat to the United Nations.

During the course of my comments—now reflected, because they were delivered yesterday, in the CONGRESSIONAL RECORD today—we attempted to go through each of the case histories of interviews completed by the Senate Foreign Relations Committee in response to the questions or allegations made about the nominee. Affirmatively, I have tried to point out the tens of very able Americans who have endorsed John Bolton, including a large number of former Secretaries of State, Defense, National Security Directors, and, most importantly, people who have worked with him at the United Nations, at USAID.

I ask Members to reference the specifics of my speech yesterday, if there are questions with regard to the work done by the able staff on both sides of the Senate Foreign Relations Committee, to make certain that each of the arguments that has been presented has been met and fairly argued.

During the entirety of the debate yesterday, the arguments that were made were not new ones. They may be important ones, and perhaps they will be reargued today. But I ask Members to think constructively now about the President of the United States, his desire for reform of the United Nations, and his desire to have John Bolton there at the United Nations to work in that capacity for reform of an institution that the United States wishes to see much stronger, more able, and certainly a valuable part of American diplomacy and national security policy.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I listen to my distinguished chairman, and I wonder who he is actually talking about when he says there is so much support for John Bolton. There has been an unprecedented outcry of Republicans and Democrats against this nomination.

I ask unanimous consent to print in the RECORD the votes on U.S. ambassadors at the United Nations since 1945.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VOTES ON U.S. AMBASSADORS TO THE UN

Edward R. Stettinius, Jr. (1945–1946): Voice Vote

Warren R. Austin (1947–1953): Unanimous Consent

Henry Cabot Lodge, Jr. (1953–1960): Unanimous Consent

James J. Wadsworth (1960–1961): Unanimous Consent

Adlai E. Stevenson (1961–1965): Unanimous Consent

Arthur J. Goldberg (1965–1968): Unanimous Consent

George W. Ball (1968–1968): Unanimous Consent

James Russell Wiggins (1968–1969): Unanimous Consent

Charles W. Yost (1969–1971): Unanimous Consent

George Bush (1971–1973): Unanimous Consent

John A. Scali (1973–1975): Unanimous Consent

Daniel P. Moynihan (1975–1976): Unanimous Consent

William W. Scranton (1976–1977): Unanimous Consent

Andrew J. Young (1977–1979) 89–3 :
Donald F. McHenry (1979–1981) 83–0 :
Jeane J. Kirkpatrick (1981–1985) 81–0 :
Vernon A. Walters (1985–1989): Voice Vote
Thomas R. Pickering (1989–1992) 99–0 :

Edward Joseph Perkins (1992–1993): Unanimous Consent

Madeleine K. Albright (1993–1997): Unanimous Consent

Bill Richardson (1997–1998) 100–0:
Richard Holbrooke (1999–2001) 81–16 :
John D. Negroponte (2001–2004): Voice Vote
John C. Danforth (2004–2005): Voice Vote

Mrs. BOXER. What this will show for the record is that starting in 1945, we have had voice votes and unanimous consent votes on almost all of these nominees. There were few exceptions. Andrew Young got the post 89 to 2; Donald McHenry, 83 to nothing—so they had votes—Jeane Kirkpatrick, 81 to nothing. The largest "no" vote was Richard Holbrooke, who had 16 against him. Bill Richardson was 100 to nothing; John Negroponte, voice vote; Danforth, voice vote.

I am putting this in the RECORD because when you listen to my friends who are supporting John Bolton, you would think that this is just a run-of-the-mill type appointment, that it is usual to have this kind of firestorm. Nothing could be further from the truth. This nomination is a diversion from the consensus candidates that we have had in the past. Since my chairman talked about all the support John Bolton has, I ask unanimous consent to print in the RECORD in a letter dated May 9, 2005.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Updated May 9, 2005.

Hon. RICHARD G. LUGAR,
Senate Foreign Relations Committee, Dirksen Senate Office Building, Washington, DC.

Hon. JOSEPH R. BIDEN,
Ranking Member, Senate Foreign Relations Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LUGAR AND SENATOR BIDEN: We have noted with appreciation the moves of President Bush at the beginning of his second term to improve U.S. relations with the countries of the European Union and of the United Nations. Maintaining these ties and the willingness of those countries to cooperate with the United States is essential to U.S. security.

It is for this reason that we write you to express our concern over the nomination of John R. Bolton to be permanent representative of the United States at the United Nations. We urge you to reject that nomination.

By virtue of service in the State Department, USAID and Justice Departments, John Bolton has the professional background needed for this position. But his past activities and statements indicate conclusively that he is the wrong man for this position at a time when the U.N. is entering a critically important phase of modernization, seeking to promote economic development and democratic reforms and searching for ways to cope better with proliferation crises and a spurt of natural disasters and internal conflicts.

John Bolton has an exceptional record of opposition to efforts to enhance U.S. security through arms control. He led a campaign against ratification of the Comprehensive Nuclear Test Ban Treaty. Today, the administration is pressing for development of new types of nuclear weapons. John Bolton blocked more extensive international agreement to limit sales of small arms, the main killer in internal wars. He led the fight to continue U.S. refusal to participate in the Ottawa Landmine Treaty. Today, the U.S. has joined Russia and China in insisting on the right to continue to deploy antipersonnel landmines. John Bolton crafted the U.S. withdrawal from the joint efforts of 40 countries to formulate a verification system for the Biological Weapons Convention and blocked continuation of these efforts in a period of increasing concern over potential terrorist use of these weapons and of terrorist access to the stocks of countries covertly producing these weapons. John Bolton's unsubstantiated claims that Cuba and Syria are working on biological weapons further discredited the effect of U.S. warnings and U.S. intelligence on weapons of mass destruction.

John Bolton led the successful campaign for U.S. withdrawal from the treaty limiting missile defenses (ABM Treaty). The effects of this action included elimination of the sole treaty barrier to the weaponization of space. In the face of decades of votes in the U.N. General Assembly calling for negotiation of a treaty to block deployment of weapons in space, he has blocked negotiation in the Geneva Conference on Disarmament of a treaty on this subject. The administration has repeatedly proposed programs calling for weapon deployment in space.

As chief negotiator of the 2002 Moscow Treaty on withdrawing U.S. and Russian nuclear weapons from field deployment, John Bolton structured a treaty without its own verification regime, without required progress reports from both sides, without the requirement to destroy warheads withdrawn from deployment, and without provision for negotiating continued reductions. Under his guidance, the State Department repudiated important consensus agreements reached in the year 2000 Review Conference of the Nonproliferation Treaty and has even blocked the formulation of an agenda for the next review conference to be held in May 2005.

Under John Bolton as Under Secretary for Arms Control and International Security, the State Department has continued to fail to resolve the impasse with Russia about the legal liability of U.S. personnel working with Russia on the security of the huge arsenal of nuclear, chemical and biological weapons of the former Soviet Union and has failed to accelerate measures aimed at the safety and security of this huge arsenal from theft, illegal sale and terrorist access.

John Bolton's insistence that the U.N. is valuable only when it directly serves the United States, and that the most effective Security Council would be one where the U.S. is the only permanent member, will not help him to negotiate with representatives of the remaining 96 percent of humanity at a time when the U.N. is actively considering enlargement of the Security Council and steps to deal more effectively with failed states and to enhance the U.N.'s peacekeeping capability.

John Bolton's work as a paid researcher for Taiwan, his idea that the U.S. should treat Taiwan as a sovereign state, and that it is fantasy to believe that China might respond with armed force to the secession of Taiwan do not attest to the balanced judgment of a possible U.S. permanent representative on the Security Council. China is emerging as a major world power and the Taiwan issue is becoming more acute.

At a time when the U.N. is struggling to get an adequate grip on the genocidal killing in Darfur, Sudan, Mr. Bolton's skepticism about, U.N. peacekeeping, about paying the U.N. dues that fund peacekeeping, and his leadership of the opposition to the International Criminal Court, originally proposed by the U.S. itself in order to prosecute human rights offenders, will all make it difficult for the U.S. to play an effective leadership role at a time when the U.N. itself and many member states are moving to improve U.N. capacity to deal with international problems.

Given these past actions and statements, John R. Bolton cannot be an effective promoter of the U.S. national interest at the U.N. We urge you to oppose his nomination.

Sincerely,

The Hon. Terrell E. Arnold, Former Deputy Director, Office of Counterterrorism, U.S. Department of State (Reagan), Former U.S. Consul General, Sao Paulo, Brazil (Carter).

Ambassador (ret.) Harry G. Barnes, Jr., Former U.S. ambassador to Romania, Chile, and India (Nixon, Ford, Reagan).

Ambassador (ret.) Robert L. Barry, Former U.S. ambassador to Bulgaria and Indonesia (Reagan, Clinton), Former Deputy Assistant Secretary of State for International Organization Affairs (Carter), Former Deputy Assistant Secretary of State for European Affairs (Carter).

Ambassador Josiah H. Beeman, Former U.S. ambassador to New Zealand and Western Samoa (Clinton).

Ambassador (ret.) Maurice M. Bernbaum, Former U.S. ambassador to Ecuador and Venezuela (Eisenhower, Johnson).

Ambassador (ret.) Jack R. Binns, Former U.S. ambassador to Honduras (Carter, Reagan).

Ambassador (ret.) Richard J. Bloomfield, Former U.S. ambassador to Ecuador and Portugal (Ford, Carter, Reagan).

Ambassador (ret.) Peter Bridges, Former U.S. ambassador to Somalia (Reagan).

Ambassador George Bruno, Former U.S. ambassador to Belize (Clinton).

Ambassador (ret.) Edward Brynn, Former U.S. ambassador to Burkina Faso and Ghana (G.H.W. Bush, Clinton), Former Principal Deputy Assistant Secretary of State, Bureau of African Affairs (Clinton).

Ambassador George Bunn, Former member of U.S. delegation to the Non-Proliferation Treaty (NPT) negotiations (Johhson), Former U.S. ambassador to the Geneva Disarmament Conference (UN) (Johnson).

Ambassador (ret.) A. Peter Burleigh, Former Deputy Assistant Secretary of State for the Near East and South Asia (Reagan), Former Deputy Assistant Secretary of State for Intelligence and Research (G.H.W. Bush), Former Ambassador and Coordinator for Counter-Terrorism, Department of State (G.H.W. Bush), Former Ambassador to Sri Lanka and the Maldives (Clinton), Former Deputy Assistant Secretary of State for Personnel (Clinton), Former U.S. Deputy Permanent Representative to the UN and Acting Permanent Representative to the UN (Clinton).

Ambassador (ret.) Patricia M. Byrne, Former Deputy U.S. Permanent Representative to the UN Security Council (Reagan), Former U.S. ambassador to Mali and Burma (Carter, Reagan).

Ambassador (ret.) James Cheek, Former U.S. ambassador to Sudan and Argentina (G.H.W. Bush, Clinton).

Ambassador (ret.) Paul M. Cleveland, Former U.S. ambassador to New Zealand and Western Samoa and Malaysia (Reagan, G.H.W. Bush), Former U.S. representative to the Korean Energy Development Organization (Clinton).

Ambassador (ret.) Carleton S. Coon, Former U.S. ambassador to Nepal (Reagan).

Ambassador (ret.) Jane Coon, Former U.S. ambassador to Bangladesh (Reagan).

Ambassador (ret.) James F. Creagan, Former U.S. ambassador to Honduras (Clinton), Former U.S. Consul General, Sao Paulo, Brazil (G.H.W. Bush).

Ambassador (ret.) T. Frank Crigler, Former U.S. ambassador to Rwanda and Somalia (Ford, Reagan).

Ambassador (ret.) John H. Crimmins, Former U.S. ambassador to the Dominican Republic and Brazil (Johnson, Nixon, Ford).

Ambassador (ret.) Richard T. Davies (signed before he passed away on March 30, 2005), Former U.S. ambassador to Poland (Nixon, Ford, Carter).

Ambassador (ret.) John Gunther Dean, Former Deputy for CORDS, Military Region 1, Vietnam (Nixon), Former U.S. ambassador to Cambodia, Denmark, Lebanon, Thailand, India (Nixon, Ford, Carter, Reagan).

Ambassador (ret.) Jonathan Dean, Former U.S. representative to the Mutual and Balanced Force Reduction Talks, Vienna (Carter).

Ambassador (ret.) Willard A. DePree, Former U.S. ambassador to Mozambique and Bangladesh (Ford, Reagan, G.H.W. Bush).

Ambassador (ret.) Robert S. Dillon, Former U.S. ambassador to Lebanon (Reagan), Former Deputy Commissioner General of the UN Relief and Works Agency for Palestine Refugees (UNRWA) (Reagan).

Ambassador (ret.) Donald B. Easum, Former U.S. ambassador to Nigeria and Upper Volta (Burkina Faso) (Nixon, Ford, Carter), Former Assistant Secretary of State for African Affairs (Nixon, Ford).

Ambassador (ret.) William B. Edmondson, Former U.S. ambassador to South Africa (Carter).

Ambassador (ret.) Nancy H. Ely-Raphel, Former U.S. ambassador to Slovenia (Clinton).

Ambassador (ret.) James Bruce Engle, Former U.S. ambassador to Dahomey (Nixon, Ford).

Ambassador (ret.) Richard K. Fox, Former U.S. ambassador to Trinidad and Tobago (Carter).

Ambassador (ret.) Lincoln Gordon, Former U.S. ambassador to Brazil (Kennedy, Johnson), Former Assistant Secretary of State for Inter-American Affairs (Johnson).

Ambassador (ret.) Robert Grey, Jr., Former U.S. representative to the Conference on Disarmament, Geneva (Clinton).

Ambassador (ret.) Holsey Gates Handyside, Former U.S. ambassador to Mauritania (Ford, Carter).

Ambassador (ret.) William C. Harrop, Former ambassador to Israel, Kenya, and Zaire (Reagan, G.H.W. Bush, Clinton), Former Inspector General, U.S. Department of State (Nixon).

Ambassador (ret.) Samuel F. Hart, Former U.S. ambassador to Ecuador (Reagan).

Ambassador (ret.) Arthur A. Hartman, Former U.S. ambassador to France and the Soviet Union (Carter, Reagan), Former Assistant Secretary of State for European Affairs (Nixon).

Ambassador Ulric Haynes, Jr., Former U.S. ambassador to Algeria (Carter).

Ambassador Gerald B. Helman, Former U.S. ambassador to the United Nations, Geneva (Carter).

Ambassador (ret.) Robert T. Hennemeyer, Former U.S. ambassador to Gambia (Reagan).

Ambassador (ret.) H. Kenneth Hill, Former U.S. ambassador to Bulgaria (G.H.W. Bush).

Ambassador (ret.) John L. Hirsch, Former U.S. ambassador to Sierra Leone (Clinton).

Ambassador (ret.) Lewis Hoffacker, Former U.S. ambassador to Cameroon and Equatorial Guinea (Nixon).

Ambassador (ret.) H. Allen Holmes, Former U.S. ambassador to Portugal (Reagan), Former Assistant Secretary of State for Political-Military Affairs (Reagan), Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (Clinton).

The Hon. Thomas L. Hughes, Former Director, Bureau of Intelligence and Research (INR), Department of State (Kennedy, Johnson).

Ambassador (ret.) Dennis Jett, Former U.S. ambassador to Mozambique and Peru (Clinton).

Ambassador James A. Joseph, Former U.S. ambassador to South Africa (Clinton).

Ambassador (ret.) Philip M. Kaiser, Former U.S. ambassador to Senegal, Mauritania, Hungary, Austria (Kennedy, Carter).

Ambassador (ret.) Robert V. Keeley, Former U.S. Ambassador to Mauritius, Zimbabwe, and Greece (Ford; Carter, Reagan), Former Deputy Assistant Secretary of State for African Affairs (Carter).

Spurgeon M. Keeny, Jr., Former Deputy Director, U.S. Arms Control and Disarmament Agency (ACDA) (Carter).

Ambassador (ret.) Andrew I. Killgore, Former U.S. ambassador to Qatar (Carter).

Ambassador Henry L. Kimelman, Former U.S. ambassador to Haiti (Carter).

Ambassador (ret.) Roger Kirk, Former U.S. ambassador to Somalia and Romania (Nixon, Ford, Reagan).

Ambassador (ret.) Dennis H. Kux, Former U.S. ambassador to Ivory Coast (Reagan).

Ambassador (ret.) James F. Leonard, Former Deputy U.S. Permanent Representative to the United Nations (Ford, Carter).

Ambassador (ret.) Samuel W. Lewis, Former Assistant Secretary of State for International Organization Affairs (Ford), Former Director of Policy Planning, State Department (Clinton), Former ambassador to Israel (Carter, Reagan).

Ambassador (ret.) Princeton N. Lyman, Former Assistant Secretary of State for International Organization Affairs (Clinton), Director, Bureau of Refugee Programs, U.S. Department of State (G.H.W. Bush), Former U.S. ambassador to South Africa and Nigeria (Reagan, G.H.W. Bush, Clinton).

Ambassador (ret.) David L. Mack, Former U.S. ambassador to the United Arab Emirates (Reagan, G.H.W. Bush).

Ambassador (ret.) Richard Cavins Matheron, Former U.S. ambassador to Swaziland (Carter, Reagan).

Ambassador (ret.) Charles E. Marthinsen, Former U.S. ambassador to Qatar (Carter, Reagan).

Jack Mendelsohn, Deputy Assistant Director of the Strategic Programs Bureau, Arms Control and Disarmament Agency (ACDA) (Reagan), Senior ACDA representative on U.S. START delegation (Reagan).

Ambassador Carol Moseley-Braun, Former U.S. ambassador to New Zealand and Samoa (Clinton).

Ambassador (ret.) Ambler H. Moss Jr., Former U.S. ambassador to Panama (Carter, Reagan), Former Member, U.S.-Panama Consultative Committee (Carter, Reagan, Clinton).

Ambassador (ret.) Leonardo Neher, Former U.S. ambassador to Burkina Faso (Reagan).

Ambassador (ret.) David D. Newsom, Former U.S. ambassador to Libya, Indonesia, the Philippines (Johnson, Nixon, Carter), Former Assistant Secretary of State for African Affairs (Nixon), Former Undersecretary of State for Political Affairs (Carter).

Ambassador (ret.) Donald R. Norland, Former U.S. ambassador to the Netherlands, Botswana, Lesotho and Swaziland, and Chad (Johnson, Ford, Carter).

Ambassador (ret.) David Passage, Former U.S. ambassador to Botswana (G.H.W. Bush).

Ambassador (ret.) Edward L. Peck, Former U.S. ambassador to Iraq and Mauritania (Carter, Reagan).

Ambassador (ret.) Jack R. Perry, Former U.S. ambassador to Bulgaria (Carter).

Ambassador (ret.) Christopher H. Phillips, Former Deputy U.S. Permanent Representative to the U.N. (Nixon), Former U.S. ambassador to Brunei (G.H.W. Bush).

Ambassador (ret.) Sol Polansky, Former U.S. ambassador to Bulgaria (Reagan, G.H.W. Bush).

Ambassador Stanley R. Resor, Former Secretary of the Army (Johnson, Nixon), Former U.S. representative to the Mutual and Balanced Force Reduction Talks, Vienna (Nixon, Ford, Carter).

Ambassador Nicholas A. Rey, Former U.S. ambassador to Poland (Clinton).

John B. Rhinelander, Deputy Legal Adviser, U.S. Department of State (Nixon), Legal adviser to the U.S. Strategic Arms Limitation Delegation (SALT I) (Nixon).

Ambassador (ret.) Stuart W. Rockwell, Former U.S. ambassador to Morocco (Nixon).

Ambassador James R. Sasser, Former U.S. ambassador to the People's Republic of China (Clinton).

Ambassador (ret.) Cynthia P. Schneider, Former U.S. ambassador to The Netherlands (Clinton).

Ambassador (ret.) Talcott W. Seelye, Former U.S. ambassador to Tunisia and Syria (Nixon, Ford, Carter).

The Hon. John Shattuck, Former Assistant Secretary of State for Democracy, Human Rights and Labor (Clinton), Former Chairman, Secretary of State's Advisory Committee on Religious Freedom Abroad (Clinton) Former U.S. ambassador to the Czech Republic (Clinton).

Ambassador (ret.) Thomas W. Simons, Jr., Former Deputy Assistant Secretary of State for European and Canadian Affairs (Reagan), Former U.S. ambassador to Pakistan and Poland (G.H.W. Bush, Clinton).

Ambassador Richard Sklar, Former U.S. ambassador to the United Nations for Management and Reform (Clinton).

Ambassador Robert Solwin Smith, Former U.S. ambassador to Ivory Coast (Nixon, Ford) Former Deputy and Acting Assistant Secretary of State for Africa (Nixon) Former Deputy Permanent Delegate to UNESCO (Truman, Eisenhower).

Ambassador (ret.) Carl Spielvogel, Former U.S. ambassador to the Slovak Republic (Clinton).

Ambassador (ret.) Monteagle Stearns, Former U.S. ambassador to Greece and Ivory Coast (Ford, Carter, Reagan), Former Vice President, National Defense University (Carter).

Ambassador (ret.) Andrew L. Steigman, Former Ambassador to Gabon, Sao Tome and Principe (Ford).

Ambassador (ret.) Michael Sterner Former, U.S. ambassador to the United Arab Emirates (Nixon, Ford), Former Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs (Carter).

Ambassador (ret.) John Todd Stewart Former, U.S. ambassador to Moldova (Clinton).

Ambassador (ret.) Richard W. Teare, Former U.S. ambassador to Papua New Guinea, Solomon Islands and Vanuatu (Clinton).

Ambassador (ret.) Harry E. T. Thayer, Former U.S. ambassador to Singapore (Carter, Reagan).

The Hon. Hans N. Tuch, Career Minister, U.S. Foreign Service, USIA.

Ambassador (ret.) Theresa A. Tull, Former, U.S. ambassador to Guyana and Brunei (Reagan, G.H.W. Bush, Clinton).

Ambassador William J. vanden Heuvel, Former Deputy U.S. Permanent Representative to the United Nations (Carter), Former U.S. representative to the United Nations, Geneva (Carter).

Ambassador (ret.) Christopher van Hollen, Former Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs (Nixon), Former U.S. ambassador to Sri Lanka (Nixon, Ford).

Ambassador (ret.) Richard N. Viets, Former U.S. ambassador to Tanzania and Jordan (Carter, Reagan).

Ambassador (ret.) Frederick Vreeland, Former U.S. ambassador to Morocco (G.H.W. Bush), Former Deputy Assistant Secretary of State for the Near East (G.H.W. Bush).

Ambassador (ret.) Lannon Walker, Former Principal Deputy Assistant Secretary of State for African Affairs (Carter, Reagan), Former U.S. ambassador to Senegal, Nigeria, and Ivory Coast (Reagan, G.H.W Bush, Clinton).

Ambassador (ret.) Alexander F. Watson, Former U.S. ambassador to Peru (Reagan) Former Deputy Permanent Representative to the United Nations (G.H.W. Bush), Former Assistant Secretary of State for Western Hemisphere Affairs (Clinton).

Ambassador (ret.) Melissa F. Wells, Former U.S. ambassador to Guinea Bissau and Cape Verde, Mozambique, Zaire, Estonia (Ford, Reagan, Carter, Clinton), Former U.S. representative to the United Nations Economic and Social Council (ECOSOC) (Carter).

Ambassador (ret.) Thomas G. Weston, Former Special Coordinator for Cyprus (Clinton, G.W. Bush), Former Deputy Assistant Secretary of State for European and Canadian Affairs (Clinton).

Ambassador (ret.) Robert E. White, Former U.S. ambassador to Paraguay and El Salvador (Carter), Former Deputy U.S. Permanent Representative to the Organization of American States (Ford).

Ambassador (ret.) James M. Wilson, Jr., Former Deputy Assistant Secretary of State, East Asia and Pacific Affairs (Nixon), Coordinator for Human Rights and Humanitarian Affairs, Department of State (Ford).

Ambassador (ret.) W. Howard Wriggins, Former U.S. ambassador to Sri Lanka (Carter).

Ambassador (ret.) Kenneth S. Yalowitz, Former U.S. ambassador to Belarus and Georgia (Clinton).

Mr. President, this is a letter going to the Honorable RICHARD LUGAR, the Honorable JOSEPH BIDEN, our chair and ranking member. It is an unprecedented letter:

> We write to express our concern over the nomination of John R. Bolton to be Permanent Representative of the U.S. at the United Nations, and we urge you to reject that nomination.

This is from 102 very distinguished Americans who have served their country under both Republican and Democratic Presidents. I am going to read off some of the names for the record: The Honorable Terrell Arnold, who worked under Ronald Reagan and Jimmy Carter; Ambassador, retired, Harry Barnes, who worked under Nixon, Ford, and Reagan; Ambassador Robert Barry, who served under Reagan, Clinton, and Carter; Ambassador Josiah Beeman, who served under Clinton; Ambassador Maurice Bernbaum, who served under Eisenhower and Johnson; Ambassador Jack Binns, who served Carter and Reagan; Ambassador Richard Bloomfield, who served under Ford, Carter, and Reagan; Ambassador Peter Bridges, who served under Reagan; Ambassador George Bruno, who served under Bill Clinton; Ambassador Edward Brynn, who served under George H.W. Bush and Bill Clinton.

I could go on and on, but I think placing this in the RECORD for my colleagues to see will undermine the comments that are made about how much support this particular nominee has. That is simply glossing over the record. That is what is happening in this debate—glossing over the record by my friends, who are saying: Oh, what is the problem? So he is a bully, so he tries to fire people, so we have all these letters—and it goes on. Their ultimate point is that he is just what we need at the United Nations.

I come out very differently. This is just what we don't need at the United Nations. We have a credibility problem in the world right now, and we need someone to walk in there, such as John Danforth walked in there, with credibility. I don't think we should be considering the nomination today. I made that clear when I put a hold on the nomination. I lifted that hold because, clearly, colleagues believed they wanted to begin debate and, with due deference, I lifted the hold.

The fact is, we don't have the information we have requested from the State Department and from the administration. You may think, well, maybe there is so much information out there, what more could there be on John Bolton? Well, I answer it this way. I have colleagues on both sides of the aisle coming up to me and saying: Do you have any more? Do you have a smoking gun on John Bolton? What else is out there? We heard what is out there. Do you have a smoking gun? The answer I give them is we not only have found several smoking guns but several bodies who were there to tell what happened to them. We found the victims. They are out there. They were saved only because there were folks who served higher than John Bolton, who said to him: You are wrong, you are bullying people, you are twisting their words, you are exerting politics in what should be clearly an independent intelligence function. And because of that, John Bolton was saved from himself. But we have the smoking guns and the victims, which we will talk about. But our colleagues want more information.

Well, there are three big pieces of information out that we have not received. One is of deepest concern to our ranking member, JOE BIDEN, who has done an excellent job. Frankly, he and his staff and all of our staffs have done an extraordinary job. One piece of information deals with Mr. Bolton's interest in finding out intelligence matters that were revealed on some intercepts. We think it is very important because we don't know who was the target of Mr. Bolton's interest in the 10 times when he requested to see these intercepts.

It is a very important matter because, from what you can tell from the information we have so far, Mr. Bolton had a very clear agenda in his work at the State Department. What that agenda appears to be, from what we know, is hyping up the threat from various countries. We already know what a hyped-up threat can do. We have lost 1,600-plus of our beautiful soldiers in Iraq because of a hyped-up threat. There are more than 12,000 wounded. So when we are discussing John Bolton and his proclivity to try to exaggerate and twist intelligence information, this is not some theoretical dispute about whether he has an ideology, or whatever. That is not the question. The question is: Could his action have resulted in perhaps another conflict, or certainly more tension? The fact is, it could have—if he wasn't stopped by the higher ups. And now we hear that the higher ups are saying to Senators: Don't worry, we will control him at the U.N.

Mr. President, I don't want someone to have to be controlled at the United Nations. John Danforth didn't have to be controlled. Mr. Negroponte didn't have to be controlled. Jean Kirkpatrick didn't have to be controlled. Daniel Patrick Moynihan didn't have to be controlled. Bill Richardson didn't have to be controlled. They knew what the policy of the United States of America was. They respected independent intelligence analysts. They never tried to twist information to fit their preconceived notions of what the world should look like. That is why this information is important.

There are two other areas that we are interested in, also, dealing with a speech that Mr. Bolton prepared on Syria. Somehow we cannot get the draft of that speech. We think that is important. There is another area we have asked for, which is that one of Mr. Bolton's assistants who works with him has private clients, and we have asked to see the list of those private clients. We have not been able to get that either. So out of due respect for the United States Senate and for each of us as Senators, we are not an arm of the executive branch. We are a proud independent branch of Government. It gets you back to the whole issue of checks and balances.

We have every right to see this information. If John Bolton can see these intercepts, why can't JOE BIDEN see them, who is our ranking member on the Foreign Affairs Committee, and someone whom everybody respects around here as being very cautious and careful? And there is not one scintilla of evidence that JOE BIDEN ever did something to undermine any administration's foreign policy. He bends over backward the other way. So that is a reason we should not be having this vote right now. We need to have more time to work on the administration to get this information—these intercepts, the speech, and the conflict of interest of the gentleman who now works for Mr. Bolton, Matthew Friedman. Mr. Friedman's former clients, as best we can tell, included the Government of Nigeria and also Fernando Marcos. We don't know who else is there. We would like to put an end to the speculation that someone is working in a top position for Mr. Bolton who has outside clients, which could pose conflicts of interest.

There was a report in the Washington Post that got our attention on the front page some weeks ago, which said Condi Rice gave a message to the top staff not to cooperate with the Congress. Immediately I wrote to her. I got a letter back from her assistant. I wrote her a letter and she sent me back a letter from her assistant that said: We are cooperating. That report was false. We are going to turn over everything.

I ask Senators on both sides: Don't you have pride in what you do? Don't you feel good about what you do? Don't you believe that being a Senator deserves some respect? Don't you believe you deserve to have information? Well, if you do, you should not vote to proceed with this nomination at this time, just based on the fact that we have not gotten the information.

I think we are continuing to see the arrogance of power from this administration and a disregard for the checks and balances. We don't need a ruler in the White House; we need a government. We don't need someone who will rule us; we need someone who will govern with us. That is what this is about—a lack of respect for members of the committee.

Beyond that, as I said, we do have a lot of smoking guns on this nominee, and we do have the victims of his actions. I will spend some time talking about that. It will be repetitive because each colleague has seen the information. You heard the very emotional testimony of Senator VOINOVICH, who feels so strongly about this, and he has laid it out in his fashion. Senator BIDEN has laid it out, as have others. I will lay it out in my fashion.

Politicizing intelligence. What does that mean? It means that you have a political agenda, you try to use intelligence by cherry-picking it or twisting it to make your point. It is dangerous. It is exceedingly dangerous. There was a report in a British newspaper that had documentation from someone in the military in Britain who said, in fact, that is what happened in Iraq. We don't know that right now because we have not had that particular investigation. We only know that we made big mistakes on the intelligence front. But we didn't look at it saying: Did people in the office cherry-pick? Did they politicize intelligence? We don't know the answer. That is what the British documents say. We don't know that here. We were supposed to look at it, and I hope we will because history deserves an answer and so do the families of our soldiers who are dead.

Politicizing intelligence is dangerous for our country. And now we think about probably one of the first assignments our U.N. ambassador may well have, which is to convince the U.N. Security Council about the threats posed by other nations, such as Iran and North Korea. I don't see Mr. Bolton having credibility, given his record of politicizing intelligence to be able to convince other countries that there is a problem. Maybe Secretary Rice will have to come over there. Maybe the President will have to speak to the U.N. instead. Would it not be good to have someone at the U.N. who had credibility walking in, such as Senator Danforth had? Would that not be important? Mr. Bolton won't have the credibility because he has a record of trying to remove intelligence analysts who disagreed with him, and he also attempted to exaggerate intelligence to fit his views.

So this issue of using political pressure and the power of your position to twist the arms of independent intelligence analysts is, I believe, the most serious issue concerning John Bolton because we know this could lead to unjustified war, and we should not promote someone who has a history of exaggerating threats, or at least trying to exaggerate threats that are not supported by intelligence.

When you hear me make this comment, you might say: Well, Senator BOXER, you are a strong Democrat. Who else supports this view that politicizing intelligence is what John Bolton did? How about the former Assistant Secretary of State for Intelligence and Research, Carl Ford, who testified that Bolton's berating of analyst Christian Westermann had a "chilling effect"—his words—a chilling effect within that agency and that analysts in INR—that is the intelligence research arm of the State Department—were very negatively affected by the incident. So we have John Bolton trying to get rid of Christian Westermann, by everyone's account a very honorable, bright intelligence officer doing his work, and it negatively affected, according to Carl Ford—by the way, Carl Ford describes himself as a conservative Republican. What did he say? He said his hero is DICK CHENEY. Here we have a self-described conservative Republican, and his hero is DICK CHENEY. He says John Bolton had a chilling effect within the intelligence agency, and John Bolton negatively affected that whole operation there.

Mr. Ford said further the only reason, at the end of the day, that political pressure did not work on Mr. Westermann was because, thankfully, he said, the analyst was strong enough to say no to Bolton.

I want to say on the floor of the Senate to Mr. Westermann I have never met him, I do not know him, I do not know his politics—I want to say to him: Thank you for the courage that you displayed in the face of a bully in such a high-level position.

By the way, one of the things Senator DODD did, and I thought he did it brilliantly, was to point out that Bolton reached down, way down to Mr. Westermann. That was not someone he worked with, that was a peer. He reached down to this individual who had never, in his whole career, had a negative thing said about him, and tried to twist his arm to get the intelligence he wanted, and when he could not do it, tried to get him fired. That is just the first one. So we have the smoking gun with the testimony of Carl Ford, and then we have the victim, Mr. Westermann.

Mr. Bolton did not stop there. We refer to this gentleman as Mr. Smith because he is in the CIA. He is the national intelligence officer for Latin America. Bolton attempted to have him removed from his position because he disagreed with the views that Bolton expressed about Cuba in a speech saying that the views Mr. Bolton wanted to express in his speech did not reflect the intelligence community's assessment. This incident shows how far Mr. Bolton would go to pressure the intelligence community.

Mr. Bolton worked in the State Department. He reached way down to get Mr. Westermann fired. But then he goes to a completely different agency, over which he does not even have any influence—or should not have—and he tried to ruin the career of an analyst he had never even met.

It is one thing to challenge intelligence analysts to say: You know, my information is thus and so, and you don't seem to reflect it in your thinking. Let's talk about it. That is fine. We do that all the time in debate. I know when I am preparing for a talk such as this on the floor of the Senate, I will have my staff come in and say: I don't see it that way. Why do you see it that way? And you try to figure out what is the right thing to say, the right thing to do, and the thing on which you will not be challenged. But Mr. Bolton threatens retribution when the intelligence does not conform to his views. That is a disaster to promote someone such as that.

Robert Hutchings, former chairman of the National Intelligence Council, describes the risk of politicizing intelligence this way:

> I think every judgment ought to be challenged and questioned. But . . . when it goes beyond that to a search for a pretty clearly defined preformed set of judgments, then it turns into politicization. And . . . even when it is successfully resisted . . . it creates a climate of intimidation and a culture of conformity that is damaging . . .

What does he mean by that? This is a man who is an expert in intelligence. Conformity is dangerous because it means there is no discussion, no debate about what the truth is, where we are going. We need to have diverse voices. But at the end of the day, people have to understand that when they are speaking for the United States of America, they must speak the truth, as we know it at the time, based on the information we know.

First, we have politicizing intelligence, which is a disaster. Then we have a pattern of retribution against lower level employees, which I believe leads to paralysis in the workplace. When you have a circumstance where Colin Powell had to come over to talk to these intelligence analysts and tell them, Don't worry, we are with you, keep doing your job, do not be intimidated, that is an extraordinary circumstance, and that is what happened in the case of Mr. Bolton. He had so harmed the morale of the intelligence agents, as Mr. Ford, a conservative Republican testified, that Colin Powell had to take time out to go over and speak to these analysts.

This is not a question of partisan politics. This nominee has as many Republicans opposed to him as he does Democrats, and maybe even more.

So we have the politicizing of intelligence which is very dangerous for our people, and we have retribution against lower level employees. When Mr. Bolton was asked about this, he brushed it off: Oh, I didn't really, didn't matter—I am paraphrasing—I shrugged it off, just got it off my chest. Yet he sought to remove Christian Westermann for disagreeing with him over intelligence in Cuba. Not once and shrug it off, not twice and shrug it off, but the record shows three times over a 5-month period he went after Mr. Westermann.

This is confirmed by Carl Ford, the former Assistant Secretary for the INR—that is the State Department intelligence division—Thomas Fingar, former Deputy Assistant Secretary for INR; and Fred Fleitz, Chief of Staff to John Bolton; Neil Silver, an INR office manager; and Larry Wilkerson, former Chief of Staff to Colin Powell.

Bolton said to the committee: No, it was nothing, it was no biggie, I got it off my chest, I shrugged it off, I did not do anything. Carl Ford, Thomas Fingar, Fred Fleitz, Neil Silver, and Larry Wilkerson—most of those people from the Bush administration—said: No, he tried to remove Mr. Westermann three times over a 5-month period. And Mr. Bolton sought to remove Mr. Smith over at the CIA, over whom Mr. Bolton had no authority whatsoever. We know that Bolton and his staff discussed the removal of this person over several months, and Bolton personally went out to CIA headquarters to seek Mr. Smith's removal.

Let me say that again. We have retribution against independent intelligence analysts, three times in 5 months against Westermann, and Mr. Bolton went all the way out to the CIA to get rid of Mr. Smith. Who confirms this? John McLaughlin, Deputy Director of the CIA, Stu Cohen, former acting chairman of the National Intelligence Council, and Alan Foley, Director of the CIA Weapons Intelligence Nonproliferation and Arms Control.

We have not only the smoking gun, but the two victims. Now we have another person. Bolton also wrongly accused Rexon Ryu—a highly regarded midlevel State Department officer—of withholding a document from him. Eight months after the incident, Bolton denied Ryu a significant new assignment working on the G8 summit. This is confirmed by John Wolf, former Assistant Secretary of State for Nonproliferation.

Of all the people you want to promote, it would not be somebody who people in his own party say tried to politicize intelligence, tried to dish out retribution on independent intelligence analysts and because someone did not give him a piece of paper, he denied him a very important new assignment.

Then, in 1994, we have a bizarre report of Bolton allegedly chasing a woman through a hotel lobby in Moscow, pounding on her door, falsely telling her colleagues she was under criminal investigation. How do we know that? There is a contemporaneous account provided by a colleague of this woman who said, yes, she called him during that whole time and told him everything that happened.

In addition to these examples, we have learned that Mr. Bolton tried to have a State Department lawyer removed from a case involving sanctions and tried to have two unnamed State Department officers removed over policy differences.

So there is a clear pattern of politicizing intelligence, which is dangerous for this country, and seeking retribution against lower level employees. You know what I find very significant is that the reason John Bolton failed in every one of his efforts, no matter how hard he tried—and we have the records, he tried—is because another official stepped in to stop John Bolton from his abusive behavior. One time it was Assistant Secretary Ford who prevented the retribution from taking place, again, a conservative Republican. In another instance, the Deputy Director of the CIA John McLaughlin, under this President George Bush, had to step in when an analyst's job was threatened. Even Secretary Armitage, who was the Assistant Secretary to Colin Powell, was forced to intervene to prevent Bolton from removing a State Department lawyer from a particular case.

Who is going to prevent Mr. Bolton from handing out this type of retribution when he is in New York managing 150 Americans? Secretary Rice has told Senator VOINOVICH that Mr. Bolton would be closely supervised as U.N. Ambassador. How embarrassing is that? How embarrassing is that, a U.N. Ambassador who has to be closely supervised by the Secretary of State. She is going to make sure he does not step out of line. She has other things to do.

I want to quote Senator VOINOVICH in the Foreign Relations Committee when he said:

> Why in the world would you want to send someone to the U.N. that has to be supervised?

We have a circumstance here, and I want to say to Senator VOINOVICH what courage he has to step out on this and what credibility he has. I have watched Senator VOINOVICH, and I never remember him speaking out against a Presidential appointee ever. This is a momentous and difficult thing to do for Senator VOINOVICH. But this leads me to my third reason to oppose the Bolton nomination—not only politicizing intelligence, not only seeking retribution, but unprecedented opposition from both parties. I put into the RECORD already a list of 102 former ambassadors who oppose this nominee, most of whom worked in the Reagan administration, some in the Ford administration, the Carter administration, the George H.W. Bush administration. But let's hear what some of the Republicans have said about Mr. Bolton. Here are the comments of Carl Ford, self-described conservative Republican, former Assistant Secretary of State for their Intelligence Division within State:

> He is a quintessential kiss up, kick down sort of guy. There are a lot of them around . . . But the fact is he stands out, that he's got a bigger kick and it gets bigger and stronger the further down the bureaucracy he is kicking.

And here is a quote from Lawrence Wilkerson, the former Chief of Staff to Secretary of State Colin Powell, who, as we all know, was the Secretary of State in George Bush's first term. This is really unprecedented, to get these kinds of quotes from people who served under Republican administrations about the Republican nomination.

> My objections to . . . him being our Ambassador at the U.N. stems from two basic things. One, I think he is a lousy leader. And there are 100 to 150 people up there that have to be led . . . Second, I differ from a lot of people in Washington both friend and foe of Under Secretary Bolton as to his quote 'brilliance' unquote. I didn't see it. I saw a man who counted beans . . . and had no willingness—and, in many cases no capacity—to understand the other things that were happening around those beans. And that's a recipe for problems at the United Nations.

This is Elizabeth Jones, former Assistant Secretary for European and Eurasian Foreign Affairs:

> I don't know if he's incapable of negotiation but he's unwilling.

And here we want someone at the U.N. to reform the U.N., to straighten out the U.N., to change it for the better, and you are sending someone who is shown, as she says, as being unwilling to negotiate and maybe even incapable of it.

John Wolf, former Assistant Secretary of State for Nonproliferation, October 2001 to July 2004—so this is very recent—says:

> I believe it would be fair to say that some of the officers within my bureau complained that they felt undue pressure to conform to the views of Under Secretary Bolton versus the views they thought they could support.

John McLaughlin, former Deputy Director of the CIA for a while. He was Acting Director before they put Mr. Goss in place.

> It is perfectly all right for a policy maker to express disagreement with an NIO or an analyst, and it's perfectly all right for them to challenge such an individual vigorously, challenge their work vigorously. But I think it's different to then request because of the disagreement that the person be transferred . . . Therefore [I] had a strong negative reaction to the suggestion about moving him.

And he was talking about Mr. Smith, the intelligence analyst who Mr. Bolton tried to get removed from his portfolio. I have told you about the letters the committee has received. The committee never asked for these letters. A letter with more than 100 former diplomats who oppose the nomination. In the letter that I put in—I didn't read the letter to you. I will just read it now in part. This letter is signed by people who served the Nixon, Ford, Reagan, and George H.W. Bush administrations.

> [John Bolton's] past activities and statements indicate conclusively that he is the wrong man for this position at a time when the U.N. is entering a critically important phase of modernization, seeking to promote economic development and democratic reforms and searching for ways to cope better with proliferation crises and spurt of natural disasters and internal conflicts.

I talked about how unprecedented this opposition is to such a post. Since 1945, the Senate has confirmed 24 nominees to serve as U.N. ambassador. Of these 24, only 2 received any opposition and nothing of the level of opposition we see to John Bolton. The people who received some opposing views were Andrew Young and Richard Holbrooke. That was about pretty much it on the list as I saw it.

Let me see if there is anybody else.

That is it. All the rest, unanimous consent or everybody voted for them.

Unprecedented, polarizing, divisive, and partisan appointment.

Now, there is a fourth reason I oppose this nomination, and I hope my colleagues will consider this. John Bolton holds views on the U.N. and international law that shatter his credibility in the world. You want to send someone over there who doesn't have to be babysat by Condoleezza Rice. You don't want to send someone over there who doesn't tell the truth. You want to send someone over there you do trust and who comes to the job with credibility.

I ask you this, my colleagues: Mr. Bolton in a speech—and I have seen the actual film—said:

> There is no United Nations.

"There is no United Nations." We are going to send someone to the United Nations who says there is no United Nations. He also said:

> If the U.N. Secretariate building in New York lost 10 floors, it wouldn't make a bit of difference

Now, what kind of credibility does he have walking onto the floor of the—even if he is babysat by Condi Rice, who says she is going to watch over him—what kind of credibility does this man have? He has this record of politicizing intelligence. He has this record of retribution. He has the most unprecedented opposition of anyone.

I see the Senator from Connecticut has come, and I thank him, Senator DODD, for working so hard on this. It is not easy. Senator DODD rarely steps out like this on a Presidential appointment. It is extraordinary. And when we look at the votes of all the U.N. ambassadors since 1945, only twice did we even have anybody get a few "no" votes. It is unprecedented. It is unprecedented. And there are all these reasons for it.

If you really want to reform the U.N., which we all do, we should not be sending John Bolton. He simply does not have the credibility to do it. He doesn't have the credibility to convince wavering countries to be on our side. He has been inaccurately compared to Jeane Kirkpatrick. If you look at some of the U.N. ambassador's, former U.N. Ambassador Jeane Kirkpatrick's comments, she talked about the following. She said:

> U.N. votes matter because they affect widely held views about perceptions of power, about effectiveness, and about legitimacy.

What did John Bolton say. He said:

> Many Republicans in Congress and perhaps the majority not only don't care about losing a General Assembly vote, but they actually see it as a make my day outcome.

How does this bring John Bolton credibility?

I wish to take a moment to just ask my friend from Connecticut if he is prepared to speak at this time because if so, I would wind down.

Mr. DODD. Mr. President, I say to the distinguished Senator from California, I came over to hear my colleague's remarks. I appreciate her courtesy.

Mrs. BOXER. I thank the Senator.

I have how many minutes remaining?

The PRESIDING OFFICER. The Senator from California has 3 minutes remaining.

Mrs. BOXER. I ask unanimous consent to have an additional 5 minutes. I will close down in 3 minutes.

So we have reason after reason after reason here. Senator VOINOVICH laid out the record. He read from the record. I am going to close with something I hope every single Member of this Senate will listen to. John Bolton did not tell the truth to the committee. I am going to repeat that. John Bolton did not tell the truth to the Foreign Relations Committee. He said he shrugged off the issue. He shrugged off the issue with these people he tried to fire. He said he just dropped by the CIA on his way home from work. He said he didn't try to dish out retribution or try to fire anybody at all. He said a lot of things that weren't true to our committee. And that is very serious. He wasn't truthful with us. He didn't give us honest accounts. He didn't tell us the truth about how he tried on many occasions to fire these analysts. And if nothing else I have said matters about the retribution, about the twisting of arms to get intelligence to build up a phony case against other countries, if the fact that he said there was no United Nations doesn't move you, or if that 10 stories were gone it wouldn't matter, if you don't care anything about that, I think you ought to care about telling the truth before a committee of the Senate. And we have had chapter and verse. We have it cold here.

For all those reasons, I hope we will not vote for John Bolton. And if we do not get the information Senators BIDEN and DODD are pushing so hard for, we should delay this until we see that information because it is a matter of right and wrong. It is right for us to get that information. It is wrong for the administration to withhold it. We are a separate but equal branch with the White House.

I thank my colleagues. I know this was a long statement, but this is a very important issue. And it is not just one reason against John Bolton; there are about six. I hope I have laid them out.

I thank you very much, Mr. President. I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I ask would ask the time in the quorum be divided equally between both sides.

The PRESIDING OFFICER. The Chair would note that has been requested. It is so ordered.

Mr. NELSON of Florida. Mr. President, I rise to speak on the nomination of John Bolton. The question for me is, in a position of exceptional importance to the United States and our Government, that of representative to the world body—the United Nations, is John Bolton the kind of person who can best represent the interests of the United States? Is John Bolton the kind of personality who can negotiate and talk and establish personal relationships with the representatives of the other nations of the world as we try to carry forward the agenda of the United States? To those two questions, the answer is clearly no.

There are examples of former representatives to the United Nations, nominated by Republican Presidents—such as Ambassador Negroponte, such as a former Senator and former Ambassador John Danforth—who embody the type of person you would want representing our country before the United Nations.

This position is particularly critical to our country at this time because two of the greatest threats to the interests of the United States are North Korea and Iran, and their pursuit of nuclear weapons.

Clearly we have an interest in preventing both countries from possessing the bomb, even though it looks as though North Korea already does. We ought to be making sure that at the end of the day North Korea does not have weapons of mass destruction that they can proliferate all over the world, particularly into the hands of terrorists.

The same with Iran. There is no evidence that Iran has a bomb now, but clearly the evidence is there that Iran is trying to achieve that. We need a representative in the United Nations who can help us work with other nations, particularly European nations, with regard to Iran. Also, we must focus on the nations in the region of North Korea, so, at the end of the day these two countries do not have nuclear weapons. This is in the clear interests not only of the United States, but it is in the clear interests of the world. Otherwise, you raise the possibility of nuclear weapons or nuclear materials getting into the hands of terrorists. And once that happens, Katie bar the door, we would have a whole new and extreme threat to the interests of the civilized world.

Is John Bolton the person who we think can establish those personal relationships within the United Nations? The relationships that we will need in order to get Europe to help us with Iran, and in order to get help with North Korea. I think that answer is clearly no.

The stakes are high. That is why I speak with passion. That is why I have spoken with passion as a member of the Senate Foreign Relations Committee.

But there is more. The "more" is simple. Should John Bolton be promoted based on his performance in his existing job as arms control negotiator? Should he be promoted? I think the answer is clearly no because John Bolton has not done a good job. Look at those two nations I just mentioned, North Korea and Iran. Have we gotten anywhere in our arms control negotiations with regard to those two countries in the last 4 years when he was Under Secretary for Arms Control? The answer to that is no.

Why should we be promoting an individual who has not done his job well into a position of even higher visibility—I will not say of greater importance—of higher visibility as a representative of our country? It is clear to me that we should not.

If we didn't have this deal here about supporting the President's nominations, do you think if Senators on that side of the aisle voted their conscience, they would support this nomination? I think the answer is clearly no. Senator VOINOVICH has had the courage to stand up and call it as he sees it. I do not know Mr. Bolton, but I have observed him and I have observed his demeanor and I have looked at his record. I think his record is one that does not suggest we elevate him to this position of extreme prominence in the representation of the interests of the United States before the United Nations, particularly at this delicate time when we need our best representative at the United Nations. I think at the end of the day it is clear he should not be our representative at the United Nations. Therefore, I am going to vote no on the nomination of John Bolton.

I yield the floor.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the time since Senator NELSON of Florida yielded the floor be charged against Republican-controlled time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, I rise in support of the nomination of John Bolton to be U.S. ambassador to the United Nations. The President has made an inspired choice.

Mr. Bolton has the necessary experience, the knowledge of the U.N. system and the confidence of the President to be a successful advocate of U.S. policy at the United Nations.

As Undersecretary of State for Arms Control and International Security, Mr. Bolton has taken a tough line against the tyrants and the despots who wish to harm us.

He has stood up to Iran and North Korea, refusing to appease their nuclear ambitions.

Mr. Bolton is candid about his disdain for rogue regimes. He's not going to be dancing with Kim Jong Il—he called him a tyrannical dictator. That is fine with me. He has also been candid about the weaknesses of the United Nations. That is fine with me too.

The United States has sent forceful, blunt-speaking ambassadors to the United Nations before like Jeane Kirkpatrick and Daniel Patrick Moynihan, and the United States has been better for it.

Senator Moynihan called the U.N. "a dangerous place" for American interests.

That is why it is necessary to send Mr. Bolton to the U.N.—to make sure that American interests are advanced.

He is outspoken, but he also is a skilled diplomat, who knows how to work with friends and allies, and has a proven track record of success in building coalitions to support vital objectives.

It was John Bolton who led the effort to create the Proliferation Security Initiative—a multinational coalition of nations, working together in unprecedented ways to stop the transport of dangerous weapons and materials at sea, on land and in the air. Some 60 nations are now supporting this effort.

When he was Assistant Secretary of International Organization Affairs, with the United Nations as part of his portfolio, he was the one responsible for the repeal of the odious 1975 "Zionism is Racism" resolution that was passed in the United Nations.

At a time when the United Nations continues to be plagued by scandal and mismanagement, the United States needs a strong presence to reform that body.

Just look at the scandals the UN is facing on oil-for-food, sexual abuse, theft, and sexual harassment:

We now know that Saddam Hussein, corrupt U.N. officials, and corrupt well-connected countries were the real benefactors of the Oil-for-Food Program.

They skimmed their illegal gain from illegal oil shipments, financial transactions, kickbacks, and surcharges and allowed Saddam Hussein to build up his armed forces and live in the lap of luxury while his people starved.

There have been allegations of sexual abuse in peacekeeping operations by U.N. personnel going back at least ten years, most recently in the Congo where 150 allegations of rape, pedophilia, and prostitution are being investigated.

The theft of $3.8 million by an employee of the World Meteorological Organization led to the revelation that Mohammed Hassan apparently cashed an undetermined number of checks for his own enrichment, but his colleagues chose not to speak out.

There was a recent whitewash by the Secretary General of sexual harassment by two senior U.N. officials, the High Commissioner for Refugees and the United Nation's top oversight official.

This list of current scandals does not even begin to touch on broader issues such as the proper role of the United Nations and the need for fiscal responsibility and austerity. There has been a 42 percent increase in the U.N. regular budget over the past 10 years. The United Nations is supposed to have a zero nominal growth budget.

Those funds support programs with questionable value. We are all painfully aware that the United Nations has a Commission on Human Rights which includes notorious human rights abusers such as Sudan, China, Cuba, Saudi Arabia, and Zimbabwe.

The United Nations is imploding under the weight of its own scandals. And these scandals are helping to unveil the cronyism that is corroding the U.N. system. The U.N. is in desperate need of reform—and in desperate need of a reformer like John Bolton. Perhaps most importantly, John Bolton is a strong believer in sovereignty.

The principle of state sovereignty is what undergirds the entire international system.

Yet today we see respect for state sovereignty eroding all around us. We see it in the International Criminal Court's claim of authority to try the citizens of countries that have not consented to ICC jurisdiction. We see it in the U.N. false claim to have sole authority to permit the use of force.

These trends are dangerous, not only because the erosion of sovereignty is a threat to freedom, but because the erosion of respect for state sovereignty absolves states of their sovereign responsibilities to deal with problems within their borders.

It gives states an excuse to punt problems to supra-national bodies, like the UN and the ICC, instead of taking responsibility for problems that originate within their border from poor national governance. In the war on terror, every state needs to meet its sovereign responsibilities. As sovereignty has eroded, terrorists have taken advantage of these trends. John Bolton has the fortitude to stand up for what is right, fight the good fight, and prevail.

Secretary Rice called John Bolton a tough-minded diplomat. That's exactly what the U.S. needs at the U.N.—and exactly what the U.N. needs from the U.S.

Let me conclude by reinforcing why this body should support John Bolton's nomination. The U.S. does not need a U.N. representative for the world. We need a U.S. representative to the world. We need someone who has the interests of our country first and foremost in his mind as he represents us at the U.N.

There are many anti-U.S. forces at the U.N. Appeasement has never worked in dealing with aggressors. And it will not work for our country at the U.N.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I say to my friend, the junior Senator from Nevada, he is right on target as he always is. The Senator is right: The policy of appeasement is what we have been watching for a long time. I have often said an appeaser is a guy who feeds his friends to the alligators hoping they eat him last.

Hiram Mann said:

> No man survives when freedom fails,
> The best men rot in filthy jails,
> And those who cry appease, appease
> Are hanged by those they tried to please.

John Bolton is not that appeaser. I am so much in support of this man. I have been listening to the criticisms, and I cannot figure who they are talking about. My feelings about John Bolton can be summed up by the former Governor of Massachusetts, William Weld. He is not someone I very often quote, very often agree with, but William Weld said:

> He's strong medicine, all right, but sometimes strong medicine is needed, such as it is at the United Nations today.

I think he is actually very correct in that. My colleagues know I have many concerns about the United Nations and about Kofi Annan. I have been quite outspoken and a critic of his and the United Nations in general. It seems every day we hear new reasons to express outrage about the performance of the United Nations.

There are clearly abundant problems in the United Nations, particularly related to the Iraqi Oil for Food Program. We are not talking about thousands of dollars; we are talking about millions of dollars. We are talking about dollars with ties to the actual family of Kofi Annan.

Do not get me wrong, the United Nations should be a tremendous force for good in the world by providing a place for countries to cooperate and pursue and achieve the original missions of the U.N. founders: to promote freedom, peace, respect for human rights.

Unfortunately, it has been a disaster. I have grave concerns about the means that have been employed, reportedly, to achieve those ends.

The U.N. peacekeeping missions have been questionable. In addition, these operations rely heavily on the use of U.S. troops and funding in a way that threatens our military readiness and unfairly taxes our resources.

Other serious concerns are questions about the focus of the United Nations on its inefficient structure and massive bureaucracy which wastes American taxpayer dollars. This is significant because the United Nations operates by collection of assessments and dues. Each member of the United Nations is required to pay a certain percentage of the organization's budget based on their size and based on their ability to pay. I never quite understood the formula.

Since January of 2001, the United States was assessed 22 percent of the regular budget of the United Nations even though all nations, regardless of size, get the same vote in the General Assembly. This leads to the situation where the United States is forced to both subsidize the United Nations and go along with many of the decisions that are against our national interests.

As Americans, we should have no problem leading the way on the global stage on issues of peace, human dignity, and liberty, but the U.N.'s action in recent years has made it clear that the organization has lost its moorings. Unless things change for the better, we will want to reevaluate our support.

In addition to financial matters, there are several other areas in which the U.N. has shown itself to be badly in need of reform. I mentioned the oil-for-food scandal. We know about that. That has received a lot of attention—not enough but a lot of attention.

One of the elements of the oil-for-food scandal has not gotten as much attention, and that is what Saddam Hussein's regime was doing with the money they got by skimming from oil contracts negotiated under the program. As we learned from Charles Duelfer's Iraqi Survey Group report:

> The ISG has been investigating Iraq's procurement process, sources of finance, the involvement of foreign firms, and the specific types of goods that were sought, Iraq utilized a complex and well developed procurement system hidden by an effective denial and deception strategy. By the late 1990s, Iraq, in contravention of U.N. sanctions, pursued the procurement of military goods and technical expertise for military capabilities . . .
>
> . . . Money also was obtained from kickback payments made on contracts set up through the U.N.'s Oil for Food Program. Iraq derived several billion dollars between 1999 and 2003 from oil smuggling and kickbacks. One senior regime official estimated Iraq earned $4 billion from illicit oil sales from 1999 to 2002. By levying a surcharge on Oil for Food contracts, Iraq earned billions more during the same period.
>
> . . . this was revenue outside U.N. control and provided resources the regime could spend without restriction . . .
>
> . . . Iraq imported banned military weapons, technology, and dual-use goods through Oil for Food contracts. Companies in several countries were involved in these efforts. Direct roles by government officials are also clearly established.

If this is the kind of program the U.N. runs, I don't know how anyone can get away with saying it does not need serious reform.

Another outrageous abuse of U.N. authority took place in the Democrat Republic of Congo. The U.N.'s own watchdog department, the Office of Internal Oversight Services, investigated alleged abuse by the U.N. peacekeeping forces in the northeastern Congolese town of Bunia and found a pattern of sexual exploitation of women and children which it said was continuing at the time of the report. U.N. peacekeepers working in the Democrat Republic of Congo sexually abused girls as young as 13. I have been to both Congos many time, and I have watched these things going on.

The other day I was in the Congo and I saw a fleet of cars, about 400 cars. I asked what they were. They had the U.N. symbol. They were cars that were going to take the peacekeeping people to remote areas of Africa.

I suggest for the reading of anyone who is interested in that part of the country, "King Leopold's Ghost." It tells what has happened in that country. I cannot help but believe that many of these U.N. peacekeepers are continuing to abuse these people, as we have seen in the past.

I have spoken many times on this floor about the redundant and counterproductive bureaucracy that has been built up, layer upon layer, providing cushy jobs with no accountability and little, if any, transparency. And I have also noted in the past the exorbitant cost of the renovation of the U.N. headquarters, for which American taxpayers are again footing the bill, we think. These issues, and others like them, remain unresolved and will continue to undermine the U.N.'s legitimacy around the world.

There are so many things we hear about over and over again, about the abuse of power of these peacekeepers going in, but I would like to share with you a personal experience. About 3 weeks ago, I was in Uganda, and in northern Uganda, on the southern Sudan border, there is a terrorist group there that has been operating for 30 years, with the same individual. They will go in and raid these camps, take these kids out—I am talking about 12-year-old kids—and arm them with guns, teach them to fight, and then send them back home to murder their parents. And if they don't do it, they cut their hands off.

Now, this is going on today. I saw it. I was there. Where is the United Nations? They are not there. They are not doing anything. I often wonder what they are doing. But something has to happen to change all of that.

That is where this nominee comes in. After reviewing John Bolton's credentials, I cannot tell you how strongly I endorse him. He has served as Under Secretary of State, is extremely qualified to hold the position of ambassador to the United Nations, and has an impressive record as an accomplished lawyer, diplomat, and scholar.

My colleagues have extolled Mr. Bolton's successes as a reformer in this Chamber before. He has a reputation of toughness, reliability, honor, and, yes, tenacity. Because of these very reasons, I believe Mr. Bolton will be extremely effective in this position and will best represent President Bush and the United States at the United Nations.

I have often watched the United Nations and have wondered sometimes, who is on our side? I can assure you, with John Bolton there, you are going to have someone on our side.

We have already spent a great deal of time discussing the Democrats' obstructionism this week, so I will only say a few words about that now. The various political ploys used to hold up Mr. Bolton's nomination were frustrating and ridiculous, and were based on nothing more than personal dislike, attacks on this administration's policy, and a misguided and irresponsible vision for the United Nations.

Now, I have heard criticism that John Bolton should not be confirmed because he has opposed the U.N. activities and he has said negative things about the United Nations. That is all the more reason we should confirm him in this position. I often think how they say: Well, he doesn't like the United Nations. Why should we send him as our representative? That is exactly the kind of person who needs to be there to effect some changes. It is like saying, if you have a prison, that you need to have a convict running the prison. No, you do not. You need to have somebody who is wanting to come up with some reforms. So we need somebody who will reform the mess that is up there.

There are a lot of us who have said for a long period of time that we ought to just get out, just give up, that the United Nations is not looking after our best interests. I think with John Bolton there that will change. He has a proven record of success. He will do a great job. It is broke. He can fix it. We need to confirm his nomination.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I wish to join my colleague from Oklahoma and other colleagues who have risen today to support the nomination of John Bolton to be our U.N. ambassador.

The United Nations is a unique institution, obviously. It is an institution which has gone through its good times and some bad times. Many of us, on our side of the aisle especially, have been critical of the United Nations over the years for different activities, whether they have been policy driven or, in some cases, just the operations aspects of the United Nations. But I think, at least for my part, I agree that it is an extremely important institution, that it represents an attempt by the community of nations across the world to find a forum where they can interact and, hopefully, reach conclusions which are constructive to mankind generally and especially address issues which cannot and should not be addressed by nation states individually, such as issues involving large expansions of disease, issues involving the treatment of children around the world, issues involving the questions of war.

It is important we have a forum where nations can come together and try to work together and, if they disagree, at least have the disagreements be more transparent and, therefore, the ability, hopefully, to reach agreements, and at least have the capacity to temper those disagreements, which is more probable of occurring as a result of transparency.

It is an institution which, by its very nature, is going to have difficulty reaching consensus and moving forward on extremely complex issues and issues which are intensely felt because of the fact that it represents such a diverse collection of the world, almost the entire world, for all intents and purposes, nation states which all have different purposes and interests.

But it is a very important forum, and it is something that we, as a country, clearly were one of the originators of in San Francisco after the war. It actually is the outgrowth of Woodrow Wilson's concepts with the League of Nations. We have helped it evolve and grow, and we have basically underwritten it. The American taxpayers, for better or worse, pay approximately 25 percent of all the costs the U.N. incurs, whether they are operational costs or peacekeeping costs. That number varies between those two accounts, but the number is very significant.

I used to chair the appropriating committee which had jurisdiction over those funds, and it was frustrating at times to send the money because I felt their actions in a number of areas, to be kind, maybe involved a bit of mismanagement, to be kind, and in other areas were just misguided but were part of the whole.

As a participating member state, we have an obligation to support the institution and to try to correct it from within. How do you correct it from within? I think this administration has made a very aggressive effort to try to make the U.N. more accountable, first in the area of operations, in the area of just the basic management of the institution, reducing the amount of patronage, reducing the amount of misallocation of funds. This administration has focused aggressively on that. And secondly, this administration has made a very aggressive effort in the area of initiating policy, policy which may impact how we deal with AIDS in Africa, how we deal with the health care problems across the world, and the pandemics that are coming at us, regrettably, and how we deal, obviously, with peacekeeping initiatives in a variety of different pressure points around the world, especially in the Middle East and in Africa and, of course, in the Balkans to some degree.

So we have, as a Government—and this Government specifically, the Government under President George Bush—aggressively pursued policies to try to focus the U.N. on trying to be a better managed place and being an institution which better, more effectively reflects policies of democracy and liberty. That has been our basic theme in trying to work within the U.N. structure.

John Bolton brings to the table the expertise necessary to continue that initiative. He may be rough around the edges on occasion. There is no question about that. But there is also nothing wrong with that. If being rough around the edges on occasion is a detriment, a personality trait which people should not have, then I guess there are a lot of us here who should not be in the Senate.

The fact is, you have to be aggressive and you have to be willing to assert your view and the views that you are projecting as a representative of this country if you are going to be effective in making a case for this Nation. John Bolton will accomplish that in the U.N., in my opinion. In fact, it is his type of personality in the sense of his willingness to aggressively advocate a position which is consistent with our promotion, as a nation, of liberty, democracy, and honesty within the management of the U.N. "Honesty" may be too strong a word, but at least more efficiency within the management of the U.N. That will be the greatest strength that he brings to the table there. People will understand clearly where America is coming from, and it is important they understand that. And the American taxpayer will know that we, within the hallways of the U.N., will have someone who is going to advocate for efficient and effective use of those tax dollars we are sending there. That is our right, I believe, as taxpayers, to ask for that type of leadership within the U.N.

So John Bolton, in my opinion, with his broad expertise in foreign policy and with his commitment to promoting this administration's commitment to the promotion of liberty and the promotion of democracy across the globe, and to fighting terrorism, is the right person for this job. I regret he has been held up. And it appears Members of the other side intend to try to filibuster his appointment.

A President should have, just as a matter of policy, a person in the position at the U.N. who is of his choosing. This is the right of a President, to send a person to the U.N. who the President feels most effectively will advocate the policies of the administration because it is, after all, the President who has the primary responsibility of promoting foreign policy within our Government structure. It is not the responsibility of the Congress, although there are a lot of folks in this body who appear to think they are Secretary of State. The fact is, the Constitution does not provide that portfolio to the Congress, it provides it to the President and the President's appointees to Cabinet-level positions, which the U.N. ambassador position represents.

So it seems highly inappropriate that we should be holding up his nomination unless someone can show definitively that he does not have the personal integrity or the personal honesty to serve in the position. If individuals disagree with his ability or his capacity to carry out the job, that is not really our call, unless that disagreement is a function of honesty, integrity relative to the individual's qualifications, because in this instance it is the President's right to pick the individual he thinks can carry out the job most effectively, and the President has picked John Bolton.

I have not heard anything from anybody that calls into question John Bolton's integrity or honesty. I heard a lot of people who expressed frustration about maybe how he manages individuals, but that clearly is not the criteria for rejecting a nominee to a Cabinet-level position. If it were, there would have been a lot of nominees rejected under every President who has ever nominated individuals because all of us have warts, and many of those people who have been nominated to Cabinet positions clearly had a number of warts.

So I do think it is inappropriate to pursue a filibuster in this instance. To have a policy disagreement with the President as to the way he approaches the U.N., that may be appropriate. That policy disagreement can be debated, but it should not ensue or lead logically to a filibuster of an individual who has a nomination to the position because it is, after all, the President's right to choose individuals to serve at his Cabinet-level positions. Those individuals should be confirmed in a timely manner so that the President has the capacity to pursue foreign policy initiatives and the leadership of this Nation on the issues of foreign policy with a full complement, a full team of individuals to support his initiatives.

I do hope we will move forward to a final vote on Mr. Bolton this afternoon. People who feel he is the wrong choice—and they may have policy differences with the President on how we are pursuing liberty and democracy across the globe—can vote against him on that basis, but at least give him a vote, and give him a vote promptly.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Connecticut.

Mr. DODD. Mr. President, I rise to speak on the nomination of John Bolton to be the U.S. Representative to the United Nations.

Let me begin, briefly, by stating what this nomination and debate is not about. It is not about reform at the United Nations. There is not a single Member of this body who I know of who does not agree with the notion that we ought to be doing everything we can to make the United Nations a stronger institution, a more meaningful one, in today's world, where more direct actions can be taken where problems exist around the world to make it more efficient, to function better. All of us agree with that, and all of us agree that whoever assumes this position as ambassador from the United States to the U.N. ought to play a critical role in that effort. That is not in question here. That is not a matter of debate.

What is also not a matter of debate is the style of the particular nominee in question. I think all of us in this city certainly respect the fact that some people's style is a little more brusque than others, can be a little more blunt than others. I do not know of anyone, certainly on this side of the aisle—or that side, for that matter—who disagrees with a nominee because they do not particularly like their style, although they may have been particularly rough on some employees. We may not applaud it. We may not like it. We may think it is unwise and bad management style. But almost nobody in this Chamber on either side has objections to this nominee solely because of the question of reform at the United Nations or whether Mr. Bolton's style is objectionable or not.

My objection to this nomination focuses on one single issue. Members will have to decide for themselves whether they think this issue is of such importance that it would disqualify Mr. Bolton from the position he has now been nominated to or allow him to go forward.

The facts are no longer in debate. It is often said in this Chamber, you are entitled to your own opinion, but you are not entitled to your own facts. The facts are overwhelming in terms of the allegation that Mr. Bolton, whatever his motivations may have been—and I suspect I know what they were—decided that because he disagreed with some intelligence analysts, he wanted them removed from their jobs.

I have never objected, nor would I—in fact, I agree with my colleague from Michigan who spoke so eloquently, that, in fact, there ought to be more debate between policy centers and intelligence analysts. What was missing during the debate on Iraq, as to the issue of weapons of mass destruction, was the absence of debate between policymakers and intelligence analysts. None of us, that I know of, disagree with the notion that there ought to be more debate. Where policy setters disagree with intelligence analysis, they ought to express that objection and tell people they think it is wrong. But if you go beyond just disagreeing, if you go beyond forceful debate, if you reach down and decide you are going to remove or try to remove an intelligence analyst from their position because you don't like what they are saying to you, that then crosses a line.

I don't care whether it is a Democratic administration or a Republican one. If this body, by a vote of confirmation says to a person who seeks the position of ambassador to the United Nations, that even though you have tried to fire intelligence analysts because you disagreed with their analysis, then I think we send a dreadful signal at the very time in the world that our credibility on intelligence is in question.

We all know that to be the case, regrettably. We have been through a dreadful period where intelligence was very wrong in assuming there were weapons of mass destruction in Iraq. So the issue for this Senator is, did Mr. Bolton do this or not? And if he did, why are we even considering this nomination? Because anyone, regardless of the administration, their political persuasion or ideology, who tries to fire people, not debate, not disagree with them, not reprimand some higher official because he disagrees with what they are saying, but to reach down and fire an analyst at the CIA or the Department of State because you don't like what they were telling you, in my view, crosses a line.

This body has an obligation to the American public to stand up and say: We will not tolerate that.

This is far more important than Mr. Bolton. It is far more important even than this President or this Congress.

The issue goes far beyond any individuals. It goes to the heart of whether we are going to have credible intelligence which we, as Members of Congress, can believe, and our allies around the world, and from those we seek to find support on various foreign policies who will understand the purposes for which we are seeking their support. That is what I worry about more than anything else.

Yesterday I spoke on the floor about the availability of information. The reason I had requested, and that we have an expedited version of a cloture motion, doesn't have to do with whether or not Mr. Bolton should have an up or down vote. I want to have an up or down vote on Mr. Bolton. But I also believe this body has a right to information.

When the chairman of the Intelligence Committee and the vice chairman of the Intelligence Committee are deprived the opportunity to read the names on the intelligence intercepts, the names Mr. Bolton could see, that his staff could see, but that the chairman of the Intelligence Committee and the ranking member, the chairman and ranking member of the Foreign Relations Committee are deprived the opportunity to see, then we are not getting the information we ought to have in order to make an intelligent decision.

The only vehicle I have available to me is to say, I am going to insist upon a 60-vote criteria unless you give us the information. It is 11:20. I am still waiting. There is no reason for us to have to have a cloture vote this afternoon. Instead, we can have a simple up-or-down vote on Mr. Bolton at 6 o'clock tonight, if in the next hour or two the administration would release those names to the chairman and ranking member of the Intelligence Committee, and the chairman and ranking member of the Foreign Relations Committee, and the information Senator BIDEN is seeking regarding the matter of the supposed weapons of mass destruction in Syria. There are not a lot of documents. It wouldn't take much time. But if we can't get those documents, if we are not being allowed to see the very things the nominee had a right to see, then I don't think we are being treated as a coequal branch of Government that has a right, through the appropriate means, with the appropriate members. I am not suggesting every member of the committees should see these names, but that the appropriate people we have designated historically have access to that kind of information for a nomination such as the one before us.

I am still hopeful that will happen. I am not so naive as to be unaware of what we have just been through in the debate about filibusters on Federal judges. I would not have brought up this nomination right now in the wake of that. I thought we were going to deal with Federal judges, not the nominee to the United Nations. But the majority, as is its right, sets the agenda. They have asked this Congress, this Senate to debate the issue of Mr. Bolton.

I am put in the position of saying: I guess after all of this you can do what you want and deny us that information. I would hope some of my Republican friends, despite the fact they are going to vote for Mr. Bolton, would vote with us on the cloture motion. I took some interest in the fact that even on the House Republican side, the difficulty that major committees of the Congress, both the House and the

Senate, are having in getting information from this administration is growing. If we don't at some point stand up for our rights as a constitutionally designated coequal branch of Government, then this administration will receive the message that we don't care about this and that we can deny this Congress anything we want and they will do nothing about it.

So aside from how you feel about Mr. Bolton, yes or no, it is important for this institution to stand up for its rights and to demand this information as we have a right to.

I am hopeful we can still get the information and not have to go through a cloture vote at 6 o'clock this evening.

Let me get back to the subject matter of Mr. Bolton himself. The reasons for my concern are primarily focused on one issue. That is, of course, whether Mr. Bolton tried to fire people within the CIA and the State Department because he did not like the analysis they were giving him.

What is extraordinary about this nomination, first and foremost, is the number of people on whom we have relied, considering their status, who oppose this nomination. I would like to read the names. I am not suggesting all of these people are opposed to Mr. Bolton, but the basis upon which we have determined that Mr. Bolton tried to fire two intelligence analysts relied primarily on the names on this particular chart. I want to read the names and the positions they hold. It was these individuals, more than anything else, who made a significant difference in our conclusions that Mr. Bolton had, in fact, tried to fire these individuals.

John McLaughlin was the Deputy Director of the Central Intelligence Agency.

These individuals are either presently members of the Bush administration, this President, or were formerly members of the Bush administration.

Larry Wilkerson was chief of staff to Secretary Colin Powell; Robert Hutchings, Chairman of the National Intelligence Council. The dates of their service are here. They are all dates that run roughly 2002, 2003, up to the present time, or just a month or so ago.

Stuart Cohen, Acting Chairman of the National Intelligence Council; Alan Foley, head of the CIA's Office of Weapons, Intelligence, Nonproliferation, and Arms Control; Jamie Miscik, Deputy Director of Intelligence at the CIA: Thomas Hubbard, United States Ambassador to South Korea, a Bush appointee; John Wolf, Assistant Secretary of State for Nonproliferation; Tom Fingar, Assistant Secretary of State for Intelligence and Research: Christian Westermann, analyst for the State Department's Bureau of Intelligence and Research; Neil Silver, Office Director, Bureau of Intelligence and Research; INR supervisor, we don't use his name here, the immediate supervisor of Mr. Westermann: Fred Fleitz, acting chief of staff of John Bolton; Wil Taft, Department of State legal advisor; and a Department of State attorney whose name we are not using as well in the office of legal advisor.

These are 15 individuals either presently serving in the Bush administration or having previously served. It is on them that we relied. It is their damning statements that confirm without any question that Mr. Bolton essentially tried to have these intelligence analysts fired. They also provided other damaging information.

I have been a member of the Senate Foreign Relations Committee for 24 years. Those who have served with me know it is rare, indeed, for this member to get up and object to a Presidential nomination, particularly one that is not a lifetime appointment. In fact, as my colleagues who have served with me for some time know, I have been one of only a handful who have supported nominees of Republican administrations. I was one of two Democrats who supported John Tower when he was nominated to be Secretary of Defense under President Bush's father. I supported John Ashcroft in the first administration of the current President Bush, one of only a handful of Democrats who did that.

I tried to recall an instance when I have taken such a strong objection to another nominee in 24 years. I can't recall one that has gone this far. I have had my objections to others, but they usually didn't reach this particular point. So it is uncomfortable for me to come to the floor to engage, over almost the last 2 months, in this nomination. But when you add the names of 102 former ambassadors, 15 present or former members of the Bush administration, these are not Democrats, these are not some left-wing organizations that are out there objecting to John Bolton. These are serious people who do a serious job, many of them career officials who have served our country with great distinction over the years. These individuals are the ones on whom we relied to draw their conclusion.

I am going to share with my colleagues their statements, not mine, not the names of some Democrats who might have some political motivation but, rather, people who care about our country, care about the United Nations, believe it needs reform, believe we need a strong person there to engage in that kind of reform, but believe John Bolton is not the person who ought to be receiving the nomination.

The committee did an extensive review of all the allegations related to this nominee. Committee staff, on a bipartisan basis, conducted more than 30 interviews of individuals with knowledge of the nominee. There was excellent cooperation on the part of most of those staff we sought to interview. I believe the work of this Senate has been assisted by these individuals who courageously came forward to answer questions and provide information that in many cases they would rather not have done. These individuals did not want to speak ill of another Republican or a former colleague. But they acted as dutiful citizens, patriots, and cooperated with the committee's efforts to fully explore matters related to the nomination of John Bolton. Regardless of how this Senate disposes of this nomination, these individuals have done a service to our country. We should honor them for doing so, for having the courage to come forward and to be honest when asked questions about this nominee.

Mr. Bolton's behavior clearly troubled a number of people who have worked directly with him over the last number of years.

Former Assistant Secretary of State Carl Ford, a self-proclaimed conservative Republican, described Mr. Bolton as "the quintessential kiss-up, kick-down sort of guy." He also labeled Mr. Bolton a "serial abuser."

We did not hear from any people disabusing the committee of that view. That he has an abusive management style is problematic, but as I said at the outset, that would not be justification for voting against Mr. Bolton to be the ambassador to the United Nations. This is not about style. It is not about reform of the U.N. It is about whether this individual tried to fire intelligence analysts in his position as Under Secretary of State.

However, when Mr. Bolton harnesses that management style of his, as he has over the last 4 years, to affect intelligence judgments or to stifle the consideration of alternative policy opinions, then I think he has crossed the line over what is acceptable behavior. Why? Because those actions go directly to the heart of the integrity of U.S. intelligence and the firewall that must exist between policy and intelligence to ensure the integrity of that intelligence. Again, I emphasize, this is not about a disagreement. It is not about a policymaker disagreeing with an intelligence analyst.

Intelligence analysts do not speak ex cathedra. They are not sitting there coming to conclusions that we ought not to question. That is legitimate. In fact, we need more questioning. The issue is whether one ought to go beyond questioning and decide to remove someone because you disagree with their conclusions.

When this committee convened last month to consider the matter, we had irrefutable evidence—this is not conjecture—and this body has to decide whether you are going to send this man forward in the face of irrefutable evidence that on 5 different occasions over the past 48 months, Mr. Bolton tried to have 2 intelligence analysts removed from their jobs—one at the State Department and one at the CIA—because these individuals would not clear the language Mr. Bolton wanted to use, which was not supported by available intelligence.

I emphasize another point that needs to be made. When Mr. Bolton speaks as John Bolton, he can say whatever he wants. But when he gets up and says, "I am speaking on behalf of the United States," then there is a different standard. When you speak on behalf of our country, you cannot just say anything you want. You have to rely on the best intelligence we have. You may disagree with that and you can fight over it, but in the final analysis you cannot offer your own opinions when you are expressing them as the U.S. views. You can say John Bolton believes this. If Mr. Bolton wants to speak to the Heritage Foundation and say, "I believe the following," I may think he is profoundly wrong, but I would fight with my life for John Bolton to be able to say it. That is first amendment rights.

It is when Mr. Bolton gets up and says, "I am speaking on behalf of the United States of America and I want to say the following," and then he absolutely contradicts what is being concluded by the intelligence analysts here, at that point, it seems to me he has a higher responsibility than he has shown.

Carl Ford's testimony was a watershed for me. Never in my 24 years as a Senator have I ever witnessed one high-ranking, former administration official testify as vociferously and as strongly as Mr. Ford did against a colleague. That is exactly what he did last month. Carl Ford made it clear why he did so. He believed Mr. Bolton's actions caused a chill among his intelligence analysts—so much so that the Secretary of State, Colin Powell, had to buck up the employees to assure them that they should not succumb to political pressure.

Because we have talked a lot about this, I used this chart in the Foreign Relations Committee. I realize from a distance it looks like a lot of spaghetti. What it amounts to is the chart of the positions of the State Department, beginning with the Secretary of State, Deputy Secretary of State, Chief of State, Executive Secretary, and the various Under Secretary positions here. The third one is Mr. Bolton, Under Secretary for Arms Control and International Security Affairs. That is his responsibility, this group right here. He was in charge of the people who worked in this particular column.

Where did that intelligence analyst work? He worked down here. You have to go way down to the Assistant Secretary for Intelligence and Research, Carl Ford, who was head of the INR. This intelligence analyst was down here; that is where Mr. Westermann worked. He was not directly in Mr. Bolton's line of command, but in a separate division. He is a GS-14 at this level.

You need to understand what happened here. This was a case where Mr. Bolton doesn't get ahold of Mr. Ford and say: I have a problem with your intelligence analyst because I disagree with what he said. I think he is wrong and I want to argue about it.

Mr. Bolton reaches down out of his line and drags this guy up to his office and begins to berate him for the job he has done. That is objectionable to me, and outrageous. If it ended there, that is dreadful behavior and nobody ought to do that without clearing what you want to say with the people who are responsible for that individual's work. If it ended there, maybe I would just vote against the nominee and I would not make the case on that basis alone. It is what happens afterward. It is not just berating. There is no doubt that there would be chill in the Department if an Under Secretary of State dragged an intelligence analyst to his office and word goes out. As we all know, in institutions the word flies around immediately. One of our fellow workers has been dragged up to the Under Secretary's office and screamed at because he didn't like his conclusions. That is why Colin Powell, the guy at the top, had to go down to these offices—down here on the chart—and explain to them that they did the right thing. You, Mr. Westermann, did the right thing. You are not supposed to succumb to political pressure. You tell people what they think they need to hear, and if they don't like it and disagree with you, that is one thing. But you did the right thing. It was wrong by implication, because why would the Secretary of State go down here and bring these analysts together and remind them that they had done their job if he felt Mr. Westermann being dragged up to Mr. Bolton's office was not wrong? That is why the Secretary of State did that. He went down there to tell those people not to worry about this, do your jobs. I think the Secretary was worried that the word would go out to these analysts that if you don't want to get in trouble, start to agree with Mr. Bolton when he disagrees with you; that is the easy thing to do. If he tells the analyst you ought to say the following, you better say that. If you do, you won't be brought up to his office and bellowed at. That is dangerous and that is one of the reasons we have such concern about this nomination.

As I said, this was the conclusion of Secretary Powell, according to Mr. Wilkerson, his chief of staff. Mr. Wilkerson, who was the chief of staff of Secretary Powell, testified before the staff of the Foreign Relations Committee the following: Secretary Powell "went down into the bowels of the building and talked to people about not being inhibited by, or in any way fearful of, people on the seventh floor, or leadership in general, questioning their analyses or their statements or whatever."

Mr. Bolton had a very selective recollection about his interactions and intentions with respect to intelligence analysts at the State Department and the CIA during his appearance before the committee.

Mr. Bolton told the committee:

> I didn't seek to have these people fired. I didn't seek to have discipline imposed on them. I said, "I've lost trust in them." And are there other portfolios they could follow. It wasn't anything to me that I followed at great length. I made my point and moved on.

Committee staff interviews and review of State and CIA documents paint a very different picture indeed. What is that picture?

First, with respect to Mr. Westermann. Six months after this event I have described on the chart with—this run-in occurred, Mr. Bolton was still seeking to have Mr. Westermann removed from his job as the biological weapons expert analyst at the Intelligence and Research Division of the State Department.

Mr. Bolton's recollection about what he did with respect to the CIA analyst was likewise clouded on April 11. As to the so-called "Mr. Smith," as we called him to protect identity, Mr. Bolton said:

> I had one part of one conversation with one person one time on "Mr. Smith," and that was it. I let it go.

We now know that much more than that occurred. Let me lay it out for you.

In addition to a meeting with the Acting Chairman of the National Intelligence Council, we now know from e-mails that Mr. Bolton considered raising the matter directly with the Director of the CIA, George Tenet. We know as well that he continued to conspire with former Assistant Secretary of State Otto Reich and his office for a period of 4 months after he first "lost confidence" in "Mr. Smith" to have him removed from his job.

Also under consideration by Mr. Reich and Bolton were other punitive measures—we know this now—such as denial of country clearance for Mr. Smith's official travel throughout Latin America, banning him from all meetings held in their bureaus. And the ultimate act of pettiness—consider revoking his State Department building pass.

I am not making this stuff up. He said he had "one part of one conversation with one person one time, and I let it go."

Hardly. The facts are overwhelming here regarding what he tried to do both at the State Department and the CIA.

We have also learned that other intelligence analysts were having difficulties with Mr. Bolton's office.

Jami Miscik, Deputy Director for Intelligence, 2002 to 2005, in the Bush administration, told the committee staff that Mr. Bolton had a reputation for being difficult to deal with. She noted that "interaction between policymakers and the intelligence community usually goes more smoothly than it often did . . . in the cases with Mr. Bolton . . . It is rare that . . . a single policymaker is known for having . . . pretty regularly contentious kinds of issues in this regard."

We know as well that expert intelligence officials disapproved of and resisted Mr. Bolton's efforts to "cherry-pick" intelligence for ideological purposes.

Dean Hutchings, Chairman of the National Intelligence Council, 2003 to 2005, described the "cherry-picking" problem in the context of what Mr. Bolton wanted the Intelligence Committee to bless with respect to Syria's weapons of mass destruction capabilities:

> Mr. Bolton took isolated facts and made much more of them to build a case than I thought the intelligence warranted. It was a sort of cherry picking of little factoids and little isolated bits that were drawn out to present the starkest possible case.

We also know that Deputy Secretary Armitage didn't trust Mr. Bolton's judgments when it came to making public speeches. We have heard this from others, such as GEORGE VOINOVICH, as well as CARL LEVIN, as well as BARBARA BOXER and others, who have spoken on this matter.

Mr. Wilkerson, Secretary Powell's chief of staff, told the committee:

> There were problems on a number of occasions with Under Secretary Bolton's proposed remarks. . . . The Deputy, Mr. Armitage, made a decision and communicated that decision to me, that John Bolton would not give any testimony, nor would he give any speech, that wasn't cleared first by Rich Armitage.

With all of the other duties Deputy Secretary Armitage had in managing the Department in Secretary Powell's absence, he also felt he had to babysit Mr. Bolton because the normal clearance procedures established by the Department didn't work with Mr. Bolton. Yet, this body is now being asked to vote to send Mr. Bolton to New York, where he will be unsupervised on a daily basis. Lord only knows the kind of problems that can ensue with Mr. Bolton, given his past performance.

Individuals under Bolton's direct line of authority also took issue with the rigidity of his views. John Wolf, former Assistant Secretary of State for Nonproliferation and a career diplomat, told committee staff that Mr. Bolton "tended to hold onto his own views strongly and . . . he tended not to be enthusiastic about alternative views. And he did not encourage us to provide our views to the Secretary."

Again, I am not arguing about someone's style here. But when you have 125 employees at the U.N. and the only things you want to hear are the things you agree with, that is a management style that is dangerous for a person who is going to work with all of the nations we have to build relationships with in the U.N. We all do this as Senators. We know when a staff member gets up and wants to tell us an alternative view, it is uncomfortable. We would like them to agree with us. We also know how vitally important it is as Senators that people in our offices who have the willingness to stand up and know when they do, they are not going to be threatened with their jobs, or considered for removal because they are telling us something we don't want to hear. We understand the value of that. Mr. Bolton doesn't. That is dangerous.

Mr. Wolf said:

> Some of the officers within the nonproliferation bureau complained that they felt undue pressure to conform to the views of the Under Secretary, versus the views that they thought they could support.

That is a dangerous statement, that we have somebody who is about to take on a position who would make others feel they were unfit or are being pressured to conform their views.

All of these matters I have just mentioned cause me grave concern about this nomination. But what troubled me the most were the devastating comments made by Secretary Powell's chief of staff, Mr. Wilkerson, an individual who on a day-to-day basis was in a position to know what was going on in the Department and what foreign policy challenges the Secretary of State was attempting to manage.

This is what he has to say about Mr. Bolton's single-minded preoccupation with sanctioning every Chinese entity he could find which might have violated nonproliferation standards:

> Are we actually stopping China's proliferation through sanctions that was dangerous to our interests? Or are we doing it, and ignoring problems that cry out for cures, diplomatic? The one time I had a conversation with John about this, I asked him, "How do you go beyond sanctions, John? War?" Mr. Bolton replied, "It is not my business."

Mr. Wilkerson also explained to our committee staff why he believes Mr. Bolton is ill suited for the U.N. position. I am quoting Mr. Wilkerson, Secretary Powell's chief of staff. This is not some liberal left-leaning Senator or Congressman or columnist talking about Mr. Bolton. This is the former chief of staff of a Republican Secretary of State under George Bush—this President's administration:

> One, I think he's a lousy leader. And there are 100 to 150 people up there at the United Nations that have to be led; they have to be led well, and they have to be led properly. And I think, in that capacity, if he goes up there—

Speaking about Mr. Bolton—

> you'll see the proof of the pudding in a year.
>
> Second, I differ with a lot of people in Washington, as to his brilliance. I didn't see it. I saw a man who counted beans . . . had no willingness—and in many cases no capacity to understand other things that were happening around those beans. And that is just a recipe for problems at the United Nations.

These are very serious conclusions from an individual who was a loyal and trusted member of Secretary Powell's team, and they go to the heart of whether Mr. Bolton has the capacity to carry out his duties at the United Nations. This is not about whether we like the nominee's views on the United Nations, arms control, or Cuba. He is entitled to his personal views about any of those matters, and he should not be disqualified from any office because he has them. But for the interests of the United States to be served at the United Nations, there has to be a balance between ideology and pragmatism.

The individual on the spot in New York will be called upon, from time to time, to strike that balance. He also must have the credibility to make the best case for the United States before that international body. These things are at the heart of effective diplomacy.

Ambassador Negroponte was able to strike that balance between ideology and pragmatism and have the credibility to make the case of the United States before the U. N. Security Council. Senator John Danforth, a former colleague, was able to do so as well.

Based on what we have learned about Mr. Bolton in recent days, I seriously doubt he is willing or able to strike that balance, and I now know, given his penchant for stretching intelligence and pressuring analysts, that his credibility will be challenged by other U.N. members.

Our colleagues brush aside this problem by saying Mr. Bolton will be getting his instructions from Secretary Rice. Mr. President, that is just not realistic at all. Much of the guidance that is developed for our U.N. ambassadors is developed cooperatively between Washington and New York. What gets said at the United Nations by a representative is, in large measure, shaped by our reporting from our mission in New York. I feel Mr. Bolton will be incapable of making the kind of judgments that move the diplomatic process forward.

We all know these are difficult times. Our responsibilities in Iraq and Afghanistan are significant and costly. Other challenges to international peace and stability loom large on the horizon—Iran, North Korea, the Middle East. The humanitarian crises in Africa and Asia cry out for attention. The United States cannot solve these problems all by ourselves. We know that. We need tremendous international assistance and cooperation to address them, and the logical focal point for addressing that international support is the United Nations. It makes sense.

But international support will not be automatically forthcoming and will require, as we all know, U.S. leadership at the U.N. to build the case for such cooperation. That U.S. leadership must necessarily be embodied in the individual who serves as our ambassador to the United Nations is obvious.

Based on what I know today about Mr. Bolton, I believe he is incapable of demonstrating that kind of leadership. The ambassador to the United Nations is a very important position. The individual who assumes that position is necessarily the face of our country before the world.

For all the reasons I have cited—Mr. Bolton's management style, his attack on the intelligence community, his tunnel vision, his lack of diplomatic temperament—I do not believe he is our man to be the face at the United Nations.

But of all those reasons, I come back to the one I made at the outset. It is not about style, it is not about reform at the United Nations, it is not about Mr. Bolton's views on a variety of subject matters. Our colleagues have to make a decision. We now know, categorically, without any question whatsoever, that this nominee tried to fire intelligence analysts at the Central Intelligence Agency and the Department of State. That evidence comes from his own colleagues, from people with whom he has served, not from outside groups or members of this body.

The decision for our colleagues today is whether or not we promote someone who has done that and what message it sends to the analyst community, what message it sends to our allies, and what message it sends to our adversaries, for that matter, around the globe. That this individual who engaged in such reprehensible behavior, in my view, should be given the position of U.N. ambassador to represent the United States at this critical hour, I think is a massive mistake.

Again, I am still hopeful that in the remaining hours of this debate, the administration will see fit to provide the additional information for which we have asked for almost 2 months. I regret deeply having to ask my colleagues to vote on a cloture motion. I have said, if cloture is invoked, we will vote immediately on Mr. Bolton. If it is not invoked, it will layover, and we will continue to try to get the information.

I have no desire to filibuster this nomination. I do have a desire to see the Senate stand up for its rights when it seeks information—information the nominee had access to but the chairmen and ranking members of the Intelligence Committee and Foreign Relations Committee were denied. That is a precedent we need not make with this decision.

My hope is our colleagues will support the opposition on the cloture motion and, if we get a vote on Mr. Bolton today, we reject this nominee. There are many qualified, blunt, forceful people who can assume this job who embrace the President's view on foreign policy and who will do a very good job at the United Nations. John Bolton is not that individual.

Mr. President, I yield the floor.

Mr. SARBANES. Will the Senator yield for a question?

Mr. DODD. I will be happy to yield.

Mr. SARBANES. Mr. President, I commend the very able Senator from Connecticut both for his statement and for the letter that he and the ranking member of the committee, Senator BIDEN, sent to a number of us about the necessity of trying to get these materials which we have sought.

Clearly the Congress needs this information in order to do its job. The position of the Senator from Connecticut on the cloture motion, as I understand it, is that we ought not to invoke cloture and move to a vote on Bolton until the material is provided. If the material is made available and we are in a position to make judgments, then I take it we can move forward in the normal course of the debate toward a final vote on Bolton's nomination: is that correct?

Mr. DODD. Mr. President, in response to my friend and colleague from Maryland, that is exactly the point.

Mr. SARBANES. That strikes me as an eminently reasonable position. It needs to be made clear that there is material the executive branch is refusing to make available to the Senate, and which we need in order to be adequately informed in carrying out our responsibilities of advising and consenting on this nomination.

Mr. DODD. Mr. President, if I may respond to my colleague from Maryland, I was going to recite to him—because I think some of my colleagues may think this Senator from Connecticut has raised this issue in the last 24 hours as a delaying tactic—I want to point out to my colleagues the chronology which begins actually on April 11—approaching 2 months ago. Then there were subsequent requests on April 14, April 22, April 29, May 4, May 18, as well as even as late, as of course, we all know, yesterday.

I want to make it clear that from very early on, we tried to get this information. I emphasize, again, these are names Mr. Bolton has seen, his staff has seen, and we are not asking every Member see, only the ranking members and the chairmen of the Intelligence Committee and the Foreign Relations Committee, to let them know whether or not the names coincide with the names of people we have run across in our examination of Mr. Bolton to be a nominee to the U.N.

The chairman of the Intelligence Committee will tell you they had an interview with General Hayden and he showed them some documents. But in his letter to our colleagues last evening, the chairman of the Intelligence Committee very honestly pointed out that the names of the 19 individuals in the 10 intercepts he sought are redacted. The only pertinent information is those names and the motivation Mr. Bolton had in seeking that information.

The heart of the request—even the Intelligence Committee chairman cannot see it. Yet Mr. Bolton could see it, his staff could see it. But the chairman of the Senate Intelligence Committee is not allowed to see it. Every Senator ought to be outraged about that. If we let them get away with it here, they will get away with it every single day hereafter. Either we stand up for our rights as a Senate, as a coequal branch of Government, or we do not.

Mr. SARBANES. Will the Senator from Connecticut yield?

Mr. DODD. Yes, I yield.

Mr. SARBANES. It is not every single day hereafter for this administration; it becomes a precedent for every administration. And I suggest to all Members of the Senate that they may find themselves, down the road at some point, seeking information they think is relevant and having it denied to them by the executive branch, citing the refusal to provide the information in the Bolton case as a precedent for the action they are taking.

Mr. DODD. Again, the Senator from Maryland is absolutely correct. These issues come back and come around and the word spreads: You can get away with this. It is not just this administration. The Senator is correct. Future administrations will use this as an example of why they do not have to comply with the request because previous Congresses allowed this information to be kept secret when Senate committees were seeking it.

Mr. President, may I inquire how much time I have remaining?

The PRESIDING OFFICER (Mr. GRAHAM). The Senator has 19 minutes.

Mr. DODD. I ask unanimous consent that the remaining time I have be divided between the Senator from Maryland and the Senator from Massachusetts. The Senator from Rhode Island, Mr. REED, also asked for time. I had 60 minutes, and want to give up some time.

Mr. MARTINEZ. If I can make an inquiry.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. My understanding is the Senator from Arizona was going to be recognized during this timeframe for his remarks.

Mr. DODD. I have a little less than 20 minutes remaining. What I want to do is give the 20 minutes I have left to my colleagues to use. Mr. President, I make that request, that the time remaining be divided between the Senator from Maryland and the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered. The remaining time is divided between the Senator from Maryland and the Senator from Massachusetts.

Mr. DODD. And Senator REED from Rhode Island also seeks some of that time. Just Senator REED and Senator KENNEDY. The Senator from Maryland has time.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maryland.

Mr. SARBANES. Mr. President, first, I commend the very able Senator from Connecticut not only for his statement on the floor, but the very reasoned and judicious way he has proceeded in considering this nomination.

I join with those who think the refusal to provide the information constitutes a sufficient basis not to invoke cloture while we continue to press the administration to provide the information the Senate needs in order to do its job.

I spoke yesterday with the distinguished Ranking Member of the committee, Senator BIDEN, on the floor about this issue, and I have done so again here today with my friend, the Senator from Connecticut. I strongly urge my colleagues to take that position because it is a very important question of the role the Senate should play, and whether we really are an independent branch of the Government that will act to carry out our responsibilities.

Let me now address the substance of the Bolton nomination. In the 60 years since the founding of the United Nations, a number of extraordinarily distinguished men and women have been chosen to represent us in that body as the U.S. ambassador: Warren Austin, Henry Cabot Lodge, Jr., James Wadsworth, Adlai Stevenson, Arthur Goldberg, George W. Ball, James Russell Wiggins, Charles Yost, George Bush, John Scali, Daniel P. Moynihan, William Scranton, Andrew Young, Donald McHenry, Jeane Kirkpatrick, Vernon Walters, Thomas Pickering, Edward Joseph Perkins, Madeleine Albright, Bill Richardson, Richard Holbrooke, John Negroponte, and John Danforth.

The fact that at least 17 of them, spanning 8 administrations—Republican and Democratic—have been elevated to serve on the President's Cabinet demonstrates the critical importance in which this position historically has been held.

The fact that we proudly remember so many of these names, after the passage of a number of years, underscores both the visibility of the U.N. ambassador and the statesmanship that the position requires. On a daily basis, our ambassador to the U.N. speaks to the entire world on behalf of the United States.

The comments our ambassador makes and the relationships he or she cultivates make the difference between a United States that is respected as a leader in the world, setting an example of American values and principles, and a United States that is ignored and misunderstood.

In today's world, this difference affects the lives of millions at home and abroad. The United Nations is not a tool to be used "when it suits our interest and when we can get others to go along," as Mr. Bolton has suggested but is, rather, an essential and ongoing forum for the advancement of U.S. foreign policy and the protection of U.S. national security interests.

The U.N. makes decisions that affect war and peace. It helps to determine whether the United States will have international support and allies or will be forced to undertake difficult missions on its own in the face of broad opposition across the globe. Skillful work at the U.N. enables us to have burden sharing, both in terms of the commitment of human resources and the commitment of financial sources.

The United Nations offers us an opportunity to make our case to the world, to demonstrate international leadership, and to build multilateral cooperation. As Secretary General Annan commented in a recent speech, the U.N. "is not just a building in Manhattan, or a piece of international machinery. It embodies a conviction on the part of people everywhere that we live on a small planet, and that our safety, our prosperity, our rights—indeed, our freedoms—are indivisible." For this reason, our representatives at the United Nations must be men and women of exceptional wisdom and credibility, who can listen and persuade, whose counsel and leadership other nations will seek and rely upon.

Despite the need for a U.N. ambassador who recognizes and can make the most of the U.N.'s potential and promise, we have before us now a nominee to be our ambassador to the U.N., who over a number of years has demonstrated outright hostility toward the United Nations as an institution and toward the fundamental legitimacy of international law. Mr. Bolton has argued repeatedly that the United States has no legal obligation to pay its dues to the United Nations and that treaties are nothing more than "political commitments".

He called the Law of the Sea Treaty, which has been endorsed by our military and submitted by President Bush as an urgent priority for Senate advice and consent, "an illegitimate method of forcing fundamental policy changes on the United States outside the customary political process." He is quoted as saying:

> It is a big mistake for us to grant any validity to international law even when it may seem in our short term interest to do so—because, over the long-term, the goal of those who think that international law really means anything are those who want to constrict the United States.

To send someone as our ambassador to the United Nations who does not demonstrate a basic respect for the institution and its legal foundations is a disservice to our national interests. This has nothing to do with whether reforms are needed at the U.N. or whether we should more closely monitor its activities. Many of us are committed to doing both of those things. It is a very basic question of one's mindset about the United States, about the United Nations and about international law. If other nations believe that the U.S. is not out to reform the United Nations but to undercut it, then they are likely not to be receptive to any of our criticisms or recommendations.

Secondly, it is clear that Mr. Bolton does not have the diplomatic skills or, indeed, the demeanor to represent our country effectively at the U.N. There are certainly moments when the situation may call for bluntness, when abandoning diplomatic niceties can convey the urgency of a particular issue or position. However, Mr. Bolton has shown a propensity for making extreme and provocative statements that have caused unnecessary conflict and confrontation. It is not an occasional outburst that might, on occasion, be justified by the situation but, regrettably, a routine way of doing business.

Does it help us in trying to shape the direction in which the U.N. is to move when Mr. Bolton says that the Security Council should have one permanent member, the United States, "because that is the real reflection of the distribution of power in the world"?

Does anyone think that Mr. Bolton's assertion that "if the U.N. Secretariat building in New York lost 10 stories, it wouldn't make a bit of difference" will help us in persuading other countries to support U.N. reform efforts?

These are not isolated misstatements or slips of the tongue but, rather, his customary and consistent approach to dealing with others who disagree with him. Even given the opportunity to demonstrate a less confrontational approach, he has repeatedly declined to do so. Mr. Bolton, time and again, has shown himself singularly lacking in the willingness to hear, to consider, and to respect opposing points of view.

Contrast that attitude with these comments made by Ambassador Moynihan and Ambassador Kirkpatrick when they were nominated for this position. Ambassador Moynihan, in his confirmation hearing before the committee, said:

> A certain principled statement of views on both sides can be useful: it requires that we respect what others think and try to understand what they think and ask that they do the same in return. . . . Things where we disagree are marginal compared with where we do agree. And yet it is so easy to grow estranged at the first problem, the first question is how to get away from a confrontation

> system back to the quest for understanding and agreement in a situation where this is wholly possible and entirely necessary.

Similarly, Ambassador Kirkpatrick, in her confirmation hearing before the committee, said:

> I do not think that one should ever seek confrontation. What I have every intention and hope of doing is to operate in a low key, quiet, persuasive and consensus-building way.

This nomination came out of the committee without recommendation. There was a 9-to-9 divided vote. By contrast, all of the previous nominees to be U.N. ambassador were brought to the floor by very strong committee votes and approved on the floor by very strong votes—most of them unanimous, none of them really close.

In addition to Mr. Bolton's extreme policy views and his confrontational demeanor, there is the issue of his professional conduct. There is ample evidence that he has attempted to politicize intelligence in a way that I believe has harmed our Nation's diplomacy.

Mr. Bolton sought the transfer of two intelligence analysts with whom he disagreed on substantive matters. He repeatedly attempted to stretch the facts to back his own ideological predisposition. He created such a climate of intimidation in the State Department that the Secretary of State found it necessary to set up a special meeting with the Intelligence and Research Bureau in order to directly reassure the analysts.

To make matters worse, Mr. Bolton told the committee that he had not tried to have analysts punished or disciplined, and he denied that he sought retribution against them. He said, "I shrugged my shoulders, and I moved on," when his attempts to have them reassigned were rebuffed.

And yet we have learned from extensive interviews with numerous administration officials that he did try to have the analysts removed from their positions, that he did seek to punish people for disagreeing with him, and he did persist in his efforts for many months after, as he says, he shrugged his shoulders and moved on.

That he was ultimately unsuccessful in his efforts does not speak for Mr. Bolton. What it speaks to is the steadiness and determination of those professionals who withstood his demands, who refused to bend to the inordinate pressure he was applying.

Given this conduct, when he goes before the United Nations to make a statement about evidence of nuclear weapons production or a terrorist plot or whatever it may be, what credibility will he have, knowing that he sought repeatedly to punish intelligence analysts who delivered contradictory information; knowing that he is sort of a man who, as Robert Hutchings, the former chairman of the National Intelligence Council, put it, "took isolated facts and made much of them to build a case than I thought the intelligence warranted. It was a sort of cherry picking of little factoids and little isolated bits were drawn out to present the starkest possible case"?

We need a credible spokesman at the United Nations, and Mr. Bolton's conduct casts serious doubt on his ability to be one.

Moreover, Mr. Bolton's poor administrative and management skills, in my view, raise serious questions as to whether he can exercise a senior leadership role. The testimony of Carl Ford, Assistant Secretary of State for Intelligence and Research, was especially powerful on this point. Mr. Ford told the committee:

> In my experience, throughout my time in the executive branch, I've really never seen someone so abusive to such a subordinate person.

He said he could think of no one else who comes even close to John Bolton in terms of the way that he abuses his power and authority with "little" people.

Secretary Powell's Chief of Staff, Larry Wilkerson, described to the committee staff the kinds of problems he had on a daily basis in dealing with Bolton.

> Assistant secretaries, principal deputy assistant secretaries, acting assistant secretaries coming into my office and telling me, "Can I sit down?"
>
> "Sure, sit down. What's the problem?"
>
> "I've got to leave."
>
> "What's the problem?"
>
> "Bolton."

When asked if he got similar complaints about other Under Secretaries, he replied:

> On one occasion, on one particular individual. The rest were all about Undersecretary Bolton.

In summarizing this experience Wilkerson stated, "I think he's a lousy leader. And there are 100 to 150 people up there"—meaning at the U.S. mission to the U.N.—"that have to be led. They have to be led well, and they have to be led properly."

Being ambassador to the United Nations is not just a representational job; it is also a management job. There are 125 full-time, permanent State Department employees working there at our mission alongside numerous detailees from other agencies and departments. The ambassador has supervisory responsibility over all these people. Most are career civil servants, and they are there to represent the policies of the President and to serve the interests of the Nation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. I ask unanimous consent to proceed for 2 minutes to conclude the statement.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. What are they going to do up there in New York if John Bolton repeats the kind of abusive behavior that led people in the State Department, under incredible pressure, to seek the support and counsel of their assistant secretaries? There will be no one in New York to shield them from the wrath and vindictiveness of John Bolton.

Mr. President, unfortunately, it seems to have become, for some, a favorite pastime to assault the United Nations. They blame it for failing to resolve many of the problems that have occurred in the world. But I think we have to acknowledge that the U.N. has a role to play in preventing conflict and promoting cooperation. Skillful U.S. leadership at the United Nations can enhance our national interest in a very significant way, and part of that skilled leadership is to send an ambassador who has credibility and the wisdom necessary to carry out his responsibilities.

This nominee falls far short of that standard. Mr. President, 102 retired diplomats have taken the extraordinary step of sending a letter urging the Senate to reject the nomination.

Finally, let me say just this word about the witnesses who came forward to the committee to testify about Mr. Bolton's past conduct. These people, in effect, volunteered themselves to give what they thought would be an accurate view of Mr. Bolton's behavior. It took a lot of courage for people like Mr. Ford, Mr. Wilkerson, Mr. Hutchings, Ambassador Hubbard, and others to come forward. I am very concerned they may pay a price for this brave action, and I very deeply regret if this should turn out to be the case. I think their motive in coming forward was to promote the national interests of our country. In that sense, I think they are true patriots. They have nothing to gain by opposing the nomination.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. In fact, they have much to lose.

Mr. President, this nomination ought to be defeated. I urge my colleagues to join me in opposing it. We can do better, and, for the sake of our country, we must do better.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to ask if we could get a unanimous consent request here. The Senator from Arizona, my colleague from Arizona, I believe is next. How long does he wish?

Mr. KYL. I would like to speak for 10 minutes.

Mr. McCAIN. The Senator from Massachusetts?

Mr. KENNEDY. Nine minutes.

Mr. McCAIN. I ask unanimous consent that the Senator from Arizona be recognized for 10 minutes, the Senator from Massachusetts for 10 minutes, and me for 10 minutes following that.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, may I ask that Senator OBAMA be recognized subsequent to that?

Mr. MCCAIN. Fine.

The PRESIDING OFFICER. Is there objection?

Mr. MARTINEZ. Mr. President. I would like to be recognized as well in the ensuing sequence. My understanding is it has been going back and forth between the sides. The Senator from Connecticut spoke, and then the Senator from Maryland spoke. That caused us to have a little bit of a scheduling issue, so I would like to continue on that schedule and then allow myself to be recognized.

Mr. MCCAIN. I ask that the Senator from Florida be recognized following Senator OBAMA.

The PRESIDING OFFICER. The request before the Chair is Senator KYL for 10 minutes, Senator KENNEDY for 10 minutes. Senator MCCAIN for 10 minutes, Senator OBAMA for 15 minutes, and the Senator from Florida for 15 minutes.

Is there any objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Florida is recognized.

SURFACE TRANSPORTATION EXTENSION ACT OF 2005

Mr. MARTINEZ. Mr. President. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2566, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 2566) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Mr. MARTINEZ. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2566) was read the third time and passed.

NOMINATION OF JOHN ROBERT BOLTON TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS—Continued

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. KYL. Mr. President. I rise in very strong support of John Bolton to be our next ambassador to the United Nations. I have known Mr. Bolton for a long time. He is a great individual, a great representative of the United States, and, most importantly, the person the President wants to represent the United States at the United Nations. It is the responsibility of the Senate to act on his nomination because the President has requested us to do so.

Mr. Bolton has successfully championed a number of multilateral initiatives during the time he has been working for the Bush administration. He is committed to the success of the United Nations and sees it as an important component of our diplomacy and is a strong voice for U.N. reform.

I am concerned that a lot of debate has shifted to matters that have nothing to do with his qualifications and some of which attempt to assassinate his character. There is no question he is qualified for the job. In fact, Mr. Bolton has been confirmed by this body on four separate occasions previously. Most of the Members objecting to him now have voted for him in the past. They did so based upon his substantive views, not any allegations about his conduct.

A lot of it has to do with the fact that there is opposition to President Bush's policy in different regards, and Mr. Bolton's nomination is a surrogate, in effect, for a debate about that policy. We can have a debate about the President's foreign policy, but we should not hold up the nomination of a man with the qualifications of John Bolton for a position we need to fill in the process of having that debate.

Moreover, I am concerned about some of the charges that have been made about him. One of the allegations—the Senator from Connecticut was speaking about this—has to do with some requests Mr. Bolton made which have been examined by the Intelligence Committee. Mr. Bolton's job at the State Department is to deal with this kind of information, and what the Intelligence Committee did in response to the request of the chairman of the Foreign Relations Committee was to look into the matter. Here is the response, on May 25, just quoting two paragraphs from the letter of the chairman of the Senate Intelligence Committee. He said:

> After completing an examination of these issues I found no evidence that there was anything improper about any aspect of Mr. Bolton's requests for minimized identities of U.S. persons. I further found no violation of procedures, directives, regulations or law by Mr. Bolton. Moreover, I am not aware that anyone involved in handling these requests had any concerns regarding these requests at any point in the process.

The chairman of the Intelligence Committee also said:

> Committee staff interviewed INR analysts and NSA officials responsible for processing requests for the identities of U.S. persons contained in signals intelligence products. None of the individuals interviewed indicated there was anything improper or inappropriate about Mr. Bolton's requests. We also were briefed by General Michael Hayden, former Director of the NSA and the current Principal Deputy Director of National Intelligence. He also stated that Under Secretary Bolton's requests were not only appropriate, but routine. In fact, INR records indicate that since May 2001, INR submitted 489 other requests for minimized identities.

Ten, by the way, had been requested by Mr. Bolton.

So what Mr. Bolton did was routine and proper. There was nothing improper about it. As the chairman of the committee noted, they found absolutely nothing that would suggest anything improper in Mr. Bolton's activities. This is all a smokescreen. There is nothing there.

The last point on this matter had to do with the fact that the Senate, it is alleged, should have access to all of these names. This has nothing to do with Mr. Bolton's qualifications to be the U.S. Representative at the United Nations. But there is some feeling that until Senators have access to these names, we should not act on the Bolton nomination.

Talk about a non sequitur, the Senate routinely does not have access to these names. They are highly classified. They get into the sources and methods of our intelligence. It is appropriate for certain people in the administration to gain access to the names, which is why, as is noted, there were 489 requests for those names by people within the administration—10 of which came from Mr. Bolton. There was nothing wrong with that.

As to whether Senators want access to these names, if that is something we need to take up with the intelligence community, the Intelligence Committee is entirely capable of doing that, but it has nothing to do with Mr. Bolton's qualifications to serve and our need to act on his nomination.

I suggest we cut through all of this smokescreen and get to the question of whether John Bolton is qualified to serve in the position the President would like to have him serve. That is the real question.

Let me note a couple of other things I am aware of that he has done in his position of Under Secretary of State for Arms Control and International Security.

Probably the most significant and, frankly, one of the most significant achievements of the State Department itself in the last 4 years was John Bolton's initiative to develop the President's Proliferation Initiative. Over 60 countries are now participating in that initiative, and it is, frankly, one of the key reasons we disarmed Libya with its nuclear program.

John Bolton has played a key role in the implementation—creation and implementation—of the G-8 Global Partnership Against the Proliferation of

WMD and WMD Materials. Under that program, we have doubled the size of the nonproliferation effort in the former Soviet Union by committing our G–8 partners to match our dollars with programs under the so-called Nunn-Lugar CTR effort.

He was instrumental in concluding U.N. Security Council Resolution 1540, which for the first time identifies proliferation of weapons of mass destruction as a threat to international peace and security—a resolution, by the way, that was adopted unanimously.

He has been a big advocate of U.N. reform. For example, while serving as Assistant Secretary of State for International Organizations, he detailed his concept of a "Unitary U.N." that sought to ensure management and budget reforms across the U.N. system, and that is something that is sorely needed. Almost everybody acknowledges that the U.N. needs this kind of reform today.

John Bolton is the guy who has worked tirelessly on this effort, including, by the way, the payment of arrearages in U.N. assessments that were created during the 1980s. In that same capacity, he led the effort to repeal perhaps the most heinous resolution in U.N. history, the resolution equating Zionism with racism. He also served as a member of the Commission on Religious Freedom.

He has been there. He has fought on behalf of the United States. He has been an effective diplomat. Yes, he is a tough guy. People have noted that. Do we want a weak Representative at the United Nations? Especially today? I don't think so. President Bush is the person who has talked to all of these diplomats and Presidents and representatives of countries around the world. He has a good feel of what it takes at the United Nations now. None of us has the President's experience in knowing all these world leaders. The President has thought about this and said, knowing all these people, the way they act, how we use diplomacy at United Nations: I think the best guy to represent the United States at this point in time is my man John Bolton. He is the man I want to send there.

We ought to acknowledge that the President knows a little bit about foreign policy and foreign affairs, having worked with all these people, and probably has a pretty good idea of what it takes to get our country's interests represented well at the United Nations. John Bolton is the man he wants us to confirm in that position.

There are a variety of other things Mr. Bolton has worked on with respect to U.N. reform and efforts to reform the International Atomic Energy Agency and a variety of other items.

I will conclude by noting that we all appreciate the fact that the United Nations needs reform, and John Bolton is a person who can accomplish that reform. He has accomplished a great deal in the matter that is primarily of importance to us these days—the proliferation of weapons of mass destruction and the war on terror. I believe all the charges made against him have been answered, of course—they have been answered in spades—but we ought to move beyond all that smokescreen and get back to the central point, which is John Bolton is the man the President wants at the United Nations, he has been confirmed by this body four times before, there is no question about his qualifications and his desire, and the Senate needs to uphold the great tradition of this body by acting on—debating, certainly, but acting on the President's nominees and confirming John Bolton by 7 o'clock tonight.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, would the Chair remind me when I have 2 minutes left, please.

The PRESIDING OFFICER. Yes.

Mr. KENNEDY. Mr. President, it is premature for this nomination even to be brought up before the Senate until we have the opportunity to see all the obviously relevant information on Mr. Bolton's record.

I want to congratulate our friends and colleagues, Senator BIDEN, Senator DODD, Senator KERRY, Senator SARBANES, and the other members of the committee, for the outstanding job they have done on this nomination.

The obvious conclusion from the administration's stonewalling is that the documents being withheld from the Senate contain nothing to support the nomination and will only make it even clearer that Mr. Bolton is the wrong choice for this extremely important position.

The United Nations is the world's preeminent diplomatic body. We need a representative there who is a strong and effective leader, who believes in diplomacy, and who has a proven record of using diplomacy to advance America's foreign policy and national security objectives.

Now more than ever, America needs to put our best face forward to the international community. We can—and should—do far better than John Bolton.

Jeane Kirkpatrick, who served as the U.S. ambassador to the United Nations under President Reagan, has spoken of the need to approach the job of U.N. ambassador in a "low key, quiet, persuasive and consensus-building way." As she says:

> John Bolton may do diplomatic jobs for the U.S. government, but John is not a diplomat.

In fact, John Bolton is more a bully than a diplomat. His confirmation hearings suggest that on many occasions he twisted the intelligence to fit his views and wrongly pressured analysts to produce intelligence conclusions at odds with the facts. He continually sought to exaggerate the intelligence about Cuba's possible biological weapons activities and support for terrorism. He continually sought to exaggerate Syria's nuclear activities beyond what the intelligence analysts regarded as accurate. Rather than accept the analysis produced by the intelligence community, Mr. Bolton insisted on advancing his own views and retaliated against those who disagreed with him. He should be held accountable for this behavior, not rewarded and promoted.

The lessons of the Iraq war are abundantly clear. We need to make decisions based on facts and sound analysis of intelligence.

We need to encourage intelligence analysts to "speak truth to power" when intelligence is in danger of being distorted, manipulated, or misrepresented. We can't demand the results we want and try to fire people who refuse to go along. But that's precisely what Mr. Bolton repeatedly tried to do.

He tried to fire Christian Westermann a State Department intelligence analyst in the Bureau of Intelligence and Research, who disputed the misleading language that Bolton tried to use about Cuba and biological weapons.

In another incident, the National Intelligence Officer for Latin America had said that a speech by Mr. Bolton on Cuba did not accurately reflect the assessment of the intelligence community. So what did John Bolton do? He personally went to the CIA to try to have him fired.

Mr. Bolton's contempt for anyone with opposing views was not limited to intelligence officers who disagreed with him.

When two State Department officers in the nonproliferation Bureau disagreed over policy, he sought their removal.

He accused Rexon Ryu, a career civil servant, of intentionally withholding a cable on the U.N. inspection process in Iraq from his office. Nine months later, John Bolton denied Mr. Ryu a significant new assignment as the point person for the Nonproliferation Bureau for the upcoming G–8 summit.

In the case of a State Department lawyer, Mr. Bolton tried to remove him from a legal case on China sanctions, based on a misunderstanding of a position the lawyer had taken.

These are not isolated incidents of disgruntled employees. They represent a clear and troubling pattern of a bully who repeatedly tried to silence opposition by attempting to intimidate analysts and subordinates into conforming to his views.

Sadly, his view is not one that envisions a great and important role for the United Nations. On the contrary, Mr. Bolton has shown nothing but disdain for the United Nations. He has continued to articulate a vision of a go-it-alone foreign policy.

Speaking to the World Federalist Association in February 2004, he said:

> There is no such thing as the United Nations. . . There is an international community, that occasionally can be led by the only real power left in the world and that is the United States, when it suits our interest and when we can get others to go along.

He said:

> The Secretariat building in New York has 38 stories. If you lost 10 stories today, it wouldn't make a bit of difference.

These are not the views of a person who is supposed to represent America's diplomatic interests in the international community. These are not the views of an individual who, as the Administration argues, is well suited to reform the United Nations.

These views are likely to make Mr. Bolton less effective, not more effective, pursuing our interests at the United Nations. We can't expect the support of other nations on issues that matter to the United States, if we show nothing but contempt for other nations.

In fact, on one highly important issue where diplomacy is desperately needed—North Korea—Mr. Bolton has been consistently wrong.

The nuclear threat from North Korea continues to grow. North Korea is already the greatest proliferator of ballistic missiles. Desperate, and strapped for cash, the threat is very real that North Korea could be a source of nuclear material for Al Qaeda terrorists.

We agreed to the Six-Party Talks, but have not effectively engaged the North Koreans. At Mr. Bolton's urging, our policy's been AWOL so far.

The results may be deadly. When President Bush came to office, North Korea's plutonium program was inactive. Its nuclear rods were under seal.

Then the President called North Korea part of his Axis of Evil. As we prepared for war with Iraq over nuclar weapons that did not exist, we learned that North Korea had begun a secret uranium enrichment program. When we confronted North Korea, but then refused to negotiate with it, North Korea expelled the international inspectors and began producing plutonium for nuclear weapons. On the eve of war with Iraq, North Korea pulled out of the Nuclear Nonproliferation Treaty.

At the beginning of the Bush administration, North Korea was already thought to have two nuclear weapons. They are now believed to have up to eight such weapons—and possible more—and they may well be preparing for a nuclear test.

One of our worst national nightmares is nuclear material or even nuclear weapons in the hands of al Qaeda, with North Korea as their supplier.

The person guiding President Bush's policy on North Korea was John Bolton. His policy's been a failure, yet the administration now wants to promote him to be our Ambassador to the U.N.

Mr. Bolton was not able to advance effective diplomacy as Under Secretary for Arms Control and International Security Affairs, and there is no reason to believe he can advance America's interests at the U.N.

The challenges facing America are serious—terrorism, war, ethnic conflict, ancient and modern rivalries, disease and poverty, human rights—all these are still the pressing daily realities—for peoples throughout the world.

The need for a strong United Nations as an effective international organization and a strong U.S. Ambassador to advance our interests is clear and compelling.

As Franklin Roosevelt said about America in 1945:

> We have learned that we cannot live alone, at peace; that our own well-being is dependent on the well-being of nations far away . . . . We have learned to be citizens of the world, members of the human community. It is not a Republican or Democratic or American community. It is a world community.

In the age of instant global communication, trade zones that span hemispheres, transnational criminal gangs, international terrorism, and the prospect of nuclear devastation—the need of nations to work together is greater than ever. The challenges we face today are too complex, too immense, and too pervasive for the United States or any nation to face alone.

The United Nations is the one and only organization through which the nations of the world can link their unique strengths in a realistic hope of building a peaceful future for all humanity.

We need a representative at the United Nations who supports that vision and is committed to that future for us all. John Bolton is not the person for that job, and I urge my colleagues to vote against him.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I rise to speak again in support of John Bolton's confirmation as U.S. ambassador to the United Nations. When I spoke in April in favor of Mr. Bolton, I highlighted a number of his qualities, including that he is smart, experienced, hard working, talented, and he knows the United Nations. In view of these and other impressive qualifications, the Senate has confirmed him four times in the past.

It is worth repeating several times: The Senate has done its work and confirmed him four times in the past.

In his current job as Under Secretary of State for Arms Control and International Security, he has compiled a record of accomplishment. For example, next week marks the second anniversary of the Proliferation Security Initiative, a multilateral effort to stop trafficking of weapons of mass destruction and their components. John Bolton spearheaded this program since its inception, and today more than 60 countries support it. This success alone should disprove the argument that Mr. Bolton is somehow an arch unilateralist, bent on subverting collective international action.

The PSI is not his only multilateral success. He has also helped to construct the G–8's global partnership to secure dangerous technologies and materials. He led the negotiations leading to the Treaty of Moscow which dramatically reduced the size of deployed nuclear arsenals in the United States and Russia, and in his previous post as Assistant Secretary for International Organizations he led the successful drive to repeal the U.N. resolution equating Zionism with racism.

A lot has been made in recent weeks about Mr. Bolton's personal disposition in dealing with colleagues. Let's be frank: He is not a career diplomat either by profession or temperament, but then, the role of ambassador to the U.N. has always required something special. A look back at some of the personalities who have held this job—from Adlai Stevenson to Daniel Patrick Moynihan, from Jeane Kirkpatrick to Richard Holbrooke—shows that directness and forcefulness are assets, not hindrances, to effectiveness at the U.N.

We all know Mr. Bolton is perhaps not the world's most beloved manager nor one to keep his temper entirely under wraps. Perhaps I have a certain bias in that direction and an extra special sympathy because I am well known to my colleagues as always calm and never engaged in any controversial issues nor activities.

But seriously, I ask my colleagues, I ask seriously, is this unique to Mr. Bolton? If a temper and an unorthodox management style were disqualifiers from Government service, would that disqualify a lot of people, including maybe one or two in this body?

But the fact is, it is worth wondering not whether Mr. Bolton is a mild, gentle diplomat—we know he is not—but, rather, whether he is a representative we need at the United Nations. We need an ambassador who knows the U.N. We need an ambassador who is willing to shake up an organization that requires serious reform. Is there anyone in this Senate who does not believe the United Nations needs serious reform, an organization that has countries such as Sudan on its Human Rights Commission or whose General Assembly equates Zionism with racism?

We all know about the oil-for-food scandal that is unfolding now. We know there have been several calls for reform. One of my friends, Brent Scowcroft, served on a panel that was named by the Secretary General. And

Kofi Annan has presented his own serious plan to implement these recommendations because the United Nations needs reform.

Why do I care so much? I care for a broad variety of reasons, including the fact that my taxpayer dollars support some 20 percent of the United Nations operations. The United Nations needs reform. The United Nations has failed in peacekeeping operations throughout the world. Some of the scandals concerning peacekeeping activities, of rape in the Congo, have got to be changed. The United Nations needs the presence of a tough, hard, dedicated individual who has been already confirmed in various posts four times by this Senate.

Elections have consequences. One consequence of President Bush's reelection is he has a right to appoint officials of his choice. I stress this because the President nominates. It is not my choice, or any other Senator's, but the President's choice. When President Clinton was elected, I didn't share the policy views of some of the officials he nominated, but I voted to confirm them, thinking that the President has a right to put into place the team he believes will serve him best.

The Foreign Relations Committee has spent weeks investigating Mr. Bolton's background. In his recent report on behalf of the committee majority, Senator LUGAR, one of the most respected individuals in this Nation, determined "the end result of all this is that Secretary Bolton emerged looking better than when it began." Chairman LUGAR ultimately concluded that Mr. Bolton is a highly qualified nominee. I agree.

In the last 48 hours or so I have noticed a change in the temperature around this body. I am very pleased about it. We realized it is time to move ahead with the people's business. It is time we started addressing seriously the energy crisis in this country. It is time we got together, along with the President, in coming together to save Social Security. It is time we move forward with the Defense authorization bill and help the men and women who are defending this Nation and sacrificing as we speak.

I strongly urge my friends on the other side of the aisle, we are going to have a cloture vote this evening. After that, let's vote up or down. For my colleagues who disagree and do not want Mr. Bolton there, I respect their views. But let's go ahead and give him an up-or-down vote before we go into recess for a week. Let him go. If the Senate in its wisdom approves of his nomination, let's go ahead and let him get to work rather than wait a week or 10 days or more. We have been at this for weeks. Let's move on to other things.

If we asked our constituents, What would you like us to do, take up the Defense authorization bill? Take up an energy bill? Try to work on this deficit problem that is mortgaging their futures? Sit down and negotiate a bipartisan agreement on Social Security? Those would be their priorities. Let's move ahead tonight, have the cloture vote, have a vote on Mr. Bolton, and move forward and plan for when we come back from the recess, addressing the issues that are important to the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, let me begin my statement today by outlining what I think this debate is not about.

I do not believe this debate is about Mr. Bolton being rude on occasion. This debate is not about Mr. Bolton being blunt. The debate is not about Mr. Bolton occasionally losing his temper.

As the distinguished Senator from Arizona just noted, if this is the criteria, many of us in the U.S. Senate would not be qualified to serve in a position that requires confirmation. Almost all of us lose our cool from time to time and say things we come to regret later. Let me add, I don't think this debate is about whether Mr. Bolton is an intelligent man.

These are not the issues at the heart of the strong bipartisan objections that have been voiced on this nomination.

The crux of the objections is very specific, very credible allegations that Mr. Bolton sought to shade intelligence and sideline career intelligence analysts who did not agree with his policy views. This is the core of the bipartisan objections to this nomination.

Over and over again, we heard from a range of career officials and Bush administration appointees that Mr. Bolton sought to massage intelligence to fit an ideological bias. Let me emphasize, these are objections coming forward from Bush appointees.

In addition, we have 102 former ambassadors and senior diplomats who oppose Bolton—from the Nixon administration, the Ford administration, and that bastion of fuzzy-headed liberalism, the Reagan administration.

In an environment where reliable intelligence is one of the best tools we have to keep us safe, we must heed the lessons from the Iraq war: Intelligence must never be shaped to fit policy views. Dissent within the intelligence community should not be muzzled or suppressed; it should be respected and encouraged.

The United States Senate should be sending a clear, unequivocal statement to our intelligence officers: We want you to play it straight and call it like you see it—even if it is something we do not want to hear.

I am afraid that by voting to confirm Mr. Bolton, we will fail to send that critical message.

Now, I believe the President is entitled to the benefit of the doubt when appointing senior members of his team. To that end, I have supported a number of the President's choices for top foreign policy positions, including Secretary Rice; Robert Zoellick, to be her deputy; and Nick Burns, to fill the third-ranking position at the State Department.

I think we should provide some deference to the President. The executive branch is primarily responsible for the day-to-day operations of our foreign policy.

At the same time, the Constitution gives the Senate the power to advise and to consent. This is a responsibility I take very seriously.

And so, because of Mr. Bolton's consistent breach of the line between practicing politics and analyzing intelligence—that is pivotal to our national security—I intend to vote "no" on the nomination of John Bolton to be our representative to the United Nations.

I agree with much of what my colleagues have said about the problems with Mr. Bolton's qualifications to serve in this position. But I would like to focus on one issue that I believe has not been covered in great detail—Mr. Bolton's performance in his current job.

It has been suggested we should overlook the troubling aspects of Mr. Bolton's record—the fact that he appears to have attempted to manipulate intelligence data; the fact he does not appear to have been entirely forthcoming before the Foreign Relations Committee; and the fact we still cannot get basic information from the State Department on his nomination—for one reason: because Mr. Bolton is so competent for the job. I have heard this argument repeatedly from the other side of the aisle.

I am baffled by this reasoning. I am stupefied by the suggestion that Mr. Bolton is such an excellent choice for the job, so uniquely qualified for this job, that we should just ignore all of these other problems.

When I look at the record of Mr. Bolton during the last 4 years as the top arms control and nonproliferation official at the State Department, I am not impressed. Let's look at his track record.

On North Korea, the approach that has been advocated by both Mr. Bolton and this administration has simply not worked. Under Mr. Bolton's watch, there are no longer international inspectors and cameras at any site in North Korea. The North Koreans have withdrawn from the Non-Proliferation Treaty. We now believe North Korea has developed material for six to eight nuclear weapons.

When North Korea has one or two nuclear weapons, the situation is critical. They can test one weapon, and hold one weapon. When it has six to eight, the situation is terminal. North Korea can now test a weapon, hold a couple, and sell the rest. And we know that North Korea will do virtually anything for the money.

Another area Mr. Bolton was responsible for is the Non-Proliferation Treaty, a critical tool for helping to prevent the spread of nuclear weapons to rogue states, which could ultimately fall into the hands of terrorist organizations.

President Bush recognized the importance of the NPT and pledged to strengthen this treaty in a 2004 speech at the National Defense University. A week later, Mr. Bolton promised to do the same.

What has happened since? Virtually nothing. The administration has made very little progress on this issue, and the Non-Proliferation Treaty review conference currently underway is not going well.

An article from MSNBC reports:

> The United States has been losing control of the conference's agenda this week to Iran and other countries, a potentially serious setback to U.S. efforts to isolate Tehran.

Where has Mr. Bolton been throughout this process?

According to the same article:

> [S]ince last fall Bolton, Mr. Bush's embattled nominee to be America's ambassador to the United Nations, has aggressively lobbied for a senior job in the second Bush administration. During that time Mr. Bolton did almost no diplomatic groundwork for the NPT conference . . . officials say. Everyone knew the conference was coming, and that it would be contentious, says a former senior Bush official, but Bolton stopped all diplomacy on this six months ago.

In other words, Mr. Bolton was more interested in lobbying for the U.N. job than doing the tough groundwork necessary for a successful review conference.

Let's turn to Iran—another issue on which Mr. Bolton should have been working to formulate a coherent, workable administration strategy. Instead, the administration's policy has been all over the map. In a hearing before the Foreign Relations Committee last week, a senior State Department official described the latest iteration of the Administration's policy as a "patient policy."

I would say the policy has been less about patience and more about paralysis—a dangerous situation for a nation such as Iran that is developing nuclear weapons, is a state sponsor of terrorism, and is meddling in Iraq.

Perhaps this paralysis and incoherence is best illustrated by the fact that since 2001, the administration has tried—to my knowledge, without success—to formulate a Presidential Directive on Iran. As the top non-proliferation official at the State Department, Mr. Bolton should have been doing more to shape a workable policy instead of letting it drift dangerously along for the last 4 years.

Mr. President, I know my time is running short, so let me conclude with a couple of simple points.

Two examples are frequently cited by Mr. Bolton and his supporters as evidence of his success and competence in his current position: Libya and the Proliferation Security Initiative. During his confirmation hearings, Mr. Bolton touted these successes over and over again.

Now, I agree with Mr. Bolton that we have made important progress on these issues. But reports suggest that the Libya deal was struck in spite of Mr. Bolton, not because of him. In fact, Mr. Bolton was sidelined from the negotiations by the White House. And, the British Government specifically asked that Mr. Bolton not play a role in this process.

I quote from an MSNBC article that specifically addresses this issue:

> Bolton, for instance, often takes and is given credit for the administration's Proliferation Security Initiative, an agreement to interdict suspected WMD shipments on the high seas, and the deal to dismantle Libya's nuclear program, a deal that Bolton, by the way, had sought to block. But [a] former senior Bush official . . . says that, in fact, Bolton's successor, Robert Joseph deserves most of the credit for these achievements. This official adds that it was Joseph who was in charge of counterproliferation at the NSC [and] who had to pitch in when Bolton fumbled preparations for the NPT conference as well.

Now, here is my point: If there was clear evidence that Mr. Bolton is a terrific diplomat, maybe I could understand how some in the Senate could overlook what I consider to be a mountain of evidence concerning his misuse of intelligence and say: You know what, this guy is such a capable administrator and diplomat, we need him to reform the United Nations.

I would still believe that the misuse of intelligence, in and of itself, disqualifies Mr. Bolton from the job, but at least I could understand why some people would draw such a conclusion.

But the record indicates that in his current job he has not had much success, which leads me to ask: Why is it we are so confident this is the person who is going to lead reform in the United Nations?

The distinguished Senator from Arizona is exactly right, we need reform in the United Nations. It is inexcusable some of the things that go on up there.

But as a consequence of Mr. Bolton's diminished credibility and stature, I think he is exactly the opposite of what we need at the United Nations. Countries such as Zimbabwe and Burma, and others that do not want to see reform take place at the UN, are going to be able to dismiss our efforts at reform by saying: Mr. Bolton is a U.N. basher, someone who is ideologically opposed to the existence of the U.N.—thereby using Mr. Bolton's own words and lack of credibility as a shield to prevent the very reforms that need to take place.

Moreover, I have yet to hear a comprehensive plan from Mr. Bolton or the administration for U.N. reform.

So let me close by saying this: When the Foreign Relations Committee considered Mr. Bolton's nomination, I invoked the memory of Adlai Stevenson, a great citizen of the State of Illinois. Stevenson had the credibility, the temperament, and the diplomatic skill to guide the United States through some of the worst, most difficult times at the United Nations—especially the Cuban missile crisis.

During this crisis, we were able to isolate the Soviets because of the stature and integrity of our permanent representative to the United Nations.

Given the issues that have surfaced surrounding Mr. Bolton's nomination, I simply ask my colleagues this: If a crisis were to occur with North Korea or Iran, are we sure the integrity and credibility of Mr. Bolton would command the respect of the rest of the world? Would Mr. Bolton, like Adlai Stevenson, be able to convince the world that our intelligence and our policies are right and true? Would Mr. Bolton be able to isolate our enemies and build a coalition that would ultimately make our troops safer and our mission easier?

I believe the answer is no. There are some wonderful, capable, tough, conservative, reform-minded Republican diplomats who are well qualified for this task and would easily be confirmed by the Senate. Mr. Bolton is not one of them.

I would urge that the other side of the aisle seriously consider their position on this nomination. I hope we can muster the votes to send this nomination back to the President. Let's start afresh. I know we can do better.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. BURR). The Senator from Florida.

Mr. MARTINEZ. Mr. President, I rise to strongly support the nomination of John Bolton to be the United States next permanent representative to the United Nations. I do so because I believe this is a man of great integrity who has dedicated himself to serve this Nation in various different posts over the course of his life.

I want to try hard not to repeat a lot of what has been said already because it is, I know, at times repetitious. But I do believe it is important we recognize and know this gentleman has been previously confirmed by the Senate in four prior Presidential appointments, and three of those in the area of diplomacy.

I am intrigued by the comments of the Senator from Illinois about Mr. Bolton's diminished stature. It appears that now we are going to find him unqualified by what has transpired over the last 60 days to this good man, as his record has been trashed repeatedly, oftentimes with scant or little evidence.

So let me say I believe this is a good man who has earned the right and has been chosen by the President of the United States to represent our Nation at this very important post.

The Senator from Arizona spoke about elections having consequences. The fact is, President Bush not only has made this choice but has made a choice of someone who he believes is the right person to lead our efforts at this time at the United Nations.

Mr. Bolton is someone who has sometimes been called blunt speaking. At the same time, our President at times has irked people because of the directness of his language, because of the fact that sometimes he calls a spade a spade. I do recall, as a member of his Cabinet, sitting in a joint session of the Congress when a great deal of talk was generated about him speaking about an "axis of evil." The President has chosen this direct man to be at the United Nations, and at a time when we need direct talk. There is a great tradition at the United Nations of people who have been plain spoken.

I have had the pleasure and honor of knowing Ambassador Jeane Kirkpatrick. No one has ever suggested that Ambassador Kirkpatrick was shy, retiring or unclear about her views. I also had the honor of knowing someone who was ambassador to the United Nations, Vernon Walters. I know Vernon Walters embarked on many diplomatic missions, usually to set the record straight with some foreign leader, usually to tell him bluntly what needed to be done or said. If there is any doubt about that, there is a wonderful book he wrote about his life called "Silent Missions" that provides good evidence.

We hold up Adlai Stevenson as someone who should be emulated. The fact is, Ambassador Stevenson, who was a wonderful public servant as well, at times used rather blunt language. I can remember as a child being glued to the TV set during the missile crisis with Cuba and the Soviet Union, and Adlai Stevenson demanding: Don't wait for the translation. He was prepared to use blunt language. It is in our national interest, at times, to have direct, blunt-speaking people, particularly at a place like the United Nations.

We have heard, in the course of the debate, that Mr. Bolton should not be qualified for this job because he spoke of the fact that out of the 38 stories at the U.N. building, perhaps 10 could be done away with. Who here does not, in a serious way, believe that the United Nations bureaucracy could use some streamlining? More interesting than that, Mr. Bolton has been speaking about this for over a decade. He wrote some very interesting articles, which I took the time to read, about United Nations reform, about streamlining that bureaucracy, about better budgetary management. Sadly, although his writings are 8 or 10 years old, even longer, little has been done to move the ball forward, to change that stymied bureaucracy that continues not to use taxpayer dollars appropriately and who has engaged in some condemnable practices in recent days.

One of the charges I find most unfair—and its repetition does not add to its credibility—is the charge that Mr. Bolton has politicized intelligence, has massaged intelligence, has not used intelligence adequately. There is no evidence, for those of us who sat in the Foreign Relations Committee meetings and heard the evidence of those who spoke, that Mr. Bolton ever massaged intelligence. There is evidence that Mr. Bolton acted swiftly to try to explain to those who worked for him how they should approach the clearance of his speeches. And he did react strongly to those who tried to go around him and attempted to impact or influence that which would be clear for him to say.

It is, in fact, at times difficult to study intelligence and analyze it in a way that gives it clear and complete clarity. So what do we do? We have intelligence analysts. We have human beings who are, similar to historians and journalists and all of us in life, given to the proclivities of their own bias, their own life experience, their own political views. Through that filter, comes the intelligence which comes not in a clear package but as a mosaic, something that comes in bits and pieces and dribs and drabs. Out of that, we have to make a whole cloth. We have to create a judgment. That is where judgment comes in.

Those who are in politically appointed positions have the responsibility to challenge the professionals in the intelligence community as they seek to put together the ultimate judgments about what the pieces of information tell them concerning the truth of that intelligence.

In that instance, at times, maybe Mr. Bolton has had differences, but in every single instance that could be overturned—and believe me, his record has been combed carefully—there was never a time when Mr. Bolton went outside that which was approved and that which was cleared.

It is important to me that the record be clear about Mr. Bolton's statements on the issue of bioweapons capabilities by Cuba. In his speech at the Heritage Foundation, which has caused so much controversy and interest, he used the very same language that 3 months earlier one of his accusers, Carl Ford, had used before a Senatorial committee. That language, which stands to this day, reads:

> The United States believes that Cuba has at least a limited developmental offensive biological warfare research and development effort. Cuba has provided dual use bio-technology to rogue states. We're concerned that such technology could support [bioweapons] programs in those states. We call on Cuba to cease all [bioweapons] applicable cooperation with rogue states and to fully comply with all its obligations under the Biological Weapons Convention.

I believe those are responsible remarks. I believe those are timely remarks. I believe those are remarks that are intended to make the world safer and to make America safer from terrorism by bioweapons. Sharing bioweapons technology with rogue states is not a good thing. The fact that Mr. Bolton would dare to call their hand on it is not a bad thing. We should be grateful to Mr. Bolton for his directness, for his bluntness, for his willingness to take on this issue and speak about it clearly.

It has also been said that Mr. Bolton may not have done a good job at his last assignment. I repeat, again, that this is the fourth time the Senate, after a Presidential appointment, has sought to confirm Mr. Bolton, most recently as Under Secretary of State for Arms Control and International Security.

A number of states around the world pose great danger and concern. We spoke about Cuba. It is one of those. But there is also Iran. As to Iran, on Under Secretary Bolton's watch, Iran's formerly covert nuclear program has been exposed and has been described in detail in seven public reports by the IAEA director general. The IAEA board of directors has adopted six resolutions calling on Iran to suspend its nuclear fuels cycle activities and fully cooperate with IAEA inspections.

The EU—particularly UK, France, and Germany—the United States, and Russia are working closely to suspend and reverse Iran's nuclear program and to develop a complete absence of any further nuclear testing by them. Today we had some encouraging news. We hope we can build on that. That is a success that, in no small measure, is due to Mr. Bolton's work.

In addition, we have talked about North Korea. I find it terribly interesting that the irrational behavior of the North Korean Government, which we all know to be irrational and unconventional, would be laid at the feet of this nominee. North Korea has had nuclear aspirations for decades. And it began an active effort to acquire nuclear weapons years before the Bush administration came into office, years before Mr. Bolton was in the position he holds. The 1994 agreed framework was doomed to fail and was only a short-term Band-Aid to the resolution of this problem. It was akin to looking down a soda straw and at a plutonium facility and ignoring the fact that North Korea began cheating, almost as the ink was drying, by embarking on a covert uranium enrichment program. The Bush administration changed tracks. The Bush administration took a different policy approach.

I understand there may be some on the other side of the aisle who disagree with that policy approach, and much has been said about that. In fact, in the Presidential debate, there was discussion of this very issue. Again, elections have consequences. President Bush's approach to proceeding with the six-party approach to negotiations with North Korea is what is continuing today.

We cannot blame Mr. Bolton for those instances where foreign policy issues have not gone as we wished and then refuse to give him credit for those that have been successful. That is the height of unfairness and the height of hypocrisy.

In Libya, our policies have met with success. Negotiations on Libya's weapons of mass destruction dismantling effort were conducted at a senior level by the CIA and White House negotiators. Mr. Bolton was not a part of that process, as often is the case for diplomats. I can recall a distinguished ambassador to the United Nations, Adlai Stevenson, when President Kennedy received information, with photographs by our reconnaissance airplanes, that there were offensive missiles hidden in Cuba, Adlai Stevenson did not have that information. We know now, from the books that have been written about that, he was highly offended that he was not included in or given that information until later when it had been made public. The fact is, sometimes diplomacy has to be conducted in serious and closed circles. Mr. Bolton successfully oversaw WMD dismantling and removal from Libya.

In addition, I believe there have been a number of other unfair accusations about Mr. Bolton's conduct in terms of his relationship with subordinates.

The fact is, some of these allegations have been found to be completely devoid of any merit. In fact, the majority report on the Melody Townsel case—one of those that was so sensational, that caused the Foreign Relations Committee to defer consideration of his nomination until 3 weeks later—the investigation on page 315 of the report says:

> The investigation was not able to establish conclusively that the alleged events even occurred.

The fact is that, along with many of these other allegations that have really nothing to do with the qualifications and competence of Mr. Bolton, has been found to be either without merit or with very little merit.

Mr. President, in conclusion, it is time that we move forward with this good man's nomination. I find it, as a fairly new Member of the Senate, a little disturbing and disappointing how easily and with little hard evidence a person's reputation can be tarnished. The fact is, there have been bits and pieces that were either exaggerated or simply not found to have merit that have been now utilized to try to derail this good man's nomination.

I look forward to Mr. Bolton's service at the U.N. I think he will be a good and effective reformer in an institution that is in desperate need of reform and an institution where he has taken the time, over the history of his work, to talk about those issues of reform—management reform and budgetary reform.

Our Nation contributes a very sizable percentage of the U.N. budget. It is our taxpayer dollars that are being wasted at the U.N. and that are oftentimes not only not serving our national interests but are, in fact, harming our national interests.

We have a person with Mr. Bolton's experience, and it has been suggested that he is someone who is simply not going to be effective at the U.N., and he is not going to be effective because it keeps being repeated that he will not be effective there.

Mr. Bolton has a strong record of accomplishment. I point to the repeal of the Zionism as racism resolution, on which Mr. Bolton led the effort that was so important in establishing a dynamic paradigm so the Middle Eastern peace process could move forward, so that fundamental fairness toward Israel could also prevail at the U.N., a place that has been so incredibly harsh on Israel and its right to exist.

I am delighted and it is with great pleasure that I support the nomination of John Bolton to be the next Permanent Representative at the U.N.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise to speak in opposition to the nomination of John Bolton to be ambassador to the United Nations.

There are two issues at stake. First is an issue of whether this Senate will receive critical information so that we can deliberate carefully and thoroughly about Mr. Bolton's nomination. So far, the State Department, as my colleagues, Senators DODD and BIDEN, pointed out, failed to provide information under the theory that they get to decide what we should know when we are casting a vote as important as ambassador to the United Nations. It is a novel theory, but it holds no water. If we allow this to go on, it will make the Senate irrelevant when it comes to major decisions about nominations and major decisions about the future policy of the country.

The second issue is the qualifications of Mr. Bolton to be ambassador to the United Nations. For me, this is not a particularly hard vote. I opposed Mr. Bolton's nomination to be Assistant Secretary for Arms Control. That was based upon my review of his record, his statements, and his commitment to arms control and counterproliferation. Frankly, I think over the last several years—the record is mixed, but in large part it suggests that his duties there certainly don't warrant a promotion to be ambassador to the U.N.

He was instrumental in establishing the Proliferation Security Initiative, which is a potentially useful framework, but as CRS pointed out:

> Without greater resources, legal authority or technical tools for interdiction, the success of PSI may rest on a political commitment of like-minded states to follow through.

In a sense, after all of the initial hype, there does not appear to be the followthrough necessary to make this work. That was on Mr. Bolton's watch.

He also negotiated the 2002 Moscow Treaty, but this is an interesting arms control treaty. It has no verification regime. There is no requirement for either side to make adjustments in the status of nuclear weapons until the last day of the treaty, which is years from now. It has no provisions for continuing negotiations. Again, more style than substance, more press release than real progress.

Secretary Rice has indicated that Mr. Bolton was involved in negotiations which led to a significant breakthrough—the renunciation of nuclear weapons by the Government of Libya. However, if you listen to British officials participating in the negotiations, they requested that the White House take Mr. Bolton off the negotiating team because he was undermining their potential for success.

While Mr. Bolton was an Under Secretary for State for Arms Control, the United States withdrew from the ABM Treaty, becoming the first nation since World War II to withdraw from a major international security agreement.

Mr. Bolton also blocked efforts to add a verification clause to the Bioweapons Convention, blocked negotiations in the Geneva Conference on Disarmament with respect to the weaponization of space, and worked to weaken a treaty on small arms trafficking.

That is not the record of somebody who is an Arms Control Under Secretary committed to ending proliferation. If you look at North Korea, when he took over, they had, at most, two nuclear weapons. Now, North Korea may have as many as eight—four times the peril and danger. That is not a record that compels a promotion.

I think this is a situation in which other factors have come into play—assertions and allegations that he has pushed the envelope with respect to intelligence, about threats from Syria and other countries. Again, this is not a record that deserves promotion, a record of someone who is in a challenging world and is able to make a major, positive difference with respect to arms control, and it reflects the administration's disdain for the process of arms control and counterproliferation.

Now Mr. Bolton has been nominated to be ambassador to the U.N. And once again, Mr. Bolton is reflecting the administration—this time their disdain for the U.N. I believe that is wrong.

We should have recognized, after our experience in Iraq, that we cannot go it alone. As unpleasant as international organizations can be sometimes, as inefficient and unworkable as they are at times, in the long run we are better when we ally with other nations than striking out alone. Mr. Bolton has a different view of the U.N.

In 1994, he stated:

> There is no such thing as the United Nations. . . . If the U.N. Secretariat Building in New York lost 10 stories, it wouldn't make a bit of difference.

That is a narrowed-minded view and not historical. The U.N. has made a difference.

Repeatedly, Mr. Bolton talked about his disdain for the U.N. In 1998, he was responding to the ramifications of not paying U.N. dues. In his words:

> Not only do I not care about losing the General Assembly vote, but actually see it as a "make my day" outcome.

That is not the kind of cavalier attitude that will bode him well as ambassador to the United Nations, where he becomes one of the chief diplomats in our diplomatic arsenal, if you will.

In an article in the New York Times, Elizabeth Jones stated:

> I don't know if he's incapable of negotiation, but he's unwilling.

Ms. Jones believed that:

> "The fundamental problem," if Mr. Bolton were to become U.N. ambassador, would be a reluctance on his part to make the kinds of minor, symbolic concessions necessary to build consensus among other governments and maintain the American position.

In another view by Jeane Kirkpatrick, former U.S. ambassador to the U.N. and referred to by my colleague from Florida, she stated:

> John Bolton may do diplomatic jobs in the U.S. Government, but John is not a diplomat.

Frankly, the role of ambassador requires a diplomat, not someone who is an intellectual bully, not someone who is there to make a point and not to make progress, not someone there to send a message, to deride the work of his colleagues at the U.N.

So I think we have a responsibility on two fronts: First, to assert rather strongly that we are relevant to this process, that we need information, and that executive agencies do not decide what information we need. And second, Mr. Bolton's record to date, his statements to date, his attitude to date suggest he will not be an effective ambassador to the United Nations. As a result, I urge that his nomination be opposed.

Mr. President, I yield back my time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I rise to offer to my colleagues my strong and unequivocal support for John Bolton and his nomination to be our United States representative to the United Nations.

John Bolton was picked by the President. A President ought to be able to bring people into his administration, men and women, who share the values, the aspirations, the goals, of that administration. This President also represents the views of most Americans who believe the United Nations needs reforming. We need to bring someone into that position to get those reforms done.

I believe very strongly John Bolton is exceptionally well-qualified for this task. This is a time of change, a time of improvement that is necessary for the United Nations.

During the protracted committee process, we saw all sorts of sensationalized charges and outright fabrications against John Bolton. His nomination nonetheless, has finally reached the Senate where I am sure my colleagues will see the wisdom in confirming John Bolton. This debate provides an opportunity to have a full .discussion on John Bolton and his qualifications to serve as Ambassador to the United Nations.

What has been lost in this entire debate from the very beginning as they are off on tangents, detours, and all sorts of allegations. What is being missed—and what I hope my colleagues and the American people will focus on—is the dire need for change in the United Nations. The need for accountability, the need for scrutiny, the need for reform.

In testimony before the Foreign Relations Committee and in interviews conducted by the committee staff, there is almost no mention, or discussion, of what needs to be done to reform the United Nations. John Bolton is a man with the skill, wisdom, principles, and the right person to unflinchingly lead those changes as our representative.

Much of the debate during the committee consideration and some of the things that have been said in the Senate has been focused on the sensibilities of some who are apparently easily offended. There is a fascination with speech crafting. For example, there is concern over what Mr. Bolton said at a speech to the Heritage Foundation concerning Cuba's biological weapons program and how that might be shared with rogue nations.

The reality is, and I will quote this for the record so if anyone wants to see what was actually said that created this controversy. What was actually said is the following by John Bolton at the Heritage Foundation in the speech "Beyond the Axis of Evil," May 6, 2002:

> Here is what we now know. The United States believes that Cuba has at least a limited offensive biological warfare research and development effort. Cuba has provided dual-use biotechnology to other rogue states. We are concerned that such technology could support biological weapons programs in those states. We call on Cuba to cease all biological weapons applicable cooperation with rogue states and to fully comply with all of its obligations under the Biological Weapons Convention.

Well, one of the people, a very cheerful fellow, Carl Ford, complained about the sensibilities of some staff person. Here is what he said in testimony to the Foreign Relations Committee. He said:

> The United States believes that Cuba has at least a limited developmental offensive biological warfare research and development effort. Cuba has provided dual use bio-technology to rogue states. We are concerned that such technology could support biological weapons programs in those states. We call on Cuba to cease all biological weapons applicable cooperation with rogue states and to fully comply with all its obligations under the Biological Weapons Convention.

Mr. President, I see you are squinting and trying to probably figure out: Well, what is the difference? There is no difference. It is the same in the speech as was the testimony from Mr. FORD in the Foreign Relations Committee. Then, we hear from folks talking about: Oh, people were upset because of all of this concern on how this speech was constructed. Well, here is the reality. The whole process was one in which the person who was clearing this language did some things that were inappropriate. An e-mail from Thomas Fingar to Thomas Bolton stated the following:

> I looked at what my guy sent to the IC and that won't happen again . . . Choice of the phrase "does not concur" was entirely inappropriate . . . we have no role whatsoever in determining how you or any policymaker says what you want to say beyond suggesting alternatives that we think might be cleared more readily than what has been drafted if time was of the essence and the drafter asked for such advice.

The bottom line, he ends it:

> We screwed it up, but for base reasons. It won't happen again.

So John Bolton had a reason to be concerned about how some things went around through the loops and so forth. The reality is, as many individuals, our colleagues, fellow Senators, particularly on the Foreign Relations Committee—in recent months, once John Bolton had been nominated for this position—were talking about how he was rude maybe, or irascible with some staff, or concerned about this, that, or the other. Things that have supposedly come up in recent years, of course, each and every one of these allegations have been refuted and the truth has come forth.

The reality is that when John Bolton was proposed and nominated to be Under Secretary of State, back in 2001, Senators BIDEN, BOXER, KERRY, DODD, and SARBANES—all of them—voted against John Bolton. That was even before they knew about these tangential issues.

Now, I would prefer, when looking at the United Nations, we would be, as a country, united in making sure we pursue the abuse and anti-Americanism that pervades the United Nations. Rather than get off on these tangential and unfounded charges, I am much more concerned about the United Nations being used as a front for dictatorships and terrorists, as well as being a waste of the taxpayers' money.

Over the last year, we have witnessed scandal after scandal in the United Nations. Unfortunately, these are not issues that can be addressed by a few marginal changes. These are issues that have shaken the credibility of the United Nations and caused many citizens in the United States, and people around the world, to really wonder whether the U.N. has any relevance in the future or has a redeeming role in world affairs.

Now, the United Nations was founded on:

> faith in fundamental human rights, in the dignity and worth of the human person.

While the United Nations performs a number of admirable endeavors, it is also beholden to tyrants, dictators, and repressive regimes in certain circumstances. Not considering the scandals, this is an organization that has allowed some of the world's worst violators of human rights to chair its Commission on Human Rights. Just when the United States has made a commitment to the spread of freedom and justice throughout the world, it is difficult for Americans—I know in Virginia, in North Carolina, and elsewhere around this country—to see the United Nations as anything other than wasting their tax dollars. When a country such as Libya is chairing the Human Rights Commission, Sudan is on the Human Rights Commission, and within the last several weeks, Zimbabwe has been made a member of the Commission. This is certainly not an indication that the Secretary General's call for reform of the Commission on Human Rights is at all being heeded.

Now, as public servants and stewards of the American taxpayers' dollars, we need to make sure the revenues we allocate are being put to good use. The United States and the people of this country, the taxpayers, every single year, are providing $2 billion to the United Nations. We will provide over 22 percent of the U.N.'s regular budget in 2005.

I believe all Americans want reforms enacted that would prevent future abuses in programs like the Oil-for-Food Program, where Saddam Hussein and his thugs skimmed off $20 billion. I think we also, as Americans, want to hold accountable U.N. peacekeepers who commit crimes against children. We have an obligation to work with like-minded reformers in the U.N. to make sure policies are implemented to prevent similar abuses in the future.

Now, reform is absolutely necessary in the United Nations. The United Nations is in a crisis, and the United States has a strong interest in seeing it emerge as a credible and relevant institution once again. The U.N. Security Council and International Atomic Energy Agency, otherwise known as IAEA, are needed forums for discussing the proliferation of nuclear weapons and the actions that need to be taken, not just by the United States but with our European and other allies around the world, to make sure that rogue nations do not acquire those nuclear weapons.

We have seen in recent years that the United Nations can provide an important role in helping the spread of democracy. They can be helpful in rebuilding societies that are emerging from decades of tyranny and repression.

The United Nations has a role to play in the future of global affairs and security, but it can only do so if it takes serious steps to reform the extraordinary corruption and ineptitude that has plagued it in recent years.

Now, John Bolton comes to this nomination with a broad and deep knowledge of international affairs. From his early days as General Counsel at the U.S. Agency for International Development during the Ronald Reagan administration, to his most recent post as Under Secretary of State for Arms Control and International Affairs, Mr. Bolton has spent a great deal of time working on advancing the interests of the United States and our foreign policy.

Some have wrongly criticized John Bolton as a rigid unilateralist who is incapable of building consensus with allies. However, his years of service prove otherwise.

On counterproliferation, Mr. Bolton's efforts gave life and actual meaning to President Bush's Proliferation Security Initiative. Under John Bolton's leadership, a dangerous gap in counterproliferation enforcement on the seas has been filled by international cooperation and information sharing. Sixty countries were brought together. That is not working alone. He understands, if we are going to interdict weapons of mass destruction, biological weapons, nuclear or otherwise, we do need the support of other countries.

In addition, Mr. Bolton helped create the Global Partnership at the G-8 summit in Alberta, Canada, in 2002. This partnership doubled the size of the nonproliferation effort in the former Soviet Union by committing our G-8 partners to match the United States' $1 billion per year Cooperative Threat Reduction or Nunn-Lugar program.

He also played a central role in negotiating the Treaty of Moscow, which will reduce operationally deployed nuclear weapons by two-thirds.

Elimination of North Korea's nuclear threat still requires much hard work, but it is clear that the half century stalemate that has allowed the North Koreans to steal or develop nuclear arms technology is over. Growing pressure is on that dictatorship, and John Bolton's role at the State Department in creating it are being confirmed by the torrent of personal invective directed at him from the North Korean Government.

While our Ambassador there might have had his sensibilities offended by John Bolton calling the North Korean regime a "repressive dictatorship," which seems to be accurate, as well as saying it is a "hellish nightmare" for people to have to live in. North Korea, which I might not have used the first word, but it is certainly a nightmare, it seems to me to be very accurate description.

Of course, some have criticized John Bolton for doing that. And gosh, the North Koreans called him "human scum." I am going to stand with John Bolton in his characterization of North Korea. In fact, they say of John Bolton: Oh, this was not helpful for him to be calling North Korea or characterizing it as it is.

He helped break a long international silence, while there are some who think, when you are dealing with a repressive dictatorship, the best thing to do is just be quiet, calm them down, try to coordinate them into a corner, pet them, don't get them agitated, and maybe they will just change on their own. Maybe there are those who think you can have editorials in newspapers and that is going to matter to tyrants and dictatorships. They don't care about public opinion. They don't care about human rights. All they care about is power and staying in power.

So John Bolton, in my view, performed a valuable service in breaking this long international silence about the suffering of the people in North Korea. For too long, savage conditions, condemned by food aid workers, and glimpsed by visitors to the North, received very little, very scant world attention. By magnifying the human dimension of the North Korean problem, his work may hasten the day when these abhorrent human rights violations in North Korea will end. The reality for North Korea is that we need the Chinese. The South Koreans, the Japanese, and the Russians are all very important but as a practical matter the ones who really prop up that regime is the Government of the People's Republic of China.

When people are allowed to escape from North Korea, what happens? They get to some embassy in China and they get sent back to North Korea. Guess what happens? They get tortured and in some cases they get killed. We need to make sure that if somebody can get out of that regime—just as if someone could have gotten out of East Germany or Czechoslovakia or Hungary or Poland: if they somehow could get out of those countries and escape to Austria, to West Germany, to the Netherlands, to Denmark, we certainly would not say: Go on back in there and let the East German police take care of you or let the Soviet puppets in the Eastern Bloc take care of you.

So, I think John Bolton has done a great job in pointing out the human rights violations in North Korea. Some may also not agree with his forthright critique of the United Nations and its failings. I think Mr. Bolton has clearly placed a great deal of thought into his views, and he can work with the United Nations' bureaucracy. But he is not going to be a lapdog. He is not going to get seduced by niceties. He is going to say: This is what needs to be done.

As Assistant Secretary of State for International Organizations—and this is, indeed, working with the United Nations—John Bolton—and you can read what Secretary of State Lawrence Eagleburger wrote—led the effort to have the United Nations change its odious resolution that equated Zionism with racism. Now, to get the United Nations to say that they ever did something wrong and to repeal it—similar to anything that even happens here, to say we did something wrong and to repeal some law—takes some negotiation. John Bolton was able to get the United Nations to repeal that odious resolution.

It is a clear, a very clear—example of his ability to stand by principle, stand for what is right, and also to work cooperatively with other countries in the United Nations.

So in my view, John Bolton has the knowledge and experience to effectively represent the United States at the United Nations and to negotiate the changes that need to be made to ensure its relevancy and its credibility in the future. All of us want a United Nations that is with us, working to advance free and just societies and human rights around the world. We do not want them squandering, wasting money, propping up repressive regimes, being a front for terrorist regimes. We need the United Nations to remember what its charter is.

Now, unfortunately, the committee was forced to spend a majority of its nomination hearing and subsequent meetings on tangents, exploring wild claims, and not addressing the issues that face the United States at the United Nations. Nor has the debate been much about John Bolton's qualifications to serve as our representative.

Most of those who have complained and made charges against John Bolton never had any intention of considering the merits of his nomination in the first place. When considered, as I said earlier, for his current position, all of these—Senators BIDEN, SARBANES, DODD, BOXER, and KERRY—voted against him. We have had many unsubstantiated claims and rumors and exaggerated innuendo. I do see the Senator from Wisconsin, who did vote for him the other time, so it does not apply to Senator FEINGOLD. I hope the Senator recognizes I did not list his name. I think, as people look at these overly hyped charges, they have been refuted. They do not have any bearing on John Bolton's ability to serve as our ambassador to the United Nations.

A President should have the prerogative to select the men and women—unless there is some extraordinary, proven infirmity or criminal violation—he determines to advance and lead his initiatives and also to keep the promises he made to the American people. President Bush has nominated John Bolton to advance our foreign policy and goals at the United Nations.

Let me conclude with these final thoughts. In 1945, when it reported the U.N. Charter to the Senate for ratification, the Senate Foreign Relations Committee wrote that:

> . . . neither this Charter nor any other document or formula that might be devised can prevent war. . . . The establishment of the United Nations will at best be a beginning toward the creation of those conditions of stability throughout the world which will foster peace and security.

As we know, the United Nations has fallen short of these expectations. But a better, more accountable United Nations may better serve our interests much more reliably.

Thus, the Bolton nomination offers the Senate an opportunity to again play a historic role in bringing sensible reform to the United Nations. It is worth the effort. John Bolton is the right person to advocate our principles, and he will not be easily seduced by empty, meaningless, courteous pontifications of international bureaucracies.

John Bolton will bring much needed reform and accountability to the United Nations, that is in dire need of such to regain its credibility. He will be a watchdog, and that is what I think the taxpayers of this country want. He is going to be a strong diplomat, a man of vision, and an integral part of an administration team that has proven its readiness to foster positive change throughout the world.

The Senate, at 6 o'clock this evening, I hope, will take action—take action, and very positive action. There will be some differences, but let's recognize that this is a historic time, a time for change in the United Nations, a time for reform. And these reforms will be positive. Our taxpayers will support these changes.

I think freedom-loving countries and people who are not yet tasting that sweet nectar of liberty will also appreciate these changes. The billions of dollars going to the United Nations will be used for positive, constructive change in implementing and fostering the construction of those pillars that are so essential for a just and free society: The freedom of religion, freedom of expression, private ownership of property, and the rule of law. Those are the principles we need to address, and we are, as a country, in advancing the United Nations, consistent with its Charter, which ought to be a strong ally, not an impediment, in those efforts.

I hope we will work with John Bolton and the United Nations to bring forth this reform, improve the credibility and, in fact, the effectiveness of the United States and the United Nations, to advance freedom and justice for people throughout the world.

I thank you for your attention, Mr. President, and I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise to oppose the confirmation of John Bolton to be the next U.S. ambassador to the United Nations. I do not take this decision lightly. As the Senator from Virginia just pointed out, when Mr. Bolton's nomination was first announced, my vote was by no means a foregone conclusion. In fact, in 2001, when the Senate Foreign Relations Committee considered the nomination of Mr. Bolton to be the Under Secretary of State for Arms Control and International Security, I parted company from my Democratic colleagues on the committee to vote in favor of his nomination both in committee and on the floor.

I did so because I generally believed, as the Senator from Virginia said, that the President has the right to choose executive branch nominees who share his overall world view, even when I do not share that world view. Barring serious ethical lapses or a clear lack of appropriate qualifications for a given job, I tend to give the President a great deal of latitude in making these appointments.

But after examining the record, I have concluded that Mr. Bolton is fundamentally unsuited for the job to which he has been nominated. His blatant hostility toward the institution at which he would serve and his history of pursuing his personal policy agenda while holding public office lead me to question whether Mr. Bolton's appointment as our ambassador to the United Nations would serve the interests of the United States.

I share the views of many who are insisting on reform at the U.N. The U.N. must become more effective and more accountable and, as stewards of the American taxpayers' dollars, we must insist on this point. But Mr. Bolton's record suggests that his personal animosity toward the United Nations is so great that he cannot effectively lead the charge for reforms that can make this vital, but deeply flawed, institution stronger and more effective.

He seems to view the U.N. as an instrument to be used when it suits only our immediate interests but one best ignored or even undermined the rest of the time. His failure to grasp the give and take required for effective multilateralism makes him a real obstacle to any hope of pursuing vital long-term U.S. interests and increasing burden sharing and marshaling a global force strong enough to defeat the terrorist networks that seek to do us harm.

Mr. Bolton's record also reveals many instances of intemperance and rash decisionmaking. At least two senior intelligence officials told committee staff that Bolton's draft testimony prepared for a House hearing on Syria in 2003 went well beyond what the intelligence community would clear or could clear. This wasn't a case in which State Department intelligence analysts alone had concerns about Bolton's proposed language. The CIA, the Department of Energy, and the Defense Intelligence Agency all objected. According to interviews conducted by the committee staff, Bolton's office pushed back, resisting the intelligence community's efforts to alter problematic provisions. Bolton was determined to be such a loose cannon that the Deputy Secretary of State instituted an extraordinary policy to address the problem, requiring all of Mr. Bolton's public presentations to be cleared by Larry Wilkerson, Secretary Powell's Chief of Staff, or Deputy Secretary Armitage himself.

Regrettably, I do not have confidence that his personal agenda would always, as it must be, subordinated to that of the Secretary of State who, in testimony before this committee in her first days in office, has placed such a premium on restoring frayed diplomatic ties.

In addition, information that came to light during the Senate Foreign Relation Committee's consideration of this nomination indicates that John Bolton has sought to punish intelligence analysts whose assessments did not support what Mr. Bolton wanted to say or wished to say. After all that has happened to our country's reputation and credibility in recent years, we cannot afford to tolerate, let alone promote, a policymaker who seeks to silence dissent from the intelligence community. What the committee found was not that Mr. Bolton made careless remarks in the heat of a tough bureaucratic dispute; the evidence shows that over a period of many months, Mr. Bolton repeatedly sought the removal of a respected intelligence analyst at the State Department who had raised concerns about language Mr. Bolton wished to use publicly, in the course of the standard clearance process, a process that is there to protect against misleading or inaccurate public characterizations of important security issues. And Mr. Bolton repeatedly sought the removal of the National Intelligence Officer for Latin America, again pursuing this vendetta for months, not heated minutes, and going so far as to consider blocking country clearance for Mr. Smith to travel abroad. In both cases, the offense that so incensed Mr. Bolton appears to be that the analysts did their jobs—they presented the facts as they saw them, and declined to keep silent when the facts did not support what Mr. Bolton wished to say. And in both cases, senior officials with decades of experience in government who were involved in these episodes told committee staff that Bolton's actions—his attempts to retaliate against these analysts—were absolutely extraordinary.

In addition to these disturbing incidents, other interviews conducted by committee staff revealed a broader pattern of attempting to simply cut those who disagreed with his policy views, or those who he believed disagreed with his policy views, out of the policy-making process entirely. John Wolf, the former Assistant Secretary of State for Non-Proliferation, told committee staff that Bolton attempted to retaliate against at least two public servants in the non-proliferation bureau because of differences in their policy views. Mr. Bolton tried to remove a State Department attorney from a case relating to a sanctions issue because of perceived policy disagreements—the record suggests that Mr. Bolton actually misunderstood where the lawyer in question stood—and went so far as to suggest that he would not work with the State Department's entire legal bureau on the matter from that point on—a declaration quickly negated by Deputy Secretary Armitage, who felt compelled to remind Bolton that as a State Department official, he would indeed be working with the State Department's lawyers. This kind of tunnel-vision, everyone-else-out-of-the-room approach was summed up by Secretary of State Powell's Chief of Staff Larry Wilkerson, who told the committee staff, "when people ignore diplomacy that is aimed at dealing with [North Korea's nuclear weapons development] in order to push their pet rocks in other areas, it bothers me, as a diplomat, and as a citizen of this country." When asked specifically if he thought that Mr. Bolton had done that, Wilkerson said, "Absolutely." Mr. Wilkerson ended his interview with the committee with the following:

> I would like to make just one statement. I don't have a large problem with Under Secretary Bolton serving our country. My objections to what we've been talking about here—that is, him being our ambassador at the United Nations—stem from two basic things. One, I think he's a lousy leader. And there are 100 to 150 people up there that have to be led; they have to be led well, and they have to be led properly. And I think, in that capacity, if he goes up there, you'll see the proof of the pudding in a year. Second, I differ from a lot of people in Washington, both friend and foe of Under Secretary Bolton, as to his, "brilliance". I didn't see it. I saw a man who counted beans, who said, "98 today, 99 tomorrow, 100 the next day," and had no willingness—and, in many cases, no capacity—to understand the other things that were happening around those beans. And that is just a recipe for problems at the United Nations. And that's the only reason that I said anything.

Some have suggested that, because Mr. Bolton did not succeed in his attempts to end the careers of analysts whose dissenting views angered him, and because he did not succeed in his attempts to manipulate the government's processes to shut out voices of disagreement, caution, or dissent, there is no problem here. I cannot believe that any of my colleagues actually believes that is true—not after all that we have learned about the vital importance of dissent in the intelligence community from the 9/11 Commission, the Silberman-Robb Commission, and numerous other investigations into the major intelligence failures that have gravely harmed our credibility and our security over the past years. Why would we choose to promote to a position of prominence and trust an individual who has repeatedly tried to suppress inconvenient analysis? As the former Chairman of the National Intelligence Council told the committee staff, politicization "even when it's successfully resisted, it doesn't mean that there hasn't been an effect, because it creates a climate of intimidation and a culture of conformity that is damaging." Carl Ford told this committee about his concerns of a "chilling effect" that Bolton's actions with regard to Mr. Westermann could have on all of the analysts in the department's intelligence analysis bureau. And Mr. Westermann told the committee staff that in the wake of his run in with Mr. Bolton, "I was concerned that I had to spend time thinking about how I was approaching issues so that I didn't step on a landmine." Attempting to undermine important clearance processes, attempting to run roughshod over the safeguards in place to protect U.S. credibility, is an awfully big problem, whether or not the attempt was successful. It is, in my view, a disqualifying problem.

Finally, Mr. President, I urge my colleagues to examine the record of the Foreign Relations Committee's consideration of this nomination. It raises very serious concerns regarding Mr. Bolton's understanding of his obligations to be forthcoming with this committee. Several of Mr. Bolton's answers to Senators' questions were misleading at best, and several were quite blatantly non-responsive. A number of these instances relate to Mr. Bolton's efforts to retaliate against intelligence analysts, and these are detailed in the minority report on this nominee. But others relate to more general foreign policy issues. The Bush administration's first Ambassador to South Korea, Tom Hubbard, was so troubled by Mr. Bolton's misleading characterization of Mr. Hubbard's role in approving a controversial speech that Mr. Bolton gave in Seoul that he felt obligated to contact the committee to correct the record.

In light of the evidence this committee has seen in recent weeks, most of us can probably agree that if Mr. Bolton does end up being our next Ambassador to the UN, extremely careful oversight will be required. But our oversight responsibilities depend, in many instances, on the executive branch officials who come before us understanding that they have a constitutional obligation to be forthcoming with Congress. The record that he has amassed during this confirmation process gives me no confidence that Mr. Bolton intends to adhere to this obligation.

Mr. Bolton's nomination raises fundamental questions regarding both credibility and accountability. The credibility of our representation at the UN, the credibility of intelligence, the credibility of the oversight process are at stake. And the question of whether or not this committee will hold officials who seek to suppress dissent accountable for their actions is before us today as well.

I deeply appreciate the extraordinary courage of the many people who came forward to share with the Foreign Relations Committee their own concerns about Mr. Bolton's fitness for the UN post or to correct inaccuracies in the record—in some cases at real risk to their own careers. I am grateful for their efforts, and deeply appreciate their honesty. I hope that my colleagues will consider their words carefully. Their statements came at a price to them, and they should not be ignored.

In contrast to these admirable public servants—many of whom, by the way, I would likely disagree with on any number of important policy issues—the administration has failed to be forthcoming in this process. Mr. President, I share the concerns that have been expressed by some of my colleagues on the Committee regarding the administration's failure to respond satisfactorily to requests for documents and information relating to this confirmation. The administration declined to produce requested documents and information, apparently because they do not believe the requested information is relevant. Quite frankly, that is not for the administration to determine. Not only does the administration's rationale fail to respect the Congress as a co-equal branch of Government, it also speaks of bad faith and contempt for the role of Congress in the confirmation process.

Finally, Mr. President, during the committee's consideration of this nomination, Senator SARBANES reminded all of us of the history of the position of the United States Ambassador to the United Nations. He listed the names of all 24 public servants who have held the office. Twenty-two of those twenty four were confirmed by unanimous consent, or with unanimous votes, or with voice votes. One was confirmed by a vote of 89 to 3. The most controversial Ambassador in our history was confirmed by a vote of 81–16. We have been represented by some very direct, opinionated, colorful characters at the United Nations. But we have never sent a figure so polarizing, or one with credibility so tattered, as the nominee before us today. John Bolton does not have the support of a single Democrat on the Senate Foreign Relations Committee. He does not have the support of a majority of that committee. I do not understand why the administration is insisting upon thrusting such a troubled nominee into such a sensitive and important post. From achieving real reform of the UN to rebuilding US credibility to creating a solid global coalition to combat terrorism, the stakes at the UN are as high as they have ever been. If the President had chosen a public servant of impeccable judgment, the committee and the Senate would have rallied around that selection, eager to work in partnership with a nominee capable of, and committed to, mending frayed relationships, encouraging real burden-sharing, and nurturing a strong international coalition to fight terrorism and the proliferation of weapons of mass destruction. John Bolton is not that nominee. I urge my colleagues to reject this nomination, and let us work together to quickly confirm a different nominee—one who represents the President's views but also has the skills, the record, and the confidence of the Senate required to be an effective ambassador. We can do, and we should do, much better than John Bolton.

I yield the floor.

Mr. HAGEL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I would like to say a few words about the nomination of John Bolton. The Presiding Officer is a member of the Foreign Relations Committee, and we spent a good deal of time listening to testimony on the President's nomination of Mr. Bolton to be Permanent Representative at the United Nations.

On the face of it, he is as well qualified for this position as any person who has ever been nominated for the position. He has a distinguished background, confirmed by this body, I believe, four times, 4 years ago as Under Secretary of State for Arms Control and International Security. He was Assistant Secretary for International Organizations under the first President Bush, for whom I served. He was assistant to Attorney General of the Department of Justice in the late 1980s. That would be during the Reagan administration. That is a big job. I believe he was the Assistant Attorney General for the Civil Division of the U.S. Department of Justice. He was Assistant Administrator for Program Policy Coordination for USAID in 1982 and 1983. He was general counsel for the U.S. Agency for International Development.

He has the kind of academic record all of us would like to have: summa cum laude from Yale, a JDL from Yale Law School.

He comes from an enormously distinguished background. As has often been pointed out on this floor and in committee hearings, he has some solid accomplishments, including leading the American efforts to repeal the resolution at the United Nations which equated Zionism with racism and his work with the liberation of Kuwait in 1991 through the U.N. Security Council. When former U.S. Secretary of State Jim Baker was asked to help the United Nations in its work in western Sahara, Secretary Baker, who is known for choosing exceptionally talented people to work with him, asked John Bolton to work with him in the western Sahara in the 1990s pro bono. He designed the current administration's proliferation security initiative under which more than 60 nations now share intelligence and take action to stop the transfer of dangerous weapons.

So I was not one bit surprised when Mr. Bolton made an impressive appearance before the Foreign Relations Committee on the first day of our testimony. He demonstrated command of the issues facing the United Nations. He got a lot of intense questioning, as he should from Senators, for such an important position. The questioning lasted for more than 7 hours. He was calm and collected. He answered the questions with great skill and accuracy, I thought, and he focused on the need for reform of the United Nations.

He brought with him for that testimony strong support of former Secretaries of State Jim Baker, Larry Eagleberger, Al Hague, Henry Kissinger, George Shultz, and endorsements from more than 50 former ambassadors. I was with one of those ambassadors a few weeks ago, a man very well known in this body, a former Senator and majority leader, Howard

Baker. Howard Baker has just returned from 4 years as Ambassador to Japan. He did a tremendous job there, as everyone expected him to, but he remarked to me privately and said I was free to say it publicly—in fact, he volunteered the information—about how he had dealt with Secretary Bolton during those 4 years in Tokyo, these last 4 years, from time to time, and how impressed he was with him and how much he enjoyed working with him. He liked him. He said he spoke frankly, and Senator Baker said he thought John Bolton would make a good ambassador to the United Nations.

The second day of hearings that the Presiding Officer and I were privileged to be a part of was a little different. I was, frankly, disappointed by what I heard. One of the witnesses was called forward, the former Assistant Secretary for Intelligence and Research, and he presented evidence about how John Bolton had, in his words, chewed out intelligence analysts in the State Department.

Mr. Ford was mad about that. He didn't like the fact that Mr. Bolton had chewed out people on down the line and he came to us and told us so. He was a convincing witness. He was believable because he didn't overstate his case and the information he gave us was information I would rather not have known about the next ambassador to the United Nations. I am sure Mr. Bolton was disappointed, perhaps even embarrassed to hear it.

But Mr. Ford did not say, in the case that we were talking about, that Mr. Bolton was misusing or compromising intelligence. In fact, Mr. Ford himself said, "In this particular case"—the one Mr. Ford was led to complain about, "there wasn't politicization of the intelligence." Mr. Ford was very clear on that point in his testimony to the committee.

In other interviews conducted by our Foreign Relations Committee staff since that time, another issue was raised about a disagreement about intelligence. One of Mr. Bolton's subordinates who was on detail from the CIA sent a report to the Deputy Secretary of State for review and was unhappy that another bureau had put a memo on top of that report that said the report was incorrect. That certainly sounds like a lot of inside baseball to people outside of Washington, and it sounds like a simple disagreement to me, a disagreement over intelligence that is quite common, from what even Mr. Ford said. In this case, there is no evidence Mr. Bolton was even aware of the dispute. So, again, no evidence of politicization of intelligence. Rather, it appeared that different staff members were arguing for their own point of view, which should not surprise anyone around here.

There have been a variety of other charges and suggestions. Mr. Bolton has had the pleasure that many Presidential nominees had. I was once a Presidential nominee and went through a confirmation process when the Senate was in the hands of the Democrats. So they made sure that everything about me was pretty well known and explained. They took time to do it. I was as polite and happy as I could be. No one enjoys all of that, but it serves its purpose, and it served its purpose with Mr. Bolton as well.

In the end, it is my judgment, after attending the hearings, reading the testimony, conferring with others who have known Mr. Bolton over time, that only one charge against John Bolton appears to have any substance. John Bolton has been rude to staff members who are below him in the bureaucracy. As I said, I imagine he is embarrassed by that. I didn't like to hear it. Perhaps he deserves to be embarrassed by those charges and perhaps he has even learned a lesson. But what I heard hasn't changed my vote, even though it might change Mr. Bolton's ways of dealing with people with whom he works.

How significant is such a charge, that he was rude to people in the bureaucracy? As has been mentioned by many others in this body, if that were the standard for remaining in the Senate we would all have a hard time getting a quorum. There are regularly occasions when busy Senators eager to make their own point are brusque—with staff members, even shout at colleagues. In fact, the shouting was so loud in one business meeting of our Foreign Relations Committee by some of the Senators I could barely hear the charges against Mr. Bolton.

That is not attractive. I do not endorse it. It has even caused me to think back about times that I may have become angry or brusque or impatient or startled in dealing with a staff member or another person, and I have always regretted it when I have and it has made me redouble my efforts to make sure I swallow my pride more quickly and think about what I say and not do that anymore. It is not good conduct. It is not good business. But just how significant is this?

Here is what former Secretary of State Larry Eagleburger had to say about it a couple of weeks ago in the Washington Post. This deserves special attention.

Larry Eagleburger was Secretary of State for the first President Bush. But, in a way, he was more than that. Larry Eagleburger had 27 years in the Foreign Service. We hear a lot of times that a football player is a football player's player, or a man is a man's man, or a woman is a woman's woman. Larry Eagleburger is a Foreign Service Officer's Secretary of State. He had and has enormous respect from those men and women who put their lives on the line daily around the world and in the United States in support of our diplomacy, our foreign policy, and our country.

Here is what Larry Eagleburger had to say about John Bolton in an op-ed in the Washington Post:

> "As to the charge that Bolton has been tough on superordinates," Secretary Eagleburger said, "I can say that only in more than a decade of association with him in the State Department I never saw or heard anything to support such a charge, nor do I see anything wrong with challenging intelligence analysts on their findings. They can, as recent history demonstrates, make mistakes. And they must be prepared to defend their findings under intense questioning. If John pushed too hard or dressed down subordinates, he deserves criticism but it hardly merits a vote against confirmation when balanced against his many accomplishments."

That is Larry Eagleburger, the Foreign Service officer's Secretary of State.

Where Larry Eagleburger comes down is where I come down. I believe the benefit of hearing Mr. Ford's testimony may prove to be a little bit of a lesson to Mr. Bolton, and a reminder to the rest of us, us Senators, of how unattractive it is to shout at an associate or unnecessarily dress down a staff member.

I agree with Secretary Eagleburger. John Bolton has a distinguished background and record. He has dedicated himself to improving our country's foreign policy. His action toward subordinates might have been inappropriate. Perhaps he has learned a lesson. But it doesn't cause me to change my vote. I am glad to support him.

This is a critical time for the United Nations. Even the Secretary General acknowledges it is in need of reform. Billions of dollars filtered from the U.N. coffers to Saddam Hussein's pockets in the oil-for-food scandal. Top human rights abusers such as Sudan and Zimbabwe sit on the Human Rights Commission. United Nations peacekeepers in Africa have been found to rape and pillage.

The United Nations has many important roles in the world. I am glad we have them. I want it to work. The President is right in his thinking that we need to take action to help the United Nations reform itself and that a frank-talking, experienced diplomat named John Bolton is an excellent candidate for that commission.

I am pleased to support this nomination. I hope my colleagues will do the same.

Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS PRICES

Mr. ALEXANDER. Mr. President, I take a few minutes to speak about natural gas prices, the prices at the pump, blue-collar workers, farmers, and homeowners.

The reason I do that is because the Senate Energy Committee earlier today did a good piece of work that I hope the American people understand.

By a virtually unanimous vote, 21 to 1, the committee, after 5 months of work, reported to this body what I hope will be called the Clean Energy Act of 2005.

I suppose people outside of the Senate get tired of hearing Senators compliment one another, but I do that today because this would not have happened had it not been for the leadership of Chairman PETE DOMENICI, the Republican chairman of the Senate Energy and Natural Resources Committee, and the ranking Democrat, JEFF BINGAMAN.

We tried to do this in the last session of Congress in the Energy and Natural Resources Committee. We were not able to pass an energy bill to give this country a comprehensive energy policy. Senator DOMENICI deliberately set out to do things different in this session of Congress. He sat down with Senator BINGAMAN and the Democratic staff and pledged to work with them, to share everything with them. Senator DOMENICI visited every member of the committee, Republican and Democrat. We worked together on a variety of major hearings and roundtables. The coal roundtable lasted 3 or 4 hours; one on natural gas lasted 3 or 4 hours. He encouraged a variety of committee members to become involved.

On the Subcommittee on Energy, which I chair, he encouraged me to go ahead and, working with Senator TIM JOHNSON of South Dakota from across the aisle, we came up with a Natural Gas Price Reduction Act of 2005 into which we put ideas to bring down the $7 natural gas price we have today, which is the highest natural gas price in the world. Senator DOMENICI and Senator BINGAMAN did their best to come up with aggressive ideas.

Sometimes when Members set out to compromise and work together, we end up with nothing because the easiest way to compromise is to do nothing. We can all agree on doing nothing and then we will not have a bold bill. But we are almost fortunate this did not pass last year because this is a more urgent time. The natural gas prices are $7, the highest in the industrial world. We have gone from the lowest in the industrial world to the highest in the industrial world. Prices at the pump are high. We have a million blue-collar manufacturing jobs in the chemical industry alone that will go overseas if we do not find some way to deal with this.

September 11 was a big surprise to our country. Our next big surprise is going to be to our pocketbooks if we do not figure out how to deal with the price of energy. We must figure out how to have a low-cost, adequate, reliable supply of clean energy that is increasingly produced in the United States of America and not overseas. That is our goal.

What is exceptional about this bill, in my view, is that it attacks the problem in a much more comprehensive way than other versions of the bill have. It begins with aggressive conservation. For example, the appliance efficiency standards, which are in this year's bill, are about double the effectiveness of those that were in last year's bill. What does that mean? It simply means that by some estimates these standards could save at peak demand the equivalent of 45 500-megawatt powerplants. If we save building 45 gas powerplants, we decrease the building of natural gas and we tend to lower the price.

There are a good many other examples of aggressive conservation. The second thing the bill does is to begin to change the way we produce electricity. This country produces about 25 percent of all the energy in the world. We use it here. We have 5 to 6 percent of the American people and we produce 25 percent of the energy. Where does that electricity come from? It comes primarily from what we call nonrenewables. It comes from, first, coal; natural gas, second; and nuclear, third. That is 91 percent of it. Now, another 7 percent comes from dams from hydropower and about 2 percent comes from renewable power, which is windmills, solar, biomass, and geothermal.

If we are in competition with China and India for jobs, and an important part of every farm, every manufacturing plant, every home, is the provision of reliable, low-cost, adequate supply of energy, as a practical matter for the next 20 years, most of that will have to come from nuclear power, from coal, and from gas and conservation. That is where it has to come.

Of course, we want to do more with other kinds of energy. For example, I hope the tax committee, when it reports its part of this bill, does something about solar power. We have a renewable tax credit in the law today that does not do much for solar. It encourages powerplants that produce electricity from sun. We almost don't have any of those. What we use solar for is, we put shingles on roofs. We need to give incentives to individual owners to do more of that. That's why I proposed an investment tax credit so individual owners can take advantage of it.

We can do more research and development in biomass and more research and development in geothermal. Even if we do all that we can do for the so-called renewable energies, in the next 20 years—and there is some disagreement about this—in my view, we will still be producing about 95 percent of our power—certainly not less than 90 percent of our power—from nuclear power, from coal, from gas, and hydro.

Now, how many more dams are going to be built in the United States? It is limited. In fact, this bill addresses relicensing of hydro dams. There are a good number of those in Oregon where the Presiding Officer comes from. By the year 2018, according to the National Hydropower Association, there will be 30,000 MW of hydropower plants that need to be relicensed. That's half of the hydropower in the United States. This landmark, bipartisan agreement on hydro relicensing is both urgent and meaningful.

So if one puts all of that aside, if we want to compete for our jobs with people from around the world and if the price of energy is a big part of it, what do we have to do? Nuclear, coal and gas.

Over the last 10 years, almost all of the new powerplants in America that make electricity have been built from natural gas. Now, how wise is that? Here we are with $7 a unit natural gas, the highest price in the industrialized world, our chemical companies, our blue-collar companies using this, some of them as a raw material—Dow Chemical estimates that 40 percent of the cost of its production is energy. Now, if in other parts of the world natural gas is significantly lower, we will have a problem. We will have jobs moving from here to there.

We do not want to make all of our power from natural gas. We do it because we know how to do it and because it is clean. That leaves us with two sources of what we call base load energy, the two things that we must find a way to use and use in a clean way if we want to have a low-cost supply of American-produced energy. One of those is nuclear, and one of those is coal.

Nuclear power is a technology that we invented in the United States, the peaceful uses of the atom. We figured out how to do that in the 1950s. One of the remarkable technological stories in the United States is our Navy and its nuclear-powered vessels. I suppose it is a classified matter exactly how many we have, but we have dozens of them. Some of them have small reactors. Some of them have a couple of big reactors on them.

Since the 1950s, there has never been one single nuclear reactor accident in the U.S. Navy, not one. They are underwater. When they are above water, they dock at ports all around the United States, and we use them. In our country today, 20 percent of all of our electricity and 70 percent of our carbon-free electricity is produced by nuclear energy. Yet we have not built a nuclear powerplant in the United States since the 1970s, not one new one. How wise is that?

Other countries in the world are. Eighty percent of France's electricity is now produced by nuclear power. Japan, ravaged by nuclear weapons in World War II, relies on nuclear power. They build one or two new plants a year.

We are in competition to keep jobs here. We want clean power. We increasingly want carbon-free power. If 70 percent of our carbon-free electricity is nuclear, then what is keeping us from going ahead? This bill will help us move ahead because it makes it easier for investors to build nuclear powerplants that are safe.

Senator DOMENICI has come up with an imaginative loan guarantee program that would help launch an entire new generation of nuclear powerplants. Senator CRAIG, Senator DOMENICI, and Senator BINGAMAN have come up with a program that will be based in Idaho for advanced research on how we build lower cost, more effective nuclear powerplants for our country. There is a growing consensus, especially as the Kyoto Treaty and the need to be concerned about global warming persuades more and more people of the importance of capturing carbon, that nuclear power for the next 15 or 20 years is the only logical first step to having a low-cost, adequate, reliable supply of American-produced clean energy. Britain recently has been coming to the same conclusion that nuclear is a necessity for a carbon-free emissions future.

What is the other step? The other step is coal. We instinctively think coal is dirty and it is a source of a lot of problems because of the pollution it causes.

I live 2 miles away from the Great Smoky Mountains National Park. It is the most polluted national park in America. The Knoxville area where I live is one of the most polluted parts of our country. Why is that? There is too much sulphur, too much nitrogen, and too much mercury in the air. Much of that comes from coal-fired powerplants, not just from the Tennessee Valley Authority, which has a number of them in the area, but from all over America. The wind blows the air in, and it backs up against the Great Smoky Mountains, which are the highest mountains in the East, and we breathe the dirty air. So any energy bill has to be a clean energy bill so we can solve our air pollution problems.

There is an even larger issue with coal-fired powerplants. India and China, with their huge economies, a couple of billion more people, are going to be building hundreds of powerplants in the next few years. The conventional coal plant is what many of those plants will be. If India, China, Malaysia, Brazil, and the rest of the world build only conventional coal plants, it will not matter very much what our clean air policies are in the United States because they will produce so many pollutants around the world that when the wind blows them around the world and over the air in the United States, we will suffer from that. So if we solve the problem of how to burn coal in a clean way, then the rest of the world is likely to pick up our innovation and solve their problem because they do not want to have polluted air, either.

So how do we do that? Well, there seems to be a way to do it. We call it coal gasification. There are several technologies. I like to call it clean coal gas because that makes it a little easier to talk about.

The New York Times business section had an excellent article on this on Sunday that Senator DOMENICI gave to all of us. It talked about this idea of taking coal, turning it into gas, and then burning the gas. That solves a great amount of the pollution. It solves the sulphur, the nitrogen, and the mercury part of the pollution, but it does not solve the carbon part.

Then what we need to try to do is to advance the technology of capturing and sequestering the carbon—in other words, getting rid of the carbon. If we are ever able to do that, we could burn coal as cleanly as we can burn gas, capture the carbon and put it in the ground, and we would never have to worry about the Kyoto Treaty. We would never have to worry about the McCain-Lieberman bill or the Carper-Chafee-Gregg-Alexander bill or caps on carbon because we would not be producing carbon. We would be producing it and recapturing it. Nuclear power is free of it, and clean coal gasification with carbon sequestration captures it and gets rid of it.

The other thing is that we are the Saudi Arabia of coal. We have a 500-year supply of it. So if we can move ahead with nuclear and clean coal gas, we can lower the price of natural gas, and we can have more American-produced energy.

So this legislation begins with aggressive conservation. As I said, the appliance efficiency standards alone would save the building of forty-five 500-megawatt gas plants, but then it begins to change the way we make electricity by research and development in advanced nuclear technology, by the loan guarantee support which could be for nuclear plants of that kind. It also has loan guarantees that I hope would help launch a half dozen coal gasification powerplants and a half dozen coal gasification plants at industrial sites. It also has research and development support for carbon sequestration and for other technologies that hold promise.

We still have some issues to work on. We began with what we could agree on, worked 5 months on it under the leadership of Senators DOMENICI and BINGAMAN, and reserved a few issues to the floor. Senator DOMENICI announced that we will be coming to the Senate floor shortly after the recess, in a completely different spirit than last year, with all of us hoping to get a result. We will then put that bill with the House bill and present to this country a clean energy act of 2005 that will lower natural gas prices, begin to produce more American energy at home, include more aggressive conservation, change the way we make electricity, and focus especially on advanced technologies for nuclear, coal gasification, and the supply of gas.

In the short term, we are going to have to bring more gas in from around the world in liquefied natural gas. I'm pleased that the committee adopted the ideas I and Senator JOHNSON had on LNG siting in the energy bill.

There is one other area I want to mention without dwelling on it too much. One of the things I hope happens as we debate this bill is that it doesn't change from a national energy policy into a national windmill policy. I say that because one of the issues we have pushed out to be debated on the floor is something called a renewable portfolio standard, renewable energy. That all sounds very good. The proposal was, let's make 10 percent of all of our electricity by the year 2025 from renewable energies. That sounds good, too.

The problem is, I don't think it will work because all we are talking about is geothermal—that is hot water from the ground—solar, which our incentives today don't help much, and biomass, which is burning wood chips and other such technologies. According to a Department of Energy analysis, even if we had such a requirement of all our electric companies that they produce 10 percent of their energy from renewable fuels, they couldn't do it. They could only get to 5 percent due to the way the Bingaman price caps are structured. So what utilities would do realistically is buy credits in a complicated scheme which would then raise the price of our electricity. We should be in the business of lowering energy prices, not raising them for nothing.

The other concern I have is that a renewable portfolio standard is really a wind standard because geothermal and solar and biomass will only increase it a tiny bit. This information I have is from an analysis that the Energy Information Agency did on Bingman's bill shows clearly that the impact of a Bingaman RPS is growing windpower. The only way to go forward is with windmills. So the effect of continuing the current policy is to take this country from about 6,700 windmills to 40, 60, 80,000, depending on estimates that you believe. My point is not to make a big discussion about the windmills themselves. I don't like to see them. I think most people don't. The Governor of Kansas has put a moratorium on some windmills, as has the Governor of New Jersey, and so have communities in many parts of America, such as Vermont and Wisconsin. I asked the Tennessee Valley Authority to put a 2-year moratorium on new wind power on Tennessee until we could assess the damage it might cause to our tourism industry and to our electric rates and to our view of the mountains.

People think of windmills and think those are nice. Grandma had one on her farm. It was by the well. My grandparents did. But these aren't your grandmother's windmills.

We have the second largest football stadium in the United States in Knoxville, TN. We call it Neyland Stadium. One hundred seven thousand people can sit there, and it has sky boxes that go up as high as you can see. Just one of these windmills would fit into Neyland Stadium. The rotor blades would extend from the 10-yard line to the 10-yard line. The top of the windmill would go twice as high as the sky boxes or more. And on a clear night you could see the red lights 25 miles away. There are significant problems with this power. It only works 25 to 40 percent of the time. You don't get rid of any nuclear or coal plants when you have the windmills because you still need the power. You can't store the energy for your lights or your computer and all the things you use electricity for going all the time. So there are many problems.

But here is the biggest problem, the one I want to mention today. I will just leave it for the members of the Finance Committee upon which the Presiding Officer serves and others. This Energy bill will have three parts to it. It will have some things from the Energy Committee which we have finished today. It will have a contribution from the Finance Committee, which will come in June, and it will have a contribution from the Environment and Public Works Committee, which will also come in June. We will put all those parts together.

We are told that this whole bill, when it is put together, can't cost, our Budget Committee says, more than $11 billion. The President hopes we won't spend more than $8 billion. But the production tax credit in the current policy provides $3.9 billion over 5 years, almost all of which will go to windmills unless we change the policy.

In other words, if we have $11 billion to spend and we spend $3 billion on ethanol or renewable fuel, we will only have $8 billion left to spend on everything else, and nearly 3.5 to 4 of it will go for windmills. That is what I mean by a national windmill policy.

My hope is that my colleagues will take a fresh look at our tax credit for renewable fuels and make sure that we use it wisely because that is a lot of money to create the largest amount of carbon-free clean energy.

Here are some of the suggestions for better use: For example, $1.5 billion for consumer incentives for 300,000 hybrid and advanced diesel vehicles. That would give 300,000 Americans a $2,000 deduction to purchase a hybrid car or an advanced diesel vehicle. Those operate about 40 percent more efficiently than conventional cars. That saves a lot of energy. For $750 million, we could give manufacturing incentives for building those hybrid cars and advanced vehicles in the United States. Unfortunately, as it stands now, we aren't doing that. They would all be built overseas because most of the good hybrid technology has been invented overseas and is being rented to the United States. That would be 39,000 jobs in the United States.

I have with me a copy of the National Commission on Energy Policy which recommends both of these ideas, the $2,000 tax deduction and the incentive for manufacturing of hybrid cars. That would be a wise way to spend money for clean carbon-free energy.

There are many more good ideas: $2 billion in tax incentives for energy-efficient appliances and buildings, suggested by Senators SNOWE and FEINSTEIN. Senator JOHNSON and I had suggested $2 billion for tax incentives to commercialize coal gasification for powerplants and $300 million to make more effective support of another renewable energy, solar energy, which has basically no support the way our laws are written today.

The National Commission on Energy Policy has several other recommendations: Build in tax incentives to commercialize carbon capture and geologic sequestration in a wide array of industries. As soon as we figure out how to capture carbon, we can use coal gasification in a big way to reduce dependence on foreign energy and to lower the cost of natural gas.

They also recommend $2 billion in tax incentives for nuclear deployment, $1.5 billion for biodiesel and nonpetroleum low-carbon fuels. I have suggested those in the order in which I like them.

I am not a member of the Finance Committee so I won't have a chance to be a part of that discussion in that committee. My point is simply that if we have $8 billion to spend or $11 billion to spend, we may have already spent a couple of billion in what we are doing with renewable fuel, then we have a lot more good ways to spend money in support of carbon-free energy than we have money for. I respectfully suggest that if we are spending most of $3.7 billion over the next 5 years as a national windmill policy and not a national energy policy, that ought to be reasonably adjusted.

Let me not emphasize the disputes that we have yet to come. I am here today to say, particularly, after a time in the Senate when people who watch us must wonder if we are speaking to each other, the answer is, yes, we are. We have been meeting for 5 months on this Energy bill. We have been working together, as Senator BINGAMAN said today. I don't remember a party-line vote in the 5 months. We had some close votes, but it wasn't Republican versus Democrat. It was just different ones of us with different opinions. And there must have been half the committee there today when Senators DOMENICI and BINGAMAN announced the results at a press conference.

So I honor them for their leadership. I think the American people are proud of DOMENICI and BINGAMAN as Senators. New Mexico ought to be proud. It has both of them from the same State. Even though we have CAFE standards still to debate, MTBE still to debate, we have some final work to do on how do we site terminals for liquefied natural gas, further increasing the supply of natural gas, and we will be debating the so-called renewable portfolio standard for how many windmills we should have—all that will be sometime in June. That is what we are supposed to do as Senators.

That is why we are here, to take both sides of this issue and see if we can come to a good result. So far, I think we have.

Mr. President, I ask unanimous consent to have printed in the RECORD following my speech the article on coal gasification from the New York Times business section on Sunday; a letter I wrote to the directors of the Tennessee Valley Authority, asking them to put a 2-year moratorium on wind power until we had an opportunity—we in Congress and local officials—to consider the effect of these large wind farms on our tourism industry, on our view of the mountains, on our gas prices; and finally, an article from the Guardian Unlimited, which is an interesting discussion of what is going on in Great Britain, as they consider how to meet the Kyoto standard for carbon-free electricity production, and how many of the people who formerly had favored large windmills are concluding they don't want them destroying the rural areas of Britain, and they are looking at nuclear power in a fresh way which, as I mentioned, is the way we in the United States today produce 70 percent of our carbon-free electricity.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, May 22, 2005]

DIRTY SECRET: COAL PLANTS COULD BE MUCH CLEANER

(By Kenneth J. Stier)

Almost a decade ago, Tampa Electric opened an innovative power plant that turned coal, the most abundant but the dirtiest fossil fuel, into a relatively clean gas, which it burns to generate electricity. Not only did the plant emit significantly less pollution than a conventional coal-fired power plant, but it was also 10 percent more efficient.

Hazel R. O'Leary, the secretary of energy at the time, went to the plant, situated between Tampa and Orlando, and praised it for ushering in a "new era for clean energy from coal." Federal officials still refer to the plant's "integrated gasification combined cycle" process as a "core technology" for the future, especially because of its ability—eventually—to all but eliminate the greenhouse gases linked to global warming.

Since that plant opened, however, not a single similar plant has been built in the

United States. Abundant supplies of natural gas—a bit cleaner and, until recently, a lot cheaper—stood in the way.

But even now, with gas prices following oil prices into the stratosphere and power companies turning back to coal, most new plants—about nine out of 10 on the drawing board—will not use integrated gasification combined-cycle technology.

The reason is fairly simple. A plant with the low-pollution, high-efficiency technology demonstrated at the Tampa Electric plant is about 20 percent more expensive to build than a conventional plant that burns pulverized coal. This complicates financing, especially in deregulated markets, while elsewhere utilities must persuade regulators to set aside their customary standard of requiring utilities to use their lowest-cost alternatives. (A federal grant of $143 million covered about a fourth of the construction cost of the Tampa Electric plant, which was originally a demonstration project.)

The technology's main long-term advantage—the ability to control greenhouse gas emissions—is not winning over many utilities because the country does not yet regulate those gases.

That could be a problem for future national policy, critics say, because the plants being planned today will have a lifetime of a half-century or more. "It's a very frightening specter that we are going to essentially lock down our carbon emissions for the next 50 years before we have another chance to think about it again," said Jason S. Grumet, the executive director of the National Commission on Energy Policy.

The commission, an independent, bipartisan advisory body, has recommended that the federal government spend an additional $4 billion over 10 years to speed the power industry's acceptance of the technology. In a recent report, the commission concluded that "the future of coal and the success of greenhouse gas mitigation policies may well hinge to a large extent on whether this technology can be successfully commercialized and deployed over the next 20 years."

Mr. Grumet was more succinct. Integrated gasification combined cycle technology, combined with the sequestration of carbon stripped out in the process, "is as close to a silver bullet as you're ever going to see," he said.

Until Congress regulates carbon emissions—a move that many in the industry consider inevitable, but unlikely soon—gasification technology will catch on only as its costs gradually come down. Edward Lowe, general manager of gasification for GE Energy, a division of General Electric that works with Bechtel to build integrated gasification combined-cycle plants, said that would happen as more plants were built. The premium should disappear entirely after the first dozen or so are completed, he added.

Even now, Mr. Lowe said, the technology offers operational cost savings that offset some of the higher construction costs. And if Congress eventually does limit carbon emissions, as many utility executives say they expect it to do, the technology's operational advantages could make it a bargain.

James E. Rogers, the chief executive of Cinergy, a heavily coal-dependent Midwestern utility, is one of the technology's biggest industry supporters. "I'm making a bet on gasification," he said, because he assumes a carbon-constrained world is inevitable. "I don't see any other way forward," he said.

The operating savings of such plants start with more efficient combustion: they make use of at least 15 percent more of the energy released by burning coal than conventional plants do, so less fuel is needed. The plants also need about 40 percent less water than conventional coal plants, a significant consideration in arid Western states.

But for some people, including Mr. Rogers and other utility leaders who anticipate stricter pollution limits, the primary virtue of integrated gasification combined-cycle plants is their ability to chemically strip pollutants from gasified coal more efficiently and cost-effectively, before it is burned, rather than trying to filter it out of exhaust.

Proponents say that half of coal's pollutants—including sulfur dioxide and nitrogen oxides, which contribute to acid rain and smog—can be chemically stripped out before combustion. So can about 95 percent of the mercury in coal, at about a tenth the cost of trying to scrub it from exhaust gases racing up a smokestack.

The biggest long-term draw for gasification technology is its ability to capture carbon before combustion. If greenhouse-gas limits are enacted, that job will be much harder and more expensive to do with conventional coal-fired plants. Mr. Lowe, the G.E. executive, estimated that capturing carbon would add about 25 percent to the cost of electricity from a combined-cycle plant burning gasified coal, but that it would add 70 percent to the price of power from conventional plants.

Gasification technology, although new to the power sector, has been widely used in the chemical industry for decades, and the general manager of the gasification plant run by Tampa Electric, Mark Hornick, said it was not difficult to train his employees to run the plant. Tampa Electric is the principal subsidiary of TECO Energy of Tampa.

Disposing of the carbon dioxide gas stripped out in the process, however, is another matter. Government laboratories have experimented with dissolving the gas in saline aquifers or pumping it into geologic formations under the sea. The petroleum industry has long injected carbon dioxide into oil fields to help push more crude to the surface.

Refining and commercializing these techniques is a significant part of a $35 billion package of clean energy incentives that the National Commission on Energy Policy is recommending. The Senate considered some of those ideas in a big energy policy bill last week, but it is doubtful whether Congress will approve the funds to enact them because they are tied to regulating big carbon emissions for the first time, something that many industry leaders and sympathetic lawmakers oppose.

Still, the energy bill may have some incentives for industry to adopt gasification technology, and the Department of Energy will continue related efforts. These include FutureGen, a $950 million project to demonstrate gasification's full potential—not just for power plants but as a source of low-carbon liquid fuels for cars and trucks as well, and, further out, as a source of hydrogen fuel.

Regardless of the politics of carbon caps, the Energy Department has made it clear that it intends to push the development of integrated gasification combined-cycle technology. Last month, for example, Mark Maddox, a deputy assistant secretary, said at an industry gathering that the technology "is needed in the mix—needed now."

Some industry leaders are skeptical, to say the least. "We would not want to put all of our eggs in one basket as far as a single technology is concerned," said William Fang, deputy counsel for the Edison Electric Institute, a trade association whose members, shareholder-owned utilities, account for three-quarters of the country's generating capacity.

Besides, he added, many of his members think that mandatory carbon controls, in place in much of the world since the Kyoto Protocol came into force in February, can be kept at bay in the United States—possibly indefinitely.

It's a risky strategy—for industry and for the climate. "Coal-fired plants are big targets," said Judi Greenwald of the Pew Center on Global Climate Change, "and if we do get serious about climate change, they are going to be on the list of things to do quite early."

U.S. SENATE,
Washington, DC, May 23, 2005.

Hon. SKILA HARRIS,
Tennessee Valley Authority, Knoxville, TN.
Hon. BILL BAXTER,
Tennessee Valley Authority, Knoxville, TN.

DEAR SKILA AND BILL: Recently Sen. John Warner of Virginia and I introduced the "Environmentally Responsible Windpower Act" which would:

1. Stop federal subsidies for giant windmills near highly scenic areas, such as the Great Smokies and Grand Canyon, and
2. Give communities a 120-day opportunity to have some say in whether and where these huge machines will be located in their communities and neighborhoods.

Today I am writing to ask that TVA place a two-year moratorium on construction of new wind farms—either by TVA or on TVA-controlled land—until the new TVA board, Congress and local officials can evaluate the impact of these massive structures on our electric rates, our view of the mountains and our tourism industry. The governors of Kansas and New Jersey have recently imposed similar moratoria. Local moratoria have been adopted in parts of Vermont and Wisconsin.

The idea of windmills conjures up pleasant images—of Holland and tulips, of rural America with windmill blades slowly turning, pumping water at the farm well. My grandparents had such a windmill at their well pump.

But these are not your grandmother's windmills.

Most new windmills are about 300 feet high—as tall as a football field is long or as tall as the Statue of Liberty. Their rotor blades are wider than the wingspan of a 747 jumbo jet and turn at up to 100 miles per hour. Each tower costs more than $1 million to erect, and, once constructed, the towers will be around for a long time. For example, TVA's new 18-windmill farm on Buffalo Mountain is a 20-year contract.

Only one of these giant windmills could fit into UT's Neyland stadium. It would rise more than twice as high as the highest skybox, its rotor blades would stretch almost from 10-yard line to 10-yard line, and on a clear night its flashing red lights could be seen for 20 miles—the distance from Knoxville to Maryville. Usually these windmills are grouped in windfarms of 20 or more.

Our country needs a national clean energy policy, not a national windmill policy. TVA is a national leader in producing clean energy through nuclear and hydroelectric power. A moratorium on windmills would give Tennesseans two years to stop and think about the wisdom and cost of building hundreds of 100-yard tall structures across our most scenic ridges.

Here are some of the facts I have gathered so far:

There are 6,700 windmills in the United States today; by 2025, that number could grow to somewhere between 40,000 and 100,000, according to varying estimates.

Even if only a few hundred of those windmills are built in Tennessee, most will be built on top of mountain ridges according to Senate testimony by Kerry W. Bowers, Technology Manager of Southern Company. That could damage our tourism industry.

These giant windmills are being built primarily because of a huge federal taxpayer subsidy, about $3 billion over the next five years if present policies continue. Without these federal tax breaks, American Wind Energy Association statistics suggest that three out of four windmills would not be built across the country because they aren't cost-effective producers of power.

Once those tax credits expire, TVA ratepayers would likely have to pick up most of the tab for the higher cost of the power.

These windmills may be huge, but they don't produce much power. It would take at least 1,300 windmills—covering the land mass of almost one and one half times the city of Knoxville—to produce as much power as TVA's new Brown's Ferry nuclear plant.

Because they only work when the wind blows the right speed (20 to 40 percent of the time), and customers need their electricity almost all the time, building more windmills does not mean building fewer coal or nuclear power plants.

Since windy ridgetops are not usually where the largest number of people live, windmills are likely to be built away from population centers and therefore require the building of miles of new transmission lines through neighborhoods and communities.

So, these oversized windmills produce a puny amount of unreliable power in a way that costs more than coal or nuclear power, requires new transmission lines, must be subsidized by massive federal tax breaks, and, in my view, destroys the landscape.

Chattanooga has just spent 20 years improving its waterfront, saving the Tennessee River Gorge and renaming itself the Scenic City. The Great Smoky Mountains attract 10 million visitors a year. Do we really now want to string hundreds of towers with flashing red lights as tall as football fields on Signal and Lookout Mountains, the foothills of the Smokies and Roan Mountain? It's hard to imagine that 10 million visitors would come to the foothills of the Smokies each year to see windmills.

As chairman of the Senate Energy Subcommittee, I intend to examine whether it is wise to provide $3 billion in subsidies over the next five years for the building of tens of thousands of giant windmills across America, when the same amount of money might, for example, give $1,000 incentives to more than 300,000 purchasers of hybrid or advanced diesel vehicles. As chairman of the Tennessee Valley Authority Congressional Caucus, I intend to do my best to make local officials aware of their options to decide for themselves whether these structures belong in their communities.

Our country needs lower prices for energy and an adequate supply of low-cost, reliable American-produced clean energy. Wind doesn't fit the bill: it is a high-cost, unreliable supply of energy. While we are considering what the appropriate policies should be, I hope that TVA will help by placing a two-year moratorium on any new wind farms.

Sincerely,

LAMAR ALEXANDER,
United States Senator.

[From The Observer, May 22, 2005]

TILTING AT WINDMILLS: NATION SPLIT OVER ENERGY EYESORES

(By Mark Townsend)

Hundreds of turbines will be switched on this year, and the volume of protest is rising. Mark Townsend reports on the issue that will overtake hunting as a cause of rural unrest.

The clue lies in the grass, pummelled and then flattened by a force the area is famous for. Whinash is all about wind, and it is a resource which has put the Lakeland beauty spot at the heart of Britain's debate about the country's insatiable need for energy.

The site—amid the classic Cumbrian vista of rolling fells criss-crossed with dry stone walls and the shuffling specks of sheep—is to be home to England's largest wind farm. If the plans ever get the go-ahead.

This week, the public inquiry to site 27 turbines, each almost the height of St. Paul's Cathedral, on the ridge of Whinash enters its most potentially explosive phase. Two of Cumbria's favourite sons, the broadcaster Melvyn Bragg and the mountaineer Sir Chris Bonington, are scheduled to give evidence in the squat Garden Room of the remote Shap Wells Hotel. There can be no place for 21st-century windmills in a Wilderness largely-unaltered for centuries, they will argue.

Almost 200 miles north in Aberdeen, Malcolm Wicks will mark his entrance as the new energy minister by stressing the crucial role of wind power in the crusade against climate change. Only weeks into his new brief, Wicks appreciates that wind farms are already eclipsing farming and foxhunting as the most likely source of rural unrest during Labour's third term.

Ministers, aware that the government's target of cutting carbon dioxide emissions is in jeopardy, have identified Whinash as the acid test of whether they can expect that renewable energy will provide 10 percent of power in five years' time.

But the significance of Whinash runs even deeper. Among the windblown crags that lie between the national parks of the Lake District and the Yorkshire Dales, the schism that is tearing Britain's environmental movement from top to bottom is most pronounced.

The self-appointed custodian for future generations, Britain's green lobby has found itself caught between the need to protect the landscape from global warming and defending Britain's countryside from the creation of a 'pseudo-industrial' skyline. This month, one of the movement's most influential figures James Lovelock, the man who developed the Gaia theory of the forces governing nature, will launch his most candid critique yet of Britain's energy conundrum by accusing groups such as Greenpeace and Friends of the Earth of betraying the planet through their unswerving promotion of wind energy.

Nuclear energy, Lovelock will claim, offers the only solution to the twin challenges of providing Britain with a reliable energy supply and global warming.

Britain currently stands poised at the start of the 'wind rush'. Hundreds more turbines in 18 new wind farms will be switched on by the end of the year. Already the UK is poised to become the world's biggest producer of power from offshore wind farms, a reminder of the 17th century, when Britain boasted 90,000 windmills.

Around one per cent of the UK's energy is currently provided by wind although the Industry claims there are enough applications moving through the planning process to suggest seven per cent of the nation's electricity needs will be met by wind by 2010.

Next month the 300ft turbines at Cefn Croes, scene of the bitterest wrangle before Whinash, will start turning in mid-Wales. Yet pressure is mounting on the fledgling industry. If Britain's climate change targets are not met, experts warn that the generous subsidies which have helped establish wind farms could be withdrawn by an exasperated government.

Already a new era for nuclear power appears to be dawning and seems certain to feature prominently in the government's forthcoming energy review. Vastly more expensive than predicted and plagued by persistent safety concerns, nuclear's strength remains its proven reliability. And even those who have lived in the shadow of Sellafield, 30 miles west across central Lakeland from Whinash, are beginning to believe nuclear is the saviour.

Sir Christopher Audland shook his head as he tramped along the pummelled cotton grass tufts of the Whinash site last Tuesday afternoon. A former director-general of energy for the European Commission, Audland was in charge when reactor number four exploded in the Ukraine almost 20 years ago, its radioactive contents drifting from Chernobyl to the fells of Cumbria where his family has lived for 500 years. For a man who saw first-hand the inherent risk of nuclear power, Audland is dismissive of the safer alternative proposed for the hills north of Kendal. 'It cannot be allowed to happen here,' he said.

Bragg, who has relatives who happily work at Sellafield, is among the growing Lakeland fraternity who believes nuclear is the sale viable option for tackling climate change.

'We seem to be running away from the safest, most efficient industry. Nuclear energy seems to be the only sensible option and it is a safe option,' said the presenter of The South Bank Show. It is a consensus corroborated by Lovelock, who in 1991 opened Britain's first windfarm at Delabole, Cornwall. Since then, Lovelock has reviewed his initial enthusiasm.

'To phase out nuclear energy just when we need it most to combat global warming is madness,' he said. 'The anti-nuclear agenda is pushed by groups such as Greenpeace and Friends of the Earth and by Green Party politicians. They are pursuing goals in which neither environmental good sense nor science plays a part—a strange way to defend the earth,' he writes in Reader's Digest.

Even the spectre of Chernobyl is dismissed by Lovelock, who claims that the fallout from the radioactive cloud that swept over the Cumbrian peaks 'was really nothing. A few times higher than the natural background levels or at worst a couple of chest X-rays'.

It is 13 years since the arrival of the anti-wind lobby surfaced with the Country Guardian, a group that vehemently denies links to the nuclear sector although its chairman, Sir Bernard Ingham, has been a paid lobbyist for British Nuclear Fuels. Since then, complaints advanced to discredit wind energy have multiplied: falling property prices, the whirring noise that makes people sick a mile away, horses that suddenly bolt and the grisly deaths of kites and golden eagles, even if their numbers are a fraction of those of birds that are killed on the roads.

The most persistent criticism, however, concerns the efficiency of wind power. Critics claim windmills would struggle to cope with the half-time power surge during yesterday's FA Cup final because they only generate electricity for a part of the time. Such issues would be irrelevant if electricity could be stored, but there is no battery for the national grid.

A recent study in Germany, which has the largest number of wind farms in the world, found the energy was an expensive and inefficient way of generating sustainable energy, costing up to £53 to avoid emitting a ton of carbon dioxide. Professor David Bellamy, a vociferous windfarm critic seen recently at the Shap Wells Hotel, is among those worried whether wind could guarantee his half-time cuppa: 'How are people going to be able to boil their kettles?'

Sir Martin Holdgate, a former chief scientist to the Department of Environment who has served on a number of government committees on renewable energy, was also present in the Garden Room last week. Holdgate, too, has run out of patience with wind farms in sensitive areas. 'We shouldn't sacrifice our landscape on our crowded island. Wind doesn't make sense.'

Others, the so-called 'blade lovers', welcome them as an aesthetic asset, claiming that their beauty lies in the environmental message they communicate to a throwaway society. Designer Wayne Hemingway says: 'I love them. They are a massive visual sign that we are doing something that is not damaging the Earth.'

Mr. ALEXANDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The minority controls 50 minutes of the time remaining.

Mr. KERRY. Fifty?

The PRESIDING OFFICER. I am told 50.

Mr. KERRY. How much does the majority have remaining?

The PRESIDING OFFICER. The majority controls 52 minutes.

Mr. KERRY. I thank the Chair.

Mr. President, I yield myself such time as I will use at this moment. Obviously, I will not use all of it.

The PRESIDING OFFICER. The Senator controls 30 minutes of the time allocated.

Mr. KERRY. Mr. President, I am not sure how much of that time I will use.

I have made a significant amount of argument, as others have, in the Foreign Relations Committee during the time leading up to this debate on the floor. I listened to Senator BIDEN's comments and I listened to Senator BIDEN's colloquy with Senator SARBANES. They raised critical points, as have others, such as Senator DODD and Senator VOINOVICH, and others on the floor. I am not sure it serves any great purpose to rehash all of those arguments, but I will say in summary that what brings a lot of us to this point of questioning the nomination of John Bolton is not personal and it is not political in the sense that it is sort of an automatic reflex reaction to a nomination of the President, or to divisions between the parties.

I think people can sense from the bipartisan concerns that have been expressed, as well as the record that has been set forward, that these are really deeply felt and very legitimate concerns about a position that is one of the most important foreign policy positions for our country.

Obviously, the President has the right to make a choice. We all understand that. Subsequent to the President making that choice, an enormous amount of information has come forward, not from traditional sources, not from people who might have been disposed to oppose this nomination, but from people who have worked with Mr. Bolton, from people who are ideologically in the same place as he is, who are members of the same administration.

The picture they have painted is clearly one that ought to raise concern for any Member of the Senate about a position that requires special credibility, special stature, and special ability to be able to carry the message of our country in one of the most important fora in the world, in a very complicated world.

On several occasions, a number of Senators have talked about this issue of credibility, and it cannot be overlooked. One cannot gloss by it. We are in the midst of delicate, critical negotiations with Iran. Nobody knows where that will go in these next months. The potential for critical intelligence analysis to be put before the United Nations in order to persuade the world of potentially dangerous steps requires a voice that has no questions attached to it, where people will not have to ask whether that person speaks for the administration or for themselves.

The history of Secretary Colin Powell, whom we all admire but who was sent to the United Nations with information that was inaccurate and made a speech which he now personally wishes were otherwise, raises even further the question of credibility. In addition, we will have to deal with Syria itself where important issues have been raised with respect to Mr. Bolton's attitude toward Syria, his willingness to stretch information with respect to Syria. Obviously, North Korea looms huge on the diplomatic and security horizon.

All of this fits within a context of information that the Foreign Relations Committee has requested a number of times. Two weeks ago, the Foreign Relations Committee, in a historical moment, voted to send John Bolton's nomination without recommendation. I voted no at that time for the reasons that I stated, and I believe we have yet to complete the task of building the complete record to be able to have the full Senate make a judgment on this nomination.

Over the last 24 years, the Foreign Relations Committee has sent hundreds of nominations to the floor with favorable recommendations. Only twice did the committee report a nomination unfavorably, and only once did it report a nomination without recommendation. So obviously we come with serious reservations within the committee, and the Senate ought to want a full record to be put in front of it before it votes on this nomination.

The power of advice and consent has been talked about a lot in the last weeks. Obviously, we have a constitutional responsibility not just to advise but also to consent, and nowhere is it suggested in the Constitution that we ought to consent automatically.

So over the last week, both Democrats and Republicans on the committee have worked hard together to jointly interview more than 30 individuals with information relevant to this nomination. We also requested numerous documents from the State Department, USAID, and the CIA. This in-depth level of investigation was necessary because concerns were raised by individuals in Government and in the private sector about the nomination. Again, I repeat, we did not seek out these people. They came to us. Most of those who came to us have worked with Mr. Bolton and continue to work in Government. They came to us at great risk to themselves. That risk has to be measured by our colleagues in the Senate.

Everybody knows how this place works. We know the difficulty of a person coming out of the same place of business in politics and saying something that is critical of somebody they worked with. The fact is that we owe those people who took those risks a serious and complete effort in the consideration of this nomination, not a perfunctory effort, not one that seeks to find a way around a legitimate request for information.

The fact is that this administration's cooperation in the Foreign Relation Committee's effort to do due diligence on the Bolton nomination has been sporadic at best and far from complete. In the 22 years I have served on the committee, I have seen efforts on both sides of the aisle that have been far more extensive and far lengthier for less important positions or for the similar position.

Initially, the administration's response was to refuse access to documents or individuals to be interviewed until just a few days before the committee's first business meeting to consider the Bolton nomination on April 19. Chairman LUGAR had to personally intervene in order to persuade the administration to comply with earlier requests that were made repeatedly by

Senator BIDEN on behalf of all of the Democrats on the committee.

The State Department finally responded but, again, not fully. It did not provide all of the documents requested, and those that were provided were suddenly deemed to be classified, even though many were unclassified e-mails.

After the committee decided on April 19 to further investigate allegations and concerns about this nomination, the administration continued to drag its feet on the Democratic request for information. On April 29, Senator BIDEN sent a letter specifying nine different categories of documents relating to the issues of concern that needed to be investigated thoroughly. Some of these requests involved additional information related to specific cases the committee had been reviewing. Four of them were requests for drafts of speeches or testimony. These four requests were designed to ascertain whether Mr. Bolton sought to stretch the intelligence to support his policy views. A lot has been spoken on the Senate floor about that effort to stretch, and I would associate myself with the concerns that have been expressed by other Senators about that effort. There is nothing more serious at this moment in time.

The State Department refused to respond fully to Senator BIDEN's request. Instead, it responded to a letter by Chairman LUGAR on May 4 suggesting that it needed to provide documents in only five of the nine categories. Well, it is not up to the administration to decide which categories are appropriate for the proper advice and consent of a Senate committee or of the Senate itself.

So in an effort to move the process along and get further cooperation from the administration, Senator BIDEN narrowed the Democratic request down to two areas: Information related to the clearance of Mr. Bolton's September 2003 testimony on Syria before the House International Relations Committee and information related to National Security Agency intercepts and the identity of U.S. persons on those intercepts.

Over a period of 4 years, Mr. Bolton requested the identity of U.S. persons on intercepts 10 times.

Senator DODD originally asked for these intercepts in a question for the record on April 11. The Department responded by saying that the committee needed to get these from the National Security Agency. So Chairman LUGAR supported the Democratic request for the NSA intercepts but asked the Intelligence Committee to request them and find a means of sharing them with the Foreign Relations Committee.

The Intelligence Committee finally did get the intercepts, but the chairman and ranking member of that committee were not allowed to see the key information: that is, the names of the U.S. persons, which is an essential part of the evaluation of the committee. No one—no one on the Foreign Relations Committee, not Chairman LUGAR or Senator BIDEN—has been given access to these intercepts.

In response to letters from Senator BIDEN regarding the intercepts, the Director of National Intelligence, Ambassador Negroponte, referred Senator BIDEN back to the Intelligence Committee.

What the Senate has to decide is whether it is going to stand up for the rights of a committee, for the rights of an appropriate set of inquiries to be answered so we can fulfill our constitutional responsibilities. Senators can be for Mr. Bolton, Senators can have already made up their minds, Senators can have decided that they know how they are going to vote and they do not need more information, but they ought to respect the fact that both the chairman and the ranking member made a request and that request has not yet been fulfilled.

The information we are seeking relating to the Syria testimony will shed further light on whether Mr. Bolton tried to press the envelope on intelligence and whether he told the committee the truth when he said he was not personally involved in the preparation of the Syria testimony. The question of whether Mr. Bolton told the committee the truth is important because there are already several other instances where it is in doubt, where in fact there is clear evidence that he didn't tell the truth, specifically with respect to the efforts to fire the two analysts of intelligence.

Stretching intelligence and credibility are two of the key areas of concern with respect to the Bolton nomination, two of the key areas of inquiry that the committee is seeking. This is a proper and a critical request. Having access to the NSA intercepts will tell us whether Mr. Bolton did anything improper after receiving the identities of U.S. persons involved. The fact they do not want anybody to see it seems to suggest the exact opposite.

Senator ROBERTS, the chairman of the Intelligence Committee, indicated in his letter to Senators LUGAR and BIDEN that on at least one occasion Mr. Bolton shared the identity information of a U.S. person with another individual in the State Department without authorization from NSA.

Did he do this more than once? Why did he request these intercepts? What was he trying to find out? What was he going to do, or did he do with the information? We can only speculate without proper access to those intercepts and without knowing the identities of the persons on them.

The State Department has told the committee that the request for information about the Syria testimony is not "specifically tied to the issues being deliberated by the committee." But for the executive branch of Government, which has already been slow-walking this provision of information, to tell a Senate committee how to exercise the advice and consent power of the Senate is not only unacceptable, it is unconstitutional. The Foreign Relations Committee has the prerogative to determine, and has laid out for our colleagues to judge, the legitimacy of the basis of this request. I think it passes muster.

For the chairman and ranking member of the Foreign Relations Committee to be denied access to NSA intercepts and information which Mr. Bolton was able to see is unacceptable on its face. An Assistant Secretary of State and staff are permitted to see this, but the chairman and ranking member of the Foreign Relations Committee are not? Is the Senate prepared to ratify that as a standard by which we will have our inquiries pursued with respect to any nomination on either side at any time?

The Foreign Relations Committee has spent an enormous amount of time and energy related to this nomination. Grudgingly, cherry-picking document requests, we have proceeded along with the administration actually denying other requests entirely.

The information we continue to seek is relevant to this nomination and to the critical concerns that many of us have about the nominee and his use of intelligence. We should have access. Since the administration has refused to provide it, the only choice we have is to deny the vote on this nomination until there is full compliance. That is not a filibuster. That is not an effort to not have a vote. Give us the information. We are prepared to have a vote immediately and let the chips fall where they may. But it is vital that the rights of the committee and the rights of the Senate, the rights of the advice and consent process, be upheld.

Let me just say again this should not be anything except a measurement on the merits. During her confirmation hearing in 1981, to be U.S. ambassador to the U.N., Jeane Kirkpatrick described her vision of the job. She said:

> I do not think that one should ever seek confrontation. What I have every intention and hope of doing is to operate in a low key, quiet, persuasive, and consensus-building way. I think a principal objective should be to try to communicate effectively with the representatives of as many nations as possible to broaden a bit the areas of mutual understanding. We should try to extend a bit the frontiers of reason and cooperation, and I think we should work to that end, and we should work to establish the patterns of consultation and trust.

No one would ever accuse Jeane Kirkpatrick of being soft or shying away from her views. She is a staunch conservative who speaks her mind. But she understood and respected the value of diplomacy and negotiation; of listening to and respecting others' views; of working the system: of seeing the big picture and, most importantly, of establishing credibility and trust. She herself has said of this nominee that he is "no diplomat."

We should make the judgment in the end of whether this is the right person. I have heard colleagues argue how important it is to have a straight-talking, tough person at the U.N. This is not about the U.N. per se, obviously. It is about our interests and how we are going to best advance those interests. But those of us who spent a long time trying to reform the U.N. and working with it, and have had some success in some measure with respect to that effort, in a bipartisan effort going back to the time we worked with Nancy Kassebaum and Larry Pressler and Jesse Helms, all of us understood you need to establish those patterns of consultation and trust and speak with credibility.

I regret that this process has proven that this nominee does not meet the Jeane Kirkpatrick standard or test, and therefore all of us ought to raise serious questions about the nomination.

I think my time is about up, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. KERRY. Mr. President, what is the current time on both sides?

The PRESIDING OFFICER. The minority has 28 minutes and the majority has exactly 1 hour.

Mr. KERRY. Mr. President, will the quorum be tallied to both sides?

The PRESIDING OFFICER. Under a previous order, that is correct.

Mr. KERRY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I appreciate Senator VOINOVICH allowing me to speak a moment or two on the John Bolton nomination.

No. 1, when it comes to how and why Members vote, every Senator has to make a decision they feel comfortable with, that is good for the Nation, good for the Senate, good for the White House, good for the American people.

One thing I am confident of: Senator VOINOVICH, of all the people I know in the Senate, is right at the top of the list of those who make decisions based on conscience and principle. Whatever problems he has with this nominee have come from soul searching, thinking, and looking. He will articulate why he feels the way he does and vote his conscience. That is exactly what he should do. I am all for that because that is what makes the Senate great. That is what makes America great.

In terms of myself, I would like a moment or two to express why I have come to the conclusion that I think John Bolton will make an outstanding ambassador to the United Nations. We have heard a lot about his disposition, about his temper, about his working relations. Everyone will make a judgment about where they come down on that. I made a judgment that, obviously, some of the things about his working relationships can be troubling. The idea that he has been confirmed four times, has served his country for well over 20 years in a variety of posts and done an outstanding job, is what I will base my vote on—not a conversation here or there but 20-plus years of serving the United States at the highest level of Government, with a great academic background.

But why him and why now? Are there other people who can be United States ambassador to the United Nations? There are a lot of good people out there. What drove the President to pick him now? The honest truth is, I haven't talked to the President about why he picked John Bolton, but I have a pretty good idea what was on his mind. The President sees very clearly the need for the United Nations. This world is in tremendous conflict. We are splitting along religious lines. We are having all kinds of problems getting along with each other and trying to find out how to fight the war on terrorism. The United Nations provides a hope for the world, a place where we can come together and have good people stand up to bad people. Sometimes it is hard to determine who is good and who is bad, but many times it is not, and it should be a place where people of good will can deal with problems for bad people such as Saddam Hussein and others, the Osama bin Ladens of the world, a place where they can be controlled and checked.

The President sees from the American conservative perspective that the United Nations has lost its way. From a conservative point of view, being a conservative Republican, I hear continuously of problems with the United Nations from people I represent and people I know. The worst thing we can do is to allow the good will of the American people to slip away from the United Nations and reject that body.

What will it take to repair the damage done from the Oil-for-Food Program, the corruption at the United Nations, the, at the least, inconsistent approach to regulating dictators such as Saddam Hussein? How can we get the United States and the United Nations back together where we can work as one team? It will take a person Americans have faith in. And that is a big problem with the United Nations right now.

American conservatives need to feel better. John Bolton will provide that assurance from a conservative point of view that the United Nations would be pushed to reform itself. From a moderate and liberal point of view, I can assure members that the policies John Bolton will fight for will be those policies directed by President Bush, who won the last election. And some may not agree with the policies, but that is where he will get his marching orders.

He sees the United Nations as a value-added product to the world. He sees clearly where it has gone astray. He has the credibility with the American public, particularly among conservatives, to be a force for change.

The worst thing that could happen is for the United Nations to slip away, in the eyes of Americans, as an effective body. It surely has gone that route.

The best thing that can happen from this nomination is that John Bolton goes to the U.N. with an attitude of: I will work with you, but you have to be better—and to effectively articulate President Bush's policies. I think that can happen. I think it must happen. Not only am I enthusiastic about his nomination, he clearly—given the dynamic our country has with the United Nations—is the right person at the right time and can do things no other person could do; namely, repair the image of the U.N. with a large percentage of the American people, who believe it has lost its way. That is why I will support this nominee with enthusiasm.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, first, I thank the Senator from South Carolina for his kind remarks about this Senator early today and this afternoon.

What we are doing here today is what the Senate should be doing; that is, to have a robust debate about a nominee by the President of the United States to the United Nations.

I have deep concerns about the nomination of John Bolton. We face an important decision today. We are at a crossroads in foreign policy, at a time when there has been a drastic shift in the attitude of our friends and allies. If we do have a vote today, I urge my colleagues in the Senate to let their consciences and their commitment to our Nation's best interests guide them.

I would plead with them to consider the decision and its consequences carefully, to read the pertinent information, and to ask themselves several important questions:

Is John Bolton the best person to serve as the lead diplomat to the United Nations?

Will he be able to pursue the needed reforms at the U.N. despite his damaged credibility?

Will he share information with the right individuals, and will he solicit information from the right individuals, including his subordinates, so he can make the most informed decisions?

Is he capable of advancing the President's and the Secretary of State's efforts to advance our public diplomacy?

Does he have the character, leadership, interpersonal skills, self-discipline, common decency, and understanding of the chain of command to lead a team to victory?

Will he recognize and seize opportunities to repair and strengthen relationships, promote peace, and uphold democracy with our fellow nations?

I also came to the floor today to respond to some of the statements that have been made regarding the nomination of Mr. Bolton.

It has been argued by my colleagues that Mr. Bolton is the right man for the job because he has "sharp elbows," can give a dose of needed "strong medicine," and because he will not be an "appeaser" to the horrors that have been committed by the U.N. peacekeepers.

The question is not whether we want to achieve U.N. reforms. We will support U.N. reforms. And I particularly want U.N. reforms. We need to pursue its transformation aggressively, sending a strong message that corruption will not be tolerated. The corruption that occurred under the Oil-for-Food Program made it possible for Saddam's Iraq to discredit the U.N. and undermine the goal of all of its members. This must never happen again. This is an ideal time for reform of the United Nations. Those reforms are needed to strengthen the organization or there will not be an organization.

And, yes, I believe it will be necessary to take a firm position so it can succeed. But it is going to take a special individual to succeed in this endeavor, and I have great concerns with the current nominee and his ability to get the job done. How successful will he be on reform if the message is lost because of baggage surrounding the messenger? I worry that Mr. Bolton will become the issue and the message will be lost.

I understand the arguments just made by my colleague from South Carolina in regard to the conservative movement here in the United States that is very concerned about the U.N. and feels comfortable that if John Bolton goes to the U.N., with his "sharp elbows," something is going to happen.

I would like to point out that Mr. Bolton will be going to the U.N. to do more than just push forward U.N. reforms with his "sharp elbows." He is there to be the U.S. representative to the world.

Do we want the supreme quality for our next U.S. representative to the world to be "sharp elbows"? Don't we need a man who has superior interpersonal skills, who can bring people together, form coalitions, and inspire other countries to agree with his point of view?

To the conservatives who are concerned about reform of the United Nations, do we want the messenger to become the issue so we never get to the message? And the message is: reform.

I agree the next Ambassador needs to be a strong presence, firm in his beliefs, persistent in his drive, and determined in the face of a monolithic bureaucracy and many obstructionist countries. It is not going to be easy. But even more than this, he will need the interpersonal and diplomatic skills required to inspire and lead.

If you think about John Danforth, our last ambassador to the United Nations—or let's talk about John Negroponte. Let's put John Negroponte and John Bolton in the same room together, colleagues. Put them in the same room together. John Negroponte went to the U.N. and did an outstanding job. John Negroponte was taken from the U.N. The President needed somebody in Iraq, so he sent John Negroponte to Iraq. Then he needed to call on someone to be the Director of the National Intelligence area. Now, John Negroponte—that is the quality of the individual who we need to be sending to the United Nations today.

One of my colleagues stated earlier today that we should not reject Mr. Bolton because of his management techniques because "management is not a criterion for rejecting a nominee and if it were, a lot of nominees would have been rejected."

In the case of Mr. Bolton, his poor management techniques intimidated intelligence officers and have called U.S. credibility into question, at a time when we cannot afford any further damage to our credibility. That is one of the problems we have today—the WMD and Iraq, some of the recent stories about the WMD. There are a lot of people who are questioning this Nation's credibility.

Further, his management and interpersonal failures reflect on his diplomatic skills, which are an undeniable requirement for the ambassador to the United Nations.

Colin Powell's chief of staff, COL Lawrence Wilkerson, testified before the committee that Mr. Bolton would make "an abysmal ambassador" because of his management flaws.

I would like to read from Mr. Wilkerson's testimony.

Mr. Wilkerson:

> I would like to make just one statement. I don't have a large problem with Under Secretary Bolton serving our country. My objections to what we've been talking about here—that is, him being our ambassador at the United Nations—stem from two basic things. One, I think he's a lousy leader. And there are 100 to 150 people up there that have to be led; they have to be led well, and they have to be led properly. And I think, in that capacity, if he goes up there, you'll see the proof of the pudding in a year.

It has been argued during our floor debate that many of the people who oppose Mr. Bolton's nomination originally supported Mr. Bolton and voted for him several times before they heard about these new allegations against him.

The statement seems to argue that many allegations about John Bolton are not relevant to our decision on whether he is the right man for the job and should be confirmed as the next ambassador to the United Nations.

The allegations about Mr. Bolton are very relevant to our decision. The allegations speak to Mr. Bolton's character, his temperament, his credibility, his management style, his skills, and his performance over the last 4 years.

The testimony of our witnesses has certainly had an impact on my opinion.

I expect that the allegations have had an incredible impact on the world's opinion of Mr. Bolton. I believe that the allegations have caused great damage to Mr. Bolton's credibility and that the allegations will impair our influence with the United Nations. If Mr. Bolton is confirmed for the position, he goes to the U.N. with a tremendous amount of baggage that he is going to have to overcome. Again, I want to repeat to the people who feel he is just the right ticket to get the job done, I am very concerned that he will become the issue and the reform of the United Nations that we all would like to see is not going to happen.

It has also been stated today that none of the incidents involving intelligence resulted in misuse. This is all of the testimony about speeches that Mr. Bolton gave. I guess my colleagues believe that the misuse of intelligence would have only occurred if Mr. Bolton would have been successful in clearing the language that he originally insisted upon. In other words, he would have these ideas about the world and about intelligence and said: This is what I want to say. And the intelligence folks came back and said: No, you can't say that because that doesn't reflect the reality. And everyone says that is not a problem because ultimately he didn't say what he wanted to say because he got the better information from the intelligence officers.

The misuse of intelligence occurs as a process. It begins with intimidation and pressure on analysts, and it ends with analysts producing reports that meet the political needs of top leadership. Mr. Bolton contributed to this process with his actions. He created an atmosphere of intimidation within the ranks of the Bureau of Intelligence and Research and at the CIA. The people in these agencies were made to understand that if they disagreed with him, there would be consequences. His actions sent the message that if you don't seek to meet his particular request for specific language, they may be sidelined from future opportunities to provide him intelligence, and they may even be pulled off of the account and moved to another bureau.

The Presiding Officer was there for some of the hearings. There was no question that the message was, if you disagree with him, you might get moved to some other place. Some have argued that you would be fired. But it wasn't in this language; it was like "moved to somewhere else." It is the same signal, same message: Don't fool with John because, if you do, he is going to put pressure on to move you to some other place.

His behavior put pressure on the intelligence officers, and it begins the very dangerous path to misusing intelligence and damaging U.S. credibility. The point Senator KERRY made earlier this afternoon is well taken. We all know there is a real problem with Iran. We know that the International Atomic Energy Agency is very concerned about what is going on in Iran today. We are hopeful that the EU-3 will be able to work out the problem and deal with the proliferation problem in Iran. But they may not be successful. If they are not, you know where they are going. They are going to the U.N. Security Council. Can you imagine if the spokesman for the United States at the U.N. Security Council about intelligence and the impact of whether Iran has this or that, if the spokesman is going to be John Bolton? Can you imagine how much influence he is going to have with his past record? It is a serious issue, one we hope doesn't happen, but it could very well happen. And there will be other instances that come before the United Nations where the credibility of the individual representing us is going to make an enormous amount of difference if we are to be successful.

I agree with Mr. Bolton's policies. I believe in U.N. reform. I believe in nonproliferation. I believe in working to secure Article 98 agreements to protect U.S. forces against trial by the International Criminal Court, although I do not agree with his decision to hold up important military education in order to achieve that goal. I believe in removing the anti-Israel prejudices in the United Nations. I believe in reforming the anticorruption and enforcement mechanisms of the United Nations. I believe in preventing abuses and crimes by U.N. peacekeepers. I believe in making the United Nations a strong institution that fulfills its mission to preserve and protect human rights and democracy. I know that I agree with Mr. Bolton's policy because I sat down with him to discuss his policies. I still just believe we can do much better than Mr. Bolton at the United Nations.

Many people have come today to defend Mr. Bolton. In some cases, they argue that the allegations are false. In some cases, they argue that even though Mr. Bolton behaved badly, his rough edges are what the United States needs to be successful at the U.N., so we should overlook his record of behavior. But nobody has disputed the argument that I made yesterday before the Senate that Mr. Bolton will contradict our efforts to improve public diplomacy at this critical time.

Public diplomacy has been the No. 1 priority of Secretary Rice since becoming Secretary of State. She is running all over the world putting her best foot forward, saying: We are the team. We all have to work together. It is a clear priority of the President, who has done everything in his power to improve the image and understanding of the United States, including getting the First Lady to get out there and start doing public diplomacy and then naming Karen Hughes, his confidant for so many years, to lead public diplomacy at the Department of State.

In the spirit of the President's objectives, we cannot ignore the damage that John Bolton could have on U.S. public diplomacy. We also cannot ignore the warning signs of so many loyal servants of our Government who testified before our committee. These witnesses who came before the Foreign Relations Committee came voluntarily. We didn't go out and solicit them to come. They came in voluntarily. Most of them are Republicans. Most of them are proud they are conservatives.

I ask my colleagues to consider these questions: When was the last time so many individuals have come out in opposition to a nomination? Think about it. When was the last time that 102 diplomats have opposed the appointment of a new ambassador? I should check the CONGRESSIONAL RECORD. It hasn't happened since I have been here, and I am in my seventh year. When was the last time so many witnesses have emerged from an administration to send warning signals to the Congress about an individual? When was the last time a Secretary of State did not sign the letter of recommendation for a nominee? It would have been a lay-up shot for Secretary Powell to join that letter recommending Mr. Bolton to be our ambassador to the United Nations, but his name was absent from the letter. And who best to understand whether he is the kind of individual we should send to the U.N. to be our ambassador?

It is rare, and it should serve as a warning to all of us. We owe it to the United States, our children and grandchildren, to heed this warning and to ask our President: Mr. President, please, find a better candidate to send to the United Nations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, again, I commend my friend and colleague. I don't want to do this too frequently. I am afraid I may hurt his reputation in certain quarters. I want to tell him how much I admire what he has done over the last number of weeks and did so so that the people of Ohio and America understand this. This was not a decision that my colleague from Ohio reached quickly. In fact, I recall vividly the day in room 116 where we made our case. It was one of those rare moments that we don't see often enough around here these days, where the Senator from Ohio said: I am troubled by this. I want to know more.

I was tempted a couple of times during the period between that hearing on April 18 or 19 and when we reconvened again in early May as part of the Foreign Relations Committee to consider this nomination. I decided the best thing I could do was to leave the Senator from Ohio alone and let him go through the process himself of deciding on the concerns that had been raised. As he so appropriately pointed out—I tried to make the point this morning myself—these allegations are not coming from some outside groups who have a vested political interest in the outcome.

Many of these people were people who were presently there or have just left the present administration or they have had the experience of working with the nominee. They were the ones who raised the concerns. In fact, at lunch today, we were talking about North Korea with several former career diplomats who have worked with the nominee, including in this administration. I asked them for any observations. They confirmed what the Senator has said.

They had complimentary things to say about Mr. Bolton, as well. I am not saying there are not qualities about this nominee that are good. He is certainly a well-educated individual, and he has an incredibly attractive life story of where he has come from. But they all made the same point the Senator from Ohio made, and it deserves being made again. I raised the issue about the intelligence analyst. But the Senator is absolutely correct. In this day and age, what we have been through over the last several years, having people who can help us take unwilling nations that may be cautious about joining us in certain things, for all the reasons we are familiar with, and to be able to build those coalitions around issues critical to us and to peace and stability in the world, is going to be absolutely essential. The

U.N. is a forum particularly for smaller nations.

Large nations have big delegations here in Washington, and we go back and forth to major European allies and the major countries in the Pacific rim. For an awful lot of countries, the best forum for them is the U.N. The person who interfaces with those people on a daily basis can do a tremendous amount of good for our country with that notion—the face of public diplomacy that the Senator from Ohio talked about.

I wanted to, once again, thank my colleague for his willingness to share his feelings with his colleagues about this, and we are going to have a vote this afternoon, only because I felt it was important for us to be able to have information that should be forthcoming. It is a matter of right here on a cloture motion and, if that succeeds, we will go right to a vote on Mr. Bolton. If not, it will lay over and when we get back, if we don't invoke cloture, we will deal with it fairly quickly when we return and we will move on.

I hope Members will have listened, particularly on the majority side. I suspect that when you hear some of us, you may say that is a bunch of Democrats talking. I regret that that is the feeling, but if you are not impressed with what some of us who have worked on the issues for many years feel about it, listen to GEORGE VOINOVICH from Ohio. This is a good person who cares about the status of the United States and about this matter before us. I thank the Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I am pleased that, after much too long a delay, the Senate will meet its constitutional responsibility to vote on an important nomination for the President's national security team.

I am referring to the nomination of Mr. John Bolton to be our next ambassador to the United Nations.

This position must be filled if the administration is to advance its foreign policy, which includes both the use of the United Nations to support our country's goals, as well as our goals to advance reform in a very difficult international organization that, to be frank, has earned the skepticism of a good many Americans, including many in my home State of Utah.

It would be a mistake, however, to suggest that this administration is anti-U.N. After all, during his first term, President Bush addressed the United Nations more times than any of his predecessors ever had in the same period, throughout the entire history of the United Nations.

That the President has regularly consulted with, and sought the support of, the United Nations gives lie to accusations that he is a unilateralist.

That he has never hinged our foreign policy needs and goals on the support of the United Nations demonstrates that our President has a proper understanding of our sovereign rights, as well as a realistic understanding of what the U.N. can contribute. The vast majority of the citizens of my State agree with President Bush that the U.N. can be sought as a useful tool to advance our national security, but that the pursuit of our foreign policy goals should never, never be conditioned on U.N. approval.

John Bolton, whose career in foreign policy has included numerous positions where he was worked with international organizations, including much experience with the U.N., understands this. Certainly it is not for lack of experience that Mr. Bolton's nomination has become so controversial. Nobody can credibly make that argument.

It is because of his philosophical convictions about the limits of international organizations—convictions shared by the President who nominated him—that Mr. Bolton's nomination has been delayed. I have found this entire spectacle to be dismaying.

Early objections were quite plain in this approach: John Bolton was charged with an unnecessarily skeptical view of multilateralism.

In my opinion, the reason George Bush won a decisive victory in a close re-election campaign is because the American public recognizes that national security issues are of dire importance, and that the President has a better grasp of how the real world works.

The vast majority of the Utahns I represent object to any suggestion of checking American power with multilateral institutions.

They do not believe in "aggressive multilateralism" an expression used during past administrations.

They do not believe that the reluctance of European powers to join us in all our causes is a failure of our diplomacy, because nations will pursue their national interest no matter what the rhetoric may be. To measure diplomacy by the decisions of nations is to misunderstand both diplomacy and the dynamics of how nations pursue their national interest. President Bush understands this, as does John Bolton.

The nomination process grew quite tawdry, in my opinion, when it turned to innuendo and, in some cases, attacks on the nominee's character.

I know John Bolton. He is a decent, honorable man of inestimable intelligence who has done a tremendous job in every public position he has held.

Opponents of Mr. Bolton declared, insinuated, and denounced the nominee based on a handful of alleged reports of his cantankerousness. Imagine that. A cantankerous personality in a high-powered job. In Washington, no less. Give me a break.

Mr. President, the list of those who have stood up for Mr. Bolton is one of the most impressive I have ever seen in my years in the Senate. And I will leave it to my colleagues to attempt to include it all in the RECORD. I must note, however, the following statement included in a letter to the Senate Foreign Relations Committee:

> We, the undersigned, have been appalled at the charges that have been leveled at John Bolton during the course of his nomination hearing to be this country's ambassador to the United Nations. Each of us has worked with Mr. Bolton. We know him to be a man of personal and intellectual integrity, deeply devoted to the service of this country and the promotion of our foreign policy interests as established by this President and the Congress. Not one of us has ever witnessed conduct on his part that resembles that which has been alleged. We feel our collective knowledge of him and what he stands for, combined with our own experiences in government and in the private sector, more than counterbalances the credibility of those who have tried to destroy the distinguished achievements of a lifetime.

This is a letter signed by former Attorney General Ed Meese, former Attorney General and Governor of Pennsylvania Dick Thornburgh, former Associate Attorney General and Governor of Oklahoma, Frank Keating, former Assistant Attorney General and Governor of Massachusetts, William Weld, and more than 30 of Mr. Bolton's former colleagues in the Department of Justice.

Following the ideological criticisms, following the attacks on his character, the opponents of Mr. Bolton tried the intelligence angle. Apparently, Mr. Bolton has disagreed with a few intelligence reports and analysts. His opponents appear to believe that by waving a specious charge of "misrepresenting intelligence," they can hit the theme of imperfect intelligence that serious policymakers have been wrestling with during the last few years of this administration. And we all know, and certainly we members of the Senate Select Committee on Intelligence know, that intelligence has been seriously flawed in recent years. We all know that.

But to take a serious problem, which our committee has now spent years exposing and correcting, with the support of the administration—and to turn it into an opportunistic attack on a nomination for the U.N. ambassador is specious at best. At no point in our investigations of intelligence regarding Iraq, have we found convincing evidence that intelligence analysts were pressured to change their views based as a result of political pressure. And none of our conclusions have indicated that the intelligence process would be made better if dissenting views would be suppressed. If anything, we need more dissent to qualify and verify our intelligence products.

If there is anything we have learned in our review of faulty intelligence, it is that there is not enough scrutiny, not enough skepticism and, frankly, not enough expressing contrasting views. Apparently, our friends on the other side, the Democrats, do not seem to understand this. I am relieved now that after all the delay, the President will get his vote on his nomination of this very fine man for this very important position.

I commend the chairman of the Senate Foreign Relations Committee for his commitment and patience in bringing this nomination to the floor. I know how tough it is to sit through meeting after meeting where the nominee is being attacked with what really amount to almost flippant attacks. Both of Senator LUGAR's virtues—his commitment and patience—have been, I suspect, severely tested.

John Bolton served as a senior diplomat for this country in various capacities for over 20 years. He has served with great distinction and has many accomplishments to his credit. He has my personal admiration for these accomplishments. Whether they have been standing up to the United Nations and our country's rejection of that organization's intellectual disease, known as declaring Zionism as racism, or in his post-9/11 efforts to advance multilateral cooperation in his proliferation security initiative, Mr. Bolton's efforts have advanced U.S. interests and U.S. values. I am grateful for his work on behalf of our Nation, and I am grateful that he chooses to continue to serve.

In closing, I note a section of a letter sent to the Foreign Relations Committee by former Secretaries of State Baker, Eagleburger, Haig, Kissinger, and Shultz, and former Secretaries of Defense Carlucci and Schlesinger, former U.N. Ambassador Kirkpatrick, and other distinguished former national security officials:

> Secretary Bolton, like the administration, has his critics, of course. Anyone as energetic and effective as John is bound to encounter those who disagree with some or even all of the administration's policies. But the policies for which he is sometimes criticized are those of the President and the Department of State which he has served with loyalty, honor, and distinction.

President Bush has the right to his nominee for the United Nations. All Senators have the right to refuse consent if they so choose. If our friends on the other side, or even friends on this side, disagree with Mr. Bolton and want to vote "no," they have every right to do so. But he certainly deserves a vote up or down for this very important position, and he does not deserve to have his nomination filibustered.

All Senators, as I say, have a right to refuse consent. In a time of war—and we remain in a complicated global war—a President's right to assemble his national security team should not be hindered, and it certainly should not be hindered by people on the floor of the Senate. It is time, well past due, to have this vote.

Mr. Bolton is a good man. I have known him for most of those 20 years. I know him personally. I know he is a man of integrity. I know he is a man of great intelligence. I know he is a tough person, exactly what we Americans would like to have at the U.N., sometimes called a dysfunctional U.N. This is a man who can bring some credibility. This is a man who can straighten some of the mess out. This is a man who can make a difference. He has been confirmed so many times in the Senate, one would think we would be ashamed to make some of the arguments that have been made against this very fine man.

I will vote for Mr. Bolton, and if he is confirmed, I will offer him my continuing support as he undertakes yet another demanding mission, and it is demanding. I urge all my colleagues to be fair. That is what is involved here. It is a question of fairness. I hope they will be fair and vote for this very fine man and give our side a chance to have somebody there who is strong, tough, knowledgeable, loyal, and capable. He is all of those things. I can personally testify to that extent, knowing this man as I do. I hope everybody will vote for cloture today and then hopefully afterwards vote Mr. Bolton up so he can start serving and the President can have his foreign policy team in place.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Republican side for yielding me 10 minutes. So I yield myself 10 minutes.

(The remarks of Mr. BYRD are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to speak about the vote we will be casting at 6 o'clock today, the cloture vote. I had some opportunity to speak on the merits and demerits of the Bolton nomination yesterday and had an opportunity to discuss this issue with my colleague, Senator LUGAR, and others who were on the Senate floor at the time.

Today, I rise to focus on what the vote that may take place at 6 o'clock today is about. We are about to vote on a genuine constitutional option. The vote we are about to cast on cloture, if it takes place, is about whether we are going to stand up for this coequal branch of Government's rights to review relevant information in the exercise of our constitutional responsibility and our constitutional power to advise and consent to nominations put forward by the President or whether we are going to let the executive branch define for us what information is necessary in the exercise of our constitutional responsibility.

The President has his constitutional responsibilities, defined in article II. We have our constitutional responsibilities, defined in article I. Our responsibility is to advise and consent as it relates to any nomination for an appointive office, above a certain level, that the President of the United States makes. It is the President's obligation to propose; it is our obligation to dispose of the nominee.

The State Department has denied the request completely, stating that to fulfill it would chill the deliberative process and that it "does not believe the requests to be specifically tied to issues being deliberated by the Committee."

The department's assertion about deliberative process is not trivial. That concern did not stop the Department and the CIA, however, from already turning over numerous materials to the committee that involve the very same type of deliberative process—preparation of speeches and testimony. And the department has made no effort to justify why it is drawing the line here.

The Department's second assertion—that the Syria material is not relevant to the committee's inquiry—is nothing less than an outrageous attempt by the executive branch to tell the Senate how it may exercise its constitutional power.

For several weeks, the Committee on Foreign Relations has been requesting two types of information which have been denied to it.

The first relates to preparation for testimony on Syria and weapons of mass destruction that Mr. Bolton was to give in 2003. The State Department has denied the request completely, stating that to fulfill it would chill the deliberative process and that it "does not believe the requests to be specifically tied to issues being deliberated by the Committee."

The Constitution says that the Senate shall advise and consent to nominations. The appointments clause does not limit the Senate's power to review nominations to those matters the executive branch deems relevant.

Our Founding Fathers designed a system of checks and balances, not a system of blank checks.

We must defend the Senate's constitutional powers, however, or we shall surely lose them.

The second type of information the committee has not received relates to Mr. Bolton's requests to obtain the identity of U.S. persons cited in NSA intercept reports. We are told that Mr. Bolton did this on 10 occasions, involving 19 U.S. person identities.

The chairman and vice chairman of the Intelligence Committee have been shown these intercepts, but Senator LUGAR and I have not.

Even Senators ROBERTS and ROCKEFELLER were not told the identities of the U.S. persons, moreover, information that was readily shared with Mr. Bolton and even with his staff.

No one in the executive branch has explained why an Under Secretary of State—and a staff member not holding any Senate-confirmed position—may see this information, but the chairman and ranking members of the relevant Senate oversight committees may not.

Senator ROBERTS tells us that after reviewing the contents of each report, it is apparent that it is:

> not necessary to know the actual names [of the U.S. persons] to determine whether the requests were proper.

With all respect, I believe my friend has it wrong. Learning the actual names is the key to the inquiry—and it is impossible to make any judgment about the propriety of Mr. Bolton's requests without knowing the names.

I am inclined to think there is nothing improper in Mr. Bolton's requests for this NSA information.

But the longer the executive branch withholds this material, the more I start to wonder. If Mr. Bolton did nothing wrong, then why won't the administration let us confirm that?

Senator ROCKEFELLER reported to our committee yesterday that Mr. Bolton, upon learning from NSA the identity of a U.S. official who had delivered a message just the way that Bolton wanted it to be delivered, sought out that U.S. official and congratulated him. That action may have violated the restrictions that NSA imposes on further dissemination of its information.

More importantly, if Mr. Bolton used U.S. person identities in an NSA intercept to congratulate officials who did what he wanted, might he also have used such U.S. person identities to attack officials with whom he did not agree? That has been suggested in the press, and while I doubt that Mr. Bolton would do that, Senator ROCKEFELLER's report urges the Foreign Relations Committee to seek:

> . . . a more complete understanding of the extent to which he may have shared with others the nineteen U.S. person identities he requested and received from the NSA.

All Members of the Senate should understand: both the integrity of the nomination process, and the Senate's constitutional role, are being challenged today.

The failure of the administration to cooperate with the committee, and one of the rationales offered for this failure—that the:

> Department does not believe these requests to be specifically tied to the issues being deliberated by the Committee

—has no constitutional justification.

The administration has asserted neither executive privilege nor any other constitutionally-based rationale for not cooperating with this committee.

It has no right under past practice or under constitutional theory to deny us information on a nomination based on its own belief that the request is not specifically tied to the issues being deliberated by the Committee.

Under the doctrine of separation of powers, the Senate is a co-equal branch of Government. It is within our power—and ours alone—to decide what we think is relevant to our deliberations in the exercise of the advice and consent power.

To acquiesce in the administration's remarkable assertion would undermine the Senate's power. If we vote on this nomination without getting all the facts first, that it is a step that we will all come to regret.

The request for this cloture vote is not a filibuster. If there were a filibuster, we would have demanded the use of 30 hours of debate time post-cloture.

This vote is a vote about the Senate's constitutional power. It is a vote to tell the executive branch it must turn over information the Senate has requested.

I urge my colleagues to reject cloture.

The Constitution, to paraphrase Hamilton in Federalist 76, is designed to make sure that nobody becomes an appointed official at the executive level, the Cabinet level, whom the President does not want. That is a guarantee. But it does not guarantee the President gets the first person he asks for, or the second person. It guarantees that the Senate will use due diligence in determining whether the person the President of the United States nominates to fill a position—in this case, ambassador to the United Nations—whether that appointment is in the interest of the United States of America.

That is our job. We are not filibustering. This is not about whether we will vote on Mr. Bolton's nomination. The Senator from Connecticut and I and others have said, we are ready to vote on Mr. Bolton's nomination, if you give us information that we have requested and are entitled to in assessing whether Mr. Bolton should go to the U.N. representing the United States of America.

The President has an option under the Constitution. He can say, Senate, what you are asking for is a violation of the separation of powers doctrine; you are not entitled to the information you seek because it falls into the purview of what we call executive privilege. In order for me as President—or for any President—to be able to conduct my job I must be able to have conversations with my key people that are wide ranging and open with the sure knowledge they will never get beyond this Oval Office; otherwise, the President couldn't do his job. That is what executive privilege is all about. As the Executive, I have the privilege to have confidential discussions with my subordinates. Or, the information you are seeking infringes upon the power of the executive in such a way that you are usurping article II powers, or attempting to yield them, like Estrada, to the third branch of Government in article III.

They do not assert any of that. They just say the information we have asked for, in their opinion, is not relevant to our legitimate inquiry. That is a new one for all the years I have been here.

I thank the majority leader of the Senate, Senator FRIST, for trying what I believe has been his level best to get the information. He and I had a call today. He has talked about this. I am sure I am not revealing anything I shouldn't. He contacted the National Security Agency. He said, Why can't we see the so-called intercepts we are talking about? Give me, the majority leader, the same information you gave to Mr. Bolton and his staff.

The majority leader was surprised when he was told by a general running the National Security Agency, No, I won't give you that. I will give you the same thing I gave to the Intelligence Committee which is a redacted document. That is a fancy phrase for saying, the document without the names.

I said, Mr. Leader, I think that is not good enough. I think he knows it is not good enough. This is strong-arming. They are making no argument as to why we are not entitled to it.

I remind Members, the information we are seeking is information Mr. Bolton's staff got. Mr. Bolton, as important as an under secretary is, is not the majority leader of the Senate; he is not the Senator from Connecticut. Mr. Bolton's staff got this information.

I asked the leader why they wouldn't release the information, and he said because it is highly secret. Translate that. Got that? They are not going to give information to the leader of the Senate because it is secret. In the neighborhood I come from, that means, you don't trust me. The nerve of this outfit to say they are not going to give the information.

With regard to Syria—and my time is about up—we have asked for information relating to whether Mr. Bolton was lying to us and whether Mr. Bolton was trying to get us into war with Syria in the summer of 2003 when a lot of people wanted to go to war.

Remember the argument? The argument was that all the weapons of mass destruction—that turned out never to have existed—were smuggled to Syria. Syria has them, plus a nuclear program, and we better do something about it. And what the intelligence community said to Mr. Bolton was, you cannot say that—or whatever it was that he proposed to say. The facts do not sustain it. He pushed and pushed and pushed. But he told the Foreign Relations Committee he had nothing to do with that draft testimony, he was not pushing.

All we want to see is the draft texts of the speech and the material on the clearance process. I hope the Senate will stand up for itself today at 6 o'clock.

Mr. ISAKSON. I ask unanimous consent to address the Senate as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, before I make the remarks, let me reaffirm my commitment and my support for John Bolton as ambassador to the United Nations.

Like every Member of this Senate, I recognize the importance of that appointment. I recognize the concerns many of my constituents in Georgia have had with the United Nations. John Bolton is the right man at the right time for this country to be our ambassador to the United Nations.

(The remarks of Mr. ISAKSON are printed in today's RECORD under "Morning Business.")

Mr. KOHL. Mr. President, once again, I come to the floor to voice my concerns regarding the appointment of John Bolton to an important office in this administration. This time he is being promoted to a Government position with high international profile, the U.S. ambassador to the United Nations. I believe his appointment to this post will harm our interests at the UN and hamstring our international cooperation efforts.

Mr. Bolton, whom I opposed when he was nominated to be the Under Secretary for Arms Control, did not distinguish himself in his last job. His comments about the North Korean regime during sensitive negotiations almost derailed our efforts there. This is not just my opinion. After his remarks, Mr. Bolton's superiors recalled him to the United States and sent a replacement. This blunder is not the only black mark on Mr. Bolton's record. He also failed in another highly critical negotiation—our unsuccessful attempts to convince Iran to curtail its nuclear activities.

Mr. Bolton also has publicly and often expressed his disdain for the United Nations—the very institution the President has chosen to send him presumably to represent us and pursue our interests. How can he do that when his public criticism of the U.N. has been, not constructive or thoughtful, but heavy handed and destructive? He has advocated not paying our U.N. dues and, in a moment of high arrogance, said he thought there should only be one permanent member of the Security Council—the United States—to reflect today's international power structure. Statements like these make our allies believe that we do not value their cooperation and effort—and perhaps Mr. Bolton does not. His remarks create ill will and make it harder for us to lead in the international community—and perhaps Mr. Bolton believes the United States needs to play no role in that community. He has a right to those views. But we in the Senate have a right not to consent to the appointment to the ambassador to the U.N. of a man whose views would, in my opinion, keep him from being able to do his job.

There is an old saying that "you gather more flies with honey, than with vinegar". I am afraid that we are sending a big bottle of vinegar to the U.N., and it will attract us no friends. Diplomacy requires tact. It requires being able to use both the carrot and the stick, rewards and sanctions. Mr. Bolton seems to be focused entirely on the stick, believing that by wielding our power and the threat of force like a cudgel, we can bring the international community into line. I do not agree.

Senator VOINOVICH was right when he said the United States can do better than John Bolton. There are so many bright, gifted people in the administration that would do a better job and be a better fit. I regret the President did not send one of those people to us for this high profile job. Mr. Bolton's presence at the U.N. will do little to build our prestige around the world, and may well hamstring our efforts in the war on terror. I urge my colleagues to vote against this nominee.

Ms. MIKULSKI. Mr. President, I rise today to speak on the nomination of John Bolton to be the United States Representative to the United Nations.

I have three criteria I use to evaluate all executive branch nominees: competence, integrity, and commitment to the core mission of the department.

Mr. Bolton has had wide-ranging experience and is competent.

I do not agree with many of Mr. Bolton's past statements about the U.N. However, his statements during the confirmation process indicate he is now committed to the mission of the U.N. I will give him the benefit of the doubt on this one.

But I cannot be so flexible when it comes to the very serious questions about Mr. Bolton's integrity.

I rise today as the Senator from Maryland and as a long-time member of the Senate Intelligence Committee. I have been working on reforming our intelligence community since I first became a member of the Intelligence Committee before the tragedy of September 11. I served on the 2002 joint inquiry about what happened on that terrible day. I served on the Intelligence Committee's 2003 review of Iraq intelligence.

I worked on the 2004 reform legislation that built on the work of the 9/11 Commission and that we passed last year. We looked for ways to prevent what happened on September 11 from ever happening again. We looked for ways to make sure that what happened with Iraq—where we thought there were weapons that weren't there—will never happen again. We looked for ways to get the right information to policy makers.

Throughout all that work over the years, I have kept the many talented, hard working, dedicated, and patriotic Americans working throughout the world for our intelligence agencies foremost in my mind. One of my central concerns has been to try to ensure that they have the right and ability to do their jobs: to get the facts and speak truth to power.

Speaking truth to power means telling the boss what he or she should hear rather than just what they want to hear. This is absolutely critical to the security of our Nation. That is why I am opposing John Bolton's nomination to be America's Representative to the United Nations. It is clear to me that he does not respect the truth or the hard working experts that labor day in and day out to provide policy makers with the best information and their best judgments.

I have carefully reviewed the report prepared by the Foreign Relations Committee. It is evident to me, from reading the minority views of the committee's report, that Mr. Bolton is a bully, but not just any bully. He is a bully with a purpose: to browbeat intelligence professionals to disregard the facts, and to send a message to all the other intelligence professionals that they speak the truth at their peril. His purpose seems clear: to intimidate. His actions seem clear: to retaliate.

Mr. Bolton retaliated against those who disagreed with him. He claims not to have sought to have anyone fired. He said he merely "lost confidence" in them. But, that's just a polite way to say a person is unqualified and should be fired. It's a distinction without a difference. When a senior policy maker has lost confidence in you, I think we can all agree that your career is effectively over.

Playing with words cannot obscure the fact that Mr. Bolton went after intelligence professionals for doing their jobs, for telling the truth, for speaking truth to power. He was the power, the boss, the senior official and he had no use for truth.

According to the investigation by the Foreign Relations Committee, Mr.

Bolton tried to fire an analyst with the State Department's Bureau of Intelligence and Research. The intelligence professional disagreed about language regarding biological weapons that Mr. Bolton wanted to include in a speech. Mr. Bolton also asked that the National Intelligence Officer for Latin America be reassigned, because he told Mr. Bolton that the language on biological weapons did not reflect the intelligence community's assessment.

Mr. Bolton also appears to have abused his access to intelligence. The Senate Intelligence Committee recently investigated charges that Mr. Bolton shared classified information that he received from the NSA. The minority view of that investigation concluded that Mr. Bolton did share classified information, after being specifically instructed by NSA not to do so. Even more troubling, it appears that the reason Mr. Bolton gave the NSA to justify his "need to know" was not the real reason he sought out the information.

This is yet another example of John Bolton using and misusing intelligence to suit his own purposes. It is also clear that Mr. Bolton bullied a number of others who dared to disagree with him, including others in the intelligence community. My colleagues—Senator BIDEN, Senator VOINOVICH and others—have detailed these charges well, and I will not repeat that here.

Mr. Bolton's intolerant attitude and conduct must not be rewarded. It inevitably results in chilling truth and facts. It is an attitude hostile to the very concept of speaking truth to power.

We need the world to understand that the United States getting Iraq wrong was an aberration, a one-time, never-to-be-repeated mistake. The world must believe, and it must be true, that facts and truth are what inform our policies and actions at home and abroad.

They must also believe our leaders and policy makers when they speak. When we speak about intelligence, people cannot be wondering, is that American lying to me, misleading me, telling me half the truth.

The stakes are too high: war and peace; life and death; weapons of mass destruction; Iran; North Korea; terrorism. These are the stakes we are talking about.

America cannot afford to send someone to the U.N. that many people already believe does not respect the truth. We already have a huge credibility gap at the U.N. and in the world.

The U.N. was where our respected Secretary of State laid out our case for going to war with Iraq. We disclosed extensive intelligence information to demonstrate that Iraq had WMD, that it was a threat to the region, our country and the world. We now know, through no fault of our Secretary of State, that much of that information was wrong.

Many of us have worked tirelessly to make sure that something like that never happens again. Building on the work of the 9/11 Commission, we worked for much of last year to pass dramatic and broad based reform of our intelligence community. We fought hard to make sure that a single person would be in charge of the entire intelligence community, to mandate alternative or red team analysis to always make sure that we policymakers have the best information available.

We are now working to make that reform a reality. Just last month, I voted with 97 of my colleagues to confirm the country's first Director of National Intelligence and his deputy. We have done much, but there is much to do.

We are building a new foundation for our entire intelligence community. It is a work in progress. Every step is important.

But one of the most important steps is ensuring that our intelligence professionals understand and believe that their work is valued. That truth and facts are important. That they can and must speak truth to power. That we are on their side. That the Senate of the United States takes these matters seriously.

That is why at the confirmation hearing of our nation's first nominee for Director of National Intelligence, I asked Mr. Negroponte if he agreed that the professionals in the intelligence community must be free to "speak truth to power." He said, "Truth to power is crucial. And we've got to assure the objectivity and integrity of our intelligence analysts."

I also asked him if he will create a tone where there will be no retaliation for people who attempt to speak the truth. Mr. Negroponte said, "Yes. I think the short answer to you is a categorical yes."

I asked those questions of the nominee, who was under oath and at an open hearing, for two very important reasons.

First, I wanted the world to hear what he had to say.

Second, I wanted all of our intelligence professionals throughout the World to hear what he had to say.

I wanted our intelligence professionals to know that they were authorized, indeed, obligated to seek the truth and speak the truth. And, I wanted them to know that our most senior intelligence professional, the Director of National Intelligence, would not tolerate retaliation for speaking truth to power. Mr. Negroponte's statements stand on their own.

I believe it would be wrong to confirm Mr. Bolton as the United States representative to the United Nations. He has disregarded the truth. He has sought to punish intelligence professionals for speaking the truth. He has tried to intimidate intelligence professionals into agreeing with him regardless of the facts.

To confirm Mr. Bolton would send a terrible message to our intelligence professionals. It would be a terrible signal for our intelligence reform efforts. It would undermine our efforts to restore our credibility in the world and to do the hard work of reforming the United Nations.

Mr. LEAHY. Mr. President, I have been privileged to have served under both President Clinton and President George W. Bush as one of the two Senate delegates to the United Nations, and there is no doubt that the United States Permanent Representative to the U.N. is one of the most important diplomatic posts in the U.S. government.

The Permanent Representative is the public face, voice, and vote of the United States at the world's only body charged with maintaining international peace and security. Therefore, it is essential that this individual be someone with indisputable integrity and extraordinary diplomatic abilities. After listening to John Bolton's confirmation hearings before the Senate Foreign Relations Committee, I feel confident in saying that John Bolton is not that person.

Most troubling to me are allegations from senior U.S. intelligence officials—including a senior Bush administration appointee—of Mr. Bolton trying to intimidate and even remove intelligence analysts simply because they did not share his political views. Mr. Bolton even went so far as to get in his car and go out to the CIA to seek the removal of one intelligence officer. At any time, but especially in the wake of the massive intelligence failures associated with the decision to invade Iraq, efforts by administration officials to shape intelligence to conform to a particular preconceived view is unacceptable. It is essential that dissent be tolerated and even encouraged in the intelligence community and not distorted to fit a particular ideology or political agenda.

Second, I have strong concerns that Mr. Bolton's pattern of inflammatory statements about the U.N. will make it difficult for him to effectively advance U.S. security interests in New York and to build support for much-needed reforms at the U.N. The last thing we want is for countries to make Mr. Bolton an excuse for resisting reform. Taking a tougher approach to the U.N. through constructive criticism is one thing; disregarding its value and belittling its very existence is another. We need someone in New York who is unafraid to shake things up and challenge the status quo, but that person must also have the credibility, temperament, and diplomatic skills to work with other nations, form coalitions, and advance U.S. interests. The only tool in Mr. Bolton's toolbox appears to be a hammer.

Third, I am disturbed by some of the contradictions in Mr. Bolton's recent testimony. For example, Mr. Bolton pledged to the Foreign Relations Committee that he has not and will not make statements that are not approved by the administration. Yet his own testimony about Iran appeared to do just that—using language rejected by the administration more than a year ago. There are other instances of this behavior during the hearings, where our Ambassador to South Korea has disputed what Mr. Bolton said

Finally, there is a tone and temperament issue with Mr. Bolton's nomination. According to respected officials who have worked with him, Mr. Bolton bullies, belittles and undermines those who do not agree with him. We all lose our cool from time to time. Disagreements are part of human discourse. But, there is a pattern with Mr. Bolton that goes beyond appropriate behavior—a disturbing trait for someone seeking to become our chief diplomat at a place where people come together to resolve disagreements.

When Mr. Bolton was nominated to be Under Secretary of State in 2001, I strongly opposed and voted against his nomination. At that time, I had serious reservations about his experience, diplomatic temperament, and his poor track record on non-proliferation and arms control. Over the last four years, Mr. Bolton has proved me right. As the top proliferation official at the State Department, Mr. Bolton has been ineffective in his current responsibilities and the world has become more dangerous under his watch. The Bush administration's record on proliferation, from Pakistan to Iran to North Korea, has been poor, at best.

After much debate, the Foreign Relations Committee was not able to support Mr. Bolton's nomination and, rather, reported it out without recommendation. Secretary Powell's Chief of Staff has said that Mr. Bolton would be an "abysmal" ambassador to the U.N. I might not put it as strongly as that, but I will be opposing the nomination of Mr. Bolton.

Mr. CORZINE. Mr. President, I will be voting against the nomination of John Bolton to be Ambassador to the United Nations.

When the President first nominated Mr. Bolton for this position, I expressed deep disappointment and concern. First, because of his repeated expression of disdain for the organization. But, more importantly, because Mr. Bolton is as responsible as any member of the administration for the needless confrontations with the rest of the world and for the international isolation that plagued President Bush's first term and for the shaky credibility we carry today. At a time when we need to be strengthening our alliances and making full use of international institutions to achieve our foreign policy goals, sending Mr. Bolton to the United Nations sends the exact wrong message. I do not accept his view that the U.N. is a vehicle to be used by the U.S. "when it suits our interests and we can get others to go along." Diplomacy in most people's minds requires attention to more than just coalitions of the willing.

Over the past month, the Senate Foreign Relations Committee has uncovered a pattern of behavior on the part of Mr. Bolton that has only confirmed my concerns. Most disturbing to me is the evidence of Mr. Bolton's troubled and confrontational relationship with our intelligence community.

In speeches and testimony, he has appeared to stretch the available intelligence to fit his preconceived views. On three separate occasions, he tried to inflate language characterizing our intelligence assessments regarding Syria's nuclear activities. He sought to exaggerate the intelligence community's views about Cuba's possible biological weapons activities. His track record, on these and other matters, was so bad that the Deputy Secretary of State made an extraordinary order—that Mr. Bolton could not give any testimony or speech that was not personally cleared by the Deputy Secretary or the Secretary's chief of staff.

He also dampened critical debates among professionals on important policy issues by retaliating against analysts who presented a different point of view than his own. For example, on three occasions over a 6 month period, he sought to remove a midlevel analyst who disputed the language he tried to use about Cuba. The proliferation of weapons of mass destruction is a serious matter. I would not criticize Mr. Bolton for asking intelligence analysts hard questions about proliferation issues, nor should policy makers refrain from challenging the assumptions of those analysts. But Mr. Bolton was doing something far different. He made it clear that he expected intelligence analyses that conformed with his preconceived policy views. Rather than welcome contrary intelligence analyses as essential to an informed debate, he retaliated against those who offered contrary views.

Mr. Bolton's approach to those around him has been harshly criticized by those who have worked with him. Larry Wilkerson, the chief of staff for Secretary Powell, called him a "lousy leader." Carl Ford, former head of the State Department's Bureau of Intelligence and Research, referred to Mr. Bolton as a "quintessential kiss-up, kick-down sort of guy."

This is not the person we need at the United Nations. Good diplomacy, like good business, relies on a great team and a good leader. Good leaders listen. They listen to their troops, they make reasoned decisions, they take responsibility, and they build the respect and loyalty of their staff. Management by fear is a recipe, in both public service and the private sector, for getting only the information that you want to hear. Shoot the messenger and other messengers will not volunteer to deliver the bad news. And I submit that Mr. Bolton has developed a reputation for shooting the messenger.

We must begin to learn the lessons of Iraq. It should be more than clear by now that our national interests are damaged when policy makers bend intelligence. And we should all understand by now that accurate, objective intelligence requires analysts who are free to offer differing views. We face serious threats, from international terrorism to the proliferation of weapons of mass destruction. We have serious foreign policy concerns to address, from genocide to global climate change. Protecting our national security interests demands policymakers who seek objective intelligence on these and other challenges. Given his track record, John Bolton is clearly not that policymaker.

Another lesson of Iraq is the critical importance of American credibility. The inaccurate presentations made by our Government to the international community have done serious damage to our interests. If we are to gain the active support of other nations in confronting common threats such as terrorism and weapons of mass destruction, we will need to convince those nations of our views. To do so, we will need their trust. This challenge is especially complicated at the United Nations, where Secretary of State Colin Powell gave what turned out to be an almost entirely inaccurate presentation on Iraq, and where the administration dismissed all alternative views, including those of UN inspectors. Mr. Bolton is not the person to repair this damage. His record makes it extremely unlikely that he could rebuild our credibility in the international community in its most visible forum—the U.N.

The nomination of John Bolton is a lost opportunity for this administration to regain American leadership at the United Nations. It is also dangerous. Failure to gain support in the UN for our policies puts us at unnecessary risk. Simply put, we cannot afford an ineffective Ambassador at the United Nations.

Mrs. FEINSTEIN. Mr. President, I rise today to express my opposition to the nomination of John Bolton to be the next United States Ambassador to the United Nations.

Simply put, he is the wrong man at the wrong time for what is an important and critical position.

At a time when the reputation of the United States is at an all time low in many parts of the world and our military is stretched thin, we need a representative at the United Nations who can engage and work with our friends and allies to forge multilateral solutions on: the war on terror, the proliferation of weapons of mass destruction, global poverty, the HIV/AIDS pandemic, and global warming, just to name a few.

Yet throughout his career, John Bolton has demonstrated an unrestrained contempt for diplomacy and international treaties.

In a letter to Senator RICHARD LUGAR, chairman of the Foreign Relations Committee, 102 former American diplomats representing both Democratic and Republican administrations urged the committee to reject Mr. Bolton's nomination because of his "exceptional record of opposition to efforts to enhance U.S. security through arms control. The letter notes that Mr. Bolton led the effort against ratification of the Comprehensive Test Ban Treaty; blocked a more robust international agreement to curb the proliferation of small arms; led the effort to block the Ottawa Landmine Treaty; led the effort to have the United States withdraw from negotiations to formulate a verification system for the Biological Weapons Convention; and led the campaign to have the U.S. withdraw from the ABM Treaty.

What sort of message do we send to our friends and allies by nominating an ideologue and not a consensus builder for this leading post at the United Nations?

I, for one, am unaware of another nominee to an international body who has garnered so much opposition from individuals who have served on the front lines of American diplomacy.

The fact is, these 102 U.S. diplomats who have written in strenuous opposition to Mr. Bolton recognize that dialogue, cooperation, and, yes, compromise are essential if we are to build alliances and enlist the support of other states in tackling the common problems we all face.

By opposing virtually every meaningful arms control treaty over the past few years, John Bolton has placed his faith in a unilateral, go-it-alone foreign policy that has stretched our military thin and dramatically weakened respect for America in the world.

I had hoped that President Bush would make the rebuilding of our friendships and alliances a priority for the next four years. The nomination of Mr. Bolton sends precisely a different signal that the U.N. will continue to be our rhetorical whipping boy.

We all know that we cannot afford to go it alone in taking on the great challenges in front of us. It is faulty to assume that once he arrives at the United Nations headquarters in New York, John Bolton will suddenly discover a new faith in diplomacy and international agreements.

It is also a stretch to assume that John Bolton will likewise discover a newfound faith in the United Nations and its mission. Many of Mr. Bolton's comments about the United Nations have been raised before but they are worth repeating. Such as:

> There is no such thing as the United Nations. There is an international community that occasionally can be led by the only real power left in the world and that is the United States when it suits our interest and we can get others to go along.
>
> The secretariat building in New York has 38 stories. If you lost ten stories today it wouldn't make a bit of difference.
>
> If I were redoing the Security Council today, I'd have one permanent member because that's the real reflection of the distribution of power in the world . . . the United States.

As my friend and colleague Senator BIDEN has stated, when you listen to quotes such as these, you wonder why Mr. Bolton would even want the job of Ambassador to the United Nations.

Indeed, given his disdain for the institution and the other members of the Security Council, Mr. Bolton is unlikely to find a receptive audience for his ideas and initiatives, much less be able to forge alliances to protect American interests and increase global security.

How successful is Mr. Bolton likely to be in enlisting United Nations support for promoting political stability and economic development in Iraq and Afghanistan; stopping the genocide in Darfur; convincing North Korea and Iran to forgo their respective nuclear weapons programs; combating the global HIV/AIDS pandemic; stopping the proliferation of weapons of mass destruction; and fighting the war on terror?

To say the least, I have little confidence in Mr. Bolton's chances for success if he is confirmed and his inability to be an effective and constructive ambassador will produce disastrous consequences for American foreign policy.

In response to the mounting criticism of the President's nomination, the administration has attempted to shift the debate from Mr. Bolton's qualifications to the need for reform of the United Nations.

A vote for Mr. Bolton is a vote for reform at the U.N., they argue. A vote against Mr. Bolton is a vote for the status quo. A blunt, no-nonsense approach is needed to get the job done.

Nothing could be further from the truth. Mr. Bolton has made it clear that he does not have faith in multilateral diplomacy or the mission of the United Nations. Why should we expect him to be committed to a more effective United Nations? How effective is a blunt manner if the individual is unprepared to listen or compromise?

United Nations Secretary General Kofi Annan has produced a report on recommendations for reforming the U.N. so that it can better tackle the challenges of the new century. The United States should play a meaningful and constructive role in that debate.

But his inflexible views and harsh temperament suggest to me that Mr. Bolton will himself be the issue at the U.N.—not the steps that need to be taken to improve the workings of the institution.

Let me turn now to several allegations have been made about Mr. Bolton's past conduct as Under Secretary of State for Arms Control and International Security that raise serious questions about his fitness to serve as United States ambassador to the United Nations.

As detailed in the minority report of the Senate Foreign Relations Committee on his nomination, Mr. Bolton sought to replace two intelligence analysts, Christian Westermann, a State Department analyst in the Bureau of Intelligence and Research, and the National Intelligence Officer, NIO, for Latin America at the Central Intelligence Agency, who refused to back his assertion that Cuba was developing a biological weapons program; exaggerated intelligence on Cuba's biological weapons program and Syria's nuclear activities to fit his own personal views; and pushed for the dismissal of a State Department official he wrongly accused of purposefully withholding a document.

Supporters of Mr. Bolton's nomination argue that these charges should fall by the waistside because no one lost their job and his statements largely reflected the views of the intelligence community.

Even if you assume that this is true, Mr. Bolton's efforts to trash intelligence analysts and pattern intelligence to fit his views, had a chilling effect on the intelligence community and its ability to provide sound, credible intelligence.

Robert Hutchings, the former Chairman of the National Intelligence Council, told the Foreign Relations Committee:

> [W]hen policy officials come back repeatedly to push the same kinds of judgments, and push the Intelligence Community to confirm a particular set of judgments, it does have the effect of politicizing intelligence, because the so called 'correct answer' becomes all too clear . . . it creates a climate of intimidation and a culture of conformity that is damaging.

Given the failure of pre-war intelligence on Iraq and the profound negative impact that failure had on the credibility of the United States in the international community, we should not send a representative to the United Nations who has sought to conform intelligence to his stated views and punish those who disagreed with him.

Indeed, the next United States Ambassador to the United Nations may very well be charged with gathering international support to convince Iran and North Korea to abandon their nuclear weapons programs. A person of Mr. Bolton's credibility on intelligence matters is unlikely to garner much support and, indeed will likely face stiffer opposition.

Surely the President can find another nominee who is committed to multilateral diplomacy and appreciates, rather than denigrates, the goals and mission of the United Nations.

Despite what the administration may assert about Mr. Bolton's "blunt" manner, such an individual will be far more effective at representing United States interests, shaping alliances to confront problems that transcend borders, and encouraging U.N. reform.

Mr. Bolton has made a career out of shunning diplomacy, blasting the United Nations, ignoring the advice of others, and moving ahead with a foreign policy that emphasizes arrogance over leadership.

In these difficult times, he is a risk, not an asset, in advancing our national security interests abroad and on that basis does not deserve the Senate's support in confirming his nomination.

Mr. CORZINE. Mr. President, today I will be voting against the nomination of John Bolton to be Ambassador to the United Nations.

When the President first nominated Mr. Bolton for this position, I expressed deep disappointment and concern. First, because of his repeated expression of disdain for the organization. But, more importantly, because Mr. Bolton is as responsible as any member of the administration for the needless confrontations with the rest of the world and for the international isolation that plagued President Bush's first term and for the shaky credibility we carry today. At a time when we need to be strengthening our alliances and making full use of international institutions to achieve our foreign policy goals, sending Mr. Bolton to the United Nations sends the exact wrong message. I don't accept his view that the U.N. is a vehicle to be used by the U.S. "when it suits our interests and we can get others to go along." Diplomacy in most people's minds requires attention to more than just coalitions of the willing.

Over the past month, the Senate Foreign Relations Committee has uncovered a pattern of behavior on the part of Mr. Bolton that has only confirmed my concerns. Most disturbing to me is the evidence of Mr. Bolton's troubled and confrontational relationship with our intelligence community.

In speeches and testimony, he has appeared to stretch the available intelligence to fit his preconceived views. On three separate occasions, he tried to inflate language characterizing our intelligence assessments regarding Syria's nuclear activities. He sought to exaggerate the intelligence community's views about Cuba's possible biological weapons activities. His track record, on these and other matters, was so bad that the Deputy Secretary of State made an extraordinary order—that Mr. Bolton could not give any testimony or speech that was not personally cleared by the Deputy Secretary or the Secretary's Chief of Staff.

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We must begin to learn the lessons of Iraq. It should be more than clear by now that our national interests are damaged when policy makers bend intelligence. And we should all understand by now that accurate, objective intelligence requires analysts who are free to offer differing views. We face serious threats, from international terrorism to the proliferation of weapons of mass destruction. We have serious foreign policy concerns to address, from genocide to global climate change. Protecting our national security interests demands policy makers who seek objective intelligence on these and other challenges. Given his track record, John Bolton is clearly not that policy maker.

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The nomination of John Bolton is a lost opportunity for this administration to regain American leadership at the United Nations. It is also dangerous. Failure to gain support in the U.N. for our policies puts us at unnecessary risk. Simply put, we cannot afford an ineffective Ambassador at the United Nations.

Mr. LAUTENBERG. Mr. President, before the people of New Jersey elected me to the Senate 23 years ago, I worked in the corporate world.

I helped start a company from scratch, and when I left, we had about 20 thousand employees.

I learned a few things about hiring people.

I learned that a person might be an intelligent human being. They might be proficient at many things. They might have a lot of interesting ideas.

But if they don't fit the description for the position you need to fill, they are not the right person for the job.

If you need a carpenter, you don't hire someone who can't use a hammer, even if they know a lot about houses.

If you need help with your taxes, you hire an accountant, not a music teacher.

And if you need someone to represent the United States to the other countries of the world, you hire a diplomat, not an ideologue.

We are talking about the U.S. Ambassador to the United Nations.

This is not an entry level position. This job calls for an experienced diplomat.

What does that entail? Webster's Dictionary defines "diplomacy" as: the art and practice of conducting negotiations between nations for the attainment of mutually satisfactory terms; the procedures, methods and forms employed in conducting such negotiations; the skillful or successful settlement of differences between peoples; and, adroitness or artfulness in securing advantages without arousing hostility.

That definition does not sound like the Mr. Bolton we have heard about.

If we send Mr. Bolton to the United Nations, we would be sending a go-it-alone ideologue with open disdain for the U.N., exactly what our country does not need.

Around the world today, polls show that even citizens of our strongest allies have a generally unfavorable view of the United States.

I realize that many Americans say, "why should we care what other nations think?"

And the answer is, the attitudes of other nations affect our national security.

We recently celebrated VE Day. It was a day I will never forget, because I was serving in the Army in Europe. I celebrated the end of the war with my Army buddies, as well as British soldiers who were our allies.

As much as we might like to think that we don't need anything from any other country, it certainly was good to have allies in World War II.

And wouldn't it be good today if more nations would send troops to Iraq, so some of our soldiers could come home, and so American taxpayers wouldn't have to bear most of the cost of that war?

Whether we like it or not, world opinion matters.

The fact is, none of the major challenges our Nation faces today can be conquered by us alone.

In order to win the war on terror, curb global warming or succeed in the international economy, we need our allies and international institutions.

Failing to engage these indispensable partners will make U.S. efforts less effective, and jeopardize the stability, security, prosperity, and health of Americans.

John Bolton is the wrong man to forge the alliances we need to address these vital challenges.

Instead of reaching out to the rest of the world, his nomination would push other nations away and isolate America.

Yesterday my friend from Indiana complained that we were putting Mr. Bolton's career "under a microscope."

Well, when I was in the private sector and my company was evaluating a potential new hire for a key position, that's exactly what we did—and I don't think there's anything wrong with it.

Mr. Bolton's track record at the State Department does not withstand close scrutiny.

As Undersecretary at State, he did nothing to resolve the potentially explosive situations in North Korea and Iran. Instead, he inflamed them.

He has blocked international arrangements including treaties limiting nuclear weapons testing, landmines, child soldiers, missile defense, and small arms trade.

He dismantled the Anti-Ballistic Missile Treaty, and blocked a verification clause to the bio-weapons treaty.

And he was a leading opponent against the ratification of the Comprehensive Test Ban Treaty.

Mr. Bolton does not have the credibility or the diplomatic skill to represent U.S. interests globally.

A smart businessman not only considers the work experience of a potential employee—you also look at his character and ability to get along with other people.

In this regard, Mr. Bolton also falls short.

For example, in 2002, he sought to exaggerate assessments of Syria's nuclear weapons capability and Cuba's biological weapons activities and support for terrorism beyond what U.S. intelligence believed to be true.

Dr. Robert Hutchings, former chair of the National Intelligence Council, described Mr. Bolton's efforts as "cherry-picking of little factoids and little isolated bits that were drawn out to present the starkest possible case."

Mr. Bolton bullied and tried to remove analysts whose work did not reflect his own biases.

As if all this were not enough, it appears now that Mr. Bolton was not truthful in his testimony before our Foreign Relations Committee on April 11.

Among John Bolton's misstatements:

He said he did not try to get a State Department employee fired. He said he did not threaten any employees because of their views. He said he did not act against those officials because of differing views. He said the U.S. Ambassador to South Korea approved of his July 2003 speech, when we now in fact know that Ambassador Hubbard got in touch with the Foreign Relations Committee to "correct the record."

Just this month, 102 retired diplomats signed a letter to Senators LUGAR and BIDEN urging the Senate to reject the nomination of John Bolton to be our Nation's Ambassador to the United Nations.

These former diplomats have served in both Democratic and Republican administrations. They all agree that John Bolton is the wrong man for the job.

I have heard Mr. Bolton compared to one of our former colleagues, my good friend and neighbor, Senator Pat Moynihan.

That is nonsense. Mr. Moynihan was not afraid to criticize the status quo, but as his daughter pointed out in a recent newspaper column, he appreciated the importance of the United Nations.

Pat Moynihan would never say, as John Bolton said, that, "if the United Nations lost 10 stories it wouldn't make a bit of difference."

This is an important position. We owe it to our country to fill it with the best person available. As my friend the Senator from Ohio said yesterday, "The United States can do better than John Bolton."

Mr. President, not only can we do better, for the good of the country, we must.

Mr. BUNNING. Mr. President, I speak today on the nomination of John Bolton to be the U.S. Ambassador to the United Nations. I want to express my full support for his confirmation.

Despite the criticisms of some of my colleagues across the aisle, John Bolton is without a doubt one the most qualified people to fill this position. I believe his no-nonsense diplomacy will be a welcome change at the U.N., and one that will prove to be effective in the future.

Now more than ever, the United Nations is in need of drastic reform. As the world's only super power and one of the original founders of the organization, it is the United States' responsibility to play leading role in this reform. Mr. Bolton's nomination is a reflection of this commitment. His pursuit for the truth will serve him well in holding the United Nations accountable for its past mistakes.

Although he is not a career diplomat, Mr. Bolton has a strong record of success within the international community. He has played pivotal roles in the signing of the treaty of Moscow, the repeal of the U.N. General Assembly's 1975 resolution that equated Zionism with racism, and the negotiations in the G–8 Partnership Against the Proliferation of WMD to name a few.

Mr. Bolton not only possesses the tenacity to deal with the U.N. but also has experience dealing with the organization on a first-hand basis. He voluntarily, I repeat voluntarily, worked for the U.N. between 1997 and 2000 with former Secretary of State James Baker on resolving the conflict in the Western Sahara. Not only did he play an integral role in creating a viable "peace plan" for the area, but did so on his own time.

Mr. President, this flies directly in the face of my colleagues across the isle, who repeatedly accuse Mr. Bolton of hating the U.N. and wanting to dismantle the organization permanently. Rather than being committed to the organization's demise, I believe he is more committed to making it stronger and more effective.

I find myself deeply saddened by the efforts of a minority of Senators to delay Mr. Bolton's confirmation. He is an extremely qualified candidate, who has been confirmed by the Senate four times in the past. Why the change of heart now?

Rather than questioning Mr. Bolton's qualifications for the position and the need for U.N. reform, a minority of Senators are engaging themselves in what boils down to character assassination. I challenge my colleagues to look at Mr. Bolton's real character. He is a man of integrity and honesty, whose candid personality will serve him well at the United Nations.

I am confident the Senate will confirm Mr. Bolton. I wish him well in his new position and with the daunting task of reforming the United Nations. It is not an easy one. Despite this challenge, I believe he will be a welcome addition to the organization and an agent of change in the international community.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have time reserved at 5:30, but I will make a comment before that time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have had the pleasure to work with my good friend, John Bolton, on several issues. Each time I have worked with him, he has proven to be helpful and driven to obtain the results that will best serve the interests of the United States. He is a straight shooter, a no-nonsense type of guy who knows how to get results.

As most of my colleagues know, I take a special interest in issues regarding Asia. Alaska's past, present, and future have always looked westward to Russia, China, Japan, and the Korean Peninsula. It is for that reason that I have decided to support John Bolton.

North Korea has had nuclear aspirations many years and has taken aggressive steps to acquire nuclear weapons years before the Bush administration came into office.

John Bolton's straight-forward talk on North Korea should be applauded. He was telling the truth.

The United States made the good-faith effort with the 1994 Agreed Framework by providing food and support for building of the reactor. But this agreement was destined to fail because of North Korea's treacherous actions in the region. This is not a country we can trust. We now know that North Korea began cheating on it almost as the ink was drying by embarking on a covert uranium enrichment program.

The Bush administration has accomplished the core prerequisite for a lasting solution. It has galvanized the international community to work together on a lasting, multinational solution to the problem. The White House has stated that the next venue for this discussion will be the United Nations.

John Bolton will be that voice, a compelling one, to ensure we are able to have an agreement that will stick. John Bolton is the strong voice that is required to ensure that America's vision on a nuclear weapon free North Korea is heard at the United Nations.

John Bolton believes in frank and honest diplomacy. John Bolton has not shied away from naming rogue states that violate international commitments such as the Biological Weapons Convention, the Chemical Weapons Convention, and the Nuclear Non-Proliferation Treaty.

He has had an effective working relationship with foreign governments, international institutions, nongovernmental organizations, and the private sector for over three decades.

There is no question that John Bolton is qualified for the position of U.S. Ambassador to the U.N., and here are just a few reasons why:

As the Under Secretary for Arms Control and International Security, John Bolton led the efforts to implement the President's strong nonproliferation agenda, including reform of the International Atomic Energy Agency.

He has actively promoted effective multilateral solutions to real-world problems such as the proposal to create a Special Committee of the International Atomic Energy Agency Board to focus on safeguards and verification of nuclear programs.

John Bolton helped to bring about new leadership to improve the Organization for the Prohibition of Chemical Weapons.

He was the President's point person in designing the Proliferation Security Initiative. Over 60 nations are now working together to share intelligence and are taking action to stop the transfer of dangerous weapons. The Proliferation Security Initiative was instrumental in getting Libya to make the strategic decision to abandon its WMD programs.

The U.N. is in need of reform. John Bolton supports reform at the United Nations so it is accountable, transparent, and effective. While serving as the Assistant Secretary for International Organizations, he detailed his concept of a "Unitary U.N." that sought to ensure management and budget reforms across the U.N. system. John Bolton will work with member states and the Congress to reform the U.N.

Allegations that Bolton manipulated intelligence are unfounded. As a policymaker, he asserted his view on intelligence. That was his job. Policymakers should question information extensively before accepting it as fact. These were internal policy debates, which occur in all Departments and agencies.

He may have disagreed with intelligence findings at times, but John Bolton always accepted the final judgments of the intelligence community.

Mr. DURBIN. Mr. President, I rise today in opposition to the nomination of Undersecretary of State John Bolton as United States Ambassador to the United Nations, an institution which he has openly and repeatedly disdained.

A number of factors have led me to this decision, but they fall into several broad categories: Mr. Bolton's apparent abuse of the intelligence process and of his subordinates; his opposition to peacekeeping and other fundamental functions of the United Nations; his disdain for the institution itself; his opposition to important nonproliferation efforts; and the poor judgment he has displayed on key foreign policy questions.

Furthermore, there is the nomination process itself as it has been carried out in this case. Despite repeated requests from the Foreign Relations Committee, the executive branch did not provide key documents concerning Mr. Bolton's requests to learn the identities of 10 U.S. officials who were cited in intelligence intercepts.

The administration's failure to provide requested and relevant documents distorts the nomination process.

Although handicapped by a lack of information and candor, the Senate Foreign Relations Committee examined the charges that Undersecretary of State Bolton abused the intelligence process by seeking to have those who dared to dissent removed.

The evidence demonstrated a clear pattern of conduct that led 9 out of 18 members of that committee to vote against confirmation.

The minority views of the committee report on the Bolton nomination reached four firm conclusions on this matter:

One, Mr. Bolton repeatedly sought the removal of intelligence analysts who disagreed with him.

Two, in preparing speeches and testimony, Mr. Bolton repeatedly tried to stretch intelligence to fit his views.

Three, in his relations with colleagues and subordinates, Mr. Bolton repeatedly exhibited abusive behavior and intolerance for different views.

Four, Mr. Bolton repeatedly made misleading, disingenuous, or nonresponsive statements to the committee.

We have to examine these conclusions in terms of the position for which Mr. Bolton is now being considered as the United States voice at the United Nations.

In his approach to intelligence, Mr. Bolton clearly sought to stretch the analysis to meet his world view rather than stretching his world view to accommodate other possibilities.

This is an extremely dangerous way to look at the world, as the 9/11 Commission and others have shown us.

Even more damaging, Mr. Bolton apparently used his position to attempt to intimidate subordinates and even to have analysts fired who dared to disagree, on such critical issues as the alleged development of weapons of mass destruction in Cuba and elsewhere.

Crying wolf about weapons of mass destruction is an extremely dangerous habit. The United States will be living with the consequences of poor intelligence and unfounded allegations regarding Iraqi weapons of mass destruction for years to come.

The United Nations was at the center of the WMD debate over Iraq and it will be at the center as we seek to address North Korea and Iran as well.

We cannot afford to be wrong about weapons of mass destruction again, and we cannot afford to have at the helm a man who has deliberately exaggerated intelligence regarding these devastating weapons.

There is also the question of pressuring colleagues and subordinates, even attempting to get people fired.

In response to Mr. Bolton's tactics as Undersecretary for Arms Control and International Security, Secretary of State Colin Powell reportedly came down to ask the analysts to continue to "speak truth to power." I applaud Secretary Powell for this step, but he should have never had to take it.

The Senate Intelligence Committee briefly addressed this issue of pressuring and seeking to remove analysts last year. However, we addressed this question only superficially, as I pointed out then in the committee's additional views on "The U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq."

Even worse, our committee fell into the same trap of discouraging dissent. As I wrote then, "the conclusion section in the [committee] report rebukes the analyst for the temerity of raising a policy question with a State Department Undersecretary."

That analyst did the right thing. Policy questions should be raised. In fact, they should be welcomed.

If more questions had been asked, we might not have had a distinguished Secretary of State testifying at the U.N. with apparent certainty about weapons in Iraq that did not, in fact, exist.

The recent Silberman-Robb report from "The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction" concluded that "the Intelligence Community was dead wrong in almost all of its prewar judgments about Iraq's weapons of mass destruction."

One of the key recommendations of the commission was to "preserve diversity of analysis" and to encourage debate among analysts.

These are the very impulses that Mr. Bolton apparently tried to stifle. These are the very impulses that we need most.

Mr. Bolton has been nominated to be our representative to the United Nations. In that seat, he will effectively become our representative to the world.

It is not a position that he has highly valued in the past. He famously remarked that "The secretariat building in New York has 38 stories. If you lost ten stories today it wouldn't make a bit of difference."

Mr. Bolton has since explained that he was merely using a metaphor. I think most of us realized that. The point is that the metaphor that he chose indicates his low regard for the institution.

Mr. Bolton has stated that "there is no such thing as the United Nations," he has flatly rejected the idea at least once that the U.S. should pay its U.N. dues, and he has expressed his desire to see the Security Council reduced to one member, namely the United States.

Mr. Bolton is correct when he argues that the United Nations cannot be effective unless the United States plays a leading role. The League of Nations showed us that. Where he is mistaken is his fundamental confusion of leadership with domination.

A security council of one would leave us with no allies, no friends, and no supporters.

As we have seen with tragic clarity in Iraq, we are stronger when we have allies, and we are more effective multilaterally than unilaterally.

In its domestic policies, the Bush Administration has posited an ownership philosophy that implicitly tells us, "We are all alone in this." Mr. Bolton represents the international wing of that school of thought.

We see this very clearly with the issue of peacekeeping. This nominee has stated that he opposes the use of peacekeepers in civil conflicts because he does not regard civil conflicts as "threats to international security."

Mr. Bolton testified against United Nations involvement in the Congo, where at least 3 million people have died, and he opposed the U.N. civil administration missions in East Timor and Kosovo.

Humanitarian issues aside, civil conflicts have a tendency to spill over borders, just as the conflicts in Sudan, Rwanda, Uganda, and the Democratic Republic of Congo have all become intertwined.

Moreover, civil conflicts can lead to failed states and failed states are very much a threat to national security.

We cannot have a representative to the U.N. who opposes one of its most basic and important functions.

Mr. Bolton has also dismissed the role of international law. In the late 1990s, he stated:

> It is a big mistake for us to grant any validity to international law even when it may seem in our short-term interest to do so—because, over the long term, the goal of those who think that international law really means anything are those who want to constrict the United States.

I believe that international law means something.

I believe that international law is very much in our national interest, and I believe that this perspective from our potential ambassador to the United Nations is as damaging as a White House legal counsel or Attorney General who dismisses the Geneva Convention as quaint and obsolete.

Most disturbing of all, Mr. Bolton has criticized any "'right of humanitarian intervention' to justify military operations to prevent ethnic cleansing or potential genocide."

That tells us Mr. Bolton has learned nothing from the bloodstained lessons of history, including the unforgivable failures of both the United States and the U.N. in Rwanda in 1994.

President Bush has rightly called the crimes in Sudan genocide. Secretary Rice recently echoed that judgment. The Administration has said that it has been blocked by other members of the Security Council in its attempts to do more to stop the killing in Darfur.

Is the United States going to appoint as our ambassador a man who not only belittles the U.N. but denies that it can or should intervene to prevent genocide? What possible message does that send on Darfur?

Another absolutely central United Nations function is the fight against the proliferation of nuclear weapons and other weapons of mass destruction. Mr. Bolton has undermined nonproliferation efforts, not strengthened them.

Recently, 102 former ambassadors and high ranking diplomats wrote Senator LUGAR to express their deep concern over the Bolton nomination. They declared "John Bolton has an exceptional record of opposition to efforts to enhance U.S. security through arms control."

We are witnessing the results of the Bolton approach right now at the Non-Proliferation Treaty conference in New York. By all reports this conference is making little progress toward creating a stronger, safer non-proliferation regime.

A former senior Bush administration official told reporters, "Everyone knew the conference was coming and that it would be contentious. But Bolton stopped all diplomacy on it six months ago."

We cannot have our representative at the U.N. stopping diplomacy. He should be shaping it.

Finally, there is the question of judgment, a key quality in a diplomat.

Mr. Bolton was effectively banished from negotiations with North Korea after he launched into public attacks on their government and its leader on the eve of discussions. The State Department was forced to call Mr. Bolton back and send a replacement to the talks.

I cite this example not because North Korea does not merit criticism: By virtually any measure, it is one of the worst governments in the world.

But during Mr. Bolton's tenure, North Korea's nuclear weapons program has expanded, negotiations have deteriorated, and the situation has grown substantially more dangerous.

Ultimately, we return to Mr. Bolton's vision of the world and of the role of the U.N.

Let me conclude by turning to Samantha Power, one of our nation's foremost scholars of genocide and an astute observer of international relations.

Dr. Power has written:

> It is unclear what the Bush Administration has in mind by shipping Bolton to New York. The appointment has been spun as "Nixon goes to China." Nixon, however, actually went to China; the visit was compatible with his world view. Bolton, by contrast, seems averse to compromise, and is apparently committed to the belief that the U.N. and international law undermine U.S. interests.

The United Nations is in need of reform. The same could be said of many of our own government institutions, as we are attempting to do with the intelligence community, for example.

The United States should be a positive influence in transforming the U.N. to meet the needs of the 21st century. But John Bolton is not the person for the job.

I cannot help but contrast John Bolton to John Danforth, a true statesman, a true soldier in the campaign to end the killing in Sudan, and a gracious and skilled United States representative to the United Nations.

John Danforth was unanimously approved for that position. Mr. Bolton is mired in a controversy of his own making over his suspect qualifications.

I cannot vote for a representative to the United Nations who demeans the institution, who works against nonproliferation, who abuses the intelligence process and its analysts, who dangerously inflates assessments of weapons of mass destruction, who rejects the value of peacekeepers and their role in civil conflicts, and who undervalues the principle of international law itself.

Mr. REID. Mr. President, let me say at the outset, that I do not intend to vote for cloture on John Bolton, nor do I intend to support him for the position of United States Ambassador to the United Nations.

As I have said repeatedly since he was nominated, this is the wrong man for the job not because of his abrasive personality, although I am deeply troubled by his serial mistreatment of coworkers and subordinates.

My objections to this nominee go much deeper than his inability to work well with others. I am opposed to this nominee because of his poor performance, his flawed views, and his repeated misstatements and mischaracterizations of his record.

Let me commend Senator BIDEN and the Democratic staff on the Foreign Relations Committee and Senator ROCKEFELLER and his Intelligence Committee staff. As a result of their leadership and diligence, the Senate and the American people have a much more complete understanding of John Bolton and his entire troubling record.

And there is no doubt that we have learned a lot about Mr. Bolton. We have learned about his failures in the proliferation area, his repeated efforts to manipulate intelligence, his numerous misstatements of fact, and his serial mistreatment of career civil servants.

But, in spite of the best efforts of Senator BIDEN and the other Democratic members of the Foreign Relations Committee, the record on this nominee is still incomplete.

Despite numerous requests, the administration has failed to turn over important information about this nominee. This is astounding to me. The administration's stonewalling has not only had the effect of slowing down the confirmation process, it has also put a further cloud over this individual and has—perhaps unnecessarily—raised the impression that the nominee and the White House have something to hide. The end result is further questions about this nominee, further disruption to the Senate's consideration of this nominee, and further demonstration of the administration's willingness to keep information from the Congress and the American people.

This is information that the Senate is entitled to under the advise and consent clause of the Constitution, information that is central to this man's qualifications, information that, had it been provided, could have possibly spared this man further questions about his already damaged reputation.

But as has so often been the case with this administration, they have sought to ignore the public's right to know and prevent Congress from making a fully informed decision. They want to be the judge and the jury. They have decided the information is not relevant to our consideration of Mr. Bolton.

Let me see if I understand their argument. The administration asserts that information that bears directly on Mr. Bolton's role in assessing the threat posed by Syria and in his seeking intercepted conversations of foreigners and U.S. citizens is not relevant to his qualifications to represent this Nation at the United Nations, and therefore should not be provided to the Senate.

After all the damage caused when this administration stretched the truth at the United Nations as it made the case for war in Iraq, does the White House really believe it is not relevant for us to be absolutely certain their nominee was not trying to stretch the intelligence yet again?

So we are in this largely avoidable position of having to vote against cloture and extending debate until the information is turned over to the Foreign Relations and Intelligence Committees. I hope the administration will do the right thing and provide the information to the Senate.

In the meantime, the information the Foreign Relations Committee has managed to obtain is deeply troubling. This is a record which caused one of the most respected and storied committees in the entire Congress to not recommend him favorably to the full Senate. Based on that fact alone, the President should have withdrawn the nomination. Unfortunately, since he didn't, I think the Senate should follow the committee's lead and not recommend him for this job either.

I know Mr. Bolton has tried to distance himself from certain parts of his record, like his past statements about the United Nations and its role in international affairs. However, there can be no denying that the man harbors a deep animosity towards the institution. At a time when we need diplomacy more than ever, and we need help in Iraq and in the global war on terrorism, this is exactly the wrong man to send to the U.N., and it sends exactly the wrong message to our friends and allies.

Mr. Bolton's supporters have advanced only one reason to ignore the weight of all the evidence that he is unqualified: Mr. Bolton believes the United Nations needs to be reformed. The U.N. does need to be reformed. The U.N. can improve its performance. It can reduce inefficiency in its bloated bureaucracy. It can become more effective and more relevant. And we ought to have a U.N. ambassador who is willing to take on that mission of reform. But the President should be able to find someone capable of reforming the U.N. without Mr. Bolton's baggage.

So let's be clear, I do not oppose sending someone to the United Nations who is willing to engage in some tough-minded reform. I do oppose sending someone who has misused intelligence and bullied intelligence analysts in a way that undermined our diplomatic corps and produced wrong-headed national security policies.

The facts show that Mr. Bolton repeatedly sought the removal of intelligence analysts who disagreed with him. In speeches and testimony, Mr. Bolton repeatedly sought to stretch intelligence to fit his views. In dealing with other professionals, Mr. Bolton repeatedly exhibited abusive behavior and intolerance that had a chilling effect on analysts' ability to provide different views.

The second highest ranking official at the State Department, Secretary Powell's Deputy Rich Armitage, was so concerned about Bolton speeches that he decreed that he must personally review and clear all of Mr. Bolton's public statements. And Robert Hutchings, chairman of the National Intelligence Council, said that Bolton took "isolated facts and made much more of them to build a case than I thought the intelligence warranted." He said the impact of Bolton's actions on the intelligence community, "creates a climate of intimidation and a culture of conformity that is damaging."

But this is not merely a concern for historians. At the same time that Mr.

Bolton was agitating and undermining intelligence professionals on issues such as Cuba and Syria's WMD programs, the administration was putting together a dramatically hyped case for war in Iraq to deal with a threat from weapons of mass destruction that turned out not to exist. Mr. Bolton's modus operandi of hyping intelligence and berating analysts has been so discredited by the results of the Iraq WMD fiasco that it will be difficult for him to operate in the future. Imagine Mr. Bolton arguing to the United Nations Security Council about the threat posed by Iran or North Korea's nuclear weapons programs. Why would anyone take him or the administration that sent him seriously?

I support the President's message of reform of the U.N. I am open to someone who can speak bluntly on these issues, who can deliver tough messages.

But we need a different messenger than Mr. Bolton.

Mr. McCONNELL. Mr. President, I voice my support for John Bolton to be U.S. Ambassador to the United Nations. Undersecretary Bolton will bring to the table exactly what the U.N. needs now more than ever: a sure hand to guide much-needed reform.

The United Nations holds much promise today. But too often, it falls far short in its attempts to defend freedom, security, and human dignity. Undersecretary Bolton wants the U.N. to succeed, and believes it can be a great force for good.

Over the past 3 months we have all heard many scurrilous, slanderous personal attacks made against Undersecretary Bolton. However, as is often the case in Washington, the outrage is largely much ado over very little.

I believe that the opposition to him really stems from concern that he has so effectively implemented the President's foreign policy. Opponents do not want to take on the President, so they try to bully John Bolton.

The problem is, the U.N. is rife with corruption, scandal, and incompetence. Take the Oil-for-Food Program. What started as a humanitarian attempt to help Saddam Hussein's suffering victims degenerated into a jackpot for the tyrant's friends.

Evidence now shows that Saddam Hussein illegally profited from the program, and used the funds to build weapons for use against American troops. Millions of dollars in oil-soaked bribes may have gone to high-ranking officials in France, Russia, and within the U.N. itself. And most sickening of all, there is now evidence that Oil-for-Food money may be funding the insurgents that attack our soldiers in Iraq.

I commend my good friend Senator NORM COLEMAN from Minnesota for leading the committee that has uncovered these abuses. He is proving how much work lies ahead for Undersecretary Bolton when he arrives at the U.N.

As Undersecretary of State, John Bolton took the lead to realize the President's Proliferation Security Initiative, which strives to halt the spread of dangerous weapons. Thanks to his leadership, the once-dangerous regime in Libya has begun to be tamed, as Libya has consented to the Initiative and begun the verifiable elimination of its weapons of mass destruction.

Undersecretary Bolton also led negotiations for the creation of the G–8 Global Partnership Against the Proliferation of WMD. Thanks to his diplomatic work, other nations contributed $10 billion towards those efforts. And he led negotiations for the Treaty of Moscow, which reduced by two-thirds the number of operationally deployed strategic nuclear warheads.

As Undersecretary, Mr. Bolton secured 100 bilateral agreements ensuring that other countries will never drag American troops before the International Criminal Court on trumped-up, political charges and deprive them of American justice. It is remarkable that he has negotiated so many of these pacts—known as Article 98 agreements, for a section of the ICC treaty—in just 4 short years.

Undersecretary Bolton was a leader of American efforts to persuade the Security Council to pass Resolution 1540, which imposes standards for arms control, disarmament, and WMD proliferation prevention on every Member State.

So far, over 80 countries have outlined their plans to stop WMD proliferation. This is a tremendous step forward in the War on Terror, and much of the credit goes to Mr. Bolton. Thanks to his careful, patient work of diplomacy, Resolution 1540 not only passed the U.N. Security Council, it passed unanimously.

Let me close, Mr. President, with a reminder for my colleagues of how committed Undersecretary Bolton is to working with and reforming the U.N. to make it the sentinel of liberty that it can, and should, be. I will read two statements. One was made by Undersecretary Bolton, the other by the revered Democrat and New Dealer Dean Acheson, Secretary of State to President Harry S Truman. Let's see if you can guess who said what.

Here's the first one:

> The United States is committed to the success of the United Nations, and we view the U.N. as an important component of our diplomacy . . . Walking away from the United Nations is not an option.

Now here's the second statement:

> I never thought the U.N. as worth a damn. To a lot of people it was a Holy Grail, and those who set store by it had the misfortune to believe their own bunk.

One of these statements was made by the nominee, a man caricatured by his detractors as dead-set against the U.N. and the need for America to work with multilateral institutions. The other was made by the multilateralist who helped create the World Bank and the North Atlantic Treaty Organization.

Well, surprise, surprise. The first statement was made by Undersecretary Bolton, and the second by Secretary Acheson. This just goes to show, Mr. President, that much of the criticism about Mr. Bolton is useless when it comes to determining his commitment to the U.N., and his fitness to be the Ambassador.

I urge my fellow Senators to focus on the dire need for U.N. reform, and Undersecretary Bolton's record as a diplomat who can get results. In times like these the U.N. needs a little straight talk. And Undersecretary Bolton can give it to them.

He has a remarkable record of bringing about change through multinational institutions. I say, let him work his magic at the U.N. The U.N. can do better than what it is giving us, it must do better. John Bolton is the right man at the right time for this critical assignment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, in 15 minutes or so, we will vote on the nomination of Under Secretary of State John Bolton to be ambassador to the United Nations.

I applaud President Bush for his selection. The President describes the Under Secretary as "a blunt guy" who "can get the job done" and "isn't afraid to speak his mind"—not even to the President himself.

We need a smart, principled, and straightforward representative to articulate the President's policies on the world's stage.

We need a person with Under Secretary Bolton's proven track record of determination and success to cut through the thick and tangled bureaucracy that has mired the U.N. in scandal and inefficiency.

A vote for John Bolton is a vote for U.N. reform. A vote for John Bolton is a vote for progress on the international challenges of our day. A vote for John Bolton is a vote for the United States.

It is no accident that polling shows most Americans have a poor view of the United Nations. In recent months, we have seen a deluge of negative reports. We now know that Saddam Hussein stole an estimated $10 billion through the Oil-for-Food Program. The U.N. official who ran the operation stands accused of taking kickbacks, along with many other officials.

Just this week, the head of the Iraq Survey Group told the Council on Foreign Relations that as a result of the oil-for-food corruption, Saddam came to believe he could divide the U.N. Security Council and bring an end to sanctions. I commend Senator COLEMAN for his determined efforts to get to the bottom of this global scandal.

We know the U.N. failed to stop the genocide in Rwanda in the 1990s. The U.N. is on the brink of repeating that mistake in Darfur.

In the Congo, it is alleged that U.N. peacekeepers have committed sexual abuse against the innocent female civil war victims they were sent to protect.

Meanwhile, the U.N.'s Human Rights Commission, which is charged with protecting our human rights, includes such human rights abusers as Libya, Cuba, Zimbabwe, and Sudan.

These failures are very real and very discouraging. They can be measured in lives lost and billions of dollars stolen. And they can be measured in the sinking regard for an organization that should be held in high esteem.

America sends the U.N. $2 billion per year. Our contribution makes up 22 percent of that budget. We provide an even larger percentage for peacekeeping and other U.N. activities.

It is no surprise that Americans are calling out for reform. John Bolton is the President's choice to lead that effort. He possesses deep and extensive knowledge of the U.N. and has, for many years, been committed to its reform.

Back in 1991, Under Secretary Bolton successfully lobbied to repeal the U.N.'s shameful resolution 3379, which equated Zionism with racism. Many in the diplomatic community told him it could not be done. But after waging an aggressive campaign, he moved the U.N. General Assembly to repeal the resolution by a vote of 111 to 25.

As Under Secretary of State for Arms Control and International Security, John Bolton helped build a coalition of 60 countries to combat the spread of weapons of mass destruction through the President's Proliferation Security Initiative.

He was pivotal in our successful efforts to persuade Libya to give up its pursuit of weapons of mass destruction.

He was also the chief negotiator of the Treaty of Moscow, which calls upon the U.S. and Russia to reduce their nuclear warheads by nearly two-thirds.

Under Secretary Bolton has the confidence of the President and the Secretary of State, and it is to them he will report directly.

He has been confirmed by this body four times, and I believe if we are given the chance, he will be confirmed for a fifth time today.

The vetting of his current nomination has been exhaustive. The Foreign Relations Committee interviewed 29 witnesses and reviewed more than 830 pages of documents from the State Department, from USAID, and the CIA. Under Secretary Bolton fielded nearly 100 questions for the record and underwent multiple hearings.

As Senator LUGAR has pointed out, Under Secretary Bolton has served 4 years in a key position that technically outranks the post for which he is now being considered.

This is a critical time for the United States and for the world. Because of the President's vision and commitment, democracy is on the march around the globe.

In January, Iraq held its first truly free elections. Revolution has swept the Ukraine, Georgia, and Lebanon. We are seeing political reforms in Egypt. Kuwait now allows a woman the right to vote. Saudi Arabia is slowly opening the door to democracy. The Middle East peace process is at its most hopeful moment ever.

The U.N. can and should be vital in advancing these developments. The U.N. charter states that the purpose of that organization is "to promote social progress and better standards of life in larger freedom."

I believe in the U.N.'s potential, if it is reformed and more rightly focused. It has been an important instrument of peace and dialog. I believe, as does the President, that an effective U.N. is in America's interest.

Ambassador Rudy Boschwitz, who has just returned from the 61st session of the U.N. Commission on Human Rights, puts it well when he says that:

> Not only the United States, but the United Nations itself, needs and will profit from a no-nonsense representative like Mr. Bolton.

U.N. Secretary Kofi Annan, too, supports the Under Secretary's selection.

I thank my colleague Senator LUGAR for his strong leadership. And I also thank my colleagues Senators ALLEN, COLEMAN, SUNUNU, and ALEXANDER for their clear-eyed and unwavering support for this capable and fine nominee.

I will close with a story about John Bolton. When he was an intern in the Nixon White House, John Ehrlichman had gathered the interns together to tell them they had to work for Nixon's reelection. A young John Bolton piped up, "Work for him? I don't even know if I'm going to vote for him."

He has always been a straight-shooter and a man of integrity—exactly what we need at the United Nations, and exactly what the United Nations needs from us.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

CLOTURE MOTION

Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 103:

William Frist, Richard Lugar, Richard Burr, Pat Roberts, Mitch McConnell, Jeff Sessions, Wayne Allard, Jon Kyl, Jim DeMint, David Vitter, Richard Shelby, Lindsey Graham, John Ensign, Pete Domenici, Robert Bennett, Mel Martinez, George Allen.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 103, the nomination of John Robert Bolton to be the Representative of the United States of America to the United Nations, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Pennsylvania (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 56, nays 42, as follows:

[Rollcall Vote No. 129 Ex.]

YEAS—56

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Landrieu
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—42

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Frist
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Inouye
Specter

The PRESIDING OFFICER. The yeas are 56, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

Mr. FRIST. Madam President, I enter a motion to reconsider the vote.

The PRESIDING OFFICER. The motion is entered.

Mr. FRIST. Madam President, I entered a motion to reconsider this vote to allow us to revisit this issue when we return. We will be doing that. We will be closing shortly this evening, but before we close, I will file cloture motions on the Brown nomination and the Pryor nomination. Our next vote will be Tuesday, June 7, and that vote will occur prior to the policy luncheons, probably at noon on June 7.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Madam President, while we have Senators in the Chamber, I wish to express, through the Chair, the appreciation of especially Senator BIDEN and Senator DODD for the ends to which the majority leader went to try to resolve this issue. He spent an inordinate amount of time trying to get the information requested and was unable to do so. He did get information but not all that was necessary. I am disappointed that tonight we were unable to have a vote on Mr. Bolton, but it is not the fault of the Democratic caucus. We are not here to filibuster Mr. Bolton's nomination. We are here to get information regarding Mr. Bolton, information to which we are entitled. The people who voted against cloture—there were many—many of them will vote against Mr. Bolton if, in fact, he gets before the Senate. But most of the people here tonight are concerned about this being an issue dealing with the administration not giving us the information we want. That is all. It hurts their nominees. The administration has to be more forthcoming.

I hope that during the next 8 or 9 days the administration will take a fresh look at this and give the information to Senator DODD and Senator BIDEN—most of what they want. They are the only ones who will see it. It will not be given to the entire Senate. They are not asking for information that may affect our country's national interest.

I hope we can go forward with the people's business. The distinguished majority leader told me yesterday that he was going to file cloture on these two judges. This is fine. We will work out a timely manner to complete the work on these judges and other judges. The Energy bill was reported out of committee today. The asbestos bill was reported out of committee today. There is a lot we have to do here, and we do not want this to be a divergence—the work we have to do is a divergence, but it is not the fault of the Democratic Senators that it is a diversion.

Mr. BIDEN. Madam President, will the Senator yield for a question?

Mr. REID. I will be happy to yield to the ranking member of the Foreign Relations Committee.

Mr. BIDEN. Madam President, I wish to make it clear to all my colleagues, speaking for myself, that I have absolutely no intention to prevent an up-or-down vote on Mr. Bolton. The issue here is about whether the executive branch will provide information which the majority leader tried yesterday and today to get, and which I think almost every Senator here would acknowledge the institution is entitled to get. We are prepared to not even ask that the ranking member and the chairman of the Foreign Relations Committee see the information we have sought. I implore the administration to provide the information, and—speaking for myself, and I can speak for no one else, but I believe my colleagues on my side would agree with me—we are willing to vote 10 minutes after we come back into session if, in fact, they provide the information—information to which Mr. Bolton's staff had access but which they will not give to the majority leader of the Senate. There is no reason offered.

I want to make it clear, we are ready to vote the day we get back, the moment we get back. We are ready to vote immediately if they would come forward, meeting us halfway on providing the information. That is all.

I thank the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, needless to say, I am very disappointed with where we sit today. We have had an interesting week, a very challenging week, starting the week on one clear direction and then sidetracked a little bit to what I thought was not an unreasonable feeling in this body that we were going to be working together and that we were going to address the important issues to America.

John Bolton, the very first issue to which we turned, we got what to me looks like a filibuster. It certainly sounds like a filibuster, looking at the vote today, it quacks like a filibuster, and I am afraid, shortly after we thought we had things working together in this body again, we have another filibuster, this time on another nomination—not a judicial nomination but another nomination—the nomination of John Bolton.

It does disappoint me. We had an opportunity to finish and complete this week with a very good spirit. We are going to come back to this issue. As has been said by Senator BIDEN, as I have said, we are going to revisit it, but I think what America has just seen is an engagement of another period of obstruction by the other side of the aisle, and it looks like we have, once again, another filibuster.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Madam President, everyone here should understand that it is now the 26th day of May. This is the first filibuster that has been conducted in this Congress, if, in fact, we want to call this a filibuster—No. 1, first one. We have not been doing filibusters. We worked through some very difficult issues we talked about here before—bankruptcy, class action, and a number of other issues.

So it is not as if we are looking for things to have extended debate on. We need to work together, and I think this week has established that. We are going to work together. But how can we work together when information is not supplied?

So I hope we will all slow down the rhetoric during the break. This is something that happened. This is part of the Senate. I repeat, keep in mind, this is the first filibuster of the year and maybe the last. I hope so.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes and that Senator SUNUNU speak after me for up to 10 minutes as well to discuss bipartisan legislation the two of us have introduced today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. WYDEN and Mr. SUNUNU pertaining to the introduction of S. 1128 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WYDEN. Madam President, I ask unanimous consent that after Senator SUNUNU's remarks, Senator REED be recognized for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, I ask unanimous consent to be allowed to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. That order has already been entered.

Mr. REED. I also ask unanimous consent that upon the conclusion of my remarks, Senator SALAZAR of Colorado and then after that Senator PRYOR of Arkansas be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF BRIGADIER GENERAL DANIEL J. KAUFMAN, UNITED STATES ARMY

Mr. REED. Mr. President, I rise today to recognize the accomplishments of Brigadier General Daniel J. Kaufman, United States Army, Dean of the Academic Board at the United States Military Academy at West Point. General Kaufman is retiring on the 6th of June, 2005 after 37 years of active military service in war and peace. His military career exemplifies the finest traditions of the United States Army and demonstrates the rare combination of a combat-tested soldier and a first-rate scholar.

I have had the privilege of knowing Dan Kaufman since 1967 when I entered West Point and was assigned to Company C, Second Regiment, United States Corps of Cadets. Dan was a senior, or as we say at West Point, a "Firstie," shorthand for first classman. He distinguished himself to me as a serious and conscientious Cadet with a wry sense of humor. He ranked academically in the top 5 percent of his class. But, like all of his classmates, Dan's attention was focused on Vietnam as much as academics.

Upon graduation in 1968, General Kaufman was commissioned as an second lieutenant in the Armored Cavalry and assigned to F Troop, 2d Squadron, 6th Armored Cavalry Regiment, Ft. Meade, MD as a platoon leader. After 6 months at Fort Meade, General Kaufman deployed to Vietnam and served as platoon leader in L Troop, 3d Squadron, 11th Armored Cavalry Regiment. Later in the tour he served as the Troop's executive officer. For his service in Vietnam, General Kaufman was awarded the Bronze Star with V-device for Valor and two Purple Hearts.

Upon completion of his tour in Vietnam, General Kaufman served from 1970–1971 as the Commander of E Troop, 2d Squadron, 6th Armored Cavalry Regiment, Ft. Meade, MD. General Kaufman left Fort Meade in 1971 to attend the Armor Officer Advanced Course at Fort Knox, KY. After a tour of duty as an instructor at the armor school, General Kaufman attended the John F. Kennedy School of Government at Harvard University. Here, we again renewed our friendship as we were both students at the Kennedy School of Government at Harvard. By that time, Dan had married his beloved wife Kathryn and their daughter, Emily, was born in Mount Auburn Hospital in Cambridge, MA. General Kaufman then served as an instructor and assistant professor in the Department of Social Sciences from 1974 to 1978. I joined Dan as an instructor in the Department of Social Sciences for the academic year 1977–1978.

After departing West Point, General Kaufman served as Special Assistant to the Director, Planning Analysis, Office of the Deputy Under Secretary of Defense (Policy) in Washington, DC prior to reporting into Ft. Bragg, North Carolina. Once at Fort Bragg, General Kaufman assumed the duties of Assistant Chief of Staff, G–3, Force Development, 82nd Airborne Division until 1979. From 1979 until 1981, General Kaufman was the S–3 (Operations), 4th Battalion (Airborne), 68th Armor, 82nd Airborne Division.

Following his assignment at Fort Bragg, General Kaufman completed the Armed Forces Staff College in route to Cambridge, MA to study for his Ph.D. in political science at Massachusetts Institute of Technology. After earning his Ph.D., General Kaufman rejoined the faculty at West Point as a permanent associate processor in the Department of Social Sciences.

In 1990, he was appointed Professor and deputy head of the Department of Social Sciences. During this time, he served as chair for Accreditation Review Committee, Scholarship Committee, and Faculty Development Committee. From 1991 through 1995, General Kaufman served as a key member of several Department of the Army committees, including Chief of Staff of the Army transition teams for both General Sullivan and General Dennis J. Reimer, President-Elect Clinton's DOD Transition Team, as well as a special assistant to the Chief of Staff, U.S. Army (1991–1992).

In 1996, General Kaufman was appointed Professor and Head of the Department of Social Sciences. There he continued the proud tradition of soldiers and scholars, first begun by GEN "Abe" Lincoln right after World War II, carried on by GEN Don Olvey, by GEN Amos Jordan, and General Golden, and now GEN Dan Kaufman.

In June 2000, General Kaufman was selected as the eleventh dean of the academic board. As dean of the Academic board, General Kaufman envisioned an academic program relevant to the needs of the Army that contributes to the intellectual and professional development of cadets, supported by 700 first-class staff and faculty, $500 million in facilities, and a budget of $62.7 million. His visionary leadership led to the publication of Educating Future Army Officers for a Changing World, the operational concept for the Academic Program that links cadet education directly to the Cadet Leader Development System and the Army.

General Kaufman oversaw several significant revisions to the academic curriculum to better prepare graduates for the challenges of a transforming Army in the post-Cold War world. The new curriculum places greater emphasis on global and cultural awareness, information technology, and curricular integration; it also offers cadets more choice in the selection of academic majors. He encouraged continued development of the academic assessment system, placing increased emphasis on performance assessments of the academic program goals. The extraordinarily positive assessment results from graduates and commanders in the field attest to the success of General Kaufman's vision. Under his stewardship, the Military Academy continued to lead the Nation and the Army in the use of information technology for education. He oversaw the installation of a secure wireless infrastructure in all academic buildings and encouraged the use of web-based course management tools.

Perhaps the crowning achievement of his tenure was the design of Thomas Jefferson Hall, the Military Academy's new library/learning center. General Kaufman led the effort to secure Army support and Congressional funding for the facility and oversaw all features of the design. In support of the Global War on Terrorism, General Kaufman expanded outreach and support activities to the Army, including faculty support to combat operations in Afghanistan and Iraq. He personally led a team of senior faculty members to help reopen Baghdad University after decades of repression and isolation. During General Kaufman's tenure, USMA cadets won 43 international scholarships; the Military Academy was named an Institution of Excellence, and the Center for Advancement of Leader Development and Organizational Learning was established to provide professional forums for company-grade officers throughout the Army.

BG Kaufman's awards include the Distinguished Service Medal, Legion of Merit, Bronze Star Medal for Valor, Purple Heart, 2 awards, Meritorious Service Medal, 2 awards, Army Commendation Medal, 2 awards, Vietnam Service Medal, 4 campaigns and other service awards.

The Academic Program at the United States Military Academy has never been stronger and more connected to the Army. General Kaufman has set the course for officer education into the first half of the 21st century. His dedication to excellence and his unsurpassed devotion to duty, honor, and country have marked his distinguished service over the past 37 years. For the past 5 years, he has profoundly shaped the intellectual future of the officer corps. And he has not done this alone. By his side at every step in his career has been his wife Kathryn. They have a wonderful family, including their daughter, Emily, and their son, David. Emily is a proud wife of Steve Thomas. They have brought to the Kaufman family the youngest Kaufman, baby Emma. Dan is a great soldier, a brave scholar, a devoted husband and father, and a steadfast friend.

Dan has used his intellect and wit and devotion to the Army and the country to nurture a generation of cadets who will emerge as the leaders of our Army and our Nation. Because of Dan they will be ready for the daunting challenges that lie ahead. His legacy will be felt in 1,000 places around the world for decades to come.

Whenever a leader of our Army uses his intellectual and ethical power of his or her education at West Point to defend the Nation, protect our soldiers, and advance our ideals, his legacy will be felt in a thousand places. West Point has never had a more faithful son or a better dean. And I have never had a better friend.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

REMEMBERING OUR FALLEN HEROES ON MEMORIAL DAY

Mr. SALAZAR. Madam President, this Monday is Memorial Day. It is a day that is important to countless families across this nation, including my own. It is a time of remembrance for those heroes who have fallen serving our country and thanking those who were blessed to return home to their families and loved ones.

That we as a Nation take the time to thank our veterans is important. It is a simple, gracious act that we all too often fail to do.

Our cities and towns, across Colorado and this Nation, have given up their young men and women without protest, men and women humbly accepting a calling greater than themselves.

In many ways, this is what makes our nation so great. We are a nation of individuals that can put ourselves aside for the common good. We can come together and deliberate and differ, as we do here in the Senate. But we are appreciative of the gift of freedom we all share, and the price that our veterans and fallen heroes have paid on our behalf for our freedom.

Earlier this week, I was fortunate to work with a pair of bona fide war heroes as we sought to preserve 200 years of Senate tradition. In my 5 short months here, I have come to admire Senator JOHN McCAIN and Senator DANIEL INOUYE, two men I am honored to call my friends. They served bravely and with distinction, and have set an example for all of us to follow each day. I thank them for their sacrifice, their leadership and their continuing commitment to this Nation.

We owe them, and all of our veterans and members of the Armed Services, a debt which can never be truly repaid. In 1865 in his second inaugural address, President Lincoln elaborated on the respect we have for those who served and the sacrifices made by the few for the many:

> With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan—to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations.

We are fortunate that they, and so many of our veterans, are still here—husbands and wives, fathers and sons, mothers and daughters, brothers, sisters and cousins. Too many of them, however, have been taken from us all too soon.

One of those no longer with us is my father, Henry. My father served with honor and distinction in World War II and always took great pride in his service. When he passed away in 2001 after a long battle with Alzheimer's, his final request to my brother John was that he be buried in his uniform.

We proudly honored this request, and afterwards I was struck by the importance of it to him. My father had been many things—a thoughtful son, a loving husband, an attentive father. But most important to him was his service to his Nation which he called home and which had given him so much.

In 1962, GEN Douglas MacArthur gave the commencement address at West Point. He reflected on his time in the Army and on the nature of the ultimate action of any soldier—sacrificing his or her life for our Nation. MacArthur said:

> The soldier, above all other men, is required to practice the greatest act of religious training—sacrifice. In battle and in the face of danger and death, he discloses those divine attributes which his Maker gave when He created man in His own image. No physical courage and no brute instinct can take the place of the Divine help which alone can sustain him. However horrible the incidents of war may be, the soldier who is called upon to offer and to give his life for his country is the noblest development of mankind.

In many ways, it saddens us to know this fact. Each and every American looks forward to the day when none are called upon to make such a sacrifice.

Over the past year, hundreds of Americans made that sacrifice for us while in service to our Nation, including 14 with Colorado roots: Shawn Atkins, of Parker; Dana Wilson, of Fountain; Douglas Bascom, of Colorado Springs; Theodore Holder, of Littleton; Michael Shackleford, of Grand Junction; Gregory Rund, of Littleton; George Geer, of Cortez; Lizbeth Robles, of Colorado Springs; Steven Bayow, of Colorado Springs; Derrick Lutters, of Burlington; Travis Anderson, of Hooper, in my native San Luis Valley in southern Colorado; and Charles Wilkerson, of Colorado Springs; along with Paul Christopher Alaniz and Landon Giles, whose families live in Colorado today.

Each of them served with honor and distinction and we are all forever grateful for the sacrifice each of them made on behalf of all of us. Their names will not be forgotten, and our prayers will remain with their loved ones.

One of our greatest Supreme Court Justices and a Civil War veteran, Oliver Wendell Holmes, Jr., used to spend his Memorial Days just a few miles from where we stand now, in Arlington National Cemetery. He would walk among the gravesites, reflecting on the sacrifices of so many, including the countless, nameless souls who laid beneath.

Justice Holmes once observed:

> At the grave of a hero we end, not with sorrow at the inevitable loss, but with the contagion of his courage. . . .

Heroism is not in the deed itself, but in the courage to act. We have heroes because they chose to act, to step forward in the call to action. In this Senate, we are blessed with a history of service to our Nation. Outside of this building, however, is where true heroes of our military reside: men and women in uniform, our veterans who have stood watch before them, and those who have laid down their lives so that we can have freedom.

I encourage everyone over this weekend to take time out from the parades and barbecues and family gatherings to thank our veterans and service members. They stand ready to defend the freedoms we take for granted, without seeking thanks or praise. This heroic act deserves our thanks, for it is by grace that they keep us safe.

In the Book of Matthew we are taught: "Blessed are the peacemakers: for they shall be called the children of God."

Through their service and sacrifice, they have earned that distinction.

May God bless our service members and our veterans.

May the families of those who have given their lives for our freedom know the depth of our appreciation. And may we never forget the importance of their sacrifice to our work here in the U.S. Senate.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

A HISTORIC COMPROMISE

Mr. PRYOR. Madam President, I rise today to discuss something that happened this week in the Senate, something I was involved in, and something that received quite a bit of notice outside this Chamber, and that is a compromise that was reached. I think it was a historic compromise. I think it is a very good thing for the Nation. In fact, I would say it was a win for Democrats, a win for the Republicans, and, most importantly, it was a win for the American people.

Some in my party, some in the other party, may disagree with what I just said, but I think when you look back through American history—and you can look at all the major legislative accomplishments that have occurred—most of those have occurred in this body.

This body is known for its ability to compromise. I look at these chairs and these desks in this body, and I can see the faces of my colleagues and of those who have departed this Chamber. This is a body that has a very special role in American history and in American Government.

I have heard some say they do not like compromise. In fact, I must say I was disappointed—I was listening to talk radio yesterday, and someone said some of us Senators who compromised are in the middle, and no one supports the middle. I cannot disagree more. I think people all over this country are looking for Senators to show leadership, to find common ground. I think that is one result that has been sorely missing in the Congress. When you talk to people outside of the Beltway, that is one result they are hoping for, that we will find that common ground and we will have leadership in Washington that understands you do not have to sacrifice your principles in order to find common ground.

In fact, in the very famous book written by John Kennedy, "Profiles in Courage," he says:

> We should not be too hasty in condemning all compromise as bad morals. For politics and legislation are not matters for inflexible principles or unattainable ideals.

This is politics. This is a human institution. This is Government. I feel those 14 Senators who reached this agreement—13 of my great colleagues who reached this agreement—took one of the most contentious issues in recent years off the table. Hopefully, they took it off for the remainder of this Congress. I feel as though we took it off for the remainder of the Congress because I sat in those rooms, I talked to my colleagues, and I know the high level of trust we have with one another.

This entire agreement is based on trust. It is an example that amazing things can happen when Senators talk to each other—just talk to each other. I feel that is why the people of Arkansas sent me to Washington, to try to be a bridge builder, to try to be a peacemaker, to try to find common ground on a wide variety of issues that are best for Arkansas and best for the Nation and, in some cases, best for the world.

Senators here in Washington, unfortunately, in the last few years have gotten into the habit of talking about each other and not talking to each other. I hope one of the results that comes from this agreement is a new spirit of bipartisanship, a new commitment that we can reach across party lines, reach across the aisle, to try to work together to solve the challenges that are facing America.

There are many sensible voices in the Senate. Many, many, many—in fact, all—have reasonable minds. And one thing I found a little bit humorous, some of the press coverage about this agreement was that they said these were moderates who reached this agreement. Let me tell you, some were moderates, but many in this group were not moderates, and they would be offended if we called them moderates. In fact, I heard a number of them say "I don't ever want to be considered a moderate," for one reason or another. But they demonstrated a spirit of bipartisanship that I think should be applauded.

Sometimes when you make a compromise, you are taking the easy way out. But this was a compromise that required courage. This compromise required a lot of courage on behalf of all my colleagues, especially—especially, might I underline—the seven Republicans who entered into this agreement. It was very hard for Democrats and Republicans to do. But I will tell you, I know my seven Republican colleagues who did this, who demonstrated their trust, not just of each of us but of this institution, demonstrated a lot of courage. I take my hat off to them in appreciation.

Two more points I would like to make on this issue.

First, I need to thank three people; that is, my wife Jill, my son Adam, and my daughter Porter. For all I know, they may be watching right now. It is getting pretty close to bedtime around our house. But they made the sacrifice, too, so I could be part of this Senate and be up here away from home. But also, Dad was not home a lot in the last few days because I was here trying to work through this agreement as best I could and trying to get this done. So I thank them.

But in a broader sense, I did this agreement for them because I was very concerned that when you looked at the nuclear option, if that trigger was pulled, you had a nuclear winter that would follow. I was very concerned that the Congress, particularly the Senate, would not get very much done this session.

I thought that would be a huge disservice to the American people. I thought it was time for reasonable minds to come together to try to work something out. In fact, in the Book of Isaiah, it says: "Come now, let us reason together." And maybe that should be something we should take to heart. The people of our States, every State in the Union, only get to send two Senators to Washington.

I think they expect us to exercise good judgment and exercise our discretion and also, from time to time, exercise courage to try to do the right thing.

So I commend my 13 colleagues who entered into this agreement. They took a lot of time and made a lot of sacrifice, and it took a lot of courage. Many of them have taken a lot of criticism for doing this. I want to say publicly that I thank them and I appreciate them and I am proud of them for what they did.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, before our friend from Arkansas leaves the floor, let me also say, if his children are watching, they should be very proud of their father. I have had the privilege of serving with the Senator's father. In fact, we sat next to each other as I arrived here as a freshman Senator. The Pryor and Dodd families go back for some time.

I want you to know that what you and your 13 colleagues did last week—and nobody can say for certain where this is going to lead, but you have given this institution an opportunity to continue its tradition of providing the one place in Government where all voices can be heard. That is not true in anyplace in the executive branch, necessarily, or the judicial branch. And even in the legislative branch, in the other body, the majority rules.

The Senate is the one place where all voices must be listened to. Because of what you and our 13 other colleagues—6 other Democrats and 7 Republicans—were willing to sit down and try to fashion, we have been given a chance to live up to the longstanding, historic traditions of this place in which we have been privileged to have been elected to serve. There have been 1,884 of us in 218 years who were chosen by our States to represent their interests and the Nation in the Senate. I can just say to my friend from Arkansas, you will be involved in a lot of issues during what I hope is a long career for you here in the years ahead. You will look back, and there will only be a handful of moments that will stand out, and I am willing to predict that what you, Senators MCCAIN, NELSON, LIEBERMAN, COLLINS, BYRD, WARNER, GRAHAM, SNOWE, DEWINE, LANDRIEU, SALAZAR, CHAFEE, and INOUYE have done will remain one of the important memories. You will look back and think of the things you have been involved in and, hopefully, the list will be long.

As one Senator who was not involved in the negotiations you went through but was watching them carefully—and again, we cannot say with certainty where it is going to lead—I commend you and history will commend you for what you are doing. I love the idea that you did it for your family and your children. They will look back with pride on the service of their father.

Mr. President, we went through a little bit of a turmoil here. Obviously, coming in the wake of this negotiation, I suppose some people's eyebrows may be raised, wondering how can we do that compromise and then end up with an awkward situation on the Bolton nomination, which became contentious for a few minutes. I will add my voice to that.

My fervent hope is that people will not misunderstand the intentions of 24 Senators, and others, when we raised the question going back to April 11 about certain information. All of my colleagues are not familiar with all of the details of the case, although the Presiding Officer was very much a part of the discussion we have had over the last couple of months. Whether we are for or against the nomination, the point I was trying to make is that an institution—the Senate—has a right to certain information when it involves a pertinent matter before it.

It has been a historic struggle between the executive and legislative branches. There is always that tension between these two branches of Government over access to information. Regardless of one's political affiliation, whether you are in the majority or the minority, no matter what administration is in the White House, my experience over 2½ decades, serving under every imaginable configuration, is that it is always healthy to insist on information that the institution thinks is important for its consideration of a matter—be it substantive or the executive branch calendar.

I want to say to my colleagues, those who have gone through this process of negotiations that avoided the constitutional crisis regarding extended debate, what happened here in the last few hours is not in any way disruptive of what occurred during those negotiations. It is my strong hope and desire that the information we seek will be forthcoming in the next few days, that the committees can analyze it all, and when we return to this body after the break, the matter of John Bolton can come before this body and we will have an up-or-down vote on the nomination, as it should be. It is my strong desire that that be the outcome.

This was not intended, in any way, to engage in a filibuster but strictly to determine whether this institution would say to the executive branch, respectfully: This is information we believe we need. We are asking you to provide it in an orderly way to those Members who are entitled to this information—the chair of the Intelligence Committee, the ranking Democrat, the chair of the Foreign Relations and ranking Democrat—for them to determine whether there is relevancy to this information as it pertains to this nomination.

Again, I thank the majority leader. It probably doesn't help his cause to hear this, but BILL FRIST made a serious effort over the last couple of days, not that he necessarily even supported the request, but he certainly conveyed the request in a serious way to leaders within the executive branch. I thank him for that. He didn't have to do that, and he did. I regret that the administration didn't reply in an orderly way, which could have avoided all of this in the last 48 hours. I hope they will take this seriously. I say to my friends on the majority side, having been in your shoes in other administrations, it can happen.

There is always this tension between these two branches of Government about information. We need to be clear about it. We have a constitutional responsibility, where appropriate, to seek information that is important for our consideration.

So it is my fervent hope that we go away for a few days and recognize, as so eloquently Senator SALAZAR said, speaking about his father, a World War II veteran, insisting upon being buried in his uniform, that we recognize those who have given a lot more to provide the freedoms we enjoy as Americans, that we are very much living up to what they fought and died for over this Memorial Day break as we recognize their contributions. They fought and died for exactly what we are doing here.

This doesn't happen miraculously. A democracy is won by each and every generation in this country. There is no guarantee that it exists in perpetuity. Each generation of Americans will confront, one way or another, a challenge to our democratic values and principles. Certainly, the generation that fought and died for this country over the years has proven that categorically.

We are going to be challenged as well from time to time. So I fervently hope—and Members who have served with me know I am the least comfortable with getting involved in opposing a nominee. The only trouble I have gotten into in nominations is when I have been for nominees to the disappointment of colleagues on this side. I was told I had no business to be for John Ashcroft and John Tower. I am not comfortable not being for somebody. I took the position I did, and I hope we can resolve this matter over the next few days and get back to the business of voting up or down and move on to other business that is important to our constituents.

I was heartened to hear that Democrats and Republicans were able to work out differences on an energy bill. That is going to be exciting to deal with; it is an issue in which our constituents are interested. I would be remiss in not recognizing the Presiding Officer in the tremendous work he has done, along with Senator JEFFORDS and Senator REID and Senator BAUCUS. There is a lot of work in front of you. Those are the issues we need to work together on here. So while there may be some bruised feelings right away over a vote we just took, I hope we can put those behind us and resolve the matter and get about doing the business the people sent us here to do.

To my colleagues, I wish them a healthy, happy, and safe Memorial Day, and I look forward to seeing them on our return here and moving forward with the business at hand.

I yield the floor.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I am sorry that our colleague from Arkansas has left the floor because I was sitting there listening to his comments and his recognition and acknowledgements of the 14 Senators who worked on the compromise this past week and all the efforts they had made.

I commend him and all the others of that group and all those who encouraged us as a body, as Senators—not as Republicans, not as Democrats but as Senators—to move forward so that we could get through what I certainly believe was a great impasse in this body, to work through the issues, to get us to the point where we cannot only move through the President's judicial nominees, but that we can do the rest of the work with which the Senate is tasked.

The good Senator from Connecticut has just mentioned the Energy bill and the Transportation bill—these issues the country is waiting for, the country is asking for, and the work that is incumbent upon us as a body to get to.

So I am pleased that we are at the point where we are, not spending hours on the floor today to discuss nuclear options or constitutional options, but that we are talking about the work before us as we look forward to these upcoming months. I do see a sense of compromise that will be necessary if we have any plans at all to accomplish that which I think this country expects us to do.

I am pleased that we have gotten through to this point. I do recognize the bump in the road we just had this afternoon, but I believe that with the same amount of determination that got us to a resolve on the judicial nominees, we will be able to do the work of the country.

BRAC

Ms. MURKOWSKI. Mr. President, I rise this evening for just a few minutes to talk about the upcoming BRAC and the impact we are seeing in my State of Alaska, up in the interior, in the communities of Fairbanks and North Pole. They call this the golden heart of the State of Alaska.

The people of Alaska are strong and very consistent supporters of a strong national defense. They are even stronger supporters of the men and women who serve in our military and their families. In a State where support for our servicemen and servicewomen and their missions is both given and constant, the golden heart of Alaska probably beats strongest in the areas of Fairbanks and North Pole.

So on the morning of May 13—Friday the 13th, oddly enough—the people of the interior of Alaska awoke to the news that the Department of Defense had proposed to realign Eielson Air Force Base. Under the terms of this realignment, all of the Air Force active-duty operations would be transferred elsewhere. The realignment would cause the relocation of about 2,800 Air Force personnel and 3,300 dependents. It would cause the loss of 4,700 jobs, both military and civilian jobs, within the Fairbanks area. It would mean the full transfer of A-10 and F-16 aircraft to bases in the lower 48. It would wreak havoc on the local economy and force major changes upon the Fairbanks North Star Borough School District.

To the people of interior Alaska, they do not look at this as a realignment. It sounds to them, to us, exactly like a closing.

Two weeks after the fact, the people of interior Alaska are still scratching their heads and wondering why, what is going on here, what has happened up here? General Billy Mitchell prophesied back in 1935. He said:

> In the future, he who holds Alaska holds the world.

General Mitchell characterized Alaska 'as the most important strategic place in the world, and this is as true today as it was in 1935.

Alaska is closer to the European and Pacific theaters by air than perhaps any other place in North America. Our armed services can deploy forces from Alaska to Asia much more quickly than units on the west coast of the United States. And if future developments limit overseas basing, Alaska will be even more critical in America's ability to respond to a crisis within a specific area of responsibility.

Yet 2 weeks after we learn of this news, the Air Force cannot—or will not—tell the people of Fairbanks why. Immediately after the BRAC list was released, my staff contacted appropriate staff members in the Office of Legislative Liaison for the Secretary of the Air Force. We asked for a copy of the entire administrative record which supports their recommendation to realign Eielson.

For the better part of 2 weeks, there was no response to that request. Then suddenly this week, we get an e-mail from an Air Force legislative liaison saying the material could not yet be provided because it is undergoing what they call security review. The Air Force legislative liaison could not hazard a guess on when the material would be released.

They are still in no position to explain to me or to the people of interior Alaska why a base that we thought was of such strategic importance to our Nation's defense would become little more than a refueling station for fighter aircraft based somewhere else.

The people of interior Alaska deserve to know why, and I certainly deserve to know why. The answers to these questions are more than just academic interest. On June 15, the Base Realignment and Closure Commission will conduct a hearing on the recommendations pertaining to Eielson Air Force Base. The community has enlisted the president of the University of Alaska, retired Army MG Mark Hamilton to take the lead in presenting its case. The community is working very hard at this moment to put together a very thoughtful and well-researched presentation.

At this point, we are less than 30 days, a couple of weeks from the date upon which that presentation, that door-die presentation, must be delivered to the BRAC Commission. And yet still the Air Force cannot release the detailed analysis which supported their recommendations.

This is unfair to the community that has offered nothing but unconditional love and support for the military. It goes beyond conscionable.

So I have joined with Senator SNOWE from Maine, as well as other colleagues, to tell the Defense Department that their lack of candor with the community that will suffer under the BRAC process has worn thin. I am proud to join with Senator SNOWE and other colleagues to sponsor legislation that requires the Department of Defense to turn over the records supporting its BRAC recommendations and particularly the information supporting its conclusions as to the military value of the bases on the list.

We expect through this legislation that this information will be provided to the Congress within 7 days of the passage of the legislation. If the Defense Department cannot do this, then the legislation requires that the BRAC process should stop.

Also this evening, I signed onto a letter to Secretary Rumsfeld, cosigned by a number of my colleagues who are expressing the same concern, seeking full justification for base closures in their areas. I would like to read one paragraph of this letter:

> The failure of the Department of Defense to provide all of the justification data used to recommend closing or realigning installations in a timely fashion is anything but "fair, open or equitable." The Department of Defense has had over two years to review and collect this data and people associated with the installations selected foreclosure should have at a minimum two weeks to review prior to any BRAC hearings or site visits. Sufficient time to review this data is necessary to ensure they can make an appeal based on the criteria established by the Department of Defense.

Again, yet one more effort from Senators, from those who are concerned about the effect that BRAC closures will have on our respective communities, a request for information, a request for the data that is supposed to be provided to us. We have to sign on to letters, we have to sign on to introduce legislation saying you must do this within this time period or the close BRAC process stops. We should not have to be going to these measures to get the information.

The BRAC commission process was never intended to be a rubberstamp of the Department of Defense recommendations. The Congress intended that it be an open process, a thoughtful process, but most importantly an intellectually rigorous process.

While the economies of many of our communities are at stake, this is not the most important reason that we have a BRAC process. This process is intended to assure the Congress and the people that our national security objectives are not compromised in the quest to save money. We know the BRAC process is well underway. It is high time that the Defense Department shed some sunlight on the reasons for their recommendations. The good people of interior Alaska should not be left in the position of defending the future of Eielson Air Force Base on June 15 with both hands tied behind their back, and they should not have to be burning the midnight oil in the hours leading up to that hearing studying material that should have been provided weeks earlier. They do not deserve it, we do not deserve it, and our Nation's security certainly deserves better than this.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

DEMOCRACY IN LEBANON

Mr. FRIST. Mr. President, this Sunday the people of Lebanon will go to the polls to vote in their first truly free election in three decades. Since 1990, Lebanon has been occupied by Syrian forces, but this spring the people of Lebanon made history. On March 8, hundreds of thousands of people descended upon Martyrs Square in Beirut, Lebanon's capital, and inaugurated what has become known around the world by people who viewed it as the Cedar Revolution.

For 2 weeks the word spread from city to city and to the countryside. It was clear that freedom was on the march. On March 18, 10 days later, a crowd of 1.5 million people, nearly half of the Lebanese population, gathered in that very square, Martyrs Square, to demand, to insist upon, the withdrawal of Syrian troops and its intelligence apparatus from Lebanon.

These brave and proud citizens of all ages, religions, and ethnicities stood shoulder to shoulder waving their nation's flag in solidarity. Together, with the support of freedom-loving democracies everywhere, they brought an end to Syrian occupation. In less than 2 months, 20,000 Syrian troops pulled out of the country. It was an astonishing wave of events broadcast on television sets and computer screens around the globe.

Lebanon now joins the list of fledgling democracies taking their first bold steps into the future. All of this could not have happened without tremendous courage on the part of the Lebanese people. The determination and vision of one man, President Bush, made it possible. His commitment to democracy and unwavering belief in the fundamental equality of all human beings has wrought remarkable change indirectly, such as in Lebanon, and more directly around the world. Democracy is taking root in even the most inhospitable of lands.

By America's words and our deeds, we are emboldening those who seek freedom and peace. It is an unprecedented moment in the history of the Middle East.

I realized that yesterday as the President of the Palestinian Authority, Mahmoud Abbas, was in our office in this Nation's Capitol. We discussed the future and the hope and the opportunity. As noted scholar and Middle East expert Fouad Ajami says:

> The entrenched systems of control in the Arab world are beginning to give way.

Indeed, it is the autumn of the dictators.

I mention Lebanon in part because it has been on my mind the last 4 weeks. It was about 4 weeks ago that I and a delegation had the opportunity, the privilege, of traveling to Lebanon during our April recess. While in Beirut, I had the opportunity to walk through that square, Martyrs Square. I met with leaders of the Cedar Revolution. They represented a diversity of parties and religious sects—Christian, Druze, and Muslim. These leaders were well versed in the requirements for a successfully functioning democracy. In particular, they discussed the needs to restore transparency and accountability, the rule of law, to secure an independent judiciary and to build, to construct, to reconstruct their economy so that the Lebanese people maintain a stake in the future. Their commitment to freedom, to the rule of law, and democratic governance was truly inspiring.

There are many challenges ahead. We share the concern that Syrian intelligence officials have not fully withdrawn from Lebanon. We also know that this election will not, in any shape or form, be perfect. Few elections in times of transition are. But seeing firsthand the determination of the Lebanese people was truly inspiring. I came away optimistic that this moment will lead to a new age of freedom and democracy for the Lebanese people.

In the words of Vaclav Havel, I urge the people of the region:

> to never forget these days full of solidarity, hope and common quest for freedom and truth.

To the Lebanese people:

> It may be a long and difficult road, but please have faith that the destination is well worth the journey.

SENATOR AND ERMA BYRD'S 68TH WEDDING ANNIVERSARY

Mr. FRIST. Mr. President, on another issue, an issue that was discussed by several of my colleagues, most notably Senator STEVENS, our distinguished colleague from Alaska, the President pro tempore, I rise to honor now a very special day in the life of one of our most respected and venerable colleagues.

On Sunday, the distinguished senior Senator, ROBERT BYRD, celebrates his 68th wedding anniversary with his beloved wife and high school sweetheart Erma Ora James.

The courtship is well known to our colleagues. It is hard to do it full justice, but I will give it a try. The two met in Raleigh County over 7 decades ago, where Erma's father had been transferred from Virginia to work in the coal mines. Senator BYRD had a friend who brought pocketfuls of gum and candy to school, and each day the young ROBERT BYRD would wait at the schoolhouse door and ask his friend for a few pieces of candy. He put them in his pocket and at the first opportunity he would present the candies to Erma as a love offering.

Senator BYRD has said he wasn't really sure if his Erma knew that she was his sweetheart, but she must have found out because the couple ultimately was married in 1937. The day after their wedding, Senator BYRD gave his new bride his wallet which contained several hundred dollars that, over the days and weeks and months, he had saved. He told her that she would be the head of their family finances forever. To this day, Senator BYRD doesn't carry a wallet.

He has said that Erma has been his anchor all these years. They are truly blessed to have one another, their family, and a lifetime of shared memories.

The Bible says:

> A man will leave his father and mother, and be united to his wife, and they will become one flesh.

For nearly 7 decades, Senator BYRD and his lovely wife Erma have lived up to the ideal of marriage. I commend them. I admire them. And I wish them both a very happy 68th anniversary.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STEM CELL RESEARCH

Mr. REID. Mr. President, I have had a number of conversations the last couple of days with the distinguished majority leader about this issue of stem cell research. Dr. FRIST—and I say Dr. FRIST because it relates to this matter—indicated he was going to study this during the break. I think that is very important.

We have the opportunity to work together on legislation—I don't mean he and I, I mean Democrats and Republicans in the Senate. Earlier this week, the House voted to expand the President's stem cell research policy. Passage of the Stem Cell Research Enhancement Act was a victory for millions of Americans who suffer from deadly diseases and for their families. It was also a victory for bipartisanship. This bill shares the same level of bipartisanship and support here in the Senate that it did in the House.

Senators HARKIN and SPECTER, who are champions of medical research, have worked hard on this issue. Senators FEINSTEIN, HATCH, KENNEDY, and SMITH have also been leaders on this bill.

I hope when we return from recess, the distinguished majority leader will have had an opportunity to look at this and we can take some time to do this. What I do not want on this bill is to have it offered to Defense authorization or something such as that. I think it would be better if we had freestanding legislation on this. It can be done in a relatively short period of time. I certainly hope so. When we come back, we have a 4-week work period and we can work it in during that period of time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR AND MRS. BYRD'S 68TH WEDDING ANNIVERSARY

Mr. STEVENS. Mr. President, it is not often we get the time to just come to the floor to talk about friendships and about what it means to be friends in the Senate. I wish to take some time today to talk about my friend, the former majority leader, former chairman of the Appropriations Committee, and longtime friend, Senator BYRD.

It just so happens that we have spent a lot of time together. I remember so well one great trip to London when we went there for the British-American Parliamentary Conference where we had a great deal of time to talk about the past and our own personal lives.

But I have come to the floor today to ask the Senate to join me in offering congratulations to my good friend and colleague, Senator ROBERT BYRD, and his wife Erma, who, on Sunday, will celebrate 68 years of marriage. This is an anniversary few of us will ever see, and as far as I can tell—I have checked with the Historian—no Senator has ever had the opportunity to celebrate 68 years of marriage. As a matter of fact, my oldest son Walter and his wife Debbie will celebrate 23 years of marriage on the same day, this Sunday.

Those of us in the Senate have relied greatly upon Senator BYRD's knowledge and love of history. With just a few short days remaining before their anniversary and because we will probably not be in session tomorrow, I think it is appropriate to return the favor and ask the Senate to reflect a moment on ROBERT and Erma's history together as husband and wife.

ROBERT BYRD and Erma James grew up together on the schoolyard of Mark Twain High School in West Virginia. They were high school sweethearts, although Senator BYRD has said himself he is "not sure if [Erma] knew she was my sweetheart." They were. And they were married on May 29, 1937.

Over the years, their family has grown, as Senator BYRD likes to say, "into a brood of fine people." Today, they are proud parents of two daughters and have known the joy of six grandchildren and six great-grandchildren.

For 68 years, Senator and Mrs. Byrd have shown us what it means to "love, comfort, honor, and keep for better or worse, richer or poorer, in sickness and in health." Their story has been called "one of the great American romances."

Every year, in May, Senator BYRD comes to the floor to reflect on the meaning of Mother's Day and honor the Nation's mothers. His great speeches often mention Erma, the wonderful home she has made for him and their children, and the joy he takes in his family.

Two years ago, when Erma was sick, Senator BYRD stood up during an appropriations debate and told us he was going home. And I quote what he said at that time:

> There are only two duties that will exceed my duties in the Senate, one is my duty to God and the second is to my family. I think my duty is to my wife.

Now, these moments are a great reminder to those of us who are married. We have married in this life, and we must do our best to keep the promises we made long ago.

I have had the honor to be married twice myself. One of the reasons I am here today is I remember the great comfort Senator BYRD gave to me when I lost my first wife. He has assisted me and my family in many ways. I also remember when he came to the floor and spoke of my first child in my second marriage and really extolled the concept of marriage at that time.

After 68 years, Erma and ROBERT still have the deep and abiding friendship that began in Beckley, WV; the love of their children, grandchildren, and great-grandchildren; and the respect of all of us in the Senate. I know of no other Senator who has celebrated over 50 years of service in Congress, and as I said before, there is no other Senator who could say he celebrated 68 years of marriage. It is an overwhelming accomplishment and really a credit to both ROBERT and Erma.

Earlier this month, in his annual Mother's Day address, Senator BYRD reflected on the early days of his marriage to Erma. He said:

> Nearly seven decades ago, we were the rankest of amateurs at marriage and parenthood.

This Sunday, our good friend and his wife will have proven they are now experts in both categories. My wife Catherine and I wish them the best.

Senator BYRD has often marked significant events by submitting works of poetry for the RECORD. I wish I had his capability for remembering poems and works of great art. But today, I offer a poem by the great Alaskan poet, Robert Service, and I offer it in honor of Senator and Mrs. Byrd's 68 years together. Robert Service's poem is entitled "Home and Love," and it goes like this:

> Just home and love! The words are small
> Four little letters unto each;
> And yet you will not find in all
> The wide and gracious range of speech
> Two more so tenderly complete:
> When angels talk in heaven above,
> I'm sure they have no words more sweet
> Than home and love.
>
> Just home and love! It's hard to guess
> Which of the two were best to gain;
> Home without love is bitterness;
> Love without home is often pain.
> No! Each alone will seldom do;
> Somehow they travel hand and glove:
> If you win one you must have two,
> Both home and love.
>
> And if you've both, well then I'm sure
> You ought to sing the whole day long:
> It doesn't matter if you're poor
> With these to make divine your song.
> And so I praisefully repeat,
> When angels talk in heaven above,
> There are no words more simply sweet
> Than home and love.

I ask the Senate to remember to congratulate my good friend on 68 years of marriage.

Mr. REID. Mr. President, I rise toady to congratulate a member of our Senate family who is nearing an amazing milestone in life—68 years of marriage.

On My 29, 1937, the Valedictorian of Mark Twain High School married his sweetheat—a coal miner's daughter—in West Virginia. That valedictorian was Senator ROBERT BYRD. The coal miner's daughter was Erma Ora James. On Sunday, they will mark 68 years together.

It is an incredible achievement and a testament to their love and commitment.

Look how far they've come. They have seen their lives move from the hills of West Virginia to the highest levels of government. Senator BYRD has gone from gas station attendant to meat cutter to welder to United States Senator.

But—it's important to note—Senator BYRD has never hidden the secret of his success. If you talk to him, he will give credit to whom credit is due.

He said it right here on the Senate floor in May of 2000 days before his 63rd anniversary. He said: "I have to frankly say that what little I have amounted, if it is anything much, I owe for the most part to [Erma]."

Well Erma, the people of West Virginia and the United States owe you a debt of gratitude for all you've done for your husband and for giving us his time for so many years.

I've said before, Senator BYRD is a mentor of mine.

I have had the good fortunate of serving with him in the Senate since 1986. In these 19 years, I've gotten to know Senator BYRD and Erma well. They are a wonderful couple, delightful individuals, and I am honored to call them both friends.

Senator BYRD and Erma have no doubt seen many changes over their 68 years of marriage—none bigger than the size of their family. They have two daughters—Mona and Marjorie—and over a dozen grandchildren and great grandchildren.

Of course, no one can talk about Mr. and Mrs. ROBERT BYRD without recalling how they came to be together. He used sweets to get to her heart.

In school, a young ROBERT BYRD used to take sweets from a fellow classmate but he wouldn't eat them. He would store them up and give them to Erma when he met her in the hall. Years later he would say: "That's the way you court a girl—with another boy's bubble gum."

I have said many times that the Members of this Chamber are a family. And what an amazing example of family we have in Senator BYRD and Erma.

For 68 years of marriage, they have set a high standard for us all. It is a tribute to their love for each other, and for the rich, productive life they have enjoyed.

I congratulate them once again and pray for many more years of happiness together.

MEMORIAL DAY

Mr. BYRD. Mr. President, this coming Monday, Americans across the Nation will hang flags at their doors and place small flags and flowers on the gravesites of loved ones and soldiers in a tradition that stretches deep into history, perhaps back to the advent of warfare.

The selection of the last Monday in May is unique to the United States, but remembering and honoring those fallen in battle is deeply ingrained in the human heart. On this day, these sons and fathers, uncles and brothers and, more recently, daughters and mothers, aunts and nieces are family members to us all. Lost to us too early, their images remain frozen in time, young faces trying to look stern in crisp uniforms. Their sacrifices on battlefields from the Argonne to Tripoli, Pearl Harbor to Iwo Jima, Porkchop Hill to Hamburger Hill, Kabul to Baghdad have kept the Nation safe and carried the American ideals of liberty and democracy across the surface of the globe.

This week, as the Senate struggled and ultimately overcame an arcane but fundamental challenge to our constitutional system of checks and balances, we have, I believe, honored the memory of all of those soldiers, sailors, airmen and Marines. They defended the Nation and the Constitution from without; a bipartisan group of Senators this week defended it from within, thank God.

I rejoice that 14 Senators could rise above partisan politics to understand and preserve the carefully crafted balance of powers inscribed in our Constitution. Without the Constitution, the millions of lives and billions of dollars spent over the years on our Nation's defense, the flower of our youth and our hard-earned treasure, would have gone for naught. Our form of Government, acknowledging the might of the majority but protecting the rights of the minority, balancing populous States against States with smaller populations, preserving the voice and will of the people as the ultimate check against the rise of a tyrant king, that is our greatest treasure. It is the preservation of our form of Government that merits committing our young to the bloody horrors of battle.

It is perhaps appropriate, in this context, that the Senate's battle is concluded just before Memorial Day, which originated after our Nation's most divisive and bloody war ever fought on our home soil. The Civil War pit over 2.2 million Union soldiers against just over 1 million Confederate soldiers, resulting in almost 600,000 deaths, a third in battle and the rest from war's accompanying furies of disease and privation. It is a tribute to the heart's powers of healing that soon after the war, individuals and communities could put aside their differences in the graveyard and simply mourn their losses together.

Over 42 million American patriots have risked their lives for our Nation since the Revolutionary War. Over 17 million war veterans, of among over 25 million veterans of military service, live among us still. I salute them all, and thank them and their families for their bravery and their patriotism.

Of the 42 million Americans who saw battle during their military service, over 650,000 died in battle. That is 650,000 families who received the terrible news that their loved one had been killed. In World War II, the tragic news often came by telegram, and Americans learned to dread the sight of those envelopes.

As of May 23, 2005, in connection with Operation Iraqi Freedom, 1,623 families have answered the door to the solemn faces of two officers whose hard duty it is to report the tragic news that another life has been lost. Another 186 families have gotten the same sad news coming from Operation Enduring Freedom in Afghanistan. My prayers go out to these families. There are no words that can console the grieving heart at times like these. The widow's flag, folded with care after a military ceremony, offers little comfort. But these brave men and women, and the families they leave behind, are part of a long chain of sacrifice and grief that firm the resolve of the Nation. Never should we forget their service to the Nation and the Constitution. Never should we squander their sacrifice on momentary partisan advantages that erode the integrity of the Constitution and, in turn, the continued health and vitality of our form of government.

On this Memorial Day, and on every Memorial Day, I urge Americans to put out their flags and to honor the fallen. I further urge them, in the spirit of those first Memorial Days, to put aside partisanship in favor of true patriotism, and to love and preserve our Nation and our Constitution in a lasting tribute to those who have given their lives in its defense.

As is my custom on these occasions, I would like to close with a poem. This piece is by Edgar Guest, and is called, "Memorial Day."

MEMORIAL DAY

The finest tribute we can pay
Unto our hero dead today,
Is not a rose wreath, white and red,
In memory of the blood they shed;
It is to stand beside each mound,
Each couch of consecrated ground,
And pledge ourselves as warriors true
Unto the work they died to do.

Into God's valleys where they lie
At rest, beneath the open sky,
Triumphant now o'er every foe,
As living tributes let us go.
No wreath of rose or immortelles
Or spoken word or tolling bells
Will do today, unless we give
Our pledge that liberty shall live.

Our hearts must be the roses red
We place above our hero dead;
Today beside their graves we must
Renew allegiance to their trust;
Must bare our heads and humbly say
We hold the Flag as dear as they,
And stand, as once they stood, to die
To keep the Stars and Stripes on high.

The finest tribute we can pay
Unto our hero dead today
Is not of speech or roses red,
But living, throbbing hearts instead,
That shall renew the pledge they sealed
With death upon the battlefield;
That freedom's flag shall bear no stain
And free men wear no tyrant's chain.

"No Tyrant's Chain."

I yield the floor.

CONGRATULATIONS TO BETTY SIEGEL

Mr. ISAKSON. Mr. President, I rise to memorialize in the RECORD of the Senate the name of a great educator in the State of Georgia. Two weeks ago at the commencement exercises of Kennesaw State University in Kennesaw, GA, a lady by the name of Dr. Betty Siegel announced at the end of that commencement her retirement as president of Kennesaw State University after 25 years of service.

One might think in listening to that, well, that is a nice accomplishment, but is that so significant? I will talk for a minute about how significant this woman's life and her contributions have been.

Twenty-five years ago there were not many women presidents of any colleges or universities in the United States of America. In fact, Betty Siegel became the first president of a public university in the history of the university system of Georgia. She took the leadership of a small, urban campus, nonresidential, known as Kennesaw State College, with students numbering 4,000, handing out a handful of degrees, most all to computer learners.

As Dr. Siegel announced her retirement 2 weeks ago, she leaves a university with 18,000 students, third only to the University of Georgia and Georgia State University in population in our State, granting multiple degrees and a forerunner in our State in nursing, in education, in family business, in leadership, and in ethics.

Betty Siegel graduated from Wake Forest with an undergraduate degree and went to the University of North Carolina for her master's and doctorate from Florida State. She taught, she became a dean, throughout the southeastern United States. But when she was tapped, it was not only the right person for the time, it was the best decision possible. She broke the glass ceiling for women presidents at universities and colleges in Georgia because now we have many. She was the forerunner.

She built an urban university that was nonresidential and commuter into a combination commuter and residential university of renown and respect all over the United States.

While she did it, she did just a few other things. She got appointed to five corporate boards because of her contribution, her intellect, her knowledge, and her breadth and depth. She became president of a Chamber of Commerce. How many times have you heard of a college president or university president going on to be the president of a local community Chamber of Commerce? This happens to be the second largest Chamber of Commerce in the State of Georgia. But that is how remarkable Betty Siegel is.

I also mentioned in my remarks earlier that Kennesaw was the leader in leadership and ethics. They are because Betty Siegel found a way, through corporate and private donations, to endow a chair and build a school committed to leadership in ethics, in business, and in public life.

Through her commitment to understand the strength of small business and the fact that it is the heart of American employment, she founded, in our State, at her university, a division of family business, second to none, that today is the resource for families who try to make those transitions from one generation to the next, to make the transition from small business to medium-sized business to large business, or to seek the guidance that is so unique for small family businesses. And Kennesaw State University is that institution.

But I want to tell you something about Dr. Betty Siegel.

Retirement is not quite the appropriate announcement because she has never retired from her commitment in her life to young people and to their education, and she will not now. Because when asked, after her announcement—within minutes—well, what are you going to do? She said: I am going to teach. I am going to work with young people. I am going to try to make their lives better.

After making that announcement, she spent the next week overnight in a dorm with students, asking how she could advise the next president to make the services of Kennesaw State University even better for the students who will enter in the fall of 2005 and go on to 2006.

It gives me a great deal of pleasure and it is a privilege to recognize on the Senate floor the contributions of Dr. Betty Siegel to the children of Georgia, her contributions to higher education, the ceiling she broke for women in academics in our State, and, most importantly, all of her continuing capacity to helping and teaching our young people.

HONORING OUR ARMED FORCES

SPECIALIST TRAVIS ANDERSON

Mr. SALAZAR. Mr. President, I rise today to take a moment to remember one of our fallen heroes, a young man from my home State and my native San Luis Valley, SPC Travis Anderson.

Specialist Anderson was killed in Iraq on May 13, 2005. He was 28 years old and a native of Hooper, CO, a small town of 123 not much different from where I grew up in the San Luis Valley.

A terrorist car bomb struck his HumVee, killing him and wounding several fellow soldiers in the vehicle with him. All of us were fortunate to be blessed by his life and we are all saddened by his loss. He exemplified courage, discipline and patriotism, some of the finest qualities that we prize in Colorado and across this Nation.

Specialist Anderson—"Loopie" to his family and friends and "Cowboy" to his fellow soldiers in Bravo Company, 3rd Infantry Division—was the kind of man that makes all of Colorado proud.

His family and friends remember that Travis was a rambunctious youngster. He went on to work as a farmer and ranch hand in Montana and Nevada. He worked hard to earn his high school diploma and even defeated the hantavirus, which at one point reduced him to a mere 100 pounds.

But after those horrible hours on 9/11, Specialist Anderson heard a higher calling, one above his own self interest, and he enlisted in the Army at 26. In the Army, he flourished into a man of discipline and initiative.

He had the admiration and respect of his fellow soldiers and superiors. "Sometimes I wish we had a whole platoon of him," said SSG Jeremy Schultz, who served with Specialist Anderson in Iraq. Don't we all; don't we all.

Specialist Anderson of the Army's 2nd Battalion, 7th Infantry Regiment, 1st Brigade, 3rd Infantry Division was training with the Special Forces when he was killed earlier this month. He was awarded the Bronze Star posthumously. He came from humble beginnings and aspired to quiet greatness with an even greater heart.

President John F. Kennedy once said, "Every area of trouble gives out a ray of hope, and the one unchangeable certainty is that nothing is certain or unchangeable." SPC Travis Anderson exemplified this in his mission of service to his nation. He will be missed by all those around him and he and his family will remain in our prayers. And to his family and friends, I say, on behalf of a grateful nation: thank you for sharing Travis with us.

MEMORIAL DAY 2005

Mr. AKAKA. Mr. President, I rise to recognize the significance of Memorial Day and to remember the Americans it commemorates. In just a few days, we will come together as a Nation to pay tribute to the courageous men and women who fought and died for our country. Too often we take for granted the freedoms we, as Americans, enjoy, too often we forget those who gave their lives to secure this liberty.

America has honored its fallen soldiers with a Memorial Day, sometimes called Decoration Day, since the Civil War. Though we are grateful to these heroes each and every day, it was recognized that we should set aside 1 day in particular, the last Monday in May, to be especially mindful of the brave soldiers, sailors, airmen, and marines who paid the ultimate price for their fellow citizens.

During a time when we continue to lose more of our friends, family and neighbors in combat overseas, I am especially mindful of the sacrifices made by our men and women in the military. I served in World War II, and I have seen firsthand the bravery and selflessness that is a common thread in our military personnel. Though I was lucky enough to return home, not a day passes when I do not think of my comrades who were not as fortunate, and I am eternally grateful to them.

On this earnest occasion, I would like to draw attention to what we can do for those veteran soldiers still with us so that we do not disrespect the sacrifices made by those we have lost. We must provide full funding for veterans' health care. Every year the President sends forward his budget proposal to Congress, and every year we go through the same struggle to get VA health care the money it needs to adequately serve its veteran patients. We must change the way funds are allocated so that all of our veterans are guaranteed the care they so clearly deserve.

I want the 115,000 veterans who choose to make Hawaii their home to be assured that they will receive the services they have earned. The nearly 18,000 veterans who avail themselves of VA health care on Oahu, the Big Island, Kauai, and Maui should not have to worry if resources for doctors and nurses will materialize next year. The reservists and guardsmen who are deployed for the current wars in Iraq and Afghanistan also must receive the care they need upon their return. And the fact that a whole population of veterans is denied care because VA does not have adequate funding is shameful.

Memorial Day is a day of both sorrow and joy. We mourn those we have lost in battle, and we celebrate the freedoms we currently enjoy thanks to those brave individuals. As we gather together over the long weekend to celebrate this important holiday, let us make sure to take a moment to remember and thank those who lost their lives in order to secure our futures. Then, for the rest of our tenure in Congress, let us not waiver from the commitments made to these brave men and women in terms of programs, services and benefits.

MEMORIAL DAY

Mr. KERRY. Mr. President, Memorial Day is a day of mixed emotions: sorrow for the families whose sons and daughters have given their lives for our country, coupled with universal pride in the great Americans who for generations and particularly today teach us the full meaning of service and sacrifice. The courage and bravery of our young men and women fighting overseas continues to inspire all of us, and indeed inspire the free world and those yearning for freedom.

America's fallen soldiers shouldered a responsibility greater than any of us will ever know. Their families, their units, and their nation depended on them, and they answered the call of duty with selflessness and devotion. Our soldiers did not shirk from this responsibility, and all the uncertainty, danger and honor that came with it. Their families remember them as special sons and daughters, brothers and sisters, husbands and wives, and cherished friends. Their Nation remembers them as special citizens. Grown men will touch their names etched on granite walls and will today weep for fallen comrades who gave their lives so that others can live.

In this time of war, and in memory of our fallen heroes, we must be mindful to do everything in our power to keep our troops safe as they keep us safe. We must do better to take care of their families, who sacrifice in ways too many to count.

While we can never repay our Nation's debt to families who have made the ultimate sacrifice, we must always remember the legacy of their fallen sons and daughters: a safer and freer world. On this Memorial Day, I believe it appropriate to take a small step in that direction by recognizing in the RECORD those exceptional individuals from Massachusetts who this year gave their lives, and earned the eternal gratitude of the American people:

Arredondo, Alexander S., Lance Corporal, USMC, 25-Aug-2004—Randolph, MA: Connolly, David, S., Major, USA, 6-Apr-2005—Boston, MA; Cunningham, Darren J., Staff Sergeant, USA, 30-Sep-2004—Groton, MA: Depew, Cory R., Private, USA, 04-Jan-2005—Haverhill, MA; Desiato, Travis R., Lance Corporal, USMC, 15-Nov-2004—Bedford, MA; Farrar Jr., Andrew K., Sergeant, USMC, 28-Jan-2005—Weymouth, MA; Fontecchio, Elia P., Gunnery Sergeant, USMC, 04-Aug-2004—Milford, MA; Fuller, Travis J., 1st Lieutenant, USMC, 26-Jan-2005—Granville, MA; Gavriel, Dimitrios, Lance Corporal, USMC, 18-Nov-2004—Haverhill, MA; Johnson, Markus J., Private, USA, 1st Class, 01-Jun-2004—Springfield, MA; Lusk, Joe F. II, Captain, USA, 21-Jan-2005—Framingham, MA: Moore, James M., Colonel, USA, 29-November-2004—Peabody, MA; Oliveira, Brian, Corporal, USMC, 25-Oct-2004—Raynham, MA: Ouellette, Brian J., Petty Officer, 1st Class, USN, 29-May-2004—Needham, MA: Palacios, Gabriel T., Specialist, USA, 21-Jan-2004—Lynn, MA: Schamberg, Kurt D., Sergeant, USA, 20-May-2005—Melrose, MA; Sullivan, Christopher J., Captain, USA, 18-Jan-2005—Princeton, MA; Vangyzen IV, John J., Lance Corporal, USMC, 05-Jul-2004—Bristol, MA; and Zabierek, Andrew J., Lance Corporal, USMC, 21-May-2004—Chelmsford, MA.

THE PASSING OF A GREAT AMERICAN SOLDIER—ARMY COLONEL DAVID H. HACKWORTH

Mr. GRASSLEY. Mr. President, I was very sad to learn that Colonel Hackworth had died on May 4, 2005, in Tijuana, Mexico.

Tijuana is the place where Colonel Hackworth chose to make his last stand. He went there to fight one last battle. He had a particularly deadly form of cancer that spread. He went to Mexico, hoping for a miracle with an experimental drug treatment program.

Just before leaving his home in Connecticut for the last time in January 2005, he sent me one final message:

> Give Senator Grassley my best. Have run out of conventional options re my cancer. Got until March to find a solution. Off to Mexico to see if we can't out Gee this monster. I am not sweating my final orders from Headquarters. It has been a fun ride. Plan on being planted in Arlington.

"Out-Geeing the G" was one of Colonel Hackworth's favorite expressions.

He invented the term while leading troops in combat during the Vietnam war. He told his troops that they could beat the Viet Cong by using the guerrillas' own mobile, hit-and-run tactics. "We are going to do what they do but just do it better," he said. "We out-gee the G."

"Out-geeing the G" was the heart and soul of Colonel Hackworth's brand of soldiering.

Sadly, Colonel Hackworth was not able to "out-Gee" the enemy this time.

Colonel Hackworth began his military career just up the coast from Tijuana—in Santa Monica, CA.

At the age of 10, after Japan's attack on Pearl Harbor, he worked as a shoeshine boy at a military post there where a group of soldiers adopted him as a mascot. They had a special uniform made for him to wear. Both his parents died before his first birthday.

At this point in his life, Colonel Hackworth said: "I knew my destiny. Nothing would be better than to be a soldier."

You can't utter the name David Hackworth without also saying the word soldier in the same breath. He was a "soldier's" soldier.

He was a soldier from the day he put on that special uniform in Santa Monica to the moment he died. He may have taken off his uniform after publicly denouncing the Vietnam war on national TV in 1971, but he continued to soldier until the very end of his life.

I know that Colonel Hackworth was a highly respected combat veteran. I know he distinguished himself as a leader of troops in the field in Korea and Vietnam. I know he was awarded a large number of combat decorations for valor.

Colonel Hackworth was a true American hero.

But I do not want to leave my colleagues with a false impression.

I did not know Colonel Hackworth when he was fighting wars and winning medals for valor. I have only read about that part of his life. I did not meet him until much later—after he had started a new career.

I came to know Colonel Hackworth after he became a reporter and began covering the Pentagon.

He was still a soldier all right—but a different kind of soldier.

Colonel Hackworth had become what I would call a brave-hearted soldier for the truth.

When I met him, he had taken off his uniform. He was fighting a different kind of war. He was a soldier in civilian clothes. But he still had a mission. He wanted to bring truth, justice, and accountability to military headquarters—the Pentagon. He wanted to shed some light on what he perceived as gross incompetence and corruption on the part of some senior officers.

He was a contributing editor and reporter for Newsweek Magazine and syndicated columnist.

Colonel Hackworth and I shared a small piece of common ground—watchdogging the Pentagon.

From the moment when I was first elected to the Senate, I have worked very hard to ferret out fraud, waste, and abuse at the Pentagon and stop it. I do it because I don't want to see a single tax dollar wasted.

Colonel Hackworth attacked the very same problem but from a different angle.

As in everything he did, he always looked at a problem from a common soldier's perspective.

As I said, his main concern was incompetence and corruption among some senior officers in the Pentagon. He called them "perfumed princes." These were some of the same officers he saw come and go in Vietnam. They came to Vietnam to get their "tickets punched." They got their "tickets punched" by commanding a battalion or brigade for a shortened tour of duty before rotating home to the Pentagon for promotion.

To the hardcore soldier like Colonel Hackworth, "ticket punching" in Vietnam translated into unnecessary casualties on the battlefield. The wasting of one soldier's life produced real fury inside this man. He could not—and would not—tolerate it.

One illustrative incident, which occurred in Vietman, is described in his book "About Face."

During a very intense combat operation, a "perfumed prince" riding in a helicopter overhead issued an order to a unit under Colonel Hackworth's command—without Colonel Hackworth's knowledge or approval. That order resulted in a significant loss of life in one of Colonel Hackworth's units.

Colonel Hackworth believed that those casualties were avoidable and unnecessary.

When he returned to home base, he sought out that officer, put a 45 caliber weapon to his head, and threatened to kill him if he ever did anything like that again.

That is Colonel Hackworth's own account of what happened on that day so long ago.

Colonel Hackworth loved his troops above all else and would go to any length to protect them from harm and abuse.

His lifelong commitment to the common soldier was the driving force behind the stories he produced as a reporter with Newsweek and other publications.

In Colonel Hackworth's mind, the terrible loss of life in Vietnam had its origins in a disease that he set out to cure—the gross incompetence and corruption—that he perceived at the highest echelons in the Pentagon.

Colonel Hackworth was determined to wipe it out and right a wrong.

Over the years, we collaborated on a number of investigations. The one I remember best is the one involving Air Force General Joseph Ashy in 1994-95.

Colonel Hackworth conducted his own investigation. He gathered the facts and the documents. I, in turn, referred Colonel Hackworth's allegations to the inspector general, IG, for review.

This is what Colonel Hackworth reported in the press:

> General Ashy flew himself, his aide and family cat from Italy to Colorado aboard a 200-seat Air Force plane; he flew his wife round-trip on an Air Force VIP aircraft from Colorado to Washington; and he made palatial renovations at his headquarters.

The IG concluded that General Ashy's "wasteful escapades" cost the taxpayers $424,602.00.

Colonel Hackworth found out about General Ashy's "escapades" from one of his beloved soldiers who was denied a seat—and free ride home—on Ashy's airplane.

Colonel Hackworth's comments were as follows:

> The taxpayers got ripped-off for almost a half a million bucks by a member of our military elite and virtually nothing is being done about it. . . . The Air Force spinmeisters lied through their teeth about what General Ashy did. . . . Besides being a blatant waste of money, this incident is about deception and the art of diffusing responsibility. . . . Ashy was fined a mere $5,020.00 and continues to have four stars and his finger on the nuclear button.

General Ashy wrote out a check for the fine and sent it to Air Force Headquarters on June 26, 1995. However, instead of depositing his check at the bank, the check was stashed in a safe in Air Force Secretary Sheila Widnall's office—for what I suspect was permanent safekeeping. At my request, the IG began making new inquiries and the check finally went to the bank on September 15, 1995.

This great American soldier told us—in "plain old English"—what he expected from the top brass at the Pentagon. He expected them to lead by example. If they failed his leadership and integrity test at headquarters, he believed they would fail on the battlefield.

His pronouncements were blunt, for sure. They were almost always harsh and sometimes coarse. But they always conveyed an important lesson tempered by battlefield experiences. So I listened and learned. His opinions on the Pentagon brass had credibility in my book. He had put them to the ultimate test on so many distant battlefields. That was good enough for me.

The lessons taught by this great American soldier are lessons that will stand the test of time. Setting the example has been the most powerful element of leadership since the beginning of time. Colonel Hackworth kept going back to those enduring principles. As a Nation, we must do the same. We must rely on those ideas. They are too important to be forgotten. They must be followed.

Colonel Hackworth was a constant and forceful reminder of just how important those principles really are.

The memory of Colonel Hackworth and all that he stood for lives on in our hearts and minds.

Colonel Hackworth has left us. His remains will be laid to rest in Arlington National Cemetery on May 31. But he will not be forgotten. He will never fade away.

COLONEL DAVID H. HACKWORTH

Mr. LIEBERMAN. Mr. President, I rise to pay tribute to a true American hero, COL. David H. Hackworth, who spent his last years in Connecticut. Colonel Hackworth was one the most legendary and highly decorated soldiers of the U.S. Army. As Memorial Day approaches, there is no better time to remember the sacrifices, courage and tactical genius of this legendary soldier who spent more than half a century fighting on the world's most dangerous battlefields. As World War II was coming to a close, a 14-year-old David Hackworth lied about his age to join the Merchant Marine and a year later joined the U.S. Army—spending the next 26 years fighting our nation's battles. A true leader, "Hack" as he was known, received a battlefield commission in Korea to become the Army's youngest captain and was promoted in Vietnam to the Army's youngest full colonel. Three times he was nominated for the Medal of Honor. His decorations are numerous and include the Army Medal of Valor, the Distinguished Service Cross, ten Silver Stars, eight Bronze Stars and the United Nations Peace Medal. But the awards of which he was proudest are his eight purple hearts and the Combat Infantryman's Badge. Mr. President, As you know, there is only one way to get this badge: serve 90 days in a front-line infantry unit under fire and survive.

In just one example of his bravery, Colonel Hackworth got out on the strut of a helicopter to drag to safety his men who were pinned down and facing certain death. It is no wonder, Colonel Hackworth has so many supporters.

But these statistics do not capture the Colonel Hackworth, the iconoclastic straight talker, who lead from the front and spoke from his heart. One of the most telling stories about Colonel Hackworth's leadership was his transformation of the 4/39 Infantry Battalion from a demoralized outfit into an effective counter-insurgency fighting force that routed enemy units in the jungles of Vietnam. Colonel Hackworth's training methods and tactics were so successful, he wrote them down in a book "The Vietnam Primer" that is still read by commanders today.

GEN. Hal Moore, the coauthor of "*We Were Soldiers Once and Young*," called him "the Patton of Vietnam," while General Creighton Abrams, the last American commander in that disastrous war, described him as "the best battalion commander I ever saw in the United States Army."

Gruff and full of purple prose, Colonel Hackworth ran afoul of the Army's top leadership and retired following a confrontation in which he said in 1971 that the Vietnam War was hopeless. Often called the champion of the common soldier, "Hack" spoke truth to power. After leaving the service, Colonel Hackworth launched himself into new careers as a journalist, businessman, restaurateur and best-selling author as he cast his sharp and experienced eye on the military-industrial complex. He always cast a glaring spotlight on concerns when the "grunts" were not getting the equipment they needed to do their jobs.

I extend my deepest condolences to Colonel Hackworth's wife, Eilhys England, and his many children, step-children, grandchildren and step-grandchildren. But of all the tributes I know will come Colonel Hackworth's way, I think the tribute he would appreciate most will be from the average soldier whose loyalty he earned in combat and whose welfare became his life's cause in his retirement, for he knew they are the men and women who are out on point securing our Nation's freedom.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

A 35-year-old gay man was walking to his Boston home when three young men approached him, knocked him to the ground, and repeatedly kicked him in the face. Although he was yelling for help and near several homes, no one came to his aid. The perpetrators fled and left the victim with multiple contusions and internal bleeding in his face. Neither possessions nor money was stolen.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

REPEALING D.C.'S LOCAL GUN SAFETY LAWS

Mr. LEVIN. Mr. President, legislation has been introduced that would repeal nearly every gun safety law in the District of Colombia. Sadly, the bill was introduced during the celebration of National Police Week and just days after 153 law enforcement officers who died in the line of duty in 2004 were honored at the National Law Enforcement Officers Memorial.

The misnamed "District of Colombia Personal Protection Act" would repeal local laws in Washington, DC that ban the sale and possession of unregistered firearms, require firearm registration, impose commonsense safe storage requirements, and ban semiautomatic weapons in the District. Should this bill become law, those who live and work in our Nation's capital as well as tourists and other visitors would face a greater threat of gun violence.

In a statement last week, DC Mayor Anthony Williams said, "I am incensed by any congressional proposal that uses District residents as pawns. I am incensed by any proposal that assaults Home Rule. And I am incensed by any proposal that is an insult to the memory of the people who have died in this city due to gun violence—in particular the three children who have died from gun violence this year."

Instead of interfering in local affairs in Washington, DC, the Senate should focus its energies on legislation on improving the safety of the families and communities across the Nation. The Senate has yet to consider several common sense gun safety measures during this Congress. Among these are proposals that would reauthorize the 1994 assault weapons ban, prohibit the sale of the Five-Seven armor-piercing handgun, and help investigators working to prevent attacks by terrorists using high powered weapons. I urge the Senate to take up and pass these bills to make our Nation safer.

CONGRATULATIONS TO ROBERT FOUST

Mr. CONRAD. Mr. President, today I want to pay tribute to an exceptional member of my staff who is retiring at the end of this month after 33 years of service to the Senate.

Bob has worked in the Senate for a period of 40 years, starting as an intern in the 1960s, and then working full time for Senator Claiborne Pell for 19 years from 1970 to 1989. After taking 2 years to travel the world, it was my great good fortune that Bob volunteered to join my staff in the spring of 1991.

At the time, Bob told me he was looking to complete 20 years of Senate service. I do not think either he or I thought that he would be with me for 14 years. But I could not be more pleased that Bob decided to stay.

During his tenure in my office, he has worked on education, veterans, and international affairs issues. His work on all these issues has been outstanding. On veterans and education issues, in particular, he has developed a long list of legislative victories both small and large.

Bob has a gift for seeing legislative opportunities. One example I will never forget involves the V-chip. For years, I had heard from parents, educators, health care professionals and religious leaders about their concerns regarding the influence of television violence on young people. In response, Bob helped me form a steering committee of interested individuals and organizations to talk about possible approaches to help shield children from gratuitous violence on television. And we developed V-chip legislation. During the debate on the 1996 telecommunications bill, I offered my amendment to require that the V-chip be included in TVs so that parents would have the ability to block out violent shows. When I offered the amendment, the so-called experts told us not to push forward—that the amendment couldn't pass. But Bob advised me to move forward. And when the roll was called, the amendment passed by a strong 73 to 26 margin, and was then enacted into law.

Bob's attention to North Dakota's veterans has paid off in greatly improved facilities around the State. When Bob learned that the VA was considering closing VA facilities that were not up to current standards, he alerted me and helped me lead the fight for a $12 million renovation at the Fargo VA Medical Center. These renovations, which will be finished later this year, have dramatically improved the facility for our veterans. Bob has also been very concerned about the long travel times facing the many North Dakota veterans who live in rural areas. From his first day in the office, he pushed hard to expand services for rural veterans through the Community Based Outpatient Clinics, CBOCs. To date, as a result of Bob's hard work, we have secured three CBOCs at Minot, Grafton and Bismarck. And the VA's CARES, Capital Assets Realignment for Enhanced Services, Commission has approved five new clinics at Williston, Jamestown, Devils Lake, Grand Forks AFB, and Dickinson. Finally, Bob has had great compassion for the most vulnerable among our veterans—homeless veterans—and has constantly looked for ways to help them. Most recently, he worked with Centre, Inc. in Fargo to shepherd through a $1.6 million grant to renovate a facility that will house a 48-bed shelter for homeless veterans.

On education, he was constantly looking for ways to help North Dakota's teachers, whether it was bringing information technology to classrooms or advocating for appropriate implementation of the No Child Left Behind Act. Bob conceived of the Rural Education Achievement Program and built a coalition that helped me enact this important legislation during the 106th Congress. Almost 80 percent of North Dakota school districts have 600 students or less. Under the REAP program, small, rural school districts are entitled to consolidate funding from Federal education programs to make more efficient use of the funds. In the first 3 years of the REAP program, more than 270 North Dakota schools benefitted from approximately $2.7 million in funding.

Bob's commitment to education also carried over to the intern program. As he had in Senator Pell's office, Bob volunteered to coordinate my Washington intern program. Bob devoted significant time and effort to ensuring that interns in my office had a terrific learning experience. In fact, Bob's example has inspired dozens of former interns to seek careers in public service. Interns from 10, 20 and even 30 years ago stop by frequently just to say hello and let Bob know what they are doing now.

But Bob's importance to me and my office cannot be captured by simply cataloguing his many accomplishments. During his time working in the Senate, Bob Foust has been the consummate professional. He stayed in constant touch with North Dakota leaders on the issues he covered. Time after time, he would learn of a problem and immediately go to work finding a solution. If Federal services were not being delivered effectively, Bob would work with the agency to make sure North Dakotans got the services they deserved. If a Federal program did not work for North Dakota, Bob would draft legislation to fix the problem, and work tirelessly until the Conrad amendment was signed into law.

Finally, and most importantly, Bob Foust is an outstanding person. He has worked quietly and tirelessly behind the scenes to make things happen, and was always happy to divert all the credit to others. He has been tremendously loyal, tremendously dedicated, and a passionate advocate for the people of my State. He has never forgotten that he is working for the American taxpayer. And he has been a good friend and a mentor to others on staff.

With extraordinary gratitude for his years of service, I wish Bob well as he moves on to the next stage in his life and career.

BANKRUPTCY LEGISLATION

Mr. KENNEDY. Mr. President, during the floor debate on the recently passed bankruptcy bill, an important letter from a number of medical and law professors regarding the high number of debtors who are forced into bankruptcy due to the cost of health care was discussed on numerous occasions. The letter was addressed to Senator GRASSLEY and points out a number of the professors' concerns with the findings of the U.S. Trustee Program related to medical debt.

Since it is such a valuable document, it is important that this letter be printed in the RECORD so that all people have access to it. Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

FEBRUARY 14, 2005.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for distributing a copy of the letter from the Office of Legislative Affairs with the summary sheet on the medical debt findings from the U.S. Trustee Program. Because each of us has devoted some years of scholarly research to the questions about families in financial trouble because of medical debts, we have been asked to review this letter. We know that you are deeply concerned about the families who file for bankruptcy in the aftermath of a serious medical problem, and we are glad to help in any way we can. We are also very glad that you have encouraged the U.S. Trustee Program to produce additional data related to this issue. Like earlier studies that also used petition and schedule data to explore the role of medical debt in bankruptcy, these data provide further evidence of the large number of families that are facing financial collapse following a serious medical problem. Because of limitations in the data used, however, these findings also significantly underreport both the breadth and impact of medical bankruptcies.

The U.S. Trustee sample is limited only to Chapter 7 cases. In part because of time lost from work due to illness, accidents and layoffs, on average, these families have an annual median income of about $19,000. This means that the average medical debt identified by the U.S. Trustee (average $5000 for those with medical debt) is quite substantial for many families trying to cope with medical problems. Earlier reports from the U.S. Trustee's Chapter 7 data and independent studies are consistent with the finding that debts owed directly to medical providers appear in a significant portion of the sampled cases and that the amounts can be quite substantial.

As helpful as these data may be, however, we are reminded that they document only a small portion of the financial difficulties facing families in the aftermath of serious medical problems. As early as 1991, researchers recognized that they could not rely on petition and schedule listings to determine the amount of medical debt families incurred. Petition data, like the kind used by the Office of the U.S. Trustee, exclude:

Prescription medications, which are charged on credit cards

Doctors visits, rehabilitation treatments, and other services charged on credit cards

Medical supplies, crutches: needles, and the like that are charged on credit cards

Hospital bills that are charged on credit cards

Second mortgages that people have put on their homes to pay off hospital bills and other medical expenses

Cash advances, bank overdrafts and payday loans that people have incurred to pay for medical services when they are delivered or to pay off medical bills that are outstanding

Third party specialty lenders that some hospitals now steer their patients toward when those patients are unable to pay.

In addition, in our extensive work with court records we have observed that even very sophisticated debtors do not always list the original creditor on an account. Studies are finding high rates of debt collector usage among medical providers, and some collectors may have received assignment of the debt. The petition data, however, necessarily conceal:

Medical debts assigned to collectors that may be listed under the collectors' or the collecting attorneys' names, which may bear no medical reference whatsoever.

Medical debts for which the debtor has been sued and an attorney is now attempting to collect, for which the debtor lists the name of the attorney.

The petition data also exclude other expenses that bear down on the families, including:

Medical expenses that families struggled to pay off, bankrupting themselves in the process by getting behind in mortgage, car payments, and other necessary expenses.

Direct but non-medical expenses of illness or injury, suh as the labor and material costs of building a ramp onto a home to make it wheelchair accessible, or the travel costs associated with transporting a critically ill child to a specialty facility.

Debts owed to providers that patients and their families omit from schedules (and thus generally are not discharged) out of fear of losing medical care.

Lost income of a sick person (or a caregiver), which may be a major factor in medical-related bankruptcy.

Debts for Chapter 13 filers, who were omitted from the U.S. Trustee report, but who also have reported a high rate of medical-related bankruptcy.

The petition data also omit data about some of the most pressing questions in health care policy debates. Petition data do not capture systematic information on insurance status, which is relevant to understanding the range of families at risk of health-related financial disaster including but not limited to bankruptcy. Similarly, petition data have no information on the diagnoses of the ill or injured people and the types of care and drugs they need, all of which are relevant to recognizing the magnitude of the problem.

Because the petition data provide so little information about medical bankruptcy, experienced empirical researchers in this field have come to realize surveying the debtors themselves is crucial to getting accurate data. The 2001 Consumer Bankruptcy Project study is the most extensive study to date on this issue. It used written questionnaires, court filing data, and detailed follow-up telephone interviews, a combination that offers a much richer understanding of how medical problems affect family finances. The survey instruments were designed to capture more accurately the direct costs of care by asking questions about medical debts within the prior two years of filing, or since illness onset, rather than being focused exclusively on what bills are identifiable as of the date of the bankruptcy petition.

When Mr. Moschella listed all the factors considered in the study recently reported in Health Affairs, describing it as using "very broad definitions" to describe medical bankruptcies, he did not make it clear that we reported the range of results that reflected inclusion or exclusion of various factors. He thus gave the impression we lumped them all together as "medical bankruptcies." In fact, to accommodate the variety in the ways a "medical bankruptcy" might be defined, the recent Health Affairs paper reports a range from 46.2% to 54.5%—for the estimated percentage of bankruptcy filers affected by medical problems based on the 2001 study. The calculations of those numbers are explained in detail, and information is available to make other combinations. As the data from additional rounds of follow-up telephone interviews are analyzed, we will be able to offer an even more in-depth picture of these families' financial circumstances and the role of illness or injury.

Again, we extend our thanks to you for encouraging the development of additional data relevant to medical-related bankruptcy. We are prepared to assist your office in any way to evaluate these data or to consider policy changes to help families that currently are devastated financially by serious acute or chronic medical problems in their households.

Yours truly,

Dr. David Himmelstein, Associate Professor of Medicine, Harvard Medical School.

Dr. Teresa Sullivan, Professor of Sociology, The University of Texas at Austin, and Executive Vice Chancellor for Academic Affairs, The University of Texas System.

Professor Elizabeth Warren, Leo Gottlieb Professor of Law, Harvard Law School.

Dr. Steffie Woolhandler, Associate Professor of Medicine, Harvard Medical School.

Professor Melissa Jacoby, Associate Professor of Law, School of Law, University of North Carolina at Chapel Hill.

Dr. Deborah Thorne, Assistant Professor of Sociology, Ohio University.

Professor Jay Lawrence Westbrook, Benno C. Schmidt Chair of Business, University of Texas School of Law.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to the millions of Americans of Asian and Pacific heritage for their significant contributions and service to strengthen this great Nation, and to join the Nation in celebrating Asian Pacific American Heritage Month.

First, I would like to take this opportunity to recall the pioneers of Asian Pacific American Heritage Month. Through their vision and leadership, Frank Horton, Norman Y. Mineta, DANIEL INOUYE, and Spark Matsunaga successfully empowered Asian and Pacific Islander Americans by establishing a period of celebration that recognized the many contributions Asian and Pacific Islanders have made for over a century.

They chose May to commemorate Asian Pacific Heritage Month because that is when the first Japanese immigrants came to the United States in 1843. It is also the anniversary of the completion of the transcontinental railroad in 1869.

This year's theme for Asian Pacific American Heritage Month, "Liberty and Freedom for All," honors the remarkable accomplishments Asians and Pacific Islanders from all walks of life have made to their communities.

I want to pay particular tribute to the thousands of Asian Americans serving in our armed forces and thank them for their invaluable service for defending our country and securing freedom abroad.

The Asian American tradition of U.S. military service can be traced back as far as the War of 1812, and our country is grateful for the military service of more than 300,000 Asian Pacific American veterans.

We are particularly indebted to the famous "Go for Broke" 442nd regimental combat team of Japanese American soldiers of World War II. The 442nd regiment was the most highly decorated unit in American military history—with more than 21 Medal of Honor winners, including my dear colleague, U.S. Senator INOUYE.

In spite of the discrimination and racism of those tumultuous times, these Asian American service members performed above and beyond the call of duty.

I also want to take a moment and honor the memory of one of the Asian American community's greatest political leaders and a trusted colleague of mine, U.S. Representative Robert Matsui.

As a youth, Bob Matsui and his family were interned at Tule Lake Camp for more than three years during World War II, but Bob overcame these challenges to go on and pursue a distinguished career in public service. One of Bob's most significant legacies was his work prompting the U.S. government to make amends with Japanese Americans who were interned during World War II. It was due to Bob's dedication and perseverance that the U.S government finally issued a formal apology for the Japanese-American internment program and also provided due compensation to the victims of this policy.

In tribute to his outstanding achievements, Senator BOXER and I helped name the Federal courthouse in Bob's hometown of Sacramento in his honor. His work and his legacy will be fondly remembered and he serves as a shining example of the extraordinary achievements of Asian and Pacific Islander Americans.

This year, the Asian American community also saw the passing of the civil rights leader, Fred Korematsu. Mr. Korematsu's defiance of the ill-conceived Japanese internment policy during World War II was an incredibly courageous act. His challenge of the Japanese internment policy made its way to the U.S. Supreme Court, the highest court in the land. In recognition of his courageous actions, President Clinton awarded Mr. Korematsu the highest civilian honor, the Presidential Medal of Freedom, in 1998.

Mr. Korematsu and Bob Matsui are testaments to the remarkable display of courage, will, and determination of millions of Asian Americans to succeed in our country despite personal hardships and at times, discrimination.

Currently, Asian Pacific Islander Americans constitute one of the fastest growing minority communities in the United States, and I am proud to recognize the State of California as home to the greatest number of Asian Pacific Islander Americans. There are over 13 million Asian Pacific Islander Americans in the nation with more than 4.5 million living in California.

With this wealth of Asian American diversity, our State is enriched by many famous ethnic enclaves such as San Francisco's Chinatown, Westminster's Little Saigon, and the City of Artesia's Little India. In fact, the second largest populations of Filipino, Korean, and Vietnamese in the world are located in California.

In this congressional session, I am hoping to help preserve some of the unique Asian American immigration history in my State. Senator BOXER and I have introduced legislation to help provide Federal funding for the Angel Island Immigration Station, known as the "Ellis Island of the West."

The Angel Island Immigration Station, a national historic landmark, was the entry point for over 1 million immigrants from 1910–1940, including approximately 175,000 Chinese immigrants. Angel Island is a precious part of our Nation's history and tells the story of many people who came to America to make a better life for their families.

As we join the Nation in celebrating the rich and diverse Asian and Pacific Island cultures during Asian Pacific American Heritage Month, we are not only recognizing many notable achievements, but we are also reminded of the struggles and sacrifices endured to live and experience the American dream.

I am pleased to take this time today to honor the distinguished accomplishments of Asian Pacific Americans during this year's Asian Pacific American Heritage Month.

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2005 budget through May 25, 2005. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 Concurrent Resolution on the Budget, H. Con. Res. 95.

The estimates show that current level spending is under the budget resolution by $5.106 billion in budget authority and by $72 million in outlays in 2005. Current level for revenues is $407 million above the budget resolution in 2005.

This is my first report for fiscal 2005 and I ask unanimous consent to have it printed with the RECORD corrections to the Senate Committee Allocation tables published on pages 88 and 89 of House Report 109–62, the Report to accompany H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. The allocation amounts for the Finance Committee contained small numerical errors. The tables display the corrected Senate Committee allocations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 26, 2005.

Hon. JUDD GREGG,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effect of Congressional action on the 2005 budget and are current through May 25, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2005 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for

Fiscal Year 2006. This is my first report for fiscal year 2005.

Sincerely,

ELIZABETH M. ROBINSON

(For Douglas Holtz-Eakin, Director).

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF MAY 25, 2005

[In billions of dollars]

	Budget resolution [1]	Current level [2]	Current level over/under (−) resolution
On-budget:			
Budget Authority	1,996.6	1,991.5	−5.1
Outlays	2,023.9	2,023.9	−0.1
Revenues	1,483.7	1,484.1	0.4
Off-budget:			
Social Security Outlays	398.1	398.1	0
Social Security Revenues	573.5	573.5	0

[1] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81,811 million in budget authority and $32,121 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2 of Table 2), the amounts specified in the budget resolution have also been reduced for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF MAY 25, 2005

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions: [1]			
Revenues	n.a.	n.a.	1,484,024
Permanents and other spending legislation	1,109,476	1,070,500	n.a.
Appropriation legislation	1,298,963	1,369,221	n.a.
Offsetting receipts	−415,912	−415,912	n.a.
Total, enacted in previous sessions	1,992,527	2,023,809	1,484,024
Enacted This Session: Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13) [2]	−1,058	4	41
Total Current Level [2, 3]	1,991,469	2,023,813	1,484,065
Total Budget Resolution	2,078,456	2,056,006	1,483,658
Adjustment to budget resolution for emergency requirements [4]	−81,881	−32,121	n.a.
Adjusted Budget Resolution	1,996,575	2,023,885	1,483,658
Current Level Over Adjusted Budget Resolution	n.a.	n.a.	407
Current Level Under Adjusted Budget Resolution	5,106	72	n.a.

Notes: n.a. = not applicable; P.L. = Public Law

[1] The effects of an act to provide for the proper tax treatment of certain disaster mitigation payments (P.L. 109–7) and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109–8) are included in this section of the table, consistent with the budget resolution assumptions.

[2] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $83,140 million in budget authority and $33,034 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13).

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[4] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81,811 million in budget authority and $32,121 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2), the amounts specified in the budget resolution have also been reduced for purposes of comparison.

Source: Congressional Budget Office.

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT—BUDGET YEAR TOTAL 2005

[In billions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations: General Purpose Discretionary	840.036	929.520		
Memo:				
on-budget	835.610	925.115		
off-budget	4.426	4.405		
Agriculture, Nutrition, and Forestry	25.258	25.148	71.954	49.563
Armed Services	85.351	85.240	0.041	0.061
Banking, Housing and Urban Affairs	14.779	6.052	0.000	−0.047
Commerce, Science, and Transportation	13.635	8.218	1.082	0.889
Energy and Natural Resources	5.124	3.922	0.004	0.005
Environment and Public Works	39.395	2.056	0.000	0.000
Finance	820.964	821.356	350.443	350.266
Foreign Relations	10.785	11.054	0.172	0.172
Homeland Security and Governmental Affairs	71.750	70.621	18.219	18.219
Judiciary	6.009	6.076	0.578	0.564
Health, Education, Labor, and Pensions	13.952	13.946	3.988	3.889
Rules and Administration	0.076	0.019	0.113	0.112
Intelligence	0.000	0.000	0.239	0.239
Veterans' Affairs	2.161	2.190	36.996	36.924
Indian Affairs	0.555	0.562	0.000	0.000
Small Business	1.702	1.702	0.000	0.000
Unassigned to Committee	−434.360	−420.248	0.000	0.000
Total	677.136	637.914	483.829	460.856

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT—BUDGET YEAR TOTAL 2006

[In billions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget Authority	Outlays	Budget Authority	Outlays
Appropriations: General Purpose Discretionary	842.265	916.081		
Memo:				
on-budget	837.689	911.494		
off-budget	4.576	4.587		
Agriculture, Nutrition, and Forestry	25.721	25.061	69.535	50.456
Armed Services	91.206	91.125	0.040	0.060
Banking, Housing and Urban Affairs	13.507	2.957	0.000	−0.014
Commerce, Science, and Transportation	13.078	7.575	0.928	0.921
Energy and Natural Resources	4.600	4.135	0.054	0.060

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT—BUDGET YEAR TOTAL 2006—Continued

[In billions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget Authority	Outlays	Budget Authority	Outlays
Environment and Public Works	39.389	2.154	0.000	0.000
Finance	921.388	923.342	401.199	401.160
Foreign Relations	11.532	11.939	0.174	0.174
Homeland Security and Governmental Affairs	74.698	71.791	18.611	18.611
Judiciary	7.387	6.528	0.580	0.592
Health, Education, Labor, and Pensions	13.180	11.578	4.100	3.979
Rules and Administration	0.072	0.015	0.118	0.117
Intelligence	0.000	0.000	0.245	0.245
Veterans' Affairs	1.293	1.353	36.198	36.108
Indian Affairs	0.559	0.547	0.000	0.000
Small Business	0.000	0.000	0.000	0.000
Unassigned to Committee	−496.329	−484.403	0.000	0.000
Total	721.281	675.697	531.782	512.469

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT—5-YEAR TOTAL: 2006–2010

[In billions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget Authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry	111.747	111.108	341.876	260.136
Armed Services	494.585	494.199	0.200	0.270
Banking, Housing and Urban Affairs	74.258	9.668	0.000	−0.028
Commerce, Science, and Transportation	68.875	40.886	5.076	5.054
Energy and Natural Resources	19.461	18.898	0.268	0.277
Environment and Public Works	180.812	9.994	0.000	0.000
Finance	5515.613	5527.427	2424.576	2423.728
Foreign Relations	63.726	60.966	0.794	0.794
Homeland Security and Governmental Affairs	402.936	387.261	99.879	99.879
Judiciary	32.071	31.766	2.941	2.979
Health, Education, Labor, and Pensions	68.205	62.245	21.289	20.734
Rules and Administration	0.366	0.323	0.640	0.639
Intelligence	0.000	0.000	1.314	1.314
Veterans' Affairs	6.327	6.498	185.814	185.182
Indian Affairs	2.555	2.682	0.000	0.000
Small Business	0.000	0.000	0.000	0.000

SAN JUAN NATIONAL FOREST CENTENNIAL MONTH

Mr. SALAZAR. Mr. President, I rise today in recognition of one of our great national treasures. Next week, while the Senate is in recess, we will celebrate 100 years of the San Juan National Forest in my great State of Colorado. The people of southwestern Colorado will be celebrating this anniversary, as they should. I rise to underscore that I believe all Americans should celebrate this important milestone.

The San Juan National Forest was created 100 years ago on June 3, 1905, through Presidential proclamation by President Theodore Roosevelt. When you see it, you know why President Roosevelt set aside this remarkable place. It is located in southwestern Colorado on the western slope of the Continental Divide in one of America's most magnificent landscapes. The San Juan covers nearly 2 million acres, in an area more than 120 miles wide and 60 miles long. This unique scene includes alpine lakes, canyons, rapids, waterfalls, historic mines, and broad variations in elevation including mountain peaks of over 14,000 feet high.

Not only is it beautiful, but its rich history is deeply intertwined with the history of this great country. The San Juan was originally the homeland of the Ute Indians as well as an area that was frequented by the Navajo and Apache Tribes as well. Many pioneers who were looking for routes to the West traveled through the San Juan. Some of these individuals remained there establishing mining sites which contributed to development and a growing community.

The San Juan National Forest benefits the communities of southwestern Colorado through the supply of timber, minerals, oil and gas, grazing pastures, recreation, clean water and air and other natural resources.

All of these amenities offered by the San Juan National Forest are important to the quality of life and economic well being of southwestern Coloradans; this has been the case for the past 100 years, it is the case today, and hopefully will be true for the next 100 years.

I urge all citizens of Colorado and our Nation to join in the centennial celebration of the San Juan National Forest through the many activities scheduled for June 1–4, 2005, to celebrate this special place and show appreciation for our national forests.

Finally, this year also marks the centennial of the U.S. Forest Service, the Federal agency which manages the San Juan and 154 other National Forests across our country. I want to thank the dedicated men and women of our Forest Service for their extraordinary work and continued commitment to our precious lands.

NATIONAL FOSTER CARE MONTH

Ms. LANDRIEU. Mr. President, today I rise to bring your attention to National Foster Care Month. As we celebrate this National Foster Care Month, we must remember how far we have come, we must also remember how far we still have to go. In my 27 years as a public servant, I have had the opportunity to meet thousands of children in foster care. I have personally witnessed the sheer joy they find in having a "forever family," and the utter pain when they do not. I firmly believe that there is no such thing as an unwanted child, merely unfound families. Let me tell you a story about one of these extraordinary children. A few years ago, a young woman named Sarah, who spent 14 of her 19 years of life in foster care, was asked by a Member of Congress what the word "permanency" meant to her. She said, "many people in the system wrongly think that permanency means staying in one place for a long time, but to me, permanency means having someone to call when I am not sure if I should wash my new white skirt with a blue shirt, or to take me to Karate lessons, or to cry with me when I break up with my boyfriend."

For those of us who have had that kind of permanency in our lives, living without it seems unfathomable. But the fact remains that each year, over 100,000 children in the United States are dreaming of that kind of permanency, 25,000 children leave the foster care system without ever having found it, and almost 600,000 go to bed every night wondering if they ever will find it. Every child deserves the opportunity to be in a loving family where they are nurtured, comforted, and protected. Adoption gives children who have been abandoned, orphaned, or abused a second chance to find happiness in a secure and supportive family.

Over the past decade, the number of children being adopted has risen dramatically, and according to the 2000 Census Special Report, over 2 million children today live in adoptive homes. In the last year alone, over 6,500 children have been listed on the web page of Adopt US Kids and 1,500 of these children have found families through this process.

In closing, I would like to share with you something said in the award winning book, There Are No Children Here, about foster care children. "By the time they enter adolescence, they have contended with more terror than most of us confront in a lifetime. They have had to make choices that most experienced and educated adults would find difficult. They have lived with fear and witnessed death. Some of them have lashed out. They have joined gangs, sold drugs, and, in some cases, inflicted pain on others. But they have played baseball and gone on dates and shot marbles and kept diaries. For, despite all they have seen and done, they are—and we must constantly remind ourselves of this—still children."

During National Foster Care Month, I encourage you to log on to www.adoptuskids.org to learn more about the children who are waiting in our country and across the Nation for the safe, loving home they deserve. As Mistral said, "Many things we need can wait, the child cannot. To him we cannot say tomorrow. His name is today."

RESIGNATION OF FTC COMMISSIONER ORSON SWINDLE

Mr. McCAIN. Mr. President, after over 7 years of service, Orson Swindle announced today his resignation as Commissioner of the Federal Trade Commission. Mr. Swindle has been dedicated to protecting the interests of the American consumer by promoting competition and fairness in the marketplace. He will be sorely missed.

Mr. Swindle's accomplishments at the FTC have been numerous, but his efforts to promote the vigorous development of the Internet and technology generally have been particularly important to our Nation's economy. His service with the Commission started shortly after the birth of electronic commerce, and it was thanks in part to Mr. Swindle's efforts to keep the Internet free of over-regulation that it is now such a robust and widely-used medium of communication, commerce, education, and political participation. All the while, Mr. Swindle has focused his efforts on educating consumers about the new online world in order to build their confidence in and knowledge of the Internet. He has also ensured that industry understands the need to self-regulate effectively or face the credible threat of Government interference and aggressive enforcement.

I commend Mr. Swindle and thank him for his outstanding service to this country, and I deeply hope that he will continue to build on his long and distinguished career as a public servant. Our Nation benefits greatly from the work of individuals such as Orson Swindle, whom I am proud to call my friend. He stands as an example for us all of commitment, achievement, and sacrifice on behalf of our Nation.

THE NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT

Mr. SESSIONS. Mr. President, I take a moment to bring attention to an important step that was taken yesterday in the Senate Committee on Health, Education, Labor, and Pensions. On Wednesday morning, the HELP Committee unanimously passed S. 518, the National All Schedules Prescription Electronic Reporting Act, a bill designed to help states combat the growing scourge of prescription drug abuse and diversion.

I begin by thanking Senator ENZI, our chairman, for his excellent support in bringing this bill, the National All Schedules Prescription Electronic Reporting Act, before the committee for consideration. I also thank and commend the bill's original cosponsors, Senators KENNEDY, DURBIN, and DODD, and their staffs, for contributing to the productive, bipartisan process of developing this legislation.

The abuse and diversion of prescription drugs is a tremendous public health issue for our nation, and a growing one. An epidemic that first attracted public notice as a regional crisis has now spread to touch every kind of community, from major cities to the smallest rural hamlet. Prescription drugs now rank second only to marijuana in the incidence of abuse. Over 31 million American adults and adolescents have, at one time, abused pain relievers, and the number of first-time abusers has increased 336 percent since 1990.

As appalling as the numbers are, we can not permit them to obscure the human tragedy of drug abuse and dependence, or the toll that drug diversion takes on communities. In the case of individuals who become addicted to prescription medications, the addicted too often fall from the productive ranks of society into unemployment, disability, hospitalization, or even death. They may be drawn into criminal activities that lead to incarceration. Their families and communities suffer along with them. Those who engage in drug diversion feed an insidious black market that makes dangerous drugs available to children, as well as adults. On a societal level, taxpayers bear much of the expense of abused or illegally diverted drugs, and, subsequently, of treating the medical consequences of misuse and addiction.

I find particularly concerning the recent Partnership for a Drug-Free America finding that prescription medications are emerging as the most rapidly growing category of drugs abused by America's teenagers. According to this national study, released April 21st, approximately one in five teenagers—that is over 4 million kids nationally—has abused prescription painkillers, and 37 percent report that close friends have done so. Another 10 percent of teens have abused prescription stimulants, such as Ritalin. Surveys show that this dismal pattern is driven by, according to teens' own assessment, ease of access.

The establishment, by the states, of programs to monitor prescriptions for controlled substances can help curb inappropriate, illegal access to these potentially dangerous drugs. At the present time, 20 states have operating prescription drug monitoring programs. In general, monitoring programs collect, from dispensers, a basic set of information on prescriptions that are issued for controlled substances. In the most effective programs, providers, including physicians and pharmacists, may request the prescription histories of their patients, permitting them to avoid providing controlled substances to "doctor shoppers" seeking multiple prescriptions to feed addiction or for diversion to the black market.

These monitoring programs, appropriately designed, not only help healthcare providers to better deliver appropriate, effective treatment of pain and other conditions that require the use of "scheduled" drugs, but also provide an important tool that permits doctors to identify and, if appropriate, refer for treatment patients whose prescription history suggests that they are at high risk of addiction.

In addition, they offer an opportunity to repair the physician-patient relationship in the face of a growing addiction problem that has created an atmosphere in which physicians fear that prescribing "high risk" medications could inadvertently injure patients or lead to civil or criminal liability or professional discipline. This situation has created yet another class of victims, patients who are finding it too difficult to obtain timely, effective treatment for pain and other legitimate medical needs. Much to their credit, physicians have recognized the tremendous potential here and have been the leading advocates for national legislation supporting the broader adoption of well-designed prescription drug monitoring programs.

I would like to particularly commend the American Society of Interventional Pain Physicians, and Dr. Laxmaiah Manchikanti, their CEO, for the tremendous effort they have put forth to educate members and the public regarding the need for this legislation. ASIPP has, in recent days, been joined in their strong advocacy for the NASPER bill by the American Society of Anesthesiology and the American Osteopathic Association, and I expect that others will soon follow. Those physicians who have stepped forward to advocate for a balanced and effective solution to this problem are truly acting in a manner consistent with the highest ideals of the medical profession.

The bill we are considering today, National All Schedules Prescription Electronic Reporting Act, establishes a federal grant program, to be administered by the Department of Health and Human Services, that would support both the creation of new state programs and the improvement of existing ones. Participating programs would be designed according to a "best practices" model, and would adopt applicable health information technology standards.

It also addresses the important barriers that continue to hamper the full realization of these programs' potential: the fact that there are not enough of them, and in a time when patients regularly cross state lines seeking treatment, existing program can not yet effectively share information across state lines.

This bill provides states with the resources and guidance they need to make important progress toward minimizing the abuse and diversion of prescription medications while ensuring patients' access to timely, effective treatment, and I urge you to join us in supporting it.

ADDITIONAL STATEMENTS

NINTH ANNUAL WORLD CONGRESS IN AMMAN, JORDAN

● Mr. CHAFEE. Mr. President, next week, from June 2-6, 2005, the Center for Civic Education will host the Ninth Annual World Congress on Civic Education in Amman, Jordan. Nearly 200 civic education leaders will attend this event, representing 58 countries and 28 U.S. States.

The purpose of the World Congress is to share information about the best practices and materials developed through Civitas: An International Civic Education Exchange Program, an authorized program of the No Child Left Behind Act. The program addresses the full range of civic education activities. These include the development of educational policy, standards, curricular frameworks, and materials, as well as teacher education, classroom implementation, and research and evaluation.

One program developed through Civitas is Project Citizen, a middle school level program on public policy in the United States. Project Citizen is now being used in more than fifty countries, and is one of the most effective programs in promoting the development of a political culture supportive of democratic values, principles, institutions, and participation.

Another important component of Civitas is the series of exchanges among leaders in civic education in the United States and those in emerging and established democracies worldwide. The purpose of the exchanges is for civic education leaders to learn from and assist each other in improving education for democracy in their home nations.

Therefore, I think it is an important step that for the first time the World Congress on Civic Education will be hosted in the Middle East. Joining the Center for Civic Education in hosting this year's World Congress is Arab Civitas—a regional network of nine Arab countries in the Middle East—and the Jordanian Center for Civic Education Studies.

Arab Civitas, which is funded through the Middle East Partnership Initiative at the State Department, administers a program of citizenship education in elementary and secondary schools in the Middle East. Civic educators in Jordan, Egypt, the West Bank, Lebanon, Tunisia, Morocco, Algeria, Yemen, Bahrain, and recently Saudi Arabia, work with the Center for Civic Education through Arab Civitas. The goal of the program is to help students understand and respect the core concepts of freedom and democracy such as free expression, pluralism and the rule of law, and human rights.

As the chairman of the Senate Committee on Foreign Relations Subcommittee on Near Eastern and South Asian Affairs, it is my strong belief that many of the conflicts and problems in the world, and particularly in the Middle East, could be lessened by strong investments in education. I am particularly supportive of education programs which seek to improve tolerance and understanding of others. Thus, the theme of this year's congress is of particular interest to me: Advancing Peace and Stability through Active Citizenship.

Mr. President, I think we can all agree that this is exciting work that the Center for Civic Education is accomplishing. Its work in strengthening democracy, and promoting tolerance and moderation, in the United States and throughout the world, is admirable. I hope and expect the attendees will have a successful Ninth Annual World Congress on Civic Education.●

DEAF WEST THEATER PRODUCTION OF "BIG RIVER"

● Mr. HARKIN. Mr. President, I recently had the pleasure of attending a truly unique theater production at Ford's Theater—a production that is a testament to the Positive impact of Federal funding of the arts. The Deaf West Theater production of Big River: The Adventures of Huckleberry Finn, in conjunction with the Roundabout Theater Company and the Mark Taper Forum, utilizes American Sign Language and a cast of hearing and deaf actors working seamlessly together to tell this classic Mark Twain story. The exceptional quality of this production was recognized with a 2004 Tony Honor for Excellence in the Theater.

This production of Big River is a superb example of how the performing arts can lead by example, in this case, by offering a dramatic example of people who bridge the gap between the deaf and hearing communities. Deaf and hearing actors are an integral part of the show. Deaf and hearing audiences have an equal opportunity to enjoy the production. And the perspective of deaf culture is seamlessly integrated into the performance.

Federal funding was critical in achieving these important goals. Authorization for grant funding of deaf theater has been in Federal law, in one form or another, since 1967. In the case of the current production of Big River, grants from the U.S. Department of Education's Office of Special Education and Rehabilitative Services supported the training of deaf actors in the show, allowed the production to reach national audiences through touring, and helped to fund educational outreach.

I understand that our distinguished majority leader, Senator FRIST, recently saw the production, and was as dazzled by it as I was. So I encourage all of our colleagues, their families, and staffs to go see Big River, which will be at Ford's Theater until June 4. And I also encourage my colleagues to join with me in working to restore funding to keep Deaf West's work alive for audiences in the future.●

HONORING NEW IBERIA MAIN STREET

● Ms. LANDRIEU. Mr. President, today I rise to honor a city from my home State of Louisiana and am delighted to recognize its achievement before this body.

The City of New Iberia, LA, was recently selected by The National Trust for Historic Preservation to receive a 2005 Great American Main Street Award. New Iberia won this prestigious award because of its successful downtown revitalization. In addition to being recognized as one of only five winning communities nationwide, New Iberia is the only community in Louisiana to ever receive this distinction. As a champion of sustainable and quality community development, I can personally attest to this well-deserved honor. New Iberia's Main Street creates a unique sense of place through the beauty of its architecture, landscaping, and natural integration with Bayou Teche. The residents of New Iberia identify with this special place, and it contributes to the quality of life and sense of community pride shared by them.

Founded in 1779, New Iberia was a prosperous antebellum community that matured into a modern city. By the mid 1960s, New Iberia's Main Street began experiencing decline typical of many communities in the United States at that time. Recognizing the role of Main Street in the life of a community, New Iberia's business leaders, elected officials, and citizens started a progressive downtown revitalization effort known as Operation Impact in the early 1970s. This focus on Main Street continued, and in the 1990s, New Iberia further enhanced its efforts by initiating an officially designated Main Street Program. The unified commitment, hard work, and enthusiasm of the people of New Iberia over nearly 40 years has reestablished their downtown as a vibrant nucleus of culture, commerce, and tourism. It has also fittingly earned them national acclaim.

In the few years since the Main Street Program began in New Iberia, the city has seen over 115 new businesses established, over 420 new jobs created, and more than $19 million in private investment with total investment exceeding $24 million.

Downtown development and Main Street revitalization efforts have contributed significantly to building safer communities, stronger economies, and better quality of life across America. New Iberia, LA, is a superb example of how these cooperative efforts can improve communities. Today, I give the people of New Iberia my thanks and praise.●

RECOGNITION OF THE 50TH ANNIVERSARY OF THE ORDINATION OF REV. MONSIGNOR STANLEY E. MILEWSKI

● Mr. LEVIN. Mr. President, I would like to call my colleagues' attention to plans to honor a distinguished religious leader in Michigan, Monsignor Stanley Milewski. Monsignor Milewski will be honored at a special service of thanksgiving followed by a dinner reception on Sunday, June 5, 2005, on the St. Mary's Orchard Lake Schools campus. The tribute will mark his 50th anniversary as a Polish-American diocesan priest.

Since his ordination into the priesthood on June 4, 1955, by Cardinal Edward Mooney in Detroit, Monsignor Milewski has been an important part of the history of the Polish pastoral ministry in Michigan and in the United States. Monsignor Milewski has earned the respect and admiration of people throughout Michigan and across the United States, and is especially admired by the approximately three-quarters of a million people of Polish descent who are part of the Archdiocese of Detroit, because of his devotion to service and confident leadership through years of ministry.

Born in Detroit to Polish immigrants on November 30, 1929, Monsignor Milewski received his primary and secondary education in Catholic parochial schools in Detroit. He earned his undergraduate degree from St. Mary's College of Orchard Lake and completed graduate studies at St. John's Provincial Seminary in Plymouth, MI, and at SS. Cyril and Methodius Seminary in Orchard Lake. SS. Cyril and Methodius Seminary enjoys the distinction of being the only Polish seminary in the United States and was founded in Detroit in 1885. Monsignor Milewski was awarded an honorary doctorate degree from Alliance College in Pennsylvania and an honorary doctorate of theology degree from Madonna University in Livonia, MI. He was later appointed to the faculty of the Orchard Lake Schools in January 1957, and his responsibilities have included procurator-treasurer, teacher, athletic director, and vice rector. He served as chancellor of the Lake Orchard Schools from 1977 to 2000.

Monsignor Milewski's appointments include the Prelate of Honor of His Holiness John Paul II on March 20, 1990, Honorary Canon of the Diocese of Plock, and Honorary Canon of the Diocese of Lomza. In addition to the many recognitions and awards he has received, Monsignor Milewski was honored to have the Pope visit the 120-acre Orchard Lake Schools campus in 1969. Of that visit, Monsignor said, "From that point on, I really got to know what a great man he was and what a tremendous memory he had." He recalls how the Pope once remarked that the seminary at Orchard Lakes was the most beautiful Polish seminary in the world. The campus includes the John Paul II center, a museum of artifacts and photos.

I know my colleagues join me in congratulating Monsignor Milewski on his faithfulness to his calling and on his many achievements in the pastoral ministry. I am pleased to express my sincere appreciation to him on his 50th anniversary and to wish him many more years of good health and happiness.●

TRIBUTE TO CHARLIE WALKER

● Mr. SARBANES. Mr. President, I want to pay tribute today to an outstanding public servant, educator, and communicator, Charlie Walker. Charlie is retiring after a distinguished 40-year career in teaching and government service at the local, State and Federal levels, most recently as director of government affairs for the Baltimore District, U.S. Army Corps of Engineers. I extend my personal congratulations and thanks for his many years of dedicated service and contributions to the American people.

Born in Charleston, WV, Charlie spent much of his youth and career in Baltimore, MD. He was a graduate of Clifton Park Junior High and Baltimore's City College, one of the oldest and finest public high schools in the country. He won scholarships to Towson State Teachers College, now Towson University, where he excelled academically and in his extracurricular activities, selected to serve not only as president of the Phi Alpha Theta Honorary Society in history but also as a manager of three sports teams—soccer, wrestling, and track. Upon graduation in 1963, Charlie taught for 3 years in Baltimore's secondary schools and then enrolled in West Virginia University to earn a master's degree in history. In 1966, Charlie enlisted in the U.S. Army and served for a 3-year period in Vietnam and at the Walter Reed Army Medical Center. He returned to West Virginia University to obtain a Ph.D. in history, and worked in various and progressively responsible positions in local, State and Federal Government, including service as an historian and public affairs officer with the U.S. Army Corps of Engineers, an aide to the mayor of Baltimore and a research analyst with the Library of Congress.

In 1987, Charlie Walker was tapped to lead the public affairs office of the newly established Maryland Department of the Environment, and it was in this position that I first had the opportunity and privilege of working closely with Charlie. A highly skilled communicator and manager, Charlie assembled a terrific team to promote the initiatives of the new department and to protect and restore the quality of Maryland's air, water, and land resources. Charlie and his team set a standard for outreach and responsiveness that few, if any, agencies have been able to match. He served in this position until 1991 when he was recruited, as government affairs officer for the Baltimore District, U.S. Army Corps of Engineers, to help the district restore relations and responsiveness with the Congress and other levels of government. Over the past 14 years, Charlie has been a trusted adviser to six district engineers, and the principal point of contact for Members of Congress and our staffs from the Five States and the District of Columbia.

which encompass the Baltimore District's jurisdiction.

With his in-depth knowledge, political astuteness, and a dedication to public service that is second to none, Charlie has remained a constant force in moving the Army Corps of Engineers' programs and services forward. He is well known, widely respected, and well liked, not only among the staff at the Baltimore District but throughout the U.S. Army Corps of Engineers and beyond. He is the core of the Corps. His advice is constantly sought for improving communications and relations with the press, the public and with elected officials at all levels of government. Over the years, he has inspired great loyalty in the members of the Baltimore District staff and affection from the countless others with whom he has worked. He will be sorely missed by those of us who have had the pleasure of working with him.

Throughout the course of his career, Charlie has received numerous honors including the Commander's Award for Civil Service, Governor's Salute to Excellence Award, and the Maryland Department of the Environment Award for Outstanding Public Service. In addition to his public service, Charlie has volunteered a great deal of time and energy serving on the numerous organizations, including the Phi Alpha Theta History Society, the Society of American Military Engineers, and the Baltimore Council on Foreign Affairs.

It is my firm conviction that public service and teaching are among the most honorable callings. They demand the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens. Throughout his career Charlie Walker has exemplified a steadfast commitment to meeting this demand. I want to extend my personal congratulations and thanks for his many years of hard work and dedication and wish him well in the years ahead.•

TRIBUTE TO JESSIE HALE DOWNS

• Mr. SESSIONS. Today, with a great sense of honor and respect, I rise to pay tribute to Mrs. Jessie Hale Downs for her humane and charitable service to the city of Birmingham, AL.

In 1944, Mrs. Hale and her husband, Jimmie Hale, cofounded the Downtown Jimmie Hale Mission in Birmingham. These two individuals founded this mission to help rescue scores of individuals from homelessness and addiction. On November 17, 1944, Jimmie Hale died, leaving his young wife widowed and expecting their first daughter in January of 1945.

The death of her husband left her with nothing, so Mrs. Hale was taken in by a friend, and 2 months later she gave birth to a daughter. Later, Jessie married a man who had been aided by the Jimmie Hale Mission, Joe Downs. Unfortunately, he never overcame his addiction and after 2½ years of marriage and the birth of a daughter, he left the family.

Nevertheless, Jessie Hale Downs remained resolve in her dedication to the Jimmie Hale Mission, and she refused to let her late husband's dream die. Mrs. Downs is gifted with a great sense of leadership and a spirit of love for humanity. She served as the executive director of the Mission for 46 years and even today travels to churches and civic meetings to share the story of the Jimmie Hale Mission and what they have to offer.

Because of her unwavering dedication to the Mission, which began as a lone storefront chapel ministering to the men on the streets of downtown Birmingham, the Mission has now expanded into a six-facility, holistic-approach ministry in central Alabama committed to helping people break the chains of addiction and homelessness.

While Jimmie Hale envisioned the ministry, Jessie Hale Downs saw the Mission to fruition. Now, at the age of 88, Mrs. Downs is the matriarch and heartbeat of the Jimmie Hale Mission. I would like to offer thanks for a life lived to serve the less fortunate. The community of Birmingham and the State of Alabama are better off because Mrs. Jessie Hale Downs has lived among us.•

OUTSTANDING SOUTH DAKOTANS

• Mr. THUNE. Mr. President, today I rise to congratulate two outstanding men from South Dakota, Staff Sergeant Eric Borah of New Underwood and Sergeant Daniel Iverson of Madison. Both men have been honored this year for their unwavering dedication to our country.

Eric, a Wheeled Vehicle Mechanic in the South Dakota Army Guard's 235th Military Police Company from Custer, has been named Non-Commissioned Officer of the Year.

Daniel, an Army Bandsman with the South Dakota Army Guard's 147th Army Band from Mitchell, was named Soldier of the year.

Eric and Daniel will be recognized in Washington, DC two of the Outstanding Soldiers and Airmen of the Year for the National Guard. It is with great pleasure that I offer my congratulations to these two men not only for their admirable achievements but also for the great name that they bring to the State of South Dakota.•

HONORING THE ACCOMPLISHMENTS OF MR. MATTH TOEBBEN

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. Matth Toebben of Northern Kentucky, who was recently honored with one of the "Movers and Shakers" awards for the Greater Cincinnati area. Mr. Toebben's life accomplishments and dedication to Commonwealth of Kentucky have given me reason to be proud.

I believe Mr. Toebben to be the embodiment of the American Dream. After immigrating to the United States from Borger, Germany in 1953 with only $10 to his name, he used all of his money to buy a train ticket to Cincinnati. Upon arrival in the area, Mr. Toebben took up not only one job, but two jobs as a carpenter for a Ft. Wright home builder in Northern Kentucky. He worked both night and day saving as much money as he could. This quickly paid off and by 1955, only 2 years after his arrival to the United States, Mr. Toebben started his own business, Toebben Builders and Developers.

The "Movers and Shakers" award of Northern Kentucky is an annual award presented to honor those within the Greater Cincinnati region who stand as an example for all. It is presented by the Kentucky Enquirer, the Sales and Marketing Council of Northern Kentucky, The Home Builders Association of Northern Kentucky and The Kentucky Post.

As a Senator from Kentucky, I commend Mr. Toebben for his hard work and dedication. I hope that he will serve as an inspiration to the citizens of Kentucky.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:34 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2566. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

At 4:16 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 167. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

At 5:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 810. An act to amend the Public Health Service Act to provide for human embryonic stem cell research.

H.R. 2520. An act to provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program.

H.R. 2528. An act making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker of the House of Representatives has signed the following enrolled bill:

H.R. 2566. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 7:00 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H. R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, and asks for a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: From the Committee on Transportation and Infrastructure, for consideration of the House bill (except title X), and the Senate amendment (except title V), and modifications committed to conference: Messrs. YOUNG of Alaska, PETRI, BOEHLERT, COBLE, DUNCAN, MICA, HOEKSTRA, LATOURETTE, BACHUS, BAKER, GARY C. MILLER of California, HAYES, SIMMONS, BROWN of South Carolina, GRAVES, SHUSTER, BOOZMAN, OBERSTAR, RAHALL, DEFAZIO, COSTELLO, Ms. NORTON, Messrs. NADLER, MENENDEZ, Ms. CORRINE Brown of Florida, Mr. FILNER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. TAYLOR of Mississippi, Ms. MILLENDER-MCDONALD, Messrs. CUMMINGS, BLUMENAUER, and Mrs. TAUSCHER.

From the Committee on the Budget, for consideration of sections 8001–8003 of the House bill, and title III of the Senate amendment, and modifications committed to conference: Messrs. NUSSLE, MARIO DIAZ-BALART of Florida, and SPRATT.

From the Committee on Education and the Workforce, for consideration of sections 1118, 1605, 1809,3018, and 3030 of the House bill, and sections 1304, 1819, 6013, 6031, 6038, and 7603 of the Senate amendment, and modifications committed to conference: Messrs. KLINE, KELLER, and BARROW.

From the Committee on Energy and Commerce, for consideration of provisions in the House bill and Senate amendment relating to Clean Air Act provisions of transportation planning contained in sections 6001 and 6006 of the House bill, and sections 6005 and 6006 of the Senate amendment; and sections 1210, 1824, 1833, 5203, and 6008 of the House bill, and sections 1501, 1511, 1522, 1610–1619, 1622, 4001, 4002, 6016, 6023, 7218, 7223, 7251, 7252, 7256–7262, 7324, 7381, 7382, and 7384 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, PICKERING, and DINGELL.

From the Committee on Government Reform, for consideration of section 4205 of the house bill, and section 2101 of the Senate amendment and modifications committed to conference: Messrs. TOM DAVIS of Virginia, PLATTS, and WAXMAN.

From the Committee on Homeland Security, for consideration of sections 1834, 6027, 7324, and 7325 of the Senate amendment, and modifications committed to conference: Messrs. COX, DANIEL E. LUNGREN of California, and THOMPSON of Mississippi.

From the Committee on the Judiciary, for consideration of sections 1211, 1605, 1812, 1832, 2013, 2017, 4105, 4201, 4202, 4214, 7018–7020, and 7023 of the House bill, and sections 1410, 1512, 1513, 6006, 6029, 7108, 7113, 7115, 7338, 7340, 7343, 7345, 7362, 7363, 7406, 7407, and 7413 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

From the Committee on Resources, for consideration of sections 1119, 3021, 6002, and 6003 of the House bill, and sections 1501, 1502, 1505, 1511, 1514, 1601, 1603, 6040, and 7501–7518 of the Senate amendment, and modifications committed to conference: Messrs. POMBO, WALDEN of Oregon, and KIND.

From the Committee on Rules, for consideration of sections 8004 and 8005 of the House bill, and modifications committed to conference: Mr. DREIER, Mrs. CAPITO, and Mr. MCGOVERN.

From the Committee on Science, for consideration of sections 2010, 3013, 3015, 3034, 3039, 3041, 4112, and title V of the House bill, and title II and sections 6014, 6015, 6036, 7118, 7212, 7214, 7361, and 7370 of the Senate amendment, and modifications committed to conference: Messrs. EHLERS, REICHERT, and GORDON.

From the Committee on Ways and Means, for consideration of title X of the House bill, and title V of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, MCCRERY, and RANGEL.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1224. An act to repeal the prohibition on the payment of interest on demand deposits, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2528. An act making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1127. A bill to require the Secretary of Defense to submit to Congress all documentation related to the Secretary's recommendations for the 2005 round of defense base closure and realignment.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 810. An act to amend the Public Health Service Act to provide for human embryonic stem cell research.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2340. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the Defense Base Closure and Realignment Act of 1990; to the Committee on Armed Services.

EC–2341. A communication from the Special Assistant to the Secretary of the Navy for Base Realignment and Closure, Department of the Navy, transmitting, pursuant to law, a report entitled "Supplemental Information to Volume IV of the Department of Defense Base Closure Report [Department of the Navy (DON) Analyses and Recommendations]"; to the Committee on Armed Services.

EC–2342. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the Defense Base Closure and

Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–2343. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report entitled "Department of Defense Fiscal Year 2004 Purchases from Foreign Entities"; to the Committee on Armed Services.

EC–2344. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to amounts of staff-years of technical effort to be allocated for each defense Federally Funded Research and Development Center (FFRDC) during Fiscal Year 2006; to the Committee on Armed Services.

EC–2345. A communication from the Secretary of Energy, transmitting, a report of proposed legislation relative to amending the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; to the Committee on Armed Services.

EC–2346. A communication from the Principal Deputy, Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report relative to the status of female members of the Armed Forces for Fiscal Year 2004; to the Committee on Armed Services.

EC–2347. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Contractor Personnel Supporting a Force Deployed Outside the United States" (DFARS Case 2003-D087) received on May 23, 2005; to the Committee on Armed Services.

EC–2348. A communication from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NOAA Climate and Global Change Program, FY 2006" (FRN, Docket No.: 000616180–5104–11) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2349. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NMFS is Opening Directed Fishing for Species that Comprise the Deep-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska (GOA)" (Docket NO. 041126333–5040–02; I.D. 042105C) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2350. A communication from the Acting Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Federal-State Joint Board on Universal Service, Report and Order in CC Docket No. 96–45: FCC 05–46" received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2351. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Cedarville, California)" (MB Docket No. 04–387) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2352. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dulac, Louisiana, King City, California; Fallon Station, Nevada; Coachella, California; Cambria, California; Carbon, Texas; and Northport, Alabama)" (MB Docket Nos. 04–329, 04–332 through 04–337) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2353. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, TV Broadcast Stations; Green Bay, WI." (MB Docket No. 01–315, RM–10136) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2354. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Shorter, Orrville, Selma and Birmingham, Alabama)" (MB Docket No. 04–201) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2355. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Implementation of Section 304 of the Telecommunications Act of 1996 Commercial Availability of Navigation Devices" (FCC 05–76, CS Docket No. 97–80) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2356. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Quarter II Fishery for Loligo Squid" (I.D. 042005B) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2357. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closing Directed Fishing for Pacific Cod by Catcher Vessels Less than 60 Feet Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. 041805D) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2358. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder; 2005 Specifications; Commercial Summer Flounder Quota Transfer" (I.D. 031805C) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2359. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Species in the Rock Sole/Flathead Sole/'Other Flatfish' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area" (I.D. 042105B) received on May 23, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2360. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Rules of Practice" (RIN2126–AA15) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2361. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (58); Amdt. No. 3122" ((RIN2120–AA65) (2005–0017)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2362. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Definition of Commuter Aircraft at Ronald Reagan Washington National Airport" (RIN2120–AI58) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2363. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Ineligibility for an Airman Certificate Based on Security Grounds; DISPOSITION OF COMMENTS" ((RIN2120–AH84) (2005–0001)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2364. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Federal Airways V–2, V–257 and V–343; MT" ((RIN2120–AA66) (2005–0114)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2365. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airport Noise Compatibility Planning: DISPOSITION OF COMMENTS" ((RIN2120–AI37) (2005–0001)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2366. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS355E, F, F1, F2, and N Helicopters" ((RIN2120–AA64) (2005–0253)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2367. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 2B19 Airplanes" ((RIN2120–AA64) (2005–0257)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2368. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB SF340A and SAAB 340B Series Airplanes" ((RIN2120–AA64) (2005–0256)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2369. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC 8 102, 103, 106, 201, 202, 301, 311, and 315 Airplanes" ((RIN2120-AA64) (2005-0255)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2370. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F 28 Series Airplanes" ((RIN2120-AA64) (2005–0254)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2371. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Schweizer Aircraft Corp Model 269 C, C-1, and D Helicopters" ((RIN2120–AA64) (2005–0252)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2372. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B4-600, 600R, and FR-600R Series Airplanes, and Model C4 605R Variant F Airplanes; and Model A310 Series Airplanes" ((RIN2120-AA64) (2005-0251)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2373. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce Corporation 250–B Series and 250 C Series Turboprop and Turboshaft Engines" ((RIN2120–AA64) (2005–0249)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2374. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777-200 Series Airplanes" ((RIN2120-AA64) (2005–0248)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2375. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-100, 100B, 200B, 300, 400, 400D, 747SR, and 747SP Series Airplanes" ((RIN2120-AA64) (2005-0247)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2376. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-300, 400, and 500 Series Airplanes" ((RIN2120–AA64) (2005–0250)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2377. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777-200 and 300 Series Airplanes" ((RIN2120–AA64) (2005–0246)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2378. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 100B, 100B SUD, 200B, 200C, 300, 400, and 400D Series Airplanes; and Model 747SR Series Airplanes" ((RIN2120–AA64) (2005-0245)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2379. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Airplanes" ((RIN2120–AA64) (2005–0244)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2380. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF–80E1 Series Turbofan Engines" ((RIN2120–AA64) (2005–0243)) received on May 24, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2381. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" ((44 CFR 65) (Doc. No. FEMA–B–7451)) received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC-2382. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR 67) received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2383. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" ((44 CFR 65) (Doc. No. FEMA-P-7642)) received on May 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 606. A bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes (Rept. No. 109-74).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 302. A bill to make improvements in the Foundation for the National Institutes of Health (Rept. No. 109-75).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPECTER for the Committee on the Judiciary.

Richard A. Griffin, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

David W. McKeague, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Regina B. Schofield, of Virginia, to be an Assistant Attorney General.

Paul D. Clement, of Virginia, to be Solicitor General of the United States.

Gretchen C. F. Shappert, of North Carolina, to be United States Attorney for the Western District of North Carolina for the term of four years.

Anthony Jerome Jenkins, of Virgin Islands, to be United States Attorney for the District of the Virgin Islands for the term of four years.

Stephen Joseph Murphy III, of Michigan, to be United States Attorney for the Eastern District of Michigan for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

NOMINATIONS DISCHARGED BY THE COMMITTEE ON FOREIGN RELATIONS AND CONFIRMED

Nominee: Victoria Nuland.

Post: U.S. Mission to NATO.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self
2. Spouse
3. Children and Spouses
4. Parents: $100.00, Sept 2004, Kerry for President; Names: Sarah P. Nuland (stepmother).
5. Grandparents
6. Brothers and Spouses
7. Sisters and Spouses

Nominee: John F. Tefft.

Post: Tblisi, Georgia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, None.
2. Spouse, None.
3. Children and Spouses: Christine Marie Tefft, $50, 2004, John Kerry; Cathleen Mary Tefft and Andrew Horowitz, $50, 2004, John Kerry.
4. Parents: Floyd F. Tefft, $50, 2004, Russ Feingold for Senate; Mary J. Tefft (deceased).
5. Grandparents: Floyd B. Tefft (deceased); Lucy Britt Tefft (deceased); James Durkin (deceased); Julia Healy Durkin (deceased).
6. Brothers and Spouses: Thomas and Julie Tefft, none; James Tefft and Victoria Wise, none.
7. Sisters and Spouses: Patricia Tefft Cousin (deceased); Sheila Tefft and Rajiv Chandra, none.

Nominee: David Horton Wilkins.

Post: U.S. Ambassador to Canada.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self: David H. Wilkins, $5,000.00, 10/2004, RNC Presidential Trust; $5,000.00, 9/2004, RNC Presidential Trust; $10,000.00, 8/2004, RNC Presidential Trust; $1,000.00, 7/2004, DeMint for Congress; $4,000.00, 8/2003, Bush-Cheney '04 (joint); $50.00, 6/2003, Republican National Comm.; $50.00, 2/2003, Republican National Comm.; $75.00, 2/2003, Republican National Comm.; $1,000.00, 4/02/01, Lindsey Graham for Senate.

2. Spouse: Susan C. Wilkins, none.

3. Children and Spouses: Robert & Stephanie Wilkins, $4,000.00, 2003, Bush-Cheney '04 (joint); James Wilkins, $2,000.00, 2003, Bush-Cheney '04.

Parents: deceased, William W. Wilkins, Sr., Evelyn Horton Wilkins, none.

5. Grandparents: deceased, Mr. & Mrs. Millard Horton, Mr. & Mrs. William C. Wilkins, none.

6. Brothers and Spouses: Mr. & Mrs. William W. Wilkins, Jr., Mr. Robert Terrell Wilkins, none.

7. Sisters and Spouses: Bryan & Nancy W. Lyndon, $4,000.00, 2003, Bush-Cheney '04.

Nominee: Wiliam Alan Eaton.

Post: Panama.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self: $0.

2. Spouse: N/A.

3. Children and Spouses: N/A.

4. Parents: Marjory C. Eaton (mother), $0.

5. Grandparents: Ethel & Lee Combs (maternal, deceased), $0; Lettie & Oscar Eaton (paternal, deceased), $0.

6. Brothers and Spouses: N/A.

7. Sisters and Spouses: Christine D. Fellers (sister), $0; Larry L. Fellers (brother-in-law), $0.

Nominee: James M. Derham.

Post: Guatemala.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self: James M. Derham, none.

2. Spouse: Joleen A. Schweitzer, none.

3. Children and Spouses: Michael T. Derham, $35, 8/2004, DNC; Christopher D. Derham, none; Katherine M. Derham, none.

4. Parents: John A. Derham, deceased; Dorothy K. Derham, none.

5. Grandparents: John Derham, deceased; Margaret Derham, deceased; Walter Kingwell, deceased; Dorothy Kingwell, deceased.

6. Brothers and Spouses: Dennis J. Derham, none.

7. Sisters and Spouses: N/A.

Nominee: Paul A. Trivelli.

Post: U.S. Ambassador to Nicaragua.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self: none.

2. Spouse: none.

3. Children and Spouses: Carlos Trivelli (unmarried), none; Daniela Trivelli (unmarried), none.

4. Parents: Ruth Trivelli (mother), none; Benjamin Trivelli (father) and spouse Sharon, $250.00, 6/30, Rosa DeLauro; $200, 2/03, Rosa DeLauro.

5. Grandparents: Anna Trivelli (deceased); Matthew Trivelli (deceased); Arthur Anderson (deceased); Ruth Anderson (deceased).

6. Brothers and Spouses: Vincent Trivelli and spouse Joyce, $100, summer 04, Kerry campaign; Philip Trivelli and spouse Natalie, $20, summer 04, Kerry campaign.

7. Sisters and Spouses: Pamela Combies (unmarried), none.

Nominee: Linda Jewell.

Post: Ambassador to Ecuador.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, Date, and Donee:

1. Self: Linda Jewell, $100, 2/5/04, Dem. Nat'l Comm.

2. Spouse: John Walsh, $150, 5/22/04, John Kerry for Pres.; $50, 09/04, John Kerry for Pres.

3. Children and Spouses: Susanna Walsh (no spouse), 0; Patrick Walsh (no spouse), 0.

4. Parents: Analee Jewell, 0; Robert Jewell (deceased), 0.

5. Grandparents: Albert Jewell (deceased); Eliza Jewell (deceased); H. Frank Rider (deceased); Ada Rider (deceased).

6. Brothers and Spouses: Frank Jewell and Sarah Lavicka, $250, 1/11/01, Dem. Nat'l Comm.; $50 6/27/04, Campus Dems.; $50, 7/11/04, John Kerry for Pres.; $500, 8/19/04, Dem. Nat'l Comm.; $500, 9/29/04, www.democrats.org.

7. Sisters and Spouses: None.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WYDEN (for himself and Mr. Sununu):

S. 1128. A bill to amend title XIX of the Social Security Act to provide for increased rebates under the medicaid program for prescription drugs that are directly advertised to consumers, to require other Federal programs purchasing or reimbursing for such drugs to establish payment and reimbursement mechanisms that reduce the costs of those drugs, and for other purposes; to the Committee on Finance.

By Mr. LUGAR (for himself and Mr. Hagel):

S. 1129. A bill to provide authorizations of appropriations for certain development banks, and for other purposes; to the Committee on Foreign Relations.

By Ms. STABENOW (for herself, Ms. Landrieu, and Mr. Levin):

S. 1130. A bill to treat the Tuesday next after the first Monday in November as a legal public holiday for purposes of Federal employment, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 1131. A bill to authorize the exchange of certain Federal land within the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COLEMAN (for himself, Ms. Landrieu, Mr. DeWine, Ms. Snowe, Mr. Cochran, Mr. Vitter , Mr. Bayh, and Mr. Smith):

S. 1132. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BYRD (for himself, Mr. Rockefeller, and Mr. Specter):

S. 1133. A bill to authorize the Secretary of Energy to develop and implement an accelerated research, development, and demonstration program for advanced clean coal technologies for use in coal-based generation facilities and to provide financial incentives to encourage the early commercial deployment of advanced clean coal technologies through the retrofitting, repowering, replacement, and new construction of coal-based electricity generating facilities and industrial gasification facilities; to the Committee on Energy and Natural Resources.

By Mrs. CLINTON (for herself, Ms. Collins, Ms. Landrieu, Mrs. Murray, Mr. Reed, and Ms. Mikulski):

S. 1134. A bill to express the sense of Congress on women in combat; to the Committee on Armed Services.

By Mr. BENNETT (for himself and Mr. Hatch):

S. 1135. A bill to authorize the exchange of certain land in Grand and Uintah Counties, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THUNE (for himself, Mr. Johnson, Ms. Collins, Ms. Snowe, Mr. Sununu, Mr. Corzine, Mr. Lieberman, Mr. Lautenberg, Mr. Domenici, Mr. Dodd, and Mr. Bingaman):

S. 1136. A bill to facilitate the provision by members of the Armed Forces of testimony on the military value of military installations in connection with the 2005 round of defense base closure and realignment; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. McCain, and Mr. Allen):

S. 1137. A bill to include dehydroepiandrosterone as an anabolic steroid; to the Committee on the Judiciary.

By Mr. ALLEN:

S. 1138. A bill to authorize the placement of a monument in Arlington National Cemetery honoring the veterans who fought in World War II as members of Army Ranger Battalions; to the Committee on Veterans' Affairs.

By Mr. SANTORUM:

S. 1139. A bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CARPER (for himself and Mr. Biden):

S. 1140. A bill to designate the State Route 1 Bridge in the State of Delaware as the "Senator William V. Roth, Jr. Bridge"; to the Committee on Environment and Public Works.

By Mr. COCHRAN (for himself, Mr. Pryor, Mr. Chambliss, and Mr. Roberts):

S. 1141. A bill to authorize the Secretary of Homeland Security to regulate ammonium nitrate; to the Committee on Homeland Security and Governmental Affairs.

By Ms. LANDRIEU (for herself, Mr. Graham, Mr. Allen, Mr. Durbin, and Mr. Lautenberg):

S. 1142. A bill to provide pay protection for members of the Reserve and the National Guard, and for other purposes; to the Committee on Finance.

By Mr. ENZI:

S. 1143. A bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 1144. A bill to provide military retirement credit for certain service by National Guard members performed while in a State duty status immediately after the terrorist attacks of September 11, 2001; to the Committee on Armed Services.

By Mr. KENNEDY (for himself, Mr. Specter, Mr. Smith, Mr. Leahy, Ms. Collins, Mr. Lieberman, Ms. Snowe, Mr. Wyden, Mr. Jeffords, Mr. Schumer, Mr. Chafee, Mr. Akaka, Mr. Ensign, Mr. Bayh, Mr. Biden, Mr. Bingaman, Mrs. Boxer, Ms. Cantwell, Mrs. Clinton, Mr. Coleman, Mr. Corzine, Mr. Dayton, Mr. Dodd, Mr. Durbin, Mrs. Feinstein, Mr. Harkin, Mr. Inouye, Mr. Johnson, Mr. Kerry, Ms. Landrieu, Mr. Levin, Mrs. Lincoln, Ms. Mikulski, Mrs. Murray, Mr. Nelson of Nebraska, Mr. Nelson of Florida, Mr. Obama, Mr. Reed, Mr. Salazar, Mr. Sarbanes, Ms. Stabenow, Mr. Lautenberg, Mr. Pryor, and Mr. Rockefeller):

S. 1145. A bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 1146. A bill to require the Federal Trade Commission to monitor and investigate gasoline prices under certain circumstances; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself, Ms. Snowe, Mr. Baucus, Mr. Burns, Mr. Schumer, Mr. Bunning, and Ms. Cantwell):

S. 1147. A bill to amend the Internal Revenue Code of 1986 to provide for the expensing of broadband Internet access expenditures, and for other purposes; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Ms. Stabenow, Mr. Bingaman, Mrs. Murray, Mr. Corzine, Mr. Johnson, and Mr. Inouye):

S. 1148. A bill to amend title XVIII of the Social Security Act to permit direct payment under the medicare program for clinical social worker services provided to residents of skilled nursing facilities; to the Committee on Finance.

By Mr. ISAKSON (for himself and Mr. Kennedy):

S. 1149. A bill to amend the Federal Employees' Compensation Act to cover services provided to injured Federal workers by physician assistants and nurse practitioners, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. CLINTON:

S. 1150. A bill to increase the security of radiation sources, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McCAIN (for himself and Mr. Lieberman):

S. 1151. A bill to provide for a program to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, to support the deployment of new climate change-related technologies, and ensure benefits to consumers; to the Committee on Environment and Public Works.

By Ms. SNOWE (for herself, Mr. Kerry, Mr. Smith, and Ms. Collins):

S. 1152. A bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the Medicare Program; to the Committee on Finance.

By Mr. BUNNING (for himself and Mr. Thomas):

S. 1153. A bill to provide Federal financial incentives for deployment of advanced coal-based generation technologies; to the Committee on Finance.

By Ms. COLLINS (for herself and Ms. Snowe):

S. 1154. A bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself, Mr. Alexander, Mr. Allard, Mr. Bunning, Mr. Chambliss, Mr. Coburn, Mr. Cornyn, Mr. Craig, Mr. Crapo, Mr. DeMint, Mr. Ensign, Mr. Enzi, Mr. Graham, Mrs. Hutchison, Mr. Inhofe, Mr. Isakson, Mr. McCain, Mr. Santorum, Mr. Sessions, Mr. Sununu, Mr. Talent, and Mr. Thune):

S. 1155. A bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HATCH:

S. 1156. A bill to amend the Internal Revenue Code of 1986 to extend the credit period for electricity produced from renewable resources at certain facilities, to extend the credit for electricity produced from certain renewable resources, and for other purposes; to the Committee on Finance.

By Mr. CRAPO (for himself, Mr. Reid, Mr. Allard, Mr. Baucus, Mr. Craig, and Mr. Ensign):

S. 1157. A bill to amend the Internal Revenue Code of 1986 to treat gold, silver, platinum, and palladium, in either coin or bar form, in the same manner as equities and mutual funds for purposes of maximum capital gains rate for individuals; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. Akaka, and Mr. Lautenberg):

S. 1158. A bill to impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH (for himself, Mr. Baucus, Mr. Smith, Mr. Schumer, Mr. Crapo, Mr. Lott, Mr. Kyl, and Mrs. Lincoln):

S. 1159. A bill to amend the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing; to the Committee on Finance.

By Mr. SMITH (for himself, Mrs. Lincoln, Mr. Rockefeller, and Mr. Kerry):

S. 1160. A bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plan; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COBURN (for himself and Mr. Inhofe):

S. Res. 157. A resolution congratulating Carrie Underwood for winning the "American Idol" television program and thanking her for being a positive role model; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. Allard, Mr. Allen, Mr. Bayh, Mr. Bunning, Mr. Chambliss, Mr. Cochran, Mr. DeMint, Mr. DeWine, Mrs. Dole, Mr. Dodd, Mr. Durbin, Mrs. Hutchison, Mr. Isakson, Mr. Kerry, Ms. Landrieu, Mr. Lott, Ms. Mikulski, Mr. Santorum, Mr. Sessions, Mr. Specter, Mr. Talent, Mr. Voinovich, Mr. Schumer, Mr. Brownback, Mr. Obama, and Mr. Burr):

S. Res. 158. A resolution expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week"; to the Committee on the Judiciary.

By Mr. INHOFE (for himself and Mr. Coburn):

S. Res. 159. A resolution recognizing the 50th anniversary of the Oklahoma Independent Petroleum Association and its members vital contribution to the oil and gas industry of the United States; considered and agreed to.

By Mrs. CLINTON (for herself and Mr. Hagel):

S. Con. Res. 39. A concurrent resolution to express the sense of Congress on the Purple Heart; to the Committee on Armed Services.

By Mr. LUGAR:

S. Con. Res. 40. A concurrent resolution recognizing and commending the President and the governments of other countries that have participated in the Proliferation Security Initiative for the historic efforts and successes of the Proliferation Security Initiative in reducing the threat posed by illicit trafficking in weapons of mass destruction, their means of delivery, and related materials, on the occasion of the second anniversary of the establishment of the Proliferation Security Initiative; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. Reid, the name of the Senator from Delaware (Mr. Carper) was added as a cosponsor of S. 20, a bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

S. 103

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 313

At the request of Mr. LUGAR, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 327

At the request of Mrs. LINCOLN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to expand the tip credit to certain employers and to promote tax compliance.

S. 333

At the request of Mr. SANTORUM, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Nevada (Mr. REID), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New York (Mr. SCHUMER), the Senator from Washington (Mrs. MURRAY), the Senator from South Carolina (Mr. DEMINT) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 418

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 418, a bill to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 593

At the request of Ms. COLLINS, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 593, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries.

S. 603

At the request of Ms. LANDRIEU, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 642

At the request of Mr. FRIST, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 793

At the request of Mr. DURBIN, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 793, a bill to establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes.

S. 844

At the request of Mr. REID, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 844, a bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

S. 935

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 935, a bill to regulate .50 caliber sniper weapons designed for the taking of human life and the destruction of materiel, including armored vehicles and components of the Nation's critical infrastructure.

S. 936

At the request of Mr. LEAHY, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 936, a bill to ensure privacy for e-mail communications.

S. 962

At the request of Mr. GRASSLEY, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 985

At the request of Mrs. CLINTON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 985, a bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes.

S. 1049

At the request of Mr. FRIST, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1049, a bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and State children's health insurance programs, and for other purposes.

S. 1055

At the request of Mr. KENNEDY, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. JEFFORDS), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Rhode Island (Mr. REED) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1055, a bill to improve elementary and secondary education.

S. 1062

At the request of Mr. KENNEDY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1062, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 1075

At the request of Mr. THUNE, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1075, a bill to postpone the 2005 round of defense base closure and realignment.

S. 1081

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1110

At the request of Mr. ALLEN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1110, a bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1120

At the request of Mr. DURBIN, the name of the Senator from Ohio (Mr.

DEWINE) was added as a cosponsor of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1127

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1127, a bill to require the Secretary of Defense to submit to Congress all documentation related to the Secretary's recommendations for the 2005 round of defense base closure and realignment.

S.J. RES. 18

At the request of Mr. MCCONNELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 20

At the request of Mr. COCHRAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 20, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month.

S. RES. 153

At the request of Mr. SESSIONS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. Res. 153, a resolution expressing the support of Congress for the observation of the National Moment of Remembrance at 3:00 pm local time on this and every Memorial Day to acknowledge the sacrifices made on the behalf of all Americans for the cause of liberty.

AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 762 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself and Mr. HAGEL):

S. 1129. A bill to provide authorizations of appropriations for certain development banks, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce legislation authorizing replenishment of funds to three of the five multilateral development banks, as requested by the U.S. Department of the Treasury. In addition, this legislation includes a long list of reform measures, intended to bring about transparency and accountability at all of the MDBs—the World Bank, the African Development Bank, the Asian Bank, the Inter-American Bank and the European Bank for Reconstruction and Development.

The World Bank, was the first MDB to be established in 1944, followed by the African Development Bank, 1964 and the Asian Development Bank, 1966. The shared original purpose of the three banks was to encourage economic development and reduce poverty in geographic regions impacted by the respective institutions.

I support the original operating purpose of the banks. However, I am deeply concerned that massive amounts of funds are not utilized as originally intended, due to diversion of those funds.

In 2003, I received information from credible sources within the MDBs alleging corruption on various fronts. As a result, I instructed staff of the Senate Foreign Relations Committee to commence collecting information on the anti-corruption strategies, and successes of each bank.

Based on the initial findings, I launched an investigation, reviewing corruption at the banks and their efforts to combat it. To date, I have chaired four hearings and sent letters of inquiry regarding individual projects to the bank presidents. Committee staff have interviewed scores of NGO representatives, bank insiders, academics and others, and have visited problem projects in six countries. Far too often, projects intended to boost economic development are derailed, and the poor suffer, unable to realize projected benefits in quality health care, clean water and education.

While the United States is one of dozens of donors, the financial contribution of American taxpayers over the years to these three institutions alone exceeds $30 billion. The Congress has an obligation to our own citizens, as well as the intended beneficiaries of MDB projects, to press for transparency and accountability in the banks' operations.

Through adoption of the package of reforms I propose, the United States would set an example for other donor countries, encouraging their officials to also press for transparency and accountability.

I am pleased there is good news to report. The World Bank has embarked on an anti-corruption voluntary cooperation initiative, based in part on the Pentagon's anticorruption efforts. In addition, leading government officials from Italy, Spain and other countries have contacted the Committee, asking for more information about our review, and comparing strategies on ways of improving bank transparency. Finally, we have witnessed incremental improvements of greater transparency among the banks as a result of the Committee's ongoing work.

However, there is more to accomplish. This substantive package of reforms is based on our findings to date, and the input of many who support the original stated purpose of the multilateral development banks.

The Committee's oversight work continues, with the goal of enduring results.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Development Bank Reform and Authorization Act of 2005".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States has strong national security and humanitarian interests in alleviating poverty and promoting development around the world.

(2) The World Bank, the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank leverage the resources that the United States and other donors can devote to such goals.

(3) Contributions from the United States and other donors to the multilateral development banks must be well managed so that the mission of such banks is fully realized and not undermined by corruption. Bribes can influence important bank decisions on projects and contractors and misuse of funds can inflate project costs, cause projects to fail, and undermine development effectiveness.

(4) Officials of the World Bank have identified corruption as the single greatest obstacle to economic and social development. Corruption undermines development by distorting the rule of law and weakening the institutional foundation on which economic growth depends.

(5) Officials of the World Bank have determined that the harmful effects of corruption are especially severe on the poor, who are hardest hit by economic decline, are most reliant on the provision of public services, and are least capable of paying the extra costs associated with bribery, fraud, and the misappropriation of economic privileges.

(6) In hearings before the Foreign Relations Committee of the Senate, it was demonstrated that—

(A) significant multilateral development bank funding has been lost to corruption and it is difficult to ascertain such amount precisely, in part because the multilateral development banks have not implemented procedures to calculate such amounts, either in the aggregate or on a country basis;

(B) the multilateral development banks are taking action to address fraud and corruption but additional measures remain to be carried out;

(C) the capability of anti-corruption mechanisms are not consistent among the multilateral development banks and divergences in anti-corruption policies exist that may hinder coordination on fighting corruption;

(D) weaknesses in whistleblower policy and practice exist at the multilateral development banks, to varying degree, that impede anti-fraud and anti-corruption efforts;

(E) greater transparency is necessary to provide effective development aid;

(F) the Secretary of the Treasury encourages anti-corruption efforts at the multilateral development banks and reviews loans made by such banks, however, the United States has limited ability to investigate the misuse of funds from such banks; and

(G) in some cases, the countries bearing the cost of prosecuting corruption related to the multilateral development banks are the countries that can least afford such costs, for example, the Government of Lesotho incurred considerable expense, despite competing priorities, such as those arising from an HIV/AIDS rate of more than 25 percent in that country, to investigate and prosecute fraud and corruption related to a project that received funding from the World Bank and the World Bank did not contribute money towards the prosecution or investigation.

(7) The General Accounting Office issued a report in 2001 that evaluated the external audit reporting of the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank and a report in 2000 that evaluated the internal controls of the World Bank, and recommended measures to strengthen such audit reporting and controls.

(8) The International Financial Institutions Advisory Commission (also known as the "Meltzer Commission") concluded in 2000, among other things, that—

(A) pressure to lend for lending's sake is built into the structure of the multilateral development banks;

(B) although several of the multilateral development banks recognize this problem and have called attention to the need for change, there is, at most, weak counterbalance to the pressure to lend; and

(C) the multilateral development banks' systems for project evaluation, performance evaluation, and project selection must be improved, and that such evaluation should be a repetitive process spread over time, including many years after final disbursement of funds.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations and the Committee on Financial Services of the House of Representatives.

(2) GROUP OF 7.—The term "Group of 7" means Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States.

(3) GROUP OF 8.—The term "Group of 8" means the Group of 7 and Russia.

(4) MULTILATERAL DEVELOPMENT BANKS.—The term "multilateral development banks" means the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the World Bank, and any subsidiary or affiliate of such institutions.

(5) PERSON.—The term "person" includes a government, a government-controlled entity, a corporation, a company, an association, a firm, a partnership, a society, and a joint stock company, as well as an individual.

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Treasury.

(7) WORLD BANK.—The term "World Bank" means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, and the Multilateral Investment Guarantee Agency and any subsidiary or affiliate of such institutions.

SEC. 4. REFORMS.

(a) AUTHORITY.—The Secretary is authorized to seek the creation of a pilot program that establishes an Anti-Corruption Trust at the World Bank, as described in this section.

(b) PURPOSES.—The purposes of the Anti-Corruption Trust pilot program shall include—

(1) to assist poor countries in investigations and prosecutions of fraud and corruption related to a loan, grant, or credit of the World Bank; and

(2) to determine whether such a program should be carried out at other multilateral development banks.

(c) REPAYMENT OF FUNDS.—If a poor country assesses a fine or receives any renumeration as part of a prosecution paid for with funds from the Anti-Corruption Trust pilot program, such country shall repay the amount received from the Trust until the total amount received by such country is repaid.

(d) MONITORING.—The Secretary shall be responsible for establishing a system for monitoring the disbursement and use of funds from the Anti-Corruption Trust pilot program and promoting access to such funds by poor countries that are challenged by the high cost of investigating and prosecuting corruption and fraud linked to a loan from, or a project funded by, the World Bank.

(e) OTHER DONORS.—The Secretary shall encourage other donors to the multilateral development banks to contribute funds to the Anti-Corruption Trust.

(f) POOR COUNTRIES DEFINED.—In this section, the term "poor countries" means countries eligible to borrow from the International Development Association, as such eligibility is determined by gross national product per capita, lack of creditworthiness to borrow on market terms, and good policy performance.

(g) REPORTS.—

(1) REPORT ON IMPLEMENTATION.—Not later than September 1, 2006, the Secretary shall submit to the appropriate congressional committees a report that describes the actions taken to establish the Anti-Corruption Trust as described in this section.

(2) REPORT ON EVALUATION.—Not later than September 1, 2007, the Secretary shall submit to the appropriate congressional committees a report that—

(A) evaluates the effectiveness of the Anti-Corruption Trust pilot program; and

(B) evaluates the feasibility of establishing similar trusts at other multilateral development banks.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary for contribution on behalf of the United States to an Anti-Corruption Trust if a pilot program establishing such a Trust is established as described in this section.

SEC. 5. PROMOTION OF POLICY GOALS AT MULTILATERAL DEVELOPMENT BANKS.

Title XV of the International Financial Institutions Act (22 U.S.C. 262o) is amended by adding at the end the following:

"SEC. 1505. PROMOTION OF POLICY GOALS.

"(a) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations and the Committee on Financial Services of the House of Representatives.

"(2) MULTILATERAL DEVELOPMENT BANKS.—The term 'multilateral development banks' means the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the World Bank, and any subsidiary or affiliate of such institutions.

"(3) PERSON.—The term 'person' includes a government, a government-controlled entity, a corporation, a company, an association, a firm, a partnership, a society, and a joint stock company, as well as an individual.

"(4) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of the Treasury.

"(5) WORLD BANK.—The term 'World Bank' means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, and the Multilateral Investment Guarantee Agency, and any subsidiary or affiliate of such institutions.

"(b) TRANSPARENCY.—

"(1) PUBLICATION OF STATEMENTS.—

"(A) IN GENERAL.—Not later than 60 calendar days after a meeting of the board of directors of a multilateral development bank, the Secretary shall provide for publication on the Internet Web site of the Department of the Treasury of—

"(i) the justification for each vote by the United States Executive Director at the multilateral development bank on any matter before the board of directors of the bank; and

"(ii) any written statement presented at the meeting by such United States Executive Director at the bank concerning—

"(I) a lending, grant, or guarantee operation which would result or be likely to result in significant social or environmental effects;

"(II) an institutional policy or strategy of the bank that generates significant public interest, including operational policies and sector or thematic strategies;

"(III) a project on which a claim has been made to the inspection mechanism of the bank; or

"(IV) a case pending before the inspection mechanism of the bank.

"(B) REDACTED MATERIAL.—The Secretary may redact material from the material to be made available under subparagraph (A) if the Secretary determines such material is too sensitive for public distribution.

"(2) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of the publication policy described in paragraph (3), and use the voice and vote of the United States to implement such policy.

"(3) PUBLICATION POLICY.—

"(A) IN GENERAL.—The publication policy referred to in paragraph (2) is a policy that each multilateral development bank shall—

"(i) make available to the public, including on the Internet Web site of such bank, the loan, credit, and grant documents, country assistance strategies, sector strategies, and sector policies prepared by the bank that are to be presented for endorsement or approval by the board of directors of the bank, 15 calendar days prior to the date that such document, strategy, or policy will be considered by the board or, if not available at that time, at the time the documents are distributed to the board;

"(ii) make available to the public all draft country strategies 120 calendar days prior to consideration of such strategies by the board of directors of the bank;

"(iii) make a concerted effort to distribute paper copies of the material referred to in clauses (i) and (ii) to communities affected by the documents referred to in such clauses;

"(iv) make available to the public, including on the Internet Web site of such bank, the minutes of a meeting of the board of directors of the bank, not later than 60 calendar days after the date that the bank approves the minutes of the board meeting;

"(v) make available to the public, including on the Internet Web site of such bank, a summary of discussion of the meeting of the board of directors of the bank, not later than 90 calendar days after the date of the meeting;

"(vi) keep a written transcript or electronic recording of each meeting of its board of directors and preserve the transcript or recording for not less than 10 years after the date of such meeting; and

"(vii) make available to the public a written transcript or an electronic recording of a meeting of the board of directors of the bank during the 5-year period beginning on the date that is 5 years after the date of the meeting.

"(B) REDACTED MATERIAL.—The president of a multilateral development bank may redact material from the material to be made available under subparagraph (A) if the president of a multilateral development bank determines such material is too sensitive for public distribution.

"(c) STRENGTHENING DEVELOPMENT BANK ADMINISTRATION.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of, and use the voice and vote of the United States to achieve at the bank, the following United States policy goals:

"(1) Each multilateral development bank shall require mandatory financial disclosure of any possible or apparent conflict of interest by each employee of the bank, consultant to the bank, or independent expert to the bank whose duties and responsibilities include, through decision or the exercise of judgment, the taking of any action regarding—

"(A) contracting or procurement;

"(B) developing, administering, managing, or monitoring loans, grants, programs, projects, subsidies, or other conferred financial or operational benefits provided by the bank; or

"(C) evaluating or auditing any project, program or entity.

"(2) Each multilateral development bank shall reform the 'pressure to lend' incentive structure at such bank by linking project design and implementation to staff performance appraisals and shall require that staff increase its focus on monitoring existing loans.

"(3) Each multilateral development bank shall continue strengthening whistleblower policies at the bank to the level of emerging standards for national and international law in the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.), the Inspector General Act of 1978 (5 U.S.C. App.), and the model approved for member nations by the Organization of American States to implement the Inter-American Convention Against Corruption, done at Caracas on March 29, 1996.

"(4) All loan, credit, guarantee, and grant documents and other agreements with borrowers shall include provisions for the financial resources and conditionality necessary to ensure that a person who obtains financial support from a multilateral development bank complies with applicable bank policies and national and international laws in carrying out the terms and conditions of such documents and agreements, including bank policies and national and international laws pertaining to the comprehensive assessment and transparency of the activities supported, such as those concerning public consultation, access to information, public health, safety, and environmental protection.

"(5) Each multilateral development bank shall develop clear procedures setting forth the circumstances under which a person will be barred from receiving a loan, contract, grant, or credit from such bank, shall make such procedures available to the public, and shall make the identities of such person available to the public.

"(6) Each multilateral development bank shall coordinate policies across international institutions on issues including debarment, cross-debarment, procurement and consultant guidelines, and fiduciary standards so that a person that is debarred by one multilateral development bank is automatically declared ineligible to conduct business with the other multilateral development banks during the specified ineligibility period.

"(d) ANTI-CORRUPTION PRACTICES.—

"(1) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of the United States anti-corruption policy described in paragraph (2), and use the voice and vote of the United States to implement such policy at the bank.

"(2) ANTI-CORRUPTION POLICY.—The anti-corruption policy referred to in paragraph (1) is the United States policy that a person that receives money from a multilateral development bank shall sign a code of conduct that embodies the standards set out in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2), and that prohibits such person from corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any official for purposes, directly or indirectly—

"(A)(i) influencing any act or decision of such official in his or her official capacity;

"(ii) supporting any political party, political entity, any official of a political party, or any candidate for political office;

"(iii) inducing such official to do or omit to do any act in violation of the lawful duty of such official; or

"(iv) securing any improper advantage; or

"(B) inducing such official to use the official's influence with a government or instrumentality thereof, to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any other person.

"(e) STRENGTHENING DEVELOPMENT BANK AUDITING.—

"(1) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of, and use the voice and vote of the United States to achieve at the bank, the following United States policy goals:

"(A) Each multilateral development bank shall—

"(i) establish an independent Office of an Inspector General, establish or strengthen an independent auditing function at the bank, and require that the Inspector General and the auditing function report directly to the board of directors of the bank; and

"(ii) adopt and implement an internationally recognized internal controls framework, allocate adequate staffing to auditing and supervision, require external audits of internal controls, and external and forensic audits of loans where fraud is suspected.

"(B) Each multilateral development bank shall establish a plan and schedule for conducting regular, independent audits of internal management controls and procedures for meeting operational objectives, complying with the policies of such bank, and preventing fraud, and making reports describing the scope and findings of such audits available to the public.

"(C) Each multilateral development bank shall establish effective procedures for the receipt, retention, and treatment of—

"(i) complaints received by the bank regarding fraud, accounting, mismanagement, internal accounting controls, or auditing matters; and

"(ii) the confidential, anonymous submission, particularly by employees of the bank, of concerns regarding fraud, accounting, mismanagement, internal accounting controls, or auditing matters.

"(D) Each multilateral development bank shall post on the Internet Web site of such bank an annual report containing statistical summaries and case studies of the fraud and corruption cases pursued by the bank's investigations unit.

"(f) COMPENSATION PACKAGES FOR PEOPLE NEGATIVELY AFFECTED BY DEVELOPMENT BANK PROJECTS.—

"(1) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of the United States policy goals related to compensation described in paragraph (2), and use the voice and vote of the United States to implement such policy at the bank.

"(2) COMPENSATION POLICY.—The compensation policy referred to in paragraph (1) is a policy that each multilateral development bank shall, for each project funded by the bank where compensation, including resettlement or rehabilitation assistance, is to be provided to persons adversely impacted by the project, require that an independent mechanism be established for, or included in the design of, the project to receive and adjudicate complaints from a person who is eligible for compensation if such person, not more than 6 years after the date of the completion of the project, finds that the compensation is either inadequate or improperly implemented.

"(g) EVALUATION.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of, and use the voice and vote of the United States to achieve at the bank, the following goals:

"(1) Each multilateral development bank shall make the results of project and nonproject operations evaluations available to the public, including through the Internet Web site of the bank and including information on the quantity of projects evaluated per year as a percentage of total projects carried out.

"(2) Each multilateral development bank shall require that all loans, grants, credits, policies, and strategies, including budget support, prepared by the bank include specific outcome and output indicators to measure results, and that the indicators and results be published periodically during the execution and at the completion of the appropriate project or program, and at the number of years after such completion determined to be appropriate for such loan, grant, credit, policy, or strategy.

"(3) Each multilateral development bank shall promote rigorous evaluation of projects and policies to ensure that the intent of such projects and policies is realized. Such a bank shall favor grants and loans to applicants who agree, in consultation with an independent evaluator or evaluators, to design projects to facilitate the evaluation of outcomes. Rigorous evaluations shall measure the impact on those served by a loan, grant, or credit and shall have a carefully constructed comparison group to help measure the impacts of the loan, grant, or credit.

"(h) QUALIFICATION POLICY.—

"(1) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to encourage the bank to implement the qualification policy for borrowing countries described in paragraph (2), and use the voice and vote of the United States to achieve such policy at each bank.

"(2) QUALIFICATION POLICY FOR BORROWING COUNTRIES.—The qualification policy for borrowing countries referred to in paragraph (1) is a policy that requires, in addition to the standards in effect on the date of the enactment of the Development Bank Reform and Authorization Act of 2005, each multilateral development bank to qualify a country for budget support, adjustment lending, policy lending for non-project loans, grants, or credits, or other loans directed to the country's budget based on transparency in procurement and fiduciary requirements and requiring the borrowing country to make its budget available to the public before funds are disbursed to that country.

"(i) MICROFINANCE AND BUSINESS DEVELOPMENT.—The Secretary shall inform the management of each multilateral development bank and the public that it is the policy of the United States to encourage microfinance services for the poor and very poor (as that term is defined in section 259 of the Foreign Assistance Act of 1961 (22 U.S.C. 2214a)), and micro-, small-, and medium-enterprise development programs, particularly in a country where the government of such country ranks poorly in the World Bank Institute's governance indicators.

"(j) RESOURCE DEPENDENT COUNTRY REVENUE TRANSPARENCY.—

"(1) REQUIREMENTS FOR RESOURCE ASSISTANCE FOR A GOVERNMENT.—The Secretary shall inform the management of each multilateral development bank and the public that it is the policy of the United States that any assistance provided by a such bank including any investment, loan, credit, grant, or guarantee, to a government of a resource-dependent country or for any project located in a resource-dependent country, other than humanitarian assistance, assistance to address HIV/AIDS, tuberculosis, malaria or food aid, may not be provided unless the government has in place or is taking the necessary steps to establish functioning systems for—

"(A) accurately accounting for all revenues received by a borrowing government from a person and all payments to a government in connection with the extraction or export of natural resources, such as gas, oil, oil shale, tar sands, coal, any metal, mineral, or timber;

"(B) the independent auditing of such payments and such revenues by a credible, independent auditor, applying international auditing standards, and the widespread regular public dissemination of the auditor's findings, including a reconciliation of aggregate payments and revenues;

"(C) verifying such revenues against the records for such payments made by each person, including widespread dissemination of aggregate payment information in a manner that protects proprietary information, that observes the law of the borrowing country, and that the person determines does not cause substantial competitive harm;

"(D) making available to the public all contracts between the government of such country or any person owned or controlled by such government, and any person that is engaged in the extraction or export of natural resources through a project or program supported by a bank, unless the person determines such disclosure would cause substantial competitive harm;

"(E) applying the revenue transparency approach described in this paragraph equally and fully to all extractive industry companies operating in the country, including state-owned entities; and

"(F) establishing a legal framework for disclosure of payments from a person or contracts with a person and outlining the level and extent of disclosure or payment information by companies in the extractive industries.

"(2) REQUIREMENTS FOR OTHER NATURAL RESOURCE ASSISTANCE.—The Secretary shall inform the management of each multilateral development bank and the public that it is the policy of the United States that any assistance, including any investment, loan, or guarantee, provided by such a bank to private sector sponsors for the extraction or export of natural resources in a resource-dependent country shall only be provided if the government of the country has in place or is taking necessary steps to establish the functioning systems described in subparagraphs (A) through (F) in paragraph (1) and if the private sector sponsors of such projects publicly disclose revenue payments made to the government of such country, in accordance with the laws of such country regarding the required level and extent of such disclosure.

"(3) COMPLIANCE WITH TRANSPARENCY GUIDELINES PRIOR TO APPROVAL OF ASSISTANCE.—In furtherance of the policy described in paragraph (1), not later than 2 years after the date of the enactment of the Development Bank Reform and Authorization Act of 2005, the Secretary shall inform the management of each multilateral development bank and the public that it is the policy of the United States that any assistance by such a bank, including any investment, loan, credit, grant, or guarantee, other than humanitarian assistance, assistance to address HIV/AIDS, tuberculosis, or malaria or to provide food, to any government of a resource-dependent country or for any project located in such country, shall not be provided unless the bank, prior to the approval of such assistance, has—

"(A) determined that the government has in place the systems described in subparagraphs (A) through (F) of paragraph (1), based on all information that is relevant, applicable and reasonably available to the bank, including, the views of other international financial institutions active in such country and the views of civil society organizations that are active within and outside such country;

"(B) determined that private sector sponsors of projects for the extraction and export of natural resources have agreed to publicly disclose revenue payments to host governments; and

"(C) made available to the public the findings and conclusions identifying the information taken into consideration in making such determinations and the reasons for such determinations.

"(4) RESOURCE-DEPENDENT COUNTRY DEFINED.—In this subsection, the term 'resource-dependent country' means a country that has—

"(A) an average share of natural resource-derived fiscal revenues of at least 25 percent of the total fiscal revenues during the preceding 3-year period; or

"(B) an average share of natural resource export proceeds of at least 25 percent of the total export proceeds during the preceding 3-year period.".

SEC. 6. SENSE OF CONGRESS ON THE EXTRACTIVE INDUSTRY TRANSPARENCY INITIATIVE AND G–8 AGREEMENTS.

It is the sense of Congress that—

(1) the President should continue promoting the Extractive Industry Transparency Initiative as one approach to help ensure that the revenues from extractive industries contribute to sustainable development and poverty reduction, as such Initiative is a voluntary initiative intended—

(A) to promote greater transparency of developing country government revenues and expenditures, procurement, concession-granting systems; and

(B) to work to recover stolen assets and enforce antibribery laws;

(2) the United States should encourage the continued work of the G–8 to promote the Extractive Industries Transparency Initiative; and

(3) the United States should support and encourage the carrying out of the agreements of the G–8 made at the 2004 Summit at Sea Island, Georgia, and at the 2003 Summit at Evian, France, to promote transparency in public budgets, including revenues and expenditures, government procurement, public concessions, the granting of licenses with special emphasis on countries with large extractive industries sectors, including the agreements made at the Summit at Sea Island which specifically—

(A) support the efforts of the Public Expenditure and Financial Accountability program at the World Bank to help developing countries achieve accountability in public finance and expenditure and to extend harmonized approaches to the assessment and reform of their public financial, accountability, and procurement systems;

(B) invite developing countries to prepare anticorruption action plans to implement the commitments of such countries in regional and international conventions; and

(C) achieve agreement on full disclosure of the World Bank International Development Association's Country Policy and Institutional Assessment results, with disclosure to begin with the 2005 ratings.

SEC. 7. REPORTS FROM THE GOVERNMENT ACCOUNTABILITY OFFICE.

(a) SENSE OF CONGRESS ON ACCESS TO INFORMATION.—It is the sense of Congress that—

(1) to evaluate the compliance of the multilateral development banks with the policies of the United States described in section 1505 of the International Financial Institutions Act, as added by section 5 of this Act, and to prepare the reports required by this section, the Comptroller General of the

United States should have full and complete access to financial information relating to the multilateral development banks, including information related to the performance, accountability, oversight, financial transactions, organization, and activities of the multilateral development banks;

(2) the Secretary should seek to conclude memorandums of understanding with the multilateral development banks to ensure that the United States will have access to documents related to information described in paragraph (1); and

(3) the Secretary of the Treasury should facilitate access by the Comptroller General of the United States to the financial information described in paragraph (1).

(b) REPORT ON EFFECTIVENESS OF MULTILATERAL DEVELOPMENT BANKS.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a review of the effectiveness of each multilateral development bank in achieving the mission of such bank as set out in the articles of agreement of such bank, specifically poverty reduction and economic development; and

(2) submit to the appropriate congressional committees a report on the findings of the review.

(c) REPORT ON CONSISTENCY OF MULTILATERAL DEVELOPMENT BANK PRACTICES WITH STATUTORY POLICIES.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the appropriate congressional committees a report on the extent to which the practices of the multilateral development banks are consistent with the policies of the United States, as expressly contained in Federal law applicable to the multilateral development banks.

(d) REPORT ON REFORMS AT THE MULTILATERAL DEVELOPMENT BANKS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the appropriate congressional committees a report on the extent of the implementation of the reforms called for by the Group of 8 or by the Group of 7, starting with the 2000 Okinawa Summit, as delineated in communiqués, chairman's statements, and other official communication through the summit or finance ministerial processes of the Group of 8 or the Group of 7.

SEC. 8. CONTRIBUTIONS TO MULTILATERAL DEVELOPMENT BANKS.

(a) WORLD BANK.—The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end the following new section:

"SEC. 23. FOURTEENTH REPLENISHMENT.

"(a) CONTRIBUTION AUTHORITY.—

"(1) IN GENERAL.—The United States Governor of the Association is authorized to contribute on behalf of the United States $2,850,000,000 to the fourteenth replenishment of the resources of the Association.

"(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated, without fiscal year limitation, $2,850,000,000 for payment by the Secretary of the Treasury.".

(b) AFRICAN DEVELOPMENT BANK FUND.—The African Development Fund Act (22 U.S.C. 290g et seq.) is amended by adding at the end the following new section:

"SEC. 218. TENTH REPLENISHMENT.

"(a) CONTRIBUTION AUTHORITY.—

"(1) IN GENERAL.—The United States Governor of the Fund is authorized to contribute on behalf of the United States $407,000,000 to the tenth replenishment of the resources of the Fund.

"(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated, without fiscal year limitation, $407,000,000 for payment by the Secretary of the Treasury.".

(c) ASIAN DEVELOPMENT FUND OF THE ASIAN DEVELOPMENT BANK.—The Asian Development Bank Act (22 U.S.C. 285 et seq.) is amended by adding at the end the following new section:

"SEC. 32. EIGHTH REPLENISHMENT.

"(a) CONTRIBUTION AUTHORITY.—

"(1) IN GENERAL.—The United States Governor of the Bank is authorized to contribute on behalf of the United States $461,000,000 to the eighth replenishment of the resources of the Fund.

"(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated, without fiscal year limitation, $461,000,000 for payment by the Secretary of the Treasury.".

SEC. 9. ANNUAL REPORTS.

(a) INITIAL REPORT.—Not later than September 1, 2006, the Secretary shall submit a report to the appropriate congressional committees the describes the actions taken by the United States Executive Director at each multilateral development bank to implement the policy goals described in this Act and the amendments made by this Act and any other actions that should be taken to implement such goals.

(b) UPDATES.—The Secretary shall submit to the appropriate congressional committees an annual update of the report required by subsection (a) for each of the fiscal years 2007, 2008, and 2009.

By Mr. CRAIG:

S. 1131. A bill to authorize the exchange of certain Federal land within the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Idaho Land Enhancement Act of 2005. Simply put, this legislation directs the Secretaries of Agriculture and Interior to exchange land with the State of Idaho involving key parcels of land from the Boise Foothills to North Idaho.

The proposed exchange is exceptional in many respects. First, the concept for the proposed land exchange originated from a local conservation effort led by the city of Boise and local conservation groups including the Idaho Conservation League. Since the late 1960's the issue of conserving the Boise Foothills has been a significant concern of the community. Conservation efforts have continued to grow in support within the community, culminating in May 2001 with the citizens of Boise, in one of the highest voter turnouts in city history, electing to tax themselves in order to provide funding to secure permanent public open space in the Boise Foothills.

Next, the collaboration between the city of Boise, the State of Idaho, the Forest Service and the Bureau of Land Management has produced an agreement that has yielded a proposal benefiting the State's endowment beneficiaries while addressing the common threats of fire and hazardous fuels, invasive species, habitat fragmentation and unmanaged recreation associated with urban interface with Federal lands. The proposal uses both Bureau of Land Management and Forest Service land to balance an exchange with Idaho State Endowment lands on an equal value basis.

Last, the process has been open, transparent, and has wide support throughout the State. The city of Boise has facilitated public meetings, provided opportunities for public comment, and has made the maps of the exchange available to the public. The City has met with all of the affected tribes and counties. In addition, the multi-agency group completed evaluations of timber values, minerals, cultural resources, water rights, legal access, wildlife, fisheries, vegetation, hydrology, wetlands, threatened and endangered species, and specific habitat. The evaluations show that no major environmental effect will occur as a result of the exchange. In fact, The Nature Conservancy independently reviewed the data and compared it to their eco-regional planning efforts and concluded that the exchange has "limited potential to impact biodiversity values" and they support the exchange.

The city of Boise has made a substantial investment of local property tax dollars in the facilitation of this land exchange package. This exchange will complete a statewide collaborative process that represents a legacy of local, State and Federal cooperation benefiting land management interests throughout the State.

This exchange will enhance land in both the northern and southern parts of the State. It is an example of how local, State, and Federal partners can come together to collaboratively develop an exchange in which the public and the land are the ultimate beneficiaries.

By Mr. COLEMAN (for himself, Ms. LANDRIEU, Mr. DEWINE, Ms. SNOWE, Mr. COCHRAN, Mr. VITTER, Mr. BAYH, and Mr. SMITH):

S. 1132. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, I am pleased today to be introducing the bipartisan Treatment of Children's Deformities Act. I am pleased to be joined by many of my friends and colleagues, including Senators LANDRIEU, DEWINE, SNOWE, COCHRAN, VITTER and BAYH.

Imagine being a parent with a child who has a cleft lip and palate or another more severe congenital facial deformity that requires reconstructive surgery to achieve a sense of normalcy and function. Now imagine receiving a letter from your insurance carrier that states the following:

> The reviewer determined that although the procedures listed above would enhance the appearance of the patient, the procedures listed are not necessary to correct a functional disorder and therefore do not meet the criteria for benefits as outlined in the medical plan.

Unfortunately, there are numerous examples of children and families around the country that have been confronted with this kind of heart wrenching situation. Examples of congenital deformities include cleft lip, cleft palate, skin lesions, vascular anomalies, malformations of the ear, hand, or foot, and other more profound craniofacial deformities. It is essential for children with these problems to receive timely surgical care in order to have a chance at leading normal, healthy, happy lives. And yet, an increasing number of kids go without life changing treatment because treatment is regarded as "cosmetic" or "non-functional."

It's unfortunate that legislation is necessary. However, this legislation will ensure that children who are born with a congenital deformity—whether a cleft lip and palate or a more severe deformity—receive the reconstructive surgery they need to achieve a sense of normalcy and function.

According to the March of Dimes, 150,000 newborns suffer from birth defects each year. Of the 150,000 born, approximately 50,000 require reconstructive surgery. Although surgeons are able to correct many of these problems, an increasing number of these children are denied access to care by the labeling of the procedures as "cosmetic" or "non-functional" in nature.

A common Federal definition of reconstructive surgery, based on the American Medical Association's definition, will help clarify coverage nationally and reduce the delay for children in need of surgery.

It is essential for children with these problems to receive timely surgical care in order to have a chance at leading normal, healthy, and happy lives. Also, many times these surgeries are best performed while children are young and their bodies can more readily recover and respond to the corrective surgery.

The Treatment of Children's Deformities Act differentiates between cosmetic and reconstructive surgery. The legislation defines reconstructive surgery as that being performed on abnormal structures of the body, caused by congenital defects, developmental abnormalities, trauma, infection, tumors or disease.

Cosmetic surgery, in contrast, is defined by the American Medical Association as being performed to reshape normal structures of the body in order to improve the patient's appearance and self-esteem.

Children born with deformities should receive the help they need and this legislation will make it happen. I look forward to working with my colleagues to pass this legislation that will improve the quality of life for children born with congenital deformities. I urge my colleagues to join me in supporting this legislation. .

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Treatment of Children's Deformities Act of 2005".

SEC. 2. COVERAGE OF MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

"SEC. 2707. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

"(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

"(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

"(3) TREATMENT DEFINED.—

"(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

"(i) procedures that do not materially affect the function of the body part being treated; and

"(ii) procedures for secondary conditions and follow-up treatment.

"(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

"(b) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.".

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg-23(c)) is amended by striking "section 2704" and inserting "sections 2704 and 2707".

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 714. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

"(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

"(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

"(3) TREATMENT DEFINED.—

"(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

"(i) procedures that do not materially affect the function of the body part being treated; and

"(ii) procedures for secondary conditions and follow-up treatment.

"(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

"(b) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.".

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking "section 711" and inserting "sections 711 and 714".

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following:

"Sec. 714. Standards relating to benefits for minor child's congenital or developmental deformity or disorder".

(3) INTERNAL REVENUE CODE AMENDMENTS.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(A) in the table of sections, by inserting after the item relating to section 9812 the following:

"Sec. 9813. Standards relating to benefits for minor child's congenital or developmental deformity or disorder"; and

(B) by inserting after section 9812 the following:

"SEC. 9813. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

"(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

"(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

"(3) TREATMENT DEFINED.—

"(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

"(i) procedures that do not materially affect the function of the body part being treated; and

"(ii) procedures for secondary conditions and follow-up treatment.

"(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.".

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following:

"SEC. 2753. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

"(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

"(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

"(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

"(3) TREATMENT DEFINED.—

"(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

"(i) procedures that do not materially affect the function of the body part being treated; and

"(ii) procedures for secondary conditions and follow-up treatment.

"(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.".

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking "section 2751" and inserting "sections 2751 and 2753".

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH COVERAGE.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2006.

(2) INDIVIDUAL HEALTH COVERAGE.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(d) COORDINATED REGULATIONS.—Section 104(1) of Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg–92 note) is amended by striking "this subtitle (and the amendments made by this subtitle and section 401)" and inserting "the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986".

By Mr. BYRD (for himself, Mr. ROCKEFELLER, and Mr. SPECTER):

S. 1133. A bill to authorize the Secretary of Energy to develop and implement an accelerated research, development, and demonstration program for advanced clean coal technologies for use in coal-based generation facilities and to provide financial incentives to encourage the early commercial deployment of advanced clean coal technologies through the retrofitting, repowering, replacement, and new construction of coal-based electricity generating facilities and industrial gasification facilities; to the Committee on Energy and Natural Resources.

Mr. BYRD. Mr. President, today I am introducing S. 1133, the Clean Coal Research, Development, Demonstration, and Deployment Act of 2005. I am proud to have Senators ROCKEFELLER and SPECTER as cosponsors of my bill. This comprehensive clean coal technology legislation will help provide for a new era for coal. I have looked into the past; I recognize the enormous challenges that are before us; and I see coal's future.

The bill authorizes important programs at the Department of Energy as well as provides a major package of targeted federal energy tax incentives. It supports a research and development program and tax incentives to encourage the use of advanced coal technologies at coal-fired power plants. The bill also promotes a major investment in a national industrial gasification program. It is a balanced and financially sound proposal, and it recognizes that there are new horizons opening for coal.

The Byrd-Rockefeller-Specter bill works to balance these ever expanding opportunities in a very reasonable and responsible way. We must move forward with the development and deployment of advanced power generation and carbon capture and sequestration technologies. Coal also has a future in producing chemicals, alternative transportation fuels, and other important products for use in the economy. My legislation can begin to initiate that effort.

There are those who have wanted to push coal aside like stove wood and horse power as novelties from a bygone era. But we cannot ignore coal as part of the solution to our future energy challenges. Over the past several years, I have been diligently assembling a set of proposals that can provide a comprehensive approach for the near- and long-term viability for coal, both at home and abroad. It is time that we reexamine the opportunities for coal, and let the past be our guide to the future.

Mr. President, I hope other Senators will review S. 1133, and I urge them to cosponsor this legislation.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 1135. A bill to authorize the exchange of certain land in Grand and Uintah Counties, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, I am pleased to be able to re-introduce the Utah Recreational Land Exchange Act of 2005, together with my colleague Senator HATCH. Legislation was introduced in the previous Congress to lay the groundwork for our efforts in the 109th Congress.

This legislation will ensure the protection of critical lands along the Colorado River corridor in southeastern Utah and will help provide important funding for Utah's school children. In Utah we treasure the education of our children. A key component of our education system is the 3.5 million acres of school trust lands scattered throughout the State. These lands are dedicated to the support of public education. Revenue from Utah school trust lands, whether from grazing, forestry, surface leasing or mineral development, is placed in the State School Fund. This fund is a permanent income producing endowment created by Congress upon statehood to fund public education. Unfortunately, the majority of these lands are trapped within federal ownership patterns that make it impossible for responsible development. It is critical to both the State of Utah and the Bureau of Land Management, BLM, that we consolidate their respective lands to ensure that both public agencies are permitted to fulfill their mandates.

The legislation we are introducing today is yet another chapter in our State's long history of consolidating these State lands for the financial well being of our education system. These efforts serve a dual purpose as they help the Federal land management agencies to consolidate Federal lands in environmentally sensitive areas that can then be reasonably managed. We see this exchange as a win-win solution for the State of Utah and its school children, as well as the Department of the Interior as the caretaker of our public lands.

Beginning in 1998 Congress passed the first major Utah school trust land exchange which consolidated hundreds of thousands of acres. Again in 2000, Congress enacted an exchange consolidating another 100,000 acres. I was proud to play a role in those efforts, and the bill we are introducing today is yet another step in the long journey toward giving the school children the deal they were promised in 1896 when Utah was admitted to the Union.

The School Trust of Utah currently owns some of the most spectacular lands in America, located along the Colorado River in southeastern Utah. This legislation will ensure that places like Westwater Canyon of the Colorado River, the world famous Kokopelli and Slickrock biking trails, some of the largest natural rock arches in the United States, wilderness study areas, and viewsheds for Arches National Park will be traded into Federal ownership and for the benefit of future generations. At the same time, the school children of Utah will receive mineral and development lands that are not environmentally sensitive, in locations where responsible development makes sense. This will be an equal value exchange, with approximately 40,000 acres exchanged on either side, with both taxpayers and the school children of Utah receiving a fair deal. Moreover, the legislation establishes a valuation process that is transparent to the public, yet will ensure the exchange process occurs in a timely manner.

This legislation represents a truly collaborative process. We have convened all of the players to give us input into this legislation: local government, the State, the recreation community, the environmental community and other interested parties. At the same time we are working closely with the Department of Interior. We introduced this bill in the 108th Congress in order to initiate some discussion of moving forward with this exchange proposal. Since that time, some changes have been made in an effort to improve this legislation. We remain receptive to additional changes that might make further improvements. The State has been working with all of these groups over the past year at a grass-roots level to address concerns. We look forward to working with the appropriate committees and the Department of Interior toward a successful resolution of this proposed exchange.

I urge all of my colleagues to support our efforts to fund the education of our children in Utah and to protect some of this Nation's truly great lands. I urge support of the Utah Recreational Land Exchange Act of 2005.

By Mr. GRASSLEY (for himself, Mr. McCAIN, and Mr. ALLEN):

S. 1137. A bill to include dehydroepiandrosterone as an anabolic steroid; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, recently, the problem of steroid abuse has been getting a great deal of media attention. While this publicity has helped to raise public awareness about the dangers of illegal steroids, recent studies indicate that more and more young people are taking these drugs to improve their performance, appearance, or self image. In fact, some recent studies indicate that as many as 5 percent to 7 percent of students, even as young as middle school, admit to using illegal steroids.

Even more widespread among adolescents, however, is the use of over-the-counter supplements. Many young people are turning to "supplements" as an alternative to illegal steroids, mistakenly believing that because they are sold over the counter, they must be safe. However, many of these over the counter "supplements" actually produce the same dangerous effects on the body as illegal steroids. Some, even become steroids in the bloodstream.

Last year, the President signed into law the Anabolic Steroid Control Act of 2004, which added 18 anabolic steroid precursors to the list of anabolic steroids that are classified as controlled substances. Yet as I speak, on the shelves of health stores across the country, sits one anabolic steroid that can be bought by anyone, at any age, without the need of a doctor's prescription.

Dehydroepiandrosterone, or DHEA, is an anabolic steroid that once ingested, the body turns into testosterone. DHEA like all other steroids, may cause a number of long term physical and psychological effects, including: heart disease, cancer, stroke, liver damage, severe acne, baldness, dramatic mood swings, aggression, etc. In fact, DHEA is already banned by the Olympics, the World Anti-Doping Agency, the National Collegiate Athletic Association, the National Football League, the National Basketball Association, and Minor League Baseball, yet it actually enjoys special protections under the Anabolic Steroid Control Act.

In an effort to keep all potentially dangerous steroids out of the hands of unsuspecting consumers and children, I am pleased to introduce legislation today that would add DHEA to the list of controlled substances under the Anabolic Steroid Control Act. This legislation will eliminate the special exemption granted to DHEA, thereby treating it as every other substance in the steroid family.

With the dramatic rise in the use of steroids among our nation's youth, now is the time to act to curb this increasingly growing problem. Just like all other anabolic steroids, DHEA should not be available over the counter, but only under a doctor's supervision. I encourage my colleagues to join in support of this legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF DEHYDROEPIANDROSTERONE.

Section 102(41)(A) of the Controlled Substances Act (21 U.S.C. 802(41)(A)) is amended—

(1) in the matter preceding clause (i), by striking "corticosteroids, and dehydroepiandrosterone" and inserting "and corticosteroids";

(2) by redesignating clauses (x) through (xlx) as clauses (xi) through (xlxi), respectively; and

(3) by inserting after clause (ix) the following:

"(x) dehydroepiandrosterone (androst-5-en-3β-ol-17-one);".

By Mr. SANTORUM:

S. 1139. A bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SANTORUM. Mr. President, I rise today to introduce the Pet Animal Welfare Statute of 2005 (PAWS). The introduction of this important animal welfare legislation demonstrates my continued interest in humane treatment of animals. As the proud owner of a German Shepherd, it is disturbing to see the number of high volume breeders who are careless and disregard their responsibilities to care properly for their animals.

Across the United States, there are more than 3,000 commercial dog-breeding facilities that are licensed to operate by the United States Department of Agriculture (USDA). Owners of these facilities are required to comply with the rules and regulations of the Animal Welfare Act (AWA), which sets forth standards for humane handling and treatment. USDA inspections are also required to ensure compliance with AWA standards.

Unfortunately, enforcement of AWA has not effectively stopped the inhumane treatment of animals within the pet industry. Because the AWA only covers breeders and others who sell at wholesale, many puppy mill owners have successfully avoided AWA requirements by selling directly to the public. The ability to use the Internet as a marketing tool for direct sales has only made selling directly to the public more prevalent and popular. Because USDA can only regulate wholesalers under the AWA, it has very limited authority to oversee the care and conditions of animals in these facilities.

PAWS addresses this growing problem. PAWS would regulate breeders who raise seven or more litters of dogs or cats each year. This threshold test would differentiate those breeders who raise animals in mass numbers from those who are hobby breeders.

In addition, this broad ranging legislation would cover importers and other non-breeder dealers who sell more than 25 dogs or cats per year, strengthen USDA's enforcement authority, and assure USDA access to source records of persons who acquire dogs for resale. Finally, PAWS expands the USDA's authority to seek injunctions against unlicensed dog and cat dealers.

The term "puppy mill" is not new to many people, be it pet owners, consumers, animal welfare advocates, inspectors or just casual observers. Puppy mills are large breeding operations that mass-produce puppies for commercial sale with little regard for the humane handling and treatment of the dogs. Breeding and raising dogs without respect to the animal's welfare guarantees bad results for the unknowing owner, and for the health of the dog and her puppies. For dogs, puppy mill conditions can mean overcrowded cages, lack of protection from weather conditions, and an overall lack of veterinary care.

The benefits of regulating commercial breeders and sellers are obvious. PAWS addresses the commerce in pets from many different angles, including imports, large direct sellers, Internet sellers, enforcement tools, and source records. As a member of the Senate Agriculture Committee and Chairman of the Subcommittee on Research, Nutrition and General Legislation, the subcommittee with jurisdiction, I am prepared to work aggressively to advance this legislation. I urge my colleagues to join Senator DURBIN and me in supporting this legislation.

Mr. DURBIN. Mr. President, I rise today to introduce the Pet Animal Welfare Statute, PAWS, along with my colleague, Senator SANTORUM.

For more than three decades, Congress has given the responsibility of ensuring minimum standards of humane care and treatment of animals to the U.S. Department of Agriculture, USDA, under the Animal Welfare Act, AWA.

The current guidelines within the AWA do not go far enough to protect puppies at large breeding facilities; they merely ensure the provision of water and food, and that is inadequate. The AWA has been largely ineffective because of weak enforcement procedures and limited resources. Another severe limitation of the current AWA is that it does not regulate overseas breeders who submit their animals to deplorable conditions before exporting them to the United States, leaving many imported animals with diseases and behavioral disorders. PAWS strengthens the AWA to better control the practices of puppy breeding in large facilities, addresses cruel puppy treatment and places stricter regulations on overseas breeders.

In large breeding facilities, puppies are often kept in cramped, dirty cages; sometimes stacked on top of each other; exposed to the elements in extreme cold and heat; forced to breed too frequently; and deprived of adequate food, water, veterinary care, and any semblance of loving contact. In fact, current law allows many of these breeders to evade all federal oversight.

This inhumane treatment has a direct bearing on the physical and mental health of dogs in these facilities. Often, after these puppies join a family, they turn out to have serious health and behavioral problems that cause them pain, cause their owners great distress, and require expensive medical care.

I believe PAWS will address these problems by filling gaps in the current law and encouraging stronger enforcement by USDA to crack down on chronic violators. The bill also applies to cats.

PAWS requires that any commercial breeder who sells seven or more litters of dogs or cats directly to the public in a year must be licensed by the USDA. The statute also allows the USDA to obtain the identity of breeders, a measure that would help the USDA to address inhumane treatment. PAWS extends the suspension period for facilities with AWA violations from 21 days to 60 days and provides the USDA with direct authority to apply for injunctions.

I've heard from many of my constituents in Illinois who are deeply concerned about the puppy mill problem and want this legislation enacted. PAWS is supported by national organizations, including the Humane Society of the United States, the American Kennel Club, Doris Day Animal League, and the Animal Welfare Institute.

I am pleased that we have obtained additional funds for USDA to improve its enforcement of the AWA. This piece of legislation will complement those ongoing efforts by strengthening USDA's authority to crack down on the bad actors.

PAWS will ensure that any commercial dog breeder licensed by the Federal Government is meeting basic humane standards of care. We owe at least this much to the animals that have earned the title "man's best friend." This safety net for dogs and cats will protect pets and the consumers who care about them against the poor treatment practices of the worst dealers: the ones who provide no interaction; the ones who violate industry norms against over-breeding; the ones who repeatedly violate the law governing humane care. The good dealers, however, should be recognized for the value they bring to pet lovers everywhere.

Currently, the good dealers suffer at the hands of the bad ones, the ones who give the industry a bad reputation. This bill will help draw a clear distinction in favor of the good dealers. I thank my colleagues for their attention to this issue, and I urge their support for the Pet Animal Welfare Statute.

By Mr. COCHRAN (for himself, Mr. PRYOR, Mr. CHAMBLISS, and Mr. ROBERTS):

S. 1141. A bill to authorize the Secretary of Homeland Security to regulate ammonium nitrate; to the Committee on Homeland Security and Governmental Affairs.

Mr. COCHRAN. Mr. President, fertilizers provide essential nutrients to the food we eat. Without fertilizer, roughly one-third of the world's people would go hungry. Ammonium nitrate fertilizer is an effective source of nitrogen that all crops need to grow. Thousands of American farmers value its use in certain applications including cool weather fertilization and other low-till cropping systems. Thus, the continued availability of ammonium nitrate fertilizer to U.S. farmers has economic, agronomic and environmental benefits to farmers and society as a whole.

At the same time, the April 1995 attack on the Alfred P. Murrah Federal Building in Oklahoma City showed America that this highly valuable fertilizer can be subject to adulteration and misuse by criminals intent on engaging in acts of terror.

After the Oklahoma City tragedy, Congress enacted legislation calling for a study on the feasibility and practicability of imposing controls on certain precursor chemicals, including ammonium nitrate. Congress recognized that it is simply not possible for the agriculture community to guarantee against the criminal misuse of ammonium nitrate or for any community to guarantee that the thousands of everyday products that can be converted to criminal use will not be misused by those with the intent and capability to do so.

Over the past 10 years, the security landscape has continued to change. The agriculture community and the fertilizer industry recognize that more needs to be done to strengthen the controls regarding the handling and purchase of ammonium nitrate fertilizer in order to ensure American farmers continue to have access to this valued input. Today, with my colleague from Arkansas Mr. PRYOR, my colleague from Georgia Mr. CHAMBLISS, and my colleague from Kansas Mr. ROBERTS, I am pleased to introduce legislation that provides a practical and workable solution to enhance the secure handling of ammonium nitrate ensuring that ammonium nitrate remains available for agricultural use.

The legislation is entitled "The Secure Handling of Ammonium Nitrate Act of 2005." It calls for Federal and State cooperation to secure ammonium nitrate fertilizer. It requires any person who produces, stores, sells, or distributes ammonium nitrate to register their facility with their State department of agriculture and to maintain records of sales or distribution of the product. Additionally, it requires all purchasers of ammonium nitrate to register with their State department of agriculture.

We believe these requirements are necessary measures to help provide additional security for ammonium nitrate fertilizer and will not unduly burden agriculture professionals or farmers who use ammonium nitrate. Furthermore, we believe this important legislation will effectively enhance ongoing security measures and help to keep ammonium nitrate out of the hands of those who wish to harm our Nation.

I urge Senators to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Secure Handling of Ammonium Nitrate Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) ammonium nitrate is an important fertilizer used to produce a reliable and affordable food supply for the United States and the world;

(2) in the wrong hands, ammonium nitrate may be used for illegal activities;

(3) the production, importation, storage, sale, and distribution of ammonium nitrate affects interstate and intrastate commerce; and

(4) it is necessary to regulate the production, storage, sale, and distribution of ammonium nitrate.

SEC. 3. DEFINITIONS.

In this Act:

(1) AMMONIUM NITRATE.—The term "ammonium nitrate" means solid ammonium nitrate that is chiefly the ammonium salt of nitric acid and contains not less than 33 percent nitrogen, of which—

(A) 50 percent is in ammonium form; and

(B) 50 percent is in nitrate form.

(2) FACILITY.—

(A) IN GENERAL.—The term "facility" means any site where ammonium nitrate is produced, stored, or held for distribution, sale, or use.

(B) INCLUSIONS.—The term "facility" includes—

(i) all buildings or structures used to produce, store, or hold ammonium nitrate for distribution, sale, or use at a single site; and

(ii) multiple sites described in clause (i), if the sites are—

(I) contiguous or adjacent; and

(II) owned or operated by the same person.

(3) HANDLE.—The term "handle" means to produce, store, sell, or distribute ammonium nitrate.

(4) HANDLER.—The term "handler" means any person that produces, stores, sells, or distributes ammonium nitrate.

(5) PURCHASER.—The term "purchaser" means any person that purchases ammonium nitrate.

(6) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

SEC. 4. REGULATION OF HANDLING AND PURCHASE OF AMMONIUM NITRATE.

(a) IN GENERAL.—The Secretary may regulate the handling and purchase of ammonium nitrate to prevent the misappropriation or use of ammonium nitrate in violation of law.

(b) REGULATIONS.—The Secretary may promulgate regulations that require—

(1) handlers—

(A) to register facilities;

(B) to sell or distribute ammonium nitrate only to handlers and purchasers registered under this Act; and

(C) to maintain records of sale or distribution that include the name, address, telephone number, and registration number of the immediate subsequent purchaser of ammonium nitrate; and

(2) purchasers to be registered.

(c) USE OF PREVIOUSLY SUBMITTED INFORMATION.—Prior to requiring a facility or handler to submit new information for registration under this section, the Secretary shall—

(1) request from the Attorney General, and the Attorney General shall provide, any information previously submitted to the Attorney General by the facility or handler under section 843 of title 18, United States Code; and

(2) at the election of the facility or handler—

(A) use the license issued under that section in lieu of requiring new information for registration under this section; and

(B) consider the license to fully comply with the requirement for registration under this section.

(d) CONSULTATION.—In promulgating regulations under this section, the Secretary shall consult with the Secretary to Agriculture to ensure that the access of agricultural producers to ammonium nitrate is not unduly burdened.

(e) DATA CONFIDENTIALITY.—

(1) IN GENERAL.—Notwithstanding section 552 of title 5, United States Code, or the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 272) or an amendment made by that Act, except as provided in paragraph (2), the Secretary may not disclose to any person any information obtained from any facility, handler, or purchaser—

(A) regarding any action taken, or to be taken, at the facility or by the handler or purchaser to ensure the secure handling of ammonium nitrate; or

(B) that would disclose—

(i) the identity or address of any purchase of ammonium nitrate;

(ii) the quantity of ammonium nitrate purchased; or

(iii) the details of the purchase transaction.

(2) EXCEPTIONS.—The Secretary may disclose any information described in paragraph (1)—

(A) to an officer or employee of the United States, or a person that has entered into a contract with the United States, who needs to know the information to perform the duties of the officer, employee, or person, or to a State agency pursuant to an arrangement under section 6, under appropriate arrangements to ensure the protection of the information;

(B) to the public, to the extent the Secretary specifically finds that disclosure of particular information is required in the public interest; or

(C) to the extent required by order of a Federal court in a proceeding in which the Secretary is a party, under such protective measures as the court may prescribe.

SEC. 5. ENFORCEMENT.

(a) INSPECTIONS.—The Secretary, without a warrant, may enter any place during business hours that the Secretary believes may handle ammonium nitrate to determine whether the handling is being conducted in accordance with this Act, including regulations promulgated under this Act.

(b) PREVENTION OF SALE OR DISTRIBUTION ORDER.—In any case in which the Secretary has reason to believe that ammonium nitrate has been handled other than in accordance with this Act, including regulations promulgated under this Act, the Secretary may issue a written order preventing any person that owns, controls, or has custody of the ammonium nitrate from selling or distributing the ammonium nitrate.

(c) APPEAL PROCEDURES.—

(1) IN GENERAL.—A person subject to an order under subsection (b) may request a hearing to contest the order, under such administrative adjudication procedures as the Secretary may establish.

(2) RESCISSION.—If an appeal under paragraph (1) is successful, the Secretary shall rescind the order.

(d) IN REM PROCEEDINGS.—The Secretary may institute in rem proceedings in the United States district court for the district in which the ammonium nitrate is located to seize and confiscate ammonium nitrate that has been handled in violation of this Act, including regulations promulgated under this Act.

SEC. 6. ADMINISTRATIVE PROVISIONS.

(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into a cooperative agreement with the Secretary of Agriculture, or the head of any State department of agriculture or other State agency that regulates plant nutrients, to carry out this Act, including cooperating in the enforcement of this Act through the use of personnel or facilities.

(b) DELEGATION.—

(1) IN GENERAL.—The Secretary may delegate to a State the authority to assist the Secretary in the administration and enforcement of this Act, including regulations promulgated under this Act.

(2) DELEGATION REQUIRED.—On the request of a Governor of a State, the Secretary shall delegate to the State the authority to carry out section 4 or 5, on a determination by the Secretary that the State is capable of satisfactorily carrying out that section.

(3) FUNDING.—If the Secretary enters into an agreement with a State under this subsection to delegate functions to the State, the Secretary shall provide to the State adequate funds to enable the State to carry out the functions.

(4) INAPPLICABILITY.—Notwithstanding any other provision of this subsection, this subsection does not authorize a State to carry out a function under section 4 or 5 relating to a facility or handler in the State that makes the election described in section 4(c)(2).

SEC. 7. CIVIL LIABILITY.

(a) UNLAWFUL ACTS.—It is unlawful for any person—

(1) to fail to perform any duty required by this Act, including regulations promulgated under this Act;

(2) to violate the terms of registration under this Act;

(3) to fail to keep any record, make any report, or allow any inspection required by this Act; or

(4) to violate any sale or distribution order issued under this Act.

(b) PENALTIES.—

(1) IN GENERAL.—A person that violates this Act (including a regulation promulgated under this Act) may only be assessed a civil penalty by the Secretary of not more than $50,000 per violation.

(2) NOTICE AND OPPORTUNITY FOR A HEARING.—No civil penalty shall be assessed under this Act unless the person charged has been given notice and opportunity for a hearing on the charge in the county, parish, or incorporated city of residence of the person charged.

(c) JURISDICTION OVER ACTIONS FOR CIVIL DAMAGES.—The district courts of the United States shall have exclusive jurisdiction over any action for civil damages against a handler for any harm or damage that is alleged to have resulted from the use of ammonium nitrate in violation of law that occurred on or after the date of enactment of this Act.

SEC. 8. STATE LAW PREEMPTION.

This Act preempts any State law (including a regulation) that regulates the handling of ammonium nitrate to prevent the misappropriation or use of ammonium nitrate in violation of law.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. PRYOR. Mr. President, I stand today in support of legislation that will better protect our homeland by securing the trade and handling of ammonium nitrate. While ammonium nitrate is well known in the agriculture community to be an important fertilizer, it has also become a common ingredient in creating highly explosive bombs like the one used in the unforgettable April 1995 bombing attack of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma. A little more than a month ago, we reflected on the tenth anniversary of this tragic moment in our nation's history. Despite the enormous potential for misuse if in the wrong hands, the purchase and use of ammonium nitrate is still largely unregulated by the federal government. It is our hope that we can reduce this potential for misuse. By better securing the trade and handling of this chemical, we will make it more difficult for individuals and groups to misuse the chemical and threaten the lives of Americans. The purpose of our legislation is to protect our homeland from future threats and attacks that may be similar in nature to that of the Oklahoma City Bombing while still ensuring that law abiding citizens can use this valuable fertilizer for agricultural activities.

Fertilizer provides essential nutrients to the food we eat by providing an effective source of nitrogen that all crops need to grow. I recognize the importance of fertilizer to our Nation's farming community, and that is why I believe that we must continue the availability of ammonium nitrate fertilizer to farmers in order to maintain the economic, agronomic and environmental benefits that this product provides. I also understand the negative impact of that fertilizer can have on our people if misused by criminals intent on engaging in acts of terror.

Since the 1995 Oklahoma City tragedy, many studies have been conducted by the Federal Government to determine the feasibility and practicability of imposing controls on certain precursor chemicals, including ammonium nitrate. In addition, the fertilizer industry and the Bureau of Alcohol Tobacco and Firearms (ATF) created the "America's Security Begins with You" ammonium nitrate security campaign in 1995 as an effort to minimize possible misuse of ammonium nitrate fertilizer. These studies and campaigns have both led to show that it is impossible for the agricultural community to guarantee against the criminal misuse of ammonium nitrate under current laws and regulations and that more can and should be done to protect against this threat.

The agricultural community and the fertilizer industry both recognize that more can and should be done to strengthen the controls regarding the handling and purchase of ammonium nitrate fertilizer in order to ensure American farmers continue to have access to this valued input. I believe that the Federal government must do its part in helping to assure that ammonium nitrate fertilizer stays in the hands of agricultural professionals and encourage all who handle this chemical to protect their community and America by establishing effective security measures.

I am proud to join my colleague from Mississippi, Senator COCHRAN, in introducing this legislation along with Senator CHAMBLISS and Senator ROBERTS. I believe it provides a very practical and workable solution to enhance the secure handling of ammonium nitrate and ensure that ammonium nitrate remains available for agricultural use. "The Secure Handling of Ammonium Nitrate Act of 2005" calls for a federal and state cooperation to secure ammonium nitrate fertilizer. It requires the Department of Homeland Security to enter into cooperative agreements with state departments of agriculture to ensure that any person who produces, stores, sells, or distributes ammonium nitrate registers their facility and maintains records of sales or distribution of the product. As such, purchasers of ammonium nitrate would also be required to register with their state's department of agriculture.

My colleagues and I agree that these requirements are necessary measures that provide additional security for ammonium nitrate fertilizer and will not unduly burden agriculture professionals or farmers who use this product. Furthermore, we firmly believe that this legislation will effectively enhance ongoing security measures by helping to keep ammonium nitrate out of the hands of those who wish to harm our Nation.

I thank the Chairman of the Appropriations Committee, as well as the Chairmen of the Agriculture and Intelligence Committees for their leadership on this issue, and I urge my colleagues in the Senate to support this important legislation.

Mr. CHAMBLISS. Mr. President, I would like to echo the comments of the senior Senator from Mississippi regarding the "Secure Handling of Ammonium Nitrate Act of 2005." The importance of ammonium nitrate fertilizer to the agricultural industry cannot be understated. However, its use in acts of terror has led the industry and public alike searching for a way to further secure the handling and use of ammonium nitrate. I believe this legislation accomplishes that goal. If passed, this bill will help us to track both where this fertilizer is, and who is in possession of it. The answers to both of these very important questions will further ongoing efforts to keep our Nation safe from people who may wish to do it harm. I feel this legislation provides additional security for ammonium nitrate while maintaining its viability as an agricultural fertilizer.

I urge my colleagues to support this important legislation.

By Ms. LANDRIEU (for herself, Mr. GRAHAM, Mr. ALLEN, Mr. DURBIN, and Mr. LAUTENBERG):

S. 1142. A bill to provide pay protection for members of the Reserve and the National Guard, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, over 50 years ago, Sir Winston Churchill uttered the immortal words, "never in the field of human conflict has so much been owed by so many to so few." Although Prime Minister Churchill was referring to the selfless and courageous effort of the Royal Air Force in their defeat of the Germans in World War II, I would like to argue that these words apply equally to the men and women fighting to preserve democracy in Iraq and Afghanistan. These men and women are not only making it possible for each and every one of us to go about our daily lives under the blanket of safety and freedom to which Americans have become accustomed, but they are also striving to bring these benefits to people who have never had them before.

If you have had the opportunity to spend time with these men and women, as I have, you quickly observe that they embody everything good about America. Their patriotism, their unyielding commitment to serve their country, their selflessness and their sacrifice should serve as examples to us all. Perhaps what amazes me most, is that although these men and women are prepared to make the ultimate sacrifice for their country, they ask for little in return from it. It is therefore incumbent on us to recognize the debt we owe to them, and honor it.

Today there are 80,000 members of the National Guard and our Reserve armed forces serving bravely in the war on terror. In addition, close to 89,000 members of the Guard and Reserve have been activated in anticipation of being sent to Iraq, Afghanistan, or any other place their country calls on them to serve. While deployed, these citizen soldiers are asked, in a moment's notice, to leave their families, their jobs, and their communities behind, causing tremendous stress on the home front and in the workplace.

While having a loved one in harm's way is reason for stress alone, many of the families of these men and women have the added stress of trying to fill the void left. Many families have lost the main bread winner when a Guardsmen or Reservist gets deployed. As a result, they have trouble paying bills, the rent, the mortgage, or medicine for their children.

The primary reason these families cannot make ends meet is because for Guardsmen and Reservists military pay is often less than civilian pay. We call that the "pay gap." According to the most recent Status of Forces Survey of Reserve Components, 51 percent of our citizen soldiers take a pay cut when they get deployed and 11 percent of them lose more than $2,500 per month.

We ask these men and women to make so many sacrifices on our behalf. I think that it is time that we be willing to make one in return. The least we can do is to help these families find relief from the financial woes caused by this gap. To help do this, my colleagues Senator GRAHAM, Senator ALLEN, Senator DURBIN, and myself are pleased to introduce the Helping Our Patriotic Employers at Helping our Military Employees Act of 2005. We call the bill by its nickname: HOPE at HOME. Our guard and reserve families have enough to worry about when a loved one gets called away, the least we can do is relieve some of the financial worry by encouraging employers to make up the pay gap. Let me describe for my colleagues how this legislation works.

HOPE at HOME will give a 50 percent tax credit to the thousands of employers around the country who have taken the patriotic step of continuing to pay the salary of their guard and reservists employees who have been called to active duty. There are literally thousands of employers out there who already take this noble step—they do it voluntarily, selflessly and at great sacrifice. The HOPE at HOME Act honors that sacrifice.

HOPE at HOME will also encourage companies that cannot afford to make up the pay-gap an incentive to do it. One survey found that only 173 of the Fortune 500 companies make up the pay gap. If the wealthiest companies cannot afford to help their active duty employees, imagine how difficult this is for smaller companies. HOPE at HOME will allow companies large and small to do the patriotic thing and reward those employees who are serving to keep us all free.

HOPE at HOME will also give small patriotic employers additional tax relief if they need to hire a worker to temporarily replace the active duty Guardsmen or Reservist. In addition, the bill clarifies the tax treatment of any pay-gap payments to make income tax filing easier for our Guard and Reservists.

A moment ago, I mentioned that thousands of employers make up the pay-gap for their employees. There is one employer, however, and it happens to be the Nation's largest, that does not make up the pay gap: Uncle Sam. The Federal Government, which should set the bar for patriotism in our country, does not do its part to help citizen soldiers. Senator DURBIN has been a leader in this area, so our bill includes language that he has been fighting to require the Federal Government to make up the pay gap. We cannot ask the private sector to do more than they are doing if the Federal Government is not willing to step up and do its part for our military men and women.

This is not only the right thing to do, it is the smart thing to do. Today our Nation relies on the Guard and Reserve to meet our armed forces needs more than at any other time in our history. At times in the war on terror, forty-percent of our troops in Iraq and Afghanistan were citizen soldiers. Many of them performed multiple tours of duty or found their duties extended.

All of the experts tell us that our need for our Guard and Reserve troops will only get greater. In the post-Cold War world, we have drastically reduced our standing Army from 800,000 in 1989 to approximately 482,000 today, a 40 percent decrease. The number of deployments has increased by over 300 percent. The Guard and Reserve have made it possible to meet these challenges. We still find ourselves stretched thin, but without the Guard and Reserve we would never be able to meet our obligation as guardians of freedom in the World.

But this over-reliance on the Guard and Reserve is starting to have a toll on our ability to recruit and retain these men and women. The percentage of Army Reserve personnel who plan to remain in the military after their tour of duty ends fell from 73 percent to 66 percent over 2004. The top reasons for leaving the Guard and Reserve, according to the Status of Forces Survey of Reserve Components, are family stress, the number and lengths of deployments, income loss, and conflict with civilian employment.

We are beginning to have recruitment problems as well for our standing military. Back in February, the Army and the National Guard and Reserve recruited 3,824 soldiers, but this was only 69 percent of their monthly goal. The numbers went up in March, but still fell short by 12 percent of the goal.

HOPE at HOME recognizes that a soldier who is worrying about how his or her family is paying the bills is not focusing on the mission at hand. A soldier who is worrying about whether the family is paying the rent, is not going to reenlist. And every time one of our soldiers leaves, our Nation loses the experience and service of a highly trained, capable professional. We need to make every effort to keep our citizen soldiers in service to their country. HOPE at HOME is a first step to addressing our military's larger recruitment and retention issues.

During the Cold War we built our strength on having the biggest, best equipped standing army in the World. Now our military gathers its strength from a large reserve of qualified men and women in the Guard and Reserve who are ready to fight at a moment's call. We will lose that strength if we do not give our Guardsmen and Reservists and their families HOPE at HOME.

I hope my colleagues will join Senators ALLEN, GRAHAM, DURBIN and myself in supporting the HOPE at HOME Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Helping Our Patriotic Employers at Helping Our Military Employees Act of 2005" or the "HOPE at HOME Act of 2005".

SEC. 2. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services

"(a) An employee who is absent from a position of employment with the Federal Government in order to perform service in the uniformed services for a period of more than 90 days shall be entitled to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

"(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

"(2) the amount of pay and allowances which (as determined under subsection (d))—

"(A) is payable to such employee for that service; and

"(B) is allocable to such pay period.

"(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

"(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

"(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

"(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

"(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

"(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service in the uniformed services.

"(c) Any amount payable under this section to an employee shall be paid—

"(1) by such employee's employing agency;

"(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

"(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

"(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

"(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

"(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

"(f) For purposes of this section—

"(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given in section 4303 of title 38;

"(2) the term 'service in the uniformed services' has the meaning given that term in section 4303 of title 38 and includes duty performed by a member of the National Guard under section 502(f) of title 32 at the direction of the Secretary of the Army or Secretary of the Air Force;

"(3) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

"(4) the term 'basic pay' includes any amount payable under section 5304.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

"5538. Nonreduction in pay while serving in the uniformed services or National Guard".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as added by this section) beginning on or after September 11, 2001.

SEC. 3. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45J. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

"(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

"(c) LIMITATION.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

"(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

"(B) hospitalization incident to such duty.

"(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

"(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

"(e) PORTION OF CREDIT MADE REFUNDABLE.—

"(1) IN GENERAL.—In the case of an eligible employer of a Ready Reserve-National Guard employee, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

"(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

"(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

"(2) ELIGIBLE EMPLOYER.—For purposes of this subsection, the term 'eligible employer' means an employer which is a State or local government or subdivision thereof.

"(3) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

"(i) section 3111(b), and

"(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

"(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).".

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code (relating to general business credit) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following:

"(20) the Ready Reserve-National Guard employee credit determined under section 45J(a).".

(c) Denial of Double Benefit.—Section 280C(a) (relating to rule for employment credits) is amended by inserting "45J(a)," after "45A(a),".

(d) Conforming Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45I the following:

"Sec. 45J. Ready Reserve-National Guard employee credit.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding after section 30A the following new section:

"SEC. 30B. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

"(a) Allowance of Credit.—

"(1) In general.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the sum of the employment credits for each qualified replacement employee under this section.

"(2) Employment credit.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 50 percent of the lesser of—

"(A) the individual's qualified compensation attributable to service rendered as a qualified replacement employee, or

"(B) $12,000.

"(b) Qualified Compensation.—The term 'qualified compensation' means—

"(1) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

"(2) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

"(3) group health plan costs (if any) with respect to the qualified replacement employee.

"(c) Qualified Replacement Employee.—For purposes of this section—

"(1) In general.—The term 'qualified replacement employee' means an individual who is hired to replace a Ready Reserve-National Guard employee or a Ready Reserve-National Guard self-employed taxpayer, but only with respect to the period during which—

"(A) such Ready Reserve-National Guard employee is receiving an actual compensation amount (as defined in section 45J(b)) from the employee's employer and is participating in qualified active duty, including time spent in travel status, or

"(B) such Ready Reserve-National Guard self-employed taxpayer is participating in such qualified active duty.

"(2) Ready reserve-national guard employee.—The term 'Ready Reserve-National Guard employee' has the meaning given such term by section 45J(d)(3).

"(3) Ready reserve-national guard self-employed taxpayer.—The term 'Ready Reserve-National Guard self-employed taxpayer' means a taxpayer who—

"(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

"(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in section 10142 and 10101 of title 10, United States Code.

"(d) Coordination With Other Credits.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

"(e) Limitations.—

"(1) Application with other credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(B) the tentative minimum tax for the taxable year.

"(2) Disallowance for failure to comply with employment or reemployment rights of members of the reserve components of the armed forces of the united states.—No credit shall be allowed under subsection (a) to a taxpayer for—

"(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

"(B) the 2 succeeding taxable years.

"(f) General Definitions and Special Rules.—For purposes of this section—

"(1) Eligible taxpayer.—The term 'eligible taxpayer' means a small business employer or a Ready Reserve-National Guard self-employed taxpayer.

"(2) Small business employer.—

"(A) In general.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

"(B) Controlled groups.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(3) Qualified active duty.—The term 'qualified active duty' has the meaning given such term by section 45J(d)(1).

"(4) Special rules for certain manufacturers.—

"(A) In general.—In the case of any qualified manufacturer—

"(i) subsection (a)(2)(B) shall be applied by substituting '$20,000' for '$12,000', and

"(ii) paragraph (2)(A) of this subsection shall be applied by substituting '100' for '50'.

"(B) Qualified manufacturer.—For purposes of this paragraph, the term 'qualified manufacturer' means any person if—

"(i) the primary business of such person is classified in sector 31, 32, or 33 of the North American Industrial Classification System, and

"(ii) all of such person's facilities which are used for production in such business are located in the United States.

"(5) Carryback and carryforward allowed.—

"(A) In general.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

"(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(6) Certain rules to apply.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.".

(b) No Deduction for Compensation Taken Into Account for Credit.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits), as amended by this Act, is amended—

(1) by inserting "or compensation" after "salaries", and

(2) by inserting "30B," before "45A(a),".

(c) Conforming Amendment.—Section 55(c)(2) of the Internal Revenue Code of 1986 is amended by inserting "30B(e)(1)," after "30(b)(3),".

(d) Clerical Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 30A the following new item:

"Sec. 30B. Credit for replacement of activated military reservists.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5. INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.

(a) In General.—Section 3401 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

"(i) Differential Wage Payments to Active Duty Members of the Uniformed Services.—

"(1) In general.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

"(2) Differential wage payment.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

"(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

"(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.".

(b) Effective Date.—The amendment made by this section shall apply to remuneration paid after December 31, 2004.

SEC. 6. TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.

(a) Pension Plans.—

(1) In general.—Section 414(u) of the Internal Revenue Code of 1986 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

"(11) Treatment of differential wage payments.—

"(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

"(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

"(ii) the differential wage payment shall be treated as compensation, and

"(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution which is based on the differential wage payment.

"(B) SPECIAL RULE FOR DISTRIBUTIONS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

"(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

"(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer performing service in the uniformed services described in section 3401(i)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

"(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(i)(2).".

(2) CONFORMING AMENDMENT.—The heading for section 414(u) of such Code is amended by inserting "AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY" after "USERRA".

(b) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new sentence: "The term 'compensation' includes any differential wage payment (as defined in section 3401(i)(2)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect, and

(ii) such plan or contract amendment applies retroactively for such period.

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. SMITH, Mr. LEAHY, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. WYDEN, Mr. JEFFORDS, Mr. SCHUMER, Mr. CHAFEE, Mr. AKAKA, Mr. ENSIGN, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COLEMAN, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. HARKIN, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. LANDRIEU, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. OBAMA, Mr. REED, Mr. SALAZAR, Mr. SARBANES, Ms. STABENOW, Mr. LAUTENBERG, Mr. PRYOR, and Mr. ROCKEFELLER):

S. 1145. A bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, hate crimes are a violation of everything our country stands for. They send the poisonous message that some Americans deserve to be victimized solely because of who they are. They're basically acts of domestic terrorism. Hate crimes have an impact far greater than the impact on their individual victim. They're crimes against entire communities, against the whole Nation, and against the fundamental ideals on which America was founded.

The vast majority of Congress agrees. Last year, Senator SMITH and I offered the same measure. The Senate passed it as an amendment to the Defense Authorization Bill by a nearly 2-1 bi-partisan vote of 65–33. By a vote of 213–186, the House instructed its conferees to support it in the conference report on the bill. Unfortunately, House leaders insisted that the provision be dropped in conference. This week, Senator SMITH and I are introducing the identical bill.

The provision is supported by a broad coalition of law enforcement and civil rights groups, including the National Sheriff's Association, the International Association of Chiefs of Police, the Anti-Defamation League, and the National Center for Victims of Crime, and I'm optimistic the bill would have the same broad support it did before. Those who commit hate crimes prey on the vulnerable and terrorize them, because they can't protect themselves. If our Nation stands for anything, it's to protect the vulnerable.

We know that hate crimes are a serious problem that continues to plague us. According to FBI statistics, over 9,000 people were victims of hate crimes reported in the United States in 2003. That's almost 25 people victimized a day, every day, based on their race, religion, sexual orientation, ethnic background, or disability. Sadly, these F.B.I. statistics show only part of the problem, because many hate crimes go unreported. The Southern Poverty Law Center, a nonprofit organization that monitors hate groups and extremist activity, estimates that the actual number of hate crimes committed in the United States each year is closer to 50,000.

Congress can't ignore the problem. Our bill will strengthen the ability of Federal, State, and local governments to investigate and prosecute these vicious and senseless crimes. Current Federal law, obviously isn't adequate to protect our citizens.

It contains excessive restrictions requiring proof that victims were attacked because they were engaged in certain "federally protected activities." It doesn't include violence committed because of person's sexual orientation, gender, or disability. It covers only hate crimes based on race, religion, or ethnic background.

The federally protected activity requirement is outdated, unwise, and unnecessary. In June 2003, three men saw 6 Latino teenagers in a family restaurant on Long Island. The teenagers, 3 boys and 3 girls, between 13–15 years old, knew each other from church and baseball teams. They were there together to celebrate the birthday of one of the girls, whose parents made her take her 13 year old sister along as "chaperone." A parent dropped them all off in his mini-van and promised to pick them up after dinner and a movie. But, moments after leaving, he received a panicked phone call from one of the children, telling him they'd been attacked.

As the group entered the restaurant, three men were leaving the bar, after drinking there for hours. For no apparent reason, they assaulted the teenagers, pummeling one boy and severing a tendon in his hand with a sharp weapon. During the attack, the men screamed racial slurs and one identified himself as a skinhead. The children, who had never experienced anything like this, have been traumatized ever since.

Two of the defendants were tried under current Federal law for committing a hate crime and were acquitted. The Jurors said they acquitted them because the government had not proved the attack took place because the victims were engaged in a federally protected activity—using the restaurant.

The bill we introduce today eliminates the federally protected activity requirement. Under this bill, these defendants who walked out of the front door of the courthouse free that day would almost certainly have left in handcuffs through a different door.

The bill also recognizes that hate crimes are committed against people because of their sexual orientation, their gender, and their disability. Current Federal law didn't protect gay campers in Honolulu from attempted murder when their tents were doused with a flammable liquid and set on fire because they were gay.

It didn't protect Brandon Teena, in Humboldt, NE who was raped and beaten by two male friends when they discovered that he was living as a male but was anatomically female. The local sheriff refused to arrest the offenders, and they later shot and stabbed Brandon to death.

Current law did not protect a 23-year-old mentally disabled man in Port Monmouth, New Jersey who was kidnapped by 9 men and women and tortured for three hours before being dumped in the woods because he was disabled.

Our bill will close all these flagrant loopholes. In addition to removing the federally protected activity requirement and expanding the class of protected people:

The bill protects State interests with a strict certification procedure that requires the Federal Government to consult with local officials before bringing a Federal case.

It offers Federal assistance to help State and local law enforcement investigate and prosecute hate crimes in any of the categories.

It offers training grants for local law enforcement.

It amends the Federal Hate Crime Statistics Act to add gender to the existing categories of race, religion, ethnic background, sexual orientation, and disability.

A strong Federal role in prosecuting hate crimes is essential for practical and symbolic reasons. In practical terms, the bill will have a real world impact on actual criminal investigations and prosecutions by State and Federal officials.

The presence or absence of the "federally protected activity" requirement frequently determines whether state and local resources must be used to prosecute these crimes or whether the Federal Government can bring its full weight to bear on the case.

Hate crime investigations tend to be expensive, requiring considerable law enforcement legwork and extensive use of investigative grand juries. State officials regularly seek federal assistance in bringing hate crime offenders to justice under current law. This bill expands the opportunity for the Justice Department to provide that support.

Our bill fully respects the primary role of State and local law enforcement in responding to violent crime. The vast majority of hate crimes will continue to be prosecuted at the state and local level. The bill authorizes the Justice Department to assist state and local authorities in hate crimes cases. it authorizes Federal prosecutions only when a State does not have jurisdiction, or when it asks the Federal Government to take jurisdiction, or when it fails to act against hate-motivated violence.

In other words, the bill establishes an appropriate back-up for State and local law enforcement to deal with hate crimes in cases where states request assistance, or cases that would not otherwise be effectively investigated and prosecuted.

The symbolic value of the bill is equally important. Hate crimes target whole communities, not just individuals. They are intended to send messages of fear that extend beyond the moment and beyond the individual victim of the attack. Attacking people because they are gay, or African-American, or Jewish, or any other criteria in the bill is bigotry at its worst. Hate crimes are designed to de-humanize and diminish, and we must say loud and clear to those inclined to commit them that they'll go to prison if they do.

The vast majority of us in Congress recognized the importance of making that statement last year. This year, we can make the statement even louder, by turning this bill into law.

Mr. SMITH. Mr. President, as I have done so many times before, I rise today to speak about the need for hate crimes legislation and to introduce the Local Law Enforcement Enhancement Act of 2005. I first sponsored this bill with my colleague, Senator KENNEDY, in 1999 and again in 2001 and 2003.

In the Senate, this legislation passed as an amendment to the Commerce, Justice, State appropriations bill in 1999 and the Defense Department authorization bill in 2000 and 2004, but removed in conference in each case. In 2003, it was introduced as an amendment to the Foreign Relations Authorization Act, but did not pass due to a procedural vote. Clearly, hate crimes legislation has strong support in the Senate.

Senator KENNEDY and I are reintroducing this bill again today because the need for Federal hate crimes legislation is greater than ever. The high prevalence of hate crimes is staggering. Every day there is another America that is attacked or even murdered in an act solely motivated by hate.

Hate crimes tear at the very fabric of our Nation by intimidating entire groups of Americans and creating fear across communities. No one in America should be victimized because of who they are, how they look, or what religion they worship. And the Federal Government should be able to come to the aid of those who have been wronged and protect victims.

Since 1969, Federal law has permitted prosecution of hate crimes motivated by race, religion, national origin, or color, if the victim was engaging in one of six "Federally protected" activities. It has become clear that the statue needs to be amended—and that is what our legislation does. Our legislation would expand on current laws to encompass sexual orientation, gender and disability. It would enable Federal prosecutors to pursue hate crimes cases where local authorities often lack the resources or the ability to prosecute such crimes.

Nobel laureate Eli Wiesel once said: "To hate is to deny another person's humanity." As a Nation that serves as the beacon of justice, freedom and liberty everywhere, we simply cannot tolerate violence against our own citizens based on their race, color, religion, or national origin. No matter how far the United States has come and the progress we have made in protecting American's civil rights, much work remains. We cannot fight terror abroad and bow down to terror at home.

This legislation is a symbol that can become substance. As I have often said, the law is a teacher, and we should teach our fellow Americans that bigotry will not be tolerated. Our government must have the ability to persuade, to pursue, and to prosecute when hate is the motive of violence against another American, no matter their race, sexual orientation, religion, disability, or gender. By changing the law, I truly believe we can change hearts and minds as well.

I urge my colleagues to help me to change the hearts and minds and to make it widely known that we live in a society and a country that does not tolerate those who impose on the civil rights of others simply because they are different.

This year, Congress needs to act. I look forward to President Bush signing this legislation into law.

By Mrs. BOXER:

S. 1146. A bill to require the Federal Trade Commission to monitor and investigate gasoline prices under certain circumstances; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, in March 2000, I introduced legislation to deal with the high price of gasoline. At the time, the price of gasoline had reached a startlingly high $2.15 per gallon in California. Today, gasoline prices on average in California are $2.43 per gallon, 13 percent higher. The problem is getting worse, not better, and so today I am reintroducing my bill to control the manipulation of gasoline prices.

We have heard that higher gasoline prices are due solely to higher crude oil prices. I just do not buy it.

According to the U.S. Energy Information Administration, from January 17 through April 11, the cost of crude oil rose 10.8 percent. During the same time period, the average retail price of gasoline in the United States rose 24.9 percent. Something is not right.

Look at the profits that are being pocketed by the big oil companies. Compared to the same time last year, oil companies' first-quarter profits are dramatically higher.

Look at the number of mergers and acquisitions in the industry over the past several months. The continued consolidation only reduces competition and increases energy costs.

Look at the refiners that may be taking plants off-line at will for "routine maintenance," which is reminiscent of the electricity crisis when generators took their plants off-line for "routine maintenance" in order to artificially increase prices.

My legislation will shed light on manipulation and hopefully curtail it.

The bill requires the Federal Trade Commission to automatically investigate the gasoline market for manipulation anytime average gasoline prices increase in any State by 20 percent in a period of 3 months or less and remain at that level for 7 days or more.

Market manipulation would include, but it is not limited to, collusion or the creation of artificial shortages such as unnecessarily taking refineries off-line. In determining the trigger, the gasoline price used would be the Energy Information Agency's weekly pricing of regular grade gasoline. A report on the FTC's investigation would be due to Congress 14 days after the price trigger.

Under the bill, the FTC would be required within 2 weeks of issuing the report to hold a public meeting to discuss the findings. If the finings indicate that there is market manipulation, then the FTC would work with the State's attorney general to determine the penalties.

If the findings indicate that there is no market manipulation, then the U.S. Department of Energy must officially decide, within 2 weeks, the Strategic Petroleum Reserve should be used in order to ease prices and stabilize supply.

We need to deter market manipulation. Otherwise, we risk serious price gouging with no accountability to consumers. My legislation offers a reasonable standard for an investigation and a reasonable time frame in which to complete that investigation. I believe the threat of these investigations and the public light that would be shed on the system will keep gasoline prices down.

I urge my colleagues to cosponsor this bill.

By Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. BAUCUS, Mr. BURNS, Mr. SCHUMER, Mr. BUNNING, and Ms. CANTWELL):

S. 1147. A bill to amend the Internal Revenue Code of 1986 to provide for the expensing of broadband Internet access expenditures, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am introducing legislation that would accelerate the deployment of advanced broadband internet access technologies in rural and underserved regions. This bipartisan legislation is very similar to bills that I have introduced in the last several Congresses. I want to thank Senators SNOWE, BAUCUS, BURNS, SCHUMER, CANTWELL, and BUNNING for cosponsoring this bill.

The convergence of computing and communications has fundamentally and forever changed the way Americans live and work. Individuals, businesses, schools, libraries, hospitals, and many others share information through computer networks. We shop online. Some of us work at home, or in other locations, using networked computers to interact with our colleagues and associates. Distance learning and telemedicine provide important services in remote locations. In our personal lives we look to our networked computers for entertainment and to communicate with family and friends. These trends are accelerating dramatically.

A decade ago, telephone-based low-bandwidth services met most of our limited data communications needs. Today this technology is obsolete. Most businesses and many individuals find that they require the ability to transmit information much faster, using what is commonly known as broadband communications. Several technologies compete to provide customers with broadband communications. Among the most prominent are optical fiber, wireless, digital-subscriber lines, cable modems, power line transmission, and satellites.

Indeed, as the need for faster services compounds, the technologies must be improved and even the definition of broadband communications must be revised and updated. The now-obsolete telephone-based systems transmit data at up to 56 thousand bits per second. Today, internet service providers commonly install first generation broadband systems that transmit data at rates between 256 thousand bits per second and 4 million bits per second. But we can now see clearly that these current-generation systems will be superseded by second-generation systems, already being installed in a few areas, which operate at data rates of up to 30 million bits per second. In other countries, services that transmit and receive data at 100 million bits per second are already available to individuals. Some industry experts predict that within 5 to 10 years there will be a substantial demand for systems that operate at 1 billion bits per second.

Despite the industry downturn over the past few years, America's telecommunications providers are working to make higher speed communications more widely available. Progress is fastest, and the business case for investment is most attractive, in affluent urban and suburban areas, especially newly developing areas. Rural areas are less fortunate. Low population densities, rugged terrain, and other factors make these areas difficult and expensive to serve. Similarly, the business case for providers to invest in underserved areas, mostly low income areas, is generally weak.

As was the case with electric power and telephone systems in the 20th century, financial incentives will be necessary to assure the extension of broadband communications infrastructure into rural and underserved regions. These incentives will also provide a substantial benefit to the American economy. In the same way that extending electric power systems into rural areas stimulated a new demand for electric appliances and other products, the wider availability of broadband communications will stimulate electronic commerce and new commercial services.

For my State of West Virginia, and other rural and low income States, the availability of advanced communications systems will allow residents to participate in the 21st century economy and have access to the economic and cultural benefits of urban living while retaining their cherished rural values and lifestyles.

The consequences of failing to act are serious. Businesses in infrastructure-rich regions will prosper at the expense of those in rural and underserved regions. New businesses will locate where the information infrastructure is strong. The migration of jobs to urban and affluent areas will accelerate and tax revenue in rural and underserved areas will continue to decline. Residents of West Virginia and other rural states will continue to be at an economic and educational disadvantage. The "digital divide" will widen and the gap between "have" and "have-not" regions will expand.

Decisions on how this country chooses to deploy information technology have the power to fundamentally transform the future of rural America. I firmly believe, and I am sure this view is shared by many of my colleagues, that rural communities deserve the same opportunities as their wealthier urban and suburban counterparts. We must make a commitment to them now, while there is still time, that their communications infrastructure will not always be a generation or more behind that of urban and suburban areas.

My bill would provide incentives for broadband deployment by allowing providers. under certain conditions. to treat their investments in broadband technologies as current-tax-year expenses. Under my legislation, the incentives provided by this bill would be differentiated to favor investments in technologies that will continue to meet communications needs further into the future.

Half of investments in systems that permit data to be received at rates of 1.0 million bits per second and transmitted at rates of 128 thousand bits per second would qualify. This is a substantial incentive to provide residents of rural and underserved areas the capabilities already enjoyed by individuals and businesses in urban and suburban areas.

Investments in systems that permit data to be received at 22 million bits per second and transmitted at 5 million bits per second would fully qualify. This more powerful incentive challenges internet service providers to provide the capabilities that they have already begun to introduce in urban and suburban areas. Forward-looking providers will use this opportunity to invest in technologies that can be upgraded further as the demand grows.

Americans believe strongly in equal opportunity. This bill is just one part of an effort to make sure that all Americans have equal access to modern communications systems and the opportunities that those systems are bringing in the 21st century.

I hope that the Members of this body will support this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

“SEC. 191. BROADBAND EXPENDITURES.

“(a) TREATMENT OF EXPENDITURES.—

“(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

“(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

“(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified broadband expenditure’ means, with respect to any taxable year, any direct or indirect costs incurred after the date of the enactment of this Act and before the date which is 10 years after such date and properly taken into account with respect to—

“(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

“(B) the connection of such qualified equipment to any qualified subscriber.

“(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

“(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

“(4) LIMITATION WITH REGARD TO CURRENT GENERATION BROADBAND SERVICES.—Only 50 percent of the amounts taken into account under paragraph (1) with respect to qualified equipment through which current generation broadband services are provided shall be treated as qualified broadband expenditures.

“(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

“(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

“(A) current generation broadband services are provided through such equipment to qualified subscribers, or

“(B) next generation broadband services are provided through such equipment to qualified subscribers.

“(2) LIMITATION.—

“(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

“(i) the original use of which commences with the taxpayer, and

“(ii) which is placed in service, after the date of the enactment of this Act.

“(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

“(i) is originally placed in service after the date of the enactment of this Act by any person, and

“(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

“(d) SPECIAL ALLOCATION RULES.—

“(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

“(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

“(A) the numerator of which is the sum of—

“(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

“(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

“(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

“(e) DEFINITIONS.—For purposes of this section—

“(1) ANTENNA.—The term ‘antenna’ means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

“(2) CABLE OPERATOR.—The term ‘cable operator’ has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

“(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term ‘commercial mobile service carrier’ means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

“(4) CURRENT GENERATION BROADBAND SERVICE.—The term ‘current generation broadband service’ means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

“(5) MULTIPLEXING OR DEMULTIPLEXING.—The term ‘multiplexing’ means the transmission of 2 or more signals over a single channel, and the term ‘demultiplexing’ means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

“(6) NEXT GENERATION BROADBAND SERVICE.—The term ‘next generation broadband service’ means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

“(7) NONRESIDENTIAL SUBSCRIBER.—The term ‘nonresidential subscriber’ means any person who purchases broadband services which are delivered to the permanent place of business of such person.

“(8) OPEN VIDEO SYSTEM OPERATOR.—The term ‘open video system operator’ means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

“(9) OTHER WIRELESS CARRIER.—The term ‘other wireless carrier’ means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

“(10) PACKET SWITCHING.—The term ‘packet switching’ means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

“(11) PROVIDER.—The term ‘provider’ means, with respect to any qualified equipment—

"(A) a cable operator,

"(B) a commercial mobile service carrier,

"(C) an open video system operator,

"(D) a satellite carrier,

"(E) a telecommunications carrier, or

"(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

"(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

"(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

"(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

"(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

"(D) such services have been purchased by 1 or more such subscribers, and

"(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

"(13) QUALIFIED EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

"(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

"(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

"(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

"(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

"(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

"(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

"(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

"(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

"(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

"(A) with respect to the provision of current generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

"(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

"(B) with respect to the provision of next generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

"(ii) any residential subscriber.

"(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

"(16) RURAL AREA.—The term 'rural area' means any census tract which—

"(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

"(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

"(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

"(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

"(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

"(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

"(B) such services can be utilized—

"(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

"(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

"(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

"(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

"(B) does not include a commercial mobile service carrier.

"(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

"(23) UNDERSERVED AREA.—The term 'underserved area' means—

"(A) any census tract which is located in—

"(i) an empowerment zone or enterprise community designated under section 1391, or

"(ii) the District of Columbia Enterprise Zone established under section 1400, or

"(B) any census tract—

"(i) the poverty level of which is at least 30 percent (based on the most recent census data), and

"(ii) the median family income of which does not exceed—

"(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

"(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

"(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

"(f) SPECIAL RULES.—

"(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

"(2) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).".

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 512(b) of the Internal Revenue Code of 1986 (relating to modifications) is amended by adding at the end the following new paragraph:

"(18) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(32).".

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) of the Internal Revenue Code of 1986 (relating to capital expenditures) is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by adding at the end the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 191.".

(2) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 191(f)(2).".

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

"Sec. 191. Broadband expenditures.".

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act.

By Ms. MIKULSKI (for herself, Ms. STABENOW, Mr. BINGAMAN, Mrs. MURRAY, Mr. CORZINE, Mr. JOHNSON, and Mr. INOUYE):

S. 1148. A bill to amend title XVIII of the Social Security Act to permit direct payment under the medicare program for clinical social worker services provided to residents of skilled nursing facilities; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, in honor of Older Americans' Mental Health Week, I rise today to introduce the Clinical Social Work Medicare Equity Act of 2005. I am proud to sponsor this legislation that will ensure that clinical social workers can receive Medicare reimbursements for the mental health services they provide in skilled nursing facilities. Under the current system, social workers may not be paid for services they provide. Psychologists and psychiatrists, who provide similar counseling, are able to separately bill Medicare for their services. Congressmen STARK and LEACH are introducing a companion bill today in the House of Representatives.

Since my first days in Congress, I have been fighting to protect and strengthen the safety of our Nation's seniors. Making sure that seniors have access to quality, affordable mental health care is an important part of this fight. I know that millions of seniors do not have access to, or are not receiving, the mental health services they urgently need. Nearly 6 million seniors are affected by depression, but only one-tenth ever gets treated. According to the American Psychiatric Association, up to 25 percent of the elderly population in the United States suffers from significant symptoms of mental illness and among nursing home residents the prevalence is as high as 80 percent. These mental disorders, which include severe depression and debilitating anxiety, interfere with the person's ability to carryout activities of daily living and adversely affect their quality of life. Furthermore, older people have a 20 percent suicide rate, the highest of any age group. Every year nearly 6,000 older Americans kill themselves. This is unacceptable and must be addressed.

As a former social worker, I understand the role that social workers play in the overall care of patients and seniors. This bill protects patients across the country and ensures that seniors living in underserved urban and rural areas, where clinical social workers are often the only available option for mental health care, continue to receive the treatment they need. Clinical social workers, much like psychologists and psychiatrists, treat and diagnose mental illnesses. In fact, clinical social workers are the primary mental health providers for nursing home residents and also seniors residing in rural environments. But unlike other mental health providers, clinical social workers cannot bill directly for the important services they provide to their patients. Protecting seniors' access to clinical social workers can help make sure that our most vulnerable citizens get the quality, affordable mental health care they need and deserve. This bill will correct this inequity and make sure clinical social workers get the payments and respect they deserve.

Before the Balanced Budget Act of 1997, clinical social workers billed Medicare Part B directly for mental health services provided in nursing facilities to each patient they served. Under the Prospective Payment System, services provided by clinical social workers are lumped, or "bundled," along with the services of other health care providers for the purposes of billing and payments. Psychologists and psychiatrists, who provide similar counseling, were exempted from this system and continue to bill Medicare directly. This bill would exempt clinical social workers, like their mental health colleagues, from the prospective payment system, and would make sure that clinical social workers are paid for the services they provide to patients in skilled nursing facilities. The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act addressed some of these concerns, but this legislation would remove the final barrier to ensuring that clinical social workers are treated fairly and equitably for the care they provide.

This bill is about more than paperwork and payment procedures. This bill is about equal access to Medicare payments for the equal and important work done by clinical social workers. It is about making sure our Nation's most vulnerable citizens have access to quality, affordable mental health care. The overarching goal we should be striving to achieve for our seniors is an overall improved quality of life. Without clinical social workers, many nursing home residents may never get the counseling they need when faced with a life threatening illness or the loss of a loved one. I think we can do better by our Nation's seniors, and I'm fighting to make sure we do.

The Clinical Social Work Medicare Equity Act of 2005 is strongly supported by the National Association of Social Workers and the Association for Geriatric Psychiatry. I also want to thank Senators STABENOW, BINGAMAN, MURRAY, CORZINE, JOHNSON, and INOUYE for their cosponsorship of this bill. I look forward to working with my colleagues to enact this important legislation.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF SOCIAL WORKERS—POLITICAL ACTION FOR CANDIDATE ELECTION,
Washington, DC, May 25, 2005.

Senator BARBARA MIKULSKI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MIKULSKI: I am writing on behalf of the National Association of Social Workers (NASW), the largest professional social work organization with over 153,000 members nationwide. NASW promotes, develops, and protects the affective practice of social work and social workers. NASW also seeks to enhance the well being of individuals, families, and communities through its work, service, and advocacy.

NASW strongly supports the Clinical Social Work Medicare Equity Act of 2005, which will end the unfair treatment of clinical social workers under the Medicare Part B Prospective Payment System (PPS) for Skilled Nursing Facilities (SNFs).

Section 4432 of the Balanced Budget Act of 1997 authorized the creation of the PPS, under which the cost of a variety of daily services provided to SNF patients is bundled into a single amount. Prior to PPS, a separate Medicare Part B claim was filed by the provider for each individual service rendered to a patient. Congress made this change in an attempt to capitate the rapidly rising costs of additional patient services delivered by Medicare providers to SNF patients, with the precise target being physical, occupational, and speech-language therapy services. However, Congress recognized that some services, such as mental health and anesthesia, are best provided on an individual basis rather than as part of the bundle of services. Thus, the following types of providers are specifically excluded from the PPS: physicians, clinical psychologists, certified nurse-midwives, and certified registered nurse anesthetists. Unfortunately, due to an unintentional oversight during the drafting process, clinical social workers were not listed among the aforementioned providers in the legislation.

In 1996, Department of Health and Human Services Inspector General June Gibbs Brown published a report entitled "Mental Health Services in Nursing Facilities". The purpose of the report was to describe the types of mental health services provided in nursing facilities and identify potential vulnerabilities in the mental health services covered by Medicare. One critical finding of the report was 70% of nursing home respondents stated that permitting clinical social workers and clinical psychologists to bill independently had a beneficial effect on the provision of mental health services in nursing facilities. The Clinical Social Work Medicare Equity will maintain this beneficial effect on SNF patients by ensuring the continuation of direct Medicare billing by clinical social workers for mental health services rendered to SNF patients.

Your efforts on behalf of mental health patients and professional social workers nationwide are greatly appreciated by our members. We thank you for your strong interest in and commitment to this important issue as demonstrated by your sponsorship of the Clinical Social Work Medicare Equity Act. NASW looks forward to working with you on this and future issues of mutual concern.

Sincerely,

DAVID DEMPSEY,
Manager, Government Relations and PACE.

AMERICAN ASSOCIATION FOR GERIATRIC PSYCHIATRY,
Bethesda, MD, May 25, 2005.

Hon. BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of the American Association for Geriatric Psychiatry (AAGP), I am writing to endorse the "Clinical Social Work Medicare Equity Act of 2005."

AAGP is a professional membership organization dedicated to promoting the mental health and well-being of older people and improving the care of those with late-life mental disorders. AAGP's membership consists of 2,000 geriatric psychiatrists, as well as other health professionals who focus on the mental health problems faced by senior citizens.

This legislation would permit direct payment under the Medicare program for clinical social worker services provided to residents of skilled nursing facilities. The numbers of mental health professionals available to treat older adults, including residents of nursing homes, are already inadequate, and as the baby boom generation ages, the needs will only increase. Clinical social workers constitute a crucial component of the team of mental health professionals who are able to deliver this care, and assuring that they are able to bill for their services in the same way as psychiatrists and psychologists is not only fair but also necessary if nursing home residents are to have access to the mental health care they need.

AAGP commends you for your introduction of this important legislation, and we look forward to working with you towards its enactment.

Sincerely,

CHRISTINE M. de VRIES,
Executive Director.

S. 1148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinical Social Work Medicare Equity Act of 2005".

SEC. 2. PERMITTING DIRECT PAYMENT UNDER THE MEDICARE PROGRAM FOR CLINICAL SOCIAL WORKER SERVICES PROVIDED TO RESIDENTS OF SKILLED NURSING FACILITIES.

(a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting "clinical social worker services," after "qualified psychologist services,".

(b) CONFORMING AMENDMENT.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking "and other than services furnished to an inpatient of a skilled nursing facility which the facility is required to provide as a requirement for participation".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date that regulations relating to payment for physicians' services for calendar year 2005 take effect, but in no case later than the first day of the third month beginning after the date of the enactment of this Act.

By Mr. ISAKSON (for himself and Mr. KENNEDY):

S. 1149. A bill to amend the Federal Employees' Compensation Act to cover services provided to injured Federal workers by physician assistants and nurse practitioners, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. ISAKSON. Mr. President, I am pleased to rise and join Senator KENNEDY in introducing the Improving Access to Workers' Compensation for Injured Federal Workers Act.

One of Congress's biggest challenges year in and year out is providing access to affordable quality healthcare for the American people. Today, I am pleased to announce that Senator KENNEDY and I have found an opportunity to provide injured Federal workers with a better system of reimbursable healthcare for their workers compensation claims.

Physicians assistants and nurse practitioners are vital contributors to our healthcare system. Together, they provide economical quality medical care to the American people. Unfortunately, however, they are currently not recognized in the current FECA statute. When Federal workers' compensation claims are signed by NPs or PAs, the Federal Government denies these claims. With the introduction of this bill, Senator KENNEDY and I want to correct this hurdle to economical medical care.

The need for this straightforward legislation is clear. In some rural area health clinics, NPs and PAs are the only full-time providers of medical care. Likewise, NPs and PAs may be the only healthcare professionals onsite after hours at local clinics.

These professions are regulated by all States and are covered providers within Medicare, Tri-Care, and nearly all private insurance plans. Indeed, many Federal workers already regularly receive medical care from NPs and PAs through their Federal Employee Health Benefits Plan. NPs and PAs are also employed by the Federal Government, including the Department of Veterans Affairs, Department of State, Department of Defense, and the Public and Indian Health Services. In fact, most State workers' compensation programs cover NPs and PAs as reimbursable providers.

Again, I thank Senator KENNEDY for his cooperation in ensuring cost-effective quality medical care is available to injured Federal workers.

Mr. KENNEDY. Mr. President, today, with my distinguished colleague Senator ISAKSON, I am pleased to introduce the Improving Access to Workers' Compensation for Injured Federal Workers Act.

Our federal employees serve the American public. Day in and day out, they keep our homeland secure, protect our environment, and oversee and care for those in need. They ensure the safety of our food and our medicines, deliver our daily mail, and undertake countless other duties that, while they sometimes go unnoticed, should never be taken for granted.

More than two-and-a-half million of these workers are covered by the Federal Employees' Compensation Act (FECA). In addition to compensating workers for lost wages, FECA provides medical treatment to Federal workers injured on the job, to help them return to health and to work quickly.

FECA is an effective and fair compensation system. This bill will make it even better by expanding it to cover services provided by nurse practitioners and physician assistants. This will protect many workers who are now without access to needed care when a job-related injury strikes.

Nurse practitioners and physicians' assistants play growing role in medical care, with more than 100,000 nurse practitioners and 46,000 physicians' assistants across the country. They provide crucial services—diagnosing and treating illnesses, ordering and interpreting diagnostic and laboratory tests and educating and counseling patients and families. In many States they can also prescribe medications.

Nurse practitioners and physicians' assistants provide these top quality services in a cost-effective way. The Department of Health and Human Services reports that an office visit to see a nurse practitioner costs 10 percent to 40 percent less than comparable services from a physician, and the Bureau of Labor Statistics calls physicians' assistants "cost-effective and productive members of the healthcare team."

While their impact is felt throughout our nation, these care providers play a particularly important role in rural and low-income urban areas, which are often underserved by doctors. In fact, in some rural areas, an injured Federal worker may be required to travel more than one-hundred miles to see a physician and receive care that is covered under FECA. This bill would expand Federal workers' service options to include physicians' assistants or nurse practitioners who are more likely to be located nearby.

I urge my colleagues to join me in supporting this bill and recognizing the invaluable work done by our Federal employees and the high-quality cost-effective care provided by nurse practitioners and physicians' assistants.

By Mrs. CLINTON:

S. 1150. A bill to increase the security of radiation sources, and for other purposes; to the Committee on Environment and Public Works.

Mrs. CLINTON. Mr. President, I rise to discuss the Dirty Bomb Prevention Act of 2005, which I am introducing today in the Senate, and Congressman MARKEY is introducing in the House.

Since September 11, we have increased our focus on dirty bombs, and rightly so.

Most Americans are not aware of how common this radioactive material is in our country. Often we think of warheads or rods used in nuclear reactors. However, we use less radioactive materials in positive ways in our hospitals, research laboratories, food irradiation plants, oil drilling facilities, airport runway lighting, and even in smoke detectors.

And although these materials have beneficial uses, the fact is that some of them, in the hands of a terrorist, could be used to make a dirty bomb that could be used to contaminate a wide area in New York City or in many other places across the country.

According to the Federation of American Scientists, "material that could easily be lost or stolen from U.S. research institutions and commercial sites could contaminate tens of city blocks at a level that would require prompt evacuation . . . Areas as large as tens of square miles could be contaminated at levels that exceed recommended civilian exposure limits."

Even if such contamination caused by a dirty bomb did not pose severe health threats, efforts to determine the extent of contamination and clean it up would be both expensive and disruptive.

And we know that radiation sources are numerous in the United States. The Nuclear Regulatory Commission (NRC) reports that about 157,000 general and specific licenses have been issued authorizing the use of radioactive materials for industrial, medical, and other uses. About 1.8 million devices containing radioactive sources have been distributed under these licenses.

And we know that some of these sources get lost or stolen. A 2003 GAO report found that since 1998, there have been more than 1,300 incidents where radiation sources were lost, stolen or abandoned.

While not all of these sources and incidents present potential dirty bomb threats, it's clear that we need to do a better job.

This legislation fills in remaining gaps to enable the U.S. to more effectively control radiation sources.

First, the bill would give the Nuclear Regulatory Commission the authority and the mandate to control Radium-226 and other naturally occurring radioactive materials that for historical reasons have remained outside of federal control.

Radium-226 is of particular concern, as it is on the list of radiation sources that the United States has agreed to control as part of adhering to the International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources.

Radium-226 was used in medicine, starting early in the 20th century. Its use increased until the 1950s, when there were more than 5,000 radium users in the U.S. Since then, its use declined, and we don't have a good handle on what is left out there. Because it is naturally occurring, it has stayed out federal regulatory net. So we need to give the NRC the authority to go out and get control of it.

Second, the bill requires the NRC to develop within 6 months of enactment a "cradle-to-grave" tracking system to ensure that we know where radiation sources of concern are at all times. That's just common sense, and if FedEx can do it, I think we ought to be able to do it for materials that could be used in a dirty bomb.

Third, the bill requires the establishment of import and export controls for radiation sources. This is obvious—we need to know what's coming and going as part of our efforts to control these materials.

These 3 provisions are fundamental steps that we know we need to take today to reduce the risk that radioactive materials will fall into the wrong hands.

But the bill also looks forward in several ways.

First, the bill requires an inter-agency task force on radiation source protection to make periodic recommendations to Congress and the NRC about the safety and security of radiation sources. That way we will know how we're doing, and what we need to do in the future.

Second, the bill requires a National Academy of Sciences study of whether some current industrial uses of radiation sources could be replaced with non-radioactive or less dangerous radioactive materials. As I stated early on, there are many beneficial and necessary uses of radioactive materials, such as in medicine.

But there are some cases where use of radioactive materials can be replaced with newer technologies. Just to give one example, some steel mills have been replacing nuclear process gauges with other technologies.

By exploring other opportunities to reduce the use of radioactive materials where possible and appropriate, we can shrink the pool of radioactive materials that are available to make a dirty bomb in the future.

So I hope we can take action on this legislation soon. Here in the Senate I will be working with my colleagues to see whether we can include this legislation in a nuclear plant security bill that the committee will be marking up in June.

I ask unanimous consent that the text of bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dirty Bomb Prevention Act".

SEC. 2. RADIATION SOURCE PROTECTION.

(a) Amendment.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

"SEC. 170C. RADIATION SOURCE PROTECTION.

"a. Nuclear Regulatory Commission Approval.—Not later than 180 days after the date of enactment of this section, the Nuclear Regulatory Commission shall issue regulations prohibiting a person from—

"(1) exporting a radiation source unless the Nuclear Regulatory Commission has specifically found, with respect to that export, that—

"(A) the appropriate regulatory agency in the recipient country—

"(i) has been informed of the proposed export; and

"(ii) has determined that the proposed export will be made in accordance with the recipient nation's laws and regulations;

"(B) the recipient nation has the appropriate technical and administrative capability, resources, and regulatory structure to ensure that the radiation source will be managed in a safe and secure manner; and

"(C) the person exporting the radiation source has made arrangements to retake possession of it when the recipient is no longer using it;

"(2) importing a radiation source unless the Nuclear Regulatory Commission has specifically found, with respect to that import, that—

"(A) the proposed recipient is authorized under law to receive the shipment; and

"(B) the shipment will be made in accordance with all applicable Federal and State laws and regulations; and

"(3) selling or otherwise transferring ownership of a radiation source unless the Nuclear Regulatory Commission has specifically found, with respect to that sale or transfer, that—

"(A) the proposed recipient is authorized under law to receive the radiation source; and

"(B) the transfer will be made in accordance with all applicable Federal and State laws and regulations.

"b. Tracking System.—Not later than 180 days after the date of enactment of this section, the Nuclear Regulatory Commission shall issue regulations establishing a mandatory tracking system for all radiation sources in the United States. Such system shall—

"(1) enable the identification of each radiation source by serial number or other unique identifier;

"(2) require reporting within 24 hours of any change of geographic location or ownership of a radiation source, including any change of geographic location that occurs while the radiation source is being transported;

"(3) require reporting within 24 hours of any loss of control of or accountability for a radiation source; and

"(4) provide for reporting through a secure Internet connection.

"c. Penalty.—Each violation of regulations issued under subsection a. or b. shall be punishable by a civil penalty of up to $1,000,000.

"d. National Academy of Sciences Study.—Not later than 60 days after the date of enactment of this section, the Nuclear Regulatory Commission shall enter into an arrangement with the National Academy of Sciences for a study of industrial, research, and commercial uses for radiation sources. The study shall review the current uses for radiation sources, identifying industrial or other processes that utilize radiation sources that could be replaced with economically and technically equivalent (or improved) processes that do not require the use of radiation sources, or that can be used with radiation sources that would pose a lesser risk to public health and safety in the event of an accident or attack involving the radiation source. The Nuclear Regulatory Commission shall transmit the results of the study to Congress not later than 24 months after the date of enactment of this section.

"e. Commission Actions.—Not later than 60 days after receipt by Congress and the President of a report required under subsection f.(3)(B), the Nuclear Regulatory Commission, in accordance with the recommendations of the task force, shall take any appropriate actions, including commencing revision of its system for licensing radiation sources, and shall take necessary steps to ensure that States that have entered into an agreement under section 274 b. establish compatible programs in a timely manner.

"f. Task Force on Radiation Source Protection and Security.—

"(1) Establishment.—There is hereby established a task force on radiation source protection and security.

"(2) Membership.—The task force shall be headed by the Chairman of the Nuclear Regulatory Commission or the Chairman's designee. Its members shall be the following:

"(A) The Secretary of Homeland Security or the Secretary's designee.

"(B) The Secretary of Defense or the Secretary's designee.

"(C) The Secretary of Energy or the Secretary's designee.

"(D) The Secretary of Transportation or the Secretary's designee.

"(E) The Attorney General or the Attorney General's designee.

"(F) The Secretary of State or the Secretary's designee.

"(G) The Director of National Intelligence or the Director's designee.

"(H) The Director of the Central Intelligence Agency or the Director's designee.

"(I) The Director of the Federal Emergency Management Agency or the Director's designee.

"(J) The Director of the Federal Bureau of Investigation or the Director's designee.

"(3) Duties.—

"(A) In general.—The task force, in consultation with other State, Federal, and local agencies and appropriate members of the public, after public notice and an opportunity for public comment, shall evaluate and provide recommendations to ensure the security of radiation sources from potential terrorist threats, including acts of sabotage, theft, or use of such radiation sources in a radiological dispersal device.

"(B) Recommendations to Congress and the President.—Not later than 1 year after the date of enactment of this section, and not less than once every 3 years thereafter, the task force shall submit a report to Congress and to the President, in unclassified form with a classified annex if necessary, providing recommendations, including recommendations for appropriate regulatory and legislative changes, for—

"(i) a list of additional radiation sources that should be required to be secured under this Act, based on their potential attractiveness to terrorists and the extent of the threat to public health and safety, taking into account radiation source radioactivity levels, dispersability, chemical and material form, and, for radiopharmaceuticals, the availability of these substances to physicians and patients whose medical treatments relies on them, and other factors as appropriate;

"(ii) the establishment of or modifications to a national system for recovery of radiation sources that have been lost or stolen;

"(iii) the storage of radiation sources not currently in use in a safe and secure manner;

"(iv) modification to the national tracking system for radiation sources;

"(v) the establishment of or modifications to a national system to impose fees to be collected from users of radiation sources, to be refunded when the radiation sources are properly disposed of, or any other method to ensure the proper disposal of radiation sources;

"(vi) any modifications to export controls on radiation sources necessary to ensure that foreign recipients of radiation sources are able and willing to control United States-origin radiation sources in the same manner as United States recipients;

"(vii) whether alternative technologies are available that can perform some or all of the functions currently performed by devices or processes that employ radiation sources, and if so, the establishment of appropriate regulations and incentives for the replacement of such devices or processes with alternative technologies in order to reduce the number of radiation sources in the United States, or with radiation sources that would pose a lesser risk to public health and safety in the event of an accident or attack involving the radiation source; and

"(viii) the creation of or modifications to procedures for improving the security of radiation sources in use, transportation, and storage, which may include periodic Nuclear Regulatory Commission audits or inspections to ensure that radiation sources are properly secured and can be fully accounted for, Nuclear Regulatory Commission evaluation of security measures, increased fines for violations of Nuclear Regulatory Commission regulations relating to security and safety measures applicable to licensees who possess radiation sources, criminal and security background checks for certain individuals with access to radiation sources (including individuals involved with transporting radiation sources), assurances of the physical security of facilities that contain radiation sources (including facilities used to temporarily store radiation sources being transported), requirements and a mechanism for effective and timely exchanges of information regarding the results of such criminal and security background checks between the Nuclear Regulatory Commission and States with which the Commission has entered into an agreement under section 274 b., and the screening of shipments to facilities particularly at risk for sabotage of radiation sources to ensure that they do not contain explosives.

"g. Definition.—For purposes of this section, the term 'radiation source' means any sealed or unsealed source whose activity levels are within Category 1, Category 2, or Category 3 as defined under the Code of Conduct on the Safety and Security of Radioactive Sources, approved by the Board of Governors of the International Atomic Energy Agency on September 8, 2003.".

(b) Table of Sections Amendment.—The table of sections of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 14 the following new items:

"Sec. 170B. Uranium supply

"Sec. 170C. Radiation source protection".

SEC. 3. TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BY-PRODUCT MATERIAL.

(a) Definition of Byproduct Material.—Section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) is amended—

(1) by striking "means (1) any radioactive" and inserting "means—

"(1) any radioactive";

(2) by striking "material, and (2) the tailings" and inserting "material;

"(2) the tailings"; and

(3) by striking "content." and inserting "content;

"(3)(A) any discrete source of radium that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use in commercial, medical, or research activity; or

"(B) any material that—

"(i) has been made radioactive by use of a particle accelerator; and

"(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use in commercial, medical, or research activity; and

"(4) any discrete source of naturally occurring radioactive material, other than source material, that—

"(A) has been removed from the natural environment and has been concentrated to levels greater than that found in the natural environment due to human activities; and

"(B) before, on, or after the date of enactment of this paragraph, is extracted or converted after extraction for use in commercial, medical, or research activity.".

(b) Agreements.—Section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) byproduct materials (as defined in section 11 e.);";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) Regulations.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Nuclear Regulatory Commission, after consultation with States and other stakeholders, shall promulgate final regulations as the Commission considers necessary to implement this Act and the amendments made by this Act. Such regulations shall include a definition of the term "discrete" for purposes of paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)) that is designed to ensure that byproduct material is controlled in a manner consistent with other materials that pose the same threat to public health and safety and the common defense and security.

(2) Cooperation.—The Commission shall cooperate with the States in formulating the regulations under paragraph (1), and to the extent practicable shall use existing State consensus standards.

(3) Transition.—To ensure an orderly transition of regulatory authority with respect to byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)), the regulations promulgated under paragraph (1) shall include a transition plan, developed in coordination with States, for—

(A) States that have not, before such plan is issued, entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)); and

(B) States that have entered into such an agreement with the Commission, including, in the case of a State that has entered into such an agreement and has certified that it has an existing State program for licensing of the byproduct material defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)) that is adequate to protect public health and safety, provision for assumption by the State of regulatory responsibility for such byproduct material through an administrative process that—

(i) provides interim provisional recognition of an existing State program for licensing the byproduct material until adoption of an amended agreement under section 274 b.; and

(ii) requires that the byproduct material is included in the periodic reviews of the State programs for adequacy and compatibility required under section 274 j.(1).

(4) Availability of radiopharmaceuticals.—In its promulgation of final rules under paragraph (1), the Commission shall consider the impact on the availability of radiopharmaceuticals to the physicians and patients whose medical treatment relies on them.

(d) Waste Disposal.—

(1) In general.—Section 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2111) is amended by adding at the end the following: "Byproduct material may only be transferred to and disposed of in a disposal facility licensed by the Commission, if the disposal facility meets the licensing requirements of the Commission and is adequate to protect public health and safety, or a disposal facility licensed by a State that has entered into an agreement with the Commission under section 274 b., if the disposal facility meets requirements of the State that are compatible with the licensing requirements of the Commission and is adequate to protect public health and safety.".

(2) Byproduct material not considered low-level radioactive waste.—Section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)) is amended by adding after subparagraph (B) the following:

"Such term shall not include byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954.".

(e) Effective Date.—Subsections (a), (b), and (d) shall take effect 1 year after the date of enactment of this Act.

SEC. 4. RADIATION SOURCES CONTROLLED BY DEPARTMENT OF ENERGY.

(a) Nuclear Fuel.—

(1) Report.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report accounting for the location and status of all nuclear fuel that has been exported by the Federal Government.

(2) Reacquisition.—

(A) In general.—The Secretary of Energy shall, to the maximum extent practicable, reacquire nuclear fuel described in paragraph (1) for disposal, giving highest priority to nuclear fuel that is—

(i) in a location that is not secure; or

(ii) in a country that does not have sufficient resources to either properly dispose of the nuclear fuel or return the nuclear fuel to the United States for disposal.

(B) Authorization of appropriations.—There are authorized to be appropriated to the Secretary of Energy $50,000,000 for each of the fiscal years 2006 through 2010 for carrying out subparagraph (A).

(b) Radiation Sources and Sealed Sources of Plutonium.—

(1) Report.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report accounting for the location and status of all radiation sources (as defined in section 170C(g) of the Atomic Energy Act of 1954, as added by section 1 of this Act) and sealed sources of plutonium weighing more than 1 gram that have been exported by the Federal Government.

(2) Reacquisition.—

(A) In general.—The Secretary of Energy shall, to the maximum extent practicable, reacquire radiation sources and sealed sources of plutonium described in paragraph (1) for disposal that are—

(i) in a location that is not secure; or

(ii) in a country that does not have sufficient resources to either properly dispose of the radiation sources and sealed sources of plutonium or return the radiation sources and sealed sources of plutonium to the United States for disposal.

(B) Authorization of appropriations.—There are authorized to be appropriated to the Secretary of Energy $30,000,000 for each of the fiscal years 2006 through 2010 for carrying out subparagraph (A).

By Mr. McCAIN (for himself and Mr. Lieberman):

S. 1151. A bill to provide for a program to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, to support the deployment of new climate change-related technologies, and ensure benefits to consumers; to the Committee on Environment and Public Works.

Mr. McCAIN. Mr. President, I am pleased to join with Senator Lieberman today in introducing an amended version of the Climate Stewardship Act, which we introduced in February.

The legislation we submit today incorporates the provisions of S. 342, the Climate Stewardship Act of 2005, in its entirety, along with a new comprehensive title regarding the development and deployment of climate change reduction technologies. This new title, when combined with the "cap and trade" provisions of the previously introduced bill, will promote the commercialization of technologies that can significantly reduce greenhouse gas emissions, mitigate the impacts of climate change, and increase the Nation's energy independence. And, it will help to keep America at the cutting edge of innovation where the jobs and trade opportunities of the new economy are to be found.

In fact, the "cap and trade" provisions and the new technology title are complementary parts of a comprehensive program that will allow us to usher in an new energy era, an era of responsible and innovative energy production and use that will yield enormous environmental, economic, and diplomatic benefits. The "cap and trade" portion provides the economic driver for existing and new technologies capable of supplying reliable and clean energy and making the best use of America's available energy resources. Because of the multiple benefits promised by this comprehensive program, we expect that the new bill will attract additional support for the vital purposes of the Climate Stewardship Act. We simply need the political will to match the public's concern about climate change, the economic interests of business and consumers, and American technological ingenuity and expertise.

Our comprehensive bill sets forth a sound course toward a productive, secure, and clean energy future. Its provisions are based on the important efforts undertaken by academia, Government, and business over the past decade to determine the best ways and means towards This energy future. Most of these studies have shared two common findings. First, significant reductions in greenhouse gases—well beyond the modest goals of our bill—are feasible over the next 10 to 20 years using technologies available today. Second, the most important technological deployment opportunities to reduce emissions over the next two decades lie with energy efficient technologies and renewable energy sources, including solar, wind, and biofuels. For example, in the electric power sector, which accounts for one-third of U.S. emissions, major pollution reductions can be achieved by improving the efficiency of existing fossil fuel plants, adding new reactors designs for nuclear power, expanding use of renewable power sources, and significantly reducing electricity demand with the use of energy-saving technologies currently available to residential and commercial consumers. These clean technologies need to be promoted and that is what spurs our action today.

Before describing the details of this legislation, I think it is important to talk about what has occurred since the Senate vote on this issue in October 2003. For example, the scientific evidence of human-induced climate change has grown even more abundant. But just since February of this year, when I highlighted the results of the Arctic Climate Impact Assessment, even more startling evidence about the Arctic region has been revealed. In a recent Congressional briefing, Dr. Robert Corell, chair of Arctic Climate Impact Assessment, presented recent data indicating that climate change in the Arctic is occurring more rapidly than previously thought. Annual average arctic temperatures have increased at twice the rate of global temperatures over the past several decades, with some regions increasing by five to ten times the global average.

The latest observations show Alaska's 2004 June–July–August mean temperature to be nearly 5 degrees Fahrenheit, 2.8 degrees Celsius, above the 1971–2000 historic mean, and permafrost temperature increasing enough to cause it to start melting. Dr. Corell said the Greenland ice sheet is melting more rapidly than thought even 5 years ago, and that the climate models indicate that warming over Greenland is likely to be up to three times the global average, with warming projected to be in the range of 5 to 11 degrees Fahrenheit, 3 to 6 degrees Celsius, which will most certainly lead to sea-level rise. These are remarkable new scientific findings.

It isn't surprising that just this past Tuesday, indigenous leaders from Arctic regions called on the European Union to do more to fight global warming and to consider giving aid to their peoples, saying their way of life is at risk. Global warming is said to be causing the arrival in the far north of mosquitoes bearing infectious diseases. And in Scandinavia, more frequent rains in the winter are causing sheets of ice to develop on top of snow, causing animals to die of hunger because they cannot reach the grass underneath.

> We are not asking for sympathy, said Larisa Abrutina of the Russian Association of Indigenous Peoples of the North. We are asking each country in the world to examine if it is truly doing its part to slow climate change.

The efforts taking place globally to address climate change have gained even greater prominence. For example, British Prime Minister Tony Blair has made climate change one of his top two issues during his Presidency of the G8. Mr. Blair's commitment to addressing climate change should be commended. He has chosen to take action and not to hide behind the uncertainties that the science community will soon resolve. The Prime Minister made it clear in a January speech at World Economic Forum in Davos as to his intentions when he said:

> . . . if America wants the rest of the world to be a part of the agenda it has set, it must be a part of their agenda too.

The top two issues that Prime Minister Blair has chosen to deal with are climate change and poverty in Africa. It is interesting to note that a recent article in the New York Times highlighted the connection between the two issues. The article highlights that a 50-year-long drying trend is likely to continue and appears to be tightly linked to substantial warming of the Indian Ocean. According to Dr. James Hurrell, a scientist at the National Center for Atmospheric Research:

> . . . the Indian Oceans shows very clear and dramatic warming into the future, which means more and more drought for southern Africa. It is consistent with what we would expect from an increase in greenhouse gases.

It appears that Mr. Blair's two priorities are quickly becoming one enormous challenge.

In its September 2004 issue, The National Geographic devotes 74 pages laying out in great detail the necessity of tackling our planet's problem of global warming. In an introductory piece, Editor-in-Chief Bill Allen described just how important he thinks this particular series of articles is:

> Why would I publish articles that make people angry enough to stop subscribing? That's easy. These three stories cover subjects that are too important to ignore. From Antarctica to Alaska to Bangladesh, a global warming trend is altering habitats, with devastating ecological and economic effects. . . This isn't science fiction or a Hollywood movie. We're not going to show you waves swamping the Statue of Liberty. But we are going to take you all over the world to show you the hard truth as scientists see it. I can live with some canceled memberships. I'd have a harder time looking at myself in the mirror if I didn't bring you the biggest story in geography today.

The articles highlight many interesting facts. Dr. Lonnie Thompson of Ohio State University collects ice cores from glaciers around the world, including the famed snows of Kilimanjaro, which could vanish in 15 years. According to Dr. Thompson, "What glaciers are telling us, is that it is now warmer than it has been in the past 2,000 years over vast areas of the planet." Many of the ice cores he has in his freezer may soon contain the only remains of the glaciers from which they came from.

Highlighted quotes from the articles include: Things that normally happen in geologic time are happening during the span of a human lifetime. The future breakdown of the thermohaline circulation remains a disturbing possibility. More than a hundred million people worldwide live within 3 feet of mean sea level. At some point, as temperatures continue to rise, species will have no room to run. The natural cycles of interdependent creatures may fall out of sync. We will have a better idea of the actual changes in 30 years. But it is going to be a very different world.

Global warming demands urgent action on all fronts, and we have an obligation to promote the technologies that can help us meet the challenge. Our aim has never been simply to introduce climate stewardship legislation. Rather our purpose is to have legislation enacted to begin to address the urgent global warming crisis that is upon us. This effort cannot be about political expediency. It must be about practical realities and addressing the most pressing issue facing not only our nation, but the world. We believe that our legislation offers practical and effective solutions and we urge each members careful consideration and support.

I will include for the Record a more detailed description of the various components of the new technology title. However, I do want to describe some of the key provisions designed to enhance innovation and commercialization in key areas. These include zero and low greenhouse gas emitting power generation, such as nuclear, coal gasification, solar and other renewables, geological carbon sequestration, and biofuels:

The bill directs the Secretary of Commerce, through the former Technology Administration, which would be renamed the Innovation Administration, to develop and implement new policies that foster technological innovation to address global warming. These new directives include: developing and implementing strategic plans to promote technological innovation; identifying and removing barriers to the research, development, and commercialization of key technologies; prioritizing and maximizing key federal R&D programs to aid innovation; (establishing public/private partnerships to meet vital innovation goals; and promoting national infrastructure and educational initiatives that support innovation objectives.

It also authorizes the Secretary of Energy to establish public/private partnerships to promote the commercialization of climate change technologies by working with industry to advance the design and demonstration of zero and low emission technologies in the transportation and electric generation sectors. Specifically, the Secretary would be authorized to partner with industry to share the cost, 50/50, of "first-of-a-kind" designs for advanced coal, nuclear energy, solar and biofuels. Moreover, each time that a utility builds a plant based on the "first-of-a-kind engineering" design authorized by this bill, a "royalty" type payment will be paid by the utility to reimburse the original amount provided by the Government.

After the detail design phase is complete, the Secretary would be able to provide loans or loan guarantees, Up to 80 percent, for the construction of these new designs including three nuclear plant designs certified by the NRC that would produce zero greenhouse gas emissions; three advanced coal gasification plants with carbon capture and storage that make use of our abundant coal resources while storing carbon emissions underground; three large scale solar energy plants to begin to tap the enormous potential of this completely clean energy source; and three large scale facilities to produce the clean, efficient, and plentiful biofuel of the future—cellulosic ethanol.

The loan program will be administered by a Climate Technology Financing Board, whose membership will include the Secretary of Energy, a representative from the Climate Change Credit Corporation, as would be created in the bill, and others with pertinent expertise. Once each plant is operational, the private partner will be obligated to pay back these loans from the government, as is the case with any construction loan.

I think it is important to be very clear about this ambitious, but necessary, technology title: We intend that much, if not all, of the costs of the demonstration initiatives, along with the loan program, will be financed by the early sale of emission allowances through the Climate Change Credit Corporation under the cap and trade program, so that industry and the market will foot much of the bill, not the taxpayers. And, as I already mentioned, the bill requires that any Federal money used to build plants will be repaid by the utility when the plant becomes operational.

Finally, the bill contains a mechanism requiring utilities to pay reimbursement "royalties" as they build plants based on zero and low emission designs created with Federal assistance. These funding provisions are more fair and certain than requiring taxpayers to cover the entire costs of these programs and depending upon future appropriations. But there will be some costs involved. That is why it is important to weigh these expenditures against the staggering cost of inaction on global warming. I think we will find more than a justified cost-benefit outcome.

In addition to promoting new or underutilized technologies, the bill also includes a provision to aid in the deployment of available and efficient energy technologies. This would be accomplished through a "reverse auction" provision, which would establish a cost effective and proven mechanism for Federal procurement and incentives. Providers' "bids" would be evaluated by the Secretary on their ability to reduce, eliminate, or sequester greenhouse gas emissions.

The "reverse auction" program would be funded initially by the taxpayers but eventually would be funded by the proceeds from the annual auction of tradeable allowances conducted by the Climate Change Credit Corporation under the cap and trade program.

I want to clarify that this bill doesn't propose to dictate to industry what is economically prudent for their particular operations. Rather, it provides a basis for the selection and implementation of their own market-based solutions, using a flexible emissions trading system model that has successfully reduced acid rain pollution under the Clean Air Act at a fraction of anticipated costs—less than 10 percent of the costs that some had predicted when the legislation was enacted. That successful model can and must be used to address this urgent and growing global warming crisis.

The "cap and trade" approach to emission management is a method endorsed by Congress and free-market proponents for over 15 years after it was first applied to sulfur dioxide pollution. Applying the same model to carbon dioxide and other greenhouse gases is a matter of good policy and simple, common sense. It is an approach endorsed by industry leaders such as Jeffrey Immelt, CEO of General Electric, one of the largest companies in the U.S.

Moreover, using the proven market principles that underlie cap and trade will harness American ingenuity and innovation and do more to spur the innovation and commercialization of advanced environmental technologies than any system of previous energy-bill style subsidies that Congress can devise.

Three decades of assorted energy bills prove that while subsidies to promote alternative energy technologies may sometimes help, alone they are not transformational. In the 1970s, Americans were waiting in line for limited supplies of high priced gasoline. We created a Department of Energy to help us find a better way. Yet today, 30 years later, we remain wedded to fossil fuels, economically beholden to the Middle East and we continue to alter the makeup of the upper atmosphere with the ever-increasing volume of greenhouse gas emissions. Our dividend is continued energy dependence and global warming that places our nation and the globe at enormous environmental and economic risk. Not a very good deal.

Cap and trade is the transformational mechanism for reducing carbon dioxide emissions, protecting the global environment, diversifying the Nation's energy mix, advancing our economy, and spurring the development and deployment of new and improved technologies that can do the job. It is indispensable to the task before us.

The Climate Stewardship and Innovation Act does not prescribe the exact formula by which allowances will be allocated under a cap and trade system. This should be determined administratively through a process developed with great care to achieve the principles and purposes of the Act. This includes assuring that high emitting utilities have ample incentives to clean up and can make emission reductions economically and that low emitting utilities are treated justly and recognized for their efficiency. Getting this balance right will not be easy, but it can and must be done.

The fact remains that, if enacted, the bill's emission cap will not go into effect for another 5 years. In the interim there is much that the country can and should do to promote the most environmentally and economically promising technologies. This includes removing unnecessary barriers to commercialization of new technologies so that new plants, products, and processes can move more efficiently from design and development, to demonstration and, ultimately, to the marketplace. Again, without cap and trade, these efforts will pale, but the new technology title we propose will work hand in glove with the emission cap and trade system to meet our objectives.

As I mentioned, the new title contains a host of measures to promote the commercialization of zero and low-emission electric generation technologies, including nuclear, clean coal, solar and other renewable energies, and biofuels.

I want to take some time to address the bill's nuclear provisions. Although these provisions are only part of the comprehensive technology package, I am sure they will be the focus of much attention.

I know that some of our friends in the environmental community maintain strong objections to nuclear energy, even though it supplies nearly 20 percent of the electricity generated in the U.S. and much higher proportions in places such as France, Belgium, Sweden and Switzerland—countries that aren't exactly known for their environmental disregard. But the fact is, nuclear is clean, producing zero emissions, while the burning of fossil fuels to generate electricity produces approximately 33 percent of the greenhouse gases accumulating in the atmosphere, and is a major contributor to air pollution affecting our communities.

The idea that nuclear power should play no role in our energy mix is an unsustainable position, particularly given the urgency and magnitude of the threat posed by global warming which most regard as the greatest environmental threat to the planet.

The International Energy Agency estimates that the world's energy consumption is expected to rise over 65 percent within the next 15 years. If the demand for electricity is met using traditional coal-fired power plants, not only will we fail to reduce carbon emissions as necessary, the level of carbon in the atmosphere will skyrocket, intensifying the greenhouse effect and the global warming it produces.

As nuclear plants are decommissioned, the percentage of U.S. electricity produced by this zero emission technology will actually decline. Therefore, at a minimum, we must make efforts to maintain nuclear energy's level of contribution, so that this capacity is not replaced with higher emitting alternatives. I, for one, believe it can and should play an even greater role, not because I have some inordinate love affair with splitting the atom, but for the very simple reason that we must support sustainable, zero-emission alternatives such as nuclear if we are serious about addressing the problem of global warming.

I would like to submit for the record a piece written by Nicholas Kristof of the New York Times. Mr. Kristof made the following observation: "It's increasingly clear that the biggest environmental threat we face is actually global warming and that leads to a corollary: nuclear energy is green." He goes on to quote James Lovelock, a British scientist who created the Gaia principle that holds the earth is a self-regulating organism. He quoted Mr. Lovelock as follows:

> I am a Green, and I entreat my friends in the movement to drop their wrongheaded objection to nuclear energy. Every year that we continue burning carbon makes it worse for our descendents. Only one immediately available source does not cause global warming, and that is nuclear energy.

I have always been and will remain a committed supporter of solar and renewable energy. Renewables hold great promise, and, indeed, the technology title contains equally strong incentives in their favor. But today solar and renewables account for only about 3 percent our energy mix. We have a long way to go, and that is one of the objectives of this legislation—to help promote these energy technologies.

I want to stress nothing in this title alters, in any way, the responsibilities and authorities of the Nuclear Regulatory Commission. Safety and security will remain, as they should, paramount in the citing, design, construction and operation of nuclear power plants. And the winnowing effect of the free market, as it should, will still determine which technologies succeed or fail in the market place. But the idea that a zero-emission technology such as nuclear has little or no place in our energy mix is just as antiquated, out-of-step and counter-productive as our continued dependence on fossil fuels. Should it prevail, our climate stewardship and clean air goals will be virtually impossible to meet.

The environmental benefit of nuclear energy is exactly why during his tenure, my friend, Morris Udall, one of the greatest environmental champions the United States has ever known, sponsored legislation in the House, as I did in the Senate, to develop a standardized nuclear reactor that would maximize safety, security, and efficiency. The Department of Energy has done much of the work called for by that legislation. Now it is time for the logical next steps. The new title of this legislation promotes these steps by authorizing Federal partnership to develop first of a kind engineering for the latest reactor designs, and then to construct three demonstration plants. Once the demonstration has been made, free-market competition will take it from there. And the bill provides similar partnership mechanisms for the other clean technologies, so we are in no way favoring one technology over another.

No doubt, some people will object to the idea of the Federal Government playing any role in helping demonstrate and commercialize new and beneficial nuclear designs. I have spent 20 years in this body fighting for the responsible use of taxpayer dollars and against porkbarrel spending and corporate welfare. I will continue to do so.

The fact remains that fossil fuels have been subsidized for many decades at levels that can scarcely be calculated. The enormous economic costs of damage caused by air pollution and greenhouse gas emissions to the environment and human health are not factored into the price of power produced by fossil-fueled technologies. Yet it is a cost that we all bear, too often in terms of ill-health and diminished quality of life. That is simply a matter of fact.

It is also inescapable that the ability to "externalize" these costs places clean competitors at a great disadvantage. Based on that fact, and in light of the enormous environmental and economic risk posed by global warming, I believe that providing zero and low emission technologies such as nuclear a boost into the market place where they can compete, and either sink or swim, is responsible public policy, and a matter of simple public necessity, particularly, as we enact a cap on carbon emissions.

The Navy has operated nuclear powered submarine for more than 50 years and has an impressive safety and performance record. The Naval Reactors program has demonstrated that nuclear power can be done safely. One of the underpinning of its safety record is the approach used in its reactor designs, which is to learn and build upon previous designs. Unfortunately for the commercial nuclear industry, they have not had the opportunity to use such an approach since the industry has not been able to build a reactor in over the past 25 years. This lapse in construction has led us to where we are today with the industry's aging infrastructure. As we have learned from other industries, this in itself represents a great risk to public safety.

I want to close my comments on the nuclear provisions with two thoughts. A recent article in Technology Review seems particularly pertinent to those with reservations about nuclear power. It stated:

> The best way for doubters to control a new technology is to embrace it, lest it remain in the hands of the enthusiasts.

This is particularly sage advice because, frankly, the facts make it inescapably clear—those who are serious about the problem of global warming are serious about finding a solution. And the rule of nuclear energy which has no emissions has to be given due consideration.

Mr. President, don't simply take my word regarding the magnitude of the global warming problem. Consider the National Academy of Sciences which reported in 2001 that:

> Greenhouse gases are accumulating in the Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise. Temperatures are, in fact, rising. The changes observed over the last several decades are likely mostly due to human activities. . . .

Also consider the warning on NASA's website which states:

> With the possible exception of another world war, a giant asteroid, or an incurable plague, global warming may be the single largest threat to our planet.

Consider the words of the EPA that

> Rising global temperatures are expected to raise sea level, and change precipitation and other local climate conditions. Changing regional climate could alter forest, crop yields and water supplies. . . .

And, let's consider the views of President Bush's Science Advisor, Dr. John Marburger who says that,

> Global warming exists, an we have to do something about it, and what we have to do about it is reduce carbon dioxide.

Again, the chief science advisor to the President of the United States says that global warming exists, and what we have to do about it is to reduce carbon dioxide.

The road ahead on climate change is a difficult and challenging one. However, with the appropriate investments in technology and the innovation process, we can and will prevail. Innovation and technology have helped us face many of our national challenges in the past, and can be equally important in this latest global challenge.

Advocates of the status quo seem to suggest that we do nothing, or next to nothing, about global warming because we don't know how bad the problem might become, and many of the worst effects of climate change are expected to occur in the future. This attitude reflects a selfish, live-for-today attitude unworthy of a great nation, and thankfully, not one practiced by preceding generations of Americans who devoted themselves to securing a bright and prosperous tomorrow for future generations, not just their own.

When looking back at Earth from space, the astronauts of Apollo 11 could see features such as the Great Wall of China and forest fires dotting the globe. They were moved by how small, solitary and fragile the earth looked from space. Our small, solitary and fragile planet is the only one we have and the United States of America is privileged to lead in all areas bearing on the advance of mankind. And lead again, we must, Mr. President. It is our privilege and sacred obligation as Americans.

I ask unanimous consent an editorial from the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 12, 2005]

NUCLEAR POWER HAS BECOME A GREEN SOURCE OF ENERGY

(By Nicholas Kristof)

If only one thing used to be crystal clear to any environmentalist, it was that nuclear energy was the deadliest threat this planet faced. That's why Dick Gregory pledged at a huge antinuke demonstration in 1979 that he would eat no solid food until all U.S. nuclear plants were shut down.

Gregory may be getting hungry.

But it's time for the rest of us to drop that hostility to nuclear power. It's increasingly clear that the biggest environmental threat we face is actually global warming, and that leads to a corollary: Nuclear energy is green.

Nuclear power, in contrast to other sources, produces no greenhouse gases. President Bush's overall environmental policy gives me the shivers, but he's right to push ahead for nuclear energy. There haven't been any successful orders for new nuclear plants since 1973, but several proposals for new plants are now moving ahead—and that's good for the world we live in.

Global energy demand will rise 60 percent during the next 25 years, according to the International Energy Agency, and nuclear power is the cleanest and best bet to fill that gap.

Solar power is a disappointment, still accounting for only about one-fifth of 1 percent of the nation's electricity and costing about five times as much as other sources. Wind is promising because its costs have fallen 80 percent, but it suffers from one big problem: Wind doesn't blow all the time. It's difficult to rely on a source that comes and goes.

In contrast, nuclear energy already makes up 20 percent of America's power, not to mention 75 percent of France's. A sensible energy plan must encourage conservation—far more than Bush's plans do—and promote things like hybrid vehicles and hydrogen fuel cells. But for now, nuclear power is the only source that doesn't contribute to global warming and that can quickly become a mainstay of the grid.

Is it safe? No, not entirely. Three Mile Island and Chernobyl demonstrated that, and there are also risks from terrorists.

Then again, the world now has a half-century of experience with nuclear power plants, 440 of them around the world, and they have proved safer so far than the alternatives. America's biggest power source is now coal, which kills about 25,000 people a year through soot in the air.

To put it another way, nuclear energy seems much safer than our dependency on coal, which kills more than 60 people every day.

Moreover, nuclear technology has become far safer through the years. The future may belong to pebble-bed reactors, a new design that promises to be both highly efficient and incapable of a meltdown.

Radioactive wastes are a challenge. But burdening future generations with nuclear wastes in deep shafts is probably more reasonable than burdening them with a warmer world in which Manhattan is under water.

Right now, the only significant U.S. source of electricity that does not involve carbon emissions is hydropower. But salmon runs have declined so much that we should be ripping out dams, not adding more.

What killed nuclear power in the past was cold economics. Major studies at MIT and elsewhere show that nuclear power is still a bit more expensive than new coal or natural gas plants, but in the same ballpark if fossil fuel prices rise. And if a $200-per-ton tax were imposed on carbon emissions, nuclear energy would become cheaper than coal from new plants.

So it's time to welcome nuclear energy as green (though not to subsidize it with direct handouts, as the nuclear industry would like). Indeed, some environmentalists are already climbing onboard. For example, the National Commission on Energy Policy, a privately financed effort involving environmentalists, academics and industry representatives, issued a report in December that favors new nuclear plants.

One of the most eloquent advocates of nuclear energy is James Lovelock, the British scientist who created the Gaia hypothesis, which holds that Earth is, in effect, a self-regulating organism.

"I am a Green, and I entreat my friends in the movement to drop their wrongheaded objection to nuclear energy," Lovelock writes, adding: "Every year that we continue burning carbon makes it worse for our descendents. Only one immediately available source does not cause global warming, and that is nuclear energy."

Mr. LIEBERMAN. Mr. President, I rise today with my friend and colleague Senator JOHN MCCAIN to introduce a second version of our Climate Stewardship Act with improvements—the Climate Stewardship and Innovation Act (CSIA).

In the computer age, we might call this Climate Stewardship 2.0. In this new version we take the time-tested strengths of the Climate Stewardship Act—like the emissions cap and trade program—and add new features to spur innovation and lead us into a 21st Century energy economy that prizes zero- or low-carbon emission technologies.

And we do all this with market-driven programs that will promote a competition for efficient technologies and that don't drain the federal budget.

Let me start with the basics.

Climate change is real and its costs to the economy will be devastating if we don't act.

Consider this very real example: 184 Alaskan coastal villages already need to be relocated because their land and infrastructure are being destroyed by advancing seas and warmer temperatures that are melting the permafrost.

It will cost more than $100 million to relocate just one of these towns.

What would be the price if we needed to do the same for New Orleans, Miami, or Santa Cruz, California?

SwissRe, North America's leading reinsurer, projects that climate driven disasters could cost global financial centers more than $150 billion per year within the next ten years.

The original Climate Stewardship Act asked the American people and businesses to reduce their carbon emissions to 2000 levels—which were quite close to today's levels by the end of the decade.

All we are saying is "Don't make the problem worse! Do no further harm."

Our proposal—then and now—will reduce carbon emissions by putting a price on them with a cap and trade policy similar to the one used so successfully in the Clean Air Act of 1990 which reduced acid rain.

Simply put, a business that doesn't reach its emissions target can buy emissions credits from those under the target.

And, by the way, at the time we debated the acid rain program, industry estimated it would cost $1,000 a ton to comply and would ruin the economy. Today those emissions credits sell for between $100 and $200 a ton.

America's innovators found a way to make it work for the economy and the environment—twin challenges that can and must move together in concert, not conflict.

Because "cap-and-trade" creates a price for greenhouse emissions, it exposes the true cost of burning fossil fuels and will drive investment toward lower-emitting technologies.

If we are going to meet the challenge of climate change, while making sure that our economy remains strong, we need a program that gives business and industry both a push and pull.

The push will come from requiring business and industry to cut their greenhouse gas pollution; the pull from giving them incentives to innovate, along with financial support for bringing the best innovations forward.

There are many actions we can take today to meet the targets set in our original bill, ranging from increasing the efficiency of our operations, to boosting the use of renewable energy, for which so many states are now admirably pushing. But to advance beyond this goal and maintain emissions reductions in the future with a growing economy, we will need to push both innovation and the deployment of climate friendly technologies that already exist.

While we're on the subject of technology and investment, I want to be sure that everybody sees that our emissions trading market itself will unleash a multi-billion dollar flow of capital into technology and innovation. Our opponents insist that everybody see the emissions reduction requirements of this bill as costs. The truth is that these so-called costs are vital investment flows necessary to bring about innovation, invention and technological change in an era where our climate, our economy and even our national security depend on our ability to wean ourselves from our dependence on oil, so much of which is imported from unstable regions in the world.

Because technological change and innovation are so important for both climate change and energy independence, our bill creates a dedicated public sector mechanism for ensuring that some of that investment flow is directed at the technologies we need—including, for example, biofuels and clean ways of burning coal, to name just two examples from a potentially open-ended menu of climate-friendly technology choices.

The new bill we are introducing today helps assure that the most important and efficient technological alternatives are supported. We do not pick winners or losers. That's for the market to do. Our bill is technology neutral, but does make sure that if there are barriers to developing or using new technologies, the resources are available to knock those barriers down.

This bill provides support for first-of-its-kind innovation or early-adoption of new energy technologies with minimal cost to the federal budget.

Instead of turning to the taxpayer, our bill uses a self-funding mechanism by empowering the Secretary of Energy to use some of the money generated through the purchase of emissions credits, funneled through a new public corporation our bill creates, to help bring innovations to market. And this is not small change. It is a substantial multibillion dollar contribution every year.

Mr. President, this kind of public sector support has many encouraging precedents.

From the telegraph to the Internet, it was the timely intervention of the federal government that helped bring new technologies to market.

And, if we don't help bring these new low-carbon or zero-carbon technologies to market, we will be buying them from the nations that do.

We only need look at the popular hybrid cars—low-emitting vehicles that consumers have shown they want by the long waiting lists that exist to buy them. And then remember that American manufacturers must license this technology from Japan.

Our bill also ensures that assistance is provided to help with the transition to new technology and energy production with programs to reduce consumer costs, to help dislocated workers and communities, and to substantially support the deployment of climate friendly technology and energy production.

We also know that some regions—like my State of Connecticut—and businesses like DuPont, BP, and Kodak have already acted pro actively and are working to reduce emissions on their own. We commend these actions. Even more important, our bill ensures that credit will be given to them for their good work.

Just a few months ago, the head of the international panel on climate change, Dr. R. Pachauri, said that "we are already at a dangerous point when it comes to global warming. . . . Immediate and very deep cuts in greenhouse gases are needed if humanity is to survive."

Let me repeat those last words, "If humanity is to survive."

When I quoted Dr. Pachauri on this floor in February, I reminded the Senate that the Bush Administration lobbied heavily for Dr. Pachauri's appointment to the IPCC leadership because it considered him a more cautious and pragmatic scientist.

I quote him today because his warning words are so clear and strong.

Global warming is truly one of the great challenges of our age—a challenge where the Heavens and the Earth meet.

It is a challenge of Biblical proportions—to meet God's call in Corinthians to be "stewards" of His mysteries—and in Genesis to go forth and "replenish the earth" to both work and guard the garden.

If we don't take these simple steps now—steps that are well within both our technological and financial grasp—the generations to come will rightfully look back at us with scorn and ask why we acted so selfishly . . . why we cared only for our own short-term profits and comforts . . . and why we left them a world environment in danger. We must act on our vision of a better future, a future that is most definitely within our reach.

That is what Senator McCAIN and I are convinced our CSIA will do.

We put forth this innovation and technology proposal to start a conversation here in the Senate with colleagues whose support we need to get to a majority, and to provide some ideas for how to accelerate and build a climate friendly future. We hope that our colleagues will join us in this conversation so we can put forth—and pass—the best proposal possible.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. SMITH, and Ms. COLLINS):

S. 1152. A bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the Medicare Program; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicare Mental Health Copayment Equity Act of 2005 with my colleagues, Senator JOHN KERRY, Senator GORDON SMITH, and Senator SUSAN COLLINS.

Briefly, our bill would correct a serious disparity in Medicare payment policy for mental health treatment. Medicare beneficiaries typically pay 20 percent of the cost of covered outpatient services, including doctor's visits, as a "copayment" or coinsurance, and Medicare pays the remaining 80 percent. But Medicare law imposes a special limitation for outpatient mental health services which requires patients to pay a much higher copayment, 50 percent. As a result, Medicare beneficiaries pay two and a half times as much—50 percent coinsurance—for treatment of any mental disorders.

Our bill will eliminate the disparity in payment by reducing this discriminatory copayment over a 6-year period, starting in 2006, from the current 50 percent to the standard 20 percent. This means that, in 2012, patients seeking outpatient treatment for mental illness will pay the same 20 percent copayment that is required of Medicare patients today who receive outpatient treatment for other illnesses. The goal of our bill is ultimately to achieve "copayment equity" for Medicare mental health services.

Let me give an example of the current disparity in copayments. If a Medicare patient sees a doctor in an office for treatment of cancer, heart disease, or the flu, the patient must pay 20 percent of the fee for the visit. But if a Medicare patient sees a psychiatrist, psychologist, social worker, or other professional in an office for treatment of depression, schizophrenia, or any other type of mental illness, the patient must pay 50 percent of the fee. What sense does this make?

Indeed, our bill has a larger purpose, to help end an outdated distinction—between treatment of physical and mental disorders—and to ensure that Medicare beneficiaries have equal access to treatment for all their health conditions. Perhaps this disparity would not matter so much if mental disorders were less prevalent. But the Surgeon General has told us otherwise.

A landmark report of the Surgeon General in 1999 emphasized the importance of access to treatment for mental disorders. The Surgeon General found that mental illness was a leading cause—second only to cardiovascular diseases—of otherwise healthy years of life lost to premature death or disability. The Surgeon General found that the occurrence of mental illness among older adults is widespread, with a substantial portion of the population aged 55 and older—almost 20 percent—experiencing specific disorders that are not a part of "normal" aging.

Older Americans also have the highest rate of suicide in the country, and the risk of suicide increases with age. In fact, in the State of Maine, the suicide rate for seniors is three times as high as the rate for adolescents. It is not surprising, therefore, to find that untreated depression among the elderly has substantially increased their risk of death by suicide.

Another sad irony involves individuals with disabilities. Medicare is often viewed as health insurance for people over age 65 but it also provides health insurance for those with severe disabilities. The single most frequent cause of disability for both Social Security and Medicare benefits is mental disorders—affecting almost 1.4 million of 6 million Americans who receive Social Security disability benefits. Yet, Medicare pays far less for the critical mental health services needed by these beneficiaries than it does for medical treatment for their physical disabilities.

However, the good news is that, today, there are increasingly effective treatments for mental illness. The majority of people with mental disorders who receive proper treatment can lead productive lives. Congress should remove disincentives that inhibit access to mental health services so that those seeking treatment for these disorders do not have to face financial barriers to care. It is time to remove stigmas and overcome the lack of understanding of mental disorders by equalizing Medicare copayment requirements for mental health services.

I urge my colleagues to join with me and bring Medicare payment policy into the 21st century.

I would also like to submit letters from the American Psychiatric Association and the Mental Health Liaison Group, 36 national organizations supporting this legislation, and I ask unanimous consent that these letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN PSYCHIATRIC ASSOCIATION,
Arlington, VA, May 26, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.
Hon. JOHN KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR SNOWE AND SENATOR KERRY: Later today you will receive a letter, initiated by the American Psychiatric Association, from some 35 members of the Mental Health Liaison Group (MHLG) thanking you for your leadership in again introducing legislation to phase out Medicare's discriminatory 50 percent coinsurance.

We are of course a cosigner of the MHLG letter, but I wanted to add my own personal thanks for your tireless efforts to end 40 years of discrimination against patients seeking outpatient mental health services under Medicare Part B. It should be simply unacceptable to compel such patients to pay 50 percent of the cost of their care out of their own pockets. The real "winners" under your legislation are patients.

I also wish to specifically acknowledge the hard work and dedication of Sue Walden, Heather Mizeur, and Aaron Jenkins of your staffs. You are each extremely well served by their efforts.

Sincerely,
JAMES H. SCULLY, Jr.,
Medical Director.

MENTAL HEALTH LIAISON GROUP,
Washington, DC, May 26, 2005.

Hon. OLYMPIA SNOWE,
Russell Senate Office Building,
Washington, DC.
Hon. JOHN KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS SNOWE AND KERRY: The undersigned organizations in the Mental Health Liaison Group, representing patients, health professionals and family members, are pleased to support your legislation, the Medicare Mental Health Copayment Equity Act. Under your legislation, Medicare's historic discriminatory 50 percent coinsurance for outpatient mental health care would be reduced over six years to 20 percent, bringing the coinsurance into line with that required of Medicare beneficiaries for other Part B services.

Simply put, current law discriminates against Medicare beneficiaries who seek treatment for mental illness. This affects elderly and non-elderly Medicare beneficiaries alike when they seek mental health care. According to the 1999 U.S. Surgeon General's report on mental health, almost 20 percent of elderly individuals have some type of mental disorder uncommon in typical aging. In addition, elderly individuals have the highest rate of suicide in the U.S., often the result of depression. The Surgeon General's report states, "Late-life depression is particularly costly because of the excess disability that it causes and its deleterious interaction with physical health. Older primary care patients with depression visit the doctor and emergency rooms more often, use more medication, incur higher outpatient charges, and stay longer at the hospital."

The 50 percent coinsurance requirement also is unfair to the non-elderly disabled Medicare population. Because many of these individuals have severe mental illnesses combined with low incomes and high medical expenses, a 50 percent coinsurance obligation is a serious patient burden. For elderly and non-elderly Medicare beneficiaries alike, Medicare is a critical source of care. Your legislation to ensure that Medicare beneficiaries needing mental health care incur only the same cost-sharing obligations as required of all other Medicare patients would end the statutory discrimination against Medicare beneficiaries seeking treatment for mental disorders.

Thank you for your leadership in addressing this important issue for the nation's 40 million Medicare patients.

Sincerely,

Alliance for Children and Families; American Academy of Child and Adolescent Psychiatry; American Association for Geriatric Psychiatry; American Association of Children's Residential Centers; American Association of Pastoral Counselors; American Association of Practicing Psychiatrists; American Group Psychotherapy Association; American Managed Behavioral Healthcare Association; American Mental Health Counselors Association; American Occupational Therapy Association; American Psychiatric Association; American Psychiatric Nurses Association.

American Psychoanalytic Association; American Psychological Association; American Psychotherapy Association; Anxiety

Disorders Association of America; Association for the Advancement of Psychology; Association for Ambulatory Behavioral Healthcare; Bazelon Center for Mental Health Law; Children and Adults with Attention-Deficit/Hyperactivity Disorder; Clinical Social Work Federation; Clinical Social Work Guild; Depression and Bipolar Support Alliance; Eating Disorders Coalition for Research, Policy & Action.

Ensuring Solutions to Alcohol Problems; International Society of Psychiatric-Mental Health Nurses; NAADAC, The Association for Addiction Professionals; National Alliance for the Mentally Ill; National Association for Children's Behavioral Health; National Association for Rural Mental Health; National Association of Anorexia Nervosa and Associated Disorders (ANAD); National Association of Mental Health Planning & Advisory Councils; National Association of Protection and Advocacy Systems; National Association of Psychiatric Health Systems; National Mental Health Association; and Suicide Prevention Action Network USA.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 1154. A bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. COLLINS. Mr. President, I rise today to introduce the Acadia National Park Improvement Act of 2005. This legislation takes important steps to ensure the long-term health of one of America's most beloved national parks. It would increase the land acquisition ceiling at Acadia by $10 million; facilitate an off-site intermodal transportation center for the Island Explorer bus system; and extend the Acadia National Park Advisory Commission.

In 1986, Congress enacted legislation designating the boundary of Acadia National Park. However, many private lands were contained within the permanent authorized boundary. Congress authorized the Park to spend $9.1 million to acquire those lands from willing sellers only. While all of that money has now been spent, rising land prices have prevented the money from going as far as Congress originally intended.

There are over 100 private tracts left within the official park boundary. Nearly 20 of these tracts are currently available from willing sellers, but the park does not have the funds to purchase them. My legislation would authorize an additional $10 million to help acquire these lands. Since these lands already fall within the congressionally authorized boundary, this effort would "fill in the holes" at Acadia, rather than enlarging the park.

My legislation will also facilitate the development of an intermodal transportation center as part of the Island Explorer bus system. The Island Explorer has been extremely successful over its first 5 years. These low-emission propane-powered vehicles have carried more than 1.5 million riders since 1999. In doing so, they removed 424,000 vehicles from the park and reduced pollution by 24 tons.

Unfortunately, the system lacks a central parking and bus boarding area. As a result, day use visitors do not have ready access to the Island Explorer. My legislation would authorize the Secretary of the Interior to provide assistance in the planning, construction, and operation of an intermodal transportation center in Trenton, ME. This center will include parking for day users, a visitor orientation facility highlighting park and regional points of interest, a bus boarding area, and a bus maintenance garage. This center, which will be built in partnership with the Federal Highway Administration, U.S. Department of Transportation, Maine Department of Transportation, and other partners, will reduce traffic congestion, preserve park resources and the visitor experience, and ensure a vibrant tourist economy.

Finally, my legislation would extend the 16-member Acadia National Park Advisory Commission for an additional 20-year period. This commission was created by Congress in 1986 and is currently due to expire in 2006. That would be a mistake. The commission consists of three Federal representatives, three State representatives, four representatives from local towns on Mount Desert Island, three from adjacent mainland communities, and three from adjacent offshore islands. These representatives have provided invaluable advice relating to the management and development of the Park. The commission has proven its worth many times over and deserves to be extended for an additional 20 years.

Acadia National Park is a true gem of the Maine coastline. The park is one of Maine's most popular tourist destinations, with nearly 3 million visitors every year. While unsurpassed in beauty, the park's ecosystem is also very fragile. Unless we are careful, we risk substantial harm to the very place that Mainers and Americans hold so dear.

In 11 years, Acadia will be 100 years old. Age has brought both increasing popularity and greater pressures. By providing an extra $10 million to protect sensitive lands, expanding the highly successful Island Explorer transportation system, and extending the Acadia National Park Advisory Commission, this legislation will help make the park stronger and healthier than ever on the occasion of its centennial anniversary.

Ms. SNOWE. Mr. President, I rise today to offer my cosponsorship to the Acadia National Park Improvement Act of 2005. For those of you who have not had the good fortune to visit one of the crown jewels in the National Park system, Acadia National Park, the first national park established east of the Mississippi, is located on the rugged coast of Maine, encompassing over 47,000 acres that follow the shoreline, go up mountains of sheer granite, dotted with numerous lakes and ponds, diverse habitats that create striking scenery and make the park a haven for wildlife and plants. This past Earth Day was celebrated by one of my staff members along with devotees of the Park on the South Ridge Trail of Cadillac Mountain, the highest point on the U.S. Atlantic coast, on the same ground where the Wabanaki Indians walked over 6,000 years ago. They called the surrounding Mount Desert Island Pemetic, "the sloping land".

Acadia National Park certainly covers a land of contrast and diversity, with a variety of freshwater, estuarine, forest and intertidal resources and is one of the most visited Parks in the national park system, and rightfully so, as it offers magnificent views from Cadillac Mountain that sweep down 1,530 feet to the rocky coast and ocean below. Besides its natural beauty, the Park brings in $130 million a year into the State's economy.

It is because of the great beauty of the Park and its scenic views that I have continued my efforts to achieve cleaner air for the area and for the entire State. The pristine Park is, unfortunately, a good example of how the State is affected by dirty air that blows in from away, estimated to be around 80 percent, that is affecting both the air we breathe and our ability to enjoy the natural beauty of the 47,000 acres of the Park.

I am a devoted fan of the Island Explorer bus system, whose clean propane-powered vehicles offer visitors and residents free transportation to hiking trails, the unique carriage roads, the island beaches and for in-town shopping. It is estimated that the Island Explorer buses took the place of an estimated 300,000 vehicles during the last four years, and prevented the release of 24 tons of nitrogen oxide and volatile organic compounds from car exhaust. I understand that other national parks are considering using the positive benefits of the Island Explorer system as a transportation model for parks all around the country. A great deal of thanks should go to the surrounding towns and to L.L. Bean for financing this successful system that helps to make the air cleaner and adds to our enjoyment of the activities the Park provides.

The legislation introduced today will help the Park in three specific areas: one, it will help the Park by extending the Acadia National Park Advisory Commission for 20 years giving local residents the opportunity for input into the management of the Park; two, it will increase the authorized ceiling for land acquisition funding by $10 million to $28 million to realize the sharp rise in real estate prices so that properties from willing sellers within the Park's boundaries can be included into the Park; and, three, the legislation will allow the Park to locate an intermodal center outside of park boundaries off of Mt. Desert Island to give even more assistance to the one road entering and exiting the Park by alleviating auto traffic to and on the island and to achieve cleaner air.

I will continue to take actions for additions within the Park boundaries, for local input into the management process, for a better public transportation system for the Island that will create a healthier environment, and better support the Park's ecological protections. I look forward to continue working with the people of Mt. Desert Island, the Park's Supervisor, and the Friends of Acadia, a devoted, independent philanthropy that has raised $15 million in private endowments for the Park, on issues important to all of us for the preservation of the beautiful landscape, the ocean's coastline, and for environmental improvements in Acadia National Park, the very place where the first light of day shines on our glorious Nation.

By Mr. BROWNBACK (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BUNNING, Mr. CHAMBLISS, Mr. COBURN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. MCCAIN, Mr. SANTORUM, Mr. SESSIONS, Mr. SUNUNU, Mr. TALENT and Mr. THUNE):

S. 1155. A bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. BROWNBACK. Mr. President, I rise today to introduce the Commission on the Accountability and Review of Federal Agencies, CARFA, Act with over 20 original cosponsors.

This is an important measure that I have been developing and advocating over the past few years. CARFA's premise is simple: Members of Congress need a tool that will help them use taxpayer dollars more efficiently.

Members of Congress need a tool like CARFA because the special interest in keeping a program alive is almost always more powerful than the general interest to realign or even end a Federal program.

A good example of this is tobacco. While there is a general interest in discouraging smoking—and while we spend many taxpayer dollars to this end—there is also strong special interest pressure to keep taxpayer tobacco subsidies alive. Thus, the Federal Government both subsidizes and discourages tobacco.

CARFA is the tool that would give members a chance to advance the general interest. CARFA would take all Federal Government agencies and programs—both discretionary and entitlement—and put them under the review of a bipartisan commission. Members of the commission would be appointed by both majority and minority leaders in both House of Congress and by the President.

The commission would review Federal agencies and programs in order to present draft legislation to the Congress that would realign or eliminate duplicative, wasteful, inefficient, outdated, irrelevant, or failed agencies and programs.

Each House of Congress would get one vote on the draft legislation—up or down—without amendment.

CARFA would create a new approach to increase the efficiency of the Federal Government by giving the general interest a stronger voice in the system. For example, there might be a program that is important to my home State of Kansas that would be cut by the proposed legislation, but I only get one vote and there are a variety of other programs that I really do think need to be eliminated.

Since I only have one vote, I can justify voting for the measure when I go back home by showing to my constituents that there were a number of other programs that needed to be realigned or cut. Thus, CARFA makes the overall goal of balancing the Federal budget more achievable.

We need CARFA now more than ever. The Federal Government spends $2,292,000,000 per year on discretionary and mandatory spending. That is a lot of money. My Kansas constituents often say: "I don't mind paying my taxes, but make sure my hard-earned money is well spent." At a time when Federal spending is at an all time high, topping $20,000 per household, we owe our constituents the accountability that would result from CARFA.

Last year, we had a bipartisan hearing on CARFA, at which all witnesses supported the CARFA concept. We have incorporated some of the suggestions made at that hearing, and I believe this year's version of CARFA is even better.

I am pleased that the Senate is already on record supporting the CARFA concept through Section 502 of this year's budget resolution, and it is my hope that we will be able to work with leadership to see CARFA become a reality this year.

By Mr. HATCH:

S. 1156. A bill to amend the Internal Revenue Code of 1986 to extend the credit period for electricity produced from renewable resources at certain facilities, to extend the credit for electricity produced from certain renewable resources, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce a bill, S. 1156, to extend and enhance a provision in the Internal Revenue Code that gives tax incentives for the production of electricity from renewable resources.

The legislation I am introducing today is central to our Nation's goal of achieving energy independence, which is at the heart of the energy bill that will soon be considered by the Senate. The Committee on Energy and Natural Resources has included in its energy bill a renewable energy title that directs the Federal Government "to the extent economically feasible and technically practicable" to implement programs that will produce at least 7.5 percent of the electricity from renewable sources by 2013.

The Senate Committee on Finance, on which I serve, will soon consider an energy tax bill to complement the bill from the Energy and Natural Resources Committee. The legislation I am introducing today is designed to provide incentives to help us reach this level of renewable energy production.

Specifically, my bill would amend the Internal Revenue Code to extend the Section 45 production tax credit for electricity produced from renewable resources for facilities placed in service before January 1, 2011, pursuant to a written binding contract in effect on December 31, 2007. This extension is designed to take into account the extended length of time it takes for many renewable energy facilities, particularly geothermal facilities, to be built.

In addition, my bill would provide for a 10-year credit period for all renewable energy sources covered by this tax credit. Current law allows a 10-year credit period for certain renewable sources, such as wind, but only a 5-year credit period for other renewable sources, such as geothermal. This results in an uneven playing field under current law that tilts investors toward certain renewable energy resources over others. This represents poor energy policy and it represents poor tax policy.

I believe this disparity in credit periods undermines the development of all of our renewable energy resources and thereby inhibits our goal of energy independence. This legislation would equalize the tax credit period for all renewable resources and even up the playing field.

I would like my colleagues to know more about the importance of our Nation's vast supply of geothermal energy resources. Geothermal is a clean, renewable energy resource that presently contributes over 2,718 megawatts to the U.S. energy supply. Renewable energy, excluding hydroelectric, makes up 2 percent of U.S. energy consumption; of that 2 percent, geothermal energy accounts for .44 percent, solar .06 percent and wind 1 percent. Geothermal technology is used in commercial, industrial and residential application in 26 States.

However, geothermal energy generation has not been fully exploited. According to the U.S. Department of Energy, there is almost 25,000 megawatts of undeveloped geothermal energy production potential in the United States. This is enough power to serve more than 22 million homes. Furthermore, this is an energy source that is not subject to the price and supply volatility of fossil fuels. Our energy policy should not overlook this potential or sell short its potential.

My home State of Utah has an abundance of high and low temperature geothermal resources that this bill would allow to be economically developed. For example, a new 36 megawatt geothermal plant near Cove Fort, UT, is scheduled to be under construction by the spring of 2006 with completion expected by the end of 2007. Without this legislation, it is unlikely that this plant, as well as others around the Nation, would be able to be built. That would be very unfortunate.

The area around Cove Fort has one of the largest proven geothermal resources in the Nation. There are 3,000 contiguous acres of leased land associated with the project now on the drawing boards. At 2,000 feet underground, the geothermal resource there is relatively shallow and is considered by most geologic experts to be one of the largest underground hot water reservoirs in North America. A leading geothermal engineering company recently issued a report indicating that the Cove Fort hot water resource can support and sustain power production in excess of 100 megawatts.

Utah is but one State with geothermal resources that can help lead our Nation toward energy independence. Other States with considerable geothermal resources include Nevada, California, Montana, Washington, Oregon, Idaho, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Arizona, New Mexico, Texas, Pennsylvania, West Virginia, Louisiana, Hawaii, and Kansas. We need to get the process of developing these resources started, and the bill I am introducing today would make sure that happens.

This legislation would provide the necessary boost to the development of our geothermal energy resources as well as all other renewable energy resources available to our Nation. I urge my colleagues to join me by cosponsoring this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING ELECTRICITY FROM RENEWABLE RESOURCES.

(a) EXTENSION OF CREDIT PERIOD FOR ELECTRICITY PRODUCED AT CERTAIN FACILITIES.—Subparagraph (B) of section 45(b)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) CREDIT PERIOD.—In the case of any facility described in subsection (d)(3)(A)(ii) placed in service before October 22, 2004, the 5-year period beginning on October 22, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).".

(b) EXTENSION OF CREDIT.—Subsection (d) of section 45 of the Internal Revenue Code of 1986 (relating to qualified facilities) is amended by striking "January 1, 2006" each place it appears and inserting "January 1, 2008".

(c) BINDING CONTRACTS FOR FACILITIES.—Subsection (d) of section 45 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"For purposes of this subsection, a facility shall be treated as placed in service before January 1, 2008, if such facility is placed in service before January 1, 2011, pursuant to a written binding contract in effect on December 31, 2007, and at all times thereafter before such facility is placed in service.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (a).—The amendment made by subsection (a) shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

By Mr. KENNEDY (for himself, Mr. AKAKA, and Mr. LAUTENBERG):

S. 1158. A bill to impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, the bill we are introducing today is urgently needed to protect the pension benefits of workers across America.

A decent retirement in today's world depends on Social Security, private pensions, and private savings. But today's working families find their retirement severely threatened. President Bush wants to privatize Social Security. Private savings are at an all-time low, and now private pensions are in great jeopardy, too.

This challenge has been brought home all too clearly by United Airlines' recent announcement that it intends to end its pension plans and turn them over to the Pension Benefit Guaranty Corporation. The pensions of over 120,000 workers are at stake. Over $3 billion in their benefits are not guaranteed by the corporation, and the future pensions they have been promised will be lost as well.

These hard-working Americans include thousands of flight attendants like Patrice Anderson, who have made only a modest wage throughout their working lives and for whom "the possible loss of hundreds of dollars a month in old age changes a dignified retirement into a subsistence-level retirement."

The loss is particularly painful because so many of the employees have accepted lower pay or given back wages and other benefits in order to keep their pension plans. Marilyn King of California worked for United for 25 years. She says: "I used to be proud of working for United. Now, I am embarrassed and angry. I am angry that we took 25 percent in pay cuts, that we gave other concessions; and then our COO and CEO get their bonuses and perks."

We have heard from families and workers across the country. In Massachusetts, Kevin Creighan and his wife Cathy Hampton in Lynn have spent a lifetime with United, "working hard, earning a living, and all along expecting a pension." They hoped to retire in 7 years, with a combined 70 years of loyal service between them. Now, if they want the retirement they were promised by the United Airlines pension plan, they will have to work for an additional 15 years.

George Raymond of Arizona retired at the age of 60 after 38 years. He writes that because of this pension termination, he will not be able to afford his medical bills. Richard Myer of California retired after 32 years as a United pilot, and now he has to go back to work and sell his home to support his children and his elderly father-in-law.

Americans who work hard and play by the rules should not be victimized by these broken promises. No wonder they feel betrayed. They share the view of Robert Lamica of Virginia, who says, "I kept my promise to United for 36 years by working in rain, snow, heat, and whatever else nature would throw our way . . . My back and knees have been destroyed along with my ability to get another job . . . We need not be left on the curb just because United can."

These loyal men and women cannot turn back the clock and make different decisions. But Congress can stop that clock and reach a fair solution.

This legislation we are introducing will prevent bankrupt companies from abandoning their pension plans for the next 6 months.

Our action will also ease the growing threat to all defined benefit pension plans. The Pension Benefit Guaranty Corporation estimates that if it takes over the remaining airline defined benefit pension plans, 90 percent of the claims it must cover will come from airline companies or steel companies, even though such plans include only 5 percent of the employees covered by the corporation. The legislation will buy time for us to develop real solutions for the serious problems of these ailing industries.

I urge my colleagues to join me in support of this bill. We owe it to all these hard working Americans whose retirement has been put at risk.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. SMITH, Mr. SCHUMER, Mr. CRAPO, Mr. LOTT, Mr. KYL, and Mrs. LINCOLN):

S. 1159. A bill to amend the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce a bill, S. 1159, to make permanent a provision under subpart F of the Internal Revenue Code regarding active financial services income earned abroad. I am joined in this effort by my colleagues Senators BAUCUS, SMITH, SCHUMER, CRAPO, LOTT, KYL, and LINCOLN. Under current law, the provision will expire at the end of next year.

This legislation would ensure that U.S. financial services firms and U.S. manufacturing companies with financial services operations are subject to U.S. tax on income from their active overseas financial services operations only when such earnings are sent home to the U.S. parent company. As my colleagues know, this is the treatment provided under the U.S. tax law for other active business income earned overseas. Our legislation simply extends, on a permanent basis, the expiring provision that ensures this same treatment for the financial services industry.

The permanent extension of this provision is critically important in today's global marketplace. Over the last few years, the financial services industry has seen technological and global changes that have altered the very nature of the way these corporations do business, both here and abroad. The U.S. financial industry is a worldwide leader that plays a pivotal role in maintaining confidence in the international marketplace and positively contributes to the U.S. international trade balance. We believe it is essential that our tax laws not impose anti-competitive burdens on this important U.S. industry.

If we allow the active financial services provision to lapse, U.S. companies would have to pay both local tax and current U.S. tax on the financial services income they generate overseas. While some of this double taxation is often alleviated by the foreign tax credit, we all know that this system works imperfectly. The result is that U.S. firms end up with a cost that is not borne by their European and Asian competitors, because companies based in these areas do not face current home country taxation on financial services income. In an industry where companies compete on price and a few basis points can mean the difference between getting the business or losing it to a competitor, the imposition of this additional tax cost on U.S.-based companies would translate into a competitive disadvantage for U.S. companies and a competitive advantage for their foreign counterparts. Given the thousands of U.S. jobs at stake, many of them in Utah, we do not believe our tax policy should allow this to happen.

While this provision may seem far removed from the average Utahn or the average American, I can assure you that this is not true. For example, the Salt Lake City area serves as the headquarters location for the banking operations of American Express Centurion Bank and American Express Bank, FSB, which are important parts of the worldwide American Express Card system. Salt Lake City is also the headquarters of American Express Travelers Cheques, with its Utah facility servicing Travelers Cheques clients on a worldwide basis. Thousands of Utahns are employed by these companies.

These businesses are tied to the international marketplace through the competitive strength of the American Express global franchise. For American Express and other U.S. companies to compete on par with their foreign competitors, the U.S. tax rules need to provide fair and equitable treatment of their overseas operations. To the extent foreign competitors can take business away from U.S. firms because of an uneven playing field, U.S. jobs are at risk.

The bill we are introducing today would provide equitable and consistent tax treatment for this important component of our economy. Making this provision permanent would provide American companies much-needed stability. The current provision has been renewed several times, most recently for 5 years in the Job Creation and Worker Assistance Act of 2002. Our "on-again, off-again" habit of extensions prevents U.S.-based firms from competing fully in the global marketplace by interfering with their ability to make business decisions and plan on a long-term basis. The permanent extension of this subpart F provision would ensure that the U.S. financial services industry is on a competitive footing with their foreign-based competitors and would provide tax treatment that is consistent with the tax treatment accorded other U.S. businesses.

The Congress and the administration took an important step toward modernizing our international tax rules with the enactment of the American Jobs Creation Act of 2004. The legislation we introduce today furthers that act's goals of ensuring that American firms can compete in the 21st century economy.

I urge my colleagues to support this important bill and ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT EXTENSION OF SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) IN GENERAL.—Section 954(h)(9) of the Internal Revenue Code of 1986 is amended by striking "and before January 1, 2007,".

(b) CONFORMING AMENDMENTS.—Section 953(e)(10) of the Internal Revenue Code of 1986 is amended—

(1) by striking "and before January 1, 2007,", and

(2) by striking the second sentence thereof.

Mr. BAUCUS. Mr. President, today I am pleased to join my friend and colleague, Senator HATCH, in introducing legislation to make permanent the subpart F provision for active financial serviced income earned abroad.

The legislation we are filing today is identical to a bill we filed in the 107th Congress. Since then, this exemption has been temporarily extended but that will expire at the end of next year. This exemption ensures that the active financial services income earned abroad by U.S. financial services companies, or U.S. manufacturing firms with a financial service operation, is not subject to U.S. tax until that income is brought home to the U.S. parent company.

By making this provision permanent, our legislation will put the U.S. financial services industry on an equal footing with its foreign-based competitors, which do not face current home country taxation on active financial services income. I will tell my colleagues that this bill is about jobs in Montana, and in each of our States. In fact, one of these competitive U.S. financial services companies employs hundreds of Montanans in Great Falls alone, so the health of that company is critically important to my constituents.

American financial services companies successfully compete in world financial markets. We need to make sure, however, that the U.S. tax rules do not change that situation and make them less competitive in the world arena. This legislation will extend a provision that I believe preserves the international competitiveness of U.S.-based financial service companies, including finance and credit companies, commercial banks, securities firms, and insurance companies. This provision also contains appropriate safeguards to ensure that only truly active businesses benefit.

As my colleagues have heard year after year, the active financial services provision is critically important in today's global economy. Our U.S. financial services industry is a global leader playing a pivotal role in maintaining confidence in the international marketplace. It is a fiercely competitive business. And U.S.-based companies would surely be disadvantaged with an additional tax burden if we allow this exemption to lapse. Through our network of trade treaties, we have made tremendous progress in gaining access to new foreign markets for this industry in recent years. Our tax laws should complement, rather than undermine, this effort.

The temporary nature of the active financial services provision, like other expiring provisions, denies U.S. companies the stability enjoyed by their foreign competitors. It is time to make permanent this subpart F active financial services provision in order to allow U.S. business companies to make business decisions on a long-term basis. I ask my colleagues to join us in supporting this legislation, providing consistent, equitable, and stable tax treatment for the U.S. financial services industry.

By Mr. WYDEN (for himself and Mr. SUNUNU):

S. 1128. A bill to amend title XIX of the Social Security Act to provide for increased rebates under the medicaid program for prescription drugs that are directly advertised to consumers, to require other Federal programs purchasing or reimbursing for such drugs to establish payment and reimbursement mechanisms that reduce the costs of those drugs, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Madam President, the cost of medicine is a matter of concern to every Senator. Today, Senator SUNUNU and I have introduced legislation to take a fresh approach to holding down the cost of medicines in our country. Under our bipartisan legislation, the Federal Government would pay less for pharmaceuticals that are advertise when the Federal Government buys those medicines for Medicaid, the Veterans' Administration, the Department of Defense, and the Public Health Service.

One can barely turn on the television or open a magazine these days without getting the hard sale on a hot new medicine. There is no doubt that medical science is making miracles for our citizens who need help with their health. For that, we are, of course, grateful. But the advent of advertising for prescription drugs presents pitfalls as well, not just for patients but for every American taxpayer.

Senator SUNUNU and I introduced our legislation today because as the marketing gets savvier, the Federal Government needs to get smarter and contain costs wherever possible for these popular and expensive drugs. The fresh approach that Senator SUNUNU and I unveil today will amp up the Government's purchasing power on prescription drugs that are advertised directly to consumers. The Pharmaceutical Advertising and Prudent Purchasing Act will reduce drug costs for the beneficiaries of Medicaid and other Federal programs. It will ease the burden on States struggling to stretch their health care dollars through Medicaid, and it will lower the overall costs for taxpayers footing the bill for these advertised drugs.

When a drug company figures the price of a pill, it passes along the advertising costs to consumers. Right now, Medicare and Medicaid pay that cost like any other consumer. But it is time to take the advertising costs out of the equation for taxpayer funded programs. The Federal Government, of course, gives drug companies a tax break for advertising which, of course, every other American company gets for its business expenses. There is no need for a double subsidy. There is a need for more prudent purchasing of prescription drugs by the Federal Government. If that is going to happen, the changes in the pharmaceutical market that have been caused by the explosion of advertising cannot be ignored any longer.

I do not have to tell our colleagues that drug advertising in the United States is an immense and growing industry. The Wall Street Journal reported last week that the pharmaceutical industry spent nearly $4.5 billion on advertising to consumers. The penetration of this advertising may be more than most people realize. A recent Kaiser Family Foundation poll found that 90 percent of Americans had seen or heard an advertisement for prescription drugs. Today, more and more Americans can go to their doctor and ask to have a medication they have seen advertised on TV, in a magazine, on the radio or on the Internet. Of course, that is what is happening.

There is a proven direct connection between the advertising of drugs and a big uptick in the rate of prescriptions written for them. Take a look at the 10 most advertised drugs in the United States. That is 2003, and I would guess that few Americans would say they have not heard of any of these drugs.

On each of these drugs, at least $100 million was spent in 2003 alone on direct consumer advertising. The advertising works. A study published in the April issue of the Journal of the American Medical Association demonstrates the link. Researchers sent actors to doctors' offices to complain of mild depression. Those who mentioned seeing an ad were five times more likely to get a prescription for an antidepressant as those who simply described their supposed symptoms without talking about a drug ad they had seen. It is no wonder the heavily advertised drugs make up most of the top 10 medicines prescribed under Federal health programs like Medicare, Medicaid, and others. Take a look.

These are the 10 drugs on which Medicare spends the most total money for outpatient care. Nine are advised directly to consumers.

Here are the 10 drugs on which Medicaid spends the most money. Four of the ten are advised directly to consumers. The next 4 drugs, Nos. 11 through 14, are advertised as well. It is the view of Senator SUNUNU and I that the Federal Government is one consumer that does not need to receive advertising from the drug companies.

The Federal Government is buying medicine for a lot of people with a limited pool of funds. It is vital to get a handle now on the connection between advertising and increased sales and to insist on more prudent purchasing.

Our legislation does just that. It makes the Government a more prudent purchaser in a straightforward way. It will require Medicaid and other vital programs under Health and Human Services and the Veterans' Administration to get a discount that cuts out the advertising costs figured in each pill. In Medicaid, this would be done by adjustments in the Medicaid rebate program. That is an existing program that requires a pricing agreement between drug manufacturers and the Federal Government for any drug to be sold through the Medicaid program.

The Health and Human Services Secretary and the VA Secretary will also be able to negotiate reduced prices for other Federal programs such as the Public Health Service, programs administered by the Indian Health Service, the Department of Veterans Affairs, the Department of Defense and the Defense Health Program.

This is smart and effective spending. It ends the spending of taxpayer dollars to fund advertising that has already received a tax break. It is a commonsense step, the kind of common sense that is all too uncommon when the Federal Government buys drugs.

Our legislation will address another issue that speaks both to the taxpayers' interests and the health of patients in these programs. When advertised drugs are purchased, it is not enough to make sure the price is right, although that is important. It is vital the drug is right for the patient's particular problem. Taxpayer dollars should buy drugs that will work best for patients by a doctor's best judgment. Just because a patient recognizes a drug's name enough to request it from their provider does not mean it is the best medicine.

More and more drug companies are treating doctors as a middleman they wish to skip. They make a lot more money if patients, without medical degrees, are encouraged to start writing their own prescriptions, whether the drug is the right one or not. Medicare, Medicaid, and other Federal programs have a charge to keep for their patients and a trust to maintain with American taxpayers. They should not be exploited financially by the pharmaceutical "flavor of the month."

I close by expressing my thanks to the Senator from New Hampshire. This is a bipartisan approach that is going to hold down the cost of medicine for taxpayers in our country. It will be a benefit to beneficiaries certainly at a time when the Medicaid Commission is trying to find responsible savings. We ensure that we take the time to study how this approach would work for other programs such as Medicare. And because I see my friend in the Chamber, I will wrap up simply by saying that it is time to take out a sharp pencil and eliminate the hidden costs for taxpayers from advertised drugs.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I am pleased to join Senator WYDEN in the introduction of this legislation, which is a good-faith effort to try to find that fresh approach Senator WYDEN talked about, a fresh approach to deal with costs in health care, specifically in those areas where the Federal Government is directly purchasing pharmaceuticals: in the VA, where we have a very large direct purchase program that exists today, and within Medicaid, where both the Federal Government and the States are directly involved in purchasing and negotiating the pricing of drugs.

We are focusing on direct-to-consumer advertising. This is an area where activity and cost have exploded over the last 6 or 7 years. Since 1997, when the Federal Government changed the regulations associated with direct-to-consumer advertising, we have seen advertising outlays for pharmaceuticals go from a little bit over $1 billion to nearly $5 billion per year this year. Those costs, as any costs would be, are passed on to consumers. In the case of these programs where the Federal Government is purchasing the pharmaceuticals in the VA and in Medicaid, that means that the cost, the impact, is disproportionately felt by the taxpayer.

This is an effort to try to find a way to reduce those costs, to give the Federal Government the power to make a distinction, as they negotiate prices—to make a distinction between those drugs that are advertised directly to consumers or marketed directly to consumers and those that are not, and to provide discounts to those companies or those drugs that avoid the additional costs of advertising.

This advertising, as I say, is expensive. The cost is passed on to taxpayers in these particular programs. I think there are also a lot of questions about the value that a flood of advertising might provide.

We have all been inundated by different types of advertisement, on TV or in magazines. It is costly, as I mentioned, but it also carries with it some risk of overutilization; of, in some cases, encouraging or leading consumers to believe that they need or would benefit by a particular medicine when it is not necessarily the best approach for them.

In some cases it is clear this advertising has been used to drive consumers away from lower priced generic drugs. I think this is one of the most problematic areas, and that has been seen and discussed at some length in the States, in their Medicaid programs.

This legislation presents an opportunity to get our hands around the cost issue, to fund some important studies, to take a closer look at questions of overutilization and the substitution I described. It represents a good start, I think, opening the debate with this discussion about dealing directly with health care costs in areas of the Federal Government as the principal purchaser.

There may be other options. In fact, Senator WYDEN and I talked about a few other approaches that are not included in this legislation. I think I can speak for the Senator from Oregon when I say we look forward to talking to our colleagues about other ideas that might be out there. We look forward to sharing ideas and information with producers themselves who, I hope, are willing to look at ways to help save the consumers money, help save taxpayers money, and help deal with direct-to-consumer advertising in a more responsible way.

We are going to do a Medicaid bill this year in the Senate. While we also deal with some issues at HHS and the VA in this bill, certainly the costs associated with Medicaid and our recommendations with regard to Medicaid are a central part of the bill. I will work with Senator WYDEN and any of my interested colleagues to try to include and capture some of these ideas in Medicaid legislation this year.

It is a great opportunity to look at the issue of health costs and drug costs in a fresh way, in a different way. I very much appreciate the work Senator WYDEN has done in helping to craft this legislation and his willingness to lend his strong support, as a longstanding and more senior Member than I, as a member of the Senate Finance Committee, and as a Member of the Senate on the other side of the aisle.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 157—CONGRATULATING CARRIE UNDERWOOD FOR WINNING THE "AMERICAN IDOL" TELEVISION PROGRAM AND THANKING HER FOR BEING A POSITIVE ROLE MODEL

Mr. COBURN (for himself and Mr. INHOFE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 157

Whereas Carrie Underwood was born in Muskogee, Oklahoma, on March 10, 1983, but Checotah, Oklahoma, lays complete claim to her as a native;

Whereas Carrie's parents are Stephen and Carole Underwood of the Onapa area of Oklahoma;

Whereas Carrie has two older sisters, Shanna Underwood Means, who teaches in Liberty Mounds, Oklahoma, and Stephanie Underwood Shelton, who teaches in Arkhoma, Oklahoma;

Whereas Carrie has delighted the residents of Checotah with her singing since her elementary school days;

Whereas during high school, Carrie sang in the Checotah High School's award winning chorus and excited audiences every year at the Robbin Emerson Memorial Talent Show, which raises money for scholarships;

Whereas Carrie was often kind enough to sing the National Anthem at high school basketball games;

Whereas Carrie excelled academically in high school and was the salutatorian of her 2001 Checotah High School graduating class;

Whereas Carrie began attending Northeastern State University after high school, where she is a senior majoring in mass communications with an emphasis in journalism;

Whereas Carrie performed for 2 years in Northeastern's Downtown Country Show in Tahlequah, Oklahoma;

Whereas Carrie auditioned in August 2004, in St. Louis, Missouri, for the "American Idol" television show;

Whereas Carrie was named to the top 24 on "American Idol" in mid-February 2005, and has been in Hollywood, California, performing weekly since;

Whereas although people in Checotah and Oklahoma are extremely proud of Carrie's phenomenal talent, they are even more proud of the kind of young person she has always been; and

Whereas Carrie Underwood is intelligent, kind, and considerate—undoubtedly one of the finest young women anyone will ever meet: Now, therefore, be it

Resolved, That the Senate—

(1) takes great pride in congratulating Carrie Underwood of Checotah, Oklahoma, for winning the television program "American Idol"; and

(2) thanks Carrie Underwood for being a positive public role model and representing Oklahoma so superbly before an audience of millions of television viewers in this nation and around the world.

SENATE RESOLUTION 158—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD DESIGNATE THE WEEK BEGINNING SEPTEMBER 11, 2005, AS "NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK"

Mr. GRAHAM (for himself, Mr. ALLARD, Mr. ALLEN, Mr. BAYH, Mr. BUNNING, Mr. CHAMBLISS, Mr. COCHRAN, Mr. DEMINT, Mr. DEWINE, Mrs. DOLE, Mr. DODD, Mr. DURBIN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. KERRY, Ms. LANDRIEU, Mr. LOTT, Ms. MIKULSKI, Mr. SANTORUM, Mr. SESSIONS, Mr. SPECTER, Mr. TALENT, Mr. VOINOVICH, Mr. SCHUMER, Mr. BROWNBACK, Mr. OBAMA, and Mr. BURR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 158

Whereas there are 105 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week".

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week"; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

SENATE RESOLUTION 159—RECOGNIZING THE 50TH ANNIVERSARY OF THE OKLAHOMA INDEPENDENT PETROLEUM ASSOCIATION AND ITS MEMBERS VITAL CONTRIBUTION TO THE OIL AND GAS INDUSTRY OF THE UNITED STATES

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 159

Whereas the Oklahoma Independent Petroleum Association was founded and incorporated in the State of Oklahoma on January 13, 1955;

Whereas the Oklahoma Independent Petroleum Association was founded by independent oil and natural gas producers, and its membership is still comprised of independent producers, both large and small;

Whereas the founders of the Oklahoma Independent Petroleum Association possessed the leadership and vision to establish a unified voice for independent crude oil and natural gas producers;

Whereas the Oklahoma Independent Petroleum Association is the largest oil and gas advocacy group in the State, representing over 1,500 member companies in the crude oil and natural gas exploration and production industry and affiliated businesses;

Whereas the mission of the Oklahoma Independent Petroleum Association is to enhance and protect the ability of independent oil and natural gas producers in Oklahoma to conduct their business and to ensure energy supply;

Whereas the Oklahoma Independent Petroleum Association is a rarity in State oil and gas associations, with a full-time governmental affairs specialist and a full-time regulatory affairs specialist working with agencies that regulate the oil and gas industry;

Whereas the Oklahoma Independent Petroleum Association is a proactive and diverse organization striving to provide a broad range of services to its members and the industry it supports;

Whereas the leaders of the Oklahoma Independent Petroleum Association have worked successfully on behalf of Oklahoma independent producers on State and national issues, advocating for State and national governmental policies that protect and enhance the ability of Oklahoma independent producers to do business; and

Whereas the Oklahoma Independent Petroleum Association will continue to look toward the future by forging alliances within the oil and gas industry and with other organizations devoted to a more prosperous Oklahoma: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 50th anniversary of the Oklahoma Independent Petroleum Association;

(2) congratulates the Oklahoma Independent Petroleum Association for its 50-year history of contributions to the oil and gas industry of Oklahoma and the United States;

(3) recognizes that the Oklahoma Independent Petroleum Association has been and will continue to be an invaluable asset in developing and promoting the oil and gas industry in the United States; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the Oklahoma Independent Petroleum Association as an expression of appreciation and for public display at the 50th annual meeting of the Oklahoma Independent Petroleum Association.

SENATE CONCURRENT RESOLUTION 39—TO EXPRESS THE SENSE OF CONGRESS ON THE PURPLE HEART

Mrs. CLINTON (for herself and Mr. HAGEL) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 39

Whereas the Purple Heart is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force or are wounded while held by an enemy force as prisoners of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit;

Whereas the award of the Purple Heart ceased with the end of the Revolutionary War, but was revived in 1932, the 200th anniversary of George Washington's birth, out of respect for his memory and military achievements; and

Whereas National Purple Heart Recognition Day is a fitting tribute to George Washington and to the more than 1,535,000 recipients of the Purple Heart, approximately 550,000 of whom are still living: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of National Purple Heart Recognition Day;

(2) encourages all people of the United States to learn about the history of the Purple Heart and to honor its recipients; and

(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for people who have been awarded the Purple Heart.

SENATE CONCURRENT RESOLUTION 40—RECOGNIZING AND COMMENDING THE PRESIDENT AND THE GOVERNMENTS OF OTHER COUNTRIES THAT HAVE PARTICIPATED IN THE PROLIFERATION SECURITY INITIATIVE FOR THE HISTORIC EFFORTS AND SUCCESSES OF THE PROLIFERATION SECURITY INITIATIVE IN REDUCING THE THREAT POSED BY ILLICIT TRAFFICKING IN WEAPONS OF MASS DESTRUCTION, THEIR MEANS OF DELIVERY, AND RELATED MATERIALS, ON THE OCCASION OF THE SECOND ANNIVERSARY OF THE ESTABLISHMENT OF THE PROLIFERATION SECURITY INITIATIVE

Mr. LUGAR submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 40

Whereas, on May 31, 2003, at Wawel Royal Castle, Krakow, Poland, President George W. Bush declared that "today I announce a new effort to fight proliferation called the Proliferation Security Initiative. The United States and a number of our close allies, including Poland, have begun working on new agreements to search planes and ships carrying suspect cargo and to seize illegal weapons or missile technologies. Over time, we will extend this partnership as broadly as possible to keep the world's most destructive weapons away from our shores and out of the hands of our common enemies";

Whereas, since May 2003, more than 60 countries have indicated their support for the Proliferation Security Initiative;

Whereas, in September 2003, 11 countries agreed to and published the Proliferation Security Initiative Statement of Interdiction Principles, which, among other things, identifies specific steps for effectively interdicting shipments of weapons of mass destruction, their means of delivery, and related materials and for preventing proliferation facilitators, brokers, and middlemen from engaging in this deadly trade;

Whereas the Proliferation Security Initiative has led to the negotiation of bilateral ship boarding agreements designed to facilitate the interdiction of weapons of mass destruction, their means of delivery, and related materials, including agreements with the Governments of Panama, Liberia, and the Marshall Islands;

Whereas, United Nations Security Council Resolution 1540, proposed by President Bush and adopted unanimously by the Security Council on April 28, 2004, calls on all countries to take cooperative action to prevent trafficking in weapons of mass destruction, their means of delivery, and related materials;

Whereas the actions of the United States and its Proliferation Security Initiative partners Germany and Italy contributed to the interdiction of the ship "BBC China", a commercial ship carrying centrifuge components for Libya's illicit nuclear program, en route to Tripoli, and also contributed to the constructive decision made by the Government of Libya on December 19, 2003, to acknowledge its illegal weapons of mass destruction programs and its agreement to eliminate its weapons of mass destruction and long-range missile programs and rejoin the international community by eliminating all elements of its chemical and nuclear weapons programs, declaring all nuclear materials and activities to the International Atomic Energy Agency (IAEA), eliminating ballistic missiles with a range greater than 300 kilometers with payloads of 500 or more kilograms, accepting international inspections to ensure Libya's complete adherence to the Nuclear Non-proliferation Treaty, signing the Additional Protocol, eliminating all chemical weapons stocks and munitions and acceding to the Chemical Weapons Convention, and allowing immediate inspections and monitoring to verify all of these actions;

Whereas the Report of the United Nations Secretary-General's High Level Panel on Threats, Challenges, and Changes finds that "[r]ecent experience of the activities of the A.Q. Khan network has demonstrated the need for and the value of measures taken to interdict the illicit and clandestine trade in components for nuclear programs";

Whereas the same Report also welcomes "the voluntary Proliferation Security Initiative, under which more and more states are cooperating to prevent illicit trafficking in nuclear, biological and chemical weapons";

Whereas, acknowledging that existing nonproliferation agreements and export control regimes are necessary but no longer sufficient, the Secretary-General of the United Nations has stated: "I applaud the efforts of the Proliferation Security Initiative to fill a gap in our defenses";

Whereas the United States and many of its Proliferation Security Initiative partners have conducted 14 ground, air, maritime, and tabletop interdiction exercises over the last 2 years, beginning with the Australian-led exercise Pacific Protector in September 2003; and

Whereas multiple countries have now participated in and observed air, land, and sea interdiction training exercises, in particular the October 2004 Team Samurai exercise, in which Japan, the United States, Australia, and France contributed operational assets and Canada, Cambodia, Germany, Greece, Italy, the Netherlands, New Zealand, Norway, Philippines, Poland, Portugal, Russia, Singapore, Spain, Sweden, Thailand, Turkey, and the United Kingdom participated as observers, and most recently in Exercise Ninfa '05, a joint maritime and ground interdiction exercise led by Portugal: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President is to be commended on the occasion of the second anniversary of the creation of the Proliferation Security Initiative for its broadening membership, increasing international support, and successful operational training and exercises;

(2) all the governments of countries coordinating and cooperating in intelligence sharing, training exercises, and legal agreements with the United States under the Proliferation Security Initiative, in particular the meetings of the PSI Operational Experts Group, are to be commended for their support in the global effort to prevent the proliferation of weapons of mass destruction, their means of delivery, and related materials;

(3) the Proliferation Security Initiative constitutes an important tool for coordinating diplomatic, law enforcement, customs, intelligence, and military capabilities against the illicit trade in weapons of mass destruction, their means of delivery, and related materials;

(4) all countries must work together, particularly under the auspices of the committee established pursuant to operative paragraph 4 of United Nations Security Council Resolution 1540, popularly called the "1540 Committee", to further the implementation of the provisions of Resolution 1540 relating to the international legal bases for continued, aggressive enforcement of all agreements, treaties, and regimes that aim through interdiction activities to end the illicit trade in weapons of mass destruction, their means of delivery, and related materials;

(5) the governments of all responsible countries should endorse the PSI Statement of Interdiction Principles and cooperate actively to interdict and disrupt illicit trade in weapons of mass destruction, their means of delivery, and related materials; and

(6) as evidenced in the historic December 19, 2003, decision of Libya to acknowledge and convert or dismantle its illegal weapons of mass destruction programs, the Proliferation Security Initiative can provide significantly enhanced enforcement of and adherence to the Treaty on the Non-proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the "Nuclear Non-Proliferation Treaty"), the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with Annexes, done at Paris January 13, 1993, and entered into force April 29, 1997 (commonly known as the "Chemical Weapons Convention"), the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow April 10, 1972, and entered into force March 26, 1975 (commonly known as the "Biological Weapons Convention"), the safeguards system of the International Atomic Energy Agency, and the commitments and control lists of the Missile Technology Control Regime, the Australia Group, and the Nuclear Suppliers Group.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 26, 2005, at 10 a.m., to conduct a hearing on "The Report to the Congress on International Economic and Exchange Rate Policies."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 26, at 9:30 a.m., to consider comprehensive energy legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 26, 2005, at 10:30 a.m., to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 26, 2005, at 2:30 p.m., to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Thursday, May 26, 2005 at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 26, 2005, at 9:30 a.m. in Dirksen Room 226.

Agenda

I. Nominations Terrence W. Boyle, II, to be U.S. Circuit Judge for the Fourth Circuit; Brett M. Kavanaugh, to be U.S. Circuit Judge for the District of Columbia; Richard Griffin, to be U.S. Circuit Court Judge for the Sixth Circuit; David McKeague, to be U.S. Circuit Court Judge for the Sixth Circuit; Paul Clement, to be Solicitor General of the United States; Anthony Jerome Jenkins, to be U.S. Attorney for the District of the Virgin Islands; Stephen Joseph Murphy III, to be U.S. Attorney for the Eastern District of Michigan; Gretchen C.F. Shappert, to be U.S. Attorney for the Western District of North Carolina; Rachel Brand, to be an Assistant Attorney General for the Office of Legal Policy; Alice S. Fisher, to be an Assistant Attorney General for the Criminal Division; and Regina B. Schofield, to be an Assistant Attorney General for the Office of Justice Programs.

II. Bills: S. 852. A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. [SPECTER, LEAHY, HATCH, FEINSTEIN, GRASSLEY, DEWINE, GRAHAM].

III. Matters: Senate Judiciary Committee Rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. ENSIGN. Mr. President, I ask unanimous consent that The Committee on Veterans' Affairs be authorized to meet during The session of The Senate on Thursday, May 26, 2005, for a committee hearing titled "Battling The Backlog: Challenges Facing The VA Claims Adjudication and Appeal Process".

The hearing will take place in Room 418 of the Russell Senate Office Building at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ENSIGN. Mr. President, I ask unanimous consent that The Permanent Subcommittee on Investigations be authorized to meet on Thursday, May 26, 2005, at 9 a.m., for a hearing entitled "The Container Security Initiative and The Customs-Trade Partnership Against Terrorism: Securing The Global Supply Chain or Trojan Horse?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ENSIGN. Mr. President, I ask unanimous consent, pursuant to Rule 26.5(a) of The Standing Rules of The Senate, that The Select Committee on Intelligence be authorized to meet after conclusion of the first two hours after the meeting of the Senate commences on May 26, 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. ENSIGN. Mr. President, I ask unanimous consent that The Subcommittee on Aviation be authorized to meet on Thursday, May 26, 2005, at 10 a.m. on Aviation Capacity and Congestion Challenges-Summer 2005 and Future Demand.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, May 26, 2005 at 9 a.m. to conduct an oversight hearing on the Nuclear Regulatory Commission.

The hearing will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, May 26, 2005, at 2:30 p.m., for a hearing regarding "An Assessment of Federal Funding for Private Research and Development."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP

Mr. ENSIGN. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, Border Security and Citizenship be authorized to meet to conduct a hearing on "The Need for Comprehensive Immigration Reform: Serving Our National Economy" on Thursday, May 26, 2005, at 2:30 p.m. in SD-226.

Witness List

Panel I: The Honorable Steven Law, Deputy Secretary, U.S. Department of Labor, Washington, DC.

Panel II: Tom Donahue, President and CEO, U.S. Chamber of Commerce, Washington, DC; Dan Griswold, Director of the Center for Trade Policy Studies, The CATO Institute, Washington, DC; and Douglas S. Massey, Ph.D., Professor, Princeton University, Princeton, NJ.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. ALEXANDER. Mr. President, I ask unanimous consent that Rexon Ryu with Senator HAGEL's staff be granted the privilege of the floor during today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. FRIST. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Represenatives:

> *Resolved*, That the House disagree to the amendment of the Senate to the bill (H.R. 3) entitled "An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. FRIST. Mr. President, I move that the Senate insist on its amendment, agree to the request for a conference, and the Chair appoint conferees, with a ratio of 16 to 14, with the names submitted at the desk.

The motion was agreed to, and the Presiding Officer appointed Mr. INHOFE, Mr. WARNER, Mr. BOND, Mr. VOINOVICH, Mr. CHAFEE, Ms. MURKOWSKI, Mr. THUNE, Mr. DEMINT, Mr. ISAKSON, Mr. VITTER, Mr. GRASSLEY, Mr. HATCH, Mr. SHELBY, Mr. ALLARD, Mr. STEVENS, Mr. LOTT, Mr. JEFFORDS, Mr. BAUCUS, Mr. LIEBERMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. LAUTENBERG, Mr. OBAMA, Mr. CONRAD, Mr. INOUYE, Mr. ROCKEFELLER, Mr. SARBANES, Mr. REED, Mr. JOHNSON conferees on the part of the Senate.

SMALL BUSINESS ACT

Ms. SNOWE. Mr. President, I rise today to address the consideration of H.R. 3, the Highway bill, in conference between the Senate and the House, and to engage the majority leader and Chairman INHOFE in a colloquy. It has come to my attention that the version of H.R. 3 passed by the House contains changes to the Small Business Act, which is under the exclusive jurisdiction of the small business committees in both chambers. Section 1821 of H.R. 3 as passed by the House would extend the benefits of the Historically Underutilized Business, HUBZone, program to non-metropolitan areas designated as Difficult Development Areas, DDAs, by the Secretary of Housing and Urban Development, but only if these DDAs are located in states and territories outside the continental United States. The HUBZone program exists to generate market-based development solutions in economically distressed areas by providing federal contracting advantages to small businesses which locate in HUBZones and employ HUB Zone residents.

The HUBZone contracting program is codified in the Small Business Act and is administered by the Office of Government Contracting and Business Development of the Small Business Administration. While the HUBZone provision was not included in the Senate version of H.R. 3, had the provision in the House bill proceeded through the Senate committee process, I would have certainly exercised my prerogatives as the Committee Chair.

Although I am not requesting a formal appointment as a conferee, I would like to ask my distinguished colleagues, the majority leader and the chairman of the Senate Committee on Environment and Public Works, to commit that no change to the Small Business Act or any program relating to the SBA will be negotiated or agreed to in the Highway bill conference without my consent as the Chair of the Senate Committee on Small Business and Entrepreneurship.

Mr. FRIST. The Senator from Maine, the distinguished chair of the Small Business Committee, is correct that while the vast majority of the Highway bill does not concern the Small Business Act or the Small Business Administration, the Highway bill conferees should secure the consent of the Chair of the Senate committee on Small Business and Entrepreneurship before making any changes to legislation or programs within that committee's jurisdiction.

Mr. INHOFE. I am grateful to the chair of the Small Business Committee for her concern about the interests of small business. As chairman of the Senate Environment and Public Works Committee and the manager of the Highway bill on the part of the Senate, I agree that the Senate conferees on the Highway bill will secure the Senate Small Business Committee's consent before negotiating or agreeing to any changes to the Small Business Act or to any program relating to the Small Business Administration.

Ms. SNOWE. I thank Chairman INHOFE and the majority leader for their commitment and support.

EXECUTIVE SESSION

NOMINATION OF JANICE R. BROWN TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of Executive Calendar No. 72, the nomination of Janice R. Brown to be U.S. Circuit Judge for the DC Circuit.

The legislative clerk read the nomination of Janice R. Brown, of California, to be United States Circuit Judge for the District of Columbia Circuit.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 72, the nomination of Janice R. Brown, of California, to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Arlen Specter, Trent Lott, Lamar Alexander, Jon Kyl, Jim Talent, Wayne Allard, Richard G. Lugar, John Ensign, C.S. Bond, Norm Coleman, Saxby Chambliss, James Inhofe, Mel Martinez, Jim DeMint, George Allen, Kay Bailey Hutchison, John Cornyn.

NOMINATION OF WILLIAM H. PRYOR TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Executive Calendar No. 100, the nomination of William Pryor, of Alabama, to be U.S. Circuit Judge for the Eleventh Circuit.

The legislative clerk read the nomination of William H. Pryor, of Alabama, to be United States Circuit Judge for the Eleventh Curcuit.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 100, William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

Bill Frist, Craig Thomas, Richard Burr, Pat Roberts, Mitch McConnell, Jeff Sessions, Wayne Allard, Jon Kyl, Richard G. Lugar, Jim DeMint, David Vitter, Richard Shelby, Lindsey Graham, John Ensign, Pete Domenici, Bob Bennett, George Allen.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum with respect to both cloture votes be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF ROBERT JOSEPH TO BE UNDER SECRETARY OF STATE

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Robert Joseph, PN 301, to be Under Secretary of State for Arms Control and International Security; provided further that the Senate proceed to its consideration, the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF STATE

Robert Joseph, of Virginia, to be Under Secretary of State for Arms Control and International Security.

JOINT REFERRAL

Mr. FRIST. Mr. President, I ask unanimous consent that the nomination of Israel Hernandez, of Texas, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, received on Thursday, May 26, 2005, be jointly referred to the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

NOMINATIONS DISCHARGED

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to consider the following nominations on today's Executive Calendar: Nos. 104, 105, 106 through 111, 112, with the exception of BG Rita Broadway, 0473, Nos. 113, 114, with the exception of COL Donald M. Bradshaw, 5796, Nos. 115 through 132, 133, 134, 135, 136, and all nominations on the Secretary's desk. I further ask unanimous consent that the Commerce Committee be discharged from further consideration of Coast Guard nominations lists, PN 236 and PN 527, and a NOAA list, PN 452; provided further that the Senate proceed to their consideration, the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF EDUCATION

Raymond Simon, of Arkansas, to be Deputy Secretary of Education.

DEPARTMENT OF DEFENSE

Kenneth J. Kreig, of Virginia, to be Under Secretary of Defense for Acquisition, Technology, and Logistics.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Kathleen D. Close, 0404

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Charles E. Croom, Jr., 6468

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Benjamin J. Spraggins, 6740

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Ronald E. Keys, 5357

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Benjamin C. Freakley, 0002

The following named Army National Guard of the United States officer for appointment as Director, Army National Guard and for appointment to the grade indicated under title 10, U.S.C., section 10506:

To be lieutenant general

Maj. Gen. Clyde A. Vaughn, 8410

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Bruce A. Casella, 4615
Brigadier General David L. Evans, 3875
Brigadier General William H. Johnson, 4212
Brigadier General Larry Knightner, 5133
Brigadier General Dennis E. Lutz, 9078
Brigadier General Robert A. Pollmann, 9222
Brigadier General William Terpeluk, 6129
Brigadier General Bruce E. Zukauskas, 7754

To be brigadier general

Colonel Lie-Ping Chang, 1936
Colonel Paul E. Crandall, 8620
Colonel Stuart M. Dyer, 2883
Colonel Geoffrey A. Freeman, 6430
Colonel William D. Frink, Jr., 0675
Colonel William H. Gerety, 3610
Colonel George R. Harris, 6056
Colonel Jeffrey A. Jacobs, 1498
Colonel Dempsey D. Kee, 7616
Colonel Douglas E. Lee, 7195
Colonel Charles D. Luckey, 0855
Colonel Bert K. Mizusawa, 6652
Colonel Eldon P. Regua, 3723
Colonel Steven W. Smith, 3994
Colonel Richard A. Stone, 8878
Colonel Robin B. Umberg, 3527
Colonel Margaret C. Wilmoth, 728

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Neil Dial, 2600

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. James K. Gilman, 8308
Col. David A. Rubenstein, 6677

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John W. Bergman, 6022

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Robert R. Blackman, Jr., 0141

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. Gary Roughead, 6126

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Captain William R. Burke, 0448
Captain Nevin P. Carr, Jr., 4285
Captain Philip H. Cullom, 8151
Captain Mark I. Fox, 9454
Captain William D. French, 4880
Captain Michael S. Frick, 9861
Captain Timothy M. Giardina, 6234
Captain Robert S. Harward, Jr., 7314
Captain William H. Hilarides, 1848
Captain Daniel P. Holloway, 6912
Captain Douglas J. McAneny, 1528
Captain Terence E. McKnight, 9851
Captain John W. Miller, 1380
Captain Michael S. Obryan, 5763
Captain Frank C. Pandolfe, 0875
Captain David L. Philman, 6805
Captain Brian C. Prindle, 1835
Captain Donald P. Quinn, 9338
Captain William E. Shannon, III, 0930
Captain James A. Symonds, 9309
Captain Stephen S. Voetsch, 0274
Captain James P. Wisecup, 1213

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Alan S. Thompson, 2891

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Nancy J. Lescavage, 7676

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Jeffrey A. Brooks, 5383

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Robert B. Murrett, 7287

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Victor C. See, Jr., 8526

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C. section 624:

To be rear admiral (lower half)

Capt. Christine M. Bruzek-Kohler

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C. section 624:

To be rear admiral (lower half)

Capt. Mark W. Balmert, 8404

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C. section 624:

To be rear admiral (lower half)

Capt. Raymond E. Berube, 0187
Capt. John J. Prendegast, III, 0415

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C. section 624:

To be rear admiral (lower half)

Capt. Kevin M. McCoy, 6826
Capt. William D. Rodriguez, 8529

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C. section 624:

To be rear admiral

Rear Adm. (lh) David J. Venlet, 0404

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C. section 624:

To be rear admiral

Rear Adm. (lh) Bruce W. Clingan, 5808
Rear Adm. (lh) Derwood C. Curtis, 9914
Rear Adm. (lh) Peter H. Daly, 8726
Rear Adm. (lh) Kenneth W. Deutsch, 9948
Rear Adm. (lh) Mark T. Emerson, 8886
Rear Adm. (lh) Jeffrey L. Fowler, 7245
Rear Adm. (ln) Garry E. Hall, 1756
Rear Adm. (lh) Leendert R. Hering, Sr., 4873
Rear Adm. (lh) Alan B. Hicks, 8932
Rear Adm. (lh) Stephen E. Johnson, 2239
Rear Adm. (lh) Carl V. Mauney, 8015
Rear Adm. (lh) Bernard J. McCullough, III
Rear Adm. (lh) Michael Miller, 6300
Rear Adm. (lh) Allen G. Myers, 2554
Rear Adm. (lh) Joseph A. Walsh, 7361
Rear Adm. (lh) Melvin G. Williams, Jr., 9480
Rear Adm. (lh) James A. Winnefeld, Jr., 5212

The following named officer for appointment in the United States Navy Reserve to the grade indicated under title 10, U.S.C. section 12203:

To be rear admiral (lower half)

Capt. Carol M. Pottenger, 3454

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C. section 12203:

To be rear admiral (lower half)

Capt. Nathan E. Jones, 9123

The following named officer for appointment in the United States Navy Reserve to the grade indicated under title 10, U.S.C. section 12203:

To be rear admiral (lower half)

Capt. Albert Garcia, III, 3459

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

Charles P. Ruch, of South Dakota, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring August 11, 2010.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Harry Robinson, Jr., of Texas, to be a Member of the National Museum Services Board for a term expiring December 6, 2008. (Reappointment)

NATIONAL MUSEUM AND LIBRARY SERVICES BOARD

Kin Wang, of California, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2009. (Reappointment)

POSTAL RATE COMMISSION

Tony Hammond, of Virginia, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2010. (Reappointment)

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN311 AIR FORCE nominations (445) beginning DONNELLE E. ADAMS, and ending DANIEL J. ZALEWSKI, which nominations were received by the Senate and appeared in the Congressional Record of March 14, 2005.

PN499 AIR FORCE nomination of Michael E. Van Valkenburg, which was received by the Senate and appeared in the Congressional Record of May 9, 2005.

IN THE ARMY

PN222 ARMY nominations (12) beginning ROBERT D. BOWMAN, and ending THERESA M. SULLIVAN, which nominations were received by the Senate and appeared in the Congressional Record of February 15, 2005.

PN500 ARMY nominations (75) beginning CATHERINE D. SCHOONOVER, and ending VINCENT M. YZNAGA, which nominations were received by the Senate and appeared in the Congressional Record of May 9, 2005.

IN THE NAVY

PN435 NAVY nominations (35) beginning JOEL P. BERNARD, and ending MARC K. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of April 21, 2005.

IN THE COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral

Rear Adm. (lh) Larry L. Hereth, 6731
Rear Adm. (lh) Robert J. Papp, 7417
Rear Adm. (lh) Clifford I. Pearson, 4808
Rear Adm. (lh) James C. Van Sice, 3714

The following named individual for appointment as a permanent regular officer in the United States Coast Guard in the grade indicated under Title 14, U.S.C., section 211:

To be lieutenant commander

Kathryn C. Dunbar, 0745

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration.

To be lieutenant

Daniel J Price
Stephen Z Kroening
Jessica S Kondel
Shannon M Ristau
Nicole S Lambert
Chadwick A Brown
Nicole D Colasacco
Chad M Cary
Jennifer E Pralgo
Sean D Cimilluca
Charles J Yoos III
Keith A Golden
Shawn Maddock
William D Whitmore
Douglas E MacIntyre
Sarah L Dunsford
Sarah K Mrozek
Joshua D Bauman

To be lieutenant (junior grade)

Michael C Davidson
David E Fischman
Silas M Ayers
Paul A Householder
Nicola Samuelson
Patrick L Murphy
Colin D Little
Lean A Harman
Jason R Mansour
Michael J Stevenson
Briana J Welton
Abigail S Higgins
Brent J Pounds
Amanda L Goeller
Sarah E Jackson
Timothy D Salisbury
Benjamin S Sniffen
Mark A Blankenship
Fionna J Matheson
Jonathan E Taylor
Andrew P Halbach
Nathan S Priester
William I Wells
Sarah K Jones
Stephen P Barry

NOMINATIONS DISCHARGED

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations:

Victoria Nuland, PN 511, permanent representative on the Council of NATO; John Tefft, PN 523, Ambassador to Georgia; David Wilkins, PN–455, Ambassador to Canada; William Eaton, PN–503, Ambassador to Republic of Panama; James Derham, PN–480, Ambassador to Guatemala; Paul Trivelli, PN–509, Ambassador to Republic of Nicaragua; Linda Jewell, PN–522, Ambassador to Republic of Ecuador; Sean Ian McCormack, PN–351, Assistant Secretary of State; provided further that the Senate proceed to their consideration en bloc, the nominations be confirmed, that the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Victoria Nuland, of Connecticut, a Career Member of the Senior Foreign Services, Class of Minister-Counselor, to be Permanent Representative of the United States of America on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

John F. Tefft, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Georgia.

David Horton Wilkins, of South Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

William Alan Eaton, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama.

James M. Derham, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

Paul A. Trivelli, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nicaragua.

Linda Jewell, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ecuador.

Sean Ian McCormack, of the District of Columbia, to be an Assistant Secretary of State (Public Affairs).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

PROVIDING FOR CONDITIONAL RECESS OR ADJOURNMENT OF BOTH HOUSES OF CONGRESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of H. Con. Res. 167, the adjournment resolution, which is at the desk. I further ask consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 167) was agreed to, as follows:

H. CON. RES. 167

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, May 26, 2005, or Friday, May 27, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, June 7, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, May 26, 2005, or Friday, May 27, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 6, 2005, or Tuesday, June 7, 2005, or until such other time on either of those days as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

AUTHORIZATION TO MAKE APPOINTMENTS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law and by concurrent action of the two Houses or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SIGNING AUTHORIZATION

Mr. FRIST. I ask unanimous consent that during the adjournment of the Senate, the majority leader, majority whip, and senior Senator from Virginia be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. FRIST. I ask unanimous consent that notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on June 1 from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of majority and minority leaders of the Senate and Speaker minority leader of the House of Representatives, pursuant to section 301 of Public Law 104-1, as amended by Public Law 108-349, announces the joint redesignation of the following individual, as Chair of the Board of Directors of the Office of Compliance: Susan S. Robfogel of New York.

The Chair, on behalf of the majority and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives, pursuant to section 301 of Public Law 104-1, as amended by Public Law 108-349, announces the joint reappointment of the following individual as members of the Board of Directors of the Office of Compliance: Barbara L. Camens of the District of Columbia and Roberta L. Holzwarth of Illinois.

DESIGNATING THE "ROBERT M. LA FOLLETTE, SR., POST OFFICE BUILDING"

Mr. FRIST. I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 1760 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1760) to designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr., Boulevard in Madison, Wisconsin, as the "Robert M. La Follette, Sr., Post Office Building."

There being no objection, the Senate proceeded to consider the bill.

Mr. KOHL. Mr. President, I rise today in support of H.R. 1760, which would name a Post Office in Madison, WI as the "Robert M. La Follette, Sr. Post Office Building." This passage of this legislation is timely, coming shortly before what would have been La Follette's 150th birthday next month.

Robert La Follette was born into a farming family in Primrose, WI, on June 14, 1855. After graduating from the University of Wisconsin in Madison, he served as the District Attorney for Dane County. He would go on to serve the State of Wisconsin as a Congressman, the Governor, and a U.S. Senator. Throughout his career, he fought on behalf of the people, not the politics. He truly embodied the "fighting" spirit of the people of Wisconsin.

As Governor, La Follette instituted direct primary elections, allowing the people to choose their representatives, rather than having the party leaders chose them. His reform efforts in the State, and his excellent speaking style, placed him in the national spotlight. In 1906, La Follette joined the U.S. Senate, where he would remain until his death in 1925.

It was as a U.S. Senator that La Follette truly launched a national progressive movement. He protested the corruption of government and the influence of large corporations on political leaders. He argued in favor of women's suffrage, worker's rights and racial equality. He fought for economic and social reform to remove power from the few and place it in the hands of the many.

La Follette's fighting spirit and drive for reform have prevented him from falling out of the Naion's consciousness. Nowhere is this truer than in Wisconsin, the State he served so tirelessly for more than 30 years. His legacy is alive in the people of Wisconsin, who so often embody his pioneering spirit of reform. His legacy is alive in the United States Senate, where we continue to fight for honesty in politics. For all these reasons, I urge my colleague to join me in support of H.R. 1760, to commemorate the legacy, and celebrate the life of Robert "Fighting Bob" La Follette.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1760) was read the third time and passed.

50TH ANNIVERSARY OF THE OKLAHOMA INDEPENDENT PETROLEUM ASSOCIATION

Mr. FRIST. I ask unanimous consent the Senate now proceed to the consideration of S. Res. 159, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 159) recognizing the 50th anniversary of the Oklahoma Independent Petroleum Association and its members' vital contribution to the oil and gas industry of the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. INHOFE. Mr. President, today I rise in support of this resolution recognizing the Oklahoma Independent Petroleum Association on its 50th anniversary and also recognizing its members' vital contribution to the oil and gas industry of the United States.

The Oklahoma Independent Petroleum Association—OIPA—was founded by Roy Woods on January 13, 1955. Roy Woods and other founders possessed the leadership and vision to establish a unified voice for independent crude oil and natural gas producers.

The founders were independent oil and natural gas producers, and its membership still comprises independents, both large and small.

OIPA is my State's largest oil and gas advocacy group, representing over 1,500 member companies in the crude oil and natural gas exploration/production industry, as well as affiliated businesses. OIPA is also a member of the Independent Petroleum Association of America.

OIPA's mission is to enhance and protect the ability of Oklahoma's independent oil and natural gas producers to conduct their business and to ensure a strong energy supply.

OIPA is a proactive and diverse organization striving to provide a broad range of services to its members and the industry it supports.

OIPA has worked successfully on behalf of Oklahoma independent producers on State and national issues, advocating for State and national governmental policies that protect and enhance the Oklahoma independent producers' ability to do business.

Most recently, I have worked with OIPA in the introduction of the Natural Gas Production Act of 2005—S. 926, which I introduced, that would extend section 29 to include natural gas produced from depths below 15,000 feet.

This bill is strongly supported by OIPA members and I thank them for their support.

The Oklahoma Independent Petroleum Association has been and will continue to be an invaluable asset in developing and promoting the oil and gas industry in the United States.

I am introducing this resolution as an expression of my appreciation. I congratulate the Oklahoma Independent Petroleum Association for its 50-year history and its contributions to the oil and gas industry in Oklahoma and the United States.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table en bloc, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 159) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 159

Whereas the Oklahoma Independent Petroleum Association was founded and incorporated in the State of Oklahoma on January 13, 1955;

Whereas the Oklahoma Independent Petroleum Association was founded by independent oil and natural gas producers, and its membership is still comprised of independent producers, both large and small;

Whereas the founders of the Oklahoma Independent Petroleum Association possessed the leadership and vision to establish a unified voice for independent crude oil and natural gas producers;

Whereas the Oklahoma Independent Petroleum Association is the largest oil and gas advocacy group in the State, representing over 1,500 member companies in the crude oil and natural gas exploration and production industry and affiliated businesses;

Whereas the mission of the Oklahoma Independent Petroleum Association is to enhance and protect the ability of independent oil and natural gas producers in Oklahoma to conduct their business and to ensure energy supply;

Whereas the Oklahoma Independent Petroleum Association is a rarity in State oil and gas associations, with a full-time governmental affairs specialist and a full-time regulatory affairs specialist working with agencies that regulate the oil and gas industry;

Whereas the Oklahoma Independent Petroleum Association is a proactive and diverse organization striving to provide a broad range of services to its members and the industry it supports;

Whereas the leaders of the Oklahoma Independent Petroleum Association have worked successfully on behalf of Oklahoma independent producers on State and national issues, advocating for State and national governmental policies that protect and enhance the ability of Oklahoma independent producers to do business; and

Whereas the Oklahoma Independent Petroleum Association will continue to look toward the future by forging alliances within the oil and gas industry and with other organizations devoted to a more prosperous Oklahoma: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 50th anniversary of the Oklahoma Independent Petroleum Association;

(2) congratulates the Oklahoma Independent Petroleum Association for its 50-year history of contributions to the oil and gas industry of Oklahoma and the United States;

(3) recognizes that the Oklahoma Independent Petroleum Association has been and will continue to be an invaluable asset in developing and promoting the oil and gas industry in the United States; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the Oklahoma Independent Petroleum Association as an expression of appreciation and for public display at the 50th annual meeting of the Oklahoma Independent Petroleum Association.

MEASURE PLACED ON THE CALENDAR—S. 1127

Mr. FRIST. I understand there is a bill at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1127) to require the Secretary of Defense to submit to Congress all documentation related to the Secretary's recommendations for the 2005 round of defense base closure and realignment.

Mr. FRIST. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

MEASURE READ THE FIRST TIME—H.R. 810

Mr. FRIST. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will please report.

The legislative clerk read as follows:

A bill (H.R. 810) to amend the Public Service Act to provide for human embryonic stem cell research.

Mr. FRIST. I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. The bill will be read for the second time on the next legislative day.

ORDERS FOR MONDAY, JUNE 6, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m. on Monday, June 6. I further ask that following the morning prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then return to executive session to resume consideration of the nomination of Janice Rogers Brown to be United States Circuit Judge for the DC Court of Appeals; I further ask consent that the vote invoking cloture on the Brown nomination occur at 12 noon on Tuesday, June 7.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, on Monday, June 6, the Senate will return from the Memorial Day recess and resume consideration of the nomination of Janice Rogers Brown for the DC Circuit. There will be no rollcall votes on June 6, but Senators are encouraged to come to the floor that day to speak on the Brown nomination.

As a reminder, cloture was just filed on the Brown nomination and the nomination of William Pryor to the Eleventh Circuit. Thus, we will vote on the cloture motion with respect to the Brown nomination on Tuesday, June 7, at noon.

Given the agreement reached this week, I expect cloture to be invoked and hope that we can proceed to the confirmation vote on Judge Brown early Tuesday afternoon. I also would like to remind my colleagues that we have time agreements with respect to the nominations of Griffith, McKeague, and Griffin to the circuit courts, as well. It is my intention to move to these nominations at an early time, as well.

Finally, since we were unable to finish our work on the Bolton nomination to be ambassador to the United Nations, we will revisit this issue following the break, as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKING THE PAGES

Mr. FRIST. Mr. President, we are going to be out in just a couple minutes, but I want to take the opportunity, before closing, to thank the pages, who are sitting here before me, for all the tremendous work they do. It is very rare that we have the opportunity to thank them publicly, and I want to take that opportunity right now.

They are here from early in the morning, and they are here tonight at 9 o'clock. It is a little bit after 9 right now. I will slip out, and they will still be here cleaning up and getting things in order.

They do a tremendous job, the pages, representing really most parts of the country, and I want to say thank you on behalf of the Democratic leader, the Republican leader, and both sides of the aisle.

SPENDING TIME IN HOME STATES

Mr. FRIST. We will be going on recess here for about 8 days, a much-needed recess for many people. A recess means we, for the most part, go back to our home States and spend time with people. So we all look forward to that opportunity to get back and travel around the country and get outside of Washington, DC, and listen very directly to the American people.

ADJOURNMENT UNTIL MONDAY, JUNE 6, 2005, AT 2 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 167.

There being no objection, the Senate, at 9:02 p.m., adjourned until Monday, June 6, 2005, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate May 26, 2005:

DEPARTMENT OF DEFENSE

WILLIAM ANDERSON, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE NELSON F. GIBBS.

DEPARTMENT OF AGRICULTURE

RICHARD A. RAYMOND, OF NEBRASKA, TO BE UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY, VICE ELSA A. MURANO, RESIGNED.

DEPARTMENT OF THE TREASURY

RANDAL QUARLES, OF UTAH, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE BRIAN CARLTON ROSEBORO.

DEPARTMENT OF COMMERCE

ISRAEL HERNANDEZ, OF TEXAS, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE, VICE RHONDA KEENUM.

DEPARTMENT OF THE TREASURY

PHILIP D. MORRISON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE PAMELA F. OLSON, RESIGNED.

DEPARTMENT OF STATE

RONALD E. NEUMANN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF AFGHANISTAN.

GREGORY L. SCHULTE, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

INTERNATIONAL ATOMIC ENERGY AGENCY

GREGORY L. SCHULTE, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C SECTIONS 624 AND 531:

To Be Major

BRIAN F. * ABELL, 9817
SEAN P. ABELL, 3718
BRENT F. * ADAMS, 8851
DEANA C. * ADAMS, 4737
MATTHEW C. J. ADAMS, 5818
JODY A. * ADDISON, 6099
BRIAN P. AFFLERBAUGH, 8892
EDWARD L. * AGUILAR, 5772
MATTHEW C. AHNER, 3612
STEWART R. * AITKENCADE, 3752
IVAN AKERMAN, 4967
GEOFFREY A. * AKERS, 1262
ARTURO * ALAIZA, JR., 5654
PATRICK M. * ALBRITTON, 9240
BRIAN C. * ALEXANDER, 4758
CHRISTOPHER M. * ALEXANDER, 4945
JEFFREY D. ALEXANDER, 3037
JOSEPH B. * ALFORD, 6516
ALBERT P. * ALLARD, 5038
GARY L. ALLEN, JR., 2189
JASON N. ALLEN, 9857
JEFFREY T. ALLISON, 0908
MICHAEL P. ALLISON, 6379
CLARK L. ALLRED, 7400
KEVIN D. ALLRED, 7571
DAVID P. * ALLSOP, 3296
ALAN S. * ALSOP, 1593
JUAN A. ALVAREZ, 7915
JUSTIN C. * AMANN, 2770
DAVID R. AMAYA, 4730
MARY K. * AMBROSE, 7760
DANIEL G. AMEGIN, 8499
CHRISTOPHER R. AMRHEIN, 3373
ANTHONY J. * ANDERSON, 7654
CYNTHIA G. * ANDERSON, 3472
DAVID R. * ANDERSON, 1001
JEREMY S. * ANDERSON, 6742
KRISHAAN G. * ANDERSON, 0671
PONG K. * ANDERSON, 2613
SCOTT W. * ANDERSON, 2258
SHERRI M. * ANDERSON, 3913
STEVEN C. ANDERSON, 5864
TANYA J. * ANDERSON, 0644
JAMES M. * ANDES, 6010
JOHN G. * ANDRADE, 4694
SHAWN E. ANGER, 9079
RICHARD D. * ANTON, 8847
NICHOLAS G. ANTONOPULOS, 6110
JOSEPH M. * APPEL, 1348
RICHARD L. * APPLE, 6010
MORSHE D. * ARAUJO, 7710
CLAUDE M. * ARCHAMBAULT, 9865
ALEXANDER M. ARCHIBALD III, 2807
EARL ARDALES, 3729
GARTH J. * AREVALO, 6592
BRADLEY J. * ARMSTRONG, 4525
CHARLES C. * ARMSTRONG, 2449
MICHAEL C. * ARNDT, 6508
MATTHEW B. * ARNOLD, 8384
JUAN C. * ARROYOGARCIA, 0992
MICHAEL J. ARTELLI, 1019
PAUL B. * ASHLEY, 8331
MICHAEL * ASTAHOFF, 9754
FREDERICK H. * ATWATER III, 8695
ROBERT J. * AUGUGLIARO, 4077
WILLIAM L. * AUSTIN, 4423
ELIZABETH A. * AUTREY, 6540
JON C. * AUTREY, 9073
NELSON * AVILA, JR., 8908
JASON B. AVRAM, 1662
MATTHEW L. AYRES, 8914
ANTHONY D. BABCOCK, 7038
LISLE H. BABCOCK, 7527
STEVEN N. * BABCOCK, 6521
SVEN A. * BACKLUND, 5520
CHRISTOPHER A. BACON, 7335
JENNIFER N. * BACON, 6839
DANTE C. BADIA, 6226
WILLIAM F. * BAGBY, 5808
BRAD C. * BAILEY, 9945
KAREN * BAILEY, 8621
JASON E. * BAKER, 4431
PAUL D. BAKER, 9136
TRACY T. * BAKER, 7389
BRIAN K. BAKSHAS, 6314
DARRYL D. * BALDEOSINGH, 2987
ARNOLD C. * BALDOZA, 9822
HEATHER M. * BALDWIN, 5647
JERRY B. * BANCROFT, JR., 1935
GREGORY D. * BANFIELD, 1744
MICHAEL S. * BANZET, 7456
JOHN E. * BAQUET, 6309
CHRISTOPHER T. BARBER, 8794
JOSE B. * BARENG, 8293
JAMES C. * BARGER, 7559
WILLIE R. * BARKER, 9709
EUGENE * BARLOW, JR., 6724
DANIELLE L. * BARNES, 3537
GREGORY D. * BARNETT, 8442
RYAN R. BARNEY, 8330
ANTHONY R. BARRETT, 9060
BARRINGTON M. * BARRETT, 4677
ROBERT M. * BARRY, JR., 4787
CLAYTON B. BARTELS, 4172
BRENDAN C. * BARTLETT, 9572
JEFFREY L. * BARTLETT, 4864
JAMES EARL * BASS, 5191
BRIAN R. BAUDE, 3136
MATTHEW R. * BAUGHER, 7476
MICHAEL A. * BAYER, 5171
KEVIN A. BAYLIS, 7584
BRADLEY A. * BEABOUT, 6535
LAURA H. * BEALES, 5056
DANIEL J. * BEARD, 0482
VIDA V. * BEARD, 8075
OMAR E. * BECERRIL, 6991
CHARLES E. * BECKER, 3562
TARA B. BEEDLE, 9695
KEVIN R. BEEKER, 1753
MATTHEW R. * BEER, 0225
JEFFREY A. BEERS, 9343
TIMOTHY E. BEERS, 6463
DANIEL J. BEGIN, 0373
LEE A. * BEIERMANN, 7872
MICHAEL E. * BELKO, 0686
BRIAN T. BELL, 6652
GREGORY C. * BELL, 6361
JOHN J. BELL, 2066
NICHOLAS A. * BELL, 0815
TIMOTHY D. * BELL, 0451
JONATHAN B. BELLCASE, 5552
EUGENIO J. * BELTRAN, 5714
DIANE C. * BENAVIDEZ, 3657
JOHN D. * BENEDICT, 5969
MICHAEL L. BENNETT, 4792
KEVIN C. * BENTLEY, 7219
GARY W. * BENTON, 0674
WILLIAM A. * BERCK, 0516
CHRISTOPHER C. * BERG, 6547
TIMOTHY M. * BERGMAN, 2959
TAMARA L. * BERGTHOLDT, 2706
PETER E. * BERMES, 7874
SCOTT D. * BERNDT, 0934
WILLIAM L. * BERNHARD, 3260
FREDERICK S. BERRIAN, 7364
RAYMOND J. * BESSON, 9272
JAMES A. * BEYER, 9590
DANNY R. * BIAS, 9380
TIMOTHY J. BICE, JR., 0927
THOMAS * BICKERSTAFF, 3956
ERIK D. BIEBIGHAUSER, 0247
JACQUELINE M. * BIEKER, 5091
SEKOU T. * BILLINGS, 6555
MATTHEW E. * BILTON, 9049
PAUL R. BIRCH, 0494
ROBERT L. * BIRCHUM, 7319
GORDON N. * BIRDSALL, 9504
MICHAEL B. BIRDWELL, 9154
ROGER C. * BISHOP, JR., 3578
JOHN C. * BISSELL, 6122
JOEL R. * BIUS, 6970
JENNIFER L. BIVENS, 5585
KIM D. * BLACK, 0706
RICHARD M. * BLACK, 2324
MARK J. * BLACKMAN, JR., 3944
ALLEN P. * BLANCHFIELD, 8345
JOSEPH O. * BLAND, 7580
KEITH H. * BLAND, 0989
WILLIAM B. * BLAUSER, 2024
LIZA O. *BLECHER, 8981
JOHN J. *BLEIL, 9371
DAVID A. *BLITCH, 2134
DEREK S. BLOUGH, 5396
MARK A. *BLUMKE, 7497
JAMES W. BODNAR, 1383
THOMAS T. *BODNAR, 0956
KYLE J. BOECKMAN, 9169
ELIZABETH C. BOEHM, 4758
JOHN M. BOEHM, 9716
STEVEN G. *BOGSTIE, 8390
KENNETH R. BOILLOT, 3020
CLINTON L. *BOIT, 1559
PATRICK B. BOLAND, 1341
RHETT CAMERON *BOLDENOW, 6619
TIMOTHY J. *BOLEN, 4362
SEAN P. BOLES, 1621
ELIZABETH A. *BOLL, 7530
SCOTT B. *BONZER, 0871
RONALD K. *BOOKER, 7475
BRENT W. BORCHERS, 1423
RALPH E. *BORDNER III, 4961
DAVID M. *BORGESON, 4995
ARTHUR W. *BOTTIGLIERI, 1181
RICHARD L. *BOURQUIN, 2658
JASON E. *BOUSQUET, 8406
BERNADETTE P. *BOWMAN, 0556
STEVEN K. *BOWMAN, 3591
DENISE N. *BOYD, 6751
IAN T. *BOYD, 2868
MARTIN F. *BRABHAM, 2661
MICHAEL K. *BRADFIELD, 9337
SEAN A. BRADLEY, 8888
WILLIAM S. *BRADLEY, 7360
JOHN *BRADY, 0444
KATHY K. *BRADY, 3837
WARREN B. *BRAINARD, 2199
EDWARD P. *BRANSON, 5969
JAMES P. BRASSELL, 8658
CECILIA S. BRAWNER, 0550
DOUGLAS T. *BRAY, 6784
JED T. *BREDEMUS, 4069
CHARLES R. *BREDFIELD, 3187
THOMAS M. BREEN, 4928
RAYMOND J. *BRENNAN, 1341
TYR RICHARD *BRENNER, 3981
CHRISTOPHER A. BRIDGES, 5323
KENNETH K. *BRIDGES, 2443
ROBERT T. *BRIDGES, 1723
SIDNEY J. *BRIDGES, 9413
SCOTT E. BRIESE, 3847
MICHAEL J. *BRIGGS, 1788
RONALD S. *BRIGHT, 8185
DANIEL S. BRINGS, 2469
EARL J. *BRINSON, 5708
JOEL L. *BRISKE, 1133

JAMES T. *BROADDUS, 8630
LARRY R. BROADWELL, JR., 5157
DOUGLAS F. BROCK, 4340
BRIAN E. *BROEKEMEIER, 3046
LAMETRA F. *BROOKS, 2942
MATTHEW R. BROOKS, 5966
DEBORAH L. *BROSTEK, 1061
BARRY W. *BROWN, 9656
CARLOS J. *BROWN, 0500
DARRYL V. D. BROWN, JR., 9505
MICHAEL R. *BROWN, 9963
RENARDO M. BROWN, 1748
CRISTOFER V. *BROWNING, 0929
CURTUS L. *BROWNING, 3041
JASON E. *BROWNING, 9830
MATTHEW A. BRUHN, 2185
MELINDA W. *BRUNER, 0279
DONALD R. BRUNK, 4093
BYRON T. BRUNSON, 0924
SANORA F. *BRUNSON, 4521
ROBERT H. BRYANT III, 0226
MARK R. *BRYKOWYTCH, 0369
JOHN L. *BUCHANAN II, 6561
RONALD J. *BUCHSEN, JR., 9303
JULIAN *BUCUR, 6164
MATTHEW J. *BUDDE, 3844
FRANK J. *BUFFINGTON, 2354
JONATHAN C. BUFFINGTON, 2817
DAVID L. *BULLARD, 8468
ARVIN J. *BULLOCK, 3688
TIMOTHY D. BUNNELL, 4975
ANN MARIE *BUNTON, 9578
STEVEN L. *BURKE, 4015
MELINDA A. *BURKHART, 1870
LANCE C. *BURNETT, 1051
CURTIS W. BURNEY, 8930
HARRY M. *BURNS, 4498
STEVEN J. *BURNS, 5094
BRIAN E. BURR, 5930
KELLY D. *BURT, 3847
JOHN S. *BURTOFT, 3251
HENRI J. *BUSQUE, 0779
JASON M. BUSS, 2168
WALTER A. *BUSTELO, 5318
ROBERT V. *BUTKOVICH, 4679
MATTHEW J. *BUTLER, 4808
STEVEN M. *BUTLER, 0838
TODD C. *BUTLER, 5102
DAVID L. *BUTTERFIELD, JR., 9571
CHRISTOPHER D. *BUZO, 1222
ADRIAN R. *BYERS, 3155
HOWARD E. *BYRD, JR., 3139
EDWARD P. *BYRNE, 8545
JENNIFER A. CABALLERO, 7084
MICHAEL R. CABRAL, 9420
GABRIEL *CABRERA, 2130
BRYAN J. CAHILL, 1253
REGINA LOUISE *CAIN, 0300
MAURIZIO D. CALABRESE, 4773
BRADY D. *CALDWELL, 3513
MATTHEW D. CALHOUN, 7094
CHRISTOPHER J. *CALLIS, 1888
MICHAEL A. CALVARESI, 1043
BRIAN C. *CAMPBELL, 6111
JACOB T. CAMPBELL, 4112
KATHLEEN M. CAMPBELL, 2405
SHAWN W. *CAMPBELL, 9086
THOMAS W. *CAMPBELL, 4845
JEFFREY A. CANNON, 6647
NORMAN J. CANNON, 0163
RALPH T. CANNON, 6899
EDWARD K. *CANTRELL, 2198
ANTHONY J. CAPARELLA, 5813
JOSEPH M. CAPASSO, 0630
SHAY R. CAPEHART, 3458
JOHN T. *CARANTA III, 6869
STAN E. *CARDER, 8734
KRISTA K. *CARLOS, 3366
PAUL K. CARLTON III, 6708
KENNIS D. *CARMICHAEL, 1935
STEPHEN V. *CAROCCI, 1206
CAMERON W. CAROOM, 3790
CLINTON D. *CARPENTER, 8711
SEAN M. *CARPENTER, 2056
STEPHEN M. CARR, 5937
ALLAN A. *CARREIRO, 3029
CARLOS *CARRILLO, 5012
JENISE M. *CARROLL, 3733
JUSTIN M. *CARROLL, 4455
RAFAEL D. *CARROLL, 4460
SCOTT G. *CARROLL, 7604
CHRISTOPHER C. *CARTER, 8076
IVORY D. *CARTER, 0225
WILLIAM J. *CARTER, 8387
JONATHAN D. CARY, 7561
MICHAEL B. CASEY, 7948
CLINTON L. *CASH, 6491
JOSEPH J. *CASSIDY II, 6248
DAVID M. *CASSTEVENS, 3844
ANNE M. *CATINO, 3974
DEIRDRE C. CATLIN, 7995
GREGORY A. *CAUDLE, 0938
PAUL S. *CAZIER, 7249
ROBERT A. *CERA, 4945
MARSHA W. *CERVANTEZ, 4778
MICHAEL A. CERVANTEZ, 7773
WILL C. CHAFFEE IV, 9443
MARK D. CHAGARIS, 1751
JAMES D. *CHALIFOUX, 4378
ROBERT W. *CHAMBERS, 8755
ROBERT E. *CHAMPION, 8640
JASON S. *CHANDLER, 5118
JOHN C. *CHAPMAN, 9868
JOSEPH *CHARGUALAF, 0093
KELLEY A. CHASE, 6497
RONALD J. CHASTAIN, 7519
MICHAEL R. *CHATAGNIER, 5701
EDWARD P. *CHATTERS IV, 0617
KEITH N. *CHAURET, 2750
MICHAEL G. *CHAVIS, 5306
RONALD E. CHEATHAM, 8206
RAYMOND A. CHEHY, JR., 5535
DEAN T. *CHERER, 4929
JON E. *CHESSER II, 1525
TROY W. *CHEVALIER, 1257
NATHAN A. CHINE, 5179
WAYNE M. CHITMON, 5989
JOHN S. *CHOBERKA, JR., 7199
MICHAEL L. *CHONG, 8007
JOHN A. CHRIST, 1912
JENNY M. *CHRISTIAN, 5725
BRADLEY D. *CHRISTIANSEN, 5678
REGGIE A. *CHRISTIANSON, 7597
WILLIAM V. *CHUDKO, 5491
LORNE E. *CHUI, 4868
WILLIAM R. *CHURCH, 7682
LISA A. *CICCARELLI, 7623
DAVID J. CIESIELSKI, 0370
MICHAEL T. CLANCY, 5356
AARON W. *CLARK, 2518
ANDREW M. *CLARK, 6243
CHRISTOPHER F. *CLARK, 4792
CHRISTOPHER R. CLARK, 1174
KEVIN S. *CLARK, 7438
LYNELLE A. *CLARK, 6078
TABETHA J. *CLARK, 3301
TAD D. CLARK, 2733
WILL CLARK, 5594
WILLIAM M. *CLARKE, 4881
ELIZABETH A. CLAY, 3020
SPENCER E. *CLEAVELAND, 3200
PAUL P. *CLEMANS, 5895
DOMINIC P. CLEMENTZ, 8282
NATHAN D. *CLEMMER, 8402
LEVITICOUS C. *CLEVELAND, 1292
SARAH U. *CLEVELAND, 7719
SCOTT A. * CLYMAN, 7698
THOMAS F. * COAKLEY, 4896
TOM G. * COATE, 4794
GREGORY M. * COATES, 1315
BRUCE C. * COFFE, 2387
MARK D. * COGGINS, 5984
CAROLYN C. COLEMAN, 8095
LADONNA WYATT * COLEMAN, 4479
LAMONT A. * COLEMAN, 2291
LESTER G. * COLES, JR., 6851
CHARLES W. COLLIER, 4589
JOANNA L. * COLLINS, 8398
PERSIVIA * COLLINS II, 0346
STERLING V. * COLLINS, 4613
BRIAN A. * COLLORD, 4431
MICHAEL J. * COLVARD, 2333
THEODORE E. CONKLIN, JR., 3434
JAMES A. CONLEY, 0232
MICHAEL E. CONLEY, 9804
NATHAN G. * CONNELL, 8464
DANIEL A. * CONNELLY, 1084
RYAN C. * CONNER, 0120
TERENCE J. * CONNOLLY, 7137
DANIEL E. * COOK, 1590
GERALD M. COOK, 3650
HEATHER A. * COOK, 0914
JOSEPH COOK, 2739
KENNETH R. * COOK, 3021
TODD W. COOK, 5877
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LOREN R. *GRAHAM, 4376
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AMY L. GRAVELEY, 1150
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JOHN L. *SCHLUTER, JR., 3700
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ANNA MARIE SCHNEIDER, 6934
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ERIC J. * WITTENDORFER, 9794
CHRISTIAN S. WOHLWEND, 0021
BRANDON C. WOOD, 2270
JASON K. * WOOD, 0543
TRACY A. * WOODARD, 0103
MICHELE J. * WOODCOCK, 6190
BRINT A. * WOODRUFF, 1933
SARAH E. * WOODS, 3935
THADDEUS R. WOODS, 0238
SHANNON J. * WOODWORTH, 4156
GREGORY W. * WOOSLEY, 1912
ADAM R. * WORDEN, 4413
JASON C. WORLEY, 1460
BRIAN W. * WORTHINGTON, 4421
TIMOTHY K. * WOZNIAK, 5560
ANDREW R. * WRIGHT, 8875
JEFFREY C. * WRIGHT, 9221
PARKER H. WRIGHT, 3557
JAYSON M. * WRONA, 6049
TODD A. WYDRA, 2471
BRUCE L. * WYKES, 7146
GEORGE R. WYSE, 9554
CHRISTOPHER T. * YANE, 0004
GERALD T. YAP, 7447
ERIC * YARRELL, 6511
JARED C. * YARRINGTON, 8437
ARCHER M. YATES, JR., 5197
BART P. * YATES, 6797
KEVIN A. YATES, 4150
MICHAEL * YATES, 0545
ANGELIC L. * YBARRABELTRAN, 7195
THOMAS E. * YEAGER, 4404
MARK T. YETMAN, JR., 3588
MICHAEL S. YI, 0130
SHAYNE R. YORTON, 7721
BRIAN G. * YOUNG, 9867
CONSTANCE H. YOUNG, 0651
DAVID W. * YUNT, 2916
PAUL A. * ZACKRISON, 6438
JEREMY P. * ZADEL, 5082
VINCENT ZALESKI, 7325
JONATHAN E. * ZALL, 3812
JASON P. * ZENCUCH, 7995
CHRIS W. * ZENTNER, 1367
KRISTIAN J. * ZHEA, 9930
JAMES M. * ZICK, 4862
MATTHEW W. * ZIMMERMAN, 0621
MICHAEL S. * ZIMMERMAN, 1035
BRANISLAV B. * ZIVOJINOVIC, 8189
JACOB A. ZOCHERT, 3522
BRIAN K. ZOELLNER, 4661
BRIAN D. ZULLO, 0905
DEBORAH L. P. * ZUNIGA, 0346

RAY A. * ZUNIGA, 4149

CONFIRMATIONS

Executive nominations confirmed by the Senate: Thursday, May 26, 2005

DEPARTMENT OF EDUCATION

RAYMOND SIMON, OF ARKANSAS, TO BE DEPUTY SECRETARY OF EDUCATION.

DEPARTMENT OF DEFENSE

KENNETH J. KRIEG, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

CHARLES P. RUCH, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING AUGUST 11, 2010.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

HARRY ROBINSON, JR., OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2008.

KIM WANG, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2009.

POSTAL RATE COMMISSION

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2010.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (IH) LARRY L. HERETH
REAR ADM. (IH) ROBERT J. PAPP
REAR ADM. (IH) CLIFFORD I. PEARSON
REAR ADM. (IH) JAMES C. VAN SICE

DEPARTMENT OF STATE

ROBERT JOSEPH, OF VIRGINIA, TO BE UNDER SECRETARY OF STATE FOR ARMS CONTROL AND INTERNATIONAL SECURITY.

SEAN IAN MCCORMACK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (PUBLIC AFFAIRS).

DAVID HORTON WILKINS, OF SOUTH CAROLINA, TO BE AMBASSADOR TO CANADA.

JAMES M. DERHAM, OF VIRGINIA, TO BE AMBASSADOR TO THE REPUBLIC OF GUATEMALA.

WILLIAM ALAN EATON, OF VIRGINIA, TO BE AMBASSADOR TO THE REPUBLIC OF PANAMA.

PAUL A. TRIVELLI, OF VIRGINIA, TO BE AMBASSADOR TO THE REPUBLIC OF NICARAGUA.

VICTORIA NULAND, OF CONNECTICUT, TO BE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COUNCIL OF THE NORTH ATLANTIC TREATY ORGANIZATION, WITH THE RANK AND STATUS OF AMBASSADOR.

LINDA JEWELL, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR TO THE REPUBLIC OF ECUADOR.

JOHN F. TEFFT, OF VIRGINIA, TO BE AMBASSADOR TO GEORGIA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. KATHLEEN D. CLOSE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CHARLES E. CROOM, JR.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. BENJAMIN J. SPRAGGINS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. RONALD E. KEYS

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. BENJAMIN C. FREAKLEY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT AS DIRECTOR, ARMY NATIONAL GUARD AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 10506:

To be lieutenant general

MAJ. GEN. CLYDE A. VAUGHN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL BRUCE A. CASELLA
BRIGADIER GENERAL DAVID L. EVANS
BRIGADIER GENERAL WILLIAM H. JOHNSON
BRIGADIER GENERAL LARRY KNIGHTNER
BRIGADIER GENERAL DENNIS E. LUTZ
BRIGADIER GENERAL ROBERT A. POLLMANN
BRIGADIER GENERAL WILLIAM TERPELUK
BRIGADIER GENERAL BRUCE E. ZUKAUSKAS

To be brigadier general

COLONEL LIE-PING CHANG
COLONEL PAUL E. CRANDALL
COLONEL STUART M. DYER
COLONEL GEOFFREY A. FREEMAN
COLONEL WILLIAM D. FRINK, JR.
COLONEL WILLIAM H. GERETY
COLONEL GEORGE R. HARRIS
COLONEL JEFFREY A. JACOBS
COLONEL DEMPSEY D. KEE
COLONEL DOUGLAS E. LEE
COLONEL CHARLES D. LUCKEY
COLONEL BERT K. MIZUSAWA
COLONEL ELDON P. REGUA
COLONEL STEVEN W. SMITH
COLONEL RICHARD A. STONE
COLONEL ROBIN B. UMBERG
COLONEL MARGARET C. WILMOTH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. NEIL DIAL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. JAMES K. GILMAN
COL. DAVID A. RUBENSTEIN

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN W. BERGMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. ROBERT R. BLACKMAN, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. GARY ROUGHEAD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPTAIN WILLIAM R. BURKE
CAPTAIN NEVIN P. CARR, JR.
CAPTAIN PHILIP H. CULLOM
CAPTAIN MARK I. FOX
CAPTAIN WILLIAM D. FRENCH
CAPTAIN MICHAEL S. FRICK
CAPTAIN TIMOTHY M. GIARDINA
CAPTAIN ROBERT S. HARWARD, JR.
CAPTAIN WILLIAM H. HILARIDES
CAPTAIN DANIEL P. HOLLOWAY
CAPTAIN DOUGLAS J. MCANENY
CAPTAIN TERENCE E. MCKNIGHT
CAPTAIN JOHN W. MILLER
CAPTAIN MICHAEL S. OBRYAN
CAPTAIN FRANK C. PANDOLFE
CAPTAIN DAVID L. PHILMAN
CAPTAIN BRIAN C. PRINDLE
CAPTAIN DONALD P. QUINN
CAPTAIN WILLIAM E. SHANNON III
CAPTAIN JAMES A. SYMONDS
CAPTAIN STEPHEN S. VOETSCH
CAPTAIN JAMES P. WISECUP

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) ALAN S. THOMPSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) NANCY J. LESCAVAGE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) JEFFREY A. BROOKS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) ROBERT B. MURRETT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. VICTOR C. SEE, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. CHRISTINE M. BRUZEK-KOHLER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MARK W. BALMERT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. RAYMOND E. BERUBE
CAPT. JOHN J. PRENDERGAST III

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. KEVIN M. MCCOY
CAPT. WILLIAM D. RODRIGUEZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) DAVID J. VENLET

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) BRUCE W. CLINGAN
REAR ADM. (LH) DERWOOD C. CURTIS
REAR ADM. (LH) PETER H. DALY
REAR ADM. (LH) KENNETH W. DEUTSCH
REAR ADM. (LH) MARK T. EMERSON
REAR ADM. (LH) JEFFREY L. FOWLER
REAR ADM. (LH) GARRY E. HALL
REAR ADM. (LH) LEENDERT R. HERING, SR.
REAR ADM. (LH) ALAN B. HICKS
REAR ADM. (LH) STEPHEN E. JOHNSON
REAR ADM. (LH) CARL V. MAUNEY
REAR ADM. (LH) BERNARD J. MCCULLOUGH III
REAR ADM. (LH) MICHAEL H. MILLER
REAR ADM. (LH) ALLEN G. MYERS
REAR ADM. (LH) JOSEPH A. WALSH
REAR ADM. (LH) MELVIN G. WILLIAMS, JR.
REAR ADM. (LH) JAMES A. WINNEFELD, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. CAROL M. POTTENGER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. NATHAN E. JONES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203

To be rear admiral (lower half)

CAPT. ALBERT GARCIA III

IN THE COAST GUARD

COAST GUARD NOMINATION OF KATHRYN C. DUNBAR TO BE LIEUTENANT COMMANDER.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH DANIEL J. PRICE AND ENDING WITH STEPHEN P. BARRY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 25, 2005.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH DONNELL E. ADAMS AND ENDING WITH DANIEL J. ZALEWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 2005.

AIR FORCE NOMINATION OF MICHAEL E. VAN VALKENBURG TO BE COLONEL.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH ROBERT D. BOWMAN AND ENDING WITH THERESA M. SULLIVAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 15, 2005.

ARMY NOMINATIONS BEGINNING WITH CATHERINE D. SCHOONOVER AND ENDING WITH VINCENT M. YZNAGA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 9, 2005.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH JOEL P. BERNARD AND ENDING WITH MARC K. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 21, 2005.

EXTENSIONS OF REMARKS

CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES RECOGNIZES FORCE MASTER CHIEF KAREN H. O'CONNOR

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today on behalf of Congresswomen BROWN-WAITE, SOLIS, CAPPS and the entire Congressional Caucus for Women's Issues to recognize the 8th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The purpose of this event is to honor our nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today, we have the opportunity to recognize five outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the United States Navy, we will honor Force Master Chief Karen H. O'Connor, who currently serves at the Commander, Naval Surface Force, U.S. Pacific Fleet representing 40,000 enlisted sailors.

Force Master Chief O'Connor has served the Navy in a variety of duty station and capacities such as Command Master Chief in the USS BONHOMME RICHARD (LHD 6), completing an accelerated deployment in support of Operation ENDURING FREEDOM in 2002 and then deploying 14 months early in support of Operation IRAQI FREEDOM in January 2003. During this tour Bonhomme Richard received two Battle "E" awards and two consecutive Edward F. Ney awards for Food Service Excellence.

Force Master Chief O'Connor has repeatedly demonstrated outstanding performance, leadership, and devotion to the U.S. Navy as is evidenced by the numerous personal awards she has received such as the Defense Meritorious Service Medal, Meritorious Service Medal, and various campaign and service awards.

Force Master Chief O'Connor continues to distinguish herself as an invaluable leader in the Navy, and it is a honor for each Member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of Force Master Chief O'Connor and all women in the military.

WINNER OF LABOR'S "COMMUNITY SERVICES AWARD": BAKERS LOCAL 315

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FILNER. Mr. Speaker, today I honor Bakers Local 315—recognized with the "Outstanding Community Services Award" by the San Diego-Imperial Counties Labor Council, AFL–CIO.

Chartered on December 12, 1936, Bakers Local 315 is 500 members strong. Deborah Lacey Zuelsdorf has been Secretary-Treasurer for ten years. Under her leadership and that of the Executive Board, the Bakers have been honored for their work with union companies and have received countless outstanding community service awards. The Bakers work with Bimbo USA, Interstate Brands Corporation, Vons In Store Bakeries, and the San Diego Bread Company.

During the holidays, members work an extra shift and then the union bakeries donate what they have prepared directly to the Holiday Food Distribution. These breads and baked goods, made by the caring hands of the Bakers, help make the holidays a little better for union families experiencing lean financial times.

That is why we also honor and recognize Bakers Local 315, for their hard dedication to the community and for earning this year's "Community Services Award" by the San Diego-Imperial Counties Labor Council, AFL–CIO.

RECOGNIZING SHELBY COUNTY VETERANS ON MEMORIAL DAY 2005

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mrs. BLACKBURN. Mr. Speaker, this Memorial Day all of us should take time to recognize the service of those who've fought and died for this country.

I want to take a moment to recognize the veterans of Shelby County, Tennessee who served our country so well over the past century.

More than 1,500 Shelby County residents gave their lives for this country from World War II to the Iraq War, and we should never forget their sacrifice.

I would like to specifically recognize Mr. Vernon McGarity of Bartlett, Tennessee. Mr. McGarity is a World War II veteran who earned our Nation's highest military award, the Medal of Honor.

Mr. McGarity exemplifies the dedication and sacrifice of all of our Shelby County veterans. It is because they fought that we are free. God Bless America's veterans.

MEMORIAL DAY

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. UDALL of Colorado. Mr. Speaker, soon we will all return to our Congressional districts for the Memorial Day weekend. So I'd like to take a moment today to recognize the heroes of wars past and the heroes of our current military operations in Iraq and Afghanistan.

Just two days ago, Fort Carson's 3rd Armored Cavalry Regiment honored four more of its dead—Sgt. Stephen Saxton, Spec. Ricky Rockholt, Pfc. Joseph Knott, and Pfc. Robert Murray, Jr. Fort Carson has lost 120 soldiers since the war began.

And Colorado lost another son in Baghdad earlier this month. Former Marine and Louisville firefighter Todd James Venette was remembered at a memorial service last weekend. He died after his security company convoy was hit by two cars carrying explosives.

The loved ones of these brave soldiers and others who have died serving in Iraq and Afghanistan must live with their losses every minute of every day. We share their grief and remember this Memorial Day and every day the sacrifices of these young soldiers who have volunteered in service to their country.

These points were well made in today's editorial in the Denver Post, which I am attaching for the benefit of my colleagues.

[From the Denver Post, May 26, 2005]

RESPECT FOR HEROES IN IRAQ

In recent months, much attention has been drawn to accusations of misconduct in Iraq, and Fort Carson has seen its share of legal proceedings.

But on Tuesday a tearful ceremony reminded us of the sacrifices of so many soldiers who were doing things right.

More than 700 mourners attended a memorial service for four "brave rifles" killed in Iraq, while others stood outside in a thunderstorm to pay their respects. Sgt. Stephen Saxton, 24; Spec. Ricky Rockholt, 29: Pfc. Joseph Knott, 21; and Pfc. Robert Murray Jr., 21. All were members of Fort Carson's 3rd Armored Cavalry Regiment.

Comrades and loved ones shared thoughts about the young soldiers. "I thought it was very fitting that it was raining during the service," said Pamela Knott of Yuma, Ariz., whose son was killed in April. "It sounds silly, but at times you think, 'Oh, those are the angels crying, not just for Joseph but for all the lost soldiers.'"

In all, 120 soldiers from Fort Carson units have died since the war began. Since troops returned to Iraq in the winter and spring, eight soldiers have been lost to the 3rd ACR and two from the 43rd Area Support Group.

All told, about a dozen current or former Fort Carson soldiers have been accused of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

wrongdoing in Iraq. One court-martial has been held, with a conviction for assault against three Iraqi detainees, and others may be coming up.

For now, as Memorial Day approaches, upcoming proceedings are being drowned out by solemn rifle volleys for those who died too young, doing their duty.

COMMERCE CITY COMMUNITY HEALTH SERVICES RECEIVES HERO IN HEALTH AWARD

HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BEAUPREZ. Mr. Speaker, I rise today to pay tribute to the hard work and dedication of a health care organization in my district, Commerce City Community Health Services.

Earlier this month, Anthem Blue Cross and Blue Shield awarded the 2005 Hero in Health Award to Commerce City Community Health Services (CHS). CHS has provided free and/or reduced cost services to uninsured and underinsured youth in Adams County, Colorado for over 20 years.

Anthem Blue Cross and Blue Shield conceived the Hero in Health Award in 2001 as a way to recognize and reward those organizations that exemplify an authentic commitment to serving underinsured and uninsured individuals. Additionally, the Hero in Health Award heightens awareness for issues of healthcare access and affordability. In 2003, the field of eligible organizations was narrowed to clinics that provide services to the underinsured and uninsured.

CHS is a non-profit, 501(c) 3 organization that provides low-cost, high-quality primary and preventive health care services. CHS was initially funded in 1979 by the Robert Wood Johnson Foundation as a demonstration site for the National School Health Project and was one of the first school-based health centers in the country. Colorado Association of School-Based Health Care recognized CHS recently as the oldest, operational school-based center in the state.

CHS has a community-based center and school-based centers. The community-based center is part of the Adams County High School campus. Health care services are provided for children and adolescents, birth to 21 years old. The health care services include physical exams, medical screenings, immunizations, acute care for the diagnosis and treatment for minor illnesses, infections and injuries, management of chronic health conditions, routine lab work, well/sick infant care, nutrition and weight control counseling, and health education.

Again, Mr. Speaker, I want to thank the fine men and women of Commerce City Community Health Services. It is the best kind of community organization, fulfilling needs in the community others have not and continuously evolving to address changing demands. They serve a tremendous purpose in Adams County and I am very proud to be able to congratulate them for receiving the Hero in Health Award.

IN HONOR OF DR. PETER SMITH

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FARR. Mr. Speaker, I rise today to honor a dear friend and former member of this House, Dr. Peter Smith. Peter represented the State of Vermont in the House between 1989 and 1993. He built a reputation during his time here as an insightful, effective, and respected member. Peter exemplifies the spirit of respect and comity that is so often missing in current House business.

In 1994, Peter moved to my Central California District to become the founding President of the newly created California State University Monterey Bay (CSUMB). CSUMB is a remarkable institution that has been carved out in the heart of the former Fort Ord, the largest military base closure in the US to date. While many of us on the Central Coast have played a part in the genesis and growth of CSUMB, nobody has put a more decisive stamp than Peter Smith on the thriving institution that CSUMB has become. What started in 1994 with 650 students gathered in a cluster of run down Army barracks had blossomed into a top flight University with a growing campus of newly constructed and restored buildings and 3,500 students. That's a record of which to be proud.

Born in Boston, Massachusetts in 1945, Peter received a B.A. from Princeton and, two years later, he earned a M.A. in Teaching from Harvard University. In 1984 he received a Doctorate in Education, also from Harvard University, In 1970, Peter founded the Community College of Vermont, and served as its first president until 1978. In 1980, he served as a Vermont State Senator, and from 1982 until 1986 he served as Vermont's Lieutenant Governor.

Peter has devoted his life to improving the educational process, for the citizens of both Vermont and of the United Sates, and has received a number of awards for his achievements. One of his greatest awards is the National Council of Community Service and Continuing Education's Man of the Year award, which he received in 1976. In 1978, the University of Vermont College of Education and Social Services gave him their highest award for his contributions to elementary, secondary, and post secondary education in the State of Vermont. The Fund for the Improvement of Post-secondary Education and the Carnegie Corporation of New York awarded him a Mina Shaughnessy Fellowship grant in 1980. The grant allowed him to interview sixty adults across the country for his book about adult learning beyond school, Your Hidden Credentials. Last year he published groundbreaking book titled The Quiet Crisis: How Higher Education is Failing America where he argues that higher education as a whole is not organized to truly educate its students.

Peter is now leaving CSUMB to take on the reins at UNESCO where he will become the first American to hold the post of Assistant Director General for Education. The UN leadership chose him after a worldwide search of candidates. Peter takes up his post in Paris, France, next month. We are sorry to see Peter and his wonderful wife, Sally, leave the Central Coast. But the Central Coast's loss will be the global community's gain. From his new perch, Peter will use the skill and wisdom that so enriched the CSUMB community and improve the future for millions of world's citizens.

Mr. Speaker, I know I speak for the whole House when I offer our former colleague our sincerest thanks for his service to date and best wishes for his tasks ahead.

CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES RECOGNIZES MASTER SERGEANT SUSAN M. PIASECKI

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today on behalf of Congresswomen BROWN-WAITE, SOLIS, CAPPS and the entire Congressional Caucus for Women's Issues to recognize the 8th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The purpose of this event is to honor our nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today, we have the opportunity to recognize five outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the United States Air Force, we will honor Master Sergeant Susan M. Piasecki, who currently is assigned to the 305th Civil Engineer Squadron (CES), McGuire Air Force Base, New Jersey, as First Sergeant.

Master Sergeant Piasecki has repeatedly demonstrated outstanding performance, leadership, and devotion to the U.S. Air Force as is evidenced by the honors and decorations she has received. In April 2005, she was honored as a nominee for Air Mobility Command's 12 Outstanding Airmen of the Year in the First Sergeant Category. Her decorations include the Air Force Meritorious Service Medal, the Air Force Commendation Medal with four Oak Leaf Clusters, and the Air Force Achievement Medal with one Oak Leaf Cluster.

Master Sergeant Piasecki continues to distinguish herself as an invaluable leader in the Air Force, and it is an honor for each Member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of Master Sergeant Piasecki and all women in the military.

WINNER OF LABOR'S "COMMUNITY SERVICES AWARD"—TEAMSTERS LOCAL 36

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FILNER. Mr. Speaker, today I honor Teamsters Local 36—recognized with the "Community Services Award" by the San Diego-Imperial Counties Labor Council, AFL–CIO.

Teamsters Local 36 was chartered in 1946 and was originally founded as a building material and construction local. The charter was changed in 1980 to read Building Materials, Construction, Industrial, Professional and Technical Employees.

In 1981, Teamsters built their own building and moved to their current location on Mercury Street in the heart of Kearny Mesa. This building is named in honor of their former Secretary-Treasurer, John S. Lyons. This hard-working, dedicated and diverse organization can always be depended upon.

Their members volunteer for every food drive by working at the Margaret Sellers Post Office and routing the food from outlying Post Offices to the Food Bank. Each and every December, the Teamsters show up, complete with holiday cheer, pick up and deliver all the food to make the annual Holiday Food Distribution a success.

They are always present, making a contribution to the people of San Diego and promoting the good name of Labor. That is why we honor and recognize Teamsters Local 36, one of the finest organizations in San Diego and Imperial County, as the recipient of the "Community Services Award"!

RECOGNIZING DEDICATION OF WILLIAMSON COUNTY MONUMENT IN FRANKLIN ON MEMORIAL DAY 2005

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mrs. BLACKBURN. Mr. Speaker, Memorial Day is one of those occasions where all Americans can come together for a common purpose—to honor and thank those who've sacrificed in order to keep us free.

It is my privilege to recognize the veterans from Williamson County, Tennessee who served our country over the past century. Nearly 165 veterans from Williamson County died defending America during World War I, World War II, the Korean War and the Viet Nam War. All of us recognize how fortunate we are for having had men and women like them fighting to preserve our freedom.

On Monday, May 30, 2005, Williamson County will dedicate a monument in Franklin, Tennessee, to honor these men and women. I hope all Tennesseans will take time this Memorial Day to remember those who've sacrificed so much for America. God Bless.

THE LIFE OF EVA "MARR" BOWMAN

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. UDALL of Colorado. Mr. Speaker, on May 7, the Bowman family and Colorado lost a great treasure. Eva "Marr" Bowman died at age 93, a life-long resident of Wray, Colorado.

My sympathies go to her grandson Michael Bowman, who was extremely close to his grandmother. Michael is a tireless advocate of renewable energy and of Colorado's rural communities and is a key proponent of the 25x25 proposal dedicated to producing 25 percent of America's energy needs from our agricultural sector by the year 2025.

Marr Bowman supported Mike in his efforts. She donated $200,000 to the Wray, Colorado school district to install a wind turbine that will supply all of the school's electricity and 25 percent of the electricity for the town. Her donation has already set an important precedent in Colorado, demonstrating what dedicated communities can do to help rural economic development and maintain farming as a way of life.

I honored Marr Bowman at the Environmental and Clean Energy Inaugural Ball earlier this year for her contributions to Colorado's rural communities and to renewable energy. I noted at the Ball: "Without your generous contribution of seed money for the wind turbine project, further grant money would not be an option. Wray is fortunate to have committed members of the community like you who have the foresight and patience to envision a project and see it through." Even though she won't be in Wray to see the wind turbine operational next month—or to attend her 75th high school reunion—I am glad she knew of our gratitude for her commitment and dedication to her community, to Colorado, and to renewable energy.

Marr Bowman's was a life well lived. She will be missed.

For the benefit of my colleagues, I have attached Mrs. Bowman's obituary from the Denver Post.

FARM WIFE A POWERFUL FORCE

(By Virginia Culver)

Eva "Marr" Bowman was a farm wife who lived all her life on Colorado's plains—but that didn't mean she wasn't up on the latest environmental issues.

Bowman, who died Saturday at age 93, left $200,000 to the Wray school district as seed money to install a wind turbine that will supply all of the school's electricity and 25 percent of the electricity for the town.

By selling the electricity to the town, the school district will make $180,000 a year, said Bowman's grandson, Michael Bowman, of Wray.

"We'd hoped she would still be alive to see the wind turbine operational next month, her 75th high school class reunion," he said.

In her letter to the school board about the gift, Eva Bowman said, "There is no greater gift we can give our children than that of a sound education."

Her nephew and others have raised most of the rest of the total—$1.8 million—for the turbine.

Marr Bowman, as everyone called her, was a fixture in Wray, where she sat at her own table every morning for coffee in the local cafe.

Despite the hard work of cooking, cleaning, raising children and helping with the farm, Marr Bowman was not a complainer.

"In fact, she was the most upbeat person I ever knew," said Michael Bowman.

But, sometimes, she did remark, "Anyone who thought those were the good old days didn't actually live through them."

Marr Bowman and her husband toughed out the Depression, but they and their good friends, Dale and Martha Whomble, had to wait some time before they could buy new cars.

After discussing it one evening, the couples decided on a stopgap measure: They would trade cars, so at least each couple would have a different car.

In addition to her family, Marr Bowman's other great love was bowling, which she did for decades at the Purple Sage Bowling Alley. After it was destroyed in a 1970s tornado, she and her friends had to drive to other towns to bowl.

Eva Peterson was born June 13, 1911, in Holyoke and graduated from Laird High School, east of Wray.

She met Ralph Bowman, a local farm boy, at Olive Lake, a resort area near Wray that had a dance hall and skating rink. "It was a hotbed of activity in those days," Michael Bowman said.

Eva Peterson and Ralph Bowman married May 16, 1931, and started their life together with gifts of a pig and a cow, which their families had given them. He died in January 2004.

In addition to her grandson, Marr Bowman is survived by two daughters, Jean Brophy of Wray and Jerry Baird of Pasadena, CA; a son, Jack Bowman of Wray; 10 grandchildren; 22 great-grandchildren; her sister, Madge Barber of Burlington; and an "adopted" grandson, Etienne Lagabrielle of France.

BRIGHTON RECEIVES ECONOMIC DEVELOPMENT AWARD

HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BEAUPREZ. Mr. Speaker, I rise today to congratulate the City of Brighton, Colorado, for recently being named by the Economic Developers' Council of Colorado (EDCC) as the recipient of the Large Community of the Year award for 2004. The EDCC presents their annual achievement awards that recognize outstanding achievement in economic development by honoring individuals, businesses and communities throughout the State of Colorado.

The City of Brighton was honored to receive this award which is presented to a community over 20,000 in population that demonstrates support for economic development through an organized economic development program and strong leadership.

Mr. Speaker, as we look at a few of the many successes the City has been able to accomplish recently, there is no doubt that they are well deserving of this award.

The City provided an incentive package valued at nearly $8.2 million for a new Adams County campus for County services. This campus will not only retain jobs for Brighton but will also ensure that Brighton remains the County Seat.

Brighton found funding, without any state support, for the roundabouts at the intersection of U.S. 85 and State Highway 7, which is a major highway intersection to downtown Brighton. The City has also been forward thinking in contributions on their part to make the FasTracks public transit program become a reality in Brighton.

In 2004 the City broke ground on a 14-acre entertainment/retail development, the Brighton Pavilions. This project is a unique public/private partnership between the City, the Brighton Urban Renewal Authority, Brighton Economic Development Corporation, Carlson-Parkhi, LLC and RTD. It is the first Transit Oriented Development in the state based on a bus transit park-n-ride, and a public/private endeavor and is a "model" project for the Denver metro area. Further, this partnership helped the City receive the Adams County Economic Development 2004 Regional Partnership Award.

On the issue of water, which is so vital to communities in Colorado, Brighton has made great strides in making water purchases during 2004 and has aligned itself with other regional communities to provide water solutions in and out of its community. The first water augmentation storage lake was completed and filled in 2004.

Mr. Speaker, what's equally important to many Brighton residents is that the City has been able to accomplish all of this while still retaining its small town atmosphere that makes it so attractive by opening six new neighborhood parks last year.

Mr. Speaker, I am pleased to congratulate Brighton's Mayor, Jan Pawlowski, and all the citizens of the City for Brighton's recognition as the Large Community of the Year. It is only appropriate that the entire State acknowledge the City's efforts and achievements.

IN HONOR OF KSBW'S THIRD CONSECUTIVE USC ANNENBERG WALTER CRONKITE AWARD FOR EXCELLENCE IN TELEVISION POLITICAL JOURNALISM

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FARR. Mr. Speaker, I rise today to honor and recognize the achievements of a news channel local to my congressional district. KSBW, as part of the Hearst-Argyle Television Inc., received the Walter Cronkite Award for Excellence in Television Political Journalism for the third consecutive year this past March.

Frequently we hear that quality, unbiased journalism is a thing of the past. However, KSBW and Hearst-Argyle Television Inc. prove the critics wrong. The Walter Cronkite Award for Excellence in Television Political Journalism is an award that recognizes the importance of good, unbiased political journalism. That some of the best minds in journalism would agree that KSBW and Hearst-Argyle Television Inc. deserve this award 3 years in a row is a testament to this station's high quality and merit.

This continued commitment to excellence in journalism serves as a model for all news organizations. I would also like to commend Mr. Joe Heston, President and General Manager of KSBW, for his management, vision, and interest in the community. Mr. Speaker, I hope that my colleagues will join me in honoring KSBW and Hearst Argyle Television Inc.'s achievements and wish them continued success.

CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES RECOGNIZES SERGEANT MAJOR RAMONA D. COOK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today on behalf of Congresswomen BROWN-WAITE, SOLIS, CAPPS and the entire Congressional Caucus for Women's Issues to recognize the 8th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The Purpose of this event is to honor our Nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today we have the opportunity to recognize five outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the United States Marine Corps, we will honor Sergeant Major Ramona D. Cook who was deployed to Kuwait in February 2003, to join her unit, Marine Heavy Helicopter Squadron 462 (Heavy Haulers), in support of Operation Iraqi Freedom. The Heavy Haulers remained there until September 29, 2003.

On October 15, 2004 SgtMaj Cook and members of the Heavy Haulers again deployed in support of the war on terrorism, this time to Bagram, Afghanistan in support of Operation Enduring Freedom.

SgtMaj Cook has repeatedly demonstrated outstanding performance, leadership, and devotion to the U.S. Marine Corps, as is evidenced by the awards she has received, which include two Navy Marine Corps Commendation Medals, and four Navy Marine Corps Achievement Medals.

SgtMaj Cook continues to distinguish herself as an invaluable leader in the U.S. Marine Corps, and it is an honor for each Member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of SgtMaj Cook and all women in the military.

VIEJAS BANK OF KUMEYAAY INDIANS RECEIVES LABOR'S SPIRIT OF COOPERATION AWARD

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FILNER. Mr. Speaker, today I honor the Viejas Band of Kumeyaay Indians for receiving the "Spirit of Cooperation Award" by the San Diego-Imperial Counties Labor Council, AFL–CIO.

The Viejas Band, one of the remaining 12 bands of the Kumeyaay Indian Nation, has approximately 289 members living on the 1,600 acre reservation in the Viejas Valley, east of Alpine.

The Viejas Band is recognized as a sovereign government by the United States, with which it maintains a government-to-government relationship. Only a few years ago, Viejas Reservation unemployment was as high as 80 percent. Today, as a result of revenues from tribal government gaming and other business enterprises, every Viejas tribal member has a job and no tribal members are on welfare. The band has built new homes, improved older residences, expanded the Tribal Government Center, and has constructed a community park, fire station, and a senior citizen center.

In addition, the band has embarked on a multi-million dollar series of environmental projects to restore the reservation land, watershed, streams and wetlands. Gaming has created approximately 12,000 jobs, primarily for non-Indian residents of the San Diego Region.

In 2001, the estimated payroll for gaming Tribes was more than $237 million, and employer-paid Federal and State payroll taxes are estimated to have been over $30 million. Viejas is a proud union employer and workers of the casino are part of Communication Workers of America Local 9400. Viejas is leading the way in bringing together communities and setting a great example of conducting business.

Congratulations to Viejas on receiving Labor's 2005 "Spirit of Cooperation Award."

RECOGNIZING MONTGOMERY COUNTY, TENNESSEE MEMORIAL DAY 2005

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mrs. BLACKBURN. Mr. Speaker, it is a privilege today for me to recognize and thank our Montgomery County, Tennessee veterans.

Our community has not forgotten the sacrifices made by our Tennessee veterans, and so on Monday, May 30, 2005, Montgomery County will dedicate a monument in Clarksville, Tennessee to honor these veterans.

These are the men and women who fought and died for our freedoms, and we cannot thank them enough for their sacrifices.

Generations of veterans live in Montgomery County, and this great community will forever be thankful to them. As home to Fort Campbell, few understand better the work our Nation's military does day in and day out to defend America. God Bless.

STATEMENT ON PUEBLO CHEMICAL DEPOT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. UDALL of Colorado. Mr. Speaker, I am glad that the Pueblo Chieftain recognized in a May 18 editorial the attention Representative JOHN SALAZAR has focused on the demilitarization project at the Pueblo Chemical Depot, a former chemical weapons site located in southeastern Colorado, since he was sworn into office in January.

Representative SALAZAR is aware, as I am as a member of the Colorado delegation and of the Armed Services Committee in the House, that a continued flow of funds to the demilitarization project is critical. That's why I was pleased that the Defense Authorization bill reported out of the Armed Services Committee last week and voted on by the House yesterday includes language directing the Secretary of the Army to continue to implement fully the neutralization technology at Pueblo. Coloradans were alarmed last year when the demilitarization project was put on hold, so they want to see that the Defense Department is committed to using the neutralization technology to destroy the 2,600 tons of mustard agent stored at Pueblo—not transporting the weapons to a different site for destruction.

I also want to call attention to language in the bill that would transfer program responsibility from the Under Secretary of Defense for Acquisition, Technology, and Logistics to the Secretary of the Army. I understand that objection to this transfer in the past was due to the preference of the Program Manager for Chemical Destruction under the Department of the Army for baseline incineration. Now that the Defense Department is committed to the neutralization approach, and given the numerous GAO reports and testimony to Congress stating that effective management of the chemical demilitarization program has been hindered by the complexity of its management structure, it appears to make sense to pursue the transfer. Still, I've asked Chairman HUNTER to follow this move closely to ensure that this proposed change in oversight of the project doesn't change the path forward for the development of the neutralization technology.

I'm glad that both Democratic and Republican members of the Colorado delegation understand the importance of getting the job done right at Pueblo. I will continue to work with my colleagues to ensure this happens.

For the benefit of my colleagues, I've attached a May 18 editorial from the Pueblo Chieftain.

> [From the Pueblo Chieftain, May 18, 2005]
>
> TRUST, BUT VERIFY
>
> There appears to be bureaucratic wrangling over control of the chemical weapons destruction program at Pueblo Chemical Depot, and Representative John Salazar is pledging to keep a close eye on developments.
>
> Representative Salazar reports that the Army approached him directly with information that the Pentagon wants the job under the direct oversight of the Army, rather than the Assembled Chemical Weapons Alternative program, or ACWA. ACWA has been the agency favored by local critics of the Army, which originally planned to build an incinerator to demilitarize the weapons.
>
> Representative Salazar, taking note of recent developments in Congress to get the work back on track after numerous delays, said the Army's track record warrants close monitoring to see that nothing else gets derailed. It was this long series of delays which earlier this month prompted Congress to approve provisions in a supplemental budget bill that included $327 million and explicit language requiring the Pentagon to destroy the weapons at Pueblo and the Blue Grass Chemical Depot in Kentucky. This week the Senate Armed Services Committee added $20 million.
>
> The demilitarization provision was cosponsored by Colorado's two senators, Wayne Allard and Ken Salazar, and Representative Salazar.
>
> Ross Vincent, a member of the local Citizens Advisory Commission and a supporter of ACWA, is wary of having the Army take direct control of the project. The Army may realize it needs to mend fences, because Representative Salazar made a point of noting that the Army volunteered the information that the Pentagon now wants that military branch to be in direct control.
>
> Representative Salazar has sized up the situation quickly since his House induction in January. We are pleased that has given the chemical depot his considerable attention.
>
> We also would encourage the congressional delegation to press the Pentagon to do all of the demilitarization work here. There has been some discussion of perhaps shipping explosives and the neutralized mustard agent known as "hydrolysat" off site for final destruction at other plants.
>
> It's estimated that such transfers would mean the loss of about 200 jobs that otherwise would be created at Pueblo Chemical Depot. But at what cost?
>
> The Pentagon is looking at one cost factor, though. Last week officials said they may use some recycled parts from a similar system that has finished its work at Aberdeen Proving Grounds in Maryland. If that could be a net savings to taxpayers, we're all for it.
>
> Delays and mismanagement have skyrocketed the cost of destroying this Nation's chemical weapons. The sooner the job gets done, the better.

CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES RECOGNIZES DRILL SERGEANT JENNIFER R. FOWLER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. ROS-LEHTINEN. Mr Speaker, I rise today on behalf of Congresswomen BROWN-WAITE, SOLIS, CAPPS and the entire Congressional Caucus for Women's Issues to recognize the 8th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The purpose of this event is to honor our nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today, we have the opportunity to recognize five outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the United States Army, we will honor Drill Sergeant Jennifer R. Fowler. Drill Sergeant Fowler has served in the Army in a variety of duty stations and capacities. Her deployments include: Operation Distant Haven-Suriname, and Operation Safe Haven Panama.

Drill Sergeant Fowler's awards and decorations include the joint Meritorious Unit Award, Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, Good Conduct Medal, Army Reserve Component Achievement Medal, Global War on Terrorism Service Medal, and the Army Overseas Service Ribbon.

Drill Sergeant Fowler has repeatedly demonstrated outstanding performance, leadership, and devotion to the U.S. Army as is evidenced by the fact that she was recently selected as the 2004 RC TRADOC Drill Sergeant of the Year.

Drill Sergeant Fowler continues to distinguish herself as an invaluable leader in the Army, and it is an honor for each Member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of Drill Sergeant Fowler and all women in the military.

CROSBY MILNE: WINNER OF LABOR'S "OUTSTANDING DEDICATION AWARD"

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FILNER. Mr. Speaker, today I acknowledge a great friend of labor, Crosby Milne—recognized with the "Outstanding Dedication Award" by the San Diego-Imperial Counties Labor Council, AFL–CIO.

Crosby Milne's early upbringing was unfortunately marred by frequent moves and arbitrary acts of discrimination. As a result, Crosby became fundamentally opposed to any forms of discrimination. He used those early childhood experiences as a barometer to make good choices throughout life and guide his actions. Crosby served five years in the United States Navy, and in those years, he played many roles. He spent 29 years working his way up to become a top manager. Throughout his work he discovered that following a set of values is the best way to manage. He has used this concept ever since. In 1974, he began work as a management consultant for commercial firms and for dozens of nonprofit organizations, including the United Farm Workers and Cesar Chavez.

For the past several years, Crosby has been a volunteer for the San Diego-Imperial Counties Labor Council, generously dedicating his time and ideas for the betterment of workers throughout San Diego and Imperial Counties. He has facilitated various staff retreats and meetings as well as sat on various committees. He provides wonderful insight and assessments. Crosby was also very instrumental in forming the Center on Policy Initiatives. Crosby's opinion is highly revered, as he speaks from life experience.

We congratulate Crosby for receiving this year's "Outstanding Dedication Award" from the San Diego-Imperial Counties Labor Council.

IN HONOR OF THE 75TH ANNIVERSARY OF THE NEW YORK COUNTY LAWYERS ASSOCIATION'S HOME OF LAW

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. NADLER. Mr. Speaker, I rise today to honor the New York County Lawyers Association (NYCLA), and the 75th anniversary of its building, located at 14 Vesey Street in New York City. This location, in the heart of both my District and Lower Manhattan, has been the home of NYCLA and its many charitable and educational programs, all of which further its primary purpose of serving the public interest.

Tonight's celebration will feature many of New York City's most esteemed scholars. They include the Hon. Judith Kaye, Chief Judge of the State of New York, Hon. John M. Walker Jr., Chief Judge of the U.S. Court of Appeals, Second Circuit, Michael Cardozo, Corporation Counsel for the City of New York, and Paul Goldberger, architecture critic for The New Yorker.

The Home of Law was designed by legendary American architect Cass Gilbert, designer of the Woolworth and U.S. Supreme Court Buildings, and consulting architect for the George Washington Bridge. The groundbreaking for the Home of Law took place in 1929 and construction was completed just five and a half months later, on May 26, 1930, exactly 75 years ago today. The ribbon-cutting ceremony was attended by such notable figures as then Court of Appeals Chief Judge Benjamin N. Cardozo, Judge Samuel Seabury, John W. Davis, and City Bar President Charles C. Burlingham. Then-NYCLA President William Nelson Cromwell chose 14 Vesey Street for the Home of Law because, with St. Paul's Chapel across the street, no building would ever block the view.

NYCLA, in its 97-year history, has proven to be a visionary and inclusive organization, pioneering some of the most far-reaching and tangible reforms in American jurisprudence and playing an active role in legal developments and public policy. NYCLA also bears the mark of distinction of being the first major bar association in the United States that admitted members without regard to race, ethnicity, religion or gender. NYCLA and its Home of Law serve New York with distinction, and I am pleased to honor them today on the 75th anniversary of their historic building.

IN RECOGNITION OF THE DEDICATION OF THE LAFAYETTE VETERANS MEMORIAL BUILDING

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mrs. TAUSCHER. Mr. Speaker, I rise today to recognize the dedication of the Lafayette Veterans Memorial Building in honor of the contributions and sacrifices of past, present, and future Contra Costa County veterans for the freedoms we enjoy in our personal lives and for the security we value as a nation.

When we look around at our homes, neighborhoods, and institutions like our churches and schools, we see evidence of the valor and sacrifice of our veterans. We feel safe and protected in the ordinary and extraordinary activities of our daily lives because our veterans have made us safe. We are free to believe and speak what is in our hearts because veterans have fought for our freedoms to do that.

The Lafayette Veterans Memorial Building honors the contributions of veterans today, on Memorial Day, and every day to come. It is a living memorial, created in the heart of this vibrant community at the center of community life. It is intended to serve veterans and their families throughout Contra Costa County, and it is designed to accommodate the broadest possible range of needs of veterans as well as those of the community.

The Lafayette Veterans Memorial Building is also remarkable for being the collaborative achievement of Lafayette War Veterans, Inc., the City of Lafayette, the City of Walnut Creek, and Contra Costa County. Over a number of years, these project partners have come together to create this magnificent tribute to those who serve. They have blessed the community with an outstanding example of joint leadership and cooperative decision-making, as well as with the building itself.

Mr. Speaker, the Lafayette Veterans Memorial Building stands as a fitting monument to our veterans whom we honor on Memorial Day and in our hearts all year long. It takes its part in our community as a reminder of the glories of past, present, and future veterans and of the work of smart, persevering, and dedicated community leaders who have brought their dreams to reality.

CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES RECOGNIZES SENIOR CHIEF JENSEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today on behalf of Congresswomen BROWN-WAITE, SOLIS, CAPPS and the entire Congressional Caucus for Women's Issues to recognize the 8th Annual Women in the Military Wreath Laying Ceremony hosted by the Caucus at Arlington National Cemetery. The Purpose of this event is to honor our nation's servicewomen and female veterans for their courage and achievements, and to remember women who have died in service to the United States.

Today we have the opportunity to recognize five outstanding female servicewomen, one selected from each branch of the military. These women serve their respective branches with honor, dignity, and courage. These highly decorated leaders chose to defend our freedom and embody the spirit of those that served before them.

From the United States Coast Guard Reserves, we will honor Senior Chief Jensen, who currently has an Extended Active duty contract with the Coast Guard and is assigned to Coast Guard Headquarters, Office of Command and Control Architecture.

Senior Chief Jensen enlisted in the Coast Guard Reserves on July 11, 1990 as a Third Class Yeoman. Her first unit was Coast Guard Reserve Unit Pensacola, Florida, where she served for five years. In November of 1995, then a Second Class Petty Officer, she reported to the Gulf Strike Team in Mobile, AL. During this period she was sent on special assignment for 6 months to the National Drug Intelligence Center, Johnstown, PA where she was one of only five enlisted members to ever serve. Her second special assignment came when she was requested for support of the joint agency drug operation, "Operation Gulf Shield" in South Texas for a period of seven months.

Senior Chief Jensen has repeatedly demonstrated outstanding performance, leadership, and devotion to the U.S. Coast Guard, as is evidenced by the awards she has received, which include a Coast Guard Commendation Medal, Coast Guard Achievement Medal, the Coast Guard Commandant's Letter of Commendation, Meritorious Unit Commendation Ribbon with Operational distinguishing device, both Active Duty and Reserve Good Conduct Medals, the 911 Ribbon, Reserve Forces Medal, Rifle and Pistol Shot Ribbons at the Marksman level.

Senior Chief Jensen continues to distinguish herself as an invaluable leader in the US Marine Corps, and it is an honor for each Member of the Congressional Caucus for Women's Issues to recognize the courage and commitment of Senior Chief Jensen and all women in the military.

JEF L. EATCHEL: WINNER OF LABOR'S "SOLIDARITY AWARD"

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FILNER. Mr. Speaker, today I acknowledge a great friend of labor, Jef L. Eatchel—recognized with the "Solidarity Award" by the San Diego-Imperial Counties Labor Council, AFL–CIO.

Jef L. Eatchel has served as Secretary-Treasurer and Chief Executive Officer for

UNITE HERE, Local 30 (formerly, Hotel Employees and Restaurant Employees Union, Local 30) of San Diego since he was first elected in 1985. Jef began his career at Local 30 as a cook at La Costa Resort & Spa, where he was appointed Shop Steward by International Vice-President, Herbert "Pinky" Schiffman. He was appointed as Business Representative at Local 30 in 1982. After representing the employees for three years, he was elected Secretary-Treasurer in 1985. He continues to serve as its Chief Executive Officer. Jef does a great deal of work beyond UNITE HERE Local 30. He serves as the Treasurer to the California Culinary Alliance; he was elected a voting director of the International Foundation of Employee Benefits for the West Coast and has served as a Trustee and member of the Educational Program Committee. He also serves on the Executive Committee for the Council of Institutional Investors and is National Vice President for District 9 for the UNITE HERE International.

As chairman of the San Diego Health & Pension Plan, he founded the Labor Union 401K in 1997 which now has forty different unions participating. He is also the co-founder of the San Diego Hospitality Training Trust. In these capacities, Jef works tirelessly to assure that the hard working union members who fall under these plans have a safe and secure financial future. Jef's innovation, enthusiasm and insight bring so much to the working families of San Diego.

People like Jef Eatchel perpetuate these qualities and that is why the San Diego Imperial Counties Labor Council recognize and honor him with the 2005 "Solidarity Award."

TRIBUTE TO THE SCOTT COUNTY AMERICAN LEGION POST 24

HON. BEN CHANDLER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. CHANDLER. Mr. Speaker, I rise today to honor the Scott County American Legion Post 24. This Sunday, May 29, they will begin their annual Memorial Day Pilgrimage.

Beginning at 8 a.m., these dedicated veterans, along with family and friends, will depart from the Scott County Courthouse and travel to nine cemeteries to honor and show respect to our many departed veterans. They will arrive at the Georgetown Cemetery between 4:30 and 5 p.m. At this time they will also dedicate the stunning new 22 ft. marker honoring all branches of service.

The history of this important organization dates back to the end of World War I, when 15 surviving veterans returned to their homes in Scott County. This first pilgrimage was made in three horse drawn buggies to three different cemeteries.

Mr. Speaker, this Memorial Day weekend, it is important we honor and pay tribute to all who have served or are currently serving in the Army, Navy, Marine Corps, Air Force, Coast Guard and Merchant Marines. At a time when we have thousands of men and women still in harms way in Iraq and Afghanistan, it is essential we all take a moment to remember their great service and sacrifice.

The annual Memorial Day Pilgrimage of the Scott County American Legion Post 24 is a truly wonderful way to honor the men and women of the Armed Forces. I am sincerely grateful for their efforts.

TOM WOOD: LABOR LEADER OF THE YEAR!

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FILNER. Mr. Speaker, today I acknowledge a great friend of labor, Tom Wood—named the "Labor Leader of the Year" by the San Diego-Imperial Counties Labor Council, AFL–CIO.

Tom began his career as a Distribution Clerk with the United States Postal Service as a member of the American Postal Workers Union (APWU—Local 197) in January 1972. Within six months, he became a Shop Steward and started representing employees' rights. He noticed that other employees needed representation because they were too shy to represent themselves; he then became involved in assuring that employees would be treated fairly and justly.

In 1974, Tom was elected as Clerk Craft Director and subsequently has represented the APWU in several capacities since: Secretary-Treasurer, Executive Vice President and as the President of his Local Union since 1990. He has been the APWU chief negotiator for all local contracts for San Diego represented employees, and has made it a point to see that all postal managers treat employees with dignity and respect. Tom has established a reputation of vigorously representing his members, while still being responsive to the needs of the employer and their constant struggle with the "budget."

Tom has served as a member of the Board of Directors on the San Diego-Imperial Counties Labor Council for the last fifteen years and as President since 2004. Several years ago, under his leadership, the APWU began looking with other labor unions in town to buy their own property, and became partners with the San Diego-Imperial Counties Labor Council, AFSCME, HERE, CWA and IATSE in Mission Valley's United Labor Center.

Congratulations Tom Wood, on your recognition as "Labor Leader of the Year"!

HONORING THE LIFE OF SERGEANT JACOB SIMPSON

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. HOOLEY. Mr. Speaker, let us recognize the life and praise the sacrifice of an American Hero.

Just a few days ago, Sergeant Jacob Simpson was killed in action during a reconnaissance patrol in Iraq.

Jacob died as he lived—helping the people of Tikrit in their efforts to secure a peace, and realize their aspirations for a democratic society. Oregon mourns his passing. As a society we have too few of his character; we will all feel his loss for years to come.

Jacob was an exceptional young man who possessed a kind heart, an inquisitive mind, and a dedication to family and friends that was as uncommon as it was devout. After completing his general education studies, Jacob entered the United States Army to build a new life for himself. Sergeant Simpson was a proud, dedicated soldier; he was a team player, always willing to volunteer for an extra job, a hard assignment—but he was so much more.

He was a patriot—an earnest young man who believed citizenship meant responsibility. Jacob Simpson accepted the duty of being an American as freely as he did its freedoms. True to his nature, Sergeant Simpson used his time in uniform to adjust his focus, investigate his academic interests—to develop a plan for rest of his life. Jacob planned on attending college after his discharge.

But Jacob will never again enjoy the winds of the Columbia Gorge, the view of Mount Ashland, or the sounds of his guitar. He returned to Iraq for a second tour of duty well aware of the challenges, the risks, and dangers. He gave his last full measure of devotion keeping faith with his charge.

Jacob Simpson never faltered, never wavered, and never failed—he understood his duties and sacrificed everything he had, and everything he never would have, for the ideals of liberty. His courage is a lesson for us all.

In his brief twenty-four years, Jacob Simpson made a difference in the lives of thousands. With hope, determination, and uncommon valor—Jacob helped blaze the trail for a new generation of Iraqi's to have the right to choose a new destiny.

It is now up to us left behind, here—to ensure the life and death of Jacob Simpson is remembered—to keep its promise. Let us recommit ourselves to the tasks at hand. We must never forget.

TRIBUTE TO DONALD "DONNIE" YOUNG

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to one of my constituents, Donald "Donnie" Young, a Denver policeman who tragically lost his life in a senseless act of violence earlier this month.

Detective Young was 43 years old, a devoted husband and a father. He was a 12-year veteran of the Denver Police Department and a recipient of the police Medal of Honor. Fellow officers remembered Donnie as a well-liked, friendly man with a care-free attitude who adore his family. He was a running back on the police football team and an avid Harley motorcycle rider.

His tragic death has saddened and will continue to be felt by the entire Denver community. He will no doubt be sorely missed by all, and most of all those who knew and loved him.

On behalf of the House of Representatives, I want to take this time to express my deepest sympathy and heartfelt condolences to Mr. Young's family and friends.

Thank you, Mr. Speaker.

PERSONAL EXPLANATION

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. HULSHOF. Mr. Speaker, on May 19, 2005, during consideration of H.R. 2361 the Fiscal Year 2006 Department of the Interior, Environment, and Related Agencies Appropriations Act, I inadvertently recorded my vote as "No" on the amendment offered by Mr. BEAUPREZ to increase funding for Wildland Management (Rollcall Vote No. 195). It was my intent to record my vote as "Aye" on this amendment.

IGNORING INTERNATIONAL LAW: NIGERIA'S CONTINUING PRESENCE ON CAMEROON'S BAKASSI PENINSULA

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to draw attention to the continued failure of the Nigerian Government to respect international law regarding Cameroon's Bakassi Peninsula. In October 2002, the International Court of Justice overwhelmingly held that the Peninsula rightfully belongs to Cameroon. As a result, the ICJ demanded that Nigeria rapidly and unconditionally remove its military, police, and civilian officials from Cameroonian territory. Almost three years later, Mr. Speaker, Nigerian military forces are still on the Bakassi Peninsula.

Nigerian President Obasanjo recently has taken some admirable steps to combat corruption and advance democracy in his country. On this key issue, however, Nigeria has been less than forthcoming. At the outset of the Bakassi dispute, President Obasanjo promised that Nigeria would abide by whatever decision the ICJ reached. It has not. After the ICJ decision, Nigeria promised that it would withdraw all of its troops by September 2004. It has not.

Mr. Speaker, President Bush recently declared that the United States recognizes and respects its obligations to the International Court of Justice. We must ask for nothing less from Nigeria and our other friends in Africa and around the world.

INTRODUCING THE CLINICAL SOCIAL WORK MEDICARE EQUITY ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. STARK. Mr. Speaker, today I am pleased to join with my friend and colleague Rep. JIM LEACH (R-IA) to introduce the Clinical Social Work Medicare Equity Act of 2005. Sen. MIKULSKI is introducing the companion bill in the Senate. This simple, bipartisan bill would greatly improve access to mental health services for Medicare beneficiaries in skilled nursing facilities (SNFs) by allowing clinical social workers to direct bill for their services.

This legislation seeks to correct a flaw in the Balanced Budget Act of 1997 with respect to Medicare coverage of clinical social work services to nursing home residents. The law omits Certified Social Workers (CSWs) from a list of clinical professionals allowed to directly bill Medicare Part B for mental health services provided to Medicare beneficiaries in SNFs. As a result of this omission, Medicare beneficiaries in nursing homes often go without necessary mental health services.

Numerous reports suggest that mental illness is highly prevalent in nursing homes, with mental health problems affecting more than 80 percent of the residents. These mental disorders—including major depression, anxiety, and severe cognitive impairment of Alzheimer's disease—interfere with a person's ability to carry out activities of daily living. Furthermore, older people have the highest rate of suicide of any age group, accounting for 20 percent of all suicide deaths. Thus, access to mental health services for seniors in nursing homes is critically important.

Clinical social workers are highly trained mental health professionals and have been approved providers in the Medicare program since 1987. They provide 61 percent of mental health treatment in our country, and constitute the single largest group of mental health providers in the United States. Clinical social workers are also cost effective because they are paid less than Medicare's other mental health providers. They are reimbursed at 75 percent of the rate paid to psychologists.

Sadly, in many cases vulnerable nursing home residents have no access to mental health services when highly skilled CSWs are unable to bill Medicare Part B for services in SNFs. Rural and other medically underserved areas are particularly disadvantaged because psychiatrists and psychologists are often unavailable.

Before the Balanced Budget Act of 1997, clinical social workers were able to bill Medicare directly for providing mental health services to SNF residents, just like clinical psychologists and psychiatrists. Their current exclusion from this provider list is indefensible.

The ultimate victims of the current regulations are the vulnerable seniors who need mental health care. Mental health treatment works. Alzheimer's patients and their families can benefit enormously from psycho-education and counseling around how to cope and manage behavior problems. Research trials have repeatedly demonstrated that psychotherapy, either alone, or in combination with medication, can be effective in treating depression and debilitating anxiety.

The Clinical Social Work Medicare Equity Act of 2005 again makes it possible for CSWs to provide mental health services in skilled nursing facilities. This legislation helps to ensure access to needed mental health services for the many Medicare beneficiaries who reside in skilled nursing facilities. This bill is a small technical change to existing law, but would have the enormous effect of improving the lives of Medicare beneficiaries in nursing homes who are suffering from mental illness. We urge our colleagues to work with us to enact this important legislation this year.

MEMORIAL DAY TRIBUTE TO BRONX WAR HEROES

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. SERRANO. Mr. Speaker, the ongoing wars in Iraq and Afghanistan are a constant reminder of the high cost of war. As they have done throughout America's history, selfless men and women continue to make the ultimate sacrifice for our country. We as Americans may disagree on when, where, or if the country should go to war but we must all agree that the men and women who stand ready to sacrifice their lives for their Nation deserve nothing less than the respect and admiration of us all. As we commemorate the contributions of our fallen soldiers on this Memorial Day, I want to pay special tribute to Sergeant Cornelius Charlton and Private First Class William Thompson, two brave African American soldiers from the South Bronx who were posthumously awarded the Congressional Medal of Honor for their outstanding service in the Korean War. The stories of these two soldiers are dramatic but largely unknown.

Sergeant Charlton was living in the Bronx, New York when he enlisted. Originally assigned to a desk job, Charlton volunteered for combat duty with Company C of the 24th Infantry Regiment of the 25th Infantry Division. On June 2, 1951, Charlton's platoon commander was wounded and evacuated from the field. Charlton took command of the unit's assault against Hill 543 and knocked out two enemy positions. Even though he had suffered a serious wound, Charlton led a third charge to capture the hill. Without regard for his own safety, he personally attacked the last enemy position on the other side of the hill. Fatally wounded by a grenade, Charlton struggled onward and single handedly took out the enemy. As a result of his indomitable courage, superb leadership, and gallant self sacrifice, Sergeant Charlton was posthumously awarded the Purple Heart and the Congressional Medal of Honor.

Private First Class Thompson enlisted in the army in 1945 at the young age of 18. His address at time of enlistment was the Home for Homeless Boys in the Bronx. Thompson was described by his friends as being helpful and cheerful but few if any of his friends believed he could succeed as a soldier. However, he proved them all wrong. On August 2, 1951 near Haman, Korea, enemy forces mounted a surprise attack on Pfc. Thompson's unit. Acting quickly and decisively, Thompson set up his machine gun in the path of the onslaught and pinned down the enemy, giving his unit time to withdraw to a more tenable position. Although hit repeatedly by enemy fire, he continued to return fire until he was mortally wounded by an enemy grenade. Thompson's dauntless courage and gallant self sacrifice saved the lives of many in his unit and earned him a posthumous Congressional Medal of Honor.

What makes the stories of these two men so outstanding is the fact they were African Americans fighting for a country that refused to fight for them. These two men epitomized every characteristic we expect our soldiers to possess: selflessness, dignity, courage and honor.

Mr. Speaker, fortunately, there is a group of dedicated veterans, the Friends of Charlton Garden, who are working tirelessly to preserve the memory of these fallen heroes in the Bronx by establishing a memorial park aptly named the Charlton-Thompson Korean War Veterans Memorial. I am proud of the work that the Friends of Charlton Garden are doing to ensure this monument stands as a symbol of gratitude to the selfless acts of heroism displayed by all of our fallen soldiers, and I know in my heart that we as a legislative body must do more to supplement their good works. I'm sure that the Friends of Charlton Garden would agree that we can build no monument large or grand enough to honor the men and women who made the ultimate sacrifice for this country. The closest we can come to repaying these soldiers is to work to ensure that the world knows war no more. As idealistic and impossible as it may seem it is what their souls cry out for. So, Mr. Speaker, it is what I will continue to work for and it is what I ask my colleagues to work for. Surely, there can be no greater monument to our soldiers than peace.

HONORING THE 70TH BIRTHDAY OF ROBERT HEDGER

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. ISRAEL. Mr. Speaker, I rise today to send the Congress's birthday wishes to Robert Hedger on the occasion of his 70th birthday celebration. Father to Matthew, Sarah, Adam, Douglas and Stephen—a valuable member of my personal staff—and grandfather to Allison, Jonathon, Samuel, Kristina and Sarah, Robert has brought a wonderful family into this world. I offer my best wishes for continued good health and good fortune for he and his family and for many more gatherings such as that which he will hold this Memorial Day weekend when he will be surrounded by his loved ones at his home in Corea, Maine.

HONORING THE NATIONAL FEDERATION OF INDIAN AMERICAN ASSOCIATION (NFIA)

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. PALLONE. Mr. Speaker, it is with great pleasure that I rise on the House floor this evening to highlight the National Federation of Indian American Associations (NFIA). NFIA is an umbrella organization for over 200 associations, all of which represent the 2.2 million Americans of Indian origin.

Since the establishment of NFIA in 1980, the organization has served the Indian American community at the local, State and national level, by protecting the basic civil rights of Indian Americans and by promoting their rich cultural heritage. NFIA is a secular organization that accepts membership from all Indian Americans, irrespective of religious, regional, ethnic, professional or political affiliation. In addition to representing and encouraging political participation by Indian Americans, NFIA is also active in promoting strong relations between the United States and India.

NFIA is very active in the area of raising funds for natural disasters, both in the U.S. and India, and has funded many charitable projects. NFIA holds biennial conventions in various parts of the country to discuss, deliberate, and debate the contemporary issues facing the community. Lastly, NFIA conducts annual receptions on Capitol Hill in an effort to strengthen long-lasting relationships with Members of the House and Senate and to advance its agenda on behalf of Indian Americans and U.S.-India relations.

In closing Mr. Speaker, I would like to honor the National Federation of Indian American Associations (NFIA) for its dedicated service.

BAKASSI PENINSULA

HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. CHOCOLA. Mr. Speaker I would like to share with my colleagues a situation that has been brought to my attention. An October 2002 ruling by the International Court of Justice affirmed that the disputed Bakassi Peninsula belongs to The Republic of Cameroon. I urge the nations of Cameroon and Nigeria to act in accordance with this ruling and move expeditiously to withdraw Nigerian troops and delineate the final border. Continued talks between the two parties are greatly encouraged, and it is my hope they will lead to an effective resolution.

CONGRATULATING THE NAPERVILLE BASEBALL ASSOCIATION ON ITS 50TH ANNIVERSARY

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mrs. BIGGERT. Mr. Speaker, I rise today to congratulate the Naperville Baseball Association on its 50th anniversary and to thank its members for their enduring commitment to youth athletics throughout the Naperville community.

The Naperville Baseball Association is an institution that, for a half-century, has provided local children with a fun, safe way to play organized baseball. The association will be honored as part of "Naperville Baseball Day" on June 3, celebrating "baseball at its best for the past 50 years."

As a mother and a grandmother, I fondly recall my days of shepherding kids to and from various youth sporting events in my station wagon. As a former youth soccer coach, I remember trying to balance winning while ensuring that all the kids got a chance to play and have fun.

Each year as spring rolls around, kids across America grow excited with anticipation for baseball season. They come to the field hoping to emulate their big league idols, while their parents line the stands, anxious to see their son morph into the next Mickey Mantle or Ernie Banks, slamming the ball out of the park. After games, parents and kids, coaches and teammates, all congratulate one another and often celebrate over pizza or heaping scoops of ice cream. Mr. Speaker, this is youth baseball at its very best.

As our national pastime, baseball holds a special place in the hearts of so many Americans. For generations, families have bonded over hot dogs and Cracker Jack at Wrigley Field, Comiskey Park, and other legendary cathedrals of summer. But as vital as these familial baseball bonds are to encouraging a love of the game, organized baseball also remains an excellent resource for teaching invaluable life skills like teamwork, friendship, and sportsmanship.

The Naperville Baseball Association has promoted this vision of pure, timeless baseball for more than 50,000 children over its 50-year history. I am proud to add my voice to the many who wish to say thanks, and I am confident they will keep up the good work for at least another 50 years.

HONORING THE RECIPIENTS OF THE 21ST ANNUAL PROSECUTORS' OFFICE AWARDS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. ANDREWS. Mr. Speaker, I rise today to honor the recipients of the 2005 Prosecutors' Office Awards. These remarkable individuals have helped build a safer community through their faithfulness and perseverance while on duty. The following are this year's awards and recipients.

A Commendation for Valor is awarded to an officer for an extraordinary act of outstanding courage, without regard for personal safety, while in actual combat with an armed and dangerous perpetrator. This year a Commendation for Valor will be awardbd to the following people: Officer Shay Sampson; Officer Melva Moss; Officer Buddy Camp.

A Commendation for Heroism is awarded to an officer for an act of outstanding courage, without regard for personal safety, which results in the saving of a life, or the futile attempt to save a life. A Commendation for Heroism may also be awarded to an officer who makes an outstanding arrest while confronting an armed and dangerous perpetrator. This year a Commendation for Heroism will awarded to the following people: Officer Evelyn Carlin; Det. Wayne Matthews.

The Commendation for Merit is given to an officer who has demonstrated intelligent and valuable police service. This year the Commendation for Merit will be awarded to the following people: Det. Bret Johnson; Inspector Dave McClintock; Sr. Investigator Patricia Taulane; Police Officer Thomas Jeffers; Patrolman Kevin Koykka; Sgt. Paul Sims; Ptlm. William Hawkins, Jr.; Ptlm. Sean Plasket; Ptlm. Howard Dawson, IV; Ptlm. Don Stone; Ptlm. Thomas Farrell; Sr. Investigator C. DeCristofor; Investigator Edgardo Perez; Investigator Carlos Plaza; Det. Angel Ramos; Sr. Inv. Martin Wolf; Inv James Bruno; Det. Eric White; Det. Sgt. Michael Basileo; Sr. Inv. Ron Moten; Inv. Miguel Rubert; Inv. Felix Martinez; Sr. Inv. Steve Setlles; Det. Thomas Kalick; Sr. Inv. Diane Wilson; Det. Wayne Matthews; Sr. Inv. John Greer; Det. Edward Fallon; Det. Sgt. Christopher Leone; Inv. Michael Dougherty; Inv. Matthew McKeown; Inv. James Pisano; Inv. Robert Norcross; Inv. Fawn Ackerman; Inv. Catherine Fisher; Inv. Jim Dougherty; Sgt. W. Mahan; Inv. John Ellis; Det. Scott Beasley; Det. Michael Meyers; Sgt. Frank Gagliardi; Ptlm. Michael Williams; Ptlm. Keith Barrett; Sgt. Neil Larson; Inv. Amy Jewusiak; Inv. Mike Molle; P/O Gary Badger; P/O Timothy Tedesco; P/O Robert Kempf; Off. J. Valszquez; Off. Parrish Powers; Off. Robert Chew; Off. Michael Fosler; Det. Kirk Williams.

A Letter of Commendation is awarded to an officer in recognition of police service, who is exceptional, and has served beyond the requirements of routine duty. This year a Letter of Commendation will be awarded to the following people: Inv. Janene Bahr; Det. Ken Nelson; Sr. Inv. Brian DeCosmo; Ptlm. William Lyons; Ptlm. Thomas Harchaw; Ptlm. Sean McGann; Inv. William Rummel.

A Citizen's Commendation may be awarded to any person who provides a significant contribution to the public safety through a specific act of outstanding courage, without regard for personal safety, which results in the saving of a life or the futile attempt to save a life. This year a Citizen's Commendation will be awarded to the following people: Ngoc V. Lee; Tracey Evans; Kim Belcher; Greg Parkill; Diane Schiavone-Loudon; Carlton Loudon; James Davies.

A Unit Citation is to be presented to any local, State of Federal Law Enforcement Unit, Agency, Department, Strike Force, etc. for outstanding performance and accomplishments made in the public interest. This year a Unit Citation will be awarded to the Camden Anticrime Partnership.

The Prosecutor's Service Award is given to any law enforcement personnel (officer or civilian) who, by personal dedication, thoroughness, competence, and a cooperative spirit, significantly facilitated the work of the Camden County Prosecutor's Office in the efficient and productive administration of justice. This year the Prosecutor's Service Award will be given to the following people: Timothy Kohlmyer; Sr. Inv. Kenneth Curcio; Asst. Pros. Mark Chase. Two special presentations will be made to Helmrich's Towing and Father Michael Manion for their support of the Prosecutor's Office and Camden County law enforcement.

The recipients of the 2005 Prosecutors' Office Awards have all demonstrated a strong commitment to advancing law enforcement in their community. All of these men and women have committed themselves to improve the quality of life for county residents by attacking crime at every level. I thank all those who have helped to create a safer America by their commitment to law enforcement, and encourage my colleagues to support them in the U.S. Congress. Together we can continue to create better and safer communities throughout the country.

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A SALUTE TO KATIE BROWNELL

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to salute a young girl who is in a league of her own—Kate Brownell. Katie is a shy 11-year-old girl of few words. But when she gets on the baseball field she lets her pitching do the talking. And she rocks!

Brownell is the only girl in the Oakfield, Alabama Little League baseball program. She threw a perfect game for the Dodgers in an 11–0 victory over the Yankees. How dominant was she? Katie struck out all 18 batters she faced, yielding no more than two balls to any batter, in a six inning victory. Katie accomplished something league officials can't remember anyone—boy or girl—ever doing.

Brownell is not just good at pitching; she is also great at the plate. Katie's batting average is .714. When I first read her story I was so excited and inspired by this young girl's feat. I was so impressed that I wanted to be sure to come down to the floor and recognize her.

She exemplifies what you can achieve regardless of gender. Young women like Katie also serve to remind us that we can pretty much do everything men can, and sometimes better.

ON THE INTRODUCTION OF THE VISION PRESERVATION ACT OF 2005

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to introduce the Vision Preservation Act of 2005. I am proud to introduce this legislation today along with my fellow cochairs of the Congressional Vision Caucus: Representative ILEANA ROS-LEHTINEN, Repesentative DAVID PRICE and Repesentative PAT TIBERI. The four of us created the Congressional Vision Caucus in 2003 to increase education and awareness of vision problems among Members of Congress and their staff. The Vision Caucus has been fortunate to have the support of Prevent Blindness America and many other vision organizations in these efforts.

In 2004, Prevent Blindness America joined with the American Academy of Ophthalmology, the American Optometric Association, Lighthouse International and the National Alliance for Eye and Vision Research to put together an action plan to address vision problems. The legislation we introduce today is a legislative response to the recommendations outlined in that action plan.

Currently, an estimated 80 million people in the United States have a potentially blinding eye disease, 3 million have low vision, 1.1 million are legally blind, and 200,000 are more severely visually impaired. In my state of Texas alone, more than 370,000 people suffer from diabetic retinopathy. At least 90,000 Texans over 50 live with AMD. And cataracts affect more than 1.2 million people in my state.

Despite evidence that half of all blindness can be prevented, the number of Americans who suffer vision loss is expected to double by 2030 unless more effective prevention and treatment efforts can be implemented. The Vision Preservation Act will enhance current prevention and treatment efforts by focusing increased attention on vision research, expanding current federal vision programs, developing vision screening standards and providing for vision rehabilitation services under Medicare.

The Vision Preservation Act builds on the quality programs currently in operation at the Centers for Disease Control and Prevention and the National Eye Institute within the National Institutes of Health. These agencies lead the way in health care research and the prevention of disease, and the enactment of this legislation will ensure that appropriate federal resources and research are dedicated toward stemming the vision diseases that afflict too many Americans.

I encourage my colleagues to co-sponsor this legislation in recognition of Healthy Vision Month and ask for their continued support of the Congressional Vision Caucus's efforts to help improve the vision of our constituents throughout this nation.

THE GREAT APE CONSERVATION REAUTHORIZATION ACT OF 2005

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, today, with my colleague from Washington, Mr. BAIRD, I am introducing the Great Ape Conservation Reauthorization Act of 2005. In the 5 years since its enactment, the Act has helped protect threatened primates, including chimpanzees, gorillas, bonobos, orangutans, and gibbons. This reauthorization is needed to continue progress in this important field.

The funds provided by the Great Ape Conservation Act have gone to such diverse projects as: protecting chimpanzee habitat from logging operations; establishing anti-poaching enforcement units; starting conservation education programs; coordinating gibbon population surveys and threat assessments; and implementing ape health monitoring programs.

And every federal dollar spent under the Great Ape Conservation Act has been matched many times over by local and international funds. The $2,940,000 Congress appropriated between FY 2001 and FY 2003 was leveraged by $4,275,032 in non-Federal matching funds or in-kind contributions.

To take just one example, in 2003 the Fish and Wildlife Service invested $45,000 in the Mengamé Reserve for Chimpanzees and Gorillas; this investment leveraged more than $100,000 from other sources, funding which has helped the Jane Goodall Institute study a promising area for great ape conservation on the border of Cameroon and Gabon.

But despite the ongoing successes of the Act, the threats to these noble primates continue.

Press accounts and reports from the field indicate that these species continue to be placed in jeopardy by habitat loss, poaching, logging, and the bush meat trade. The Great Ape Conservation Reauthorization Act of 2005 specifically authorizes funding to address these root causes of threats to great apes.

In addition, natural disasters and their aftermath can have a devastating impact on wildlife. Efforts to rebuild after the 2004 tsunami have led to increased logging, putting further pressure on already-threatened orangutans and other forest species. That is why the legislation we are introducing today authorizes funding to address critical great ape conservation needs in Aceh Province, Indonesia.

The Great Ape Conservation Reauthorization Act extends the program's authorization through the year 2010. The contributions of the Great Ape Conservation Act have been very important, but there is much work yet to be done.

I urge my colleagues to support this legislation.

SAN JUAN NATIONAL FOREST CENTENNIAL MONTH

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. SALAZAR. Mr. Speaker, today I rise in recognition for the 100th anniversary of the creation of the San Juan National Forest in my Congressional District in Colorado.

On June 3, 1905 the San Juan National Forest was created through presidential proclamation by Theodore Roosevelt. This year also marks the centennial of the creation of the U.S. Forest Service, the Federal agency which manages the San Juan National Forest and 155 other National Forests across the country.

The San Juan National Forest encompasses over 1.8 million acres of southwestern Colorado, an area more than 120 miles wide and 60 miles long. This great forest has historically contributed to the communities of southwestern Colorado through the supply of timber, minerals, oil and gas, livestock grazing, recreation, clean water and air, and other resources. The above amenities are important to the quality of life and economic well being for southwestern Colorado.

I ask all citizens to join in the Centennial Celebration of the San Juan National Forest through the many activities scheduled for June 1–4, 2005 and ask my colleagues to join me in proclaiming June, 2005 as San Juan National Forest Centennial Month.

KEEP DOMESTIC VIOLENCE VICTIMS IN HUD HOUSING SAFE FROM THEIR ABUSERS

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to introduce the Safe Housing Identification Exemption for the Lives of Domestic Violence Victims (SHIELD) Act.

Mr. Speaker, I know of the victims that have finally built up the courage to leave their abusive relationships and have nowhere to go but a homeless shelter. I know of the women who everyday are scared for their lives because their abusers are trying to track them down.

Mr. Speaker, I know of the victims who want to feel safe, who want to believe that these federal agencies and services are there to protect them. And, ultimately all of our federal services are intended to effectively serve and protect our citizens.

But, I also know of the victims who are scared that they can be tracked down by their predators and probably would not seek housing assistance if they knew about the HUD requirement to disclose their personal information and location. All HUD homeless shelters and food banks, domestic violence centers and transitional housing receiving McKinney-Vento Funds are required to input personal identifying data into the Homeless Management Information System Database. This tracking database requires personal identifying information including names, Social Security numbers, date of birth, race and ethnicity. This personal information database can be easily accessed by personnel working in state, local and federal agencies.

Mr. Speaker, I am thinking of the victims whose abusers readily have access to this personal information. These abusers may work in one of these agencies or have the ability to access this database. All they would have to do is type in the victim's name or other identifying pieces of information and they would immediately know where the victim is staying or the domestic violence shelter they visited. A loophole like this is far too detrimental to their safety and could put many victims of domestic violence in further danger.

In order to address this problem, I have introduced the SHIELD Act along with my colleague from Florida, KATHERINE HARRIS. This bill would require any agency participating in the Homeless Management Information System to exclude personal identifying information of victims of domestic violence, dating violence, sexual assault, or stalking. Instead the legislation recommends the use of nonpersonal identifying information for data collection and statistical purposes.

Reaching out for assistance is already a big step for many victims of domestic violence. We should not put them in greater danger or deter them from seeking these valuable services because of an agency loophole. I urge my colleagues to join me in cosponsoring the SHIELD Act.

RECOGNIZING THE 57TH ANNIVERSARY OF THE INDEPENDENCE OF THE STATE OF ISRAEL

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H. Con. Res. 149, a bill recognizing the 57th Anniversary of the Independence of the State of Israel. Yom

Ha'Atzmaut, Israel's Independence Day, marks a day when Theodor Herzl's prophetic words became reality: "if you will it, it is no dream."

The State of Israel was established as a sovereign and independent nation 57 years ago, and it continues to be a strong friend of the United States and a beacon of democracy in the Middle East.

On May 14, 1948, Israel was officially established, and the United States was one of the first countries to recognize Israel, doing so within 11 minutes of its creation. Israel has come a long way since those initial minutes. The Israeli people have contributed greatly as scholars, innovators, educators, and more, and I am pleased to have this opportunity to recognize their accomplishments.

Since the very beginning of its existence, Israel has been a vital ally of the United States, enjoying a strategic partnership based on shared democratic values, friendship, and respect. America and Israel shall remain close friends for years to come, particularly as Israel continues to seek peace with her neighbors. On the Jewish Calendar, Israel's Independence Day falls on the 5th of Iyar, corresponding this year with May 12, 2005. This day is a joyous time to reflect with pride on the work of the men and women who knew that one day the dream of the State of Israel would become a reality.

Mr. Speaker, I join with my colleagues in extending warm congratulations and best wishes to the people of Israel as they celebrate this 57th year of Israel's independence. I wish them peace and prosperity in the years to come, kein yehi ratzon.

RECOGNIZING JUDY GOFF, EXECUTIVE SECRETARY-TREASURER EMERITUS ALAMEDA LABOR COUNCIL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Judy Goff who served, from 1999 to 2005, as Executive Secretary-Treasurer of the Alameda Labor Council, based in Oakland, California. She was the first woman elected to lead a major labor council in California and was also the first woman elected statewide President of SEIU Local 535.

Judy Goff's leadership in the labor movement is exemplary. She has consistently supported labor solidarity by speaking at numerous rallies, walking countless picket lines, and being arrested for the cause of worker's rights.

She is a founding member of the Labor Immigrant Organizing Network, which initiated a successful resolution to change the National AFL-CIO policy on immigrant workers' rights. Ms. Goff has never hesitated to put herself and the labor movement squarely on the side of the downtrodden and oppressed. She is a staunch supporter of workers' civil rights. During her leadership, the Alameda Labor Council opposed police action against workers and protesters and was instrumental in changing police tactics and policy to insure safety and respect.

Increased diversity in the leadership of the Alameda Labor Council is another example of Judy Goff's consistent voice and steady leadership to represent the interest of all workers, locally, nationally, and internationally. She has devoted her efforts to improving labor education at all levels, including service on the California State Assembly Speaker's Commission on Labor Education.

In keeping with her ongoing interest of economic parity for workers, she spearheaded the successful passage of a Living Wage Ordinance in the cities of Berkeley, Hayward, and Oakland as well as the Port of Oakland.

On June 10, 2005, the Central Labor Council of Alameda County, AFL-CIO will bestow its Lifetime Achievement Award on Judy Goff as Unionist of the Year. I join the Council and Ms. Goff's friends, family and admirers in appreciation for her many years of dedicated service and congratulate her on a distinguished career in the labor movement.

SIXTY YEAR ANNIVERSARY: COLUMBIAN AWARDED NAVY CROSS AT THE BATTLE OF OKINAWA

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. WILSON of South Carolina. Mr. Speaker, I am honored today to recognize the tremendous sacrifice of Thomas Marvin "Tim" Owen, Jr., who as a Water Tender First Class, United States Navy, served on the USS *Butler*. The USS *Butler* was a destroyer that participated in many important naval battles in World War II. The *Butler* served as an escort ship near Casablanca, North Africa, and Dakar, French West Africa. She participated in the Sicily Invasion, Battle of the Seine, Invasion of Northern France at the Battle of Normandy and the Battle of Okinawa.

On May 25, 1945 at the Battle of Okinawa, bombs from a suicide plane exploded under the ship blowing out steam lines and flooding the forward fire room. The USS *West Virginia* stood by to assist the *Butler* until power was restored. During this time, two more suicide planes attacked the *Butler*.

Thomas Marvin Owen, Jr. was awarded the Navy Cross for heroic actions in this engagement. Even though he was mortally wounded, he continued to perform his duty at his post and aided other sailors on the *Butler*. He and eight shipmates were killed in the engagement and were buried at sea. His name is inscribed on the Honolulu Memorial Tablets for those missing in action or buried at sea.

JONATHAN WALLACE KROART MAKES HIS MARK ON THE WORLD

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. ETHERIDGE. Mr. Speaker, I rise today to congratulate Mr. Michael Galbraith Kroart and Mrs. Elizabeth Sparrow Kroart on the birth of their child, Master Jonathan Wallace Kroart. Jonathan was born on Thursday, May 5, 2005 and weighed 7 pounds and 14 ounces. My wife Faye and the entire Etheridge family join me in wishing Michael and Elizabeth great happiness during this very special time in their lives.

As a father of three, I know the immeasurable pride and rewarding challenges that children bring into your life. Their innocence keeps you young-at-heart. Through their inquiring minds and wide-eyed wonder, they show you the world in a fresh, new way and change your perspective on life. A little miracle, a new baby holds all the potential of what human beings can achieve.

I welcome young Jonathan into the world and wish Michael and Elizabeth all the best as they steer him through all of the joys and challenges that life brings.

CONGRATULATING STEVEN SHARFSTEIN ON HIS INSTALLATION AS AMERICAN PSYCHIATRIC ASSOCIATION PRESIDENT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. CARDIN. Mr. Speaker, today I rise to congratulate Dr. Steven S. Sharfstein on his installation as President of the American Psychiatric Association. Dr. Sharfstein is President and Chief Executive Officer of the Sheppard Pratt Health System in Baltimore, where he has worked for nearly 20 years. Located in Towson, Maryland, Sheppard Pratt Health System is a private, non-profit behavioral health organization with over 1,500 employees. Founded in 1891, Sheppard Pratt is the area's largest behavioral health care organization. The hospital's reputation as one of the leading organizations in the field of mental health is known not only in Maryland, but throughout the national and international mental communities.

Dr. Sharfstein is also Clinical Professor and Vice Chair of Psychiatry at the University of Maryland. A practicing clinician for more than 30 years, he is best known for his research and writing on the economics of practice and public mental health policy. Over 13 years, he has held a variety of positions at the National Institute of Mental Health, including Director of Mental Health Service Programs. This month, Dr. Sharfstein completes on May 27th his one year term as President-Elect of the American Psychiatric Association and begins his term as the 132nd President of the APA, the country's oldest national medical specialty society.

Dr. Sharfstein has established himself as an active leader in his profession and has worked to eliminate the stigma associated with mental health treatment. Throughout his years at Sheppard Pratt, Dr. Sharfstein's work has been truly inspirational in advancing the fight for mental health parity.

Dr. Sharfstein has served the American Psychiatric Association as chairman of the Budget Committee, the Committee on Managed Care, and the Ethics Appeals Board. He has also served as co-chair on the Committee on Psychiatric Reimbursement, as well as vice-chair of the Joint Commission on Government Relations.

A graduate of Dartmouth College and the Albert Einstein College of Medicine, Dr. Sharfstein trained in psychiatry at the Massachusetts Mental Health Center in Boston from 1969 to 1972. He also received a Masters in Public Administration from the Kennedy School of Government in 1973 and a certificate from the Advanced Management Program at the Harvard Business School in 1991. He was Secretary of the American Psychiatric Association from 1991 to 1995 and its Vice President from 2002 to 2004.

Through his outstanding leadership at Sheppard Pratt Health System, Dr. Sharfstein has already made numerous invaluable contributions to the quality of psychiatric care. I look forward to continuing to work with him to advance the cause of quality mental health treatment, and I congratulate him on this achievement.

TRIBUTE TO REVEREND JOHN H. SCOTT, CIVIL RIGHTS LEADER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. PAYNE. Mr. Speaker, I rise today to recognize and pay tribute to one of this country's great civil rights leaders, Rev. John H. Scott. On May 7, I had the opportunity to attend a tribute to Rev. Scott, honoring the 25th Anniversary Celebration of the John H. Scott Memorial Fund in Tallulah, Louisiana. This living memorial was started at the request of Rev. Scott at the end of his life, and now provides scholarships to young people, as well as supporting other projects that advance the aims and ideals of the Reverend's life.

Rev. Scott was a minister and a civil rights leader who was devoted to improving the quality of life for African-Americans in this country. He was born in 1901, in a small, almost all-black parish in Louisiana, where black schools, businesses, and neighborhoods were thriving, but existed in almost total isolation from their white neighbors. He came to see that this seeming independence was not commensurate with equality, and he dedicated his life to the pursuit of that equality for all people, of all color, in all places.

He was a farmer, as well as a pastor for twenty-five years, president of the local NAACP for thirty-three years, and chairman of the East Carroll Ministerial Alliance for five, while still finding time to make regular visits to hospitals, senior citizens' homes, and prisons. His twenty-five year struggle for full voting rights for African-Americans is an exemplar of how individual people can indeed change the world. Armed with a passion for justice and ready to fight no matter what the cost, his local, grassroots efforts became a national movement that ultimately convinced Attorney General Robert Kennedy to join his crusade for equality for all. Despite growing up under the oppressive injustice of Jim Crow laws, and knowing the risks it presented to his own life and the lives of his friends, neighbors, and family members, he was unfaltering in his quest for progress.

His book, Witness to the Truth, which was compiled by his daughter, Cleo Scott Brown, is a collection of his writings and transcripts of his interviews; and I recommend it to all who wish to know more about the history of race relations in this country. We must understand the truth about our past struggles if we are ultimately to see success, because, in the words of Rev. Scott, "So much of what we will become depends on how we start." And Rev. Scott helped us start well. His life is a testament to the tenacity and courage that daily fortified our civil rights leaders and sustained them in their struggle to ensure human rights for every person, regardless of race, gender, or economic circumstance.

We all owe a debt of gratitude to Rev. John H. Scott, and I acknowledge my own indebtedness here today. He once wrote, "History is of little value unless it inspires one to greater endeavors, or serves to guide against the mistakes of the past." As the first African-American elected to this great body from my State, I know that I have been inspired to greater endeavors by people like Rev. Scott, whose lives paved the way for my accomplishments.

I'd also like to thank Dr. Elsie Scott for bringing this extraordinary Foundation to my attention and to commend the other Scott family members including Jewel Scott, Johnita Scott, and Louis G. Scott.

Mr. Speaker, I wish today to honor the memory of Rev. John H. Scott, and I know that all of my colleagues here join me in paying tribute to this man of uncommon distinction who history will remember as a great warrior in the struggle for civil rights.

IN RECOGNITION OF MR. HUGH FERGUSON

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. KNOLLENBERG. Mr. Speaker, one of our Nation's greatest assets is our veterans. When I look around this chamber and see the reflection of our democracy, I can't help but think of those who fought to ensure our safety, our strength, and our freedom.

I rise today to recognize an honored veteran and an extraordinary American, Mr. Hugh Ferguson.

Those who study World War II are aware that the United States was at war with Japan for three months after Germany surrendered. The end of the war with Japan came only after President Harry S Truman made the brave and difficult decision to use the atomic bomb.

On August 9, 1945, Mr. Hugh Ferguson was piloting the B–29 bomber plane that dropped the atomic bomb on Nagasaki, Japan. This mission required bravery, faith, and discipline in order to see it through. Mr. Ferguson was just a mere twenty-two years old when his country employed his piloting skills to end the battle and forever change the make-up of the world.

As Mr. Ferguson will tell you, he and his fellow pilots knew their acts would end World War II and save hundreds of thousands of American lives. This knowledge made it clear to Mr. Ferguson what his mission was and that his success was necessary—even at its great cost.

It takes a brave and faithful man to carry out the missions of the United States military. It takes an even braver man to test history with the new technology that was the atomic bomb. Yet, Mr. Ferguson's bravery did not stop there. Years later, he again answered the military's call of duty. Mr. Ferguson flew the only plane on site when the United States detonated the world's first hydrogen bomb on Eniwetok Atoll. Not knowing the consequences of this flight, he and his crew bravely documented the power of the hydrogen bomb for United States officials.

This year marks Mr. Ferguson's 82nd birthday. I wish to congratulate and honor him for his service to this country in the face of war. As a member of Congress, as a proud citizen of the United States, and as a person who enjoys the freedom this great Nation offers, I officially recognize Mr. Hugh Ferguson.

IN SPECIAL RECOGNITION OF DR. JEFFREY CHARLES KELLER ON THE OCCASION OF HIS RETIREMENT AFTER THIRTY-THREE YEARS OF SERVICE TO THE DUBLIN CITY SCHOOL DISTRICT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to one of Ohio's finest educators. After thirty-three years, Dr. Jeffrey C. Keller is retiring from the Dublin City School District. Dr. Keller, who for three decades has directed the Dublin Coffman High School instrumental music program, has been a leader in education and an inspiration to the community.

Raised in Prospect, Ohio, Dr. Keller began his career at Dublin High School in 1972, after earning his bachelor's degree from The Ohio State University. After three years, Dr. Keller returned to The Ohio State University where he earned his Masters and Doctoral degrees. After his graduate education, Dr. Keller returned to Dublin as director of music education, a position he has held ever since.

For more than 30 years, bands under Dr. Keller's direction have enjoyed a superior reputation in the State of Ohio. He has shared countless hours developing the talents and enjoyment of music in each of his students. For his efforts, Dr. Keller was recognized with the 2002 Ohio Music Educators' Association's Ohio Music Educator of the Year Award. In addition, Dr. Keller has been recognized by Capital University and Prescott High School in Arizona for his education and performance clinics. Dr. Keller was also awarded The School of Music Society of Alumni and Friends Award by his alma mater, The Ohio State University, for excellence in teaching in the music education division.

Beyond his deep commitment to the students of Dublin Coffman High School, Dr. Keller has also given greatly of himself to the community. As a result of his efforts as a community leader, Dr. Keller has been a recipient of the Dublin A.M. Rotary Signature Award, the Dublin Jaycees Golden Shamrock Award and the "God and Country" Music Award from the Greater Columbus Area Salvation Army.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Dr. Jeffrey C. Keller in recognition of his superlative service to the students, parents and friends of the Dublin Coffman Music Education Program. On behalf of the people of the Fifth District of Ohio, I am proud to recognize his many accomplishments. We wish Jeff, his wife Gail, and their daughter Kristany, all the best as we salute one of Ohio's finest citizens.

HONORING THE 130TH ANNIVERSARY OF SUMNER HIGH SCHOOL

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Sumner High School, the first school west of the Mississippi river to offer secondary education to African Americans. This year marks the 130th anniversary of the school's founding as "The High School for Colored Children." Originally housed in the former Washington School at 11th and Spruce streets in downtown St. Louis, the school was renamed on October 12, 1875, in honor of Charles Sumner, a Massachusetts Senator who was an ardent supporter of African-American rights. In 1861 Senator Sumner was the first U.S. Senator to call for full emancipation. The decision to name the school in his honor reflected the school's role as a preeminent institution for African Americans. Dropping "colored school" in favor of Sumner High occurred fifteen years before local African-American leaders succeeded in persuading the St. Louis Board of Schools to designate names for all segregated schools.

In the aftermath of the Civil War, Missouri passed a new state constitution requiring all school boards to support education for African Americans. However, the Board of Education for Colored Schools occupied only rented space and its schools moved often. Sumner was no exception. In 1895 it was relocated to 15th and Walnut streets, near the saloons and pool halls of downtown St. Louis. Concerned citizens petitioned school officials to move the school again and in 1910 Sumner was relocated to The Ville neighborhood, where it occupied a new structure at 4248 Cottage Avenue. The new Sumner High strengthened the neighborhood's status as a center for middle-class African-American life in St. Louis.

Another historical landmark tied to Sumner High School involved the hiring of African-American teachers. Initially, Sumner had an all white faculty, but the parents requested that a special effort be made to recruit African-American teachers. Two years later, in 1877, the school's first African-American principal took charge.

Sumner High School further enhanced educational opportunities for African Americans in Missouri when, in 1890, it established an extension called the Sumner Normal School to train elementary school teachers. In 1925 the Sumner Normal School became a college; it was known as the Sumner Teachers College until 1930 when it was renamed Harriet Beecher Stowe Teachers College. In 1940 the Teachers College moved to new facility on Pendleton Street where it remained until 1954 when, in one of St. Louis' first efforts to desegregate its public schools, the St. Louis Board of Education merged Stowe College with the all-white Harris Teachers College.

Sumner graduated its first class in 1885 and over the years its alumni list boasts a number of accomplished African Americans, including the opera singer Grace Bumbry, activist Dick Gregory, musician Tina Turner, tennis great Arthur Ashe, Liberian Ambassador Lester Walton, educator Julia Davis, rock history legend Chuck Berry, performer Robert McFerrin, actor Robert Guillaume, Yankee catcher-outfielder (and the American League's first black Most Valuable Player) Elston Howard and local newscaster Julius Hunter, to name just a few.

Mr. Speaker, it is with deep pride that I recognize Sumner High School, a symbol of progress in African American history for its distinguished record of achievement in public education. As a community leader and elected official, I am proud to salute Sumner and all Sumner students and alumni on this very special anniversary. Sumner High School is a source of pride for St. Louisans and a model for public schools across the nation.

AFFORDABLE HOUSING TAX CREDIT ENHANCEMENT ACT OF 2005

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. JEFFERSON. Mr. Speaker, it is with great pleasure that I rise today with my good friend and colleague from the Committee on Ways and Means, Mr. ENGLISH, to introduce the "Affordable Housing Tax Credit Enhancement Act of 2005." Mr. ENGLISH and I share a passion for and commitment to ensuring that Americans have access to affordable, quality housing in which to live, to prosper and to raise their families. I am grateful for his continuing leadership in this area, and I am honored that he joins me today in introducing this important piece of legislation. I also am very pleased that 51 of our colleagues, including members from both sides of the aisle and several from the Committee on Ways and Means, join us today in introducing this measure.

Mr. Speaker, the Low Income Housing Tax Credit, LIHTC, program was created as part of the Tax Reform Act of 1986. Today, the LIHTC program is widely regarded as the nation's most successful housing production program resulting in the construction and rehabilitation of more than 1.3 million housing units for lower income households. As a direct result of the LIHTC program, 130,000 new affordable housing units come online every year.

In addition to producing housing, the LIHTC program is unparalleled in contributing to the revitalization of distressed neighborhoods and communities throughout the United States. LIHTC properties are frequently among the first investments in a concerted revitalization strategy. The credit drives and catalyzes public/private/community partnerships that replace blight with safe, affordable housing, attract private capital, and prime the market for other activities, including increased homeownership and expanded retail development.

The redirection of capital to affordable housing through a tax incentive creates net economic efficiencies, because the housing credit more effectively marshals private sector capital than would be accomplished through any direct spending program. Because it sets up competition among developers for credit allocations and among corporations for access to investment opportunities, the LIHTC is considerably more efficient than a direct spending program.

The success of the LIHTC program is virtually unmatched. However, as a Nation, we still confront a serious affordable housing deficit—a gap that we must bridge to ensure that our most vulnerable families have access to quality, affordable housing and safer neighborhoods in which to live and prosper.

Accordingly, Mr. Speaker, I rise today to introduce the Affordable Housing Tax Credit Enhancement Act of 2005. This legislation would make two important changes to current law. Most significantly, the bill would double the current LIHTC from $1.85 per capita to $3.70 per capita beginning in 2006, which would yield twice the number of affordable housing units annually and begin to close the current gap. Second, the legislation would rename the LIHTC the " Affordable Housing" tax credit to remove any negative connotation and more accurately describe this effective program.

If this legislation were to pass, we are assured by affordable housing advocates, investors, syndicators, and developers that there is more than enough capacity in the market to effectively use these additional credits. In fact, the need for affordable housing throughout the country virtually assures the continued success of this program.

In addition, this legislation is a jobs creator. According to industry estimates, 112 jobs are created during the first year of construction of every 100 units of affordable housing, 46 of which morph into permanent positions. Based on that estimate, because doubling the current LIHTC would create 130,000 additional units annually, that translates into 145,600 new jobs nationally—59,800 of which would be permanent.

America is confronting an affordable housing crunch, and many hardworking men and women continue to seek employment. This legislation would make significant strides to address both problems. Therefore, I call on my colleagues to support this important measure and to ensure its consideration and passage.

STATEMENT IN HONOR OF THE HISPANIC CHAMBER OF COMMERCE OF GREATER KANSAS CITY

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. CLEAVER. Mr. Speaker, I rise today in honor of the Hispanic Chamber of Commerce of Greater Kansas City. Founded in 1977 by 25 Hispanic business leaders, the Chamber was the first physical office of the United States Hispanic Chamber of Commerce.

Since its inception, the Chamber has worked towards the development of its members, and worked to develop strong business relationships between Hispanic and non-Hispanic businesses in Kansas City. As one of the principal advocates for Hispanic businesses in the City, the Chamber provides an invaluable resource as it helps local businesses build capacity and develop business skills. Their programming includes the how-tos of business planning, advertising, sales and marketing, procurement and certification. In today's competitive business environment, their work is more important that ever.

Today, the Chamber represents the interests of twelve-hundred Hispanic-owned businesses in Metropolitan Kansas City and currently has five-hundred members, having grown by three-hundred percent in the last three years.

Mr. Speaker, I am proud to honor the Hispanic Chamber of Commerce of Greater Kansas City, and I ask my colleagues to join me today in paying tribute to this historic organization.

HONORING ARABELLA MARTINEZ

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the life and work of Arabella Martinez, a legendary figure in Oakland and throughout the San Francisco Bay Area. For almost four decades, Arabella has been a tireless advocate for community and economic development within Oakland and beyond, and the scope of her exemplary work on behalf of her community is truly unparalleled. I take pride in adding my voice to those of my constituents in honoring Arabella today on the occasion of her retirement.

A student of social welfare, Arabella received both her BA and MA from the University of California at Berkeley. After receiving her degrees she became involved with the Community Service Organization, a Latino civil rights group.

In 1967, Arabella became the first executive director to the Spanish Speaking Unity Council. She is best known for her position as CEO of this council and for developing programs to build responsibility and economic preparedness in the Latino community. During this time, she helped build this organization into a strong economic development and community organization with considerable assets.

In 1974, Arabella took an absence from her work at the Unity Council and joined the Carter administration as assistant secretary of the U.S. Department of Health, Education and Welfare. After her term in 1980, she returned to Oakland and worked for almost a decade as the President of the Center for Policy Development.

In 1992, Arabella returned to the Spanish Speaking Unity Council and helped the organization through complex financial problems. During her second term she spearheaded the Fruitvale BART project and sponsored the Fruitvale Community Collaborative. Both of these projects were formed to bring together residents, community groups, churches, schools, merchants, and agencies to improve the quality of life for children and families in the Oakland area.

Arabella is also involved with many organizations such as the National Council of La Raza, the Drug Abuse Council, The Women's Initiative for Self-Employment, the Oakland Business Development Corporation, the Bank of America's Police Advisory Committee, the Oakland Housing Authority, the Oakland Parks and Recreation Commission and the University/Oakland Metropolitan Forum. She has received numerous awards for her work, such as the Hank Rosso Outstanding Fundraising Professional A ward, the 1993 MTC Award, the David C. Lizarraga Community Development A ward, and the Oakland Citizen of the Year Award.

It is clearly evident through Arabella's activism that she is an extraordinary leader, friend and advocate for her community. Her exemplary humanism is an inspiration to us all, and it with great pride that I join the Oakland community in celebrating her accomplishments. On behalf of the 9th Congressional District, I salute and thank Arabella Martinez for the truly invaluable contributions and she has made to our community, and for the example she leaves for future generations to follow.

REINTRODUCTION OF LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. CONYERS. Mr. Speaker, I am pleased to introduce the bipartisan Local Law Enforcement Hate Crimes Prevention Act of 2005, along with Representatives FRANK, ROS-LEHTINEN and SHAYS. In past Congresses, this legislation has been cosponsored by almost 200 members and we expect similar support this session.

Bias crimes are disturbingly prevalent and pose a significant threat to the full participation of all Americans in our democratic society. For the year 2003, the most recently available data, the FBI compiled reports from law enforcement agencies across the country identifying 7,489 criminal incidents that were motivated by an offender's irrational antagonism toward some personal attribute associated with the victim. Law enforcement agencies have identified 9,100 victims arising from 8,715 separate criminal offenses. Racially motivated bias again accounted for more than half (51.4 percent) of all incidents. Religious bias accounted for 1,343 incidents (17.9 percent) and sexual orientation bias each accounted for 1,239 (16.6 percent) of all reported hate crimes, followed by ethnicity/national origin bias with 13.7 percent and disability bias with 0.4 percent of all incidents. While every state reported at least a small number of incidents, it is important to note that reporting by law enforcement is voluntary and it is widely believed that hate crimes are seriously under-reported.

Despite the pervasiveness of the problem, current law limits federal jurisdiction over hate crimes to incidents against protected classes that occur only during the exercise of federally protected activities, such as voting. Further, the statutes do not permit federal involvement in a range of cases where crimes are motivated by bias against the victim's perceived sexual orientation, gender, disability or gender identity. This loophole is particularly significant given the fact that four States have no hate crime laws on the books, and another 21 States have extremely weak hate crimes laws.

This legislation will make it easier for federal authorities to prosecute bias crimes, in the same way that the Church Arson Prevention Act of 1996 helped federal prosecutors combat church arson: by loosening the unduly rigid jurisdictional requirements under federal law. While ostensibly identical to past versions, this Congress the bill is more explicitly inclusive of the transgender community. In addition, we have included a provision mirroring the Washington State hate crimes statute that is designed to protect the 1st Amendment rights of the accused, without burdening the prosecution of those alleged offenses.

State and local authorities currently prosecute the overwhelming majority of hate crimes and will continue to do so under this legislation, with the enhanced support of the federal government. Through an Intergovernmental Assistance Program created by this legislation, the Justice Department will provide technical, forensic or prosecutorial assistance to State and local law enforcement officials in cases of bias crime. The legislation also authorizes the Attorney General to make grants to State and local law enforcement agencies that have incurred extraordinary expenses associated with the investigation and prosecution of hate crimes. Finally, under our bill, the Attorney General or other high ranking Justice Department officials must approve all prosecutions undertaken pursuant to this law, ensuring federal restraint, and further ensuring that the States will continue to take the lead.

Behind each of the crimes statistics cited above lies an individual or community targeted for violence for no other reason than race, religion, ethnicity, sexual orientation, gender, disability or gender identity. People like Waqar Hasan of Dallas, who lost his life in a post-911 backlash hate crime. His murderer admitted that he wanted to send a message to the local Arab population and beyond. These discrete communities have learned the hard way that a failure to address the problem of bias crime can cause a seemingly isolated incident to fester into wide spread tension that can damage the social fabric of the wider community.

The Hate Crimes Prevention Act of 2005 is a constructive and measured response to a problem that continues to plague our Nation. These are crimes that shock and shame our national conscience and they should be subject to comprehensive federal law enforcement assistance and prosecution.

IN RECOGNITION OF NORMA AND BERNIE KOSTER

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. ROTHMAN. Mr. Speaker, I rise today with great pleasure to honor Norma and Bernie Koster, who will be jointly honored with the Torch of Liberty Award by the New Jersey Region of the Anti-Defamation League at the League's Bergen County Awards Reception on June 1, 2005. They are being recognized for their distinguished service on behalf of the ADL's vital mission of combating bigotry and anti-Semitism, their support for humanitarian values, dedication to nurturing their community, and working to secure its future.

Norma Wellington Koster began a career of activism as a B'Nai B'rith girl and a leader in her synagogue youth group. She subsequently became a staff producer for a local television station in the greater New York metropolitan region, where she volunteered for 19 hours on the "Rheumatism and Arthritis Association Telethon." Because of her success on that production, she was named the producer of "The World of Heart" for the American Heart Association and of two telethons for "The City of Hope", where she instituted and volunteered for their newly formed Young Leadership Division.

Norma Koster has also been deeply involved in numerous Jewish causes and charitable organizations. She founded the Single Parent Seminar at the Jewish Community Center on the Palisades, where she is now an active member of the Cultural Arts, Art, Senior, and Alzheimer's Committees and currently serves as the Tree of Life Chairperson. A Member of the Board of Trustees of the United Jewish Appeal, she is a former co-chair of the Business and Professional Women's Division of UJA of Northern New Jersey, and was instrumental in increasing its membership. Norma Koster also has devoted herself to committees for the Jewish Home and Rehabilitation Center, Jewish Family Services, and given programs for the National Council of Jewish Women. In addition to her professional work as a successful fine jewelry designer and goldsmith, Norma is above all devoted to her children and grandchildren, her husband, and her entire family.

Like Norma, his wife of seventeen years, Bernie Koster is well-known for his leadership and unwavering commitment to the people of New Jersey, the Jewish community, and the State of Israel. He is a leading philanthropist and is active on behalf of many charitable causes and organizations. He is also a Member of the Board of Trustees of twelve separate organizations, including the UJA Federation of North Jersey, the Jewish Home at Rockleigh, Temple Emanu-El of Closter, Jewish Family Service, Gilda's Club of Northern New Jersey, the JCC of the Palisades, Englewood Hospital and Medical Center Foundation, the Bergen PAC, Israel Bonds, the Jewish Community Relations Council, the Jewish Theological Seminary, and the Anti-Defamation League itself.

Bernie Koster is also a past President of the Solomon Schechter Day School of Nassau County, New York, and co-chaired the capital campaign for his synagogue, Temple Emanu-El of Closter, where he was honored with the prestigious Shem Tov Award in 1995 for his dedicated service to the community.

Bernie Koster is also unwavering in his dedication to the State of Israel. A strong supporter of Israel Bonds, he has been appointed to the New Jersey-Israel Commission for nine years. He has visited Israel seven times, and has demonstrated through his committed and passionate work on behalf of Israel Bonds his belief that the State of Israel is the lifeblood for the survival of the Jewish people.

A highly successful attorney and real estate consultant, Bernie shares his wife Norma's dedication to faith and family. He is devoted to his children and grandchildren, and both Bernie and Norma are true exemplars of family values.

Mr. Speaker, my distinguished colleagues, I ask that you join me in recognizing Norma and Bernie Koster for their civic activism and leadership in the fight against discrimination, hatred, and anti-Semitism.

THE AMERASIAN NATURALIZATION ACT

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, our immigration law has long recognized that children born outside our country to an American father and a foreign national mother are U.S. citizens as long as their fathers take necessary steps to achieve their child's citizenship.

Unfortunately, there remains a group of forgotten sons and daughters who, despite being born to American fathers, cannot take advantage of this existing provision of the law to become U.S. citizens. These are the offspring of American servicemen and Asian women during the Vietnam and Korean Wars whose fathers did not take the steps of acknowledging paternity necessary to make their offspring citizens. However, the American government did that for them by acknowledging that their fathers were American citizens.

Many of these individuals have lived through devastation during war, have been mistreated by their governments because of their mixed race, and many now live in the United States, but only as legal permanent residents.

There is no doubt that Amerasians are the sons and daughters of American fathers. Our American government already made that determination when we admitted them to the United States as legal permanent residents.

To correct this unfair inequality in our law, I am introducing the Amerasian Naturalization Act, along with bipartisan cosponsors, to ensure that Amerasians are accorded U.S. citizenship just like the offspring of other American fathers are.

I hope this Congress will act swiftly and pass the Amerasian Naturalization Act. It is time for us to finally close a chapter in our history that has too long denied Amerasians the opportunity to become citizens and be recognized as the Americans that they are.

TRIBUTE TO DR. ALEXANDER BAILEY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. LEVIN. Mr. Speaker, I rise to pay tribute to the Superintendent of Oak Park Public Schools, Dr. Alexander Bailey, who will retire June 30, 2005.

Dr. Alexander Bailey's career in education dates back to 1969 when he was a high-school teacher in Philadelphia, PA at Paul Washington High School. In subsequent years, Dr. Bailey continued his education, assumed building level responsibility as a principal, and ultimately was appointed Superintendent of Oak Park Public Schools in 1991.

Under his leadership, Oak Park Public Schools has successfully designed programs and intervention methods to meet the needs of their school population. Programs and interventions such as extended day, the Oak Park Academy, and the Literacy Academy have been critical to advancing the academic achievement of students throughout the District.

Dr. Bailey has been a very active participant in the community served by the School District. For example, Dr. Bailey was instrumental in developing the Oak Park Business Education Alliance. The Oak Park Business Education Alliance is a non-profit organization designed to build a relationship between the business community and the school district. To date, the Oak Park Business Education Alliance has provided countless volunteers for the district, over $100,000 in scholarship monies to Oak Park students, and has provided many career development opportunities in collaboration with local businesses.

In his 36 years of service, he has been a truly committed and effective educator. Dr. Bailey dedicated his life to ensuring that students receive a fair and equitable education. He is indeed an outstanding public servant. I have enjoyed the opportunity to work on issues of common interest with Dr. Bailey and have always appreciated his frank and forthcoming advice based on his active experiences in the school and community. One could always count on Dr. Bailey to clearly articulate the challenges faced by our school system as well as the real impact of public policy decisions.

Mr. Speaker, I ask my colleagues to join me in congratulating Dr. Alexander Bailey on his years of service and in wishing him good health and happiness in the next phase of his life.

IN RECOGNITION OF ESSNER MANUFACTURING

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BURGESS. Mr. Speaker, it is my great honor to recognize Essner Manufacturing and its achievement of being registered as an AS 9100 Quality Management Standard (QMS)—a designation specific to aerospace component manufacturers. This project took nearly 200 hours to complete and was a complex undertaking.

Working alongside Texas Manufacturing Assistance Center (TMAC) to earn the registration, Essner is a model for other manufacturing centers. Their commitment to making quality products like precision sheet metal fabrications and machined parts is evident. I extend my congratulations to Dale R. Westerfeld, President of Essner and Dave Johnson, the TMAC Project Manager.

I am proud to represent a company that is so strongly committed to quality products and a positive work environment. I congratulate Essner Manufacturing and wish them continued success in their future endeavors.

RECOGNIZING THE RETIREMENT OF DR. STANLEY CAINE PRESIDENT OF ADRIAN COLLEGE

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise to recognize the retirement of Dr. Stanley Caine, president of my alma mater, Adrian College. During his tenure at Adrian College, Dr. Caine has been, first and foremost, an advocate for his students. His open door policy has always provided an avenue for the students at Adrian College to seek his wisdom and advice. Outside of the classroom, Dr. Caine can be seen at many athletic and other campus events, a testament to his interest and dedication to the students at Adrian.

Providing a world class education requires the resources to recruit the finest faculty and provide the best facilities. During Dr. Caine's tenure, the Adrian College endowment has increased significantly and two major capitol campaigns have been completed. Several new construction projects have provided students with new facilities that offer more current technologies and student-centered spaces.

Mr. Speaker, today, more than ever, students are seeking advanced degrees, and the most successful institutions have leadership that is focused on success of their students. As President of Adrian College, Dr. Caine has been committed to that goal. I ask my colleagues to join me in recognizing Dr. Caine's commitment and wish him all the best on his retirement.

FREEDOM FOR OMAR PERNET HERNÁNDEZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise to speak about Omar Pernet Hernández a political prisoner in totalitarian Cuba.

Mr. Pernet Hernández is the leader of the National Movement for Human Rights. As a peaceful advocate for freedom, democracy and human rights, he has been a constant target of the totalitarian tyranny.

In March 2003, as part of Castro's condemnable crackdown on peaceful pro-democracy activists, Mr. Pernet Hernández was arrested. In a sham trial, he was sentenced 25 years in the totalitarian gulag.

Despite being confined in the abhorrent, subhuman conditions of the gulag, Mr. Pernet Hernández continues to advocate for human rights for all Cubans, including participating in a hunger strike to demand the humane treatment of political prisoners. According to Amnesty International, he is suffering from lung problems, a chronic gastric ulcer, and high blood pressure. Let us be very clear, Mr. Pernet Hernández is languishing in the gulag because of his belief in human rights.

According to the Department of State's Country Reports on Human Rights Practices for 2004:

> Prison conditions continued to be harsh and life threatening, and conditions in detention facilities also were harsh . . . Police and prison officials beat, neglected, isolated, and denied medical treatment to detainees and prisoners, including those convicted of political crimes or those who persisted in expressing their views. Political prisoners in particular often were held at facilities hundreds of miles from their families, placing an undue hardship on many families' time and financial resources.

Mr. Pernet Hernández is representative of the Cuban people's desire for liberty; despite constant harassment, despite incarceration in a grotesque gulag, he continues to fight for the inalienable human rights of the Cuban people. It is a crime against humanity that Castro's totalitarian dungeons are full of men and women, like Mr. Pernet Hernández, who represent the best of the Cuban nation.

Mr. Speaker, it is totally unacceptable that brave men and women are locked in dungeons because they believe in freedom, human rights, and the rule of law. My Colleagues, we must demand the immediate and unconditional release of Omar Pernet Hernández and every political prisoner in totalitarian Cuba.

COMMEMORATING MEMORIAL DAY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mrs. LOWEY. Mr. Speaker, this weekend should serve as a time for all Americans to reflect on the great sacrifices of those who have defended our great nation and to honor the men and women who continue to protect us.

As we celebrate this Memorial Day, the thoughts and prayers of our entire country are with our troops and the families who have lost loved ones. Throughout our history, brave men and women have answered the call to duty, and their courage and dedication to protecting our democracy is an inspiration to us all. We are the beneficiaries of their bravery, and we must also be the protectors of their legacy. That is why I am proud to join many of my colleagues in cosponsoring the comprehensive New GI Bill of Rights for the 21st Century.

These benefits for active duty service members, veterans, and military retirees would ensure that we fulfill our obligation to our men and women in uniform. At a time when our nation is asking more men and women to risk their lives and security on behalf of our country, we should make every effort to fulfill our promise to them upon their return.

The strength of our nation should not be measured only by our military or diplomatic might, but also by the compassion and dedication we show to those who defend us. Freedom is not free, and we honor those who have paid a price for the liberties we enjoy.

Mr. Speaker, I ask my colleagues to join me in paying tribute to our nations' fallen heroes and honoring those who have made sacrifices in defense of the United States.

AMERICA'S NURSE

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BLUMENAUER. Mr. Speaker, I would like to bring to your attention "America's Nurse," an op-ed highlighting the importance of nurses in our country that was published in the New York Times written by Teri Mills, a constituent of mine.

[From the New York Times, May 20, 2005]

AMERICA'S NURSE

(By Teri Mills)

So, national nurses' week has come and gone and what happened? Nothing, despite estimates that by 2020 there will be 400,000 fewer nurses than are needed in this country. Drastic action is required. And here's the action I suggest: dethrone the surgeon general and appoint a National Nurse.

Here's why. Prevention is the best way to lower health care costs. If people take care of themselves and don't get sick . . . well, you know the rest. And who better to educate Americans on how to take better care of themselves than nurses?

After all, nurses are considered the most honest and ethical professionals, according to a recent Gallup poll. It's the nurse whom the patient trusts to explain the treatment ordered by a doctor. It is the nurse who teaches new parents how to care for their newborn. It is the nurse who explains to the family how to comfort a dying loved one.

Meanwhile, the surgeon general, the nation's head doctor, is all but invisible. If you went to a supermarket and asked 10 people the surgeon general's name or to describe his or her role, it's unlikely that you would find anyone who could. (It's Richard H. Carmona, by the way.)

Now, I'm not saying that a National Nurse will become a household name immediately. But given all that's at stake—the health of a nation—and given the surgeon general's inability to connect with Americans, it seems to me that we should at least give nurses a try.

Here's what I'd have the National Nurse do. She or he would highlight health care education through 15-minute weekly broadcasts that would also be available on the Internet. The emphasis would be on prevention: how to have a healthy heart; how to raise your teenagers without going crazy; how to avoid being swept into the growing tide of obesity.

The Office of the National Nurse would yield benefits in a multitude of ways. The informational programs would decrease dependence on a health care system that is not only expensive but at times inaccessible, especially for those who lack insurance or live in rural areas. Through the office, nurses could sign up for a National Nurse Corps that would organize activities to enhance health in their communities. A National Nurse would give public recognition to the valuable work that nurses perform each day: if we're lucky, the National Nurse would help stem the nursing shortage by attracting people to the profession.

A National Nurse won't solve all of our country's health care problems, but one would definitely improve the situation. America has a history of honoring great nurses—from Clara Barton to Susie Walking Bear Yellowtail. Isn't it time we did so again?

WELCOMING NATIONAL RECORDING ARTIST RON ELLINGTON SHY AND HONORING HIS ACTIVISM ON BEHALF OF STARS FOR PEACE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. KUCINICH. Mr. Speaker, I rise today to recognize and welcome Ron Ellington Shy, the musician and actor, back home to Cleveland. Ron will be at the Joseph Gallagher Middle School in Ohio's 10th Congressional District on May 27, 2005, to participate in the "Stars for Peace" rally for peace and violence prevention.

A musician, actor, and dynamic entertainer with incredible vocal ability, Ron Ellington Shy was inducted into the Rock & Roll Hall of Fame as a former member of such legendary groups as "The Coasters," "The Drifters," and "Don & Dewey."

Ron was born and raised in Cleveland. He moved to California where he attended Fullerton Junior College and continued his education at the University of Southern California, majoring in psychology and minoring in music. His early career included playing professional football and achieving many accolades for his athletic abilities. He was a Golden Gloves boxing champion and holds a black belt in Karate. As a recording artist, Ron Ellington Shy performed such memorable hits of the 1950s and 1960s as "Leavin' It All Up To You," "Jungle Hop," "Justine," "The Letter," "Farmer John," and my late colleague Sonny Bono's "Koko Joe." A gifted vocalist, Ron is also a versatile musician who plays guitar, piano, organ, saxophone, valve trombone, and harmonica. He is known for his charismatic showmanship, involving his audience as they sing along to the many classic oldies he performs in his shows. As an actor, Ron has appeared on television in such notable programs as "Dallas," "Knotts Landing," and "Falcon Crest," as well as TV commercials for Right Guard deodorant, Church's Chicken, and the California Lottery.

Currently, Ron is on a national tour acting the role, and performing the music, of the late Ray Charles. Ron graciously accepted the invitation of the Joseph Gallagher Middle School, the East Cleveland Neighborhood Center, and local Hip-Hop impresario Bill "Silver B" Richards, to participate in the "Stars for Peace" rally for peace and violence prevention. Ron and the sponsors and organizers of this event understand the importance of international peace and that peace begins with each of us as individuals and in our homes.

Mr. Speaker, and Colleagues, it is my pleasure to welcome Ron Ellington Shy to Ohio's 10th District, to congratulate him on his many accomplishments, and to commend him on taking a stand in using his fame and international recognition to promote world peace and violence prevention.

FACTS SHOW CLAIMS OF INCREASED ABORTIONS OVER LAST FOUR YEARS DON'T HOLD UP

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. SMITH of New Jersey. Mr. Speaker, for about a year now a myth has been promoted that abortions have increased since President Bush was elected in 2000. This myth was launched publicly when Glen Stassen and Gary Krane published a piece in October of 2004, called "Why abortion rate is up in Bush years" that attempted to make the case that President Bush's pro-life policies have not been effective in decreasing abortion.

This mantra was picked up and repeated by many public figures and organizations who do not hold pro-life positions, but the facts simply do not support their claims. In fact, abortion has continued to decrease while President Bush has been in office, as demonstrated by an Annenberg Political Fact Check piece posted yesterday at www.factcheck.org and called "Abortions rising under Bush? Not true. How that false claim came to be and lives on."

To debunk the myth that the number of abortions have increased over the last 5 years, I am submitting the Annenberg Political Fact Check analysis to the CONGRESSIONAL RECORD:

[From the Annenberg Political Fact Check, May 25, 2005]

THE BIOGRAPHY OF A BAD STATISTIC—ABORTIONS RISING UNDER BUSH? NOT TRUE. HOW THAT FALSE CLAIM CAME TO BE -AND LIVES ON

SUMMARY

Politicians from Hillary Clinton and John Kerry to Howard Dean have recently contended that abortions have increased since George W. Bush took office in 2001.

This claim is false. It's based on an an opinion piece that used data from only 16 States. A study by the Alan Guttmacher Institute of 43 States found that abortions have actually decreased.

ANALYSIS

A number of politicians and organizations have been circulating an interesting and surprising idea: that abortions have gone up under George W. Bush's watch. The claim is repeated by supporters of abortion rights as evidence that Bush's anti-abortion policies have backfired, or at least been ineffective.

But the claim is untrue. In fact, according to the respected Alan Guttmacher Institute, a 20-year decline in abortion rates continued after Bush took office, as shown in this graph: Source: Alan Guttmacher Institute, "Trends in Abortion in the United States"

Here's the story of how a false idea took hold.

THE BIRTH OF A BAD STATISTIC

The claim that abortions are rising again can be traced back to an opinion piece by Glen Harold Stassen, an ethics professor at Fuller Theological Seminary. His article originally appeared in a web and e-mail publication of Sojourners, a Christian magazine, in October 2004. Several other outlets, including the Houston Chronicle, also ran a similar piece co-authored by Stassen and journalist Gary Krane. The articles generated a good deal of discussion on a number of both liberal and conservative blogs.

Describing himself as "consistently pro-life," Stassen reported that he "analyzed the data on abortion during the Bush presidency" and reached some "disturbing" conclusions. "Under President Bush, the decade-long trend of declining abortion rates appears to have reversed," he said. "Given the trends of the 1990s, 52,000 more abortions occurred in the United States in 2002 than would have been expected before this change of direction."

Stassen's broad conclusion wasn't justified by the sketchy information he cited, however. Furthermore, a primary organization he cited specifically as a source for historical data now contradicts him, saying abortions have continued to decline since Bush took office. More about that later.

HILLARY CLINTON USES IT

Stassen offered his article as evidence that Bush's economic policies were driving pregnant women to abortion. And although he opposes abortion, his claim was soon picked up and repeated uncritically by the other side—supporters of abortion rights. In a speech to family-planning providers in New York on January 24, 2005, Sen. Hillary Clinton recounted decreases in the abortion rate that occurred in her husband's administration, then lamented that the situation had changed. She repeated exactly some of the figures that Stassen had given in his Houston Chronicle article.

Clinton: But unfortunately, in the last few years, while we are engaged in an ideological debate instead of one that uses facts and evidence and common sense, the rate of abortion is on the rise in some states. In the three years since President Bush took office, 8 states saw an increase in abortion rates (14.6 percent average increase), and four saw a decrease (4.3 percent average), so we have a lot of work still ahead of us.

Clinton was careful not to state flatly that abortions were increasing nationally. She spoke only of "some States" in which the rate had increased. However, she omitted any mention of other States where abortions were going down, inviting her listeners to conclude that the national trend to fewer abortions had reversed itself since Bush took office.

And in fact a few days later, in an interview on NBC's Meet the Press on January 30, 2005, Senator John Kerry claimed that abortions were up, period:

Kerry: And do you know that in fact abortion has gone up in these last few years with the draconian policies that Republicans have. . . .

A Kerry spokesman confirmed at the time to FactCheck.org that Kerry was relying on the Stassen article for his information.

Finally, as recently as May 24, 2005, Democratic National Committee chairman Howard Dean also asserted on NBC News' Meet the Press:

Dean: You know that abortions have gone up 25 percent since George Bush was President?

Dean's "statistic" went unchallenged by moderator Tim Russert, so millions of viewers probably got the impression that Dean's very specific 25 percent figure was correct. But Dean was wrong—and by a wide margin.

We asked the Democratic National Committee repeatedly where Dean got his 25 percent figure, but we got no response. Even if Stassen's estimate of 52,000 additional abortions were correct, that would figure to an increase of less than 4 percent. And in any case the rate is going down, not up, according to the most authoritative figures available.

CHERRYPICKING DATA

A close reading of Stassen's article makes clear that he didn't even pretend to have comprehensive national data on abortion rates. He said he looked at data from 16 States only—and didn't even name most of them.

Stassen said that in the four States that had already posted statistics for three full years of Bush's first term, he found that abortion was up. Twelve more States had posted statistics for 2 years of Bush's term—2001 and 2002—and here the picture was mixed. According to Stassen, "Eight states saw an increase in abortion rates (14.6 percent average increase), and five saw a decrease (4.3 percent average)." A version of the piece in the Houston Chronicle reported instead that four saw a decrease with a 4.3 percent average.

So Stassen was projecting findings onto the entire country from 12 States that he said had showed an increase and 5 (or maybe 4) that he said had shown a decrease. That leaves a total of 34 other States for which Stassen had no data whatsoever.

Furthermore, Stassen is contradicted by one of the very organizations whose data he cites. The only primary source of data that Stassen cites specifically in the article is the Alan Guttmacher Institute, a nonprofit organization that conducts a periodic survey of all known abortion providers, which numbered nearly 2,000 at last count. Guttmacher's statistics are widely used and respected by all sides in the abortion debate. It is the only organization to compile and publish national abortion-rate data other than the federal Center for Disease Control. CDC's official statistics, however, run only through 2001, so they shed no light on what has happened since Bush took office.

And Guttmacher—as we shall see—now says abortion rates have decreased since Bush took office. And that's based on data from 43 States, not just 16.

DE-BUNKING THE STATISTIC

Stassen's numbers, and the widespread acceptance they seemed to be getting, prompted the Guttmacher Institute to conduct a special analysis to update its comprehensive census of abortion providers for the year 2000. The increases that Stassen reported "would be a significant change in a longstanding trend in the U.S.," Leila Darabi of the institute explained to Factcheck.

Besides the fact that Stassen claimed to have data only from 16 States, the Guttmacher Institute said it is likely that many of the States Stassen picked have higher abortion rates historically, have a higher concentration of population subgroups that tend to have more abortions, and see abortion rates rise more quickly when they do go up. Stassen himself named only Kentucky, Michigan, Pennsylvania and Colorado among the 16 States he says he studied, but his co-author on the Houston Chronicle article listed each State in a separate article posted on the Internet.

The Guttmacher Institute found that two of the States Stassen used had unreliable reporting systems. In Colorado, for instance, where Stassen claimed that rates "skyrocketed 111 percent," the reporting procedure had been recently changed in order to compensate for historic underreporting. Guttmacher also found Arizona had an inconsistent reporting system.

THE FACTS

The Guttmacher Institute announced its findings May 19. Guttmacher analyzed available government data "as an interim measure until another provider census can be conducted" according to a news release. The interim study analyzed data from 43 States determined to have reliable State reporting systems.

What it found was that the number of abortions decreased nationwide—by 0.8 percent in 2001 and by another 0.8 percent in 2002. The abortion rate, which is the number of women having abortions relative to the total population, also decreased 1 percent in 2001 and 0.9 percent in 2002. That's not as rapid a decrease as had been seen in earlier years, but it is a decrease nonetheless.

We give much weight to Guttmacher's analysis. Their figures are widely used and accepted by both anti-abortion groups and abortion-rights advocates. Their surveys of abortion providers go back to 1973, and Stassen cites them himself as the source for the number of abortions in 2000.

Guttmacher has little motive to make Bush and his anti-abortion policies look good. The institute was founded in 1968 in honor of a former president of the Planned Parenthood Federation of America, and describes its mission as being "to protect the reproductive choice of all women and men in the United States and throughout the world." Had Stassen's numbers proven accurate, the Institute "would have reported and widely publicized a rise in abortion rates," said Darabi. But facts are facts.

THE 50TH ANNIVERSARY OF THE JAMAICA TOURIST BOARD

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. RANGEL. Mr. Speaker, I rise today to mark the anniversary of an entity which has proven very important to the long standing US/Jamaican relationship. The Jamaica Tourist Association recently celebrated its 50th anniversary. In such time it has gone about making Jamaica one of the top tourist destinations in the world. The JTA will be celebrating their anniversary throughout the year with a series of events and initiatives, and I am happy to acknowledge their accomplishments here today.

The mission of the Jamaican Tourist Board is to effectively market Jamaica's tourism sector, in an increasingly competitive global tourism industry. To date, they have succeeded not only in making Jamaica a global tourism powerhouse, but also strengthening ties between the United States and Jamaica.

The United States is the largest source of tourists to the island of Jamaica. Of the record 2.5 million international tourists to Jamaica in 2004, over one million came from the U.S. With tourism the primary foreign exchange earner for Jamaica, it is a cornerstone of the country's economic strength. That strength has translated into real benefits for the United States.

In 2004, Jamaica was the second largest destination for American exports in the Caribbean, totaling over $1.4 billion. This is no doubt related to the purchasing power that the tourism sector affords Jamaica. As such, the work of the Jamaican Tourist Board has broad implications for both our nations.

The JTB continues to face many obstacles in developing the tourism sector. Last year's Caribbean hurricanes caused Jamaica hundreds of millions of dollars in damage. The tourism sector was not spared from the hurricanes' wrath, and is only now beginning to recover.

With that said, we in the United States must do all we can to ensure that we do not hinder the recovery, not only for Jamaica, but for the entire Caribbean. One such hindrance is the Bush Administration's proposed Western Hemisphere Travel Initiative.

I am opposed to aspects of the Initiative, due to inequities in the Initiative's implementation. As currently proposed, the initiative will require all travelers to and from the Americas, the Caribbean, and Bermuda to have a passport to enter or re-enter the United States. It is argued that the stricter policy will strengthen border security.

However, the Initiative is to be implemented in region specific phases, with travel to the Caribbean, Bermuda, and Central and South America being affected by the end of 2005, while travel to Canada and Mexico will not be affected until the end of 2006. I believe the early implementation date for the Caribbean is unfair.

With more than 50% of U.S. visitors to Jamaica not utilizing a passport when they travel, and considering that passport processing times can range up to 2 months, it can be expected that the new requirements will have an extremely negative impact on Jamaican tourism, as many U.S. tourists may choose vacation options that entail less hassle. As such, implementing new travel requirements on the Caribbean before other regions clearly warrants reconsideration.

With that said, I wish the Jamaican Tourist Board continued success, as its work will continue to be extremely important to both our nations. If the ever-increasing bond between our countries is any indication; the future success of Jamaican tourism is extremely bright.

OUTSTANDING ARTISTS FROM THE 11TH CONGRESSIONAL DISTRICT OF NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, once again, I come to the floor to recognize the great success of strong local schools working with dedicated parents and teachers to raise young men and women. I rise today to congratulate and honor 44 outstanding high school artists from the 11th Congressional District of New Jersey. Each of these talented students is participating in the 2005 Annual Congressional Arts competition, "An Artistic Discovery." Their works of art are exceptional!

We have 44 students participating. That is a tremendous response, and I would very much like to build on that participation for future competitions.

Mr. Speaker, I would like to congratulate the three winners of our art competition, first place was awarded to Paul Niziolek from Ridge High School for his work entitled, "Shut Off;" second place was awarded to Tommy Lientitled from Livingston High School for his work entitled, "Self-Reflection;" and third place was awarded to Chris Murphy from West Morris Mendham High School for his work entitled, "Turn Away."

Mr. Speaker, I would like to recognize each artist for their participation by indicating their high school, their name, and the title of their contest entries for the official Record.

Pope John High School: Kaelen Barden's "Color in Time," Colleen Sullivan's "Palms," Amanda Grace's "Beach."

Roxbury High School: Ryan Jouas's "Call for Details," Laura Montoya's "Alex," Emily Schumacher for her untitled work, Melody Idakaar's "Eremos # 3."

Randolph High School: Morgan Kolenut's "I'm just mad about saffron," Maria Soshinsky's "You Shoot You Score!"

Morris Knolls High School: Cheryl Hutnikoffs "Azure Blue," Maria Nuzhdin's "NYC," Jackie Trimmer's "Lizzy," Kimberly McConnell's "Say Cheese."

Montville High School: Tyler Martin's "Entanglement," Catherine Kocses's "Give Me A Minute," Nanase Nakanishi's "Cold Winter Morning," Jenny Kong's "ST. Basil Studio."

Boonton High School: Audrey Brennan for his untitled work, Amy Salas's "Self Portrait," Alexander Della Torre's "Girls from Narnia," Jennifer Hitchings's "Old Caddilac."

Mount Olive High School: Meghan Marvin's "Waning Light, " Cassy Nickens's "Trapped Expression," Kyle Toolen's "Lunch Break," Elisa Winsze's "Riverside Wagon."

West Morris Mendham High School: Drew Koze's "March in Shadow," Chris Murphy's "Turn Away," Melissa Katie Krajewski's "Pacific Sunset," Andrew Herdren's "Atmosphere Friends."

Ridge High School: Michael Raynes's "Organ Donation," Samantha Mansfield's "Self Portrait / EEK! A mouse!," Paul Niziolek's "Shut Off," Lisa Cirelli's "Close-up Lens."

Livingston High School: David Runfola's "Swift Limits," Justine Bienkowski's "Shattered," Tommy Li's "Self-Reflection," Casey Krosser for her untitled work.

Morris Hills High School: Brian Manna's "Proud," Julie Carlsen's "Ode to Van Gogh," Patricia Doris's "Our Responsibility."

Millburn High School: Bella Manoim's "Pearberry Trees," Mary D'Alessio's "Climbing," Kate Silverman's "Childhood at a Glimpse," Gabriella Cammarata's "IL Duamo."

Each year the winner of the competition's art work is hung with other winners from across the country in a special corridor here at the U.S. Capitol. Every time a vote is called, I walk through that corridor and am reminded of the vast talents of our young men and women.

Indeed, all of these young artists are winners, and we should be proud of their achievements so early in life.

Mr. Speaker, I urge my colleagues to join me in congratulating these talented young people from New Jersey's 11th Congressional District.

HONORING THE LIFE OF ARMY SPECIALIST JAMES H. MILLER IV

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BOEHNER. Mr. Speaker, I rise today to pay tribute to the life and legacy of Army Specialist James H. Miller IV. As our country honors our military personnel, both past and present, this Memorial Day, I want to take this opportunity to remember those who have sacrificed their lives for our freedom and security.

Army Specialist Miller leaves behind a legacy of honor, service, and compassion to his family and friends. He died protecting a polling location which allowed Iraqis the opportunity to decide their own future.

Army Specialist Miller served as a medic with the United States Army and aspired to enter the medical profession and work with trauma patients. He is remembered for his commitment to the well-being of his fellow soldiers and for his sensitivity to the needs of others. In addition, he is remembered for his love of music, and he particularly enjoyed playing the drums and guitar. Based on his reputation for compassion and commitment to the men and women he medically treated, I have no doubt he would have been effective in the medical field.

Mr. Speaker, it is with a heavy heart that I pay my last respects to a young man who was so full of life; to a young man who had a full and bright future ahead of him. I pray Army Specialist Miller's family and friends find peace in their hearts, knowing his country is grateful and humbled by his sacrifice. I thank our brave men and women in uniform for continuing with our mission in Iraq, which is the ultimate tribute to our fallen soldiers, marines, sailors, and airmen.

Jimmy, to you I offer my sincere gratitude and my solemn commitment to continue to support your friends, the members of your unit, and the men and women in Iraq who are continuing without you. Thank you for seeing a vision greater than yourself and for the strength of your commitment to our country. God bless you.

RECOGNITION OF MILITARY FAMILY AND SERVICE ORGANIZATIONS ON MEMORIAL DAY

HON. MELISSA L. BEAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. BEAN. Mr. Speaker, I rise today to pay tribute to the military family organizations and veterans service organizations that do so much to support and serve the brave men and women of our Armed Forces.

This Memorial Day, Americans gather to remember the fallen, and acknowledge the contributions of our service personnel. Because of the contributions and sacrifices of our fellow Americans, we are able to enjoy the freedoms and security of this great country that we do today. We are so fortunate to live in America, and to be able to call these people our own.

On this day, our thoughts also turn to those who contribute to the needs of our men and women who wear the uniform of the United States Military.

Mr. Speaker, the family members of America's men and women in uniform have always been one of our nation's greatest assets, and often our unsung heroes. Perhaps now as much as ever, the support of our military families on the Homefront is crucial to maintaining the spirit of our warfighters.

Now, all across the country, groups of military families and their neighbors are continuing to work to support their loved ones stationed overseas. As more National Guard and Reserve units are deployed abroad, far from their homes, many of their families have organized to send much needed gifts, messages from schools, basic supplies difficult to come by in Iraq or Afghanistan, or elsewhere. These families do so generously, in addition to the extra burdens of taking care of a family while a parent is away, either out of love of their family or on the part of a serviceperson they have never met.

Mr. Speaker, I also want to recognize the work of our veterans service organizations. These patriots and committed veterans who continue to serve long after their orders have expired are the living embodiment—and the conscience—of the American spirit. And their service extends beyond the military. These groups with household names like the American Legion and Veterans of Foreign Wars are friendly faces in our communities. Across Illinois' Eighth District, like countless other communities, these organizations provide leadership and guidance, they are a role model for our children, and they are a constant reminder of the call to—and value of—public service.

Today, I ask my colleagues to join me in recognizing the contributions—and sacrifices—of our military spouses and families, and the continuing service of members of America's veterans service organizations. They provide so much, so selflessly, to strengthen our military and the values we all hold so dear. America absolutely is stronger—and richer—because of their service.

IN MEMORY OF GLYNN DUNLAP

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. PORTER. Mr. Speaker, I stand today to honor the memory of a fellow Nevadan. Mr. Glynn Dunlap passed away at the age of eighty-three after bringing smiles to the faces of small children for the past twenty years. Glynn Dunlap became well known in the Las Vegas valley and by children across the country through his artwork and devotion to young children plagued with terminal cancer and other terminal diseases. I know that he will be missed.

Mr. Glynn Dunlap was born in Herculean, Missouri, in 1922. He later moved to California as a commercial artist and retired to Boulder City, Nevada. Upon his retirement, he and his wife begun working with mentally-challenged children. Mr. Dunlap noticed the determination and hard work in these young kids and began making certificates of achievement to honor their efforts.

After giving a certificate one day in 1985 a child approached him for a cartoon; thus began a new passion. For the next twenty years Mr. Dunlap drew cartoons for any child who asked. Shortly after he began drawing for children, Mr. Dunlap joined forces with such organizations as the Muscular Dystrophy Association and the Candlelighters. His son, Don Dunlap, said he dedicated so much time to those kids because it brought joy to those who were suffering; he did it "to see a kid smile."

Mr. Speaker, I stand here today to extend my gratitude for Mr. Dunlap's many contributions and to honor the wonderful memory of this excellent role model. I know that Mr. Glynn Dunlap will be missed, but not forgotten, especially by all the families he helped cope during some of the most difficult times in their lives.

MOURNING THE PASSING OF JIMMY PETTYJOHN, JR.

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. PORTER. Mr. Speaker, it is with deep sympathy that I rise today to mourn the passage of Mr. Jimmy Pettyjohn, Jr. and to pay special respect to the family he left behind at his untimely passing on April 28, 2005.

Mr. Pettyjohn embodied the definition of a leader and statesman, leaving an indelible mark on the Southern Nevada Community. Indeed, the contributions he made throughout his life stand as a simple symbol of humility and integrity to those who will examine his life and seek to emulate his spirit of service.

Mr. Pettyjohn affected many people in so many positive and uplifting ways from his varied and personal contributions to such groups as the Church of Jesus Christ of Latter Day Saints, the Las Vegas Southwest chapter of Rotary International, the Boys Scouts of America and the youth golf organization First Tee of Southern Nevada to his endless dedication as owner of his own insurance business. Through these organizations and countless other causes, one can clearly see how great and generous a person he was and how much a void his absence will be to the Las Vegas Community.

Mr. Pettyjohn is survived by his wife, Gina; daughters, Ashton and Cheyanne; sons, Jimmy C. III and Chazton; father Coy; mother Sonya; sisters, Patty Lattuga and Pam Gardineer, both of Henderson; and brothers, Jaime of Jupiter, Fla. and Jerry of Henderson. Truly, I will miss his friendship and his presence will be missed by all who knew and loved him or simply had the opportunity to meet him.

EXAMINING EFFORTS TO ERADICATE HUMAN TRAFFICKING

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. SMITH of New Jersey. Mr. Speaker, May 12, 2005, I chaired a Capitol Hill briefing, "Sex Trafficking in Eastern Europe: Belarus, Moldova, and Ukraine," conducted for the Congressional Human Rights Caucus. The Caucus heard testimony from a number of excellent witnesses regarding current efforts in Eastern Europe to combat human trafficking for forced economic or sexual exploitation.

Since the late 1990s, I have worked to eradicate trafficking in the United States and around the world. As Co-Chairman of the Commission on Security and Cooperation in Europe and as Special Representative on Human Trafficking for the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (OSCE), I have given particular attention to the situation in the 55 OSCE participating States, which include source, transit and destination countries for victims of trafficking, such as Belarus, Moldova and Ukraine, The United States has been a solid supporter of the OSCE's role in generating the political will—and programmatic responses—necessary to stop trafficking in Europe and Eurasia.

Among those briefing the Congressional Human Rights Caucus was Michele Clark, Head of the OSCE's Anti-Trafficking Assistance Unit in Vienna, Austria, and previously Co-Director of The Protection Project at Johns Hopkins University. Ms. Clark is a dedicated and knowledgeable anti-trafficking advocate. Her recognized expertise on human trafficking issues led to her appointment at the OSCE in which she is now at the forefront of the anti-trafficking movement in Europe.

Mr. Speaker, I ask that Ms. Clark's prepared statement from the briefing be printed in the CONGRESSIONAL RECORD. Her statement was both visionary and practical and challenges all of us—Members of Congress and representatives of governments alike—to take bold, definitive steps to eradicate modern day slavery. Ms. Clark's statement also encourages us, and I believe rightly so, to evaluate carefully whether our current programs and strategies are effectively meeting that challenge.

TESTIMONY OF MICHELE A. CLARK, HEAD, ANTI-TRAFFICKING ASSISTANCE UNIT, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE: SEX TRAFFICKING IN EASTERN EUROPE: MOLDOVA, UKRAINE, BELARUS

INTRODUCTION

I am Michele Clark, Head of the Anti-Trafficking Assistance Unit at the Organization for Security and Cooperation in Europe (OSCE) in Vienna, Austria. The OSCE has a long history of combating all forms of human trafficking, including trafficking for commercial sexual exploitation as well as forced and bonded labor within the framework of prevention, prosecution and protection. A unique characteristic of the OSCE's Action Plan to Combat Trafficking in Human Beings is the recognition of human trafficking as a complex, multidimensional issue with far reaching security implications. Consequently, the Action Plan enjoins all of the OSCE institutions and structures, including the Strategic Police Matters Unit and the Office of the Coordinator for Economic and Environmental Activities, as well as the Office for Democratic Institutions and Human Rights, to work together toward combating trafficking in human beings.

I appreciate the opportunity to address you today on the status of Trafficking in Human Beings in Eastern Europe with a focus on the countries of Moldova, Belarus and Ukraine. I would like to thank you, members of the Human Rights Caucus, for your sustained commitment to this noble cause and for keeping informed of the most current issues, trends and challenges. The OSCE looks forward to being of assistance to you in any way we can, and to continuing our good work together.

The movement to Combat Trafficking in Persons is poised to become one of the most significant human rights movements in the past two hundred years, but it isn't there yet. I say this very carefully. For, notwithstanding the central position that human trafficking has occupied on the world stage for the past five years, the tragic, graphic stories by print and broadcast media, the high level of political visibility and, last but far from least, the hundreds of millions of dollars and Euros made available by donor countries, trafficking in human beings is in fact a growth industry. Obviously, this statement begs the question, "Why?" I would like to devote the bulk of my testimony today to providing some thoughts that might prove beneficial to policy makers as well as practitioners as we all attempt to "get it right." I would like to begin with a real-life story.

MARIANA AND JANA

A year and a half ago, I went to Moldova. Although I went there to participate in an international conference, one of my personal goals was to visit with a family I had only heard about, but wanted very much to meet. Four months earlier, the eldest daughter, a beautiful young woman in her early twenties and herself the mother of a three-year-old daughter, tragically killed herself, by hanging in the country where she had been trafficked, abused, finally imprisoned as she waited to participate in the prosecution of her traffickers. I do not apply the word, "rescue" to such circumstances. She worked with the law enforcement officials of that country and her testimony resulted in a conviction and stiff sentence. The only option available to her, at the end of the legal proceedings, was return to her country, and for that she was asked to pay $80 for her travel documents. Return to what, however? A job that would pay about 30 dollars a month? A home without a father, because hers was absent 8 months of the year, a migrant worker in Western European countries, trying to make money to send home? For her daughter, a life with prospects not much different than her own? Rather than return to a future with no hope, Mariana as I will call her now, ended her own life.

Her body was flown to Moldova, where she was buried. An international organization there as well as an NGO in the destination country contributed to the transport of the body and to the funeral costs. I went to see her mother, younger sister Jana, and her daughter Victoria. We spent many hours together over several days, but the family did not want to talk about Mariana—although everyone knew what had happened to her. The stigma of Mariana's life as a trafficked woman was a great burden for the family. Coupled with the suicide, it was too much to bear. There were no visible pictures of her in the home but I finally asked to see photos. The mother warmed to us then and for a few moments we all wept together as women and as friends. All except for little Victoria who continued to express anger that her mother came home in a box and that she was not allowed to see her.

In particular, I was deeply moved by the younger sister, Jana, and became concerned for her future. Blonde (as much as it pains me, there is a stereotype), bright-eyed and quite lovely, she asked eagerly about life in the United States and wondered if I could help her get there. I thought, how easily swayed she would be by anyone who offered her a situation similar to her sister's. For weeks her image would not leave me and I made some inquiries, unwilling to accept that her plight had to be the same as her sister's. Was there in fact no hope for her? I learned that a year of university would cost about $USD 500; she would then need money for supplies and fees, and income to supplement the money she was making in a candy factory. I engaged with a social worker there, part of a large organization that assisted trafficked women. I asked them, what could happen, and what were the options? It took a long time to get answers, because the social workers have very little capacity to assist victims, or potential victims, to find long-term solutions, the focus being primarily on emergency care. Finally I was told that Jana could be sent to hairdressing school, and that she would receive assistance with job placement after she left. However, there was no money, not even the small sum $800 that would take care of all costs. Together with a few friends, we paid for Jana to go to school, and learn a trade. I was deeply disappointed at how few options were available and by the lack of attention to the long term. Parenthetically, I must say how exasperated I get when I hear that vocational training for trafficked women consists of beauty school. This is certainly a fine trade, but how many beauticians can small countries support? Another important fact is that many of these women are intelligent and resourceful, and would do well in business or any of the other professions.

To summarize this story, I would like to quote my colleague Antonia DeMeo, who is the Human Rights and Senior Anti-Trafficking officer at the OSCE Mission to Moldova: "If the economic situation in Moldova would improve, then I believe that the trafficking problem would decrease. People are looking for work and money, and better opportunities for the future, and will take significant risks to get them. [While working in the Balkans] I saw numerous asylum and residency petitions filed by Moldovans and none of them wanted to return to Moldova. Why? Because they saw no future there. You can provide them with all the counseling you want—it will not solve the problem of creating a viable future.

CHARACTERISTICS OF COUNTRIES OF ORIGIN

Today we are talking about three different countries: Moldova, Belarus and Ukraine. I would like to identify common elements among each of these countries in an effort to assist our policy and programmatic initiatives.

These three countries are among the top ten countries of origin for trafficking for prostitution in the world, according to a United Nations report dated May 2003. It is interesting here to note that these countries have all undertaken serious efforts towards legislative reform to address trafficking in human beings. Laws alone do not stop trafficking, although they are a necessary place to start.

These countries share many of the same routes, and many of the same countries of destination, including but not limited to Italy, the United Arab Emirates, Germany, Czech Republic, Belgium, Switzerland, Sweden, Greece, France, Finland, the Netherlands, Hungary, Poland and the United States.

These countries are primarily countries of origin for women trafficked for purposes of commercial sexual exploitation. However, recent studies of trafficking patterns in these countries indicate new trends, notably trafficking of children (boys and girls), trafficking for labor, and the development of local sex tourism. This particular trend is very unsettling. The sex tourism is a by-product of coveted commercial development necessary to the betterment of the collapsing economic infrastructures.

Numbers of trafficked persons are very difficult to come by, with most information being provided by countries of destination. Victim identification remains inadequate.

Most trafficked persons return to the same conditions which initially compelled them to seek employment elsewhere. The hardship is compounded, however, by the fact that they are often stigmatized as a result of their trafficking experiences. Furthermore, criminal status that ensues from being considered an illegal immigrant, or being in possession of fraudulent documentation further marginalizes these women and shuts them out of the formal economy.

Overall, there is a lack of protection and re-integration programs for returning trafficked persons. Most programs provide short term assistance only and are not equipped to provide long-term support to trafficked persons. Failure in identification of trafficked persons and the subsequent dearth of long-term assistance appear to be factors which contribute to re-trafficking.

Each country has experienced a period of great political instability.

CHALLENGES TO COMBATING TRAFFICKING IN HUMAN BEINGS

I believe that both countries of origin and of destination have a responsibility for providing protection and assistance to victims of trafficking, for the plight of women like Mariana, and to ensure that Jana, and even Victoria, will be able to contemplate a future with options and possibilities, much in the way all of us in this room approach the future.

In countries of origin, root causes need to be considered. These run very deep, and comprise social and economic push factors that drive women to seek employment overseas, including the absence of alternatives, the social stigma that leaves trafficked persons marginalized, and the on-going need to provide financial assistance to their families. It is also necessary to consider wide-spread corruption, the lack of a human rights approach, mistrust towards the police and judiciary, the absence of a tradition to resolve issues through court procedures, lack of co-operation between the State and the civil society, widely spread distrust towards NGOs as foreign agents and representatives of political opposition, inadequate funding for the implementation of anti-trafficking programs and projects, lack of co-operation with countries of destination. This list goes on.

Countries of destination, on the other hand,—and this includes us—will have to concretely recognize that they create the demand which encourages human trafficking and enables organized criminal groups to generate billions of dollars annually in tax-free revenue at the cost of human misery. Furthermore, countries of destination need to develop humane and compassionate approaches to victim identification, victim protection, and long-term victim assistance. Successful reintegration begins at the country of destination.

After making this distinction, I personally believe that it is no longer adequate to talk about solutions, policies and practices directed exclusively towards countries of origin and destination, for these countries are in fact linked by very complex relationships that include financial institutions, border and immigration police, law enforcement, the tourist and transportation industry, and other equally significant commercial and professional enterprises. To address only a country of origin without looking at where the reward comes from for criminal activity is an incomplete approach, and will therefore yield incomplete results. Regional approaches to combating trafficking in persons, linking countries of destination and origin, have the best potential for arriving at comprehensive and systemic solutions.

In addition to the challenge of complex political and commercial relationships mentioned above, I would like to talk briefly about the great challenge of victim identification, underscoring why there is such urgency in addressing this topic. From 1 January 2000 to 31 December, 2004, the International Organization for Migration (IOM) and other nongovernmental organizations assisted 1,464 trafficking victims to return to Moldova, and this number includes 81 minors. In 2004, one destination country alone documented repatriation of 1,774 Moldovan women. These women were listed as illegal immigrants; however, human rights groups in this country attest that the majority of Moldovan women who are arrested for violations of immigration laws are victims of trafficking. Similar discrepancies can be found among the other countries we are talking about. In one year, one country reported more Moldovan women than other reports claim were helped in five years. These discrepancies require our serious consideration. Why the discrepancy? What needs to be changed in order for women to seek out assistance? Are the right groups providing the assistance so that trafficked persons feel protected? Is the assistance appropriate to the need?

POLICY IMPLICATIONS

Here I would like to ask two more questions:

(1) What about the present? Are we really making progress? If trafficking, as all indicators tell us, is in fact a growth industry, then what do we not know? What are we getting wrong? What in fact is the real impact of anti-trafficking funding?

(2) What about the future? Are our current efforts helping to lay a foundation that will enable prevention, protection and prosecution to continue after donor funds have decreased?

I am particularly concerned about the need to think about investing in the creation of sustainable grass roots initiatives as opposed to reactive project development. The question of funding is of particular concern to me right now. Wealthy nations have responded generously both by making funds available and by elevating this issue to one of high political visibility. But let us be realistic. History shows us that in time, another world crisis will capture world attention as well as money, even though human trafficking itself will not disappear. Will there be organizations, movements, trained personnel in rural communities, small towns and big cities who will be able continue to pressure their governments and work to assist individuals?

Let us look again at Moldova. This small country with a population of barely 4 million people is now receiving between $USD 10M–12M over several years to combat trafficking in persons. Here are some questions we need to think about, not only for Moldova, but for all countries receiving large amounts of external assistance.

To what extent are these funds actually reaching trafficked persons or developing grass roots capacity?

To what extent are these funds being invested to ensure sustainable anti-trafficking initiatives?

To what extent is there coordination among donors to ensure that there are no duplicated efforts?

Who is around the table at these coordinating meetings? Are the right partners present in order to make sure that these efforts are able to continue into the future, long after grant money has decreased?

Are the faith communities involved? It is well known at this time that faith communities have the capacity to reach trafficked persons which are normally outside of the grasp of other organizations; this comes from the fact that they are closely linked to the communities and have the trust of the local populations—including the trust of trafficked persons.

RECOMMENDATIONS

1. Coordinate initiatives of major donors to ensure that there will be no duplication of efforts, and that there will be monitoring of grant activities.

2. Make sure that grants provide for a broad representation of local NGOs.

3. Make sure that funded projects ensure provision of benefits directly to individuals and to the empowerment of small local NGOs. Many budgets give only token amounts to local initiatives while having large budgets for travel and foreign consultants. This is the time to develop the grass roots work force.

4. Develop existing capacity and cultivate potential/future capacity. Are there sufficiently trained service professionals? Do countries' economic development plans foresee the training of new members of the work force taken from returning trafficked persons?

5. Develop a long-term perspective to finding long-term solutions rather than only addressing immediate needs.

6. Give priority to programs that work towards social inclusion—the forgotten stepchild of the anti-trafficking movement. Make reintegration a long-term policy.

Members of the Human Rights Caucus, I will end where I began, challenging us to consider that we could be part of the greatest human rights movement of the past two hundred years, with a legacy of freedom, redemption and hope that will serve as a model for generations to come. Do we have the courage, the discipline, and the wisdom to make it happen? May it be so. Thank you.

THE MILLENNIUM DEVELOPMENT GOALS AND THE CARIBBEAN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. RANGEL. Mr. Speaker, there has been significant debate in recent years regarding the chances of the developing world reaching the Millennium Challenge Goals (MCG). Reaching the goals will be a trying task, but some regions of the world seem to be making satisfactory progress. The Caribbean is one such region that has high hopes for success in this important endeavor.

On the occasion of a recent Inter-American Development Bank seminar on the issue of the Millennium Challenge Goals, Dame Billie Miller, Minister of Foreign Affairs for the island of Barbados, wrote an informative May 3rd Op-Ed which describes the prospects and challenges facing the Caribbean in regards to achieving the Millennium Challenge Goals.

Dame Miller's overall view is that the Caribbean's progress to date has been very promising. Indeed, the United Nations Development Program's Regional Report for the Caribbean gives a rather bright prognosis for the majority of the Caribbean's nations in their MGD progression. However, some countries continue to face significant obstacles.

For example, Haiti remains mired in political instability and economic impoverishment. Though it contains 50 percent of the Caribbean's population it is the region's poorest country. The nation of Guyana, though blessed with abundant natural resources, is saddled with an extremely high ratio of debt, making it the Caribbean's only Highly Indebted Poor Country.

Despite the Caribbean's overall progress, Dame Miller emphasizes that there remains threats to the region which must be accounted for. Most pressing is the region's ongoing vulnerability to natural disasters.

We are all aware of the calamity the Caribbean region faced in 2004 due to Hurricanes Charley, Frances, and Ivan, and Tropical Storm Jeanne, which caused billions of dollars in damage. Thousands lost their lives, and the region's tourism and agricultural sectors, on which so many islands depend, was battered. The production of major agricultural exports for many countries is still on hold several months later. The Caribbean in concert with its neighbors, like the United States, must continue to address the issue of disaster response and mitigation. With efficient and functioning systems in place, these disasters need not be so devastating to the region.

Dame Miller also emphasizes the region's need to broaden access to education, as well as information and communications technology, for all its residents. Doing so will help to spur the economic development of the region, and also allow for the greater participation of the Caribbean population in civic and political life.

She also stresses the importance of the region's continuing efforts at regional economic integration. In the face of increasing globalization and trade liberalization, Dame Miller argues that the Caribbean must solidify their economic and trade ties, in route to a Caribbean Single Market Economy, which would remove all barriers to trade, capital movement, and technology and manpower transfer. Dame Miller foresees such an integration being achieved by 2006.

I sincerely thank Dame Miller for her insightful opinions. She reminds us, that while the Caribbean will undoubtedly face challenges in its socio-economic evolution, its dedication to addressing these challenges, and its ability to harness its immense potential, will ultimately determine its future success.

[From the New York Carib News, May 3, 2005]

CARIBBEAN MAY DEFY "OVERWHELMING ODDS"—AS REGION SEEKS TO IMPROVE PEOPLE'S LIVING STANDARDS IN CHALLENGING TIMES

In this first decade of the 21st century, in a post 9/11, post Enron World the time seems hardly propitious for the removal of obstacles to the achievement of the Millennium Development Goals nor the realization of the 0.7 percent of overseas Development Assistance Commitment.

Progress (towards the achievement of the Millennium Goals set by the world's leaders summit in 2000) has been far from uniform across the world—or for that matter across the Goals. There are large disparities across and within countries. In terms of priorities for attention, the developing world is divided into well-organized categories: the LDC's (less developed countries), of which Haiti is the only member in the Caribbean, although with a population of 8 million, it accounts for over 50 percent of the 14 million citizens of the Caribbean Community, or Caricom, as it is known; the HIPC (highly indebted poor) countries, of which Guyana, the seat of the Caricom secretariat, is the only one among the Caricom states; and finally, the poorest of the poor. Small, middle incomes, mostly island countries, are, as we would say in the Caribbean, neither fish, fowl nor good red herring. We are therefore acutely aware that self-reliance and national and sub-regional actions will be the defining imperative in our efforts to achieve the targets of the Millennium Development Goals, MDGs.

In that respect, and defying the overwhelming odds, the prognosis for the achievement of the MDGs in the Caribbean is very promising. In fact, the United Nations Development Program's Regional Report on the matter gives an optimistic outlook for most of our countries in respect of at least six of the eight goals. But the region faces a number of challenges to the achievement of the Goals.

Foremost among them is the vulnerability to economic shocks, and to every natural disaster known to humankind, be it hurricanes, volcanic eruptions, mudslides, earthquakes or flood.

The catastrophic hurricane season of 2004 had a grave impact on the socio-economic development prospects of many of the small islands of the Caribbean. Decades of painstaking human and financial investment in social development, representing several years' worth of gross domestic product were lost in a matter of hours.

The devastating Indian Ocean tsunami in December serves as a stark reminder of the vulnerability of many developing nations to natural disasters.

Globalization, education, information and communication technology all offer the potential for reducing social exclusion by creating economic conditions for greater prosperity through higher levels of growth and employment, and by providing new avenues for community participation.

Conversely, there is the risk of an ever-widening gap between those who have and control the resources, the capital and knowledge of the global economy and those who are excluded. The challenge for all of us is to fashion policies, which reduce this risk and maximize this new potential. Various studies in Latin American and the Caribbean have shown that even in the presence of steady rates of economic growth, a reduction of inequality is not guaranteed. Clearly, the solution does not lie exclusively in wealth creation.

Globalization has brought tremendous benefits to significant portions of the world, but at the same time, large sections of the world have experienced far too few of its benefits, while others still, particularly in the poorest countries, remain totally marginalized. Many feel threatened by the way these processes have affected their communities, endangering their jobs and widening the gap between rich and poor. For them globalization has not delivered on the promises of vast development opportunities on a global scale, nor has it lessened the prevalence of economic disparities and social injustice.

For the Caribbean, the only sensible response to globalization and trade liberalization, and to the inevitable disappearance of trade preferences has been to expedite the deepening of the Caricom integration process. At this time, the members of the Caribbean Community are fully engaged in the most ambitious of endeavors to consolidate our market place and economic space through the implementation of the Caribbean Single Market and Economy, CSME, which provides for the removal of barriers to trade, goods, services, movement of capital, technology and skilled persons and also to the establishment of letterpresses. We expect that the CSME will be fully operational by 2006, making us the only integrated region, apart from the European Union to achieve such a status, and readying us to better access the global market process.

HONORING LAKE HOPATCONG HISTORICAL SOCIETY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Lake Hopatcong Historical Society, in my Congressional District. The Historical Society is celebrating fifty years of protecting documents and artifacts for the community and promoting education and historic preservation.

The actual creation of the Lake Hopatcong Historical Society occurred on August 10, 1955, at the Langdon Arms Restaurant with eight people in attendance. From the beginning, the members' goal was to establish a museum for the lake.

From the original eight individuals who attended the first meeting in 1955, the society grew to 150 members by the time the museum opened in 1965. In the early 1960's the state of New Jersey moved forward with plans for a new administration building at Hopatcong State Park. The park was on land which was previously owned by the Morris Canal and Banking Company. When the canal was abandoned in the 1920's, the 98 acres around the Lake Hopatcong dam were set aside as a state park.

Today, with nearly 800 members, the organization continues to follow its mission "to collect, house and preserve artifacts and documents relating to the civil, political, social and general history of Lake Hopatcong and to encourage the education and dissemination of information about Lake Hopatcong's history."

Mr. Speaker, I ask that you and my colleagues in the House of Representatives join with me in congratulating the Lake Hopatcong Historical Society, its trustees and all of its outstanding members and volunteers, upon celebrating its 50th Anniversary.

HONORING THE LIFE OF MARINE LANCE CORPORAL DUSTIN R. FITZGERALD

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BOEHNER. Mr. Speaker, I rise today to pay tribute to the life and legacy of Marine Lance Corporal Dustin R. Fitzgerald. As our country honors our military personnel, both past and present, this Memorial Day, I want to take this opportunity to remember those who have sacrificed their lives for our freedom and security.

Lance Corporal Fitzgerald leaves behind a legacy of compassion and leadership. His family and friends remember him as a mentor who was truly inspirational in helping the people he loved reach their full potential. They remember his pride in being a Marine, his willingness to go beyond the call of duty to assist the members of unit, and his joy and laughter.

Lance Corporal Fitzgerald had aspirations to be a lawyer, and his interest and enthusiasm are a source of inspiration to the lives he touched. Based on his reputation for being hard-working and committed to fulfilling his responsibilities, I have no doubt he would have been an effective lawyer.

Mr. Speaker, it is with a heavy heart that I pay my last respects to a young man who was so full of life; to a young man who had a full and bright future ahead of him. I pray Lance Corporal Fitzgerald's family and friends find peace in their hearts, knowing his country is grateful and humbled by his sacrifice. I thank our brave men and women in uniform for continuing with our mission in Iraq, which is the ultimate tribute to our fallen soldiers, marines, sailors, and airmen.

Dustin, to you I offer my sincere gratitude and my solemn commitment to continue to support your friends, the members of your unit, and the men and women in Iraq who are continuing without you. Thank you for seeing a vision greater than yourself and for the strength of your commitment to our country. God bless you.

SPECIAL RECOGNITION OF CHIEF JOSEPH MARVIN OF THE WOODSTOCK, ILLINOIS POLICE DEPARTMENT

HON. MELISSA L. BEAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. BEAN. Mr. Speaker, I rise today to pay tribute to Chief Joseph Marvin and his twenty-seven years of service to the Woodstock Police Department in Woodstock, Illinois.

Mr. Speaker, Chief Marvin has been intricately involved in community building programs for over two decades. He has served as the Coordinator of Community Services and Chairman of the Crime Prevention Committee in Woodstock. These programs and his involvement in them have improved the lives for generations of Woodstock residents.

Serving his community as a police officer gave him the awesome responsibility to be a first responder, community leader and a role model for his family, friends and neighbors. I know that in his retirement he will continue to have a lasting impact and positive influence on the City of Woodstock. I would like to thank him for his service to and presence in the community and wish him the best of luck in his much-deserved retirement.

Also, I ask my colleagues to join me in recognizing the contributions of all police officers like Chief Martin who selflessly work for the good and of their communities, giving of themselves so that we may all enjoy the peace and safety they provide.

HONORING THE ALTO LADY JACKETS

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. HENSARLING. Mr. Speaker, today I would like to honor the Alto Lady Jackets track team who won the Texas 2A High School Track Championship on May 14, 2005. For the third time in three years, the Lady Jackets went down to Austin and returned home with the State Championship trophy.

I would like to recognize teammates Tiffany Hart, Angelitha Dickerson, Monique Hackney, Tashekia Mitchell, Kindal Baugh, Taneshia Pope, Tiffany Griffin, Margo Kahla, and Coaches Mildred Brown and Shanequa Redd. The outstanding team performance of the Alto Lady Jackets was highlighted by gold medals in the 800 and 16,000–meter relays and a silver medal in the 400-meter relay. Additionally Monique Hackney took gold in the long jump, setting a new class 2A record in the process.

As the congressional representative of the families, coaches, and supporters of the Alto Lady Jackets, it is my pleasure to recognize their tremendous victory and outstanding season. This is an accomplishment that these young women will remember for the rest of their lives.

HONORING THE CANTON ROTARY CLUB

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. HENSARLING. Mr. Speaker, today I would like to commemorate two significant anniversaries of Rotary International. On February 23, 2005, Rotary International celebrated its 100th anniversary. From its humble roots in Chicago, Illinois, Rotary International has grown into a worldwide organization of business and professional leaders whose mission is to provide humanitarian service, encourage high ethical standards in all vocations, and help build goodwill and peace in the world. Since 1943, Rotary International has distributed more than $1.1 billion to combat Polio, promote cultural exchanges, and encourage community service.

I also want to provide special recognition to an important member of this outstanding organization, the Rotary Club of Canton, Texas, for their twelve years of service to Van Zandt County. Throughout its twelve year history, the Canton Rotary Club has achieved great successes in carrying out the mission of Rotary International.

In past years, the Canton Rotary Club has raised money to provide scholarships to local students and sponsored programs to improve area literacy. In addition, the Canton Rotary Club has been active in Rotary International's Polio Plus program.

Through these actions, the Rotary Club of Canton, Texas, has exemplified the values of service and charity that lie at the heart of American society. As the congressional representative of the members of this outstanding organization, it is my distinct pleasure to be able to honor them today on the floor of the United States House of Representatives.

HONORING THE TEN TOWNS GREAT SWAMP WATERSHED MANAGEMENT COMMITTEE

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Ten Towns Great Swamp Watershed Management Committee of Morris County, New Jersey, a vibrant organization I am proud to represent! On June 15, 2005 the Trustees and Friends of the Committee are celebrating its Tenth Anniversary.

The Great Swamp Watershed is a 55 square mile region in Morris and Somerset Counties and includes portions of Bernardsville Borough, Bernards Township, Chatham Township, Township of Harding, Long Hill Township, Borough of Madison, Mendham Borough, Mendham Township, the Town of Morristown, and Morris Township.

The Ten Towns Great Swamp Watershed Management Committee was formed in 1995 through an Inter-municipal Cooperative Agreement among the ten municipalities that have lands within the Great Swamp Watershed. Developed under the auspices of the Morris County leadership group, Morris 2000 (now Morris Tomorrow), the Ten Towns Committee was formed for the specific purpose of developing and implementing a watershed management plan for the watershed in the Upper Passaic River basin of northern New Jersey.

Since its formation, the Ten Towns Committee has developed a full range of programs to protect water quality and water resources in the Great Swamp, including: a water quality monitoring program, development of environmental ordinances, and construction of "Best Management Practices" improvements to correct existing non-point source pollution conditions.

The Ten Towns Committee has been recognized as a model in the state of New Jersey and has received awards for its work from the U.S. Environmental Protection Agency and from the New Jersey Department of Environmental Protection.

It has also been my pleasure on several occasions to assist the Association with Federal support which enhances their critical work that both protects this remarkable national asset, the Great Swamp, and protects, for future generations, precious water supplies.

Mr. Speaker, I urge you and my colleagues to join me in congratulating the members of the Ten Towns Great Swamp Watershed Management Committee on the celebration of the Committee's ten years serving the Great Swamp Watershed area. Special praise is due to their dedicated staff and active volunteers who work tirelessly to protect and enhance the Great Swamp National Wildlife Refuge and Wilderness Area.

HONORING THE LIFE OF ARMY SERGEANT CHARLES J. WEBB

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BOEHNER. Mr. Speaker, I rise today to pay tribute to the life and legacy of Army Sergeant Charles J. Webb. As our country honors our military personnel, both past and present, this Memorial Day, I want to take this opportunity to remember those who have sacrificed their lives for our freedom and security.

Sergeant Webb leaves behind the most important legacy any man can leave: a strong and healthy family who knows he loved them with all his heart. His love and commitment to his wife Stephanie is the best testament to his character and to his heart.

Sergeant Webb had aspirations to be a high school History Teacher. He is remembered as a loyal and committed soldier, and I have no doubt he would have extended his sense of duty and commitment to the teaching profession and would have been an effective and motivating teacher.

Mr. Speaker, it is with a heavy heart that I pay my last respects to a young man who was so full of life; to a young man who had a full and bright future ahead of him. I pray Army Sergeant Webb's family and friends find peace in their hearts, knowing his country is grateful and humbled by his sacrifice. I thank our brave men and women in uniform for continuing with our mission in Iraq, which is the ultimate tribute to our fallen soldiers, marines, sailors, and airmen.

Charles, to you I offer my sincere gratitude and my solemn commitment to continue to support your friends, the members of your unit, and the men and women in Iraq who are continuing without you. Thank you for seeing a vision greater than yourself and for the strength of your commitment to our country. God bless you.

PERSONAL EXPLANATION

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Ms. JACKSON-LEE of Texas. Mr. Speaker, because of family illness I missed the following votes: On May 19, 2005 on rollcall vote #190, On Ordering the Previous Question; providing for consideration of the bill (H.R. 2361) making appropriations for the Department of the Interior, environment and related agencies for the fiscal year ending September 30, 2006, and for other purposes; I would have voted "nay."

On May 19, 2005 on rollcall vote #191, On Agreeing to the Amendment to H.R. 2361; the Hefley of Colorado Amendment; I would have voted "nay."

On May 19, 2005 on rollcall vote #193, On Agreeing to the Amendment to H.R. 2361; the Terry of Nebraska Amendment; I would have voted "nay."

On May 19, 2005 on rollcall vote #194, On Agreeing to the Amendment to H.R. 2361; the

Obey of Wisconsin Amendment No. 2; I would have voted "yea."

On May 19, 2005 on rollcall vote #195, On Agreeing to the Amendment to H.R. 2361; the Beauprez of Colorado Amendment; I would have voted "nay."

On May 19, 2005 on rollcall vote #196, On Agreeing to the Amendment to H.R. 2361; the Rahall of West Virginia Amendment; I would have voted "yea."

On May 19, 2005 on rollcall vote #197, On Agreeing to the Amendment to H.R. 2361; the Hefley of Colorado Amendment; I would have voted "nay."

On May 19, 2005 on rollcall vote #198, On Motion to Recommit with Instructions; for H.R. 2361 Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006; I would have voted "yea."

On May 19, 2005 on rollcall vote #199, On Passage; for H.R. 2361 Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006; I would have voted "yea."

150TH ANNIVERSARY OF THE SIGNING OF THE TREATY BETWEEN THE CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION AND THE UNITED STATES GOVERNMENT

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. WALDEN of Oregon. Mr. Speaker, it is a great honor for me to rise today to commemorate the 150th anniversary of the signing of the Treaty between the Confederated Tribes of the Umatilla Indian Reservation and the United States Government. I am proud to represent the people of the Confederated Tribes of the Umatilla Indian Reservation in Congress and am always warmly welcomed when I visit the reservation.

Mr. Speaker, since time immemorial, the people of the Confederated Tribes of the Umatilla Indian Reservation have lived on the Columbia River Plateau. Specifically, their homeland is the area now known as northeastern Oregon and southeastern Washington. The Umatilla Tribes currently have over 2,446 tribal members who continue to care for and live on the land of their ancestors.

On May 28, 2005, the Confederated Tribes of the Umatilla will gather to commemorate the 150th Anniversary of the treaty they signed with the United States Government. For the members of the Umatilla tribes this is an opportunity to remember and honor their ancestors who signed the treaties and to educate their youth and the public about these important documents.

I think it is fitting as we near the anniversary of this treaty to share with my colleagues a little bit of the history of the treaty signing. For nearly three weeks in late May and June of 1855, thousands of Native Americans from the Cayuse, Umatilla and Walla Tribes, along with the Nez Perce, Yakama and some bands of the Colville, all convened in the Walla Walla Valley, Washington Territory for a historic treaty council. During this three-week period the tribes met and negotiated with Washington Territory Governor Isaac Stevens and Superintendent for Indian Affairs of Oregon Territory Joel Palmer.

The agreement that came from this three-week negotiation has been the guiding document between the Umatilla, Cayuse, and Walla Walla people with the United States Government for the past 150 years and thus the Confederated Tribes of the Umatilla, Yakama, and Nez Perce Reservations were created.

Mr. Speaker, I think it is important to note that the Confederated Tribes of the Umatilla Indian Reservation have a long history of strong leadership and continue to preserve their traditional cultures and languages. Their leaders were among the most influential negotiators at the Treaty Council 150 years ago and today the Confederated Tribes of Umatilla are regarded as outstanding leaders within Indian Country.

Their leadership and innovative economic endeavors help lead the way in eastern Oregon and in Indian Country. The Confederated Tribes of the Umatilla Indian Reservation determine their own futures through successfully operating a wide range of their own services and almost all of their Federal programs, including health services, housing, education, police and fire protection, tribal courts, natural resources management and protection, fisheries, administration, and economic development and employ over 1000 people in the region.

Mr. Speaker, I am proud to represent what is today the Confederated Tribes of the Umatilla Indian Reservation and it is an honor to work closely with them to help improve their futures and the futures of all eastern Oregonians.

BIENNIAL BUDGETING AND APPROPRIATIONS ACT OF 2005

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. DREIER. Mr. Speaker, the annual rush to complete action on budget, authorization and appropriations bills not only results in a poor budget process, but also reduces the amount of time available for careful oversight and management of existing Federal programs. During the 31-year history of the Budget Act, Congress has met the deadline for completion of a budget resolution only five times. Since 1953, Congress has been forced to enact continuing resolutions to fund government activities past the end of the fiscal year in every year but four (FY1953, FY1989, FY1995 and FY1997). And according to the Congressional Budget Office, Congress provided $170 billion in fiscal year 2005 appropriations for 167 statutes whose authorizations had expired.

That is why I introduced the Biennial Budgeting and Appropriations Act of 2005, which streamlines the budget process and improves the fiscal management and oversight of government programs by instituting a biennial budget system. Under the bill, the President would submit a two-year budget and Congress would consider a two-year budget resolution and 11 two-year appropriations bills during the first session. The second session would be devoted to consideration of authorization bills, programmatic oversight of government agencies and emergency spending bills. Mr. Speaker, this is a proposal we've entertained in the past, and I believe it deserves another look.

By eliminating repetitive and time-consuming appropriations work, the Congress as a whole and even the appropriations subcommittees would be better able to focus on oversight. This would also contribute to more appropriate funding decisions in biennial appropriation bills and any necessary supplemental/recision legislation. As with oversight, biennial budgeting would allow more time for needed authorization legislation. In addition, the overwhelming appropriations workload every year has upset the intended balance in the role of authorizations and appropriations. Biennial budgeting would help restore the importance of the authorization process.

Preparing for annual appropriations is as much or more of a drain on time and resources for Federal agencies as it is for Congress. It takes nearly three years for the Administration and Congress to produce and implement one annual budget. As a result, a great deal of time and manpower are diverted from managing existing programs, leading to delays in reform implementation and creating a slower and more bureaucratic government. Biennial budgeting would provide Federal agencies more time for program oversight, increasing agency efficiency and providing them with more stable and predictable budgets. In addition, Congress would be able to exercise better oversight over them.

As recently as World War II, all but four States had biennial budgeting. The growing dependence on annually appropriated big-government programs, however, helped move many to change to annual cycles. Although this trend has reversed in recent years (today, 21 States have biennial budgets), biennial budgeting at the Federal level would help States return to this commonsense process. Even if States retain annual cycles, they will benefit from more stable and predictable Federal funding.

Mr. Speaker, I urge all my colleagues to support the Biennial Budgeting and Appropriations Act of 2005. It will provide a starting point for discussions on how to improve the budget process and foster improved governance for the American people.

CONGRATULATING THE ST. MARY'S HIGH SCHOOL GIRLS' LACROSSE TEAM

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. CARDIN. Mr. Speaker, I rise today to pay tribute to the St. Mary's High School girls' lacrosse team of Annapolis, Maryland in honor of its 2005 Interscholastic Athletic Association of Maryland (IAAM) A1 Conference Championship.

This remarkable team, the Saints, culminated a season of phenomenal play by defeating Anne Arundel County rival Severn School in a tightly contested game by a score of 7 to 6 to bring home the championship for the first time in 9 years. This season these young ladies played some of the best high school lacrosse teams in the Nation.

In just her third year as Head Coach of the Saints, Sue Chittim is to be congratulated along with her assistant coaches, Megan Lewis and Steve Clarke, for their ability to motivate and inspire their players with a positive attitude to play unselfishly as a team. The success of the Saints' lacrosse program is a true credit to Coach Chittim's vision and ability as a coach. As the IAAM tournament began, Coach Chittim's mantra for her team was, "Don't tell me how rough the waters are . . . just bring in the ship."

The Saints 4 seniors, Kelly Gaudreau, Bri Gauthier, Mindy Jones, and Bridget Noon, played their final high school lacrosse game as true champions and undoubtedly all season long were role models for their underclass teammates.

The remaining players, Sarah Beckstead, Alex Bertrand, Christian Carr, Caroline Cochran, Laura Ford, Devon Kelly, Morgan Kelly, Alex Kuntz, Jessica Liberto, Stephanie Murtha, Erin O'Donovan, Allison Perkins, Jackie Proch, Kelly Reid, Mary Ruttum, Kim Schindel, Samantha Schrum, and Erika Welck, contributed immensely to the success of the Saints season and all deserve recognition for their exceptional achievement.

Mr. Speaker, I ask that all of my colleagues join me in congratulating the St. Mary's High School girls' lacrosse team on its exceptional season and 2005 IAAM A1 Conference Championship.

HONORING THE LIFE OF MARINE LANCE CORPORAL TAYLOR B. PRAZYNSKI

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BOEHNER. Mr. Speaker, I rise today to pay tribute to the life and legacy of Marine Lance Corporal Taylor B. Prazynski. As our country honors our military personnel, both past and present, this Memorial Day, I want to take this opportunity to remember those who have sacrificed their lives for our freedom and security.

Lance Corporal Prazynski leaves behind a legacy of honor, service, and inspiration to his family, to his friends, and to men and women who never had a chance to know him. His family and friends remember him as a jovial and compassionate man who was committed to bringing freedom and democracy to the Iraqi people and security to the American people.

Lance Corporal Prazynski also leaves behind a legacy of compassion from his work with his handicapped classmates while attending Fairfield High School. His interest in becoming a special education teacher illustrates his strength of character, and based on his reputation for being hard-working and dedicated to accomplishing his goals, I have no doubt he would have been an effective teacher and mentor.

Mr. Speaker, it is with a heavy heart that I pay my last respects to a young man who was so full of life; to a young man who had a full and bright future ahead of him. I pray Lance Corporal Prazynski's family and friends find peace in their hearts, knowing his country is grateful and humbled by his sacrifice. I thank our brave men and women in uniform for continuing with our mission in Iraq, which is the ultimate tribute to our fallen soldiers, marines, sailors, and airmen.

Taylor, to you I offer my sincere gratitude and my solemn commitment to continue to support your friends, the members of your unit, and the men and women in Iraq who are continuing without you. Thank you for seeing a vision greater than yourself and for the strength of your commitment to our country. God bless you.

TRIBUTE TO CIVIL WAR VETERAN ELISHA JOHNS

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Civil War Veteran Elisha Johns, who received the Congressional Medal of Honor for his courage and valor as a Corporal during the Battle of Vicksburg, Mississippi. This Saturday, May 28th, the Porter Township Board and the folks of Union, Michigan will honor Mr. Johns during a ceremony at his gravesite in Plum Grove Cemetery.

Elisha enlisted with the Union Army on August 9th, 1862, with whom he served until his discharge on June 6, 1865. After his enlistment, his leadership and courage was recognized by his superiors as he was made Corporal and promoted to Sergeant soon thereafter. His true valor was demonstrated on May 22, 1863, the date he earned the Congressional Medal of Honor.

It was the beginning of the Battle of Vicksburg, Mississippi and there was a call for volunteers to bridge a dike that was essential for a Union victory. Corporal Johns was one of 150 men that felt called to duty and valiantly set out to construct the bridge. Before they succeeded in bridging the dike, two-thirds of Elisha's fellow soldiers were shot and unable to go on. However, Corporal Johns and his peers boldly continued, while under intense Confederate fire, only to find his supporting soldiers had retreated. As it was early in the day, and military support lacking, Elisha was forced to hide along the base of the dike until darkness fell, when he was able to successfully get back to the Union lines. Forty years after his brave act, Corporal Johns was awarded the Congressional Medal of Honor.

As we come together as a Nation this Memorial Day, we honor the heroes of yesterday like Elisha Johns, who gave so much to our great Nation, and to honor those brave men and women of our armed forces who are on the front lines today, sacrificing so much in the name of freedom.

I commend all the folks of Union, Michigan, who are committed to preserving the history of our veterans, such as Corporal Johns, so generations to come will remember the sacrifices of their forefathers that played such a vital role in making our great Nation.

THE TRAGIC PASSING OF NEALE CHANEY SLATER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. HOYER. Mr. Speaker, late last month—on April 25, 2005—the family and friends of Neale Chaney Slater, the community of Mechanicsville, and the State of Maryland suffered a devastating loss when this caring and accomplished young man was struck down just as he was preparing to enter the prime of his life.

While driving out to help a local farmer, Neale, 20 years old, was killed in a tragic two-vehicle accident on Route 5 in Hughesville.

Yet, in such a short period of time, Neale gave so much to so many others.

At the age of 16, Neale joined the Mechanicsville Volunteer Fire Department, and had held the office of assistant secretary and treasurer.

Neale was a Firefighter II and certified emergency medical technician, and was recognized by his peers with the Mechanicsville Volunteer Fire Department as "Rookie of the Year" in 2001. He also was awarded Fire Prevention Awards in 2001 and 2002.

"He told me he was following the family tradition," said Willie Wilkerson, president of the department, noting that Neale's grandfather and uncle had also been members of the department. "For such a short life, he got a lot accomplished."

That, in fact, is an understatement.

Neale was a 2003 honors graduate of the Leonard Hall Junior Naval Academy in Leonardstown, where he achieved the rank of Battalion Commander in his junior and senior years.

He also was awarded Midshipman of the Year in 2001, 2002, and 2003, and was also awarded the Military Excellence, Headmaster's and Loyalty Awards at graduation.

Clearly, Mr. Speaker, this was an exceptional young man—a young man who envisioned a career in public service early on.

At the time of his passing, Neale was a Cadet in the Maryland State Police, which he joined in 2003. This coming fall, he was set to join the State Police Academy.

Without question, Neale embodied the best this country has to offer through his dedicated public service, his educational achievements, and the respect he had earned from all who knew him.

Neale was held in high regards by the community he served, and rightly so. Colonel Thomas E. Hutchins, Secretary of the Department of State Police, said that Neale was "a young man with a strong work ethic who was committed to doing his best in every mission he undertook."

Mr. Speaker, the passing of one's child, particularly one with so much to contribute to his community, his State and his Nation is as painful as it is incomprehensible.

Today, I want to extend my deepest sympathies to Neale's parents, Eleanor Fowler Slater and Austin Joseph Slater, Sr., as well as all of his family members and friends.

I realize that these words are small solace. But I hope the Slaters, in time, find some comfort in the fact that they raised a truly fine young man who will be sorely missed and never forgotten.

The Slaters have established the Neale Slater Memorial Fund in his honor at the Leonard Hall Junior Naval Academy for a graduating senior intending to enter law enforcement.

I know the recipients of this scholarship will always be inspired by the example set by Neale, and the extraordinarily positive impact he had on his community will be felt for generations to come.

TRIBUTE TO HEROES OF THE OREGON MOUNTAIN RIVER CHAPTER OF THE RED CROSS

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to pay tribute to the courageous men and women being honored on June 1, 2005 by the Oregon Mountain River Chapter of the Red Cross's inaugural Real Heroes ceremony in Bend, Oregon, which I will be honored to be part of. These men and women set themselves apart through selfless acts of heroism and kindness toward others. I would like to share the stories that depict their unwavering commitment to their fellow citizens and their calm and collected action in the face of great challenge.

Mr. Speaker, Matthew Zedwick is one of the many courageous men and women who have served our country in Iraq as a member of the Oregon National Guard. On June 13, 2004, his quick action under pressure saved the life of his comrade, Sgt. Sean Davis. Sgt. Zedwick was driving a Humvee when two roadside bombs exploded near his convoy. Despite being wounded by shrapnel, Sgt. Zedwick dragged Truck Commander Sgt. Davis safely from a burning vehicle and then returned to the vehicle under heavy enemy fire in an attempt to retrieve the body of Spc. Eric McKinley, who had been killed in the blast. While he was unable to retrieve Spc. McKinley, he was able to retrieve a radio and call for help. His quick thinking and courage under fire saved his own life and the life of Sgt. Davis. For his actions, Sgt Zedwick became the first Oregon National Guardsman since World War II to be awarded the Silver Star medal and a Purple Heart for his valor.

Jordan Bilyeu is another hero who endured the devastation of the Tsunami that struck the Indian Ocean in December of 2004. While vacationing in the Phi Phi Islands, off the shore of Thailand, Jordan was swept up in the water that unexpectedly came crashing toward the beachgoers. Jordan clung to a palm tree while riding out the worst of the Tsunami and eventually was swept into the third story of a nearby hotel. During this ordeal, Jordan was able to assist in the rescue of a woman who lost her legs who had also been pulled into that hotel room, and worked to assist others who had been injured in this tragic natural disaster.

Mr. Speaker, in Deschutes County we owe thanks to several heroes for their quick action at work. On September 13, 2003, Al Ewing's, Corky Metteer's, Tim Wiley's, and Adam Carpenter's emergency efforts saved the life of Stu Martinez when he lapsed out of consciousness. Stu's colleagues quickly ran to his rescue and performed CPR techniques until medical help could arrive. These employees at Wilderness Garbage in La Pine were prepared to react after taking critical life saving and CPR classes administered by the Oregon Mountain River Chapter of the Red Cross one month before.

Deschutes County District Attorney Mike Dugan is another hero who helped avert another tragic accident on the job and saved the life of a young boy in the Deschutes County Courtroom. When a young child started choking on a large piece of candy, District Attorney Dugan rushed to assist the child and used an abdominal thrust technique to dislodge the candy from his throat. The entire episode took only a few seconds, but it is an act that this young child will remember for the rest of his life.

Kathleen Krahmer is a hero whose day-to-day efforts impact the lives of many in her community. On May 23, 2005, Kathleen donated her 57th pint of blood, for an astonishing total of more than seven gallons of blood donated to the Red Cross. Not only is Kathleen a blood donor, but every winter she knits hats and donates them to local schools or to the Bethlehem Inn, a homeless shelter in Bend. This, Mr. Speaker, is just the beginning of her service to others. She is actively involved in the Sparrow Club, an organization that helps critically ill children, and has helped collect money for the Tsunami Relief program. As a teacher she is an inspiration and exemplary example to her students and her fellow citizens and has shown that countless acts of kindness truly do make a significant difference.

Mr. Speaker, the next individual I'd like to honor demonstrates that you can be a hero at I any age. Spencer Brennan has already made a significant impact on those around him at the age of 14 and I'm sure that his tradition of helping others will continue for many years. As a young child Spencer fell very ill, but he battled back to overcome his illness and never gave up during his most difficult challenges. Now, he works for the benefit of other children as a 'volunteer for the Sparrow Club. For the last two years, Spencer has worked to raise money for the Sparrow Club and to support other children who face medical crisis. For his service, he was awarded the prestigious "Dameon Award" for his compassion, courage, character and conscience.

The next hero I would like to highlight, Kim Meeder, is an individual who has worked very hard to make a difference in the life of troubled teens, abused kids and adults across Oregon and our nation. The work being done by Kim and her husband Troy at the Crystal Peaks Youth Ranch is tremendous. Kim has helped pair abused and neglected horses with troubled individuals seeking solitude and comfort. The ranch gives these individuals a place to rekindle their spirits and recover from the problems of their past.

Mr. Speaker, let me conclude by talking about a collaborative effort in central Oregon that provides medical coverage for those without coverage. Since opening just over a year ago, the Volunteers in Medicine Clinic has completed approximately 5,000 free examinations in Deschutes County. Three of these volunteers have gone above and beyond the call of duty. Dr. Tom McGranahan, a retired anesthesiologist, has worked over 600 hours assisting doctors and training others in the use of new electronic medical records while serving as the clinic's resident computer expert. Cindy Cocanower, an area pharmacist, has utilized her expertise so the organization can provide medications at little or no cost to VIM patients. She has donated over 200 hours of her time and expertise and spent countless hours working on similar endeavors outside the clinic. Sharon Lichti, a retired college professor, has been the lead volunteer charged with training dozens of new volunteers since the opening of the clinic. The contributions of these individuals have provided medical coverage for many uninsured individuals throughout central Oregonian, and we owe them a debt of gratitude.

Mr. Speaker, the individuals being honored on June 1 demonstrate that each of us can be a hero in our community and we are grateful for all that they've done and continue to do.

CELEBRATING HAL AND TINA SMITH FOR 65 YEARS OF MARRIAGE

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. PORTER. Mr. Speaker, I rise today to recognize Hal and Tina Smith for the dedication they have shown to each other over their 65 years of marriage.

On June 1, 1940, Hal Smith and Tina Ball were married. Through 3 children, 8 grandchildren and 4 (soon to be five) great-grandchildren, they have been a shining example of unconditional love and mutual respect for each other and those they come to meet.

This dedication to, and respect for, each other has been the key to a successful marriage for all these years. During their life together, they have raised a beautiful family—a family strengthened by the strong morals and humanistic values they embodied for their children.

They have lived their lives free from regret and have persevered and overcome any trial that has come their way. Hal and Tina have always held family to be paramount and have engendered this legacy of love in their children.

Aside from the strong family values that they have demonstrated, they also have a love of travel, and they have always emphasized the importance of learning and education in their family, which echoes their strong belief that they must leave this world a better place than they found it. Tina expressed this through her work with museums; Hal through his political career.

Mr. Speaker, these 2 individuals have been like a second set of parents to my wife, Laurie and I. They are a very important part of our lives. Their great influence has been a constant in our lives as they have loved and supported us over the years and throughout my political career. We are proud to be among the privileged group they call their friends. Their commitment to each other and to their community is deserving of recognition and honor, so it is a pleasure for me today to salute this marvelous couple. I encourage all of my colleagues to salute such wonderful examples of family values, like Hal and Tina Smith.

DISCUSSING THE PERILS OF CAFTA WITH LEGISLATORS FROM CENTRAL AMERICAN COUNTRIES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. KUCINICH. Mr. Speaker, today I welcomed legislators from Central American countries to discuss the perils of CAFTA. I submit my opening remarks for the RECORD.

Thank you all for coming to this important briefing on how the Dominican-Republic Central American Free Trade Agreement was passed in El Salvador, Honduras and Guatemala. I would like to thank Congressman Becerra for hosting this briefing with me, and of course, the Central American legislators for traveling up here to share their experiences with us.

There are innumerable reasons to oppose CAFTA, in the United States and in Central America. Governments will have little to no control over the investments of foreign companies, and foreign investors will not have to comply with International Labor Organization standards when they invest in Central American business ventures. Workers' rights will be undermined, especially for women workers, farmers and maquilla workers. The current labor rights abuses prevalent in some Central American countries will run rampant under CAFTA's weak labor provisions. Countries will enjoy greater tariff benefits for goods made by workers whose rights have been denied.

Family farms in Central America will fall victim to CAFTA, which will threaten locally grown produce and undermine food security for Central Americans. Basic public goods and services, such as education, health care and water will become privatized, as governments will lose the flexibility to subsidize these services. Expensive brand-name drugs will have expanded patents, and inexpensive generic medicines will have greater restrictions. Poor people will not have access to life-saving pharmaceuticals.

Yet these concerns could not be fully considered or debated by lawmakers in Honduras, Guatemala and El Salvador. CAFTA was brought up suddenly, in the wee hours of the morning, with no public notice, and many lawmakers did not get the chance to investigate what they were voting on. Is this how far-reaching legal reform bills should be considered? Of course not. And the real story of how CAFTA was pushed through the legislatures of Central American countries will undercut any legitimacy its ratification may have.

Please join me in welcoming the lawmakers who opposed CAFTA in their respective legislatre assemblies when it was considered, and who have traveled here to continue to oppose CAFTA. Let me introduce: Diputada Doris Gutierrez, from Honduras; Diputado Victor Manuel Sales, from Guatemala; Diputado Hugo Martinez, from El Salvado; and Diputado Salvador Arias, from El Salvador.

MEMORIAL DAY AND HONORING THE SACRIFICE OF AMERICA'S VETERANS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. ENGEL. Mr. Speaker, this Memorial Day we will once again mark a day of remembrance for those who have died while serving our Nation. Memorial Day is a single day of national awareness and reverence, honoring those Americans who died while defending our Nation and its values. While we should remember their sacrifice every day, a special honor is reserved for Memorial Day.

More than a million American service members died in the wars and conflicts this Nation fought since the first colonial minutemen took up arms in 1775 to fight for independence. Each soldier who died during those many battles was a loved one cherished by family and friends. Each was a loss to the community and the Nation.

While this Nation can never fully repay those who have made the ultimate sacrifice for their country, I believe the United States must continue to do more to honor our brave soldiers, veterans and our military families. Their sacrifices are the foundation of our Nation's freedom.

During my years in Congress, I have consistently given high priority to the interests of our country's veterans. I feel strongly that protecting veterans' rights and benefits is the least we can do for those who have devoted years of their lives in service to our Nation. Only by providing the best possible resources and facilities and fully compensating veterans for disabilities, can we repay the dedication of service personnel who sacrificed for their country.

One area in which adequate funding is absolutely necessary for veterans is health care. The lack of sufficient resources in our VA hospitals has reduced the ability of medical professionals to provide quality care. Our budget should be a reflection of our national priorities and yet this year the House Leadership cut veterans healthcare by $13.5 billion.

It is critical that we fulfill our moral obligation to honor our Nation's veterans with the health, education and retirement benefits they have earned through their service. I have joined my colleagues in introducing a new GI bill, endorsed by the American Legion and the Disabled American Veterans, to improve benefits for men and women in uniform today and provide long overdue benefits for the veterans and military retirees who have already served. It will help members of the National Guard and Reserve, as their service in Iraq and Afghanistan has been above the call of duty, and will improve veterans' health care by increasing resources, bolstering mental health care for returning soldiers and blocking prescription drug co-payment increases.

So, on this Memorial Day, let us never forget that we in this country owe a great debt of gratitude to those who sacrificed their lives so that we could live free. We can start to pay that debt by remembering what they did and what they stood for, and by promoting policies that honor their service and reflect the values of our grateful Nation.

HONORING THE LIFE OF ARMY PRIVATE FIRST CLASS MARLIN T. ROCKHOLD

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. BOEHNER. Mr. Speaker, I rise today to pay tribute to the life and legacy of Army Private First Class Marlin T. Rockhold. As our country honors our military personnel, both past and present, this Memorial Day, I want to take this opportunity to remember those who have sacrificed their lives for our freedom and security.

Private First Class Rockhold leaves behind the most important legacy any man can leave: a strong and healthy family who knows he loved them with all his heart. His love and commitment to his wife Davonna, and his desire to adopt and nurture their daughter Therashia is the best testament to his character and to his heart.

Private First Class Rockhold's joy for life and his commitment to the men and women he served with are remembered by his family, his friends, and his fellow soldiers. He used his incredible sense of humor and memorable smile to ease the worries, fears, and disappointments of those around him. His positive attitude will remain in the hearts of those who knew and loved him.

Mr. Speaker, it is with a heavy heart that I pay my last respects to a young man who was so full of life; to a young man who had a full and bright future ahead of him. I pray Army Private First Class Rockhold's family and friends find peace in their hearts, knowing his country is grateful and humbled by his sacrifice. I thank our brave men and women in uniform for continuing with our mission in Iraq, which is the ultimate tribute to our fallen soldiers, Marines, sailors, and airmen.

Marlin, to you I offer my sincere gratitude and my solemn commitment to continue to support your friends, the members of your unit, and the men and women in Iraq who are continuing without you. Thank you for seeing a vision greater than yourself and for the strength of your commitment to our country. God bless you.

WEST PHILADELPHIA HIGH SCHOOL TAKES TOP HONORS IN TECHNOLOGY COMPETITION

CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. FATTAH. Mr. Speaker, I rise today to recognize the West Philadelphia High School for taking top honors in the Technology Competition at the National 2005 Tour de Sol.

The National 2005 Tour de Sol, a nationwide competition, allows students and entrepreneurs to showcase their efforts to design vehicles that approach zero carbon emissions and use renewable fuels. The Tour de Sol highlights the largest innovations in alternative-energy technology and advanced fuel vehicles, showcasing the future of the clean-energy and transportation industry. The cars are put through rigorous tests to assess emissions, fuel economy, and other technical standards.

The Tour de Sol provides a key platform for vehicle manufacturers, students, and entrepreneurs to demonstrate future designs and current products that aim to reduce oil and carbon emissions to zero. This year, over a dozen teams from all over the United States and Canada participated in the Tour de Sol Championship, which began in 1989. The competition aims to inspire students and businesses to design, build, showcase, and use concept vehicles that push the envelope and work toward the ultimate goal of the event.

The winner of the coveted "Greenest Vehicle" was awarded to one of the only high school teams to enter the competition, West Philadelphia High School, for their electric car called The Saturn. The team beat university and private teams from around the country for developing a vehicle that demonstrates high energy efficiency. The Saturn ran the equivalent of 280 miles per gallon of gasoline, with a greenhouse gas reduction of nearly 80 percent.

I salute the students, faculty and team sponsors who worked tirelessly over the past two years to construct a hybrid vehicle that uses biodiesel fuel instead of gas to create a cleaner environment. I applaud your efforts and congratulate you on a winning design that makes all Philadelphians proud.

RENEWAL OF IMPORT SANCTIONS ON BURMA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. LANTOS. Mr. Speaker, fifteen years ago tomorrow, the political party of Burmese democracy leader Aung San Suu Kyi won a historic victory in elections called by the Burmese ruling junta to legitimize their brutal rule. Suu Kyi's National League for Democracy won 82% of the vote, but the Burmese government refused to convene the new parliament and has since engaged in a campaign of terror and intimidation of the political opposition.

Last year, the House of Representatives voted 372–2 to renew the import sanctions against Burma contained in the Burmese Freedom and Democracy Act of 2003. H.J. Res. 97 was signed into law on July 7, 2004.

Import sanctions on Burma must be renewed by July 2005, or Burmese products will flow once again to the United States. For that reason, I join today with Ways and Means Committee Chairman Bill Thomas, Representative Peter King, and 40 other Members of Congress in introducing legislation to again renew import sanctions on Burma.

Unfortunately, the case for a tough approach toward Burma, including a comprehensive import ban, is even stronger today than last July. Just a few short weeks ago, the United Nations Human Rights Commission in Geneva overwhelmingly approved a resolution on Burma, attacking what it called "the systematic ongoing violation of human rights" by the ruling junta. In its annual Human Rights Report, the State Department charged that the Burmese Government has subjected its citizens to torture, arbitrary arrest, forced and child labor, and the use of rape as a weapon of war.

Meanwhile, unless the brutal ruling junta in Rangoon changes its stripes over the next several weeks, Nobel Laureate Aung San Suu Kyi will celebrate her 60th birthday under continued house arrest, prevented from speaking directly to the Burmese people who support her battle for democracy and human rights.

The tough approach maintained by the United States towards Burma, including import sanctions, may also be encouraging other nations to reconsider their lenient views to the Rangoon regime. Key member nations of the Association of South East Asian Nations (ASEAN), for the first time, have strongly criticized Burma as it prepares to assume the rotating chairmanship of the 10-member group in 2006. Last November, the European Union itself strengthened its Burma policy in response to ongoing human rights violations. In both instances, the strong stand of the United States has stiffened backbones and increased the prospects that a multilateral sanctions regime against Burma is possible.

The import sanctions renewal legislation is also completely consistent with the tough line towards Burma taken by both Democratic and Republican Administrations. On May 17th, President George W. Bush extended the Executive Order first imposed in 1997 which prohibits new U.S. investment in Burma. Just three days ago, the State Department told Congress that U.S. sanctions against Burma "represent a clear and powerful expression of American opposition to the developments in Burma" and are "a key component of our policy in bringing democracy to Burma."

Congress must act decisively by the end of July to renew import sanctions against Burma and send a strong signal of support for the restoration of democracy and human rights in that impoverished nation. I would encourage my colleagues to cosponsor this important piece of legislation.

RECOGNIZING AMERICAN STROKE MONTH

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. CUMMINGS. Mr. Speaker, I request that you join me today in recognizing May as American Stroke Month.

In doing so, we are presented with an opportunity to educate one another about the shattering effects of stroke that leave no American community unscathed.

Stroke, the third leading cause of death in our nation, is caused by an interruption of blood flow to the brain from a blood clot or ruptured blood vessel. Every 45 seconds someone in America suffers a stroke, and every 3 minutes someone dies from one. Over 700,000 Americans of all ages, ethnicities, and gender suffer new or recurring strokes each year, taking the lives of more than 160,000 people.

For those who survive an attack, the consequences of a stroke can be emotionally and physically devastating, often leaving victims with speech problems, impaired thinking, and paralysis. Over half of all stroke survivors must live with a disability. With 4.8 million stroke survivors, stroke is the leading cause of serious, long-term disability in the United States.

Many of us possess an image of stroke as a catastrophic, uncontrollable event that can be neither prevented nor treated. However, given adequate resources and education, nearly 80 percent of all strokes can be prevented, and many others can be effectively treated.

High blood pressure, elevated cholesterol levels, smoking, a lack of physical activity and obesity have all been linked to increased susceptibility to stroke. Diabetes increases the risk of stroke by a factor of three. By controlling our medical risks with a healthy lifestyle and regular medical care, particularly among African Americans who are hardest hit by cardiovascular disease and diabetes, we can significantly decrease our chances of suffering a stroke.

Surviving a stroke with little or no disability is possible. Understanding the symptoms of a stroke, and taking immediate emergency action by calling 9–1–1, is crucial to a chance for full recovery. Rapid administration of clot-dissolving drugs, if delivered within the first 3 hours of the onset of stroke symptoms, can greatly improve a patient's chances for recovery.

Unfortunately, Mr. Speaker, a majority of Americans are not aware of their risk for a stroke, nor are they aware of the signs and symptoms of an impending stroke. Hospitals and emergency medical services are not organized to maximize the benefits of available treatments. The average time between the onset of symptoms and medical treatment is far too long, averaging an astounding 13 hours. Fewer than 5 percent of stroke patients receive potentially lifesaving clot-dissolving medication. Many stroke patients do not receive preventive care, such as cholesterol screening and smoking cessation counseling, before leaving the hospital.

What can we do to help? We can start by encouraging our family, friends and fellow citizens to simply ask their doctors, "Am I at risk for a stroke?" and "What do I do if I have a stroke?" Education is power, and it can preserve crucial moments that mean the difference between death or a life of disability, and a healthy future.

We can also support legislation like the STOP Stroke Act, H.R. 898, a bill sponsored by my good friends Representatives LOIS CAPPS and CHARLES PICKERING of which I am proud to be a cosponsor. This bill would authorize initiatives to help patients with symptoms of stroke receive timely and thorough care, and would establish campaigns to raise public awareness of stroke prevention and treatment. I urge my colleagues to cosponsor this critical legislation.

Mr. Speaker, improving systems of stroke care and increasing awareness and education of stroke treatment and prevention will help ensure that all stroke patients have access to the best available, timely treatment. On behalf of the millions of Americans currently at risk or living with the consequences of stroke, I urge us to do everything in our power to help save lives and educate the public about this devastating disease.

RECOGNIZING THE FIRST YEAR OF CHEN SHUI-BIAN'S PRESIDENCY OF TAIWAN

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. SHAYS. Mr. Speaker, for the people of Taiwan this month marks the close of the first year of President Chen Shui-Bian's second term in office.

President Chen's leadership has received praise around the world because he is actively seeking a dialogue with China that will promote peace and stability in cross-strait relations. He has supported Taiwan's opposition leaders' visit to China and indicated that he would welcome feedback on safeguarding the democracy and sovereignty of Taiwan.

Taiwan and the United States share the values of freedom, human rights, and democracy and work together politically and economically. Currently the United States is Taiwan's largest trading partner, with more than 270 direct flights between the United States and Taiwan every week. There are more than 28,000 Taiwanese students currently studying in the United States. We hope these trends will continue under the leadership of President Chen.

Taiwan is currently seeking to be a World Health Assembly observer this year. Its 23 million people need access to the services provided by the World Health Organization (WHO). Excluding Taiwan from the WHO both jeopardizes the health of the Taiwanese people and keeps the rest of the world from benefiting from the health care resources and expertise Taiwan has to share.

I applaud the Administration and Congress in its support of Taiwan's bid to become a World Health Assembly observer and wish President Chen and the people of Taiwan success this year.

PERSONAL EXPLANATION

HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 26, 2005

Mr. WESTMORELAND. Mr. Speaker, during an amendment vote on H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006, rollcall Vote 184, Representative HOOLEY's Amendment, an amendment numbered 13 printed in part B of House Report 109–84 to prohibit any of the money in the DHS authorization bill to come from an increase in airline ticket taxes I inadvertently voted "no" when I meant to vote "yes." I would like to add this statemnt to the RECORD to reflect this.

SENATE—*Monday, June 6, 2005*

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, creator and sustainer of the universe, take the misshapen clay of our lives and remake us into vessels fit for Your use. Remind us that we may make plans, but You have the final word.

Help us to remember that even when we think we are right, You judge our motives. Give us the wisdom to share our plans with You so that You will order our steps.

Today, bless all who labor in the legislative branch of Government. Deliver us from pride and help us to avoid evil paths. Remind us that our No. 1 priority should be to please You. Empower each Senator to embrace honesty and truth as he or she seeks to keep America strong. We pray this in Your holy Name.

Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JANICE ROGERS BROWN TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of Calendar No. 72, which the clerk will report.

The assistant legislative clerk read the nomination of Janice Rogers Brown, of California, to be United States Circuit Judge for the District of Columbia Circuit.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, I have just a few announcements and then I will have a short statement. We will have a full day of debate today on the nomination of Janice Rogers Brown. To allow for an orderly debate, I now ask unanimous consent that following the remarks of myself and the Democratic leader, the chairman of the Judiciary Committee be recognized to speak. Further, I ask that the time from 3 to 4 be under the control of the Democratic leader or his designee, and the time from 4 to 5 be under the control of the majority leader or his designee. I further ask that the time from 5 to 5:30 be under the control of the other side of the aisle, and the time from 5:30 to 6 be under the control of the majority.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, as a reminder to our colleagues, the cloture vote on the Brown nomination is scheduled for noon tomorrow. I hope and expect that cloture will be invoked at that time and that we will be able to move quickly to an up-or-down vote on her nomination. The Democratic leader and I will be talking shortly this afternoon and will make more specific plans in terms of voting times and give some idea of how quickly we can move with other nominations.

We do have another cloture vote on the Pryor nomination, which would immediately follow the up-or-down vote on Janice Rogers Brown.

In addition to those judicial nominations, we have agreements to debate and vote on of two Sixth Circuit judicial nominations, as well as one DC Circuit Court nominee. This week, we may also reconsider the vote with respect to the Bolton nomination. As you can tell, we have a very busy week as we return from recess. I thank our colleagues in advance as we move through these issues.

Mr. President, I will have a brief opening statement as well, but I now yield to the Democratic leader.

Mr. REID. Mr. President, I thank the majority leader. We do have our week cut out for us. I think the Republican leader and I will get together later today to try to make a decision as to what we are going to do later. If we get through this block of judges that the leader talked about, we should be in pretty good shape to move on to other things and take the judges on a more regular basis, not eating up so much time. This is something the leader and I will discuss.

We have a work period of 4 weeks, so there is much we have to do because, as the Presiding Officer knows, we are entering the appropriations process time, which is always very hectic. We need to turn to that as soon as we can. I hope we can move through the appropriations bills one at a time and not have to do an omnibus or a continuing resolution. That would be better for individual Senators, our States, and our country.

As I have said, we have devoted a lot of time to this situation on judges. After this week, we should be able to move on to other items. I hope so.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. Mr. President, I welcome our colleagues back from the Memorial Day recess. I know everybody enjoyed spending time with family and friends and constituents, reconnecting with the people we serve. It is always a very busy time during a recess period, and this particular recess period, because it was the Memorial Day recess, where everybody did take that day—or several days or moments on several days—to pause and honor the brave Americans who made the ultimate sacrifice in the course of their service to our Nation and in the cause of liberty.

In addition to Memorial Day, it was a time of graduations, a time of commencements for students, whether it be from elementary school, middle school, high school, college, or graduate school. A number of our colleagues participated—I am sure most colleagues participated in graduation ceremonies at all of those levels over the last couple of weeks.

I also hope that last week was a time when people rested and recharged their batteries because, as was just implied in the remarks of the Democratic leader and myself, we have a very busy 4 weeks ahead of us. We have a lot of work to do in a very short period of time before we have the Fourth of July recess.

Today, we will continue, shortly, to debate the nomination of Janice Rogers Brown to the DC Circuit Court of Appeals. After having been delayed for 2 years by partisan obstruction, she will finally receive a fair up-or-down vote—something she deserves. It will be this week on the floor of the Senate. So I am very pleased because that demonstrates real progress in this body. So after 2 years of partisan obstruction, she is going to receive an up-or-down vote.

The President made a great choice in selecting Judge Brown to serve on the Federal bench. I have had the opportunity to meet and spend time with Judge Brown personally and have studied her record. She is a woman of great accomplishment and talent. She is tough, smart, and principled. Her story is nothing short of remarkable.

From humble beginnings as a sharecropper's daughter in segregated Alabama, Janice Rogers Brown has climbed to the peaks of the legal profession. She was educated in segregated schools and worked her way through college and law school. She went on to serve in prominent positions in California State government.

Today, Janice Rogers Brown is a justice on the California Supreme Court, the first African-American woman to serve on California's highest court. Her fellow California judges, both Democrat and Republican, have called her a "superb judge" who "applies the law without favor, without bias, and with an even hand."

The people of California believe she is doing a great job. They reelected her with 76 percent of the vote, the highest voting percentage of all of the justices on the ballot.

The Senate will have a spirited debate on Justice Brown's nomination, but I hope Senators will remember that this is about treating nominees with fairness. Nominees deserve not only a fair up-or-down vote but to be treated fairly during the debate. Civility is more than a word. It is a value we must all work to uphold in our deliberations, and may that be respected on the floor of the Senate.

Before the recess, the Senate voted up or down on Justice Priscilla Owen and she was confirmed. I hope this progress will continue with Justice Brown this week and with Judge Pryor this week, as well as future nominees. We should have a very positive week on judges. As long as that progress continues, a process that continues to give these up-or-down votes, gives these nominees the consideration they deserve, not blind obstruction of the Constitution, the constitutional option, of course, will not be needed.

Our job as Senators is to govern with meaningful solutions, and we must always remain focused on that larger picture of making America safer and stronger and more secure. That is why it is imperative that we address matters such as America's intolerable dependence upon foreign oil. We have gone on for more than a decade without a comprehensive national energy policy. It is time now to change that. As a result, we have become dependent on foreign sources of oil, putting our security and our economy at risk. That is too long. It is time for us to act now—not just talk about it—for families worried about gas prices as they anticipate summer driving, for families who have to sacrifice next winter to pay their heating bills. They expect us to act, and we will in this body on the floor of the Senate and deliver for the American people.

We must diversify our sources of energy and balance new production with conservation and development of renewable resources.

We must do so in a way that reduces our reliance on foreign sources—by increasing America's domestic production of clean coal, oil, and gas, nuclear, solar, ethanol, and other renewable energy sources—a comprehensive energy plan that will make America safer and more secure and will inject much needed jobs into the economy.

I thank Chairman DOMENICI and Senator BINGAMAN for their hard work and for working together to get this bill out of committee and ready for the floor on a strong, bipartisan vote.

I am confident that we can move forward in the same bipartisan spirit on the Senate floor to move this bill quickly and get it to conference with the House and have it on the President's desk for his signature.

America needs an energy policy that reflects our modern economic and security challenges.

In the days ahead, we will address the Energy bill and we will complete action on the highway bill, which is currently in conference. As soon as that conference completes its action, we will bring it to the floor. We will address the President's nominees and a host of other issues.

As we do so, I am determined to work with my colleagues on both sides of the aisle to take whatever action is necessary—that bold action to move America forward.

We have made great progress in the 109th Congress thus far. We passed fair and thoughtful legislation to end class action and bankruptcy abuse. We took quick and decisive action to support our troops in the field and to give relief for the victims of the tsunami disaster. We passed the Genetic Nondiscrimination Act, a victory that will provide protections against genetic discrimination in health insurance. And we are now finally giving judges the votes they deserve.

We passed a budget in the fifth fastest time in Senate history.

We are leading today on tomorrow's challenges. We can be proud of our efforts to expand freedom here at home and across the globe.

With mutual trust and civility and a sharp focus on our ultimate goals, we can continue to deliver to the American people the solutions they need and the leadership our Nation deserves.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have sought recognition to support the proceeding to invoke cloture, cut off debate, on California State Supreme Court Justice Janice Rogers Brown, and to bring her to a vote for confirmation to the Court of Appeals for the District of Columbia Circuit. Justice Brown comes to this body with a truly outstanding academic and professional record. She is a graduate of the California State University-Sacramento in 1974. She received her law degree from the University of California at Los Angeles in 1977 and then has had an illustrious career in government in the practice of law and on the bench. She has served in very important legislative roles with the California Legislative Counsel Bureau where she was deputy legislative counsel. She was deputy attorney general for some 8 years; deputy secretary and general counsel for the State of California Business, Transportation and Housing Agency for 3 years, and then came to the court of appeals, which is an intermediate appellate court in California, for 3 years before becoming a justice on the Supreme Court of California, where she has sat since 1996 until the present time.

During the midst of her career, she has gone on to get a master's degree at the University of Virginia School of Law in the year 2004 which, I would say, is quite an achievement for someone who has been in the California court to take on that kind of academic endeavor and to earn a master's degree.

Beyond her professional work, she has been very active in the community, working with the Youth for Citizenship which serves young people, high school students, teaching them history, civics, reasoning, and debating skills.

She is a participant in a program called "Playing by the Rules" sponsored by a local baseball team, which brings together lawyers, judges, baseball, and elementary and junior high school students to explore life lessons, good citizenship, and the rule of law.

She is a founding board member of Rio Americano High School's Academy Civitas, a 3-year program which specializes in history and political philosophy and seeks to encourage civic virtue by having students participate in internships with Government agencies.

She is the first African-American woman to serve on California's highest court. She is the daughter of sharecroppers, having been born in Greenville, AL, in 1949, 5 years before Brown v. Board of Education. She attended segregated schools and came of age in the midst of Jim Crow policies in the South, which is not easy to do.

With all of that, she has had an extraordinary and really illustrious career.

I suggest to my colleagues in the Senate that the confirmation process of Justice Janice Rogers Brown would not be nearly so complicated if it were not set in a timeframe where, for the past two decades, virtually, there has been an exacerbation of the issue of confirmation of judges when one party held the White House and the other political party held the Senate and the Judiciary Committee.

I have served on the Judiciary Committee since my election in 1980. I personally observed, in the last 2 years of President Reagan's administration, after Democrats won control of the Senate in the 1986 election, that the process was slowed down, and the process was further slowed down during the full 4 years of the administration of President George Herbert Walker Bush. I have detailed these in previous floor statements and will not now reiterate them.

Then, in the last 6 years of President Clinton's administration, nearly 70 nominees by President Clinton were held up in committee, and that was payback, in effect, for what had happened for the last 2 years of President Reagan's administration and the 4 years of the administration of the first President Bush.

When the Republicans won control of the Senate, the Democrats then resorted to the filibuster, which was the first systematic use of the filibuster against judicial nominees in the history of this country. That was followed by President Bush's use of the interim appointment power, the first time in history that the interim appointment power had been used for a judicial nominee after a rejection by the Senate, albeit by the filibuster route. That stopped when there was a commitment made not to use it any more, and the nomination process went forward.

Let us take a look at the record of Justice Janice Rogers Brown and take a look at the record of Justice Owen, now Judge Owen confirmed to the Fifth Circuit Court of Appeals, or Judge Pryor, whose nomination will be before the Senate hopefully in the next several days. We have confirmed many circuit judges during my tenure since my election in 1980, all which I have spent in the service of the Judiciary Committee, who had records not as good as those of Justice Brown or Justice Owen or Judge Pryor. Had we had not been in this situation of holding up judges when one party controlled the White House and the other controlled the Senate and the exacerbation of this situation, we would not have reached the critical stage in which the Senate has been in the immediate past.

We have seen a situation where the filibuster went on and, in my own personal opinion—and I have expressed this at some length in prior floor statements—Democrats were not really pleased with this systematic filibuster. That led to the potential retaliation of the Constitution or nuclear option. I do not think many, if not most, of the Republicans were pleased with that sort of an alternative. But the whole situation had spiraled out of control.

As Senators, we do have a fundamental constitutional obligation to consent, if we choose to do so, to the President's nominees to the bench. This is an advice and consent function under the United States Constitution. That does specify—I think it is more than implication, I think it is really specification—that there be independent judgment used by Senators in coming to that decision. Just as there is a requirement of independence, if there is to be separation of power, then the party which controls the White House ought not to be an automatic rubberstamp for the President. Similarly, the party out of power ought not to be an automatic filibustering machine; there ought to be independent judgment. And that is why I had urged the leaders, again in extended floor statements which I shall not now repeat, to liberate their Members from the straight party-line, straitjacket vote and allow them to exercise their independence. I think if the 100 Senators were left to our own judgments as to what kind of a nominee ought to be filibustered, Justice Janice Rogers Brown would never have been filibustered. Similarly, if we Senators—Republicans on the situation of the constitutional or nuclear option—had been left to our own judgment, we would have rejected the idea of having the constitutional or nuclear option.

So we have come to a situation now where at least we have moved to confirm Justice Owen, and we are on the brink of the confirmation process of Justice Brown with, as we all know, the agreement of some 14 Senators that there would not be a filibuster as to Justice Brown.

It is true that if you take a look at some of Justice Brown's statements in a context of diplomacy, they might have been left better unsaid, but if everybody in public life—and that would even include Senators—were held to every last syllable that each of us uttered, it would not be a very difficult matter to go through the tracks of speeches each of us has made and find some items on which to be highly critical.

Justice Brown has been criticized for a comment which she made criticizing Justice Holmes' dissent in Lochner, where she referred to the "triumph of our own socialist revolution" in 1937. But if we take a look at Justice Brown's decisions, we find her decisions are not in line with that kind of a loose condemnatory statement.

In Lochyer v. Shamrock Foods, Justice Brown joined the court's opinion upholding California's stringent standards, which exceeded Federal standards, for identifying and labeling milk and milk products. That is hardly an inactive government.

In the case of Lungren v. Superior Court, she joined the court's opinion, broadly construing the phrase "source of drinking water" in the State's clean water statute so that plaintiffs could proceed with their case. Again, not exactly denial of governmental authority.

In the case of Ramirez v. Yosemite Water Co., she joined the court in upholding State regulations regarding overtime pay that applied greater protection to workers than Federal law. Here, again, that is active State regulation.

In Pearl v. Worker's Compensation Appeals Board, she joined the court's opinion, upholding the Worker's Compensation Board's stringent standards for ensuring the safety of workers, awarding the plaintiff, an injured police officer, higher benefits; again, sound judicial thinking and not exactly denial of the authority of the State to legislate and look after the common welfare.

She made a statement with respect to discrimination saying it is not ". . . based on age is not . . . like race and sex discrimination. It does not mark its victim with a 'stigma of inferiority and second class citizenship'; it is the unavoidable consequence of that universal leveler: time."

That is perhaps an effort to be scholarly, perhaps to be poetic, but hardly disqualifying.

If we take a look at her opinions on the bench, they demonstrate a very distinctive regard for civil rights. In People v. McKay, hers was the lone dissent, arguing for the exclusion of evidence of drug possession that was discovered after the defendant was arrested for riding his bicycle the wrong way on a residential street. Her dissent pointedly suggested that the defendant was the victim of racial profiling and included an impassioned critique of that practice.

In Kasky v. Nike, the court held that Nike's statements denying mistreatment of overseas workers constituted commercial speech subject to the State truth in advertising laws. Justice Brown dissented saying that Nike's speech constituted noncommercial speech worthy of more strict first amendment protection. Upon appeal, the Supreme Court denied certiorari, but in opinions issued by Justices Breyer and Stevens, there were strong suggestions that if the Court had taken the appeal, Justice Brown's position might well have been upheld, in a very difficult case, where it is hard to draw the line as to what constitutes commercial speech or what is noncommercial speech entitled to more stringent protections under the first amendment.

In this case, as in so many others, Justice Brown demonstrated a real concern for constitutional protections.

In re Brown, she wrote the court's opinion reversing a verdict and death sentence on grounds that the prosecutor deprived the defendant of a fair trial by failing to discover and disclose an arguably exculpatory blood test.

In Visciotti, she dissented from the majority opinion, arguing that a defendant's death sentence should be set aside on grounds of ineffective assistance of counsel.

In the interest of time, I am not going to delineate any more of Justice Brown's opinions, but I would like to put into the RECORD some summaries of criticism of Justice Brown where she has been criticized for her attitude toward big Government, where she has been criticized for some rulings on civil rights, where she has been criticized for rulings on the first amendment, and where she has been criticized for rulings on criminal law.

I ask unanimous consent that these summaries be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPPOSITION—BROWN'S CRITICISMS OF BIG GOVERNMENT

JUSTICE BROWN'S CRITICS OVERLOOK A RECORD ON THE BENCH OF MODERATION

Much of the criticism of Justice Brown centers on speeches she made off the bench, but does not hold up next to her judicial opinions

Most notably, Justice Brown criticized the demise of the Lochner era and the rise of the New Deal in a speech before the Federalist Society. While her speech was indeed critical of Justice Holmes' dissent in Lochner, her judicial opinion on the subject in Santa Monica Beach, Ltd. v. Superior Court criticized Lochner in terms echoing the United States Supreme Court.

Justice Brown also has been attacked for speeches that criticize government as profligate in creating new rights and privileges and redistributing wealth. Again, the attack loses force when the focus turns to her judicial opinions, which are untainted by personal ideology. To give just a few examples, she has voted to employ an expansive interpretation of a state clean water statute so that plaintiffs could proceed with their case; upheld the right of a plaintiff to sue for exposure to toxic chemicals using the government's environmental regulations; upheld state regulations regarding overtime pay; and upheld a workers compensation board's stringent standard for ensuring the safety of workers.

In a recent column, law professor Jonathan Turley, a self-described "pro-choice social liberal," points out that "Brown's legal opinions show a willingness to vote against conservative views . . . when justice demands it" and that Democrats should confirm her. The attempt to brand her as an extremist, derived from a combination of half-truths and the extremism of her critics, is demagoguery of the first order, and should not be permitted to obstruct the confirmation of a jurist who has been a credit to the bench.

OPPOSITION—BROWN'S RULINGS ON CIVIL RIGHTS

Justice Brown's rulings on racial bias have been distorted

In Peatros v. Bank of America, she dissented on grounds that a state law-based discrimination claim was preempted by the National Bank Act. The dissent in fact deferred to federal jurisdiction under the Supremacy Clause and notably pointed to Title VII as the appropriate civil rights provision to invoke in an area governed by federal law—a far cry from an ideologue who appreciates neither federal authority nor civil rights laws.

Another subject of attack was her dissent from Aguilar v. Avis Rent A Car System, a decision upholding an injunction against the use of racial slurs in the workplace. Unmentioned in the attack is that her dissent was based on well established First Amendment prohibitions on prior restraint and that she was joined by the court's late liberal icon, Justice Mosk.

In Hi-Voltage Wire Works v. City of San Jose, Justice Brown deferred to precedent in her court opinion invalidating a minority contracting program under Proposition 209. That issue was so straightforward that every judge who reviewed it from the trial court on up reached the same result—including every member of the state supreme court.

Justice Brown's opinion asserted that "discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society."

Justice Brown further acknowledged that "equal protection does not preclude race-conscious programs."

The innuendo that this jurist is insensitive to racial bias disparages her firm commitment to civil rights

Consider Justice Brown's lone dissent in People v. McKay. There she argued for the exclusion of evidence of drug possession that was discovered after the defendant was arrested for riding his bicycle the wrong way on a residential street.

Justice Brown had this to say: "In the spring of 1963, civil rights protests in Birmingham united this country in a new way. Seeing peaceful protesters jabbed with cattle prods, held at bay by snarling police dogs, and flattened by powerful streams of water from fire hoses galvanized the nation. Without being constitutional scholars, we understood violence, coercion, and oppression. We understood what constitutional limits are designed to restrain. We reclaimed our constitutional aspirations. What is happening now is more subtle, more diffuse, and less visible, but it is only a difference in degree. If harm is still being done to people because they are black, or brown, or poor, the oppression is not lessened by the absence of television cameras."

Justice Brown criticized what she called "the disparate impact of stop-and-search procedures of the California Highway Patrol. The practice is so prevalent, it has a name: 'Driving While Black.'"

When you read such powerful statements, you have to wonder whether this judge, far from being too conservative, may not in fact be a bit too liberal for some of my friends who have opposed her.

OPPOSITION—BROWN'S RULINGS ON THE FIRST AMENDMENT

Justice Brown's First Amendment opinions have been distorted

When she is cognizant of First Amendment rights in a discrimination case, she receives no credit. Her critics simply turn to three other First Amendment cases to spin an attack that she gives broad protection to corporate speech while shortchanging individual free speech.

In one case, Justice Brown wrote a plurality opinion upholding an injunction against gang members congregating in a specified area in San Jose, a position supported by the Democratic mayor of the city at the time, the Los Angeles Times, and the San Francisco Examiner.

In another, Justice Mosk, the California Supreme Court's late, liberal icon, joined Justice Brown in a dissent that would have upheld an injunction against a disgruntled former employee sending disruptive mass emails.

In the third case, Kasky v. Nike, Justice Brown dissented on grounds that Nike's speech deserved more stringent protection than was provided by a California law. This third case provides the hook for her detractors' spin, but the baselessness of the critique is underscored by strong evidence that a majority of the United States Supreme Court would have taken her position had it considered the merits.

In dismissing the writ of certiorari, Justice Stevens, joined by Justices Ginsburg and Souter, noted in the same vein as Justice Brown that the case involved "novel First Amendment questions."

Justice Breyer, joined by Justice O'Connor, stated in a dissent to the dismissal of certiorari in Kasky that "it is likely, if not highly probable" that the law violated the First Amendment.

OPPOSITION—BROWN'S RULINGS ON CRIMINAL LAW

Justice Brown has demonstrated her respect of Fourth Amendment rights and has argued for reversing verdicts or sentences for capital defendants

In addition to the dissent in People v. McKay that I cited, she wrote the court's opinion in In re Brown reversing a verdict and death sentence in a case where the prosecutor deprived the defendant of a fair trial by failing to discover and disclose an arguably exculpatory blood test.

In In re Visciotti, she dissented from the majority opinion, arguing that a defendant's death sentence should be set aside on grounds of ineffective assistance of counsel.

Mr. SPECTER. I ask unanimous consent that quotations from certain of Justice Brown's supporters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUOTES FROM SUPPORTERS—WHAT THOSE WHO KNOW HER BEST ARE SAYING ABOUT JUSTICE BROWN

Letter from a bipartisan group of 12 of Justice Brown's current and former judicial colleagues (including all of her former colleagues on the Court of Appeal, Third Appellate District and four current members of the California Supreme Court) to the Honorable Orrin G. Hatch, October 16, 2003:

"Much has been written about Justice Brown's humble beginnings, and the story of her rise to the California Supreme Court is truly compelling. But that alone would not be enough to gain our endorsement for a seat on the federal bench. We believe that Justice Brown is qualified because she is a superb judge. We who have worked with her on a daily basis know her to be extremely intelligent, keenly analytical, and very hard working. We know that she is a jurist who applies the law without favor, without bias, and with an even hand."

Statement of former senator and governor Pete Wilson, for whom Justice Brown served between 1991 and 1994:

"She served as my legal affairs secretary for three years because a number of excellent lawyers in the state, whose judgment I trust, said, 'You will not do better.' They were right. She was not only a legal scholar—so that I could rely upon her judgment as to what the law was—she was an excellent guide when I was trying to decide what the law ought to be . . . I would simply say to you that, by intellect and by character, by experience, by capability, Justice Brown deserves not only a vote, but deserves a seat on the District Court of Appeals, where I predict she will, if seated, be a brilliant addition."

Letter from a bipartisan group of 15 California law professors to the Honorable Orrin G. Hatch, October 15, 2003:

"We know Justice Brown to be a person of high intelligence, unquestioned integrity, and even-handedness. Since we are of differing political beliefs and perspectives, Democratic, Republican and Independent, we wish especially to emphasize what we believe is Justice Brown's strongest credential for appointment to this important seat on the D.C. Circuit: her open-minded and thorough appraisal of legal argumentation, even when her personal views may conflict with those arguments."

Letter from 18 members of the California delegation in the House of Representatives to the Chairman and Ranking Member of this committee, April 14, 2005:

"Janice Rogers Brown is an outstanding jurist with more than eight years of experience on the California appellate bench. She is well-regarded by her colleagues and known to be a person of great intellect, integrity and dedication. Moreover, Justice Brown is a first-rate judge respected by many for her even-handed and unbiased application of the law."

Letter from Ellis Horvitz, a Democrat and one of the deans of the appellate bar in California, to the Honorable Orrin G. Hatch, September 29, 2003:

"In my opinion, Justice Brown [possesses] those qualities an appellate justice should have. She is extremely intelligent, very conscientious and hard working, refreshingly articulate, and possessing great common sense and integrity. She is courteous and gracious to the litigants and counsel who appear before her."

Undated Letter from Regis Lane, Director of Minorities in Law Enforcement, a coalition of ethnic minority law enforcement officers in California, to Chairman Orrin G. Hatch.

"We recommend the confirmation of Justice Brown based on her broad range of experience, personal integrity, good standing in the community and dedication to public service . . . In many conversations with Justice Brown, I have discovered that she is very passionate about the plight of racial minorities in America, based on her upbringing in the south. Justice Brown's views that all individuals who desire the American dream, regardless of their race or creed, can and should succeed in this country are consistent with MILE's mission to ensure brighter futures for disadvantaged youth of color."

Mr. SPECTER. One of the cases which I studied in law school was the famous dissent by Justice Oliver Wendell Holmes, who argued for dissent and for freedom of speech, saying what I think is, if not the most famous quotation in Supreme Court history—that is pretty hard to categorize—certainly one of the most famous where he said that "time has upset many fighting faiths."

That is why we encourage independent thought. That is why we encourage dissent. There are many dissents which have become the law of the land. Dred Scott was overturned. Plessy v. Ferguson on segregation was overturned. Brown v. Mississippi established the rule of due process of law for State court criminal proceedings, and dissenting opinions of Brandeis and Holmes and Cardozo have become the law of the land.

So when one sees someone who might not conform exactly to the kind of thought or might be a little more colorful in phraseology, it is not necessarily something to be discouraged. If one takes a close reading as to what Justice Brown has had to say, she is worthy of confirmation by this Senate. As we analyze nominees for the Federal court, as we analyze nominees for any important position, we ought not to discourage individualism, independence, and free thought. The phrase that "time has upset many fighting faiths." encouraging independence and free thought has been a great bulwark for the progress of this country.

I yield the floor, and in the absence of any other Senators seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURR). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, we are in the midst of debate on Janice Rogers Brown. I know we have the time divided from 3 to about 6 tonight. I ask to speak for about 7 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

FIRST ANNIVERSARY OF RONALD REAGAN'S DEATH

Mr. FRIST. Mr. President, yesterday marked the first anniversary of the passing of President Ronald Wilson Reagan, the 40th President of the United States. I will take a moment to reflect very briefly on his extraordinary life and on his leadership that changed history.

Ronald Reagan was raised in a small town, and it was those small-town roots that never, ever left him. As he explained when he grew up in a small town, reflecting on those small-town roots, in his words:

> You get to know people as individuals, not as blocs or members of special interest groups. You discover that despite their differences, most people have a lot in common: . . . [W]e all want freedom and liberty, peace, love and security, a good home, and a chance to worship God in our own way; we all want the chance to get ahead and make our children's lives better than our own.

Ronald Reagan believed that the Government should serve the people. He believed that America's strength came from creativity, ingenuity, and productivity of the people, not the plans of Government bureaucrats or the theories of intellectual elites. This core belief guided everything he did, everything he said.

When he came to office, the American economy was in shambles. Inflation was in double digits. Interest rates were soaring. The American worker was demoralized. He set about slashing Federal income taxes and cutting burdensome regulations. It was his mission to free the American worker and unleash the American entrepreneur. His sweeping tax reforms overhauled the Tax Code and removed 6 million taxpayers from the tax rolls. By the time he left, it was morning in America. President Reagan believed in the aspirations and dignity of the individual. As he said in his second inaugural address, there are no limits to growth in human progress when men and women are free to follow their dreams.

He reminded the American people that economic liberty and human freedom were two sides of the same coin. He reminded the world that freedom is the birthright of all peoples. Some call it the Reagan Revolution. Others call it the Reagan Restoration. I prefer the latter.

The man from Dixon—lifeguard, radio announcer, actor, Governor, father, adoring husband, President of the United States—restored not only our confidence but our fundamental understanding of the source of America's greatness: each and every one of us striving to realize the American dream.

In his 1982 State of the Union Address, President Reagan told the Nation:

> We do not have to turn to our history books for heroes. They're all around us.

To the freedom fighters in the former Soviet Union to his fellow citizens here at home, Ronald Wilson Reagan was one of those real life heroes who brought hope, freedom, and opportunity to millions.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

I ask unanimous consent to speak in morning business for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAUTHORIZING THE USA-PATRIOT ACT

Mr. WYDEN. Mr. President, tomorrow the Senate Select Committee on Intelligence gets back on the national security high wire as the committee continues to work on legislation reauthorizing the USA PATRIOT Act. I described this process as a high-wire act because success means striking a balance, an equilibrium, between fiercely protecting our country from terrorism while still preserving the privacy and civil liberties that make our democracy so precious.

Chairman PAT ROBERTS, to his credit, has held several open hearings on this issue. I gladly participated because I believed the open hearings would help to address some of the skepticism about why the PATRIOT Act has almost totally been debated in secret.

Unfortunately, the most important part of the debate, the part where the committee must actually discuss how to walk that high wire, is still going to be done behind closed doors. In my view, this secrecy in going forward will undermine any public confidence that open hearings helped to create.

I have repeatedly and vigorously opposed making these decisions out of public view. Holding the decisionmaking process in secret is a mistake because it makes it harder for citizens to hold elected officials accountable. Holding the decisionmaking process in secret is unnecessary because it is not difficult for the committee to go behind closed doors, certainly, briefly, when necessary, to discuss any PATRIOT Act-related issue that requires secrecy. Holding the decisionmaking process in secret gratuitously feeds the cynicism that citizens have about the Government's true intentions with respect to this law. Keeping these proceedings secret fuels concerns that the committee is making choices that will not stand up to public scrutiny—deciding, for example, that you can only have security if you sacrifice privacy. In my view, that is a false choice. I simply do not believe that protecting our country from terrorism and securing the privacy rights of our citizens are mutually exclusive objectives.

So here is my bottom line: Give law enforcement and intelligence officials the tools they need to protect our country, but stay away from the fishing expeditions. I do not think anybody will argue with me when I say that Congress passed the PATRIOT Act shortly after September 11, 2001, because it was necessary to move in a hurry. It was clear no one could have conceived of the way in which our country was exposed to attack. It was clear that the Federal Government needed to make major changes in how it fought terrorism, and those were needed immediately.

The best parts of the law tore down the unnecessary walls that had grown up between law enforcement and the intelligence agencies. Today, if you go out to the National Counterterrorism Center, the people on the ground there will tell you that those walls have been torn down, and they have stayed down. So the men and women on the front lines in the fight against terror are, in my view, more effective than they were.

However, other provisions of the law have sparked serious concerns. Giving Federal authorities broad powers of investigation has raised the specter that the rights of law-abiding citizens might be severely compromised, accidentally or even intentionally. In moving forward, I want to make sure that the right of our citizens to privacy is certainly not compromised intentionally.

I am not suggesting our national intelligence or law enforcement agencies are currently being misused the way they have been during our history—such as in the Watergate scandal. But it is important for us to make sure that appropriate safeguards are in place to prevent unintentional abuses and prevent future even darker episodes in our country's history.

In my view, a proposed addition to the PATRIOT Act, one that certainly warrants open debate, is the administrative subpoena which, in my view, raises the risk of real abuse. I want to make it clear on this subject today, I believe reauthorization of the PATRIOT Act should simply not include new administrative subpoena authority for the FBI.

I am opposed to giving the FBI this authority to write their own administrative subpoenas for foreign intelligence investigations for a number of reasons. Doing so would give the FBI the authority to demand just about anything from just about anybody, with no independent check, simply by claiming that it is relevant to a national security investigation. The FBI already has access to the waterfront of personal information through the FISA warrant process. All they have to do is go before a judge and explain why it is relevant in the most general terms. By giving the FBI the authority to write their own administrative subpoenas, the Congress would be removing this even last modest safeguard.

Administrative subpoenas are currently used by many Federal agencies in many contexts. But, except in a very few limited cases, they are not used for national security investigations. National security investigations are simply different than criminal investigations. They, of course, are conducted in secret and do not require evidence of a crime. This is why there are different rules for the two types of investigations. It is not enough, in my view, to say what is good for the goose is good for the gander. The question here is, What is good for the American people? The answer is not administrative subpoenas.

As proposed, these subpoenas would be extraordinarily broad in their scope. They could be used to gain access to your credit records, your video rentals, your medical records, your gun purchases. They could be used to obtain just about anything. These subpoenas would only be seen by a judge if the recipient of the subpoena decided to challenge it. Even if the recipient was properly notified of his or her right to challenge, they might not be in the position to have the time or the resources to even make that challenge.

For example, there are 56 FBI field offices, one in just about every major American city. The head of the local field office could issue an administrative subpoena to a hospital director and ask for all the hospital's medical records simply by claiming they were relevant to an investigation. If the hospital director was busy or did not have the resources to make a challenge, then no judge—no judge would ever see this administrative subpoena. The patients would not even know that their records had been seized. They would be totally in the dark.

Even the FBI acknowledges that the agency can get all the information they could possibly need with the investigative powers they currently have. The only reason they have suggested for supporting this judge-free administrative subpoena is speed. They say that the FISA warrant process is simply too slow for time-sensitive, emergency situations.

This afternoon I would like to propose on the floor of the Senate an alternative. In this year's reauthorization of the PATRIOT Act, Congress can balance protection for the public with the right of privacy by creating an emergency use provision to the FISA business records authority. This way, under the proposal I make today, if the FBI needs information right away, the FBI could notify a judge that they were going to get it—send an e-mail, leave a voice message—and then go get it without waiting for a response. Then they would have 72 hours to apply for the warrant so they could do it after the emergency had been addressed. If the judge felt the FBI had acted inappropriately and decided not to grant the warrant, then the Agency would not be able to use whatever information they had gathered. The idea of adding an emergency use provision along the lines I have described would address the FBI's concern for speed without creating a broad new authority that would remove all the independent checks, even in situations where there were not emergencies.

Although time was not taken in 2001 to thoroughly discuss the privacy issues related to the PATRIOT Act, most of the law's more controversial provisions were made subject to sunset. This was done in hopes of a more thoughtful, informed debate during the reauthorization. The sunsets, in my view, have had an unanticipated benefit. They have made the agency very careful about how it uses the powers that have been granted.

In addition to the proposal that I am making today to give the FBI more authority to deal with emergencies, I believe the Senate should also focus its attention on sharper scrutiny for the sunset provisions in the act. Some of the sunset provisions that have existed have not attracted any controversy. Others have not only attracted controversy, serious questions have been raised about their use and possible misuse. I want to consider some of these provisions in detail today and, in addition to the proposal I have made with respect to giving the FBI emergency authority, I urge firm action to safeguard the American people as the sunset provisions are considered in the PATRIOT Act's renewal.

The provision that has attracted the most attention is probably section 215 of the PATRIOT Act. It is commonly referred to as the library records provision, but in fact it ought to be called the business records provision. Suffice it to say, it is a sweeping one. This provision gives law enforcement access to all types of information from video rentals and gun purchases to tax and medical records. In a nutshell, here is how it works.

Under the Foreign Intelligence Surveillance Act, FISA—which I have referred to several times already—it is possible for FBI agents to go to a judge and request a secret warrant to obtain business records. The person to whom the records pertain is not informed. This means that if the FBI serves a FISA warrant on a bank or hospital, the bank president or hospital director would know about it, but the customers or patients whose records had been seized would know nothing at all.

Before the PATRIOT Act, if the FBI wanted to get one of these warrants, they had to show a judge specific and articulable facts that the records pertained to a terrorist or a spy. The PATRIOT Act lowered the standard, so now the FBI simply has to assert that the records are, in their view, relevant to a terrorism inquiry. To protect innocent Americans, the business records provision needs to be modified in several ways.

First, the Congress should require that the application for a FISA warrant include a statement of facts explaining why the records are relevant to an investigation. Congress should also raise the standard for the most sensitive type of records. The "relevance" standard may be appropriate for a hotel or car rental record, but it may be necessary to require the FBI to show hard evidence before giving access to more sensitive records such as medical records.

Finally, there must be an increase in the reporting that is done in this area. Congress's duty to look out for abuses of the PATRIOT Act is often a challenging one. Little reporting is required on the use of some provisions. Details regarding the use of the PATRIOT Act are reported, even when reporting is not required. When there is a report, the information is often classified. National security investigations often need to be conducted in secret, but revealing how often particular techniques are used does not make them less effective. Congress needs this information to perform its constitutional responsibilities, and the fact is too often Congress has been doing oversight over the intelligence community in the dark.

The Intelligence reform bill that passed a few months ago tried to fill several of the reporting gaps, but there are others that need to be closed as the PATRIOT Act is reauthorized. These reports should also be made public, to the maximum extent possible so that the American people can know all that is safely to be known about FBI activity under the law.

One of the major reporting gaps I am concerned about involves what the FBI calls discreet inquiries that the agency uses to obtain library records. The FBI Director, Mr. Mueller, has testified before several Senate committees that, while FISA warrants could be used to obtain people's library records, this has never been done. But the FBI director went on to say that the Agency does obtain library records through what he called discreet inquiries. So I think that the American people deserve to know what a discreet inquiry is. The American people deserve to know how often they are used. And I have asked the FBI to get me this information.

Over a month later, despite multiple requests by the staff of the Intelligence Committee, the FBI has still not provided an answer to the question. Suffice it to say, the longer the Agency waits, in terms of answering the question of how they obtain library records, the more Americans believe that the Agency is stepping over the line and into the lives of law-abiding citizens. Those most directly affected by the library records provision have been expressing strong concerns. The American Library Association recently wrote me:

> "[D]iscreet inquiries" by the FBI put our librarians at risk of breaking state laws if agents approach them for information without subpoenas or other properly executed legal documents and intimidate them into complying with the request.

I ask unanimous consent the letter from the American Library Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN LIBRARY ASSOCIATION,
Washington, DC, May 25, 2005.

Hon. RON WYDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR WYDEN: On behalf of the over 65,000 members of the American Library Association (ALA) I am writing to express our appreciation for your efforts to seek further information about the nature and scope of FBI investigations into library records. We thank you for your hard work examining law enforcement activity in libraries under Section 215 of the USA PATRIOT Act, national security letters, and "discreet inquiries" without, apparently, warrants or subpoenas.

Librarians across the country, in all kinds of libraries, take their jobs as public servants very seriously. We are as concerned about our Nation's security as any other sector of the American public. At the same time, the issue of privacy and the confidentiality of library records is a long-held and deep principle of our profession. The American public values this principle as well: forty-eight States have laws protecting the confidentiality of library records, and the other two States have attorney general opinions doing so.

As you know, both the FBI and the Department of Justice have reported that there has been "zero" use of Section 215 in libraries. However, our office is aware, at least anecdotally, of FBI inquiries made using other methods in what do not appear to be normal criminal or civil investigations. To determine the extent of these inquiries ALA has begun its own research regarding the scope of law enforcement investigations of library patrons and their reading records.

Leaders of ALA have met with Attorney General Gonzales and FBI Director Mueller to discuss our concerns about these library-related investigations as well as to discuss our ongoing research. We are seeking aggregated data to understand better the breadth of FBI investigations and the impact the investigations have on library users.

We very much appreciate your questions seeking further information from Director Mueller about these inquiries. Specifically, we would like to know:

What exactly is a "discreet inquiry?"

Do these inquiries require a subpoena and are they subject to any judicial oversight?

How many "discreet inquiries" have been made in the last four years? 1 year? In general, what kind of evidence was uncovered?

Have these inquiries been related only to foreign intelligence investigations or have they been used in non-intelligence investigations?

What are the procedures and authorization for such inquiries?

Are there pertinent FBI guidelines and related oversight procedures for assessing "discreet inquiries" and if so, are there aggregated public reports on this type of inquiry?

The American Library Association holds that privacy is essential to the exercise of free speech, free thought, and free association and that, in a library, the subject of users' interests should not be examined or scrutinized by others. Whether there has been one F.B.I. inquiry at libraries on the reading habits of patrons or thousands, the threat to the confidentiality of library records chills library use by the public and threatens confidentiality in other venues where privacy is the essence of the service/relationship.

Thank you again for all your work on issues surrounding law enforcement investigations in libraries and on the other important provisions of the USA PATRIOT Act and related regulations that affect the privacy and civil liberties of the public. We support your efforts to address both the need for effective law enforcement and the civil liberties of the American public in an appropriate and proportional manner.

Sincerely,

LYNNE E. BRADLEY,
Director of OGR, ALA—Washington Office.

Mr. WYDEN. Mr. President, no one is saying the FBI should not be allowed to conduct voluntary interviews. A voluntary interview is certainly a legitimate and often nonintrusive investigative technique. But the FBI agents must not be out there in effect demanding the records of our citizens without following proper legal procedures. Since the FBI has been so reluctant to discuss the activities relating to these discreet inquiries of libraries, the PATRIOT Act should require the Bureau to report on this topic. At a minimum, they should be required to tell the Congress how this information is being used so the Congress can determine whether the FBI's use of this provision is appropriate.

In several other areas of the PATRIOT Act there should be modifications. A major problem area, for example, is section 505 that deals with national security letters. National security letters are another way for FBI agents to obtain records. Unlike FISA warrants, national security letters do not require the approval of a judge. The FBI has said the national security letters can be appealed, but the current PATRIOT Act does not specifically discuss this. It is often difficult for recipients to learn more about the requests in their letters and their right to refuse since they are usually barred from discussing the letter with anyone, including a lawyer.

In the recent case of Doe v. Ashcroft, the Federal judge found that the FBI had abused this authority by using a national security letter to demand records from an Internet service provider without telling the provider that the letter could be challenged or even that it could be discussed with a lawyer. Congress should reform the national security letter statute to make it clear that national security letters can be challenged, that they can be discussed with a lawyer, and that anyone who receives one has the right to be informed as to their rights. Congress certainly ought to consider adding sunset to this provision.

Section 206 authorizes the FBI to use roving wiretaps in national security investigations. The roving wiretap authority allows the FBI to tap not just a particular phone but any phone the person being targeted might use. Unlike criminal investigations, there is not even a requirement for the FBI to make sure that the person being investigated is using a line. If a suspected terrorist worked in a warehouse, roving wiretap authority could be used to tap a pay phone in that warehouse, and every person who used that phone could have their conversations secretly recorded. This provision, in my view, again, should be modified, and the sunset should definitely be renewed so the Congress has more time to investigate how it has been used.

Finally, some of the tricky wording in several places of the PATRIOT Act needs to be clarified. A provision that looks like a safeguard for civil liberties may expose Americans to unfair scrutiny when they exercise their rights. In several places, the PATRIOT Act prevents the use of various investigative techniques when the investigation is based solely on the first amendment activities of U.S. persons. Our colleague, Senator LEVIN, has pointed out that simply saying "solely" without clarification can create problems and seems to indicate that it is acceptable to investigate Americans largely or even primarily on the basis of their first amendment activities. I am not convinced this safeguard is actually a safeguard. I hope it will be clarified and strengthened throughout the consideration of the PATRIOT Act.

The Intelligence Committee may finish drafting a reauthorization of the PATRIOT Act in the near future. My sense is the Judiciary Committee will move shortly afterward. It is possible other committees may wish to weigh in on these portions of the PATRIOT Act that fall under their jurisdiction. As we go forward in this debate, as the Congress proceeds to try to walk on that high wire, striking a balance between fighting terrorists ferociously while protecting our civil liberties, I simply say to the Senate this afternoon that the Senate can do better. It is possible, for example, to give the FBI additional emergency power, power that should address the concerns they have raised in the open hearings, without removing the independent checks so necessary in circumstances that are not emergencies.

The bottom line is, let's make sure law enforcement has the tools that are necessary to fight terrorism, to protect the people of our country, but not hang up a sign on this PATRIOT Act reauthorization that says: You hereby have a right to go on any fishing expedition you desire.

The Senate can do better. The job of creating a more balanced protector of security and civil liberties still has work ahead of us. I look forward to working with our colleagues on a bipartisan basis to achieve those ends.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, as I understand, the Democrats have until 4 p.m. to speak as in morning business.

The PRESIDING OFFICER. The Senator is correct. The time is to speak on the nomination.

Mrs. BOXER. Excellent. Mr. President, I am going to speak about the nomination of Janice Rogers Brown. Before I go into the reason I hope the Senate will reject this nomination—and the "reasons" because there are many—I wish to put into context for my colleagues, and for anyone watching this debate, why the Senate has spent so much time looking at the rules surrounding the nomination and confirmation of Federal judges.

It is very clear when you vote to confirm a Federal judge that it is a very important vote. Why is that? It is because these judges really vote on so many issues of importance to us, whether it is our right to vote, our right to a safe workplace, our right to privacy, our consumer rights—it goes on and on—our victims' rights. The fact is, these issues are crucial, and who winds up on the bench on Federal courts is very important to the American people.

This is not an abstract debate about Senate rules and procedures; it is really about who sits on the courts, and why is it that for 200-plus years the minority party has had the right to filibuster or delay the vote on nominees who they believe are outside the mainstream—whether that means they are to the far right of the mainstream, as in this particular case, or to the far left of the mainstream.

Presidents who have tried to pack the courts in the past, have tried to twist the arms of the court, have been rebuffed, from Thomas Jefferson, once, to Franklin Delano Roosevelt, another time, when FDR had 74 Democrats in this Chamber. He could do anything he wanted, if they agreed. He had won his election by 60 percent of the votes. He decided he did not like what the courts were doing, so he said: Well, I want to double the size of the courts. He had the votes. But the Democrats in the Senate said: Mr. President, we like you. We love you. We think you are a great President. But we will not allow you to pack the courts because the bottom line is that our Founders did not want a ruler, they wanted someone to govern. They did not want a ruler, they wanted someone to govern. Therefore, they believed very strongly in checks and balances and the rights of the minority so that we do not have a court system that has on it people who would be so far out of the mainstream as to disrupt the very fabric of our country.

Now, this President did his own move to pack the courts. Let's face it, that is what happened. He had the agreement and acquiescence of almost a majority of the Senate, until a few brave Republicans came over to our side and said: Look, let's step back from this precipice. Let's not do away with the filibuster. These are lifetime appointments. These judges get good pay, and they are never up for election. This is the only check and balance we have, when their names are brought before us.

So I was so appreciative of my colleagues on the other side for standing up and saying: We are not going to change the rules of the game in the middle of the game because some President wants to pack the courts with people who are so far out of the mainstream that it could set our country back for generations. That is what really happened.

Now, in order to get that deal they came up with, they said to our side:

You are going to have to give. You are going to have to give on three judges whom you have stopped. This 10 on the chart represents the number of judges Democrats have stopped. They said: In order to get this deal, you have to give up on three. One of those three judges is Janice Rogers Brown, a nominee way out of the mainstream, to the extreme, which I will explain.

But we have to remember this deal only involves the vote to end the filibuster. We said: OK, enough of our colleagues will join with you to end the filibuster. But the deal did not say: Therefore, she would get automatically voted in. We still have the up-or-down vote on Janice Rogers Brown. A lot of us believe very strongly that 51 of us should oppose this nomination. I think we might well get those 51 noes, or close to it, but, obviously, we are pushing for 51.

Now, again, I want to focus your attention on these numbers: 208 to 10. It is actually 209 to 10 with the Priscilla Owen judgeship approved. We have stopped 10. We have approved 209. And this President and the Republicans here have been crying every morning that they do not get 100 percent of what they want. They have gotten 95 percent of what they want. It is not good enough. When you want all the power, it is not good enough.

When I go home and look in the eyes of my constituency, I ask: If you got 95 percent in your course, would you be happy? Oh, yes. If you got 95 percent of what you wanted from your spouse, would you be happy? Oh, ecstatic. If you wrote a list down of everything you wanted in your life—where you wanted to go for a vacation, where you wanted to be educated, the kind of car you wanted—and at the end of the day you got 95 percent of what you wanted, you would be thrilled, except if you believe you deserve 100 percent, by God, and nothing less will do. That is what we are facing with this Republican power grab. That is what we are facing.

Remember those numbers: 209 to 10. When you are out somewhere and somebody says: Well, aren't the Democrats blocking all these judges? No, no, no. Ten; and we approved 209.

Now, I am going to show you in just a moment the list of the groups that oppose Janice Rogers Brown to be put on the DC Circuit Court of Appeals. Now, when you see these groups, you will be shocked because I think everybody knows by now that Janice Rogers Brown is the daughter of a sharecropper. We have heard that over and over again, and that is remarkable. We have a lot of remarkable stories in America.

My own mother never even went to high school. I am in the Senate. She had to drop out to support her family. There are lots of stories like that. But I do not expect people to automatically support me because in my family I went to the Senate and my mother never graduated from high school. It is interesting and it is important, and it certainly says a lot about our country and the opportunity our country affords people such as Janice Rogers Brown and BARBARA BOXER, and particularly people of color, women of color who have even a harder time.

It is a miraculous country we live in. That is why I oppose her nomination, because she would set it back. It is not her life that I attack when I say I am not for Janice Rogers Brown; it is what she will do to your life. If you look at her record, you will see why the things she will do to your life are things you would not want.

So I want you to listen to the groups that are opposed to Janice Rogers Brown:

ADA Watch/National Coalition for Disability Rights; Advocates for the West; AFL–CIO; Alliance for Justice; Alliance for Retired Americans; American Association of University Women.

I want you to think about why these groups are opposed to her. Every one of them is opposed to her because they have read her list of cases and they understand that she will hurt them. Retired Americans, when you hear about what she thinks about seniors, you will understand that.

American Federation of State, County, and Municipal Employees; American Lands Alliance; American Planning Association; American Rivers; Americans for Democratic Action; Americans United for Separation of Church and State; Amigos Bravos; Bazelon Center for Mental Health Law; Center for Biological Diversity; Center for Medicare Advocacy; Citizens Coal Council; Clean Water Council; Clean Water Action; Clean Water Action Council; Black Women Lawyers of Los Angeles; California Abortion and Reproductive Rights Action League; California Association of Black Lawyers; Californians for Fair and Independent Judges; California Federation of Labor, AFL–CIO; California League of Conservation Voters; California National Organization for Women.

Do we have more here?

California Native Plant Society; California Women's Law Center; Californians for Alternatives to Toxics; Chinese for Affirmative Action; Environmental Defense Center; Environmental Law Foundation; Equality California; John Muir Project; Coalition of Labor Union Women; Coast Alliance; Committee for Judicial Independence; Community Rights Counsel; Congressional Black Caucus; Defenders of Wildlife; Delta Sigma Theta Sorority; Disability Rights Education and Defense Fund; Earthjustice; Earth WINS; Endangered Species Coalition; Equal Justice Society; Families USA; Feminist Majority; Friends of the Earth; Georgia Center for Law in the Public Interest; Gray Panthers; Great Rivers Environmental Law Center; Leadership Conference on Civil Rights; Legal Momentum, formerly the NOW Legal Defense and Education Fund; Northwest Environmental Advocates; NOW Legal Defense and Education Fund; Oil Field Waste Policy Institute; People for the American Way; Planned Parenthood Federation of America; Progressive Jewish Alliance; Religious Coalition for Reproductive Choice; Service Employees International Union; the Sierra Club; Southern Appalachian Biodiversity Project; the Foundation for Global Sustainability.

And I have some more to share with you. It is very rare to see such an outpouring of opposition to a court nominee.

Planned Parenthood Golden Gate; Planned Parenthood of Los Angeles; San Bruno Mountain Watch; San Francisco La Raza Lawyers; SEIU Local 99; Stonewall Democratic Club of Los Angeles; Unitarian Universalist Project Freedom of Religion; Western Law Center for Disability Rights; Women Lawyers Association of Los Angeles; Women's Reproductive Rights Assistance Project; Lawyers Committee for Civil Rights of the Bay Area, NARAL Pro-Choice California; National Association of Women Business Owners, San Francisco Chapter; National Council of Jewish Women, California; National Council of Jewish Women, Los Angeles; National Women's Political Caucus of California, which is a bipartisan organization; Pacific Institute for Women's Health; Mexican American Legal Defense and Educational Fund; Mineral Policy Center; NAACP Legal Defense and Educational Fund; NARAL Pro-Choice America; National Abortion Federation; National Asian Pacific American Legal Consortium; National Association for the Advancement of Colored People, the NAACP; National Bar Association.

And there are more. This is remarkable. I needed this time to go through this extraordinary list, representing millions and millions of Americans who are saying no to Janice Rogers Brown.

National Council of Jewish Women; National Council of Women's Organizations; National Employment Lawyers Association; National Committee to Preserve Social Security and Medicare—folks, when you hear what she says about Social Security, you will understand it, and senior citizens—National Fair Housing Alliance; National Family Planning and Reproductive Health Association; National Health Law Program; National Organization for Women; National Partnership for Women and Families; National Senior Citizens Law Center; National Urban League; National Women's Law Center; Natural Heritage Institute; Natural Resources Defense Council; New Mexico Environmental Law Center; the Wilderness Society; Union for Reform

Judaism; Unitarian Universalist Association; USAction; Valley Watch, Inc.; Washington Environmental Council; Western Land Exchange Project.

So that is a long list. That is a long list. There is a reason why these organizations—many of which are nonprofit, many of which are bipartisan, many of which represent women, represent minorities, represent families, represent seniors, represent the environment, represent fairness in the judicial system—there are many reasons why they oppose Janice Rogers Brown.

I hope if this debate on Janice Rogers Brown does nothing else, it sends a message to the American people that when the Democrats stood up and said no to 10 people—and, by the way, said yes to 209—said no to 10 people—actually, now it is 9 people—they are people like this. They are people like Janice Rogers Brown who are opposed by mainstream America.

At the end, I will read the editorials that are coming out across the country against Janice Rogers Brown. Packing the courts with people like this will set our country back, and these organizations that have worked for so many years for fairness, for justice, for equality, for fairness in the workplace, for equal pay for equal work, for good treatment in the workplace, to protect the air and water, know what they are talking about.

Let's see some of the things that she has said in her lifetime on the bench. She said:

> Where government moves in, community retreats, civil society disintegrates, and our ability to control our own destiny atrophies. The result is: Families under siege—

This is Janice Rogers Brown. This is what she thinks of America. This is what she thinks of the greatest country in the world—

> families under siege; war in the streets; unapologetic expropriation of property—

As someone who owns property, no one has ever tried to take it away from me. I don't know what her problem is—

> the precipitous decline of the rule of law; the rapid rise of corruption; the loss of civility; and the triumph of deceit.

She must hang out with some pretty tough people.

> The result is a debased, debauched culture which finds moral depravity entertaining and virtue contemptible.

This is Janice Rogers Brown's view of life in America. I didn't know, when we passed the seatbelt law or legislation to help the victims of domestic violence, that our society disintegrated. But she thinks so.

She calls Supreme Court decisions upholding New Deal protections such as the minimum wage and the 40-hour workweek "the triumph of our own socialist revolution." I didn't know it was socialism to say that people ought to work 40 hours, basically.

She accuses senior citizens of "blithely cannibilizing their grandchildren because they have a 'right' to get as much free stuff as the political system permits them to have."

So she looks at grandparents like me as cannibalizing our grandchildren. I ask every grandmother and grandfather in America to oppose this woman getting on the bench. How can someone look at grandparents as cannibals because they may think it is important to get the Social Security and Medicare for which they paid into the system? It is outrageous.

She declares:

> Big government is . . . [t]he drug of choice—

Here she goes after everybody—

> for multinational corporations, single moms, regulated industries, rugged Midwestern farmers, and militant senior citizens.

Every time I read that I think of the senior citizens I know getting dressed up in a military uniform and taking over the country. OK everybody, it is 12 o'clock, let's play bingo now.

She declares:

> Big government is . . . [t]he drug of choice for militant senior citizens, for single moms, for rugged Midwestern farmers.

She takes them on, too. What is she thinking? I don't know any farmers who believe big government is what they want in their lives.

She is bad on first amendment rights of individuals. She argued that e-mail messages sent by a former employee to coworkers criticizing a company's employment practices were not protected by the first amendment. This was a young man who sent out a few e-mails during a very long time period, and she said he had no right to free speech. He couldn't do it. But the corporation could do it all day long.

This is showing you some of her decisions and her statements. She said a manager could use racial slurs against his Latino employees. Can you imagine that? Using racial slurs in the workplace? That was fine with Janice Rogers Brown.

She is way outside the mainstream. She argued that a city's rent control ordinance was unconstitutional as a result of the revolution of 1937. Believe me, most of the people who passed that ordinance weren't alive in 1937, so that is her other attack on the New Deal. She is way back. She has this thing about the New Deal, as if the New Deal is what we are talking about today. Everyone agrees that what has survived of the New Deal is very important wage and hour laws and protections and Social Security. She is after it all.

She argued that a law that provided housing assistance to displaced elderly, disabled, and low-income people was unconstitutional. This is very interesting because having been in local government myself, one of the things that we try to do is help get housing for people who are so vulnerable. This is a law in San Francisco for the elderly, disabled, and low-income people. Who could you find who was more compelling to help than, say, an elderly woman, whom she calls a militant senior citizen, who can barely stand up or look up from her walker?

She said San Francisco was "turning into a kleptocracy" and that "private property is now entirely extinct in San Francisco."

This woman absolutely lives in a dream world to say something like this. If you try to buy a home in San Francisco, you can buy it, if you have $1 million. So I don't know what she is talking about. She makes things up that fit her ideology. Imagine saying that providing housing assistance to displaced elderly, disabled, and low-income people has no chance of succeeding because it is unconstitutional. Her views stand alone as being so out of the mainstream.

Speaking of standing alone, I wanted to tell you about Janice Rogers Brown. She sits on the California Supreme Court where she has been since 1996. She is on a court that has six Republicans and one Democrat. She is a Republican. Follow this: She sits on a court that is made up of six Republicans and one Democrat. You would think she would be happy as a clam. No, she is not because those other Republicans, not to mention the one Democrat, don't see life through her eyes. She is so outside of the mainstream that she stood alone on court decisions 31 times. I am going to tell you of some of these cases where she stood alone.

She was the only member of the court to vote to overturn the conviction of the rapist of a 17-year-old girl because she believed the victim gave mixed messages to the rapist. She was the only one on the court who stood on the side of the rapist. This is who George Bush wants to put on the bench so she can stand against your daughter? I don't think we should do that. We should stand up and be counted on this vote. We should not be standing with someone who supports a rapist. It is as simple as it gets.

She was the only member of the court to find that a 40-year-old woman who was fired from her hospital job could not continue with her lawsuit. I want you to think for a moment of a 60-year-old woman with a great employment record—and I have to tell you, maybe it is my age, but you are still going pretty strong at 60—and she was fired based on age discrimination. This is Janice Rogers Brown:

> Discrimination based on age does not mark its victims with a stigma of inferiority and second-class citizenship.

Really? The woman was fully employed, did a great job, was doing her work, was getting rewarded with a salary, and the next day she wakes up, and for no reason, she is fired. And Janice Rogers Brown says: That is not a stigma. That is no reason to feel bad.

That is not a reason to feel like a second-class citizen.

I beg your pardon. Six others on that court—five Republicans and one Democrat—thought Janice Rogers Brown was off the wall. Her position saying that age discrimination is not a stigma and, in fact, was really not discrimination at all is contrary to State and Federal law. So George Bush wants to elevate a woman who says essentially there is no such thing as age discrimination. Let's face it, that is the bottom line.

Someone can ask: Well, Senator, where did she say that? That is the result of her ruling. She stood alone 31 times, and now George Bush wants to elevate her.

There were other times that she stood alone. This is how far out of the mainstream she is. She was the only member of the court to oppose an effort to stop the sale of cigarettes to children. I say to every parent in America who may be listening to the debate, you don't want your 10-year-old or 9-year-old or 11-year-old or 12-year-old to walk into a supermarket to start smoking, which we know is devastating, which we know is addictive, which we do everything we can to stop our kids from doing. If you want your kid protected, then you tell George Bush Janice Rogers Brown doesn't deserve to be elevated for that kind of decision.

This isn't the 1950s. I remember the 1950s where they used to say cigarettes are great for you. They are relaxing. They are wonderful. We gave them out free to people to tell them: Calm yourselves. This is terrific. You will live a long time.

The leading cause of cancer death among women is not breast cancer, it is lung cancer. In the meantime, she is saying: No, you can't stop the sale of cigarettes to children in this particular case, which was the case that came before her.

She was the only member of the court—remember, five Republicans and one Democrat—who voted to strike down a State antidiscrimination law that provided a contraceptive drug benefit to women. In the old days in this country getting a contraceptive was illegal. It was the Supreme Court eventually—and there is actually a 40th anniversary of this tomorrow, the Griswold case. Until the Griswold case, it was illegal to use contraception in this country. The bottom line is, this case of the Supreme Court turned it around and said you can't stop something. So here you have a situation where the State is saying you can't discriminate against women. You need to allow them to be covered with this prescription drug contraception. Janice Rogers Brown says: Wait a minute. I am standing alone.

She was the only member of the court who said women can be discriminated against and their contraception does not have to be protected.

Talk about going back. We are going back with this woman. She stood alone.

> The only member of the court to find that a county could not sue a utility company for illegal price fixing that had substantially increased the county's costs for natural gas.

Where has this woman been? Does she think about things like Enron? The scams that went on in California and on the west coast? Maybe she should go see that movie, "The Smartest Guy in the Room," I think is the name of it. It is a story about Enron and their manipulation of the market. Here you had a situation where a county was being run into bankruptcy because of the utility bills they were getting from a private utility. Every single justice on that court in California said absolutely the county has a right to sue that utility company. They ran up the price of natural gas. They hurt consumers. They hurt the county. But not Janice Rogers Brown. She stood with the utility company.

Are you getting the picture here of someone who deserves a promotion? I hope not because I don't think she does. I hope that what I am doing today is making the record clear that when we stood up against these 10 judges—although in essence now 9—she was one of them for a reason. It is not happy for me to have to go against someone from my own State. It is not enjoyable for me to have to go against somebody who is a woman whose life story is remarkable. It is not easy for me to have to take a stand against a minority woman, and it is not easy for every civil rights organization in this country to do the same. But we need to know what we are doing.

This President has to get a message. This could have been avoided if he had sent his people to see the Senators, which is the way it used to be done. Do you think it is OK to give this woman a promotion? No. Let's talk. Can we talk? Can I show you this research? Can I show you how many times she stood alone, how she is bad for families, how she is horrific for senior citizens, how she has ruled against consumers, how she stood with the rapist? Can I show you? We never got the chance.

This President doesn't believe in advice and consent. He does not believe in it. He looks at it as an annoyance. He should read the Constitution. Senators are supposed to be giving advice and consent—advice at the front end, consent when we have the vote. But, no, they want 100 percent. They want to pack the courts. They want to pack the courts with people who will hurt average Americans and stand up for the special interests and the far rightwing of this country.

That is not what this President said he was going to do. I remember the day when he declared victory in 1992 and the Supreme Court gave him his seat. He came out in a most humble way, he said: I will govern from the center.

I believed him at that point; I honestly did. And then you have a nomination like this, and you just wonder were those empty words? I have to say they were because you have to judge people not by their words, but by their deeds. You have to judge this judge by her decisions. She was standing alone 36 times in a court of 6 Republicans and 1 Democrat. We have some more.

> The only member of the court to find that a State fair housing commission could not award certain damages to housing discrimination victims.

Imagine that. This is a minority woman, and she doesn't understand in her heart how it must feel to be discriminated against when you are looking for housing simply because of the color of your skin or perhaps your religion. It is stunning. It is absolutely stunning to me. The only one to stand alone on this court.

So I am going to close with—wait, there is more. We have a few more of these "only times to stand alone."

> The only member of the court to find that a jury should not hear expert testimony in domestic violence cases about battered women's syndrome.

You all know what battered women's syndrome is. It is a situation where a woman has been beaten and beaten and abused and abused—sometimes to a pulp. And it impacts her actions toward her abuser. She was the only member of the court to find that a jury should not hear expert testimony dealing with Battered Women's Syndrome.

Well, to me, that says she stands with the batterer against the woman, against the victim. I have colleagues here who want, and support, an amendment to the Constitution to give rights to victims. Yet, they are going to vote for this woman who stood with a rapist and who stood on the side of batterers. It doesn't make sense.

This woman does not deserve to be promoted for standing against the victims of violence and with the perpetrators of violence, and she stood alone.

> The only member of the court who dissented from a decision that a standard worker's compensation claim did not bar her civil claim for sexual harassment.

That makes absolutely no sense. You go to work and you sign documents. One of them is a workers' comp release form. They are forms. Then this person finds out there is sexual harassment in the workplace, and she brings a lawsuit to stop it, and Janice Rogers Brown says: Well, the day you came to work and filled out all your forms, you said you would not file a workers' comp claim.

Workers' comp is not a civil remedy for sexual harassment, in my opinion. Workers' comp is getting hurt on the job; it is not sexual harassment. She stood alone. I am sure her colleagues on the court were stunned, but that is Janice Rogers Brown. She stands alone against victims and with the perpetrators of violence and harassment.

> The only member of the court to find nothing improper about requiring a criminal defendant to wear a 50,000 volt stun belt while testifying.

This is amazing. She thought: Oh, no, wear a 50,000-volt stun belt. And every other judge on the court said: No, no, no, this is America. We don't do that here. But not Janice Rogers Brown because she is so out of the mainstream.

> The only member of the court to find that a disabled worker who was the victim of employment discrimination did not have the right to raise past instances of discrimination that had occurred.

So here you have a disabled victim. She had multiple sclerosis. So I say to those who have a disability or to those who have compassion in their heart, you have a string of examples of how you were discriminated against. Janice Rogers Brown said: Oh, no, that is not admissible. We don't want to know about it. She stood alone. She is bad for workers, for victims, and the disabled. That, I think, completes our work on when she stood alone. I am going to close, in the few minutes I have remaining, with some editorials to show the broad range of comments about Janice Rogers Brown. I am going to lead off with George Will, a very conservative columnist, as I think most of my colleagues know. He talks about the deal that was cut on the filibuster, and he says:

> Janice Rogers Brown is out of that mainstream.

It is a fact, he is calling her out of the mainstream. This is George Will, and there is not much room on his right. So that is interesting.

The MercuryNews:

> As an appellate judge who would hear the bulk of challenges of Federal laws coming out of Washington, her appointment would be disastrous.

I want you to know, the MercuryNews is in Silicon Valley. The MercuryNews is very balanced. The MercuryNews is very moderate. They say her appointment would be disastrous.

> She'd be likely to strike down critical environmental, labor laws, and antidiscrimination protections. Brown, though, has infused her legal opinions with her ideology, ignoring higher court rulings that should temper her judgment.

That is a scathing editorial of this nominee.

> The issue isn't Brown's qualifications—

The Sacramento Bee says—

> it's her judicial philosophy.

This is the Sacramento Bee. This is California speaking to the rest of the country. We should be prideful, but we are not. We are upset about this appointment. The issue is not her qualifications, it is her philosophy.

> The minority in the Senate certainly is justified in filibustering a lifetime appointment of Brown. The Court of Appeals for the District of Columbia Circuit is the last place we need a judge who would impose 19th century economic theory on the Constitution and 21st century problems.

How far back are we going to go?

I have to say to my colleagues who may be watching this or may be coming back to the Hill today, we have an opportunity here to stand up for the people of the United States of America. We have an opportunity to say no to someone—not that they do not have a wonderful life story, but in spite of that life story because this appointment is not about her life, it is about our life, it is about your life, it is about the lives of your children, your grandchildren, your grandmother, your grandfather.

This is an appointment that is out of the mainstream, so stated by George Will. This is a woman who stood alone 31 times. You will hear my colleagues on the other side say: Don't listen to Senator BOXER, her explanation of these cases is inaccurate. But I have to tell you, it is accurate. When you have a woman who is a Republican who stood alone against five other Republican mainstream judges 31 times, who dissented more than a third of the time in a courtroom such as this, you know you are looking at someone who does not deserve a promotion.

I am going to keep talking about this nomination. We are going to have a press conference with all of these groups that we can manage to muster, and we are going to be very strong to our colleagues in saying, yes, we are not filibustering Janice Rogers Brown—we gave that up as part of the deal we made so that we would not see filibusters outlawed—but we are going to fight to see that she does not get the 51 required votes.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask the question: How did a wonderful person and a wonderful nominee, such as Judge Janice Rogers Brown, become so controversial? What is it that is going on here?

She served 8 years on the California Supreme Court. She has served on the Third Appellate District Court of Appeals of California. Every member of that court of appeals with whom she has served has written in support of her nomination. She was reelected to the California Supreme Court with 76 percent of the vote. I think there were four other judges on the ballot. She had the highest vote of any of those judges. California is certainly not a right-wing State.

She grew up in my home State of Alabama, not too far away from my hometown in a small town area of Greenville, AL. She is the daughter of a sharecropper. A sharecropper is a person who does not own land but farms a part of somebody else's property. He pays the landowner with some of the produce and keeps a little of the produce for himself and his family. That is how she grew up. Somehow, as a teenager, she moved off to California, worked her way through college and then law school.

She then worked for the attorney general's office of the State of California in which she represented the State on appeals of criminal cases. She wrote the briefs, she argued the legal questions, she participated in the trials of criminal cases, but I think most of her time was spent writing the appellate briefs to the court of appeals.

By the way, of course, supreme court justices, like appellate judges, do not try cases, like the big cases we see in the newspapers. They simply review the trial record of cases that have been tried.

They determine whether a fair trial occurred and whether the judgment should be affirmed or reversed and a new trial held, that sort of thing. That is what she has been doing on the California Supreme Court. That is exactly what she would do if she were appointed to the court of appeals in the DC Circuit.

Her judicial philosophy is absolutely mainstream. She agrees with the President of the United States, President George W. Bush. She is in harmony with his view of the role of courts and the rule of law in America. Make no mistake, this is a big question. He campaigned on that issue around the country. President Bush talked about the courts and about the role of courts in America. He talked about what we should do to strengthen the rule of law in this country, how important it was to him, and he promised to appoint judges who would show restraint and not utilize their opportunity on an appellate bench to redefine the meaning of words, to have it say what they want it to say so they can impose their political views through a court ruling.

He said, I do not believe in that kind of jurisprudence. In fact, it has not been the heritage of our country for 200 years, but in recent years it has become the vogue in law schools and in certain areas of the country, California being one of them, frankly, to have an activist judiciary.

Judges are praised for being bold and stepping out. We had one judge under President Clinton who was confirmed to the court of appeals from California. He had been in the court system and he said, well, it is the duty of a judge to act when the legislature would not act. That is what the definition of activism is, a judge who believes he has a duty to do something if he thinks the politically accountable bodies in our country do not; that it is perfectly all right for a judge to act if the legislature does not act.

I will tell America, and this is important, when a legislature does not act, it made a decision not to act, and those legislators are responsible to the people. If they are irresponsibly failing to deal with a problem, they will be removed from office eventually.

A Federal judge is given a lifetime appointment. They are not accountable to the public. We cannot cut their salary. So what we need is judges who understand the role of the judiciary in the American system. We need judges who show restraint and who understand that America is built on a political system and a constitution that should be faithfully followed and the political decisions ought to be made by those people in rooms such as this, in the State legislatures and in the Congress. We are accountable to the people who elect us.

Make no mistake about it, empowering judges to carry out political agendas is an anti-democratic act. It undermines the power of the people of our country. Many of the complaints made against Janice Rogers Brown are because she adopted and does believe in the view of a judiciary that the American people value, that President Bush values and that was affirmed in this past election when he won. That is what she believes.

Now, the Court of Appeals in the Ninth Circuit Federal court in California a few years ago was reversed by the U.S. Supreme Court 27 out of 28 times. They reviewed 28 cases from that court and reversed it 27 times. The New York Times said a majority of the members of the U.S. Supreme Court considered the California court to be a rogue circuit.

So this is not an itty-bitty matter. People have been saying, oh, this is politics, this is Democrats and Republicans fussing and it is a little political discussion which does not amount to much, and what does it have to do with us.

Well, the truth is, the issue is simple, but it is far more important than party politics. I am sure some in this body vote for political reasons and have not given a lot of thought to the judiciary and what is important, but we are dealing with the role of the judiciary in America.

As a Senate, when we deal with confirmations, it is all right to ask somebody about their political views or to look at their political views, but we do not vote for and against nominees based on that. I voted for 95 percent of President Clinton's nominees. I did not agree with their political views on many things. I felt most of them who came through, certainly the ones I voted for, were committed enough to the rule of law that I could vote for them. Some I had doubts about, but I gave the President the benefit of the doubt and voted for them. A few I opposed.

What was the deal? It is not their politics that counts. It is their judicial philosophy. That is what counts. What is their view of the role of a judge? What is their understanding of what law means in this country?

There are people who are teaching postmodernism in our law schools today. Some of them have been called advocates of the critical legal studies idea. And what do they say? Nothing is really true: one cannot look at a statute and interpret it. One can look at that statute and they can make it say whatever they want it to say and justify that.

It is a dangerous philosophy. People have fought for our country, died for our country, and in large part they died to preserve the rule of law. Maybe they did not even believe in the war, but they were called to go and they went and served their country because they were legally called to serve. They did their duty. It has been the cornerstone of this country's strength since its founding.

As I travel the world, as I have the opportunity to do as a Senator on occasion, I am more and more convinced that our legal system, our respect for law, is what makes this country great. If someone signs a contract, they can expect it to be enforced. If they do not pay their house note, someone will come and take the house. But because of that, a person can borrow $200,000, a middle-class working American, and pay it back at 6 percent interest over 30 years. Now, tell me where that happens in another place in the world?

It is part of the legal system that is so important, and we have a dangerous trend in this country. We have members of the U.S. Supreme Court quoting the European Union as if that would affect how they interpret a statute passed by a State legislature or the Congress or the Constitution ratified in 1789. What possible value could that have? This is a dangerous trend.

Judges are getting to the point where they feel they have to solve difficult questions; that the legislatures cannot get them figured out quick enough to satisfy them so they want to solve them. It is not good. It erodes public respect for the courts because more and more they realize they are not deciding these cases on what the law says or what the Constitution says but what they think.

Who cares what they think? We do not pay judges to think. We pay judges to rule on the law.

It is a big deal and this is what it is all about. Do not make any mistake. The left understands it. They understand this absolutely, and the courts have been the one branch of Government they have been utilizing to advance agendas the American people are not supportive of—in fact, oppose. But if someone can get a judge to say the Constitution says a marriage can be a union among whatever, then that is it. What does one do then? What does it take to have a constitutional amendment? It takes a two-thirds vote of both Houses of Congress and three-fourths of the State legislatures. So judges have great power. If they abuse it, it is a big deal. I think that is why we are seeing the attack on a number of our nominees that I think is not fair. It goes beyond what is right. In fact, they have sort of become pawns in this battle over the nature of our judiciary.

I have watched these groups closely over the years, and I have to tell you some of these leftwing groups that create these attack ads and attack pieces on these nominees ought to be ashamed of themselves. It is not legitimate or fair what they do. They dig into their records, every statement they have ever made, their personal history, the cases they have had, the speeches they have made, and they try to find anything they can. They will take one sentence. Maybe there are two paragraphs of qualifying explanation and they will take one sentence out of context and say that represents a certain thing and therefore this nominee should be voted down.

But we are Members of the Senate. We are the ones who took an oath to do our duty to enforce the Constitution, to fairly judge nominees the President sends up here. That is our responsibility. We cannot pass that off to some group, some polling data, some newspaper editorial. So they take a bit here, a bit there, a statement, a word, a case, a circumstance—they take it out of context and distort it, many times dishonestly; dishonestly, many times deliberately doing so, to try to create a caricature of this nominee.

Then they ask the people of the Senate to vote against them. Vote against them. But we should not do that. That is not what the Senate should be about.

Janice Rogers Brown sees things different from some people; particularly, I guess, in California. She has a more classical understanding. She made a speech one time in which she questioned the validity of the welfare state and whether it helps people. So they say she is against all poor people and welfare. She questioned overreaching regulations. They say she is against all regulations. She is a throwback. She doesn't believe in any government regulation. Whereas she has ruled on hundreds of cases affirming government regulations, for Heaven's sake.

But some regulations do overreach. Is there any doubt about that? One of them dealt with rental property in California. The owner had long-term leases and decided to convert them to short-term hotel work. He wanted to convert the building to a full-fledged hotel. Do you know what they told him in California? Well, we know this is your property, Mr. Owner, but, you know, we want to help poor people and we want you to pay money to create low-income housing before you can do that. Before you can do that you have to pay this money or create some other housing. What kind of thing is this in America?

They say she doesn't believe in government regulations. That doesn't sound like a decent regulation to me. So she opposed that, citing Supreme Court precedent. I am going to tell you, the Constitution of the United States provides someone's property cannot be taken from them without just compensation having first been paid. That is what the law is and what it ought to be. Private property is protected in our Constitution as much as free speech. The left talks about free speech, but we will talk about a case or two that they have accused Justice Brown of acting improperly on and all she was doing was affirming clearly and unequivocally the right of free speech in America. But the left doesn't really believe in free speech. They have an agenda they want to promote. It is big government in domination of our lives in any number of different ways.

I think this lady is a superb justice. She writes beautifully. She cares about America. She grew up in a land of segregation. They have accused her of not favoring civil rights. She has been discriminated against herself. She is an African American who was raised in segregated Alabama and went off to California and had a tremendous success story. The judges who write about her or lawyers who write about her say she is brilliant, intellectually honest, always thinking to do the right thing. She speaks with clarity and integrity. She is highly qualified. She doesn't agree with the leftwing agenda politically and she said so, but that doesn't impact her legal decisions. That is what is important: How do you rule in cases?

A judicial philosophy that shows restraint, let me say, is far less dangerous than a judicial philosophy that justifies expanding power. I think this nominee, with her experience as a prosecutor and understanding criminal law will do an excellent job on the federal bench.

Some critics complain about her sole dissents. She was a sole dissenter in a death penalty case, saying that the lawyer was inadequate. No other person complained about her dissents, presumably because she was some rightwing person, but she believed this defendant had not been properly defended by his lawyer, so she was the sole dissenter in that case.

She dissented in another case, a criminal case, in which a person was stopped because he was riding his bicycle the wrong way on a street, and she believed it was a racial profile stop. They didn't have a basis to stop that person to begin the search that resulted in the discovery of illegal drugs. That was a dissent, also. So what are these dissents about? You don't dissent in America? Judges dissent all the time. Every time you have a 5-to-4 decision of the U.S. Supreme Court you have four dissenters. There are many 8-to-1 decisions and one judge dissents. That is nothing unusual.

Some of these dissents she participated in were joined in by liberal members of the California Supreme Court. Also, I think it is important for us to note that in 2002 she was called on to write the majority opinion for the California Supreme Court more often than any other member of that court. So how is she such an out-of-the-mainstream person? She wrote more majority opinions in 2002 than any other member of the court. What happens is, when a court gets together and discusses a case before they finally vote and make their opinion, they see how the judges analyze the case. If it is a majority or a unanimous decision one way, someone is selected to write the opinion for the majority. If it is 5 to 4, someone is selected to write the opinion for the five, the majority. Sometimes there will be four different dissents, maybe one dissent with all the rest joining in. Judges can do it any number of different ways.

This idea that she is out of the mainstream because she has dissented on cases is a total mischaracterization of her record. They have gone back and dug through her records and tried to find numbers and ideas and concepts that put her in a bad light. They ignore the fact she wrote the majority opinion in 2002 in more cases than any other of the nine justices on the California Supreme Court.

There are a lot of different cases in which she has been criticized. A lot of great dissents have been issued in this country. There is the dissent of Justice Harlan in the separate but equal case of Plessy v. Ferguson. Was that a good dissent? I think it was a good dissent.

By the way, in the zoning case her critics talk about, alleging that she was taking an extreme position on that case, that vote in the California Supreme Court was 4 to 3. Only four judges were for it; three were against it. She wrote the dissent. I thought it was a great dissent.

Several times, Senator BOXER and others have said Justice Janice Rogers Brown said it was okay for Latinos to have racial slurs uttered against them in the workplace. That is a terrible charge. That is not true. Sometimes we wonder if there is a lawyer in this whole building. Is there anyone who knows how the legal system actually works? The case they referenced was the Aguilar case. A court injunction or court order barred a manager from using racial epithets in the future, raising grave first amendment concerns to tell someone in our country, you cannot say something in the future. You can say what you said in the past was wrong and you can be sued for it, you can be put in jail, perhaps, if it amounts to a criminal action; but the courts in this country have always, as a result of free speech concerns, been very reluctant to enter into prior restraint, as the judges call it, to stop someone from saying something in the future. You pay a price if you say the wrong thing in the future, but to order them never to say something is a very dangerous thing.

The court split on that case, 4 to 3. Yes, she was a dissenter, but also dissenting with her in that case was the liberal icon of California jurisprudence, Stanley Mosk, her colleague on the bench. This was a 4-to-3 decision representing a very important idea. She specifically condemned the language. She said people could be sued, they could have penalties imposed. She was concerned about a court injunction saying to somebody, they could not say certain words in the future. That is what the question was. Any legal scholar in this country would agree that is a difficult matter. We ought to be careful before we pass injunctions saying people cannot say something. A prominent liberal jurist, Justice Mosk agreed with her on that point, as did three of the justices on that court.

One of the things one of the groups has attacked her about, and I don't know if the Senators have raised it yet—I wouldn't be surprised, is the use of stun belt on a criminal defendant in court.

We are familiar with the recent case in the Atlanta, GA, courthouse, where a violent defendant overpowered the guard, took a gun, shot a bunch of people, ran off. There was a national uproar over what to do about it, why that shouldn't have happened, and how we ought to take steps to prevent this in the future. That was a good, healthy debate.

There is a device called a stun belt that can be placed on a defendant. Simply by pushing a button, apparently, one can immobilize a subject wearing a stun belt.

In recent years, we cannot bring criminals into the courtroom in prison garb. You cannot bring a prisoner in a courtroom and sit them before a jury in handcuffs. That would bias the jury, the courts have said, in their effort to be fair to defendants.

I was a prosecutor; I remember when that started happening. So we had to sit them up there in the witness box without any chains or handcuffs. You never knew what they were going to do. There were marshals and sheriff's deputies standing on alert to see if this guy was going to make a break.

They came up with this idea to put a stun belt around a defendant, under their clothes, that could not be seen.

This guy was referred to as being psychotic, violent, dangerous in any number of ways and the California Supreme Court said, you cannot make him wear it. It made him nervous.

I hate to say that was a silly opinion, but it was, in my view. I bet if the decision was made after the Atlanta courtroom incident, they may not have ruled the same way. But one justice on that court saw it correctly: Janice Rogers Brown. She dissented from that decision. That was the right thing to do. Absolutely the right thing to do. I salute her for it. She should not be voted down for those issues.

There are many of these examples of distortions of her record we could talk about. One interesting case in which Justice Brown authored a majority opinion deals with the question of affirmative action. It is the kind of case that gets someone in trouble with certain leftwing groups in this country but is consistent with the law of America and the law of the State. She did the only thing appropriate. It is the High-Voltage Wireworks case. In this case, the California Supreme Court unanimously concurred in Justice Brown's opinion.

They say she does not believe in affirmative action, quotas, and things of that nature. This is one of the cases they cite. It was a unanimous supreme court decision case. It demonstrates her ability to follow the Constitution and Federal law.

California proposition 209 was passed by the people of California. It added a provision to the California Constitution that provided:

> The states shall not discriminate against or grant preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education or public contract.

The people from California passed that.

There was a minority contracting program in San Jose that said contractors bidding on city projects must utilize a specified percentage of minority and women contractors or document efforts to include minority and women contractors in their bids. Every judge who reviewed the case, including the trial, appellate, and supreme court, agreed that the San Jose program constituted preferential treatment within the meaning of proposition 209. Why, certainly it did.

Justice Brown's opinion demonstrates her firm commitment to the bedrock principles of civil rights. She noted:

> Discrimination on the basis of race—

Remember, she is an African American.

> Discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society.

Contrary to the assertions of liberal smear groups, Judge Brown is not opposed flatly to all affirmative action programs in all circumstances. She has specifically acknowledged that "equal protection does not preclude race conscious programs." Certain race-conscious programs can be approved under the law. And she favorably cites Supreme Court decisions establishing the affirmative duty to desegregate where there has been a showing of a prior discrimination, that you can issue orders, then, if there has been a proof of discrimination.

She provided a historical discussion of all of American equal protection law. It was part of an extremely well-reasoned opinion. But it has made some of those on the left unhappy, you see, because she is not in lockstep for all these items, she is not in agreement with everything. She thinks there are limits to what the Government can do in this area, and should do, consistent with the Constitution of the United States.

There are many other cases she has ruled on. I will simply add this, in conclusion, that she has been a sterling justice, a justice who believes in law. She has approached each case she has dealt with from a perspective of trying to find out what the law is and how to do the right thing about it. She has courage and had the courage to stand up in the face of a legal system that has not been supportive of classical understandings of how we interpret statutes, how we enforce the law, and what the law means. She has been in an agenda-driven environment where judicial activism is more prominent in certain areas of the country. The fact she has dissented and has raised questions to defend private property and to question turning criminals loose on a rapid basis, as some have, and those kinds of things, speak well of her.

What is important mostly is that she has a judicial philosophy that is consistent with the judicial philosophy our country has had, our heritage of law. That is what she believes in. That is what she has given her life and career to. She loves the law, and she cares about it. She cares about it enough to speak out if she thinks things are going wrong. Her views are consistent with the American people. President Bush campaigned on these issues aggressively in this last election. He won 52 percent of the vote. It is the first time in many years a Presidential candidate received over half the votes in this country. I think if you took on the question of judicial activism and the feeling of the American people with regard to judges who exceed their bounds of power and start legislating from the bench rather than making decisions, he would have had much higher support.

Senators who joined this body defeating incumbents or winning open seats—the winners of those seats—consistently have been Senators who have talked to the people of their States about the problem of an overreaching judiciary and the need to make sure the judges we have are talented, smart, proven men and women of integrity and ability, but men and women who will show restraint on the bench, who will follow the law as written, even if they may not personally agree with it. Because if they want to write the laws, they ought to run for office and see if they can get elected. Maybe the reason people who got elected did not pass a law they wanted is because the American people did not want that law, their constituents did not want it, and that is why they did not pass it. So they are not empowered to impose their personal views by subtly manipulating words and language and phrases and other things to make the case come out the way they want it to come out. That is not what they are empowered to do.

I think Janice Rogers Brown represents the classical view of law, the mainstream view of law, which I will admit is under attack today in this country. It was a big issue in the campaign. President Bush took his case to the American people, and he was reelected on it. That was a big issue in his election. There is no doubt about it. The American people want judges with the philosophy of Justice Rogers Brown, her legal philosophy. What she says politically somewhere in a speech is not important, as long as her judicial philosophy is such that she shows and has demonstrated she will be faithful to the Constitution and to the law, whether or not she agrees with it.

That is what we in the Senate need to be doing in our confirmation process. We need to ask ourselves: This may be a view by a nominee I agree with or I do not agree with, but will they enforce the law? Because we cannot expect every nominee to agree with us on our religious values, our moral values, or our political beliefs. Judges are not expected to do that. You do not expect that. It is not running for office. They are not going to be voting on these things. You want people who understand the law and who will be fair and show intelligence and diligence and a determination to get it right. That is what she said in her testimony. She said: My goal is to get it right.

I believe this is a good nominee. I believe she will be a tremendous addition to the Court of Appeals for the United States. I am proud she is a native of my home State, and I am honored to have these moments to speak on her behalf.

I thank the Chair and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I was talking about Justice Janice Rogers Brown and her record of courage and ability on the Supreme Court of California.

I note an article by Nat Hentoff. It is in the Jewish World Review. Mr. Hentoff is a noted civil rights lawyer, of courage and independence, who writes with clarity and is a civil libertarian who believes in American civil liberties, who has a long record of it. He is not someone who is slavishly part of any political agenda and is willing to speak the truth wherever he sees it. Sometimes I agree with it; sometimes I don't. But he has written an article about the filibuster of Janice Rogers Brown. He talks about the "Action Alert" from the National Association for the Advancement of Colored People that "accuses [Janice Rogers Brown] of having extreme right-wing views" and "issuing many opinions hostile to civil rights."

She has been a victim of civil oppression and segregation. She is a true champion of civil rights, as I think I indicated in my remarks.

He goes on to show "how prejudicially selective the prosecution of her is by the Democrats, the NAACP, People for the American Way, and her other critics."

He says:

> To my knowledge, not one of her attackers has mentioned the fact that in the case of People v. McKay, Brown was the only Supreme Court justice to instruct her colleagues on the different standards some police use when they search cars whose drivers are black:

This is Justice Brown's quote:

> There is an undeniable relation between law enforcement stop-and-search practices and the racial characteristics of the driver. . . . The practice is so prevalent, it has a name: "Driving While Black."

Does that sound like somebody who is hostile to civil rights? He goes on to criticize the Action Alert and the selective comments that are made there.

He says:

> Sen. Ted Kennedy has accused Justice Brown of hostility not only to civil rights but also to "consumer protection." But in Hartwell Corp. v. Superior Court (2002), she declared that water utilities could be sued for having harmful chemicals in the water that result in injuries to the residents of the State who drink that water. Also in People ex rel. Lungren v. Superior Court, Justice Brown affirmed the authority of California's attorney general to haul into court faucet manufacturers who include lead in their faucets.
>
> Another charge by the NAACP in its "Action Alert" is that Justice Brown dissented from "a ruling that an injunction against the use of racially offensive epithets in the workplace did not violate the First Amendment."

Mr. Hentoff then says this:

> I know this case—Aguilar v. Avis Rent A Car System Inc.—well, having covered it from the beginning and interviewed lawyers on both sides. Brown dissented from an astonishing decision by the California Supreme Court that authorized the trial judge to actually put together a list of words that would be forbidden for all time in that workplace, even if uttered out of the presence of employees.

That is what Mr. Hentoff says about this opinion of the majority that she dissented from. He goes on to say:

> This extreme gag rule on speech turned the First Amendment upside-down because as Stanley Mosk, a much-respected civil libertarian on that California Supreme Court, emphasized: "The offensive content of using any one or more of a list of verboten words cannot be determined in advance." As Brown said plainly and correctly: "We are not dealing merely with a regulation of speech, we are dealing with an absolute prohibition—a prior restraint." This could "create the exception that swallowed the First Amendment."

Do you see what we are talking about here?

That is what has been going on on the floor of the Senate that is so distressing to me. Let's lay it out here on the table.

Justice Janice Rogers Brown, according to one of the great civil liberty lawyers in America, Nat Hentoff, was defending first amendment free speech, joined by one of the most liberal members of the California Supreme Court to defend free speech. What did they accuse her of? They said that she approved of using racial slurs against Hispanics. Now, that is beyond unfair. It is beyond unfair. It is beyond decency and integrity, and it is not right. It is wrong. That is what we have been doing to nominees here to justify the opposition because fundamentally they believe in a classic rule of law and don't believe in judicial activism.

Hentoff goes on further and talks about another case.

> As for this justice's hostility to civil rights and liberties, there was her dissent in In Re: Visciotti in which she declared the sentence of John Visciotti—convicted of murder, attempted murder, and armed robbery—be set aside because of his defense lawyer's incompetence. In another capital murder case (In Re: Brown) she reversed the death sentence of John George Brown because the prosecutor subverted the defendant's fundamental right to due process by not disclosing evidence that could have been exculpatory.
>
> Not a word about those two cases was in the NAACP "Action Alert" or the New York Times editorial [or the Sacramento Bee].

I ask unanimous consent to have printed in the RECORD the article of Mr. Hentoff of May 9, 2005, entitled "Filibustering Janice Rogers Brown."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Jewish World Review, May 9, 2005]

FILIBUSTERING JANICE ROGERS BROWN

(By Nat Hentoff)

Janice Rogers Brown of the California Supreme Court has been the Bush nominee for a federal circuit court judgeship facing particularly fierce resistance by Democrats and their allies. For example, the April 26 "Action Alert" from the National Association for the Advancement of Colored People accuses her of "having extreme right-wing views," issuing "many opinions hostile to civil rights."

I do not agree with all of Justice Brown's opinions, but I write this to show how prejudicially selective the prosecution of her is by the Democrats, the NAACP, People for the American Way and her other critics. She was filibustered in the last Congress, and may be again, now having been sent to the floor on a 10-to-8 party-line vote by the Judiciary Committee.

To my knowledge, not one of her attackers has mentioned the fact that in the case of People v. McKay (2002), Brown was the only California Supreme Court justice to instruct her colleagues on the different standards some police use when they search cars whose drivers are black:

"There is an undeniable correlation between law enforcement stop-and-search practices and the racial characteristics of the driver. . . . The practice is so prevalent, it has a name: 'Driving While Black.'"

The three-page "Action Alert" I received from the NAACP ignored that opinion, in which Brown added that while racial-profiling is "more subtle, more diffuse and less visible" than racial segregation, "it is only a difference of degree. If harm is still being done to people because they are black, or brown, or poor, the oppression is not lessened by the absence of television cameras."

This is right-wing extremism? Yet, an April 28 lead New York Times editorial accuses Justice Brown of being "a consistent enemy of minorities (and is) an extreme right-wing ideologue."

Sen. Ted Kennedy (D–Mass.) has accused Justice Brown of hostility not only to civil rights but also to "consumer protection." But in Hartwell Corp. v. Superior Court (2002), she declared that water utilities could be sued for having harmful chemicals in the water that result in injuries to residents of the state who drink that water.

Also in People ex rel. Lungren v. Superior Court (1996), Justice Brown affirmed the authority of California's attorney general to haul into court faucet manufacturers who include lead in their faucets.

Another charge by the NAACP in its "Action Alert" is that Justice Brown dissented from "a ruling that an injunction against the use of racially offensive epithets in the workplace did not violate the First Amendment."

I know this case—Aguilar v. Avis Rent A Car System Inc.—well, having covered it from the beginning and interviewed lawyers on both sides. Brown dissented from an astonishing decision by the California Supreme Court that authorized the trial judge to actually put together a list of words that would be forbidden for all time in that workplace, even if uttered out of the presence of employees.

This extreme gag rule on speech turned the First Amendment upside-down because as Stanley Mosk, a much-respected civil libertarian on that California Supreme Court, emphasized: "The offensive content of using any one, or more, of a list of verboten words cannot be determined in advance." As Brown said plainly and correctly: "We are not dealing merely with a regulation of speech, we are dealing with an absolute prohibition—a prior restraint." This could "create the exception that swallowed the First Amendment."

As for this justice's hostility to civil rights and liberties, there was her dissent in In re

Visciotti (1996) in which she declared that the sentence of John Visciotti—convicted of murder, attempted murder and armed robbery—be set aside because of his defense lawyer's incompetence. In another capital murder case (In re Brown) she reversed the death sentence of John George Brown because the prosecutor subverted the defendant's fundamental right to due process by not disclosing evidence that could have been exculpatory.

Not a word about those two cases was in the NAACP "Action Alert" or The New York Times editorial.

Were I on the Senate Judiciary Committee, a critical question I would ask Justice Brown is: "Is it true, as has been charged, that you believe the drastically anti-labor 1905 Supreme Court decision in Lochner v. New York was correctly decided?"

In that decision, which placed bakery owners' contract rights over the health of workers and the health of buyers of the company's products, the High Court ruled that employers had the right to insist that their employees work unlimited long hours, even if the public's health were to be endangered because sick workers couldn't even take the day off.

If Justice Brown does indeed agree with that decision, which was influential until President Roosevelt's New Deal, I would have difficulty voting for her; but I would not unjustly accuse her of having nothing in her record that strongly upholds the interests of justice. She does not deserve being stereotyped as an archetypical reactionary. And her defense of the Fourth Amendment's protection of our rights against government search and seizure are much stronger than any current member of the Supreme Court.

Mr. SESSIONS. What kind of lady is this? She graduated from UCLA, one of our Nation's finest law schools. In February of 2004, the alumni of that not-so-conservative law school presented Janice Rogers Brown with an award for public service. In recognizing Justice Brown, her fellow UCLA alumni, the people who know her, did not criticize her and say she was an extremist. They didn't say anything like that. At UCLA law school, where they gave her an award, they said:

> Janice Rogers Brown is a role model for all those born to prejudice and disadvantage, and she has overcome adversity and obstacles and, since 1996, has served as a member of the California Supreme Court. . . . The professional training she received at the UCLA School of Law has permitted her, even now when decades remain to further enhance her career.—

Yes, we need to see her career be enhanced by this court of appeals appointment.

> to have already a profound and revitalizing impact upon the integrity of American jurisprudence.

I will repeat that. They said:

> . . . even now, when decades remain to further enhance her career, [she has been shown] to have already a profound and revitalizing impact upon the integrity of American jurisprudence.

I think that is a good description.

> Despite her incredible intellect, work ethic, determination, and resultant accomplishment, she remains humble and approachable.

That is not the Janice Rogers Brown you hear her opponents describe. I will take the words of the people who know her and who have actually studied her record over the rhetoric of special interest groups who are not the least bit concerned, it seems to me, about being fair in their description of the nominee.

She spent 8 years as a deputy attorney general in the Office of the California Attorney General, where she prepared briefs and participated in oral arguments on behalf of the State's criminal appeals; she prosecuted criminal cases and litigated a variety of civil issues. Her keen intellect and work ethic made her a rising star on the California legal scene, and in 1994, Governor Pete Wilson tapped her as his legal affairs secretary. She served in that capacity until 1994, when she was nominated and confirmed as an associate justice on the California Third District Court of Appeals. In May of 1996, to honor her for her superior performance on the appellate court, Governor Wilson elevated her to the California Supreme Court, where she has performed admirably.

Since she was appointed to the California Supreme Court, a couple of things have happened which demonstrate she is doing her job and doing it well. During the 1998 elections, she was retained with 76 percent of the vote, receiving a higher percentage of the vote than any other judge on the ballot and in 2002, she authored more majority opinions than any other Justice on the Court.

The people of California who actually know the law and study the law and who have not been brainwashed by attack sheets that come out, by liberal groups, support her. For instance, Gerald Ullman, a California law professor, has expressed public support for this nominee. His statement sums up what we ought to consider with regard to Justice Brown's nomination. Let me quote it:

> Although I frequently find myself in disagreement with Justice Brown's opinions, I have come to greatly admire her independence, her tenacity, her intellect, and her wit. It is time to refocus the judicial confirmation process on the personal qualities of the candidates, rather than "hot button" issues of the past. We have no way of predicting where the hot button issues will be in years to come, and our goal should be to have judges in place with a reverence for our Constitution, who will approach these issues with independence, an open mind, a lot of common sense, a willingness to work hard and an ability to communicate clearly and effectively. . . . Janice Rogers Brown has demonstrated all these qualities in abundance.

That is what Professor Ullman said.

Her colleagues and former colleagues also support her. A bipartisan group of Justice Brown's current and former judicial colleagues, including all of her former colleagues on the Court of Appeals, Third Appellate District, and four current members of the California Supreme Court, also have written in support of her nomination.

Twelve current and former colleagues noted in a letter to the committee that:

> Much has been written about Justice Brown's humble beginnings, and the story of her rise to the California Supreme Court is truly compelling. But that alone would not be enough to gain our endorsement for a seat on the Federal bench. We believe that Justice Brown is qualified because she is a superb judge. We who have worked with her on a daily basis know her to be extremely intelligent, keenly analytical, and a very hard worker. We know that she is a jurist who applies the law without favor, without bias, with an even hand.

That was sent to Chairman ORRIN HATCH in October 2003.

Ellis Horvitz, a Democrat and one of the deans of the appellate bar in California, has written in support of Justice Brown, noting that:

> In my opinion, Justice Brown [possesses] those qualities an appellate judge should have. She is extremely intelligent, very conscientious and hard-working, refreshingly articulate, and possessing great common sense and integrity. She is courteous and gracious to the litigants and counsel who appear before her.

That was another letter to Chairman ORRIN HATCH.

The praise for Justice Brown and her performance on the bench goes on and on. Sure, some do not agree with her politically, but they recognize and appreciate her approach to jurisprudence. She is a restrained jurist who refuses to change the definition of marriage or to strike down the Pledge of Allegiance or throw out the "three strikes and you are out" law in California.

She is the kind of judge President Bush promised to support. Again, I think she has done a terrific job on the Supreme Court of California. I am proud she is from Alabama. I am sorry the discrimination she believed she and her family faced in our State was, I am sure, part of the reason they left Alabama to seek a fair life. She went to California and has taken advantage of the opportunities given her. She achieved a tremendous record. It is an honor for me to speak in support of her nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague from Alabama for his remarks. I did not hear them all, but he did say the record of Justice Janice Rogers Brown is compelling, and I agree with that. It is so far off the mainstream that one has to look at it compellingly. It is hard to believe, frankly, that the President nominated someone with these views. I think it shows how far over and out of the mainstream the President's nominees are and, unfortunately, how much in lockstep the majority in the Senate walks with these nominees.

I have no doubt that Justice Brown is smart and accomplished. Her rise from humble beginnings is impressive. That does not make somebody who belongs on the second most powerful court in the land. Someone's rise from humble beginnings is very important, but it does not mean they can run a major company. It does not mean they would be a great lineman or center or linebacker for the New York Giants. It is a wonderful thing, but it does not qualify them for the job.

Judge Janice Rogers Brown's humble rise cannot offset her radical and regressive approach to the law. I would argue that none of the views of the nominees we have had so far are so off the charts as Janice Rogers Brown. None of what she has done in her life can mitigate her hostility to a host of litigants who have appeared before her. If someone is polite and then takes your argument and throws it out, even though the law is behind you, and leaves you hopeless, it does not mean they have done a good job as a judge.

Janice Rogers Brown, on the merits, is the most out of the mainstream, the least deserving of all of the President's appeals court nominees. In a moment, I am going to review those reasons. Before I do, I want to ask a question that has been nagging me for a while: Why are so many self-described conservatives planning to vote for her? She is not conservative, she is a radical. She is the opposite of a conservative. And why are moderate Senators on the other side of the aisle boarding the Brown bandwagon when everything she believes is against what they believe?

Is it that this nominee, more than any other, embodies the conservative ideal for an appellate judge? Let's see what conservatives describe as what a judge ought to be.

This is the President and Republican leaders. They said a model judge should be a strict constructionist, judicially constrained, and mainstreamed. Janice Rogers Brown is none of those, absolutely none. Let's take a look at the record.

Is she a proud and principled strict constructionist? Is that why the President and Republican leaders are pushing her? President Bush has said time and again that he wants judges who will not legislate from the bench. He said he wants strict constructionists in the mold of Antonin Scalia. But Janice Rogers Brown is no more a strict constructionist than I am a second baseman for the New York Yankees. Anyone who says that the New Deal is a socialist revolution and ought to be undone, when we have had 70 years, seven decades of law based on the construct of the New Deal; where 99 percent of America agrees—does that person belong on the bench? Absolutely not. The New Deal is a socialist revolution and ought to be undone—does anyone on this side of the aisle agree with that?

And then defend for me once, I would like to hear in all the debate we had and will have on Janice Rogers Brown one person defending those comments. The only person I heard is ORRIN HATCH: Well, she tries to be inflammatory, or she tries to get people's attention. She has said things such as this over and over.

If you believe the New Deal was a socialist revolution that ought to be undone, you are not a strict constructionist. The legislature, the Congress, and the President, Democrats and Republicans, from 1932 on have said the things we have done in the New Deal and built upon on the basis of the New Deal ought to stay. Should one judge be able to undo that? Then why are we voting for her? That is not strict constructionism. That is not conservatism.

Listen to what a conservative commentator, Ramesh Ponnuru, wrote about her in the National Review some time ago. The National Review is a conservative publication.

> Republicans and their conservative allies have been willing to make lame arguments to rescue even nominees whose juris prudence is questionable.

He continues to say—this is not my quote:

> Janice Rogers Brown has argued there is properly an extra constitutional dimension to constitutional law.

Those are her words.

> She has said that judges should be willing to invoke—

And this is Mr. Ponnuru quoting Janice Rogers Brown, not me—

> She has said that judges should be willing to invoke "a higher law than the Constitution."

You can find a higher law to the Constitution if you so believe from the far right, from the far left, maybe from the animal rights people or the vegetarians, but that is not what judges should do.

Take a look at her own words in a dissent involving a California proposition, proposition 209. In that case, which involved affirmative action, Justice Brown did not feel compelled to limit herself strictly to the language of that proposition. Instead, she decided that she should "look to the analytical and philosophical evolution of the interpretation and application of title VII to develop the historical context behind proposition 209."

This sounds like Justice Brennan or some of the very liberal judges the conservatives decry. If you are going to make up your own law, are we saying on the other side of the aisle, you are not a strict constructionist if you want to make up your own laws to the left, but you are a strict constructionist if you want to make up your own laws to the right? As somebody who believes deeply in moderation on the bench, I am offended by either side.

So Janice Rogers Brown is not a strict constructionist, but is she otherwise a proven warrior against the scourge of conservatives everywhere—judicial activism? No. She is clearly an activist judge. She takes what comes into her own mind—she is bright, but a lot of her views compared to American law veer way off course—and she writes them in her opinions. Decades of elections, tens of thousands of legislators, executives, and she just throws them out the window because she happens to believe she knows better than everybody else.

That is what a judicial activist is. That is what the conservative movement against judicial activism rebelled against.

Well, conservatives and moderates alike have criticized her for her activism, and her own words show her to be as activist as they come. Her own words demonstrate she is quick to want to reverse precedent, the very definition of an activist judge. When it comes to reversing precedent, one might say Janice Rogers Brown has an itchy trigger finger; she cannot wait to reverse precedent.

Here is what she said in People v. Roberman, 1998: We cannot simply cloak ourselves in the doctrine of stare decisis. Hello? I went to law school. I learned throughout law school, one studies cases because of stare decisis. One is supposed to look at the train of law, and here she is: Forget stare decisis.

If that was said by a liberal who wanted to move things way over to the left—a liberal would not say it; it would be someone further over—what would be heard on that side of the aisle? What does it say about her reluctance to be an activist?

Time and time again she has jumped at the chance to reshape settled law. Listen to a few statements from opinions she has written, not from speeches. Everyone has said, do not judge her speeches—they are inflammatory and intended to be so—but her opinions. Here she says: The commercial speech doctrine, which has been established in our law for decades, needs and deserves reconsideration and this is as good as any place to begin.

She wrote she was disinclined to perpetuate dubious law for no better reason than it exists.

I had a history professor in college. He said his first lesson of history is we are no smarter than our fathers, and people who think they are much smarter than people who came before them and have nothing to learn from them do not belong on the bench. Here she is: disinclined to perpetuate dubious law for no better reason than it exists. Is she saying all the people who wrote those opinions should be ignored?

On other occasions she has talked about "taking a fresh look", her words, at settled doctrine under California law. And just listen to the California State Bar Judicial Nominees Convention which gave Justice Brown a not qualified rating when nominated to the

California Supreme Court in 1996. The rating in part was because of complaints that she was "insensitive to established legal precedent."

Or listen to the words of conservative writer Andrew Sullivan who agrees with many of Justice Brown's views. He said there is a case to be made for "the constitutional extremism of one of the President's favorite nominees, Janice Rogers Brown. Whatever else she is, she does not fit the description of a judge who simply applies the law." This is Andrew Sullivan, conservative commentator, not CHUCK SCHUMER. He said: If she is not a judicial activist, I do not know who would be.

Mr. Sullivan made it a point to say he might agree with some of her views but not her penchant for imposing those views in her position as a judge, and that is the point. God bless her for her views. This is America. We can all have different views. But when one becomes a judge and they take an oath of office to uphold the Constitution, part of that means they uphold the traditions of law that are under the Constitution.

Here is what Sullivan said:

> I might add, I am not unsympathetic to her views but she should run for office, not the courts.

He has it exactly right. Let her run on her views that the New Deal was a socialist revolution. Let her run on her views that there should not be child labor laws. Let her run on her views that there should be no zoning laws so someone who wanted to open a pornographic store next to a high school had a constitutional right to do so or somebody could buy a tract of land right next to your nice suburban house and put in a factory.

How about Mr. Ponnuru, again, a conservative writer from the National Review magazine:

> She has said that judicial activism is not troubling per se. What matters is the world view of the judicial activist. In other words, one can be a judicial activist if they agree with her views, not if they do not.

I have to say to my friends on the other side of the aisle, they have lost a lot of the argument on judicial activism when they support Janice Rogers Brown. Judicial activism is not sometimes yes and sometimes no. An activist is somebody who makes his or her own law, it comes out of their own head and supersedes everything we have known, whether it is left, right, center.

It is incredible. It is incredible that we are discussing Janice Rogers Brown. I can imagine the reaction if a Democratic President put forward a nominee who said all of these things. We would have pandemonium on that side of the aisle. But guess what. President Clinton never would have nominated someone like this. It is only because President Bush is so in the thrall of the hard right that he has to do this. Thank God it is not true of most of the judges he has nominated, conservative though they may be.

So as the record reflects, Janice Rogers Brown does not have the impulses of a restrained judge. She has the passions of a judicial activist and that was the type I thought conservatives wanted to keep off the bench at all costs.

How about this argument: She is not a strict constructionist and she is a judicial activist. But are her judicial views otherwise in the mainstream of conservatism? Is that why people on the other side of the aisle support her? My friend JEFF SESSIONS said Justice Brown is in the mainstream. Well, let us ask the American people if her views are in the mainstream. Or first let us ask conservative commentator George Will, a very respected man—and I have more respect for him because at least he is calling the shots as he sees them, not like my colleagues who seem to be marching to the tune of Janice Rogers Brown without even thinking. Here is what George Will said, and in fairness to George Will he was first saying that Priscilla Owen, who we opposed, is part of the mainstream, but here is what he said about Brown:

> Another of the three, Janice Rogers Brown, is out of that mainstream. That should not be an automatic disqualification, but it is a fact . . .

I say to Mr. Will, it surely is a disqualification to me, but that is not the point. Even George Will says Janice Rogers Brown is out of the mainstream. Which mainstream was he talking about? George Will was talking about the mainstream of conservative jurisprudence.

He went on to say, and these are his words:

> It is a fact she has expressed admiration for the Supreme Court's pre-1937 hyperactivism in declaring unconstitutional many laws and regulations of the sort that now define the post-New Deal regulatory state.

George Will has the forthrightness, straightforwardness, and courage to admit what Janice Rogers Brown is. When will one of my colleagues from the other side?

What does the record then show about Janice Rogers Brown? She is not strict in her construction. She is not mainstream in her conservatism. Nor is she quiet about her activism. So I am left with the same question: Why is it that Janice Rogers Brown is touted as the model conservative judge when she is anything but conservative in her judicial approach?

I believe there are many Senators across the aisle who would vote against such a candidate because her judicial philosophy could not be more out of sync with theirs, but I worry that there is enormous political pressure, party pressure, on those moderate Senators.

Senator FRIST has spoken the last few weeks about leader-led filibusters of judges, whatever that means. Well, is this a leader-led rubberstamping of nominees who have not even convinced noted conservatives that they belong on the bench?

Let me make one other point. If one looks at all the nominees, 45 court of appeals nominees, every measure that was put forward on the other side of the aisle for every one of the court of appeals nominees, whether it is to invoke cloture or to vote for them, there was not a single Republican dissent, except one: TRENT LOTT on Roger Gregory for the Fourth Circuit. That was the man Jesse Helms blocked, mostly because he did not want a Black man on the Fourth Circuit, which has not had a Black man before, even though the Fourth Circuit, North Carolina, Virginia, has a large Black population.

Let us look at the merits of Justice Brown. Let us look at her views and why I feel she could not have been a worse pick. This has nothing to do with her faith, her race, her gender, or her background. We are being blind to all that. Any nominee who has these views—could be Black, White, Hispanic, Asian, man, woman—you just can't support somebody like this because of their views, not because of who they are and not because of their background. What a record she has.

In case after case, Justice Brown goes through contortions of legal logic that reach results to hurt workers, limit environmental protections, and injure basic rights. Time and time again, when a legal question is presented twice, she takes two polar opposite approaches in order to achieve the outcome she wants. That is judicial activism at its worst.

Judicial activism can be dangerous on any court, but it is especially dangerous on the DC Circuit, which is known, for good reason, as the Nation's second highest court.

Some of the things she said. She said that the Lochner case was decided correctly. The Lochner case says that States cannot pass any laws protecting workers. If you ask most lawyers to name the worst Supreme Court decision of the 20th century, Lochner would be at the top of any list. Fortunately, the Court threw it out a few decades later. Not even Justice Scalia believes States should be prohibited from passing wages and hours laws. But Janice Rogers Brown believes not only is the Federal Government not allowed to, under the commerce clause, but the States themselves cannot do anything. It is confounding. It is just unbelievable.

How about her views in the San Remo case, where she says all zoning laws are a taking of property, an unconstitutional taking of property? Does anyone in America believe that? Does the most conservative Member of this Chamber? I don't know who it might be. We might have a race for that. But does the most conservative

Member of this Chamber believe there should be no zoning laws? These are State laws, which has nothing to do with federalism, which Justice Scalia made one of his hallmarks. I disagree with him on those issues, but that is a different argument. These are local zoning laws. Unconstitutional? Is it unconstitutional to say you cannot put poison in the air? Is it unconstitutional to say you can't pollute the water? Is it unconstitutional to say in a residential community you cannot put in a factory or a porno palace? What are we doing here? What is going on here?

I have to tell you, I do not see how anyone on that side of the aisle can look in the mirror and say they really think this woman belongs on the DC Court of Appeals.

If it were just one view, you would say: Well, these guys are just focusing on one view. It is over and over again. Until Santa Monica—just to go back to Lochner— v. Superior Court, she called the demise of the Lochner era "the revolution of 1937." That is that socialist revolution, the New Deal. She wants to undo it.

Here is what she said on another occasion:

> Today's senior citizens blithely cannibalize their grandchildren because they have the right to get as much free stuff as the political system will permit them to extract.

I suppose you read from that that she wants to repeal Social Security. After all, that was part of the socialist revolution. Does anyone here believe we should repeal Social Security? Anyone?

In a dissenting opinion, she wrote:

> I would deny the senior citizen plaintiff relief because she has failed to establish that public policy against age discrimination inures to the benefit of the public is fundamental and substantial.

It goes without saying that a nominee who does not agree that public policy against age discrimination benefits the public is far out of any mainstream.

I don't know of a single person on the U.S. courts—and there may be one or two but none that have come to my attention—who is as out of the mainstream, as far over to the right as Janice Rogers Brown.

So my colleagues—and this is really a plea to those on the other side of the aisle—we have already come to an agreement, at least 14 in the middle—God bless them for trying—that we are going to invoke cloture on Janice Rogers Brown, which means there will be an up-or-down vote. But no one here has voted up or down on Janice Rogers Brown before, except Members of the Judiciary Committee.

I urge, plead with my colleagues on the other side of the aisle—particularly those who are somewhat more moderate—look at the record of this nominee. Look at what she says and what she stands for. If there were ever a time to show some independence, to not march in lockstep, to vote your convictions because you can't believe that someone of these views belongs on the court, now is that time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

(The remarks of Mr. NELSON of Florida pertaining to the introduction of S. 1168 are printed in today's RECORD under "Introduced Bills and Joint Resolutions.")

Mr. NELSON of Florida. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JUDGE CHARLES R. SIMPSON III

Mr. McCONNELL. Mr. President, I rise today to pay tribute to an ambassador of the law. Charles R. Simpson III, judge of the United States District Court for the Western District of Kentucky, is a renowned fixture of the legal community in his home state as well as a world traveler, in his capacity as a member of the Committee on International Judicial Relations of the Judicial Conference of the United States. In that role, he serves as both a student and a teacher in courtrooms all over the world.

Judge Simpson is also an old friend of mine. He graduated from my alma mater, the University of Louisville, where he received both his bachelor's degree in 1967 and his law degree in 1970. Soon afterwards, we both helped found the law firm of Levin, Yussman, McConnell & Simpson. Obviously it was not the last stop for either of us.

After serving the public in county government, where I also served, Judge Simpson was appointed to the District Court by President Ronald Reagan in 1986. He has retained that post for nearly 20 years, rising to become one of the most respected voices in Louisville and throughout the State. But he also wanted to take his legal knowledge and his love of Kentucky and spread it beyond America's borders.

Dating to a period in his youth when he studied painting and architecture in Europe, Chuck has enjoyed an adventurer's spirit. So he spearheaded the establishment of a sister-court relationship between his court and one in Croatia. Through this friendship, Croatians got a firsthand look at American jurisprudence, and Judge Simpson learned how the law deals with the difficulties of life in Eastern Europe.

Because of his groundbreaking efforts, Chief Justice of the United States William H. Rehnquist appointed Judge Simpson to the Committee on International Judicial Relations of the Judicial Conference of the United States in 2004. His wide travels have included countries such as Russia, Croatia, Slovenia and Cyprus.

Once on a visit to Ivanovo, Russia, Judge Simpson caused a minor international incident when he accidentally locked himself in the courtroom cage usually reserved for the defendant. Apparently, it was quite difficult to find the key. Everyone handled the situation with great humor, and Chuck struck a blow for diplomacy when his story made the front page of the local Ivanovo newspaper.

In 1999 Judge Simpson was named outstanding alumnus of the University of Louisville's Louis D. Brandeis School of Law, and in 2000 the Louisville Bar Association named him judge of the year. He and his wife Clare have three children, one of whom, their daughter Pam, has served with distinction for 2 years in my Washington office.

For his decades of service, the Kentucky Bar Association has named Chuck the 2005 outstanding judge of the year. They recognize that he is a superb representative of the American justice system to our friends across the world, and the knowledge he brings home from his travels enriches us all. Mr. President, today I ask my colleagues to join me in commending Judge Simpson for receiving this high honor, and for his service to the law and his country.

COMMENDING RICHARD PRICE

Mr. GRASSLEY. Mr. President, today I rise to commend and thank Mr. Richard Price of the Congressional Research Service, CRS, for his many years of outstanding service to the U.S. Congress. In June, Mr. Price is retiring from CRS after 32 years of service. For over three decades at CRS, Mr. Price has played a significant role in providing assistance to Congress in analyzing major health care legislation. In his position at CRS, he has been an invaluable asset not only through his own work analyzing health care legislation, but also in his tireless efforts to guide others in the Health Care and Medicine unit at CRS which he managed.

Over the past three decades, Mr. Price has worked on health care legislation across a wide array of health care policy and programs. Mr. Price is a recognized expert on the major U.S. health care financing programs—Medicare and Medicaid; his particular areas of expertise span most aspects of Medicare and Medicaid reimbursement policy, long-term care, Medicaid eligibility, nursing home reform, managed care, hospice care, skilled nursing home services, end stage renal disease, home health care services, and public health service programs, among many others. His contributions to the development of legislation in these areas have been substantial. Over his long career at CRS, he has helped hundreds of staff understand the effect of the legislative proposals being considered through thoughtful analyses, balanced presentations, and clear explanations. I wish to especially thank him for his work with the Senate Finance Committee and its staff.

In addition to his own analytic work on legislative analysis, Mr. Price has been responsible for management of a staff of CRS analysts who assist Congress across a wide spectrum of health care issues, including those related to Medicare, Medicaid, the Public Health Service, the Food and Drug Administration, the National Institutes of Health, and the Veterans Administration. Mr. Price was instrumental in building the health care staff of CRS to a large team of senior analysts. In addition, Mr. Price has been involved in innumerable projects to develop the capacity of CRS analysts to evaluate and analyze health care data, including models to estimate the effect of various legislative changes in Medicare and other health care programs.

Other organizations that analyze issues related to health care policy have acknowledged Mr. Price's accomplishments and knowledge of U.S. health care policy. For example, Mr. Price is a member of the steering committee of the National Health Policy Forum, a nonpartisan organization that provides research to senior level health policy makers in Washington. Mr. Price is also a member of the prestigious National Academy on Social Insurance, NASI.

Mr. Price's service to Congress in the analysis and development of policy alternatives across a wide array of health care programs, his ability to conceptualize complex public policy issues, as well as his leadership of staff who work on many varied and complex health care issues, set the highest standards for assistance provided by CRS in service to the Congress. He will be missed, both here in Congress and across the street at the Library of Congress.

RETIREMENT OF GEORGE W. MULLEN

Mr. SPECTER. Mr. President, I have sought recognition to honor George W. Mullen of Pennsylvania, who will step down as State Adjutant of the Pennsylvania Department of Veterans of Foreign Wars of the United States this June. George's retirement will mark the end of a distinguished 59 year career of service to our military, our veterans community, and our Nation.

George W. Mullen joined the United States Navy in 1943 at the age of 17 and served during World War II aboard the merchant ship SS *Ben Holt* and the destroyer USS *Cotton* in both the Atlantic and Pacific Theatres. While on active duty aboard the *Holt*, his ship arrived 2 days after the invasion of Normandy, France, to help supply Allied forces in the battle against Germany. His duty on the *Cotton* included helping rescue a downed American pilot and supporting the invasion of Okinawa.

George worked at the Veterans Affairs Medical Center in Coatesville for 35 years before becoming the Pennsylvania Veterans of Foreign Wars State Adjutant in 1983. As a member of the Pennsylvania War Veterans Council and the Pennsylvania State Veterans Commission, he has been a familiar face to governors and many State and Federal legislators who have sought his guidance.

Mr. Mullen, who lives in Parkesburg, has touched many lives and that has not gone unnoticed. He has been honored at the local, State and national level for his many contributions. While humble in service to others, George has always stood for what is right and remains a staunch supporter of our troops.

His will be hard shoes to fill, and he will be missed. We wish George and his wife Dawn well in future endeavors, and thank him for his dedication to duty, hard work, and professionalism.

ONLINE FREEDOM OF SPEECH ACT

Mr. BURNS. Mr. President, I rise today to express my support for the Online Freedom of Speech Act which my colleague Senator REID has introduced. This legislation clarifies the campaign finance legislation of 2002 in order to restore freedom of speech to the Internet.

The Internet is more than a remarkable new technology. It's a means of bringing people together. I read somewhere that the most important time in a person's development is the first 5 years. Things that happen during infancy have dramatic effects on how that child will develop for the rest of their life. The Internet is no different. It is a technology in its infancy. We are fortunate to live in an exciting time of great technological change. In my State of Montana, cutting-edge technology is creating jobs and industry. But like anything in its infancy, we should be very careful about how we respond to technological infants like the Internet. A wrong step now could affect how it develops for the next 100 years.

For this reason, the Bipartisan Campaign Reform Act of 2002 did not identify the Internet as a target of regulation. However, it also did not specifically exclude it. When the FEC decided how to enforce the regulatory measures of the new law, they erred on the side of caution and exempted the Internet from their regulatory scope.

The fruits of that decision have been profound. According to a Pew Internet and American Life Project survey, two thirds of adult Americans, or 136 million citizens, use the Internet. For youth, that number is even higher. Over half of the adults who use the Internet used it during the 2004 campaign cycle. They used it to obtain news and determine candidate positions. They viewed websites for campaigns and advocacy groups. They looked for information to register to vote. They followed opinion polls, looked at jokes, and checked the validity of rumors. They emailed one another about the election, and received email newsletters from candidates and advocacy groups. By a 10 to 1 margin, these Americans said that the Internet was a positive addition to public debate in the 2004 campaign. In the past several years, the Internet has become a powerful way for the American People to voice their opinions on everything from car parts to hair styles to political elections.

The Internet has been utilized by Americans representing the numerous ideologies of all the political parties. It is not Republican. It is not Democrat. It is not rich or poor. The Internet, like this country, is the mixture of all of those things together. It has become the newest and most dynamic melting pot of ideas.

But all this may be threatened because in 2004 a Federal court here in Washington, DC, instructed the FEC to begin regulating the Internet. The FEC has begun working out the details for this new regulatory framework, and right now we can see what that process looks like. I'll tell you this. It's not easy to understand. There are experts who don't understand it all. There are thousands of pages of comments and proposals.

The Online Freedom of Speech Act can clean up this entire mess with 8 simple lines of legislation.

In 1996, I was a co-founder of the Congressional Internet Caucus. Today, there are 176 members of this caucus from both parties and in both the Senate and the House of Representatives. These members have pledged to uphold the following: Promoting growth and advancement of the Internet; providing a bicameral, bipartisan forum for Internet concerns to be raised; promoting the education of Members of Congress and their staffs about the Internet; promoting commerce and the free flow of information on the Internet; advancing the United States' world leadership in the digital world: and maximizing the openness of and participation in government by the people.

I helped found this caucus because I understand the importance of careful treatment of this technology in its infancy. Government tends to want to regulate. and regulation can stunt growth. I am very concerned that without legislation like the Online Freedom of Speech Act, the First Amendment rights of Americans, from Montana and throughout the rest of the county. will be severely damaged.

Experts have warned that at the very least. proposed online regulation will subject Internet advocates, like bloggers, to the prospect of FEC investigations. That can mean subpoenas, lawyers, increased government payrolls and bureaucracy. Such investigations are not only a huge commitment for the FEC, but a serious threat to free speech online.

One of the things that makes the Internet unique is that it is so broadly accessible. Compared to more traditional forms of publication it is very cheap to publish on the Internet. As little as 20 years ago, the only way for someone's ideas to reach the full Marketplace of Ideas was to secure access to a printing press or broadcast center.

But as I said, the Internet is much different, now allowing anyone to promote his or her ideas into the marketplace. Internet media doesn't crowd out other competing media. And since everyone can have their say, the reader is the one who gets to decide what he or she wants to read. We need to be mindful of allowing the government to try to limit the choices of what the consumer can make.

Mr. President, as you can see, regulatory standards for the Internet must be much different than for other forms of public communication. The traditional arguments for traditional media do not apply here.

Some of my colleagues may think that there must be some regulation of the Internet for some types of political speech. However. before we choose to regulate this infant technology, we need learned-testimony and debate on this issue by discussing this bill. We need to make sure that regulation is the best course of action. Accordingly, I urge my colleagues to join me in support for the Online Freedom of Speech Act.

BAKERS CREEK TRAGEDY

Mr. SANTORUM. Mr. President, I rise today to offer remarks on the tragedy that occurred on June 14, 1943 at Bakers Creek, Australia. On that day, 40 members of the U.S. Armed Forces, six of whom were from the Commonwealth of Pennsylvania, lost their lives when the B-17C Flying Fortress airplane that they were flying in crashed at Bakers Creek, Australia. This tragedy marked the worst aviation disaster of the Southwest Pacific Theater during World War II.

I understand that at approximately 6 a.m. on June 14, 1943, the B-17C Flying Fortress transporting six crew members and thirty-five soldiers that were returning from leave in Australia departed from Mackay Airport in Bakers Creek for Port Moresby, when shortly after takeoff, the plane lost altitude and subsequently crashed. The sole survivor of this crash was Corporal Foye Kenneth Roberts of Wichita Falls, Texas.

This June will mark the 62nd anniversary of the Bakers Creek crash. I applaud the work of Dr. Robert S. Cutler and the Bakers Creek Memorial Association for their research and tireless dedication to ensuring that the memory of those who perished at Bakers Creek, Australia in 1943 never be forgotten.

ADDITIONAL STATEMENTS

CONGRATULATING THE WINNERS OF THE NEW HAMPSHIRE EXCELLENCE IN EDUCATION AWARDS

• Mr. SUNUNU. Mr. President, I wish to congratulate the winners of the 2005 New Hampshire Excellence in Education Awards. These awards, otherwise known as the "ED"ies, are given to those individuals and schools that have exhibited the highest standards of excellence in curriculum and instruction, teaching and learning process, student achievement, leadership and decision-making, community and parental involvement, and school climate.

On June 4, 2005, 30 individuals, 2 school boards and 6 schools were recognized for their leadership and outstanding dedication in preparing their students for our rapidly changing workplace. I am honored to lend my voice to those of their colleagues, students, and communities in conveying our appreciation and respect for the professionals they are and the sacrifices and contributions they make every day in classrooms throughout the Granite State.

Nominees consist of some of New Hampshire's finest teachers and community leaders. They are carefully reviewed by selection committees that apply standards developed by The Board of Directors for the New Hampshire Excellence in Education Awards. Nominees come from elementary, middle and secondary schools, as well as higher education. Many are honored in specific categories of excellence such as art education, world languages, school nursing, counseling and technology.

As a student in Salem, I was privileged to have had many great teachers at every level of my education. Today, as a parent looking back on that experience, I see even more clearly the great impact they've had on my life. Not only did they provide an environment conducive to learning, but each in their own way provided me with the direction necessary to succeed.

Like the classroom heroes I knew growing up in Salem, the group of educators chosen this year for the "ED"ies have demonstrated superior dedication and service to their students, schools and communities. They richly deserve this prestigious honor for the important roles they play in helping our children reach their goals and succeed in school. The teachers, principals, counselors, librarians and other school leaders being commended this year have provided students with the tools they need to become productive and engaged citizens, and have been some of our State's most treasured role models—setting positive examples for the children that surround them, teaching personal responsibility and hard work, and shaping the character of young minds. For these achievements, our State and our country owe them a great deal of gratitude.

Since being elected to Congress in 1996, I have been ever mindful that I am a beneficiary of the State of New Hampshire's public education system. A system that is an exemplary model due in large measure to the contributions and leadership of the many educators and schools being recognized this year. I am confident that the success we enjoy in our State is due to their efforts.

Mr. President, I ask that the list of the 2005 New Hampshire Excellence in Education Award winners be printed in Record.

The list follows.

2005 NH Excellence in Education Awards Recipients

Londonderry School Board
Seabrook School Board
Dr. Marilyn Brannigan
Barbara Brennan
William Church
MaryAnn Connors-Krikorian
Kathleen Custer
Cynthia Dow
Deborah Gibson
Heidi E. Hale Miller
Elizabeth A. Hansel
Kathryn G. Hanson
Bernard Keenan
Mary Alyce Knightly
Lise Lemieux
Jay Lewis
Shelley Lochhead
Steve Lord
Suzanne Lull
Meg Maroni
Maria Matarazzo
Terrence McKenzie
Marie H. Mellin
Michele Munson
Jane M. Murray
Dr. Charles Ott
Robert Pedersen
David St. Jean
Barbara Szabunka

Randy Wormald
Linda A. Wright
Dr. Phyllis Scrocco Zrzavy

Schools

Dover High School
South Meadow Middle School
Golden Brook School
The Whitefield School

School Finalists

Holderness Central School
Dunbarton Elementary School●

TSP CELEBRATES 75 YEARS

● Mr. JOHNSON. Mr. President, it is with great honor that I rise today to publicly congratulate The Spitznagel Partners, Inc., TSP, on its 75th anniversary as one of South Dakota's premier architectural, engineering, and construction firms.

Founded in Sioux Falls on June 9, 1930, by Sioux Falls native, Harold T. Spitznagel, TSP is the largest architectural and engineering firm in the State. Throughout its 75 years, TSP has contributed to the landscape of 100 different South Dakota communities. Among its most notable structures are the Sylvan Lake Hotel, Sioux Falls City Hall, St. Mary's Catholic Church, Sioux Falls Arena, IBP/Tyson Foods Corporate Headquarters, South Dakota Technology Business Center, Harrisburg High School, and Sioux Falls Veterans' Memorial Park.

Following the firm's significant expansion in 1969, TSP established offices in Minnesota, Wyoming, Colorado, Iowa, and Nebraska. Accordingly, what was once a small budding company staffed by a single person in Sioux Falls is now a prominent firm with offices in nine cities and over 200 employees.

Mr. President, it is with great honor that I share with my colleagues the accomplishments of Harold T. Spitznagel, his partners, associates, and employees. TSP's proven success will undoubtedly continue to enhance both the beauty and property of South Dakota for many years to come.●

HONORING THE CITY OF SPENCER, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the 125th anniversary of the founding of the city of Spencer, SD. On June 18, 2005, the citizens of Spencer will celebrate their city's proud past, as well as their hope for a promising future.

Located in southeastern South Dakota, the origin of Spencer's name is a bit contentious. One story tells of an Indian Camp located exactly where the town of Spencer now sits. One tale has it that scouts from the Lewis and Clark expedition came across the Indian Camp in 1804, where they found an ill and weary Indian woman with her newborn baby. After nursing the two back to health, the woman gave the men a short jacket, known as a "Spencer" jacket, as a token of her gratitude. Additionally, she prophesied that a city would one day flourish there; decades later, her prophecy was fulfilled. The railroad came to Dakota Territory in 1887, and in the words of the Spencer News, the town "like a mushroom, sprang into existence." Similarly, the other account of Spencer's name asserts it was named for Hugh Spencer, the division superintendent of the Omaha Railroad.

Platted in 1880, Spencer was officially incorporated into McCook County in 1917. Ever since E. L. Hunskaar opened the town's first railroad depot in 1887, the community has been home to a number of prosperous businesses and has supported farmers and ranchers across the region.

Unfortunately, as many know, Spencer suffered a horrific tragedy in 1998 when the most destructive tornado in South Dakota history, an F-4, devastated the region. On Saturday, May 30, the tornado ripped through the tiny town, killing six people and injuring over 150 of Spencer's 320 residents. I remember peering over the city from a ladder on a Sioux Falls fire truck and thinking how much the terrible scene resembled a Civil War battlefield. Most of the houses were reduced to rubble; the post office, first station, library, bank, and multiple churches were all destroyed. Despite the devastation, Spencer's dedicated residents committed themselves to the rebuilding effort with undaunted determination. As a result of the residents' diligence and determination, Spencer commemorates its 125th anniversary as a proud and thriving town.

In the twelve and a half decades since its founding, Spencer has proven its ability to flourish and survive. Spencer's proud residents celebrate its 125th anniversary on June 18, 2005, and it is with great pleasure that I share with my colleagues the achievements made by this remarkable and resilient community.●

HONORING THE TOWN OF DE SMET, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the 125th anniversary of the founding of the town of De Smet, SD. As the 125th anniversary approaches, De Smet looks back on a proud history and looks forward to a promising future.

Founded in 1880 by the Western Town Lot Company, De Smet is almost equidistant from the Nebraska State line and from the North Dakota State line. Situated in central Kingsbury County, De Smet is named for Father Pierre Jean De Smet, a Belgian priest who tirelessly worked among the region's local Indian tribes. Despite the town's status as Kingsbury County seat, De Smet originally was sparsely populated, home predominantly to single men. The arrival of the Chicago Northwestern Railroad in 1880, however, sparked an influx of residents that included many families.

In 1889, De Smet's most notable resident, Laura Ingalls Wilder, author of the Little House on the Prairie books which evolved into the longest running series in TV history, arrived with her family. While her series immortalizes this great community, every summer De Smet honors the famous writer with the Laura Ingalls Wilder Pageant.

Another of De Smet's attractions is Washington Park, host to countless family picnics and outdoor activities. The park is also home to a statue honoring Father Pierre Jean De Smet, the duplicate of which is located in his hometown of Dendermonde, Belgium. De Smet's statue, which was dedicated to the public on June 8, 1986, established a bond between Dendermonde, Belgium and De Smet, SD and the two became sister cities.

De Smet's other distinguished landmarks include the historic courthouse, the Ingalls Homestead, the Loftus Store, and the De Smet Depot, a museum immortalizing the town's past. Additionally, De Smet's over 1,100 residents have come to count on The News, founded in 1880, and The Kingsbury County Independent, established in 1890, for quality and accurate reporting on local events and affairs.

In the twelve and a half decades since its founding, De Smet has proven its ability to thrive, while preserving and cherishing its rich past. De Smet's proud residents celebrate its 125th anniversary on June 11, 2005, and it is with great honor that I share with my colleagues the achievements made by this great community.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H. R. 1815. An act to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1815. To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 810. An act to amend the Public Health Service Act to provide for human embryonic stem cell research.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2384. A communication from the Deputy Chief Counsel for Regulations, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Privacy Act of 1974: Implementation of Exemptions; Registered Traveler Operations Files" ((RIN1652–AA36) (Docket TSA–2004–18984)) received on May 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2385. A communication from the Chairman and the Chief Executive Officer, United States Olympic Committee, transmitting, pursuant to law, a report relative to the Ted Stevens Olympic and Amateur Sports Act; to the Committee on Commerce, Science, and Transportation.

EC–2386. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Implementation Rule for 8-Hour Ozone NAAQS—Phase 1" (FRL No. 7918–6) received on May 26, 2005; to the Committee on Environment and Public Works.

EC–2387. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to Arizona State Implementation Plan, Maricopa County" (FRL No. 7912–3) received on May 26, 2005; to the Committee on Environment and Public Works.

EC–2388. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maine; Smaller-Scale Electric Generating Resources" (FRL No. 7915–1) received on May 26, 2005; to the Committee on Environment and Public Works.

EC–2389. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maine; VOC Regulations" (FRL No. 7913–3) received on May 26, 2005; to the Committee on Environment and Public Works.

EC–2390. A communication from the Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–2391. A communication from the Acting Director, Office of Personnel Management, transmitting, pursuant to law, the Office of Personnel Management's (OPM) Federal Equal Opportunity Recruitment Program Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2392. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the Treaty on Open Skies of March 24, 1992; to the Committee on Foreign Relations.

EC–2393. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue: Notice 2002–50 'Tax Shelter'" (Uniform Issue List No.: 9300.21–00) received on May 26, 2005; to the Committee on Finance.

EC–2394. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Additional Rules for Exchanges of Personal Property under Section 1031(a)" ((RIN1545–BD25) (TD 9202)) received on May 26, 2005; to the Committee on Finance.

EC–2395. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Regulations Governing Practice Before the Internal Revenue Service (Circular 230—Shelter)" ((RIN1545–BA70) (TD 9201)) received on May 26, 2005; to the Committee on Finance.

EC–2396. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Examinations, Inspections and Reopenings" (Rev. Proc. 2005–32) received on May 26, 2005; to the Committee on Finance.

EC–2397. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Trust Fund Recovery Penalty Revenue Procedure" (Rev. Proc. 2005–34) received on May 26, 2005; to the Committee on Finance.

EC–2398. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Regarding Qualified Intellectual Property Contributions" (Notice 2005–41) received on May 26, 2005; to the Committee on Finance.

EC–2399. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Credit for Increasing Research Activities" ((RIN1545–BD60) (TD 9205)) received on May 26, 2005; to the Committee on Finance.

EC–2400. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Declaratory Judgment Procedures under 7479" (Rev. Proc. 2005–33) received on May 26, 2005; to the Committee on Finance.

EC–2401. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Deemed Corporate Election for Electing S Corporations" ((RIN1545–BC32) (TD 9203)) received on May 26, 2005; to the Committee on Finance.

EC–2402. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Mortgage Revenue Bonds" ((RIN1545–BC59) (TD 9204)) received on May 26, 2005; to the Committee on Finance.

EC–2403. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Assumption of Partner Liabilities" ((RIN1545–AX93) (TD 9207)) received on May 26, 2005; to the Committee on Finance.

EC–2404. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Transfer or Sale of Compensatory Options or Restricted Stock to Related Persons" (UIL: 9300.28.00) received on May 26, 2005; to the Committee on Finance.

EC–2405. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Additions to Quarantined Areas" (APHIS Docket No. 05–027–1) received on May 27 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2406. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tetraconazole; Pesticide Tolerances for Emergency Exemptions" (FRL No. 7714–1) received on May 31, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2407. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "3-Hexen-1-ol, (3Z)-; Exemption from the Requirement of a Tolerance" (FRL No. 7713–2) received on May 31, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2408. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Two Isopropylamine Salts of Alkyl C4 and Alkyl C8–10 Ethoxyphosphate esters; Exemption from the Requirement of a Tolerance" (FRL No. 7712–1) received on May 31, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2409. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ocean Disposal; Designation of Dredged Material Disposal Sites in Central and Western Long Island Sound, Connecticut" (FRL No. 7919–9) received on May 31, 2005; to the Committee on Environment and Public Works.

EC–2410. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "ARIZONA SIP. Redesignation of Phoenix to Attainment for 1-Hour Ozone Standard" (FRL No. 7901–6) received on May 31, 2005; to the Committee on Environment and Public Works.

EC–2411. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Alabama: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL No. 7920–6) received on May 31, 2005; to the Committee on Environment and Public Works.

EC–2412. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Determination of Attainment by the Applicable Attainment Date for the Carbon Monoxide National Ambient Air Quality Standard within the Las Vegas Valley Nonattainment Area, Clark County, Nevada; Determination Regarding Applicability of Certain Clean Air Act Requirements" (FRL No. 7919–7) received on May 31, 2005; to the Committee on Environment and Public Works.

EC–2413. A communication from the Acting General Counsel, Department of Commerce, transmitting, the report of a draft bill entitled "To Continue the Secretary of Commerce's Authority to Conduct the Quarterly Financial Report Program" received on June 1, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2414. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Anchorage Grounds: Hampton Roads, VA" (RIN1625–AA01) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2415. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zone; New York Marine Inspection Zone and Captain of the Port Zone, New York Harbor" (RIN1625–AA87) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2416. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zone Regulations; St. Croix, United States Virgin Islands" (RIN1625–AA87) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2417. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations (including 3 regulations): [CGD08–05–033], [CGD08–05–029], [CGD05–05–061]": (RIN1625–AA09) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2418. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 4 regulations)" (RIN1625–AA00) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2419. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 3 regulations): [CGD01–04–155], [CGD01–05–050], [COPT Los Angeles-Long Beach 03–002]" (RIN1625–AA00) received on May 27, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2420. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class D and E Airspace; Montgomery, AL; CORRECTION" ((RIN2120–AA66) (2005–0104)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2421. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Class E Airspace; Windsor Locks, Bradley International Airport; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120–AA66) (2005–0102)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2422. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Elkhart, KS" ((RIN2120–AA66) (2005–0099)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2423. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Kaiser, MO; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120–AA66) (2005–0100)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2424. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cedar Rapids, IA; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120–AA66) (2005–0103)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2425. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Valentine, NE; CONFIRMATION OF EFFECTIVE DATE" ((RIN2120–AA66) (2005–0101)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2426. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E2 and E5 Airspace; Columbus, NE" ((RIN2120–AA66) (2005–0110)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2427. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Surface Area Airspace; and Modification of Class D Airspace; Topeka, Forbes Field, KS; CORRECTION;" ((RIN2120–AA66) (2005–0105)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2428. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Surface Area Airspace; and Modification of Class D Airspace; Topeka, Forbes Field, KS" ((RIN2120–AA66) (2005–0106)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2429. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pyrotechnic Signaling Device Requirements; DISPOSITION OF COMMENTS" ((RIN2120–AI42) (2005–0002)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2430. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aviation Safety and Health Partnership Program" (RIN2120–ZZ74) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2431. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3063 [6–27–03/5–5–05]" ((RIN2120–AA65) (2005–0013)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2432. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3068 [7–28–03/5–5–05]" ((RIN2120–AA65) (2005–0014)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2433. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments; Amdt. No. 3121 [5–3/5–5]" ((RIN2120–AA65) (2005–0015)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2434. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of VOR Federal Airways and Jet Routes in the Vicinity of Savannah, GA" ((RIN2120–AA66) (2005–0107)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2435. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace;

Nome, AK" ((RIN2120–AA66) (2005–0109)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2436. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of VOR Federal Airway 208" ((RIN2120–AA66) (2005–0108)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2437. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Incorporation by Reference Provisions" (RIN2120–AI39) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2438. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL–600–2B19 Airplanes" ((RIN2120–AA64) (2005–0223)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2439. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzel Propeller Inc. Series and HA–A2V20–1B Series Propellers with Aluminum Blades; CORRECTION" ((RIN2120–AA64) (2005–0224)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2440. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: LET a.s. Model Blanik L–13 AC Sailplanes" ((RIN2120–AA64) (2005–0232)) received on May 31, 2005 to the Committee on Commerce, Science, and Transportation.

EC–2441. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 707 Airplanes and Model 720 and 720B Series Airplanes" ((RIN2120–AA64) (2005–0233)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2442. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pilatus Aircraft Limited Models B4 PC11, Br PC11A, and B4 PC11AF Sailplanes" ((RIN2120–AA64) (2005–0235)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2443. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model Avro 146RJ Series Airplanes" ((RIN2120–AA64) (2005–0234)) received on May 31 2005; to the Committee on Commerce, Science, and Transportation.

EC–2444. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Glaser-Dirks Flugzeugbau GmbH Model DG–800B Sailplanes" ((RIN2120–AA64) (2005–0236)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2445. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–300, 400, and 500 Series Airplanes; CORRECTION" ((RIN2120–AA64) (2005–0229)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2446. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model Hawker 800XP Airplanes" ((RIN2120–AA64) (2005–0231)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2447. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 9 81, DC 9 82, DC 9 87, and MD 88 Airplanes" ((RIN2120–AA64) (2005–0230)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2448. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca S.A. Arriel 1 Turboshaft Engines" ((RIN2120–AA64) (2005–0227)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2449. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL–600–2B19 Airplanes" ((RIN2120–AA64) (2005–0228)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2450. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC 8 33 and 43 Airplanes; Model DC 8F 54 and DC 8F 55 Airplanes; and Model DC 8 50, 60, 60F, 70 and 70F Series Airplanes" ((RIN2120–AA64) (2005–0237)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2451. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: CENTRAIR 101 Series Gliders" ((RIN2120–AA64) (2005–0238)) received on May 31, 2005; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL:

S. 1161. A bill to amend part A of title IV of the Social Security Act to exempt preparation for high-skill, high-demand jobs from participation and time limits under the temporary assistance for needy families program; to the Committee on Finance

By Ms. CANTWELL:

S. 1162. A bill to amend title 10 and 38, United States Code, to repeal the 10-year limits on use of Montgomery GI Bill educational assistance benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. CANTWELL:

S. 1163. A bill to amend the Workforce Investment Act of 1998 to provide for strategic sectoral skills gap assessments, strategic skills gap action plans, and strategic training capacity enhancement seed grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL:

S. 1164. A bill to amend the Workforce Investment Act of 1998 to provide for training service and delivery innovation projects; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 1165. A bill to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii; to the Committee on Environment and Public Works.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1166. A bill to extend the authorization of the Kalaupapa National Historical Park Advisory Commission; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH:

S. 1167. A bill to provide that certain wire rods shall not be subject to any antidumping duty or countervailing duty order; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 1168. A bill to amend section 212 of the Immigration and Nationality Act to make inadmissible individuals who law enforcement knows, or has reasonable grounds to believe, seek entry into the United States to participate in illegal activities with criminal gangs located in the United States; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. LEAHY, Mr. AKAKA, Mr. JEFFORDS, and Mr. WYDEN):

S. 1169. A bill to require reports to Congress on Federal agency use of data-mining; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1170. A bill to establish the Fort Stanton-Snowy River National Cave Conservation Area; to the Committee on Energy and Natural Resources.

By Mr. SPECTER (for himself, Mr. BAYH, Ms. COLLINS, Mr. JOHNSON, Mrs. MURRAY, Mr. FEINGOLD, and Mr. WYDEN):

S. 1171. A bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents, and for other purposes; to the Committee on Foreign Relations.

By Mr. SPECTER (for himself, Mr. HARKIN, Mrs. CLINTON, Mr. OBAMA, and Mrs. BOXER):

S. 1172. A bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEWINE (for himself, Mrs. FEINSTEIN, Mr. COCHRAN, Mrs. DOLE, Ms. LANDRIEU, Ms. MURKOWSKI, and Mr. LUGAR):

S. Res. 160. A resolution designating June 2005 as "National Safety Month"; considered and agreed to.

ADDITIONAL COSPONSORS

S. 21

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 98

At the request of Mr. ALLARD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 155

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 155, a bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, and for other purposes.

S. 296

At the request of Mr. KOHL, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 296, a bill to authorize appropriations for the Hollings Manufacturing Extension Partnership Program, and for other purposes.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 347

At the request of Mr. NELSON of Florida, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 407

At the request of Mr. JOHNSON, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 407, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 492

At the request of Mr. FRIST, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 492, a bill to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

S. 559

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 559, a bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 601

At the request of Mr. CONRAD, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

S. 603

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 612

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 612, a bill to require the Secretary of the Army to award the Combat Medical Badge or another combat badge for Army helicopter medical evacuation ambulance (Medevac) pilots and crews.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 642

At the request of Mr. FRIST, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 685

At the request of Mr. AKAKA, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 685, a bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60.

S. 729

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 729, a bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, and for other purposes.

S. 738

At the request of Mr. SPECTER, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 738, a bill to provide relief for the cotton shirt industry.

S. 757

At the request of Mr. CHAFEE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 768

At the request of Mr. NELSON of Florida, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 768, a bill to provide for comprehensive identity theft prevention.

S. 846

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 846, a bill to provide fair wages for America's workers.

S. 847

At the request of Ms. STABENOW, the name of the Senator from California

(Mrs. BOXER) was added as a cosponsor of S. 847, a bill to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

S. 922

At the request of Mr. SANTORUM, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 922, a bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes.

S. 962

At the request of Mr. BAUCUS, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 963

At the request of Mr. THUNE, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 963, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans' health care, to direct the Secretary of Veterans Affairs to conduct a pilot program to improve access to health care for rural veterans, and for other purposes.

S. 1002

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

S. 1029

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1029, a bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1047

At the request of Mr. SUNUNU, the names of the Senator from South Carolina (Mr. DEMINT), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Oklahoma (Mr. COBURN), the Senator from Connecticut (Mr. DODD), the Senator from Florida (Mr. MARTINEZ), the Senator from Washington (Mrs. MURRAY), the Senator from Georgia (Mr. ISAKSON), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. CARPER) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1068

At the request of Mrs. DOLE, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1068, a bill to provide for higher education affordability, access, and opportunity.

S. 1081

At the request of Ms. STABENOW, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1103

At the request of Mr. BAUCUS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1103, a bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax.

S. 1120

At the request of Mr. DURBIN, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Nebraska (Mr. HAGEL), the Senator from Vermont (Mr. LEAHY) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1139

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S.J. RES. 12

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S.J. Res. 12, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 18

At the request of Mrs. FEINSTEIN, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 36

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 36, a concurrent resolution expressing the sense of Congress concerning actions to support the Nuclear Non-proliferation Treaty on the occasion of the Seventh NPT Review Conference.

S. RES. 86

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 86, a resolution designating August 16, 2005, as "National Airborne Day".

S. RES. 155

At the request of Mr. BIDEN, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 155, a resolution designating the week of November 6 through November 12, 2005, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 158

At the request of Mr. GRAHAM, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. Res. 158, a resolution expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as "National Historically Black Colleges and Universities Week".

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 1162. A bill to amend title 10 and 38, United States Code, to repeal the 10-year limits on use of Montgomery GI Bill educational assistance benefits, and for other purposes; to the Committee on Veterans' Affairs.

Ms. CANTWELL. Mr. President, I rise today to talk about an investment program in lifelong education for our service members and veterans. The Montgomery GI Bill is consistently cited as an important reason people join the military. The GI Bill continues to be one of the most important benefits of military service today. There is no reason why 100 percent of our active duty, selected reserve, and veteran servicemembers shouldn't be taking advantage of their earned education benefits.

That is why I'm introducing the "GI Bill for Life Act of 2005," which would allow Montgomery GI Bill participants an unlimited time to use their earned benefits.

The MGIB is a program that provides up to 36 months of education benefits for educational opportunities ranging from college to apprenticeship and job training, and even flight training. Upon enlistment, the GI Bill also requires service members to contribute $100 per month for their first 12 months of services.

Basically, the MGIB is divided into two programs. One program targets active duty and veteran members, paying over $1,000 per month to qualified students. That's more than $36,000 for school. The other is directed at the Selected Reserve. This program provides educational benefits of $288 per month, for a total of $10,368.

If recruits are overwhelmingly declaring that education opportunity under the GI Bill is the key incentive for them to join the military, then it makes sense that most—if not all—of our troops, who signed up for the program, would also be cashing in on their benefits. But reports show that the majority, 40-60 percent, do not actually use the benefits they earned.

Currently, MGIB participants have up to 10 years from their release date from the military to use their earned education benefits. Members of the Selected Reserve are able to use their MGIB benefits for 14 years. However, that means your earned education benefits expire if you don't I use them within the required timeframe, closing your window of opportunity to go to school or finish your college education. Plus you lose the $1,200 dedicated for your GI Bill during your first year of enlistment.

Originally, the intent of 1944 GI Bill of Rights was to help veterans successfully transition back into civilian life—as education is the key to employment opportunities. Looking back now, we know that the GI Bill opened the door to higher education, helping millions of service members and veterans who wouldn't otherwise have had the chance to pay for college. That is, servicemembers benefited from the GI Bill because they used the payments within the 10- and 14 year limitation.

But there are many others who did not use their earned education benefits within that timeframe. For example, after leaving the military, some servicemembers postponed going to school because they had to go straight to work in order to support their family. Others unfortunately, were either homeless or incarcerated for long periods of time due to disability associated with military service—but are now ready to move forward in their lives, and going back to school is their first step. In some cases, due to random life circumstances, some people just lost track of time. Additionally, because of misinformation and bureaucratic language, the GI Bill is known as a complicated program to navigate.

A constituent of mine, Ruben Ruelas—who is a Local Veterans Employment Representative (LVER) for the WorkSource in Wenatchee, Washington—wrote to me saying, "It's been my experience that most people don't know what they want to do in life or are placed in situations where, due to changing economic times, they are displaced and need further education and training to compete for jobs. But most don't have access to training resources to do so."

In terms of Vietnam Era veterans, Mr. Ruelas goes on to say, "[m]any 50 year olds are unemployed, untrained and uneducated and could use their educational benefits to improve their skills to compete for better jobs. Many have come to realize, too late, that they need college or retraining and don't have the resources to do so."

While times have changed remarkably, one thing remains constant: education is critical to employment opportunity. In the 21st Century global labor market, enhancing skills through education and job training is now more important than ever. The need for retraining is even more underscored for our military service members and veterans.

My legislation, the GI Bill for Life, would ensure that educational opportunities are lifelong, allowing service members and veterans the flexibility to seek education and job training opportunities when it is the right time for them to do so.

Higher education not only serves as an individual benefit, but positive externalities have transpired: the GI Bill was instrumental in building our country's middle class and continues to help close the college education gap.

Today, employers are requiring higher qualifications from the workforce. The Bureau of Labor Statistics reports that six of the ten fastest-growing occupations require an associate's degree or bachelor's degree. By 2010,40 percent of all job growth will require some form of postsecondary education. While a highly skilled workforce is one characteristic of the new economy, working for one employer throughout a lifetime is no longer routine, but rather an evanescent feature. According to findings by Brigham Young University, the average person changes jobs or careers eight times in his or her lifetime. To keep up with these trends, expanding access to education and training is a must do in the 21st Century global marketplace.

A 1999 report by the Congressional Commission on Service members and Veterans Transition Assistance stated that the GI Bill of the future must include the following: provide veterans with access to post-secondary education that they use; assist the Armed forces in recruiting the high-quality high school graduates needed; enhance the Nation's competitiveness by further educating American veterans, a population that is already self-disciplined, goal-oriented, and steadfast and attract the kind of service members who will go on to occupy leadership positions in government and the private sector

Eliminating the GI Bill 10- and 14-year limitation for service members, veterans, and Selected Reserve moves one step toward improving the MGIB. The GI Bill for Life would allow MGIB members, including qualified Vietnam Era Veterans the flexibility to access their earned education benefits at any time.

As the nation's economy continues to recover and grow stronger, the GI Bill will continue to be the primary vehicle keeping our active duty service members and veterans of military service on track, helping to ensure our country's prosperity.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 1165. A bill to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii; to the Committee on Environment and Public Works.

Mr. INOUYE. Mr. President, I rise today to introduce the James Campbell National Wildlife Refuge Expansion Act of 2005, and ask unanimous consent that the text of the bill be printed in the RECORD.

The James Campbell National Wildlife Refuge is the premier endangered Hawaiian waterbird recovery area in the northern portion of the Island of Oahu. It supports all four endangered Hawaiian waterbirds and a variety of migratory shorebirds and waterfowl. The expansion of James Campbell National Wildlife Refuge under my bill would provide for wildlife and habitat protection, and would also resolve issues associated with the hydrology of the Kahuku floodplain.

The expansion would restore historical wetland habitat and form the largest managed freshwater wetland on Oahu. It would connect the two existing units of the Refuge and create a protected flyway between them to provide essential habitat for four endangered waterbird species and migratory waterbirds. It would also protect the last remaining large scale coastal dune ecosystem on Oahu and preserve native strand plants and protect coastal wildlife such as threatened green sea turtles, seabirds, migratory shorebirds, and possibly the endangered Hawaiian monk seal. Support facilities could be constructed on upland areas to support environmental education and interpretation programs, visitor services, and habitat management programs. All land proposed for the expansion is owned by the Estate of James Campbell, a willing seller.

Heavy floods occur frequently in this area, devastating residents who live in the adjacent town of Kahuku. Because of the location and natural function of this historical floodplain, the land acquisition also serves as the crucial component for the proposed Kahuku flood control project by increasing the capacity of the area to drain and preserving the floodwater retention of these wetlands.

This habitat restoration proposal represents the most significant wetland enhancement project ever undertaken in Hawaii. By combining effective flood control, wetland development, endangered species conservation, environmental education, and visitor opportunities, benefits provided will serve not only the local communities, but also Hawaii residents and visitors for generations to come.

I hope my colleagues will join me in supporting this non-controversial legislation.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "James Campbell National Wildlife Refuge Expansion Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States Fish and Wildlife Service manages the James Campbell National Wildlife Refuge for the purpose of promoting the recovery of 4 species of endangered Hawaiian waterbirds;

(2) the United States Fish and Wildlife Service leases approximately 240 acres of high-value wetland habitat (including ponds, marshes, freshwater springs, and adjacent land) and manages the habitat in accordance with the National Wildlife Refuge System Improvement Act (16 U.S.C. 668dd note; Public Law 105–312);

(3) the United States Fish and Wildlife Service entered into a contract to purchase in fee title the land described in paragraph (2) from the estate of James Campbell for the purposes of—

(A) permanently protecting the endangered species habitat; and

(B) improving the management of the Refuge;

(4) the United States Fish and Wildlife Service has identified for inclusion in the Refuge approximately 800 acres of additional high-value wildlife habitat adjacent to the Refuge that are owned by the estate of James Campbell;

(5) the land of the estate of James Campbell on the Kahuku Coast features coastal dunes, coastal wetlands, and coastal strand that promote biological diversity for threatened and endangered species, including—

(A) the 4 species of endangered Hawaiian waterbirds described in paragraph (1);

(B) migratory shorebirds;

(C) waterfowl;

(D) seabirds;

(E) endangered and native plant species;

(F) endangered monk seals; and

(G) green sea turtles;

(6) because of extensive coastal development, habitats of the type within the Refuge are increasingly rare on the Hawaiian islands;

(7) expanding the Refuge will provide increased opportunities for wildlife-dependent public uses, including wildlife observation, photography, and environmental education and interpretation; and

(8) acquisition of the land described in paragraph (4)—

(A) will create a single, large, manageable, and ecologically-intact unit that includes sufficient buffer land to reduce impacts on the Refuge; and

(B) is necessary to reduce flood damage following heavy rainfall to residences, businesses, and public buildings in the town of Kahuku.

SEC. 3. DEFINITIONS.

In this Act:

(1) Director.—The term "Director" means the Director of the United States Fish and Wildlife Service.

(2) Refuge.—The term "Refuge" means the James Campbell National Wildlife Refuge established pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. EXPANSION OF REFUGE.

(a) Expansion.—The boundary of the Refuge is expanded to include the approximately 1,100 acres of land (including any water and interest in the land) depicted on the map entitled "James Campbell National Wildlife Refuge–Expansion", and on file in the office of the Director.

(b) Boundary Revisions.—Not later than 90 days after the date of enactment of this Act, the Secretary may make such minor modifications to the boundary of the Refuge as the Secretary determines to be appropriate to—

(1) achieve the goals of the United States Fish and Wildlife Service relating to the Refuge; or

(2) facilitate the acquisition of property within the Refuge.

(c) Availability of Map.—

(1) In general.—The map described in subsection (a) shall remain available for inspection in an appropriate office of the United States Fish and Wildlife Service, as determined by the Secretary.

(2) Notice.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register and any publication of local circulation in the area of the Refuge notice of the availability of the map.

SEC. 5. ACQUISITION OF LAND AND WATER.

(a) In General.—Subject to the availability of appropriated funds, the Secretary may acquire the land described in section 4(a).

(b) Inclusion.—Any land, water, or interest acquired by the Secretary pursuant to this section shall—

(1) become part of the Refuge; and

(2) be administered in accordance with applicable law.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. AKAKA (for himself and Mr. Inouye):

S. 1166. A bill to extend the authorization of the Kalaupapa National Historical Park Advisory Commission; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce a bill to reauthorize the Kalaupapa National Historical Park Advisory Commission, an advisory group to Kalaupapa National Historical Park. The park was established by statute in 1980, P.L. 96–565, to provide for the preservation of the nationally and internationally significant resources of the Kalaupapa settlement on the island of Molokai in the State of Hawaii—the residents, culture, history, and natural resources. The purpose of the park is to provide a well-maintained community in which the Kalaupapa Hansen's disease patients are guaranteed that they may remain at Kalaupapa as long as they wish, and to protect the current lifestyle of these patients and their individual privacy. The Act provides that the preservation and interpretation of the settlement be managed and performed by patients and Native Hawaiians to the extent practical.

Section 108 of the enacting legislation establishes the Kalaupapa National Historical Park Advisory Commission consisting of 11 members, appointed by the Secretary of the Interior for terms of five years. Seven of the members are patients or former patients elected by the patient community. Four members are appointed from recommendations made by the Governor of Hawaii, and at least one of these is Native Hawaiian. The appointments are not compensated.

The Advisory Commission is an important body providing input and advice to the Secretary of the Interior on policy concerning visitation to the park and other matters. It is remarkable that 25 years have passed since enactment of the bill establishing the park and Commission; and at the end of the 2005 calendar year, the Advisory Commission expires. It is important to continue the work of the Commission, which is to provide a voice for the patients and residents to be heard on matters concerning their home. I and my cosponsor Senator Inouye urge favorable consideration of this legislation in a timely fashion, so that the Commission can continue its business and advisory functions.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION.

Section 108(e) of the Act entitled "An Act to establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes" (16 U.S.C. 410jj–7) is amended by striking "twenty-five years from" and inserting "on the date that is 45 years after".

By Mr. NELSON of Florida:

S. 1168. A bill to amend section 212 of the Immigration and Nationality Act to make inadmissible individuals who law enforcement knows, or has reasonable grounds to believe, seek entry into the United States to participate in illegal activities with criminal gangs located in the United States; to the Committee on the Judiciary.

Mr. NELSON of Florida. Mr. President. I wish to bring to the attention of the Senate a serious threat to the security of our Nation. Criminal gangs, originally from Central America, are infiltrating several major cities in this country and threatening the safety and security of our citizens.

MS-13, also known as Mara Salvatrucha, is a brutal and violent gang responsible for horrific acts of violence. MS-13 gang members are identified by the various tattoos on their bodies. They have origins in El Salvador, but you find they are frequently found now in Honduras, El Salvador, and Nicaragua. This gang uses extreme acts of violence to try to intimidate people, not only in Central America but in America itself. According to the Bureau of Immigration, Customs and Enforcement, MS-13 poses the greatest threat to Los Angeles, New York, Baltimore, Newark, the Washington, DC, area, and Miami. MS-13 has been active in increasing their numbers here in the United States by assisting other members enter the United States from Central America. Federal authorities provide that there are between 8.000 and 10,000 members of MS-13 in the United States and my concern is that if we don't act now to stop them, they will be able to get a toe-hold here in the United States and significantly increase their membership and horrific form of violence.

What is some of that violence? According to law enforcement officials, MS-13 has been involved in murder, extortion, robbery, rape, drug trafficking and human smuggling throughout the United States. Here in the Washington, DC, area, for example, two members of MS-13 were found guilty of the stabbing and throat slashing murder of a 17-year-old government witness who was 7 months pregnant at the time of her gang-ordered execution. And to apparently to send some kind of message of intimidation, the gang members disfigured her corpse. Many of their crimes also involve drug trafficking and could very well expand to arms trafficking. And, who knows whether their crimes will soon extend into the terrorist network itself that we are so concerned about. The Bureau of Immigration, Customs and Enforcement reports that there has been speculation of links between MS-13 and international terrorist groups like al-Qaida. The F.B.I. is investigating these rumors of a possible link, but to date has discovered no evidence establishing this link.

In Honduras, MS-13 members murdered 28 women and children 2 days before Christmas. Their victims were on a bus returning home after having gone to shopping for Christmas gifts; some of the children were still clutching the Christmas gifts they had just purchased with their mothers. The purpose of this horrific act of violence was to intimidate the Government of Honduras from cracking down on these gangs.

Over the recess last week, I went to Honduras with our Four Star General, the Combatant Commander of the United States Southern Command.

We went there to meet with the Honduran President Ricardo Maduro, and our ambassador, Ambassador Palmer, to try to have a better understanding of this problem, and what we should do not only to help a country such as Honduras that is trying to get its arms around these gangs and to stop the violence but to keep this from spreading into the United States.

As a result of what I have learned, and the exceptional threat this gang poses to United States, I am filing legislation today that will do a couple of things. First, it will give our consular officers in law an automatic reason to reject entry into the United States for anyone they know, or have reasonable grounds to believe, is a member of one of these gangs. Secondly, this legislation I am filing would up the penalty for anyone smuggling one of these gang members into the United States from 1 to 10 years.

I am also cosponsoring legislation with the senior Senator from California which goes after gang violence by trying to give additional Federal assistance to local law enforcement as they try to grapple with this.

I have a good example. In south Florida last week, after I had returned from Honduras, I met with the joint task force of multiple levels of law enforcement—city, the county, sheriff deputies, the Feds, and the State—that has formed a joint team to attack this problem and to try to keep these gangs, specifically MS-13, from getting a toe-hold in south Florida. We hope if we are successful in Florida it will be an example to the rest of the country, and with the increased penalties offered by this legislation, it will give our law enforcement and our consular officers additional tools to stamp out this violence, this gang-related activity that could lead itself very much into the hands of the terrorists who are trying to exact so much harm upon us as a country and as a people. The time to act to stop the spread of this gang is now, before they are able to spread their web of violence to more cities and areas within the United States. I hope that my colleagues will join me and support this bill.

By Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. LEAHY, Mr. AKAKA, Mr. JEFFORDS, and Mr. WYDEN):

S. 1169. A bill to require reports to Congress on Federal agency use of data-mining; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President. I am pleased today to introduce the Federal Agency Data-Mining Reporting Act of 2005. I want to thank Senator SUNUNU for cosponsoring this bill. He has consistently been a leader on privacy issues, and I am very pleased to work with him on this effort. I also want to thank Senators LEAHY, AKAKA, JEFFORDS and WYDEN for their support of the bill.

The controversial data analysis technology known as data-mining is capable of reviewing millions of both public and private records on each and every American. The possibility of government law enforcement or intelligence agencies fishing for patterns of criminal or terrorist activity in these vast quantities of digital data raises serious privacy and civil liberties issues—not to mention questions about the effectiveness of these types of searches. But more than two years after Congress first learned about the Defense Department's program called Total Information Awareness, there is still much we do not know about the Federal government's other work on data-mining.. We found out last year from a GAO report that there are 199 Federal data-mining programs, 122 of which rely on personal information and 29 of which are for the purpose of investigating terrorists or criminals, but we don't know the details of those programs. This is information we need to have. Congress should not be learning the details about data-mining programs after millions of dollars are spent testing or using data-mining against unsuspecting Americans.

Coupled with the expanded domestic surveillance already undertaken by this Administration, the unchecked, secret use of data-mining technology threatens one of the most important values that we are fighting for as we combat terrorism—freedom. My bill would require all Federal agencies to report to Congress within 90 days and every year thereafter data-mining programs developed or used to find a pattern indicating terrorist or other criminal activity and how these programs implicate the civil liberties and privacy of all Americans. If necessary, information in the various reports could be classified.

Let me clarify what this bill does not do. It does not have any effect on the government's use of commercial data to conduct individualized searches on people who are already suspects. It does not end funding for any program, determine the rules for use of data-mining technology, or threaten any ongoing investigation that uses data-mining technology.

My bill would simply provide Congress with information about the nature of the technology and the data that will be used. The Federal Agency

Data-Mining Reporting Act would require all government agencies to assess the efficacy of the data-mining technology and whether the technology can deliver on the promises of each program. In addition, my bill would make sure that Congress knows whether the Federal agencies using data-mining technology have considered and developed policies to protect the privacy and due process rights of individuals.

With complete information about the current data-mining plans and practices of the Federal government, Congress will be able to conduct a thorough review of the costs and benefits of the practice of data-mining on a program-by-program basis and make considered judgments about which programs should go forward and which should not. Congress will also be able to evaluate whether new privacy rules are necessary.

Data-mining could rely on a combination of intelligence data and personal information like individuals' traffic violations, credit card purchases, travel records, medical records, communications records, and virtually any information contained in commercial or public databases. Congress must conduct oversight to make sure that government agencies like the Department of Homeland Security, the Department of Justice, and the Department of Defense use these types of sensitive personal information appropriately.

Furthermore, data-mining is unproven in this area. The government argues that data-mining can help locate potential terrorists before they strike. But we do not, today, have evidence that data-mining will prevent terrorism. In fact, some technology experts have warned that data-mining is not the right approach for the terrorism problem. The financial world has successfully used data-mining to identify people committing fraud because it has data on literally millions, if not billions, of historical financial transactions. And the banks and credit card companies know, in large part, which of those past transactions have turned out to be fraudulent. So when they apply sophisticated statistical algorithms to that massive amount of historical data, they are able to make a pretty good guess about what a fraudulent transaction might look like in the future.

We do not have that kind of historical data about terrorists and sleeper cells. We have just a handful of individuals whose past actions can be analyzed, which makes it virtually impossible to apply the kind of advanced statistical analysis required to use data-mining in this way. That doesn't mean we should stop the Federal government from attempting to solve that problem, but it raises serious questions about whether data-mining will ever be able to locate an actual terrorist. Before the government starts reviewing personal information about every man, woman and child in this country, we should learn what data-mining can and can't do—and what limits and protections are needed.

We must also bear in mind that there will inevitably be errors in the underlying data. Everyone knows people who have had errors on their credit reports—and that is the one area of commercial data where the law already imposes strict accuracy requirements. Other types of commercial data are likely to be even more inaccurate. Even if the technology itself were effective, I am very concerned that innocent people could be ensnared because of mistakes in the data that make them look suspicious. The recent rise in identity theft, which creates even more data accuracy problems, makes it even more important that we address this issue.

Most Americans believe that their private lives should remain private. Data-mining programs run the risk of intruding into the lives of individuals who have nothing to do with terrorism or other criminal activity and understandably do not want their credit reports, shopping habits and doctor visits to become a part of a gigantic computerized search engine operating without any controls or oversight.

The Administration should be required to report to Congress about the impact of the various data-mining programs now underway or being studied, and the impact those programs may have on our privacy and civil liberties, so that Congress can determine whether the proposed benefits of this practice come at too high a price to our privacy and personal liberties.

I urge my colleagues to support this bill. All it asks for is information to which Congress and the American people are entitled.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Agency Data-Mining Reporting Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) DATA-MINING.—The term "data-mining" means a query or search or other analysis of 1 or more electronic databases, whereas—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a predictive pattern indicating terrorist or criminal activity; and

(C) the search does not use a specific individual's personal identifiers to acquire information concerning that individual.

(2) DATABASE.—The term "database" does not include telephone directories, news reporting, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

SEC. 3. REPORTS ON DATA-MINING ACTIVITIES BY FEDERAL AGENCIES.

(a) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be made available to the public.

(b) CONTENT OF REPORT.—A report submitted under subsection (a) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(1) A thorough description of the data-mining technology and the data that is being or will be used.

(2) A thorough description of the goals and plans for the use or development of such technology and, where appropriate, the target dates for the deployment of the data-mining technology.

(3) An assessment of the efficacy or likely efficacy of the data-mining technology in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the technology.

(4) An assessment of the impact or likely impact of the implementation of the data-mining technology on the privacy and civil liberties of individuals.

(5) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used with the data-mining technology.

(6) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such technology for data-mining in order to—

(A) protect the privacy and due process rights of individuals; and

(B) ensure that only accurate information is collected, reviewed, gathered, analyzed, or used.

(7) Any necessary classified information in an annex that shall be available to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(c) TIME FOR REPORT.—Each report required under subsection (a) shall be—

(1) submitted not later than 90 days after the date of the enactment of this Act; and

(2) updated once a year and include any new uses or development of data-mining technology.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1170. A bill to establish the Fort Stanton-Snowy River National Cave Conservation Area; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation to protect the recent discovery of a natural wonder in my home State of New Mexico. That discovery is a passage within the Fort Stanton Cave that contains what can only be described as a magnificent white river of calcite. I am pleased to be joined in this effort by my colleague from New Mexico, Senator BINGAMAN.

Many locals are familiar with the Fort Stanton Cave in Lincoln County, NM. Exploration of the cave network dates back to at least the 1850s, when troops stationed in the area began visiting the caverns. That exploration has continued into the 21st century, and in 2001 led to a unique discovery of a two-mile long continuous calcite formation by BLM volunteers.

We have not found a formation of this size anywhere else in New Mexico or perhaps even in the United States. In addition to the beauty of this discovery, I am particularly excited about the scientific and educational opportunities associated with the find. This large, continuous stretch of calcite may yield valuable research opportunities relating to hydrology, geology, and microbiology. In fact, there may be no limits to what we can learn from this snow white cave passage.

It is not often that we find something like the calcite formation recently discovered at Ft. Stanton. I believe this find is worthy of study and our most thoughtful management and conservation.

My legislation does the following: 1. creates a Fort Stanton-Snowy River Cave Conservation Area to protect, secure and conserve the natural and unique features of the Snowy River Cave. 2. instructs the BLM to prepare a map and legal description of the Snowy River cave, and to develop a comprehensive, long-term management plan for the cave area. 3. authorizes the conservation of the unique features and environs in the cave for scientific, educational and other public uses deemed safe and appropriate under the management plan. 4. authorizes the BLM to work hand in hand with colleges, universities, scientific institutions, and researchers to further our understanding of the geologic, hydrologic, mineralogical, and biologic significance of Snowy River. 5. protects the caves from mineral and mining leasing operations; and 6. protects existing surface uses at Fort Stanton.

New Mexico is home to many natural wonders, and I am proud to play a role in the protection of this newest unique discovery in my State. I hope my colleagues will join with me in approving the Fort Stanton-Snowy River National Cave Conservation Area Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Stanton-Snowy River National Cave Conservation Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term "Conservation Area" means the Fort Stanton-Snowy River National Cave Conservation Area established by section 3(a).

(2) MANAGEMENT PLAN.—The term "management plan" means the management plan developed for the Conservation Area under section 4(c).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER NATIONAL CAVE CONSERVATION AREA.

(a) IN GENERAL.—There is established the Fort Stanton-Snowy River National Cave Conservation Area in Lincoln County, New Mexico, to secure, protect, and conserve subterranean natural and unique features and environs for scientific, educational, and other appropriate public uses.

(b) BOUNDARIES.—The Conservation Area shall include—

(1) the minimum subsurface area necessary to provide for the Fort Stanton Cave, including the Snowy River passage in its entirety (which may include other significant caves); and

(2) the minimum surface acreage, as determined by the Secretary, that is necessary to provide access to the cave entrance.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. ADMINISTRATION OF CONSERVATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Conservation Area—

(1) in accordance with the laws (including regulations) applicable to public land and the management plan required by this Act; and

(2) in a manner that provides for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses and new uses of the Conservation Area that do not substantially impair the purposes for which the Conservation Area is established;

(D) the protection of new caves within the Conservation Area, such as the Snowy River passage within Fort Stanton Cave;

(E) the continuation of such uses on the surface acreage as exist under management action in place prior to designation of the Conservation Area by this Act; and

(F) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the surface and subsurface land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) engage in a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—

(1) IN GENERAL.—The fact that an activity or use is not permitted inside the Conservation Area shall not preclude—

(A) the conduct of the activity on land, or the use of land for the activity, outside the boundary of the Conservation Area, consistent with other applicable laws (including regulations); or

(B) any activity or use, including new uses, on the surface land above the Conservation Area or on any land appurtenant to that surface land.

(2) MANAGEMENT.—The surface land described in paragraph (1)(B) shall continue to be managed for multiple uses in accordance with all applicable laws (including regulations).

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. SPECTER (for himself, Mr. BAYH, Ms. COLLINS, Mr. JOHNSON, Mrs. MURRAY, Mr. FEINGOLD, and Mr. WYDEN):

S. 1171. A bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents, and for other purposes; to the Committee on Foreign Relations.

Mr. SPECTER. Mr. President, I have sought recognition to offer legislation to halt Saudi Arabia's support for institutions that fund, train, incite or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents and organizations.

Despite the Saudi government's attempts to show otherwise, a growing amount of evidence indicates that Saudi Arabia has provided only lackluster support for U.S. investigations into terrorist networks, such as al Qaeda. Mounting documentation and reports have revealed that since the attacks of September 11, 2001, Saudi citizens have provided significant amounts of financial support to al Qaeda, Hamas, and other terrorist organizations. The Saudi government continues to use direct and indirect means to support organizations that propagate hate and incite terror around the world.

United Nations Security Council Resolution 1373, adopted in 2001, mandates that all states "refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts . . . take the necessary steps to prevent the commission of terrorist acts . . . deny safe haven to those who finance, plan, support, or commit terrorist acts . . . ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice" and that member countries "afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts." I would like to share some findings with my colleagues that I believe paint a clear picture that Saudi Arabia has failed to comply with this U.N. standard.

Saudi Arabia's lack of cooperation with the United States is not a post 9/11 phenomenon. At the time of the Khobar Towers bombing in 1996, I chaired the Senate Intelligence Committee. I visited Dhahran and had the opportunity to inspect the results of the car bomb which killed nineteen of our airmen and injured 400 others. In that situation, U.S. investigators were denied the opportunity to interview the suspects. I personally met with Crown Prince Abdullah of Saudi Arabia and requested that the FBI be permitted to speak with suspects in custody. Crown Prince Abdullah denied my request and informed me that the United States should not meddle in Saudi internal affairs. The murder of nineteen U.S. airmen and the wounding of 400 more hardly qualifies as a Saudi internal affair.

A joint committee of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives issued a report on July 24, 2003, which found "a number of U.S. Government officials complained to the Joint Inquiry about a lack of Saudi cooperation in terrorism investigations both before and after the September 11 attacks." With regard to dealing with Saudi officials, General Counsel of the Treasury Department, David Aufhauser, testified on July 23, 2002, that "there is an almost intuitive sense, however, that things are not being volunteered. So I want to fully inform you about it, that we have to ask and we have to seek and we have to strive."

The Saudi Government has asserted its right to question Saudi nationals captured by U.S. forces in Afghanistan, yet according to a September 15, 2003 issue of Time Magazine, the Saudi Government denied "U.S. officials access to several suspects in custody, including a Saudi in detention for months who had knowledge of extensive plans to inject poison gas in the New York City subway system."

In a June 2004 report entitled "Update on the Global Campaign Against Terrorist Financing", the Council on Foreign Relations reported that "we find it regrettable and unacceptable that since September 11, 2001, we know of not a single Saudi donor of funds to terrorist groups who have been publicly punished."

Additionally, the National Commission on Terrorist Attacks Upon the United States, also referred to as the 9/11 Commission, interviewed numerous military officers and government officials who repeatedly listed Saudi Arabia as a prime place for terrorists to set up bases. "In talking with American and foreign government officials and military officers on the front lines fighting terrorists today, we [9/11 Commission] asked them: If you were a terrorist leader today, where would you locate your base? Some of the same places come up again and again on their lists . . . the Arabian Peninsula, especially Saudi Arabia."

The U.S. should not be in the position of begging for information and expending time and energy pleading for assistance from Saudi Arabia on matters of such great importance to our national security.

In the case of funneling funds to terrorist organizations, Saudi Arabia cannot be permitted to turn a blind eye to the millions of dollars its citizens funnel to radical organizations. It sends a message to the U.S. that they are not serious about stemming the flow of support for terror and it sends a message to their own people that this type of behavior is tolerated.

The New York Times reported on September 17, 2003, that "at least fifty percent of Hamas's current operating budget of about $10 million a year comes from people in Saudi Arabia." In a July 3, 2003 report, The Middle East Media Research Institute (MEMRI) reported that various Saudi organizations have funneled over four billion dollars to finance the Palestinian intifada that began in September 2000.

The 9/11 Commission also clearly stated that "Saudi Arabia's society was a place where al Qaeda raised money directly from individuals through charities."

In testimony presented to the Senate Judiciary Committee in July 2003, David Aufhauser, General Counsel of the Treasury Department, was asked if the trail of money funding terrorists led back to Saudi Arabia. He indicated that "in many cases it is the epicenter."

Not only has the government failed to halt the hemorrhaging of terrorist funds from its citizens, but its own leadership has reportedly provided significant support for terrorist organizations. Saudi Arabia must begin by getting its own house in order which includes rooting out those of its leaders and those in its government who are fanning the fire of hate. According to the aforementioned MEMRI report, "for decades the royal family of the Kingdom of Saudi Arabia has been the main financial supporter of Palestinian groups fighting Israel."

In addition to financial support, Saudi Arabia, through its various domestic and foreign institutions, has supported the spread of radical ideology. A report released on January 28, 2005 by Freedom House's Center for Religious Freedom found that Saudi Arabia is the state most responsible for the propagation of material promoting hatred, intolerance, and violence within United States mosques and Islamic centers, and that these publications are often official publications of a Saudi ministry or distributed by the Embassy of Saudi Arabia in Washington, DC.

Freedom House also found that "while the government of Saudi Arabia claims to be 'updating' or reforming its textbooks and study materials within the Kingdom, its publications propagating an ideology of hatred remain plentiful in some prominent American mosques and Islamic centers, and continue to be a principal resource available to students of Islam within the United States."

One such document Freedom House collected from a Herndon, Virginia mosque, distributed by the Cultural

Department of the Saudi Arabian Embassy in Washington, was found to contain "virulent denunciations of Christians and of the infidelity of their beliefs and practices. It offers intricate guidelines concerning the proper relations Muslims should have with non-Muslims while they reside in the latter's 'lands of shirk and kufr' (i.e. lands of idolatry and infidelity)." The report also found a fatwa in a Saudi Embassy publication condemning tolerant Muslims and "is followed by selective Koranic verses that spell out the infidelity of Jews and Christians and condemn them to the eternal fires of hell."

In a May 2003 report on Saudi Arabia, the United States Commission on International Religious Freedom found "some Saudi government-funded textbooks used both in Saudi Arabia and also in North American Islamic schools and mosques have been found to encourage incitement to violence against non-Muslims." The Commission further found "offensive and discriminatory language in Saudi government-sponsored school textbooks, sermons in mosques, and articles and commentary in the media about Jews, Christians, and non-Wahhabi streams of Islam."

The September 13, 2003 issue of Time Magazine reported eighth and ninth grade Saudi textbooks which read "that Allah cursed Jews and Christians and turned some of them into apes and pigs . . . and that Judgment Day will not come until the Muslims fight the Jews and kill them."

Time also, found that "many of the Taliban, who went on to rule much of Afghanistan, were educated in Saudi-financed madaris in Pakistan." In the September 2003 issue of Time Magazine, a former Saudi diplomat, Mohammed al-Khilewi, stated that "the Saudi government spends billions of dollars to establish cultural centers in the U.S. and all over the world" and that they "use these centers to recruit individuals and to establish extreme organizations." It is no surprise that it is from these fertile grounds that fifteen of the nineteen 9/11 hijackers were born and radicalized.

To be successful in the global war on terrorism we need the proactive and full cooperation of all nations—especially those who consider themselves allies of the United States.

The Saudi Government must provide complete, unrestricted and unobstructed cooperation to the United States in the investigation of terrorist organizations and individuals. This bill directs the President to certify to Congress that the Government of Saudi Arabia is fully cooperating with the United States in investigating and preventing terrorist attacks, has closed permanently all Saudi-based terror organizations, has ended funding for any offshore terrorist organization, and has made all efforts to block funding from private Saudi citizens and entities to offshore terrorist organizations. If Saudi Arabia fails to take such steps, this legislation will require the President to prohibit certain exports to Saudi Arabia and restrict the travel of Saudi diplomats. This legislation permits the President to waive such sanctions if he determines it is in the national security interest of the United States.

Two major objectives in the Global War on Terrorism are to deny terrorists safe haven and to eradicate the sources of terrorist financing. We cannot be successful in this war by ignoring the problem Saudi Arabia presents to our security. The government of Saudi Arabia can no longer remain idle while its citizenry continues to provide the wherewithal for terrorist groups with global reach nor can it continue to directly facilitate and support institutions that incite violence.

President Bush has stated that the United States "will challenge the enemies of reform, confront the allies of terror, and expect a higher standard from our friends." The 108th Congress passed, and the President signed, the Syrian Accountability Act. I believe the Saudis are a much greater threat to U.S. interests than the Syrians and there ought to be a very firm approach to our relationship with the Saudi Government. The 9/11 Commission recommended that the problems in our bilateral relationship with Saudi Arabia must be confronted openly—this legislation takes a step in that direction.

By Mr. SPECTER (for himself, Mr. HARKIN, Mrs. CLINTON, Mr. OBAMA, and Mrs. BOXER):

S. 1172. A bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce The Gynecological Cancer Education and Awareness Act of 2005 also known as Johanna's Law.

Every year, over 80,000 women in the United States are newly diagnosed with some form of gynecologic cancer such as ovarian, uterine, or cervical cancer. In 2005, 29,000 American women are expected to die from these cancers.

Early detection of these cancers must be improved to decrease this tragic loss of life. Unfortunately, thousands of women in the U.S. each year aren't diagnosed until their cancers have progressed to more advanced and far less treatable stages. In the case of ovarian cancer, which kills more women in the U.S. than all other gynecologic cancers combined, 70 percent of all new diagnoses take place after this cancer has progressed beyond its earliest and most survivable stage.

Women are often diagnosed many months, sometimes more than a year after they first experience symptoms due to a lack of knowledge of early warning signs of gynecological cancers. Adding to the challenge of a prompt and accurate diagnosis is the similarity of gynecological cancer symptoms to those of more common gastrointestinal conditions and benign gynecologic conditions such as perimenopause and menopause. Women too often receive diagnoses reflecting these benign conditions without their physicians having first considered gynecologic cancers as a possible cause of the symptoms.

The Gynecological Cancer Education and Awareness Act will improve early detection of gynecologic cancers by creating a national awareness and an education outreach campaign to inform physicians and individuals of the risk factors and symptoms of these diseases. When gynecological cancer is detected in its earliest stage, patients 5-year survival rates are greater than 90 percent and many go on to live normal, healthy lives.

The national awareness campaign will be carried out by the Department of Health and Human Services (HHS) to increase women's awareness and knowledge of gynecologic cancers. The campaign will maintain and distribute a supply of written materials that provide information to the public about gynecologic cancers. Further, the program will develop public service announcements encouraging women to discuss their risks for gynecologic cancers with their physicians, and inform the public about the availability of written materials and how to obtain them. The projected cost of the awareness campaign is $5 million per year from 2006–2008, totaling $15 million.

The educational outreach campaign will be carried out through demonstration grants through HHS. These demonstration grants will go to local and national non-profits to test different outreach and education strategies, including those directed at providers, women, and their families. Groups with demonstrated expertise in gynecologic cancer education, treatment, or in working with groups of women who are at especially high risk will be given priority. Grant funding recipients will also be asked to work in cooperation with health providers, hospitals, and state health departments. The projected cost of the educational outreach campaign is $10 million per year from 2006–2008, totaling $30 million.

This legislation was brought to my attention by my friend Fran Drescher, who was diagnosed with uterine cancer in 2000 and whose diagnosis was also delayed due to her lack of knowledge about symptoms of this disease. She has recovered from uterine cancer and is advocating on behalf of gynecological cancer awareness. She also brought to my attention one of the many victims of gynecological cancers

Johanna Silver Gordon, after whom this bill is named, who was diagnosed at an advanced stage of ovarian cancer.

Johanna, the daughter and sister of physicians, was extremely health conscious taking the appropriate measures to maintain a healthy lifestyle including exercising regularly, eating nutritiously, and receiving annual Pap smears and pelvic exams. Johanna however did not have the information to know that the gastric symptoms she experienced in the fall of 1996 were common symptoms of ovarian cancer. She didn't learn these crucial facts until after she was diagnosed at an advanced stage of this cancer. Despite aggressive treatment that included four surgeries, various types of chemotherapy, and participation in two clinical trials, Johanna died from ovarian cancer 3½ years after being diagnosed. Johanna is survived by her sister Sheryl Silver who has tirelessly worked to increase the information available regarding gynecological cancers.

As Chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I led, along with Senator Harkin, the effort to double funding for the National Institutes of Health (NIH) over five years. Funding for the NIH has increased from $11.3 billion in fiscal year 1995 to $28.5 billion in fiscal year 2005. In 2004, the NIH, through the National Cancer Institute provided $212.5 million for gynecological cancer research. Further, the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program (NBCCEDP) provided $209 million in fiscal year 2005 for breast and gynecological cancer screening and diagnostic services, including: pap tests, surgical consultation, and diagnostic testing for women whose screening outcome is abnormal. To date, the Program has screened more than 2.1 million women, provided more than 5 million screening exams, and diagnosed 66,295 pre-cancerous cervical lesions and 1,262 invasive cervical cancers. We must continue these efforts to do more to provide information about gynecological cancer to physicians and those most at risk.

I believe this bill can provide desperately needed information to physicians and individuals so that women can be diagnosed faster and more effectively. I urge my colleagues to work with Senator Harkin and me to move this legislation forward promptly.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gynecologic Cancer Education and Awareness Act of 2005" or "Johanna's Law".

SEC. 2. CERTAIN PROGRAMS REGARDING GYNECOLOGIC CANCERS.

(a) NATIONAL PUBLIC AWARENESS CAMPAIGN.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall carry out a national campaign to increase the awareness and knowledge of women with respect to gynecologic cancers.

(2) WRITTEN MATERIALS.—Activities under the national campaign under paragraph (1) shall include—

(A) maintaining a supply of written materials that provide information to the public on gynecologic cancers; and

(B) distributing the materials to members of the public upon request.

(3) PUBLIC SERVICE ANNOUNCEMENTS.—Activities under the national campaign under paragraph (1) shall, in accordance with applicable law and regulations, include developing and placing, in telecommunications media, public service announcements intended to encourage women to discuss with their physicians their risks of gynecologic cancers. Such announcement shall inform the public on the manner in which the written materials referred to in paragraph (2) can be obtained upon request, and shall call attention to early warning signs and risk factors based on the best available medical information.

(b) DEMONSTRATION PROJECTS REGARDING OUTREACH AND EDUCATION STRATEGIES.—

(1) IN GENERAL.—The Secretary shall carry out a program to make grants to nonprofit private entities for the purpose of testing different outreach and education strategies to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers, including early warning signs and treatment options. Such strategies shall include strategies directed at physicians, nurses, and key health professionals and families.

(2) PREFERENCES IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference—

(A) to applicants with demonstrated expertise in gynecologic cancer education or treatment or in working with groups of women who are at especially high risk of gynecologic cancers; and

(B) to applicants that, in the demonstration project under the grant, will establish linkages between physicians, nurses, and key health professionals, hospitals, payers, and State health departments.

(3) APPLICATION FOR GRANT.—A grant may be made under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

(4) CERTAIN REQUIREMENTS.—In making grants under paragraph (1)—

(A) the Secretary shall make grants to not fewer than five applicants, subject to the extent of amounts made available in appropriations Acts; and

(B) the Secretary shall ensure that information provided through demonstration projects under such grants is consistent with the best available medical information.

(5) REPORT TO CONGRESS.—Not later than February 1, 2009, the Secretary shall submit to the Congress a report that—

(A) summarizes the activities of demonstration projects under paragraph (1);

(B) evaluates the extent to which the projects were effective in increasing early detection of gynecologic cancers and awareness of risk factors and early warning signs in the populations to which the projects were directed; and

(C) identifies barriers to early detection and appropriate treatment of such cancers.

(c) FUNDING.—

(1) NATIONAL PUBLIC AWARENESS CAMPAIGN.—For the purpose of carrying out subsection (a), there is authorized to be appropriated in the aggregate $15,000,000 for the fiscal years 2006 through 2008.

(2) DEMONSTRATION PROJECTS REGARDING OUTREACH AND EDUCATION STRATEGIES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (b), there is authorized to be appropriated in the aggregate $30,000,000 for the fiscal years 2006 through 2008.

(B) ADMINISTRATION, TECHNICAL ASSISTANCE, AND EVALUATION.—Of the amounts appropriated under subparagraph (A), not more than 9 percent may be expended for the purpose of administering subsection (b), providing technical assistance to grantees under such subsection, and preparing the report under paragraph (5) of such subsection.

Mr. OBAMA. Mr. President, I am pleased to join my colleagues Senators SPECTER and HARKIN to introduce The Gynecological Cancer Education and Awareness Act of 2005, also known as Johanna's Law. This important legislation authorizes a national gynecologic cancer early detection and awareness campaign for women and their providers. This bill is named in honor of Johanna Silver Gordon who died from ovarian cancer and whose sister, Sheryl Silver, founded Johanna's Law Alliance for Women's Cancer Awareness. We thank Ms. Silver for her courage and her persistent efforts to turn her sister's tragedy into a crusade to raise awareness and prevent needless suffering and death from gynecologic cancers for other women.

Nearly 80,000 American women are diagnosed with gynecologic cancers each year. Tragically, 29,000 of them die from this disease. We know that early detection is the key to successful treatment of all gynecologic cancers, and we have made great strides at reducing rates of cervical cancer with wide-spread use of Pap screening tests. Yet, we have not been able to replicate this success with uterine cancer and ovarian cancer, for which effective and general screening methods do not exist. For ovarian cancer, which is the deadliest of the gynecologic cancers, in addition to lack of screening tests, doctors and researchers have not identified effective diagnostic and treatments. Seventy percent of all new diagnoses of ovarian cancer take place after this cancer has progressed beyond its earliest and most survivable stage.

Given these challenges, knowing the symptoms of gynecologic cancers, which can mimic GI illnesses, menopause or perimenopause, is key to early diagnosis. The 5-year survival rates for the most common gynecologic cancers are 90 percent when diagnosed early, but drop to 50 percent for cancers diagnosed later.

Johanna's Law will promote early detection and awareness through a National Public Awareness Campaign conducted by the Department of Health and Human Services. Women will be given written materials that provide information about gynecologic cancers, and Public Service Announcements will be developed to encourage women to talk to their doctors about gynecologic cancer. The Department will also give grants for demonstration projects to local and national non-profit organizations to identify the best ways to reach and educate women about these cancers, particularly those women who are high risk.

Johanna's Law will make sure that women and doctors get the information they need to help them recognize early symptoms of gynecologic cancers, so that women can be diagnosed and treated earlier when their cancers are treatable. I urge my colleagues to work to move this legislation forward promptly.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 160—DESIGNATING JUNE 2005 AS "NATIONAL SAFETY MONTH"

Mr. DEWINE (for himself, Mrs. FEINSTEIN, Mr. COCHRAN, Mrs. DOLE, Ms. LANDRIEU, Ms. MURKOWSKI, and Mr. LUGAR) submitted the following resolution; which was considered and agreed to:

S. RES. 160

Whereas the mission of the National Safety Council is to educate and influence society to adopt safety, health, and environmental policies, practices, and procedures that prevent and mitigate human suffering and economic losses arising from preventable causes;

Whereas the National Safety Council works to protect lives and promote health with innovative programs;

Whereas the National Safety Council, founded in 1913, is celebrating its 92nd anniversary in 2005 as the premier source of safety and health information, education, and training in the United States;

Whereas the National Safety Council was congressionally chartered in 1953, and is celebrating its 52nd anniversary in 2005 as a congressionally chartered organization;

Whereas even with advancements in safety that create a safer environment for the people of the United States, such as new legislation and improvements in technology, the unintentional-injury death toll is still unacceptable;

Whereas the National Safety Council has demonstrated leadership in educating the Nation in the prevention of injuries and deaths to senior citizens as a result of falls;

Whereas citizens deserve a solution to nationwide safety and health threats;

Whereas such a solution requires the cooperation of all levels of government, as well as the general public;

Whereas the summer season, traditionally a time of increased unintentional-injury fatalities, is an appropriate time to focus attention on both the problem and the solution to such safety and health threats; and

Whereas the theme of "National Safety Month" for 2005 is "Safety: Where We Live, Work, and Play": Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2005 as "National Safety Month"; and

(2) recognizes the accomplishments of the National Safety Council and calls upon the people of the United States to observe the month with appropriate ceremonies and respect.

AMENDMENTS SUBMITTED AND PROPOSED

SA 765. Mr. FRIST (for Ms. SNOWE) proposed an amendment to the resolution S. Res. 149, honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America.

TEXT OF AMENDMENTS

SA 765. Mr. FRIST (for Ms. SNOWE) proposed an amendment to the resolution S. Res. 149, honoring the life and contributions of His Eminence, Archbishop Iakovos, former archibishop of the Greek Orthodox Archdiocese of North and South America; as follows:

In the last whereas clause of the preamble, strike "at the Holy Trinity Cathedral in New York, New York" and insert "at the Holy Cross Greek Orthodox School of Theology in Brookline, Massachusetts".

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, June 14th 2005, at 10:00 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills: S. 206, a bill to designate the Ice Age Floods National Geologic Trail, and for other purposes; S. 556, a bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; S. 588, a bill to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail; and S. 955, a bill to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, D.C. 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Brian Carlstrom at (202) 224–6293.

MEASURE PLACED ON THE CALENDAR—H.R. 810

Mr. FRIST. I understand there is a bill at the desk due a second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 810) to amend the Public Health Service Act to provide for human embryonic stem cell research.

Mr. FRIST. In order to place the bill on the calendar under the provisions rule XIV, I object to further proceeding.

The PRESIDING OFFICER. The objection is heard. The bill will be placed on the calendar on the next legislative day.

HONORING HIS EMINENCE, ARCHBISHOP IAKOVOS

Mr. FRIST. I ask unanimous consent the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 149.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 149) honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the amendment to the preamble be agreed to, the preamble, as amended, be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 149) was agreed to.

The amendment (No. 765) was agreed to, as follows:

AMENDMENT NO. 765

In the last whereas clause of the preamble, strike "at the Holy Trinity Cathedral in New York, New York" and insert "at the Holy Cross Greek Orthodox School of Theology in Brookline, Massachusetts".

The preamble, as amended, was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 149

Honoring the life and contributions of His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America.

Whereas His Eminence, Archbishop Iakovos, former archbishop of the Greek Orthodox Archdiocese of North and South America and spiritual leader of Greek Orthodox Christians in the Western Hemisphere from 1959 to 1996, passed away at the age of 93 on April 10, 2005, in Stamford, Connecticut;

Whereas, when Archbishop Iakovos retired at the age of 85 on July 29, 1996, the Archbishop had given 37 years of outstanding service that were distinguished by his leadership in furthering religious unity, revitalizing Christian worship, and championing human and civil rights;

Whereas Archbishop Iakovos was born Demetrios A. Coucouzis on the tiny island of Imbros in the Aegean Sea to Maria and Athanasios Coucouzis on July 29, 1911;

Whereas Archbishop Iakovos enrolled in the Ecumenical Patriarchal Theological School at Halki at the age of 15;

Whereas, after graduating with high honors from Halki, Archbishop Iakovos was ordained deacon in 1934, taking the ecclesiastical name Iakovos;

Whereas 5 years after his ordination, Archbishop Iakovos received an invitation to serve as archdeacon to the late Archbishop Athenagoras, the primate of North and South America, who later became Ecumenical Patriarch of Constantinople;

Whereas in 1940, Archbishop Iakovos was ordained to the priesthood in Lowell, Massachusetts, beginning his service at St. George Church in Hartford, Connecticut, while teaching and serving as assistant dean of the Holy Cross Greek Orthodox Theological School, then in Pomfret, Connecticut, and now in Brookline, Massachusetts;

Whereas in 1941, Archbishop Iakovos was named preacher at Holy Trinity Cathedral in New York City, and in the summer of 1942 served as temporary dean of St. Nicholas Church in St. Louis, Missouri;

Whereas Archbishop Iakovos was appointed dean of the Annunciation Greek Orthodox Cathedral in Boston, Massachusetts, in 1942, and remained there until 1954;

Whereas in 1945, Archbishop Iakovos earned a Master of Sacred Theology Degree from Harvard University;

Whereas Archbishop Iakovos became a United States citizen in 1950;

Whereas in 1954, Archbishop Iakovos was ordained Bishop of Melita by his spiritual father and mentor, Ecumenical Patriarch Athenagoras, for whom he served four years as personal representative of the Patriarchate to the World Council of Churches in Geneva;

Whereas on February 14, 1959, the Holy Synod of the Ecumenical Patriarchate elected Archbishop Iakovos to succeed Archbishop Michael as primate of the Greek Orthodox Church in the Americas;

Whereas Archbishop Iakovos was enthroned April 1, 1959, at Holy Trinity Cathedral in New York City, assuming responsibility for a jurisdiction that has grown to be over 500 parishes in the United States alone;

Whereas the enthronement of Archbishop Iakovos in 1959 ushered in a new era for the Greek Orthodox Church in America, in which the Church became part of the mainstream of American religious life;

Whereas in 1959, shortly after being named archbishop, Archbishop Iakovos held a historic meeting with Pope John XXIII, becoming the first Greek Orthodox Archbishop to meet with a Roman Catholic Pope in 350 years;

Whereas Archbishop Iakovos was a dynamic participant in the contemporary ecumenical movement for Christian unity, serving for nine years as President of the World Council of Churches and piloting Inter-Orthodox, Inter-Christian, and Inter-Religious dialogues;

Whereas Archbishop Iakovos vigorously supported the passage of the Civil Rights Act of 1964, and had the courage to walk hand in hand with Dr. Martin Luther King, Jr. in Selma, Alabama, a historic moment for America that was captured on the cover of LIFE Magazine on March 26, 1965;

Whereas Archbishop Iakovos spoke out forcefully against violations of human rights and religious freedom and, in 1974, undertook a massive campaign to assist Greek Cypriot refugees following the invasion of Cyprus by Turkish armed forces;

Whereas Archbishop Iakovos was a recipient of the Presidential Medal of Freedom, the Nation's highest civilian honor, which was bestowed on him by President Carter on June 9, 1980;

Whereas in 1986, Archbishop Iakovos was awarded the Ellis Island Medal of Honor and was cited by the Academy of Athens, the National Conference of Christians and Jews, and the Appeal of Conscience;

Whereas Archbishop Iakovos, during his stewardship of the Greek Orthodox Church in America, became an imposing religious figure and a champion of social causes, encouraging the faithful to become involved in all aspects of American life;

Whereas Archbishop Iakovos was a friend to nine Presidents, and to religious and political leaders worldwide, receiving honorary degrees from some 40 colleges and universities;

Whereas Archbishop Iakovos presented a prayer at Presidential inaugural ceremonies in 1961, 1965, 1969, and 1973;

Whereas the Archbishop has said of his pastoral work with immigrants in New England and New York, "I lived and struggled with them to maintain the faith and culture.";

Whereas in a 1995 interview, the Archbishop said he had accomplished a major goal "to have the Orthodox Church be accepted by the family of religions in the United States"; and

Whereas Archbishop Iakovos was interred at the Holy Cross Greek Orthodox School of Theology in Brookline, Massachusetts, on April 15, 2005: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Archbishop Iakovos and commends the life the Archbishop led;

(2) thanks Archbishop Iakovos for his service to the members of his church and to the people of this Nation;

(3) honors Archbishop Iakovos' commitment to the principles of equality, humanity, and peace; and

(4) recognizes that Archbishop Iakovos was a committed and caring pastor to a whole generation of Greek Americans—

(A) whose hard work, determination, and pride in their religious and cultural heritage Archbishop Iakovos embodied; and

(B) who will dearly miss the Archbishop.

NATIONAL SAFETY MONTH

Mr. FRIST. I ask unanimous consent the Senate now proceed to the consideration of S. Res. 160 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 160) designating June 2005 as "National Safety Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 160) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 160

Whereas the mission of the National Safety Council is to educate and influence society to adopt safety, health, and environmental policies, practices, and procedures that prevent and mitigate human suffering and economic losses arising from preventable causes;

Whereas the National Safety Council works to protect lives and promote health with innovative programs;

Whereas the National Safety Council, founded in 1913, is celebrating its 92nd anniversary in 2005 as the premier source of safety and health information, education, and training in the United States;

Whereas the National Safety Council was congressionally chartered in 1953, and is celebrating its 52nd anniversary in 2005 as a congressionally chartered organization;

Whereas even with advancements in safety that create a safer environment for the people of the United States, such as new legislation and improvements in technology, the unintentional-injury death toll is still unacceptable;

Whereas the National Safety Council has demonstrated leadership in educating the Nation in the prevention of injuries and deaths to senior citizens as a result of falls;

Whereas citizens deserve a solution to nationwide safety and health threats;

Whereas such a solution requires the cooperation of all levels of government, as well as the general public;

Whereas the summer season, traditionally a time of increased unintentional-injury fatalities, is an appropriate time to focus attention on both the problem and the solution to such safety and health threats; and

Whereas the theme of "National Safety Month" for 2005 is "Safety: Where We Live, Work, and Play": Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2005 as "National Safety Month"; and

(2) recognizes the accomplishments of the National Safety Council and calls upon the people of the United States to observe the month with appropriate ceremonies and respect.

ORDERS FOR TUESDAY, JUNE 7, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. Tuesday, June 7. I further ask that, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then return to executive session and resume consideration of the nomination of Janice Rogers Brown to be a United States circuit judge for the DC Circuit.

I further ask consent that the time until 12 noon be equally divided between the two leaders or their designees; provided further that the last 20 minutes prior to the vote be divided with 10 minutes under the control of the Democratic leader or his designee, to be followed by 10 minutes under the control of the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, the Senate will resume consideration of the nomination of Justice Brown to be a U.S. circuit judge for the DC Circuit. At noon, we will proceed to the cloture vote on the nomination. It is my expectation that cloture will be invoked and we could have an up-or-down vote on confirmation.

As I noted earlier, following the disposition of the Brown nomination, we will move forward immediately with the cloture vote on the nomination of William Pryor to be a U.S. circuit judge for the Eleventh Circuit. Members should expect votes throughout the week as we consider these and other nominations that may proceed over the next several days.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:38 p.m., adjourned until Tuesday, June 7, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 6, 2005:

DEPARTMENT OF THE TREASURY

JOHN M. REICH, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM OF FIVE YEARS, VICE JAMES GILLERAN, TERM EXPIRED.

ENVIRONMENTAL PROTECTION AGENCY

MARCUS C. PEACOCK, OF MINNESOTA, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE STEPHEN L. JOHNSON, RESIGNED.

DEPARTMENT OF THE TREASURY

KEVIN I. FROMER, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE JOHN M. DUNCAN.

DEPARTMENT OF STATE

MARIE L. YOVANOVITCH, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

KATHERINE HUBAY PETERSON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO REPUBLIC OF BOTSWANA.

CHARLES A. FORD, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HONDURAS.

JOHN ROSS BEYRLE, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BULGARIA.

ALAN W. EASTHAM, JR., OF ARKANSAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

THE JUDICIARY

JOHN R. FISHER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE ANNICE M. WAGNER, RETIRED.

DEPARTMENT OF EDUCATION

HENRY LOUIS JOHNSON, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE RAYMOND SIMON.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3037:

To be major general and the judge advocate general of the United States Army

MAJ. GEN. SCOTT C. BLACK, 1918

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3037:

To be major general and the assistant judge advocate general of the United States Army

MAJ. GEN. DANIEL V. WRIGHT, 1462

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE DEAN OF THE ACADEMIC BOARD, UNITED STATES MILITARY ACADEMY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624 AND 4335:

To be brigadier general

COL. PATRICK FINNEGAN, 1878

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

HUMBERTO BUITRAGO, 9611
WILLIAM D. MEEHAN, 6548
DALE W. PETERSON, 5010
PHYLLIS Y. SPIVEY, 6999

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

IRA I. KRONENBERG, 8580

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

GARY P. MAUCK, 5389

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ERIC M. RADFORD, 4333

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

PAUL F. RUSSELL, 7853

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

PETER D. GUZZETTI, 6711
TERRY M. LARKIN, 0785

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MARK W. BRUNS, 3842
KEVIN J. GREENWOOD, 0344
DONALD O. LAGACE, JR., 6260

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CARL J. CWIKLINSKI, 5771
DAVID W. GIRARDIN, 1581
LAWRENCE P. GREENSLIT, 7381
JAMES M. HIGHTOWER, 5270
JOHN H. LEA III, 3816
ROBERT P. MCCLANAHAN, JR., 9373

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JOSEPH A. CLEMENTS, 7701
GREGG E. HARKNESS, 3184
DONALD E. HENDRICK, 6614
TIMOTHY W. SIMPSON, 6184
GAROLD G. ULMER, 7410

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JEFFREY T. BOROWY, 8865
EDWARD W. BROWN, 7075
DONALD R. CHANDLER, 0791
RICHARD D. COOK, 3908
DARRYL K. CREASY, 9535
JOHN H. EDWARDS, 1186
PATRICK J. GIBBONS, 3528
MARK R. LIBONATE, 8042
SCOTT R. LISTER, 7761
ROBERT A. MCLEAN III, 1993
JOHN D. RICE, 7809
GEORGE E. TAYLOR II, 0539
JEFFREY D. VOLTZ, 4358
JULIUS C. WASHINGTON, 2283

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DIANNE A. ARCHER, 5681
JEFFREY R. BAQUER, 5088
JAMES M. BARNARD, 8528
WAYNE J. BERGERON, 1528
RONALD L. BLACK, 6299
DOUGLAS S. BORREBACH, 5119
JOHN W. CAMUSO, 1867
RUTH A. CHRISTOPHERSON, 9302
CLAUDE J. COUCOULES, 0075
JEFFREY J. COX, SR., 5097
EDWARD D. DIGGES, 3959
KAREN FALLON, 7862
MATTHEW S. FEELY, 0726
ROBERT A. GOODMAN, 0216
DAVID H. HELLMAN, 9355
JAMES H. HOOVER, 6221
JEFFREY C. HORTON, 9398
SIDNEY J. KIM, 5744
JOHN J. LANDRY, 2039
ARTURO A. LOPEZ, 5618
MICHAEL K. LUCAS, 7428
JOHN R. MCKONE II, 2458
MICHAEL B. MCPEAK, 4510
RANDALL W. MOORE, 0069
ANDREW S. MORGAN, 7541
DREW K. MULLIN, 1139
JAMES T. PIBURN, 3117
ALFREDO E. RACKAUSKAS, 3793
STEPHEN R. SHAPRO, 2799
GREGORY F. STROH, 3903
DAVID M. WATT, 8295
BRIAN L. WENGER, 4523
TIMOTHY H. WILKINS, 0608
JEFFERY S. WOLFE, 9919

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ROBERT B. BLAZEWICK, 8873
LINDA Y. BUNN, 4893
BENJAMIN B. CLANCY, 7856
DARSE E. CRANDALL, 2162
DEAN L. DWIGANS, 3772
KAREN L. FISCHER-ANDERSON, 9787
JOHN G. HANNINK, 2823
JENNIFER S. HEROLD, 6696
MARK T. HUNZEKER, 1782
STACY A. PEDROZO, 3273
ERIC C. PRICE, 3223

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

WILLIAM J. ADAMS, JR., 2946
WILLIAM H. BLANCHE, 2163
VALMORI M. CASTILLO, 4192
KENNETH A. COLE, 9606
STANTON E. COPE, JR., 6271
VINCENT DEINNOCENTIIS, 7720
PAUL M. DESIMONE, 4307
RONALD F. DODGE, 5583
BENJAMIN G. M. FERIL, 7024
MICHAEL L. FINCH, 3295
KATHY F. GOLDBERG, 2837
DENISE M. GRAHAM, 2096
DONALD D. HAGEN, 1221
LEESA J. B. KENT, 9250
RUPERT F. LINDO, 1749
JOHN L. MARTIN, JR., 5586
WILLIAM P. MCCORMACK, 3179
REGINALD B. MCNEIL, 3298
THOMAS G. MIHARA, 8800
VICTORIA L. MUNDT, 9970
BEVERLY J. PETTIT, 2357
MARK A. RICHERSON, 9235
EFREN S. SAENZ, 4097
MORGAN T. SAMMONS, 6299
CATHERINE A. SIMPSON, 6784
RANDALL A. SLATER, 2819
EUGENE F. SMALLWOOD, JR., 6122
STEPHEN B. SYMONDS, 7408
KEITH A. SYRING, 5839
GARY TABACH, 3239
CLARENCE THOMAS, JR., 5894
JAMES A. THRALLS, 2169
DAVID W. TOMLINSON, 7726
AMILCAR VILLANUEVA, 6162
STEVEN J. WINTER, 9338

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

GREGORY S. BLASCHKE, 7946
PETER C. BONDY, 1783
DOUGLAS F. BREWSTER, 9858
KENNETH J. BRINSKO, 5147
ROBERT H. BUCKLEY, 2727
JOHN B. BURGESS, JR., 7636
ARDEN CHAN, 5763
JAMES J. CHUN, 8618
CHARLES A. CICCONE, 6163
JEFFREY B. COLE, 2619
KENNETH A. CONRAD, 3529
MIGUEL A. CUBANO, 1821
KENNETH C. EARHART, 0207
ANDREW L. FINDLEY, JR., 2336
EDWARD W. HESSEL, 8121
MOORE H. JAN, 3058
TIMOTHY R. KENNEDY, 4106
THOMAS J. MARSHALL, JR., 0504
GRETCHEN A. MEYER, 2532
THOMAS K. MOORE, 7124
YVES NEPOMUCENO, 2561
FRANCIS X. OCONNOR, 9839
CYNTHIA B. PICCIRILLI, 6049
DOMINICK A. RASCONA, 5189
JAMES V. RITCHIE, 1603
RICHARD L. SCHROFF, 0220
STERLING S. SHERMAN, 7133
BRIAN D. SMULLEN, 8114
MICHAEL A. THOMPSON, 1354
JEFFREY W. TIMBY, 9263
SANDRA S. TOMITA, 9492
DAVID G. WRIGHT, 8828

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

IOANA BETTIOS, 2495
CARRIE L. BURGER, 3917
SCOTT W. COLBURN, 2588
KEVIN F. FLYNN, 6304
SANGSOO J. GRZESIK, 4759
DAVID M. HARMATZ, 5012
KEVIN T. KALANTA, 7552
JOSEPH W. KARITIS, 4820
NICHOLAS MAZZEO, 7671
CRAIG M. NEITZKE, 1156
LINDA K. NESBIT, 8565
GENE A. VANDERVORT, 4330
MICHAEL J. WOLFGANG, 5674

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

LINNEA M. AXMAN, 9665
MARK N. COPENHAVER, 8307
CAROLINE V. DELIZO, 1777
SUSAN E. DIONNE, 8136
KAREN A. DIRENZO, 7618
LAFRANCIS D. FRANCIS, 1220
ARTHUR J. GIGUERE, 0590
DENISE A. JOHNSON, 4423
MARY D. KEENAN, 5145
GUTSHALL M. K. KENNEY, 0334
KARIN E. LUNDGREN, 1254
K. NIEMANTSVERDRIETMCDONALD, 6564
RONALD L. OLSON, 8642
ANN E. RAEL, 9248
LISA H. RAIMONDO, 2520
JOHN A. ROTHACKER III, 1055
KAREN L. SALOMON, 0676
SUSANNE M. SANDERS, 1128
BONNY C. SCHOFIELD, 4048
DONNA J. STAFFORD, 7276
ELIZABETH A. SWATZELL, 5195
LAURIE L. WILLIAMSON, 4979

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JEFFREY D. WEITZ, 2049

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JOHN G. DILLENDER, 8123
DIANE L. SNYDER, 6025

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JANE D. BINGHAM, 6995
FRANCIS D. BONADONNA, 5276
WILLIAM R. HOOD, 1642
STEVEN R. MORGAN, 6546

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

GREGORY F. BECHT, 0992
DAVID J. BENNETT, 6969
ALTHEA H. COETZEE, 5461
FRANK J. CRESPO, 8313
THOMAS B. DALPINI, 5687
ROBERT L. DODSON, 3778
CHARLES R. DOLAN, 4881
LOCKWOOD R. EDDY, 4908
KEITH S. FORMAN, 2679
ROBERT P. FREY, 8002
TODD FRIEDLANDER, 8738
MICHAEL S. FUGATE, 9859
GUY D. FULLEN, 9278
STEPHEN I. GENTRY, 4235
OSCAR B. GIRON, 0864
RUSSELL K. HUGHES, 1274
KENDA C. JAMES, 7612
CHARLES L. JOHNSON, 6398
GREGORY R. JOHNSON, 2256
KEITH M. JONES, 8006
STEPHEN A. LEBLANC, 6548
LANCE R. MAURO, 4535
MARCUS R. MCCANCE, 0672
THOMAS A. MCGRATH, 1662
TRACEY E. MURDOCK, 3004
SHARON L. MURRAY, 3087
THOMAS L. PETERSON, JR., 8656
ANNEMARIE M. PICK, 0368
TERRY G. RIVENBARK, 0707
MARK H. ROBINSON, 2897
MICHAEL B. WIKSTROM, 1947
DOUGLAS W. YOUNG, 3440
MICHAEL L. ZABEL, 1411

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DEANA L. ABERNATHEY, 8032
ALTHEA E. ALBRITTON, 2494
BRENDA J. ANDERSON, 3884
MARY S. BLOSE, 7783
DEBRA S. BRAUCHLER, 3536
ERIN M. BREWER, 6455
FRANCESCA P. CARIELLO, 3402
DEBORAH A. CASDORPH, 1206
JOANN M. CRITELLI, 6330
JOHN M. EADS, 8919
NANCY H. FRASER, 0936
PATRICIA J. HAGAN, 4681
SAMUEL R. HJORT, 3364
TIMOTHY W. HOWELL, 6693
THERESA L. KAISER, 6138
SUSAN B. KEITHLEY, 4551
CHRISTINE B. LENOIR, 2662
DIANE K. MATTERN, 1242
DAPHNE S. MATTHEWS, 2121
JUDITH J. MILLER, 2871
ANN M. MOTT, 1044
NANCY A. ORR, 3776
ELIZABETH M. PRINTUP, 2564
PATRICIA M. REISDORFER, 9530
MARY R. ROGERS, 0303
BELINDA C. SHAUVER, 1584
RACHEL E. SMITH, 1684
LINDA J. TIEASKIE, 7958

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MAUREEN E. CARROLL, 6735
ROBERT M. ELWELL, 7485
PAUL M. GARVIN, 2331
NANCY N. GAWRYSZEWSKI, 7249
ROSS L. LEUNING, 1006
DANIEL R. LUTZ, 3820
ROBERT D. NELSON, 7841
WILLIAM J. PINAMONT, 7216
SHEILA E. SCHAEFER, 2474
EDWARD G. SMITH, 2968
WILLIAM A. VANBLARCUM, 6447
JACOB R. WALKER, 4862

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

THOMAS L. AMERSON, 0432
CLOYD R. BEERS, 9036
RICHARD M. CADLE, 8797
STEPHEN G. FITZGERALD, 2855
JOHN H. HOELSCHER, 9694
CRAIG M. HOWARD, 0557
DONALD A. JOHNSON, 4490
BERYSE D. JONES, 8994
PATRICIA J. KILLEA, 1137
JOHN F. KUHLENKAMP, 4989
AMY D. LINDBERG, 8547
JAMES R. MILLER, 7303
MAUREEN C. OLSON, 1903
ROBERT S. PALERMO, 9968
ANN L. SALYERCALDWELL, 8827
MARK H. SCOONES, 3822
SCOTT A. SHAPPELL, 3046
WILLIAM C. SUITER, 8676
THOMAS J. VAGNINI, 8392
KENNETH E. WAVELL, 1502

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

BRIAN D. HODGSON, 8004
DAVID E. LUNA, JR., 4564
JC SHIRLEY, JR., 2316
POMAY TSOI, 0563

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

GREGORY L. BELCHER, 9434
JOHN M. DAWSON, 6678
MARK A. DESJARDINS, 2843
ANDREW G. EICHLER, 1164
HOWARD J. ELIASON, 2979
CHARLES J. GBUR, 0443
ANTHONY M. GRIECO, 4259
ANTHONY M. GRIFFAY, 0115
DELBERT W. HAM, 7490
RICHARD J. HAMILTON, 4476
DONGYEON P. HAN, 0183
MICHAEL HAUK, 1368
CYNTHIA L. HEINS, 0860
DAVID M. KUSHNER, 5241
TODD W. MCCUNE, 1608
MATTHEW A. MCQUEEN, 3555
CARY H. MEYERS, 9176
BRYAN D. MILLER, 8048
CURTIS OLLAYOS, 7470
BRIAN S. PECHA, 9300
BARRY A. RIDDLE, 4544
DANIEL H. SERRATO, 2076
GLENN F. THIBAULT, 0869
ALAN D. TONG, 1891
WAYNE M. WEISS, 9581

WITHDRAWAL

Executive message transmitted by the President to the Senate on June 6, 2005 withdrawing from further Senate consideration the following nomination:

JOHN M. REICH, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM EXPIRING OCTOBER 23, 2007, WHICH WAS SENT TO THE SENATE ON MAY 25, 2005.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Monday, June 6, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 7

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the Dominican Republic-Central America Free Trade Agreement, focusing on potential impacts on the agriculture and food sectors.

SD–106

Armed Services

To hold hearings to examine the Department of Defense Inspector General's Management Accountability Review of the Boeing KC-767A Tanker Program.

SR–325

10 a.m.

Finance

To hold hearings to examine preventing the next pension collapse, relating to the United Airlines case.

SD–628

Appropriations

Interior and Related Agencies Subcommittee

Business meeting to markup H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006.

SD–124

Banking, Housing, and Urban Affairs

International Trade and Finance Subcommittee

To hold hearings to examine international monetary fund oversight.

SD–538

Health, Education, Labor, and Pensions

Retirement Security and Aging Subcommittee

To hold hearings to examine reforming hybrid and multi-employer pension plans.

SD–430

10:30 a.m.

Foreign Relations

To hold hearings to examine the nomination of Zalmay Khalilzad, of Maryland, to be Ambassador to Iraq.

SD–419

2 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine the problem of human trafficking of American citizens in the United States.

2237 RHOB

2:30 p.m.

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine the emergence of China throughout Asia relating to security and economic consequences for the U.S.

SD–419

Judiciary

Immigration, Border Security and Citizenship Subcommittee

Terrorism, Technology and Homeland Security Subcommittee

To hold joint hearings to examine southern border in crisis, focusing on resources and strategies to improve national security.

SD–226

3 p.m.

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH–219

JUNE 8

9:15 a.m.

Environment and Public Works

Business meeting to consider H.R. 483, to designate a United States courthouse in Brownsville, Texas, as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse", S. 260, to authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program, S. 864, to amend the Atomic Energy Act of 1954 to modify provisions relating to nuclear safety and security, S. 865, to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions, S. 858, to reauthorize Nuclear Regulatory Commission user fees, and or other purposes, S. 1017, to reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984, and S. 1140, to designate the State Route 1 Bridge in the State of Delaware as the "Senator William V. Roth, Jr. Bridge".

SD–406

9:30 a.m.

Commerce, Science, and Transportation

Technology, Innovation, and Competitiveness Subcommittee

To hold hearings to examine manufacturing competitiveness in a high-tech era, focusing on current challenges that confront American manufacturers, how manufacturers have responded to these challenges, discuss how recent technological innovations have impacted the manufacturing industry, and explore what government should do to help American manufacturers remain competitive in today's global economy.

SR–253

9:50 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending nominations.

SD–430

10 a.m.

Finance

To hold hearings to examine proposals to reform the tax code relating to land conservation.

SD–628

2 p.m.

Aging

To hold hearings to examine exploring the promise of embryonic stem cell research.

SD–G50

2:30 p.m.

Commerce, Science, and Transportation

Disaster Prevention and Prediction Subcommittee

To hold hearings to examine research and development to protect America's communities from disaster, focusing on National Institute of Standards and Technology recent World Trade Center report, as well as computer security, and chemical, biological, radiological detection standards, National Science Foundation scientific research in areas such as computer security and data mining, and NOAA's work developing atmospheric models to aid in prediction of the transport and dispersion of chemical and biological releases, including the hazards alert system.

SR–253

Foreign Relations

To hold hearings to examine the nominations of Pamela E. Bridgewater, of Virginia, to be Ambassador to Republic of Ghana, Donald E. Booth, of Virginia, to be Ambassador to Republic of Liberia, Terence Patrick McCulley, of Oregon, to be Ambassador to Republic of Mali, and Roger Dwayne Pierce, of Virginia, to be Ambassador to Republic of Cape Verde.

SD–419

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH–219

JUNE 9

9:30 a.m.

Judiciary

Business meeting to consider pending calendar business.

SD–226

10 a.m.

Banking, Housing, and Urban Affairs

Business meeting to consider S. 582, to require the Secretary of the Treasury

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in LittleRock, Arkansas, and the nominations of Ben S. Bernanke, of New Jersey, to be a Member of the Council of Economic Advisers, and Brian D. Montgomery, of Texas, to be Assistant Secretary of Housing and Urban Development, and Federal Housing Commissioner.
SD–538

Health, Education, Labor, and Pensions
To hold hearings to examine protecting America's pensions plans from fraud.
SD–430

Veterans' Affairs
To hold hearings to examine pending health care related legislation.
SR–418

Joint Economic Committee
To hold hearings to examine the current economic outlook.
2118 RHOB

10:30 a.m.
Foreign Relations
To hold hearings to examine the nominations of Richard J. Griffin, of Virginia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador, and Henrietta Holsman Fore, of Nevada, to be Under Secretary of State for Management.
SD–419

11 a.m.
Commerce, Science, and Transportation
To hold hearings to examine general aviation (GA) security, the Transportation Security Administration's proposed plan to reopen Ronald Reagan Washington National Airport to GA operations, and to examine the security procedures followed during the recent air incursion that caused the emergency evacuation of the White House and the U.S. Capitol buildings.
SR–253

2 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the nominations of Walter Lukken, of Indiana, to be a Commissioner of the Commodity Futures Trading Commission, Reuben Jeffery III, of the District of Columbia, to be Commissioner and Chairman of the Commodity Futures Trading Commission.
SR–328A

Appropriations
Business meeting to markup H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and to consider 302 (b) subcommittee allocations of budget outlays and new budget authority allocated to the committee in H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010.
SD–106

Health, Education, Labor, and Pensions
Bioterrorism and Public Health Preparedness Subcommittee
To hold hearings to examine bringing promising medical countermeasures to bioshield.
SD–430

2:30 p.m.
Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine the Western Hemisphere initiative, regarding safety and convenience in cross-border travel.
SH–216

3 p.m.
Conferees
Meeting of conferees on H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs.
2167 RHOB

JUNE 14

10 a.m.
Appropriations
Homeland Security Subcommittee
Business meeting to markup H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006.
S–128 Capitol

Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 206, to designate the Ice Age Floods National Geologic Trail, S. 556, to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona, S. 588, to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail, and S. 955, to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.
SD–366

2 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the benefits and future developments in agriculture and food biotechnology.
SR–328A

2:30 p.m.
Appropriations
Energy and Water, and Related Agencies Subcommittee
Business meeting to markup H.R. 2419, making appropriations for energy and water development for the fiscal year ending September 30, 2006.
SD–138

JUNE 15

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine youth suicide prevention.
SR–485

JUNE 16

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine Indian education.
SR–485

2 p.m.
Appropriations
Business meeting to markup H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and H.R. 2419, making appropriations for energy and water development for the fiscal year ending September 30, 2006.
SD–106

JUNE 21

Time to be announced
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
Business meeting to markup proposed legislation making appropriations for the Department of Agriculture.
Room to be announced

Appropriations
Legislative Branch Subcommittee
Business meeting to markup proposed legislation making appropriations for the Legislative Branch.
Room to be announced.

2:30 p.m.
Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine issues relating to American history.
SD–430

JUNE 22

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine the In Re Tribal Lobbying Matters, Et Al.
SH–216

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

JUNE 23

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine Family Medical Leave Act.
SD–430

2 p.m.
Appropriations
Business meeting to markup proposed legislation making appropriations for the Department of Agriculture, and proposed legislation making appropriations for the Legislative Branch.
SD–106

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

POSTPONEMENTS

JUNE 14

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine Native American Graves Protection and Repatriation Act.
SR–485